



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420**

March 26, 2013

Director (00/21)
All VA Regional Offices and Centers

In Reply Refer To: 211
Fast Letter 13-05

ATTN: All Veterans Service Center and Pension Management Center Personnel

SUBJ: Overview of Changes Made by Public Law 112-154

Purpose

On August 6, 2012, the President signed the “Honoring America’s Veterans and Caring for Camp Lejeune Families Act of 2012,” Public Law 112-154, a comprehensive legislative package providing for the needs of Veterans, their families, and survivors.

This letter provides an overview and general guidance on the statutory provisions that affect compensation and pension-related benefits. More detailed guidance will be provided in the future for many of the provisions.

Table of Contents

TITLE I – HEALTH CARE MATTERS.....	1
TITLE II – HOUSING MATTERS	2
TITLE V – BENEFITS MATTERS	4
TITLE VI – MEMORIAL, BURIAL, AND CEMETERY MATTERS.....	7
TITLE VII – OTHER MATTERS.....	8

TITLE I – HEALTH CARE MATTERS

Section 102. Hospital care and medical services for Veterans stationed at Camp Lejeune, North Carolina.

This section amends 38 U.S.C. Chapter 17 to extend hospital care and medical services coverage for certain illnesses or conditions to eligible Veterans and family members who served on active duty or resided at Camp Lejeune, North Carolina, for not fewer than 30 days during the period beginning on January 1, 1957, and ending on December 31, 1987.

Director (00/21)

This provision took effect on August 6, 2012.

Note: The Agency for Toxic Substances and Disease Registry recently announced that there is sufficient data to substantiate that water at Camp Lejeune exceeded safe levels for human consumption beginning in August 1953. Although the law has not yet been amended to extend health care prior to 1957, VBA, for purposes of adjudicating claims, acknowledges that any given Veteran-claimant who served at Camp Lejeune between August 1953 and 1987 was potentially exposed to water contaminants.

VBA ACTION: Although this section primarily affects health care, regional offices (ROs) should be aware of the significance of this provision and the potential increase of incoming claims for service connection. Based on Camp Lejeune service, all claims received for conditions based on exposure to water contaminants at Camp Lejeune should be forwarded to the designated RO. See [FL 11-03](#) and [TL 11-03](#) for further guidance.

TITLE II – HOUSING MATTERS

Section 202. Temporary expansion of eligibility for specially adapted housing assistance for certain Veterans with disabilities causing difficulty with ambulating.

This section amends 38 U.S.C. § 2101(a)(2) to temporarily expand the eligibility for VA's specially adapted housing (SAH) assistance for certain Veterans with severe injuries that affect ambulation. This provision affects Global War on Terror (GWOT) Veterans who received a permanent service-connected disability that is due to the loss or loss of use of one or more lower extremities, severely affecting the functions of balance or propulsion as to preclude ambulating without the use of braces, crutches, canes, or a wheelchair. It applies to Veterans who served and became permanently disabled on or after September 11, 2001. Expansion of the authority expires on September 30, 2013.

This provision took effect on October 1, 2012.

VBA ACTION: Rating Veterans Service Representatives (RVSRs) shall ensure that the new criterion from section 202 is considered when evaluating claims for SAH entitlement. RVSRs can continue to determine SAH entitlement using the existing rating codes. However, until the applications are updated, manually insert the following text into RBA 2000 or VBMS-R:

Section 202 of Public Law 112-154 provides that in addition to those Veterans currently eligible for Specially Adaptive Housing under 38 U.S.C. § 2101(a), Veterans who served on or after September 11, 2001, and incurred a permanent disability that is “due to the loss or loss of use of one or more lower extremities which so affects the functions of balance or propulsion as to preclude ambulating without the aid of braces, crutches, canes, or a wheelchair” are eligible for the SAH benefit. The amendment, which is temporary, provides that the SAH benefit

Director (00/21)

may be awarded for claims pending on or after October 1, 2012, as long as the application is approved by the Secretary on or before September 30, 2013.

As a result of this change in law, 38 C.F.R. § 3.809 is being amended.

Guidance for the adjudication of prior claims in which the new criterion was not considered is forthcoming.

Section 203. Expansion of eligibility for specially adapted housing assistance for Veterans with vision impairment.

This section amends 38 U.S.C. § 2101(b)(2) to expand the eligibility for VA's adaptive housing assistance to Veterans with a lesser degree of vision impairment than previously required. Section 203 removed the requirement that service-connected disability due to blindness in both eyes be permanently and totally disabling. Sec. 203 entitles a Veteran to receive a special home adaptation if the Veteran's disability is due to blindness in both eyes, having a central visual acuity of 20/200 or less in the better eye with use of a standard correcting lens. VA will consider an eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as having a central visual acuity of 20/200 or less.

This provision took effect on October 1, 2012.

