

No. 24-320

In the Supreme Court of the United States

SIMON A. SOTO, INDIVIDUALLY AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED,
PETITIONER,

v.

UNITED STATES,
RESPONDENT.

*ON WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE FEDERAL CIRCUIT*

**BRIEF OF CONNECTICUT VETERANS LEGAL CENTER
AND NATIONAL ORGANIZATION OF VETERANS'
ADVOCATES AS AMICI CURIAE IN SUPPORT OF
PETITIONER**

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INTEREST OF AMICI CURIAE*

The Connecticut Veterans Legal Center (CVLC) provides legal representation at no cost to low-income veterans and is the creator of the nation's first medical-legal partnership co-located with the Department of Veterans Affairs (VA). CVLC's mission is to empower, support, and improve the lives of Connecticut veterans by providing free legal assistance to help them overcome legal barriers to housing, healthcare, income, and recovery. As part of this work, CVLC attorneys assist veterans in VA service-connected disability claims and in applications to correct military records made to the Department of Defense (DoD). CVLC advocates for policy changes to create a more inclusive veterans benefit system for the most vulnerable low-income veterans: those who are living with mental illness, trauma, substance dependence, and homelessness as a result of their service, those who have experienced military sexual trauma, and those who have been harmed by discrimination or other injustices in the DoD and VA systems.

The National Organization of Veterans' Advocates, Inc. (NOVA) is a not-for-profit educational membership organization incorporated in 1993. It is comprised of over 850 accredited attorneys, agents, and other qualified members that represent veterans, survivors, family members, and caregivers before the Department of Veterans Affairs and the federal courts. NOVA's bylaws

* Pursuant to Rule 37.6, amici affirm that no counsel for a party authored this brief in whole or in part and that no person other than amici or their counsel have made any monetary contributions intended to fund the preparation or submission of this brief.

include as its purpose the development of veterans' law and procedure through participation as amicus curiae. NOVA works to develop high standards of service and representation for all people seeking veterans' benefits, and advocates for laws and policies to improve the lives of veterans and their families.

The issues in this appeal lie at the core of CVLC's and NOVA's experience, expertise, and missions. CVLC has an extensive record representing veterans seeking corrections to their military records and is intimately familiar with standards pertaining to disabilities resulting from combat, particularly PTSD and related mental health issues. NOVA has for decades advocated for veterans seeking benefits in front of agencies and courts. CVLC and NOVA have a strong interest in preserving the pro-veteran interpretation of statutes, as Congress intended them to be read, and in challenging interpretations of statutes that contradict those intentions, such as the decision on appeal.

SUMMARY OF THE ARGUMENT

To honor the sacrifices of long-serving veterans in the United States military who suffered disabilities related to combat or other hazardous service, in 2002 Congress provided a new form of compensation to these deserving heroes: combat-related special compensation (CRSC). Congress has since expanded CRSC to include medical retirees, but the aim of the benefit remains unchanged: to more fully compensate individuals who suffered significant disabilities while serving in dangerous conditions.

When creating this new category of payment, Congress also saw fit to establish a new mechanism for the military to evaluate and pay claims for CRSC. *See* 10

U.S.C. § 1413a (CRSC statute). Under the CRSC statute, the Secretary of Defense must prescribe procedures and criteria by which the military will evaluate CRSC claims. Then, the individual military departments receive applications for CRSC from their respective veterans, assess if claims for CRSC are valid, and determine how much an eligible veteran is owed.

Petitioner’s merits brief explains why the text of the CRSC statute provides a settlement mechanism for claims by veterans for CRSC that replaces the default procedures and limitations in the Barring Act, 31 U.S.C. § 3702. This brief offers additional support for Petitioner’s arguments.

First, the plain language of § 1413a is dispositive—the text of the CRSC statute makes clear that it is “another law” that provides a mechanism to settle, or administratively determine the validity of, claims for CRSC. In particular, the CRSC statute contains a more specific authorization of settlement authority compared to the Barring Act. The CRSC statute contains two separate authorizations: for the Secretary of Defense to “prescribe procedures and criteria” to evaluate CRSC claims, and for the Secretaries of the military branches to evaluate and pay such claims—i.e., to settle the claims.

