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APPROVED
AUG 9 - 1976

8/9/76

THE WHITE HOUSE
WASHINGTON
August 5, 1976

ACTION

Last Day: August 10

Posted
8/10/76

MEMORANDUM FOR
FROM:
SUBJECT:

THE PRESIDENT

JIM CANNON

H.R. 1762 - For the Relief
of Mrs. Lessie Edwards

Archives
8/10/76

Attached for your consideration is H.R. 1762, sponsored
by Representative Mollohan.

The enrolled bill requires that application by Mrs. Lessie
Edwards for death benefits from the Veterans Administration
be considered to be timely filed, and authorizes the
VA to make the necessary retroactive payments.

Under the law in existence at the time of the death of
Mrs. Edwards' husband on August 29, 1959, death pension
benefits would have been payable effective the day following
his death, assuming application had been received by the VA
within one year. On April 21, 1961 the VA received an application
and Mrs. Edwards was awarded benefits effective that date.

Mrs. Edwards contended that she executed an application
with a veterans' service officer in September, 1959. That
application was later found and forwarded to the VA by the
West Virginia Department of Veterans Affairs. VA states
it received this application on March 20, 1964.

Additional details are provided in OMB's enrolled bill report
at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I
recommend approval of H.R. 1762. The Veterans Administration
recommends disapproval of H.R. 1762 for reasons detailed in
the OMB bill report and their attached views letter.

RECOMMENDATION

That you sign H.R. 1762 at Tab B.

Approve _____

Disapprove _____





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 4 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1762 - For the relief of
Mrs. Lessie Edwards
Sponsor - Rep. Mollohan (D) West Virginia

Last Day for Action

August 10, 1976 - Tuesday

Purpose

Requires that application by Mrs. Lessie Edwards for death benefits from the Veterans Administration (VA) be considered to be timely filed, and authorizes and directs VA to make the necessary retroactive payments.

Agency Recommendations

Office of Management and Budget	Approval
Veterans Administration	Disapproval (Veto message attached)

Discussion

The effect of H.R. 1762 would be to authorize payment of death pension to Mrs. Lessie Edwards for the period from August 30, 1959, through April 20, 1961.

The facts in this case, as presented by VA, are as follows: George L. Edwards, a World War I veteran, died at the VA hospital in Butler, Pa., of a non-service-connected cause on August 29, 1959. His widow, Lessie Edwards, was advised by a VA employee on the day her husband died that she should contact the nearest VA office or a veterans' organization regarding any benefits to which she might be entitled.

On September 3, 1959, the VA advised Mrs. Edwards by letter of her possible entitlement to death pension and enclosed an application for such benefit with instructions for its completion and return.

On January 27, 1960, VA received an application for educational benefits on behalf of Mrs. Edwards' son, and advised Mrs. Edwards by letter on February 8, 1960, that no action could be taken on that application until she completed and returned an application for death benefits, another copy of which was enclosed.

On April 21, 1961, VA received an application for death benefits executed by Mrs. Edwards on behalf of herself and a minor daughter. Mrs. Edwards was awarded non-service-connected death pension effective April 21, 1961, the earliest date under statutory authority that payment of pension could be made in her case.

Under applicable law and regulation, there is no time limit for applying for death pension. However, under the law in effect when Mrs. Edwards' claim was received, benefits were payable from the day following the veteran's death, if the necessary application was filed with VA within 1 year after the date of death. When a claim is not filed within that time period--as in Mrs. Edwards' case--death benefits are payable only prospectively from the time of receipt of the application.

Mrs. Edwards, for her part, contends that she should be paid death benefits from the time of her husband's death. She states that in September 1959 she executed an application for death pension with a named veterans' service officer. That application, dated September 9, 1959, was later found and forwarded to the VA by the West Virginia Department of Veterans Affairs. VA states that it received this application on March 20, 1964.

