Wards and Foster children eligible beneficiaries of transferred Post-9/11 Benefits

Background:

Update on the Definition of Eligible Dependents for the Transfer of Post-9/11 Educational Benefits to Foster Children and Legal Wards

Section 1011 of the "Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020," Public Law 116-315, revised section 3319(c) of title 38, United States Code, by changing the definition of an eligible dependent. An individual approved to transfer an entitlement to educational assistance under this section may transfer their Post-9/11 GI Bill education benefits to an eligible dependent or a combination of eligible dependents. The term "eligible dependent has the meaning given the term "dependent" under subparagraphs (A), (I), and (D) of section 1072(2) of title 10.

The impact of this change allows foster children and legal wards who have been residing with the Service member pursuant to a court order for at least 12 consecutive months to be eligible dependents for receipt of Post-9/11 GI Bill transferred benefits. This expands the Department of Veterans Affairs (DVA) definition of dependents to more closely align with that of the DoD.

Impact:
Changes to the BEAST and TEB Portlet application need to be made to allow for new Sponsor requests to transfer months to a Ward or Foster Child. These updates are expected to happen in September 2021.

Q - What about Sponsors that have existing Transfer Requests?

A – Sponsors with an existing Transfer Request who are also in an Active Status since January 5, 2021 (ie: Active Duty, Selected Reserve), and who have any Wards or Foster children previously unassigned months, will have these dependents available to them in the Transfer database with 0 months transferred. The sponsor will be able to reallocate months to these dependents at any time prior to them aging out of the benefits.

Q – What does a Sponsor submitting a new Transfer Request do to assign months to a Ward or Foster?

A – If the Sponsor wishes to transfer months to a new Ward or Foster due to the recent law changes, the Sponsor should submit a Transfer Request in TEB milConnect and assign at least one month to his/her Spouse or Child that is not a Ward or Foster. Once the request has been placed into an Approved status by the Service, the Ward or Foster child will be added to the Approved transfer request with 0 Transfer Months assigned. The Sponsor can then reallocate transfer months to the Ward/Foster dependent as desired. Note: Once the TEB portlet is modified the Ward and Foster children may be allocated months during the initial submission of the Transfer Request.

Q – What about Sponsors who have separated or Retired?

A - Those who separated prior to enactment of PL 116-315 are not eligible to transfer entitlement. Pursuant to 38 U.S.C. 3319(f)(1), eligible individuals can only transfer entitlement to dependents "while serving as a member of the Armed Forces when the transfer is executed" except as provided under paragraphs 38 U.S.C. 3319(k) and (l).

Q – What if a sponsor with only a foster or ward as a dependent tries to request TEB and cannot.

A - If between now and September, a sponsor is trying to submit a new transfer request, and only has a Ward/Foster on the transfer request, then that sponsor will not be allowed to initially allocate to the Ward/Foster and submit the transfer request until our application is modified to allow this. *Note: DMDC queried the DEERS database and there are currently no cases of Active Duty Sponsors who* ***only*** *have a Ward or Foster child as a dependent.*

Sponsors may submit a Transfer Request and allocate 1 transfer month to any other dependent (if they have one) and once the submitted request has been approved the ward/foster dependent will be visible on the transfer request and eligible to receive transfer months.

Q - What if the Foster or Ward relationship terminates? How does that impact TEB—if there are months transferred?

A - The now former foster or former ward is still eligible to use the benefit at that point. A change in a relationship, in and of itself, does not change the transferred benefit. The transfer remains valid until the veteran or service member changes the months transferred. Pursuant to 38 U.S.C. 3319(f)(2), "modification or revocation of the transfer of entitlement" must be made via a written notification to the "Secretary concerned and the Secretary of Veterans Affairs." VA will treat the termination of the foster or ward relationship similarly to how VA handles entitlement transferred to a divorced spouse. The former foster or ward will be treated as eligible until the individual transferring the entitlement that there is a change in the entitlement transferred.

Q – Can Wards and Fosters be paid transferred benefits prior to January 5, 2021?

A - Per the effective date of the law change to allow Wards and Foster children to use transferred Post 9/11 benefits, the VA will not pay any schooling or tuition costs for these dependents prior to the January 5, 2021 effective date.

Total number of Unique Sponsors who have Approve Post 911 Transfer Requests and also have either a Ward or Foster Dependent less than age 26
Eligible Means: Whose sponsors who are currently Active Duty or Selected Reserve
Not Eligible Means: Sponsors with Approved Transfer Request who are either retired, separated or in the Inactive Ready Reserve
Data current through: 20210419
Source: DEERS Database Extract, TEB Database

	TRANSFER ELIGIBILITY		
ORGANIZATION	**ELIGIBLE**	**NOT ELIGIBLE**	**TOTAL**
AD Air Force	198	380	572
AD Army	835	1,411	2,239
AD Coast Guard	38	52	90
AD Marine Corps	51	110	161
AD Navy	173	311	481
AD Public Health Service	10	3	11
Air Force Reserve	55	58	114
Air Guard	75	92	167
Army National Guard	288	308	598
Army Reserve	200	264	466
Coast Guard Reserve	4	4	7
Marine Corps Reserve	4	6	10
Navy Reserve	30	30	59
Grand Total	**1,961**	**3,029**	**4,990**