REPORT TO THE CONGRESS

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Civil Service Disability Retirement: Needed Improvements

Civil Service Commission

Many civil service employees are retired on disability. Many of them would be able to do other Government work, but the retirement provisions do not encourage this. The law needs to be changed to provide greater incentives for job reassignment or to retrain potentially productive employees.

The Civil Service Commission approves 95 percent of disability applications but removes less than 1 percent from the rolls because of medical recovery or excess earned income. Better administrative procedures are needed; a better definition of economic recovery is needed.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the need for revising the civil service disability retirement law. Originally enacted 56 years ago, the program should be reevaluated in today's environment.

In view of our continuing concern for the financial stability of Federal retirement programs, we initiated this review because the number of civil service disability retirements had increased so much that overall costs would necessarily rise. We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Chairman, Civil Service Commission and to the Director, Office of Management and Budget.

Comptroller General
of the United States

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ABBREVIATIONS

CSC	Civil Service Commission
GAO	General Accounting Office

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

CIVIL SERVICE DISABILITY RETIREMENT: NEEDED IMPROVEMENTS
Civil Service Commission

D I G E S T

Civil service disability retirements almost doubled from 1970 to 1975. At the end of fiscal year 1975, about 258,000 disabled retirees collected annuities that totaled over $1 billion annually. (See p. 2 .)

The Congress should change the disability policy for civil service retirement to encourage reassigning or retaining potentially productive employees under certain conditions. Civil service employees are legally disabled if they are unable, because of disease or injury, to perform usefully and efficiently in the grade or class of position last occupied. The Civil Service Commission's interpretation--that an employee unable to do one essential function of his job is entitled to disability retirement--was based on administrative precedent. Employees are not obligated to accept reassignment, and they have several significant disincentives for not doing so. (See p. 8.)

The Commission needs to improve its administration of the current reassignment policy by requiring that disability retirement applications submitted by agencies contain sufficient information on reassignment efforts. Although this lack of enforcement may have resulted in employees retiring needlessly, it is perhaps indicative of the difficulty of attempting reassignment within existing authorities. Efforts should be made to encourage greater use of job details, job restructuring, and job reassignment. (See pp. 9 and 10.)

About 20 percent of disability retirement applications GAO reviewed had been approved without sufficient evidence. GAO estimates the Government pays about 15,000 retirees annual annuities totaling $65 million although

records do not contain sufficient justification for these payments. The Commission needs to develop documentation criteria and to establish quality controls to insure that sufficient medical information has been obtained before approving disability claims. (See pp. 12 to 15.)

During the same period that the disability workload has almost doubled, the Civil Service Commission had encountered difficulties attracting enough qualified medical personnel. Despite these problems, the ever-increasing cost of the retirement program makes it essential that unentitled employees not be approved for payments. (See p. 16.)

The Commission needs to strengthen procedures to determine continuing medical and economic eligibility of disabled annuitants. In recent years, the Commission has removed less than 1 percent of those on the disability roll because of medical recovery or excess earned income. The Commission needs to develop detailed criteria to use in annually reviewing the temporarily disabled, require more specific information on job duties, and develop means to independently verify annuitants' reported income. (See pp. 19, 21, 22, and 24.)

The Congress should revise the definition of economic recovery. Although many annuitants are considered disabled for their specific jobs, they obtain employment in the non-Federal sector. The income limitation permits them to earn more than the pay for their prior Government jobs over a 2-year span, receive annuities tax-free up to $5,200 a year, and yet not exceed income limitation. A better definition and stronger enforcement procedures would provide assurance that only those annuitants entitled to benefits continue to receive them. (See pp. 23 and 28.)

The Commission believes it should encourage job reassignment but does not believe it has the authority to impose reassignment as a requirement. Near the end of GAO's review, the Commission initiated a study of disability retirement policies and intends to

cover many of the same areas discussed in this report, including the recommendations to the Congress. Pending the 1977 outcome of its own study, the Commission did not comment on needed policy changes.

It agreed there was a need to study costs and benefits of developing minimum documentation standards but hesitated to implement additional review procedures because of potential hardships to applicants during anticipated processing delays. Although agreeing to move toward requiring more specific information on annuitants' current job duties, the Commission said it would be too expensive to verify the income annuitants report without using Federal tax returns. Because annuity payments are predicated on a level of earned income, GAO believes that the Congress should study and legislate a solution to the sensitive issue of using Federal tax returns to independently verify reported income.

CHAPTER 1

INTRODUCTION

In general, disability plans provide financial support to the employee who suffers a partial or complete loss of earning capacity due to a physical or mental impairment. Disability benefit programs for most Federal employees consist of sick leave for short-term illnesses, workers' compensation for job-related disabilities, and disability retirement for long-term disabilities, not necessarily job related.

The Government provides disability retirement coverage for its employees through a number of other retirement systems, such as the Foreign Service, District of Columbia police and firemen, and Federal judiciary systems. However, this report discusses only the civil service disability retirement program. (See our report "Certain Disability Provisions of Federal Programs," FPCD-76-13, Aug. 19, 1975.)

A disability plan may compensate for injury or disease, the consequent loss of earning capacity, or both. It may restrict benefits to people who are physically or mentally incapable of engaging in any occupation or may compensate an employee who is unable to perform his specific job. This latter approach best describes the civil service disability retirement program.

The law on civil service retirement (5 U.S.C. 83) provides that a covered employee may retire on disability after 5 years' civilian service if, because of disease or injury, the employee is unable to perform useful and efficient service in the grade or class of position last occupied. Conditions caused by "vicious habits, intemperance, or wi[illegible] misconduct" within the last 5 years do not quali[illegible]s disabling. All disabled employees are retired on fu[illegible]isability because no provision exists for partial disability.

The Bureau of Retirement, Insurance, and Occupational Health of the Civil Service Commission (CSC) is responsible for administering the retirement program. After the employee or the employing agency initiates a disability retirement application, CSC reviews the application (along with any supporting medical evidence and superior officer statements of employee job ability), schedules any medical examinations needed, and either approves or rejects the claim. If approved, the annuitant is classified as either temporarily

or permanently disabled based on expected duration of the disability. Until age 60, any annuitant temporarily disabled is subject to periodic medical examinations and is asked to provide information each year on the nature of any job performed. Any disabled annuitant under 60 is subject to an earnings limitation. These controls were established to determine medical or economic recovery.

PROGRAM GROWTH

The original retirement act was approved 56 years ago when retirement for both age and disability were being considered together. Senate and House reports established that the intent of the act was to revitalize the Government work force which had become inefficient and wasteful for lack of a remedy for aged and infirm employees. The record contained pathetic examples of aging, infirmed employees not doing their jobs but kept on the payroll because they had made no provision for support during their declining years.

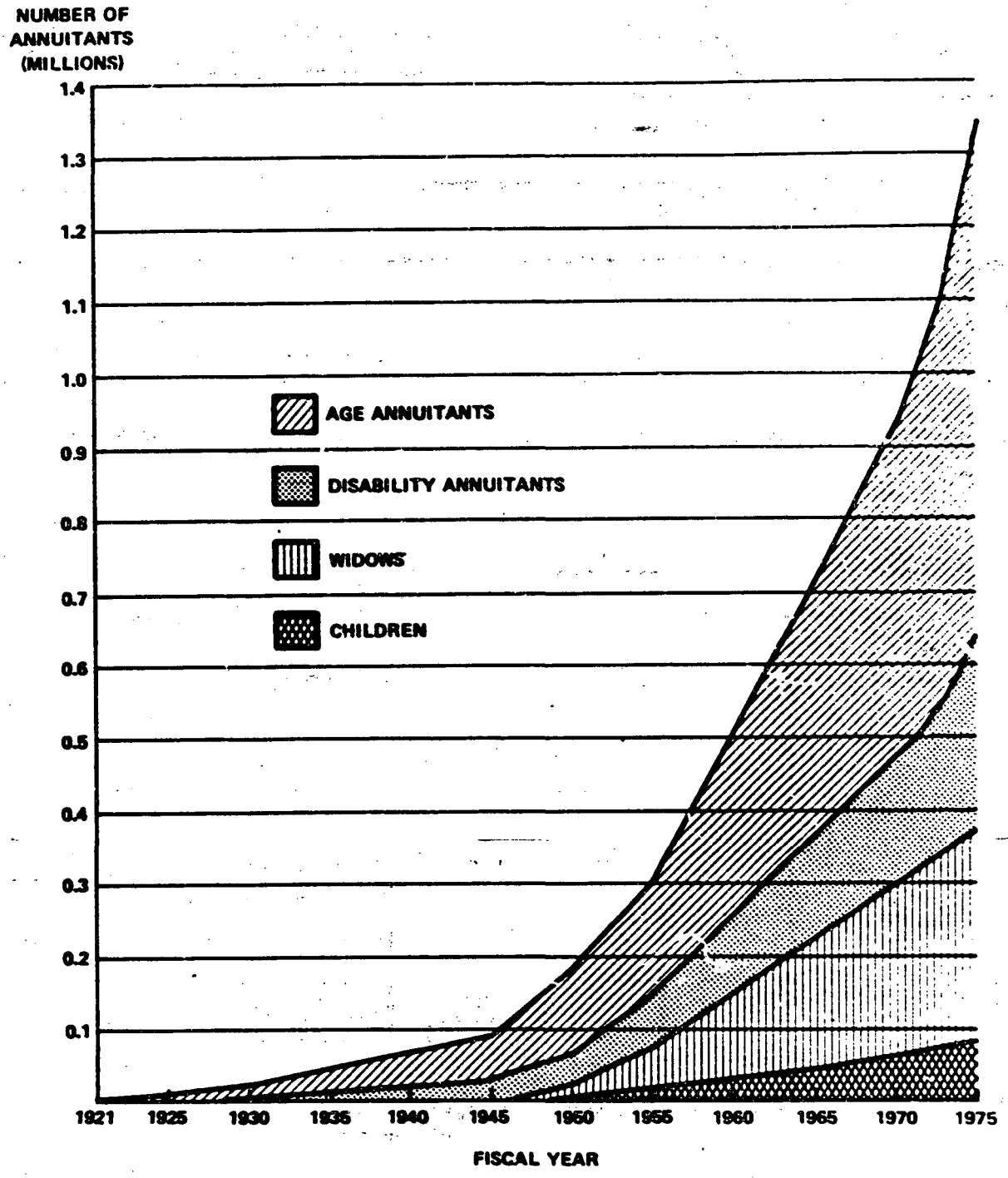
With this historical view of legislative intent, CSC believes that:

