

S. HRG. 109–296

**DEATH BENEFITS AND SERVICES AVAILABLE TO
SURVIVORS OF MILITARY PERSONNEL AND
LEGISLATIVE PROPOSALS TO ENHANCE THESE
BENEFITS
HEARING
BEFORE THE
COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE
ONE HUNDRED NINTH CONGRESS
FIRST SESSION
FEBRUARY 1, 2005**

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PREPARED STATEMENT BY THE GOLD STAR WIVES OF AMERICA, INC.

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“With malice toward none; with charity for all; with firmness in the right, as God gives us to see right, let us strive to finish the work we are in; to bind up the Nation’s wounds. To care for him who has borne the battle his widow and his orphan.”

President Abraham Lincoln, Second Inaugural Address, March 4, 1865

The Gold Star Wives of America appreciates the opportunity to participate in this hearing to examine the survivor benefits and the quality of services provided to the family members of those who die in line-of-duty. Please accept our full statement for the record. My name is Edith Smith, and I am the widow of a service connected disabled retired marine.

The new members of Gold Star Wives, represented by our widows here today, have expressed frustration in their letters to you with the present system of Casualty Assistance as well as unanticipated bills they have received for the funerals of their "Fallen Hero." The Casualty Assistance Officer (CAO) does not receive training for this duty, and their prior knowledge of survivor benefits are generally poor. However, our members do express great appreciation for the officers themselves. In order to have some uniform information in the Department of Defense's (DOD) Casualty Assistance program, we would like to acquaint you with the Armed Forces Services Corporation, formerly the benefit department of "Army Air Force Mutual Aid Association" at Fort Myer, Virginia. This group serves as a lifetime casualty assistance office with its unique computer program to project the family's financial future of integrated government survivor benefits from three main sources. They notify their members of all changes to these benefits and assist the surviving spouse in applying for those benefits. Gold Star Wives suggest that Armed Forces Services Corporation be contracted to provide the uniform benefit information to the CAO who will continue to represent the military service and assist the family.

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Gold Star Wives thanks the Members of the Senate for seeking ways to improve survivor benefits for family members of this war. We are firm in our belief that "one death, one benefit" should be provided to all surviving spouses of Active-Duty deaths regardless of the cause or place of death. Gold Star Wives is confused to learn that some legislation that would provide more generous survivor benefits to family members who had not been financially dependent on the fallen soldier while denying these same benefits to a financially dependent surviving family of the soldier killed

in a “friendly fire” accident in a different location or severely disabled from Iraq. Gold Star Wives were not included in the legislation last year which improved the survivor benefit payment. My husband paid for me to have the Survivor Benefit Plan (SBP) benefit for 18 years before his death. Were he alive today, our family income would have the disabled retirees offset now eliminated, or if I remarried, my SBP eligibility would be restored. We military widows should not be excluded from the traditional spousal survivor benefit of the DOD.

Gold Star Wives believe the purposes of the SBP and Dependency and Indemnity Compensation (DIC) have been lost. Military widows want the dignity of receiving work-related survivor benefits from our husband’s employer. We are appreciative of the DIC paid by the Department of Veterans’ Affairs (VA) in recognition of their heroic military service and our great sacrifice.

Gold Star Wives was asked to focus our remarks on the death benefits provided to survivors of the catastrophically disabled retiree. Too many soldiers in this war have horrible permanent injuries caused by improvised explosive devices (IEDs). My own awareness of this often overlooked group rises from my role as the widow of a retired 100 percent disabled marine who died in 1998.

Deaths within 120 days of retirement receive the same benefits and services provided for an Active-Duty death.

The disparities in survivor benefits for the catastrophically disabled arise after 120 days. These families must rise to very difficult challenges that most of us can’t begin to imagine. The disparities in death benefits that Gold Star Wives have identified are:

- No death gratuity.
- The VA burial allowance for service-connected deaths of \$2,000 plus mileage

falls far short of the military's \$6,900 allowance. It is sad to know these families will pay to bury their own.

