

Department of Veterans Affairs

§ 2.2

(b) Prior to submitting a debt to Treasury for the purpose of collection by offset, including salary offset, VA shall provide written certification to Treasury that:

(1) The debt is past due and legally enforceable in the amount submitted to Treasury and that VA will ensure that any subsequent collections are credited to the debt and that Treasury shall be notified of such;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred to Treasury for offset within 10 years after VA's right of action accrues;

(3) VA has complied with the provisions of 31 U.S.C. 3716 and 38 CFR 1.912 and 1.912a including, but not limited to, those provisions requiring that VA provide the debtor with applicable notices and opportunities for a review of the debt; and

(4) VA has complied with the provisions of 5 U.S.C. 5514 (salary offset) and 38 CFR 1.980 through 1.994 including, but not limited to, those provisions requiring that VA provide the debtor with applicable notices and opportunities for a hearing.

(c) Specific procedures for notifying Treasury of debts for purposes of collection by centralized administrative offset are contained in the 31 CFR 285.7. VA and other creditor agencies may notify Treasury of debts that have been delinquent for 180 days or less, including debts that VA and other creditor agencies seek to recover from the pay of an employee via salary offset.

(Authority: 31 U.S.C. 3716; 38 U.S.C. 501).

[69 FR 62203, Oct. 25, 2004]

PART 2—DELEGATIONS OF AUTHORITY

Sec.

- 2.1 General provisions.
- 2.2 Delegation of authority to employees to issue subpoenas, etc.
- 2.3 Delegation of authority to employees to take affidavits, to administer oaths, etc.
- 2.4 Delegation of authority to order paid advertising for use in recruitment.
- 2.5 Delegation of authority to certify copies of documents, records, or papers in Department of Veterans Affairs files.
- 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

2.7 Delegation of authority to provide relief on account of administrative error.

2.8 Delegation of authority to authorize allowances for Department of Veterans Affairs employees who are notaries public.

AUTHORITY: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

EDITORIAL NOTE: Nomenclature changes to part 2 appear at 61 FR 7216, Feb. 27, 1996.

§ 2.1 General provisions.

In addition to the delegations of authority in this part, numerous delegations of authority are set forth throughout this title.

(Authority: 38 U.S.C. 512)

[64 FR 47111, Aug. 30, 1999]

§ 2.2 Delegation of authority to employees to issue subpoenas, etc.

(a) *Authority to issue subpoenas.* Employees occupying or acting in the positions designated in paragraph (b) of this section shall have the power to issue subpoenas for (by countersigning VA Form 2-4003) and compel the attendance of witnesses within a radius of 100 miles from the place of hearing and to require the production of books, papers, documents, and other evidence. Issuing officials shall use discretion when exercising this power.

(b) *Designated positions.* The positions designated pursuant to paragraph (a) of this section are: General Counsel, Deputy General Counsel, Chairman, Board of Veterans' Appeals, Heads of Regional Offices and Centers having insurance or regional office activities, Under Secretary for Health (for income matching programs), Director, Income Verification Match Center (for income matching programs), and the Associate Director for Operations, Income Verification Match Center (for income matching programs).

(c) *Means of service.* Subpoenas issued pursuant to this section may be served by registered or certified mail, return receipt requested, addressed to the witness only. Personal service by any VA employee or other authorized person may be made where authorized in writing by the issuing official.

(d) *Fees and mileage; district courts of the United States.* Any person required by such subpoena to attend as a witness shall be allowed and paid the same

§ 2.3

fees and mileage as are paid witnesses in the district courts of the United States. In case of disobedience to any such subpoena, the aid of any district court of the United States may be invoked in requiring attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction in which the inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena issued to any officer, agent, or employee of any corporation or to any other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Authority: 38 U.S.C.A. 501, 5711)

[60 FR 40757, Aug. 10, 1995. Redesignated at 64 FR 47111, Aug. 30, 1999]

§ 2.3 Delegation of authority to employees to take affidavits, to administer oaths, etc.

