



Paralyzed Veterans  
of America

# WASHINGTON UPDATE

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

Written and produced by Paralyzed Veterans of America - Government Relations Department

December 18, 2017

Volume 23, Number 12

**\*\*\*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](http://www.AirAccess30.org) and share your story.

## **Tax Cut Bill Moves Ahead But Preserves Disability Provisions**

As the *Washington Update* went to press, Congress was preparing to vote on the Tax Cuts and Jobs Act of 2017, the major tax initiative of the Trump Administration and Congress. While taking no position on the overall issue of tax reform, PVA had expressed strong objections to provisions in the House bill that would have eliminated the deduction for significant medical expenses, the Work Opportunity Tax Credit (WOTC) that offers incentives for companies to hire veterans, people with disabilities and others with barriers to employment and the Disabled Access Tax Credit (DAC) which assists small businesses in making their establishments accessible to people with disabilities. PVA had also expressed concern about the impact on programs such as Medicare, Medicaid and Social Security of the tax bill's \$1.5 trillion addition to the federal deficit. While the final conference agreement to be voted on does not eliminate the medical expense deduction, WOTC or DAC, it will still add at least \$1.5 trillion to the deficit and debt which is likely to play out in 2018 in proposals to cut Medicare, Medicaid and Social Security. PVA expects to be involved in efforts to combat any dramatic reductions in these safety net programs that are vital to so many members.

## **Senate VA Committee Advances Reform Bill**

On November 29, 2017 the Senate Committee on Veteran's Affairs voted to advance the "Caring for our Veterans Act of 2017." This legislation would consolidate the Department of Veterans Affairs (VA) community care programs into a singular program and provide additional resources to enable VA to meet the ever-increasing healthcare needs of veterans. Since the establishment of the Veterans Choice program in 2014, VA has struggled with ever-changing program requirements enacted by Congress. The proposed legislation is the logical next step to finally solidify the ways in which VA provides care in the community and provide the necessary tools to keep pace with the needs of our nation's heroes.

Of great significance to Paralyzed Veterans of America, and the major VSOs, is expansion of eligibility to VA's Comprehensive Family Caregiver Program. Currently, the program is restricted to veterans injured on or after September 11, 2001. This legislation would make eligible those veterans severely injured during and prior to the Vietnam War. Two years later the program would expand to include veterans of all eras. This will correct a shameful inequity that has gone on for too long, and asked caregivers and veterans to endure far too much.

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## **Press Conference on Expansion of VA Caregiver Program**

On December 6, 2017, PVA, DAV (Disabled American Veterans), The American Legion, and Veterans of Foreign Wars (VFW) presented nearly 200,000 petition signatures to House and Senate leaders urging passage of the "Caring for our Veterans Act of 2017" to expand access to the caregiver program. At a press conference highlighting the issue, longtime champion and architect of the bill, Senator Patty Murray, and Ranking Member Tester spoke of the bipartisan commitment among members of the Veterans Affairs Committee to see caregiver expansion is accomplished by the end of the 115th Congress. A similar commitment was offered by House of Representatives members Ranking Member Walz, and Congressmen Langevin and Costello. The bill now awaits passage in the full Senate and would then require passage in the House.

## **PVA Submits Comments on VA Claim Appeals Program**

In November, PVA submitted comments on VA's changes to its claims and appeals system, including RAMP, directed in the Veterans Appeals and Modernization Act of 2017. It was PVA's intent to provide observations on the process to date, provide comments on the information presented at a November meeting on the proposed CFR changes, as well as comments on the draft proposed regulations released on November 20.

Our general observations included that we believed continued open and transparent communication from the VA was the best way to ensure veterans organizations are able to work within the new framework and best represent our members. The meetings and contact with staff are very helpful, but we urged VA to promptly make available any internal training materials the agency is using so that we can train our staff in both the transitional phases, including RAMP, and the new appeals framework.

We also indicated that to be successful in rolling out the new framework, we needed to see where RAMP was working and where it was not. Throughout the discussions leading up to the passage of the Veterans Appeals and Modernization Act of 2017, VA emphasized the importance of creating a feedback loop to identify and correct RO-specific errors. We expected that the RAMP analysis would begin to provide this information and looked forward to seeing what VA had to report.

There were several areas of concern such as the agency sometimes using the term "dissatisfied" to describe when veterans might make a choice within the new framework. "Dissatisfied" is not a statutory term, so it should not appear in any regulations or other binding guidance. We expressed concerns about what happens after a case is remanded by the Board because if the case is not returned to the Board following continued denial, and it is not tracked in some way, then there is no way to ensure compliance with the remand order. This puts a huge burden on veterans and NSO representatives. PVA also had specific concerns with the RAMP draft Standard Operating Procedure and about notice being provided to representatives simultaneously with claimants, whether by letter, email, text, or phone.

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PVA will continue to monitor this critical change to VA's appeals process to ensure all veterans receive the compensation they are due and have earned.

