



# 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

**September 19, 2018**

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## **CONFERCED AGREEMENT PROVIDING VA'S FY 2019 FUNDING PASSES CONGRESS**

Congress has approved funding for Fiscal Year (FY) 2019 for the Department of Veterans Affairs (VA) following a conference agreement reached by the House and Senate Appropriations Committees. The appropriation would provide much needed increases for veterans health care and other critical programs, including new funding to begin implementing key provisions of the VA MISSION Act. Although the conference agreement does not meet all of The Independent Budget's (IB) recommendations for FY 2019 funding, it does include significant increases for VA's medical care, community care, construction, research, and IT programs, as well as for benefit claims and appeals modernization.

We are disappointed, however, that the conference agreement does not provide sufficient advance appropriations for FY 2020. Specifically, it falls at least \$8 billion short of what VA estimated will be needed to fully and faithfully implement the new community care program, expanded caregiver assistance, and other capacity enhancements included in the VA MISSION Act. As a result, the IBVSOs released a statement urging Congress and the Administration to reach an agreement as soon as possible to address the significant shortfall in VA's FY 2020 medical care advance appropriations.

Despite our concerns for FY 2020, the IBVSOs support the bill and urged Congress to quickly pass it prior to the beginning of the new fiscal year. Now that it has passed the House and Senate, it moves on to the President for final action. He will need to sign it prior to the end of the fiscal year on September 30th to ensure that VA is fully funded on October 1st.

## **HOUSE SUBCOMMITTEE ON TECHNOLOGY MODERNIZATION HOLDS HEARING**

On September 13th, the newly established House Veterans' Affairs Subcommittee on Technology Modernization held a hearing regarding, "The Role of the Interagency Program Office in VA Electronic Health Record Modernization." The focus of the hearing was VA's \$10 billion electronic health record (EHR) modernization effort and the current leadership structure in place to oversee it. Congress established the Interagency Program Office (IPO) to act as a point of contact between VA and the Department of Defense. The slow progress to implement a working product between the agencies has left several members of Congress frustrated with no clear point of contact to question. The representatives from the IPO contended that they do not

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# WASHINGTON UPDATE

September 19, 2018

Volume 24, Number 9

---

have the authority to make decisions, rather the law only enables them to collect information and make recommendations. Although it was clear that accountability is necessary in order for Congress to oversee the modernization of VA's health records, no corrective measure has yet been offered.

## **HEARING IN THE U.S. COURT OF APPEALS ON PVA'S LAWSUIT CONCERNING DATA ON WHEELCHAIRS IN AIR TRAVEL**

On September 7th, Democracy Forward appeared on behalf of PVA in the U.S. Court of Appeals for the District of Columbia Circuit to argue against the U.S. Department of Transportation's (DOT) delay of a rule requiring large domestic airlines to report on the number of wheelchairs and scooters they enplane and subsequently damage. Although the issue before the court related to which court has proper jurisdiction of the case, the panel of judges emphasized DOT's "significant legal problems" in delaying the rule without appropriate public notice and opportunity for comments. "You are the government after all," one judge noted, "can't the government do what is right because it is right?" In a public statement following the hearing, PVA National President David Zurfluh noted that the hearing showed that "our case is strong."

The next step in the case is for the panel to issue its decision. If they decide that jurisdiction is proper in the court of appeals, then they will need to consider if our delay in filing is excused based on reasonable grounds. Because the government has essentially conceded that PVA should win the case if the court considers the merits, a determination that our untimely filing should be excused should lead to a win for PVA. If the court decides that jurisdiction was proper in the district court, then the case would be remanded for further action.

As of now, the reporting requirement is slated to go into effect January 2019. At this time, we haven't received any indication that DOT is considering further delays in implementation. Also, Congress is still considering reauthorization of the Federal Aviation Administration (FAA). The Senate bill as passed out of committee includes a provision addressing the delay.

