

106TH CONGRESS
2D SESSION

H. R. 4864

To amend title 38, United States Code, to reaffirm and clarify the duty of the Secretary of Veterans Affairs to assist claimants for benefits under laws administered by the Secretary, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2000

Mr. STUMP (for himself, Mr. EVANS, Mr. QUINN, Mr. FILNER, Mr. BILLRAKIS, Mr. EVERETT, Mr. STEARNS, Mr. HANSEN, Mr. MCKEON, Mr. GIBBONS, Ms. BROWN of Florida, Mr. DOYLE, Mr. PETERSON of Minnesota, Mr. REYES, Mr. SHOWS, Mr. RODRIGUEZ, Ms. BERKLEY, Mr. UDALL of New Mexico, Mr. SPRATT, Mrs. JONES of Ohio, Mr. ROHRABACHER, Mr. DAVIS of Florida, Ms. BALDWIN, Mrs. JOHNSON of Connecticut, Mr. HOBSON, Ms. HOOLEY of Oregon, Mr. UNDERWOOD, Ms. KAPTUR, Mr. CRAMER, Mr. LAZIO, Mr. HOLDEN, Mr. ABERCROMBIE, Mr. MOAKLEY, Ms. ROYBAL-ALLARD, Mr. LUCAS of Oklahoma, Mr. DEFazio, Mr. MOLLOHAN, Mr. NETHERCUTT, Ms. DUNN, Mr. SANDERS, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to reaffirm and clarify the duty of the Secretary of Veterans Affairs to assist claimants for benefits under laws administered by the Secretary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans Claims As-
3 sistance Act of 2000”.

4 **SEC. 2. CLARIFICATION OF DEFINITION OF “CLAIMANT”**
5 **FOR PURPOSES OF VETERANS LAWS.**

6 (a) **IN GENERAL.**—Chapter 51 of title 38, United
7 States Code, is amended by inserting before section 5101
8 the following new section:

9 **“§ 5100. Definition of ‘claimant’**

10 “For purposes of this chapter, the term ‘claimant’
11 means any individual applying for, or submitting a claim
12 for, any benefit under the laws administered by the Sec-
13 retary.”.

14 (b) **CLERICAL AMENDMENT.**—The table of sections
15 at the beginning of such chapter is amended by inserting
16 before the item relating to section 5101 the following new
17 item:

“5100. Definition of ‘claimant’.”.

18 **SEC. 3. ASSISTANCE TO CLAIMANTS.**

19 (a) **REAFFIRMATION AND CLARIFICATION OF DUTY**
20 **TO ASSIST.**—Chapter 51 of title 38, United States Code,
21 is amended by striking sections 5102 and 5103 and insert-
22 ing the following:

1 **“§ 5102. Applications: forms furnished upon request;**
2 **notice to claimants of incomplete applica-**
3 **tions**

4 (a) FURNISHING FORMS.—Upon request made in
5 person or in writing by any person claiming or applying
6 for a benefit under the laws administered by the Secretary,
7 the Secretary shall furnish such person, free of all ex-
8 pense, all such printed instructions and forms as may be
9 necessary in establishing such claim.

10 “(b) INCOMPLETE APPLICATIONS.—If a claimant’s
11 application for a benefit under the laws administered by
12 the Secretary is incomplete, the Secretary shall notify the
13 claimant and the claimant’s representative, if any, of the
14 evidence necessary to complete the application, including
15 the information and medical and lay evidence necessary
16 to substantiate the claim. As part of such notice, the Sec-
17 retary shall indicate which portion of such evidence, if any,
18 is to be provided by the claimant and which portion of
19 such evidence, if any, the Secretary will attempt to obtain
20 on behalf of the claimant.

21 “(c) TIME LIMITATION.—In the case of evidence that
22 the claimant is notified is to be provided by the claimant,
23 if such evidence is not received by the Secretary within
24 one year from the date of such notification, no benefits
25 may be paid or furnished by reason of such application.

