

Federal Court



Cour fédérale

Date: 20221122

Docket: T-1784-21

Citation: 2022 FC 1604

Ottawa, Ontario, November 22, 2022

PRESENT: Madam Justice McDonald

BETWEEN:

MAY MACHOUN

Applicant

and

CANADA (ATTORNEY GENERAL)

Respondent

JUDGMENT AND REASONS

[1] Ms. Machoun seeks judicial review of the November 5, 2021 decision of the National Second Level Appeals Unit [Appeal Decision] of Veterans Affairs Canada [VAC] denying her request for funding for neuro optometry rehabilitation services under the *Veterans Well-being Act*, SC 2005, c 21 [VWBA]. VAC found there was insufficient peer-reviewed scientific evidence on the benefits of neuro optometry services to support funding such services.

[2] For the reasons that follow, this judicial review is granted as I have concluded that the Appeal Decision of VAC is not reasonable as it failed to assess the evidentiary record against the legislative objectives.

I. Background

[3] Ms. Machoun is a veteran of the Canadian Armed Forces. She was approved under section 8 of the *VWBA* for rehabilitation services for several service-related injuries, including post-concussion syndrome from a traumatic brain injury. Ms. Machoun has vision issues related to the post-concussion syndrome.

[4] As detailed below, her requests for rehabilitation services for vision therapy were denied by VAC on three occasions.

A. *December 2020 Denial*

[5] In 2020, Ms. Machoun requested rehabilitation services and provided a report from Dr. Buxton, dated February 8, 2018. Dr. Buxton diagnosed Ms. Machoun with “[p]ost traumatic vision syndrome secondary to a concussion” and recommended vision therapy consisting of neuro-cognitive exercises.

[6] Ms. Machoun also provided a report from St. Joseph’s Health Care London, dated November 12, 2020, from her rehabilitation doctor and her physiotherapist, which states:

Given the severity of Ms. Machoun’s ongoing symptoms and the impact on her daily life, we are recommending a full,

comprehensive assessment by a Neuro-Optometrist in order to best address Ms. Machoun's vision-related symptoms. As you are aware, Ms. Machoun had begun vision therapy a few years ago, and had to discontinue due to financial reasons. She would greatly benefit from a new assessment to further investigate ongoing symptoms and subsequently outline current treatment recommendations.

[7] On December 23, 2020, VAC denied the request, stating “[a]though neuro optometry can be promising for some Veterans, there is not sufficient evidence at this time to consider it as an evidence-based therapy that VAC can consider supporting.”

B. *April 2021 Denial*

[8] Following the December 2020 denial, in email communications with Ms. Machoun, her VAC case manager indicated they had:

...asked about the rationale for decline of neuro-optometry therapy for Post Traumatic Vision Syndrome (PTVS) for VAC clients...

The tenet of the decline is that there is a lack of reliable peer reviewed evidence for both the diagnosis and management of PTVS. Indeed a search of the current online medical database for PTVS yields no results. There is anecdotal evidence that some people do well with PTVS therapy with prism lenses, etc., but this alone does not satisfy the criteria for being a therapy that VAC can fund at this time.

[9] Ms. Machoun asked if “the data search [was] only looking for PTVS specifically or did it also look at Vision therapy in relation to TBI in general?” The VAC case manager replied “[t]here is a lack of evidence for the treatment as well as for the diagnosis of PTVS” and that “VAC requires peer reviewed research in order to consider a treatment.”

[10] Ms. Machoun submitted new evidence, including a report from the same physiotherapist who co-signed the November 12, 2020 letter. The physiotherapist report, dated November 16, 2020, states:

2. Neuro-Optometry

Ms. Machoun would greatly benefit from a new, comprehensive assessment completed by an optometrist with specialized training in ABI/neurological conditions. She would also benefit from vision training, if deemed appropriate by the optometrist. As mentioned above, Ms. Machoun has previously been involved with neuro-optometry several years ago, at which time she purchased specialized prism lenses and participated in vision therapy. Ms. Machoun reported she found it quite helpful in improving her reading/overall visual tolerances, as well as reducing eye pain and fatigue, light sensitivity, and headaches. Due to the fact that Ms. Machoun has not had access to neuro-optometry for an extended period of time (due to financial reasons), she would therefore require a full re-assessment in order to resume services effectively. Additionally, Ms. Machoun would benefit from a neuro-optometrist closer to home (in the Kitchener-Waterloo area) to enable easier access to appointments and reduce travel time.

