§ 3.954 Burial allowance.

When any person who had a status under any law in effect on December 31, 1957, which afforded entitlement to burial benefits dies, the burial allowance will be paid, if otherwise in order, even though such status does not meet the service requirements of 38 U.S.C. ch. 23. (Authority: 38 U.S.C. 2305)

§§ 3.955–3.956 [Reserved]

§ 3.957 Service connection.

Service connection for any disability or death granted or continued under title 38 U.S.C., which has been in effect for 10 or more years will not be severed except upon a showing that the original grant was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The 10-year period will be computed from the effective date of the Department of Veterans Affairs finding of service connection to the effective date of the rating decision severing service connection, after compliance with §3.105(d). The protection afforded in this section extends to claims for dependency and indemnity compensation or death compensation. (Authority: 38 U.S.C. 1159)

§ 3.958 Federal employees’ compensation cases.

Any award approved prior to September 13, 1968, authorizing Department of Veterans Affairs benefits concurrently with an award of benefits under the Federal Employees’ Compensation Act based on a finding that the same disability or death was due to civilian employment is not affected by the prohibition against concurrent awards contained in 5 U.S.C. 8116(b). (41 FR 20498, May 18, 1976)

§ 3.959 Tuberculosis.

Any veteran who, on August 19, 1968, was receiving or entitled to receive compensation for active or inactive (arrested) tuberculosis may receive compensation under 38 U.S.C. 1114(q)
§ 3.960 Section 306 and old-law pension protection.

(a) General. Except as provided in paragraphs (b) and (c) of this section, any person eligible to elect improved pension under §3.711 or 3.712 who is in receipt of section 306 or old-law pension on December 31, 1978, shall in the absence of an election to receive improved pension, continue to receive such pension at the monthly rate payable on December 31, 1978.

(b) Termination. Pension payable under paragraph (a) of this section shall be terminated for any one of the following reasons:

(1) A veteran pensioner ceases to be permanently and totally disabled.

(2) A surviving spouse pensioner ceases to meet the definition of surviving spouse in 38 U.S.C. 101(3).

(3) A child pensioner ceases to meet the definition of child in 38 U.S.C. 101(4).

(4) A section 306 pensioner’s countable annual income, determined under §§3.250 to 3.270, exceeds the applicable amount stated in §3.26(a).

(5) An old-law pensioner’s countable annual income determined under §§3.250 to 3.270 exceeds the applicable amount stated in §3.26(c).

(6) A section 306 pensioner has a net worth of such size that it is reasonable that some part of it be consumed for the pensioner’s maintenance. Evaluation of net worth shall be made under §3.263.

(c) Reduction. The pension rate payable under paragraph (a) of this section shall be reduced by the amount of any additional pension payable by reason of a dependent upon the loss of such dependent. A veteran or surviving spouse who no longer has any dependents shall not continue to receive either section 306 pension or old-law pension if countable annual income exceeds the appropriate rate in §3.26(a), (b), or (c).

(d) Finality of termination. Termination of section 306 pension or old-law pension for one of the reasons listed in paragraph (b) of this section precludes a person from thereafter establishing entitlement under any other pension program except the improved pension program.

Authority: Sec. 306 of Pub. L. 95–588, 92 Stat. 2497

[44 FR 45944, Aug. 6, 1979, as amended at 56 FR 28824, June 25, 1991]