Veterans Affairs Canada | Anciens Combattants Canada

Pain and Suffering Compensation

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Purpose

The purpose of this policy is to provide guidance on the interpretation and the application of legislative and regulatory provisions related to Pain and Suffering Compensation (PSC).

Policy

The *Veterans Well-being Act* (VWA), sections 2.1, 42, 43, 44, and 45 to 56.5, and the *Veterans Well-being Regulations*, sections 47, 48, 49 to 53.4, 62, 63.1, set out the authorities for granting and administering PSC.

Definitions

1. **Aggravated by service** – in respect of an injury or a disease means an injury or a disease that has been aggravated, if the aggravation (a) was attributable to or was incurred during special duty service; or (b) arose out of or was directly connected with service in the Canadian Forces.
2. **Canadian Forces** – means the armed forces referred to in section 14 of the *National Defence Act*, and includes predecessor naval, army or air forces of Canada or Newfoundland. (Now known as the Canadian Armed Forces (CAF)).
3. **Dependent child** – in relation to a member or a Veteran, means their child, or a child of their spouse or common-law partner who is ordinarily residing in the member's or Veteran's household, who is
    a. under the age of 18 years;
    b. under the age of 25 years and following a course of instruction approved by the Minister; or
    c. over the age of 18 years and prevented by physical or mental incapacity from earning a livelihood, if the incapacity occurred
        i. before the child attained the age of 18 years, or
        ii. after the age of 18 years and before the age of 25 years while the child was following a course of instruction approved by the Minister.
4. **Disability** - means the loss or lessening of the power to will and to do any normal mental or physical act.
5. **Disability award** - means a disability award paid under section 45, 47 or 48 of the *Veterans Well-being Act*, as it read immediately before April 1, 2019.
6. **Member** – means an officer or a non-commissioned member of the Canadian Forces, as those terms are defined in subsection 2(1) of the *National Defence Act*.
7. **Person** – means a member, Veteran, survivor, dependent child
8. **Service-related injury or disease** – means an injury or a disease that (a) was attributable to or was incurred during special duty service; or (b) arose out of or was directly connected with service in the Canadian Forces.
9. **Special duty service** – means service as a member in a special duty area designated under section 69, or as a member as part of a special duty operation designated under section 70, during the period in which the

designation is in effect. It includes any of the following that occurred during that period but not earlier than September 11, 2001: (a) periods of training for the express purpose of service in that area or as part of that operation, wherever that training takes place; (b) travel to and from the area, the operation or the location of training referred to in paragraph (a); and (c) authorized leave of absence with pay during that service, wherever that leave is taken.

10. **Survivor** – in relation to a deceased member or a deceased Veteran, means
    a. their spouse who was, at the time of the member's or Veteran's death, residing with the member or Veteran; or
    b. the person who was, at the time of the member's or Veteran's death, the member's or Veteran's common-law partner.
11. **Veteran** – means a former member of CAF.

General

12. The policy intent of the PSC is to recognize and compensate for the non-economic effects of service-related disability, including pain and suffering, physical and/or psychological loss, functional impairment and impact on the member's or Veteran's overall quality of life and the impact on the lives of the member's or Veteran's family (i.e. surviving spouse or common-law partner and dependent children).
13. The PSC replaces the Disability Award (DA) as the new non-taxable monthly benefit under the VWA on April 1, 2019.

Application

14. The Department may already have on file all the necessary information to grant a favourable PSC decision. If so, the Department may notify the member or Veteran of its intent to waive the application, and the individual can choose whether to accept this waiver. Additional information or documents may be requested by the Department. (See Waiver of Requirement for Application policy).
15. If a waiver is not possible, Applications for the PSC and for an increase in the PSC must be made in writing and shall include:
    a. a declaration attesting to the truth of the information provided; and
    b. medical reports or other records that document the member's or Veteran's injury or disease, diagnosis, disability and increase in the extent of the disability; and
    c. in the case of an application by a survivor or a dependent child,
        i. a copy of the death certificate of the member or Veteran, and
        ii. medical reports or other records that document the cause of death of the member or Veteran.

    Where possible, existing information on file should be utilized.

