



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

June 19, 2019

Volume 25, Number 6

NEW VETERANS COMMUNITY CARE PROGRAM LAUNCHED

On June 6th, VA launched the new Veterans Community Care Program (VCCP) as directed by the VA MISSION Act of 2018. The VCCP replaces six of VA's community care programs in addition to the Veterans Choice Program. Most veterans will not notice any immediate changes to the process for accessing care in the community. TriWest, the nationwide contractor under the Choice Program, will continue to manage the VCCP before slowly transitioning the program to the new contractor for each of the six community care regions. The transfer of control will occur over a period of several months, starting in late July.

Veterans may be eligible for the VCCP if:

- They need a service that is not available at VA (e.g. maternity care, IVF);
- They reside in a state or territory without a full-service VA medical facility;
- They meet average drive-time or appointment wait-time requirements (Click [here](#) for more info);
- It is in their best medical interest to be referred to a community provider;
- They need care from a VA medical service line that is not providing care that complies with VA's quality standards; or
- If they met previous criteria for eligibility under the Choice Program, and fall into at least one of the following categories:
 - They live in Alaska, Montana, North Dakota, South Dakota, or Wyoming.
 - They received care or services between June 6, 2017, and June 6, 2018, and are seeking care before June 6, 2020.

Regardless of which of the eligibility criteria a veteran meets, community care must be formally authorized in advance by VA before a veteran can make an appointment and receive care from a community provider. The law requires that VA provide this authorization before they can pay for non-VA care, but there may be exceptions for emergency care.

Once a veteran is determined to be eligible for community care, he or she has a choice of receiving care from a VA facility or a community provider. VA personnel will discuss the patient's options and if the veteran decides to pursue care in the local community, the staff can help him or her select a provider that meets his or her needs in the local community. VA and network providers can be found using the Provider Locator: <https://www.va.gov/find-locations/>.

Paralyzed Veterans of America

Government Relations Department

801 18th Street, NW · Washington, DC 20006
(800) 424-8200 · (800) 795-4327 · www.pva.org

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

A [VA fact sheet](#) explains the VCCP in greater detail and includes information on billing and how veterans' records will make it into their medical files. Additional informational materials pertaining to the VA MISSION Act are being posted on this VA website: <https://www.va.gov/COMMUNITYCARE/pubs/factsheets.asp>. VA has also established a special contact center to answer questions, which can be reached at (844) 698-2311, option 1. The center is open from 8:00 am to 5:00 pm in all time zones.

The VCCP empowers veterans by giving them an opportunity to decide where and in some cases when they will receive needed care. If a veteran is determined to be eligible for the VCCP, he or she gets to decide whether to receive that care in the private sector or at a VA facility. After carefully considering the alternatives, most PVA members will find that VA care is their best option. Feedback on the VCCP is important so we hope you will share your experiences with it.

URGENT CARE BENEFIT FOR VETERANS

As of June 6th, veterans enrolled in VA health care now have the option of going to an approved urgent care clinic without prior authorization for non-emergency conditions. Urgent care consists of medical services provided for minor illnesses or injuries that are not life threatening such as strep throat, pink eye, or the flu.

The urgent care benefit covers diagnostic services like x-rays, some lab testing, and some medications (there are limitations) but not all facilities in VA's network may be able to offer these services. Therapeutic vaccines are covered when necessary for the proper treatment of a covered condition. For example, a wound caused by a rusty nail may require a tetanus shot.

Important: With the exception of the flu shot, vaccines and other preventative care services are not covered under the urgent care benefit and eligible veterans should not manage their chronic conditions or their care over the long term through this benefit. It could prove to be costly if they do, because the veteran will bear the responsibility to pay for any uncovered services.

