



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

August 8, 2012

Director (00/21PF)
VA Regional Offices and Centers

In Reply Refer To: 21P1
Fast Letter: 12-20

ATTN: All Pension Management Center and Veterans Service Center Personnel

SUBJ: *Chandler v. Shinseki* and Veterans Who Have Attained Age 65

Purpose

This letter clarifies Department of Veterans Affairs (VA) pension policy and procedures pertaining to Veterans who have attained age 65. It also rescinds the following fast letters:

- Fast Letter 06-28, *Hartness v. Nicholson*
- Fast Letter 07-14, *Input of Awards Based on Hartness v. Nicholson*

Background

In a 2006 decision, *Hartness v. Nicholson*, the U.S. Court of Appeals for Veterans Claims (CAVC) interpreted 38 U.S.C. § 1513(a) and 1521(e) to mean that a Veteran who is 65 years of age or older may be eligible for special monthly pension without having a single disability rated as permanent and total. Under the CAVC's interpretation, attaining age 65 satisfied the single "disability rated as permanent and total" requirement and eligibility for pension at the housebound rate existed if such a Veteran had a disability or disabilities rated at 60 percent or was permanently housebound under 38 U.S.C. § 1502. The former Compensation and Pension Service issued guidance implementing the *Hartness* decision in Fast Letters 06-28 and 07-14.

On April 11, 2012, in *Chandler v. Shinseki*, the U.S. Court of Appeals for the Federal Circuit rejected the CAVC's interpretation of sections 1513(a) and 1521(e). It interpreted the statutes as precluding pension at the housebound rate if a Veteran does not have a single disability rated as permanent and total. Accordingly, the Federal Circuit overruled *Hartness* and interpreted the law governing special monthly pension consistent with VA's administration of the benefit prior to the CAVC's 2006 decision.

2.

Director (00/21PF)

Thus, as a matter of law, a Veteran must have a single permanent disability rated 100 percent disabling to establish entitlement to special monthly pension at the housebound rate under section 1521(e).

Procedures

Effective the date of this letter, award pension at the housebound rate only if the Veteran has a single permanent disability rated 100 percent disabling. Any rating decision pending on the date of this letter, which would grant pension at the housebound rate without a single permanent disability rated 100 percent disabling must be returned to an RVSR for reconsideration. This fast letter requires no action if there is a running award of pension at the housebound rate.

Pension claims where the Veteran's disability evaluation is less than 100 percent, but so severe as to render the claimant substantially confined to his or her immediate premises, should be referred to P&F Service for an advisory opinion. Claim folders should be mailed to P&F Service at the following address:

Director (21PF)
Pension and Fiduciary Service
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

P&F Service will amend M21-1MR consistent with this fast letter.

To ensure all decision makers are fully aware of this guidance, P&F Service is providing a 30-day grace period for cases reviewed by the National STAR staff and will continue to note these cases with a comment. However, any decision promulgated more than 30 days after the release of this letter may be subject to a STAR quality error.

Questions

Additional questions regarding this letter may be sent to [VAVBAWAS/CO/PMC](#).

/s/

David R. McLenachen
Director
Pension and Fiduciary Service