



# 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

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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.**

## **ADA NOTIFICATION LEGISLATION WILL BE ON THE HOUSE FLOOR FEBRUARY 15**

The ADA Education and Reform Act of 2017 (H.R. 620), is headed to a vote on the House floor. The House is scheduled to take up the legislation on Thursday, February 15th.

In a letter to House leadership on February 1, 2018, Paralyzed Veterans of America expressed its strong opposition to this legislation. If signed into law, it would require a person with a disability to send a letter with very specific information notifying a business, regardless of its size, that it is out of compliance with the ADA. The business would then have 60 days to respond and 120 days to make "substantial progress" toward fixing the problem. Only if the business failed to acknowledge the notification or make substantial progress in fixing the violation, could the business be sued.

Although proponents of notification insist that it is needed to stop lawsuits, whether frivolous or not, we believe that such a requirement would only serve to remove all incentive for businesses to comply with Title III ADA requirements. There are no monetary damages available under Title III of the ADA, only injunctive relief. If a notification and cure requirement, such as that laid out in H.R. 620, became law, a business could simply employ a "wait and see" approach and continue to violate the law without any real fear of consequences.

Now is the time to let your members of Congress know that you oppose this legislation. As action is imminent, it is important to call and express your opinion as opposed to emailing or sending letters. We will continue to advocate against the bill's passage and will do so if it passes the House and heads to the Senate.

**Paralyzed Veterans of America**

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## HOUSE VETERANS AFFAIRS COMMITTEE HOLDS HEARING ON CAREGIVER PROGRAM

On February 6, 2018, the House Committee on Veterans Affairs held a hearing entitled “Correcting Course for Veteran Caregivers.” Chairman Roe’s goal for the hearing was to examine how to strengthen and modify the existing caregiver program. Sarah Dean, Associate Legislative Director, testified on behalf of PVA regarding the state of the program and current legislation that would authorize its expansion.

As is, the Program of Comprehensive Assistance for Family Caregivers provides monthly stipends, respite, CHAMPVA, and training to caregivers of veterans injured on or after 9/11. PVA, alongside DAV, and the Elizabeth Dole Foundation (EDF), used their opening statements to highlight the unconscionable inequity created by the date of injury requirement.

In November, 2017, S. 2193, passed out of the Senate VA Committee with a vote of 14-1. Included in that community care reform bill is the expansion of caregiver eligibility pre-9/11. The bill has not yet passed the Senate nor has it gained support from Chairman Roe because of his concerns of the cost of the expansion. During the hearing he expressed his belief that expansion can only be done by tightening eligibility in order to drive down costs.

Department of Veterans Affairs Secretary David Shulkin proposed a limited expansion to certain pre-9/11 veterans to appease the cost concerns of some members of the House of Representatives and the White House. In a memo to Congress sent last month, the White House said it could not support expansion to pre-9/11 veterans because of “fiscal restraints.” Secretary Shulkin said he believes his proposal would allow for a restricted expansion with a more appealing cost. It would restrict pre-9/11 eligibility to veterans who require assistance with three activities of daily living, rather than one as currently required for post-9/11 veterans. Veterans with severe PTSD and TBI would remain eligible.

The 26,000 caregivers already in the program would continue under the current eligibility. PVA, DAV, and EDF made it clear to the committee that while this proposal would not be opposed, our priority remains the equitable treatment of all veterans in need of caregiver services. We will continue to work to see that veterans who were made ill or injured in any era are able to receive the services they need.

## PVA TESTIFIES ON RAPID APPEALS MODERNIZATION PROGRAM

On January 30, 2018, PVA Associate Legislative Director, Steve Henry testified before the House Veterans Affairs Committee (HVAC) on the Rapid Appeals Modernization Program (RAMP) and whether or not the program is effectively helping veterans. The testimony consisted of two panels; one panel was made up of VA and GAO staff and the other panel was Paralyzed Veterans of America (PVA), Disabled American Veterans (DAV) and the National Organization of Veteran Advocates.

The Rapid Appeals Modernization Program is a “test” program implemented by VA to test aspects of the Modernization law that will be fully implemented on February 2019. RAMP offers veterans an alternative to appealing their claims to the BVA by offering them two options: Veterans can choose between a higher level review and the supplemental claim process.