[11] On April 14, 2021, VAC denied her reconsideration request, stating, “[t]here is a lack of medical evidence to support the benefits of neuro optometry visual training for individuals with post-concussive syndrome.”

C. Appeal Decision Under Review

[12] Ms. Machoun appealed the April 2021 denial to the National Second Level Appeals Unit.

[13] In support, she provided an updated report from Dr. Buxton, dated March 21, 2021. In this report, Dr. Buxton reaffirms the diagnosis of post-traumatic vision syndrome secondary to the concussion and again recommends vision training consisting of neuro-cognitive exercises. This report also confirms Dr. Buxton was the medical professional who conducted the prior vision therapy treatments with Ms. Machoun. The updated report states, “[w]e did Vision Therapy with May for a [sic] just few months in 2018 and saw improvements but had to stop in October of 2018 well before the program was finished.”

[14] Ms. Machoun also submitted an assessment from the University of Waterloo Optometry Clinic conducted by Dr. Machan, dated April 5, 2021, diagnosing her with post-traumatic brain injury and recommending vision training.

[15] The VAC again denied Ms. Machoun’s request, on the following grounds:

Authorization of all medical services require a solid rationale to ensure that the intervention will not pose a risk to the client’s health, well-being or progress. Furthermore, the need and legitimacy of the medical service must be confirmed as being appropriate based on the evidence available.

Our review has noted that you are eligible to receive rehabilitation services for right knee patella femoral syndrome, Cervical Disc Disease, Chronic Right Ankle Sprain, Left Wrist De Quervains Tenosynovitis, Lumbar Disc Disease, Post Traumatic Headache, Post Concussion Syndrome, Post Traumatic Stress Disorder, and Lateral Meniscal Tear Left Knee. However, the Department has reviewed the available medical research for this treatment. Our departmental Benefits Review Committee as well as a medical consult on your case has determined that overall there is insufficient evidence in the scientific literature that would indicate that neuro optometry services should now be covered. Therefore I must confirm the April 14, 2021, decision made by N1LA and decline your request to approve of neuro optometry services under the Rehabilitation Program.

[16] In its Appeal Decision, VAC notes that it relied upon the *VWBA, Veterans Well-being Regulations*, SOR/2006-50 [*Regulations*], the *Rehabilitation Services and Vocation Assistance Plan Policy* [*Policy*], and the opinion of Medical Consultant, Dr. Delaney, who provided the VAC Benefits Review Committee (BCR) with the following advice:

There is training in Post-Trauma Vision Therapy, but there is no meaningful regulatory certification.

This theory is not accepted within the field of Ophthalmology, especially the medical subspecialty of Neuro-Ophthalmology.

Treatment is not covered in BC, AB, SK, MB, ON, NS, NB, NL, PE, QC, NWT, YK, NU. In QC, an Optometrist can prescribe exercises to improve vision.

...

It was recommended that VAC not cover Post-Trauma Prism/Vision Therapy as a benefit. More substantial evidence is required before it can be accepted as a useful tool for rehabilitation.

[17] The Appeal Officer Worksheet states the Appeal Officer's Recommendation and Rationale is:

I recommend to confirm the previous decision and decline coverage of neuro optometry services under the Rehabilitation program, as per BCR dated March, 2021 as more substantial evidence is required before it can be accepted as a useful tool for rehabilitation.

D. *Relevant Statutory Provisions*

[18] Sections 2, 3, 8, 9, and 10 of the *VWBA* set out the eligibility requirements for rehabilitation services. The relevant provisions of the *Regulations* are sections 8 and 9. These provisions are included in Appendix A below.

[19] The Policy provides further guidance on the purpose of the VWBA.

E. *Issue and Standard of Review*

[20] The only issue is whether the Appeal Decision of VAC in denying rehabilitation services to Ms. Machoun for neuro optometry is reasonable.

[21] The parties submit, and I agree, that the applicable standard of review of the Appeal Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]).

[22] In reviewing a decision for reasonableness, the Court is to review “holistically and contextually” the written reasons by considering the entire context including the legal context and the evidentiary record with due sensitivity to the administrative regime (*Vavilov* at paras 94, 97, 103, 108, 110, 123).

[23] An administrative decision-maker must take into account the evidentiary record and meaningfully account for the central issues raised (*Vavilov* at paras 126, 127).

II. Analysis

[24] In assessing the reasonableness of the VAC Appeal Decision, it is important to orientate the request for funding within the applicable statutory context.

