

Ms. Rose Elizabeth Lee, Chair, Government Relations Committee, Gold Star Wives of America, Inc.

STATEMENT OF  
GOLD STAR WIVES OF AMERICA, INC.  
LEGISLATIVE AGENDA

Before the  
Joint Senate and House  
Committees on Veterans' Affairs  
Hearing

April 3, 2008

Presented by  
Ms. Rose Elizabeth Lee  
Gold Star Wives of America, Inc.  
Chair, 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

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Until Released  
By the Committees

Mr. Chairmen, Senator Akaka and Representative Filner - Ranking members Senator Burr, Representative Buyer, and Members of both the Senate and House Veterans' Affairs Committees, thank you for the opportunity to submit testimony to you on behalf of all Gold Star Wives (GSW) to present our legislative agenda for this year.

My name is Rose Lee. I am a widow and the Chair of the Gold Star Wives Government Relations Committee. I have served in volunteer positions as President of the Potomac Area

Chapter, Middle Atlantic Region, National President and Chair, Board of Directors for GSW. Off and on, for thirty years now I have been working to achieve the overall goals of the Gold Star Wives. I wish to assist our younger newer widows adapt to their futures. I also wish to help them become advocates for the issues they share in common with other Gold Star Wives.

The Gold Star Wives of America, Inc. was founded in 1945 and is a Congressionally chartered service organization comprised of surviving spouses of military service members who died while on active duty or as a result of a service-connected disability. We could begin with no better advocate than Mrs. Eleanor Roosevelt, newly widowed, who helped make Gold Star Wives a truly national organization. Mrs. Roosevelt was an original signer of our Certificate of Incorporation as a member of the Board of Directors. Many of our current membership of approximately 10,000 are the widows of service members who were killed in combat during World War II, the Korean War, the Vietnam War and the more recent wars including the one we are currently in, the Global War On Terrorism. Recently, we have added a few widowers to our organization.

Thank you for this opportunity to testify before you and for your continued support of programs that directly support the well-being of our service-members' widows, widowers and their families.

We especially wish to thank Senator Akaka for introducing S. 2617, The Cost of Living Adjustment (COLA) for 2009 which will give the social security determined COLA to veterans' disability compensation and to Dependency and Indemnity Compensation (DIC), solving the immediate need for a COLA with these two separate compensations. We hope that a member of the House will offer to introduce a companion COLA bill as well. May I mention that there already are bills H.R. 402 and S. 161 that have been introduced to provide for annual COLAs to be made automatically by law each year for DIC, which would be a good long-term solution to assure DIC payments are in line with nation-wide cost of living data? We support this as well.

Gold Star Wives applaud the efforts of these two Committees, knowing we have made some strides toward improving the lives of widows, widowers and their children, a group that no one would choose voluntarily to join. Having said that, however, we are disappointed that some issues we have had pending before Congress for years which mean a great deal to the quality of life of many survivors have languished without passage. Here are the shortfalls in law that needs correcting.

#### SBP/DIC Offset:

Rep. Henry E. Brown, SC, Member of the House Committee on Veterans Affairs has been a long time champion of the elimination of the offset of the Survivors Benefit Program (SBP) by the VA's Dependency and Indemnity Compensation (DIC). We appreciate his persistence during several sessions of Congress. HR 1589 has almost 100 co-sponsors as does Rep. Solomon Ortiz's similar bill of HR 1927. Your Committees can help to end this offset by repealing section 5304 and any other sections of Title 38, that may require the widow to waive the dollar for dollar portion of SBP in order to collect DIC payment from the VA.

In 2004, the Congress restored full earned military retired pay to the 100% disabled military retiree by eliminating the reduction by VA disability compensation which the Committees on

Veterans Affairs strongly supported. Gold Star Wives believe that the unique "companion" group of widows in 2004 should have been the surviving spouses of these same disabled retirees (but deceased) and all active duty deceased. The Congress chose instead to increase the more popularly supported SBP for the surviving spouses whose husbands did not die from a military service related cause. (SBP/62, HR 3763, Rep. Jeff Miller, FLA.)

The Committee on Veterans Affairs took the first step to eliminate the SBP/DIC in HR 2297, Section 101, "The Veterans Benefits Act of 2003" for a specific group of SBP/DIC widows over which you had jurisdiction. Rep. Henry Brown, SC was then Chairman of The Subcommittee on Benefits. This Committee, under Rep. Brown's guidance tried to get the "camel's nose under the tent" for the SBP/DIC widows by reinstating DIC to remarried widows without offset of other Federal Programs. The Department of Defense did not implement this provision, instead recouping SBP payments from our widows as they applied for their newly reinstated benefit of DIC. A few SBP/DIC remarried widows were forced to file a complaint this past year.

COURT CASE Regarding DoD interpretation of "The Veterans Benefits Act of 2003" [HR 2297, Section 101]:

Sharp, et al, vs. United States was heard in the U.S. Court of Federal Claims, Washington, DC, on January 30, 2008. At the request of the Disabled American Veterans the law firm of Weil, Gotshal, and Manges, LLP in California provided a pro bono attorney. Three GSW members, remarried and over age 57, are the plaintiffs in the law suit and are asking for full restoration of the SBP benefit without the DIC offset.

The Veterans Benefits Act of 2003 (HR 2297, Section 101) provided for receipt of Dependency and Indemnity Compensation (DIC) for surviving spouses who remarried after age 57 without reduction of other Federal benefits, i.e., the Survivor Benefits Plan (SBP) annuity. The Committee on Veterans Affairs intended this to be the first step in restoring full SBP payments to eligible surviving spouses who also receive DIC.

