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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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MWD-76-47

11-4-75

B-176785

NOV 4 1975

The Honorable Les Aspin
House of Representatives

Dear Mr. Aspin:

As requested in your August 30, 1974, letter, we obtained information on retirement disability benefits paid by the Department of Defense (DOD) and compensation paid by the Veterans Administration (VA) to general and flag grade officers (pay grades 0-7 through 0-10) who retired from military service during the periods March 1972 through February 1973 and March 1973 through March 1974.

We compared DOD and VA requirements for disability compensation, and also obtained statistics on the number of officers who requested and were denied or granted disability retirement in each period. Enclosure I presents the statistics by branch of service. Enclosure II contrasts the percent of disability awarded to these officers by the two agencies.

DIFFERENCES IN DOD AND VA
DISABILITY COMPENSATION REQUIREMENTS

Comparison of the DOD and VA requirements for disability compensation showed major differences.

Consideration of disability

DOD disability retirement provides for separating a member who is determined unfit to perform the duties of his office, grade, rank, or rating because of a physical or mental disability incurred in or aggravated by active service. A member may have disabilities which could affect his potential for civilian employment, but unless they interfere with his military duty, he cannot receive DOD disability benefits.

All veterans, including those denied disability benefits by DOD, can apply for VA compensation. VA awards compensation based on service-connected disabilities which impair earnings capacity in civilian occupations.

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Applying for disability benefits

A DOD member is automatically considered for benefits during treatment for a disability or a routine physical examination, such as that occurring on retirement. The presence of a medical impairment begins the physical disability review. To be considered for VA benefits, the veteran must file an application.

Amount of benefits

DOD and VA pay different amounts for the same degree of disability. DOD disability retirement pay is the product of the member's percentage of disability and his highest basic pay before retirement or separation; however, payment is limited to 75 percent of the member's basic pay.

VA bases compensation on a rating of the severity of disability. The Congress has established the amount of compensation applicable to each rating. Additional compensation is paid to veterans who have suffered certain severe disabilities, such as loss of a limb. Veterans whose service-connected disabilities are rated at 50 percent or higher are entitled to additional allowances for dependents. Disability benefits of both agencies are exempt from Federal tax.

The following example assumes that an individual's disability is rated equally by DOD and VA at 30 percent. An officer retires from DOD at grade O-8, with a monthly retirement pay of \$1,898. If the officer is found unfit for duty, \$759 of this pay is tax-exempt--30 percent of his gross pay before retirement of \$2,530.

The disability rated at 30 percent by VA entitles the veteran to \$89 monthly. However, a member does not receive double disability compensation. A veteran must waive an equal part of his DOD retirement to receive VA compensation benefits. The waiver involves first the tax-exempt, disability portion, then any remaining amount. Thus, if he receives both DOD and VA disability payments, the officer's tax-exempt benefits would still be \$759.

DISABILITY BENEFITS

The information received from DOD shows that 287 officers retired from March 1972 through February 1973, and 255 officers, from March 1973 through March 1974. DOD pays tax-exempt

disability benefits of about \$209,000 a month to 154 of these 542 officers, an average of \$1,358 each. VA pays disability benefits of about \$23,000 a month to 181 officers, an average of \$127 each. 1/ Of the 542 officers, 21 receive benefits from both agencies.

The table below summarizes the information on disability benefits for each period. (Enclosure I presents additional statistics by branch of service.)

<u>Officers</u>	March 1972 through February 1973		March 1973 through March 1974	
	<u>DOD</u>	<u>VA</u>	<u>DOD</u>	<u>VA</u>
Receiving benefits	126	77	28	104
Not waiving DOD retirement	-	84	-	27
With waiver of DOD retirement in process	<u>-</u>	<u>-</u>	<u>-</u>	<u>1</u>
Awarded disability ratings	126	161	28	132
Denied benefits	161	27	227	33
With compensation applications in process	<u>-</u>	<u>6</u>	<u>-</u>	<u>1</u>
Considered for disability benefits	<u>287</u>	<u>194</u>	<u>255</u>	<u>166</u>

During the first period, the 194 officers who applied for VA benefits included 97 who were receiving DOD disability benefits and 97 who were denied them. During the second period these categories numbered 24 and 142 respectively.

