



Vietnam Veterans of America Chapter 825 South Jersey

103 Florida Ave., Egg Harbor Township, NJ 08234

February 2014

This newsletter is a production of Chapter 825 of the Vietnam Veterans of America. Its intended purpose is to provide our readers with information dealing with Chapter activities, veterans' issues and other useful information. It is made possible through the efforts of our members and our sponsors. Please support us by supporting our sponsors.

Thank you!



Meetings are held on the 1st Monday of the month at 7:30 PM, unless otherwise indicated, at the Township of Hamilton Rescue Squad 1400 Route 50 in Mays Landing.

We would like to see you there:
Please make an effort to attend!

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<http://vvchapter825.org>

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Proposed Changes to VA Claims

VA's proposal to amend its adjudication regulations, the appeals regulations and rules of practice of the Board of Veterans' Appeals first appeared in the Federal Register October 31, 2013.

The embattled agency, which has been under fire for problems with the claims backlog at all levels, seeks to dramatically change the way our veterans apply for benefits.

There are two major components of these proposed changes. The first is to require all claims to be filed on standard forms prescribed by the Secretary, regardless of the type of claim or posture in which the claim arises. The second is to provide that VA would accept an expression of dissatisfaction or disagreement with an adjudicative determination by the agency of original jurisdiction (AOJ) as a Notice of Disagreement (NOD) only if it is submitted on a standardized form provided by VA for the purpose of appealing the decision, in cases where such a form is provided. The purpose of these amendments is to improve the quality and timeliness of the processing of veterans' claims for benefits.

Under current law, veterans are able to simply write a letter to apply for and/or to appeal a claim. No form necessary, no special language needed. This policy has actually been a welcome protection for veterans with disabilities that limit their cognitive functions.

With the proposed changes, VA seeks to force disabled veterans to use only approved agency forms when filing claims, and require that veterans write down the precise reasons why VA made a mistake.

The proposed changes are allegedly intended to modernize the system so all veterans receive more timely and

accurate decisions, with VA claiming the old method slows the process of getting veterans and their families' decisions on their claims.

So now we are faced with the question are these mandated forms really good for veterans? The idea has received bipartisan support in the House. But it appears that even well meaning politicians and others who want to do something good for veterans may not have a full understanding of these new restrictions, especially their legal implications.

Glenn Bergmann, a partner at Bergmann & Moore, a Washington D.C.-area law firm that solely represents veterans with VA disability claims, has studied the proposal and the relevant case law. He told Veteran Journal that, "While on the surface these proposed regulations look veteran-friendly, they really are not."

Bergmann says that if approved this VA proposal will "gut decades of veteran-friendly case law by eliminating reasonably raised claims made by veterans. If VA's proposed regulation goes into effect and forces veterans to use only VA's forms, then VA tilts the scales of justice from a pro-veteran claim system to an anti-veteran process."

Bergmann adds that veterans with mental health issues such as Post-Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI) will be at a particular disadvantage if VA's proposed regulation is adopted.

The VA claims this new rule will be "much more efficient, allowing the veteran to precisely state what he or she is seeking." The use of standardized forms, according to the VA fact sheet will make the claims process "more convenient since it allows veterans the opportunity to apply for benefits by filling in the blanks on forms either on paper or online. The use of standardized forms

will give VA the information needed to move the claim through the process more quickly.”

If VA’s proposed rule is approved, VA could quite possibly get away with processing fewer claims because many veteran submissions will not pass muster and will be rejected/returned out of hand. With this proposal VA seems to be moving toward ridding itself of the duty to assist that is required by the law.

Under the proposed regulation, if any veteran’s claim is not “fully developed” it is considered “incomplete,” and it will be returned.

Veterans are currently not required to identify their exact medical condition/disability because they are not medical experts. A veteran should be able to generally state what is wrong. Under these new rules, if the condition is not properly listed by the veteran, VA could deny the claim because it is not specific.

Requiring veterans to specifically describe VA’s mistake in their claim will especially harm those veterans who may not have a lawyer or a VSO to provide guidance.

According to Rick Weidman of Vietnam Veterans of America approximately 60 percent of veterans who file a disability claim or appeal are not represented by anyone. Not by a VSO. Not by a lawyer. They are basically on their own.

These proposed rules fly in the face of what is supposed to be a pro-veteran claims process. They are adversarial to our veterans, especially those men and women who do not have legal representation and/or have mental health challenges. If the veteran doesn’t use the correct VA form, or does not articulate the claim/disagreement with appropriate specificity, the veteran may lose his or her appeal rights.

And in some cases, even when veterans have a VSO helping them out, the VSO advisers who help veterans adjudicate their claim may not properly trained and/or may be poorly supervised if at all. Training, testing, recertification of veteran service officers by the various veterans’ service organizations is all over the map. This proposal could make things more difficult for these veterans who have

no assistance – or incompetent assistance.

It is logical to think that politicians just do not understand the real legal ramifications of this proposal and how it could be used to lighten the VA disability backlog by simply throwing out claims with missing or incomplete data, leaving the veteran with no recourse.

DoD & VA e-Health Records Update

Lawmakers included funding restrictions in the 2014 Omnibus Appropriations Act the House passed recently to address concerns that DoD & VA might continue to spend years and billions of dollars in a “futile exercise” to develop their own electronic health record systems “and lose sight of the end-goal of an interoperable record.”

Both the House VA and Defense appropriations committees have defined the goal, interoperability, as the ability to exchange computable information electronically between the departments based on common data standards. Similar language is included in the 2014 National Defense Authorization Act signed by President Obama late last year. The omnibus spending bill eliminated language in an earlier version of the 2014 VA appropriations bill that called for development of a single record to serve both departments.

