



# Does a Total Disability Rating Based on Individual Unemployability (TDIU) Properly Compensate Today's Veterans

Jun 12, 2024

Statement of

Michael S. Figlioli, Director  
National Veterans Service  
Veterans of Foreign Wars of the United States

Before The

United States House of Representatives  
Committee on Veterans' Affairs  
Subcommittee On Disability Assistance and Memorial Affairs

With Respect To

“Does a Total Disability Rating Based on Individual Unemployability (TDIU) Properly Compensate Today's Veterans”

Washington, D.C.

Chairman Luttrell, Ranking Member Pappas, and members of the subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on this important issue.

Total Disability based on Individual Unemployability (TDIU) has long been a delicate subject of debate. For many, the benefits provided by the program have been life changing, not only for veterans but for their family members as well. While some may be quick to focus on costs and numbers, the underlying core of the discussion is about people. These are individuals who put themselves in harm's way and were injured. Some of the wounds are visible and some are not, but because of their service they are unable to achieve gainful employment.

## NATIONAL HEADQUARTERS

406 W. 34th Street  
Kansas City, MO 64111  
Office 816.756.3390  
Fax 816.968.1157

## WASHINGTON OFFICE

200 Maryland Ave., N.E.  
Washington, D.C. 20002  
Office 202.543.2239  
Fax 202.543.6719

info@vfw.org  
www.vfw.org

As we have witnessed for more than twenty years, one of the tragic consequences of men and women risking their lives is that they do not always return in the same condition as when they left. Many have had their lives changed in an instant whether it was due to an improvised explosive device blast, or toxic exposure to radiation, dioxins, or herbicides. For those who selflessly served this country but do not meet the schedular requirements for a 100% disability rating and are left with the insidious effects of war that preclude them from gainful employment, the Department of Veterans Affairs (VA) can provide a TDIU rating.

Every process, program, and system has the capacity for improvement in some form or another. The VFW supports process improvement that sustains or enhances benefits for those who served their country. We must be cautious of unintended consequences for those who rely on this benefit, especially the most vulnerable who depend on this payment for their very survival.

### **TDIU Compensation**

Of all the discussions over the years about VA benefits, countless hearings, statistical analyses, Congressional Budget Office recommendations, and opinions based on fact or perception, TDIU has been one of the most contentious issues. It has been a difficult benefit to discuss, likely because this law pushes the boundaries of statistical and accepted norms. As stated, age is not to be taken into account when making a decision. Yet, it is always the “elephant in the room” when there are discussions about its parity with the civilian sector. There is no standard expectation when it comes to the effects of illness or injury and the impact on a veteran. Some veterans will become unemployable as their disabilities worsen with age. The VFW believes that most veterans would prefer to work if capable of doing so.

The VFW is aware of the cost of this benefit in terms of dollars and cents. Looking back, we have seen veterans’ programs cut when the financial cost of war disappears from the media’s focus. Taking benefits from veterans was wrong then and it is still wrong today. Any benefit to which a veteran is entitled by their service to our nation is never a waste of money.

Many veterans have recently become beneficiaries of VA disability compensation due to changes in the law. This has become more apparent with the passage of the PACT Act. Prior to that there was the expansion of Blue Water Navy benefits. These veterans who suffered silently due to the bureaucratic process continued to get older and their disabilities worsened. They are now unable to work and are entitled to TDIU as a result. Many are past retirement age and may not have had the opportunity to pay into the system. Like every other eligible veteran who may be younger, these older veterans should not have the benefit taken away.

### **TDIU / Social Security**

Veterans in the TDIU program have service-connected disabilities. These disabilities prevent them from working or contributing to the Social Security trust funds like their civilian counterparts in the workforce. TDIU beneficiaries would be at a significant disadvantage in compensation provided by Social Security.

The law prohibits VA from taking age into consideration in a claim for disability benefits. By this statute alone, age is also not a contributing factor in determining TDIU eligibility, and the VFW supports this criterion. Health care has advanced significantly, whether provided by VA or the civilian sector. Americans in general are living and working longer.

In each new Congress there are proposals submitted by the Congressional Budget Office to stop TDIU at the age of retirement because those veterans are no longer employable, which relates to the age of eligibility for Social Security. It is off-putting that Congress would suggest that Americans should not be considered part of the workforce simply due to age. Elder workers are entitled to their earned wages and associated benefits. Veterans receiving TDIU have documented service-connected disabilities and should not be penalized for their inability to work.

