

## Media Report 30 June 2023

This weeks media reports will cover and answer great questions veterans are still asking and local Media Articles and An illness or injury can have an impact on your ability to adjust to life after service. We all need healthcare services. The Treatment benefits program provides coverage for a variety of benefits and services to help you get—and stay healthy.

### **Additional Pain and Suffering Compensation**

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The APSC was developed to recognize and compensate Veterans for the non-economic loss associated with service-related permanent and severe impairments that cause barriers to re-establishment.

1. The eligibility for APSC is based upon the existence of a service-related permanent and severe impairment, and the amount payable is based on the severity of the impairment.
2. The APSC is a non-taxable monthly benefit, payable for life.

#### **Application**

1. The Department may already have on file all the necessary information to grant a favourable APSC decision. If so, the Department may notify the member or Veteran of its intent to waive the application, and the individual can choose whether to accept this waiver. Additional information or documents may be requested by the Department. (See Waiver of Requirement for Application policy.)
2. If a waiver is not possible, applications for the APSC and for an increase in the APSC grade level must be made in writing by the member/Veteran or the member's/Veteran's legal representative. They shall include:
  1. a complete and signed approved departmental application form(s), which contains a declaration attesting to the truth of the information provided. A signed letter may be acceptable in lieu of an application form if it is accompanied by a signed affidavit or declaration attesting to the truth of the information provided;
  2. medical reports or other records which document the disability creating the permanent and severe impairment and the barrier to re-establishment (if the Department does not already have this information on file); and
  3. at the request of the Minister, other information that is necessary to determine eligibility and grade level.
3. For more information on when an application is made, see Application to the Minister policy.

#### **Still-serving Members**

1. The APSC is not payable until the individual becomes a Veteran, i.e., the day after the day of their release from the Canadian Armed Forces (CAF). However, a member of the CAF may apply for the APSC and the Department may consider the application and render a decision prior to release.
2. The Department may consider a serving member's circumstances when determining whether an application for the APSC will be considered prior to release. For example, the Department may consider whether the member is in the process of releasing from the CAF, or how soon they are expected to release. The Department may decide not to make an eligibility decision until such time as the member's release is imminent.
3. When considering an application for the APSC from a member, the Department may decide to render an eligibility decision and defer the assessment of the grade level until the member releases from the CAF. In this case, the Department may request additional information needed at the time of the assessment.

#### **Eligibility**

1. The APSC is payable to a Veteran who suffers from one or more disabilities:

- that are creating a permanent and severe impairment;
  - that are creating a barrier to re-establishment in civilian life; and
  - for which the Veteran has been granted a Disability Award, Pain and Suffering Compensation, or a Disability Pension.
2. For greater certainty, a disability benefit is still “granted” even if no amount has been paid due to the Veteran’s assessments and deemed assessments exceeding 100%.
  3. When determining whether the Veteran has a permanent and severe impairment, only disabilities for which the Veteran has been granted a VAC disability benefit are to be considered. (For more information, see the Overlapping Medical Conditions section of this policy.)
  4. Disabilities resulting from service in the CAF on or before April 1, 1947, or from service in the Korean War are not to be considered with respect to APSC.
  5. For those with service in both the Royal Canadian Mounted Police and the CAF, a disability can only be considered with respect to APSC if at least partial entitlement has been granted in relation to the CAF service.
  6. For the purposes of the *Veterans Well-being Act*, an individual is considered a “Veteran” the day after the day of their release from the CAF.

#### **Exceptional Incapacity Allowance**

1. A Veteran who is receiving the Exceptional Incapacity Allowance (EIA) under the *Pension Act* is not eligible to be paid the APSC.
2. If a Veteran was previously in receipt of the EIA, but is no longer in receipt at the time of the APSC application, the Veteran may be eligible for the APSC.
3. A Veteran who is receiving the APSC is not eligible to be paid the EIA.
4. If a Veteran is not receiving the APSC and applies for the EIA, the following rules apply:
  - The Department must first determine whether the Veteran is eligible for the APSC.
  - If the Veteran meets all of the eligibility criteria for the APSC, the Veteran will be given APSC. The EIA application will be deemed to be an APSC application, and the decision will be deemed to be made under the *Veterans Well-being Act*.
  - If the Department determines that the Veteran is not eligible for the APSC, the EIA application will continue under the *Pension Act*. If all other EIA criteria are met, the Veteran will be given EIA.
5. If a CAF member applies for the EIA (even if they received a preemptive favourable APSC decision under section 75.2 of the *Veterans Well-being Act*), the following rules apply:
  - The Department shall find the member to be ineligible for APSC, as members are not eligible for APSC.
  - The remaining APSC eligibility criteria need not be considered.
  - The member’s EIA application will continue under the *Pension Act*. If all other EIA criteria are met, the member will be given EIA (and any APSC decision under section 75.2 would be withdrawn.)
6. If a member receives an unfavourable EIA decision, there will be no deemed APSC application. If the member wishes to be considered for the APSC upon release, they will be required to submit an application.
7. For additional information on the EIA, see Allowances policy.

