

Corn for 273-7223
Benned Inpold 275-1756 (fax)
703/697-5947
693-6700 (fax)
Walt Hall 273-6335

PHOTOCOPY
PRESERVATION

CLINTON LIBRARY PHOTOCOPY

PROPOSED CORRECTING AMENDMENTS TO
P.L. 104-193, THE PERSONAL RESPONSIBILITY AND
WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PRWORA)

LIST OF PROVISIONS

[NOTE: Provisions indicated in boldface italics have not been finally cleared.]

TITLE I--BLOCK GRANTS FOR TEMPORARY ASSISTANCE
FOR NEEDY FAMILIES

[NOTE: Section of PRWORA in bold; section of Social Security Act in parentheses)

- Sec. 103(a): block grants to States (TANF): p. 2
1. Advance State plan requirement (402(a)).
 2. Calculation of bonus for decrease in illegitimacy (403(a)(2)(C)). p. 3
 3. Contingency fund.
 - A. Amendment of inconsistent terminology (403(b)(3)(A)).
 - B. Responsibility for administering contingency fund (403(b)(7)).
 4. Availability of TANF loans to Indian tribes (406(a)). p. 5
 5. State option to exclude individuals subject to tribal work programs from State participation rates (407(b)(4)).
 6. Amendments to mandatory work requirements. p. 6
 - A. Inconsistent standards for engagement in work (407(c)(1)(B)).
 - B. Penalties against individuals: inconsistent provisions (407(e)). p. 7
 7. Assignment of support rights: clarification (408(a)(3)).
 8. Time limit on benefits: disregard of certain assistance to reservation residents (408(a)(7)(D)). p. 8
 9. **Inconsistent allowance of discretion to set amount of certain penalties (409(a)).** p. 10
 10. Requirement to maintain level of historic effort. p. 11
 - A. Definition of qualified State expenditures: benefits for aliens (409(a)(7)(B)(i)(III)).
 - B. Reduction for failure to meet MOE requirement: applicable percentage (409(a)(7)(B)(iii)). p. 12

Sec. 362: support collection from Federal employees: p. 57

1. Response to notice or process (459(c)(2)(C)).
2. Moneys subject to process (459(h)(1)). p. 58
3. Exemption of certain VA benefits (459(h)(1)(B)).
4. Conforming amendment 454(19)(b)(ii); 459). p. 60

Sec. 366: definition of support order: p. 60

1. Definition of support order (453(p)).

Sec. 371: international support enforcement: p. 61

1. Correction of reference (454(32)(A); 459A(d)).

Sec. 375: CSE for Indian tribes:

1. Cooperative agreements with States (454(33)).
2. Direct Federal funding to Indian tribes and tribal organizations (455(b)). p. 62
 - A. Technical correction (455[(b)](f)).
 - B. Direct grants to tribes (455(f)).

TITLE IV--RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Secs. 402; 403; 412; 431: cross-cutting amendments
concerning exceptions to benefit limitations: p. 64

1. Corrections to reference concerning aliens whose deportation is withheld.
2. **Exceptions for certain Amerasian immigrants.**
3. Clarifications of exceptions for veterans and active duty military.

p. 66

Sec. 401: ineligibility of non-qualified aliens for
Federal public benefits: p. 68

1. Clarification of Medicare entitlement.

Sec. 402: limited eligibility of qualified aliens for
certain Federal programs:

1. Clarification of qualified aliens' eligibility for emergency benefits.

Sec. 403: 5-year limited eligibility for means-tested
public benefits: p. 70

1. Correction of reference concerning Cuban and Haitian entrants.

Related Programs Appropriations Act, 1991, Public Law 101-513."

(2) FOR PURPOSES OF TANF, SSBG, AND MEDICAID.--Section 402(b)(2)(A) is amended--

(A) by striking "; or" at the end of clause (ii);

(B) by striking the period at the end of clause (iii) and inserting "; or"; and

(C) by adding at the end the following new clause:

"(iv) an alien described in subsection (a)(2)(A)(iv).".

(3) FOR PURPOSES OF EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS.--Section 403(b)(1) of PRWORA is amended by adding at the end the following new subparagraph:

"(D) An alien described in section 402(a)(2)(A)(iv).".

(4) FOR PURPOSES OF CERTAIN STATE PROGRAMS.--Section 412(b)(1) of PRWORA is amended by adding at the end the following new subparagraph:

"(D) An alien described in section 402(a)(2)(A)(iv).".

3. CLARIFICATIONS OF EXCEPTIONS FOR VETERANS AND ACTIVE DUTY MILITARY.

Problems: (1) Veterans and active duty military personnel are excepted from the limitations under title IV of PRWORA on eligibility for SSI and food stamps (sec. 402(a)); eligibility



for TANF, SSBG, and Medicaid (sec. 402(b)); the five-year limited eligibility for means-tested Federal benefits (sec. 403); and eligibility for State public benefit programs (sec. 412). However, in defining "veteran" these provisions refer only to 38 U.S.C. 101, thus omitting certain categories of individuals defined as veterans under other provisions of 38 U.S.C. Thus, for example, 38 U.S.C. 107 defines certain individuals serving in the military forces of the Philippines as veterans for purposes of certain benefits). 38 U.S.C. 1101 and 1301 define as veterans individuals who died on active military duty, for purposes of treating their survivors as the survivors of veterans.

(2) The same provisions of PRWORA provide an exception for the "spouse" or unmarried dependent child of a veteran or active duty military personnel. The term "spouse" does not include widow or widower. As an example, aliens who qualify for SSI as spouses of veterans or military service personnel would lose their SSI eligibility if the veteran or military service personnel dies. This seems contrary to the intent of the provision to provide access to these programs for dependents of persons who have served in the military service.

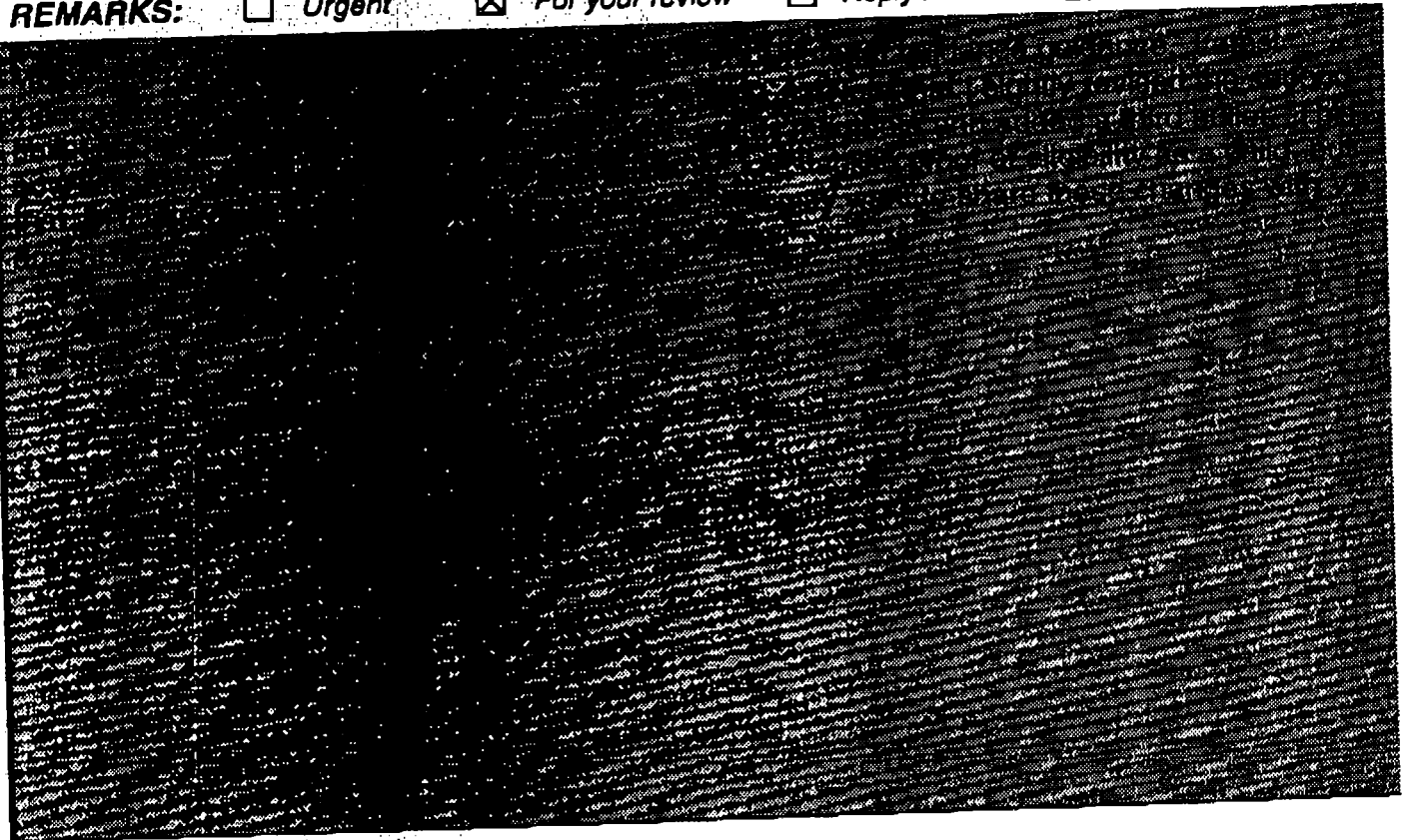
The following amendments broaden the definition of "veteran" used in title IV to include all veterans, and broaden the exceptions to include the widows and widowers of veterans and active duty military personnel.

