



Service Members Facing Disability Discharge for 9/11 Related Duty May be Eligible for Combat Related Special Compensation

The Army Physical Evaluation Board (PEB) at Fort Sam Houston, San Antonio Texas awarded Combat Related Special Compensation (CRSC) to a New York Army National Guard Soldier, Major William F. Morrissey, ANG, who was called to active duty to respond to the September 11, 2001, terror attack on the World Trade Center Towers. In 2017, Major Morrissey, while on active duty, was diagnosed with metastatic cancer caused by exposure to carcinogens during his service in September 2001.

CRSC allows a Soldier his full retirement pay plus his Veteran's Administration Disability Compensation for those conditions determined to be combat related. Without CRSC a retirement eligible Soldier would have to waive retirement pay up to the amount of disability pay he elects to receive. The more severe a Soldier's injuries and the greater the Soldier's disability rating, the bigger the difference CRSC can make in the Soldier's total monthly pay after retirement. While a non-disabled Soldier or very moderately disabled soldier can usually work after retirement and supplement retirement pay, a very severely disabled soldier may not have that option. For Soldiers injured in combat, Congress wanted to recognize their sacrifice by allowing concurrent receipt of retirement and disability pay for the combat related disability.

In the context of CRSC, "combat related" means resulting from (1) armed combat, (2) hazardous duty, (3) simulated war, or (4) an instrumentality of war. While the Army PEB agreed that the Soldier's condition was service related, the board did not agree that the Soldier's injuries warranted CRSC, because, according to the PEB's original findings, the soldier's injury was not combat related.

Our office filed a petition with the Army PEB to request reconsideration of their initial denial of CRSC, and to request a formal PEB if CRSC was not awarded, arguing that the Soldier's injuries were the result of combat because terrorist attacks qualify as combat, the Soldier engaged in hazardous duty when he worked as a first responder at a demolition site, and that the planes flown by terrorist on September 11, 2001 were used as instrumentalities of war. The PEB affirmed its original findings that the Soldier's injuries did not qualify as armed combat and that the injuries were not caused by an instrumentality of war. The board, however, granted Major Morrissey's petition on the grounds that he was engaged in hazardous duty and therefore qualifies for CRSC. In instructions that set rules for CRSC, the Department of Defense says that hazardous duty "need not be limited to aerial flight, parachute duty, demolition duty, experimental stress duty, and diving duty."

Sadly, Major Morrissey passed due to his disabilities. Now, the firm is engaged to represent Major Morrissey's wife, Jennifer, to obtain benefits Jennifer and the Morrissey family may be entitled because they should be recognized as a Gold Star family. It is our privilege to have represented Major Morrissey and his family. We will not give up until justice is obtained.

Inquiries may be made to the Law Firm of David P. Sheldon.

(202) 546-9575 (p) (202) 546-0135 (f)

[Contact Us](#)



Law Offices of
David P. Sheldon, PLLC