(a) An employee to whom authority is delegated by the Secretary in accordance with 38 U.S.C. 5711, or to whom authority was delegated by the Secretary in accordance with title III, Pub. L. 844, 74th Congress, section 616, Pub. L. 801, 76th Congress, and section 1211, Pub. L. 85-56, is by virtue of such delegated authority, until such authority is revoked or otherwise terminated, empowered to take affidavits, to administer oaths and affirmations, to aid claimants in the preparation and presentation of claims, and to make investigations, examine witnesses, and certify to the correctness of papers and documents upon any matter within the jurisdiction of the Department of Veterans Affairs. Such employee is not authorized to administer oaths in connection with the execution of affidavits relative to fiscal vouchers and is not authorized to take acknowledgments to policy loan agreements and applications for cash surrender value to United States Government life insurance and National Service life insurance.

(b) Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken

38 CFR Ch. I (7-1-07 Edition)

and authenticated by the seal of the Department of Veterans Affairs, may be offered or used in any court of the United States and, without further proof of the identity or authority of such employee, shall have like force and effect as if administered or taken before a clerk of such court.

(c) The delegated authority from the Secretary to employees to take affidavits, to administer oaths, etc., will be evidenced by VA Form 4505 series.

[24 FR 10018, Dec. 11, 1959. Redesignated at 64 FR 47111, Aug. 30, 1999]

§ 2.4 Delegation of authority to order paid advertising for use in recruitment.

Paid advertisements may be used in recruitment for VA competitive and excepted service positions. Authority to order such advertisements is hereby delegated to Administration Heads, Assistant Secretaries, Other Key Officials (the General Counsel; the Inspector General; the Chairman, Board of Veterans' Appeals; the Chairman, Board of Contract Appeals; and the Director, Office of Small and Disadvantaged Business Utilization), Deputy Assistant Secretaries, to the deputies of such officials, to the Deputy Assistant Secretary and Associate Deputy Assistant Secretary for Human Resources Management, and to field facility Directors.

(Authority: 5 U.S.C. 302(b)(2); 44 U.S.C. 3702)

[61 FR 20134, May 6, 1996]

§ 2.5 Delegation of authority to certify copies of documents, records, or papers in Department of Veterans Affairs files.

(a) Persons occupying or acting for the following positions in the Office of the General Counsel are authorized to certify copies of public documents, records, or papers belonging to or in the files of the Department of Veterans Affairs for the purposes of 38 U.S.C. 302: General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel, and the Regional Counsel for Puerto Rico.

(b) The person occupying or acting in the position of Chairman of the Department of Veterans Affairs Board of Contract Appeals is authorized to certify

Department of Veterans Affairs

§2.6

copies of decisions, orders, subpoenas, and other documents, records, or papers issued by, belonging to, or in the files of the Boards for the purposes of 38 U.S.C. 302.

(c) The person occupying or acting in the position of Chairman, Board of Veterans Appeals, is authorized to certify copies of decisions, orders, subpoenas, and other documents, records, or papers issued by, belonging to, or in the files of the Board for the purposes of 38 U.S.C. 302.

(Authority: 38 U.S.C. 501)

[46 FR 18978, Mar. 27, 1981, as amended at 49 FR 30692, Aug. 1, 1984; 60 FR 48029, Sept. 18, 1995]

§2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

Employees occupying or acting in the positions designated below are delegated authority as indicated:

(a) *Veterans Health Administration.* The Under Secretary for Health is delegated authority:

(1) To act on all matters assigned to the Veterans Health Administration by statute (38 U.S.C. Ch. 73) and by regulation, except such matters as require the personal attention or action of the Secretary.

(2) To revise, exceed, delete, increase, or decrease fees contained in Department of Veterans Affairs Veterans Health Services and Research Administration Manual M-1, part I, appendix A (following agreement therefor as provided in the contract with the intermediary involved), in an approved State fee schedule, and to add additional fees when found to be necessary, provided such fees are not in excess of those customarily charged the general public, in the community concerned, for the same service.

(3) To designate the Deputy Under Secretary for Health, or other physician of the Veterans Health Administration, and authority is hereby delegated such designee to perform the functions prescribed in paragraph (a)(2) of this section.

(4) To revise, exceed, delete, increase or decrease dental fees established in Department of Veterans Affairs Veterans Health Services and Research Administration Manual M-4, chapter 6,

and any amendments thereto, and to add additional fees when found to be necessary, provided: such fees are not in excess of those customarily charged the general public, in the community concerned, for the same service.

(5) To designate the Assistant Chief Medical Director for Dentistry, and authority is hereby delegated such designee, to perform the functions prescribed in paragraph (a)(4) of this section.