## **PVA Raises Concerns on VA Automobile Adaptive Equipment Program**

PVA is very concerned about VA will no longer reimburse qualifying veterans with disabilities for standard Automobile Adaptive Equipment (AAE). VA argues that many items such as air-conditioning and power brakes or steering are now standard equipment and not eligible if the veteran does not have an invoice reflecting the specific cost. Unfortunately, many manufacturers now include these components as "equipment packages" without an itemized listing.

Interim Executive Director Carl Blake has met with VA Under Secretary of Health Dr. Clancy to express PVA's displeasure with the number of denials of reimbursement. He has also informed her that there has been no action in rewriting the AAE Handbook, but that when VA does decide to take action, they must involve the PVA and other VSOs in the development and writing of the new Directives. He has also told VA Secretary Shulkin that AAE is one of the top priorities for PVA.

PVA requested that the Veterans Health Administration (VHA) provide an AAE briefing to the Veteran Service Organization (VSO) Prosthetic Workgroup in November. During the briefing PVA and other VSOs expressed their dissatisfaction with the AAE program's failure to allow for changes in the automobile industry technological advances to provide reimbursement for new technology in addition to the continuing failure of VA to reimburse vets for standard AAE.

PVA has met with VHA three times in the last two years to provide recommendations to improve the new Directive whenever VA takes action to rewrite it. PVA will consider to work on this issue and has included AAE as a policy priority for 2018.

## **Senate Briefing on Employment of Veterans with Disabilities**

Senators Bob Casey (D-PA), Tammy Duckworth (D-IL), and Jack Reed (D-RI) sponsored a briefing for Senate staff on December 7th about supports and strategies for increasing employment of veterans with disabilities. Bill Metheny, Director of Field Operations, Veterans' Employment and Training Service (DOL VETS), for the U.S. Department of Labor (DOL) described DOL VETS role in promoting veterans' employment among the various workforce development programs at the agency. Carol Glazer, Executive Director for the National Organization on Disability (NOD) outlined that organization's employment programs for wounded warriors. Susan Prokop, Senior Associate Director of Advocacy spoke about Paralyzed Veterans of America's (PVA) successful vocational rehabilitation program, Paving Access to Veterans Employment (PAVE) that now operates in seven regional offices around the country offering services to veterans as well as their caregivers. Information about PAVE can be found at <http://www.pva.org/veterans-employment>.

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## **PVA Serves as Panelist for Congressional Briefing on the Dangers of ADA Notification Legislation**

On November 29, 2017, PVA participated in a congressional briefing sponsored by the National Federation of the Blind in opposition to the ADA (Americans with Disabilities Act) Education and Reform Act (H.R. 620). This PVA-opposed legislation would require a person with a disability to give notice to a public accommodation of an architectural barrier under the ADA and provide the business with an opportunity to “cure” the violation prior to filing a lawsuit.

The purpose of the briefing was to educate congressional staff about the ADA and why the notification requirements proposed by H.R. 620 would be devastating to public access for people with disabilities.

Heather Ansley, Associate General Counsel for Corporate and Government Relations, served as PVA’s representative to the panel. Other participants in the briefing were Scott LaBarre, Chairman of the Disability Rights Bar Association Board of Directors and President of the National Association of Blind Lawyers; Andy Levy, Partner, Brown Goldstein and Levy; and Andraea LaVant, Self-Advocate, Girl Scouts of America. Former Congressman Tony Coelho, principle author of the ADA, served as the moderator.

In her comments, Ms. Ansley noted that implementing a notice requirement would effectively remove all incentive for businesses to fully comply with the ADA prior to being notified by a person with a disability about a violation. This is against the goal of Title III which is to prevent denials of access by ensuring that barriers are removed so that when a person with a disability arrives at a business it is accessible to them. She also noted that compliance with the ADA is not burdensome as there are free resources available to help businesses comply with the law. For example, the federally funded ADA National Network provides free technical assistance through 10 regional centers located around the country. Businesses needing assistance can call 1-800-949-4232 to reach the center nearest them.

At this time, we still do not know when, or if, this legislation will move to the House floor. It was passed on a party-line vote by the House Judiciary Committee in September. In the meantime, please continue to contact your House Member to let him or her know that you oppose H.R. 620.

## **House Task Force Hosts Forum on Veterans Entrepreneurship**

On November 30th, the House of Representatives Democratic Caucus’ Task Force on Reinvesting in our Returning Heroes held a Member briefing about challenges facing veterans in starting their own businesses. Attending the forum were House Democratic Caucus Chairman Joseph Crowley (NY-14), Vice Chair Loretta Sánchez (CA-38), task force co-chairs Representatives Julia Brownley (CA-26), Ruben Gallego (AZ-7), Donald McEachin (VA-4) and Brad Schneider (IL-10) along with Representative Marcy Kaptur (OH-9). Speakers included Sue Hoppin, President of the National Military Spouse Network,

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LeRoy Acosta, Assistant National Service Director for Disabled American Veterans, Susan Prokop, Senior Associate Advocacy Director for Paralyzed Veterans of America, and Ed Vargas, veteran and owner of a small business in Maryland. The panelists discussed many of the problems veterans and military spouses encounter in starting a business when they return home and seek to begin their post-military professional careers. Prokop focused on the appeal of self-employment for veterans with disabilities and efforts in past sessions of Congress to overcome some of the unique barriers to entrepreneurship that these veterans often face. Mr. Vargas, owner of a Mr. Appliance franchise, spoke about the difficulties that high franchise fees pose to many veterans who wish to establish a business, noting the introduction by Rep. Brownley of HR 4473, the Veteran Entrepreneurs Act of 2017 that would provide a tax credit worth up to 25 percent of initial franchise fees for eligible veterans.

