

Navigation Canal, mile 4.5, at New Orleans, Orleans Parish, Louisiana to remain closed to navigation daily from 7 a.m. until noon and from 1 p.m. until 6 p.m. from Monday, March 6, 2000 through Wednesday, April 19, 2000. The draw shall open on signal at any time for a vessel in distress.

Dated: January 12, 2000.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard Commander,  
Eighth Coast Guard District.*

[FR Doc. 00-2678 Filed 2-4-00; 8:45 am]

**BILLING CODE 4910-15-M**

## DEPARTMENT OF DEFENSE DEPARTMENT OF TRANSPORTATION

### Coast Guard

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR PART 21

#### RIN 2900-AI63

### Eligibility Criteria for the Montgomery GI Bill—Active Duty and Other Miscellaneous Issues

**AGENCIES:** Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the educational assistance and educational benefit regulations of the Department of Veterans Affairs (VA). The amendments reflect statutory changes which set forth new eligibility criteria that will allow additional individuals to establish eligibility for educational assistance under the Montgomery GI Bill—Active Duty (MGIB); and also reflect statutory provisions concerning the approval of courses leading to alternative teacher certification. This document also makes changes for the purpose of clarification.

**DATES:** *Effective date:* February 7, 2000.

*Dates of application:*

October 1, 1996: 38 CFR

21.7020(b)(1); new § 21.7042(f)(3); and newly redesignated § 21.7042(f)(4).

October 9, 1996: §§ 21.4135(b); 21.5021(d)(3); 21.5058(b); 21.5130(d); 21.7020(b)(29); all changes to § 21.7042 except new § 21.7042(f)(3) and newly redesignated § 21.7042(f)(4); §§ 21.7045; 21.7050; 21.7131; 21.7520(b); and 21.7635.

#### FOR FURTHER INFORMATION CONTACT:

William G. Susling, Jr., Education Advisor, Education Service, Veterans

Benefits Administration, Department of Veterans Affairs, 202-273-7187.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 12, 1998 (63 FR 63253), the Department of Defense (DOD), the Department of Transportation (Coast Guard), and the Department of Veterans Affairs (VA) proposed amending subparts D, G, K, and L of 38 CFR part 21, as set forth in the SUMMARY portion of this document.

DOD, the Department of Transportation (Coast Guard), and VA gave interested persons 60 days to submit comments. VA received one letter from a service organization. The organization noted that the amendments would be beneficial for veterans and concurred in them.

Based on the rationale stated in this document and the proposed rule, we are adopting the provisions of the proposed rule as a final rule without change except to the authority citations for subparts D, G, and L.

DOD is issuing this final rule jointly with VA insofar as it relates to VEAP. DOD funds this program and VA administers it. DOD, the Department of Transportation (Coast Guard), and VA are jointly issuing this final rule insofar as it relates to the Montgomery GI Bill—Selected Reserve. DOD and the Coast Guard fund this program, and VA administers it. The remainder of this final rule is issued solely by VA.

#### Administrative Procedure Act

Under 5 U.S.C. 553, there is a basis for dispensing with a 30-day delay of the effective date since the changes made by this final rule are restatements of statute, interpretive rules, and nonsubstantive changes for the purpose of clarity.

#### Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection and recordkeeping requirements associated with this final rule concerning 38 CFR 21.7131(l) and (m) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501-3520). The proposed rule provided an opportunity to comment to OMB and VA on those requirements, but no comments were received on them. OMB has assigned OMB control number 2900-0607 to those information collection and recordkeeping requirements. Under the collection of information provisions in § 21.7131(l) and (m), a veteran may be required to submit evidence to show that the veteran's election to receive educational assistance under the MGIB was a valid one, and the date of VA's receipt of the

evidence may have an effect on the effective date of an award of educational assistance.

OMB assigns a control number to each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are displaying the OMB control number assigned to the collection of information in this final rule at the end of § 21.7131.

#### Executive Order 12866

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

#### Regulatory Flexibility Act

The Secretary of Defense, Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify 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. This final rule will not cause educational institutions to make changes in their activities and has minuscule monetary effects, if any. 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 numbers for programs that this final rule affects are 64.117, 64.120, and 64.124. This final rule also affects the Montgomery GI Bill—Selected Reserve program, which has no Catalog of Federal Domestic Assistance number.

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

Approved: May 28, 1999.

**Togo D. West, Jr.,**

*Secretary of Veterans Affairs.*

Approved: July 13, 1999.

