



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.

June 15, 2017

Volume 23, No. 6

*****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.

Administration Finally Releases its FY 2018 Budget Request

On May 23, 2017, the President finally released his Administration's detailed Budget Request for all federal programs, including the Department of Veterans Affairs (VA), for FY 2018. The request includes a fair increase for VA programs (despite most other federal agencies getting significant cuts). The budget proposal does include a significant reduction in funding for Major and Minor Construction in VA, as well as cuts to Medical and Prosthetic Research, the Veterans Benefits Administration, and Information Technology.

The House Committee on Veterans' Affairs subsequently held a hearing on the President's Budget Request on May 24, 2017 followed by a hearing before the Senate Committee on Veterans' Affairs on June 14, 2017. PVA Associate Executive Director of Government Relations Carl Blake testified for the Senate VA Committee hearing. In testimony, PVA expressed serious concerns with the VA's plan for continued funding through a mandatory account. We believe that Congress must reject continued funding of the Choice program through a mandatory account and place it in line with all other community care funded through the discretionary Community Care account established previously.

Additionally, we expressed strong opposition to two legislative proposals that are being used to fund the Choice program continuation—round down of cost-of-living adjustment (COLA) payments to the nearest whole dollar and the elimination of Individual Unemployability (IU) for veterans who reach Social Security eligibility age (62). It is beyond comprehension that the Administration would propose such a benefit reduction in order to pay for a flawed funding mechanism for a program (Choice) that sometimes provides health care access to non-service connected disabled veterans. Eliminating IU benefits for veterans over the age of 62 provokes numerous questions. Will veterans who have statutorily protected evaluations (the 20-year rule) also be subject to reduction? Will those dependents using Chapter 35 education benefits based on their sponsor's IU rating be forced to drop out of school? Will those veterans on IU who are



Paralyzed Veterans
of America

PARALYZED VETERANS OF AMERICA

Government Relations Department

801 Eighteenth Street, NW • Washington, DC 20006

(800) 424-8200 • (800) 795-4327 • www.pva.org

covered by Service-Disabled Life Insurance at no premium be forced to now pay premiums in order to keep coverage? What about state benefits, such as property tax exemptions or state education benefits that are based on 100 percent VA disability ratings? How will this proposal affect efforts to combat veteran suicide and homelessness? The impact of the answers to these questions clearly dictates that Congress should reject this proposal out of hand.

PVA's formal written statement for the record on behalf of *The Independent Budget*—co-authored with DAV and VFW can be viewed at www.pva.org. support for the Senate bill.

PVA Testifies Before Senate Committee on the Evolution of the Choice Program

On June 7, 2017, the Senate Committee on Veterans' Affairs held a hearing entitled "Examining the Veterans Choice Program and the Future of Care in the Community." Gabe Stultz, Legislative Counsel for PVA, testified on PVA's behalf. This testimony marked Gabe's first opportunity to testify before the U.S. Congress. VA Secretary David Shulkin unveiled during the hearing what he hopes will be the next iteration of the Choice Program, called the C.A.R.E. (Coordinated Access and Rewarding Experiences) Program. PVA has contributed extensively to VA's planning efforts over the last year and into the new administration, and while we support many of the major components being offered, we still have concerns over a number of details and omissions.

The major change to the previous plans for expanding the Choice program is a change to the eligibility standards. Current eligibility is determined by whether the veteran will have to wait more than 30 days for a needed service or if the veteran lives more than 40 miles from a VA facility. The new eligibility would be based on a clinical decision that would consider whether the service is available at VA, how long the wait times are, and whether it is feasible to force the veteran to travel to VA for the services. This decision would be made by the VA clinician based on conversations with the veteran instead of a bureaucrat or administrator.

The second component allows VA to offer Choice to all veterans who are affected when the quality of a particular service line falls below the local community standards. VA will identify underperforming service lines, such as urology or cardiology, within its own system, and then it will compare those services with the individual local health care market. If the service line is also underperforming as compared to the local market, VA will allow veterans needing those services to use the community until that service line is fixed.

Finally, a new addition to the plan is for veterans to have the ability to utilize walk-in clinics two times per year subject only to the copayment structure they use with VA. Any visits after two will be charged a copayment of \$50, regardless of service-connection.

The hearing covered the basics of this plan. However, Senator Patty Murray (D-WA) pointed out a few details that looked reminiscent of privatization plans highlighted in a straw man document used by the Commission on Care last year. She pointed out a few pilot project authorizations that would allow VA to try out different payment models and governance structures reminiscent of the ideas recommended by Concerned Veterans for America.

PVA continued to express our concern that all of the attention is focused on expanding Choice while failing to plan simultaneously for strengthening VA's own specialized services. We noted that the Secretary has committed verbally to PVA that VA will increase nursing staff levels by more than 1,000; however, we need to see definitive action taken on this promise. VA must invest in its own foundational services, such as SCI/D care, in order to successfully build a high-performing network.

