

ISSUE BRIEF: Total Disability Based on Individual Unemployability

The Situation

- Over 4 million veterans are currently receiving VA compensation benefits. Of those, approximately 350,000 veterans are in receipt of Total Disability Based on Individual Unemployability (TDIU), sometimes referred to as IU, and roughly 200,000 of those veterans are over the age of 65.
- When a veteran's disability is rated less than a total 100 percent evaluation, but he or she is unable to obtain or maintain substantial gainful employment, VA regulations allow the veteran to apply for Total Disability Based on Individual Unemployability.
- TDIU is based on the severity of the individual veteran's unique disability picture and its impact on the veteran's ability to obtain and maintain substantial gainful employment. Generally, the veteran must have a single disability rated at 60 percent or a combined evaluation of 70 percent to be eligible for TDIU. A veteran who is awarded TDIU receives the same level of compensation and ancillary benefits as a veteran in receipt of a total 100 percent rating.
- VA regulation 38 C.F.R. § 4.19, states that **VA is precluded from considering the veteran's age** in their determination of a Total Disability Based on Individual Unemployability.
- TDIU **is not** a retirement or pension program and **is neither similar nor related to** Social Security Retirement benefits.
- A VA determination of a TDIU **is not the same nor is it similar** to Federal Unemployment Insurance; it is a disability compensation benefit.

The Challenge

- Reports published by the Congressional Budget Office (CBO) in November 2013, August 2014, and December 2016, as well as the Government Accounting Office (GAO) report in June 2015, made recommendations to limit TDIU based on age and entitlement to additional earned federal benefits.
- The Administration's proposed 2018 Budget contained a proposal to terminate TDIU ratings for veterans at age of 62 and cut off TDIU benefits for any veteran already in receipt of Social Security retirement benefits.
- Subsequently, the Administration backed away from this proposal; however, the threat remains that this proposal or something like it could resurface in the future.

- In December 2018, CBO published a report recommending that VA stop all TDIU benefits to veterans age 67 or older, as this is the full retirement age for Social Security.

The Solution

- Congress must enact legislation to ensure that Total Disability Based on Individual Unemployability remains available for all eligible veterans regardless of age or receipt of any other earned federal benefits.