

CHAPTER 5. BUREAU FOR VETERANS' AFFAIRS

| Subch. | | Sec. |
|--------|--|------|
| A. | VETERANS' EMERGENCY ASSISTANCE PROGRAM | 5.1 |
| B. | EDUCATIONAL GRATUITY PROGRAM | 5.11 |
| C. | DISABLED VETERANS' REAL ESTATE TAX EXEMPTION PROGRAM | 5.21 |
| D. | BLIND VETERANS' PENSION | 5.31 |
| E. | PARALYZED VETERANS' PENSION | 5.41 |

Subchapter A. VETERANS' EMERGENCY ASSISTANCE PROGRAM

| Sec. | |
|------|----------------------------------|
| 5.1. | Definitions. |
| 5.2. | Amounts of emergency assistance. |
| 5.3. | Domicile. |
| 5.4. | Application procedures. |
| 5.5. | Review of applications. |
| 5.6. | Renewal of payment. |
| 5.7. | Reconsideration and appeals. |

Authority

The provisions of this Chapter 5 issued under section 1412 of The Administrative Code of 1929 (71 P. S. § 391b), unless otherwise noted.

§ 5.1. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Title 51 of the *Pennsylvania Consolidated Statutes* Chapter 85 (relating to veterans' emergency assistance).

Bureau—The Bureau for Veterans' Affairs of the Department.

Commission—The State Veterans' Commission.

Department—The Department of Military Affairs of the Commonwealth.

Military or naval service of the United States—The United States Army, Navy, Air Force, Marine Corps, Coast Guard and the reserve components thereof when engaged in active Federal military service. The term also includes members of the American Merchant Marine in oceangoing service during the period of armed conflict from December 7, 1941 to August 15, 1945, who have a Department of Defense Certificate of Release or Discharge from Active Duty or its equivalent.

Peacetime hostile fire—A situation resulting in casualties to members of the military or naval forces of the United States, or women's organizations officially connected therewith, during periods other than established war or armed conflict service dates when American armed forces are engaged in hostilities or

exchange fire with the armed forces of a foreign state or terrorists or when American armed forces are targets of fire from the armed forces of foreign states or terrorists.

Sudden or unexpected loss of income or other source of support—Loss of income that arises from factors beyond the control of the applicant in a sudden or unexpected manner, including sickness, disability and loss of employment. These factors shall have occurred within 180 days prior to the date of application. Factors beyond the control of the applicant include acts of nature, such as floods/tornadoes or other natural catastrophes that cause sudden loss of property or valuables.

Surviving children of an eligible veteran—Includes, for purposes of determining whether qualified as “surviving dependents” under 51 Pa.C.S. § 8501 (relating to definitions), legitimate children, legally adopted children, stepchildren who were members of an eligible veteran’s household when the veteran died and are dependent on the veteran for support and illegitimate children of the eligible veteran when one of the following applies:

- (i) The eligible veteran is the mother of the illegitimate children.
- (ii) The eligible veteran is the father of the illegitimate children and has acknowledged them in writing signed by the eligible veteran or has been judicially ordered to contribute to the children’s support or judicially decreed to be the father.

Surviving parents of an eligible veteran—Includes, for purposes of determining whether they qualify as surviving dependents under 51 Pa.C.S. § 8501, a mother, father, mother through adoption or father through adoption.

Terrorist attack—An act of violence, including bombings, kidnappings, shootings and assaults, perpetrated by individuals or groups against members of the military or naval forces of the United States, or a women’s organization officially connected therewith, for political, anarchist or other motives.

War or armed conflict—The Mexican border period, World War I, World War II, the Korean Conflict, the Vietnam Era and periods beginning on the date of a future declaration of war by Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution, as well as dates established by Federal statute or regulations of the United States Department of Veterans’ Affairs as being periods of war or armed conflict.

Women’s organization officially-connected with the military or naval forces—An organization for females affiliated with the United States Armed Forces whose former members are recognized as veterans by the United States Department of Veterans’ Affairs.

Authority

The provisions of this § 5.1 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.1 adopted January 1, 1930; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110342).

§ 5.2. Amounts of emergency assistance.

(a) To the extent that appropriations are sufficient, the amount of assistance paid under the Veterans' Emergency Assistance Program shall equal the assistance payable under the Public Welfare Code (62 P. S. §§ 101—1411) to a resident of the county in which the veteran resides who has the same number of dependents as the applying veterans. Veterans' emergency assistance payments will not exceed the maximum assistance payable for a family of the same size under the Public Welfare Code.

(b) The Director of the Bureau may adjust the amounts of assistance payable under this program by reducing the monthly payments or reducing the number of months for which assistance may be paid when the Director finds it necessary to keep projected expenditures within funding appropriated for this program.

Authority

The provisions of this § 5.2 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.2 adopted January 1, 1930; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110342).

Cross References

This section cited in 43 Pa. Code § 5.26 (relating to periodic review).

§ 5.3. Domicile.

(a) To meet the domicile requirement of 51 Pa.C.S. § 8503(2) (relating to eligibility), an applicant shall demonstrate that he is a permanent bona fide domiciliary of this Commonwealth. Acceptable evidence of domicile includes the following:

- (1) Tax records; for example, resident state income tax, real property tax on home, personal property tax and the like.
- (2) Voting records—voter registration.
- (3) Driver's license or registration indicating the residence address in this Commonwealth and the county of application.
- (4) Employment records indicating the residence address in this Commonwealth and the county of application.

