



Gold Star Wives of America, Inc
200 N. Glebe Road, Suite 425
Arlington, VA 22203
(703) 351-6246

**Statement
of
Gold Star Wives of America, Inc.**

**For the
Senate and House Committees on
Veterans Affairs
Hearing**

March 6, 2013

**Presented by
Vivianne Cisneros Wersel, Au.D.
Gold Star Wives of America, Inc.
Government Relations Committee**

“With malice toward none; with charity for all; with firmness in the right, as God gives us to see right, let us strive to finish the work we are in; to bind up the nation’s wounds, to care for him who has borne the battle, his widow and his orphan.”

...President Abraham Lincoln, Second Inaugural Address, March 4, 1865

Not for publication
until released by
the committee

Distinguished Chairmen and Members of the Senate and House Committees on Veterans Affairs, Gold Star Wives of America, Inc. is grateful for the privilege of testifying on issues pertaining to surviving spouses of our Nation's veterans.

Gold Star Wives of America (GSW), founded in 1945 and Congressionally Chartered in 1980, is an organization of surviving spouses of veterans who died while serving on active duty or died of a service-connected cause. Current members are survivors of military members who served during World War II, the Korean War, the Vietnam War, the Gulf War, the conflicts in both Iraq and Afghanistan, and every period in between. GSW is an all-volunteer organization encompassing approximately 8,500 members.

GSW's primary mission is to support survivors after the death of their spouse and provide a place for them to connect with each other. GSW also provides information about survivor benefits and assists survivors in obtaining these benefits. We strive to raise the awareness of Congress, the public, the veterans' community and the military community to the many inequities existing in survivor benefit programs.

Dependency and Indemnity Compensation (DIC)

DIC was established in 1956 by the Servicemen's and Veterans' Survivor Benefit Act. DIC is an indemnity payable to survivors of military service members and veterans who die on active duty or die from a service connected cause.

According to the fiscal year 2012 VA Office of Survivors Annual Report¹, 338,595 surviving spouses receive DIC. There are two types of DIC for surviving spouses² - rank-based DIC and flat rate DIC which was implemented in 1993. Flat rate DIC is \$1215 per month for calendar year 2013. The base dollar value of flat rate DIC was set in 1993 and has been increased only by cost of living allowances (COLA) since that time.

Flat rate DIC is currently 43 percent of the VA Disability Compensation received by veterans rated with a 100% disability. The Civil Service Retirement System and the military retirement system survivor programs provide 55 percent of the retirement pay of a CSRS employee or deceased military service member to the surviving spouse.

The current VA compensation rate for a VA rated 100% disabled veteran is \$2816. If flat rate DIC were calculated at 55% of \$2816, flat rate DIC would be **\$1548** which would be an increase of \$333 per month.

Elimination of the Dependency and Indemnity Compensation (DIC) Offset to the Survivor Benefit Plan (SBP)

GSW would like to thank Representative Joe Wilson (SC-2) for introducing H.R. 32, the Military Surviving Spouses Equity Act, to eliminate the DIC offset to SBP. We'd also like to thank the members of these committees who have co-sponsored this legislation.

If a surviving spouse is eligible to receive both SBP and DIC, SBP is reduced dollar-for-dollar by the amount of DIC the surviving spouse receives despite the fact that SBP and DIC are different benefit programs for different purposes, by different government departments. DIC is indemnity compensation for the early death of a military or veteran spouse due to a service connected cause. SBP is an earned and purchased annuity based on a percentage of the military service member's retirement pay intended to provide the surviving

¹ <http://www.va.gov/SURVIVORS/OUTREACH.asp>

² http://www.benefits.va.gov/COMPENSATION/resources_comp03.asp#BM01

spouse with income after the death of the service member. The DIC offset to SBP needs to be repealed.

Only surviving spouses of active duty or retired military service members suffer the DIC offset to SBP. Surviving children do not suffer this offset. Surviving spouses of Federal employees do not suffer this offset.

According to a report from the Department of Defense Office of the Actuary, as of September 30, 2012, there were 59,241 surviving spouses subject to the DIC offset to SBP. Of those 59,241 surviving spouses 35,124 are fully offset and receive DIC and no SBP and 24,117 receive some SBP in addition to DIC.

SBP³ pays an annuity to surviving spouses of retired military service members who purchased SBP at retirement, surviving spouses of military service members who died on active duty and were retirement eligible when they died, and surviving spouses of military service members who died on active duty post 9-11. Unless the retired service member chooses a lesser amount, surviving spouses receive 55% of the service members retirement pay or 55% of what the service member's retirement pay would have been had he lived long enough to retire.

Military retirement pay is deferred compensation,⁴ i.e., when the service member was on active duty he or she accepted less pay in exchange for retirement pay. If the service member chooses to purchase the full amount of SBP, premiums for SBP are 6.5% of the retired service member's retirement pay.

