



National Service & Legislative Headquarters  
807 Maine Avenue, S.W.  
Washington, D.C. 20024-2410  
Phone (202) 554-3501  
Fax (202) 554-3581  
www.dav.org

**STATEMENT OF  
LEROY ACOSTA  
DAV ASSISTANT NATIONAL LEGISLATIVE DIRECTOR  
ON BEHALF OF THE INDEPENDENT BUDGET  
TO THE  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES SENATE  
JUNE 14, 2017**

Mr. Chairman and Members of the Committee:

As one of the co-authors of *The Independent Budget* (IB), along with Veterans of Foreign Wars (VFW) and Paralyzed Veterans of America (PVA), DAV is pleased to present our views regarding fiscal year (FY) 2018 funding requirements to support the Department of Veterans Affairs (VA) ability to process and deliver timely, accurate benefits to veterans, their families and survivors.

**GENERAL OPERATING EXPENSES (GOE)**

**Veterans Benefits Administration**

**\$3.135 billion**

The Veterans Benefits Administration (VBA) account is comprised of six primary divisions. These include Compensation; Pension; Education; Vocational Rehabilitation and Employment (VR&E); Housing; and Insurance. The increases recommended for these accounts primarily reflect current services estimates with the impact of inflation accounting for most of the increase. However, the IB recommendations for Compensation and VR&E also reflect a significant increase in requested staffing to meet the rising demand for those benefits. The *IB* recommends approximately \$3.135 billion overall for VBA for FY 2018, an increase of approximately \$279 million over the enacted FY 2017 appropriations level. The IB recommendation includes an increase of \$183 million above current services in the Compensation account, and approximately \$32 million above current services in the VR&E account to provide for approximately 2,000 new full-time equivalent employees (FTEE) to address rising workload.

**Compensation Service Personnel**

**1750 New FTEEs**

**\$183 million**

VBA continues to produce record numbers of claims while maintaining an emphasis on quality. Over the past few years, VBA has made significant progress in reducing the disability compensation backlog, which at its peak, stood at over 600,000 claims in March 2013. Today, the claims backlog stands at just over 90,000 claims, a decrease of more than 85 percent from its peak. However, there has recently been a rise in the overall disability claims inventory and the amount of time it takes to process both claims and appeals. These increases can be attributed to

multiple factors, including an increase in the number of claims and appeals being filed, the lack of adequate resources to keep pace with demand and the curtailing of mandatory overtime to reduce the claims backlog.

In 2009, VBA issued claims decisions on 2.74 million medical issues; that number more than doubled to 5.76 million in FY 2016, but was less than FY 2015 when it issued 6.35 million decisions on medical issues. In March of 2013, VBA required roughly 282 days to process a claim. At the close of FY 2016, VBA reported that on average, it took 123 days to process a claim; however, in FY 2015, VBA reported that it took, on average, 92 days to complete a claim. In FY 2015, total inventory stood at about 352,000 claims; today VBA has a total inventory close to 400,000 claims. Furthermore, VBA has an inventory of nearly 584,000 non-disability rating claims, such as, claims for changes in dependent or marital status.

It will require a combined focus on technology and staffing levels for VBA to provide veterans and their dependents with more timely and accurate claims decisions. For FY 2018, the *Independent Budget* veterans service organizations (IBVSOs) recommend an additional 1,750 FTEE to manage VBA's overall rising workload. Furthermore, since VBA stopped utilizing mandatory overtime for claims processing, the true need for additional personnel has become more evident. Of the overall increase in personnel, we recommend 1,000 FTEE be dedicated to processing appeals pending at VBA in an effort to eliminate the backlog of 380,000 appeals in VBA over the next three years. Depending on progress this year, further personnel increases may be necessary to reduce the appeals backlog at VBA. In addition, we recommend 350 FTEE be dedicated to addressing the growing backlog of non-rating related work, such as dependency claims. An additional 300 FTEE should be dedicated for claims processing to address the incremental rise in the claims inventory and backlog and 100 FTEE dedicated to staffing the Fiduciary program to meet the growing needs of veterans participating in VA's Caregiver Support programs. This recommendation is based on a July 2015 VA Inspector General report on the Fiduciary program that found, "...Field Examiner staffing did not keep pace with the growth in the beneficiary population, [and] VBA did not staff the hubs according to their staffing plan...."

