



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
April 23, 2013

The Honorable Jeff Miller  
Chairman  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

In accordance with the provisions of 38 United States Code (U.S.C.) § 503(c), I am submitting a report on the disposition of those cases recommended to me for equitable relief in calendar year 2012. Also enclosed is the cost estimate for preparing the report as required under 38 U.S.C. § 116.

The report summarizes the four cases in which I granted relief under 38 U.S.C. § 503(a). I determined that equitable relief was warranted in these cases because the Department of Veterans Affairs (VA) did not pay VA benefits to a Veteran because of an administrative error by the Federal Government. The total equitable relief I granted relief in these cases was \$34,112.08.

The report also summarizes 24 cases in which I granted relief under 38 U.S.C. § 503(b). I determined that, in these cases, a VA beneficiary relied on an erroneous VA determination of eligibility for benefits, without knowing that it was erroneous, and, as a consequence, suffered a loss. The total amount of equitable relief that I granted in these cases was \$262,856.04.

The total equitable relief that I granted in both types of cases was \$296,968.12.

These 28 cases were the only cases in which I made dispositions of recommendations for equitable relief in calendar year 2012.

Thank you for your continued support of our mission.

Sincerely,

A handwritten signature in blue ink, reading "Eric K. Shinseki", is positioned above the printed name.

Eric K. Shinseki

Enclosure



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
April 23, 2013

The Honorable Michael Michaud  
Ranking Member  
Committee on Veterans' Affairs  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Michaud:

In accordance with the provisions of 38 United States Code (U.S.C.) § 503(c), I am submitting a report on the disposition of those cases recommended to me for equitable relief in calendar year 2012. Also enclosed is the cost estimate for preparing the report as required under 38 U.S.C. § 116.

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Eric K. Shinseki

Enclosure



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

April 23, 2013

The Honorable Bernard Sanders  
Chairman  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Sanders:

In accordance with the provisions of 38 United States Code (U.S.C.) § 503(c), I am submitting a report on the disposition of those cases recommended to me for equitable relief in calendar year 2012. Also enclosed is the cost estimate for preparing the report as required under 38 U.S.C. § 116.

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Eric K. Shinseki

Enclosure



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON  
April 23, 2013

The Honorable Richard M. Burr  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Burr:

In accordance with the provisions of 38 United States Code (U.S.C.) § 503(c), I am submitting a report on the disposition of those cases recommended to me for equitable relief in calendar year 2012. Also enclosed is the cost estimate for preparing the report as required under 38 U.S.C. § 116.

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Eric K. Shinseki

Enclosure

**DISPOSITION OF RECOMMENDATIONS FOR  
EQUITABLE RELIEF SUBMITTED TO THE  
SECRETARY OF VETERANS AFFAIRS  
IN CALENDAR YEAR 2012**

CASE #1

The Veteran applied for Department of Veterans Affairs (VA) health care benefits at the VA Sierra Nevada Health Care System in Reno, Nevada, on October 7, 2003. VA determined him to be in Priority Group 8(vi) and ineligible for health care benefits because his income level exceeded the maximum amount for that level of priority and his application did not include a DD-214 indicating service in Vietnam, which would have conferred eligibility for Priority Group 6 based upon the presumption of exposure to Agent Orange. The Veteran, however, had circled "Yes" in response to an application question on exposure to Agent Orange. Under the Veterans Claims Assistance Act of 2000, VA is required to assist Veterans to obtain evidence necessary to establish a claim for VA benefits; however, VA failed to do so in this instance.

The Veteran reapplied for VA health care benefits on March 1, 2010, and at that time did furnish a copy of his DD-214 showing Vietnam service. VA, accordingly, found him eligible for health care in Priority Group 6 based on presumed exposure to Agent Orange.

The Veteran requested equitable relief for the cost of medical care, including both healthcare coverage insurance costs and copayments, that he incurred as a result of VA's initial erroneous determination that he was ineligible for VA health care.

The Veterans Health Administration's Chief Business Office (VHA CBO) found justification for consideration of granting equitable relief for the Veteran's verified expenses, which ensued as a result of VA's erroneous determination, for insurance coverage, medication, and health care cost share or copayments.

The Secretary concluded that VA benefits had not been provided to the Veteran due to VA administrative error, and authorized equitable relief to the Veteran in the amount of \$11,635.24 under 38 United States Code (U.S.C.) § 503(a).

NOTE: See Case #23 for a summary of further equitable relief awarded to the same Veteran.

