

Rudisell v. McDonough
Communication to VSOs
January 2025

Through a relatively recent change in how qualifying periods of military service impact benefits earned, beneficiaries (Veterans, service members, and their eligible dependents) may now be eligible for expanded Department of Veterans Affairs (VA) education and training benefits.

If a Veteran or service member served at least two periods of service—one that qualifies for the Montgomery GI Bill (MGIB-Active Duty or MGIB-Selected Reserve) and a separate period of service that qualifies for the Post-9/11 GI Bill (PGIB)—they may be able to receive additional GI Bill benefits due to a recent Supreme Court decision.

On April 16, 2024, the [Supreme Court of the United States decided](#) in *Rudisill v. McDonough* that beneficiaries who earn educational benefits under the Montgomery GI Bill and the Post-9/11 GI Bill may access benefits under either program for a maximum of 48 months of benefits. The education benefits must be earned through two separate periods of service. Federal law prohibits the use of these benefits at the same time.

Prior to the Supreme Court's decision, though eligible for both benefits, beneficiaries who wanted to use their PGIB benefits had to forfeit using any remaining MGIB benefits, even when PGIB eligibility was based on a period of service separate from the period of service that MGIB eligibility was based. Additionally, beneficiaries who previously used MGIB had their months of entitlement for PGIB limited to the number of remaining MGIB months of entitlement. These requirements are no longer valid under the Supreme Court's decision.

Who is impacted?

Potentially impacted individuals include approximately 1,040,000 beneficiaries with at least two periods of service—one period that qualifies for MGIB and a second that qualifies for PGIB—where the beneficiary waived all or part of their MGIB benefits so they could use PGIB benefits. Over 835,000 are likely eligible to receive additional education benefits. Of the potentially impacted beneficiaries, approximately 4,000 are also Veteran Readiness and Employment (VR&E) beneficiaries who did not have PGIB benefits while participating in VR&E, were paid the standard VR&E subsistence allowance rate, and may now be eligible to have those previous subsistence allowance awards amended to receive the higher PGIB rate as a result of the *Rudisill* decision.

What does this mean for impacted individuals?

Beneficiaries who previously gave up all or part of their MGIB benefits may be entitled to the remaining months of their MGIB benefits and, for those whose PGIB entitlement was

limited based on MGIB usage, they may be entitled to additional months of PGIB entitlement.

Impacted individuals (those with at least two qualifying periods of service) will no longer have their PGIB benefits restricted to the months of benefits remaining under their MGIB. Under the new ruling, individuals may now use both benefits for up to a maximum of 48 months of combined benefits.

For dependents using transferred benefits, their additional entitlement will be based upon their Veteran/service member's entitlement eligibility.

Potentially impacted VR&E beneficiaries may be eligible for the basic allowance for housing (BAH) subsistence allowance rate while participating in VR&E, which is often higher than the standard VR&E subsistence allowance rate.

What steps should impacted individuals take?

VA analyzed education program data to group the potentially impacted beneficiaries impacted by the Supreme Court's decision. As detailed in communications being sent directly to potentially impacted beneficiaries, identified beneficiaries should take the appropriate steps based upon the following groupings:

- **No action needed.** For potentially impacted beneficiaries who have had an education claim decision on or after August 15, 2018, VA will review and determine their education benefit eligibility without the beneficiary taking any action. Once VA has reviewed their file, beneficiaries will receive an official decision. VA anticipates completing these records reviews within approximately 22 months.
- **Action is required.** For potentially impacted beneficiaries who have had an education claim decision before August 15, 2018, VA will review and determine their education benefit eligibility **only after** they submit a claim. Once VA has received and evaluated their claim, they will receive an official decision.

New delimiting date.

For eligible beneficiaries who previously had to forfeit their remaining MGIB benefits in order to use their PGIB, VA will recalculate their benefit expiration date and return time after the election was made to use the benefit. The new expiration will be calculated by adding 90 days plus the date of issuance to the time a beneficiary had left when they previously forfeited their benefit to the date of the new Certificate of Eligibility (COE).

Claim deadline.

If a beneficiary believes they qualify for additional benefits under the Rudisill decision, they may need to submit a claim to get a new decision on their benefit eligibility. A beneficiary can submit a claim at any time. However, there is a limited period of time for a beneficiary to receive a delimiting (expiration) date recalculation. The deadline to submit a claim to receive a delimiting date recalculation is October 1, 2030. After October 1, 2030, a beneficiary can still submit a claim for benefits; however, the normal delimiting date calculation rules will apply.

What steps is VA taking to implement the Rudisill decision?

VA updated paper and electronic versions of the application for VA Education Benefits, VA Form 22-1990, removing irrevocable elections which give up MGIB when applying for PGIB benefits. VA claims processors will apply the Supreme Court's decision and process benefit applications received on the prior version of the form or the updated version. VA has also developed adjudication procedures for supplemental claims for claims processors to review a Veteran's record to make adjustment to education benefit entitlement, where appropriate, and to remove any past in-lieu-of elections made invalid by the Supreme Court's decision. Lastly, VA will begin reviewing Veterans' records impacted by the Supreme Court's decision where VA is able to review the record without action from the beneficiary, likewise making adjustments to education benefit entitlement where appropriate, and removing past in-lieu-of elections made invalid by the Supreme Court's decision.

What if stakeholders have questions?

VA is committed to providing impacted beneficiaries and other stakeholders with regular updates about VA's implementation efforts through active communications via various means. For more information about how the Rudisill decision impacts VA education and training benefits, stakeholders are encouraged to visit the [Rudisill webpage](#).

Beneficiaries with questions about their GI Bill benefits may submit inquiries through [Ask VA](#). To use Ask VA, [beneficiaries must have an authenticated VA account](#).

Beneficiaries with questions about their Veteran Readiness and Employment benefits, may contact the National Contact Center at 1-800-827-1000.

Respectfully,
Veterans Benefits Administration