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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

Putnam  
C.P.



04387

OFFICE OF GENERAL COUNSEL

F-188995

November 30, 1977

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RELEASED

Mr. Domingo A. Marietti  
P.H. #5 Medical Center Plaza  
Rio Piedras, Puerto Rico 00921

Dear Mr. Marietti:

RELEASED

We refer to your letter of April 26, 1977, with enclosures, in which you request the opinion of this Office with respect to the decision of the Board of Veterans Appeals (BVA) dated March 18, 1977, which denied your claim for nonservice-connected pension benefits since 1974, due to excessive income.

The facts and circumstances involved in your claim, briefly stated and as shown in the record, are as follows: Your application for nonservice-connected pension benefits was submitted to the Veterans Administration (VA) in December 1974. You reported that during 1974 you received \$7,713 in disability compensation benefits under the Federal Employees Compensation Act. In January 1975, an official of the United States Postal Service reported that you had retired in 1970 due to disability and that you were receiving approximately \$900 per month in Federal Employees Compensation benefits. In February and October 1975, the VA informed you by letter that you were not entitled to receive pension benefits as your income exceeded the prescribed statutory limitations.

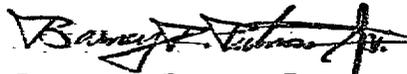
In its decision of March 18, 1977, citing 38 U.S.C. § 521(c)(3), the BVA stated that pension benefits under Public Law 86-211 are not payable to a married veteran or a veteran with a child, whose annual income exceeds \$4,500, effective January 1, 1976; \$4,200, effective January 1, 1975; and \$3,800, effective January 1, 1974. The Board determined that your income for 1974 from the Bureau of Employees Compensation was approximately \$7,700. After deducting \$650 you had incurred in medical expenses, your income was \$7,050. In accordance with 38 C.F.R. § 3.262(i), 90 percent of the \$7,050 was considered as income to you, which net amount clearly exceeded the annual income limitation applicable to your claim. The BVA thus concluded that you were not entitled to payment of nonservice-connected pension benefits.

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Under the provisions of 38 U.S.C. § 211(a) (1970), except as to matters not relevant to your claim, the decisions of the Administrator of Veterans' Affairs on any questions of law or fact under any law administered by the VA providing benefits for veterans and their dependents or survivors are final and conclusive. No other official nor any court of the United States has power or jurisdiction to review any such action. Further, all questions on claims involving benefits under the laws administered by the VA are subject to one review on appeal to the Administrator. Final decisions on such appeals are made by the BVA on behalf of the Administrator. 38 U.S.C. § 4004(a) (1976).

Accordingly, this Office lacks authority to review the findings and decision of the BVA with respect to your claim.

Sincerely yours,



Barney R. Putnam, Jr.  
Attorney-Adviser  
Civilian Personnel Law