VA opposed legislative relief for Mrs. Edwards in 1966 on a bill introduced on her behalf in the 89th Congress and again opposed such relief on the current legislation. VA stated in its report to the House and Senate Judiciary Committees, and reiterates in the attached views letter on the enrolled bill, that the veterans' service officer with whom Mrs. Edwards left her application in September 1959 was the agent of Mrs. Edwards and not of VA. Any alleged failure on the part of the service officer is not believed

by VA to afford a basis for the Federal Government to grant the relief proposed by H.R. 1762. VA further states that its letter to Mrs. Edwards on February 8, 1960, was indicative that no claim for death benefits had been received at that time.

The House and Senate Committee reports note that Mrs. Edwards was initially advised to contact a representative of a veterans' service organization to obtain assistance in filing the necessary application for benefits. They also cite a statement by Mrs. Edwards that the individuals accompanying her when she delivered her application to the representative indicated that there was some question as to whether she would actually receive any benefits. The reports conclude:

"It is clear that she placed her trust in persons and in a procedure [that] resulted in a failure to file the application properly. However, it seems unfair to deny a widow benefits to which she was apparently entitled on such a state of facts."

VA cannot estimate at this time the cost of benefits to which Mrs. Edwards would be entitled if H.R. 1762 were approved. The agency would first have to determine her eligibility during the period in question, and then the rate of pension payable to her.

Recommendations

VA recommends that H.R. 1762 be vetoed, stating:

"Approval of the measure would have the effect of establishing a presumption contrary to fact that Mrs. Edwards made timely application for death pension. The circumstances in this case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment to the exclusion of other cases which must be denied where similar circumstances exist. To do so would be discriminatory and precedential. We do not believe that private bills of this nature should receive favorable consideration."

VA has prepared a draft veto message for your consideration.

We do not believe the available facts in this case are sufficient to warrant a veto of H.R. 1762. From what is known, it seems evident that Mrs. Edwards followed VA instructions at the time of her husband's death and completed the necessary application for benefits on September 9, 1959. VA staff do not know why she did not respond to the letter and application the agency sent her in February 1960; it could be argued plausibly that she felt she had already done what was required of her. In these circumstances, it is not clear that she should be penalized for the failure of others--for reasons unknown to us--to process her application properly. Accordingly, we believe the benefit of the doubt should be resolved in her favor, and we recommend approval of this enrolled bill.

James M. Fry
Assistant Director for
Legislative Reference

Enclosures



VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420



July 30, 1976

The Honorable
James T. Lynn
Director, Office of
Management and Budget
Washington, D. C. 20503

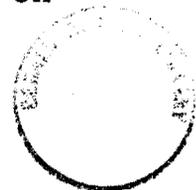
Dear Mr. Lynn:

We are pleased to respond to the request of Mr. James M. Frey, Assistant Director for Legislative Reference, for a report on the enrolled enactment of H. R. 1762, 94th Congress, "An Act For the Relief of Mrs. Lessie Edwards."

The bill would require that an application for death benefits completed by Mrs. Lessie Edwards, the widow of George L. Edwards (VA No. XC 20 741 307), in September 1959, be considered, contrary to fact, as timely filed with the Veterans Administration and would authorize the retroactive payment of any death pension for which entitlement would have been established by such a timely claim.

The Veterans Administration, after clearance with your office, reported unfavorably on H. R. 1762 to the Committee on the Judiciary, House of Representatives, under date of January 9, 1976. That report is not incorporated in the report of that Committee but a similar Veterans Administration report on an earlier identical bill, H. R. 10917, 89th Congress, is included in the report of the Committee on the Judiciary (H. Rept. 94-914), a copy of which is enclosed.

George L. Edwards, a World War I veteran, served honorably in the Army from September 19, 1917, to June 6, 1919. He died at the Veterans Administration Hospital, Butler, Pennsylvania, of a non-service-connected cause on August 29, 1959.



The Honorable James T. Lynn

Mrs. Edwards was personally advised by a Veterans Administration hospital employee on the day of her husband's death that she should contact the nearest Veterans Administration office or a veterans' organization regarding any benefits to which she might be entitled.