#### **Amount Payable**

1. The amount of APSC payable corresponds to the Veteran’s extent of permanent and severe impairment (grade level 1, 2 or 3), as set out in Column 2, Schedule 4 of the *Veterans Well-being Act*. Rates are indexed annually; payments are made monthly and are not pro-rated.

#### **Date Payable**

1. The APSC begins to be payable on the later of:
  1. the first day of the month in which the application for the APSC was made (see Application to the Minister policy);
  2. the day that is one year prior to the first day of the month in which the application for the APSC is approved; and
  3. the first day of the month in which the applicant becomes a Veteran.
2. The date payable of the APSC cannot pre-date the date payable for the disability benefit for the disability(ies) causing the permanent and severe impairment.

3. The date payable of the APSC cannot pre-date April 1, 2019 (the coming into force date).
4. An increase to the APSC resulting from an application for an APSC reassessment by the Veteran begins to be payable on the later of:
  1. the first day of the month in which the application for a reassessment is made; and
  2. the day that is one year before the first day of the month in which the decision to increase the APSC is made.
5. An increase or decrease to the APSC resulting from the Minister's own initiative, or a decrease resulting from an application by the Veteran, begins to be payable on the first day of the month after the month in which the decision is made.

#### **Duration of Benefit**

1. The APSC ceases to be payable on the earlier of:
  1. the first day of the month after the month in which the Department determines that the Veteran is no longer eligible; and
  2. the first day of the month after the month in which the Veteran dies.
2. See also the Cancellation section of this policy

#### **Determination of a Permanent and Severe Impairment**

1. As per section 54 of the *Veterans Well-being Regulations*, a **permanent and severe impairment** is:
  1. an amputation at or above the elbow or the knee;
  2. the amputation of more than one upper or lower limb at any level;
  3. a total and permanent loss of the use of a limb;
  4. a total and permanent loss of vision, hearing or speech;
  5. a severe and permanent psychiatric condition;
  6. a severe and permanent limitation in mobility or self-care; or
  7. a permanent requirement for supervision.
2. For the purposes of this policy:
  1. "**Permanent**" means that the impairment or requirement is expected to persist indefinitely despite treatment or interventions. With respect to the impairment, although the signs and symptoms may wax and wane over time, further recovery is not anticipated.
  2. An "**inordinate amount of time**" is defined as significantly more time than it would take an individual of the same age to complete the activity in the absence of the impairment.
  3. An "**inordinate frequency**" is defined as completing the activity significantly more often than an individual of the same age in the absence of the impairment.
  4. "**Supervision**" is defined as requiring the presence of another person to ensure safety in performing activities of daily living.
  5. "**Activities of Daily Living**" (ADLs) are:
    - **Mobility (considered 1 ADL)**
      - Transfers – changing the position of the body independently (e.g., positioning the body from lying to sitting; sitting to standing; lying on the back to lying on the side).
      - Ambulation – moving the body from one point in space to another (e.g., climbing stairs, walking).
    - **Self-care (6 ADLs)**
      - Feeding – eating and drinking of prepared foods (e.g., cutting up food, buttering bread).
      - Washing – washing of face, trunk, extremities and hair.
      - Dressing – putting on and taking off all pieces of indoor and outdoor clothing.
      - Grooming/Foot Care/Personal Care – brushing of hair and teeth, shaving and make-up application; skin and nail care; cleansing and personal care associated with toileting.
      - Toileting – continence of bowel and bladder; using toilet facilities.



maximal/significant assistance; Veteran provides less than half of the effort with each Self-care activity);