--Disability retirement benefits the public by helping management to maintain an effective and productive work force.

--For the worker whose abilities and motivation have become marginal as a result of physical problems, disability retirement is mutually beneficial to the Government and to the individual concerned.

The disability retirement program has experienced large growth since its inception. There were about 1,189 disability retirements per 100,000 employees in fiscal year 1975 compared to 412 per 100,000 employees in fiscal year 1955. At the end of fiscal year 1975, CSC was paying about 258,000 disabled annuitants annual benefits totaling over $1 billion--about 17 percent of the total annuities paid to retired employees. The average monthly annuity was $406 for all disabled annuitants and $502 for those who retired in 1975.

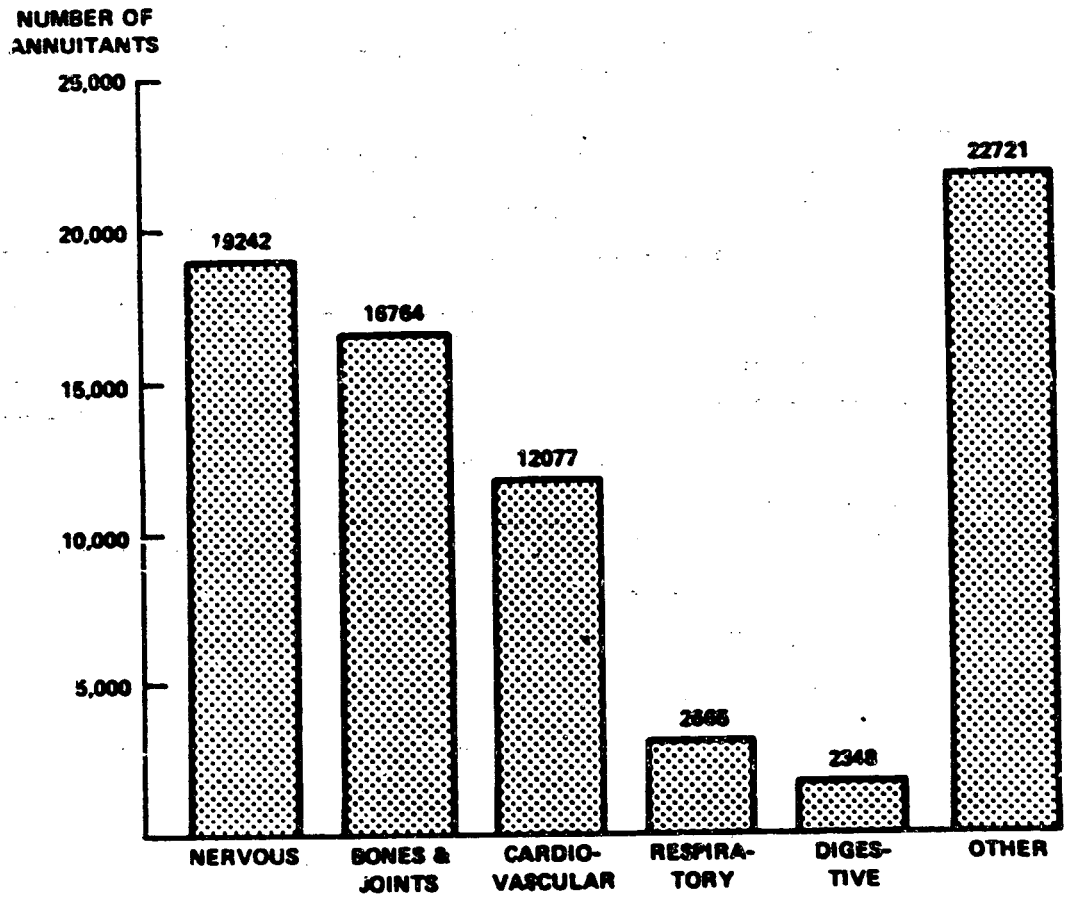
The following graph shows the growth in number of employees on disability retirement relative to other types of retirement and program beneficiaries.


NUMBER OF ANNUITANTS (MILLIONS)
1.4
1.3
1.2
1.1
1.0
0.9
0.8
0.7
0.6
0.5
0.4
0.3
0.2
0.1
AGE ANNUITANTS
DISABILITY ANNUITANTS
WIDOWS
CHILDREN
1921
1925
1930
1935
1940
1945
1950
1955
1960
1965
1970
1975
FISCAL YEAR

PRIMARY DISABLING CONDITIONS

A 1975 CSC study showed the primary types of disabling conditions were diseases of the cardiovascular system, bones and joints, and the nervous system. Diseases of the nervous system are classified into mental disorders and organic nerve diseases. Determining severity of mental disorders largely depends on the examining physician.

Over the years, cardiovascular diseases have been causing proportionately fewer disability retirements, while diseases of bones and joints and the nervous system have been growing in importance. As of December 19, 1974, nervous system disorders constituted the major disabling condition, in the age group 23 through 54, comprising about 76,000 annuitants.



SCOPE OF REVIEW

We reviewed disability retirement policies, procedures, and program administration. At CSC Headquarters in Washington, D.C., we evaluated practices followed in approving applications for disability retirement and monitoring for annuitants' medical and economic recovery.

We applied scientific sampling techniques in selecting cases to evaluate practices used in granting disability retirement. Because records supporting monitoring practices did not lend themselves to such techniques, we selected case files from those records on a judgmental basis. Our consultant, a medical doctor, reviewed medical evidence in these files and CSC's medical criteria.

We discussed all issues addressed in this report with CSC officials and considered their views in preparing it.

CHAPTER 2

NEED TO REEVALUATE DISABILITY RETIREMENT POLICIES

What is the Government's responsibility to employees who can no longer perform their specific jobs because of medical problems? Policies and practices permit such an employee to:

--Retire with an annuity based on service time and salary level but with a guaranteed minimum.

--Exclude from Federal taxation up to $5,200 of the annuity each year, subject to provisions of new tax reform legislation. 1/

--Receive free life insurance coverage.

--Take employment in the non-Federal sector labor market. Although subject to certain earning limitations (see p. 23), an annuitant may earn more while retired than his Federal job would have paid.

The policies do not

--differentiate between degrees of disability or degrees of loss in earning power, nor

--require or facilitate retention of the employee in another Federal job which he is able to perform.

This last condition is not only costly but seems to contradict the indicated national policy of stimulating employment and providing job opportunities for all people. Therefore, there is a need to reevaluate the disability retirement law and policies.

RESTRICTIVE DISABILITY POLICIES

Legal constraints

By law, total disability means the inability, because of disease or injury, to perform useful and efficient service in

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1/The Tax Reform Law of 1976 enacted October 4, 1976, changed the eligibility requirements for sick pay exclusions. In general, it provides a tighter definition of total and permanent disability and phases out the exclusion dollar for dollar when retirees adjusted gross income exceeds $15,000 a year.

the grade or class of position last occupied. This definition precludes mandatory reassignment to another occupational class or grade. Employees are not obligated to accept reassignment and may be understandably reluctant; those who are reassigned lose their basis for disability retirement--inability to perform the previous position. By refusing reassignment, disabled employees may receive life-time annuities, large tax advantages, and earn additional money if they obtain employment in the non-Federal sector. In some States a disabled annuitant can also qualify for unemployment compensation.

A CSC report, published in 1975, showed that nearly 40 percent of disabled annuitants under 60 reported that they earned income during 1973. Many of these annuitants were working in jobs similar to their prior Government positions. Others earned sizable incomes in dissimilar jobs, which would indicate these individuals had potential for reassignment or job retraining. The remaining 60 percent did not report income to CSC, which may indicate that (1) the annuitants were not able to work, (2) they were able to work but chose not to, or (3) they were working but failed to disclose earned income.