16. For more information on when an application is made for the purpose of determining the date payable, see Application to the Minister policy.
17. Survivors and dependent children cannot apply for a PSC for a medical condition for which they received the Death Benefit.

Eligibility

18. When determining if a CAF member's or Veteran's disability is related to their military service, the Department must first consider the type of service for which that disability is being claimed.

a. Disabilities arising out of or that are directly connected with, or are aggravated by, peacetime military service are covered under the Compensation Principle. Guidance on determining service-relationship under the Compensation Principle can be found in the policy Disability Benefits in Respect of Peacetime Military Service – The Compensation Principle.
b. Disabilities that are incurred during, attributable to, or are aggravated by Special Duty Service are covered under the Insurance Principle. Guidance on determining service-relationship under the Insurance Principle can be found in the policy Disability Benefits in Respect of Wartime and Special Duty Service – The Insurance Principle.

19. The department will grant partial entitlement when it has been determined that a non-service related disability has been aggravated by service. A definition of partial (fractional) entitlement and full entitlement for determining the extent of service relationship is included in the policy entitled Disability Resulting From a Non-Service Related Injury of Disease. The policy provides guidance on factors to consider when determining whether a CAF member or Veteran had a disability or disabling condition prior to his or her enrolment, or prior to a specific period of service. It also provides guidance on awarding a disability benefit for the impact that service-related factors have on a disability which has been caused by a non-service-related injury or disease.

Establishing the existence of a disability

20. The Department requires medical evidence that establishes the existence of a permanent disability. This evidence must include a diagnosis of a medical condition that is symptomatic and generally expected to persist.
21. A diagnosis may be provided by a qualified medical practitioner, i.e., a medical doctor who is licensed by a provincial medical college to practice in the provincial jurisdiction; or other regulated health care professionals who are authorized under federal or provincial statute to diagnose medical conditions in their area of expertise and are registered and in good standing with a professional body which governs the licensing and accreditation of their particular profession, i.e., registered psychologists and clinical audiologists.
22. A diagnosis provided by regulated health care professionals, other than registered psychologists and clinical audiologists may be considered on a case by case basis, provided it is within their scope of practice to diagnosis said condition.
23. Diagnostic requirements relating to specific medical conditions can be found in other departmental documents, such as the Entitlement Eligibility Guidelines.

Consequential injury or disease

24. A PSC may be granted for disabilities which are a consequence of an injury or disease which was previously determined to be service-related (regardless of whether or not it resulted in a disability, such as taking medication for an ankle sprain which resulted in a gastrointestinal (GI) bleed. The GI bleed would be consequential to the ankle injury); or a disability for which consequential entitlement has been granted under either the *Pension Act* or VWA.
25. If a condition is ruled as consequential to a primary condition related to WWII, Korean War service, Royal Canadian Mounted Police service, or other service eligible under the *Pension Act*, the claim will be adjudicated under the *Pension Act*.
26. If a condition is ruled as consequential to a primary condition related to Regular Force or Special Duty Service, the claim will be adjudicated under the VWA, even if the primary condition was ruled under the *Pension Act*, unless sections 42 or 56.5 of the VWA apply.

27. In order for entitlement to be granted, the disability resulting from the consequential condition must be considered permanent.
28. The consequential relationship between the two conditions does not need to be medical. An example would be a condition awarded for the knee, which causes a fall that results in a head injury. The head injury and the knee condition are not medically related.
29. A CAF member or Veteran may receive unlimited consequential rulings under the VWA where each stems directly from the primary condition which was granted.
30. A Veteran or a CAF member may only receive two consequential rulings stemming from each consequential condition granted. It is possible to grant disability entitlement for a primary condition, a consequential disability which arises from it, a 2nd consequential disability which arises from the first, and a 3rd consequential disability which arises from the second. No entitlement may be granted for a 4th disability which arises as a consequence of the third consequential.
31. If a CAF member or a Veteran is suffering from a permanent disability which is a consequence of an injury or a disease, in whole or in part, that was previously determined to be service-related; a PSC may be paid in respect of that fraction of the disability that represents the extent to which that injury or disease is a consequence of another service-related injury or disease.
32. Once a consequential relationship has been established, the degree of entitlement granted for the consequential condition is to be based on the extent to which it is a consequence of the primary condition, and not the extent to which the primary condition is related to service. The Department will:
    a. Award full entitlement when it has been determined that a disability has resulted in its entirety from a service-related injury or disease; or
    b. Award partial entitlement when it has been determined that a disability has been aggravated by a service-related injury or disease.

