

AMERICAN EX-PRISONERS OF WAR, INC.

NATIONAL SERVICE OFFICERS DIRECTOR
ANSWERS YOUR QUESTIONS

Packet 11



“WE EXIST TO AID THE MAN WHO CANNOT HELP HIMSELF”

INTRODUCTION

When we started the questions and answers column in the EX-POW Bulletin we were receiving several letters a week from our members on a variety of subjects. We were astonished that so many of our people knew so very little or nothing about the benefits that they might be entitled to as veterans, former prisoners of war, dependents or survivors. The purpose of the column was to inform our members of the various veterans benefits and to answer any questions that were to our membership.

At first we tried to put a little humor in our answers to a dull subject and sometimes we still do. Our sense of humor evidently wasn't funny to some of our readers and we received several complaints about our use of phrases such as "belly up, dearly departed, just reward, etc." Because of these complaints we almost stopped publishing the column and then it dawned on us, "wonder of wonders," people were actually reading the column. Now the only complaints we receive is when we goof and then we know for sure that people are reading the column.

We believe that you will find the answers in this booklet to be correct with the exception of some dollar figures. There have been changes in Law since some of the answers were published but we have tried to up-date any answer affected by these changes. If you find an answer you believe to be incorrect please let us know as we are sure you will. Please remember "to err is human" and there are two diseases that affect our memory "Alzheimers" and "Oldtimers." Hopefully we will never suffer from Alzheimers but Oldtimers has us in its deadly grip.

KENNETH L. JONES
NSO Director

CONTENTS

PAGE

ABBREVIATIONS iii

DEPENDENCY & INDEMNITY COMPENSATION DIC 1 - DIC 11

EDUCATION E 1 - E 5

HOME LOANS HL 1 - HL 4

INSURANCE I 1 - I 4

INTRODUCTION i

MEMBERSHIP v

MERCHANT MARINES MM 1 - MM 2

MILITARY BENEFITS MB 1 - MB 4

MISCELLANEOUS M 1 - M 25

 ADJUDICATION M 18

 ALCOHOL & DRUG DEPENDENCY M 24

 ATOMIC BOMB M 24 & 25

 AUTOPSY M 1

 BANKRUPTCY M 5 & 6

 BIRTH CERTIFICATE M 16

 BOARD OF VETERAN APPEALS M 4, M 6

 CCCs - Civilian Conservation Corps M9

 CAR - ADAPTIVE EQUIPMENT M 21

 CARE IN CIVILIAN HOSPITAL M 5

 CHAMPVA M 8

 CHILD'S SUPPORT M 25

 CIVIL SERVICE SURVIVOR'S BENEFITS M 10

 CIVILIANS' MEDALS M 24

 CLOTHING ALLOWANCE M 19

 COMBAT PAY M 1

 COMMISSARY PRIVILEGES M 4 & 5

 COMMON LAW MARRIAGES M 3

 COORDINATORS M 18

 COPY OF DISCHARGE M 24

 DENTAL M 23 & 24

 DEPARTMENT OF VETERANS AFFAIRS M 8

 DIRECT DEPOSIT P 12 M 16

 DIVORCE M 8 & 9, M 15 & 16

 DOCTOR - ADDRESS M 16 & 17

 LANGUAGE M 14

 MEDICARE M 25

 QUALIFICATIONS - VA M 14 - 18

MISCELLANEOUS CONTINUED:

DOMICILIARY CARE	M 1
FEE BASIS	M 14
GOLD STAR LAPEL PIN	M 2
INTERNEED IN SWITZERLAND	M 20
MEDICINE	M 7
MORTALITY RATE	M 20 & 21
NATIONAL GUARD	M 2 & 3
NURSING HOME	M 7 & 8
OVERSEAS BURIAL	M 2
OVERSEAS VETERAN BENEFITS	M 17
POWER OF ATTORNEY	M 3 & 4
PRESUMPTIVES	M 6 & 7
POW - IN JAIL	M 20
PHYSICIAN	M 18
PROOF	M 16
PRIVACY ACT	M 7
REOPEN A CLAIM	M 22 & 23
ST. LOUIS FIRE	M 9
SERVICE - MEDICAL RECORDS	M 10
PROMOTIONS	M 11 & 14
SERVICE ORGANIZATIONS MEMBERSHIP	M 17
SOCIAL SECURITY AND 100% DISABILITY	M 9 & 10
STATE BENEFITS	M 23
TRAVEL PAY	M 21 & 22
VA - ADDRESS TO EX-WIFE	M 3
BENEFITS	M16, M21
MEDICAL CARE	M 9
MEDICAL CARE OVERSEAS	M15
WIDOWS NEEDED DOCUMENTS	M 10 & 11
WOMAN VETERAN	M 3
PENSION	P 1 -P 12
PHILIPPINE SERVICEMEN	PS 1 - PS 4
"THEY"	iv

SOME ABBREVIATIONS USED;

- AID AND ATTENDANCE - A&A
- BOARD OF VETERANS APPEALS - BVA
- CIVILIAN HEALTH AND MEDICAL PROGRAM - CHAMPVA
- NATIONAL SERVICE LIFE INSURANCE - NSLI
- NATIONAL SERVICE OFFICER - NSO
- PUBLIC LAW - P.L.
- SOCIAL SECURITY - SS
- UNITED STATES CODE - U.S.C.
- VETERANS ADMINISTRATION MEDICAL CENTER - VAMC
- VETERANS ADMINISTRATION REGIONAL OFFICE - VARO

"THEY"

"They-they-they and more theys." They did - they didn't - they don't care they don't comply with the law - they are a bunch of quacks they don't let me see a doctor - they won't give me my medicine they won't treat me - they won't give me travel pay - they don't go by priorities - they, they, they.

What we are trying to convey is that they won't tell us what or who they are referring to. They make a frustrating job more frustrating. WHO ARE "THEY"?

"They" are the former POWs and other veterans who believe they have a justifiable complaint about treatment or lack of treatment they received at one of the VAMCs or against VA employees. It is not unusual to receive a rambling letter full of complaints which identify the individual against whom the complaint is lodged as "they." We receive irate letters from these individuals when we inform them that there is nothing we can do until they identify the person or persons by name, place, and time. As a result, more theys: they knew we could- n't act they knew it did no good to complain - they knew we were incompetent - they knew we would side with the VA - they, they, they.

Those of you who were in the "Old Brown Shoe Army" can remember that when they dropped a bowl or cup and broke it in the mess hall, the first thing that happened afterwards was someone yelled, "name, rank, and serial number." We cannot act on a complaint that identifies the individual(s) as "they." We must have name, time, and place. It does no earthly good to contact a director of a medical center and complain about an incident unless we state facts and names. When we inform a director that they, meaning a VA employee(s), the first thing they will ask is, "Who are 'they'?" If we can't tell them who they are, there is not much the director or supervisor can do. Who are they going to contact in an effort to resolve the complaint?

If a former POW or any veteran believes they have a legitimate complaint, their first step is to make the complaint known to the POW Administrative Coordinator or the Patient Representative as soon as possible after the incident occurs. To wait and file a complaint weeks after the incident is futile. When you file the complaint, make sure you have all the facts and, most important, names.

If the Coordinator cannot or will not act on the complaint, contact the Patient Representative and make your complaint known. Every medical center has at least one Patient Representative who can help the veteran to resolve complaints and help the veteran in many other ways. Usually this is as far as the veteran has to go.

If the veteran for some reason doesn't want to take these steps and wishes to file a formal complaint through us, we will do our best to assist. Remember, we cannot help unless the veteran furnishes names, place, and times. Many of the complaints that list names, place, and facts are easily resolved and more times than not, it is a misunderstanding by the veteran or the employee of current laws and regulations. We try to work with the VA and not for or against them. We have found that when we file a legitimate complaint, giving the facts, time, place, and names, corrective action is taken and the complaint resolved.

PLEASE, NO MORE "THEYS" - just the facts and only the facts: name, rank and serial number.

MEMBERSHIP

Q. I recently applied for membership in the American Ex-POW organization and my application was denied until I show proof that I was a former POW. Why doesn't National Headquarters accept a person's word that they were a POW? No one in their right mind would claim to be a former POW unless they were.

A. This question is a little out of our ball park, but we can give you several valid reasons. To start, our Constitution & Bylaws require proof of POW status before membership will be granted.

There are individuals who claim to have been former POWs who never served a day outside the U.S. and some who never served in the Armed Forces. Hard to believe, but true. Why, we don't know, unless they believe that membership grants them special privileges. We recently had an individual attempt to file a claim for disabilities he claimed were incurred while he was a POW. This individual was sent to us by a former POW that we knew. He had convinced the ex-POW that they had served together, were in the Company when captured, and were interned in, the same prison camp. He was a con artist from the word go. He had never been overseas, served less than six months, and had been kicked out of the service with an Other Than Honorable Conditions Discharge. Needless to say, no claim was filed. This type of individual is more or less harmless and easy to detect.

The people we must be on the lookout for are those who seek membership for their own greed. These individuals are out to rip someone off and they use the membership card to prove that they were POWs. They are seldom questioned and use the membership card to ask for donations and to conduct fund raising activities. We seldom hear about their activities until it is too late. They have made a haul and skipped.

A former POW should have few, if any, problems proving POW status. Unfortunately, discharges from WWII and Korea seldom indicate POW status. In these cases the individual should submit SF 180 to the National Personnel Records Center, (Military Personnel Records), 9700 Page Blvd., St. Louis, MO 63132, and request proof of POW status.

Members accepting applications from membership in the American Ex-POWs should double check the DD 214 if this document is being used to show proof. We recently had an individual who claimed to be a former POW. If all the information on the DD 214 was true, the man should have been awarded the Medal of Honor at least five times. The DD 214 had been altered and three different typewriters had been used. The man was as phony as a three dollar bill. If someone asks us to show proof that we were a POW we will be only too glad to do so. We are not ashamed that we were a prisoner of war and to those few individuals who would question our courage, we have one thing to say. "WE WERE THERE. WHERE WERE YOU?"

{Referring to ex-POWs Rev. Edwin F. Taylor, chairman, YMCA Armed Services had this to say:

"A lot of people talk about making sacrifices for God and country--but you have made them ... A lot of people talk about hell and what it's like--but you have been there ... A lot of people talk about heroism--but you have lived it.")

BURIAL

Q. I understand that the VA will pay part, if not all, of a veterans burial expense. What is the limit the VA will pay for the funeral?

A. We hate to be the ones to burst your bubble, but your understanding is a misunderstanding.

There are two allowances, burial and plot, or interment, that the VA may pay for reimbursement of the cost of the burial and funeral for eligible veterans.

An allowance of \$300 may be paid for reimbursement of the cost of the burial and funeral expenses in those cases where a veteran, male or female, dies of a non-service-connected cause. If the veteran dies of a service-connected cause, a burial allowance of \$1,500, plus allowable transportation expenses, may be paid in lieu of any other burial allowance.

In addition to the burial allowance of \$300 for non-service-connected deaths, a plot and interment allowance of \$150 may be paid if the veteran is not buried in a National Cemetery or any other cemetery under the jurisdiction of the U.S. Government.

To be eligible for the burial allowance, the deceased veteran must have been discharged/separated from the service under conditions other than dishonorable and have been entitled to receive compensation or pension from the VA at the time of death, or would have been entitled to compensation but for receipt of military retired pay. Eligibility may also be established when a veteran dies in a VA facility to which they were properly admitted for hospital, nursing home, or domiciliary care. Benefits may also be paid if death occurs in a VA contract nursing home if the veteran dies in the home under VA contract.

The plot of interment allowance is payable if the veteran is entitled to the burial allowance or served during a wartime period or was discharged or retired from the service because of disability which was incurred or aggravated in the line of duty.

If a veteran dies while traveling under proper authorization and at VA expense or during hospitalization treatment or care, the cost of transporting the remains to the place of burial may be authorized. The VA may pay the cost of transporting of the veteran's remains to a national cemetery nearest the veteran's last place of residence in which burial space is available, provided the veteran was entitled to service-connected disability compensation or died from a service-connected disability.

Q. The government didn't furnish a flag for my husband's funeral. He was an honorably discharged veteran, with a service-connected disability. Can you tell me why a flag wasn't furnished to cover his casket?

A. No, we can't. There could have been several reasons but none the fault of the government. Probably the funeral home did not obtain a flag because they were not requested to do so.

The government will furnish a deceased veteran who:
been several reasons but none the the funeral home did not obtain a to do so.
flag to drape the casket of a deceased veteran who:

1. was a veteran of any war, or served in the service after January 31, 1955;
2. had served at least one enlistment, or

3, had been discharged or released from active military, naval or air service for a disability incurred or aggravated in line of duty.

Flags may be obtained from the VA or a local post office. The government will not reimburse the cost of a flag obtained from other sources.

Q. My husband was cremated. Will the government furnish a grave marker for his ashes?

A. Yes. The VA will, upon request, furnish a headstone or marker at government expense for the unmarked grave of:

1. Any individual buried in a national or post cemetery,
2. Any person eligible for burial in a national cemetery who is not buried in a national cemetery,
3. Any veteran of the Union and Confederate Armies of the Civil War, or
4. To commemorate any veteran who died while on active duty, and whose remains have been recovered or were buried at sea for placement in a national or local cemetery.
5. Any veteran whose remains were donated to science, or
6. Whose remains were cremated and the ashes scattered without interment.

Headstones and markers are furnished and shipped at government expense. Installation costs are not included.

Q. Are family members of a veteran eligible for burial in national cemeteries?

A, Yes, The wife, surviving spouse, minor children, and in certain instances, the unmarried adult child of an eligible veteran may be buried in a national cemetery. In some national cemeteries, due to crowded conditions, the veteran and spouse are being buried in the same gravesite. If the spouse is buried first, the veteran must sign an agreement that, upon their death, they will be buried in the same gravesite. The same is true when the veteran dies first, The grave is dug deep enough to accommodate both the veteran and spouse, provided the spouse informs the Superintendent of the cemetery that they desire to be buried in a national cemetery at the veteran's request and, if after the veteran's death, they are not buried in that national cemetery, the remains of the,, spouse will be removed to another cemetery at the expense of the veterans estate.

Q. I would like to be buried in the Arlington National Cemetery. Does the VA have any special arrangements for burials in this cemetery?

A. No, the VA doesn't but the Secretary of the Army does. The National Cemetery is under the jurisdiction of the Secretary of the Army and interment in the cemetery is limited to the following:

1. Persons dying while on active duty in the Armed Forces.
2. Retired military personnel defined as retired members of the Army, Navy, Air Force, Marine Corps, or Coast Guard who are carried on an official service retired list and who are eligible to receive compensation stemming from service in that Armed Forces.

3. Recipients of the Medal of Honor; Distinguished Service Cross, Air Force Cross, or Navy Cross; Distinguished Service Medal; Silver Star and Purple Heart.

4. Persons otherwise eligible by reason of honorable military service who have also held elective office in the U.S. Government or served on the Supreme Court or in the Cabinet, or in an office compensated at Level II under the Executive Salary Act.

5. Former members of the Armed Forces separated for physical disability of 30% or greater prior to October 1, 1949, who served on active duty and who would be eligible for retirement under the provisions of 10 U.S.C. 1201 had that statute been in effect on the date of separation.

A veteran of any of the U.S. Armed Forces honorably discharged who is cremated may have their remains (cremains) interned in the Arlington National Cemetery.

Q. Is anyone beside wartime veterans eligible for burial in National Cemeteries.

A. Yes. Any veteran discharged under conditions other than dishonorable is entitled to burial in any national cemetery that is open. Burial in an open national cemetery is also available to the following:

1. Any reservist of the Armed Forces whose death occurs under honorable conditions, while undergoing treatment at the expense of the government for injuries or disease contracted while acting within the scope of reservist duties.

2. Any United States citizen who served in the Armed Forces of an allied government and whose service was terminated honorably.

3. Any member of the Armed Forces who dies while on active duty.

4. The wife, surviving spouse, minor child, and in certain instances, the unmarried adult child of the above persons.

5. Such other persons as may be designated by the Administrator of Veteran's Affairs.

Q. After my husband's death I purchased a tombstone for his grave. I was told that the VA will reimburse me for the cost of the tombstone. Is this correct?

A. Partly correct. The VA will not reimburse you the full cost of the tombstone. The VA will reimburse you the approximate amount that the government pays for a government furnished grave marker or headstone.

Q. My husband, an honorably discharged veteran, recently passed away. He always said he wanted a military funeral and that he was entitled to one. After his death, we contacted a military installation near our home and requested that a military funeral be conducted. Our request was denied. Why was our request denied and what can be done to make sure that in the future all veterans be given a military funeral when one is requested? Aren't all veterans entitled to a military funeral? If not, why not?

A. We don't know if we have a satisfactory answer but we will try. All honorably discharged veterans are entitled to a military funeral. Entitlement doesn't mean the Armed Forces are authorized to conduct military funerals when

requested. Entitlement and authorization are two different things.

The Department of Defense regulations are clear on when military personnel are authorized to conduct military funerals. Please remember, all military installations do not have the manpower necessary, or trained, to conduct funerals.

When a military funeral is desired, the Mortuary Officer at the nearest military installation should be contacted. He will tell the person making the request whether that particular installation is authorized to provide personnel and equipment for military funerals. If not, the officer can refer them to an installation that is.

Usually, funeral details are provided for active duty personnel, retired personnel and non-retired veterans when resources permit. The ceremonial party for military funerals consists of: Officer or NCO in charge, pallbearers, firing squad, bugler, chaplain, and color guards. The make-up of the party may differ depending on resources available. In some instances, only one person will be made available to represent a branch of service.

Time is another factor involved. It would be almost impossible for an installation some distance from the burial site to furnish a funeral detail on short notice. Most installations are limited on the distance a detail can travel and usually the travel time must be accomplished in one day.

Your question on how to insure that all veterans be given a military funeral is an easy one to answer. Today there's approximately 30 million veterans alive. This number far exceeds the number of active duty military personnel. You live in a large metropolitan area, and if you will read the obituary column in your daily newspaper, you will find that at least five veterans have died on any given day. The Armed Forces simply do not have the manpower, equipment or resources to conduct this many funerals daily. Nationwide, several hundred veterans die daily. The average burial detail consists of 20 people and to conduct military funerals for all veterans nationwide on a daily basis would require several thousand active duty personnel and resources which the Armed Forces does not have.

Q. I have requested that I be buried in a National Cemetery. I would like to have the ex-POW medallion attached to my grave marker or tombstone. Will the VA furnish a marker with the medallion installed, or will my family have to have the medallion installed after the marker is in place?

A. The VA provides inscriptions for certain military awards on furnished markers and headstones. The ex-POW grave not authorized. To have the medallion installed or inscribed on a marker would require special permission, which is unlikely.

Only certain information is inscribed on government furnished markers at government expense. In addition to the Medal of Honor, four valor awards and the Purple Heart may be inscribed on government furnished markers at government expense. Those awards are the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, and the Purple Heart.

Q. I know I am eligible for burial in a National Cemetery, How do I make arrangements in advance, and how do I reserve a burial plot?

A. So sorry. You don't. The funeral director or a family member making interment arrangements for an eligible decedent should communicate as soon as possible with the Director of the National Cemetery in which burial is desired. Doesn't that sound better than, "The undertaker or someone making the arrangements for your burial"?

The director of the cemetery should be furnished the veteran's full name, together with rank, serial, social security and VA claim numbers; date and place of entry into and separation from service; branch of service; date and place of birth and date of death. If all of these items are not available or known, as many as possible should be furnished. The presentation of the original of an official military discharge or a certified copy is usually sufficient to establish eligibility for burial in a national cemetery. The discharge must specify active military duty and show that release from active duty was under conditions other than dishonorable.

The Director may set a tentative date for interment pending completion of the verification of service and will notify the applicant when burial is authorized. The date and time of interment should not be announced and the decedent should not be transported to the national cemetery until the director has confirmed the burial schedule and authorized shipment or delivery of the remains to the cemetery.

There is no charge for a gravesite in a national cemetery, or for opening or closing of the grave. Gravesites are not reserved.

Q. My father's government furnished headstone has been knocked over and broken by vandals or a grass mowing crew. I would like to replace the headstone. Do you know where I can purchase this type of stone, and the approximate cost?

A. The VA will replace a previously furnished government headstone or marker at government expense if it is cracked, broken, destroyed or otherwise made illegible. Request for replacement should be made in writing by a family member or other responsible person. The request should state the condition of the headstone or marker, along with pictures of the stone, and sent to: Director, Monument Services (42), Veterans Administration, Washington, D.C. 20420.

Q. Who may receive a Presidential Memorial Certificate on the death of a veteran?

A. A Certificate may be issued to the next-of-kin, a relative or friend, upon request, or to an authorized service organization.

The award of a certificate does not preclude the authorization of additional Certificates to other friends and relatives.

Q. My husband died and was buried in a VA National Cemetery. I was advised that I would be entitled to a total of \$450 as a burial allowance; however, I only received \$300. Why?

A. The \$450 burial allowance was quoted to you included \$300 to be applied toward the veteran's burial expense and \$150 as a plot or interment allowance. Interment in a National Cemetery was authorized in lieu of the interment allowance.

QUESTIONS & ANSWERS FROM CHARLOTTE, NC NAT'L CONVENTION

At the National Convention in Charlotte, NC, we were asked several questions which we could not answer. Thanks to Chuck Williams, we not have the answers.

Q. Why is it necessary to have 250 attorneys and only 23 doctors on your Board of Veterans Appeals (BVA)? Since we are dealing with medical problems, the numbers should be reversed.

A. The applicable law provides that the BVA shall consist of a Chairman, a Vice Chairman, and not more than 65 Board Members (38 U.S.C. 4001). The Board is divided into 21 sections of approximately three Board Members. Each Section has a staff of from six to eight staff attorneys who prepare tentative decisions for review by the three Board Members. Currently, the Board consists of 42 legal members and 16 medical members. There are, in addition, six physicians who are designated "Acting Members" because the President has not yet approved their appointments to the Board.

The BVA is quasi-judicial tribunal within the VA which issues appellate decisions on claims for veteran's benefits administered by the VA under title 38, U.S.C. The subject matter of a claim may deal with many varying degrees of proof and evidentiary showings based upon provisions of law covering different types of benefits. The process of formulating a decision is basically legal in nature, with the Board Members acting as judges. The essential skills required for proper adjudication include a working knowledge of the appropriate laws and regulations and the ability to apply correctly these laws and regulations and the ability to apply correctly these laws to the facts of the case. These skills are basic to the credentials of an attorney. While most of the claims do involve medical data, the role of the Medical Members is to evaluate medical findings, assist in resolving problems arising from conflicting medical evidence, and serve as resident experts in order to insure an understanding of the disease or disability. The skills of a physician are indeed essential in that they involve knowledge of anatomy and physiology. However, it is the task of the lawyer to apply correctly the legal requirements and procedures of the medical facts. The situation is similar to that found in the various courts throughout the country, in which a judge rules on a case which is presented by lawyers, with the expert witnesses providing testimony on matters within their fields of expertise. The vote of a Medical Member on a decision is equal in weight to a vote of a legal member. However, in an adjudicating proceeding in which the applicability of the laws and regulations to the facts controls the outcome, it would not be appropriate for physicians to constitute a majority vote.

Q. Explain Outreach VA Clinics.

A. The Readjustment Counseling Service (RCS) administers a nationwide system of 194 community-based outreach and counseling sites (vet centers) specifically designed to address the post-war readjustment needs of Vietnam era veterans. Working in small teams within the community, vet center counselors provide a full range of assistance to Vietnam era veterans and their family members with particular attention to war-related psychological problems which may interfere with full return to civilian life.

Q. To Dr. Cohn: At one time you advocated a yearly physical examination for ex-POWs. Has this idea been abandoned?

A. I asked a group of physicians who attended the 1986 POW Educational Conference in Williamsburg, VA, to reach a consensus regarding annual physical examinations for ex-POWs. Their statement is enclosed. (See statement on page Q&A 3.)

My feeling on the issue is that it should be up to each physician to decide if an examination is necessary based on the individual needs of an ex-POW.

Q. What has been accomplished by the PTSD treatment and research clinics? What are the problems of these clinics?

A. There are no entities called "PTSD treatment and research clinics." This question probably refers to PTSD Treatment Teams. Following recommendations from the Chief Medical Director's Special Committee on PTSD, funding was provided in FY 1987 for the establishment of 15 PTSD Treatment Teams, with 2 FTEE funded from VARO and 2 FTEE provided by the VAMC. The Treatment Team Clinicians tasks include screening, assessment and treatment of veterans with PTSD; consultation and liaison with other clinicians, including Vet Center staff of PTSD treatment and education about PTSD in the medical center and in the community. Research was never an identified part of the Treatment Team mission.

In the first year of operations, more than 3,000 veterans were served by PTSD Treatment Teams. A number of PTSD Treatment Teams are well established and are performing well, but some have not been able to function as they were intended. Problems include: heavy workload demands and some staffing difficulties. A revised format for the Treatment Teams, incorporating administrative and other changes designed to correct problems identified with the Teams, is currently being implemented. The new entities, called PTSD Clinical Teams, (PCTs) will have a clinical, consultation liaison and education role, but again, will not have research as an identified mission. A national evaluation of PCT functioning and outcome is planned.

Q. To Mr. Eaton. Do the DVB Circulars have the force and effect of VA Regulations?

A. The question is whether DVB Circulars have the force and effect of VA regulations, and the answer is that they do not. From time to time, DVB issues instructions regarding its policies and procedures in the form of circulars. The material in the circulars is not binding on the BVA. The Board is bound by duly enacted statutes, Agency regulations, decisions of the Administrator and precedent opinions of the General Counsel. There are many manuals, technical bulletins, circulars and other administrative issues which are published by the various departments of the VA. Unless a particular publication is signed by the Administrator, it is not controlling in appellate decisions. Board members may review sections of the publications for information purposes and background, but they are not required to follow the dictates of these issues.

Q. What may we expect down the line in nursing care units for disabilities or medical problems as a result of POW status or on active duty?

A. Any expansion of VA nursing unit or contract nursing home eligibility for former POWs; would require new legislation amending section 620 of Title 38. We briefed Commander Bland on some suggested changes which the American Ex-POWs may wish to pursue,

Q. What are the chances of getting a therapy group for ex-POWs' wives established at all VAMC particularly at Jefferson Barracks at St. Louis, MO?

A. You may contact the ex-POW Administrative Coordinator at the local VA Medical Center if you are interested in establishing a support group for ex-POW wives. This is not warranted at all VAMCs mainly because many of our smaller facilities do not have large enough population of ex-POWs and wives to begin a group.

If there are enough wives who show an interest in this undertaking the Medical Center will, hopefully, have a qualified staff member to serve as a group leader.

Q, On protocol exams, why does the social worker insist on knowing the income of the ex-POW?

A. All veterans, and particularly ex-POWs, are eligible for a variety of VA and government benefits. One of the determining factors in establishing eligibility is related to the veteran's income. For the social worker to adequately and effectively review all possible benefits, resources and services available to our veteran patients, this information is vital. The veteran is, of course, under no obligation to provide this information but may adversely affect his eligibility for benefits.

September 18, 1986

STATEMENT OF AD HOC GROUP OF VA PHYSICIANS ON
ANNUAL PHYSICAL EXAMS FOR EX-POWS

1. We are opposed to a mandatory physical examinations because they may duplicate ongoing services already being provided.

2. Facilities are encouraged to review the medical records of former POWs on an annual basis to determine whether all known problems were appropriately followed up and/or whether an annual examination would be appropriate. If a follow-up evaluation is indicated based on the review of the ex-POWs medical chart, then the ex-POW should be offered such an examination.

3. The evaluation mentioned above does not include the ex-POW protocol but rather should conform to the annual procedure of local VA health care facility.

February 6, 1989

On more than one occasion copies of the statement of the AD HOC Group were sent to three members of the Former Prisoner of War Advisory Committee.

In January 1988, the Ad HOC Group affirmed its position on the annual physical examinations. Since that time, so far as we know, the issue has been closed.