Second, the history of the CRSC statute confirms that it provides a settlement mechanism for CRSC claims. Congress created a new process by which a limited class of injured veterans with sufficient time served could apply for the CRSC benefit. From its inception, the statute included the distinct authorizations to both the Secretary of Defense and the Secretaries of the military branches. This history also shows the government’s burden arguments are unfounded because the pool of veterans

eligible for CRSC is small and those veterans are unlikely to delay filing for CRSC absent a compelling reason.

Third, the statutorily mandated procedures prescribed by the Secretary of Defense to evaluate CRSC claims demonstrate that the CRSC statute sets out an independent settlement mechanism. These procedures have all the hallmarks of a separate administrative system to determine the validity of CRSC claims. They specify how veterans apply for CRSC, the criteria by which claims are evaluated, how the military branches should determine that a veteran's injury was causally related to combat service, and provides for reconsideration and appeal procedures.

ARGUMENT

I. THE STATUTORY TEXT DEMONSTRATES THAT THE CRSC STATUTE PROVIDES A SETTLEMENT MECHANISM FOR CRSC CLAIMS

This case can be resolved on the text of the CRSC statute, which clearly lays out a settlement mechanism that displaces the Barring Act. The Court's duty is to read the statute according to its plain language. *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000). When "the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms." *Id.* (citation omitted).

A. The CRSC Statute Includes a Clear, Three-part Settlement Mechanism

The Barring Act does not govern the settlement of claims of or against the government when "another law" provides otherwise. 31 U.S.C. § 3702(a). The CRSC statute, 10 U.S.C. § 1413a, is "another law" that provides

for the settlement of claims for CRSC, and thus displaces the Barring Act and its six-year statute of limitations.

The settlement mechanism under the CRSC statute is unambiguous. First, the Secretary of Defense “shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply” for CRSC. 10 U.S.C. § 1413a(d). Next, the disabled veteran applies to “the Secretary of a military department,” i.e., the Secretary of the Navy, the Army, etc., “to be considered to be an eligible combat-related disabled uniformed services retiree” for evaluation of the claim. 10 U.S.C. § 1413a(d). Finally, the “Secretary concerned” “shall pay” CRSC to each eligible veteran. 10 U.S.C. § 1413a(a); *see* 10 U.S.C. § 101(a)(9) (defining “Secretary concerned” as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Secretary of Homeland Security). The role of the Secretary of Defense ends after he sets the process and criteria for eligibility, at which point the Secretary concerned shall determine the validity of the CRSC claim.

If the Court finds the CRSC statute and the Barring Act conflict, the more specific settlement mechanism of the CRSC should prevail. In contrast with the CRSC statute, the Barring Act provides a broad, non-specific authorization to the Secretary of Defense—not to Secretaries of particular military departments—to settle claims for certain types of military pay. *See* 31 U.S.C. § 3702(a)(1) (giving Secretary of Defense authority to settle claims involving service members’ “pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits”).

The contrast between the Barring Act’s broad settlement mechanism and the more specific settlement mechanism in 10 U.S.C. § 1413a—under which the

Secretary of Defense promulgates procedures and individual military departments evaluate claims—is strong evidence that Congress intended to create a separate settlement mechanism in § 1413a for CRSC claims that displaces the Barring Act. *See Nat’l Cable & Telecommunications Ass’n, Inc. v. Gulf Power Co.*, 534 U.S. 327, 335 (2002) (finding no conflict between two statutory provisions, but noting “specific statutory language should control more general language when there is a conflict between the two”); 73 Am. Jur. 2d Statutes § 153 (“statutes complete in themselves, relating to a specific subject, take precedence over general statutes or over other statutes that deal only incidentally with the same question”). The CRSC statute’s distinct grant of settlement authority to multiple military Secretaries, instead of just the Secretary of Defense, is strong evidence that § 1413a creates a settlement mechanism independent of the Barring Act.

