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## Unemployment Insurance

Through federal and state cooperation, unemployment insurance programs are designed to provide benefits to regularly employed members of the labor force who become involuntarily unemployed and who are able and willing to accept suitable employment. Workers in all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands are covered under unemployment insurance programs.

To induce states to enact unemployment insurance laws, the Social Security Act of 1935 provided a tax offset incentive. A uniform national tax was imposed on payrolls of industrial and commercial employers who employed eight or more workers in 20 or more weeks in a calendar year. Employers who paid taxes to a state with an approved unemployment insurance law could credit (offset) up to 90 percent of the state tax against the federal tax. This insured that employers in states without an unemployment insurance law would not have an advantage competing with similar businesses in states with such a law because they would still be subject to the federal payroll tax, and their employees would not be eligible for benefits.

In addition, the Social Security Act authorized grants to states to meet the costs of administering the state systems. By July 1937, all 48 states, the then territories of Alaska and Hawaii, and the District of Columbia had passed unemployment insurance laws. Later, Puerto Rico adopted its own program, which was incorporated in 1961 into the federal-state system. A similar program for workers in the Virgin Islands was added in 1978.

If employers are to receive an offset against federal taxes and if states are to receive federal grants for administration, federal law requires state unemployment insurance programs to meet certain requirements. These requirements are intended to assure that a state participating in the program has an unemployment insurance system that is fairly administered and financially secure.

One requirement is that all contributions collected under state laws be deposited in the unemployment trust fund of the U.S. Treasury Department. The fund is invested as a whole, but each state has a separate account to which its deposits and its share of interest on investments are credited. At any time, a state may withdraw money from its account in the trust fund, but only to pay benefits. Thus, unlike the situation in the majority of states having workers' compensation and temporary disability insurance laws, unemployment insurance benefits are paid exclusively through a public fund. Private plans cannot be substituted for the state plan.

Aside from federal standards, each state has major responsibility for the content and development of its unemployment insurance law. The state itself decides the amount and duration of benefits (except for certain federal requirements concerning Federal-State Extended Bene-

fits), the contribution rates (with limitations), and, in general, the eligibility requirements and disqualification provisions. The states also directly administer the programs collecting contributions, maintaining wage records (where applicable), taking claims, determining eligibility, and paying benefits to unemployed workers.

### Coverage

Originally, coverage had been limited to employment covered by the Federal Unemployment Tax Act (FUTA), which relates primarily to industrial and commercial workers in private industry. However, several federal laws added substantially to the number and types of workers protected under the state programs, such as the Employment Security Amendments of 1970 and the Unemployment Compensation Amendments of 1976.

Private employers in industry and commerce are subject to the law if they have one or more individuals employed on 1 day in each of 20 weeks during the current or preceding year, or if they paid wages of \$1,500 or more during any calendar quarter in the current or preceding year.

Agricultural workers are covered on farms with a quarterly payroll of at least \$20,000 or employing 10 or more employees in 20 weeks of the year. Domestic employees in private households are subject to FUTA if their employer pays wages of \$1,000 or more in a calendar quarter. Excluded from coverage are workers employed by their families and the self-employed.

Before 1976, employment in state and local governments and nonprofit organizations were exempt from FUTA. However, as a result of federal legislation enacted in 1976, most employment in these groups must now be covered by state law as a condition for securing federal approval of the state law. Under this form of coverage, local government and nonprofit employers have the option of making contributions as under FUTA or of reimbursing the state for benefit expenditures actually made. Elected officials, legislators, members of the judiciary, and the state National Guard are still excluded, as are employees of nonprofit organizations that employ fewer than four workers in 20 weeks in the current or preceding calendar year. Many states have extended coverage beyond that provided by federal legislation.

Through special federal legislation, federal civilian employees and ex-servicemembers of the armed forces were brought under the unemployment insurance system. Benefits for those persons are financed through federal funds but are administered by the states and paid in accordance with the provisions of the state laws. A separate unemployment insurance law enacted by Congress covers railroad workers.

Amendments to FUTA made in 2000 added Indian tribes to the set of entities for whom coverage is required, although they are not liable for FUTA taxes. As a result, workers performing services for tribes are now potentially eligible to receive Unemployment Insurance benefits. Coverage is required when service is performed for any Indian tribe, band, nation, or other organized group community which is recognized as eligible for federal assistance because of their status as Indians. The same permissible exclusion from coverage that are applicable to other governmental entities also apply to services performed for Indian tribes. If an Indian tribe fails to make payments to states as required, the tribe loses its FUTA exemption and may lose coverage.

