

of the unpaid amounts would be contrary to a personnel policy or management objective, would be against equity and good conscience, or would be contrary to the best interests of the United States.

(B) In this paragraph, the term “sole survivorship discharge” means the separation of a member from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early separation of a member who is the only surviving child in a family in which—

(i) the father or mother or one or more siblings—

(I) served in the Armed Forces; and

(II) was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and is not employed gainfully because of the disability or hospitalization); and

(ii) the death, status, or disability did not result from the intentional misconduct or willful neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

(c) EFFECT OF BANKRUPTCY.—An obligation to repay the United States under this section is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

(1) the date of the termination of the agreement or contract on which the debt is based; or

(2) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

(d) DEFINITIONS.—In this section:

(1) The term “bonus, incentive pay, or similar benefit” means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this section or section 303a(e) of this title.

(2) The term “service”, as used in subsection (c)(2), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus, incentive pay, or similar benefit offered by the Secretary concerned—

(A) to a member in a regular or reserve component who remains on active duty or in an active status;

(B) to perform duty in a specified skill, with or without a specified qualification or credential;

(C) to perform duty in a specified assignment, location or unit; or

(D) to perform duty for a specified period of time.

(Added Pub. L. 110-181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 177; amended Pub. L. 110-417, [div. A], title VI, § 651(c)(1), (2)(A), Oct. 14, 2008, 122 Stat. 4496, 4497; Pub. L. 111-84, div. A, title VI, § 617(b), Oct. 28, 2009, 123 Stat. 2355.)

#### AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111-84, § 617(b)(1), substituted “Special rule for deceased and disabled members” for “Mandatory payment of unpaid amounts under certain circumstances; no repayment of unearned amounts” in heading.

Subsec. (b)(3). Pub. L. 111-84, § 617(b)(2), added par. (3).

2008—Pub. L. 110-417, § 651(c)(2)(A), substituted “Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met” for “Repayment of unearned portion of bonus, incentive pay, or similar benefit when conditions of payment not met” in section catchline.

Subsec. (a). Pub. L. 110-417, § 651(c)(1)(A), inserted “and Termination” after “Repayment” in heading and “, and the member may not receive any unpaid amounts of the bonus, incentive pay, or similar benefit after the member fails to satisfy such service or eligibility requirement” in text before period at end.

Subsec. (b). Pub. L. 110-417, § 651(c)(1)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “The regulations prescribed to administer this section may specify procedures for determining the circumstances under which an exception to the required repayment may be granted.”

#### § 374. Regulations

This subchapter and subchapter II shall be administered under regulations prescribed by—

(1) the Secretary of Defense, with respect to the armed forces under the jurisdiction of the Secretary of Defense;

(2) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy;

(3) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

(4) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(Added Pub. L. 110-181, div. A, title VI, § 661(a)(2), Jan. 28, 2008, 122 Stat. 178.)

#### CHAPTER 7—ALLOWANCES OTHER THAN TRAVEL AND TRANSPORTATION ALLOWANCES

Sec.	Definitions.
401.	Basic allowance for subsistence.
402.	Supplemental subsistence allowance for low-income members with dependents.
402a.	Basic allowance for housing.
403.	Housing treatment for certain members of the armed forces, and their spouses and other dependents, undergoing a permanent change of station within the United States.
403a.	Cost-of-living allowance in the continental United States.
403b.	[404 to 412. Repealed.]
413.	Chairman and Vice Chairman of the Joint Chiefs of Staff.
414.	Personal money allowance.
415.	Uniform allowance: officers; initial allowance.
416.	Uniform allowance: officers; additional allowances.
417.	Uniform allowance: officers; general provisions.
418.	Clothing allowance: enlisted members.
419.	Civilian clothing allowance.
420.	Allowances while participating in international sports.

- Sec.  
421. Allowances: no increase while dependent is entitled to basic pay.  
422. Cadets and midshipmen.  
423. Validity of allowance payments based on purported marriages.  
424. Band leaders.  
425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour.  
[426. Repealed.]  
427. Family separation allowance.  
[428 to 432. Repealed.]  
433. Allowance for muster duty.  
433a. Allowance for participation in Ready Reserve screening.  
[434, 435. Repealed.]  
436. High-deployment allowance: lengthy or numerous deployments; frequent mobilizations.  
437. Allowance to cover monthly premium for Servicemembers' Group Life Insurance: members serving in a designated duty assignment.<sup>1</sup>  
438. Preventive health services allowance.  
439. Special compensation: members of the uniformed services with catastrophic injuries or illnesses requiring assistance in everyday living.

## AMENDMENTS

2017—Pub. L. 115–91, div. A, title VI, § 604(a)(2), Dec. 12, 2017, 131 Stat. 1420, added item 403a.

2016—Pub. L. 114–328, div. A, title VI, § 644(b)(3), Dec. 23, 2016, 130 Stat. 2167, substituted “Allowance to cover monthly premium for Servicemembers' Group Life Insurance: members serving in a designated duty assignment” for “Allowance to cover monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom” in item 437.

2011—Pub. L. 112–81, div. A, title VI, § 631(f)(1), (3)(A), Dec. 31, 2011, 125 Stat. 1464, 1465, substituted “ALLOWANCES OTHER THAN TRAVEL AND TRANSPORTATION ALLOWANCES” for “ALLOWANCES” in chapter heading and struck out items 404 “Travel and transportation allowances: general”, 404a “Travel and transportation allowances: temporary lodging expenses”, 404b “Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member”, 405 “Travel and transportation allowances: per diem while on duty outside the continental United States”, 405a “Travel and transportation allowances: departure allowances”, 406 “Travel and transportation allowances: dependents; baggage and household effects”, 406a “Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified”, 406b “Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating”, 406c “Travel and transportation allowances: members assigned to a vessel under construction”, 407 “Travel and transportation allowances: dislocation allowance”, 408 “Travel and transportation allowances: travel within limits of duty station”, 408a “Travel and transportation allowances: inactive duty training outside of normal commuting distances”, 409 “Travel and transportation allowances: house trailers and mobile homes”, 410 “Travel and transportation allowances: miscellaneous categories”, 411 “Travel and transportation allowances: administrative provisions”, 411a “Travel and transportation allowances: travel performed in connection with convalescent leave”, 411b “Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours”, 411c “Travel and transportation allow-

ances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries”, 411d “Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents”, 411e “Travel and transportation allowances: transportation incident to certain emergencies for members performing temporary duty”, 411f “Travel and transportation allowances: transportation for survivors of deceased member to attend member's burial ceremonies; transportation for survivors of member dying overseas to attend transfer ceremonies”, 411g “Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty”, 411h “Travel and transportation allowances: transportation of designated individuals incident to hospitalization of members for treatment of wounds, illness, or injury”, 411i “Travel and transportation allowances: parking expenses”, 411j “Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive”, 411k “Travel and transportation allowances: non-medical attendants for members who are determined to be very seriously or seriously wounded, ill, or injured”, 411l “Travel and transportation allowances: attendance of members and other persons at Yellow Ribbon Reintegration Program events”, 412 “Appropriations for travel: may not be used for attendance at certain meetings”, 428 “Allowance for recruiting expenses”, 429 “Travel and transportation allowances: minor dependent schooling”, 430 “Travel and transportation: dependent children of members stationed overseas”, 431 “Benefits for certain members assigned to the Defense Intelligence Agency”, 432 “Travel and transportation: members escorting certain dependents”, 434 “Subsistence reimbursement relating to escorts of foreign arms control inspection teams”, and 435 “Funeral honors duty: allowance”.

Pub. L. 111–383, div. A, title X, § 1075(c)(3)(B), Jan. 7, 2011, 124 Stat. 4372, added item 438 and struck out former item 438 “Preventive health care allowance”.

Pub. L. 111–383, div. A, title X, § 1075(c)(3)(A), Jan. 7, 2011, 124 Stat. 4372, which directed substitution of item 411k for item 438, was executed by making the substitution for former item 411k “Travel and transportation allowances: non-medical attendants for members determined to be very seriously or seriously wounded, ill, or injured”, to reflect the probable intent of Congress.

Pub. L. 111–383, div. A, title VI, § 622(a)(2), Jan. 7, 2011, 124 Stat. 4239, added item 411l.

2009—Pub. L. 111–84, div. A, title V, § 542(b)(2)(B), title VI, §§ 603(c), 632(g)(2), 633(a)(2), Oct. 28, 2009, 123 Stat. 2300, 2350, 2362, 2363, added items 411f, 411k, and 439, struck out former item 411f “Travel and transportation allowances: transportation for survivors of deceased member to attend the member's burial ceremonies”, and substituted “Travel and transportation allowances: transportation of designated individuals incident to hospitalization of members for treatment of wounds, illness, or injury” for “Travel and transportation allowances: transportation of family members incident to illness or injury of members” in item 411h.

2008—Pub. L. 110–417, [div. A], title VII, § 714(b), Oct. 14, 2008, 122 Stat. 4505, added item 438.

Pub. L. 110–181, div. A, title VI, §§ 631(a)(2), 633(a)(2), Jan. 28, 2008, 122 Stat. 154, 155, added items 408a and 433a.

2006—Pub. L. 109–364, div. A, title VI, § 606(c), title X, § 1071(c)(5), Oct. 17, 2006, 120 Stat. 2246, 2401, substituted “dislocation allowance” for “dislocation allowances” in item 407, inserted “Corps” after “United States Marine” in item 425, and struck out “portion of” before “monthly” in item 437.

Pub. L. 109–163, div. A, title VI, §§ 613(b), 651(b)(2), 653(b) Jan. 6, 2006, 119 Stat. 3292, 3311, 3313, added items 411j and 437 and substituted “Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member” for “Travel and transportation allowances: lodging expenses at temporary duty location for members on authorized leave” in item 404b.

<sup>1</sup> So in original. Does not conform to section catchline.

2005—Pub. L. 109-13, div. A, title I, §1026(b)(2), May 11, 2005, 119 Stat. 254, substituted “illness or injury of members” for “the serious illness or injury of members” in item 411h.

2004—Pub. L. 108-375, div. A, title VI, §605(b)(3), Oct. 28, 2004, 118 Stat. 1945, substituted “continental United States” for “United States or in Hawaii or Alaska” in item 405.

2003—Pub. L. 108-136, div. A, title V, §541(b)(5)(B), title VI, §635(b), Nov. 24, 2003, 117 Stat. 1477, 1511, added item 404b and substituted “High-deployment allowance: lengthy or numerous deployments; frequent mobilizations” for “Per diem allowance for lengthy or numerous deployments” in item 436.

2000—Pub. L. 106-398, §1 [[div. A], title X, §1087(c)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292, made technical amendment to directory language of Pub. L. 106-65, §586(c)(2). See 1999 Amendment note below.

Pub. L. 106-398, §1 [[div. A], title X, §1087(c)(1)(A)(ii)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292, made technical amendment to directory language of Pub. L. 106-65, §578(k)(4). See 1999 Amendment note below.

Pub. L. 106-398, §1 [[div. A], title VI, §§604(a)(2), 645(b), title X, §1087(b)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A-147, 1654A-162, 1654A-292, added items 402a and 411i and redesignated item 435 “Per diem allowance for lengthy or numerous deployments” as 436.

1999—Pub. L. 106-65, div. A, title V, §586(c)(2), Oct. 5, 1999, 113 Stat. 639, as amended by Pub. L. 106-398, §1 [[div. A], title X, §1087(c)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292, added item 435 “Per diem allowance for lengthy or numerous deployments”.

Pub. L. 106-65, div. A, title V, §578(k)(4), Oct. 5, 1999, 113 Stat. 631, as amended by Pub. L. 106-398, §1 [[div. A], title X, §1087(c)(1)(A)(ii)], Oct. 30, 2000, 114 Stat. 1654, 1654A-292, added item 435 “Funeral honors duty: allowance”.

1998—Pub. L. 105-261, div. A, title VI, §633(b)(2), Oct. 17, 1998, 112 Stat. 2044, substituted “rest and recuperative leave from certain stations” for “leave from certain stations” in item 411c.

1997—Pub. L. 105-85, div. A, title VI, §603(c)(4), Nov. 18, 1997, 111 Stat. 1782, substituted “housing” for “quarters” in item 403 and struck out item 403a “Variable housing allowance”.

1994—Pub. L. 103-337, div. A, title VI, §602(a)(2), Oct. 5, 1994, 108 Stat. 2781, added item 403b.

1992—Pub. L. 102-484, div. A, title VI, §623(a)(2), Oct. 23, 1992, 106 Stat. 2423, added item 434.

1990—Pub. L. 101-510, div. A, title V, §504(a)(1), title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1559, 1717, revised chapter heading so as to appear in all capital letters and renumbered Pub. L. 95-561, §1407(c)(1)(B). See 1978 Amendment note below.

1989—Pub. L. 101-189, div. A, title V, §502(b)(2), title VI, §624(a)(2), Nov. 29, 1989, 103 Stat. 1437, 1448, added items 406c and 433.

1987—Pub. L. 100-180, div. A, title VI, §§611(a)(2), 614(a)(2), (d)(3), 615(a)(2), title XIII, §1314(c)(2), Dec. 4, 1987, 101 Stat. 1093-1096, 1176, substituted “leave between consecutive overseas tours” for “certain leave” in item 411b, added items 411g and 411h, inserted “and Vice Chairman” in item 413, added item 419, and redesignated former items 419 and 420 as 420 and 421, respectively.

Pub. L. 100-26, §8(b)(1), Apr. 21, 1987, 101 Stat. 285, redesignated item 431 “Travel and transportation: members escorting certain dependents” as item 432.

1986—Pub. L. 99-661, div. A, title VI, §615(a)(2), Nov. 14, 1986, 100 Stat. 3880, added item 431 “Travel and transportation: members escorting certain dependents”.

1985—Pub. L. 99-145, title VI, §§616(c)(2), 620(a)(2), title XIII, §§1302(b)(2), 1303(b)(7), Nov. 8, 1985, 99 Stat. 641, 643, 738, 740, substituted “allowances:” for “allowances;” in item 404 and “departure” for “evacuation” in item 405a, struck out “away from home port” after “inactivating” in item 406b, added item 411f, substituted “al-

lowances” for “allowance” in item 425, and added item 431 “Benefits for certain members assigned to the Defense Intelligence Agency”.

1984—Pub. L. 98-525, title VI, §§602(d)(2), 612(a)(2), Oct. 19, 1984, 98 Stat. 2536, 2539, struck out “; variable housing allowance” after “Basic allowance for quarters” in item 403, and added item 403a, and substituted “personal emergencies for certain members and dependents” for “certain emergencies for members performing temporary duty” in item 411d.

1983—Pub. L. 98-94, title IX, §§910(a)(2), 932(e)(2), Sept. 24, 1983, 97 Stat. 639, 650, struck out item 421 “Contract surgeons” and added item 430.

1981—Pub. L. 97-60, title I, §§122(a)(2), 126(b), Oct. 14, 1981, 95 Stat. 1003, 1005, added items 404a, 411c, 411d, and 411e.

Pub. L. 97-22, §11(b)(3)(B), July 10, 1981, 95 Stat. 138, substituted “uniformed services” for “Uniformed Services” in item 406b.

1980—Pub. L. 96-343, §4(a)(3), Sept. 8, 1980, 94 Stat. 1125, substituted “for quarters; variable housing allowance” for “for quarters” in item 403.

Pub. L. 96-342, title VIII, §808(a)(2), Sept. 8, 1980, 94 Stat. 1097, substituted “house trailers and mobile homes” for “trailers” in item 409.

1978—Pub. L. 95-561, title XIV, §1407(e)(1)(B), formerly §1407(c)(1)(B), Nov. 1, 1978, 92 Stat. 2367, renumbered §1407(d)(1)(B) by Pub. L. 101-510, div. A, title V, §504(a)(1), Nov. 5, 1990, 104 Stat. 1559, renumbered §1407(e)(1)(B) by Pub. L. 107-107, div. A, title III, §353(1), Dec. 28, 2001, 115 Stat. 1063, added item 429.

1973—Pub. L. 93-213, §1(2), Dec. 28, 1973, 87 Stat. 910, added item 411b.

Pub. L. 93-170, §1(2), Nov. 29, 1973, 87 Stat. 689, substituted “overhauling or inactivating” for “overhauling” in item 406b.

1971—Pub. L. 92-129, title II, §205(b), Sept. 28, 1971, 85 Stat. 359, added item 428.

1970—Pub. L. 91-210, §1(2), Mar. 13, 1970, 84 Stat. 53, added item 406b.

1968—Pub. L. 90-377, §9, July 5, 1968, 82 Stat. 288, struck out item 426 “Prisoners in naval confinement facilities”.

1967—Pub. L. 90-207, §9(2), Dec. 16, 1967, 81 Stat. 655, inserted item 411a.

1965—Pub. L. 89-26, §1(2), May 22, 1965, 79 Stat. 117, inserted item 405a.

1964—Pub. L. 88-647, title II, §202(6), Oct. 13, 1964, 78 Stat. 1071, substituted “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates” in item 422.

1963—Pub. L. 88-238, §1(2), Dec. 23, 1963, 77 Stat. 476, inserted item 406a.

Pub. L. 88-132, §11(2), Oct. 2, 1963, 77 Stat. 217, added item 427.

## § 401. Definitions

(a) DEPENDENT DEFINED.—In this chapter, the term “dependent”, with respect to a member of a uniformed service, means the following persons:

- (1) The spouse of the member.
- (2) An unmarried child of the member who—
  - (A) is under 21 years of age;
  - (B) is incapable of self-support because of mental or physical incapacity and is in fact dependent on the member for more than one-half of the child’s support; or
  - (C) is under 23 years of age, is enrolled in a full-time course of study in an institution of higher education approved by the Secretary concerned for purposes of this subparagraph, and is in fact dependent on the member for more than one-half of the child’s support.
- (3) A parent of the member if—

(A) the parent is in fact dependent on the member for more than one-half of the parent's support;

(B) the parent has been so dependent for a period prescribed by the Secretary concerned or became so dependent due to a change of circumstances arising after the member entered on active duty; and

(C) the dependency of the parent on the member is determined on the basis of an affidavit submitted by the parent and any other evidence required under regulations prescribed by the Secretary concerned.

(4) An unmarried person who—

(A) is placed in the legal custody of the member as a result of an order of a court of competent jurisdiction in the United States (or Puerto Rico or a possession of the United States) for a period of at least 12 consecutive months;

(B) either—

(i) has not attained the age of 21;

(ii) has not attained the age of 23 years and is enrolled in a full time course of study at an institution of higher learning approved by the Secretary concerned; or

(iii) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this paragraph pursuant to clause (i) or (ii);

(C) is dependent on the member for over one-half of the person's support;

(D) resides with the member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the Secretary concerned may by regulation prescribe; and

(E) is not a dependent of a member under any other paragraph.

(b) OTHER DEFINITIONS.—For purposes of subsection (a):

(1) The term “child” includes—

(A) a stepchild of the member (except that such term does not include a stepchild after the divorce of the member from the stepchild's parent by blood);

(B) an adopted child of the member, including a child placed in the home of the member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member; and

(C) an illegitimate child of the member if the member's parentage of the child is established in accordance with criteria prescribed in regulations by the Secretary concerned.

(2) The term “parent” means—

(A) a natural parent of the member;

(B) a stepparent of the member;

(C) a parent of the member by adoption;

(D) a parent, stepparent, or adopted parent of the spouse of the member; and

(E) any other person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous pe-

riod of at least five years before the member became 21 years of age.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 469; Pub. L. 93-64, title I, §§ 103, 104, July 9, 1973, 87 Stat. 148; Pub. L. 100-26, § 8(e)(7), Apr. 21, 1987, 101 Stat. 286; Pub. L. 102-190, div. A, title VI, § 621, Dec. 5, 1991, 105 Stat. 1377; Pub. L. 103-160, div. A, title VI, § 631(a), Nov. 30, 1993, 107 Stat. 1683; Pub. L. 103-337, div. A, title VII, § 701(b), Oct. 5, 1994, 108 Stat. 2797.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
401 .....	37:231(g) (less last proviso of last sentence).	Oct. 12, 1949, ch. 681, § 102(g) (less last proviso of last sentence), 63 Stat. 804; Sept. 8, 1950, ch. 922, § 1, 64 Stat. 794; Mar. 23, 1953, ch. 8 (as applicable to § 102(g)), 67 Stat. 6; June 30, 1955, ch. 250, § 103 (as applicable to § 102(g)), 69 Stat. 224; Mar. 23, 1959, Pub. L. 86-4, § 3 (as applicable to § 102(g)), 73 Stat. 13.

The words “lawful”, “at all times and in all places”, “except as hereinafter limited in this subsection”, and “in addition to those persons otherwise defined as dependents in this subsection” are omitted as surplusage. In clause (1), the word “spouse” is substituted for words “wife” and “husband”. Clause (2) is substituted for the 16th through 24th words of the first sentence of section 231(g) of existing title 37 and the third sentence (less last proviso) of section 231(g) of existing title 37. Clause (3) is substituted for the second sentence of section 231(g) of existing title 37 and the last sentence (less provisos) of section 231(g) of existing title 37. The second sentence is substituted for the last proviso of the third sentence of section 231(g) of existing title 37. The last sentence is substituted for the first proviso of the last sentence of section 231(g) of existing title 37.

#### AMENDMENTS

1994—Subsec. (b)(1)(B). Pub. L. 103-337 substituted “placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member” for “placement agency for the purpose of adoption”.

1993—Subsec. (a)(4). Pub. L. 103-160 added par. (4).

1991—Pub. L. 102-190 amended text generally. Prior to amendment, text read as follows: “In this chapter, the term ‘dependent’, with respect to a member of a uniformed service, means—

“(1) his spouse;

“(2) his unmarried child (including any of the following categories of children if such child is in fact dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member) who either—

“(A) is under 21 years of age; or

“(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and

“(3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period of at least five years before the member became 21 years of age) who is in fact dependent on the member for over one-half of his support; however, the dependency of such a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required

under regulations prescribed by the Secretary concerned, and he is not considered a dependent of the member claiming the dependence unless—

“(A) the member has provided over one-half of his support for the period prescribed by the Secretary concerned; or

“(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood.”

1987—Pub. L. 100-26 inserted “the term” after “In this chapter.”