1 “(d) INAPPLICABILITY TO CERTAIN BENEFITS.—
2 This section shall not apply to any application or claim
3 for Government life insurance benefits.

4 **“§ 5103. Applications: Duty to assist claimants**

5 “(a) DUTY TO ASSIST.—The Secretary shall make
6 reasonable efforts to assist in obtaining evidence necessary
7 to establish a claimant’s eligibility for a benefit under a
8 law administered by the Secretary. However, the Secretary
9 may decide a claim without providing assistance under this
10 subsection when no reasonable possibility exists that such
11 assistance will aid in the establishment of eligibility for
12 the benefit sought.

13 “(b) ASSISTANCE IN OBTAINING RECORDS.—(1) As
14 part of the assistance provided under subsection (a), the
15 Secretary shall make reasonable efforts to obtain relevant
16 records that the claimant adequately identifies to the Sec-
17 retary and authorizes the Secretary to obtain.

18 “(2) Whenever the Secretary, after making such rea-
19 sonable efforts, is unable to obtain all of the records
20 sought, the Secretary shall inform the claimant that the
21 Secretary is unable to obtain such records. Such a notice
22 shall—

23 “(A) specifically identify the records the Sec-
24 retary is unable to obtain;

1 “(B) briefly explain the efforts that the Sec-
2 retary made to obtain those records;

3 “(C) describe any further actions to be taken by
4 the Secretary with respect to the claim; and

5 “(D) request the claimant, if the claimant in-
6 tends to attempt to obtain such records independ-
7 ently, to so notify the Secretary within a time period
8 to be specified in the notice.

9 “(c) OBTAINING RECORDS FOR COMPENSATION
10 CLAIMS.—In the case of a claim by a veteran for disability
11 compensation, the assistance provided by the Secretary
12 under subsection (a) shall include obtaining the following
13 records if relevant to the veteran’s claim:

14 “(1) The claimant’s existing service medical
15 records and, if the claimant has furnished informa-
16 tion sufficient to locate such records, other relevant
17 service records.

18 “(2) Existing records of relevant medical treat-
19 ment or examination of the veteran at Department
20 health-care facilities or at the expense of the Depart-
21 ment, if the claimant has furnished information suf-
22 ficient to locate such records.

23 “(3) Information as described in section 5106
24 of this title.

1 “(d) MEDICAL EXAMINATIONS FOR COMPENSATION
2 CLAIMS.—In the case of a claim by a veteran for disability
3 compensation, the assistance provided by the Secretary
4 under subsection (a) shall include providing a medical ex-
5 amination, or obtaining a medical opinion, when the evi-
6 dence of record before the Secretary—

7 “(1) establishes that—

8 “(A) the claimant has a current disability
9 or has current symptoms; and

10 “(B) there was an event, injury, or disease
11 (or combination of events, injuries, or diseases)
12 during the claimant’s active military, naval, or
13 air service capable of causing or aggravating
14 the claimant’s current disability or symptoms,
15 but

16 “(2) is insufficient to establish service-con-
17 nection of the current disability or symptoms.

18 “(e) REGULATIONS.—The Secretary shall prescribe
19 regulations to carry out this section. Such regulations
20 shall include provisions for—

21 “(1) specifying the evidence necessary under
22 subsection (a) to establish a claimant’s eligibility for
23 a benefit under a law administered by the Secretary;
24 and

1 “(2) determining under subsections (b) and (c)
2 what records are relevant to a claim.

3 “(f) RULE WITH RESPECT TO DISALLOWED
4 CLAIMS.—Nothing in this section shall be construed to re-
5 quire the Secretary to reopen a claim that has been dis-
6 allowed except when new and material evidence is pre-
7 sented or secured, as described in section 5108 of this
8 title.

9 “(g) OTHER ASSISTANCE NOT PRECLUDED.—Noth-
10 ing in this section shall be construed as precluding the
11 Secretary from providing such other assistance to a claim-
12 ant as the Secretary considers appropriate.”.