(b) A person residing in this Commonwealth for a temporary purpose, such as a visit, school attendance, seasonal employment, and the like, does not become a Pennsylvania domiciliary and is not eligible.

(c) To be eligible, Pennsylvania shall be the exclusive residence of the applicant. An applicant who maintains a residence in another state is not eligible for emergency assistance.

Authority

The provisions of this § 5.3 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.3 adopted January 1, 1930; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110342).

§ 5.4. Application procedures.

(a) *Forms.* An application for Veterans' Emergency Assistance and requests for renewals of assistance payments shall be made on forms prescribed by the Department.

(b) *Source of forms.* Application forms may be obtained from:

- (1) The County Directors of Veterans' Affairs.
- (2) The Service Officers for Veterans' Organizations.
- (3) The case workers for the American Red Cross.
- (4) The Adjutant General's Offices in Pittsburgh, Philadelphia and Wilkes-Barre.

(c) *Completion of forms.* An applicant for Veterans' Emergency Assistance shall complete and sign the application form and verify, under penalty of law, that the information submitted in support of the application is true and correct to the best of the applicant's knowledge and belief. If the applicant is unable to sign the application due to a medical condition, the spouse or legal guardian may sign the application for him.

(d) *Submission of forms.* An application form shall be submitted through one of the offices named in subsection (b). The official submitting the application will review it to verify its completeness and accuracy. The following documents shall be submitted with the application:

- (1) Veteran's DD-214 or Report of Separation from active military service.
- (2) For widows and widowers, a copy of the applicant's marriage license and veteran's death certificate.
- (3) A copy of a birth certificate of the veteran's dependent children and, if applicable, a copy of court orders indicating payment of child support.
- (4) Proof of residency by the veteran's tax record, employment record, voting registration or a copy of a driver's license.
- (5) Proof of loss of employment, if applicable, including the applicant's termination notice from employment.
- (6) Proof of other benefits, including, if applicable, unemployment compensation, Bureau educational benefits, Bureau disability compensation/

pension, social security or Federal, state or local pensions, public welfare, union benefits, Social Security Income, workmen's compensation or insurance (sick benefits).

(7) Proof of lack of other income, including, if applicable, employment pay and allowances, annual or sick leave, income from rental of property, savings, financial assistance provided by family and friends, and interest and dividends.

(8) Receipts indicating current monthly mortgage, rent and utility payments.

(e) *Mailing address.* Application forms shall be sent to the Bureau for Veterans' Affairs, Department of Military Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002.

Authority

The provisions of this § 5.4 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.4 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.5. Review of applications.

(a) The Bureau will examine applications on behalf of the Commission and make an initial determination to grant or deny Veterans' Emergency Assistance for 1 month.

(b) The Bureau will notify the official submitting the application of approval or denial and notify the applicant of approval through receipt of the first check.

(c) An applicant is not eligible to receive a first Veterans' Emergency Assistance check until the Bureau has verified that the applicant is eligible. The verification shall include certification that the applicant is not receiving monetary assistance under the Public Welfare Code (62 P. S. §§ 101—1411) made prior to receipt of the application by the Bureau.

Authority

The provisions of this § 5.5 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.5 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.6. Renewal of payment.

When an application is approved, the Bureau will provide the official who submitted the application with renewal request forms for the second and third months of payment. Payment of emergency assistance for a second and third month may be authorized by the Director of the Bureau upon submission of a renewal request form for each additional month.

Authority

The provisions of this § 5.6 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.6 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.7. Reconsideration and appeals.

(a) *Reconsideration of initial determination.* An applicant may ask the Bureau to reconsider its initial determination within 30 days after notification of the original determination by submitting a written request, together with a statement of reasons or additional information, to the Bureau.

(b) *Appeals.* A person aggrieved by a determination of the Bureau may appeal to the Adjutant General as provided in 51 Pa.C.S. § 8505 (relating to appeals) within 30 days after notification of the Bureau determination. An appeal shall be in writing and state the reasons for the appeal. The Adjutant General, in consultation with the Chairperson of the Commission, will appoint a member of the Commission or other qualified individual to serve as a presiding officer to hear the appeal and prepare and file a proposed report on the matter as provided by 1 Pa. Code Chapter 35 Subchapter G (relating to proposed reports). The Adjutant General will issue the final administrative adjudication of appeals under this subsection.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

Authority

The provisions of this § 5.7 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.7 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

Subchapter B. EDUCATIONAL GRATUITY PROGRAM

- Sec.
- 5.11. Definitions.
- 5.12. Purpose.
- 5.13. Certification of service.
- 5.14. Procedure.
- 5.15. Review and approval.
- 5.16. Eligibility criteria.
- 5.17. Determining financial need.
- 5.18. Payment.
- 5.19. Transfer.
- 5.20. Reconsideration and appeals.

§ 5.11. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Title 51 of the *Pennsylvania Consolidated Statutes* Chapter 87 (relating to educational gratuity program).

Bureau—The Bureau for Veterans' Affairs of the Department.

Commission—The State Veterans' Commission.

Department—The Department of Military Affairs of the Commonwealth.

Eligible disabled or deceased veteran—A person who served in the military or naval forces of the United States, or a women's organization officially connected therewith, who did one of the following:

(i) Was killed in action or died as a result of wounds incurred during war or armed conflict or as a result of hostile fire or terrorist attack during peacetime, as determined by the Department.