By letter dated September 3, 1959, addressed to Mrs. Lessie R. Edwards, Rural Delivery #1, New Cumberland, West Virginia, our Regional Office, Pittsburgh, Pennsylvania, advised the widow of her possible entitlement to death pension and enclosed an application for such benefit with instructions for its completion and return.

On January 27, 1960, that office received a Veterans Administration form, "REQUEST FOR APPROVAL FOR SCHOOL ATTENDANCE" (filed in the case of a child over 18 years of age but not over the authorized age, who is pursuing a course of instruction at an approved educational institution), executed by Mrs. Edwards and her son, Earl Lester Edwards. In a letter dated February 8, 1960, the Veterans Administration acknowledged receipt of the form and advised Mrs. Edwards that no action could be taken until she completed and returned an application for death benefits, another copy of which was enclosed. As before, instructions for completion and return of the form were furnished. By letter dated April 19, 1961, the West Virginia Department of Veterans Affairs forwarded to the Veterans Administration an application for death benefits executed by Mrs. Edwards on behalf of herself and minor daughter, Elizabeth Ann. This claim was received in the Veterans Administration April 21, 1961. Upon consideration of all the evidence, Mrs. Edwards was awarded non-service-connected death pension effective April 21, 1961, the date of receipt of her claim. This represents the earliest date under statutory authority that payment of pension may be made in her case.

It has been contended by Mrs. Edwards and by interested persons in her behalf that she should have received death benefits from the time of her husband's death. This

The Honorable James T. Lynn

contention is based on Mrs. Edwards' allegation that in September 1959, she executed an application for death pension with a named veterans' service officer (not a Veterans Administration employee or representative) in Weirton, West Virginia. That application, dated September 9, 1959, was later found and forwarded to the Veterans Administration by the West Virginia Department of Veterans Affairs. This application was received in the Veterans Administration on March 20, 1964.

Under applicable law and regulations there is no limitation on the time in which application may be made for death pension. However, under laws in effect on the date of receipt of her claim, benefits were payable from the day following the date of the veteran's death if application was filed with the Veterans Administration within one year after the date of death. Under present law, when an application is received within the specified year, the award is effective the first day of the month in which the death occurred. Where a claim is not filed within such period, death benefits are only payable prospectively from the date of receipt of the application. In view of these statutory provisions and the fact that Mrs. Edwards' application was not filed with the Veterans Administration until April 21, 1961, which was more than one year after the date of the veteran's death, the award of death pension was properly commenced on that date.

Concerning the service officer with whom Mrs. Edwards left an earlier application, it should be noted that he was the agent of Mrs. Edwards and not of the Veterans Administration. Further, any alleged failure on the part of the service officer is not believed to afford a basis for the Federal Government to grant the relief proposed by H. R. 1762. In addition, the Veterans Administration letter to Mrs. Edwards on February 8, 1960, was indicative that no claim for death benefits had been received.

The Honorable James T. Lynn

If this bill were approved, the Veterans Administration would be required to determine whether the claimant met the financial need requirements applicable to payment of pension for the period August 30, 1959, through April 20, 1961, and determine the rate of pension to which she would be entitled for that period. Since pertinent data are not available for a determination as to the amount of pension which would have been payable if the widow's claim had been timely, we are not presently able to estimate the cost of the bill.

Approval of the measure would have the effect of establishing a presumption contrary to fact that Mrs. Edwards made timely application for death pension. The circumstances in this case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment to the exclusion of other cases which must be denied where similar circumstances exist. To do so would be discriminatory and precedential. We do not believe that private bills of this nature should receive favorable consideration.

I recommend that the President withhold his approval of H. R. 1762. A draft of the proposed veto message is enclosed.

Sincerely,



Associate Deputy Administrator - in the absence of

RICHARD L. ROUDEBUSH
Administrator

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 5

Time: 845am

FOR ACTION: David Lissy
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 6

Time: 700pm

SUBJECT:

H.R. 1762-For the relief of Lessie Edwards

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

^x
___ For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 4 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1762 - For the relief of
Mrs. Lessie Edwards
Sponsor - Rep. Mollohan (D) West Virginia

Last Day for Action

August 10, 1976 - Tuesday

Purpose

Requires that application by Mrs. Lessie Edwards for death benefits from the Veterans Administration (VA) be considered to be timely filed, and authorizes and directs VA to make the necessary retroactive payments.

