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### Federal Court Sides with Disabled Vietnam Veteran

On October 11, 2011, in *Department of Veterans Affairs, Disabled Veterans, In the News, Recent Cases, Veterans*, by *VetLawyers*

The United States Eighth Circuit Court of Appeals [recently ruled](#) in favor of a Vietnam Veteran, finding that his long-term disability insurance carrier can't reduce his monthly payment by the amount he gets from Veterans' benefits.

Veteran James Riley left his job when symptoms of multiple sclerosis (MS) made it impossible for him to work. Sun Life and Health Insurance Co., which provided the long-term disability plan for Riley's employer, began paying Riley benefits in January 2005. Riley had also been awarded service connection for MS by the Department of Veterans Affairs.

When the insurance company learned of the VA benefits, it reduced the amount it was paying Riley and claimed he owed nearly \$21,000 in overpayments.

The Sun Life long-term insurance plan provided that the monthly disability payments it made could be reduced by "other income" received by the disabled person.

"Other income" was defined in the plan as any amount of disability or retirement benefits under the U.S. Social Security Act, the Railroad Retirement Act or "any other similar act or law provided in any jurisdiction."

Riley objected and eventually sued Sun Life. A federal court in Omaha ruled in favor of Sun Life last year, but Mr. Riley appealed to the Court of Appeals.

The Eighth Circuit Court said the Veterans Benefits Act is different from the Social Security and Railroad Retirement acts. The [court opinion](#) indicated that "[t]he SSA and RRA disability benefits programs are both federal insurance programs based upon employment, and the amount of an award under their terms depends upon how much has been paid in." The Court found that VA benefits were "not from an 'insurance' program, but instead are considered obligatory compensation for injuries to service men and women during military duty."

While this case was a "win" for the Veteran, it does not mean that long term insurance benefits could never be offset by the amount of VA payments. The Court's opinion noted that "VA benefits may not always be entitled to protection simply by virtue of their status as veterans' benefits." The case was decided based upon the particular language of this long-term insurance plan.

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