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VETERANS OMBUDSMAN  
REVIEW | JANUARY 2013

# IMPROVING THE NEW VETERANS CHARTER

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## THE PARLIAMENTARY REVIEW

A REVIEW OF THE FINANCIAL,  
VOCATIONAL REHABILITATION AND  
ASSISTANCE, AND FAMILY SUPPORT  
PROGRAMS

Canada

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## Message from the Veterans Ombudsman

I hope that this paper will serve you well as a reference point as you form your opinions for the fast approaching parliamentary committee review of the enhancements to the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, commonly known as the New Veterans Charter, which is to be undertaken by October 2013. It is also meant to act as a catalyst to broaden the review to include a discussion of the New Veterans Charter, as a whole.

The paper reflects the areas of the New Veterans Charter that the Office of the Veterans Ombudsman believes are most important and urgent to address. In particular, it places emphasis on specific program areas that directly affect the transition of Veterans from military to civilian life, namely, financial, vocational rehabilitation and assistance, and family support programs.

As the New Veterans Charter continues to be met with dissatisfaction and misunderstanding by many Veterans and their families, I recognize both the pressing need to address its weaknesses and the importance of building on its strengths.

If the Charter is to live up to expectations and truly become the “living charter” intended by the parliamentarians who unanimously passed it in May 2005, a comprehensive discussion is needed within the context of the parliamentary committee review. As well, actionable decisions on how to improve it must result from its proceedings.

In a follow-up paper, the Office of the Veterans Ombudsman will put forward its recommendations to address the Charter’s shortcomings.

In the meantime, as we prepare for the parliamentary committee review, I look forward to discussing with you how best to bring about improvements to the New Veterans Charter for the benefit of Veterans and their families.



Guy Parent  
Veterans Ombudsman



# TABLE OF CONTENTS

INTRODUCTION . . . . .	3
BACKGROUND . . . . .	4
WHY IT MATTERS. . . . .	6
FINANCIAL SUPPORT . . . . .	9
Description of Financial Benefits . . . . .	9
Financial Benefits Most at Issue for Veterans Transitioning to Civilian Life . . . . .	12
Earnings Loss Benefit. . . . .	12
After Age 65 Supplementary Retirement Benefit. . . . .	15
Permanent Impairment Allowance and Supplement . . . . .	17
Disability Award. . . . .	18
VOCATIONAL REHABILITATION AND ASSISTANCE SUPPORT. . . . .	21
SISIP Long Term Disability Plan – Vocational Rehabilitation Program. . . . .	22
Veterans Affairs Canada’s Vocational Rehabilitation and Assistance Program. . . . .	23
Comparison of Support Provided Under the Two Programs . . . . .	25
FAMILY SUPPORT. . . . .	27
CONCLUSION . . . . .	31
Appendix – Comparison of SISIP and Veterans Affairs Canada Income Support and Vocational Rehabilitation Programs . . . . .	33



# INTRODUCTION

The parliamentary committee review<sup>1</sup> of the enhancements to the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*,<sup>2</sup> commonly known as the New Veterans Charter, is fast approaching. The review, which is to be undertaken by October 2013, will be a defining milestone for the Government of Canada, Veterans and their families, Veterans organizations and Canadians. It is an important opportunity for a broadened parliamentary examination of the New Veterans Charter<sup>3</sup> and its shortcomings.

When it came into force in 2006, the New Veterans Charter represented the most sweeping change to Veterans' services and benefits in the past 60 years. Senator Roméo A. Dallaire went so far as to call it "a new social contract between the people of Canada and the new generation of veterans of the Canadian Forces."<sup>4</sup>

It was to be a "living" Charter, continually updated. Parliamentarians acknowledged this at the time of its unanimous passage. They recognized that not all of the complex challenges modern-day Veterans face when they are injured or become ill can be anticipated in advance. Yet after almost seven years of existence, there has been only one update in 2011: the *Enhanced New Veterans Charter Act*.

The purpose of this review paper is twofold: to serve as a reference point for discussion about the New Veterans Charter in the context of the upcoming review, and to act as a catalyst to broaden the parliamentary review to the New Veterans Charter as a whole.

With dissatisfaction and misunderstanding of the New Veterans Charter and its programs continuing within the Veterans' community, the parliamentary review is an opportunity for all stakeholders in the New Veterans Charter to come together and seek common ground, discuss and debate the Charter's shortcomings and decide how to improve it and make it a truly "living" Charter.

The review paper reflects the areas of the Charter that the Office of the Veterans Ombudsman believes are most important to address and emphasizes specific program areas that directly affect

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<sup>1</sup> Section 20.1 of the *Enhanced New Veterans Charter Act*, S.C. 2011, c. 12 states: Within two years after the day on which this section comes into force, a comprehensive review of the provisions and operations of this Act must be undertaken by any committees of the Senate and of the House of Commons that are designated or established by the Senate and the House of Commons for that purpose.

<sup>2</sup> The *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21.

<sup>3</sup> The *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, commonly known as the New Veterans Charter, received Royal Assent on May 13, 2005 and came into force on April 1, 2006.

<sup>4</sup> <http://romeodallaire.sencanada.ca/en/p102887/>.

the transition of Veterans from military to civilian life, namely, financial, vocational rehabilitation and assistance, and family support programs.

## BACKGROUND

At the time the New Veterans Charter came into force in 2006, it represented a fundamental shift in the approach to the care, support and compensation of injured and ill Veterans compared to the *Pension Act*. It changed the legislative approach from one that inadvertently encouraged Veterans to focus on disability (the greater the disability, the greater the financial benefit) and did little to address their transition needs, to one that provides new programs in seven broad areas designed to promote wellness, positive outcomes and incentives for successful transition to civilian life. The New Veterans Charter was introduced and passed quickly with the full acknowledgement of the Government of Canada that it would require improvements.<sup>5</sup>



### **New Veterans Charter Program Areas**

- Disability Award
- Death and detention awards and other allowances
- Rehabilitation services and vocational assistance
- Financial support
- Career transition support
- Group health benefit, family support
- Case management



Over the next seven years, more than 200 recommendations for improvements to the Charter were proposed in various consultations. Recommendations are contained in reports from expert advisory groups, parliamentary committees, the Auditor General, the report from a Governor-in-Council-mandated independent assessor and audits and evaluations by Veterans Affairs Canada. It is clear from these many reviews and considerable number of recommendations that improvements

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<sup>5</sup> In his June 2006 speaking notes to the 41<sup>st</sup> Dominion Convention of the Royal Canadian Legion, the then Minister of Veterans Affairs, the Honourable Greg Thompson, referred to the newly enacted New Veterans Charter as an open book that will evolve over time to meet changing needs. Since then, successive Ministers of Veterans Affairs have repeatedly given similar assurances to Veterans.

are required to the New Veterans Charter in order to ensure that proper care, support and compensation are provided to Veterans and their families.

With the enactment of the *Enhanced New Veterans Charter Act* (Bill C-55)<sup>6</sup> on October 3, 2011, and amendments to the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*, the Government of Canada made the following improvements to Veterans' benefits:

- an increased minimum amount of the monthly Earnings Loss Benefit financial support;
- increased monthly financial support for more seriously injured or ill Veterans who are no longer able to work;
- improved access to the monthly Exceptional Incapacity Allowance and Permanent Impairment Allowance for seriously injured or ill Veterans; and
- new payment options for the disability award.

Bill C-55 also included a clause that stated that a comprehensive review of the *Enhanced New Veterans Charter Act* would be undertaken within two years of its coming into force by designated/established Senate or House of Commons Committees.

Notwithstanding these much needed improvements to the New Veterans Charter,<sup>7</sup> former Canadian Forces members continue to face challenges when transitioning from military to civilian life, challenges that can include:

- financial instability and decreased standard of living due to reduced post-release income;
- limitations in vocational rehabilitation and assistance programs, which can affect second career aspirations and employment options; and
- difficult family environment situations due to reduced family support.

These challenges can potentially affect a Veteran throughout his or her life and increase dependence on Veterans Affairs Canada and other Government of Canada programs.

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<sup>6</sup> When the *Enhanced New Veterans Charter Act* (Bill C-55) came into force, it automatically became part of the New Veterans Charter.

<sup>7</sup> Unless specified otherwise, reference to the New Veterans Charter will include the enhancements that were implemented under the *Enhanced New Veterans Charter Act*.

In a January 2011 joint Department of National Defence/Veterans Affairs Canada report, 25 percent of those surveyed responded that they had a difficult transition experience.<sup>8</sup> While Veterans who did not require the services of Veterans Affairs Canada had a difficult adjustment less often (17%), more Disability Pension clients (37%) and New Veterans Charter clients (57%) experienced a difficult transition period. The cross-sectional survey was conducted by Statistics Canada of 3,154 Regular Force Veterans who transitioned to civilian life between 1998 and 2007.

Veterans who can return to work need and deserve improved programs to better help them transition to meaningful jobs and productive lives. Injured or ill Veterans who can no longer work and support themselves and their family deserve the best possible health, quality of life and financial stability.

While all New Veterans Charter program areas are geared towards enabling successful transition and re-establishment in civilian life, this review concentrates on three specific support areas that directly affect the transition of ill or injured Canadian Forces members from military service to civilian life:

- financial;
- vocational rehabilitation and assistance; and
- families.

