

## INFORMATION PAPER

SUBJECT: Transitional Compensation for Abused Dependents

1. Purpose. To provide information on transitional compensation for abused dependents in accordance with DOD Instruction 1342.24, dated 23 May 1995, subject: Transitional Compensation for Abused Dependents (amended 17 October 1998) and Appendix G, AR 608-1, dated 22 December 2004, subject: Transitional Compensation for Abused Dependents.

2. Summary.

a. The Fiscal Year 1994 Department of Defense Authorization Act authorized payment of monthly transitional compensation for abused family members under 10 USC 1059. The National Defense Authorization Act (NDAA) (PL 108-136, signed 24 Nov 03) made multiple changes to 10 USC 1059.

b. The US Army Community and Family Support Center (USACFSC) is the proponent for transitional compensation. However Policy Memorandum – Designation of Approving Officer for Transitional Compensation for Abused Dependents, dated 27 April 2002, designates the Deputy Staff Judge Advocate, US Army Armor Center and Fort Knox as certifying authority for all claims. A Memorandum of Understanding exists between the Office of the Staff Judge Advocate, US Army Armor Center and Fort Knox and the Army Community Service.

3. Explanation for compensation.

a. Dependents frequently fail to report abuse because they fear loss of the soldier spouse's pay and the impact that loss of the soldier's support may have on their standard of living.

b. Transitional compensation provides temporary financial assistance to eligible dependents while they reestablish their lives after the abusive soldier is separated from military service for a dependent-abuse offense.

4. Eligibility. For a dependent to be eligible and considered for compensation, the soldier:

a. Must have been on active duty for more than 30 days;

b. Must have been separated for a dependent-abuse offense pursuant to a court-martial sentence or administrative separation; or, at court-martial, sentenced to total forfeiture of all pay and allowances (in which there is no separation/discharge); and

c. Must have committed at least one dependent-abuse related offense.

5. Benefits.

a. Monetary payment (see next page).

b. Medical/Dental

c. Commissary and Exchange privileges

6. Payments.

a. Order of payment will be:

(1) To the spouse who was married to the abusive soldier.

(2) If the spouse is ineligible due to remarriage, cohabitation with the abusive soldier, or because he or she was an active participant in the abuse (a co-actor), payment will be made to each dependent child of the member who does not reside in the household of the member or the co-actor spouse.

(3) If there is no eligible spouse because the soldier did not have a spouse or the spouse died, payments will be made to the dependent children of the soldier who do not reside in the same household as the soldier.

(4) If a recipient is incapable of handling his or her own affairs, payments will be made to a court-appointed guardian. For a dependent child under 18 years of age, payments may only be made to a legal guardian or the child's natural parent, if he or she has legal custody of the child and was not a participant in the abuse, or does not reside with the abusive soldier.

b. Effective 1 November 1998, 10 U.S.C. 1059 was amended to allow each dependent child not residing in the same household as the spouse (also eligible for Transitional Compensation) to receive payment.

c. Transitional compensation payments begin on the:

(1) Date of the court-martial conviction.

(2) Date administrative separation initiated by soldier's commander. **The memorandum to the soldier initiating the separation action must state the incidents of dependent related abuse.**

d. Duration of the payments: Payments shall run for 36 months unless, on the starting date of the payments, the unserved portion of the member's obligated active duty service is less than 36 months, then the payments shall run for the greater of the unserved portion of the service or 12 months.

e. Amount of payments. Current rate of Dependency Indemnity Compensation (DIC). (\$1,091 for spouse and \$271 for each child.) If child(ren) in care of legal guardian: one child \$462; two children \$639; three children \$865; four children \$1030; five children \$1,195; six children \$1,360; seven children \$1,525; eight children \$1,690; nine children \$1,855.

f. Regular scheduled payments and benefits will stop if the court-martial punishment has been remitted, set aside, or mitigated to a punishment which does not include a dismissal, punitive discharge, or total forfeitures. The recipients will be notified of this and payment will stop the first day of the month of notification.

g. Dependents are not required to repay the US Government for transitional compensation payments that were received prior to termination of their eligibility.

7. Medical and dental:

- a. Eligible to receive dental care through military facilities and medical care, including mental health services, as TRICARE beneficiaries.
- b. Eligible for the period transitional compensation payments are received.

8. Commissary and exchange privileges:

- a. Eligible for the period transitional compensation payments are received.
- b. The privileges are identical to those received by non-abused dependents.

9. Eligibility for benefits stops if:

- a. The spouse remarries.
- b. The spouse cohabitates with the abusive soldier.
- c. A competent authority determines that the spouse was an active participant in the abuse and the abused dependent child resides the co-actor spouse.

10. There is an annual certification to ensure that spouse(s) (includes former spouse(s)) and dependent(s) remain eligible for receipt of payments. USACFSC is the responsible proponent for the certification.

11. Application process.

a. The Criminal Law Division, OSJA, USAARMC and Ft Knox, collects the required documents (application for compensation (DD Form 2698), Result of Trial (DA Form 4430-R) from court-martial or copy of initiation of separation memorandum to soldier and substantiating documents, ERB or ORB, and direct deposit form from bank).

b. Deputy SJA reviews the application, certifies the claim, and the claim is forwarded to USACFSC Case Manager for Transitional Compensation.

c. A legal review is conducted, Case Manager validates the claim, the duration of payments, and forwards to DFAS for payment. DFAS, Cleveland, OH, makes direct deposit payment to the eligible individual.

d. If the claim and all supporting documents are in order, the process and waiting period for first check is less than two weeks.

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