### Eligibility for Benefits

Unemployment benefits are available as a matter of right (without a means test) to unemployed workers who have demonstrated their attachment to the labor force by a specified amount of recent work or earnings in covered employment. All workers whose employers contribute to or make payments in lieu of contributions to state unemployment funds, federal civilian employees, and ex-service-members are eligible if they are involuntarily unemployed, able to work, available for work, and actively seeking work. Workers must also meet the eligibility and qualifying requirements of the state law and be free from disqualifications. Workers who meet these eligibility conditions may still be denied benefits if they are found to be responsible for their own unemployment.

### Work Requirements

A worker's monetary benefit rights are based on his or her employment in covered work over a prior reference period called the "base period," and these benefit rights remain fixed for a "benefit year." In most states, the base period is the first 4 quarters of the last 5 completed calendar quarters preceding the claim for unemployment benefits.

### Benefits

Under all state laws, the weekly benefit amount—that is, the amount payable for a week of total unemployment—varies with the worker's past wages within certain minimum and maximum limits. In most states, the formula is designed to compensate for a fraction of the usual weekly wage, normally about 50 percent, subject to specified dollar maximums.

Three-fourths of the laws use a formula that computes weekly benefits as a fraction of wages in one or more quarters of the base period. Most commonly, the fraction is taken of wages in the quarter during which wages were highest because this quarter most nearly reflects full-time work. In most of these states, the same fraction is used at

all benefit levels. The other laws use a weighted schedule that gives a greater proportion of the high-quarter wages to lower paid workers than to those earning more.

Each state establishes a ceiling on the weekly benefit amount and no worker may receive an amount larger than the ceiling. The maximum may be either a fixed dollar amount or a flexible amount. Under the latter arrangement, which has been adopted in 35 jurisdictions, the maximum is adjusted automatically in accordance with the weekly wages of covered employees.

Twelve states provide additional allowances for certain dependents. They all include children under ages 16, 18, or 19 (and, generally, older if incapacitated); 8 states include a nonworking spouse; and 2 states consider other dependent relatives. The amount allowed per dependent varies considerably by state but generally is \$24 or less per week and, in the majority of states, the amount is the same for each dependent.

All but 12 states require a waiting period of 1 week of total unemployment before benefits can begin. Four states pay benefits retroactively for the waiting period if unemployment lasts a certain period or if the employee returns to work within a specified period.

Except for two jurisdictions, states provide a statutory maximum duration of 26 weeks of benefits in a benefit year. However, jurisdictions vary the duration of benefits through various formulas.

### Extended Benefits

In the 1970s, a permanent federal-state program of Extended Benefits (EB) was established for workers who exhaust their entitlement to regular state benefits during periods of high unemployment. The program is financed equally from federal and state funds. Employment conditions in an individual state trigger Extended Benefits. This happens when the unemployment rate among insured workers in a state averages 5 percent or more over a 13-week period, and is at least 20 percent higher than the rate for the same period in the 2 preceding years. If the insured unemployment rate reaches 6 percent, a state may by state law disregard the 20-percent requirement in initiating Extended Benefits. Once triggered, Extended Benefit provisions remain in effect for at least 13 weeks. When a state's benefit period ends, Extended Benefits to individual workers also end, even if they have received less than their potential entitlement and are still unemployed. Further, once a state's benefit period ends, another statewide period cannot begin for at least 13 weeks.

State law determines most eligibility conditions for Extended Benefits and the weekly benefit payable. However, under federal law a claimant must have had 20 weeks in full-time employment (or the equivalent in insured wages) and must meet special work requirements. A worker who has exhausted his or her regular benefits is eligible for a 50-percent increase in duration of benefits for a

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maximum of 13 weeks of Extended Benefits. There is, however, an overall maximum of 39 weeks of regular and Extended Benefits. Extended Benefits are payable at the same rate as the weekly amount under the regular state program.

Prior to the 1992 legislation, the EB program was based on the insured unemployment rate (IUR)—the number of unemployed workers receiving benefits in a state as a percentage of the number of persons in unemployment—insurance covered employment in that state. By definition, the IUR does not include workers who have exhausted their benefits but are still unemployed.