Since 2006, 145 of the more than 200 recommendations contained in various external and internal review and audit reports on the New Veterans Charter, have dealt with these three areas. Addressing these well-documented and unresolved shortcomings of the Charter will make a significant difference for Veterans and their families and will improve the conditions for successful transition from military to civilian life.

## WHY IT MATTERS

Those who serve in the Canadian Forces do so willingly, knowing that they may be injured, become ill or die as a result of their service. They do what is asked of them to the best of their abilities. By putting the needs of Canada and Canadians ahead of their own, they forego some of the rights and freedoms enjoyed by other citizens.

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<sup>8</sup> *Survey on Transition to Civilian Life: Report on Regular Force Veterans*, January 4, 2011, page 70 ([http://publications.gc.ca/collections/collection\\_2011/acc-vac/V32-231-2011-eng.pdf](http://publications.gc.ca/collections/collection_2011/acc-vac/V32-231-2011-eng.pdf)).

It is this act of joining up voluntarily, wanting to make a difference and willingly accepting the unconditional obligation to follow orders whatever the danger and risk of harm or death (referred to as “unlimited liability”) that distinguishes those who serve in the Canadian Forces from other Canadians. Without the military member’s acceptance of “unlimited liability,” the conduct of military operations would not be possible.

Every year, Canadian Forces members are injured or become ill and can no longer meet the Universality of Service<sup>9</sup> employment, deployment and fitness standards required for them to serve in the Canadian Forces. They have no choice but to leave the profession of arms, and they cannot be accommodated in other jobs as civilian employees can under the *Public Service Employment Act* or human rights legislation. That is why Canadian Forces members need “specialized” transition support to help them make new lives for themselves and their families.

Veterans who successfully transition from military to civilian life have much to offer Canadian employers and Canadian society. The Government of Canada has spent a significant amount of time, effort and money to produce highly trained, confident and disciplined professionals who are responsible citizens, loyal to the nation and organization they serve, flexible and adaptable, and who understand teamwork, and possess strong leadership, problem-solving skills and work ethic. Employers are looking for these attributes in their workforce to help generate the productivity and innovation needed at a time when the working-age population is declining and operating environments are changing rapidly.

Hiring a Veteran is good for business. This is demonstrated by the over 40 corporations that have joined with Canada Company,<sup>10</sup> a charitable group that helps connect companies with former Canadian Forces members looking for jobs, and the growing number of initiatives, such as Helmets to Hardhats,<sup>11</sup> Treble Victor Group<sup>12</sup> and The Prince’s Operation Entrepreneur,<sup>13</sup> that also focus on helping Veterans transition to civilian employment.

As Karen Ritchie, Director of Human Resources and Talent Acquisition for Home Depot Canada, testified at a recent hearing of the Senate Sub-committee on Veterans Affairs:

Having Veterans work in our stores across Canada as well as in our corporate office has been an extremely positive experience for Home Depot. The energy,

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<sup>9</sup> <http://www.admfincs.forces.gc.ca/dao-doa/5000/5023-0-eng.asp>.

<sup>10</sup> <http://www.canadacompany.ca/>.

<sup>11</sup> <http://www.helmetstohardhats.ca/en/home.htm>.

<sup>12</sup> <http://www.treblevictor.org/>.

<sup>13</sup> [http://www.cybf.ca/cybf\\_programs/operation-entrepreneur/](http://www.cybf.ca/cybf_programs/operation-entrepreneur/).

experience and professionalism they bring to our team is noticeable, as is the high level of training and skill they bring to their work.<sup>14</sup>

The realization that one's professional military career and way of life is over because of injury or illness can be devastating and can put significant stress on individuals and their family as they contemplate an uncertain future. This unexpected and unwanted "life-changing" circumstance comes with many realities, namely:

- an immediate reduction in salary upon release;
- sometimes inadequate formal academic education;
- military training and occupational skills (e.g. infantry) that may not be easily transferred to civilian academic equivalencies or to civilian jobs;
- a family that is often ill-equipped to deal with a physical and/or mental health impairment; and
- a family that experiences reduced post-release support or none at all.

Therefore, it is not surprising that these individuals may not be in the right frame of mind to commence a smooth transition to civilian life.

It is not unusual for Canadian Forces members who no longer meet Universality of Service requirements and who will be medically released to want to remain in the Canadian Forces as long as possible. They want to hang on to their salary and financial security, to retain the high-quality medical care and support provided to them and their family by the Canadian Forces and to prolong their sense of belonging to the only organization for which they have ever worked.

This can delay the start of vocational rehabilitation for a new career (assuming that the individual is medically capable) and it is widely recognized that the longer one delays, the harder it is to transition successfully. The Veterans Ombudsman has long-standing concerns that deficiencies with the New Veterans Charter's financial, vocational rehabilitation and assistance, and family support programs affect the ability of soon-to-be Veterans to look ahead to new opportunities rather than hold on to a familiar military career that is no longer possible.

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<sup>14</sup> Testimony at the June 20, 2012 proceedings of the Senate Sub-committee on Veterans Affairs of the Standing Senate Committee on National Security and Defence (<http://www.parl.gc.ca/Content/SEN/Committee/411/veac/pdf/06issue.pdf>).

There are close to 1,000 individuals medically released annually because they can no longer serve in the Canadian Forces. Over 4,500 Veterans currently participate in government-supported vocational rehabilitation programs, and an unknown number of Veterans have yet to come forward for help because of latent physical and mental health problems resulting from their military service. Therefore, it is in the Government of Canada's interest to demonstrate its continued commitment to Veterans and their families by acting quickly to make additional targeted improvements to New Veterans Charter programs to address pressing transition issues.

We will now look at each of the three areas in detail.

## FINANCIAL SUPPORT

### Description of Financial Benefits

The New Veterans Charter provides a dual financial benefits approach that compensates for both economic and non-economic impacts of a service-related and potentially career-ending disability.

The **Disability Award** recognizes and compensates Canadian Forces members, Veterans and, in prescribed cases, surviving spouses/common-law partners and surviving dependent children for non-economic impacts, such as pain and suffering, physical and psychological loss and the impact on their quality of life. The amount of the tax-free award depends on the severity of the disability and the relationship between the disability and service, and is paid as a lump-sum payment, annual payments or a combination of these two payment options. The maximum award payable is \$298,588 (2013 rates).

While not part of the New Veterans Charter, it is worthwhile to mention that there is a non-economic benefit provided by the Canadian Forces through the Canadian Forces Accidental Dismemberment Insurance Plan. This tax-free lump-sum benefit, to a maximum of \$250,000 depending on the type of injury, compensates Canadian Forces members for service-related dismemberment, loss of use of a limb or permanent loss of sight, hearing or speech.<sup>15</sup>

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<sup>15</sup> Veterans may also be eligible for other Government of Canada benefits in addition to those provided under the New Veterans Charter, such as superannuation, Canada Pension Plan disability benefits and the Quebec Pension Plan.

The following New Veterans Charter financial benefits complement the Disability Awards program and either compensate for the economic impact that a career-ending disability can have on a Veteran and his/her family or provide other awards and allowances.

The **Earnings Loss Benefit** is a monthly taxable payment, offset<sup>16</sup> by prescribed sources of income (such as the Canada Pension Plan/Quebec Pension Plan, superannuation annuity and other employment income) to ensure that post-release income does not fall below 75 percent of the Veteran's gross pre-release military salary (referred to as "imputed income"). The minimum salary to calculate the benefit for Regular Force and full-time Reserve Force Veterans is based on a Corporal's basic pay incentive, which was \$4,622 per month as of November 2012. In the case of former part-time reservists, the Earnings Loss Benefit is calculated based on 75 percent of a deemed monthly salary<sup>17</sup> of \$2,700.

The benefit is payable on a temporary basis until the Veteran is job-ready or on an extended basis to a maximum age of 65 if the Veteran is determined to be totally and permanently incapacitated. In the case of service-related death, the Earnings Loss Benefit is payable to the surviving spouse or orphan(s) in accordance with prescribed eligibility criteria.<sup>18</sup>

The **Supplementary Retirement Benefit** is a lump-sum taxable payment at age 65 or when the Veteran is able to engage in suitable gainful employment that compensates for the lost opportunity to contribute to a retirement fund. The payment is equal to 2 percent of the total amount of the Earnings Loss Benefit paid to the Veteran, irrespective of other financial benefits received.

The **Canadian Forces Income Support** is a monthly tax-free payment, payable after eligibility to the Earnings Loss Benefit expires, that provides a safety net to ensure Veterans have enough income to meet their basic needs while they look for work. The benefit may also be payable to a Veteran after the age of 65 and to the Veteran's survivor and orphans in certain circumstances if they meet income test and other eligibility requirements. The maximum monthly rates as of January 2013 are:

- \$1,396.78 for a Veteran or survivor;
- \$2,118.42 for a Veteran with spouse;
- \$326.36 additional amount for each dependent child; and
- \$699.56 for an orphan.

Finally, the Canadian Forces Income Support benefit is subject to offsets from other income sources.

<sup>16</sup> "Offset" means that other monthly amounts received by the Veteran, such as a Canada Pension Plan/Quebec Pension Plan pension, superannuation annuity and other employment income, are subtracted from the amount of the monthly Earnings Loss Benefit.

