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1.0 SYNOPSIS

1.1 Purpose

This policy provides the definitions for VAC Rehabilitation and Vocational Services and related compensation benefits.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act* sections 2, 6, 7,8,9,10,11 and 12, and Regulations

3.0 POLICY

3.1 Definitions

The following definitions apply:

- a) “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.
- c) Board” means the Veterans Review and Appeal Board established by section 4 of the *Veterans Review and Appeal Board Act*.
- d) Canadian Forces” means the armed forces referred to in section 14 of the *National Defence Act*, and includes any predecessor naval, army or air forces of Canada or Newfoundland.
- e) “common-law partner”, in relation to a member or a veteran, means a person who is cohabiting with the member or veteran in a conjugal relationship, having so cohabited for a period of at least one year.
- f) “compensation” means any of the following benefits under this Act: an earnings loss benefit, a supplementary retirement benefit, a Canadian Forces income support benefit, a permanent impairment allowance, a disability award, a death benefit, a clothing allowance or a detention benefit.
- g) “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

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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.
- h) “disability” means the loss or lessening of the power to will and to do any normal mental or physical act.
- i) “medical rehabilitation” includes any physical or psychological treatment whose object is to stabilize and restore the basic physical and psychological functions of a person.
- j) “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*.
- k) “Minister” means the Minister of Veterans Affairs.
- l) “orphan”, in relation to a deceased member or a deceased veteran, means their child, or a child of their survivor who at the time of the member’s or veteran’s death was 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.
- m) “personal information” has the same meaning as in section 3 of the *Privacy Act*.
- n) “prescribed” means prescribed by regulation.
- o) “psycho-social rehabilitation” includes any psychological or social intervention whose object is to restore a person to a state of independent functioning and to facilitate their social adjustment.
- p) For the purposes of this Part, an injury or a disease is deemed to be a service-related injury or disease if the injury or disease is, in whole or in part, a consequence of:
- a) a service-related injury or disease;
 - b) a non-service related injury or disease that was aggravated by service;
 - c) an injury or a disease that is itself the consequence of an injury or a disease described in paragraph (1) or (2); or
 - d) an injury or a disease that is a consequence of an injury or a disease described in

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paragraph (3).

- q) “rehabilitation services” means all services related to the medical rehabilitation, psychosocial rehabilitation and vocational rehabilitation of a person.
- r) “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.
- s) “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.
- t) “spouse” is a reference to a member’s or a veteran’s spouse who is residing with the member or veteran.
- a) “spouse” is deemed to be residing with a member or a veteran, and a person does not cease to be a member’s or a veteran’s common-law partner, if it is established that they are living apart by reason only of ;
 - i. one or both of them having to reside in a health care facility;
 - ii. circumstances of a temporary nature; or
 - iii. other circumstances not within the control of the member or veteran or the spouse or common-law partner.
 - b) This Act does not apply to a member’s or veteran’s surviving spouse if the member or veteran dies within one year after the date of the marriage, unless
 - i) in the opinion of the Minister, the member or veteran was at the time of that marriage in such a condition of health as to justify their having an expectation of life of at least one year; or
 - ii) at the time of the member’s or veteran’s death, the spouse was cohabiting with the member or veteran in a conjugal relationship, having so cohabited for a period of at least one year.
- u) “suitable gainful employment” means, in relation to a veteran, employment for which the veteran is reasonably qualified by reason of education, training or experience and that provides a monthly rate of pay equal to at least 66 and 2/3 % of the imputed income of the veteran as referred to in subsection 19(1) or the Act.
- v) “survivor”, in relation to a deceased member or a deceased veteran, means

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- 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 members or veteran's death, the member's or veteran's common-law partner.

- w) "total and permanently incapacitated" means, in relation to a veteran, that the Veteran is incapacitated by a permanent physical or mental health problem that prevents the individual from performing any occupation that would be considered suitable gainful employment
- x) "veteran means a former member.
- y) "vocational assistance" includes employability assessments, career counselling, training, job-search assistance and job-finding assistance, whose object is to help a person to find appropriate employment.
- z) "vocational rehabilitation" includes any process designed to identify and achieve an appropriate occupational goal for a person with a physical or a mental health problem, given their state of health and the extent of their education, skills and experience.

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide an outline of the decision authority levels for approving Rehabilitation Program services, including vocational assistance, and Economic Loss Benefits.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act 41(e), Regulation 15 and 16*

3.0 POLICY

General

- 3.1 As part of the determination of a member's or Veteran's eligibility for the Rehabilitation Program, an assessment of the member's or Veteran's needs must be completed.
- 3.2 Based on the needs identified in the assessment, a plan must be established outlining the current and proposed interventions required to meet the needs.
- 3.3 Responsibility for determining eligibility for the Programs is per the following chart:

Service or Benefit	Responsibility
JOB PLACEMENT PROGRAM	Interim Processing Centre
REHABILITATION PROGRAM	
Rehabilitation need	Area Counsellor, in consultation with the appropriate Client Service Team (CST) member/s, ie medical, nursing, occupational therapy or rehabilitation specialist
Service Relationship of the Rehabilitation need	Area counsellor, in conjunction with the appropriate CST member/s, ie medical or nursing
Rehabilitation Plan/ Vocational Assistance Plan	CST Manager, based on the Plan developed and recommended by the AC and other appropriate CST members. This includes the medical, psycho-social and vocational services.
ECONOMIC LOSS PROGRAM	

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Earnings Loss Benefit	Entitlement based on the establishment of a rehabilitation plan, the determination of total and permanent incapacity, or a vocational assistance plan, or Veteran's death as a result of a service related health condition. Calculation of the amount payable done in a Interim Processing Centre.
Permanent Impairment Allowance	Pension Adjudicators
Supplementary Retirement Benefit	Interim Processing Centre
Canadian Forces Income Support Benefits	Interim Processing Centre
Disability Awards	Pension Adjudicators
Clothing Allowance	Pension Adjudicators
Detention Allowance	Pension Adjudicators

Provision of Rehabilitation Program Services

- 3.4 The Area Counsellor (AC), in consultation with the appropriate CST member/s, will recommend the medical, psycho-social and vocational services require by the Veteran¹, and follow-up any required additional assessment and action with the rehabilitation contract specialist. (See VPPM 3.1.1- Rehabilitation Program - General)

Medical and Psycho-social Rehabilitation Services

- 3.5 Medical or psycho-social rehabilitation services, identified as part of the rehabilitation plan, may be approved when provided by a health care provider approved by the Department. (See VPPM 3.1.1- Rehabilitation Program - General and Vol 2, VPPM 2.2.9 - Health Professional Groups Approved by the Minister))
- 3.6 The fee approved will be in accordance with the fee schedules approved by the Department, as outlined in the FHCPS Benefit Grids, or where a fee has not been established, the fee should be the usual and customary charge for a cash paying client.
- 3.7 The frequency and maximum number of occurrences for the service provided to the Veteran will be based on the need identified in the rehabilitation plan, subject to the duration of any approval period not exceeding six months. Prior to additional services being approved beyond the six month period, a progress report and prognosis will be required from the provider.

¹ Use of the term Veteran also includes spouse or survivor where appropriate.

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- 3.8 If the rehabilitation plan documentation does not indicate a recommended period or frequency for the services, the initial approval will be for ten occurrences. The AC, following consultation with the SDMO, may consider an extension based on information contained in a progress and prognosis report provided by the provider.
- 3.9 Counselling services may be authorized for family members in accordance with VPPM 3.1.4 - Family Services
- 3.10 Refer to Vol 1, VPPM 7.2 - Recommending Inpatient Psychiatric Treatment in A Private Facility Policy and Vol 2, VPPM 2.2.21.xvi - Alcohol Addiction Treatment and VPPM 2.2.21.xxii - Psychological And Social Work Services for approval criteria for treatment in addiction centres.
- 3.11 Requests for services to be provided by a provider not already registered by the Department should be referred to Blue Cross for verification of the provider's qualifications against the professional standards approved by VAC.
- 3.12 Requests for services from provider groups that have not been approved by the Department should be referred to Director of Client Services and Quality Management for review. (See Vol 2, VPPM 2.2.9 -Health Professional Groups Approved by the Minister).

Job Placement

- 3.13 Job Placement services are to be provided by the Job Placement contractor approved by the Department.

Vocational Rehabilitation

- 3.14 Vocational Rehabilitation services are to be provided by the Vocational Rehabilitation Contractor approved by the Department.
- 3.15 The fee for these services will be in accordance with the contract, and/or the usual and customary cost of a course or educational training.

Vocational Assistance

- 3.16 Vocational Assistance services are to be provided by the Vocational Rehabilitation Contractor approved by the Department.
- 3.17 The fee for these services will be in accordance with the contract, and/or the usual and customary cost of a course or educational training.

Travel and Other Rehabilitation Related Costs

- 3.18 Travel and other rehabilitation related costs can be reimbursed in accordance with the VPPM

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3.1.6 - Rehabilitation Related Expenses.
Approval Limits

3.19 The following is the approval authorities for Rehabilitation and Vocational Assistance services:

Service	Authorization	Maximum
Medical and psycho-social services	Area Counsellor, in consultation with appropriate Client Service Team members	In accordance with existing VAC frequency and dollar limits, per above
Travel	Area Counsellor / Client Service Agent	In accordance with policy limits
Vocational Rehabilitation and Assistance Services ¹	Client Service Team Manager	Up to \$10,000 ²
	District Director ³	Up to \$20,000
	Regional Director General ³	Up to \$30,000
	Director Operational Guidance ⁴	Over \$30,000
Substance Abuse or Pain Management Clinic	Client Service Team Manager	Up to \$10,000 ⁵
Amendments to Vocational Rehabilitation and Assistance Services	Area Counsellor	An amendment up to \$1,000 above original decision by above

1. Includes cost of tuition, books, supplies, internet fees, licensing or examination fees, safety equipment, tutors, temporary accommodation and dependent care.

2.Costs for total rehabilitation plan, including year 2, 3 or more.

3.In consultation with the Regional Rehabilitation Consultant

4 In consultation with the National Rehabilitation Consultant

5Treatment greater than \$10,000 must be referred to Director Operational Guidance

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1.0 SYNOPSIS

1.1 Purpose

This policy outlines the review process for persons dissatisfied with decisions made under Part 2 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act (CFMVRCA)*.

1.2 Background

With the introduction of the CFMVRCA, qualified clients became entitled to a suite of programs designed to address their unique requirements. Among these programs are rehabilitation/vocational services and financial benefits. Given that the Department will take important decisions that will significantly impact clients' entitlement to these programs, it is important that clients have a means of seeking a review of these decisions.

2.0 AUTHORITY

2.1 Section 83, *CFMVRCA*, Regulations.

3.0 POLICY

General

3.1 This policy contains provisions relating to review of original decisions on application and review on the Minister's own motion.

3.2 Original decision:

The original decision regarding the client's entitlement to rehabilitation/vocational services or financial loss benefits must state, as clearly and concisely as possible, reasons for the decision and provide the client with information regarding how to exercise the right of review and time limits.

3.3 The review process:

- a) Applies to all decisions, unfavourable in whole or in part, made under Part 2 of the CFMVRCA and provides a simple means for requesting review of such decisions;
- b) Provides for a formal re-examination of a decision by departmental officials other than those who made the original decision;

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c) Provides for review of decisions on the Minister's own motion by departmental officials other than those who made the original decision.

Reviews on Application

3.4 There are two levels of review on application. The table below is not intended to list every operational decision taken, but is representational only. It refers to the categories of original decision-makers and the levels of review that correspond with those decision-makers:

Program	Original Decision-maker	First Level of Review*	Final Level of Review
Rehabilitation & Vocational Program	CSTM	RDG	DG, NOD
	AC		DG, NOD
Earnings Loss Program	AC	RDG	DG, NOD
	Interim Processing Centre	Director, Program Delivery Directorate	DG, NOD
	Pension Adjudicator (s.22 CFMVRCA-service relation- to be confirmed)	Director, Program Delivery Directorate	DG, NOD
Canadian Forces Income Support Benefit	Interim Processing Centre	Director, Program Delivery Directorate	DG, NOD
Supplementary Retirement Benefit	Interim Processing Centre	Director, Program Delivery Directorate	DG, NOD
Permanent Impairment Allowance	Pension Adjudicator	Director, Program Delivery Directorate	DG, NOD

3.5 First-level review decisions:

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- a) A client who is dissatisfied with a Departmental decision relating to rehabilitation services, vocational assistance and financial benefits under part 2 of the Act will have a right to apply for a review.
- b) The request for review must be in writing and be submitted within 60 days of receiving notice of the original decision, or longer, if circumstances contributing to the delay are beyond the control of the client.
- c) The review is to be conducted by a person other than the original decision-maker, and based on a written submission.
- d) The original decision under review may be confirmed, amended or rescinded.
- e) The Department will communicate its review decision to the client in writing, and provide reasons for its decision.
- f) The first level review decision will advise the client of their right to seek a review of the first review decision, and will provide the position title and contact information of the departmental official to whom the request for review may be sent.
- g) The applicant will be informed of their obligation to provide the following information as grounds or reasons for requesting further review of a first-level review decision. The decision letter should explain as fully as possible the type of information that will satisfy this requirement:
 - i) New evidence that was not available at the time of the original decision or first level review decision;
 - ii) Information regarding an error with respect to any finding of fact or the interpretation of law.

3.6 Second-level review decisions:

- a) A client who is dissatisfied with a first level review decision relating to rehabilitation services, vocational assistance and financial benefits under part 2 of the Act will have a right to apply for a review of that decision.
- b) The application for review must be in writing, be submitted within 60 days of receiving notice of the first level review decision and include the grounds for review specified in section 3.5(g)(i) & (ii).
- c) The review is to be conducted by a person other than the original decision-maker, and based on a written submission.
- d) The original decision may be confirmed, amended or rescinded on the basis of new evidence or on the Minister's determination that there was an error with respect to a finding of fact or interpretation of law.
- e) The Department will communicate its review decision to the client in writing, and provide reasons for its decision. The Department's decision letter must specifically address the grounds for review presented by the applicant (as outlined in section 3.5 (g)(i)&(ii) above) in its reasons for decision.
- f) The second level of review is the final level of review on application available to affected persons.

3.7 Reviews on Minister's Own Motion

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- a) Decisions made under Part 2 or section 83 of the CFMVRCA, which include original decisions or first and second level review decisions on application, may be reviewed on the Minister's own motion.
- b) Reviews on the Minister's own motion will be conducted by an official delegated by the Minister.
- c) The original decision or decision on an application for review may be amended or rescinded on the basis only of an error of fact or law. A review on the Minister's own motion may not consider new evidence.
- d) Where the Minister conducts a review and there appears to be an error of fact or law, the Minister must, prior to making a decision to amend or rescind the decision being reviewed, write to the affected person, advise of the nature of the alleged error and provide an opportunity to respond within 60 days.
- e) The final decision of the review on the Minister's own motion must be communicated in writing to the client. Reasons for the decision, as well as information regarding appeal rights under sections 3.5 and 3.6, above, must be provided.

3.8 Representatives:

Requests for review submitted by a representative, other than when the representative is a Veteran's organization recognized by VAC, must include a written confirmation by the client authorizing the representative to act on their behalf, unless there is already evidence of an existing Power of Attorney on the client's file. If confirmation is not received with the request for review, the client must be requested to provide in writing the required authorization to proceed with the review. No review will be undertaken until such confirmation is received. If authorization is not received, the client (not the purported representative) must be advised that the request for a review of the decision will not be processed.

3.9 Termination of Reviews:

A review will be terminated:

- a) At the written request of the client or representative;
- b) When the review is completed and the client notified of the result.

3.10 A review requested while the client is alive will not be terminated solely due to the subsequent death of the client.

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1.0 SYNOPSIS

Purpose

- 1.1 The purpose of this policy is to provide guidance regarding the provision of services to eligible clients under VAC's Job Placement Program (the Program).

Definitions

- 1.2 The Job Placement Program does not guarantee a job but rather allows for job-finding support which is the provision of the tools to find a job and assistance with a job search.
- 1.3 An application for the Job Placement Program must be made in writing and signed by the member/Veteran/survivor. The application must include information necessary to determine whether an applicant is eligible for the Program.
- 1.4 Active participation in the Job Placement Program is defined by the measurement of the activities and deliverables relative to active job search preparation and ongoing job searching activities.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, Part 1, sections 2 - 5.

3.0 ELIGIBILITY

- 3.1 Eligibility for participation in this program is outlined in the Program's section on Eligible Clients (see VPPM 2.1.2).

4.0 POLICY

General

- 4.1 Approval of the Job Placement Program is the responsibility of VAC. The intent of VAC's Job Placement Program is to increase the labour force participation and economic security of Canadian Forces (CF) Veterans and their families. Its aim is to fill in any gaps, or build on transition supports, that occur within the current programs of the Department of National Defence (DND), Human Resources and Social Development Canada (HRSDC) Service Canada, and the provinces. The Program builds on the eligible participant's transferable skills obtained from CF training and/or experience, or from DND's Skills Completion Program.
- 4.2 The Job Placement Program is for CF members, Veterans and survivors who do not have

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entitlement to vocational rehabilitation or vocational assistance.¹ The Program offers job-finding support, through a contracted outplacement company (contractor), to eligible CF members and Veterans, in cooperation with current CF programs and services, to assist their establishment in a civilian career.

- 4.3 Provision of assistance under the Program is based on assessed need and is contingent upon the individual's continued active participation. Active participation is measured by the activities and deliverables related to active job search preparation and ongoing job searching activities, eg., participation in a workshop or structured job club.
- 4.4 The average length of time in active job search will likely be 3 - 6 months depending on the type and level of target occupation/s.
- 4.5 There is no training component in the Job Placement Program. When an individual's military skills do not equate to a civilian occupation, and they have not upgraded their skills through DND's available programs, they will be referred to the training programs available to eligible individuals through HRSDC Service Canada and those provinces to which responsibility for training has been devolved or they may be reimbursed for training costs, to a maximum of \$5,000 under DND's Skills Completion Program.
- 4.6 Under this Program, the Department will pay for job-finding support for clients who have applied for assistance and who have been identified as being eligible to participate.
- 4.7 Funding assistance, such as the Canadian Forces Income Support, is not provided for participation in the Job Placement Program.
- 4.8 Other VAC benefits or services are not provided unless the client qualifies under another authority/program.

Requirement to Make an Application

- 4.9 Participation in the Job Placement Program is incumbent upon the member/Veteran/survivor making an application in writing. As defined in paragraph 1.3, the application shall contain such items as:
- a) information respecting the identity of the applicant (eg., birth certificate)
 - b) copy of release certificate or signed copy of release application/notification;
 - c) proof of job loss or decrease in salary where applicable (Reservists); and
 - d) any other information that is necessary to enable the Minister to determine whether the Veteran is eligible for participation in the Program, such as, prior assessment of transferrable skills.

¹Eligible medically releasing members receive job placement services through SISIP or the Rehabilitation Program.

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4.10 There is a time limit for applications. (see VPPM 2.1.3-Time Limit for Applications)

Outline of Job Placement Program

4.11 Eligible serving members may apply for the Program once they have been referred by the Department of National Defence (DND). Regular Force Veterans or Reservists may apply at a VAC District Office, or through VAC's NCCN.

4.12 A client must apply in writing in order to participate in the Job-Search Training component of the Job Placement Program.

4.13 A client must also complete and sign application forms to participate in the remaining components of the Job Placement Program. Once proof of release (eg., copy of release certificate) is provided, VAC staff will determine whether the client is eligible for participation in the program. If eligible, the Veteran will be referred to the Contractor to develop a job assistance plan.

Elements of the Program

4.14 Elements of the Job Placement Program are to be delivered by a contracted outplacement company and may include:

- a) Job-Search Training; and/or
- b) Career Counselling; and/or
- c) Job-Finding Assistance.

4.15 Policies on the elements of the job placement services are provided in the following sections of this chapter.

Frequency of Access

4.16 The Program is intended as a one-time benefit for eligible clients although multiple eligibility is possible, for example:

- a) Regular Force Veteran who is re-established in civilian life may be re-entitled if they join the Reserve Force and become eligible by virtue of the Reserve Force service;
- b) Reserve Force service member may be re-entitled if they again meet one of the eligibility criteria;
- c) Regular Force or Reserve Force Veteran may be re-entitled through the rehabilitation program if they present with a rehabilitation need resulting from service on a second or subsequent occasion.

4.17 Should it be necessary for a client to stop participating in the Program, consideration will be

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given by VAC staff for continuation at a later date if warranted by reasonable circumstances, for example:

- a) long-term illness or accident post-release and unrelated to military service;
- b) illness in family – such as care of elderly parents;
- c) final move after release from military service, which can occur up to 3 years of release, and the member hasn't already obtained prior suitable employment from participating in the Job Placement Program.

Refusal of Services

- 4.18 Services under the Job Placement Program will not be provided by VAC if the client is entitled to receive these services from another organization or body.

Completion of Job Placement Program

- 4.19 The Job Placement Program will be considered completed when:
- a) a client obtains employment;
 - b) VAC staff, in consultation with the contractor, determines that everything has been undertaken in the client's job assistance plan with the allowance of appropriate time to find a job;
 - c) a client cancels active participation in their job search.

Suspension and Cancellation of Services

- 4.20 The Job Placement Program will be suspended if it is determined by VAC staff, in consultation with the Contractor, that the individual is no longer actively participating in elements of the program or not actively seeking employment. There should be a review of the client's circumstances to determine why before cancelling eligibility.
- 4.21 A client whose participation in the Job Placement Program is cancelled must be advised in writing of the date of cancellation and that they may request a review of the decision.
- 4.22 If a client was mistakenly considered eligible for the Job Placement Program due to an administrative or other error, then:
- a) cancellation of the benefit or service must occur, and
 - b) the client should be afforded a six-month period from the date of lost eligibility to make alternate arrangements.

Review of Decisions

- 4.23 Should a client not be satisfied with the decision on termination by VAC staff in consultation with the Contractor, he/she may request a review.

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to identify eligible clients for VAC's Job Placement Program.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, subsection 3(1) and sections 27 and 28.

Canadian Forces Members and Veterans Re-establishment and Compensation Regulations (CFMVRCR), sections 2 and 3.

3.0 POLICY

Eligibility

Veterans and Members

3.1 Veterans and members who are eligible for the Job Placement Program include:

- a) All releasing CF members of the Regular Force¹, except those who have not completed basic training or who are released under Items 1 (misconduct) or 2 (unsatisfactory service) of the Queen's Regulations and Orders 15.01, who apply no later than 2 years after the date of their release. (Note: Veterans who have released from the service since April 1, 2004 may be eligible for the Program should they apply within the 2 year eligibility period);
- b) Reservists who have completed at least 21 months of full-time service during 24 consecutive months **and** who apply no later than 2 years² after the date of completion of that service;
- c) Reservists whose Special Duty Area/Operation or emergency service results in the loss

¹Members who are releasing for medical reasons for the most part receive Job Placement assistance through SISIP or the Vocational Rehabilitation Program.

²Unless it is determined that the reason for the delay in applying is reasonable. (See VPPM 2.1.3 Section 4.3 and 4.4, para on Time Limit for Application to the Program).

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of the their civilian job or a lower rate of pay than prior their special duty service or emergence service **and** who apply no later than 2 years after the date of completion of that service;

- d) Veterans to whom an income support benefit is payable under section 27 of the *Canadian Forces Members and Veterans Re-establishment Act (CFMVRA)*.

3.2 Applicants must apply separately for each of the Job Placement Services, i.e, Job Search and Transition Workshops, the Career Counselling and the Job Search Training. Approval for one element does not mean automatic approval for all three program elements.

Survivors

3.3 Survivors (surviving spouses or common-law partners) are eligible for the Job Placement Program if:

- a) an application is made within 2 years of the death of a Veteran or member who at the time of death was:
- i) actively participating or had applied but did not complete the job placement assistance plan
 - ii) eligible to receive job placement assistance services under subsection 3 (1) of the CFMVRA;
 - iii) a Reservist who was committed in writing to serving at least 21 months of full-time service during 24 consecutive months.
- b) the Veteran was at the time of death receiving an income support benefit payable under section 28 of the CFMVRA.

3.4 Individuals must apply within two years of eligibility unless it is determined that the delay in applying is reasonable. (See VPPM 2.1.3 Section 4.3 & 4.4 - Time Limit for Application to the Program).

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide guidance for the time limit for application to VAC's Job Placement Program.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, sections 2 and 3.

3.0 ELIGIBILITY

3.1 Eligibility for participation in the Job Placement Program is outlined in this chapter's section on Eligible Clients (VPPM 2.1.2).

4.0 POLICY

4.1 Regular Force Veterans must apply within two years of release and survivors must apply within two years of eligibility:

- from the date of the member's death; or
- from the date of the Veteran's death if the Veteran was eligible to participate in the Program but had never applied or had been participating but died before completion.

4.2 Reservists who have completed at least 21 months of full-time service during 24 consecutive months must apply no later than 2 years after the date of completion of that service.

4.3 Two years is the time-frame unless it is determined by VAC that the delay in applying for the Job Placement Program is reasonable.

4.4 Examples of reasonable delays may include:

- long term illness or accident post-release and unrelated to military service;
- illness in family – such as care of elderly parents;
- further education and/or training;
- final move after release from military service, which can occur up to 3 years of release, and the member has not already obtained prior suitable employment from participating in the Job Placement Program.

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1.0 SYNOPSIS

1.1 Purpose

This policy provides direction on the provision of Career Counselling for eligible clients participating in VAC's Job Placement Program.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Part 1, sections 2 - 5.*

3.0 ELIGIBILITY

3.1 Eligibility for participation is outlined in this chapter's section on Job Placement Program – Eligible Clients (VPPM 2.1.2).

4.0 POLICY

4.1 Upon application to VAC for the Job Placement Program, which will usually occur after the Transition Interview, eligible clients may be able to participate in the Career Counselling component of the process if:

- the still-serving member has received a release trigger (for example, a release instruction);
- in the case of someone eligible to receive an immediate annuity on retirement, they have submitted their request for release; or
- a Reservist has completed at least 21 months of full-time service during 24 consecutive months **and** applies no later than 2 years¹ after the date of completion of that service.

4.2 Veterans are eligible to participate at any time within the two-year timeframe of release and survivors who apply within two years of the member or Veterans death.

4.3 CF Veterans who have completed basic training are eligible to apply for the Career Counselling component of the Job Placement Program if the application is no later than 2 years after the date of their release.

¹Unless it is determined that the reason for the delay in applying is reasonable. (See VPPM 2.1.3 Section 4.3 & 4.4 - Time Limit for Application to the Program).

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4.4 Elements of this portion of the Program are delivered by a contracted outplacement company and may include:

- aptitude testing
- interest inventory
- skills and experience assessment
- finalization of résumé
- assessment of job market at intended place of residence
- identification of further training requirements and assistance with referrals
- review of job search techniques and research.

4.5 Elements that have been provided by DND programs will not be duplicated by the VAC Job Placement Program unless determined by VAC staff, in consultation with the Contractor, that the element is a key component for future successful employment.

Limits of Services

4.6 It is possible for a client to receive more than the stated allotment of counselling if circumstances warrant it. If necessary, the client's case will be reviewed on an individual basis and will require pre-approval by Veterans Affairs. Examples of warranted circumstances might be:

- individual learning styles;
- illness;
- if a client had to go on training for six months, they may need to update their career plan in light of new training, refine their résumé, etc.

Note: These examples are not meant to be limiting but provide illustrations. As we begin to administer the Program, further examples may be provided.

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1.0 SYNOPSIS

1.1 Purpose

This policy provides direction on the provision of Job-Finding Assistance for eligible clients participating in VAC's Job Placement Program. The goal is to help all registered CF members and Veterans achieve a positive transition to the civilian labour force.

1.2 Definition

Active job searching under the Job Placement Program is defined and measured by the activities and deliverables related to active job search preparation and ongoing job searching activities. These may include:

- a) developing/updating résumé;
- b) preparing required cover letters;
- c) interview skills and techniques;
- d) accessing job market including the hidden job market (job openings which are not advertised, and may be circulated through manager's network of co-workers, business associates, friends and acquaintances),
- e) Labour Market Information and self-employment;
- f) preparing list of employer contacts;
- g) organizing, recording and maintaining job search logs;
- h) actively seeking employment on an ongoing basis.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Part 1, sections 2 - 5.*

3.0 ELIGIBILITY

- 3.1 Eligibility for participation is outlined in this chapter's section on the Job Placement Program – Eligible Clients (VPPM 2.1.2).

4.0 POLICY

- 4.1 Upon application to VAC for the Job Placement Program, still-serving clients may be eligible to participate in the job-finding component of the process. This process begins only after the eligible client has received a release trigger (for example, a release instruction) or, in the case of someone eligible to receive an immediate annuity on retirement, they have submitted their request for release.
- 4.2 CF Veterans who have completed basic training are eligible to apply for the Job Finding element of the Job Placement Program if the application is no later than 2 years after the date of their release. (See VPPM 2.1.2 - Job Placement – Eligible Clients for Reservists and survivors).

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- 4.3 Elements of this portion of the Job Placement Program are delivered by a contracted outplacement company employed by VAC and may include:
- a) marketing the Veteran-as-employee nationally by networking with Boards of Trade and large employers;
 - b) coaching the client through to job placement, including assistance with obtaining interviews;
 - c) training volunteer Veteran job finders provided by veterans organization(s), and providing them with marketing materials and computers to augment the Contractor's capabilities.
- 4.4 These volunteer job finders, after receiving training from the Contractor, will market the Veteran-as-Employee in their community, to Chambers of Commerce, service clubs and employers, and advise the Contractor of interested employers and job vacancies in the local areas.
- 4.5 The volunteer job finders will be identified and selected by Veterans Organizations. They will deal directly with the Contractor who will develop fact sheets, brochures, presentations and other marketing materials needed by the volunteers. The Contractor will train the volunteers in how to market the Veteran-as-employee, and arrange for training in job finder communications tools and processes.
- Monitoring of Job Placement Assistant Plan
- 4.6 While participating in the Job Finding assistance component of the Program, clients will be seeking employment opportunities. Normally the average length of time in active job search is 3 - 6 months, however, this may take some individuals longer depending on the type and level of target occupation/s.
- 4.7 To ensure that there are no issues which will impair the client from actively seeking employment and completion of the Job Placement Program, job seeking activities will be monitored by VAC staff.
- 4.8 The Job Placement Program will be cancelled if it is determined by VAC staff, in consultation with the contractor, that the individual is no longer actively participating in elements of the program or not actively seeking employment. (See VPPM 2.1.1 - Job Placement – General)

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1.0 SYNOPSIS

1.1 Purpose

This policy provides direction on the provision of Job-Search Training for VAC's Job Placement Program.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Part 1, sections 2 - 5.*

3.0 ELIGIBILITY

3.1 Eligibility for participation in the Job Placement Program is outlined in this chapter's section on Eligible Clients (VPPM).

4.0 POLICY

- 4.1 Upon application to VAC for the Job Placement Program, clients may be eligible to participate in Job Search and Transition Workshops.
- 4.2 Still-serving CF members normally attend DND's CF Career Transition Seminar, which is one of the seminars DND organizes in the context of assisting members throughout their careers in planning for their transition to a civilian career, before applying for assistance under the Program. They may also apply upon referral by DND.
- 4.3 Elements of this portion of the Program are delivered by a contracted outplacement company but may be accessed by eligible still-serving CF members prior to their release.
- 4.4 Job Search and Transitions Workshops will provide:
- a) instruction in the preparation of a résumé, to include the civilianization of military terminology and the translation of military training and experience into civilian occupation terms;
 - b) electronic and internet applications;
 - d) identification of transferable skills;
 - e) information on self-employment training;
 - f) interview techniques and mock interviews;
 - g) job search techniques;

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- h) market research for job search;
- i) managing change to the civilian world of work;
- j) civilian career management;
- k) self-marketing;
- l) work maintenance skills
- m) introduction to the Contractor's e-learning and other web-based tools;
- n) any other subjects the Contractor feels appropriate.

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide guidance relating to eligibility for services available through the Job Placement Program by recipients of the Canadian Forces Income Support.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act* sections 27, 28 & 35.
CFMVR Regulations, sections 3, 34 and 35.

3.0 ELIGIBILITY

3.1 Eligibility for participation in the Job Placement Program is outlined in this chapter's section on Eligible Clients (VPPM).

4.0 POLICY

Veterans

4.1 The Canadian Forces Income Support (CFIS) benefit is available to those CF Veterans who were approved for the Rehabilitation and Vocational Assistance Program and who were entitled to but are no longer eligible for an Earnings Loss benefit because they have successfully completed their rehabilitation program. These individuals are capable of returning to the civilian labour force but have not been successful in doing so.

4.2 These clients will be eligible to apply for participation in the Job Placement Program. Those Veterans who apply for consideration must:

- a) be resident in Canada, and
- b) participate in an "approved job placement program" to maintain eligibility for the CFIS benefit.

4.3 The Veteran may be exempt from participating in a job placement program in certain circumstances, for example, if:

- a) the Veteran is suffering from personal illness;
- b) the Veteran is experiencing a bereavement period.

4.4 Veterans age 65 years and over are granted a permanent exception from having to participate

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in a job placement program.

Veterans' Survivors

Non-service Related Death

- 4.5 If a Veteran dies as a result of a non-service related injury or disease, the survivor may be eligible for a CFIS benefit (see VPPM ????? on Eligibility for CFIS).
- 4.6 If the survivor of a Veteran who dies as a result of a non-service related injury or disease is eligible for a CFIS benefit, the survivor must:
- a) be resident in Canada; and
 - b) participate in an "approved job placement program" to maintain eligibility for the CFIS benefit.
- 4.7 The survivor may be exempt from participating in a job placement program in certain circumstances, for example, suffering from personal illness or experiencing a bereavement period.
- 4.8 Survivors age 65 years and over are granted a permanent exception from having to participate in a job placement program.

Service Related Death

- 4.9 Survivors of a Veteran or member who died of a service-related injury or disease or a non-service-related injury or disease that was aggravated by service do not have to participate in a job placement program to maintain eligibility for the CFIS benefit. This would apply to a Survivor, who is still under 65 years of age and who is no longer eligible for Earnings Loss as the Veteran or member would have reached age 65.

Cancellation or Suspension of CFIS

- 4.10 If the CFIS benefit is cancelled or suspended, then services under the Job Placement Program shall be continued for a reasonable period beyond the date of lost eligibility in order to the eligible Veteran or survivor of a Veteran who dies as a result of a non service-related injury or disease to make alternate arrangements.
- 4.11 This period of continued job placement services shall be for six months from the end of the month in which the client is notified of lost eligibility. (See Job Placement Program – General for Suspension and Cancellation of Services, VPPM 2.1.1 on CFIS).

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1.0 SYNOPSIS

Purpose

- 1.1 This policy describes the legislative and regulatory requirements for the Rehabilitation Program

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*
Sections 6 to 17, Regulations 6, 8,9,10,11, 12, 14

3.0 POLICY

Preamble

The Rehabilitation Program is based on the principles and best practices of community rehabilitation and modern disability management. The Program serves to enhance the quality of life of Veterans by assisting them in their return to civilian life by meeting their goals for participation in home, community and work environments. The focus of the Rehabilitation Program is on the reasonable restoration of client functioning in five major areas, namely mental and physical functioning of the client, family relationships, financial security, employment and personal productivity, and community participation.

Program Description

Purpose & Intent of Program

- 3.1 The purpose of the program is to assist Canadian Forces Veterans¹ and their families who may face additional challenges in their re-establishment in civilian life following the loss of career because of a medical release or who have a rehabilitation need, ie., a physical or mental health problem² resulting primarily from service in the Canadian Forces that is posing a barrier to their re-establishment.

The intent of the program is to provide early intervention with streamlined eligibility decision making and the timely provision of services and benefits in order to meet the rehabilitation needs of the CF Veterans and their families as they make the transition to civilian life.

¹ See VPPM 3.1.2 - Eligibility for Rehabilitation Program

²Health problem, as used in the Rehabilitation Program, refers to a health condition plus the resulting impairment. See VPPM 3.1.2 Eligibility for Rehabilitation.

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Description of Services

- 3.2 The Rehabilitation Program, a distinct program with eligibility requirements laid out in VPPM 3.1.2 - Eligibility for Rehabilitation Program, will provide medical, psycho-social and vocational rehabilitation services and benefits as well as vocational assistance services and benefits to meet the rehabilitation needs that are identified during the assessment and case plan development. The VAC Area Counsellor is the primary case manager for all eligible rehabilitation clients including joint VAC/SISIP clients.
- 3.3 Medical rehabilitation is any physical or psychological treatment whose object is to stabilize and restore the basic physical and psychological functioning of a person.
- 3.4 These services will be obtained from individual VAC registered providers and commonly include, but are not limited to:
- a) Specialized physical, neurological and mental health assessments required for planning rehabilitation interventions
 - b) Medical treatment including specialized medical care such as psychiatric care
 - c) Surgeries and other medical procedures that can restore function
 - d) Physiotherapy re: mobility, exercise programs
 - e) Prosthetics, orthotics and assistive devices
 - f) Massage and chiropractic service
 - g) Nursing services
 - h) Psycho-neurological treatment
 - i) Pain management
 - j) Sleep disorder treatment
 - k) Addictions treatment
 - l) Acupuncture
- 3.5 Psycho-social rehabilitation is any psychological or social intervention whose object is to restore a person to a state of independent functioning (eg. ADL and IADL) and to facilitate their social adjustment (eg. in family and community).
- 3.6 These services will usually be obtained from individual VAC registered providers and commonly include, but are not limited to:
- a) Life skills training including money management
 - b) Psychological counselling eg. adjustment to disability, anger management, coping with psychiatric symptoms, cognitive dysfunction
 - c) Occupational therapy re: ADLs, IADLs, fatigue
 - d) Family or couples counselling eg. by a social worker
 - e) Social support groups
 - f) Home modifications
 - g) Health promotion and personal wellness

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- 3.7 Vocational rehabilitation is any process designed to identify and achieve an appropriate occupational goal for a person with a physical or a mental health problem, given their state of health and the extent of their education, skills and experience. It is a broad range of services which may include vocational training or vocational assistance plus the services listed in 3.8.
- 3.8 These services will be purchased from a Vocational Rehabilitation Contractor and commonly include, but are not limited to:
- a) Transferable skills analysis
 - b) Vocational evaluation eg. of interests, aptitudes, literacy/numeracy, education, achievement, work experience
 - c) Vocational counselling
 - d) Education / training (job specific)
 - e) Work hardening (physical) and work adjustment (emotional and social)
 - f) Work place ergonomic assessment and modification
 - g) Job search and finding
- 3.9 Vocational Assistance focusses on helping clients find appropriate employment and commonly includes:
- a) employability assessments,
 - b) career counselling,
 - c) training (job specific)
 - d) job search assistance, and job finding assistance.

Requirement to Make Application

- 3.10 The application for rehabilitation services or vocational assistance shall be made in writing.
- 3.11 An application shall include:
- a) medical reports or records that document the veteran's health problem (eg. from nursing, occupational therapy, physiotherapy or other allied health professionals);
 - b) information on the applicant's employment history;
 - c) information on the applicant's education, skills, training and work experience;
 - d) a declaration attesting to the truth of the information provided; and
 - e) any other information that is necessary to enable VAC to determine whether the veteran is eligible for services or assistance.

A Survivor who is making application must provide:

- f) a copy of the death certificate of the member or veteran;
- g) medical reports or other records that document the member's injury, disease, diagnosis and cause of death.

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- 3.12 VAC may also require an applicant to undergo a medical examination or an assessment by a provider specified by VAC. VAC may pay for the travel and living expenses incurred by reason of the medical exam or assessment according to the Treasury Board Travel Directive and CFMVRCA Regulation 15.1 (b). See also VPPM, Volume Two, Appendix D.

A fee may be paid to the provider who conducts the medical examination or assessment (Refer to Vol 2, VPPM 2.2.10.vii Prescription Drug Fees for Requests for Medical Information for the current VAC guidelines).

Application Timelines

- 3.13 An application for the Rehabilitation Program must be made by:
- a medically releasing Veteran within 120 days of release from CF service
 - other CF Veterans who have a Rehabilitation Need which resulted primarily from service at any point
 - spouses / partners within 1 year after the CF Veteran has been determined to be totally and permanently incapacitated.
 - survivors can within 1 year after the day the member or Veteran dies.
- 3.14 The period for applying for services can be extended if the reason for the delay is reasonable given such circumstances as the health problems of the CF Veteran or family illness.

Eligibility for the Rehabilitation Program

For detailed information on eligibility, see VPPM 3.1.2 - Eligibility for Rehabilitation Program.

Assessment of Needs

- 3.15 Subsection 10(2) of the CFMVRC Act requires that case plans and services must be based on assessed needs after the applicant's eligibility for the Rehabilitation Program has been approved.
- 3.16 For applicants approved under Rehabilitation Need or medical release provisions an assessment of the medical, psycho-social and vocational rehabilitation needs is required. For medical release applicants if no rehabilitation needs exist, an assessment of vocational assistance needs shall be completed.
- 3.17 Medically releasing members will be dual VAC-SISIP clients. SISIP LTD will provide income replacement benefits and vocational rehabilitation services for these CF Veterans. Clients who make application for VAC rehabilitation services as a medically released member can access the following additional benefits:
1. Medical and psycho-social rehabilitation;
 2. Additional vocational rehabilitation, if needed;
 3. Earnings loss over and above the maximum 24 months post-release earnings loss

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coverage that SISIP LTD provides, if needed;

4. Supplementary Retirement Benefit (SRB) if in receipt of long-term earnings loss;
5. Permanent Impairment Allowance (PIA); and
6. Canadian Forces Income Support Benefit (CFIS).

- 3.18 For spouse / common-law partner or survivor applicants, the vocational assistance needs shall be assessed first. During this assessment of the vocational assistance needs it may become apparent that medical or psycho-social issues are barriers to engaging in a vocational assistance plan. At that point the medical, psycho-social and vocational rehabilitation needs of the spouse / common-law partner or survivor applicants may be assessed.

Case Plan

- 3.19 Where rehabilitation or vocational assistance needs are identified, a case plan must be developed to address these needs. The case plan will be developed by the Area Counsellor in consultation with the relevant members of the Client Services Team.

In the current environment VAC works in partnership with SISIP and their LTD / Vocational Rehabilitation contractor, Manulife Financial Services. As with all Rehabilitation Program clients, VAC will be the primary case manager for the medically releasing clients who are using SISIP vocational rehabilitation services. For the medically releasing client, the assessment for vocational assistance will be completed by the SISIP contractor counsellors and a joint case plan (between the AC and the SISIP vocational counsellor) will be developed for these clients prior to release.

- 3.20 The rehabilitation program provides assistance to clients through two types of plans:
- a) an overall rehabilitation case plan that consists of medical, psycho-social and vocational rehabilitation components, or
 - b) a specific vocational assistance case plan consisting of services such as employability assessments, career counselling, training, job search assistance, and job finding assistance whose object is to help the client to find appropriate employment

For details on the Rehabilitation Case Plan and Vocational Assistance case plan see VPPM policy 3.1.3 - Case Plan for Rehabilitation Client.

Case Plan Related Expenses

- 3.21 VAC may pay for reasonable expenses related to participation in a rehabilitation or vocational assistance plan. See VPPM 3.1.6 - Rehabilitation Related Expenses

Refusal of Rehabilitation or Vocational Assistance Services

- 3.22 CF Veterans can be refused rehabilitation services or vocational assistance when:

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- a) The rehabilitation services are available to the Veteran as an insured service under a provincial health care system, a provincial or federal workers' compensation plan or any other plan that may be prescribed including the *Service Income Security Insurance Plan Long Term Disability (LTD)*. This means that medically released veterans must make use of the earnings loss and vocational rehabilitation services provisions under this SISIP policy;
- b) The rehabilitation services or vocational assistance in whole or in part has already been provided by VAC or SISIP for the condition for which they are applying to the Rehabilitation Program;
- c) The Veteran does not meet the eligibility criteria for the establishment of a Rehabilitation Need as laid out in subsection 8(1) of the CFMVRCA;
- d) Other circumstances for refusal may exist such as a client's unwillingness to participate in the rehabilitation plan or the duration or cost of the plan may be unrealistic. Refusal of rehabilitation or vocational assistance services shall be based as far a possible on the principles and factors noted in the VPPM 3.1.2 - Eligibility for Rehabilitation Program.