The 1992 legislation (P.L. 102-318) provided states the option of adopting an additional formula for triggering the permanent Extended Benefits program. Effective March 1993, states had the option of amending their laws to use alternative total unemployment rate triggers in addition to the current insured unemployment rate triggers. Under this option, Extended Benefits would be paid when (1) the state's seasonally adjusted total unemployment rate for the most recent 3 months is at least 6.5 percent, and (2) that rate is at least 110 percent of the state average total unemployment rate in the corresponding 3-month period in either of the 2 preceding years.

States triggering on to the Extended Benefits program under other triggers would provide the regular 26 weeks of unemployment benefits in addition to 13 weeks of Extended Benefits, (which is the same number of weeks of benefits provided previously). In addition, states that have chosen the total unemployment rate option will also amend their state laws to add an additional 7 weeks of Extended Benefits (for a total of 20 weeks) where the total unemployment rate is at least 8 percent and is 110 percent of the state's total unemployment rate for the same 3 months in either of the 2 preceding years. As of April 13, 2002, extended Benefits were payable for 13 weeks in Alaska, Idaho, Oregon, and Washington.

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## Workers' Compensation

Workers' compensation was the first form of social insurance to develop widely in the United States. It is designed to provide cash benefits and medical care when employees suffer work-related injuries or illnesses, and survivor's benefits to the dependents of workers whose deaths result from a work-related incident. In exchange for receiving benefits, workers who receive workers' compensation are generally not allowed to bring a tort suit against their employers for damages of any kind.

The federal government was the first to establish a workers' compensation program, covering its civilian employees with an act that was passed in 1908 to provide benefits for workers engaged in hazardous work. The remaining federal workforce was covered in 1916. Nine states enacted workers' compensation laws in 1911. By 1920, all but seven states and the District of Columbia had workers' compensation laws.

Today each of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands has its own program. The federal government covers its employees through its own program. It also administers the Longshore and Harbor Workers' Compensation Act, enacted in 1927, which covers longshore and harbor workers throughout the United States.

Coal miners suffering from pneumoconiosis, or black lung disease, are covered by the Black Lung Benefits Act of 1972, with the initial benefits enacted as part of the Coal Mine Health and Safety Act of 1969. Under this program, monthly cash benefits are payable to miners disabled by black lung disease and to their dependents or survivors. Medical benefits are also payable on the basis of a diagnosis of pneumoconiosis.

The Energy Employees Occupational Illness Compensation Program Act of 2000 instituted a new program that covers employees, contractors, and sub-contractors of the U.S. Department of Energy (DOE) for exposure to beryllium and the contraction of chronic beryllium disease. In addition, employees of private companies providing beryllium to DOE are covered. Employees' survivors also receive cash benefits.

This same act also covers employees disabled or killed by cancers that developed after beginning employment at a DOE or an atomic weapons facility, as long as the cancer was at least "as likely as not" related to this employment, subject to a number of guidelines relating to radiation exposure, type of cancer, and other relevant factors. It also provides benefits for silica-related diseases and to uranium miners and their survivors who have received lump-sum payments under the Radiation Exposure Compensation Act, and establishes an Office of Worker Advocacy in the Department of Energy to deal with other claims of work-related occupational disease.

### Coverage

In 2000, state and federal workers' compensation laws covered about 123.7 million employees. Covered payroll in 2000—that is, total wages paid to covered workers—was \$4.3 trillion.

Common exemptions from coverage are domestic service, agricultural employment, small employers, and casual labor. However, 39 programs have some coverage for agricultural workers, and 25 programs have some coverage for domestic workers.

Many programs exempt employees of nonprofit, charitable, or religious institutions. The coverage of state and local public employees differs widely from one state program to another.

Two other major groups outside the coverage of workers' compensation laws are railroad employees engaged in interstate commerce and seamen in the U.S. Merchant Marine. Those workers have health insurance and short-term and long-term cash benefit plans that cover disabilities whether or not the conditions are work-related. In addition, under federal laws they retain the right to bring tort suits against their employers for negligence in the case of work-related injuries or illness.

The programs are compulsory for most private employment, except in Texas, where it is elective. If Texas employers reject it, they lose the customary common-law defenses against suits by employees in private industry.

### Benefits

The benefits provided under workers' compensation include periodic cash payments and medical services to the worker during the period of disablement for the disabling condition. They also include death and funeral benefits to the workers' survivors. Lump-sum settlements are permitted under most programs.

