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STATEMENT OF

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BEFORE THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

CONCERNING VETERANS DISABILITY COMPENSATION

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Mr. Chairman and members of the Committee – on behalf of Paralyzed Veterans of America, I thank you for asking PVA to share with you some observations about federal disability policy as it affects veterans with disabilities. As the only Congressionally-chartered veterans' service organization solely devoted to representing veterans with spinal cord injury and/or dysfunction (SCI/D), PVA is uniquely qualified to speak to these issues because our members include those with service-connected disabilities as well as those who sustained spinal cord injuries or illnesses after their discharge from the military. Maximizing "the quality of life for its members and all people with spinal cord injury/dysfunction" has been part of PVA's mission since its founding. As part of that mission, PVA has been a longstanding participant in coalitions to advance the larger cause of disability rights and to improve government programs and policies that support and assist Americans with disabilities.

Our testimony today focuses on three areas of federal disability policy that affect our members as people with disabilities – Social Security, employment and housing. Each of these areas has been the subject of considerable debate within disability policy circles over the past several years. Yet, when policy debates arise or when changes are proposed concerning programs affecting Americans with disabilities, veterans with disabilities are often overlooked. Moreover, seldom is attention given to the interaction between veterans' benefits and those they receive from other federal disability programs. These comments are not meant to be exhaustive of the many ways VA and other federal disability programs relate to one another. Perhaps some of the information presented here may stir enough interest so that policymakers in future deliberations on disability policy might ask – how will this affect veterans with disabilities?

#### Veterans with Disabilities and Social Security

Veterans with significant disabilities are very often Social Security disability beneficiaries as well.

According to the Social Security Administration's (SSA) latest Annual Statistical Supplement – in 2007, there were 434,000 Social Security beneficiaries who were service-connected disabled veterans rated 70-100% under age 65. Another 153,000 beneficiaries of Social Security were non-service-connected disabled veterans under age 65. There were also 1,540,000 service-connected disabled veterans under age 65 whose disabilities were rated below 70%. These latter individuals likely have other non-service related conditions or disabilities that qualify them for Social Security disability benefits.

Veterans with disabilities on Social Security can fall into one of several categories. They can be service-connected disabled veterans getting compensation and Social Security Disability Insurance (SSDI). They might be getting compensation and be eligible for SSDI but their earnings are too high to receive Social Security disability benefits. They might be veterans with catastrophic non-service connected disabilities -- like spinal cord injury – which will qualify them for SSDI as long as their earnings are limited. They can be low income veterans with non-service connected disabilities who are eligible for supplemental security income – or SSI -- under Social Security; or they might be veterans who had a modest earnings record and who may receive a small SSDI check supplemented by VA Pension. It's even possible that a veteran, if injured before age 22, could get Social Security Childhood Disability benefits based on his/her parents' earnings records – if the veteran's parents are retired, disabled or deceased.

VA Compensation and Social Security Disability Insurance -- There is no offset between SSDI and Compensation benefits – nor should there be. Compensation is earned through military service and SSDI is an earned benefit based on a person's work record and payment of FICA taxes. Once a veteran receives SSDI and compensation, few if any complications arise between those two benefit programs. However, the process by which veterans with significant disabilities obtain SSDI could be improved through better coordination between SSA and the Department of Veterans Affairs (VA).

While the Department of Defense and VA have taken steps to smooth the processes between their disability systems, veterans with severe disabilities must still undergo a second disability determination to apply for SSDI. The Veterans Disability Benefits Commission has reported that only 54% of veterans rated 100% are receiving SSDI and has stated "either these veterans do not know to apply for SSDI or are being denied the insurance."

Granted, some of those veterans may not be receiving SSDI because they are working above the earnings limit for that program. Nevertheless, PVA finds it mystifying that veterans with 100% disability ratings from the VA and the requisite quarters of coverage should have to go through another application process to receive SSDI. Some policymakers contend that the reason for the two disability determinations is related to the differing definitions of disability used by SSA versus the VA. The Social Security Administration's Wounded Warrior Program has been making efforts to reach out to newly-injured service members to inform them of and expedite applications for their SSDI benefits. However, this SSA initiative applies only to service

members injured after October 1, 2001 and resources often limit the extent to which SSA can make its presence known in the VA system. Legislation has been introduced in Congress to allow automatic qualification for SSDI to 100% service-connected disabled veterans. While there may be details that still require attention, PVA supports this move and hopes Congress can find a way to advance this policy.

