



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)**

Submitted to the

**HOUSE ARMED SERVICES
SUBCOMMITTEE ON MILITARY PERSONNEL**

concerning

Military Survivor Benefit Plan Issues

December 9, 2015

Presented by

Colonel Steve Strobridge, USAF (Ret)

**Co-chair, The Military Coalition
and
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Military Officers Association of America**

CHAIRMAN HECK, RANKING MEMBER DAVIS, AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE. On behalf of The Military Coalition (TMC), a consortium of nationally prominent uniformed services and veterans' organizations, we are grateful to the committee for this opportunity to express our views concerning issues affecting certain military survivors. This statement for the record provides the collective views of the following military and veterans' organizations, which represent approximately 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
AMVETS
Army Aviation Association of America
Association of Military Surgeons of the United States
Association of the United States Army
Association of the United States Navy
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
Fleet Reserve Association
Gold Star Wives, Inc.
Iraq and Afghanistan Veterans of America
Jewish War Veterans of the United States of America
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
Naval Enlisted Reserve Association
Non Commissioned Officers Association
Reserve Officers Association
The Retired Enlisted Association
United States Army Warrant Officers Association
United States Coast Guard Chief Petty Officers Association
Veterans of Foreign Wars
Vietnam Veterans of America

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

The Military Coalition is grateful to the Subcommittee for its significant efforts in the past decade to improve the Survivor Benefit Plan (SBP), especially its major achievement in 2005 of eliminating the nearly 40-percent annuity reduction that more than a quarter million SBP survivors previously experienced upon attaining age 62.

We also appreciate the Subcommittee's efforts to alleviate another significant inequity experienced by about 63,000 survivors – the deduction of VA Dependency and Indemnity Compensation (DIC) from SBP, known as the SBP-DIC offset.

SBP-DIC Offset

The Coalition believes strongly that current law is unfair in reducing military SBP annuities by the amount of any survivor benefits payable from the VA DIC program.

How the offset works. If any veteran, including a uniformed services retiree, dies of a service-connected cause, the veteran's spouse or other eligible survivor is entitled to receive DIC from the Department of Veterans Affairs. For 2015 and 2016, the DIC annuity amounts to \$1,254 per month, or slightly over \$15,000 annually.

If the veteran happens to be a uniformed services retiree who was also enrolled in SBP, the surviving spouse's SBP annuity is reduced by the amount of DIC. A pro-rata share of the SBP premiums is refunded to the survivor upon the member's death in a lump sum, but with no interest. This offset also affects all survivors of servicemembers who are killed on active duty or active duty for training.

For SBP-eligibles whose SBP annuity is \$1,254 per month or less, the DIC offset wipes out the entire SBP amount. As a practical matter, the service-caused nature of the death effectively eliminates the SBP benefit payable to the survivor of any military retiree below grade E-8. It also eliminates the entire SBP check for thousands of survivors of members who retired in higher grades, but who elected less than maximum SBP coverage.

For DIC-eligible survivors of retired members with higher SBP-covered retired pay amounts, the offset wipes out the first \$15,000 of annual SBP value.

The inequity. The Coalition believes strongly that SBP and DIC payments are paid for different reasons, just as military retired pay and VA disability compensation compensate for different issues.

SBP is insurance purchased by the retiree from his/her employer (DoD) and is intended to preserve a portion of service-earned retired pay for the survivor upon the retiree's death for any reason. DIC is a special indemnity compensation paid to the survivor by the VA when a member's service caused his or her premature death.

In such cases, the VA indemnity compensation should be added to the SBP annuity the retiree paid for, not substituted for it.

For the sake of contrast, federal civilian retirees who are disabled veterans and die of military-service-connected causes can receive DIC without losing any of their federal civilian SBP benefits.

The Veterans Disability Benefits Commission (VDBC) was tasked to review the SBP-DIC issue, among other DoD/VA benefit topics. The VDBC's final report to Congress in 2007 agreed with the Coalition in finding that the offset is inappropriate and should be eliminated.

Senator Bill Nelson, who served as Florida insurance commissioner before his election to the Senate, has noted he never heard of any other purchased insurance policy that could refuse to pay the beneficiary part or all of the proceeds (and merely refund a share of premiums) because of the existence of other insurance.