(ii) Died in service during a period of war or armed conflict.

(iii) Was honorably discharged from the military or naval forces of the United States and certified by the United States Department of Veterans' Affairs as a 100% disabled veteran as a result of service during war or armed conflict or as a result of hostile fire or terrorist attack, as determined by the Department during peacetime.

(iv) Was honorably discharged from the military or naval forces of the United States and died as a result of a service-connected disability, as certified by the United States Department of Veterans' Affairs, incurred during war or armed conflict or as a result of peacetime hostile fire or terrorist attack, as determined by the Department.

Gratuity—Payments in amounts authorized by law to provide educational assistance for eligible children of certain veterans.

Military or naval service of the United States—The United States Army, Navy, Air Force, Marine Corps, Coast Guard and the reserve components thereof when engaged in active Federal military service. The term also includes members of the American Merchant Marine in oceangoing service during the period of armed conflict from December 7, 1941 to August 15, 1945, who have a Department of Defense Certificate of Release or Discharge from Active Duty or its equivalent.

Peacetime hostile fire—A situation resulting in casualties to members of the military or naval forces of the United States, or women's organizations officially connected therewith, during periods other than established war or armed conflict service dates when American armed forces are engaged in hostilities or exchange fire with the armed forces of a foreign state or terrorists or when American armed forces are targets of fire from the armed forces of foreign states or terrorists.

Terrorist attack—An act of violence, including bombings, kidnappings, shootings and assaults, perpetrated by individuals or groups against members of the military or naval forces of the United States (or a women's organization officially connected therewith) for political, anarchist or other motives.

War or armed conflict—The Mexican border period, World War I, World War II, the Korean Conflict, the Vietnam Era and periods beginning on the date of a future declaration of war by Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution, as well as dates established by Federal statute or regulations of the United States Department of Veterans' Affairs.

Authority

The provisions of this § 5.11 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.11 adopted January 1, 1930; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110343).

Cross References

This section cited in 43 Pa. Code § 5.16 (relating to eligibility criteria).

§ 5.12. Purpose.

The purpose of this subchapter is to provide eligibility criteria for the Educational Gratuity Program and to establish standard procedures for the filing and disposition of applications for this gratuity.

Authority

The provisions of this § 5.12 amended the Military Code, under 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.12 adopted January 1, 1930; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110343).

§ 5.13. Certification of service.

The United States Department of Veterans' Affairs shall be the source for certification that a veteran's death or total disability resulted from wartime or armed conflict, hostile fire or terrorist attack.

Authority

The provisions of this § 5.13 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.13 adopted January 1, 1930; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110343).

§ 5.14. Procedure.

(a) *Application forms.* Application shall be made on MA-VA Form 30. This form is available from: Department of Military Affairs, Bureau for Veterans' Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002 and Adjutant General Offices located in Pittsburgh, Philadelphia and Wilkes-Barre and County Directors of Veterans' Affairs.

(b) *Complete application.* When applying for the educational gratuity the applicant shall provide the information requested on the application for educational gratuity (MA-VA 30).

(c) *Executing the application.* The applicant shall complete and sign MA-VA 30. The signer of the form shall certify under the penalty of law that the information provided is true and correct to the best of the applicant's knowledge and belief.

(d) *Additional documentation.* The Bureau will obtain additional information, verification or documentation to process applications (MA-VA Form 30).

(e) *Mailing address.* The applicant shall mail or otherwise deliver the completed MA-VA Form 30 to the following address: Educational Gratuity Program, Bureau for Veterans' Affairs, Department of Military Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002.

Authority

The provisions of this § 5.14 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.14 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.15. Review and approval.

(a) The Bureau will examine the application, additional documentation and other applicable information and present it to the Commission along with staff recommendation for approval or disapproval.

(b) The Bureau will advise the applicant of the disposition of the application. If the application is approved, an approval letter will be mailed to the applicant advising that Statement Form (MA-VA 32) shall be requested by the applicant for each subsequent term/semester. Statement Forms MA-VA 32 will be completed by the institution if the student is studying or training and returned to the Bureau for payment.

Authority

The provisions of this § 5.15 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.15 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813; corrected September 28, 1991, effective August 24, 1991, 21 Pa.B. 4413.

§ 5.16. Eligibility criteria.

(a) *Parents.* Eligibility for the educational gratuity is established on the record of service of that parent of the applicant who was or is an eligible disabled or deceased veteran as defined in § 5.11 (relating to definitions).

(b) *Child.* A student may qualify for the educational gratuity if the following qualifications are met. The student is:

- (1) Between the ages of 16 and 23.
- (2) The child of an eligible disabled or deceased veteran as defined in § 5.11.
- (3) A resident of this Commonwealth for 5 years immediately preceding the date the application was filed.
- (4) Attending an approved educational institution.
- (5) Able to demonstrate a financial need for the gratuity.

Authority

The provisions of this § 5.16 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.16 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.17. Determining financial need.

(a) Funds available to defray educational expenses include the financial benefits, grants and income of the qualified child—applicant—from whatever source derived, including Veterans Affairs Survivors' and Dependents' Educational Assistance, Social Security Benefits, Pennsylvania State Grants (PHEAA), Federal Pell Grants, Supplemental Educational Opportunity Grants (SEOG), institutional scholarships and grants, private and noninstitutional awards, as well as the applicant's earnings from employment and his income from interest, dividends or otherwise.