<sup>17</sup> A deemed salary is a calculated monthly salary. The fixed amount of \$2,700, set by the Treasury Board of Canada, is used as the salary to calculate the income support for former part-time reservists.

<sup>18</sup> *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, S.C. 2005, c. 21, sections 22 and 23.

The **Permanent Impairment Allowance and Permanent Impairment Allowance Supplement** is a monthly taxable benefit payable for life in three grade levels that compensates for the lack of career opportunities and progression and a monthly supplement that compensates for the inability to perform any occupation that is considered to be suitable gainful employment. The monthly rates as of January 2013 are:

- Grade I – \$1,709.27;
- Grade II – \$1,139.52;
- Grade III – \$569.76; and
- PIA Supplement – \$1,047.53.

The **Clothing Allowance** is a monthly tax-free allowance payable to a Veteran in receipt of a disability award for an amputation that causes wear and tear on clothing or that necessitates the wearing of custom-made clothing. Amounts range from \$21.57 to \$194.45 per month.

The **Detention Benefit** is a tax-free lump-sum payment awarded to Veterans who have been detained by enemy forces. It is calculated based on the number of days of detention and mirrors the prisoner of war compensation under the *Pension Act*. It may be paid over and above the 100 percent limit for the disability award or disability pension.

The **Death Benefit** is a tax-free lump sum in the amount of \$298,588 (2013 rate) payable to a surviving spouse, common-law partner or dependent child in the case of service-related death that occurs within 30 days of an injury or illness.

In addition to the financial benefits provided under the New Veterans Charter, the Service Income Security Insurance Plan (SISIP) Long Term Disability benefit (administered by SISIP Financial Services) provides an entitlement to an income replacement benefit that is the same as Veterans Affairs Canada's Earnings Loss Benefit described above (the design of the latter was based on the former). The SISIP Long Term Disability Plan is the first payer of the income replacement benefit and Veterans Affairs Canada provides its Earnings Loss Benefit to eligible Veterans, on a needs basis, who are not (or are no longer) SISIP Long Term Disability clients.

The SISIP Long Term Disability benefit is provided to medically released Canadian Forces members or to those members who are released under a different release item and meet the definition of total

disability. To qualify as totally disabled,<sup>19</sup> the SISIP Long Term Disability client must be incapacitated by a medically determinable physical or mental impairment that is preventing the client from performing any and every duty of any substantially gainful occupation or employment for which he or she is qualified by education, training or experience.

The SISIP Long Term Disability income replacement benefit is payable normally for a maximum period of 24 months, but may be extended up to the age of 65 for clients who meet the definition of total disability.

## Financial Benefits Most at Issue for Veterans Transitioning to Civilian Life

The discussion that follows focuses on the four economic and non-economic financial benefits contained in the New Veterans Charter that are most at issue for transitioning Veterans and that have generated the majority of recommendations from internal and external reviews, reports and audits.

### EARNINGS LOSS BENEFIT

**Earnings Loss Benefit:** A monthly taxable income replacement program offset by prescribed sources of income that ensures a Veterans' income does not fall below 75 percent of his or her gross pre-release military salary. It ensures that the Veteran has a total pre-tax income of at least \$40,000 per year (the amount is \$24,300 per year for former part-time reservists).

An immediate reduction in salary upon medical release from the Canadian Forces can be a barrier to transition to a new life for Canadian Forces members whose military career has ended prematurely due to injury or illness. An October 2012 survey of Officers Commanding Canadian Forces Joint

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<sup>19</sup> Veterans Affairs Canada uses the term "totally and permanently incapacitated" and defines it as a Veteran who is incapacitated by a permanent physical or mental health problem that prevents the Veteran from performing any occupation that would be considered to be suitable gainful employment. The inability to work must be due to the health problem(s) for which rehabilitation services were approved. Suitable and gainful employment is employment for which the Veteran is reasonably qualified by reason of education, training or experience and that provides a monthly rate of pay equal to at least 66⅔ percent of the imputed income of the Veteran. For the SISIP Long Term Disability program, the percentage of imputed income is a consideration when Manulife develops the vocational rehabilitation plan with the client; however, the program is not bound by a specific percentage of imputed income when qualifying suitable and gainful employment.

Personnel Support Units indicates that such a reduction in salary is particularly challenging for young service personnel with families who are released at more junior rank levels.<sup>20</sup> Over 60 percent of medically released Canadian Forces non-commissioned members are released at the rank of Master-Corporal and below.<sup>21</sup>

Depending on the service environment (Army, Navy, Air Force) and location of the Canadian Forces member, individuals can also be in receipt of an environmental and/or Post Living Differential allowance<sup>22</sup> and rely on these allowances to support themselves and their family. Because these allowances are not included in the calculation of the Earnings Loss Benefit and SISIP Long Term Disability income replacement benefit, medically released Canadian Forces members can face an even greater reduction in income and standard of living than assumed at first glance. Importantly, perception of financial adequacy has been found to be a significant predictor of life satisfaction and adjustment to civilian life after military release.<sup>23</sup>

In addition, a medical release due to serious injury or illness can have an impact on the spouse's income. There are cases of spouses who have reduced their work hours or even ceased working entirely in order to care for an injured or ill Veteran. This further exacerbates the financial impact of a medical release on the Canadian Forces member and on his or her family.

As stated earlier, it is not unusual for injured or ill service personnel who no longer meet operational requirements to serve in the Canadian Forces to want to remain in service for as long as possible. Staff at Canadian Forces Integrated Personnel Support Centres who support members who will be medically released deal often with those who delay commencement of transition to civilian life. They are not ready to look ahead to a new life when they are worried about a reduction in salary and standard of living when released from the Canadian Forces.<sup>24</sup>

The principle of using a percentage of pre-release salary to calculate the Earnings Loss Benefit and the SISIP Long Term Disability income replacement benefit is based on Treasury Board policy regarding Federal Government Disability Insurance. It would appear that little evidence-based research has ever

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<sup>20</sup> Canadian Forces Director Casualty Support Management e-mail to the Office of the Veterans Ombudsman, October 4, 2012.

<sup>21</sup> Data from the Canadian Forces Human Resource Management System provided by the Department of National Defence, September 5, 2012.

<sup>22</sup> Environmental allowances are provided to members of the Canadian Forces whose military duties involve sporadic or continuous exposure to adverse environmental conditions, including hazards that are not normally experienced by other members (e.g. aircrew, sea or land duty). The Post Living Differential allowance is provided to stabilize the cost of living of Canadian Forces members and families serving in Canada with respect to regional differences. The allowance provides a means for a Canadian Forces family to enjoy a relative and predictable standard of living no matter where they serve in Canada.

<sup>23</sup> *Survey on Transition to Civilian Life: Report on Regular Force Veterans*, January 4, 2011, page 64 ([http://publications.gc.ca/collections/collection\\_2011/acc-vac/V32-231-2011-eng.pdf](http://publications.gc.ca/collections/collection_2011/acc-vac/V32-231-2011-eng.pdf)).

<sup>24</sup> Canadian Forces Director Casualty Support Management e-mail to the Office of the Veterans Ombudsman, October 18, 2012.

been done to determine what percentage of salary is the right amount to encourage participation in vocational rehabilitation programs or to adequately support those who can no longer work for the rest of their lives.

There is little consistency in income support benefits and calculation methodologies between Canadian federal and provincial civilian income support programs. The Disability Insurance Plan for Canadian federal unionized employees provides disabled workers with 70 percent of their adjusted annual salary. Provincial Workers Compensation Board earnings loss programs vary from province to province, with the majority of provinces providing 80 to 90 percent of net income to a maximum compensation earnings amount. The majority of provinces offset the earnings loss amount by other financial benefits received from the Canada Pension Plan Disability Benefits/Quebec Pension Plan.<sup>25</sup> Therefore, across the country, one finds maximum weekly Workers Compensation payments for workers ranging from a low of \$570 in Prince Edward Island to a high of \$1,209 in Nunavut (December 2011 rates).<sup>26</sup>

Three additional facts about Veterans Affairs Canada's Earnings Loss Benefit (and the SISIP Long Term Disability income replacement benefit) are worth mentioning:

- The annual cost of living increases to the benefit are capped at 2 percent, even though the inflation rate may be higher in a particular year.
- The benefit for a medically released part-time reservist whose injury or illness is service-related is based on a much lower deemed salary than the imputed income<sup>27</sup> of a full-time reservist and Regular Force member. SISIP Financial Services reports that, since 2006, there has been on average 22 part-time reservists approved for the SISIP Long Term Disability program per year (with a high of 30 in 2010).<sup>28</sup> Veterans Affairs Canada reports that it currently provides temporary or extended<sup>29</sup> Earnings Loss Benefits to eight former part-time reservists based on a deemed salary.<sup>30</sup> While Reserve Force service is not continuous full-time service, the Government of Canada has a responsibility to treat all Canadian Forces members

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<sup>25</sup> The Quebec Pension Plan precludes the receipt of both workers' compensation benefits and disability benefits.