B. The Government’s Interpretation of the CRSC Statute Cannot Be Squared with the Statute’s Text

The government reads the CRSC statute as establishing only a “substantive right to CRSC,” not a mechanism to settle claims for CRSC. Br. in Opp. 9-10. Thus, under the government’s view, the Barring Act’s settlement mechanism and six-year statute of limitations govern claims for CRSC. *Id.*

This argument cannot be squared with the text of the CRSC statute. The CRSC statute expressly grants to the “Secretary concerned,” i.e., the Secretaries of the individual military branches, the authority to adjudicate claims for CRSC. 10 U.S.C. § 1413a(a). The government’s argument reads this language out of the statute. “[The Court’s] practice, however, is to ‘give effect, if possible, to every clause and word of a statute.’” *Advoc. Health Care*

Network v. Stapleton, 581 U.S. 468, 478 (2017) (quoting *Williams v. Taylor*, 529 U.S. 362, 404 (2000)).

Indeed, at one point in its brief in opposition, when discussing the CRSC statute, the government incorrectly refers to the Secretary of Defense and Secretaries of the military branches as the same “Secretary.” See Br. in Opp. 9-10 (referencing “the statutory provisions that require *the Secretary* to create procedures and criteria to determine whether a disabled uniformed services retiree is ‘considered to be an eligible combat-related disabled uniformed services retiree,’ 10 U.S.C. 1413a(d), and that direct *the Secretary* to make a specific type of monthly payment to eligible individuals who elect that benefit, 10 U.S.C. 1413a(a)” (emphases added)). Fixing that error exposes the problem with the government’s reading of the statute: the CRSC statute empowers Secretaries of the military branches to settle CRSC claims.

II. THE STATUTE’S HISTORY CONFIRMS THAT IT PROVIDES A SETTLEMENT MECHANISM FOR CRSC CLAIMS

While the Court need not look past the CRSC statute’s text, the statute’s history comports with the plain reading that the statute creates an independent settlement mechanism for CRSC claims. See, e.g., *Waetzig v. Halliburton Energy Servs., Inc.*, 2025 WL 608110, at *7 (U.S. Feb. 26, 2025) (“[O]ur reading of [the Rule] is buttressed by the historical context in which the Rule was enacted.”); *Wooden v. United States*, 595 U.S. 360, 371 (2022) (“Statutory history and purpose confirm our view of the [textual] meaning . . .”).

The statute, first passed in 2002, was designed to compensate deserving veterans who made great sacrifices for their country, and to aid military recruitment efforts.

The history of the statute confirms that Congress created substantive criteria by which the military would evaluate and pay CRSC claims. Finally, the statute's history dispels the government's arguments claiming undue burden to the government if the Barring Act's six-year limitation on retroactive payments does not apply.

A. Congress Passed CRSC as a Compromise to Advance the Dual Objectives of Bolstering Military Recruitment and Ensuring Fair Pay for Veterans

Congress passed CRSC in 2002, one year after the beginning of the American war in Afghanistan and as the United States was preparing to launch another war in Iraq. 107 Cong. Rec. H7857 (2002) (statement of Rep. Darlene Hooley (Or.)) (“Just a few hours ago, this body overwhelmingly voted to give our President the authority to go to war in Iraq. The least we can do is give the same level of overwhelming support to our veterans.”). The statute was a compromise. Congress declined to pass a statute that would have allowed concurrent receipt of retirement pay (from DoD) and disability pay (from Veterans Affairs) for all veterans. Instead, under threat of veto of a provision ending the bar on concurrent receipt, Congress passed a narrower statute that enabled a small category of disabled veterans to bypass the bar on concurrent receipt. 107 Cong. Rec. S10859 (2002) (statement of Sen. Carl Levin (Mich.)).

Congress united to pass CRSC to bolster military recruitment efforts and adequately compensate veterans. Those objectives were intertwined: if the government did not compensate fairly veterans, it would not succeed at recruiting new members. At the time, America was already involved in the dangerous war in Afghanistan, and the war in Iraq was on the horizon. The country needed to guarantee its military ranks were full and that it had

sufficient troops to fight these wars. Congress needed to step in. *See* 107 Cong. Rec. H7856 (2002) (statement of Rep. Ronnie Shows (Miss.)) (“How can we expect to recruit troops for the conflict we are about to wage if we continue the cycle of broken promises?”).

