

dishonorable from the period of service in which the injury or disease was incurred. 38 U.S.C. 1521(a) authorizes the Secretary to pay non-service-connected disability pension to certain veterans who are permanently and totally disabled from non-service-connected disability.

Regulations at 38 CFR 3.12 implement two distinct statutory provisions governing entitlement to most benefits administered by VA. One provision, 38 U.S.C. 101(2), defines the term "veteran" for purposes of establishing entitlement to benefits as a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable. The other, 38 U.S.C. 5303, bars the payment of VA benefits to individuals discharged under certain listed circumstances regardless of how they fare under the statutory definition of veteran.

Paragraphs 3.12(g) and (h) implement provisions of Public Law 95-126, enacted on October 8, 1977, concerning the effect of certain discharge upgrades and discharge review programs on the definition of veteran and the statutory bars to benefits. This document reorganizes the material in paragraphs (g) and (h) into a format that is simpler to read and understand. The changes are not substantive.

Since these amendments merely reorganize and simplify the current regulation and are not substantive in nature, this change is being promulgated without regard to notice and comment and effective date provisions of 5 U.S.C. 553.

Because no notice of proposed rulemaking was required with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act, 5 U.S.C. 601-612. Even so, the Secretary hereby certifies that these regulatory amendments 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. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

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

Approved: March 14, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is 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. In § 3.12, paragraphs (g) and (h) are revised and an authority citation is added to paragraph (h) to read as follows:

§ 3.12 Character of discharge.

* * * * *

(g) An honorable or general discharge issued on or after October 8, 1977, by a discharge review board established under 10 U.S.C. 1553, sets aside a bar to benefits imposed under paragraph (d), but not paragraph (c), of this section provided that:

- (1) The discharge is upgraded as a result of an individual case review;
- (2) The discharge is upgraded under uniform published standards and procedures that generally apply to all persons administratively discharged or released from active military, naval or air service under conditions other than honorable; and
- (3) Such standards are consistent with historical standards for determining honorable service and do not contain any provision for automatically granting or denying an upgraded discharge.

(h) Unless a discharge review board established under 10 U.S.C. 1553 determines on an individual case basis that the discharge would be upgraded under uniform standards meeting the requirements set forth in paragraph (g) of this section, an honorable or general discharge awarded under one of the following programs does not remove any bar to benefits imposed under this section:

- (1) The President's directive of January 19, 1977, implementing Presidential Proclamation 4313 of September 16, 1974; or
- (2) The Department of Defense's special discharge review program effective April 5, 1977; or
- (3) Any discharge review program implemented after April 5, 1977, that does not apply to all persons administratively discharged or released from active military service under other than honorable conditions.

(Authority: 38 U.S.C. 5303 (e))

* * * * *

[FR Doc. 97-7835 Filed 3-27-97; 8:45 am]

BILLING CODE 8320-01-P

38 CFR Part 21

RIN 2900-AI55

Veterans Education: Increase in Rates Payable Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 1997 (October 1, 1996, through September 30, 1997) are changed to show a 2.7% increase in these rates. Furthermore, the Veterans' Benefits Improvements Act of 1996 provides that the lower rate of educational assistance payable to veterans pursuing cooperative training was abolished for most veterans training under the Montgomery GI Bill—Active Duty effective October 9, 1996. They will be paid at the same rate as those veterans pursuing residence training. The regulations are changed to conform to statutory requirements.

DATES: This final rule is effective March 28, 1997. However, the changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration (202) 273-7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 38 U.S.C. 3015(g) for fiscal year 1997, the rates of basic educational assistance under the Montgomery GI Bill—Active Duty payable to students pursuing a program of education full time must be increased by the percentage that the total of the monthly Consumer Price Index-W for July 1, 1995, through June 30, 1996, exceeds the total of the monthly Consumer Price Index-W for July 1, 1994, through June 30, 1995. This is 2.7%.

It should be noted that some veterans will receive an increase in monthly

payments that will be less than 2.7%. The increase does not 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"). It does not apply to amounts payable for dependents. Veterans who previously had eligibility under the 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 by 2.7%.

Although 38 U.S.C. 3015(g) requires only that the full-time rates be increased, these revisions include increases for other training also. Monthly rates payable to veterans in apprenticeship or other on-job training are set by statute at a given percentage of the full-time rate. Hence, any rise in the full-time rate automatically requires an increase in the rates for such training.

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 Montgomery GI Bill—Active Duty in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time 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 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 rate. Changes are made consistent with the authority and formula described in this paragraph.