1973—Cl. (2). Pub. L. 93-64, §103(1), in revising cl. (1) of first sentence, substituted “unmarried child” for “unmarried legitimate child” and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93-64, §104, in revising cl. (3) of first sentence, substituted “five years before the member became 21 years” for “five years before he became 21 years”, struck out requirement of actual residence of parent in the member's household, and inserted provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93-64, §103(2), struck out second sentence, following cl. (3) of first sentence, stating that a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title VI, §631(b), Nov. 30, 1993, 107 Stat. 1684, provided that: “Section 401(a)(4) of title 37, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994.”

#### EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-64, title II, §206, July 9, 1973, 87 Stat. 149, provided that: “This Act [enacting section 1173 of Title 10, Armed Forces, amending this section and sections 302, 302a, 303, 308a, and 403 of this title, and repealing sections 2210 to 2212 of the former Appendix to Title 50, War and National Defense] shall become effective July 1, 1973.”

### § 402. Basic allowance for subsistence

(a) ENTITLEMENT TO ALLOWANCE.—(1) Except as provided in paragraph (2) or otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(2) An enlisted member is not entitled to the basic allowance for subsistence during basic training.

(b) RATES OF ALLOWANCE BASED ON FOOD COSTS.—(1) The monthly rate of basic allowance for subsistence to be in effect for an enlisted member for a year (beginning on January 1 of that year) shall be equal to the sum of—

(A) the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for the preceding year; plus

(B) the product of the monthly rate under subparagraph (A) and the percentage increase in the monthly cost of a liberal food plan for

a male in the United States who is between 20 and 50 years of age over the preceding fiscal year, as determined by the Secretary of Agriculture each October 1.

(2) The monthly rate of basic allowance for subsistence to be in effect for an officer for a year (beginning on January 1 of that year) shall be the amount equal to the monthly rate of basic allowance for subsistence in effect for officers for the preceding year, increased by the same percentage by which the rate of basic allowance for subsistence for enlisted members for the preceding year is increased effective on such January 1.

(3) For purposes of implementing paragraph (1), the monthly rate of basic allowance for subsistence that was in effect for an enlisted member for calendar year 2001 is deemed to be \$233.

(c) ADVANCE PAYMENT.—The allowance to an enlisted member may be paid in advance for a period of not more than three months.

(d) SPECIAL RATE FOR ENLISTED MEMBERS OCCUPYING SINGLE QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.—The Secretary of Defense, and the Secretary of the department in which the Coast Guard is operating, may pay an enlisted member the basic allowance for subsistence under this section at a monthly rate that is twice the amount in effect under subsection (b)(1) while—

(1) the member is assigned to single Government quarters which have no adequate food storage or preparation facility in the quarters; and

(2) there is no Government messing facility serving those quarters that is capable of making meals available to the occupants of the quarters.

(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member's instruction or duty periods, as described in section 206(a) of this title, total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(f) SPECIAL RULE FOR HIGH-COST DUTY LOCATIONS AND OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.—The Secretary of Defense may authorize a member of the armed forces who is not entitled to the meals portion of the per diem in connection with an assignment in a high-cost duty location or under other unique and unusual circumstances, as determined by the Secretary, to receive any or all of the following:

(1) Meals at no cost to the member, regardless of the entitlement of the member to a basic allowance for subsistence under subsection (a).

(2) A basic allowance for subsistence at the standard rate, regardless of the entitlement of the member for all meals or select meals during the duty day.

(3) A supplemental subsistence allowance at a rate higher than the basic allowance for sub-

sistence rates in effect under this section, regardless of the entitlement of the member for all meals or select meals during the duty day.

(g) **POLICIES ON USE OF DINING AND MESSING FACILITIES.**—The Secretary of Defense, in consultation with the Secretaries concerned, shall prescribe policies regarding use of dining and field messing facilities of the uniformed services.

(h) **NO PAYMENT FOR MEALS RECEIVED AT MILITARY TREATMENT FACILITIES.**—(1) A member of the armed forces who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease described in paragraph (2) shall not be required to pay any charge for meals provided to the member by the military treatment facility.

(2) Paragraph (1) applies with respect to an injury, illness, or disease incurred or aggravated by a member while the member was serving on active duty—

(A) in support of Operation Iraqi Freedom or Operation Enduring Freedom; or

(B) in any other operation designated by the Secretary of Defense as a combat operation or in an area designated by the Secretary as a combat zone.

(i) **REGULATIONS.**—(1) The Secretary of Defense shall prescribe regulations for the administration of this section. Before prescribing the regulations, the Secretary shall consult with each Secretary concerned.

(2) The regulations shall include the specific rates of basic allowance for subsistence required by subsection (b).

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 89–444, § 2(2), June 9, 1966, 80 Stat. 198; Pub. L. 93–419, § 3(1)–(5), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96–513, title IV, § 411, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 98–94, title IX, § 908(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98–525, title VI, § 605, Oct. 19, 1984, 98 Stat. 2537; Pub. L. 98–557, § 17(d), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 99–145, title XIII, § 1303(b)(5), Nov. 8, 1985, 99 Stat. 740; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title VI, § 602(a)–(c)(1), Feb. 10, 1996, 110 Stat. 356, 357; Pub. L. 105–85, div. A, title VI, § 602(a), Nov. 18, 1997, 111 Stat. 1771; Pub. L. 105–261, div. A, title VI, § 604(a), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106–398, § 1 [[div. A], title VI, § 603(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–144, 1654A–145; Pub. L. 107–107, div. A, title VI, § 604(a), Dec. 28, 2001, 115 Stat. 1133; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VI, § 603, Dec. 2, 2002, 116 Stat. 2566; Pub. L. 108–136, div. A, title VI, § 604, title X, § 1045(b)(2), Nov. 24, 2003, 117 Stat. 1499, 1612; Pub. L. 109–163, div. A, title VI, § 607(a), Jan. 6, 2006, 119 Stat. 3288; Pub. L. 109–364, div. A, title VI, § 603(a), Oct. 17, 2006, 120 Stat. 2245; Pub. L. 110–181, div. A, title VI, § 614(h), Jan. 28, 2008, 122 Stat. 149; Pub. L. 110–417, [div. A], title VI, § 602, Oct. 14, 2008, 122 Stat. 4483.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
402(a) .....	37:251(a) (1st sentence).	Oct. 12, 1949, ch. 681, § 301, 63 Stat. 812; May 19, 1952, ch. 310, § 1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, § 20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85–861, § 10, 72 Stat. 1556.
402(b) .....	37:251(a) (2d and last sentences). 37:251(b). 37:251(c).  37:251a.  37:301(a) (45 words before proviso). 37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay).	Aug. 1, 1953, ch. 305, § 617, 67 Stat. 352. Oct. 12, 1949, ch. 681, § 501(a) (45 words before proviso), (e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, § 244, 66 Stat. 494; June 30, 1960, Pub. L. 86–559, § 8, 74 Stat. 282.
402(c) .....	37:251(a) (less 1st, 2d, and last sentences).	
402(d) .....	37:251(e).	
402(e) .....	37:251(f).	
402(f) .....	37:251(d).	

In subsection (a), the words “in the amount set forth in subsection (d)” are substituted for the words “in such amounts . . . as are provided in this section”.

In subsection (b), the words “on a daily basis” are substituted for the last sentence of section 251(a) of existing title 37. The words “United States” are substituted for the word “Government”, in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word “confined” is substituted for the word “sick” for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words “of a reserve component of a uniformed service, or of the National Guard” are substituted for the enumeration of the organizations concerned.

In subsection (c), the words “who are entitled to basic pay” are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of \$1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words “Effective April 15, 1955,” are omitted as executed. The words “United States” are substituted for the word “Government”. The words “messing facilities” are substituted for the word “messes” to conform to subsections (b) and (d).

## AMENDMENTS

2008—Subsec. (h)(1). Pub. L. 110–417, § 602(1), struck out before period at end “during any month covered by paragraph (3) in which the member is entitled to a basic allowance for subsistence under this section”.

Subsec. (h)(3). Pub. L. 110–417, § 602(2), struck out par. (3) which read as follows: “This subsection shall apply to months beginning during the period beginning on October 1, 2005, and ending on December 31, 2008.”

Pub. L. 110–181 substituted “December 31, 2008” for “December 31, 2007”.

2006—Subsec. (h). Pub. L. 109–163, § 607(a)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (h)(3). Pub. L. 109–364 substituted “December 31, 2007” for “December 31, 2006”.

Subsec. (i). Pub. L. 109–163, § 607(a)(1), redesignated subsec. (h) as (i).

2003—Subsec. (b)(1). Pub. L. 108–136, § 1045(b)(2)(A)(i)–(iii), redesignated par. (2) as (1), substituted “The” for “On and after January 1, 2002, the”, and struck out former par. (1) which read as follows: “Through December 31, 2001, the monthly rate of basic allowance for subsistence to be in effect for an enlisted

member for a year (beginning on January 1 of that year) shall be the amount that is halfway between the following amounts, which are determined by the Secretary of Agriculture as of October 1 of the preceding year:

“(A) The amount equal to the monthly cost of a moderate-cost food plan for a male in the United States who is between 20 and 50 years of age.”

“(B) The amount equal to the monthly cost of a liberal food plan for a male in the United States who is between 20 and 50 years of age.”

Subsec. (b)(2). Pub. L. 108-136, §1045(b)(2)(A)(ii), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (b)(3), (4). Pub. L. 108-136, §1045(b)(2)(A)(ii), (iv), redesignated par. (4) as (3) and substituted “paragraph (1)” for “paragraph (2)”. Former par. (3) redesignated (2).

Subsec. (d). Pub. L. 108-136, §1045(b)(2)(B), substituted “subsection (b)(1)” for “subsection (b)(2)”.

Subsecs. (f) to (h). Pub. L. 108-136, §604, added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

2002—Subsec. (d). Pub. L. 107-314 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

“(1) In areas prescribed by the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member described in paragraph (2) is entitled to not more than the pro rata allowance in effect under paragraph (1) or (2) of subsection (b) for each meal the member buys from a source other than a messing facility of the United States.

“(2) An enlisted member referred to in paragraph (1) is a member who is granted permission to mess separately and whose duties require the member to buy at least one meal from a source other than a messing facility of the United States.”

Pub. L. 107-296, which directed amendment of subsec. (d) by substituting “of Homeland Security” for “of Transportation”, could not be executed because the words “of Transportation” did not appear subsequent to amendment by Pub. L. 107-314, see above and Effective Date of 2002 Amendment note below.

2001—Subsec. (b)(4). Pub. L. 107-107 added par. (4).

2000—Subsec. (b)(1). Pub. L. 106-398, §1 [div. A], title VI, §603(a)(1), substituted “Through December 31, 2001, the monthly rate” for “The monthly rate” in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 106-398, §1 [div. A], title VI, §603(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 106-398, §1 [div. A], title VI, §603(b)], substituted “in effect under paragraph (1) or (2) of subsection (b)” for “established under subsection (b)(1)”.

1998—Subsecs. (e) to (g). Pub. L. 105-261 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to basic allowance for subsistence for members of the uniformed services.

1996—Subsec. (b). Pub. L. 104-106, §602(a), (b), designated first sentence as par. (1), redesignated former pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, of par. (1), designated second to fourth sentences as par. (2), designated fifth and sixth sentences as par. (3), and added par. (4).

Subsec. (e)(1). Pub. L. 104-106, §602(c)(1)(A), substituted “subsection (b)(2)” for “the third sentence of subsection (b)”.

Subsec. (e)(2). Pub. L. 104-106, §602(c)(1)(B), substituted “subsection (b)(2)” for “subsection (b)”.

1991—Subsec. (e). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in pars. (1) and (2).

1985—Subsec. (b). Pub. L. 99-145 inserted “or as otherwise prescribed by law” after “title” at end of fourth sentence.

1984—Subsec. (b). Pub. L. 98-525 inserted “The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”

Subsec. (d). Pub. L. 98-557 inserted provisions relating to Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1983—Subsec. (e). Pub. L. 98-94 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b). Pub. L. 96-513, §411(a), inserted provisions authorizing an allowance while performing travel under orders, and struck out provisions prohibiting an allowance while being subsisted at the expense of United States.

Subsec. (e). Pub. L. 96-513, §411(b), inserted reference to definitions of “field duty” and “sea duty”.

1974—Subsec. (a). Pub. L. 93-419, §3(1), struck out “this section or by another” after “otherwise provided by” and substituted “as set forth in this section” for “in the amount set forth in subsection (d) of this section”.

Subsec. (b). Pub. L. 93-419, §3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93-419, §3(3), inserted reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsecs. (d) to (f). Pub. L. 93-419, §3(4), (5), struck out subsec. (d) which related to basic allowance for subsistence for members of the uniformed services, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1966—Subsec. (c). Pub. L. 89-444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110-181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-85, div. A, title VI, §602(g), Nov. 18, 1997, 111 Stat. 1775, provided that: “This section [amending this section, section 404 of this title, and section 6081 of Title 10, Armed Forces, and enacting provisions set out as a note below] and the amendments made by this section shall take effect on January 1, 1998.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title VI, §605, Oct. 19, 1984, 98 Stat. 2537, provided that the amendment made by that section is effective Oct. 1, 1984.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 411 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

RATE FOR ENLISTED MEMBERS WHEN MESSING  
FACILITIES NOT AVAILABLE

Pub. L. 107-107, div. A, title VI, §604(b), Dec. 28, 2001, 115 Stat. 1133, provided that:

“(1) Notwithstanding section 402 of title 37, United States Code, the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may prescribe a rate of basic allowance for subsistence to apply to enlisted members of the uniformed services when messing facilities of the United States are not available. The rate may be higher than the rate of basic allowance for subsistence that would otherwise be applicable to the members under that section, but may not be higher than the highest rate that was in effect for enlisted members of the uniformed services under those circumstances before the date of the enactment of this Act [Dec. 28, 2001].

“(2) Paragraph (1) shall cease to be effective on the first day of the first month for which the basic allowance for subsistence calculated for enlisted members of the uniformed services under section 402 of title 37, United States Code, exceeds the rate of the basic allowance for subsistence prescribed under paragraph (1).”

TRANSITIONAL AUTHORITY TO PROVIDE BASIC  
ALLOWANCE FOR SUBSISTENCE

Pub. L. 107-107, div. A, title VI, §604(c), Dec. 28, 2001, 115 Stat. 1134, provided that: “Notwithstanding the repeal of subsections (c) through (f) of section 602 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 37 U.S.C. 402 note) by section 603(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-145) [see below], the basic allowance for subsistence shall be paid in accordance with such subsections for October, November, and December of 2001.”

Pub. L. 105-85, div. A, title VI, §602(c)-(f), Nov. 18, 1997, 111 Stat. 1772, as amended by Pub. L. 105-261, div. A, title VI, §604(b), Oct. 17, 1998, 112 Stat. 2038; Pub. L. 106-398, §1 [[div. A, title X, §1087(e)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-293, which provided that a basic allowance for subsistence was to be paid to members of the uniformed services according to the conditions and at the rates provided in this note and not under the authority of this section during the period beginning on Jan. 1, 1998, and ending on the first day of the month immediately following the first month for which the monthly equivalent of the rate of basic allowance for subsistence payable to enlisted members of the uniformed services determined under this note was equal to or exceeded by the amount that would otherwise have been the monthly rate of basic allowance for subsistence under subsec. (b)(1) of this section, was repealed by Pub. L. 106-398, §1 [[div. A, title VI, §603(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-145, effective Oct. 1, 2001.

## INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 96-343, §7, Sept. 8, 1980, 94 Stat. 1128, provided that: “Effective September 1, 1980, the rates of basic al-

lowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Sept. 8, 1980] (as prescribed by the President under section 1009 of such title), are increased by 10 percent.”

## REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

## EXECUTIVE ORDER NO. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R. 2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

**§ 402a. Supplemental subsistence allowance for  
low-income members with dependents**

(a) SUPPLEMENTAL ALLOWANCE REQUIRED.—(1) The Secretary concerned shall increase the basic allowance for subsistence to which a member of the armed forces described in subsection (b) is otherwise entitled under section 402 of this title by an amount (in this section referred to as the “supplemental subsistence allowance”) designed to remove the member’s household from eligibility for benefits under the supplemental nutrition assistance program.

(2) The supplemental subsistence allowance may not exceed \$1,100 per month. In establishing the amount of the supplemental subsistence allowance to be paid an eligible member under this paragraph, the Secretary shall take into consideration the amount of the basic allowance for housing that the member receives under section 403 of this title or would otherwise receive under such section, in the case of a member who is not entitled to that allowance as a result of assignment to quarters of the United States or a housing facility under the jurisdiction of a uniformed service.

(3) In the case of a member described in subsection (b) who establishes to the satisfaction of the Secretary concerned that the allotment of the member’s household under the supplemental nutrition assistance program, calculated in the absence of the supplemental subsistence allowance, would exceed the amount established by the Secretary concerned under paragraph (2), the amount of the supplemental subsistence allowance for the member shall be equal to the lesser of the following:

- (A) The value of that allotment.
- (B) \$1,100.

(b) MEMBERS ENTITLED TO ALLOWANCE.—(1) Subject to subsection (d) and paragraph (4), a member of the armed forces with dependents is entitled to receive the supplemental subsistence allowance if the Secretary concerned determines that the member’s income, together with the income of the rest of the member’s household (if any), is within the highest income standard of eligibility, as then in effect under section 5(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(c)) and without regard to paragraph (1) of such section, for participation in the supplemental nutrition assistance program.



(2) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall take into consideration the amount of the basic allowance for housing that the member receives under section 403 of this title or would otherwise receive under such section, in the case of a member who is not entitled to that allowance as a result of assignment to quarters of the United States or a housing facility under the jurisdiction of a uniformed service.

(3) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall not take into consideration—

(A) the amount of the supplemental subsistence allowance that is payable under this section;

(B) the amount of any special pay that is payable to the member under section 310 or 351 of this title, relating to duty subject to hostile fire or imminent danger; or

(C) the amount of any family separation allowance that is payable to the member under section 427 of this title.

(4) After September 30, 2016, a member is eligible for a supplemental subsistence allowance under this section only if the member is serving outside the United States, the Commonwealth of Puerto Rico, the United States Virgin Islands, or Guam.

(c) APPLICATION FOR ALLOWANCE.—To request the supplemental subsistence allowance, a member shall submit an application to the Secretary concerned in such form and containing such information as the Secretary concerned may prescribe. A member applying for the supplemental subsistence allowance shall furnish such evidence regarding the member's satisfaction of the eligibility criteria under subsection (b) as the Secretary concerned may require.

(d) EFFECTIVE PERIOD.—The entitlement of a member to receive the supplemental subsistence allowance terminates upon the occurrence of any of the following events, even though the member continues to meet the eligibility criteria described in subsection (b):

(1) Payment of the supplemental subsistence allowance for 12 consecutive months.

(2) Promotion of the member to a higher grade.

(3) Transfer of the member in a permanent change of station.

(e) REAPPLICATION.—Upon the termination of the effective period of the supplemental subsistence allowance for a member, or in anticipation of the imminent termination of the allowance, a member may reapply for the allowance under subsection (c), and the Secretary concerned shall approve the application and resume payment of the allowance to the member, if the member continues to meet, or once again meets, the eligibility criteria described in subsection (b).

(f) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except on account of the receipt of such allowance,

would be eligible to receive a benefit described in paragraph (2) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.

(2) The benefits referred to in paragraph (1) are as follows:

(A) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) A service provided under the Head Start Act (42 U.S.C. 9831 et seq.).

(D) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858<sup>1</sup> et seq.).

(3) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and that, except on account of the receipt of such allowance, would be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.

(g) DEFINITIONS.—In this section:

(1) The term “Secretary concerned” means—

(A) the Secretary of Defense; and

(B) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) The terms “allotment” and “household” have the meanings given those terms in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012).

(3) The term “supplemental nutrition assistance program” means the program established pursuant to section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013).

(Added Pub. L. 106–398, §1 [[div. A], title VI, §604(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–145; amended Pub. L. 107–107, div. A, title VI, §604(d), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 107–296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title VI, §602(a), (b), Oct. 28, 2004, 118 Stat. 1943; Pub. L. 109–163, div. A, title VI, §608, Jan. 6, 2006, 119 Stat. 3289; Pub. L. 109–364, div. A, title X, §1071(c)(6), (e)(4), Oct. 17, 2006, 120 Stat. 2401; Pub. L. 110–234, title IV, §4002(b)(1)(A), (B), (2)(T), May 22, 2008, 122 Stat. 1095–1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(A), (B), (2)(T), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 111–84, div. A, title VI, §602(a), Oct. 28, 2009, 123 Stat. 2347; Pub. L. 112–81, div. A, title X, §1063(a), Dec. 31, 2011, 125 Stat. 1586; Pub. L. 114–92, div. A, title VI, §602, Nov. 25, 2015, 129 Stat. 836; Pub. L. 114–328, div. A, title VI, §618(h)(2), Dec. 23, 2016, 130 Stat. 2160.)

#### REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (f)(2)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

<sup>1</sup> See References in Text note below.

The Child Nutrition Act of 1966, referred to in subsec. (f)(2)(B), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Head Start Act, referred to in subsec. (f)(2)(C), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (f)(2)(D), is subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-236, which is classified generally to subchapter II-B (§9857 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 9857(a) of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (f)(3), is title XXVI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 893, which is classified principally to subchapter II (§8621 et seq.) of chapter 94 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2016—Subsec. (b)(3)(B). Pub. L. 114-328 inserted “or 351” after “section 310”.

2015—Subsec. (b)(1). Pub. L. 114-92, §602(1), inserted “and paragraph (4)” after “subsection (d)”.

Subsec. (b)(4). Pub. L. 114-92, §602(2), added par. (4).

2011—Subsecs. (f) to (h). Pub. L. 112-81 redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: “Not later than March 1 of each year after 2001, the Secretary of Defense shall submit to Congress a report specifying the number of members of the armed forces who received, at any time during the preceding year, the supplemental subsistence allowance. In preparing the report, the Secretary of Defense shall consult with the Secretary of Homeland Security, with respect to the Coast Guard.”

2009—Subsec. (a)(2), (3)(B). Pub. L. 111-84 substituted “\$1,100” for “\$500”.

2008—Subsec. (a)(1), (3). Pub. L. 110-246, §4002(b)(1)(A), (2)(T), substituted “supplemental nutrition assistance program” for “food stamp program”.