COMPENSATION

Q. When I was discharged from the Army after WWII, I was rated 50% service-connected disabled. After I was married, started a family and a business, for some reason my compensation payments were terminated. I was busy and didn't contest the termination of payments. I have reopened my claim and have just completed a compensation and pension examination. I don't know the outcome yet, but I believe if my 50% service-connected disability is reinstated that I should get retroactive payments.

A. After WWII many veterans received disability ratings that were later reduced. Probably the reason your compensation payments were terminated is because you did not report for a scheduled physical examination. Failure to report for physical examinations scheduled by the VA can result in reduced ratings or termination of compensation payments. By failure to appeal the decision to terminate your compensation, you abandoned your claim. If your rating is reinstated, payments will not be retroactive to the date of termination.

Q. My husband was a 100% disabled veteran. He died on the last day of the month. I have been told that I must return his compensation check to the VA. Will the VA issue another check in my name for the 30 days he was to compensation? I could use the money to help pay for his funeral.

A. No. P.L. 87-825, October 15, 1962, made some drastic changes in the matter of accrued benefits. Prior to the passage of P.L. 87-825, VA regulations and Title 38, U.S.C., provided for payment of benefits due and unpaid at the time of the veteran's death. Public Law 87-825, provides for discontinuance of benefits to a veteran effective the last day of the month prior to the month in which death occurred.

Q. What is the difference between service-connected and nonservice-connected disability?

A. The term "service-connected" means that such disability was incurred or aggravated in line of duty in active military service during peacetime or wartime.

The term "nonservice-connected" means that such disability was not incurred or aggravated in line of duty in active military service during wartime.

Q. I am a former POW and have a 60% service-connected disability rating. I was recently in an accident and my right leg was amputated above the knee. I need an artificial leg but cannot afford the cost. Will the VA help pay the cost or furnish one for this nonservice-connected disability?

A. Yes. Any former POW or any veteran with a service-connected disability of 50% or more may be provided with necessary prosthetic appliances for any medical condition.

Q. Is there a time limit for applying for disability compensation?

A. There is no time limit. However, the date of application is a factor in establishing the effective date of payment. In addition, it may also be more difficult to establish entitlement if a claim is filed long after the disability was incurred.

Q. I do not always receive my VA compensation check on the same day of the month, when should I expect it?

A. You should receive your monthly VA check on the first mail delivery date of the month. This may differ slightly based on variances in local mail delivery. If the check is a week or more late, you should contact your VA Regional Office.

Q. I am retired from the Army and wish to apply for service-connected disability. Will my grade entitle me to an increase in compensation?

A. No. Military grade/rank is not a factor in determining the amount of disability compensation benefits. Generals and privates are treated as equals,

Q. My father was receiving a check for service-connected disability prior to his death. I have his last check and would like to use it to pay some of his bills. Can I do this?

A. No. A veteran's entitlement to disability compensation or pension terminates at the end of the month prior to his death. Any check received after his death should be returned to the VA. Also, any Social Security check should be returned.

Q. My wife is a veteran and has a service-connected disability. She has never filed a claim because we are afraid that if she does and is granted service-connected disability compensation it will affect my 100% service-connected compensation payments, Should she file a claim, and if granted a service-connected disability rating, can she refuse to accept compensation?
Your wife should file a claim and should have years ago. If she is granted a service-connected disability rating and awarded compensation, it will have no effect on your compensation payments. You both will receive separate compensation checks. She can refuse compensation but there is no valid reason why she should.

Q. My brother, a former POW, is 100% service-connected disabled and his only income is from the VA. Because he is unable to handle his affairs, a guardian was appointed by the court to manage them for him. Does the VA do any follow-up monitoring to insure that my brother will be protected?

A. The VA audits the periodic guardianship accountings required by the court. If discrepancies are discovered, the court is notified and requested to take corrective action. The welfare and needs of disabled veterans under guardianship are monitored by VA Field Examiners who make periodic visits with these veterans. Unattended needs or adverse conditions are reported to the guardian or, if necessary, to the court for required action.

Q. I injured my back, knees, and ankles when I bailed out over Germany during WWII. Three of my crewmembers were with me and know of my injuries. I need statements from them to support my claim for service-connected disability. I know their names and their home towns and have tried to contact them and have been unable to do so. Is there any way to contact them using this limited information?

A. Maybe and it could be a long, drawn-out process. There will be some expense. Write the Military Archives Division, National Archives and Records Administration, Washington,, DC 20408, and request a copy of the "Missing Air Crew Report" for your crew. You can use SF 180. Be sure to furnish your group, squadron, date shot down, where your serial number, and any other information you might believe will help in the search for the report. If the "Missing Air Crew Report" is available, it will list all crew members and their serial numbers.

When you receive this report, write to the members who know of your injuries and explain that you are trying to contact them to obtain statements to support your claim. Put this letter in an unsealed stamped envelope and on the front of the envelope write their name and serial number. Write another letter to your VARO, requesting that they forward your letter to the crew member you are trying to locate. Put the unsealed letter to the crewmember in the envelope addressed to the VARO. Be sure to explain to the VARO the reason you are attempting to locate your crewmembers.

If the VA has a current address, they will forward your letter. Because of the Freedom of Information Act they cannot furnish you an address. Good luck.

Q. I have four service-connected disabilities which are rated 40%, 40%, 0% and 0%. When I went to school, $40+40=80$. Has there been a change in the government adds? The VA is paying me at the 70% rate instead of the 80% I believe I should be receiving. I have heard of the "new math system" but this is ridiculous.

A. Unless there has been a recent change that we are not aware of $40+40$ still equals 80.

You have a combined rating. If you will check your award letter from the VA you will notice the letter states "for a combined rating of 70%." The VA has a rather complicated "rating schedule" used to determine the percentage of disability when two or more disabilities are involved. When only one disability is to be rated there is no problem. The rating schedule provides the VA with the information necessary to determine the percentage of disability for each condition. Each disability has a distinct diagnostic code number and clearly shows the percentage to be assigned each disability. The rating schedule is used to determine the rate of disability when there are two or more disabilities. By the use of simple arithmetic it is possible in many cases to create a total on multiple disabilities in excess of 100% as authorized by law and regulations. Therefore, percentages of multiple disabilities are combined, not added.

Now to blow you out of your mind: COMBINED RATING TABLE. Table I, Combined Rating Table, results from the consideration of the efficiency of the individual as affected first by the most disabling condition, then by the less disabling condition, then by other less disabling conditions, if any, the order of severity. Thus, a person having a 60% disability is considered 40% efficient.

Proceeding from this 40% efficiency, the effect of a further 30% disability is to leave only 70% of the efficiency remaining after consideration of the first disability, or 28% efficiency altogether. The individual is thus 72% disabled as shown in table I opposite 60% and under 30%. To use table I, the disabilities will first be arranged in the exact order of their severity, beginning with the greatest disability and then combined with use of table I as hereinafter indicated. For example, if there are two disabilities, the degree of one disability will be read in the left column and the degree of the other in the top row, whichever is appropriate. The figures appearing in the space where the column and row intersect will represent the combined value of the two. This combined value will then be converted to the nearest number divisible by 10, and combined values ending in: 5 will be adjusted upward. Thus, a 50% disability and a 30% disability, the combined value will be found to be 65%, but the 65% must be converted to 70% to represent the final degree of disability. Similarly, with a disability of 40%, and another disability of 20%, the combined value is found to be 52%, but the 52% must be converted to the nearest degree divisible by 10, which is 50%. If there are more than two disabilities, the disabilities will also be arranged in the exact order of their severity and the combined value for the first two will be found as previously described for two disabilities. The combined value, exactly found in table I will be combined with the degree of the third disability (in order of severity), The combined value for the third disability will be found in the space where the column and row intersect, and if there are only three disabilities will be converted to the nearest degree divisible by 10; adjusting final 5s upward. Thus, if there are 3 disabilities ratable at 60%, 40% and 20%, respectively, the combined value for the first two will be found opposite 60 and under 40 and is 76%.

This 76% will be combined with 20 and the combined value for the 3 is 81%. The combined value will be converted to the nearest degree divisible by 10, which is 80%. The same procedure will be applied when there are four or more disabilities.

Q. Several years ago I filed a claim for service-connection for a back injury I received when I was forced to bail out over Germany. I was never treated for this injury while in prison camp and there is no record of treatment while in service. My claim was denied by the Board of Veterans Appeals and I understand decisions by the BVA are final. I have severe arthritis in my lower spine. Is there any way I can reopen my claim?

A. P.L. 99-576, Oct. 28, 1986, "Veterans Benefits Improvement & Health Care Authorization Act of 1986," amended Title 38, U.S.C., Section 108, "Improved Benefits for Former Prisoners of War." This amendment reads in part:

(a) Presumption of service-connection for certain disabilities-- Section 312(b) is amended (2) by inserting after clause (10) the following new clauses:

(11) Organic residuals of frostbite, if the Administrator determines that the veteran was interned in climate conditions consistent with the occurrence of frostbite, or

(12) Post-traumatic osteoarthritis.

If you believe your arthritis is due to your back injury, by all means reopen your claim. To do this you should use VA Form 21- 4138.

State on the form that you wish to reopen your claim for arthritis and cite P.L. 99-576. Submit the 4138 to the VARO where you filed your claim. Do not submit the form to the BVA.

Q. I filed a claim for service-connected disability several years ago and the claim was denied for lack of medical evidence. Recently I attended a reunion of my old outfit and ran into a couple of my service buddies who were with me when I was injured. They are willing to give sworn statements concerning my injury. Can I use these statements to reopen my claim?

A. Yes. Sworn statements by buddies which have not been previously submitted in support of a claim are considered new evidence.

Q. My service-connected disability rating has been increased from 20% to 60%. I understand there is an additional compensation benefit for my wife. Is there any additional benefit for our disabled son? He is 42 years old and has never worked and depends on us for support.

A. Maybe. Veterans rated 30% or more because of service-connected disabilities are entitled to additional compensation for dependents. In your case, a dependent child would be a person who is unmarried and who, before attaining the age of 18 years, became permanently incapable of self-support.

Q. I have a 30% disability rating from the Army. Will this rating automatically entitle me to compensation from the VA?

A. No. VA benefits must be applied for on prescribed forms. To be entitled to compensation you must file a claim and the claim be recognized as service-connected by the VA.

Q. If a veteran is mentally incompetent or physically unable to file a claim for veteran's benefits, can someone else file for him?

A. Yes. All too often families or friends of elderly, senile or incompetent veterans fail to explore the possibility of veteran's entitlement to pension, compensation, medical care, drugs, or aid and attendance and housebound benefits. This lack of action is based on the mistaken belief that the veteran must execute an application in person. Family members or friends of mentally incompetent or physically disabled veterans may file claim for veterans benefits for them.

Q. If a former POW is operated on in a VA hospital or receives treatment, is his claim reopened automatically? If not, why not?

A. Claims are not automatically reopened or filed by the VA. All veteran's benefits must be applied for by the veteran or someone acting for them if they are unable to act for themselves. The fact that a veteran has an operation doesn't mean that the operation is for a service-connected condition. If a veteran has an operation and the operation is for a service-connected condition, they should request reevaluation of their service-connected disability if the condition has become worse and can be supported by medical evidence such as an operation. Claims are filed with VAROs and not medical centers. It is the veterans's responsibility to file or request a claim be reopened and not that of the VA.

Q. If a former prisoner of war has a reevaluation, what happens to the forms? Is it then wise to reopen a claim?

A. The request for reevaluation of a service-connected disability is a request to reopen a claim. The VA has the right to reevaluate a veteran's disabilities at any time. If the veteran has had a disability rating for 20 or more consecutive years, the VA cannot reduce the rating except in cases of fraud, etc. The rating is protected by law. It is always wise to request reevaluation or to reopen a claim if the veteran's condition has become worse and there is medical evidence to support the claim. If a veteran has had a claim denied and obtains additional evidence to support his claim, he should reopen the claim. An example would be a change in law making certain diseases or disorders presumptive.

What happens to what forms? If you are asking about medical forms, statements, etc., they are filed in your claim file,

Q. My wife and I legally adopted our fourteen year old granddaughter several years ago. I am rated 100% service-connected disabled and we are both in our late sixties, Should I have notified the VA when the adoption became final. Do I have to? Why?

A. You are not required by law to report the adoption to the VA, but you are foolish not to, Veterans rated 30% or more service-connected with dependents are entitled to additional compensation for dependents. The present (12/1/88) additional allowance for a veteran rated at 100% with spouse and one dependent child is \$148 per month.

There are other benefits such as health insurance (CHAMPVA) for your granddaughter, educational benefits, and in the event of your death.

One of the definitions of a child is "a legitimate child, a LEGALLY ADOPTED child, a step-child who is a member of the veteran's household or was a member at the time of the veteran's death."

Q. I was receiving \$67 per month for arrested tuberculosis. Last month I was rated 30% service-connected disability. I was informed that the \$67 per month payment would be terminated, Why?

A. P.L., July 3, 1930, first provided the statutory award for arrested tuberculosis, payable at \$50 per month. The award was increased to \$60 per month on Sept. 1, 1946, under P.L. 79-662. On Aug. 1, 1952, the award was increased to the present \$67 per month under P.L. 82-427. Public Law 90-493, Aug. 19, 1968, abolished the TB arrested award. However, there was a grandfather clause included allowing those veterans then in receipt of the \$67 award to continue receiving it unless they became eligible for increased benefits through becoming active or by having some other service-connected disability rated at a percentage which would pay more than \$67 per month. No new awards have been made for arrested TB since Aug. 19, 1968.

The statutory award has never been one paid in addition to other compensation or pension benefits, The laws governing the statutory award all state this would be the minimum amount paid to an eligible veteran. You are rated to 30% which pays more than \$67 per month. Under existing laws, you are being paid properly and you cannot receive both benefits.

Q. I know a veteran who is rated 100% service-connected disabled by the VA and works full time. Is this legal? and should I report him?

A. If a veteran is rated 100% service-connected disabled, employment is not a factor and he is doing nothing illegal by working. More power to him. If a veteran is rated less than 100% disabled, but is being paid the 100% rate based on unemployability, employment may affect the compensation payment.

Q. Several years ago I renounced my VA disability compensation and it was terminated. Can I refile for this disability?

A. Yes A renouncement does not preclude a person from filing a new application. However, no payment may be made for any period prior to the date the new application is received by the VA.

Q. While I was in the service I began to drink and continued to do for many years after my discharge from the service. As a result I became an alcoholic. Several years ago I filed a claim for service-connected disability. My claim was denied as not being service-connected. How can the VA deny my claim? I never drank before I was drafted and probably would not have become an alcoholic had I not been subjected to service life. At that time I was young and didn't know any better. Drinks were cheap and drinking was a way of life.

A. Without knowing more we can't give you an answer. We would guess the reason was "not in the line of duty" or "willful misconduct." Title 38, U.S.C. 105, states that direct service-connection may be granted only when a disability was incurred or aggravated in the line of duty and not the result of the veteran's willful misconduct. DFR, title 38, section 3.301(2) reads in part: Alcoholism. "The simple drinking of alcoholic beverage is not of itself willful misconduct. The deliberate drinking of a known poisonous substance or under conditions which would raise a presumption to that effect will be considered 'wilful misconduct.'"

Q. I am rated 50% service-connected disabled by the VA and have been since 1945. During the past several years my condition has become worse and I would like to reopen my claim. I have been told that to reopen my claim is a waste of time because the VA will not increase my compensation after age 55. Is this true? and should I request re-evaluation?

A. No, it is not true, and age is not a factor. connected disability re-evaluation. If your service-connected disability has become worse, reopen your claim and request re-evaluation.

Q. I filed a claim for service-connected disability and the claim was denied by the VARO. I don't believe they reviewed my records. What can I do to have them reconsider my claim?

A. If you haven't waited too long, file a "Notice of Disagreement." This should be done as soon as possible after you receive the letter of denial from the VARO. Use VA Form 21-4138 and state that you wish to file a "Notice of Disagreement" so that you may appeal their decision. The VARO will send you what is called a "Statement of the Case" which will list the reasons your claims was denied. If you don't agree with their reasons, use VA Form 1-9 to file an appeal.

Q. I have been told by people who should know that when I go to my reward, my wife will continue to receive my monthly compensation from the VA, Is this true?

A. We presume you mean in the event of your untimely demise will your wife continue to receive your veteran's compensation or pension benefit? Unfortunately, the second you terminate, your compensation or pension benefits terminate. Any check received from the VA or SS in your name, after your death, should be returned with a note that you are no longer with us and the date you started on your long journey, wherever that may be,

Q. My granddaughter was married to a veteran who receives service-connected disability compensation. Since their divorce he has remarried and moved to another state, They have two small children and he refuses to pay any child support. He claims his only income is the compensation he receives from the VA and SS disability benefits, and because of his limited income, can't afford to pay child support. Is there any way for her to receive the amount he is getting from the VA for the children?

A. Yes, apportionment. An apportionment is the setting aside by the VA of a part of the monthly benefits payable under law administered by the VA for the benefit of dependents not living with the veteran. An apportionment may be made with or without the consent of the veteran, depending on the circumstances.

There is no special form and application for apportionment if made by letter signed by the person claiming such apportionment. In the letter your granddaughter should state she is divorced from the veteran and that the veteran is not contributing to the support of their children. She should give the veteran's full name, VA claim number, if possible, and SS number. The letter should be mailed to the VARO where the veteran's claim folder is maintained, or if she doesn't know, to the VARO for her area.

Upon receipt of the letter (claim) the VA will take action to advise her ex-husband that an application for apportionment has been received. If he furnishes evidence satisfactory to the VA that he is contributing adequately to the support of their children, no apportionment will be authorized. If, however, he does not, within 60 days from the date such information is requested, furnish adequate evidence to establish that he is contributing to the support of his children not in his custody, action will be taken by the VA to make such apportionment in favor of the children not in his custody.

You didn't state the amount of compensation your granddaughter's former husband is receiving, Usually a veteran's compensation is not apportionable unless the veteran is in receipt of more than 20% service-connected disability compensation.

If she has not done so, your granddaughter should contact the Social Security Administration and make them aware of the problem.

Q. Please explain unemployability.

A. It means you ain't got no job and you ain't going to get one. (Just kidding.)

To try to explain unemployability we refer to 30 CFR 4.16. Total disability ratings for compensation based on unemployability of the individual.

(a) Total disability ratings for compensation may be assigned where the schedular rating is less than total, when the disabled person is, in the judgement of the rating agency, unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities: Provided that, if there is only one such disability, this disability shall be ratable at 60% or more, and that, if there are two or more disabilities, there shall be one disability ratable at 40% or more, and sufficient additional disability to bring the combined rating to 70% or more. For the above purpose of one 60% disability, or one 40% disability in combination, the following will be considered as one disability: (1) Disabilities of one or both upper extremities; or of one or both lower extremities, including the bilateral factor, if applicable, (2) disabilities resulting from common etiology or a single accident, (3) disabilities affecting a single body system, e.g., orthopedic, digestive, respiratory, cardiovascular - renal, neuropsychiatric, (4) multiple injuries incurred in action, or (5) MULTIPLE DISABILITIES INCURRED AS A PRISONER OF WAR. It is provided further that the existence or degree of nonservice-connected disabilities or previous unemployability status will be disregarded where the percentage referred to in this paragraph for the service-connected disability or disabilities are met and in the judgement of the rating agency such service-connected disabilities render the veteran unemployable.

(b) It is the established policy of the VA that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated totally disabled. Therefore, rating boards should submit to the Director, Compensation and Pension Service for extra-schedular consideration all cases of veterans who are unemployable by reason of service-connected disabilities, but who fail to meet the percentage standards set forth in paragraph (a) of this section. The rating board will include a full statement as to the veteran's service-connected disabilities, employment history, education and vocational attainment and all other factors having a bearing on the issue.

Q. More often than not, we are asked a question that leaves us dumbfounded. When this happens, we, being highly intelligent individuals, become very evasive and stall until we can obtain a correct answer. By doing this, we are able to make everyone believe that we are the highly intelligent individuals we claim to be.

At our National Convention, Las Vegas, NV, we were asked a question that made us run for cover and yell for help. We don't know if the man was on a fishing expedition or if he was serious. To make the story as short as possible, we asked the VA Office or General Counsel the question and here is their reply:

A. "In your letter, you describe a 100% service-connected veteran ("Veteran") and his younger brother (Brother"). Brother was born severely retarded and, as a result, is and has been permanently incapable of self-support. Brother has lived in Veteran's household since Brother was 8 years old and is now presumably over the age of 18. Veteran and his wife are taking legal action to adopt Brother. The question presented is whether Brother, if adopted, would qualify as a "child" for purposes of additional compensation under 38 U.S.C., S. 315 or, in the event of the Veteran's death, DIC under 38 U.S.C. SS 413 and 414.

"For purposes of title 38, the term "child" includes "a person who is unmarried and ... (ii) who, before attaining the age of 18 years, became permanently incapable of self-support ... and who is ... a legally adopted child. 11 38 U.S.C. S 101 (4)(A). As amended by F.L. 98-223, S 201, 98 stat. 41, that section also provides as follows:

"A person described in clause (ii) of the first sentence of this subparagraph who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran shall be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of adoption 38 U.S.C.S.101 (4)(A)

"Although the VA cannot make a determination of eligibility absent submission of a claim and appropriate supporting evidence, in the situation described, if Brother:

- (a) is unmarried;
- (b) became permanently incapable of self-support before age 18;
- (c) was member of Veteran's household on his 18th birthday; and
- (d) is legally adopted by Veteran, then Brother would qualify as a child for the purposes of title 38.

"We trust this responds to your concern."

A WORD OF CAUTION. The question and answer pertains to one set of circumstances and may or may not apply to other individuals. In other words, don't adopt your grandmother and expect to receive additional compensation.

Q. My husband is 100% service-connected disabled and unable to work. I would like to apply for a Civil Service position. I understand as the spouse of a disabled veteran, I am entitled to a veteran's preference. What is meant by veteran's preference, and how do I apply for this preference?

A. Veteran's preference is a system of rights and benefits established by Congress by which veterans are given advantages over the general public in obtaining and keeping jobs with the federal government. Most veterans, widows, widowers, and the spouse of a few disabled veterans may benefit under the preference system.

The spouses of certain disabled veterans are given a 10-point preference when taking a Civil Service examination. In other words, 10 points are added to the passing grade received on any Civil Service examination. The spouse is eligible for the 10-point preference if, because of a service-connected disability, the veteran cannot be appointed to a Civil Service job in their usual line of work. A Veteran and spouse cannot, at the same time, receive the 10- point preference as a result of the veteran's disability. Certain widows or widowers of veterans are also entitled to the 10-point preference. In order to qualify, they must have been married to the veteran at time of death and must have not remarried since the veteran's death. Certain mothers of veterans who died on active duty are eligible for the 10-point preference. The mother must be widowed, divorced or separated, or the father must be totally and permanently disabled.

Q. My Grandson was medically discharged from the Navy after serving 16 months on a 3-year enlistment. He tells me that he is not eligible for veterans benefits because he did not serve at least 24 months of active service. I find this hard to believe and told him he should file a

disability claim with the VA. I believe that he is eligible for veterans benefits. Am I correct or is he?

A. You are. The law generally denies benefits to veterans of military service who entered active duty after Sept. 7, 1980, (enlisted only), and all other veterans who entered military service after Oct. 16, 1981 who do not complete 24 months of continuous active service. This provision of the law does not apply to veterans who have been compensable service-connected disability or those discharged close to the end of an enlistment term, for reasons of hardship, disabilities incurred or aggravated in the line of duty. Your Grandson should file a disability claim with the VA.

Q. I am over 65 years of age and have been rated 40% service-connected disabled since 1945. I have never been treated by the VA. Our family doctor, who has treated me for many years, has told me my service-connected condition has become worse and that in a few years I will be confined to a wheelchair. Should I seek treatment from the VA and request re-evaluation of my service-connected disability? If I do, will my age have any bearing on my rating or my request for reevaluation?

A. If your service-connected has become worse and you have medical evidence, request re-evaluation. The VA will treat you for your service-connected condition at no cost to you. The decision whether to seek treatment from the VA is your decision.

Age is not a factor in the evaluation of disabilities. We refer you to 38 CFR 4.19 "Age may not be considered a factor in evaluating service-connected disabilities; and unemployability in service-connected claims, associated with advancing age or intercurrent disability, may not be used as a basis for total disability rating. Age, as such, is a factor only in evaluation of disability not resulting from service i.e., for the purpose of pension.

Q. It is my understanding that all veterans hospitalized in a VA hospital for 21 days or more would receive an increase in their disability rating. I was hospitalized for 36 days and my rating wasn't increased. Why?

A. We can't tell you why, but we believe that instead of an understanding you have a misunderstanding. Only veterans who are hospitalized for 21 consecutive days or more for observation or treatment of a SERVICE-CONNECTED disability are eligible for a TEMPORARY 100% rating. The key is SERVICE-CONNECTED disability. We would be willing to wager a few bucks that you weren't hospitalized for a service-connected disability. The fact that you may have a service-connected disability doesn't make you eligible for the temporary increase in rating. If you were hospitalized and treated for a nonservice connected disability, you are not eligible for the increase.

Q. My brother is incompetent and draws compensation benefits. He is not married and has no dependent children. When he was hospitalized recently his benefits were terminated. Is this correct procedure?

A. If your brother's estate was in excess of \$1,500, the law requires that his benefits be terminated while he was hospitalized since he is incompetent and has no dependents.

Q. I am rated zero% service-connected by the VA. What advantage is there to having such a disability status?

A, There are several advantages, the most important of which is having a record that your disability is related to service. This entitles you to priority treatment by the VA for the condition. Establishing the disability will also allow a quicker decision if your condition worsens and you file a claim for compensation. With basis entitlement established, the VA will only have to determine the current extent of your disability.

Q. I have been told that the 60 - 40% disability ratings doesn't apply to former POWs applying for unemployment. Is this true?

A. To answer your question we refer you to the following answer we received from the Office of General Counsel, VA. in reply to an inquiry we made in December.

This is in response to your letter of Dec. 21,, 1988, wherein you set forth your interpretation of 38 C.F.R. sec., 4.16(a)(5) and ask if it is correct.

As you know, 38 C.F.R. sec. 4.16(a) provides a veteran may be awarded a total disability rating for compensation purposes -- even though schedularly rated less than 100% -- if the evidence shows the veteran is unable to pursue substantially gainful employment by reason of service-connected disabilities. However, such an award is subject to this additional requirement: if there is just one service- connected disability, it must be rated at least 60%, or if there is more than one disability, at least one disability must be rated at 40% or higher and the additional liability or disabilities must bring the combined rating to 70% or higher. For purposes of the 60% and 40% requirements, the regulation specifies that multiple disabilities incurred as a POW are to be considered as one disability,

Thus, a former POW, like any other veteran, must meet either the 60% or 40% requirement, whichever is applicable. However, those requirements can be met with less difficulty because any and all disabilities stemming from the POW experience can be combined and considered one disability. In the example you offered, if the combined 70% disabilities were all related to the POW experience you are correct in concluding that no single one would have to be ratable at or above the 40% -- in fact, unemployability could be established even if the combined rating were as low as 60%.

Q. A friend of mine who has a service-connected disability told me that he has VA health insurance coverage that will pay all of his wife's medical expenses. Is this something new, and if so, how do I apply for coverage for my wife? I have a 30% disability rating.

A. If your friend believes his wife has full medical insurance coverage and that the VA will pay all of his wife's medical expenses he may be in for a rude awakening. The VA does have a medical benefit program available for eligible persons. This program DOES NOT pay all medical expenses. The program, "The Civilian Health & Medical Program of the Veterans

Administration" (CHAMPVA) is a medical benefit program through which the VA helps pay for medical services and supplies obtained from civilian sources. The following are eligible for CHAMPVA provided they are not eligible for medical care under Medicare or CHAMPUS, the military benefit program.

(a) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability.