The reality is that, in every SBP-DIC case -- active duty, Guard, Reserve, or retired -- the true premium extracted by the service from both the member and the survivor was the ultimate one -- the very life of the servicemember.

This reality was affirmed and underscored by the August 2009 Federal Court of Appeals ruling in *Sharp v. U.S.* which found, "After all, the service member paid for both benefits: SBP with premiums; DIC with his life." (*US Court of Appeals, 2008-5108, Patricia R. Sharp v. US*)

In 2005, then-Speaker Pelosi and other House leaders made repeal of the SBP-DIC offset a centerpiece of their GI Bill of Rights for the 21st Century.

Efforts to begin phasing out the inequity. This Subcommittee took the initiative in the FY 2008 National Defense Authorization Act to establish the Special Survivor Indemnity Allowance (SSIA) as a first, admittedly very modest, step in a longer-term effort to phase out the DIC offset to SBP. (FY 2008 NDAA; PL 110-181 Section 644)

Then House Armed Services Committee Chairman Ike Skelton praised this initiative to reduce the adverse effect of the SBP-DIC "widow's tax".

"This legislation is the latest step in our continuing effort to eliminate the so-called 'widow's tax', which has long denied surviving family members the full payment of their Survivor Benefit Plan (SBP) benefits," said Skelton.

"I am grateful to House Oversight and Government Reform Committee Chairman Ed Towns for working with me on this initiative. Chairman Towns' cooperation made it possible to find the funding needed in order to change the law. I would also like to commend Congressman Solomon Ortiz, who has introduced legislation on the SBP offset and has been a great leader and advocate for the military families affected by this issue," said Skelton.

“While I regret that this bill does not completely end the offset, the House Committee on Armed Services will continue to explore every opportunity to pursue legislation that brings us closer to eliminating the ‘widow’s tax’, just as we did today with the help of Chairman Towns,” said Skelton.

That initial legislation authorized the SSIA for all survivors affected by the SBP-DIC offset in the amount of \$50 per month for FY 2009, with the amount increasing by \$10 monthly for each of the next five years, reaching \$100 per month for FY 2014-2016. A separate limitation specified the SSIA amount may not exceed the amount of SBP subject to offset. Due to funding limitations, the authority to pay the SSIA under this initial provision was to expire on March 1, 2016. The primary source of initial funding for the SSIA was the sale of federal assets.

In 2009, Armed Services Committee leadership took a second step to ease the financial penalty for SBP-DIC survivors by convincing House leadership to allocate to SSIA a share of the Medicaid savings realized by P.L. 111-31, *The Family Smoking Prevention and Tobacco Control Act*.

Accordingly, P.L. 111-31 amended title 10 USC 1450(m) to extend SSIA payment authority through September 30, 2017, and to increase the monthly SSIA amounts as follows:

FY 2014: \$150
FY 2015: \$200
FY 2016: \$275
FY 2017: \$310

Current Outlook. As of FY2017, the progress achieved through phased SSIA increases will have eliminated roughly 25% of the SBP-DIC penalty.

But as a practical matter, it has been many years since the defense authorization bill was enacted before the end of the fiscal year.

So including an extension of this authority in the FY 2017 National Defense Authorization Act will be essential to preclude at best an interruption, and at worst a termination, of the then-\$310 payment to SBP-DIC widows.

Most of the survivors affected by the SBP-DIC offset have suffered five-digit annual income losses for decades. In many cases, service-caused disabilities meant servicemembers had limited opportunity to purchase other insurance and limited opportunity to pursue post-service careers.

The SBP-DIC offset constitutes a massive financial penalty for these survivors. As the Subcommittee members and staff know only too well, their patience has been sorely tried as you have fought the mandatory spending battles in your efforts to win the modest relief achieved to date.

After at last starting to see more significant increases in their SSIA amounts, the worst message we could send these most aggrieved constituents would be to let even this partial progress expire.

MCRMC SBP-DIC Proposal. The Military Coalition emphatically opposes the recommendation of the Military Compensation and Retirement Modernization Commission (MCRMC) recommendation to create a two-tier SBP system under which retired members could elect an SBP option that had no DIC offset, but would pay an extra premium sufficient to offset the extra cost.