Proposed amendments:

() CLARIFICATION OF VETERANS' AND ACTIVE DUTY MILITARY
EXCEPTIONS TO ELIGIBILITY LIMITATIONS.--

(1) DEFINITION OF "VETERAN".--Sections 402(a)(2)(C)(i), 402(b)(2)(C)(i), 403(b)(2)(A), and 412(b)(3)(A) of PRWORA are each amended by striking "section 101 of".

(2) EXCEPTION APPLICABLE TO WIDOWS AND WIDOWERS.--
Sections 402(a)(2)(C)(iii), 402(b)(2)(C)(iii), 403(b)(2)(C), and 412(b)(3)(C) of PRWORA are each amended by inserting "(including widow or widower)" after "spouse".

FAX**Date** 12/13/96**Number of pages including cover sheet****TO:** Molly
Domestic Policy**Phone** 202-456-5561
Fax Phone 202-456-7028**FROM:** LTC Bernard Ingold
OSD-PR-RR-LP
4000 Defense
Pentagon
Washington DC 20301**Phone** 697-3387
Fax Phone 693-6708**CC:****REMARKS:** ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

**Guidance for Implementing the Veteran and Active Duty Member
Exception**
[402(b)(2)(c) of Pub. L. 104-193]

This fact sheet provides guidance for implementing section (402(b)(2)(c) and 412(b)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These sections limit a state's authority to determine eligibility of certain aliens to receive benefits. An alien who is lawfully residing in a state and is (1) a veteran (per 38 U.S.C. section 101(2)) with an Honorable Discharge (not on account of alienage), (2) on active duty (other than active duty for training) in the United States Armed Forces; or (3) a spouse or unmarried dependent child of such an individual, is a "qualified alien" who shall be eligible for any designated Federal program.

Honorably Discharged Veterans

- A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge "Honorable" is acceptable to qualify for the veteran exemption without further inquiry, unless the certificate appears to have been altered or is otherwise irregular. A discharge certificate that shows character of discharge as anything but "Honorable" is not acceptable for purposes of this exemption and need not be referred to the VA. A discharge certificate that shows "Honorable" and any other branch of service or any other type of duty (e.g., "Active Duty for Training," "Inactive Duty for Training," etc.) should be referred to the local VA regional office for determination as to veteran status.
- If veteran status is claimed, but the individual has no papers showing service or discharge, refer the inquiry to the local VA regional office to determine veteran status.
- Applications for exception based on status as a spouse or unmarried dependent child of an honorably discharged veteran should be referred to the VA for a determination of the status of the veteran if the spouse or child is unable to produce a discharge certificate. The determination as to whether the individual is a spouse or unmarried dependent child should be made based on your agency guidance for marital and dependency status. VA will not make spousal or dependency findings in these cases.

Members on Active Duty

- Active duty as a member of the Armed Forces means the individual is on full time duty in the U. S. Army, Navy, Air Force, Marine Corps, or Coast Guard. It does not include full-time National Guard duty.

- Service members on active duty shall establish their status by presenting a current Military Identification Card (DD Form 2 (Active)) that lists an expiration date of more than one year from the date of determination.
- If the Military Identification Card is due to expire within one year from the date of the determination, the service member shall verify active duty by showing a copy of his or her current military orders. If the service member is unable to furnish a copy of his or her military orders, active duty may be verified through the nearest RAPIDS (Real Time Automated Personnel Identification System) (located at many military installations) or by notifying the following office in writing (which can be transmitted by facsimile):

DEERS Support Office
ATTN: Research and Analysis
400 Gigling Road
Seaside, California 93955-6771
Fax Number (408) 655-8317

Reserve Members (not on active duty for training)

- Active duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible status. However, a discharge from active duty for training may establish veteran status and should be referred to VA for a determination.
- A Member of a Reserve Component shall establish status by showing a current DD Form 2 (Reserve) [red] and military active duty orders showing such person is on active duty, but not on active duty for training. No other method for verifying this status is currently available.

Spouse or Children of Active Duty Members or Veterans

Step 1. Establish that the individual is a spouse or a dependent child of an active duty member or veteran.

- A spouse is a wife or husband who is validly married and possesses evidence of marriage (such as a marriage certificate). Possession of a military Identification Card showing that the individual is married to a veteran or active duty member is sufficient to establish marriage to the member.

- A dependent child is a child of a veteran or active duty member of the Armed forces who is the legally adopted or the biological child of an active duty member of the Armed Forces or an honorably discharged veteran of the Armed Forces of the U.S., or the biological or legally adopted child of his or her spouse, and is not married. A dependent child's possession of a valid Military Dependent Identification Card presumptively establishes that the child is dependent on the veteran or on the active duty member of the Armed Forces for his or her support and is under the age of eighteen or if a full-time student, under age 22.
- If a spouse or child is not in possession of a Military Identification Card, the determination as to whether the individual is a qualifying spouse or unmarried dependent child should be made based on your agency guidance for marital and dependency status.

Step 2. Determine that the member is on active duty or is a veteran.

- A spouse or child in possession of a Military Identification Card with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement for the sponsor.
- If the Identification Card is due to expire within one year, the spouse or child must provide a copy of the sponsor's military orders to establish the active duty status of the service member. If married to a reserve member or if an unmarried child of a reserve member, the orders must show that the service member is on active duty and not on active duty for training.
- For dependents not possessing military orders but possessing an Identification Card with an expiration date less than one year from the date of the date of presentation active duty status can be verified by contacting RAPIDS or the DEERS Support Office.
- If a dependent child does not possess a Dependent Military Identification Card, status may be ascertained through the nearest RAPIDS (Real Time Automated Personnel Identification System) station or by contacting the DEERS Office at the address provided above.
- A spouse or child showing a discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps or Coast Guard and character of discharge "Honorable" is acceptable to establish veteran status without further inquiry, unless the certificate appears to be altered or irregular. If veteran status is claimed, but the spouse or child does not have papers showing service or discharge, refer the inquiry to the local VA regional office for determination of status of the veteran or character of discharge.

**Guidance for Implementing the Veteran and Active Duty Member
Exception**
[402(b)(2)(c) of Pub. L. 104-193]

This fact sheet provides guidance for implementing section (402(b)) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 402(b)(3) limits a state's authority to determine eligibility of certain aliens to receive benefits. An alien who is lawfully residing in a state and is (1) a veteran (per 38 U.S.C. section 101(2)) with an Honorable Discharge (not on account of alienage), (2) on active duty (other than active duty for training) in the United States Armed Forces; or (3) a spouse or unmarried dependent child of such an individual, is a "qualified alien" who shall be eligible for any designated Federal program.

