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VETERANS OF FOREIGN WARS OF THE U.S. ON BEHALF OF THE MEMBERS OF THE
INDEPENDENT BUDGET

STATEMENT OF
GERALD T. MANAR, DEPUTY DIRECTOR
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BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE

WASHINGTON, D.C.

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Thank you for this opportunity to provide the views of the members of the Independent Budget -- AMVETS, Disabled American Veterans, Paralyzed Veterans of America and the Veterans of Foreign Wars of the United States -- on VA and DOD collaboration, the Report of the President's Commission on Care For America's Returning Wounded Warriors, the Report of the Veterans Disability Benefit Commission and other related reports.

It seems that every few years another study is commissioned to examine some of the problems involving benefits and delivery of benefits available to service disabled veterans. With the Veterans Disability Benefits Commission (VDDB), a pattern has emerged that our nation requires a more comprehensive review every 50 years or so to help us all refocus on the entire system of benefits, note the things that are working well and devise solutions to those that no longer fully address the needs of the men and women who stood ready in both peace and war to defend our nation, even at the possible cost to themselves of disability or death.

Six years after terrorists attacked us on American soil, we remain deeply embroiled in armed conflict in both Iraq and Afghanistan. Over 3,800 men and women have been killed and nearly 28,000 wounded. Another 29,000 were treated for diseases and injuries not arising from combat, disabilities so debilitating that they required air transport from the region in order to receive appropriate medical treatment. There is no accounting for the thousands of other service men and women who were treated and returned to duty in that troubled region of the world.

Thousands of soldiers, Marines, sailors and airmen have returned home with catastrophic injuries. It was their difficulty in obtaining treatment, proper housing, adequate benefits and services, as well as basic help in the transition from military service to civilian life that caught our attention earlier this year. What was most disturbing was that the problems coming to light in 2007, while perhaps exacerbated by the current conflict, have existed to some extent for decades. The President's Commission on Care for America's Returning Wounded Warriors (PCCWW), created in March 2007 and reporting four months later, examined how the armed

services treat those with serious injuries and help them through discharge from service and transfer to the Department of Veterans Affairs.

While this testimony will focus primarily on the recommendations of the PCCWW and VDBC on transition issues, we will also address the recommendations of both commissions on benefits provided by the Department of Veterans Affairs for disabilities arising while performing military service.

You have before you enough ideas, suggestions and recommendations to create another title in the US Code and keep regulation writers at both the Department of Defense and the Department of Veterans Affairs busy for the next 10 years. It is little wonder that you have asked those of us at this table to help you parse the cornucopia of proposals and make coherent the competing voices.

There are many good things presented in these reports: some are simple, others complex beyond imagination. Some will help DoD and VA help service men, women and veterans while others would create more problems. Some are inexpensive while others will place additional burdens on the Treasury.

We offer you our views, not to make your task easier, but rather, to help make the correct path more visible.

They are all veterans equally

One of the Guiding Principles adopted by the VDBC was that benefits should be awarded based on the severity of the service-connected disability and not on the circumstance under which it was acquired. This principle is not new. At one time VA paid higher benefits to veterans with service connected disabilities incurred in combat. However, Congress recognized the inequity of paying veterans with identical disabilities different amounts of compensation solely because one received his injury in combat and the other did not; as a consequence, Congress equalized the rates for all veterans in 1972.

The Veteran Service Organizations we represent today endorse the current government policy and completely reject the notion that injuries acquired in combat are any more disabling, any more worthy of compensation, than those incurred elsewhere in service to our country. We agree with the VDBC that benefits should be based only on the severity of disability.

Transition

Care for seriously disabled service members - We support the PCCWW recommendations which would:

- Develop integrated care teams
- Create individualized recovery plans
- Develop and assign Recovery Coordinators

o However, we oppose the idea that Recovery Coordinators should be Public Health Service employees. We believe that properly trained VA employees, with substantial support from both DoD and VA, can be effective in supporting seriously disabled service members and veterans.