**P.A., Tracey,**

*Vice Admiral, USN Deputy Assistant*

*Secretary (Military Personnel Policy)*

*Department of Defense.*

Approved: October 18, 1999.

**F.L. Ames,**

*Rear Admiral, U.S. Coast Guard, Assistant*

*Commander for Human Resources.*

For the reasons set forth above, 38 CFR part 21 (subparts D, G, K, and L) is amended as follows:

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

### **Subpart D—Administration of Educational Assistance Programs**

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

**Authority:** 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. In § 21.4135, paragraph (b) is added to read as follows:

#### **§ 21.4135 Discontinuance dates.**

\* \* \* \* \*

(b) *Election to receive educational assistance under the Montgomery GI Bill—Active Duty.* If a veteran makes a valid election, as provided in § 21.7045(d), to receive educational assistance under the Montgomery GI Bill—Active Duty in lieu of educational assistance under the Post-Vietnam Era Veterans' Educational Assistance Program, the discontinuance date of educational assistance under the Post-Vietnam Era Veterans' Educational Assistance Program shall be the date on which the election was made pursuant to procedures described in § 21.7045(d)(2).

(Authority: 38 U.S.C. 3018C(c)(1))

\* \* \* \* \*

### **Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32**

3. The authority citation for part 21, subpart G continues to read as follows:

**Authority:** 38 U.S.C. 501(a), chs. 32, 36, unless otherwise noted.

#### **§ 21.5021 [Amended]**

4. In § 21.5021, paragraph (d)(3) is amended by removing “during the period beginning on November 2, 1994, and ending on September 30, 1996.”.

5. In § 21.5058, the authority citation for paragraph (b) is revised to read as follows:

#### **§ 21.5058 Resumption of participation.**

\* \* \* \* \*

(b) \* \* \*

(Authority: 38 U.S.C. 3018A, 3018B, 3018C, 3202(l), 3222)

#### **§ 21.5130 [Amended]**

6. In § 21.5130, paragraph (b) is amended by removing “(except paragraph (b))”.

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

7. The authority citation for part 21, subpart K continues to read as follows:

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

8. In § 21.7020, paragraph (b)(29)(iii) is amended by removing “during the period beginning on November 2, 1994, and ending on September 30, 1996.”; the authority citation for paragraph (b)(29) is revised; paragraph (b)(1)(iv) is added immediately after the authority citation for paragraph (b)(1)(iii); and paragraph (b)(44) is added immediately after the authority citation for paragraph (b)(43), to read as follows:

#### **§ 21.7020 Definitions.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iv) When referring to individuals who, before June 30, 1985, had never served on active duty (as that term is defined by § 3.6(b) of this chapter) and who made the election described in § 21.7042(a)(7) or (b)(10), the term *active duty* when used in this subpart includes full-time National Guard duty under title 32, U.S. Code first performed after June 30, 1985, by a member of the Army National Guard of the United States or the Air National Guard of the United States for the purpose of organizing, administering, recruiting, instructing, or training the National Guard.

(Authority: 38 U.S.C. 3002(7); sec. 107, Pub. L. 104–275, 110 Stat. 3329–3330)

\* \* \* \* \*

(29) \* \* \*

(Authority: 38 U.S.C. 3002(8), 3452(c))

\* \* \* \* \*

(44) *Date of election.* The term *date of election* means:

(i) For an election that must be made in the form and manner determined by the Secretary of Defense, the date determined by the Secretary of Defense; and

(ii) For an election that must be submitted to VA, the date VA receives the written election.

(Authority: 38 U.S.C. 3018C(a)(5); sec. 107(b), Pub. L. 104–275, 110 Stat. 3329–3330)

9. In § 21.7042, paragraph (f)(3) is redesignated as paragraph (f)(4); newly redesignated paragraph (f)(4) is amended by removing “Paragraph (f)(2) of this section does” and adding, in its place, “Paragraphs (f)(2) and (f)(3) of this section do”, by removing “Coast” and adding, in its place, “United States Coast”, and by removing “Reserve” and adding, in its place, “Senior Reserve”; paragraph (a)(7) is added immediately after the authority citation for paragraph (a)(6); paragraph (b)(10) is added immediately after the authority citation for paragraph (b)(9); new paragraph (f)(3) and paragraph (g)(5) are added; and paragraphs (f)(2), (g)(1), and (g)(4) are revised to read as follows:

#### **§ 21.7042 Basic eligibility requirements.**

\* \* \* \* \*

(a) \* \* \*

(7) An individual whose active duty meets the definition of that term found in § 21.7020(b)(1)(iv), and who wishes to become entitled to basic educational assistance, must have elected to do so before July 9, 1997. For an individual electing while on active duty, this election must have been made in the manner prescribed by the Secretary of Defense. For individuals not on active duty, this election must have been submitted in writing to VA.