Surviving spouses of retired service members who purchased SBP and who are also entitled to DIC receive an actuarially calculated partial refund of the SBP premiums the military spouse paid; the Government retains part of the premiums to pay for the reduced amount of SBP the surviving spouse receives. This partial refund is made without interest despite the fact that the Government may have had the use of the premiums for many years. The partial refund is repaid as a lump sum and the surviving spouse must pay income taxes on this lump sum in the year it is received.

As you will see in the videos done by Jeanette Pavini for USA Today, many service members and many surviving spouses are unaware that their SBP will be offset by DIC.⁵

We are most grateful for the Special Survivor Indemnity Allowance (SSIA) which Congress provided to those who suffer the DIC offset to SBP. As it is now this SSIA simply goes away at the end of FY 2017. SSIA, although a partial and temporary measure, is not a substitute for complete removal of the offset.

The Veterans Disability Benefit Commission (VDBC) recommended in 2007 that surviving spouses of military service members be allowed concurrent receipt of full SBP and full DIC.⁶

Surviving spouses who assigned SBP to their children need to be allowed to reselect the SBP for themselves. Children receive the full amount of SBP without offset. Recent surviving spouses of those who died on active duty were allowed and encouraged to assign their SBP benefit to the children. Many of these surviving

³ <http://www.dfas.mil/retiredmilitary/provide/sbp.html>

⁴ <http://militarypay.defense.gov/reports/QRMC/> 11th Quadrennial Review of Military Compensation, Chapter 2, Page 20, Deferred Compensation

⁵ <http://usatoday30.usatoday.com/video/military-widows-must-remarry-to-receive-full-benefits-part-1/1959407678001>
<http://www.usatoday.com/media/cinematic/video/1695729/>

⁶ VDBC Report, October 2007, Executive Summary, Allow Concurrent Receipt
Honoring the Call to Duty: Veterans' Disability Benefits - U.S. Senate

spouses made the decision to assign the SBP to the children without appropriate explanation or counseling. These surviving spouses assigned the SBP to the children without realizing that the children would only receive SBP until they reached the age of majority and that the surviving spouse would lose SBP for life.

All eligible surviving spouses should receive full DIC and SBP whether or not they choose to remarry. The law currently states that surviving spouses may remarry after the age of 57 and receive full SBP without the DIC offset. This provision, that surviving spouses must find another mate and remarry to receive benefits that the deceased military spouse earned and/or purchased, is offensive not only to the survivor, but also to the deceased military member who wanted to provide for his or her family.

Surviving spouses of retired military service members who remarry at or after the age of 57 must repay the partial refund of premiums they received at the time of their spouse's death. If they cannot repay the partial refund in one lump sum, the Government charges interest on the unpaid balance. Since only the most recent 3 years of income tax returns may be amended, most of those who repay the partial refund of premiums cannot reclaim the income taxes they paid on the lump sum refund of premiums.

Education Benefits

The cost of a college education has increased substantially in recent years. The price of tuition, books, fees and living expenses is significantly more than in past years.

The Chapter 35 education benefit of approximately \$987⁷ per month for a full-time college student does not come close to covering the cost of tuition, books, fees and living expenses. Surviving children using Chapter 35 benefits to attend college receive no living allowance and no DIC. Chapter 35 education benefits need to be more closely aligned with the benefits provided for in the New GI Bill and Fry Scholarships. Most Federal education programs have had recent increases and changes, but Chapter 35 education benefits have been increased only by COLAs.

Colleges often demand payment of tuition 2 or 3 months before classes actually start and the student does not receive payment of Chapter 35 benefits until 30 or 45 days after the classes start – a period of 3 to 4 months. All tuition payments not paid directly to the college by the VA should be deferred until the student receives payment of the education benefit from the VA. For students using Chapter 35 benefits to attend college, payment of tuition should be deferred nation-wide until benefits are received.

Recent proposed legislation (H.R. 357 and S.257) requires states to provide in-state tuition rates for **veterans** using Federal education benefits. To ensure that Federal education dollars are spent most effectively and efficiently, surviving spouses and dependents using Chapter 35 education benefits should be included in legislation to require that states provide in-state tuition rates. It is the fiduciary responsibility of Congress to ensure that all categories of Veteran's Educational Benefit are spent wisely, and such protections should be extended to all VA Education Chapters.

The additional costs involved in a college education must be paid either by the remaining parent or through student loans. It is very difficult for a single parent of surviving children to provide the funds for a college education.

Some states offer a tuition waiver to military and veterans' survivors, but not all states do. Additionally, many of these tuition waivers only apply to a specific group of survivors such as the survivors of combat deaths and exclude the survivors of those who *died* on active duty or *died* of a service-connected cause.

