



Paralyzed Veterans
of America

WASHINGTON UPDATE

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

Written and produced by Paralyzed Veterans of America - Government Relations Department

December 20, 2019

Volume 25, Number 12

FEDERAL GOVERNMENT FUNDING FOR FISCAL YEAR 2020 APPROVED

Congress recently approved a pair of spending packages totaling \$1.4 trillion to keep the federal government running for the remainder of the fiscal year (FY). The Military Construction, Veterans Affairs, and Related Agencies section includes roughly \$217 billion in total for VA operations, which amounts to a nine percent increase over last year. The \$91.9 billion in discretionary funding it provides is \$5.4 billion more than last year. Slightly more than \$80 billion of that figure will go directly toward the provision of health care for VA's approximately 9.3 million enrolled veterans.

Specific allocations within the \$80 billion figure are as follows: \$9.4 billion for mental health; \$1.1 billion for telehealth services; \$710 million for the comprehensive caregiver program; \$402 million for opioid misuse prevention and treatment; \$800 million for medical and prosthetic research [a \$21 million (+2.7 percent) increase over comparable FY 2019 levels]; \$585 million for health care specifically for women veterans; and \$300 million for rural health initiatives. Congress also provided \$8.9 billion in FY 2020 and \$11.3 billion in FY 2021 which will go towards further implementation of the VA MISSION Act and VA's Community Care Networks.

Much of the \$122 billion in mandatory funding goes toward VA's various benefit programs and services including disability compensation programs for 5.1 million veterans and more than 446,000 survivors; education benefits for nearly 900,000 veterans; and vocational rehabilitation and employment training for approximately 124,000 veterans. Here, Congress set aside \$153.6 million for the implementation of the Blue Water Navy Vietnam Veterans Act. Also, \$1.9 billion will go toward VA homelessness programs and \$3.1 billion will go toward ensuring that proper staffing and resources are utilized to reduce the wait time and backlog of disability decisions on appeal, and to meet the demand for other benefit programs, including the new Blue Water Navy Vietnam Veterans eligibility.

Finally, the bill provides \$87.6 billion in FY 2021 advance discretionary funding for veterans health care, and \$131.0 billion in FY 2021 advance mandatory funding for veterans benefits.

In other appropriations actions, Congress approved creation of a Disabled Veterans Program within the Department of Labor's Veterans' Employment and Training Service. For several

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years, PVA has led a coalition of allies in the disability and VSO communities to press Congress to establish such a program to bring more attention to the employment challenges faced by veterans with catastrophic disabilities. The package also extends through 2020 the Work Opportunity Tax Credit (including the VOW to Hire Heroes Act credits) that provide incentives to employers to hire those with barriers to work and provides a two-year extension of the 7.5 percent threshold for medical expenses deductions.

HELPING THE SURVIVORS OF ALS VETERANS

Senators Chris Coons (D-DE) and Lisa Murkowski (R-AK) along with Representatives Gilbert R. Cisneros, Jr. (D-CA) and Brian Fitzpatrick (R-PA) recently introduced legislation to help ensure surviving spouses and families of veterans who die from amyotrophic lateral sclerosis (ALS) receive the full benefits they are due.

S. 3091 and H.R. 4747, the Justice for ALS Veterans Act of 2019, would entitle Dependency and Indemnity Compensation (DIC) eligible survivors of veterans who died of service-connected ALS to an additional \$246 per month in DIC. The extra payment is commonly referred to in the veterans community as the "DIC kicker."

Under current law, the higher rate of DIC is only payable if the veteran was rated totally disabled for a continuous period of at least eight years immediately preceding death. VA regulations recognize ALS as a presumptive service-connected disease and, due to its aggressive nature, it is automatically rated at 100 percent once service connected. However, because the average life expectancy for a person with ALS is two to five years, many spouses of deceased veterans with ALS rarely qualify for the additional DIC benefit given the eight-year requirement.

PVA Chapters and members are encouraged to contact their elected officials during the holidays and ask them to support this important legislation.

FISCAL YEAR 2020 NATIONAL DEFENSE AUTHORIZATION ACT APPROVED

After months of haggling, House and Senate negotiators finally reached agreement on a single defense policy bill for Fiscal Year 2020 that both chambers could agree upon. The annual National Defense Authorization Act (NDAA) tends to focus on active duty matters but often contains some items of interest to PVA members. The legislation has passed the House and Senate. President Trump has stated that he will sign it.

SBP/DIC Offset

Under current law, survivors of deceased military members must forfeit part or all of their purchased Survivor Benefit Plan (SBP) annuity when awarded VA's Dependency and Indemnity Compensation (DIC). The loss of any portion of the SBP annuity is known as the "Widows Tax." The NDAA repeals the Widows Tax through a phased approach. No changes will be made in

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2020, but the offset will be partially reduced in calendar years 2021 and 2022 with the remainder of it eliminated on January 1, 2023. Unfortunately, the language of the bill does not allow reimbursement of lost compensation, but in three years the unfair offset will finally be eliminated.