As previously reported, copayments for the urgent care depend on eligible veterans' assigned priority group and the number of times they visit an in-network urgent care provider during a calendar year. They are as follows:

- **Priority Groups 1-5:** There is no copayment for the first three visits during a calendar year. For the fourth visit, and all subsequent visits in a calendar year, the copayment is \$30.
- **Priority Group 6:** There is no copayment for the first three visits during a calendar year **if** the visit is related to special authority* or exposure. For the fourth visit and all subsequent visits in a calendar year, the copayment is \$30. If the visit is not related to special authority or exposure, the copayment is \$30 per visit, regardless of which visit it is. [*Special authorities include those related to combat service and exposures (e.g.,

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

Agent Orange, active duty at Camp Lejeune, ionizing radiation, Project Shipboard Hazard and Defense (SHAD/Project 112), and Southwest Asia Conditions) as well as Military Sexual Trauma, and presumptions applicable to certain veterans with psychosis and other mental illnesses].

- **Priority Groups 7 & 8:** The copayment is \$30 per visit (all of them).

No copay will be assessed for all priority groups if the purpose for the visit is to receive only a flu shot. Additionally, visits consisting only of a flu shot do not count toward the annual cap on visits per calendar year for eligible veterans in priority groups 1-6.

Most important, to find the closest approved urgent care location, veterans should visit: <https://vaurgentcarelocator.triwest.com/Locator>. If veterans encounter problems using the tool, they should call: (866) 867-7930 for assistance. The VA MISSION Act Contact Center can also assist you with questions about the urgent care benefit. The number for the center is (844) 698-2311.

BLUE WATER NAVY LEGISLATION PASSES CONGRESS

On June 12th, the “Blue Water Navy Bill,” H.R. 299, passed the Senate and was sent to the President for his signature.

This bill corrects an erroneous 1997 VA General Counsel Opinion and subsequent VA bureaucratic decision in 2002 that determined that a presumption of exposure to Agent Orange required “boots on the ground” in Vietnam. For decades, Vietnam veterans who had served only in the waters offshore—commonly referred to as “Blue Water Navy veterans”—have been denied full benefits or access to health care due to these erroneous VA decisions. Thousands of these veterans have become ill with diseases that have been scientifically linked to Agent Orange exposure; many have died.

On January 29th, the U.S. Court of Appeals for the Federal Circuit in *Procopio v. Wilkie*, overruled VA’s previous misinterpretations and determined that service in the Republic of Vietnam includes the territorial waters within 12 nautical miles of the baseline. On June 5th, the Department of Justice abandoned any appeal of the *Procopio* decision, helping to propel H.R. 299 to a favorable conclusion.

This PVA-endorsed legislation extends the presumption of service connection for diseases associated with exposure to Agent Orange to thousands of deserving veterans who served on ships off the coast of Vietnam. It also expands benefits for Korean DMZ veterans who suffer from diseases and illnesses directly linked to Agent Orange, and provides coverage for those children suffering from spina bifida because of their parents’ exposure to Agent Orange while serving in Thailand during the Vietnam War. Its passage brings an end to protracted fight that lasted 22 years and fully protects *Procopio*’s holding that service in the Republic of Vietnam includes the territorial waters.

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

REAL EMERGENCY ACCESS FOR AGING AND DISABILITY INCLUSION (READI) FOR DISASTERS ACT AND THE DISASTER RELIEF MEDICAID ACT (DRMA) INTRODUCED

On June 10th, Susan Prokop, PVA's National Advocacy Director, took part in an online press conference hosted by the Partnership for Inclusive Disaster Strategies that accompanied the introduction of the Real Emergency Access for Aging and Disability Inclusion (READI) for Disasters Act and the Disaster Relief Medicaid Act (DRMA). PVA has endorsed READI and DRMA along with over 100 other local, state, and national disability advocacy organizations.

Currently, people with disabilities are two to four times more likely to be critically or fatally injured in a disaster. Despite this, effective response efforts and support focused on people with disabilities, older adults, and others who also have access and functional needs are lacking. Developed with extensive input by the disability advocacy community, these measures aim to strengthen the voice of people with disabilities in emergency planning, preparation, response, recovery, and mitigation.