## CASE #2

The Veteran reported to the VA Medical Center (VAMC) in Biloxi, Mississippi, for care on January 23, 1953, but was denied admission and was referred to the VAMC in Tuskegee, Alabama, where he was admitted and treated as an inpatient until his death on March 13, 1956. Following his death, the Veteran's family requested that he be interred at the Biloxi VAMC Cemetery, but that request was denied and the family buried the Veteran at a private cemetery in Gulfport, Mississippi.

On October 6, 2004, the Veteran's body was exhumed, moved to, and interred at the same cemetery, which had since become the Biloxi VA National Cemetery, at the request of the family and at the expense of the Veteran's son.

The Veteran's daughter contends that the denial of the Veteran's admission to the Biloxi VAMC was due to his race. VHA's CBO investigated the matter, but was unable to find any written evidence substantiating that claim. CBO did ascertain from the former Biloxi VA Cemetery Director that eligibility for interment there was confined to patients who had expired during the course of treatment at the Biloxi VAMC. He noted that expanded eligibility for burial there did not occur until the late 1970's, when the cemetery became part of the VA National Cemetery System.

The Secretary authorized equitable relief in the amount of \$1,350.00 under 38 U.S.C. 503(a) to the Veteran's son for expenses incurred in disinterment and reinterment of the Veterans' remains.

## CASE #3

A representative of VA's Civilian Health and Medical Program (CHAMPVA), responding to an inquiry from East Valley Family Medical, a health care provider for the daughter of a Veteran who was eligible for CHAMPVA benefits, advised the provider that a specific therapy was a covered benefit. In fact, it was not, because this therapy was an investigational or experimental procedure and 38 CFR 17.272(a)(14) provides that services and supplies related to such procedures are not covered under CHAMPVA.

Because the health care provider relied upon the VA representative's assurance that the treatment was a covered benefit under CHAMPVA, not knowing that VA's determination was erroneous, the Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$985.80 to the provider.

## CASE #4

The Veteran served on active duty, received an Honorable discharge, and applied for VA Education Benefits on January 17, 2011. On March 8, 2011, VA notified him that he was eligible for 100 percent benefits under the Post 9/11 GI Bill. That notification was

incorrect since part of the Veteran's active duty service was obligated under the military Loan Repayment Program (LRP). Consequently, the Veteran was only eligible for benefits at the 40 percent rate.

Because the Veteran received an incorrect VA determination as to his eligibility and enrolled in school in reliance on that decision, without knowing that it was incorrect and suffered a financial loss as a result, the Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$6,515.40.

#### CASE #5

The Veteran served on active duty, receiving an Honorable discharge, and applied for VA educational benefits. The St. Louis VA Regional Office (VARO) made a determination that the Veteran was eligible for benefits at the 100 percent rate under the Post-9/11 GI Bill. The Atlanta VARO, however, upon reviewing the Veterans file, determined that the St. Louis decision had been incorrect and that the Veteran was only eligible at the 50 percent rate.

Because the Veteran received an incorrect VA determination as to his eligibility and enrolled in school in reliance on that decision, not knowing that it was incorrect and suffering a financial loss as a result, the Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$21,072.48.

#### CASE #6

The spouse of a Veteran applied for CHAMPVA benefits, which are payable if the beneficiary is the spouse of a Veteran who is permanently and totally disabled due to a service-connected disability and the spouse is not otherwise eligible for Department of Defense (DoD) benefits. The Oakland VARO verified that the Veteran was permanently and totally disabled due to a service-connected condition and, on that basis, the CHAMPVA representative determined the spouse was eligible for CHAMPVA benefits. During an audit, the Health Administration Center discovered that the service-connected determination was incorrect since the Veteran was disabled by VA medical treatment and the disability, subsequently awarded under 38 U.S.C. 1151, is not considered a service-connected condition for CHAMPVA purposes.

Due to the Veteran's spouse having received an incorrect VA eligibility determination as to her eligibility, and received CHAMPVA benefits in reliance thereon, not knowing that the determination was incorrect, the Secretary granted equitable relief under 38 U.S.C. § 503(b), consisting of waiving collection efforts to recover the balance of \$59,006.28 in erroneously furnished CHAMPVA benefits and refunding the \$14,254.90 already recouped for total equitable relief in the amount of \$73,261.18.

#### CASE #7

After completing active duty with an Honorable discharge, the Veteran applied for Post 9/11 GI Bill education benefits. The Buffalo VARO sent him a Certificate of Eligibility indicating he was entitled to benefits at the 100 percent rate. Subsequently, officials at the Buffalo VARO discovered that this determination had been in error since his active duty service obligation for attending the Reserve Officers Training Corps (ROTC) on a scholarship should have been subtracted from his total active duty service.