Senator Tester also highlighted PVA's testimony on the importance of ensuring that veterans getting care in the community are protected in the event of medical malpractice. In an exchange with PVA, he stressed the point to his colleagues that veterans out in the community are not eligible for service-connected status due to malpractice. If a veteran is injured receiving care inside a VA medical center, he or she is eligible for service-connection under 38 U.S.C § 1151.

Going forward, VA has proposed legislative text, and it is our understanding that the Hill will also be offering legislative packages in the coming weeks representing the future of VA care delivered in the community. To read PVA's full written statement, please visit www.pva.org.

Bi-Partisan Accountability Bill Passed by Congress

On June 13, 2017, the House of Representatives approved the "VA Accountability and Whistleblower Protection Act," which was previously passed by the Senate, ensuring that the bill will become law. The bill was originally introduced by Senate VA Committee Chairman Johnny Isakson (R-GA) and Ranking Member Jon Tester (D-MT). The legislation was also co-sponsored by Senator Marco Rubio (R-FL). PVA offered our strong support for this critical piece of legislation. The principle goal of the legislation is to allow the Department of Veterans Affairs (VA) to terminate bad employees faster while also strengthening protections for whistleblowers. The bill streamlines the VA's process for reviewing and firing employees who engage in misconduct or perform poorly without sacrificing their due process rights.

Subsequent to passage of the bill, PVA Executive Director Sherman Gillums offered the following statement in support of the bill:

"No other large healthcare system rivals VA's competence to deliver specialized services at a national level, such as spinal cord injury and disease and polytrauma care, or synthesizes access to healthcare, benefits, support, and peer mentorship better than VA. But what VA needs most right now is the one 'ability' it presently lacks and can no longer be taken for granted — accountability. Whether that means better protecting whistleblowers, shortening the reprimand process, or recouping ill-gotten bonuses and relocation expenses, achieving a state of being answerable to the public, the Congress, and most importantly, veterans, will be dictated by the worst behavior the VA Secretary has to tolerate. This bill will be a major step toward having to tolerate such behavior no more."

PVA also had the opportunity to participate in a press conference following House passage of the bill where we reiterated our support for stronger accountability. Our support is based on our exposure to problems during our annual site visits to VA medical centers that have resulted from lack of proper accountability of VA employees at several levels.

Air Carrier Access Amendments Act Introduced in the Senate

On June 8, 2017, Senator Tammy Baldwin (D-WI) introduced S. 1318, the "Air Carrier Access Amendments Act." This legislation would make needed improvements to the Air Carrier Access Act (ACAA) and provide increased opportunities for stakeholders to work with airlines and the U.S. Department of Transportation to improve the air travel experience for passengers with disabilities. Four original co-sponsors, Senators Richard Blumenthal (D-CT), Edward Markey (D-MA), Maggie Hassan (D-NH), and Tammy Duckworth (D-IL), joined with Senator Baldwin in supporting the legislation.

Over 30 years ago, President Ronald Reagan signed the ACAA into law. The ACAA prohibits discrimination based on disability in air travel. Despite progress, too many travelers with disabilities still encounter significant barriers, such as damaged assistive devices, delayed assistance, and lack of seating accommodations. Unlike most other civil rights laws, the ACAA lacks a guaranteed private right of action. Consequently, people with disabilities typically receive little if any redress to their specific grievances. Access for people with disabilities in air travel must move into the 21st century. Otherwise, people with disabilities will be left behind unable to compete in today's job market or enjoy the opportunities available to other Americans.

The Air Carrier Access Amendments Act (S. 1318) will address these problems by:

- Strengthening ACAA enforcement through referral of certain complaints to the U.S. Attorney General, increased civil penalties for damaged wheelchairs, and a private right of action.
- Ensuring airlines acquire airplanes that meet broad accessibility standards. Improved structural access includes safe and effective boarding and deplaning processes, procedures, and equipment, along with better stowage options for assistive devices.
- Improving training for air carrier personnel and their contractors, including requiring heightened training for personnel who assist with the boarding and deplaning process.
- Requiring the Secretary of Transportation to work with stakeholders to develop an Airline Passengers with Disabilities Bill of Rights.
- Creating a U.S. Department of Transportation Advisory Committee on the Air Travel Needs of Passengers with Disabilities.

PVA urges its members to contact their U.S. Senators and ask them to co-sponsor this important legislation. It is our hope that this legislation will be attached to the FAA Reauthorization currently pending in Congress. It is critical that we show widespread support for S. 1318 in the coming weeks.

