

medical care, life insurance, vocational rehabilitation, and education benefits. This document amends 38 CFR 3.665 and 38 CFR 3.666 to reflect this change, including by changing the heading of each of those sections. We are changing the heading of § 3.665 from “Penal institutions—compensation” to “Incarcerated beneficiaries and fugitive felons—compensation,” which we believe more clearly identifies the content of that section. For the same reason, we are changing the heading of § 3.666 from “Penal institutions—pension” to “Incarcerated beneficiaries and fugitive felons—pension.”

Section 506 of the Act amended 38 U.S.C. 5313 to extend its current limitations on payment of compensation benefits to incarcerated veterans to also apply to any veteran who is entitled to compensation and who on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and remains so incarcerated for conviction of that felony as of December 27, 2001, the date of enactment of the Act. This document amends 38 CFR 3.665 to reflect this change. We are also removing the phrase “, or prior to October 7, 1980,” from 38 CFR 3.341(b) (referring to veterans rated as unemployable prior to October 7, 1980) since it is now obsolete.

Administrative Procedure Act

Changes made by this final rule merely reflect statutory provisions, are nonsubstantive changes made for purposes of clarity, or are nonsubstantive technical changes. Accordingly, there is a basis for dispensing with the prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

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 final rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

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

Executive Order 12866

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

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of 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, 5 U.S.C. 601–612. This final rule does not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers for this rule are 64.104, 64.105, 64.109, and 64.110.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Approved: March 10, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR parts 3 and 13 are amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Section 3.3 is amended by:

■ A. Removing the authority citation following paragraph (a)(3)(v), redesignating paragraphs (a)(3)(v) and (a)(3)(vi) as new paragraphs (a)(3)(vi)(B) introductory text and (a)(3)(v), respectively.

■ B. Adding new paragraphs (a)(3)(vi)(A) and (a)(3)(vi)(B)(1) through (4).

■ C. In newly redesignated paragraph (a)(3)(v), removing “§ 3.23.” and adding, in its place, “§ 3.23; and”.

■ D. In newly redesignated paragraph (a)(3)(vi)(B) introductory text, removing

“misconduct; and” and adding, in its place, “misconduct. For purposes of this paragraph, a veteran is considered permanently and totally disabled if the veteran is any of the following”.

The additions read as follows:

§ 3.3 Pension.

* * * * *

(a) * * *

(3) * * *

(vi)(A) Is age 65 or older; or

(B) * * *

(1) A patient in a nursing home for long-term care because of disability; or

(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner; or

(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person; or

(4) Suffering from:

(i) Any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or

(ii) Any disease or disorder determined by VA to be of such a nature or extent as to justify a determination that persons suffering from that disease or disorder are permanently and totally disabled.

(Authority: 38 U.S.C. 1502(a), 1513, 1521, 1522)

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§ 3.307 [Amended]

■ 3. Section 3.307 is amended by:

■ A. In paragraph (a)(6)(ii), removing “, and respiratory cancers within 30 years,”.

■ B. In paragraph (a)(6)(iii), removing “and has a disease listed at § 3.309(e)” and adding, in its place, a comma.

■ 4. Section 3.317 is amended by:

■ A. In paragraph (a)(1) introductory text, removing “shall” and adding, in its place, “will”, and removing “chronic disability resulting from an illness or combination of illnesses manifested by one or more signs or symptoms such as those listed in paragraph (b) of this section” and adding, in its place, “a qualifying chronic disability”.

■ B. Redesignating paragraphs (a)(2) through (a)(5) as paragraphs (a)(3) through (a)(6), respectively.

■ C. Adding a new paragraph (a)(2).

■ D. In paragraph (b) introductory text, removing “undiagnosed illness” and adding, in its place, “undiagnosed illness or medically unexplained chronic multisymptom illness”.

■ E. In paragraph (b)(6), removing “or” and adding, in its place, “and”.