VA Pension, Supplemental Security Income and other low income support programs -- Typically, a low income veteran with a significant non-service connected disability -- and without an adequate work record to qualify for SSDI -- may qualify for Supplemental Security Income or SSI. As an income-tested program, SSI carries with it limits on other income and assets or resources -- but these are generally less generous than the VA pension program. As a result, it benefits a veteran in these circumstances to be on pension. Veterans' spouses, who meet appropriate criteria, can also receive pension payments from the VA.

Some veterans may have had low paying jobs or not had an extensive earnings history but receive a small SSDI benefit based on that work record. These DI benefits will offset any VA pension payments up to the allowed pension level. This dual eligibility can have ramifications for the veteran if he or she attempts work, as described in the next section.

Among the most complicated public policy interactions are those involving VA pension and other federal income assistance programs. As a means-tested program, VA pensions count all income to reduce -- or even eliminate - the pension payment. However, the VA does not count as income for pension purposes SSI, welfare, food stamps, Medicaid and housing aid. On the other hand, SSI, welfare, and other federal disability programs do count VA pension as income. As a result, a veteran can get in trouble with those programs if the VA pension is not reported accurately. The VA Aid and Attendance payments that accompany some pension benefits as well as homebound benefits are not counted as income by Social Security. Unfortunately, sometimes these benefits are questioned as income by Social Security offices causing major headaches for the veteran on pension.

Although federal policies sometimes make it difficult for veterans with disabilities to navigate the programs to which they are entitled, there have been occasions where Congress did account for veterans' circumstances in larger programmatic changes. The Medicare Modernization Act was one of those few times that policymakers remembered veterans in crafting a piece of non-VA related legislation. Medicare - as you know - is a benefit available to those on Social Security. Individuals on SSDI get Medicare after a two year waiting period. When Medicare Modernization passed, the law declared that VA prescription drug coverage would be considered creditable coverage for those not signing up for the Part D benefit right away. Thus coverage under the VA immunizes a veteran from the late sign up penalty for Part D.

#### Veterans with Disabilities and Employment Programs

Typically, discussions about veterans' employment center on veteran-specific programs operated

by the VA, Small Business Administration or Department of Labor. Understandably, this is due to the fact that most veterans, even those with modest service-connected disabilities, are eligible for the VA's Vocational Rehabilitation and Employment (VR&E) Program. For veterans with non-service-connected disabilities, the DoL offers programs and services through its Veterans Employment and Training Administration and SBA hosts a number of programs tailored to veteran small business owners and service-disabled veteran small business owners. PVA, through The Independent Budget, has offered numerous recommendations for improvements to the VR&E and other VA employment programs that need not be repeated in this testimony.

State vocational rehabilitation programs -- Veterans with significant disabilities are also eligible for and often seek services from state vocational rehabilitation (VR) agencies. Many state VR agencies have memoranda of understanding with their state department of veterans' affairs to coordinate services to veterans with disabilities. Some state agencies have identified counselors with military backgrounds to serve as liaisons with the VA and veterans' groups.

There are significantly more state VR counselors than there are VR&E counselors around the nation. These numbers of vocational experts can amplify the assistance available to veterans with disabilities if appropriate outreach and partnerships are established and training provided to improve cross-agency coordination.

For some veterans with service-connected disabilities, establishing eligibility for state VR services may prove challenging. While most veterans with ratings at 40 percent and below are unlikely to qualify for state VR services, those with ratings between 50 percent and 70 percent might qualify depending on a state's admission criteria and the ability of VR professionals to assess appropriately a veteran's functional capacity. Participants at a May 2008 Department of Education symposium on VR and returning veterans suggested that, because of differing eligibility criteria among state VR systems, the potential exists for veterans in some states to be bounced between state VR & VR&E. One way to address this concern would be for the VA to work with the Rehabilitation Services Administration (RSA) to establish consistent criteria for state agencies' acceptance of veterans with service-connected disability ratings.

Social Security Work Incentives and VA Pension "Cash Cliff" – The Social Security Administration offers a variety of work incentives to enable SSDI and SSI disability beneficiaries to go to work. The Ticket to Work program provides beneficiaries with vouchers to buy vocational services of their own choosing and rewards vocational service providers for helping SSDI and SSI recipients reduce their reliance on benefits. PVA realized that many of the veterans being served by its vocational rehabilitation program were on SSDI. So, a little over a year ago, our program became an employment network under Ticket to Work in order to take advantage of the payments offered by SSA for successful beneficiary employment outcomes.

Other Social Security policies enable those on SSI to gradually work themselves off of benefits by reducing the amount of their disability benefits as earned income rises. Although the VA pension is often likened to SSI, unlike that latter program, VA pensioners face a "cash cliff" similar to that experienced by beneficiaries on SSDI in which benefits are terminated once an individual crosses an established earnings limit. Because of a modest work record, many of these veterans or their surviving spouses may receive a small SSDI benefit that supplements their VA pension. If these individuals attempt to use SSA's work incentives to increase their income,

not only is their SSDI benefit terminated but their VA pension benefits are reduced dollar for dollar by their earnings.