(b) The educational expenses of the qualified child include costs incurred in connection with obtaining the education, including tuition, room, board, books, supplies, travel, clothing, recreation and incidentals.

(c) An applicant shall be considered to have demonstrated a financial need for the educational gratuity when the educational expenses, calculated under subsection (b) equal or exceed the funds available to defray the educational expenses as determined under subsection (a).

Authority

The provisions of this § 5.17 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.17 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.18. Payment.

The Bureau will make gratuity payments not exceeding \$500 per term or semester to the educational institution, upon the submission by them of proof of the matriculation of the applicant. Payments will not be made directly to the applicant. Whenever a student awarded gratuity payments is completing an educational or training course and becomes 23 years of age before completing the course, the educational gratuity payment may be paid until the course is completed. Educational gratuity payments may not be made for longer than 4 scholastic years. The Bureau may adjust the payments per term or semester per child so that total payments under the Educational Gratuity Program do not exceed the amount of the appropriations.

Authority

The provisions of this § 5.18 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.18 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.19. Transfer.

(a) An educational gratuity payment may not be applied to an educational or training institution other than the one listed as payee on a check issued in payment of the gratuity.

(b) If a student transfers to another educational or training institution after an application for educational gratuity has been approved, a new application for the educational gratuity shall be filed and presented to the Commission for approval or disapproval.

Authority

The provisions of this § 5.19 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.19 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

§ 5.20. Reconsideration and appeals.

(a) *Reconsideration of initial determination.* An applicant may ask the Commission to reconsider its initial determination within 30 days after notification of the original determination by submitting a written request, together with a statement of reasons or additional information, to the Bureau.

(b) *Appeals.* A person aggrieved by a determination of the Commission may appeal to the Adjutant General as provided in 51 Pa.C.S. § 8703(c) (relating to eligibility and qualification requirements) within 30 days after notification of the determination. An appeal shall be in writing and state the reasons for the appeal. The Adjutant General, in consultation with the Chairperson of the Commission, will appoint a member of the Commission or other qualified individual to serve

as a presiding officer to hear the appeal and prepare and file a proposed report on the matter as provided by 1 Pa. Code Chapter 35 Subchapter G (relating to proposed reports). The Adjutant General will issue the final administrative adjudication of appeals under this subsection.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

Authority

The provisions of this § 5.20 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.20 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

**Subchapter C. DISABLED VETERANS' REAL ESTATE
TAX EXEMPTION PROGRAM**

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|-------|------------------------------|
| Sec. | |
| 5.21. | Scope. |
| 5.22. | Definitions. |
| 5.23. | Eligibility criteria. |
| 5.24. | Processing applications. |
| 5.25. | Effective date of exemption. |
| 5.26. | Periodic review. |
| 5.27. | Reconsideration and appeal. |

§ 5.21. Scope.

This subchapter implements PA. CONST. Art. VIII, § 2(c) and the act.

Authority

The provisions of this § 5.21 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.21 adopted March 30, 1979, effective March 31, 1979, 9 Pa.B. 1129; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110343).

§ 5.22. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Title 51 of the *Pennsylvania Consolidated Statutes* Chapter 89 (relating to disabled veterans' real estate tax exemption).

Bureau—The Bureau for Veterans' Affairs of the Department of Military Affairs of the Commonwealth.

Commission—The State Veterans' Commission.

Cost of living allowance—An allowance granted to the applicant when considering the expenses of the veteran.

Dependent's allowance—Allowance given for the veteran and the veteran's dependents to cover other reasonable household expenses; that is, food and the like, not included in the "Monthly Household Expenses" listing on the application.

Determination of need—Financial need as determined by the Commission by comparing the applicant's income against the applicant's expenses.

Income—Income from whatever source derived, including salaries, wages, bonuses, commissions, income from self-employment, support money, cash public assistance and relief; the gross amount of pensions or annuities, including railroad retirement benefits; benefits received under the Social Security Act except Medicare benefits; benefits received under State unemployment insurance laws and veterans disability payments; interest received from the Federal or state government or an instrumentality or political subdivision thereof; realized capital gains; rentals; workmen's compensation and the gross amount of loss of time insurance benefits and proceeds except the first \$5,000 of the total of death benefit payments; and gifts of cash or property other than transfers by gift between members of a household in excess of a total of \$300. This term does not include surplus food or other relief in kind supplied by a governmental agency. Income from savings accounts and bonds shall be included as well as interest received from investments.

Monthly household expenses—Expenditures providing for the necessities of life, including payments for mortgage, automobile, electric power, fuel, water, sewage, garbage disposal, telephone, domestic help and educational costs.

Monthly income—Income received by the claimant and other persons while residing in the home during a calendar year in which real property taxes are payable; the term shall include the income of residents not related to the claimant paying reasonable fixed rents.

Authority

The provisions of this § 5.22 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.22 adopted June 21, 1963; amended March 30, 1979, effective March 31, 1979, 9 Pa.B. 1129; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial pages (110344) to (110345).

Cross References

This section cited in 43 Pa. Code § 5.24 (relating to processing applications).

§ 5.23. Eligibility criteria.