Subsec. (b)(1). Pub. L. 110-246, §4002(b)(1)(A), (B), (2)(T), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977” and “supplemental nutrition assistance program” for “food stamp program”.

Subsec. (h)(2). Pub. L. 110-246, §4002(b)(1)(B), (2)(T), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (h)(3). Pub. L. 110-246, §4002(b)(1)(A), (B), (2)(T), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (b)(3)(B). Pub. L. 109-364, §1071(c)(6), substituted “title” for “section”.

Subsec. (f). Pub. L. 109-163, §608(b), as amended by Pub. L. 109-364, §1071(e)(4), substituted “Secretary of Homeland Security, with respect to the Coast Guard” for “Secretary of Transportation” and struck out at end “No report is required under this subsection after March 1, 2006.”

Subsec. (i). Pub. L. 109-163, §608(a), struck out heading and text of subsec. (i). Text read as follows: “No supplemental subsistence allowance may be provided under this section after September 30, 2006.”

2004—Subsec. (b)(2). Pub. L. 108-375, §602(a)(1), substituted “concerned” for dash after “Secretary” and struck out “(A) shall not take into consideration the amount of the supplemental subsistence allowance payable under this section; but” and subpar. (B) designation before “shall take”.

Subsec. (b)(3). Pub. L. 108-375, §602(a)(2), added par. (3).

Subsecs. (g) to (i). Pub. L. 108-375, §602(b), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

2002—Subsec. (g)(1)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (b)(1). Pub. L. 107-107 inserted “with dependents” after “a member of the armed forces”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title VI, §602(b), Oct. 28, 2009, 123 Stat. 2347, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2009, and shall apply with respect to monthly supplemental subsistence allowances for low-income members with dependents payable on or after that date.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(T) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, §1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071(e)(4) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109-163 as enacted.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VI, §602(c), Oct. 28, 2004, 118 Stat. 1944, provided that: “The amendments made by this section [amending this section] shall apply in determining, on or after the date of the enactment of this Act [Oct. 28, 2004], the eligibility of a person for a supplemental subsistence allowance under section 402a of title 37, United States Code, or for Federal assistance under a law specified in subsection (g) of such section, as so amended.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE

Pub. L. 106-398, §1 [[div. A], title VI, §604(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-147, provided that: “Section 402a of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month that begins not less than 180 days after the date of the enactment of this Act [Oct. 30, 2000].”

### § 403. Basic allowance for housing

(a) GENERAL ENTITLEMENT.—(1) Except as otherwise provided by law, a member of a uni-

formed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—(1) The Secretary of Defense shall prescribe the rates of the basic allowance for housing that are applicable for the various military housing areas in the United States. The rates for an area shall be based on the costs of adequate housing determined for the area under paragraph (2).

(2) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area. After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E-1 through E-4 in determining what constitutes adequate housing for members.

(3)(A) The monthly amount of the basic allowance for housing for an area of the United States for a member of a uniformed service shall be the amount equal to the difference between—

(i) the amount of the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

(ii) the amount equal to a specified percentage (determined under subparagraph (B)) of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.

(B) The percentage to be used for purposes of subparagraph (A)(ii) shall be determined by the Secretary of Defense and may not exceed the following:

(i) One percent for months occurring during 2015.

(ii) Two percent for months occurring during 2016.

(iii) Three percent for months occurring during 2017.

(iv) Four percent for months occurring during 2018.

(v) Five percent for months occurring after 2018.

(4) An adjustment in the rates of the basic allowance for housing under this subsection as a result of the Secretary's redetermination of housing costs in an area shall take effect on the same date as the effective date of the next increase in basic pay under section 1009 of this title or other provision of law.

(5) On and after July 1, 2001, the Secretary of Defense shall establish a single monthly rate for members of the uniformed services with dependents in pay grades E-1 through E-4 in the same military housing area. The rate shall be consistent with the rates paid to members in pay grades other than pay grades E-1 through E-4 and shall be based on the following:

(A) The average cost of a two-bedroom apartment in that military housing area.

(B) One-half of the difference between the average cost of a two-bedroom townhouse in that area and the amount determined in subparagraph (A).

(6) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing within an area of the United States, the monthly amount of the allowance for the member may not be reduced as a result of changes in housing costs in the area or the promotion of the member.

(7)(A) Under the authority of this paragraph, the Secretary of Defense may prescribe a temporary increase in the rates of basic allowance for housing otherwise prescribed for a military housing area or a portion of a military housing area if the military housing area or portion thereof—

(i) is located in an area covered by a declaration by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that a major disaster exists; or

(ii) contains one or more military installations that are experiencing a sudden increase in the number of members of the armed forces assigned to the installation.

(B) The Secretary of Defense shall base the amount of the increase to be made in the rates of basic allowance for housing for an area on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster or the influx of military personnel, except that the increase may not exceed the amount equal to 20 percent of the rate of basic allowance for housing otherwise prescribed for the area.

(C) A member may be paid a basic allowance for housing at a rate increased under this paragraph only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area by reason of the disaster or the influx of military personnel.

(D) Subject to subparagraph (E), an increase in the rates of basic allowance for housing in an area under this paragraph shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of hous-

ing costs in the area under this subsection that occurs after the date of the increase under this paragraph.

(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after December 31, 2018.

(c) BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.—(1) The Secretary of Defense may prescribe an overseas basic allowance for housing for a member of a uniformed service who is on duty outside of the United States. The Secretary shall establish the basic allowance for housing under this subsection on the basis of housing costs in the overseas area in which the member is assigned.

(2) So long as a member of a uniformed service retains uninterrupted eligibility to receive a basic allowance for housing in an overseas area and the actual monthly cost of housing for the member is not reduced, the monthly amount of the allowance in an area outside the United States may not be reduced as a result of changes in housing costs in the area or the promotion of the member. The monthly amount of the allowance may be adjusted to reflect changes in currency rates.

(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

- (i) incurred by the member in occupying private housing outside of the United States; and
- (ii) authorized or approved under regulations prescribed by the Secretary concerned.

(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.

(d) BASIC ALLOWANCE FOR HOUSING WHEN DEPENDENTS DO NOT ACCOMPANY MEMBER.—(1) A member of a uniformed service with dependents who is on permanent duty at a location described in paragraph (2) may be paid a family separation basic allowance for housing under this subsection at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to that location, for members in the same grade at that location without dependents.

(2) A permanent duty location referred to in paragraph (1) is a location—

- (A) to which the movement of the member's dependents is not authorized at the expense of the United States under section 476 of this title, and the member's dependents do not reside at or near the location; and

(B) at which quarters of the United States are not available for assignment to the member.

(3) If a member with dependents is assigned to duty in an area that is different from the area in which the member's dependents reside, the member is entitled to a basic allowance for housing as provided in subsection (b) or (c), whichever applies to the member, subject to the following:

(A) If the member's assignment to duty in that area, or the circumstances of that assignment, require the member's dependents to reside in a different area, as determined by the Secretary concerned, the amount of the basic allowance for housing for the member shall be based on the area in which the dependents reside or the member's last duty station, whichever the Secretary concerned determines to be most equitable.

(B) If the member's assignment to duty in that area is under the conditions of a low-cost or no-cost permanent change of station or permanent change of assignment, the amount of the basic allowance for housing for the member shall be based on the member's last duty station if the Secretary concerned determines that it would be inequitable to base the allowance on the cost of housing in the area to which the member is reassigned.

(C) If the member is reassigned for a permanent change of station or permanent change of assignment from a duty station in the United States to another duty station in the United States for a period of not more than one year for the purpose of participating in professional military education or training classes, the amount of the basic allowance for housing for the member may be based on whichever of the following areas the Secretary concerned determines will provide the more equitable basis for the allowance:

- (i) The area of the duty station to which the member is reassigned.
- (ii) The area in which the dependents reside, but only if the dependents reside in that area when the member departs for the duty station to which the member is reassigned and only for the period during which the dependents reside in that area.
- (iii) The area of the former duty station of the member, if different than the area in which the dependents reside.

(4) A family separation basic allowance for housing paid to a member under this subsection is in addition to any other allowance or per diem that the member receives under this title. A member may receive a basic allowance for housing under both paragraphs (1) and (3).

(e) EFFECT OF ASSIGNMENT TO QUARTERS.—(1) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service appropriate to the grade, rank, or rating of the member and adequate for the member and dependents of the member, if with dependents, is not entitled to a basic allowance for housing.

(2) A member without dependents who is in a pay grade above pay grade E-6 and who is as-

signed to quarters in the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to the grade or rank of the member and adequate for the member, may elect not to occupy those quarters and instead to receive the basic allowance for housing prescribed for the member's pay grade by this section.

(3) A member without dependents who is in pay grade E-6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Secretary of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for housing prescribed for the member's pay grade under this section.

(4) The Secretary concerned may deny the right to make an election under paragraph (2) or (3) if the Secretary determines that the exercise of such an election would adversely affect a training mission, military discipline, or military readiness.

(5) A member with dependents who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may be paid the basic allowance for housing if, because of orders of competent authority, the dependents are prevented from occupying those quarters.

(f) **INELIGIBILITY DURING INITIAL FIELD DUTY OR SEA DUTY.**—(1) A member of a uniformed service without dependents who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for housing while on that initial field duty unless the commanding officer of the member certifies that the member was necessarily required to procure quarters at the member's expense.

(2)(A) Except as provided in subparagraphs (B) and (C), a member of a uniformed service without dependents who is in a pay grade below pay grade E-6 is not entitled to a basic allowance for housing while the member is on sea duty.

(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for housing to a member of a uniformed service without dependents who is serving in pay grade E-4 or E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grades E-4 and E-5.

(C) Notwithstanding section 421 of this title, a member of a uniformed service in a pay grade below pay grade E-6 who is assigned to sea duty and is married to another member of a uniformed service is entitled to a basic allowance for housing subject to the limitations of subsection (e).

(3) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, shall prescribe regulations defining the terms "field duty" and "sea duty" for purposes of this section.

(g) **RESERVE MEMBERS.**—(1) A member of a reserve component without dependents who is called or ordered to active duty to attend accession training, in support of a contingency operation, or for a period of more than 30 days, or a retired member without dependents who is ordered to active duty under section 688(a) of title 10 in support of a contingency operation or for a period of more than 30 days, may not be denied a basic allowance for housing if, because of that call or order, the member is unable to continue to occupy a residence—

(A) which is maintained as the primary residence of the member at the time of the call or order; and

(B) which is owned by the member or for which the member is responsible for rental payments.

(2) The Secretary concerned may provide a basic allowance for housing to a member described in paragraph (1) at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to the location at which the member is serving, for members in the same grade at that location without dependents. The member may receive both a basic allowance for housing under paragraph (1) and under this paragraph for the same month, but may not receive the portion of the allowance authorized under section 474 of this title, if any, for lodging expenses if a basic allowance for housing is provided under this paragraph.

(3) Paragraphs (1) and (2) shall not apply if the member is authorized transportation of household goods under section 476 of this title as part of the call or order to active duty described in such paragraph.

(4) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

(A) A member who is called or ordered to active duty for a period of more than 30 days.

(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation.

(5) The Secretary of Defense shall establish a rate of basic allowance for housing to be paid to a member of a reserve component while the member serves on active duty under a call or order to active duty specifying a period of 30 days or less, unless the call or order to active duty is in support of a contingency operation.

(6)(A) This paragraph applies with respect to a member of a reserve component who performs active Guard and Reserve duty (as defined in section 101(d)(6) of title 10).

(B) The rate of basic allowance for housing to be paid to a member described in subparagraph (A) shall be based on the member's permanent duty station, even during instances in which the member is mobilized for service on active duty other than active Guard and Reserve duty.

(C)(i) During transitions in service status from active Guard and Reserve duty to other active duty and back to active Guard and Reserve

duty, or following the start of new periods of service resulting from a change in orders, a member described in subparagraph (A) shall be considered as retaining uninterrupted eligibility to receive a basic allowance for housing in an area as provided for under subsections (b)(6) and (c)(2) so long as the member remains on active duty without a break in service.

(ii) Clause (i) does not apply if the member's permanent duty station changes as a result of orders directing a permanent change in station with the authority for the movement of household goods.

(iii) For purposes of clause (i), a break in active service occurs when one or more calendar days between active service periods do not qualify as active service.

(D) Subsections (d)(3) and (o) also apply to a member described in subparagraph (A).

(h) RENTAL OF PUBLIC QUARTERS.—Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents, of the National Oceanic and Atmospheric Administration and the Public Health Service), a member of a uniformed service, and the dependents of the member, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to an occupancy without charge by such a member and the dependents of the member, if any. Such a member may not, because of occupancy under this subsection, be deprived of any money allowance to which the member is otherwise entitled for the rental of quarters.

(i) TEMPORARY HOUSING ALLOWANCE WHILE IN TRAVEL OR LEAVE STATUS.—A member of a uniformed service is entitled to a temporary basic allowance for housing (at a rate determined by the Secretary of Defense) while the member is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time, when the member is not assigned to quarters of the United States.

(j) AVIATION CADETS.—The eligibility of an aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard for a basic allowance for housing shall be determined as if the aviation cadet were a member of the uniformed services in pay grade E-4.

(k) ADMINISTRATION.—(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2) The Secretary concerned may make such determinations as may be necessary to administer this section, including determinations of dependency and relationship. When warranted by the circumstances, the Secretary concerned may reconsider and change or modify any such determination. The authority of the Secretary concerned under this subsection may be delegated. Any determination made under this section with regard to a member of the uniformed services is final and is not subject to review by any accounting officer of the United States or a court, unless there is fraud or gross negligence.

(3) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fees established by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 25-year period beginning with the completion of such construction.

(l) TEMPORARY CONTINUATION OF ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY.—(1) The Secretary of Defense, or the Secretary of Homeland Security in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies on active duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Homeland Security in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 365 days.

(2) The Secretary concerned may pay a basic allowance for housing (at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing) to the dependents of a member of the uniformed services who dies while on active duty and whose dependents—

(A) are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death;

(B) are occupying such housing on a rental basis on such date; or

(C) vacate such housing sooner than 365 days after the date of the member's death.

(3) An allowance may be paid under paragraph (2) to the spouse of the deceased member even though the spouse is also a member of the uniformed services. The allowance paid under such paragraph is in addition to any other pay and allowances to which the spouse is entitled as a member.

(4) The payment of the allowance under paragraph (2) shall terminate 365 days after the date of the member's death.

(m) MEMBERS PAYING CHILD SUPPORT.—(1) A member of a uniformed service with dependents may not be paid a basic allowance for housing at the with dependents rate solely by reason of the payment of child support by the member if—

(A) the member is assigned to a housing facility under the jurisdiction of a uniformed service; or

(B) the member is assigned to sea duty, and elects not to occupy assigned quarters for unaccompanied personnel, unless the member is in a pay grade above E-3.

(2) A member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who is not otherwise authorized a basic allowance for housing and who pays child support

is entitled to the basic allowance for housing differential, except for months for which the amount payable for the child support is less than the rate of the differential. Payment of a basic allowance for housing differential does not affect any entitlement of the member to a partial allowance for quarters under subsection (n).

(3) The basic allowance for housing differential to which a member is entitled under paragraph (2) is the amount equal to the difference between—

(A) the rate of the basic allowance for quarters (with dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date); and

(B) the rate of the basic allowance for quarters (without dependents) for the member's pay grade, as such rate was in effect on December 31, 1997, under this section (as in effect on that date).

(4) Whenever the rates of basic pay for members of the uniformed services are increased, the monthly amount of the basic allowance for housing differential computed under paragraph (3) shall be increased by the average percentage increase in the rates of basic pay. The effective date of the increase shall be the same date as the effective date of the increase in the rates of basic pay.

(5) In the case of two members, who have one or more common dependents (and no others), who are not married to each other, and one of whom pays child support to the other, the amount of the basic allowance for housing paid to each member under this section shall be reduced in accordance with regulations prescribed by the Secretary of Defense. The total amount of the basic allowances for housing paid to the two members may not exceed the sum of the amounts of the allowance to which each member would be otherwise entitled under this section.

(n) **PARTIAL ALLOWANCE FOR MEMBERS WITHOUT DEPENDENTS.**—(1) A member of a uniformed service without dependents who is not entitled to receive a basic allowance for housing under subsection (b), (c), or (d) is entitled to a partial basic allowance for housing at a rate determined by the Secretary of Defense under paragraph (2).

(2) The rate of the partial basic allowance for housing is the partial rate of the basic allowance for quarters for the member's pay grade as such partial rate was in effect on December 31, 1997, under section 1009(c)(2) of this title (as such section was in effect on such date).

(o) **TREATMENT OF LOW-COST AND NO-COST MOVES AS NOT BEING REASSIGNMENTS.**—In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be reassigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated for the purposes of this section as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 88-132, §10, Oct. 2, 1963, 77 Stat. 216; Pub. L. 89-718, §§49(a)(1), 54, Nov. 2, 1966, 80 Stat. 1121, 1122; Pub. L. 90-207, §1(3), Dec. 16, 1967, 81 Stat. 651; Pub. L. 92-129, title II, §204, Sept. 28, 1971, 85 Stat. 358; Pub. L. 93-64, title I, §105, July 9, 1973, 87 Stat. 148; Pub. L. 93-419, §3(6), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-343, §4(a)(1), (2), Sept. 8, 1980, 94 Stat. 1125; Pub. L. 96-513, title V, §516(10), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96-579, §§6(a)-(c), 7, Dec. 23, 1980, 94 Stat. 3367, 3368; Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138; Pub. L. 98-94, title IX, §907(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §§602(c), 604(a), Oct. 19, 1984, 98 Stat. 2534, 2537; Pub. L. 99-145, title VI, §§604(a), 605(a), title VIII, §809(b), title XIII, §1303(b)(6), Nov. 8, 1985, 99 Stat. 638, 681, 740; Pub. L. 99-227, §1, Dec. 28, 1985, 99 Stat. 1745; Pub. L. 100-26, §8(d)(5), Apr. 21, 1987, 101 Stat. 285; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§602(a), 604(a), 632(a), Dec. 5, 1991, 105 Stat. 1373, 1374, 1380; Pub. L. 103-337, div. A, title VI, §604(a), (b), Oct. 5, 1994, 108 Stat. 2782; Pub. L. 104-106, div. A, title VI, §§603(a), 604(a), Feb. 10, 1996, 110 Stat. 357, 358; Pub. L. 104-201, div. A, title VI, §§604(a)-(c), 605, Sept. 23, 1996, 110 Stat. 2540, 2541; Pub. L. 105-85, div. A, title VI, §603(a), Nov. 18, 1997, 111 Stat. 1775; Pub. L. 105-261, div. A, title VI, §603(a), Oct. 17, 1998, 112 Stat. 2037; Pub. L. 106-398, §1 [[div. A], title VI, §§605(a)-(d), 607, 608, title X, §1087(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-147 to 1654A-149, 1654A-292; Pub. L. 107-107, div. A, title VI, §605(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VI, §602, Dec. 2, 2002, 116 Stat. 2566; Pub. L. 108-136, div. A, title VI, §605(a), Nov. 24, 2003, 117 Stat. 1500; Pub. L. 108-375, div. A, title VI, §§603, 604, Oct. 28, 2004, 118 Stat. 1944; Pub. L. 109-13, div. A, title I, §1022(a), May 11, 2005, 119 Stat. 251; Pub. L. 109-163, div. A, title VI, §§609(a), 610, 611, Jan. 6, 2006, 119 Stat. 3289, 3290; Pub. L. 109-364, div. A, title VI, §§604(a), 605(a), Oct. 17, 2006, 120 Stat. 2245, 2246; Pub. L. 110-181, div. A, title VI, §§602(a), 603(b), Jan. 28, 2008, 122 Stat. 145; Pub. L. 112-81, div. A, title VI, §§601, 631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1447, 1465; Pub. L. 112-239, div. A, title VI, §§602, 603(a), 604(a), title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1773, 1774, 1948; Pub. L. 113-66, div. A, title VI, §601, Dec. 26, 2013, 127 Stat. 779; Pub. L. 113-291, div. A, title VI, §§602, 604(a), Dec. 19, 2014, 128 Stat. 3397, 3398; Pub. L. 114-92, div. A, title VI, §§603, 604, Nov. 25, 2015, 129 Stat. 837; Pub. L. 114-328, div. A, title VI, §603, Dec. 23, 2016, 130 Stat. 2156; Pub. L. 115-91, div. A, title VI, §605, Dec. 12, 2017, 131 Stat. 1421.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
403(a) .....	37:252(a). 37:252(f).	Oct. 12, 1949, ch. 681, §302(a)-(f), 63 Stat. 812; May 19, 1952, ch. 310, §1(b), (c), 66 Stat. 79; May 20, 1958, Pub. L. 85-422, §1(9), 72 Stat. 127.
403(b) .....	37:252(b).	
403(c) .....	37:252(c).	
403(d) .....	37:252(d).	
403(e) .....	37:111a.	July 2, 1945, ch. 227, 59 Stat. 316.

## HISTORICAL AND REVISION NOTES—Continued

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
403(f) .....	37:320.	June 29, 1950, ch. 405,
403(g) .....	37:252(e).	§ 102, 64 Stat. 288.

In subsection (a), the words “at the following monthly rates” are substituted for the words “in such amount and under such circumstances as are provided in this section”. Section 252(f) (words before table) of existing title 37 is omitted as surplusage.

In subsections (b), (d), and (e), the words “United States” are substituted for the word “Government”.

In subsection (c), the words “a period” are substituted for the words “temporary periods”.

In subsection (e), the words “member” and “members” are substituted for the word “personnel”.

In subsection (f), the words “may be used” are substituted for the words “shall be available”. The words “for any periods after June 29, 1950,” are omitted as executed. The words “(as defined in sections 231(g) and 252 of this title)” are omitted as covered by section 401 of this revised title.

In subsection (g), the word “including” is substituted for the words “and such regulations shall include, but not be limited to”.

## AMENDMENTS

2017—Subsec. (b)(7)(E). Pub. L. 115-91 substituted “December 31, 2018” for “December 31, 2017”.

2016—Subsec. (b)(7)(E). Pub. L. 114-328 substituted “December 31, 2017” for “December 31, 2016”.

2015—Subsec. (b)(3)(B). Pub. L. 114-92, § 603, substituted “may not exceed the following:” for “may not exceed one percent.” and added cls. (i) to (v).