Over twenty years ago, under P. L. 98-543, Congress authorized the VA to undertake a four year pilot program of vocational training for veterans awarded VA pension. Modeled on SSA's trial work period, veterans in the pilot were allowed to retain eligibility for pension up to 12 months after obtaining employment. In addition, they remained eligible for VA health care up to three years after their pension terminated because of employment. Running from 1985 to 1989, this pilot program achieved some modest success. However, it was discontinued because, prior to VA eligibility reform, most catastrophically-disabled veterans were reluctant to risk their access to VA health care by working.

The VA Office of Policy, Planning and Preparedness examined the VA pension program in 2002 and, though small in number, seven percent of unemployed veterans on pension and nine percent of veteran spouses on pension cited the dollar-for-dollar reduction in VA pension benefits as a disincentive to work. Now that veterans with catastrophic non-service-connected disabilities retain access to VA health care, work incentives for the VA pension program should be re-examined and policies toward earnings should be changed to parallel those in the SSI program.

Other Efforts to Improve Disability Work Incentives -- Proposals to modify SSI income, asset and resource limits to encourage work and savings illustrate another way in which veterans with disabilities are left out of public disability policy discourse. Many policy strategies have been discussed over the years to raise resource limits under SSI so that beneficiaries would be encouraged to work and save enough to purchase a home, for retirement, or to open a business. Because low income veterans with disabilities are likely to be on VA pension -- with its own asset/resource limitations -- rather than SSI, they would not benefit from such proposals. If efforts are made in the future to remove work disincentives for low income people with disabilities, low income veterans with disabilities should be part of the conversation.

### Housing and Veterans with Disabilities

Obviously, accessible housing is vitally important to PVA members. Unlike other people with disabilities, our members are fortunate to have access to the VA's home modification grants that help overcome architectural barriers in housing. At the same time, they also benefit from the same fair housing laws that protect other Americans with disabilities and from the same provisions in the Rehabilitation Act that call for federally-assisted multi-family housing to serve people with disabilities. Like other people with disabilities, they are also adversely affected when the federal government fails to properly enforce existing housing accessibility laws and regulations.

Low Income Housing Policy and Veterans with Disabilities -- For low income veterans with disabilities, however, federal housing policy is sometimes at odds with their status as veterans. A 2007 Government Accountability Office (GAO) report noted that, in 2005, some 2.3 million veteran renter households were considered low income. Of those households, 39 percent had at least one veteran member with a disability. GAO reported that neither the VA nor other housing agencies were reporting on specific housing conditions and costs of veterans who rent.

Veterans who meet income and other eligibility criteria for HUD can receive housing assistance, if they meet HUD's criteria for elderly households or households with a member with a disability. In most respects, HUD's treatment of various veterans' benefits in determining household income and subsidy amounts is quite generous. Yet, even though a veteran must be determined permanently and totally disabled by the VA to qualify for VA pension, HUD will not accept documentation from the VA attesting to a veteran's permanent and total disability. Instead, veterans must obtain additional evidence of disability from a medical doctor before they can be qualified for housing assistance. HUD issued a notice on Dec. 13, 2004 indicating plans to reevaluate this issue but has never followed up on that notice.

### The VA's Place in National Disability Policy

"Quality of life" has become the latest catch-phrase in disability policy circles throughout government, academia and private industry. In its annual communication to Congress this year, the National Council on Disability (NCD) said that its report "focuses on the current quality of life of people with disabilities in America and the emerging trends that should be factored into both the design and evaluation of the Federal Government's disability policies and programs in the coming years."

Describing future policy directions, NCD outlines several principles that should "guide the review of existing government programs, as well as to serve as a road map for the design of new government programs." These principles offer one framework within which to evaluate VA disability policy and how it fits into the overall disability paradigm.

Ensure that Federal Government programs and services for people with disabilities are consistent with the overarching goals of the ADA – promoting equality of opportunity, full participation, independent living, and economic self sufficiency. NCD criticizes policies that force individuals with disabilities to impoverish themselves, give up jobs and otherwise limit their freedom in order to obtain the basic necessities of life.

As this committee knows, veterans with service-connected disabilities receive a wide array of services and supports from the Department of Veterans Affairs. Veterans with the most significant disabilities receive disability compensation, highest priority admission to the VA health care system, the VA prescription drug program, durable medical equipment and prosthetics; home modification grants, VA vocational rehabilitation and employment services; vehicle modifications; and aid and attendance benefits.

