

Veterans Legislation and Policies

A. Veterans Education and Training Benefit

Recommendation

NCVA proposes that:

- (i) VAC eliminate the limitations as to the applicability of the new Veterans Education and Training Benefit so as to make this particular benefit available to all veterans and not just those who have served since April 1, 2006.
- (ii) Family members (spouses and dependent children) should not only have an independent right to VAC vocational rehabilitation and employment policies, but also to the Education and Training Benefit without the current restrictions that curtail their opportunity to access these programs.

We would concur with the considered opinion of former deputy minister Walt Natynczyk that this program represented a landmark proposal that substantially enhances the Education and Training Benefit for all eligible veterans. The former deputy minister suggested at the time of the formal announcement that it was based on the U.S. G.I. Bill in relation to extending educational benefits beyond disabled veterans so as to include all released veterans who qualify under this new program.

The benefit is available for ten years going forward following the release of the veteran and is retroactive to April 1, 2006. Unfortunately, veterans released from the CAF prior to 2006 do not qualify for this benefit that, in our judgment, reflects a rather arbitrary cut-off date and conceivably is a government

decision founded on actuarial objectives in the budgetary process.

This program was initiated on April 1, 2018, for all veterans honourably released on or after April 1, 2006 – veterans with six years of eligible service will be entitled to up to \$49,578 of benefits, while veterans with 12 years of eligible service will be entitled to up to \$99,157 of benefits. The minister/



deputy minister of the day emphasized that the benefit would provide more money for veterans to go to college, university or technical school after they complete their service.

For those veterans who find education is not their solution, the department has indicated that there would be further monies available under this program for career development courses in the neighbourhood of \$6,197 per veteran.

NCVA is of the opinion that the current eligibility date of 2006 should be changed to encompass a larger class of veterans prior to that date. The present policy actually splits the application of the Education and Training Benefit so that only veterans who served in Afghanistan after 2006 are eligible. In our view, there is no justification for this cut-off date.

In this context, the present 10-year rule for qualifications should also be eliminated so that the more inclusive veteran class would be eligible and not barred by this arbitrary 10-year limitation period.

We would also strongly recommend that family members (spouses and dependent children) should also have the independent right to access the Education and Training Benefit without the current restrictions that curtail their opportunity to utilize these programs. This proposal is fully supported by the findings of the 2024 joint ministerial policy/family advisory groups report to the minister. There have been no further developments.

It should be noted that NCVA emphasized this important topic in our submission to the Standing Committee on Veterans Affairs in March 2024, with regard to their study on veterans' transition to civilian life.

B. Partial Disabilities

Recommendation

NCVA strongly recommends that VAC grant automatic entitlement to those veterans currently in receipt of consequential or partial entitlement rulings at one-fifth/two-fifths/three-fifths to a four-fifths level of assessment. In so doing, the department will address a significant amount of the backlog in relation to the numerous appeals that are currently in the department system re: fractional awards.

In early 2018, VAC created a new policy with reference to partial entitlement flowing from veterans legislation, i.e., disabilities arising in part out of military service or consequential disabilities arising in part from a primary disability.

The VAC policy amendment established a principle that any partial entitlement award would either be granted at four-fifths or five-fifths. In the past, fractional entitlements in this context were granted in fifths – one-fifth, two-fifths, three-fifths et al.

The backgrounder information given to NCVA and the Ministerial Policy Advisory Group from VAC indicated that these fractional entitlements were often appealed one-fifth at a time, clogging up the entire VAC adjudicative system. It was felt that it would be prudent to simply eliminate the one-fifth, two-fifths and three-fifths entitlements and grant a four-fifths for any partial entitlement award.

This is clearly a beneficial policy insofar as a substantive increase in pension to be received by a veteran, but we felt it was important to raise a number of questions following the introduction of this amendment that still remain of concern as to the administration of this policy amendment:

- (i) Will these fractional entitlements be granted retroactively to all veterans who have received a one-fifth, two-fifths or three-fifths entitlement in the past?

It has been established by VAC that this will not be done automatically but will only be triggered by individual veterans initiating a review of their files by the department in order to achieve a potential increase in their fractional entitlement. NCVA strongly recommends that VAC grant automatic entitlement to those veterans currently in receipt of consequential or partial entitlement rulings at one-fifth/two-fifths/



three-fifths to a four-fifths level of assessment. This will also alleviate the significant backlog of the numerous appeals with respect to fractional awards that are currently in the VAC adjudicative system.

- (ii) Will there eventually be any limitation period as to how far back this form of increased fractional entitlement will be granted, given the magnitude of appeals that have been generated by this policy?
- (iii) Will the standard of assessment be more stringent when it is recognized that the partial entitlement award will be granted at a minimum of four-fifths? In the past, one-fifth awards were occasionally granted on the basis of giving the veteran applicant the benefit of the doubt – will this relative generosity be altered in the policy guideline adjudication?

C. Post-65 Benefits

Recommendation

NCVA proposes that VAC should establish that the Income Replacement Benefit (IRB) (former Earnings Loss Benefit) be continued for life without deduction, and that the post-65 diminishment be eliminated as the financial plight of the eligible seriously disabled veteran at age 65 remains essentially unchanged.

It is to be noted that the legislative amendments emanating from Budget 2018 (which consolidated a number of income replacement provisions into one benefit, the IRB) unfortunately still retain the inadequacies of the Retirement Income Security Benefit, which was enacted earlier by the former Conservative government in its attempt to address the post-65 financial security for seriously disabled veterans and their families. As aforementioned, the post-65 benefit provides a limited number of disabled veterans (less than six per cent) with 70 per cent of 90 per cent of the IRB, should the veteran be deemed as suffering a “Diminished Earning Capacity” as defined under the regulatory provisions of the new act, less certain potentially significant deductions prescribed by these policy provisions.

In our view, to apply a 70 per cent formula to the post-65 period for a permanently incapacitated veteran based on a public/private sector pension model is not appropriate when it is recognized that the plight of such a seriously disabled veteran post-65 remains unchanged and their financial costs continue to be essentially the same.

During the course of initial discussions surrounding the enactment of these post-65

provisions, strong arguments were made by NCVA and various veteran stakeholder groups that the full Earnings Loss Benefit/IRB should be continued for life, particularly given the fact that the principal recipients of this post-65 “pension” will be totally incapacitated veterans.

We would underline that our proposal for a progressive future loss of income approach would address this inequity by providing a more realistic form of income replacement for seriously disabled veterans.