

# Years of Service



# Disregarded

Chapter 61 retirees relinquish retirement pay dollar-for-dollar to receive VA disability compensation.

By Kristin Davis

In the military community, a Chapter 61 retiree is anyone medically retired from military service with a 30 percent or greater disability rating. The term “Chapter 61” comes from the corresponding chapter in Title 10, U.S. Code. There are about 200,000 Chapter 61 retirees — more than 90 percent of whom were enlisted.

Historically, a retired servicemember who also received VA disability compensation had an amount equal to VA compensation deducted from their military retirement pay. In some cases, the servicemember was forgoing their entire military retirement pay. Under current law, combat-related

disabilities are not subject to offset, regardless of a retired servicemember’s years of service or disability rating.

Non-combat-related service disabilities are not subject to offset, provided the veteran completed at least 20 years of service with a VA disability rating of 50 percent or greater.

MOAA believes all servicemembers should receive both retirement and disability compensation. However, the Chapter 61 inequities compel us to focus on this select group as a must-solve subset of the wider priority.

Five Chapter 61 retirees talked with *Military Officer* about their medical retirement and loss of retirement pay.



## ‘But for my injuries’

Maj. Thomas Throckmorton was not expected to survive when the missile blast that hit a helicopter over Vietnam in 1969 knocked off a chunk of his liver, destroyed his hip, and broke his pelvis in two dozen places. It also tore open adhesions from a bullet wound to his stomach suffered in Vietnam four years before.

“The priest was giving me my last rites,” Throckmorton says.

He spent 15 months at Walter Reed Army Medical Center. “I received a waiver to stay on duty but finally was retired after more surgery,” Throckmorton says. “The Army was my life. My whole life had been spent on Army posts. I didn’t know what civilians did.”

His grandfather had chased Pancho Villa through Mexico and fought in the Vosges Mountains of France in World War I. His own father had served in World War II, Korea, and Vietnam.

*‘The Army was my life. My whole life had been spent on Army posts. I didn’t know what civilians did.’*



**Thomas Throckmorton** was medically retired after spending more than a year in the hospital.



## ‘They need to hold up their end of the bargain’

Retired Petty Officer 2nd Class Kimberly Vasquez, USN, enlisted in 2006. She wanted to serve her country from a ship, but her career ended less than four years later.

Vasquez suffered from a condition called chronic exertional compartment syndrome, which first showed up during grueling training runs.

“They did surgery to fix it and save my leg. The surgery was deemed a failure,” Vasquez says.

Still, she received permission to deploy to Ali Air Base, Iraq.

“After a month, we started getting fire,”

Vasquez says. Enemy fire sent the intelligence analyst running for shelter. “Nobody in my unit was injured that day,” she recalls, but “they had to medevac me out. I was med-boarded almost immediately.”

Vasquez was given a 70-percent disability rating from the VA, and her retirement compensation pays for her VA disability compensation. “I can’t walk long distances or play with my children,” Vasquez says.

Despite her Chapter 61 status, Vasquez remains closely tied to the military. “My husband is active duty. I love my country. [But] they need to hold up their end of the bargain,” she says.

*‘I can’t walk long distances or play with my children.’*

**Kimberly Vasquez** serves as a military spouse; her Navy career was cut short.

“I graduated West Point in 1960 and volunteered for Korea because it was supposed to be the best training for young officers,” Throckmorton says. “In 1963, I volunteered for Vietnam. Branch said I couldn’t go because I was on hold for the career course. That was the one time in my career I asked for my father’s help.”

Throckmorton (pictured in uniform at right) envisioned serving longer.

“But for my injuries, I would have had a full career,” Throckmorton says. “The VA has rated me 100-percent disabled, but every penny of that money is deducted from my Chapter 61 retirement pay.”



### Did you know?

About 200,000 servicemembers lose some or all of their retirement pay, and about **90 percent** of them were enlisted.

About  
200,000

90%  
Enlisted

SOURCE: DOD ACTUARY

## ‘I probably would not be here today’

Lt. Gary Robertson, USN (Ret), had served nearly 19 years in the Navy, first as an enlisted sailor and then as an officer, when he collapsed in the passageway of an aircraft carrier in October 1998.