## **FAA REAUTHORIZATION BEING PRECONFERENCE IN EFFORT TO MEET SEPTEMBER 30 DEADLINE**

The House Transportation and Infrastructure Committee and the Senate Commerce, Science, and Transportation Committee are working to preconference their respective Federal Aviation Administration (FAA) reauthorization bills before the current FAA authorization expires on September 30th. Although the Senate Commerce Committee passed its FAA bill out of committee in June 2017, the bill has still not been considered by the full Senate. With time running out and floor time, particularly in the Senate, at a premium, the committees are working behind the scenes to try to come up with a bill that can quickly be agreed to by both the House and Senate and sent to the President.

# WASHINGTON UPDATE

September 19, 2018

Volume 24, Number 9

---

Both the House and Senate FAA bills include provisions similar to those found in the PVA-supported Air Carrier Access Amendments Act (H.R. 5004/S. 1318). Some of those provisions include:

- Airline passengers with disabilities bill of rights.
- Increased civil penalties for harm toward passengers with disabilities or their wheelchairs.
- Advisory Committee regarding the air travel needs of passengers with disabilities.
- Investigation into feasibility of in-cabin wheelchair restraints.
- Improved training for those providing assistance to passengers with disabilities.

PVA has worked closely with both the House and Senate committees on this legislation. We remain hopeful that if a final agreement on the FAA can be reached, that these disability-related provisions, and others, will be included.

## **SENATE COMMERCE COMMITTEE HOLDS TSA OVERSIGHT HEARING**

Senator John Thune (R-SD), Chairman of the Senate Committee on Commerce, Science, and Transportation, held a hearing entitled, “Keeping Our Skies Secure: Oversight of the Transportation Security Administration,” on September 5th. As part of the Committee’s oversight responsibilities, this hearing examined the progress made by the Transportation Security Administration (TSA) in its efforts to advance aviation security and the challenges that remain.

TSA Administrator David P. Pekoske was the sole witness. Prior to the hearing, PVA submitted potential questions about the screening process for people with disabilities. Many PVA members, and other passengers with disabilities, continue to face problems during the “pat down” security check that TSA performs on people who use wheelchairs and other mobility assistive devices. For passengers with disabilities who pay for TSA PreCheck, they too often encounter problems in being able to fully benefit from the program due to inaccessible lanes and screening devices, as well as improperly trained staff.

During the hearing, Chairman Thune noted that a bill he authored with a bipartisan group of Senators, the TSA Modernization Act (S. 1872), would make needed improvements to the agency. PVA supports the disability-related provisions in the bill because they would be helpful in improving the travel experience for people with disabilities. One of the key components included in the language is a requirement for the TSA Administrator to revise the training requirements for Transportation Security Officers related to the screening of passengers with disabilities. The Chairman expressed his desire for the bill to be included in the Federal Aviation Administration Reauthorization that is currently pending in Congress.

## **EXPAND SOCIAL SECURITY CAUCUS LAUNCHED**

On September 13th, more than 150 members of Congress launched a group aimed at protecting and expanding Social Security benefits. Known as the Expand Social Security Caucus, the intent is to highlight the importance of Social Security to the economic stability of

# WASHINGTON UPDATE

September 19, 2018

Volume 24, Number 9

millions of Americans and counter claims by some policymakers that benefits must be cut in order to preserve the system.

The Caucus was organized with assistance from Social Security Works, an advocacy nonprofit seeking to unite lawmakers behind expanding Social Security. The goals of the caucus are not to promote any one specific piece of legislation but to draw attention to the numerous expansion measures that have been introduced in the House and Senate that could benefit from the support of Caucus members.

One of the co-chairs of the caucus is Congressman John Larson (D-CT), ranking member of the House Ways and Means Subcommittee on Social Security, whose bill, the Social Security 2100 Act, has been endorsed by PVA. PVA Advocacy staff participated in a press conference announcing the Caucus, noting the importance of Social Security to the nation's 20 million veterans and their families, including the more than nine million that presently receive benefits under the system.