Disabled annuitants are guaranteed a minimum annuity. The occupational definition of disability means that disabling conditions are reviewed in relation to specific requirements of each employee's job. Consequently, no distinction is made of the severity of each condition and retirees with widely varying disabilities receive annuities computed at the same rate. For example, one employee may have a severe condition which precludes him from any rehabilitation or job retraining. Another employee could be disabled because of his inability to perform his job, yet be able to do other jobs.

For the disabled retiree who can obtain employment outside the Government, income earned added to the annuity may be sufficient to satisfy his needs. For the retiree whose disability is so severe that outside employment is not possible, the annuity would probably fall short of his income requirements. In this circumstance, had they been eligible lower income employees, they would probably have received more benefits under the Social Security disability program which covers most employees in the private sector. In addition, private sector employees may be eligible for additional disability benefits provided by an employer's plan. Consequently, the Congress might consider the adequacy of civil service annuities for those severely or totally disabled.

The Congress should reexamine the disability retirement provision, considering the desirability of retaining qualified disabled employees in the work force. Changes could make rehabilitation or job retraining efforts mandatory and could allow for reassignment to different classes of positions. These changes would provide job opportunities for qualified disabled employees, enforce the reassignment policy, and enable the Government to benefit from its investment in these employees. Should reassignment be possible only to a lower grade position, appropriate incentives should be developed and/or disincentives eliminated.

CSC stated that any changes in the Retirement Law to force mandatory reassignment to another position within a given class would have an impact on provisions of other existing laws in the U.S. Code.

Interpretive constraints

CSC construes total disability for one position, including the inability to perform even one essential function, as meeting the requirement for entitlement to disability retirement. However, frequently other positions exist within a given class which the employee might be able to perform. For example, within the occupational classification series for accountants, there are operations accountants, systems accountants, financial auditors, and operational auditors. These positions can have widely diverse functions. Under CSC's interpretation, on the basis of physical or mental requirements of one of these positions, the employee would be eligible for total disability retirement.

In appellate action, later confirmed by the courts, it was established that CSC need not search for a similar but less onerous job and that an employee need only be unable to perform the specific position occupied at the time application is made for retirement. Because the first appellate action was taken as early as 1922, CSC feels administrative precedent has been established which could not be reversed without a change in legislation. CSC also believes this administrative precedent precludes mandatory reassignment within the same occupational class or grade.

The general criterion used in making disability retirement decisions is that requirements for specific positions vary even in the same grade or class and individuals react differently to the same disabling impairment. Allowing retirement because of inability to perform one essential function of a position limits reassignment efforts. Many disabled annuitants have reported that they obtained employment in jobs apparently similar to their prior Government

positions. Automatically classifying such employees disabled makes retirement easy to attain and prevents an effective reassignment program. Where physical or mental requirements of positions within the same class are different, and the agency determines that the disabled employee can be reassigned with no harm to himself or the Government, mandatory reassignment should be effected.

ENCOURAGE REASSIGNMENT WITHIN CURRENT POLICY

Job reassignment is the primary responsibility of employing agencies and, should the employee agree, need not be limited to positions of the same grade or class. Federal agencies' coordinators for employment of the handicapped are responsible for certifying that efforts have been made to reassign such employees. CSC's responsibility is to encourage use of selective placement as a viable alternative to disability retirement.

A disability retirement application requires information regarding agency efforts to reassign the employee to a suitable position. In 62 percent of our statistical sample cases, this information was not included on the application submitted to CSC. We were advised that in such cases, CSC does not attempt to gather the required data.

An obstacle to reassigning a disabled employee may be reluctance on the part of the employee to accept a new job that he is capable of performing because he loses the right to retire on disability. Employee uncertainty as to whether he can adequately perform in the new position and whether he will like the new job may also be major reasons why employees prefer to retire on disability rather than accept different jobs.

An alternative to immediate permanent reassignment is using job details for up to 6 months to provide employees who become disabled the chance of trying a new job. If performance in the new position is mutually acceptable to agency, employee, and where applicable, unions, consideration can be given to making the reassignment permanent.

Another alternative to disability retirement is job modification. Depending on the nature of employee disability and the type of tasks the employee's job requires, jobs may be restructured so that the employee can continue to work despite his impairment. For example, an employee whose job requires continual standing but who is no longer able to stand for extended periods may have his job restructured so he is not required to stand continually.

We found many instances where greater efforts should have been made to use reassignment, job details, or job restructuring. About 21 percent of annuitants in a statistical sample we reviewed appeared capable of performing some functions of their prior jobs or being retained in other types of work. On this basis, we projected that about 15,000 annuitants receiving disability benefits were probably capable of performing other types of work at the time of retirement. For example:

--A 42-year-old operations manager retired because of an anxiety neurosis. Medical evidence revealed that the annuitant had an active duodenal ulcer which resulted from stresses on the job. The employee might have been able to assume a less stressful position.

--A 48-year-old painter retired because of lumbar osteoarthrosis--a back disability that produced pain on bending and lifting and that interfered with his work. He could have worked at a sedentary job.

--A 46-year-old supervisory firefighter retired due to chronic anxiety. A medical examination indicated that his job responsibililties caused extreme tension which resulted in a variety of symptoms, including marked depression. Instead of retirement, transfer to a less stressful job might have been possible.

--A 39-year-old meat packager retired because of phlebitis. The job required much standing. Transfer to another position or modification of the original position might have allowed his retention in a productive capacity.

As disabilities progress, employees may be less motivated to do their own or alternative jobs. Agencies may then conclude they would more efficiently carry out their missions by encouraging disability retirement. Because agency budgets do not reflect annuity outlays, disability retirement in lieu of reassignment may appear more cost effective to an agency, but not to the Government as a whole.

For the reasons given above, reassignments may be difficult to implement. Consequently, an effective reassignment policy will require a change in law and policies and strong commitments on the part of CSC and agency management. Having one program to provide employment opportunities for the handicapped--the blind, deaf, paraplegic, and quadriplegic--is somewhat incongruous with providing total disability retirement for less handicapped employees who are just unable to do their specific jobs.

AGENCY COMMENTS

CSC stated that its medical officers have assisted agencies, on an informal basis, in modifying job demands. CSC agreed that it was appropriate to encourage agencies to try reassignment when both the agency and employee want it, but stated that, under existing policies, it did not seem appropriate to impose job reassignment as a requirement. CSC added that it knew of no legal basis to reject an employee-initiated disability application for lack of information concerning reassignment efforts.

In 1961 the White House issued the current policy which states that agencies should consider disability retirement only after every feasible effort at reassignment has been made. In 1967, CSC proposed a study of the extent to which agencies were complying; the study was not conducted.

Near the end of our review, CSC initiated a study of disability retirement policies, intending to cover many of the same areas in this report. By 1977, CSC intends to identify problems in the law, regulations, policies, and administrative procedures and report any recommendations. Because of this study, CSC did not comment on any needed legislative or policy changes.

CHAPTER 3

IMPROVEMENT NEEDED IN CSC'S REVIEWS OF DISABILITY RETIREMENT APPLICATIONS

Decisions to grant disability retirement should be based on substantive medical evidence--evidence which supports a medical condition that prevents an employee from performing his job. Except where specific qualifications are required for safe and efficient performance, requirements for specific positions vary, even in the same grade and class, and individuals often react differently to the same disabling condition. In addition, correlation between degree of impairment and degree of disability may be widely divergent among positions. For example, visual impairment with adequate remaining central visual acuity may be of little importance in sedentary work, whereas adequate peripheral vision is required for all hazardous duty positions.

In processing disability retirement applications, a CSC medical officer reviews medical evidence and the applicant's superior officer statement submitted with the application, schedules any additional medical examinations required, reviews the reports, and decides to approve or reject the claim. Medical officers, either at headquarters or in regional offices, have final authority to approve or reject any claims. Headquarters medical officers review some regional decisions to insure consistency and assess performance, not to reverse any questionable decisions. In recent years about 95 percent of the disability applications have been approved.

MEDICAL EVIDENCE DID NOT SUPPORT DECISIONS

To determine whether annuitants' purported medical conditions were supported with sufficient evidence to justify disability retirement, our medical consultant reviewed 105 approved disability claims. Statistically, they represented 75,817 disabled annuitants in the age group 23 through 54 as of December 19, 1974. We did not include those age 55 and over because of the likelihood they would be eligible for other types of retirement.

The disability decisions appeared proper in 84 of the 105 cases. In the other 21 cases, representing 20 percent of our sample, medical evidence provided with the claims was inconclusive or did not support a disabling condition. The following table categorizes the 21 cases and shows the projected cases and estimated annual annuities associated with them.

	Sample cases		Projected cases	Estimated annual annuities
	Number	Percent		(millions)
Evidence did not warrant disability retirement approval	11	10.5	7,941	$34.4
Decision based on insufficient evidence	10	9.5	7,219	31.0
Total	21	20.0	15,160	$65.4

These cases were discussed with CSC's medical chief who generally did not agree with our conclusions. In the following examples, which illustrate cases where we concluded medical evidence did not support the decisions to grant disability retirement, we have capsulized the nature of disagreement.

