



POSITION PAPER

Repeal the Survivor Benefit Plan & Dependency and Indemnity Compensation Offset

Issue: Current law makes military widows forfeit part or their entire military Survivor Benefit Plan (SBP) annuity when military service causes the member's death and their surviving spouses become eligible for Dependency and Indemnity Compensation (DIC).

Background: 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.

Dependency and Indemnity Compensation (DIC) is a Department of Veterans Affairs (DVA) program that provides a modest monthly annuity of \$1,215 (\$14,580 annually) 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.

Additional hardships caused by the above law include mandatory repayment by widows of SBP "overpayments" received during the "lag" time taken for the DVA and Defense Finance and Accounting System (DFAS) to communicate after a widow makes a claim to receive her DIC. Repayments can be as high as the full amount of their SBP annuity or, if SBP is less than DIC, the full amount of DIC payments received during the time that SBP payments were also being received.

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 cost 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. The SBP cost refund may be taxable.

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 loop hole 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.

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. 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.

The October 2007 report of the Veterans Disability Benefits Commission urged elimination of the offset for all SBP-DIC widows, asserting that when military service causes the member's death, the indemnity compensation from the VA should be paid in addition to SBP coverage, not subtracted from it.

AMRA Position: 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. DIC is a VA indemnification earned through service to our nation. No law should prevent the widow of a retired and deceased American service member from receiving payment for both earned benefits. Furthermore, no law should compel a widow to remarry in order to receive the benefits that her former spouse earned or create separate "classes" or standards whereby some widows are eligible for both payments and some are not.