(Authority: Sec. 107(b), Pub. L. 104–275, 110 Stat. 3329–3330)

\* \* \* \* \*

(b) \* \* \*

(10) An individual whose active duty meets the definition of that term found in § 21.7020(b)(1)(iv), and who wishes to become entitled to basic educational assistance, must have elected to do so before July 9, 1997. For an individual electing while on active duty, this election must have been made in the manner prescribed by the Secretary of Defense. For individuals not on active duty, this election must have been submitted in writing to VA.

(Authority: Sec. 107(b), Pub. L. 104–275, 110 Stat. 3329–3330)

\* \* \* \* \*

(f) \* \* \*

(2) Except as provided in paragraph (f)(4) of this section, an individual is not eligible for educational assistance under 38 U.S.C. chapter 30 if after December 31, 1976, he or she receives a commission as an officer in the Armed Forces upon graduation from:

(i) The United States Military Academy;

(ii) The United States Naval Academy;

(iii) The United States Air Force Academy; or

(iv) The United States Coast Guard Academy.

(3) Except as provided in paragraph (f)(4) of this section, an individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under 10 U.S.C. 2107 is not eligible for educational assistance under 38 U.S.C. chapter 30, if the individual enters on active duty—

(i) Before October 1, 1996; or

(ii) After September 30, 1996, and while participating in that program received more than \$2,000 for each year of participation.

(Authority: 38 U.S.C. 3011(c), 3012(d))

\* \* \* \* \*

(g) *Reduction in basic pay.* (1) Except as elsewhere provided in this paragraph, the basic pay of any individual described in paragraph (a), (b), or (c) of this section shall be reduced by \$100 for each of the first 12 months that the individual is entitled to basic pay. If the individual does not serve 12 months, it shall be reduced by \$100 for each month that the individual is entitled to basic pay.

\* \* \* \* \*

(4) The individual who makes the election described in either paragraph (a)(7) or (b)(10) of this section shall have his or her basic pay reduced by \$1,200 in a manner prescribed by the Secretary of Defense. To the extent that basic pay is not so reduced before the individual's discharge or release from active duty, VA will collect from the individual an amount equal to the difference between \$1,200 and the total amount of the reductions described in this paragraph. If the basic pay of an individual is not reduced and/or VA does not collect from the individual an amount equal to the difference between \$1,200 and the total amount of the pay reductions, that individual is ineligible for educational assistance.

(Authority: Sec. 107(b)(3), Pub. L. 104-275, 110 Stat. 3329-3330)

(5) If through administrative error, or other reason—

(i) The basic pay of an individual described in paragraph (a)(1) through (a)(6), (b)(1) through (b)(9), (c), or (d) of this section is not reduced as provided in paragraph (g)(1) or (g)(2) of this section, the failure to make the reduction will have no effect on his or her eligibility, but will negate or reduce the individual's entitlement to educational assistance under 38 U.S.C. chapter 30 determined as provided in § 21.7073 for an individual described in paragraph (c) of this section;

(ii) The basic pay of an individual, described in paragraph (a)(7) or (b)(10) of this section, is not reduced as

described in paragraph (g)(4) of this section and/or VA does not collect from the individual an amount equal to the difference between \$1,200 and the total amount of the pay reductions described in paragraph (g)(4) of this section, that individual is ineligible for educational assistance. If the failure to reduce the individual's basic pay and/or the failure to collect from the individual was due to administrative error on the part of the Federal government or any of its employees, the individual may be considered for equitable relief depending on the facts and circumstances of the case. See § 2.7 of this chapter.

(Authority: 38 U.S.C. 3002, 3011, 3012, 3018)

10. In § 21.7045, the heading and introductory text are revised; and paragraph (d) is added, to read as follows:

**§ 21.7045 Eligibility based on involuntary separation, voluntary separation, or participation in the Post-Vietnam Era Veterans' Educational Assistance Program.**

An individual who fails to meet the eligibility requirements found in § 21.7042 or § 21.7044 nevertheless will be eligible for educational assistance as provided in this subpart if he or she meets the requirements of paragraphs (a) and (b) of this section; paragraphs (a) and (c) of this section; or paragraph (d) of this section.