The Coalition believes this is no solution at all. Very, very few retiring members know at the time they leave service whether they will die of a service-connected cause. Accordingly, very, very few would be willing to incur the significantly higher cost of protecting against that possible outcome. The net effect would be the same as the current law -- without the SSIA relief.

The Coalition believes the MCRMC proposal is not a solution, but merely a way to ignore the problem. As a practical matter, the retired member and survivor already are funding their own DIC payments out of the SBP annuity. Asking them to put up their own money from a different pocket does nothing to address the fundamental inequity of making them fund it themselves.

Coalition Recommendation: Clearly, the best solution and the Coalition's ultimate goal is to eliminate the SBP-DIC offset.

We know the Subcommittee is sympathetic to this goal. We also are more than sensitive to the Subcommittee's struggles in dealing with mandatory spending requirements to address this and a range of other issues.

But the cause of the SBP-DIC widows has been urgent and sensitive enough that House leadership has been persuaded on at least two occasions to allocate some level of non-military savings resources for their financial relief.

It is difficult to explain to these widows why far larger spending offsets can be found to provide Medicare Part B premium relief for large numbers of wealthier Medicare beneficiaries, but their far greater need for relief goes unmet.

To the extent broader relief can't be achieved in the near term, our hope is that their plight is urgent enough in FY2017 as to warrant similar leadership involvement to find a way to extend the SSIA authority and hopefully to make further progress in phasing out the highly unfair SBP-DIC offset.

SBP for Inactive Duty for Training Deaths

The Eleventh Quadrennial Review of Military Compensation (QRMC) report released in June of 2012 recognized that the Survivor Benefit Plan (SBP) annuity for reserve component personnel

who die while performing inactive duty is significantly less than the benefit available to survivors of active duty members and reserve members who die on active duty. This reduced annuity formula means all but a few survivors of inactive duty for training casualties lose their entire SBP because of the DIC offset.

On August 20, 2007, two National Guard families learned of the devastating loss of their husbands who were flying an Apache helicopter near Lake Mountain in Cedar Valley, Utah. On that terrible day, Chief Warrant Officers James Linder and Chief Warrant Officer Clayton Barnes died while flying a training mission. Because of the reduced annuity formula, their families were paid less than others of similar grade and service who die in the line of duty. "I felt like they were taking it away from my kids," Melinda Barnes said. More than the loss of benefit was what it said about her husband's death in service. "It felt like his death wasn't good enough."

Regardless of the way their orders are classified, these reservists are still performing military duties at the time of their death. The QRMC report recommended calculating SBP benefits for a reservist who dies while performing active duty training using the same criteria as for a member who dies while on active duty. We believe widows whose sponsors' deaths were caused by military service should not be last in line for redress.

We ask the Subcommittee to authorize the calculation of the SBP annuity for a reservist who dies while performing inactive duty training using the same criteria as a servicemember who dies while on active duty.

Thank you for the opportunity to present The Military Coalition's views on these important topics.

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Director, Government Relations, Military Officers Association of America, and
Co-Chair, The Military Coalition

Steve Strobridge, a native of Vermont, is a 1969 ROTC graduate from Syracuse University in Syracuse, N.Y. He was called to active duty in October 1969 and began his career as a Basic Military School training officer and commander and as a military personnel officer.

He subsequently served as a compensation and legislation analyst at HQ U.S. Air Force and in the Office of the Secretary of Defense as director of Officer and Enlisted Personnel Management, with intervening assignments in Thailand and Germany.

His final assignment was as chief of the Compensation Division at HQ U.S. Air Force, with policy responsibility for military compensation, retirement and survivor benefits, and all legislative matters affecting the military community.

He is a graduate of the Armed Forces Staff College and National War College.

Strobridge retired from the Air Force in January 1994 to become MOAA's deputy director for Government Relations. In 2001, he was appointed as director of Government Relations and elected as Co-chair of The Military Coalition.

In December 2012, he was named by Defense News and Military Times to their list of the “100 Most Influential People in US Defense”.

He retired from MOAA in April 2013, but was recalled as Government Relations director in September 2015 and was subsequently re-elected as Co-chair of The Military Coalition.