

child's program for reasons beyond the child's control, it is ultra vires and of no effect.

(b) The effect of finding clear and unmistakable error ("CUE") is that the corrected decision is considered made on the date of the reversed decision. 38 CFR 3.105(a). Based on CUE, the veteran in this case was found entitled to compensation for permanent and total service-connected disability ("P&T") effective August 19, 1986. As of the same date, each of the veteran's sons thereby became an "eligible person" (defined in 38 U.S.C. 3501(a)(1)(A)(ii)) entitled to chapter 35 education benefits. Such entitlement may be used during an 8-year eligibility period determined pursuant to 38 U.S.C. 3512, but in no event before the date when the affected child became an "eligible person" (i.e., August 19, 1986).

(c) The basic chapter 35 eligibility period under section 3512(a) runs from the child's 18th birthday to the child's 26th birthday, but exceptions exist. Under the "first finds" exception, when the effective date of the veteran's P&T disability is between the child's 18th and 26th birthdays, section 3512(a)(3), as in force in November 1999, establishes, by operation, the beginning date for the child's eligibility period as the date the Secretary first finds that the parent from who eligibility is derived has a service-connected disability permanent in nature. The term "first finds" is defined in subsection 3512(d) to mean the effective date of the parent's P&T rating or the date of notification to the parent, whichever is more advantageous to the eligible person. Thus, a child's chapter 35 eligibility period must be determined on the facts found and based on the eligibility-period-beginning date that is more advantageous to the child pursuant to the application of both section 3512(a)(3) and section 3512(d). In addition, an award of chapter 35 benefits is predicated on the timely filing of a claim therefor. 38 U.S.C. 3513; 38 CFR 21.1029. The date of claim is an integral factor in determining the date from which benefits may be awarded, pursuant to 38 U.S.C. 5113, for pursuit of an approved program of education pursued during the child's established chapter 35 eligibility period.

*Effective Date:* July 27, 2004.

#### VAOPGCPREC 9-2004

*Question Presented:* Can a veteran receive separate ratings under Diagnostic Code (DC) 5260 (leg, limitation of flexion) and DC 5261 (leg, limitation of extension) for disability of the same joint?

*Held:* Separate ratings under DC 5260 (leg, limitation of flexion) and DC 5261 (leg, limitation of extension), both currently codified at 38 CFR 4.71a, may be assigned for disability of the same joint.

*Effective Date:* September 17, 2004.

Dated: September 27, 2004.

By Direction of the Secretary.

**John H. Thompson,**

*Deputy General Counsel.*

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## DEPARTMENT OF VETERANS AFFAIRS

### Research Advisory Committee on Gulf War Illnesses; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the Research Advisory Committee on Gulf War Veterans' Illnesses will meet on October 25-26, 2004, at the Department of Veterans Affairs, 811 Vermont Avenue, NW., Room 819, Washington, DC. The session on October 25 will convene at 8 a.m. and adjourn at 5 p.m. The session on October 26 will convene at 8 a.m. and adjourn at 3 p.m. Both sessions will be open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans and research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Gulf War.

The Committee will review VA program activities related to Gulf War veterans' illnesses. The Committee will also hear presentations on data collection related to exposures and troop locations during the 1991 Gulf War and the current deployments in Iraq. There will be an update on scientific research on Gulf War illnesses published since the last committee meeting. Additionally there will be preliminary information on treatment research for Gulf War illnesses, research related to possible health effects of exposure to oil well fires and other combustible petroleum products during the 1991 Gulf War, and discussion of committee business and activities.

Members of the public may submit written statements for the Committee's review to Ms. Preeti Hans, Designated Federal Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public seeking additional

information should contact Ms. Preeti Hans at (202) 254-0223.

Dated: September 28, 2004.

By Direction of the Secretary.

**E. Philip Riggins,**

*Committee Management Officer.*

[FR Doc. 04-22439 Filed 10-6-04; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the Advisory Committee on Women Veterans will meet October 19-21, 2004, from 8:15 a.m. to 3:30 p.m. in room C-7-C, VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee will make recommendations to the Secretary regarding such programs and activities.

On October 19, the agenda will include briefings and updates on issues related to women veterans' issues in the Veterans Health Administration (VHA), including any treatment issues related to Operation Iraqi Freedom and Operation Enduring Freedom combat veterans and briefings from VHA's Women Veterans Health Program Deputy Field Directors on issues in the Veterans Benefits Administration, including outreach efforts and the role of the Women Veterans Coordinator in VA Regional Offices; presentation of Certificates of Appointment to four new Committee members; and discussion of the 2004 Report of the Advisory Committee on Women Veterans. On October 20, the Committee will be briefed on legislative issues affecting women veterans, VA research on women's health issues, upcoming initiatives of the Center for Women Veterans, and general ethics information related to Committee membership. On October 21, the Committee will be briefed by a representative from the Department of Labor Veterans' Employment and Training Service (VETS) on employment opportunities for women veterans, next steps and implementation of the National Capital Asset Realignment of Enhanced Services (CARES) recommendations, and will