(a) A veteran shall qualify for the real property tax exemption if the following exist:

- (1) The veteran has been honorably discharged or released under honorable conditions from the armed forces of the United States for service in a war or armed conflict in which the United States was engaged.
 - (2) As a result of the military service, the veteran is blind or paraplegic or has sustained the loss of two or more limbs, or has a service-connected disability declared by the United States Department of Veterans' Affairs or its successors to be a total or 100% permanent disability.
 - (3) The dwelling is owned by the veteran solely or as an estate by the entirety.
 - (4) The need for the exemption from the payment of real estate taxes has been determined by the Commission.
- (b) The unmarried surviving spouse of a veteran qualifies for the real property tax exemption if:
- (1) The appropriate board of the assessment and revision of taxes or other similar board for the assessment of taxes determines that:
 - (i) The deceased veteran met the eligibility criteria for the exemption in 51 Pa.C.S. § 8902 (relating to duty of commission) during the veteran's lifetime.
 - (ii) The surviving spouse occupies the real estate as his principal dwelling.
 - (iii) The real estate is owned solely by the surviving spouse or as an estate by the entireties with the deceased veteran.
 - (iv) The surviving spouse is unmarried.
 - (2) The Commission or its successor determines that the surviving spouse has a financial need for the exemption.

Authority

The provisions of this § 5.23 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.23 adopted March 30, 1979, effective March 31, 1979, 9 Pa.B. 1129; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110345).

§ 5.24. Processing applications.

- (a) The veteran or the unmarried surviving spouse shall request the following two forms from the County Director of Veterans' Affairs or the Bureau for Veterans' Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002:
 - (i) MA-VA 41 (Information Needed by County Tax Assessment Office for Disabled Veterans Property Tax Exemption).
 - (ii) MA-VA 40, Veteran only; or MA-VA 40ss, Surviving Spouse only, (Application for Determination of Need for Exemption from Certain Real Property Taxes).

(b) MA-VA Form 41 shall be completed and forwarded in three copies to the County Tax Assessment Office for their records. The tax office will retain one copy for their files and return the second and third copies to the veteran showing the date of receipt.

(c) The MA-VA Form 40 or MA-VA Form 40ss shall be completed and notarized. Form MA-VA 40, Veteran: The veteran shall attach a copy of Report of Separation. Form MA-VA 40ss Spouse: The applicant shall attach copies of a Veteran's Report of Separation, Veteran's Death Certificate and Marriage Certificate. A receipted copy of MA-VA Form 41 shall be attached to applications listed in this subsection and mail them to the State Veterans' Commission, Fort Indian-town Gap, Annville, Pennsylvania 17003-5002.

(d) The Commission will determine whether the applicant has financial need for real property tax relief. The Commission will make this determination by comparing the applicant's income against his expenses. An applicant will be considered to have a financial need for the exemption when the applicant's expenses exceed the applicant's income. In making this determination, the Commission will consider the amount of the potential real estate tax liability as an expense. The Commission or the Bureau may ask applicants to verify unusual expenses and may exclude from consideration expenses in excess of ordinary and necessary living expenses. The applicant's "monthly household expenses" will be calculated using the "cost of living allowance" and "dependent's allowance" as defined in § 5.22 (relating to definitions).

(e) When eligibility criteria have been verified and the certification of need for tax exemption has been approved by the Commission, the Board for the Assessment and Revision of Taxes will grant the tax exemption, effective on the date provided in § 5.25 (relating to effective date of exemption).

(f) Notification of the granting of the tax exemption by the Board for the Assessment and Revision of Taxes shall be forwarded to the person who has received the exemption from the payment of real estate taxes and to the tax levying bodies and tax collectors of political subdivisions imposing taxes upon the dwelling of the person granted the exemption from the payment of real estate taxes. That Board for the Assessment and Revision of Taxes will also notify the Commission of the exemption.

Authority

The provisions of this § 5.24 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.24 adopted March 30, 1979, effective March 31, 1979, 9 Pa.B. 1129; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial pages (110345) to (110346).

§ 5.25. Effective date of exemption.

(a) *General rule.* Real property tax exemptions shall be effective as follows: A qualified disabled veteran or unmarried surviving spouse shall be exempt from real property taxes that become due on or after the date the applicant first files a written request for an exemption with the appropriate Board for the Assessment and Revision of Taxes or similar board. Requests are considered filed on the date received regardless of whether or not they contain complete documentation. The applicant is responsible to obtain complete documentation within a reasonable time—not to exceed 120 days except under extraordinary circumstances—after filing the request. Real property taxes become due on the date when the taxes are assessed and not the date billings are provided the taxpayers. A qualified applicant shall have filed the application for exemption on or before the date the tax period commences to be exempt for that tax period. Applications filed after the commencement of a period shall apply to the next tax period.

(b) *Grace.* This section does not prohibit or discourage taxing authorities from granting tax exemptions to qualified disabled veterans as a matter of grace irrespective of the date upon which the veteran applies for the exemption.

Authority

The provisions of this § 5.25 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.25 adopted March 30, 1979, effective March 31, 1979, 9 Pa.B. 1129; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial pages (110346) to (110347).

Cross References

This section cited in 43 Pa. Code § 5.24 (relating to processing applications).

§ 5.26. Periodic review.

(a) The Commission will review cases that have been granted real property tax relief under the PA. CONST. Art. VIII, § 2(c), at 2-year intervals.

(b) On the second anniversary of the granting of real property tax relief under the PA. CONST. Art. VIII, § 2(c), the veteran or the surviving spouse to whom the relief has been granted will be sent a letter explaining the reason for the review and Form MA-VA Form 40A (Review for Determination of Continued Need for Exemption from Certain Real Property Taxes).

