

BENEFITS DURING HOSPITALIZATION

FEBRUARY 16, 1966.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H.R. 11747]

The Committee on Finance, to which was referred the bill (H.R. 11747) to amend section 3203, title 38, United States Code, to restrict the conditions under which benefits are immediately reduced upon readmission of veterans for hospitalization or other institutional care, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

EXPLANATION OF THE BILL

Under existing law, the monthly compensation or retirement pay payable to a veteran without dependents, who is being furnished hospitalization or domiciliary or nursing home care by the Veterans' Administration, is reduced by one-half but not below \$30 a month beginning the first day of the seventh calendar month following the date of admission. The same requirement applies to pension received by those veterans who are receiving this non-service-connected benefit under laws in effect prior to the enactment of Public Law 86-211, the Veterans' Pension Act of 1959.

When the veteran is discharged from the hospital, the amount withheld is paid to him in a lump sum in most instances. If the veteran leaves the hospital against medical advice or as a result of disciplinary action, the amount withheld from him may not be paid until 6 months after his departure.

The law also provides that where the patient is readmitted following a discharge against medical advice or as a result of disciplinary action, reduction shall be effective immediately upon his being readmitted from the date of readmission regardless of the time between episodes of hospitalization.

Aid and attendance allowances for severely disabled veterans receiving compensation or pension are discontinued during VA insti-

tutional care from the first day of the second calendar month following admission and are not repaid on discharge. If the veteran leaves against medical advice, this allowance is discontinued on the date of readmission regardless of the length of time the veteran has been out of the VA hospital.

The bill, as passed by the House of Representatives and approved by the Committee on Finance, would provide that the immediate reduction of withheld benefits following discharge against medical advice or as a result of disciplinary action shall apply only when the readmission occurs within 6 months following prior termination of the hospitalization or institutional care. Section 2 of the proposal would extend the same limitation with regard to the aid and attendance allowance. Thus, in either situation a readmission after 6 months would be treated like an original admission in determining the time when reduction or discontinuance of benefits will commence. The reasons for these amendments are fully explained in the report of the Veterans' Administration, reproduced below.

The measure was introduced at the formal request of the Veterans' Administration, and that agency advises that the additional cost to the Government will be small.

The request of the Veterans' Administration follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., October 18, 1965.

HON. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill, to amend section 3203, title 38, United States Code, to restrict the conditions under which benefits are immediately reduced upon readmission of veterans for hospitalization or other institutional care, with the request that it be introduced in order that it may be considered for enactment.

Under existing law (38 U.S.C. 3203(a)(1)) the monthly compensation or retirement pay otherwise payable to a veteran without wife, child, or dependent parent who is being furnished hospitalization or other institutional care by the Veterans' Administration is reduced by one-half, but not below \$30 per month, beginning the first day of the seventh calendar month following the month of admission. This requirement also applies to pension paid to those veterans who are receiving pension under laws in effect prior to enactment of the Veterans' Pension Act of 1959. Generally, the amounts withheld under this provision are paid in a lump sum upon the veteran's discharge from the institution. Amounts withheld from an incompetent veteran are not payable to him until 6 months after a finding of competency. If any veteran leaves against medical advice or as the result of disciplinary action the withheld benefits may not be paid to him until 6 months after such departure.

If the veteran's monthly benefit payment has been reduced under these provisions and he leaves the hospital against medical advice or as the result of disciplinary action, the existing law further provides that the reduction shall be effective immediately upon his being readmitted by the Veterans' Administration for further care, irrespective of how long a period has elapsed.

In the related area of discontinuance of aid and attendance allowance during VA institutional care these allowances are ordinarily discontinued during hospitalization beginning with the first day of the second calendar month following the date of admission (38 U.S.C. 3203(f)). These discontinued benefits are not paid to the veteran upon discharge. Moreover, the law provides that if the veteran leaves the hospital against medical advice and is thereafter readmitted the aid and attendance allowance will be discontinued from the date of readmission, regardless of the time between episodes of hospitalization.

Section 1 of the proposal would amend section 3203(a)(1) of title 38, United States Code, to provide that reduction of the benefit immediately upon readmission following discharge against medical advice or as the result of disciplinary action shall apply only where the readmission occurs within 6 months following the prior termination of care. Section 2 of the proposal would correspondingly amend section 3203(f) of the title to provide the same time limitation with respect to discontinuing aid and attendance allowance immediately upon readmission of a veteran who departed contrary to medical advice.

These amendments would soften the existing requirements for immediate reduction or discontinuance of benefits upon rehospitalization by preventing them from operating in an unduly punitive manner detrimental to the veteran's health and well-being. One obvious purpose of the existing provision was to discourage premature departures before hospital and medical treatment has been completed. Another apparent purpose was to deter veterans from leaving the VA institution before completion of treatment with the deliberate purpose of reentering shortly thereafter in order to initiate a new period of care during which the reduction would not be applicable until after the first 6 months or, with respect to aid and attendance allowance, until the first of the second calendar month after the date of admission.

We believe that these basic purposes will be adequately served by applying the requirement for reduction or discontinuance upon readmission only to those cases in which the veteran returns within 6 months. This would not, in our view, appreciably affect the deterrent value of the basic provision. On the other hand, that provision would no longer operate to discourage veterans from applying for needed hospital care after the lapse of 6 months, particularly where such care may be required for a relatively short period.

It seems pertinent to mention that, in a good many instances, rehospitalization after a 6-month interval may be due either to a new condition or a marked change in the disability or disease for which the veteran was previously hospitalized.

Finally, we should note that these amendments will alleviate some administrative problems which have arisen under the existing law. As matters now stand, it is necessary to maintain suitable administrative controls for indefinite periods after veterans leave the VA institution against medical advice in order to assure that upon a readmission, even five or more years later, the veteran's award will be promptly reduced. This presents difficulties and, in some cases, delays in making reductions result from a failure to make a timely discovery, when the veteran is readmitted, of the facts concerning prior hospitalization. This sometimes results in establishing overpayments against the veterans concerned.

Due to the uncertain factors involved, we have not attempted to estimate the cost of these amendments, if enacted. However, because

of the relatively small number involved, we believe that the additional cost to the Government would be small.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this proposed legislation to the Congress from the standpoint of the administration's program.

Sincerely,

CYRIL F. BRICKFIELD,
Deputy Administrator
 (For and in the absence of
 W. J. Driver, Administrator).

A BILL To amend section 3203, title 38, United States Code, to restrict the conditions under which benefits are immediately reduced upon readmission of veterans for hospitalization or other institutional care

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 3203(a)(1) of title 38, United States Code, is amended by deleting the comma immediately after the words "upon a succeeding readmission for treatment or care" and inserting "within six months from the date of such departure,".

SEC. 2. Section 3203(f) of title 38, United States Code, is amended by deleting the comma immediately after "admitted to hospitalization" in the third sentence and inserting "within six months from the date of such departure,".

SEC. 3. The amendments made by this Act shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959.

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 italics; 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 compen-

sation 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 *within six months from the date of such departure*, 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 dependent parents 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 institution 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) 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.

(f) Where any veteran in receipt of an aid and attendance allowance described in section 314(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of his admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (l) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization *within six months from the date of such departure*, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