Agency Recommendations

Office of Management and Budget

Approval

Veterans Administration

Disapproval (Veto message attached)

Discussion

The effect of H.R. 1762 would be to authorize payment of death pension to Mrs. Lessie Edwards for the period from August 30, 1959, through April 20, 1961.

The facts in this case, as presented by VA, are as follows: George L. Edwards, a World War I veteran, died at the VA hospital in Butler, Pa., of a non-service-connected cause on August 29, 1959. His widow, Lessie Edwards, was advised by a VA employee on the day her husband died that she should contact the nearest VA office or a veterans' organization regarding any benefits to which she might be entitled.



TO THE HOUSE OF REPRESENTATIVES:

I am returning without my approval H. R. 1762, 94th Congress, for the relief of Mrs. Lessie Edwards.

The bill would require that an application for death benefits completed by Mrs. Edwards, the widow of the deceased serviceman, George L. Edwards, in September 1959, be considered as timely filed with the Veterans Administration and would authorize the retroactive payment of any death pension for which entitlement would have been established by such a timely claim.

Mr. Edwards, a World War I veteran, died of a non-service-connected cause on August 29, 1959. On the same day, a Veterans Administration hospital employee advised Mrs. Edwards to contact the nearest Veterans Administration office or a veterans' organization regarding any benefits to which she might be entitled. On September 3, 1959, the Pittsburgh Veterans Administration Regional Office wrote to Mrs. Edwards advising her of possible entitlement to death benefits, enclosed an application and gave instructions concerning its completion and return.

On January 27, 1960, the Pittsburgh office received a "Request for Approval of School Attendance" form executed by Mrs. Edwards and her son. That office wrote to her on February 8, 1960, acknowledging receipt of the request for approval of school attendance and informing her that no action could be taken thereon until she completed and returned an

application for death benefits, another copy of which was enclosed, with instructions. On April 19, 1961, the West Virginia Department of Veterans' Affairs sent in her completed application which was received by the Veterans Administration on April 21, 1961. Apparently, Mrs. Edwards had executed an application with a named veterans' service officer (not a Veterans Administration employee) on September 9, 1959, but that application was not received by the Veterans Administration until March 20, 1964.

Under the law in existence at the time of Mr. Edwards' death, death pension would have been payable effective the day following Mr. Edwards' death, assuming application had been received by the Veterans Administration within one year from the date of Mr. Edwards' death and providing Mrs. Edwards met the financial need requirements of the law. Since more than a year elapsed before application was received, payment could not be made effective earlier than the date the Veterans Administration received the application. Mrs. Edwards was awarded death pension effective April 21, 1961, the date of receipt of her application.

I can see no justification whatever for singling out this case for preferential treatment. To do so would seriously discriminate against other deceased veterans' surviving spouses who are denied such benefits under similar circumstances. It is important to preserve the integrity and impartiality essential to the administration of programs for veterans and their dependents. This we cannot do if we grant special privilege or favored treatment as proposed by H. R. 1762.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 5

Time: 845am

FOR ACTION: David Lissy
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 6

Time: 700pm

SUBJECT:

H.R. 1762-For the relief of Lessie Edwards

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to gudy johnston, ground floor west wing

8/5
Recommend Approval.
[Signature]

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

K. R. COHE, JR.
Vice President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 5

Time: 845am

FOR ACTION: David Lissy
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schults

FROM THE STAFF SECRETARY

DUE: Date: August 6

Time: 700pm

SUBJECT:

H.R. 1762-For the relief of Lessie Edwards

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection -- Ken Lazarus 8/5/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

E. R. COLE, JR.

THE WHITE HOUSE

WASHINGTON

August 6, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.F.*
SUBJECT: H.R. 1762-for the relief of Lessie Edwards

The Office of Legislative Affairs concurs with the agencies that the subject bill be signed.