We believe that these services should be provided all seriously disabled service members regardless of where their disabilities were acquired. A soldier paralyzed from the neck down from an accident in Germany or Korea is no less deserving of these services than is someone who was paralyzed by an IED in Iraq.

Transfer of patient information across systems - We support the PCCWW recommendations that would:

- Make patient information available to all personnel who need it
- Continue efforts for a fully interoperable information system between DoD and VA
- Provide internet access to personal treatment records and health care information through secure websites for service members and veterans

Strengthen support for families of seriously disabled service members and veterans - We support the PCCWW recommendations that would:

- Expand eligibility for TRICARE respite care and aid and attendance
 - Expand caregiver training for families
 - Cover family members under the Family Medical Leave Act (FMLA)
- o However, TRICARE, caregiver training and expanded coverage under the FMLA should be available to all seriously disabled service members and not just OIF/OEF service members

Improve care for service members with post traumatic stress disorder (PTSD) and traumatic brain injury (TBI) - We support the PCCWW recommendations that would:

- Address the shortage of mental health professionals in both DoD and VA
 - Establish and expand networks of experts in PTSD and TBI
 - Improve dissemination of clinical practice guidelines
 - Increase availability of treatment for PTSD for Iraq and Afghanistan veterans from the VA
- o While we support increased availability of mental health providers through the VA for veterans suffering from PTSD, the PCCWW recommendation that "...all Iraqi and Afghanistan veterans who need PTSD care [should] receive it from VA" is problematic. First, all veterans who are discharged today may receive free treatment for virtually any problem within two years of discharge. In addition, this recommendation would allow any new veteran, regardless of the source of PTSD (e.g. pre-service car wreck) to move ahead of veterans with service related PTSD. Further, we are already receiving complaints from older veterans who believe that they are being forced to wait longer for appointments because of priorities given to newer veterans.

We believe the better approach would be to vastly increase the numbers of mental health professionals at VA to provide better and timelier service to all veterans with PTSD. While increasing mental health staff, VA should use its fee-basis authority whenever old or young veterans must receive care immediately.

Finally, VA should improve its ability to triage veterans with mental health symptoms to ensure that those who might be a danger to themselves or others are seen immediately and by an appropriate professional.

Again, we believe that every disabled service member should be eligible for every benefit and service required by the severity of the disability they have and not by the place or circumstance under which it was incurred.

Enhance the Joint Executive Council (JEC) - We support the recommendation of the VDBC to:

- Develop a strategic plan with specific milestones
- Designate lead officials responsible for each milestone
- Include DOL and SSA in the JEC

VA and DoD should develop a joint intensive case management program for severely disabled veterans with an identifiable lead agent - We support the recommendation of the VDBC

Congress should adequately fund and mandate the Transition Assistance program DoD wide - We support the recommendation of the VDBC.

Benefits Delivery at Discharge (BDD) should be available to all disabled service members including Guard, Reserve and medical hold patients - We support the recommendation of the VDBC.

DoD should mandate separation examinations for all service members; the examination should conform with VA protocols and directives - We support the recommendations of the VDBC.

DoD should provide TRICARE free of charge for severely injured service members and their families - We support the recommendation of the VDBC.

We commend the other recommendations from the VDBC dealing with transition issues to you for consideration.

Post Service Transition

Both the PCCWW and the VDBC understand the need to ensure that services and benefits do not stop as disabled service members make the transition to civilian life. Too often, the only "transition" disabled service members received was a Transition Assistance Program briefing or a bit of counseling from the VA or a veteran service officer at a BDD site. The recommendations

discussed earlier, if adopted, should make the transition process much better for disabled service members.

However, most veterans are not seriously disabled at discharge and are not processed through the Disability Evaluation System. While they know what their education benefit eligibility might be, they have little knowledge of vocational rehabilitation, home loan guarantees and the like from VA.

Vocational rehabilitation - Both the PCCWW and the VDBC recommended changes in vocational rehabilitation which, in our view, should be seriously considered for implementation.