Honorably Discharged Veterans

- A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge "Honorable" is acceptable to qualify for the veteran exemption without further inquiry, unless the certificate appears to have been altered or is otherwise irregular. A discharge certificate that shows character of discharge as anything but "Honorable" is not acceptable for purposes of this exemption and need not be referred to the VA. A discharge certificate that shows "Honorable" and any other branch of service or any other type of duty (e.g., "Active Duty for Training," "Inactive Duty for Training," etc.) should be referred to the local VA regional office for determination as to veteran status.
- If veteran status is claimed, but the individual has no papers showing service or discharge, refer the inquiry to the local VA regional office to determine veteran status.
- Applications for exception based on status as a spouse or unmarried dependent child of an honorably discharged veteran should be referred to the VA for a determination of the status of the veteran if the spouse or child is unable to produce a discharge certificate. The determination as to whether the individual is a spouse or unmarried dependent child should be made based on your agency guidance for marital and dependency status. VA will not make spousal or dependency findings in these cases.

Members on Active Duty

- Active duty as a member of the Armed Forces means the individual is on full time duty in the U. S. Army, Navy, Air Force, Marine Corps, or Coast Guard. It does not include full-time National Guard duty.

- Service members on active duty shall establish their status by presenting a current Military Identification Card (DD Form 2 (Active)) that lists an expiration date of more than one year from the date of determination.
- If the Military Identification Card is due to expire within one year from the date of the determination, the service member shall verify active duty by showing a copy of his or her current military orders. If the service member is unable to furnish a copy of his or her military orders, active duty may be verified through the nearest RAPIDS (Real Time Automated Personnel Identification System) (located at many military installations) or by notifying the following office in writing (which can be transmitted by facsimile):

DEERS Support Office
ATTN: Research and Analysis
400 Gigling Road
Seaside, California 93955-6771
Fax Number (408) 655-8317

Reserve Members (not on active duty for training)

- Active duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible status. However, a discharge from active duty for training may establish veteran status or should be referred to VA for a determination.
- A Member of a Reserve Component shall establish status by showing a current DD Form 2 (Reserve) [red] and military active duty orders showing such person is on active duty, but not on active duty for training. No other method for verifying this status is currently available.

Spouse or Children of Active Duty Members or Veterans

Step 1. Establish that the individual is a spouse or a dependent child of an active duty member or veteran.

- A spouse is a wife or husband who is validly married and possesses evidence of marriage (such as a marriage certificate). Possession of a military Identification Card showing that the individual is married to a veteran or active duty member is sufficient to establish marriage to the member.

- A dependent child is a child of a veteran or active duty member of the Armed forces who is the legally adopted or the biological child of an active duty member of the Armed Forces or an honorably discharged veteran of the Armed Forces of the U.S., or the biological or legally adopted child of his or her spouse, and is not married. The child must be dependent on the veteran or on the active duty member of the Armed Forces for his or her support and must be under the age of eighteen or if a full-time student, under age 22. Possession of a Military Identification Card is proof that a child is a dependent of the member.

Step 2. Determine that the member is on active duty or is a veteran.

- A spouse or child in possession of a Military Identification Card with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement for the sponsor.
- If the Identification Card is due to expire within one year, the spouse or child must provide a copy of the sponsor's military orders to establish the active duty status of the service member. If married to a reserve member or if an unmarried child of a reserve member, the orders must show that the service member is on active duty and not on active duty for training.
- For dependents not possessing military orders but possessing an Identification Card with an expiration date less than one year from the date of the date of presentation active duty status can be verified by contacting RAPIDS or the DEERS Support Office.
- If a dependent child does not possess a Dependent Military Identification Card, status may be ascertained through the nearest RAPIDS (Real Time Automated Personnel Identification System) station or by contacting the DEERS Office at the address provided above.
- A spouse or child showing a discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps or Coast Guard and character of discharge "Honorable" is acceptable to establish veteran status without further inquiry, unless the certificate appears to be altered or irregular. If veteran status is claimed, but the spouse or child does not have papers showing service or discharge, refer the inquiry to the local VA regional office for determination.

DRAFT

In reply refer to: 213B (96-)

Director (00/21)

All VBA Regional Offices and Centers

SUBJ: Limited Eligibility of Qualified Aliens for Certain Federal Programs

1. Public Law 104-193, enacted on August 22, 1996, limits eligibility of legal aliens under certain Federal programs, including SSI, Temporary Assistance to Needy Families (TANF), Food Stamps, Medicaid, and some means-tested benefits.
2. Specific exception to the limitation allows the following individuals to be considered for eligibility:
 - a. An alien who is lawfully residing in any state and who is a veteran (as defined in Title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage; or
 - b. An alien on active duty (other than active duty for training) in the Armed Forces of the United States; or
 - c. The spouse (including widow or widower) or unmarried dependent child of an individual in either of these categories.
3. Under 38 U.S.C. § 101(2), a "veteran" is defined as a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.
4. The phrase "active military, naval, or air service" is defined in 38 U.S.C. § 101(24) as including *active duty*, any period of *active duty for training* during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of *inactive duty training* during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty. (See 38 U.S.C. § 101, paragraphs (21), (22), and (23) for definitions of "active duty," "active duty for training," and "inactive duty training.")
5. In some cases, the agencies responsible for administering these programs may contact VA to verify that the individual meets the definition of "veteran" and has a discharge characterized as honorable. We do not anticipate that there will be a large number of these requests since the law is specific about requirements, and we have issued guidelines to Federal, State and local agencies to assist them in making eligibility determinations without referring them to VA.

DRAFT

DRAFT

a. If the discharge certificate shows active duty in Army, Navy, Air Force, Marine Corps, or Coast Guard and character of service is "Honorable," the determination will be made without referral to VA.

b. If the discharge certificate shows any characterization of service other than "Honorable," eligibility to the veteran exemption is not established and the determination will be made without referral to VA. The issue of whether the discharge is characterized as honorable is determined by the appropriate service department. VA will not make character of discharge determinations for purposes of Public Law 104-193 since discharges shown as "Uncharacterized," "General," or "Under Honorable Conditions" are not acceptable to establish eligibility under this exception.

c. If the discharge certificate shows character of discharge as "Honorable," and "ACDUTRA," "Inactive Duty Training," or anything other than active duty, the Federal, State or local agencies will send an inquiry to VA. VA will respond by stating whether veteran status is established under applicable law.

d. If the individual claims veteran status and a discharge characterized as "honorable," but presents no discharge certificate, the agency will send an inquiry to VA to determine veteran status. If the individual has previously filed a claim with VA, this information may be available in VA records. However, if there is no prior claim, development for service verification and character of discharge will be undertaken. BIRLS cannot be used to verify discharge for these eligibility determinations since the "Hon" indicator can also include discharges characterized as "General" and "Under Honorable Conditions." If development is needed before a response can be given, the requesting agency will be notified that there will be a delay in responding until necessary information can be obtained from the service department.

6. Most VA systems of records contain a routine use authorizing VA to disclose information to Federal, State, or local agencies--provided the agency supplies the veteran's name and address--in order to assist the veteran in obtaining a benefit. If the requestor is not a Federal, State or local agency, the veteran's prior written consent is required before releasing information concerning veteran or discharge status.

7. VA will not make spousal or dependency findings in these cases. The applicant's status as spouse or dependent child of an honorably discharged veteran will be governed by rules of the Federal, State or local agency providing the benefit sought.

8. If there are questions concerning this letter, please contact Lorna Fox, Procedures Staff, at (202) 273-7223, or via E-mail at Mail VBA 213B.