“I was diagnosed with a type of leukemia for which the only known cause was exposure to ionizing radiation,” Robertson says. “I had served multiple tours on nuclear submarines.”

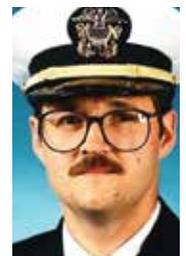
He was advised to have a bone marrow transplant. “They would not do it on active duty,” Robertson says. “If I waited to retire at 20 years, there was a very strong possibility that it would progress to the next stage, at which

point my chances of survival went down to 20 percent. I retired at 19 years and six days with a 100-percent service-connected disability.”

Being a Chapter 61 retiree with cancer has changed Robertson’s life. “I’ve had a lot of side effects from leukemia,” he says. “I’ve had both hips replaced. I have 50-percent lung capacity. I ended up with 50-percent bone capacity. I have chronic dry mouth and narrowing of my arteries.”

Robertson adds, “My well-deserved retirement now funds my 100-percent disability. Had I done 20 years, I would get both. But I probably would not be here today.”

>> continues on page 56



**Gary Robertson** had to medically retire with 19 years of Navy service in order to begin leukemia treatment.

*I retired at 19 years and six days with a 100-percent service-connected disability.*



>> continued from page 51

## ‘I didn’t choose to get hurt’



**Scott Damrauer** joined the Marine Corps at age 18, but he was medically retired 12 years later.

Gunnery Sgt. Scott Damrauer, USMC (Ret), never wanted to be anything other than a Marine like his father. He enlisted in 1996 at age 18.

“I became an aircraft recovery specialist,” Damrauer says. “We stopped jets on runways like they do on aircraft carriers, except the Marine Corps does it on land.”

The job took a toll on his body. “By 2007, my shoulders and my ankle had been destroyed,” Damrauer says. “In 2008, I went through a medical board.” He was given a 30-percent disability rating. “That crushed my dreams of spending 20 years in the Marines,” he says.

He had no knowledge of military medical retirement impacts. “I had not heard about Chapter 61,” Damrauer says. “When I found out if you do less than 20 years, you either get your VA disability or

your retirement, I didn’t really comprehend that.”

The reality set in after he returned home to Pennsylvania and visited the VA, which ultimately bumped his disability rating to 80 percent.

“I had to find a job in Philadelphia. I traveled four hours every day and made less than what I was making in the Marines. But I had to,” Damrauer says. “I didn’t choose to get hurt. I am retired. I have the same ID card [as] my Navy friend [who] I work with who did 22 years. But he gets both his retirement and his VA disability. It’s demoralizing. Absolutely demoralizing.” ■■■

*Kristin Davis is a freelance writer based in Fredericksburg, Va. This is her first article for Military Officer.*

*‘That crushed my dreams of spending 20 years in the Marines.’*

## Help for Chapter 61 Retirees Is in Bill

**T**he Disabled Veterans Tax Termination Act (H.R. 333), sponsored by Rep. Sanford Bishop Jr. (D-Ga.), would cover two remaining categories of individuals who do not fully receive their earned retirement and disability pays:

- 1) retirees with 20-plus years of service and disability ratings of 40 percent or below and
- 2) medical retirees with less than 20 years of service and disability ratings of 30 percent or higher (also known as Chapter 61 retirees).

It’s currently the only legislative option to secure concurrent receipt for Chapter 61 retirees.

**How much is at stake?** Consider a hypothetical Chapter 61 retiree with a 100-percent disability rating from the VA: An E-7 with 16 years of

service, with a spouse and three kids, including one over 18 years old and in school, will receive  $\$3,261.13 + \$82.38 + \$266.13 = \$3,609.61$  in disability pay from the VA — at the price of losing their service-earned retirement pay:  $(2.5 \text{ percent} \times 16 \text{ years}) = 40 \text{ percent} \times \$4,493.10 = \$1,797.24$ , lost to partially offset their VA disability pay.

MOAA’s objective is to garner enough support on Capitol Hill to move H.R. 333 out of the Military Personnel Subcommittee to the House Armed Services Committee for passage as soon as possible or for inclusion in the FY 2019 defense authorization bill prior to being signed into law. ■■■

*— By Dan Merry, vice president of Government Relations*