Suspension of Rehabilitation or Vocational Assistance Services

- 3.23 Rehabilitation or vocational assistance services may be suspended if a client in the Rehabilitation Program fails to comply with a request to provide the following information:
- i) attendance reports;
 - ii) evaluations, assessments and progress reports; and
 - iii) any other information that is necessary to enable the Minister to assess continued eligibility for the service or assistance.
- 3.24 Before suspending the provision of services, VAC shall provide the client with written notice of the reasons for suspension and the effective date of the suspension.

Cancellation of a Rehabilitation or Vocational Assistance Plan

- 3.25 A rehabilitation or vocational assistance plan may be cancelled in the following circumstances:
- a) If a client who is required to undergo a medical examination or assessment fails to do so without reasonable excuse;
 - b) If the client does not participate to the extent required to meet the goals of the plan;
 - c) If the client's eligibility for the plan or the development of the plan was based on a misrepresentation or the concealment of a material fact;
 - d) If the client, at least 6 months after the effective date of a suspension, continues to fail to comply with a request as in 3.23 above.
- 3.26 Before cancellation of a plan, VAC shall provide the person with written notification of the reasons for the cancellation, the effective date of the cancellation and their rights of review.

Redress

- 3.27 All decisions which impact upon a clients entitlement to rehabilitation or vocational assistance

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services are subject to the client's right to request review of those decisions.
 See VPPM 1.1.3 - Redress.

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1.0. **SYNOPSIS**

1.1 Purpose

This policy identifies client groups eligible for the VAC Rehabilitation Program including Medical, Psycho-Social and Vocational Rehabilitation and Vocational Assistance services.

2.0 **AUTHORITY**

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act* sections 6, 7,8,9,10,11 and 12, Regulations 7, &11

3.0 **POLICY**

3.1 Preamble

VAC has designed a comprehensive range of Rehabilitation Program services to meet the re-establishment needs of CF Veterans and their families.

Rehabilitation Program services include medical, psycho-social and vocational rehabilitation and vocational assistance.

Vocational assistance may be part of a Rehabilitation Case Plan or provided separately through a Vocational Assistance Case Plan. It includes employability assessments, career counselling, training, job-search assistance and job-finding assistance.

For more detail on Rehabilitation Program Services including Vocational Assistance, please refer to VPPM 3.1.1 - Rehabilitation Program General Policy and VPPM 3.13 - Case Plans for Rehabilitation Program Clients Policy.

3.2 Principles and Factors

Rehabilitation Program Services including Vocational Assistance services should be based as far as possible on the principles and factors prescribed in regulations.

The Principles include:

- a) the provision of services be focussed on addressing client's needs
- b) services will involve family members to the extent required to facilitate the rehabilitation
- c) early provision of services is desirable, and
- d) services be focussed on building on the education, skills, training and experience for each client.

The Factors include:

- a) the potential for improvement of a client's physical, psychological and social functioning, employability and quality of life
- b) the availability of local resources

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- c) the motivation, interest and aptitudes of a client
- d) the cost of the plan, and
- e) the duration of the plan.

3.3 Eligible Clients

The following are eligible to apply for the Rehabilitation Program:

3.3.1 Medical Release

- (a) CF Veterans¹ who have been medically released and who apply for the Rehabilitation Services within 120² days of release.

Note: Although the application must be after implementation date (April 1, 2006), the date of medical release can pre-date the application date by up to 120 days.

If there are no medical or psycho-social needs, these Veterans are eligible for and should receive Vocational Assistance through the SISIP Vocational Rehabilitation Program.

If these Veterans also have medical and/or psycho-social rehabilitation needs that meet the VAC criteria then they will be eligible for medical and/or psycho-social rehabilitation services. See VPPM 3.1.3 - Case Plans for Rehabilitation Program Clients, Section 3.7.

- (b) Released Members of the Cadet Instructors Cadre, Canadian Rangers, and Supplementary Reserve Force who were serving on a period of Class "C" Reserve Service at the time that the physical or mental health problem leading to release manifested itself and who apply within 120 days of release.
- (c) Released Members of the Primary Reserve³ who were serving on a period of Class "A," "B" or "C" Reserve Service at the time that the physical or mental health problem leading to release manifested itself.

¹CF Veterans who have been medically released and apply within 120 days of their release from service will automatically be eligible for the Rehabilitation Program upon application.

² VAC may accept an application beyond the 120 day period if the reason for the delay is reasonable in the circumstances.

³ See 3.8 below for description of classes of service

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3.3.2 Rehabilitation Need

- (a) CF Veterans who have voluntarily released or who have been medically released over 120 days and who have been determined to have a physical or mental health problem, which VAC finds has resulted primarily from service and poses a barrier to re-establishment in civilian life, i.e. rehabilitation need ⁴.
- (b) Former members of the Cadet Instructors Cadre, the Canadian Rangers, the Supplementary Reserve Force and the Primary Reserves who have voluntarily released or who have been medically released over 120 days and who have been determined to have a physical or mental health problem, which VAC finds has resulted primarily from service and poses a barrier to re-establishment in civilian life, i.e. rehabilitation need ⁵.

3.3.3 Spouses and Common-law Partners

Spouses / common-law partners of CF Veterans will be eligible for Vocational Assistance when all the following conditions are met:

- (a) the CF Veteran is eligible for the Rehabilitation Program (meets the Medical release or Rehabilitation Need above criteria)
- (b) the CF Veteran would not benefit from the vocational rehabilitation component because of being Totally and Permanently Incapacitated ie: is incapacitated by a medically diagnosed permanent physical or mental health problem that prevents the him/her from performing any occupation that would be considered suitable gainful employment (See VPPM 3.1.5 - Total and Permanent Incapacity for details)
- (c) the incapacity is due to the physical or mental condition which makes him/her eligible for the Rehabilitation Program,
- (d) the spouse/common-law partner applies within one year of the Veteran having been determined to be totally and permanently incapacitated,
- (e) the spouse/common-law partner requires Vocational Assistance to restore their earnings capacity to a reasonable level and,
- (f) the application for the Vocational Assistance Program is approved while the Veteran is alive.

Spouses /common-law partners are also eligible for medical, psycho-social and vocational rehabilitation if these are necessary to address the vocational assistance needs.

⁴See 3.5 below

⁵See 3.5 below

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3.3.4 Survivors

Survivors of CF members and Veterans will be eligible for Vocational Assistance when all the following conditions are met:

- a) the member or Veteran dies as a result of a service-related injury or disease or a non-service-related injury or disease that was aggravated by service where the death occurs after the implementation date for the Act.
- b) an application is made within one year of the member's or Veteran's death, and,
- c) the survivor requires vocational assistance to restore their earnings capacity to a reasonable level

Survivors are also eligible for medical, psycho-social and vocational rehabilitation if these are necessary to address the vocational assistance needs. (See VPPM 3.1.4 - Family Services)

3.4 Exclusions

Under the provisions of the new Veterans Charter, CF veterans whose physical or mental health problem resulted primarily from service in the Canadian Forces on or before April 1, 1947 or service in the Korean War as defined in subsection 3(1) of the *Pension Act* are not eligible to apply for the Rehabilitation Program including Vocational Assistance. It is anticipated that their needs will continue to be well met with the existing VAC services and benefits.

The *Canadian Forces Members and Veterans Re-establishment and Compensation Act* does not apply in respect of a member's or a veteran's physical or mental health problem, disability or death if it is caused by a wilful self-inflicted injury or improper conduct on the member's or veteran's part, including wilful disobedience of an order and vicious or criminal conduct.

3.5 Determination of a Rehabilitation Need

3.5.1 Determination of a Health Problem That Poses a Barrier to Re-establishment

This applies to the category of CF Veterans (including all categories of Reservists) who have voluntarily released or who have been medically released over 120 days and who have been determined to have a health problem, which VAC finds has resulted primarily from service and poses a barrier to re-establishment in civilian life, i.e. rehabilitation need.

- 1) A rehabilitation need is present when:
 - a) there is a physical and/or mental health condition⁶;

⁶Health condition refers to disease or injury which are viewed as the negative alteration in the normal functioning of the body at the cellular or organ level.

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- b) the health condition results in an impairment⁷ in physical or psychological functioning such as chronic pain, limitation of motion for upper or lower limbs, strength, perception, cognition and emotional coping skills; and
- c) the health problem⁸ creates a barrier to re-establishment in civilian life by significantly limiting the ability to complete everyday tasks such as ADL's, IADL's , community participation and vocational roles.

3.5.2 Determination of "Resulting Primarily from Service"

"Resulting primarily from service" must be determined in the case of CF Veterans who have voluntarily released or who have been medically released over 120 days, and are requesting rehabilitation services for a rehabilitation need in 3.2(2). "Resulting primarily from service" does not mean that 100% or the majority of the health problem is caused by service. It means that at least some identifiable portion of the health problem has resulted primarily from service in the CF. The physical or mental health problem will be considered to result primarily from service if:

- a) The Veteran is receiving a Disability Award or Disability Pension for the same health problem, and thus the health problem is deemed to result primarily from service in the CF;
- b) There is documentation on the Veteran's file that indicates that the health problem results primarily from service, i.e. at least some identifiable portion of the health problem has resulted from service in the CF. This documentation includes the Area Counsellor Assessment, the Client's application for Rehabilitation Services based on a rehabilitation need, and a medical report(s).
- c) There is research that establishes the prevalence of the health problem in military populations, i.e. prevalence research.
- d) There is no compelling evidence to the contrary in the Veteran's records to indicate another cause for the health problem (e.g. An unfavourable Disability Award or Disability Pension decision that finds no service-relationship has been established to the disability, or a medical report that clearly asserts the health problem does not result primarily from service in the CF.).

3.6 Refusal of Rehabilitation Program Services including Vocational Assistance Services

Veterans can be refused Rehabilitation Program Services including Vocational Assistance Services when:

- a) these services are available as an insured service under a provincial health care

⁷Impairment is "any loss or abnormality of psychological, physiological or anatomical function" and is concerned with the functions of individual parts of the body (WHO,1989).

⁸Health problem, as used in this policy, refers to the health condition plus the resulting impairment.

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system, a provincial or federal workers' compensation plan or any other plan that may be prescribed, including SISIP;

- b) these services have already been provided by VAC or another organization or provider;
- c) other reasonable circumstances for refusal, based on the Principles and Factors prescribed in the Regulations (See 3.2 above). For example, a client may not be motivated to participate or the duration or cost of the Rehabilitation Plan may be unrealistic.

3.7 Reviews

All decisions which impact upon a client's entitlement to rehabilitation or vocational assistance services are subject to the client's right to request review of those decisions. Refer to VPPM 1.1.3 - Review Process.

3.8 Types of Reserve Service

For the purposes of 3.3.1 and 3.3.2 "reserve force" means the component of the Canadian Forces that is referred to in subsection 15(3) of the *National Defence Act* and as described below:

Class "A"

- 3.8.1 A member of the Reserve Force is on Class "A" Reserve Service when the member is performing training or duty in circumstances other than those prescribed under articles 9.07 (*Class "B" Reserve Service*) and 9.08 (*Class "C" Reserve Service*) of the *Queen's Regulations and Orders for the Canadian Forces*.
- 3.8.2 Class "A" Reserve Service includes proceeding to and returning from the place where the training or duty is performed, but not when that training or duty, including attendance at local parades, local demonstrations or local exercises, is performed at local headquarters.

Class "B"

- 3.8.3 A member of the Reserve Force is on Class "B" Reserve Service when the member is on full-time service and:
 - a) serves in a temporary position on the instructional or administrative staff of a school or other training establishment conducting training for the Reserve Force, the Royal Canadian Sea Cadets, the Royal Canadian Army Cadets or the Royal Canadian Air Cadets;
 - b) proceeds on such training attachment or such training course of such duration as may be prescribed by the Chief of the Defence Staff; or
 - c) is on duties of a temporary nature approved by the Chief of the Defence Staff, or by an authority designated by him, when it is not practical to employ members of the Regular Force on those duties.

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3.8.4 Class "B" Reserve Service includes proceeding to and returning from the place of duty.

Class "C"

3.8.5 A member of the Reserve Force who is serving on an operation of a type approved by or on behalf of the Chief of the Defence Staff under subparagraph 9.08(1)(b)(*Class "C" reserve Service*) of the *Queen's Regulations and Orders for the Canadian Forces* is deemed to be on full-time service.

3.8.6 A member of the Reserve Force is on Class "C" Reserve Service when the member is on full-time service and is serving:

- a) with approval by or on behalf of the Chief of the Defence Staff in a Regular Force establishment position or is supernumerary to Regular Force establishment;
- b) on either an operation or an operation of a type approved by or on behalf of the Chief of the Defence Staff. For this section "operation" includes training and other duties necessary for the operation, and leave related to the operation.

3.8.7 Class "C" Reserve Service includes proceeding to and returning from the place of duty.

3.8.8 A member of the Reserve Force who serves on a period of Reserve Service of two or more (consecutive) days is deemed to serve 24 hours a day for the duration of the period that they are required to serve.

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1.0 SYNOPSIS

1.1 Purpose

This policy outlines the development of a Case Plan for a client in the VAC Rehabilitation Program including Medical, Psycho-Social and Vocational Rehabilitation and Vocational Assistance services.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act* sections 10, 11, 13, 14, 15. Regulations 8, 9,10,11, 12, 13, 14,

3.0 POLICY

General

3.1 All clients in the Rehabilitation Program will be case managed and will have a Case Plan. The Rehabilitation Program Case Plan will use the existing VAC Case Plan format and process as described in VPPM 1. As well, there are additional legislative and regulatory requirements that will direct the Case Plan development including the duration, evaluation, termination, suspension and the cancellation of a Case Plan.

Prior to the development and implementation of the Case Plan for Rehabilitation Program clients, the Area Counsellor as the case manager must address the legislative and regulatory requirements areas for assessment of each category of client as outlined in the following sections 3.2 to 3.5.

Assessment

3.2 Following the Area Counsellor's decision that a client is eligible for the Rehabilitation Program, there will be a review of the available documentation pertaining to the client's medical, psycho-social and vocational rehabilitation needs and/or vocational assistance needs. There will be consultation with the relevant members of the Client Services Team and a determination may be made at this time that additional assessment by specialists is required in order to develop the Rehabilitation Case Plan.

3.3 For Medically Released clients who apply within 120 days ,and CF clients with Rehabilitation Needs resulting primarily from service, assessment of the following is required:

- a) medical rehabilitation needs
- b) psycho-social rehabilitation needs
- c) vocational rehabilitation needs

3.4 For Medically Released clients who apply within 120 days if no medical or psycho-social rehabilitation needs exist, the assessment of vocational assistance needs is completed by

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SISIP.

SISIP and their LTD / Vocational Rehabilitation contractor Manulife Financial Services are responsible for completing the vocational assessment and providing the needed assistance for clients who require only vocational assistance. VAC will work in partnership with SISIP to develop a joint case plan prior to release. The VAC Area Counsellor will continue to be the primary case manager for these clients.

- 3.5 For Spouses, Common-law Partners and Survivors assessment of the following is required:
- a) vocational assistance needs, and when necessary to ensure there are no medical or psycho-social barriers to engaging in a Vocational Assistance Case plan, assessment of:
 - b) medical rehabilitation
 - c) psycho-social rehabilitation, and/or
 - d) vocational rehabilitation needs

Development of a Case Plan for Rehabilitation Program Clients

- 3.6 Following the assessment of the rehabilitation or vocational assistance needs, the case manager in collaboration with the relevant members of the Client Services Team (eg. the health professionals) and the client will develop a Case Plan to address the needs identified in the assessment.
- 3.7 The Case Plan may only address the following rehabilitation or vocational assistance needs:
- a) For the medically released client who applies within 120 days, needs that are related to the physical or mental health condition for which the Veteran was released or ;
 - b) For CF clients with Rehabilitation Needs, only those needs that are due to the physical or mental health condition resulting primarily from service and which are creating a barrier to re-establishment to civilian life.
- 3.8 The Case Plan shall consider the following principles:
- a) be focussed on addressing individual client needs
 - b) will involve family members to the extent required to facilitate the rehabilitation
 - c) services will be provided as soon as possible;
 - d) be focussed on building on previous education, skills, training and experience for each individual client.
- 3.9 The Case Plan shall consider to the following factors:
- a) the individual client's potential for improvement in physical, psychological and social functioning, employability and quality of life;
 - b) the availability of local resources;
 - c) the motivation, interest and aptitudes of the individual client;
 - d) the cost of the plan; and
 - e) the duration of the plan.

See VPPM 2.1.6 - Rehabilitation Related Expenses and Financial Limits

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Duration of a Case Plan for Rehabilitation Program Clients

- 4.0 The duration of a Case Plan is:
- determined collaboratively between the client and the case manager
 - established when the plan is developed, and
 - for a fixed period of time dependent on the client rehabilitation or vocational assistance needs and goals. There is no minimum or maximum period of time for a case plan.

Evaluation of a Case Plan for Rehabilitation Program clients

- 5.0 The Case Plan will:
- be monitored and evaluated regularly by the case manager
 - involve the client and the relevant members of the Client Services team.
 - be revised as needed in accordance with the client's rehabilitation or vocational assistance needs,
 - in the case of a Rehabilitation Case Plan, include a medical examination or specialized assessment (eg. Occupational therapy, vocational, physiotherapy etc) as appropriate
 - and in the case of a Vocational Assistance Case Plan, include a specialized assessment as appropriate.

Based on the information gathered in 5.0 above, the Case Plan may be modified and its duration changed.

Termination of a Case Plan for Rehabilitation Program clients

- 6.0 The decision to terminate a Case Plan will be dependent on the nature of the client's health problem, his/her physical and social environmental circumstances/barriers and his/her resources/supports. This will be determined by the Area Counsellor/ case manager in consultation with the client and the relevant members of the Client Services Team. The following are general guidelines for determining when the termination of a Case Plan occurs.
- 6.1 The duration of a Case Plan which will:
- be fixed by VAC,
 - be terminated when an evaluation by the case manager and client indicates that the client has met or substantially met the goals of the Plan, or
 - be terminated where there is evidence that further intervention will not be effective in achieving the goals
 - Vocational Rehabilitation component of a Rehabilitation case plan or Vocational Assistance case plan will be terminated when a client is determined to be Totally and Permanently Incapacitated ie: incapacitated by a medically diagnosed permanent physical or mental health problem that prevents the individual from performing any occupation that would be considered suitable gainful employment and therefore unable to benefit from Vocational Rehabilitation or Vocational Assistance.

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- 6.2 A client will be considered to have met or substantially met the goals of the plan when:
- evaluation of the client's medical rehabilitation needs indicates that the basic physical and psychological functioning of the client has been stabilized
 - evaluation of the client's psycho-social rehabilitation needs indicates that the client has achieved an appropriate level of independent functioning and social adjustment, and
 - the client has achieved an appropriate occupational goal given his/her state of health and the extent of their education, skills and experience.

Suspension of Rehabilitation Program Services including Vocational Assistance

- 6.3 The Rehabilitation Program services including Vocational Assistance for a client may be suspended if the following documents are not provided by the client when requested by VAC:
- attendance reports
 - evaluations, assessments and progress reports; and
 - any other information that is necessary to assess continued eligibility for the services or assistance.
- 6.4 Suspension of the delivery of services may continued until the information or documents are provided. (See 6.6 below)
- 6.5 Before suspending provision of services the Area Counsellor /case manager will provide the client with written notification of the reasons for the suspension and the effective date of the suspension

See also VPPM 3.1.1 - General

Cancellation of Case Plan for Rehabilitation Program clients

- 6.6 The Case Plan for a client may be cancelled when:
- the client refuses without reasonable excuse to undergo a medical examination or other assessment required as part of the evaluation of a plan
 - the client does not participate to the extent required to meet the goals of the plan
 - the client's eligibility for Rehabilitation Services or Vocational Assistance was based on false or misleading information knowingly provided by the client
 - at least six months after the Rehabilitation and/or Vocational services have been suspended, as per 6.4 above, the client continues to fail to provide the required information.
- 6.7 Before cancelling a Case Plan, the Area Counsellor/case manager shall provide the client with written notification of the reasons for the cancellation, the consequences of the cancellation, the effective date of the cancellation and the rights of review.

See also VPPM 3.1.1 - General

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to outline VAC's approach to engaging families in the rehabilitation and vocational assistance plans provided under the Rehabilitation Program and to set out guidelines for approving services for family members under the Rehabilitation Program.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act 10(5)(a)(b) and 13(4)(a)(b), and Regulations 8(b) and 9(b)*

3.0 POLICY

General

3.1 Background

- 3.2 Disability has multiple impacts on the individual veterans, their families and their involvement in community life.
- 3.3 Research into military families has shown that continuing levels of stress and demands for adjustment puts military families at risk of higher levels of family conflict, behaviour problems in children and mental health problems for spouses.
- 3.4 Transition from military to civilian life is another adjustment for the whole family. For rehabilitation cases where transition is complicated by serious mental or physical disabilities or involuntary career loss, the family may face adaptive overload and have difficulty continuing to function effectively. Most commonly the marital relationship may be in difficulty. The spouse may suffer from depression or anxiety disorders, or the children may exhibit behavioural problems.
- 3.5 The rehabilitation case plan may need to include counselling assistance for family members to help restore family functioning and to build capacity of the family to cope with their new circumstances.

Family Involvement in CF Veteran's Rehabilitation Program

- 3.6 One of the principles upon which the Rehabilitation Program services are based states that the services will involve family members to the extent required to facilitate the rehabilitation.
- 3.7 As early as the VAC Transition Interview, efforts will be made to involve families in the CF

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Veteran's screening and assessment process and to include them in the planning and implementation of the CF Veteran's rehabilitation or vocational assistance case plan. They may participate in a joint interview and, in some situations, a member's family may be interviewed separately. VAC will respect the wishes of the CF Veterans and their families as to the degree of family involvement that will occur at various points in the CF Veteran's rehabilitation.

Assessment of Family Member's Needs

- 3.8 Once eligibility for the Rehabilitation Program has been determined for the CF Veteran the Area Counsellor, in consultation with relevant members of the Client Services Team, will assess the psycho-social rehabilitation needs of the Veteran. During this assessment, the Area Counsellor may determine there is a need for marital counselling, individual counselling for the spouse or common-law partner, or a need for individual or family counselling to address the behavioural problems being exhibited by a child or children.

Eligibility

- 3.9 Where a need for individual, marital or family counselling services is identified and there is reason to believe that the need is caused or exacerbated by the career loss or health condition(s) for which a rehabilitation case plan has been approved for the CF Veteran, appropriate counselling services for the family will be obtained as a rehabilitation service under the Rehabilitation Program.
- 3.10 The family services as outlined in this policy are available to family members after the CF Veteran has released from the military for the period of time that the Veteran is participating in the Rehabilitation Program.
- 3.11 Families may have counselling needs that are unrelated to the career loss or the health problem for which the Rehabilitation Case Plan has been approved. For these needs, information can be provided about local community resources.
- 3.12 The VAC Assistance Service (Need link here) continues to be available to all CF Veterans and their families, including those in the Rehabilitation Program. The service provides confidential, short term counselling services at no charge and community referrals as needed. The toll free line can be reached on a twenty-four hour basis. The service may also be accessed by members and their families prior to release.

Services for Family Members

- 3.13 Where a need for individual, marital or family counselling services is identified, the Area Counsellor will pre-authorize a referral for assessment and counselling plan as a rehabilitation benefit. This will be part of the CF Veteran's Rehabilitation Case Plan developed in consultation with relevant members of the Client Services Team. Services will be provided by a VAC approved provider for social work or psychological services.

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- 3.14 Counselling services for family members in the Rehabilitation Program should be short term and outcome focussed. Most research on counselling indicates that the most change takes place in the early phases of counselling services and later phases represent a consolidation and reinforcement of those changes. This should be communicated to family members.
- 3.15 The initial authorization for services will be for 10 sessions with an expectation of a report on progress towards treatment goals set out in the counselling plan. An additional 10 sessions may be approved by the Area Counsellor if they are satisfied from consultation with the client and the counsellor that additional sessions are needed.
- 3.16 Requirement for additional sessions beyond 20 should be treated as an exceptional circumstance and will require the consultation with relevant members of the Client Services Team and/or the Regional Rehabilitation Specialist or Regional Mental Health Specialist and the sign off of the Client Services Team Manager before further authorization is made.

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1.0 SYNOPSIS

1.1 Purpose

This policy identifies the criteria for considering a client to be totally and permanently incapacitated.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act* sections 11, 14 and 18(4). , Regulations 6

3.0 POLICY

General

- 3.1 Determination of whether a CF Veteran is totally and permanently incapacitated is a key consideration at various steps in the rehabilitation process. It is required when:
- a) determining appropriateness of the Vocational Rehabilitation component of Rehabilitation Program,
 - b) terminating Vocational Rehabilitation component of the Rehabilitation Plan for the Veteran,
 - c) continuing of the payment of VAC Earnings Loss benefits to a maximum of age 65,
 - d) determining eligibility of spouses / common-law partners for the Rehabilitation Program, and,
 - e) determining eligibility for the Supplementary Retirement Benefit

Definitions

- 3.2 "Total and Permanent Incapacitated" means there is recent clear and objective medical evidence (eg. a physician's report) that the CF Veteran is incapacitated by a medically determined permanent physical or mental health problem that prevents the individual from performing the functions of any occupation that would be considered suitable gainful employment.
- 3.3 The permanent incapacity component refers to a continuous and uninterrupted medically diagnosed health problem that is expected to last at least one year from date of onset, with no significant improvement.
- 3.4 Suitable Gainful Employment means, in relation to a veteran, employment for which the veteran is reasonably qualified by reason of education, training or experience and that provides a monthly rate of pay equal to at least 66 and 2/3 % of the imputed income of the veteran as referred to in subsection 19(1) of the Act.

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Determination of Total and Permanent Incapacity

- 3.5. Based on the definitions above, Total and Permanent Incapacity is determined if:
- a) The health problem that makes the CF Veteran eligible for Rehabilitation Services also prevents him/she from performing any occupation that would be considered suitable gainful employment.
 - b) The health problem is continuous and uninterrupted and expected to last at least one year from date of onset.
- 3.6 Total and Permanent Incapacity will be determined by the VAC case manager in consultation with the Client Services Team through a review of the following sources of information.
- a) Recent objective medical reports ie. within 3 months
 - b) Recent rehabilitation reports - including medical rehabilitation, psycho-social rehabilitation and vocational rehabilitation ie. within 3 months
 - c) Client or family report on work history, work performance and productivity, problems at work and difficulties with performance of activities of daily living and instrumental activities of daily living
- 3.7 The information must indicate that there is recent clear and objective medical evidence that the CF Veteran is incapacitated by an medically determined physical or mental health problem which prevents the him/her from performing any occupation that would be considered suitable gainful employment.
- 3.8 Where there is uncertainty regarding the client's ability to perform any occupation that would be considered suitable gainful employment, the client can be referred to the Vocational Rehabilitation contractor for a specialized employability assessment

Socio-economic conditions

- 3.9 It is the ability to perform the work that must be considered. Conditions such as the unemployment rate, the availability of certain types of jobs in a particular locality, lack of child care or elder care, family responsibilities or preferred working hours do not form part of the determination of a Veteran's incapacity.

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1.0 SYNOPSIS

1.1 Purpose

Coverage of specific rehabilitation related expenses has been put into place to support individuals participating in the VAC Rehabilitation Program, including Vocational Assistance. This policy identifies the Rehabilitation related expenses that will be paid to clients participating in the Rehabilitation Program, including Vocational Assistance. Expenses are separated into two categories: vocational training expenses and non-training rehabilitation expenses.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act 41*
Regulations 11, 12, 15 & 94

3.0 POLICY

3.1 VAC will pay for reasonable expenses arising out of a client's participation in a rehabilitation case plan or a vocational assistance case plan.

3.2 The Rehabilitation Case Plan can include the following components:

- a) medical rehabilitation
- b) psychological-social rehabilitation and
- c) vocational rehabilitation including but not limited to:
 - i) Transferable skills analysis
 - ii) Vocational evaluations eg. of interests, aptitudes, literacy/numeracy, achievement, work experience Vocational counselling
 - iii) Education / training (job specific)
 - iv) Work hardening (physical) and work adjustment (emotional and social)
 - v) Work place ergonomic assessment and modification
 - vi) Job search and finding

3.3 The Vocational Assistance Case plan can include the following components:

- a) employability assessments
- b) career counselling,
- c) training (educational job specific training)
- d) job search assistance and
- e) job-finding assistance

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Allowable Expenses for Rehabilitation and Vocational Assistance Services, other than vocational training (See 3.5 below for vocational training expenses)

3.4 The following expenses are payable when a client incurs them through participation in an approved rehabilitation or vocational assistance services, other than vocational training:

a) the costs of meals, transportation and accommodations incurred by the client in accordance with the Treasury Board Travel Directive rates, subject to the following conditions:

i) if the means of transportation is a taxi, \$5.00 will be deducted from the cost of each trip unless the client's mobility or cognition is severely impaired or the deduction would severely impede the person's ability to access the services, or

ii) if the means of transportation is an automobile other than a taxi, the costs of transportation are payable at the rate applicable to employees of the Public Service of Canada plus 2 cents per kilometre and will include the costs of parking while the client is at the centre providing the services,

iii) if the client's health needs for which he/she is participating in the rehabilitation plan require him/she to be accompanied by an escort while travelling, the costs of the escort's meals, transportation and accommodations in accordance with subparagraph (i) above,

Health needs, in this instance, refers to physical, psychological or cognitive problems which render the client unable to travel alone ie: unable to drive or take public transit alone.

iv) if the escort is not the client's spouse, the common-law partner, dependent of the client or any other member of his/her household, remuneration will be at a daily rate computed by dividing by 30 the sum of basic and additional pension payable for a spouse or common-law partner at the rate set out in class 1 of Schedule I to the *Pension Act*, as adjusted in accordance with Part V of that Act,

v) the costs of additional dependant care, to maximum of \$75 per day.

Dependant refers to the client's child(ren) or any other member of his/her household that are physically or mentally dependent on the client for their care.

Allowable Expenses for Vocational Training Programs

3.5 The following expenses are payable when a client incurs them through participation in an approved vocational training program:

- a) tuition costs, to a maximum of \$20,000
- b) books required by the training program
- c) supplies required by the training program, to a maximum of \$40 per month
- d) Internet fees, to a maximum of \$25 per month

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- e) other costs, such as those for licensing or examinations, that are identified by the training facility before the program begins, to a maximum of \$500 per examination
- f) the costs of basic safety equipment and special clothing other than breathing apparatus, pressure suits or environmental testing equipment, that are not otherwise provided by the training facility, to a maximum of \$300 per training program
- g) the cost of a tutor approved by and referred by the training facility, to a maximum of 10 hours
- h) the costs of transportation to and from the training facility at a rate of 15 cents per kilometre to a maximum of \$500 per month or the cost of a monthly bus pass
- i) the costs of parking for a participant who holds a disabled parking card from the province in which the training is provided if the training facility does not provide disabled parking
- j) if the approved training is not available at a training facility located within a distance that would allow for daily commuting from the residence of the person
 - i) the costs of temporary accommodations, to a maximum of \$500 per month for the client's accommodation, or to a maximum of \$1000 per month if accommodations are required for the client and any dependants, and
 - ii) the cost of 2 return trips from the client's residence to the location of the training facility
- k) 50% of the cost of additional dependant care, to a maximum of \$750 per month;

Dependant refers to the client's child(ren) or any other member of his/her household that are physically or mentally dependent on the client for their care.

Travel Outside Canada

- 3.6 Where a client receives rehabilitation services or vocational assistance in a country other than Canada, the costs set out in section 3.4 and 3.5 above, are payable at:
- a) the same rate and with the same conditions that are established for former members of the armed forces of that country for similar costs or,
 - b) if no such rates are established, at the rates that would be payable if the person were resident in Canada.

Payment of Higher Costs

- 3.7 VAC may authorize the payment of costs at a rate that is higher than the rate set out in section 3.2 above, if VAC is satisfied that the higher rate is necessary in order to provide an appropriate standard of service considering the location and availability of training and any associated special or extraordinary expenses.

Reimbursement Period

- 3.8 A claim for reimbursement must:
- a) be made in writing within one year after the day on which the expenditure is incurred
 - b) include proof of the expenditure, in accordance with Vol 2, VPPM 2.3.1, paragraph 3.14 and

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- c) be paid at an amount that will not exceed the maximum amount payable at the time the expenditure was incurred.

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1.0 SYNOPSIS

1.1 Purpose

This policy explains the relationship between benefit eligibility for long term disability benefits payable under the Service Income Security Insurance Plan -LTD (SISIP-LTD) as sponsored by The Treasury Board of Canada and administered by Manufactures Life Insurance of Canada (Manulife) and Earnings Loss (EL) benefits payable to Canadian Forces members under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act (CFMVRCA)*.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 8, 9, 10, 18 - 24, Regulations 17 - 27*

3.0 POLICY

General

3.1 Veterans who released on medical grounds in accordance with chapter 15 of the *Queen's Regulations and Orders for the Canadian Forces* within 120 days prior to, or subsequent to, the coming into force date of the *CFMVRCA*, are eligible to apply for EL benefits under the *CFMVRCA*. (See VPPM 4.1.3 -; (EL Benefits) Eligible Clients)

3.2 SISIP-LTD benefits shall be considered as one of the prescribed sources of income which will be offset from any EL benefit that might otherwise be payable should the Veteran qualify under the *CFMVRC Act* (See VPPM Policy 4.1.6 - Determination of Prescribed Sources of Income)

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1.0 SYNOPSIS

1.1 Purpose

The Earnings Loss Benefit is one of the benefits available through the Financial Benefits Program. Earnings Loss Benefit is payable in recognition of the economic impact a military career ending or service related disability may have on the Veteran's ability to earn income following release from the Canadian Forces (CF).

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 18 - 24, Regulations 17 - 27*

3.0 POLICY

General

- 3.1 Earnings Loss Benefits are intended to provide an income replacement to the Veteran, and in certain circumstances, to the Veteran's survivor or orphan;
- during a period of participation in a rehabilitation program that has been approved by The Minister, including medical, psycho-social and/or vocational rehabilitation services; and/or
 - until the Veteran reaches age 65, if following approval of a rehabilitation plan, the Veteran is determined to be totally and permanently incapacitated for the purposes of suitable gainful employment as a result of the health problem for which he or she would otherwise have been eligible for a rehabilitation plan. (See VPPM 4.1.3 - Eligible Clients-and VPPM 4.1.9 - Total and permanent Incapacity and Suitable gainful Employment), or
 - until the day of the Veteran's non service related death if the veteran has not reached age 65.

Benefit

3.2

The level of Earnings Loss benefit is calculated as the difference between seventy-five per cent (75%) of the Veteran's CF monthly income as determined by VAC and the sum of the monthly amounts of other income from prescribed sources that are payable to the Veteran. (See VPPM 4.1.7 - Calculation of Earnings Loss, VPPM 4.1.5 - Determination of Imputed Income and VPPM 4.1.6 - Determination of Prescribed Sources of Income).

Commencement, Suspension and Cancellation

- 3.3 Earnings Loss commences on the date that the Minister determines a rehabilitation plan or vocational assistance should be developed. (See VPPM 4.1.3 - Benefit Eligibility Period)

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- 3.4 ~~The~~ Earnings Loss may be suspended or cancelled if the Veteran, or recipient, fails to comply with requests for information required to administer the benefit, or
- 3.5 The Veteran or recipient fails to notify the Minister of any changes to their rehabilitation plan, financial, employment or medical circumstances relevant to the administration of the Earnings Loss benefit program . (See VPPM Policy 4.1.8 Suspension and Cancellation)

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1.0 SYNOPSIS

1.1 Purpose

This policy outlines the client groups eligible for Earnings Loss benefits.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act* sections 18 and 22

3.0 POLICY

General

3.1 The following are eligible for Earnings Loss (EL) benefits:

Veterans

3.2 Veterans who:

- a) as a result of an assessment are determined by the Minister to require a rehabilitation plan or a vocational assistance plan;

Survivors and Orphans

3.3 Survivors or orphans¹ of members or Veterans where the member or Veteran dies **after the implementation of the CFMVRCA on April 3, 2006 as a result of;**

- a) a service related injury or disease
b) a non-service related injury or disease that was aggravated by service

Division of Earnings Loss Benefit

3.4 Earnings Loss benefit is to be apportioned between survivors and orphans in the following manner:

- a) survivor only, (no orphans), 100% of the Earnings Loss benefit payable;
- b) survivor and one or more orphans, 60% to the survivor with the remaining 40% of the Earnings Loss benefit divided equally between the orphans;
- c) orphans only, each orphan is entitled to the lesser of:

¹See VPPM 1.1.1 - Definition of Survivor and Orphan

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- (1) 40% of the Earnings Loss benefit, and
- (2) the total amount of Earnings Loss benefit divided by the number of orphans

Example #1:

Three orphans, no survivor

Total EL benefit payable is \$3,000.00/month

The EL benefit divided by three (orphans) is \$1,000.00/month (33.33%),

40% of the EL would be \$1,200.00/month

Therefore each orphan would receive \$1,000/month (33.33% of the EL benefit payable) since it is less than the \$1,200/month or 40% of the EL benefit payable

Example #2

Two orphans, no survivor

Total EL benefit payable is \$3600/month

The EL benefit divided by two (orphans) is \$1800.00/month (50% of the EL benefit)

40% of the EL benefit would be \$1,440.00/month

Therefore each orphan would receive \$1,440.00/month (40% of the EL benefit payable) since it is less than the \$1,800.00/month or 50% of the EL benefit payable

- d) survivors shall receive 100% of the Earnings Loss benefit payable once there are no remaining eligible orphans

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1.0 SYNOPSIS

1.1 Purpose

This policy provides information about determining the beginning and end dates for eligibility to Earnings Loss (EL) benefits where there is no suspension or cancellation¹ of benefits involved.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 18, 20, 22 , 94; Regulations Section 17*

3.0 POLICY

General

- 3.1 E L benefits are payable during the period that the Veteran's earning capacity is limited or lost due to either
- a) the Veteran's participation in a rehabilitation or vocational assistance plan approved by The Minister, or
 - b) the Veteran is incapable of suitable gainful employment due to being totally and permanently incapacitated because of the health problem which resulted in the need for the rehabilitation or vocational assistance plan, or
 - c) the Veteran has died:
 - i) as a result of a service related injury or disease, or
 - ii) a non - service related injury or disease that was aggravated by service.

Veterans

- 3.2 EL benefits are payable from the date the Minister determines a rehabilitation plan or vocational assistance plan should be developed.
- 3.3 Earnings Loss benefits may continue until the earlier of:
- a) the day the Veteran completes the rehabilitation or vocational assistance plan
 - b) the day the rehabilitation or vocational assistance plan is cancelled,
 - c) in the case of a Veteran who was considered totally and permanently incapacitated, the day on which the Veteran is able to engage in suitable gainful employment, or
 - d) the day the Veteran reaches age 65

Survivors and Orphans

¹ See VPPM Policy 4.1.9 - Suspension and Cancellation of EL Benefits

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3.4 Earnings Loss benefits become payable on the later of:

- a) the day after the day of the member's or Veteran's death, and
- b) the day that is one year before the day which the application for EL benefits is approved for the survivor or orphan

Survivors/orphans EL benefits may be payable as of the day following the Veteran's death, however, if there is a delay in making the required application, Survivor /Orphan EL benefits are only retroactive to a maximum of one year prior to the date of approval of the survivor's or orphan's application. There is no interest payable on any retroactive earnings loss benefits.

Example: Veteran died of a service related condition on May 15, 2006, survivor does not make application until June 30, 2007, with the application approved on July 15, 2007. The Survivor's Earnings Loss benefits would be retroactive only to July 15, 2006. (Retroactive one year prior to the approval)

- 3.5 EL benefits become payable directly to the orphan on the date he or she turns 18 years of age until the date s/he turns 25 years of age provided he or she continues to follow a course of instruction approved by The Minister.
- 3.6 Orphans between the ages of 18 and 25 who are not in a course of instruction approved by the Minister following the Veteran's death may subsequently become eligible to receive earnings loss benefits provided they enroll in course of instruction approved by the Minister.
- 3.7 Remarriage of a surviving spouse does not affect the ongoing payment of EL.
- 3.8 Earnings Loss benefits may be suspended or cancelled if the survivor or orphan does not provide the information necessary to properly administer the EL benefit program.
- 3.9 Earnings Loss benefits cease to be payable to a survivor or orphan on the day:
 - a) the member or Veteran, if alive, would have reached age 65, regardless of the age of the survivor or orphan at that time, or
 - b) the orphan no longer meets the required criteria

Incapacitated Orphans

- 3.8 An orphan who is prevented from earning a living due to a physical or mental incapacity which occurs prior to the orphan reaching age 18, or after reaching age 18 and before age 25 while the child was following a course of instruction approved by the Minister, shall continue to receive the orphan's EL benefit until the earlier of;
 - a) the date the Veteran would have reached age 65, or
 - b) the date the orphan is no longer prevented by a physical or mental incapacity from earning a living

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1.0 SYNOPSIS

1.1 Purpose

This policy outlines the application requirements needed to determine eligibility to Earnings Loss benefits for Veterans, survivors and orphans.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 18, 19, 22, Regulations section 17.*

3.0 POLICY

General

3.1 A written application for Earnings Loss benefit must contain the following information:

All applicants:

- a) name of Veteran
- b) address of the Veteran/applicant
- c) Date of birth of the Veteran
- d) service number of Veteran
- e) military rank, class, pay level and category at release
- e) date of release from the applicable military service
- f) social insurance number of Veteran
- g) authorization to confirm, obtain, share or release pertinent financial, employment, medical or other personal information needed to properly administer the earnings loss benefit
- h) effective date of approval for rehabilitation or vocational assistance
- i) relevant employment income, disability or retirement amounts that may be payable following release (see VPPM Policy 4.1.8 - Calculation of Earnings Loss)
- j) other financial or pertinent information needed to properly administer the Earnings Loss benefit
- k) a statement declaring the truthfulness of their application

3.2. Survivors/Orphans

In addition to the above, survivors or orphans must provide the following:

- a) name of applicant
- b) relationship to the Veteran
- c) marriage certificate (if applicable)
- d) copy of the death certificate
- e) medical and other relevant information surrounding the death
- f) relevant death benefits that may be payable following death (see VPPM 4.1.8 - Calculation of Earnings Loss)

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- g) age(s) of orphans, and other pertinent information needed to administer the Earnings Loss benefit(eg: attendance in educational institutional, name of school)
- h) names of other potential beneficiaries (eg. Dependent children/orphans of the Veteran from a previous marriage or relationship)

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1.0 SYNOPSIS

1.1 Purpose

This policy outlines the process required to determine the Veteran's monthly imputed income. The monthly imputed income is needed in order to calculate the earnings loss benefit payable to a Veteran, survivor or an orphan. (See VPPM: 4.1.8 - Calculation of Earnings Loss)

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 19, 21, 23, Regulations 18, 19, 20, 21*

3.0 POLICY

General

- 3.1 Veterans, survivors and orphans are entitled to receive an earnings loss benefit equal to 75% of the member's (in the case of a service related death) or Veteran's military monthly imputed income.
- 3.2 The term "imputed" is used to demonstrate that the income which is used to calculate the EL benefit is arrived at by considering a number of different factors including the Veteran's salary, military rank, class, pay level and pay rate category either at the time of release or injury.
- 3.3 The monthly imputed income for a Regular Force member is based on the gross salary of the member/Veteran at the time of release from the Regular Forces. The monthly imputed income for a Reserve Force member is based upon the gross salary based on the Veteran's military rank, class, and pay rate at the time of the injury or illness and/or at the time of his release. (See 3.5 and 3.6 below)
- 3.4 For purposes of this policy, reference to; "injury or disease which lead to the release was incurred, contracted or aggravated ..." shall also mean; "where the event that resulted in the health problem occurred..."