The comparison of TDIU to Social Security is the proverbial “apples and oranges.” The Social Security safety net is intended to supplement lost income customarily due to retirement from the workforce after earning enough work credit at an age determined by that agency. Many individuals have the opportunity to contribute to a qualifying retirement plan such as a 401(k) to ensure their financial security in retirement. TDIU is compensation due to injuries or illness incurred in service to one’s nation. There is no formula or predetermined age to calculate when a veteran who has the desire to continue working is unable to do so.

### **TDIU / VR&E / Earnings Capacity**

Everyone’s service was different whether it was by occupational specialty, theater, or period of time. Post-service entitlements are also different for every eligible claimant. As the world and technology have evolved over the past several decades, so have the needs of our force. Older veterans were likely trained in the art of warfare—artilleryman, infantryman, tank, engineer. These were the needs in a post-World War II military, but they were labor-intensive career fields and employment opportunities may have been limited in our post-war world.

The modern military has transitioned to a more technically diverse force. Recruits are now able to receive training in robotics, coding, aeronautics, and other career fields that did not exist only a generation ago. Separating or retiring service members are likely to find similar employment in the civilian sector. The economic opportunity for better earnings is vastly

greater than it was for most of their predecessors or for individual service members in less technical or more focused career fields.

A single veteran entitled to TDIU is already at a financial disadvantage in comparison to the national average salary. Other indirect compensation such as VA health care and the non-taxable status of VA compensation contributes to the amount received being comparable to the national average salary.

VA has offered training in new career fields for those eligible due to their service-connected disabilities. Since 1985, veterans who receive TDIU have been eligible for the Veteran Readiness and Employment (VR&E) program. The Veterans Benefits Administration is tasked with notifying the administrators of this program about individuals who may be eligible to participate. VR&E is supposed to provide a comprehensive evaluation for each veteran in receipt of TDIU benefits to determine if a new vocation is possible.

While the VFW has consistently supported the policy for vocational rehabilitation, we have no credible data to indicate that this occurs consistently and faithfully. We believe it could be greatly beneficial to incorporate more components of the VR&E program into the TDIU program, but not without major improvements and added resources. We have concerns that VR&E may be inadequately staffed or if it even has the capability to fulfill this goal. As a member of the Independent Budget Veterans Service Organizations, the VFW has testified for years about the need for program improvement at VR&E.

The VFW suggests that VA work with stakeholders to better identify eligible veterans for this critical program. We agree that we must better collaborate on marketing these benefits for individuals who receive TDIU and want to continue to work, but might not know how to navigate the system. This would create more opportunities for veterans to rehabilitate themselves and eventually not have to rely on TDIU.

There has been great discussion in previous hearings about VA standard forms. Are they necessary or are they not? Yet, there is no mention of VR&E benefits in rating decision notices to claimants. This benefit should be included automatically if a veteran meets the criteria, the same as when a claimable issue is identified during a compensation and pension examination but was not included in the submission. This could be accomplished by simply adding language to the disability notification letter that states, "You may be entitled to additional benefits. If you would like to apply for Veteran Readiness and Employment benefits, please complete and submit VA 28-1900" and include the form.

This approach would allow the veteran to decide on participation in the program. Some individuals may simply be unable to work. Some may need to work. The VFW has heard from many veterans who desire to continue to be a contributing member of the workforce. Many have told us that it has kept them alive, and if they had been just sitting at home

collecting VA disability compensation they may not have lasted long. We welcome the opportunity to work with your staffers and our partners to help veterans who have employment challenges use the benefits they have earned and remain gainfully employed whenever and wherever possible.

## **Conclusion**

For the past 125 years, the VFW has been a visible and vocal advocate for veterans, their family members, and survivors. While TDIU may be seen by some as too costly, we remind them that this is the true cost of war. Young men and women are sent to faraway places without complaint because it is their duty. When they come home, they are changed. Many have seen things that others would say are best forgotten. When they are unable to, when they are no longer whole and too broken to support themselves or their families, it is part of the collective “unrepayable” debt to make sure they have the resources needed to survive.

This concludes my testimony. I am happy to answer any questions you may have.

## Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2024, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.