Because Federal law permits retention of SBP with remarriage after age 55, these widows were already receiving full SBP payments when they became eligible to receive DIC. Despite the new law when these remarried widows received the DIC payments at age 57, the Department of Defense deducted the amount of the DIC they received from their SBP payments according to the usual SBP/DIC offset policy for surviving spouses.

Before September 10, 2001, not all surviving spouses were eligible for SBP as it was an option for retired service members to purchase SBP and make monthly payments for the SBP. Surviving spouses whose deceased sponsors had served 20 or more years on active duty were also eligible for SBP.

At the hearing on the motion, the judge took the decision regarding the interpretation of P.L. 108-183, Section 101 under advisement and will render a decision at a later date. When the court publishes the decision, it will be posted on the GSW website at [www.goldstarwives.org](http://www.goldstarwives.org).

The Congress has chosen to provide a small "remedy" of a "special allowance" [Section 644 of the HR 4986; NDAA08] instead of eliminating the SBP/DIC offset to surviving spouses.

Gold Star Wives is dismayed to know that the Senate Armed Services Committee (described in report language) excluded all Active Duty death Surviving Spouses from this temporary allowance. The death of a young service member while serving on active duty is not reasonable cause to penalize the surviving spouse from a portion of what would have been the deceased service member's retired pay. This exclusion of surviving spouses of active duty deaths is not consistent with the eligibility requirement of S. 935 which previously passed the Senate as an amendment with a vote of 92-6.

#### Remarriage at age 55:

We wish to thank Representative Gus Bilirakis, FLA, for introducing H.R. 704 that provides for reducing the age from 57 to age 55 to remarry and retain their VA survivor benefits. The current law permits surviving spouses who remarry after reaching age 57 to retain their VA survivor benefits. It also provided for a one-year period to apply for reinstatement for those who remarried before the law was signed but that period expired in December, 2004. The retroactive period was limited to only one year and outreach was very limited, therefore many eligible survivors may not have been aware of their eligibility to be reinstated. Other federal agencies use age 55; we seek equity with them. These two connected issues should be rectified immediately. Therefore, we seek the Congress to reintroduce a retroactive period for those widows who met the age requirement upon remarriage when the law was passed. Given the current Federal Court Case, we request Rep. Bilirakis consider amending his legislation to follow the language of HR 2297, Section 101 which would eliminate the SBP offset to DIC for remarried widows at age 55.

#### DIC at 55% of Disabled Veterans Compensation:

We respectfully request that Congress review the DIC program to assure that all veterans' survivors are covered adequately and have equity with other federal and military survivor benefits. We seek to raise DIC payments to 55% of the current 100% VA Disability Compensation rates for veterans. There are some widows dependent only on their monthly DIC check. Current DIC is set at \$1091 monthly which is only about 43% of the 100% Disabled Veterans Compensation paid by the VA. Surviving spouses of Federal workers have their monthly annuity set at 55% of the Federal Civil Service Retirement Annuity. Surviving Spouses of Social Security Recipients may receive 100% of the deceased spouses' payment. We are simply seeking fairness across the government to modestly help deserving military and veterans' survivors.

#### CHAMPVA Dental Plan and Vision Plan:

We also seek to provide a dental plan and a vision plan to beneficiaries of the Civilian Health and Medical Programs of the Department of Veterans Affairs (CHAMPVA). With no coverage now, GSW seeks for widows and all CHAMPVA beneficiaries the ability to purchase a voluntary dental insurance plan and a voluntary vision plan. We believe the TRICARE dental program for military retirees provides a good model. There would be little or no cost to the federal government for either a dental or a vision plan.

#### Disabled CHAMPVA Beneficiaries Under Age 65, Part B Penalties:

We seek legislation to remove the mandated requirement in Title 38, Section 1781 to purchase Medicare Part B for the disabled CHAMPVA beneficiary under age 65. No other more healthy CHAMPVA beneficiary is required to purchase other health insurance for which they may be eligible through employment. Why do the Committees on Veterans Affairs mandate a requirement to purchase other health insurance primary to CHAMPVA ONLY for the disabled under age 65, those who are deemed too sick to work?

#### Convert VA facilities to Long Term Care which welcomes surviving spouses:

We request the Congress to provide a feasibility study to convert VA facilities to Long Term Care facilities which would welcome widows and widowers.

#### Education Benefit:

Surviving spouses who are on active duty should be able to use the education benefit derived from her deceased husband while still serving on active duty. Currently, the active duty widow must resign from the military in order to use the educational benefit under Chapter 35. This is also a retention benefit to the military, to permit the active duty widow to be able to use the education benefit derived from her deceased husband. We do know of a surviving spouse who was an Army Captain who did resign to pursue her Chapter 35 education benefit.

#### Office for Survivors:

Finally, GSW supports the creation of an Office for Survivors with the Department of Veterans' Affairs and the Department of Defense to assure improved policy oversight and development for delivery of benefit information and benefits to survivors.

#### Conclusion:

In conclusion, we want neither our widows nor their children to be forgotten. GSW members often talk about this being an organization no one wants to join. We can understand and encourage, your attention to the needed services of the service-member who serves our country, who may return wounded, who may give his life. When the latter occurs, we cannot forget the family left behind. They have made their own personal, lifelong sacrifice. We ask you again to show the spirit of this nation by not forgetting these widows and children whose numbers unfortunately grow daily.

I thank you for opening up this opportunity to hear us once again and allow for further awareness of issues facing survivors daily. We will be happy to continue to work with you and devote our time and resources on all issues impacting survivors. Thank you again.