



Paralyzed Veterans
of America

Produced by the Paralyzed Veterans of America • Government Relations Department

Washington UPDATE

Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.

April 15, 2016

Volume 22, No. 4

*****PRIORITY*****

The Government Relations staff is still looking for stories about problems that our members have experienced during air travel. Please visit www.AirAccess30.org and share your story.

Commission on Care Members Offer Strawman Proposal to Turn VA Health Care into a Payer Only; VSO's Respond

The Commission on Care, established by P.L. 113-146, the "Veterans Access, Choice, and Accountability Act of 2014" (Choice Act), held a meeting on March 21-23, 2016. The Commission is charged with examining access to care and strategically examining how best to organize the Veterans Health Administration, locate health care resources, and deliver health care to veterans during the next 20 years. It has spent the last several months evaluating a comprehensive independent assessment and the testimony and recommendations of numerous entities, including VSO's, health care organizations, information technology (IT) professionals, members of Congress and VA officials. The Commission's mandate requires a report to be submitted to the President by June of 2016.

With the report due in just two short months, seven Commissioners produced a strawman document for consideration that was presented at the March meeting. The proposed statement concludes that "the current VA health care system is seriously broken, and because of the breadth and depth of the shortfalls, there is no efficient path to repair it." The goal of the proposed plan is to transition all veterans into community care plans over the next 20 years. No new VA facilities will be constructed or upgraded, and as facilities become under-utilized or obsolete, they will be shuttered. "Over time, VA will become primarily a payer" providing care through the community system.

PVA joined other major VSO's in writing a letter to the Commission expressing our grave concerns with entertaining proposals to eliminate the VA health care system. While the Commission responded, indicating that this was merely a strawman and should not be construed as representing the views of the entire Commission, at this time there is no alternative proposed document for consideration. Nor has the Commission indicated how it will formulate and agree upon the final report to be issued. PVA and its VSO partners will present our views again at the next Commission meeting on April 18 and 19.



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The Joint-VSO letter sent to the Commission can be viewed here:

http://www.pva.org/atf/cf/%7Bca2a0ffb-6859-4bc1-bc96-6b57f57f0391%7D/LEG_%202016%20JOINT%20VSO%20LETTER%20TO%20THE%20COMMISSION%20ON%20CARE%20-%20MARCH%2031,%202016.PDF

VA Brings VSO's and Major Stakeholders Together in Attempt to Reform the Veterans Benefits Appeals Process

At the beginning of March, VA convened a three-day meeting with the goal of standing up a plan for comprehensive reform of the veterans' benefits appeals process. With the appeals backlog inventory hovering around 460,000, VA is seeking a true overhaul. PVA was represented by our office at the Board of Veterans Appeals. At the end of three days, the VA's starting proposal evolved significantly as stakeholders dug in and used their experience and expertise to help shape it. As it became clear that any reform would necessarily require overhauling the initial claims process as well, the group decided to sequester itself for two additional days and also incorporated intermittent conference calls.

With the Congressional calendar waning as we approach election season, the window of opportunity to pass legislation is closing. While the VSO's are eager to play a substantial part in any reform, there is consistent apprehension among participants who believe such comprehensive change requires more thorough consideration and scrutiny. VA produced legislative language that represents the reform plan constructed by this working group. It is currently being considered by the Senate as part of a pending omnibus bill which includes the VA health care reform package. Similarly, the House Subcommittee on Disability Assistance and Memorial Affairs will be holding a hearing on April 28 specifically to address VA's current legislative proposal. PVA will testify alongside other VSO's who participated in the process. Because negotiations regarding certain aspects of this bill are ongoing, PVA has not taken a firm position at this time on whether we support the plan. Additionally, it is unclear at this time as to whether adequate resources will be available to facilitate such a major change.

House VA Disability Assistance Subcommittee Considers Legislation to Pay Special Compensation to Veterans with Loss or Loss of Use of Creative Organs

On April 13, the House Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs held a hearing on pending legislation. Carl Blake, Associate Executive Director of Government Relations, testified on behalf of PVA. Of particular importance to PVA was H.R. 4892, a bill recently introduced by House VA Committee Chairman Jeff Miller (R-FL). This bill would provide two lump-sum payments, totaling \$20,000, to veterans with a loss or loss of use of a creative organ and are currently in receipt of special monthly compensation (k).



For years, PVA has advocated for Congress to lift the prohibition on VA's ability to provide procreative services to veterans with a reproductive injury. H.R. 4892 seemingly attempts to work around the existing ban and provide veterans the option to seek services on their own. Last year, Chairman Miller introduced H.R. 2257, a bill that would actually lift the IVF ban at VA. The ideological opposition to repealing the ban moved Chairman Miller to introduce H.R. 4892.