DRAFT

SOCIAL SECURITY ADMINISTRATION
DCPP, OPBP
760 ALTMAYER BLDG.
FAX NUMBER: 410-965-8582

ADDRESSEE		FROM	
Name: Molly Brostom		Name: Diane Blackman	
Location/Organization: Domestic Policy Council		Location/Organization: SSA, OFP, OPBP	
Telephone Number: 202-456-5561		Telephone Number: 410-965-3571	
Facsimile Telephone No: 202-456-7028		Total Number Of Pages: Cover + 4	Date 11/1/96

MISCE:

As requested:
SSA comments on "Guidance
for implementing the Veteran and Active
Duty Member Exception"

Allison Coyne
410/965-4804

Guidance for Implementing the Veteran and Active Duty Member Exception

The Social Security Administration would like to offer the following comments on the draft procedures.

SUGGESTED CHANGES:

- o Page 1, paragraph 1:

We believe it is more precise to cite in the first sentence "...sections 402(b) (2) (C) and 412(b) (3)...."

The second sentence then could read "These sections limit"

In the last sentence, the penultimate line, we believe the word "certificate" can be misleading. The existence of a certificate is not an eligibility factor; the character of the discharge is the factor. *So, instead?*

Also in the same line, we suggest adding after "discharge" in parentheses "(not on account of alienage)". *why?*

- o Page 1, 3rd bullet, line 2 under Honorably Discharged Veterans:

Suggest either deleting "an" or make "veterans" singular. *Non-citizen can request discharge based on alienage*

- o Page 2, 3rd bullet, line 4:

We believe "or" should be "and". *DoD - 2 types of discharge: authenticator; - abbreviated; - complete → narrative*

- o Page 3, 1st bullet penultimate line:

Delete "of" after "proof".

QUESTION:

The draft does not discuss how to determine if the discharge was based on alienage. Will the VARO determine if the discharge was based on alienage when an inquiry is received?

POSSIBLE FUTURE CHANGE/QUESTION:

The General Counsel for SSA is considering whether an unmarried dependent child can include a person regardless of age who by relationship is a child of a veteran or active duty member and who is dependent upon such individual (e.g., a severely disabled adult child); see page 3, bullet 1, lines 6 and 7. If the final decision is to include such children, will such children have the Identification Card noted on Page 3, Step 2 or will the procedure in bullet 4 be followed or will this require a different procedure?

is this the same? why not?

is this a dec?

Guidance for Implementing the Veteran and Active Duty Member Exception

[402(b)(2)(c) of Pub. L. 104-193] s 402(b)(2)(c) and 412(b)(3)

This fact sheet provides guidance for implementing section [of (402(b)(3))] of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. [Section] These sections 402(b)(3) [limit] a state's authority to determine eligibility of aliens to receive benefits. An alien who is lawfully residing in a state and is (1) a veteran (per 38 U.S.C. section 101(2) with an Honorable Discharge (not on account of alienage), (2) on active duty (other than active duty for training) in the United States Armed Forces; or (3) or a spouse or unmarried dependent child of an individual on active duty (not on active duty for training) or of a veteran with an honorable discharge [certificate] is a "qualified alien" who shall be eligible for any designated Federal program. (not on account of alienage) repetitive, but consistent

Honorably Discharged Veterans

- A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge "Honorable" is acceptable to qualify for the veteran exemption without further inquiry, unless the certificate appears to have been altered or is otherwise irregular. A discharge certificate that shows character of discharge as anything but "Honorable" is not acceptable for purposes of this exemption and need not be referred to the VA. A discharge certificate that shows "Honorable" and any other branch of service or any other type of duty (e.g., "Active Duty for Training," "Inactive Duty for Training," etc.) should be referred to the local VA regional office for determination as to veteran status.
- If veteran status is claimed, but the individual has no papers showing service or discharge, refer the inquiry to the local VA regional office to determine veteran status.
- Applications for exception based on status as a spouse or unmarried dependent child of an honorably discharged veteran should not be referred to the VA. VA will not make spousal or dependency findings in these cases.

Members on Active Duty

- Active duty as a member of the Armed Forces means the individual is on full time duty in the U. S. Army, Navy, Air Force, Marine Corps, or Coast Guard. It does not include full-time National Guard duty.

- Service members on active duty shall establish their status by presenting a current Military Identification Card (DD Form 2 (Active)) that lists an expiration date of more than one year from the date of determination.
- If the Military Identification Card is due to expire within one year from the date of the determination, the service member shall verify active duty by showing a copy of his or her current military orders. If the service member is unable to furnish a copy of his or her military orders, active duty may be verified through the nearest RAPIDS (Real Time Automated Personnel Identification System) (located at many military installations) or by notifying the following office in writing (which can be transmitted by facsimile):

DEERS Support Office
ATTN: Research and Analysis
400 Gigling Road
Seaside, California 93955-6771
Fax Number (408) 655-8317

Reserve Members (not on active duty for training)

- Active duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible status. However, a discharge from active duty for training may establish veteran status ☐ and should be referred to VA for a determination.
- A Member of a Reserve Component shall establish status by showing a current DD Form 2 (Reserve) ☐ and military orders showing such person is on active duty, but not on active duty for training. No other method for verifying this status is currently available.

Spouse or Children of Active Duty Members

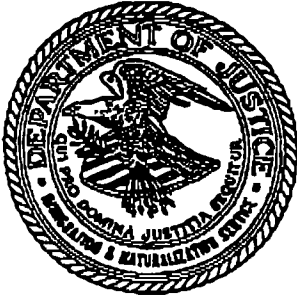
Step 1. Establish that the individual is a spouse or dependent child of an active duty member or veteran.

- A spouse is a wife or husband who is validly married and possesses evidence of marriage (such as a marriage certificate). Possession of a military Identification Card showing that the individual is married to a veteran or active duty member is sufficient to establish marriage to the member.

- A child is an unmarried dependent child of a veteran or active duty member of the Armed Forces who is the legally adopted or biological child of an active duty member of the Armed Forces or an honorably discharged veteran of the Armed Forces of the U.S., or the biological or legally adopted child of his or her spouse, and is not married. The child must be dependent on the veteran or on the active duty member of the Armed Forces for his or her support and must be under the age of eighteen or under age 22 and regularly attending school as a student. Possession of a military Identification card is proof of that a child is a dependent on the member and meets the age requirements.

Step 2. Determine that the member is on active duty or a veteran.

- A spouse or child in possession of a Military Identification Card with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement for the sponsor.
- If the Identification Card is due to expire within one year, the spouse or child must provide a copy of the sponsor's military orders to establish the active duty status of the service member. If married to a reserve member or if an unmarried child of a reserve member, the orders must show that the service member is on active duty and not on active duty for training.
- For dependents not possessing military orders but possessing an Identification Card with an expiration date less than one year from the date of the date of presentation active duty status can be verified by contacting RAPIDS or the DEERS Support Office.
- If a dependent child does not possess a Dependent Military Identification Card, (children under 10 years old are not issued Identification Cards) status may be ascertained through the nearest RAPIDS (Real Time Automated Personnel Identification System) station or by contacting the DEERS Office at the address described above.
- A spouse or child showing a discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps or Coast Guard and character of discharge "Honorable" is acceptable to establish veteran status without further inquiry, unless the certificate appears to be altered. If veteran status is claimed, but the spouse or child does not have papers showing service or discharge, refer the inquiry to the local VA regional office for determination.



United States Department of Justice
Immigration and Naturalization Service
425 I Street, N.W., Washington, D.C. 20536

Facsimile Transmission Cover Sheet

TO: Molly Brostrom **Date:** 11/5
OFFICE: _____ **Room:** _____

Phone No.: _____

Fax No.: _____

FROM: Barbara Strack
Office of the Executive Associate Commissioner,
Policy and Planning

Room - 6038

Phone No.: (202) 514-3242

Fax No.: (202) 305-0134

No. of Pages: Cover + 3

SUBJECT: _____

DISCUSSION:

Guidance for Implementing the Veteran and Active Duty Member Exception

[402(b)(2)(c) of Pub. L. 104-193]

This fact sheet provides guidance for implementing section of (402(b)(3)) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 402(b)(3) limits a state's authority to determine eligibility of aliens to receive benefits. An alien who is lawfully residing in a state and is (1) a veteran (per 38 U.S.C. section 101(2) with an Honorable Discharge (not on account of alienage), (2) on active duty (other than active duty for training) in the United States Armed Forces; or (3) or a spouse or unmarried dependent child of an individual of on active duty (not on active duty for training) or of a veteran with an honorable discharge certificate, is a "qualified alien" who shall be eligible for any designated Federal program.

