Vision for VETERANS for the 119th Congress

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DAV®

Do Not Reduce, Offset, or Tax Veterans' Disability Benefits

THE CHALLENGE

Over 5.5 million disabled veterans receive disability compensation for injuries, illnesses and disabilities caused or aggravated by their military service. However, veterans who also earned military retirement benefits due to a medical retirement are prohibited from concurrently receiving their medical retirement pay and VA disability compensation. Similarly, the concurrent receipt of military pensions based on longevity of service and disability compensation for veterans who are rated at 40% or less is also prohibited by law.

Because VA disability compensation is tax-free, veterans in these situations typically choose to collect their full disability compensation and their military retirement is reduced each month by the amount of their disability compensation. This offset is an unjust reduction because military retirees receive a pension in compensation for military service, whereas veterans receive disability compensation to compensate for injuries and illnesses that impair their earnings capacity – two separate and unrelated purposes. In 2003, Congress recognized this inequity when it enacted legislation to phase in concurrent receipt for disabled veterans rated 50% or greater, but did not correct this for veterans rated 40% or lower, or for those medically retired.

Federal law also currently requires veterans who receive disability compensation to pay back any special separation pay they may have received for ending their military career early, either voluntarily or—in some cases—involuntarily. However, there is no relation between the purposes of special separation pay and disability compensation, and there should be no pay back or offsets required.

In recent years, there have also been proposals floated to begin taxing VA disability compensation payments and count it as income when determining eligibility for other federal benefits. Some have proposed phasing out Total Disability for Individual Unemployability (TDIU)—a disability compensation rating based on a veteran's inability to achieve and maintain gainful employment—once a veteran reaches Social Security retirement age. Finally, there have been proposals floated to reduce benefit levels for disability compensation across-the-board for current or future veterans and to phase out lower disability compensation payments altogether. Each of these attempts to reduce the amount of disability compensation for service-disabled veterans is wrong and must be fully and permanently rejected.

THE VISION

Congress should enact legislation to eliminate all offsets of any military retirement or separation pay against VA disability compensation. Congress must also make clear, through word and deed, that it will reject any and all attempts to reduce, offset, or tax veterans' disability benefits.

Strengthen Support for Survivors of Disabled Veterans

THE CHALLENGE

Our nation's obligation to the men and women who serve also extends to the survivors of service members and veterans, particularly service-disabled veterans. The Department of Veterans Affairs (VA) Dependency and Indemnity Compensation (DIC) program was created in 1993 to provide a tax-free monthly benefit to surviving spouses, children, and parents of:

- Military service members who died in the line of duty;
- Veterans whose death resulted from a service-related injury or disease; and
- Veterans who were totally disabled from service-connected conditions for at least ten years before their death, or were totally disabled at least five years immediately following their release from active duty until their death, or were totally disabled for at least one year and were a former prisoner of war.

The basic DIC benefit for a single surviving spouse of a veteran today is $1,672.15 per month, which can be increased if there are dependent children or other special circumstances. Since the current VA disability compensation rate for a 100% service-connected veteran is $3,737.85 per month, the DIC benefit for a surviving spouse is approximately 43% of that amount. By comparison, monthly benefits for survivors of federal civil service retirees are calculated as a percentage of their federal retirement benefits, which can be up to 55% of the total. The larger civilian survivor benefit would equate to almost $25,000 more per year, representing an inequity for survivors of our nation's heroes compared with survivors of federal employees.

Furthermore, survivors of veterans who die before they reach 10 years as a 100% totally disabled veteran do not qualify for any DIC benefit, even if the veteran died after being totally disabled for 9 years and 11 months. In addition, surviving spouses who are currently in receipt of DIC benefits will lose them entirely if they remarry before age 55. These rules have undercut the purpose of DIC, which is to provide adequate care for surviving spouses.