DoD & VA abandoned efforts to develop a single EHR in February 2013 when the estimated costs of a system reached \$28 billion, four years after President Obama called for development of a joint record in April 2009.

“The committees want to be very clear with both departments: An interoperable record between the two departments is the chief end goal for Congress,” said the VA section of the omnibus bill the House approved January 15, 2014.

“The evolution and/or procurement of new health record systems is an important project for the departments to undertake, but it will end up being a futile exercise if the result is not the development of systems that will be interoperable,

defined as the ability to exchange computable information electronically,” the section said. “There is rising concern the departments will spend years and billions of dollars on their own electronic health record systems and lose sight of the end-goal of an interoperable record.”

The VA section of the omnibus bill transfers \$251.9 million that VA originally requested for the integrated EHR to support development of an upgraded version of its Veterans Health Information Systems and Technology Architecture, dubbed VistA Evolution. It provides \$32.9 million for the Virtual Lifetime Electronic Record, which includes benefits information.

The language precludes VA from spending more than 25 percent of the VistA Evolution budget until the department describes to Congress how it will adhere to data standards defined by the Interagency Program Office, or IPO, which was originally set up to develop the integrated EHR. The lawmakers also want updates on “how testing will be conducted in order to ensure interoperability between current and future DoD and VA systems.”

The Defense Appropriations Committee said the IPO -- whose director, Barclay Butler, departed last September with little public notice -- now has the responsibility to establish and approve the clinical and technical data standards that “will insure seamless integration of health data between the two departments and private health care providers.”

May 2013, Defense Secretary Chuck Hagel backed development of a new Defense EHR based on commercial software. In September 2013, the Pentagon established the Defense Healthcare Management Systems Modernization, or DHMSM, office to manage development of the new EHR.

DHMSM plans to kick off a procurement for the new Defense EHR in March. The Defense section of the omnibus bill allows DHMSM to spend only 25 percent of its budget until it provides Congress with a budget for the full cost of the new EHR. The omnibus bill does not break out the DHSM EHR budget, but chopped the overall procurement budget for the Defense Health Agency

by \$204.2 million for the integrated EHR it now considers as “excess.”

The Defense Appropriations Committee echoed the VA Committee, saying it is “imperative” that the Pentagon “does not lose sight of the ultimate goal of interoperability” with the VA EHR.

Federal Workforce Reductions

We keep hearing how certain sections of our elected officials and others want to reduce the size of the federal government. With that in mind it should be noted that the federal government shed 2,000 jobs in December, ending 2013 with a net loss of 79,000 positions, according to the latest figures from the Bureau of Labor Statistics.

Federal agencies, excluding the U.S. Postal Service, lost 4,200 jobs in December.

The U.S. economy overall added just 74,000 jobs in December, a disappointing figure that fell far below expectations. The unemployment rate actually dipped, however, to 6.7 percent, primarily due to people dropping out of the labor force.

Federal government job loss has slowed somewhat in recent months. In October, agencies shed 12,000 positions and had lost 94,000 jobs in the previous 12 months. This corresponds to a reduction in the number of employees retiring from federal service, which trended downward in November and December.

At the time of the writing of this article, federal agencies were still waiting their appropriations for the remainder of fiscal 2014, but with the sequester partially repealed for two years thanks to the recent budget agreement, federal offices may begin rolling back the hiring freezes that have heavily contributed to the net job losses across government.

The total federal workforce -- including military personnel and USPS employees -- sits around 4.3 million. That number is likely to continue to shrink, however, as the military plans to withdraw its remaining troops in Afghanistan this year and the Postal Service continues to look to reduce staffing.

Many congressional Republicans, including House Budget Committee Chairman Paul Ryan of Wisconsin, want to downsize the federal workforce through attrition, which means hiring fewer employees to replace those who leave government. Ryan’s initial plan, for example, proposed cutting the workforce by 10 percent through attrition by 2015. Ryan co-authored the 2014-2015 budget blueprint, but it did not include any mandates for federal workforce reductions.

The impact that this will have on the VA’s ability to fill vacancies in the health administration remains to be seen.

Another consideration concerns the fact that behind every member of Congress is a small cadre of staffers, without whom lawmakers’ jobs would be impossible. They craft legislation, are experts in arcane policy, maintain hectic schedules, and help ensure that constituents get served by the government for which they pay.

However cuts to office budgets—down 20 percent over the past three years alone—and changes to employee health care, along with near-constant threats of furloughs and shutdowns, have eroded morale on Capitol Hill, and more senior staffers are looking toward the exits than in the past, according to a new survey released recently by the Congressional Management Foundation (CMF).

Congress may not work very well these days, but things would be much worse if it was no longer able to attract top talent and retain the unique institutional knowledge that longtime aides possess.

CMF, a nonprofit, nonpartisan organization that provides management consulting for members’ offices, surveyed 163 House and Senate chiefs of staffs and district or state directors in late 2013 under the promise of anonymity. The results are troubling.

Thirty-eight percent of senior staffers surveyed said it was “likely” they would look for a job outside their current office in the next year, up 8 percentage points from the last survey, in 2011. Meanwhile, the percentage saying it was unlikely they’d look for a new job fell 13 points from 64 percent to 51 percent, a bare majority.

In addition to budget cuts, many staffers are losing their federal employee health benefits and being forced to purchase coverage through the insurance exchanges established by the 2010 Affordable Care Act, a change Republicans pushed for political reasons. Sen. David Vitter, R-La., and others even tried unsuccessfully to pass legislation eliminating staffers’ health insurance subsidy, while another GOP senator recently brought a lawsuit to do the same.

