



T H E M I L I T A R Y C O A L I T I O N

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STATEMENT

of

THE MILITARY COALITION (TMC)

before the

Veterans' Disability Benefits Commission

January 19, 2007

Presented by

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TMC Retiree Committee Co-chair**

and

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MISTER CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMISSION. On behalf of The Military Coalition, a consortium of nationally prominent uniformed services and veterans' organizations, we are grateful to the commission for this opportunity to express our views concerning concurrent receipt or military retired pay and VA disability compensation. This written statement provides the collective views of the following military and veterans' organizations, which represent approximately 5.5 million current and former members of the seven uniformed services, plus their families and survivors.

- Air Force Association
- Air Force Sergeants Association
- Air Force Women Officers Associated
- American Logistics Association
- AMVETS (American Veterans)
- Army Aviation Association of America
- Association of Military Surgeons of the United States
- Association of the United States Army
- Chief Warrant Officer and Warrant Officer Association, U.S. Coast Guard
- Commissioned Officers Association of the U.S. Public Health Service, Inc.
- Enlisted Association of the National Guard of the United States
- Fleet Reserve Association
- Gold Star Wives of America, Inc.
- Jewish War Veterans of the United States of America
- Marine Corps League
- Marine Corps Reserve Association
- Military Chaplains Association of the United States of America
- Military Officers Association of America
- Military Order of the Purple Heart
- National Association for Uniformed Services
- National Guard Association of the United States
- National Military Family Association
- National Order of Battlefield Commissions
- Naval Enlisted Reserve Association
- Naval Reserve Association
- Non Commissioned Officers Association
- Reserve Enlisted Association
- Reserve Officers Association
- Society of Medical Consultants to the Armed Forces
- The Retired Enlisted Association
- United States Army Warrant Officers Association
- United States Coast Guard Chief Petty Officers Association
- Veterans of Foreign Wars of the United States
- Veterans' Widows International Network

The Military Coalition, Inc., does not receive any grants or contracts from the federal government.

Overview

Mr. Chairman, The Military Coalition (TMC) thanks you for this opportunity to address the Commission and express our views concerning the staff-prepared issue paper on concurrent receipt (research question #21). We appreciate that the Commission has already heard from several other veteran and military organization representatives on this and a variety of other topics and concerns; yet, today we will devote our discussion to concurrent receipt and specifically the issue paper posted on your website.

Critique of the Staff-Prepared Paper

The staff-prepared paper provides a sufficient history of concurrent receipt as well as a comparison to other programs and common arguments for and against allowing both retirement pay and VA disability compensation. However, we would like to outline a few points to provide additional clarification for the commissioners:

The paper causes some confusion by using language that tends to tilt the arguments towards the old paradigm. For example, military retirement pay is often referred to "military retirement benefits" which appears to imply that these benefits are 'provided' or given by the government as a reward for "service to the nation," as opposed to the view that this compensation is like other retirement plans that are contractually based: if an employee completes the required service, in exchange he or she has earned retired pay and the associated benefits. Concurrent receipt allows qualifying members to receive both retired pay and VA disability compensation; therefore, the Commission's discussions on concurrent receipt should focus on military retired pay, not retiree benefits.

Under "Recent Legislation," a group of eligible retirees were completely unaddressed. It is important that the Commission understand that retirees with 15–20 years of service, who retired under Temporary Early Retirement Authority (TERA), are eligible for Concurrent Retirement and Disability Pay (CRDP).

Our primary concern surrounds the limited options in the issue paper. The staff proposes only four options:

1. ***"Endorse the current tiered approach..."*** (status quo).
2. ***"Endorse an offset of military retirement by VA disability compensation for everyone."*** (reverts back to pre-concurrent receipt legislation).
3. ***"Endorse full concurrent receipt of both military retirement and VA disability compensation without any additional payment of CRDP or CRSC for everyone who has 20 years of service for retirement purposes."*** (a modified "full" concurrent receipt).

4. ***“Endorse continuing to allow an annual election of CRDP or CRSC for those with dual eligibility and expanding the current tiered approach to veterans rated 10 through 40 percent...”***(a slight extension of CRDP only).

The first two options are understandable for the Commission to review as they provide two “ends of the spectrum;” however, the remaining two staff-prepared options are extremely limited in scope and do not provide a true “full” concurrent receipt option for further deliberations.