**VR&E Service Personnel**

**266 New FTEEs**

**\$32 million**

The Vocational Rehabilitation and Employment Service (VR&E), also known as the VetSuccess program, provides critical counseling and other adjunct services necessary to enable service disabled veterans to overcome barriers as they prepare for, find, and maintain gainful employment. VetSuccess offers services on five tracks: re-employment; rapid access to employment; self-employment; employment through long-term services; and independent living. VR&E also operates its VetSuccess on Campus (VSOC) program at 94 college campuses.

Over the past few years, program participation has increased by 15 percent overall: increasing by 7.3 percent in FY 2015, 3.8 percent in FY 2016, and an estimated 4 percent in FY 2017. As VBA continues to expand VR&E eligibility to more veterans, due to increased claims processing and the award of new service-connected disabilities due to new presumptive disabilities, we project that total program participation for FY 2018 will grow by at least 5 percent for total caseload of close to 155,000.

Last year, Congress enacted Public Law 114–223, which authorizes the Secretary to use appropriated funds to ensure the ratio of veterans to full-time employment equivalents does not exceed 125 veterans to one full-time employment equivalent, a goal that VA has not met for many years. In July 2015, VR&E reported that its average Vocational Rehabilitation Counselor (VRC)-to-client ratio had risen to 1:139. However, in both FY 2016 and FY 2017, the Administration flat-lined the VR&E request for direct personnel at 1,442. In order to achieve and sustain a 1:125 counselor-to-client ratio in FY 2018, we estimate that VR&E would need 266 new FTEE, for a total workforce of 1,550 FTEE, to manage an active caseload and provide support services to 155,000 VR&E participants. At a minimum, three-quarters, of the new hires should be VRCs dedicated to providing direct services to veterans. This increase in personnel would address expected growth in VR&E claim filings and program participation, as well as collateral duties performed by VRCs outside of general case management. It is also essential that these increases be properly distributed throughout all of the VR&E program to ensure that VRC caseloads are equitably balanced among VA Regional Offices.

## **GENERAL ADMINISTRATION**

### **Board of Veterans' Appeals**

**\$158 million**

Faced with a rising appeals backlog that could no longer be ignored, last year Congress authorized the Board of Veterans' Appeals (Board) to increase its FTEE by 242 over FY 2016 levels, bringing their total authorized staffing to 922 FTEE for FY 2017; however, the Board has not yet hired to their full authorized level. For FY 2018, the IBVSOs recommend no additional increases in FTEE; but note, the Board must be permitted to hire its full complement of 922 FTEE. Further, as the number of claims processed annually continues to rise as a result of the increased capacity of VBA, the number of appeals filed annually will grow commensurately. In order for the Board to keep pace with this new incoming workload alone, not including those appeals already in the system, FTEE levels will have to be adjusted accordingly, though appeals reform legislation could alleviate some of that need in the future.

The IBVSOs thank Chairman Isakson, Senators Blumenthal, Tester and the other cosponsors for introducing the *Veterans Appeals Improvement and Modernization Act of 2017* (S. 1024), legislation that would fundamentally reform and streamline the overall appeals process. Similar legislation, H.R. 2288, was introduced and passed in the House. These measures include provisions that reflect significant efforts and the consensus of a working group formed in March 2016 that consisted of the IBVSOs, other VSO stakeholders, and leaders within VBA and the Board. Regardless of potential passage of this legislation the Board will continue to require resources commensurate with workload, especially to process legacy appeals remaining at the time of enactment of new appeals reform legislation. Further, the Board must be funded and empowered to continue pursuing information technology (IT) modernization solutions that best meet the specific workflow needs of the Board, while ensuring it also supports seamless integration with the Veterans Benefits Management System and other IT systems used by VBA and the Court of Appeals for Veterans Claims. Given the potential for significant and positive impact this would have on veterans' ability to receive more timely decisions, we look forward to the Committee passing appeals modernization, followed swiftly by enactment.