## **SPECIALLY ADAPTIVE HOUSING GRANT OVERSIGHT HEARING**

On September 6th, Associate Legislative Director Steven Henry testified before the House Veterans' Affairs Committee, Subcommittee on Economic Opportunity to review VA's Specially Adaptive Housing Grant program (SAH). PVA was asked to testify to offer our insights on the current status of the program since so many of our veterans are personally affected and have benefited greatly from the program. Those testifying in addition to Mr. Henry were Mr. Jeffery London, Director of the Department of Veterans Affairs (VA), Loan Guaranty Service; Mr. Ryan Kules, Director of Wounded Warrior Project's Combat Stress and Recovery program; and Brigadier General Tom Landwermeyer, USA (Ret.), Homes for Our Troops President and Chief Executive Officer.

PVA's testimony concentrated on three major concerns:

1. The ability of veterans to find an experienced and reliable contractor.
2. Timeliness of the modifications to be completed.
3. Inconsistency of how the SAH program is administered.

One of the most frustrating parts of the SAH process is finding a reliable contractor. Many contractors refuse to work with VA due to significant paperwork requirements and the fact that VA will not pay until the work has been completed. It is industry standard to follow a payment schedule. Often times, contractors will ask for one half of the total amount up front to cover materials and labor cost. Half of the remaining portion will be distributed at a later time and the remaining amount would be paid at the conclusion of the project. PVA emphasized the importance of simplifying the process and modifying the payment structure so more contractors will work with the VA, allowing veterans to have a larger pool of contractors to choose from.

Since PVA represents so many veterans who have been diagnosed with Amyotrophic Lateral Sclerosis (ALS), Mr. Henry noted the need for modifications to be completed as quickly as

# WASHINGTON UPDATE

September 19, 2018

Volume 24, Number 9

possible. He testified that although the average life expectancy of someone diagnosed with ALS is 2-5 years, none of the five veterans that he has represented for ALS claims have lived a year after their diagnosis. He also described a situation where the surviving spouse of a veteran with ALS was told the modifications for their home would take up to nine months to complete so she paid for them out of pocket. When Mr. Henry met with SAH's program leaders prior to the hearing, they explained that veterans who are terminally ill are not prioritized over any other veteran; however, the process is expedited. Mr. Henry testified that even with being expedited, veterans were still waiting six to eight months to even a year for their modifications. The Subcommittee representatives were very interested in why terminally ill veterans are not prioritized and VA responded they do not have statutory authority to do so.

Finally, Mr. Henry testified about the lack of consistency in SAH's administration. He noted that after surveying PVA's National Service Officers (NSO), many stated SAH agents in their area were assigned additional duties not related to the SAH program. Furthermore, it was also found that SAH agents in a different area were advised that no veteran's case was to be expedited regardless of whether he or she had a terminal illness.

## **U.S. ACCESS BOARD CELEBRATES 50 YEARS OF THE ARCHITECTURAL BARRIERS ACT**

The U.S. Access Board celebrated the 50th anniversary of the passage of the Architectural Barriers Act of 1968 (ABA) with a panel of guest speakers and the unveiling of an exhibit on the law and its impacts at a public meeting and reception on September 7th. In welcoming attendees, Executive Director David Capozzi heralded the ABA as an "often-overlooked law that began the steady march toward the accessibility that we currently enjoy." He noted that the celebration was just one of several events marking the occasion. The day before, the Board conducted a webinar on the standards used to enforce the ABA.

Board Chair Lance Robertson, who represents the Department of Health and Human Services, credited the ABA with literally "opening the doors of government to Americans with disabilities like never before" and setting clear and consistent nationwide accessibility guidelines for the federal government. As the first national law in the U.S. to address accessibility, he noted, the ABA set the foundation for a series of later laws that would extend accessibility far beyond the federal sector, including the landmark Americans with Disabilities Act.