VBA ACTION: RVSRs shall ensure that the new criteria from section 203 are considered when evaluating claims for SAH entitlement. RVSRs can continue to determine SAH entitlement using the existing rating codes. However, until the applications are updated, manually insert the following text into RBA 2000 or VBMS-R:

Section 203 of P.L. 112-154 amends section 2101(b)(2) to provide special home adaptations to Veterans who have central acuity of 20/200 or less in the better eye with the use of a standard correcting lens. VA considers an eye with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as having a central visual acuity of 20/200 or less.

As a result of this change in law, 38 C.F.R § 3.809a is being amended.

Guidance for the adjudication of prior claims in which the new criteria was not considered is forthcoming.

Section 210. Waiver of loan fee for individuals with disability ratings issued during pre-discharge programs.

This section amends 38 U.S.C. § 3729 to waive the housing loan funding fee for Veterans rated eligible to receive compensation as the result of a pre-discharge review of existing medical evidence, such as service medical and treatment records.

Director (00/21)

This provision took effect on August 6, 2012.

VBA ACTION: RVSRs shall prepare memorandum ratings based on a review of available medical evidence for separating Servicemembers for purposes of waiving the VA home loan funding fee. The previous law only permitted completion of such memo ratings when the ratings were based on a review of a pre-discharge VA examination. By rating on available service treatment records and not delaying for the completion of a VA examination, disabled Servicemembers who are participating in a pre-discharge program can use their home loan benefits more quickly and efficiently. M21-1MR III.i.2.C.9.a will be amended to reflect this change in law.

TITLE V – BENEFITS MATTERS

Section 501. Automatic waiver of agency of original jurisdiction review of new evidence.

This section amends 38 U.S.C. § 7105 to establish an automatic waiver of agency of original jurisdiction (AOJ) review of evidence related to an issue or issues with which disagreement has been expressed if such evidence is submitted on or after the date that the AOJ receives the substantive appeal (VA Form 9, *Appeal to Board of Veterans' Appeals*), or its equivalency in correspondence. Such evidence will be subject to initial review by the Board of Veterans' Appeals, unless the appellant specifically requests, in writing, initial review by the AOJ.

This provision took effect on February 2, 2013.

VBA ACTION: No action is necessary at this time. Compensation Service and Pension and Fiduciary Service will provide specific guidance to implement this provision in the near future.

Sec. 502. Authority for certain persons to sign claims filed with Secretary of Veterans Affairs on behalf of claimants.

This section amends 38 U.S.C. § 5101 to authorize certain individuals to sign claims filed with VA on behalf of claimants who are under age 18, are mentally incompetent, or are physically unable to sign a form. The individual who signs the claim on behalf of such a claimant must be a court-appointed representative, a person who is responsible for the care of the claimant, including a spouse or other relative, an attorney in fact or agent authorized to act on behalf of the individual under a durable power of attorney, or the manager or principal officer of an institution caring for the claimant. Implementation of this law may require, among other things, changes to VA regulations, M21-1MR, training materials, MAP-D letters, claims forms, and RBA 2000/VBMS-R.

This provision took effect on August 6, 2012.

Director (00/21)

VBA ACTION: No action is necessary at this time. Compensation Service and Pension and Fiduciary Service will provide specific guidance in the near future to implement this provision.

Sec. 503. Improvement of process for filing jointly for social security and dependency and indemnity compensation.

This section amends 38 U.S.C. § 5105 to authorize but no longer require VA and the Social Security Administration (SSA) to jointly prescribe forms for the application of survivor benefits.

This provision requires VA and SSA to interpret an application made on any document filed with either agency that indicates intent to apply for survivor benefits as an application for benefits under both chapter 13 of title 38, United States Code, and title II of the Social Security Act.

This provision took effect on August 6, 2012.

VBA ACTION: Continue following current procedures until further guidance is provided. Pension and Fiduciary Service will amend 38 C.F.R. § 3.153 and M21-1MR IV.iii.3.A.4.

Sec. 504. Authorization of use of electronic communication to provide notice to claimants for benefits under laws administered by the Secretary of Veterans Affairs.

This section amends 38 U.S.C. § 5103 to streamline VA's duty to notify to allow VA to deliver Veterans Claims Assistance Act (VCAA) notices in the most effective means available, to include electronic communication or notification in writing. This will allow VCAA notices to be provided with claim forms. It will eliminate the need to issue a VCAA notice on a subsequent claim while a previous claim is pending. The provision clarifies that VCAA notice is not required when the maximum benefit can be awarded.

This provision took effect on February 2, 2013.

VBA ACTION: No action is necessary at this time. Compensation Service and Pension and Fiduciary Service will provide specific guidance in the near future to implement this provision.

Sec. 505. Duty to assist claimants in obtaining private records.

This section amends 38 U.S.C. § 5103A to clarify VA's duty to make "reasonable efforts to obtain relevant private records," stating that VA will make not less than two requests for private records unless the first attempt reveals that further efforts would be futile. It directs VA to prescribe regulations to encourage claimants to submit private medical evidence if such submission does not burden the claimant. It also makes clear that VA's assistance in obtaining private records is not required if VA can award the maximum benefit based on the evidence of record.

