

THREE-YEAR PRESUMPTION FOR-ALL TYPES OF TUBERCULOSIS

JULY 24 (legislative day, JULY 6), 1953.—Ordered to be printed

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

REPORT

[To accompany H. R. 5636]

The Committee on Finance, to whom was referred the bill (H. R. 5636) to amend veterans regulations to establish for persons who served in the Armed Forces during World War II a further presumption of service connection for tuberculosis other than pulmonary, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act the House report is accepted as follows:

EXPLANATION OF THE BILL

The purpose of this bill, as amended, is to provide that all types of active tuberculosis developing a 10-percent degree of disability or more within 3 years from the date of separation from active service shall be presumed to be service connected. Today such a statutory presumption applies only to active pulmonary tuberculosis.

This bill was the subject of hearings before the Subcommittee on Compensation and Pension, at which time this question was thoroughly discussed by officials of the Veterans' Administration as well as the service organizations.

The Veterans' Administration points out that it "is not aware of any medical or other basis for a distinction between pulmonary and nonpulmonary forms of tuberculosis." It further states that the enactment of the bill would place all tuberculous diseases on a parity for this purpose. It seems desirable to the committee that the legislation on this subject should apply on an equal basis to all types of this serious disease.

It is not possible to furnish an accurate estimate of the cost of this bill, but it is believed that the number of veterans who would benefit from its enactment is relatively small and the cost would not be great.

The report of the Veterans' Administration on a comparable bill follows:

2 THREE-YEAR PRESUMPTION FOR ALL TYPES OF TUBERCULOSIS

COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES

VETERANS' ADMINISTRATION,
Washington, D. C., March 30, 1953.

Hon. EDITH NOURSE ROGERS,
*Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, D. C.*

DEAR MRS. ROGERS: Reference is made to your request for a report on H. R. 46, 83d Congress, a bill to amend Veterans Regulations to establish for persons who served in the Armed Forces during World War II a further presumption of service connection for tuberculosis other than pulmonary.

The purpose of the bill is to amend the Veterans Regulations to provide that, in addition to active pulmonary tuberculosis, all other types of tuberculosis developing a 10 percent degree of disability or more within 3 years from the date of separation from active service, shall, in the absence of affirmative evidence to the contrary, be deemed to have been incurred in or aggravated by such service. For the purposes of this report it is assumed that the intent is to extend the presumption only to active nonpulmonary tuberculosis, consistent with the existing presumption for pulmonary tuberculosis. However, the language of the bill is such as to raise a question on this point and, accordingly, should be clarified.

Veterans Regulation No. 1 (a), part I, paragraph I, subparagraph (c), as amended, provides generally that a chronic disease (other than active pulmonary tuberculosis and multiple sclerosis) becoming manifest to a degree of 10 percent or more within 1 year from the date of separation from active service as defined in subparagraph (a) of said regulation, shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of active service, if the person suffering from such disease served 90 days or more in the active service, except where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of such chronic disease has been suffered between the date of discharge and the onset of the chronic disease, or the disability is due to the person's own willful misconduct. With respect to active pulmonary tuberculosis a 3-year presumptive period is provided and for multiple sclerosis a 2-year period. The presumptions in this paragraph are applicable to veterans of wars specified in part I of the mentioned regulation (World War II veterans are the chief group) and, because of the provisions of Public Law 28, 82d Congress, May 11, 1951, to persons who shall have served in the active service on or after June 27, 1950, and prior to such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress.

With respect to active pulmonary tuberculosis, the presumptive period was increased from 1 to 3 years by Public Law 573, 81st Congress, June 23, 1950, and the presumptive period provided for the disease of multiple sclerosis was increased from 1 to 2 years by Public Law 174, 82d Congress, October 12, 1951.

In extending the presumptive period from 1 to 3 years for the purpose of determining service connection for active pulmonary tuberculosis, Public Law 573, supra, specifically limited to 1 year the presumptive period for the finding of service connection for cases of nonpulmonary tuberculosis. The legislative history of Public Law 573 does not set forth the basis for this distinction. Each of the committees considering the bill (H. R. 7440, 81st Cong.) which became this act, stated in its report that: "The committee is of the opinion that this bill is fully justified, in view of the nature of this particular chronic disease. This additional presumptive period will authorize service connection in many meritorious cases which are barred under existing law."