--A cook, age 45, applied for disability retirement after 14 years of service because of "sinus problems, severe headaches and hypertension" claiming he was unable to perform his duties effectively and efficiently. Although his personal physician's examination revealed post nasal discharge and diagnosed recurrent sinusitis, an examination by another physician showed no evidence of any disease or defect other than mild hypertension. An examination performed by the Chief of the Occupational Health Unit of the Department of Health, Education, and Welfare indicated the employee was fit for service in the same or a comparable position and therefore did not recommend disability retirement. A specialist confirmed the sinusitis diagnosis, suggested thorough allergic tests, said the employee could not adequately do his job, but questioned whether he should be retired because the complete physical exam was within normal limits. Because the applicant worked as a cook, subject to hot and cold temperatures, CSC concluded this evidence warranted approval. But the recorded job duties would be performed in hot temperatures--a good environment for sinus problems.

--A mail carrier, age 50, applied for disability retirement because of low back pain which began 3 months before retirement. A medical examination 1 month before retirement revealed some muscle spasms

and X-ray changes in the lumbar spine, but the physician only recommended treatment. CSC concluded retirement was warranted because the physician's report was interpreted to mean the employee was unable to walk his route and lift the mail. This individual was apparently retired on disability after a single first bout of low back pain without any apparent previous history of the ailment.

--A clerk, age 51, was retired for hypertensive cardiovascular disease. Because the clerk had been receiving medication throughout a long history of hypertension, retirement was approved. But the blood pressure reading at the time of retirement had decreased to 155/90 indicating good control of this individual's hypertension.

In about 10 percent of the cases reviewed, medical evidence in the file was insufficient to make a decision. While available evidence indicated injuries or diseases, GAO's medical consultant could not conclude that disability retirement was warranted. In some cases, evidence did not specify the degree or severity of the injury or disease: in others, it was contradictory, yet no attempt was made to obtain additional evidence to support one physician's view over another's. For example:

--A former optometry aid, age 47, retired because of migraine headaches. CSC approved the application because of the personal physician's diagnosis of migraine headaches unresponsive to treatment. Medical evidence did not indicate frequency of the headaches or length of incapacitation. Without such information the decision to grant disability retirement was questionable.

--A machinist, age 39, was retired because of a strained back and other complaints involving movement of the lower limbs. An orthopedic examination 3 months before retirement revealed complete, unrestricted, painless motion of all joints in the upper and lower extremities. Despite these favorable physical findings and a favorable X-ray, the examining orthopedist made an unfavorable diagnosis. A physchiatric examination was also negative; the psychiatrist was of the opinion the machinist simply did not want to do his type of work any more and hoped to use retirement pay to train for a different job. CSC granted retirement on the basis of

the employee's complaints, the agency's statement that the employee was not performing 70 percent of his duties, and the orthopedist's unfavorable diagnosis. Over a prior 10-month period, the employee had made 73 visits to a first-aid station with trivial complaints. Because this evidence, added to the favorable physical findings suggested hypochondria, our consultant concluded additional evidence was needed to warrant retirement.

CSC recognizes the importance of gathering substantive evidence to support medical decisions granting disability retirement benefits, but the Bureau Director stated that obtaining competent and sufficient medical evidence was a major problem.

GAO believes some principal factors underlying decisionmaking and quality control problems were

--heavy workload requirements;

--limited medical staff;

--difficulty attracting qualified medical personnel;

--difficulty procuring when necessary, competent specialists;

--absence of medical standards describing substantive medical evidence; and

--inadequate evaluation of existing medical evidence.

The Director's opinion is that the Bureau faces a dilemma--determining the specific point in the data-gathering process at which sufficient medical evidence exists. CSC currently operates without criteria describing minimum supporting documentary evidence that should be compiled before approving an application for disability retirement.

CSC believes that 1 case in every 50 is questionable, but our consultant concluded that 1 case in every 5 can be challenged. In our sample cases, both CSC medical officers and our consultant reviewed the same documentation. Considering the judgment involved in reviewing cases and the likelihood of different medical opinions, more definitive criteria describing sufficient evidence would help insure consistent, reliable decisions among the medical officers.

Most decisions we questioned were rendered by regional medical officers. At the time of our review, most regional physicians had been CSC employees long enough that headquarters would try to review only 10 percent of their approvals. Regardless of the outcome of such a review, the regional officers have final approval authority. The medical chief said only in the most flagrant cases does headquarters attempt to get a regional decision reversed. The regional physicians do not have the advantage of collaboration as do their counterparts in headquarters. The medical chief said he planned to study the policy of decentralized approval authority and any benefits that might be derived from centralizing the entire administrative process.

CSC is more concerned about rejected applications than those approved. A medical officer reviews all rejected claims, but generally only 10 percent of those approved in the regions and only doctor-identified controversial ones at headquarters. From December 1973 to June 1976, headquarters reviewed about 8,800 of about 64,000 regional approvals and all 3,172 rejections. Of the total cases reviewed, about 6 percent were questioned for either lack of sufficient medical evidence or questionable final decision. Less than 2 percent of the approvals, but nearly 18 percent of the rejected cases, were challenged. CSC concluded that the cases needing review concentration were rejected ones.

Most rejected cases are subsequently appealed. Because the appeals process often upholds applicants, the effective rate of approved claims approaches 98 percent.

Each year CSC's workload increases. The number of disability retirements approved in 1975 was almost twice the number approved in 1970. A portion of the increase resulted from a 1974 tax ruling that allowed disability retirees sick pay exclusions until the mandatory retirement age of 70. During this same period, the Director encountered difficulties attracting sufficient qualified medical personnel. The total number of medical personnel onboard during our review ranged from 9 to 12. Regardless of the qualifications or abilities of these individuals, they processed more than 30,000 disability applications each year--a workload that prevents extensive case reviews. With the ever-increasing cost of the retirement program, it is essential that unentitled employees not be approved for payments. Better decisions, based on thorough evaluations of sufficient medical evidence, are necessary for improved program administration and cost control.

AGENCY COMMENTS

CSC believes its medical staff's decisions to allow disability retirement are professionally sound, correct, and based on adequate documentation. Also, CSC believes certain indicators suggest that the projected error rate, derived from GAO's sample, overstates the real error rate. CSC bases its opinion on these factors: practices have evolved over a long period, medical officers may consult one another, reviews have shown more errors in rejected applications, less than one-half of annuitants under age 60 report any earnings (on a voluntary basis), and disability annuitants show a higher mortality rate than active employees. Although not convinced that minimum documentation requirements would be as beneficial as we suggest, CSC agreed that a cost-benefit study is needed since it recognizes that its medical documentation is not perfect and that its doctors' judgments are not infallible.

CSC is also reluctant to make any changes in its review procedure that would delay approvals because that might cause hardships for applicants awaiting decisions. We believe the likelihood of such hardships would be somewhat alleviated if applicants were not encouraged to use sick leave before applying for disability retirement.

APPLICANTS SHOULD NOT BE ENCOURAGED TO USE SICK LEAVE

CSC encourages disabled employees who have large accumulations of sick leave to defer filing applications for disability retirement until their leave reaches a balance of approximately 60 days. Federal regulations also permit the granting of advanced sick leave--not to exceed 30 days--in cases of severe disability or ailments when required by an urgent situation. An employee, who has an obligation for unearned sick leave and is unable to return to work because of an incapacity, may have this obligation waived if he submits substantive medical evidence of his incapacity.

Using extended sick leave can adversely affect agency operations and increase operating costs. Employees on sick leave before retirement are included in personnel ceilings and continue on the payroll until their leave expires and they retire. Limits on manpower and funds could prevent hiring additional employees to replace those on sick leave. Consequently, some work may have to be deferred, the workload of employees on duty may increase, and overtime and hiring of temporary employees may take place. Funds from other programs may also be diverted to absorb the increased costs.

CSC does not maintain data on the amount of actual sick leave used by prospective annuitants before retirement or on the cost of advanced sick leave being waived. In response to another GAO report "Adequate Medical Evidence Needed When Approving Extended Sick Leave For Retiring Employees" (Feb. 19, 1974, B-152073) CSC has initiated a survey to evaluate agency practices on the granting of extended sick leave. CSC advised that the data being compiled in this survey would also serve as a basis for evaluating the current policy of advising employees to defer filing applications for disability retirement. This survey has been planned for completion in late 1977.

CHAPTER 4

MEDICAL AND ECONOMIC RECOVERY

MONITORING NEEDS IMPROVEMENTS

Until age 60, those temporarily disabled are by law subject to periodic medical examinations. Also until age 60, annuitants on either temporary or permanent disability are subject to an earnings limitation. In recent years, CSC has removed from the rolls less than one-half percent of those subject to these controls.

CSC's medical review process does not insure that decisions concerning annuitants' health are based on current medical evidence. In addition, CSC inadequately monitors outside employment, fails to verify outside income, and operates within a legislated income limitation that can be circumvented. If disabled annuitants are deemed recovered, either medically or economically, they have no reemployment rights in the Government. Although a priority referral system is available, it has seldom been used.