Loss of Paired Organ or Limb

33. An application for a paired organ or limb will be adjudicated under the same legislation that the Veteran or CAF member holds entitlement for the first organ or limb of the pair. For example, if the first organ or limb is pensioned under section 21 of the *Pension Act*, then the application for the second organ or limb of the pair will proceed under section 36 of the *Pension Act*.
34. In cases where entitlement for the second organ or limb of a pair may be provided either as paired organ entitlement or consequential relationship entitlement (i.e. subsection 21(5) of the *Pension Act* or section 46 of the VWA) a ruling can be provided for a consequential relationship where a greater degree of entitlement will result.
35. The intent of paired organ or paired limb entitlement is to recognize the fact that the loss or impairment of the second organ or limb of a pair from any cause increases the disability resulting from the loss of the other organ or limb for which the Veteran or CAF member receives a DA or PSC.
36. The most common examples of paired organs include eyes, kidneys, ovaries and testes. Ears are generally entitled as bilateral hearing loss unless there is compelling evidence of disability in one ear only that is attributable or directly connected to service.
37. Paired limbs include both upper limbs and lower limbs.
38. Section 47 of the VWA is not applicable to the lungs as entitlement for pulmonary diseases under section 45 of the VWA includes both lungs.
39. In order to be awarded a PSC for a paired organ, the Veteran or CAF member must have received a DA, or is receiving or has received PSC, for the loss of, or the permanent loss of the use of an organ or limb, and must suffer the loss of, the permanent loss of the use of or permanent impairment of the other organ or limb of the pair.

40. The following factors should be considered when determining “permanent loss of the use of” and “permanent impairment”:
    a. If the loss of part of the second organ or limb of a pair cancels the effective use of the whole of that organ or limb then it meets the requirement of “permanent loss of the use of.” It is not necessary that the disability of the second organ or limb of the pair be at or below the anatomical level of the entitled organ or limb if it cancels the effective use of the second organ or limb.
    b. Impairment only of the organ or limb for which the Veteran or CAF member holds a DA or PSC entitlement does not justify an award of paired organ for the other organ or limb of the pair. It is necessary that he or she has the loss of, or the loss of the use of, the second organ or limb of the pair.
    c. Claims for paired organ or limb for which the Table of Disabilities (TOD) applies must meet the minimum requirements for total loss of, or total loss of the use of, the organ or limb for which the Veteran or CAF member holds DA or PSC entitlement. These requirements are found in the TOD, Chapter 4 – Paired Organs and Paired Limbs.
41. The extent of disability for a paired organ or limb shall be 50% of the assessment of the extent of disability that would have been assessed if PSC was payable under section 45 of the VWA. Otherwise, an award for paired organ or limb holds all the same rights and privileges of PSC under section 45 of the VWA.
42. Assessments for paired organs or limbs are included in the total assessment of DAs and PSCs for the purposes of section 50 and 56.4. Reassessments may also be requested. For specific information on how to determine an assessment for a paired organ or limb see the TOD.

Assessment and Re-assessment

43. The CAF member’s or Veteran’s extent of disability will be determined using the TOD. The TOD considers the relative importance of a certain body part/system to assess the level of impairment and the impact that impairment has on the individual’s quality of life.
44. The extent of the disability is determined on the basis of current clinical examination findings from either an applicant’s personal physician/practitioner or a departmental medical officer.
45. The assessment of the extent of disability may range from nil (0%) to 100% and is determined in accordance with the TOD.
46. The assessment of the extent of disability is made following the award of a new entitlement in response to an application or request for the reassessment of an already entitled disability (for which a DA or PSC was paid or PSC is payable).
47. A CAF member or Veteran whose extent of disability worsens can be re-assessed.
48. No reduction can be made in the assessment of PSC under the VWA as no authority exists to do so.
49. The re-assessment of a DA condition for which the extent of disability has increased will be paid as a PSC.

