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Defense Primer: Concurrent Receipt of Military Retirement and VA Disability

Concurrent receipt refers to a veteran's simultaneous receipt of two types of monetary benefits: military retired pay from the Department of Defense (DOD) and disability compensation from the Department of Veterans Affairs (VA). Prior to 2004, existing laws and regulations stipulated that a military retiree could not receive both payments concurrently. As a result, military retirees with disabilities recognized by VA would incur a retired pay *offset* (i.e., dollar-for-dollar reduction) by the amount of their VA compensation.

The FY2003 and FY2004 National Defense Authorization Acts (NDAAs) authorized, for the first time, two separate and distinct concurrent receipt benefits, Combat-Related Special Compensation (CRSC), and Concurrent Retirement and Disability Payments (CRDP).

An eligible retiree cannot receive both Concurrent Retirement and Disability Payments (CRDP) and Combat-Related Special Compensation (CRSC).

To be eligible for concurrent receipt under these programs all recipients must be eligible for both (1) military retired pay and (2) VA disability compensation. An eligible retiree cannot receive both CRDP and CRSC. The retiree may choose whichever is most financially advantageous to him or her and may change benefit election during an annual open season.

Table 1. Comparison of CRSC and CRDP

	CRSC	CRDP
Classification	Special compensation	Military retired pay
Qualified disabilities	Combat-linked disabilities	Service-connected disabilities
Federal taxation	Nontaxable	Taxable
Claim process	Apply to branch of service	Automatic

Source: Derived from Defense Finance and Accounting Service.

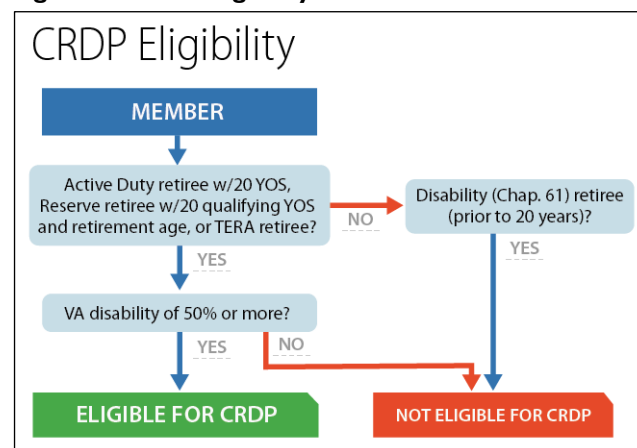
Concurrent Retirement and Disability Payments (CRDP)

CRDP was first authorized in the FY2004 NDAA (P.L. 108-136, §641), and was phased in over a 10-year period between 2004-2013. CRDP is sometimes referred to as *restored retired pay*, as it exempts certain members from the offset of VA payments normally required under 38 U.S.C. §§5404 and 5405. Under this offset, a retiree is required to waive retired pay in the amount of VA disability

compensation they are eligible to receive. As VA disability compensation is nontaxable, waiving retired pay generally provides a net financial benefit.

CRDP authorizes military retirees with at least a 50% service-connected disability as rated by VA to receive full military retired pay and VA disability compensation without offset (see **Figure 1**). There are currently two groups of retirees who are not eligible for CRDP benefits. The first group is non-disability military retirees with service-connected disabilities (not combat-related) that have been rated by VA at 40% or less. The second group includes disability (Chapter 61) retirees with service-connected disabilities and fewer than 20 years of service (YOS).

Figure 1. CRDP Eligibility Flowchart



Source: CRS analysis of statute.

Notes: "Member" refers to a retired member of the Armed Forces. Temporary Early Retirement Authority (TERA) retirees are those retired with less than 20 years of service due to force management requirements. Disability ratings are awarded in 10% increments.

Combat-Related Special Compensation

CRSC is considered *special compensation* and not restored retired pay. Under CRSC, the retired pay offset still applies to receive VA disability compensation; however, CRSC reimburses the member for some, or all, of the offset. The amount of CRSC depends on the percentage of the disability that is combat-related (CRSC rating) and may not exceed the reduction in retired pay. These factors make the calculation of CRSC more complex than CRDP, as every veteran's situation may be different. It may be easiest to think of the total CRSC benefit as three separate payments: (1) retired pay from DOD minus VA disability payment based on VA rating; (2) VA disability payment based on VA disability rating; (3) CRSC payment from DOD based on combat-related portion of disability rating.