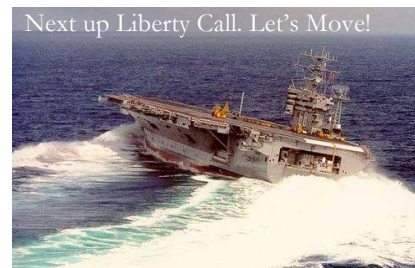
Respondents to the survey were encouraged to provide candid thoughts on life as a senior aide, and many said the health insurance change and budget cuts have had a tremendous negative impact on their lives and offices.

As a result of the sequester, some staff are moving to off-Hill positions that pay sometimes double what pay on the Hill is, with more certainty and no furloughs.

Cuts are straining resources and the decline of in-house resources creates a vacuum that may be filled by outside groups such as think tanks and lobbyists as if their influence is not a problem currently.

The result could be a legislative branch run by K Street lobbyists and 25-year-old staffers.

It has been argued that congressional aides have always been underpaid and overworked, but they kept coming back due to a commitment to public service or a desire to have an impact. However there may be a point when salary and budget cuts go too far, even for the most service-oriented. Is there a tipping point where Capitol Hill becomes significantly less attractive and private sector is more attractive? For any American interested in fixing Congress and having representatives who can perform their jobs well, let’s hope we haven’t already reached that point.





Pause To Remember
MAJ Robert H. Mirrer USAF
05 Feb 1939
SSG Robert F. Scherdin USA
14 Feb 1947
CDR Donald R. Hubbs USN
19 Feb 1926

Cuts to Military Retirement Pay?

The initial bill to cut military pay was passed by the House of Representatives in mid-December 2013.

Military & veterans organizations were blindsided recently when the House of Representatives passed the Bipartisan Budget Act, a bill that called for the reduction of pay raises for current servicemembers and decrease the annual Cost of Living Adjustment (COLA) for working age retirees (under age 62). One of the purposes of the Bipartisan Budget Act is to reduce the impact of the automatic budget cuts mandated by the Sequestration. Avoiding the mandated cuts will be paid for, in part, by shifting resources from working age military retirees, by reducing the annual Cost of Living Adjustment by 1% less than the current standard.

To better understand this issue Let's take a look at military pensions, how the pay raises are determined, and how this may impact retired veterans.

The military has a few different retirement plan options. The two active duty retirement plans this new bill would affect are the High-3 Retirement Plan, and the REDUX Retirement Plan.

The High-3 Retirement Plan gives retirees a pension based on 50% of their average base pay of their three highest annual salaries when they retire

after 20 years of service (plus 2.5% of base pay for each additional year served above 20 years of service). There are annual cost of living adjustments based on CPI.

REDUX Retirement Option: Retirees who choose the REDUX plan receive a \$30,000 lump sum payment at year 15, in exchange for locking in a lower annual cost of living adjustment, which is fixed at CPI-1% (this is similar to the Bipartisan Budget Act proposal). There is an adjustment at age 62 to bring their pension up to the amount it would have been without the reduced COLA, then the COLA-1% resumes. This rarely works out to the benefit of the retiree, and in most cases, REDUX is a poor retirement option.

At this time it is unknown whether or not the REDUX option will be affected by the Bipartisan Budget Act, and if so, how it will be affected.

Military pensions are currently tied to the Consumer Price Index, which is a measurement of inflation in the US. The index measures over 80,000 items to determine an average inflation measurement. This rate is used to determine the overall inflation rate for many government measurements. For example, the CPI rate is used as the basis for Social Security benefits increases and VA service-connected disability rate increases. The idea behind tying these payments to the Consumer Price Index is to help maintain purchasing power over time.

While this is good for the recipients, it's a bone of contention for the bean counters in D.C. These raises are cumulative and compounding. Over time, even small changes add up to tens of billions of dollars when spread out over hundreds of thousands (or even millions) of benefits recipients. This is why the Chained CPI is under consideration as an alternative to using the CPI. That is a whole separate argument outside of the scope of this particular article, but suffice it to say it isn't something that the government put together to help pension and benefits recipients.

The Bipartisan Budget Act calls for military retirement pay raises to continue following the CPI. However, working-age retirees under age 62 would receive 1% less than the CPI for that year. Once retirees reach age 62, they would receive a one time

adjustment to bring their pension up to where it would have been had they received full COLA adjustments the entire time. Subsequent annual COLA adjustments would be at the full CPI.

Here is a quote from the summary of the Bipartisan Budget Act of 2013: *This provision modifies the annual cost-of-living adjustment for working-age military retirees by making the adjustments equal to inflation minus one percent. This provision would go into effect in December 2015. At age 62, the retired pay would be adjusted as if the COLA had been the full CPI adjustment in all previous years, and the service members would receive the full COLA from then on. Service members would never see a reduction in benefits from one year to the next and it will save approximately \$6 billion over ten years.*

On the surface, this proposed retirement pay system is very similar to the REDUX retirement option mentioned above, minus the \$30,000 Career Bonus payment and a few other details. The REDUX option resumes cola payments at CPI-1% after pensions are adjusted as if the COLA had been the full CPI adjustment in all previous years, which is different than this system. While 1% may not seem like a lot on the surface, it adds up quickly especially when you consider the effects of compound interest, the long-term results can be significant.

The cuts will have a devastating and long-lasting impact. By age 62, retirees who serve a 20-year career would lose nearly 20 percent of their retired pay.