TAP

Other language in the bill authorizes the Secretary of Defense, the Secretary of VA, and the Secretary of Labor to work collaboratively on a three-year pilot program to develop an online application (app) that would address the current shortfalls in the Transition Assistance Program (TAP) and streamline online resources that will be available upon separation. PVA helped draft this provision that creates a “one-stop” source for online applications to assist service members and veterans while simultaneously ensuring that the valuable information provided by TAP is always current and easily available to veterans.

Termination of Leases

Another provision PVA helped develop in the bill allows the spouse of a service member who suffered a catastrophic illness or injury to terminate residential or vehicle leases. In this case, the spouse would have a one-year period from the date of the service member's illness or injury in which to terminate the lease.

TRICARE

Last but not least, members who are eligible for and use their TRICARE benefit will be pleased to know that the bill does not increase fees or pharmacy copays beyond those [already scheduled](#) for January 1, 2020.

UPDATE ON CAREGIVER EXPANSION

Under the VA MISSION Act, veterans who sustained a serious military-related injury before May 7, 1975, were supposed to be able to enroll in VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC) starting this fall. But, as we have previously reported, VA was unable to launch its new management system for the program so veterans will have to wait until at least June 2020 for entry. The timeline shift also pushes back eligibility for families of veterans who served from 1975 to 2001, from fall 2021 to fall 2022 at the earliest.

Meanwhile, VA is current working on new guidance for the program that could constrain eligibility for the VA's comprehensive caregiver program. Additionally, the current moratorium on discharges from the program and decreases in assistance will eventually be lifted. Thus, Congress needs to take steps now to ensure veterans applying for this program are evaluated through a process that is systematic and fair.

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S.2216, the Transparency and Effective Accountability Measures for Veteran Caregivers Act, would require VA to allow veterans to identify more than one caregiver in their health record and to notify veterans' caregivers of clinical determinations made concerning the veteran's eligibility for the caregiver program. Any notification must be by letter and include the following information:

- A summary of the issues adjudicated;
- A summary of the evidence considered by VA;
- A summary of the applicable laws and regulations;
- Identification of findings favorable to the claimant;
- In the case of a denial, identification of elements not satisfied leading to the denial;
- An explanation of how to obtain or access evidence used in making the decision; and
- If applicable, identification of the criteria that must be satisfied to grant service connection or the next higher level of compensation.

S. 2216 would also require VA to temporarily extend caregiver benefits to any veteran who has been determined no longer clinically eligible for an additional 90 days after the date of notification.

The bill is sponsored by Senator Gary Peters (D-MI) and has 14 cosponsors.

Sen. Blackburn, Marsha [R-TN]*
Sen. Kaine, Tim [D-VA]
Sen. Moran, Jerry [R-KS]
Sen. Sinema, Kyrsten [D-AZ]
Sen. Jones, Doug [D-AL]
Sen. Durbin, Richard J. [D-IL]
Sen. Alexander, Lamar [R-TN]

Sen. McSally, Martha [R-AZ]
Sen. Rosen, Jacky [D-NV]
Sen. Collins, Susan M. [R-ME]
Sen. Murkowski, Lisa [R-AK]
Sen. Klobuchar, Amy [D-MN]
Sen. Merkley, Jeff [D-OR]
Sen. Cortez Masto, Catherine [D-NV]

*Denotes Original Cosponsor

PVA has been actively promoting this important legislation. If your senators are not listed here, please contact their offices and urge them to cosponsor S. 2216. There is not currently a House companion for this legislation.

SUBCOMMITTEE ON VA TECHNOLOGY MODERNIZATION HOLDS ROUNDTABLE

On December 11, Roscoe Butler, PVA's Associate Legislative Director, participated in a roundtable discussion with the House Veterans' Affairs Committee, Subcommittee on Technology Modernization titled, "Veterans Engagement in Technology Modernization at the Department of Veterans Affairs." The purpose of the roundtable was to hear from VSOs about

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how VA has engaged VSOs at the national and local levels on the development, implementation, and impact of technology projects at VA.

Mr. Butler informed the Subcommittee that PVA National staff have attended numerous meetings at VA regarding various technology projects. Unfortunately, many of these meetings lacked sufficient detail to help us understand the current status of program development and implementation. Although some of PVA's field staff have reported receiving briefings from VA at the local level regarding IT modernization projects, mainly regarding telehealth, the majority have indicated they had no engagement with VA regarding many of the key technology modernization initiatives underway at VA today.

Mr. Butler emphasized that IT modernization projects like the new electronic medical record, expansion of the caregiver program, and the new community care program are all important projects. He called on VA to be more transparent at the national and local levels with VSOs about these as well as other important IT modernization projects.