(6) To supervise programs for grants to the Republic of the Philippines and medical care for Commonwealth Army veterans and Philippine Scouts in Veterans Memorial Medical Center, Manila, pursuant to the provisions of 38 U.S.C. ch. 17, subch. IV.

(7) To designate the Deputy Under Secretary for Health of the Veterans Health Administration and authority is hereby delegated such designee to designate a Department of Veterans Affairs full-time physician or nonmedical Director to serve *as an ex officio member* on advisory bodies to State Comprehensive Health Planning agencies and to individual Regional Medical Programs in those areas in which there is located one or more Department of Veterans Affairs hospitals or other health facilities, who shall serve on such advisory group as the representative of the Department of Veterans Affairs health facilities located in that area.

(8) To authorize Directors of Department of Veterans Affairs property and facilities under the charge and control of the Department of Veterans Affairs to appoint police officers with the power to enforce Federal laws and Department of Veterans Affairs regulations, to investigate violations of those laws and to arrest for crimes committed on Department of Veterans Affairs property to the full extent provided by Department policies and procedures.

(Authority: 38 U.S.C. 501 and 512)

(9) To develop and establish minimum safety and quality standards for adaptive equipment provided under chapter 39 of title 38, United States Code, or to appoint a designee to perform these functions.

§2.6

38 CFR Ch. I (7–1–07 Edition)

(b) *Veterans Benefits Administration*—
(1) *General*. The Under Secretary for Benefits is delegated authority to act on all matters assigned to the Veterans Benefits Administration except as provided in §1.771 of this chapter and to authorize supervisory or adjudicative personnel within his/her jurisdiction to perform such functions as may be assigned.

(2) *Philippines*. The Director, Department of Veterans Affairs Regional Office, Manila, Philippines, is delegated authority to exercise such authorities as are delegated to directors of regional offices in the United States, which are appropriate to the administration in the Republic of the Philippines of the laws administered by the Department of Veterans Affairs.

(c) *Office of Management*. (1) The Assistant Secretary for Management (Chief Financial Officer) is delegated authority to act on all matters assigned to his/her office, and to authorize supervisory personnel within his/her jurisdiction to perform such functions as may be assigned. Appropriate written notification will be furnished other Federal agencies concerning such authorizations.

(2) The Assistant Secretary for Management (Chief Financial Officer) is delegated authority under 31 U.S.C. 1553(c)(1), to approve, in a fixed appropriation account to which the period of availability for obligation has expired, obligational increases related to contract changes when such transaction will cause cumulative obligational increase for contract changes during a fiscal year to exceed \$4 million but not more than \$25 million; for this responsibility the Assistant Secretary for Management (Chief Financial Officer) shall act as a member of the Office of the Secretary and shall report to and consult with the Secretary on these matters.

(d) *Assistant Secretary for Management (Chief Financial Officer); administration heads and staff office directors*. The Assistant Secretary for Management (Chief Financial Officer) is delegated authority to take appropriate action (other than provided for in paragraphs (e)(3) and (e)(4) of this section) in connection with the collection of civil claims by VA for money or property, as

authorized in §1.900, *et seq.* The Assistant Secretary for Management (Chief Financial Officer) may redelegate such authority as he/she deems appropriate to administration heads and staff office directors.

(Authority: 38 U.S.C. 501, 512).

(e) *General Counsel*. (1) [Reserved]

(2) Under the provisions of 38 U.S.C. 515(b), the General Counsel, Deputy General Counsel, Assistant General Counsel and Regional Counsel, or those authorized to act for them, are authorized to consider, ascertain, adjust, determine, and settle tort claims cognizable thereunder and to execute an appropriate voucher and other necessary instruments in connection with the final disposition of such claims.

(3) Under the provisions of "The Federal Medical Care Recovery Act," 42 U.S.C. 2651, *et seq.* (as implemented by part 43, title 28, Code of Federal Regulations), authority is delegated to the General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group I), Deputy Assistant General Counsel of said staff group, and Regional Counsels or those authorized to act for them, to collect in full, compromise, settle, or waive any claim and execute the release thereof; however, claims in excess of \$100,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice.