(c) This Form, MA-VA Form 40A, shall be returned properly completed to the Commission, and it will be evaluated in the same manner as the original application to determine need based on the latest information. Reference shall be made to § 5.2 (relating to amounts of emergency assistance).

(d) A report of the findings of the Commission will be forwarded to the appropriate taxing body.

Authority

The provisions of this § 5.26 amended under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.26 adopted March 30, 1979, effective March 31, 1979, 9 Pa.B. 1129; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110347).

§ 5.27. Reconsideration and appeal.

(a) *Reconsideration of initial determination.* An applicant may ask the Commission to reconsider its initial determination within 30 days after notification of the original determination by submitting a written request, together with a statement of reasons or additional information, to the Bureau.

(b) *Appeals.* A person aggrieved by a determination of the Commission may appeal to the Adjutant General as provided in 51 Pa.C.S. § 8505 (relating to appeals) within 30 days after notification of the Commission determination. An appeal shall be in writing and state the reasons for the appeal. The Adjutant General, in consultation with the Chairperson of the Commission, will appoint a member of the Commission or other qualified individual to serve as a presiding officer to hear the appeal and prepare and file a proposed report on the matter as provided by 1 Pa. Code Chapter 35 Subchapter G (relating to proposed reports). The Adjutant General will issue the final administrative adjudication of appeals under this subsection.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

Authority

The provisions of this § 5.27 issued under the Military Code, 51 Pa.C.S. § 1704(7).

Source

The provisions of this § 5.27 adopted August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813.

Subchapter D. BLIND VETERANS' PENSION

- | | |
|-------|----------------------------|
| Sec. | |
| 5.31. | Definitions. |
| 5.32. | Application procedures. |
| 5.33. | Review of applications. |
| 5.34. | Appeals. |
| 5.35. | [Reserved]. |
| 5.36. | Effective date of pension. |

§ 5.31. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act—Title 51 of the *Pennsylvania Consolidated Statutes* § 7701 (relating to Blind Veterans' Pension).

Blind veteran—A person who served in the military or naval forces of the United States, or a women's organization officially connected therewith, at any time, who gave this Commonwealth as his place of residence when entering the military or naval forces and who, while performing duties connected with the service, suffered an injury or incurred a disease which resulted in loss of vision so that the visual acuity with best correcting lens is 3/60 or 10/200, or equivalent, or less normal vision in the better eye. Less normal vision than 3/60 or 10/200, or equivalent, includes circumstances where the widest diameter of the visual field of the better eye has contracted to such an extent that it subtends an angular distance of not greater than 20°. The term does not include a person separated from the military or naval forces of the United States or a women's organization officially connected therewith under other than honorable conditions.

Bureau—The Bureau for Veterans' Affairs of the Department of Military Affairs of the Commonwealth.

Department—The Department of Military Affairs of the Commonwealth.

Military or naval forces—The United States Army, Navy, Marine Corps, Air Force, Coast Guard and the reserve components thereof when engaged in active Federal military service. The term also includes members of the American Merchant Marine in oceangoing service during the period of armed conflict from December 7, 1941 to August 15, 1945, who have a Department of Defense Certificate of Release or Discharge from Active Duty or its equivalent.

Authority

The provisions of this § 5.31 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the Military Code, 51 Pa.C.S. § 7701.

Source

The provisions of this § 5.31 adopted September 10, 1982, effective September 11, 1982, 12 Pa.B. 3090; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110348).

§ 5.32. Application procedures.

(a) *Forms*. An application for the Blind Veterans' Pension shall be made on forms prescribed by the Adjutant General. Forms are available from the following sources:

(1) The Department of Military Affairs, Bureau for Veterans' Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002 or through the Adjutant General's Field Office located in Pittsburgh, Philadelphia or Wilkes-Barre.

- (2) The County Directors of Veterans' Affairs in each county seat.
 - (3) Veterans' service organizations.
 - (4) The American Red Cross.
- (b) *Completion and execution of form.* An applicant shall complete and sign the application form, certifying to the truthfulness of its contents under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). The signature shall be witnessed and the form dated.
- (c) *Documentation.* The applicant shall submit the following documents along with the application form:
- (1) VA Form 00-3288 or successor form—Request for and consent to Release of Information from Claimant's Records. This form is needed to obtain information from the applicant's United States Department of Veterans' Affairs (V.A.) Records. The current location of the applicant's V.A. medical records shall be indicated on this form.
 - (2) A copy of the applicant's Department of Defense Certificate of Release and Discharge from Active Duty or its equivalent covering the period when the applicant sustained the injury or incurred the disease resulting in the applicant's blindness.
 - (d) *Submission of applications.* An applicant shall mail or otherwise deliver the completed application, together with supporting documentation, to the following address: Blind Veterans' Pension, Department of Military Affairs, Bureau for Veterans' Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002.

Authority

The provisions of this § 5.32 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the Military Code, 51 Pa.C.S. § 7701.

Source

The provisions of this § 5.32 adopted September 10, 1982, effective September 11, 1982, 12 Pa.B. 3090; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110348).

§ 5.33. Review of applications.

- (a) The Bureau will review applications. The Bureau may request applicants to supply additional information to support the application.
- (b) The Bureau will notify the applicant in writing of its determination. If the application is approved, the pension will be paid from the effective date established in § 5.36 (relating to effective date of pension). If the application is disapproved, the written notice will state the reasons for the disapproval and inform the applicant of the appeal procedures specified in § 5.34 (relating to appeals).

Authority

The provisions of this § 5.33 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the Military Code, 51 Pa.C.S. § 7701.

