

TITLE 37 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

CHAPTER 7 - ALLOWANCES

§ 402a. Supplemental subsistence allowance for low-income members with dependents

(a) Supplemental Allowance Required.—

(1) The Secretary concerned shall increase the basic allowance for subsistence to which a member of the armed forces described in subsection (b) is otherwise entitled under section 402 of this title by an amount (in this section referred to as the “supplemental subsistence allowance”) designed to remove the member’s household from eligibility for benefits under the supplemental nutrition assistance program.

(2) The supplemental subsistence allowance may not exceed \$500 per month. In establishing the amount of the supplemental subsistence allowance to be paid an eligible member under this paragraph, the Secretary shall take into consideration the amount of the basic allowance for housing that the member receives under section 403 of this title or would otherwise receive under such section, in the case of a member who is not entitled to that allowance as a result of assignment to quarters of the United States or a housing facility under the jurisdiction of a uniformed service.

(3) In the case of a member described in subsection (b) who establishes to the satisfaction of the Secretary concerned that the allotment of the member’s household under the supplemental nutrition assistance program, calculated in the absence of the supplemental subsistence allowance, would exceed the amount established by the Secretary concerned under paragraph (2), the amount of the supplemental subsistence allowance for the member shall be equal to the lesser of the following:

(A) The value of that allotment.

(B) \$500.

(b) Members Entitled to Allowance.—

(1) Subject to subsection (d), a member of the armed forces with dependents is entitled to receive the supplemental subsistence allowance if the Secretary concerned determines that the member’s income, together with the income of the rest of the member’s household (if any), is within the highest income standard of eligibility, as then in effect under section 5(c) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014 (c)) and without regard to paragraph (1) of such section, for participation in the supplemental nutrition assistance program.

(2) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall take into consideration the amount of the basic allowance for housing that the member receives under section 403 of this title or would otherwise receive under such section, in the case of a member who is not entitled to that allowance as a result of assignment to quarters of the United States or a housing facility under the jurisdiction of a uniformed service.

(3) In determining whether a member meets the eligibility criteria under paragraph (1), the Secretary concerned shall not take into consideration—

(A) the amount of the supplemental subsistence allowance that is payable under this section;

(B) the amount of any special pay that is payable to the member under section 310 of this title, relating to duty subject to hostile fire or imminent danger; or

(C) the amount of any family separation allowance that is payable to the member under section 427 of this title.

(c) Application for Allowance.— To request the supplemental subsistence allowance, a member shall submit an application to the Secretary concerned in such form and containing such information as the Secretary concerned may prescribe. A member applying for the supplemental subsistence allowance shall furnish such evidence regarding the member’s satisfaction of the eligibility criteria under subsection (b) as the Secretary concerned may require.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscript.html>).

(d) Effective Period.— The entitlement of a member to receive the supplemental subsistence allowance terminates upon the occurrence of any of the following events, even though the member continues to meet the eligibility criteria described in subsection (b):

- (1) Payment of the supplemental subsistence allowance for 12 consecutive months.
- (2) Promotion of the member to a higher grade.
- (3) Transfer of the member in a permanent change of station.

(e) Reapplication.— Upon the termination of the effective period of the supplemental subsistence allowance for a member, or in anticipation of the imminent termination of the allowance, a member may reapply for the allowance under subsection (c), and the Secretary concerned shall approve the application and resume payment of the allowance to the member, if the member continues to meet, or once again meets, the eligibility criteria described in subsection (b).

(f) Reporting Requirement.— Not later than March 1 of each year after 2001, the Secretary of Defense shall submit to Congress a report specifying the number of members of the armed forces who received, at any time during the preceding year, the supplemental subsistence allowance. In preparing the report, the Secretary of Defense shall consult with the Secretary of Homeland Security, with respect to the Coast Guard.

(g) Eligibility for Other Federal Assistance.—

- (1) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except on account of the receipt of such allowance, would be eligible to receive a benefit described in paragraph (2) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.
- (2) The benefits referred to in paragraph (1) are as follows:
 - (A) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).
 - (B) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).
 - (C) A service provided under the Head Start Act (42 U.S.C. 9831 et seq.).
 - (D) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).
- (3) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and that, except on account of the receipt of such allowance, would be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit notwithstanding the receipt of such allowance.

