

Statement of Representative Jeb Bradley (R-NH)  
Before the Subcommittee on Benefits  
House Committee on Veterans' Affairs  
H.R. 2163 & H.R. 2164  
June 11, 2003

Mr. Chairman, thank you for holding this hearing today. Last month, Ranking Member Michaud and I introduced H.R. 2163, to exclude the proceeds of life insurance from consideration as income for purposes of determining veterans' pension benefits; and H.R. 2164, to provide an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty. I am pleased to have the support of my colleagues, in particular, my fellow committee members, Health Subcommittee Chairman Simmons and Ranking Member Michaud.

Mr. Chairman, pursuant to current law, if the Department of Veterans Affairs (VA) receives an application for death pension more than 45 days after a veteran's death, the benefits can be effective no earlier than the date of the claim. However, if an application for death pension is received within 45 days of a veteran's death, the effective date of a death pension award is the first day of the month in which the death occurred.

The practical effect of the "45 day rule" has been to exclude lump-sum life insurance proceeds received within 45 days of a veteran's death from determinations of annual income for pension claimants who apply for death pension more than 45 days after the date of the veteran's death. In contrast, insurance proceeds received within 45 days are counted as annual income if a pension claim is also filed in that time period, often reducing or precluding pension benefits during the claimant's first year of potential eligibility. In other words, claimants who receive insurance proceeds within 45 days, but wait 45 days or longer to file pension claims, can receive pension benefits effective from the claiming date without regard for recently-received insurance proceeds. In essence, claimants receiving lump-sum insurance proceeds under the current law are encouraged to forego entitlement from the date of death in exchange for the exclusion of the insurance payment in determining countable income for the following 12 months.

Although many veterans' advocates are aware of this situation and advise claimants who receive life insurance proceeds within 45 days to postpone filing their claims, the current law unfairly penalizes claimants who are not familiar with the technical details. Fairness dictates that VA rules and procedures be straightforward, particularly for claimants who are coping with the losses of loved ones.

I believe the "45 day rule" should be eliminated in favor of a rule making death pension benefits effective from the first day of the month of the veteran's death if the claim is received within one year of that date. H.R. 2163 removes the "45 day rule" and also excludes lump-sum life insurance proceeds from the computation of income for death pension purposes. A surviving spouse whose income, excluding lump-sum life insurance proceeds, and net worth do not constitute a bar of pension benefits, deserves help from the VA.

This legislation is necessary and appropriate to eliminate unequal treatment of death pension applicants and to uphold one of the fundamental principles of the pension program, which is to ensure that those with the greatest need receive the greatest benefit.

Of equally great importance Mr. Chairman, H.R. 2164, will provide an extension in the period of eligibility for survivors' and dependents' education benefits for members of the National Guard who are involuntarily ordered to full-time National Guard duty. Presently, Chapter 35 of title 38, United States Code (U.S.C.), provides a dependent child or surviving spouse of a veteran who died of a service-connected disability, or a surviving veteran who has permanent total disability, 45 months of educational entitlement, equitable to five academic years. Generally, individuals are allotted eight years to use such benefits. Public Law 107-103 restored entitlement to National Guard personnel who qualified for chapter 35 benefits and discontinued course pursuit as a result of being called to active duty under specific sections of title 10, U.S.C.

This proposal would amend current law to provide that individuals who qualify for chapter 35 benefits and are involuntarily activated to full-time National Guard duty after September 11, 2001, would have their individual delimiting dates (the ending dates of eligibility) extended by the length of full-time duty plus four months.

Thank you again for the opportunity to testify on H.R. 2163 and H.R. 2164.

I would be happy to answer any questions.