The loss in retirement pay depends on several important factors such as the age and rank of the retiree. Those who will be the least impacted are retirees who served longer, and thus retire at a later age. For example, a retiree who serves 30 years and retires at age 50 would only see 12 years of reduced pension increases, versus 22 years of reduced pension increases for a veteran who retired at age 40.

There are some military pension recipients who may be exempt from these changes. A recent move to exempt disabled veterans and the survivors of combat casualties from these changes is underway in Congress.



DoD Reduces Number of Locations for Imminent Danger Pay

The Department of Defense recently announced they have reassessed the areas that qualify for Imminent Danger Pay (IDP). Imminent Danger Pay is a benefit given to troops serving in locations that are deemed to be hostile or dangerous. The benefit provides troops in imminent danger areas a bonus of \$7.50 per day, up to the maximum monthly rate of \$225.

Qualifying for Imminent Danger Pay: IDP is a location and risk based benefit. In general, the DoD considers areas where service members are at high risk for subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions. This includes exposure to gun fire, mines, rockets and mortar attacks, and similar acts of aggression.

Changes reportedly not budget driven: The statement released by the DoD stated the areas were removed from the IDP zones as part of a routine recertification process, and not due to budget constraints.

The review concluded, *“The imminent threat of physical harm to U.S. military personnel due to civil insurrection, civil war, terrorism or wartime conditions is significantly reduced in many countries, resulting in the discontinuation of imminent danger pay in those areas.”*

The DOD news release noted the following areas would no longer be designated as imminent danger areas for IDP purposes:

- The nine land areas of East Timor, Haiti, Liberia, Oman, Rwanda, Tajikistan, United Arab Emirates, Kyrgyzstan and Uzbekistan
- The six land areas and airspace above Bahrain, Kuwait, Qatar, Saudi Arabia, Serbia and Montenegro.
- The four water areas of the Arabian Sea, Gulf of Aden, Gulf of Oman, and the Red Sea.
- The water area and air space above the Persian Gulf.

Locations still included in the IDP zones include Iraq, Afghanistan, Egypt, Jordan, Lebanon, Pakistan, Syria, and Yemen.

The DoD estimates this will produce approximately \$100 million in savings, based on 2012 service numbers.

These changes go into effect on June 1, 2014.

Veterans Benefits Under Attack From CBO

Military service members who retire—either following 20 or more years of military service under the longevity-based retirement program or early because of a disability—are eligible for retirement annuities from the Department of Defense. In addition, veterans with medical conditions or injuries that were incurred or worsened during active-duty military service (excluding those resulting from willful misconduct) are eligible for disability compensation from the VA.

Until 2003, military retirees who were eligible for disability compensation could not receive both their full retirement annuity and their disability compensation. Instead, they had to choose between receiving their full retirement annuity from DoD or receiving their disability benefit from VA and forgoing an equal amount of their DoD retirement annuity; that reduction in the retirement annuity is generally referred to as the VA offset. Due to the retirement annuity being taxable and disability compensation not, most retirees chose the second alternative.

As a result of several laws, starting with the National Defense Authorization Act for 2003, two classes of retired military personnel who receive VA disability compensation (including those who retired before the enactment of those laws) can now receive payments that make up for part or all of the VA offset, benefiting from what is often called concurrent receipt. Specifically, retirees whose disabilities arose from combat are eligible for combat-related special compensation (CRSC), and veterans who retire with 20 or more years of military service and who receive a VA disability rating of 50 percent or more are eligible for what is termed concurrent retirement and disability pay (CRDP). CRSC is exempt from federal taxes, but CRDP is not;

some veterans would qualify for both types of payments but must choose between the two.

An option under review in Congress presented as part of the Congressional Budget Office’s OPTIONS FOR REDUCING THE DEFICIT: 2014 TO 2023 would eliminate concurrent receipt of retirement pay and disability compensation beginning in 2015. Under Option 9 Eliminate Concurrent Receipt of Retirement Pay and Disability Compensation for Disabled Veterans; military retirees currently drawing CRSC or CRDP would no longer receive those payments, nor would future retirees. As a result, the option would reduce federal spending by \$108 billion between 2015 and 2023, the Congressional Budget Office estimates.

In 2012, of the roughly 2 million military retirees, about half were subject to the VA offset; about 40 percent of that latter group—or 420,000 retirees—got concurrent receipt payments totaling \$7 billion. Spending for concurrent receipt, which was just over \$1 billion in 2005, has climbed sharply because of both an expansion of the program and an increase in the share of military retirees receiving disability compensation. In particular, the share of military retirees receiving a longevity-based retirement annuity who also receive disability compensation rose from 33 percent in 2005 to 45 percent in 2012.

One argument for this option is that disabled veterans would no longer be compensated twice for their service, reflecting the reasoning underlying the creation of the VA offset. However, military retirees who receive VA disability payments would still receive higher after-tax payments than would retirees who are not disabled and who have the same retirement annuity because VA disability benefits are not taxed.

An argument against this option is that the DoD retirement system and the VA disability program compensate for different characteristics of military service: rewarding longevity in the former case and remunerating for pain and suffering in the latter. In addition, a determination of disability by VA is a gateway to receiving other VA services (such as health care or vocational training), yet many veterans consider

the disability-rating process onerous. If fewer retirees applied for VA disability compensation because concurrent receipt was no longer available, some veterans might bypass other VA services for which they would be entitled otherwise. Moreover, some retirees would find the loss of income financially difficult.

