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DEPARTMENT OF VETERANS' SERVICES  
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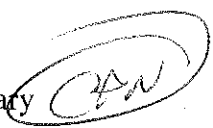
JOHN W. POLANOWICZ  
SECRETARY, EOHHS

COLEMAN NEE  
SECRETARY, DVS

**DIRECTIVE**  
**Veterans' Services**

Directive Number  
CY 14-12-19

December 19, 2014

From: Coleman Nee, Secretary   
To: Veterans' Service Officers  
Re: One-Day Residency Requirement for Chapter 115 Benefits is Applicable to Dependents of Veterans

In 1979, the First Circuit Court of the United States Court of Appeals issued a decision in which it upheld the decision of the United States District Court for the District of Massachusetts to eliminate the then existing three year residency requirement for all veteran applicants for MGL c. 115 benefits, holding that the requirement was a durational residency requirement which violated the equal protection clause of the fourteenth amendment to the United States Constitution. *See Strong v. Collatos*, 593 F.2d 420 (1<sup>st</sup> Cir.1979). The Massachusetts Legislature then amended MGL c. 115, § 5 in 2005 to substitute a one day residency requirement for veterans applying for benefits.

While there has never been a case challenging the three year residency requirement for dependents of veterans, it is the opinion of the Department of Veterans' Services that, if challenged, that portion of the law applicable to dependents would also be struck down as unconstitutional.

Therefore, pursuant to my authority under MGL c. 115, § 2 to "issue and promulgate directives for the guidance of all persons concerned with veterans' benefits," the one day residency requirement currently applicable to veteran applicants, see MGL c. 115 § 5, shall apply to applicants who are dependents of veterans.

This Directive will not only bring the Department and veterans' agents into compliance with the applicable statutory and case law, but also reflects the Department's strong commitment to veterans and their families. Please reach out to any dependent applicants who have been previously denied. Thank you for all your efforts and commitment to Massachusetts veterans and their families.

Process for Consideration of Requests to Continue Appeal Hearings of MGL Chapter 115 Benefits  
Determinations -- Continued

- The Hearing Officer or the General Counsel may, in their discretion and for good cause only, grant a continuance and re-schedule the hearing at the earliest possible date.
- Multiple requests for continuance will not be permitted, unless there are compelling, good faith reasons for each such request. The parties are reminded that they may participate in the appeal hearing via telephone and that a personal appearance is not required.
- If the Hearing Officer or the General Counsel determines, within their discretion, that a request for a continuance is not supported by the facts or has not been made on a good faith basis, the appeal hearing shall proceed without the participation of the requesting party and shall be decided upon the documentation previously submitted by either party to the appeal.