<sup>26</sup> For a comparison of Workers' Compensation Board benefits, see [http://www.awcbc.org/common/assets/benefits/benefits\\_publication.pdf](http://www.awcbc.org/common/assets/benefits/benefits_publication.pdf). The exception to the net income payment scheme is Yukon, which provides 75 percent of gross income. Maximum annual earnings range from a high of \$104,000, in Manitoba, to a low of \$49,300, in Prince Edward Island.

<sup>27</sup> Imputed income is the monthly gross salary at release from the Canadian Forces.

<sup>28</sup> Statistics provided by SISIP Financial Services, November 22, 2012.

<sup>29</sup> Department of Veterans Affairs, *New Veterans Charter Evaluation, Phase II*, 2010, page 44, <http://www.veterans.gc.ca/eng/department/reports/deptaudrep/2010-aug-nvcep-ph2/annexb>.

<sup>30</sup> Statistics provided by Veterans Affairs Canada, November 30, 2012.

who are injured or become ill as a result of service in a fair and equitable manner, including part-time reservists.

- Finally, according to the *Income Tax Act*, the Earnings Loss Benefit (and the SISIP Long Term Disability income replacement benefit) is not considered “earned income” for the purpose of permitting the Veteran to contribute to the Canada Pension Plan and Registered Retirement Savings Plans. Therefore, for the totally disabled Veteran who is no longer able to work, when the Earnings Loss Benefit ceases at age 65, the Veteran will face another significant drop in monthly income and the reduction cannot be mitigated by Canada Pension Plan payments or Registered Retirement Savings Plans. This is discussed further in the next section.

## AFTER AGE 65 SUPPLEMENTARY RETIREMENT BENEFIT

**After Age 65 Supplementary Retirement Benefit:** A one-time, taxable cash award designed to compensate for the lost opportunity to contribute to a retirement fund for those Veterans who are unable to work as a result of being totally and permanently incapacitated.

The taxable lump-sum Supplementary Retirement Benefit is based on 2 percent of the total amount of the Earnings Loss Benefit paid to the Veteran since 2006. However, the amount provided to the Veteran at age 65 will not replace the loss of the monthly Earnings Loss Benefit. This is especially problematic for service personnel who release from the Canadian Forces at lower rank, are totally and permanently incapacitated, and have no *Canadian Forces Superannuation Act* annuity.<sup>31</sup>

The Old Age Security and, if eligible, Guaranteed Income Supplement payments provided at age 65 also do not mitigate the loss of the Earnings Loss Benefit. The maximum Old Age Security and Guaranteed Income Supplement payments that can be provided to a married Veteran at the age of 65 currently totals \$1,580 per month. This represents a 50 percent reduction in financial support for a Veteran who received the Earnings Loss Benefit minimum amount of \$3,300 per month. It is to be noted, as well, that if a Veteran satisfies the criteria for eligibility for the Canadian Forces Income Supplement benefit at age 65, the amount of the Canadian Forces Income Support provided is offset by Old Age Security and Guaranteed Income Supplement payments.

<sup>31</sup> One hundred and forty-seven (147) Canadian Forces service personnel who were medically released in fiscal year 2011-2012 were not eligible for an unreduced *Canadian Forces Superannuation Act* annuity.

Between October 2007 and August 2012, there were 15 recipients of the Supplementary Retirement Benefit. The average amount of the lump-sum payment over the past five years was \$1,927 and the largest payment was \$5,969.45. Veterans Affairs Canada reports that as of September 2012, there were 401 Veterans in receipt of the Extended Earnings Loss Benefit, which is provided to Veterans who are, and remain, totally and permanently incapacitated.<sup>32</sup> This number is increasing annually and thus the number of totally and permanently incapacitated Veterans eligible for the After Age 65 Supplementary Retirement Benefit will continue to increase over time.

Some 36 of the 401 Veterans currently in receipt of the Extended Earnings Loss Benefit will reach the age of 65 in the next five years and will lose their monthly benefit.<sup>33</sup> There are also at present close to 3,000 SISIP Long Term Disability clients considered to be totally disabled who, if they remain totally disabled, will lose their SISIP income support benefit at age 65 as well.<sup>34</sup> For Veterans in receipt of vocational rehabilitation services and the SISIP Long Term Disability income replacement benefit, the Supplementary Retirement Benefit is calculated from receipt of the SISIP Long Term Disability benefit since April 2006 until they attain age 65.

As mentioned previously, because the Earnings Loss Benefit is not considered earned income, Veterans cannot use it to contribute to the Canada Pension Plan or Registered Retirement Savings Plans to supplement their Supplementary Retirement Benefit, Old Age Security and Guaranteed Income Supplement payments. Since the Canada Pension Plan was designed to ensure a measure of protection to a contributor and to his or her family against the loss of income due to retirement, disability or death, it is somewhat ironic that Veterans who are receiving the Earnings Loss Benefit as a result of an injury resulting from their service to Canada cannot use the benefit to contribute to the Plan.

The after-age-65 financial support provided by provincial Workers' Compensation Boards varies from province to province. In Quebec, the income replacement indemnity ceases at age 68 and no further financial support is provided. In Newfoundland and Labrador, the employee is paid an amount equal to the loss of Canada Pension Plan retirement or registered employer-sponsored pension plan benefits that the employee has lost because of the injury. The Northwest Territories and Nunavut do not pay an annuity because the income replacement indemnity is provided for life. Alberta also does not pay an annuity, but adjusts (normally at age 65) the economic loss payment to reflect the loss of retirement income, rather than employment income, and pays this amount for life. All other provinces retain from 5 to 10 percent of the income replacement indemnity paid to the employee to

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<sup>32</sup> Statistics provided Veterans Affairs Canada, November 30, 2012.

<sup>33</sup> Statistics provided by Veterans Affairs Canada to the Office of the Veterans Ombudsman, as of November 13, 2012.

<sup>34</sup> Statistics provided by the Service Income Security Insurance Plan (SISIP) Financial Services, November 22, 2012.

pay an annuity or lump sum at age 65; some provinces allow employees to also contribute a nominal percentage of their economic replacement indemnity to increase the amount of their annuity.<sup>35</sup>

The point of this discussion is that Veterans who are totally and permanently incapacitated in service to Canada will be financially disadvantaged after the age of 65 because the Supplementary Retirement Benefit does not mitigate the loss of the Earnings Loss Benefit. Canadians who suffer a work-related disability and who receive benefits under provincial Workers Compensation schemes receive better benefits after the age of 65 than do Veterans who are disabled in service to Canada.

## PERMANENT IMPAIRMENT ALLOWANCE AND SUPPLEMENT

**Permanent Impairment Allowance:** A monthly taxable benefit payable for life in three grade levels ranging from \$569 to \$1,709 that compensates for the lack of career opportunities and progression.

**Permanent Impairment Allowance Supplement:** A monthly supplement of \$1,047 that compensates for the inability to perform any occupation that is considered to be suitable gainful employment.

As of December 31, 2012, 762 Veterans were in receipt of the Permanent Impairment Allowance (PIA), up from 16 recipients in June 2010, and 568 Veterans were in receipt of the Permanent Impairment Allowance Supplement. These statistics suggest that access to these benefits has improved significantly.<sup>36</sup> Almost 90 percent of PIA recipients are receiving the lowest monthly allowance (grade III). The favourability rate for Permanent Impairment Allowance and Permanent Impairment Allowance Supplement decisions was 80 percent.<sup>37</sup> Veterans Affairs Canada does not keep track of the reasons for the unfavourable decisions, so it is not clear whether the eligibility criteria for the benefits are an issue.

<sup>35</sup> For a comparison of Workers' Compensation Board benefits, see [http://www.awcbc.org/common/assets/benefits/benefits\\_publication.pdf](http://www.awcbc.org/common/assets/benefits/benefits_publication.pdf).

<sup>36</sup> Statistics provided by the Department of Veterans Affairs, December 5, 2012.

<sup>37</sup> Statistic provided by the Department of Veterans Affairs, October 2, 2012.

## DISABILITY AWARD

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**Disability Award:** A tax-free lump-sum payment, annual payments or combination of both payment options that recognizes and compensates for non-economic impacts of a service-related disability, such as pain and suffering, functional loss and the effects of a permanent impairment on one's life. The maximum award payable is \$298,588 (2013 rates).

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The change from a monthly tax-free disability pension for life under the *Pension Act* to a one-time<sup>38</sup> tax-free lump-sum disability award under the New Veterans Charter has been at the centre of unabated debate by certain Veterans and Veterans' advocacy groups since it was first implemented in 2006.

The *Enhanced New Veterans Charter Act* introduced changes to the payment options for the disability award. As a result, recipients of disability awards greater than 5 percent can now choose between a lump sum payment, annual payments or a combination of both payment options. Veterans Affairs Canada's statistics indicate that in fiscal year 2011-2012, 50 recipients (slightly more than 1 percent) out of the 4,135 recipients of the disability award, opted to receive annual payments (with or without a lump-sum portion).<sup>39</sup> To date, the change to the disability award payment scheme has made very little difference for the majority of Veterans.

The current maximum amount for the disability award (\$250,000 indexed to \$298,588 in 2013) was established by Veterans Affairs Canada by reviewing four benchmarks:

- Workers' Compensation Board payments for non-economic loss;
- personal injury awards by Canadian courts;
- benefits payable to military members in the United Kingdom and Australia; and
- amounts payable for total disability through accidental death and dismemberment insurance plans available in the private and public sectors.

