

# A PRIMER ON VETERANS' DISABILITY BENEFITS



**BRANDY DISBENNETT-ALBRECHT** is an experienced veterans' law practitioner with Greene & Marusak, LLC, and also serves as an Adjunct Professor at Washington & Lee University School of Law teaching a Veterans Law Practicum. Prior to joining Greene & Marusak, Brandy served with the Virginia Department of Veterans Services Benefits service line in various roles, including policy, planning, oversight, the development of training, and representing clients before the agency. She has delivered over 1,500 hours of training in the field of veterans' law, including continuing legal education presentations and other public speaking events. She is accredited to represent veterans before the US Department of Veterans Affairs and licensed to practice before the US Court of Appeals for Veterans Claims. Brandy was appointed to serve on the Virginia State Bar's Standing Committee on Access to Legal Services in 2020, and appointed to the Board of Governors of the Virginia State Bar's Military Law Section in June 2022.

Veterans' benefits have a long and storied history in this country. While the area of law is unique, it is a deeply fulfilling practice that aims to deliver earned benefits to veterans and their family members.

This article provides a short introduction of common veterans' benefits delivered by the US Department of Veterans Affairs (VA), such as healthcare and compensation benefits. It will also discuss a few common intersections between veterans' benefits and other legal practices that might make you ask: "Is my client a veteran?"

As a disclaimer, the word "generally" is used quite a bit in this article. As with most areas of law, for every rule there are exceptions, limitations, or other special circumstances, the nuances of which would drastically bog down this article. In addition, there are a plethora of other veterans' benefits that are not discussed here but are worthy of further inquiry.

## CLAIMS FOR DISABILITY COMPENSATION AND PENSION

Broadly speaking, before engaging in a conversation about eligibility for any VA benefits, there is a preliminary inquiry: Is the claimant a "veteran"?

The Code of Federal Regulations defines a veteran as "a person who served in the active military, naval, air, or space service and who was discharged or released under conditions other than dishonorable."<sup>1</sup>

Within this definition are two elements: (i) whether the period of service can be categorized as "active" service; and (ii) the character of the veteran's discharge. Without engaging in a larger discussion on the nuances of these two elements, generally speaking, before applying for benefits, the veteran should have a DD-214 (discharge document from a period of active duty) that does not say "dishonorable."<sup>2</sup>

The VA has two primary monetary benefit programs: (i) service-connected disability compensation; and (ii) pension benefits. In short, service-connected disability compensation provides a monthly monetary benefit for disabilities incurred in service. Pension benefits are monthly benefits payable to low-income wartime veterans. Disability compensation and pension are both tax-free benefits.

In the adjudication of any benefit, the VA is duty-bound to administer benefits to veterans in a non-adversarial and paternalistic manner. To do so, the VA uses a reduced burden of proof standard, known as the "benefit of the doubt" standard.

If a "preponderance of the evidence" standard is 51 percent—tipping the scales *just enough* to allow one party to prevail—the benefit of the doubt doctrine is arguably less. Akin to a 50/50 standard, the scales must only be approximately balanced, and if that is the case, the benefit of the doubt doctrine applies and the veteran prevails in her claim. This concept was best described in *Gilbert v. Derwinski* as "similar

to the rule deeply embedded in sandlot baseball folklore that ‘the tie goes to the runner.’”<sup>3</sup>

### **Service-connected disability compensation**

A claim for injuries or disabilities “incurred coincident with service in the Armed Forces,”<sup>4</sup> is known as a claim for service-connected disability compensation.<sup>5</sup> There are three elements of service connection: (i) an in-service event; (ii) a current diagnosed condition; and (iii) a medical “nexus” between the in-service event and the current condition.

The nexus builds a bridge between what happened in service and the disability affecting the veteran today. It is usually the most difficult element to prove (even with the tie going to the runner), except in cases where the VA has made a “presumptive” connection between the event and the resulting disability.

Service-connection claims can be as straightforward as an injury to the knee on active duty that later turns into arthritis or as complex as rare forms of cancer caused by toxic exposures.