MONITORING MEDICAL RECOVERY

Monitoring the disability roll to identify annuitants who are recovered is an essential control feature to insure that only those persons who remain disabled continue to receive benefits. The law requires that temporarily disabled annuitants be given annual examinations to establish continuing disability. Annuitants classified as permanently disabled require no further medical review, but CSC may require examinations considered necessary to determine the facts concerning disability.

CSC's procedure is to schedule disabled annuitants for reexamination within 1, 2, or 3 years from the date of retirement examination, unless the individual will be age 60 or older within 1 year or the disability is permanent. The time frames are based on the severity of the disease or illness and prospects of recovery.

In 1972 a CSC study indicated that many annuitants, classified temporarily disabled, should have been classified permenantly disabled at the time of original determination or upon subsequent reviews. Of 21,510 temporarily disabled cases reviewed during the study, less than 1 percent was removed from the rolls due to recovery. As a result, CSC's Medical Division Chief concluded that the number of cases classified temporarily disabled should not exceed 5 percent of disability retirees.

CSC reviewed 18,000 temporarily disabled annuitants for calendar years 1973 and 1974 and converted over 93 percent to permanently disabled. This high conversion rate was consistent with CSC's emphasis on classifying annuitants as permanently disabled. Relatively few of them underwent medical examination before conversion.

Rather than conduct medical examinations, a CSC staff assistant makes an administrative case review. This review can result in a physical examination if it is considered necessary. All temporarily disabled annuitants age 58 or older are automatically classified as permanent. The remaining temporarily disabled are sent questionnaires, requesting disability and employment information. The questionnaire also requests that the annuitant, if receiving medical care, provide a physician's statement describing his present condition. On the basis of the annuitant's response and the medical evidence in the case, the CSC staff assistant determines whether annuitants classified as temporarily disabled should remain on the temporary rolls, be declared medically recovered, or changed to permanently disabled.

Ineffective review process

To determine the adequacy of CSC's review of temporarily disabled annunitants, our medical consultant reviewed 41 cases which were converted to permanently disabled status during February 1975. This review was limited to converted cases because relatively few temporarily disabled annuitants were retained in temporary status. We also assessed the written criteria used in making these decisions.

In 23 of the 41 cases, our consultant had major disagreements with the CSC decision to change the temporary status. His primary concerns focused on these factors: (1) frequently no recent medical evidence was obtained; thus, permanent status was granted without information on the current health of the annuitants and (2) the decisions to change to permanent status were made by an employee who had no medical qualifications, using insufficient criteria.

CSC did not agree with our consultant's conclusions. CSC is convinced that in cases where the medical data may be old, it is not necessary to acquire up-to-date information. We agree with CSC's argument that with some diseases that are chronic and occasionally progressive, such as arthritis, current medical evidence may only indicate relief from symptoms. All disabilities, however, are not chronic and progressive in impact on health. Thus, total reliance on old evidence to evaluate such cases does not

seem appropriate. The following examples from the cases we reviewed illustrate this point.

--A Government tax examiner retired in 1970 at age 35 after a heart attack. At the time, the annuitant's physician advised against returning to work. The annuitant suffered a myocardial infarction that required a pacemaker for 10 days. Because there was no record in the file since 1972, our medical consultant concluded there was no reason to change to permanent disability in 1975. Based on the data in the files, CSC's physician believed a change was justified. The file does not indicate whether the annuitant is currently employed. Considering the state of the art in medical treatment of cardiac patients, it would not seem appropriate to describe all such illnesses as chronic and progressive in their impact on health. Although this retiree's current annuity is about $3,600 per year, the annuitant would not be eligible for optional retirement until November 2005.

--A food service worker retired in 1973 at age 54 because of severe dermatitis which affected arms, legs and body. This condition precluded a return to food work if the disease remained as severe as indicated in the file. Because the last medical record was dated 1973, our consultant felt more recent medical evidence was needed before reclassifying the annuitant permanently disabled. CSC's physician was doubtful that there would be a complete remission of dermatitis enabling the annuitant to return to food work. For this reason, CSC considered the reclassification decision proper. The annuity is about $200 per month, but the annuitant would not have been eligible for normal retirement until February 1989.

In both of these cases, job reassignment might also have been possible. Although no evidence exists on any current employment, available medical evidence suggests they would be able to do other work.

We have reservations about CSC's quality control over this review and conversion process. The criteria the staff assistant used generally lacked sufficient depth to draw valid conclusions about the status of the annuitants' health. (See app. I.) A CSC medical officer reviewed about 10 percent of the conversion decisions, but the other 90 percent was left to the judgment of an employee not medically qualified. We believe better, more detailed criteria are needed to use in making these decisions.

Closer monitoring of annuitant's employment needed

Annuitants classified temporarily disabled are required each year to provide current job information including earnings. Permanently disabled annuitants are only required to report the amount of outside earnings; they are not required to explain how they earned the income.

Monitoring annuitants' employment activity serves as a control to detect those working in jobs similar to their Government jobs at the time of disability retirement. If an annuitant appears to be working in a similar job, we believe that CSC should determine whether the job involves performing duties which were used as a basis for disability retirement. If such duties are being performed, a medical examination should be conducted to determine recovery.

Our review of 51 disability cases, highlighted by CSC as high income earners, showed 18 annuitants who could be performing jobs similar to their prior Government jobs. The files, however, contained no evidence of attempts to obtain more details on the nature of the work. For example, a former Federal physician was placed on temporary disability for a stomach disease in 1967. There was no evidence in the file of subsequent medical reviews or of CSC attempts to determine the exact nature of current job duties. The file showed that the annuitant earned $46,930 from 1969 to 1970, while working in a position similar to his former Government position.

CSC did not closely monitor completeness of information obtained from temporarily disabled annuitants concerning outside employment and was not aware of the nature of permanently disabled annuitants' employment. CSC, therefore, could not determine the extent to which annuitants were working in jobs similar to their Government jobs at retirement. Consequently, we believe CSC should require more descriptive information on the nature of employment for all temporarily and permanently disabled annuitants. In addition to better monitoring of temporarily disabled annuitants, such information may result in the reexamination of many permanently disabled annuitants who have not had followup examinations.

In commenting on our report, CSC agreed that action should be taken to obtain more information regarding the nature of current job duties, especially in cases where they appear connected to the annuitants' former positions. To accomplish this CSC will work toward developing a data collection instrument in 1977. A minimum income level may be used in order to concentrate on the most costly potential abuses.

MONITORING ECONOMIC RECOVERY

Disability payments continue until the annuitant recovers or exceeds the statutory income limitation. The limit is that earned income cannot equal or exceed 80 percent of the current rate of compensation for the annuitant's last Government job in each of any 2 consecutive calendar years. Earned income excludes pensions or annuities, rents, dividends, social security, insurance policies, and investments in stocks and bonds. In addition, certain expenses may be deducted from earned income if the disabled annunitant requires special transportation, services, or equipment to be employed.

For calendar year 1973 about 44,300 disabled annuitants reported earned income--about 38 percent of the 116,441 annuitants who were mailed the income questionnaire. Some of the disabled annuitants earned sizable incomes but did not exceed the income limitation. Examples follow:

Annuitant	Outside earned income			Salary of prior Government job in			Earned income exceeding Government pay
	1972	1973	Total	1972	1973	Total	
A	$50,007	$ 5,393	$55,400	$ 6,406	$ 6,781	$13,187	$42,213
B	16,777	47,480	64,257	21,014	22,055	43,069	21,188
C	43,850	8,291	52,141	16,608	18,090	34,698	17,443

The current income limitation provision permits the annuitant over a 2-year span to earn more than in his prior Government job, to receive annuity payments tax-free up to $5,200 (see note on p. 6), and yet not be considered economically recovered. An annuitant's ability to fluctuate outside income and maintain disability payments is greatly facilitated by the current income limitation provision.

For example, Annuitant A in the above table clearly illustrates need for reassessing the definition of economic recovery. The annuitant's outside earnings exceeded the earnings limitation in the first year. In the second year, reported earnings were less than the limit, which enabled him to retain his $4,176 annual, tax-free annuity. For a 2-year period the annuitant's outside income plus annuity totaled $63,752. Assuming disability retirement had not occurred, he would have earned $13,187 in his former Government job for the 2-year period. As a result of inequities in the current income limitation provision, this disabled annuitant realized $42,213 more than he would have

in his last Government position and yet was not considered economically recovered.

Outside income not verified

Although CSC monitors annuitants' reported incomes, it does not have procedures to insure accuracy of the information. Before 1970 CSC compared income reported by a limited number of annuitants with the annuitants' Federal income tax returns. We were told that although this process showed some discrepancies, the procedure was discontinued because of public sentiment considering tax returns privileged communication. Without a formal income verification process, CSC is unable to insure the reliability of reported income.

In commenting on this report, CSC said that using tax returns gave a simple, inexpensive test, since the Internal Revenue Service assumed the burden of proving reported income. CSC believes it would be expensive to institute a comparable system with limited benefits. CSC invited specific suggestions as to how to do this without either acting contrary to public policy or having to create a system where the costs would be out of proportion to the benefits.

