

CRSC “under twenty” for the 110th Congress – a very hot political issue in 2007

“Chapter 61s” are a group of military retirees “caught in the middle” based on the revised retired pay laws – Our most deserving wounded warriors are excluded in the recent Combat-Related Special Compensation laws if they are wounded, with less than twenty years service.

Under the old law, there were two kinds of retirements – longevity retirement and disability retirement. The fundamental concept of concurrent receipt is that retired pay is earned by longevity of service, and disability compensation is payment for reduced quality of life and loss of function and future earnings.

The new concurrent receipt legislation extends eligibility to Chapter 61 members with greater than 20 years of service. Their disability retired pay often exceeds the amount they would have earned by service alone. Therefore, Congress authorized concurrent receipt for such members exempting from the VA disability offset only the amount of retired pay the member would have earned by service alone (longevity), independent of any disability. The rest of their retired pay was deemed disability compensation from DOD and remains subject to dollar-for-dollar offset for any VA disability compensation.

The formula established in law for Chapter 61 retirees with more than 20 years of service is 2.5 percent of the applicable basic pay base times years of service. By establishing this formula, Congress validated that part of what’s called disability retired pay is, in fact, earned by service. The logic behind this is that service-based retired pay is earned in its own right, but retirees shouldn’t be able to claim disability compensation from both the military and the VA for the same disability.

The same formula should be extended to Chapter 61s with less than 20 years of service. Under that formula, a person with 15 years of service would be “vested” at three-fourths the amount of the 20-year member, with proportionally less for shorter service.

It's unfair to eliminate the disability offset for someone with a 10% combat disability who has 20 years of service while still imposing the full offset on a 100% combat-disabled member who was forced into medical retirement at 19 years and 10 months. Our point is that use of the 20-year standard implies that the person had a choice.

In the case of medical retirees, they just didn't have any such choice. In their case, we believe strongly that the only fair solution is to "vest" them in the service-earned portion of their retired pay – 2.5% times pay times years of service.

The simple explanation: a 100% combat disabled E-8 retired with 19 years of service today is retired with disability retired pay of about \$2,735 a month (75% of his high-three basic pay). His 100% VA disability compensation wipes out all but about \$120 of that if he's married.

The Military Coalition has recommended a formula of 2.5% times 19 years times the high-three basic pay from offset. In this case that guarantees that he would keep \$1,732 a month as "earned by service." The remaining \$1,003, which is clearly for disability, would still be subject to offset, since we agree you shouldn't draw disability compensation from both DOD and the VA for the same disability. In fact, this exact same "earned by service vs. awarded for disability" computation methodology is already what's used, by law, to determine CRDP/CRSC payments for disability retirees with more than 20 years of service.

Some would say, "Maybe for the 19-year guy that's fair, but how far would you go?" Our answer is, "on

principle, all the way down to one year. Those who have served only a short time won't have very much earned retired pay."

Understanding funding constraints can limit the amount of future progress, an incremental step forward towards our long-term goal of "full concurrent receipt, VETSPAC will encourage the Armed Services Committees to approve coverage for those with 15+ years of service.

Under current law, a 50% disabled, 15-year early retiree who left service during the 1990s force reductions can get Concurrent Receipt, but the 100% combat-disabled, 19-year medical retired Soldier leaving Walter Reed can't!

Recommendation

VETSPAC urges the Armed Services Committees to include an option for Chapter 61 retirees with less than 20 years of service. These members did not have the choice to remain until 20 years...their service-connected disability forced them to cut their careers short. It is unfair to continue to penalize them for incurring a service-ending disability.