

Unfair Deductions From
SISIP Payments to
Former CF Members

October 30, 2003

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Introduction

- 1 This report was prepared as a result of an investigation launched by my Office in response to complaints received about long term disability insurance coverage provided by the Service Income Security Insurance Plan (SISIP) to Canadian Forces (CF) members who become injured or disabled.
- 2 SISIP is a group insurance plan that makes insurance available to members of the CF Regular and Reserve Forces. The plan operates as a non-public funds entity and is considered a division of the Canadian Forces Personnel Support Agency. SISIP also has a Financial Services division, which provides financial products and services to current and former CF members and their families. It offers financial counselling, planning and education services.
- 3 Insurance operations under SISIP consist of two separate parts: SISIP “proper” and insurance plans supported by the Treasury Board Secretariat of Canada. The resources available under SISIP “proper” belong to the CF and fall under the direction of the Non-Public Funds Board of Directors. SISIP “proper” offers Survivor Income Benefits, Optional Group Term Insurance, Dependent Life Insurance, Reserve Term Insurance and Coverage After Release (CAR). As of December 2002, more than 112,500 CF members, former members and spouses were insured under the various life insurance options available through SISIP.
- 4 The resources associated with the remaining part of the SISIP operation fall under the direction of the Treasury Board. The SISIP plans supported by the Treasury Board include Long Term Disability (LTD), Reserve Long Term Disability and a Vocational Rehabilitation Program.
- 5 SISIP describes the LTD plan on its web site as a “disability group insurance plan sponsored by the Treasury Board that provides [CF members] with replacement income if [CF members] become “totally disabled,” or if [CF members] are released from the Canadian Forces (CF) for medical reasons.”
- 6 According to SISIP’s web site, approximately 60,000 Regular Force members and 30,000 Reserve Force members are insured under the LTD policies. For Regular Force members, Treasury Board pays 85% of the premiums while members pay the remaining 15%. Treasury Board pays 100% of the premiums for Reserve Force members. As an example, a Regular Force corporal paid at the standard pay incentive 4 pays \$8.05 per month, while Treasury Board pays \$45.60 per month of the total premiums for LTD coverage. Other forms of coverage are available at an additional cost to members.
- 7 SISIP long term disability coverage is automatic for all CF Regular Force members who joined after April 1, 1982. Primary reservists on Class “A” or Class “B” service of 180 days or less are automatically covered for each period they are on duty. Reservists on Class “B” service of more than 180 days and reservists on Class “C” service are automatically covered during service.
- 8 CF Regular Force officers and Reserve Force Class “C” officers in the substantive rank of colonel and above in all classifications and lieutenant-colonel in the legal classification

are covered by the General Officers' Insurance Plan (GOIP). Officers of this rank are automatically enrolled in GOIP on the date of promotion or, for Class "C" Reserve Force officers, on the date of employment. The GOIP is part of the SISIP plan and thus general officers receive the same SISIP long term disability benefits provided to other CF members. SISIP also provides coverage of Basic Life Insurance, Accidental Death and Dismemberment and Dependent Life Insurance. Costs of the SISIP coverage for general officers are, however, paid by the employer and the premiums for certain types of coverage are considered a taxable benefit.

- 9 SISIP's web site states that CF members who qualify for LTD benefits will receive an amount equal to 75% of their salary upon release, less other relevant sources of income.
- 10 Given that the Treasury Board sponsors SISIP long term disability coverage for CF members, any changes to the policy and premiums require Treasury Board approval. SISIP manages the Treasury Board supported programs on behalf of the Crown and Maritime Life Assurance Company is the insurer.
- 11 According to Mr. Pierre Lemay, SISIP President, their statistics indicate that at the end of September 1999, there were 981 active LTD insurance claims. However, the number of people who are qualified to receive SISIP long term disability benefits has progressively increased since 1999 due to changes in the policy. On December 1, 1999, the criteria governing whether CF members are eligible to receive SISIP long term disability benefits was amended and broadened. At the end of September 2002, SISIP had 1,791 active LTD claims.

Complaint

- 12 Since its inception, the Office of the Ombudsman has received over 50 complaints relating to administration of the SISIP long term disability insurance plan and insurance benefits available to CF members. A number of these complaints were resolved through changes to the criteria governing when CF members become eligible to receive LTD benefits, which were implemented in December 1999. Others have been resolved recently by changes to the plan and legislation brought forward by the Minister of National Defence in response to concerns raised through the efforts of retired Major Bruce Henwood. These much-anticipated and welcomed changes will bring the compensation available to non-commissioned members and their families for dismemberment and permanent loss of sight, hearing or speech in line with that available to general officers under the General Officers' Insurance Plan.
- 13 Current and former CF members have also complained to the Office of the Ombudsman that the deduction of amounts received for disability pensions under the *Pension Act* through Veterans Affairs Canada (VAC) from members' monthly LTD benefit payments is unfair. The following complaint was chosen to serve as a framework for our investigation, as it was felt to be representative of the issues and concerns raised by the numerous complaints we had received.
- 14 The complainant served in the navy for almost 23 years. In 1989, he suffered a stroke and developed seizures that could not be controlled by medication. As a result, he was unable to continue working. On February 6, 1997, he was medically released from the CF under Item 3(a) in the table to article 15.01 of the *Queen's Regulations and Orders for the Canadian Forces* (QR&O). At that time, he held the rank of Master Seaman. Upon his release, he began receiving a pension under the *Canadian Forces Superannuation Act* (CFSA).
- 15 After his release from the CF, the complainant applied for SISIP long term disability benefits. Instead of receiving these benefits in the expected amount of 75% of his salary upon release, being \$2,301, the LTD benefits were reduced by the amount of his CFSA pension.
- 16 Prior to suffering the stroke, the complainant had injured his leg and knee in a CF base-sanctioned hockey game. While he was still a member of the CF, the complainant applied to VAC for a disability pension under the *Pension Act* on the basis that the leg injury was attributable to his CF service. His claim was denied. After he applied for SISIP long term disability benefits because of his stroke, a SISIP representative advised him to re-apply to VAC for a disability pension under the *Pension Act*. The SISIP representative also suggested that the complainant might be more successful in obtaining a disability pension if he had legal representation. As a result, he engaged a lawyer at his own expense and was successful in obtaining a 10% disability pension for his leg injury.
- 17 The complainant advised his SISIP representative of the amount awarded by VAC in disability pension for his leg injury. The SISIP representative then advised him that this amount would also reduce the amount of his monthly SISIP long term disability benefits. The complainant felt that because this disability pension was for his leg injury and was unrelated to the stroke that led to his release and his SISIP long term disability benefits,