When the New Veterans Charter came into force in 2006, Veterans Affairs Canada considered that the maximum amount for the disability award was comparable to these four benchmarks.

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<sup>38</sup> The amount of the disability award can be reassessed if the medical condition changes.

<sup>39</sup> Statistics provided by Veterans Affairs Canada to the Office of the Veterans Ombudsman as of November 15, 2012.

Most provincial Workers' Compensation Board programs provide disabled workers with a lump-sum payment for non-economic loss in addition to bi-weekly or monthly payments for the economic loss of earnings. Lump-sum payment amounts and methods of calculation vary considerably from province to province and range from a low of \$49,300 in Prince Edward Island to a high of approximately \$175,000 in Manitoba for a worker who is totally and permanently disabled.

With regard to court awards, historically there was no ceiling on the amount of money that could be awarded to an injured individual for non-pecuniary (non-economic) loss in Canada. Such non-pecuniary damages represent compensation for items that are difficult to quantify in terms of dollar amounts and are commonly referred to as compensation for pain and suffering resulting from injuries.

In 1978, the Supreme Court of Canada heard a trilogy of cases and handed down a significant decision that held that there should be a cap on Canadian awards for non-pecuniary damages. Specifically, the Court held that “save in exceptional circumstances ... an upper limit of non-pecuniary loss” should be set at \$100,000.<sup>40</sup>

The current judicial cap for non-pecuniary damages in Canada is just over \$342,000.<sup>41</sup> Factors that the courts consider in establishing the amount include the age and sex of the litigant, marital status, the type of injury incurred (e.g. amputation, loss of vision, loss of hearing, brain injury), the impact on daily life, the level of autonomy, the number of dependants, if any, and life expectancy.

In developing the Disability Awards program under the New Veterans Charter, Veterans Affairs Canada also considered the new compensation and benefits packages that were being developed by the United Kingdom and Australia. However, while comparing benefits with other countries is informative, caution is required when considering foreign compensation schemes as a benchmark for Canadian benefits because there are many differences in the way countries administer and deliver programs, including different eligibility criteria and different cost of living considerations. As an example, the following provides a cursory comparison of benefits in the United Kingdom and Australia.

The United Kingdom Armed Forces Compensation Scheme provides a tax-free lump sum based on 15 tariff levels with amounts ranging from £1,200 to £540,000 United Kingdom pounds sterling (\$1,909 to \$859,302 Canadian dollars<sup>42</sup>) depending on the level of disability. For the more seriously disabled Veterans, the lump sum is supplemented by a tax-free monthly age-based Guaranteed Income Payment that tops up a three-tier ill-health pension.

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<sup>40</sup> Thornton v. School Dist. No. 57 (Prince George) et al. (1978) 2 SCR 267.

<sup>41</sup> Clost v. Relkie (2012) BCSC 1393.

<sup>42</sup> Bank of Canada's Daily Currency Converter, November 29, 2012.

Under the *Australia Military Rehabilitation and Compensation Act* (2004), a disability award is paid in compensation for the pain and suffering of a disability or impairment resulting from an injury suffered during military service. It offers three payment options to injured individuals, based on a 10-level disability scale: a periodic payment made on a bi-weekly basis; a lump sum, which is an age-based actuarial equivalent of the bi-weekly amount; or a combination of lump sum and periodic payments with options available depending on the level of permanent impairment. The maximum lump-sum payment is approximately \$361,000 Australian dollars (\$373,887 Canadian dollars).<sup>43</sup>

Both the United Kingdom and Australia also offer non-financial services and benefits such as medical treatment, vocational rehabilitation and job placement assistance.

The fact that the disability award has not been increased in the seven years since the New Veterans Charter came into force, other than annual cost of living increases, is a contributing factor in its continued criticism. In addition, the proponents of a return to the *Pension Act* tax-free monthly disability pension for life focus their criticism primarily on the inadequacy of the disability award amount when compared to the disability pension. The other non-economic and economic benefits provided to the disabled Veteran under the New Veterans Charter are often not considered in these discussions. This fixation on the Disability Awards program contributes to misunderstanding and misinformation about the total benefits package provided under the New Veterans Charter, which also includes useful non-financial support programs.

The Office of the Veterans Ombudsman contracted for an independent analysis of the actuarial present values of the New Veterans Charter financial benefits compared to *Pension Act* financial benefits to assess the actuarial difference between the programs. The Office will publish a report detailing its findings in the spring of 2013.

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<sup>43</sup> Report of the Standing Committee on Veterans Affairs – *Shared Experiences: Comparison of Veterans Services Offered by Members of the Commonwealth and the G8*, June 2009, <http://www.parl.gc.ca/content/hoc/Committee/402/ACVA/Reports/RP4000909/acvarp01/acvarp01-e.pdf>.

# VOCATIONAL REHABILITATION AND ASSISTANCE SUPPORT

The Public Health Agency of Canada<sup>44</sup> and other Canadian and international health associations and experts in the field of rehabilitation all recognize the importance of factors such as education, employment and income as determinants of physical and mental health, well-being and quality of personal and family life.

Regrettably, Veterans Affairs Canada does not capture statistics that demonstrate the correlation between a disabled Veteran who successfully transitions to a well-remunerated and satisfying job and the level of health care and other support services he or she received from Veterans Affairs Canada.

Notwithstanding the lack of statistical evidence, it is reasonable to assume that helping a Veteran secure a good job and economic independence has a positive impact on his or her health and can potentially reduce long-term dependence on government support programs. In addition, a well-paying civilian job also provides the Veteran with structure, routine, social interaction, a sense of purpose, and financial security after the age of 65.

The Government of Canada, through the Department of Human Resources and Skills Development, supports several education and training programs to help unemployed and underemployed Canadians return to work, including Canadians with disabilities who face barriers to employment. The programs complement provincial and community labour market and Workers' Compensation programs. There are also a variety of retraining programs available through public and private sector disability insurance programs.

With the coming into force of the New Veterans Charter, there are now two Government of Canada supported programs designed specifically to help Veterans transition from military to civilian life: the SISIP Long Term Disability Plan – Vocational Rehabilitation Program, which is a Canadian Forces program, and the Vocational Rehabilitation and Assistance Program administered by Veterans Affairs Canada.

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<sup>44</sup> The Public Health Agency of Canada, *What Determines Health? Key Determinants*, [http://www.phac-aspc.gc.ca/ph-sp/determinants/index-eng.php#key\\_determinants](http://www.phac-aspc.gc.ca/ph-sp/determinants/index-eng.php#key_determinants).

## SISIP Long Term Disability Plan – Vocational Rehabilitation Program

Before 1969, Canadian Forces members with less than 10 years of service who suffered a disability that was not attributable to military service and who were not entitled to financial benefits under the *Pension Act* were left with little to no income to support themselves and their family. The Service Income Security Insurance Plan (SISIP) Long Term Disability Plan was introduced in 1969 to provide income replacement to Canadian Forces members who became disabled as a result of an injury or illness not attributable to service. Over the years, the premium-based insurance plan evolved to also provide income replacement coverage for service-attributable injuries and illnesses and to provide a vocational rehabilitation support program.

Today, Regular Force members pay 15 percent of the program premiums to cover non-service-attributable injury and illness, while Treasury Board pays the remaining premiums.<sup>45</sup> For Reserve Force personnel, Treasury Board pays the full premium. Service personnel from the Canadian Rangers and Cadet Organizations Administration and Training Service are only eligible for the SISIP Long Term Disability income support and vocational rehabilitation program if their illness or injury was incurred while on Reserve Force Class C service, which is an unlikely scenario.

The Treasury Board Secretariat provides governance and oversight of the SISIP Long Term Disability Plan. The President of SISIP Financial Services administers the plan on behalf of the Chief of the Defence Staff, who is the policy owner. Manulife Financial is the insurer and delivers the income replacement support and vocational rehabilitation programs, including claims adjudication and processing. Appeals of a Manulife decision are made directly to the President of SISIP Financial Services.

As mentioned earlier, the SISIP Long Term Disability Plan provides post-release income replacement to eligible clients normally for a period of 24 months or up to age 65 for those who meet the definition of total disability.<sup>46</sup> Income replacement support is an entitlement and is provided regardless of whether or not the SISIP Long Term Disability client participates in a vocational rehabilitation program.

The objective of the vocational rehabilitation program component of the SISIP Long Term Disability Plan is to enhance the eligible releasing Canadian Forces member's existing education, skills, training and experience to prepare him or her to obtain gainful employment in the civilian workforce. The SISIP vocational rehabilitation program will primarily build on existing skills wherever possible.

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<sup>45</sup> For Regular Force service personnel, Treasury Board pays 85 percent of the SISIP Long Term Disability premiums for non-service-attributable injuries and illnesses and 100 percent of the premiums for service-attributable injuries and illnesses.

<sup>46</sup> To meet the definition of total disability, the SISIP Long Term Disability client must be incapacitated by a medically determinable physical or mental impairment that is preventing the client from performing any and every duty of any substantially gainful occupation or employment for which he or she is qualified by education, training or experience.

However, if the client's military skills are incompatible with employment in the civilian workforce, then retraining in a new field will be considered.