Maximum extent of disability

50. Any disability assessments, under the *Pension Act* and the VWA (DA and PSC), will be taken into consideration for the purpose of determining whether the CAF member’s or Veteran’s total extent of disability exceeds 100%.
51. The Department can provide an assessment for a disability even though a CAF member or Veteran may have reached 100%. However, no benefit will be paid in respect of any percentage points exceeding 100%.
52. The Department will continue to adjudicate on entitlement for new disabilities even though a CAF member or Veteran may have reached 100% as this allows the Veteran to gain access to the Veterans Health Care Program for the newly entitled disability.

Amount of PSC

53. The amount of PSC is based on the degree of entitlement (full or partial) and the extent of disability.
54. PSC is payable monthly to CAF members and Veterans.
55. The monthly amount of PSC payable is dependent on a CAF member's or Veteran's total extent of disability under the VWA (DA and PSC). The monthly amount is determined in accordance with section 50 the Act.
56. The maximum monthly rate and the maximum lump sum rate are set out in Schedule 3. Amounts set out in Schedule 3 are paid for each extent of disability from 1% to 100%.
57. CAF members and Veterans in receipt of the monthly PSC can choose, at any time, to receive a lump sum amount in lieu of monthly payments. Details about the election are found in sections 76 to 79.
58. A lump sum amount will be paid if there is any value remaining at the time of the election.
59. The amount of the lump sum is calculated taking into consideration the lump sum rate in Schedule 3 and the number of monthly payments received based on the monthly rate at the time of the election in accordance with section 53(2) of the VWA.

Date payable

60. The PSC is payable on the later of:
    a. the first day of the month in which the application for PSC is made (see Application to the Minister policy); or
    b. the day that is three years prior to the first day of the month in which the PSC is granted.
61. The date payable of the PSC cannot pre-date April 1, 2019 (the coming into force date of PSC).
62. A request for a reassessment is an application for a PSC. The date payable of an increase in assessment resulting from a reassessment request is determined pursuant to section 51 of the VWA.
63. The date payable respecting increases 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.
64. 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 51 of the VWA.

Additional payment

65. When the Minister or, the Veterans Review and Appeal Board, is of the opinion that, were it not for delays in securing service or other records or other difficulties beyond the control of the CAF member or Veteran, PSC would have been granted earlier, the Minister or the Board may pay an additional amount not exceeding an amount equal to the PSC payable to the CAF member or Veteran for two years.
66. A CAF member or Veteran will not be responsible for application delays related to the duties of the Department.
67. Additional payments should be paid at the current rates, i.e., the rate in effect on the date of the decision set out in Schedule 3.
68. When a CAF member or Veteran receives an increase in their extent of disability, that increase is payable back to the date of PSC entitlement. If an additional payment was paid in respect of that PSC then the

additional payment must be recalculated. The recalculation of the additional payment should be done using the rate for the increase in PSC.

69. Survivors and dependent children are not eligible to receive an additional payment because this payment applies to monthly payments only, and survivors and dependent children receive lump sum amounts.

Duration of benefit

70. The monthly amount is no longer payable on the earlier of the first day of the month after the month in which the CAF member or Veteran dies, or the first day of the month after the month in which the CAF member or Veteran elects to receive a lump sum amount in lieu of monthly payments.

Request for additional information

71. A CAF member or Veteran who is in receipt of a monthly PSC may have to submit, at the Minister's request, medical reports, or other records, or any other information or documents that may be necessary to enable the Minister to assess the CAF member's or Veteran's continued eligibility for monthly PSC, or the extent of the CAF member's or Veteran's disability, or to determine the amount of PSC payable.

Suspension

72. The Department may suspend the PSC payment to a CAF member or Veteran who fails to provide the information or documents needed by the Department to assess the CAF member's or Veteran's continued eligibility for monthly PSC, or the extent of the CAF member's or Veteran's disability, or to determine the amount of PSC payable, until the information and documents are provided.
73. Before suspending the payment of PSC to a CAF member or Veteran, the Department shall provide the CAF member or Veteran with written notification of the reasons for the suspension and the effective date of the suspension.