\* \* \* \* \*

(d) *Alternate eligibility requirements for participants in the Post-Vietnam Era Veterans' Educational Assistance Program.*—(1) *Making an election.* To receive educational assistance under the authority of paragraph (d) of this section, a veteran or servicemember must—

(i) Have elected to do so before October 9, 1997;

(ii) Have been a participant (as that term is defined in § 21.5021(e)) in the Post-Vietnam Era Veterans' Educational Assistance Program on October 9, 1996;

(iii) Have been on active duty on October 9, 1996; and

(iv) Receive an honorable discharge.

(2) *Election.* The election to receive educational assistance payable under this subpart in lieu of educational assistance payable under the Post-Vietnam Era Veterans' Educational Assistance Program is irrevocable. The election must have been made before October 9, 1997, pursuant to procedures provided by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or provided by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

(3) *\$1,200 collection.* An individual who has made the election described in paragraph (d)(2) of this section shall have his or her basic pay reduced by \$1,200 in a manner prescribed by the Secretary of Defense. To the extent that basic pay is not so reduced before the individual's discharge or release from active duty, VA will collect from the individual an amount equal to the difference between \$1,200 and the total amount of the reductions. Reduction in basic pay by \$1,200 or collection of \$1,200 is a precondition to establishing eligibility.

(4) *Educational requirement.* Before applying for benefits that may be payable as the result of making a valid election, an individual must have—

(i) Completed the requirements of a secondary school diploma (or equivalency certificate); or

(ii) Successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree.

(Authority: 38 U.S.C. 3018C)

11. In § 21.7050, paragraph (a)(1) is amended by removing “paragraph (b)” and adding, in its place, “paragraphs (b) and (c)”, and by removing “of this part”; paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively; the authority citation for paragraph (b) is revised; and a new paragraph (c) is added to read as follows:

**§ 21.7050 Ending dates of eligibility.**

\* \* \* \* \*

(b) \* \* \*

(Authority: 38 U.S.C. 3031(e))

(c) *Time limit for some members of the Army and Air National Guard.* (1) If a veteran or servicemember establishes eligibility for the educational assistance payable under this subpart by making the election described in § 21.7042(a)(7) or (b)(10), VA will not provide basic educational assistance or supplemental educational assistance to that veteran or servicemember beyond 10 years from the later of:

(i) The date determined by paragraph (a) or (b) of this section, as appropriate; or

(ii) The effective date of the election described in § 21.7042(a)(7) or (b)(10), as appropriate.

(2) The effective date of election is the date on which the election is made pursuant to the procedures described in § 21.7045(d)(2).

(Authority: Sec. 107(b)(3), Pub. L. 104-275, 110 Stat. 3329-3330)

\* \* \* \* \*

12. In § 21.7131, paragraphs (l) and (m) are added to read as follows:

**§ 21.7131 Commencing dates.**

\* \* \* \* \*

(l) *Eligibility established under § 21.7042 (a)(7) or (b)(10).* This paragraph must be used to establish the effective date of an award of educational assistance when the veteran or servicemember has established eligibility under either § 21.7042 (a)(7) or (b)(10). The commencing date of an award of educational assistance for such a veteran or servicemember is the latest of the following:

(1) The commencing date as determined by paragraphs (a) through (c) and (f) through (j) of this section;

(2) The date of election provided that—

(i) The servicemember initiated the \$1,200 reduction in basic pay required by § 21.7042(g)(4) and the full \$1,200 was collected through that pay reduction;

(ii) Within one year of the date of election VA both collected from the veteran \$1,200 or the difference between \$1,200 and the amount collected through a reduction in the veteran's military pay, as provided in § 21.7042(g)(4), and received from the veteran any other evidence necessary to establish a valid election; or

(iii) VA received from the veteran \$1,200 or the difference between \$1,200 and the amount collected through a reduction in the veteran's military pay and any other evidence necessary to establish a valid election within one year of the date VA requested the money and/or the evidence.

(3) If applicable, the date VA collected the difference between \$1,200 and the amount by which the servicemember's military pay was reduced, if the provisions of paragraph (l)(2)(ii) or (l)(2)(iii) of this section are not met; or

(4) If applicable, the date VA collected \$1,200, if the provisions of paragraph (l)(2)(ii) or (l)(2)(iii) of this section are not met.