Subsec. (b)(7)(E). Pub. L. 114-92, § 604, substituted “December 31, 2016” for “December 31, 2015”.

2014—Subsec. (b)(3). Pub. L. 113-291, § 604(a), amended par. (3) generally. Prior to amendment, par. (3) related to the total amount that could be paid for a fiscal year for the basic allowance for housing.

Subsec. (b)(7)(E). Pub. L. 113-291, § 602, substituted “December 31, 2015” for “December 31, 2014”.

2013—Subsec. (b)(7)(E). Pub. L. 113-66 substituted “December 31, 2014” for “December 31, 2013”.

Pub. L. 112-239, § 602, substituted “December 31, 2013” for “December 31, 2012”.

Subsec. (d)(2)(A). Pub. L. 112-239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, § 631(f)(4)(A). See 2011 Amendment note below.

Subsec. (f)(2)(C). Pub. L. 112-239, § 603(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are each entitled to a basic allowance for housing during the period of such simultaneous sea duty. The amount of the allowance payable to a member under the preceding sentence shall be based on the without dependents rate for the pay grade of the member.”

Subsec. (g)(2), (3). Pub. L. 112-239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, § 631(f)(4)(A). See 2011 Amendment notes below.

Subsec. (g)(6). Pub. L. 112-239, § 604(a), added par. (6). 2011—Subsec. (b)(7)(E). Pub. L. 112-81, § 601, substituted “December 31, 2012” for “December 31, 2009”.

Subsec. (d)(2)(A). Pub. L. 112-81, § 631(f)(4)(A), as amended by Pub. L. 112-239, § 1076(a)(9), substituted “476” for “406”.

Subsec. (g)(2). Pub. L. 112-81, § 631(f)(4)(A), as amended by Pub. L. 112-239, § 1076(a)(9), substituted “474” for “404”.

Subsec. (g)(3). Pub. L. 112-81, § 631(f)(4)(A), as amended by Pub. L. 112-239, § 1076(a)(9), substituted “476” for “406”.

2008—Subsec. (b)(7)(E). Pub. L. 110-181, § 603(b), substituted “December 31, 2009” for “December 31, 2008”.

Subsec. (g)(1). Pub. L. 110-181, § 602(a), inserted “to attend accession training,” after “called or ordered to active duty” and inserted a comma after “contingency operation” the first time appearing.

2006—Subsec. (b)(7). Pub. L. 109-163, § 609(a), added par. (7).

Subsec. (g)(1). Pub. L. 109-163, § 610(b), inserted “or for a period of more than 30 days” after “in support of a contingency operation” in two places in introductory provisions.

Subsec. (g)(2). Pub. L. 109-364, § 604(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (g)(3). Pub. L. 109-364, § 604(a)(1), (3), redesignated par. (2) as (3) and substituted “Paragraphs (1) and (2)” for “Paragraph (1)”. Former par. (3) redesignated (4).

Pub. L. 109-163, § 610(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (g)(4). Pub. L. 109-364, § 604(a)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Pub. L. 109-163, § 610(a)(1), (3), redesignated par. (3) as (4) and substituted “30 days or less” for “less than 140 days”.

Subsec. (g)(5). Pub. L. 109-364, § 604(a)(1), redesignated par. (4) as (5).

Subsec. (l). Pub. L. 109-163, § 611, substituted “365 days” for “180 days” wherever appearing.

Subsec. (l)(3), (4). Pub. L. 109-364, § 605(a), added par. (3) and redesignated former par. (3) as (4).

2005—Subsec. (l). Pub. L. 109-13, § 1022, temporarily substituted “365 days” for “180 days” wherever appearing. See Effective and Termination Dates of 2005 Amendments note below.

2004—Subsec. (d). Pub. L. 108-375, § 604(1), substituted “Do NOT” for “ARE UNABLE TO” in heading.

Subsec. (d)(1). Pub. L. 108-375, § 603(1), substituted “may be paid” for “is entitled to”.

Subsec. (d)(3)(C). Pub. L. 108-375, § 604(2), added subpar. (C).

Subsec. (d)(4). Pub. L. 108-375, § 603(2), inserted first sentence and struck out former first sentence which read as follows: “The family separation basic allowance for housing under this subsection shall be in addition to any other allowance or per diem that the member is otherwise entitled to receive under this title.”

2003—Subsec. (f)(2)(C). Pub. L. 108-136 substituted “are each entitled to a basic allowance for housing” for “are jointly entitled to one basic allowance for housing” in first sentence, inserted second sentence, and struck out former second and third sentences which read as follows: “The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for housing under subparagraph (B).”

2002—Subsec. (b)(7). Pub. L. 107-314, § 602(1), redesignated par. (7) as subsec. (o).

Subsecs. (f)(3), (l)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

Subsec. (o). Pub. L. 107-314 redesignated subsec. (b)(7) as subsec. (o), inserted heading, substituted “In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be” for “In the case of a member who is assigned to duty inside the United States, the location or the circumstances of which make it necessary that the member be”, and inserted “for the purposes of this section” after “may be treated”.

2001—Subsec. (i). Pub. L. 107-107 struck out “who is in a pay grade E-4 (4 or more years of service) or above” after “A member of a uniformed service”.

2000—Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title VI, § 605(a)(3)], added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 106-398, § 1 [[div. A], title VI, § 607(a)], inserted at end “After June 30, 2001, the Secretary may not differentiate between members with de-



pendents in pay grades E-1 through E-4 in determining what constitutes adequate housing for members.”

Pub. L. 106-398, §1 [[div. A], title VI, §605(a)(1), (2)], redesignated par. (1) as (2) and struck out former par. (2) which read as follows: “Subject to paragraph (3), the monthly amount of a basic allowance for housing for an area of the United States for a member of a uniformed service is equal to the difference between—

“(A) the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

“(B) 15 percent of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.”

Subsec. (b)(3). Pub. L. 106-398, §1 [[div. A], title VI, §605(b)], added par. (3) and struck out former par. (3) which read as follows: “The rates of basic allowance for housing shall be reduced as necessary to comply with this paragraph. The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection is the product of—

“(A) the total amount authorized to be paid for such allowance for the preceding fiscal year (as adjusted under paragraph (5)); and

“(B) a fraction—

“(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and

“(ii) the denominator of which is the index of the national average monthly cost of housing for June of the fiscal year before the preceding fiscal year.”

Subsec. (b)(5). Pub. L. 106-398, §1 [[div. A], title VI, §607(b)], added par. (5).

Pub. L. 106-398, §1 [[div. A], title VI, §605(b)(1)], struck out par. (5) which read as follows: “In making a determination under paragraph (3) for a fiscal year, the amount authorized to be paid for the preceding fiscal year for the basic allowance for housing shall be adjusted to reflect changes during the year for which the determination is made in the number, grade distribution, geographic distribution in the United States, and dependency status of members of the uniformed services entitled to the allowance from the number of such members during the preceding fiscal year.”

Subsec. (b)(6). Pub. L. 106-398, §1 [[div. A], title VI, §605(c)(1)], struck out “, changes in the national average monthly cost of housing,” after “housing costs in the area”.

Subsec. (b)(7). Pub. L. 106-398, §1 [[div. A], title VI, §605(c)(2)], struck out “without dependents” after “In the case of a member”.

Subsec. (d)(3). Pub. L. 106-398, §1 [[div. A], title VI, §605(d)], added par. (3) and struck out former par. (3) which read as follows: “In the case of a member with dependents who is assigned to duty at a location or under circumstances that, as determined by the Secretary concerned, require the member’s dependents to reside at a different location, the member shall receive a basic allowance for housing, as provided in subsection (a) or (b), as if the member were assigned to duty in the area in which the dependents reside, regardless of whether the member resides in quarters of the United States or is also entitled to a family separation basic allowance for housing by reason of paragraph (1).”

Subsec. (f)(2)(B). Pub. L. 106-398, §1 [[div. A], title VI, §608(a)], substituted “E-4 or E-5” for “E-5” in first sentence and “grades E-4 and E-5” for “grade E-5” in second sentence.

Subsec. (f)(3). Pub. L. 106-398, §1 [[div. A], title X, §1087(b)(2)], substituted “regulations” for “regulation”.

Subsec. (m)(1)(B). Pub. L. 106-398, §1 [[div. A], title VI, §608(b)], substituted “E-3” for “E-4”.

1998—Subsec. (c)(3). Pub. L. 105-261 added par. (3).

1997—Pub. L. 105-85 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (m) relating to basic allowances for quarters.

1996—Subsec. (b). Pub. L. 104-106, §603(a), designated first sentence as par. (1), designated second sentence as par. (2) and substituted “Subject” for “However, subject”, and added par. (3).

Subsec. (b)(3). Pub. L. 104-201, §605, substituted “Subject to the provisions of subsection (j), a member” for “A member”.

Subsec. (c)(2). Pub. L. 104-201, §604(a)-(c), designated first sentence as subpar. (A) and substituted “Except as provided in subparagraphs (B) and (C), a member” for “A member”, added subpars. (B) and (C), and struck out former second sentence which read as follows: “A member of a uniformed service without dependents who is in a pay grade above E-5 who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting.”

Pub. L. 104-106, §604(a), substituted “E-6” for “E-7” in first sentence and “E-5” for “E-6” in second sentence.

1994—Subsec. (l). Pub. L. 103-337 substituted “180 days” for “90 days” wherever appearing.

1991—Subsec. (a). Pub. L. 102-190, §604(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsection (j)”.

Subsec. (d). Pub. L. 102-190, §632(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (j)(1). Pub. L. 102-190, §604(a)(2), substituted “Secretary of Defense shall” for “President may”.

Subsec. (j)(2). Pub. L. 102-25, §702(b)(1), struck out “of this section” after “subsection (b)”.

Subsec. (m). Pub. L. 102-190, §602(a), added subsec. (m).

1987—Subsec. (l)(1). Pub. L. 100-26 substituted “armed forces” for “Armed Forces”.

1985—Subsec. (a). Pub. L. 99-145, §1303(b)(6), inserted “or as otherwise prescribed by law” after “of this title”.

Pub. L. 99-145, §604(a), inserted provision permitting the allowance authorized by this section to be paid in advance.

Subsec. (c)(1). Pub. L. 99-145, §605(a)(1), substituted “who makes a permanent change of station for assignment to a unit conducting field operations is not entitled to a basic allowance for quarters while on that initial field duty” for “is not entitled to a basic allowance for quarters while he is on field duty”.

Subsec. (c)(2). Pub. L. 99-145, §605(a)(2), substituted “who is assigned to sea duty under a permanent change of station is not entitled to a basic allowance for quarters if the unit to which the member is ordered is deployed and the permanent station of the unit is different than the permanent station from which the member is reporting” for “and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days”.

Subsec. (c)(3). Pub. L. 99-145, §605(a)(3), struck out par. (3) which provided that for purposes of this subsection, duty for a period of less than three months was not considered to be field duty or sea duty.

Subsec. (k). Pub. L. 99-145, §809(b), substituted “25-year period” for “15-year period”.

Subsec. (l). Pub. L. 99-227 added subsec. (l).

1984—Pub. L. 98-525, §602(c)(2), struck out “; variable housing allowance” in section catchline.

Subsec. (a). Pub. L. 98-525, §602(c)(1), struck out designation for par. (1) preceding “Except as otherwise provided by law” and struck out par. (2) which related to variable housing allowances.

Subsec. (j)(2). Pub. L. 98-525, §604(a), inserted reference to training missions.

1983—Subsec. (a)(2)(A), (D). Pub. L. 98-94 substituted “Except as provided in subparagraph (D) of this paragraph, a member” for “A member” at beginning of subpar. (A), and added subpar. (D).

1981—Subsec. (b). Pub. L. 97-22 substituted “pay grade E-6” for “pay grade F-6”.

1980—Pub. L. 96-343, §4(a)(2), substituted “for quarters; variable housing allowance” for “for quarters” in section catchline.

Subsec. (a). Pub. L. 96-343, §4(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 96-579, §6(a)(1), (2), substituted in second sentence “subject to the provisions of subsection (j)” for “except as provided by regulations prescribed under subsection (j)”, “member” for “commissioned officer”, and “F-6” for “C-3”. Because “C-3” did not appear in this subsection, “F-6” was substituted for “O-3” as the probable intent of Congress.

Subsec. (c). Pub. L. 96-579, §6(b), reenacted existing text in provisions designated as pars. (1) and (3), and substituted par. (2) respecting nonentitlement to basic allowance for quarters when on sea duty for member of a uniformed service in pay grade below E-7 or above E-6 for prior nonentitlement provision for such member when on sea duty.

Subsec. (e). Pub. L. 96-513, §516(10)(A), substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

Subsec. (j). Pub. L. 96-579, §6(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 96-513, §516(10)(B), substituted “terms” for “words”.

Subsec. (k). Pub. L. 96-579, §7, added subsec. (k).

1974—Subsec. (a). Pub. L. 93-419 substituted reference to section 1009 of this title for provisions setting out in tables the rates of basic allowance for quarters for members of uniformed services.

1973—Subsec. (a). Pub. L. 93-64, §105(1), (2), substituted in table provisions reading:

“E-4 .....	\$81.60	\$121.50
E-3 .....	72.30	105.00
E-2 .....	63.90	105.00
E-1 .....	60.00	105.00”
for former provisions reading:		
“E-4 (over 4 years’ service) .....	81.60	121.50
E-4 (4 years’ or less service) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

and struck out “A member in pay grade E-4 (less than four years’ service), E-3, E-2, or E-1 is considered at all times to be without dependents.”

Subsec. (b). Pub. L. 93-64, §105(3), in second sentence substituted reference to subsection “(j)” for “(g)”.

Subsecs. (g) to (j). Pub. L. 93-64, §105(4), (5), added subsecs. (g) to (i) and redesignated former subsec. (g) as (j).

1971—Subsec. (a). Pub. L. 92-129 increased quarters allowances as shown in table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10 .....	\$160.20	\$201.00
O-9 .....	160.20	201.00
O-8 .....	160.20	201.00
O-7 .....	160.20	201.00
O-6 .....	140.10	170.10
O-5 .....	130.20	157.50
O-4 .....	120.00	145.05
O-3 .....	105.00	130.05
O-2 .....	95.10	120.00
O-1 .....	85.20	110.10
W-4 .....	120.00	145.05
W-3 .....	105.00	130.05
W-2 .....	95.10	120.00
W-1 .....	85.20	110.10
E-9 .....	85.20	120.00
E-8 .....	85.20	120.00
E-7 .....	75.00	114.90
E-6 .....	70.20	110.10
E-5 .....	70.20	105.00
E-4 (over 4 years’ service) .....	70.20	105.00
E-4 (4 years’ or less service) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00

“Pay grade	Without dependents	With dependents
E-1 .....	45.00	45.00”

1967—Subsec. (f). Pub. L. 90-207 substituted provisions authorizing the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is in pay grade E-4 (four or more years’ service) or above for the period he is in a travel or leave status between permanent duty stations for provisions which precluded the payment of a basic allowance for quarters to a member of a uniformed service without dependents while in a permanent change of station status.

1966—Subsec. (a). Pub. L. 89-718 increased the quarters allowances as shown on the table. Prior to this amendment the table was set out as follows:

“Pay grade	Without dependents	With dependents
O-10 .....	\$171.00	\$136.80
O-9 .....	171.00	136.80
O-8 .....	171.00	136.80
O-7 .....	171.00	136.80
O-6 .....	136.80	119.70
O-5 .....	136.80	102.60
O-4 .....	119.70	94.20
O-3 .....	102.60	85.50
O-2 .....	94.20	77.10
O-1 .....	85.50	68.40
W-4 .....	119.70	94.20
W-3 .....	102.60	85.50
W-2 .....	94.20	77.10
W-1 .....	85.50	68.40
E-9 .....	67.50	45.00
E-8 .....	67.50	45.00
E-7 .....	67.50	45.00
E-6 .....	67.50	45.00
E-5 .....	67.50	45.00
E-4 (7 or more years’ service creditable under section 205) .....	67.50	45.00
E-4 (less than 7 years’ service creditable under section 205) .....	45.00	45.00
E-3 .....	45.00	45.00
E-2 .....	45.00	45.00
E-1 .....	45.00	45.00”

Subsec. (e). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”.

1963—Subsec. (b). Pub. L. 88-132 authorized election by certain officers without dependents not to occupy government quarters.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title VI, §603(b), Jan. 2, 2013, 126 Stat. 1773, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2013.”

Pub. L. 112-239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title VI, §602(b), Jan. 28, 2008, 122 Stat. 145, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to months beginning on or after the date of the enactment of this Act [Jan. 28, 2008].”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title VI, §604(b), Oct. 17, 2006, 120 Stat. 2246, provided that: “Paragraph (2) of section 403(g) of title 37, United States Code, as added by subsection (a), shall apply with respect to months beginning on or after October 1, 2006.”

Pub. L. 109-364, div. A, title VI, §605(b), Oct. 17, 2006, 120 Stat. 2246, provided that:

“(1) GENERAL RULE.—The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2006.

“(2) TRANSITIONAL RULE.—After October 1, 2006, the Secretary of Defense, and the Secretary of Homeland

Security in the case of the Coast Guard, may pay the allowance authorized by section 403(l)(2) of title 37, United States Code, to a member of the uniformed services who is the spouse of a member who died on active duty during the one-year period ending on that date, except that the payment of the allowance must terminate within 365 days after the date of the member's death."

Pub. L. 109-163, div. A, title VI, §609(c), Jan. 6, 2006, 119 Stat. 3290, provided that: "The amendments made by this section [amending this section and section 404a of this title] shall apply with respect to months beginning on or after September 1, 2005."

Pub. L. 109-163, div. A, title VI, §611, Jan. 6, 2006, 119 Stat. 3290, provided in part that the amendment of this section by section 611 is effective immediately after the termination, pursuant to section 1022(b) of Pub. L. 109-13 and section 124 of Pub. L. 109-177, of the amendments made by section 1022(a) of Pub. L. 109-13. See Effective and Termination Dates of 2005 Amendments note below.

#### EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Pub. L. 109-77, §124, Sept. 30, 2005, 119 Stat. 2041, provided that: "The amendment made by section 1022 of Public Law 109-13 [amending this section] shall continue in effect through the date specified in section 106(3) of this joint resolution [Dec. 31, 2005]."

Pub. L. 109-13, div. A, title I, §1022(b), May 11, 2005, 119 Stat. 251, provided that: "The amendment made by this section [amending this section] shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 403(l) of title 37, United States Code, as in effect on the date before the date of the enactment of this Act [May 11, 2005] shall be revived."

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title VI, §605(b), Nov. 24, 2003, 117 Stat. 1500, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 2003, and apply to months beginning on or after that date."

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VI, §605(b), Dec. 28, 2001, 115 Stat. 1134, provided that: "The amendment made by this section [amending this section] shall take effect on January 1, 2003, and apply to members of the uniformed services in a travel or leave status between permanent duty stations on or after that date."

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VI, §605(f)], Oct. 30, 2000, 114 Stat. 1654, 1654A-148, provided that:

"(1) The amendments made by this section [amending this section and provisions set out as a note below] shall take effect on October 1, 2000.

"(2) In the case of the amendment made by subsection (c)(2) [amending this section], the amendment shall apply with respect to pay periods beginning on and after October 1, 2000, for a member of the uniformed services covered by the provision of law so amended regardless of the date on which the member was first reassigned to duty under the conditions of a low-cost or no-cost permanent change of station or permanent change of assignment.

"(3) In the case of the amendment made by subsection (d) [amending this section], the amendment shall apply with respect to pay periods beginning on

and after October 1, 2000, for a member of the uniformed services covered by the provision of law so amended regardless of the date on which the member was first assigned to duty in an area that is different from the area in which the member's dependents reside."

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, §603(c), Oct. 17, 1998, 112 Stat. 2037, provided that: "The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located."

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title VI, §604(e), Sept. 23, 1996, 110 Stat. 2541, provided that: "The amendments made by this section [amending this section and section 403a of this title] shall take effect on July 1, 1997."

Pub. L. 104-106, div. A, title VI, §603(b), Feb. 10, 1996, 110 Stat. 358, provided that: "The amendments made by this section [amending this section] shall take effect on July 1, 1996."

Pub. L. 104-106, div. A, title VI, §604(b), Feb. 10, 1996, 110 Stat. 358, provided that: "The amendments made by this section [amending this section] shall take effect on July 1, 1996."

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title VI, §604(c), Oct. 5, 1994, 108 Stat. 2782, provided that: "The amendments made by this section [amending this section] shall take effect as of October 1, 1993."

#### EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title VI, §604(c), Dec. 5, 1991, 105 Stat. 1374, provided that: "The amendments made by this section [amending this section and section 403a of this title] shall take effect six months after the date of the enactment of this Act [Dec. 5, 1991]."

Pub. L. 102-190, div. A, title VI, §632(b), Dec. 5, 1991, 105 Stat. 1380, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to calls or orders of members of the reserve components of the Armed Forces to active duty on or after that date."

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-227, §2, Dec. 28, 1985, 99 Stat. 1745, provided that: "The amendments made by section 1 of this Act [amending this section] shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date."

Pub. L. 99-145, title VI, §604(c), Nov. 8, 1985, 99 Stat. 638, provided that: "The amendments made by this section [amending this section and section 403a of this title] shall take effect on October 1, 1985."

Pub. L. 99-145, title VI, §605(b), Nov. 8, 1985, 99 Stat. 638, provided that:

"(1) The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall take effect on October 1, 1985.

"(2) The amendment made by paragraph (3) of subsection (a) [amending this section] shall take effect on January 1, 1986."

Amendment by section 809(b) of Pub. L. 99-145 effective Oct. 1, 1985, see section 813 of Pub. L. 99-145, formerly set out in a Military Family Policy and Programs note under section 113 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title VI, §602(f), Oct. 19, 1984, 98 Stat. 2536, as amended by Pub. L. 99-145, title VI, §603(b), Nov. 8, 1985, 99 Stat. 637; Pub. L. 99-661, div. A, title XIII, §1342(b), Nov. 14, 1986, 100 Stat. 3991; Pub. L. 112-81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting section 403a of this title, amending this section, section 405 of this title, section 7572 of Title 10, Armed Forces, and provisions set out as a note under this section, and enacting provisions set out as a note under this section] shall take effect on January 1, 1985.