[25] Section 8 of the *VWBA* provides that rehabilitation services for a veteran are to be considered where there is a physical or mental health problem that is “creating a barrier to re-establishment in civilian life.” Subsection 8(2) the *VWBA* notes the factors for consideration including (a) medical reports or records that document the veteran’s physical or mental health problem, and (c) documentation provided by the veteran as to the circumstances of their health problem.

[26] Subsection 10(4) of the *VWBA* notes that requests should be considered with regard to, and be guided by “current research in the field of rehabilitation.” Related to this is section 9 of the *Regulations* which states that the Minister shall have regard to, among other factors, “(a) the potential for improvement to an applicant’s physical, psychological and social functioning, employability and quality of life.”

[27] The Policy was also considered by VAC. Consistent with the legislation, and the *Regulations*, the Policy states at paragraph 3:

The Rehabilitation Program is intended to address the individual needs of eligible participants’ as follows:

a. In the case of Veterans transitioning to civilian life, the Program aims to address individual needs by helping eligible participants cope with and improve, to the extent possible, any barriers:

i. to function, social adjustment or employability due to mental or physical health problems resulting primarily from service; or

ii. to function or social adjustment due to mental or physical health problems that led to their medical release - for rehabilitation plans developed prior to April 1, 2024 .

b. In the case of spouses, CLPs or survivors, the Program aims to help them transition to civilian life by restoring their employability by meeting vocational needs arising from their experience during the Veteran's military career or from providing care to the Veteran.

[28] The legislative provisions and the Policy refers to the VAC considering the individual needs of veterans and considering rehabilitation programs that help veterans cope and improve barriers to their everyday functioning as the result of mental or physical health problems.

[29] Furthermore, although subsection 10(4) of the *VWBA* notes that current research in the field of rehabilitation is to be a consideration, there is no reference to it being determinative of the request. This is consistent with the discretion accorded to the VAC to assess rehabilitation requests with reference to the treatment or therapy providing potential for improvement in a veteran's physical, psychological, and social functioning, employability, and quality of life. There is also nothing in the *VWBA*, the *Regulations*, or the Policy that requires proof that the requested treatment or therapy is guaranteed to improve the veteran's life. The requisite standard is that there is potential for improvement in the veteran's daily functioning.

[30] At the time of making her request for funding, Ms. Machoun had already been approved under section 8 of the *VWBA* for rehabilitation benefits for a number of service-related injuries. Accordingly, there is no issue about her eligibility for rehabilitation funding; the only issue is the approval of the specific rehabilitation services sought.

[31] The initial request for services from Ms. Machoun's NeuroTrauma Rehab team states as follows, in a report dated November 12, 2020:

As you are aware, Ms. Machoun has had several occupational related injuries, notably a traumatic brain injury in 2010. As a result, Ms. Machoun continues to present with many persistent symptoms that impact her daily functioning including household, leisure, and social activities. Notably, Ms. Machoun continues to experience significant vision-related symptoms, including light sensitivity, blurred vision, difficulty reading, poor screen tolerance, difficulty in busy environments, and impaired spatial awareness. Ms. Machoun continues to participate in rehabilitation therapies through NeuroTrauma Rehab in London, including occupational therapy, speech-language pathology, and physiotherapy.

Given the severity of Ms. Machoun's ongoing symptoms and the impact on her daily life, we are recommending a full, comprehensive assessment by a Neuro-Optometrist in order to best address Ms. Machoun's vision-related symptoms. As you are aware, Ms. Machoun had begun vision therapy a few years ago, and had to discontinue due to financial reasons. She would greatly benefit from a new assessment to further investigate ongoing symptoms and subsequently outline current treatment recommendations.

[32] Further, in a report dated March 21, 2021, Dr. Buxton of the London Vision Training

Clinic states:

...an individualized program of optometric vision training is recommended for May to remediate the visual dysfunctions. Vision training is a series of neuro-cognitive exercises combined with perceptual learning designed to re-teach the brain how to accurately and efficiently use the eyes. Vision training does not teach reading, writing, or spelling nor does it replace the services provided by Psychologists, Physical or Occupational Therapist, or Speech and Language Specialists.

The vision training program will consist of 30-minute sessions once per week for at least 25-30 weeks. In addition to the office training, home vision training will be given. Following 10 weeks of office-based vision training, an evaluation will be administered to determine progress. Progress in the vision training program is a function of the patient's motivation, the diligence in performing the home training, the learning curve and the severity of their visual dysfunctions. Both the glasses and vision therapy discussed above have been prescribed as part of Maybelline's training and are considered medically necessary.