THE VISION

Congress should enact comprehensive legislation to modernize and strengthen DIC support for survivors of disabled veterans. The legislation should:

- Increase DIC rates to 55% of the 100% VA disability compensation rate;
- Provide a graduated benefit to survivors of veterans who were totally disabled for five years equivalent to 50% of the full DIC benefit amount, increasing proportionally each 10% until reaching 100% after 10 years; and
- Completely eliminate the remarriage age penalty for a surviving spouse so that they remain eligible for DIC benefits regardless of when they choose to remarry.

Make Dental Care a Health Benefit for All Service-Disabled Veterans

THE CHALLENGE

The Department of Veterans Affairs (VA) only provides full dental care to a limited number of veterans enrolled in its health care system, which includes those who have a service-connected dental disability, are 100% service disabled, and are receiving Total Disability for Individual Unemployability (TDIU). VA also provides partial dental care to veterans who have a health condition linked to or that would be made worse by a dental condition, as well as homeless veterans and certain veterans receiving Vocational Readiness and Employment (VR&E) services. In total, only about 500,000 of 9 million veteran enrollees in the VA health care system have any dental eligibility.

Yet, the VA health care system is specifically designed to be a holistic, integrated, and preventative system that treats the whole health of the veteran. The failure to provide dental care is a significant and harmful gap in VA's health care coverage.

Studies show that poor dental hygiene can lead to a number of chronic health conditions, including infections from decaying and dying teeth which can be life-threatening if not controlled. Poor dental health has also been linked to heart attacks, strokes, heart failure, diabetes, endocarditis, chronic kidney disease, chronic obstructive pulmonary disease, gastritis, rheumatoid arthritis, and cognitive impairment. Gum disease, called periodontitis, has been linked to premature birth and low birth weight. Germs in the mouth can spread to the lungs causing pneumonia and other respiratory problems. A number of cancers have also been linked to gum disease, including gastrointestinal tract, lung, breast, prostate gland, and uterus cancer. Other conditions that might be linked to oral health include eating disorders, rheumatoid arthritis and an immune system condition that causes dry mouth called Sjogren's syndrome.

Poor dental health can also lead to emotional, mental, and financial challenges. Many people who are ashamed to show their teeth to others tend to have lower self-esteem, suffer from depression, and find it difficult to interview for and secure good jobs. While once thought of as a "cosmetic" service, dental care today is absolutely critical to a person's health and well-being.

THE VISION

Congress should enact legislation to expand eligibility for full dental care coverage to all service-disabled veterans, making it a standard part of VA's health benefits package. To properly implement the legislation, Congress must provide funding to increase the number of VA dentists and other oral clinicians, open new dental clinics and expand treatment space in VA health care facilities. VA must also work with its community care networks to increase the availability of dentists and other oral health care specialists to improve access across the country, particularly in rural areas.

Provide Assisted Living Care Options for Service Disabled Veterans

THE CHALLENGE

There are an estimated 8.3 million veterans aged 65 or older out of 18 million total veterans living today: approximately 4.9 million are 75 or older, and 1.3 million are 85 or older. VA projects that in 10 years, the number of veterans aged 85 and older will increase by 33% and the subset of women veterans aged 85 and older could more than double. This aging trend is mirrored in the general population, putting an increasing strain on our nation's health care infrastructure to provide sufficient long-term care support to aging Americans.

To meet aging veterans' needs, the Department of Veterans Affairs (VA) operates a number of long-term care programs, from providing intensive bed-based care to lower levels of home and community-based care options. Since most veterans prefer to remain in their homes as long as feasible, VA offers several programs to support them, including the Homemaker and Home Health Aide Care, Home Based Primary Care, Skilled Home Health Care, Respite Care, Adult Day Health Care, and the Caregiver Support Program. For veterans who need the more comprehensive support offered at a skilled nursing care facility, VA can place veterans in a VA-operated Community Living Center (CLC), a State Veteran Home (SVH) or a contracted community nursing home.