(b) The surviving spouse or child of a veteran who died as a result of a service-connected disability.

(c) The surviving spouse or child of a person who died while on active duty and not due to such person's own misconduct.

Normally, care under CHAMPVA will be provided in non-VA facilities. Under this cost sharing plan, CHAMPVA pays a share of the usual and customary charges. For authorized inpatient care, CHAMPVA will pay 75% of the reasonable charges of the hospital charges and professional personnel. The patient's share is 25% of the hospital charges and professional fees for each admission. For outpatient care, a deductible amount must be paid by the beneficiary each fiscal year. When a claim is submitted for one beneficiary, the deductible is \$50 and for two or more beneficiaries of a family, \$100. After the deductible has been paid, CHAMPVA pays 75% of the remaining reasonable charges for authorized care and the patient's share is 25%.

If your friend believes the VA will pay all medical expenses, he will be in deep kimchi in case of a major medical emergence. If he is smart, he will purchase a supplemental insurance policy. You are not eligible for CHAMPVA.

Q. My service-connected disability rating of 20% was recently increased to 40%. My neighbor tells me I am entitled to additional compensation for my wife. Does he know what he is talking about? I thought you had to be rated 50% or more to receive additional benefits for dependents.

A. Yes, your neighbor knows what he is talking about. The law as changed in 1979, to give veterans with dependents, rated 30% or more, additional compensation for dependents.

Veterans rated 30% or more service-connected disabled should check to determine if they are receiving an additional allowance. If they are not, they should submit a certified copy of their marriage license to the VA and request that their disability compensation be adjusted. Veterans with minor children should submit a certified copy of the child's birth certificate.

Q. I am rated 30% service-connected disabled by the VA and receive a dependency allowance for my wife. My wife is in a hospital and as soon as she is able she will be transferred to a nursing home. Will the VA pay all or part of the nursing home costs?

A. No. However, veterans rated 30% or more, having a spouse who is so helpless as to need regular A&A or a patient in a nursing home, may in addition to the dependence allowance receive a special A&A allowance of \$161 per month (1989). This allowance is not granted automatically and like all other veterans benefits must be applied for. You will be required to submit evidence she is in need of A&A or she is a patient in a nursing home.

Q. The VA has rated one of my disabilities at 0%. If you have a disability how can the VA rate it at 0%? You are either disabled or you're not. It can't be both ways.

A. We have been this question many times and the answer is simple. The Adjudication Officer hits the o key on a typewriter with the digits on their left or right hand depending on whether they are right handed, and then punches the % and there is your answer: "0%."

We have heard the argument that "a disability is a disability and if a person is disabled then they must be disabled to some degree other than 0% which is nothing." We got down our handy dandy up-to-date "Webster" and looked up the definition of being disabled: inability to pursue an occupation because of physical or mental impairment & "disabled" incapacitated by illness, injury or wounds. Unfortunately Webster doesn't have a rating schedule but to be on the safe side, we looked up his definition of "zero" which is not any. Even Webster has a problem with the 0%. First he states you are disabled and then no disability. We don't know about you but we find all of this a little confusing. Are you disabled or not? The VA says you are and then adds insult to injury by giving you a zero rating, which is nothing. It is enough to make a grown man cry, Sorry about our ranting but there are times we can't help ourselves.

To answer your question, we have worn out our copy of Title 38, Code of Federal Regulations and no place have we found a rating of 0%. It could be there and we may have overlooked it because of eye strain, we did find mention of no-percentage ratings in section 3.357 "Rating of Non-Compensable Disabilities 1 (A) General. In every instance where the minimum scheduled evaluation requires residuals and the schedule does not provide a no-percent evaluation, a no-percent evaluation will be assigned when the required residuals are not shown.

When the VA assigns a 0% rating they are not stating you are not disabled. What they are telling you is that you have a service- disability but it less than 10% disabling and they are not paying you compensation. To be eligible for compensation the disability must be rated at 10% or more. Still confused? Join the crowd.

Q. When a veteran is training under the VA Vocational Rehabilitation Program, does the receipt subsistence allowance of cause any reduction in VA compensation payments?

A. No. The veteran may receive both subsistence allowance and disability compensation to he or she is which entitled. In addition, VA will pay the cost of tuition, books and fees involved in the rehabilitation program.

Q. I was recently awarded total disability (100% for service-connected disabilities. I know that I am eligible for a military ID card which will permit me to shop at the military commissary near my home. Because of my disabilities, I am housebound and can't travel. Can anyone else shop for me?

A. Yes. Totally disabled veterans are permitted to designate one adult member of their family as their agent in making purchases.

Q. I am receiving 100% service-connected disability compensation from the VA and I work part-time. Is there a limit to the amount of money I can earn each year?

A. No. VA compensation is not based on income, but on the degree of service-connected disability. Unless a service-connected disability veteran is receiving code 18 (unemployability benefits) there is no limitation on income earnings, wages, etc. However, a recipient of service-connected compensation who receives code 18 can't hold gainful employment and receive earnings and wages and still be entitled to code 18 unemployability.

Q. Can the VA reduce the percentage of my disability rating? I believe that my service-connected disability has become worse but I don't want to file for an increase if the VA can reduce my rating.

A. If you have medical evidence your condition has become worse, file for an increase in rating. The VA may increase or reduce the disability percentage rating of any compensable service-connected disability if the latest medical evidence warrants a change unless the rating has been in effect for twenty consecutive years or more, in which case the rating is protected by law and can't be reduced.

Q. My husband was receiving a compensation check prior to his death. A small amount was being deducted from his check due to an overpayment. Will the VA hold me liable for this overpayment?

A. You are not responsible for the overpayment to your husband. The answer is "No."

Q. A number of us have disability awards broken down into specific percentages for basic disability and unemployability. Is this kind of disability rating permanent? We are not getting any younger.

A. We aren't sure what you are asking, so our answer may not be the one you are seeking.

38 C.F.R., 3.951 Preservation of disability ratings.

A disability which has been continuously rated at or above any evaluation of disability for 20 or more years for compensation purposes under the laws administered by the VA will not be reduced to less than such evaluation except upon showing that such rating was based on fraud. Likewise, a rating of permanent, total disability for pension purposes which has been in force for 20 years or more will not be reduced except upon a showing that the rating was based on fraud. The 20-year period will be computed from the effective date of evaluation to the effective date of reduction of evaluation.

In other words, if you have had a rating for 20 years or more, it is protected and cannot be reduced except as stated above. If you have had a rating for less than 20 years, the rating can be reduced.

3.957. Service Connection for any disability or death granted or continued under title 38 U.S.C., which has been in effect for 10 years or more will not be severed except upon showing that the original grant was based

on fraud, or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The 10-year period will be computed from the effective date of the VA finding of service connection to the effective date of the rating decision severing service-connection, after compliance with 3.105(d). The protection afforded in this section extends to claims for DIC.

In other words, if you have had a disability for 10 years or more, the disability becomes permanent but the disability rating doesn't. This is why people become confused on the 10 and 20 year protection. After 10 years the disability cannot be changed but the disability percentage rating can, and it is not protected until after 20 years or more.

Q. In the event of my death, what percentage of my disability compensation will my wife receive? I have been told she will receive the same benefits that I do.

A. Your wife will not be entitled to any part of your benefit. All services officers have been told by the spouse of a deceased veteran, "My husband told me that in the event of his death, I would continue to receive the same amount of benefits he received from the VA. It they have also had veterans argue that in the event of their death their spouse or dependents would continue to receive their compensation or, pension payments for the rest of their lives. If this were only true! When asked who told them that their survivors would be entitled to their benefits, the common answer is "they" told us this when we were discharged.

When a veteran dies, his claim for any veteran's benefits is terminated and the surviving spouse is not eligible for benefits the veteran was receiving prior to death. Checks received from the VA or SS, addressed to the veteran and received after the veteran's death, should be returned to the sender with a notation that the veteran is deceased and date of death. If the checks are by direct deposit, the bank should be informed to return the checks.

After the death of a veteran, the surviving spouse must file a claim for any benefit they believe they are entitled to. Benefits are not awarded automatically. The must be applied for and there is no time limit in which to apply for a widow's pension or DIC.

Q. I have a friend who receives her husband's retirement check. She is getting married and she told me that she will continue to receive this check after she remarries. I receive DIC and was informed by the VA if I remarry this benefit will be terminated. If this is true why wouldn't her benefit be terminated when she remarries?

A. We believe you are mixing apples and oranges. They are both more and less round but grow on different type trees, are different colors and taste different. The information that you received from the VA is correct. When a surviving spouse in receipt of DIC or widow's pension from the VA remarries, these benefits are terminated. However, if the marriage is later terminated by death or divorce, they may be reinstated, if eligible.

We believe your friend is receiving an annuity under the Survivor's Benefit Plan. If she is and she is over 55 years of age then she will continue to receive the annuity after she remarries.

DEPENDENCY & INDEMNITY COMPENSATION (DIC)

Q. Would someone explain this 10 years and 20 year requirement for those veterans rated 100% service-connected disabled (maybe 60% service-connected and 40% unemployable). Which one of these, 10 or 20 years, protects his widow?

A. Neither. If a veteran is rated 100% service-connected disabled (including 60-40) for ten or more years, the widow is eligible for DIC in the event of the veteran's death. If death occurs in less than 10 years, the veteran's death must be due to a service-connected disability, or a service-connected disability must have contributed to the cause of death. A disability rating in effect 20 years or more is protected by law and the VA cannot reduce the rating except in cases of fraud.

Q. My father, a former POW, was near the atomic bomb explosion at Nagasaki, Japan. He recently died of multiple myeloma. Is my mother eligible for DIC?

A. We don't know, but your mother should apply for DIC, citing your father's POW status near or in Nagasaki. The multiple myeloma can be ruled service-connected if it became manifest to a degree of 10% or more within 40 years after the last date on which your father was in or near Nagasaki.

Q. My husband has terminal cancer and is not expected to live much longer. The cancer is not service related. He is rated 70% service-connected disabled and 30% unemployable by the VA. In the event of his death due to the nonservice related cancer, will I be eligible for DIC? Are there any other benefits?

A. Maybe. If your husband has been rated 70-30% for less than 10 years, you will not be eligible for DIC unless his death is due to a service-connected disability or a service-connected disability contributed substantially to his death. If at the time of his death he had been rated 70-30% disabled for over 10 years, you will be eligible for DIC.

Regardless of the cause of death, you will be eligible to receive a \$150 burial plot and \$300 burial allowance. In case of a service-connected death, you may be eligible to receive up to \$1,500 in lieu of the burial and plot allowance. Also, the government will furnish a grave marker and a flag. There are other benefits such as health and educational if you are eligible for DIC. If you have a very limited income and are not eligible for DIC, you may be eligible for a widow's pension.

Q. My husband has been rated 100% for a service-connected disability and has been receiving compensation for 15 years. If he dies from other than service-connected causes, will I be entitled to DIC?

A. Yes. The widow of a veteran in receipt of 100% compensation for service-connected disabilities for 10 or more years immediately prior to death, is entitled to receive DIC benefits, regardless of the cause of death, provided they were married two or more years or that a child was born of the marriage.

Q. Please explain Dependency and Indemnity Compensation.

A. DIC is probably, if not the most beneficial veteran's benefit available to the, spouse and survivors of a deceased veteran. Prior to January 1, 1957, death compensation was payable to qualified dependents of veterans who died as a result of service-connected disabilities. Serviceman's Indemnity was also payable to a limited number of beneficiaries of veterans dying in service, in the line of duty. Congress combined these two gratuitous benefits to provide DIC payable to qualified dependents of veterans who died on or after Jan. 1, 1957, as a result of service-connected disabilities, and also payable to persons entitled to receive death compensation and who elect to receive DIC.

Any person, who on or after Dec. 31, 1956, is eligible as a dependent for death compensation by reason of death occurring prior to Jan. 1, 1957, may receive DIC upon proper application to the VA. This election need not be made on any specific form. A statement in writing over the payee's signature may be accepted as a valid election of DIC.

A person shall be considered to have been granted "DIC" when they (or their fiduciary) have negotiated (cash) one check for this benefit or dies after filing an election and prior to receipt or negotiation of a check. Once an election of DIC has become effective, the payee may never revert to payments of death compensation. For this reason persons receiving death compensation should seek professional help prior to applying for DIC. It may or may not be to the advantage of the beneficiaries to switch from one program to another.

DIC is payable upon application therefor to the widow or widower; dependent children, and dependent parents of a veteran who die, on or after Jan. 1, 1957

(A) from disease or injury incurred in or aggravated in line of duty for training; or

(B) from injury incurred or aggravated in line of duty while on inactive duty training; or

(C) from a disability for which compensation is payable under laws administered by the VA.

Basic entitlement to DIC is established if the above conditions are met, regardless of whether the veteran served during war or peace-time. DIC is not payable to the survivors of any deceased veteran who died on or after Jan. 1, 1957, unless the deceased veteran was discharged or released from service under conditions other than dishonorable.

For the purpose of determining entitlement to DIC, the following definitions are for application:

(A) the term "widow" means the legal spouse of the veteran at the time of his or her death, and who was married to the veteran (1) before the expiration of 15 years after termination of the period of active duty for training, or inactive duty training in which the injury or disease causing the death of such veteran was incurred or aggravated; or (2) for one year or more; or (3) for any period of time if a child was born of the marriage or born before marriage. It must be shown that the spouse lived continuously with the veteran from date of marriage to the date of death, unless a separation occurred through no fault of the spouse. The spouse once established as the legal widow or widower may later remarry, and VA benefits will be terminated. If the remarriage is later terminated by death or divorce, the former spouse

may return to VA rolls upon proper application for such benefits. Time is no barrier.

(B) Under current laws and regulations, the widower of a female veteran can be eligible for VA benefits on the same basis as the widow of a male veteran. It is immaterial whether the widower is disabled or whether he was in fact dependent upon the female veteran prior to her death.

(C) (The term "child" means a person who is unmarried and is under the age of 18 years; or who, before attaining the age of 18 years, became permanently incapable of self-support; or who, after attaining the age of 18 years and until completion of education or training, up to age 23, when attending VA approved schools; or who is a legitimate child, a legally adopted child, a stepchild who is a member of the veteran's household or was a member at the time of his death, or an illegitimate child who is shown to be a child of the veteran. If the surviving spouse legally adopts a child within the two years after the veteran's death, such child is a dependent for all VA purposes. A child of the veteran adopted out of the family of a veteran prior or subsequent to the veteran's death, is nevertheless a "child" of the veteran for the purposes of VA benefits.

(D) The term "parent" means the natural mother or father, mother or father through adoption, or a person for a period of not less than one year, stood in relationship of a parent to a veteran at any time before the veteran's entry into active service.

The above is a brief description of a child and dependent parent. Parent's eligibility for DIC is based on income sufficient to provide reasonable maintenance of such parent.

Under the provisions of current laws, each military rank and pay grade provides entitlement for specific monthly payments of DIC for an eligible spouse. As of Dec. 1, 1988, these monthly payments ranged from \$539 (Pvt) to \$1,381 (General).

A widow(er) who is eligible for DIC will also be entitled to an additional \$62 per month for each eligible child of the veteran in their custody. The widow(er) may also receive an additional \$161 per month if (1) they are a patient in a nursing home, or they are help- less or blind, and in the need of aid and attendance of another person. Also payable is a housebound award of \$79 per month if the eligible spouse is not eligible for A&A, but confined to their home. If the spouse is receiving DIC, and has a helpless child who became incapable of self-support prior to age 18, such child will receive \$271 per month in addition to the amount being received by the spouse for the child. If the child is between ages 18 and 23, and who is attending an approved school, such child will receive \$138 per month in addition to the amount being paid to the spouse for such child.

The monthly rates of DIC payable for children under 18 and no spouse are for one child, \$271, two children, \$391, divided equally, three children \$505, divided equally, more than 3 children \$505 plus \$100 for each eligible child in excess of 3, divided equally.

P.L. 95-479 provides DIC may be paid to some eligible spouses even though the veteran's death is not shown to be service-connected. Eligible are the spouses of veterans who are rated 100% service- connected disabled at time of death, and such 100% rating was in affect for ten years or more. If the veteran was rated 100% for less than 10 years, they must have been 100% for at least five years beginning on the day following their discharge or release

from active duty. Payments of DIC in such cases does not indicate a service-connected death, but rather that DIC can be paid. None of the other benefits would be available that are normally provided in service-connected death cases, such as the larger VA burial allowance. Under this prov. 158m, a spouse is eligible for DIC benefit only if they and the veteran were married for two years or more immediately prior to the veteran's death.

In addition to DIC, there are other VA benefits that the spouse or children may be eligible for in cases of service-connected death. These include educational benefits, CHAMPVA (health insurance), home loan guaranty, military commissary and other military privileges and various state benefits.

Q. If I died from a service-connected disability, will my dependent mother be eligible for DIC?

A. DIC is payable upon application therefor, to an eligible spouse, child, or dependent parents of a veteran who dies on or after Jan. 1, 1957, from a disability for which compensation is payable under laws administered by the VA.

Dependence of a parent, as applies to disability and death compensation, will be held to exist if the father or mother does not have an income sufficient to provide reasonable maintenance for such father or mother and members of his or her family who are under legal age (or adult members of his or her family if the dependency of such adult member results from mental or physical incapacity.) "Reasonable maintenance" includes not only housing, food, clothing, and medical care sufficient to sustain life, but such items beyond the bare necessities as are reasonably necessary to provide those conveniences and comforts of living suitable to and consistent with the parents' reasonable mode of living. "Members of the family" means a person; other than spouse, including a relative in the ascending as well as descending class, whom the father or mother is under legal or moral obligation to support.

Dependency of a parent will be held to exist for disability and death compensation, in all instances where the MONTHLY income does not exceed the amounts established by law.

Where the father and mother are living together, the combined income will be considered. Where income exceeds the monthly amounts allowable, dependency will be determined on the facts in the individual case under the principles outlined above.

Income included in determining dependency of a parent is total income, earnings of the members of the family under legal age, contributions, etc. Any NSO will be able to explain income limits and what is included in determining dependency.

The fact that the veteran has regularly supported a parent is not conclusive evidence that dependency of the parent existed, but will be considered along with other evidence. Generally, the amount of each contribution, as compared to other income and the normal living expenses of the parent will determine whether the parent was dependent upon the veteran. In death claims, it is not material whether dependency of the parent arose prior to or following the death of the veteran. There may have been no necessity for the veteran to support the parents during the veteran's lifetime. The parent might still establish entitlement to death compensation if, after the veteran's death, income of the parent decreases or normal living

expenses increase to such a degree as to cause dependency of the parent.

If there is only one parent, the monthly rate of DIC (eff. 12/1/88) paid will be \$279 if there is no countable income. If there is other income, the rate of \$279 will be reduced by .08 for each \$1.00 of annual income which is more than \$800 and less than \$4,524. The monthly rate of DIC payable to a parent will be increased by \$147 if such parent is a patient in a nursing home or helpless or blind, or so nearly helpless as to need or require the regular aid and attendance of another person.

There are rates for one parent who has remarried; two parents not living together; or two parents living together or remarried parent living with spouse. Any NSO can explain the different rates, eligibility requirements, etc., and will assist in filing claims.

Q. I am rated 60% service-connected disabled and 40% unemployable. I receive compensation at the 100% level. My question, "If I die, will my wife be eligible for DIC?"

A. Our advice to you is, "Hang in there until you have had the rating 10 years or more." A spouse of a deceased veteran is eligible for DIC if the veteran dies of a service-connected cause, or a service-connected disability contributed substantially to the cause of death, regardless of how long the veteran has been rated. If a veteran, who is rated 100% disabled, dies of a nonservice cause before they have held the 100% rating for ten years or more, the spouse is not eligible for DIC. The key, if the veteran has been rated less than ten years, is service-connected.

The spouse of a veteran rated 100% service-connected, or, in your case, 60% service-connected and 40% unemployable, should be eligible for DIC if the veteran held the rating ten or more years.

Q. My father, a Captain in the Army, was a prisoner of the Japanese and died in prison camp. My mother received some type of benefit from the government until she remarried. My step-father, who died a couple of years ago, was also a veteran. Based on my step-father's service, my mother is receiving a widow's pension. Because of her Social Security, this pension is very small and it is all she can do to make ends meet. Is there any benefit that my mother might be eligible for based on my father's service?

A. Yes. Somebody goofed. Your mother is eligible for DIC. When your mother remarried, the benefit she was receiving at that time was terminated. Upon the death of your step-father, your mother should have re-applied for the benefits she was receiving based on your father's service-connected death. DIC is based on pay grade. Your father was a Captain, pay grade O-3. Your mother is eligible for DIC payments in the amount of \$754 (effective 12/1/88) per month. Payments of DIC are not offset by Social Security. In other words, your mother would receive \$754 per month, plus Social Security.

Q. If I die from a service-connected cause, will my wife be eligible for any benefits from the VA?

A. Yes. If a veteran dies from a service-connected cause, or if a service-connected disability is a contributing cause of death, the spouse and dependent child may be eligible for DIC and other benefits under current laws, each military rank and pay grade provides entitlement for specific monthly payments of DIC for an eligible spouse. There are additional allowances for dependent children under age 18 and up to age 23 if attending an approved school.

Before we discuss other benefits, it is important that we discuss the cause of death. Many communities do not have a medical examiner. If the veteran dies in a rural area, a Justice of Peace is called in to determine the cause of death and to file a death certificate. It is rare that a J.P. is a doctor and unless a doctor is in attendance, the J.P. will list the cause of death as "natural causes" if the cause of death is not obvious. When this happens, the surviving spouse will probably be denied DIC unless the veteran had been rated 100% service-connected disabled for ten years or more. Also, in many instances the attending physician will list the cause of death only and not the contributing causes. If a veteran dies of a heart attack and was service-connected for hypertension and hypertension is a contributing cause, it should be indicated on the death certificate. If only the heart attack is listed as the immediate cause and the veteran is not service-connected for heart problems, DIC will probably be denied. Before the death certificate is filed, the family of the veteran should discuss the cause of death or any service-connected cause that could have contributed to the death with the physician or other person certifying the death certificate. In the case of a former POW, and there is doubt as to the cause of death, an autopsy should be requested and the cause of death or contributing cause determined. There are probably hundreds of widows who have been denied DIC because the cause of death was listed as "natural causes" or the contributing cause omitted.

The spouse and dependent children may be eligible for CHAMPVA. Eligible for this health care program are:

1. The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability,
2. The surviving spouse or child of a person who (a) died as a result of a service-connected disability, or (b) at the time of death had a total disability, permanent in nature, resulting from a service-connected disability, and
3. The surviving spouse or child of a person who died in active military, naval, or air service in the line of duty and not due to such person's own misconduct.

Under the program the individual covered pays for part of their health care. This is 25% of the allowable charges after the yearly deductible of \$50 for one beneficiary, or \$100 for a family. Children are covered to the age 18 or age 23 if attending an approved school.

The spouse is covered to age 65 or until eligible for Medicare.

The spouse and dependent children may be eligible for educational benefits. An eligible spouse will have a period of ten years, commencing on the date eligibility is established, to complete schooling. An eligible person is normally considered to have a maximum entitlement of 45 months of training. An eligible child must generally complete all training between ages 18 and 26. During the period of training (schooling) the eligible person will receive additional payments from VA.

The benefits listed above are the most important benefits. They must be applied for and the person must be eligible before they will be granted.

There are other VA benefits such as burial allowance, burial plot allowance, grave markers, flag, and burial in a national cemetery. If the spouse becomes so disabled that they become housebound or a patient in a nursing home, they may be eligible for housebound or Aid and Attendance benefits of \$161 for A&A and \$79 per month for house-bound allowance (eff.12/1/88). They cannot receive both. If the spouse entitled to DIC has a child 18 years old or older, who became permanently and totally disabled prior to age 18, the DIC paid to the spouse will be increased by \$271 per month because of such disabled child.

Any benefit received from the VA is tax exempt.

There are other benefits available from state, local or other government agencies. Many veterans worked for the government or other agencies and did not pay into Social Security. After retirement or before, the veteran may have paid into SS for a short period of time but did not have enough quarters for the spouse to be eligible for SS benefits. Noncontributory wage credits of \$160 are given to a veteran for each month in which the veteran had active military or naval service with the Armed Forces of the U.S. from Sept. 16, 1941, to Dec. 31, 1956. If the veteran served five years in service during this period, they would have 20 quarters of coverage. If the veteran was born in 1918 they would need 29 quarters. When applying for SS benefits, the spouse should inform the SS Administration of the veteran's service. The non-contributory wage credits for military service are not actually posted on a veteran's SS record. They are considered when benefits are applied for.

Remember, all benefits must be applied for and the individual must be eligible before benefits are granted.

Q. After my first husband died I drew DIC for several years. I remarried and this benefit was terminated. My second husband recently died from a service-connected disability. I understand I can re-apply for DIC on my first husband. Can I receive DIC on both husbands?

A. No. You can, however, elect to receive the DIC payment which would be to your advantage. If the DIC payment based on the first husband is more than you would receive from the second one, you can elect to receive payments from the first husband.

Q. My wife, who was a veteran, died from a service-connected cause. Am I eligible for any veteran's benefits? I have been told that because I am a male that I am not entitled to survivor's benefits.

A. Somebody gave you some bad information. Code of Federal Regulations 38, Section 3.51: 11 {A} General. The term "wife" includes the husband of a female veteran and the term "widow" includes the widower of a female veteran.

(B) Entitlement. A husband or widower is in the same status as the wife or widow of a male veteran and is eligible to receive the same benefits, if otherwise entitled, in a claim for pension, compensation, or DIC. You should file for DIC.

Q. My husband and I were divorced several years ago but later started living together as man and wife. We never remarried. He died a few months ago and I applied for DIC. He had been rated 100% service-connected disabled for over 15 years. My claim was denied. Why? I understood that if a veteran was rated 100% service-connected for 10 years or more, the widow was eligible for DIC.

A. We don't know, but we suspect it was because you reside in a state where common-law marriages are not recognized. Title 38, U.S.C. Section 103(c) reads, "in determining whether or not a woman is the wife of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the VA according to the laws of the place where the parties resided at the time of marriage or the law of the place where the parties resided when the right of benefits occurred."

Q. My husband committed suicide. He was rated 100% service-connected disabled for about 3 months before his death. He had a combined rating for several disabilities and one was 30% for nerves. Am I eligible for DIC?

A. We don't know, but you should file a claim. An act of suicide is considered by the VA to be evidence of mental unsoundness and when no reasonable adequate motive for suicide is shown by the evidence of record, the act will be considered to have resulted from mental unsoundness.

In order for suicide to constitute willful misconduct, the act must be intentional. VA regulations state that a person of unsound mind is incapable of forming an intent, or guilty mind, which is essential element of crime of willful misconduct.

To establish service-connection for suicide, it is a requirement that the precipitating mental unsoundness be service-connected. It must be determined in each individual case whether a person, at the time of the suicide, was so unsound mentally that they did not realize the consequences of such act, or was unable to resist such an impulse.

Q. I have been married twice. My first husband, a Captain, was killed during the Battle of the Bulge. His mother was his beneficiary and collected his insurance. I never applied for any benefits and remarried shortly after the end of WWII. My second husband, a veteran, recently died from a nonservice disability. I applied for a widow's pension and was denied because of excessive income. The only income I have is from Social Security. Due to my physical condition I am unable to work. I have been told that I might be entitled to benefits because my first husband was killed in action. Am I entitled to any benefits, and if I am, what are they?

A. There are two types of service-connected death benefits: Death Compensation and DIC. You are probably eligible to receive DIC. We will not discuss Death Compensation because it would not be to your advantage. DIC payments are greater than those granted for Death Compensation which is \$87 per month for the surviving spouse.

DIC is a monthly benefit awarded to the surviving spouse, child, or dependent parents of any veteran who died on or after Jan. 1, 1957, providing the veteran: was discharged or released from service under conditions other than dishonorable, from a period of active military, naval or air service, in which the veteran's death was incurred or aggravated; or died while in a active military, naval or air service. Under current law, you can elect to receive DIC in lieu of Death Compensation.