Honorably Discharged Veterans

- A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge "Honorable" is acceptable to qualify for the veteran exemption without further inquiry, unless the certificate appears to have been altered or is otherwise irregular. A discharge certificate that shows character of discharge as anything but "Honorable" is not acceptable for purposes of this exemption and need not be referred to the VA. A discharge certificate that shows "Honorable" and any other branch of service or any other type of duty (e.g., "Active Duty for Training," "Inactive Duty for Training," etc.) should be referred to the local VA regional office for determination as to veteran status. *agency or individual?*
- If veteran status is claimed, but the individual has no papers showing service or discharge, refer the inquiry to the local VA regional office to determine veteran status. *does agency or individual*
- Applications for exception based on status as a spouse or unmarried dependent child of an honorably discharged veterans should not be referred to the VA. VA will not make spousal or dependency findings in these cases.

Members on Active Duty

- Active duty as a member of the Armed Forces means the individual is on full time duty in the U. S. Army, Navy, Air Force, Marine Corps, or Coast Guard. It does not include full-time National Guard duty.

- Service members on active duty shall establish their status by presenting a current Military Identification Card (DD Form 2 (Active)) that lists an expiration date of more than one year from the date of determination.
- If the Military Identification Card is due to expire within one year from the date of the determination, the service member shall verify active duty by showing a copy of his or her current military orders. If the service member is unable to furnish a copy of his or her military orders, active duty may be verified through the nearest RAPIDS (Real Time Automated Personnel Identification System) (located at many military installations) or by notifying the following office in writing (which can be transmitted by facsimile):

DEERS Support Office
ATTN: Research and Analysis
400 Gigling Road
Seaside, California 93955-6771
Fax Number (408) 655-8317

who does this?

Reserve Members (not on active duty for training)

- Active duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible status. However, a discharge from active duty for training may establish veteran status or should be referred to VA for a determination. *individual or agency?*
- A Member of a Reserve Component shall establish status by showing a current DD Form 2 (Reserve) (red) and military orders showing such person is on active duty, but not on active duty for training. No other method for verifying this status is currently available.

Spouse or Children of Active Duty Members

Step 1. Establish that the individual is a spouse or dependent child of an active duty member or veteran.

- A spouse is a wife or husband who is validly married and possesses evidence of marriage (such as a marriage certificate). Possession of a military Identification Card showing that the individual is married to a veteran or active duty member is sufficient to establish marriage to the member.

- A child is an unmarried dependent child of a veteran or active duty member of the Armed Forces who is the legally adopted or biological child of an active duty member of the Armed Forces or an honorably discharged veteran of the Armed Forces of the U.S. or the biological or legally adopted child of his or her spouse, and is not married. The child must be dependent on the veteran or on the active duty member of the Armed Forces for his or her support and must be under the age of eighteen or under age 22 and regularly attending school as a student. Possession of a military Identification card is proof of that a child is a dependent on the member and meets the age requirements.

Step 2. Determine that the member is on active duty or a veteran.

- A spouse or child in possession of a Military Identification Card with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement for the sponsor.
- If the Identification Card is due to expire within one year, the spouse or child must provide a copy of the sponsor's military orders to establish the active duty status of the service member. If married to a reserve member or if an unmarried child of a reserve member, the orders must show that the service member is on active duty and not on active duty for training.
- For dependents not possessing military orders but possessing an Identification Card with an expiration date less than one year from the date of presentation active duty status can be verified by contacting RAPIDS or the DEERS Support Office. *agency contacts?*
- If a dependent child does not possess a Dependent Military Identification Card, (children under 10 years old are not issued Identification Cards) status may be ascertained through the nearest RAPIDS (Real Time Automated Personnel Identification System) station or by contacting the DEERS Office at the address described above.
- A spouse or child showing a discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps or Coast Guard and character of discharge "Honorable" is acceptable to establish veteran status without further inquiry, unless the certificate appears to be altered. If veteran status is claimed, but the spouse or child does not have papers showing service or discharge, refer the inquiry to the local VA regional office for determination.

EXECUTIVE OFFICE OF THE PRESIDENT

26-Nov-1996 11:05am

TO: Molly Brostrom

FROM: Stephen C. Warnath
Domestic Policy Council

SUBJECT: RE: I assume you don't have comments on the veterans/dod wel
SUBJECT: _____

It looks pretty good as far as it goes, but I agree with the handwritten questions in the margins. Several times the notes ask "how long?" for a particular step -- Do we know? Have those issues been addressed? Is there a later draft?

Also, is there a good mechanism for appeal when there are problems with establishing eligibility in a category? For example, it seems like there would be difficult cases of establishing dependent child status that we need to anticipate. I want to make sure that we can address the hard cases in the best possible way.

thanks

Randall Converse 410/965-9770

➤ Concern that offices will not recognize discharge based on alienage?

DD form 214

- supposed to describe

Block 28 - narrative list of reasons for ^{separation} discharge

26 - ^{separation} coded

list of reasons



What

How will a discharge based on alienage be described?

SEP-20-96 15:18 FROM:

ID:

PAGE 2/5

POTENTIAL IMPACT OF THE WELFARE REFORM BILL ON NONCITIZEN VETERANS

The "Personal Responsibility and Work Opportunity Act of 1996" (the Act) was recently passed by Congress and signed into law by the President. Some provisions of the Act may have a negative impact on a small number of noncitizen veterans. This paper will briefly discuss the relevant portions of the Act and discuss the potential impact on these noncitizen veterans.

THE ACT

The Act will turn most Federal entitlement programs for the poor into block grants to the states and subject many beneficiaries to new work requirements and time limits. It also addresses eligibility of aliens for certain Federal public benefits. Relevant sections include sections 401-403, section 412 and section 421. These provisions are potentially relevant to VA programs because VA provides benefits to noncitizen or alien veterans who served in the active military, naval or air service of the United States.

Section 401 states that an alien who is not a "qualified alien," as defined in section 431 of the Act, is not eligible for any Federal public benefit. VA benefits constitute "Federal public benefits" as defined in the Act, and the exceptions listed in section 401(b) do not include VA benefits. Therefore, if an alien veteran does not meet the definition of a "qualified alien," he or she would lose VA benefits. Further, VA has authority to provide care and services abroad for a service-connected disability of a veteran who is not a citizen if the Secretary determines that it is appropriate and feasible to furnish such care and services. 38 U.S.C. § 1724(a)(2)(B). If an alien who would otherwise be eligible for VA benefits abroad enters the United States and does not meet the definition of a "qualified alien," it is possible that he or she would lose benefits.

In addition to eliminating eligibility for non-qualified aliens, the Act also limits benefits to qualified aliens. For example, Section 402 of the Act limits eligibility of qualified aliens for certain Federal programs; section 403 contains a five-year limited eligibility provision for Federal means-tested public benefits; and section 412 limits eligibility of qualified aliens for State public benefits. All of these sections contain specific exceptions for most veterans. However, the exemption only applies to veterans with "honorable discharges." Therefore, noncitizen veterans discharged "under conditions other than dishonorable" may lose benefits to which they would otherwise be entitled.

Section 421 of the Act contains a provision attributing a sponsor's income and resources to an alien. Therefore, when "eligibility" for VA benefits is need-based (as in determining eligibility for VA health care benefits and pension benefits), and when the other requirements of the Act are met, VA will be required to consider the income and resources of a sponsor as well as a noncitizen veteran when determining eligibility.

✓ determining

✓ VA don't want

THE IMPACT

We believe that the Act will ultimately impact a very small number of veterans. However, based on information presently available, it is almost impossible to determine the actual number of veterans who will be impacted by the Act. VA's automated records do not contain citizenship data, and no one VA program has collected this information. Further, even if we had definitive numbers, we would still have to guess at how many noncitizen veterans living abroad will elect to enter the United States, either legally or illegally.

