

Dated: June 5, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

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DEPARTMENT OF VETERANS AFFAIRS

Pension Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates and income limitations. These COLAs affect the pension and parents' dependency and indemnity compensation (DIC) programs, as well as the benefits VA pays to or for certain veterans' children with spina bifida or birth defects. These adjustments are based on the rise in the Consumer Price Index during the one-year period ending September 30, 2006. VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in fiscal year 2007, which began on October 1, 2006.

DATES: These COLAs are effective December 1, 2006. The headstone or marker allowance rate is effective October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Lyric Collier, Program Analyst, Compensation and Pension Service (212A), Veterans Benefit Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7212.

SUPPLEMENTARY INFORMATION: Under a prior version of 38 U.S.C. 2306(d), VA may provide reimbursement for the cost of non-Government headstones or markers at a rate equal to the actual cost or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less. This provision only applies to deaths that occurred before November 1, 1990.

Section 8041 of Public Law 101-508 amended 38 U.S.C. 2306(d) to eliminate the payment of a monetary allowance in lieu of VA-provided headstone or marker for deaths occurring on or after November 1, 1990. However, in a

precedent opinion (O.G.C. Prec. 17-90), VA's General Counsel held that there is no limitation period applicable to claims for benefits under the prior provisions of 38 U.S.C. 2306(d). Thus, reimbursement may still be provided under the prior version of section 2306(d) for deaths occurring before November 1, 1990.

The average actual cost of Government-furnished headstones or markers during any fiscal year is determined by dividing the sum of VA costs during that fiscal year for procurement, transportation, miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for fiscal year 2006 according to the above computation method was \$132. Therefore, effective October 1, 2006, the maximum rate of reimbursement for non-Government headstones or markers purchased during fiscal year 2007 is \$132.

Cost of Living Adjustments

Under the provisions of 38 U.S.C. 5312 and section 306 of Public Law 95-588, VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations must also be published in the **Federal Register**.

The Social Security Administration announced a 3.3 percent cost-of-living increase in Social Security benefits effective December 1, 2006. Therefore, applying the same percentage and rounding up in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA pension and parents' DIC programs were effective December 1, 2006:

TABLE 1.—IMPROVED PENSION
[Maximum Annual Rates]

- | | |
|---|---|
| (1) Veterans permanently and totally disabled (38 U.S.C. 1521): | Veteran with no dependents, \$10,929.
Veteran with one dependent, \$14,313.
For each additional dependent, \$1,866. |
| (2) Veterans in need of aid and attendance (38 U.S.C. 1521): | Veteran with no dependents, \$18,234.
Veteran with one dependent, \$21,615.
For each additional dependent, \$1,866. |
| (3) Veterans who are housebound (38 U.S.C. 1521): | |

TABLE 1.—IMPROVED PENSION—
Continued

[Maximum Annual Rates]

- | | |
|--|--|
| | Veteran with no dependents, \$13,356.
Veteran with one dependent, \$16,740.
For each additional dependent, \$1,866. |
| (4) Two veterans married to one another, combined rates (38 U.S.C. 1521): | Neither veteran in need of aid and attendance or housebound, \$14,313.
Either veteran in need of aid and attendance, \$21,615.
Both veterans in need of aid and attendance, \$28,161.
Either veteran housebound, \$16,740.
Both veterans housebound, \$19,168. |
| One veteran housebound and one veteran in need of aid and attendance, \$24,038.
For each dependent child, \$1,866. | |
| (5) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 1541): | Surviving spouse alone, \$7,329.
Surviving spouse and one child in his or her custody, \$9,594.
For each additional child in his or her custody, \$1,866. |
| (6) Surviving spouses in need of aid and attendance (38 U.S.C. 1541): | Surviving spouse alone, \$11,715.
Surviving spouse with one child in custody, \$13,976.
Surviving Spouse of Spanish-American War veteran alone, \$12,471. |
| Surviving Spouse of Spanish-American War veteran with one child in custody, \$14,732.
For each additional child in his or her custody, \$1,866. | |
| (7) Surviving spouses who are housebound (38 U.S.C. 1541): | Surviving spouse alone, \$8,957.
Surviving spouse and one child in his or her custody, \$11,219.
For each additional child in his or her custody, \$1,866. |
| (8) Surviving child alone (38 U.S.C. 1542), \$1,866. | |