Cancellation

74. The Department may cancel the payment of PSC if the situation that gave rise to the suspension of payment of PSC is not resolved in 6 months from the effective date of the suspension, or the assessment of the CAF member's or Veteran's eligibility for PSC or the extent of their disability or the determination of the amount payable was based on a misrepresentation or the concealment of a material fact.
75. On cancelling the payment of PSC, the Department will provide the CAF member or Veteran with written notification of the reasons for the cancellation, the effective date of the cancellation and the CAF member's or Veteran's rights to a review.

Election - lump sum

76. A CAF member or Veteran in receipt of monthly PSC payments may elect to receive a lump sum amount in lieu of these payments.
77. The election can be made at any time and must be made in writing to the Minister.
78. The monthly PSC would cease on the first day of the month after the month in which the Minister receives the written notification of the election. The lump sum amount would then become payable.

79. The election is irrevocable and applies to the CAF member's or Veteran's total extent of disability for which they are receiving the monthly PSC. For example, a CAF member in receipt of a monthly payment for a total extent of disability of 50% must elect to receive the full 50% as a lump sum payment.

Indexation

80. The monthly and lump sum rates in Schedule 3 are adjusted annually on January 1 in accordance with the percentage increase to the Consumer Price Index, rounded to the next 0.10%, for the year ending on October 31 of the previous year.
81. The lump sum PSC rates in Schedule 3 on April 1, 2019, are deemed to have been adjusted in the same manner as the lump sum DA on January 1, 2019.

Death of CAF member or Veteran

82. If the CAF member or Veteran died prior to the implementation of the VWA (April 1, 2006), any claims related to the CAF member's or Veteran's disability or death must be pursued under the *Pension Act*.
83. Only a survivor and/or dependent child may apply for a PSC in respect of a CAF member's or Veteran's death or disability. Estates are not eligible to apply for a PSC.
84. A survivor and/or dependent child may receive a PSC(s) under the VWA up to a maximum percentage of 100%.
85. The maximum percentage of PSC payable to a survivor and/or dependent child is 100% less any of the member's or Veteran's disability assessments under the *Pension Act* or VWA as a result of previous DP, DA or PSC applications, made by the CAF member or Veteran or survivor and/or dependent child as per section 56.4 of the VWA.
86. A survivor and/or dependent child may only receive a lump sum PSC as set out in sections 54, 55 and 56 of the VWA.
87. If a CAF member or Veteran dies of a condition for which partial entitlement was awarded, the resulting increase in the extent of disability (to 100%) would be paid to the survivor and/or dependent children on a fractional basis. This is because they are only entitled to receive a lump sum PSC that corresponds to the monthly PSC that would have been payable to the CAF member or Veteran if they lived, as per sections 55 and 56 of the Act.
88. A survivor and/or dependent child of two or more CAF members/Veterans may receive a PSC up to 100% in respect of each CAF member/Veteran.

CAF member or Veteran dies while in receipt of monthly PSC

89. When a CAF member or Veteran in receipt of the monthly PSC dies, a lump sum PSC may be paid to the survivor and dependent children if there is any value remaining as determined in accordance with sections 53 and 54.
90. If the CAF member or Veteran dies after making an election under section 53 and before the lump sum payment was received, the lump sum payment will be paid in accordance with section 87.1. See Payments: A Person Dies Before Receiving Payment policy.

Application pending

91. If a CAF member or a Veteran who made an application for PSC dies before the Minister has made a decision in respect of that application, the Minister may pay the survivor and/or dependent child a lump sum amount that corresponds to the monthly amount of PSC that would have been payable to the CAF member or Veteran as determined in accordance with sections 50 and 55.

No application made

92. A survivor and/or dependent child may apply for a PSC with respect to a new condition for which the CAF member or Veteran did not apply prior to his/her death.
93. A survivor and/or dependent child may also apply for an increase in the extent of disability in respect of an entitled condition if they have evidence that the CAF member's or Veteran's condition deteriorated between the last time he/she was assessed and the time of their death.
94. If the PSC is granted it is paid as a lump sum amount to the survivor and/or dependent children in an amount that corresponds to the monthly amount of PSC that would have been payable to the CAF member or Veteran as determined in accordance with sections 50 and 56 of the Act.

Deemed extent of disability

95. For the purposes of sections 55, 56 and 56.2, if a CAF member or Veteran dies as a result of an injury or disease for which a DA or PSC has been paid under the VWA, and the death occurs more than 30 days after the day on which the injury occurred, the disease was contracted, or the injury or disease was aggravated, the CAF member or Veteran is deemed to have been assessed on the day before their death at 100% for that disability.