- VA's "special compensation" disabled retirees receive up to \$6,709; the surviving spouse receives \$993; that is 15 percent of the family income. The surviving spouse of a 100-percent disabled also receives the same indemnity compensation of \$993; or 41 percent. My husband lived more than 8 years with a 100-percent disability, so I received an additional \$213 DIC for assisting with his care. Soldiers who suffer the most may not live 5 years for their surviving spouse to qualify for this extra \$213.

- Casualty Assistance Officers not mandated for retired survivors.
- Life Insurance: the Serviceman's Group Life Insurance (SGLI) must be converted to the Veterans' Group Life Insurance (VGLI) within a short time. The higher cost VGLI is a term insurance with premiums actuarially increased by age, unsubsidized by the government, and with no waiver of premium for permanent disability.

- DIC eligibility is not automatic; cause of death must be service related or live 10 years with the disability. It becomes prudent for the retiree to purchase the military's SBP with a cost of 6 1/2 percent of retired pay to assure his survivor, who has placed her career on hold, of a guaranteed income.

- Surviving family members of retirees are not eligible for 3-year continuation of Active-Duty medical and dental benefits.

Gold Star Wives suggests that the committee restructure survivor benefits for surviving family members of the catastrophically disabled.

WHO WE ARE

Gold Star Wives of America, Inc., is a congressionally-chartered service organization

comprised of surviving spouses of military servicemembers who died while on Active-Duty or as a result of a service-connected disability. Many of our membership of over 10,000 are the widows of servicemembers who were killed in combat during World War II, the Korean War, the Vietnam War, and all those military operations up to today's in Iraq and Afghanistan. Almost all of our members are receiving DIC from the VA. Gold Star Wives has been working on Capitol Hill to help maintain survivors benefits since it was founded in 1945. Today, we continue to fight to main-

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tain those benefits for not only our members, but also for the over 330,000 survivors receiving DIC.

Gold Star Wives has a long history of performing volunteer community service as well as volunteer work in our Nation's Veterans Hospitals and many other places where they are needed. During 2003, 119 of our members volunteered in 49 Veterans' Affairs Volunteer Service (VAVS) accredited hospitals and medical centers.

Gold Star Wives volunteered at Veterans Hospitals and Medical Centers 11,537 hours valued at \$59,416, drove more than 23,866 miles valued at \$3,341, and donated over \$27,000 in cash and goods. We are currently members of the National VAVS Committee.

The National Legislative Committee of The Gold Star Wives of America is composed of volunteer members. The committee includes:

- Rose Lee, Chairman, of Arlington, Virginia; widow of U.S. Army Active-Duty death; Korean War, Vietnam War;
- Margaret Murphy Peterson of Remsen, New York; widow of a soldier killed in action (KIA); U.S. Army, Vietnam War;

- Penny Splinter of Dubuque, Iowa; widow of KIA, Operation Iraqi Freedom

(OIF);

- Edith Smith, of Springfield, Virginia; widow of retired disabled marine,

Vietnam War;

- John Brennan, is our paid Washington Government Relations Representative.

SURVIVORS' LEGISLATIVE HIGHLIGHTS IN 108TH CONGRESS

Gold Star Wives worked closely with the Senate Committee on Veterans' Affairs in the 108th Congress to pass legislation that has improved military survivors' benefits.

We have always found both majority and the minority committee staff members to work in a bi-partisan and collaborative manner. They have always responded promptly to our requests for information, as well as meetings to discuss our legislative concerns and priorities. Consequently, Gold Star Wives would like to express our gratitude for their efforts in working to improve survivors' benefits during the 108th Congress.