We do have some numbers that may, at best, *suggest* the size of the affected population. As discussed below, we know the number of noncitizen veterans living in the United States; the number of veterans whose disability compensation benefits are sent to addresses abroad; and information regarding the number of veterans participating in VA's Foreign Medical Program.

Census Information

The National Center for Veterans Analysis and Statistics contacted DOD personnel to obtain the number of foreign born veterans who are not citizens (133,457). This information is based on the 1990 census, and it therefore reflects noncitizen veterans who are already in this country. The information does not indicate their status in this country (*i.e.*, whether or not they are "legal" immigrants). Therefore, it is not possible to determine how many of the veterans are "qualified aliens." Also, this number may be underreporting the population of noncitizen veterans, as an individual who is in this country illegally may be reluctant to participate in a census. Further, this number is not helpful in determining how many veterans may be eligible for benefits while abroad, yet lose that eligibility if they enter the U.S. and don't meet the definition of a "qualified alien."

The Act contains a number of exceptions for veterans who received "honorable discharges." The census numbers do not indicate the status of the noncitizen veterans on discharge. Since the census numbers do not indicate the discharge status of the veterans, these figures are not helpful in determining how many noncitizen veterans will lose benefits because they were discharged under conditions other than dishonorable.

With regard to the deeming provision, the census figure does not reflect the noncitizen veterans who are still living abroad, so it is not useful in determining the number of noncitizen veterans who may be affected by this provision of the Act if they were to come to the U.S. and seek need based services from VA.

Noncitizen Veterans Receiving VA Disability Compensation

In 1990, the GAO attempted to determine the number of noncitizen veterans receiving VA disability compensation. Their study was hampered by the fact that

SEP-28-86 15:17 FROM:

ID:

PAGE 4/5

citizenship data is not included in VA's automated records. They ultimately based their figures on the number of compensation checks that are sent to foreign addresses (6,277). Since this number will include both citizens and noncitizens living abroad, and since it does not include those noncitizen veterans living abroad who receive no disability compensation, this figures provides no definitive information regarding the number of noncitizen veterans who may be affected by this Act.

Veterans Receiving Care in the Foreign Medical Program

VA has a program for providing medical care to veterans who are abroad. As of August 31, 1996, a total of 4,512 veterans were enrolled in the Foreign Medical Program. Some of these individuals are no doubt noncitizens; however, the program does not distinguish between citizens and noncitizens. Further, there may be noncitizen veterans who choose not to participate in this program. Therefore, this number does not provide any definitive information as to how many veterans may be affected by the Act. > ✓

CONCLUSION

There are certainly some noncitizen veterans who will be negatively impacted by the Act, including veterans who do not meet the definition of a "qualified alien," who were discharged "under conditions other than dishonorable," or who seek need-based assistance after entering the U.S. Because we do not know the exact number of noncitizen veterans living in the U.S. or abroad, and because the negative impact of the Act would also depend on how many noncitizen veterans moved to the United States, it is almost impossible to identify the number of individuals who may be affected. It may be that the only way to get definitive information regarding the impact of the Act is to observe anecdotal incidents as they occur. ✓✓✓

SEP-20-88 16:17 FROM:

ID:

PAGE 5/6

Foreign Born Veterans: 1990 Census

	Foreign born veterans	Foreign born and not a citizen
Male	648,919	121,887
Female	39,547	11,580
Both Sexes	689,466	133,457

Note: Veterans include less than two years of service after 1980

Prepared by
Demographics Division
National Center for Veterans Analysis and Statistics
Office of Policy and Planning

GAO

Fact Sheet for the Chairman,
Committee on the Judiciary,
House of Representatives

September 1996

VETERANS' BENEFITS

Information on Noncitizen Veterans Receiving VA Disability Compensation



GAO HRD 96-1638

GAO

United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

B-240486

September 12, 1980

The Honorable Jack Brooks
Chairman, Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

This fact sheet responds to your February 7, 1980, request for information about the number of noncitizen veterans who served less than 3 years in the military and are receiving disability compensation from the Department of Veterans Affairs (VA). Your office also requested information on the nature of the disabilities for which such veterans are being compensated.

Background

From time to time foreign citizens volunteer for and are inducted into the U.S. armed forces. Such people who have been discharged from the armed forces under conditions other than dishonorable are entitled to benefits administered by VA. Some became disabled and were discharged from military service before completing 3 years of service.

Under current law (8 U.S.C. 1439(a)) noncitizen veterans who have served at least 3 years of military service may petition for naturalization, without having to reside in the United States for the 5-year naturalization period otherwise required. The veteran must petition, however, while in the military service or within 6 months after terminating military service. Legislation (S. 1186) has been introduced to eliminate the 3-year requirement for veterans who were discharged because they had become disabled.

The proposed legislation would allow veterans who served for any period and were separated for a service-connected disability to qualify for naturalization. Such veterans would still need to petition while in the military service or within 6 months after separation.

Scope and Methodology

(We used VA's October 1980 automated benefit payment file to estimate the number of noncitizen veterans with less than 3 years' military service who are receiving VA disability compensation. From this file, we extracted all veterans who have less than 3 years' military service and whose payments are sent to foreign addresses. We extracted data on addresses because citizenship data are not in VA's automated records. This approach is limited in that it includes veterans, if any, who are U.S.

3-240486

citizens but have their payments sent to foreign countries. Conversely, it does not include non-U.S. citizens residing in the United States who fit our criteria. Therefore, our estimates should be taken as general indicators of the numbers of noncitizens involved and not as exact figures. We obtained information from the payment file on the nature (type and extent) of the disabilities for veterans included in our total.

We also queried the Department of Defense (DOD) to obtain information on the number of noncitizens discharged from the armed forces because of a disability incurred before they completed 3 years' military service, as well as the number of noncitizens currently serving in the armed forces. DOD, however, does not maintain such data in a format that we could use for our estimates.

We reviewed the specific sections of the current law (3 U.S.C. 1439) to be affected by S. 1185.

Our audit work was performed from February through June 1990. We sought the views of VA and DOD officials during our work and incorporated their comments where appropriate.

Disabled Veterans by Country

Based on VA data, table 1 shows, by country, the number of disabled veterans with foreign addresses and less than 2 years of service.

D-940-108

Table 1: Disabled Veterans With Less Than 3 Years' Military Service Whose Payments Are Sent to Foreign Addresses

Country	Number of cases
Philippines	2,725
Canada	883
Germany	383
Great Britain	168
Mexico	148
Italy	132
Australia & New Guinea	80
Greece	71
Ireland	68
France	65
Israel (West of Jordan River)	50
Spain	48
Panama	46
Costa Rica	44
Japan, Okinawa, & Ryū Ryō Island	42
Switzerland	36
Israel	26
Dominican Republic	24
Norway	24
Sweden	20
Columbia	20
Countries with fewer than 20 cases	351
Total	6,277

Veterans in table 1 and many who will be discharged in the future may not be eligible for citizenship even if the proposed legislation is enacted. If veterans in table 1 have not already petitioned for naturalization, they would not be eligible because they have all been separated from the military for more than 6 months. Also, many Filipinos in table 1 may not be eligible for citizenship without living in the United States for 5 years because they served in the Philippines forces rather than the U.S. military.

Finally, the Director of VA's Compensation and Pension Service told us that in some cases, VA is unable to determine within 6 months whether a veteran's disability is service-connected—a requirement for citizenship under the proposed legislation. Thus, VA officials believe that in the future some veterans may not petition for citizenship within 6 months of their discharge.

B340488

DoD officials told us that the Department does not maintain data to estimate the number of noncitizens discharged because of a disability incurred before they completed 3 years' service or the number of noncitizens currently serving in the armed forces. DoD, however, estimated that about 7,500 noncitizens entered the military in fiscal year 1989.