Another troubling recommendation from the CBO is Mandatory Spending—Option 21 Function 700 - Veterans Benefits and Services Narrow Eligibility for Veterans' Disability Compensation by Excluding Certain Disabilities Unrelated to Military Duties where CBO notes:

Veterans may receive disability compensation from the Department of Veterans Affairs (VA) for medical conditions or injuries that occurred or worsened during active-duty military service (excluding those resulting from willful misconduct). Disabilities that are deemed to be connected to military service in that sense range widely in severity and type, from the loss of limbs to migraines and treatable hypertension. VA also provides dependency and indemnity compensation—payments to surviving spouses or children of a deceased veteran whose death resulted from a service-related injury or disease. The Department of Defense (DoD) has a separate disability compensation system for those service members who can no longer fulfill their military duties because of a disability.

Some medical conditions and injuries that are deemed to be service-connected disabilities were incurred or exacerbated in the performance of military duties, but others were not. For example, a qualifying injury can be something that occurred when a service member was at home or on leave, and a qualifying medical condition can be something, such as diabetes, that developed independently of military activities while the service member was on active duty. In 2012, VA paid 520,000 veterans a total of \$2.9 billion, the Congressional Budget Office estimates, to compensate for seven medical conditions that, according to the Government Accountability Office (GAO), are generally neither caused nor aggravated by military

service. Those conditions are chronic obstructive pulmonary disease, arteriosclerotic heart disease, hemorrhoids, uterine fibroids, multiple sclerosis, Crohn's disease, and osteoarthritis.

This option would cease veterans' disability compensation for the seven medical conditions identified by GAO. Under the option, veterans currently receiving compensation for those conditions would have their compensation reduced or eliminated following a reevaluation, and veterans who applied for compensation for those conditions in the future would not be eligible for it. The option would not alter DoD's disability compensation system, which focuses on fitness for military duties rather than compensation for disabilities.

By CBO's estimates, this option would reduce outlays by \$20 billion from 2015 to 2023. About 80 percent of the savings in the last year of that period (and an even larger share in earlier years) would result from curtailing payments to current recipients of disability compensation. A broader option could eliminate compensation for all disabilities unrelated to military duties, not just the seven conditions identified by GAO. For a condition such as arthritis, for instance, which may or may not result from military duties, the determination of whether the condition was related to military activities could be left up to VA. An option with that broader reach would generate significantly larger savings but would be more difficult to administer.

An argument in support of this option is that the disability compensation system for military veterans should be more comparable to civilian systems. Few civilian employers offer long-term disability benefits, and among those that do, benefits do not typically compensate individuals for all medical problems that developed during a period of employment.

An argument against this option is that military service is not like a civilian job; instead, it confers unique benefits to society and imposes extraordinary risks on service members. By that logic, the pay and benefits provided to service members

should reflect the hardships of military life, including compensating veterans who become disabled in any way during the period of their military service.

CBO also recommends Mandatory Spending—Option 22 Function 700 - Veterans Benefits and Services Restrict VA's Individual Unemployability Benefits to Disabled Veterans Who Are Younger Than the Full Retirement Age for Social Security where they note:

More than 3.4 million veterans with medical conditions or injuries that were incurred or worsened during active-duty service are receiving disability compensation from the Department of Veterans Affairs (VA). The amount of compensation they receive depends on the severity of their disabilities (which are generally assigned a single composite rating in an increment of 10 on a scale up to 100 percent), their number of dependents, and other factors—but not on their income or civilian employment history.

However, VA may supplement the regular disability compensation payments for veterans whom it deems unable to engage in substantial work. To qualify for those supplemental benefits, termed individual unemployability (IU) payments, veterans may not earn more than the federal poverty guidelines (commonly referred to as the federal poverty level) and generally must be rated between 60 percent and 90 percent disabled. A veteran qualifying for the IU supplement receives a monthly disability payment equal to the amount that he or she would receive if rated 100 percent disabled. In 2012, for those veterans who received the supplement, it boosted monthly VA disability payments by an average of about \$1,500. The largest increases were paid to veterans rated 60 percent disabled: For them, the supplement raised the monthly payment by about \$1,800, on average. In 2012, nearly 300,000 veterans received IU payments.

Under this option, VA would no longer make IU payments to veterans who are past Social Security's full retirement age, which varies from 65 to 67 depending on beneficiaries' birth year. Therefore, at the full retirement age, VA disability payments would

revert to the amount associated with the rated disability level. By the Congressional Budget Office's estimates, the savings from this option between 2015 and 2023 would be \$15 billion.

VA's regulations require that IU benefits be based on a veteran's inability to maintain substantial employment because of the severity of a service-connected disability—and not because of age, voluntary withdrawal from work, or other factors. Consequently, a veteran may begin to receive IU payments, or continue to receive them, after the full retirement age for Social Security. In 2005 (the most recent year for which VA reports such statistics), more than 80,000 veterans who received the IU supplement, or about one-third of the total number in that year, were over the age of 65.

One rationale for this option is that most veterans who are older than Social Security's full retirement age would not be in the labor force because of their age, so for those veterans, a lack of earnings would probably not be attributable to service-connected disabilities. In particular, in 2010, about 35 percent of men who were 65 to 69 years old were in the labor force, and that number dropped to 10 percent for those age 75 or older. In addition, most recipients of IU payments who are over age 65 would have other sources of income: They would continue to receive regular VA disability payments and might collect Social Security benefits as well. (Most recipients of the IU supplement begin collecting it in their 50s and probably have worked enough to earn Social Security benefits.)

An argument for retaining the current policy is that IU payments should be determined solely on the criterion of a veteran's ability to work and that having age be a consideration would be unfair. In addition, some disabled veterans would find it difficult or impossible to replace the income provided by the IU supplement. If they had been out of the workforce for a long time, their Social Security benefits might be small, and they might not have been able to accumulate much in personal savings.