Specific survivors' legislative highlights in the 108th Congress include:

- The Veterans Improvement Act of 2004 (P.L. 108-352)
- Increases survivors' DIC benefits by \$250 per month during the 2-year period following the death of a veteran to further ease the transition of surviving spouses with dependent children;
- Allows a remarried spouse to be buried in a national cemetery with his or her deceased veteran-spouse and without permission from his or her subsequent husband or wife;
- Provides for a 10-year extension of delimiting period for Survivors' and Dependents' Educational Assistance (DEA) for spouses of Active-Duty deaths who are now in their first 10-year period of eligibility;

- The Veterans Benefits Act of 2003 (P.L.108–183)
- Includes a provision that permits surviving spouses who remarry after attaining age 57 to retain their VA survivors' benefits. Included in that law was a provision that provides for a 1-year period to apply for reinstatement that expired on December 15, 2004, for those who remarried before the law was signed on December 16, 2003. According to the VA, as of last October, 5,794 survivors have applied for reinstatement out of more than 32,000 eligible survivors. Consequently, it does not appear that many were aware of their eligibility to be reinstated. So, we would ask that the law be amended to include those survivors over age 55 as the original legislation requested and to enable those survivors who may not be aware of the legislation to become re-enrolled;

- Increases the rate of monthly Survivors' and DEA benefits for full time students from \$695 to \$788 for 45 months (the current full time student rate is \$803 per month);

- Provides for the end of the offset of the SBP payments by DIC payments for survivors who remarry after the age of 57. However, the DOD is refusing to recognize this law and is now seeking to recover payments of the SBP benefits made to survivors who are legally eligible to receive both payments.

We would request that the committee help us with this unfair interpretation of the law.

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CURRENT SURVIVORS' BENEFITS MONTHLY COMPENSATION

- The VA's Dependency and Indemnity Compensation

DIC is monthly compensation of \$993 paid as indemnity to servicemember's surviving spouse. However, this amount is only 41 percent of the \$2,429 paid monthly to the family of a veteran who is 100 percent disabled as a result of a service-connected injury. Additionally, the DIC monthly payment of \$993 is only 15 percent of the \$6,709 monthly payment paid to the catastrophically disabled veteran. Consequently, upon the death of a veteran of a service-connected injury who falls into either disability category, the veteran's family suffers a substantial unanticipated monthly financial setback.

- The DOD's Survivor Benefit Plan

SBP originally was a military retiree's purchased benefit plan that assures a surviving spouse a monthly payment of 55 percent of the monthly retirement check.

It was expanded in the 108th Congress to include all line-of-duty deaths without the requirement of 20 years of Active-Duty service after September 10, 2001. However, with the SBP reduced by DIC, practically all Active-Duty deaths result in the survivor receiving only a DIC payment. After November 24, 2003, the OIF survivors have the option to elect the child only SBP. In that case, the SBP benefit is provided to the child without offset of DIC. A sad consequence of the SBP child option is that the survivor who becomes the primary provider for the family, is forced to forego their intended survivor benefit and transfer it for a current income at the unjust loss of a lifetime benefit intended for surviving spouses. No living military retiree is forced to make this option at retirement. We therefore suggest that survivor benefit options provided to the living servicemember should be provided in a similar and equal manner to the deceased member's family. If a divorced spouse is able to obtain SBP benefits for herself as a divorce settlement without offset of any other income, we ask why the survivor cannot be afforded this same benefit as a consequence of

their Active-Duty retired spouse's death?

It is extremely hard to understand, from our survivor's perspective, why two wives of one retiree could possibly collect each survivor benefit without offset. Children can collect each benefit without offset, and their years of SBP payments would be longer than the average 7 years a military survivor is expected to live and collect SBP. Another sad result of the child option is that children who are ages 18–23 and in school are paid directly rather than to the surviving parent. Consequently, the survivor has no legal say over this money and it is possible that this dependent child in college could have an income of some \$2,000 per month resulting in a loss of potential scholarship and the unusual situation of an unearned income provided directly to the surviving "child."

RECOMMENDATIONS

- Ending the SBP/DIC offset

A servicemember receiving or entitled to receive retirement pay may participate in the SBP to ensure a survivor will have some income in the event of their spouse's death. However, for those retired servicemembers who die as a result of a serviceconnected disability and therefore entitling their survivor to become eligible for DIC, the survivor's SBP will then be offset dollar for dollar by their DIC.

