

123553
27587



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D C 20548

February 27, 1984

B-213750

The Honorable G. V. Montgomery
Chairman, House Committee on
Veterans' Affairs



123553

The Honorable Alan K. Simpson
Chairman, Senate Committee on
Veterans' Affairs

Subject: The Congress Could Consider Changing the
Effective Date Provision for VA Disability
Pension Awards (GAO/HRD-84-15)

As part of our oversight of the Veterans Administration's (VA's) benefit programs, we reviewed the effective date provision of the non-service-connected disability pension program. (Our objectives, scope, and methodology are discussed in enc. I.) This provision permits pension awards to be made retroactively for up to 1 year from the date a veteran applies for these benefits, which are based on the veteran's financial need.

Before 1974, disability pension awards became effective on the date of application. The effective date provision was amended, effective January 1, 1974, to alleviate the hardship involved when a veteran is unable to apply promptly for benefits because of his or her disability and to make this aspect of the program uniform with similar provisions of other VA disability and death benefit programs. Of an estimated \$32.3 million VA paid under this provision during the 12 months ended June 30, 1983, we estimate that about \$31.0 million was paid to veterans whose disabilities probably did not prevent them from promptly applying.

While the provision is uniform with those of other VA disability and death benefit programs, the Congress recently amended three other major federal programs that provide benefits to needy individuals to preclude awards from being made for periods before the application date for benefits. The stated congressional rationale for these changes was that benefits should not be provided before the individual recognizes a need for and requests assistance. The Congress may wish to maintain the uniformity among VA programs and not amend the effective

(400490)

028182
123553

date provision of the VA disability pension program. However, if the Congress wishes to apply its recent rationale to this program, we are presenting two alternatives that it could consider for amending the effective date provision.

VA'S INCOME-TESTED DISABILITY
PENSION PROGRAM PROVIDES
RETROACTIVE BENEFITS

VA disability pension benefits are made available to needy veterans with non-service-connected disabilities in recognition of their taking up arms in defense of the Nation during time of war. During fiscal year 1982, \$2.5 billion was paid to about 800,000 veterans under this program. The program, administered by VA's Department of Veterans Benefits through 58 regional offices, provides cash benefits to wartime veterans whose incomes are below specified levels and whom VA determines to be permanently and totally disabled. Veterans whose disabilities VA determines to be 100 percent disabling or who are 65 years of age or older are conclusively presumed to be permanently and totally disabled. A veteran may also be determined to be permanently and totally disabled if the disability is of a permanent nature, even though less than 100 percent disabling, and the veteran is unemployable because of such factors as age, occupational background, and disability.

These benefits were begun many years before the Congress established welfare programs for needy persons in the general population. In 1978, the Congress reemphasized the special obligation owed these veterans by increasing the pension program's benefit levels so that these veterans receive benefits above the poverty level and do not have to turn to welfare programs. For example, VA pension benefits are higher than benefits under the comparable Supplemental Security Income program, which also provides benefits to needy disabled or aged individuals.

Before 1974, disability pension awards became effective on the date of application. Public Law 93-177, effective January 1, 1974, changed this provision so that awards are effective on either the date of disability, if an application is received within 1 year from the disability date, or the date of application, whichever is to the veteran's advantage.¹ VA proposed

¹If the veteran had disqualifying income between the disability and application dates, the latter date would be used if the veteran meets the qualifying income test.

the change to the Congress to (1) alleviate the hardship involved when a veteran is unable to apply promptly because of the disability for which benefits are being sought and (2) achieve uniformity with effective date provisions of other VA disability and death benefit programs--VA's non-income-tested programs and two income-tested death benefit programs that we did not review (see enc. 1).²

THE CONGRESS ELIMINATED RETROACTIVE
BENEFITS FOR THREE OTHER MAJOR
INCOME-TESTED BENEFIT PROGRAMS

VA's non-service-connected income-tested disability pension program provides retroactive benefits as do other VA disability and death benefit programs. Recently, however, the Congress amended three other major non-VA income-tested programs that provide payments to needy individuals so that benefits are not awarded before the individual recognizes a need for and requests assistance.

Under the Supplemental Security Income program, administered by the Department of Health and Human Services, benefits are awarded as of the application date. VA's disability pension program is comparable to this program in that recipients must be disabled and/or aged, in addition to being needy. Also, the Department of Health and Human Services' Aid to Families with Dependent Children program and the Department of Agriculture's Food Stamp program now award benefits as of the application date. Applicants must be needy, but do not have to be disabled or aged to qualify for benefits in these two programs.