“(2)(A) A member shall be entitled to receive a station housing allowance under section 475 of title 37, United States Code, as if the amendments made by subsection (e) [amending section 405 of this title] had not been enacted, if the member, on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985]—

“(i) is assigned to a permanent duty station in Alaska or Hawaii; and

“(ii) is entitled to payment of a temporary lodging allowance or a station housing allowance under section 475 of such title.

“(B) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall only be entitled to such allowance until the earlier of—

“(i) the date on which the member changes residence in conjunction with a permanent change of duty station; or

“(ii) the expiration of the four-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1986 [Nov. 8, 1985].

“(C) A member who is entitled to a station housing allowance by reason of subparagraph (A) shall not be entitled to a variable housing allowance, except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.

“(3) For the period beginning on January 1, 1985, and ending on September 30, 1985, the limitation applicable under subsection (d)(1) of section 403a of title 37, United States Code (as added by subsection (d)), on the total amount that may be paid during a fiscal year for the variable housing allowance authorized members of the uniformed services by that section shall be 15 percent of the median annual costs of housing in the United States for members of the uniformed services as measured during fiscal year 1984. In determining for the purposes of clause (A) of such subsection the total amount authorized to be paid for such allowance for fiscal year 1985, such amount shall be determined as if the amendments made by this section took effect on October 1, 1984.”

[Amendment of this note by Pub. L. 99-661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99-661, set out as an Effective Date of 1986 Amendment note under section 301 of this title.]

Pub. L. 98-525, title VI, §604(b), Oct. 19, 1984, 98 Stat. 2537, provided that: “The amendment made by subsection (a) [amending this section] shall apply only with respect to members making an election under section 403(b) of title 37, United States Code, after September 30, 1984.”

## EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, §907(b), Sept. 24, 1983, 97 Stat. 637, provided that: “The amendments made by subsection (a) [amending this section] shall apply only

with respect to members called or ordered to active duty after September 30, 1983.”

## EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-22, §11(b)(2), July 10, 1981, 95 Stat. 138, provided that the amendment made by that section is effective Oct. 1, 1980.

## EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-579, §6(d), Dec. 23, 1980, 94 Stat. 3368, provided that: “The amendments made by this section [amending this section] shall only apply to payment of basic allowance for quarters for months after September 1980.”

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

Pub. L. 96-343, §4(b), Sept. 8, 1980, 94 Stat. 1125, provided that: “Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981.”

## EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

## EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

## EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-129 effective Oct. 1, 1971, see section 209 of Pub. L. 92-129, set out as an Effective Date note under section 302a of this title.

## EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-207 effective Oct. 1, 1967, see section 7 of Pub. L. 90-207, set out as a note under section 203 of this title.

## EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of this title.

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

## SPECIAL RULE

Pub. L. 113-291, div. A, title VI, §604(b), Dec. 19, 2014, 128 Stat. 3399, which provided that reduction in housing allowance authorized by section 403(b)(3) of this title, as amended by Pub. L. 113-291, was not applicable with respect to certain benefits paid by the Secretary of Veterans Affairs and such benefits would be subject to

section 403(b)(3) as it read the day before Dec. 19, 2014, was repealed by Pub. L. 115-48, title V, §501(a), Aug. 16, 2017, 131 Stat. 996.

[Pub. L. 115-48, title V, §501(b), Aug. 16, 2017, 131 Stat. 996, provided that: “The amendment made by subsection (a) [repealing section 604(b) of Pub. L. 113-291, formerly set out above] shall take effect on January 1, 2018, and shall apply with respect to individuals who first use their entitlement to educational assistance under chapter 33 of title 38, United States Code, on or after such date.”]

#### TRANSITIONAL PROVISIONS

Pub. L. 112-239, div. A, title VI, §604(b), Jan. 2, 2013, 126 Stat. 1774, as amended by Pub. L. 113-291, div. A, title X, §1071(h), Dec. 19, 2014, 128 Stat. 3512, provided that:

“(1) IN GENERAL.—The basic allowance for housing paid to a member of a reserve component described in subparagraph (A) of paragraph (6) of section 403(g) of title 37, United States Code, as added by subsection (a), who on January 2, 2013, is being paid basic allowance for housing at a rate that is based on a housing area other than the member's permanent duty station, shall be paid at that current rate until the member is assigned to perform duty at the member's permanent duty station, at which time the member shall be paid basic allowance for housing at the prevailing permanent duty station housing area rate or at the permanent duty station housing rate for which the member has qualified under such paragraph (6).

“(2) ALTERNATIVE RATE.—The Secretary of a military department, with the approval of the Secretary of Defense, may pay a member covered by paragraph (1) and under the jurisdiction of that Secretary a basic allowance for housing at a rate higher than the rate provided under such paragraph to ensure that the member is treated fairly and equitably or to serve the best interests of the United States.”

[Pub. L. 113-291, div. A, title X, §1071(h), Dec. 19, 2014, 128 Stat. 3512, provided that the amendment made by that section to section 604(b) of Pub. L. 112-239, set out above, is effective as of Jan. 2, 2013, and as if included in Pub. L. 112-239 as enacted.]

#### MINIMUM RATES OF BASIC ALLOWANCE; ANNUAL LIMITATION

Pub. L. 106-246, div. B, title I, §101(a), (b), July 13, 2000, 114 Stat. 528, provided that:

“(a) MINIMUM RATES OF BASIC ALLOWANCE FOR HOUSING FOR MEMBERS OF THE UNIFORMED SERVICES.—During the period beginning on January 1, 2000, and ending on September 30, 2001 (or such earlier date as the Secretary of Defense considers appropriate), a member of the uniformed services entitled to a basic allowance for housing for a military housing area in the United States shall be paid the allowance at a monthly rate not less than the rate in effect on December 31, 1999, in that area for members serving in the same pay grade and with the same dependency status as the member.

“(b) ANNUAL LIMITATION ON ALLOWANCE.—In light of the rates for the basic allowance for housing authorized by subsection (a), the Secretary of Defense may exceed the limitation on the total amount paid during fiscal year 2000 and 2001 for the basic allowance for housing in the United States otherwise applicable under section 403(b)(3) of title 37, United States Code.”

#### TRANSITION TO BASIC ALLOWANCE FOR HOUSING

Pub. L. 105-85, div. A, title VI, §603(b), Nov. 18, 1997, 111 Stat. 1781, as amended by Pub. L. 106-398, §1 [[div. A], title VI, §605(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A-148; Pub. L. 112-81, div. A, title VI, §631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, provided that: “The Secretary of Defense shall develop and implement a plan to incrementally manage the rate of growth of the various components of the basic allowance for

housing authorized by section 403 of title 37, United States Code (as amended by subsection (a)), during a transition period of not more than eight years. During the transition period, the Secretary may continue to use the authorities provided under sections 403, 403a, 475(b), and 427(a) of title 37, United States Code (as in effect on the day before the date of the enactment of this Act [Nov. 18, 1997]), but subject to such modifications as the Secretary considers necessary, to provide allowances for members of the uniformed services.”

#### EXCEPTION TO LIMITATION ON AMOUNT OF BASIC ALLOWANCE FOR QUARTERS FOR MEMBERS RECEIVING ALLOWANCE DUE TO PAYMENT OF CHILD SUPPORT

Pub. L. 102-190, div. A, title VI, §602(b), Dec. 5, 1991, 105 Stat. 1373, provided that subsec. (m) of this section, as added by section 602(a) of Pub. L. 102-190, temporarily was not to apply with respect to a member of a uniformed service assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service who, on the day before Dec. 5, 1991, was entitled to receive a basic allowance for quarters solely by reason of the member's payment of child support.

#### ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102-25, title III, §310A, Apr. 6, 1991, 105 Stat. 84, provided that, during the period beginning on Aug. 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict, a member of a reserve component of the uniformed services without dependents who was called or ordered to active duty in connection with Operation Desert Storm was to be entitled to a basic allowance for quarters under this section if, because of the call or order, the member was unable to continue to occupy a residence maintained as the primary residence of the member at the time of the call or order, and owned by the member or for which the member was responsible for rental payments.

#### INCREASE IN BASIC ALLOWANCE FOR QUARTERS EFFECTIVE JANUARY 1, 1989

Pub. L. 100-456, div. A, title VI, §601(c), Sept. 29, 1988, 102 Stat. 1976, provided that the rates of basic allowance for quarters for members of the uniformed services were increased by 7 percent effective on Jan. 1, 1989, and authorized the President to allocate the increase among pay grades and dependency categories, and the Secretary of Defense to establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

#### MINIMUM RATE OF QUARTERS ALLOWANCE SET AT RATE AS OF DECEMBER 31, 1984

Pub. L. 99-190, §101(b) [title VIII, §8088], Dec. 19, 1985, 99 Stat. 1185, 1216, provided that effective Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a) of this section which was payable to a member of the uniformed services who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

#### BASIC ALLOWANCE FOR QUARTERS AND VARIABLE HOUSING ALLOWANCE

Pub. L. 98-525, title VI, §602(a), Oct. 19, 1984, 98 Stat. 2533, as amended by Pub. L. 99-661, div. A, title XIII, §1341(a), Nov. 14, 1986, 100 Stat. 3990, revised, effective Jan. 1, 1985, the rates of the basic allowance for quarters authorized by subsec. (a)(1) of this section and provided that, during the period beginning on Jan. 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that in-

creased the rates for such allowance to a level not less than 7 percent greater than the rates in effect on Jan. 1, 1985, the rate of the basic allowance for quarters authorized by subsec. (a)(1) of this section which was payable to a member of the uniformed services who was entitled to that allowance during such period and who was entitled to that allowance on Dec. 31, 1984, was not to be less than the rate of the basic allowance for quarters that was in effect for that member on Dec. 31, 1984, with certain exceptions.

#### FREEZE OF VARIABLE HOUSING ALLOWANCE AT FISCAL YEAR 1983 RATES

Pub. L. 98-94, title IX, §906, Sept. 24, 1983, 97 Stat. 637, as amended by Pub. L. 98-525, title VI, §602(b)(2), Oct. 19, 1984, 98 Stat. 2534, provided that during the period beginning on Oct. 1, 1983, and ending on Jan. 1, 1985, the rates at which the variable housing allowance under subsec. (a)(2) of this section was paid was to be the same as the rates in effect on Sept. 30, 1983.

#### VARIABLE HOUSING ALLOWANCE DURING FISCAL YEAR 1981; AMOUNT; REGULATIONS

Pub. L. 96-343, §4(c), Sept. 8, 1980, 94 Stat. 1125, provided that during fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under this section could be paid a variable housing allowance whenever assigned to duty in an area of the United States (other than Alaska and Hawaii) which was a high housing cost area with respect to such member, and a member with dependents who was assigned to an unaccompanied tour of duty outside the United States could be paid a variable housing allowance while serving such tour of duty for any period during which the member's dependents resided in an area of the United States which would qualify the member to receive a variable housing allowance if assigned to duty in that area.

#### PAY CONTINUATION

Amendment of this section by Pub. L. 92-129 not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

#### 1962 INCREASE IN QUARTERS ALLOWANCE

Act Oct. 12, 1949, ch. 681, title III, §302(f), 63 Stat. 812, as amended by Pub. L. 87-531, §1, July 10, 1962, 76 Stat. 152, which had provided for increases in quarters allowances without amending subsec. (a) of this section through the device of effecting an amendment to section 302(f) of the Career Compensation Act of 1949, was repealed by section 75(5) of Pub. L. 89-718 except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before November 2, 1966. The substance of these quarters allowance increases were incorporated into the text of this section through the amendment of subsec. (a) of this section by Pub. L. 89-718.

#### ENLISTED MEMBERS WITHOUT DEPENDENTS

Act Oct. 12, 1949, ch. 681, title III, 302(g), 63 Stat. 812, which provided that enlisted members without dependents shall be entitled to a basic allowance for quarters at the rate of \$51.30 per month, was repealed by Pub. L. 87-531, §2, July 10, 1962, 76 Stat. 152. Laws effective after Jan. 9, 1962, that are inconsistent with Pub. L. 87-649, to be considered as superseding Pub. L. 87-649 to the extent of the inconsistency, see section 12(a) of Pub. L. 87-649, set out as a note preceding section 101 of this title.

#### AUTHORITY OF SECRETARIES WITH RESPECT TO PAYMENT OF QUARTERS ALLOWANCES

Pub. L. 87-531, §5, July 10, 1962, 76 Stat. 153, provided that: "The Secretaries of the departments concerned

shall have the same authority with respect to payments of quarters allowances to enlisted members of the uniformed services to pay grades E-4 (over 4 years' service) through E-9 that they have with respect to enlisted members of the uniformed services in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) under sections 10 and 11 of the Dependents Assistance Act of 1950 ([former] 50 App. U.S.C. 2210, 2211)."

#### EXECUTIVE ORDER NO. 10204

Ex. Ord. No. 10204, Jan. 16, 1951, 16 F.R. 417, as amended by Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631; Ex. Ord. No. 11146, Mar. 13, 1964, 29 F.R. 3417, which related to regulations governing basic allowances for quarters, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out as a note under section 301 of this title.

#### § 403a. Housing treatment for certain members of the armed forces, and their spouses and other dependents, undergoing a permanent change of station within the United States

(a) HOUSING TREATMENT FOR CERTAIN MEMBERS WHO HAVE A SPOUSE OR OTHER DEPENDENTS.—

(1) HOUSING TREATMENT REGULATIONS.—The Secretary of Defense shall prescribe regulations that permit a member of the armed forces described in paragraph (2) who is undergoing a permanent change of station within the United States to request the housing treatment described in subsection (b) during the covered relocation period of the member.

(2) ELIGIBLE MEMBERS.—A member described in this paragraph is any member who—

(A) has a spouse who is gainfully employed or enrolled in a degree, certificate or license granting program at the beginning of the covered relocation period;

(B) has one or more dependents attending an elementary or secondary school at the beginning of the covered relocation period;

(C) has one or more dependents enrolled in the Exceptional Family Member Program; or

(D) is caring for an immediate family member with a chronic or long-term illness at the beginning of the covered relocation period.

(b) HOUSING TREATMENT.—

(1) CONTINUATION OF HOUSING FOR THE SPOUSE AND OTHER DEPENDENTS.—If a spouse or other dependent of a member whose request under subsection (a) is approved resides in Government-owned or Government-leased housing at the beginning of the covered relocation period, the spouse or other dependent may continue to reside in such housing during a period determined in accordance with the regulations prescribed pursuant to this section.

(2) EARLY HOUSING ELIGIBILITY.—If a spouse or other dependent of a member whose request under subsection (a) is approved is eligible to reside in Government-owned or Government-leased housing following the member's permanent change of station within the United States, the spouse or other dependent may commence residing in such housing at any time during the covered relocation period.

(3) TEMPORARY USE OF GOVERNMENT-OWNED OR GOVERNMENT-LEASED HOUSING INTENDED FOR MEMBERS WITHOUT A SPOUSE OR DEPENDENT.—If

a spouse or other dependent of a member relocates at a time different from the member in accordance with a request approved under subsection (a), the member may be assigned to Government-owned or Government-leased housing intended for the permanent housing of members without a spouse or dependent until the member's detachment date or the spouse or other dependent's arrival date, but only if such Government-owned or Government-leased housing is available without displacing a member without a spouse or dependent at such housing.

(4) **EQUITABLE BASIC ALLOWANCE FOR HOUSING.**—If a spouse or other dependent of a member relocates at a time different from the member in accordance with a request approved under subsection (a), the amount of basic allowance for housing payable may be based on whichever of the following areas the Secretary concerned determines to be the most equitable:

(A) The area of the duty station to which the member is reassigned.

(B) The area in which the spouse or other dependent resides, but only if the spouse or other dependent resides in that area when the member departs for the duty station to which the member is reassigned, and only for the period during which the spouse or other dependent resides in that area.

(C) The area of the former duty station of the member, but only if that area is different from the area in which the spouse or other dependent resides.

(c) **RULE OF CONSTRUCTION RELATED TO CERTAIN BASIC ALLOWANCE FOR HOUSING PAYMENTS.**—Nothing in this section shall be construed to limit the payment or the amount of basic allowance for housing payable under section 403(d)(3)(A) of this title to a member whose request under subsection (a) is approved.

(d) **HOUSING TREATMENT EDUCATION.**—The regulations prescribed pursuant to this section shall ensure the relocation assistance programs under section 1056 of title 10 include, as part of the assistance normally provided under such section, education about the housing treatment available under this section.

(e) **DEFINITIONS.**—In this section:

(1) **COVERED RELOCATION PERIOD.**—(A) Subject to subparagraph (B), the term “covered relocation period”, when used with respect to a permanent change of station of a member of the armed forces, means the period that—

(i) begins 180 days before the date of the permanent change of station; and

(ii) ends 180 days after the date of the permanent change of station.

(B) The regulations prescribed pursuant to this section may provide for a shortening or lengthening of the covered relocation period of a member for purposes of this section.

(2) **DEPENDENT.**—The term “dependent” has the meaning given that term in section 401 of this title.

(3) **PERMANENT CHANGE OF STATION.**—The term “permanent change of station” means a permanent change of station described in section 452(b)(2) of this title.

(Added Pub. L. 115–91, div. A, title VI, § 604(a)(1), Dec. 12, 2017, 131 Stat. 1419.)

#### PRIOR PROVISIONS

A prior section 403a, added Pub. L. 98–525, title VI, § 602(d)(1), Oct. 19, 1984, 98 Stat. 2534; amended Pub. L. 99–145, title VI, §§ 602(a)–(d), 604(b), Nov. 8, 1985, 99 Stat. 636–638; Pub. L. 100–26, § 8(e)(8), Apr. 21, 1987, 101 Stat. 286; Pub. L. 101–189, div. A, title VI, § 602(a), Nov. 29, 1989, 103 Stat. 1445; Pub. L. 101–510, div. A, title VI, § 602, Nov. 5, 1990, 104 Stat. 1575; Pub. L. 102–25, title VII, § 702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §§ 603, 604(b), 633, Dec. 5, 1991, 105 Stat. 1373, 1374, 1381; Pub. L. 103–160, div. A, title VI, § 604, Nov. 30, 1993, 107 Stat. 1679; Pub. L. 104–106, div. A, title VI, § 605(a)(1), (b), Feb. 10, 1996, 110 Stat. 358; Pub. L. 104–201, div. A, title VI, §§ 604(d), 606(a)–(d), Sept. 23, 1996, 110 Stat. 2541, 2542, related to variable housing allowances, prior to repeal by Pub. L. 105–85, div. A, title VI, § 603(c)(1), Nov. 18, 1997, 111 Stat. 1781.

#### EFFECTIVE DATE

Pub. L. 115–91, div. A, title VI, § 604(b), Dec. 12, 2017, 131 Stat. 1420, provided that: “The amendments made by this section [enacting this section] shall take effect on October 1, 2018.”

#### § 403b. Cost-of-living allowance in the continental United States

(a) **PAYMENT AUTHORIZED.**—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

(b) **ELIGIBLE MEMBERS.**—The following members are eligible to receive a cost-of-living allowance under this section:

(1) A member assigned to a high cost area in the continental United States.

(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

(c) **HIGH COST AREA DEFINED.**—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the

cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

(d) AMOUNT OF ALLOWANCE.—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

(2) the percentage equal to the excess of—

(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

(B) the threshold percentage applicable to such fiscal year under subsection (c).

(e) LIMITATION TO ONE ALLOWANCE.—If primary dependents of a member reside separately in different high cost areas—

(1) the member may be paid only one cost-of-living allowance under this section; and

(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

(f) SERVICE NOT COVERED.—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

(A) specifies a period of 140 days or more; or

(B) states that the call or order to active duty is in support of a contingency operation.

(g) AVERAGE SPENDABLE INCOME.—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

(h) JOINT REGULATIONS.—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

(i) OTHER DEFINITIONS.—In this section:

(1) The term “primary dependent”, with respect to a member, means—

(A) the member's spouse; or

(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

(2) The term “cost of living” means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

(A) The Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

(3) The term “uniformed services cost of living” means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

(B) Average income tax paid.

(C) Cost of health care.

(4) The term “base period”, with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

(5) The term “administering Secretaries” means the following:

(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

(B) The Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy.

(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

(Added Pub. L. 103-337, div. A, title VI, §602(a)(1), Oct. 5, 1994, 108 Stat. 2779; amended Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VI, §654(b)(2), Dec. 2, 2002, 116 Stat. 2582.)

#### AMENDMENTS

2002—Subsec. (i)(5)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (i)(6). Pub. L. 107-314 struck out par. (6) which read as follows: “The term ‘continental United States’ means the 48 contiguous States and the District of Columbia.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities



and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### CONDITIONS ON PROVISION OF ALLOWANCE

Pub. L. 103-337, div. A, title VI, § 602(b), Oct. 5, 1994, 108 Stat. 2781, provided that:

“(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2).

“(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other administering Secretaries (as defined in subsection (h)(6) [probably should be (i)(5)] of such section), shall submit to Congress a report describing—

“(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

“(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

“(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

“(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.”

[Report submitted by Secretary of Defense on Mar. 31, 1995.]

**[§ 404. Renumbered § 474]**

**[§ 404a. Renumbered § 474a]**

**[§ 404b. Renumbered § 474b]**

**[§ 405. Renumbered § 475]**

**[§ 405a. Renumbered § 475a]**

**[§ 406. Renumbered § 476]**

**[§ 406a. Renumbered § 476a]**

**[§ 406b. Renumbered § 476b]**

**[§ 406c. Renumbered § 476c]**

**[§ 407. Renumbered § 477]**

**[§ 408. Renumbered § 478]**

**[§ 408a. Renumbered § 478a]**

**[§ 409. Renumbered § 479]**

**[§ 410. Renumbered § 480]**

**[§ 411. Renumbered § 481]**

**[§ 411a. Renumbered § 481a]**

**[§ 411b. Renumbered § 481b]**

**[§ 411c. Renumbered § 481c]**

**[§ 411d. Renumbered § 481d]**

**[§ 411e. Renumbered § 481e]**

**[§ 411f. Renumbered § 481f]**

**[§ 411g. Repealed. Pub. L. 112-81, div. A, title VI, § 631(c), Dec. 31, 2011, 125 Stat. 1460]**

Section, added Pub. L. 100-180, div. A, title VI, § 614(a)(1), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100-456, div. A, title VI, § 624(a), Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101-189, div. A, title VI, § 653(c)(1), Nov. 29, 1989, 103 Stat. 1462, related to travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.