The SISIP vocational rehabilitation program also provides employment preparation and job search assistance for clients who are ready to transition to the civilian workforce. The maximum financial support for tuition and books is \$25,000. Additional financial support is provided to prescribed limits for expenses such as child care, travel assistance, supplies and Internet services. The average cost per client for the SISIP vocational rehabilitation program is not published by SISIP Financial Services.

SISIP Long Term Disability claimants can normally receive a maximum of 30 months of vocational rehabilitation consisting of up to six consecutive months before the effective date of release from the Canadian Forces and up to 24 consecutive months after release. The 30-month period can be extended if the SISIP Long Term Disability client qualifies as totally disabled at the end of the 30-month period. The vocational rehabilitation program benefit is not transferrable to a spouse if the client cannot conduct vocational rehabilitation because of his or her medical condition or death.

SISIP Financial Services advises that approximately 95 percent of SISIP clients who are able to participate in vocational rehabilitation choose to do so. In 2011, there were approximately 3,200 SISIP Long Term Disability clients supported for vocational rehabilitation.<sup>47</sup> Statistics are not kept by SISIP Financial Services on whether clients successfully obtain employment in the civilian workforce following completion of a vocational rehabilitation program.

## **Veterans Affairs Canada's Vocational Rehabilitation and Assistance Program**

With the coming into force of the New Veterans Charter in 2006, Veterans Affairs Canada was given the mandate to provide a range of programs and services, including medical, psycho-social and vocational rehabilitation and vocational assistance. There is no specified time limit for the provision of these programs; Veterans Affairs Canada advises that they are needs-based and continue for as long as there is a need.

The Department can provide vocational rehabilitation and assistance after a medically released Veteran is no longer a client of the SISIP Long Term Disability – Vocational Rehabilitation Program, provided that he or she applies within 120 days of the medical release. Alternatively, for the Veteran

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<sup>47</sup> Testimony at the April 25, 2012 proceedings of the Senate Sub-committee on Veterans Affairs of the Standing Senate Committee on National Security and Defence (<http://www.parl.gc.ca/content/sen/committee/411/VEAC/pdf/05issue.pdf>).

who is not medically released, Veterans Affairs Canada can provide vocational rehabilitation and assistance if a post-release service-related need manifests itself later in life.

Veterans Affairs Canada can also provide medical and psycho-social rehabilitation to a Veteran while he or she is a client of the SISIP Long Term Disability Plan – Vocational Rehabilitation Program. Furthermore, if a Veteran cannot participate in the Department’s vocational rehabilitation program because of his or her medical condition or service-related death, then the Veteran’s spouse may be entitled to vocational rehabilitation and assistance.

In order for a Veteran who is not medically released to be eligible for rehabilitation services under the New Veterans Charter, Veterans Affairs Canada must determine that the Veteran has a “... physical or mental health problem resulting primarily from service in the Canadian Forces that is creating a barrier to re-establishment to civilian life.”<sup>48</sup> Once a physical or mental health problem has been identified and linked to the Veteran’s military service, Veterans Affairs Canada identifies vocational rehabilitation needs and develops and implements a vocational plan to re-establish the Veteran to civilian life or to restore the earnings capacity of the spouse or survivor.<sup>49</sup>

Veterans Affairs Canada also relies on contractors (e.g. CanVet<sup>50</sup>) to provide vocational rehabilitation and job placement assistance services to Veterans. Between April 1, 2011 and March 31, 2012, there were 1,327 Veterans participating in the Department’s vocational rehabilitation and assistance program with an average cost per Veteran for tuition of \$4,264 per year.

The criteria of building on existing skills, experience and training is similar to that of the SISIP vocational rehabilitation program, though Veterans Affairs Canada claims that there is flexibility to approve vocational rehabilitation programs in other areas to meet the needs of the Veteran. Statistics provided by the Department indicate that of the 1,327 Veterans enrolled in the vocational rehabilitation and assistance program in 2011-2012, 32 Veterans were enrolled in a university-level program with an average duration of 28 months. The most common vocational rehabilitation interventions were college and certification/licensing programs with an average duration of 24 and 12 months respectively.<sup>51</sup>

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<sup>48</sup> The *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (S.C. 2005, c. 21), section 8(1).

<sup>49</sup> Ibid, sections 10(1-4) and 13(1-3).

<sup>50</sup> [www.canvetservices.com](http://www.canvetservices.com).

<sup>51</sup> Statistics provided by Veterans Affairs Canada to the Office of the Veterans Ombudsman as of August 30, 2012.

## Comparison of Support Provided Under the Two Programs

A more in-depth comparison of the supports provided by the two programs can be found in the Appendix. While there are a number of similarities between the programs, there are also differences. The following final observations about the two programs are offered based on a review of additional statistics and information.

One of the primary reasons for limiting the post-release period of SISIP vocational rehabilitation to 24 months<sup>52</sup> is that a SISIP client who does not have the education, training or experience required to be gainfully employed after that time is deemed to be totally disabled. In such a case, the individual remains a SISIP claimant until he or she is qualified to engage in suitable and gainful employment (or until age 65, if deemed totally disabled). This may be a possible explanation as to why few SISIP clients are approved for post-secondary education programs that extend past 24 months in duration.

SISIP Financial Services advised that in 2011, 31 clients received support to upgrade their university-level education, which is similar to the number of Veterans (32) supported by Veterans Affairs Canada through its vocational rehabilitation program. When you consider that over 4,500 Veterans participate on an annual basis in SISIP or Veterans Affairs Canada vocational rehabilitation programs and that 63 Veterans were supported for university-level programs, it is clear that SISIP and Veterans Affairs Canada support for university-level programs is not the norm.

It is recognized, however, that a number of Veterans have neither the desire nor the aptitude to pursue a university-level degree and that most Officers who are medically released<sup>53</sup> have a university-level degree. However, the majority of Veterans who are supported by the SISIP and Veterans Affairs Canada vocational assistance programs do not participate in post-secondary university-level education programs, which can place them at a disadvantage to compete for higher paying jobs.

A 2011 Statistics Canada study concludes that Canadians with post-secondary education are employed at higher rates than those who attain lesser education levels.<sup>54</sup> Yet, both SISIP and Veterans Affairs Canada place limitations on the type, length and funding of vocational rehabilitation programs provided to Veterans.

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<sup>52</sup> It can be extended slightly on a case-by-case basis to allow a claimant to complete a program.

<sup>53</sup> In 2011, approximately 10 percent of Canadian Force members medically releases were Officers.

<sup>54</sup> Statistics Canada, *Educational Indicators in Canada: An International Perspective* (2011), page 17 (<http://www.statcan.gc.ca/pub/81-604-x/81-604-x2011001-eng.pdf>).

While both SISIP Financial Services and Veterans Affairs Canada profess to consider the needs of the client/Veteran, they normally do not permit training or education in a new career field if, at the time of release from the Canadian Forces, the client/Veteran has skills that are transferrable to the civilian workforce and he or she does not have medical limitations that would prevent gainful employment in that field.

This policy steers certain Veterans into career fields that they may no longer be interested in and that may not remunerate them as well as other career fields where higher post-secondary education is required. Placing barriers on education and training can potentially translate into employment problems later in life and further dependence on government programs.<sup>55</sup>

A review was conducted of the education levels of medically releasing Canadian Forces members. While some of the Human Resource Management System data provided by the Canadian Forces is incomplete, general inferences can be made. For fiscal year 2011-2012, approximately 10 percent of the 942 medically released Canadian Forces members had a completed or partially completed post-secondary education and nearly half of them had high school or less education levels.<sup>56</sup>

There is also the matter of premiums. Canadian Forces Regular Force members are required to pay premiums for the SISIP Long Term Disability Plan – Vocational Rehabilitation Program government insurance plan. The Government of Canada can provide the same programs to the same individuals through Veterans Affairs Canada at no cost to these individuals.

This raises the question of why a Canadian Forces member must pay premiums for benefits from one government plan when the same benefits are provided by another government plan at no cost.

SISIP argues that a major difference between its Long Term Disability program and Veterans Affairs Canada programs is that it also covers non-medically released service personnel who upon release meet the definition of total disability for a condition that may not be related to service. While this is not in dispute, it is likely that if these individuals (normally less than 20 per year) followed the Canadian Forces Administrative Review/Medical Employment Limitations process, they would be medically released. Alternatively, Veterans Affairs Canada could assess that they are eligible for benefits later in life because of a service-related rehabilitation need.<sup>57</sup>

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<sup>55</sup> Council of Canadians with Disabilities vision paper “*IN UNISON: A Canadian Approach to Disability Issues*” (<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/income-security-reform/in-unison#sec-framework>).

<sup>56</sup> The accuracy of Canadian Forces Human Resource Management System education data depends on whether or not Canadian Forces service personnel update their service records following enrolment. Caution is required when interpreting the data.

<sup>57</sup> A rehabilitation need exists if the client has a significant physical or mental health problem (temporary or permanent in nature) that is creating a barrier to a successful re-establishment in civilian life.

Two final points concern performance measurement and complexity. An updated Program Arrangement<sup>58</sup> between the Department of National Defence, SISIP Financial Services and Veterans Affairs Canada describes how the organizations collaborate to deliver coordinated rehabilitation and income support services to Veterans and to ensure that the services are not duplicated. SISIP Financial Services and Veterans Affairs Canada claim that their programs are effective; however, neither organization measures very well whether Veterans who complete vocational rehabilitation find good jobs with adequate remuneration and whether they stay employed.