Benefits in these three federal programs were previously permitted to begin or began on the first day of the month in which the individual applied for benefits. However, on September 3, 1982, the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) was enacted, which made Supplemental Security Income and Aid to Families with Dependent Children benefits effective on the date of application. The stated congressional rationale for this change was that benefits for these income-tested programs should not be provided before the individual recognizes a need for and requests assistance. The

²Income-tested programs refer to benefit programs that use income tests, such as dollar ceilings, to decide eligibility and benefit amounts.

Congress had similarly changed the Food Stamp program's effective date provision with the enactment of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) on August 13, 1981.

MILLIONS IN BENEFITS PROVIDED RETROACTIVELY
TO VETERANS WHOSE DISABILITIES
DID NOT DELAY APPLYING

One objective of providing disability pension benefits for periods before the application date was to alleviate the hardship on veterans who were unable to apply promptly because of the disability for which they were seeking benefits. However, we found that most veterans who received retroactive benefits were probably not prevented from promptly applying for benefits by their disabilities.

Of the 185 cases in our nationwide sample (see enc. I, p. 1), 89 veterans received benefits for periods before the application dates. Of these 89 veterans, 15 qualified for benefits because they were 65 years of age or older and 74 qualified based on disabilities. The 89 veterans received an average of 4 months in retroactive benefits.

We asked VA officials to (1) review the disability evidence in those cases in which payments were received for periods before the application date and (2) provide an opinion on whether veterans' disabilities contributed to the delay in applying for benefits. For the 15 retroactive cases where veterans qualified for benefits based on age, there was no evidence of disability available for VA officials to review. For the remaining 74 retroactive cases reviewed, VA officials told us they believed that disabilities contributed to the veterans' delayed applications in 5 of the cases. These five cases included such impairments as cancer and cerebrovascular problems. Consequently, VA believed that in 69 of the cases the veterans' disabilities did not contribute to their delays in submitting applications.

Thus, a total of 84 veterans in our sample--15 who qualified based on age and 69 who qualified based on disabilities--qualified for benefits based on conditions that did not seem to

have caused the delay in applying for benefits.³ For example, one veteran who qualified because he was over 65 years of age received \$3,065 for the 11.2 months after his 65th birthday and before the application date. The 69 cases that qualified based on disability included

--a veteran suffering from blindness in one eye due to a cataract and from hypertension who received about \$3,100 in benefit payments for 8.4 months before the application date and

--a veteran with emphysema who received about \$1,600 in benefit payments for 7.6 months before the application date.

On the basis of our sample results, we estimate that, of 54,200 veterans awarded disability pension benefits that became effective during the 12 months ended June 30, 1983, 21,100 veterans received \$32.3 million in payments for periods before the application date. Of this amount, an estimated \$31.0 million was paid to about 19,600 veterans whose disabilities probably did not prevent them from promptly applying for benefits.⁴

CONCLUSIONS AND MATTERS FOR
CONSIDERATION BY THE CONGRESS

The effective date provision of the disability pension program is uniform with those of other VA disability and death benefit programs. However, it differs from those of three other major federal programs that provide benefits to needy individuals in that benefits may be awarded for periods before the date of application. The Congress recently amended the effective date provision of these three programs because it believed that benefits should not be provided before the individual recognizes a need for and requests assistance.

³Some of the veterans who qualified based on age may have had a disability which could have delayed them in applying for benefits. We have included these cases because of the small likelihood--based on VA's review of cases where disability evidence was available--that they had a disability which would have delayed their applying.

⁴The \$32.3 and \$31.0 million payment estimates were obtained from a statistical sample and are subject to sampling errors of \pm \$11.0 million at the 95-percent confidence level.

The Congress has traditionally provided veterans a special status in recognition of their wartime service. However, we are bringing this matter to the Congress' attention because of (1) its recent expression of intent as to when a needy person should start to receive benefits and (2) the small percentage of cases in which disabilities appear to contribute to delayed applications.

The Congress may wish to maintain the uniformity among VA programs and not amend the effective date provision of the disability pension program. However, if the Congress wishes to apply its recent rationale to this program, we are presenting two alternatives that it could consider for amending the effective date provision.

If the Congress decides that VA disability pension benefits should not be provided before the veteran recognizes a need for and requests assistance, it could amend title 38 U.S.C. §3010(b)(3) to provide that:

"The effective date of an award of disability pension to a veteran shall be the date of application."