the amount of his *Pension Act* disability pension should not reduce the amount of his SISIP long term disability benefits.

- 18 The complainant was also eligible for a Canada Pension Plan (CPP) disability pension. As a result, his LTD insurance benefits were further reduced. As well, he received approximately \$3,500 in retroactive payments from CPP. SISIP demanded that it be reimbursed the amount of these retroactive payments.
- 19 Since the complainant receives monthly CFSA, *Pension Act* and CPP pensions, he currently only receives SISIP long term disability benefits in the amount of \$246.11 per month.
- 20 The complainant said that he really does not object to his SISIP long term disability benefits being reduced by the amount of his CPP disability pension, because it is received for the same disability (i.e. stroke and seizures). However, he objected to his SISIP long term disability benefits being reduced by the amount of his *Pension Act* disability pension, because this pension is received for an unrelated disability.
- 21 A further issue raised by the complainant is that a *Pension Act* disability pension is not considered income. Therefore, he submits that it should not be considered a “source of income,” which must be deducted from SISIP long term disability benefits. The complainant feels that it is unfair that his SISIP long term disability benefits are reduced by the amount of his *Pension Act* disability pension when current CF members are entitled to receive a *Pension Act* disability pension and it does not reduce the amount of their salary.
- 22 The complainant was also of the opinion that SISIP obtained information from VAC concerning his *Pension Act* disability pension without his consent.
- 23 In addition, he complained that SISIP does not make it clear to CF members that SISIP does not necessarily pay out the full amount (75% of their salary upon release for medical reasons) if they receive money from other sources, such as *Pension Act* or CPP disability pensions.
- 24 The complainant also questioned SISIP’s authority to demand repayment of amounts when members receive retroactive lump sum payments of their pension benefits. He advised my Office that when he raised this issue with SISIP representatives, he encountered difficulties obtaining documentation from them. He believes that the only reason he was able to see the insurance policy contract was that he obtained legal representation in order to protest SISIP’s repayment demand.

Issues Raised During the Investigation

25 After reviewing this complaint, as well as other complaints forwarded to the Office of the Ombudsman, we decided to focus our investigation on the following systemic issues of relevance to current and former CF members and their families:

1. *Should a disabled former CF member's long term disability insurance benefits be reduced by the amount he or she receives from VAC in disability pension under the Pension Act?*
2. *How is information about a former CF member's Pension Act disability pension obtained by SISIP in order to calculate deductions from his or her LTD insurance benefits?*
3. *Are CF members provided with sufficient information about the coverage they can expect to receive from the SISIP long term disability insurance plan in the event of disability?*

Investigative Process

26 Ombudsman investigators interviewed a number of witnesses, including:

- the complainant referred to above and other complainants to the Office of the Ombudsman;
- staff working at the DND-VAC Centre for the Support of Injured and Retired Members and Their Families (commonly known as "The Centre");
- Mr. Pierre Lemay, President of SISIP;
- Staff working in the CF Directorate of Quality of Life.

27 They also received and reviewed a large amount of documentation, including:

- case material provided by the complainant referred to above and other complainants to the Office of the Ombudsman;
- relevant *Canadian Forces Administrative Orders* (CFAOs);
- relevant *Queen's Regulations and Orders for the Canadian Forces* (QR&Os);
- hearing transcripts from the Croatia Board of Inquiry, 1999;
- Canadian Forces Personnel Support Agency, Annual Report, Fiscal Year 1999/2000;
- Material on SISIP long term disability benefits provided to members;
- SISIP and Treasury Board web sites;
- SISIP Long Term Disability Policy;
- General Officers' Insurance Plan;
- Public Service Disability Insurance Plan;
- Public Service Management Insurance Plan;
- Royal Canadian Mounted Police (RCMP) Long Term Disability Plan.

Issue I

28 *Should a disabled former CF member's long term disability insurance benefits be reduced by the amount he or she receives from VAC in disability pension under the Pension Act?*

Eligibility Criteria for SISIP Long Term Disability Insurance Benefits

29 Part III of the SISIP policy #901102 deals with long term disability insurance. Part IIIA applies to CF members who were released from the Forces before December 1, 1999. Part IIIB applies to members who were released after December 1, 1999.

