



5436 Peru St. #1  
Plattsburgh, NY 12901  
518.563.9479

STATEMENT OF  
THE AMERICAN MILITARY RETIREES ASSOCIATION (AMRA)

before the  
HOUSE ARMED SERVICES  
SUBCOMMITTEE ON PERSONNEL

DECEMBER 9<sup>TH</sup>, 2015

Presented by  
Captain Ted S. Painter, US Army (Retired)  
National Legislative Director

Chairman Heck, Ranking Member Davis and distinguished members of the Subcommittee: On behalf of the American Military Retirees Association (AMRA), a Veteran Service Organization whose members include all categories of military retirees and their surviving spouses, I am grateful to the Committee for this opportunity to express the views of our collective membership regarding the Survivor Benefit Plan and Dependency and Indemnity Compensation offset and the Concurrent Receipt offset.

### **Survivor Benefit Plan-Dependency and Indemnity Compensation (SBP-DIC)**

The American Military Retirees Association supports a complete repeal of the SBP/DIC offset law. SBP is an insurance policy paid for by military retirees. It is coverage elected and purchased by the retiree to provide a portion of retired pay to the survivor upon the death of the retiree. The SBP benefit is disbursed by the Department of Defense. DIC is an indemnification earned through service to our nation. DIC payments are provided through the Department of Veterans Affairs as a special compensation to a survivor when the service member's death comes as a result of or due to injuries received during military service. It is the belief of our members that no law should prevent the widow of a retired and deceased American service member from receiving payment for both earned benefits.

Current law makes military widows forfeit part of their military SBP annuity when military service causes the member's death and their surviving spouses become eligible for DIC.

SBP is a DoD program that provides income protection to survivors of retired military personnel. Upon retirement, uniformed service members may elect to make monthly contributions of 6.5% of their retirement pay. This serves as a monthly premium and on the occasion of the retired service member's death his or her dependents receive 55% of the deceased service member's retirement pay.

DIC is a Department of Veterans Affairs program that provides a modest monthly annuity to survivors of a service member, active duty or veteran, who dies from a service-connected condition.

Under current law (10 USC 1450 (c) (1)), regarding a surviving spouse who is eligible to receive both DIC and SBP, DoD is required to reduce ("offset") the amount of the surviving spouse's SBP payment on a dollar-for-dollar basis by the amount of the DIC benefit. In essence, DIC payments replace SBP payments. If a spouse is entitled to an SBP payment greater than that of the DIC payment, she will receive the amount remaining in her SBP after the offset reduction. For example, if SBP would be \$1500 and DIC is \$1200 per month, the spouse would receive a taxable SBP payment of \$300.00.

Survivors are entitled to a refund of all or part of the SBP costs paid into the plan by the member if the DIC award is made retroactive to the date of death. The SBP disbursement refund will be applied to any SBP overpayment or other indebtedness, and a check for the remaining balance, if any, will be forwarded to the survivor. However, the SBP disbursement refund is considered taxable income.

An exception to the law above, codified as 38 USC 103 (d)(2)(B) and as a part of the Veterans Benefits Act of 2003, allows widows who re-marry after age 57 to receive both DIC and SBP without an offset. In these cases, it literally pays to remarry and the DoD essentially rewards these widows by paying them the full amount of their SBP. This law was a successful attempt to prevent the loss of DIC eligibility by widows upon the occasion of a subsequent marriage, as was the case prior to the law's passage. However, a loophole in the law allows this narrow demographic to receive both SBP and DIC payments while their unmarried counterparts are left to deal with the financial hardships outlined above.

AMRA members appreciate that in 2008 Congress acknowledged the inequity in law, authorizing a modest Special Survivor Indemnity Allowance (SSIA) for SBP-DIC widows to begin phasing out the offset. In June

2009, Congress took the next step, increasing SSIA monthly payments to \$150 beginning in FY2014 and rising to \$310 in FY2017. However, barring an additional law change, SSIA authority will expire October 1, 2017.

The SBP-DIC offset is an egregious policy forced upon widows whose spouses made the ultimate sacrifice in the service of their country. As a result, these widows are being forced to sacrifice a second time. SBP is paid for by the retiree through monthly deductions in retirement pay and is then disbursed to the surviving spouse by the DoD. DIC is earned as a result of honorable service to our nation—service that is determined to have caused the death of the retiree and is paid for by the Department of Veterans Affairs. In 2009 the Federal Court of Appeals recognized this point when it ruled in *Sharp v. U.S.*, “After all, the service member paid for both benefits: SBP with premiums; DIC with his life.” Furthermore, surviving spouses of 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.

AMRA members recognize that the Subcommittee faces very hard choices due to current fiscal conditions. However, it is our contention that our nation owes our service members and their surviving spouses the benefits that they have literally paid for and made the ultimate sacrifice to receive.

The American Military Retirees Association urges the members of the Subcommittee to pursue a repeal the current SBP-DIC offset and provide surviving spouses of our military service men and women with the benefits that they, in good faith, earned and sacrificed for.

### **Concurrent Receipt**

The American Military Retirees Association supports a complete repeal of current law that prevents certain disabled military retirees from receiving both their retirement and disability pay. Disabled military retirees earn their retirement through their years of service to our nation and earn their disability compensation through circumstances arising as a result of their service to our nation. Both retirement and disability pay are earned benefits for their dedication and service.

Military retirement is earned by serving twenty or more years in the military, compensates for longevity of service, and is funded by the Department of Defense. Disability pay is earned in connection with those years of service and compensates for pain and suffering, can be both combat and non-combat related, and is funded through the Department of Veterans Affairs.

Under current law, the Department of Veterans Affairs disability offset requires many military retirees to waive part of their military retirement pay in order to receive VA disability compensation benefits. Retirees are required to waive retirement pay up to the amount of VA Disability compensation they receive.

AMRA recognizes and appreciates that, prior to 2004, all disabled military retirees were forced to comply with the offset and that Members of Congress worked diligently to amend the law to allow military retirees with 20 or more years of service and a disability rating of 50 percent or higher to receive both their military retirement pay and their VA disability compensation without the offset. However, there is still much work to be done.

Current law does not eliminate the offset for those service-connected disabled military retirees with VA ratings of 40 percent and below, and Chapter 61 retirees, who were medically retired with less than 20 years. No other federal employees are penalized for retiring and having a disability.

AMRA is committed to the notion that preventing a disabled military retiree from receiving the full amount of the financial compensation that they have earned is an egregious cost saving measure paid for at the sole

expense of disabled military retirees. By not being allowed to receive both retired pay and VA compensation, a veteran who is disabled as a result of combat action or through peacetime service but has a rating less than fifty percent is actually paying for his or her disability out of his or her military retired pay.

The American Military Retirees Association asks the members of the Subcommittee to pursue a total repeal of the current law in order to allow ALL disabled military retirees to receive the financial compensation for their service that they have earned.

**The American Military Retirees Association Appreciates the Opportunity to Submit Testimony to the  
Military Personnel Subcommittee**

AMRA appreciates the attention that the Subcommittee is giving to these two very important survivor and retiree issues. We thank you for holding this hearing and for considering our testimony.

The Subcommittee's leadership and interest in these issues have allowed for changes that have, in part, eased the burdens for those affected by both of the offsets discussed above. While these changes are valuable steps in the right direction, there is still much more that can be done.

We sincerely appreciate your continued concern and attention regarding both SBP-DIC and Concurrent Receipt and we remain hopeful that your continued leadership will put an end to both of these offsets in the very near future.