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DAV Department of Ohio Newsletter

January 2021 Issue

VA Disability Claims Hindered by NPRC Backlog

Ten Ohio Congressional Representatives have petitioned the National Personnel Records Center (NPRC) Director Scott Levins to resolve a problem which impacts Department of Veterans Affairs (VA) disability claims. Those Ohio Representatives joined with 221 other Congressional Representatives in signing the 9-page petition on November 25, 2020.

NPRC is the agency responsible for providing our veterans with important personnel, health and medical service records required to qualify for a wide range of VA related benefits. Due to the COVID-19 pandemic, on March 23, 2020, NPRC reduced its staffing and ceased processing requests, which caused a significant backlog of records requests.

Many veterans have been waiting months to receive their military records. Without these vital military records, veterans cannot process disability claims through the VA for injuries they received while serving our country. The letter petition states: "Except for a limited number of emergency medical and burial requests, since March of this year, our constituents' requests for military personnel records from NPRC have largely been unfulfilled."

The Congressional petitions request that the NPRC establish a working plan, including a detailed timeline, in order to state how the agency intends to address the growing backlog of military personnel records requests.

In his monthly Newsletter, concerning the specific NPRC backlog situation, Congressman Warren Davidson stated: "COVID may require people to work differently, but it cannot become an excuse for inadequate performance."

The ten (10) Ohio Congressional Representatives who signed the petition to Director Scott Levins were: Steve Chabot, Warren Davidson, Marcia Fudge, Bob Gibbs, Bill Johnson, David Joyce, Marcy Kaptur, Robert Latta, Tim Ryan and Brad Wenstrup.

VA's 100% Privatization of C&P Exams Rebuked by Congress

On November 25, 2020, Senator Sherrod Brown, of the Senate's Veterans Affairs Committee, joined with ten (10) colleagues in expressing "grave concern" over the recent Department of Veterans Affairs (VA) decision to increase the privatization of Compensation and Pension (C&P) exams, which will negatively impact services and benefits provided to disabled veterans. C&P exams are a key component of assuring that veterans receive their earned disability benefits.

Previously, as a pilot program, private physicians/contractors were performing 60% of all C&P exams. In April, the VA suspended C&P exams at VA facilities (because of the pandemic). The result was a backlog of 350,000 C&P exams and more than 480,000 claims awaiting decisions. In late October, the VA eliminated in-house VA C&P exams and allocated 100% of that work to the private sector.

This decision was made without communications to the affected veterans, advocates, labor representatives or even members of Congress. Senator Brown stated: "when Congress established the pilot program to contract C&P exam with non-VA medical professionals, it was done to supplement VA's internal capacity to perform exams to help veterans, not supplant it."

Senator Jon Testor added: "Eliminating associated VA personnel conducting these exams – in addition to outsourcing examinations to private contractors at a potentially enormous cost to American taxpayers – would severely impact veterans and VA employees across the country, especially those in rural America."

Representative Elaine Luria, who is the Chairperson for the Disability Assistance and Memorial Affairs Subcommittee, wrote to VA Secretary Robert Wilkie on October 25, 2020: "VA's quiet decision to carry out a major reorganization of its C&P program without a Plan to make key improvements, reduce backlog, or retain employees, is unlikely to deliver the high-quality results we expect."

Senator Brown concluded: "Veterans with unique health issues and conditions including Military Sexual Trauma, Post Traumatic Stress Disorder, Traumatic Brain Injury and health impacts as a result of toxic exposures, benefit greatly from being seen by a VA medical professional compared to someone with less experience with veterans' unique medical and mental health conditions. We have concerns that these external contracted medical examiners, with less experience evaluating veterans' unique health conditions, could contribute to a growth in appeals when non-VA examiners misdiagnose these veterans."

Dual Decisive Legislative Victories for Veterans

For the last five years, the DAV Department of Ohio team have been journeying to Washington, D.C. to lobby our elected legislative leaders to fulfill the promises that were earned by veterans for their military service. Recent developments have proved that the 116th Congressional Session, which concluded in January of 2021, was the most productive of the last five Congressional Sessions in terms of passage of key veterans-related issues.

The **National Defense Authorization Act (NDAA) of 2021** (known as H.R. 6395) was initially vetoed by the President, but two-thirds of the House and the Senate voted to override the President's veto. Voting to override the veto were: House Representatives Troy Balderson, Joyce Beatty, Steve Chabot, Marcia Fudge, Bob Gibbs, Anthony Gonzales, Bill Johnson, David Joyce, Marcy Kaptur, Robert Latta, Tim Ryan, Steve Stivers, Michael Turner and Brad Wenstrup,. Both Senators Sherrod Brown and Robert Portman also voted to override the veto.

The key provision for the DAV was the expansion of the list of diseases associated with Exposure to Agent Orange. Now approximately 240,000 veterans suffering from **bladder cancer, hypothyroidism and Parkinsonism** will be able to access VA healthcare and benefits. The FY 2021 NDAA includes \$8 billion in new benefits for veterans suffering from Agent Orange-linked illnesses.

The second legislative victory for the DAV, and more importantly to veterans, was the passage of the **Johnny Isakson and David P. Roe M.D. Veterans Health Care and Benefits Improvement Act of 2020** (known as H.R. 7105). The 340-page bill was approved by the House of Representatives and later by the Senate. It was forwarded to the President for consideration on December 23, 2020. On January 5, 2021, the bill was officially signed by the President and enacted into law.

The focus of this omnibus package of veterans-related provisions was the Deborah Sampson Act, which the DAV has been effectively lobbying since 2016. This Act was intended to remove barriers and improve women veterans' health care at the Department of Veterans Affairs (VA). To support the lobbying effort, DAV National prepared two detailed reports dealing with recommendations to improve the delivery of women veterans' VA health care. DAV Department of Ohio had delivered these two comprehensive reports to our elected officials during our DAV Mid-Winter Conferences.

