

# Calendar No. 1511

82D CONGRESS }  
2d Session }

SENATE

} REPORT  
No. 1583

## MRS. ANN MORRISON

MAY 16 (legislative day, MAY 12), 1952.—Ordered to be printed

Mr. GEORGE, from the Committee on Finance, submitted the following

### REPORT

[To accompany H. R. 1842]

The Committee on Finance, to whom was referred the bill (H. R. 1842) for the relief of Mrs. Ann Morrison, having considered the same, report favorably thereon with amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert:

That the national service life insurance in the amount of \$10,000 (N-3187200) granted to the late Leonard Morrison, who died on June 25, 1948, shall be held and considered to have been in effect at the time of his death. The Administrator of Veterans' Affairs shall pay such insurance in accordance with the National Service Life Insurance Act of 1940, as amended, except that any payments made as a result of enactment of this Act shall be made directly from the national service life insurance appropriation.

#### PURPOSE OF THE BILL

The purpose of the proposed legislation is to pay Mrs. Ann Morrison, the widow of Leonard Morrison, who died on June 25, 1948, the benefits under a \$10,000 national service life insurance policy, by considering the policy to have been in effect at the time of his death.

#### PURPOSE OF AMENDMENT

The amendment is necessary to (1) preserve the rights of the contingent beneficiary, Mrs. Amelia Morrison, the mother of the veteran, as stipulated by him in the lapsed policy, and (2) to authorize that payments resulting from enactment of this legislation be made directly from the national service life insurance appropriation.

#### GENERAL STATEMENT

Leonard Morrison, XC-6292981, served honorably in the Army of the United States from October 5 to December 12, 1918, and again from July 15, 1942, to September 11, 1945. On July 17, 1942, he

applied for national service life insurance in the amount of \$10,000 which was granted effective August 1, 1942, under file No. N-3187200. Mrs. Ann Morrison, described as wife, was designated as principal beneficiary. Premiums in the sum of \$9.90 monthly were paid by allotment from his service pay. Following his discharge from active duty the insured made direct remittance of premium payments through April 30, 1948. The remittance for the premium due May 1, 1948, was postmarked June 18, 1948, which was subsequent to the expiration of the 31-day grace period and subsequent to the date of lapse of the policy by reason of failure to pay premium timely. The Veterans' Administration, by letter dated June 25, 1948, undertook to notify the insured that the remittance could not be applied because it was mailed after expiration of the 31-day grace period allowed for the payment of premiums; that the insurance therefore had lapsed; that the remittance would be held in trust for him subject to his order, thus giving him an opportunity to complete the copy of the reinstatement application which was enclosed, and that such reinstatement application would be given prompt attention as soon as it was received, and if approved, the insurance would be reinstated immediately. For his convenience in returning the completed reinstatement application, an addressed envelope was enclosed. However, Mr. Morrison died on the same day the letter was written and thus did not know that his policy had lapsed.

It is the belief of your committee that the desire of the veteran to continue his policy is evidenced by his remittance just prior to his death and that his rights in this respect should be protected.

The report from the Veterans' Administration is as follows:

AUGUST 15, 1951.

Hon. WALTER F. GEORGE,  
*Chairman, Committee on Finance,  
 United States Senate, Washington 25, D. C.*

DEAR SENATOR GEORGE: This has further reference to your request for a report by the Veterans' Administration on H. R. 1842, an act for the relief of Mrs. Ann Morrison, which provides as follows:

"That the late Leonard Morrison, XC-6292981, N-3187200, who died on June 25, 1948, shall be held and considered to have been in effect at the time of his death national service life insurance in the amount of \$10,000. The Administrator of Veterans' Affairs shall pay such insurance to Mrs. Ann Morrison, of Detroit, Michigan, widow of the said Leonard Morrison. The premium transmitted to the proper office after the expiration of the period of grace, and accepted and acknowledged by that office, shall be held and considered to have been paid prior to the expiration of such period of grace."