(4) Under the Federal Claims Collection Act of 1966, 31 U.S.C. 3711, *et seq.*, authority is delegated to the General Counsel, Deputy General Counsel, Assistant General Counsel, Deputy Assistant General Counsel and Regional Counsel, or those authorized to act for them, to:

(i) Make appropriate determinations with respect to the litigative probabilities of a claim (§1.932 of this chapter), the legal merits of a claim (§1.942(e) of this chapter), and any other legal considerations of a claim.

(ii) Collect in full a claim involving damage to or loss of government property under the jurisdiction of the Department of Veterans Affairs resulting from negligence or other legal wrong of a person (other than an employee of the Government while acting within the scope of his or her employment)

Department of Veterans Affairs

§2.6

and to compromise, suspend, or terminate any such claim not exceeding \$100,000.

(iii) Collect a claim in full from an individual or legal entity who is liable for the cost of hospital, medical, surgical, or dental care and treatment of a person, and to compromise, suspend, or terminate any such claim not exceeding \$100,000.

(Authority: 31 U.S.C. 3711(a)(2); 38 U.S.C. 501, 512).

(iv) The delegations of authority set forth in paragraphs (e)(4)(ii) and (iii) of this section do not apply to the handling of any claim as to which there is an indication of fraud, the presentation of a false claim or misrepresentation on the part of the debtor or any other party having an interest in the claim, or to any claim based in whole or in part on conduct in violation of the antitrust laws. Such cases will be considered by the General Counsel, who will make the determination in all instances as to whether the case warrants referral to the Department of Justice. The delegations of authority are applicable to those claims where the Department of Justice determines that action based upon the alleged fraud, false claim, or misrepresentation is not warranted.

(5) Pursuant to the provisions of the Military Personnel and Civilian Employees' Claim Act of 1964, 31 U.S.C. 3721, as amended, the General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group III), Deputy Assistant General Counsel of said staff group, and Regional Counsel or those authorized to act for them, are authorized to settle and pay a claim for not more than \$40,000 made by a civilian officer or employee of the Department of Veterans Affairs for damage to, or loss of, personal property incident to his or her service. (Pub. L. 97-226)

(6) Under the provisions of 38 U.S.C. 7316(e), authority is delegated to the General Counsel, Deputy General Counsel, and the Assistant General Counsel (Professional Staff Group I) to hold harmless or provide liability insurance for any person to whom the immunity provisions of section 7316 apply, for damage for personal injury or death, or

for property damage, negligently caused by such person while furnishing medical care or treatment in the exercise of his or her duties in or for the Veterans Health Administration, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, United States Code, for such damage or injury.

(7) The General Counsel, Deputy General Counsel, and those authorized to act for them, are authorized to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations, and certify copies of public or private documents on all matters within the jurisdiction of the General Counsel. Pursuant to the provisions of §2.2(c), the General Counsel, Deputy General Counsel, and those authorized to act for them, are authorized to countersign VA Form 4505.

(8) The General Counsel, or the Deputy General Counsel acting as or for the General Counsel, is authorized to designate, in accordance with established standards, those legal opinions of the General Counsel which will be considered precedent opinions involving veterans' benefits under laws administered by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 512)

(9) Under the provisions of 38 U.S.C. 1729(c)(1), authority is delegated to the General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group I), Deputy Assistant General Counsel of said staff group, and Regional Counsel, or those authorized to act for them, to collect in full, compromise, settle, or waive any claim and execute the release thereof; however, claims in excess of \$100,000 may only be compromised, settled, or waived with the prior approval of the

§ 2.6

38 CFR Ch. I (7–1–07 Edition)

General Counsel, Deputy General Counsel, Assistant General Counsel (Professional Staff Group I), or Deputy Assistant General Counsel of said staff group, or those authorized to act for them.

(Authority: 31 U.S.C. 3711(a)(2); 38 U.S.C. 501, 512).

(10) The General Counsel and the Deputy General Counsel are authorized to make final Departmental decisions on appeals under the Freedom of Information Act, the Privacy Act, 38 U.S.C. 5701 and 5705.

(Authority: 38 U.S.C. 512)

(11) All authority delegated in this paragraph to Regional Counsels will be exercised by them under the supervision of and in accordance with instructions issued by the General Counsel.

(f) *National Cemetery Administration.* Under Secretary for Memorial Affairs is delegated authority:

(1) To act on all matters assigned to the National Cemetery Administration by statute (38 U.S.C. chapter 24) and by regulation except where specifically requiring the personal attention or action of the Secretary and to authorize supervisory personnel within the jurisdiction of the Under Secretary for Memorial Affairs, to perform such functions as may be assigned.

