

PAYMENT OF PENSION WHILE HOSPITALIZED

JULY 10, 1962.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 8282]

The Committee on Finance, to whom was referred the bill (H.R. 8282) to amend section 3203(d) of title 38, United States Code, to provide that there shall be no reduction of pension otherwise payable during hospitalization of certain veterans with a wife or child, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

EXPLANATION OF THE BILL

This bill amends section 3203(d) of title 38, United States Code, to permit a veteran with a wife or child to receive full pension while being furnished hospital or domiciliary care at the expense of the Veterans' Administration.

Under the provisions of the Veterans' Pension Act of 1959, Public Law 86-211, a special provision was enacted which provided that no pension payment in excess of \$30 a month would be paid to a veteran after the second full calendar month following admission of the veteran to the hospital or domiciliary at the Veterans' Administration's expense; however, in the case of a veteran with a child, children, or wife the amount of his pension otherwise payable could be apportioned to the dependents—wife, child, or children. This action was based upon the recommendation of the Veterans' Administration and logically follows the principle that a veteran, without dependents, whose pension is based on need, does not need that pension or at least the full amount of it while he is receiving full care in a Veterans' Administration's institution.

Prior to July 1, 1960, the effective date of Public Law 86-211, non-service-connected pensioners continued to be eligible for 6 months for full pension while they were maintained in a Veterans' Admin-

istration hospital or domiciliary. After 6 months, if the veteran had no dependents—wife, child, or children—the pension was withheld to the extent of one-half the amount payable. This amount withheld was returned to the veteran in a lump sum following discharge from the hospital or domiciliary.

The new reduction principle enunciated in Public Law 86-211 applies to those receiving pension under the new program and is a sound one; however, its application has involved some administrative difficulty and some needless administrative expense. The net result of this bill is to provide that the pension payment will continue to be paid to the veteran who has a wife, child, or children while he is being hospitalized at Veterans' Administration expense instead of going through the somewhat cumbersome procedure of having the Veterans' Administration formally apportion that pension to his wife, child, or children. However, the reduction provision would continue to apply to certain veterans who are not living with nor reasonably contributing to their wives.

The bill as passed by the House of Representatives and approved by the Committee on Finance contains the technical amendments which had been suggested by the Veterans' Administration.

DEPARTMENTAL REPORT

The views of the Veterans' Administration, as expressed in a letter dated April 18, 1962, signed by the Honorable J. S. Gleason, Jr., Administrator follow:

The following comments are furnished in response to your request for a report by the Veterans' Administration on H.R. 8282, 87th Congress, as passed by the House of Representatives on April 2, 1962.

The bill would amend section 3203(d) of title 38, United States Code, to permit payment of the full amount of pension otherwise payable to a veteran with a wife or child while being furnished hospital or domiciliary care by the Veterans' Administration.

Before July 1, 1960, the effective date of the Veterans' Pension Act of 1959, pensioners continued eligible for 6 months for full pension while being maintained at VA expense in homes and hospitals. After that time, if the veteran had no dependents (wife, child, or dependent parent), pension was withheld to the extent of one-half the amount payable. The withheld pension payment was returned to the veteran in a lump sum following his discharge from hospital or domiciliary.

The Veterans' Pension Act of 1959 established a special reduction provision applying to veterans receiving pension under the new pension program. Under that program no pension payment in excess of \$30 a month may be paid to a veteran after the second full calendar month following admission to hospital or domiciliary. Provision is made for apportionment to a wife or child of the amount by which the pension is reduced. The Veterans' Administration recommended adoption of this new reduction principle. This recognizes that the needs of the veteran without dependents,

whose pension is based on need, are materially reduced during the period of hospital or domiciliary care at the expense of the Veterans' Administration.

We believe this principle is sound. However, except where it is shown that there is no need or reduced need on the part of a wife or child of the veteran, the statutory authority to pay these dependents the amount by which the pension is reduced is given effect. Thus the full amount of the pension has been paid to the veteran and his wife or children except in an insignificant number of cases. Because of the small number of cases in which the total pension payment is reduced in these situations, there is very little practical justification for applying the reduction and continuing the cumbersome apportionment procedure when the veteran has a wife or child.