13 (b) REENACTMENT OF RULE FOR CLAIMANT’S LACK-
14 ING A MAILING ADDRESS.—Chapter 51 of such title is
15 amended by adding at the end the following new section:

16 **“§ 5126. Benefits not to be denied based on lack of**
17 **mailing address**

18 “Benefits under laws administered by the Secretary
19 may not be denied a claimant on the basis that the claim-
20 ant does not have a mailing address.”.

21 (c) CLERICAL AMENDMENTS.—The table of sections
22 at the beginning of chapter 51 of such title is amended—

23 (1) by striking the items relating to sections
24 5102 and 5103 and inserting the following:

“5102. Applications: forms furnished upon request; notice to claimants of in-
complete applications.

“5103. Applications: duty to assist claimants.”;

1 and

2 (2) by adding at the end the following new
3 item:

“5126. Benefits not to be denied based on lack of mailing address.”.

4 **SEC. 4. BURDEN OF PROOF.**

5 (a) REPEAL OF “WELL-GROUNDED CLAIM” RULE.—
6 Section 5107 of title 38, United States Code, is amended
7 to read as follows:

8 **“§ 5107. Burden of proof; benefit of the doubt**

9 “(a) BURDEN OF PROOF.—Except when otherwise
10 provided by this title or by the Secretary in accordance
11 with the provisions of this title, a claimant shall have the
12 burden of proving entitlement to benefits.

13 “(b) BENEFIT OF THE DOUBT.—The Secretary shall
14 consider all evidence and material of record in a case be-
15 fore the Department with respect to benefits under laws
16 administered by the Secretary and shall give the claimant
17 the benefit of the doubt when there is an approximate bal-
18 ance of positive and negative evidence regarding any issue
19 material to the determination of the matter.”.

20 **SEC. 5. PROHIBITION OF CHARGES FOR RECORDS FUR-**
21 **NISHED BY OTHER FEDERAL DEPARTMENTS**
22 **AND AGENCIES.**

23 Section 5106 of title 38, United States Code, is
24 amended by adding at the end the following new sentence:

1 “No charge may be imposed by the head of any such de-
2 partment or agency for providing such information.”.

3 **SEC. 6. EFFECTIVE DATE.**

4 (a) IN GENERAL.—Except as specifically provided
5 otherwise, the provisions of section 5107 of title 38,
6 United States Code, as amended by section 4 of this Act,
7 apply to any claim—

8 (1) filed on or after the date of the enactment
9 of this Act; or

10 (2) filed before the date of the enactment of
11 this Act and not final as of the date of the enact-
12 ment of this Act.

13 (b) RULE FOR CLAIMS THE DENIAL OF WHICH BE-
14 CAME FINAL AFTER THE COURT OF APPEALS FOR VET-
15 ERANS CLAIMS DECISION IN THE MORTON CASE.—(1) In
16 the case of any claim for benefits—

17 (A) the denial of which became final during the
18 period beginning on July 14, 1999, and ending on
19 the date of the enactment of this Act;

20 (B) which was denied or dismissed because the
21 claim was not well grounded (as that term was used
22 in section 5107(a) of title 38, United States Code,
23 as in effect during that period),

24 the deciding authority shall, upon the request of the claim-
25 ant, or on such authority’s own motion, order the claim

1 readjudicated under chapter 51 of such title, as amended
2 by this Act, as if such denial or dismissal had not been
3 made.

4 (2) For the purposes of this subsection, the term “de-
5 ciding authority” means, as appropriate, the Secretary of
6 Veterans Affairs, the Board of Veterans’ Appeals, or a
7 court, depending on the authority upon whose action the
8 denial referred to in paragraph (1) became final.

9 (3) A claim may not be readjudicated under this sub-
10 section unless the request is filed or the motion made not
11 later than two years after the date of the enactment of
12 this Act.

13 (4) In the absence of a timely request of a claimant,
14 nothing in this Act shall be construed as establishing a
15 duty on the part of any deciding authority to locate and
16 readjudicate claims described in this subsection.

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