Approximately three-fourths of all workers' compensation cases involve only medical benefits. Cash wage replacement benefits are categorized according to the duration and severity of the worker's disability.

### Temporary and Permanent Total Disability

A large majority of compensation cases involving cash payments involve temporary total disability. That is, employees are unable to work at all while they are recovering from the injury but they are expected to recover. When workers' lost time exceeds the waiting period (3 to 7 days, depending on the state) they receive a percentage of their weekly wages—typically two-thirds—up to a maximum weekly amount. The maximum generally being set at some percentage of the states average weekly wage, ranging from 66-2/3 percent to 200 percent, but typically 100 percent.

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In some cases, workers return to work prior to the date they reach maximum medical improvement and thus have reduced responsibilities and an accompanying lower salary. In those cases, they receive temporary partial disability benefits.

After the date of maximum medical improvement, if a disability is severe enough, the worker receives permanent total disability benefits. Very few workers' compensation cases are found to have permanent total disabilities.

### Permanent Partial Disability

If the permanent disability of a worker is only partial and may or may not lessen work ability, permanent partial disability benefits are payable. The system for determining benefits in these cases is very complex and varies significantly across jurisdictions. Some states provide benefits based on an impairment rating scheme. The level of impairment, often expressed as a percentage of total disability, is used to determine the benefit amount. Some states provide benefits based on the loss of earning capacity. They use impairment ratings with modifications based on vocational factors, such as the worker's education, job experience, and age. Other states use systems that attempt to compensate workers for actual lost wages.

### Death Benefits

Generally, compensation is related to earnings and to the number of dependents payable to the survivors of workers who die from a work-related illness or injury. Benefits are capped in 26 states.

### Medical Benefits

All compensation acts require that medical aid be furnished to workers suffering from a work-related injury or illness without delay, whether or not the condition entails work interruption. This care includes first-aid treatment, physician services, surgical and hospital services, nursing, medical drugs and supplies, appliances, and prosthetic devices. Care is typically provided with no co-payment from the worker. A few state laws contain provisions for nominal contributions by the covered employee for hospital and medical benefits.

## Financing

Workers' compensation programs are financed almost exclusively by employers and are based on the principle that the cost of work-related accidents is a business expense. Depending on state laws, employers can purchase insurance from a private carrier or state fund, or they can self-insure. No program relies on general taxing power to finance workers' compensation. Employers in most programs are permitted to carry insurance against work accidents with commercial insurance companies or to qualify as self-insurers by giving proof of financial ability to carry

their own risk. In seven jurisdictions, however, commercial insurance is not allowed. In four of these areas, including Puerto Rico and the Virgin Islands, employers must insure with an exclusive state fund, and in three others, they must either insure with an exclusive state insurance fund or self-insure. In 19 jurisdictions, state funds have been established that compete with private insurance carriers. Federal employees are provided protection through a federally financed and operated system.

## Workers' Compensation Program Summary

Benefit payments under workers' compensation programs increased 6.4 percent in 2000 to \$45.9 billion, from the 1999 amount of \$43.1 billion. As a percentage of covered wages, however, benefits fell 1.3 percent from 1.08 to 1.06.

In 2000, medical benefits accounted for \$20.0 billion, and wage loss compensation for \$25.9 billion. The latter amount includes payments to disabled workers and the survivors of deceased workers.

The \$45.9 billion for workers' compensation benefit payments in 2000 includes over \$930 million in benefits for the Black Lung program. (See Tables 9.B1–9.B3.)

The employers' cost of providing workers' compensation coverage generally varies according to risk, industrial classification, and experience rating. Nationally, in 2000, such costs were approximately 1.25 percent of covered payroll, or about \$442 for each of the 123.7 billion protected employees.

The year 2000 is the eighth year in a row that benefits relative to covered wages declined. It is the seventh consecutive year that employer costs declined relative to covered wages.

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## Temporary Disability Insurance

Five states, Puerto Rico, and the railroad industry have social insurance programs that partially compensate for the loss of wages caused by temporary nonoccupational disability or maternity. Those programs are known as temporary disability insurance (TDI) because the duration of the payments is limited.