Once the VA awards service connection for a particular condition, it must then assign a rating, a percentage that is synonymous with severity. For any ratable disability, the VA has a series of rating criteria describing different levels of severity. For example, diabetes mellitus managed only with restricted diet is evaluated as 10 percent disabling, whereas diabetes treated with an oral hypoglycemic agent *and* restricted diet would be evaluated as 20 percent disabling.<sup>6</sup>

Once the VA has assigned each service-connected disability the appropriate rating, it then combines each individual rating using the Combined Ratings Table.<sup>7</sup> As the maximum schedular rating is 100 percent, the combined rating cannot merely be the sum of all the individual ratings. Thus, the Combined Ratings Table acts more as a limiting mechanism, such that disabilities may be added together without prematurely exceeding 100 percent. This math can best be visualized by thinking of a pie chart with each disability taking a smaller slice of the residual functional capacity as they continue to add together.

The resulting combined rating ultimately corresponds to the veteran’s payment rate. Payment rates for each level of compensation are set by the VA and generally receive cost-of-living increases each year.<sup>8</sup> These benefits can range from approximately \$150 to over \$3,300 per month, tax-free.<sup>9</sup>

### **Pension**

Pension benefits are needs-based benefits provided to low-income wartime veterans who have been deemed totally disabled due to age or non-service connected disability.<sup>10</sup> The first inquiry to establish entitlement to pension benefits generally requires that a veteran have served at least 90 days on active duty, with at least one day during a period of war.<sup>11</sup> Next, the veteran must either be over the age of 65 or be deemed totally disabled due to a non-service connected disability.<sup>12</sup> Additionally, the veteran’s income must fall under the maximum annual pension rate.<sup>13</sup> Finally, the veteran must have an overall net worth (including income) less than the net worth limit set by the VA.<sup>14</sup>

For pension purposes, income from any source must be counted, unless specifically excluded by the VA. Included income is any recurring or irregular income from salary or other wages (e.g., retirement or investment income, business or farm income, etc.).<sup>15</sup> Excluded income includes donations from public or private relief, including charitable organizations, maintenance furnished by a relative or friend, any benefits that can be deemed welfare, reimbursement from casualty loss, or amounts contained in a joint account acquired following the death of the joint owner.<sup>16</sup>

An important aspect of many pension determinations is the ability to subtract out-of-pocket medical costs from countable income.<sup>17</sup> These out-of-pocket expenses include co-pays, prescription medications, in-home care, over-the-counter supplies such as dietary supplements, incontinence materials, assistive devices, and even the cost of transportation to and from a health care provider.<sup>18</sup>

Finally, the veteran must fall under the net worth requirement set by the VA. A veteran’s net worth is

the combination of income and assets.<sup>19</sup> Generally, the VA has defined assets to include any property owned by the veteran or claimant, including real and personal property, unless expressly excluded by regulation.<sup>20</sup> Exclusions include the primary residence, personal effects, and certain other special payments provided by regulation or statute.<sup>21</sup>

If the veteran's assets exceed the net worth limit, particularly if by a slim margin, the veteran's medical expenses might "spend down" assets or income in a sufficient period of time to create entitlement.<sup>22</sup> However, asset transfers (particularly those for less than fair market value designed to bring net worth under the acceptable limits) may come with penalties.<sup>23</sup> The VA will review the veteran's financial history for a three-year lookback period for disqualifying asset transfers.<sup>24</sup>

In a highly simplified example of a basic pension benefit calculation, assume the maximum annual pension rate for a single veteran is \$15,000.<sup>25</sup> If the veteran has a net worth under the VA limit, an income of approximately \$8,000 per year, and medical expenses of \$6,000 per year, countable income for VA purposes would then equal \$2,000. The VA will then pay the difference between the income for VA purposes (\$2,000) and the maximum annual pension rate (\$15,000), in monthly payments. In this example, that would be approximately \$1,083 per month.

In sum, disability compensation and pension benefits are two separate benefit programs that provide monthly, tax-free monetary benefits to veterans. Generally, while a veteran may qualify for benefits under both programs, the VA will pay the veteran the benefit that will result in the maximum payment. Both programs may also create avenues for ancillary benefits, including access to VA health care.