Degrees of Disability for Veterans

Veterans are eligible for disability compensation if they are partially or totally disabled by injury or disease incurred or aggravated during military service. Eligible veterans are assigned disability ratings ranging from 0 to 100 percent, according to the severity of the disability when compared to VA's Schedule for Rating Disabilities. This rating establishes the amount of monthly compensation paid to disabled veterans (see table 2).

Table 2: Degree of Disability for Veterans With Less Than 3 Years' Military Service Whose Payments Are Sent to Foreign Addresses

Degree of disability (percent)	Number of cases	Percent of cases
0	175	2.8
10	1,908	30.4
20	982	15.3
30	870	15.4
40	670	9.1
50	474	7.6
60	317	5.0
70	215	3.4
80	88	1.4
90	33	0.5
100	587	9.0
Total	6,277	

Types of Disabilities

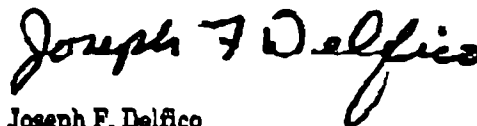
VA categorizes veterans' disabilities into 14 body systems. Table 3 shows the number of disabilities by body system for the 6,277 disabled veterans with less than 3 years of service and a foreign mailing address. Some veterans have more than one disability; thus the number of disabilities is much larger than the number of cases.

**Table 3: Types of Disabilities of Veterans
With Less Than 3 Years' Military Service
Whose Payments Are Sent to Foreign
Addresses**

Type of disabilities	Number of disabilities
Musculoskeletal	5,873
Skin	1,969
Respiratory	1,208
Mental disorders	1,073
Eyes, ears, smell, and taste	948
Digestive	888
Neurological and convulsive	596
Cardiovascular	468
Systemic diseases	357
Genitourinary	286
Endocrine	72
Dental	58
Hemic and lymphatic	46
Gynecological	18

We are sending copies of this fact sheet to appropriate congressional committees; the Secretary of VA; the Secretary of Defense; the Director, Office of Management and Budget; and other interested parties. Please call me on (202) 275-6193 if you or your staff have any questions about it. Other major contributors to this fact sheet are listed in the appendix.

Sincerely yours,



Joseph F. Delfico
Director, Income Security Issues

for such benefits may terminate by reason of the provisions of this subsection.

(II) **RECERTIFICATION CRITERIA.**—With respect to any recertification under subclause (I), the State agency shall apply the eligibility criteria for applicants for benefits under such program.

(III) **GRANDFATHER PROVISION.**—The provisions of this subsection and the recertification under subclause (I) shall only apply with respect to the eligibility of an alien for a program for months beginning on or after the date of recertification, if on the date of enactment of this Act the alien is lawfully residing in any State and is receiving benefits under such program on such date of enactment.

(3) **SPECIFIED FEDERAL PROGRAM DEFINED.**—For purposes of this title, the term “specified Federal program” means any of the following:

(A) **SSI.**—The supplemental security income program under title XVI of the Social Security Act, including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(B) **FOOD STAMPS.**—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) **LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in section 403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 431) for any designated Federal program (as defined in paragraph (3)).

(2) **EXCEPTIONS.**—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) **TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.**—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) **CERTAIN PERMANENT RESIDENT ALIENS.**—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii) (I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case of any such qualifying quarter creditable for any period

beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) **VETERAN AND ACTIVE DUTY EXCEPTION.**—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) **TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.**—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) **DESIGNATED FEDERAL PROGRAM DEFINED.**—For purposes of this title, the term “designated Federal program” means any of the following:

(A) **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.**—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) **SOCIAL SERVICES BLOCK GRANT.**—The program of block grants to States for social services under title XX of the Social Security Act.

(C) **MEDICAID.**—A State plan approved under title XIX of the Social Security Act, other than medical assistance described in section 401(b)(1)(A).

SEC. 403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT. 8 USC 16:

(a) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d), an alien who is a qualified alien (as defined in section 431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term “qualified alien”.

(b) **EXCEPTIONS.**—The limitation under subsection (a) shall not apply to the following aliens:

(1) **EXCEPTION FOR REFUGEES AND ASYLEES.**—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) **VETERAN AND ACTIVE DUTY EXCEPTION.**—An alien who is lawfully residing in any State and is—

→ Paul Leonard - guidance from HUD

* nonprofit exemption from verification

Hmong Veterans / Welfare Reform

- ^{from} Laos → came here as refugees (but no longer - timeline)
- many non-literate, no English

Question: way to interpret this law to include them as veterans?

At first, thought would have to apply as a class

~~2/2/2000~~

Walt Hall → Counsel

Are there ways to look @ law to include them?

→ high-benefit group

- fought for U.S. but not part of military

What abt
imm. bill?

honorable: how to interpret?
MIB → w/honorable discharge
other benefits → other than dishonorable

Walt Hall
Jack Thompson

Evidence

①

Sec. 101 def + Commonwealth Veterans
Filipinos, etc.

② Reservists → disabled → but not discharge or vet aid

1- Present DDZ 124 → ques. abt fuzzy lettering
if doesn't have:

2- to Reg'l Office
or VA hospital

• Disclosure

• Security → how to send?
electronic
mail
fax

3- if not on d'base → paper search

③ time extension (VA provides hosp care
until elig determined)

- appeal its?

if s.o. thinks character of ds does matter?

Computer Matching
Act

Defense Manpower Data Ctr
Helen Kerben

DoD → ① legal imm's always elig for mil. service

② Does mil. service speed up cit'ship

③ spouse or dept child

DoD has DEERS data system

• 1.5-1.6 M Active Duty → ~10-20% non-citizen
Reserves
many more Veterans

273-7208

Question - mtg again Mon am.

Sec 101 def troublesome → includes PHS, NOAA, Coast Guard,
WMI merchant marines

← Filipino veterans

Is there a way to move to other def. though reg?

Or then ind'l cert (w/large...) only?

TYPES OF SERVICE QUALIFYING AS VETERAN UNDER 38 U.S.C. 101(2)

Statutory provisions

38 U.S.C 101(2) defines the term "veteran" as a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

38 U.S.C 101(24) defines "active military, naval, or air service" as including active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

38 U.S.C 101(21) defines "active duty" as

- (A) full-time in the Armed Forces, other than active duty for training;
- (B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;
- (C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;
- (D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and
- (E) authorized travel to and from such duty or service.

38 U.S.C 101(22) defines "active duty for training" as

- (A) full-time duty in the Armed Forces performed by Reserves for training purposes;
- (B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time for the purposes of chapter 13 of this title;
- (C) in the case of members of the Army National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law;
- (D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under

chapter 103 of title 10 for a period of not less than four weeks and which must be completed by the member before the member is commissioned; and

(E) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

38 U.S.C 101(23) defines "inactive duty training" as

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law;

(B) special additional duties authorized by Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.

In the case of a member of the Army National Guard or Air National Guard or Air National of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

As further expanded by 38 CFR 3.6, active duty includes:

Full-time duty in the Armed Forces. Full-time service other than active duty for training.

Public Health Service. Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service:

NOAA. Full-time duty as a commissioned officer of the Coast and Geodetic Survey or of its successor agencies, the Environmental Science Services Administration and the National Oceanic and Atmospheric Administration:

Service Academy Cadets. Service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy.

Service Academy Prep Schools. Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy.

Travel. Authorized travel to or from active military, naval, and air service.

As further expanded by 38 CFR 3.7, the following persons are included:

Aerial transportation of mail (Pub. L. 140, 73d Congress). Persons who were injured or died while serving under conditions set forth in Pub. L. 140, 73d Congress.

Army Nurse Corps, Navy Nurse Corps, and female dietetic and physical therapy personnel.

(1) Army and Navy nurses (female) on active service under order of the service department.

(2) Dietetic and physical therapy (female) personnel, excluding students and apprentices, appointed with relative rank on or after December 22, 1942, or commissioned on or after June 22, 1944.

Aviation camps. Students who were enlisted men during World War I.

Contract surgeons. For compensation and dependency and indemnity compensation, if the disability or death was the result of disease or injury contracted in line of duty during a war period while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transit or in hospital.