## **PVA Leadership and Staff Visit Puerto Rico Chapter in Aftermath of Hurricanes**

PVA President David Zurfluh and Vice President Hack Albertson led a delegation of national staff to Puerto Rico on December 4 through 6 to meet with chapter leadership, check on PVA members and meet with federal officials for an update on recovery efforts in the wake of hurricanes Irma and Maria which devastated the island in September. Meeting at the chapter office on the day of their arrival, the group heard a presentation about the Puerto Rico Recovery Fund (PRRF) recently established by the Center for a New Economy (CNE). CNE is a non-partisan think-tank that advocates for the development of a new economy for Puerto Rico and created the PRRF to draw in nonprofit and corporate support for rebuilding the island. Jose Oramas with UPS [a PVA corporate supporter], another CNE PRRF partner described some of the work UPS has been doing through PRRF to activate charter flights moving supplies to Puerto Rico. PRRF has set up 11 distribution centers around the island for water, food, hygiene kits, and other material and have delivered 1.4 million pounds of supplies thus far.

December 5th the delegation visited several PVA members in the outskirts of San Juan and mountain areas in the middle of the island. Most of the members with whom the group spoke had power to their homes supplied by generators, but getting water continued to be an issue for almost all with whom they met. The VA Medical Center had established contact with some PVA members, but not others, and only one veteran reported contact with the Federal Emergency Management Administration (FEMA). In the meeting the day before, several chapter members had expressed varying degrees of frustration in their encounters with the FEMA bureaucracy.

December 6<sup>th</sup> was devoted to meetings with VA and FEMA officials from the Joint Field Operations center, which is the main office for federal agencies coordinating in Puerto Rico. Dr. Antonio Sanchez, the acting director of the VAMC outlined numerous challenges the hospital confronted in trying to contact and assist veterans after the storm because of the destruction of internet, phone and satellite capacity. Lack of street addresses in the medical center's patient registry made it difficult, if not impossible, to find many veterans in the more remote areas of the island. Dr. Sanchez observed that the center needs to do better at identifying patients who live alone and include plans for these people in their emergency preparation plans.

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Dr. Nadal, the acting chief of the spinal cord injury unit, reported on the efforts VA has undertaken to offer training to other agencies involved in emergency preparation and response. One of the problems mentioned by several members in the visits the day before was difficulty in obtaining vital prescriptions in the immediate aftermath of the storms. The VA had implemented a pharmacy emergency system whereby veterans in rural and hard to reach areas were authorized to obtain prescription drugs from local drug stores. However, many local pharmacies were unfamiliar with this emergency program and were charging the veterans copays and other expenses. Dr. Nadal acknowledged that the VA needed to be more proactive in advertising its resources such as this.

The VA hospital had an open door policy during the emergency to anyone with a spinal cord injury, but the patients they received were considerably sicker than they expected. In addition, many of the 350 veterans with SCI on the VAMC registry were medically stable but most of the emergency shelters were a challenge for patients with spinal cord injury. Dr. Nadal said they ended up sending 15 patients to the mainland because they couldn't manage patients at all the shelters on the island and felt that more work is needed to develop better shelters for medically stable people with disabilities.

The meeting with FEMA representatives included Madeleine Goldfarb the FEMA Disability Integration Advisor in San Juan, Philip Shaw with the FEMA Volunteer Agencies Liaison (VAL) office and Josephine Carmona whose office is responsible for handling immediate needs of storm survivors. In discussing the apparent lack of contact among PVA members by FEMA, Ms. Goldfarb noted that a FEMA survivor registration number is needed in order for them to send out disaster assistance teams and Ms. Carmona added that they have to depend on local governments to inform them of the locations of people with disabilities, but once that information is provided, FEMA will then send in aid.

The FEMA officials expressed a desire to work more closely with PVA's chapter to resolve some of the problems that had been raised in the previous days and in the meetings. There also seems to be a need for improvements in the integration of the VA with the overall emergency management system and in its communication with veterans and the community about the resources it has to offer in disasters. At the same time, agencies like FEMA and voluntary organizations need to understand that the VA does not serve all of the needs of veterans with disabilities and, like other people with disabilities, their circumstances need to be taken into account in emergency preparation and response. In the months ahead, PVA plans to map out a set of recommendations for improving emergency preparation and response for its membership as well as the broader community of people with disabilities.

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