READI contains a number of provisions designed to help individuals with disabilities maintain their health, safety, and independence before, during, and after disasters by funding research, technical assistance, and training in disability inclusive disaster management. It would also create a national commission with people with disabilities, older adults, and experts on disability inclusive emergency management and government and community stakeholders to provide guidance on disability and aging issues before, during, and after disasters. In addition, it calls on the Department of Justice to review ADA non-compliance settlement agreements in preparedness, response, and recovery efforts and directs the General Accountability Office to review the use of federal funds expended in disasters to ensure compliance with Rehabilitation Act requirements.

DRMA seeks to prevent unnecessary institutionalization of people with disabilities who lose access to their Medicaid long-term services and supports when they evacuate to another state during an emergency. The bill would do this by helping states meet the needs of Relief-Eligible Survivors through a time-limited one hundred percent federal match for displaced individuals and provision of technical assistance and support to develop innovative strategies to help states respond to an influx of out-of-state individuals.

The READI for Disasters Act, S. 1755, was introduced by Senator Bob Casey (D-PA) and Susan Collins (R-ME), along with cosponsors Senators Doug Jones (D-AL), Richard Blumenthal (D-CT), Tammy Duckworth (D-IL), Kamala Harris (D-CA), Maggie Hassan (D-NH), Kirsten Gillibrand (D-NY), and Chris Van Hollen (D-MD). DRMA, S. 1754, was introduced in the Senate by Senator Casey along with cosponsoring Senators Sherrod Brown (D-OH), Blumenthal (D-CT), Gillibrand (D-NY) and Harris (D-CA).

READI, H.R. 3208, was introduced in the House by Representatives James Langevin (D-RI) and Chris Smith (R-NJ) and the House version of DRMA, H.R. 3215, was introduced by Representatives Donna Shalala (D-FL) and Gonzalez-Colon (R-PR).

Additional organizational supporters and congressional cosponsors are encouraged. Advocates who wish to reach out to their members of Congress to urge them to sign onto READI and DRMA or that wish to add their organization as a supporter can find resource materials at

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

www.REAADI.com under the “Take Action Now” tab. Also on that website, is a link to the June 10th press conference, as well as a variety of social media tool kits, disability and disaster resources, and links to many recent reports on disasters and people with disabilities and legal materials outlining the rights of people with disabilities in disasters.

HOUSE HEARING ON VA’S VOCATIONAL REHABILITATION AND EMPLOYMENT PROGRAMS

On June 4th, Associate Legislative Director Steven Henry testified before the House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity on the effectiveness of VA’s Vocational Rehabilitation and Employment (VR&E) programs. Also testifying were representatives from Veterans Education Success (VES), DAV (Disabled American Veterans), Wounded Warrior Project (WWP), and Veterans of Foreign Wars (VFW).

Mr. Henry testified that even though VR&E offers great programs, very few PVA members actually use them and the low participation numbers are due to the lack of outreach by VA. He also testified that VA needs to do a better job of collaborating with outside agencies, such as PVA’s PAVE program, and should increase its follow up with program participants. In the written testimony, Mr. Henry also stated that the cap on the number of Independent Living participants, currently limited to 2,700, should be eliminated to ensure that all veterans who need these services are able to benefit from them. To view the hearing in its entirety, please click [here](#).

PVA HOSTS WEBINAR ON THE VA MISSION ACT OF 2018

PVA would like to thank everyone who participated in our June 4th webinar on the VA MISSION Act of 2018. The webinar was recorded; so, if you missed the presentation, you can watch it [here](#).

During the webinar, a couple of participants asked how they could make certain they were enrolled in the VA health care system. The simplest way to do that is to call VA’s toll-free hotline at 877-222-8387, Monday through Friday, 8:00 a.m. to 8:00 p.m. If you are not enrolled, you can do so [online](#). Others wanted to know how they could determine which one of VA’s eight priority groups they fell into. Most PVA members likely fall into priority groups 1 or 4. You can find a complete list of them [here](#) and additional information about VA health care enrollment and eligibility [here](#).