The higher level review is conducted by an experienced Decision Review Officer (DRO), who will review the veteran’s claim and provide a decision based on what was in the record. The supplemental claim option allows the veteran to submit additional evidence, have their claim reviewed by a DRO, who will then make a decision based on the entire record, including the newly submitted evidence.

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Unlike DAV's testimony that provided a positive outlook on the RAMP program, PVA's testimony was quite the opposite. For veterans to "opt in" to RAMP, all of their appeals must be withdrawn from the Board of Veterans Appeals (BVA); consequently, they would lose their docket date and their place in line. Furthermore, if veterans receive an unfavorable decision, they would be unable to appeal their claims to the BVA until February 2019.

PVA reiterated to the HVAC that unlike DAV, claims filed by PVA members are more often than not extremely complex. It is difficult to believe that the same representatives who had previously denied and improperly adjudicated PVA's initial claims would then re-review and provide a proper decision.

Furthermore, to force veterans to withdraw their claims and lose their docket date is unacceptable. The claims of our members must be adjudicated expeditiously. Our members require quick and accurate decisions. They should not have to navigate more layers only for a negative outcome. When asked by Committee Chairman Roe what PVA would change about the program, we stated that veterans should not be required to withdraw their appeal from the BVA resulting in losing their docket date.

PVA feels that RAMP is not good for our members.

## **BUDGET AGREEMENT INCLUDES DISASTER RELIEF FUNDING**

The budget bill signed into law by the President on February 9, 2018, after a brief government shutdown includes \$89 billion in additional emergency funds for communities affected by the recent hurricanes and wildfires. The bill includes \$28 billion in Community Development Block Grant Disaster Relief (CDBG-DR) funding, as well as resources to shore up the Medicaid program in Puerto Rico and the U.S. Virgin Islands.

While this bill contains significant disaster relief resources, housing advocates are concerned that it does not include the support necessary to ensure that disaster recovery reaches all households, including those with the lowest incomes. For example, the bill does not include the Disaster Housing Assistance Program (DHAP) that addresses longer term housing needs of low income disaster survivors, a requirement to collect and make public the data to ensure that the needs of low income people and communities are met, and housing-specific resources to ensure that the severe shortage of affordable rental homes in disaster-impacted communities is not worsened.

The following details of the CDBG-DR funds are provided courtesy of the Disaster Housing Recovery Coalition:

### **Community Development Block Grants**

The bill provides \$28 billion in CDBG-DR funding. Of this amount, up to \$16 billion is slated to address unmet needs, including \$11 billion that will be allocated to state and local governments impacted by Hurricane Maria, with \$2 billion of that set aside for rebuilding the electrical grids in Puerto Rico and the U.S. Virgin Islands. The remaining \$12 billion is set aside for mitigation projects. Up to \$15 million of CDBG-DR funds can be used to provide capacity building and technical assistance.

The measure provides the HUD Secretary with a number of limitations and special authorities. For example, the bill:

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- Limits the determination of “duplication of benefits” to exclude those households that applied for, but did not accept, a Small Business Administration (SBA) loan.
- Requires grantees to maintain a public website with common reporting criteria to allow the public to see how all grant funds are used, including copies of all relevant procurement documents, grantee administrative contracts, and details of ongoing procurement processes.
- Allows the HUD Secretary to waive or specify alternative HUD requirements, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment, if the HUD Secretary finds that good cause exists and that it is not inconsistent with the purpose of the CDBG program.
- Allows the HUD Secretary to make temporary adjustments to the Housing Choice Voucher annual renewal funding allocations and administrative fee eligibility determinations for public housing agencies (PHAs) in disaster-impacted areas. This authority is provided to “avoid significant adverse funding impacts that would otherwise result from the disaster, or to facilitate leasing up to a PHA’s authorized level of units under contract.”
- The bill also provides that any CDBG-DR funds that remain, after allocating funds for all necessary expenses, shall be used for additional mitigation activities in the most impacted and distressed areas.

## **Rural Development**

The disaster relief bill would provide a total of \$18.7 million to offset the cost of modifying Section 502 homeownership loans and to rebuild Section 515 Rural Rental Housing properties in USDA’s portfolio that were damaged or destroyed by the recent hurricanes and wildfires. The bill, however, limits Section 515 funds to those property owners who were not required to carry flood insurance.

Nearly \$166 million was provided to repair drinking water and wastewater systems that were damaged. Of this amount, \$2 million is provided for technical assistance.