However, there is a gap in VA's long-term care programs for aging veterans who are unable to remain in their homes due to physical, social, or financial reasons, but who do not yet require the full level of intensive support offered by a nursing home. For these veterans, assisted living care would be an ideal option. Assisted living allows veterans to live semi-independently in an apartment or room located within a larger facility, where they are offered prepared meals, housekeeping, medication management, and personalized help with activities of daily living (ADLs), such as bathing, dressing, or using the bathroom. Assisted living could fill a significant gap in long-term care, allowing VA to provide a full spectrum of care to meet veterans' needs as they get older and need greater assistance.

THE VISION

Congress should enact legislation to require VA to offer assisted living care options to service-disabled veterans. The new program should include VA-operated assisted living, State Veteran Home assisted living care, and contract community options for assisted living care. Assisted living care would provide veterans who are no longer able to live independently or at home with a less expensive option than skilled nursing care. In developing assisted living care programs, VA should consider the establishment of graduated care facilities or campuses that allow veterans to move seamlessly from independent living to assisted living to nursing home care as their needs change.

Reform the Process for Creating Toxic Exposure Presumptives

THE CHALLENGE

Military service members have been harmed by toxic exposures for more than a century, including by mustard gas in World War I, atomic testing in World War II, Agent Orange in Vietnam, sarin gas in the Persian Gulf War, contaminated water at Camp Lejeune, and burn pits in Afghanistan and Iraq. Unfortunately, toxic-exposed veterans often have to overcome significant obstacles to receive benefits and health care they deserve. Toxic wounds and illnesses can take years or decades to manifest, and by the time they do, it's almost impossible to prove exactly what they were exposed to or why that made them ill.

The enactment of the Honoring Our PACT Act of 2022 provided the largest expansion of health care and benefits for toxic-exposed veterans in a generation. In addition to expanding health care access for millions of veterans, the law created presumptives for burn pits and other toxic exposures to cover veterans who develop cancers and respiratory conditions specified in the law. The PACT Act also codified a new internal VA decision-making process for creating future presumptives for other toxic exposures; however, it does not include adequate accountability measures to ensure timely decisions in the future.

Although the PACT Act has already delivered new benefits and health care eligibility to millions of veterans; the law did not cover every toxic-exposed veteran. There are still too many veterans waiting for formal VA recognition of service-connected toxic wounds that would allow them access to life-changing benefits and health care to ease their pain and suffering – including those who served at the K2 base in Uzbekistan and Fort McClellan in Alabama.

According to research by DAV and the Military Officers Association of America to be released later this year, it takes the VA 31.4 years on average from the first incidence of a military toxic exposure to a formal governmental acknowledgment of that exposure. It then takes another 2.4 years, on average, for a concession of exposure and presumption of service connection. As a result, veterans exposed to toxic hazards can be forced to wait 34.1 years on average before they can begin to receive benefits and health care based on presumptive service connection.

THE VISION

To provide quicker and more equitable outcomes for veterans, Congress should approve legislation to establish a new legal framework for creating toxic exposure presumptives using three distinct steps: (1) acknowledgment of a possible toxic exposure risk; (2) concession of exposure to toxic substances; and (3) presumption of service connection between exposures and diseases. Each of these steps would be linked through a series of timelines and triggers to ensure VA makes timely decisions. The legislation should also expand federal research on toxic exposures, create an independent scientific review process for toxic exposures injuries and illnesses, and establish a veterans' stakeholder advisory commission to strengthen oversight and transparency of the VA presumptive-making process.

Create New Planning and Funding Mechanisms for VA Infrastructure

THE CHALLENGE

VA operates the largest integrated health care system in the country, providing direct care to more than seven million veterans each year through a system of over 1,750 access points, including medical centers, community outpatient clinics, Vet Centers, and community living centers. VA has more than 5,600 buildings with over 150 million square feet of space, much of which was built more than 50 years ago. Unfortunately, federal funding to maintain, repair, and replace VA hospitals and clinics has been woefully inadequate for decades, regardless of which political party has been in control of Congress or the Administration.