While PVA supports H.R. 4892, we do not believe that this is the most appropriate solution for veterans who have lost the ability to conceive children. PVA highlighted two issues that are not appropriately addressed in the proposed bill. First, all reproductive services, to include IVF, adoption and surrogacy, should be part of the medical benefits package of the VA. Second, the bill creates a potential inequity between men and women with these catastrophic injuries. The average cost of one round of IVF is \$10,000. But for women veterans, whose injuries eliminate the ability to carry a pregnancy to term, IVF most often is not an option, and so they may rely upon a gestational surrogate or adoption. The average costs of surrogacy (\$60,000-\$120,000) and adoption (\$15,000-\$40,000) far exceed the proposed \$20,000. This creates an inequity for women veterans that while unintended, would remain unaddressed. PVA will continue to work to see that VA provide procreative services through the VA medical benefits package. If a veteran has catastrophic reproductive injury due to their service, this nation then has a responsibility to make them whole.

To read PVA's full written statement for the hearing, please visit www.pva.org.

Senate FAA Reauthorization Bill Includes Provisions Aimed at Problems Encountered by Travelers with Disabilities

PVA's efforts to improve air travel for passengers with disabilities have resulted in disability-focused language in the Senate's version of the Federal Aviation Administration (FAA) Reauthorization currently pending on Capitol Hill.

As passed out of the Senate Committee on Commerce, Science, and Transportation, on March 16, the FAA reauthorization (S. 2658) includes four provisions, three of which derived from PVA-provided language, specifically addressing the needs of travelers with disabilities. Sections 3106, 3116, and 3117 require studies that will highlight areas for improvement and lead to the dissemination of best practices to improve airport accessibility and air carrier training policies, and a determination about the feasibility of using in cabin wheelchair restraint systems. Section 3118 requires the Secretary of Transportation to establish an advisory committee on the air travel needs of passengers with disabilities to advise the Secretary on implementation of the Air Carrier Access Act (ACAA). The advisory committee will provide a forum to review the Department of Transportation's efforts to implement and enforce the ACAA and provide suggestions for improvements to the air travel experience for people with disabilities.

On April 6, the FAA reauthorization was brought to the Senate floor under legislative vehicle H.R. 636. In response to requests from PVA, Senate Commerce, Science, and Transportation Ranking Member Bill Nelson (D-FL) filed an amendment that would require the Secretary of Transportation to refer ACAA complaints to the U.S. Attorney General in the case of pattern or practice of discrimination or if a traveler encounters disability-based discrimination that raises an issue of general public importance. The Attorney General would be able to pursue civil action in federal court and the court may provide equitable or other relief, including monetary damages to a harmed individual, or civil penalties. Senator Richard Blumenthal (D-CT) also filed an amendment that would provide a private right of action under the ACAA.

At this time, it appears that neither of these amendments will receive a vote. However, we remain committed to fighting for improved ACAA enforcement. The Senate plans a final vote on the FAA reauthorization the week of April 18. Meanwhile, the House's version of the FAA reauthorization (H.R. 4441) passed out of committee but has yet to be taken up by the full House. The House and Senate versions of the reauthorization differ significantly and much work remains to be done to ensure the disability provisions are retained in a final bill. The current FAA authorization expires on July 15.

Department of Transportation Announces Decision to Move Forward on ACAA Negotiated Rulemaking

On April 7, the U.S. Department of Transportation (DOT) announced that it would move forward with a negotiated rulemaking (Reg Neg) on three issues under the Air Carrier Access Act (ACAA): (1) whether to require accessible in-flight entertainment and strengthen accessibility requirements for other in-flight communications; (2) whether to require an accessible lavatory on new single-aisle aircraft over a certain size; and (3) whether to amend the definition of service animals that many accompany passengers with a disability.

In December 2015, DOT announced its intent to explore the feasibility of conducting a Reg Neg on several issues, including those announced on April 7. The issues DOT elected not to address through a Reg Neg include access to in-flight medical oxygen, seating accommodations, and new airline reporting requirements. DOT has announced that it will address these issues through other means.

To conduct the Reg Neg, DOT is establishing the Accessible Air Transportation (ACCESS) Advisory Committee. This committee will include representatives from the disability community, airlines, and aircraft manufacturers. DOT is currently seeking nominations for the ACCESS Advisory Committee and the first meeting will be held on May 17-18.

Department of Justice Announces Historic Settlement with Greyhound for ADA Violations

Passengers with disabilities who encountered disability-related discrimination on Greyhound may be eligible for compensation. On February 8, the Department of Justice announced a consent decree resolving a complaint against Greyhound for alleged violations under the Americans with Disabilities Act (ADA). Allegations against Greyhound included failing to maintain accessibility features on buses, failing to provide assistance to passengers with disabilities, and failing to allow passengers using wheelchairs to complete reservations online. As a result of the consent decree, Greyhound will pay a civil fine, hire an ADA compliance manager, require employees and contractors who interact with the public to attend annual in-person ADA training, and complete other requirements to address the alleged violations.

Greyhound will also be required to compensate travelers with disabilities who experienced disability discrimination while traveling or attempting to travel on Greyhound. To be eligible for compensation, an individual must have a disability; have traveled or attempted to travel on Greyhound between February 8, 2013, and February 8, 2016; and have experienced a disability-related incident during travel or while attempting to travel. Examples of incidents include lack of accessible transportation and failure to make disability-related accommodations.