## **Legal Aid Services**

A total of \$15 million is provided for legal aid services, however, the bill limits the usage of these funds to “mobile resources, technology, and disaster coordinators to provide short-term services.”

## **Tax Provisions**

The disaster package also extends favorable tax provisions that were provided to hurricane-impacted areas to communities affected by the California wildfires. This includes allowing tax-favored withdrawals from retirement funds, tax credits for employers impacted by the wildfires for retaining employees, and the temporary suspension of limits on charitable deductions, among other tax provisions.

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## DELTA AND UNITED ANNOUNCE CHANGES TO THEIR SERVICE ANIMAL POLICIES

In recent weeks, Delta and United have issued revised policies for the transport of service animals and emotional support animals on their airlines. The new policies go into effect on March 1.

Delta's revised service animal policy includes several key requirements that will impact all passengers with disabilities who use service animals. First, Delta's revised policy requires all service animal users to submit a completed "Veterinary Health Form" 48 hours prior to travel. The form is available here: <https://www.delta.com/content/dam/delta-www/pdfs/policy/TrainedServiceAnimal-RequiredForms.pdf>. Second, Delta's revised policy requires all psychiatric service animal and emotional support animal users to submit, in addition, a completed "Confirmation of Animal Training" form 48 hours prior to travel. On this form, available here: <https://www.delta.com/content/dam/delta-www/pdfs/policy/EmotionalSupportAnimal-RequiredForms.pdf>, the user of a psychiatric service animal or emotional support animal must confirm that the animal has been trained to behave in public and affirm that inappropriate behavior will lead to denied boarding of the animal or its removal from the aircraft.

United's revised policy would also require emotional support animal users to provide confirmation of training and a health certificate, to include an affirmation from a veterinarian "that there is no reason to believe that the animal will pose a direct threat to the health and safety of others on the aircraft or cause a significant disruption in service," 48 hours prior to travel. More information about United's policy is available here: <https://hub.united.com/united-emotional-support-animal-policy-2530539164.html>.

Paralyzed Veterans and nine other disability organizations sent a letter to U.S. Department of Transportation Secretary Elaine Chao on February 6<sup>th</sup>, asking the Department to deem these revised policies to be in violation of the Air Carrier Access Act (ACAA) and advise Delta and United accordingly. On February 8<sup>th</sup>, disability organizations, including Paralyzed Veterans, also met with Delta to discuss their policy and express our concerns.

In the meantime, however, the policies are still slated to move forward. We will continue to follow their status. Also, the Department has stated that it will begin the process for revising the ACAA's service animal regulations starting in July.

## DISABILITY COALITION MEETS AT PVA

The Consortium for Citizens with Disabilities (CCD) met for its annual meeting at PVA on January 29, 2018. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. Since 1973, CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society.

In addition to organizational matters for 2018, the meeting featured an array of speakers from think tanks, Capitol Hill and federal agencies. Ellen Nissenbaum, from the Center on Budget and Policy Priorities, offered an overview of the budget environment confronting Congress in the year ahead. There is strong interest among the majority in the House of Representatives to tackle changes and cuts to Medicare, Medicaid, Supplemental Security Income (SSI), food stamps and low income housing programs.

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However, some of the changes would require the use of the so-called reconciliation process whereby only 51 votes are needed for passage in the Senate. Senate Majority Leader Mitch McConnell has expressed little inclination to use reconciliation this year but GOP members of that body are still particularly eager to pursue changes to Medicaid similar to those attempted in 2017.

A panel of administration officials featured representatives from the Department of Labor's Office of Disability Employment Policy (ODEP) and Administration for Community Living (ACL). Jennifer Sheehy from ODEP reported that among DOL Secretary Alex Acosta's priorities is increasing labor force participation, including among those injured on the job. She and her colleagues described numerous demonstrations and pilot projects underway that are aimed at promoting, staying at work or returning to work for those with job-related disabilities. Describing her office's agenda in expanding employment opportunities for people with disabilities, Melissa Ortiz, from ACL, noted the President's commitment to finding ways to encourage those "who are work capable." She said she expects much of the administration's work on welfare reform to target that issue.

Staffers with the Senate Health, Education, Labor and Pensions (HELP) Committee, the House Committee on Education and the Workforce, outlined a 2018 agenda heavily focused on education matters. Those committees also expect to monitor the evolution of Medicaid work requirements and implementation of the Workforce Innovation and Opportunity Act.