30 Before December 1, 1999, a CF member was eligible for monthly SISIP long term disability benefits if he or she became "totally disabled" for 13 consecutive weeks and was released from the CF while still "totally disabled." Benefits were payable each month as long as the "total disability" continued, until age 65. "Total disability" and "totally disabled" were defined as:

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... the individual has been released from the Canadian Forces and has been incapacitated by a medically determinable physical or mental impairment which prevents him from performing any and every duty of any substantially gainful occupation or employment for which he is reasonably qualified by education, training or experience.

32 Since December 1, 1999, an insured Regular Force or Reserve Force Class "C" member is eligible for SISIP long term disability benefits for up to 24 months, if the insured member is medically released from the CF and there is clear, objective medical evidence that at the time of release, the insured member suffered from an active, medically determinable physical or mental impairment. For the LTD insurance benefits to continue beyond 24 months, the member must continue to be "totally disabled." Benefits are payable each month as long as the "total disability" continues, until age 65.

33 For Reserve Force Class "A" and "B" members to be eligible for SISIP long term disability benefits, there is an additional requirement that the injury must have been incurred or the illness contracted while the member was on duty.

34 For the purposes of Part IIIB of the SISIP long term disability policy, "total disability" and "totally disabled" are defined as:

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...the individual has been released from the Canadian Forces and that there is clear, objective medical evidence, satisfactory to the Insurer, which confirms that the individual is incapacitated by an active, medically determinable physical or mental impairment which prevents him from performing any and every duty of any substantially gainful occupation or employment for which he is reasonably qualified by education, training or experience.

36 The December 1, 1999 changes to the SISIP long term disability plan made it easier for CF members who were medically released to qualify for disability insurance benefits for up to 24 months after their release. As long as they were medically released from the CF and there was evidence they suffered from a physical or mental impairment, it was no longer necessary to prove for the first 24 months after their release that they were unable to work as a result. This additional requirement only needed to be satisfied if the member required his or her insurance benefits to continue after this period.

Deduction of Other Sources of Income

37 The SISIP long term disability policy provides that the LTD insurance benefit shall be 75% of the member's monthly pay in effect on the date of release from the CF, less any applicable reductions.

38 Part IIIA (which applies to CF members released before December 1, 1999) and Part IIIB, Division 2 (which applies to most CF members released after December 1, 1999) expressly state that the monthly income benefits payable shall be reduced by the monthly income benefits payable to the insured, including any retroactive payments, under:

- the *Canadian Forces Superannuation Act* (CFSA)
- the Canada Pension Plan (CPP)
- the Quebec Pension Plan (QPP)
- the *Pension Act* including dependants' benefits (pensions awarded by Veterans Affairs Canada for disability are paid pursuant to the *Pension Act*)
- any employment income earned by the member unless participating in a rehabilitation program

39 Part IIIB, Division 3, which applies to Class "A" and "B" reservists, deducts the benefits mentioned in Division 2 and reduces the amount of SISIP long term disability benefits by the amount of any benefits payable under another employer plan, workers' compensation benefits, automobile insurance plans, employer pensions plans, and benefits payable under the *Government Employee Compensation Act*.

Other Public Service Disability Insurance Plans

40 Although there may be some justification for providing additional insurance coverage to CF members, it is generally felt that CF members should be entitled to at least those disability insurance benefits and protections available to other federal public servants. My Office reviewed other federal Public Service long term disability insurance plans to determine to what extent the insurance benefits payable under those plans were reduced by other income and pension benefits.

Public Service Management Insurance Plan (PSMIP) Long Term Disability Insurance

- 41 The PSMIP plan's purpose is to provide insured federal Public Service employees and executives who are excluded from collective bargaining with monthly income benefits to replace a substantial proportion of earnings lost as a result of extended periods of total disability. The plan supplements other disability benefits payable under the *Public Service Superannuation Act* (PSSA), the *Government Employees Compensation Act*, the CPP and the QPP, to assure a reasonable level of income during periods of long term disability. The employer pays 85% of the premium for excluded employees and 100% for executives and equivalent.
- 42 Benefits are payable for up to 24 months for a medically-determinable physical or mental impairment which a) results in the withdrawal of any mandatory licence required by the employee to carry out his or her occupation or employment, or b) renders the employee completely incapable of performing substantially all of the essential duties of his or her occupation or employment. Benefits continue after 24 months, as long as the totally disabling condition prevents the employee from earning more than two-thirds of the current annual rate of remuneration for the occupation of the employee or the position held by the employee immediately prior to the date he or she became totally disabled. No benefits are payable after 65 years of age.
- 43 The level of benefit payable under the PSMIP is 70% of adjusted salary. Deductions are made for amounts received for the same disability from benefit plans and pensions such as CPP or QPP, the PSSA, the *Government Employees Compensation Act* or similar provincial or federal legislation. Treasury Board advised my Office that LTD benefits paid under the PSMIP would also be offset by the amount of any benefits received under the *Pension Act* for the same medical condition for which the insured is receiving the LTD benefits. The amount of any *Pension Act* benefits received for an unrelated disability, presumably, would not be deducted.