(h) Definitions.— In this section:

- (1) The term “Secretary concerned” means—
 - (A) the Secretary of Defense; and
 - (B) the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy.
- (2) The terms “allotment” and “household” have the meanings given those terms in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012).
- (3) The term “supplemental nutrition assistance program” means the program established pursuant to section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013).

(Added Pub. L. 106–398, § 1 [[div. A], title VI, § 604(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–145; amended Pub. L. 107–107, div. A, title VI, § 604(d), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 107–296, title XVII, § 1704(c), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–375, div. A, title VI, § 602(a), (b), Oct. 28, 2004, 118 Stat. 1943; Pub. L. 109–163, div. A, title VI, § 608, Jan. 6, 2006, 119 Stat. 3289; Pub. L. 109–364, div. A, title X, § 1071(c)(6), (e)(4), Oct. 17, 2006, 120 Stat. 2401; Pub. L. 110–234, title IV,

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§ 4002(b)(1)(A), (B), (2)(T), May 22, 2008, 122 Stat. 1095–1097; Pub. L. 110–246, § 4(a), title IV, § 4002(b)(1)(A), (B), (2)(T), June 18, 2008, 122 Stat. 1664, 1857, 1858.)

References in Text

The Richard B. Russell National School Lunch Act, referred to in subsec. (g)(2)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Child Nutrition Act of 1966, referred to in subsec. (g)(2)(B), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Head Start Act, referred to in subsec. (g)(2)(C), is subchapter B (§ 635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (g)(2)(D), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (g)(3), is title XXVI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 893, as amended, which is classified principally to subchapter II (§ 8621 et seq.) of chapter 94 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

Codification

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Amendments

2008—Subsec. (a)(1), (3). Pub. L. 110–246, § 4002(b)(1)(A), (2)(T), substituted “supplemental nutrition assistance program” for “food stamp program”.

Subsec. (b)(1). Pub. L. 110–246, § 4002(b)(1)(A), (B), (2)(T), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977” and “supplemental nutrition assistance program” for “food stamp program”.

Subsec. (h)(2). Pub. L. 110–246, § 4002(b)(1)(B), (2)(T), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (h)(3). Pub. L. 110–246, § 4002(b)(1)(A), (B), (2)(T), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (b)(3)(B). Pub. L. 109–364, § 1071(c)(6), substituted “title” for “section”.

Subsec. (f). Pub. L. 109–163, § 608(b), as amended by Pub. L. 109–364, § 1071(e)(4), substituted “Secretary of Homeland Security, with respect to the Coast Guard” for “Secretary of Transportation” and struck out at end “No report is required under this subsection after March 1, 2006.”

Subsec. (i). Pub. L. 109–163, § 608(a), struck out heading and text of subsec. (i). Text read as follows: “No supplemental subsistence allowance may be provided under this section after September 30, 2006.”

2004—Subsec. (b)(2). Pub. L. 108–375, § 602(a)(1), substituted “concerned” for dash after “Secretary” and struck out “(A) shall not take into consideration the amount of the supplemental subsistence allowance payable under this section; but” and subpar. (B) designation before “shall take”.

Subsec. (b)(3). Pub. L. 108–375, § 602(a)(2), added par. (3).

Subsecs. (g) to (i). Pub. L. 108–375, § 602(b), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

2002—Subsec. (g)(1)(B). Pub. L. 107–296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (b)(1). Pub. L. 107–107 inserted “with dependents” after “a member of the armed forces”.

Effective Date of 2008 Amendment

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(T) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

Effective Date of 2006 Amendment

Pub. L. 109–364, div. A, title X, § 1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071 (e)(4) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

Effective Date of 2004 Amendment

Pub. L. 108–375, div. A, title VI, § 602(c), Oct. 28, 2004, 118 Stat. 1944, provided that: “The amendments made by this section [amending this section] shall apply in determining, on or after the date of the enactment of this Act [Oct. 28, 2004], the eligibility of a person for a supplemental subsistence allowance under section 402a of title 37, United States Code, or for Federal assistance under a law specified in subsection (g) of such section, as so amended.”

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

Effective Date

Pub. L. 106–398, § 1 [[div. A], title VI, § 604(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–147, provided that: “Section 402a of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month that begins not less than 180 days after the date of the enactment of this Act [Oct. 30, 2000].”