Division of PSC

96. If the PSC is payable to a survivor or a person who was, at the time of a CAF member's or Veteran's death, a dependent child, the following rules will apply:
    a. if there is a survivor but no person who was a dependent child, the survivor will be entitled to 100% of the benefit;
    b. if there is a survivor and one or more persons who were dependent children, (i) the survivor will be entitled to 50% of the benefit, and (ii) the persons who were dependent children will be entitled to 50% of the benefit, divided equally among them; and
    c. if there are one or more persons who were dependent children but no survivor, each of those children will be entitled to the amount obtained by dividing the benefit by the number of those dependent children.
97. In relation to an unborn child of a deceased CAF member or Veteran a PSC may be paid to such a child who is subsequently born alive. An unborn child who is subsequently born alive is deemed to have been a dependent child at the time of the CAF member's or Veteran's death.
98. The PSC payable will be divided taking into consideration the unborn child. If the child is not subsequently born alive, the child's share will be divided amongst the other beneficiaries, as per section 56.1 of the VWA.

Reduction of PSC

99. A PSC payable to a CAF member or Veteran may be reduced, if an amount is paid or payable to them from another source when it is in respect of the same condition for which the PSC is payable.
100. Another source, for the purposes of section 56.3 of the Act, includes:
    a. amounts arising from a legal liability to pay damages for non-economic loss; and
    b. compensation payable in respect of non-economic loss under
        i. the Government Employees Compensation Act,
        ii. any provincial workers' compensation legislation,
        iii. a compensation plan established by any other legislation of a similar nature, whether federal, provincial or of another jurisdiction other than a plan to which the CAF member or Veteran has contributed (such as Canada Pension Plan, Old Age Security), and
        iv. a compensation plan of a similar nature established by the United Nations or by or under an international agreement to which Canada is a party, other than a plan to which the CAF member or Veteran has contributed.
101. Applicants must report whether they are in the process of applying for, have applied for, have received an amount paid (or are receiving an amount payable to them from another source) in respect of the same disability for which they are applying for a PSC.
102. A reduction in the amount of PSC payable is only done if the amount from the other source is paid or is payable before the PSC amount had been paid to the CAF member or Veteran.
103. In cases where the applicant received an amount that exceeds the amount of PSC payable in respect of the same disability, the PSC would be reduced in its entirety, and no PSC would be paid. If the applicant subsequently receives an increase in a previous DA (now payable as a PSC) or a PSC with respect to that disability, it may be reduced by the remaining amount.
104. The Department will not delay the adjudication of the application nor suspend payment of the PSC pending the outcome of a third party decision that may result in the payment of an additional amount in respect of the same disability for which the application is being made. However, if and when such an additional amount is paid or the Department learns that an additional amount was paid, an overpayment will be created and, may be recovered from any future payments made under the VWA or the *Pension Act*.
105. PSC is not to be reduced by an additional amount paid or payable under the Service Income Security Insurance Plan (SISIP), the General Officers Insurance Plan (GOIP) or the Reserve GOIP as these programs are not considered as an "other source" under section 53.4 of the regulations.

Amount of the reduction – monthly

106. The amount by which the Department may reduce the monthly PSC to a CAF member or Veteran is the lesser of:
    a. the amount that is payable from the other source converted into a monthly amount in accordance with generally accepted actuarial principles. Such a conversion is done when the amount paid from the other source was a lump sum amount or a periodic payment other than monthly; and
    b. the full amount of the monthly PSC.

Amount of the reduction – lump sum

107. The amount by which the Department may reduce the lump sum PSC to a CAF member or Veteran is the lesser of:
    a. the amount that is payable from the other source converted into a lump sum amount in accordance in generally accepted actuarial principles. Such a conversion is done when the amount paid from the other source was a periodic payment; and

b. the full amount of PSC that is payable as a lump sum.

