

ISSUE BRIEF: Total Disability Based on Individual Unemployability

The Situation

- Over 4 million U.S. veterans are currently receiving Department of Veterans Affairs (VA) compensation benefits. Of those, approximately 350,000 veterans are in receipt of Total Disability Based on Individual Unemployability (TDIU), commonly 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 TDIU. This benefit 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 the **VA is precluded from considering the veteran's age** in its 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 Total Disability Based on Individual Unemployability **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 of limiting TDIU. It proposed to terminate IU ratings for veterans at the age of 62 and cut off TDIU benefits for any veteran already in receipt of Social Security retirement benefits.
- The December 2018 CBO report contained a proposal to terminate TDIU ratings for veterans at age 65 and cut off TDIU benefits for any veteran already in receipt of Social Security retirement benefits.

The Solution

- Congress must act to ensure that TDIU remains available for all veterans regardless of age or receipt of any other earned federal benefits. Enacting H.R. 5028, the Protecting Benefits for Disabled Veterans Act, provides that protection.