



Paralyzed Veterans  
of America

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# Washington

## UPDATE

*Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.*

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**\*\*\*PRIORITY\*\*\***

The Government Relations staff is still looking for stories about problems that our members have experienced during air travel. Please visit [www.AirAccess30.org](http://www.AirAccess30.org) and share your story.

### **Senate Unanimously Confirms Dr. David Shulkin as Secretary of Veterans of Affairs**

On February 13, 2017, the Senate unanimously confirmed Dr. David Shulkin as the next Secretary to lead the Department of Veterans Affairs. Despite a week of all-night debates as part of efforts to delay more controversial Cabinet Appointees, debate on Secretary Shulkin lasted a mere ten minutes. His confirmation is historic in that he will be the first person to lead the Department never having served in uniform. A strong compensating factor, though, is that for the past two years, he has served as the Under Secretary of the Veterans Health Administration (VHA), specifically leading the efforts to reform veterans' health care.

His successful private sector career in health care coupled with experience working at the highest level of VA suggests he is uniquely suited to hit the ground running. With this favorable blend of experience, though, comes added scrutiny. While Secretary Shulkin has publicly committed to not "privatizing the VA," PVA will continue to stress with Secretary Shulkin, as we have in the past, the importance of protecting specialized services and appropriate staffing levels in providing high-quality care to veterans with a spinal cord injury or disease.

One specific challenge he is expected to face is the requirement to broaden his view beyond VHA and lead the Department as a whole. As he already acknowledged during his confirmation hearing before the Senate Committee on Veterans' Affairs, there is an intersection between VHA and the Veterans Benefits Administration (VBA) in the world of disability claims adjudication that cannot be ignored. Put simply, in most instances, veterans cannot receive health care from VA until they receive a rating from VBA. It is imperative the claims and appeals are adjudicated swiftly, efficiently, and, most of all, accurately.



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**The Independent Budget Policy Agenda for the 115<sup>th</sup> Congress**  
**Released**

In February, the co-authors of *The Independent Budget* (IB)—DAV, Paralyzed Veterans of America, and Veterans of Foreign Wars—released the IB Policy Agenda for the 115<sup>th</sup> Congress. This year marks the 30th edition of this important endeavor. Since the release of our last policy agenda at the start of the 114th Congress in January 2015, we have seen significant attention on reforming key elements of the delivery of veterans' health care and benefits. Our focus remains on informing and influencing key policy decisions directed by the administration and Congress that will have a direct impact on veterans and their families.

This year's document highlights six critical issues that we believe require the greatest attention for the 115<sup>th</sup> Congress. The critical issues include:

1. **Strengthen, Reform, and Sustain the VA Health Care System**—The IB focuses on the framework for veterans' health care delivery reform proposed in 2015. Inherent in this framework is the preservation and strengthening of a robust Department of Veterans Affairs (VA) health care system, particularly specialized services such as spinal cord injury and disease care, blind and vision impaired care, polytrauma care, traumatic brain injury care, and mental health care services. Our recommendations are also meant to frame the debate in the context of the VA's community care consolidation plan, the Commission on Care recommendations, and recommendations from the Independent Assessment conducted by the MITRE and RAND corporations.
2. **Remove Budget Constraints that Negatively Impact Veterans Programs**—This edition focuses on the structural impediments that lead to insufficient resources being provided to ensure VA has adequate capacity to meet the needs of veterans. It addresses ongoing budget caps, sequestration, PAYGO and other budget and appropriations rules as well as the need to complete appropriations reform providing all VA programs advance appropriations.
3. **Reform the Claims and Appeals Process**—Appeals modernization and reform has been a primary objective of VA leadership and has been widely discussed in the House and Senate. The IB focuses on the issues that must be addressed in the course of implementation of claims and appeals reform irrespective of the final outcome of appeals reform legislation.

4. **Realign and Modernize Capital Infrastructure**—The misalignment and deterioration of much of VA’s capital infrastructure is a commonly discussed problem that continues to negatively impact the delivery of care to veterans. The Commission on Care and the MITRE-RAND Independent Assessment recognized the significant funding gap for VA’s infrastructure and the need to realign and right-size that infrastructure to best serve veterans, efficiently deploy resources and remain viable in the future.
5. **Improvements Needed in the Program of Comprehensive Assistance for Family Caregivers (PCAFC) of Severely Injured Veterans**—Expansion of the comprehensive family caregiver program administered by the VA to veterans of all eras remains a high priority for the IB. Additionally, key facets of that program must be improved to ensure efficient implementation and effective delivery of services. At the same time, other programs that offer similar support services for catastrophically disabled veterans must be enhanced.
6. **Ensure that VA Provides High-Quality, Effective Programs and Services to Meet the Unique Needs of Women Veterans**—Much work remains to ensure that women veterans are able to access the full range of health care services that are appropriate to their unique needs. Additionally, benefits and service support programs must be enhanced to ensure that women veterans receive equitable treatment in the delivery of their earned benefits and services.