We note the bill provides that the reduction would continue to be applicable to a veteran who, though having a wife, is drawing his pension under section 521(b) of title 38, United States Code. That subsection deals generally with the pension rate which is payable to a veteran who is unmarried, or married but not living with and not reasonably contributing to the support of his spouse and who has no child. This provision, dealing with the exceptional case where the hospitalized pensioner is drawing a lower rate of pension because he is separated from and not contributing to the support of his wife, we consider to be consistent with the general purpose of the bill. Where there is an affirmative showing of hardship, the bill would permit apportionment to the wife in such a case.

We agree that where the circumstances warrant an apportionment in this situation, the amount available for that purpose should be as much as if the veteran were receiving the higher pension rate under section 521(c) of title 38 which is provided for a veteran reasonably contributing to the support of the estranged wife.

Section 2(a) of the bill provides that its amendments shall not apply to cases in which pension is payable pursuant to section 9 (b) and (c) of the Veterans' Pension Act of 1959. This is to make it clear that those whose pension eligibility under the old law was protected by section 9 of the 1959 act until they elect pension under the new program shall not now become subject to the reduction requirement because of the changes in that program made by this bill.

Enactment of this bill would not result in any significant change in program costs. As indicated, it would simplify administrative procedures.

In view of the foregoing we recommend favorable consideration of H.R. 8282 by your committee.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 3203 OF TITLE 38, UNITED STATES CODE**§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans**

(a)(1) Where any veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration any compensation or retirement pay otherwise payable shall continue without reduction until the first day of the seventh calendar month following the month of admission of such veteran for treatment or care. If treatment or care extends beyond that period, the compensation or retirement pay, if \$30 per month or less, shall continue without reduction, but if greater than \$30 per month, the compensation or retirement pay shall not exceed 50 per centum of the amount otherwise payable or \$30 per month, whichever is the greater. If such veteran is discharged from such treatment or care upon certification by the officer in charge of the hospital, institution, or home, that maximum benefits have been received or that release is approved, he shall be paid in a lump sum such additional amount as would equal the total sum by which his compensation or retirement pay has been reduced under this section. If treatment or care is terminated by the veteran against medical advice or as the result of disciplinary action the amount by which any compensation or retirement pay is reduced hereunder, shall be paid to him at the expiration of six months after such termination or, in the event of his prior death, as provided in paragraph (2) of this subsection; and the compensation or retirement pay of any veteran leaving against medical advice or as the result of disciplinary action shall, upon a succeeding readmission for treatment or care, be subject to reduction, as herein provided, from the date of such readmission, but if such subsequent treatment or care is continued until discharged therefrom upon certification, by the officer in charge of the hospital, institution, or home in which treatment or care was furnished, that maximum benefits have been received or that release is approved, the veteran shall be paid in a lump sum such additional amount as would equal the total sum by which his compensation or retirement pay has been reduced under this section after such readmission.

(2) (A) In the event of the death of any veteran subject to the provisions of this section, while receiving hospital treatment, institutional or domiciliary care, or before payment of any lump sum authorized herein, such lump sum shall be paid in the following order of precedence: First, to the spouse; second, if the decedent left no spouse, or if the spouse is dead at time of settlement, then to the children (without regard to their age or marital status) in equal parts; third, if no spouse or child, then to the father and mother in equal parts; fourth, if either the father or mother is dead, then to the one surviving; fifth if there is no spouse, child, father, or mother at the time of settlement

then to the brothers and sisters in equal parts. If there are no persons in the classes named to whom payment may be made under this paragraph, no payment shall be made, except there may be paid only so much of the lump sum as may be necessary to reimburse a person who bore the expenses of last sickness or burial, but no part of the lump sum shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of such veteran.

(B) No payment shall be made under the last two sentences of section 3202(d) of this title or under this paragraph (2) unless claim therefor is filed with the Veterans' Administration within five years after the death of the veteran, except that, if any person so entitled under the last two sentences of section 3202(d) of this title or under this paragraph is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.

