

ESTHER ROSS

FEBRUARY 23, 1940.—Committed to the Committee of the Whole House and ordered to be printed

Mr. GAVAGAN, from the Committee on War Claims, submitted the following

REPORT

[To accompany H. R. 7072]

The Committee on War Claims, to whom was referred the bill H. R. 7072, having considered the same, report favorably thereon without amendment and recommend that it do pass.

The purpose of this bill is to reimburse Esther Ross in the amount of \$691.48, which was the expense incurred by her for the hospitalization of her daughter, Beatrice Ross, World War veteran (C-1006059), at the Westborough State Hospital, Westborough, Mass., from January 16, 1934, to May 15, 1935, it being alleged by the claimant that said Beatrice Ross was erroneously dropped from the hospitalization rolls of the Veterans' Administration, which denied this reimbursement on the grounds that it was not authorized by law.

The subjoined report of the Veterans' Administration, after a review of the case, concludes with the statement:

The suspension of authorized treatment in a Veterans' Administration facility for the short period in question is regretted, but after full consideration of the merits and the effect of proposed legislation of this nature the Veterans' Administration is unable to recommend favorable action thereon by your committee.

Despite this conclusion of the Veterans' Administration your committee after hearing Representative Thomas A. Flaherty, author of the bill, in its behalf, is constrained to believe there is a strong moral obligation on the part of the Government to furnish the claimant with the relief requested.

Further than that, as the report of the Veterans' Administration shows itself, it seems there was a great deal of misinterpretation and misunderstanding of rules and regulations governing such matters. There is no question as to the matter of the claimant's daughter having performed service as a yeoman in the United States Navy, enlisting on April 3, 1917, and serving until April 3, 1920, when she received an honorable discharge.

As a committee we feel that the Government should discharge its moral as well as legal obligations with respect to this claim.

There follows herein the report under date of November 10, 1939, of Brig. Gen. Frank T. Hines, Administrator of Veterans' Affairs:

VETERANS' ADMINISTRATION,
Washington, D. C., November 10, 1939.

Hon. REUBEN T. WOOD,
*Chairman, Committee on War Claims,
House of Representatives, Washington, D. C.*

MY DEAR MR. WOOD: This is in further response to your request of July 20, 1939, for a report on H. R. 7072, Seventy-sixth Congress, "A bill for the relief of Esther Ross."

The bill provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Esther Ross, Brookline, Massachusetts, the sum of \$691.48. The payment of such sum shall be in full settlement of all claims against the United States by the said Esther Ross for reimbursement of all expenses incurred by her for the hospitalization of her daughter, Beatrice Ross, World War veteran (C-1006059), at the Westborough State Hospital, Westborough, Massachusetts, during the period from January 16, 1934, to May 15, 1935. The said Beatrice Ross was erroneously dropped from the hospitalization rolls of the Veterans' Administration during such period and reimbursement for such hospitalization expense denied on the ground that such reimbursement was not authorized by law."

Beatrice Ross, an ex-chief yeoman, United States Navy, enlisted April 3, 1917, was released from active duty August 9, 1919, and honorably discharged April 3, 1920. This veteran's condition has been diagnosed as dementia praecox, incompetent, which has been held not to have been incurred in her military service, either directly or by presumption, by rating of February 25, 1928. On March 6, 1930, her claim was again reviewed and on the basis of the evidence then in file it was held that Miss Ross did in fact suffer from a compensable neuropsychiatric condition prior to January 1, 1925, and her claim was allowed granting her presumptive service connection from December 31, 1924, under the provisions of the World War Veterans' Act, 1924, as amended. However, on November 17, 1933, her claim was reviewed by the special review board under the provisions of Public, No. 2, Seventy-third Congress, March 20, 1933, and Public, No. 78, Seventy-third Congress, June 16, 1933, and it was held by the above board that her condition existed prior to her enlistment and that it was not aggravated during her military service. Accordingly, her disability was held as not having been incurred in or aggravated by her naval service. She was assigned a permanent and total rating by reason of her nonservice-connected disability under the provisions of Veterans Regulation No. 1 (a), as amended, part III, which provides for the payment of \$30 per month under certain conditions. On April 23, 1934, her claim was reviewed under the provisions of Public, No. 141, Seventy-third Congress, March 28, 1934, and service connection was denied.

Miss Ross was maintained in the Westborough State Hospital, Westborough Mass., upon authorization of the Veterans' Administration, from April 1, 1930, to January 15, 1934.

Under date of January 20, 1934, due to a misunderstanding in the interpretation of Public, No. 2, Seventy-third Congress, March 20, 1933, and the Veterans Regulations as to authority for utilizing contract private hospitals in the treatment of female veterans, whether for service-connected or non-service-connected disabilities, the Department of Mental Diseases, Boston, Mass., was advised that the Veterans' Administration would not be responsible for the maintenance of this veteran after January 15, 1934, for the reason that the special review board had rendered a decision denying service connection for the disability in question.

The question of entitlement of women beneficiaries suffering from non-service-connected disabilities in contract hospitals was made the subject of a study and on April 5, 1935, an all-station letter was issued, under which the instruction regarding hospitalization at Government expense in this class of cases was clarified. In the above letter the applicable regulations were explained.

While Veterans Regulation No. 10 (b), which was effective July 28, 1933, provided in paragraph XIX that private facilities for which the Administrator deemed it necessary to contract could be utilized "for women veterans of any war" and there was no requirement as to service connection of the condition for which female veterans were to be hospitalized, the instructions in effect at that time were ap-

parently susceptible of misinterpretation. As a result of the all-station letter of April 5, 1935, above referred to, hospitalization for this veteran was authorized at the Westborough State Hospital as a Veterans' Administration beneficiary from May 15, 1935. The expense for which reimbursement is sought under H. R. 7072, supra, was for the individual between January 16, 1934, and May 15, 1935, at which time this patient was maintained in the above hospital at the expense of her guardian.

Since under existing regulations the only authority for reimbursement by the Veterans' Administration for unauthorized medical treatment rendered subsequent to March 19, 1933, is where the treatment was for a service-connected disability which at the time of treatment was sufficient to entitle the veteran to compensation therefor, where the treatment was rendered in a medical emergency, where Government facilities were not feasibly available at the time, and where delay would have been hazardous, there is no legal authority to make reimbursement for the expenses incurred by the guardian for the period this veteran was hospitalized without prior authority, even though such hospitalization could have been continued at Government expense.

While the hospitalization of the veteran could have continued for the period in question at the expense of the Government, there is for consideration the fact that the care was for a disability not connected with the military service. Under existing law, the preference for hospitalization is given to those veterans suffering with service-connected disabilities and, as heretofore stated, reimbursement for unauthorized expenses is provided in exceptional instances solely where such treatment was afforded service-connected disabilities. It is not believed that the fact that treatment is afforded under existing law for non-service-connected disabilities under certain conditions that there exists thereby a right comparable to the right to treatment for service-connected disabilities.

While the failure to continue the treatment of the veteran in this case over the period in question under Government expense was due to misinterpretation of existing instructions the situation was rectified and treatment continued at Government expense and probably would have been corrected sooner had the matter been brought to attention of central office immediately upon discontinuance of the authorization in 1934.

The suspension of authorized treatment in a Veterans' Administration facility for the short period in question is regretted, but after full consideration of the merits and the effect of proposed legislation of this nature, the Veterans' Administration is unable to recommend favorable action thereon by your committee.

Very truly yours.

FRANK T. HINES, *Administrator.*



