

DATE: 07-18-90

CITATION: VAOPGCPREC 40-90
Vet. Aff. Op. Gen. Couns. Prec. 40-90

TEXT:

Subject: Payment of Educational Assistance Allowances to Individuals Participating in the Health Professions Scholarship Program

(This opinion, previously issued as General counsel Opinion 10-74, dated March 18, 1974, is reissued as a Precedent Opinion pursuant to 38 C.F.R. §§ 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

QUESTION:

May individuals participating in the Health Professions Scholarship Program be paid GI Bill educational assistance benefits while enrolled in such a program?

COMMENTS:

As we understand the situation, an individual enrolled in HPSP would serve on inactive duty as a Reserve O-1, except for 45 days a year when he would serve on active duty; he would have all of his educational expenses paid by the military; and he would receive a monthly stipend of \$400 during enrollment periods.

Section 1781 of title 38, United States Code, bars the payment of GI Bill educational benefits to any eligible person "who is on active duty and is pursuing a course of education which is being paid for by the "Armed Forces ... school, the individual is in an inactive duty status. The limitation contained in section 1781 would not, therefore, apply to such an individual while he remains in such status. It would, however, apply to the 45-day period when he is placed on active duty.

HELD:

Where the individual meets all of the requisite requirements, including active-duty service of more than 180 days, attendance at an approved institution, and pursuit of an approved program of education, payments may be made to him under the GI Bill. It is further held that payment of such benefits must be

charged against the individual's period of entitlement.

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