First and foremost are the attempts to reduce the budget on the backs of younger veterans and disabled veterans. That's right, let's not go after cuts to big oil, needless farm subsidies or corporate loopholes, let's go after veterans. These big supporters of our troops? Not so much.

VA Appropriations Insufficient

The VFW and its three other co-authors on the Independent Budget expressed concern with the funding provided to the VA by the Omnibus Bill. The spending package provides only \$342 million for Major Construction, which is about \$800 million less than what the IB recommends for FY 2014, and billions less than what's truly needed for construction funding. Additionally, the bill would slash funding for Medical Facilities, reducing that account by nearly \$500 million. Along with AMVETS, DAV and PVA, the VFW appreciates the modest increases to Medical Services and the Veterans Benefits Administration, as well as to Information Technology, but emphasizes that more must be done. The four organizations again call for the passage of the companion bills H.R. 813 and S. 932 to provide advance appropriations for all VA accounts. Currently, only the medical care accounts are funded through advance appropriations. The 28th edition of the Independent Budget is expected to be released February 2014.

VA to Tap Vet-Owned Firms for Management Contracts

VA plans to tap veteran-owned firms for management expertise and business support services through a five-year contract starting in June, 2014.

VA said its Agile Delivery of VA Imminent Strategic and Operational Requirements (ADVISOR) indefinite

delivery, indefinite quantity contract will cover four service groups:

Oversight, including program and project management, strategic planning and performance measurement.

Improvement, namely business process reengineering, improvement and management; change management and transition; and quality measurement.

Data and Analyses, including studies, analyses, and information and records management.

Training

VA plans to make multiple awards to service disabled veteran owned small businesses and veteran owned small businesses through a procurement it plans to release by the end of January.

Veterans Protecting Veterans' Interests

As the Pentagon budget vise tightens, those who are serving, those who have served and their advocates complain over cuts.

As a veteran, I like many others think it is a hell of a question to ask but one that naturally surfaces given the outrage rolling in from assorted veterans' groups as Congress and the Pentagon seek ways to trim government spending that sometimes affects those who have volunteered to fight America's wars.

Since the draft ended over four decades ago, it is the predictable downside to enlisting only 1% of the nation's citizens to fight, and possibly die, as members of the Armed Forces.

When presidents and members of the Senate and House of Representatives insist on waging war with no shared sacrifice, it should come as no surprise that those who have done all the sacrificing are concerned when their expected benefits end up on the chopping block.

It suggests that the nation is developing a military caste, separate and apart from the rest of the nation. With an estimated 15-17 percent of the military (that one percent of our citizens who serve) achieving retirement, the numbers are certainly small as compared to other subsets of federal employees.

As of October 1, 2012, 527 retired members of Congress were receiving

federal pensions based fully or in part on their congressional service. Of this number, 312 had retired under Civil Service Retirement System (CSRS) and were receiving an average annual pension of \$71,472. A total of 215 members had retired with service under Federal Employees' Retirement System (FERS) and were receiving an average annual pension of \$40,560 in 2012.

Members of Congress become vested in (legally entitled to) a pension benefit under CSRS or FERS after five years of service. The age and service requirements for retirement eligibility are determined by the plan under which a Member is covered at the time of retirement, regardless of whether he or she has previous service covered under a different plan. Depending on a Member's age and years of service, a pension can be taken immediately upon retirement or only on a deferred basis.

Congress set off the latest fireworks when it proposed trimming the annual cost-of-living adjustment (COLA) for working-age veterans by 1 percentage point late last year. Then last month, a new storm arose when the Pentagon said it was considering cutting the subsidies it pays to military commissaries—on-base grocery stores boasting lower prices that are reserved for military personnel, including qualified veterans—that could force many such facilities to close their doors.

"This is yet another undeserved blow to our men and women in service—and their families—in the name of 'necessary cutbacks' to reduce an ungainly national deficit," American Legion National Commander Daniel Dellinger said, after learning of the commissary proposal. "Like the trimming of expenses to be made by reducing military retirees' pensions, this is an inexcusable way of attempting to fix a fault by penalizing the blameless."

The notion that vets are seeking more than their fair share upsets some of their leaders. "Vets are anything but selfish!" according to Norb Ryan, president of the Military Officers Association of America. "If anything, vets are too selfless. They are also idealistic...Vets are fair and therefore, they expect others to be fair."

According to the Pentagon's most recent Quadrennial Review of Military

Compensation, military compensation has outpaced civilian wages and salary growth since 2002. The average enlisted person now earns, in all forms of compensation, more than 90% of his or her civilian counterparts; officers are paid 83% more. It should be noted that most civilians are not serving in harm's way nor are they relocating every few years to new duty assignments.

"Such cost growth is unsustainable, and the leadership of the Army, Navy, Air Force and Marines all agree that the costs of benefits for personnel are starting to crowd out other important investments that support training, readiness and modernization," four senior retired officers said in a statement in support of the pension trim issued by the nonprofit the Bipartisan Policy Center. "Such a change is much needed—but it's only a first step. Additional reforms to compensation to ensure benefits are both fair and sustainable will be essential to slow the rise of personnel costs and to ensure the military is able to make the necessary investments to maintain sufficient capability to fight and win wars."

All of this comes as no surprise to anyone who has been monitoring the defense-budget debate in recent years:

– Former defense secretary Robert Gates, in his new book, *Duty*, views much of Congress as implicit in keeping wasteful military spending pouring into their districts. "Any defense facility or contract in their district or state, no matter how superfluous or wasteful, was sacrosanct," he writes. "I was constantly amazed and infuriated at the hypocrisy of those who most stridently attacked the Defense Department as inefficient and wasteful but fought tooth and nail to prevent any reduction in defense activities in their home state or district."

