

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals
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Patrick Galligan

Docket No. VS-25-0659

Petitioner

v.

Executive Office of Veteran's Services

Date: April 2, 2026

Respondent

Appearance for Petitioner:

Patrick Galligan, pro se

Appearance for Respondent:

Sarah G. Vincent, Esq.

Administrative Magistrate:

James P. Rooney

Summary of Decision

Veteran who became eligible for a state veterans' annuity once the U.S. Department of Veterans' Affairs had determined that he was 100% disabled did not learn of the existence of the state benefit until years later. His request that the annuity be made retroactive to the date of the disability determination was correctly denied by the Executive Office of Veterans' Affairs because the statute limits annuity payments to prospective payments after the date the veteran applied for the annuity.

DECISION

Patrick Galligan, a disabled veteran, was granted an annuity by the Executive Office

Veterans' Services prospectively from the date he applied to receive this benefit. He appealed from Veterans' Services' refusal to grant him the annuity retroactive to the date he received his 100% disability rating.

Mr. Galligan asked that his appeal be decided on the papers in lieu of a hearing. I agreed to his request and assigned the parties a schedule for filing their briefs. Veterans' Services styled its response as a motion for summary decision. That is appropriate when one party asserts that there are no disputes of material fact and the moving party is asking that the appeal be decided as a matter of law. *See* 801 CMR 1.01(7)(h). Here, both parties are in basic agreement as to the facts and each contends it should prevail as a matter of law.

Nevertheless, I style this decision as a resolution on the papers rather than a ruling on dueling motions for summary decision because the parties have agreed that the appeal can be decided based on what they have filed and the Division of Administrative Law Appeals will not deny both of them relief if summary decision motions were inadequate.

Mr. Galligan asserts that he received a 100% disability rating in May 2007. While the Veterans' Services hearing officer expressed some skepticism that this was the correct date, there is no dispute that Mr. Galligan received this disability rating prior to his application for an annuity and that he qualifies for the annuity.

The veterans' benefits statute has since 1949 provided an additional benefit to severely disabled veterans. At present, this annuity involves one annual payment of \$2,500. M.G.L. c. 115, § 6B. That is an increase from a 2005 amendment to the statute that called for two \$1,000 payments per year. Throughout the period pertinent to Mr. Galligan's appeal, the statute provided that "[s]uch payments shall be due and payable from the date of the veteran's

application.” *Id.*

Mr. Galligan was unaware that he was eligible for this annuity when he first received his 100% disability rating. He told the Veterans’ Services hearing officer that friends he knew had been notified by the state that they were eligible to receive an annuity. Veterans’ Services acknowledges that Mr. Galligan would likely have applied for the annuity had he been told earlier. It also acknowledges that it does not presently have a program set up to notify disabled veterans individually of the existence of the annuity benefit. The annuity benefit is, however, described on the agency’s website.

Once Mr. Galligan learned of the existence of the annuity benefit, he applied for it on June 20, 2024. Veterans’ Services granted him an annuity for the period after he applied but denied his request to make annuity payments retroactive to 2007.

The Division of Administrative Law Appeals has previously had the occasion to consider whether the annuity payment could be made retroactive to the date a veteran was determined to be so disabled that he would qualify for the annuity. These decisions emphasize the statutory language that focuses on the date a veteran applied for the annuity. DALA has twice determined that “[a]nnuity benefits are paid as of the date of the application and cannot be awarded retroactively.” *Grimaldi v. Executive Office of Veterans’ Aff.*, VS-23-0571, at 5 (Div. Admin. L. App., Apr. 25, 2024); *see also Espinal v. Dep’t of Veterans’ Serv.*, VS-19-0618, at 5 (Div. Admin. L. App., May 19, 2019).

Mr. Galligan argues that when the statute mentions the date of a veteran’s application, it does not say that a veteran is precluded from applying for retroactive annuity benefits. The problem with this argument is that a statute need not say that retroactive application is

precluded. There is no such need for the legislature to bar retroactive application specifically because the presumption in this state is that statutes are prospective unless the legislature has made clear that they also apply retroactively. *Rosnov v. Malloy*, 460 Mass. 474, 476 (2011).

In this instance, the statute is rather clear that a veteran may not obtain retroactive annuity benefits. It is hard to see the purpose of the statutory focus on the date a veteran applied for an annuity if that date had no bearing on what benefits he could obtain.

Furthermore, the legislature has allowed retroactive annuity benefits for other claimants. The present version of the statute provides a limited retroactivity benefit. It states that:

The parents and surviving spouse, provided that surviving spouse does not remarry, of a deceased member of the armed forces of the United States, whose death occurred as a result of injury sustained or disease contracted during active service in time of war or insurrection or combat, shall be paid \$2,500 annually in 1 payment on August 1. Such payments shall be due and payable from the date of the parents' and surviving spouse's application; provided, however, that the first payment shall be retroactive to the applicant's initial date of eligibility if the deceased member or the parent or spouse making application was a resident of the commonwealth at the time of death and the parent or spouse making application is a resident of the commonwealth at the time of application.

M.G.L. c. 115, § 6B. What this shows is that the legislature knew how to make clear that retroactive benefits were available to certain people and that it did not make the veteran one of those people because it did not include similar language when describing claims by veterans themselves. The statute does not explain why the legislature chose to treat annuities one way when the veteran was alive and a different way following the veteran's death. Whatever the reason, DALA is bound to follow the law as it was written by the legislature and lacks equitable power to grant Mr. Galligan a retroactive annuity.

As for the notice issue, the only notification obligation that applies to annuities is in a regulation that provides:

Whenever a veterans' agent learns, or has reason to believe, that an applicant may be eligible for this annuity, the veterans' agent shall notify DVS [now EOVS], which in turn shall provide the veterans' agent with the necessary application forms and advise him or her on processing procedures.

108 CMR 9.01(2). According to Veterans' Services, this is the way Mr. Galligan found out about the annuity because it was his local veterans' service officer who told him about it. Thus, Mr. Galligan received the notice that was legally required. Veterans' Services acknowledges Mr. Galligan's helpful suggestion that it enter into a memorandum of understanding with the U.S. Department of Veterans' Affairs so that it could learn about federal disability determinations that would qualify particular veterans for the state's annuity benefit. This may help veterans in the future to qualify promptly for an annuity, but it does not help Mr. Galligan who learned belatedly and thus applied only recently.

While I am sympathetic to Mr. Galligan's situation, for the reasons stated, I affirm the Executive Officer of Veterans' Services' decision declining to make his annuity retroactive.

DIVISION OF ADMINISTRATIVE LAW APPEALS

James P. Rooney

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First Administrative Magistrate
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