

Department of Veterans Affairs

§ 21.5064

(ii) A statutory bar to benefits exists for the individual; or

(3) The individual has not utilized all of his or her entitlement to benefits within the 10-year period stated in § 21.5041, and at the end of one year thereafter has not filed a claim for educational assistance allowance as provided in § 21.5030(c).

(Authority: 38 U.S.C. 101, 3225, 3232)

CROSS REFERENCE: *Refunds without disenrollment.* See § 21.5065.

[45 FR 31, Jan. 2, 1980, as amended at 46 FR 59247, Dec. 4, 1981; 51 FR 12853, Apr. 16, 1986; 58 FR 31910, June 7, 1993; 61 FR 29030, June 7, 1996]

§ 21.5062 Date of disenrollment.

An individual will be disenrolled effective:

(a) The date the Department of Veterans Affairs or the Service Department determines he or she has ceased to be legally entitled to participate; or

(b) The date the individual negotiates the check which represents a refund of his or her remaining contributions to the fund, whichever is earlier.

(Authority: 38 U.S.C. 3221(d))

§ 21.5064 Refund upon disenrollment.

(a) *General.* A disenrolled individual will be refunded all contributions made by him or her to the fund. He or she will be ineligible to receive benefits under §§ 21.5130 and 21.5138, unless the individual reenrolls as a participant and agrees to participate in a new period of 12 consecutive months as provided in § 21.5058. The amount of the contributions refunded upon disenrollment shall be limited to the amount of his or her contributions not utilized to receive benefits as of the date of disenrollment, less any outstanding debts resulting from overpayments of educational assistance allowance.

(Authority: 38 U.S.C. 3223)

(b) *Effective date of refund.* The date upon which the refund of contributions, if any, will be made shall be determined as follows:

(1) If an individual voluntarily disenrolls from the program before discharge or release from active duty, VA

will refund the individual's unused contributions:

(i) On the date of the participant's discharge or release from active duty; or

(ii) Within 60 days of VA's receipt of notice of the individual's discharge or disenrollment; or

(iii) As soon as possible after VA's receipt of notice indicating that an earlier refund is needed due to hardship or for other good reasons.

(Authority: 38 U.S.C. 3223(b), 3232)

(2) If an individual voluntarily disenrolls from the program after discharge or release from active duty under other than dishonorable conditions, his or her contributions shall be refunded within 60 days of receipt by VA of an application for a refund from the individual.

(Authority: 38 U.S.C. 3202(1)(A), 3223(c), 3232(b))

(3) If an individual is disenrolled because he or she is discharged or released from active duty under dishonorable conditions, the individual's contributions remaining in the fund shall be refunded:

(i) On the date of the individual's discharge or release from active duty; or

(ii) Within 60 days of receipt of notice by the Department of Veterans Affairs of the individual's discharge or release, whichever is the later.

(4) If an individual is disenrolled because he or she has not utilized all of his or her entitlement to benefits within the 10-year delimiting period, the individual's contributions remaining in the fund shall be refunded.

(i) The Department of Veterans Affairs shall notify the individual that the delimiting period has expired and shall state the amount of unused contributions.

(ii) The Department of Veterans Affairs shall make the refund only if the individual requests it.

(iii) If VA does not receive a request within 1 year from the date that the individual is notified of his or her entitlement to a refund, VA will presume that the individual's whereabouts is unknown. The funds on deposit for that