This patently unfair offset currently affects approximately 52,000 survivors who are dually eligible for both SBP and DIC. While DIC is non-taxable income and SBP is taxable, survivors of these disabled retirees see little or no SBP funds despite having paid monthly premiums equal to 6.5 percent of their retired pay; adding up to thousands of dollars over the years. As a consolation for having made these payments, the accumulated premiums are returned to them without interest. This lump sum refund then becomes a taxable event for the survivor. Unfortunately, there was

very little tax advantage for the disabled retiree when paying SBP premiums because his income was predominately non-taxable. Consequently, there is no real advantage to SBP for this group of survivors and, in fact, it becomes an unjust survivor's burden. There is a great deal of resentment by some survivors who see that the Federal Government is collecting taxes on refunded SBP contributions for which they gained nothing financially. The net effect of their monthly premium payments is that the retired disabled veteran's survivor pays taxes for having given the Federal Government a tax free loan.

There is no civilian employer that would be permitted to return many years of survivorship premiums, without interest, should it choose not to pay purchased benefits. Yet, under current law the survivors of a military retiree are denied participation in a cost-sharing benefit that was meant to protect them. Again, had the disabled servicemember retired from Federal civil service, the survivor would be entitled to both the civil service survivor benefit and DIC, with no offset.

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Many SBP/DIC survivors have spent more than 20 years sacrificing and supporting their spouse's military career and then years taking care of them during their years of disability. Retired pay represents deferred compensation for the 20 or more years of military service and disability pay that is designed to compensate for a veteran's reduction in quality of life and lost future earnings as a result of his sacrifice for his country. Just as the disabled military retirees are now entitled to both benefits, so should their survivors. Many survivors are in their 50s or older and have not had the opportunity to develop their own careers. The DIC attempts to indemnify them for the loss of a spouse's life and an element of support for their future.

The SBP represents completely different income that they have paid for and made a life of sacrifices for like multiple deployments, constant anxiety about their spouse's well being, frequent moves, and no real chance to invest in a pension of their own.

- Better training for the Casualty Assistance Officers

We raise this issue as we have heard of many instances of problems that the new survivors of the conflicts in Iraq and Afghanistan have experienced. For most survivors, the death of their spouse is the most catastrophic event of their lives. Many are literally in shock for many months and are unable to cope with the financial decisions and bureaucratic tangles that a survivor encounters. The CAOs are unfortunately not now adequately trained, nor are any assigned to such duty full time.

Yet, they must try to help survivors go through the maze of the VA and DOD benefits.

CAOs cannot provide the kind of counseling, both grief counseling and financial counseling necessary to meet the needs of a military survivor. There currently is little guidance for the CAOs. Without training or some DOD/VA/Social Security (SS) integrated brochures, survivors are without proper counseling and guidance at a critical time in their lives. All of the services should have standardized guides.

A suggested solution to provide uniform and accurate information to all survivors would be for DOD to contract with the Armed Forces Services Corporation (AFSC). AFSC specializes in government survivor benefits and is renowned for its expertise, outstanding service, and its unique computer program that projects the family's future integrated stream of government survivor benefits and changes that occur to those amounts due to changing ages of the spouse and children. They serve as a lifetime casualty assistance office keeping their members informed of legislative changes that may affect the family's survivor benefits and assist the surviving

spouse in applying for those benefits. AFSC assists the surviving spouse in dealing with the DOD, VA, and the Social Security Administration (SSA).

- Improved upfront information needed for survivors' decisions

Survivors need to know upfront the following information:

-Upon remarriage survivors are subject to the following change in benefits:

-Loss of their military ID card and consequent loss of base privileges including Exchange and Commissary, morale, welfare, and recreation (MWR), and military medical benefits;

-Their medical benefits can go from TRICARE to CHAMPVA.