KNOW YOUR SOCIAL SECURITY ACT INTRODUCED

PVA has endorsed legislation introduced by House Ways and Means Social Security Subcommittee Chairman John Larson (D-CT), Ways and Means Committee Member Vern Buchanan (R-FL), Senate Finance Committee Ranking Member Ron Wyden (D-OR), and Finance Committee Member Bill Cassidy, M.D. (R-LA) titled, "Know Your Social Security Act" (H.R. 5306/S. 2989). This legislation will clarify the requirement for the Social Security Administration (SSA) to mail an annual Social Security statement to all workers ages 25 and older with covered earnings, who are not receiving Social Security benefits. Since Fiscal Year 2011, SSA has failed to mail annual statements, citing limited operating budgets, even though in 1989 and 1990 Congress enacted requirements for SSA to provide such a statement each year.

In a press release, Chairman Larson said, "Social Security is our nation's foundation to a solid retirement. Americans who contribute to Social Security should receive an update every year so they know what benefits they are earning and can plan for their retirements. No matter what happens in the stock market, Social Security will always be there for them. I'm proud to introduce this bipartisan, bicameral legislation alongside Ranking Member Wyden, Senator Cassidy and Congressman Buchanan." The House bill was subsequently marked up by the Ways and Means Committee on December 11, and now awaits a vote in the full House of Representatives.

IATA WHEELCHAIR ASSISTANCE WORKSHOP

On December 3, Senior Associate Advocacy Director, Lee Page, attended the International Air Transport Association's (IATA) workshop on wheelchair and disability assistance at JFK International Airport. The workshop was supported by the Port Authority of New York and New Jersey and the JFK Terminal 4 Airlines Consortium. Attendees included representatives from

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the U.S. Department of Transportation, airlines, airports, travel agents, and disability organizations.

The Air Carrier Access Act of 1986 requires airlines to support disabled passengers in navigating the airport experience. No description or documentation of the disability being accommodated is required. According to the airlines, a significant percentage of persons requesting wheelchair support are not technically disabled. Rather many people are asking for wheelchair support in order to avoid walking long distances, to get through security lines faster, or for help in finding their gate or baggage claim area.

Wheelchair assistance represents a significant and growing cost to airlines. At JFK alone, it is estimated that airlines provide more than 1.4 million wheelchair pushes each year (out of a total of approximately 65 million passengers), with an average cost of \$35 per push (\$70 round trip). Other major U.S. airports are seeing a similar volume of requests.

A 2018 IATA survey found that the number of wheelchair assistance requests increased by 30 percent globally between 2016 and 2017. The survey found that the reasons for request were age (elderly passengers), distance (unable to walk), language challenges, temporary disabilities (medical conditions), and wayfinding (worried about being lost in the airport).

The main objectives of the workshop were to: 1) assess the magnitude of the wheelchair assistance problem; 2) find ways to reduce the rate of wheelchair assistance by advocating for alternative service to those passengers who are not disabled but need assistance to navigate the airport; 3) promote dialogue between disability associations, policymakers, and industry for a regulatory framework that eliminates operational complexity and increases access to air transport for persons with disabilities; and 4) analyze the results of the workshop and provide recommendations for the ways to address this challenge.

REFORMING DISASTER RECOVERY ACT MOVES TO SENATE

On November 18, in a strong bipartisan vote of 290 to 118, the House of Representatives approved H.R. 3702, the Reforming Disaster Recovery Act of 2019. This measure has been a key focus of the Disaster Housing Recovery Coalition (DHRC), of which PVA is a part. Sponsored by Congressman Al Green (D-TX) and Congresswoman Ann Wagner (R-MO), the bill includes many critical reforms proposed by DHRC members to help ensure that the federal government's long-term disaster recovery program - Community Development Block Grant - Disaster Recovery (CDBG-DR) grants - better serves the most vulnerable survivors and their communities. If enacted, the bill would help target CDBG-DR resources to survivors with the greatest needs, ensure greater data transparency and oversight, protect civil rights and fair housing, and encourage mitigation and resiliency.

With the House bill passed, attention now moves to the Senate, where Senator Brian Schatz (D-HI) and Senator Todd Young (R-IN) have introduced the Senate version of the bill. That bill, [S. 2301](#), has been assigned to the Senate Banking, Housing, and Urban Affairs Committee.

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VIRTUAL APPEAL HEARINGS COMING

In the near future, veterans who are challenging decisions made by VA may be able to make their case via virtual hearings. The Board of Veterans' Appeals (BVA) and VA's Office of Information and Technology have been working on a system to provide nationwide availability of virtual hearings that veterans can access using their mobile phone or laptop via the VA Video Connect app. The virtual hearings are based on the [Veterans Health Administration's Tele-health Platform](#) which eliminates the need for travel and lets veterans participate in their appeals hearings from the comfort of their homes.

PVA endorsed the use of telehearings by the Board in testimony to the House Veterans' Affairs Committee earlier this year. It can be very challenging for many veterans to travel to a VA Regional Office and the use of telehearings may increase the likelihood of veterans making their BVA hearings as scheduled. It could be particularly advantageous for veterans whose travel options are impeded by catastrophic disabilities.