Process to Determine Monthly Imputed Income

Regular Force Veterans

- 3.5 For the purposes of section 8(1), 9(1) and 19 of the Act, the monthly imputed income of a Veteran released from the Regular Force is the greater of:
- the Veteran's monthly military salary at the time of release, and
 - the monthly military salary for a senior private in the standard pay group at that time, with both figures indexed until the benefit is payable¹. (See 3.9 of this policy)

Reserve Force Veterans

¹ See VPPM Policy 4.1.4 - EL Benefit Eligibility Period

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- 3.6 For the purposes of section 8(1), 9(1) and 19 of the Act, the monthly imputed income of a Veteran released from the Reserve Force is dependent on the type of service at the time the injury or disease which lead to the release was incurred, contracted or aggravated.
- 3.7 If the Reserve Force Veteran's injury occurred during:
- a) Regular Force Service, the monthly imputed income will be is the greater of:
 - i) the Veteran's monthly military salary at the time of release from that service, and
 - ii) the monthly military salary for a senior private in the standard pay group at that time, with both figures indexed until the benefit is payable. (See 3.9 of this policy)
 - b) Class C Reserve Service the monthly imputed income will be the greater of:
 - i) the Veteran's monthly military salary, and
 - ii) the monthly military salary for a senior private in the standard pay group at that time both indexed from the completion of the Class C Reserve Service until the benefit is payable.
 - c) Class B Reserve Service of more than 180 days, the imputed monthly income will be:
 - i) the Veteran's monthly military salary at that time
 - ii) updated (made equivalent) to the salary rate for that rank, pay level and category in effect at the time of release, and
 - iii) indexed until the benefit is payable;
 - d) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, a deemed monthly imputed income of \$2,000.

Survivor or Orphan of a member who dies while in Service

- 3.8 For the purposes of section 23 of the Act, the monthly imputed income in the case of a member who dies during Regular Force Service is the greater of :
- a) the member's monthly military salary at the time of death, and
 - b) the monthly military salary for a senior private in the standard pay group at that time, with both indexed until the benefit is payable
- 3.9 In the case of a member who dies during Reserve Force Service, if the injury or disease that resulted in the death was incurred, contracted or aggravated, as the case may be:
- a) during regular force service, the greater of:
 - i) the member's monthly military salary at the time of death, and
 - ii) the monthly military salary for a senior private in the standard pay group at that time with both indexed until the benefit is payable,
 - b) at anytime during Class C Reserve Service the greater of:
 - i) the monthly military salary of the member, and
 - ii) the monthly military salary for a senior private in the standard pay group at that time with both indexed from the earlier of:
 - i) the date of completion of the Class C Reserve Service, or
 - ii) the date of death until the benefit is payable,
 - c) at anytime during Class B Reserve Service of more than 180 days, the Veteran's monthly military salary at that time updated (made equivalent) to the salary rate for that rank, pay level and category in effect at the time of death and indexed until the benefit is payable;
 - d) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, a deemed monthly imputed income of \$2,000;

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Survivor or Orphan of a Deceased Veteran

- 3.10 For the purposes of section 23 of the Act, the monthly imputed income in the case of a deceased Veteran who:
- a) was finally released from regular force service is equal to the greater of:
 - i) the Veteran's monthly military salary at the time of release and
 - ii) the monthly military salary for a senior private in the standard pay group at that time, both indexed until the benefit is payable
 - b) was finally released from reserve force service, if the injury or disease that resulted in the death was incurred, contracted or aggravated, as the case may be:
 - i) during regular force service,
 - (1) the greater of the Veteran's monthly military salary at the time of release from the regular force service, and
 - (2) the monthly military salary for a senior private in the standard pay group at that time,
 with both indexed until the benefit is payable
 - ii) at anytime during Class C Reserve Service, the greater of:
 - (1) the monthly military salary of the Veteran, and
 - (2) the monthly military salary for a senior private in the standard pay group at that time,
 with both indexed from the date of completion of the Class C Reserve Service until the benefit is payable,
 - iii) at anytime during Class B Reserve Service of more than 180 days:
 - (1) the Veteran's monthly military salary at that time
 - (2) updated (made equivalent) to the salary rate for that rank, pay level and category in effect at the time of the release, and
 with both indexed until the benefit is payable,
 - iv) during Class A Reserve Service or Class B Reserve Service of no more than 180 days, a deemed monthly imputed income of \$2,000.

Indexing of The Monthly Military salary

- 3.11 The monthly military salary referred to above shall be adjusted annually on January 1 in accordance with the percentage increase to the Consumer Price Index, rounded to the next 1/4%, for the year ending on September 30 of the previous year to a maximum of 2% per year.
- 3.12 The Consumer Price Index is the annual average all-items Consumer Price Index for Canada (not seasonally adjusted) published by Statistics Canada.

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Sub-section	DETERMINATION OF PRESCRIBED SOURCES OF INCOME	2006 - 04	1 of 2

1.0 SYNOPSIS

1.1 Purpose

This policy provides a listing of the various prescribed sources of income which are to be considered when calculating the amount of Earnings Loss payable to a Veteran, survivor or orphan. (See VPPM Policy 4.1.7 - Calculating the Earnings Loss Benefit; VPPM Policy 4.1.5 - Determination of Monthly Imputed Income)

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 19, 23; Regulations 22, 23*

3.0 POLICY

General

3.1 Veterans, survivors and orphans are entitled to receive an Earnings Loss benefit which is equal to 75% off the Veteran's monthly imputed income. This monthly amount will be offset by the sum of certain other monthly income amounts from specific or prescribed sources that are payable as a result of the Veteran's employment, retirement, death or disability.

Veterans

3.2 The following benefits shall be considered as prescribed sources of income when determining the amount of EL benefit payable to a Veteran:

- disability pension benefits payable under the *Pension Act*
- benefits payable under the *Canadian Forces Superannuation Act*, the *Public Service Superannuation Act* or the *Employment Insurance Act*
- amounts payable under an employer sponsored pension plan
- benefits payable, other than amounts payable for a dependent child, under the *Canada Pension Act* or the *Quebec Pension Act*
- benefits payable under any employer sponsored long term disability plan
- benefits payable in respect of economic loss under the *Government Employees Compensation Act* or any provincial workers compensation act
- amounts payable in respect of economic loss arising from a legal liability to pay damages
- employment earnings payable while the Veteran is not participating in a rehabilitation plan or vocational assistance plan
- 50 % of employment earnings payable while the Veteran is participating in a rehabilitation plan or vocational assistance plan approved by the Minister so long as the sum of the earnings loss payable for a month plus the employment earnings for the month does not exceed the Veteran's imputed income

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Survivors and Orphans

- 3.3 The following benefits which are payable as a result of the Veteran's death shall be considered as prescribed sources of income when determining the amount of EL benefit payable to survivors and orphans
- benefits payable under the *Pension Act* other than amounts payable for a dependent child
 - benefits payable under the *Canadian Forces Superannuation Act* or the *Public Service Superannuation Act* other than amounts payable for a dependent child;
 - benefits payable under the *Canada Pension Plan* or the *Québec Pension Plan* other than amounts payable for a dependent child
 - benefits payable under any employer sponsored long-term disability insurance plan other than amounts payable for a dependent child
 - benefits payable in respect of economic loss (ie; wage loss or income replacement benefits) under the *Government Employees Compensation Act* or any provincial workers compensation act other than amounts payable for a dependent child
 - amounts payable in respect of economic loss arising from legal liability to pay damages;
 - amounts payable under an employer pension plan other than amounts payable for a dependent child.

Retroactive Benefits

- 3.4 Income offsetting of the benefits listed in sections 3.4 and 3.6 shall be retroactive for the period that earnings loss benefits were also payable.

Lump Sum Amounts Resulting from Legal Liability

- 3.5 Any lump sum amount payable from a prescribed source listed in Sections 22 and 23 of the Regulations (See 3.2 and 3.4 above) shall be converted to a monthly payment using generally accepted actuarial principles, and this amount will be included as an income offset .

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1.0 SYNOPSIS

1.1 Purpose

This policy establishes the approach to be used to establish both the maximum (before offsetting prescribed sources of income) Earnings Loss benefit payable and the net (after offsetting prescribed sources of income) Earnings Loss benefit payable to a Veteran, survivor and orphan. (See VPPM Policy 4.1.7 - Determination of Prescribed Sources of Income; and VPPM Policy 4.1.6 - Determination of Monthly Imputed Income)

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 19, 23, 24; Regulations 18, 19, 20, 21, 22, 23,24*

3.0 POLICY

General

3.1 Veterans, survivors and orphans are entitled to receive a maximum monthly Earnings Loss benefit which is equal to 75% of the Veteran's monthly imputed income. This maximum monthly EL benefit will be offset by the sum of other monthly income amounts as detailed in VPPM 4.1.7 - Determination of Prescribed Sources of Income.

3.2 The Earnings Loss benefit payable per month is calculated using the following formula;

A - B = EL benefit payable per month

3.3. A is equal to 75% of the veteran's imputed income and B is the sum of the monthly income amounts from prescribed sources

Veterans, survivors and orphans

3.4 Calculation of the EL benefit requires the following steps:

- 1) determine the Veteran's monthly imputed Income
- 2) multiply the monthly imputed income amount by .75 (75%)
- 3) determine the sum amount of the monthly income amounts from prescribed sources
- 4) subtract the sum of the income amounts from prescribed sources from the maximum monthly EL benefit payable (line 2 above)
- 5) if the result of line 4 positive, this is the amount of the monthly EL benefit
- 6) if negative, no EL benefit is payable.

Pro rating the EL benefit payable for Partial Months

3.3 Earnings loss benefits are payable based upon a thirty (30) day month.

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3.4 divide the monthly EL benefit payable by 30 to establish the daily EL rate

3.5 multiply that daily rate by the number of days the EL benefit is payable for that specific month

Example #1:

Veteran is approved for EL benefits effective July 13, 2006

Monthly EL benefit is \$3,000

Daily EL rate is : $\$3,000/30 = \$100.00/\text{day}$

Total EL benefit payable for July 2006 is: $\$100.00 \times 19 \text{ days} = \1900.00

Example #2:

Veteran is approved for EL benefit effective August 30, 2006

Monthly EL benefit is \$4,000

Daily EL rate is: $\$4,000/30 = \$133.33/\text{day}$

Total EL benefit payable for August 2006 is: $\$133.33 \times 2 \text{ days} = \266.66

Example #3:

Veteran's EL benefit is ending effective February 13, 2007

Monthly EL benefit is \$4,500.00

Daily EL rate is: $\$150.00/\text{day}$

Total EL benefit payable for February 2007 is: $\$150.00 \times 13 = \1950.00

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1.0 SYNOPSIS

1.1 Purpose

This policy provides for the circumstances under which Earnings Loss (EL) benefits may be suspended or cancelled. (See VPPM 4.1.4 - Benefit Eligibility Period)

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 21,90, Regulations Sections 25 and 26*

3.0 POLICY

General

3.1 Suspend means to stop the payment of benefits for a specified period of time. EL benefits may be suspended in those instances where the client:

- a) fails to comply with requests from the Minister to provide the information needed to properly administer the EL benefit program, or
- b) fails to notify or provide the Minister with the appropriate information concerning changes to (including new or additional information) employment earnings, retirement or disability benefits or applicable medical information necessary in order to properly administer the EL benefit program

3.2 Cancel means to bring the payment of benefits to a definitive end at a specific point in time. EL benefits may be cancelled if:

- a) at least six months after being suspended in accordance with 3.1 above, the client continues to fail to provide the required information, or
- b) the client provides false or misleading information which impacts on the clients eligibility or the amount of the EL benefit.

Suspension - Required Information

General

3.3 Failure to provide the following information may result in suspension of EL benefits:

- a) changes to the veteran's employment earnings
- b) an annual statement of employment earnings for the Veteran (ie; income tax assessment form)
- c) additions, omissions or changes to other income from prescribed income¹ for the Veteran
- a) any other medical reports or assessments needed to properly administer the EL benefit

¹See VPPM Policy 4.1.7 Determination of Prescribed Sources of Income

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program, such as the status of health problem (s) for which the rehabilitation plan or vocational assistance plan was developed

Orphans

3.4 Orphans: Between Ages 18 and 25 must also provide:

- a) evidence that they have enrolled or continue to be enrolled in a course of instruction approved by The Minister.
- b) medical evidence that they are prevented by a physical or mental incapacity from earning a livelihood and the incapacity occurred before reaching age 18, or
- c) medical evidence that they are prevented by a physical or mental incapacity from earning a livelihood and the incapacity occurred after age of 18 and before the age of 25 while following a course of instruction approved by The Minister.

3.5 If, subsequent to suspending a client's EL benefits the required information is provided, the client's continuing eligibility from the date of suspension will be reviewed and any benefits owing will be paid.

Interest

3.6 No interest will be paid on any EL benefit which subsequently becomes payable following the lifting of a suspension.

Notification of the Client

3.7 Before suspending EL benefits, the Minister must notify the client in writing of the reasons and the effective date for the suspension.

Cancellation

3.8 EL benefits will be cancelled if the Veteran,

- a) at least six months after the effective date of the suspension, continues to fail to comply with section 3.1 of this policy, or
- b) eligibility to or the amount of EL was based on a misrepresentation or concealment of a material fact.

Notification of the Client

3.8 On cancelling the EL benefit, the Minister must notify the client in writing of the reasons and effective date of the cancellation, and of their rights of review.

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Totally and Permanently Incapacitated - See VPPM 3.1.5 - Rehabilitation Program - Totally and Permanently Incapacitated

Suitable Gainful Employment - See VPPM 1.1.1 - Definitions

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide guidance on the rationale for payment of the Supplementary Retirement Benefit and the eligibility requirements.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 25 - 26 Regulations 28 - 29.*

3.0 POLICY

General

3.1 The Financial Benefit Programs are designed to recognize and compensate the loss of potential earnings caused by a career ending or service related disability. One aspect of the potential lower earnings is the lower retirement benefits that may be available due to the Veteran's inability to contribute to a pension plan, either through employment or privately. The SRB is part of the Financial Benefit Programs designed to compensate for the lower pension contributions that have been made by a Veteran who has been unable to engage in suitable gainful employment due to being totally and permanently incapacitated.

3.2 The SRB is a taxable lump sum payment.

3.3 The amount of SRB is based on a percentage, (2%) of the *total* Earnings Loss Benefit that would be payable to an eligible Veteran/survivor¹ without regard to any income offsets, ie: 2 % of 75 % of the monthly imputed income for the Veteran, times the number of months that it is payable, or would be payable except for the other incomes that the Veteran was receiving, such as a disability pension paid under the *Pension Act*, Canadian Forces Superannuation Benefits or Canada Pension benefits,

Eligibility

Veteran

3.4 The SRB is payable to a Veteran who:

- is unable to engage in suitable gainful employment as a result of being totally and permanently incapacitated, and
- was receiving Earnings Loss, or would have been receiving Earnings Loss except for

¹ See Eligibility 3.4 below

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other sources of income which raised the Veteran's income above the maximum limit, ceases to continue to be eligible for Earnings Loss upon the Veteran

- a) reaching age 65, or
- b) being no longer deemed to be unable to engage in suitable gainful employment due to being totally and permanently incapacitated ie: recovers to a point of being employable.

Survivor²

Survivor of Veteran Who Dies from a Non-service Related Condition

- 3.5 The SRB is payable to the Survivor when a Veteran who:
- a) had been unable to engage in suitable gainful employment as a result of being totally and permanently incapacitated, and
 - b) had been receiving Earnings Loss, or would have been receiving Earnings Loss except for other sources of income which raised the Veteran's income above the maximum limit, dies before reaching age 65 from a non-service related condition, ie: the Survivor is not eligible for a continuation of the Earnings Loss Benefits

Survivor of a Member or Veteran Who Dies from a Service Related Condition

- 3.6 The SRB is payable to the Survivor who had been receiving Earnings Loss Benefits when the Veteran would have reached age 65, ie: Earnings Loss Benefits being paid to the survivor cease.
- 3.7 The SRB paid to a survivor of a Veteran or member who dies as a result of a service related condition is based on the total period during which Earnings Loss benefits were paid to the Veteran and Survivor. (See 3.12 Below)

Application

- 3.8 The Veteran, or survivor, must complete an application for SRB.
- 3.9 There is no time limit for applying for SRB
- 3.10 The application must:
- a) be in writing
 - b) contain information respecting the identity of the Veteran,
 - c) contain any other information necessary to determine eligibility,
 - d) contain a declaration attesting to the truth of the information, and

² Spouse or common-law partner, not dependents. See definition of survivor VPPM 1.1.1 - Definitions

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- e) in the case of a survivor:
 - i) contain information respecting the identity of the Survivor,
 - ii) a copy of the death certificate of the Veteran
 - iii) medical reports and other records documenting the Veteran's illness, disease, diagnosis and cause of death

Death of the Applicant

- 3.11 If the applicant who has applied for Supplementary Retirement Benefits dies before such allowance is awarded to him/her, the application shall be discontinued. It will not be payable to the estate.

Redress

- 3.12 As with all compensation paid under Part 2 of CFMVRC Act, an applicant has the right of review at two levels, other than the original decision maker. See VPPM 1.1.3 - Review

Amount of SRB Payable

- 3.13 The amount of SRB payable is calculated by the following formula:

$$A \times B \times 2\% = \text{SRB}$$

Where

A - is the monthly Earnings Loss Benefit payable to the Veteran/survivor with no deduction for assessable incomes.

B - is the total number of months that the Earnings Loss Benefit was payable, or would have been payable except for the Veteran's assessable income being too great, to an eligible Veteran or survivor.

2% is the percentage established by Section 29 of the Regulations.

Examples

Veteran Reaching Age 65

- 1) Veteran receiving Earning Loss Benefit based on an imputed monthly income of \$3750 with assessable incomes of \$2,000 monthly resulting in a monthly Earnings Loss Benefit of \$812.50 since turning age 35. Upon reaching age 65 the Veteran will receive \$20,250

¹\$3,750 x 75% = \$2812.50 monthly less \$2,000 assessable income equals a monthly Earning Loss payment of \$812.50.

²75% of monthly imputed income of \$3,750 = \$2,812.50 x 360 months x 2% = \$20,250.

Veteran No-longer Disabled

- 2) Veteran receiving Earning Loss Benefit based on an imputed income of \$4166.66 monthly

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with assessable incomes of \$1,500 monthly resulting in a monthly Earnings Loss Benefit of \$1,625³ since turning age 35. After receiving Earnings Loss Benefits for 10 years, the Veteran was sufficiently recovered to no longer be considered to be total and permanently incapacitated. The Earnings Loss Benefits are terminated and the Veteran is entitled to a SRB award. The amount of the award will be \$7,500⁴.

³ \$4166.66 x 75% = \$3,125 monthly less assessable incomes of \$1,500 monthly leaving Monthly Earnings Loss benefits of \$ 1,625.

⁴ \$3,125 x 120 months x 2% = \$7,500

Veteran Dies of Non-service related condition

- 3) Veteran was receiving Earnings Loss Benefits based on imputed income of \$4166.66 between when he left the Forces at age 40 until he died of a heart attack (non-disability award condition) at age 60. The assessable incomes were \$800 monthly leaving Earnings Loss payable at \$2,325⁵ monthly. The survivor will receive \$15,000⁶.

⁵ \$4166.66 x .75 = \$3,125 less assessable incomes of \$800 leaves Earnings Loss Benefits of \$2,325.

⁶ \$3,125 x 240 months x 2% = \$15,000.

Veteran Dies of Service Related Condition

- 4) Veteran was receiving Earnings Loss Benefits based on imputed income of \$4166.66 between when he left the Forces at age 40 until he died of a heart attack related to his disability award condition at age 60. The assessable incomes were \$800 monthly leaving Earnings Loss payable at \$2,325⁷ monthly before his death. Following the Veteran's death the Earnings Loss would be payable to the Survivor based on the Veteran's imputed income less the Veteran's assessable incomes. The \$800 was terminated at the time of the Veteran's death. The Survivor will receive Earnings Loss Benefits commencing the day following the Veteran's death until the date on which the Veteran would have reached age 65. The survivor would then receive SRB based on the combined period during which Earnings Loss Benefits were paid to both the Veteran and Survivor. The SRB payable would be \$18,750⁸.

⁷ \$4166.66 x .75 = \$3,125 less assessable incomes of \$800 leaves Earnings Loss Benefits of \$2,325.

⁸ \$3,125 x 300 months x 2% = \$18,750

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1.0 SYNOPSIS

1.1 Purpose

To provide a general overview of the nature and key factors of the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations

3.0 POLICY

3.1 The CFIS benefit is a non-taxable federal income support benefit that is provided to Veterans, survivors and orphans if they meet specific eligibility criteria.

3.2 The categories of recipients, and the respective benefit rates, as of May 13, 2005, when the Act was given Royal Assent, are:

- Veteran \$1,132.26
- Veteran having a spouse or a common-law partner, an additional amount . . 586.85
- Veteran with 1 or more dependent children, an additional amount for each . 283.07
- Survivor 1,132.26
- Orphan 606.77

NOTE: Updated official rates will be announced once the legislation comes into force. These will reflect the occurrence of several quarterly escalations, plus a one-time basic increase for Veterans and survivors as a consequence of amendments to the Old Age Security Act

3.3 The respective benefit rates will continue to be subject to quarterly escalation to reflect ongoing increases in the cost of living, as measured by changes in the Consumer Price Index.

3.4 The recipient must be a resident of Canada as a condition of receiving this benefit. Temporary absences from Canada are permissible (see separate policy directive).

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- 3.5 VAC will pay the contributions (premiums), deductibles and co-payments for a CFIS beneficiary to participate in the Public Service Health Care Plan. Contribution payment will be at the single rate and for Level 1 Hospital coverage.
- 3.5 The system design for the CFIS benefit employs a rules-base approach within the CSDN.

DRAFT

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Section	CANADIAN FORCES INCOME SUPPORT BENEFIT	Date	Page
Sub-section	ELIGIBILITY - VETERANS	2006 - 04	1 of 1

1.0 SYNOPSIS

1.1 Purpose

This policy describes the eligibility criteria which must be satisfied in order for a Veteran to qualify for the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 2(1) and Section 27

3.0 POLICY

- 3.1 An essential requirement for any Veteran to be considered eligible for the CFIS benefit is that he\she must have served in the Canadian Forces during a period of time that does not involve the wartime periods. Veterans who are considered “traditional” Veterans, because they have wartime service, are eligible to apply for income support under the War Veterans Allowance (WVA) Program.
- 3.2 Veterans must also demonstrate that they have been in receipt of an Earnings Loss (EL) benefit, or would be entitled to receive such benefits except for their level of income, and:
- a) they are no longer entitled to the EL benefit;
 - b) they meet the Canadian residency requirement;
 - c) they meet the employment-related criteria; and
 - d) in the month in which the application is made, and upon satisfying the income test process, they are entitled to receive a CFIS payment.
- 3.3 The CFIS program will operate on the basis of recognizing the Veteran’s military service which has already been recognized for purposes of the new Act and where a provision of benefits (i.e. approval of the EL benefit) has occurred.

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Section	CANADIAN FORCES INCOME SUPPORT BENEFIT	Date	Page
Sub-section	ELIGIBILITY - SURVIVORS	2006 - 04	1 of 2

1.0 SYNOPSIS

1.1 Purpose

This policy describes the eligibility criteria which must be satisfied in order for a survivor to be recognized for the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsections 2(1), 2(4) and Section 28

3.0 POLICY

3.1 Where the Member's or Veteran's death occurred before the Act came into force, it will not be possible for the person to be considered a survivor for CFIS purposes.

3.2 In order for the spouse to be considered a survivor, that person must have been residing with the Member / Veteran at the time of death.

3.3 The common-law partner must always be considered to be residing with the Member / Veteran, while alive. Therefore, at the time of the Member's or Veteran's death, this person would also satisfy the definition of being a survivor for CFIS purposes.

3.4 Separated married spouses, and divorced spouses, cannot satisfy the definition of being a survivor.

3.5 Former common-law partners cannot satisfy the definition of being a survivor.

3.6 Where more than one person claims to be the survivor of the Member / Veteran, and one person was the former spouse and the other was the common-law partner, adjudicators must rule in favor of the person who was the recognized common-law partner at the time of the Member's / Veteran's death.

3.7 Where the Member / Veteran marries, but dies within a one year period following the date of marriage, the spouse cannot be recognized as a survivor unless either of the following exceptional circumstances exist:

- a) the Member's / Veteran's health was such that at the time of the marriage there were valid reasons to believe the Member or Veteran had a life expectancy of at least one year; or,

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- b) at the time of the member's or Veteran's death, the couple had been cohabiting in a recognized common-law relationship for a period of at least one year prior to the death.

Service-related Death

- 3.8 Where the death of the Member / Veteran occurs after the coming into force of this legislation, and such death is determined to be connected to a service-related injury or disease, or a non service-related injury or disease that was aggravated by service, a survivor is eligible for various benefits provided under the Act, including the CFIS benefit.
- 3.9 A survivor is eligible to receive an Earnings Loss (EL) benefit up until the day the Member / Veteran, if he\she had lived, would have reached age 65.

Non Service-related Death

- 3.10 A survivor may be eligible for the CFIS benefit where the Veteran died as a result of a non service-related injury or disease, or where the death was not caused by aggravation of a non service-related injury or disease. It must, however, first be established that the Veteran's death occurred while he\she was in receipt of the CFIS benefit.
- 3.11 Following the death of the Veteran, if the survivor marries, or begins to cohabit in a common-law relationship, this fact has no material bearing on the survivor's right to receive the CFIS benefit. If such a circumstance should occur, the CFIS survivor's spouse or common-law partner has no standing for CFIS program purposes.
- 3.12 The survivor must be a resident of Canada in order to qualify for the CFIS benefit.

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Sub-section	ELIGIBILITY - ORPHANS	2006 - 04	1 of 2

1.0 SYNOPSIS

1.1 Purpose

This policy describes the eligibility criteria which must be satisfied in order for an orphan to be recognized for the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 2(1), Sections 30, 31, 37, and the Schedule

3.0 POLICY

- 3.1 The individual must meet the basic requirements set out in the definition; namely:

“orphan”, in relation to a deceased member or a deceased veteran, means their child, or a child of their survivor who at the time of the member’s or veteran’s death was 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.

- 3.2 There are two means by which a person may be considered an “orphan” for the CFIS benefit, in which case, the person becomes a recipient of this benefit. The eligibility criteria are:

- a) The Veteran must have been in receipt of the CFIS benefit at the time of death; or
- b) The Member or Veteran must have died of a service-related injury or disease, or of a non service-related injury or disease which was aggravated by service; and

on the day the CFIS application is approved, the Member or Veteran, if alive, would be at least 65 years of age.

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- 3.3 The orphan does not need to participate in a job search program, nor meet any employment-related criteria as a condition of qualifying for the CFIS benefit.
- 3.4 The orphan must satisfy the income test process to be entitled to receive a CFIS payment.
- 3.5 The orphan must be a resident of Canada in order to receive the CFIS benefit.

DRAFT

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Section	CANADIAN FORCES INCOME SUPPORT BENEFIT	Date	Page
Sub-section	ELIGIBILITY - SPOUSES	2006 - 04	1 of 2

1.0 SYNOPSIS

1.1 Purpose

This policy describes the eligibility criteria associated with a person's recognition as a spouse of a Veteran for the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 2(1), Section 37 and the Schedule

3.0 POLICY

3.1 Veterans who are married are entitled to receive an additional rate of benefit, as set out in the Schedule to the Act, on behalf of their spouse.

3.2 If a Veteran provides a statement to departmental officials indicating he/she is married, the statement can be considered as acceptable evidence. However, if unusual circumstances are present, departmental officials may request that the Veteran provide a copy of the marriage certificate.

3.3 In order for an individual to be recognized as a spouse, such person must ordinarily be residing with the Veteran (note exceptions in paragraph 3.4). Where an individual ceases to reside with the Veteran, ordinarily the individual will be considered a "separated married spouse", and an immediate adjustment in the Veteran's benefit rate must occur, because the additional rate is no longer payable.

3.4 Where a Veteran and spouse do not actually separate but, for unusual reasons, are forced to live apart, the legislation allows for the additional benefit to continue to be paid in the following cases:

- a) where the couple begin to reside apart because one or both of the partners requires admission to a health care facility;
- b) where the circumstances are of a temporary nature, such as where one of the partners is temporarily residing in another location (e.g. attending to a family member who requires specialized care, for employment or educational reasons, etc.); or
- c) where the circumstances are not within the control of the member or Veteran, or the spouse or common-law partner.

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3.5 When the couple divorce, the individual will be considered a “divorced spouse”, and the Veteran’s benefit rate would no longer be able to include an additional amount of benefit on behalf of such person.

DRAFT

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Section	CANADIAN FORCES INCOME SUPPORT BENEFIT	Date	Page
Sub-section	COMMON-LAW PARTNERS	2006 - 04	1 of 2

1.0 SYNOPSIS

1.1 Purpose

This policy describes the eligibility criteria associated with a person's recognition as a common-law partner for the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 2(1), Section 37 and the Schedule

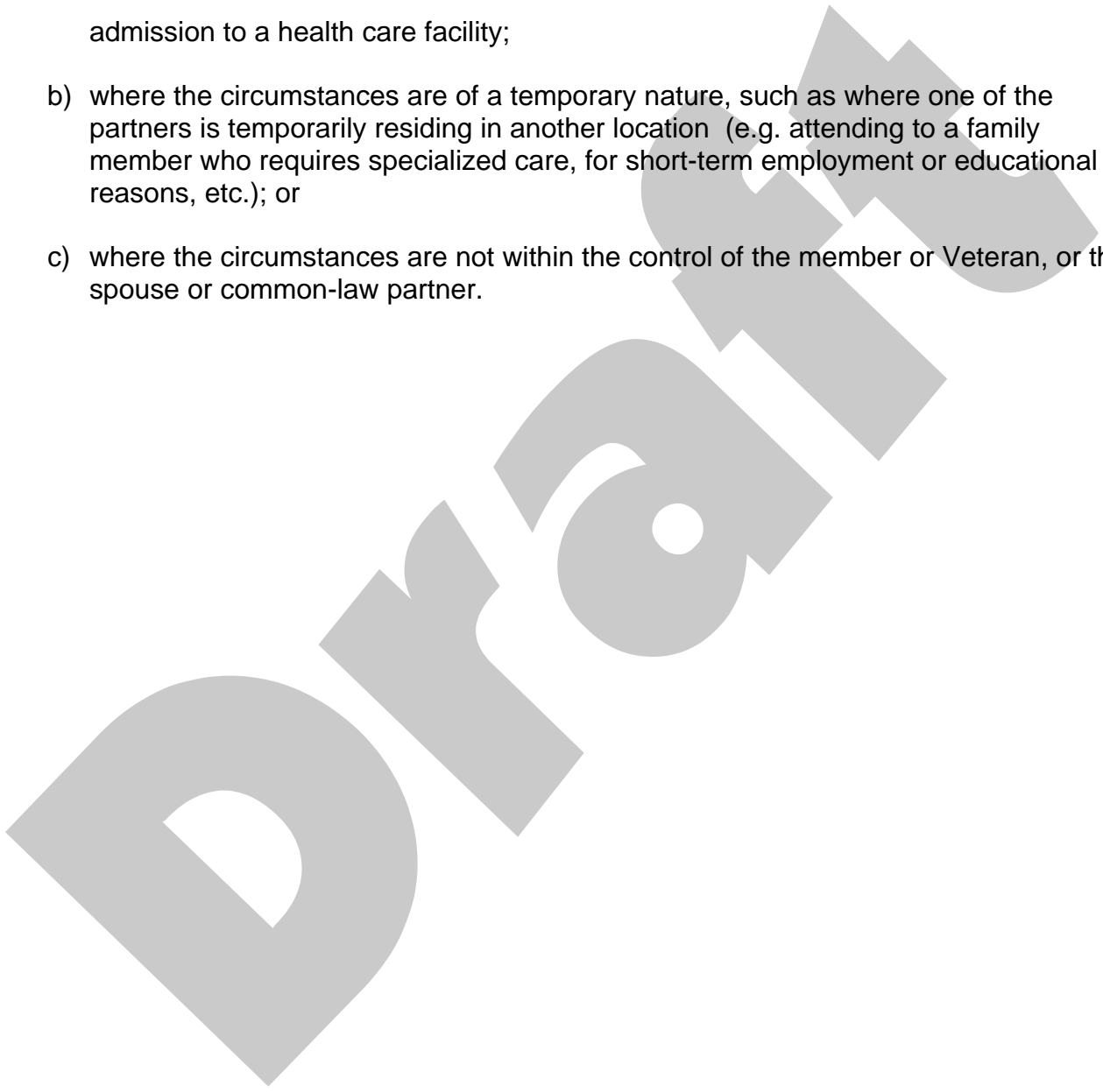
3.0 POLICY

- 3.1 Where the CF Veteran is cohabiting with a person in a conjugal relationship for a period of at least one year (hereafter termed "in a recognized common-law relationship"), an additional rate of benefit can be paid to the Veteran on behalf of such person.
- 3.2 If a Veteran provides a statement to departmental officials indicating he/she is in a recognized common-law relationship, the statement, which must include the date the relationship began, will be acceptable. However, if unusual circumstances are present, statutory declarations can be requested from each of the partners as substantiating information.
- 3.3 In order for a couple to initially satisfy the definition of being common-law partners, they must have cohabited in a conjugal relationship for a period of at least one year. If any significant breaks arise where they are no longer together, and such breaks interfere with achieving the initial full year cohabitation period (e.g., one person relocates to another area for employment or educational reasons several months after this relationship first began); a new commencement date for the common-law relationship must be established to indicate when the couple chose to resume their relationship.
- 3.4 Where a couple, after having established being in a recognized common-law relationship, cease to cohabit, the person will be considered a "former common-law partner", and an immediate adjustment in the Veteran's benefit rate must occur, as an additional rate of benefit can no longer be paid to the Veteran for that person.
- 3.5 Once the common-law relationship is established, there will be circumstances where the couple, for unusual reasons, must live apart, but will not be considered to have "ceased to cohabit" for purposes of the legislation. The following can be accepted:
- a) where the couple begin to reside apart because one or both of the partners requires

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admission to a health care facility;

- b) where the circumstances are of a temporary nature, such as where one of the partners is temporarily residing in another location (e.g. attending to a family member who requires specialized care, for short-term employment or educational reasons, etc.); or
- c) where the circumstances are not within the control of the member or Veteran, or the spouse or common-law partner.



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Sub-section	DEPENDENT CHILD	2006 - 04	1 of 2

1.0 SYNOPSIS

1.1 Purpose

This policy describes the eligibility criteria which must be satisfied in order for a dependent child to be recognized for the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 2(1), Section 37 and the Schedule

3.0 POLICY

3.1 In order to satisfy the definition of a “dependent child,” the person must be:

- a) the child of a Veteran; or
- b) the child of a spouse or common-law partner so long as such child is ordinarily residing in the Veteran’s household.

3.2 The eligibility criteria to consider in determining whether a person can be recognized as a dependent child are:

- a) The child is under the age of 18;
- b) The child is under the age of 25 and attending an approved course of instruction;
- c) The child is prevented by physical or mental incapacity from earning a livelihood where:
 - (i) the incapacity occurred before the age of 18;
 - (ii) the incapacity occurred after the person became 18 years of age, but before reaching age 25, and while attending an approved course of instruction.

3.3 There is no requirement for a dependent child to be participating in a job placement program, or to meet any employment-related criteria, as a condition of receiving recognition.

3.4 If a dependent child marries, or begins to cohabit in a recognized common-law relationship, this factor has no bearing for purposes of the CFIS benefit, and the child may continue to be recognized as a dependent child.

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- 3.5 A dependent child is not a recipient of the CFIS benefit in his/her own right. Rather, an additional rate of benefit is payable to the Veteran in respect of any dependent child.
- 3.6 A survivor cannot claim any child as a dependent child. Rather, such a child may seek consideration as an “orphan” for the CFIS benefit (see separate policy directive).

DRAFT

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Sub-section	RESIDENCY REQUIREMENT - VETERANS AND SURVIVORS (NON SERVICE-RELATED DEATH)	2006-04	1 of 3

1.0 SYNOPSIS

1.1 Purpose

This directive describes how a Veteran or survivor may satisfy the requirement of being a resident of Canada, and how periods of temporary absences from this country could impact their eligibility.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Sections 27, 28, 33 and 34, and subsection 41 (f)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Section 33 and Subsection 34(f)

3.0 POLICY

- 3.1 It is a statutory requirement that any Veteran, survivor, or orphan person seeking to acquire eligibility for the CFIS benefit be a resident of Canada.
- 3.2 A Veteran or survivor person resides in Canada if he\she makes their home and ordinarily lives in Canada. There can be only one place of residence at a time. Hence, it is expected that the Veteran or survivor would always maintain a Canadian residence.
- 3.3 The determination of residence, as set out in the Act, is a question of fact and must be determined on a case-by-case basis. It is noteworthy that absence from Canada for any length of time needs to be examined to determine if the person has ceased to be a resident within the meaning of the legislation. In this regard, the Regulations set out a presumption in relation to temporary absences from Canada to indicate how this may impact residence status.
- 3.4 Where a Veteran or survivor is absent from Canada for 183 days, or less, their residence from Canada is presumed not to be interrupted. However, this presumption may be rebutted by evidence which demonstrates that, notwithstanding the fact the absence was less than 183 days, the person no longer meets the Canadian residence. Furthermore, longer periods of temporary absence may not result in a loss of residency. For example:

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Example # 1:

A Veteran, for medically-approved health reasons, decides to travel to the southern United States to live in a warmer climate. While there he becomes ill and is unable to travel. This factor ends up extending his period of absence from Canada beyond the 183 days in the calendar year. In this case, the Veteran could still be considered a resident of Canada, as the evidence indicates his continuing intention to return to, and make Canada his home.

Example # 2:

A Veteran advises VAC that he has decided to move permanently to Great Britain. He holds dual citizenship, has now married, and wishes to live with his spouse who is a resident of that country. He will move to Great Britain as of the first day of the next month. In this case, the Veteran will be considered to have ceased to be a resident of Canada as of the referenced date.

- 3.5 Special attention is required in terms of how the Veteran's or survivor's absence from Canada may implicate other statutory obligations associated with eligibility for the CFIS benefit. Primarily, this relates to the fact that such persons are also required to meet an employment-related criteria and actively participate in a job placement program. Thus, CFIS program administrators must ensure that the appropriate client decision letter does not limit itself to the Canadian residency factor. As an example, a Veteran or survivor who decides, for personal reasons, to move to another country will be advised not only that eligibility for the CFIS benefit is terminated because their Canadian residence is relinquished, but also that the CFIS benefit ceases to be payable because he/she does not meet the employment-related criteria and is not actively participating in a job placement program.
- 3.6 Where it is determined that the Veteran or survivor has ceased to be a resident of Canada, the payment implications will be as follows:
- the CFIS benefit shall terminate effective the first day of the month in which the Veteran or survivor relinquishes their Canadian residence; and,
 - for any month in which a Veteran or survivor has partial Canadian residence, the payment of the CFIS benefit can be issued for that entire month.
- 3.7 It may happen that a Veteran or survivor initially relinquishes their Canadian residence, but, subsequently, changes their mind and decides to return to live in this country. If the time period during which they were no longer a resident of Canada exceeds six

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months from the last month in which the CFIS benefit was payable, the implications will be as follows:

- in the case of a Veteran, if a further need for VAC financial benefits arises, it will be necessary that the Veteran establish that a new condition has arisen which can be approved under a rehabilitation plan, and with that, the provision of an Earnings Loss benefit. Thereafter, if the need exists, renewed access to the CFIS benefit may be possible; or,
- in the case of a survivor, it will not be possible for this person to re-qualify for the CFIS benefit.

3.8 There is no requirement that a dependent child of a Veteran be a resident of Canada. This additional payment may continue to the Veteran so long as there is evidence that the Veteran continues to provide some measure of financial support.

3.9 Although the test of Canadian residence for purposes of the CFIS benefit must ultimately be determined on the basis of its own legislation, it is noted that a similar time period applies with respect to the *Income Tax Act*. Where information comes to light that a ruling made with respect to the *Income Tax Act* differs from a decision rendered for purposes of the CFIS benefit, further analysis will be required. In this scenario, the case circumstances will be referred to Head Office to seek further advice and recommendation.

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1.0 SYNOPSIS

1.1 Purpose

To describe how various sources of monies are regarded in respect of offsetting entitlement to the Canadian Forces Income Support (CFIS) benefit.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Section 37 and Subsection 41(c)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Section 36

3.0 POLICY

- 3.1 The CFIS benefit is a form of income support available to those Canadian Force Veterans who are no longer eligible for an Earnings Loss (EL) benefit, and whose total household income is insufficient to meet the basic needs of daily living. The *Canadian Forces Members and Veterans Re-establishment and Compensation Act* grants authority for the Regulations to specify how sources of monies will be treated for CFIS benefit purposes.
- 3.2 The assessable types of income for the CFIS benefit largely mirror the key features of the War Veterans Allowance (WVA) Program.
- 3.3 The CFIS "income" definition is fundamentally based upon the same income definition used in the *Old Age Security (OAS) Act*.
- 3.4 Determination of "income" for CFIS benefit purposes is aligned with the common test applied with federal income-tested benefits; namely, to stay within the scope of "net income" for income tax purposes. In general, unless a specific exception is authorized, the rules on the treatment of "income" for income tax purposes (including permissible deductions) apply.
- 3.5 Income is grouped into two categories:
- a) Those sources of monies which are always reportable for income tax purposes. Clients must report the ongoing monthly amounts, and these are termed "assessable monthly incomes."
 - b) Those sources of monies which are unique. They are treated differently, because

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they may be non-taxable, but the CFIS program requires their assessment, or there is a need to avoid “double counting” of the same income source. Clients will report this income on the basis of the ongoing monthly amounts, and these are termed “current monthly benefits.”

3.6 The CFIS program definition of “income” deviates from the income tax process in the following instances:

- a) A “cost of earnings” deduction will allow recipients to claim up to \$500 or 20% of the employment or self-employment income, whichever is less, per calendar year (or \$41.66 or 20% of the monthly employment or self employment income, whichever is less) in employment-related expenses, plus any deductions for Employment Insurance premiums and Canada \ Quebec Pension Plans contributions.
- b) Dividend income will be assessed at 100% of the face value.
- c) Capital and Business losses are assessed for the calendar year in which they occurred.

3.7 An employment earnings exemption is allowed. The authorized monthly amounts are:

	<u>Monthly</u>
Veteran	\$241.67
Veteran, with spouse or common-law partner	\$350.00
Survivor	\$241.67
Orphan	\$241.67

3.8 An interest exemption is allowed. The authorized monthly amount for all recipients is \$11.67 per month.

3.9 The Permanent Incapacity Allowance and the Supplementary Retirement Benefit are taxable benefits and are considered as Other Employment income. The CFIS program will regard these as assessable monthly incomes, subject to the applicable earnings exemption.

3.10 The following income sources are treated as “current monthly benefits:

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- a) The Earnings Loss (EL) benefit (and SISIP payments)¹;
- b) Disability pensions payable under the *Pension Act*;
- c) The *OAS Act* benefits. (Note: There is no authority to “deem” receipt of such benefits for CFIS benefit purposes.);
- d) Disability pension benefits payable under the *Royal Canadian Mounted Police Continuation Act* or the *Royal Canadian Mounted Police Superannuation Act*; and
- e) Compassionate Awards authorized under the *Veteran Review and Appeal Board Act* (if the award was refused under the *Pension Act*).

Not assessable Incomes

- 3.11 Disability Awards, Death Benefits, Detention Benefits and Clothing Allowances provided under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* are non-taxable income sources. These are not assessable for CFIS benefit purposes.
- 3.12 Special Awards under the *Pension Act* are non-taxable benefits (i.e. Attendance Allowance, Exceptional Incapacity Allowance, and Clothing Allowance). These are not assessable incomes for CFIS benefit purposes.
- 3.13 Income received by a dependent child is not assessable under any circumstances.
- 3.14 Gallantry Awards are a non-taxable income source. This is not assessable for CFIS benefit purposes.

¹There could be instances where a Veteran (or possibly a survivor or an orphan) has, in the same month, an overlap of income from these sources and the CFIS benefit. This can occur because EL and SISIP are payable on a daily pro-rated basis, whereas CFIS is paid monthly.

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1.0 SYNOPSIS

1.1 Purpose

To describe how a monthly benefit is calculated for Canadian Forces Income Support (CFIS) benefit purposes

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Section 37 and Subsection 41(c)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Sections 36 and 37

3.0 POLICY

- 3.1 Section 37 of the Act specifies how the amount of the monthly CFIS benefit is calculated for a Veteran, survivor, or orphan. The following initial considerations are key to the overall process:
- a) Determine the person's appropriate category according to the Schedule of the Act;
 - b) Determine the base calendar year (BCY)¹ period; and,
 - c) Determine the person's forecasted income for above BCY period.
- 3.2 Thereafter, the determination of an amount of CFIS is payable requires that all sources of monies² be reduced to a monthly amount.
- 3.3 Any income amounts and deductions which are applicable to the employment and/or interest earnings must also be applied on a monthly basis.