DIC is paid to a surviving spouse, based on the pay grade of the veteran upon whose death entitlement is predicated. There is no income limitation imposed on the surviving spouse. If you remarry, your DIC payments would be terminated. In the event you do remarry, and this marriage is terminated by death or divorce, you could re-apply for DIC benefits.

You may also be eligible for a military ID card which would entitle you to commissary exchange privileges and probably and medical treatment.

Q. My husband is retired from the Army and is service-connected for a heart condition. He is enrolled in the Survivor's Benefit Plan and if anything happens to hi• I will receive 55% of his retirement pay. He has told me that in addition to SBP benefit I will be eligible for DIC from the VA if he dies from a service-connected condition. Does he know what he is talking about, or is he blowing smoke as usual? I have a friend who receives SBP from the Army and from Civil Service. What is the difference?

A. You may not receive both benefits. We were hoping that no one would ever ask this question. It is going to be hard to answer, but let's try this way. Your husband is probably receiving compensation from the VA and his Army retirement pay. His retirement pay is reduced dollar for dollar by every dollar he receives in compensation. This is what would happen to you if you elected to receive DIC. Should your monthly SBP benefit exceed the monthly DIC benefit, you will be required to waive dollar for dollar that amount you receive for DIC. You will be entitled to receive the difference between DIC and SBP. The premiums paid into the Survivor's Benefit Plan by your husband during his lifetime represent that portion of the SBP benefit which you must waive to receive DIC benefit and will be refunded to you in a lump sum. You may elect to receive the SBP benefit but remember, SBP benefits are taxable and DIC benefits are exempt from taxation. It may be to your advantage to receive DIC benefits and a lump sum for SBP. However, before you decide, we suggest you request assistance of a certified national service officer.

As for your friend, her husband probably retired from both the Army and Civil Service on length of service. In other words, he did not combine his Army time and Civil Service time in order to retire from Civil Service. He paid into both Army SBP and Civil Service SBP. Therefore, his wife is eligible for both. Also, it could be that a wife of a Civil Service retiree could be eligible for full Civil Service SBP and DIC, but not the spouse of a military retiree. Not fair, but who said all things in this world are?

Q. I am drawing a survivor's annuity from Civil Service. Am I eligible for any benefits based on my husband's service? and if I remarry will I lose the Civil Service annuity?

A. You may be eligible for several benefits such as DIC, pension, and burial benefits. We can't advise you because you did not furnish enough information.

P.L. 99-251 provides for the continuation of survivor's annuity upon remarriage of the survivor annuitant if:

(a) The marriage occurs on or after Nov. 8, 1984, and (b) the widow or widower has attained age 55 prior to date of remarriage.

In addition, any any survivor's benefit which terminated because of remarriage prior to 55 may be reinstated upon termination of that marriage, P.L. 99-251 provides that survivor's benefits continue for remarried widows or widowers prior to Nov. 8, 1984, only if the survivor annuitant had attained age 60 prior to the marriage.

Q. My husband died several years ago while on a fishing trip. A doctor who had never seen my husband while he was alive certified the cause of death as due to "natural causes." My husband had a service-connected heart condition and I believe his death was due to a heart attack. I filed a claim for DIC and my claim was denied. I appealed and BVA also denied my claim.

The doctor who certified the cause of death could not have been aware of my husband's service-connected heart condition. I have talked to the doctor several times and have shown him my husband's medical records, attempting to have him issue an amended death certificate indicating cause of death due to a heart attack. He refuses to issue an amended death certificate and has stated that unless an autopsy had been performed, he had no alternative but to certify the cause of death due to natural causes. He stated he had never treated my husband, who was already dead when he arrived at the fishing camp, and he had no way to determine the cause of death without an autopsy report, and to certify the cause of death other than from natural causes would be pure speculation. Is there any way to have the death certificate amended to show cause of death due to a heart attack?

A. This question has been asked several times and if there is a way to have a death certificate amended, we are unaware of it. You are not the first to be denied DIC benefits because the cause of death was certified as due to natural causes and, unfortunately, you probably will not be the last.

Many communities do not have a medical examiner. When a death occurs and there is not an attending physician present, a Justice of the Peace or other certifying official must determine the cause of death. Seldom are these officials physicians and unless the cause of death is obvious, they will more often than not, certify the cause of death as due to natural causes. When this occurs, the VA will usually deny any claim for DIC unless the veteran had been rated 100% service-connected for ten years or more. When there is an attending physician when death occurs, they will certify what they believe is the major cause of death and sometimes omit other causes that contribute to the death. The listing, or omission of, contributing causes, could result in the award or denial of DIC benefits.

It is of utmost importance that the family of a veteran, and particularly those of a former POW, discuss the cause of death or any service-connected disability that could have contributed to the death with the attending physician or other certifying official prior to the filing of the death certificate. If there is any doubt as to the former POW's death, the family should request an autopsy. If an autopsy is to be performed in a non-VA facility, the nearest VA Medical Facility should be contacted to obtain "guidelines for performing autopsy examinations on former POWs." (You have those guidelines if you have Packet #5 -"What Every Wife Should Know Before She Is Your Widow.")

Q. I am rated 100% service-connected disabled by the VA. I know that in the event of my death my wife will be eligible for DIC. Will she be eligible for any other veteran's benefits?

A. Without more information it is hard to answer your question. The fact that you are rated 100% service-connected disabled does not necessarily mean your wife will be eligible for DIC benefits when you go to the "Big Roundup in the Sky." If you have been rated 100% service-connected for ten or more continuous years, it makes no difference what puts you in a pine box, your spouse may be eligible to receive DIC. (There are exceptions.) If you have been rated 100% service-connected disabled for less than 10 continuous years, your death must be due to a service-connected disability, or a service-connected disability must have contributed substantially to your death.

If the spouse (male or female) is eligible for DIC, there are other benefits they might be eligible to receive. If under age 65, they may be eligible for CHAMPV. Under this program, the VA pays part of certain medical expenses of the surviving spouse or minor children. In some instances where the spouse is not eligible for Medicare at age 65, they may still be eligible for CHAMPV. The spouse may be eligible for educational benefits for a maximum entitlement of 45 months of schooling or training. While in school or in training, they are eligible for additional monthly monetary payments. The spouse has ten years from the date of the veteran's death to complete schooling or training.

If the spouse receiving DIC benefits becomes housebound or needs the A&A of another person, additional monthly payments may be authorized. The spouse would be eligible for either a burial plot allowance of \$150, a burial allowance of \$300, or both, and, if the veteran kicked off in a VA hospital or from a service-connected cause, a sum not to exceed \$1,500 in lieu of the burial plot and burial allowance. The government will furnish a grave marker and a flag. If the spouse purchases a marker, they may be reimbursed the cost that the government pays for a marker. We hope we have answered your question. You couldn't help but notice we used the word "may." No VA benefit is automatic and they must be applied for. No two claims are the same and each must be processed on an individual basis.

Q. If you have been rated 100% service-connected disabled since 1946, is an autopsy necessary? In order to get DIC?

. If you have been rated 100% service-connected for ten years or more, your spouse is eligible for DIC regardless of the cause of death and an autopsy is not necessary.

EDUCATION

Q. At time of death my husband was rated 100% service-connected, I receive DIC from the VA which helps but isn't enough to pay all of my bills. I need to find a job but I don't have any work background. Will the VA help me find a job?

A. No, but they have a program that might help: "Survivors' and Dependents Educational Assistance." Under this program, educational assistance is provided to eligible surviving spouses of veterans who die from service-connected causes. The period of entitlement for the spouse extends for ten years from the date of the veteran's death.

Educational entitlement may be used to pursue courses at a public or private secondary school, vocational school, business school, junior college, teacher's college, college, normal school, professional school, university, scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

Programs of education for an eligible spouse may now be approved for on-the-job training, apprenticeship, and farm-cooperative training,

Eligibility for enrollment in courses at the secondary level for a spouse will be established if they have not received a secondary school diploma or an equivalent certificate, or they need additional secondary school education, either refresher or deficiency courses, to qualify for admission to an appropriate educational institution,

Educational assistance of \$376 per month may be paid to a spouse concurrently with DIC if they are full time students.

Q. My husband died from a service-connected cause and I receive DIC. I have been told that I can go back to school and the VA will pay extra compensation while I am attending school. Is this information correct, and how do I apply for this benefit?

A. We believe you are referring to the War Orphans' and Widow's Educational Assistance Act, Chapter 35, Title 38, U.S.C.

Eligible for assistance under Chapter 35 are children of servicemen and women who died or were killed while on active duty. Also eligible are children of veterans whose death was service-connected, and children of veterans who are rated permanently and totally disabled by the VA because of service-connected disabilities. The spouses of service-connected permanently and totally disabled veterans are also eligible, as are WIDOWS of service persons who died while on active duty and veterans whose death was SERVICE-CONNECTED.

To be eligible for benefits, the veteran-parent must be rated permanently and totally disabled because of service-connected disability or disabilities, or his or her death must have been RATED SERVICE-CONNECTED.

The veteran's service-connected disability or death must result from a disease or injury which was incurred on or after April 21, 1898. All periods of military service active duty since this date are included for the purposes of this benefit, both wartime and peacetime.

The children, wives and widows(ers) are eligible under this act (Chapter 35) if the VA determines that the veteran from whom eligibility derives has a

service-connected total disability, permanent in nature, or was so rated at time of death, or if the death of the veteran was service-connected, or if the veteran, as a member of the Armed Forces, has for 90 days or more been a prisoner of war or missing in action status. Generally, a child must use eligibility between the ages of 18 and 26 years. An ELIGIBLE SPOUSE will have a period of 10 years, commencing on the date eligibility is established.

An eligible person is normally considered to have a maximum entitlement of 45 months of training under Chap. 35. An eligible child must generally complete all training between the ages of 18 and 26 years; there are some exceptions. If the veteran dies or becomes permanently disabled while the child is over 18 but under 26, the child's entitlement will extend eight years from the date on which entitlement arose, or until 31st birthday, whichever occurs first. When an eligible child is in active military service between ages 18 and 26, they will have eight years from time of discharge or release to complete training, but in no event beyond their 31st birthday.

An eligible SPOUSE has a period of ten years to use Chapter 35 benefits. The 10 year period begins on the DATE the veteran became permanently disabled, the DATE on which they DIE, or the date of marriage to the veteran if they are already totally disabled. The AGE of the surviving spouse has no bearing on their entitlement to benefits. Unlike the eligibility of a child, that of the surviving spouse is not limited to a single period computed from the date of total disability rating. A spouse who has used none of their entitlement, or has used only a portion of it during the veteran's lifetime, may use all or the remainder of their 45 months during the 10 year period following the service-connected death of the veteran.

Training is available in approved colleges and universities, vocational schools, business schools and others approved by a State Education Agency. Eligible survivors may also enter apprenticeship or on-the-job-training, or train by correspondence courses.

While in training, the VA pays a training allowance and, if need be, tutorial assistance up to \$84 per month, with a maximum of \$1,008, to any one person throughout their period of training.

The surviving spouse may apply for educational assistance by completing VA Form 22-5490W. The completed application form should be forwarded to the VARO where the veteran's claim folder is located.

Q. I was awarded 30% service-connected disability and with the award letter the VA sent VA Form 28-1900, "Disabled Veterans Application for Vocational Rehabilitation." (Chapter 31, U.S.C.) I used my GI education benefits many years ago and at age 69 I don't believe I need any more schooling. Just what is "Vocational Rehabilitation," and do I have to apply for training?

A. No, you don't have to apply for schooling or training. Every veteran who is in need of vocational rehabilitation on account of a service-connected disability which is compensable, unless the veteran is in receipt of retirement pay, shall be furnished such vocational rehabilitation as may be prescribed by the VA, if such disability arose out of service during WWII or the Korean Conflict, or arose out of service after II, and before the Korean Conflict, or after the Korean Conflict, and is rated for compensation purposes at 10% or more.

Generally, vocational rehabilitation benefits are available during the 12 year period following discharge from the Armed Forces or from the date the veteran is notified of the compensable disability rating by the VA. Unless a longer period is prescribed by the VA, no course of vocational rehabilitation may exceed four years.

When the veteran makes application for Chapter 31 training (VA Form 28-1900) the VA will schedule the veteran to report for vocational rehabilitation counseling service, furnished and presided over by VA personnel with proper educational background and experience to enable them to assist the veteran in making the important decision as to the field of training they will enter. Through this counseling service, the veteran is given a series of tests designed by educational experts to determine their particular abilities. These are to direct the veteran's attention to any special or unusual talents, and point out to them the fields in which they are perhaps most interested, best qualified, and most apt to excel. The counseling service is mandatory, although the veteran is not strictly required to enter the field in which the tests indicate they would do best. At the end of the conclusion of the tests, the VA counselor may determine the primary and secondary talents and interests the veteran may wish to enter.

Veterans receiving vocational rehabilitation training under Chapter 31, Title 38, U.S.C., are entitled to such medical care, treatment, hospitalization, and prosthetic appliances as may be necessary to prevent interruption of their training. The disability needing medical care, treatment, hospitalization or prosthesis can be either service or non-service-connected. A veteran in training under Chapter 31 shall receive such books, supplies or equipment necessary to pursue their course of training.

While undergoing training, the veteran is eligible for a subsistence allowance in addition to their compensation benefits.

Q. My father receives compensation from the VA. I am a 20 year old student and I do not live with my father. Am I entitled to receive any of his compensation?

A. Maybe. You didn't state the amount of compensation your father receives, and whether you have been a student since your 18th birthday. Please contact a National Service Officer for more details.

Q. My daughter, who has been receiving veteran's benefits while going to school, is getting married. When she gets married, will her benefits be terminated?

A. No. A child's marriage is not a barrier to entitlement and she will continue to receive the benefit until she becomes ineligible due to age, drop-out, etc.

Q. Will the VA pay educational benefits for an "incomplete "grade?

A. Yes, provided the incomplete converts to a credit or punitive grade within a calendar year. If it remains an incomplete beyond a calendar year a reduction in benefits may occur.

Q. Are VA educational benefits payable for repeating a course even though I received a passing grade?

A. Yes, in certain situations. For example, if a particular subject requires that at least a "C" be given for credit toward graduation and it is so stated in the official catalog. Subjects cannot be repeated solely to raise a grade point average.

Q. Who is eligible for disability training paid for by the VA?

A. We believe you are inquiring about services and assistance which may be provided under title 38 U.S.C. chapter 31.

VOCATIONAL REHABILITATION PROGRAM was designed to provide for all services and assistance necessary to enable service-connected disabled veterans to achieve maximum independence in daily living and to the maximum extent feasible to become employable and to obtain and maintain suitable employment.

A veteran is eligible for rehabilitation if they have a compensable service-connected disability incurred on or after Sept. 16, 1940, have other than a dishonorable discharge, and is determined to be in need of rehabilitation services because of an employment handicap. Generally, the veterans must complete a rehabilitation program within a 12-year period from date of notification of entitlement to service-connected disability compensation. This period may be adjusted if veteran received an upgraded discharge or was unable to train for a period because of medical conditions. The 12 year period may be extended to complete the training program if the veteran is determined to have a serious employment handicap. Up to 48 months and more of training, education, and other supportive rehabilitation services may be authorized in colleges and universities, apprentice, on the job and on farm training sites, as well as in special rehabilitation facilities or in the veterans home if necessary. A veteran with serious service-connected disability may receive services under an extended evaluation program to improve his or her training potential. Eligible veterans may receive job counseling, placement, and adjustment services for a maximum period of 18 months. For those veterans for whom a vocational goal is not feasible, the veteran may be furnished services needed to improve his or her capacity for independent living in the community.

Services and assistance which may be provided under title 38 U.S.C. chapter 31 include the following:

- Evaluation to determine potential for rehabilitation
- Subsistence allowance
- Payment of tuition, books, fees, tools, and supplies
- Work-study allowance
- Counseling and placement services
- Personal adjustment and work adjustment training
- Vocational and other, training services
- No interest loans

Treatment, care and services
Prosthetic appliances, eyeglasses
Service to a veteran's family as necessary for the effective
rehabilitation of such veteran
Travel expense
Special services related to blindness and deafness
Services necessary to enable a veteran to achieve maximum independence
in daily living and other incidental goods and services determined by the VA
to be necessary to accomplish rehabilitation.

Q. What are the basic eligibility requirements for VA Dependent's Education Assistance?

A. The applicant must be a child between 18 and 26 years, a spouse, or surviving spouse of a veteran who: died of a service-connected disability; died while a service-connected disability was rated total and permanent in nature; or has a total service-connected disability, permanent in nature. Also entitled are the spouse and children of a service person who for a period of more than 90 days was missing in action, captured in the line of duty or detained or interned in the line of duty by a foreign power.

NOTES

HOME LOAN

COMMANDER:

PLEASE REMIND YOUR MEMBERS WHO HAVE A G.I. HOME LOAN ON THEIR PROPERTY TO BE SURE THEY OBTAIN A RELEASE OF LIABILITY FROM THE VA IN THE EVENT THEY SELL THEIR HOME.

WE RECENTLY HAD A VETERAN REQUEST WE ASSIST HIM IN OBTAINING A WAIVER ON A DEBT OF SEVERAL THOUSANDS OF DOLLARS OWED TO THE GOVERNMENT THE DEBT OCCURRED WHEN A HOME HE HAD PURCHASED UNDER THE VA HOME LOAN GUARANTEE PROGRAM, AND LATER SOLD, WAS FORECLOSED ON BY A MORTGAGE COMPANY.

WHEN A VETERAN SELLS THEIR HOME, WHICH IS SECURED BY AG.I. LOAN, THEY SHOULD UNDERSTAND THEY ARE STILL LEGALLY LIABLE TO THE GOVERNMENT ON THEIR LOAN, EVEN THOUGH THEY NO LONGER OWN THE PROPERTY, UNLESS

{A} THE LOAN IS PAID IN FULL IN CONNECTION WITH THE SALE

{B} THE VA RELEASES THEM IN WRITING FROM LIABILITY ON THE LOAD

{C} THEY SELL THE PROPERTY TO AN ELIGIBLE VETERAN WITH SUFFICIENT ENTITLEMENT WHO AGREES TO ASSUME THE LOAN AND SUBSTITUTE THEIR LOAN ENTITLEMENT FOR THE VETERANS

IF A LOAN IS NOT PAID IN FULL, AND THE VETERAN IS NOT RELEASED FROM LIABILITY BY THE VA OR GRANTED A SUBSTITUTION OF ENTITLEMENT, AND THE PERSON TO WHOM THE VETERAN SELLS THEIR HOME OR ANY LATER OWNER DEFAULTS ON THE LOAN, ANY AMOUNT WHICH THE VA IS REQUIRED TO PAY TO THE HOLDER OF THE LOAN UNDER THE LOAN GUARANTY CONTRACT, WILL REPRESENT THE AMOUNT THE VETERAN WILL OWE THE GOVERNMENT. THIS IS SO EVEN THOUGH THE PURCHASER ASSUMES PERSONAL LIABILITY FOR REPAYMENT.

VETERANS THINKING OF SELLING THEIR HOMES AND ALLOWING THE G.I. LOAN TO CONTINUE ON THE PROPERTY SHOULD CONTACT THE VA OFFICE THAT GUARANTEED THE LOAN BEFORE THEY SIGN A SALES CONTRACT. REQUEST THE NECESSARY FORMS AND INSTRUCTIONS ON HOW TO OBTAIN A SUBSTITUTION OF ENTITLEMENT, OR HOW THEY CAN BE RELEASED FROM PERSONAL LIABILITY TO THE GOVERNMENT.

IT IS BETTER TO BE SAFE THAN SORRY.

KEN
Ken Jones, NSO Director
American Ex-Prisoners of War
661 East 18th Street
Plano, Texas 75074

Q. I am the widow of a veteran who died as a result of a service-connected disability. My husband never used his VA home loan benefit, Am I eligible for this benefit?

A. Yes, if you are not current married, the widow of a veteran of WWII or later period who died as a result of service-connected causes is eligible for the home loan benefit.

Q. What happens when payments are not made on VA guaranteed home loans?

A. Failure to make payments on the loan may lead to foreclosure and the loss of the home, In addition, if the government is required to pay a claim as a result of failure to repay the loan. The veteran will become indebted to the government for the amount of the claim.

Q. If I encounter legal difficulties while purchasing a home using my G.I. home loan, will the VA provide or pay for any legal assistance I may need?

A. No. The VA does not provide legal assistance or advice, nor can the VA pay for legal assistance a veteran may obtain to deal with problems encountered in the purchase of construction of a home,

Q. Am I required to occupy as a home the house I purchased with my VA home eligibility?

A. Yes. In order to qualify for the loan, the law requires that you certify that you intend to occupy the property personally as your home within a reasonable period of time.

Q. I own a manufactured home that is on a rented lot. I would like to purchase the lot that it is on. Can I do this using the VA guaranteed loan?

A. Yes. The VA guaranteed loan may be used to buy and improve a lot on which to place a manufactured home you already own and occupy.

Q. Can I use my VA loan guaranty to purchase a motor home {RV}?

A. No. Motor homes are not included in the VA loan guaranty program.

Q. My father served on active duty from Sept. 1925 through Oct. 1939 and was honorably discharged. He would like to purchase a home. Can he use the VA home loan guarantee?

A. No. The VA guaranteed home loan is available only to veterans with qualifying service during any period on or after Sept, 16, 1940.

Q. I would like to use my home loan guaranty to purchase a home but I understand that there is a fee of some kind that I will have to pay. I can't afford any additional payments. My only income is my VA disability compensation and SS benefit. Is there any way I can get around paying this additional fee?

A. If you have a service-connected disability, you do not have to pay a funding fee for VA guaranteed home loans. Since Aug. 1984 a fee of 1% of the loan amount will be collected by the VA in connection with all guaranteed or direct loans, with the exception of those veterans receiving VA compensation for service-connected disabilities.

Q. I have a good deal on a condominium unit and wish to purchase the unit. I have never used my VA loan guarantee. Can I use the loan guarantee to purchase the unit?

A. Yes, provided the unit is located in a condominium complex approved by the VA.

Q. I own a home purchased with a VA guaranteed loan. I would like to pay the loan off in full. Is there a penalty?

A. There is no penalty if a VA loan is partially or fully paid in advance.

Q. Our home is paid for and we would like to purchase another as an investment. If I use a G.I. loan, do I have to live in this house?

A. Yes. The law requires you to certify that you intend to occupy the property as your home within a reasonable time.

Q. I understand there have been changes in the amount the VA will loan me if I decide to purchase a home. How much can I borrow from the VA?

A. Not one red cent. The VA does not make direct loans to veterans to purchase homes. The Veteran's Home Loan Program Improvements & Property Rehabilitation Act revised the calculations for determining the percentage of the home loan guaranteed by the VA under the Home Loan Guaranty Program. Previously, the maximum VA-guaranty on a conventional home loan was \$27,500. Under the new law, for loans of \$45,000, 40% of the loan is guaranteed, up to a maximum of \$36,000, but not less than \$22,500.

Q. I am rated 100% service-connected disabled. Do I qualify for a grant from the VA to purchase a home adapted to my needs as a wheelchair veteran?

A. The VA may assist certain veterans to obtain specially adapted housing at costs not in excess of \$35,500 (this figure may change). Veterans who may qualify for this allowance include those with permanent and total service-connected disability:

(1) due to loss, or loss of use, of both lower extremities, precluding locomotion without the aid of braces, crutches, canes, or wheelchair; or

(2) which includes blindness in both eyes, having only light perception, and loss or loss of use on one lower extremity: or

(3) due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury, which so affects the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or wheelchair; or due to the loss or loss of use of one lower extremity, together with loss or loss of use of one upper extremity which

affects the functions of balance or propulsion to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

The assistance authorized by law is limited to one housing unit and land therefor. Grants are also subject to a finding that it is medically feasible for the veteran to live in the dwelling and locality.

If a veteran has permanent and total service-connected disability but does not qualify for the special adapted housing allowance, the veteran may qualify for a special home adaptation grant of \$6,000, Veterans who may be eligible include those with disability:

- (1) due to blindness in both eyes with 5/200 visual acuity or less, or
- (2) the anatomical loss or loss of use of both hands.

VA direct loans are available to certain eligible veterans with permanent and total service-connected disabilities, but only to supplement a grant to acquire a specially adapted home.

Q. If a veteran dies before a home loan guaranteed by the VA is repaid, will the VA pay off the balance of the loan?

A. No. The surviving spouse or other co-borrower must continue making payments.

Q. Does the VA have loans for sale that have been foreclosed on by lenders and purchased by the VA?

A. Yes. A sales listing may be obtained by writing the VARO in your area. Indicate the County and City which you wish the listings.

Q. Can I use my GI home loan guarantee to purchase rental property?

A. You may purchase up to a four-family dwelling. However, you must certify that you intend to live in one of the units.

Q. I understand there have been some changes in the VA Loan Guaranty program which will affect the assumability of new loans. Are new loans still assumable?

A. Yes. However, approval by the VA or its authorized agent of the credit worthiness of the prospective assumer is required. This change affects loans for which commitments were made on or after March 1, 1988.

Q. Can I use my VA guaranteed home loan to buy land I plan to build a house on in the future?

A. No. A VA guaranteed loan can't be used to buy undeveloped land unless it part of a package that includes the building of your home.

INSURANCE

Q. Is it true that Congress has passed a law to pay dividends on G.I. insurance policies that we had during WWII? I dropped my insurance when I was discharged but my brother-in-law states that under the new law all WWII veterans are eligible for a special one-time dividend.

A. Your brother-in-law is a little, shall we say "naive," for lack of a better word. The VA does not pay dividends on lapsed insurance policies and never has. An insurance hoax has plagued the VA since the late forties. It surfaces every year or so by the distribution of "applications" that claim Congress has authorized a special dividend for lapsed WWII insurance policies. There has been no such action nor is any pending. This year we saw a new twist to the hoax: an application to apply for dividends on lapsed Korean Conflict insurance.

Q. I applied for disability income as stated in my GI insurance, and my claim was denied. I submitted doctor's statements showing I am completely disabled. Why was my claim denied?

We don't know. It could have been because of your age. We believe you are referring to the "Total Disability Income Provision" of your insurance policy. There are three types of total disability income provisions currently in force:

1. \$5 - Age 60 provision. This plan provides for a monthly payment of \$5 for each \$1,000 of insurance, provided disability commenced before the insured's 60th birthday or the policy anniversary date nearest the 60th birthday, whichever is later.

2. \$10 - Age 60 provision. This plan provides for a monthly income of \$10 for each \$1,000 of insurance in force, provided total disability commenced before the insured's 60th birthday.

3. \$10 - Age 65 provision. This plan provides for a monthly income of \$10 per \$1,000 insurance in force, provided total disability commenced before the insured's 65th birthday.

Q. Please explain the different types of government life insurance policies. Which ones are available to the older veteran?

A. There are several different types of policies and we will briefly explain each one.

There is only one insurance program open to veterans. This is the Service-Disabled Veterans Insurance (SDVI). The SDVI (RH policies) was designed to assure that service-connected disabled veterans could obtain life insurance at standard rates. Generally, every veteran discharged from the Armed Forces under than dishonorable conditions, on or after April 25, 1951, and who has a service-connected disability of any degree and who is otherwise in good health, has one year from the date of notice of the VA rating to apply for this coverage. RH policies are like all other government life insurance policies issued in amounts from \$1,000 to \$10,000 in multiples of \$500, such as \$1,500. RH policies are nonparticipating insurance policies, which means that no dividends are payable. Veterans discharged prior to April 25, 1951, are not eligible for this insurance.

The oldest government insurance program is the U.S. Government Life Insurance (USGLI). This program was established in 1919 to handle the conversion of War Risk Insurance before WWI veterans. The program was closed in April 1951. National Service Life Insurance (NSLI) was established in 1940 to handle the needs of WWII service personnel. Like the USGLI, this program was closed to new issues April 1951.