VA's Strategic Capital Investment Plan, which estimates the cost to maintain its health care infrastructure, shows that VA should be investing $85 billion over the next decade, or roughly $8.5 billion per year. Instead, VA's latest budget request, which Congress is likely to approve without a significant increase, calls for just $2.8 billion for major and minor construction projects. Periodically, VA and Congress have attempted a grand effort to address the long backlog of construction projects, such as the recent Asset and Infrastructure Review (AIR) process; however, like others before it, the AIR process failed due to politics.

The decades-long failure to properly fund, maintain, and expand VA's infrastructure to meet rising demand for care by veterans has led to an unsustainable growth in community care funding, threatening the long-term viability of the entire VA health care system.

THE VISION

Congress should enact legislation to create a new VA infrastructure funding process that aligns demand for care with capacity to deliver that care based on proven capital planning methodologies used by other governmental and private institutions. For example, most states require homeowner associations (HOAs) to conduct studies of the cost to maintain their infrastructure, which includes an actuarial schedule for annual investments into a reserve fund to pay for repairs and replacements when they are necessary. VA can and should do the same.

To ensure proper funding for the repair, renovation and replacement of existing VA facilities, VA should be required to conduct a quadrennial review of the lifecycle costs for maintaining its health care infrastructure. Congress should then be required to provide full funding for the actuarial cost to meet those obligations each year, deposited into a capital reserve fund.

To provide sufficient funding for repurposing, realigning, and expanding existing, or for constructing new VA facilities in response to changes in veterans' demand for care, VA should be required to conduct a quadrennial review to create a prioritized list of VA construction projects. Congress would then be required to deposit at least the first two years of funding required for each project it approves into a capital improvement fund.

Exempt Veterans Benefits and Services from PAYGO & Budget Caps

THE CHALLENGE

In an attempt to control federal debt and deficits, Congress in recent decades has adopted laws and rules to limit its own ability to increase federal spending, regardless of the need for or merit of that spending. So-called "fiscal responsibility" reforms have included budget caps, sequestration, and a particularly insidious mechanism called "PAYGO," which stands for "pay-as-you-go," which requires Congress to cut existing benefits before adding new benefits.

Both the House and Senate adopted PAYGO at the start of the 118th Congress. The Senate PAYGO rule requires that any legislation increasing mandatory spending, such as a bill to expand eligibility for veterans' benefits, must include equal revenue increases or spending cuts in other mandatory programs within the same department, i.e. VA. The House adopted a variation of PAYGO called "CUTGO" ("cut-as-you-go"), which requires any legislation increasing mandatory spending to be offset only by cuts to other mandatory benefits, not by revenue increases.

Because Congress is reluctant to cut current benefits provided to veterans, particularly those for disabled veterans, it has become increasingly difficult to enact legislation that would create new or expand eligibility for existing VA benefit programs, even when a large majority of House and Senate members support such legislation.

In addition, the "Statutory Pay-As-You-Go Act of 2010" looks at the cumulative effect of all legislation at the end of each year, and if there were increases in net mandatory spending, the Office of Management and Budget (OMB) orders across-the-board cuts, called "sequestration," to all federal programs. This also inhibits Congress from enacting legislation to strengthen and expand veterans benefits and services.

Finally, in recent years Congress and the Administration have relied on multi-year budget cap deals in lieu of annually approved budgets, which set out broad limits on overall discretionary spending, including VA health care. Such caps can artificially force VA spending to be constrained below the actual need for funding in order to prevent cuts to other federal programs.

THE VISION

Congress should exempt all veterans' programs, benefits and services from "Statutory Pay-As-You-Go Act" requirements, including sequestration, as well as any future House and Senate PAYGO rules adopted for the 119th Congress. In addition, Congress and the Administration should exempt all federal budget "Function 700: Veterans Benefits and Services" from any budget cap deals in order to encourage budget requests that honestly reflect the true demand for VA benefits and services.