– Earlier last month as if to prove Gates' point, boosters of North Carolina's Fort Bragg said they were readying to fight any proposal to shrink or close the post. As the Army's biggest most-populated installation, it's not going to shut down. Congress, in fact, has recently barred the Pentagon from conducting additional base closings, even though the U.S. military has 20% more real estate than it needs.

But it's telling that Bragg's backers already are training to preserve the post's 70,000 soldiers and civilians, and are seeking even more. "In the past, we worked to keep what we have," Greg Taylor, executive director of the Fort Bragg Regional Alliance, said. "This time, we intend to go after what we want."

Recently, William Hartung and the independent Center for International Policy said Lockheed Martin, the builder of the F-35 fighter, is inflating how many jobs production of the plane will create, something which Lockheed denies.

Lockheed has said the \$400 billion program—the most costly weapons system in world history—will produce 125,000 jobs. "There's just one problem with Lockheed Martin's assertions about job creation," Hartung asserts. "They are greatly exaggerated."

Hartung says using job-creation yardsticks from prior Pentagon programs suggests the program is likely to create only half that number of jobs.

For decades, contractors exaggerated the threats that they said only their weapons could deter. Today, they're allegedly exaggerating how many jobs assembling their weapons will generate. Shifting the emphasis—from deployment to employment—speaks volumes.

With Congress and contractors now focusing so intently on themselves, why shouldn't veterans focus on their concerns? If they don't, who will?

Cut Veteran Benefits or Reduce Waste?

According to an article appearing January 15, 2014 by Rob Garver in *The Fiscal Times*; federal agencies spent more than half a trillion dollars (\$688 billion) on payments that should never have been made between 2002 and 2012,

Every year, according to their own records, the agencies that administer major federal programs are now paying out more than \$100 billion improperly, and even though they're aware of the problem, they recover only a small fraction for taxpayers. This adds up to huge losses for the U.S. taxpayers.

In 2012 alone, the Office of Management and Budget gathered data

on just 13 high-error programs in the federal government, and determined that they made a combined \$101.3 billion in improper payments. To put that in perspective, that's almost \$16 billion more than the highly controversial budget sequester wound up cutting from government spending in 2013.

The government doesn't get a whole lot of that money back. On July 18th, 2012, then-Controller of the Office of Management and Budget Daniel I. Werfel testified in the Senate Homeland Security and Governmental Affairs Committee hearing that over the preceding two years, the government had recaptured only \$2 billion in improper payments.

To be clear, the term "improper payment" covers many problems and is not limited to out-and-out fraud. It can include payments made in error, either through the fault of the agency itself or the person claiming the payment. But what the vast majority of the instances of improper payment have in common is that they represent money that shouldn't be paid out at all leaving the Federal Treasury and not coming back.

As part of their annual financial reports, federal agencies are required to estimate the payment error rate of the programs they administer, and for some of the biggest benefits programs, the percentage of payments deemed improper reaches double digits, and tens of billions of dollars.

The prime offender in fiscal 2013 was the Department of Health and Human Services (HHS). According to its 2013 financial report, the agency estimated that across seven of the programs it administers, it paid out \$55.9 billion improperly.

Last year, 10.1 percent of the payments made under Medicare's Fee for Service program, which is administered by the Center for Medicare and Medicaid Services (CMS), were determined to be either errors or the result of fraud. The result was a net improper payout of \$33.2 billion. Payments made through Medicare Part C, a supplementary insurance program, were improper 9.5 percent of the time in 2013, for a net loss of \$6.9 billion, while payments through Part D, for prescription drugs, were wrong in 3.7 percent of cases, costing the agency another \$1.4 billion.

CMS also manages payments for Medicaid, which had an improper payment rate of 5.8 percent for a total loss of \$13.5 billion in 2013.

Other HHS programs did not post the same eye-popping dollar figures, but still had alarmingly high error rates. The Children's Health Insurance Program had an improper payments rate of 7.1 percent, costing \$624 million, the Foster Care and Child Care programs had error rates of 5.3 and 5.9 percent, respectively, costing \$56 million and \$260 million each. All three are overseen by the Administration for Children and Families.

One of the leading voices in Congress on the issue of improper payments has been Delaware Sen. Tom Carper, the Democratic chair of the Senate Committee on Homeland Security and Governmental Affairs. Legislation Carper sponsored in 2010, the Improper Payments Elimination and Recovery Act, was signed into law and strengthened the requirements federal agencies have to comply with when reporting improper payments.

In a statement provided to The Fiscal Times, Carper said, "The good news is that the overall level of improper payments in the federal government is down this year, and I am encouraged that this trend has continued over the past few years, with a \$14 billion drop since 2010. That being said, we shouldn't rest on our laurels given that the overall level of improper payments is still too high. It is clear that Congress has to work with the Administration to curb overall improper payments, especially in the Medicare program."

While HHS may hold the current-year record for the amount of money paid out improperly, the prize for highest error rate goes to the Internal Revenue Service, which oversees the Earned Income Tax Credit program. In 2012, the most recent data available, the IRS posted a 22.7 percent error rate in EITC payouts, equal to \$12.6 billion in improper payments.

Another major offender is the Department of Labor, which administers the federal Unemployment Insurance program – much in the news recently because of controversy over how to pay for an extension of benefits for the long-term unemployed. The UI program posted a 9.32 percent error

rate in Fiscal 2013, and improperly paid out \$6.2 billion.