(2) To designate, as deemed necessary, Superintendents of National Cemeteries as special investigators under 38 U.S.C. 901, however, such law enforcement authority is limited to enforcement of rules and regulations governing conduct on property under the charge and control of the Department of Veterans Affairs, as those rules and regulations apply to the cemetery over which the individual Superintendent exercises control and jurisdiction. Such designation will not authorize the carrying of firearms by any Superintendent.

(3) To accept donations, except offers of land, made in any manner, for the beautification or benefit of national cemeteries.

(4) To name features in national cemeteries, such as, roads, walks, and special structures.

(5) To establish policies and specifications for inscriptions on Govern-

ment headstones, markers, and private monuments.

(Authority: 38 U.S.C. 501, 512, 2404)

(g) *Inspector General.* (1) The Secretary delegates to the Inspector General, the authority, as head of the Department of Veterans Affairs, to make written requests under the Privacy Act of 1974, 5 U.S.C. 552a(b)(7), for the transfer of records or copies of records maintained by other agencies which are necessary to carry out an authorized law enforcement activity of the Office of Inspector General. This delegation is made pursuant to 38 U.S.C. 512. The Inspector General may redelegate the foregoing authority within the Office of Inspector General, but the delegation may only be to an official of sufficient rank to ensure that the request for the records has been the subject of a high level evaluation of the need for the information.

(2) The Inspector General delegates the authority under the Inspector General Act of 1978, and redelegates the authority under paragraph (a) of this section, to request Privacy Act-protected records from Federal agencies pursuant to subsection (b)(7) of the Privacy Act to each of the following Office of Inspector General officials: (i) Deputy Inspector General, (ii) Assistant Inspector General for Investigations, (iii) Deputy Assistant Inspector General for Investigations, (iv) Chief of Operations, and (v) Special Agents in Charge of Field Offices of Investigations. These officials may not redelegate this authority.

(Authority: 5 U.S.C. 552a)

(h) *Delegations to Office Resolution Management Officials (ORM).* (1) The Deputy Assistant Secretary for Resolution Management is delegated authority to supervise and control the operation of the administrative EEO Discrimination Complaint Processing System within the Department.

(2) The Deputy Assistant Secretary for Resolution Management, the Chief Operating Officer, and all Regional EEO Officers/Field Managers are delegated authority to make procedural agency decisions to either accept or dismiss, in whole or in part, EEO discrimination complaints based upon

Department of Veterans Affairs

§ 2.6

race, color, national origin, sex, religion, age, disability, or reprisal filed by employees, former employees, or applicants for employment.

(3) The Deputy Assistant Secretary for Resolution Management, the Chief Operating Officer, and the Chief, Policy and Compliance are delegated authority to make agency decisions on all breach of settlement claims raised by employees, former employees, and applicants for employment.

(4) The Deputy Assistant Secretary for Resolution Management, the Chief Operating Officer, and the Chief, Policy and Compliance are delegated authority to consider and resolve all claims raised by employees, former employees, and applicants for employment that allege dissatisfaction with the processing of a previously filed EEO discrimination complaint.

(5) The Deputy Assistant Secretary for Resolution Management, the Chief Operating Officer, and the Chief, Policy and Compliance are delegated authority to monitor compliance by Department organizational components with orders and decisions of the OEDCA and the EEOC.

(i) *Delegations to officials of the Office of Employment Discrimination Complaint Adjudication (OEDCA).* (1) The Director and Associate Director, OEDCA, are delegated authority to make procedural decisions to dismiss, in whole or in part, any EEO discrimination complaint filed by any employee, former employee, or applicant for employment that may be pending before OEDCA, where administrative complaint processing efficiency may be best served by doing so.

(2) The Director and Associate Director, OEDCA, are delegated authority to dismiss, in whole or in part any EEO discrimination complaint based upon race, color, religion, sex, national origin, age, disability, or reprisal filed by any ORM employee, former employee, or applicant for employment.

(3) The Director and Associate Director, OEDCA, are delegated authority to make the agency decision on all breach of settlement claims raised by ORM employees, former employees, and applicants for employment.

(4) The Director and Associate Director, OEDCA, are delegated authority to

consider and resolve all claims raised by ORM employees, former employees, and applicants for employment that allege dissatisfaction with the processing of a previously filed EEO discrimination complaint.