## VA HEALTH CARE

Access to VA health care through the VA Medical Centers (VAMC) is a crucial consideration for many veterans, particularly for those who did not retire from the US Armed Forces (retirees continue to be entitled to Tricare insurance). Access to VA Medical Centers is not available to all veterans; there are

specific eligibility criteria<sup>26</sup> that a veteran must meet in order to be enrolled in the medical benefits package<sup>27</sup> and placed into a "Priority Group."<sup>28</sup> A priority group (of which there are eight) determines which services a veteran may access within the VAMC, and whether there are any applicable copays for such care. For example, a veteran with an income defined as "low income" without a service-connected disability rating, may be eligible for care only if he or she agrees to pay a co-pay for services.<sup>29</sup>

Services and programs provided by the VA are quite vast and include, among many others, basic health care treatment and preventative services, mental health care services (including in-patient services), substance abuse preventative services (including in-patient treatment programs), prescription medication, emergency care, home health care services, prosthetic and rehabilitative care, pregnancy and delivery services (including newborn care post-delivery), health care education, and nutrition education.<sup>30</sup> VA health care may also cover community-based care if the VA is unable to provide necessary medical care.<sup>31</sup>

For many veterans, access to the VA Medical Centers is governed largely by first establishing entitlement to disability compensation or pension, as noted above. However, another common access point to the medical benefits package is provided to veterans discharged from active duty on or after September 2001.<sup>32</sup> Veterans meeting this criterion will remain eligible for medical benefits for 10 years after their discharge before their eligibility will need to be re-determined for continued care under a different priority group.<sup>33</sup>

Veterans can maintain eligibility and access to VA Medical Centers even if they have other health insurance plans, including Medicare. In fact, the VA encourages Medicare-eligible veterans to sign up for their Medicare coverage to ensure that any non-VA care is covered, particularly for a non-service connected disability.<sup>34</sup>

Access to healthcare services provided by the VA Medical Centers is generally only available to the

veteran, although there are healthcare benefits afforded to certain dependents of eligible veterans under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA).<sup>35</sup> This can be an important benefit consideration when a veteran and his/her family is exploring other healthcare options such as private health care insurance or supplements.<sup>36</sup> The most well-known eligibility criterion for a dependent family member to receive CHAMPVA coverage is after a veteran has been rated totally and permanently disabled by the VA by reason of a service-connected disability.<sup>37</sup> However, there are other eligibility determinants, such as if the veteran's spouse is also a Caregiver under the Program of Comprehensive Assistance for Family Caregivers (PCAFC) VA Caregiver Support Program.<sup>38</sup>

Access to VA health care is an important consideration for veterans. The various priority groups and services do require a certain level of savvy navigation to ensure that care and services are being provided to the full extent possible. In addition to advocates who can help to advise a veteran of various services available through the VA health care system, each medical center also has Patient Advocates and other supportive programs and coordinators<sup>39</sup> who can help advise a veteran on available services and connect them to the necessary program.

## IS YOUR CLIENT A VETERAN?

The practice of veterans' law is comparatively small in relation to other areas of the law. It is a fulfilling practice that includes both attorney and non-attorney practitioners, advocates, veterans service organizations, state organizations, policy makers, and even law school clinics or practical courses. But despite a healthy list of advocates, the likelihood that readers of this article practice veterans' law may still be relatively small.

One of the goals of this article is not only to provide an introduction to some common veterans' benefits, but also to highlight a few areas where veterans' benefits may overlap with other common practice areas. Many veterans are unaware of the wide array of benefits that may be available to them; a nudge

in the right direction to seek additional help may be both helpful to your client and perhaps help maximize attorney services as well.

## Criminal law

A practice in criminal law will likely (and unfortunately) involve many veterans. Some states have veterans' dockets where the court process may consider veteran status, available veteran resources, and even veteran peer mentoring to assist justice-involved veterans. Veterans' dockets are a wonderful tool, but even absent a veterans' docket in your jurisdiction, the VA and other veteran service organizations may have supportive services for justice-involved veterans.<sup>40</sup>

If a veteran is in receipt of VA compensation or pension, incarceration may impact those benefits. If a veteran is incarcerated for a period of 61 days or longer, there must be a reduction or even discontinuance in their VA benefits.

If the veteran is in receipt of *pension* and is incarcerated due to a felony or misdemeanor conviction, the VA will discontinue pensions for the remainder of the incarceration period on the 61st day.<sup>41</sup> If the veteran is in receipt of *service-connected disability compensation* in excess of 20 percent evaluation, and is incarcerated due to a felony conviction, the benefit must be reduced to the 10 percent level.<sup>42</sup>

Once the veteran is released from incarceration, he or she need only provide that information to the VA in order to resume benefits.