Source

The provisions of this § 5.33 adopted September 10, 1982, effective September 11, 1982, 12 Pa.B. 3090; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110349).

§ 5.34. Appeals.

(a) An applicant may ask the Bureau to reconsider its initial determination within 30 days after notification of the original determination by submitting a written request, together with a statement of reasons or additional information, to the Bureau. After a determination is made on the reconsideration request, notification is sent to the applicant of the outcome.

(b) An applicant aggrieved by a determination of the Bureau may appeal to the Adjutant General within 30 days after notification of the Bureau determination. Appeals shall be in writing and shall state the reasons for the appeal.

(c) The Adjutant General will adjudicate appeals as provided in 1 Pa. Code Part II (relating to general rules of administrative practice and procedure). When an appeal is docketed, the Adjutant General will appoint a presiding officer to hear the appeal and prepare and file a proposed report in the manner provided by 1 Pa. Code Part II. The Adjutant General will issue the final administrative adjudication of the Department on appeals.

(d) Subsection (b) supersedes 1 Pa. Code § 35.20 (relating to appeals from the actions of the staff).

Authority

The provisions of this § 5.34 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the Military Code, 51 Pa.C.S. § 7701.

Source

The provisions of this § 5.34 adopted September 10, 1982, effective September 11, 1982, 12 Pa.B. 3090; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110349).

Cross References

This section cited in 43 Pa. Code § 5.33 (relating to review of applications).

§ 5.35. [Reserved].**Source**

The provisions of this § 5.35 adopted September 10, 1982, effective September 11, 1982, 12 Pa.B. 3090; reserved August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110350).

§ 5.36. Effective date of pension.

A pension will be paid based upon the date when the completed application is received by the Bureau. A pension will be paid from the first day of the month

in which an application is received if it is received on or before the 20th day of the month. If the application is received after the 20th day of the month, the pension will be paid for the first day of the next succeeding month.

Authority

The provisions of this § 5.36 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the Military Code, 51 Pa.C.S. § 7701.

Source

The provisions of this § 5.36 adopted September 10, 1982, effective September 11, 1982, 12 Pa.B. 3090; amended August 23, 1991, effective August 24, 1991, 21 Pa.B. 3813. Immediately preceding text appears at serial page (110350).

Cross References

This section cited in 43 Pa. Code § 5.33 (relating to review of applications).

Subchapter E. PARALYZED VETERANS' PENSION

- Sec.
 5.41. Definitions.
 5.42. Eligibility.
 5.43. Application procedures.
 5.44. Criteria and procedure for determination of peacetime combat-related activities.
 5.45. Review of applications.
 5.46. Appeals.
 5.47. Effective date of pension.

§ 5.41. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context already indicates otherwise:

Act—Title 51 of the *Pennsylvania Consolidated Statutes* § 7702 (relating to paralyzed veterans' pension).

Bureau—The Bureau for Veterans' Affairs of the Commonwealth.

Department—The Department of Military Affairs of the Commonwealth.

Extremities—The limbs of a human body, such as the arms and hands or legs and feet. The term does not include fingers and toes.

Loss of use—A person is deemed to have lost the use of limbs when the person's balance, propulsion or manipulation is affected so as to permanently preclude locomotion or use of the arms and hands without the aid of braces, crutches, canes, wheelchairs or other devices.

Military or naval forces of the United States—The United States Army, Navy, Air Force, Marine Corps and Coast Guard, and members of the reserve components and forces thereof including the Army and Air National Guard, when they are in a military duty status.

Paralyzed veteran—A person who served in the military or naval forces of the United States, or a women's organization officially connected therewith, during established war or armed conflict service dates, who gave the Commonwealth as the person's place of residence at the time of entry into military service and who is currently a resident of Pennsylvania and who, while performing duties connected with military or naval service, suffered an injury or incurred a disease which resulted in the loss of, or loss of use of, two or more extremities. The term does not include persons separated from the military or naval forces or women's organizations officially connected therewith under other than honorable conditions. The term includes persons who are paralyzed as a result of peacetime combat-related actions as defined in this section.

Peacetime combat-related action—A military action resulting in casualties to members of the military or naval forces or officially connected women's organizations of the United States during periods other than established war or armed conflict service dates when one of the following events take place:

- (i) American armed forces are engaged in hostilities or exchange fire with the armed forces of a foreign state or terrorists.
- (ii) American armed forces are engaged in operational activities incident to engagements with the armed forces of a foreign state or terrorists.
- (iii) American armed forces are the targets or victims of hostile fire or terrorist attack.

Terrorist attack—An act of violence, including bombings, kidnappings, shootings and assaults, perpetrated by individuals or groups against members of the military or naval forces of the United States for political, anarchist or other motives.

War or armed conflict service dates—Periods of war or armed conflict, including the Spanish-American War, the Mexican border period, World War I, World War II, the Korean Conflict, the Vietnam Era and periods beginning on the date of a future declaration of war by Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution, as well as dates established by Federal statute or 38 CFR (relating to pensions, bonuses and veterans' relief) as being periods of war or armed conflict.

Women's organization officially-connected with the military or naval forces—An organization for females that is affiliated with the Armed Forces and whose members are recognized as veterans by the United States Veterans Administration.

Cross References

This section cited in 43 Pa. Code § 5.44 (relating to criteria and procedure for determination of peacetime combat-related actions).

§ 5.42. Eligibility.