Before the enactment on October 9, 1996, of the Veterans' Benefits Improvements Act of 1996 (Pub. L. 104-275), a veteran pursuing a cooperative course under the Montgomery GI Bill—Active Duty was paid educational assistance at 80% of the monthly rate payable to a similarly circumstanced veteran in residence training, provided he or she was not previously eligible for educational assistance under the Vietnam Era GI Bill. This statutory provision was reflected in the regulations. The Veterans' Benefits Improvements Act of 1996 eliminated this different rate so that, effective October 9, 1996, veterans in cooperative training who were not previously eligible for educational assistance under the Vietnam Era GI Bill receive the same monthly rate as veterans in residence training. However, veterans training

under the Montgomery GI Bill—Active Duty who were previously eligible under the Vietnam Era GI Bill receive educational assistance that is in part based upon the rates payable under the Vietnam Era GI Bill. Since a lower rate was payable for cooperative training under the Vietnam Era GI Bill than was payable for residence training, there will continue to be a lower rate payable under the Montgomery GI Bill—Active Duty to these veterans for cooperative training. 38 CFR 21.7136 and 21.7137 are changed accordingly.

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 rates are applied retroactively from October 1, 1996, or October 9, 1996, as respectively set out in the regulations, in accordance with the applicable statutory provisions discussed above.

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.

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, 5 U.S.C. 601-612, and does not directly affect small entities. This final rule directly affects only individuals. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 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 care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 27, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21 (subpart K) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K, is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

2. In § 21.7136, paragraphs (b), (c)(1), (c)(2), (c)(3), (d)(1) introductory text, (d)(2) introductory text, (d)(5), (d)(6), and (f)(3) are revised, to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

* * * * *

(b) *Rates.* (1) Except as elsewhere provided in this section or in § 21.7139, the monthly rate of basic educational assistance payable for training that occurs after September 30, 1996, and before October 1, 1997, to a veteran whose service is described in paragraph (a) of this section is the rate stated in the following table.

Training	Monthly rate
Full time	\$427.87
¾ time	320.90
½ time	213.94
Less than ½ but more than ¼ time	213.94
¼ time or less	106.97

(Authority: 38 U.S.C. 3015)

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate payable to the veteran for pursuit of apprenticeship or other on-job training that occurs after September 30, 1996, and before October 1, 1997, is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of training	\$320.90
Second six months of pursuit of training	235.33
Remaining pursuit of training	149.75

(Authority: 38 U.S.C. 3015, 3032(c))

(3) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable to the veteran for pursuit of a cooperative course is:

(i) \$342.30 for training that occurs after September 30, 1996, and before October 9, 1996; and

(ii) \$427.87 for training that occurs on or after October 9, 1996.

(Authority: 38 U.S.C. 3015)

(c) * * *

(1) Except as elsewhere provided in this section or in § 21.7139, the monthly rate of basic educational assistance payable to a veteran for training that occurs after September 30, 1996, and before October 1, 1997, is the rate stated in the following table.

Training	Monthly rate
Full time	\$347.65
¾ time	260.74
½ time	173.83
Less time ½ but more than ¼ time	173.83
¼ time or less	86.91

(Authority: 38 U.S.C. 3015, 3032(c))

(2) The monthly rate of educational assistance payable to a veteran for pursuit of apprenticeship or other on-job training that occurs after September 30, 1996, and before October 1, 1997, is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of training	\$260.74
Second six months of pursuit of training	191.21
Remaining pursuit of training	121.68

(Authority: 38 U.S.C. 3015, 3032(c))

(3) The monthly rate of basic educational assistance payable to a veteran for pursuit of a cooperative course is:

(i) \$278.12 for training that occurs after September 30, 1996, and before October 9, 1996; and

(ii) \$347.65 for training that occurs on or after October 9, 1996.

(Authority: 38 U.S.C. 3015)

(d) * * *

(1) For individuals, other than those pursuing cooperative training before October 9, 1996, or apprenticeship or other on-job training, it may not exceed:

(2) For individuals who first become members of the Armed Forces after November 28, 1989 (other than those pursuing cooperative training before October 9, 1996, or apprenticeship or other on-job training), it may not exceed:

(5) For individuals who first become members of the Armed Forces before November 29, 1989, and who are pursuing cooperative training, it may not exceed \$320 per month for training received before October 9, 1996.

(6) For individuals who first become members of the Armed Forces after November 28, 1989, and who are pursuing cooperative training, it may not exceed \$560 per month for training received before October 9, 1996.

(Authority: Sec. 108(a)(2), Pub. L. 100-689, 102 Stat. 4170; Sec. 5(a), Pub. L. 102-83, 105 Stat. 406)

* * * * *

(f) * * *

(3) For a veteran pursuing cooperative training VA will multiply the rate determined by paragraph (e)(2)(i) of this section by .8 for training received before October 9, 1996.

* * * * *

3. In § 21.7137, paragraph (c)(2) introductory text is amended by removing "1995, and before October 1, 1996" and adding, in its place, "1996, and before October 1, 1997"; paragraph (c)(2)(i) is amended by removing "\$604.62" and adding, in its place, "\$615.87"; paragraph (c)(2)(ii) is amended by removing "\$453.96" and adding, in its place, "\$462.40"; paragraph (c)(2)(iii) is amended by removing "\$302.31" and adding, in its place, "\$309.94"; paragraph (c)(2)(iv) is amended by removing "\$151.15" and adding, in its place, "\$153.97"; and paragraphs (a)(1), (a)(2), (d)(1) introductory text, and (d)(3) are revised and paragraph (a)(3) is added, to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* (1) Except as elsewhere provided in this section, the monthly rate of basic educational assistance for training that occurs after September 30, 1996, and before October 1, 1997, is the rate stated in the following table.

