

GOLD CARD PENSIONS - ADDITIONS TO ACCEPTED DISABILITIES.

Over the past 18 months or so I have been asked for advice from a number of quarters including the National President of the RSL, on a developing but unusual and very worrying trend - that of veterans lodging claims for a new disability under the Veterans' Entitlements Act 1986. This may not of itself sound unusual.

However, my concerns which have prompted me to post this message stem from the fact that the lodgement of claims for a new disability are being lodged by veterans who are in receipt of a General Rate Disability paid at 100% of the General Rate (Gold Card). It has also featured in some veterans attempting to have a previously rejected disability accepted again even when receiving 100%.

Additionally I have had cause to provide advice in respect of veterans who although in receipt of the Special Rate (TPI) Pension also have commenced action to lodge a fresh claim for a new disability or one that has been previously rejected.

The risks to 100% veterans or Above General Rate (Intermediate or TPI) Pension Veterans doing this are manifest; viz

1. They will be subject to a complete review of every accepted disability as part of the assessment process.
2. If currently receiving 100% they run a real risk of having their Medical Impairment and Lifestyle ratings readjusted to the extent that their current entitlement may very well end up being derated to less than 100% with its attendant effect on the veteran.
3. If Intermediate or TPI, they run the risk of having their capacity to undertake remunerative work re-assessed also.
4. Should a pension at Intermediate/TPI levels - in particular TPI - be derated, bang goes the automatic War Widow's entitlement - not to mention a possible diminution in Service Pension and a potential loss of entitlement to funeral benefits and bereavement payments.

As you can see, such a course of action is fraught with risk and the potential for damage is significant.

This will result in the usual stress on a veteran and his family and force him into the appeals system in what is becoming an increasingly adversarial process. There is nothing the Repat Commission likes better than to review a veteran's situation and this is grist for their mill.

Gold Cards entitle a veteran to coverage for all medical matters other than accepted disabilities. There is no requirement for a veteran who has a Gold card to lodge a claim for another disability regardless of whether it is a new condition or one previously rejected. The Gold card redresses that imbalance. That balance runs a great risk of being very badly disturbed and can create a very dangerous precedent that can have a terrible blow-back effect on all Gold card recipients or potential applicants.

The simple advice: DO NOT GO THERE.

If you need to talk this over I urge all members to discuss with their respective Advocates. If members know of anyone in our family who is a Gold card recipient and is considering this action, please ensure he is aware of the risks.

Noel Mc Laughlin
Advocate

Posted on 26/7/2007 at 18:41:50 by Noel McLaughlin

Ron's Response to the 'Advice' by Noel McLaughlin

Essentially my response is that Noel is doing a disservice to a whole heap of pensioners.

He makes no distinction between those who have a Gold Card (GC) for disabilities and those who are 'age' qualified (ie, reached age 70yrs) for the GC, although he does seem to be referring mainly to the disability category—of course, a veteran can meet both conditions, 70 yrs and 100% disability.

He lumps TPI/IR pensioners together with those on 100% of the general rate when warning of the possible dire consequences of a pensioner daring to claim additional disabilities. He makes no mention of the EDA Pensioner.

Importantly, he does not address the issue of when a pensioner dies and the surviving spouse is left to try to get a War Widows' pension when the deceased has died from a disability that is not recorded as being service related. Just because a person has a disability Gold Card does not mean that the surviving spouse gets any benefits at all, or a Gold Card in their own right. The ONLY time that there is an automatic right is when the deceased has been categorised as either a Special Allowance (was TPI) or Extreme Disability Allowance (EDA). In every other case the survivor has to apply for a pension or any benefits—and it is most difficult to prove that a person has died from a service related disability, when the person is dead, if that disability has not been accepted by DVA prior to the death.

Therefore, if a person is married, or defacto, and they wish to do the best for their surviving spouse, they SHOULD claim for EVERY disability that they have. The only veterans who may wish to dodge the issue are those who have something to hide and do not wish their previous claims to be subjected to any scrutiny. That may be quite a few 'pensioners' whose claims would not stand up to any detailed review and I can quite understand that they would not wish to place their current category in jeopardy.

However, Noel has not addressed the issue of the surviving spouse—he has concentrated on the possible adverse consequences of a pensioner claiming additional disabilities and seems to imply that 'DVA is the enemy'. I stress that I have never heard of any review resulting in a pensioner's benefits being downgraded. Noel is being alarmist and his advice to DO NOT GO THERE is completely misplaced unless he is talking about those who have obtained benefits by 'dodgy' means. The real 'enemy' in all this is the person who gives ill-considered advice.

Ron Usher
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