

adjusted by the CPI-W, since this statute removes the authority to adjust by the CPI-W for those two years. CPI-W adjustments will resume October 1, 2004, with the beginning of Fiscal Year 2005. We are changing the regulations governing rates payable under the MGIB to reflect the increase effective October 1, 2001, attributable to the CPI-W and the step increases provided for in Pub. L. 107-103.

It should be noted that these MGIB increases do not affect all educational assistance payable under the MGIB. The increases don't apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called "kickers"). They don't apply to amounts payable for dependents. Veterans who previously had eligibility under the Veterans' Educational Assistance program (Vietnam Era GI Bill) receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased.

38 U.S.C. 3015(a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the MGIB in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time institutional rate, respectively. Students pursuing a program of education at less than one-half but more than one-quarter time have had their payments limited to 50% or less of the full-time institutional rate. Similarly, students pursuing a program of education at one-quarter time or less have had their payments limited to 25% or less of the full-time institutional rate. Changes are made consistent with the authority and formula described in this paragraph.

In addition, 38 U.S.C. 3032(c) requires that monthly rates payable to veterans in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, we are changing those regulations to reflect increases effective October 1, 2001, January 1, 2002, October 1, 2002, and October 1, 2003, in accordance with the increase attributable to the CPI-W and the applicable provisions of Pub. L. 107-103.

By statute, the monthly rates of basic educational assistance payable under the Survivors' and Dependents' Educational Assistance (DEA) program must be adjusted each fiscal year. In accordance with the statutory formula,

the regulations governing rates of educational assistance payable under the DEA program for Fiscal Year 2002 (October 1, 2001, through September 30, 2002) are changed to show a 3.4% increase in these rates. The 3.4% increase is based on the percentage by which the total of the monthly CPI-W for July 1, 2000, through June 30, 2001, exceeds the total of the monthly CPI-W for July 1, 1999, through June 30, 2000.

Pub. L. 107-103 further increased the DEA program rates for the months during Fiscal Year 2002 that follow December 2001. That Act provides that beginning on January 1, 2002, the rates of basic educational assistance under the DEA program must be increased beyond the increase that went into effect on October 1, 2001. Changes are made to the regulations governing rates payable under the DEA program to reflect both rate increases.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in the rates are applied in accordance with the applicable statutory provisions discussed above.

#### **Administrative Procedure Act**

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

#### **Executive Order 12866**

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### **Paperwork Reduction Act**

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

#### **Regulatory Flexibility Act**

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601-612, are not applicable to this rule, because the agency is not required to publish a notice of proposed rulemaking for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule directly affects only individuals and does not directly affect

small entities. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule will have no consequential effect on State, local or tribal governments.

#### **Catalog of Federal Domestic Assistance Program Numbers**

The Catalog of Federal Domestic Assistance numbers for the programs affected by this final rule are 64.117 and 64.124.

#### **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 programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 7, 2003.

**Anthony J. Principi,**  
*Secretary of Veterans Affairs.*

■ For the reasons set out above, 38 CFR part 21 (subparts C and K) is amended as follows:

#### **PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

##### **Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35**

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

**Authority:** 38 U.S.C. 501(a), 512, 3500-3566, unless otherwise noted.

■ 2. In § 21.3045, paragraph (h) is revised to read as follows:

##### **§ 21.3045 Entitlement charges.**

\* \* \* \* \*

(h) *Entitlement charge for correspondence courses.* The charge against entitlement of a spouse or surviving spouse for pursuit of a course