



## ***Gold Star Wives of America, Inc.***

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### **Statement of**

**Gold Star Wives of America, Inc.**

**Before the Joint Senate and House Committees on**

**Veterans Affairs Hearing**

**March, 3 2016**

**Presented By**

**Chris Kinnard**

**Co-Chair, Government Relations Committee**

**Gold Star Wives of America, Inc.**

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

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

Chairman Jeff Miller, Ranking Member Corrine Brown, and Members of both the Senate and House Committees on Veterans Affairs, I am pleased to be here today to testify on behalf of Gold Star Wives of America, Inc. (GSW).

My name is Chris Kinnard. I am Co-chair of the Government Relations Committee of GSW. I became a widow when my husband, Specialist James (Jim) Edward Kinnard was killed in action in Vietnam March 7, 1969. Jim was drafted into the United States Army and was only 20 years old when he died. I was seven months pregnant with our son. Both my son and I were able to take advantage of the GI Bill for education. I was able to finish one year of post graduate work and my son completed his under graduate work provided for by this benefit. Because of PL 91-376, the "Chance for Romance" bill, I was able to remarry and regain my benefits when that marriage ended in divorce. I am very grateful for both of these Public Laws being passed by Congress for surviving spouses and their children, because they have helped to provide a better life for myself and my son without Jim.

Many believe that the grief of losing a spouse suddenly departs a year after the death or when the survivor remarries. In actuality widows and widowers grieve the loss of their spouse for the rest of their lives. Most of us remember and honor that person on a daily basis.

The mission of the Gold Star Wives organization is to provide moral support during a surviving spouse's life long journey through grief and recovery from the loss of their loved one, to honor our fallen heroes and to protect the benefits of the families they left behind. GSW assists surviving spouses in obtaining their benefits while striving continuously to bring awareness to Congress, the public, and the military community of the inequities and disparities which exist in the benefits provided for surviving spouses and children. We are a non-profit organization and receive no federal grants.

We wish to address some of these inequities which currently exist and the bills which will aid in adjusting them as well as some concerns:

1) Dependency and Indemnity Compensation (DIC), the flat monthly rate (\$1254.19) has not been increased since 1993 except for Cost of Living (COLA). Some of our older surviving spouses are trying to survive on this payment alone.

2) Survivor Benefit Plan (SBP)/DIC offset in which a law requires a \$1.00 reduction in a Department of Defense (DoD) SBP for each \$1.00 received from the Department of Veteran Affairs (VA) DIC.

3) Special Survivor Indemnity Allowance (SSIA) extension which is a special allowance for surviving spouses whose SBP payments have been offset (partially or totally) as a result of receiving DIC, which is set to expire October 2017.

4) The extension of the frame work of the Marine Gunnery Sergeant John David Fry Scholarship from 15 to 20 years for early 9/11 era surviving spouses.

## DEPENDENCY AND INDEMNITY COMPENSATION (DIC)

“To care for him who has borne the battle, and for his widow and orphan.”

These words from Abraham Lincoln’s Second Inaugural Speech in 1865, succinctly state the sacred promise our country has made to our veterans and survivors. Congress has always had an important role in insuring that this promise is kept, beginning with the Continental Congress in 1780, when Congressional action created survivor benefits for certain Revolutionary War survivors.

These benefits changed with every war, based on need, until they became very unorganized. In the mid-1950’s, President Eisenhower ordered a Presidential Commission on Veterans Benefits, chaired by General Omar Bradley, to make recommendations to streamline these benefits, including survivor benefits, promised so long before. Their report, known as the Bradley Report, was released in 1956. Congress implemented a series of changes to compensation in order to insure the system was equitable and manageable.

