



Opinion

Pension for life: the 'elephant in the room' remains

The government has failed to fulfill veterans' expectations with respect to the prime minister's 2015 election commitment to 're-establish lifelong pensions' under the charter so as to ensure that a comparable level of financial security is provided to all disabled veterans and their families over their life course.



Brian N. Forbes

Opinion

OTTAWA—Veterans Affairs Minister Seamus O'Regan, in his March 21 column in *The Hill Times* entitled "On veterans, let's compare apples to apples," continues his attempt to convince the veteran community that his announcement of Dec. 20, 2017, satisfactorily addresses the "elephant in the room" as to the financial disparity between the New Veterans Charter and the Pension Act. The fact remains that the government has failed to fulfill veterans' expectations with respect to the prime minister's 2015 election commitment to "re-establish lifelong pensions" under the charter so as to ensure that a comparable level of financial security is provided to all disabled veterans and their families over their life course.

We feel it is incumbent upon the National Council of Veteran Associations (NCVA) and the War Amps to point out that, unfortunately, the minister and his advisers have once again skewed the financial figures in their analysis, and also demonstrated an apparent lack of appreciation for the intricate workings of the traditional Pension Act for veterans.

It is important to recognize, in this context, that we are not advocating a return to the Pension Act as an ultimate solution but, rather, we are strongly encouraging the adoption of a substantive change of position wherein the best parts of the Pension Act and the best parts of the charter can be utilized to produce a compensation model which is fair and equitable to all disabled veterans in Canada.

The minister has stated in his recent op-ed that he supports such

a philosophy, but the contents of his announcement of Dec. 20, 2017, and the 2018 federal budget fail to meet the objective of closing the seam between the two statutory regimes.

Before addressing the basic legislative amendments that we feel are necessary to improve upon the minister's proposal for a pension for life, we would be remiss if we did not underline the fundamental flaws in the minister's evaluation of the three categories of pension contained in the compensation model that he has employed in his recent article. Inexplicably, the minister has completely omitted from his compensation model an extremely important benefit for seriously disabled veterans under the Pension Act—Attendance Allowance (AA). Given the apparent severity of the disability suffered by the 100 per cent veteran pensioner referred to in the model, this tax-free special allowance based on our experience would be granted at either Grade 1 (\$22,176/year) or Grade 2 (\$19,956/year) for life to this disabled veteran—adding a minimum of \$1.2-million over the projected life expectancy of a veteran in the pension category cited in the minister's comparability chart.

As a sidebar, it is interesting that the minister refers to the new caregiver recognition benefit of \$1,000 per month as an indication of the government's attempt to address the needs of families of disabled veterans. What continues to mystify the veterans' community is why the government has chosen to "reinvent the wheel" in this area when addressing this need for attendance/caregiving under the New Veterans Charter. For many decades, the attendance allowance (with its five grade levels) has been an effective vehicle in this regard, providing a substantially higher level of compensation and more generous eligibility criteria to satisfy this requirement. In this context, it is noteworthy that the spouses or families of seriously disabled veterans often have to give up significant employment opportunities to fulfill caregiving needs of the disabled veteran—\$1,000/month is simply not sufficient recognition of this income loss.

VAC should return to the attendance allowance provision and pay such benefit to caregivers directly if so desired.

With reference to the Exceptional Incapacity Allowance (EIA) component of the minister's comparability model for the Pension Act, a Grade 4 level of assessment is utilized. Once again, given the seriously disabled profile of this veteran, there is no question that such veteran would be entitled, tax free, to either a Grade 1 EIA (\$17,739.48/year) or a Grade 2 (\$14,782.56/year) assessment. This more realistic grade would result in an increase of approximately \$500,000 over the projected life of the veteran in this comparability evaluation.

In my over 40 years of working with the War Amputations of Canada we have literally handled hundreds of special allowance claims and were specifically involved in the formulation of the EIA/AA guidelines and grade profiles at the outset. We would indicate that these two special allowances, EIA and AA, represent an integral portion of the compensation available to war amputees and other seriously disabled veterans governed by the Pension Act.

It is of further interest that the grade levels for these allowances tend to increase over the life of the veteran as the "ravages of age" are confronted—indeed non-pensioned conditions such as the onset of a heart, cancer or diabetic condition for example are part and parcel of the EIA/AA adjudication uniquely carried out under the Pension Act policies in this context. The minister places great significance on the impact of the newly named Income Replacement Benefit and implies that the 90 per cent rate of the former military wage is somehow only available under the April 1, 2019, model he has announced.

This comment is difficult to understand as it is readily apparent that, due to changes made as a consequence of recent federal budgets, all income replacement models have been effectively increased from 75 per cent to 90 per cent for medically released veterans with service related disabilities. This is true of SISIP LTD benefits under the Pension Act, and the earnings loss benefit and income replacement benefit in relation to the New Veterans Charter.

Moreover, without any discernable explanation, the minister has employed the former 75 per cent rate in the Pension Act comparability model which diminishes the financial figures by a minimum of \$400,000 over the working life of a Pension Act veteran in this analysis. Given that the minister has insisted on an "apples to apples" approach we would respectfully suggest he follow his own dictum!

In summary, these three significant discrepancies in the minister's comparability model add a minimum of \$2.1-million to the Pension Act compensation available to this seriously disabled veteran profile—making abundantly clear the significant financial disparity that continues to exist between the Pension Act, the current New Veterans Charter and the April 1, 2019, scenario.