[33] In support of her requests, Ms. Machoun provided the VAC with the following reports, as noted as enclosures in the Appeal Officer Worksheet:

1. London Vision Training Clinic Consultation Report completed by Dr. Buxton, dated February 8, 2018;
2. Letter from St. Joseph's Health Care London Neuro Trauma Rehab, dated November 12, 2020;
3. Physiotherapy Initial Assessment Report, dated November 16, 2020;
4. London Vision Training Clinic Consultation Report completed by Dr. Buxton, dated March 21, 2021;
5. University of Waterloo Optometry Clinic Traumatic Brain Injury Functional Vision Assessment conducted by Dr. Machan, dated April 5, 2021.

[34] According to the legislative framework, VAC was required to consider Ms. Machoun's individual needs in assessing her request for a comprehensive assessment by a neuro-optometrist and for optometric vision training. An individualized assessment would have noted that she had previously undergone "Vision Therapy ... for a [sic] just few months in 2018 and saw improvements."

[35] Notwithstanding the medical evidence and information provided by Ms. Machoun, VAC concluded there was insufficient scientific evidence to support rehabilitation services for neuro optometry. VAC based its refusal on the opinion of their medical consultant on Post-Trauma Vision Therapy and the fact that this treatment is not accepted within the field of Ophthalmology.

[36] In denying the request, VAC did not conduct an individualized assessment of the treatments and the potential benefits to Ms. Machoun based upon the medical evidence provided in support of her request. In fact, based upon a review of the VAC Appeal Decision and the material in the Certified Tribunal Record [CTR], it is not obvious if VAC took those reports and recommendations into consideration. Although Ms. Machoun's medical reports are summarized in the Appeal Officer Worksheet (in the CTR) and the Worksheet indicates under "Action Taken" that the "pertinent information" was reviewed, no further comment, analysis, or weighing of this medical evidence is noted.

[37] In conducting a reasonableness review of the Appeal Decision, the VAC's approach to the request for funding raises a number of issues.

[38] First, it is not clear why VAC prefers the opinion of their medical consultant over the opinions and recommendations of Ms. Machoun's own treating professionals. In fact, the Appeal Decision makes no reference to the opinions and recommendations of Dr. Buxton, Dr. Machan, and Dr. Loh. Notably, Dr. Buxton was the medical professional who administered and oversaw Ms. Machoun's prior successful vision therapy treatment. It is not clear if these opinions were considered or weighed in the overall assessment of the request. There is no reference to why these opinions were disregarded or discounted.

[39] In my view, the decision-maker failed to weigh and consider the opinions of Ms. Machoun's treating medical professionals against the views of a medical consultant whose opinions appear to be generic rather than responsive to Ms. Machoun's request. Furthermore,

the opinion of the VAC medical consultant does not appear to be responsive to the specific rehabilitation services requested by Ms. Machoun. The request was for neuro optometry. The VAC Medical Consult references Post-Trauma Vision Therapy as a subspecialty of Neuro-Ophthalmology.

[40] Secondly, the treatments proposed for Ms. Machoun were treatments that, even if not accepted in the field of ophthalmology, were recommended by her Optometrist and by her Rehabilitation Doctor. This fact was not addressed by VAC.

[41] Finally, the VAC Appeal Decision appears to impose a requirement that “substantial evidence” is required to establish a treatment as a useful tool in rehabilitation. Although subsection 10(4) of the *VWBA* speaks to decisions being guided by current research, section 9 of the *Regulations* requires that other factors be considered as well, including the potential for improvement to an applicant’s physical, psychological, and social functioning, employability, and quality of life. No such considerations appear to have been contemplated here – despite medical evidence that Ms. Machoun has had benefits from these treatments in the past.

[42] Overall, in considering the request VAC does not reference the legislative rational for funding – nor does it apply the legislative criteria to Ms. Machoun’s request. In my view, the VAC Appeal Decision was unreasonable in failing to consider Ms. Machoun’s medical evidence against the rehabilitation objectives of the legislation.

III. Conclusion

[43] For the above reasons, this judicial review is granted and the matter is returned for redetermination by a different Appeal Officer. Ms. Machoun shall have her costs in the all-inclusive amount of \$2,000.00.