(5) The Director and Associate Director, OEDCA, are delegated authority to make procedural agency decisions to either accept or dismiss, in whole or in part, EEO discrimination complaints filed by employees, former employees, or applicants for employment where the ORM must recuse itself from a case due to an actual, apparent, or potential conflict of interest.

(j) *Delegation to the Chairman, Board of Veterans' Appeals.* In cases where OEDCA has recused itself from a case due to an actual, apparent, or potential conflict of interest, the Chairman, Board of Veterans' Appeals, is delegated authority to make procedural agency decisions to dismiss, in whole or in part, EEO discrimination complaints filed by agency employees, former employees, and applicants for employment; to make substantive final agency decisions where complainants do not request an EEOC hearing; to take final agency action following a decision by an EEOC Administrative Judge; and to make final agency decisions ordering appropriate remedies and relief where there is a finding of discrimination.

(k) *Processing complaints involving certain officials.* A complaint alleging that the Secretary or the Deputy Secretary personally made a decision directly related to matters in dispute, or are otherwise personally involved in such matters, will be referred for procedural acceptability review, investigation, and substantive decisionmaking to another Federal agency (e.g., The Department of Justice) pursuant to a cost reimbursement agreement. Referral will not be made when the action complained of relates merely to ministerial involvement in such matters (e.g., ministerial approval of selection recommendations submitted to the Secretary by the Under Secretary for Health, the Under Secretary for Benefits, the Under Secretary for Memorial Affairs, assistant secretaries, or staff office heads).

(l) *Assistant to the Secretary, Office of Regulation Policy and Management.* The

§2.7

38 CFR Ch. I (7-1-07 Edition)

Assistant to the Secretary for Regulation Policy and Management (ASRPM) is delegated authority:

(1) To act on all matters assigned to the Office of Regulation Policy and Management, except such matters as require the personal attention or action of the Secretary, the Deputy Secretary, or the Secretary's Regulatory Policy Council.

(2) To manage and coordinate the Department's rulemaking activities, including the revision and reorganization of regulations.

(3) To serve as the Deputy Regulatory Policy Officer, to perform staff functions under the Regulatory Policy Officer, and to perform other delegated functions in accordance with Executive Order 12866.

(Authority: 38 U.S.C. 501, 512)

[25 FR 11095, Nov. 23, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §2.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§2.7 Delegation of authority to provide relief on account of administrative error.

(a) Section 503(a) of title 38 U.S.C., provides that if the Secretary determines that benefits administered by the Department of Veterans Affairs have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, the Secretary is authorized to provide such relief on account of such error as the Secretary determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

(b) Section 503(b) of title 38 U.S.C., provides that if the Secretary determines that any veteran, surviving spouse, child of a veteran, or other person, has suffered loss, as a consequence of reliance upon a determination by the Department of Veterans Affairs of eligibility or entitlement to benefits, without knowledge that it was erroneously made, the Secretary is authorized to provide such relief as the Secretary determines equitable, including the payment of moneys to any person equitably entitled thereto. The Secretary is also required to submit an an-

nual report to the Congress, containing a brief summary of each recommendation for relief and its disposition. Preparation of the report shall be the responsibility of the General Counsel.

(c) The authority to grant the equitable relief, referred to in paragraphs (a) and (b) of this section, has not been delegated and is reserved to the Secretary. Recommendation for the correction of administrative error and for appropriate equitable relief therefrom will be submitted to the Secretary, through the General Counsel. Such recommendation may be initiated by the head of the administration having responsibility for the benefit, or of any concerned staff office, or by the Chairman, Board of Veterans Appeals. When a recommendation for relief under paragraph (a) or (b) of this section is initiated by the head of a staff office, or the Chairman, Board of Veterans Appeals, the views of the head of the administration having responsibility for the benefit will be obtained and transmitted with the recommendation of the initiating office.

(Authority: 38 U.S.C. 503, 512)

[37 FR 22864, Oct. 26, 1972, as amended at 49 FR 30693, Aug. 1, 1984; 54 FR 34981, Aug. 23, 1989; 68 FR 25504, May 13, 2002]

§2.8 Delegation of authority to authorize allowances for Department of Veterans Affairs employees who are notaries public.