Training	Monthly rate			
	No. dependents	One dependent	Two dependents	Additional for each additional dependent
Full time	\$615.87	\$651.87	\$682.87	\$16.00
¾ time	462.40	488.90	512.40	12.00
½ time	309.94	325.94	341.44	8.50
Less than ½ but more than ¼ time	309.94
¼ time or less	153.97

(Authority: 38 U.S.C. 3015 (e), (f), and (g))

(2) For veterans pursuing apprenticeship or other on-job training,

the monthly rate of basic educational assistance for training that occurs after September 30, 1996, and before October

1, 1997, is the rate stated in the following table.

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st six months of pursuit of program	\$423.66	\$436.03	\$446.90	\$5.25
2nd six months of pursuit of program	291.70	301.05	308.75	3.85
3rd six months of pursuit of program	173.55	179.68	184.40	2.45

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Remaining pursuit of program	161.65	167.43	172.68	2.45

(Authority: 38 U.S.C. 3015(e), (f), (g))

(3) The monthly rate payable to a veteran who is pursuing a cooperative

course is the rate stated in the following table.

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Oct. 1, 1996–Oct. 8, 1996	\$463.90	\$484.30	\$503.90	\$9.20
On or after Oct. 9, 1996	579.87	605.37	629.87	11.50

(Authority: 38 U.S.C. 3015)

* * * * *

(d) * * *

(1) For individuals, other than those pursuing cooperative training before October 9, 1996, or apprenticeship or other on-job training, it may not exceed:

* * * * *

(3) For individuals pursuing cooperative training, it may not exceed \$320 per month for training received before October 9, 1996.

(Authority: Sec. 108(a)(2), Pub. L. 100–689, 102 Stat. 4170; sec. 5(a), Pub. L. 102–83, 105 Stat. 406)

* * * * *

[FR Doc. 97–7832 Filed 3–27–97; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual: Availability and Publication

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule revises and updates references to organizational names of Postal Service administrative units in title 39, Code of Federal Regulations, part 111, that relate to the Domestic Mail Manual. The Postal Service publishes its rules and procedures for domestic mail preparation, mail classification, postage rates and fees, and other mailing requirements in the Domestic Mail Manual, which is incorporated by reference in 39 CFR part 111.

This rule also sets the publishing procedures for announcing all changes to the Domestic Mail Manual and

identifies the two documents used to record those changes, both as interim and final regulations published in the **Federal Register** and as minor changes published in the Postal Bulletin outside the rulemaking process. In addition, references to subscription and frequency of issuance of the Domestic Mail Manual are revised.

EFFECTIVE DATE: March 28, 1997.

FOR FURTHER INFORMATION CONTACT: Neil Berger, (202) 268–2859.

SUPPLEMENTARY INFORMATION: To make the Domestic Mail Manual more accessible and more usable for postal customers, the Postal Service redesigned the layout and reorganized the content of the document after many months of consultation with postal customers and postal employees. The result of this work was Domestic Mail Manual Issue 46, released on July 1, 1993. Subsequent issues of the Domestic Mail Manual have continued the general design and editorial style of Issue 46, with further refinements such as a series of reference guides and a separate 10-panel rate table identified as Notice 123, Ratefold.

The current Domestic Mail Manual, now printed in a looseleaf format with tab dividers, evolved from a bound document printed and distributed quarterly in March, June, September, and December each year. Other than changes to postal rates and fees based on filings with the Postal Rate Commission, the implementation date for most changes to mailing standards was generally the issue date of the quarterly publication of that former style of the Domestic Mail Manual. Summaries of these changes were announced in the Postal Bulletin describing which standards were to be revised before the printing and

distribution of the Domestic Mail Manual.

Although this process appeared to give mailers and employees adequate time for preparation, training, and implementation of the changes, the publication of only summaries and not the complete implementing text was inadequate for mailers who used computerized methods to sort their mail. Those mailers, as well as software developers, needed to review and interpret the complete text and incorporate the changes into their software and mailing operations before the effective date of the next issue of the Domestic Mail Manual. As a consequence, the Postal Service in 1991 began publishing the full text to all Domestic Mail Manual changes.

Many changes in mail preparation standards that began in the mid-1980s, and have continued to the present time, came from the transition from manual and mechanized sorting methods to largely automated methods that relied on optical character recognition and other forms of computerized technology. As technology for mail processing improved, the rate of change to mail preparation standards and the expected consequences from those changes eroded the quarterly cycle of announcement followed by publication of the Domestic Mail Manual. For most mailers, the value and significance of changes for better service outweighed maintaining a schedule of changes tied to a rigid publication cycle.

After the major shift to automation rates in 1991, the Postal Service began to implement changes at an even faster pace than envisioned in the 1980s. Some changes came about to upgrade operational networks and match