



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
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AFFAIRS
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SUBMITTED BY: Peter Barclay

The Honorable Eric J.J. Massa
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Massa:

This is in response to your recent request for information regarding the nonassignability and exempt status of Veterans' benefits, specifically service-connected disability compensation.

The Department of Veterans Affairs (VA) administers Veterans' benefits in accordance with the provisions of title 38, United States Code (U.S.C.). Section 5301(a)(1) states that:

"Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever...."

Consequently, courts or other legal entities are prohibited from attaching, diverting, or garnishing a Veteran's service-connected disability compensation payments. An exception to 38 U.S.C. 5301(a)(1) occurs when a servicemember waives military retired pay in order to receive VA compensation. In these cases, VA compensation may be attached up to the amount of military retired pay waived, but only for purposes of alimony or child support pursuant to a court order. Absent these circumstances, section 5301(a)(1) prohibits VA from complying with a state court garnishment order. VA does not have the authority to change this through regulation. A change in the law would be required to prohibit the attachment of VA compensation in all circumstances.

Thank you for your continued support of VA's mission.

Sincerely,


Eric K. Shinseki