Public Service Disability Insurance Plan

- 44 The Public Service Disability Insurance Plan provides insured federal Public Service employees who are included in collective bargaining with benefits to replace earnings lost as a result of extended periods of disability. It provides a benefit that will supplement other disability benefits available under such plans as the PSSA, the *Government Employees Compensation Act*, the CPP and the QPP, and will assure a reasonable level of income during periods of long term disability. The employer pays 85% of the premium and the employee is required to contribute 15%.
- 45 Under this plan, benefits are payable for up to 24 months for any physical or mental disability that prevents an employee from performing the regular duties of his or her own occupation. Benefits will continue to be paid after 24 months if the disabling condition prevents the employee from performing the duties of a commensurate occupation for which the employee is reasonably qualified by education, training or experience. For the purposes of the plan, a commensurate occupation is one providing earnings equal to at least two-thirds of the current rate of earnings for the employee's own regular occupation. No benefits are payable after 65 years of age.

46 The level of benefits payable is 70% of adjusted annual salary. Deductions are made for amounts received for the same disability from benefit plans and pensions such as CPP or QPP, the PSSA or provincial worker's compensation plans. Treasury Board advised my Office that if the insured received benefits under the *Pension Act* for a deterioration of an illness or condition that leads them to claim Public Service disability insurance benefits, any resulting increase to the *Pension Act* benefit would be deducted from their Public Service disability insurance benefits. The original amount the insured was receiving under the *Pension Act* before their condition deteriorated would not be deducted from their Public Service disability insurance benefits. Any benefits received under the *Pension Act* for an unrelated illness or injury would also not be deducted.

RCMP Long Term Disability Plan

47 The RCMP Long Term Disability Plan provides long term disability insurance to all members of the RCMP.

48 "Total disability" in the RCMP plan means the complete inability of an insured employee, because of accidental bodily injury or sickness, to engage in any substantially gainful occupation or employment for remuneration or profit for which the employee is reasonably suited by education, training or experience. For the purposes of this benefit, "substantially gainful occupation or employment" means an occupation or employment that provides an income of at least 50% of the employee's former gross earnings on the date of his discharge with entitlement to benefit. The level of benefit payable to a member is equal to 75% of the member's monthly earnings.

49 Under the RCMP plan, the LTD benefits are reduced by any CPP or QPP benefits received by the member, except for benefits the member received before the date of his or her disability. Monthly amounts payable under the *RCMP Superannuation Act* or the *RCMP Pension Continuation Act*, as well as any other disability benefits payable under any other group or association insurance plan are also deducted from LTD benefits.

50 Amounts paid under the *Pension Act* for an occupational disability that occurred while the member was on duty are deducted from any monthly LTD benefits payable under the RCMP plan.

Analysis, Conclusion and Recommendations

51 The purpose of the SISIP long term disability plan is to provide CF Regular and Reserve Force members with a reasonable level of income should they become disabled and be released from the CF. The policy specifically states that other sources of income received by the insured member will reduce the amount of SISIP long term disability benefits payable. Disability pensions and any dependents' benefits payable pursuant to the *Pension Act* are specifically listed in the policy as one of the other sources of income that will reduce the amount of LTD benefits payable. Current and former CF members and their families have complained to the Office of the Ombudsman that this reduction of their long term disability insurance benefits is unfair. They argue that disability pension benefits received through VAC under the *Pension Act* should not reduce the amount of their SISIP long term disability benefits because they are not income. Some

complainants have taken the further position that even if there is justification to reduce their SISIP long term disability benefits by amounts received under the *Pension Act*, these reductions should only be for pension benefits received for the same disability and not for any amounts received for an unrelated disability or illness.

- 52 Mr. Pierre Lemay, President of SISIP, informed the Office of the Ombudsman that CF members are advised that other income sources are deducted from SISIP long term disability benefits. This is a term of the Conditions of Benefits Agreement that all members must sign once they are determined to be eligible for SISIP long term disability benefits in order to receive monthly payments.
- 53 According to Mr. Lemay, the formula for calculating SISIP long term disability benefits, which provides for deductions of other income sources, was taken into account in the development of the SISIP long term disability policy, its funding and the premiums charged. This is the type of program that Treasury Board had agreed to pay for in order to provide an income replacement of 75% of the member's salary minus other income sources. Mr. Lemay indicated that this was an industry standard for LTD benefits. According to a May 30, 2001 letter from Maritime Life to Mr. Lemay, it is estimated that it would cost at least an additional \$5 million per year to exclude *Pension Act* deductions from the LTD policy. Such a change would require the consent of Treasury Board. According to SISIP figures, approximately 56% of SISIP long term disability benefit recipients also receive VAC pension benefits under the *Pension Act*.
- 54 Our review of Public Service disability insurance plans reveals that it is common to reduce disability insurance benefits by the amount of pensions and other benefits received for the same disability. This reflects the fact that the purpose of disability insurance is to supplement a person's income, including that received from other sources such as pensions and benefits, so that he or she is in a similar position as when they were able to work. Both the Public Service Management Insurance Plan (for federal government executives and managers excluded from collective bargaining) and the Public Service Disability Insurance Plan (for federal government employees), however, appear to restrict deductions from disability insurance benefits to amounts received from pension and benefit plans for the same disability. Benefits received from other sources for unrelated illnesses or disabilities are not deducted. Only the CF and RCMP plans reduce disability insurance benefits by the amount of disability pension received for any disability.
- 55 Is it fair that ill or injured CF members have their disability insurance benefits reduced by amounts they receive from VAC under the *Pension Act* in the form of a disability pension for the same or an unrelated illness or injury?
- 56 According to VAC's web site, current or former CF members may be eligible for a disability pension under the *Pension Act* if they have a permanent disability that arose out of, was aggravated by, or is directly connected with peacetime Regular or Reserve Force service in the CF. Such pensions are awarded based on the compensation principle that "provides pension coverage for disability or death which was directly related to or permanently worsened by peacetime, non-SDA (Special Duty Area), service factors or events." In addition to the basic amount payable to the member as a disability pension under the *Pension Act*, the member may also be entitled to receive an additional pension amount for spouse and children.