Because the Veteran received an incorrect VA determination as to his eligibility and enrolled in school in reliance on that decision, without knowing that it was incorrect and suffered a financial loss as a result, the Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$3,760.64.

#### CASE #8

The Veteran served on active duty, received an Honorable discharge, and applied for benefits under the Post-9/11 GI Bill. The Buffalo VARO notified the Veteran that she was eligible at the 100 percent rate and she enrolled in school in reliance on that determination. Subsequently, the Buffalo VARO determined that since the Veteran had a period of service that was obligated under the military's LRP, she was only eligible for VA benefits at the 50 percent rate.

Since the VARO provided the Veteran an erroneous determination as to her eligibility and she enrolled in school in reliance on that decision, not knowing that it was incorrect and suffering a financial loss as a result, the Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$8,238.65.

#### CASE #9

The Veteran received an Honorable discharge after serving on active duty, following which she applied for and received VA educational benefits under the Montgomery GI Bill program. The Atlanta VARO provided a certificate of eligibility, however, it subsequently determined that the Veteran had used more months of entitlement than the maximum allowed by law.

Because the VARO provided the Veteran an erroneous determination as to her eligibility and she enrolled in school in reliance on that decision, not knowing that it was incorrect and suffering a financial loss as a result, the Secretary granted equitable relief under 38 U.S.C. § 503(b) in the amount of \$3,890.20.

#### CASE #10

The Veteran applied for Loan Guaranty benefits, and VA's Eligibility Center issued her a Certificate of Eligibility (COE). She attempted to use the COE to obtain a loan to finance the purchase of a home, and incurred expenses in preparation for the purchase. Subsequently, however, VA informed her that its issuance of the COE was in error, and, because she was unable to qualify for alternate financing, was not able to purchase the home.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$785.00.

#### CASE #11

The Veteran served on active duty, received an Honorable discharge, and applied for Post-9/11 GI Bill benefits. The Buffalo VARO advised the Veteran that he was eligible for benefits at the 90 percent rate, and, in reliance on that determination, the Veteran enrolled in school and changed his work schedule to part time. Subsequently, the VARO notified the Veteran that the COE was erroneous and that he was only eligible for benefits at the 60 percent rate.

Due to the fact that the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$2,276.25.

#### CASE #12

After serving on active duty and receiving an Honorable discharge, the Veteran applied for benefits under the Post-9/11 GI Bill program. The Buffalo VARO notified the Veteran that he was eligible at the 100 percent rate, and, in reliance on that decision, the Veteran enrolled in school. Subsequently, the Buffalo VARO determined that the Veteran was only eligible at the 60 percent rate.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$4,583.95.

#### CASE #13

The Veteran served on active duty, received an Honorable discharge, and applied for benefits under the Post-9/11 GI Bill program. The Muskogee VARO notified the Veteran that he was eligible for benefits at the 100 percent rate. In reliance on that

decision, the Veteran enrolled in school. The Muskogee VARO, however, subsequently determined that the Veteran was only eligible at the 60 percent rate.

In consideration of the fact that the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$5,799.00.

#### CASE #14

After receiving Honorable discharges for two periods of active duty service, the Veteran applied for benefits under the Post-9/11 GI Bill program. The Buffalo VARO notified the Veteran that he was eligible for those benefits at the 100 percent rate. In reliance on that determination, the Veteran enrolled in school. After he had done so, the Buffalo VARO notified the Veteran that he was not entitled to any Post-9/11 GI Bill benefits because most of his active duty service was served as a result of a commission based upon graduation from a military service academy, and such service does not count towards Post-9/11 GI Bill eligibility.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$28,375.60.

#### CASE #15

The Veteran served honorably in the U.S. Army Reserves for over 27 years, and applied for educational benefits under the Post-9/11 GI Bill program. VA notified the Veteran that she was eligible for these benefits at the 60 percent rate, despite the fact that none of her service was full-time active duty, as is required for eligibility. The Veteran enrolled in school, after which VA notified her that the prior eligibility decision was incorrect and that she was ineligible for these benefits.

Due to the fact that the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$3,489.72.

#### CASE #16

Prior to receiving an Honorable discharge, the Veteran declined to participate in the Montgomery GI Bill program while on active duty. As a result, DoD confirmed that her active duty was obligated under the military LRP. The Veteran applied for educational benefits under the Post-9/11 GI Bill program and the St. Louis VARO notified her that she was eligible at the 100 percent rate. The Veteran relied on that notification and

enrolled in school. Subsequently, the St. Louis VARO notified the Veteran that she was not eligible for benefits because her active duty was obligated under the military LRP.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$10,061.28.