In 1956, the death compensation was provided to survivors, regardless of income. The amount was determined by wartime or peacetime service. Compensation was amended again in 1969 by Congress with a fixed rate of compensation assigned to each rank. Finally, in 1993, Congress established with PL 102-568 two types of DIC. One is referred to as rank based DIC based on pay grade of the deceased military service member/veteran. Rank based DIC is in the process of being phased out. The other type of DIC is flat rate DIC. All surviving spouses whose military spouse died on or after January 1, 1993 receive the monthly flat rate DIC regardless of rank. **It should be noted that each time there was a change in compensation since 1993, there was a cost of living increase only. In 2016, DIC recipients received no cost of living increase.**

The FY14 Annual Benefits Report issued by the VA in October, 2015, states there are 364,946 surviving spouses who receive DIC. There are also another 17,317 surviving children and parents that receive DIC. Almost 46% of these surviving spouses are aged 57-75. Another 43% of these surviving spouses are over age 75. Almost 90% of all these surviving spouses are past their most productive earning years. Many did not work outside the home. They took care of their children and home or, more importantly have been caregivers for their disabled veteran spouses. Some 56% of DIC recipients are surviving spouses of Vietnam veterans, the largest group by far. It should be noted that DIC recipients are surviving spouses of veterans from the wars of the 1800’s until today.

No significant changes have been made to the amount of DIC paid to surviving spouses since 1993. **When DIC is compared to payments to surviving spouses of other federal employees, DIC lags behind almost 12%.** The Survivor Benefits Plan, administered by the Department of Defense (DoD), pays 55% of a military retiree’s retirement pay to the surviving spouse. Under the Civil Service Retirement System (CSRS), the surviving spouse receives 55% of the retirement benefit. In the Federal Employees Retirement System (FERS), the surviving spouse

is eligible for 50% of the retirement pay plus a significant lump sum payment. **The current DIC flat rate for a surviving spouse is \$1254.19 per month - this is only 43% of the disability compensation rate for a fully disabled single veteran, whose rate is \$2906.83 per month.**

It is therefore incumbent upon Congress to take action to rectify this inequity by increasing the current amount of DIC paid to a level comparable to other federal employees, to keep the promise our country made so long ago to its veterans and survivors. The bill currently in the House that will rectify this inequity is H.R. 2539:

#### **H.R.2539 Military Surviving Spouses Benefits Improvement Act of 2015**

- This is the DIC increase bill.
- Primary Sponsor: Representative Joseph P. Kennedy
- If passed, would raise the current flat rate of compensation to surviving spouses from \$1,254.19 per month to \$1,598.76 per month
- The current rate of compensation surviving spouses receive is 43% of what a single fully disabled veteran receives; the proposed bill would raise that compensation to 55%, which is comparable to other Federal survivor benefit programs.
- DIC is an indemnity payment with the purpose of replacing a portion of the family income lost as a result of the military service member's death.
- Some form of DIC has been paid to survivors since the Revolutionary War.
- DIC is paid by the VA and is tax exempt.
- This bill needs a Senate companion bill.
- GSW supports the passage of this bill.
- We also would favor a "Sunset Provision" of this bill.

#### **Survivor Benefits Plan/Dependency Indemnity Compensation Offset**

In 1972 Congress with PL 92-425 created Survivor Benefits Plan (SBP) as a benefit for military service members. At retirement military service members may purchase SBP to ensure that their surviving spouse has income after their death. Retiring service members may select up to 55% of their retirement pay as SBP. If the military service member selects a benefit of 55 % of retirement pay as SBP the service member pays premiums of 6.5% of his or her retirement pay. This PL included a dollar for dollar Social Security offset which was repealed in 2000 by PL 106-182.

Congress with PL 107-107 in September 2001 extended SBP to include the surviving spouses or eligible children of all active duty deaths classified in the line of duty (LOD) including reserve members on active duty for annual training duty. In November of 2013 PL 108-136 extended SBP eligibility for deaths classified in LOD of inactive duty training deaths. Even though Congress gave the post 9/11 surviving spouses of military service members who died on active duty SBP, the SBP of most of this group of widows is totally offset by DIC.