Individuals who believe they meet these requirements must submit a claim online, by email, or mail to Greyhound's appointed claims administrator by November 10, 2016. Instructions regarding the claims process are available at: <http://www.dojvgreyhoundsettlement.com>.

PVA Submits Comments on Ticket to Work

On April 8, PVA submitted comments to an Advance Notice of Proposed Rulemaking (ANPRM) concerning the Ticket to Work (TTW) Program operated by the Social Security Administration (SSA). Ticket to Work was created as part of the "Ticket to Work and Work Incentives Improvement Act of 1999" and is intended to give beneficiaries of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) greater choice in vocational rehabilitation options. The ANPRM posed a series of questions concerning improvements that could be made to the Ticket program to encourage greater participation by beneficiaries in this return to work program, as well as a more diverse set of vocational providers.

PVA's Paving Access to Veterans Employment (PAVE) program participates in Ticket to Work as a provider of employment and vocational services to clients in SSDI and SSI. The experiences of the PAVE counselors served to inform a large part of PVA's

comments. To read PVA's comments, please visit the Advocacy program page at www.pva.org.

Social Security Caregiver Credit Act Introduced But Excludes Some Veterans' Caregivers

In March, Senator Christopher Murphy (D-CT) introduced S. 2721, the "Social Security Caregiver Credit Act," which is a companion bill to H.R. 3377 that was introduced by Rep. Nita Lowey (D-NY) in 2015. This legislation would allow people who provide at least 80 hours a month of unpaid assistance for a relative with disabilities to continue earning Social Security credits. They would be able to continue earning these credits for up to five years. For many caregivers of veterans, this legislation is particularly important because these credits are necessary to qualify for Social Security retirement benefits. Social Security retirement benefits are based upon a person's earnings in the workplace. These measures would count months spent as a caregiver as if they had been paid a wage.

Unfortunately, caregivers of post-9/11 veterans who participate in the VA's Comprehensive Family Caregiver Program, established by the "Caregivers and Veterans Omnibus Health Services Act of 2010, will be ineligible for the credits under the proposed bills. Participants in the VA Family Caregiver Program receive a modest stipend to help support their families as they attend to the needs of catastrophically disabled veterans. Because the Murphy and Lowey bills specifically exclude anyone who receives compensation for caregiver services provided, veterans' caregivers would not benefit from these proposed bills. However, P.L. 111-363 specifically excluded counting the stipend for purposes of earnings credit under Social Security. Thus, if S. 2721 or H.R. 3377 is enacted, post-9/11 veterans' caregivers will be denied Social Security retirement credits under both programs. PVA believes this inequity should be addressed and will be working with the sponsors and other interested policymakers to find a solution to rectify this problem.

Social Security Disability Insurance Reform Proposals Published

At an event in Washington, DC, in April, former Congressmen and Ways and Means Social Security Subcommittee Chairmen Earl Pomeroy (D-ND) and Jim McCrery (R-LA) released recommendations to improve the Social Security Disability Insurance (SSDI) program and other services for workers with disabilities. The recommendations are the culmination of the *McCrery-Pomeroy SSDI Solutions Initiative*—a multi-year effort to identify practical policy changes to improve SSDI and other services to better serve people with disabilities as well as those who pay into the program and the economy as a whole.

The recommendations headline a newly-released book, *SSDI Solution: Ideas to Strengthen the Social Security Disability Insurance Program*, which features a diverse collection of 12 policy proposals written by different disability policy experts. Reps. McCrery and Pomeroy's recommendations, which come on the heels of recent legislation that postponed depletion of the SSDI trust fund until 2022, call on policymakers to seize this opportunity and use the additional time to make meaningful changes to the SSDI program. They also propose that policymakers should pursue new ways to support workers and improve the lives of workers with disabilities while also testing various ideas to strengthen the efficiency, effectiveness and integrity of the current program.

"We share the sense of relief with many Americans that Congress was able to avert the automatic benefit cuts that would have accompanied trust fund depletion," explained Chairman Pomeroy. "But I think we can all agree that more should be done to improve this program as well as the lives of the many Americans living with a disability. We hope our ideas and recommendations will inspire policymakers to pursue and adopt thoughtful and innovative changes to help this vital federal program and important population."

Chairman McCrery emphasized, "Let's not waste this opportunity by deluding ourselves that SSDI's issues have been solved." He went on to say, "The program faces a financial shortfall again in 2022; but more importantly, it is clear the program isn't serving the disabled population as well or as efficiently as it could be. We don't think there is any one right idea, but by putting out a collection of ideas we hope to spark a conversation that would encourage policymakers to begin testing and enacting changes sooner rather than later."

The 12 proposals in the book include changes to promote early intervention in order to keep more workers with disabilities in the workforce, improve program administration, address interactions with other programs, and pursue structural reforms. More information about the book, including how it can be purchased, can be found at <http://www.SSDISolutions.org/book>.