If the veteran fails to report his or her incarceration and continues to receive benefits past the 61st day, the veteran will incur a debt to the VA. It is also worth noting that the VA's processing goal is approximately 125 days, though results vary and some processing times may be considerably faster or slower.<sup>43</sup> Thus, it is highly likely that even if the veteran makes a timely report, he or she is still likely to incur a debt to the VA. Further complicating matters, if the veteran is unaware of the duty to report, this debt is likely to catch up with the veteran at a crucial time following release from incarceration

when it would be detrimental for the veteran to lose compensation or pension benefits.<sup>44</sup>

As an example, a veteran in receipt of service-connected disability compensation at the 70 percent compensation rate receives \$1,529.95 per month.<sup>45</sup> Upon the 61st day of incarceration, that benefit should be reduced to the 10 percent rate at just \$152.64. If the veteran is incarcerated for an additional six months, the veteran has now incurred a debt to the VA of over \$8,000.<sup>46</sup>

The best remedy to avoid surprise and undue hardship is to know and be prepared. Early intervention is the best medicine to ensure minimal impact to the veteran's benefits, particularly upon release from incarceration.

### **Family law**

If a veteran is in receipt of disability compensation in excess of the 30 percent rate, he or she is entitled to receive additional compensation for legal spouses and dependents, including minor children (under age 18 or in school up to age 23) or even financially dependent parents.<sup>47</sup> For a veteran in receipt of pension, the maximum annual pension rate increases based on family size.<sup>48</sup>

As dependent status changes, whether by marriage, divorce, a new child, or a child aging out of dependency, the veteran must update the VA to maximize VA benefits and avoid potential overpayments. Similar to the incarceration situation discussed above, should a veteran delay in reporting the changed status of a dependent, the VA will continue to pay those benefits to the veteran, causing the veteran to incur a debt.

In particular, no matter how late after a divorce the update occurs, the VA will assess the overpayment from the effective date of the divorce.<sup>49</sup> As an example, a single veteran in receipt of service-connected disability compensation benefits at the 100 percent rate would receive \$3,332.06 per month.<sup>50</sup> However, if that veteran had a spouse, the veteran's compensation would increase to \$3,517.84 per month, an additional amount of \$185.78 per month. If the

veteran fails to report the divorce for a year, he or she has just incurred a debt of \$2,229.36.

Importantly, the reverse situation is also true. Should a veteran delay in adding dependents to their award, they may be leaving earned benefits on the table. Generally, so long as the veteran reports a birth or marriage within one year of the life event, the VA will assign an effective date to the date of the event and pay benefits from that date (usually a lump-sum retroactive payment to the veteran for the prior months where benefits were due).<sup>51</sup> However, if the dependent claim is received more than one year after the life event, the VA will only begin the additional compensation from the date of the veteran's claim.<sup>52</sup>

Thus, life events such as a new marriage, new child, or more complicated situations such as divorce or support issues can all impact a veteran's benefits. But preparation is the name of the game; timely communication to the VA can help to maximize the veteran's award and avoid overpayments.

### **ESTATE PLANNING AND SURVIVOR'S BENEFITS**

While this article focuses primarily on benefits that were available to the veteran, there are also benefits available to a veteran's survivors. Survivors may include a surviving spouse or dependent children.<sup>53</sup> Survivor's benefits may include monthly monetary benefits, burial benefits, and even education benefits for dependents.<sup>54</sup>

As a first rule of thumb to survivor's benefits, nothing is automatic. The VA will not automatically award any benefit to a survivor without first receiving a claim from the survivor.<sup>55</sup> Thus, after the death of a veteran, the survivor should be prepared to interact with the VA and file a claim. Often survivors do not know that they may be entitled to benefits, or that they need to apply separately. In addition, the survivor generally has one year following the death of a veteran to file a claim in order to maintain the earliest effective date for the survivor's benefit (the day after the veteran's death).<sup>56</sup>

The two primary types of survivors' benefits are similar to the two primary types of veterans' benefits. The first is known as Dependency and Indemnity Compensation (DIC), and the second is survivor's pension.