Veterans with non-service connected disabilities deemed "catastrophic" get high priority access to the VA health system; smaller home modification grants; certain automobile modifications; and aid and attendance benefits.

All of these benefits are provided regardless of income.

Compare these benefits to those available to non-veteran people with disabilities on SSDI or SSI. For those on SSDI, Medicare is available – after a lengthy waiting period during which their health may have deteriorated. Durable medical benefits under Medicare that would otherwise

allow a person with a disability to live independently are covered only if limited to a person's home. Personal attendant services are available only to those on Medicaid and only if a state offers those benefits under its state plan. Otherwise, a person with a significant disability is consigned to a nursing home in order to receive attendant care. And to receive services under Medicaid, a person must be poor and have few if any assets or resources. Some states have enabled working people with disabilities to buy into their Medicaid program but they have to live in the right state to access this opportunity. And as for home and vehicle modifications and other long term services and supports that would enable people with disabilities to live independently, fully participate in society and seek economic self-sufficiency – these are sometimes – but not always -- available through inadequately funded public programs.

What separates veterans with disabilities who receive Social Security benefits from their non-veteran counterparts is their access to the VA health care system and its ancillary supports and services -- regardless of their income. Veterans with even modest service-connected disabilities gain access to VA Medical Centers, outpatient clinics, home health care services, durable medical equipment and pharmaceutical benefits. Veterans with non-service-connected "catastrophic" disabilities are also eligible for VA health care. However stressed and under-funded the Veterans Healthcare Administration may be, it is available to most veterans with disabilities no matter how low or high their income.

A December 2007 article in the American Journal of Public Health examined numbers of uninsured veterans from 1987 to 2004. In recommending expansion of VA eligibility to address this problem, the authors note that the VA health system "appears to offer more equitable care of equivalent or higher quality compared with that of private sector alternatives." The article goes on to state that the VA "accounts for much of the advantage in insurance coverage that veterans enjoy compared with non-veterans."

As PVA has stated in past testimony, disability compensation is intended to do more than offset the economic loss created by a veteran's inability to obtain gainful employment. It also takes into consideration a lifetime of living with a disability and the every day challenges associated with that disability. It reflects the fact that even if a veteran holds a job, when he or she goes home at the end of the day, that veteran does not leave the disability at the office.

In many respects, VA compensation and its ancillary benefits – and even the benefits for veterans with non-service-connected catastrophic disabilities – reflect many of the standards embodied in the first principle outlined by NCD.

Protect the cost benefits of government programs or policies for people with disabilities based on long term human costs and benefits. Here, NCD cautions against policy decisions based mainly on costs and which fail to take into account the overall costs to society or to other programs when cost shifting occurs.

As outlined in this testimony, elements of the VA pension program are obviously grounded in cost control rather than the long term well being of low income veterans with disabilities. A case

in point is the cash cliff imposed on recipients of VA pension unlike their counterparts in SSI and which limits their ability to reenter the workforce.

Another perverse aspect of public policy related to this principle involves VA benefits and their interaction with civilian disability systems. Some veterans are married to spouses whose only access to health care coverage comes through Medicaid. At last year's training conference for PVA's service officers, a senior benefits advisor related how some married veterans eligible for compensation and pension elect to receive only pension. Even though their benefits are consequently lower, they decline the service-connected benefits to which they are entitled because compensation would knock their spouses off SSI and cost them their Medicaid. As NCD states in its report, policies such as this force "otherwise self-sufficient people to resort to public safety nets."

Build program bridges. NCD notes that there are gaps between many federal programs "where there should be bridges" and challenges government agencies to "work together to create seamless transitions into and out of their programs, for example, by establishing presumptive eligibility, transferring application records and eliminating arbitrary waiting periods."

According to this standard, veterans who clearly meet SSA's criteria for disability should not have to undergo a second disability determination after receiving their 100% rating from the VA. In addition, veterans who are deemed permanently and totally disabled by the VA should not be required by HUD to obtain a separate doctor's note attesting to their disability.

The foregoing positive description of VA benefits is not meant to dismiss the variety of changes PVA believes are needed to improve the VA system. It is merely to suggest that policymakers may want to look to the VA system as a model that, at least, breaks the chain between health care and poverty for people with disabilities.

The VA disability system recognizes that there are factors beyond someone's earnings capacity that call for ongoing supports and services in order to maintain a decent quality of life. Rather than trying to diminish the VA compensation program, it should be held up as a gold standard for improving the inadequacies of other federal disability systems.

Thank you again for this opportunity to testify. I would be happy to answer any questions you may have.