

## PAYMENTS OF BENEFITS TO BENEFICIARIES OF DECEASED VETERANS

JULY 10, 1962.—Ordered to be printed

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

### REPORT

[To accompany H.R. 8415]

The Committee on Finance, to whom was referred the bill (H.R. 8415) to change the classes of persons eligible to receive payments of benefits withheld during the lifetime of deceased veterans while being furnished hospital or domiciliary care, 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 of title 38, United States Code, to provide that compensation, pension, or retirement withheld from competent veterans who are receiving from the Veterans' Administration hospitalization, institutional, or domiciliary care may only be paid upon death of the veteran to the spouse, the children, or to the dependent parents. If there are no such persons in the classes named, only so much of the lump sum as is necessary to provide reimbursement for the expense of the last illness and burial would be paid. The proposal removes brothers and sisters and nondependent parents from the permitted class of beneficiaries.

Under existing law when a veteran having neither wife, child, nor dependent parent is furnished hospital treatment by the Veterans' Administration, any compensation or retirement pay which he is receiving continues without reduction until the first day of the seventh month following the date of admission. If the care extends beyond that period and the benefit is \$30 a month or less, it continues without reduction; if greater than \$30 a month, then the veteran may not receive more than 50 percent; however, upon the veteran's discharge from the hospital, a lump sum of the money withheld is paid to him.

On the other hand, if the veteran dies, payments today go to the spouse, children, father and mother, brothers and sisters. The effect of this legislation removes brothers and sisters and makes the payment applicable only to the spouse, children, and dependent parents.

The bill also provides that pension for non-service-connected disability to those who have not elected to receive pension under the Pension Act of 1959 shall be included in this amendment.

#### DEPARTMENTAL REPORTS

The Veterans' Administration in formally requesting this enactment estimated a relatively small saving in benefit costs, but the precise amount could not be determined, as indicated in the following report:

JULY 20, 1961.

Hon. LYNDON B. JOHNSON,  
*President of the Senate,*  
*Washington, D.C.*

DEAR MR. PRESIDENT: I am enclosing for your consideration draft of a bill to limit the classes of persons eligible to receive payments of pension, compensation, and retirement pay withheld during a veteran's hospitalization, institutional, or domiciliary care.

The proposed bill would amend section 3203(a)(2), title 38, United States Code, so that the amount of benefits withheld during a competent veteran's hospitalization, institutional, or domiciliary care would be payable upon his death (1) to the spouse, (2) to the children without regard to their age or marital status, or (3) to the dependent parents. If there are no persons in the classes named, only so much of the lump sum necessary to reimburse the person who bore the expenses of the last sickness and burial would be paid. The proposal removes brothers and sisters and nondependent parents from the permitted class of beneficiaries.

Section 3203(a) now provides that 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 1st day of the 7th calendar month following the month of admission of the veteran. If the treatment or care extends beyond that period, the mentioned benefits of \$30 a month or less are continued without reduction, but if greater than \$30 a month, they may not exceed 50 percent of the amount otherwise payable. Provision is made for payment to the veteran in a lump sum of the amount of the withheld benefits upon termination of treatment or care, and the withholding procedure does not apply to benefits for any period of care after the veteran acquires a dependent within the named class.

Should the veteran die while receiving hospital treatment, institutional or domiciliary care or before payment has been made to him, the withheld amounts are payable in the following order of precedence: (1) To the spouse, (2) to the children without regard to their age or marital status, (3) to the father and mother in equal parts, (4) to the brothers and sisters. Should there be no persons in the classes named to whom payment of the lump sum may be made, then there may be paid so much as is necessary to reimburse a person who bore the expenses of last sickness or burial.

These provisions apply to competent veterans. The Congress has evidenced special concern in the case of incompetent veterans who are being cared for at public expense to prevent the accumulation of large amounts of benefits provided by the Government for the veteran's protection which might be payable to persons not deemed to be equitably entitled to these funds when the veteran dies.

When an incompetent veteran without wife, child, or dependent parent is furnished hospital, institutional, or domiciliary care by the Veterans' Administration the same withholding provisions apply. The lump sum, however, is not payable to the veteran until after the expiration of 6 months following a finding of competency, and if the veteran dies before payment of the lump sum no part of it is payable.

An additional control is required by law when the estate of an incompetent veteran having neither wife nor child who is being furnished care by a public institution reaches \$1,500. From that point, with certain exceptions, further payments of pension, compensation, or emergency officers' retirement pay may not be made until the estate is reduced to \$500. The amount thus discontinued may be paid to the veteran after the expiration of 6 months following a finding of competency. In the event of the veteran's death before payment, no part thereof is payable to anyone.

Moreover, there are special limitations on the disposition, upon death of an incompetent veteran, of amounts not subject to the foregoing restrictions which are held by Veterans' Administration officials in personal funds of patients accounts. Gratuitous benefits deposited in "personal funds of patients" are payable only in the following order: (1) to the surviving spouse, (2) to the children without regard to age or marital status, (3) to the dependent parents in equal parts. This group is identical with those named in the proposal we are making, which would apply to payments withheld from competent veterans while they are being furnished care by the Veterans' Administration.

In addition, this proposal would bring about greater consistency with provisions governing payment of accrued benefits at death of a veteran who was entitled to these benefits but had not actually received payment. In those cases (38 U.S.C. 3021), the accrued amounts covering a period up to 1 year may be paid only to the spouse or children (subject to age and marital limits) or dependent parents or persons who bore the expense of last illness and burial. It would also be generally in line with the policy that death compensation or dependency and indemnity compensation is payable only to the widow, child, or parent who meets the income tests.

Section 9(b) of the Veterans' Pension Act of 1959 preserved the eligibility for pension under all applicable provisions of the law then in effect of any person receiving pension on June 30, 1960, who has not elected to receive pension under the 1959 act. By virtue of section 2, our proposal would apply equally to pension withheld under the provisions of law in effect on June 30, 1960, which included the provisions, then applicable to pension, concerning withholding of benefits after the first 6 months of hospital or domiciliary care.

A relatively small savings in benefits costs, the amount of which is not determinable, would result from this proposal.

In view of the foregoing, we respectfully request that the proposed legislation be introduced and considered for enactment.

4      **BENEFITS TO BENEFICIARIES OF DECEASED VETERANS**

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

Sincerely,

J. S. GLEASON, Jr., *Administrator.*

A BILL To change the classes of persons eligible to receive payments of benefits withheld during the lifetime of deceased veterans while being furnished hospital or domiciliary care

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3203(a)(2)(A), title 38, United States Code, is amended by striking out the words "third, if no spouse or child" and all that follows down through "brothers and sisters in equal parts" and inserting in lieu thereof the following: "third, if no spouse or child, then to the dependent parents in equal parts".*

SEC. 2. The amendment 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.

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
*Washington, D.C., June 28, 1962.*

HON. HARRY F. BYRD,  
*Chairman, Committee on Finance,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This will acknowledge your letter of April 4, 1962, requesting a report on H.R. 8415, to change the classes of persons eligible to receive payments of benefits withheld during the lifetime of deceased veterans while being furnished hospital or domiciliary care.

The Bureau of the Budget would have no objection to enactment of this legislation.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

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, 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 *dependent parents* [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 domi-

iliary 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 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).

(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.

SECTION 9 OF PUBLIC LAW 86-211 REFERRED TO IN SECTION 2 OF  
H.R. 8415

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.