The Department of Labor is, in at least some respects, a success story when it comes to recovering overpayments. According to data on the Department's website, the department is able to recover about 25 percent of its improper payments.

Another arguable success story is the Department of Agriculture's Supplemental Nutrition Assistance Program, commonly known as Food Stamps. The program reported \$2.5 billion in improper payments in fiscal 2013, a considerable sum to be sure. The 3.42 percent error rate reflected not just an improvement over the previous year, but an all-time low for the program, which cost \$82 billion last year.

Omnibus VA Bill

The omnibus veterans affairs bill introduced by Sen. Bernie Sanders (I-Vt.) January 16th, 2014 would fully repeal pension reductions, ensure veterans benefits if the government shuts down again and introduce new veteran hiring goals.

The bill S.1950, a bill to improve the provision of medical services and benefits to veterans, and for other purposes, would rescind the 1 percent cut in the cost of living adjustment for military retirees under 62 that became law under the fiscal 2014 omnibus appropriations bill.

The cut originated in the budget compromise signed in December and was meant to save \$6 billion over ten years. The Sanders bill doesn't propose any spending reductions to offset the money that would have been saved by the COLA cuts.

The legislation would also make a long-term change designed to fund VA disability, health and education benefits even if the government shuts down again.

Currently, the Veterans Health Administration gets appropriated a year in advance to prevent hospitals from closing in the event of a shutdown and the new bill would extend that practice to the Veterans Benefits Administration.

The bill would also create new hiring goals for veterans seeking

government jobs. It would require the Office of Personnel Management to make sure agencies hire 15,000 more veterans in the government within five years.

Other provisions include expanding veterans' healthcare to include dental coverage and new reporting requirements to help end the VA claims backlog by 2015. The VA would provide quarterly updates to Congress with data including projections of incoming claims, how many claims have been completed and how many are being appealed.

GAO Calls for Management Improvements to VA Employment Program

The VA has taken steps to improve its Vocational Rehabilitation and Employment (VRE) program, but performance management, workload management, and staff training, but weaknesses remain, GAO recently January 14th, 2014.

Veterans face numerous challenges that affect their ability to obtain employment, especially related to mental health conditions, working with multiple VRE counselors over time, and civilian employers' limited understanding of military work experience, according to GAO-14-61.

The report noted VA has an ongoing initiative to revise its approach for measuring rehabilitation success at the individual employee, regional, and national levels but that the new approach reflects only the number, not the rate of successful outcomes, and therefore would not provide sufficient context for understanding program success.

Further, VA has not fully assessed the reliability of early customer satisfaction results. And while it has taken steps to reduce paperwork burdens on regional offices, several offices still reported heavy workloads and noted that VA's formula for allocating staff among offices does not consider other staff duties affecting workloads, such as education counseling, GAO said.

VA agreed with recommendations to reflect success rates in revised performance measures, ensure the reliability of its customer satisfaction

survey results, reconsider its staff allocation formula, study staff assignments, and close certain gaps in its training for staff.

VA Integrated Electronic Health Record Update

VA's immediate post-iEHR (integrated electronic health records) strategy for modernizing its electronic health record is taking shape under the banner of "VistA Evolution," with the Veterans Health Administration releasing a solicitation for support services in its office of Health Systems Informatics January 27th, 2014.

The solicitation says contract work will "lead to development of specific software products that will revise the concept and delivery of health record information."

Since the February 2013 cancellation by the VA and DoD of a planned joint integrated EHR – the iEHR – the VA has faced the problem of modernizing its legacy EHR, officially known as the Veterans Health Information Systems and Technology Architecture (VistA). It consists of nearly 160 integrated software modules for clinical care, financial functions, and infrastructure.

Much of the base code is old, programmed in the Mumps language – a fact that has defenders and critics both – and has been made additionally complex by local code additions and patches made over decades within VA administrative regions. MUMPS (Massachusetts General Hospital Utility Multi-Programming System, later: 'Multi-User Multi-Programming System') or alternatively M, is a general-purpose computer programming language that provides ACID (Atomic, Consistent, Isolated, and Durable) transaction processing. Its most unique and differentiating feature is its "built-in" database, enabling high-level access to disk storage using simple symbolic program variables (subscripted arrays), similar to the variables used by most languages to access main memory.

Industry insiders describe VistA Evolution as preparatory work for what may be future procurements of specific EHR modules, such as those for pharmacy prescriptions or lab results. Before those new modules could be inserted into VistA, the

network of internal VistA dependencies on current modules must be mapped and the code prepared to accept plug and play modularity.

VistA Evolution has been characterized as the possible first steps within the VA toward creation of a service-oriented architecture VistA, albeit one that might result in surface compatibility only rather than a true SOA. Service-oriented architecture (SOA) is a software design and software architecture design pattern based on discrete pieces of software providing application functionality as services to other applications.

The Open Source Electronic Health Record Alliance, an entity meant to initiate open source VistA projects and integrate new open source code into the VistA codebase, appears to have been sidelined, at least for the time being. The VA seems likely to favor modules that adhere to open standards rather than being open source, something that would disappoint open source proponents, since adherence to open standards is no guarantee of easy interoperability.

One reason cited for OSEHRA's diminution is a current lack of champions within the VA Office of Information and Technology, the entity that controls department-wide IT spending. OI&T has been without a Senate confirmed leader since its former head, Roger Baker, left in March 2013. Peter Levin, who as VA chief technology officer was a voluble supporter of open source, left the department in March 2013 after nearly four years as CTO. OI&T has also come under close, some would argue intrusive, scrutiny by the House Veterans Affairs Committee, leading the office to divert resources to handling committee requests.



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that's all for this month.

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