If the Congress decides that disability pension benefits should not be provided before the veteran recognizes a need for and requests assistance, but that payments for periods before the application date should be made to veterans whose disabilities prevented them from promptly applying for benefits, the Congress could amend title 38 U.S.C. §3010(b)(3) as follows:

"The effective date of an award of disability pension to a veteran shall be the date of application unless the disability caused a delay in applying, in which case, if an application is received within one year from the date the veteran became permanently and totally disabled, the effective date shall be a date that is the same number of days prior to the date of application as the number of days that the Administrator determines the veteran was delayed in applying because of the disability, or the date of application, whichever is to the advantage of the veteran."

While not totally consistent with the Congress' recent rationale, the second alternative recognizes one of VA's original intentions in providing retroactive disability pension benefits--alleviating the hardship involved when a veteran is unable to apply promptly because of the disability for which benefits are being sought. The criteria for determining whether

a disability caused a delay in applying would need to be developed by either statutory or regulatory process.

These alternatives would not alter the higher benefits provided these veterans by the Congress in 1978. Therefore, the program would still recognize the special obligation owed wartime veterans. Because VA disability pension benefits can be awarded retroactively for periods of up to 1 year before the application date, these alternatives would have a more substantive effect on beneficiaries than the recent amendments which eliminated retroactive benefits of up to 30 days in three other non-VA programs that provide benefits to needy individuals.

BUDGETARY IMPACT OF OUR
MATTERS FOR CONSIDERATION

We believe that implementing either option to amend the effective date provision of the disability pension program could result in significant savings. Using the first alternative, estimated savings of \$32.3 million in benefit payments could have resulted on claims paid during the 12 months ended June 30, 1983. Using the second alternative, estimated savings of \$31.0 million, less additional administrative and other costs, could have resulted for the same period. VA officials stated that the savings from the second alternative would be reduced by administrative costs associated with determining whether, and to what extent, retroactive benefits should be allowed. In addition, they believed that some of their decisions would be appealed, resulting in additional costs. The officials said it would be difficult to estimate the magnitude of these costs. Because of the uncertainties involved, such as estimating the number of cases that would be appealed, we did not attempt to develop these costs.

If the Congress amends title 38 U.S.C. §3010(b)(3) using one of the alternatives described above, savings would accrue to the Veterans Administration, Compensation and Pension appropriation (29-00) 36-0102 in the Income Security for Veterans (701) budget subfunction.

VA COMMENTS

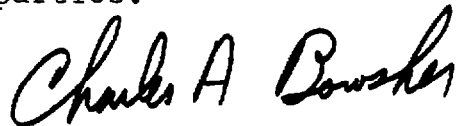
In an October 31, 1983, letter (see enc. II), VA said that our draft report did not consider the relationship of the disability pension program to VA need-based death benefit programs. VA stated that the alternatives presented for the disability pension program would result in more generous provisions for

survivors than for veterans, which would be contrary to the historic position that a greater obligation is owed to those who served. Under VA's income-tested (need-based) death benefit programs, a survivor may receive retroactive benefits if an application is received within 1 year of the veteran's death. We agree that the alternatives proposed for congressional consideration would eliminate or limit retroactive benefits to veterans and would not affect survivors' eligibility for retroactive benefits. We did not review the death benefit programs, so we cannot determine whether similar legislative changes would be appropriate for them. These programs were not reviewed because the claims folders did not contain adequate evidence from which to determine the cause for any delay in applying for benefits.

VA also commented that, by equating the pension program with general welfare programs, the draft report did not acknowledge that the pension program is intended to recognize the special contributions of wartime veterans. We have revised the report to reflect this basis for the veterans' pension program.

- - - -

Copies of this report are being sent to the Director, Office of Management and Budget; the Administrator of Veterans Affairs; and other interested parties.



Comptroller General
of the United States

Enclosures - 2

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to determine the basis for Veterans Administration (VA) income-tested program provisions that award benefits for periods before the date of application and to estimate the amount and number of these payments.

To accomplish the first objective, we researched the laws and legislative histories of VA and three other federal programs that provide benefits to needy individuals. VA's income-tested programs are the disability pension and two death benefit programs--death pension and dependency and indemnity compensation for dependent parents. The death benefit programs may award benefits for prior periods of up to 1 year from the application date to the date the veteran died. Based on our review of these programs' legislative histories and discussions with VA officials, it appears that this provision is intended to give the survivor time to overcome the veteran's death. We did not review these VA income-tested death benefit programs because the claims folders generally did not contain adequate evidence from which to determine a cause for any delay in applying for benefits.