Representative Michael Bilirakis of Florida, Vice Chair of the Veterans’ Affairs Committee, spent 17 years advocating for concurrent receipt. He reminded his colleagues on the floor of a statement by George Washington: “The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation.” 107 Cong. Rec. H7855 (2002). Some form of allowance of concurrent receipt was imperative for the United States to recruit adequately troops to fight in Iraq and Afghanistan. Ultimately, Congress agreed upon the compromise CRSC statute.

B. The CRSC Statute’s History Confirms That the Statute Provides a Settlement Mechanism To Evaluate Claims

The compromise statute created a new form of compensation, CRSC, for a small group of veterans. Critically, Congress also created a new mechanism to settle claims for CRSC, where the Secretary of Defense would prescribe a process for the military branches to evaluate and settle CRSC claims.

From its enactment, the CRSC statute included the mandate in § 1413a(d) for the Secretary of Defense to prescribe procedures and criteria for a veteran to apply for CRSC. *See* Pub. L. No. 107-314, 116 Stat. 2575, § 636(d). That provision remains unchanged today. *Compare id.*, with 10 U.S.C. § 1413a(d) (effective Jan. 1,

2021). From its enactment, the CRSC statute also included the provisions authorizing the Secretaries of military departments to evaluate and pay claims for CRSC. Those authorizations likewise remain in place today. *Compare* Pub. L. No. 107-314, 116 Stat. 2575, § 636(a)-(c), (e), *with* 10 U.S.C. § 1413a(a)-(c), (e) (effective Jan. 1, 2021).

This history constitutes strong evidence that from the beginning Congress intended Secretaries of military departments to adjudicate claims for CRSC, thus displacing the settlement mechanism of the Barring Act. The history does not appear to contain discussion or debate about applying the Barring Act’s statute of limitations to CRSC. As the history reflects, the intent of Congress was for eligible veterans to receive the *full* amounts of pay to which they were entitled.

Congress understood and expected that the Secretary of Defense’s role would be limited to establishing the process and criteria for determining CRSC eligibility. To establish this process and criteria, the Secretary of Defense would build upon criteria “that DOD already has [] in place to evaluate combat disabilities.” 107 Cong. Rec. H8537 (2002) (statement of Rep. Duncan L. Hunter (Cal.)) (speaking about concurrent receipt, “[t]he agreement does require the Secretary of Defense to establish a process and criteria for evaluating whether a disability is combat related. We know that DOD already has some criteria in place to evaluate combat disabilities.”); 107 Cong. Rec. S10864 (2002) (statement of Sen. John Warner (Va.)) (“We will rely on the Secretary of Defense to exercise his discretion to further define the nature of this service” for which a veteran would be CRSC-eligible).

Congress restricted eligibility for CRSC to a narrowly defined group of veterans who have been injured in

connection with combat-related service, such as Purple Heart recipients and other veterans who received “wounds at the hands of the enemy” or in war training. 107 Cong. Rec. H8535 (2002) (statement of Rep. Duncan L. Hunter (Cal.)). These veterans deserve CRSC “as much as anyone deserves anything in the world.” 107 Cong. Rec. S10859 (2002) (statement of Sen. Harry Reid (Nev.)). And because assessing a veteran’s eligibility for CRSC requires evaluation of his or her military service, Congress authorized the Secretaries of the military branches, who would be intimately familiar with the veterans and their records, to adjudicate CRSC claims.

C. The Government’s Burden Arguments Are Unfounded

This history explains why the government’s argument that it will be burdened by stale and untimely claims if the Barring Act’s six-year statute of limitations does not apply is unfounded. Br. in Opp. 11-12. Congress created this new form of veteran’s compensation for a *limited* group. Moreover, it is undisputed that throughout the statute’s history Congress has never limited when veterans can *apply* for CRSC. Thus, the government still has to adjudicate what it describes as “stale” claims. The government’s burden argument thus is nothing more than a plea to pay less money to deserving veterans.