Field clerks, Quartermaster Corps. Included as enlisted men.

Lighthouse service personnel. Transferred to the service and jurisdiction of War or Navy Departments by Executive order under the Act of August 29, 1916. Effective July 1, 1939, service was consolidated with the Coast Guard.

Male nurses. Persons who were enlisted men of Medical Corps.

Persons ordered to service.

(1) Any person who has:

(i) Applied for enlistment or enrollment in the active military, naval, or air service and who is provisionally accepted and directed, or ordered, to report to a place for final acceptance into the service, or

(ii) Been selected or drafted for such service, and has reported according to a call from the person's local draft board and before final rejection, or

(iii) Been called into Federal service as a member of the National Guard but has not been enrolled for Federal service, and

(iv) Suffered injury or disease in line of duty while going to, or coming from, or at such place for final acceptance or entry upon active duty, is considered to have been on active duty and therefore to have incurred such disability in active service.

Reserves. Any period during which the individual was disabled or died from an injury incurred or aggravated in line of duty. Also, periods of full-time operational or support duty.

National Guard. Any period during which the individual was disabled or died from an injury incurred or aggravated in line of duty.

Revenue Cutter Service. While serving under direction of Secretary of the Navy in cooperation with the Navy.

Training camps. Members of training camps authorized by section 54 of the National Defense Act, except members of Student Army Training Corps Camps at the Presidio of San Francisco, Plattsburg, New York, Fort Sheridan, Illinois, Howard University, Washington, D.C., Camp Perry, Ohio, and Camp Hancock, Georgia, from July 18, 1918, to September 16, 1918.

Women's Army Corps (WAC). Service on or after July 1, 1943.

Women's Reserve of Navy, Marine Corps, and Coast Guard. Same benefits as members of the Officers Reserve Corps or enlisted men of the United States Navy, Marine Corps or Coast Guard.

Russian Railway Service Corps. Service during World War I as certified by the Secretary of the Army.

Active military service certified as such under section 401 of Pub. L. 95-202. Such service if certified by the Secretary of Defense as active military service and if a discharge under honorable conditions is issued by the Secretary.

- (1) Women's Air Forces Service Pilots (WASP).
- (2) Signal Corps Female Telephone Operators Unit of World War I.
- (3) Engineer Field Clerks.
- (4) Women's Army Auxiliary Corps (WAAC).
- (5) Quartermaster Corps Female Clerical Employees serving with the AEF (American Expeditionary Forces) in World War I.
- (6) Civilian Employees of Pacific Naval Air Bases Who Actively Participated in Defense of Wake Island During World War II.
- (7) Reconstruction Aides and Dietitians in World War I.
- (8) Male Civilian Ferry Pilots.
- (9) Wake Island Defenders from Guam.
- (10) Civilian Personnel Assigned to the Secret Intelligence Element of the OSS.
- (11) Guam Combat Patrol.
- (12) Quartermaster Corps *Keswick* Crew on Corregidor (WWII).

(13) U.S. Civilian Volunteers Who Actively Participated in the Defense of Bataan.

(14) United States Merchant Seamen Who Served on Blockships in Support of Operation Mulberry.

(15) American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941 to August 15, 1945.

(16) Civilian Navy IFF Technicians Who Served in the Combat Areas of the Pacific during World War II (December 7, 1941 to August 15, 1945). As used in the official name of this group, the acronym "IFF" stands for Identification Friend or Foe.

(17) U.S. Civilians of the American Field Service (AFS) Who Served Overseas Operationally in World War I during the Period August 31, 1917 to January 1, 1918.

(18) U.S. Civilians of the American Field Service (AFS) Who Served Overseas Under U.S. Armies and U.S. Army Groups in World War II during the Period December 7, 1941 through May 8, 1945.

(19) U.S. Civilian Employees of American Airlines Who Served Overseas as a Result of American Airlines' Contract with the Air Transport Command During the Period December 14, 1941 through August 14, 1945.

(20) Civilian Crewmen of United States Coast and Geodetic Survey Vessels Who Performed Their Service in Areas of Immediate Military Hazard While Conducting Cooperative Operations with and for the United States Armed Forces Within a Time Frame of December 7, 1941, to August 15, 1945.

(21) Honorably Discharged Members of the American Volunteer Group (Flying Tigers) Who Served During the Period December 7, 1941, to July 18, 1942.

(22) U. S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

(23) U. S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

(24) U.S. Civilian Flight Crew and Aviation Ground Support Employees of Consolidated Vultee Aircraft Corporation (Consairway Division) Who Served Overseas as a Result of a Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

(25) U.S. Civilian Flight Crew and Aviation Ground Support Employees of Pan American World Airways and its Subsidiaries and Affiliates, Who Served Overseas as a Result of Pan American's Contract With the Air Transport Command and Naval Air Transport Service During the Period December 14, 1941 through August 14, 1945.

(26) Honorably Discharged Members of the American Volunteer Guard, Eritrea Service Command During the Period June 21, 1942 to March 31, 1943.

(27) U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northwest Airlines, Who Served Overseas as a Result of Northwest Airline's Contract

with the Air Transport Command during the Period December 14, 1941, through August 14, 1945.

(28) U.S. Civilian Female Employees of the U.S. Army Nurse Corps While Serving in the Defense of Bataan and Corregidor During the Period January 2, 1942, to February 3, 1945

	SSI	Food Stamps	TANF/SSBG/ Medicaid	Means Tested Benefits	State and Local Benefits
Effective Date	Now – new apps By 8/23/97 for current recipients	Now – new apps Current recips start 4/1/97 done by 8/23/97	State option to exercise as of 1/1/97	Applies to new entrants to the country after 8/23/96	State option to impose as of 1/1/97
Who administers/ what regulations govern/what level federal authority	Social Sec Admin	Federal program/ State-run under USDA regs	Federal/State programs run under HHS regs	Federal programs to be defined – run by many different actors – often w/ fed regs	Generally speaking no federal dollars or direct control
1) Status Determination: citizen, qualified alien	SSA has regs on citizenship determination (1)	Food Stamps also has a reg that governs this determination (1)	No existing regs or guidelines (2)	No existing regs or guidelines (2)	(3)
2a) 40 Quarters Exception – the Social Security information process	Pre 1/1/97 -- SSA needs interim system (4) to provide 40 quarters info. Post 1/1/97 -- SSA to provide overnight batch turnaround. This simply answers question of whether SSA records confirm 40 quarters.			Not applicable	See SSI/Food Stamps/TANF
2b) 40 Quarters Exception – SSA info incomplete	SSA needs procedures (5)	USDA needs procedures to deal with appeals (5)	Guidance/regs? needed (2)	Not applicable	Guidance? (3)
3) Refugees and Asylees Exception	INS to prepare and disseminate guidance on how to determine refugee/asylee status. Guidance to be available to all federal, state and local programs needing to make such determinations. (6)				
4) Veterans Exception	VA needs to prepare and disseminate similar guidance on how to determine veteran status. Guidance to be available to all federal, state and local programs needing to make such determinations. (7)				

Issue 1: Are the regs USDA and SSA have in place to answer question 1 appropriate/sufficient? What's their potential as a model for other programs, agencies?

Issue 2: For other federally funded programs that do not currently have guidelines or regs to govern the citizenship/status determination, what process should be used? Same question for dealing with administering the 40 quarters exception. Should there be uniform federal guidelines established? By whom? How?

Issue 3: For state/local programs, what authority does the federal government have to provide guidance in this determination?

DOS - OLC
guidance

Issue 4: SSA is proposing POMS to deal immediately with new applicants. Awaiting review and clearance.

Issue 5: SSA and Food Stamps need to work out process immediately and provide guidance to field. Meeting to take place by 10/4 and proposal to be developed.

• Elena - can we
• SSI impose

Issue 6: INS developing guidance on refugee/asylee determination. By when? Dissemination process?

Issue 7: VA to develop such guidance. Dissemination process also an issue here? Should there be a single dissemination with all pieces of this guidance? Perhaps an AG memo?