Veterans Affairs Canada | Anciens Combattants Canada

Date Payable – Disability Benefits, Allowances, and Prisoner of War/Detention Benefit Compensation

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Purpose

The purpose of this policy is to provide guidance regarding the date from which disability benefits (i.e. disability pension, disability award, pain and suffering compensation, critical injury benefit), allowances (i.e. attendance allowance, clothing allowance, or exceptional incapacity allowance), and/or prisoner of war (POW)/detention benefit compensation becomes payable.

Policy

Disability Pension - General

1. For the purpose of determining the effective date of entitlement to a disability pension, the date on which an applicant initiates an application with any representative of the Department will be considered the effective date. Such contact may be made by telephone, a personal visit or in writing. In cases of written contact, the Department will accept the date on which the notification was received. As per the Application to the Minister policy, all the requirements of an application should be met and the supporting documents should be received by the Department within a reasonable period of time.

2. In cases where the applicant initiates an application through a representative of a Veteran's organization, the effective date of entitlement to a disability pension will be the date the application is received by any office of the Department.
3. When necessary to clarify entitlement, a claim may be initiated by the Department. The date of application will be the date on which the Department identifies a basis for the ruling.
4. In no case shall the effective date of a disability pension pre-date the date of the first application. In addition, the effective date of a disability pension cannot be made retroactive more than three years from the date of decision.

Disability Pension - Assessment/Reassessment

5. The effective date of an assessment for a newly pensioned condition will be the effective date of the entitlement award. See paragraphs 1-4 above.
6. An increase in an assessment is an award provided for under the *Pension Act* and a request for a reassessment is an application for an award. The effective date of an increase in assessment resulting from a reassessment request is determined pursuant to section 39 of the *Pension Act*.
7. Decreases in assessment resulting from reassessments are effective the date of next payment.
8. For Department initiated reassessments, the Department may determine the effective date based on the circumstances of the case.
9. Matters of effective date respecting increases or decreases in assessments based on departmental reviews on the Minister's own motion due to errors of fact or law will be dealt with on a case by case basis with the Department of Justice as required.
10. The effective date of an increase in assessment resulting from a departmental review based on new evidence will be the effective date awarded in the decision which is under review, as long as the new evidence which pertains to the condition at the time of the original assessment has been provided in a timely fashion (i.e. within 6 months of the original assessment decision). Evidence provided after the 6 month period will not be considered new evidence for the purposes of a departmental review. Rather the evidence will be accepted as an application for a reassessment and the effective date will be pursuant to section 39 of the *Pension Act* (see paragraph 6 of this policy).

Disability Pension - Additional Pension Spouses/Common-Law Partners

11. Subject to subsection 39(1) of the *Pension Act*, in the case of a first award of additional pension, the effective date of entitlement shall be the date the pensioner's entitlement to a disability pension.
12. Subject to subsection 39(1) of the *Pension Act*, in cases where a pensioner marries or enters into a common-law relationship following an award of pension, the effective date of entitlement to additional pension on behalf of a spouse or common-law partner shall be the later of:
    a. the date of marriage;
    b. one year following the commencement of the common-law relationship; or
    c. three years retroactive from the date the Department receives proof of marriage/common-law relationship.
13. It is the duty of the pensioner to notify the Department of his/her marriage or common-law relationship. Notification thereof constitutes an application for additional pension.

Disability Pension - Additional Pension Children

14. Subject to subsection 39(1) of the *Pension Act*, in the case of a first award to a member or Veteran who had eligible children at the time of application, the effective date of entitlement to additional pension on

behalf of such children will be the later of:
    a. the date of the pensioner's entitlement to pension; or
    b. three years retroactive from the date the Department receives proof of qualification under subsection 34(3) of the *Pension Act.*
15. Subject to subsection 39(1) of the *Pension Act*, where a pensioner acquires eligible children following an award of pension, the effective date of entitlement to additional pension on behalf of such children will be later of:
    a. that date of the child's birth;
    b. the date the child, as defined in subsection 3(1) of the *Pension Act*, enters the pensioner's home and is maintained by the pensioner;
    c. the date the pensioner commences making maintenance payments for the child; or
    d. three years retroactive from the date the Department receives proof of qualification under subsection 34(3) of the *Pension Act.*

Attendance Allowance (Pension Act)