There are many non-VA income-tested programs that provide cash and noncash aid that is directed primarily to persons with limited income. We examined the effective date provisions for three of these programs--the Department of Health and Human Services' Supplemental Security Income and Aid to Families with Dependent Children programs and the Department of Agriculture's Food Stamp program. We selected these programs because they are among the largest in terms of expenditures and similar to VA's disability pension program in that they provide cash or cash type assistance directly to the beneficiaries.

To estimate the number and amount of disability pension awards made for periods before the application date, we selected all disability pension awards having an original effective date between July 1, 1980, and June 30, 1981, from a 5-percent nationwide sample of VA's June 30, 1982, master record automatic data processing file of compensation and pension cases. This period was used to obtain from the master record file the most recent 12-month period in which cases were likely to be made retroactive since benefits may be awarded up to 1 year before the date of application. We identified 1,586 disability pension cases that had effective dates within that period.

From these 1,586 cases, we randomly selected a nationwide sample of 185 cases to estimate the number and amount of awards made for periods before the date of application. We reviewed

the claims folders for each of these 185 cases from 47 of the 58 VA regional offices to obtain original award information, including the effective date, benefit amount, and basis for the award. We compared this information to VA master record files of April 1983, to ensure that the original award information had not been changed for such reasons as under- or over-reporting of income. Adjustments were made accordingly.

To estimate the number of beneficiaries whose disabilities prevented them from promptly applying for benefits, we had VA New York Regional Office officials (who specialize in evaluating disability claims) review cases identified in our sample in which awards were made for periods before the application date.

According to VA officials, records are purged from the master record file after benefits have been terminated for 6 months. As a result, we believed that our sample and universe were understated because awards terminated more than 6 months before June 30, 1982, for such reasons as death or disqualifying income would not have been on the master record file we used. Consequently, we used a VA report to identify the universe of 62,687 disability pension awards made during the period reviewed. We projected the results of our sample to this universe.

To develop current estimates of the number and amount of disability pension awards made (1) for periods before the application date and (2) to veterans who received retroactive benefits and whose disabilities did not prevent them from promptly applying, we recomputed the results of our sample using the new provision for commencing benefit payments¹ and applying subsequent cost of living allowances.² Applying the new payment provision reduced the number and payment amount of retroactive awards in our sample. We applied these results to the universe of 54,212 disability pension awards made during the 12 months ended June 30, 1983, to obtain the current estimates.

We performed our work in accordance with generally accepted government auditing standards.

¹The Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253) changed the commencement date of benefit payments from the effective date of the award to the first day of the calendar month following the month in which the award became effective for awards made effective after September 30, 1982.

²Pension benefit increases of 11.2 percent and 7.4 percent were paid effective June 1, 1981, and 1982, respectively, to reflect cost of living increases.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420



OCTOBER 31 1983

Mr. Richard L. Fogel
Director, Human Resources Division
U S. General Accounting Office
Washington, DC 20548

Dear Mr Fogel:

Your September 22 draft report "The Congress Could Consider Making the VA Disability Pension Program's Beginning Date for Benefits Consistent with Those of Similar Federal Programs" contains suggestions that the Congress consider legislation curtailing retroactive improved - pension payments to disabled veterans. It is VA policy not to comment on the merits of legislative proposals before they are introduced in Congress and the committees of referral request our views. However, I do have a few observations regarding the draft report itself

As stated in this report, one of the purposes for amending the law governing disability pension awards and providing for retroactive entitlement was to "achieve general uniformity with effective date provisions of other VA disability and death benefit programs -- VA's non-income - tested programs and two income-tested programs. "

The General Accounting Office did not consider the relationship of this program to other VA need-based programs. Surviving spouses claiming nonservice-connected death pension and parents claiming dependency and indemnity compensation are awarded benefits from the first of the month of the veteran's death, if a claim is received within a year of the death. Eliminating retroactive benefits for veterans, but not for survivors, would result in more generous provisions for survivors than for veterans. This restriction would be completely contrary to the historic position that a greater obligation is owed to those who served. This principle is clearly indicated in the structure of the nonservice-connected pension programs in that the benefits paid survivors are far less than those paid to veterans.

In equating VA's pension program with general welfare programs such as Supplemental Security Income and Aid to Families with Dependent Children, as is done in the report, it is not clear that the underlying philosophy for veterans' programs is recognized. The pension program has always been need-based, but it is intended to recognize the special contributions of wartime veterans.

Thank you for the opportunity to review your draft report.

Sincerely,

A handwritten signature in cursive script that reads 'Harry N. Walters'.

HARRY N WALTERS
Administrator