As a general observation regarding the minister's evaluation of the calculation surrounding the new Income Replacement Benefit, we would suggest the following concerns are material:

- With reference to the proposed one per cent per year increase in the IRB, it is to be noted that this percentile augmentation ostensibly decreases in financial impact with the higher number of years of military service experienced by the disabled veteran and disappears completely for those veterans who have served for over 20 years prior to suffering their injury or disability; and

- The post-65 benefits of the IRB (current RISB) are substantially impacted by a multitude of financial offsets which reduce the net amount of this benefit to the disabled veteran. Such financial offsets encompass any other income received by the veteran including CPP, OAS, CFSA benefits et al. In reviewing the VAC model used in the minister's article and the examples employed in the 2018 budget papers, it would appear the department has not factored in the influence of these offset elements in the overall analysis.

It is of even greater significance to recognize the effect of the Pension for Life policy on those disabled veterans who might be considered moderately disabled as the disparity in financial compensation is even more dramatic.

Let us take the illustration of a veteran with a 35 per cent disability assessment:

- Assume the veteran has a mental or physical injury which is deemed not to be a "severe and permanent impairment"—the expected eligibility reality for the greater majority of disabled veterans;
- The veteran enters the rehabilitation program with SISIP LTD as a first responder or VAC;
- Ultimately, the veteran finds employment in the public or private sector attaining an income of at least 66-2/3% of his or her former military wage.

It is important to be cognizant of the fact that, once such a veteran earns 66-2/3% of his or her pre-release military income, the veteran is no longer eligible for the Income Replacement Benefit and, due to the fact that the veteran's disability does not equate to a "severe and permanent impairment," the veteran does not qualify for the new Additional Pain and Suffering Compensation Benefit.

Thus, in accord with the minister's announcement of Dec. 20, 2017, the veteran will receive the following Pain and Suffering compensation benefit: 35 per cent of \$1,150 (\$402.50 monthly/\$4,830 yearly). On the other hand, the Pension Act veteran at 35 per cent will receive as a Disability Pension: 35% of \$2,792 if single (\$977.20 monthly/\$11,726.40 yearly); 35% of \$3,491 with spouse (\$1221.85 monthly/\$14,662.20 yearly); and 35% of \$4,118 with spouse and two children (\$1,441.30 monthly/\$17,295.60 yearly).

We would underline that this analysis demonstrates the extremely significant financial disparity which results for this type of moderately disabled veteran. It is essential to recognize that it is expected, as of April 1, 2019, that over 80 per cent of disabled veterans under the New Veterans Charter will fall into this category of compensation. Unfortunately, the perpetuation of these two distinct classes of veteran pensioner is self-evident and remains unacceptable to the overall veterans' community.

The fundamental question remains—what can be done to improve the Pension for Life proposal announced by the minister on Dec. 20, 2017?

We strongly encourage the minister to seriously consider implementing the major recommendations of the Ministerial Policy Advisory Group who proposed in their presentation to the Veterans Summit in October 2016 the following resolution as a first step to addressing this problem of the "elephant in the room: the enhancement of the Earnings Loss Benefit/Career Impact Allowance as a single stream of income for life, the addition of Exceptional Incapacity Allowance, Attendance Allowance and a new monthly family benefit for life in accordance with the Pension Act will ensure all veterans receive the care and support they deserve when they need it and through their lifetime."

We would like to think that further dialogue with the minister and his officials would be helpful in meeting the fundamental standard adopted by the Ministerial Policy Advisory Group that "no veteran under the New Veterans Charter should receive less compensation than a veteran under the Pension Act with the same disability or incapacity."

In specific terms, we would once again suggest to the minister that the following four steps would go a long way to satisfying the "one veteran—one standard" approach ostensibly followed by VAC as a basic principle of administration:

- Liberalize the eligibility criteria for the new Additional Pain and Suffering Compensation benefit so that more disabled veterans actually qualify for this benefit—currently, only veterans suffering from a severe and permanent impairment will be eligible. It bears repeating that the greater majority of disabled veterans simply will not qualify for this new component of the proposed lifelong pension.
- Create a new family benefit to parallel the Pension Act provision in relation to spousal and child allowances to recognize the impact of the veteran's disability on his or her family.
- Incorporate the special allowances under the Pension Act, i.e. Exceptional Incapacity Allowance and Attendance Allowance, into the New Veterans Charter to help address the financial disparity between the two statutory regimes.

- Establish a newly-structured Career Impact Allowance which would reflect the following standard of compensation: "What would the veteran have earned in his or her military career had the veteran not been injured?" This form of progressive income model, which has been recommended by the Ministerial Policy Advisory Group and the Veterans Ombudsman's Office, would be unique to the New Veterans Charter, and would bolster the potential lifetime compensation of a disabled veteran as to his or her projected lost career earnings as opposed to the nominal one per cent increase proposed by the minister.

We would therefore respectfully ask the minister to seriously revisit this series of proposals rather than debating the financial results of various skewed compensation models, *ad infinitum*. In our opinion, the resultant effect would best satisfy the prime minister's commitment made during the 2015 election campaign and, at the same time, create a pension for life through the adoption of a realistic assessment of the best parts of the Pension Act and the New Veterans Charter, producing a compensation model for all disabled veterans of which Canada can be proud.

It is fundamental to understand that it was truly the expectation of the disabled veteran community that the "re-establishment" of a pension for life would not just attempt to address the concerns of a small minority of disabled veterans but would include a recognition of all disabled veterans who require financial security in coping with their levels of incapacity.

As a final observation, the minister consistently talks of the significance that the government attaches to the wellness, rehabilitation and education programs under the New Veterans Charter. As we have stated on a number of occasions, we commend VAC for its efforts to improve these important policies. NCVA and the War Amps recognizes the value and importance of wellness and rehabilitation programs; however, we take the position that financial security remains a fundamental necessity to the successful implementation of any wellness or rehabilitation strategy. It is readily apparent that this is not a choice between wellness and financial compensation as advanced by the minister and the prime minister but a combined requirement to any optimal re-establishment approach to medically released veterans.

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