(a) Employees occupying or acting in the positions designated in paragraph (b) of this section are authorized to designate those employees who are required to serve as notaries public in connection with the performance of official business and to pay an allowance for the costs therefor not to exceed the expense required to be incurred by them in order to obtain their commission.

(Authority: 5 U.S.C. 5945)

(b) Designated positions: Deputy Secretary, Under Secretary for Benefits, Director, Office of Data Management

Department of Veterans Affairs

Pt. 3

and Telecommunications, Chief Medical Director, General Counsel, Directors of regional offices, hospitals, domiciliaries, and centers.

[35 FR 13771, Aug. 29, 1970, as amended at 49 FR 30693, Aug. 1, 1984]

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

GENERAL

- Sec.
- 3.1 Definitions.
- 3.2 Periods of war.
- 3.3 Pension.
- 3.4 Compensation.
- 3.5 Dependency and indemnity compensation.
- 3.6 Duty periods.
- 3.7 Individuals and groups considered to have performed active military, naval, or air service.
- 3.10 Dependency and indemnity compensation rate for a surviving spouse.
- 3.11 Homicide.
- 3.12 Character of discharge.
- 3.12a Minimum active-duty service requirement.
- 3.13 Discharge to change status.
- 3.14 Validity of enlistments.
- 3.15 Computation of service.
- 3.16 Service pension.
- 3.17 Disability and death pension; Mexican border period and later war periods.
- 3.18–3.19 [Reserved]
- 3.20 Surviving spouse's benefit for month of veteran's death.
- 3.21 Monetary rates.
- 3.22 DIC benefits for survivors of certain veterans rated totally disabled at time of death.
- 3.23 Improved pension rates—Veterans and surviving spouses.
- 3.24 Improved pension rates—Surviving children.
- 3.25 Parents' dependency and indemnity compensation (DIC)—Method of payment computation.
- 3.26 Section 306 and old-law pension annual income limitations.
- 3.27 Automatic adjustment of benefit rates.
- 3.28 Automatic adjustment of section 306 and old-law pension income limitations.
- 3.29 Rounding.
- 3.30 Frequency of payment of improved pension and parents' dependency and indemnity compensation (DIC).
- 3.31 Commencement of the period of payment.
- 3.32 Exchange rates for foreign currencies.

GENERAL

- 3.40 Philippine and Insular Forces.
- 3.41 Philippine service.
- 3.42 Compensation at the full-dollar rate for certain Filipino veterans residing in the United States.
- 3.43 Burial benefits at the full-dollar rate for certain Filipino veterans residing in the United States on the date of death.

RELATIONSHIP

- 3.50 Spouse and surviving spouse.
- 3.52 Marriages deemed valid.
- 3.53 Continuous cohabitation.
- 3.54 Marriage dates.
- 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.
- 3.56 [Reserved]
- 3.57 Child.
- 3.58 Child adopted out of family.
- 3.59 Parent.
- 3.60 Definition of "living with".

ADMINISTRATIVE

- 3.100 Delegations of authority.
- 3.102 Reasonable doubt.
- 3.103 Procedural due process and appellate rights.
- 3.104 Finality of decisions.
- 3.105 Revision of decisions.
- 3.106 Renouncement.
- 3.107 Awards where not all dependents apply.
- 3.108 State Department as agent of Department of Veterans Affairs.
- 3.109 Time limit.
- 3.110 Computation of time limit.
- 3.111 [Reserved]
- 3.112 Fractions of one cent.
- 3.114 Change of law or Department of Veterans Affairs issue.
- 3.115 Access to financial records.

CLAIMS

- 3.150 Forms to be furnished.
- 3.151 Claims for disability benefits.
- 3.152 Claims for death benefits.
- 3.153 Claims filed with Social Security.
- 3.154 Injury due to hospital treatment, etc.
- 3.155 Informal claims.
- 3.156 New and material evidence.
- 3.157 Report of examination or hospitalization as claim for increase or to reopen.
- 3.158 Abandoned claims.
- 3.159 Department of Veterans Affairs assistance in developing claims.
- 3.160 Status of claims.

EVIDENCE REQUIREMENTS

- 3.200 Testimony certified or under oath.
- 3.201 Exchange of evidence; Social Security and Department of Veterans Affairs.
- 3.202 Evidence from foreign countries.
- 3.203 Service records as evidence of service and character of discharge.