
COMPENSATION



Chapter III.—COMPENSATION

This chapter contains the provisions of the existing law providing disability compensation benefits for World War veterans who were injured or contracted disease in the military service, or suffered an aggravation of a previously existing disability as a result of such service, and death compensation for the dependents of those veterans who lost their lives in the service or died as a result of injuries or disease therein incurred.

Soon after the entry of the United States into the World War, Members of Congress and public spirited citizens who had made a study of workmen's compensation legislation and the subject of veterans' relief, met in conference for the purpose of devising a system of governmental relief of proper proportions which would reflect an intelligent appreciation of the problem, in keeping with the modern attitude and modern conditions.

The program consisted of allotments and allowances; disability compensation, both for temporary and permanent disabilities; death compensation; medical care and treatment; and a system of Government insurance. This program represented a well balanced, well-thought-out concept of the Government's obligations to its military forces, the measures being modern and adjusted to present-day conditions. The same necessity was experienced by all other governments engaged in the World War; with the outbreak of the World War these governments found themselves confronted with an antiquated system of pensions, and all of them had to devise a modern program of relief.

The plan finally agreed upon and enacted into law provided that payments of disability compensation should be based upon the reduction in earning capacity resulting from the disability, ratings to be based upon the average reduction in earning capacity resulting from such injuries in civil occupations, and not upon the impairment of earning capacity in each individual case, so that there would be no reduction in the rate of compensation for individual success in overcoming the handicap of a permanent injury.

This system is in contrast to that which prevailed in the United States prior to the World War whereby pensions were granted not only to veterans who had suffered disease or injury as a result of war service but also to disabled veterans merely because of the fact that they had served in the armed forces during time of war. The framers of the law upon which the present World War Veterans' Act is based were strongly of the opinion that the old pension laws were unsuitable. They proceeded on the theory that monetary benefits should be provided only for those persons, honorably discharged from service in the World War who had suffered a disability which interfered with their capacity to pursue a gainful occupation. This monetary benefit was termed "disability compensation," a departure in name and intent from "pension." The pension laws provided for the prorating of the maximum allowances according to the degree of disability and did not take into account the reduction in earning capacity in civil occupations but simply the curtailing of the ability of the individual. Under the new scheme no provision was made for disabled persons whose disabilities were not incident to military service.

The legislators went one step further and included a provision for the "rehabilitation" of disabled, honorably discharged service men whereby a veteran who found himself at the conclusion of hostilities unable to resume his pre-war occupation would receive, at the hands of the Government, vocational training to equip him to pursue a new line of endeavor in which his physical handicap would not be a bar. Thousands of veterans were rehabilitated under this plan and placed in gainful employment. This training, being temporary in nature, was discontinued in 1927. Because of the termination of these activities the laws which governed them have been omitted from this work.

At the time the original War Risk Insurance Act was passed, it was assumed that only men capable of passing the regular Army and Navy physical examinations would be enrolled for service; in other words, it was assumed that all men entering the military or naval service would be physically and mentally sound. Because of the necessity of enlarging the armed forces as rapidly as possible, physical examinations were hurried and, in many instances, incomplete. As a consequence men were taken into the service with physical and mental defects. The changed life and rigors of service, whether of an active fighting nature or simple employment in and around the military establishment, in many cases, aggravated these defects so that upon discharge these veterans were in need of financial relief and medical treatment. Congress, therefore, amended the law on June 25, 1918 (40 Stat. 609), so as to provide that all would be held and taken to have been in sound condition when examined, accepted, and enrolled for service. The broad effect of this language, on the strength of which men who came into service with amputations and other patent disabilities sought to secure

compensation even when the infirmities were noted on the service record, led to a further amendment on August 9, 1921 (42 Stat. 147, section 200), excepting from the presumption defects, disorders, or infirmities made of record by the military authorities at time of or prior to inception of active service.

The requirement that the disability must have been incurred or aggravated "in line of duty," the same as in disability pension laws, was continued until the enactment of the World War Veterans' Act on June 7, 1924, when it was eliminated, and there was substituted therefor language which obviated the necessity of a finding of "line of duty," requiring only that the disease or injury be contracted in the active military or naval service. The injustices worked by the requirement of "active service" in the case of drafted men who were disabled or died after reporting but prior to acceptance and enrollment by the military authorities, were specifically guarded against by the enactment of the amendment of December 24, 1919 (41 Stat. 371), which brought such cases within the terms of the law.

The enactment of the World War Veterans' Act in 1924 brought a new element into play in the rating of disabilities, it being required that ratings be based as far as practicable upon average impairment of the earning capacity resulting from injuries in civil occupations similar to the occupation of the injured man at the time of enlistment. An entirely new schedule of disability ratings was established based upon the experience of foreign governments, insurance companies, the various States having workmen's compensation acts, etc. In some cases this new schedule of disability ratings increased and in others decreased the amount of disability compensation payable, depending upon the pre-war occupation of the veteran. Otherwise, the original theory of the War Risk Insurance Act has remained unchanged in so far as provision for disability compensation is concerned. Actually, however, there have been marked departures, first by the inclusion of the so-called presumption of service origin for certain specified diseases, and second, by the provision for disability allowance for disabilities not the result of military service.

The presumptive service connections have their origin in the amendment of August 9, 1921 (42 Stat. 147), which, in an effort to bring within the law those veterans who were suffering with pulmonary tuberculosis and neuropsychiatric diseases, who could not product sufficient evidence to show direct service connection, provided that if they could show that they suffered from these diseases to an extent of 10% disability within two years after separation from the service, they should be considered to have acquired the disease in service. This presumption was later extended by the amendment of June 7, 1924, so that veterans with certain diseases which developed to a disability of 10% degree or more prior to January 1, 1925, are presumed to have incurred the disease in the military or naval service.

The disability allowance provisions were enacted by the amendatory act of July 3, 1930 (46 Stat. 995). This measure constitutes a departure from the theory upon which the original World War veterans' relief legislation was based in that it affords monetary benefits to veterans whose disabilities are not the result of service in the World War. Because of the fact that disability allowance is foreign to disability compensation it forms no part of this chapter but is treated separately, and will be found in the chapter entitled "Disability Allowance."

This brief statement of the basic theory upon which the provisions of law relating to disability compensation are based is included with the hope that it may form a background for the more intelligent understanding of the chapter.

Parallel reference table of statutes in chapter entitled Compensation

Sections or parts of sections of W V A as amended, used in this chapter	U. S. C.		This compilation, section	Sections or parts of sections of W V A as amended, used in this chapter	U. S. C.		This compilation, section
	Title	Section			Title	Section	
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¹ WRIA as amended.