- Veterans with service connected disabilities causing employment handicaps should be encouraged to undertake and complete training that will help them find not just gainful employment but a career for life.
- Further, vocational rehabilitation should not be a one-time benefit. Disabilities often worsen throughout life and some veterans may need vocational rehabilitation services a second time. Helping a disabled veteran remain productively employed should be a goal of VA. We believe that a disabled veteran should be able to utilize vocational rehabilitation more than once.
- Vocational rehabilitation subsistence allowance rates are inadequate to support veterans as they obtain the training needed to help them adjust to the employment handicap caused by their service-connected disabilities. We support increases in subsistence allowance rates.

Transition Payments - As the claims backlogs have increased at the VA, it seems that a growing number of people, including some Members of Congress, have voiced the opinion that these veterans should not be made to wait for VA to decide their claims for benefits. Their greatest concern has been for the recently discharged veteran who often has little income, perhaps some disability and no job. In the last year, some have even suggested that VA should simply pay the veteran whatever it is they claim.

We oppose the use of the disability compensation program to pay what amounts to a transition benefit or bonus. We do, however, support the idea of a transition payment independent of VA compensation. We urge Congress to consider creating such a payment, a form of deferred compensation, independent and separate from VA compensation, to help men and women during the initial few months following their discharge from service.

Reengineering VA disability compensation - revolution or evolution?

In 2004 the Congress enacted legislation creating the Veterans Disability Benefits Commission:

"The purpose of the Veterans' Disability Benefits Commission is to carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service, and to produce a report on the study."

The first few meetings of the Veterans Disability Benefits Commission (VDBC) (starting in May 2005) were met with skepticism and wariness by some of us in the veteran community. We were well aware of the forces which led to the creation of that commission and were deeply concerned that at least some Commissioners harbored secret agendas which, if adopted, would lead to the dismantling of programs designed to help treat and compensate veterans for the residuals of disabilities incurred or aggravated while in service to our country.

During the 28 public sessions spanning 55 days of public hearings, it became apparent that Commissioners were willing to work hard to learn about compensation benefits: what they are, how the program evolved to where it is today and what problems exist. Further, we were gratified to note that Commissioners were willing to reconsider their opinions as facts were brought to light by the Center for Naval Analyses and the Institute of Medicine. We watched extensive fact gathering and more extensive debates on issues that were critical to the establishment of a foundation for later decisions.

While we have disagreed with some decisions made by the commission we could tell the veterans we represent that the commission was well on the way to producing a thoughtful and constructive report which addressed many problems without harming veterans.

A few weeks ago the VDBC released its final report. Of the commission's 114 recommendations, fully 83 percent deal with compensation benefits or factors related to compensation benefits. Even when the commission drifted a little afield and made recommendations dealing with transition issues, it is clear that most deal with ensuring that VA has the information it needs as soon as possible to process claims from veterans.

The President's Commission on Care for America's Returning Wounded Warriors, on the other hand, was created in March 2007 and delivered its report less than four and a half months later. It produced 24 recommendations; 8 of the 24 recommendations were focused on discarding the current compensation program and substituting a new program requiring a new rating schedule, new rates for disability benefits, new theories of what could be service connected, how long compensation payments would continue and so on.

While there are a few ideas presented by the PCCWW that may have merit, the discussion, below, describes those that are most objectionable.

- Two tiered system - The PCCWW recommends the creation of a two-tiered system of compensation for service connected disabilities, one for combat injured veterans and one for all others. Under their proposal, combat injured veterans would be eligible for quality of life payments while those not injured in combat would be denied. This means the paralyzed veterans mentioned earlier in this paper would receive substantially disparate compensation even though their quality of life would be the same.
- Delay of compensation - The PCCWW would delay compensation benefits for a minimum of 3 months and possibly for years while the veteran receives "transition" payments. In our view, it is for Congress to decide whether newly discharged veterans should be granted a transition benefit for a short period following service. Since the transition benefit is not based on disability but would be, in fact, available to all new veterans, it should not replace compensation paid for disability incurred or aggravated

while in military service. If Congress agrees that vocational rehabilitation rates are too low and do not encourage veterans to remain in vocational rehabilitation, then it should raise those rates to appropriate levels.