Veterans Special Life Insurance (VSLI) was established for the insurance needs of the Korean Conflict veterans and was available until January 1, 1957. Veterans Reopened Insurance (VRI): This program was open for a limited time to certain disabled WWII and Korean veterans. It was designed to provide insurance coverage to veterans who, because of their disability, would be unable to obtain commercial insurance at a reasonable cost. Applications were accepted from May 1, 1965, through May 2, 1966.

Servicemen's Group Life Insurance (SGLI) was established in Sept. 1965 to provide insurance coverage for members on active duty in the uniformed services. Coverage has been extended to Ready Reservists, Retired Reservists, members of the National Guard, ROTC members while engaged in authorized training and service academy personnel.

Veterans Group Life Insurance (VGLI) established post-service insurance which provides for the conversion of SGLI to a five year non-renewable term policy. Conversion must take place within 120 days after discharge from the Armed Forces.

Veterans Mortgage Life Insurance (VMLI) provides mortgage protection life insurance of \$40,000 for veterans who have received a Veterans Administration grant for specially adapted housing. Coverage ceases when the mortgage is paid up in full, the home is sold, the veteran reaches age 70, or dies.

As stated, the only policy open to veterans is the Service- Disabled Veterans Insurance (SDVI), RH policies. Additional information concerning this program is contained in VA Pamphlet 29-9A.

Q. Who is eligible for the health insurance available from the VA?

A. We believe you are asking about the Civilian Health and Medical Program (CHAMPVA). This is a program by which the VA helps pay for medical services obtained from civilian sources by eligible dependents of certain veterans, provided they are not eligible for medical care under CHAMPUS or Medicare. CHAMPUS is a program through which the military helps pay for medical treatment of retired military and their dependents. Those eligible for CHAMPVA are:

The spouse or child of a veteran who has total disability, permanent in nature, resulting from a service-connected disability.

The surviving spouse or child of a veteran who died as a result of a service-connected disability, or who at the time of death, had a total disability, permanent in nature, resulting from a service connected disability.

The surviving spouse or child of a person who died while on active duty. Normally, care under CHAMPVA will be provided in non-VA facilities.

Q. I have a very limited income and find it difficult to make monthly NSLI premiums. I don't want to lose my coverage. What can I do to reduce or waive premium payments but still keep my coverage?

A. You may choose any one of the following options: (1) To reduce the cost of premiums, you may reduce the amount of coverage, in multiples of \$500.

(2) You may also apply your dividend to purchase paid-up insurance which would allow you to periodically reduce the basic insurance as new paid-up additions are purchased. Since the basic insurance would be reduced, the premiums would be lower.

(3) If you have a permanent plan policy that has a cash value it may be surrendered for reduced paid-up insurance. For example, a \$10,000 20-payinent life policy effective May 1, 1980, at insurance age 50, would have a cash value of \$3,014.40 as of May 1, 1989. This cash value, used as a single premium, would purchase \$4,601 in paid up insurance. Also, all NSLI policies provide for waiver of payment of premiums for total disability starting before your 65th birthday.

Q. Are the proceeds from NSLI considered as income?

A. Yes, under the current pension program, proceeds are considered as income.

Q. My husband passed away and I filed a claim for his VA life insurance proceeds. Before the claim was received by the VA Insurance Center, his monthly premium was deducted from his Compensation check. Will his premium be refunded?

A. Yes. Any premium payments made subsequent to the death of the insured will be refunded.

Q. I received installment proceeds from my husband's VA life insurance policy. Will the amount stay the same?

A. The amount of monthly installments is subject to change based on investment earnings. The monthly payment will never be less than the amount you are originally receiving or are guaranteed under the policy. In Aug. 1988, annuity installments were increased by 50% for most recipients. Subsequent adjustments will depend on future interest earnings.

Q. The VA has rated me 100% disabled. Am I entitled to a waiver of premiums on my G.I. Insurance?

A. Maybe. Disability for compensation purposes is determined by a rating schedule. The schedule is based on the effect a disability would have on the average person. The entitlement of an insured to waiver is based upon the ability of the individual to hold gainful employment.

Q. I am uninsurable due to my physical condition and age. I would like to purchase an insurance policy that would guarantee some income for my wife in the event of my death. Would you advise purchasing a government policy as advertised on TV?

A. The insurance policies being offered on TV are not government insurance policies. The companies offering these policies are not associated with the Dept. of Veterans Affairs. The VA does not advertise government insurance policies. We can't advise you one way or another. The decision to buy one of those advertised policies is your decision. Remember the policies being offered on TV are "term" insurance and "term "can be expensive. Usually, the premium rate increases drastically at the older ages and amount of coverage decreases.

Q. I have Government insurance and I applied for a waiver of premiums under the disability provision of the policy. My request was denied although I submitted proof of total disability. Why?

A. Probably because of your advanced age. All National Service Life Insurance policies contain a provision for a waiver of premium if the insured becomes totally disabled for at least six consecutive months. Since 1965, premiums may be waived as a result of the total disability occurring up to the 65th birthday of the insured. Before 1965, waivers were granted as a result of total disability that commenced prior to the insured's 60th birthday. Total disability is defined as any impairment of mind or body which continuously renders it impossible for the insured to follow any substantially gainful employment.

NOTES

MERCHANT MARINES

Q. I understand that finally members of the Merchant Marines have been granted veterans status. I am a former POW and a former Merchant Marine. How do I apply for veterans benefits?

A. The Department of Defense has declared that certain Merchant Marines who served in active ocean-going services from Dec. 1, 1941 to Aug. 15, 1945, would be considered veterans and eligible to apply for discharge certificates from the Armed Forces, thus making them eligible to apply for VA benefits. This decision also affects Civil Service Crewmembers aboard. Transport Service and Naval Transport Service Vessels in ocean or in foreign waters during the same period.

To receive a discharge certificate (DD214), application must be made on DD, Form 2168. The form can be obtained from a NSO, VARO, or Merchant Marine Organization and must be submitted to the Commandant (GMVP--1/12 MVS, U.S. Coast Guard, Washington, D.C. 20953-0001. When the discharge certificate is received contact an NSO for assistance in filing for veterans benefits.

Q. How will the VA determine the rate to pay the spouse of a deceased Merchant Marine that dies from a service-connected disability.

A. In reply to our inquiry regarding rates of DIC payable to the surviving spouse of a Merchant Marine who dies from a service-connected disability and is determined to have veteran's status under Section 401(a) of P.L. 95-202, we received the following response from the office of General Counsel, Veterans Administration:

"As you know, DIC is paid at statutory rates based upon standard United States Armed Forces pay grade held by the veteran while in the service; i.e., enlisted, warrant or officer grade, 38 U.S.C. 411(a). Because Merchant Marine pay is not made under Armed Forces pay scales the Coast Guard, Navy or Army (depending which service was affiliated with the particular unit involved), will provide the VA with a converted grade-equivalency for any Merchant Marine for whom the VA needs a pay grade for DIC purposes." In other words, those services will establish the equivalent pay grade, from E-1 to O-10, for VA use.

Q. I believe I am eligible for veteran's benefits based on a recent determination by the Department of Defense concerning Merchant Marine Seamen. How do I obtain evidence to show I am a veteran?

A. To be considered for a discharge certificate you must submit DD Form 2168 to the Commandant (GMVP-1/12 MMVSO, U.S. Coast Guard, Washington, DC 20953-0001.

Q. My first husband died while in the Merchant Marines during WWII. I remarried and my second husband a non-veteran died recently. Am I eligible for any benefits based on my first husband's service in the Merchant Marines?

A. We didn't have the answer so we asked the Office of General Counsel, VA. The following is their answer:

This responds to your Feb. 13 letter requesting our opinion as to

Whether a widow whose first husband died while in the Merchant Marines during WWII, and whose second husband has since also died, could qualify for DIC as a widow of her first husband. Our opinion is that she could have eligibility based upon her first marriage.

It is true that P.L. 95-202, which is the foundation for certain Merchant Marines being considered veterans for VA purposes, was effective prospectively. However, that means only that no benefits may be paid for any period prior to date of enactment of that law, which was Nov. 23, 1977. It does not mean that benefits are not payable based upon service before that date. Thus, for example, a current award of DIC based upon WWII service, as recognized under the Act, could be made but it could not be made retroactive to any time before Nov. 23, 1977.

In the hypothetical you posed, if the first husband did in fact have service recognizable for purposes of VA benefits, and his widow is no longer married, she could qualify for DIC. The effective date of the award would be based upon when she filed her DIC claim, or when her second husband died if the claim was filed within one year thereafter, whichever would be the earlier date. 38 U.S.C. S 3010(1).

NOTES

MILITARY

Q. Has anything been considered to establish a priority for ex-POWs who are retired and eligible for treatment at military facilities? This could take some work load off VA hospitals. Maybe military records could be annotated like the VA does.

A. Yes, we addressed this question to the military establishment some time ago. The idea was not considered feasible or practical. The VA and DOD operate under two different sets of rules. The first priority of the military is treatment of active duty personnel and their dependents. Retirees and their dependents are treated on space availability basis.

Q. While I was in the service, ten cents a month was deducted from my pay for the Old Soldiers' Home. Is there still an Old Soldiers' Home?

A. Yes, there is still an "Old Soldiers" home and the present name is the "United States Soldiers' and Airman's Home." It is located on 300 acres of park-like grounds 2 1/2 miles north of the U.S. Capital. There are four large hotel size resident dormitories with private or shared rooms. A 385 bed medical complex and geriatrics-specialty activity, the King Health Center, is on the grounds for the exclusive in-patient and out-patient health needs of the Home membership. A logistical area provides utilities, support and maintenance to the Home, including laundry, dry-cleaning and shoe repair. On the grounds there is a nine-hole golf course, garden plots, two fishing lakes, and a miniature golf course.

The home has a central dining facility with cafeteria-style service, a library, branch bank, credit union, auditorium/theater, lounge, Army and Air Force retail store, barber shop, gym, bowling alley, indoor tennis court, game rooms, craft shops, hobby shops, and TV rooms.

Every soldier, airman or warrant officer, male or female, of the Army or Air Force of the U.S., who has some service as an enlisted person or warrant officer in the Regular Army or Regular Air Force, who served honestly and faithfully 20 years or more; provided that in computing the necessary 20 years' time, all active service in the Army or Air Force, whether or not in the regular components thereof, shall be credited. Service in the Navy or Marine Corps cannot be credited.

Every soldier, airman, warrant officer of the Army or Air Force of the U.S., whether or not in the regular components thereof, who had some service as an enlisted person or warrant officer in the Regular Army or Air Force, rendered incapable of earning a livelihood by reasons of wounds or injury, or sickness incurred in the military service of the U.S., and in line of duty, or not as a result of misconduct.

Every soldier, airman or warrant officer of the Army or Air Force of the U.S., whether or not in the regular components thereof, who served on active duty as an enlisted person or warrant officer in the Army or Air Force during any war, who has some service as an enlisted person or warrant officer in the Regular Army or Air Force, and who is by reason of injury or sickness, old age or other disabilities, unable to earn a livelihood.

The requirement in each category is some service in the Regular Army or Air Force, and for terminating active service in enlisted or warrant officer status.

By law, admission of membership cannot be granted to any person convicted of a felony or other disgraceful or infamous crimes of a civil nature after admission into the service of the U.S.; nor to any deserter, mutineer, or habitual drunkard without proof of subsequent honorable service, good conduct, and reformation of character as is satisfactory to the Board of Commissioners.

The Home is supported entirely by those eligible for membership. Income to its trust fund is derived solely from the following sources: the monthly pay deduction; courts martial/non-judicial punishment fines and forfeitures; interest earned by the trust fund principal; a user fee paid by the Home members in residence, which is 25% of their monthly pay, VA compensation or pension; and minor miscellaneous income, such as from estates and donations. No taxpayers' money is required for the Homes support.

Virtually everything is provided; housing, food, medical, and dental care, recreation and entertainment, security and comfort, even occupation and avocations for those wanting them.

More information on the Home can be obtained by writing to: Admissions Office, Member Services Directorate, USSAH, Washington, DC 20317, or by calling toll free 1-800-422-9988.

The UNITED STATES NAVAL HOME is located in Gulfport, Mississippi. The Naval Home is a modern 11-story, carpeted and air-conditioned building with 580 rooms.

Unlike the Soldiers and Airman's Home, which is an independent Federal agency, the Naval Home is part of the Bureau of Naval Personnel. It is run by active duty Naval officers and its expenses are included in the Navy budget. There is no charge to residents who meet eligibility requirements.

Eligibility to the Naval Home is limited to Navy and Marine Corps veterans of all ranks, including commissioned officers, who have had honorable service and are:

- a. unable to support themselves by manual labor,
- b. ambulatory and in good physical and mental health,
- c. capable of feeding and dressing themselves and taking care of their rooms at the time of admission.

Coast Guard veterans who had service during wartime while the Coast Guard was operated as part of the Navy are also eligible for admission. Although residents must be self-sufficient at the time of admission, they are provided for by the Home thereafter, either in the Home's 60 bed hospital annex or, if more extensive medical care or treatment is needed, at the Kessler Air Force Base Hospital or the VA Medical Center in Biloxi. A dental clinic is available at the Home.

The Home provides residents with room, board, barbershop, movie theater, a swimming pool, library, hobby shops and other recreational facilities.

The rooms, all of which are single, are furnished with a bed, desk, night stand, lamp, and a few chairs. Each room has a lavatory with half bath and toilet. Communal showers and baths are located on each floor.

For additional information write: Governor, U.S. Naval Home, 01800 East Beach Blvd., Gulfport, MS 37507.

Q. I am a military retiree and also receive compensation from the VA. The military retiree pays his own compensation as the amount of compensation is deducted from his retirement pay. The only advantage for the retiree is that the compensation received from the VA is non-taxable. I recently was notified of an increase in compensation retroactive to September. I won't receive any money back to this date because it comes out of my retirement pay. I paid income tax on my retirement pay last year. My question is, can I file an adjusted income tax return indicating the amount of compensation from September thru December was non-taxable?

A. Out of our ballpark. We are not tax experts. We have checked with several people who are and they state you can. However, to be on the safe side, we suggest that you talk to someone in the IRS or someone in your area who is knowledgeable about tax matters.

MILITARY RESIDENCE (DEPENDENTS)

Each branch of service has established Foundations to provide military widows, retirees, and others who qualify with housing facilities and other accommodations designed mostly for the aged and those in need of comfort, security and companionship. These Foundations and the residences they maintain are privately endowed and supported primarily by contributions from wives' clubs, military associations, corporate and foundation: gifts, bequests, trusts, and fees.

The AIR FORCE ENLISTED MEN'S WIDOWS AND DEPENDENTS HOME FOUNDATION, INC. receives most of its funding from the annual Air Force Assistance Fund Campaign. Its primary objective is to provide homes for the widows of Air Force enlisted personnel. TERESA VILLAGE, a 122-unit complex opened in 1975, and the BOB HOPE VILLAGE, a planned 256-unit complex, opened 108 units in 1985 and 64 units in 1988.

Any widow(er) age 55 or older, whose spouse was retired enlisted person from the Regular Air Force, Air National Guard or Air Force Reserve, is eligible to reside in the facility. Younger widows may be admitted under special circumstances, and a limited number of retired couples, age 62 or older, whose spouse is 55 years or older. Additional information may be obtained by writing to: Air Force Enlisted Men's Widows & Dependents Home Foundation, Inc., 571 Mooney Road, Fort Walton Beach, FL 32548-1859.

The ARMY DISTAFF HALL, containing 265 units, is located in Washington DC. An additional 24 units (48 beds) are maintained in a special Health Service Center for residents who can no longer live alone and need continual nursing assistance. Eligibility is limited to widows, mothers, daughters, sisters or mother-in-law of Regular Army Officers, Reserve Officers with 20 years or more of active Army service, and Reserve Officers retired under Title III, Title 10 U.S.C. Retired female officers are also eligible.

For additional information write: The Army Distaff Foundation, Inc., 6200 Oregon Ave., N.W., Washington, DC 20015.

THE CARL VINSON HALL, operated by the Navy Marine Coast Guard Residence Foundation is located in Fairfax County, VA. There are 250 units, an infirmary, dining room, and other amenities. The residence is open to widows(ers) of Commissioned Officers of the Navy, Marine Corps or Coast Guard who die while retired or on active duty; retired officers and their spouses, and dependent mothers and mothers-in-law of officers.

For additional information write: Navy Marine Coast Guard Residence Foundation, Inc., U.S. Naval Observatory, Washington, DC 20390.

AIR FORCE VILLAGE, located in San Antonio, Texas, has been open since 1970 to widows of Air Force Officers, retired Air Force Officers (single or with spouse), and young widows of Air Force officers during an adjustment period up to one year. There are 380 apartment living units and a health care facility, including a licensed skilled care 68 bed nursing home. Air Force Village II, located seven miles from Air Force Village, opened in 1987, with similar amenities and services.

Additional information may be obtained by writing: Air Force Village Foundation, Inc., 4917 Ravenswood Dr., San Antonio, TX 78227.

Q. I retired from the Army and when I need medical treatment I go to a military installation located over 150 miles from my home. There is a VA hospital located about 20 miles from my home and I would like to use this facility. I have been told I cannot because I am retired from the military. I am a veteran. Why can't I use the VA medical facility the same as other veterans?

A. You didn't state if you were a former POW, but we assume you are. If you are a former POW, the VA will treat you for any disability, service-connected or nonservice-connected, on the same priority basis as any other former POW.

Retired members of the military services may obtain medical and dental care for nonservice-connected disabilities in VA medical facilities, subject to the availability of space. Benefits provided and the cost to retiree the shall be the same as they are in military facilities. When the VA provides care to retired members, it shall be reimbursed by the military service concerned at rates approved by the Office of Management & Budget. Retirees with service- connected disabilities are treated on the same priority basis as any other service-connected veteran for their service-connected disabilities.

MISCELLANEOUS

Q. If you have been rated 100% service-connected disabled since 1946, is an autopsy necessary in order for DIC?

A. If you have been rated 100% service-connected for ten or more years, your spouse is eligible for DIC regardless of the cause of death and an autopsy is not necessary.

Q. Does it serve any useful purpose for former POWs and/or other veterans to request an autopsy be performed to determine if death was due to a service-connected cause?

A. Yes. If you have any doubts, ask one of the many widows who have been denied DIC because the cause of death listed on the death certificate was "natural causes" or because the contributing causes of death were not listed. If there is ever any doubt as to the cause of death, an autopsy should be requested. Also, the findings of the autopsy might help someone else in the future.

Q. I was a POW during the Korean Conflict. I don't believe I was paid combat pay due me at time of discharge. How do I apply for the pay I believe to be due me?

A. You don't. Title 31, U.S.C., section 71, states that unless claims are received within six years from the date the claim first accrued, they are barred from consideration. Therefore, payment of any claim for combat pay accrued during the Korean Conflict would be disallowed because of the Barring Act.

Q. Are all veterans eligible for domiciliary care? I would like to move into a VA domiciliary but don't know how to apply or if I'm eligible.

A. The VA operates 16 "Domiciliaries" which are located at or near VA medical facilities. Domiciliary care is authorized for veterans discharged or released from the armed services for disability incurred or aggravated in the line of duty; or persons in receipt of compensation for service-connected disability when suffering from permanent disability, tuberculosis, or neuropsychiatric ailment and who are incapacitated from earning a living and have no adequate means of support.

To be eligible for domiciliary care the veteran (male or female) must have been honorably discharged or released from the service and who swears that they are unable to defray the expense of domiciliary care. The program is designed to provide eligible, ambulatory veterans continuing medical care in a therapeutic institutional environment, including rehabilitative assistance and other therapeutic measures providing: continuing treatment in a semi-structured environment for a long term duration, emphasizing independence, quality of life, and maximizing ability to function at the highest level of independence; rehabilitative service on temporary basis to help reconstitute veterans who will return to the community within a short period.

Domiciliaries serve all eligible veterans who do not require the intensive care of a hospital or nursing home unit and require a higher

level of care than residential setting. To qualify, the veteran must be able to maintain self in the community; perform activities of daily living without undue assistance, proceed to and from dining hall without aid; feed self; secure medical attention on an ambulatory basis or by use of self-managed wheelchair or other assistive devices; have voluntary control over body eliminations ; or control by use of appropriate prosthesis; participate in prescribed treatment, rehabilitation or restorative activities, make rational and competent decisions to remain or leave the domiciliary; and share, by personal effort, in some measure in the maintenance and operation of the health care facility.

When an applicant is receiving a monthly income of \$810 or more from any source for personal use, this fact will be considered prima facie evidence of adequate means of support. This is subject to rebuttal by showing that such income is not adequate to provide the care required by reason of the veteran's disability, or that the income is not available for the veteran's use because of other obligations such as contributions in whole or in part to the support of a spouse, child, mother or father. A member of the domiciliary must abide by the rules of the institution. The veteran will be furnished shelter, food and medical attention and in some instances, clothing and toilet articles. Domiciliaries are located at: Bath, NY; Bay Pines, FL; Biloxi, MS; Bonham, TX; Dayton, OH; Dublin, GA; Hampton, VA; Hot Springs, SD; Leavenworth, KS; Los Angeles, CA; Martinsburg, WV; Mountain Home, TN; Prescott, AZ; Temple, TX; White City, OR; and Wood, WI.

Q. My husband who served in the Army during WWII, died recently. How do I obtain the Gold Star Lapel Pin?

A. We doubt that you can. The Gold Star Lapel Button is issued to the widow(er), mother, and other eligible family members of a veteran who died while serving in the Armed Forces during one of the following periods: April 6, 1917 to March 3, 1921; Sept. 7, 1939 to July 25, 1947; June 27, 1950 to July 27, 1954; or who died while service on active duty in the Armed Forces after June 30, 1958.

Q. My father, a POW, died in prison camp and is buried somewhere in Europe. My mother is deceased and I have no information where my father is buried. I believe he is buried in a National Cemetery in France. I plan to tour Europe this fall and would like to locate my father's grave. How can I find out where he is buried? The only information I have is his name, serial number, and date of birth.

A. Some libraries have a set of books published by the American Battle Monuments Commission which lists the name and place of burial of veterans buried overseas in national cemeteries. If you know your father's serial number you should have no problem. If your library can't help, write the American Battle Monuments Commission, Casimir Pulaski Building, 20 Massachusetts Ave., N.W., Washington, DC 20314, and request location of the gravesite. Be sure to furnish your father's full name, serial number, branch of service, and any other information that will help to identify your father.

Q. I served six months of active duty with the National Guard. Am I entitled to veterans benefits?

A. Probably not. National Guard members are entitled to VA medical benefits if they have a disease or injury which was incurred or aggravated in line of duty while on active duty for training.

Q. Will the VA release my current address to my ex-wife?

A. No. Your address is privileged information and may not be released to anyone without your permission.

Q. May the current monthly rate of VA benefits received by a veteran be disclosed to a third party?

A. Yes. The monthly amount of benefits is considered public information; however, information concerning a veteran's disabilities cannot be released without the veteran's prior approval.

Q. I am a woman veteran. Can I obtain gender-related medical treatment at a VA medical facility?

A. Yes, provided you meet the eligibility requirements for medical care. Women veteran coordinators have been designated at each VA medical center and many regional offices to counsel women veterans seeking medical treatment.

Q. Are common-law marriages recognized by the VA?

A. Yes, in a state that recognizes common-law marriages at the time the relationship was established.

Q. An organization in which I no longer have any faith has power of attorney to act in my behalf before the VA. I would like another Veteran Service Organization to represent me. Can I change my power of attorney? And if not, how long must I wait before I can?

A. You can change your power of attorney anytime by submitting another VA Form 23-22 (Appointment of Veterans Service Organization as Claimant's Representative). A power of attorney does not expire. It must be revoked or cancelled. The VA treats designation of a new power of attorney as an automatic cancellation of any earlier one. You can cancel your power of attorney at any time by notifying the VA in writing.

Q. A service officer asked me to sign a power of attorney so he could handle my claim. I refused to do so. Did I do the right thing?

A. No, you didn't. It is important that veterans or their survivors who file claims for veteran's benefits sign VA Form 23-22, "Appointment of Veterans Service Organization as Claimant's Representative." By executing this form they have authorized one of the veteran's service organizations to present their claim before the VA. The words "Power of Attorney" appearing on the form are misleading. The form is not a "General Power of Attorney," but can be compared to a "Special Power of Attorney" which authorizes the named person to act for the grantor in a single transaction. By signing the form, the veteran or their survivors authorizes a veteran's service organization to act for them in pursuing their claim through VA channels and nothing else.

This so-called Power of Attorney remains in effect until the veteran or their survivors revoke it by executing another "Power of Attorney."

A "General Power of Attorney" is designated to grant a named person the authority to accomplish nearly every transaction the granter could accomplish. It gives such broad authority that it is risky because the granter has no control over what it is used for. A "General Power of Attorney" should only be executed under the most compelling circumstances and should name only a person whom the grant- or has total confidence in, such as their spouse or near relative.

Once a veteran or survivor has appointed a veteran's service organization by signing VA Form 23-22 to act for them in pursuing their claim for veteran's benefits, they should never change until the claim is finalized unless there is a compelling reason. Changing representatives, and especially just before a claim is scheduled for a hearing before the BVA, can cause delays; but more important, unfavorable decisions.

The new representative will not be familiar with the claim and will not have the time and facts necessary to present the claim before the board.

Q. My son was discharged from the Army with a discharge "Under Honorable Conditions." I say he is not entitled to VA benefits and he says he is. Who is right?

A. Your son. Honorable and general discharges qualify veterans for benefits, unless there are other statutory bars to entitlement to benefits.

Q. I know that decisions by the BVA are final. Is there any way to have the Board reconsider an unfavorable decision?

A. Decisions by the BVA are final unless the Board makes a mistake. When the Board makes a decision that is unfavorable and the veteran wishes to pursue the claim further, there are two different choices available. The veteran or their representative may request that BVA reconsider its decision. They can do this at any time by letter or written brief, or it can be done by a personal hearing, provided the veteran or their representative request the hearing within one year from the date of BVA's decision.

You must show that the BVA failed to properly apply the law or overlooked pertinent facts in the record. Any repeat review by the Board is based only on the evidence in the record at the time the decision was made, so you may not submit new evidence to the BVA when requesting another review or reconsideration.

You can reopen a claim at any time if you acquire new evidence not previously considered by the VA. New evidence should be submitted to the VA office where your records are kept. That office has jurisdiction in a reopened claim. Any decision by the local rating board in a reopened claim is subject to new appeals rights, including, if necessary, a review by the BVA.

Q. I am a service-connected disabled veteran. How do I obtain a military identification card that will allow me to use military commissaries and base exchanges?

Honorably discharged veterans with a service-connected disability rated at 100% are entitled to unlimited exchange and commissary store privileges in the U.S. To apply for a military I.D. card, the veteran needs a certification of total disability from the VA (100%). After the veteran obtains the certification, they need to apply for the I.D. by completing DD Form 1172 (Application for Uniformed Services Identification and Privilege Card). The form can be obtained at most military installations or the VA. Their best bet is to go to the nearest military installation and request assistance.

Q. I recently had a serious heart attack and was admitted to a local hospital. The nearest VA hospital is more than 100 miles from my home. I was in intensive care for several days and, in all, spent 16 days in the hospital. The bill for treatment and hospitalization amounts to several thousands of dollars. I understand the VA will treat former POWs for any disability. Will they pay part of my medical expenses?

A. You didn't give enough information for us to give you a yes or no answer. Probably "no."

A former POW claim for reimbursement or payment of hospital and medical care will be considered the same as any other veteran. Former POW status has no bearing on the claim. The VA will consider a claim under the following 4 conditions, all of which must exist. There is a 5th condition that applies to veterans participating in the rehabilitation program under title 38, U.S.C., Chapter 31.

1. The treatment must have been for an adjudicated service-connected disability or a nonservice-connected disability associated with and held to be aggravating a service-connected disability, for any disability, permanent in nature, resulting from a service-connected disability.