Finally, feedback from Canadian Forces Regional Joint Personnel Support Units indicates that the dual vocational rehabilitation and income support program construct can be confusing for medically releasing members. There are many programs available to help Veterans transition from military to civilian life, with different eligibility and application requirements. That transition support for Veterans is complex is unquestionable; when two different government agencies provide the same program to the same Veteran, it does little to reduce complexity.

## FAMILY SUPPORT

A Veteran whose military career is terminated because of injury or illness and who must learn to cope with pain and impairment, a post-release reduction in income and reduced or inadequate family support is at risk of not being able to properly transition to civilian life. Quite often, the spouse or a family member serves as the primary caregiver for the injured or ill Veteran, helping him or her with activities of daily living and providing encouragement. They too suffer emotionally, socially and economically. They can feel isolated and overwhelmed with the challenges of caring for the Veteran and the entire family. Families of Veterans coping with mental health problems face particular challenges.

Under the *Pension Act*, support to families was essentially financial in nature, a spousal and children component to the Disability Pension and Survivor Benefits. The New Veterans Charter provides the following benefits to families in relation to the Veteran's injury or illness or death:

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<sup>58</sup> TD 2012-03, Amendment to Program Arrangement between Veterans Affairs Canada, the Department of National Defence and SISIP Financial Services Concerning Harmonized Rehabilitation Services, June 19, 2012.

- a lump-sum Death Benefit paid to the surviving spouse, common-law partner and dependent children in the amount of \$298,588 (2013 rate) if the Canadian Forces member died as a result of a service-related injury or illness, provided that the death occurred within 30 days after the injury occurred or the disease was contracted;
- a monthly Earnings Loss Benefit if the Veteran's death is related to service or a non-service-related injury or illness that was aggravated by service. The benefit ends when the Veteran would have reached the age of 65 and is paid to the Veteran's survivor or orphan(s);
- a lump-sum Supplementary Retirement Benefit paid to the surviving spouse (who must reside in Canada) when the Veteran would have reached the age of 65 and was in receipt of the Earnings Loss Benefit at the time of his or her death or would have been in receipt of the Earnings Loss Benefit but for his or her level of income. The benefit may also be provided if the Veteran died of a service-related condition or non-service-related condition that was aggravated by service before reaching the age of 65;
- a monthly Canadian Forces Income Supplement paid to the surviving spouse or orphan(s) if a Canadian Forces member or Veteran dies of a service-related injury or disease or a non-service-related injury or disease that was aggravated by service, and if on the day on which the application is approved the service person or Veteran, if alive, would be at least 65 years of age. If the Canadian Forces member or Veteran dies as a result of a non-service-related injury or disease, the survivor will be eligible for a Canadian Forces Income Support benefit if the Veteran was in receipt of the benefit at the time of death, meets the prescribed employment-related criteria, meets the income test and resides in Canada;
- access to the premium-based Public Service Health Care Plan if the Veteran is not eligible for coverage. A surviving spouse may also be eligible for the plan if the Canadian Forces member or Veteran died on or after April 1, 2006 as a result of an injury or illness attributable to service and the survivor is not otherwise eligible;
- access to Rehabilitation Services and Vocational Assistance and career transition support programs if the Veteran is unable to participate in the programs because of total and permanent incapacity or death;
- although not specified in legislation or regulations, Veterans Affairs Canada can also provide the family with a limited number of counselling sessions if the coun-

selling supports the Veteran's treatment plan. The Department also provides family peer social support for families affected by a Veteran's operational stress injury. In addition, short-term counselling services can be provided through Health Canada (1-800 number); these services are similar to those offered through the Canadian Forces Member Assistance Program. If the surviving spouse meets the eligibility criteria under the *Veterans Health Care Regulations*, he or she may also be entitled to Veterans Independence Program housekeeping and/or grounds maintenance services. Finally, for the children of Canadian Forces members who died in service, the *Children of Deceased Veterans Education Assistance Act*<sup>59</sup> provides a monthly allowance and financial assistance with tuition and other costs.

Veterans Affairs Canada's 2009 audit<sup>60</sup> of the New Veterans Charter and various parliamentary and expert advisory committee reports identified numerous shortcomings with the support provided by the Department to families who must deal with a severely injured or ill Veteran who experiences difficulty with the transition process. These identified shortcomings include:

- insufficient counselling on dealing with a Veteran with mental health problems;
- insufficient continuum of care during transition to community support;
- no respite care in response to caregiver fatigue and burnout;
- reduced child care support from Veterans Affairs Canada compared to the support provided to families by the Canadian Forces through the Military Family Support Program;
- insufficient support to children of Veterans and parents of single Veterans;
- difficulties with accessing civilian health care;
- inadequate outreach and communications about support provided by Veterans Affairs Canada;
- no follow-up contact with the families to confirm whether their needs are being met;
- no access to family dental care coverage for Veterans who do not qualify for the Treasury Board of Canada Pensioner Dental Service Plan because they are medically released with less than 10 years of service and do not qualify for a pension from the Canadian Forces or because they died (service-related) with less than two years of service; and

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<sup>59</sup> The *Children of Deceased Veterans Education Assistance Act* (R.S.C., 1985, c. C-28).

<sup>60</sup> Department of Veterans Affairs, *New Veterans Charter Evaluation, Phase I*, 2009, <http://www.veterans.gc.ca/eng/departement/reports/deptaudrep/2009-dec-nvc>.

- reduced reimbursement of travel costs from Veterans Affairs Canada compared to reimbursement provided by the Canadian Forces for a spouse who accompanies a Veteran for rehabilitation-related medical/psycho-social treatment appointments. Veterans Affairs Canada support for spousal travel is limited to participation in the Veteran's treatment or rehabilitation plan.

In 2011, the Office of the Veterans Ombudsman received over 600 calls related to family issues. Many of the calls were for information about Veterans Affairs Canada's services available to families, how to apply for benefits and requests for assistance with the application process. These calls point to deficiencies pertaining to the Department's communications and outreach.

Families often call for help in times of crisis, when urgent assistance is needed and they do not know where to turn. They are looking for responsiveness, the type of responsiveness they became accustomed to from the Canadian Force's Military Family Support Program.

In an October 2011 survey of Military Family Resource Centres, the most commonly reported difficulties experienced by families of transitioning Veterans were lack of communication and outreach with the family and lack of inclusiveness of the family in Veterans Affairs Canada interventions with the Veteran.<sup>61</sup> These difficulties contribute to anxiety and insecurity during the transition process.

There are important differences between the support provided by the Canadian Forces to families while a member is still in uniform and by Veterans Affairs Canada when the injured or ill service person is transitioning from military to civilian life. A number of these differences were captured in 2010 by the joint Department of National Defence/Veterans Affairs Canada programs and policies harmonization working group.<sup>62</sup>

There are also differences between what the Military Family Services Program provides families in terms of child care/respite care, personal development and community integration and referrals and crisis support than what Veterans Affairs Canada provides to the families of Veterans. Finally, the Canadian Forces has recently created Family Liaison Officer positions within the Joint Personnel Support Unit organization to better support the families of injured or ill members; Veterans Affairs Canada does not have similar positions.

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<sup>61</sup> Department of National Defence National Manager Family Policy and Program Development e-mail to the Office of the Veterans Ombudsman, November 16, 2012.

<sup>62</sup> For example, the working group identified that the reimbursement of travel expenses for spouses who accompany an injured or ill Canadian Forces member for treatment or hospitalization is more comprehensive than what Veterans Affairs Canada reimburses the same spouse who accompanies the same individual who becomes a client of the Department after release from the Canadian Forces.

Support to families is also a cultural issue. For the Canadian Forces, helping families cope with the many challenges associated with military life is an important element of operational effectiveness. In 2008, the Canadian Forces established the Canadian Forces Family Covenant to acknowledge the vital role played by families, the challenges they face and the sacrifices they are required to make in support of the men and women in uniform. The Canadian Forces Family Covenant serves as the foundation for Canadian Forces policies, programs and services provided to the families of service personnel.

During the period of transition from military to civilian life – a time when support services are needed the most – families of injured or ill Canadian Forces members should not be faced with reduced or eliminated services.

## CONCLUSION

This review paper provides detailed information to support informed discussion of shortcomings in three program areas of the New Veterans Charter that directly affect the transition of Veterans. In summary:

- the reduction in post-release salary and level of income support is a barrier to successful transition from military to civilian life and is a particular issue when a Veteran reaches the age of 65;
- the effectiveness of the vocational rehabilitation and assistance program is unclear, it restricts access to university-level education programs and constrains civilian employment opportunities for Veterans; and,
- Veterans' families face reduced or eliminated support from what was provided by the Canadian Forces at a time when support is needed the most.

Canadian Forces members whose military careers end because of injury or illness face unique challenges when transitioning from military to civilian life. Despite recent enhancements to the New Veterans Charter, there remain numerous issues with its financial, vocational rehabilitation and assistance, and family support programs designed to help Canada's injured or ill service personnel transition successfully.