- 57 Entitlement to a disability pension under the *Pension Act* is based solely on the relationship between military service and the disability and is not dependent upon years of service, income or rank. The fact that the recipient may see a reduction of income caused by deduction of pension amounts from their disability insurance benefits is not considered in determining the amount of the pension award. The pension award is considered compensation for a disability related to military service and not income. For these reasons, it is not taxable.
- 58 In October 2000, the *Pension Act* was amended to provide disability pensions to all current CF members disabled by service-related injuries, wherever the injury occurred. Previously, active CF members could only receive a VAC disability pension if the injury occurred while serving in a Special Duty Area (SDA), such as a peacekeeping mission. CF members who were injured while fighting a flood in Canada, for example, could be deemed eligible to receive a disability pension while still serving, but could not have their disability assessed and would not actually receive a disability pension until they were released from service. Now, all active CF members with a service-related disability are eligible to receive a VAC disability pension regardless of where the injury occurred.
- 59 VAC disability pensions awarded under the *Pension Act* are intended to compensate members for the disability they suffered in the course of their service with the CF. Unlike SISIP disability insurance benefits, they are not intended to replace the income the member would have earned but for his or her disability.
- 60 Serving CF members receiving disability pensions through VAC under the *Pension Act* do not have their income reduced because of the pension they receive to compensate them for their disability. It simply does not seem fair that injured and ill members who are released from the CF for medical reasons should have their disability insurance benefit paid, which is intended to replace their income as CF members, reduced because of the same pension benefits. In my view, the SISIP policy, in designating *Pension Act* disability pensions as a source of income to be deducted from disability insurance benefits, is inconsistent with the intention of the *Pension Act* to compensate both current and former CF members for injuries or illness resulting from or related to their service with the CF. When ill or injured CF members are ultimately released from the CF for medical reasons, they in effect lose the additional financial benefit of the compensation awarded to them under the *Pension Act*, as this amount reduces the income replacement insurance benefit they receive under the SISIP long term disability insurance plan.
- 61 I realize that amending the SISIP policy to prevent the reduction of disability insurance benefits by amounts paid in compensation to CF members for their disabilities through pensions under the *Pension Act* may have a significant financial impact on premiums payable by the government of Canada under the SISIP long term disability insurance plan. In my view, however, this additional cost is justified in light of the sacrifices and risks incurred by CF members in providing an invaluable service to Canadian society. The government has an obligation to look after them when they become ill or injured as a result and cannot continue to serve.
- 62 On February 13, 2003, the Minister of National Defence announced changes to SISIP to introduce a new insurance program. It brings compensation for CF members who are the victims of dismemberment or permanent loss of sight, hearing or speech as a result of a service-related injury in line with that available to general officers. Subsequent legislation, proclaimed on June 20, 2003, made these changes retroactive so that all

members who were the victim of service-related injury resulting in dismemberment or permanent loss of sight, hearing or speech could benefit.

63 In welcoming these long awaited improvements to the member's insurance plan, the Chief of the Defence Staff noted, "The benefits that are provided to our men and women in uniform must reflect the risks that they undertake on behalf of the people of Canada." The Minister also pledged in his comments to the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence that:

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All of us in this room understand the many sacrifices that are demanded of these men and women. Not only do Canadian Forces personnel make sacrifices in service to their country, but they are also prepared to lay down their lives for Canada, if need be. When they sign up for a life in the military, they accept this unlimited liability. With all that the Canadian Forces gives on our behalf, we must be prepared to give back to them.

65 I wholeheartedly agree with these comments. In keeping with this strong commitment to CF members and their families, I strongly urge the Minister, on behalf of DND/CF, to take the necessary steps to ensure that the SISIP long term disability benefits, which members must depend on as income to support themselves and their families when they are no longer able to serve their country for medical reasons, are not reduced by the amount of disability pension they are awarded under the *Pension Act* to compensate them for illness or injury related to their service.

66 I therefore recommend that:

1. **The Minister of National Defence present the necessary submission to the Treasury Board Secretariat of Canada and ensure all other necessary steps are taken to amend the SISIP long term disability insurance policy so that *Pension Act* disability pensions do not reduce the amount of SISIP long term disability benefits payable to former CF members.**

67 Changes to the SISIP long term disability insurance policy will likely bring with them claims from former CF members that they be reimbursed the amounts that have been previously deducted from their SISIP long term disability benefits. Changes to the *Pension Act* to allow CF members to receive disability pensions while still serving and earning income as CF members, regardless of where the service-related injury occurred, came into effect on October 27, 2000. In my view, in the interests of ensuring equal treatment compared with serving members who have been able to benefit from disability pensions under the *Pension Act* while still earning income in the CF, former CF members who had their income replacement disability benefits reduced under the SISIP policy on account of *Pension Act* disability pensions should be reimbursed as of October 27, 2000.