Even if a veteran does not waive the required amount of his DOD pension, and VA compensation is not received, there are benefits in having a VA disability rating:

--Priority of treatment over veterans with non-service-connected disabilities at VA hospitals.

1/The dollar values of compensation benefits cited in this report do not reflect the 10 to 12 percent increases under the Veterans Disability Compensation and Survivors Benefits Act of 1975 (Public Law 94-71), approved August 5, 1975.

--Dependency and indemnity compensation benefits and the resulting tax advantage for members of his family, should he die of his service-connected disability.

CHANGE IN DOD POLICY FOR DETERMINING UNFITNESS FOR DUTY

The primary requirement for DOD disability benefits is that a member be unfit for duty because of a disability. A DOD directive dated September 9, 1968, provided policies to insure that the military services uniformly evaluate a member's fitness for duty. The directive stated that an impairment does not, in itself, justify a finding of unfitness. The nature and degree of the disability must be compared with the duties corresponding to the member's office, grade, rank, or rating.

The DOD directive did not specify how to evaluate the fitness of a member eligible for retirement who performed his duty despite a disability. Effective January 29, 1973, the DOD fitness evaluation policy became more stringent. It provides an additional requirement for a retiring member with a disability which has not affected his performance. The Deputy Secretary of Defense sent a memorandum to the secretaries of the military departments requiring that all evidence must be considered in evaluating a member's fitness, including medical reports and evaluations of his performance of duty by his supervisors. Thus, if the evidence establishes that the member adequately performed the normal duties of his office, grade, rank, or rating, he might be considered fit, even though medical evidence indicates that his physical ability to perform such duties may be questionable.

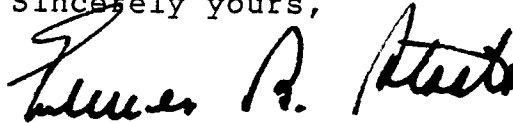
Apparently the more stringent requirement for evaluating unfitness for duty imposed by the January 1973 memorandum by the Deputy Secretary of Defense is a major reason for the decline between the two periods in the number of officers awarded DOD disability retirement.

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As your office requested, we did not submit this report to DOD and VA for formal comment. However, its contents were discussed with these agencies informally.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas A. Steyer". The signature is written in a cursive style with a large initial 'T'.

Comptroller General
of the United States

Enclosures - 2

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E R R A T A

To the recipients of the Comptroller General's report
MWD-76-47:

The two attached enclosures should have been issued
with this report.

DOD AND VA DISABILITY RETIREMENT AND COMPENSATION

	March 1972-Feb. 1973			March 1973-March 1974			Total
	Air Force	Army	Navy	Air Force	Army	Navy	
Officers considered for disability retirement	106	90	17	74	99	13	255
Officers denied disability retirement	62	36	13	50	85	11	227
Officers awarded disability retirement	44	54	4	24	14	2	28
Percent of total officers receiving disability retirement	42	60	24	32	14	15	11
Average tax-exempt disability benefits	\$1,340	\$1,265	\$1,623	\$1,192	\$1,432	\$1,495	\$1,668
Average degree of disability	45%	53%	53%	38%	61%	60%	64%

DOD

Officers considered for disability retirement
 Officers denied disability retirement
 Officers awarded disability retirement
 Percent of total officers receiving disability retirement
 Average tax-exempt disability benefits
 Average degree of disability

VA

Officers who applied for disability compensation
 Officers denied disability compensation
 Officers awarded rating
 Officers receiving disability compensation
 Percent of total officers retired receiving compensation
 Average disability compensation benefits
 Average degree of disability
 Officers rated by VA but not receiving DOD disability
 Officers receiving disability benefits from both DOD and VA

DISABILITY RATINGS AWARDEDBY VA AND DOD

<u>Percent of disability</u>	<u>DOD</u>		<u>VA</u>	
	<u>March 1972 through Feb. 1973</u>	<u>March 1973 through March 1974</u>	<u>March 1972 through Feb. 1973</u>	<u>March 1973 through March 1974</u>
100	5	4	9	9
90	0	5	2	2
80	14	4	8	3
70	7	0	8	5
60	14	5	13	11
50	14	1	16	11
40	33	3	30	24
30	24	5	22	25
20	11	1	19	21
10	4	0	34	21
	<u>126</u>	<u>28</u>	<u>161</u>	<u>132</u>