The Veterans' Administration was not requested by the Committee on the Judiciary, House of Representatives, to report on H. R. 1842. This bill is identical with H. R. 3326, Eighty-first Congress, which was pending before that committee at the close of the Eighty-first Congress. An unfavorable report by the Veterans' Administration on H. R. 3326 was furnished the mentioned committee under date of May 23, 1949, to which references are made in the favorable report (H. Rept. No. 486, 82d Cong., copy enclosed) on H. R. 1842, Eighty-second Congress, by the Committee on the Judiciary, House of Representatives. The House committee report suggests that the Veterans' Administration improperly handled the national service life insurance for Mr. Morrison, and for that reason he was not covered by such insurance at the time of his death. For your information, comment is made regarding statements in the committee's report and such comment indicates that the claim was properly handled in accordance with existing law, regulations, and procedure.

The records disclose that Leonard Morrison, XC-6292981, served honorably in the Army of the United States from October 5, 1918, to December 12, 1918, and again from July 15, 1942, to September 11, 1945. The records further show that the veteran died on June 25, 1948, the immediate causes of death being myocardial failure and angina pectoris.

Effective August 1, 1942, the veteran applied for and was granted \$10,000 national service life insurance under certificate N-3187200, for which he designated Ann Morrison, wife, as principal beneficiary, and Amelia Morrison, mother, as contingent beneficiary. During the period of the veteran's service, monthly premiums were paid by allotment from service pay. Subsequent to his discharge from service, monthly premiums were timely paid by direct remittance through April 30, 1948, the last timely remittance being made on April 6, 1948, covering the premium due April 1, 1948. Since the next premium tender was made under postmark date of June 18, 1948, more than thirty-one days after May 1, 1948, the due date of the premium in default, there was no authority to apply it as a premium payment. Accordingly, the insurance lapsed on May 1, 1948, and was not in force under premium-paying conditions on June 25, 1948, date of the veteran's death.

The Veterans' Administration, by letter dated June 25, 1948, undertook to notify the veteran that the remittance of June 18, 1948, could not be applied, because it was not tendered within the 31-day grace period from the due date of the premium in default; that the insurance therefore had lapsed; that the remittance would be held in trust for him subject to his order, thus giving him an opportunity to complete the form of application for reinstatement which was enclosed; and that such reinstatement application would be given prompt attention as soon as it was received, and if approved, the insurance would be reinstated immediately. For his convenience in returning the completed reinstatement application, an addressed envelope was enclosed. The Veterans' Administration by letter dated June 28, 1948, was informed that the veteran had died on June 25, 1948.

Section 602 (m) (1) of the National Service Life Insurance Act of 1940 (54 Stat. 1009), as amended by section 6 of the act of August 1, 1946 (60 Stat. 784; 38 U. S. C. 802), provides:

"The Administrator shall, by regulations, prescribe the time and method of payment of the premiums on such insurance, but payments of premiums in advance shall not be required for periods of more than one month each, and may at the election of the insured be deducted from his active-service pay or be otherwise made: \* \* \*"

Pursuant to such authority, the Administrator of Veterans' Affairs promulgated regulations which provide that if any premium be not paid when due, the national service life insurance policy shall cease and become void except as otherwise provided in the policy. For the payment of any premium under such a policy, the regulations provide a grace period of 31 days, without interest, during which time the policy will remain in force. The acceptance by the Veterans' Administration of premium remittances is, of course, contingent upon their having been timely made. National service life insurance is a contractual relationship and there is no authority for paying insurance benefits unless the insurance is in force on the date of death. No agent of the Government has authority, by accepting such premiums, to bind the Government. (*Wilber National Bank of Oneonta, New York v. U. S.* (294 U. S. 120).)