President's Budget Proposes Cuts to Important Disability Programs

While the Administration's FY 2018 Budget Request provides some increases to the VA, it proposes significant cuts in a number of programs important to people with disabilities. Those programs are outlined below:

Social Security - In a reversal of campaign promises not to cut Social Security, the President's proposed 2018 budget recommends over \$74.2 billion in cuts over ten years from Social Security, including \$72.4 billion in proposed reductions to Social Security's disability programs. The budget projects nearly \$50 billion in savings would be generated through Social Security demonstration programs to help disability beneficiaries to stay at work or return to work. Cuts of this magnitude would likely be accomplished through stringent work requirements and other measures aimed at reducing benefits or cutting off eligibility entirely for those who do not comply with the work rules.

At the same time, the budget also proposes offsetting unemployment benefits and disability payments for a savings of \$2.5 billion. Beneficiaries who attempt to work, but

Washington Update

June 15, 2017

Volume 23, No. 6

get laid off from a job through no fault of their own, may qualify for Unemployment Insurance benefits that their employers have paid for. Cuts to these benefits would put beneficiaries' ability to meet their day to day living expenses at risk and would create disincentives by punishing people who attempt to work. Another \$10 billion in savings would be achieved by reducing retroactive SSDI benefits to six months from the current 12 months retroactive payments, which has been the standard since 1958. The average disabled worker receives approximately \$1,170 per month in SSDI and those affected by this change could lose over \$7,000 per year by this cut. The budget proposes to cut an additional \$4 billion out of Social Security—including the retirement, survivors', and disability programs.

Department of Health and Human Services - The budget proposes more than \$1 trillion in Medicaid cuts (estimates have been as high as over \$1.4 trillion) over the next 10 years from a combination of repealing and replacing the ACA and an estimated \$610 billion in additional cuts. Block grants in the President's budget would make even further cuts than those allowed under the American Health Care Act (AHCA). The budget also proposes a \$142.4 million decrease in overall funding for the Administration for Community Living and level funds one component of the nationwide Independent Living system at \$78 million. However, the budget consolidates money for a second Independent Living account with funding for State Councils on Developmental Disabilities and Traumatic Brain Injury funding into one "Partnership for Innovation, Inclusion, and Independence." The funding for this new Partnership line item is \$45 million, a \$57 million loss from the \$102 million combined for all these programs in funding in FY 2017. The cuts resulting from this consolidation would be detrimental to all three programs.

Department of Labor - The President's budget proposes to eliminate roughly one fifth of the Department of Labor's (DOL) overall budget. To achieve a \$2.5 billion cut, the document calls for the elimination of "duplicative, unnecessary, unproven, or ineffective" programs while focusing on "highest priority functions" but provides few details on particular program reductions or eliminations. One of the few specifics in the document concerns the Office of Disability Employment Policy (ODEP) which is directed to eliminate "less critical technical assistance grants." Advocates are concerned that the Job Accommodation Network (JAN), one of the main grant programs, may fall victim to these budgetary directions. The DOL budget proposal also includes elimination of the Office of Federal Contract Compliance Programs (OFCCP) which oversees implementation of VEVRAA and Section 503 governing federal contractor obligations to recruit and hire targeted veterans and people with disabilities. These OFCCP functions would be transferred to the Equal Employment Opportunity Commission (EEOC). Civil rights supporters are concerned that such a move would impede the work of both the OFCCP and the EEOC as each have distinct missions and expertise, and thereby



PARALYZED VETERANS OF AMERICA

Government Relations Department
801 Eighteenth Street, NW • Washington, DC 20006
(800) 424-8200 • (800) 795-4327 • www.pva.org

undermine the civil rights protections that employers and workers have relied on for almost fifty years.

Update on the ADA Education and Reform Act of 2017

The ADA Education and Reform Act of 2017, H.R. 620, has gained additional co-sponsors in recent weeks. PVA opposes H.R. 620 because it would ultimately lead to decreased accessibility in public accommodations under Title III of the ADA. The legislation was introduced in January by Representative Ted Poe (D-CA), with co-sponsors Representatives Scott Peters (D-CA), Ken Calvert (R-CA), Ami Bera (D-CA), Jackie Speier (D-CA), and Michael Conaway (R-TX).