Prior to the webinar, members also expressed concern with VA’s newly obtained ability to release a veterans’ sensitive information to third party insurance carriers. As a result of the VA MISSION Act of 2018, VA no longer requires veterans’ permission to bill their health insurance carrier for health care related to a sensitive diagnosis. As outlined in 38 U.S.C. §7332-protected information, a sensitive diagnosis includes drug or alcohol abuse, alcoholism, HIV/HIV testing, and sickle cell anemia. VA provided a one-time notification to veterans who previously signed a release of information refusing to allow VA to bill encounters containing a sensitive diagnosis prior to submitting claims to a third-party health insurance carrier. The change was published in the Federal Register and the one-time notifications are complete. VA has begun submitting claims to health insurance carriers for all non-service-connected care with a sensitive diagnosis

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

without a signature or written authorization to permit the disclosure of protected information on a claim(s) and/or in copies of veteran's medical records. Please note that VA is still not able to bill Medicare or Medicaid.

Another question involved whether VA can refuse to treat a veteran and force him or her to use the new community care program. The simple answer is "no." If a veteran meets one of the six eligibility criteria, the new community care program provides veterans with the choice to receive health care at a VA medical facility or at a community health care facility. Veterans will not, however, be forced to go to a community provider if VA can provide the service and if the veteran prefers receiving his or her health care at a VA medical facility they may do so. This is extremely important because in nearly every case, the level of SCI/D care received through VA greatly exceeds that which is available in the private sector.

Finally, members were understandably curious about the VA MISSION Act's expansion of VA's Program of Comprehensive Assistance for Family Caregivers which is not scheduled to begin until this fall. Only veterans with service-connected injuries will be eligible for the program. Originally, this benefit program was only offered to eligible veterans who incurred or aggravated a serious injury in the line of duty on or after September 11, 2001. The VA MISSION Act expands eligibility to eligible veterans and their caregivers from all eras but additional action by Congress would be necessary before veterans with service-connected illness could receive this benefit. VA is still working to establish required IT systems and regulations to improve the caregiver program. It is uncertain as to whether VA will meet the statutory deadline for this fall. We are monitoring the situation closely and will share information as it becomes available to our members.

START OF STORM SEASON SEES FLURRY OF REPORTS AND HEARINGS ON DISASTER PREPAREDNESS

June 1st marks the start of hurricane season and provided the backdrop for the release of two reports focused on the nation's emergency management system as it affects people with disabilities.

At the National Council on Disability's (NCD) meeting in Puerto Rico on May 24th, the council released a report: Preserving Our Freedom: Ending Institutionalization of People with Disabilities During and After Disasters available at <https://ncd.gov/publications/2019/preserving-our-freedom>. Reviewing recent natural disasters, the report examines how, when, and why people with disabilities were institutionalized and offers recommended actions to prevent institutionalization of persons with disabilities in future disasters. It also suggests steps to improve community readiness to meet obligations that require equal access to emergency and disaster services and programs in the most integrated setting appropriate for disaster-impacted people.

Among its recommendations, NCD proposes that the Department of Justice monitor shelters for compliance with Titles II and III of the ADA, that the Federal Emergency Management Agency (FEMA) explore ways to expeditiously modify its Individual Assistance registration process to curtail the incidence of institutionalization of individuals with disabilities, and that the federal

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

government provide grant funds to Independent Living Centers to support disaster-impacted people with disabilities in their communities. Based on testimony of PVA members, NCD also included in the report a recommendation that relevant federal agencies integrate disaster-related services for veterans into all other emergency and disaster services to address the current gap in coordination between services for veterans with disabilities and services for other people with disabilities.