Recalculation of the amount

108. If the PSC paid to a CAF member or Veteran was reduced in accordance with generally accepted principles, and at the time of the CAF member's or Veterans' death, the total amount of the reduction exceeds the total amount received from the other source, the reduction in the PSC will be re-calculated in accordance with section 53.4(4) of the Regulations.
109. If this re-calculation results in a smaller reduction of PSC than was previously calculated, the difference between the two amounts is to be paid to the CAF member's or Veteran's survivor or dependent children in accordance with 56.1 of the Act.

No PSC granted

110. PSC will not be granted in respect of an injury or a disease, or the aggravation of an injury or a disease, if the injury or disease, or the aggravation, has been the subject of an application for a pension under the *Pension Act* and the Minister, or the Commission as defined in section 79 of that Act, has rendered a decision in respect of the application
111. PSC will not be granted in respect of an injury or a disease, or the aggravation of an injury or a disease, if VAC determines that the injury or disease, or the aggravation, is inseparable — for the purpose of assessing the extent of disability — from an injury or a disease, or the aggravation of an injury or a disease, for which a pension has been granted under the *Pension Act*. Refer to the policy Dual Entitlement.

Transitional provisions for the PSC

DA periodic payment recipients

112. A CAF member or Veteran receiving annual DA payments will continue to do so after April 1, 2019. These payments will continue to be subject to the rights and limitations under 52.1 of the VWA (as it read on March 31, 2019) with respect to annual payments and under sections 54.1 to 54.3 of the Regulations.
113. A CAF member or Veteran to whom a DA is to be paid under section 45, 47 or 48 of the Act has the right to make an election referred to in subsection 52.1(1) of that Act as long as the prescribed time for making that election has not expired before April 1, 2019.
114. The right to receive periodic payments after April 1, 2019, is subject to the transitional provisions outlined in the policy for the Additional Monthly Amount.

Pending DA application

115. An application for a DA that is pending on April 1, 2019, is to be processed as PSC as it will be deemed to be an application for PSC.
116. Where a decision has been made granting entitlement to a DA before April 1, 2019, but an assessment of the extent of disability has not been made (the conditions in section 53 of the former VWA have not been met) before the coming into force date, the application will be considered pending and deemed to be an application for PSC.

Pending request for review, appeal or reconsideration

117. A request for a review, appeal or reconsideration that is pending on April 1, 2019, of a decision made by the Minister or the Veterans Review and Appeal Board before that date with respect to an application for a DA, will be considered under the PSC provisions as if the determination is in respect of an application for PSC.

Request for review, appeal or reconsideration made on or after CIF

118. A request for a review, appeal or reconsideration made on or after April 1, 2019, of a decision made by the Minister or the Veterans Review and Appeal Board before that date with respect to an application for a DA, will be considered under the PSC provisions as if the determination is in respect of an application for PSC.

Date payable for DA applications

119. In the event PSC is granted, the date of application for the purposes of determining when the monthly amount of the PSC becomes payable, is deemed to be on April 1, 2019. PSC cannot be awarded for a period or date that precedes the coming into force date of PSC.

Death of a CAF member or Veteran before CIF

120. If a CAF member or Veteran dies before April 1, 2019, and the CAF member, Veteran, survivor or dependent children did not apply for a DA before this date, the survivor and/or dependent children may make application for PSC.
121. If a CAF member or Veteran who has made an application for a DA dies before a decision is made, and the survivor and dependent child continues that DA application under section 50(2) of the VWA, and no decision has been made in respect of that DA application before April 1, 2019, then the application will be processed as as if the member or Veteran had made an application for PSC on April 1, 2019.
122. Where the decision (entitlement and assessment) was rendered before the date of death but payment of the DA was not made before the CAF member of Veteran dies, payment of the DA will be made in accordance with section 87.1 of the Act.

References

Application to the Minister

Definition of Dependent Child for the Purposes of Disability and Death Benefits

Definition of Survivor for the Purposes of Disability and Death Benefits

Disability Benefits in Respect of Peacetime Military Service – The Compensation Principle

Disability Benefits in Respect of Wartime and Special Duty Service – The Insurance Principle

Disability Resulting From a Non-Service Related Injury or Disease

Dual Entitlement policy

Entitlement Eligibility Guidelines

Person Dies Before Receiving Payment policy

Physical Training or Sport

Pension Act

Waiver of Requirement for Application

Veterans Well-being Act

Veterans Well-being Regulations