The records show that although some correspondence on the subject of insurance was had with Mrs. Ann Morrison, explanatory of the facts in the case under applicable law, she has not filed a claim for insurance in the case. Should such a claim be filed and denied by the Veterans' Administration, the judicial remedy would also be available. It is noted, therefore, that Mrs. Morrison has not attempted to pursue and exhaust the administrative and judicial remedies afforded by the law of general applicability.

Turning to the House committee report, it is noted that some significance is attached to the fact that the Veterans' Administration report of May 23, 1949, failed to disclose the fact that Mrs. Morrison was being paid compensation as a result of a decision of the "Dependents Pension Department [Board]," which is quoted. The relevancy of this decision which discloses a finding of presumptive service-connected death is not apparent. The committee also quotes on page 3 of its report, a letter which sets forth Mrs. Morrison's feeling that her husband intended to keep his national service life insurance in force. It is then stated by the committee that "This letter, and the fact that the case had been rated as service-connected leads the committee to believe the insurance service has erred in its determination by denying insurance benefits to the widow." The rationale of this belief is not clear because neither a determination that a veteran's death is service-connected, nor a statement of alleged intention to keep national service life insurance in force, alters the fact that Mr. Morrison's insurance was in a state of lapse on the date of his death or alters the terms of his insurance contract regarding timely payment of premiums.

The House committee apparently feels the Veterans' Administration was derelict in not protecting the insurance interests of a disabled veteran. It should be noted that during his lifetime Mr. Morrison made no claim for compensation, pension, waiver of premiums, or hospitalization. Thus, the Veterans' Administration had no notice during the veteran's lifetime that he may have been disabled or even that he may have regarded himself as disabled. It was not until after his death, when in connection with the claim of Mrs. Ann Morrison for death compensation, that it was determined that the veteran's death was due to a service-connected cause.

It may be noted that the Veterans' Administration is under no legal obligation to notify a national service life insurance policyholder of the lapse of his insurance contract. However, in order to give an insured every possible opportunity to continue his life insurance protection, the Veterans' Administration endeavors to notify the insured in the event of the lapse of his insurance. It is the practice of the Veterans' Administration, after expiration of the 31-day grace period, and at a time when it can be ascertained by the processing of current premium receipts that a remittance has not been received (approximately 14 days after expiration of the period of grace or 45 days after the due date of the premium in default) to release to an insured a notice of lapse, together with the necessary form and instructions regarding reinstatement. This notice is released within ample time for an insured to apply within the 3-month time limit for reinstatement on a comparative health basis. In this connection, it is noted that the veteran's remittance which was made by mail on June 18, 1948, could not have been received and action initiated thereon by the Veterans' Administration until Monday, June 21, 1948. The Veterans' Administration reply of June 25, 1948, notifying the veteran of the lapse of his insurance and furnishing the form and instructions concerning reinstatement, was thus released on the fourth business day following receipt of his untimely remittance and would have been considered, but for the veteran's intervening death, prompt notice giving him ample time for submission of an application for reinstatement on a comparative health basis.

The committee cites as an alleged irregularity in this case, facts which apparently indicate to the committee that the Veterans' Administration on a previous occasion, while the insurance contract was in a state of lapse, had accepted two premiums under date of October 6, 1947, "presumably to take care of the lapsed premium," while at the same time not requiring compliance with requirements relative to reinstatement on a comparative health basis. The facts of record in the Veterans' Administration are that a monthly premium remittance of \$9.90 was timely made on August 1, 1947, and was posted as payment in advance for the premium due November 1, 1947. Two additional premium remittances in the amount of \$9.90 each were timely made on October 6, 1947, which were posted as payment in advance for the premiums due December 1, 1947, and January 1, 1948. It is indicated therefore, that the insurance was not in a state of lapse when the two premiums were tendered on October 6, 1947, and further that there are no inconsistencies in the premium payment records, nor have there been irregularities concerning the administration of insurance in this case.