⁷ http://www.gibill.va.gov/resources/benefits_resources/rates/CH35/ch35rates100112.htm

Only a small percentage of surviving spouses use the educational benefit currently. Continuing outreach to this group is needed to ensure that they take full advantage of their benefits before they expire. Some spouses have 10 years; others have 20 years to use the benefit. These survivors may have small children to raise or some may have spent years caring for a disabled spouse and were unable to work to earn the additional money to supplement the federal education dollars. All surviving spouses should have an unlimited time to use their education benefits. It is apparent that they may not be using it due to the inability to cover the costs and are fearful of taking on student debt loads. Urgent action is requested.

CHAMPVA-26 and TRICARE Young Adult

Thank you Ranking Member Michaud for introducing H.R. 288, the CHAMPVA Children's Protection Act of 2013, that increases from 23 to 26 the maximum age of eligibility for certain dependent children of veterans for medical care under CHAMPVA.

Surviving families of military service members who died on active duty and retired service members who died of a service connected cause receive TRICARE. Surviving families of veterans who died of a service connected cause and are not entitled to TRICARE receive CHAMPVA.

- CHAMPVA-26 (H.R. 288) would provide health care coverage for surviving young adult children up to age 26 with no premiums.
- TRICARE offers health care coverage for young adults up to age 26 ⁸also, however TRICARE requires premiums of \$176 per month for Prime coverage, or \$152 per month for Standard coverage per young adult covered.
- The Federal Employees Health Benefit Plan (FEHBP) extended health insurance coverage of young adult children up to age 26 with no increase in premiums.

Surviving spouses of military service members covered by TRICARE and surviving spouses of veterans covered by CHAMPVA receive the same amount of DIC. Due to the DIC offset to SBP, 60% of military surviving spouses otherwise entitled to SBP are completely offset. In essence DoD retains the SBP that the surviving spouse does not receive in the Military Retirement Trust Fund and then demands that the surviving spouse make additional contributions to DoD in the form of TRICARE premiums.

It is grossly inequitable for surviving spouses who receive no SBP to be expected to pay premiums of as much as \$176 per month for health care coverage for young adult children when surviving spouses covered by CHAMPVA and FEHBP receive this same benefit with no additional premium. This is especially egregious if the surviving spouse must pay premiums for two or more young adult children.

Payment of TRICARE premiums for young adults should be waived for all surviving spouses of those who died on active duty or as the result of a service connected cause.

TRICARE Fees

All surviving spouses and surviving children of military service members who died on active duty or died of a service connected cause should be exempt from any increases in TRICARE fees and any new TRICARE fees that might be levied.

- Currently, surviving children of service members who died on active duty receive Transitional TRICARE Prime without payment of fees until they reach the age of 21, or 23, if a full-time student.
- Surviving spouses and children of veterans who served in the military but did not retire, surviving spouses who have remarried and whose second or subsequent marriage has terminated and surviving

⁸ <http://www.tricare.mil/TYA>

spouses who remarry after the age of 57 receive CHAMPVA and most medications without charge. Surviving spouses and children who are entitled to TRICARE cannot use CHAMPVA and therefore lose part of the indemnity compensation from the VA.

- Surviving spouses of those who died on active duty post 9-11 receive TRICARE Prime for 3 years without payment of fees and are exempt from fee increases after they transition to Retired TRICARE coverage.
- Surviving spouses of those who died on active duty pre 9-11 and those who died of a service connected cause pay TRICARE fees for themselves and their children.

Despite all the different categories many of the surviving spouses in each category receive flat-rate DIC of \$1215 per month. Could your survivor live on that?

Social Security Consumer Price Index

GSW thanks Chairman Sanders for raising awareness of the Chained CPI issue via press conferences and press releases.

There has been much in the news lately about changing the Consumer Price Index (CPI) used to calculate inflation and the cost of living increase (COLA) for Social Security payments from a CPI-W to Chained CPI.

- The CPI-U covers All Urban Consumers and covers 88 percent of the total population.
- The CPI-W is currently used to calculate COLA for Social Security payments. The CPI-W is an inflation calculation based on Urban Wage Earners and Clerical Workers and covers 32 percent of the population. The CPI-W is a subset of the CPI-U.
- The Chained CPI (C-CPI-U) is based on the same population as the CPI-U and on the idea that if the price of one item increases the consumer will purchase a lower-priced alternate item, e.g., if the price of oranges increases, the consumer will purchase apples instead of oranges.

Changing from the CPI-W to Chained CPI would lower the rate of COLAs. Over time the Chained CPI would lower the amount of COLA for Social Security substantially. A change from CPI-W to Chained CPI would adversely impact not only Social Security benefits, but the benefits of veterans, disabled veterans, surviving spouses and children. COLAs on all benefits received by surviving spouses and children would also be calculated using the lower Chained CPI and over time create a substantial reduction in the benefits they receive.⁹

Veterans Affairs Survivor Support

In 2009 Congress approved the VA Office of Survivors Assistance. GSW is very grateful for this office and for the advocacy and the excellent service Debra Walker and Scott Bell provide to survivors.