As an initial matter, any alleged burden is minimal because Congress made CRSC available to only a small number of veterans. At the time the statute was enacted, approximately 15,000 veterans were eligible for CRSC. 107 Cong. Rec. S10859 (2002) (“I want to say very briefly this compromise only affects up to 15,000 veterans.”) (statement of Sen. Harry Reid (Nev.)). Subsequent amendments to the CRSC statute expanded eligibility to include veterans who had not achieved 20 years of service due to medical retirement. See National Defense

Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 641, 122 Stat. 156 (2008) (amending 10 U.S.C. § 1413a); *see also* 110 Cong. Rec. S8766 (2007) (statement of Sen. Ben Nelson (Neb.)) (“The bill would expand combat-related special compensation to all servicemembers eligible for retirement pay who have a combat-related disability.”). Congress made this targeted expansion because, before this amendment, if veterans’ combat wounds forced them to retire before achieving 20 years of service, they could not receive CRSC. 110 Cong. Rec. S15618 (2007). In the words of Senator Reid, these 2008 amendments allowed Congress to “end that practice and do right by these heroes.” *Id.*

Despite this targeted expansion, the number of veterans who receive CRSC remains small. As of September 30, 2022, following two decades of war, approximately 94,000 veterans receive CRSC, of whom approximately 52,000 are disability retirees. DoD, Statistical Report on the Military Retirement System 68 (Oct. 2023).¹ That is just 7.3 percent of the 1,998,452 total military retirees receiving retired pay that same year. *Id.* at 16. The United States’ commitment, enshrined in the CRSC statute, to doing right by these heroes is an honorable duty, not a burden.

In addition, the government’s argument rings hollow because, as it has conceded, the military must still administratively evaluate the validity of CRSC claims even when the veteran seeks CRSC past the purported six-year bar on payments. *See* Br. in Opp. 16 (“As the court of appeals noted, ‘veterans *will receive the benefits*

¹ <https://media.defense.gov/2023/Oct/06/2003315292/-1/-1/0/MRS%20STATRPT%202022%20V999.PDF>

they are owed unless [the benefits] accrued outside of the Barring Act's six-year period of recovery.” (emphasis added)). In other words, the government agrees that the Barring Act (assuming *arguendo* it applies) does not preclude eligible veterans from filing for CRSC more than six years after eligibility accrued. Instead, the government's position is that those veterans would only receive six years of retroactive CRSC.

Thus, the government's construction of the statute does not lead to adjudicating fewer claims. Even under the government's view, the relevant military department still would have to determine eligibility for CRSC no matter when the claim was filed. The government's construction also flies in the face of the statute's plain language creating a settlement mechanism with no six-year limitation on payments. It would continue the “cycle of broken promises” to disabled veterans that Congress sought to fix. *See* 107 Cong. Rec. H7856 (2002) (statement of Rep. Ronnie Shows (Miss.)).

In any event, untimely claims are the exception, and a ruling for Petitioner would not incentivize stale claims. Veterans are unlikely to submit stale claims for CRSC because sitting on those claims would require the veterans to pass up receiving monthly payments (or in the event of miscalculations, increased monthly payments). Veterans can receive CRSC payment on the first day of the month following the month they became eligible. DoD Financial Management Regulations (FMR) Vol. 7B, Ch. 63, § 1.1.1-1.1.1.4. CRSC is paid every month, *id.* § 2.1, so it is unlikely that veterans would forgo receiving that monthly payment to instead make a claim to receive that same payment later.

That said, there are legitimate disabilities or life circumstances that may lead to delays in claiming CRSC

(including disabilities like PTSD resulting from military service). Only veterans with serious combat-related disabilities are eligible for CRSC—the very group that is more likely to suffer the types of disabilities that could delay seeking military benefits. Congress created this statute to compensate fairly those injured veterans. Reading the government’s proposed cutoff for claims into the statute, where none exists in the text, would not make it any easier for a veteran suffering from PTSD to promptly apply for CRSC. It would only impose barriers for this group of veterans to access the aid the statute provides.

Moreover, CRSC cannot be paid for any month before June 2003 for longevity retirees, or January 2008 for disability retirees, regardless of when eligibility accrued or the veteran filed. *See id.* § 1.1.1. This temporal backstop for payment on CRSC claims further rebuts the government’s claim of burden.