The third option would provide full retirement pay and VA disability compensation without an additional CRDP or CRSC payment to retirees with more than 20 years of service. Although this option would simplify the concurrent receipt process by eliminating CRSC and CRDP programs and management, it would also “exclude” the existing TERA-retiree eligibles and allow receipt of both medical retirement pay (Chapter 61 – the chapter of law covering military disability retirement) and VA disability compensation as long as the retiree has 20 years of service. We are certain that this option would come under scrutiny for providing compensation for the same disability (above longevity retirement).

The fourth option extends the current CRDP eligibility by including retirees with disability ratings of 10-40 percent. Although this option does further expand eligibility to currently excluded retirees and is one that the Coalition supports, it fails to include members that are forced to retire with less than 20 years of service due to medical reasons. The Commission should expand its scope of consideration and add a recommendation to address Chapter 61 retirees with less than 20 years.

The Coalition believes “Chapter 61s” are a group of retirees “caught in the middle” based on the revised retired pay laws – some “Chapter 61s” are eligible for concurrent receipt; others are not.

Under the old law, there were two kinds of retirements – longevity retirement and disability retirement. The fundamental concept of concurrent receipt is that retired pay is earned by longevity of service, and disability compensation is payment for reduced quality of life and loss of function and future earnings.

The new concurrent receipt legislation extends eligibility to Chapter 61 members with greater than 20 years of service. Their disability retired pay often exceeds the amount they would have earned by service alone. Therefore, Congress authorized concurrent receipt for such members exempting from the VA disability offset only the amount of retired pay the member would have earned by service alone (longevity), independent of any disability. The rest of their retired pay was deemed disability compensation from DoD and remains subject to dollar-for-dollar offset for any VA disability compensation.

The formula established in law for Chapter 61 retirees with more than 20 years of service is 2.5 percent of the applicable basic pay base times years of service. By establishing this formula, Congress validated that part of what’s called disability retired pay is, in fact, earned by service. The logic behind this is that service-based retired pay is earned in its own right, but retirees shouldn’t be able to claim disability compensation from both the military and the VA for the

same disability.

We believe that the same formula should be extended to Chapter 61s with less than 20 years of service. Under that formula, a person with 15 years of service would be “vested” at three-fourths the amount of the 20-year member, with proportionally less for shorter service.

The Coalition feels it's unfair to eliminate the disability offset for someone with a 10% combat disability who has 20 years of service while still imposing the full offset on a 100% combat-disabled member who was forced into medical retirement at 19 years and 10 months. Our point is that use of the 20-year standard implies that the person had a choice.

In the case of medical retirees, they just don't have a choice. In their case, we believe strongly that the only fair solution is to "vest" them in the service-earned portion of their retired pay – 2.5% times pay times years of service.

The simple explanation: a 100% combat disabled E-8 retired with 19 years of service today is retired with disability retired pay of about \$2,735 a month (75% of his high-three basic pay). His 100% VA disability compensation wipes out all but about \$120 of that if he's married.

Our proposal protects 2.5% times 19 years times his high-three basic pay from offset. In this case that guarantees that he would keep \$1,732 a month as "earned by service." The remaining \$1,003, which is clearly for disability, would still be subject to offset, since we agree you shouldn't draw disability compensation from both DoD and the VA for the same disability. In fact, this exact same "earned by service vs. awarded for disability" computation methodology is already what's used, by law, to determine CRDP/CRSC payments for disability retirees with more than 20 years of service.

Some would say, "Maybe for the 19-year person that's fair, but how far would you go?" Our answer is, "on principle, all the way down to one year. Those who have served only a short time won't have very much earned retired pay."

We do understand funding constraints can limit the amount of future progress. Therefore, at the very minimum and as an incremental step forward towards our long-term goal of full concurrent receipt, the Coalition advocates that the Commission should strongly recommend coverage for those with 15+ years of service. Under current law, a 50% disabled, 15-year early retiree who left service during the 1990s drawdown rightly can get concurrent receipt (on the 10-year phase-out schedule), but the 100% combat-disabled, 19-year medical retiree can't. That's just flat wrong.

Conclusion/Recommendation

The Coalition fully supports option four that further expands the current tiered approach to retirees with disability ratings of 10 through 40 percent.

Additionally, the Coalition urges the Commission to include an option for Chapter 61 retirees with less than 20 years of service. These members did not have the choice to remain until 20

years; their service-connected disability forced them to cut their careers short. It is unfair to continue to penalize them for incurring a service-ending disability.