Federal law does not provide for a federal-state system of short-term disability comparable to the federal-state system of unemployment insurance. However, the Federal Unemployment Tax Act (FUTA) was amended in 1946 to permit states where employees made contributions under the unemployment insurance program to use some or all of these contributions for the payment of disability benefits (but not for administration). Three of the nine states that could have benefited by this provision for initial funding for TDI took advantage of it: California, New Jersey, and Rhode Island. The first state law was enacted by Rhode Island in 1942, followed by legislation in California and the railroad industry in 1946, New Jersey in 1948, and New York in 1949. Then came a hiatus of two decades before Puerto Rico and Hawaii passed laws in 1968 and 1969, respectively.

The five state temporary disability insurance laws and the Puerto Rico law cover most commercial and industrial wage and salary workers in private employment if the employer has at least one worker. In no state is coverage under TDI identical with that of the unemployment insurance program. Principal occupational groups excluded are domestic workers, family workers (parent, child, or spouse of the employer), government employees, and the self-employed. State and local government employees are included in Hawaii, and the other state programs generally provide elective coverage for some or all public employees.

Agricultural workers are covered to varying degrees in California, Hawaii, New Jersey, and Puerto Rico, but they are not covered in other jurisdictions. The California law permits self-employed individuals to elect coverage on a voluntary basis. Workers employed by railroads, railroad associations, and railroad unions are covered by TDI under the national system included in the Railroad Unemployment Insurance Act.

The methods used for providing this protection vary. In Rhode Island, the coverage is provided through an exclusive, state-operated fund into which all contributions are paid and from which all benefits are disbursed. In addition, covered employers may provide supplemental benefits in any manner they choose. The railroad program is also exclusively publicly operated in conjunction with its unemployment insurance provisions.

In California, New Jersey, and Puerto Rico, coverage is provided through a state-operated fund, but employers are permitted to "contract out" of the state fund by purchasing group insurance from commercial insurance companies, by

self-insuring, or by negotiating an agreement with a union or employees' association. Coverage by the state fund is automatic unless or until an employer or the employees take positive action by substituting a private plan that meets the standards prescribed in the law and is approved by the administering agency. Premiums (in lieu of contributions) are then paid directly to the private plan, and benefits are paid to the workers affected.

The Hawaii and New York laws require employers to provide their own disability insurance plans for their workers by setting up an approved self-insurance plan, by an agreement with employees or a union establishing a labor-management benefit plan, or by purchasing group insurance from a commercial carrier. In New York, the employer may also provide protection through the State Insurance Fund, which is a state-operated competitive carrier. Both Hawaii and New York operate special funds to pay benefits to workers who become disabled while unemployed or whose employers have failed to provide the required protection. In other jurisdictions, benefit payments for the disabled unemployed are made from the regular state-operated funds.

### Eligibility for Benefits

To qualify for benefits, a worker must fulfill certain requirements regarding past earnings or employment and must be disabled as defined in the law. In addition, claimants may be disqualified if they received certain types of income during the period of disability.

### Earnings or Employment Requirements

A claimant must have a specified amount of past employment or earnings to qualify for benefits. However, in most jurisdictions with private plans, the plans either insure workers immediately upon their employment or, in some cases, require a short probationary period of employment, usually from 1 to 3 months. Upon cessation of employment after a specified period, workers generally lose their private plan coverage and must look to a state-created fund for such protection.

### Disability Requirements

The laws generally define disability as inability to perform regular or customary work because of a physical or mental condition. Stricter requirements are imposed for disability during unemployment in New Jersey and New York. All the laws pay full benefits for disability due to pregnancy.

### Disqualifying Income

All the laws restrict payment of disability benefits when the claimant is also receiving workers' compensation payments. However, the statutes usually contain some exceptions to this rule (for example, if the workers' compensation is for partial disability or for previously incurred work disabilities).

The laws differ with respect to the treatment of sick leave payments. Rhode Island pays disability benefits in full even though the claimant draws wage continuation payments. New York deducts from the benefits any payment from the employer or from a fund contributed to by the employer, except for benefits paid pursuant to a collective bargaining agreement. In California, New Jersey, and Puerto Rico, benefits plus paid sick leave for any week during disability may not exceed the individual's weekly earnings before their disablement. Railroad workers are not eligible for TDI benefits while they receive sick leave pay.