¹"Base calendar year" is defined in the *Regulations* as "... the 12-month period starting with any month in which the Canadian Forces income supplement benefit is payable."

²The *Regulations* identifies which sources of monies constitute "income" and "current monthly benefits." (See policy directive 6.1.9)

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Employment, self-employment, and net rental earnings

a) The amount of the monthly employment earnings exemption is set according to the applicable category set out in the Schedule:

Veteran	\$241.67
Veteran, with spouse or common-law partner	\$350.00
Survivor	\$241.67
Orphan	\$241.67

Interest exemption:

b) The applicable monthly amount is \$11.67 for all recipients.

3.4 A new forecasted 12 month BCY period will be required, whenever a change in income occurs after a BCY period has been previously established.

Example: CFIS approved as of September, 2006. The BCY period runs from September, 2006, to August, 2007. Assume the Veteran begins to receive Canada Pension Plan income as of November, 2006, and, despite the increased offsetting income, still qualifies for CFIS. In this case, the CSDN will create a new forecasted 12 month BCY to cover November, 2006, to October, 2007, time period.

3.5 Income changes which are below the applicable monthly exemption threshold level may not require a change in the BCY period. The business process will be developed to guide CFIS program administrators accordingly.

3.6 Where no monthly CFIS benefit is payable (e.g. due to excess income), and a re-application is made (e.g., in the case of a Veteran or survivor (service-related death) within the six month established time limit), the creation of a new forecasted 12 month BCY period is required. However, for purposes of applying the employment earnings or interest exemptions, those months in which the person was ineligible do not need to be considered. This is because the regulatory definition for “base calendar year” always operates on a prospective (“go-forward”) basis, and the Act dictates consideration of income offsetting on a monthly basis.

3.7 Where a change in the Veteran’s marital or family status occurs, such as beginning a recognized common-law relationship, marrying; or conversely, ceasing to cohabit in a common-law relationship, separating, or divorcing, a new forecasted 12 month BCY must be established. This is because the basis of the income assessment has changed. The effective month will be the month the Veteran’s category class changes

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in accordance with the Schedule of the Act. The policy will be as follows:

a) the benefit rate shall be adjusted as of the first day of the month in which the Veteran marries or begins to cohabit in a common-law relationship; or

b) the benefit rate shall be adjusted as of the first day of the month following the month in which the Veteran ceases to be married or ceases to cohabit in a common-law relationship.

- 3.8 If a Veteran claims a new dependent child, this factor, by itself, will not require a new forecasted 12 month BCY to be created.
- 3.9 If the BCY period is established and no change in income, marital or family status occurs over the course of this time period, the business process will involve: on or about the 11th month interval, the recipient will be sent a new income report and requested to complete and return this immediately, as part of the process to create a new BCY period. This action will lead to a new 12 month BCY period being created to follow the last month of the existing BCY period.
- 3.10 Obtaining the revised income report (per paragraph 3.9) is important, because it allows VAC to receive a contemporary 12 month BCY income report, and the recipient can use the occasion to forecast income for the next 12 month time period. In addition, the recipient is afforded the opportunity to provide VAC with any corrections on his\her income reporting statements for the existing BCY period, if necessary.
- 3.11 Special measures are involved in the case of the survivor of a Veteran who dies while in receipt of the CFIS benefit. The income calculation methodology, and the associated business processes involved will be dealt with in separate instructions.
- 3.12 There is also the possibility of a unique situation arising where each partner to the relationship is a Veteran who qualifies for CFIS in his\her own right. The income calculation methodology and the associated business processes will be dealt with in separate instructions.
- 3.13 The detailed income calculation methodology, using example information, is shown as Annex A.

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Annex A

Example of the income calculation methodology:

Step 1: Determine the appropriate category of recipient from the Schedule of the Act.

- Assume Veteran is single and the income ceiling is \$1,132.26

Step 2: Determine the forecasted 12 month BCY period.

- Assume the Veteran makes application in May, 2006, and the CFIS benefit is payable. The 12 month BCY period is from May, 2006, to April, 2007.

Step 3: Determine the Veteran's forecasted income for the 12 month BCY period.

- a) Veteran will estimate his assessable monthly incomes.
 - b) If the Veteran has employment income, besides the standard deductions (e.g. pension contributions), a "cost of earnings" deduction will be allowed. This precedes consideration of the monthly employment earnings exemption.
- Assume a single Veteran receives \$1,000 in gross monthly employment income. He indicates this income should continue for the next 12 months.

The Veteran claims the following yearly deductions:

- union dues of \$360;
- EI premiums of \$240;
- CPP contributions of \$240; and
- employment expense deduction of \$500

Total yearly deductions are \$1,340

Step 4: Reduce the forecasted BCY income to a monthly figure by dividing by 12. This includes calculating the applicable monthly deductions.

- The Veteran's monthly deduction is \$1,340 / 12 or \$111.67

The Veteran applies these deductions on his own and declares to VAC a net employment amount of (\$1,000 - 111.67) \$888.33

- VAC staff provides the Veteran with a monthly employment exemption of \$241.67. His assessable monthly income becomes \$646.67

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Step 5: Reduce CFIS benefit payable by the amount of any current monthly benefits.

- a) Clients will report current monthly benefits according to the identified sources.
 - Assume the Veteran has a monthly disability pension under the *Pension Act* of \$200

The overall result is:	
CFIS monthly income ceiling :	\$1,132.26
less 1\12 of the assessable employment income; and,	\$646.67
less the current monthly benefit	\$200.00
Monthly CFIS benefit payable is	\$285.60

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1.0 SYNOPSIS

1.1 Purpose

To describe the policy associated with determining how Veterans can be found to meet the employment-related criteria.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 27(b) and Paragraph 35(6)(b)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Section 32

3.0 POLICY

- 3.1 In order for Veterans to receive the Canadian Forces Income Support (CFIS) benefit, among other legislative requirements, they must “meet the employment-related criteria.” In this respect, the Regulations provide the following wording:

“... that they are looking for and will accept employment that is available in the local labour market for which they are reasonably qualified by reason of their education, training, or experience.”

- 3.2 It is expected that most Veterans who qualify for the CFIS benefit will readily meet the employment-related criteria given that they are just completing their rehabilitation program and/or vocational assistance, and the attainment of employment exists as a high personal priority. Supporting client information placed on the client file will make it clear that the Veteran’s attitude, willingness, and approach to securing employment is reasonable in the circumstance. The file information will also include clarification on the preferred type of employment, education, training, experience, salary range sought, and the geographic area upon which the job search efforts will be focussed. Supporting information will also appear as part of VAC’s records referencing the Veteran’s rehabilitation and vocational assistance plans.
- 3.3 Qualifying Veterans are entitled to participate in the Veterans Affairs Canada (VAC) Job Placement Assistance program and, thus, can access job placement professionals (i.e. “the contractor”) for continuing support in respect of their personal employment plan.
- 3.4 To strive for the most consistency possible, Veterans will be advised by their case manager that they are required to engage the contractor in order to facilitate securing

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employment as quickly as possible. This process itself will help in establishing that they are satisfying the legislative requirement with regard to the employment-related criteria. Veterans will be informed that if they decline any reasonable employment opportunity, it could result in their CFIS benefit ceasing to be payable.

- 3.5 An important objective of an anticipated counselling session involving the Veteran and the case manager is to lay the foundation for a mutual understanding of the Veteran's, the contractor's, and the case manager's respective roles. (See directive dealing with job placement participation also.)
- 3.6 Veterans will be allowed a reasonable time period to seek and secure employment in line with their personal preferences. Determination of this time period is a matter that may not always lend itself to a pre-set time duration for all clients, as each person has their own unique circumstances. However, to achieve the most degree of consistency, the general rule will be to allow all recipients to start with an initial good faith period of 3-6 months before they may be required to expand their employment preferences. The establishment of an appropriate time period will be the decision of the case manager with input from the contractor. This policy stance should:
 - ▶ enhance the Veteran's self-confidence by creating a sense of personal security in knowing that, in the early stages, he/she doesn't have to be concerned with being forced to accept work he/she feels to be unsuitable; and,
 - ▶ promote a climate of greater client acceptance, if later in the process, a counselling session occurs with the objective being that the Veteran's employment-related criteria must be expanded--because the status quo no longer represents a viable approach.
- 3.7 As Veterans continue to be unemployed (or under-employed) for longer time periods, the possibility arises that the conditions under which they were initially found to meet the employment-related criteria may need to be modified. The case manager, after a reasonable time period has elapsed, and upon advice from the contractor, may decide that the Veteran should be counselled that in order to continue to receive the CFIS benefit a broader approach to seeking and accepting work must be adopted.
- 3.8 The contractor may choose to recommend to the case manager that the initial 3-6 month good faith approach be varied based on individual circumstances. Two examples are illustrative:
 - a) Veterans who suffer from severe disabilities may require more time before they can be expected to expand their employment preferences; and,

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b) Some Veterans may bring adverse circumstances onto themselves due to personal reasons. For example, the Veteran relocates to a geographic area with limited local market opportunities in relation to recently acquired vocational training. If so, this could render the chances of their early transition into civilian employment unlikely. In this scenario, a recommendation to the case manager could result in a shorter initial good faith period to be permitted where the Veteran can confine his/her employment-related criteria to a specific employment preference.

- 3.9 The case manager, in most cases, will only need to be assured that the contractor believes the Veteran's ongoing plan to find employment reveals a committed and realistic approach.
- 3.10 Veterans given the chance to work on a part-time basis are to be encouraged, and obliged, to do so. Indeed, an incentive is present by means of an employment earnings exemption whereby a certain portion of this income is disregarded for offsetting purposes. Acceptance of part-time work allows Veterans to supplement their disposable income, and also enables them to become better assimilated into the civilian workforce. Overall, this outcome helps to demonstrate the Veteran is meeting the employment-related criteria along with contributing to a finding that they are actively participating in a job placement program.
- 3.11 There may be situations where the Veteran becomes engaged in full time work (e.g. greater than 30 hours per week), but due to the low level of wages provided, an amount of the CFIS benefit is still payable. The Veteran can still retain entitlement to the CFIS benefit, so long as he/she continues to follow the employment-related criteria approach, which, if brought to fulfilment, would result in the Veteran becoming more engaged in civilian employment in line with their vocational assistance plan. Hence, the need for the CFIS benefit would be eliminated completely.
- 3.12 The Act also requires that the Veteran must be participating in a job placement program, and this is, essentially, about the Veteran's efforts in terms of the relative frequencies, methods of contacts, and perseverance in approaching appropriate employer contacts. The contractor has an important role in providing advice in this respect, and this is described in a separate paper. This requirement operates in harmony with the requirement of meeting the employment-related criteria.
- 3.13 Circumstances may arise where the Veteran is granted an exemption from the job search, such as if a long-term personal illness is involved. While such an exemption is in place, the Veteran's obligation to continue to meet the employment-related criteria will not be a factor for consideration.
- 3.14 Once a Veteran turns 65, the requirement to meet any employment-related criteria is

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no longer relevant.

- 3.15 Veterans can experience their CFIS benefit ceasing to be payable, if assessable income is received, which results in no entitlement to the CFIS benefit being paid. This scenario has implications, as the requirement to meet the employment-related criteria only exists while the Veteran is a recipient. Hence, CFIS program administrators will ensure the contractor and the case manager are immediately advised if the Veteran's status should change.
- 3.16 It is noted that the Regulations enable a successful subsequent application from the Veteran to be approved if made within after the last day of the month the CFIS payment ceased to be payable. The contractor and the case manager will be notified when this end date has been reached and determine what impact, if any, this may mean in terms of ongoing delivery of VAC's services.

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1.0 SYNOPSIS

1.1 Purpose

To describe the framework associated with determining how a Veteran can be found to no longer meet the employment-related criteria, and, consequently, the CFIS benefit ceases to be payable.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsection 27(b) and Paragraph 35(6)(b)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Section 32

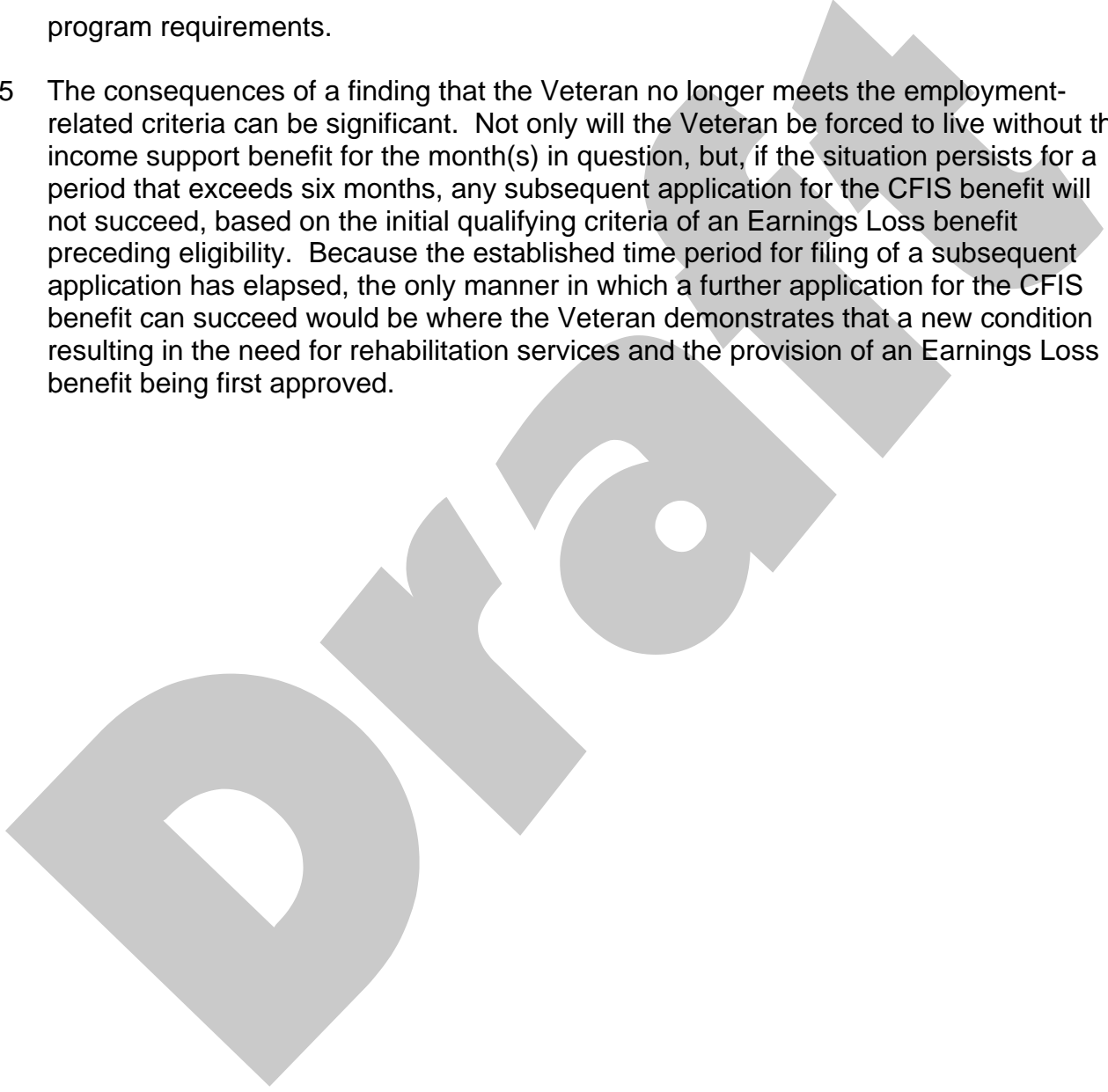
3.0 POLICY

- 3.1 The Veteran's entitlement to the CFIS benefit will cease when he\she no longer "meets the employment-related criteria". A clear example of this would be the Veteran's refusal to accept suitable full-time work.
- 3.2 Other circumstances where the Veteran no longer meets this requirement are:
- a) where the Veteran, upon receiving counselling that a reasonable time has elapsed and an expectation now exists that an expanded job preference focus must occur, refuses to agree, or honour, such an arrangement, rendering the likelihood of obtaining work remote, or virtually non-existent; and,
 - b) where the Veteran becomes engaged in full time work (e.g. more than 30 hours per week), but due to the low level of wages provided, the CFIS benefit is still payable. In this scenario, if the Veteran indicates that this employment arrangement meets his\her expectations and expresses no further interest in finding work that is consistent with their education, training, and prior work experience; he she will be found to no longer meet the employment-related criteria.
- 3.3 Veterans will, upon applying for CFIS, be advised of the consequences of refusing suitable full-time work.
- 3.4 It is imperative that a counselling session be held with the Veteran in advance of any adjudicative action that could result in the CFIS benefit ceasing to be payable. This counselling session will serve to emphasize to the Veteran the importance of complying with this legislative requirement for various reasons, including complying with the CFIS

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program requirements.

- 3.5 The consequences of a finding that the Veteran no longer meets the employment-related criteria can be significant. Not only will the Veteran be forced to live without this income support benefit for the month(s) in question, but, if the situation persists for a period that exceeds six months, any subsequent application for the CFIS benefit will not succeed, based on the initial qualifying criteria of an Earnings Loss benefit preceding eligibility. Because the established time period for filing of a subsequent application has elapsed, the only manner in which a further application for the CFIS benefit can succeed would be where the Veteran demonstrates that a new condition resulting in the need for rehabilitation services and the provision of an Earnings Loss benefit being first approved.



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1.0 SYNOPSIS

1.1 Purpose

To describe the framework associated with determining how a Veteran can satisfy the requirement of actively participating in an approved job placement program.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Subsections 35(1), (4) and (6)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Subsections 2(e) and 31(c)

3.0 POLICY

- 3.1 The Act requires that the Veteran must demonstrate active participation in a job placement program for each month that the Veteran receives a CFIS benefit. In this respect, the focus is about the adequacies of the Veteran's efforts in terms of the frequencies, methods of contacts, and perseverance shown in dealing with prospective employers.
- 3.2 The Act authorizes Veterans Affairs Canada (VAC) to provide a formal Job Placement Assistance program to a wide group of releasing members of Canadian Forces.
- 3.3 Veterans who qualify for the Canadian Forces Income Support (CFIS) benefit are entitled to participate in the Job Placement Assistance program, which is sponsored by VAC. This means they will have access to job placement professionals (i.e. "the contractor") who can provide support in respect of their individual employment plan (i.e. vocational assistance plan) for entering the civilian workforce. The contractor can advise on a job-search strategy based upon the person's immediate job readiness and his/her acceptable local labour market. Veterans will normally be required to work with the contractor as a means to demonstrate they are satisfying this legislative requirement¹ for the CFIS benefit.
- 3.4 The contractor's role in this respect will also involve contributing to the task of ensuring

¹It is possible a Veteran may refuse to avail himself/herself of the contractor's services. If so, VAC will formulate guidelines associated with how the Veteran can actively participate in a job placement program. The guidelines developed will be based on input from the contractor, who is recognized to be in the best position to advise on conditions within the local labour market, based on the Veteran's employment preferences, and what level of effort from the Veteran would be reasonable in the circumstances.

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the legislative requirements regarding the need of the Veteran to prove an active job placement participation is being met.

3.5 So Veterans are aware of their Rights and Obligations, the business process will entail:

- a) Veterans being informed, as part of a formal interview process with their case manager around the time the Earnings Loss benefits are ending, of the existence of the CFIS benefit. Veterans will be advised that if approved for this benefit, the legislation requires them to demonstrate they are conducting their job search in a reasonable manner and can establish proof of active job search, if required.
- b) Veterans being advised that if problems arise regarding the adequacy of their active job search efforts, the contractor is required to submit an immediate report, with recommendations, to the case manager for consideration. Depending on the severity of the situation, Veterans could find their CFIS benefit ceasing to be payable.
- c) Veterans will engage the contractor on a regular basis and this includes the following activities:
 - ▶ complying with contractor's recommendations regarding the expected (minimum) frequencies of employer contacts in relation to the targeted employment preferences;
 - ▶ retaining good records of job placement activities, and being ready to submit these whenever the contractor so requests;
 - ▶ advising the contractor and CFIS program administrators if employment is obtained, including any part-time work; and,
 - ▶ advising of any personal issues that may alter previous understandings, interfere with their capability to gain employment, or respecting their participating in an ongoing job placement program.

3.6 The contractor will:

- a) advise the Veteran of prospective employers to be found within the local labourer market, and on a job search strategy that would represent a reasonable approach;
- b) facilitate the Veteran's employment integration process by marketing the person through making contacts with the various public and private employers;

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- c) review the Veteran's documented job search evidence; and,
 - d) ensure VAC district staff are regularly apprised of the Veteran's situation, especially if key events arise such as the attainment of work, or conversely, any specific problems that may trigger the need for case management intervention.
- 3.7 If the Veteran secures work, it is not always certain who will be the first point of contact to be advised. It is especially important that this relevant information be quickly conveyed to CFIS program administrators to minimize the occurrence of any possible mispayments, as the CFIS benefit rate may need to be adjusted.
- 3.8 The overall process has to be mindful of minimizing the involvement of district staff. The Veteran's ongoing reporting of job placement participation is a matter that largely involves the contractor, and VAC district staff can remain current on the Veteran's progress by other means (i.e. Client Notes). However, if circumstances indicate that the Veteran is failing to actively participate in a job placement program, and his/her entitlement to the CFIS benefit could be in jeopardy, the case manager must become directly involved from a counselling perspective.
- 3.9 It is acknowledged that to achieve a standardized policy associated with determination of a Veteran's active job placement program is a challenging task given the unique nature of each individual, and the many variables associated with individual employment preferences. However, unless concerns arise, it is felt that in the early stages of becoming a CFIS recipient, a good faith period of 3-6 months should be allowed - taken from the month in which the CFIS benefit is initially paid, and during this time, Veterans can be advised to retain but not necessarily submit their job search records. The good faith period will be determined by the case manager with a recommendation from the contractor. Thereafter, a regular reporting mechanism may be instituted for the Veteran to submit periodic job search reports.
- 3.10 A mechanism will be instituted to minimize the contractor's workload associated with processing and evaluating the job search documentation. CFIS program administrators will perform the administrative work associated with BF'ing, requesting follow-up, and forwarding documentation for the contractor's review. This also includes following administrative procedures where Veterans fail to respond to a request to submit information.
- 3.11 The Veteran may be granted an "exemption" from participating in a job placement program. These would be circumstances where an obviously compelling circumstance arises that would reasonably excuse the person from searching for employment. The following is illustrative of the type of circumstances envisioned:

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- a) bereavement of an immediate family member;
- b) serious illness of the Veteran, or an immediate family member;
- c) jury duty;
- d) maternity leave; etc.

3.12 Exemptions from job placement participation will be granted on a full month basis. Where bereavement of spouse or common-law partner is involved, there will be a consistent minimum time period of 12 months granted, commencing with the month following the date of death. Unless the Veteran approaches VAC before the exemption period ends, a BF process will set in motion the need to resume contact with the Veteran at the appropriate time to inquire on his\her job readiness. If unusual circumstances warrant, a longer time period for an exemption may be granted.

3.13 Once Veterans are granted an exemption from job search participation, and depending on the period approved, the contractor will:

- ▶ advise in straightforward cases that the exemption has been approved, or consult with the case manager on an “as-needed” basis for advice on how to proceed;
- ▶ advise Veterans on how to proceed once the exemption period ends considering how the event affected, if at all, the resumption of the job placement participation process; and,
- ▶ advise CFIS program adjudicators of the particulars so proper action can be taken with respect to internal processing considerations (e.g. CSDN requirements).

3.14 Veterans can experience their CFIS benefit ceasing to be payable, if assessable income, including that of a spouse or common-law partner, results in no entitlement to the CFIS benefit being issued. This scenario has significant implications as the requirement to participate in a job placement program only exists while the Veteran is a recipient. Hence, CFIS program administrators will ensure the contractor is immediately advised should the Veteran’s status change.

3.15 Further to the paragraph 3.14, it is noted that the Regulations also impose a time limit whereby a successful subsequent application can be approved. This is six months after the last day of the month the CFIS payment ceased to be payable. It is important that the contractor and the case manager be notified when this time period has expired in order to determine if disengagement of VAC services is now appropriate.

3.16 Veterans who, upon reaching the age of 65, are still receiving CFIS, are not required to participate in a job placement program.

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1.0 SYNOPSIS

1.1 Purpose

To describe the policy associated with determining when a Veteran may be considered as no longer participating in a job placement program, which results in the CFIS benefit ceasing to be payable.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Section 35
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Subsections 2(e) and 31(c)

3.0 POLICY

- 3.1 The Veteran's entitlement to the CFIS benefit ceases when he\she is no longer considered to be actively participating in a job placement program and no exemption has been granted. Examples of no longer participating in a job placement program include:
- a) the Veteran indicates he\she has withdrawn from the labour market for personal reasons;
 - b) the Veteran's demonstrated efforts are judged as inadequate against a standard previously developed in conjunction with job placement professionals (i.e. "the contractor"); and
 - c) the Veteran is incarcerated for a significant time period (i.e. in excess of one month).
- 3.2 Situations may arise where a Veteran who qualifies for the CFIS benefit is considered to be actively participating in a job placement program for one part of the month (and otherwise entitled to receive the CFIS benefit), but in another part of the same month is found to be no longer participating in a job placement program. In this scenario the policy will be that for the month in question the CFIS benefit will be payable for that entire month. The first month in which the CFIS benefit would not be payable would be the month immediately subsequent - presuming, of course, that the lack of active job placement efforts persist for that entire subsequent month.
- 3.3 The supportive role of the Contractor will extend over the long term; however, if cases arise where the Veteran has been unemployed for a prolonged period of time (e.g. in excess of one year), the case manager may consider that referral to Head Office is

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required so that further advice and direction on how best to assist the Veteran can be obtained.

- 3.4 It is imperative that a counselling session be held with the Veteran in advance of any adjudicative action that could result in the CFIS benefit ceasing to be payable. This counselling session will serve to emphasize to the Veteran the importance of complying with this legislative requirement for various reasons, including adhering to the CFIS program requirements.
- 3.5 The consequences of a finding that the Veteran no longer meets the criteria for participating in an active job placement program can be significant. Not only will the Veteran be forced to live without this income support benefit for the month(s) in question, but, if the situation persists for a period that exceeds six months, any subsequent application for the CFIS benefit will not succeed, based on the initial qualifying criteria of an Earnings Loss benefit preceding eligibility. Because the established time period for filing of a subsequent application has elapsed, the only manner in which a further application for the CFIS benefit can succeed would be where the Veteran demonstrates that a new condition resulting in the need for rehabilitation services and the provision of an Earnings Loss benefit being first approved.

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1.0 SYNOPSIS

1.1 Purpose

This directive describes the circumstances upon which a Veteran's or a survivor's right to the Canadian Forces Income Support (CFIS) benefit may be suspended, or possibly cancelled, and the relevant policy considerations which ensure all appropriate measures are followed.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Section 36
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Subsection 34(3) and Section 35

3.0 POLICY

- 3.1 A recipient of the CFIS benefit shall provide information on matters which are relevant to determining their ongoing entitlement to the benefit. For example, supply income information (including that of a spouse or common-law partner).
- 3.2 Whenever a request for CFIS program information is made to a Veteran or survivor, the client letter must communicate the following information:
- a) the specific nature of the request, and the reason why the information is required;
 - b) the easiest means by which the information can be provided to Veterans Affairs Canada (VAC);
 - c) that the required information to be provided on a timely basis (with a specified due date); and,
 - d) that failure to provide the required information may result in the suspension of the CFIS benefit.
- 3.3 Where the Veteran or the survivor fails to provide the required information by the indicated deadline, the CFIS program administrator will suspend the CFIS benefit. The client letter will indicate the reason(s) why the CFIS benefit is being suspended, the effective date upon which the suspension will occur, and the means by which the Veteran or survivor can remedy the situation. It is not necessary, at this juncture, to provide the Veteran or survivor with redress rights.

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- 3.4 The effective date for the suspension will be the first day of the month following the month when the CFIS benefit was last payable.
- 3.5 VAC staff will institute administrative processes to ensure further contact is made with the Veteran or the survivor after the suspension decision has been rendered. Such further contact will occur before any consideration is taken on the possibility of cancellation of the CFIS benefit. Hence, it is essential that the client file contain documentation that the client was contacted and that the overall importance of providing the required information was re-iterated.
- 3.6 Where the Veteran or survivor, after being forewarned, persists in failing to provide the required information, a cancellation decision will result. The standard time period before which the cancellation decision can begin to be considered will be six months after the month the suspension decision was taken. In terms of the effective date of the cancellation decision, this will normally coincide with the same month that the suspension decision was taken.
- 3.7 It is essential that the cancellation decision convey to the Veteran or survivor the reasons involved, the effective date, and the applicable redress rights.
- 3.8 Consequence of cancellation of the CFIS benefit is as follows:
- in the case of a Veteran, if a further need for VAC financial benefits arises, it will be necessary for the Veteran to establish that a new condition has arisen which can be approved under a VAC-approved rehabilitation plan, and with that, the provision of an Earnings Loss benefit. Thereafter, and once entitlement to the Earnings Loss benefits ends, if the need exists access to the CFIS benefit may be possible, once again; or,
 - in the case of a survivor, it will not be possible for this person to re-qualify for the CFIS benefit.

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1.0 SYNOPSIS

1.1 Purpose

This policy provides direction on determining under what circumstances a Veteran's application for the Canadian Forces Income Support (CFIS) benefit can be considered "made within the prescribed time" and, if so, how the effective date of payment is to be established.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Section 27 and Subsection 76(3)
Canadian Forces Members and Veterans Re-establishment and Compensation Regulations, Sections 30 and 31

3.0 POLICY

- 3.1 The Act specifies that an application must be made by a Veteran within a prescribed time period.
- 3.2 The Regulations set this prescribed time period, and with respect to an initial application, the time period covers the 6 month period following the last month in which the Veteran was entitled to be paid an Earnings Loss (EL) benefit.

Example of an initial application:

- EL benefits ends June 30, 2007;
- Application made on December 4, 2007 (delays filing for personal reasons);
- Veteran satisfies the residency requirement and income test; meets the employment- related criteria; and, is actively participating in a job placement program;
- **Decision:** Application approved as of December 1, 2007.

- 3.3 The rationale for using 6 months as the established time period is as follows:

- a) It is consistent with the notion that the Veteran will have just completed their rehabilitation program \ vocational assistance. Because the Veteran has been found to be capable of accepting suitable gainful employment, their EL entitlement is now ending. In order for the CFIS program to meet one of its key objectives - to provide income support on a short-term basis during the transition to civilian employment - a timely application is expected; and,

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b) Allowing a 6 month period enables the Veteran to readily seek and accept any employment opportunity, even if it is of a temporary or probationary nature. No disincentive is created whereby the Veteran should be concerned that his\her rights to the CFIS benefit might be extinguished too quickly.

- 3.4 It is unlikely that low income Veterans will need to be reminded to make a timely application given their basic need for income support. However, to avoid any misunderstanding, this aspect will be conveyed during that interview session which serves to advise the Veteran that he\she has been found to be capable of accepting suitable gainful employment, and their EL benefits are about to end. For those who do not have immediate work, information about the CFIS benefit will be provided. To assist Veterans who may be considering filing a CFIS application, a Rights and Obligations handout has been prepared (see Annex A).
- 3.5 General information dealing with the importance of timeliness of filing an initial or subsequent CFIS application will be restated as part of the CFIS application guide. In addition, prospective clients will be advised of this fact as part of general VAC literature available at the respective district office; the VAC Internet site; etc.
- 3.6 If an initial application is approved, and the CFIS benefit begins to be paid, situations may, subsequently, arise where the Veteran's CFIS payment ceases to be payable, due to one of the following criteria:
- a) not meeting the employment-related criteria;
 - b) not actively participating in job placement program; or,
 - c) excess income.
- 3.7 The most common instance where the CFIS benefit ceases to be payable deals with the "excess income" circumstance. The applicable decision letter will indicate why no benefit is payable for the month in question, and instruct the Veteran to advise VAC immediately if his\her income situation should change at any time within the following 6 month period.
- 3.8 Allowing for the possibility that a subsequent application may become necessary, Veterans will also be advised of the rules surrounding the timeliness factor. The time period for filing of this application will also entail a 6 month period, which will follow the last month in which a CFIS payment ceased to be payable. If the Veteran's income is reduced within the time period, such that the CFIS benefit can be paid, the subsequent application will be approved.

Example:

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Initial application

- EL benefits ends June 20, 2007;
- Application made on July 4, 2007;
- Veteran satisfies the income test as of July 2007; meets the employment-related criteria; and, is participating in a job placement program;
- **Decision:** Initial application approved as of July 1, 2007
- Veteran starts work as September 2007 and has excess income that month;
- Month in which the CFIS benefit ceases to be payable is September 2007

Subsequent application

- Veteran continues to work until February 28, 2008, and is laid off;
- Veteran subsequently applies on March 1, 2008 and satisfies all other requirements;
- **Decision:** Subsequent application is approved as of March 1, 2008 - still within 6 month time period since the Veteran last received a CFIS payment.

- 3.9 Where the adjudication deals with not actively participating in a job placement program and/or not meeting the employment-related criteria, the respective decision letter will articulate the reason why no benefit is payable. The denial reason will also speak to what is required in order for a subsequent application to succeed.
- 3.10 Where the Veteran fails to make a successful initial, or subsequent, application within the specified time, the application will be declined and redress rights given.
- 3.11 Where an application is delayed for reasons outside the Veteran's control, the application may still be accepted in accordance with subsection 76 (3) of the Act. The circumstances envisioned would be those of a very unusual nature, such as serious personal illness or an accident, which prevents the Veteran from having applied earlier.
- 3.12 When Veterans exceed the 6 month application filing time period and no exceptional reasons exist for the delay, it will be necessary for them to establish that a new mental or physical problem is now creating a barrier to re-establishment and, with that, they are successful in accessing the VAC rehabilitation program. If so, the broader process takes over - i.e. the Veteran will first qualify for an EL benefit, and, at the conclusion of this entitlement, the possibility of applying for the CFIS benefit can be considered.
- 3.13 Once an initial, or subsequent, application has been made, and this has occurred within the established time period, the effective date of the CFIS benefit will be determined.

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This date will be established by the month in which the application is made and in which the Veteran has satisfied all other basic requirements of the legislation.

- 3.14 In determining when the “application is made,” the date used will be in accordance with standard application filing procedures. In other words, this will include a notation on the application form by a VAC employee, or the date-stamping by Canada Post on the envelope, to record the date the application is received.
- 3.15 It is possible that a circumstance may arise where the Veteran makes application within the 6 month time period but, in doing so, fails to provide an essential piece of information (e.g. income). The business process will emphasize the importance of immediate follow-up with the Veteran in order for the application to be processed. In this scenario, once the information is received, if the delay in providing the required information is not excessive (i.e. beyond several months), the application can proceed with no change in the original effective month. If the delay in providing information is considered excessive, the Veteran will be asked to provide reasons why the delay occurred before a decision on acceptance of the original effective date can be rendered.
- 3.16 The following examples are presented:

Example # 1

- EL benefit ends in June, 2007;
- Application made in early July, 2007, and Veteran establishes he has reasonable employment goals and is participating in a job placement program.
- Veteran satisfies the income test as of July, 2007;
- **Decision:** CFIS approved as of July 1, 2007

- * A variation of the above is where the Veteran made the application in June, 2007, because his EL benefit ends at the beginning of that month. If so, the business process involves consideration of the effective date as either June or July 2007. (Although in most cases the outcome could still be that the EL benefit will render the Veteran income in excess, this approach does allow for the possibility of the effective date beginning in June, if there is a CFIS benefit payable.)

Example # 2

- EL benefit ends June 30, 2007;
- Application made on July 4, 2007;
- Veteran establishes he has reasonable employment goals and is participating in a job placement program for July;

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- Veteran satisfies the income test as of July, 2007;
- **Decision:** CFIS approved as of July 1, 2007.

Example # 3

- EL benefit ends June 30, 2007;
- Application made on September 4, 2007;
- Veterans establishes at the time he applies that he has reasonable employment goals and is participating in a job placement program;
- Veteran satisfies the income test as of September, 2007;
- **Decision:** CFIS approved as of September 1, 2007.

RIGHTS AND OBLIGATIONS - VETERAN

As a Canadian Forces Income Support (CFIS) beneficiary, I am aware of the following:

RIGHTS

1. I can expect to receive prompt, courteous, and helpful service in my dealings with Veterans Affairs Canada (VAC) staff.
2. If I qualify for this benefit, I am entitled to receive an additional rate of benefit on behalf of my spouse/common-law partner, and any dependent children under my care.
3. If I wish to allow another person to make inquires on my behalf (such as a family member), I may do so by providing VAC with a signed authorization to this effect.
4. If I require a representative to act in a legal capacity on my behalf, I can, at my own expense, appoint a Power of Attorney (copies of legal documents will be provided).
5. I can expect to receive advice and support as part of VAC's job placement assistance services, in developing my employment-related goals. This includes being given advice in helping me find work in my occupational field and within the labour market that I plan to conduct my job search efforts.
6. I understand that if personal circumstances arise which interrupts my ability to conduct an active job search (such as a serious family emergency), an exemption from the job search requirement is possible. I will advise if such an event arises, and I can expect to receive a prompt decision, in writing, from the Department.
7. I acknowledge that absences from Canada may result in a loss of my residency status. However, I understand that temporary absences if less than 183 days on a calendar year may be acceptable.
8. I understand that my initial application for this benefit must be received in a Veterans Affairs office no later than 6 months following the month in which my Earning Loss benefit ceased to be payable.
9. If after qualifying for the benefit, there is a period of time during which the benefit is not payable, I understand that I can re-apply within six months following the last month I received payment if a further need for this benefit occurs .
10. I understand that if I qualify, and so long as I remain a beneficiary, VAC will pay the contributions (premiums), deductibles and co-payments for me, as a CFIS beneficiary, to participate in the Public Service Health Care Plan. Contribution payment will be at the single rate and for Level 1 Hospital coverage.
11. If dissatisfied with any decision concerning my claim for this benefit, I understand I have the right to request a review of that decision.

OBLIGATIONS

1. I understand I must establish that my occupational goals, based upon my vocational training, education, and experience, will afford me a reasonable chance to become employed within my local labour market.
2. I understand that I must be actively participating in a job search program for each month that I claim eligibility for this benefit. This includes using all available means at my disposal, such as personal job search, accessing any provincial or federal programs, that exists to provide this service.
3. I understand that the requirement to actively participate in a job placement program includes the necessity of maintaining good records of my job search activities so that I can demonstrate to VAC, if required, that I have been making concerted efforts to find work.

Note: A Veteran, age 65 or older, does not have to participate in a job search program.

4. I will immediately report any changes in my income as and when such occurs.
5. I will immediately report any changes related to my employment situation (e.g. finding or ceasing work).

Note: Changes in any source of income, including employment, pertaining to my spouse or common-law partner will also be reported.

6. I will immediately report any changes in my marital status. This includes:
 - beginning to cohabit in a common-law relationship, getting married; or,
 - if already married or cohabiting in a common-law relationship, if I separate or divorce.
7. I will immediately report any changes concerning dependent children under my care, including their progress in a course of instruction after they have reached 18 years of age.
8. If I decide to leave Canada for any period of time, I will advise VAC staff who will then determine if such absence(s) may interfere with my responsibility to demonstrate an ongoing participation in a job placement program.
9. I understand that I must be a resident of Canada in order to receive this benefit.
10. I will comply with any request to provide information which is considered necessary to determine my initial and ongoing claim to this benefit. I understand that failure to provide such information can result in a suspension or cancellation of my benefits.
11. To assist VAC staff in providing the best service to me, I will advise of any change in my personal situation (e.g. change in residential or mailing address, telephone number,

etc.) In a timely manner.

The National Client Contact Centre number to help with any of my inquiries is a toll free number : **1-866-522-2122**.

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1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide guidance for the administration of the Permanent Impairment Allowance.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act - Sections 38, 39 and 40, Regulations 40 to 46.*

Section 38 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

- (1) The Minister may, on application, pay a permanent impairment allowance to a Veteran who has one or more physical or mental health problems that are creating a permanent and severe impairment if the Veteran has, in respect of each of those health problems,
 - (a) had an application for rehabilitation services approved under this Part; and
 - (b) received a disability award under Part 3.
- (2) The Minister shall determine the amount of the permanent impairment allowance that may be paid to the Veteran in a year. The minimum permanent impairment allowance shall be the amount set out in column 2 of item 1 of Schedule 2, and the maximum permanent impairment allowance shall be the amount set out in column 2 of item 2 of that Schedule.

2.2 *Section 39 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

The permanent impairment allowance begins to be payable on the later of

- (a) the day on which the application for the allowance was made, and
- (b) the day that is one year prior to the day on which the application for the allowance is approved.

2.3 *Sections 40, 41, 42 of the Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* read as follows:

40. For the purpose of section 38 of the Act, a permanent and severe impairment is constituted by:

- a) an amputation at or above the elbow or the knee;
- b) the amputation of more than one upper or lower limb at any level;

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- c) a total and permanent loss of the use of a limb;
- d) a total and permanent loss of vision, hearing or speech;
- e) severe and permanent psychiatric condition;
- f) a permanent requirement for physical assistance of another person for most aspects of activities of daily living; or
- g) a permanent requirement for supervision.

41. The Minister shall determine the extent of the impairment, taking into consideration:

- a) the need for institutional care;
- b) the need for supervision and assistance;
- c) the degree of the loss of use of a limb;
- d) the frequency of symptoms;
- e) the degree of psychiatric impairment; and
- f) the degree of loss of earnings capacity for persons with similar impairments.

42. An application for a permanent impairment allowance shall be made in writing and shall include:

- (a) medical reports or records that document the Veteran's health problem creating the permanent and severe impairment;
- (b) a declaration attesting to the truth of the information provided; and
- (c) at the request of the Minister, any other information that is necessary to enable the Minister to determine whether the Veteran is eligible for a permanent impairment allowance.

2.4 Section 40 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

40.(1) The Minister may, for the purposes of determining whether a Veteran may continue to receive a permanent impairment allowance, require the Veteran to undergo a medical examination or assessment by a person specified by the Minister.

40.(2) If a Veteran who is required by the Minister to undergo a medical examination or an assessment fails without reasonable excuse to do so, the Minister may cancel the permanent impairment allowance.

2.5 Sections 45 and 46 of *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* read as follows :

45. (1) A person who is in receipt of a permanent impairment allowance shall provide, on request, medical records, reports or any other information that is necessary to enable the Minister to assess eligibility for the permanent impairment allowance or the amount payable.

45. (2) The Minister may suspend the payment of a permanent impairment allowance to a

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person who fails to comply with subsection 45(1) until the information or documents are provided.

45. (3) Before suspending the payment of the permanent impairment allowance to a person, the Minister shall provide the person with written notification of the reasons for the suspension and the effective date of the suspension.

46. On cancelling the payment of the permanent impairment allowance under subsection 40(2) of the Act, the Minister shall provide the Veteran with written notification of the reasons for the cancellation, the effective date of the cancellation and their rights for review.

3.0 **POLICY**

General

3.1 There is a recognition that where a severe permanent impairment exists, individuals experience diminished employment potential and, for those who are employed, their career advancement opportunities are likely negatively affected. This results in an economic loss for such individuals. The Permanent Impairment Allowance was developed to recognize that severe permanent impairment leads to economic loss with respect to employment potential and career advancement opportunities, and to compensate Canadian Forces (CF) Veterans for these losses.

It is important to note that the phrase "has had an application for rehabilitation services approved" as noted in the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* will include those cases where it is determined, based on an assessment, that the Veteran is totally and permanently incapacitated, and the Veteran may not benefit from rehabilitation services.

3.2 Eligibility

A Permanent Impairment Allowance is only payable to a Veteran who:

- a) has one or more physical or mental health problems that are creating a permanent and severe impairment, and
- b) the Veteran has, in respect of each of those health problems,
 - i) had an application for rehabilitation services approved under this Part; and
 - ii) received a Disability Award under Part 3.

3.3 Death of the Veteran/Applicant:

- a) The payment of the Permanent Impairment Allowance ceases the first day of the month following the date of death.
- b) If a Veteran who has applied for a Permanent Impairment Allowance dies before such allowance is awarded to him/her, the application shall be discontinued. It will not be payable to the estate.