JUDGMENT IN T-1784-21

THIS COURT'S JUDGMENT is that:

1. this application for judicial review is granted;
2. the decision of Veterans Affairs Canada, dated November 5, 2021 is set aside and the appeal is to be reconsidered by a different decision-maker; and
3. the Applicant is awarded costs in the all-inclusive amount of \$2,000.00.

"Ann Marie McDonald"

Judge

Appendix A

Veterans Well-being Act, SC 2005, c 21

Loi sur le bien-être des vétérans, LC 2005, ch 21

Interpretation

Définitions et interprétation

Definitions

Définitions

2 (1) The following definitions apply in this Act.

2 (1) Les définitions qui suivent s'appliquent à la présente loi.

...

(...)

Canadian Forces means the armed forces referred to in section 14 of the *National Defence Act*, and includes any predecessor naval, army or air forces of Canada or Newfoundland. (Forces canadiennes)

Forces canadiennes Les forces armées visées à l'article 14 de la *Loi sur la défense nationale*, ainsi que les forces navales, les forces de l'armée ou les forces aériennes du Canada ou de Terre-Neuve qui les ont précédées. (Canadian Forces)

...

(...)

compensation means any of the following benefits under this Act, namely, an education and training benefit, an education and training completion bonus, an income replacement benefit, a Canadian Forces income support benefit, a critical injury benefit, a disability award, pain and suffering compensation, additional pain and suffering compensation, a death benefit, a clothing allowance, a detention benefit or a caregiver recognition benefit. (indemnisation)

indemnisation Allocation pour études et formation, prime à l'achèvement des études ou de la formation, prestation de remplacement du revenu, allocation de soutien du revenu, indemnité pour blessure grave, indemnité d'invalidité, indemnité pour douleur et souffrance, indemnité supplémentaire pour douleur et souffrance, indemnité de décès, allocation vestimentaire, indemnité de captivité ou allocation de reconnaissance pour aidant prévues par la présente loi. (compensation)

...

(...)

disability means the loss or lessening of the power to will and to do any normal mental or physical act. (invalidité)

invalidité La perte ou l'amointrissement de la faculté de vouloir et de faire normalement des actes d'ordre physique ou mental. (disability)

disability award means a disability award paid under section 45, 47 or 48 of this Act as it read immediately before April 1, 2019. (indemnité d'invalidité)

indemnité d'invalidité L'indemnité d'invalidité versée au titre des articles 45, 47 ou 48 de la présente loi, dans sa version

antérieure au 1er avril 2019. (disability award)

...

(...)

medical rehabilitation includes any physical or psychological treatment whose object is to stabilize and restore the basic physical and psychological functions of a person. (réadaptation médicale)

réadaptation médicale Soins ou traitements prodigués pour stabiliser et rétablir les fonctions physiques et psychologiques de base de la personne. (medical rehabilitation)

member means an officer or a non-commissioned member of the Canadian Forces, as those terms are defined in subsection 2(1) of the *National Defence Act*. (militaire)

militaire Officier ou militaire du rang des Forces canadiennes au sens du paragraphe 2(1) de la *Loi sur la défense nationale*. (member)

Minister means the Minister of Veterans Affairs. (ministre)

ministre Le ministre des Anciens Combattants. (Minister)

...

(...)

prescribed means prescribed by regulation.

psycho-social rehabilitation includes any psychological or social intervention whose object is to restore a person to a state of independent functioning and to facilitate their social adjustment. (réadaptation psychosociale)

réadaptation psychosociale Interventions psychologiques et sociales visant à aider une personne à regagner son autonomie et à promouvoir son adaptation sociale. (psycho-social rehabilitation)

rehabilitation services means all services related to the medical rehabilitation, psycho-social rehabilitation or vocational rehabilitation of a person. (services de réadaptation)

services de réadaptation L'ensemble des services visant la réadaptation médicale, psychosociale ou professionnelle d'une personne. (rehabilitation services)

service-related injury or disease means an injury or a disease that

liée au service Se dit de la blessure ou maladie :

- (a) was attributable to or was incurred during special duty service; or
- (b) arose out of or was directly connected with service in the Canadian Forces. (liée au service)

- a) soit survenue au cours du service spécial ou attribuable à celui-ci;
- b) soit consécutive ou rattachée directement au service dans les Forces canadiennes. (service-related injury or disease)