Also in May, the General Accountability Office (GAO) published a report exploring the performance of FEMA during recent hurricanes. The report: FEMA Action Needed to Better Support Individuals Who Are Older or Have Disabilities - <https://www.gao.gov/products/GAO-19-318> - details the challenges that FEMA and partner entities faced in providing assistance to older individuals and those with disabilities following the 2017 hurricanes. Some difficulties were related to the massive destruction that occurred on Puerto Rico and the Virgin Islands. Still other problems arose in FEMA's application process for assistance to survivors that failed to adequately identify people with disabilities in need of accommodations. Staffing shortages and frequent reassignment of disaster assistance personnel in and out of Puerto Rico also hindered continuity in recovery operations. These issues were explored in a hearing on June 12th, before the House Homeland Security Committee with the Director of Homeland Security and Justice at GAO and Peter Gaynor, Acting Administrator for FEMA. Proceedings for the hearing can be found at <https://homeland.house.gov/hearings-and-markups/hearings/assessing-fema-s-readiness-future-disasters>.

PROTECTION OF SOCIAL SECURITY BENEFITS RESTORATION ACT INTRODUCED

In late May, Senate Finance Committee Ranking Member Ron Wyden (D-OR), and Senator Sherrod Brown (D-OH), the Ranking Member of the Finance Social Security, Pensions, and Family Policy Subcommittee, along with eight Senate Democrats, introduced legislation to protect Americans who receive Social Security, including those on Social Security Disability Insurance, from having their benefits garnished to pay outstanding federal debts, such as student loans.

PVA has endorsed S. 1649, the Protection of Social Security Benefits Restoration Act, that would repeal provisions in the law allowing Social Security benefits to be garnished by the federal government to collect federal debts such as student loans, home loans owed to VA and food stamp overpayments. The number of Americans who have had their benefits garnished by the federal government has dramatically increased in recent years – from 36,000 in 2002 to 168,000 in 2018 – nearly a fivefold increase.

Other original co-sponsors of S. 1649 include Senators Kirsten Gillibrand (D-NY), Patrick Leahy (D-VT), Jeff Merkley (D-OR), Bernie Sanders (I-VT), Elizabeth Warren (D-MA), Sheldon Whitehouse (D-RI), Mazie Hirono (D-HI), and Brian Schatz (D-HI). A House companion bill, HR 2991, was also introduced by Congresswoman Marcia Fudge (D-OH), along with Representatives Raúl M. Grijalva (D-AZ) and John Larson (D-CT), House Ways and Means Social Security Subcommittee Chair.

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

PVA SUPPORTS INCREASE IN LIFESPAN RESPITE CARE PROGRAM APPROPRIATION

On May 30th, PVA joined the National Respite Coalition in calling for Senate appropriators to allot \$20 million for Lifespan Respite Care Programs and \$202.7 million for the National Family Caregiver Support Program (NFCSP) in FY 2020 funding. The House FY 2020 Labor-HHS-Education Appropriations bill includes \$5.5 million for Lifespan Respite, which is \$1.39 million above the FY 2019 level and \$200 million for NFCSP, which is \$18.8 million above the FY 2019 level. However, the additional funding is needed to ensure that all family caregivers in need have access to respite regardless of the age or condition of their loved ones.

The National Family Caregiver Support Program was the first federal program to recognize the needs of the nation's family caregivers. Beyond respite services, NFCSP funds counseling, support groups, and caregiver training for family caregivers, primarily for those who are caring for the aging and for individuals of any age with Alzheimer's or other dementias. It also provides limited supports for grandparents and older relatives to provide care for children under age 18 and to older parents and relative caregivers of adults with disabilities.

Forty-three million family caregivers provide the vast majority of the nation's long-term services and supports, permitting individuals of all ages to remain in their communities and avoid or delay more costly nursing home or foster care placements. AARP has estimated that family caregivers provide \$470 billion in uncompensated care annually to adults, an amount that rivals 2018 federal and state spending on Medicaid health services and long-term services and supports combined (\$582 billion).