**[§ 411h. Renumbered § 481h]**

**[§ 411i. Renumbered § 481i]**

**[§ 411j. Renumbered § 481j]**

**[§ 411k. Renumbered § 481k]**

**[§ 411l. Renumbered § 481l]**

**[§ 412. Renumbered § 455]**

#### **§ 413. Chairman and Vice Chairman of the Joint Chiefs of Staff**

The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 100-180, div. A, title XIII, § 1314(c)(1), Dec. 4, 1987, 101 Stat. 1176.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
413 .....	10:142(d) (less applicability to basic pay).	[None.]

## AMENDMENTS

1987—Pub. L. 100-180, in amending section generally, in section catchline inserted “and Vice Chairman”, and in text inserted “and Vice Chairman” and substituted “are” for “is”.

## EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title XIII, §1314(e)(2), Dec. 4, 1987, 101 Stat. 1176, provided that: “The amendments made by subsections (c)(1), (d)(3), and (d)(4) [amending this section and provisions set out as notes under sections 431 and 1009 of this title] shall take effect as of October 1, 1986.”

**§ 414. Personal money allowance**

(a) ALLOWANCE FOR OFFICERS SERVING IN CERTAIN RANKS OR POSITIONS.—In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) \$500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) \$1,200 a year, in place of any other personal money allowance authorized by this section while serving as Surgeon General of the Public Health Service;

(3) \$2,200 a year, in addition to the personal money allowance authorized by clause (1), while serving as a senior member of the Military Staff Committee of the United Nations;

(4) \$2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) \$4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or Chief of the National Guard Bureau.

(b) ALLOWANCE FOR CERTAIN NAVAL OFFICERS.—In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) President of the Naval Postgraduate School—\$400;

(2) Commandant of Midshipmen at the Naval Academy—\$800;

(3) President of the Naval War College—\$1,000;

(4) Superintendent of the Naval Academy—\$5,200; and

(5) Director of Naval Intelligence—\$5,200.

(c) ALLOWANCE FOR SENIOR ENLISTED MEMBERS.—In addition to other pay or allowances authorized by this title, a noncommissioned officer is entitled to a personal money allowance of \$2,000 a year while serving as the Sergeant Major of the Army, the Master Chief Petty Officer of the Navy, the Chief Master Sergeant of the Air Force, the Sergeant Major of the Marine Corps, the Master Chief Petty Officer of the Coast Guard, the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, or the Senior

Enlisted Advisor to the Chief of the National Guard Bureau.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 476; Pub. L. 89-718, §49(a)(2), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 102-25, title VII, §702(b)(2), Apr. 6, 1991, 105 Stat. 117; Pub. L. 106-398, §1 [[div. A], title VI, §609(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-149; Pub. L. 108-375, div. A, title V, §557(a)(2), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 109-148, div. A, title VIII, §8124(b), Dec. 30, 2005, 119 Stat. 2727; Pub. L. 109-163, div. A, title VI, §685(c), Jan. 6, 2006, 119 Stat. 3325; Pub. L. 109-364, div. A, title X, §1071(c)(7), Oct. 17, 2006, 120 Stat. 2401; Pub. L. 113-291, div. A, title VI, §603(c), Dec. 19, 2014, 128 Stat. 3398.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
414(a) .....	37:254.	Oct. 12, 1949, ch. 681, §304, 63 Stat. 816; Aug. 10, 1956, ch. 1041, §20(c), 70A Stat. 627; May 20, 1958, Pub. L. 85-422, §1(11), 72 Stat. 127; Sept. 14, 1961, Pub. L. 87-233, §3, 75 Stat. 507; Aug. 2, 1946, ch. 756, §3, 60 Stat. 853.
414(b) .....	37:257.	

In subsection (b), the words “pay or” are inserted to conform to subsection (a). The word “position” is substituted for the words “capacities” and “officers”, respectively. In clause (1), the words “Superintendent of the Naval Postgraduate School” are substituted for the words “Head of the Postgraduate school at the Naval Academy” to reflect present terminology.

## AMENDMENTS

2014—Subsec. (a)(5). Pub. L. 113-291, §603(c)(1), substituted “Commandant of the Coast Guard, or Chief of the National Guard Bureau” for “or Commandant of the Coast Guard”.

Subsec. (c). Pub. L. 113-291, §603(c)(2), substituted “the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, or the Senior Enlisted Advisor to the Chief of the National Guard Bureau” for “or the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff”.

2006—Subsec. (c). Pub. L. 109-364 struck out before period at end “, or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff”.

Pub. L. 109-163, §685(c)(2) inserted before period at end “, or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff”.

Pub. L. 109-163, §685(c)(1), which directed that subsec. (c) be amended by striking “or” after “Sergeant Major of the Marine Corps,” could not be executed because of prior amendment by Pub. L. 109-148. See below.

2005—Subsec. (c). Pub. L. 109-148 substituted “the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff” for “or the Master Chief Petty Officer of the Coast Guard”.

2004—Subsec. (b)(1). Pub. L. 108-375 substituted “President of the Naval Postgraduate School” for “Superintendent of the Naval Postgraduate School”.

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title VI, §609(b)(1)], inserted heading.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title VI, §609(b)(2)], inserted heading.

Subsec. (c). Pub. L. 106-398, §1 [[div. A], title VI, §609(a)], added subsec. (c).

1991—Subsec. (a)(3). Pub. L. 102-25 struck out “of this subsection” after “clause (1)”.

1966—Subsec. (a)(2). Pub. L. 89-718 struck out reference to service as the Director of the Coast and Geodetic Survey.

## EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-291 effective on Dec. 19, 2014 and applicable with respect to months of service that begin on or after that date, see section 603(e) of Pub. L. 113-291, set out as a note under section 1406 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VI, §609(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-149, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2000.”

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

**§ 415. Uniform allowance: officers; initial allowance**

(a) Subject to subsection (b), an officer of an armed force is entitled to an initial allowance of not more than \$400 as reimbursement for the purchase of required uniforms and equipment—

(1) upon first reporting for active duty (other than for training) for a period of more than 90 days;

(2) upon completing at least 14 days of active duty as a member of a reserve component;

(3) upon completing 14 periods, each of which was of at least two hours' duration, of inactive-duty training as a member of the Ready Reserve; or

(4) upon reporting for the first period of active duty required by section 2121(c) of title 10 as a member of the Armed Forces Health Professions Scholarship program.

(b) An officer who has received an initial uniform reimbursement or allowance under any other law is not entitled to an initial allowance under subsection (a).

(c) An allowance of \$250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

(1) on active duty or on inactive duty training status; and

(2) required by directive of the Surgeon General to wear a uniform.

An officer is not entitled to more than one allowance under this subsection.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-647, title II, §202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-444, §2(1), June 9, 1966, 80 Stat. 198; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123;

Pub. L. 90-83, §5(1), Sept. 11, 1967, 81 Stat. 221; Pub. L. 91-278, §3(3), June 12, 1970, 84 Stat. 306; Pub. L. 96-76, title III, §313(c), Sept. 29, 1979, 93 Stat. 586; Pub. L. 96-513, title IV, §412, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 97-22, §10(c), July 10, 1981, 95 Stat. 137; Pub. L. 97-60, title I, §131(a), Oct. 14, 1981, 95 Stat. 1005; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 106-398, §1 [[div. A], title VI, §610(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-150.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
415(a) .....	37:255(a) (less provisos).	Oct. 12, 1949, ch. 681, §305(a) (less 1st proviso); added Aug. 10, 1956, ch. 1041, §20(d) (1st par., less 1st proviso), 70A Stat. 628.
415(b) .....	37:255(a) (2d proviso).	July 1, 1944, ch. 373, §213; restated Apr. 27, 1956, ch. 211, §2(a), 70 Stat. 116.
415(c) .....	37:255(a) (last proviso).	Oct. 12, 1949, ch. 681, §306; added Aug. 10, 1956, ch. 1041, §20(d) (last par.), 70A Stat. 629.
415(d) .....	42:214.	Aug. 7, 1947, ch. 512, §302(f), 61 Stat. 830.
415(e) .....	37:256.  [Uncodified.]	

In subsection (a), the words “Subject to subsections (b) and (c) of this section,” are inserted for clarity. The words “of an armed force” are inserted, since the source section, as originally enacted, did not apply to the Public Health Service or the Coast and Geodetic Survey. (See section 243 of the Armed Forces Reserve Act of 1952 (66 Stat. 492).) The words “of the Army, or the Air Force, without specification of component” are inserted to reflect the definition of “reserve component” in section 102(k) of the source statute. That definition is executed throughout this revised title. For that reason, the words “but not as a member of the Army without specification of component or the Air Force without specification of component, in section 255(a)(2) of existing title 37”, are omitted, and since those categories are excluded by the words “member of a reserve component”. The words “of a reserve component”, in section 255(a)(3) of existing title 37, are omitted, since the Ready Reserve cannot be in anything other than a reserve component.

In subsection (b), the words “heretofore or hereafter” are omitted as surplusage.

In subsection (c), the words “An officer” are substituted for the words “any individual”, since the revised section applies only to officers.

In subsection (d), the words “who is in pay grade O-1, O-2, or O-3” are substituted for the words “is receiving the pay of the junior assistant, assistant, or senior assistant grade” to reflect current terminology. (See chapter 3 of this revised title.) The last sentence is substituted for section 214 (words following semicolon) of title 14.

In subsection (e), the words “as a temporary officer” are inserted for clarity. The words “5596 or” are substituted for section 302(f) of the Act of August 7, 1947, cited above.

## AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398 substituted “\$400” for “\$200” in introductory provisions.

1991—Subsecs. (a), (b). Pub. L. 102-25 struck out “of this section”.

1981—Subsec. (a). Pub. L. 97-22 substituted “subsection (b) of this section” for “subsections (b) and (c) of this section”.

Subsec. (a)(4). Pub. L. 97-60 added par. (4).

1980—Subsec. (a). Pub. L. 96-513, §412(1), (2), substituted “an officer of an armed force is entitled” for “a reserve officer of an armed force, an officer of the

Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled”.

Subsecs. (c), (d). Pub. L. 96-513, §412(3), (4), redesignated subsec. (d) as (c). Former subsec. (c), relating to limitations on qualifications for initial allowances by certain officers, was struck out.

Subsec. (e). Pub. L. 96-513, §412(3), struck out subsec. (e) relating to uniform allowances for temporary officers or warrant officers.

1979—Subsec. (d). Pub. L. 96-76 in cl. (1) inserted provisions for applicability to officers on inactive duty training status, and struck out cl. (3) setting forth applicability to officers entitled to basic pay of pay grade O-1, O-2, or O-3.

1970—Subsec. (e). Pub. L. 91-278 provided for entitlement to uniform allowance of enlisted member appointed a warrant officer under section 213 of title 14.

1967—Subsec. (d)(3). Pub. L. 90-83 substituted “entitled to the basic pay” for “is entitled to the basic pay”.

1966—Subsec. (a). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

Subsec. (e). Pub. L. 89-444 substituted “section 214 of title 14” for “section 435 of title 14”.

1964—Subsec. (a). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VI, §610(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-150, provided that: “The amendments made by this section [amending this section and section 416 of this title] shall take effect on October 1, 2000.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-22, §10(c), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 412 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-76 effective Oct. 1, 1979, see section 314 of Pub. L. 96-76, set out as a note under section 206 of Title 42, The Public Health and Welfare.

#### TRANSFER OF FUNCTIONS

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and all functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

### § 416. Uniform allowance: officers; additional allowances

(a) In addition to the allowance provided by section 415 of this title, a reserve officer of an armed force, an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10 is entitled to not more than \$200 as reimbursement for additional uniforms and equipment required on that duty, for each time that the officer enters on active duty for a period of more than 90 days.

(b) Subsection (a) does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uniform reimbursement or allowance of more than \$400; or

(2) the officer enters on that tour within two years after completing a period of active duty of more than 90 days' duration.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 477; Pub. L. 88-624, §1, Oct. 3, 1964, 78 Stat. 1002; Pub. L. 88-647, title II, §202(3), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, §63, Nov. 2, 1966, 80 Stat. 1123; Pub. L. 96-513, title V, §516(13), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 101-189, div. A, title VI, §663(a), Nov. 29, 1989, 103 Stat. 1465; Pub. L. 106-398, §1 [[div. A], title VI, §610(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-150; Pub. L. 107-107, div. A, title VI, §606(a), Dec. 28, 2001, 115 Stat. 1134.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
416(a) .....	37:255(b).	Oct. 12, 1949, ch. 681, §305(b), (c); added Aug. 10, 1956, ch. 1041, §20(d) (2d and 3d pars.), 70A Stat. 628; Sept. 2, 1958, Pub. L. 85-861, §33(f), 72 Stat. 1568.
416(b) .....	37:255(c).	

In subsection (a), the words “In addition to the initial uniform allowance authorized by section 431 (a)-(d) of this title” are substituted for the word “additional”. Section 255(b) (last proviso of 1st sentence) of existing title 37 is omitted as executed. The words “may not be included” are substituted for the words “shall be excluded”. Section 255(b) (last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words “a reserve officer”. (See revision note for section 415(a) of this revised title.)

In subsection (b), the introductory clause is substituted for the word “further”. The words “of an armed force” and “of the Army, or the Air Force, without specification of component” are inserted for the reasons stated in the revision note for section 415(a) of this revised title. Clauses (1) and (2) are substituted for section 255(c) (provisos) of existing title 37.

#### AMENDMENTS

2001—Subsec. (b)(1). Pub. L. 107-107 substituted “\$400” for “\$200”.

2000—Subsec. (a). Pub. L. 106-398 substituted “\$200” for “\$100”.

1989—Subsec. (a). Pub. L. 101-189 redesignated first sentence of subsec. (b) as (a), substituted “section 415 of this title” for “section 415(a)-(c) of this title and subsection (a) of this section” and “the officer” for “he”, and struck out former subsec. (a) which read as follows: “In addition to the initial uniform allowance authorized by section 415(a)-(c) of this title, a reserve officer of an armed force who has not become entitled to a uniform reimbursement or allowance as an officer during the preceding four years, is entitled to not more than \$50 as reimbursement for the purchase of required uniforms and equipment, upon completion of each period, after July 9, 1952, of four years of service, as prescribed by section 1332(a)(2) of title 10, in an active status in one or more reserve components, including at least 28 days of active duty. However, periods of active duty of more than 90 days may not be included in computing that four years of service.”

Subsec. (b). Pub. L. 101-189 redesignated first sentence of subsec. (b) as (a) and in remaining provisions

of subsec. (b) substituted “Subsection (a) does not apply” for “However, this subsection does not apply”.

1980—Pub. L. 96-513 substituted “additional allowances” for “additional allowance” in section catchline.

1966—Subsec. (b). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

1964—Subsec. (a). Pub. L. 88-624 substituted “in one or more reserve components” for “in a reserve component” and “section 1332(a)(2)” for “section 1332”.

Subsec. (b). Pub. L. 88-647 included a regular officer of an armed force appointed under section 2106 or 2107 of title 10.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VI, § 606(b), Dec. 28, 2001, 115 Stat. 1134, provided that: “The amendment made by this section [amending this section] shall take effect as of October 1, 2000.”

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-398 effective Oct. 1, 2000, see section 1 [[div. A], title VI, § 610(c)] of Pub. L. 106-398, set out as a note under section 415 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### SAVE PAY PROVISION

Pub. L. 101-189, div. A, title VI, § 663(b), Nov. 29, 1989, 103 Stat. 1465, provided that: “An officer of an armed force who, but for the amendments made by subsection (a) [amending this section], would have become entitled to a uniform reimbursement under section 416(a) of title 37, United States Code, before the end of the one-year period beginning on the date of the enactment of this Act [Nov. 29, 1989] shall be entitled (during such one-year period) to receive such reimbursement under such section as in effect on the day before the date of the enactment of this Act.”

#### ALLOWANCE FOR SERVICE PRIOR TO OCTOBER 3, 1964

Pub. L. 88-624, § 2, Oct. 3, 1964, 78 Stat. 1002, provided that: “The amendments made by this Act [amending this section] do not entitle an officer to an allowance for any 4-year period of service completed prior to the effective date of this Act [Oct. 3, 1964].”

### § 417. Uniform allowance: officers; general provisions

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department may prescribe regulations that he considers necessary to carry out sections 415(a)–(c) and 416 of this title within his department. The Secretary of Homeland Security, with the concurrence of the Secretary of the Navy, may prescribe regulations that he considers necessary to carry out those sections for the Coast Guard when it is not operating as a service in the Navy. As far as practicable, regulations for all reserve components shall be uniform.

(b) Under regulations approved by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, and subject to section 415(a)–(c) or 416 of this title, a reserve officer of an armed force who has received a uniform and equipment allowance under section 415(a)–(c) or 416 of this title, may if a different uniform is required, be paid a uniform and equipment reimbursement

upon transfer to, or appointment in, another reserve component.

(c) For the purposes of sections 415(a)–(c) and 416 of this title and subsections (a) and (b), an officer may count only that duty for which he is required to wear a uniform.

(d)(1) For purposes of sections 415 and 416 of this title, a period for which an officer of an armed force, while employed as a National Guard technician, is required to wear a uniform under section 709(b) of title 32 shall be treated as a period of active duty (other than for training).

(2) A uniform allowance may not be paid, and uniforms may not be furnished, to an officer under section 1593 of title 10 or section 5901 of title 5 for a period of employment referred to in paragraph (1) for which an officer is paid a uniform allowance under section 415 or 416 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 90-623, § 3(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 102-25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104-106, div. A, title X, § 1038(b), Feb. 10, 1996, 110 Stat. 432; Pub. L. 107-296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
417(a) .....	37:255(e).	Oct. 12, 1949, ch. 681, § 305 (1st proviso of (a)), (d), (e); added Aug. 10, 1956, ch. 1041, § 20(d) (1st proviso of 1st par., 4th par., and 5th par.), 70A Stat. 629.
417(b) .....	37:255(d).	
417(c) .....	37:255(a) (1st proviso).	

In subsection (a), the words “within that department” are inserted for clarity. The words “may prescribe” are substituted for the words “shall prescribe”, since the words “that he considers necessary” indicate that the prescribing of regulations is not mandatory.

Subsection (b) is substituted for section 255(d) (less last sentence) of existing title 37. Section 255(d) last sentence) of existing title 37 is omitted, since the categories named therein are excluded by the words “a reserve officer”. (See revision note for section 415(a) of this revised title.)

#### AMENDMENTS

2002—Subsecs. (a), (b). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1996—Subsec. (d). Pub. L. 104-106 added subsec. (d).

1991—Subsec. (c). Pub. L. 102-25 struck out “of this section” after “subsections (a) and (b)”.

1968—Subsecs. (a), (b). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

### § 418. Clothing allowance: enlisted members

(a) The Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast

Guard when it is not operating as a service in the Navy, may prescribe the quantity and kind of clothing to be furnished annually to an enlisted member of the armed forces or the National Guard, and may prescribe the amount of a cash allowance to be paid to such a member if clothing is not so furnished to him.

(b) In determining the quantity and kind of clothing or allowances to be furnished pursuant to regulations prescribed under this section to persons employed as National Guard technicians under section 709 of title 32, the Secretary of Defense shall take into account the requirement under subsection (b) of such section for such persons to wear a uniform.

(c) A uniform allowance may not be paid, and uniforms may not be furnished, under section 1593 of title 10 or section 5901 of title 5 to a person referred to in subsection (b) for a period of employment referred to in that subsection for which clothing is furnished or a uniform allowance is paid under this section.

(d)(1) In the case of athletic footwear needed by members of the Army, Navy, Air Force, or Marine Corps upon their initial entry into the armed forces, the Secretary of Defense shall furnish such footwear directly to the members instead of providing a cash allowance to the members for the purchase of such footwear.

(2) In procuring athletic footwear to comply with paragraph (1), the Secretary of Defense shall—

(A) procure athletic footwear that complies with the requirements of section 2533a of title 10, without regard to the applicability of any simplified acquisition threshold under chapter 137 of title 10 (or any other provision of law); and

(B) procure additional athletic footwear, for two years following the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, that is necessary to provide a member described in paragraph (1) with sufficient choices in athletic shoes so as to minimize the incidence of athletic injuries and potential unnecessary harm and risk to the safety and well-being of members in initial entry training.

(3) This subsection does not prohibit the provision of a cash allowance to a member described in paragraph (1) for the purchase of athletic footwear if such footwear—

(A) is medically required to meet unique physiological needs of the member; and

(B) cannot be met with athletic footwear that complies with the requirements of this subsection.

(4) This subsection does not apply to the furnishing of athletic footwear to members of the Army, the Navy, the Air Force, or the Marine Corps upon their initial entry into the armed forces, or prohibit the provision of a cash allowance to such members for such purpose, if the Secretary of Defense determines that compliance with paragraph (2) would result in a sole source contract for procurement of athletic footwear for the purpose stated in paragraph (1) because there would be only a sole certified source of supply for such footwear.

(5) The Secretary of Defense shall ensure that all procurements of athletic footwear to which this subsection applies are made using firm fixed price contracts.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478; Pub. L. 104-106, div. A, title X, §1038(c), Feb. 10, 1996, 110 Stat. 432; Pub. L. 104-201, div. A, title VI, §654, Sept. 23, 1996, 110 Stat. 2583; Pub. L. 106-398, §1 [[div. A], title VI, §611], Oct. 30, 2000, 114 Stat. 1654, 1654A-150; Pub. L. 107-296, title XVII, §1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 114-328, div. A, title VIII, §817, Dec. 23, 2016, 130 Stat. 2272; Pub. L. 115-91, div. A, title VI, §633, Dec. 12, 2017, 131 Stat. 1431.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
418 .....	37:305.	Oct. 12, 1949, ch. 681, §505, 63 Stat. 828.

The words “the armed forces” are substituted for the words “the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard” to conform to the definition in section 101(4) of this title. The words “the Naval Reserve, the Marine Corps Reserve, . . . the National Guard of the United States, the Air National Guard of the United States, the Army Reserve, the Air Force Reserve, and the Coast Guard Reserve” are omitted, since, under the definitions of the armed forces concerned in sections 3062(c), 5001(a)(1) and (2), and 8062(d) of title 10, and section 751a of title 14, those organizations, or their successors, are components of the armed force concerned.

#### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (d)(2)(B), is the date of enactment of Pub. L. 114-328, which was approved Dec. 23, 2016.

#### AMENDMENTS

2017—Subsec. (d)(4), (5). Pub. L. 115-91 added pars. (4) and (5).

2016—Subsec. (d). Pub. L. 114-328 added subsec. (d).

2002—Subsec. (a). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title VI, §611(1)], substituted “The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy,” for “The President”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title VI, §611(2)], substituted “the Secretary of Defense” for “the President”.

1996—Pub. L. 104-106 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Subsec. (c). Pub. L. 104-201 substituted “for which clothing is furnished or a uniform allowance is paid under this section” for “for which a uniform allowance is paid under section 415 or 416 of this title”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EX. ORD. NO. 10113. CLOTHING ALLOWANCES FOR ENLISTED PERSONNEL

Ex. Ord. No. 10113, Feb. 24, 1950, 15 F.R. 1065, as amended by Ex. Ord. No. 13286, §83, Feb. 28, 2003, 68 F.R. 10631, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces, it is ordered as follows:

1. The Secretary of Defense with respect to enlisted men of the Army, the Navy, the Air Force, the Marine Corps, the Naval Reserve [now Navy Reserve], the Marine Corps Reserve, the National Guard, the Air National Guard, the National Guard of the United States, the Air National Guard of the United States, the Organized Reserve Corps [Army Reserve] and the Air Force Reserve, and the Secretary of Homeland Security with respect to enlisted men of the Coast Guard and the Coast Guard Reserve, are hereby authorized and directed, after appropriate consultation with the Director of the Bureau of the Budget [now Director of the Office of Management and Budget], to perform the functions vested in the President by section 505 of the Career Compensation Act of 1949, approved October 12, 1949 (Public Law 351, 81st Congress) [this section], relative to prescribing the quantity and kind of clothing which shall be furnished annually to enlisted men of the aforesaid services and relative to prescribing the amount of the cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them.

2. The quantity and kind of clothing, and any cash allowances in lieu thereof, prescribed by the Secretary of Homeland Security hereunder with respect to the Coast Guard and the Coast Guard Reserve shall, so far as practicable, be in conformity with those prescribed by the Secretary of Defense with respect to the Navy and Naval Reserve [now Navy Reserve], respectively.

3. Existing regulations prescribing the quantity and kind of clothing furnished, and any cash allowances in lieu thereof, shall remain in effect until modified, revoked, or superseded by action taken pursuant to this order.

4. The term “enlisted men” as used in this order shall be deemed to apply to enlisted persons of either sex.

5. This order shall become effective on April 1, 1950, and on that date shall supersede Executive Order No. 10049 [Apr. 4, 1949, 14 F.R. 1563] entitled “Delegating the Authority of the President to Prescribe Clothing Allowances, and Cash Allowances in Lieu Thereof, to Enlisted Men in the Armed Forces.”

#### § 419. Civilian clothing allowance

Under regulations prescribed by the Secretary of Defense, an officer of an armed force who is assigned to a permanent duty station at a location outside the United States may be paid a civilian clothing allowance in such amount as the Secretary shall determine under regulations if such officer is required to wear civilian clothing all or a substantial portion of the time in the performance of the officer's official duties. A clothing allowance under this section is in addition to any uniform allowance to which an officer is otherwise entitled under this title.

(Added Pub. L. 100-180, div. A, title VI, § 611(a)(1)(B), Dec. 4, 1987, 101 Stat. 1093; amended Pub. L. 100-456, div. A, title VI, § 625, Sept. 29, 1988, 102 Stat. 1984; Pub. L. 101-189, div. A, title VI, § 653(c)(2), Nov. 29, 1989, 103 Stat. 1462.)

##### PRIOR PROVISIONS

A prior section 419 was renumbered section 420 of this title.

##### AMENDMENTS

1989—Pub. L. 101-189 substituted “an officer” for “a officer” in two places and struck out “to” after “may be paid”.

1988—Pub. L. 100-456 substituted “officer” for “member” in three places, “may be paid” for “is entitled”, and “officer’s” for “member’s”.

##### EFFECTIVE DATE

Pub. L. 100-180, div. A, title VI, § 611(b), Dec. 4, 1987, 101 Stat. 1093, provided that: “Section 419 of title 37,

United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Dec. 4, 1987]. No member may be paid a clothing allowance under such section for any period before such date.”

#### § 420. Allowances while participating in international sports

(a) Section 717 of title 10 does not authorize the payment of allowances at higher rates than those provided for participation in military activities not covered by that section.

(b) Notwithstanding any other law, a member of a uniformed service is not entitled to travel and transportation allowances under sections 474-481 of this title for any period during which his expenses for travel or transportation are being paid by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(c) Notwithstanding any other law, a member of a uniformed service who has no dependents is not entitled to the basic allowances for subsistence and housing authorized by sections 402 and 403 of this title for a period during which he is subsisted and quartered by the agency sponsoring his participation in a competition covered by section 717 of title 10.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 478, § 419; Pub. L. 89-718, § 64, Nov. 2, 1966, 80 Stat. 1123; renumbered § 420, Pub. L. 100-180, div. A, title VI, § 611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093; Pub. L. 105-85, div. A, title VI, § 603(d)(1)(C), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 112-81, div. A, title VI, § 631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

##### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
419(a) .....	37:256a(a).	Oct. 12, 1949, ch. 681, § 307;
419(b) .....	37:256a(b).	added Sept. 2, 1958.
419(c) .....	37:256a(c).	Pub. L. 85-861, § 11, 72 Stat. 1556.

##### PRIOR PROVISIONS

A prior section 420 was renumbered section 421 of this title.

##### AMENDMENTS

2013—Subsec. (b). Pub. L. 112-239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, § 631(f)(4)(A). See 2011 Amendment note below.

2011—Subsec. (b). Pub. L. 112-81, § 631(f)(4)(A), as amended by Pub. L. 112-239, § 1076(a)(9), substituted “474-481” for “404-411”.

1997—Subsec. (c). Pub. L. 105-85 substituted “housing” for “quarters”.

1966—Pub. L. 89-718 substituted “section 717 of title 10” for “section 716 of title 10” wherever appearing.

##### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, § 1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

**§ 421. Allowances: no increase while dependent is entitled to basic pay**

A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent, for any period during which that dependent is entitled to basic pay under section 204 of this title.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479, § 420; renumbered § 421, Pub. L. 100-180, div. A, title VI, § 611(a)(1)(A), Dec. 4, 1987, 101 Stat. 1093.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
420 .....	37:231(g) (last proviso of last sentence).	Oct. 12, 1949, ch. 681, § 102(g) (last proviso of last sentence), 63 Stat. 805.

The words “of a uniformed service” are inserted for clarity. The words “claiming a dependent as defined in this subsection” are omitted as surplusage. The words “under section 204 of this title” are substituted for the words “for the performance of duty as defined in section 232(e) of this revised title”.

## PRIOR PROVISIONS

A prior section 421, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-132, § 3(b), Oct. 2, 1963, 77 Stat. 212, provided for pay and allowances of contract surgeons, prior to repeal by Pub. L. 98-94, title IX, § 932(e)(1), Sept. 24, 1983, 97 Stat. 650, eff. Oct. 1, 1983. See section 1091 of Title 10, Armed Forces.

**§ 422. Cadets and midshipmen**

(a) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 480 of this title while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A cadet or midshipman appointed under section 2107 of title 10 is entitled to the same allowances as are provided for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for—

- (1) initial travel to the educational institution in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged cadet or midshipman who continues his scholastic instruction at the same educational institution.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479; Pub. L. 88-647, title II, § 202(4), Oct. 13, 1964, 78 Stat. 1070; Pub. L. 89-718, § 63, Nov. 2, 1966, 80 Stat. 1123;

Pub. L. 112-81, div. A, title VI, § 631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
422(a) .....	37:308 (less applicability to pay).	Oct. 12, 1949, ch. 681, § 508 (less applicability to pay), 63 Stat. 828.
422(b) .....	10:6081(b) (9th through 17th words).	[None.]
	10:6081(c) (16th through 19th words).	[None.]
422(c) .....	10:6904(c).	[None.]
	10:6905(c).	[None.]
422(d) .....	10:6906(c) (1st sentence, less applicability to pay).	[None.]

In subsection (a), the words “prescribed under section 410 of this title” are inserted to reflect that revised section.

## AMENDMENTS

2013—Subsec. (a). Pub. L. 112-239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, § 631(f)(4)(A). See 2011 Amendment note below.

2011—Subsec. (a). Pub. L. 112-81, § 631(f)(4)(A), as amended by Pub. L. 112-239, § 1076(a)(9), substituted “480” for “410”.

1966—Subsec. (c). Pub. L. 89-718 struck out “, United States Code,” after “title 10”.

1964—Subsec. (c). Pub. L. 88-647, § 202(4)(A), (B), among other changes, substituted provisions relating to a cadet or midshipman appointed under section 2107 of title 10, for provisions relating to a midshipman appointed under section 6904 of title 10, or a seaman recruit enlisted under section 6905 of title 10, and “educational institution” for “college or university”, in text, and “Cadets and midshipmen” for “Cadets, midshipmen, and naval officer candidates”, in section catchline.

Subsec. (d). Pub. L. 88-647, § 202(4)(C), struck out subsec. (d) which entitled a midshipman under section 6906 of title 10, while on flight training or duty, to the allowances of a midshipman at the United States Naval Academy.

## EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, § 1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 423. Validity of allowance payments based on purported marriages**

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949, or under the Pay Readjustment Act of 1942, before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or de-



cree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 479.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
423 .....	37:303.	Oct. 12, 1949, ch. 681, § 503, 63 Stat. 827.

The words “or which hereafter may be” are omitted as surplusage. The words “a person designated by him to investigate the matter” are substituted for the words “such person as he may designate for the purpose”.

#### REFERENCES IN TEXT

The Career Compensation Act of 1949, referred to in text, is act Oct. 12, 1949, ch. 681, 63 Stat. 802, which was classified principally to chapter 4 (§231 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of Title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 4 of former Title 37, see Table preceding section 101 of this title.

The Pay Readjustment Act of 1942, referred to in text, is act June 16, 1942, ch. 413, 56 Stat. 359, which was classified principally to chapter 2 (§101 et seq.) of former Title 37, Pay and Allowances, prior to the revision and reenactment of title 37 by Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 451. For distribution of sections of chapter 2 of former title 37, see Table preceding section 101 of this title.

#### § 424. Band leaders

(a) The leader of the Army Band is entitled to the allowances of a captain in the Army.

(b) The leader of the United States Navy Band is entitled to the allowances of a lieutenant of the Navy.

(c) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Corps Band under section 6222 of title 10, is entitled, while serving thereunder, only to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment under that section.

(d) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of Navy under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W-1.

(e) The director of the Coast Guard Band is entitled to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment as director.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480; Pub. L. 89-189, §3, Sept. 17, 1965, 79 Stat. 820; Pub. L. 95-551, §3(b)(2), Oct. 30, 1978, 92 Stat. 2069.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
424(a) .....	10:3536(b) (less applicability to basic pay).	[None.]

#### HISTORICAL AND REVISION NOTES—Continued

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
424(b) .....	10:4338(a) (as applicable to allowances).	[None.]
424(c) .....	10:6221(b) (less applicability to basic pay).	[None.]
424(d) .....	10:6222(e) (less applicability to basic pay).	[None.]
424(e) .....	10:6969(b) (less last sentence, and less applicability to basic pay).	[None.]

#### AMENDMENTS

1978—Subsecs. (b) to (f). Pub. L. 95-551 redesignated subsecs. (c) to (f) as (b) to (e), respectively. Former subsec. (b), which provided that the director of music at the United States Military Academy be entitled to allowances of a commissioned officer of the rank prescribed for the director by the Secretary of the Army, was struck out.

1965—Subsec. (f). Pub. L. 89-189 added subsec. (f).

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
425 .....	10:6224.	[None.]

The words “do not forfeit” are substituted for the words “lose no” for clarity.

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(14) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

#### [§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

#### § 427. Family separation allowance

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance equal to \$250 if—

(A) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 476 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—(1) Except as provided in paragraph (2) or (3), a member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 476 of this title is not entitled to an allowance under subsection (a)(1)(A).

(2) The prohibition in the first sentence of paragraph (1) does not apply to a member who elects to serve an unaccompanied tour of duty because a dependent cannot accompany the member to or at that permanent station for certified medical reasons.

(3) The Secretary concerned may waive paragraph (1) in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—(1) A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders.

(2) If a married couple, both of whom are members of the uniformed services, with dependents are simultaneously assigned to duties described

in subparagraph (A), (B), or (C) of subsection (a)(1) and the members resided together with their dependents immediately before their assignments, the Secretary concerned shall pay each of the members the full amount of the monthly allowance specified in such subsection until one of the members is no longer assigned to duties described in such subparagraphs. Upon expiration of the additional allowance, paragraph (1) shall continue to apply to the remaining member so long as the member is assigned to duties described in subparagraph (A), (B), or (C) of such subsection.

(3) Section 421 of this title does not apply to bar the entitlement to an allowance under this section. Except as provided in paragraph (2), not more than one monthly allowance may be paid with respect to a married couple under this section.

(Added Pub. L. 88-132, §11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, §1, Dec. 7, 1970, 84 Stat. 1389; Pub. L. 91-533, §1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, §809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, §607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, §618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103-337, div. A, title VI, §625(a), Oct. 5, 1994, 108 Stat. 2785; Pub. L. 104-106, div. A, title VI, §606, Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, §607, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 105-85, div. A, title VI, §603(c)(3), 626, Nov. 18, 1997, 111 Stat. 1781, 1795; Pub. L. 107-107, div. A, title VI, §607(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 108-11, title I, §1316(b), (c)(2), Apr. 16, 2003, 117 Stat. 570; Pub. L. 108-136, div. A, title VI, §§606, 618(d)(2), Nov. 24, 2003, 117 Stat. 1500, 1504; Pub. L. 108-375, div. A, title VI, §623(b), Oct. 28, 2004, 118 Stat. 1955; Pub. L. 110-417, [div. A], title VI, §604(a), Oct. 14, 2008, 122 Stat. 4483; Pub. L. 112-81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

#### AMENDMENTS

2013—Subsecs. (a)(1)(A), (c)(1). Pub. L. 112-239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112-81, §631(f)(4)(A). See 2011 Amendment note below.

2011—Subsecs. (a)(1)(A), (c)(1). Pub. L. 112-81, §631(f)(4)(A), as amended by Pub. L. 112-239, §1076(a)(9), substituted “476” for “406”.

2008—Subsec. (d). Pub. L. 110-417 designated first sentence of existing provisions as par. (1), designated last two sentences of existing provisions as par. (3) and substituted “Except as provided in paragraph (2)” for “However”, and added par. (2).

2004—Subsec. (a)(1). Pub. L. 108-375, §623(b)(2)(A), substituted “\$250” for “\$100”.

Subsec. (e). Pub. L. 108-375, §623(b)(2)(B), struck out heading and text of subsec. (e). Text read as follows: “For the period beginning on October 1, 2003, and ending on December 31, 2005, the monthly allowance authorized by subsection (a)(1) shall be increased to \$250.”

Pub. L. 108-375, §623(b)(1), substituted “December 31, 2005” for “December 31, 2004”.

2003—Subsec. (a)(1). Pub. L. 108-11, §1316(b), (c), as amended by Pub. L. 108-136, §618(d)(2), temporarily substituted “\$250” for “\$100”. See Effective and Termination Dates of 2003 Amendments note below.

Subsec. (e). Pub. L. 108-136, § 606, added subsec. (e).

2001—Subsec. (c). Pub. L. 107-107 designated first sentence of existing provisions as par. (1) and substituted “Except as provided in paragraph (2) or (3), a member” for “A member”, added par. (2), and designated second sentence of existing provisions as par. (3) and substituted “The Secretary concerned may waive paragraph (1)” for “The Secretary concerned may waive the preceding sentence”.

1997—Subsec. (a). Pub. L. 105-85, § 603(c)(3)(B)(i), redesignated subsec. (b)(1), (2) as subsec. (a)(1), (2), respectively, and inserted subsec. heading.

Pub. L. 105-85, § 603(c)(3)(A), struck out heading and text of subsec. (a). Text read as follows: “In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

“(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

“(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.”

Subsec. (a)(1). Pub. L. 105-85, § 626, substituted “\$100” for “\$75” in introductory provisions.

Pub. L. 105-85, § 603(c)(3)(B)(ii), struck out “, including subsection (a),” after “under this title” in introductory provisions, inserted “or” at end of subpar. (B), substituted “station.” for “station; or” at end of subpar. (C), and struck out subpar. (D) which read as follows: “the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.”

Subsec. (b). Pub. L. 105-85, § 603(c)(3)(B)(iii), redesignated subsec. (b)(3) as subsec. (b), inserted heading, and substituted “subsection (a)” for “this subsection”. Former subsec. (b)(1), (2), and (4) redesignated subssecs. (a)(1), (2), and (c), respectively.

Subsec. (b)(5). Pub. L. 105-85, § 603(c)(3)(B)(v), struck out par. (5) which read as follows: “Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.”

Subsec. (c). Pub. L. 105-85, § 603(c)(3)(B)(iv), redesignated subsec. (b)(4) as subsec. (c), inserted heading, and substituted “subsection (a)(1)(A)” for “paragraph (1)(A) of this subsection”.

Subsec. (d). Pub. L. 105-85, § 603(c)(3)(B)(v), added subsec. (d).

1996—Subsec. (b)(1)(D). Pub. L. 104-201, § 607(a), added subpar. (D).

Subsec. (b)(4). Pub. L. 104-106 inserted “paragraph (1)(A) of” after “not entitled to an allowance under”.

Subsec. (b)(5). Pub. L. 104-201, § 607(b), added par. (5).

1994—Subsec. (b)(2). Pub. L. 103-337, § 625(a)(3), added par. (2). Former par. (2) redesignated (3).

Pub. L. 103-337, § 625(a)(1), struck out at beginning “A member who becomes entitled to an allowance under this subsection by virtue of duty described in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period.”

Subsec. (b)(3), (4). Pub. L. 103-337, § 625(a)(2), redesignated pars. (2) and (3) as (3) and (4), respectively.

1991—Subsec. (a). Pub. L. 102-190, § 625(b)(1), inserted heading.

Subsec. (b). Pub. L. 102-190, § 625(b)(2), inserted heading.

Subsec. (b)(1). Pub. L. 102-190, § 625(a), substituted “\$75” for “\$60”.

Pub. L. 102-190, § 611(b), substituted “In” for “Except in time of war or of national emergency hereafter declared by Congress, and in”.

Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

1986—Subsec. (b). Pub. L. 99-661, § 618(a), designated existing provisions as pars. (1) and (2), in par. (1) redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and in par. (2) substituted “subparagraph (B) or (C) of paragraph (1)” for “clause (2) or (3)”, and added par. (3).

1985—Subsec. (b). Pub. L. 99-145 substituted “\$60” for “\$30”.

1980—Subsec. (b). Pub. L. 96-342 struck out “(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years’ or less service))” after “a member of a uniformed service with dependents”.

1970—Subsec. (b). Pub. L. 91-533 struck out “who is entitled to a basic allowance for quarters” after “(4 years’ or less service)”.

Pub. L. 91-529 inserted provisions authorizing payment of an allowance under this subsection even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management or control, which he is likely to share with them as a common household when his duty assignment permits.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, § 1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title VI, § 604(b), Oct. 14, 2008, 122 Stat. 4483, as amended by Pub. L. 111-383, div. A, title X, § 1075(e)(9), Jan. 7, 2011, 124 Stat. 4375, provided that: “Paragraph (2) of subsection (d) of section 427 of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services described in such paragraph who perform service covered by subparagraph (A), (B), or (C) of subsection (a)(1) of such section on or after October 1, 2008.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VI, § 623(b)(2), Oct. 28, 2004, 118 Stat. 1955, provided that the amendments made by section 623(b)(2) are effective Jan. 1, 2006.

#### EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENTS

Pub. L. 108-136, div. A, title VI, § 618(d)(2), Nov. 24, 2003, 117 Stat. 1504, provided that the amendment made by section 618(d)(2) is effective Apr. 16, 2003.

Amendment by Pub. L. 108-11 effective Oct. 1, 2002, and applicable with respect to months beginning on or after that date, and expires Sept. 30, 2003, and, effective Sept. 30, 2003, the dollar amount specified in subsec. (a)(1) of this section as in effect on the day before Apr. 16, 2003, is revived, see section 1316(c), (d) of Pub. L. 108-11, set out as notes under section 310 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VI, § 607(b), Dec. 28, 2001, 115 Stat. 1135, provided that: “Paragraph (2) of section 427(c) of title 37, United States Code, as added by subsection (a)(3), shall apply with respect to pay periods beginning on or after January 1, 2002, for a member of the uniformed services covered by such paragraph regardless of the date on which the member first made the election to serve an unaccompanied tour of duty.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 603(c)(3) of Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85,

set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-337, div. A, title VI, § 625(b), Oct. 5, 1994, 108 Stat. 2785, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as of June 20, 1994.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VI, § 607(b), Nov. 8, 1985, 99 Stat. 639, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985, and shall apply only to family separation allowances payable for months beginning on or after that date.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-342, title VIII, § 809(b), Sept. 8, 1980, 94 Stat. 1097, provided that: “The amendment made by subsection (a) [amending this section] shall take effect with respect to months after September 1980.”

#### EFFECTIVE DATE OF 1970 AMENDMENTS

Pub. L. 91-533, § 2, Dec. 7, 1970, 84 Stat. 1392, provided that: “The amendment made by this Act [amending this section] shall take effect on the first day of the first calendar month which occurs after the date of the enactment of this Act [Dec. 7, 1970].”

Pub. L. 91-529, § 2, Dec. 7, 1970, 84 Stat. 1389, provided that: “Section 1 of this Act [amending this section] is effective October 1, 1963.”

#### EFFECTIVE DATE

Section effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as an Effective Date of 1963 Amendment note under section 201 of this title.

#### SAVINGS PROVISION

Pub. L. 99-661, div. A, title VI, § 618(b), Nov. 14, 1986, 100 Stat. 3881, as amended by Pub. L. 112-81, div. A, title VI, § 631(f)(4)(B), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1948, provided that: “Notwithstanding the amendments made by subsection (a) [amending this section], a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 476 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) [now (4)] of such section, as added by subsection (a).”