(b) (1) Where any veteran having neither wife, child, nor dependent parent is being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration, and is rated by the Veterans' Administration in accordance with regulations as being incompetent by reason of mental illness, the compensation or retirement pay of such veteran shall be subject to the provisions of subsection (a) of this section; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(2) In any case in which such an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds \$1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to \$500. The amount which would be payable but for this paragraph shall be paid to the veteran as provided for the lump sum in paragraph (1) of this subsection, but in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

(3) Where any benefit is discontinued by reason of paragraph (2) of this subsection the Administrator may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (2) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of his pension, compensation, or retirement pay as equals the amount charged to the veteran for his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the amount determined by the Administrator to be the proper charge as fixed by any applicable statute or valid administrative regulation.

(4) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Administrator, be paid to the chief officer of the insti-

tution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

(c) Any veteran subject to the provisions of subsection (a) or (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a wife, child, or dependent parent.

(d)(1) Where any veteran *having neither wife nor child* is being furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration, no pension in excess of \$30 per month shall be paid to or for the veteran for any period after (a) the end of the second full calendar month following the month of admission for treatment or care or (b) readmission for treatment or care within six months following termination of a period of treatment or care of not less than two full calendar months.

[(2) Where the payment of pension to any veteran is subject to the provisions of paragraph (1) of this subsection the Administrator may apportion and pay to his wife or children the balance of the pension which the veteran would receive but for such paragraph (1).]

(2) *The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a wife but whose pension is payable under section 521(b) of this title. In such a case, the Administrator may apportion and pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of \$30 per month which would be payable to the veteran while being furnished such care if pension were payable to him under section 521(c) of this title.*

(e) Notwithstanding any other provision of this section, or any other provision of law, no reduction shall be made in the pension, compensation, or retirement pay of any veteran for any part of the period during which he is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

For the convenience of Senate, section 9 of Public Law 86-211 and section 521 of title 38, United States Code, are reproduced below:

SECTION 9, PUBLIC LAW 86-211

SEC. 9. (a) Any claim for pension which is pending in the Veterans' Administration on June 30, 1960, or any claim for death pension filed thereafter within one year from the date of death of a veteran which occurred prior to July 1, 1960, shall be adjudicated under title 38, United States Code, in effect on June 30, 1960, with respect to the period before July 1, 1960, and, except as provided in subsection (c), under such title, as amended by this Act, thereafter.

(b) Nothing in this Act shall affect the eligibility of any person receiving pension under title 38, United States Code, on June 30, 1960, for pension under all applicable provisions of that title in effect on that date for such period or periods thereafter with respect to which he can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application under title 38, United States Code, as amended by this Act.

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that pension is payable for June 30, 1960.

SECTION 521, TITLE 38, UNITED STATES CODE

NON-SERVICE-CONNECTED DISABILITY PENSION

§ 521. Veterans of World War I, World War II, or the Korean conflict

(a) The Administrator shall pay to each veteran of World War I, World War II, or the Korean conflict, who meets the service requirements of this section, and who is permanently and totally disabled from non-service-connected disability not the result of the veterans' willful misconduct or vicious habits, pension at the rate prescribed by this section.

(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid at the monthly rate set forth in column II of the following table opposite the veteran's annual income as shown in column I:

Column I		Column II
Annual income		
More than—	Equal to or but less than—	
\$600	\$600	\$85
1,200	1,200	70
	1,800	40

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(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid at the monthly rate set forth in columns II, III, or IV of the following table opposite the veteran's annual income as shown in column I:

Column I		Column II One depend- ent	Column III Two depend- ents	Column IV Three or more de- pendents
Annual income				
More but than—	Equal to or less than—			
\$1,000	\$1,000	\$90	\$95	\$100
2,000	2,000	75	75	75
	3,000	45	45	45

(d) If the veteran is in need of regular aid and attendance, the monthly rate payable to him under subsection (b) or (c) shall be increased by \$70.

(e) For the purposes of this section—

(1) in determining annual income, where a veteran is living with his spouse, all income of the spouse which is reasonably available to or for the veteran except \$1,200 of such income shall be considered as the income of the veteran, unless in the judgment of the Administrator to do so would work a hardship upon the veteran;

(2) a veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

(f) A veteran meets the service requirements of this section if he served in the active military, naval, or air service—

(1) for ninety days or more during either World War I, World War II, or the Korean conflict;

(2) during World War I, World War II, or the Korean conflict, and was discharged or released from such service for a service-connected disability; or

(3) for a period of ninety consecutive days or more and such period ended during World War I, or began or ended during World War II or the Korean conflict.

(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.