The “transition support continuum” starts from the time it becomes known that a Canadian Forces member’s injury or illness will lead to medical release and ends with his or her successful transition to civilian life. For those who can work, it means going to a good job with adequate income, optimal health and functioning, and ultimately to a productive and satisfying life with minimal dependence on others. For those who will never again be able to work, it means the best possible health, functioning, quality of life and financial stability.

The Government of Canada has invested heavily in Canadian Forces members and can continue to benefit from this investment by ensuring that injured or ill service personnel transition successfully from military to civilian life. The key is to provide the Veteran with adequate financial, vocational rehabilitation and assistance, and family support during the transition period.

Improvements are required to New Veterans Charter programs and services to better facilitate transition success and demonstrate to Veterans and their families that the Government of Canada is committed to upholding the founding principle of the Charter – that it is a “living” Charter that will continually evolve to meet the changing needs of Veterans and their families.

The parliamentary committee review of the enhancements to the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, which is to be undertaken by October 2013, provides an opportunity to bring about meaningful improvements to the Charter. In preparation, the Veterans Ombudsman will encourage dialogue and make recommendations to address the Charter’s shortcomings.

# APPENDIX

## Comparison of SISIP and Veterans Affairs Canada Income Support and Vocational Rehabilitation Programs

INCOME SUPPORT	
SISIP	New Veterans Charter
<p><b>REGULAR FORCE AND FULL-TIME RESERVE FORCE</b></p> <ul style="list-style-type: none"> <li>• First payer</li> <li>• Entitlement paid regardless of participation in vocational rehabilitation</li> <li>• Medically released or, if not medically released, totally disabled on release. Canadian Forces member must apply within 120 days of release (exceptions considered)</li> <li>• 75 percent of imputed monthly income less other relevant sources of income</li> <li>• Minimum income: Corporal basic</li> <li>• Payable for 24 months or to age 65 if client is totally disabled</li> </ul> <p><b>PART-TIME RESERVE FORCE (LESS THAN 180 DAYS)</b></p> <ul style="list-style-type: none"> <li>• Same as above except 75 percent of deemed monthly salary of \$2,700</li> </ul>	<p><b>REGULAR FORCE AND FULL-TIME RESERVE FORCE</b></p> <ul style="list-style-type: none"> <li>• Needs-based and payable upon approved rehabilitation plan</li> <li>• 75 percent of imputed monthly income less other relevant sources of income</li> <li>• Minimum income: Corporal basic</li> <li>• Payable until completion or termination of rehabilitation plan or to age 65 if Veteran is totally and permanently incapacitated</li> <li>• Not paid if Veteran is receiving SISIP Long Term Disability income support</li> </ul> <p><b>PART-TIME RESERVE FORCE (LESS THAN 180 DAYS)</b></p> <ul style="list-style-type: none"> <li>• Same as above except 75 percent of deemed monthly salary of \$2,700</li> </ul>

<b>VOCATIONAL REHABILITATION</b>	
<b>SISIP</b>	<b>New Veterans Charter</b>
<p><b>CRITERIA</b></p> <ul style="list-style-type: none"> <li>• First provider for medically released Canadian Forces member</li> <li>• Builds on client's existing education, skills, training and experience</li> <li>• Duration: six months pre-release from Canadian Forces and (normally) 24 months post-release</li> <li>• Program must lead to employment opportunities</li> </ul>	<p><b>CRITERIA</b></p> <ul style="list-style-type: none"> <li>• Medically released and applies within 120 days of release</li> <li>• Has a service-related rehabilitation need</li> <li>• Not provided when Veteran is supported by SISIP program</li> <li>• Builds on Veteran's existing education, skills, training and experience</li> <li>• No specific duration limits but rehabilitation plan must be reasonable in terms of cost, duration of training and overall time spent in vocational rehabilitation</li> </ul>
<p><b>TRANSFERABLE TO SPOUSE</b></p> <ul style="list-style-type: none"> <li>• No</li> </ul>	<p><b>TRANSFERABLE TO SPOUSE</b></p> <ul style="list-style-type: none"> <li>• Yes, if Veteran is unable to participate in vocational rehabilitation program because of total and permanent incapacity</li> </ul>
<p><b>TUITION</b></p> <ul style="list-style-type: none"> <li>• Maximum of \$25,000 for the full program</li> </ul>	<p><b>TUITION</b></p> <ul style="list-style-type: none"> <li>• Maximum of \$20,000 for the full program</li> </ul>
<p><b>BOOKS</b></p> <ul style="list-style-type: none"> <li>• 100 percent of book fees required for an approved vocational program</li> </ul>	<p><b>BOOKS</b></p> <ul style="list-style-type: none"> <li>• 100 percent of book fees required for an approved vocational program</li> </ul>
<p><b>MONTHLY SUPPLY ALLOWANCE</b></p> <ul style="list-style-type: none"> <li>• \$40</li> </ul>	<p><b>MONTHLY SUPPLY ALLOWANCE</b></p> <ul style="list-style-type: none"> <li>• \$40</li> </ul>
<p><b>INTERNET FEES</b></p> <ul style="list-style-type: none"> <li>• \$30 per month</li> </ul>	<p><b>INTERNET FEES</b></p> <ul style="list-style-type: none"> <li>• \$25 per month</li> </ul>

<b>SISIP</b>	<b>New Veterans Charter</b>
	<p data-bbox="1040 285 1227 317"><b>OTHER COSTS</b></p> <ul data-bbox="846 327 1417 793" style="list-style-type: none"> <li>• Other costs such as those for licensing of examinations that are identified by the training facility before the program begins, to a maximum of \$500</li> <li>• Cost of basic safety equipment and special clothing, other than breathing apparatus, pressure suits or environmental testing equipment, that is not otherwise provided by the training facility, to a maximum of \$300</li> <li>• Cost of a tutor referred by the training facility, to a maximum of 10 hours</li> </ul>
<p data-bbox="402 835 675 867"><b>TRAVEL ASSISTANCE</b></p> <ul data-bbox="248 877 781 1003" style="list-style-type: none"> <li>• Reimbursement for private motor vehicles at 20 cents per kilometer, not to exceed \$500 per month</li> </ul>	<p data-bbox="995 835 1268 867"><b>TRAVEL ASSISTANCE</b></p> <ul data-bbox="846 877 1385 1213" style="list-style-type: none"> <li>• Cost of transportation to and from the training facility at 15 cents per kilometer to a maximum of \$500 per month or the cost of a monthly transit pass</li> <li>• Cost of parking for a person who holds a disabled parking card from the province in which the training is provided if the training facility does not provide disabled parking</li> </ul>
<p data-bbox="407 1255 670 1287"><b>FOREIGN TRAINING</b></p> <ul data-bbox="248 1297 824 1465" style="list-style-type: none"> <li>• When the approved vocational rehabilitation program requires training in a foreign country, funding will be set at a rate equivalent to similar training costs in Canada</li> </ul>	<p data-bbox="1003 1255 1260 1287"><b>FOREIGN TRAINING</b></p> <ul data-bbox="846 1297 1417 1549" style="list-style-type: none"> <li>• Subject to the same rates and conditions that are established for former members of the armed forces of the foreign country for similar costs or, if no such rates are established, at the rates that would be payable if the person were residing in Canada</li> </ul>

<b>SISIP</b>	<b>New Veterans Charter</b>
<p><b>DUAL RESIDENCY</b></p> <ul style="list-style-type: none"> <li>• Long-distance institution is the only choice available for training</li> <li>• Support equivalent to the cost of residency at the institution, not to exceed the travel assistance maximum of \$500 per month</li> <li>• If dual residency is approved, travel assistance to return home on weekends will not be supported</li> </ul>	<p><b>DUAL RESIDENCY</b></p> <ul style="list-style-type: none"> <li>• Cost of temporary accommodations, to a maximum of \$500 per month in the case of accommodations for the person, or to a maximum of \$1,000 per month if accommodations are required for the person and dependants</li> <li>• Cost of two return trips from the person's residence to the location of the training facility and 50 percent of the cost of additional dependant care, to a maximum of \$750 per month</li> </ul>
<p><b>CHILD CARE</b></p> <ul style="list-style-type: none"> <li>• While in training, child care costs will be reimbursed at a rate of 50 percent of submitted child care receipts to a monthly maximum of \$750 per family. Reimbursement for child care provided by family members living in the same household as the children will not be supported</li> </ul>	<p><b>CHILD CARE</b></p> <ul style="list-style-type: none"> <li>• 50 percent of the additional dependant care costs to a maximum of \$750 per month</li> <li>• Cost incurred is in addition to the cost of any paid care that is already provided to the dependant</li> </ul>
<p><b>VOCATIONAL ASSISTANCE</b></p> <ul style="list-style-type: none"> <li>• Vocational and career counselling, employment preparation and search assistance, etc.</li> </ul>	<p><b>VOCATIONAL ASSISTANCE</b></p> <ul style="list-style-type: none"> <li>• Employability assessments, career counselling, training, job-search assistance and job-finding assistance, etc.</li> </ul>
	<p><b>HIGHER COSTS</b></p> <ul style="list-style-type: none"> <li>• Payment of costs may be authorized (to delegated limits) at rates higher than those above if necessary in order to provide an appropriate standard of service considering the location and availability of training and any special or associated extraordinary expenses</li> </ul>