#### RATES OF PAY FOR FISCAL YEAR 2004

Rates of pay authorized under subsec. (a)(1) of this section from Oct. 1, 2003, through Sept. 30, 2004, to be \$250, see section 1104 of Pub. L. 108-106, set out as a note under section 310 of this title.

#### TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE; PERSIAN GULF CONFLICT

Pub. L. 102-25, title III, § 302, Apr. 6, 1991, 105 Stat. 80, provided that:

“(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be \$75 for each month during the period described in subsection (b).

“(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

#### FAMILY SEPARATION ALLOWANCE FOR MEMBERS IN MISSING STATUS DURING THE VIETNAM CONFLICT

Pub. L. 91-534, Dec. 7, 1970, 84 Stat. 1392, provided: “That, under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service with dependents who is in a missing status (as defined in section 551(2) of title 37 United States Code) during the Vietnam conflict and is not entitled to an allowance under section 427(b) of title 37 may be paid a monthly allowance equal to \$30. For the purposes of this Act, the Vietnam conflict ends on the date designated by the President by Executive order as the date of the termination of combat activities in Vietnam.

“SEC. 2. This Act takes effect on the first day of the first month which begins after the date of enactment of this Act [Dec. 7, 1970].”

**[§ 428. Renumbered § 488]**

**[§ 429. Renumbered § 489]**

**[§ 430. Renumbered § 490]**

**[§ 431. Transferred]**

#### CODIFICATION

Section 431, which related to benefits for certain members assigned to the Defense Intelligence Agency, was transferred to chapter 8 of this title by Pub. L. 112-81, div. A, title VI, § 631(d)(2), Dec. 31, 2011, 125 Stat. 1460, and renumbered section 491 of this title by Pub. L. 112-239, div. A, title X, § 1076(h)(2), Jan. 2, 2013, 126 Stat. 1955.

**[§ 432. Renumbered § 492]**

#### § 433. Allowance for muster duty

(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 12319 of title 10 if the member is engaged in that duty for at least two hours.

(b) The amount of the allowance under this section shall be 125 percent of the amount of the average per diem rate for the United States (other than Alaska and Hawaii) under section 474(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

(c) The allowance authorized by this section may not be disbursed in kind. The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.

(Added Pub. L. 101-189, div. A, title V, § 502(b)(1), Nov. 29, 1989, 103 Stat. 1436; amended Pub. L.

101–510, div. A, title XIV, § 1484(h)(5), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 104–106, div. A, title XV, § 1501(d)(4)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 105–85, div. A, title VI, § 627, Nov. 18, 1997, 111 Stat. 1795; Pub. L. 112–81, div. A, title VI, § 631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, § 1076(a)(9), Jan. 2, 2013, 126 Stat. 1948.)

## AMENDMENTS

2013—Subsec. (b). Pub. L. 112–239, § 1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, § 631(f)(4)(A). See 2011 Amendment note below.

2011—Subsec. (b). Pub. L. 112–81, § 631(f)(4)(A), as amended by Pub. L. 112–239, § 1076(a)(9), substituted “474” for “404”.

1997—Subsec. (c). Pub. L. 105–85 struck out “and shall be paid to the member on or before the date on which the muster duty is performed” after “disbursed in kind” in first sentence and inserted “The allowance may be paid to the member before, on, or after the date on which the muster duty is performed, but not later than 30 days after that date.” after first sentence.

1996—Subsec. (a). Pub. L. 104–106 substituted “section 12319 of title 10” for “section 687 of title 10”.

1990—Subsec. (a). Pub. L. 101–510 substituted “section 687 of title 10” for “section 691 of title 10”.

## EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, § 1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

## EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–510, div. A, title XIV, § 1484(h)(5), Nov. 5, 1990, 104 Stat. 1718, provided that the amendment made by that section is effective as of Nov. 29, 1989.

**§ 433a. Allowance for participation in Ready Reserve screening**

(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretaries concerned, a member of the Individual Ready Reserve may be paid a stipend for participation in the screening performed pursuant to section 10149 of title 10, in lieu of muster duty performed under section 12319 of title 10, if such participation is conducted through electronic means.

(2) The stipend paid a member under this section shall constitute the sole monetary allowance authorized for participation in the screening described in paragraph (1), and shall constitute payment in full to the member for participation in such screening, regardless of the grade or rank in which the member is serving.

(b) MAXIMUM PAYMENT.—The aggregate amount of the stipend paid a member of the Individual Ready Reserve under this section in any calendar year may not exceed \$50.

(c) PAYMENT REQUIREMENTS.—(1) The stipend authorized by this section may not be disbursed in kind.

(2) Payment of a stipend to a member of the Individual Ready Reserve under this section for participation in screening shall be made on or

after the date of participation in such screening, but not later than 30 days after such date.

(Added Pub. L. 110–181, div. A, title VI, § 633(a)(1), Jan. 28, 2008, 122 Stat. 154.)

**[§ 434. Renumbered § 494]****[§ 435. Renumbered § 495]****§ 436. High-deployment allowance: lengthy or numerous deployments; frequent mobilizations**

(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned may pay a high-deployment allowance to a member of the armed forces under the Secretary’s jurisdiction for each month during which the member—

- (1) is deployed; and
- (2) at any time during that month—

(A) has been deployed for 191 or more consecutive days (or a lower number of consecutive days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness);

(B) has been deployed, out of the preceding 730 days, for a total of 401 or more days (or a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness); or

(C) in the case of a member of a reserve component, is on active duty—

(i) under a call or order to active duty for a period of more than 30 days that is the second (or later) such call or order to active duty (whether voluntary or involuntary) for that member in support of the same contingency operation; or

(ii) for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of title 10, if such period begins within one year after the date on which the member was released from previous service on active duty for a period of more than 30 days under a call or order issued under such a provision of law.

(b) DEFINITION OF DEPLOYED.—In this section, the term “deployed”, with respect to a member, means that the member is deployed or in a deployment within the meaning of section 991(b) of title 10 (including any definition of “deployment” prescribed under paragraph (4) of that section).

(c) RATE.—The monthly rate of the allowance payable to a member under this section shall be determined by the Secretary concerned, not to exceed \$1,000 per month.

(d) PAYMENT OF CLAIMS.—A claim of a member for payment of the high-deployment allowance that is not fully substantiated by the record-keeping system applicable to the member under section 991(c) of title 10 shall be paid if the member furnishes the Secretary concerned with other evidence determined by the Secretary as being sufficient to substantiate the claim.

(e) RELATIONSHIP TO OTHER ALLOWANCES.—A high-deployment allowance payable to a member under this section is in addition to any other pay or allowance payable to the member under any other provision of law.

(f) NATIONAL SECURITY WAIVER.—No allowance may be paid under this section to a member for any month during which the applicability of section 991 of title 10 to the member is suspended under subsection (d) of that section.

(g) AUTHORITY TO EXCLUDE CERTAIN DUTY ASSIGNMENTS.—The Secretary concerned may exclude members serving in specified duty assignments from eligibility for the high-deployment allowance while serving in those assignments. Any such specification of duty assignments may only be made with the approval of the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness. Specification of a particular duty assignment for purposes of this subsection may not be implemented so as to apply to the member serving in that position at the time of such specification.

(h) PAYMENT FROM OPERATION AND MAINTENANCE FUNDS.—The monthly allowance payable to a member under this section shall be paid from appropriations available for operation and maintenance for the armed force in which the member serves.

(Added Pub. L. 106-65, div. A, title V, §586(b), Oct. 5, 1999, 113 Stat. 638, §435; renumbered §436 and amended Pub. L. 106-398, §1 [[div. A], title V, §574(c), title X, §1087(b)(4)], Oct. 30, 2000, 114 Stat. 1654, 1654A-137, 1654A-292; Pub. L. 107-107, div. A, title V, §592(a), Dec. 28, 2001, 115 Stat. 1125; Pub. L. 108-136, div. A, title V, §541(b)(1)-(5)(A), Nov. 24, 2003, 117 Stat. 1476, 1477; Pub. L. 112-81, div. A, title V, §530(a), Dec. 31, 2011, 125 Stat. 1403.)

#### AMENDMENTS

2011—Subsec. (a). Pub. L. 112-81 substituted “may pay” for “shall pay” in introductory provisions.

2003—Pub. L. 108-136, §541(b)(5)(A), substituted “High-deployment allowance: lengthy or numerous deployments; frequent mobilizations” for “Per diem allowance for lengthy or numerous deployments” in section catchline.

Subsec. (a). Pub. L. 108-136, §541(b)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of the military department concerned shall pay a high-deployment per diem allowance to a member of the armed forces under the Secretary’s jurisdiction for each day on which the member (1) is deployed, and (2) has, as of that day, been deployed 401 or more days out of the preceding 730 days. The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.”

Subsec. (c). Pub. L. 108-136, §541(b)(2), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “The amount of the high-deployment per diem payable to a member under this section is \$100.”

Subsec. (d). Pub. L. 108-136, §541(b)(4)(A), struck out “per diem” before “allowance”.

Subsec. (e). Pub. L. 108-136, §541(b)(4)(B), substituted “allowance” for “per diem” after “high-deployment”.

Subsec. (f). Pub. L. 108-136, §541(b)(4)(C), substituted “allowance” for “per diem” and “month during which” for “day on which”.

Subsecs. (g), (h). Pub. L. 108-136, §541(b)(3), added subsecs. (g) and (h).

2001—Subsec. (a). Pub. L. 107-107 inserted at end “The Secretary shall pay the allowance from appropriations available for operation and maintenance for the armed force in which the member serves.”

2000—Pub. L. 106-398, §1 [[div. A], title X, §1087(b)(4)], renumbered section 435 of this title as this section.

Subsec. (a). Pub. L. 106-398, §1 [[div. A], title V, §574(c)(1)], substituted “401 or more days out of the preceding 730 days” for “251 days or more out of the preceding 365 days”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title V, §574(c)(2)], substituted “prescribed under paragraph (4)” for “prescribed under paragraph (3)”.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. A, title V, §530(b), Dec. 31, 2011, 125 Stat. 1403, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Dec. 31, 2011].”

#### EFFECTIVE DATE

Pub. L. 106-65, div. A, title V, §586(d)(2), Oct. 5, 1999, 113 Stat. 639, provided that: “Section 435 [now 436] of title 37, United States Code (as added by subsection (b)) [this section], shall take effect on October 1, 2001.”

### § 437. Allowance to cover monthly premiums for Servicemembers’ Group Life Insurance: members serving in a designated duty assignment

(a) REQUIRED REIMBURSEMENT FOR PREMIUM DEDUCTION.—(1) In the case of a member of the armed forces who has insurance coverage for the member under the Servicemembers’ Group Life Insurance program under subchapter III of chapter 19 of title 38 and who serves in a designated duty assignment at any time during a month, the Secretary concerned shall pay the member an allowance under this section for that month in an amount equal to the amount of the deduction made under subsection (a)(1) of section 1969 of such title for the amount of Servicemembers’ Group Life Insurance coverage held by the member under section 1967 of such title.

(2) In this subsection, the term “designated duty assignment” means a permanent or temporary duty assignment outside the United States or its possessions in support of a contingency operation in an area that—

(A) has been designated a combat zone; or

(B) is in direct support of an area that has been designated a combat zone.

(b) NOTICE OF AVAILABILITY OF ALLOWANCE.—To the maximum extent practicable, in advance of the deployment of a member to a designated duty assignment referred to in subsection (a), the Secretary concerned shall give the member information regarding the following:

(1) The availability of the allowance under this section for members insured under the Servicemembers’ Group Life Insurance program.

(2) The ability of members who elected not to be insured under Servicemembers’ Group Life Insurance, or elected less than the maximum coverage amount available for such insurance, to obtain insurance, or to obtain additional coverage, as the case may be, under the authority provided in section 1967(c) of title 38.

(Added Pub. L. 109-163, div. A, title VI, §613(a), Jan. 6, 2006, 119 Stat. 3291; amended Pub. L. 109-364, div. A, title VI, §606(a)-(c), Oct. 17, 2006, 120 Stat. 2246; Pub. L. 110-181, div. A, title X, §1063(c)(5), Jan. 28, 2008, 122 Stat. 322; Pub. L.

114-328, div. A, title VI, §644(a)–(b)(2), Dec. 23, 2016, 130 Stat. 2166, 2167.)

#### AMENDMENTS

2016—Pub. L. 114-328, §644(b)(2), substituted “Allowance to cover monthly premiums for Servicemembers’ Group Life Insurance: members serving in a designated duty assignment” for “Allowance to cover monthly premium for Servicemembers’ Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom” in section catchline.

Subsec. (a). Pub. L. 114-328, §644(a), designated existing provisions as par. (1), substituted “who serves in a designated duty assignment” for “who serves in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom”, and added par. (2).

Subsec. (b). Pub. L. 114-328, §644(b)(1), substituted “designated duty assignment” for “theater of operations” in introductory provisions.

2008—Subsec. (a). Pub. L. 110-181 made technical correction to directory language of Pub. L. 109-364, §606(b)(1)(A). See 2006 Amendment note below.

2006—Pub. L. 109-364, §606(c), struck out “portion of” before “monthly premium” in section catchline.

Subsec. (a). Pub. L. 109-364, §606(b)(1)(B), struck out par. (2) which read as follows: “If a member described in paragraph (1) elected to be insured in an amount less than the coverage amount specified in paragraph (1) or in effect pursuant to subsection (b), the amount of the allowance under this section for a month shall be equal to the amount of the deduction made for that month under subsection (a)(1) of section 1969 of title 38 from the basic pay of the member for the amount of Servicemembers’ Group Life Insurance coverage actually held by the member under section 1967 of such title.”

Pub. L. 109-364, §606(b)(1)(A), as amended by Pub. L. 110-181, struck out “(1)” before “In the case of”.

Subsec. (a)(1). Pub. L. 109-364, §606(a), substituted “for the amount of Servicemembers’ Group Life Insurance coverage held by the member under section 1967 of such title” for “for the first \$150,000 of Servicemembers’ Group Life Insurance coverage held by the member under section 1967 of such title”.

Subsecs. (b), (c). Pub. L. 109-364, §606(b)(2), (3), redesignated subsec. (c) as (b), in par. (2) substituted “maximum coverage amount available for such insurance,” for “coverage amount specified in subsection (a)(1) or in effect pursuant to subsection (b),” and struck out former subsec. (b). Text read as follows: “For purposes of subsection (a), the Secretary of Defense is authorized to increase the coverage amount specified in paragraph (1) of such subsection to permit the reimbursement of all or an additional amount of the deduction made under section 1969(a)(1) of title 38 for levels of coverage in excess of \$150,000 for members under the Servicemembers’ Group Life Insurance program.”

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title VI, §644(c), Dec. 23, 2016, 130 Stat. 2167, provided that: “The amendments made by this section [amending this section] shall apply to service by members of the Armed Forces in a designated duty assignment (as defined in subsection (a)(2) of section 437 of title 37, United States Code) for any month beginning on or after the date of the enactment of this Act [Dec. 23, 2016].”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(5) is effective as of Oct. 17, 2006, and as if included in Pub. L. 109-364 as enacted.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title VI, §606(d), Oct. 17, 2006, 120 Stat. 2246, provided that: “The amendments made by this section [amending this section] shall take effect

on the first day of the first month beginning on or after the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after that date.”

#### EFFECTIVE DATE

Pub. L. 109-163, div. A, title VI, §613(c), Jan. 6, 2006, 119 Stat. 3292, provided that: “Section 437 of title 37, United States Code, as added by subsection (a), shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after the date of the enactment of this Act [Jan. 6, 2006]. In the case of members who are serving in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom as of such date, the Secretary of Defense shall provide such members, as soon as practicable, the information specified in subsection (c) of that section.”

### § 438. Preventive health services allowance

(a) DEMONSTRATION PROJECT.—During the period beginning on January 1, 2009, and ending on December 31, 2011, the Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing an annual allowance (to be known as a “preventive health services allowance”) to members of the armed forces described in subsection (b) to increase the use of preventive health services by such members and their dependents.

(b) ELIGIBLE MEMBERS.—(1) Subject to the numerical limitations specified in paragraph (2), a member of the armed forces who is serving on active duty for a period of more than 30 days and meets the medical and dental readiness requirements for the armed force of the member may receive a preventive health services allowance.

(2) Not more than 1,500 members of each of the Army, Navy, Air Force, and Marine Corps may receive a preventive health services allowance during any year, of which half in each armed force shall be members without dependents and half shall be members with dependents.

(c) AMOUNT OF ALLOWANCE.—The Secretary of the military department concerned shall pay a preventive health services allowance to a member selected to receive the allowance in an amount equal to—

(1) \$500 per year, in the case of a member without dependents; and

(2) \$1,000 per year, in the case of a member with dependents.

(d) AUTHORIZED PREVENTIVE HEALTH SERVICES.—(1) The Secretary of Defense shall specify the types of preventive health services that may be procured using a preventive health services allowance and the frequency at which such services may be procured.

(2) At a minimum, authorized preventive health services shall include, taking into consideration the age and gender of the member and dependents of the member:

(A) Colorectal screening.

(B) Breast screening.

(C) Cervical screening.

(D) Prostate screening.

(E) Annual physical exam.

(F) Annual dental exam.

- (G) Weight and body mass screening.
- (H) Vaccinations.

(3) The Secretary of Defense shall ensure that members selected to receive the preventive health services allowance and their dependents are provided a reasonable opportunity to receive the services authorized under this subsection in their local area.

(e) DATA COLLECTION.—At a minimum, the Secretary of Defense shall monitor and record the health of members receiving a preventive health services allowance and their dependents and the results of the testing required to qualify for payment of the allowance, if conducted. The Secretary shall assess the medical utility of the testing required to qualify for payment of a preventive health allowance.

(f) REPORTING REQUIREMENT.—Not later than March 31, 2010, and March 31, 2012, the Secretary of Defense shall submit to Congress a report on the status of the demonstration project, including findings regarding the medical status of participants, recommendations to modify the policies and procedures of the program, and recommendations concerning the future utility of the project.

(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 110–417, [div. A], title VII, § 714(a), Oct. 14, 2008, 122 Stat. 4504.)

**§ 439. Special compensation: members of the uniformed services with catastrophic injuries or illnesses requiring assistance in everyday living**

(a) MONTHLY COMPENSATION AUTHORIZED.—The Secretary concerned may pay to any member of the uniformed services described in subsection (b) monthly special compensation in an amount determined under subsection (c).

(b) COVERED MEMBERS.—A member eligible for monthly special compensation authorized by subsection (a) is a member who—

- (1) has a catastrophic injury or illness that was incurred or aggravated in the line of duty;
- (2) has been certified by a licensed physician to be in need of assistance from another person to perform the personal functions required in everyday living;
- (3) in the absence of the provision of such assistance, would require hospitalization, nursing home care, or other residential institutional care; and
- (4) meets such other criteria, if any, as the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) prescribes for purposes of this section.

(c) AMOUNT.—The amount of monthly special compensation payable to a member under subsection (a) shall be the amount as follows:

- (1) The monthly amount of aid and attendance payable under section 1114(r)(2) of title 38.
- (2) Upon the establishment by the Secretary of Veterans Affairs pursuant to subparagraph (C) of section 1720G(a)(3) of title 38 of the schedule of monthly personal caregiver sti-

pends under the Department of Veterans Affairs program of comprehensive assistance for family caregivers under subparagraph (A)(ii)(V) of such section, the monthly personal caregiver stipend payable with respect to similarly circumstanced veterans under such schedule, rather than the amount specified in paragraph (1).

(d) DURATION.—The eligibility of a member to receive special monthly compensation under subsection (a) expires on the earlier of the following:

- (1) The last day of the month during which a 90-day period ends that begins on the date of the separation or retirement of the member.
- (2) The last day of the month during which the member dies.
- (3) The last day of the month during which the member is determined to be no longer afflicted with the catastrophic injury or illness referred to in subsection (b)(1).
- (4) The last day of the month preceding the month during which the member begins receiving compensation under section 1114(r)(2) of title 38.

(e) CONSTRUCTION WITH OTHER PAY AND ALLOWANCES.—Monthly special compensation payable to a member under this section is in addition to any other pay and allowances payable to the member by law.

(f) BENEFIT INFORMATION.—(1) The Secretary of Defense, in collaboration with the Secretary of Veterans Affairs, shall ensure that members of the uniformed services who may be eligible for compensation under this section are made aware of the availability of such compensation by including information about such compensation in written and online materials for such members and their families.

(2) The Secretary of Defense shall ensure that a member eligible to receive special monthly compensation under this section is aware that the member's eligibility for such compensation will expire pursuant to subsection (d)(1) after the end of the 90-day period that begins on the date of the separation or retirement of the member even though the member has not begun to receive compensation under section 1114(r)(2) of title 38 before the end of such period.

(g) CATASTROPHIC INJURY OR ILLNESS DEFINED.—In this section, the term “catastrophic injury or illness” means a permanent, severely disabling injury, disorder, or illness that the Secretary concerned determines compromises the ability of the afflicted person to carry out the activities of daily living to such a degree that the person requires—

- (1) personal or mechanical assistance to leave home or bed; or
- (2) constant supervision to avoid physical harm to self or others.

(h) REGULATIONS.—The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall prescribe regulations to carry out this section.

(Added Pub. L. 111–84, div. A, title VI, § 603(a), Oct. 28, 2009, 123 Stat. 2348; amended Pub. L. 111–383, div. A, title VI, § 634, Jan. 7, 2011, 124 Stat. 4241.)



## AMENDMENTS

2011—Subsec. (c). Pub. L. 111-383 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the amount of monthly special compensation payable to a member under subsec. (a).

## CHAPTER 8—TRAVEL AND TRANSPORTATION ALLOWANCES

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### SUBCHAPTER I—TRAVEL AND TRANSPORTATION AUTHORITIES—NEW LAW

#### § 451. Definitions

(a) DEFINITIONS RELATING TO PERSONS.—In this subchapter and subchapter II:

(1) The term “administering Secretary” or “administering Secretaries” means the following:

(A) The Secretary of Defense, with respect to the armed forces (including the Coast Guard when it is operating as a service in the Navy).

(B) The Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy.

(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

(2) The term “authorized traveler” means a person who is authorized travel and transpor-

<sup>1</sup> So in original. Does not conform to section catchline.