In all seven TDI systems, as with unemployment insurance, weekly benefit amounts are related to a claimant's previous earnings in covered employment. In general, the benefit amount for a week is intended to replace at least one-half the weekly wage loss for a limited time. All the laws, however, specify minimum and maximum amounts payable for a week. The maximum duration of benefits varies from 26 to 52 weeks. Hawaii, New York, and Puerto Rico provide for benefits of a uniform duration of 26 weeks for all claimants; California and the railroad program have maximum benefit periods of 52 weeks; New Jersey, 26 weeks; and Rhode Island, 30 weeks. Under the railroad program, duration of benefits varies from 26 weeks to 52 weeks, based on the total number of years of employment in the industry. In the other jurisdictions, limited pre-disability "base period" wages reduce benefit duration. A noncompensable waiting period of a week or 7 consecutive days of disability (4 days for railroad workers) is generally required before the payment of benefits for subsequent weeks.

The statutory provisions described above govern the benefits payable to employees covered by the state-operated plans. In those states where private plans are permitted to participate, those provisions represent standards against which the private plan can be measured (in accordance with provisions in the state law).

### Financing and Administration

Under each of the laws, except for that governing the railroad program, employees may be required to contribute to the cost of the temporary disability benefit. In five of the jurisdictions (all but California and Rhode Island), employers are also required to contribute. In general, the government does not contribute.

Five of the seven TDI programs are administered by the same agency that administers unemployment

insurance. Under those five programs, the unemployment insurance administrative machinery is used to collect contributions, to maintain wage records, to determine eligibility, and to pay benefits to workers under the state-operated funds. The New York law is administered by the state Workers' Compensation Board, and the Hawaii law is administered separately in the Department of Labor and Industrial Relations.

By way of contrast, claims in New York and Hawaii are filed with and paid by the employer, the insurance carrier, or the union health and welfare fund that is operating the private plan. The state agency limits its functions with respect to employed workers to exercising general supervision over private plans, to setting standards of performance, and to adjudicating disputed claims arising between claimants and carriers. A similar situation applies to claimants under private plans in California, New Jersey, and Puerto Rico.

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## Black Lung Benefits

The Black Lung benefit program established by the Federal Coal Mine Health and Safety Act of 1969 provides monthly benefit payments to coal miners totally disabled as a result of pneumoconiosis, to the widows of coal miners who died as a result of pneumoconiosis, and to their dependents. The Social Security Administration (SSA) was responsible for the payment and administration of these Part B benefits (miner, survivor, and dependent) with respect to claims filed through June 30, 1973 (and certain survivor cases, before December 31, 1973).

On October 1, 1997, responsibility for maintenance and payment of Part B was transferred from SSA to the Department of Labor (DOL); SSA, however, maintains responsibility for conducting formal hearings necessary to resolve contested issues with respect to Part B claims. Only data on these Part B claims are reported on in this *Supplement*. Part C claims are reported in the *OWCP Annual Report to Congress*, U.S. Department of Labor, Office of Workers' Compensation Programs.

Under the Black Lung Benefits Act of 1972, DOL was assigned jurisdiction over Part C benefits, generally claims filed July 1, 1973 and later. Different financing provisions are applicable to these claims.

Under the law, the basic Black Lung benefit rate is 37-1/2 percent of the monthly pay rate for federal employees in the first step of grade GS-2. The basic rate to a miner or widow may be increased according to the number of qualified dependents—50 percent of the basic benefit rate if one dependent qualifies, 75 percent for two dependents, and 100 percent for three or more dependents.

Since Black Lung payments are tied directly to federal employee salary scales, increases are automatically payable when federal salaries are increased.

Reflecting a 3.6 percent adjustment, monthly benefit rates effective January 1, 2001 are:

Miner or widow \$518.50  
Miner or widow and one dependent \$777.80  
Miner or widow and 2 dependents \$907.40  
Miner or widow and 3 or more dependents  
(family benefit) \$1,037.00

If a miner or surviving spouse is receiving workers' compensation, unemployment compensation, or disability insurance payments under state law, the Black Lung benefit is offset by the amount being paid under these other programs.

Under the 1972 amendments to the law, payments were extended to full orphans, parents, brothers, and sisters of deceased miners. Under earlier law, survivor payments were limited to widows and their dependent children (if the miner and spouse were both deceased, no benefits were payable to surviving children). The 1972

amendments also expanded coverage to include surface as well as underground coal miners.