## DIC

DIC benefits are paid to a survivor when the death of a veteran is due to service-connected disabilities.<sup>57</sup> The service-connected disability may be the principal cause of death (e.g., if the veteran was service connected for coronary artery disease and his cause of death was cardiac arrest) or a contributory cause of death, meaning that the service-connected disability "aided or lent assistance to the production of death." For example, some underlying diseases, such as diabetes, may make it more difficult to fight off an infection which ultimately is the cause of death.

In addition to showing a relationship between a service-connected condition and the veteran's cause of death, DIC may also be established where a veteran's disability was rated permanent and total (100 percent disability rating) for at least 10 years immediately preceding his or her death.<sup>58</sup>

The base payment rate for DIC benefits is approximately \$1,400 per month. However, this rate is subject to cost-of-living increases.<sup>59</sup> As with the veteran's compensation rate, this is also a tax-free benefit.

Military retirees may have paid into the Survivor Benefit Plan (SBP), an annuity program managed by the Defense Financial and Accounting Service. There are particular opt-in periods offered to the active duty service member or retiree; generally, the retiree must have opted in by his or her retirement from the military.<sup>60</sup> If the retiree did opt in to the annuity, the retiree will pay into the annuity throughout his or her life and the survivor will become entitled to monthly taxable benefits from the SBP annuity upon the veteran's death.<sup>61</sup>

Until recently, a survivor entitled to both DIC and SBP would have their SBP payment offset by the amount of DIC; essentially, the survivor was only collecting the amount that was equal to the greater of the two benefits. However, Congress made changes to

SBP within the National Defense Authorization Act (NDAA) for Fiscal Year 2020.<sup>62</sup> This change will phase out the offset requirement and allow for a survivor to maintain full entitlement to *both* SPB and DIC without any offset.<sup>63</sup> Some survivors may have already begun to receive both benefits in full, but the phase-out process will be complete for all survivors in 2023.<sup>64</sup>

## Survivors pension

Similar to a veteran's pension, as discussed above, a survivor may also be entitled to a pension. First, the veteran must have the requisite service requirements for pension, as noted above. Then the surviving spouse has to have a net worth and income below the requisite limits. While the net worth limit is the same for surviving spouses, the maximum annual pension rate is a little lower than for a veteran. The maximum annual pension rate for a single surviving spouse is less than \$10,000.<sup>65</sup>

## Burial benefits

The VA does offer a modest burial benefit award, but the amounts vary depending on the circumstances of the veteran's death, including whether the death is related to a service-connected disability.<sup>66</sup> The VA may also pay a separate one-time stipend for the veteran's plot or interment.<sup>67</sup> This amount too may vary depending on whether the veteran is buried or interred in a state veterans' cemetery.<sup>68</sup> State cemeteries may vary in some respects as to the cost of a burial or whether a spouse or dependent is also eligible to be buried, but generally, state cemeteries will offer an accessible way to lay a loved one to rest and have their service memorialized.

The VA also provides other memorial items such as headstones and markers, burial flags, and Presidential Memorial Certificates.<sup>69</sup>

In sum, there are many considerations for potential survivors to consider. It is imperative that important end-of-life documents direct survivors to any potential VA benefits. When beginning the inquiry into any survivor benefit, the most important document for a survivor to have is a copy of the Veteran's DD-214. This document should be preserved with

other important end-of-life documents to help with necessary eligibility determinations. Other important documents to maintain include the veteran's last decision notification from the VA or the most recent "Summary of Benefits" letter, a letter which contains information related to benefit type and amount and military service information. These letters are automatically sent to the veteran each year (usually around March or April). If the veteran is a retiree, enrollment documents for SBP (if applicable) should also be preserved.

## CONCLUSION

The available benefits from the US Department of Veterans Affairs are vast. If you are interested in engaging with the VA on your client's behalf, you

must first be accredited with the VA's Office of General Counsel.<sup>70</sup> The accreditation program is part of the VA's duty to ensure that veterans are getting adequate representation before the agency. There are a few important rules for attorneys to know about how to obtain and maintain accreditation, as well as the particular rules on the collection of fees.<sup>71</sup> For appellate practices, the rules of admission for the particular court would apply.