III. THE STATUTORILY MANDATED PROCEDURES CONFIRM THAT THE CRSC STATUTE SETS OUT AN INDEPENDENT SETTLEMENT MECHANISM

A. CRSC “Procedures and Criteria” Displace the Barring Act’s General Settlement Provisions

The Barring Act is displaced when “another law” provides a settlement mechanism for “claims of or against the United States Government.” 31 U.S.C. § 3702(a). The CRSC statute does exactly that. The statute goes beyond “establish[ing] a veteran’s substantive right to CRSC,” Pet. App. 8a, and sets forth “how eligible claims may be settled,” *id.* at 7a.

The CRSC statute commands: “The Secretary of Defense *shall prescribe procedures and criteria* under which a disabled uniformed services retiree may apply to

the Secretary of a military department *to be considered to be an eligible* combat-related disabled uniformed services retiree.” 10 U.S.C. § 1413a(d) (emphases added). The statute also requires the Secretary of Defense to enumerate criteria to evaluate whether a disability “was incurred . . . as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war; or through an instrumentality of war.” *Id.* § 1413a(e)(2)(A)-(D).

The Secretary of Defense has so prescribed procedures and criteria. These rules instruct the Secretaries concerned (meaning the Secretary of the military department that receives the CRSC claim) regarding how to evaluate CRSC claims. *See* DoD FMR Vol. 7B, Ch. 63. These procedures are the mechanism by which each military department “administratively determine[s] the validity” of claims for CRSC. *Adams v. Hinchman*, 154 F.3d 420, 422 (D.C. Cir. 1998) (quoting Off. of Gen. Counsel, U.S. Gen. Acct. Off., Principles of Federal Appropriations Law 11-6 (1982)).

B. CRSC “Procedures and Criteria” Determine How CRSC Claims Are Settled

The Secretary of Defense’s statutorily mandated CRSC “procedures and criteria” delineate the settlement mechanism that displaces the Barring Act’s more general provisions. These procedures make clear that the Secretaries concerned administratively determine the validity of CRSC claims, and leave no room for the Barring Act or any other settlement mechanism for CRSC claims.

To claim CRSC, a veteran must fill out DoD form 2860, Claim for Combat-Related Special Compensation, and

submit supporting evidence.² DoD FMR Vol. 7B, Ch. 63, § 3.1. The veteran claiming CRSC bears “[t]he burden of proof that a disability is combat-related,” and “is required to provide copies of documents in his or her possession to the best of his or her ability.” DoD FMR Vol. 7B, Ch. 63 § 10.1.2. The military department evaluating the application may request documents from the Department of Veterans Affairs “to support CRSC determinations.” *Id.*

The military department will review the claim to determine whether the veteran meets the necessary preliminary criteria. *Id.* §§ 4.1-4.4. This requires evaluation of whether the veteran has the required years of service, is retired and eligible for retired pay, and is entitled to compensation for service-related disabilities. *Id.* If the veteran does not meet all of these preliminary criteria, the veteran is not eligible for CRSC and the application is denied. *Id.* §§ 5.0, 10.2.1.

If the veteran meets the preliminary criteria, then the military department “must determine that the veteran

² From 2003 to 2019, the DoD Financial Management Regulations concerning CRSC read: “A member may submit an application for CRSC at any time and, if otherwise qualified for CRSC, compensation will be paid for any month after May 2003 for which all conditions of eligibility were met.” DoD Interim Change R01-06, § 630401; *see also, e.g.*, DoD FMR Vol. 7B, Ch. 63, § 630401 (effective Sept. 2008) (same). In November 2019, after this lawsuit was filed, the government revised this provision: “A member may submit an application for CRSC at any time and, if otherwise qualified for CRSC, compensation will be paid for any month after May 2003 for which all conditions of eligibility were met, *subject to any legal limitations.*” DoD FMR Vol. 7B, Ch. 63, § 3.1 (formerly § 630301, which was formerly § 630401) (effective Nov. 2019) (emphasis added). The 2019 revision did not explain the reason for this change. *Id.* at 1.

has a combat-related disability or disabilities” that are covered by CRSC. *Id.* §§ 5.0, 10.2.2; *see also* 10 U.S.C. § 1413a(e) (noting that these disabilities also must be “compensable under the laws administered by the Secretary of Veterans Affairs”). There are two types of combat-related disabilities that qualify: a “Purple Heart Disability” and “Other Combat-Related Disabilities.” *Id.* §§ 5.1, 5.2.