Attachments

MRS. LESSIE EDWARDS

MARCH 17, 1976.—Committed to the Committee of the Whole House and ordered to be printed

Mr. DANIELSON, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1762]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1762) for the relief of Mrs. Lessie Edwards, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that an application completed by Mrs. Lessie Edwards for widow's benefits on September 9, 1959, and delivered to claimant's representative of the American Legion for filing shall be held and considered to have been timely filed. The bill would further authorize and direct the payment of retroactive payments based upon that application.

STATEMENT

A similar bill H.R. 1680 was favorably reported by the committee during the 90th Congress (H. Rept. No. 413, 90th Congress, 1st Sess.). That bill passed the House in that Congress on August 1, 1967, but was not passed by the Senate prior to the adjournment of that Congress. The report received by the committee from the Veterans' Administration on an earlier 89th Congress bill, opposed legislative relief, and in a report on the current bills again opposed such relief.

Mrs. Lessie Edwards is the widow of George L. Edwards, a veteran of World War I who died at the Veterans' Administration Hospital, Butler, Pa., on August 29, 1959. The report of the Veterans' Administration states that when her husband died, she was advised by Veterans' Administration personnel that she should contact the nearest Veterans' Administration office or a veterans' organization regarding any benefits to which she might be entitled.

As is further indicated in the Veterans' Administration report, in September of 1959, and within a month of her husband's death, Mrs. Edwards executed an application for death pension with the service officer of a veterans organization. That application dated September 9, 1959, was later found and forwarded to the Veterans' Administration by the West Virginia Department of Veterans Affairs. Unfortunately, this did not occur until after she had become aware of the failure of the Veterans' Administration to receive an application and had in fact executed a second application. The original application was not received by the Veterans' Administration until March 20, 1964. As is made clear in the Veterans' Administration's report, under this state of facts there is no authority for the Veterans' Administration to pay retroactive benefits. Where a claim was not filed with the Veterans' Administration within 1 year of the date of death of the veteran, the death benefits are only payable prospectively from the date of receipt of the application.

It is also relevant to note from the Veterans' Administration report that in January of 1960, the Veterans' Administration received a form concerning school attendance by the son of Mrs. Edwards and executed by her and the son. At that time the Veterans' Administration advised Mrs. Edwards to complete an application for death benefits but, unfortunately, this was not completed until April 19, 1961, and the form was not received by the Veterans' Administration until April 21, 1961. It was on the basis of this application that Mrs. Edwards was awarded a non-service-connected death pension which was made effective on April 21, 1961.

In connection with the earlier 90th Congress consideration of this matter, the committee was supplied with additional explanations concerning the facts surrounding this case and the failure on the part of the accredited claimant's representative of the veterans organization in Weirton, W. Va., to file the completed form. As has been noted, Mrs. Edwards was initially advised to contact a person such as this to obtain assistance in completing the necessary application. It is also relevant to note that Mrs. Edwards stated that at the time she completed the application and delivered it to the representative, the individuals accompanying her indicated there was some question as to whether she would actually receive any benefits. It is clear that she placed her trust in persons and in a procedure resulted in a failure to file the application properly. However, it seems unfair to deny a widow benefits to which she was apparently entitled on such a state of facts. Accordingly, it is recommended that the bill be considered favorably.

The adverse reports of the Veterans' Administration are as follows:

DEPARTMENTAL REPORT

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., April 19, 1966.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to your request for a report on H.R. 10917, 89th Congress, a bill for the relief of Mrs. Lessie Edwards.

H.R. 914

The bill would presume that an application for death benefits completed by Mrs. Lessie Edwards, the widow of George L. Edwards (XC-20741307), in September 1959, was timely filed with the Veterans' Administration and would authorize the retroactive payment of death pension based on that presumption.

The bill is identical with H.R. 10956, 88th Congress, which was pending before your committee at the close of that Congress.