Significant program data under Part B in 2001 included the following:

- Between December 2000 and 2001, the total number of Black lung beneficiaries dropped from 89,400 to 79,500. The beneficiaries included 9,800 miners, 55,400 widows, and 14,300 dependents.
- Total annual payments declined from \$509.3 million in 2000 to \$470.4 million in 2001.
- The average monthly benefit for miners and their dependents for December 2001 was \$668.90 and \$508.20 for widows and their dependents.
- Ninety-seven percent of miners and widows were aged 65 or older in 2001.
- Seventy-three percent of all Black Lung beneficiaries resided in five states in 2001: Pennsylvania, West Virginia, Kentucky, Virginia, and Ohio.

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## Veterans' Benefits

A variety of programs and benefits are available to servicemembers and veterans of military service: disability payments, educational assistance, health care, vocational rehabilitation, survivor and dependents benefits, special loan programs, and hiring preference for certain jobs. Most of the veterans programs are administered by the Department of Veterans Affairs.

### Monetary Benefits

Two major cash benefit programs are available for veterans. The first program provides benefits to veterans with service-connected disabilities and, on the veteran's death, benefits are paid to the eligible spouse and children. These benefits are not means tested—that is, they are payable regardless of other income or resources. The second program provides benefits to needy veterans who have non-service-connected disabilities. These benefits are means tested.

#### Compensation for Service-connected Disabilities

The disability compensation program pays monthly benefits to veterans whose disabilities resulted from injury or disease incurred while in, or aggravated by, active military duty, whether in wartime or peacetime. Individuals discharged or separated from military service under dishonorable conditions are not eligible for compensation payments. The amount of monthly compensation depends on the degree of disability, rated as the percentage of normal function lost. Payments in 2002 range from \$103 a month for a 10-percent disability to \$2,163 a month for total disability. Veterans who have at least a 30-percent service-connected disability are entitled to an additional dependent's allowance. The amount is based on the number of dependents and degree of disability.

#### Pension for Non-service-connected Disabilities

Monthly benefits are provided to wartime veterans with limited income and resources who are totally and permanently disabled because of a condition not attributable to their military service. To qualify for these pensions, a veteran must have served in one or more of the following designated war periods: The Mexican Border Period, World War I, World War II, the Korean Conflict, the Vietnam Era, or the Gulf War. The period of service must have lasted at least 90 days, and the discharge or separation cannot have been dishonorable.

Effective December 1, 2001, maximum benefit amounts for non-service-connected disabilities range from \$796 per month for a veteran without a dependent spouse or child to \$1,575 per month for a veteran who is in need of regular aid and attendance and who has one dependent.

For each additional dependent child, the pension is raised by \$136 per month.

#### Benefits for Survivors

The dependency and indemnity compensation (DIC) program provides monthly benefits to the surviving spouse, children (under age 18, disabled, or students), and certain parents of service persons or veterans who die as the result of an injury or disease incurred while in or aggravated by active duty or training, or from a disability otherwise compensable under laws administered by the Department of Veterans Affairs.

Dependency and indemnity compensation payments may also be made if the veteran were receiving, or was entitled to receive, compensation for a service-connected disability at the time of death, and if certain conditions as to the severity of the disability are met.

Eligibility for survivor benefits based on a non-service-connected death of a veteran with a service-connected disability requires a marriage of at least a 1-year duration before the veteran's death. A surviving spouse is generally required to have lived continuously with the veteran from marriage until his or her death. Eligibility for benefits generally ends with the spouse's remarriage.

The monthly benefit amount payable to surviving spouses of veterans, who died before January 1, 1993, depends on the last pay rate of the deceased service person or veteran. In 2002, for pay grades E-1 through E-6, a flat monthly rate of \$935 is paid to surviving spouses. Monthly benefits for grades E-7 through E-9 range between \$967 and \$1,066. For veterans who died after January 1, 1993, surviving spouses receive a flat \$935 a month. An additional \$204 a month will be paid to supplement the basic rate if the deceased veteran had been entitled to receive 100-percent service-connected compensation for at least 8 years immediately preceding death. The amounts payable to eligible parents are lower and depend on: (1) the number of parents eligible, (2) their income, and (3) their marital status.

#### Pensions for Non-service-connected Death

Pensions are paid based on need to surviving spouses and dependent children (under age 18, disabled or students) of deceased veterans of the wartime periods specified in the disability pension program. For a pension to be payable, the veteran generally must have met the same service requirements established for the non-service-connected disability pension program, and the surviving spouse must meet the same marriage requirements as under the dependency and indemnity compensation program.