#### CASE #17

The Veteran served on active duty and enrolled in school under the Post-9/11 GI Bill program, after receiving notification from VA that he was eligible at the 100 percent rate. Subsequently, the Buffalo Regional Processing Office (RPO) informed the Veteran that he had insufficient creditable post-9/11 service to qualify for these benefits.

Since the Veteran had relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$12,082.89.

#### CASE #18

The Buffalo RPO notified the Veteran that he would be eligible to receive VA educational benefits under the Montgomery GI Bill program until February 1, 2011. Later, the RPO determined the correct ending date for eligibility should have been November 7, 2008.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$727.52.

#### CASE #19

The Veteran served on active duty, received an Honorable discharge, and applied for VA educational benefits under the Post-9/11 GI Bill program. The Muskogee VARO notified the Veteran that he was eligible at the 100 percent rate, in reliance on which the Veteran enrolled in school. Subsequently, the VARO determined that the Veteran was only eligible at the 50 percent rate, and, still later, re-adjudicated his eligibility to be at the 60 percent rate.

Due to the fact that the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$2,052.82.

#### CASE #20

The Veteran received a commission after graduating from the U.S. Air Force Academy, and served on active duty, following which he received an Honorable discharge. The Veteran applied for VA educational benefits under the Post-9/11 GI Bill program. VA notified the Veteran that he was eligible at the 60 percent rate and the Veteran, in reliance thereon, enrolled in school. Subsequently, VA determined that the Veterans active duty was barred by statute from being considered for eligibility because it was obligated service that was based on graduation from a service academy, and so notified the Veteran.

Since the Veteran had relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$15,143.52.

#### CASE #21

The Veteran served on active duty, received an Honorable discharged, and applied for VA educational benefits under the Post-9/11 GI Bill Program. The Muskogee VARO notified the Veteran that he was eligible at the 60 percent rate, in reliance upon which he enrolled in school. Later, the Muskogee VARO informed the Veteran that his military service, which had been as a cadet at the U.S. Air Force Academy, did not qualify him for Post-9/11 GI Bill benefits.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$7,553.17.

#### CASE #22

Following her completion of two periods of active duty, separated by a break in service, the Veteran applied for educational benefits under the Montgomery GI Bill program. VA notified the Veteran that she was eligible, with a specified delimiting date, i.e., a date after which benefits would no longer be payable. In reliance on that notification, the Veteran enrolled in school. Subsequently, VA notified the Veteran that the delimiting date provided was incorrect, and furnished an earlier delimiting date. The reason for the erroneous determination was VA's failure to properly apply the Code of Federal Regulations rule requiring that the calculation of a delimiting date must subtract days corresponding to a break in active duty service.

Due to the fact that the Veteran relied on VA's determination of her delimiting date, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$847.00.

## CASE #23

The Veteran, to whom the Secretary granted equitable relief earlier in 2012 (see Case #1), requested further equitable relief for additional unreimbursed expenses incurred under the same set of facts as outlined in Case #1. In its review of the Veteran's documentation of that claim, VA identified some additional unreimbursed health care insurance costs, as well as some such costs that the Veteran had incurred at a higher rate than was previously reimbursed.

The Secretary, after taking into account his earlier conclusion that VA benefits had not been provided to the Veteran due to VA administrative error, concluded that additional equitable relief was appropriate to compensate the Veteran for additional unreimbursed expenses, and, accordingly, authorized further equitable relief to the Veteran in the amount of \$20,876.84 under 38 U.S.C. § 503(a).

## CASE #24

This case concerns a Veteran's non-receipt of a payment under the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law No. 111-5. That law provided that certain beneficiaries who resided in specified geographical areas and were receiving Federal benefits administered by VA, the Social Security Administration (SSA), or the Railroad Retirement Board (RRB), would receive a one-time, \$250 "stimulus" payment, referred to as the Economic Recovery Payment (ERP). Individuals entitled to benefits from more than one of these three Federal Departments and Agencies, however, could only receive one ERP.

The ARRA contained a provision that limited ERPs to residents residing in one of the 50 States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, or the Northern Mariana Islands. A further ARRA provision required a residence determination based on the address of record for the Federal benefit received. Under those criteria, the Veteran, who had a Fleet Post Office (FPO) address, was excluded from receiving payment in the initial run of 1.8 million ERPs processed by VA.

VA, subsequently, learned that SSA had been making payments to beneficiaries with Army Post Office (APO) or FPO addresses, and, on June 24, 2009, VA changed its policy and, starting on September 17, 2009, began paying beneficiaries with APO or FPO addresses.

