

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Public Health Service

Chapter CC29--Officers' Relations, Services, and Benefits  
Subchapter CC29.6--Veterans Benefits  
Personnel INSTRUCTION 1--VA Disability Compensation

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Section A. Purpose and Scope

This INSTRUCTION provides information about disability compensation, which is payable by the Veterans Administration (VA), and the prohibition against receipt of such compensation while serving on active duty or receiving retired pay as a Public Health Service (PHS) commissioned officer.

Section B. Authority

The waiver of retired pay as provided in this INSTRUCTION is required under authority of 38 U.S.C. 3105. The receipt of VA compensation or retired pay while receiving active-duty pay is prohibited under authority of 38 U.S.C. 3104(c).

Section C. Background

Disability compensation is payable by VA to veterans with service-connected disabilities. The amount of the disability compensation depends upon the percentage of disability as determined by VA and upon whether the disability was incurred during wartime or peacetime. This disability compensation should not

be confused with disability retirement as a PHS commissioned officer. VA does not necessarily give an individual the same disability rating as that given for PHS disability retired pay, and they do not make the same payments for the same percentage of disability. Therefore, the fact that an officer is not eligible for disability retirement does not mean that he/she will not be eligible for disability compensation from VA.

Section D. Concurrent Receipt of Active Duty Pay  
and VA Disability Compensation

An officer may not receive disability compensation from VA while receiving active-duty pay. An officer who is receiving VA disability compensation at the time he/she enters on active duty should notify the VA immediately of his/her call to active duty.

Section E. Concurrent Receipt of Retired Pay  
and VA Disability Compensation

1. To receive VA disability compensation, an officer must waive the same amount of retired pay that an officer receives as compensation. By executing such a waiver, some officers may realize a tax savings since VA disability compensation is tax exempt (refer to Subchapter CC23.8, INSTRUCTION 9, for more information on taxation of retired pay). There is another advantage which would apply to both disability and nondisability retirees. Dependency and Indemnity Compensation (DIC) is pay by VA to eligible survivors of retired officers who die from service-connected disabilities. Payment may be made to survivors whether or not the deceased retired officer was receiving compensation from VA. However, if VA has a complete record of all the officer's service-connected disabilities, it will serve to facilitate a determination that the officer's death resulted from a service-connected cause and will avoid delay in processing the survivor's claim for DIC. An officer who waives all or any portion of his/her retired pay in favor of VA disability compensation will not forfeit any rights, benefits, or privileges as a retired PHS officer.
  
2. An officer who wishes to waive all or any portion of his/her retired pay in favor of VA disability compensation must execute VA Form 21-615a which should be requested from the Veterans Administration.

Section F. Exceptions

Before January 1, 1957, officers were entitled to disability compensation only on the basis of active duty in a military status (i.e., while the PHS Commissioned Corps was in a military status from July 29, 1945, through July 3, 1952, or while detailed to a branch of the Armed Forces). Officers who served in such status were considered "veterans" even though they continued on active duty in the PHS Commissioned Corps after such status terminated. If they incurred a disability during that period which was determined to be compensable under the VA laws, they were permitted to receive such compensation concurrently with their active duty pay and nondisability retired pay. They could not receive the compensation concurrently with disability retired pay. Public Law 84-881, which was enacted on August 1, 1956, provided that, effective January 1, 1957, active duty in the PHS Commissioned Corps is considered active duty in the Armed Forces under the laws administered by the Veterans Administration. Effective January 1, 1957, any officer receiving VA disability compensation while still on active duty was no longer entitled to receive the compensation while on active duty. However, officers who were receiving retired pay and VA disability compensation on December 31, 1956, were permitted to continue receiving full retired pay concurrently with VA disability compensation, provided the officer incurred the disability:

1. Before July 29, 1945, but retired for nondisability before that date;
2. Before July 29, 1945, but retired for nondisability between July 4, 1952, and January 1, 1957; or
3. Between July 28, 1945, and July 3, 1952, but retired for nondisability between July 4, 1952, and January 1, 1956.