

## Department of Veterans Affairs

## § 3.256

may be authorized for a married veteran if he or she is living with or, if estranged, is reasonably contributing to the support of his or her spouse. The determination of "reasonable" contribution will be based on all the circumstances in the case, considering the income and estate of the veteran and the separate income and estate of the spouse. Apportionment of the veteran's pension under § 3.451 meets the requirement of reasonable contribution.

(e) *Surviving spouse with a child*—(1) *Child*. The term "child" means a child as defined in § 3.57. Where a veteran's child is born after the veteran dies, the surviving spouse will not be considered a surviving spouse with a child prior to the child's date of birth.

(2) *Veteran's child not in surviving spouse's custody*. Where the veteran was survived by a surviving spouse and by a child, the income increments for a surviving spouse and child apply even though the child is not the child of the surviving spouse and not in his or her custody.

(3) *Income of child*. The separate income received by a child or children, regardless of custody, will not be considered in computing the surviving spouse's income. Where the separate income of the child is turned over to the surviving spouse, only so much of the money as is left after deducting any expenses for maintenance of the child will be considered the surviving spouse's income.

(4) *Alternative rate*. Whenever the monthly pension rate payable to the surviving spouse under the formula in 38 U.S.C. 1541(c) is less than the rate payable for one child under section 1542 if the surviving spouse were not entitled, the surviving spouse will be paid the child's rate.

(f) *Income over maximum; reduced aid and attendance allowance*. Beginning January 1, 1977, veterans in need of regular aid and attendance who are not receiving pension because their income exceeds the applicable statutory limitation may be eligible for a reduced aid and attendance allowance. The amount payable is the regular aid and attendance allowance authorized by 38 U.S.C. 1521(d)(1) reduced by 16.6 percent for each \$100, or portion thereof, by which the veteran's annual income exceeds

the applicable maximum income limitation. The reduced aid and attendance allowance is payable when:

(1) A veteran in need of regular aid and attendance is denied pension under 38 U.S.C. 1521 solely because the veteran's annual income exceeds the applicable maximum income limitation in 38 U.S.C. 1521 (b)(3) and (c)(3); or

(2) Pension payable under 38 U.S.C. 1521 to a veteran in need of regular aid and attendance is discontinued solely because the veteran's annual income exceeds the applicable maximum income limitation in 38 U.S.C. 1521 (b)(3) or (c)(3); and

(3) The veteran's annual income exceeds the applicable maximum income limitation in 38 U.S.C. 1521 (b)(3) or (c)(3) by an amount not greater than the amount specified in 38 U.S.C. 1521 (d)(2).

CROSS REFERENCES: Basic pension determinations. See § 3.314. Determination of permanent need for regular aid and attendance and "permanently bedridden". See § 3.352.

[28 FR 30, Jan. 1, 1963, as amended at 40 FR 16065, Apr. 9, 1975; 41 FR 15411, Apr. 13, 1976; 41 FR 56803, Dec. 30, 1976; 44 FR 45935, Aug. 6, 1979; 61 FR 20727, May 8, 1996; 62 FR 5529, Feb. 6, 1997]

### §§ 3.253–3.255 [Reserved]

### § 3.256 Eligibility reporting requirements.

(a) *Obligation to report changes in factors affecting entitlement*. Any individual who has applied for or receives pension or parents' dependency and indemnity compensation must promptly notify the Secretary of any change affecting entitlement in any of the following:

- (1) Income;
- (2) Net worth or corpus of estate;
- (3) Marital status;
- (4) Nursing home patient status;
- (5) School enrollment status of a child 18 years of age or older; or
- (6) Any other factor that affects entitlement to benefits under the provisions of this part.

(b) *Eligibility verification reports*. (1) For purposes of this section the term eligibility verification report means a form prescribed by the Secretary that is used to request income, net worth (if applicable), dependency status, and any