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3.4 Simultaneous Application for Disability Award and Permanent Impairment Allowance:

A permanent impairment allowance may, on application, be payable when the Veteran has

- a) had an application for rehabilitation approved; and
- b) received a Disability Award

for one or more physical or mental health problems that are creating a permanent and severe impairment. A Veteran may apply for a permanent impairment allowance prior to receiving the Disability Award. However, the allowance will only be payable when the Veteran receives the Disability Award and has also had an application for rehabilitation services approved. The effective date for the permanent impairment allowance cannot precede the effective date of the Disability Award and the approval date of the rehabilitation plan. In situations where a Disability Award application is pending at the time of the PIA application, business processes have been developed to expedite the Disability Award application.

3.5 Adjudication

- (a) An application for permanent impairment allowance is adjudicated under subsections 38(1), 38(2) and section 39 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*. The criteria used in the determination of the grade level of permanent impairment allowance can be found in Table 1- Permanent Impairment Allowance - Extent of Impairment, at the end of this policy.
- (b) The permanent impairment allowance is a monthly benefit. The extent of the permanent severe impairment shall be assessed for payment purposes based on three grade levels with Grade 1 being the most severe impairment. The PIA payable will be commensurable with the grade level assessed with Grade 1 payable at \$1,500/month; Grade 2 payable at \$1000/month and Grade 3 at \$500/month.
- (c) An applicant does not have to meet all 3 tests, i.e. functional, physical and mental impairment to qualify for a permanent impairment allowance grade level. The applicant only needs to meet one of these tests.

3.6 Causes and complicating conditions

In some situations, it will be difficult, if not impossible, to medically separate the impact of a disability for which a Disability Award has been granted under the *CFMVRC Act*, from other non-awarded secondary disabilities, e.g. a disability for which a disability pension is being paid and/or a non-service related disability, particularly in a severely disabled person. In these situations, the effects of the disability for which the "Disability Award" was made may be considered together with the inseparable effects from other conditions in determining the Veteran's eligibility for PIA and the grade level. The requirement of Section 38 of the *CFMVRC Act* and Section 40 of the *CFMVRC Regulations* should be met first before considering the grade level of PIA.

Consider the following examples:

- a) A Veteran is receiving a disability pension for Bilateral Osteoarthritis of the Knees

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assessed at 40% and a Disability Award for Lumbar Disc Disease assessed at 50%. He has received rehabilitation from VAC for Lumbar Disc Disease(LDD). The Veteran is demonstrating the need for a permanent requirement for the physical assistance of another person for most aspects of activities of daily living. However, because of the severity of this Veteran's bilateral knee conditions and the LDD, it is impossible to categorically distinguish from a medical perspective which condition(s) is resulting in the Veteran's need for permanent assistance. Therefore, because of the inability to separate the impacts of these conditions in this particular situation, VAC would in effect consider the effects of both conditions by deeming that the need is primarily resulting from the LDD. By considering the combined inseparable effects, the overall grade level awarded may be higher because the permanent severe impairment could be greater than if Lumbar Disc Disease existed by itself and was considered alone.

- b) A Veteran is receiving a disability pension for Arteriosclerotic Heart Disease(ASHD) assessed at 50% and a Disability Award for Chronic Obstructive Lung Disease(COLD) assessed at 45%. The Veteran has also been diagnosed with Lung Cancer, non-service related. He has received rehabilitation from VAC for COLD. The Veteran is demonstrating the need for a permanent requirement for the physical assistance of another person for most aspects of activities of daily living. However, because of the severity of this Veteran's ASHD, COLD and Lung Cancer, it is impossible to categorically distinguish from a medical perspective which condition(s) is resulting in the Veteran's need for permanent assistance. Therefore, because of the inability to separate the impacts of these conditions in this particular situation, VAC would in effect consider the effects of both conditions by deeming that the need is primarily resulting from the COLD. By considering the combined inseparable effects, the overall grade level awarded may be higher because the permanent severe impairment could be greater than if COLD could be considered alone.
- c) A Veteran received a Disability Award for a gunshot wound of the left foot resulting in severe osteoarthritis assessed at 30%. He also suffers from a non-service related Arteriosclerotic Heart Disease(ASHD). He has received rehabilitation from VAC for the gunshot wound of the left foot resulting in severe osteoarthritis. In this situation, it would have to be determined if it is possible to distinguish from a medical perspective which condition(s) is resulting in the Veteran's need for permanent assistance. In this example, the functional impacts of the ASHD can be clearly differentiated from those of the gunshot wound of the left foot. Therefore, VAC would not consider the effects of the ASHD in determining eligibility and the appropriate grade level for PIA.

3.7 Lower limb amputations

Below knee or below elbow amputees will be eligible for a permanent impairment allowance if the loss of the limb results in their having a permanent and severe impairment as defined in 2.3 above, more particularly as noted in Section 40 (f) or (g) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*. Consider the following examples:

- 1) A Veteran has received a disability award for an amputation of the right dominant hand

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and for legitimate reasons cannot benefit from the use of a prosthetic limb. The inability to wear a prosthetic limb may impact the Veteran's ability to perform ADLs or he/she may require supervision. In this situation, the Veteran may be eligible to receive PIA.

- 2) A Veteran has received a disability award for an amputation of the right foot and has, over a period of time, developed other conditions (non disability awards) which may magnify the effects of the amputation, which in turn increases the Veteran's requirement for assistance with ADLs and supervision. In this situation, it would have to be determined if an interdependency exists between the amputation of the right foot and the other non awarded conditions. If the functional impacts of the other conditions cannot be differentiated from those of the amputation of the right foot, then, VAC may consider the effects of the these conditions in determining eligibility and the appropriate grade level for PIA.

3.8 Exceptional Cases

Although most Veterans with severe impairments will qualify for either the Exceptional Incapacity Allowance (EIA) under the *Pension Act* or the Permanent Impairment Allowance, there will be some exceptional cases in which Veterans who have been compensated under both the *Pension Act* and the *CFMVRC Act* do not meet the individual criteria for either the EIA or PIA program.

Consider the following example:

A Veteran is receiving a disability pension for PTSD with paranoia assessed at 70% and has recently been granted a disability award for lumbar disc disease assessed at 30%. The Veteran has a rehabilitation need related to both conditions. Although this Veteran has a combined assessment of 100%, and has a permanent and severe impairment related to the PTSD, he may not meet the requirements of either the PIA or EIA programs. Recognizing the potential for inequity, these types of cases are to be sent to the Director Program Delivery for review on an individual case basis in consultation with the Director Program Policy.

3.9 Reapplications

A Veteran whose permanent impairment allowance claim is denied on the basis that the eligibility criteria have not been met, may reapply to the Department when the eligibility criteria are met.

3.10 Increase of the grade level

A Veteran in receipt of a permanent impairment allowance may apply for an increase in the grade level where a reasonable assertion can be made that the permanent severe impairment has deteriorated. For the purposes of this policy, "reasonable assertion" is defined as the ability to demonstrate either orally or in writing that the permanent severe impairment has worsened e.g. demonstrated through client screening. The grade level determination will then be adjudicated based on the substantiating evidence supporting a change in the extent of the grade level of the permanent severe impairment, i.e medical evidence or an assessment which demonstrates a deterioration.

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In addition, the grade level may increase based on the Veteran needing assistance with more ADLs or needing greater assistance with the already identified ADLs. Consider the following example: A Veteran required minimal physical assistance with 4 ADLs when he was initially granted a Grade 3 permanent impairment allowance, i.e. assistance required to wash his back, doing up the buttons, cutting his toe nails and cutting up his meat. The Veteran now requires total assistance with 3 of those 4 ADLs, i.e. complete assistance for bathing, dressing and footcare. In this situation, as the level of assistance has significantly increased since the initial decision, an increase in grade level may be warranted.

3.11 Review of Decisions

Review provisions are contained in the VPPM Policy 1.1.3 - Review Process.

3.12 Effective Date

a) First application and re-application:

According to section 39 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* the permanent impairment allowance begins to be payable on the later of

- (a) the day on which the application for the allowance was made, and
- (b) the day that is one year prior to the day on which the application for the allowance is approved, i.e. date of decision awarding the allowance,

provided that the Veteran has already established eligibility for the Disability Award and rehabilitation plan as of that date. If the effective date of the Disability Award or eligibility for the rehabilitation plan is later than the effective date of the PIA, then the PIA cannot be approved until the latter of the Disability Award or rehabilitation plan effective dates. (See 3.2 Eligibility) In situations where a Disability Award application is pending at the time of the PIA application, business processes have been developed to expedite the Disability Award application.

Consider the following example:

A Veteran applies for a permanent impairment allowance on May 2, 2006. Veteran encounters numerous delays, i.e. hospitalization, unavailable for scheduled area counsellor visits, etc. As a result of these delays, the permanent impairment allowance is approved on June 2, 2007. As per 39(b) of the *CFMVRC Act*, the allowance can only become payable on June 2, 2006.

b) Suspension/Cancellation:

(i) Suspension: In cases where a permanent impairment allowance is suspended, the payment shall resume when the required information or documents have been received and the effective date will be the date from which the payment was suspended.

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(ii)Cancellations: In cases where permanent impairment allowance is cancelled, the payment shall be discontinued effective the date of the next payment. Where an allowance has been suspended, the cancellation will be effective from the date of the suspension.

4.0 Definition of Terms used within Table 1:

- Frequent means at least once per week
- Persistent means daily or almost daily
- Physical assistance means the client requires help of another person to enable him/her to carry out ADLs. The level of assistance may vary from minimal to complete care. For example:
 - client may be able to put on his shirt but requires the assistance of another person to fasten buttons;
 - client may be able to wash his upper body but requires the assistance of another person to wash his back and leg;
 - client may be able to eat by self but requires the assistance of another person to cut up all his food;
 - client may require someone to complete all personal care.
 - on an exceptional basis¹, consideration may be given to a client if he/she requires an inordinate amount of time to carry out ADLs;
- Complete and permanent loss of speech means total and permanent loss of audible communication that is irrecoverable by natural, surgical or artificial means.
- Complete and permanent loss of hearing means total and permanent loss of hearing in both ears that is irrecoverable and cannot be corrected by any means. An impairment value of 350 or greater is required to define a complete and permanent loss of hearing.
- Complete and permanent loss of vision means total and permanent loss of vision that is irrecoverable and cannot be corrected by any means. A binocular visual acuity impairment rating of 85 is required to define a complete and permanent loss of vision.
- Amputation means the loss of a limb by a physical separation.
- Although the loss of a limb does result in the loss of use of a limb, for the purposes of this definition, the loss of use of a limb means the total, permanent and irrecoverable loss of use of a limb such as in the case of total paralysis of an arm or leg. For the purposes of this definition, the use of the term "Loss of use of a limb" does not include amputations as "amputation" has its own definition.

¹While this should normally be addressed through the provision of assistance with activities of daily living, there may be some exceptional situations, for example, where an individual lives alone in a geographically remote area where physical assistance with activities of daily living would not be available.

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Table 1 - Permanent Impairment Allowance
Extent of Impairment

Grade	Permanent Impairment Allowance Extent of Impairment
1	<p>Most severe level of physical, functional and/or mental impairment.</p> <p>Functionally, these clients -must be institutionalized; or -require long term hospitalizations; or -are approaching the need for institutionalization; or -are generally confined to bed or chair, and require constant supervision or physical assistance with all activities of daily living (ADL), i.e., feeding, washing, dressing, grooming/personal care, footcare, toileting, and taking medication; or -level of assistance required to perform ADLs has increased compared to Grade 2. OR Physically, these clients include those who have -quadriplegia; or -paraplegia; or -bilateral upper extremity amputation (at or above wrist); or -bilateral lower extremity amputation (at or above the ankle). OR Mentally, these clients -show obvious signs and behaviour that are influenced by delusions or hallucinations not controlled with psychiatric care and demonstrate gross impairment in communication or judgement i.e. grossly inappropriate, incoherent or mute; or -require constant total care in an institutionalized setting.</p>

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2	<p>Lesser extent of functional, mental and/or physical impairment than those in Grade 1.</p> <p>Functionally, these clients</p> <ul style="list-style-type: none"> -are approaching a position of being unable to carry on with day-to-day activity; or -require daily intermittent supervision or physical assistance in performing 5 activities of daily living (ADL); or -level of assistance required to perform ADLs has increased compared to Grade 3; or -may be considered safe when left alone for very short periods of time, such as 2 to 3 hours during the day, or 5 to 6 hours overnight. <p>OR</p> <p>Physically, these clients include those who have</p> <ul style="list-style-type: none"> -a complete and permanent loss of vision; or -irrecoverable loss of use of an upper and lower limb; or -a single upper or lower limb amputation at the hip or shoulder (no viable stump); or -double limb amputations, i.e. at or above the ankle for the lower extremity and at or above the wrist for the involved upper extremity (viable stump). <p>OR</p> <p>Mentally, these clients include those who</p> <ul style="list-style-type: none"> -suffer from a severe psychiatric condition with persistent psychotic symptoms. There is overt evidence of the disease, chronic psychotic illness; or -suffer from a severe psychiatric condition and require long periods of inpatient hospital care (greater than 8 weeks within a 6 month period); or -require recurrent hospitalisation, i.e greater than 3 times per year, without recovery.
3	<p>Lesser extent of functional, mental and/or physical impairment than those in Grade 2.</p> <p>Functionally, these clients</p> <ul style="list-style-type: none"> -require supervision or physical assistance for 3 activities of daily living; or -may be considered safe when left alone for longer periods of time, such as 4 to 5 hours during the day, or overnight <p>OR</p> <p>Physically, these clients include those who have</p> <ul style="list-style-type: none"> -a total and permanent loss of hearing; or -a total and permanent loss of speech; or -a single upper extremity amputation at or above the elbow; or -a single lower amputation at or above the knee; or -irrecoverable loss of use of a limb. <p>OR</p> <p>Mentally,</p> <ul style="list-style-type: none"> - these clients suffer from very severe and frequent psychotic symptoms causing considerable distress; or - these clients suffer from persistent depressive and anxiety symptoms causing persistent distress requiring chronic use (greater than 2 years) of medication and psychiatric care, i.e. no period of sustained recovery and all recreational and social activities are abandoned.

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A. LEGISLATIVE AUTHORITY

Pension Act.

Canadian Forces Members and Veterans Re-establishment and Compensation Act.

B. POLICY

Introduction:

The purpose of this policy is to provide guidance with respect to the transition from processing applications for a disability pension under the *Pension Act* to the processing of applications for a disability award under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRC Act). It is important to note that once the CFMVRC Act comes into force, the *Pension Act* will be closed, in most cases, for new applications from peacetime Canadian Forces members and Veterans.

The Transition Policy is intended to supersede other Departmental policies which currently exist on the issues of “first contact” and “delayed applications” under the *Veteran Affairs Pension Policy Manual*, Articles 81(1) and 81(2). This latter policy will be updated in the near future to harmonize with the provisions of the Transition Policy.

General:

- (a) This policy concerning disability pension applications under the *Pension Act* will affect applications from members and Veterans who served after April 1, 1947, unless the service was during the Korean War.
- (b) This policy pertains to all outstanding applications, from the members and Veterans with this type of service, that have not been adjudicated.

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- (c) It is assumed, for the purposes of this policy, that the coming into force date of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* will be April 1, 2006.
- (d) For more detailed information, please refer to the Transition Business Process.

1. **Requirements for a completed application under the *Pension Act*:**

- (a) For members / Veterans who served after April 1, 1947, this policy will establish which applications can be adjudicated under the *Pension Act*, if the adjudication takes place after implementation of the CFMVRC Act. Care should be taken to ensure that all transition dockets are treated in a fair and uniform manner.
- (b) The following are the detailed requirements for a pension application under the *Pension Act*, before Veterans Affairs Canada (VAC) can adjudicate:
 - (i) Name, address and telephone number of the applicant;
 - (ii) Service number(s);
 - (iii) Date of birth;
 - (iv) A current medical diagnosis of the condition(s) for which the applicant is claiming a disability pension;
 - (v) Medical reports from civilian doctors (if applicable);
 - (vi) A statement outlining what the applicant perceives to be the cause of his/her disability and how he/she relates it to military service; and
 - (vii) The application should be signed by the applicant, or by a person authorized to act on behalf of the applicant.

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- (c) A signed pension application, received by the Department, or postmarked, prior to April 1, 2006, will be considered valid, for the purposes of a future adjudication under the *Pension Act*.
 - (i) The application should contain all the relevant and required documentation, that is within a client's control to provide, from the 7 elements listed in subsection 1(b) above.
 - (ii) At a minimum, to be certain of consideration under the *Pension Act*, an initial application, received prior to April 1, 2006, must contain the following 5 elements: client's name, address, date of birth, the name of the disability being claimed (as close to a medical diagnosis as possible), and be signed by the applicant or by a person authorized to act on behalf of the applicant.
 - (iii) If the applicant cannot obtain a current medical diagnosis and supporting medical reports prior to April 1, 2006, this can be provided at the earliest opportunity after that date, in accordance with the limitations established in this policy. All 7 elements referred to in subsection 1(b) of this policy must eventually be received by VAC before an adjudication can be rendered. Please refer to section 2 - Delayed Applications for more information about the time frames for supplying additional information to meet all the requirements of a complete pension application.
- (d) An inquiry or telephone call alone cannot constitute an application under the *Pension Act*, regardless of whether it is received before, during or after the transition period.
- (e) A signed application should be submitted 30 days from the date of the initial mailout letter, containing the disability pension application package, but prior to April 1, 2006.
- (f) Please note that additional business processes have been developed to facilitate the receipt of pension applications that are initiated from March 1st to March 31st, 2006. These applications will be processed on a priority basis.

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- (g) Provided that application has been made prior to April 1, 2006, applicants will normally have 90 days from the date of the mail-out of the application package to return the required medical and other information to support their application. They should be informed that no adjudications will be conducted without a valid medical diagnosis, and that a diagnosis from a general practitioner or treating practitioner (e.g. audiologist) is sufficient.

2. Delayed Applications:

- (a) For delayed applications, (i.e. where the applicant was unable to provide the required information within the above-noted 90 day period), and where the applicant provides a reasonable explanation, extensions may be granted.
- (b) At the end of the 90 day period, a registered letter will be sent to the client, asking for the missing information that is required to adjudicate, and advising them that their application is in danger of lapsing. To lapse, for the purposes of this policy, means the termination of a right or privilege through disuse. The missing information, or a reasonable explanation for not providing it, must be received by the Department, or postmarked, by the 30 day deadline (starting from the mail-out of the registered letter). If it is not received, then the application will lapse, and the applicant will lose his/her rights under the *Pension Act* with respect to that condition.
 - (i) If the applicant does not provide the requested information within 30 days of the sending of this registered letter, the application will be considered to have lapsed. The onus is on the applicant to respond to this letter, and the Department is not required to send another follow-up letter to the client, with respect to this application, unless the Department receives further communication from the applicant.

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- (ii) If the applicant provides a reasonable explanation for the delay, an extension may be granted, up to six months from the date of the registered letter. If, at the end of this six month period, the missing information has not been provided, the application will be considered to have lapsed. The onus is on the applicant to provide the missing information, and the Department is not required to send another follow-up letter to the client, with respect to this application, unless the Department receives further communication from the applicant.

3. Exceptions for Delayed Applications:

(a) Duty to Accommodate:

In exceptional circumstances, where a duty to accommodate a person with a physical or mental disability exists, VAC may give that accommodation. (Please refer to the Business Process for detailed information about the criteria for this “duty to accommodate”).

(b) Agent Orange:

If a signed application has been submitted prior to April 1, 2006, another exception will be made for Agent Orange applications, which could be affected by the future release of studies, investigations, recommendations, etc. (Please refer to the Business Process for detailed information about how to handle these claims).

(c) Specialist Reports:

In exceptional cases, where a client is unable to obtain an appointment with a medical specialist, and where a diagnosis cannot be provided by a general practitioner, extensions beyond the six month delay period may be granted. The length of such an extension would be determined on a case-by-case basis, but will not exceed a total of twelve months, which will include the initial six month delay.

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4. Previously Withdrawn or Suspended Pension Applications:

- (a) Beginning on April 3, 2006, letters will be sent to clients who had a signed pension application suspended after January 1, 2005. This letter will advise clients about new timelines to complete their applications, if they wish to have a ruling under the *Pension Act*.
- (b) For clients who have had an application withdrawn in the past, this situation is addressed on the VAC Client website concerning The New Veterans Charter. This site advises clients, who have had an application withdrawn in the past, to submit a signed pension application to VAC by March 31, 2006, containing at a minimum the client's name, address, date of birth, the name of the disability being claimed, and signature.
<http://www.vac-acc.gc.ca/clients/sub.cfm?source=Forces/nvc/newqa>

5. Review and Appeal Rights:

Pension Act applicants who receive an unfavourable disability pension decision after April 1, 2006, will have all the normal review and appeal rights offered under that Act. In other words, they can ask for a Departmental Review or appeal the decision to the Veterans Review and Appeal Board.

6. Criteria for determining the Act under which applications should be adjudicated:

- (a) Signed pension applications that have been received by the Department or postmarked by March 31, 2006, and fulfill all the requirements set out in subsection 1(c) of this policy should be adjudicated under the *Pension Act*.

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- (b) As of April 1, 2006, the *Pension Act* will be closed to new applicants, except for specific circumstances, listed in section 3 of this policy.
- (c) In general, as of April 1, 2006, all new applications for disability will be adjudicated under the CFMVRC Act for members who served after 1947, (not including the Korean War). (The exceptions are noted in section 7, which follows).

7. The following are the exceptional types of claims that may still be adjudicated under the *Pension Act*:

- (a) applications concerning a condition already pensioned under the *Pension Act*, including:
 - (i) re-assessments
 - (ii) Exceptional Incapacity Allowance
 - (iii) paired organ or limb
 - (iv) conditions for which partial entitlement was awarded.
- (b) conditions which cannot be separated for assessment purposes (i.e. bracketed assessments)
- (c) applications from survivor or dependent children concerning the death of a member or Veteran:
 - (i) if the death occurred before the coming into force date;
 - (ii) if the death was related to a condition pensioned under the *Pension Act*.

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- (d) applications for attendance allowance from a member or Veteran, who is in receipt of a disability pension under the *Pension Act* or applications for clothing allowance in respect of a condition pensioned under the *Pension Act*.
- (e) applications for prisoner of war compensation, for a period spent as prisoner of war that began before the coming into force of the CFMVRC Act.
- (f) applications for conditions, which are consequential upon pensioned conditions for war-time service.

8. Delays in securing service information

Obtaining and verifying service information is a Departmental responsibility. Therefore, no applications will be considered to have lapsed, if the only missing component is service verification.

9. Informing clients about the rules for a completed application and the fact that a claim for a disability pension may be ruled on under the CFMVRC Act

- (a) An information insert or paragraph will be added to all disability pension application letters sent by the district office to the client, indicating the possibility that, if a signed application and all the supporting documentation that is within the client's control have not been received before the coming into force date of the CFMVRC Act, the application will be ruled under the new Act. The letter should also advise clients that if their claim is adjudicated under the *CFMVRC Act* instead of the *Pension Act*, they may appeal this decision (with respect to which Act the decision is ruled under) to the VRAB. Please refer to the Business Process for Transition for more details.

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- (b) Articles will also be published in *Salute*, as well as the Department of National Defence communication vehicle, *Canadian Forces General Announcement* (CANFORGEN).
- (c) Other communication avenues will be developed and implemented in the period leading up to April 1, 2006.

10. What approach should Pension Officers take when dealing with CF members or Veterans who are trying to decide which program (i.e. disability pension or disability award) to apply for?

Comprehensive information about the New Veteran's Charter has been posted at the following website:

<http://www.vac-acc.gc.ca/clients/sub.cfm?source=Forces/nvc/newqa>

11. What approach should Pension Officers take when dealing with CF members or veterans who want to have their claims, that have been submitted under the *Pension Act*, put on hold until CFMVRC Act turn-on?

- (a) Clients who submit applications under the *Pension Act*, prior to April 1, 2006, and subsequently decide that they would prefer an adjudication under the CFMVRC Act, may voluntarily withdraw their applications under the *Pension Act*, as long as the written notification, signed by the applicant, is received by the Department prior to the pension decision being rendered by the pension adjudicator.
- (b) Please refer to the Business Process for Transition for more details.

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12. Requirements for submitting an application under the CFMVRC Act:

- (a) In general, the requirements for submitting an application under the CFMVRC Act will be the same as the complete application requirements for the *Pension Act* (cross reference subsection 1(d) of this policy).
- (b) The current PEN 923 Application for Disability Pension and PEN 860 Authority to Release Medical Information forms are being amended so that these forms can be used for applications under either Act.
- (c) Please note the following two important points:
 - (i) All signed disability applications received or postmarked prior to April 1, 2006 will be considered under the *Pension Act*, except if withdrawn by the client prior to adjudication.
 - (ii) Any disability applications under the CFMVRC Act, for new conditions, will have to be signed and submitted on or after the coming into force date of the new Act, which is expected to be April 1, 2006.
- (d) Please refer to the Business Process for Transition for more details.

Article 2(1) Section 1 - Definition of survivor

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A. LEGISLATION

1. Subsection 2(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

(1) “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.

2. The above definition should be read in conjunction with subsections 2(2) and 2(4) of the *Act* which read as follows:

(2) For the purposes of this Act, a spouse is deemed to be residing with a member or a veteran, and a person does not cease to be a member’s or a veteran’s common-law partner, if it is established that they are living apart by reason only of

- (a) one or both of them having to reside in a health care facility;
- (b) circumstances of a temporary nature; or
- (c) other circumstances not within the control of the member or veteran or the spouse or common-law partner.

(4) This Act does not apply to a member’s or a veteran’s surviving spouse if the member or veteran dies within one year after the date of the marriage, unless

- (a) in the opinion of the Minister, the member or veteran was at the time of that marriage in such a condition of health as to justify their having an expectation of life of at least one year; or

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(b) at the time of the member's or veteran's death, the spouse was cohabiting with the member or veteran in a conjugal relationship, having so cohabited for a period of at least one year.

B. POLICY

1. A disability award or death benefit can only be paid to one survivor:
 - (a) a person who, at the time of the member's or Veteran's death, was married to and residing with the member or Veteran, i.e. spouse;
 - or
 - (b) a person who, at the time of the member's or Veteran's death, was cohabiting with the member or Veteran in a conjugal relationship, having so cohabited for a period of at least one year, i.e. common-law partner.
2. Couples living apart
 - (a) In cases where a member or Veteran and spouse were living apart at the time of the member's or Veteran's death, they may be deemed to have been residing together if they were living apart for one of the reasons set out in subsection 2(2) of the Act.
 - (b) In cases where a member or Veteran and common-law partner were living apart at the time of the member's or Veteran's death, they may still be considered common-law partners if they were living apart for one of the reasons set out in subsection 2(2) of the Act.
 - (c) for purposes of paragraph 2(2)(b) of the Act, examples of "circumstances of a temporary nature" might include circumstances where the member or Veteran and the spouse or common-law partner were only separated because of family or work-related responsibilities.

Article 2(1) Section 1 - Definition of survivor

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(d) for purposes of paragraph 2(2)(c) of the Act, an example of “other circumstances not within the control of the member or Veteran or the spouse or common-law partner” would be where one of them was in prison for a period of time.

3. Recent marriage

(a) If a member or Veteran, to whom or in respect of whom a disability award or death benefit is payable, dies within one year after the date of the marriage, the disability award or death benefit cannot be paid to the surviving spouse unless

(i) it is determined that given the member’s or Veteran’s state of health at the time of the marriage, he/she was expected to survive for at least one year after the date of the marriage; or

(ii) at the time of the member’s or Veteran’s death, the spouse had been cohabiting with the member or Veteran in a conjugal relationship for at least one year.

(b) For purposes of paragraph (ii) above, a “conjugal relationship” can be a combination of common-law partnership and marriage, e.g. couple lived common-law for six months and were married for six months prior to the member’s or Veteran’s death.

4. Exclusions

The definition of survivor excludes surviving separated spouses, surviving former (divorced) spouses and surviving former common-law partners.

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5. Person in lieu of spouse

The Act does not provide for the payment of a disability award or death benefit to a person in lieu of a survivor.

C. CROSS REFERENCES

- Article 49 and 50 - Death of member or Veteran > 30 days (disability award)
- Article 57 - Death of member < 30 days (death benefit)
- Article 55 and 59 - Division of disability award or death benefit (between survivor and/or dependent children)

Article 2(1) Section 2 - Definition of Dependent Child

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A. LEGISLATION

Canadian Forces Members and Veterans Re-establishment and Compensation Act, subsection 2(1).

2 (1) “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;
- (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 followed a course of instruction approved by the Minister.

B. POLICY

1. **General**

- (a) Dependent children are eligible for benefits only after the member or Veteran’s death.
- (b) “Dependent child”, in relation to a member or a Veteran, means:
 - (i) his/her natural child or adopted child, or
 - (ii) a child of his/her spouse or common-law partner, who is ordinarily residing in the member’s or the Veteran’s household, at the time of the member’s or Veteran’s death.
- (c) In either circumstance, at the time of the member’s or Veteran’s death, the dependent child must meet the age/education/incapacity criteria set out in subsection 2(1) of the CFMVRC Act, in order to be eligible for a disability award / death benefit.

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- (d) For purposes of this policy, a reference to a child of a spouse or common-law partner excludes a biological child or adopted child of the member or Veteran. In general, a biological child or adopted child does not have to meet the same requirements of a child of a spouse or common-law partner, with respect to residing in the member's or Veteran's household at the time of the member's or Veteran's death.
- (e) For purposes of this policy, the term "ordinarily residing in the member's or Veteran's household" refers to a dependent child of a spouse or common-law partner who, at the time of the member's or Veteran's death, was living in the member's or Veteran's household at least 50% of the time. This consideration would take into account family situations where the biological parents have joint custody, and the children spend their time equally between the two households. If there is doubt about the residency, documents, such as joint custody agreements and statements from the parents or dependent child could be considered. The amount of time spent with a parent would also include visitation.
- (f) A child who meets the definition of "dependent child" may be eligible for a disability award with respect to a deceased member or Veteran, under section 50 of the CFMVRC Act.
- (g) A child who meets the definition of "dependent child" may be eligible for a death benefit with respect to a deceased member, under section 57 of the CFMVRC Act.
- (h) As a partner is not considered to be common-law by VAC until they have cohabited with the member or Veteran in a conjugal relationship for at least one year, the child of that partner would not be eligible for a disability award / death benefit unless that one year cohabitation requirement had been met prior to the member's or Veteran's death.
- (i) A child of a separated spouse, former spouse or former common-law partner who continued to reside with the member or Veteran after the

Article 2(1) Section 2 - Definition of Dependent Child

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separation, divorce or cessation of cohabitation is not considered a dependent child unless that child had been formally adopted by the member or Veteran prior to the member's or Veteran's death. (This does not apply to biological children).

- (j) There may be circumstances where the member or Veteran and his/her spouse or common-law partner were living apart for one of the reasons set out in subsection 2(2) of the CFMVRC Act. If that is the case, then the child of the spouse or common-law partner would be treated in the same manner as his/her parent, as far as determining residency. (Please refer to the policy for "Article 2(1) Section 1 - Definition of survivor" for further details).
- (k) If it is determined that the member/Veteran was not expected to survive for at least one year after the date of a marriage, the child of the Veteran's or member's spouse would not be considered a "dependent child" for the purposes of this policy.
- (l) Subsequent applications by, or on behalf of, a dependent child require a new application.

2. **Dependent Child:**

- (a) Child under the age of 18:
 - (i) In the case of a spouse's or common-law partner's child who was under the age of 18 at the time of member's or Veteran's death, benefits may be paid for the child, if he or she was ordinarily residing in the member's or Veteran's household at the time of death.

Article 2(1) Section 2 - Definition of Dependent Child

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- (b) Child between the age of 18 and 25:
- (i) If the dependent child is 18 years of age or older, but under the age of 25 years, evidence must be provided that he or she is following a course of instruction approved by the Minister.
 - (ii) In the case of a spouse's or common-law partner's child who was between the ages of 18 and 25 and attending a course of instruction approved by the Minister at the time of the member's or Veteran's death, benefits may be paid to that child if, were it not for attending school, the child would have been ordinarily residing in the member's or Veteran's household.
- (c) Children following a course of instruction:
- (i) A "course of instruction", for the purposes of this policy, refers to a full time educational program that the student is taking, normally at an accredited high school, college, university, or trade school. In addition, please refer to other examples in this section.
 - (ii) "Full time" shall be as defined by the calendar of the educational institution, for universities, colleges, and trade schools. Secondary school full time courses normally require a minimum of 25 hours per week.
 - (iii) Part-time courses will generally not qualify, but special circumstances may receive individual consideration.
 - (iv) If the student was on break (between semesters, on summer vacation, etc.) at the time of the member's or Veteran's death, a maximum break of 5 months would normally be allowable, in determining the applicant's status as a student.

Article 2(1) Section 2 - Definition of Dependent Child

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- (v) Students following a course of studies from “distance learning” colleges or universities will qualify, as long as they are enrolled as a full-time student, as defined by the calendar of the “distance learning” institution.
 - (vi) Students preparing for a General Education Development (GED) test may qualify as a student, for the purposes of this policy, as long as they are following a full-time course of instruction.
 - (vii) Students taking a co-op work/study program may qualify, as long as it can be shown they are enrolled full-time at an accredited educational institution.
 - (viii) On-the-job training will normally not qualify children for student status. Examples of on-the-job training include: medical internships, nurses in hospital training schools, lawyers who are articulated, apprentices in the trades, etc.
 - (ix) Students who are receiving home schooling may qualify, as long as their educational program has been approved by provincial or municipal education authorities.
- (d) Incapacitated Child:
- (i) An “incapacitated child” is a dependent child who is over the age of 18, and who is prevented by physical or mental incapacity from earning a livelihood.
 - (ii) The incapacity must have occurred before the child attained the age of 18 years, or 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.

Article 2(1) Section 2 - Definition of Dependent Child

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- (iii) In order to qualify for an award as an ‘incapacitated child’, the Department must determine whether or not the incapacity is considered to be permanent. It must also be determined whether or not the applicant is able to earn a living. These factors would normally be ascertained by examining the information contained in the “Application for Benefits on Behalf of an Incapacitated Child of a Veteran / Member”.
- (iv) If subsequent applications are made by, or on behalf of, an incapacitated child, and at least one year has elapsed since the previous decision, the applicant must complete a new application, including an updated medical report, to determine whether or not the disability is still considered permanent in nature. The Department has the discretion to accept previous medical reports, in cases where there is little likelihood of change in medical status.
- (v) Payment of a disability award or death benefit to an incapacitated child of a spouse or common-law partner would only be considered if the incapacitated child was ordinarily residing with the member or Veteran at the time of the member’s or Veteran’s death.
- (vi) Livelihood is defined as “means of support or subsistence”. The focus is on the infirmity and on its link to the incapacitated child’s ability to maintain himself or herself to earn a livelihood. The Department will not consider the resources of parents or trust monies or the income of the incapacitated child’s spouse or common-law partner or monies received from a province to maintain the child. The main consideration should be whether or not the infirmity renders the incapacitated child incapable of earning enough to provide for the basic necessities of life.
- (vii) The applicant (or their representative) will be asked to supply information about earned income from all sources. The current full survivor rate, according to Schedule II of the *Pension Act*,

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as of January 1st of the year in which the disability award / death benefit is adjudicated, should be used as a benchmark for determining whether or not the incapacitated child is earning enough to make a livelihood for himself or herself. The Department cannot consider awarding benefits for the spouse and/or children of the incapacitated child.

C. **CROSS REFERENCES**

Canadian Forces Members and Veterans Re-establishment and Compensation Act, subsection 2(1) and sections 50, 55, 57, and 59.
Disability Award Policy Manual:

- Article 2(1) Section 1 - Definition of survivor
- Article 76(1) - Application to the Minister

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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A. LEGISLATION

1. Subsection 2(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* states :

“*service related injury or disease*” means an injury or 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 Force.

“*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.

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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2. Paragraph 45(1)(a) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows :

The Minister may, on application, pay a disability award to a member or a Veteran who establishes that they are suffering from a disability resulting from a service-related injury or disease.

B. POLICY

1. Insurance Principle :

A member of the Canadian Force with qualifying military service, i.e special duty service, is considered to be on duty twenty-four hours a day, seven days a week. Consequently, a member is eligible for a disability award for a permanent disability resulting from injury or illness which was incurred during or attributable to that special duty service, no matter how it was incurred except in cases in accordance with subsection 2(5) of the *CFMVRC Act*.

2. Qualifying Service:

Special Duty Service

Special Duty Service encompasses service in both Special Duty Areas (SDAs) and Special Duty Operations (SDOs). Nevertheless, it is **imperative** that disability award decisions stipulate the particular service type, i.e. SDA or SDO.

SDAs are specific geographic areas **outside Canada** where members are exposed to conditions of “elevated risk”.

SDOs are not limited to specific geographic areas (may be in or outside Canada). SDOs involve elevated risk.

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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An “elevated risk” is a level of risk higher than that normally associated with service in peacetime.

SDA coverage includes:

- (a) periods of training, after September 11, 2001, for the express purpose of service in an SDA, when that training exposes the member to elevated risk, e.g. live fire exercises. The Minister of DND will designate training with elevated risk for the express purpose of service in an SDA.

If date and time is specified, insurance principle coverage applies only to the designated date and time. If only the date is specified, insurance principle coverage includes the full 24 hour period;

- (b) travel to and from the SDA, or the location of training referred to in paragraph (a), after September 11, 2001;

If a CF personal travel or unit movement order specifies date and time of travel, insurance principle coverage applies only to the designated date and time. If only the date is specified, insurance principle coverage includes the full 24 hour period. Elevated risk is not a requirement for the insurance principle coverage during actual travel.

A CF “Decompression Program”¹ would also be covered

¹ A Decompression Program is intended to preempt difficulties which may be associated with members reintegrating into Canadian society after SDA service. The program takes place outside an SDA just prior to a unit’s return to Canada. It may include lectures on reintegrating with family and the workplace, anger management and

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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under the insurance principle.

- (c) service in the SDA; and,
- (d) authorized leave with pay taken during deployment to the SDA, after September 11, 2001, wherever that leave is taken. Elevated risk is not a requirement for the insurance principle coverage during this leave.

SDO coverage includes:

- (a) training, after September 11, 2001, for the express purpose of service in an SDO, and involves elevated risk - e.g. live fire exercises. DND will designate training with elevated risk for the express purpose of service in a SDO;
- (b) travel to and from the SDO, or the location of training referred to in paragraph (a), after September 11, 2001;

If a CF personal travel or unit movement order specifies date and time of travel, insurance principle coverage applies only to the designated date and time. If only the date is specified, insurance principle coverage includes the full 24 hour period. Elevated risk is not a requirement for the insurance principle coverage during actual travel.

A CF "Decompression Program"² would also be covered

suicide awareness.

²

A Decompression Program is intended to preempt difficulties which may be associated with members reintegrating into Canadian society after SDO service outside Canada,. The program would take place outside an SDO just prior to a unit's return to Canada. It may include lectures on reintegrating with family and the workplace, anger management and suicide awareness.

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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under 21(1).

- (c) service in SDO; and,
- (d) authorized leave with pay taken during deployment to the SDO, after September 11, 2001, wherever that leave is taken. Elevated risk is not a requirement for the insurance principle coverage during this leave.

3. Effective Date of Award:

The effective date of the disability award is the date of the decision, i.e. subject to section 53.

4. Start/End Dates of Special Duty Services:

	Special Duty Areas	Commenced	Terminated
1.	Egypt, Lebanon, Israel, Syria and Jordan	January 1, 1949	
2.	Indo-China - geographical area including Cambodia, Laos, North and South Vietnam	August 8, 1954	March 31, 1981
3.	Congo	August 11, 1960	June 30, 1964
4.	Cyprus	March 15, 1964	
5.	India and Kashmir and the area adjacent thereto enclosed by the circumference with a radius of 100 miles having at its centre the city of Rawalpindi, Pakistan	January 18, 1949	March 31, 1981
6.	New Guinea	September 1, 1962	May 31, 1963
5.	Yemen	June 18, 1963	September 15, 1964

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

Special Duty Areas	Commenced	Terminated
6. The area 20 miles on each side of the international border between India and West Pakistan	September 28, 1965	March 22, 1966
9. Korea	November 1, 1953 (or the arrival in Korea following departure from Canada or the continental USA after midnight July 27, 1953)	March 31, 1981
10. Nigeria	August 1, 1968	February 27, 1970
11. Republic of Zimbabwe (formerly Southern Rhodesia)	January 9, 1980	March 31, 1981
12. Afghanistan/Pakistan	May 2, 1988	November 30, 1994
13. Ethiopia	May 11, 1988	September 8, 1988
14. Iran/Iraq	August 11, 1988	
15. Namibia	March 12, 1989	April 30, 1990
16. Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua	December 3, 1989	

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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Special Duty Areas	Commenced	Terminated
17. The Kingdom of Saudi Arabia, Kuwait, the Yemen Arab Republic, the Sultanate of Oman, Bahrain, the United Arab Emirates, Qatar, and their contiguous sea areas between 32 and 75 degrees East longitude and 12 and 32 degrees North latitude	August 11, 1990	
18. The People's Republic of Angola	June 24, 1991	November 30, 1994
19. The People's Democratic Republic of Algeria, the Kingdom of Morocco, the Islamic Republic of Mauritania and the territory known as the Western Sahara	July 21, 1991	November 30, 1994
20. The People's Democratic Republic of Ethiopia and the Republic of Djibouti	July 18, 1991	November 30, 1994
21. The Socialist Federal Republic of Yugoslavia; Slovenia; the Republics of Croatia; Bosnia, Herzegovina, Montenegro, Serbia and Macedonia	September 9, 1991	
22. The Republic of Cambodia, the Kingdom of Thailand, the Lao People's Democratic Republic and the Socialist Republic of Vietnam	November 17, 1991	
23. The Somali Democratic Republic (formerly Somaliland or British Somaliland)	August 22, 1992	November 30, 1994

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

Special Duty Areas	Commenced	Terminated
24. The Republic of Mozambique	February 8, 1993	
25. The Rwandese Republic	April 6, 1994	
26. The Republic of Haiti	October 5, 1994	
27. East Timor	October 18, 1999	
28. Central African Republic	March 22, 1998	February 15, 2000
29. Democratic Republic of Congo	August 6, 1999	
30. Sierra Leone	October 13, 1999	
31. Ethiopia and Eritrea	August 31, 2000	
32. Afghanistan and the area of the Mediterranean Sea between 15° and 36° E. longitude and between 30° and 41° N. latitude and the area of the Indian Ocean and Arabian Sea that is west of 68° E. longitude to Tanzania, and north of 5° S. latitude.	October 1, 2001	
33. The Republic of Sudan	June 11, 2004	

Start/End Dates of Special Duty Services on ships of the Royal Canadian Navy in Korean waters.

<u>Ship</u>	<u>Departed Esquimalt</u>	<u>Arrived - Departed Theatre of Operations/Special Duty Area</u>	<u>Arrived Esquimalt</u>
Athabaskan	October 29, 1952	November 26, 1952 - November 18, 1953	December 11, 1953

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

<u>Ship</u>	<u>Departed Esquimalt</u>	<u>Arrived - Departed Theatre of Operations/Special Duty Area</u>	<u>Arrived Esquimalt</u>
Cayuga	November 25, 1953	January 1, 1954 - November 22, 1954	December 16, 1954
Crusader	October 18, 1953	November 20, 1953 - August 15, 1954	September 3, 1954
Sioux	November 7, 1954	December 14, 1954 - September 7, 1955	September 24, 1955

<u>Ship</u>	<u>Departed Halifax</u>	<u>Arrived - Departed Theatre of Operations/Special Duty Area</u>	<u>Arrived Halifax</u>
Haida	December 14, 1953	February 5, 1954 - September 12, 1954	November 1, 1954
Huron	April 29, 1953 August 1, 1954	June 18, 1953 - February 5, 1954 October 1, 1954 - December 26, 1954	March 17, 1954 March 19, 1955
Iroquois	April 29, 1953 July 1, 1954	June 18, 1953 - January 1, 1954 August 22, 1954 - December 26, 1954	February 10, 1954 March 19, 1955

Note: Some of these ships were in both the Theatre of Operations and the Special Duty Area continuously (ex. Athabaskan). These cases will need to be adjudicated on case by case.