2. The treatment must have been for a medical emergency.

3. Delay would have been hazardous to the life and health the veteran.

4. VA medical facilities were not feasibly available.

The VA may pay a hospital bill beginning the 1st day of hospitalization provided the authorization is requested from the VA within 72 hours after the veteran is admitted to a private hospital. The hospitalization must be of an emergency nature listed above. If notification is not received by the VA within 72 hours after admission to a non-VA facility, the VA may consider paying the cost from the day the VA received notification that the veteran has been admitted to a private hospital.

When requesting approval for medical treatment in non-VA facilities, the veteran or the person making the request should make a record of the names of persons contacted, date and time. When an emergency occurs during a weekend or long holiday period, the best method to request authorization is by telegram.

Whenever possible, the veteran should obtain prior approval before they enter a private hospital.

The fact the VA will treat former POWs for any disability does not mean the VA will consider payment or reimbursement of medical expenses unless the four conditions existed.

Q. I have filed for bankruptcy. How will this affect my disability compensation?

A. No effect. Payments of VA benefits due or to become due are not assignable, are exempt from taxation, exempt from claims of creditors, and are not liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. However, the provision does not attach to claims by the U.S., nor does the exemption as to taxation extend to any property purchased in part or wholly out of such payments.

Q. Does a veteran have a right to appear before the BVA to present their side of a claim that has been denied by the VARO? I disagreed with their decision and wrote them that I was appealing. I was recently informed that my appeal would be sent to the BVA for a final decision. I have never been given the opportunity to state why I disagreed with the unfavorable decision?

A. A veteran has the right to appear before a field office or the BVA to present argument or testimony relevant and material to their claim. You didn't state in your letter whether you requested the assistance of a certified NSO or if you used VA Form 1-9, "Appeal to Board of Veterans Appeals," to file your appeal. If we interpret your letter correctly, you did neither. We would bet you filed your appeal letter and did not state that you wished to appear before a board. Unless you request that you be present at a hearing, the evidence on file will be considered. VA Form 1-9 has a block to be checked if the veteran desires to be present at a field office hearing usually held at a VARO or the Board of Appeals in Washington, DC. Unless there are compelling reasons, the veteran should always request that they be permitted to be present at a hearing to present argument or testimony relevant and material to their claim.

Q. Please explain the word "presumptive" as used in official documentation. If a presumption is made, why does a person have to make application for the specific condition? What are the presumptive diseases and disorders?

A. There are many presumptive diseases and most have a one year time limit. In other words, they must have been shown to be disabling within one year after separation from service.

The presumptive disease you are asking about are those that apply to former POWs. We refer you to title 38 U.S.C., Sec. 312. Presumptions relating to certain diseases and disabilities. (b) For the purposes of sec. 310 of the title and subject to the provision of sec. 313 of this title, in the case of a veteran who is a former POW and who was detained or interned for not less than 30 days, the disease of -- avitaminosis, beriberi (including beriberi heart disease), chronic dysentery, helminthiasis, malnutrition (including optic atrophy associated with malnutrition), pellagra, and other nutritional deficiency, psychosis, any of the anxiety states, dysthymic disorder (or depressive neurosis), organic residuals of frostbite, post-traumatic osteoarthritis, irritable bowel syndrome, peptic ulcers, and peripheral neuropathy which became manifest to a degree of 10 per centum or more after active military, naval or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

The reason you must apply is that no benefit is automatic and the VA has no way to determine which of the disease or disabilities might apply to you. The only way they know is when you file or reopen a claim.

Q. I requested copies of my brother records from the VA so I could help him with his claim. The VA refuses to let me have copies of his file. Why?

A. P.L. 93-579, the Privacy Act which became effective Dec. 31, 1974, is the reason. The Act safeguards personal information in VA records. The major provisions of the Act are:

1. Permits an individual to gain access to information in THEIR VA records, to have a copy made of all or part of such records, to correct such records, and to secure a record of disclosure from such records.

2. Prohibits the VA from disclosing any information from a claimant's records to the THIRD party without the written authorization of the claimant, except for routine use in the VA system of records and for the following purposes:

a. Within the VA to persons needing the information in the performance of duties.

b. Disclosures required by the Freedom of Information Act

c. To the Census Bureau for survey and census purposes.

d. For statistical reporting purposes where the individual is not identifiable.

e. To the National Archives for historical purposes.

f. To other agencies of law enforcement purposes only, except as prohibited by other laws dealing with drug and alcohol abuse.

g. To another person under emergency circumstances involving the health and safety of an individual, i.e., the type of blood for an emergency transfusion.

h. To Congressional Committees or Sub-committees and individual members of Congress acting in behalf of constituents.

i. To the Comptroller General of the U.S.

j. Under a court order. (The VA must make a reasonable effort to notify the individual.)

k. To Service Organizations holding a power of attorney.

Q. My father, a veteran, is a patient in a nursing home and unable to handle his affairs. I have been appointed his guardian and receive his monthly VA pension checks. I would like to have these checks mailed directly to the nursing home. Is this possible?

A. Yes. Contact the VARO that maintains your father's file and request that a VA field examiner contact you to discuss appointing the nursing home manager as the payee.

Q. My husband is a patient in a nursing home. His medicine is expensive. Will the VA furnish his medicine?

A. You didn't furnish enough information. If your husband is receiving a nonservice disability pension or compensation, he may be eligible for what is called a "fee basis" card. If he has this card, the VA will reimburse him for his medicines, not to exceed \$75 per month. The VA may also furnish his medicines but you didn't furnish enough information so that we could advise you. Suggest you contact a NSO for advice and assistance.

Q. My father, a former POW, is a patient in a nursing home. VA Pamphlet 27-28-1, "VA Benefits for Former POWs," under the title "VA Health Care," reads in part, "If you are a former POW but not service-disabled, you are eligible for hospital and nursing home care without regard to your ability to pay." The VA has refused to pay for my father's care. Why? It is implied in the pamphlet that they will.

A. The statement in the pamphlet doesn't go into enough detail. Because of the statement there is a general misunderstanding on eligibility for nursing home care for former POWs. Former POWs with nonservice disabilities are eligible for nursing home care in VA facilities and may be eligible for care in private nursing homes approved by the VA for a period of up to 6 months at VA expense. This period of time may be extended by the Director of the VAMC responsible, but seldom is.

Q. I am a WWII veteran and rated 30% service-connected disabled. Is my wife eligible for medical treatment at VA medical facilities or at VA expense in private hospitals?

A. No. The Civilian Health & Medical Program (CHAMPVA) is a program through which the VA helps pay for medical service obtained from civilian sources by eligible dependents of certain veterans rated 100% service-connected or who died from service-connected causes.

Q. Now that the VA is the Dept. of Veterans Affairs, what changes will there be in veterans benefits?

A. We can't answer your question. All that was involved was a change in name and a few organizational changes. The DVA has assumed responsibility for all existing laws and regulations that were administered by the VA. Changes in veterans benefits, good or bad, are as sure as death and taxes. Every time Congress is in session, you can bet your "Bib and Tucker," there will be changes. What has us in quandary is how much is it going to cost to change out all of the name plates, emblems, stationery letterheads, envelopes, forms, etc.? Changing out just one of the big name plates in front of the VAMCs will cost several hundred dollars. Where is the money necessary to make these changes coming from? The VA budget? Let's hope someone doesn't get the bright idea to make all of the changes at once.

Q. My husband and I were divorced shortly after he retired from the Navy. I have been told that under a provision of a recent Law, I am entitled to half of his retirement pay. How do I apply for it?

A. You don't. We believe the Law that you are referring to is P.L. 97-252, Sept. 08, 1982 and P.L. 99-661, Nov. 14, 1986. P.L. 97-252 provided several benefits for the former spouse of military retirees. The Law permits, but does not require, State Courts to divide military disposable retired pay as property between parties in a divorce regardless of the number of years the couple was married. Disability retired pay is not considered as disposable and is not covered by the Law. Re-marriages of the former spouse do not cause the award to be terminated. The former spouse will receive benefits until

their death or the death of the military retiree. Only the percentage based on disability is exempt from disposable definition for those military retirees who retire for disability but have their retirement pay calculated on length of service. P.L. 99-661 permits courts to consider the length of service portion of disability retired pay or disposable pay under the Former Spouses Protection Act. Courts cannot treat military retired pay as property unless the Court has jurisdiction over the retiree by reason of:

A. The member's residence, other than because of a military assignment in the territorial jurisdiction of the court.

B. The member's domicile in the jurisdiction of the Court.

C. The member's consent to the jurisdiction of the Court.

Divorces finalized before June 26, 1981 (Date of the Supreme Court Decision in which the Court ruled that military retired pay was not subject to division as property in cases of divorce), cannot be modified to call for a portion of the member's retired pay based on the legislation. Divorces after this date can be modified. The Law authorized the Dept. of Defense to instruct military finance centers to pay directly to the former spouse an amount not to exceed 50% of disposable pay for Court Orders and not more than 65% of the disposable retired pay when the member's pay is also subject to garnishment and other legal process under title 42 U.S.C. 659. To qualify for direct payment of dividend retirement pay, the former spouse must have been married to the member for ten years or more, during which the member performed at least ten years of creditable military service.

Q. Were all of the military records destroyed by the fire in St. Louis?

A. No. The fire at the National Personnel Records Center on July 12, 1972, destroyed or damaged about 80% of the records of Army personnel discharged between Nov 1, 1912, and Jan 1, 1960, and approximately 75% of the records of Air Force personnel with surnames from Hubbard through "Z" discharged between Sept. 25, 1947 and Jan. 1, 1964.

Q. I am a former POW but have been been rated as service-connected by the VA. Am I entitled to VA medical care?

A. Yes, a former POW who is not service-connected disabled is eligible for VA hospital and nursing home care on a priority basis second only to service-connected disabled veterans. While receiving treatment in an approved outpatient program, you are eligible for needed medicine, glasses, hearing aids, and prosthesis. If you were a POW 90 days or more, you are also eligible for all needed dental care.

Q. I served in the CCCs during 1939-1940. Does this service entitle me to veteran's benefits?

A. No. The title of the CCCs was Civilian Conservation Corps and it was not part of the Armed Forces. The term "Armed Forces" of the U.S. means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard, including reserve components thereof.

Q. I was recently rated 100% service-connected disabled. Should I apply for SS disability benefits?

A. It depends on your age and whether you are already receiving Social Security benefits. If you are not receiving SS benefits and are under 65 years of age, you should apply for SS disability benefits. If granted it will not affect your compensation payments and you can receive both.

Q. I filed a claim for service-connected disability due to frost-bite. The claim was denied because there was no record of treatment while in service. I can't understand why there is no record. I was hospitalized in England for 10 days and then returned to my company. Are there any separate hospital records, or were these records made a part of the individual's file. I need proof that I was hospitalized and have been informed that my records were destroyed by the fire at the Records Center, St. Louis, MO.

A. Maybe. If you received medical treatment while in service, information concerning that treatment may be located among military installation hospital registers in custody of the National Personnel Records Center, 9700 Page Blvd, St Louis, MO 63132. To request a search of these registers (which are a separate series of records and distinct from official personnel files), use Standard Form 180. You should indicate the name of the medical facility where you received treatment and the dates of treatment.

You might also request a check of morning reports. The morning reports are arranged by unit number and date, but will indicate only that an individual was on sick call or absent from their unit. They will not provide medical data relating to an individual.

Q. Is a spouse who lost entitlement to Civil Service Survivor's benefits due to remarriage eligible for these benefits when the second marriage is terminated by death or divorce?

A. P.L. 99-251 provides for the continuation of a survivor's annuity upon the remarriage of the survivor annuitant if: (1) the marriage occurs on or after Nov. 8, 1984, and (2) the widow or widower has attained age 55 prior to the date of remarriage. In addition, any survivor's benefit which was terminated because of remarriage prior to age 55 may be reinstated upon termination of that marriage. P.L. 99-251 provides that survivor's benefit continue for remarried widows or widowers age 60 prior to the remarriage.

Q. None of us is getting any younger. I would like to make things as easy as possible for my wife in the event of my death. I need to know what documents and information my wife will need to file for veteran's benefits.

A. First, if you don't have an up-to-date will, we recommend that you and your spouse have one drawn up as soon as possible. Each state has different laws and lack of a will could cause your wife undue hardship and expense. A lot of people believe that a will is not necessary because they have little or nothing to leave their survivors. This is false thinking. We all have something, even if it is only our body and the clothes on our back. Better safe than sorry.

Your wife will need the original or a certified copy of your discharge/separation document from the service. If you have lost this document and it has not been recorded at a County Clerk's office, now is the time

to obtain an official copy. You should submit Standard Form 180 to the Military Records Center. There was a fire at the Center several years ago and your records may not be available. In lieu of a discharge, you will receive a "Certificate of Service which can be used to file claims. Be sure to us SF 180. Any service officer should have this form, or you can obtain them from the VA. If your discharge/separation document has been recorded, make sure your wife is informed where the document can be located

The original or a certified copy of your marriage license will be required. If you don't have this document, certified copies can be obtained from the County Clerk who issued the license or, in some states, the Bureau of Vital Statistics or equivalent.

Birth certificates may be required for yourself, wife, minor children, or dependent children who became disabled before age 18. Normally, the VA doesn't require birth certificates of the veteran and spouse, but SS Administration probably will. The VA will require a birth certificate for minor or disabled dependent children. These documents can be obtained in the same manner as marriage licenses.

If either you or your wife has had a previous marriage, original or certified copy of these marriages may be required as well as documents terminating the marriage, divorce decree, death certificate, etc. The date, place, name or former spouse, how the marriage terminated, date, and place, should be recorded so the information will be available if required.

Insurance policies should be reviewed to insure that the beneficiary listed is the person to whom the policy should be paid in case of death. This should be done on a regular basis. A will cannot change the beneficiary of an insurance policy. It will be paid to whoever is listed as the beneficiary, or their estate.

Information that should be pre-recorded and stored in a readily available space is the veteran's SS number, spouse's SS number, SS number of minor children or disabled children, veteran's service number, veteran's VA claim number, veteran's insurance policy numbers, and name of insurance policies, location of veteran's VA claim file, location of insurance policies, and other important documents.

Most of us believe we will live forever and fail to provide for our loved ones in case of death. Any service officer will tell you not to delay. Make sure while you can. Provide all necessary documents and information that may be required. Lack of information or documents can cause delays and may result in a claim being denied. (Suggest you fill Out Packet #5, "What Every Wife Should Know Before She Is Your Widow." All the information your loved ones will need will be compactly kept in this Packet. - Stan Sommers)

Q. I remember reading in one of the POW Bulletins an article on promotions. I was not promoted after my release from Prison camp and believe I should have been. Who was eligible for promotion, and can I apply at this late date?

A. In the March 1987 issue we printed the following article:

Q. Many Former Prisoners of War were promoted after they were liberated. Why wasn't I?"

A. We can't answer this question, but can cite War Department Letter AGMP-M 201.2 (21 May 45) A. Subject: Promotion of returned prisoners of war and

military of like status. Addressed to: Commanding Generals Army Ground Forces, Army Air Forces, Army Service Forces, Commanders of all theaters, defense commands, department and base commanders, dated 23 May 45, and Joint Army Navy Agreement of Policy on Returned Prisoners of War and Military & Naval Personnel of like status dated March 31, 1945.

1. The Army and Navy have adopted a policy of giving special consideration, with respect of promotion, to returned officer and enlisted personnel of their respective services who have, in the cause of honorable service, fallen into the hands of the enemy as prisoners of war, or who have escaped from such custody or evaded capture and who presumably would have been promoted but for their capture or evasion. The details of this policy are attached as an enclosure to this letter.

2. The War Department hereby delegates to each of the three major forces the responsibility of carrying out this policy for personnel who are under their respective assignment jurisdictions. In the event that such personnel are delayed in an overseas theater for an undue time after their return to military control, the theater commander will carry out this policy.

3. Changes of appropriate Army regulations are being published which will permit promotions deemed justified under this policy. These changes will likewise apply to internees.

4. Present War Department directives pertaining to procedures for processing former prisoners of war, evaders, and internees are being amended to provide instructions for carrying out this policy with respect to personnel passing through redistribution stations. Reference is made to WD letter (AG 383.6 [6 April 45] OB-S-A-SPGAM-M) 21 April 1945, short title, POW.

5. Recommendations for promotion under this policy for personnel not assigned to the three major commands or to an overseas theater will be forwarded through channels to the Adj. General who will refer the matter to the appropriate major command for necessary action.

JOINT ARMY NAVY AGREEMENT OF POLICY

1. It is the policy of the Army and Navy to give special consideration, with respect to promotions, to returned officers and enlisted personnel of their respective Services who have, in the course of honorable service, fallen into the hands of the enemy as prisoners of war or who have escaped from such custody or evaded capture. To effect this policy the following will govern:

a. Such personnel, except as noted in subparagraph c below, who presumably would have advanced in rank, grade, or rating but for the fact of their capture, escape or evasion from the enemy will, upon their return to the jurisdiction of their respective Services, receive prompt consideration with a view of immediate promotion of one rank, grade, position vacancy, and billet requirements will be waived in such cases.

b. Subsequent promotions of such personnel, in order to advance them to the rank, grade or rating and precedence which they would presumably have acquired, will be considered as soon as they are found to be individually qualified. Officer personnel shall not be advance more than one grade at a time. Time in grade, position vacancy, and billet requirement will be waived in such cases, to the extent necessary to effectuate this policy.

c. Promotions in accordance with sub-paragraph a and b will apply to all personnel of the respective Services except commissioned officers of the rank of colonel and equivalent or above, commissioned warrant officers, chief warrant officers, and enlisted personnel in the first pay grade.

d. In view of the fact that commissioned warrant officers, chief warrant, and enlisted personnel in the first pay grade do not receive in accordance with sub-paragraph c, any opportunity for advancement, they will upon return to jurisdiction, receive prompt consideration in appropriate cases for warrant or commissioned officer status, as the case may be,

2. This joint policy will apply without regard to the particular area overseas in which subject personnel shall have served.

3. No promotions under this joint policy shall have the effect of conferring increases in pay prior to the date of return to U.S. jurisdiction.

Signed: Henry L. Stimson
Secretary of War

James V. Forrestal
Secretary of the Navy

The above article created a lot of interest and many former prisoners of war requested assistance or information on obtaining promotions that they believed they were entitled to. We couldn't offer much hope because the law provides no correction of military or naval records may be made unless request is made within three years after the discovery of error or injustice, but the Board may excuse failure to file within 3 years after discovery if it finds to be in the interest of justice.

After we published the above article we discovered the following message:

File No. SPGAM/383.6 Gen (21 Sept 45)-84. Office of origin Military Personnel Division, ASF

Address 4B-470, The Pentagon, Washington 25, DC.

Message:

Provisions of POW concerning promotions are amended and application is to all recovered personnel who have been absent from military control under honorable conditions 18 months or longer and have not repeat have not yet received a one grade promotion since return to military control PD paren on paren each officer subject personnel below grade colonel below grade master sergeant will be immediately promoted one grade PD all commanding officers have immediate jurisdiction over subject enlisted personnel will promote personnel at once using this radio as authority PD all commanding officers having immediate jurisdiction over subject officer personnel will immediately dispatch to tag officers branch CMA promotion section by WD radio or telegram with confirmation by essential air mail name CMA grade CMA serial number and length of period of absence from military control of all subject officers indicating that officers and recovered personnel of 18 months or more PD tag using this authority will expeditiously accomplish promotion in automatic manner based on information received and inform officers accordingly to paren two paren recovered personnel absent from military control less than 18 months will be processed immediately in accordance existing provision POW PD paren three paren all commanders having jurisdiction over recovered personnel will

immediately screen all records to insure that no individual who comes within purview of this directive is overlooked PD if records not available personnel will be contacted directly PD paren four paren provision of POW concerning project J remain unchanged except that project J will not receive a second automatic promotion after return to military control by reason of this directive PD expedite repeat expedite.

The above message pertains to Army and Army Air Forces only. There may be a Navy directive covering promotions but we have been unable to locate one.

We believe that most of us thought we were supposed to be promoted and some were, but until now we had nothing to support our belief. We strongly suggest that if you fall into the above category that you use DD Form 149 and request that your records be corrected to indicate the promotion you should have received. The spouse of a deceased ex-POW who died of a service-connected cause or who is receiving DIC because the veteran was rated 100% for ten years or more, should also request correction of records. If the request is granted, it will make a difference in DIC payments.

Q. A friend has a card issued by the VA that authorizes him to be treated by his family doctor. How can I obtain a card from the VA?

A. The card you refer to is "Outpatient Treatment Identification Card," known as a "Fee Basis Card." The issuance of this card is left up to the Chief of each outpatient clinic. This card listed on it the service-connected disabilities for which the veteran may seek treatment from a private doctor at government expense. The veteran is permitted to visit a doctor of his choice. Treatment is limited to \$75 per month. Also eligible for the card are veterans receiving disability pensions and are shown to be either housebound or entitled to A&A benefit. Veterans rated 50% or more disabled because of service-connected disabilities are also eligible for the card. These veterans may receive treatment for any condition at VA expense not to exceed \$75 per month. Dental treatment and eye glasses are not authorized.

When the card is issued, the VA sends an accompanying letter explaining the program as well as telling the doctor and the veteran what can and cannot be done at government expense.

Q. Does the VA have any requirements that a doctor speak English? Every time I have an appointment at the VA hospital I see a foreign doctor who speaks little or no English. Just what are the qualifications required by the VA when they hire a doctor, or are there any?

A. The qualification are outlined in title 38, U.S.C. Sec. 4105 which reads: "Notwithstanding any other provision of law, no person may be appointed under section 4104 (1) of this title after Jan. 1, 1978, to serve in the Department of Medicine & Surgery in any direct patient-care capacity unless the Chief Medical Director determines, in accordance with regulations which the Administrator shall pre- scribes, that such person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such person to carry out such person's health-care responsibilities satisfactorily. Section 4105(b) reads, "Except as provided in section 4114 of this title, no person may be appointed in the Department of Medicine &

Surgery as physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded-function dental auxiliary unless such person is a citizen of the United States.

Q. I am a former POW and plan to visit several European countries this fall. If I become ill, am I entitled to treatment at VA expense?

A. We requested information from the VA Office of General Counsel, Washington, DC, on medical benefits for former POWs traveling in foreign countries and received the following reply:

"I am pleased to respond to your inquiry as to whether former POWs traveling in foreign countries are eligible for treatment at VA expense if they become ill.

"The applicable statute is at section 624 of title 38, U.S.C. It is there provided that VA hospital or domiciliary care, or medical services, may not be provided anywhere but within a state (a term which includes District of Columbia, Puerto Rico, and United States territories and possessions). Section 624 contains an exception to the foregoing restrictions, to the effect that a veteran who is a U.S. citizen may receive medical services and hospital care for service-connected disability while abroad.

"Accordingly our answer to your question is that a former POW is not automatically entitled to V.A paid medical treatment overseas, but may be so entitled if they are having trouble with a service-connected disability. I trust this is the information you need."

Q. I am planning to Visit Europe this summer. Are there VA medical facilities available in the event I become ill?

A. The only VA medical facilities available outside the continental U.S. are located in Alaska, Hawaii, Puerto Rico, and the Philippines. To request medical benefits such as treatment, hospitalization, and medications, contact the American Embassy or the Consulate having jurisdiction over the area where you will be traveling. In Canada, contact the Department of Veterans Affairs in Ottawa.

To be eligible for outpatient or hospital care in foreign countries, other than the Philippines, you must be a U.S. citizen and in need of medical treatment for a service-connected disability or a nonservice-connected condition associated with or aggravating a service-connected disability.

Before you travel, you should obtain a VA Foreign Medical Service Information Card (VA Form 10-117f) from the Foreign and Insular Unit, VA Medical Center, 50 Irving Street, NW Washington, DC 20422. The card will identify you as an eligible veteran with entitlement to medical care needed for your service-connected disabilities while traveling outside the United States.

Only medical care and services, including travel, authorized by the U.S. Embassy or Consulate or any office of the Canadian Dept. of Veterans Affairs in Canada, will be approved for payment by the VA.

Q. My ex-husband and I were married for over 30 years before we were divorced. He recently passed away. Am I eligible for VA benefits as his survivor?

A. No. "Surviving Spouse" means lawful spouse of a veteran at the time of

his death. He or she must have lived with the veteran continuously until date of death except when there was a separation caused by the veteran without fault of the spouse.

Q. How can I stop my VA check from being direct-deposited to my bank account and have it sent to my new home address?

A. Contact your VARO and request a change of address form (VA Form 572). Do not close out your bank account until you receive your check at your new address.

Q. I would like to know about veterans benefits. Are there any books, pamphlets, etc., that list veteran's benefits?

A. Each year the Government Printing Office publishes a book on VA benefits. This book, "Federal Benefits for Veterans and Dependents," describes the benefits provided by the VA & eligibility requirements. The present cost is \$2.25 each. To order, make all checks or money orders payable to the Superintendent of Documents and send to him at Government Printing Office, Dept. SSMC, Washington DC 20402.

The VA has several free pamphlets that can be obtained at any VARO or hospital. One, "Summary of VA Benefits," is very informative.

Q. My discharge form from the Army does not indicate that I was a POW. How do I obtain proof that I was a POW?

A. Use Standard Form 180 to request the date you were captured and the date you were returned to Allied control. Fill out the form and mail it to the correct address on the back of the form. Be sure to furnish as much of the requested information as possible.

The spouse of a deceased former POW who needs verification of the deceased POW status should use SF 180. If possible, attach a copy of the veterans discharge and a copy of veteran's death certificate.

Q. My birth was never recorded, and I do not have a birth certificate. Is there any way I can obtain proof of my birth?

A. We assume you have checked all local sources such as church and school records. Your best bet is to submit Form BC-600, "Application for Search of Census Records," to the U.S. Dept. of Commerce, Bureau of Census, Personal Census Service Branch, Pittsburg, KS 66762. If your local library does not have the form, you can obtain one from the Department of Commerce.

There is a charge for the research and it may take several weeks before you receive a reply. If you are in a hurry, you may request a special search of the records at an additional charge. In some states you can file a "delayed birth certificate." This usually takes a lot of time, effort and some expense. Check with your County Clerk if this is possible in your state.

The report from the Census Bureau is accepted by the VA and SS Administration to establish date of birth.

Q. Is there any way I can obtain the current address of a doctor who treated me several years ago? I need to contact him regarding a claim for service-connected disability.

A. Maybe. There are two medical directories that list the names and current addresses of physicians. They are the Directory of Medical Specialists, by Marques "Who's Who," and the American Medical Directory by the American Medical Association. Hopefully, your local library will have copies. If not, write to Data Release, American Medical Association, 535 N. Dearborn St., Chicago, IL 60610.

Q. Do I have to belong to a veterans' organization to obtain assistance in preparing an appeal? I filed a claim for service-connected disability which was denied and I need help. The service officer of our local veteran organization informed me that he could not assist me unless I joined their organization. I'm not interested in joining the organization but I need help.

A. The answer to your question is NO! The action of the service officer is unethical and should be brought to the attention of the organization's commander. The service officer's manual clearly states that the chapter or post service officer will assist any veteran or their dependents and non-membership is not grounds for denial of assistance to any veteran.

Q. Why, if other countries give ex-POWs 50% across the board compensation, does not this country do something for its sons, etc., instead of sending money to other countries?

A. We can't answer the last part of your question. You need to ask your congressman why we give money to other countries. As for the rest of the question, someone has given you bum information.

Great Britain, Norway, Denmark, France, West Germany, and Australia have special benefit programs for their veterans. There may be other countries but we are not aware of them. Also, bur information may be outdated, but we don't think so.

Canada has enacted legislation which provided that disabled former POWs of the Japanese who were interred 12 months or more be paid at a minimum of the 50% rate of compensation; 20% compensation to all former POWs of the Japanese who were held from 3 to 12 months; 10% compensation for former POWs of other countries held from 3 to 18 months; 15% compensation to former POWs held by other countries 18 to 30 months; and 20% compensation to those held more than 30 months. There are also benefits for the survivors of deceased former POWs.