As of June 14, the following members have signed on as co-sponsors:

- Representative Pete Aguilar (D-CA)
- Representative Ralph Lee Abraham (R-LA)
- Representative J. Luis Correa (D-CA)
- Representative Doug Collins (R-GA)
- Representative Bill Foster (D-IL)
- Representative Jeff Denham (R-CA)
- Representative Krysten Sinema (D-AZ)
- Representative Paul Mitchell (R-MI)
- Representative Darrell E. Issa (R-CA)
- Representative Bobby Rush (D-IL)
- Representative Tom Emmer (R-MN)
- Representative Terri Sewell (D-AL)
- Representative Mike Coffman (R-CO)

Please contact your Representatives to let them know that PVA opposes this legislation. We are opposed to H.R. 620, because it would require a person with a disability to send a very specific letter of notification to the owner or operator of a non-compliant business prior to being able to file a lawsuit. There is no penalty under the ADA that accrues for the length of time that a business was out of compliance. As a result, businesses (large and small) could decide to simply wait until a person with a disability provides them with the required notice before taking any action to meet ADA accessibility requirements. We believe that businesses should proactively seek to comply with the ADA and work with the ADA National Network and other entities for any needed technical assistance. The bill is pending before the House Judiciary Committee and may be marked up by the full committee in the coming weeks.

ADA Symposium

In May, National Advocacy staff attended the annual National ADA Symposium in Rosemont, Illinois. Hosted this year by the Great Plains ADA Center, this annual conference brings together disability advocates, subject matter experts, government officials and service providers for three days of workshops and networking opportunities. Sessions ranged from basics about the Americans with Disabilities Act and its enforcement to advanced workshops delving into specific components of disability law such as internet accessibility, workplace leave policies as employment accommodations, and accessible housing requirements under the International Building Code, Architectural Barriers Act and ADA.

Ann Raish, Acting Chief of the Department of Justice Disability Rights Division, presented an update on that agency's work in enforcing the ADA's Title II (State and local governments) and Title III (public accommodations) and continued efforts to implement the 1999 Supreme Court Olmstead decision calling for federal programs to serve people with disabilities in the least restrictive environment. Other workshops focused on what is likely to happen to long term services and supports in the wake of revisions to the Affordable Care Act, how service animals are treated under different disability rights laws, emergency preparedness for people with disabilities, and ADA requirements for light rail and commuter transportation systems. The 2018 ADA Symposium will take place in Pittsburgh, PA.

PVA Participates in Afghan Disability Rights Conference

The Embassy of Afghanistan hosted a disability rights conference from May 23-24 during which PVA was invited to take part in an employment panel on the second day of the meeting. Organized by the U.S. Council on Disabilities (USCID), the U.S.-Afghan Women's Council, and Georgetown University Center for Child and Human Development, the conference was a follow up to the first National Conference for Persons with Disabilities held in Kabul, Afghanistan in the fall of 2016. A 2012 signatory to the United Nation's Convention on the Rights of People with Disabilities, Afghanistan has over 600,000 people with disabilities in that small country. The Georgetown University meeting was intended to highlight progress and challenges since the 2016 conference and bring together advocates and subject matter experts from the U.S. with their Afghan counterparts to discuss practical approaches for inclusive education, public health care and employment programs and policies.

The theme of the conference's first day was "From Policy to Programming" and featured presentations on education reforms as well as public health and vocational training



PARALYZED VETERANS OF AMERICA

Government Relations Department
801 Eighteenth Street, NW • Washington, DC 20006
(800) 424-8200 • (800) 795-4327 • www.pva.org

Washington Update

June 15, 2017

Volume 23, No. 6

initiatives being undertaken by the government and various non-profit organizations in the country. Attendees were welcomed by Dr. Hamdulla Mohib, Afghanistan's Ambassador to the U.S., who spoke of the challenges implementing a law adopted by his country requiring that 3 percent of government jobs be reserved for individuals with disabilities. Many of the difficulties faced by Afghanistan in living up to the spirit of this law would sound familiar to many Americans with disabilities including inaccessible buildings, lack of funding resources and stigma. A hopeful note was sounded in a video by First Lady of Afghanistan Rula Ghani who highlighted her commitment and that of President Ghani to measures assuring integration of people with disabilities into society. She was followed by a keynote address from Judy Heumann, former Senior Advisor on International Disability Rights at the U.S. State Department. Heumann urged the Afghan attendees to monitor construction of schools, civic facilities and health centers built with U.S. foreign aid and to raise objections if they fail to include accessible features. Conference delegates also heard from disability rights leader retired Senator Tom Harkin and Tim Shriver, chairman of the Special Olympics.

On the second day of the conference, USCID hosted the Afghan delegates at its offices for a full day of panel presentations from U.S. policy experts and advocates on the three main topics covered by the conference. Susan Prokop, Senior Associate Advocacy Director for PVA, took part in an employment panel along with representatives from RespectAbility and TransCen. In her remarks, Susan discussed the history and scope of vocational services offered to U.S. veterans and described PVA's own vocational rehabilitation program, Paving Access to Veterans Employment (PAVE). Posts from the conference can be found on Twitter at #AFGDisabilityConf.



PARALYZED VETERANS OF AMERICA

Government Relations Department
801 Eighteenth Street, NW • Washington, DC 20006
(800) 424-8200 • (800) 795-4327 • www.pva.org