- Examples: Veteran needs assistance with foods that require utensils to be used and Veteran needs assistance with closures and getting clothing over his/her head; Veteran requires a permanent colostomy and needs the assistance of another person with most aspects of colostomy care.
- 3. takes an inordinate amount of time to complete **two** Self-care activities even with the aid of medication, therapy or an assistive device (e.g., reachers, toilet safety rails; shower chair);
  - Examples: Veteran takes medication for chronic pain but still takes significantly more time to perform tasks associated with bathing and grooming.
- 4. has an inordinate frequency in how often **two** Self-care activities are completed daily, causing significant interference with his or her ability to participate in normal daily activities;
  - Example: Veteran suffers from chronic ulcerative colitis which causes noticeable increase in the frequency of bowel movements and/or soiling during flare-ups, requiring the need for frequent personal care. This causes the Veteran to have frequent absences from work, and the Veteran limits social community activities.
- **Cumulative Effects of Limitations in Activities of Daily Living**
  1. Experiences limitations in most of the ADLs defined in paragraph 32.e, which when taken together have an equivalent impact on the person as the limitations in 35.a-g above.
    - Example: Requiring minimal assistance from another person with 4 ADLs may have an equivalent impact to the limitation caused by requiring the assistance of another person with 50% or more of the tasks associated with 2 Self-care activities, or the limitation caused by taking an inordinate amount of time to complete 2 Self-care activities (i.e., the limitations described in paragraphs 34.e and f above).
    - Example: Has intractable pain, as defined by Veterans Affairs Canada on the disability assessment of the relevant condition (e.g., severe, persistent, ongoing pain that is unresponsive to the usual treatment modalities).

#### **Determination of a Barrier to Re-establishment in Civilian Life**

1. As per section 1.1 of the *Veterans Well-being Regulations*, a **barrier to re-establishment in civilian life** means the presence of a disability or a temporary or permanent physical or mental health problem that limits or prevents an individual's reasonable performance in civilian life of their roles in the workplace, home, or community.
2. To determine whether a disability creates a barrier to re-establishment, the nature of the disability must be analyzed to determine how, and to what extent, the disability limits the Veteran's performance in civilian life of their roles in the workplace, home, or community. It is these limitations which must be the focus when identifying whether a barrier exists.
3. It is important to determine the existence and degree of any associated symptoms of the disability and how those symptoms limit the Veteran's functioning. If the symptoms of the disability prevent the Veteran from doing activities in relation to their roles at home, work and/or in the community (e.g., perform work, engage in interpersonal relationships) then it can be determined that a barrier to re-establishment exists.
4. The focus of the identification of barriers must be related to the disability for which the Veteran has received a disability benefit and that is creating the permanent and severe impairment.
5. If a Veteran in receipt of the APSC improves or optimizes his or her barriers to re-establishment through a rehabilitation plan (or by some other means), this will not result in cancellation of the benefit.

#### **Overlapping Medical Conditions**

1. In some situations, it may be difficult to medically separate the impact of a disability for which a disability benefit has been granted from other disabilities for which a disability benefit has not been granted. In circumstances where there is a reasonable doubt or uncertainty as to whether the permanent and severe impairment is due to the disability for which the applicant is in receipt of a disability benefit, then the reasonable doubt or uncertainty may be resolved in the Veteran's favour (see Benefit of the Doubt policy).

#### **Determination of Grade Level**

1. The following definitions apply with respect to this Determination of Grade Level section:
  1. "**frequent**" means at least once per week;
  2. "**persistent**" means daily or almost daily;
  3. "**continuous**" means for the whole of the activity.
2. The APSC is payable at three grade levels, based on the extent of the Veteran's permanent and severe impairment.
3. Assessment of the extent of impairment shall be based on any relevant factor, including the need for institutionalized care, the need for supervision and assistance, the degree of the loss of use of a limb, the frequency of symptoms, and the degree of psychiatric or neurocognitive impairment. The grade level is determined using the criteria provided below.

#### **Grade 1**

1. Grade 1 is for those with the most severe level of physical, functional and/or mental impairment. To determine that Veterans have this extent of impairment, they must meet at least **one** of the following criteria:
  1. Functionally, these Veterans:
    1. require long-term hospitalizations;
    2. are institutionalized, or are approaching the need for institutionalization;
    3. require continuous physical assistance of another person with 6 of 7 ADLs as defined in paragraph 32.e.; **or**
    4. require daily supervision and are not considered safe when left alone.
  2. Physically, these Veterans include those who have:
    1. quadriplegia;
    2. paraplegia;
    3. bilateral upper extremity amputation (at or above wrist); **or**
    4. bilateral lower extremity amputation (at or above the ankle).
  3. Mentally, these Veterans:
    1. show obvious signs and behaviour that are influenced by delusions or hallucinations not controlled with treatment and demonstrate gross impairment in communication or judgement i.e., grossly inappropriate, incoherent or mute;**or**
    2. require total care and supervision in the home or an institutionalized setting.