We agree that a process other than cross-verification with tax returns or social security records would be expensive. In 1976 the Privacy Protection Study Commission 1/ recommended no disclosure of individually identifiable tax data except when specifically authorized by Federal statute. We believe the Congress should study and resolve this sensitive issue of allowing Federal tax returns to be used to verify earned income.

PROVIDING EMPLOYMENT TO THE RECOVERED ANNUITANT

By definition, certain disabled annuitants are temporarily unable to perform the duties of their Government positions. Even those considered permanently disabled could recover medically or economically. The recovered disability annuitant or the annuitant restored to earning capacity has no reemployment rights in the Government, but does qualify for placement assistance through the Displaced Employee Program administered by CSC. Individuals in the Displaced Employee Program have priority referral over other eligible

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1/Established under the Privacy Act of 1974 to study and make recommendations to protect the privacy of individuals.

applicants for job vacancies and agencies must receive CSC approval before electing an applicant not registered in the program. The agency is responsible for assisting former employees in registering for the program. A CSC official said that this placement assistance was seldom used by recovered annuitants.

Within the Government a standing Interagency Committee on Handicapped Employees makes recommendations to advance employment opportunities for disabled persons. In 1975 a Committee report showed two principal reasons why the Displaced Employees Program was not working.

--Agencies were not referring disabled employees to the program because, in many instances, personnel offices were not aware of the program or were unaware that the annuitants had recovered.

--Little emphasis was placed on employees who had recovered from disabilities because the program was originally designed to aid employees adversely affected by reductions in force.

Annuitants recovered before age 60 lose their annuities 1 year after medical recovery, upon reemployment by the Government, or at the end of the next calendar year following economic recovery. According to CSC, the continuation of the annuity for an additional year is designed to serve as an incentive to seek employment and to allow for a smooth adjustment to an expected decline in income. Once such payments cease, the annuitant is considered involuntarily separated, and depending on length of creditable service, may be eligible for (1) a deferred annuity at age 62, (2) if at least age 50, a 20-year discontinued service annuity commencing immediately, or (3) a 25-year discontinued service annuity, commencing immediately.

Still, an annuitant may, once recovered, have neither job nor annuity. This possiblity could contribute to few annuitants being deemed recovered and many annuitants being categorized permanently disabled. During fiscal year 1974, of about 116,000 disabled annuitants under age 60, only 51 were deemed medically recovered and only 237 were ruled economically recovered.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

What should be the Government's responsibility when an employee is no longer medically able to do his job? Should the Government find the employee another job, offer rehabilitation, or provide job retraining? Or should the Government continue to encourage the employee to retire and collect an immediate annuity independent of the employee's loss in earning power? The Government needs to reevaluate its civil service disability retirement law and policies with a view toward encouraging retention of potentially productive employees.

Under the civil service disability retirement program, employees can be considered disabled for their jobs and yet do other work. Over the years the legislated definition of disability has been interpreted to mean that an employee unable to do one essential function of his job is entitled to disability retirement. This narrow, occupational disability definition does not facilitate reassignment, job redesign, or searches for other means to retain employees.

Both retirement and reassignment can be effectively used as long as decisions to retire or reassign are based on substantive information and prudent professional judgment. If the disabled employee can perform in other positions and the agency can find a position for which the employee is qualified, the agency should have reassignment authority and actively seek an alternative position, giving appropriate consideration to the employee's needs. At present, employees are not obligated to accept reassignment and have several major disincentives for not doing so. Agencies may also see disability retirement as more advantageous than reassigning an employee with less motivation.

CSC has not adequately enforced agencies' adherence to current reassignment policy by requiring that disability retirement applications submitted by agencies contain sufficient information on reassignment efforts. Although this lack of enforcement may have resulted in employees retiring needlessly, it is perhaps indicative that CSC recognizes the difficulty of attempting reassignment within the existing law. Efforts should be exerted to encourage greater use of job details, job restructuring and job reassignment. Otherwise, other persons will be

hired while potentially productive employees will retire and receive annuities.

The basic purpose or intent needs clarification. When a retirement program for both age and disability was enacted in 1921, the statement was made that it would revitalize an aged, infirmed work force. Although it is not clear that this was intended to guide the administration of the disability provisions, CSC prefaced its comments on our report with this statement. (See p. 36.) CSC then said that, for the worker whose abilities and motivation have become marginal as a result of physical problems, disability retirement is mutually beneficial to the Government and the employee. We believe this perspective has influenced initial approvals, reassignment efforts, and subsequent monitoring of those on the roll. Over the past 56 years, the civil service work force has changed considerably--the average age is now about 42.5, life expectancies have increased with longer useful work lives. In this environment, we question that the statement above, if ever intended as such, is an appropriate guide for disability retirement today.

In recent years an estimated 20 percent of disability retirement applications have been approved when evidence did not support a disabling condition or was insufficient to make a decision. CSC needs criteria describing the minimum supporting documentary evidence that should be compiled before approving an application for disability retirement. Medical officers should insure that all pertinent medical information based on these prescribed standards has been obtained before approving disability claims and conversely should reject claims when the medical evidence is not sufficient or clearly indicates a preexisting disability has not sufficiently worsened.

CSC's disability workload has increased substantially since 1970, and, during the same period, CSC encountered difficulties attracting enough medical personnel. Despite these problems, the ever-increasing cost of the retirement program makes it essential that unentitled employees not be approved for payments. In addition, CSC should not encourage employees to use sick leave before applying for disability retirement. Use of extended sick leave can adversely affect agency operations, increase costs, and increase the likelihood of hardships in the event approval decisions are delayed.

CSC uses inadequate criteria for converting the status of disabled annuitants from temporary to permanent. Frequently these conversion decisions are made without current

medical evidence or the opinion of medical personnel. Although the decisions seem to reflect a desire to reduce the number of temporarily disabled annuitants, cases reviewed annually, and administrative costs, we believe permanent disability should not be granted without current, supporting medical evidence.

In monitoring employment of disabled annuitants, more specific information on current job duties is needed to properly evaluate annuitants' disability status. CSC has no way of knowing whether permanently or temporarily disabled annuitants are performing functions similar or identical to those performed in their last Government job. Procedures should be established to gather this information from all annuitants reporting outside earnings and controls need to be established to insure that information received is complete.

The current income limitation provision can be manipulated; annuitants have earned more than the pay for their prior Government jobs over a 2-year span, received sizable annuity payments tax-free up to $5,200 a year, and yet were not considered economically recovered. In addition, the income limitation cannot be effectively enforced without verifying the accuracy of reported income data--a procedure CSC discontinued in 1970. A better definition of economic recovery and stronger enforcement procedures would add integrity to the disability program and provide assurance that only those annuitants entitled to benefits are receiving them.

If disabled annuitants are deemed recovered, they have no reemployment rights in the Government; although a priority referral system is available, it has seldom been used. Once an annuitant recovers, he may have neither job nor annuity--a possibility which may contribute to many annuitants being categorized permanently disabled and few annuitants being deemed recovered.

RECOMMENDATIONS TO THE CIVIL SERVICE COMMISSION

We recommend that the Chairman, CSC:

--Encourage job reassignment by (1) directing agencies to try all possible alternatives to retain productive employees by job modification, or changing job details rather than disability retirement and (2) requiring agencies to include on any disability application sufficient information concerning these efforts.

--Develop standards describing the minimum substantive documentary medical evidence required for approving disability claims and conduct periodic studies to insure adherence to the standards.

--Discontinue its policy of advising employees to use extended sick leave before filing applications for disability retirement.

--Develop sound, detailed criteria to use in annually reviewing temporarily disabled annuitants.

--Require more specific information on disabled annuitants' current job duties to use in evaluating their disability status.

--Develop means to independently verify annuitants' reported income.

--Analyze, as part of the ongoing policy study, the adequacy of annuities for those severely or totally disabled.

RECOMMENDATIONS TO THE CONGRESS

The Congress should reevaluate the civil service disability retirement provisions and enact legislation that will encourage, instead of discourage, retention of potentially productive employees. Any new legislation enacted should require Federal agencies, except for compelling reasons, to reassign employees to vacant positions within the same occupational class when the applicant is able to do that job. Reassignment to a lower graded position should also be authorized with appropriate incentives, such as saved pay.

In addition, the Congress should revise the definition of economic recovery to preclude annuitants earning more than their former Government pay and yet retaining their annuities. Because the payment of those annuities is predicated on a level of earned income, the sensitive issue of using Federal tax returns to independently verify reported income should be studied and a resolution legislated.

GAO MEDICAL CONSULTANT'S EVALUATION OF CIVIL SERVICE COMMISSION GUIDELINES FOR DETERMINING PERMANENT DISABILITY

CRITERION 1: All cases in which the applicant is 58 years old or older

EVALUATIVE COMMENT

It is difficult to react to a criterion that indicates that an applicant who is 58 years old would automatically be placed on permanent disability. Obviously some people of that age or older are in better health than some people who are younger than 58. The disability provision states that temporarily disabled annuitants must undergo annual medical examinations. An annuitant, age 57, who is classified on temporary disability, would be changed to permanent the moment he reaches 58. a/

CRITERION 2: Arteriosclerosis

(a) Cerebrosclerosis--with evidence of cerebral ischemia, etc.