For a Purple Heart Disability, the military department evaluating the CRSC claim “must determine which disabilities of the veteran, if any, are attributed to Purple Heart injuries.” *Id.* § 5.1.1. This determination “requires documentary information that there is a sufficient causal relationship between the disability and injury for which a Purple Heart was awarded to conclude that the disability is attributable to such injury.” *Id.* § 5.1.2.

The other category of eligible disabilities requires greater in-depth substantive evaluation by the military department. To be considered another “combat-related disability,” the military department evaluating the CRSC claim must determine that the disability falls under one of the four categories enumerated in § 1413a(e)(2). DoD FMR Vol. 7B, Ch. 63, §§ 5.2, 6.1-6.4. For example, to be eligible for CRSC based on a disability that is the *direct result* of armed conflict, the department must determine whether an armed conflict existed at the time of the injury. *Id.* § 6.1.1.³ For disabilities sustained while in

³ For this category, the military department must also evaluate whether there was, in fact, an armed conflict, which could include “a war, expedition, occupation of an area or territory, battle, skirmish, raid, invasion, rebellion, insurrection, guerilla action, riot, or any other action in which Service members are engaged with a hostile or belligerent nation, faction, force, or with terrorists,” and also

hazardous service, the military has to determine that the injury “be the direct result of actions taken in the performance of such service,” and not “incidental” actions such as “[t]ravel to and from such service.” *Id.* § 6.2. And for disabilities incurred due to an instrumentality of war, such as a military vehicle, the department must find “a direct causal relationship between the instrumentality of war and the disability.” *Id.* § 6.4.1.

These fact and causation determinations are central to how the military department determines eligibility for, i.e., “administratively determine the validity of,” CRSC claims.

Once the prerequisite findings about combat-relatedness are made, the military department then must determine the amount of CRSC pursuant to the statutory formula. *See* 10 U.S.C. § 1413a(b)(1), (2); DoD FMR Vol. 7B, Ch. 63, §§ 8.0-8.5. The military department must consider, *inter alia*, the amount of retired and disability pay to which the veteran is entitled, 10 U.S.C. § 1413a(b)(1), (2); DoD FMR Vol. 7B, Ch. 63, §§ 8.1, 8.2, whether the veteran has dependents, DoD FMR Vol. 7B, Ch. 63, § 8.1.1, and the length of the veteran’s service, 10 U.S.C. § 1413a(b)(3); DoD FMR Vol. 7B, Ch. 63, § 8.5.

If a CRSC application is denied at any point in the process, the department evaluating the claim “will provide a letter to the member specifying the reasons(s) [sic] for the denial” and “inform the member that he or she may seek reconsideration by submitting additional, clarifying, or new documentary information to the Military Department in support of his or her claim.” DoD

incidents where members are “detained against his or her will in the custody of a hostile or belligerent force.” *Id.* §§ 6.1.2, 6.1.3.

FMR Vol. 7B, Ch. 63, § 10.3.1. If the veteran submits new or additional information, that is reviewed and the veteran is informed of the results of the review. *Id.* The veteran also has the right to correct administratively their military record by applying to their service branch's Board for Correction of Military (or Naval) Records under 10 U.S.C. § 1552. *Id.* §§ 10.3.1, 10.3.2. Veterans can also appeal the final administrative determination denying a CRSC claim to the Court of Federal Claims, or to a federal District Court. *See* 28 U.S.C. § 1491 (Tucker Act claims can be brought in the Court of Federal Claims); 28 U.S.C. § 1346 (Little Tucker Act claims can be brought in District Courts); 5 U.S.C. §§ 701-706 (Administrative Procedure Act claims can be brought in District Courts).

CONCLUSION

The judgment of the Federal Circuit should be reversed.

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