Director (00/21)

Note: As stated in the public law, for purposes of sections 504 and 505, the term “maximum benefit” means the highest evaluation assignable in accordance with the evidence of record, as long as such evidence is adequate for rating purposes and sufficient to grant the earliest possible effective date in accordance with 38 U.S.C. § 5110.

This provision took effect on February 2, 2013.

VBA ACTION: No action is necessary at this time. Compensation Service and Pension and Fiduciary Service will provide specific guidance in the near future to implement this provision.

Sec. 506. Authority for retroactive effective date for awards of disability compensation in connection with applications that are fully-developed at submittal.

This section amends 38 U.S.C. § 5110 to allow up to a one-year retroactive effective date for awards of disability compensation based on fully-developed original claims.

This provision takes effect on August 6, 2013 until August 6, 2015.

VBA ACTION: No action is necessary at this time. Compensation Service will provide specific guidance to implement this provision prior to August 6, 2013.

Sec. 507. Modification of month-of-death benefit for surviving spouses of Veterans who die while entitled to compensation or pension.

This section amends 38 U.S.C. § 5310 to clarify that a surviving spouse is entitled to a benefit for the month of a Veteran’s death if, at the time of the Veteran’s death, the Veteran was receiving disability compensation or pension. It also provides that the surviving spouse is entitled to a benefit for the month of the Veteran’s death if the Veteran had a pending claim for compensation or pension that was subsequently granted. In the latter case, the month-of-death benefit would be payable as an accrued benefit.

This provision took effect on August 6, 2012.

VBA ACTION: Because VBA has established processes and procedures to ensure that month of death payments are made, no additional actions are necessary as a result of this change in law. ROs should continue following month-of-death procedures contained in Fast Letter 10-50. Pension and Fiduciary Service will make appropriate regulatory and manual changes found in 38 C.F.R. § 3.20, and M21-1MR IV.iii.3.11- 12.

Director (00/21)

Sec. 508. Increase in rate of pension for disabled Veterans married to one another and both of whom require regular aid and attendance.

This section amends 38 U.S.C. § 1521 to increase the benefit amount paid to married couples when both spouses are Veterans receiving pension with aid and attendance.

This provision took effect on August 6, 2012.

VBA ACTION: Please refer to [FL 12-27](#) for detailed guidance on procedures for this change in rate.

Sec. 509. Exclusion of certain reimbursements of expenses from determination of annual income with respect to pensions for Veterans, surviving spouses, and children of Veterans.

This section amends 38 U.S.C. § 1503 to exclude from countable income the receipt of payments from insurance, court award, settlement, or other means for reimbursement of expenses caused by and incurred after an accident, theft, loss, or casualty loss, for the purposes of determining eligibility for pension.

This provision took effect on February 2, 2013.

VBA ACTION: No action is necessary at this time. The Pension and Fiduciary Service will provide specific guidance to implement this provision.

TITLE VI – MEMORIAL, BURIAL, AND CEMETERY MATTERS

Sec. 603. Expansion of eligibility for presidential memorial certificates to persons who die in the active military, naval, or air service.

This section amends 38 U.S.C. § 112 to expand eligibility for presidential memorial certificates to individuals who died in the active military, naval, or air service.

This provision took effect on August 6, 2012.

VBA ACTION: All VBA personnel responsible for issuing presidential memorial certificates shall now issue such certificates to Servicemembers who die while on active military, naval, or air service. This applies to any certificates issued on or after August 6, 2012. Pension and Fiduciary Service will provide manual updates to reflect statutory changes.

TITLE VII – OTHER MATTERS

Sec. 701. Assistance to Veterans affected by natural disasters.

Section 701, paragraph (e) amends 38 U.S.C. § 3903, which pertains to automobiles and other conveyances for certain disabled Veterans and members of the armed forces. This provision allows VA to provide or assist in providing an eligible person with a second automobile or other conveyance if the previously purchased one that VA provided or assisted in providing is destroyed as a result of a natural or other disaster, through no fault of the eligible person, and a property insurer has not provided compensation for the loss.

This provision takes effect on August 6, 2013, which means VA cannot pay a second automobile allowance prior to this date.

VBA ACTION: No adjudicative action is necessary at this time. Refer any claims received for a second automobile allowance to the RO Finance Division. The Office of Resource Management will provide further guidance in the future.

Sec. 703. Requirement for plan for regular assessment of employees of Veterans Benefits Administration (VBA) who handle processing of claims for compensation and pension.

This provision directs VA to submit a plan to Congress setting forth how the Secretary will assess the skills and competencies of appropriate employees and managers of VBA, provide training to remediate skills deficiencies, reassess the skills and competencies following training, and take appropriate personnel action for those employees whose performance remains unsatisfactory.

This provision took effect on February 2, 2013.

VBA ACTION: No action is necessary at this time. Field stations will be notified of changes in the future.

Questions

If you have questions concerning this fast letter, please submit to:
VAVBAS/CO/21Q&A

/S/
Thomas J. Murphy
Director
Compensation Service

/S/
David R. McLenachen
Director
Pension and Fiduciary Service