After changing its payment protocols, VA instituted a "catch-up" payment cycle. The Veteran, however, was not paid on that cycle because the computer program did not take into account the fact that the Veteran had two addresses of record, his FPO address and his physical address in Manila, in the Philippines, and the computer programming disallowed payment because of the foreign zip code.

The Veteran was also not paid during manual processing of ERP claims, because the Manila and Nashville VAROs were not formally notified by the Veterans Benefits Administration's (VBA) Compensation Service of VA's decision to pay ERPs to those with APO or FPO addresses. The Manila VARO denied the Veteran's claim specifically because he did not reside in the geographic areas specified in the ARRA.

The ARRA expired on December 31, 2010, and its associated appropriation expired on September 30, 2011, so after the latter date, VA had no legal authority to pay the \$250 ERP to the Veteran or any other beneficiary. VBA sought advice from the Office of General Counsel (OGC), as to whether equitable relief would be an available remedy for non-receipt of an ERP under the ARRA. OGC advised that, in general, the ERP could be considered a "benefit" administered by VA and that, accordingly, equitable relief is a remedy that could be recommended for consideration, in these types of circumstances, on a case-by-case basis.

The Secretary granted the Veteran equitable relief under 38 U.S.C. § 503(a) in the amount of \$250.00, representing the amount of an economic stimulus payment that he did not receive under VA's amended procedures for implementing ARRA of 2009.

#### CASE #25

The Veteran served on active duty, received an Honorable discharge, and applied for VA educational benefits under the Montgomery GI Bill. The Buffalo VARO notified the Veteran of his eligibility and an extended delimiting date, in reliance on which the Veteran enrolled in school. Subsequently, however, the Buffalo VARO determined that the Veteran did not meet the requirements for an extended delimiting date, and so notified the Veteran.

Since the Veteran had relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$5,492.40.

#### CASE #26

The Veteran had served honorably on active duty for over 24 years when he was severely injured in an improvised explosive device (IED) explosion that ended his military career. The Veteran is 100 percent disabled due to several service-connected conditions, including Post-traumatic Stress Disorder (with Traumatic Brain Injury), and loss of use of both hands and both feet due to spinal cord injury. VA notified the Veteran that he was eligible for the VA allowance towards purchase of an automobile with adaptive equipment, but that notice did not inform him that the allowance was a one-time benefit.

The Veteran used the grant in November 2008 to purchase a 2007 Dodge Caravan. The paperwork accompanying this transaction did not convey the notice used on subsequent forms, which states "This is a once-per-lifetime grant."

In August 2010, after relocating from California to Utah, the Veteran spoke with a VHA employee in the Prosthetics Department regarding obtaining an automobile grant. The employee contacted the Salt Lake City VARO to ascertain his eligibility, and that office provided information that the Veteran was eligible, but incorrectly indicated that he had not received such a grant. After receiving the incorrect VARO information, the VHA employee advised the Veteran that he could purchase a vehicle and request VA payment to the vendor. Relying on that determination, the Veteran purchased a 2011 Hyundai Tucson in June 2011.

VA, subsequently, notified the Veteran that his claim for the second automobile grant was denied, because the grant was a one-time benefit.

The Secretary, pursuant to 38 U.S.C. § 503(b), granted equitable relief to the Veteran in the amount of \$11,000.00, the amount of the loss the Veteran incurred in reliance on VA's determination without knowing it was erroneous.

#### CASE #27

The Veteran served on active duty, received an Honorable discharge, and applied for VA educational benefits under the Post-9/11 GI Bill. VA initially notified the Veteran that she was eligible at the 100 percent rate, and, in reliance on that determination, the Veteran incurred financial obligations for enrollment in school. Subsequently, however, VA determined that the Veteran's active duty did not count towards eligibility because it was obligated service due to her having graduated from a military service academy.

Because the Veteran relied on VA's determination of eligibility, without knowing it was erroneous and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$29,385.80.

#### CASE #28

The Veteran served on active duty, received an Honorable discharge, and applied for VA educational benefits under the Post-9/11 GI Bill. The Buffalo VARO notified the Veteran that he was eligible for these benefits at the 70 percent rate, and the Veteran enrolled in school in reliance on that determination. Subsequently, the Buffalo VARO notified the Veteran that he was not eligible for these benefits because his post-9/11 active duty was obligated under a ROTC scholarship program on which he had enrolled, and, accordingly, that service was not creditable towards Post-9/11 GI Bill eligibility.

Since the Veteran had relied on VA's determination of eligibility, without knowing it was erroneous at the time and suffered a loss as a result thereof, the Secretary authorized equitable relief under 38 U.S.C. § 503(b) in the amount of \$5,475.77.