The British veteran's benefits program does not include special provisions for former POWs. Compensation for disabilities incurred as a result of interment is paid at the same rate as compensation awarded for other service-connected disabilities. No special health care benefits exist for veterans under the British National Health Service System.

Norway and Denmark have compensation programs for WWII veterans interned in Nazi concentration camps. In 1968 Norway enacted legislation which provided for "reasonable doubt" doctrine to be applied in the case of certain employable former POWs and civilian internees. The law stated that those former POWs or civilian internees who had been interned at least 6 months and who had experienced the "unusually severe trauma" of Nazi concentration camps or similar German prisons would be eligible for a disability compensation payment if their work capacity had been reduced at least 50%, and if the claimed disability could reasonably be attributed to the former POW experience.

France established a special presumption of service-connection for certain disabilities for former POWs interned in a number of specific camps during WWII and in camps in Indochina. The presumptions apply to certain disabilities arising within 4 to 10 years following separation from service, depending on the type of disability. Disability ratings ranging from 20% to 100% are assigned based on the type of disability. Also former POWs can be awarded a pension between the ages of 60 and 65 on the basis of the maximum rate normally attained at age 65. The amount of this pension depends upon the length of internment.

West Germany provides a number of disability compensation and health care benefits to certain groups of war victims, including former POWs their dependents or survivors. There are no former POW specific provisions. Health care services include physician and hospital care, home nursing, drugs, dental care, orthopedic braces, and therapeutics gymnastics for service-connected conditions of former POWs and for certain other veterans.

Australia has no special laws covering former POWs. Former POWs are eligible for a broad range of health care benefits and disability compensation on the same basis as other veterans.

Q. Are all ex-POW coordinators supposed to be physicians?

A. We are not sure what you mean by ex-POW coordinators. If you are referring to the POW Administrative Coordinators, the answer is "No." The person assigned to this position usually has a full time job in addition to being the POW Administrative Coordinator.

Q. Is there a POW physician in every VA medical facility?

A. There is supposed to be one, and the name of the physician and the POW Administrative Coordinator is suppose to be posted at the medical facility.

Q. When will the adjudicators stop or be stopped from using the one year following release from service for denying claims? Also, not shown in service medical records?

A. Probably never. When the adjudicators use the one year following release from active service, they are citing the law (Title 38, U.S.C. Sec. 312). A veteran who files a claim for disability that occurred in service must prove their disability is service connected. The burden of proof rests with the veteran. Unless the disability is one of the presumptive diseases or disabilities, the adjudicator must have evidence that the disability claimed is service-connected. If it is "not shown in Service Medical Records."

Q. Why are VA doctors not acquainted with the med facts?

A. We are not sure just what the question is. We assume you are asking why VA doctors are not acquainted with the various diseases and disabilities suffered by the former POW. All VA doctors are qualified to practice medicine but that doesn't mean they are familiar with former prisoner-of-war related diseases and disabilities. This is the reason VA medical centers are suppose to have a POW physician. (Many of us have educated our doctors with the Packets and articles in the Bulletin. - Stan Sommers)

Q. I have an artificial leg which was furnished to me by the VA. My disability is not service-connected. As a former POW, am I eligible for the special clothing allowance?

A. No, but to be on the safe side, we asked the Office of General Counsel, VA, and reply was:

"This in reference to your recent letter inquiring as to whether the special clothing allowance is available to former POWs with a prosthesis not required because of a service-connected disability.

"As you noted in your letter, as a follow-up to inpatient care under Section 612 of title 39, U.S.C., the VA may furnish needed prosthetic devices 'to any veteran who is a former prisoners of war.' However, the special clothing allowance authorized under Section 362 of title 38, U.S.C., is only available to a veteran 'Who because of a disability which is compensable (e.g., service-connected) wears or uses a prosthetic or orthopedic appliance or appliances.'

"Certain types of special clothing made necessary by wearing of prosthetic appliances, such as pants liners and shirt protectors may, nevertheless, be provided directly to any veteran receiving prosthetic services from the VA in accordance with Section 612, above. Any former POW who is interested in determining eligibility for special clothing due to the use of prosthetic appliance (s) should contact the VA hospital, medical center or outpatient clinic furnishing treatment, being sure to make it clear that it is not the 'special clothing allowance' cash payment that is being sought."

Q. I am confined to a wheelchair. Am I eligible for a "clothing allowance from the VA?

A. Maybe. You didn't furnish enough information for us to make a determination. The VA will presently pay a clothing allowance of \$380 per year in a lump sum to a veteran who, because of disability which is compensable, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the VA determines tends to wear out or tear clothing. If you are confined to the wheelchair because of a service-connected disability, you may be eligible for the special clothing allowance.

Q. I understand that the VA will pay veterans confined to a wheel-chair an annual clothing allowance. How much is the allowance, and how do I apply. I am confined to a wheelchair and have been for several years. Will the VA pay for all the years I have been confined to a wheelchair?

A. P.L. 92-328 authorized the VA to pay an annual clothing allowance to service-connected veterans who use a prosthetic or orthopedic appliance, including a wheelchair. The allowance per year is paid automatically to those whose eligibility has been established, and the government checks are mailed on or about August 1 each year. If a veteran because of his service-connected disabilities, feels that he is eligible for the clothing allowance, a letter over his signature to the VARO will serve as a claim. The annual clothing allowance can be made to veterans who must use iliostomy or colostomy devices. Before paying the allowance, the VA must determine whether the appliance wears out or tears clothing.

Q. Are there any veteran's benefits other than those available from the VA?

A. Yes, there are many that are available to eligible veterans, their dependents and survivors from federal and state agencies. Some of the most important and often overlooked are those available from various state agencies. All states have some benefits available to eligible veterans. These benefits include direct loans, educational, burial, special license plates, free drivers license, medical, tax exemption, state homes, hospitalization, cemeteries, State Veteran Commissions, hunting and fishing licenses, etc. In addition to state benefits, some counties have special benefits for veterans residing in those counties.

Copies of state statutes covering state veteran's benefits can probably be obtained from state representatives or senators.

Q. A few years ago in Iowa, a mayor of a small town was murdered -- who did it? An ex-POW. He had no relatives. He was a loner. Now he is in jail. Does the VA (Social Worker) get involved automatically in these cases, or do they wait for "him" to come to them? What can be done?

A. We doubt that the VA Social Worker will get involved. They normally do not work off station. The man you are asking about is now in the hands of the State and it is up to the State to take care of his medical needs. He will continue to draw compensation but at the 20% rate while he is in prison. What can be done? We don't know. This man is not the only former POW who is serving time. One we have been trying to help for the past three years and to date we haven't had any luck. The poor devil is serving 12 years and has about four more to go. You will probably be surprised to know that many former POWs have had run-ins with the law.

Q. Shot down and interned in Switzerland for approximately 3 months and cannot get POW medical benefits. Why?

A. About to wear out our copy of title 38, U.S.C. The term "former prisoner of war" means a person who, while serving in the active military naval or air service, was forcibly detained or interned in the line of duty (A) by an enemy government or its agents, or a hostile force, during a period of war; or (B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

Switzerland was not considered an enemy government nor were conditions comparable to the POW camps. A recent change in the law has made those interned in Russian eligible for benefits as a former POW if the Administrator determines the conditions of their internment was comparable to the POW camps.

Q. How much larger is the mortality rate among ex-POWs than the average veteran?

A good question, which we can't answer because we do not have any up-to-date figures. During WWII 130,201 military personnel were captured and interned. Less than half of this number are alive today.

Q. I am a diabetic and due to poor circulation, my left leg was amputated below the knee. I have been told that the VA will help pay for a car and adaptive equipment. How much will the VA pay and how do I apply?

A. In your case, I doubt if the VA will pay anything. Title 38, U.S.C., Chap. 39 authorizes the VA to provide financial assistance (not to exceed \$5,000) in purchasing an automobile or other conveyance to severely disabled veterans. In addition, the VA is authorized to pay for certain adaptive equipment which will enable the veteran to safely operate the vehicle.

To qualify for assistance, a veteran must be entitled to VA compensation for disabilities incurred in, or aggravated by, active duty (service-connected), and resulting in:

- (a) Loss or permanent loss of use of one or both feet
- (b) Loss or permanent loss of use of one or both hands
- (c) Complete loss of sight in both eyes, resulting in total blindness

No veteran is authorized an allowance toward the purchase of an automobile or other conveyance until it is established to the satisfaction of the VA, that the veteran will be able to operate the automobile in a manner consistent with his own safety and the safety of others and will be licensed to operate the vehicle by the state of his residence or other proper licensing authority. A veteran who cannot qualify to operate a vehicle shall nevertheless be entitled to the payment up to \$5,000 on the purchase of an automobile to be operated for him by another person, provided the veteran meets the eligibility requirements of the law.

Application is made on VA Form 21-4502, submitted in duplicate to the VA office having custody of the veteran's records. There is no time limitation for filing an application. Only one grant for automobile and adaptive equipment will be authorized. Adaptive equipment is not authorized for more than one vehicle to any one person. However, the equipment may be repaired, replaced, or reinstalled in another vehicle which the veteran may subsequently acquire.

Q. During the past year there have been several changes in the way the VA pays travel pay. What are the most recent changes and who is eligible for travel pay?

A. P.L. 100-322, effective July 1, 1988, made several changes in payments of Beneficiary Travel. Changes were made in computing the deductible amount and eligibility requirements. Beneficiary travel pay subject to the deductible applies to the following veterans:

1. A veteran having a SCHEDULED appointment or admission of ANY service-connected condition (disability).
2. A veteran rated 30% OR MORE service-connected disabled, having a SCHEDULED appointment to receive treatment for any condition.
3. A veteran who is receiving a nonservice-connected disability PENSION having a scheduled appointment or admission for treatment.
4. A veteran having a SCHEDULED appointment or admission and whose annual income DOES NOT exceed the maximum annual income rate of VA pension which would be payable if they were eligible for pension.

The changes in computing the deductible and reimbursement for travel apply to the following:

1. Veteran traveling by private vehicle for a SCHEDULED appointment or admission will be paid mileage subject to a \$3.00 deductible for each way of travel. Present mileage reimbursement is 11 cents per mile. Veterans traveling 27 miles or less will not receive any reimbursement for travel (27 x .11 = \$2.97).

2. The maximum deductible during any calendar month for scheduled appointments (visits) to the nearest VA medical facility is \$18, after which the veteran will be reimbursed the entire amount without any deductible each subsequent visit to that VA medical facility.

3. Veterans scheduled for compensation and pension examination will be reimbursed the entire amount and the deductible does not apply.

4. No one way travel will be paid unless the veteran traveled by special authorized mode of travel (ambulance, wheelchair, van) or was transferred to that medical facility from another VA medical facility for treatment not available at the nearest VA facility.

5. Authorized special modes of transportation will be paid by the VA with no deductible applying to the veteran.

Former POWs have no special privileges and must meet the eligibility requirements the same as any other veteran.

Q. Several years ago I filed a claim for service-connected disability. My claim was denied by the VARO. I filed an appeal which was also denied by the BVA. I still believe my disabilities are service-connected. Is there any way I can reopen my claim, or should I give up?

A. Yes and no. Yes, there are ways to reopen a claim, and no, you should not give up.

Many veterans and their survivors find it confusing, frustrating, and plain irritating when their claims are denied and appeals disallowed by the BVA. Contrary to what some veterans and survivors believe, denials and disallowances of claims do not result from arbitrary conclusions by those VA employees responsible for adjudicating and evaluating claims. More often than not, denials and disallowances of claims are due to the lack of evidence that is necessary to substantiate and adequately support a claim.

When a claim is disallowed, the claimant will receive a letter from the VA, advising that the claim may be reconsidered upon submission of evidence that is "NEW AND MATERIAL." Many claimants do not realize that a claim may be reopened at any time even though the claim has been disallowed by the BVA.

To reopen a claim, NEW EVIDENCE must be furnished, which means it should not be repetitious or have been previously considered by the VA. It may not be cumulative or restate identical factual information that is already a matter of record. An example of accumulation of material that has already been considered would be the submission of an original copy of a buddy statement, even though the statement has been signed by another person.

A new statement from another person is new evidence that will be carefully reviewed if it is prepared in the person's own handwriting and attests to circumstances pertinent to the issue under consideration.

In addition to being new, evidence to reopen a claim "must be material or germane" to the issue under consideration. For example, a doctor's statement in support of a claim for increase in evaluation of a service-connected disability should not relate to a person's age as a precipitating factor in the worsening of a person's disability. Nor should the statement relate to disabilities that are not service related. In neither case is the information pertinent or material to the issue. The physician should only report dates and frequency of treatment, increased symptomatology and severity of the veteran's service-connected disability, and prognosis.

If many years have elapsed since the veteran was released from the armed forces, evidence of continuity is particularly important in establishing service-connection for a disability. Statements may be obtained from service buddies, private physicians, friends, relatives, spouse and employers. These statements should be factual and state only what the person making the statement knows to be true. Long, drawn-out repetitious statements serve no useful purpose.

Many former POWs had claims for service -connection denied years ago. Many of these claims can be reopened because the disability claim is now considered presumptive. Peptic ulcer is an example. If the former POW filed prior to the passage of the law making peptic ulcers a presumptive disease and the claim was denied, the claim should be reopened.

Before anyone attempts to reopen a claim, they should contact a NSO who is professionally trained in evaluating supporting evidence and request their advice and assistance. In too many instances, the veteran or survivor believes they know all there is to know and file or reopen claims without proper advice and assistance and, as a result, sometime cause reduction or termination of their compensation.

Q. Why are the benefits received by me in Illinois and Florida far superior to those available to former POW in Michigan?

A. This question was asked several times about other states. Many former POW believe that those ex-POWs that live in another state are better off than they are where medical treatment and other veteran's benefits are concerned. In some cases this is probably true. Each VAMC and VARO is staffed with PEOPLE and not machines. Although they all operate under the same guidelines and regulations, they are not always interpreted the same. Remember, in the service there was shall and should. When shall was used it meant "you shall" and there was no doubt. "Should" meant that you should but you really don't have to. Until the laws and regulations that the VA abides by read "shall," there will always be differences in interpretations among the various medical facilities and regional offices. We wish we could give you a better answer but we can't. Over the years we have found that there isn't much difference in how the various centers and regional offices interpret the laws and regulations.

If a service officer does his job properly, the veteran should be able to obtain benefits to which he is entitled. All too often we have filed for benefits without the assistance of a certified service officer. This is like being your own attorney. A prudent person would never try to defend themselves in a court of law.

Q. I am a former POW, but have not been rated as service-connected by the VA. Am I entitled to VA dental care?

A. If you were a POW for 90 days or more you are eligible for any needed dental care.

Q. I have lost my discharge from the Army. How do I obtain a copy of this important document?

A. National Personnel Records Center, (Military Personnel Records), 9700 Page Blvd, St. Louis, MO 63132, should be contacted, using Standard Form 180, requesting a copy of your separation document. The Standard form is designed to speed up the processing time and increases the likelihood that the request will contain all the information needed to insure a prompt reply. When you receive a copy of your separation, it should be recorded at the County Clerk's office. There is no charge for this service and if needed for veteran's benefits, certified copies can be obtained at any VARO or from NSOs.

Q. Does the VA have alcohol & drug dependency programs for veterans?

A. Yes. The VA has both inpatient and outpatient clinics in most VAMCs. Veterans who have alcohol or drug problems and desire treatment should contact NSO and request assistance. Admission policies at VA facilities may vary but treatment is available to honorably discharged veterans.

Q. I was a civilian POW in the Philippines. I know I am not eligible for the POW Medal but I believe we are eligible for some other military medals. Can you tell me which ones?

A. General McArthur requested specific authority to award the Asiatic-Pacific Campaign Medal to those American Citizens interned by the Japanese. The authority was granted by cable dated February 23, 1945, signed by Chief of Staff General Marshall.

Q. I was a POW in Japan and near Nagasaki when the ATOMIC BOMB was dropped. I have cancer of the stomach which I believe is due to radiation exposure. Is there any way I can prove my claim?

A. You have a good chance under P.L. 100-321 "Ionizing Radiation." Under the provisions of the law, the VA will presume 13 cancer-related conditions: leukemia (other than lymphocytic leukemia), cancer of the thyroid, breast, pharynx, esophagus, STOMACH, small intestine, pancreas, multiple myeloma lymphomas (except Hodgkin's disease), bile ducts, gall bladder, and primary liver cancer (except cirrhosis or hepatitis B).

Not only does the bill pertain to those veterans who participated in atomic tests, it also includes:

Prisoners of War repatriated through Nagasaki during the periods of 8/6/45 to 7/1/46.

Occupation forces within 10 miles of the city limits of Hiroshima and Nagasaki.

Prisoners of war interned within 75 miles of Hiroshima and 150 miles of Nagasaki, occupation forces in these areas between 8/6/45 and 7/1/46, the crews of ships in Nagasaki Harbor during the periods, POWs and crews of hospital ship USS Haven evacuated at Nagasaki, and any POWs who were repatriated through Nagasaki.

If you want to insure that you are on record, call 703-285-5610 collect, or write Defense Nuclear Agency, Attention: RARP-NTPR, Washington, DC 20305-1000.

The VA has a health program to examine any veteran who was exposed to ionizing radiation while serving on active duty. You should contact the VAMC nearest to you for an examination.

Q. My question is not about veterans benefits but maybe you can answer it. I am receiving SS and have Medicare coverage. How can I determine which doctors in my area will accept Medicare patients'?

A. Please remember that SS is not our "cup of tea" and our answer may not be entirely correct but we think so. The names and addresses of doctors who accept Medicare assignments are listed in the "Medicare Participating Physicians/Suppliers Directory." This directory is available for review in all SS offices and in most hospitals. You can obtain a copy of the directory, free of charge for your area, from the Medicare carrier listed in the back of the Medicare Handbook or call the carrier and request the names of participating doctors in your area. Doctors can sign agreements to become a Medicare participating doctor, which means they have agreed to accept assignment on Medicare claims. Doctors who do not sign an agreement to accept Medicare assignments have the option on a case-by-case basis of whether or not to accept assignments. If you do not have the Medicare Handbook you can obtain one from your SS office.

Q. My granddaughter is divorced and has two minor children. Her ex-husband is retired from the Navy, has remarried and lives in another state. He refuses to pay child support and claims the amount of the court ordered support is more than he can afford. Is there any way she can receive part of his retired pay?

A. Yes. P.L. 93-647, authorizes the garnishment of active duty and retired military personnel salaries and annuities to enforce obligations of child support and alimony. P.L. 95-30 set maximum limitations on 'the percentage of the payment which is subject to garnishment. The limits are based on the retiree's {individual's} aggregate disposable earnings, which includes all pay, pensions disability compensation, SS, etc., received from any agency of the Federal Government. The limits allow garnishment of Government earnings of no more than:

(a) 50% of disposable earnings if the individual is supporting a second family.

(b) 60% of disposable earnings if the individual is not supporting a second family.

(c) An additional 5% in each of the above if the individual is in arrears for more than 12 weeks.

A valid court order must be issued prior to garnishment of retired or active duty pay. The order should name the agency as the garnishee and the state on its face that is to enforce an obligation to provide child support, (alimony). Lawyer fees and court cost can be deducted if the court order directs such action.

Garnishment orders should be sent by certified or registered mail, return receipt requested, to the Finance Center, (Army, Navy, Air Force), of the military service concerned.

PENSION

Q. I recently elected to receive a VA nonservice-disability pension in lieu of compensation. I just started receiving Social Security benefits. I know I am supposed to report any change in income. Should I report this additional income now or wait until I report my annual income on the form the VA sends each year?

A. Report any change in income immediately. Do not wait until you receive the EVR from the VA. To wait could result in an overpayment by the VA and a reduced amount of monthly payments, or worse, termination of your pension until the VA recoups the overpayment.

Q. I recently elected to receive a nonservice disability in lieu of service-connected compensation because of the greater benefit. Will I lose my service-connected disability rating?

A. No. Accepting a nonservice disability pension does not jeopardize the veteran's service-connected status.

Q. Because of financial problems my wife and I are considering a divorce. If we do get a divorce, we will not move from our home and will still live together as man and wife. Will the VA recognize common-law marriages, or will they reduce the amount of my nonservice disability?

A. You are skating on some very thin ice. The VA may recognize a common-law marriage if the couple passing themselves off as man and wife live in a state that recognizes common-law marriages. Your state is not one of these, and even if it were, there is no guarantee that the VA would recognize the marriage. If you obtain a divorce, the VA will reduce the monthly amount of your pension.

Q. Does a veteran have to be over 65 years of age before you can apply for a pension?

A. No. There is no age limit. Eligibility for nonservice disability pension is based on qualifying military service, income limits, and permanent and total disability as established by law. Veterans over 65 years of age are presumed to meet the disability requirements and therefore do not need medical evidence of disability. They do, however, have to meet the other requirements.

Q. I am a widow and receive a widow's pension from the VA. If I remarry will I continue to receive the pension?

A. No. When you remarry your pension benefit will be terminated. If you do remarry and this marriage is terminated for any reason, you may re-apply for the pension.

Q. Does the eligibility assessment (MEANS) test apply to veterans 65 years or older?

A. VA eligibility assessment procedures apply to all nonservice-connected veterans regardless of age.

Q. I am over 65 years old and an ex-POW. I do not have any service-connected disabilities. I understand that due to my age, the VA will treat me for any condition and that I am eligible for a nonservice pension.

A. The VA will treat you for any condition based on your ex-POW status and not because of your age. P L. 99-272 repealed a provision in the Veterans Omnibus Health Care Act of 1970 that allowed veterans 65 or older to receive care from the VA regardless of age. You may be eligible for a nonservice pension based on income and other qualifications.

Q. I am receiving a nonservice pension from the VA under the Old Law. My health has deteriorated and I need the assistance of another person to help me with my daily needs. I believe that I may be eligible for Aid and Attendance benefits. If I apply, and my request is granted, will this benefit be added to my pension or will I receive a separate check?

A. To be considered for A&A benefit, you must establish eligibility under the "New Improved Pension Plan" and elect to receive a pension under P.L. 96-5 8, which may or may not be to your advantage. Before you make, a decision, we suggest you seek the advice of a NSO.

Q. When I went to the local VA hospital for treatment I was required to take the MEANS test. Are ex-POWs required to take this test? I was told we were exempt.

A. No. All veterans with service-connected disabilities, ex-POWs; veterans exposed to radiation or herbicides, and veterans of the Spanish-American War, the Mexican Border period, and WWI are exempt.

Q. Is it true that all veterans over 65 years of age are eligible for a pension from the government if they served during wartime?

A. No. A nonservice disability pension is based on need and not age. Veterans 65 or older are considered unemployable for pension purposes. To be eligible for a nonservice connected disability pension, the veteran must be a wartime veteran, disabled, and unable to obtain gainful employment and have a limited income.

Q. I would like to apply for a nonservice-connected pension. I receive SS benefits, and my wife is working part time. If I apply for a pension, what effect, if any, will my wife's income have on a pension?

A. Pension benefits are reduced dollar for dollar by all sources of income, including the income of a spouse. Effective Dec. 1, 1988, a veteran with one dependent could be eligible for a nonservice disability pension of \$705. If the veteran or spouse has any other income, the \$705 will be reduced by that amount. Example: the veteran receives \$200 from SS and his spouse has an income of \$150 per month and no other income, the \$705 would be reduced by \$350 per month. ($\$705 - \$350 = \355).

My husband is deceased, and I have been told that I may be eligible for a widow's pension. Please explain what a widow's pension is.

A. The VA is authorized by law to pay various amounts of death benefits to the surviving spouse and children of certain wartime veterans. There are several basic pension programs in force but the one that will affect anyone applying for a pension on or after Jan. 1, 1979, is the New Improved Pension Plan, P.L. 95-588.

Unless a veteran served during a wartime period, the surviving spouse or dependent children are not eligible for a pension. A wartime veteran is a veteran who served in the armed forces in WWII during the period from Dec. 7, 1941 through, Dec. 31, 1946; in the Korean Conflict during the period June 27, 1950, through Jan. 31, 1955; and during the Vietnam Era from Aug. 5, 1964 through, May 7, 1975. Any military, naval or air service that occurred between the wartime periods is considered peacetime service for VA pension purposes. The law (PL 95-588) provides a guaranteed income for eligible surviving spouses and dependent children. An eligible spouse or child is guaranteed a certain maximum amount of income per year. If their income is less than the maximum allowed by law, the VA will pay an amount to bring the total income up to the statutory limit. Effective Dec. 1, 1988, the maximum amount of pension per month for a surviving spouse with no dependents is \$361. This amount is reduced dollar for dollar by all other sources of countable income.

Q. Our son who is deceased was a veteran. My wife and I have a very limited pension income and we need help. Our daughter-in-law receives a small amount from the VA. Are we eligible for a pension as parents of a veteran?

A. No. Federal laws make no provisions for a pension to dependent parents, regardless of the fact that they were dependent upon the veteran for their livelihood.

Q. I was awarded a nonservice-connected disability pension. Attached to the award letter was a form to apply for vocational rehabilitation. I am 66 years old and in poor health. Did somebody goof as usual, or do I have to apply for rehabilitation?

A. No goof and because of your advanced age you are not required to apply. The VA has established two special training programs for disabled veterans. One is for veterans under 50 years of age and in receipt of a nonservice-connected disability pension awarded during the period Feb. 1, 1985 through Jan. 31, 1992. The other, for the same period of time, is to rehabilitate veterans awarded 100% service-connected disability compensation based on unemployability.

Veterans awarded a nonservice-connected disability pension may elect to participate in the vocational training program if found to be eligible. They may be eligible for up to 24 months (or more under certain circumstances) of vocational training to prepare for an enter employment. Under the program they may also receive up to 18 months of employment counseling, job search and work adjustment services. Veterans awarded nonservice-connected disability pension prior to February 1, 1985 ARE eligible for this special program.

Under the program every veteran UNDER the age of 50 at the time a pension is awarded must participate in an evaluation to determine their ability to benefit from vocational training and services. The VA will suspend the pension award of any veteran UNDER 50 years of age who fails to participate in the evaluation unless the veterans condition or other

circumstances beyond their control prevent years of age and participate in pension prior to completion of the evaluation. Veterans OVER 50 awarded a pension may apply for evaluation and vocational training and veterans of any age awarded February 1, 1985 may apply.

If the evaluation show the veteran could achieve a vocational goal and the veteran desires vocational training, the VA will assist them to develop a plan necessary to achieve their goal. Veterans in receipt of pension DO NOT have to take part in a training program even if one is developed. Refusal to participate in a program will not affect receipt of pension. A veteran will continue to receive pension during the period of training or employment services as long as they meet the requirements for nonservice-connected disability pension. Veterans who have begun participating in the program and subsequently lose their entitlement to pension may continue training unless their pension is terminated based on the findings of fraud or administrative error in award.

A veteran pension may be reduced any time work or training income exceeds the annual limit applicable to pension. If a veteran participates in vocational training under the program and their pension is terminated for excessive work or training income, they will continue to receive VA health care and retain their priority for treatment for 3 years from the date their pension is terminated for excessive work or training income, but only if the termination occurs during the special program period.

UNEMPLOYABILITY A veteran who has been granted 100% disability compensation based on unemployability may request an evaluation and may participate in a program of rehabilitation services and training. If they secure employment during the above period, their employability rating is protected from reduction until they have worked continuously for 12 months.

Q. I receive a nonservice-connected disability pension from the VA. When I die, will my wife continue to receive the amount added to my pension for her?

A. No. Your pension will be terminated upon your death. Your wife may be eligible for a widow's pension if she has limited income.

Q. If I die during the middle of a month, will my wife receive my pension check for that month?

A. She probably will, but the check should be returned to the VA. Cashing the check will create an overpayment.

Q. My husband died recently and I have two of his VA pension checks which I would like to use to pay part of his funeral expense. Is there any reason why I shouldn't?

