VA Incarcerated Veterans



AVECO JULY 2019



Today We Will Learn

Today we will learn:

- Statistics
- Consequences-why are they here?
- Code of Federal Regulations CFR
- Benefits-what happens to benefits and how does incarceration affect benefits?
- The Certification Process
- How and what are they paid while incarcerated?
- Incarcerated Veterans and Incarcerated Inmates?
- Who to contact should you have questions or concerns?
- Questions?
- Thank You

Statistics

Incarceration Statistics

• BRENTWOOD, Tenn., Nov. 07, 2017 (GLOBE NEWSWIRE) -- US military veterans account for an estimated 181,500 inmates in US prisons and jails, according to the most recent numbers available from the federal Bureau of Justice Statistics. Though it is a declining population – down 9 percent from the 206,500 total veterans incarcerated in 2004 – it is a population with special needs and challenges, such as higher rates of mental health disorders.



Consequences-Why are they here?

- Veterans can sometimes run into issues as civilians and while serving with law enforcement and the criminal justice system resulting in incarceration.
- It is important justice-involved Veterans are familiar with VA benefits including what VA benefits they may still eligible to receive, what happens to the VA benefits they are already receiving if they become incarcerated,
- What programs are available to assist them with reintegrating back into the community once released from incarceration.



Code of Federal Regulations CFR

(<u>38 CFR 21.4135(m)</u>)

- **■** (m) *Incarceration in prison or penal institution for conviction of a felony.*
- □ (1) The provisions of this paragraph apply to a veteran or eligible person whose educational assistance must be discontinued or who becomes restricted to payment of educational assistance allowance at a reduced rate under § 21.3132(a) or (b) or § 21.5139.
- (2) The reduced rate or discontinuance will be effective the latest of the following dates.
- (i) The first day on which all or part of the veteran's or eligible person's tuition and fees were paid by a Federal, State or local program,
- (iii) The commencing date of the award as determined by § 21.4131.
- (Authority: 38 U.S.C. 3482(g), 3532(e))



How are Benefits Affected?

VA can pay certain benefits to Veterans who are incarcerated in a Federal, State, or local penal institution; however, the amount depends on the type of benefit and reason for incarceration.

Disability Compensation

- VA disability compensation payments are reduced if a Veteran is convicted of a felony and imprisoned for more than 60 days.
- Veterans rated 20 percent or more are limited to the 10 percent disability rate. For a Veteran whose disability rating is 10 percent, the payment is reduced by one-half.



How are Benefits Affected?

Pension

- Veterans in receipt of VA pension will have payments terminated effective the 61st day after imprisonment in a Federal, State, or local penal institution for conviction of a felony or misdemeanor.
- Payments may be resumed upon release from prison if the Veteran meets VA eligibility requirements.

Apportionment to Spouse or Children

- Apportionment is a VA process by which a veteran's eligible dependent receives some of a veteran's benefits for the purpose of receiving support.
- All or part of the compensation not paid to an incarcerated Veteran may be apportioned to the Veteran's spouse, child or children, and dependent parents on the basis of individual need.

How are Benefits Affected?

Education Benefits

- Beneficiaries incarcerated for other than a felony can receive full monthly benefits, if otherwise entitled.
- Convicted felons residing in halfway houses (also known as "residential re-entry centers"), or participating in work-release programs also can receive full monthly benefits.
- Claimants incarcerated for a felony conviction can be paid only the costs of tuition, fees, and necessary books, equipment, and supplies.
- VA cannot make payments for tuition, fees, books, equipment, or supplies if another Federal State or local program pays these costs in full.
- https://www.benefits.va.gov/PERSONA/veteran-incarcerated.asp
 https://www.benefits.va.gov/PERSONA/veteran-incarcerated.asp



The Certification Process

Certifications from the SCOS located at prisons and military correctional complexes (applies to all chapters) must include:

- Submit incarceration of a claimant on VBA Form 21-4193
- In the "Remarks" section of VBA Form 22-1999, Enrollment
 Certification, or VBA Form 22-1999b, Notice of Change in Student Status

Example:

08/21/2017-12/18/2017: Incarcerated Veteran



The Certification Process

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NOTE: Pursuant to Title 38, U.S.C., 1505, 3482, 3680 and 5313, awards of Department of German Affairs benefits for veterans and beneficiaries are subject to adjustment or discontinuance while such persons are incarcerated.										
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The Certification Process

- Schools should show the charges for books, equipment, and supplies in the "Remarks" section
- Incarcerated Veteran statement
- The school should state whether the federal, state, or local government is paying all or part of the cost for tuition, fees, books, equipment, or supplies and the amounts paid.

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How are they paid while incarcerated?

Incarcerated Veterans are paid by check rather than EFT;

- VA checks for books & supplies are sent to the prison's ISB, or Inmate
 Services Branch, in the name of the veteran;
- The ISB reviews the check and authorizes its release and places the check into the inmates, i.e., veteran's, Personal Deposit Fund Account (PDF) account for their use.

Incarcerated Veterans & Incarcerated Inmates

How does incarceration affect inmates at military prisons, as opposed to those at general prisons?

- Inmates incarcerated at military prisons committed crimes while on active duty as opposed to their counterparts who committed crimes after discharge;
- Incarcerated inmates at military prisons are still considered ACTIVE DUTY until they receive their DD-214.

Incarcerated Veterans & Incarcerated Inmates

How does incarceration affect inmates at military prisons, as opposed to those at general prisons?

- Should the character of service be anything other the Honorable, the inmates are subject to a retroactive ineligibility based on the date of the discharge determination;
- Therefore, they can be subject to debt for the education they've received while incarcerated.

Incarcerated Veterans & Incarcerated Inmates

Are the incarcerated inmates at military prisons counseled about this?

Yes, the Education Services Specialists at the military correctional facilities, as well as the school certifying officials of schools located onsite, counsel the inmates regarding this possibility that they may face while pursuing their education during incarceration.



Have Questions or Concerns? Who to Contact

- A dedicated toll-free hotline is available for School Certifying Officials (SCOs). The toll-free hotline number is **1 (855) 225-1159**. The hotline is available from 7:00 am to 5:00 pm, Central Time.
- SCOs must provide the school's facility code and be listed as a designated VA school certifying official to receive assistance through the dedicated hotline.

Questions?



Thank You

Thank you for attending and participating in this presentation.

Abdul M. Mackie, Education Liaison Representative-Kansas (402) 420-4130 and KS.ELR.VBASTL@va.gov S.ELR.VBASTL@va.gov