A paralyzed veteran is eligible for a pension of \$100 per month. The pension is in addition to compensation provided by the Commonwealth and the Federal government.

§ 5.43. Application procedures.

(a) *Form.* An application for the Paralyzed Veterans Pension shall be made on a form prescribed by the Adjutant General. The form is available from the following sources:

- (1) Department of Military Affairs, Bureau for Veterans' Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002 or through the Adjutant General's Field Offices located in Pittsburgh, Philadelphia and Wilkes-Barre.
- (2) County Directors of Veterans' Affairs in each county seat.
- (3) Governor's Veterans Outreach and Assistance Centers.
- (4) Veterans service organizations.
- (5) American Red Cross.

(b) *Completion and execution of form.* An applicant shall complete and sign the application form, certifying to the truthfulness of its contents under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). The signature shall be witnessed and the form dated.

(c) *Documentation.* The application shall submit the following documents along with the application form:

- (1) The appropriate United States Department of Veterans' Affairs or Department of Defense form requesting and consenting to the release of information from the applicant's Federal records. The Department will use this form to obtain verification from the United States Department of Veterans' Affairs or the Department of Defense of the applicant's disability rating reflecting the loss, or loss of use, of the extremities. The current location of the applicant's Veterans' Administration medical records shall be indicated on this form.
- (2) A copy of the applicant's Report of Separation from Active Duty in the Armed Forces of the United States covering the period when the applicant sustained the injury or incurred the disease resulting in the loss of, or loss of use of, extremities.
- (3) An applicant for a pension resulting from loss of, or loss of use of, limbs in peacetime combat-related actions may be required to submit additional documentation to verify the nature of the combat-related action and to verify that the loss of, or loss of use of, extremities resulted from the actions.

(d) *Submission of application.* An applicant shall mail or otherwise deliver the completed application, together with supporting documentation, to the following address: Paralyzed Veterans' Pension, Department of Military Affairs, Bureau for Veterans' Affairs, Fort Indiantown Gap, Annville, Pennsylvania 17003-5002.

§ 5.44. Criteria and procedure for determination of peacetime combat-related actions.

(a) The Department will determine whether a peacetime action of the United States military and naval forces or officially-connected women's organization qualifies as a combat-related action or situation as defined in § 5.41 (relating to definitions). In making the determination, the Department will consider the following criteria:

- (1) The nature, purpose and extent of the military action.
- (2) The duty status of the military personnel participating in the action.
- (3) The location where the action occurred.
- (4) Whether the United States government identified the action or situation as combat-related by the award of decorations, payment of combat or hostile fire pay or other recognition to members of the armed forces who were involved in the action.
- (5) The cause of casualties among members of the military or naval forces of the United States.
- (6) Whether the casualties were the result of an accident instead of hostile fire or terrorist attack, whether or not the accident is directly related to operational activities incident to an engagement with foreign armed forces or terrorists.

(b) The Department will identify terrorist attacks against members of the United States military or naval forces or officially-connected women's organizations by considering the following criteria:

- (1) The nature and purpose of the attack.
- (2) The objective of the attack.
- (3) The identity of the attackers and the victims.
- (4) Whether or not the attack was self-identified as such by the perpetrators.
- (5) Whether or not the United States government has investigated the attack and identified it as a terrorist act.

(c) The Department, through the Bureau, will maintain a log of verified peacetime combat-related actions or situations. If the information submitted by an applicant does not indicate participation in a verified peacetime combat-related action, the Department, through the Bureau, will make a determination of whether the action or situation needs the definition of a peacetime combat-related situation or action. The Bureau, through the Adjutant General, may seek the advice of the State Veterans' Commission in making the determination.

§ 5.45. Review of applications.

(a) The Bureau will review an application. The Bureau may request an applicant to supply additional information to support the application.

(b) The Bureau will notify the applicant in writing of its determination. If the application is approved, the pension shall be paid from the effective date established in § 5.47 (relating to effective date of pension). If the application is disapproved, the written notice will state the reasons for the disapproval and inform the applicant of the appeal procedures specified in § 5.46 (relating to appeals).

§ 5.46. Appeals.

(a) An applicant aggrieved by a determination of the Bureau may appeal to the Adjutant General within 30 days after notification of the Bureau determination. An appeal shall be in writing and state the reasons for the appeal.

(b) The Adjutant General will adjudicate an appeal as provided in 1 Pa. Code Part II (relating to general rules of administrative practice and procedure). When an appeal is docketed, the Adjutant General will appoint a presiding officer to hear the appeal and prepare and file a proposed report in the manner provided by 1 Pa. Code Chapter 35 Subchapter G (relating to proposed reports). The Adjutant General will issue the final administrative adjudication of the Department on an appeal.

(c) Subsection (a) supersedes 1 Pa. Code § 35.20 (relating to appeals from the actions of the staff).

Cross References

This section cited in 43 Pa. Code § 5.45 (relating to review of applications).

§ 5.47. Effective date of pension.

(a) *Pension payment schedule.* A pension will be paid based upon the date when the completed application is received by the Bureau. A pension will be paid from the first day of the month in which the application is received if it is received on or before the 20th day of the month. If the application is received after the 20th day of the month, the pension will be paid from the first day of the next month.

(b) *Transition rule.* Under the act, no pension may be paid for a month before July 1, 1986.

Cross References

This section cited in 43 Pa. Code § 5.45 (relating to review of applications).

[Next page is 7-1.]

5-26

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