

Review Serial

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 19, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

- Department of Transportation
- *Veterans Administration
- *Department of Health and Human Services
- Central Intelligence Agency
- Department of State
- Office of Personnel Management

SUBJECT: DOD proposed report on S. 1613 "To amend title 10, United States Code, with respect to the provision of medical benefits and post and base exchange and commissary store privileges to certain former spouses of certain members of former members of the Armed Forces."

*Amendment suggested on page 5 of proposed report.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than May 4, 1984.

Questions should be referred to Chris Gamble (395-3796) or to Hilda Schreiber (395-4650), the legislative analyst in this office.

Called Hilda Schreiber and stated CIA had "no objection" to DOD report

Naomi R. Sweeney
Naomi R. Sweeney for
Assistant Director for
Legislative Reference

Enclosures



5/4/84

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DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20301

April 11, 1984

Honorable David A. Stockman
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Stockman:

The views of the Department of Defense have been requested on S. 1613, 98th Congress, a bill, "To amend title 10, United States Code, with respect to the provision of medical benefits and post and base exchange and commissary store privileges to certain former spouses of certain members of former members of the Armed Forces."

Advice is requested as to whether there is objection to the presentation of the attached report to the Committee.

The committee has requested that this report be expedited.

Sincerely,

A handwritten signature in cursive script, which appears to read "Werner Windus", is written above the typed name.

Werner Windus
Director
Legislative Reference Service

Enclosure

Honorable John G. Tower
Chairman
Senate Armed Services Committee
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Defense on S. 1613, 98th Congress, a bill "To amend title 10, United States Code, with respect to the provision of medical benefits and post and base exchange and commissary store privileges to certain former spouses of certain members or former members of the Armed Forces."

If enacted, this legislation would amend the definition of "dependent" contained in section 1072 of title 10, United States Code, by: (1) deleting the current provision in paragraph (F) for an

. . . unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan and inserting in lieu thereof a provision to include as a dependent:

a person who is the former spouse of a member or

former member who performed at least twenty years of service which is creditable in determining the member's or former member's eligibility for retired or retainer pay, or equivalent pay, and who on the date of the final decree of divorce, dissolution, or annulment had been married to the member or former member for a period of at least twenty years, not less than ten years of which were during the period the member or former member performed service creditable in determining the member's eligibility for retired or retainer pay;

(2) adding a provision as paragraph (G) to include also as a dependent

(G) A person (i) who is the former spouse of a member or former member, and (ii) who has a disease or disability attributable to or arising from the nature or location of the service performed by the member or former member during the marriage, or from the treatment received at a United States military medical facility;

also, limiting the health care to be provided under proposed paragraph (G) if the individual is not also covered by proposed paragraph (F), to that care necessary for the treatment of any disease or disability of that person described in clause (ii) of proposed paragraph (G);

(3) adding as a new section 1043 of Title 10, United States Code, subject to such rules and regulations as the Secretary concerned may prescribe, a dependent of a member or former member of the armed services, as defined in clause (F) or (G) of section 1072(a) of this title shall be entitled to use the services and facilities of post or base exchanges and commissary stores operated under the jurisdiction of any military department;

(4) providing that the foregoing health benefit amendments shall apply with respect to health care furnished on or after the date of enactment; and (5) for exchange and commissary privileges and health benefits the amendments shall apply regardless of the date of the applicable decree of divorce, dissolution, or annulment.

We note that the bill would remove the provision in section 1072(2)(F) that a former spouse would not be eligible for health care if covered under an employer sponsored health plan. We also note the bill would add an additional group of former spouses to those eligible for dental benefits under current law.

The Department does not object in principle to disregarding the date of divorce, annulment or separation. We do not agree, however, with that part of the proposed amendment to section 1072 which eliminates the requirement that the former spouse be unremarried. Providing health care to remarried former spouses is inconsistent with limiting health care to unremarried widows and widowers. Additionally, such a provision is inconsistent

with the provisions in title 38, United States Code, which define "surviving spouse" to exclude those who are remarried as well as with similar provisions of the Social Security Act for widows who remarry before age 60.

We, furthermore, do not agree with reducing to ten years the requirement of twenty years creditable service being gained during the marriage. It is not equitable, in our view, to servicemembers themselves whose affiliation with military life must be twenty years before gaining retirement, to permit non-servicemembers to share those benefits without also being affiliated with military life for an equal period of time.

We recommend proposed paragraph (F) be amended to read

"a person who is the unremarried former spouse of a member or former member who performed at least twenty years of service which is creditable in determining the member's or former member's eligibility for retired or retainer pay, or equivalent pay, and who on the date of the final decree of divorce, dissolution or annulment had been married to the member for at least twenty years during which the member or former member performed at least twenty years of service creditable in determining the member's eligibility for retired or retainer pay."

The amended language would ensure that a full twenty years of creditable service would be necessary to qualify for the benefit and that would be the minimum permissible qualifying period of service affiliated marriage.

It is recommended that the provision for "treatment received at a United States military medical facility," proposed paragraph (G), be amended by deleting the word "military" and substituting therefor the word "government." Many dependents have received care and treatment in other non-military governmental medical facilities as, for example, those operated by the Public Health Service.