George L. Edwards, a World War I veteran served honorably in the Armed Forces from September 19, 1917, to June 6, 1919. He died at the Veterans' Administration Hospital, Butler, Pa., of a non-service-connected cause on August 29, 1959.

Mrs. Edwards was personally advised by a Veterans' Administration employee on the day of her husband's death that she should contact the nearest Veterans' Administration office or a veterans' organization regarding any benefits to which she might be entitled.

By letter dated September 3, 1959, addressed to Mrs. Lessie R. Edwards, Rural Delivery No. 1, New Cumberland, W. Va., our regional office, Pittsburgh, Pa., advised the widow of her possible entitlement to death pension and enclosed an application for such benefit with instructions for its completion and return.

On January 27, 1960, that office received a Veterans' Administration form, "Request for Approval for School Attendance" (filed in the case of a child over 18 years of age but not over the authorized age, who is pursuing a course of instruction at an approved educational institution), executed by Mrs. Edwards and her son, Earl Lester Edwards. In a letter dated February 8, 1960, the Veterans' Administration acknowledged receipt of the form and advised Mrs. Edwards that no action could be taken until she completed and returned an application for death benefits, another copy of which was enclosed. As before, instructions for its completion and return of the form were furnished. By letter dated April 19, 1961, the West Virginia Department of Veterans' Affairs forwarded to the Veterans' Administration an application for death benefits executed by Mrs. Edwards on behalf of herself and minor daughter, Elizabeth Ann. This claim was received in the Veterans' Administration April 21, 1961. Upon consideration of all the evidence, Mrs. Edwards was awarded non-service-connected death pension effective April 21, 1961, the date of receipt of her claim. This represents the earliest date under statutory authority that payment of pension may be made in her case.

It has been contended by Mrs. Edwards and by interested persons in her behalf that she should have received death benefits from the time of her husband's death. This contention is based on Mrs. Edwards' allegation that in September 1959 she executed an application for death pension with a named veterans' service officer (not a Veterans' Administration employee or representative) in Weirton, W. Va. That application, dated September 9, 1959, was later found and forwarded to the Veterans' Administration by the West Virginia Department of Veterans' Affairs. This application was received in the Veterans' Administration on March 20, 1964.

Under applicable law and regulations there is no limitation on the time in which application may be made for death pension. However, under laws in effect on the date of receipt of her claim, benefits were payable from the day following the date of the veteran's death if

H.R. 914

application was filed in the Veterans' Administration within 1 year after the date of death. Under present law, when an application is received within the year the award is effective the first day of the month in which the death occurred. Where a claim is not filed within such period, death benefits are only payable prospectively from the date of receipt of the application. In view of these statutory provisions and the fact that Mrs. Edwards' application was not filed with the Veterans' Administration until April 21, 1961, which was more than 1 year after the date of the veteran's death, the award of death pension was properly commenced on that date.

Concerning the service officer with whom Mrs. Edwards left an earlier application, it should be noted that he was the agent of Mrs. Edwards and not of the Veterans' Administration. Further, any alleged failure on the part of the service officer is not believed to afford a basis for the Federal Government to grant the relief proposed by H.R. 10917.

If this bill were enacted, the Veterans' Administration would be required to determine whether the claimant met other requirements applicable to payment of pension for the period August 30, 1959, through April 20, 1961, and determine the rate of pension to which she would be entitled during this period. Since information is insufficient upon which to base such a determination at this time, we are unable to estimate the cost of the bill if enacted.

Enactment of the bill would have the effect of establishing a presumption contrary to fact that Mrs. Edwards made timely application for death pension. The circumstances in this case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment to the exclusion of other cases which must be denied where similar circumstances exist. To do so would be discriminatory and precedential.

The Veterans' Administration does not believe that private bills of this nature should receive favorable consideration.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

○

MRS. LESSIE EDWARDS

JULY 23, 1976.—Ordered to be printed

Mr. ROBERT C. BYRD, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 1762]

The Committee on the Judiciary, to which was referred the bill (H.R. 1762) for the relief of Mrs. Lessie Edwards, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that an application completed by Mrs. Lessie Edwards for widow's benefits on September 9, 1959, and delivered to claimant's representative of the American Legion for filing shall be held and considered to have been timely filed. The bill would further authorize and direct the payment of retroactive payments based upon that application.