The pension amount depends on the composition of the surviving family and the physical condition of the surviving spouse. In 2002, pensions range from \$534 a month for a surviving spouse without dependent children to \$1,018 a month for a spouse who is in need of regular aid and attendance and who has a dependent child. The pension is raised by \$136 a month for each additional dependent child.

### **Hospitalization and Other Medical Care**

The Department of Veterans Affairs provides a nationwide system of health care through a system of hospitals and community-based outpatient clinics to eligible veterans.

#### **Enrollment - Provisions of Hospitalization and Outpatient Medical Care to Veterans**

To receive health care, veterans generally must be enrolled with the VA and may apply for enrollment at any time. Veterans do not have to be enrolled if they (1) have a service-connected disability of 50 percent or more; (2) want care for a disability which the military determined was incurred or aggravated in the line of duty but which VA has not yet rated during the 12-month period following discharge; or (3) want care for a service-connected disability.

Enrolled veterans and those not subject to enrollment are eligible to receive comprehensive medical benefits, which includes basic and preventive care.

#### **Eligibility Requirements**

Basic eligibility for hospital care and outpatient medical services are based on a veteran's character of discharge from active military service. Veterans discharged prior to September 7, 1980 for other than dishonorable conditions have basic eligibility for care. However, veterans discharged after September 7, 1980, must have completed 24 consecutive months of active duty service. Reservists who were called or ordered to active duty may also be eligible for care as a veteran if they complete the full period for which they were called or ordered to active duty. The 24-month minimum service time requirement does apply to veterans who were discharged for reasons of early-out under Title 38, U.S.C. 1173, discharged for a disability incurred or aggravated in the line of duty, awarded VA compensation or is in need of care for an adjudicated service-connected disability.

#### **Care for Dependents and Survivors**

The dependents and survivors of certain veterans may be eligible for medical care under the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) if not eligible for medical care under Tricare or Medicare. Tricare (formerly known as CHAMPUS) is the health program administered by the Department of

Defense for dependents of active duty personnel and military retirees and their dependents.

Beneficiaries covered by CHAMPVA may be treated at Department facilities when space is available. Usually, however, the person with CHAMPVA coverage is treated at a community hospital of his or her choice. The Department of Veterans Affairs pays for a part of the bill and the beneficiary is responsible for any required co-payment.

#### **Nursing Home Care**

A veteran seeking nursing home care must meet the established eligibility requirements for admission to a Department of Veterans Affairs (VA) nursing home. The Veterans Millennium Health Care and Benefits Act, Public Law 106-117 passed by Congress on November 30, 1999, made amendments to the original authority for nursing home placement. The new law requires that VA—

- Provide nursing home care to any veteran in need of such care for a service-connected disability;
- Provide nursing home care to any veteran who is in need of such care and who has a service-connected disability rated at 70 percent or greater;
- Provide nursing home care, either directly or through contracts when clinically indicated for eligible veterans;
- Facilities to determine the need for nursing home care based on a comprehensive interdisciplinary assessment.

#### **Other Medical Benefits**

Other Department of Veterans Affairs programs and medical benefits are available to certain veterans. Veterans do not need to be enrolled in the VA health care system to be eligible for any of the following benefits; however, there may be restrictions: domiciliary care, alcohol and drug dependency treatment; prosthetic appliances; modification in certain veterans home when so ordered by his or her physician, subject to cost limitations; compensation and pension examinations; care as part of a VA approved research project; readjustment counseling and treatment for Vietnam veterans; sexual trauma counseling for veterans suffering from trauma of a sexual nature during active military service; counseling; vocational rehabilitation counseling; special registry examinations and dental care.

### **Educational Assistance**

The post-Vietnam Veterans' Educational Assistance Program (VEAP) is a voluntary contributory matching program for persons entering service after December 31, 1976. To be eligible, the servicemember must have initially contributed to VEAP before April 1, 1987. The Montgomery GI Bill-Active Duty program provides education benefits for individuals entering military service after June 30, 1985, and for certain other individuals. Service members entering active duty have their basic pay reduced \$100 a month for

## Veterans' Benefits

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the first 12 months of their service unless they specifically elect not to participate. An educational assistance program is also available for individuals who enter the Selected Reserve after June 30, 1985.

The Department of Veterans Affairs also pays educational assistance for dependents if a veteran is permanently and totally disabled from a service-related cause, or dies as a result of service, or while completely disabled from service-related causes.

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