

One Hundred Tenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight*

An Act

To amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “**Veterans’ Benefits Improvement Act of 2008**”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference to title 38, United States Code.

TITLE I—COMPENSATION AND PENSION MATTERS

- Sec. 101. Regulations on contents of notice to be provided claimants by the Department of Veterans Affairs regarding the substantiation of claims.
- Sec. 102. Judicial review of adoption and revision by the Secretary of Veterans Affairs of the schedule of ratings for disabilities of veterans.
- Sec. 103. Conforming amendment relating to non-deductibility from veterans’ disability compensation of disability severance pay for disabilities incurred by members of the Armed Forces in combat zones.
- Sec. 104. Report on progress of the Secretary of Veterans Affairs in addressing causes for variances in compensation payments for veterans for service-connected disabilities.
- Sec. 105. Extension of temporary authority for the performance of medical disability examinations by contract physicians.
- Sec. 106. Addition of osteoporosis to disabilities presumed to be service-connected in former prisoners of war with post-traumatic stress disorder.

TITLE II—**MODERNIZATION OF DEPARTMENT OF VETERANS AFFAIRS DISABILITY COMPENSATION SYSTEM**

Subtitle A—Benefits Matters

- Sec. 211. Authority for temporary disability ratings.
- Sec. 212. Substitution upon death of claimant.
- Sec. 213. Report on compensation of veterans for loss of earning capacity and quality of life and on long-term transition payments to veterans undergoing rehabilitation for service-connected disabilities.
- Sec. 214. Advisory Committee on Disability Compensation.

Subtitle B—Assistance and Processing Matters

- Sec. 221. Pilot programs on expedited treatment of fully developed claims and provision of checklists to individuals submitting claims.
- Sec. 222. Office of Survivors Assistance.
- Sec. 223. Comptroller General report on adequacy of dependency and indemnity compensation to maintain survivors of veterans who die from service-connected disabilities.
- Sec. 224. Independent assessment of quality assurance program.
- Sec. 225. Certification and training of employees of the Veterans Benefits Administration responsible for processing claims.

including efforts relating to the use of approved templates for such examinations and of reports on such examinations that are based on such templates prepared in an easily-readable format.

(2) An assessment of the current personnel requirements of the Veterans Benefits Administration, including an assessment of the adequacy of the number of personnel assigned to each regional office of the Administration for each type of claim adjudication position.

(3) A description of the differences, if any, in current patterns of claims submitted to the Secretary of Veterans Affairs regarding ratings for service-connected disabilities among various populations of veterans, including veterans living in rural and highly rural areas, minority veterans, veterans who served in the National Guard or Reserve, and veterans who are retired from the Armed Forces, and a description and assessment of efforts undertaken to reduce such differences.

SEC. 105. EXTENSION OF TEMPORARY AUTHORITY FOR THE PERFORMANCE OF MEDICAL DISABILITY EXAMINATIONS BY CONTRACT PHYSICIANS.

Section 704(c) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2651; 38 U.S.C. 5101 note) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

SEC. 106. ADDITION OF OSTEOPOROSIS TO DISABILITIES PRESUMED TO BE SERVICE-CONNECTED IN FORMER PRISONERS OF WAR WITH POST-TRAUMATIC STRESS DISORDER.

Section 1112(b)(2) is amended by adding at the end the following new subparagraph:

“(F) Osteoporosis, if the Secretary determines that the veteran has post-traumatic stress disorder (PTSD).”.

TITLE II—MODERNIZATION OF DEPARTMENT OF VETERANS AFFAIRS DISABILITY COMPENSATION SYSTEM

Subtitle A—Benefits Matters

SEC. 211. AUTHORITY FOR TEMPORARY DISABILITY RATINGS.

