

CHIEF OF STAFF ARMY RETIREE COUNCIL ISSUE

MACOM: USAREUR

INSTALLATION: USAREUR

SUBJECT: DIC-SBP Offset

DISCUSSION: Existing law requires that military Survivor Benefit Plan (SBP) payments from the Defense Finance and Accounting Service (DFAS) to a surviving spouse be offset, on a dollar-for-dollar basis, by the amount of any benefits the spouse receives from the Department of Veterans Affairs (DVA) Dependency Indemnity Compensation (DIC) program.

Effective 01 Jan 93, a uniform benefit for survivors was enacted. Under this new law, the basic amount of the monthly DIC benefit – effective 01 Dec 04 – is **\$993**. Certain circumstances entitle a surviving spouse to additional DIC benefits: namely,

- For each dependent child under age 18, add **\$247**;
- For a surviving spouse who qualifies for "aid and assistance," add **\$247**;
- For a surviving spouse who is "housebound," add **\$118**; and
- For a surviving spouse whose retiree had a 100% DVA disability rating for a continuous period of at least 8 years prior to death – and the surviving spouse was married to the retiree for those same 8 years – add **\$213**.

If a retiree died prior to 01 Jan 93, the DIC benefit for the surviving spouse is based upon the retiree's rank. Under this prior law, the factors set forth above – and some other very limited circumstances – entitle the surviving spouse to additional DIC benefits.

A pro-rated share of SBP premiums is refunded to the surviving spouse in a lump sum. The government, however, does not pay the surviving spouse any interest on the refunded amount.

SBP payments from DFAS are taxable, while DIC benefits from DVA are nontaxable. The net result is that if a surviving spouse has enough other taxable income, she will end up with more "after-tax" income as a result of the DIC-for-SBP substitution.

The Military Officers Association of America reports that there are approximately 31,000 widows/widowers affected by the existing offset.

SBP is purchased by the retiree based upon his or her military career and is intended to provide a portion of retired pay to the surviving spouse.

DIC benefits constitute special compensation to a surviving spouse whose retiree's death was caused directly by the soldier's military service. In principle, DIC benefits are a government indemnity payment for causing:

- The premature loss of the retiree's life; and
- The reduced earning capacity of the retiree resulting from both disabilities and premature demise.

Further, the existing law has created an inequity when compared to the treatment of a surviving spouse of a Federal civil servant – who also was a service-disabled retiree or veteran – who enrolled in a civil service SBP. A surviving spouse of such a retired civil servant does not lose any civilian SBP payments when receiving DIC benefits: that is, there is no DIC offset to civil-service SBP payments.

The existing law should be repealed because SBP payments and DIC benefits are paid for different reasons.

APPROVED BY INSTALLATION RETIREE COUNCIL CHAIR: COL Robert A. Mentell, United States Army, Retired.