ARTICLE 2(1) and 45(1)(a) SECTION 1- SERVICE RELATED INJURY OR DISEASE ATTRIBUTABLE TO OR INCURRED DURING SPECIAL DUTY SERVICE

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Adjudicator will need to take into consideration whether the Veteran received demobilization benefits following his/her military service.

Start/End Dates of Special Duty Operations service:

Special Duty Operation	Commenced	Terminated
1. Peregrine	August 2, 2003	October 5, 2003
2. Splinter	September 29, 2003	October 5, 2003

C. CROSS-REFERENCES

Section 53 When award payable

Sections 69, 70 and 71 Designations

ARTICLE 2(1) & 45(1)(a) SECTION 2 - SERVICE RELATED INJURY OR DISEASE - AROSE OUT OF OR DIRECTLY CONNECTED WITH SERVICE IN THE CANADIAN FORCES

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A. LEGISLATION

1. Subsections 2(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* states :

“*service related injury or disease*” means an injury or 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.

2. Section 45(1)(a) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* read as follows :

The Minister may, on application, pay a disability award to a member or a Veteran who establishes that they are suffering from a disability resulting from a service-related injury or disease.

B. POLICY

1. Intent

The intent of this subsection is to determine if there is a causal link between an injury or disease and service in the Canadian Force. To make this determination two questions must be answered:

- a) **Is there reasonable evidence to connect a disease or injury to a service event/factor?**

To determine a causal link the following must be considered:

ARTICLE 2(1) & 45(1)(a) SECTION 2 - SERVICE RELATED INJURY OR DISEASE - AROSE OUT OF OR DIRECTLY CONNECTED WITH SERVICE IN THE CANADIAN FORCES

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- the special hazards, circumstances, requirements and demands of military service, including the general military environment and culture;
- a military environment may include a military base, training camp/facility, ship/submarine, air plane;
- time and place can help to define a service connection, i.e. an injury sustained by a member while travelling from his/her home to work, would be considered service-connected if it occurred after he/she entered military property;
- not every death, disease, injury or event which occurs on military property, or during service, is service-connected for the purposes of the *CFMVRC Act*;
- it is important to distinguish between mandatory events which are service-connected and recreational events which are not, i.e. a mess dinner is generally a mandatory event (unless a member is excused by the CO, Base/Wing Comd. or the RSM or Base/Wing CWO), an unofficial dance at the mess, on the other hand, is a recreational event, with a member free to choose whether to attend.

b) Did the service-connected disease or injury cause the claimed permanent disability?

Once it is established that a particular disease, injury or event is service-connected, it must then be determined if it caused the claimed disability. While Entitlement Eligibility Guidelines will provide guidance in making this determination, the following facts should be considered:

ARTICLE 2(1) & 45(1)(a) SECTION 2 - SERVICE RELATED INJURY OR DISEASE - AROSE OUT OF OR DIRECTLY CONNECTED WITH SERVICE IN THE CANADIAN FORCES

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- not every service-connected disease, injury or event results in a permanent disability, or the permanent worsening of a disability;
- in some circumstances a disability may be partially service-connected and partially connected to non-service factors;
- medical evidence must reasonably confirm a link between the service-connected disease, injury or event and the disability before a disability award can be granted;
- some members have a pre-disposition to certain medical conditions and may develop these conditions regardless of the occupation they choose or the military environment in which they work;
- medical evidence may reveal, however, that a service-connected disease, injury or event could have caused the disability to develop earlier than it might otherwise have.

2. **Qualifying Service:**

For disability award purposes under subsections 2(1) and 45(1)(a), qualifying types of military service will be:

Reserve Force:

part-time Militia/Reserve Army during service in the Canadian Force.

Regular Force:

former and still serving members of the full-time peacetime force from April 2, 1947 to the present, excluding service in the Korean War (June 25, 1950 to July 27, 1953, inclusive).

ARTICLE 2(1) & 45(1)(a) SECTION 2 - SERVICE RELATED INJURY OR DISEASE - AROSE OUT OF OR DIRECTLY CONNECTED WITH SERVICE IN THE CANADIAN FORCES

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Travel to and from
Special Duty Area:

travel to and from a Special Duty Area (SDA), prior to September 11, 2001, is considered to be normal peacetime service. As of September 11, 2001, such travel is covered under the insurance principle (See Article 2(1) and 45(1)(a) - Section 1 of the Disability Award Policy Manual for further details).

3. **Effective Date of Award:**

The effective date of the disability award is the date of the decision, i.e. subject to section 53 of the *CFMVRC Act*.

C. CROSS-REFERENCES:

Section 53 - When award payable
Section 50 CFMVRC Regulations - Presumptions

ARTICLE 2(1), 45(1)(b), 45(2), 46(1)(b) & 46(2) AWARDS IN RESPECT OF AN AGGRAVATION OF AN INJURY OR DISEASE

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A. LEGISLATION

1. Subsection 2(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* states :

“service related injury or disease” means an injury or 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 Force.

2. Subsections 45(1)(b) and 45(2) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* read as follows :

45(1)(b) The Minister may, on application, pay a disability award to a member or a Veteran who establishes that they are suffering from a disability resulting from a non-service-related injury or disease that was aggravated by service.

45(2) A disability award may be paid under paragraph(1)(b) only in respect of that fraction of a disability, measured in fifths, that represents the extent to which the injury or disease was aggravated by service.

3. Subsections 46(1)(b) and 46(2) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* read as follows :

46(1) An injury or a disease is deemed to be a service-related injury or disease if the injury or disease is, in whole or in

ARTICLE 2(1), 45(1)(b), 45(2), 46(1)(b) & 46(2) AWARDS IN RESPECT OF AN AGGRAVATION OF AN INJURY OR DISEASE

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part, a consequence of

- (a) a service-related injury or disease;
- (b) a non-service-related injury or disease that was aggravated by service;
- (c) an injury or a disease that is itself a consequence of an injury or a disease described in paragraph (a) or (b); or
- (d) an injury or a disease that is a consequence of an injury or a disease described in paragraph (c).

- 46(2) If a disability results from an injury or a disease that is deemed to be a service-related injury or disease, a disability award may be paid under subsection 45(1) only in respect of that fraction of the disability, measured in fifths, that represents the extent to which that injury or disease is a consequence of another injury or disease that is, or is deemed to be, a service related injury or disease.

B. POLICY

1. Aggravation - definition

While "aggravation" is not defined in the *CFMVRC Act*, the accepted definition has been "the permanent service-related worsening of a disability from disease or injury between enrolment and discharge". Clinical signs will provide evidence of permanent worsening. Aggravation implies that a medical condition was not caused by service, but that the disability resulting from it became permanently worse during service, or, as a result of service factors or events.

ARTICLE 2(1), 45(1)(b), 45(2), 46(1)(b) & 46(2) AWARDS IN RESPECT OF AN AGGRAVATION OF AN INJURY OR DISEASE

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An acute flare-up of a disease or injury, which, following treatment, returns to its original state and results in no permanent worsening of the original disability, cannot be considered an aggravation.

2. **Fractional disability award**

Entitlement for that portion of a disability which was aggravated during service is awarded in fifths (one fifth to four fifths). When a member had a disability on enrolment, which permanently worsened by service, the degree of entitlement is determined by comparing the disability on enrolment with the disability at discharge.

Entitlement cannot be determined by comparing the member's condition prior to the occurrence of the injury or illness which resulted in the disability, with the disability at discharge; the disability itself must be compared at two points in time. For instance, a member may have had a minor disability on enrolment which became a major disability by the time of discharge. The degree of aggravation is established by determining the difference between the two stages of the disability.

Following a review of evidence, aggravation is awarded at the discretion of the adjudicator. The following may serve as a guideline.

Minor aggravation - 1/5

The minor aggravation of a disability, will basically impose no restriction in the member's ability to continue the activities normally undertaken prior to the aggravation.

Moderate aggravation - 2/5

The moderate aggravation of a disability, will result in slight adjustments in the member's pre-aggravation activities.

ARTICLE 2(1), 45(1)(b), 45(2), 46(1)(b) & 46(2) AWARDS IN RESPECT OF AN AGGRAVATION OF AN INJURY OR DISEASE

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Major aggravation - 3/5

The major aggravation of a disability may require a change of occupation, but not necessarily a significant change in the member's other pre-aggravation activities.

Severe aggravation - 4/5

The severe aggravation of a disability will result in the almost total alteration of the member's life style.

3. **Death due to an aggravated disability**

If death results from a disability which was aggravated by service, death will be ruled as attributable to service to the same degree which the disability was aggravated during service.

Consider the following example:

A Veteran received entitlement to the degree of 3/5 for arteriosclerotic heart disease related to his military service. He suffers from a myocardial infarction and subsequently dies. In this scenario, the widow would be eligible to receive a death attributable ruling to the same degree of entitlement as previously awarded, i.e 3/5.

This policy must be read in conjunction with the policy Article 51 & 52 - Pre-enrolment conditions.

ARTICLE 2(5) - CONDUCT OF MEMBER OR VETERAN

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A. LEGISLATION

Subsection 2(5) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

This Act does not apply in respect of a member's or a veteran's physical or mental health problem, disability or death if it is caused by a wilful self-inflicted injury or improper conduct on the member's or veteran's part, including wilful disobedience of an order and vicious or criminal conduct.

B. POLICY

1. In making a determination under subsection 2(5) of the *CFMVRC Act*, the Department may either:
 - (a) wait until a decision has been made by the military authorities on whether the member or Veteran wilfully injured himself/herself, wilfully disobeyed an order by military authorities or was criminally indicted for the offence which caused his/her disability or death; or
 - (b) rule on the basis of the information provided and, if the decision is unfavourable, advise the applicant of his/her right to request a departmental review once new information (e.g. Court of Inquiry ruling) becomes available.
2. If the Department determines that a member's or Veteran's disability or death was due to a wilful self-inflicted injury, wilful disobedience of an order, or an event for which the member or veteran was criminally indicted, a disability award or death benefit, as the case may be, may not be paid in respect of that disability or death.

ARTICLE 2(5) - CONDUCT OF MEMBER OR VETERAN

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3. Self-inflicted injury related to psychiatric condition:

In cases where a member's or Veteran's self-inflicted injury is related to a service-related psychiatric condition, and that self-inflicted injury results in the member's or Veteran's disability or death, a disability award or death benefit, as the case may be, may be paid in respect of that disability or death.

C. CROSS REFERENCES

N/A

ARTICLE 42 and 56 - Dual Entitlement - Disability Awards/Disability Pensions

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A. LEGISLATION

1. Sections 42 and 56 of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* read as follows:

42 *This Part does not apply 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, is one for which a pension may be granted under the Pension Act.*

56 (1) *No disability award shall 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 has rendered a decision in respect of the application.*

56 (2) *No disability award shall be granted in respect of an injury or a disease, or the aggravation of an injury or a disease, if the Minister 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.*

2. Sections 42 and 56 of the *CFMVRC Act* should be read in conjunction with subsection 3.1(1) of the *Pension Act* which reads as follows:

3.1 (1) *Despite any other provision of this Act, no award is payable under this Act in respect of any application made by or in respect of a member of the forces after the coming into force of section 42 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act unless*

ARTICLE 42 and 56 - Dual Entitlement - Disability Awards/Disability Pensions

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(a) the application is in respect of a disability or disease, or the aggravation of an injury or a disease, for which a pension has been granted or is an application under section 36 of such a disability;

(b) the application is in respect of the death of a member of the forces, if the death occurred before the coming into force of section 42 of the Canadian Forces Members and Veterans Re-establishment and Compensation Act or is the result of an injury or a disease, or the aggravation of an injury or a disease, for which a pension has been granted;

(c) the application is in respect of an injury or a disease that was attributable to or was incurred during, or arose out of or was directly connected to, service in the Canadian Forces on or before April 1, 1947, or was attributable to or was incurred during service in the Korean War or is an application under subsection 21(5) in respect of such an injury or a disease;

(d) the application is in respect of an aggravation of an injury or disease, if the aggravation was attributable to or was incurred during, or arose out of or was directly connected to, service in the Canadian Forces on or before April 1, 1947 or was attributable to or was incurred during service in the Korean War or is an application under subsection 21(5) in respect of such an aggravation;

(e) the Minister has determined under the Canadian Forces Members and Veterans Reestablishment and Compensation Act that the injury or disease, or the aggravation of the injury or disease, for which the application is made 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; or

(f) the application is made under section 38 by a pensioner.

B. POLICY

ARTICLE 42 and 56 - Dual Entitlement - Disability Awards/Disability Pensions

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1. Adjudication

All applications submitted after the coming into force date of this Act must be adjudicated under the *CFMVRC Act* except for those described in subsection 3.1(1) of the *Pension Act*.

2. Conversion of disability pension

A monthly disability pension that is being paid under the *Pension Act* cannot be converted into a disability award paid under the *CFMVRC Act*.

3. Disability pension ruling prior to March 31, 1971

Section 85(2) of the *Pension Act* provides the authority for the Minister to consider any application that was the subject of a ruling before March 31, 1971. Therefore, a client who received an unfavourable decision with respect to a condition claimed under the *Pension Act* prior to this date may only reapply under the *Pension Act* for that condition. In these cases, an application for disability award with respect to that condition cannot be considered under the *CFMVRC Act*.

4. Effective date

The effective date of a disability award or death benefit granted under the *CFMVRC Act* is the date of the decision awarding the award or benefit. Nevertheless, it is important that at the time of application for disability award or death benefit, the date of application be recorded. This is because in cases where an application is made under the *CFMVRC Act* and it is later determined that the application should have been made under the *Pension Act*, the effective date of the disability pension would be determined in accordance with section 39 of the *Pension Act*, i.e. date of application or three years prior to the

ARTICLE 42 and 56 - Dual Entitlement - Disability Awards/Disability Pensions

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date of the decision awarding pension entitlement, whichever is the later date.

5. Fractional entitlement

- (a) In cases where fractional entitlement was awarded under the *Pension Act* for a condition, an application cannot be made under the *CFMVRC Act* for an increase in the entitlement of that condition.
- (b) In cases where a disability is claimed to be related to both service in the Canadian Forces (CF) and the Royal Canadian Mounted Police (RCMP), fractional ~~partial~~ entitlement may be awarded under the *CFMVRC Act* (for that part of the disability determined to be related to CF service) and the *Pension Act* (for that part of the disability determined to be related to RCMP service).
- (c) Note: Policy is still being developed to address situations where a member or Veteran is awarded fractional entitlement under the *CFMVRC Act* and later claims that that condition was aggravated by RCMP service.

6. Change or expansion of diagnosis

If an application for a condition is adjudicated under one Act, any subsequent application submitted due to a change or expansion of diagnosis of that condition must be adjudicated under the same Act.

ARTICLE 42 and 56 - Dual Entitlement - Disability Awards/Disability Pensions

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7. Bracketed conditions

Where conditions are considered inseparable for purposes of assessing the extent of disability, the conditions will be bracketed.

In cases where a member is awarded a disability pension under the *Pension Act* for condition #1 and later applies for condition #2 under the *CFMVRC Act*, and the Department determines that condition #2 must be bracketed with condition #1, subsection 56(2) of the *CFMVRC Act* stipulates that the Department must rule under the *Pension Act* with respect to condition #2.

Note: Policy is still being developed to address cases where conditions are awarded under both Acts at different times and these conditions are inseparable for assessment purposes.

C. CROSS-REFERENCES

N/A

ARTICLE 43 - BENEFIT OF DOUBT

NEW: 2006-01

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A. LEGISLATION

Section 43 of the ***Canadian Forces Members and Veterans Re-establishment and Compensation Act*** reads as follows:

In making a decision under this Part or under section 84, the Minister and any person designated under section 67 shall

- (a) draw from the circumstances of the case, and any evidence presented to the Minister or person, every reasonable inference in favour of an applicant under this Part or under section 84;*
- (b) accept any uncontradicted evidence presented to the Minister or the person, by the applicant, that the Minister or person considers to be credible in the circumstances; and*
- (c) resolve in favour of the applicant any doubt, in the weighing of the evidence, as to whether the applicant has established a case.*

B. POLICY

The function of the adjudicator is to perform an active inquiry into the basis of a claim for an award, allowance or benefit under Part 3 or under section 84. This involves gathering relevant information, weighing evidence and making decisions on claims. In performing this duty the adjudicator must adhere to the principles set out under section 43. These principles, as with all other provisions of the Act, must be afforded a liberal interpretation.

This policy attempts to interpret paragraphs (b), (a) and (c) separately and in that order. For a given case, the adjudicator will be

ARTICLE 43 - BENEFIT OF DOUBT

NEW: 2006-01

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faced with the tasks of, first, deciding what information to accept as evidence; second, drawing inferences in favour of the applicant from that evidence and from all the circumstances of the case; and third, resolving any doubt as to whether the applicant has established a case.

It must be remembered, however, that in practice it may be difficult to adhere to a strict orderly application of these provisions. Adjudicators must keep in mind and incorporate into decisions the underlying purpose behind including this provision in the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* namely, the notion of giving the applicant the benefit of the doubt with respect to all matters of a case.

This policy is not to be used as a substitute for evidence. It is to be applied when the facts of a case are so evenly balanced that a clear decision is impossible (i.e. cannot decide, 50/50). An applicant does not have to prove a claim, but must provide enough evidence to give rise to a reasonable doubt that it is true.

The evidence will not be equal in weight if the adjudicator, after hearing the evidence for and against the applicant, is left with a concrete opinion that one answer is more probable than the other. In such a case, the adjudicator must accept the more probable answer as fact.

In most decisions it is incumbent upon the adjudicator to not only apply section 43 but also to state in the decision the fact that s/he is applying section 43.

1. **43 (b)- Accepting credible, uncontradicted evidence from the applicant**

Paragraph (b) compels the adjudicator to accept evidence that, in

ARTICLE 43 - BENEFIT OF DOUBT

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addition to being relevant, is both credible and uncontradicted. This paragraph is aimed at alleviating technical concerns with evidence.

Credible

The word "credible" literally means "believable". Evidence is not believable where other already proven facts do not support the accuracy of the evidence or where a reasonable person using common sense would conclude that the information provided by that evidence is impossible or untrue.

The question of the credibility of a piece of evidence usually arises with respect to information provided by an applicant that requires the personal knowledge of the circumstances surrounding the claim of the applicant but not the expertise of a specialist. For example, an applicant may assert that she broke her leg while on duty in Somalia. If other documented evidence were to show that she was never actually in Somalia, the applicant's assertion would normally not be accepted as credible.

It is the **evidence** that must be credible. The credibility of the person submitting the evidence is not a factor with respect to this provision. Even a generally non-credible person can produce or submit evidence that is credible, just as a generally credible person can submit evidence that is not credible.

Uncontradicted

When an applicant has uncontradicted evidence, there is no other evidence refuting it. For example, there will be claims presented where the only evidence presented is the applicant's statement. The

ARTICLE 43 - BENEFIT OF DOUBT

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fact that there is no other evidence found on the service documents and nothing reported post discharge does not contradict the applicant's statement. This lack of evidence can, however, bring into question the credibility of the claim.

On the other hand, evidence that may otherwise be deemed credible may nonetheless be rejected as evidence, if contradictory opinion reaches the consensus level. For example, opinion, by definition, will often not point toward an absolute conclusion in relation to a medical matter. Hence, a medical opinion is not generally accepted if it is contrary to the medical consensus of the recognized specialists of that field. Although such evidence may be credible, (not proven to be untrue) it could not be said to be uncontradicted. This statement would not apply to all cases especially in those areas of medicine where a sizeable minority does not concur with the consensus or where the medical knowledge is not definitive.

On the other hand, medical opinion, expressed by a recognised specialist in a field, who has treated or examined the applicant, should be accepted unless it is obviously or admittedly based solely on the history obtained from the applicant (not based on personal examination of the applicant), or is entirely speculative.

A personal examination of an applicant is not relevant where a case turns on a purely medical issue (could X cause Y). The personal examination becomes relevant when the medical question becomes more subjective in nature (could X have caused Y in the applicant) or, on the state of the applicant (how disabled is the applicant, or could X have caused the applicant's condition).

2. 43 (a) - Drawing inferences in favour of the applicant

ARTICLE 43 - BENEFIT OF DOUBT

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This paragraph is about proving a fact. The applicant is not quite able to prove a fact but has brought evidence from which that fact may be inferred.

The adjudicator must draw inferences in favour of the applicant from the materials that have been accepted into evidence and from the overall circumstances of the case. To draw an inference means to come to a conclusion based on premises or materials that have been placed before you.

With respect to adjudications under Part 3 or under section 84, drawing a favourable inference in most cases will mean that if there is an effect, and a factual circumstance that could be a cause of that effect and nothing that would lead to another conclusion, then it is incumbent upon the adjudicator to conclude or infer that the factual circumstance was the cause of that effect. For example, if an applicant is claiming a disability award for osteoarthritis of the knee and service records show that the applicant fell off a truck and injured a knee in 1995, a medical opinion is provided which supports the claim and there are no other facts in existence that prove otherwise, then an inference should be drawn in favour of the applicant that the applicant's present condition was at least partially caused by the fall in 1995.

The drawing of favourable inferences is often necessary where it is established that documentation has been lost or destroyed, or was not created due to the applicant being subjected to a period or periods of detention as set out in section 64.

3. **43 (c) - Resolving doubt in favour of an applicant**

In determining any claim under Part 3 or under section 84 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, the decision shall be made in accordance with

ARTICLE 43 - BENEFIT OF DOUBT

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the real merits and justice of the case. Where it is not possible to determine an issue because the evidence for or against the issue is approximately equal in weight, the issue shall be resolved in favour of the applicant.

After all the evidence is accepted, including questionable but believable and uncontradicted evidence, and all inferences are drawn from the evidence, the adjudicator must find in favour of the applicant, if credible evidence has been produced that raises at least a reasonable doubt that the issue or claim has been proven.

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ARTICLE 45(1) - ESTABLISHMENT OF A DISABILITY

New: 2006-04

Page: 1 of 2

A. LEGISLATION

1. Section 45(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows :

The Minister may, on application, pay a disability award to a member or a veteran who establishes that they are suffering from a disability resulting from

- a) a service-related injury or disease; or
- b) a non-service related injury or disease that was aggravated by service.

B. POLICY

Establishing a disability

In order to establish the existence of a disability, defined in the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* as the loss or lessening of the power to will and to do any normal mental or physical act, the Department relies on a diagnosis made by a medical doctor or other qualified health care professional.

Applications in respect of disability awards can be supported with diagnoses made by physicians, both general practitioners (GP) and specialists and in certain cases by other regulated health care professionals. The health care professionals must be duly authorized under federal or provincial statute to diagnose conditions in their area of expertise and registered in good standing with a professional body which governs the licensing and accreditation of their particular profession.

ARTICLE 45(1) - ESTABLISHMENT OF A DISABILITY

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Other health care professionals from whom the Department accepts diagnoses are registered psychologists, optometrists and clinical audiologists.

In any case where sufficient information, to support the diagnosis or otherwise adequately establish the nature of the condition, is not provided with the claim, follow up investigation may be required before adjudication can proceed.

ARTICLE 46(1) - CONSEQUENTIAL INJURY OF DISEASE

New : 2006-04

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A. LEGISLATION

Section 46(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows :

An injury or a disease is deemed to be a service-related injury or disease if the injury or disease is, in whole or in part, a consequence of

- (a) a service-related injury or disease;
- (b) a non-service-related injury or disease that was aggravated by service;
- (c) an injury or a disease that is itself a consequence of an injury or a disease described in paragraph (a) or (b); or
- (d) an injury or a disease that is a consequence of an injury or a disease described in paragraph (c).

B. POLICY

1. A disability award may be granted when it is a consequence of:
 - a) a condition pensioned under subsection 45(1), e.g., if a former member receives a disability award for gunshot wounds to the leg resulting in a shortened leg and fused knee, and then develops a back problem due to his altered gait - the back condition may result in a disability award as a consequence of the primary condition; or,
 - b) a condition for which consequential entitlement has been awarded under paragraph 46(1)(a) or (b). Consider the following example:

If the disability award "A" caused disability "B", which in turn caused disability "C", both "B" and "C" may result in a disability award.

ARTICLE 46(1) - CONSEQUENTIAL INJURY OF DISEASE

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2. Consequential Likelihood

It may be necessary to look at the etiology of the condition claimed under subsection 46(1), to determine the likelihood of a consequential relationship existing between it and the disability award condition. The extent of the disability from the disability award condition may also play a part in the likely development of a consequential claimed condition. It is important to remember as well, that the disability resulting from the consequential condition must be considered permanent.

3. No Medical Relationship

In some cases there may not be a common medical relationship between two conditions, e.g. between bronchitis and a hernia. Nevertheless, a member or Veteran suffering from chronic bronchitis may eventually, due to persistent coughing, develop a hernia. While there is no direct medical relationship between these two conditions, there may well be a consequential relationship within the meaning of this subsection.

4. Relationship to Service

Unlike subsection 45(1), where entitlement to a disability award depends on the relationship of a disability to military service, under subsection 46(1) entitlement to a disability award depends on the consequential linkage of the additional disability to the previously paid disability award. The words "in whole or in part" as stated in this subsection, refer only to the relationship between the two disabilities.

ARTICLE 46(1) - CONSEQUENTIAL INJURY OF DISEASE

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5. Degree of Entitlement

Once a consequential relationship has been established, the degree of entitlement awarded for the consequential condition is to be based on the extent to which it is a consequence of the primary disability award condition, and not the extent to which the primary disability award condition is related to service; therefore, a greater or lesser degree of entitlement may be awarded for a consequential condition than was awarded for the primary disability award condition.

6. Extension of Diagnosis

Conditions which are extensions of existing disability award conditions will not be ruled upon under subsection 46(1), but will be included in a change of diagnosis under 45(1), e.g., pulmonary tuberculosis with renal tuberculosis would become tuberculosis. A change in assessment may or may not result.

7. Effective Date

If a condition is ruled as consequential to a primary condition, the effective date is the day of the decision, i.e. subject to Section 53 of the *CFMVRC Act*.

C. CROSS-REFERENCES:

Section 53 - When award payable
Subsection 45(1) - Eligibility

ARTICLE 47- AWARD FOR LOSS OF PAIRED ORGAN OR LIMB

New: 2006-04

Page: 1 of 4

A. LEGISLATION

1. Section 47 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

(1) The Minister may, on application, pay a disability award to a member or a Veteran who has received a disability award under section 45 on account of the loss of, or the permanent loss of the use of, one of their paired organs or limbs if the member or Veteran suffers, either before or after that loss or loss of use, the loss of, the permanent loss of the use of or the impairment of the other paired organ or limb from any cause whatever.

(2) The member's or Veteran's extent of disability in respect of that other paired organ or limb shall be considered to be 50% of the extent of disability at which the member or Veteran would have been assessed at if the loss of, the permanent loss of the use of or the impairment of that paired organ or limb had occurred in circumstances in which a disability award would have been payable under section 45.

B. POLICY

1. Intent

The intent of Section 47 is to recognize the fact that the loss or impairment of the second organ or limb of a pair increases the disability resulting from the loss of the primary condition which resulted in a disability award. Paired organs include: ears, eyes, kidneys, ovaries and testes. Paired limbs include both upper limbs and lower limbs.

ARTICLE 47- AWARD FOR LOSS OF PAIRED ORGAN OR LIMB

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2. Application

- a) To be eligible for entitlement under section 47 of the *CFMVRC Act* (paired organs/limbs), the primary organ/limb to which a disability award has been granted must meet the minimum disability requirements for the total loss of or total loss of use of that organ/limb. These minimum disability requirement can be found in the Table of Disabilities.
- b) Applications for paired organs/limbs where the primary condition has been ruled under the Pension Act will be adjudicated under section 36 of the Pension Act. These application are not permitted under section 47 of the *CFMVRC Act*.

Consider the following example:

Veteran has received a disability pension for complete left ear deafness prior to the coming into force of the *CFMVRC Act*.

Veteran has now submitted an application for paired organ right ear deafness. As the primary condition has been adjudicated under the *Pension Act*, the subsequent application for paired organ is required by law to be adjudicated under the *Pension Act*.

3. Assessment of Disability in the Paired Organ

As paired organs have a complementary and common function, the total loss of one such organ may have little immediate overall effect. Impairment of or loss of the second organ of the pair commonly results in a major increase in disability. Hence, the loss of function must be assessed as a single entity when both organs become pensionable, even if the second organ is pensioned under section 47.

ARTICLE 47- AWARD FOR LOSS OF PAIRED ORGAN OR LIMB

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Numerous paired organ scenarios can be found in the Table of Disabilities, Chapter 4 - Paired Organs and Limbs

Consider the following example:

A Veteran has received a disability award for blindness in the right eye (primary condition) assessed at 29% (includes Quality of Life rating) and through a natural cause, suffers total blindness in the left eye (secondary condition). If one-half of the normal assessment for the left eye were to be considered, this would result in an assessment of $\frac{1}{2}$ of 29% = 14.5% under section 47. In fact, by losing the total sight in the left eye, a complete loss of function has resulted (100% = (85% disability assessment + 15% Quality of Life rating) . Therefore, the paired organ assessment under section 47 should more properly be calculated as:

$$\frac{100\% - 29\%}{2} = \frac{71\%}{2} = 35.5\% \text{ (rounds up to 36)}$$

4. Assessment of Disability in Paired Limbs

The loss of the second limb or loss of use or impairment of the second limb is no less disabling and is assessable in its own right, subject to the principle that the overall or combined assessments for all pensioned conditions, including awards under section 47, may not exceed 100%.

Consider the following example:

A member has received a disability award for mid-thigh amputation right leg assessed at 83% (includes Quality of Life rating) under section 45. The member subsequently receives a disability award under section 47 for osteoarthritis of the left knee. The assessment for Osteoarthritis of the left knee is 20% (includes Quality of Life rating). Therefore, the member

ARTICLE 47- AWARD FOR LOSS OF PAIRED ORGAN OR LIMB

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will receive a 10% disability award ($\frac{1}{2}$ of 20%) for his left knee.

5. Paired Organ/Limb Award versus Consequential Award

In circumstances where the loss of, permanent loss of the use of or impairment of an organ or limb may be pensioned under either Sections 46 or 47 of the *CFMVRC Act*, a ruling may be given under either one or both sections, on application, but a disability award will be paid under that section or subsection which provides the greater advantage to the member or Veteran.

6. Effective Date of Award

The effective date of an award under Section 47 will be the date of the decision (subject to Section 53).

7. Total Assessment

As with section 45, all new assessments resulting from awards under section 47, are to be included in the total assessment of disability awards.

ARTICLE 48(1) - INCREASE IN EXTENT OF DISABILITY

NEW: 2006-04

Page: 1 of 4

A. LEGISLATION

Subsection 48(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* reads as follows:

If a member or a Veteran to whom a disability award has been paid under section 45 or 47 establishes that their extent of disability has subsequently increased, the Minister may, on application, pay a disability award to the member or Veteran that corresponds to the extent of that increase.

B. POLICY

1. Application for increase in assessment

In cases where a disability award condition has worsened, an application may be made by a member or Veteran under subsection 48(1) of the Act for an increase in the assessment of that condition, i.e. reassessment.

2. Reassessment determination

A reassessment is determined in accordance with the Table of Disabilities, a legislated/statutory instrument used to assess the extent of a disability for disability award purposes. The extent of the disability is determined on the basis of current clinical examination findings from either a client's personal physician/practitioner or a Departmental Medical Officer.

The Table is meant to ensure members and Veterans receive similar assessments for disabilities of similar severity.

ARTICLE 48(1) - INCREASE IN EXTENT OF DISABILITY

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3. Member or Veteran dies after applying for reassessment

If the member or Veteran is survived by an eligible survivor or dependent child, the application for reassessment will, in accordance with subsection 50(2) of the Act, proceed and be determined in the same manner as if that member or Veteran had not died, provided the documentation necessary to substantiate the claim, as per the requirements of section 49 of the *CFMVRC Regulations*, is included with the application.

4. Member or Veteran dies before applying for reassessment

Subsequent to the death of the member or Veteran, an eligible survivor or dependent child may apply under subsection 50(1) of the Act for a reassessment of the deceased member or Veteran's disability award condition, provided the documentation necessary to substantiate the claim, as per the requirements of section 49 of the *CFMVRC Regulations*, is included with the application.

5. Frequency of Reassessments

- (a) In accordance with section 53 of the Act, the initial assessment for disability award purposes is provided when the disability has reached a point of medical stability.
- (b) Normally, once an assessment is determined, a reassessment will not occur within two years of the date of the most recent assessment determination by either the Minister of Veterans Affairs or the Veterans Review and Appeal Board (VRAB). However, the client may submit an application for reassessment to the Department within this two-year period, along with the necessary documentation to substantiate the claim, i.e. new evidence which demonstrates a deterioration in the disability award condition.

ARTICLE 48(1) - INCREASE IN EXTENT OF DISABILITY

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- (c) Beyond the two-year period, a client may apply for a reassessment where a reasonable assertion can be made that the disability award condition has deteriorated. The term “reasonable assertion” should be interpreted liberally, i.e. if a client believes that his/her condition has deteriorated, a reassessment decision can be made on the basis of substantiating medical evidence.

6. Redress

- (a) Departmental Review

A member or Veteran who is not satisfied with a reassessment decision may apply to the Department for a review of the reassessment decision on the basis of new evidence i.e. medical evidence concerning the extent of his disability at the time of the reassessment decision under review.

- (c) VRAB Review and Appeal

Alternatively, a member or Veteran may request a review of the reassessment decision by a Review Panel of the VRAB. At such a hearing, the applicant may represent themselves or may be represented by the Bureau of Pensions Advocates, a service bureau of a Veterans' organization, or at the applicant's own expense, by any other representative of the applicant's choice.

If the applicant is not satisfied with the Review Panel's decision, the applicant may apply to an Appeal Panel of the VRAB.

7. Effective dates for reassessments

The effective date of an increase in the assessment of a disability award condition is the date of the reassessment decision. The increase will be payable whenever, in the opinion of the Minister, the disability from that condition has stabilised.

ARTICLE 48(1) - INCREASE IN EXTENT OF DISABILITY

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C. CROSS-REFERENCES:

Article 53 - When award payable

Article 73, 74 and 75 - Medical Fees

Article 76(1) - Application to the Minister

Article 84 - Review of decisions

DRAFT

ARTICLE 49 and 50 - Death of member or Veteran > 30 days (disability award)

New 2006-04

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A. LEGISLATION

Sections 49 and 50 of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* read as follows:

49. *If a member or a veteran dies as a result of an injury or a disease for which a disability award has been paid or would be payable under section 45 and their death occurs more than 30 days after the day on which the injury occurred or the disease was contracted or the injury or disease was aggravated, the member or veteran is deemed to have been assessed, at the time of their death, as having an extent of disability at that time of 100%.*

50. (1) *If a member or a veteran who would have been entitled to a disability award under section 45, 47 or 48 dies before they have applied for the award, the Minister may, on application, pay, in accordance with section 55, to a survivor or a person who was, at the time of the member's or veteran's death, a dependent child, the disability award to which the member or veteran, had they lived, would have been entitled under section 45, 47 or 48, as the case may be.*

(2) *If a member or a veteran who has made an application for a disability award under section 45, 47 or 48 dies before the Minister has made a decision in respect of the application, the Minister may pay, in accordance with section 55, to a survivor or a person who was, at the time of the member's or veteran's death, a dependent child, the disability award to which the member or veteran, had they lived, would have been entitled under section 45, 47 or 48, as the case may be.*

(3) *The survivor or child has, in respect of the application referred to in subsection (2), all of the rights that the member or veteran would have had had they lived.*

ARTICLE 49 and 50 - Death of member or Veteran > 30 days (disability award)

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B. POLICY

1. General

- (a) When a member or Veteran dies as a result of an injury or disease for which a disability award has been paid or would be payable under the *CFMVRC Act*, and the death occurs more than 30 days after the day on which the injury occurred or the disease was contracted, or the injury or disease was aggravated by service, the member or Veteran is deemed to have been assessed at 100% for that disability.
- (b) If the member or Veteran died prior to the implementation of the *CFMVRC Act*, any claims related to the member's or Veteran's disability or death must be pursued under the *Pension Act*.

2. Eligible applicants

- (a) Only a survivor and/or dependent child may apply for a disability award in respect of a member's or Veteran's death.
- (b) Estates are not eligible to apply for disability awards.

3. Application Process

- (a) According to section 49 of the *CFMVRC Regulations*, an application for disability award by a survivor or a dependent child shall include medical reports or other records that document the member's or Veteran's injury, disease, diagnosis, disability, increase in disability, as well as a copy of the death certificate of the member or Veteran, and medical reports or other records that document the cause of death of the member or Veteran.
- (b) A survivor and/or dependent child may apply for a disability award with respect to a new condition for which the member or

ARTICLE 49 and 50 - Death of member or Veteran > 30 days (disability award)

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Veteran did not apply prior to his/her death.

- (c) A survivor and/or dependent child may apply for an increase in disability award if they have evidence that the member's or Veteran's condition deteriorated between the time he/she was granted the disability award and the time of death.

4. Application not required

A survivor and/or dependent child does not need to apply for a disability award in cases where the member or Veteran has applied for a disability award, or an increase in disability award, and dies before a decision is made. In these cases, the application will proceed as if the member or Veteran were alive and if the decision is favourable, the award will be paid to the survivor and/or dependent child. If there is no survivor and/or dependent child, the application is discontinued.

5. Maximum percentage of disability award payable

- (a) A survivor and/or dependent child may receive a survivor pension under the *Pension Act* and/or a disability award under the *CFMVRC Act* up to a maximum percentage of 100%.
- (b) The maximum percentage of disability award payable to the survivor and/or dependent child is 100% less any disability pension and/or disability award previously paid to the member or Veteran.
- (c) Note: A policy is still being developed to address situations where a member or Veteran dies as a result of an injury or disease, or an aggravation thereof, for which a disability pension has been paid or would be payable under the *Pension Act*, and the survivor is entitled to receive a full survivor pension under the *Pension Act*, i.e. what is the maximum percentage of

ARTICLE 49 and 50 - Death of member or Veteran > 30 days (disability award)

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disability award payable under the *CFMVRC Act* in these cases?

- (d) In cases where the survivor and/or dependent child is awarded a pension under the *Pension Act* based on the percentage of disability pension that was in payment to the member or Veteran at the time of death, that percentage will be taken into account for purposes of determining the maximum percentage of disability award payable under the *CFMVRC Act*. For example:

(i) If a member or Veteran was in receipt of a 20% disability pension at the time of death, the maximum percentage of disability award payable to the survivor and/or dependent child under the *CFMVRC Act* is 80%.

(ii) If a member or Veteran was in receipt of a 65% disability pension at the time of death, the maximum percentage of disability award payable to the survivor and/or dependent child under the *CFMVRC Act* is 35%.

6. Fractional entitlement

If a member or Veteran dies of a condition for which fractional (e.g. one-fifth to four fifths) entitlement was awarded under the *CFMVRC Act*, the resulting increase in disability award (to 100%) would be paid to the survivor and/or dependent child on a fractional basis as well. For example:

A Veteran is awarded a fractional (two-fifths) disability award for a lung condition assessed at 50% and, as a result, is paid a 20% ($2/5 \times 50\%$) disability award. If the Veteran dies of this lung condition, the survivor may apply for an increase in the disability award (50% to 100%), and if the decision is favourable, the survivor would be eligible to receive a fractional disability award of 20% ($2/5 \times 50\%$).

ARTICLE 49 and 50 - Death of member or Veteran > 30 days (disability award)

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7. Survivor/dependent child of two or more members/Veterans

A survivor/dependent child of two or more members/Veterans may receive a disability award up to a total maximum percentage of 100% in respect of each member/Veteran.

8. Survivors/dependent children who are members or Veterans

In cases where the survivor or dependent child is also a member or Veteran, the survivor/dependent child may receive:

- (a) a disability pension and/or a disability award with respect to his/her own disability (up to a total maximum percentage of 100%); and
- (b) a pension and/or a disability award with respect to the death or disability of the deceased member or Veteran (up to a total maximum percentage of 100%).

C. CROSS-REFERENCES

- Article 2(1) Section 1 - Definition of survivor
- Article 2(2) Section 2 - Definition of dependent child
- Article 55 and 59 - Division of award
- Article 57 - Death of member within 30 days (death benefit)

ARTICLE 50(a) - PHYSICAL TRAINING OR SPORT

NEW 2006-01

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A. LEGISLATION

1. Section 63 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

The Governor in Council may make regulations respecting the rules of evidence and evidentiary presumptions relating to applications for a disability award or a death benefit under this part.

2. Subsection 50(a) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* reads as follows:

For the purposes of subsection 45(1) of the Act, a member or veteran is presumed, in the absence of evidence to the contrary, to have established that an injury or disease is a service-related injury or disease, or a non-service-related injury or disease that was aggravated by service, if it is demonstrated that the injury or disease or its aggravation was incurred in the course of

(a) any physical training or any sports activity in which the member or veteran was participating that was authorized or organized by a military authority, or performed in the interests of the service although not authorized or organized by a military authority;

B. POLICY

1. Presumption

Section 50(a) of the *CFMVRC Regulations*, in keeping with subsection 45(1) of the *CFMVRC Act*, further defines certain activities which ought to be considered service-connected. It creates a legal presumption, in the absence of evidence to the contrary, that death, a permanent disability, or the permanent aggravation of a disability resulting from any physical training or sports activity that

ARTICLE 50(a) - PHYSICAL TRAINING OR SPORT

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was authorized or organized by a military authority, or performed in the interests of the service although not authorized or organized by a military authority, is related to military service.

2. Authorized or Organized by the Canadian Forces (CF)

Members of the CF are required to achieve and maintain a set level of fitness. It is as important as any other service requirement and fitness tests are expected to be scheduled on a regular basis. Team sports authorized by the CF include badminton, ball hockey, basketball, broom ball, curling, golf, hockey, running, soccer, softball, squash and volleyball.

Authorized competitive sports are played at the following levels:

- intramural, including inter-section, inter-company, or inter-mess; and
- extramural, including inter-base, command, regional, national and international military and civilian competitions.

A member playing sports under the CF banner is covered for disability award purposes under the CFMVRC Act while playing, practising, or travelling with the team¹.

CF members may be authorized to play on civilian teams, usually because no CF team exists at their base/station etc.² However, if a member takes part in a “pick-up” or spur of the moment game with co-workers or friends/neighbours, that activity would be seen as

¹ This could include CF coaches and officials.

² CF members may attend clinics, workshops or seminars conducted by recognized civilian sports agencies to stay abreast of developments and/or obtain qualifications not available within the CF.

ARTICLE 50(a) - PHYSICAL TRAINING OR SPORT

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recreational, even if it takes place on a military base.

Taking part in recreational/social activities (e.g. billiards, darts, shuffleboard, ping pong etc.) which may be organized for military personnel and their families in base facilities would not be considered part of a fitness program.

3. Performed in the Interests of Service (not authorized or organized)

Physical training/sports activity which is not authorized or organized by the military may still be in the interests of service. The CF's operational capability relies, in part, on the fitness of its members. Those who are physically unable to do their jobs, particularly in operational theatres, can be a hazard to themselves and others.

If a member takes part in regular physical training/sports activity not authorized or organized by the CF which could reasonably be expected to assist him/her in meeting the CF's fitness requirement, a resulting injury or disease may be seen as related to military service. A member who runs/jogs on a regular basis, for example, could be seen to be doing so both for his/her interest/satisfaction and in the interests of the service if, as a result, the member was better able to meet the physical requirements of his/her trade.

Where the interests of the member and the interests of the service are considered to be relatively equal in the performance of unauthorized physical training/sports activity, a service-connection may be presumed.

ARTICLE 50(a) - PHYSICAL TRAINING OR SPORT

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4. Evidence of Service-connected Injury/Disease

Serving members who claim an injury/disease to a CF sports team incident should be encouraged to provide documentary evidence of their team membership and of the causative incident, when applying for a disability award. Serving members authorized to play on civilian teams should provide a copy of the authorization to do so.

Former members may have more difficulty in producing evidence. It is accepted that CF98s (Reports on Injury) are not always completed in sports injury cases. It is also true that "responsible authorities" able to substantiate a team roster may be difficult or impossible to find with the passage of time, and, that an EXPRES prescription for exercise may not be available.