With regard to cost and budget data, the Department of Defense does not maintain statistics on the number of divorces occurring in the military community. Consequently, no one knows how many former spouses there are. However, by applying national rates to a defined population the following can be deduced:

- o There are some 3,000 retirements per month or 36,000 per year, and the average age at retirement is 42-50.
- o In that age group, 83 percent or 29,880 are married.

(The figures were computed by the DoD Actuary.)

We assume the servicemember must marry before age 30 in order to serve 20 years while married.

Based on U.S. Department of Commerce, Bureau of Census, Current Population Report, "Number, Timing, and Duration of Marriages and Divorces in the United States: June 1975," Series P-20, No. 297, Issued October 1976 (latest version), Table H:

- o Of men who marry, 88.6 percent do so before age 30; thus, approximately 26,474 married retirees served 20 years while married.

Unpublished Census Bureau Current Population Survey of June 1980 data show 4% of married men aged 45-74 divorce after 20 years of marriage.

- o 4% of 26,474 20 years married retirees is

- o 1,059 divorced retirees after 20 years of marriage.

This group would encompass all former spouses who were married for 20 years to retired members (who had served at least 20 years) regardless of the length of time married concurrently with military service.

The total, 1,059, is roughly comparable to the one year of experience we have gained under current law. Since February 1, 1983, through January 31, 1984, 580 former spouses with 20 years of marriage while the servicemember served 20 years have sought and obtained former spouse benefits.

To estimate the size of the group of former spouses who were married 20 years to a 20 year servicemember, with 10 years of marriage during military service as proposed in the bill, we assume the servicemember must marry before age 40 in order to serve 10 years while married. Table H of the Census Bureau Report cited above shows 98.2 percent of men marry before age 40.

- o 98.2 percent of 1,059 divorced 20 years married retirees is 1,040.

Therefore, we could estimate the potential number of former spouses in any one year who had been married twenty years, to a member who retired and could have been married 10 years during service would not be more than 1,040. Next, we must estimate the total of such former spouses that there may be.

The bill proposes to disregard the date of dissolution of marriage. Thus, all former spouses who otherwise qualify, would be included. The bill would include remarried former spouses. If we then assume the former spouses's life expectancy is 79 and the age of divorce is (arbitrarily) 42 we could estimate there are not more than 37 times the 1,040 former spouses per year, or 38,480. This potential population must be applied to benefits usage rates to project possible costs.

Utilization rates for this population can be found in the latest (1978) DoD Beneficiary Survey. Retired-dependent females, aged 35-54 produced an average of 1.82 hospital days and 4.81 clinic visits per person per year. (Clinic visits do not include visits performed solely for lab, x-ray or dental work.) Thus, the 38,480 total potential beneficiaries under the bill can be expected to generate not more than 70,034 inpatient days and 185,088 clinic visits in the first year after bill passage.

These usages would, using standard DoD cost factors of \$49 per clinic visit and \$391 per inpatient day, translate into estimated costs as follows:

Cost Estimate	<u>FY 1984</u>	<u>FY 1985</u>	<u>FY 1986</u>	<u>FY 1987</u>	<u>FY 1988</u>
(Millions)	36.4	37.4	38.4	39.4	40.4

These figures are only approximations. They do not account for mortality, or for disqualification by Medicare coverage, or for the unknown additional number of former spouses of active duty members of the Armed Forces. It should also be noted that if the bill were amended to require that former spouses be unremarried

to qualify for benefits as under current law, the costs may be greatly reduced. That is because the Census Bureau's unpublished June 1980 survey, cited above, shows 69 percent to 77 percent of those women who had divorced from their first marriages, and aged 45-74 at the time of the survey, did remarry.

Turning to the extension of exchange and commissary privileges to those former spouses proposed in the bill, the analysis is slightly different.

Using the same population estimating methodology as used above for medical benefits, there could be approximately 38,480 former spouses eligible for privileges in 1984 growing at a rate which would produce 42,640 eligibles in 1988, if the date of decree is no longer relevant. Currently only those unremarried former spouses whose divorce decrees were finalized after 1 February 1983 would be eligible for commissary and exchange benefits.

The annual cost to the government of supporting 38,480 additional patrons in the commissaries is estimated at \$9.1M in 1984 growing to \$10.1M by 1988. This is based on \$.106 cost for each dollar of added sales and assumes that only 70 percent of the potential patronage would actually use the facilities and the average patron spends \$3200 yearly. This represents expenses associated with manpower, administration, procurement, stockage and storage of the goods sold. This does not include the costs associated with enlarging existing facilities or constructing additional ones which in most cases are borne by the patrons. Since exchanges are operated and built predominantly with

onappropriated funds generated by sales, the estimated costs could be absorbed by the customers, not the taxpayer.

The Department of Defense favors preserving existing privileges for those presently authorized without the addition of new groups of patrons. Most exchanges and commissaries are over-utilized, and would be unable to support a substantial increase of patronage. The Department is not in a position to absorb these additional costs. Consequently, the Department requests that Congress express clearly its intent to provide funds for these additional patrons in any legislation that grants these additional benefits.

Subject to the adoption of the foregoing recommendations and funding to cover the additional costs, the Department has no objection to this legislation.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,