SBP paid to children is not offset by DIC. Congress allowed these surviving spouses to assign

their SBP to the children to augment the family income. However, when the surviving spouse assigns the SBP to the children, the surviving spouse loses SBP for life. Surviving spouses need to be able to reselect the SBP for themselves.

Military members, while they are in service to our nation, believe that if the worst that can possibly happen to them becomes a reality, that their families will be provided for after their death by the SBP. Sadly, many of our service members who die in the line of duty have not yet achieved the rank or the time in service to actually be able to provide the SBP to their spouse when they die. SBP is calculated using rank and time in service. Technically, on paper these survivors are “eligible” for the benefit but realistically these Soldiers, Sailors, Airmen, and Marines died too young to have achieved enough rank or time in service to be able to overcome the DIC offset in order to provide the SBP to their surviving spouse. It is a benefit on paper only. **Many surviving spouses are either offset or receive nothing from SBP at all.**

For those that die in retirement from service connected causes – they made a decision to purchase the survivor benefit plan for their spouses not realizing that if they have a service connected disability, and die from their service connection that their surviving spouse’s SBP would be reduced dollar for dollar by DIC. For many, the security that they spent their retirement years saving for their spouses simply isn’t there.

The FY 2008 NDAA authorized the Special Survivor Indemnity Allowance (SSIA). This modest benefit acknowledged the inequity of the SBP/DIC offset and its purpose was to begin the end of the SBP/DIC offset.

On April 1, 2009 HASC Chairman Skelton stated “This legislation is the latest step in our continuing effort to eliminate the so-called, ‘widow’s tax’ which has long denied surviving family members the full payment of their Survivor Benefit Plan (SBP) benefits.” He continued, “The House Committee on Armed Services will continue to explore every opportunity to pursue legislation that brings us closer to eliminating the ‘widow’s tax’ ”.

**We are no closer today than we were in 2009 in eliminating the SBP/DIC offset.** The offset remains, and the modest SSIA is due to expire. With the looming expiration date of the SSIA at hand, survivors of those who lost their lives because of their service to our nation will be forced to take a financial step backward.

Currently there is only one option for the single surviving spouse to receive the full death benefits of a member of the Armed Forces of the United States of America who served our great nation with honor and died because of that service. That option is to get remarried after the age of 57. **LET ME SAY THIS AGAIN: The ONLY way for a military surviving spouse of a service member who made the ultimate sacrifice for this country to receive that member’s death benefits in full is to remarry after the age of 57.**

Once a surviving spouse whose SBP is offset by DIC gets remarried after the age of 57, and **ONLY** if they get remarried, will they receive their survivor benefits—without offset. If a surviving spouse does not remarry after age 57, his/her benefits remain offset. **The survivor is financially punished for NOT getting remarried.**

There are no words to describe the astounding dishonor this is for the service member who served our nation and gave their life because of their service. Just as there are no words to describe the disrespect to the survivor by this stipulation of remarriage to access this benefit – other than to say this should be viewed as the national embarrassment that it truly is. It is time to fix this once and for all. Let's honor the service and sacrifice of military members who paid the ultimate price and take proper care of the families they have left behind.

The current bills in the House and Senate that will repeal this SBP/DIC offset and eliminate this inequity are H.R. 1594 and S. 979.