-Military survivors who work for the Federal Government can be barred from receiving their spouse's Social Security benefit;

-Those not enrolled in Medicare Part B are not eligible for CHAMPVA. The waiver of penalties and interest assessed for late enrollment has been fixed legislatively for TRICARE but not for CHAMPVA. Gold Star Wives would like to respectfully suggest that the plain language of Title 38, Section 1713 gives these CHAMPVA widows the same or similar benefits as TRICARE survivors. We are told that about 60–100 disabled widows may be suffering a loss of medical care because they were unaware of the mandated requirement to purchase Medicare Part B as an additional condition to their eligibility for CHAMPVA. We ask the committee to inquire as to the welfare of these widows.

- The creation of a Survivors' Office within the VA and/or the DOD

There currently is no central focus or location within either the VA or DOD that a survivor or family member can go to with questions or concerns about their benefits. The VA's regional offices are woefully inadequate at providing information concerning survivors' benefits. DOD likewise has no central location for the new survivor

to turn to should their CAO be without such information. There is virtually no coordination between DOD and VA that survivors can count on. Consequently, there is a need for a Survivors' Office that can carry out these critical functions from a central location.

- Future changes in survivors' benefits

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There are several bills being introduced concerning proposed changes to survivors' benefits, including an increase in the death gratuity from \$12,000 to \$100,000 and an increase in life insurance. We strongly recommend that any changes made to survivors' benefits should not differentiate between Active-Duty deaths and KIA deaths. Survivors of servicemembers who die on Active-Duty have very similar experiences and needs following their loss. Also, insurance proceeds should go to the servicemember's surviving spouse and any children, rather to other family members who may not be dependents.

BIOGRAPHY OF EDITH SMITH

Edith Smith is the widow of a disabled military retiree, Lt. Col. Vincent M. Smith, USMC, Ret. He had the misfortune to suffer a disabling heart condition in 1987, at age 48. Twenty-nine months later, Vince was switched to Medicare and his earned military health benefit of retirement, CHAMPUS was unexpectedly terminated simply because his disabling condition met the strict requirements for a swift and unchallenged Social Security disability determination. With the special help of Senator John McCain, Arizona, and Congressman Bill Young, Florida, Edith set out in 1991 to change the law with another wife (residing in Florida) whose husband suffered a traumatic brain injury at about age 50. Within 10 months, legislation restoring

CHAMPUS as second payer to Medicare was signed into law for about 100,000 retired Medicare eligibles under age 65. A July 19, 1992, segment describing the mission of Terry Cox and Edith to change the law ran on Tom Brokaw's NBC "Nightly News." Mr. Brokaw ended the segment with his comment: "Hell hath no fury like a woman scorned with a phone and a fax!"

Edith has continued her role as a volunteer advocate for Disabled Military Beneficiaries by serving as a member of the TRICARE Beneficiary Working Task Force at Tricare Management Activity in Falls Church, Virginia. In her volunteer capacity, she has prepared and presented testimony more than 20 times since 1993 before various congressional committees as a citizen advocate working to correct unjust problems that surfaced with the implementation and integration of the dual Medicare/CHAMPUS/TRICARE benefit for those under age 65. Following her husband's death, Edith focused her efforts on changes to the "custodial care" definition in order to provide medically necessary care to children requiring skilled nursing delivered in the home setting.

Edith continues to serve in a volunteer role as a resource on disabled issues to the Government Relations Department of The National Military Family Association and to The National Association for Uniformed Services. In 1998, The National Military Family Association honored Edith with their prestigious Margaret Vinson Hallgren Award for her efforts on behalf of the disabled members of the military community. She served in various positions on The Advisory Social Services Board to Fairfax County Board of Supervisors for 7 years. She became a member of Gold Star Wives of America shortly after her husband's death and assists with their Washington legislative activities.

A native Virginian, Edith graduated from Mary Washington College of the University

of Virginia in 1962 with a Bachelor of Science degree in Home Economics Education. She was married to Vince Smith for 35 years, staying at home to assist with his care during the years of his disability. They have two children; Karen, her husband Chas, one son Steve and two grandchildren.

DISCLOSURE STATEMENT

Neither Edith Smith nor the Gold Star Wives of America, Inc. have received any Federal Grant or contract during the current or previous 2 fiscal years relative to the subject matter of this testimony.