Judith Heumann of the Ford Foundation, a key figure in the disability rights movement and a former Access Board chair, gave the keynote speech. Heumann offered a unique perspective on the ABA from her early and influential role in the disability rights movement and her years of experience in advocacy and disability policy. She recalled her time demonstrating in Washington, D.C. as a member of "Disabled in Action" for enactment of the Rehabilitation Act of 1973 which created the Access Board to enforce compliance with the ABA and to set accessibility guidelines for facilities covered by it.

Under the ABA, four agencies are responsible for implementing accessibility standards based on minimum guidelines issued by the Board. Representatives from each of those agencies shared their own observations of the ABA and its impacts. They included Allison Brigati, who serves as Deputy Administrator of the General Services Administration, Randy Cooper who is the Director of Disability Programs at the Department of Defense and its liaison to the Board,

# WASHINGTON UPDATE

September 19, 2018

Volume 24, Number 9

---

Tom Samra who represents the U.S. Postal Service on the Board as Vice President for Facilities, and Lynn Grosso who is Director of Enforcement in the Office of Fair Housing and Equal Opportunity at the Department of Housing and Urban Development.

## **EMERGENCY PREPAREDNESS UPDATE: HURRICANE FLORENCE**

As Hurricane Florence made landfall, the Department of Veterans Affairs published information specific to its facilities and contact information for veterans in the affected region. Florence is affecting 1.5 million veterans (741,169 of whom are enrolled for VA health care), and 28,623 VA employees. Twenty-two community based outpatient clinics and five Vet Centers in the path of the storm have been closed or will be closed. All facilities supporting the intake of evacuated patients, and remaining active during the storm, have topped off their energy and oxygen supplies, and have enough food until September 29th. VA continues to conduct assessment of high-risk outpatient outreach and needs and is coordinating transportation to shelters for special needs populations.

The VA Health Resource Center has established a number of hotlines at its call center to connect veterans and employees in real-time with necessary resources.

Veteran Hurricane Hotline Number: [1-800-507-4571](tel:1-800-507-4571)

Employee Disaster Hotline Number: [1-866-233-0152](tel:1-866-233-0152)

Veterans Benefits Administration (VBA) Hotline Number: [1-800-827-1000](tel:1-800-827-1000)

Pharmacy Customer Care 1- [866-400-1243](tel:866-400-1243)

For updates on operations of the following VA facilities and associated clinics, please visit the websites below:

**South Carolina:** [Ralph H. Johnson VA Medical Center \(Charleston\)](#)

**Virginia:**

- [Hampton VA Medical Center](#)
- [Salem VA Medical Center](#)
- [Richmond VA Medical Center](#)

**North Carolina:**

- [Durham VA Health Care System](#)
- [Salisbury VA Medical Center](#)
- [Fayetteville VA Medical Center](#)
- [Asheville VA Medical Center](#)

# WASHINGTON UPDATE

September 19, 2018

Volume 24, Number 9

---

## VA Mobile Facilities

VA is readying two Mobile Pharmacy Units, 16 Mobile Vet Centers, and one Mobile Emergency Nutrition Unit to Richmond, VA VAMC and Salisbury, NC VAMC to offer medical care, pharmacy assistance, counseling services and benefits referral to veterans and the community affected by Hurricane Florence.

## VA Benefits

- September benefit payments have been processed, and October payments will be issued at the end of the month for an October 1st pay date.

**For updates on VBA operations, visit the following facility websites:**

- [Columbia Regional Benefit Office](#)
- [Roanoke Regional Benefit Office](#)

## Federal Response

- Additional information on the federal government's hurricane response can be found at <https://www.usa.gov/hurricane-florence>.
- To find assistance in your area, visit <https://www.disasterassistance.gov/get-assistance/find-assistance> and search for VA specific information by the federal agency links.