

**38 CFR Part 21****RIN 2900-AS30****The 81-Month Rule for Dependents' Education Assistance**

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing this final rule to update its regulation governing a beneficiary's receipt of education assistance from two or more programs. This action is necessary to implement a statutory amendment enacted in August 2012, which authorized an 81-month aggregate period for use of Survivors' and Dependents' Educational Assistance (Chapter 35) benefits in combination with other programs listed in the statute. This rulemaking amends the regulation to align it with the current statutory text.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Thomas Alphonso, Veterans Benefits Administration, (202) 461-9800.

SUPPLEMENTARY INFORMATION: In August 2012, Congress enacted Public Law 112-154, Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 (the Act). Section 401 of the Act amended 38 U.S.C. 3695 by increasing the aggregate limit of a beneficiary's educational assistance under Chapter 35 and one or more programs listed in 38 U.S.C. 3695(a) from 48 months to 81 months. To implement this change, VA is amending 38 CFR 21.4020 to align it with the current statute.

VA is amending § 21.4020 by removing the reference to 38 U.S.C. chapter 35 in paragraph (a)(4), so that a beneficiary entitled to benefits under Chapter 35 and one or more programs listed in paragraph (a) is not limited to 48 months of aggregate

entitlement. VA is also adding new paragraph (c) to provide that “[t]he aggregate period for which any person may receive assistance under 38 U.S.C. chapter 35 in combination with any of the provisions of law referred to in paragraph (a) may not exceed 81 months (or the part-time equivalent thereof).”

VA is also updating § 21.4020(a)(5) by removing the reference to 10 U.S.C. chapter 106a and adding references to 10 U.S.C. chapters 107 and 1611 to align that provision with 38 U.S.C. 3695(a)(5).

These changes will update the regulation to make it consistent with 38 U.S.C. 3695.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under the Administrative Procedure Act (APA) to publish this rule without prior opportunity for public comment and with an immediate effective date. Pursuant to 5 U.S.C. 553(b)(B), general notice and opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” See *Nat. Res. Def. Council v. Nat’l Highway Traffic Safety Admin.*, 894 F.3d 95, 114 (2nd Cir. 2018) (noting that an agency may invoke the good-cause exception when notice and comment are “unnecessary” in “those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry [] and to the public”).

By statute, Congress has authorized an aggregate period of 81 months of assistance to individuals who use Chapter 35 benefits combined with benefits from other programs listed in section 3695(a). VA’s authority is limited to implementing the

statutes as enacted by Congress. Therefore, additional public comment would be superfluous and unnecessary.

The APA also requires a 30-day delayed effective date, except for “(1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d). For the reasons stated above, the Secretary finds that there is also good cause for this rule to be effective immediately upon publication. Any delay in implementation would be unnecessary for purposes of 5 U.S.C. 553(d)(3).

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. This final rule is a deregulatory action under Executive Order 14192. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601-612, is not applicable to this rulemaking because notice of proposed rulemaking is not required. 5 U.S.C. 601(2), 603(a), 604(a).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any

rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs has designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Veteran readiness.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on July 24, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR part 21 as set forth below:

PART 21—VETERAN READINESS AND EMPLOYMENT AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 33, 34, 35, 36, and as noted in specific sections.

2. Amend § 21.4020 by:

- a. In paragraph (a)(4), by removing “35,”;
- b. Revising paragraph (a)(5);
- c. Removing the authority citation following paragraph (a)(8); and
- d. Adding paragraph (c) before the authority citation at the end of the section.

The revisions and addition read as follows:

§ 21.4020 Two or more programs.

(a) * * *

(5) 10 U.S.C. chapters 107, 1606, 1607, and 1611;

* * * * *

(c) *Limit of Aggregate Assistance.* The aggregate period for which any person may receive assistance under 38 U.S.C. chapter 35 in combination with any of the provisions of law referred to in paragraph (a) of this section may not exceed 81 months (or the part-time equivalent thereof).

* * * * *