It may be noted, in connection with World War I veterans, that the War Risk Insurance Act, as amended by the act of August 9, 1921, first provided a 2-year presumptive period for active pulmonary tuberculosis. By the amendatory act of March 4, 1923, this period was extended to 3 years and the scope broadened to include "an active tuberculous disease," thus removing any distinction between pulmonary and nonpulmonary tuberculosis. The following year, under the World War Veterans' Act, 1924, the Congress further liberalized the law by extending to January 1, 1925, the presumptive period for finding service connection of certain diseases and continued its applicability to "an active tuberculous disease." The latter act (repealed by Public Law 2, 73d Cong., but restored with limitations by Public Law 141, 73d Cong.) is currently applicable to World War I cases.

The Veterans' Administration is not aware of any medical or other basis for a distinction between pulmonary and nonpulmonary forms of tuberculosis with

THREE-YEAR PRESUMPTION FOR ALL TYPES OF TUBERCULOSIS 3

respect to the statutory presumptive period for finding service connection under the Veterans Regulations. Enactment of the bill would place all tuberculous diseases on a parity for this purpose, assuming, of course, that its scope is limited to active types of the disease.

It is not possible to furnish an accurate estimate of the cost of the bill, if enacted, in view of the indeterminate factors involved. However, as the number of veterans who would benefit from the bill's enactment is believed to be relatively small, the cost involved would probably not be great.

Advice has been received from the Bureau of the Budget that although there would be no objection to the submission of the report to the committee, the Bureau of the Budget recommends against favorable consideration of the bill by the committee.

Sincerely yours,

CARL R. GRAY, Jr., *Administrator.*

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, H. R. 5636, as reported, 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):

SUBPARAGRAPH (c) OF PARAGRAPH I, PART I, VETERANS REGULATION NUMBERED 1 (a) AS AMENDED

(c) That for the purposes of paragraph I (a) hereof a chronic disease becoming manifest to a degree of 10 per centum or more within one year from the date of separation from active service as set forth therein shall be considered to have been incurred in or aggravated by service as specified therein notwithstanding there is no record of evidence of such disease during the period of active service, provided the person suffering from such disease served ninety days or more in the active service as specified therein: *Provided, however,* That where there is affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of such chronic disease has been suffered between the date of discharge and the onset of the chronic disease, or the disability is due to the person's own misconduct, service connection will not be in order: *Provided further,* That the term "chronic disease" as used in this paragraph shall include anemia, primary; arteriosclerosis; arthritis, bronchiectasis; calculi of the kidney, bladder, or gall bladder; cardiovascular-renal disease, including hypertension, myocarditis, Buerger's disease and Raynaud's disease; cirrhosis of the liver; coccidiomycosis; endocarditis; diabetes mellitus; endocrinopathies, epilepsies; Hodgkin's disease; leukemia, nephritis; osteitis, deformans; osteomalacia; organic diseases of the nervous system, including tumors of the brain, cord, or peripheral nerves; encephalitis lethargica residuals; scleroderma; tuberculosis, active (other than pulmonary); tumors, malignant; ulcers, peptic (gastric or duodenal); and such other chronic diseases as the Administrator of Veterans' Affairs may add to this list: *Provided further,* That active pulmonary tuberculosis or all other types of active tuberculosis developing a 10 per centum degree of disability or more within three years, or multiple sclerosis developing a 10 per centum degree of disability or more within two years from the date of separation from active service, shall, in the absence of affirmative evidence to the contrary, be deemed to have been incurred in or aggravated by active service: *And provided further,* That, subject to the limitations of this subparagraph, tropical diseases, such as cholera; dysentery; filariasis; leishmaniasis; leprosy; loiasis; malaria; black-water fever; onchocerciasis; oroya fever; dracontiasis; pinta; plague; shistosomiasis; yaws; yellow fever; and others and the resultant disorders or diseases originating because of therapy, administered in connection with such diseases, or as a preventative thereof, shall be accorded service connection when shown to exist within one year after separation from active service or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service. Nothing in this paragraph shall be construed to prevent service connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active service.