### **H.R. 1594 Military Surviving Spouses Equity Act and Senate Companion Bill S.979**

- Primary Sponsors: Representative Joe Wilson and Senator Bill Nelson
- SBP was established in 1972 to provide income for survivors with reasonable cost sharing by retirees to supplement Social Security and to be parallel as closely as possible to the Civil Service Retirement System.
- The DIC offset was established in 1972 as part of the original bill.
- In 2001 SBP was given by Congress to post 9/11 surviving spouses and children of those who died on active duty.
- Most military personnel purchase SBP at a rate of 6.5% of their retirement pay.
- SBP is paid by the Department of Defense and is taxable income.
- A surviving spouse with children can avoid the offset by assigning SBP to the children, but doing so causes the spouse to forfeit any claim to SBP once the children attain the age of majority. An eligible dependent child under the plan must be: the surviving spouse's legal child; under the age of 18; older than 18 if enrolled in an accredited college or university until they reach the age of 22 or leave school; are unmarried.
- If a surviving spouse is unable to receive SBP due to the DIC offset, current law states that they will be reimbursed for any premiums, without interest, that had previously been paid by their spouse. However, if the surviving spouse re-marries after the age of 57, they will receive full SBP and DIC benefits. The catch is that they must repay all premiums previously refunded.
- The DIC offset to SBP needs to be repealed. GSW has been requesting the repeal of this offset since 2003.
- GSW supports passage of this bill.

### **Special Survivor Indemnity Allowance**

In 2008 Congress created Special Survivor Indemnity Allowance (SSIA) for surviving spouses who suffered the DIC offset to SBP as an acknowledgement that the DIC offset to SBP needed to be eliminated. Surviving spouses subject to the DIC offset to SBP started receiving SSIA in October 2008 and SSIA is now scheduled to abruptly terminate October 2017. SSIA is funded with discretionary funds. The funding for SSIA came from a law passed in the 110<sup>th</sup> Congress which levies taxes on tobacco. The repeal of the DIC offset to SBP requires mandatory funds; SSIA requires discretionary funds. If the DIC offset to SBP cannot be repealed before the end of FY 2017 the law governing SSIA needs to be amended and the SSIA payments extended into future years.

The newest bill introduced to Congress that will extend the SSIA payments is H.R. 4519:

**H.R. 4519 to amend Title 10, United States Code, to provide a five year extension of the Special Survivor Indemnity Allowance (SSIA) provided to widows and widowers of deceased members of the uniformed services affected by required SBP annuity offset for DIC received under section 1311(a) of title 38, United States Code.**

- This bill will extend SSIA payments for the next five years through October 2022.
- Primary sponsor: Representative Alan Grayson

### **Marine Gunnery Sergeant John David Fry Scholarship**

We are grateful for the recent expansion of the Marine Gunnery Sergeant John David Fry Scholarship for Post 9/11 surviving spouses as provided under The Veterans, Access, Choice, and Accountability Act of 2014. This benefit, which became effective on January 1, 2015, provides 36 months of education to military surviving spouses of members of our Armed Forces who have given their lives since 9/11. This year will be the 15-year anniversary of 9/11 and this benefit expires 15 years after the date of death of the service member. Consequently, early post-9/11 surviving spouses do not have the time available to fully utilize the education benefit afforded to them. We applaud Congress for passing HR 3016, the Veterans Employment, Education, and Healthcare Improvement Act, which contains the provision for extending the Fry Scholarship and we respectfully encourage the Senate to follow suit. As advocates of our nation's military widows and widowers, we ask you to consider extending the Fry Scholarship eligibility timeframe from 15 years to 20 years after the date of the death of the service member spouse.

The bill currently passed by the House, H.R. 3016, and sent to the Senate will address this issue:

**H.R. 3016: to amend Title 38, United States Code to make certain improvements in the laws administered by the Secretary of the Veterans Affairs relating to health care, education assistance and vocational rehabilitation to establish the Veterans Economic Opportunities and transition administration.**

- This bill will extend the time frame for surviving spouses from the early era of Post 9/11 so that they will have an opportunity to finish their education.
- Primary Sponsor: Brad Wenstrup

### **TRICARE**

Tricare is available to surviving spouses and children of military service members who died on active duty or whose sponsor died of a service-connected cause. The three Tricare services that are used by survivor's and their children are: Tricare Prime, Tricare Standard and Tricare for Life. When services are provided out of network a fee is charged. Increases in Tricare services and fees affect many of our surviving spouses who only receive the DIC, of \$1254.19 per month. This benefit can be stretched only so far.