It is observed that since the veteran tendered no premiums from the time of remittance of the two premiums on October 6, 1947, until his timely tender of a premium on February 10, 1948, in payment of the premium due February 1, 1948, he was apparently aware of the fact that the premium remittances of October 6, 1947, were in payment of premiums due December 1, 1947, and January 1, 1948, that a premium was due for the month of February 1948, and that the next premium would be due in March 1948. By his timely remittances of March 16, 1948, and April 6, 1948 (made within the periods of grace), it would appear that the veteran was also aware of the fact that the next premium would be due May 1, 1948. It is, of course, not known why he failed to timely remit the premium due on May 1, 1948.

In its report, the House committee states, "it does not appear unreasonable to assume this veteran was totally and permanently disabled during this short period otherwise he would not have died so suddenly." By letter dated December 20, 1948, the Veterans' Administration informed Mrs. Ann Morrison, among other things, that if the veteran was continuously and totally disabled from June 1, 1948, to the date of his death, she could execute and return the enclosed form of claim for waiver of premiums, together with certain supporting evidence, in order that it could be determined whether insurance benefits were payable (under the total disability provision of the policy). Since Mrs. Morrison did not file a claim for waiver of premiums nor correspond with the Veterans' Admin-

istration indicating a desire that such a determination be made, no further action on the subject was taken. However, after receipt of the mentioned House Report No. 486, Eighty-second Congress, dated May 22, 1951, indicating that no determination concerning total disability had been made in the case, and despite the fact that no request for consideration of the total disability feature had been received from Mrs. Morrison, the Veterans' Administration determined on June 14, 1951, based on the evidence of record, that the veteran became totally disabled on June 24, 1948, the day prior to his death, but that there was no entitlement under the total disability provision for the reason that the insurance had lapsed on May 1, 1948, prior to total disability.

On the basis of the foregoing, it does not appear that the Veterans' Administration is responsible for the fact that on the date of his death there was no national service life insurance protection. In view of the comment herein relating to the House committee report, a copy of this report to your committee has been furnished to the chairman, Committee on the Judiciary, House of Representatives.

For the information of your committee, Mrs. Morrison is currently in receipt of death compensation in the amount of \$75 monthly. In addition, she has received a reimbursement allowance of \$150 for the expenses of the veteran's funeral and burial.

As previously indicated, the validity of national service life insurance is contingent upon the timely payment of premiums in accordance with the terms of the policy. The facts in this case are that the insurance lapsed on May 1, 1948, and was not in force on June 25, 1948, date of the veteran's death. The enactment of H. R. 1842 would be a conclusive legislative determination, contrary to fact, that there was a national service life insurance policy in the amount of \$10,000 in full force and effect on the date of the veteran's death, thus establishing liability under a policy of insurance which, in fact, lapsed prior to death. The Veterans' Administration is not aware of any justification for the payment of such a gratuity.

H. R. 1842 provides that "The Administrator of Veterans' Affairs shall pay such insurance to Mrs. Ann Morrison, of Detroit, Michigan, widow of the said Leonard Morrison." It is not clear what rights, if any, are intended to accrue under the bill, if enacted, to Mrs. Amelia Morrison, mother of the veteran and designated contingent beneficiary of the lapsed policy, or the source from which it is intended that payment be made. There is no authority therein for an appropriation for that purpose. Concerning the availability of the national service life insurance fund (a trust fund for the benefit of policyholders and their beneficiaries), it is questionable whether such fund may be expended constitutionally for a purpose which is not a legal obligation thereof, in view of the contract rights of the national service life insurance policyholders. If favorable consideration is to be given the proposed legislation, clarification of these matters is indicated.

Enactment of the proposed legislation would be discriminatory in that it would single out the individual case of Leonard Morrison for special legislative treatment to the exclusion of other cases which must be denied where similar circumstances exist. Further, enactment of the bill might set a precedent for requests for like treatment of similar cases.

The Veterans' Administration does not believe that private bills of this nature should receive favorable consideration.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

O. W. CLARK,  
*Deputy Administrator*  
(For and in the absence of the Administrator).

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