A. Yes, the checks should be returned to the VA. Your husband's benefits were terminated the last day of the month preceding his death. Cashing the checks will result in an overpayment and you will be liable for the amount.

Q. My father is in very bad health and has a limited income of \$220 per month from SS. My brother and I pitch in a pay for any expenses he may have.

Due to his health the medical expenses are becoming more than we can afford. He will probably have to be admitted to a nursing home in the near future, which will be an added expense.

He served in the Army for 29 days during WWI and was honorably discharged on Nov. 15, 1918. He also served 81 days during WWII. I recently inquired if he was eligible for any veteran's benefits and was informed that to be eligible for a nonservice-connected disability pension he had to have 90 continuous days or more of active service during a wartime period. Is there any benefit which my father might be eligible for as a veteran with limited service during WWI and WWII?

A. Yes. What you were told about the 90 days of continuous service is correct. However, active duty during more than one wartime period may be combined to meet the 90-day requirement. Wartime periods for your father would be from April 1, 1917, to Nov. 11, 1918, and Dec. 7, 1941, to Dec. 31, 1946. A veteran who has service in more than one wartime period may receive benefits on wartime service that would be to their advantage. In other words, your father can declare himself a veteran of WWI and WWII.

Your father is probably eligible for a nonservice pension. He had 24 days of active service in WWI and 81 days in WWII, for a combined active service of 105 days. It would be to your father's advantage to declare himself a veteran of WWI. From your letter, I assume your mother is deceased. A veteran with no dependents, who is awarded a nonservice disability pension, receives \$538 per month (effective 12/1/88). WWI veterans receive an additional benefit of \$121 per month for a monthly total of \$659. In your father's case, the \$659 will be reduced by \$220 per month (SS) for a total of \$439. In addition, as a WWI veteran, the VA will treat your father for any disability. Effective Jan. 1, 1980, honorably discharged veterans of WWI are entitled to outpatient medical care at VA expense on the same basis as any other wartime veteran who is receiving VA pension with aid and attendance of housebound benefits.

In addition to a pension and medical treatment, your father may be eligible for A&A or housebound benefits. If awarded A&A benefits, monthly payments would be \$1,008, less amount of SS.

Q. I was a POW for over two years and I am 76 years old. I am in a wheelchair and confined to my home. My wife passed away several months ago and I live alone. I need someone to take care of me and I do not have the money to pay someone to stay with me 24 hours a day. My only income is from SS. I applied for a veteran's pension when I was 65 but was turned down because of excessive income. Is there any way I can obtain assistance from SS or the VA?

A. We don't know if you can obtain assistance from Social Security. Suggest that you contact the nearest SS office and discuss your problem with them. You can do this by telephone.

There are two veteran's benefits you may be eligible for: Aid and Attendance and housebound benefits. You cannot receive both and we need to know more before we can advise you on a course of action that you should take. With the information you gave us, we will try to explain the different benefits you may be eligible for.

The VA will treat ex-POWs for any disability, and if being seen as an outpatient, you are eligible for needed medicine, glasses, hearing aids or prostheses.

We don't know the monthly amount of your SS benefit but you may be eligible for a nonservice pension. Effective Dec. 1, 1988, the non- service pension rate for a single veteran with no dependents is \$6,463 annually, or \$538 per month. When your request for a pension was denied, it could have been because your income combined with your wife's exceeded the maximum, combined allowed at that time. If your present income is less than \$538 per month, you should re-apply for a nonservice-connected disability pension. If granted, the pension will be reduced dollar for dollar by all other sources of income. If you have large medical expenses for which you are not reimbursed, these will affect the amount of pension and you may be eligible for a pension even though your SS benefits exceed \$538 per month.

As stated, you may be eligible for A&A or housebound benefits. A wartime veteran, single and with no dependents, in need of A&A of another person, may be eligible for a monthly benefit of \$865, and if housebound, a monthly benefit of \$658. We don't know the amount of your SS benefit, therefore we can't determine the amount you would receive if either of the benefits is granted.

You may be eligible for what is called a "fee basis card." If this benefit is granted, you would be authorized to purchase needed medicines or pay doctor bills, no to exceed \$75 per month and the VA would reimburse you or pay bills submitted to them for payment.

You did not state what your disabilities are, but from your letter we assume they are nonservice-connected. This makes us wonder if you have ever taken the POW Protocol Physical Examination, or filed a claim for service-connected disability. It is unusual that a person who was a POW for over 2 years would not have a service- connected disability. If you have not taken the physical examination, we suggest that you request one. If you filed a claim for a service- connected disability in the past and your claim was denied, it may be to your advantage to reopen your claim and especially if the claim was for one of the presumptive diseases or disorders. If you filed and were denied compensation but were rated 0% service-connected disabled, you should consider reopening your claim.

If you reopen or file a claim and you are rated 10% or more service connected disabled, you will receive compensation plus your SS benefit. We wish we could be of more help but there are too many unknown factors. Suggest you contact a NSO and request advice. NSOs of all major veterans organizations are located at VA regional offices and large VA medical centers.

Q. Please explain the so-called New Improved Pension Plan. Effective Jan. 1, 1979, P.L. 95-588, the New Improved Pension Plan went into effect. All claims for nonservice-connected disability on or after Jan. 1, 1979, must be filed in accordance with P.L. 95-588. Pension may be payable to wartime veterans with honorable service, provided they are over 65 years of age or are shown to be permanently and totally disabled; and provided their annual income from all sources is within the limitations set by law.

To be eligible for pension, the veteran must have served on active duty during a wartime period of 90 days or more, or the 90 day period must have extended into or out of such period of service. The 90 day requirement is waived in the event of a veteran, with less than 90 days service, who was discharged because of a service

connected disability. A veteran 65 years of age or older is presumed by law to be disabled and is not required to submit medical proof of disability with their claim for pension. Veterans under 65 years of age must submit medical proof of disability with their claim. The fact that a veteran is receiving SS disability benefits is not considered proof for VA pension purposes.

For our purpose, wartime service is honorable service in military, naval or air service during the periods of:

WWII: December 7, 1941 through January 31, 1946

Korean Conflict: June 27, 1950 through January 31, 1955

Vietnam Era: August 5, 1964 through May 7, 1975.

Arty service that occurred between these periods or on or after May 8, 1975, would be considered peacetime service, and the veteran would not be eligible for pension.

Under the New Improved Pension Plan, a veteran who meets the service and disability requirements is guaranteed to have a certain amount of annual income. If the veteran's income from all other sources, including family income, is less than the statutory amount, the VA can pay an amount to bring their income up to the limit. If their income, including family income, is equal to or more than the statutory limit, the veteran is not entitled to a pension.

Effective Dec. 1, 1988, the Improved Pension Plan provides for the following annual and monthly rates of pension, reduced dollar for dollar of countable income of the veteran, spouse and dependent children. (Dollar amounts will change with cost-of-living increases as approved by Congress).

	Annual	Monthly
Single veteran	\$ 6,436	\$ 538
Veteran with one dependent	8,466	705
Veteran - A&A	10,338	865
Veteran - A&A, one dependent	12,341	1,028
Veteran - housebound	7,889	658
Veteran - housebound, one dependent	9,902	825
For each additional child add	9,902	825
For veterans of WWI and Mexican Border add		1,461

A&A may be paid when the veteran is a patient in a nursing home or requires the regular aid and attendance of another person. House-bound benefits are payable when the veteran is shown to be confined to their home or the immediate premises due to their disabilities.

The improved plan also contains a net worth provision which must be taken into consideration. Benefits can be denied or terminated if the estate is such it could be used by the veteran. When reporting income and net worth, the VA should be informed of the amounts for each claimant, such as veteran, spouse, and dependent children. Income and net worth involving joint accounts, community property, should be reported to the VA in accordance with ownership of each person.

PENSIONS FOR WIDOWS

If the spouse (male or female) of a deceased veteran is not eligible for DIC they may be eligible for a small pension from the VA. This pension is payable to an eligible spouse and dependent children based on need and income. Effective Dec. 1, 1988, the annual and monthly rates of pension, reduced dollar for dollar by countable income are:

	Annual	Monthly
Spouse	\$4,331	\$ 360
Spouse, with one dependent	5,674	472
Spouse - A&A	8,267	577
Spouse - A&A, one child	5,295	688
Spouse - housebound	6,635	441
Spouse - housebound, one child	9,902	544
For each additional child	1,098	

In order for survivors of wartime veterans to be eligible for pension, it must be shown that:

(a) the deceased veteran had 90 days or more of wartime service, unless discharged sooner because of a disability incurred in or aggravated by service,

(b) the discharge, separation or release from service must have been under conditions other than dishonorable,

(c) the spouse must have lived with the veteran continuously from date of marriage to date of death for at least one year unless the separation was caused through no fault of the spouse, or for any period of time if a child was born of the marriage or born to them before marriage.

(d) the spouse must provide evidence showing relationship to the veteran and must meet statutory income limitations.

The income of a dependent child shall be considered as the spouse's income to the extent that such income is reasonably available to or for the spouse. The law contains a provision that allows the VA to disregard a child's income if by counting it a hardship would be worked on the spouse. The following sources of income will not be counted by the VA when determining the entitlement of the spouse or child to pension under the law:

- 1) Donations from public or private relief or welfare organizations.
- 2) Amounts equal to amounts paid by the spouse or child for veteran's just debts and un-reimbursed expenses of the veteran's last illness and funeral.
- 3) Amounts equal to amounts paid by the spouse for the last illness and burial expense of veteran's child.
- 4) Fire insurance policy proceeds.
- 5) Profit from sale of real or personal property other than in the course of business.
- 6) Amounts in joint accounts acquired by reason of the death of the co-owner.
- 7) Amounts paid by the spouse for educational expenses involved in a course of approved training or education, including tuition, fees, books, supplies, and unusual transportation if spouse is entitled to A&A allowance.
- 8) Un-reimbursed medical expenses to the extent they exceed 5% of the maximum annual rate that would be applicable based on the number of family members for whom pension is payable. The additional amount for A&A will not be added in determining the 5%.
- 9) The earned income of any child would be excluded up to the amount which would require the child to file a federal income tax return. If a child is pursuing a post-secondary course of education or training, there may be excluded from the child's income the cost of such education.

In determining eligibility the VA also considers whether the spouse owns any substantial property in their own right. The VA considers property of all kinds, as distinguished from income, which the spouse inherits from the veteran or owns themselves. An important consideration is whether the spouse's holdings in their own right or in property which is not income producing during the year could, if properly invested, provide an income for the spouse. There are two sets rules: the spouse's circumstances, including age, the number of persons dependent on the spouse for support, their health, etc., all have a bearing. It is impossible for a spouse with property worth several thousands of dollars to have their right to a pension denied because of income producing property.

As with all veteran's benefits, the spouse must apply using forms prescribed by the VA. If the spouse is eligible for a pension and becomes so disabled as to need the A&A of another person, or because of disabilities becomes housebound, there are additional amounts the VA may pay to help defray costs.

Each year the spouse will be required to complete and file an income questionnaire (EVR). The VA mails these forms, depending on the type of benefits, at different times during the year and well in advance of the due date. Failure to submit the completed form by the date required will result in termination of the pension.

If the spouse remarries the pension will be terminated. In the event the remarriage is terminated by divorce or death, the spouse may reapply for the pension. If the marriage terminates in death and it is to their advantage to apply for benefits from the latest spouse, they may do so. EXAMPLE: if a spouse remarries a veteran who dies of a service-connected cause, it would be to their advantage to apply for DIC instead of a pension. A spouse is the female or male survivor of a veteran and as such may apply for veteran's benefits. The male spouse, the same as the female spouse, does not have to be a veteran to be eligible for veteran's benefits.

Q. I was a POW for a short time and do not have any service-connected disabilities. However, I have had a heart attack and bypass surgery and am unable to work. The only income I have is from SS which is \$390 per month. Am I eligible for any benefits from the VA?

A. If you were a POW for 30 days or more, you should file a claim for service connected disability if you suffer from any of the presumptive diseases. As a former POW you will be treated by the VA for any condition, service- or nonservice-connected. You may be eligible for a nonservice connected disability pension. Pension is based on need and a single veteran may be eligible for a monthly disability pension of \$498 and \$650 if married. The pension is reduced dollar for dollar by all sources of income of the veteran or spouse. If you are single and have no other income except SS of \$390, you may be eligible for a VA disability pension of \$107 per month.

Q. I receive SS payments and a nonservice-connected disability pension from the VA. I have an offer for work part-time. The job doesn't pay much, but I need the money. I know that I am allowed to make about \$8,000 a year before my SS payments are affected. How much can I earn before my earnings affect my nonservice pension?

A. How much can you earn before it affects your nonservice-connected pension? Not one red cent. A nonservice-connected pension is based on need and income. A nonservice pension is reduced dollar for dollar from all other sources of accountable income. You must report to the VA any change in your income. If there is an increase in income, your pension will be reduced by a like amount.

Q. My only income is my nonservice-connected disability pension I receive each month from the VA. I have large medical bills and the amount that I receive is not enough to pay all of my monthly bills. I need help. Does the VA have a program to help needy veterans to pay their bills for food, utilities, rent, etc?

A. No. The VA does not have the funds necessary to help veterans in need with their bills. You state you are receiving a pension and have large medical bills. This leads us to believe that you are being treated by private physicians. Why? Do you live within 20 miles of a VA Medical Center? Veterans receiving a pension are eligible for treatment at VA Medical Facilities and the treatment is free. Are you reporting your medical expenses including health insurance at the end of the year on your EVR? If not you should and you should keep copies of all medical bills that you have paid and have not been reimbursed for.

Q. I receive a small VA pension check twice a year. I would like to receive the amount I am due monthly. Is this possible?

A. Yes, as of March 14, 1988, recipients of improved pension who receive periodic payment (quarterly, semiannually or annually) may elect to receive payment on a monthly basis.

Q. My husband receives a nonservice-connected disability pension from the VA. He is in a nursing home with Alzheimer's disease and is unable to endorse his checks because of his illness. May I endorse his checks?

A. No. Your husband's physician should provide you with a written statement of your husband's physical and mental condition, specifically addressing his ability to manage his affairs. Submit the statement to the VARO together with your request that you be appointed as your husband's fiduciary. The VARO will then make a determination regarding the management of your husband's affairs.

Q. I am a single veteran and receive a pension from the VA. I was recently convicted of a misdemeanor and sent to prison. What effect will this have on my VA pension?

A. Your VA pension will be discontinued beginning 61 days after imprisonment, but benefits can be reinstated when you are released.

Q. I am receiving a pension under the old protect pension plan. I have become totally disabled, and I am a patient in a nursing home. I would like to apply for A&A benefits. I have been told that in order to receive this benefit I must change from the protect plan to the new improved plan. Do I have to?

A. To be eligible for A&A you must qualify under the new improved pension law, P.L. 95-588. The election to change plans should only be made if it is to your benefit. Before making the election you should request the advice of a NSO.

Q. I am receiving a nonservice-connected disability pension. Can I receive these benefits and collect Social Security Payments?

A. Yes. You may collect SS and VA pension payments as long as you remain within the appropriate income limitations.

Q. I am rated 10% service-connected disabled for gunshot wounds in the lower right leg. I requested re-evaluation of my disability hoping for an increase in my disability rating. I was examined by the VA, but did not receive an increase in rating. The only income my wife and I have is \$310 a month from SS and my VA compensation. We can't live on \$381 a month and depend on our son for support. He is married and assisting us is creating a hardship for his family. Is there any way to have my compensation payments increased?

A. Offhand we don't know of any way unless you can furnish medical evidence that your disability has become worse. However, you may be eligible for a nonservice disability pension. We assume that you are over 65 years of age and the only income that you and your wife have is \$310 from SS and \$71 per month from the VA. If our assumption is correct, you should reapply for the nonservice-connected disability pension for a Veteran. With one dependent the pension is \$678 per month (1989) reduced dollar for dollar from all other sources of accountable income. If you are granted a nonservice pension, you should receive \$297 per month ($\$678 - \$381 = \297) which is greater than the \$71 per month you are now receiving. The granting of a pension will not affect your service-connected disability rating. You will receive the greater amount. You can't receive both.

Q. I am over 65 years of age. I am thinking about applying for my Wartime pension, but I am not sure it is worth the time and effort. If I do apply, how much can I expect to receive each month? I really don't need the extra income, but it would be nice to put a little aside for my Grandson's education.

A. It is good that you are thinking about applying and don't need the extra money. The monthly amount of the "Veterans Pension" is a great big double O. For some reason, many veterans believe that when they become 65 years of age, they are eligible for a government pension. "No way Jose," there ain't no such animal as a "Wartime Pension." A wartime veteran, regardless of age, may be eligible for a nonservice-connected pension if they become permanently and totally disabled. The nonservice pension is based on need and income. At present, (1989), the monthly amount of a nonservice pension for a single veteran with no dependents is \$517, reduced dollar for dollar from all other sources of accountable income. Veterans over 65 years of age are considered unemployable, and those with a limited income may be eligible for a nonservice connected pension if they otherwise qualify.

Q. My father, a WWI veteran, recently passed away. At the time of his death he was receiving a non-service pension and an allowance for my 70 year old sister who was living with him. Shortly after his death, the VA terminated his pension and the allowance for my sister. My sister has been disabled since birth and my mother and father took care of her. She had a very limited income which is not enough to pay for her support and family members contributed what they could to pay for her daily needs. Is it possible to have her allowance reinstated?

A. Maybe. You didn't furnish enough information for us to give you a definite answer. When your father died did anyone apply for a pension for your sister as a dependent child? Veterans benefits are not automatic and must be applied for on forms proscribed by the VA. Your sister is considered a dependent child if she became permanently incapable before reaching the age of 18 and may, if qualified, be eligible for a pension as long as the condition exists or if she marries. A pension is based on need and the present rate for a dependent is \$91 per month. If her income exceeds this amount, she would not be eligible for a pension.

We suggest that you contact a Service Officer and request assistance. Sorry that we couldn't give you a better answer but you didn't give us enough information.

Q. Several times during the past two years my VA check has been 4 to 10 days late and one was lost or stolen. Each time a check has been late I have called the VA and they always claim it was mailed to arrive not later than the 1st of the month. My mailman claims they make a special effort to deliver checks but sometimes they receive them several days late. I find this hard to believe. My SS check is never late. What can I do to make sure I receive my VA check on time and will the VA replace the check that was lost or stolen? Complaining to the Post Office is a waste of time.

A. Don't blame the Post Office or the VA. Blame yourself. We urge anyone who receives U.S. government checks, (VA, SS or Retirement) on a regular basis to have the checks sent directly to their bank (direct deposit). Direct Deposit guarantees checks will be deposited in the individual's account on the due date and there is no danger the check will be lost or stolen.

The Treasury Department will replace lost or stolen checks. This is a long drawn out process and takes months. The Treasury Department considers a check negotiated (cashed) when it is submitted for payment regardless whether the payee (you) endorsed the check or someone forged their signature. If the VA check is not received within ten days after the normal receipt date of the check, a claim for non-receipt should be initiated by contacting the VARO where the veteran's file is maintained. The VA will issue a "Lost Check Letter" to the veteran to be completed and returned to the Treasury Department. If the check has been negotiated the Treasury Department will mail the veteran a photostatic copy of the check and a claim form. If the veteran advises the Treasury Department the signature is not theirs, an investigation will be conducted by the Treasury that must be completed before a substitute check will be issued.

Use "Direct Deposit." It's better to be safe than sorry.

Philippine & Guerrilla Service

Q. I served in the Philippine Army during WWII. I am now disabled from a nonservice-connected cause. I am now an American citizen. Am I eligible for a disability pension?

A. In reply to our inquiry on this subject, we received the following answer from the office of General Counsel, Washington, D.C.

"Former Commonwealth Army members are eligible for a limited array of VA benefits as a result of military service with the United States Armed Forces in the Far East during WWII. Section 107(a), title 38, United States Code, delineates the limited benefits; service-connected disability compensation, National Service Life Insurance coverage, provided the policy was issued prior to February 18, 1946, and benefits under the Missing Persons Act. In addition, their survivors are eligible for death compensation, burial/funeral allowance, plot allowance, and burial flag.

Q. What is the difference between the Old Philippine Scouts, New Philippine Scouts, Commonwealth Philippine Army, and Guerrilla service, and what benefits, if any, are they entitled to?

A. To answer these questions, we had to refer to the Code of Federal Regulations 38 and Title 38 U.S.C.

Title 38, U.S.C., Section 107, Certain Service deemed not active service:

(a) Service before July 1, 1946, in the organized forces of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, SHALL NOT be deemed to have been active military, naval, or air service for the purpose of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the services of any other person in the Armed Forces, except benefits under--

(1) Contracts of National Service Life Insurance entered into before February 18, 1946:

(2) Chapter 10 of title 37, and

(3) Chapter 11,13, (except section 412(a)), and 23 of this title Payment under such chapters shall be made at a rate in pesos as is equivalent to \$0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate in Philippine pesos as is equivalent to \$0.50 for each dollar. Any payments made before Feb. 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstances that this service was not service in the Armed Forces or any component thereof within the meaning of any such war.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 SHALL NOT be deemed to have been active military, naval, or air service for the purpose of any laws administered by the VA except--

(1) with respect to contracts of National Service Life Insurance entered into (A) between May 27, 1946. (B) under section 620 and 621 of the National Service Life Act of 1940, or (C) under section 722 of this title; and

(2) chapters 11 and 13 (except section 412(a) of this title).

Payments under such chapters shall be made at a rate in pesos as is equivalent to \$0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at the rate in Philippine pesos as is equivalent to \$0.50 for each dollar.

Code of Federal Regulations 3.8 Philippine and Insular Forces.

(a) Regular Philippine Scouts. Service in the Philippine Scouts (except that described in paragraph (b) of this section), the Insular Force of the Navy, Samoan Native Guard, and the Samoan Native Band of the Navy is included for pension, compensation, dependency and indemnity compensation, and burial allowance. Benefits are payable in dollars.

(b) Other Philippine Scouts. Service of persons enlisted under section 14, P.L. 190, 79th Congress (Act of Oct. 6, 1945), is included for compensation and dependency and indemnity compensation. Such benefits are payable at a rate in Philippine pesos equivalent to \$0.50 for each dollar authorized under the law. All enlistments and reenlistments of Philippine Scouts in the Regular Army between Oct. 6, 1945 and June 30, 1947, inclusive, were made under the provisions of P.L. 190 as it constituted the sole authority for such enlistment during that period. This paragraph does not apply to officers who were commissioned in connection with the administration of P.L. 190 (s8 U.S.C. commissioned in connection with the administration of P.L. 190 {38 U.S.C. 170, P.L. 89-64).

(c) Commonwealth Army of the Philippines.

(1) Service is included for compensation, dependency and indemnity compensation, and burial allowance, from and after the dates and hours respectively, when they are called into service of the Armed Forces of the United States by orders issued from time to time by the General Officer, U.S. Army, pursuant to the Military Order of the President of the United States dated July 26, 1941. Service as a guerrilla under circumstances outlined in paragraph (d) of this section is also included. Benefits are payable at the rate in Philippine pesos equivalent to \$0.50 for each dollar authorized under the law {38 U.S.C. 107, P.L. 89-641).

(2) Unless the records show examination at the time of entrance into the Armed Force of the United States, such persons ARE NOT entitled to the presumption of soundness. This also applies, upon reentering the Armed Forces after a period of inactive service.

(d) Guerrilla service. (1) Persons who served as guerrillas under a commissioned officer of the United States Army, Navy, or Marine Corps, or under a commissioned officer of the Commonwealth Army recognized by and cooperating with the U.S. Forces are included. (See paragraph (c) of this section). Service as a guerrilla by a member of the Philippine Scouts or the Armed Forces of the United States is considered as service in his regular status (See paragraph (c) of this section). (2) The following certifications by the service departments will be accepted as establishing guerrilla service:

(i) Recognized guerrilla service:

(ii) Unrecognized guerrilla service under a recognized commissioned officer only if the person was a former member of the United States Armed

Forces (including the Philippine Scouts), or the Commonwealth Army. This excludes civilians.

A certification of "Anti-Japanese Activity" will not be accepted as establishing guerrilla service.

{e) Combined Service. Where a veteran who had Commonwealth Army or guerrilla service and also had other service, wartime or peace-time, in the Armed Forces of the United States has disabilities which are compensable separately on a dollar and pesos basis, and the disabilities are combined under the authority contained in 38 U.S.C. 357, the evaluation for which dollars are payable will be first considered and the difference between this evaluation and the combined evaluation will be the basis for computing the amount payable in pesos.

3.9. Philippine service.

(a) For a Regular Philippine Scout or a member of one of the regular components of the Philippine Commonwealth Army while serving with the Armed Forces of the United States, the period of active service will be from date certified by the Armed Forces as the date of enlistment or date of report for active duty, whichever, is later, to date of release from active duty, discharge, death, or in the case of a member of the Philippine Commonwealth Army, June 30, 1946, whichever is earlier. Release from active duty includes:

(1) Leaving one's organization in anticipation of or due to the capitulation.

(2) Escape from prisoner of war status.

(3) Paroled by the Japanese.

(4) Beginning of missing-in-action status, except where factually shown at that time he was with his unit or death is presumed to have occurred while carried in such status: Provided however, that where there is credible evidence that he was alive after the commencement of his missing-in-action status, the presumption of death will not apply for VA purposes.

(5) Capitulation on May 6, 1942, except that periods of recognized guerrilla service or unrecognized guerrilla service under a recognized commissioned officer or periods of service in units which continued organized resistance against Japanese prior to the formal capitulation will be considered returned to active duty.

(b) Active Service of the Regular Philippine Scout or a member of the Philippine Commonwealth Army served with the Armed Forces of the United States will include a 11 prisoner-of-war 1 status immediately following a period of active duty, or a period of recognized guerrilla service or unrecognized guerrilla service under a recognized commissioned officer. In those cases where following release from active duty as set forth in paragraph (a) of this section, the veteran is factually found by the VA to have been injured or killed by the Japanese because of anti-Japanese activities or his former service in the Armed Forces of the United States, such injury or death may be held to have been incurred in the active service for VA Purposes. Determine shall be based on all available evidence, including service department reports, and consideration shall be given to the character and length of the veteran's former active service in the Armed Forces of the United States.

(b) A prisoner-of-war status based upon arrest during general zonification will not be sufficient of itself to bring a case within the definition of return to military control.

The active service of members of the irregular forces "guerrilla" will be the period certified by the service department.

Q. What veterans benefits are available to former POWs who served with the Philippine Scouts of the Philippine Army during WWII?

A. In response to our inquiry we received the following reply from the Office of General Counsel, Washington, D.C.:

"Because service in the Regular Philippine Scouts during WWII constituted service in the United States Armed Forces, such former Scouts are eligible for the same benefits as American veterans. Such individuals, also known as "old" Philippine Scouts to distinguish them from post-1945 11 new 1 Philippine Scouts, were members of a component of the regular United States Army. If this follows that those old Scouts who were interned as POWs are on equal footing as American ex-POWs for purposes of VA benefits.

On the other hand, by virtue of 38 U.S.C., 107, eligibility for VA benefits is restricted in the case of those persons, including ex-POWs who served in the Philippine Army while it was in the service of the United States Armed Forces during the war pursuant to a military order of the President. Such individuals are regarded as having served with, but not in, the American military establishment. Essentially, VA benefits for the Philippine veterans are limited to the following: compensation for service-connected disability or death (under 38 U.S.C. Ch.11); DIC for service-connected deaths (38 U.S.C. Ch. 13), burial benefits (under 30 U.S.C. Ch. 23); and benefits under pre-1946 insurance contracts (pursuant to National Life Ins. Act of 1940). In respect to those enumerated types of benefits, Filipino ex-POWs are similarly situated with American ex-POWs. Statutes making special provision for former POWs (e.g., 38 U.S.C. 312(b) apply to both groups).

NOTES