16. The effective date of an attendance allowance award shall not pre-date the date of the decision granting disability pension/prisoner of war compensation entitlement.
17. An award or an increase of attendance allowance may be payable from the date an application is made to the Department (including by facsimile, or a telephone call followed by a signed application) by the pensioner. If the application is received from a representative, the effective date will be the date the application is received or date stamped by the Department.
18. If, following a review of the Department's decision, a favorable decision is reached, the award of attendance allowance shall be made payable from the day on which the application was first made.
19. Where a favourable decision is rendered after the pensioner's death under subsections 48(2) and 38(1) and there is a survivor, the attendance allowance shall be paid to the survivor to the date of the pensioner's death. Where there is no living survivor, payment shall be made equally to any of the pensioner's children otherwise pensionable under the *Pension Act.*
20. In cases where attendance allowance is decreased or discontinued, the payment shall be decreased or discontinued effective the date of next payment.

Exceptional Incapacity Allowance (Pension Act)

21. An award or increase for an exceptional incapacity allowance (EIA) may be payable from the earlier of;
    a. the date that it is medically shown that the pensioner became exceptionally incapacitated, or in the case of an increase, the date it is medically shown that the increase is warranted; or
    b. in the absence of such evidence, the date that the pensioner first took action to obtain the EIA or an increase thereof.
22. In no case shall the effective date of the EIA predate the effective date of the decision awarding a Class 1 pension under the *Pension Act* or a combination of disability pension and compensation under the *Pension Act* and disability award or pain and suffering compensation under the *Veterans Well-being Act* (VWA) that total 98% or more.
23. In cases where a disability award is used in the calculation of the 98% or more aggregate, the effective date cannot predate October 3, 2011 (i.e., the implementation date of the *Enhanced New Veterans Charter Act*).
24. If a favorable decision is reached following a review of the Department's decision regarding EIA, the allowance shall be payable in accordance with the policy described in paragraphs 21 and 22.

25. Where a favourable decision is rendered after the pensioner's death under subsections 48(2) and 72(1) and there is a survivor, the EIA shall be paid to the survivor to the date of the pensioner's death. Where there is no living survivor, payment shall be made equally to any of the pensioner's children otherwise pensionable under the *Pension Act*.
26. In cases where EIA is decreased or discontinued, the payment shall be decreased or discontinued effective the date of next payment.

Prisoner of War Compensation (Pension Act)

27. For the purpose of determining the effective date of entitlement to prisoner of war compensation, the date on which an applicant initiates an application with any representative of the Department will be considered the effective date. Such contact may be made by telephone, a personal visit or in writing. In cases of written contact, the Department will accept the date on which the notification was received.
28. In no case shall the effective date of prisoner of war compensation pre-date the date of the first application. In addition, the effective date of compensation cannot be made retroactive more than three years from the date of decision.

Detention Benefit (VWA)

29. The effective date of the lump sum detention benefit is the date of decision.

Clothing Allowance

30. The effective date of a clothing allowance award shall not pre-date the date of the decision awarding a disability pension/PSC of 1% or more for a condition which causes: wear and tear on clothing because of amputation; the need to wear an appliance or specially-made wearing apparel; or soiling of clothing.
31. In the case of a clothing allowance paid under the *Pension Act*, an award or increase of allowance may be payable from the date an application is made to the Department (including by facsimile or a telephone call followed by a signed application) by the member or Veteran.
32. In the case of a clothing allowance paid under the *Veterans Well-being Act*, an award or increase of allowance will be payable on the later of:
    a. the date which an application is made to the Department (including by facsimile or a telephone call followed by signed application) by the member or Veteran; or
    b. the day that is one year prior to the day on which the payment of the allowance is approved.
33. If the application is received from a representative, the application date will be the date the application is received or date stamped by the Department.
34. If, following a review of the Department's decision, a favorable decision is reached, the award of clothing allowance shall be made payable from the day on which the application was first made.
35. In cases where clothing allowance is decreased or discontinued, the payment shall be decreased or discontinued effective the date of next payment.

Pain and Suffering Compensation

36. For information on the date payable for PSC, see the Pain and Suffering Compensation Policy.

Additional Pain and Suffering Compensation (VWA)

37. For information on the date payable for APSC, see the Additional Pain and Suffering Compensation Policy.

Critical Injury Benefit (VWA)

38. The effective date of the Critical Injury Benefit is the date of decision.

References

Pension Act, sections 38, 39, 48, 72, and 72.1

Veterans Well-being Act, sections 53, 62, and 64

Enhanced New Veterans Charter Act

Application to the Minister

Assessment and Reassessment of a Disability

Additional Pain and Suffering Compensation

Critical Injury Benefit

Pain and Suffering Compensation