

Opinion No. 53**VETERANS AND VETERANS AFFAIRS; Adjusted Compensation; payments to hospitalized veterans and prisoners of the Korean War—
Chapter 44, Laws of 1957**

Held: Korean veterans who became hospitalized or prisoners of war during active duty in the Korean Theatre during the Korean War, and who were continuously hospitalized or held prisoner of war after October 16, 1953, must be compensated for the time they were so hospitalized or held prisoner at the rate and in the manner specified in Section 2(b), Chapter 44, Laws of 1957, up to the maximum payment provided for by that section.

February 10, 1960

Mr. Louis G. Boedecker, Director
Adjusted Compensation Division
Capitol Building
Helena, Montana

Dear Mr. Boedecker:

You have requested my opinion upon the following question: Are hospitalized veterans of the Korean War and veterans of that war who were held as prisoners of war entitled to receive Adjusted Compen-

sation under Chapter 44, Laws of 1957, for all of the time that they were hospitalized or prisoners regardless of whether that time was served before or after October 16, 1953?

Chapter 44 of the Laws of 1957 was an amendment to Initiative No. 54 which provided for an honorarium of veterans of World War II. Section IV of Chapter 44, supra, defines the "Korean War" to be the period between June 25, 1950, and October 16, 1953.

Section 1 (f) of that act defines "military service" for purposes of the act as service on **active duty** during the **Korean War**.

Section 2 of Chapter 44 provides varying scales of payment for the different types of service rendered during the Korean conflict. Section 2 (c) provides a payment of \$10.00 for each month of military service for those veterans whose service was wholly outside the Korean Theatre. Section 2 (d) provides for a special payment to survivors of veterans who died while on active duty or from causes attributed to military service. Section 2 (b) provides an honorarium for servicemen who served wholly or partly in the Korean Theatre, and for those who were hospitalized or taken prisoner. That section provides:

"Each resident of Montana who was in military service at some time during the Korean War, and during part or all of the period of such service was in said Korean Theatre, an honorarium, or adjusted compensation, in the sum of fifteen dollars (\$15.00) for each month and major fraction of a month of such service in said Korean Theatre, and ten dollars (\$10.00) for each month and major fraction of a month of such service outside said Korean Theatre, provided further that any serviceman who, while on active duty in said Korean Theatre during said Korean War, shall have suffered disease or injury from any cause whatsoever, including injury from exposure to weather and/or weather conditions, and in line of duty, and is hospitalized therefor by any of the armed services of the United States he or she shall be deemed, for the purpose of this amendatory act, to have been in military service in said Korean Theatre as long as he or she shall be or have been continuously hospitalized in any hospital or similar institution under the control of or employed by the United States, and wherever situated, subject to the limitation in this subdivision hereinafter specified; provided further that any serviceman who shall have been taken prisoner by the enemy in said Korean Theatre, and who shall have been classified by any of said armed services under the Department of Defense as a prisoner of war, shall receive the sum of fifteen dollars (\$15.00) for each month and major fraction of a month during which he or she was so held by the enemy as such prisoner; but any such prisoner of war shall be paid not less than three hundred dollars (\$300.00); and provided finally, that no serviceman shall be paid, under any of the provisions of this subdivision, more than six hundred dollars (\$600.00);

..."

Section 2 of the act thus provides for payment to several classes of veterans and their survivors. Some of these payments are measured entirely by the amount of time served in a particular place and capacity and others (such as those under Section 2(d)) are not.

Section 2(b) deals with four distinct classes of veterans: Those whose military service consisted of active duty in the Korean Theatre, those whose service was active duty rendered partly within and partly without the Korean Theatre, those who were hospitalized while on active duty and those who were taken prisoners of war.

Payment to the first two of the foregoing classes is measured by time spent on active duty inside or outside the Korean Theatre during the Korean war. Payment to hospitalized veterans and prisoners of war, however, is measured by time spent on active duty plus the time spent in a hospital or as a prisoner of war. The provision for hospitalized veterans explicitly provides that payment shall be made at the same rate as for active duty in the Korean Theatre and "as long as he or she shall be or have been continuously hospitalized in any hospital or similar institution under the control of or employed by the United States and wherever situated . . ." Only one limitation is provided on the payment for this class of service. It being "that no serviceman shall be paid under any of the provisions of this subdivision, more than six hundred dollars (\$600.00); . . ."

The provision for prisoners of war is similar with the exception that a minimum payment of \$300.00 as well as the maximum of \$600.00 is provided for.

The plain wording of the act indicates the manner in which payment is to be made and this reading is in accord with the dictates of logic. The evident intent of the Legislature in passing this act was to compensate more fully those qualified veterans whose lives were disrupted and whose careers were interrupted by their service to the state and nation during the Korean War. For most of these veterans this interruption of their ordinary pursuits was ended on or before the end of the Korean War on October 16, 1953. However, two classes of veterans were not necessarily able to resume their civilian pursuits immediately. These were the hospitalized veterans and those who were held prisoner. The act shows a clear intention to compensate each class of veterans for the period during which they were taken away from their ordinary lives for the service of their country. In the case of those veterans hospitalized and captured whose difficulties were not terminated by the cessation of hostilities the act provides for continuing payments up to the statutory maximum. The intent of the law is plain and the language used clearly expresses this intent. When the language of a statute is plain and the intent is clearly expressed in the language, there is no need to attempt to further construe that language (*Mills v. State Board of Equalization*, 97 Mont. 13, 33 Pac. (2d) 563).

It is therefore my opinion that Korean veterans who became hospitalized or prisoners of war during active duty in the Korean Theatre and during the Korean War, and who were continuously hospitalized or held prisoner of war after October 16, 1953, must be compensated for the time they were so hospitalized or held prisoner at the rate and in the manner specified in Section 2 (b), Chapter 44, Laws of 1957, up to the maximum payment provided for by that section.

Very truly yours,
FORREST H. ANDERSON
Attorney General