

**Addendum: Military Service-Related Benefits Protected by the [HAVEN Act](#)** (to be codified at 11 U.S.C. § 101(10A)(B)(ii)(IV))

Below is a noncomprehensive list of benefits that can qualify for protection under the HAVEN Act. Other benefits paid by the Department of Defense and the Department of Veterans Affairs might also be protected under the HAVEN Act, and thus, all income received by a debtor from the DOD and VA should be evaluated to determine whether such income qualifies for protection.<sup>1</sup>

<b>Benefit</b>	<b>Citation</b>	<b>Description<sup>2</sup></b>
<b>Disability Retired Pay<sup>3</sup></b> <b>Permanent Disability Retirement</b> <b>Temporary Disability Retirement</b>	10 U.S.C. §§ 1201, 1204 10 U.S.C. §§ 1202, 1205 (Chapter 61, Title 10)	Paid monthly to former or current servicemember upon permanent or temporary military retirement due to disability; pay computed under 10 U.S.C. § 1401 <a href="https://www.dfas.mil/retiredmilitary/disability/disability.html">https://www.dfas.mil/retiredmilitary/disability/disability.html</a>
<b>Disability Severance Pay</b>	10 U.S.C. § 1212; <i>see also</i> 10 U.S.C. §§ 1203, 1206	Paid as lump sum to servicemember upon military separation due to disability when circumstances do not meet criteria for disability-based military retirement <a href="https://www.dfas.mil/retiredmilitary/plan/separation-payments/disability-severance-pay.html">https://www.dfas.mil/retiredmilitary/plan/separation-payments/disability-severance-pay.html</a>
<b>Combat-Related Special Compensation (CRSC)<sup>4</sup></b>	10 U.S.C. § 1413a; <i>see also</i> 38 U.S.C. §§ 5304-5305	Paid monthly to military retiree who has a combat-related disability; cannot be paid concurrently with CRDP <a href="https://www.dfas.mil/retiredmilitary/disability/crsc.html">https://www.dfas.mil/retiredmilitary/disability/crsc.html</a>
<b>Concurrent Retirement &amp; Disability Payment (CRDP)<sup>5</sup></b>	10 U.S.C. § 1414; <i>see also</i> 38 U.S.C. §§ 5304-5305	Paid monthly to military retiree who is concurrently eligible to receive VA Disability Compensation and who has VA disability rating of at least 50%; cannot be paid concurrently with CRSC <a href="https://www.dfas.mil/retiredmilitary/disability/crdp.html">https://www.dfas.mil/retiredmilitary/disability/crdp.html</a>
<b>Survivor Benefit Plan Annuity (as to Disability Retirees under Chapter 61 of Title 10 only)</b>	10 U.S.C. § 1448; <i>see also</i> 10 U.S.C. §§ 1201, 1202, 1204, 1205	Paid monthly to military retiree's eligible beneficiary, after retiree's death <a href="https://www.dfas.mil/retiredmilitary/provide/sbp.html">https://www.dfas.mil/retiredmilitary/provide/sbp.html</a>

<sup>1</sup> In many cases, whether a benefit is protected will be clear. However, because the HAVEN Act does not list specific benefits paid under Titles 10, 37, and 38 that can be excluded from “current monthly income,” some cases will require a practitioner to investigate the basis for the debtor’s receipt of a particular benefit to determine whether the income can arguably be excluded. Additional information about benefits can be found at <https://warriorcare.dodlive.mil/benefits/compensation-and-benefits/> and <https://www.va.gov/>.

<sup>2</sup> Benefit descriptions, including website links, are provided for basic informational purposes only. The descriptions should not be relied upon in evaluating potential eligibility for a listed benefit because not all eligibility criteria are stated.

<sup>3</sup> Military retirements based upon disability are governed by Chapter 61 of Title 10 (10 U.S.C. §§ 1201-1222). The HAVEN Act permits the exclusion of Chapter 61-based retired pay from “current monthly income” **only to the extent that such retired pay exceeds the amount of retired pay that the debtor would be entitled to receive if retired under another provision of Title 10**. Information about retired pay computation can be found in Chapter 71 of Title 10 (10 U.S.C. §§ 1401-1415), as well as on the Defense Finance and Accounting Service’s website at <https://www.dfas.mil/retiredmilitary/plan/estimate.html>.

<sup>4</sup> CRSC has “Special Rules for Chapter 61 Disability Retirees,” 10 U.S.C. § 1413a(b)(3). Given that the HAVEN Act has Chapter 61-related limiting language, *see supra* note 3, additional analysis could be required for a debtor who receives CRSC.