For that reason, an applicant's comprehensive personal statement (covering the what, where, when, why, and how of the injury/disease) may be given significant weight to establish a connection between the injury/disease and military service.

As with all applications for a disability award, adjudicators must use discretion in determining what is acceptable, credible, uncontradicted evidence in relation to individual claims under 45(1) [See Article 43 - Benefit of Doubt].

5. Evidence of Service-Connected Permanent Disability

Once a connection between an injury/disease and service is established, credible uncontradicted medical evidence must establish the existence of a permanent disability/aggravation and a causal connection between it and the injury/disease. Not every injury/disease results in a permanent disability/aggravation.

ARTICLE 50(a) - PHYSICAL TRAINING OR SPORT

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6. Loss of Presumption

If evidence reveals that a claimed disability/aggravation is not related to an injury/disease resulting from a service-connected physical training or sports activity, the presumption contained in subsection 50(a) no longer applies. It may then be determined if the claimed disability arose out of or was directly connected with other service factors or events under subsection 45(1).

C. CROSS-REFERENCES:

Article 2(1) & 45(1)(a) Section 1 - Service-related injury or disease attributable to or incurred during special duty service

Article 2(1) & 45(1)(a) Section 2 - Service-related injury or disease - arose out of or directly connected with service in the Canadian Forces

ARTICLE 51 & 52 CFMVRC REGULATIONS - PRE- ENLISTMENT CONDITIONS

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A. LEGISLATION

1. Sections 51 & 52 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* read as follow

51. Subject to section 52, if an application for a disability award is in respect of a disability or disabling condition of a member or veteran that was not obvious at the time they became a member of the forces and was not recorded on their medical examination prior to enrolment, the member or veteran is presumed to have been in the medical condition found on their enrolment medical examination unless there is

(a) recorded evidence that the disability or disabling condition was diagnosed within three months after enrolment; or

(b) medical evidence that establishes beyond a reasonable doubt that the disability or disabling condition existed prior to enrolment.

52. Information given by a member or veteran at the time of enrolment with respect to a disability or disabling condition is not evidence that the disability or disabling condition existed prior to their enrolment unless there is corroborating evidence that establishes beyond a reasonable doubt that the disability or disabling condition existed prior to the time they became a member of the forces.

B. POLICY

Obvious or recorded on a medical examination

A disability or disabling condition is defined as “obvious” if it was apparent, or would have been apparent, to an unskilled observer on

ARTICLE 51 & 52 CFMVRC REGULATIONS - PRE- ENLISTMENT CONDITIONS

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examination of the former member at the time of enlistment.

A disability or disabling condition recorded on medical examination prior to enlistment, is defined as a written record, X-ray or photograph of the claimed disability or disabling condition contained in a former member's:

- (a) medical enlistment documentation
- (b) official documentation covering any former period of service,
- (c) Departmental files,
- (d) compensation board or insurance company records,
- (e) records prepared by a medical practitioner or a clinic, hospital or other medical institution.

Consider the following examples:

- a) A member fractured his left ankle one year prior to enrolment in the Canadian Forces. S/he does not divulge this information on enrolment. One year following enrolment, member begins to suffer left ankle pain and is diagnosed with Osteoarthritis left ankle post-fracture. X-ray findings show an old healed fracture of the left ankle. In this scenario, the medical evidence establishes beyond a reasonable doubt that the disability or disabling condition existed prior to enrolment.
- b) A member's enrolment medical examination does not contain a diagnosis of pes planus. However, during the sixth week of basic training, in the absence of a specific trauma to his feet, the member is diagnosed with bilateral pes planus. In this scenario, there is recorded evidence that the pes planus was diagnosed within three months after enrolment. Therefore, the medical condition existed prior to enrolment.

**ARTICLE 51 & 52 CFMVRC REGULATIONS - PRE- ENLISTMENT
CONDITIONS**

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**This policy must be read in conjunction with the policy 2(1)(a),
45(1)(b), 45(2), 46(1)(b) & 46(2) - Awards in respect of an aggravation
of an injury or disease.**

DRAFT

ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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D A. LEGISLATION

Subsections 52(1) and 52(2) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* read as follows:

(1) Subject to section 54, the amount of a disability award payable in respect of a member or a Veteran shall be determined by the formula

$A - B$

where

A is the amount set out in column 3 of Schedule 3 that corresponds to the member's or veteran's extent of disability, as set out in column 2 of that Schedule, in respect of the aggregate of all of the member's or Veteran's disability assessments and deemed disability assessments under this Act; and

B is the amount set out in column 3 of Schedule 3 in respect of the extent of disability set out in column 2 of that Schedule that corresponds to the difference, if any, between

(a) the member's or Veteran's extent of disability, in respect of the aggregate of all of the member's or veteran's disability assessments or deemed disability assessments under this Act,
and

(b) the member's or Veteran's extent of disability for which the disability award is to be paid.

(2) For the purpose of determining the extent of disability in subsection (1), if a disability award may be paid only in respect of a fraction of a disability in accordance with subsection 45(2), 46(2) or 48(2) or (3), then only that fraction of the disability shall be taken into account.

ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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Section 54 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

(1) For the purposes of section 45, 47 or 48, if a member's or a Veteran's extent of disability, in respect of the aggregate of all of the member's or veteran's disability assessments and deemed disability assessments, exceeds 100%, no disability award shall be granted in respect of any percentage points exceeding 100%.

(2) Any disability assessments under the *Pension Act* shall be taken into account for the purpose of determining whether the extent of disability exceeds 100%.

(3) For the purpose of determining the extent of disability, if a disability award may be paid only in respect of a fraction of a disability in accordance with subsection 45(2), 46(2) or 48(2) or (3), or if only a fraction of a disability is pensionable under the *Pension Act*, then only that fraction of the disability shall be taken into account.

B. POLICY

1. Maximum Disability Assessment

The combined disability pension and the disability award cannot be payable at a rate higher than 100%. ~~except in cases where a detention benefit is awarded.~~

2. Fractional Award

A disability award may be paid in respect of a fraction of a disability. If a fraction of a disability is pensionable under the *Pension Act*, then only that fraction of the disability shall be taken into account, when considering the maximum assessment payable.

ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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For the purpose of interpreting subsection 54(3) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, consider the following examples:

- a) A Veteran is in receipt of a disability pension for Lumbar Disc Disease for which $\frac{3}{5}$ ths entitlement was granted and the condition was assessed at 50%. This Veteran is therefore being paid a disability pension at the 30% rate ($\frac{3}{5} \times 50\%$). The Veteran was subsequently granted a Disability Award for Osteoarthritis of the Left Knee. The degree for which this condition was awarded is also $\frac{3}{5}$ ths and the condition is also assessed at 50%. The Veteran therefore received a Disability Award at the 30% rate.

Despite the fact that the assessment of the two entitled conditions adds up to 100% (50% + 50%), this Veteran may be eligible to receive additional benefits, i.e. disability award, through either increased assessment or an entitlement for a new condition, or an increase in the assessment of the disability pension because the combination of the payable disability pension and disability award is less than 100% (30% + 30% = 60%). The Veteran may be eligible for additional benefits up to 40% to a maximum of a payable assessment of 100% (combined Disability Pensions and Disability Award).

- b) A Veteran is in receipt of a disability pension for Post traumatic Stress Disorder for which $\frac{4}{5}$ ths entitlement was granted and the condition was assessed at 75%. This Veteran is therefore being paid a disability pension at the 60% rate ($\frac{4}{5} \times 75\%$). The Veteran was subsequently granted Disability Awards for Cervical Disc Disease and Hearing Loss. The degree for which Cervical Disc Disease was awarded is $\frac{3}{5}$ ths and the condition is assessed at 50%. The Veteran therefore received a Disability Award at the 30% rate ($\frac{3}{5} \times 50\%$). The degree for which Hearing Loss was awarded is $\frac{5}{5}$ ths and the condition is assessed at 5%.

ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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Despite the fact that the assessment of the three entitled conditions exceeds 100%, this Veteran may be eligible to receive additional benefits up to 5%, i.e. disability award, through either increased assessment or an entitlement for a new condition, or an increase in the assessment of the disability pension because the combination of the payable disability pension and disability award is less than 100% (60% + 30% + 5% = 95%). The Veteran may be eligible for additional benefits up to a maximum of a payable assessment of 100% (combined Disability Pensions and Disability Award).

3. Amount of Award

Subsections 52(1), 52(2) and 54(2) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* and the formula A - B[a-b] will be interpreted in the following manner:

- A the amount of Disability Award payable for the total disability assessments (previous & new) under this Act only; and
- B the amount of Disability Award payable which corresponds to the percentage of the previous disability assessment(s)

To calculate B, you must find the difference between
(a) the total Disability Award assessments (previous & new)
(b) the new Disability Award assessment(s) to be paid.

Note: Always take into consideration the 100% maximum disability assessment prior to the application of the formula A - B[a-b].

Consider the following examples:

In receipt of Disability Award(s) only

- (a) Member or Veteran received a Disability Award of 20% and receives an additional Disability Award of 15%.

ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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Step 1: Calculate A	\$87,500 (20% +15%=35%)
Step 2: Calculate B.	\$50,000(35%-15%=20%)
Step 3: Determine amount of award payable	\$87,500-\$50,000= \$37,500

This member or Veteran will receive a disability award of \$37, 500 and has up to 65% remaining to apply for additional benefits before he reaches the maximum disability assessment of 100%.

- (b) Member or Veteran received a Disability Award of 50% and receives an additional Disability Award of $4/5 \times 25\% = 20\%$

Step 1: Calculate A	\$175,000 (50% +20%=70%)
Step 2: Calculate B.	\$125,000 (70%-20%=50%)
Step 3: Determine amount of award payable	\$175,000-\$125,000= \$50,000

This member or Veteran will receive a disability award of \$50,000 and has up to 30% remaining to apply for additional benefits before he reaches the maximum disability assessment of 100%.

Disability Assessments from both Acts

- (a) Member or Veteran received a Disability Award of 35% and receives an additional Disability Award of $4/5 \times 25\% = 20\%$. Member or Veteran is also in receipt of a disability pension paid at $20\%(5/5 \times 20\%)$.

Step 1: Calculate A	\$137,000 (20% +35%=55%)
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ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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Step 2: Calculate B.	\$87,500 (55%-20%=35%)
Step 3: Determine amount of award payable	\$137,000-\$87,500= \$50,000

This member or Veteran will receive a disability award of \$50,000 and has up to 25% [$100\% - 75\%(35\% + 20\% + 20\%) = 25\%$] remaining to apply for additional benefits before he reaches the maximum disability assessment of 100%.

- (b) Member or Veteran received a Disability Award of 55% and was recently granted an additional Disability Award of $4/5 \times 50\% = 40\%$. Member or Veteran is also in receipt of a disability pension paid at $20\%(5/5 \times 20\%)$.

As the member or veteran is receiving a disability pension of 20%, this % needs to be subtracted from the 100% maximum disability assessment prior to the application of the formula, leaving 80% for additional benefits.

Step 1: Calculate A	\$200,000 (55% +25%=80%)
Step 2: Calculate B.	\$137,500 (80%-25%=55%)
Step 3: Determine amount of award payable	\$200,000-\$137,500= \$62,500

Despite the fact that the member or Veteran has received a decision granting an assessment of 40% (\$100,000), s/he is only eligible to receive a disability award equivalent to 25% (\$62,500 (23% -27% rate)). S/he cannot exceed the maximum disability assessment of 100%, i.e., member or Veteran cannot have a combined disability assessment of 115% (55% + 40% + 20%). The Veteran or member is not eligible for additional benefits.

ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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- (c) Member or Veteran received a Disability Award of 32% and receives an additional Disability Award of 25%. Member or Veteran is also in receipt of a disability pension assessed at 22% and paid at the 20% rate.

Step 1: Calculate A	\$137,500 (32% +25%=57%)
Step 2: Calculate B.	\$75,000 (57%-25%=32%)
Step 3: Determine amount of award payable	\$137,500-\$75,000= \$62,500

This member or Veteran will receive a disability award of \$62,500. To determine what is still available under the 100% cap, after this new award has been paid, the percentages that are over 5% must be rounded to the nearest 5%. What has been paid to the client is 75% (30% DA + 25% DA + 20% DP). Therefore, the client has up to 25% [100% - 75%] remaining to apply for additional benefits before he reaches the maximum disability assessment of 100%.

3. Reassessment of a Disability Award

Where a Veteran or member has previously received a disability award for a disabling condition that has subsequently worsened, VAC shall deduct from the new disability award the amount previously awarded. the disability award payable for the condition should be reduced by any disability award previously paid for that condition. Consider the following example: A member or Veteran has received a 10% disability award for hearing loss. The disabling condition, i.e. hearing loss has now worsened and is assessed at 45%. The member or Veteran is entitled to receive an additional disability award of 35% (\$87, 500) for hearing loss. The disability award payable is calculated as follows:

Step 1: Calculate A	\$112,500(10% +35%=45%)
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ARTICLE 52 & 54, AMOUNT OF DISABILITY AWARD PAYABLE

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Step 2: Calculate B.	\$25,000(45%-35%=10%)
Step 3: Determine amount of award payable	\$112,500-\$25,000= \$87,500

4. Simultaneous Multiple Disability Awards

The percentages of each disability award shall be added together prior to considering the total extent of disability in column 2 of Schedule 3 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*. Consider for example: A member or Veteran has received disability awards for three conditions. The first is assessed at 4% ($2/5 \times 10\%$), the second is assessed at 6% ($3/5 \times 10\%$) and the third is assessed at 8% ($4/5 \times 10\%$). The combined disability awards have an extent of disability of 18%. This is the aggregate of all of the member's or Veteran's disability assessments. Member or Veteran will receive a disability award in the amount of \$50,000, rate between 18-22%.

ARTICLE 52(3) and 58(2) - Reduction of Disability Award/Death Benefit

New 2006-04

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A. LEGISLATION

1. Subsections 52(3) and 58(2) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* read as follows:

52(3) *If an amount is paid or payable to a person from a prescribed source in respect of a death or disability for which a disability award is payable, the Minister may reduce the disability award payable to the person by a prescribed amount.*

58(2) *If an amount is paid or payable to a person from a prescribed source in respect of a death for which a death benefit is payable, the Minister may reduce the death benefit payable to the person by a prescribed amount.*

2. Sections 53, 54, 57 and 58 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* read as follows:

53(1) *The following definitions apply in this section and section 54.*

"actuarial compensatory amount" means, if an additional amount is paid or payable on a periodic basis from a source set out in subsection (2), the present value of those periodic payments, determined in accordance with subsection 54(2).

"additional amount" means an amount other than a disability award that is paid or payable to a member or veteran for non-economic loss in respect of a disability for which a disability award is payable.

"compensatory amount" means an additional amount that is paid or payable as a lump sum from a source set out in subsection (2).

53(2) *For the purposes of subsection 52(3) of the Act, a disability*

ARTICLE 52(3) and 58(2) - Reduction of Disability Award/Death Benefit

New 2006-04

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award payable to a member or veteran shall be reduced by the amount determined in accordance with subsection 54(1) if an additional amount is paid or payable from the following sources:

(a) amounts arising from a legal liability to pay damages; and

(b) benefits 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 member or veteran has contributed, 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 member or veteran has contributed.

54(1) *For the purposes of subsection 52(3) of the Act, a disability award shall be reduced*

(a) if a compensatory amount is paid or payable to the member or veteran, by either the compensatory amount or the full amount of the disability award, whichever is less; or

(b) if an additional amount is paid or payable to the member or veteran on a periodic basis, by either the actuarial compensatory amount or the full amount of the disability award, whichever is less.

54(2) *The present value of an additional amount paid on a periodic basis*

(a) if the payor of that additional amount has calculated its present value, is that amount; or

ARTICLE 52(3) and 58(2) - Reduction of Disability Award/Death Benefit

New 2006-04

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(b) if the payor has not calculated the present value, shall be calculated in accordance with the following formula:

$$PV = R[1-(1+i)^{-n}]/i$$

where

PV is the present value,

R is the amount of the periodic payment,

i is the discount rate used to value the liability for veteran future benefits as published in the Public Accounts of Canada for the fiscal year prior to the date of the calculation, and

n is the number of periodic payments to be made by the payor.

54(3) *If the disability award of a member or veteran has been reduced in accordance with paragraph (1)(b) and the member or veteran subsequently dies before receiving periodic payments totalling the actuarial compensatory amount, the reduction of the disability award shall be recalculated so that the disability award is reduced by the lesser of*

(a) the full amount of the disability award,

(b) the present value of the periodic payments received by the member or veteran before their death, calculated in accordance with the formula set out in paragraph (2)(b).

54(4) *If the recalculation of the reduction results in an increase in the amount of the disability award, the following amount shall be paid to the survivor or the dependant child of the member or veteran in accordance with section 55 of the Act:*

ARTICLE 52(3) and 58(2) - Reduction of Disability Award/Death Benefit

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(a) if the original reduction under paragraph (1)(b) was equal to the full amount of the disability award, the entire amount of the increased disability award; or

(b) if the original reduction under paragraph (1)(b) was less than the full amount of the disability award, the difference between the increased disability award and the amount of the original disability award paid to the member or veteran.

57(1) *The following definitions apply in this section and section 58.*

"actuarial compensatory amount" means, if an additional amount is paid or payable on a periodic basis from a source set out in subsection 53(2), the present value of those periodic payments, determined in accordance with subsection 58(2).

"additional amount" means an amount other than a death benefit that is paid or payable to a person for non-economic loss in respect of a death for which a death benefit is payable.

"compensatory amount" means an additional amount paid or payable as a lump sum from a source set out in subsection 53(2).

57(2) *For the purposes of subsection 58(2) of the Act, a death benefit payable to a person shall be reduced by the amount determined in accordance with subsection 58(1) if an additional amount is paid or payable from a source set out in subsection 53(2).*

58(1) *For the purposes of subsection 58(2) of the Act, a death benefit shall be reduced*

(a) if a compensatory amount is paid or payable to a person, by either the compensatory amount or the full amount of the death benefit, whichever is less; or

(b) if an additional amount is paid or payable to a person on a

ARTICLE 52(3) and 58(2) - Reduction of Disability Award/Death Benefit

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periodic basis, by either the actuarial compensatory amount or the full amount of the death benefit, whichever is less.

58(2) *The present value of an additional amount paid on a periodic basis*

(a) if the payor of that additional amount has calculated its present value, is that amount; or

(b) if the payor has not calculated the present value, shall be calculated in accordance with the formula set out in paragraph 54(2)(b).

B. **POLICY**

1. For purposes of this policy, an "additional amount" means a non-economic loss payment that is paid or payable from a source listed in subsection 53(2) of the *Regulations* in respect of a disability for which a disability award is payable or a death for which a death benefit is payable.
2. The *Act* only provides for the reduction of a disability award/death benefit if an additional amount is paid or payable before the disability award/death benefit has been disbursed. Therefore, at the time of application (i.e. for disability award, increase in disability award or death benefit), the applicant must report whether they have received an additional amount with respect to the same disability or death for which the application is being made.
3. In cases where an additional amount is paid or payable after the disability award/death benefit has been disbursed, the additional amount can only be offset against a future payment of disability award/death benefit in respect of the same disability or death.
4. The Service Income Security Insurance Plan (SISIP) and the General

ARTICLE 52(3) and 58(2) - Reduction of Disability Award/Death Benefit

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Officers Insurance Plan (GOIP) are not considered one of the sources listed in subsection 53(2) of the *Regulations*. Therefore, a disability award/death benefit is not to be reduced by an additional amount paid or payable under one of these plans.

C. CROSS-REFERENCES:

N/A

ARTICLE 53 - WHEN AWARD PAYABLE

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A. LEGISLATION

Section 53 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

A disability award under section 45, 47 or 48 becomes payable whenever, in the opinion of the Minister, the disability has stabilized.

B. POLICY

1. Medical Stability

For pension purposes, a disability is considered to be medically stabilized when it is unlikely to change substantially in the next 12 months, with or without medical treatment. Over time there may be some change, however, no further recovery is anticipated. When the prognosis is for early improvement, as after remedial surgery, the Department will determine when the condition is considered to be stabilized for assessment purposes.

2. Assessments - General

The assessment of a disabling condition is made following the award of a new disability award or in response to an application or request for the reassessment of a disability award. According to section 53 of the *CFMVRC Act*, the assessment request is granted when the condition is considered to be stabilized. This will be the date of the assessment decision. According to section 51 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, the assessment determination is established in accordance with the Table of Disabilities, a legislated/statutory instrument used to assess the extent of disability award.

(a) New disability award:

ARTICLE 53 - WHEN AWARD PAYABLE

New 2006-04	Page: 2 of 3
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(i) an assessment will be awarded on all new favourable entitlement decisions, if the medical information submitted with the disability award application provides sufficient clinical examination findings to establish an assessment determination.

(ii) in cases where the medical information provided with the disability award application is insufficient to establish an assessment determination, i.e. where a condition is clearly unstable and/or the disability is almost certain to change within a short period of time; (e.g. there is a dramatic change in the condition within a short period of time; recent or anticipated surgery; or undergoing treatment', the Department will award an “**entitlement only decision**”. The client will be advised in the entitlement decision letter that the Department requires additional medical information to establish an assessment determination for the disability award. In cases where the required clinical information is not available from the treating clinician, a medical examination will be arranged by the Department.

3. Establishing Effective Dates

According to section 53 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* the effective date of disability award under sections 45, 47 or 48 becomes payable whenever, in the opinion of the Minister, the disability has stabilized. This will be the date of the assessment decision.

4. Redress

A client who is not satisfied with an assessment decision may either

(a) apply to the Department for a review of the assessment decision subject to the presentation of new evidence

Departmental review based on new evidence - in cases where new evidence which pertains to the applicant's condition at the time of the original assessment has been provided and results

ARTICLE 53 - WHEN AWARD PAYABLE

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in an increase in assessment, the effective date of the **increase** in assessment will be the date of the current decision.

(b) apply to the Veterans Review and Appeal Board to review the decision.

In any proceeding before the Board, the applicant may represent themselves or may be represented by the Bureau of Pensions Advocates, a service bureau of a Veterans' organization, or at the applicant's own expense, by any other representative of the applicant's choice.

If the applicant is not satisfied with the Review Panel's decision, the applicant may apply to the VRAB for a review of this decision by an Appeal Panel.

B. CROSS-REFERENCES:

Section 45 of the *CFMVRC Act*

Section 47 of the *CFMVRC Act*

Article 48 - Increase in extent of disability

Article 84 - Review of Decisions

Section 85 of the *CFMVRC Act*

Section 51 of the *CFMVRC Act*

ARTICLE 55 and 59 - Division of Disability Award/Death Benefit

New 2006-04

Page: 1 of 4

A. LEGISLATION

Sections 55 and 59 of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* read as follows:

55. *If a disability award is payable to a survivor or a person who was, at the time of a member's or veteran's death, a dependent child, the following rules apply:*

(a) if there is a survivor but no person who was a dependent child, the survivor is entitled to 100% of the disability award;

(b) if there is a survivor and one or more persons who were dependent children,

(i) the survivor is entitled to 50% of the disability award, and

(ii) the persons who were dependent children are entitled, as a class, to 50% of the disability award, divided equally among them; and

(c) if there are one or more persons who were dependent children but no survivor, each of those children is entitled to the amount obtained by dividing the disability award by the number of those dependent children.

59. *If a death benefit is payable to a survivor or a person who was, at the time of a member's death, a dependent child, the following rules apply:*

(a) if there is a survivor but no person who was a dependent child, the survivor is entitled to 100% of the death benefit;

(b) if there is a survivor and one or more persons who were dependent children,

ARTICLE 55 and 59 - Division of Disability Award/Death Benefit

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*(i) the survivor is entitled to 50% of the death benefit, and
(ii) the persons who were dependent children are entitled, as a class, to 50% of the death 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 is entitled to the amount obtained by dividing the death benefit by the number of those dependent children.

B. POLICY

1. Definition of survivor and dependent child

See Article 2(1) Section 1 - Definition of survivor, and Article 2(1) Section 2 - Definition of dependent child.

2. Identity of survivor and dependent children

- (a) At the time a survivor applies for a disability award or death benefit, the survivor must provide information concerning his/her identity as well as the identity of any dependent children.
- (b) At the time a dependent child applies for a disability award or death benefit, the dependent child must provide information concerning his/her identity as well as the identity of any other dependent child(ren), and the identity of any known survivor.
- (c) At the time of application, the survivor or dependent child must sign a declaration, incorporated into the application, attesting to the truth of the contents and that there are no other known beneficiaries.

ARTICLE 55 and 59 - Division of Disability Award/Death Benefit

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3. Dependent children under the age of 18

(a) The amount payable to these children should be paid separately from the amount paid to the survivor for his/her portion of the disability award or death benefit.

(b) Separate cheques may be issued for each child or one cheque may be issued for all the children. The cheque(s) should be made payable to the "parent or guardian 'in trust' for the child(ren)".

(c) Where there is more than one family involved, it will be important to ascertain the parent/guardian of the child to whom the money will be sent in trust on behalf of the child as this individual will not always be the survivor. For example, where the Veteran was married twice and has dependent children under 18 from both marriages, one cheque would be made payable to the parent/guardian of the children from the first marriage and a separate cheque would be made payable to the parent/guardian of children from the second marriage.

4. Dependent children over the age of 18

Separate/individual cheques should be issued directly to each of these children.

5. Missed beneficiaries

Cases where a survivor or dependent child come forward after the payment of disability award or death benefit has been disbursed should be rare, and will be dealt with on a case-by-case basis. The issue of liability would be dependent on the facts of each case and the reason the beneficiary was missed, e.g. applicant failed to advise the Department (intentionally or otherwise), administrative error, etc.

ARTICLE 55 and 59 - Division of Disability Award/Death Benefit

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C. CROSS-REFERENCES

- Article 2(1) - Definition of survivor
- Article 2(1) - Definition of dependent child

ARTICLE 57 - Death of member within 30 days (death benefit)

New 2006-04

Page: 1 of 2

A. LEGISLATION

Section 57 of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* reads as follows:

57(1) *The Minister may, on application, pay, in accordance with section 59, a death benefit to a member's survivor or a person who was, at the time of the member's death, a dependent child if*

- (a) the member dies as a result of a service-related injury or disease; and*
- (b) the member's death occurs within 30 days after the day on which the injury occurred or the disease was contracted.*

57(2) *The Minister may, on application, pay, in accordance with section 59, a death benefit to a member's survivor or a person who was, at the time of the member's death, a dependent child if*

- (a) the member dies as a result of a non service- related injury or disease that was aggravated by service; and*
- (b) the member's death occurs within 30 days after the day on which the injury or disease was aggravated.*

B. POLICY

1. General

- (a) If a member's death occurred prior to the implementation of the *CFMVRC Act*, any claim related to that death must be pursued under the *Pension Act*.
- (b) If a member's death occurred after the implementation of the *CFMVRC Act*, an application for death benefit may be made under that Act.
- (c) A death benefit is paid over and above any benefits paid or

ARTICLE 57 - Death of member within 30 days (death benefit)

New 2006-04

Page: 2 of 2

payable under the *Pension Act* and/or the *CFMVRC Act*.

- (d) If a death benefit is paid in respect of a member's death, a disability award will not be paid for the same condition for which a death benefit has been paid.
- (e) A death benefit is not payable in cases where a member dies suddenly of a condition for which a disability pension was paid or is payable under the *Pension Act*.

2. Eligible applicants

Only a survivor and/or dependent child, as defined in subsection 2(1) of the *CFMVRC Act*, may apply for a death benefit; estates are not eligible to apply for a death benefit.

3. Application process

According to section 55 of the *CFMVRC Regulations*, an application for a death benefit shall include medical reports or other records that document the member's injury or disease, diagnosis and cause of death.

4. Survivor/dependent child of two or more members

A survivor and/or dependent child may receive a death benefit under the *CFMVRC Act* in respect of the death of more than one member.

C. CROSS-REFERENCES

- Article 2(1) Section 1 - Definition of survivor
- Article 2(2) Section 2 - Definition of dependent child
- Article 49 and 50 - Death of member or Veteran > 30 days
- Article 55 and 59 - Division of award

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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A. LEGISLATION

1. Section 60 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

(1) The Minister may, on application, pay to a member or a Veteran who has received a disability award on account of an amputation of their leg at or above a Symes' amputation a clothing allowance in respect of each such amputation that causes wear and tear of clothing.

(2) The Minister may, on application, pay to a member or a Veteran who has received a disability award on account of an amputation of the arm at or above the wrist a clothing allowance in respect of each such amputation that causes wear and tear of clothing.

(3) If a member or a Veteran has received a disability award on account of two amputations of a kind described in subsection (1) or (2), the Minister may, on application, in addition to the allowances that may be payable under that subsection, pay a clothing allowance in respect of the second amputation equal to 50% of the allowance payable in respect of that amputation.

(4) If a member or a Veteran has received a disability award for a disability other than a disability described in subsection (1) or (2) that causes wear and tear of clothing, the Minister may, on application, pay a clothing allowance.

(5) If a member or a Veteran has received a disability award for a disability that requires the wearing of specially made apparel, the Minister may, on application, in addition to any other allowance that may be payable under this section, pay a clothing allowance on account of the purchase of the apparel.

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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2. Section 61 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

Subject to subsection 60(3), the Minister shall determine the amount of each clothing allowance that may be paid to a member or a Veteran in a year, which shall not be greater than the amount set out in column 2 of item 4 of Schedule 2.

3. Section 62 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

The clothing allowance under subsections 60(1) to (5) begins to be payable on the later of

- (a) the day on which the application for the allowance was made, and
- (b) the day that is one year prior to the day on which the payment of the allowance is approved.

B. POLICY

1. Application

a) Requirement to make application:

- (i) According to section 60 of the *CFMVRC Act*, a member or Veteran is required to make an application for a clothing allowance.
- (ii) A member or Veteran may contact VAC to make application for Clothing Allowance (including by facsimile or a telephone call followed by a signed application); the date of this contact will constitute the "date of application." If the application is being prepared by a representative, the date the application is received or date stamped by the Department will constitute the "date of application."

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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b) Who may apply:

A member or Veteran who has a disability award which results in:

- i) wear and tear on clothing because of amputation; or
- ii) the requirement to wear an appliance or specially-made wearing apparel; or
- iii) soiling of clothing, may apply for a Clothing Allowance.

c) Death of member or Veteran who has made application:

According to section 60 of the *CFMVRC Act*, the clothing allowance is only payable to a member or a Veteran. Where a member or a Veteran who has applied for Clothing Allowance dies before such allowance is awarded to him/her, the application shall be discontinued. It will not be payable to the estate.

d) Death of member or Veteran who has not made application:

Subsection 50(1) of the *CFMVRC Act* does not provide for the dependants of a member or a Veteran, who has died without having applied for Clothing Allowance, to apply for such allowance.

2. Adjudication

a) General:

A claim for Clothing Allowance is adjudicated under subsections 60(1 - 5) of the *CFMVRC Act*. The guidelines used in the determination of an award of Clothing Allowance can be found in the Table of Disabilities, Chapter 6.

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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b) Wear and Tear of Clothing on Account of Amputation(s):

The amount to be paid for wear and tear of clothing on account of amputation(s) can be found in Chapter 6 of the Table of Disabilities. The grade for a single amputation has been established at Grade 4 while the grade for a double amputation has been established at Grade 3.

c) Specially Made Wearing Apparel:

(i) Subsection 60(5) provides for an award for the purchase of specially made apparel related to the member's or Veteran's disability award, in addition to any other allowance to which the member or Veteran is entitled under section 60. The grade for this Clothing Allowance has been established at Grade 4 rates.

(ii) An allowance may be authorized under subsection 60(5) if the requirement is for specially made wearing apparel and not merely for minor alterations to a ready-made or factory product.

d) Clothing Allowance for Soiling:

There are various disabilities which may result in soiling of clothing, as examples, a member or Veteran may suffer from faecal incontinence, or he/she may be required to use certain ointments which soil clothing. Although subsections 60(1-5) of the *CFMVRC Act* do not make specific provisions for soiling, a Clothing Allowance may be granted under **subsection 60(4)** if the soiling arises from a disability award condition, or its treatment; the **maximum** amount was established at Grade 5 rates to provide a reasonable amount in keeping with current cleaning costs and also to provide a rate that will be adjusted automatically each year in accordance with the Consumer Price Index. In cases where the member's or Veteran's disability award condition causes excessive soiling of bedding, the

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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expenses related to the purchase and cleaning of bedding may be taken into consideration when determining the rate, i.e. between Grades 10 and 5, of Clothing Allowance awarded.

e) More Than One Clothing Allowance May be Payable:

In the case of multiple disability award conditions which warrant an award of Clothing Allowance, if wear and tear affects the same article of clothing, then one award shall be payable. In cases where multiple disability award conditions result in: wear and tear on more than one article of clothing; the need for an appliance; or the need for an allowance for soiling, then two or more awards of Clothing Allowance may be awarded.

f) Discretion for Special Cases:

In cases where the member or the Veteran has applied for Clothing Allowance (for a purpose other than for wear and tear) with respect to a medical condition (e.g. Reynaud's Disease) which requires the member or the Veteran to purchase additional clothing for warmth, or in any other cases where the member or Veteran is required to purchase specific types of clothing (e.g. burn victims) to accommodate their disability award condition(s), the adjudicator should examine all the circumstances of each case and use discretion in determining whether or not an award of Clothing Allowance under subsection 60(4) is warranted.

g) Discontinuation of Clothing Allowance:

Clothing Allowance granted because of wear and tear of clothing caused by the wearing of a brace or other appliance may be discontinued when the member or Veteran ceases to use the brace or appliance. Similarly, when the member or Veteran no longer requires specially made wearing apparel or

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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does not use it, or if the circumstances leading to the award of Clothing Allowance for soiling no longer exist, the award may be discontinued effective the date of the next monthly payment.

3. Reapplications

A member or Veteran applying for a Clothing Allowance, whose claim is denied on the basis that the eligibility criteria has not been met, may reapply to the Department when that criteria has changed.

4. Redress Options

a) Review of Departmental Decision:

A member or Veteran who has new evidence to present in support of his/her claim may request a review of the Department's decision.

b) Appeal of Departmental Decision:

A member or Veteran who is dissatisfied with the Department's decision, i.e. criteria has not changed and there is no new evidence to present, may appeal it before a Review Panel of the Veterans Review and Appeal Board.

5. Effective Date

a) General:

The effective date of a Clothing Allowance award shall not pre-date **the date of the decision** awarding the disability award 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.

b) First application and Reapplications:

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

New: 2006-04

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- (I) An award of Clothing Allowance may be payable on the later of
- the date which an application is made to the Department (including by facsimile or a telephone call followed by a signed application) by the member or Veteran or
 - the day that is one year prior to the day on which the payment of the allowance is approved.

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.

Consider the following example:

A member applies for a clothing allowance on April 15, 2006. Member encounters numerous delays in obtaining the necessary reports, i.e. hospitalization, unavailable for scheduled area counsellor visits, etc. As a result of these delays, the clothing allowance is approved on June 2, 2007. As per subsection 62(b) of the *CFMVRC Act*, the allowance can only become payable effective June 2, 2006.

- (ii) If a favourable decision is reached based on a reapplication for Clothing Allowance, the effective date of the award would be the date the reapplication was received by the Department.

c) Departmental Review:

If, following a review of the Department's decision, a favourable decision is reached, the award of Clothing Allowance shall be made payable from the day on which the application, or Reapplications, was first made.

ARTICLE 60, 61 and 62 - CLOTHING ALLOWANCE

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d) Reassessment resulting in increase:

The effective date of an increase in Clothing Allowance will be the date the member or Veteran, or the member's or Veteran's representative, applies to the Department for a reassessment, or the day that is one year prior to the day on which the reassessment is approved, whichever is the later date. (This application may be made by facsimile or a telephone call followed by a signed application). 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.

e) Decrease/Discontinuation:

In cases where Clothing Allowance is decreased or discontinued, the payment shall be decreased or discontinued effective the date of next monthly payment.

6. Termination upon Death of Member or Veteran

Clothing Allowance ceases to be payable on the first day of the month following the member's or Veteran's death.

Articles 64 and 65 Detention Benefit

New: 2006-01

Page: 1 of 6

A. LEGISLATION

Canadian Forces Members and Veterans Re-establishment and Compensation Act, section 64.

64. (1) Subject to subsection (5), the Minister may, on application, pay a detention benefit to a member or a veteran, who, while serving with the Canadian Forces, was detained by a power, for the period spent in detention.
- (2) In this section, “power” means
- (a) an enemy or opposing force of Canada;
 - (b) a person or a group that has as one of its purposes or activities the facilitating or carrying out of a terrorist activity; and
 - (c) any prescribed entity.
- (3) For the purposes of subsection (1), the period spent in detention includes the period during which the member or veteran was engaged in evading capture by, or in escaping from, any power.
- (4) The Governor in Council may make regulations prescribing the amount of the detention benefit.
- (5) No detention benefit is payable under this section in respect of a period spent in detention if the period began before the coming into force of this section.

Articles 64 and 65 Detention Benefit

New: 2006-01

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65. (1) If a member or a veteran who would have been entitled to a detention benefit under section 64 dies before they have applied for the benefit, the Minister may, on application, pay to their testamentary estate or testamentary succession the detention benefit to which the member or veteran, had they lived, would have been entitled under that section.
65. (2) If a member or a veteran who has made an application for a detention benefit under section 64 dies before the Minister has made a decision in respect of the application, the Minister may pay to their testamentary estate or testamentary succession the detention benefit to which the member or veteran, had they lived, would have been entitled under that section.
- (3) The testamentary estate or testamentary succession has, in respect of the application referred to in subsection (2), all of the rights that the member would have had had they lived.

B. REGULATIONS

Canadian Forces Members and Veterans Re-establishment and Compensation Regulations

Detention Benefit

- 60.** An application for a detention benefit by the testamentary estate or testamentary succession of a deceased member or veteran must include
- (a) a copy of the death certificate of the member or veteran;
 - (b) a copy of the last will and testament of the member or veteran; and
 - (c) a copy of the letters probate or other applicable documentation demonstrating the appointment of an executor.

Articles 64 and 65 Detention Benefit

New: 2006-01

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61. A detention benefit shall be paid as a lump sum in an amount equal to the amount set out in column 3 of schedule 3 to the Act, as adjusted in accordance with section 63, for each of the following classes set out in column 1 of that Schedule, which classes correspond to the following periods of detention:
- (a) class 20 in respect of period of detention totalling at least 30 days or longer but not more than 88 days;
 - (b) class 19 in respect of periods of detention totalling at least 89 days but not more than 545 days;
 - (c) class 18 in respect of periods of detention totalling at least 546 days but not more than 910 days;
 - (d) class 15 in respect of periods of detention totalling at least 911 days but not more than 1,275 days;
 - (e) class 14 in respect of periods of detention totalling at least 1,276 days but not more than 1,641 days; and
 - (f) class 13 in respect of periods of detention totalling at least 1,642 days.

B. POLICY

1. **General**

- (a) The Detention Benefit will recognize and compensate for the non-economic effects arising from the period of time the member or Veteran was detained by an enemy, opposing force or criminal element, was engaged in evading capture, or escaped from such a power.

Articles 64 and 65 Detention Benefit

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- (b) The legislation has been written to allow the Government of Canada to be flexible in addressing detention situations which may occur to Canadian Forces members in the future, and which cannot be pre-defined by geography or designation of an enemy.
- (c) The amount of lump sum compensation payable will be based on the duration of detention, which is comparable to Prisoner of War (POW) Compensation under the *Pension Act*.
- (d) A detention benefit may be paid over and above the 100% limit for disability awards and/or disability pensions, as prescribed in sections 52 and 54 of the CFMVRC Act.
- (e) The benefit may be payable to the member's or Veteran's testamentary estate where he/she is eligible, but dies before making an application or before a decision is made in respect of the Veteran's or member's application.
- (f) The amount of the detention benefit will be adjusted annually on January 1st, in accordance with section 63 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*.

2. Eligibility and Definitions

- (a) Subsection 64(1) establishes eligibility for a detention benefit where a member of the Forces was detained by an enemy power.
- (b) Subsection 64(2) defines a "power" as an enemy, opposing force, or terrorist group. This subsection also provides the flexibility to expand this definition to included other entities to be prescribed by regulations at a later date.

Articles 64 and 65 Detention Benefit

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- (c) An evader, for the purposes of this policy, is defined as a Canadian Forces member or former member who was officially reported missing in enemy or enemy occupied territory, or in circumstances controlled by an enemy power, and evaded capture for at least 30 days.
- (d) The reference to “testamentary estate” and “testamentary succession” (province of Quebec) in section 65 of the Act and section 15 of the regulations means that a person who was detained, and who is now deceased, must have had a last will and testament when he died, in order for the Department to pay benefits to the representative of the estate. If that person died “intestate” (without a valid will), then the Department cannot pay benefits.

3. Service Verification

Service documentation is required to substantiate any applications for a detention benefit award, in a similar manner as claims for POW compensation under the *Pension Act*.

4. Claims Status / Entitlement on Canadian Forces' POWs:

- (a) As of January 1, 2006, there have been no successful Prisoner of War applications from members or Veterans who served after the *Korean War*.
- (b) Nevertheless, paragraph 71.1 (c) of the *Pension Act* allows for POW compensation to be awarded to a “prisoner of another power” who “served in the naval, army or air forces of Canada during military operations subsequent to World War I or World War II and who, while so serving, was a prisoner of war of any power or was engaged in evading capture by or in escaping from any power”.

Articles 64 and 65 Detention Benefit

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- (c) If a Canadian Forces member were incarcerated by an enemy power, for a minimum period of 30 days, prior to the coming into force date of the CFMVRC Act, compensation would be awarded under the *Pension Act*.

C. CROSS REFERENCES

Business Process for Detention Benefit

Disability Award Policy Manual, articles 76(2) and 76(3), Consideration of Applications

Pension Act, Part III.1, sections 71.1 to 71.5 inclusive

Pension Policy Manual, article 71.2(1) - Prisoner of War (POW)

ARTICLE 73, 74 and 75 - MEDICAL FEES

New: 2006-04

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A. LEGISLATION:

1. Sections 73, 74 and 75 of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* read as follows:

73. The Minister may require a person who applies for rehabilitation services or compensation under this Act to undergo a medical examination or an assessment by a person specified by the Minister.

74 (1) The Minister may pay to a person who undergoes the medical examination or the assessment a reasonable amount for their travel and living expenses incurred by reason of the medical examination or the assessment.

(2) The Governor in Council may make regulations respecting the payment of those expenses.

75. A person who, at the request of the Minister, conducts a medical examination or performs an assessment for the purposes of this Act is entitled to be paid the fee that may be fixed by the Minister.

2. Sections 66 and 67 of the *CFMVRC Regulations* read as follows:

66 (1) *For the purpose of subsection 74(1) of the Act, the Minister shall pay the costs of meals, transportation and accommodations in accordance with the rates set out in the Treasury Board Travel Directive, as amended from time to time, subject to the following conditions:*

(a) if the means of transportation is a taxi, \$5.00 shall be deducted from the cost of each trip unless the person's mobility or cognition is severely impaired or the deduction would severely impede the person's ability to access the medical examination or assessment; and

ARTICLE 73, 74 and 75 - MEDICAL FEES

New: 2006-04

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(b) if the means of transportation is an automobile other than a taxi, the costs of transportation are payable at the rate applicable to employees of the public service of Canada who have requested use of their own automobile plus 2 cents per kilometre and shall include the costs of parking.

(2) If a person undergoes a medical examination or an assessment in a country other than Canada, the payment of the expenses shall be made at the same rate and subject to the same conditions as the rates and conditions that are established for former members of the armed forces of that country for similar costs, or, if no such rates are established, at the rates that would be payable if the person were resident in Canada.

67. A claim for reimbursement shall be made in writing within one year after the day on which the expenditure is incurred and must include proof of the expenditures.

B. POLICY:

I - When are medical examinations required by the Minister?

1. Disability Award Applications:

Individuals who apply for a disability award from Veterans Affairs Canada (VAC) will be required by VAC to undergo a medical examination by a qualified medical practitioner and/or testing by other qualified health professionals to establish current medical diagnoses and to provide up-to-date clinical information on their health status. For the purposes of this examination, VAC Medical Questionnaire forms, which have been developed on the basis of body system / body system subsections, will be used for the collection and reporting of required information.