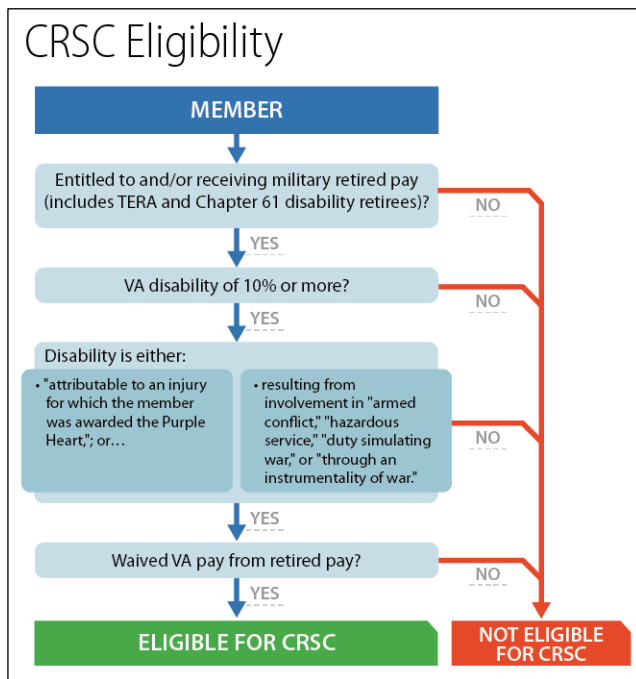
The process for qualifying for CRSC is not automatic. Retirees must apply to their parent military service, which has the responsibility for verifying that the disability is combat-related.

Combat Eligibility for CRSC

Military retirees may be eligible for CRSC if they have disability that meets either of the following two *combat-related* criteria (see **Figure 2**):

- The disability is “attributable to an injury for which the member was awarded the Purple Heart,” and is not rated as less than a 10% disability by VA; or
- The disability resulted from involvement in “armed conflict,” “hazardous service,” “duty simulating war,” or “through an instrumentality of war.”

Figure 2. CRSC Eligibility Flowchart



Source: CRS analysis of statute.

Notes: “Member” refers to a retired member of the Armed Forces. Temporary Early Retirement Authority (TERA) retirees are those retired with less than 20 years of service due to force management requirements.

Special Rule for Chapter 61 (Disability) Retirees

Some individuals who have a permanent and stable medical condition rated at greater than 30% by DOD may be disqualified from military service and are eligible to receive a pension from DOD prior to completing 20 years of service. These individuals are sometimes called *Chapter 61 retirees* after the applicable section in Title 10, *United States Code*. Historically, Congress has prohibited individuals from receiving two separate lifelong government annuities from federal agencies for the same purpose or qualifying event (sometimes referred to as *double-dipping*). This has been one argument for prohibiting Chapter 61 retirees from receiving disability retired pay from the DOD concurrently with disability

compensation from VA. As such, when Congress drafted the CRSC legislation, it included a *special rule* for the calculation of CRSC for Chapter 61 retirees. This rule caps the concurrent receipt payment at the amount for which the retiree would have qualified based solely on years of service, or *longevity*. In some instances, the *special rule* could limit or completely eliminate the concurrent receipt payment. In other instances, application of the rule may not result in any changes.

Concurrent Receipt Funding

Military retired pay and CRSC are disbursed from the Military Retirement Fund. Contributions into the fund are made by DOD through annual appropriations, and by the Treasury through intergovernmental transfers. A DOD Board of Actuaries determines how much DOD and Treasury must contribute annually to cover future obligations. When Congress authorized concurrent receipt in 2003 it included a provision that required the Treasury to pay for the additional costs incurred by the expansion of the benefit (10 U.S.C. §1466(c)(2)(D)). In a December 2020 *Report to the President and Congress*, the DOD Board of Actuaries expressed fiscal discipline concerns with the current funding processes and recommended that “DOD, not Treasury, should pay for all benefit increases.”

Issues for Congress

Several legislative proposals over the past few Congresses have sought to expand concurrent receipt benefits to military retirees not covered under existing CRSC and CRDP provisions. In considering these proposals, Congress may weigh both cost and equity arguments as well as the larger package of military retiree, veteran, and social security benefits available to this population.

Relevant Statute

Title 10, Chapter 71 of the *United States Code*, Computation of Retired Pay
 10 U.S.C. §1413a Combat-related special compensation
 10 U.S.C. §1414 Concurrent retirement and disability payments
 38 U.S.C. §5304 Prohibition against duplication of benefits
 38 U.S.C. §5305 Waiver of retired pay

Other Resources

CRS Report R40589, *Concurrent Receipt of Military Retired Pay and Veteran Disability: Background and Issues for Congress*
 CRS Report R44837, *Benefits for Service-Disabled Veterans*
 CRS Report RL34751, *Military Retirement: Background and Recent Developments*
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