<sup>5</sup> CRDP has “Special Rules for Chapter 61 Disability Retirees,” 10 U.S.C. § 1414(b). Given that the HAVEN Act has Chapter 61-related limiting language, *see supra* note 3, additional analysis could be required for a debtor who receives CRDP.

<b>Special Survivor Indemnity Allowance</b>	10 U.S.C. § 1450(c), (m)	Paid monthly to military retiree’s surviving spouse or former spouse, after retiree’s death, if Survivor Benefit Plan Annuity payments are offset by VA Dependency and Indemnity Compensation payments <a href="https://www.dfas.mil/retiredmilitary/survivors/Understanding-SBP-DIC-SSIA.html">https://www.dfas.mil/retiredmilitary/survivors/Understanding-SBP-DIC-SSIA.html</a>
<b>Special Compensation for Assistance with Activities of Daily Living</b>	37 U.S.C. § 439	Paid monthly to current or recent servicemember who requires help with activities of daily living due to catastrophic injury or illness incurred or aggravated in line of duty; cannot be paid concurrently with Aid and Attendance Allowance paid under 38 U.S.C. § 1114(r)(2) <a href="https://warriorcare.dodlive.mil/benefits/scaad/">https://warriorcare.dodlive.mil/benefits/scaad/</a>
<b>VA Disability Compensation</b> Also known as “Service-Connected Disability Compensation” and “Veterans Compensation”	38 U.S.C. §§ 1104, 1110, 1114(a)-(j), 1115, 1131, 1134	Paid monthly to veteran who has a disability due to disease or injury incurred or aggravated while serving on active duty, or otherwise related to that service; payment amount depends upon disability rating (10% to 100%) and whether the veteran has qualifying dependents <a href="https://www.va.gov/disability/">https://www.va.gov/disability/</a> <a href="https://www.benefits.va.gov/COMPENSATION/resources_comp01.asp">https://www.benefits.va.gov/COMPENSATION/resources_comp01.asp</a>
<b>VA Special Monthly Compensation</b> Can include Aid and Attendance Allowance or Housebound Allowance	38 U.S.C. §§ 1114(k)-(s), 1134	Paid monthly to veteran who receives VA Disability Compensation and who has special circumstances warranting additional compensation such as having specific service-connected anatomical losses or having need for daily in-home personal health care services <a href="https://www.benefits.va.gov/COMPENSATION/resources_comp02.asp">https://www.benefits.va.gov/COMPENSATION/resources_comp02.asp</a>
<b>VA Dependency and Indemnity Compensation</b> Can include Aid and Attendance Allowance or Housebound Allowance	38 U.S.C. §§ 1304, 1310-1318	Paid monthly to eligible survivors after servicemember’s in-service or service-connected death or veteran’s death due to service-connected disability (or equated as such) <a href="https://www.va.gov/burials-memorials/dependency-indemnity-compensation/">https://www.va.gov/burials-memorials/dependency-indemnity-compensation/</a>
<b>VA Veterans Pension<sup>6</sup></b> Also known as “Non-Service-Connected Disability Pension” Can include Aid and Attendance Allowance or Housebound Allowance	38 U.S.C. §§ 1502, 1513, 1521, 5312	Paid monthly as subsistence benefit to veteran who meets low income and net worth criteria, satisfies service requirements, and is either at least age 65 or “permanently and totally disabled” (generally due to non-service-connected disability); payment amount depends upon whether the veteran has qualifying dependents and in-home health care needs <a href="https://www.benefits.va.gov/pension/vetpen.asp">https://www.benefits.va.gov/pension/vetpen.asp</a>
<b>VA Vocational Rehabilitation &amp; Employment Subsistence Allowance</b>	38 U.S.C. § 3108	Paid monthly to veteran who has service-connected disability and who is participating in vocational rehabilitation program under Chapter 31 <a href="https://www.benefits.va.gov/vocrehab/subsistence_allowance_rates.asp">https://www.benefits.va.gov/vocrehab/subsistence_allowance_rates.asp</a>

<sup>6</sup> As indicated in the description, this benefit can be paid based upon age without a qualifying disability. If so paid, the income would not be excludable from “current monthly income” under the HAVEN Act. If a veteran is eligible for the benefit based upon age and, separately, based upon a qualifying disability, it might be possible to rely upon the latter eligibility and to exclude the income from “current monthly income.” See 38 U.S.C. § 1513(b).