However, even absent advocating directly to the VA on behalf of a client, VA benefits are likely to show up in many other areas of law. Recognizing whether your client is a veteran may be an important consideration to ensure that their benefits are not being adversely impacted by representation, or whether there are further ways to maximize their benefits. 🚀

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### Notes

- 1 38 C.F.R. § 3.1(d).
- 2 Generally, an honorable discharge will provide the most benefits and is the highest character of discharge status. However, the "general, under honorable conditions" discharge will be sufficient for almost all VA benefits except for GI Bill benefits. Other discharge statuses will need to be reviewed by the agency to determine eligibility for the benefits sought. See 38 C.F.R. § 3.1(m); 38 C.F.R. § 3.6; 38 C.F.R. § 3.203; 38 C.F.R. § 3.12; 38 C.F.R. § 3.12a.
- 3 *Gilbert v. Derwinski*, 1 Vet. App. 49, 55 (1990).
- 4 38 C.F.R. § 3.303(a).
- 5 *Id.*
- 6 38 C.F.R. § 4.119, Diagnostic Code 7913, Diabetes Mellitus. This diagnostic code has additional levels of severity at 40 percent, 60 percent, and 100 percent.
- 7 38 C.F.R. § 4.25.
- 8 US Dept. of Veterans Affairs, 2022 Veterans Disability Compensation Rates, available at <https://www.va.gov/disability/compensation-rates/veteran-rates/>.
- 9 *Id.* There are additional levels of compensation in excess of the 100 percent rate, known as special monthly compensation, but that is a subject for another article.
- 10 38 C.F.R. § 3.3(a)(3).
- 11 *Id.*; 38 C.F.R. § 3.2. If the veteran served after September 7, 1980, he/she must have served for at least 24 months, or the full period of duty for which he/she was activated, with at least one day during a period of war. See 38 C.F.R. § 3.12a.
- 12 38 C.F.R. § 3.3(a)(3).
- 13 38 U.S.C. § 1521. The maximum annual pension rate does increase for greater levels of disability and family size.
- 14 US Dept. of Veterans Affairs, 2022 VA Pension Rates for Veterans, available at <https://www.va.gov/pension/veterans-pension-rates/>. The net worth limit from December 1, 2021 through November 30, 2022 was \$138,489. This figure is subject to change based on cost-of-living adjustments.
- 15 38 C.F.R. § 3.271.
- 16 38 C.F.R. § 3.272.
- 17 38 C.F.R. § 3.278.
- 18 *Id.*
- 19 38 C.F.R. § 3.274.
- 20 38 C.F.R. § 3.275.
- 21 38 C.F.R. § 3.275(b).
- 22 38 C.F.R. § 3.274(f).
- 23 38 C.F.R. § 3.276.
- 24 38 C.F.R. § 3.276(a)(7), (e).
- 25 US Dept. of Veterans Affairs, 2022 VA Pension Rates for Veterans, available at <https://www.va.gov/pension/veterans-pension-rates/>.
- 26 38 C.F.R. § 17.36.
- 27 38 C.F.R. § 17.38.
- 28 38 C.F.R. § 17.36(b).
- 29 38 C.F.R. § 17.36(b)(7).
- 30 38 C.F.R. § 17.38.
- 31 38 C.F.R. § 17.1500-1540.
- 32 38 USC § 1710(e)(3). Expanded by Honoring our PACT Act of 2022, Public Law 117-168, Section 111(a) (Aug 2022)
- 33 See *id.*