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541 and 1542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this table shall be increased by \$2,480. (38 U.S.C. 1521(g))

Parents' Dic. DIC shall be paid monthly to parents of a deceased veteran in the following amounts (38 U.S.C. 1315):

One parent. If there is only one parent, the monthly rate of DIC paid to such parent shall be \$524 reduced on the basis of the parent's annual income according to the following formula:

TABLE 2.—FOR EACH \$1 OF ANNUAL INCOME

Which is more than	But not more than	The \$524 monthly rate shall be reduced by
\$0 800	\$800 12,432	\$0.00 0.08

No DIC is payable under this table if annual income exceeds \$12,432.

One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under Table 2 or under Table 4, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in Table 3 apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be \$380 reduced on the basis of each parent's annual income, according to the following formula:

TABLE 3.—FOR EACH \$1 OF ANNUAL INCOME

Which is more than	But not more than	The \$380 monthly rate shall be reduced by
\$0 800 900 1,100	\$800 900 1,100 12,432	\$0.00 0.06 0.07 0.08

No DIC is payable under this table if annual income exceeds \$12,432.

Two parents living together or remarried parents living with spouses. The rates in Table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be \$356 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

TABLE 4.—FOR EACH \$1 OF ANNUAL INCOME

Which is more than	But not more than	The \$356 monthly rate shall be reduced by
\$0 1,000 1,500 1,900 2,400 2,900 3,200	\$1,000 1,500 1,900 2,400 2,900 3,200 16,710	\$0.00 0.03 0.04 0.05 0.06 0.07 0.08

No DIC is payable under this table if combined annual income exceeds \$16,710.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in Table 2 for one parent.

Aid and attendance. The monthly rate of DIC payable to a parent under Tables 2 through 4 shall be increased by \$284 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate. The monthly rate of DIC payable to any parent under Tables 2 through 4 shall not be less than \$5.

TABLE 5.—SECTION 306 PENSION INCOME LIMITATIONS

- (1) Veteran or surviving spouse with no dependents, \$12,432 (Pub. L. 95–588, section 306(a)).
- (2) Veteran with no dependents in need of aid and attendance, \$12,932 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
- (3) Veteran or surviving spouse with one or more dependents, \$16,710 (Pub. L. 95–588, section 306(a)).
- (4) Veteran with one or more dependents in need of aid and attendance, \$17,210 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
- (5) Child (no entitled veteran or surviving spouse), \$10,163 (Pub. L. 95–588, section 306(a)).
- (6) Spouse income exclusion (38 CFR 3.262), \$3,967 (Pub. L. 95–588, section 306(a)(2)(B)).

TABLE 6.—OLD-LAW PENSION INCOME LIMITATIONS

- (1) Veteran or surviving spouse without dependents or an entitled child, \$10,883 (Pub. L. 95–588, section 306(b)).
- (2) Veteran or surviving spouse with one or more dependents, \$15,690 (Pub. L. 95–588, section 306(b)).

Spina Bifida Benefits

Section 421 of Public Law 104–204 added a new chapter 18 to title 38, United States Code, authorizing VA to provide certain benefits, including a monthly monetary allowance, to children born with spina bifida who are natural children of veterans who served in the Republic of Vietnam during the Vietnam era. Pursuant to 38 U.S.C. 1805(b)(3), spina bifida rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). Effective December 1, 2006, spina bifida monthly rates are as follows:

Level I—\$263
Level II—\$909
Level III—\$1,550

Birth Defects Benefits

Section 401 of Public Law 106–419 authorizes the payment of monetary benefits to, or on behalf of, children of female Vietnam veterans born with certain birth defects. Pursuant to 38 U.S.C. 1815(d), birth defects rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). Effective December 1, 2006, birth defects monthly rates are as follows:

Level I—\$120
Level II—\$263
Level III—\$909
Level IV—\$1,550

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