(b) Peripheral vascular with claudication or other evidence of ischemia.

(c) Cardiovascular--with angina or other evidence of myocardial ischemia; recurring myocardial infarctions; infarctions with secondary sequelly such as aneurysms, decompensation, infarctions with resultant cardiac phobias and history of cardiac surgery such as coronary transplants.

EVALUATIVE COMMENT

(a) It might not be possible to show from a review of medical records what "evidence of cerebral ischemia" would be. Even if such evidence were determinable, it

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a/This practice emanated from legal provisions that require examinations until age 60 but allow an extra year's annuity upon recovery.

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would be difficult proving that this would be cause for an individual to be placed on permanent disability. For example, the occurrence of a stroke would provide evidence of cerebral ischemia. However, this might be a mild stroke which might be followed by complete recovery and would, under the circumstances, not warrant permanent disability. On the other hand, if an individual had suffered a cerebral hemorrhage with a severe stroke followed by considerable residual weakness, then the classification of permanent disability would be understandable. These guidelines make no such distinction.

(b) The same reservations as above apply to this criterion.

(c) This seems to be a rather confusing guideline, since in the first case it indicates that angina alone would be reason for placing an individual on permanent disability. This is not so. On the other hand, some later criteria, namely recurring myocardial infarctions and infarctions with rather severe secondary sequellae, are reasonable.

CRITERION 3: Chronic disabling arthritis--hypertrophic, osteoarthritis, spondolitis, and rheumatoid arthritis.

EVALUATIVE COMMENT

This criterion seems to indicate that any individual with evidence of an arthritis, such as osteoarthritis, would automatically be placed on permanent disability. There appears to be a governing phrase at the beginning of this criterion "chronic disabling arthritis." However, there is no clear definition of what this is and of how much disability one is dealing with. For example, a woman of 52 with osteoarthritis of a knee joint which produces some disability which interferes with her being able to walk long distances should certainly not be precluded from performing in a secretarial capacity. However, this criterion would, in fact, do just that.

CRITERION 4: All degenerative diseases of the lungs--bronchiectasis, emphysema, and moderate to severe chronic bronchitis (asthmatic).

EVALUATIVE COMMENT

It would appear that if an individual has a diagnosis of emphysema he or she would automatically be placed on

permanent disability. This seems quite unrealistic, since emphysema is of all degrees from very mild to very severe. Furthermore, it is difficult to believe that a person with "moderate" bronchitis should be placed on permanent disability. From a case file review, it might be difficult to determine whether a person with bronchitis has it in mild form or whether it is moderate or severe.

CRITERION 5: All moderate to severe psychoneurosis except acute depressions, aggravated personality conditions such as passive aggressive who are no longer able to cope with their surroundings resulting in psychosomatic symptoms as a defense mechanism. Severe phobias especially those iatrogenically induced. (Determinations of psychoneurotic and psychotic conditions should be based on competent psychiatric evaluations.)

EVALUATIVE COMMENT

The best thing about this criterion is the last sentence which indicates that "determinations of psychoneurotic and psychotic conditions should be based on competent psychiatric evaluation." Supposedly the medical review staff would automatically seek such consultation on a current basis before making a determination.

CRITERION 6: All chronic psychosis. Manic depressive psychosis with frequent manic depressive cycles. Schizophrenia with a long and recurring history of exacerbations. Acute and first episodes of schizophrenia with current therapy need not be deemed permanent.

EVALUATIVE COMMENT

This criterion is appropriate.

CRITERION 7: All malignancies except localized skin or in situ lesions. Early carcinoma of the breast with simple mastectomy need not be deemed permanent. Anxiety associated with it might, however, be of such severity that the application be allowed and deemed permanent.

EVALUATIVE COMMENT

This guideline indicates that all malignancies should be considered as permanently disabling, except for local

skin lesions. The next sentence then indicates that if a woman has a simple mastectomy for cancer of the breast, that need not be deemed permanent. This is the kind of paradox which makes a judgment on the part of the reviewing staff member nearly impossible. Clearly, other cancerous conditions exist which might well be in the same category as an early carcinoma of the breast, but they are not spelled out in the guidelines. It should be pointed out that many people live long after malignancies have been diagnosed, and live productive lives at that. To automatically classify a malignancy as permanently disabling would be wrong and not calculated to improve the emotional status of the sufferer.

CRITERION 8: All progressive diseases of the nervous system such as Parkinson's disease, multiple sclerosis, and chronic brain syndrome.

EVALUATIVE COMMENT

This criterion is appropriate with a slight reservation, namely that some neurological conditions are slow to develop and a person may be well able to maintain a useful occupation for many years after a diagnosis has been made. For example, a patient with multiple sclerosis may continue to work for 10 years or more without appreciable interference with their occupation. Accordingly, this needs to be taken into consideration.

CRITERION 9: Progressive and debilitating gastrointestinal disorders such as cirrhosis, pancreatitis and ulcerative colitis, chronic diverticulitis, with frequent periods of reactivation, chronic ulcers when medical evidence reveals an anxiety or other emotional component that would lead to an exacerbation on returning to the same work situation and ulcers with resultant surgery having a dumping syndrome or other adverse effect.

EVALUATIVE COMMENT

This criterion is appropriate.

CRITERION 10: Severe diabetes or secondary complications such as neuritis, retinitis, etc. Hyperthryoidism with the sequelly of visual or nervous complications, Addisons' disease, and Cushing syndrome.

EVALUATIVE COMMENT

The designation of severe diabetes as being permanently disabling is inappropriate. A person with severe diabetes who is, nevertheless, controlled with diet and insulin may perform quite as well as an otherwise normal person. A severe, uncontrolled diabetic should be classified as permanently disabled.

CRITERION 11: Atopic dermatitis (eczema) when due to an agent in the employee's position or work area. Psoriasis when severe or accompanied by a frequently associated depression.

EVALUATIVE COMMENT

This criterion is appropriate.

CRITERION 12: Collagens disease such as systemic lupus erythemotosis, polyarthritis nodosa, etc.

EVALUATIVE COMMENT

This criterion is appropriate.

CRITERION 13: Disc disease in arduous positions with continuing secondary radiculitis. Good results frequently follow surgery but ability to return to work is determined by motivation.

EVALUATIVE COMMENT

This criterion is not too understandable. It would also seem that the reviewing staff assistant would have difficulty in following it.

CRITERION 14: All other progressive degenerative disease not previously mentioned.

EVALUATIVE COMMENT

This criterion is clearly a catch all which does not specifically indicate what the review staff will encounter.

CRITERION 15: All cases in which history of a diagnosed disability is disqualifying for entry into employment. As an example, a history of a neurosis is disqualifying for the position of air trafric controller. A neurotic

APPENDIX I

individual would not be medically eligible to return to his former position.

EVALUATIVE COMMENT

This criterion is appropriate.

APPENDIX II

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

JUL 19 1976

Mr. H. L. Krieger
Director, Federal Personnel and Compensation Division
U.S. General Accounting Office
441 G Street, NW.
Washington, D.C. 20548

Dear Mr. Krieger:

This is a response to your May 19, 1976 letter which enclosed a draft of your proposed report to the Congress on "Civil Service Disability Retirement: Needed Improvements." We have read the report and would like to offer the following comments on the report and its recommendations.

We find the overall tone and viewpoint of the report seem to ignore the original purposes of the retirement system and depict disability retirement as purely a benefit to the employee, one which must be denied until the employee proves that it has been earned. The original retirement act was approved 56 years ago. In both the Senate and House reports on the bill, it was established that the intent of the act was to revitalize the government work force which had become inefficient and wasteful for lack of a remedy for aged and infirm employees. The following are some excerpts from the legislative history:

> "It has long been patent that, in the various administrative branches of the Government, employees have been retained long after they had, by reason of age and bodily infirmity, ceased to be efficient. The law having made no provision for their support in whole or in part during their declining years, the heads of departments and bureaus have through sympathy kept many aged employees in the nominal service of the Government and their names on the payroll. The real work of the position, in such cases, has devolved on other and younger employees. This, of course, has resulted in loss to the Government, and it would appear that in some cases the equivalent of two salaries has been, or is being paid for that service for which the compensation should have been but one salary. Of course, work done by those whose faculties are impaired by reason of age is not as a rule efficiently done, and the Government in this respect sustains a loss difficult to estimate.
>
> "The system is a vicious one, both from the standpoint of economy and efficiency. To the extent that the employee, drawing the regular salary which his position commands, is unable to perform fully or efficiently the work of the average person in a like position, such employee is a

pensioner of the Government, and, as above intimated, the attention of your committee has been called to many cases where the service rendered by the employee was so slight that he is practically a pensioner to the full amount of his salary...

"The system is unjust to the head of a department or bureau charged with the responsibility of the efficient and economic management of the business of such department or bureau. Few would say that the human sympathy which retains the aged employee after his usefulness is gone in whole or in part is not without commendation, and yet the public demands, and rightfully, that the public business be conducted both economically and efficiently...