- 34 US Dept. of Veterans Affairs, VA Health Care and Other Insurance, available at <https://www.va.gov/health-care/about-va-health-benefits/va-health-care-and-other-insurance/>; see also 38 C.F.R. § 17.106.
- 35 See 38 C.F.R. § 17.270.
- 36 A family member is not entitled to CHAMPVA when they would otherwise be entitled to Tricare, and there are other provisions regarding the interplay between CHAMPVA and Medicare benefits. See 38 C.F.R. § 17.271.
- 37 See 38 C.F.R. § 17.271(a)(1).
- 38 *Id.* The family caregiver must not be entitled to care or services under any other health-plan contract.
- 39 See, e.g., Homeless Patient Aligned Care Teams Program, Center for Women Veterans (Women Veterans Coordinator), Center for Minority Veterans (Minority Veterans Programs Coordinator), LGBTQ+ Veteran Care Coordinator, Military Sexual Trauma Care Coordinator, Vet Centers (mental health, PTSD, MST, grief, deployment related counseling, family counseling, substance abuse, etc.).
- 40 US Dept. of Veterans Affairs, Justice Involved Veterans and Treatment Courts, available at [https://www.va.gov/HEALTHY/Justice\\_Involved\\_Veterans\\_and\\_Treatment\\_Court.asp](https://www.va.gov/HEALTHY/Justice_Involved_Veterans_and_Treatment_Court.asp).
- 41 38 C.F.R. § 3.666.
- 42 38 C.F.R. § 3.665. If the veteran is only receiving benefit at the 10 percent rate, benefits will be reduced by half.
- 43 See US Dept. of Veterans Affairs, The VA Claims Process after your File a Claim, available at <https://www.va.gov/disability/after-you-file-claim/>; see also US Dept. of Veterans Affairs, Detailed Claims Data, available at [https://www.benefits.va.gov/REPORTS/detailed\\_claims\\_data.asp](https://www.benefits.va.gov/REPORTS/detailed_claims_data.asp).
- 44 The VA does periodically make inquiries and receive information from the Federal Bureau of Prisons Computer Match System. See VA Internal Manual (M21-1) XIV.7.1.a (updated April 30, 2021).
- 45 Compensation Rates, *supra* note 8. This example uses the payment rates effective December 1, 2021.
- 46 US Dept. of Veterans Affairs, Manage your VA Debt, available at <https://www.va.gov/manage-va-debt/>. The VA recoups debts through the debt management center and a veteran may apply for a payment plan to help with installment payments.
- 47 38 USC § 1115; 38 C.F.R. § 3.23.
- 48 *Id.*
- 49 38 C.F.R. § 3.501.
- 50 Compensation Rates, *supra* note 8.
- 51 38 C.F.R. § 3.401(b).
- 52 *Id.*
- 53 38 C.F.R. § 3.50; 38 C.F.R. § 3.57.
- 54 US Dept. of Veterans Affairs, Survivors' and Dependents' Educational Assistance, available at <https://www.va.gov/education/survivor-dependent-benefits/dependents-education-assistance/>. Survivors' and Dependents' Educational Assistance, under 38 U.S.C. Chapter 35, is dedicated solely to dependents of a totally disabled veteran and/or their survivors.
- 55 38 C.F.R. § 3.152.
- 56 38 C.F.R. § 3.400(c)(2).
- 57 38 C.F.R. § 3.5; 38 C.F.R. § 3.312.
- 58 38 C.F.R. § 3.22(a). A survivor is also entitled if the veteran was rated 100 percent disabled continuously since release from active duty and for at least five years immediately preceding death, or for one year preceding death if the veteran was a prisoner of war.
- 59 US Dept of Veterans Affairs, 2022 VA DIC Rates for Spouses and Dependents, available at <https://www.va.gov/disability/survivor-dic-rates/>.
- 60 Military Compensation, Survivor Benefit Plan Overview, <https://militarypay.defense.gov/Benefits/Survivor-Benefit-Program/Overview/>.
- 61 Defense Finance and Accounting Services, Start a Survivor Benefit Plan Annuity, <https://www.dfas.mil/RetiredMilitary/survivors/ApplySBP/>.
- 62 PL 116-92 Sec. 662(12/20/2019); <https://www.congress.gov/bill/116th-congress/senate-bill/1790>.
- 63 *Id.*
- 64 *Id.*; see also Defense Finance and Accounting Services, SBP-DIC Offset Phased Elimination News, <https://www.dfas.mil/RetiredMilitary/survivors/SBP-DIC-News/>.
- 65 US Dept. of Veterans Affairs, 2022 VA Survivors Pension Benefit Rates, <https://www.va.gov/pension/survivors-pension-rates/>. MAPR for survivors also increased based on household size or disability.
- 66 38 C.F.R. §3.1700.
- 67 38 C.F.R. §3.1707.
- 68 *Id.*
- 69 US Dept. of Veterans Affairs, "Honor a Veteran or Reservist with Memorial Items," <https://www.va.gov/burials-memorials/memorial-items/>.
- 70 US Dept. of Veterans Affairs, Accreditation, Discipline, and Fees Program, available at <https://www.va.gov/ogc/accreditation.asp>.
- 71 38 C.F.R. §14.629.