(Authority: 38 U.S.C. 5113; sec. 107, Pub. L. 104-275, 110 Stat. 3329-3330)

(m) *Eligibility established under 21.7045(d).* This paragraph must be used to establish the effective date of an award of educational assistance when the veteran or servicemember has established eligibility under § 21.7045(d). The commencing date of an award of educational assistance for such a veteran or servicemember is the latest of the following:

(1) The commencing date as determined by paragraphs (a) through (c) and (f) through (j) of this section;

(2) The date of election provided that—

(i) The servicemember initiated the \$1,200 reduction in basic pay required

by § 21.7045(d)(3) and the full \$1,200 was collected through that pay reduction;

(ii) Within one year of the date of election VA both collected from the veteran \$1,200 or the difference between \$1,200 and the amount collected through a reduction in the veteran's military pay, as provided in § 21.7045(d)(3), and received from the veteran any other evidence necessary to establish a valid election; or

(iii) VA received from the veteran \$1,200 or the difference between \$1,200 and the amount collected through a reduction in the veteran's military pay and any other evidence necessary to establish a valid election within one year of the date VA requested the money and/or the evidence.

(3) If applicable, the date VA collected the difference between \$1,200 and the amount by which the servicemember's military pay was reduced, if the provisions of paragraph (m)(2)(ii) or (m)(2)(iii) of this section are not met; or

(4) If applicable, the date VA collected \$1,200, if the provisions of paragraph (m)(2)(ii) or (m)(2)(iii) of this section are not met.

(Authority: 38 U.S.C. 3018C(a), (b), 5113) (The Office of Management and Budget has approved information collection requirements in this section under control number 2900-0607.)

**Subpart L—Educational Assistance for Members of the Selected Reserve**

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

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

14. In § 21.7520, paragraph (b)(23)(iv) is amended by removing “during the period beginning on November 2, 1994, and ending on September 30, 1996,”; and the authority citation for paragraph (b)(23) is revised to read as follows:

**§ 21.7520 Definitions.**

\* \* \* \* \*

(b) \* \* \*  
(23) \* \* \*

(Authority: 10 U.S.C. 16131(a), (c); 38 U.S.C. 3002, 3452)

\* \* \* \* \*

15. In § 21.7635, paragraph (y) is redesignated as paragraph (z); and a new paragraph (y) is added, to read as follows:

**§ 21.7635 Discontinuance dates.**

\* \* \* \* \*

(y) *Election to receive educational assistance under 38 U.S.C. chapter 30.* VA shall terminate educational assistance effective the first date for

which the reservist received educational assistance when—

(1) The service that formed a basis for establishing eligibility for educational assistance under 10 U.S.C. chapter 1606 included a period of active duty as described in § 21.7020(b)(1)(iv); and

(2) The reservist subsequently made an election, as described in § 21.7042(a)(7) or (b)(10), to become entitled to basic educational assistance under 38 U.S.C. chapter 30.

(Authority: Sec. 107, Pub. L. 104-275, 110 Stat. 3329-3330)

\* \* \* \* \*

[FR Doc. 00-2637 Filed 2-4-00; 8:45 am]

BILLING CODE 8320-01-P

**POSTAL SERVICE****39 CFR Part 111****Domestic Mail Manual Changes to Processing Instructions for Nonautomation Mail and Revisions to Letter Tray Labels**

**AGENCY:** Postal Service.

**ACTION:** Final Rule.

**SUMMARY:** This final rule revises Domestic Mail Manual (DMM) sections M130 and M610 with amendments to optional processing instructions for nonautomation mail. New standards provide a means for mailers to exclude their letter-size mail from any automated processing involved with initial distribution of mail, including tabbing and labeling machines, barcode sorters, and optical character readers. This final rule also revises DMM section M013, with inclusion of an optional endorsement line, “MANUAL ONLY,” and section M032, with changes to the second line of tray labels for Presorted First-Class Mail letters and Presorted Standard Mail (A) letters.

**EFFECTIVE DATE:** April 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jamie Gallagher, (202) 268-4031.

**SUPPLEMENTARY INFORMATION:** On October 25, 1999, the Postal Service published for public comment in the **Federal Register** a proposed rule (FR 64 57419-57421) that expanded provisions for mailers who wanted nonautomated (manual) processing and revised Line 2 of letter tray labels for First-Class Mail and Standard Mail (A). The Postal Service also invited comments on the proposed rule from interested parties and accepted comments until December 9, 1999. This final rule contains the DMM standards adopted by the Postal