68 I therefore recommend that:

2. **The Minister of National Defence take the necessary steps to ensure that former CF members who had their SISIP long term disability benefits reduced on account of disability pensions received under the *Pension Act* should be reimbursed for the amounts that were deducted from their benefits as of October 27, 2000.**

Issue 2

- 69 *How is information about a former CF member's Pension Act disability pension obtained by SISIP in order to calculate deductions from his or her LTD insurance benefits?*
- 70 Several complainants have questioned the authority of SISIP as an agency to obtain personal information from VAC about whether an insured claimant is receiving benefits under the *Pension Act* and the amount of such benefits.
- 71 In Canada, the *Privacy Act* protects the privacy of individuals with respect to personal information about them that is held by a federal institution. It outlines the circumstances under which personal information under the control of a government institution may be disclosed. It also provides that a government institution may disclose personal information if it has the consent of the individual to whom the personal information relates.

Analysis and Conclusion

- 72 According to SISIP personnel, SISIP does not obtain personal information from VAC without the consent of the person to whom the information relates. When it is determined under the insurance policy that the insured is eligible to receive SISIP long term disability insurance benefits, the insured must sign a Conditions of Benefits Agreement before receiving any benefit payments. This agreement contains the following provisions:
4. I FURTHER AGREE to notify the Company in writing, within 30 days, of receipt of a benefit payment from the other relevant sources.
 5. IN THE EVENT I fail to or am unable to notify the Company as required by Clause 4, I authorize the Canada Pension Plan, Quebec Pension Plan, The Canadian Forces Superannuation Act, Government Employee Compensation Act, Worker's Compensation Act, Automobile Insurance and/or Veterans Affairs Canada to release to the Policy owner and to the Company, full details of any benefits made or payable to me and delivery of a photocopy of this agreement to those organizations shall be sufficient authority for the release of this information.
- 73 By signing this agreement, the former CF member agrees to notify the insurer (Maritime Life or SISIP) within 30 days if he or she receives any benefit payments from the other relevant sources, which would include disability pensions administered by VAC. This is necessary in order to allow the enforcement of the provisions of the policy authorizing reductions in benefit payments based on other income received. If the former CF member does not provide the required notification of receipt of a benefit, the agreement provides Maritime Life or SISIP with their permission to obtain the information directly. Thus, SISIP does in fact obtain the consent of insured former members and has the authority to obtain personal information from VAC about disability pensions received under the *Pension Act*.

Issue 3

- 74 *Are CF members provided with sufficient information about the coverage they can expect to receive from the SISIP long term disability plan in the event of disability?*
- 75 Another issue raised in complaints received by the Office of the Ombudsman is that CF members are not provided with complete information concerning their eligibility, coverage and limitations with respect to SISIP long term disability benefits. Some complainants alleged that the information provided to them about their LTD plan did not make clear the different deductions that can be taken from their monthly entitlement of 75% of their salary and the possibility that SISIP could demand repayment of benefits if they received a lump sum for retroactive pension benefits.
- 76 The complainant referred to earlier in this report stated that he knew very little about SISIP long term disability insurance coverage beyond the fact that premiums were deducted from his pay. For instance, he did not know, when the time came, how to apply for SISIP long term disability benefits, nor did he realize that other benefits would reduce the amount of his monthly SISIP long term disability benefits.
- 77 Another complainant stated that every year at the CF base where he was stationed, workshops were held for people with less than five years left to serve in the CF to prepare them for a second career. This complainant had attended two such workshops. In his view, the SISIP representatives in attendance had not provided much more information than what is found in their pamphlet. The SISIP representatives had given the impression, he said, that if a member were injured, he or she would receive 75% of his or her pay. This complainant felt that the information contained in the SISIP pamphlets was misleading because it focussed on the 75% coverage but did not emphasize the reduction aspect of the benefit or the requirements for eligibility.
- 78 A November 1989 brochure providing information on SISIP long term disability benefits did not define “total disability,” but did state that a member would be entitled to 75% of their pay minus specified benefits received from the CFSA, the CPP/QPP or the *Pension Act*. The current brochure from SISIP briefly outlines the eligibility requirements for SISIP long term disability insurance, the application procedures, and the deductions from SISIP long term disability benefits. The brochure also defines “totally disability.” The brochure provides brief information on all aspects of the SISIP long term disability insurance program. It also contains a disclaimer that in the case of conflict between the brochure and the policy, the terms of the policy will prevail.
- 79 Mr. Pierre Lemay, President of SISIP, advised the Office of the Ombudsman that CF members were not generally provided with a copy of their SISIP long term disability insurance policy but they were informed of the terms of the policy in SISIP pamphlets. Mr. Lemay further stated that a copy of the insurance policy is, however, made available to members on request. My Office tested the ability of CF members to obtain a copy of the LTD insurance policy. In response to a request made to SISIP for a copy of the policy, a SISIP representative responded that “the LTD plan is a disability group insurance plan for CF members sponsored by the Treasury Board of Canada; the policy contract itself is

not issued to its members but a LTD brochure is issued at time of enrolment in the plan (CF).”

80 Mr. Lemay added that SISIP takes a number of steps to ensure that members are well-informed about their insurance coverage. Last year, SISIP insurance representatives spoke to approximately 16,000 CF members and SISIP financial planners spoke to 10,000 people. Also in the past year, SISIP inserted an information pamphlet into all CF members’ pay cheques. In addition, SISIP representatives have spoken to all recent recruit training and basic officer-training classes. There are also plans to present information on SISIP at CF Recruiting Centres and information has been published in the CF newspaper, *The Maple Leaf*. CF members can also learn about claims handling and benefits from their SISIP representative.

