

## Department of Veterans Affairs

## § 21.5292

in the Army, Navy, Air Force and Marine Corps.

(Authority: Sec. 903, Pub. L. 96-342; 94 Stat. 1115)

(b) *Outline of program.* This program allows some individuals:

(1) To participate while making contributions at a rate less than that prescribed in §21.5052(b), and/or

(2) To transfer entitlement allowed in §21.5071 to a spouse or child.

(Authority: Sec. 903, Pub. L. 96-342, 94 Stat. 1115)

[47 FR 51747, Nov. 17, 1982]

### § 21.5292 Reduced monthly contribution for certain individuals.

(a) *Qualifying for reduced monthly contributions.* Some individuals can become participants while making no contributions. To qualify for this portion of the pilot program the individual must:

(1) Enlist or reenlist in the Army, Navy, Air Force or Marine Corps after November 30, 1980, and before October 1, 1981;

(2) Elect or have elected to participate in the Post-Vietnam Era Educational Assistance Program; and

(3) Be chosen for the pilot program by the Secretary of Defense or his or her designee.

(Authority: Sec. 903 Pub. L. 96-342, 94 Stat. 1115)

(b) *Monthly contributions made by the Secretary of Defense.* (1) The Secretary of Defense may pay \$75 per month as the monthly contribution otherwise required under §21.5052(b) for an individual described in paragraph (a) of this section.

(2) The individual will not be required to make a contribution for any month to the extent that the contribution otherwise required by §21.5052(b) for that month is paid by the Secretary of Defense.

(3) The amount paid by the Secretary of Defense shall be deposited in the fund.

(Authority: Sec. 903, Pub. L. 96-342; 94 Stat. 1115)

(c) *Restrictions on monthly contributions.* The Secretary of Defense may

not make a payment under the pilot program on behalf of any person for any month:

(1) Before the month in which the person enlisted or reenlisted in the Army, Navy, Air Force or Marine Corps, or

(2) Before December 1980.

(Authority: Sec. 903, Pub. L. 96-342, 94 Stat. 1115)

(d) *Refunds.* If an individual participating in the pilot program disenrolls, any monthly contributions made by the Secretary of Defense will be returned to the Secretary of Defense rather than refunded to the individual.

(Authority: Sec. 903, Pub. L. 96-342; 94 Stat. 1115)

(e) *Application of sections to this portion of the pilot program.* (1) The following sections apply to this portion of the pilot program with amendments as noted:

(i) In §21.5021(e) a participant includes someone whose contributions are being made by the Secretary of Defense.

(ii) In §21.5052(b) the Secretary of Defense may make contributions to the fund and may designate the amount of the contribution.

(iii) In §21.5052(d) the Secretary of Defense may increase or decrease the amount of the contribution.

(iv) In §§21.5064 and 21.5065 monthly contributions made by the Secretary of Defense will be returned to him or her instead of being refunded to the veteran.

(v) In §21.5071 the Department of Veterans Affairs will also credit the individual with 1 month of entitlement for each month the Secretary of Defense contributes to the fund on his or her behalf.

(vi) In §21.5138 the references to the individual's contributions include those contributions made on the individual's behalf by the Secretary of Defense.

(2) Except as amended in paragraph (e)(1) of this section §§21.5001 through 21.5041 and §§21.5050 through 21.5270

## § 21.5294

## 38 CFR Ch. I (7-1-14 Edition)

apply without change to this portion of the pilot program. See § 21.5296.

(Authority: Pub. L., 96-342, sec. 903; 38 U.S.C. 3232, 3698(a)(2); Pub. L. 97-35, Pub. L. 99-576) [47 FR 51747, Nov. 17, 1982, as amended at 49 FR 2109, Jan. 18, 1984; 53 FR 34499, Sept. 7, 1988; 61 FR 29030, June 7, 1996]

### § 21.5294 Transfer of entitlement.

(a) *Qualifying for a transfer of entitlement.* Some participants may transfer their entitlement to their spouse or child. To qualify for this portion of the pilot program the individual must:

- (1) After June 30, 1981 and before October 1, 1981, reenlist in the Army;
- (2) Be a participant;
- (3) Possess a critical military specialty as determined by the Secretary of Defense; and
- (4) Be chosen for his portion of the pilot program by the Secretary of Defense or his or her designee.

(Authority: Sec. 903, Pub. L. 96-342; 94 Stat. 1115)

(b) *Persons who may receive transferred entitlement.* An individual meeting the requirements of paragraph (a) of this section may transfer entitlement earned under § 21.5071 for the purpose of allowing another person to receive educational assistance allowance. Entitlement may be transferred only:

- (1) To a spouse or child of the participant,
- (2) To one person at a time,
- (3) If the participant is not receiving educational assistance allowance, and
- (4) When the participant states in writing to the Department of Veterans Affairs that the entitlement should be transferred.

(Authority: Sec. 903(c), Pub. L. 96-342, 94 Stat. 1115)

(c) *Educational assistance allowance.* (1) The individual must specify in writing to the Department of Veterans Affairs the period of time he or she wishes the spouse or child to receive educational assistance allowance on the basis of the transfer of entitlement. The Department of Veterans Affairs will not pay educational assistance allowance to a spouse or child for training completed either before or after the period specified by the participant.

(2) The commencing date of an award of educational assistance allowance to a spouse or child will be the earlier of the following dates:

- (i) The date of the spouse's or child's entrance or reentrance under § 21.4131;
- (ii) The first day of the period authorized by the participant for the transfer of entitlement.

(3) The ending date of an award of educational assistance allowance to a spouse or child will be the earliest of the following dates:

- (i) The ending date of the spouse's or child's course or period of enrollment as certified by the school or training establishment;

(Authority: 38 U.S.C. 3233; Pub. L. 99-576)

(ii) The ending date of the participant's eligibility as determined under § 21.5041;

(iii) The ending date specified in § 21.4135;

(iv) The date of the death of the participant on whom the spouse's or child's entitlement is based;

(v) The last day of the period authorized by the participant for the transfer of entitlement.

(Authority: Sec. 903, Pub. L. 96-342, 94 Stat. 1115)

(d) *Application of VA regulations to this portion of the pilot program.* (1) Sections 21.5030 (a) and (b), 21.5040, 21.5041 and 21.5050 through 21.5067 and § 21.5145 apply to the individual who is participating in this portion of the pilot program, but they do not apply to the individual's spouse or child, per se.

(Authority: Pub. L. 96-342, sec. 903; Pub. L. 99-576)

(2) The following sections apply to this portion of the pilot program with amendments as noted:

(i) In § 21.5022 the entitlement used by the spouse or child counts toward the 48-month limitation on receiving benefits under more than one program which is imposed on the individual.

(ii) In § 21.5072 the charge against the individual's entitlement will be made on the basis of payments made to the individual's spouse or child.

(iii) In § 21.5100 the individual's spouse or child may request counseling, but an incompetent spouse or