STATEMENT

In its favorable report on the bill, the Committee on the Judiciary of the House of Representatives said:

A similar bill H.R. 1680 was favorably reported by the committee during the 90th Congress (H. Rept. No. 413, 90th Congress, 1st Sess.). That bill passed the House in that Congress on August 1, 1967, but was not passed by the Senate prior to the adjournment of that Congress. The report received by the committee from the Veterans' Administration on an earlier 89th Congress bill, opposed legislative relief, and in a report on the current bills again opposed such relief.

Mrs. Lessie Edwards is the widow of George L. Edwards, a veteran of World War I who died at the Veterans' Administration Hospital, Butler, Pa., on August 29, 1959. The report

of the Veterans' Administration states that when her husband died, she was advised by Veterans' Administration personnel that she should contact the nearest Veterans' Administration office or a veterans' organization regarding any benefits to which she might be entitled.

As is further indicated in the Veterans' Administration report, in September of 1959, and within a month of her husband's death, Mrs. Edwards executed an application for death pension with the service officer of a veteran organization. That application dated September 9, 1959, was later found and forwarded to the Veterans' Administration by the West Virginia Department of Veterans Affairs. Unfortunately, this did not occur until after she had become aware of the failure of the Veterans' Administration to receive an application and had in fact executed a second application. The original application was not received by the Veterans' Administration until March 20, 1964. As is made clear in the Veterans' Administration's report, under this state of facts there is no authority for the Veterans' Administration to pay retroactive benefits. Where a claim was not filed with the Veterans' Administration within 1 year of the date of death of the veteran, the death benefits are only payable prospectively from the date of receipt of the application.

It is also relevant to note from the Veterans' Administration report that in January of 1960, the Veterans' Administration received a form concerning school attendance by the son of Mrs. Edwards and executed by her and the son. At that time the Veterans' Administration advised Mrs. Edwards to complete an application for death benefits but, unfortunately, this was not completed until April 19, 1961, and the form was not received by the Veterans' Administration until April 21, 1961. It was on the basis of this application that Mrs. Edwards was awarded a non-service-connected death pension which was made effective on April 21, 1961.

In connection with the earlier 90th Congress consideration of this matter, the committee was supplied with additional explanations concerning the facts surrounding this case and the failure on the part of the accredited claimant's representative of the veterans organization in Weirton, W. Va., to file the completed form. As has been noted, Mrs. Edwards was initially advised to contact a person such as this to obtain assistance in completing the necessary application. It is also relevant to note that Mrs. Edwards stated that at the time she completed the application and delivered it to the representative, the individuals accompanying her indicated there was some question as to whether she would actually receive any benefits. It is clear that she placed her trust in persons and in a procedure resulted in a failure to file the application properly. However, it seems unfair to deny a widow benefits to which she was apparently entitled on such a state of facts. Accordingly, it is recommended that the bill be considered favorably.

The Committee believes the bill is meritorious and recommend it favorably.

Attached and made a part of this report is recommendation of adverse action from the Veterans' Administration to the House Judiciary Committee.

DEPARTMENTAL REPORT

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., April 19, 1976.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to your request for a report on H.R. 10917, 89th Congress, a bill for the relief of Mrs. Lessie Edwards.

The bill would presume that an application for death benefits completed by Mrs. Lessie Edwards, the widow of George L. Edwards (XC-20741307), in September 1959, was timely filed with the Veterans' Administration and would authorize the retroactive payment of death pension based on that presumption.

The bill is identical with H.R. 10956, 88th Congress, which was pending before your committee at the close of that Congress.

George L. Edwards, a World War I veteran served honorably in the Armed Forces from September 19, 1917, to June 6, 1919. He died at the Veterans' Administration Hospital, Butler, Pa., of a non-service-connected cause on August 29, 1959.