#### **Grade 2**

1. Grade 2 is for those with a lesser extent of functional, mental and/or physical impairment than those in Grade 1. To determine that Veterans have this extent of impairment, they must meet at least **one** of the following criteria:
  1. Functionally, these Veterans:
    1. require the physical assistance of another person with 50% or more of the tasks associated with transferring and ambulation (Mobility); or 4 Self-care activities, as set out in paragraph 34;
    2. take an inordinate amount of time to complete transferring and ambulation (Mobility); or 4 Self-care activities, as set out in paragraph 34;
    3. have cumulative effects of limitations in most ADLs, as defined in paragraph 32.e., which when taken together have an equivalent impact on the person as A or B above; **or**

4. require daily supervision and are considered safe when left alone for very short periods of time, such as 2 to 3 hours during the day, or 5 to 6 hours overnight.
2. Physically, these Veterans include those who have:
  1. a complete and permanent loss of vision;
  2. irrecoverable loss of use of an upper and lower limb;
  3. a single upper or lower limb amputation at the hip or shoulder (no viable stump); **or**
  4. double limb amputations, i.e., at or above the ankle for the lower extremity and at or above the wrist for the involved upper extremity (viable stump).
3. Mentally, these Veterans include those who:
  1. suffer from a psychiatric condition or neurocognitive disorder with persistent symptoms of extreme impairment of one's ability to think clearly, respond emotionally, communicate effectively, understand reality, and/or behave appropriately;
  2. suffer from a psychiatric condition or neurocognitive disorder which requires long periods of inpatient hospital care or a combination of inpatient hospital care and outpatient care (greater than 8 weeks, cumulative, within a 6 month period); e.g., a full time day program; **or**
  3. require recurrent hospitalization, i.e., greater than 3 times per year, without recovery.

### Grade 3

1. Grade 3 is for those with a lesser extent of functional, mental and/or physical impairment than those in Grade 2. All Veterans who meet the APSC eligibility criteria will be eligible for at least Grade 3. The criteria set out below is for illustrative purposes.
  1. Functionally, these Veterans:
    1. require the physical assistance of another person with 50% or more of the tasks associated with transferring **or** ambulation (Mobility); or 2 Self-Care activities, as set out in paragraph 34;
    2. take an inordinate amount of time to complete transferring **or** ambulation (Mobility); or 2 Self-care activities, as set out in paragraph 34;
    3. have an inordinate frequency in how often 2 Self-care activities are completed daily;
    4. have cumulative effects of limitations in most ADLs, as defined in paragraph 32.e, which when taken together have an equivalent impact on the person as A, B, or C above; **or**
    5. require supervision at least three to four times per week for at least one hour per visit to ensure safety in performing activities of daily living, and are considered safe when left alone for longer periods of time.
  2. Physically, these Veterans include those who have:
    1. a total and permanent loss of hearing;
    2. a total and permanent loss of speech;
    3. a single upper extremity amputation at or above the elbow;
    4. a single lower amputation at or above the knee; **or**
    5. irrecoverable loss of use of a limb.
  3. Mentally, these Veterans include those who have:
    1. a psychiatric condition or neurocognitive disorder for which the Veteran requires ongoing regular treatment, and which results in the Veteran suffering from severe and frequent symptoms (presenting at least once per week) which significantly interfere with functioning in the areas of thought and cognition; emotion, behaviour and coping; and/or activities of daily living.

### Reassessment

1. A Veteran may apply in writing for a reassessment of their extent of impairment. (See the Application section of this policy for more information).
2. A reassessment may be conducted on application by the Veteran if there is evidence of a change in the Veteran's circumstances.
3. The Department may also initiate a reassessment, without application from the Veteran.
4. A reassessment may result in an increase or decrease to the Veteran's grade level, or may result in no change.
5. The effective date of any increase or decrease in the APSC grade level is set out in the Date Payable section of this policy.

**Medical Examinations and Other Information**

1. For the purposes of determining the Veteran's eligibility for the APSC, the Veteran's continued eligibility for the APSC, the Veteran's extent of impairment, or whether the extent of impairment has changed, the Department may:
  1. require the Veteran to undergo a medical examination or assessment by a person specified by the Minister; and/or
  2. require that the Veteran provide medical reports, records or other necessary information.

## IN THE MEDIA

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