Tricare Pharmacy co-pays increased February 1, 2016. This has a great impact on many of the survivors because they do not live in close proximity to a military pharmacy, where their pharmaceuticals are available at no cost. Surviving spouses not residing near a military pharmacy have two other choices for obtaining pharmaceuticals. One is with the home delivery service, Express Scripts, (Tricare pharmaceutical contractor). The other is retail network pharmacies. If brand name drugs are required then the surviving spouses will be responsible for this co-pay increase.

GSW supports the idea that all surviving spouses and children should be exempt from any future Tricare fee increase.

### **Civil Service Retirement System Retirement Pay Offset to Social Security**

One of the benefits the surviving spouse of a military service member who died on active duty or a veteran who died of a service connected cause receives is a 10 point preference in Federal hiring. If a surviving spouse took advantage of this benefit and went to work as a Civil Service Retirement System (CSRS) employee, when that surviving spouse retires, any Social Security which they might be entitled to receive from their military spouse's Social Security account is reduced by 2/3rds of their CSRS retirement pay. Strangely, these surviving spouses can draw full Social Security benefits against their military or veteran spouse's Social Security account if they continue to work and earn wages. When they retire and need the income from Social Security their retirement pay offsets that same Social Security benefit. **This CSRS retirement pay offset to Social Security benefits should be removed.**

### **The Military Compensation and Retirement Modernization Commission Report (MCRMC)**

We are grateful that the MCRMC addressed the DIC offset to SBP. The recommendation was an additional version of unsubsidized SBP for which retired service members would pay higher premiums. Our concern is that even though retired military service members paid the higher premiums for SBP that at some future date this version of SBP would end up being offset.



The MCRMC recommended that TRICARE be replaced with a health insurance program similar to the Federal Employees Health Benefit Program (FEHBP). We are concerned that many surviving spouses would not be able to pay the premiums for this health insurance.

### **Conclusion**

Gold Star Wives of America, Inc. are grateful and thankful for all the public laws, which have been passed in the years since 1946, providing benefits for surviving spouses and children of our military service members. Unfortunately, there are still some inequities and disparities which we have addressed today. We are requesting that these issues be corrected by your co-sponsoring and more importantly VOTING for the passage of these four bills: 1) H.R. 2539, DIC increase; 2) H.R. 1594 and S. 979, repeal of SBP/DIC offset; 3) H.R. 4519, extension of SSIA; 4) H.R. 3016 extension of the Fry Scholarship. Again, thank you for the opportunity to testify on behalf of Gold Star Wives of America, Inc. I am available for any questions you might have.

Contributors to writing this testimony are: Jeanette Early, Donna Eldridge, Sandra Luhnnow, and Pat Collins Miller.

## **Biography for Chris Kinnard, Gold Star Wives of America, Inc.**



Full Name: Christine Margaret Kinnard

Job Title: Co-Chair for Government Relations Committee, Gold Star Wives of America, Inc.

I am the widow of Specialist James Edward Kinnard, United States Army who was killed in Viet Nam on March 7, 1969. I have been a member of GSW since 1970. I was the Chapter President for San Diego Chapter during the year 1971 when we, as a brand new chapter, played hostesses to the 26<sup>th</sup> National Convention in San Diego. I moved to Montana in 1974 where there were no chapters and no means to contact other widows. I was a Member at Large for many years and raised two children. I currently live in Colorado Springs where I am a member of the local Cheyenne Mountain Chapter and am the treasurer.

I have recently retired from my profession as a Registered Dietitian. I have worked as the Director of Dietetic departments in hospitals and nursing homes well as a clinical dietitian. I had the opportunity to be one of the original dietitians in Montana to start the national Women, Infant, and Children, nutritional food supplement program (WIC). I also worked on two Indian reservations with Indian Health Service.