- Average impairment of earnings capacity - In its report, the PCCWW says that:

"Congress has directed that the VA disability compensation system should replace lost civilian earnings."

What the law actually says is:

"The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations."

The seemingly subtle difference between "earnings" and "average impairment of earning capacity" is significant. We commend to you the discussion in the VDBC report on this topic. We can say, however, that this focus on earnings rather than average impairment of earning capacity opens the door for some of the draconian recommendations by the PCCWW discussed below. What the commission recommends is nothing short of throwing out a compensation program, designed, refined and tested over 70 years to pay disabled veterans based on the average impairment of earnings capacity to one based solely on loss of earnings. This, in turn, opens the door for means testing, taxing and curtailing compensation.

- Means testing compensation - The PCCWW would substitute a payment scheme that is means tested in place of the current compensation program ("...the amount would be recalculated periodically as veterans' condition or earnings change." Figure 11) ("...once transition payments end, disabled veterans should receive earnings-loss payments - to make up for any lower earning capacity remaining after training." Draft, page 6). This means that veterans with identical disabilities would receive different benefits or, in some cases, no compensation at all. The commission suggests that the DoD disability annuity payment, as well as the quality of life payment, would continue for life. However, only about 10 percent of all veterans (those discharged through the DES) would receive the annuity. While not all veterans have service-connected disabilities for which they receive compensation, a significant percentage of those receiving compensation today would not be eligible for the annuity.

Further, since the PCCWW proposes that only combat injured veterans would be potentially eligible for quality of life payments, those non-combat injured veterans no longer eligible for compensation because of means testing would receive nothing at all.

- Taxing compensation - The PCCWW would tax disability compensation payments to veterans. In a word, we find this proposal to be outrageous. We are speaking of men and women who sacrificed not only their time and energy in defense of our nation but who continue to suffer from the residuals of injury or disease incurred during that service. Under this proposal, veterans would be taxed to marginally mitigate a reduction of their benefits when they can no longer work. Outrageous.

- Termination at retirement - The PCCWW proposes the termination of compensation benefits at "retirement" to be followed by Social Security. A recent article in the Washington Post showed that more people work past "retirement" than ever before; and the trend is increasing. Further, a Center for Naval Analysis study conducted for the VDBC shows that current compensation rates generally replace lost earnings if paid over a veteran's lifetime. If the PCCWW recommendation is adopted, veterans will not have

earnings replaced by compensation prior to "retirement" unless compensation rates are substantially increased.

- Abuse of reexamination process - The PCCWW recommends that veterans be recalled for examination every three years throughout their lifetime to determine whether their disability has worsened or improved. VA already has the authority to reexamine veterans whose disabilities could improve. This authority has existed for many decades. If it is not often used now it is more a function of VA trying to manage its workload by reducing review examinations in the face of extremely high backlogs than it is anything else.

Further, this proposal is a transparent attempt to not just identify those individuals whose disabilities may improve over time but to harass those veterans whose disabilities are static. And since failure to report for an examination is a basis for terminating compensation, this practice would, if adopted, result in the termination of benefits to many veterans whose disabilities are either static or worsened primarily because they do not always notify the VA when they move. For these reasons, and others, we strenuously object to the proposals by the PCCWW to throw out the current compensation program and put in its place a program which will be harmful to the vast number of men and women who have volunteered to serve our nation, and who are fighting even now in Iraq and Afghanistan.

The Veterans Disability Benefits Commission has exhaustively examined the current compensation program, affirmed its strengths and pushed forward many thoughtful and constructive recommendations for evolving it into a mechanism to better serve America's new generations of veterans. Their approach is to retain the best parts of the disability compensation program and create a process for measured and deliberate reform and improvement. We urge you to carefully consider their recommendations.

We trust that this is the first of several hearings on these reports and other proposals affecting the transition of service members from warrior to respected veteran. We appreciate the opportunity you have afforded us today.

I will be happy to answer any questions you may have for me.