Analysis, Conclusion and Recommendations

81 Many of the CF members who have contacted my Office over the years with complaints about their SISIP disability insurance benefits appear to lack information and understanding about the extent of their coverage. Either they do not know where to obtain information, or they do not understand the information that has been provided to them. When they are faced with release for medical reasons and the actual benefits for which they are deemed eligible do not conform to their expectations, they often feel that they have been misled, betrayed or somehow misinformed about their entitlements. In general, members trust that if they are released from the CF for medical reasons, their financial needs will be taken care of. In many complaints received by the Office of the Ombudsman, there was a discrepancy between the members’ expectations and the reality of their insurance coverage.

82 It should be acknowledged that this discrepancy between expectations and actual coverage has been greatly mitigated by the December 1, 1999 changes to the SISIP policy. These changes make all CF members who are released for medical reasons and who suffer from a physical or mental impairment eligible for benefits for the first 24 months after their release. SISIP also appears to be taking many more positive steps to ensure that members are made aware of their services and to deal with concerns about the extent of insurance coverage. The SISIP web site contains useful information for members and SISIP representatives use various educational and outreach tools. A working group on SISIP issues has also been struck recently with members from SISIP, VAC, the CF Directorate of Quality of Life and Treasury Board. These initiatives to review the insurance coverage and benefits available to CF members and to educate them about the extent of their coverage in the event of illness or injury are commendable and I hope they will continue.

83 SISIP information brochures and the information published on the SISIP web site are important means of informing CF members about the extent of their LTD insurance coverage. The SISIP policy, however, is the actual legal document that governs the terms and conditions of all SISIP insurance coverage for CF members. In my view, this policy should be readily and easily available to all CF members and their families. The Public Service Disability Insurance Plan is available to federal government employees on the Treasury Board’s web site. This makes obtaining information on the exact wording of terms and conditions of this program very simple. I see no reason why CF members should not have the same degree of access to the insurance policy and related documents governing their long term disability insurance benefits.

84 I therefore recommend that:

3. **The SISIP long term disability insurance policy and all related documents, including claims forms and conditions of benefits agreements, be made readily available to CF members by placing these documents in full text, downloadable format on SISIP's web site and by having hard copies available through SISIP representatives on CF bases and the DND-VAC Centre for the Support of Injured and Retired Members and Their Families.**

85 SISIP long term disability is a mandatory Treasury Board funded insurance plan. It is the principal means by which the CF ensures that its members are provided with income replacement in the event of illness or injury that precipitates their release. In my view, this places an onus on the CF to ensure that its members and their families are aware of the extent of their long term disability insurance coverage through SISIP and the limitations of such coverage. It is important to consider that members needing to make a long term disability claim are often suffering from the physical or psychological symptoms of their illness or injury. This is coupled with the stress of losing their career and way of life and of facing an uncertain future. They are likely not in the best position to learn for the first time and understand the terms and limitations of their disability insurance or to attempt to recall information that may have been provided to them years ago upon their enrolment in the CF. For these reasons, it is important that CF members and their families be routinely informed of the provisions and limitations of their long term disability insurance coverage. It is also important that information on the extent of such coverage is continuously and easily accessible for healthy members, as well as those who may be facing or preparing for medical release. This is an issue of such importance to CF members and their families that the widest range of outreach and communications tools must be employed on a regular basis.

86 Currently, all new CF members are given a lecture on SISIP during the basic training course at the Canadian Forces Leadership and Recruit School. Information is provided to members during Second Career Assistance Network (SCAN) workshops for members preparing for release. Members are also informed of their SISIP coverage through SISIP mail-outs in pay statements and other SISIP outreach programs. These are positive ways to inform members about the extent of their SISIP coverage and the limitations of their benefits.

87 In my view, another excellent means of reminding members of the purpose, coverage and limitations of their SISIP long term disability insurance coverage would be the issuance of a regular Canadian Forces General Message or CANFORGEN. A CANFORGEN is an important communications tool used by the CF leadership to widely disseminate information to all members of the CF. Members are required to read these messages and copies are posted on bases, kept in reference areas and made available through the internet. The issuance of a CANFORGEN outlining the extent of disability coverage members can expect in the event of illness or injury would serve to ensure that CF members fully understand the extent of their disability benefits and manage their expectations accordingly. It would also provide CF leadership with another opportunity to reinforce to members its commitment to ensuring that they will be taken care of in the event of service-related injury or illness.

88 I therefore recommend that:

4. The Assistant Deputy Minister (Human Resources–Military) issue an annual CANFORGEN providing information to all Regular and Reserve Force members about SISIP long term disability insurance coverage, its limitations and its benefits.

89 The DND-VAC Centre for the Support of Injured and Retired Members and Their Families plays an important role in the provision of information to CF members and their families about their SISIP long term disability insurance coverage. The Centre also assists members in starting the SISIP application process. When a member is going to be released on medical grounds under QR&O 15.01, a copy of the release message is provided to the Centre. Centre staff start the SISIP long term disability insurance claim process by sending a copy of the message to SISIP. SISIP ensures that the member is covered by the SISIP long term disability insurance policy and the message is then forwarded to the insurer, Maritime Life. Within 30 days, Maritime Life submits a claim package to the member.

90 The Centre is available to inform, educate and orient members about SISIP, but not to act as their advocate. Personnel at the Centre do not assist members whose claims are denied by Maritime Life in filing an appeal or in arguing their case. Staff of the Centre advised my Office that many members become frustrated and feel helpless when their claim is denied or the benefits for which they are deemed eligible are something less than what they feel entitled to. Centre staff also report feeling frustrated, as they are not in a position to directly assist members in such situations or to advocate on their behalf.