One provision establishes the Office of Women's Health at the VA and provides \$20 million to retrofit VA Hospitals with women's health spaces and makes permanent a program to provide childcare at VA facilities. Other features of the law include:

- Staff each VA facility with a dedicated women's health primary care provider.
- Establish a policy to end gender-based harassment at VA facilities.
- Address a negative culture for women at VA facilities.
- Permanently authorize PTSD counseling for women veterans in retreats.
- Provide gender-specific healthcare equipment at each VA Medical Center.
- Provide extended care for newborns.
- Expand call center services for women veterans.
- Establish and improve care standards for women veterans at the VA.
- Require a GAO Report on homeless or at-risk women veterans.
- Expand child care for women veterans receiving VA care.
- Improve the claims process for Sexual Trauma survivors at the VBA.

This omnibus veterans' legislation also includes measures to:

- Grant access for K2 Veterans to the VA Burn Pit Registry. *[Article on K2 Veterans appeared in the DAV Department of Ohio December Newsletter]*
- Provide protections for veterans who experienced VA medical malpractice.
- Reform VA overpayment debt collections.
- Enhance oversight for state veteran homes related to the pandemic.
- Provide for more retraining assistance for disabled veterans.
- Extend Servicemember Civil Relief Act protections to catastrophically injured service members and their spouses.

The 340-page bill has been enacted into law. Now, it is the responsibility of the DAV to ensure that the VA does its job and delivers the benefits that Congress has provided to our disabled veterans. ***WE MUST NOT FAIL!!***

Department-Supported Grant Increase Enacted

For the last two years, Department of Ohio had submitted resolutions to the DAV National Convention to increase the grant limit for maintenance at VA cemeteries. The current federal grant is \$5 million. Our resolutions would increase the federal grant to \$10 million. Congressman Gregorio Sablan's Office, who initially surfaced the issue with the Department of Ohio during the 2019 Mid-Winter Conference, later introduced H.R. 5487, the Veterans Cemetery Grants Improvement Act. This bill was recently incorporated into H.R. 7105 and signed by the President.

Veterans' Repayment Options for VA COVID Debts

In April, the President paused the collection of Department of Veterans Affairs (VA) medical debts, including co-payments on prescription drugs, because of financial hardships caused by the COVID-19 pandemic. In August, the VA stated that the suspension of the medical debts would end on December 31, 2020.

The VA provides five (5) options: (1) Establishing a repayment plan for smaller payments; (2) Disputing of the debt; (3) Submitting a compromise offer to the VA; (4) Requesting a temporary hardship suspension of the VA; and (5) Requesting a Waiver for the full or part amount of the debt.

The option most beneficial to the veteran is the Requesting of a Waiver. When a waiver is requested, the veteran is asking the VA to terminate collection action on a debt. If a waiver is granted, in full or part, the veteran will not be required to pay the amount that was waived.

The Waiver Option requirements consist of two (2) parts. The first part is a letter from the veteran that explains "*why the veteran is requesting the waiver.*" The letter should explain "*why the collection of the debt would be unfair and create a financial hardship.*" The second part is a completed/signed VA Financial Status Report Form.

The January billing is scheduled to restart at a time when many veterans are set to lose financial assistance, such as their unemployment benefits or housing benefits. While the veteran unemployment rate was 3.8% in March, the unemployment rate rose to 5.9% in October and 6.3% in November.

"Given the status of the pandemic, right now, I think it is reasonable to assume the financial situation in the country will not be better in January than it is now," said Senator Krysten Sinema of Arizona. "I believe debt relief should be granted."

For more detailed information, veterans are encouraged to contact: 1-800-827-0648 or <https://iris.custhelp.va.gov/app/ask/> . Other sources of assistance may be local County Veterans Service Commissions (VSCs) or their local Congressional District Office or Senatorial District Office.

DAV and Transition of Power at the Veterans Affairs

Every four years the American public is given an opportunity to either continue the direction of the leadership of our country or change the direction by selecting new leadership. We call this our Presidential Election System. The peaceful transition of government has always been a hallmark of this nation, even with periods of conflict or calamity, such as a pandemic.

The winds of change are already sweeping upon us. Our new President has already nominated a new Secretary of the Department of Veterans Affairs (VA). This is a power that the new administration has as a fundamental right. All presidents have changed personnel at key leadership positions when they took over the reins of government.

However, to be accurate, the majority of the veterans' advancements were made by elected members of Congress, **not** by appointed leaders. For example, the 116th Congressional Session did more to improve veterans' benefits than the previous two Sessions combined. The enactment of the VA MISSION Act of 2018 and the Blue Water Navy Vietnam Veterans Act certainly were the high points.

In contrast, in some instances recent VA Secretaries and their staff fought against veteran-related issues. Several examples support this statement.

Just what position does the DAV take on the transition of power? A wise DAV National Commander stated: "*the DAV is neither Pro-Democrat or Pro-Republican. The DAV is Pro-Veteran!*" For example, there are just as many elected Democrats as Republicans in Congress that strongly support veterans-related issues.

DAV National already issued a statement that the DAV is looking forward to working with the new VA Secretary on veteran-related issues. This will be an excellent opportunity to modify the direction that the recent VA was heading on key issues, such as privatization of medical services.

The DAV is needed now, more than ever, to "right the ship" (in terms of the direction that the VA was proceeding) to protect the benefits earned by veterans. There are battles that must be fought (**and won**) at the VA-policy level in Washington (and in Ohio) and our members must actively participate.

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State Commander

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