On June 13th, the House passed an amendment to the FY 2020 Labor-HHS-Education spending bill, H.R. 2740. The amendment, offered by Representative Jim Langevin (D-RI), raises funding to \$10 million for the Lifespan Respite Care Program. The vote on the amendment was 356 in favor to 67 opposed. The spending bill also includes increased funding for the National Family Caregiver Support Program and other programs critically important to children and adults with disabilities, older adults, and their family caregivers. The Senate is expected to consider its FY 2020 funding bill sometime during June.

DEPARTMENT OF EDUCATION LOAN FORGIVENESS PROGRAM

Total and Permanent Discharge (TPD) is a program offered by the Department of Education (DOE) that allows persons who are totally disabled to have their student loans forgiven. Currently, VA and DOE estimate that there are more than 42,000 veterans with severe disabilities who may be eligible for student loan forgiveness. The two departments have joined forces to notify severely disabled veterans who have student loans that they may be eligible to have their loans forgiven tax-free. To be eligible for this program, veterans must be 100 percent disabled or considered totally disabled due to Individual Unemployability (IU). There are two ways to apply for this program: veterans may apply online at www.disabilitydischarge.com or by phone at (888) 303-7818.

WASHINGTON UPDATE

June 19, 2019

Volume 25, Number 6

ITS AMERICA AUTONOMOUS VEHICLE PANEL

On June 5th, Senior Associate Advocacy Director Lee Page participated in a round table discussion on autonomous vehicles (AV) and the future of integrated transit. The panel was sponsored by Intelligent Transportation Society (ITS) of America at their annual conference in Washington, DC. ITS America advances the research and deployment of intelligent transportation technologies to save lives, improve mobility, promote sustainability, and increase efficiency and productivity.

The panel host was Ruth Cox of PROSPECT Silicon Valley, a non-profit currently working with the Santa Clara Valley Transportation Authority (SCVTA), on a project to develop and test an ADA compliant autonomous shuttle. The project is being funded by the US Department of Transportation (DOT) through the Bay Area Metropolitan Transit Commission. Initially, the shuttle will operate at the VA campus in Palo Alto, California, and provide inter-building transportation. Although the initial impetus for developing an ADA compliant AV shuttle was to create a vehicle that could be used as part of the public transit fleet, it became clear that providing accessibility to riders with disabilities could in and of itself expand the transit agency's ridership.

The panel of experts discussed the challenges and opportunities that the universal design approach affords and what the team in Palo Alto should consider as they move forward with the pilot project. Each panel member also shared what role they are playing in shaping the future of accessible transportation solutions. The panel included: Henry Claypool, the policy director at the Community Living Policy Center at the University of California San Francisco; Finch Fulton, the Deputy Assistant Secretary for Transportation Policy at the US DOT; Matt Lesh, a principal at Comet Mobility; Steve Bayless, Vice President of Policy at ITS America; and Mr. Page.

Mr. Page's comments focused on the challenges faced by paralyzed veterans when it comes to accessible transportation. Automakers do not have accessible features in personal vehicles. Almost all vehicles must be modified aftermarket to make the vehicle accessible. These features include, but are not limited to, adding hand controls for steering and driving the vehicle. The addition of a lift or ramp system for entrance into the vehicle and securement devices to ensure safety and stability when driving may also be needed. All of these modifications are additional costs that the person with the disability must bear on top of the original price of the vehicle.

The "We Will Ride Coalition," of which PVA is a member, is focused on ensuring that AVs are designed with universal design principles. This would require a wheelchair access standard that would include independent entry and securement systems that can be operated by the wheelchair user. Some auto manufacturers recognize the need for a fully accessible AV in the individual market, but it is not clear as to whether manufacturers, Congress, and disability advocates can come together to ensure that all manufactured AVs meet the challenge. If not, we will continue to be mired in a separate delivery system such as para transit and other medical model delivery systems.