91 SISIP has offices located on most CF bases. These offices can provide members with information on their long term disability insurance benefits. However, they are also responsible for selling other “non-public” SISIP products, such as life insurance and financial planning services. These representatives, although a source of information, are felt to be of little assistance to members in helping them file an actual claim for disability benefits, answering questions and concerns about the actual claims process, or in submitting an appeal about a denial of a SISIP claim.

92 In my view, it would be helpful to CF members and their families to have a designated CF officer as a resource person and assisting officer on base, who they could turn to for:

- a regular and additional source of information about their SISIP long term disability insurance coverage;
- direct assistance and advice during the SISIP application process ;
- direct assistance and advice in submitting an appeal about a denial of a SISIP long term disability insurance claim.

93 I realize that the DND-VAC Centre for the Support of Injured and Retired Members and Their Families has a mandate to provide members and their families with information about their benefits on release and assists members with the SISIP application process. The designation of an on-base resource person and assisting officer would not usurp the Centre’s role or that of the on-base SISIP representatives. In my view, it would serve to complement them and enhance the accessibility of information and direct assistance available to members and their families. Such a person could provide face-to-face advice and information to members and their families and work collaboratively with the Centre.

He or she could also fill the gap in providing direct assistance to members who feel their claims have been unfairly dealt with or denied and who need assistance filing an appeal.

94 I therefore recommend that:

5. **All CF bases, wings and formations appoint an officer to act as a resource person and assisting officer for CF members and their families with respect to SISIP disability insurance benefits, applications for benefits and appeals.**

Conclusion

- 95 As I noted recently in my Office's 2002/2003 annual report, soldiering is a remarkable form of public service that entails unparalleled physical and psychological risks. The men and women serving as members of our military risk their physical and psychological security in order to protect our interests as a nation and to help Canada keep its commitments to world security and humanitarian aid. Should they fall ill or become disabled as a result, we owe it to them to ensure that they and their families are provided for. It is for this reason that the SISIP long term disability insurance plan exists. It is part of the important commitment to CF members, recently reiterated by the Minister of National Defence and the Chief of the Defence Staff, to ensure that they will be cared for financially should they become ill or injured as a result of their service.
- 96 This commitment has become even more important to CF members and their families during these increasingly unstable times on the world front. Results of a recent study sponsored by the CF reported significant health concerns among 2,000 CF members who were deployed to Afghanistan during *Operation APOLLO* as part of the war on terrorism. The study concluded that compared to the general population, the group showed significantly reduced physical and mental well-being, which was reflected across a number of areas of functioning. In addition, there was a higher rate of diagnosable mental illness. Although pre-deployment data was not available, the researchers concluded that it was likely that at least some of this effect was due to the Afghanistan deployment.
- 97 *Operation ATHENA* involves some 1,900 CF personnel on deployment to Afghanistan on what both the Minister and Chief of the Defence Staff have recognized is a dangerous and risky mission. They and their families deserve the peace of mind and reassurance that they will be provided for if they become ill or injured as a result of the dangers and risks they face.
- 98 The SISIP long term disability insurance plan is supposed to ensure that members who are medically released because of service-related illness or injury receive a reasonable amount of income while they are unable to work. These former members, who are forced to depend on their long term disability insurance benefits for income, should not lose the financial benefit of the disability pension they are awarded under the *Pension Act* as compensation for their illness or injury, especially when their injured colleagues who are able to continue serving can collect their disability pensions through VAC and still receive their pay cheques. I hope that the Minister will take the necessary actions to obtain Treasury Board approval so that the SISIP long term disability insurance policy can be amended to rectify this unfair situation and that those who have lost the financial benefit of their disability pension, while their serving colleagues continued to receive it, can be reimbursed.

99 Finally, I would like to take this opportunity to thank the staff and President of SISIP as well as personnel from the DND-VAC Centre for the Support of Injured and Retired Members and Their Families and the CF Directorate of Quality of Life who provided a great degree of cooperation and assistance to my Office during the course of our investigation. It is clear to me that all involved are committed to working to ensure that CF members and their families receive the best coverage possible in the event of illness or injury.



André Marin
Ombudsman
Department of National Defence and Canadian Forces

Summary of Recommendations

- 1. The Minister of National Defence present the necessary submission to the Treasury Board Secretariat of Canada and ensure all other necessary steps are taken to amend the SISIP long term disability insurance policy so that *Pension Act* disability pensions do not reduce the amount of SISIP long term disability benefits payable to former CF members.**
- 2. The Minister of National Defence take the necessary steps to ensure that former CF members who had their SISIP long term disability benefits reduced on account of disability pensions received under the *Pension Act* should be reimbursed for the amounts that were deducted from their benefits as of October 27, 2000.**
- 3. The SISIP long term disability insurance policy and all related documents including claims forms and conditions of benefits agreements be made readily available to CF members by placing these documents in full text, downloadable format on SISIP's web site and by having hard copies available through SISIP representatives on CF bases and the DND-VAC Centre for the Support of Injured and Retired Members and Their Families.**
- 4. The Assistant Deputy Minister (Human Resources–Military) issue an annual CANFORGEN providing information to all Regular and Reserve Force members about SISIP long term disability insurance coverage, its limitations and its benefits.**
- 5. All CF bases, wings and formations appoint an officer to act as a resource person and assisting officer for CF members and their families with respect to SISIP disability insurance benefits, applications for benefits and appeals.**