...	(...)
veteran means a former member. (vétérán)	vétéran Ex-militaire. (veteran)
vocational assistance includes employability assessments, career counselling, training, job-search assistance and job-finding assistance, whose object is to help a person to find appropriate employment. (assistance professionnelle)	assistance professionnelle Tous les services susceptibles d'aider une personne à se trouver un emploi convenable, tels l'évaluation de l'aptitude à l'emploi, l'orientation professionnelle, la formation, les conseils et l'aide en matière de recherche d'emploi. (vocational assistance)
vocational rehabilitation includes any process designed to identify and achieve an appropriate occupational goal for a person with a physical or a mental health problem, given their state of health and the extent of their education, skills and experience. (réadaptation professionnelle)	réadaptation professionnelle À l'égard d'une personne qui présente un problème de santé physique ou mentale, tout processus destiné à fixer et à atteindre des objectifs professionnels compte tenu de son état de santé, sa scolarité, ses compétences et son expérience sur le marché du travail. (vocational rehabilitation)
...	(...)
Career Transition Services	Services de réorientation professionnelle
Eligibility	Admissibilité
3 (1) Subject to this section, the Minister may, on application, provide career transition services to	3 (1) Sous réserve du présent article, le ministre peut, sur demande, fournir des services de réorientation professionnelle :
(a) a member who has completed basic training;	a) au militaire qui a terminé son entraînement de base;
(b) a veteran who completed basic training and who was released from the Canadian Forces on or after April 1, 2006;	b) au vétérán qui a terminé son entraînement de base et qui a été libéré des Forces canadiennes le 1er avril 2006 ou après cette date;
(c) a veteran who is entitled to a Canadian Forces income support benefit;	c) au vétérán qui a droit à l'allocation de soutien du revenu;
(d) a spouse or common-law partner of a veteran who	d) à l'époux ou conjoint de fait du vétérán qui a terminé son entraînement de base et qui a été

completed basic training and who was released from the Canadian Forces on or after April 1, 2006;

(e) a survivor of a member who completed basic training and who died on or after April 1, 2006;

(f) a survivor of a veteran who completed basic training and who was released from the Canadian Forces on or after April 1, 2006; and

(g) a survivor who is entitled to a Canadian Forces income support benefit.

Limitation — member

(2) Career transition services may be provided to a member only if the member resides in Canada and the Minister is satisfied that they require assistance in making the transition to the civilian labour force.

Limitation — veteran

(3) Career transition services may be provided to a veteran only if

(a) the veteran resides in Canada;

(b) the Minister is satisfied that the veteran requires assistance in making the transition to the civilian labour force; and

(c) the veteran is not receiving rehabilitation services under Part 2.

Limitation — spouse, common-law partner or survivor

libéré des Forces canadiennes le 1er avril 2006 ou après cette date;

e) au survivant du militaire qui a terminé son entraînement de base et qui est décédé le 1er avril 2006 ou après cette date;

f) au survivant du vétéran qui a terminé son entraînement de base et qui a été libéré des Forces canadiennes le 1er avril 2006 ou après cette date;

g) au survivant qui a droit à l'allocation de soutien du revenu.

Limites : militaire

(2) Les services de réorientation professionnelle ne peuvent être fournis au militaire que s'il réside au Canada et si le ministre est convaincu que de l'aide est nécessaire à sa réintégration dans la population active civile.

Limites : vétéran

(3) Les services de réorientation professionnelle ne peuvent être fournis au vétéran que si, à la fois :

a) le vétéran réside au Canada;

b) le ministre est convaincu que de l'aide est nécessaire pour la réintégration du vétéran dans la population active civile;

c) le vétéran ne reçoit pas de services de réadaptation au titre de la partie 2.

Limites : époux, conjoint de fait et survivant

(4) Career transition services may be provided to a spouse, common-law partner or survivor only if they reside in Canada and are not receiving rehabilitation services or vocational assistance under Part 2.

Period — spouse or common-law partner of veteran

(5) A spouse or common-law partner of a veteran who completed basic training and who was released from the Canadian Forces on or after April 1, 2006 may receive career transition services until the later of

(a) March 31, 2020, and

(b) the second anniversary of the day on which the veteran was released.

...

Rehabilitation Services and Vocational Assistance

Eligibility — rehabilitation need

8 (1) The Minister may, on application, provide rehabilitation services to a veteran who has a physical or a mental health problem resulting primarily from service in the Canadian Forces that is creating a barrier to re-establishment in civilian life.