It is often difficult for new survivors to find grief counseling and grief support groups. Grief counseling and grief support groups could be offered at very low or no cost by VA medical centers and clinics, by the VA Chaplains Service, or by VA Social Services. Contact information about grief counseling and support groups could be posted on the medical facility website so that survivors could easily find the necessary information.

Training and appropriate reference material on survivor issues needs to be provided to VA employees and the call center contractors who answer phone calls. A number of our members have called for information

⁹ <http://www.sanders.senate.gov/newsroom/news/?id=f63f3003-9c5b-478d-810d-e09b52e4d7c5>
<http://www.sanders.senate.gov/newsroom/news/?id=ca71ab54-06d2-42ec-ac6e-568141bb6798>

on survivor benefits and encountered someone who knew nothing about survivor benefits and apparently had no reference material to which to refer.

CHAMPVA Dental Insurance Program

CHAMPVA recipients need access to dental care to maintain their overall health. As a provision of the Caregivers and Veterans Omnibus Health Services Act of 2010 (P.L.11-163, May 5, 2010), Congress required the VA to provide access to a dental insurance pilot for veterans, dependents and survivors within 270 days of enactment. Over 2 years have passed and this dental program is not yet in place. We are grateful for this legislation, but perplexed at the length of time that has passed without implementation. A proposed rule was published in the Federal Register on March 1, 2013, regarding this pilot. Of particular concern is the section of the law which states "... section 510(c) to require that the pilot program be administered for no less than three years." Implementation should have occurred January 30, 2011 and run until January 2014. If implemented now, will the program cease in January 2014, or will it run for three years from the new implementation date?¹⁰

DIC and Remarriage at 55

In 2003 Congress approved legislation to allow surviving spouses who remarried at or after the age of 57 to retain DIC benefits. Both the military Survivor Benefit Plan and the Federal employees' survivor benefit plan allow surviving spouses to remarry at age 55 and retain benefits. Allowing surviving spouses to remarry at age 55 and retain their DIC benefit would make the age a surviving spouse may remarry consistent with other Government programs for surviving spouses.

Prohibit Desecration of the U.S. Flag

Gold Star Wives of America urges passage of H. J. Res. 19, proposing an amendment to the Constitution of the United States giving Congress power to prohibit the physical desecration of the flag of the United States. For the past 20 years, Gold Star Wives of America has participated in hearings before the House Committee on the Judiciary, Subcommittee on the Constitution because of our heartfelt belief in the American flag. We urge the passage of H.J. Res. 19.

¹⁰ <https://www.federalregister.gov/articles/2012/03/01/2012-4879/va-dental-insurance-program>



Vivianne Cisneros Wersel, Au.D. is the widow of Lt. Colonel Richard Wersel, Jr., U.S. Marine Corps, who served in Operation Iraq Freedom I and II. He died on active duty at Camp Lejeune 2005 one week after his return from Iraq. Shortly after her husband's death, she discovered she was not eligible for the new enhanced survivor benefits and was instrumental in changing the SGLI and Death Gratuity (SA 1376) so all active duty widows are eligible for enhanced benefits.

Vivianne holds a Doctorate of Audiology from Pennsylvania College of Optometry (PCO) School of Audiology- Salus University. She is also a graduate of the Defense Language Institute (DLI), Monterey, CA and holds a language certificate in Spanish. She holds a Masters and a Bachelors Degree in Communicative Disorders (Audiology) from San Diego State University, CA.

Vivianne currently serves on the Gold Star Wives of America Government Relations Committee and was instrumental in creating the Gold Star Wives Arlington Chapter. She serves as an advisor for the Got Your Back Network. She is the founder of Surviving Spouses Support Group, Camp Lejeune, NC, and was chosen as an ambassador for American Corporate Partners. She served as a local representative for National Military Family Association (NMFA), Tragedy Assistance Programs for Survivors (TAPS) as volunteer peer mentor, coordinator/liaison for Marine Corps TAPS weekend Seminars and Good Grief Camps at Camp Lejeune, NC and Camp Pendleton, CA.

She resides in Alexandria, VA and her two children, Richard, and Katie are away in college. Her family is a third generation Marine Corps family. Vivianne is the daughter of Colonel Philip Cisneros, U.S. Marine Corps (retired), who served 43 years in the U.S. Marine Corps.

DISCLOSURE STATEMENT

Neither Dr. Wersel nor the Gold Star Wives of America, Inc. have received any Federal grant or contract, relevant to the subject matter of this testimony, during the current or previous two fiscal years.