"Any system which permits the public business to be carried on without fulfilling this requirement is unjust to the public." (Senate Report No. 99, dated July 23, 1919, to accompany bill S. 1699 which was passed and was approved May 22, 1920. It should be noted that retirement for age and for disability were being considered together.)

While we recognize our responsibilities to administer disability retirement fairly and efficiently, we also are fully conscious that disability retirement works to the public good in helping management to maintain an effective and productive work force. For the worker whose abilities and motivation have become marginal as a result of physical problems, disability retirement is mutually beneficial to the government and to the individual concerned.

In chapter two, the report discusses "Need to Reevaluate Disability Retirement Policies". The Commission has undertaken a study in this area which is still in progress. A report stating our findings and recommendation should be finished in 1977.

In chapter three, the report discusses "Improvement Needed in CSC's Reviews of Disability Retirement Applications." While we recognize the need for independent appraisal and review of all of our functions, we feel that, in this area, it is well to recognize the limitations of the independent reviewer. The area involves experienced medical judgment in application of specific provisions of a law. The experience must include unquestioned competence as a doctor, familiarity with job requirments, and practice in relating these to the law in specific cases. We feel that the documentation of our cases is sound under existing law, given the expertise of the CSC medical staff. Our present medical director has the additional professional recognition of being President of the Council of Federal Medical Directors For Occupational Health. He also has been responsible for our medical review for five years and is fortunate in having available to him the service of our former medical director who was responsible for our medical review for twenty years and is presently a reemployed annuitant with the Commission. Together they represent 25 years of supervisory medical responsibility concerned with the intricacies of the retirement law.

Chapter four contains a discussion of "Medical and Economic Recovery Monitoring". We feel that the findings here boil down to a question of medical judgment.

The report also states (briefly, in the Digest (page ii) and at greater length (pages 14, 15) in the report body) that "About 28 percent of the disability retirement applications GAO reviewed had been approved without evidence to support a disabling condition or without sufficient evidence to make a decision."

When we initially learned of this problem, our Acting Assistant Director for Health (Medical Doctor) met with GAO's medical consultant and examined the evidence GAO had supporting the cases under review.

[See GAO note 2 on p. 42.]

We have our Assistant Director's comments on the cases on file, however, we do not feel it appropriate to include lengthy clinical details of individual cases in a formal audit report. Likewise, we do not agree with most of the GAO medical examiner's opinions. We do not contest the competence of the GAO medical examiner but do not concur that his conclusions have the validity of the Commission's Medical staff's conclusions.

Listed below are our comments on the specific recommendations:

GAO Recommendation: "We recommend that the Chairman, CSC, encourage job reassignment by (1) directing agencies to use reassignment, job modification, or job details when feasible in lieu of forwarding disability retirement applications to CSC, and (2) by rejecting retirement applications when they lack sufficient information regarding reassignment efforts." [Revised in final report.]

CSC Comment:

[See GAO note 2 on p. 42.]

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We recognize the continuum of physical and psychological demands within an occupational series and have assisted agencies in modifying job demands to fit the needs of employees with health impairments which are not totally disabling.

It does seem appropriate for us to encourage agencies to try to reassign employees to other jobs and we will be glad to continue along that line but we feel that reassignment is desirable only when the agency and the employee both want it. It does not seem appropriate to us to try to impose it as a requirement.

Filing for disability retirement is normally an employee initiated action, not an agency initiated action. If the employee files an application, we know of no legal basis to reject it for lack of information concerning reassignment efforts when the application qualifies medically. If qualified medically, the employee has just as much right to disability retirement as an employee has for service retirement when he (she) has met the age and service requirements.

GAO Recommendation:
"Develop standards describing the minimum substantive documentary medical evidence required for approving disability claims." [revised in final report]

CSC Comment: [Later amended; agreed to study costs and benefits.]

In theory, this appears to be a valid comment, however, disability determinations are geared to the nature of the job and, as such, do not lend themselves to rigid guidelines. In fact, the GAO medical consultant, in reviewing other medical guidelines used in determinations of permanent disability commented that medical conditions (such as emphysema) vary in degree from mild to severe and to make an automatic determination based solely on a diagnosis is unrealistic without using professional judgment taking other factors into consideration. We strongly feel that minimum documentation guidelines, like medical guidelines, are highly unrealistic given the individualized nature of disability case determination.

GAO Recommendation:

"Require agencies to make mandatory reassignments to positions within the same occupational class when feasible." [Changed to congressional recommendation.]

CSC Comment:

In regard to reassignment or retraining in lieu of disability retirement, we must point out that we do not have legal authority to do this on a mandatory basis. We agree that when feasible and when agreeable to both the agency and the employee, reassignment should be encouraged. We are

mindful that a poorly motivated, mandatorily reassigned worker, who may conceivably still be suffering with his original disability, will proobly be inefficient to the same extent that he(she) would have been in the days before the retirement system was instituted. Clearly, the intent of the law was to maintain the vitality of the work force.

We acknowledge that some disability retirees may subsequently work in other jobs after retirement. A few may be in jobs similar to those held during their Federal employment. On page 8 of the report, it is acknowledged that for the 60 percent that did not report earned income, the annuities well could fall short of "income requirements". Consequently, for those that can engage in some form of gainful employment, there is ample incentive to do so. Our own study shows that the average annuity paid to employees who retired on dicability in FY75 was $6,024 per year. Nearly one half of these received annuities, before taxes, of $4,999 or less and about 2,000 received annuities of less than $2,000.

[See GAO note 2 on p. 42.]

GAO Recommendation:

"Discontinue its policy of advising employees to use extended sick leave prior to filing applications for disability retirement."

CSC Comment:

We reserve comment on this recommendation pending completion of the survey on sick leave instituted in response to GAO's report "Adequate Medical Evidence Needed When Approving Extended Sick Leave for Retiring Employees" (B-152073) dated February 19, 1974. The survey is scheduled for completion in late 1977.

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Sick leave is one of the employee's rights. The employee, if he (she) chooses, can merely use up sick leave, then apply for disability retirement. While we agree that extended sick leave poses problems for management, our not advising employees that they may use extended sick leave would make us deficient in informing employees of their rights.

GAO Recommendation:

"Develop sound, detailed criteria to use in the annual review of temporarily disabled annuitants."

CSC Comment:

The GAO analysis of the procedures used in monitoring the health status of temporary disability annuitants is largely correct. However, we take exception to the analysis of our determinations in the sampled cases. We have a detailed analysis of cases identified as "having no supporting evidence/no recent evidence/evidence showing recovery" which we feel is not in agreement with your summarization. Our analysis, which contains lengthy clinical comment and is not appropriate for an audit report, is available to your auditor.

GAO Recommendation:

"Require more specific information on disabled annuitants' current job duties to use in evaluating their disability status."

CSC Comment: [Later amended; agreed to move toward implementation.]

This would present major practical difficulties:

The current criteria using earnings is simpler to administer and can be administered by non-medical personnel. The proposal would further tax our overextended medical staff.

Use of the proposal would require us to use unverified data (which would be unfair) or require additional work by job analysts to verify the duties (which would probably cost more than it would save).

GAO Recommendation:

"Develop a means to independently verify annuitants' reported income."

CSC Comment:

We discontinued using IRS tax return information because our use appeared to be contrary to a major public policy. Using tax returns gave a simple test which was inexpensive to the Commission, since IRS was assuming the

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burden of proving reported income. It would be expensive for the Commission to institute a comparable system to prove reported income for the relatively few disabled employees, and the benefits to be attained seem limited. We would welcome specific suggestions as to how we may do this without either acting contrary to public policy or having to create a system where the costs would be out of proportion to the benefits.

Thank you for giving us an opportunity to comment on the draft report.

Sincerely yours,

Thomas A. Tinsley
Director

GAO notes 1: Page number references in this appendix may not correspond to pages of this final report.

2: Deleted comments related to matters in the draft report which have been revised in the final report.

PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

CIVIL SERVICE COMMISSION

	Tenure of office	
	From	To
COMMISSIONERS:		
Robert E. Hampton, Chairman	Jan. 1969	Present
Georgianna Sheldon, Vice Chairman	Mar. 1976	Present
L. J. Andolsek, Commissioner	Apr. 1963	Present
Jayne B. Spain, Vice Chairman	June 1971	Dec. 1975
James E. Johnson, Vice Chairman	Jan. 1969	June 1971
John W. Macy, Jr., Chairman	Mar. 1961	Jan. 1969
Robert E. Hampton, Commissioner	July 1961	Jan. 1969
EXECUTIVE DIRECTOR:		
Raymond Jacobson	July 1975	Present
Bernard Rosen	June 1971	June 1975
Nicholas J. Oganovic	June 1965	May 1971
DIRECTOR, BUREAU OF RETIREMENT, INSURANCE AND OCCUPATIONAL HEALTH:		
Thomas A. Tinsley	Jan. 1974	Present
Andrew E. Ruddock	Sept. 1959	Dec. 1973