Mrs. Edwards was personally advised by a Veterans' Administration employee on the day of her husband's death that she should contact the nearest Veterans' Administration office or a veterans' organization regarding any benefits to which she might be entitled.

By letter dated September 3, 1959, addressed to Mrs. Lessie R. Edwards, Rural Delivery No. 1, New Cumberland, W. Va., our regional office, Pittsburgh, Pa., advised the widow of her possible entitlement to death pension and enclosed an application for such benefit with instructions for its completion and return.

On January 27, 1960, that office received a Veterans' Administration form, "Request for Approval for School Attendance" (filed in the case of a child over 18 years of age but not over the authorized age, who is pursuing a course of instruction at an approved educational institution), executed by Mrs. Edwards and her son, Earl Lester Edwards. In a letter dated February 8, 1960, the Veterans' Administration acknowledged receipt of the form and advised Mrs. Edwards that no action could be taken until she completed and returned an application for death benefits, another copy of which was enclosed. As before, instructions for its completion and return of the form were furnished. By letter dated April 19, 1961, the West Virginia Department of Veterans' Affairs forwarded to the Veterans' Administration an application for death benefits executed by Mrs. Edwards on behalf of herself and minor daughter, Elizabeth Ann. This claim was received in the Veterans' Administration April 21, 1961. Upon consideration of all the evidence, Mrs. Edwards was awarded non-service-connected death pension effective April 21, 1961, the date of receipt of

her claim. This represents the earliest date under statutory authority that payment of pension may be made in her case.

It has been contended by Mrs. Edwards and by interested persons in her behalf that she would have received death benefits from the time of her husband's death. This contention is based on Mrs. Edwards' allegation that in September 1959 she executed an application for death pension with a named veterans' service officer (not a Veterans' Administration employee or representative) in Weirton, W. Va. That application, dated September 9, 1959, was later found and forwarded to the Veterans' Administration by the West Virginia Department of Veterans' Affairs. This application was received in the Veterans' Administration on March 20, 1964.

Under applicable law and regulations there is no limitation on the time in which application may be made for death pension. However, under laws in effect on the date of receipt of her claim, benefits were payable from the day following the date of the veterans' death if application was filed in the Veterans' Administration within 1 year after the date of death. Under present law, when an application is received within the year the award is effective the first day of the month in which the death occurred. Where a claim is not filed within such period, death benefits are only payable prospectively from the date of receipt of the application. In view of these statutory provisions and the fact that Mrs. Edwards' application was not filed with the Veterans' Administration until April 21, 1961, which was more than 1 year after the date of the veteran's death, the award of death pension was properly commenced on that date.

Concerning the service officer with whom Mrs. Edwards left an earlier application, it should be noted that he was the agent of Mrs. Edwards and not of the Veterans' Administration. Further, any alleged failure on the part of the service officer is not believed to afford a basis for the Federal Government to grant the relief proposed by H.R. 10917.

If this bill were enacted, the Veterans' Administration would be required to determine whether the claimant met other requirements applicable to payment of pension for the period August 30, 1959, through April 20, 1961, and determine the rate of pension to which she would be entitled during this period. Since information is insufficient upon which to base such a determination at this time, we are unable to estimate the cost of the bill if enacted.

Enactment of the bill would have the effect of establishing a presumption contrary to fact that Mrs. Edwards made timely application for death pension. The circumstances in this case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment to the exclusion of other cases which must be denied where similar circumstances exist. To do so would be discriminatory and precedential.

The Veterans' Administration does not believe that private bills of this nature should receive favorable consideration.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

For the relief of Mrs. Lessie Edwards.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the laws administered by the Veterans' Administration, the application for benefits which Mrs. Lessie Edwards, of New Cumberland, West Virginia, completed in September 1959 following the death on August 29, 1959, of her husband, the late George L. Edwards (XC20741307), shall be held and considered by the Veterans' Administration as timely filed; and the Administrator of Veterans' Affairs is hereby authorized and directed to make retroactive payments in accordance with the entitlement established pursuant to such application.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*