ARTICLE 73, 74 and 75 - MEDICAL FEES

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With the exception of RCMP members, costs incurred for the examination or testing and costs related to travel and living expenses will be reimbursed by VAC. **Travel costs will be paid in accordance with sections 66 and 67 of the CFMVRC Regulations.** The reimbursement of such costs to RCMP members, both still serving and released, is the responsibility of the RCMP Compensation Branch.

2. Reassessment of Disability Award:

VAC clients who undergo reassessment of a disability award condition are required to be medically examined by a qualified medical practitioner and/or tested by other qualified health professionals to obtain necessary up-to-date medical information for assessment purposes. With the exception of RCMP members, when the examination is completed by a non-Departmental physician, costs incurred for the examination will be reimbursed by VAC. **Costs associated with travel and living expenses will be paid in accordance with sections 66 and 67 of the CFMVRC Regulations.** The reimbursement of such costs to RCMP members, both still serving and released, is the responsibility of the RCMP Compensation Branch.

3. Posthumous Claims:

Survivors who apply for a disability award posthumously or request a reassessment of a pensioned condition posthumously are required to submit medical reports based on the information on the deceased member's medical file. Costs incurred for the medical file review and report completion will be reimbursed by VAC in accordance with this policy.

4. VAC recognizes that the above noted medical reports are required by the Department to support departmental functions, and thus, the \$25,000 income eligibility limit no longer exists. In accordance with

ARTICLE 73, 74 and 75 - MEDICAL FEES

New: 2006-04

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this policy, medical fees will be reimbursed to clients and applicants, including survivors irrespective of yearly income.

II - Providers

5. In accordance with the policy: "Article 45(1) - Establishment of a Disability", diagnostic medical reports may be requested from qualified medical practitioners such as general practitioners and medical specialists and in some cases, other health care professionals (such as registered psychologists, optometrists and clinical audiologists) provided they are duly authorized under federal or provincial statute to diagnose conditions in their area of expertise and registered in good standing with a professional body which governs the licensing and accreditation of their particular profession.

III - Process

6. When a medical examination and/or testing is requested by the Department, both the specific testing and/or the examination requirements in addition to the reporting expectations will be clearly articulated **in writing** to the qualified medical practitioner or other qualified health professional providing the report. This is to prevent billing of unnecessary services.

IV - Payment of Fees

7. Pursuant to the provisions outlined in this policy, VAC will reimburse an applicant or provider at a rate of up to \$125.00 per completed VAC medical questionnaire form in support of a disability award application.
8. Medical examinations which have been provided in support of reassessment applications will be reimbursed at a reasonable rate in accordance with the provincially recommended fee for uninsured third party requests.

ARTICLE 73, 74 and 75 - MEDICAL FEES

New: 2006-04

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9. Costs incurred for any testing which is a provincially insured service i.e. pulmonary function studies, x-rays, audiograms will be reimbursed in accordance with the provincial rate for the insured service.
10. In exceptional cases where a specialist report has been requested, a reasonable fee may be considered based on the content of the report and in accordance with the recommended provincial fee guide. District Directors, in consultation with Senior District Medical Officers and Regional Medical Officers, may determine what is a “reasonable fee”.
11. Medical fees associated with examination and/or testing which has not been requested by the Department, or which is in excess of the services which VAC has requested will not be reimbursed as billed. VAC will reimburse medical fees in accordance with this policy and any charge above this rate will be the responsibility of the applicant and/or client.

V - Other

12. Independent Medical Examiner’s Reports and Medical-Legal Reports:

The Department does not generally require an *Independent Medical Examiner’s Report* or a *Medical -Legal Report* to support the departmental adjudication and assessment functions. If, however, reports of this nature are ever required by VAC, the report will be requested from the qualified medical practitioners and/or the other health care professional and the associated medical fee will be reimbursed. If VAC has not made the request for such reports, any associated billing will not be reimbursed.

ARTICLE 73, 74 and 75 - MEDICAL FEES

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C. CROSS REFERENCES

Article 45(1) - Establishment of a Disability

Prepared by: Sue Dickey
Program Policy Directorate
Date: January 31, 2006

DRAFT

ARTICLE 76(1) - APPLICATION TO THE MINISTER

New: 2006-02

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A. LEGISLATION

1. Subsection 76(1) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

An application for job placement assistance services, rehabilitation services, vocational assistance or compensation under this Act shall be made to the Minister in the form directed by the Minister and shall include any information that is required by the regulations to accompany the application.

2. Sections 48, 49, 55 and 60 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* read as follows:

48. *An application for compensation under Part 3 of the Act shall be made in writing and shall include*

(a) a declaration attesting to the truth of the information provided; and

(b) at the request of the Minister, any information that is necessary to enable the Minister to determine whether an applicant is eligible for compensation under that Part and the amount of that compensation.

49. *An application for a disability award shall include*

(a) medical reports or other records that document the member's or veteran's injury, disease, diagnosis, disability, increase in extent of disability; and

(b) in the case of an application by a survivor or a dependant 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.

ARTICLE 76(1) - APPLICATION TO THE MINISTER

New: 2006-02

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55. An application for a death benefit by a survivor or a dependent child shall include medical reports or other records that document the member's injury, disease, diagnosis and cause of death.

60. An application for a detention benefit by the testamentary estate or testamentary succession of a deceased member or veteran must include

(a) a copy of the death certificate of the member or veteran;

*(b) a copy of the last will and testament of the member or veteran;
and*

(c) a copy of the letters probate or other applicable documentation demonstrating the appointment of an executor.

B. POLICY

1. General

(a) This policy applies only to applications for compensation under Part 3 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (referred to in this policy as "the Act"). "Applications for compensation" include applications for disability awards, death benefits, clothing allowance and detention benefits. Applications for job placement assistance services, rehabilitation services and vocational assistance will be addressed elsewhere.

(b) "Application" should be viewed first and foremost as a process, rather than simply as the submission of a single form. Submission of the application form, although an important first step, is only one stage in the overall process of completing the applicant's claim to compensation under Part 3 of the Act.

2. The Application Process

ARTICLE 76(1) - APPLICATION TO THE MINISTER

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The initial date of contact with the Department is not, as it is in the case of the *Pension Act*, applicable in the case of applications for compensation under Part 3 of the Act, given that the effective date of the award will always be the date of the decision. However, the initial date of contact should be recorded, in the event that a decision is taken that the application should be considered under the *Pension Act*.

The process of applying for compensation under Part 3 of the Act consists of (a) submission of the required application form signed by the applicant or the applicant's legal representative, and (b) provision of supporting documentation. A duly made application may be said to have been submitted once these two stages have been completed to the satisfaction of the Department.

For the purposes of this policy, "legal representative" includes individuals appointed as attorney or committee by way of a power of attorney or court order, or alternatively, the Public Trustee. The individual must be qualified as a legal representative according to established legal standards, including applicable legislation.

If a Veteran or member whose affairs are being administered by the Department or a third party administrator appointed under the *Pension Act* wishes to apply for compensation under the *CFMVRC Act*, the administrator must be the individual's legal representative before he/she can make an application on the Veteran's or member's behalf under the *CFMVRC Act*.

(a) Submission of the Application Form

The main application form currently in use by the Department to apply for a disability award is the (form currently in development). The applicant, or the applicant's legal representative, is required to submit the required application form, and should be advised that it is in their interest to complete the form as fully as possible. An

ARTICLE 76(1) - APPLICATION TO THE MINISTER

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application process is not considered to have formally commenced until the signed application form is received by the Department, within deadlines specified by Departmental policy.

Although a letter is typically signed and may contain basic information (tombstone data and claimed disability and date), it does not include the declaration required by the *Regulations*. As such, letters may be acceptable in lieu of an application form if they are accompanied by a signed affidavit or declaration attesting to the truth of the information provided. In view of this requirement, a completed Departmental application form is the preferred approach and should be submitted soon after the letter.

By submitting the application form within the time line established under Article 76(2) & (3), the applicant demonstrates a commitment to carry forward their claim for compensation and attests to the truthfulness and accuracy of the information provided. In return, the Department can, if requested by the applicant, provide reasonable assistance in order to complete the application process.

The applicant or the applicant's legal representative may deliver the application form to the Department in person, by mail or fax (a faxed application must be followed by the original signed application).

i. Requirement for Applicant to Sign Application

Section 48(a) of the *Regulations* provide that an application for compensation under Part 3 of the *Act* shall be made in writing and include a declaration attesting to the truth of the information provided. From a policy perspective, all applications for compensation under Part 3 of the *Act* must be signed by the applicant in order to be considered a valid application under the *Act*.

In circumstances where the applicant signs the application with an "X", the issue may be whether or not they understood the nature and

ARTICLE 76(1) - APPLICATION TO THE MINISTER

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effect/contents of the document that they were signing. Consequently, their signature should be witnessed in writing, and the Department should be satisfied that the applicant appeared to understand the contents of the application.

An application may not be signed by a Departmental employee on behalf of the applicant.

ii. Exceptions to Client's Signature

Signature by a Legal Representative

Based on the circumstances of a particular case, the requirement for a client to sign the application may not always be reasonable. Where this is the case, the Department requires signature by a duly appointed legal representative¹.

For applicants who are incapable of signing and who do not have a legal representative, counselling as to the forms of representation that may be available (power of attorney, etc.) should be provided.

(b) Supporting Documentation

“Supporting documentation” is documentation which is considered essential to a full and proper adjudication of the merits of the member’s claim, which enables the Department to consider the application and satisfy itself as to whether the compensation should be granted or denied.

¹ Where the person signing the application claims to be a legal representative, the criteria found in Article 41(1)(a) of the Pension Policy Manual, the Administered Accounts Procedures and Third Party Administration Staff Guidelines may be of assistance in assessing the validity of the representation. **It should be noted, however, that these documents are cited for reference purposes only. There is no authority under the new Act for the Minister to appoint a third party administrator or to authorize departmental administration.**

ARTICLE 76(1) - APPLICATION TO THE MINISTER

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Supporting documentation includes that specified in the Regulations, as well as any others required by the Minister.

3. Applications for Reassessment

In accordance with Article 48(1), an application (Requirement for new form subject to confirmation) may be made by a member or Veteran under subsection 48(1) of the Act for an increase in the assessment of that condition. Such applications are subject to the requirements of this policy.

C. CROSS REFERENCES

Article 76(2) and 76(3) - Consideration of Applications
Article 48(1) - Increase in Extent of Disability

ARTICLE 76(2) and (3) - CONSIDERATION OF APPLICATIONS

New: 2006-01

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A. LEGISLATION

Subsections 76(2) and (3) of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* read as follows:

76(2) Subject to subsection (3), the Minister shall consider an application without delay after its receipt and, in considering the application, may

(a) investigate the facts stated in the application and any other matter related to the application; and

(b) collect any material and information relevant to the application.

(3) If a time is prescribed for making an application, the Minister shall refuse to consider an application made after that time unless the Minister is of the opinion that the reasons for the delay are reasonable in the circumstances.

B. POLICY

1. General

This policy applies only to applications for compensation under Part 3 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (referred to in this policy as “the Act”).

“Applications for compensation” include applications for disability awards, death benefits, clothing allowance and detention benefits.

2. Entitlement Adjudication

The policy below describes the approach to be taken by the department when there are delays either in receiving a signed application form (section a) or documentation required to support the client’s claim (section b).

ARTICLE 76(2) and (3) - CONSIDERATION OF APPLICATIONS

New: 2006-01

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(a) Delays in receiving signed applications:

Signed application submission deadline: 30 days from date of initial mailout letter.

Upon receipt of a telephone call or other notification regarding a request for compensation, the Department will mail the client an application form for completion and signature.

The accompanying initial mailout letter will state that the application form must be returned within 30 days from the date of the letter, and that if it is not returned, or a reasonable explanation for the delay is not provided within that time period, the application will be considered lapsed (treated as discontinued and no longer in existence).

The Department should emphasize that the application form does not by itself constitute a complete application. Documentation to substantiate the claim may also be required, and without it, the application may be incomplete.

The client or representative should be encouraged to contact the Department as soon as possible in order to discuss any issues relating to the application. It is also important that the Department contact the client when appropriate to discuss the application. Proactive counselling by the Department will enable it to take note of any mitigating circumstances when applying this policy.

If the client has not returned the signed application form or given a reasonable explanation for the delay within the 30 day limit, the application will be considered lapsed. The client should be so notified in writing and advised that the application will be treated as discontinued. In view of the potential consequences of not returning a completed application form or providing a reasonable explanation for the delay, it is essential that the Department ensure that the client receives all appropriate counselling and assistance.

An explanation for the delay which is received after the

ARTICLE 76(2) and (3) - CONSIDERATION OF APPLICATIONS

New: 2006-01

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deadline has passed and which is considered reasonable should normally be given appropriate consideration by the Department.

(b) Delays in obtaining documentation to substantiate claims:

Supporting documentation submission deadline: 90 days from date of initial mailout letter

This section of the policy applies if the Department experiences a delay of two months or more from the date of the initial mailout letter (section a, above) in obtaining documentation necessary to substantiate the claim. If this delay occurs, the Department will, in writing, request the applicant/representative to submit the outstanding documentation, or provide a reasonable explanation for the delay, within 30 days of the date of the second letter (the “documentation letter”).

It is important that the documentation letter remind the client of their responsibilities to provide the materials or other information deemed by the Department relevant to the application. It should state that if the required documentation is not forwarded, or a reasonable explanation for the delay provided within the 30 day time limit, the application will be considered lapsed.

The client should be encouraged to contact the Department as soon as possible in order to discuss any issues relating to the application. It is also important that the Department contact the client when appropriate to discuss the application process. Again, proactive counselling by the Department will make it aware of any exceptional circumstances when applying this policy.

ARTICLE 76(2) and (3) - CONSIDERATION OF APPLICATIONS

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If the documentation or a reasonable explanation for the delay has not been received within the 30 days stipulated, the Department should notify the client in writing that the application is considered as having lapsed.

If the applicant provides a reasonable explanation for the delay in response to the documentation letter, an extension of up to six months from the date of the documentation letter may be granted. If, at the end of the six month period, the missing information has not been provided, the application will be considered to have lapsed.

3. **Application for Reassessment**

In accordance with Article 48(1), an application may be made by a member or Veteran under subsection 48(1) of the Act for an increase in the assessment of that condition.

Given the documentation requirements for a reassessment as articulated in section 49 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, the time lines set out in this policy should be applied to applications for reassessment.

C. **CROSS REFERENCES**

76(1) - Application made to the Minister

48(1) - Increase in extent of disability

ARTICLE 84 - REVIEW OF DECISIONS

New: 2006-04

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WhA. LEGISLATION

1. Section 84 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* reads as follows:

The Minister may, on the Minister's own motion, review a decision under part 3 and may either confirm the decision or amend or rescind it if the Minister determines that there was an error with respect to any finding of fact or the interpretation of the law, or may do so, on application, if new evidence is presented to the Minister.

2. Sections 70, 71 & 72 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* read as follows :

70. (1) An application for a review of a decision made under Part 3 of the Act must be made in writing.
(2) The application must include the grounds for the review.
(3) The review shall be based only on written submissions.

71. If the Minister reviews a decision on the Minister's own motion under section 83 or 84 of the Act, before amending or rescinding the decision, the Minister shall provide the person affected by the decision with an opportunity to respond in writing.

72. The Minister shall notify the applicant in writing of a decision made under section 84 of the Act setting out the reasons for the decision and informing the applicant of their right to have the Minister's decision reviewed by the Board pursuant to section 85 of the Act, and their right to be represented before the Board

(a) free of charge, by the Bureau of Pensions Advocates or by a service bureau of a veterans' organization; or

ARTICLE 84 - REVIEW OF DECISIONS

New: 2006-04

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(b) at the applicant's own expense, by any other representative.

B. POLICY

1. General

Section 84 provides for the **discretionary review** of previous first level decisions made by the Minister¹. The Department **may** review these decisions either on its own motion or on application.

Should the Department choose not to exercise its discretion to review a decision, the applicant may (under the provisions of section 85 of the *CFMVRC Act*) proceed with an appeal to a Review Panel of the Veterans Review and Appeal Board (VRAB).

(Note: The Department and VRAB may not both simultaneously review a first level decision regarding the same condition(s). If such cases occur, the client should be contacted to determine which review method he or she wants to proceed with or withdraw.)

2. Initiating the Process

The Department may initiate a review of a decision **on its own motion**:

- (i) if it determines that there was an error in a finding of fact or in the interpretation of law; or
- (ii) on the basis of new evidence that comes to its attention.

(Note: An alleged error may be brought to the attention of a

¹As the Minister has delegated this authority to departmental officials, future reference will be made to the Department's authority.

ARTICLE 84 - REVIEW OF DECISIONS

New: 2006-04

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departmental adjudicator by any member of the Department.)

In addition, the Department may review a decision **on application**, if new evidence is presented by the applicant. An applicant who requests a review must forward to the Department the new evidence that the applicant is relying on as a basis for the review. This is in accordance with section 70 of the *CFMVRC Regulations*.

3. Criteria for Review

(a) **Error of fact or law:**

"Errors of fact" usually occur where the facts do not support a finding made by the Department.

"Errors of law" include:

- (i) errors in the interpretation of legislation, ie. inappropriately applying or not applying a provision of legislation to a set of circumstances;
- (ii) jurisdictional errors, ie. performing an action which one is not authorized by statute to perform; and
- (iii) errors with respect to the requirements of natural justice and procedural fairness.

(b) **New evidence:**

A change in policy alone shall not be considered "new evidence...presented to the Minister". Normally, "new" evidence will be evidence that is:

- (i) relevant to the applicant's case;

ARTICLE 84 - REVIEW OF DECISIONS

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(ii) information that was not previously submitted to the Department; and

(iii) information that is not merely a restatement of information that was previously presented to the Department.

4. Department's Decision

(a) **Review "on the Department's own motion":**

Where the Department exercises its discretion to review and where the review will result in a favourable or unchanged decision, the Department shall render a new decision that confirms or amends the original decision.

Where the Department exercises its discretion to review, and where the review will result in a reduction or cancellation of a client's benefits, the client, pursuant to section 71 of the *CFMVRC Regulations*, must be notified of the information in the Department's possession and be given an opportunity to state his/her position before benefits are reduced or cancelled.

Consider the following example:

A member received a disability award for Lumbar Disc Disease based on information belonging to another member. The Department, pursuant to section 71 can advise the client of these facts and provide the member with an opportunity to respond. If entitlement for Lumbar Disc Disease is cancelled, an overpayment may be created.

Pursuant to subsection 88(2) of the *CFMVRC Act*, monies paid out as overpayments are taken back by

ARTICLE 84 - REVIEW OF DECISIONS

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Veterans Affairs Canada (VAC) from clients, or their estates, or their succession, or from future payments to clients or their estates, which would have been made under the *CFMVRC Act*, or in some circumstances from other benefits which VAC would normally pay to the client, their estate, or their succession. For additional information on overpayments, please see the policy - Article 88(2) - Recovery of Overpayment.

(b) Applications for review:

The Department may refuse to exercise its discretion to review a previous decision. In this case, the Department shall inform the applicant of his/her right to appeal to the Veterans Review and Appeal Board.

Where the Department exercises its discretion to review a decision based on the request of an applicant, the Department shall render a new decision that confirms, amends or rescinds the original decision. This new decision must provide reasons for the Department's decision and the applicant's appeal rights.

C. CROSS REFERENCES

Subsection 48(1)	Increase in extent of disability
Section 49	Death of member or Veteran
Subsection 50(1)	Death of member or Veteran - no application made
Subsections 50(2)	Death of member or Veteran - application pending
Section 53	When award payable
Section 57	Eligibility - service-related injury or disease

ARTICLE 84 - REVIEW OF DECISIONS

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Section 60	Clothing Allowance
Section 62	When allowance payable
Section 85	Review by Board
Subsection 88(2)	Recovery of overpayments

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Article 88(2) - Recovery of Overpayment

New 2006-04

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A. LEGISLATION

Canadian Forces Members and Veterans Re-establishment and Compensation Act, subsections 88(2)

If, through any cause, an overpayment is paid to a person or their estate or succession, the overpayment is a debt due to Her Majesty by the person or by their estate or succession, and may be recovered.

- (a) by deduction from any future payments made under this Act to the person or to their succession;
- (b) in accordance with section 155 of the *Financial Administration Act*; or
- (c) by proceedings in any court of competent jurisdiction.

B. POLICY

1. Introduction:

- (a) A disability award overpayment occurs when benefits are paid under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRC Act) to a beneficiary who has no entitlement to benefits or when benefits have been paid in excess of entitlement. All overpayments that occur on disability award accounts are considered Crown debts and are to be addressed by recovery, write-off or remission.
- (b) Recovery, in this context, is a process whereby monies paid out as overpayments are taken back by Veterans Affairs Canada (VAC) from clients, or their estates, or their succession, or from future payments to clients or their estates, which would have been made under the CFMVRC Act, or in some circumstances from other benefits which VAC would normally pay to the client, their estate, or their succession.

Article 88(2) - Recovery of Overpayment

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- (c) Recovery is normally the first course of action in the overpayment process. It is considered that the amount due and payable is the entire amount paid in excess of what an individual was entitled to receive. Nevertheless, there may be instances where recovery is not desirable. Cross reference policy 88(3) for Remission of Overpayment.
- (d) Write-off is an accounting action which removes the debt in whole or in part from the active accounts receivable records. Write-off does not mean that the debt is forgiven. Collection of the debt presumably could resume in future, if the prospect of recovery becomes more likely.
- (e) To remit means to forgive an otherwise legally enforceable debt. In this context, it is an act of clemency on the part of the Minister and not a right. Once remission has been approved, the Department gives up its right to recover the overpayment at a later date.
- (f) Regardless of whether an overpayment will be recovered, written-off or remitted, the total amount of the overpayment must be recorded on the client's disability award account as soon after discovery as possible.

2. Recovery From Disability Award Payments:

- (a) Errors on disability award account:

As soon as it is determined that an error has been made on a client's account, payment of any monies due under the CFMVRC Act should be stopped immediately. For example, if a payment has been approved for \$50,000, rather than \$5,000, and the cheque has been issued, staff should try to intercept it. If a lump sum award has already been made, any resulting overpayments must be addressed by recovery, write-off, or remission.

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(b) Notification of clients:

All clients should be advised in writing of the amount of recovery deductions and the future start date. The start date of recoveries should allow time for a client to respond, if they feel that the overpayment recovery will cause hardship or if they wish to make alternate repayment arrangements.

Note:

Please refer to the Business Process for Disability Award Overpayments for detailed instructions on how to recover or set-off overpayments.

(c) Recovery or Set-Off of Overpayments:

- (i) The client should be first given the option of repaying the overpayment in a lump sum; or
- (ii) When there are available disability award monies that have not been paid out, recovery should be made from that source; or
- (iii) In cases where the client has monies due under the *Pension Act*, e.g. retroactive adjustments or a monthly pension, either a voluntary or involuntary method of recovery should be set up to set-off the overpayment; or
- (iv) Where there are no available funds, and the client requests that the overpayment be handled through monthly payments, the recovery rate should allow that the overpayment be paid back in five years, without interest.
- (v) Factors such as the age and financial situation of the client, as well as other government pensions received, should be taken into consideration.

(d) Client dies before overpayment is completely recovered:

In the event of the client's death, the remaining balance of the overpayment becomes recoverable from his/her estate.

(e) Client for asks for remission of overpayment:

Article 88(2) - Recovery of Overpayment

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Cross reference policy on 88(3) - Remission of Overpayment.

3. Set-off from pension adjustment or monthly monies payable under the Pension Act:
 - (a) The Department will normally apply any retroactive pension adjustment, payable under the *Pension Act*, in order to set-off an overpayment with respect to a disability award payment.
 - (b) The Department may also set-off overpayments from monthly disability pensions and allowances. The monthly amount of recovery should not exceed one-half the amount of the monthly pension / allowances to which the client is entitled under the *Pension Act*.
4. Recovery from other benefits received under the CFMVRC Act:
 - (a) Disability award overpayments should not be recovered from any disability award benefits that are based on income, such as Earnings Loss, Supplementary Retirement Benefit, and Income Support Benefit, unless the client requests a voluntary set-off.
 - (b) Disability award overpayments may be recovered from a client's Permanent Impairment Allowance.
5. Other Exceptions for Recovery and Set-off:
 - (a) The Department will not recover or set-off disability award overpayments from special compensation packages made to specific groups, e.g. the ex-gratia payments made to Prisoners of War, ex-gratia payments made to veterans of the Merchant Navy, etc.
 - (b) Funeral and burial grants awarded under the *Veterans Burial Regulations* are based upon the actual funeral and burial expenses as set forth in the invoices. The award is made to reimburse a third party or is paid directly to the appropriate funeral director. The funds

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awarded do not form part of the estate of the deceased. Therefore, they cannot be set-off against an overpayment within the meaning of Section 155 of the *Financial Administration Act*.

6. Overpayments where the client refuses to repay the overpayment and refuses to make arrangements to pay back the debt in installments

These cases should be dealt with in consultation with the Crown Debts section of Finance Division.

7. Overpayments that are Uncollectible:

- (a) The VAC Disability Award Program only recommends write-off. Finance Division has the responsibility for write-off actions. An overpayment may only be written-off in accordance with the *Debt Write-off Regulations* 1994, which lists the criteria under which an overpayment is considered uncollectible and may be written-off. Write-off is an accounting action which removes the debt in whole or in part from the active accounts receivable records in the Public Accounts. Write-off does not mean that the debt is forgiven. Collection of the debt presumably could resume in future if information is received that would appear to make the prospect of recovery likely. Authority for write-off is contained under section 25 of the *Financial Administration Act* (FAA). There is a graduated scheme for authorizing write-off where the level of departmental authority increases with respect to the amount of the debt. These levels are outlined in the Departmental *Financial Policy and Procedures Manual*.

- (b) Fraud Control:

All overpayment cases which involve suspected fraud or wilful misrepresentation should be immediately referred to the Director General, Finance, for appropriate action.

Article 88(2) - Recovery of Overpayment

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8. Review:
- (a) Overpayment recovery decisions rendered under section 88 of the CFMVRC Act, Part 4, are not subject to review under section 84 of this act, or appeal to the Veterans Review and Appeal Board.
 - (b) There are two levels of review for overpayment recovery decisions. The authorities for review would normally be:
 - (i) Chief, Benefits Processing Program
 - (ii) Director, Program Delivery Directorate.
 - (c) The VAC official reviewing the decision should be a different person than the one who made the previous decision. If necessary, the review may be referred to a higher delegated authority, e. g. Director, Program Delivery Directorate.

C. CROSS REFERENCES

Canadian Forces Members and Veterans Re-establishment and Compensation Act, Section 88

Department of Veterans Affairs Act - Section 5.2

CFMVRC Regulations, Section 71

Financial Administration Act

Debt Write-Off Regulations 1984

Departmental Financial Policy and Procedures Manual

Article 88(3) - Remission of Overpayment

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A. LEGISLATION

Canadian Forces Members and Veterans Re-establishment and Compensation Act, subsection 88(3):

If a person or their estate or succession has received or obtained an overpayment, the Minister may, unless that person or the executor of the estate or the liquidator of the succession has been convicted of an offence under the Criminal Code in connection with the receiving or obtaining of the overpayment, remit all or any portion of the overpayment if the Minister is satisfied that

- (a) the overpayment cannot be recovered within the reasonably foreseeable future;
- (b) the administrative costs of recovering the overpayment are likely to equal or exceed the amount to be recovered;
- (c) the repayment of the overpayment would cause undue hardship to the person or a beneficiary; or
- (d) the overpayment is the result of an administrative error, a delay or an oversight on the part of an officer or employee of the federal public administration.

B. POLICY

1. Introduction:

- (a) A disability award overpayment occurs when benefits are paid under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRC Act) to a beneficiary who has no entitlement to benefits or when benefits have been paid in excess of entitlement. All overpayments that occur on disability award accounts are considered Crown debts and are to be addressed by recovery, write-off or remission.

Article 88(3) - Remission of Overpayment

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- (b) Recovery, in this context, is a process whereby monies paid out as overpayments are taken back by Veterans Affairs Canada (VAC) from clients, or their estates, or their succession, or from future payments to clients or their estates, which would have been made under the CFMVRC Act, or in some circumstances set-off from other benefits which VAC would normally pay to the client, their estate, or their succession. Nevertheless, there may be instances where recovery or set-off is not desirable. (For further details about overpayment recovery, please refer to Article 88(2) - Recovery of Overpayment).
- (c) Write-off is an accounting action which removes the debt in whole or in part from the active accounts receivable records. Write-off does not mean that the debt is forgiven. Collection of the debt presumably could resume in future, if the prospect of recovery or set-off becomes more likely.
- (d) To remit means to forgive an otherwise legally enforceable debt. In this context, it is an act of clemency on the part of the Minister and not a right. Once remission has been approved, the Department gives up its right to recover the overpayment at a later date.

2. Administrative Error:

- (a) For the purposes of subsection 83(3), an administrative error is defined as any error that is solely or partially the fault of the Department, and subsequently results in an overpayment situation. For example, errors may occur as a result of:
 - (i) a payment system error; or
 - (ii) a misinterpretation of legislation; or
 - (iii) a misunderstanding of a decision; or
 - (iv) a mistake concerning an effective date; or
 - (v) a procedural error.

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- (b) If an administrative error is not the sole cause of the overpayment, i.e. it is partially the fault of the client, then the Department should try to determine what portion of the error was caused by the Departmental error and what part was caused by the client. In most cases, only the portion of the error that is attributable to the Department should be considered for remission.
 - (c) Regardless of whether an overpayment will be recovered, written-off or remitted, the total amount of the overpayment must be recorded on the client's disability award account as soon after discovery as possible.
3. Factors to consider for remission of overpayment:

Please note:

For the purposes of this section, the overpayment amount is related to one incident or decision and one client.

- (a) Health of the client; i.e. clients who are very ill should be given special consideration;
- (b) Financial situation of the client, based on Financial Report (PEN 1280);
- (c) Other government pensions received; in particular, Old Age Security and Guaranteed Income Supplement;
- (d) Other facts pertinent to the case.

Article 88(3) - Remission of Overpayment

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4. Delegation of Authority:

The following delegated authorities may approve the remittance of overpayments considered under subsection 88(3) of the CFMVRC Act:

Deputy Minister - full

Assistant Deputy Minister, Veterans Services - full

Director General, National Operations Division - full

Director, Program Delivery Directorate - up to \$10,000

Chief, Benefits Processing Program - up to \$7,500

Supervisor, Pension Overpayment and Death Notification - up to \$5,000

Please note:

In order for this Delegation of Authority to be approved, ministerial approval will be sought through Finance.

5. Liaison with Finance:

- (a) Any submissions which purport to remit debts of \$10,000 or higher must be referred to:
 - (i) the Director, Program Delivery, who in turn will make a recommendation to:
 - (ii) the Director General, Finance, who in turn will make a recommendation to:
 - (iii) the Director General, National Operations Division.

- (b) Potential remission cases with dollar amounts lower than \$10,000 may be reviewed by the Financial Policy, Planning and Systems Directorate, if the person preparing the submission has concerns or questions of a financial nature.

Article 88(3) - Remission of Overpayment

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- (c) For all cases considered for remission, whether favourable or unfavourable, a Submission for Remission (VAC 515) should be completed. Normally, at least two of the paragraphs of subsection 83(3) would be cited, as support for recommendation for remission. Documentation about favourable cases should be forwarded to Finance for accounting purposes.
 - (d) All overpayment cases which involve suspected fraud or wilful misrepresentation should be immediately referred to the Director General, Finance, for appropriate action.
6. Review:
- (a) Overpayment recovery decisions rendered under section 88 of the CFMVRC Act, Part 4, are not subject to review under section 84 of this act, or appeal to the Veterans Review and Appeal Board.
 - (b) There are two levels of review for overpayment recovery decisions. The authorities for review would normally be:
 - (i) Chief, Benefits Processing Program
 - (ii) Director, Program Delivery Directorate.
 - (c) The VAC official reviewing the decision should be a different person than the one who made the previous decision. If necessary, the review may be referred to a higher delegated authority, e. g. Director, Program Delivery Directorate.

C. CROSS REFERENCES

Canadian Forces Members and Veterans Re-establishment and Compensation Act, Section 88

Department of Veterans Affairs Act - Section 5.2

Financial Administration Act

Debt Write-Off Regulations 1984

Departmental Financial Policy and Procedures Manual

ARTICLE 94(d) - Payment and reimbursement for financial advice

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A. LEGISLATION

1. Subsection 94(d) of the *Canadian Forces Members and Veterans Re-establishment and Compensation (CFMVRC) Act* reads as follows:

The Governor in Council may make regulations providing for the payment and reimbursement of fees for financial advice.

2. Section 62 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations* reads as follows:

A person who receives a detention benefit or a death benefit, or a disability award equal to or greater than the amount set out in column 3 of Schedule 3 as adjusted in accordance with section 63, which corresponds to class 20 set out in column 1 of that Schedule, is eligible, on application, for the payment or reimbursement of fees for financial advice, to a maximum of \$500, relating to the award or benefit if

a) the financial advice is provided by an arms-length financial adviser that is primarily engaged in the business of providing financial advice; and

(b) the person makes the application within 12 months after the date of the decision and provides an invoice containing the name and business address of the financial advisor and, if applicable, proof of payment.

B. POLICY

1. Philosophy

The Department will recognize and respect the client's right to self-determination and control of his or her financial affairs.

The Department will proactively provide clients with basic information concerning financial information and advice and reactively ensure

ARTICLE 94(d) - Payment and reimbursement for financial advice

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that eligible clients who appear to be at risk of mismanaging their lump sum payment are aware of the Department's reimbursement offer pertaining to the cost of obtaining financial advice.

2. Eligible applicant

A person who has received a detention benefit, a death benefit or a disability award in an amount equal to or greater than the amount payable for a 5% disability award, is eligible to apply for the payment or reimbursement of fees incurred or expended in obtaining financial advice related to that benefit or award.

3. Application

(a) All applicants for detention benefits, death benefits and disability awards will receive a brochure on financial information and advice which includes a statement indicating that if a benefit or award is paid, the person may be eligible (upon request) to receive a reimbursement for the costs of obtaining financial advice. This brochure will also be included with the decisions made.

(b) A person who has obtained financial advice in relation to any benefit or award received must, within 12 months of the date of decision awarding payment of the benefit or award, apply in writing to the Department for the payment or reimbursement of fees incurred or expended in obtaining that financial advice.

(i) If the application is for the payment of fees incurred, it must be accompanied by an invoice containing the name and address of the financial adviser, and the amount of the fee charged.

(ii) If the application is for the reimbursement of fees expended, it must be accompanied by both an invoice as indicated above and proof of payment, e.g. cancelled cheque, receipt, etc.

ARTICLE 94(d) - Payment and reimbursement for financial advice

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4. Arms-length financial adviser

For purposes of this policy, an “arms-length financial adviser” is an individual who is not related to the person, i.e. by blood, marriage, or adoption, and who is primarily engaged in the business of providing financial advice.

5. Adjudication

Applications for the payment or reimbursement of fees for financial advice will be adjudicated under subsection 94(d) of the *CFMVRC Act*, at the Centre of Expertise in Head Office, Charlottetown.

6. Payment and reimbursement

(a) The fees for financial advice may be paid or reimbursed to the eligible person (not the financial adviser) up to a maximum of \$500.

(b) If the fees incurred or expended by the person are in excess of \$500, the person will be responsible for paying the difference.

7. Right of review or appeal

There is no provision in the Act for an applicant to request a review or appeal of a decision made under subsection 94(d) of the Act.

8. Case management

Eligible clients who appear to be at risk of mismanaging their lump sum payment will be counselled to ensure that they understand the importance of obtaining financial advice, and will be referred to the District/Area Counsellor who will reinforce this message as part of the assessment process.

ARTICLE 94(d) - Payment and reimbursement for financial advice

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C. CROSS-REFERENCES

N/A

DRAFT

Title		VOLUME FIVE	
VPPM - RE-ESTABLISHMENT AND COMPENSATION PROGRAMS		Chap./Sect./Subsect.	
Chapter	HEALTH BENEFITS	8.1.1	
Section	GROUP HEALTH INSURANCE PROGRAM	Date	Page
Sub-section	GENERAL – PROGRAM DESCRIPTION	2006 - 04	1 of 3

1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide guidance regarding the provision of the group health insurance program, through the Public Service Health Care Plan (PSHCP), to eligible VAC clients.

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, Section 66.

3.0 ELIGIBILITY

3.1 Eligibility for participation in this program is outlined in the Program's section on Eligible Clients.

4.0 POLICY

General

4.1 The intent of the Health Benefits group health insurance program is to ensure that eligible CF Veterans and their families have access to health coverage so that health needs do not act as a barrier to successful re-establishment into civilian life.

4.2 The Health Benefits Program will fill gaps in post-release health coverage by ensuring that eligible medically released CF Veterans, and CF Veterans with a rehabilitation need who are currently ineligible for health coverage after release, as well as certain survivors, have access to group family health insurance through the PSHCP.

4.3 VAC will monitor usage, as well as track trends and PSHCP appeals from CF Veterans, to ensure provision of an effective response to the needs of a former military population.

4.4 The terms and conditions of coverage for the group health insurance program are outlined in the *Public Service Health Care Plan Directive*, which can be accessed at www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_862/pshcp_e.asp.

4.5 Benefits provided under the PSHCP do not replace other VAC health care benefits, Veterans Independence Program services or Long Term Care for which clients may qualify.

4.6 Participation in the group health insurance plan is voluntary.

Title		VOLUME FIVE	
VPPM - RE-ESTABLISHMENT AND COMPENSATION PROGRAMS		Chap./Sect./Subsect.	
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Outline of Coverage

4.7 There are two types of coverage offered to eligible participants – Supplementary Coverage and Comprehensive Coverage.

a) Supplementary Coverage Supplements coverage provided under the individual's provincial/territorial health plan. This coverage consists of:

- Extended health provision:
 - Prescription drugs – drugs prescribed by a physician or a dentist;
 - Vision care benefits, e.g., eye examinations, eyeglasses, contact lenses;
 - Medical practitioners benefits – benefits provided by health professionals such as psychologists, chiropractors, massage therapists, speech therapists;
 - Miscellaneous expense benefits, e.g., ambulance service, prosthetics/orthotics, hearing aids, crutches, medical supplies, oxygen, wheelchairs;
 - Dental benefits – treatment of accidental injuries to natural teeth and specific oral surgical procedures (does not cover basic dental care such as cleaning, fluoride treatment, fillings);
 - Out-of-province benefits (emergency treatment while travelling, emergency travel assistance, referral benefit for treatment not offered in the province/territory of residence); and
- A hospital provision for room and board charges in excess of standard ward rates (100% reimbursement - no deductible).

b) Comprehensive Coverage provides coverage for individuals residing outside Canada and provides equivalent services, as much as possible, to those offered to clients residing in Canada. Benefits under the Comprehensive Coverage include:

- An Extended Health Provision, as described above (the out-of-province benefit is for individuals residing in Canada; it is not applicable to those residing outside Canada);
- A Hospital Provision, as described above; and
- A Basic Health Provision to cover health costs (excluding hospital services) that would be equivalent to those provided under provincial/territorial health plans (e.g., services of a physician, optometrist, physiotherapist, ambulances services, etc.)

Contributions (Premiums), Deductibles and Co-Payments

4.8 In order to participate in the PSHCP, Plan Members are required to pay monthly contributions (premiums) according to the PSHCP Directive. The contribution amount varies depending on the type and level of coverage the client chooses, i.e., single rate or family rate, with the choice of three levels of hospital coverage.

4.9 Plan members must also meet annual deductibles for most expenses before reimbursement is made.

4.10 Most eligible expenses are reimbursed at 80%, with the Plan member paying 20% of the expense (i.e., co-payment).

Title VPPM - RE-ESTABLISHMENT AND COMPENSATION PROGRAMS		VOLUME FIVE	
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4.11 VAC will pay the contributions, deductibles and co-payments for Veteran Canadian Forces Income Support recipients who are resident in Canada, and choose to participate in the PSHCP. Contribution payment will be at the single rate and for Level 1 Hospital coverage (reference, VPPM 8.1.3 - Canadian Forces Income Support Recipients).

4.12 Coverage under the PSHCP continues for as long as the eligibility requirements are satisfied and contributions are paid.

Effective Date

4.13 Coverage under the Plan will become effective on the first day of the month following receipt of the application by VAC if the application is received within 60 days of the applicant becoming eligible.

4.14 Coverage will become effective on the first day of the fourth month following receipt of the application under the following circumstances:

- if application to the Plan is made more than 60 days' after becoming eligible for the Plan;
- when a survivor or child (where no survivor exists) of a deceased CF member or Veteran who died as a result of military service, who was not a member of the Plan, applies for coverage; or
- when a member cancels their coverage and then later decides to re-apply for the PSHCP.

Refusal of Services

4.15 As stated in section 4.4, the PSHCP Directive outlines the terms and conditions of coverage, including situations where reimbursement would not be made, eg., if the expense is for a service that is provided under a provincial/territorial health plan.

Appeals and Termination of Benefits

4.16 As PSHCP participants, clients will be eligible for the appeal provision and termination of benefits provision outlined in the PSHCP Directive.

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VPPM - RE-ESTABLISHMENT AND COMPENSATION PROGRAMS		Chap./Sect./Subsect.	
Chapter	HEALTH BENEFITS	8.1.2	
Section	GROUP INSURANCE PROGRAM	Date	Page
Sub-section	ELIGIBLE CLIENTS	2006 - 04	1 of 1

1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to identify individuals who are eligible for the group health insurance program, as provided through the Public Service Health Care Plan (PSHCP).

2.0 AUTHORITY

2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act (CFMVRCA), Section 66.*

3.0 POLICY

3.1 Effective April 1, 2006, the following individuals are eligible to join the Public Service Health Care Plan (PSHCP):

- CF Veterans who have been approved for benefits under the Service Income Security Plan Long Term Disability (SISIP LTD) and who do not otherwise have PSHCP eligibility, this primarily includes medically releasing Veterans with less than 10 years' service);
- CF Veterans with a rehabilitation need that is service related, as identified by VAC, who do not otherwise have post-release PSHCP eligibility (primarily voluntary releases with less than 20 years' service); and
- Survivors of CF members and Veterans who die while serving, or as a result of an injury or illness attributable to service, if the survivor does not otherwise have PSHCP eligibility.

1Title VPPM - RE-ESTABLISHMENT AND COMPENSATION PROGRAMS		VOLUME FIVE	
		Chap./Sect./Subsect.	
Chapter HEALTH BENEFITS	8.1.3		
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Sub-section CANADIAN FORCES INCOME SUPPORT RECIPIENTS – PAYMENT OF CONTRIBUTIONS (PREMIUMS), DEDUCTIBLES AND CO-PAYMENTS	2006 - 04	1 of 1	

1.0 SYNOPSIS

1.1 Purpose

The purpose of this policy is to provide information concerning the payment of contributions (premiums), deductibles and co-payments for the Public Service Health Care Plan (PSHCP) for Veteran Canadian Forces Income Support (CFIS) Benefit recipients.

2.0 AUTHORITY

- 2.1 *Canadian Forces Members and Veterans Re-establishment and Compensation Act (CFMVRCA)*, section 66.
Veterans Health Care Regulations, section 27 (amended - February 2006)

3.0 POLICY

- 3.1 As outlined in the *Public Service Health Care Plan Directive* (www.tbs-sct.gc.ca/pubs_pol/hrpubs/TB_862/pshcp_e.asp), Plan members are required to:
- pay monthly contributions (i.e., premiums) in order to participate in the Plan;
 - meet annual deductibles for most expenses; and
 - pay 20% of most covered eligible expenses (i.e., co-payments).
- 3.2 VAC will pay the contributions, deductibles and co-payments for services received in Canada by CFIS Veteran recipients who choose to participate in the PSHCP. If the CFIS Veteran client is eligible and wishes to join the PSHCP, then the payment for the coverage provided is only for the Veteran client and does not include dependents.
- 3.3 Contribution payment will be at the single rate and for Level 1 Hospital coverage.
- 3.4 CFIS survivors and orphans are not eligible for VAC payment of premiums, deductibles and co-payments.
- CFIS Suspension or Cancellation (see VPPM 6.1.15 - Suspension and Cancellation - Veterans and Survivors)
- 3.5 VAC will continue to pay the PSHCP contributions (premiums), deductibles and co-payments for CFIS recipients during a suspension (up to six months) of the CFIS benefit.
- 3.6 When the CFIS benefit is cancelled and ceases to be payable to the Veteran, coverage will continue for one month following the month that the last payment was made.