(a) **IN GENERAL.**—Chapter 11 is amended by inserting after section 1155 the following new section:

“§ 1156. Temporary disability ratings

“(a) **ASSIGNMENT OF TEMPORARY RATINGS.**—(1) For the purpose of providing disability compensation under this chapter to veterans, the Secretary shall assign a temporary disability rating to a veteran as follows:

“(A) **To a veteran who—**

“(i) was discharged or released from active duty not more than 365 days before the date such veteran submits a claim for disability compensation under this chapter;

“(ii) has one or more disabilities for which a rating of total is not immediately assignable—

“(I) under the regular provisions of the schedule of ratings; or

“(II) on the basis of individual unemployability; and

“(iii) has one or more—

“(I) severe disabilities that result in substantially gainful employment not being feasible or advisable; or

“(II) healed, unhealed, or incompletely healed wounds or injuries that make material impairment of employability likely.

“(B) To a veteran who, as a result of a highly stressful in-service event, has a mental disorder that is severe enough to bring about the veteran’s discharge or release from active duty.

“(C) To a veteran who has a service-connected disability that requires hospital treatment or observation in a Department of Veterans Affairs or approved hospital for a period in excess of 21 days.

“(D) To a veteran who has a service-connected disability that has required convalescent care or treatment at hospital discharge (regular discharge or release to non-bed care) or outpatient release that meets the requirements of regulations prescribed by the Secretary.

“(2) With respect to a veteran described in paragraph (1)(A), the Secretary may assign a temporary disability rating to such veteran regardless of whether such veteran has obtained a medical examination or a medical opinion concerning such veteran’s disability.

“(3) With respect to a veteran described in paragraph (1)(B), the Secretary shall schedule a medical examination for such veteran not later than six months after the separation or discharge of such veteran from active duty.

“(b) TERMINATION OF TEMPORARY DISABILITY RATINGS.—(1) Except as provided in paragraph (2), a temporary disability rating assigned to a veteran under this section shall remain in effect as follows:

“(A) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(A), until the later of the date that is—

“(i) 12 months after the date of discharge or release from active duty; or

“(ii) provided in regulations prescribed by the Secretary.

“(B) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(B), until the date on which a rating decision is issued to such veteran following the medical examination scheduled under subsection (a)(3).

“(C) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(C), until the later of the date that is—

“(i) the last day of the month in which the veteran is discharged from the hospital as described in such subsection (a)(1)(C); or

“(ii) provided in regulations prescribed by the Secretary.

“(D) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(D), until the date that is provided in regulations prescribed by the Secretary.

“(2) The Secretary may extend a temporary disability rating assigned to a veteran under subsection (a) beyond the applicable termination date under paragraph (1) if the Secretary determines that such an extension is appropriate.

“(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out the provisions of this section.

“(d) CONSTRUCTION.—Nothing in this section shall be construed to preclude the Secretary from providing a temporary disability rating under an authority other than this section.”.

(b) APPLICATION.—Section 1156(a)(1) of title 38, United States Code, as added by subsection (a), shall apply with respect to a veteran who is discharged or released from active duty (as defined in section 101 of title 38, United States Code) on or after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 is amended by inserting after the item relating to section 1155 the following new item:

“1156. Temporary disability ratings.”.

SEC. 212. SUBSTITUTION UPON DEATH OF CLAIMANT.

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5121 the following new section:

“§ 5121A. Substitution in case of death of claimant

“(a) SUBSTITUTION.—(1) If a claimant dies while a claim for any benefit under a law administered by the Secretary, or an appeal of a decision with respect to such a claim, is pending, a living person who would be eligible to receive accrued benefits due to the claimant under section 5121(a) of this title may, not later than one year after the date of the death of such claimant, file a request to be substituted as the claimant for the purposes of processing the claim to completion.

“(2) Any person seeking to be substituted for the claimant shall present evidence of the right to claim such status within such time as prescribed by the Secretary in regulations.

“(3) Substitution under this subsection shall be in accordance with such regulations as the Secretary may prescribe.

“(b) LIMITATION.—Those who are eligible to make a claim under this section shall be determined in accordance with section 5121 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 is amended by inserting after the item relating to section 5121 the following new item:

“5121A. Substitution in case of death of claimant.”.

(c) EFFECTIVE DATE.—Section 5121A of title 38, United States Code, as added by subsection (a), shall apply with respect to the claim of any claimant who dies on or after the date of the enactment of this Act.