Factors Minister may consider

(2) For the purposes of subsections (1) and 18(1), in deciding whether a veteran has a physical or a mental health problem that is creating a barrier to re-establishment in civilian life, and whether that health problem resulted primarily from service in the Canadian Forces, the Minister may consider

(4) Les services de réorientation professionnelle ne peuvent être fournis à l'époux ou conjoint de fait et au survivant que s'il réside au Canada et ne reçoit pas de services de réadaptation ni d'assistance professionnelle au titre de la partie 2.

Délai : époux ou conjoint de fait du vétéran

(5) L'époux ou conjoint de fait du vétéran qui a terminé son entraînement de base et qui a été libéré des Forces canadiennes le 1er avril 2006 ou après cette date peut recevoir des services de réorientation professionnelle jusqu'au dernier en date des moments suivants :

a) le 31 mars 2020;

b) le deuxième anniversaire de la libération du vétéran.

(...)

Services de réadaptation et assistance professionnelle

Admissibilité : besoins en matière de réadaptation

8 (1) Le ministre peut, sur demande, fournir des services de réadaptation au vétéran si celui-ci présente un problème de santé physique ou mentale qui découle principalement de son service dans les Forces canadiennes et entrave sa réinsertion dans la vie civile.

Facteurs à considérer

(2) Pour établir, d'une part, si le problème de santé physique ou mentale du vétéran découle principalement de son service dans les Forces canadiennes et, d'autre part, s'il entrave sa réinsertion dans la vie civile, le ministre tient compte, pour l'application des

any factors that the Minister considers relevant, including

- (a) medical reports or records that document the veteran's physical or mental health problem;
- (b) documentation that indicates the nature of the veteran's service in the Canadian Forces;
- (c) documentation provided by the veteran as to the circumstances of their health problem; and
- (d) research that establishes the prevalence of specific health problems in military populations.

Presumption

(3) For the purposes of subsections (1) and 18(1), a veteran's physical or mental health problem is deemed to have resulted primarily from service in the Canadian Forces if, as a result of the health problem, the veteran suffers from a disability for which a disability award has been granted, pain and suffering compensation has been granted under section 45 or a pension has been granted under the *Pension Act*.

Eligibility — medical release

9 (1) The Minister may, on application, provide services related to medical rehabilitation or psycho-social rehabilitation to a veteran who has been released on medical grounds in accordance with chapter 15 of the Queen's Regulations and Orders for the Canadian Forces if the physical or mental health problem for which the veteran was released did not result primarily from service in the Canadian Forces.

paragraphes (1) et 18(1), de tout facteur qu'il juge pertinent, notamment :

- a) tout dossier ou bilan médical concernant le problème de santé;
- b) tout document concernant le service militaire du vétéran;
- c) tout document fourni par celui-ci concernant son problème de santé;
- d) toute recherche établissant l'existence de problèmes de santé propres aux militaires.

Présomption

(3) Pour l'application des paragraphes (1) et 18(1), le problème de santé physique ou mentale pour lequel l'indemnité d'invalidité ou l'indemnité pour douleur et souffrance prévue à l'article 45 a été accordée au vétéran ou pour lequel une pension lui a été accordée au titre de la *Loi sur les pensions* est réputé découler principalement de son service dans les Forces canadiennes.

Admissibilité : libération pour des raisons de santé

9 (1) Le ministre peut, sur demande, fournir des services visant la réadaptation médicale ou psychosociale au vétéran qui a été libéré pour des raisons de santé au titre du chapitre 15 des Ordonnances et règlements royaux applicables aux Forces canadiennes, si le problème de santé physique ou mentale qui a mené à la libération de ce dernier ne découle pas principalement de son service dans les Forces canadiennes.

Refusal to consider application

(2) The Minister shall refuse to consider an application that is made more than 120 days after the day on which the veteran was released, unless the Minister is of the opinion that the reasons for the delay are reasonable in the circumstances.

Exception

(3) Subsection (1) does not apply in respect of a veteran who was within a prescribed class at the time that the physical or mental health problem leading to the release manifested itself.

Assessment of needs

- 10 (1) The Minister shall,
- (a) on approving an application made under section 8, assess the veteran's medical rehabilitation, psycho-social rehabilitation and vocational rehabilitation needs; and
 - (b) on approving an application made under section 9, assess the veteran's medical rehabilitation and psycho-social rehabilitation needs.

Rehabilitation plan

(2) The Minister may develop and implement a rehabilitation plan to address the rehabilitation needs that are identified in the assessment.