The IB serves as a guide for our legislative work in Congress and as a resource for both the Department of Veterans Affairs (VA). This policy agenda will soon be followed by the budget report for FY 2018 and FY 2019, scheduled to be released before the end of February.

To view the full IB Policy Agenda for the 115<sup>th</sup> Congress, visit [www.independentbudget.org](http://www.independentbudget.org).

### **HVAC Subcommittee on Disability Assistance and Memorial Affairs Examines Impact of National Work Queue**

The Subcommittee on Disability Assistance and Memorial Affairs kicked off the 115<sup>th</sup> Congress with a hearing examining the progress of VBA’s new method of allocating disability claims among its processors, the National Work Queue (NWQ). Historically, claims were processed by the local Regional Office (RO) where it was submitted. Naturally, some offices experience a relatively light workload or exceptional productivity while others are inundated with an overwhelming number of claims or, for any number of reasons, are plagued with low productivity and slow processing times. In an attempt to move into the 21<sup>st</sup> Century, VBA developed and began using a digital system



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designed to gather all disability claims submitted by veterans throughout the United States and distribute them to RO's based on capacity. The practical effect for veterans is that if your local RO is handling claims in a timely manner, your claim will likely be adjudicated locally. But if your local RO is struggling to process claims within a standard of 125 days, the NWQ will take the excess claims that the local office cannot handle and move them to an RO that can.

Moving to a digital system and changing the landscape of where claims are normally processed brought both increased efficiency and accuracy. But it is also still facing certain challenges. Chairman Mike Bost (R-IL) touched on one of these challenges, the paradox of VBA increasing efficiency in processing claims and yet the backlog continues to rise. The Veterans Health Administration faces the same issue - as access to care improves, more veterans want in to use VA health care. Likewise with claims - as processing times and accuracy improve, more veterans find it worth it to submit a claim. In essence, the efficiency is offset by increased demand, and it ultimately looks like VA is making no progress.

New Ranking Member Elizabeth Esty (D-CT) and Chairman Bost both attempted to flesh out the VSOs' collective concerns, though, with claims that are no longer local. Under the old system, the VSO service officers would be able to review the RO's decision prior to it being issued, mostly to correct any clerical or blatant errors before the decision was made final. VFW noted that, by its calculations, 1 in 10 claims experience errors that were easily correctable. Being able to inform the RO of a mistake before the decision is finalized prevents a large number of veterans from being unnecessarily forced into the arduous and lengthy appeals process. It similarly prevents VA from having to do unnecessary work. Under the new digital system, VA's attempt to re-create this feature just is not working. Service officers are struggling to track down claims that have been distributed to other RO's and they are not able to prevent final decisions from being made with mistakes. VBA officials have yet to produce an acceptable remedy, and this hearing was a chance for Congress and VSO's to apply more pressure to VBA for a fix.

PVA has observed a particular concern with the NWQ as it relates to special issues, specifically Amyotrophic Lateral Sclerosis (ALS) claims, homelessness, and terminal issues. When these claims are arriving in the NWQ, they are not being flagged appropriately and worked by the appropriate team. Instead they are being worked in the order of the date of claim. This creates a delay in these claims which could cause the veteran to die before seeing benefits. PVA hopes to work with VBA to alleviate this problem.



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**ADA Education and Reform Act of 2017 Reintroduced in the House**

On January 24, 2017, Representative Ted Poe (R-TX) reintroduced the “ADA Education and Reform Act of 2017.” This legislation would limit the ability of people with disabilities to enforce their rights under the ADA by requiring a person with a disability to send a letter of notification to a business alerting the owner that it is out of compliance due to an architectural barrier prior to being able to file a lawsuit. Other co-sponsors include Representatives Scott Peters (D-CA), Ken Calvert (R-CA), Ami Bera (D-CA), Jackie Speier (D-CA), and Michael Conaway (R-TX).

PVA opposes this legislation. We believe that it would remove the incentive for businesses, social service establishments, and other places of public accommodation to comply with the ADA’s accessibility requirements. Businesses could employ a “wait and see” approach, continuing to violate the law with impunity. Instead, businesses should be proactive in complying with the ADA and work with the ADA National Network and other entities for any needed educational resources.

**DOT Releases Annual Report on Disability-Related Complaints for 2015**

In February 2017, DOT released the latest figures on complaints filed directly with airlines. In 2015, passengers filed 30,830 disability-related complaints as reported by 176 domestic and foreign air carriers, which represents a nearly twelve percent increase over 2014. Top complaints with U.S. carriers for passengers with paraplegia or quadriplegia include failure to provide assistance and seating accommodation. In 2015, passengers also filed 939 disability-related complaints directly with DOT.