Limitation

(3) The only physical and mental health problems that may be addressed in the rehabilitation plan are

Rejet de la demande

(2) Le ministre ne peut examiner la demande présentée plus de cent vingt jours après la libération du vétéran sauf s'il est d'avis qu'il existe dans les circonstances un motif raisonnable justifiant le retard.

Exception

(3) Le paragraphe (1) ne s'applique pas au vétéran qui appartenait à une catégorie réglementaire au moment où le problème de santé physique ou mentale qui a mené à sa libération s'est déclaré.

Évaluation des besoins

- 10 (1) S'il approuve la demande présentée au titre de l'article 8, le ministre évalue les besoins du vétéran en matière de réadaptation médicale, psychosociale et professionnelle et, s'il approuve la demande présentée au titre de l'article 9, ceux en matière de réadaptation médicale et psychosociale.

Programme de réadaptation

(2) Le ministre peut élaborer et mettre en oeuvre un programme de réadaptation visant à combler les besoins déterminés à cet égard lors de l'évaluation.

Exception

(3) Le programme de réadaptation vise uniquement :

- a) dans le cas du vétéran à l'égard duquel la demande présentée au titre de l'article 8 a été approuvée, le problème de santé physique ou mentale qui découle principalement de son service dans

(a) in the case of a veteran for whom an application made under section 8 was approved, a physical or a mental health problem resulting primarily from service in the Canadian Forces that is creating a barrier to re-establishment in civilian life; or

(b) in the case of a veteran for whom an application made under section 9 was approved, the physical or mental health problem for which the veteran was released.

Considerations

(4) In developing a rehabilitation plan, the Minister shall have regard to any prescribed principles and factors and be guided by current research in the field of rehabilitation.

(5) [Repealed, 2018, c. 12, s. 129]

Veterans Well-being Regulations, SOR/2006-50

8 For the purposes of subsection 10(4) and paragraph 13(4)(a) of the Act, the Minister shall have regard to the following principles:

(a) that the provision of services be focused on addressing the needs of the applicant;

(b) that the provision of services will involve family members to the extent required to facilitate the rehabilitation;

les Forces canadiennes et entrave sa réinsertion dans la vie civile;

b) dans le cas du vétéran à l'égard duquel la demande présentée au titre de l'article 9 a été approuvée, le problème de santé physique ou mentale qui a mené à sa libération.

Considérations

(4) Dans l'élaboration du programme de réadaptation, le ministre tient compte des principes et facteurs réglementaires et des résultats de recherches récentes dans le domaine de la réadaptation.

(5) [Abrogé, 2018, ch. 12, art. 129]

Règlement sur le bien-être des vétérans DORS/2006-50

8 Pour l'application des paragraphes 10(4) et 13(4) de la Loi, le ministre tient compte des principes suivants :

a) la fourniture des services met l'accent sur les besoins particuliers du demandeur;

b) elle favorise la participation active des membres de la famille dans la mesure où cela est de nature à faciliter la réadaptation;

(c) that the services be provided as soon as practicable;

(d) that the services provided be focused on building the applicant's education, skills, training and experience; and

(e) that the services provided not be focused solely on the applicant's military occupation.

9 For the purposes of subsection 10(4) and paragraph 13(4)(a) of the Act, the Minister shall have regard to the following factors:

(a) the potential for improvement to an applicant's physical, psychological and social functioning, employability and quality of life;

(b) the need for family members to be involved in the provision of services;

(c) the availability of local resources;

(d) the motivation, interest and aptitudes of the applicant;

(e) the cost effectiveness of the plan; and

(f) the duration of the plan.

c) elle est offerte aussitôt que possible;

d) elle vise à améliorer la scolarité, la formation, les compétences et l'expérience du demandeur;

e) elle n'est pas uniquement axée sur l'emploi de militaire du demandeur.

9 Pour l'application des paragraphes 10(4) et 13(4) de la Loi, le ministre tient compte des facteurs suivants :

a) les probabilités que les habiletés physiques, psychologiques et sociales du demandeur s'améliorent de même que ses aptitudes à l'emploi et sa qualité de vie;

b) le besoin des membres de la famille de participer activement à la fourniture des services;

c) la disponibilité des ressources dans la collectivité du demandeur;

d) la motivation, l'intérêt et les aptitudes du demandeur;

e) la rentabilité du programme;

f) la durée du programme.

FEDERAL COURT
SOLICITORS OF RECORD

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