## **COST OF LIVING ROUND DOWN**

The Administration's budget proposal released on May 23, 2017, contains a provision that would round down cost-of-living adjustments (COLAs) for our nation's injured and ill veterans and their families and survivors for a period of 10 years. DAV and our IB partners are strongly opposed to this rounding down provision. Veterans and their survivors rely on their compensation for essential purchases such as food, transportation, rent, and utilities. It also enables them to maintain a marginally higher quality of life.

Rounding down veterans' COLAs unfairly targets disabled veterans, their dependents and survivors to save the government money or offset the cost of other federal programs. The cumulative effect of this provision of law would, in essence, levy a 10-year tax on disabled veterans and their survivors, reducing their income each year. When multiplied by the number of disabled veterans and recipients of Dependency and Indemnity Compensation or DIC, hundreds of millions of dollars would be siphoned from these deserving individuals annually. All totaled, VA estimates, this proposed COLA round down would cost beneficiaries close to \$2.7 billion over 10 years. Congress must reject this ill-conceived proposal.

## **INDIVIDUAL UNEMPLOYABILITY AND SOCIAL SECURITY OFFSET**

We also note there is, unfortunately, a new proposal included in the President's budget that would impact the VA's Individual Unemployability or IU program which allows VA to pay certain veterans disability compensation at the 100 percent rate, even though VA has not rated their service-connected disabilities at the total level. Specifically, the proposal would terminate existing IU ratings for veterans when they reach the *minimum* retirement age for Social Security purposes (62), or upon enactment of the proposal if the veteran is already in receipt of Social Security retirement benefits. The IBVSOs vehemently oppose this proposal.

As the members of this Committee know, Congress delegated to the Secretary of Veterans Affairs the authority to adopt and apply a schedule of rating disabilities pursuant to section 1155 of title 38, United States Code. In accordance with VA regulation promulgated by the Secretary, total disability exists when any veteran is determined by VA to be unable to secure and maintain substantially gainful employment by reason of service-connected disability, *regardless of age*. (See 38 C.F.R., section 4.16(b).) IU is based on the impact of the individual's own circumstances and it is an exception to the "average person standard" of the rating schedule. As a prerequisite for an IU rating, a veteran generally must have a disability rated 60 percent or higher under the rating schedule.

Total compensation for IU is *not* a retirement benefit. Properly applied, the rules require a factual showing that the service-connected disability is such as to be incompatible with substantially gainful employment, regardless of age. Today, many people, including the President, members of the Cabinet and members of Congress, work well beyond the minimum or "normal" retirement age. Some continue to work because they love their job, while others may be forced by financial requirements to continue to work.

This proposal is especially detrimental to the well-being of ill and injured veterans and their families because it forces a totally disabled veteran to take their social security benefits at the minimum age of 62, when the benefit is a small fraction of what he or she would receive at normal retirement age (65 to 67) or at age 70. Further, since the level of social security benefits is based on what an individual has paid into the fund, a veteran who was severely or totally disabled at a young age may not have paid sufficient funds to receive a level of benefits at the minimum age, or any age for that matter, to live a comfortable life because of reduced earnings due to service-related disabilities.

We also remind the Committee that the loss of IU for many veterans would also have a negative impact on a veteran's family due to the concurrent loss of ancillary benefits. Once the total disability rating for IU is reduced at age 62, the veteran and his or her family will lose Chapter 35 benefits for Dependents Education Assistance program, essential health care benefits from the Civilian Health and Medical Program of the VA (CHAMPVA) for dependents, Commissary and Exchange privileges and, in many cases, state benefits such as property tax exemptions. This damaging proposal should be rejected by Congress as it lacks compassion for the men and women who served our country and were severely disabled as a result of that honorable service.

In summary, a final point I would like to make is that benefits received from the VA, or based on military retirement pay and other federal programs have differing eligibility criteria as compared with the earned payments of Social Security. Reducing a benefit provided to a disabled veteran in receipt of IU due to receipt of a different benefit offered through separate federal benefit program is simply an unjust forfeit of an earned, necessary benefit.

Mr. Chairman, thank you for the opportunity to submit testimony and to present the views of the IBVSOs regarding FY 2018 funding requirements to support the VA's ability to process and deliver benefits to veterans, their families and survivors. I would be happy to respond to any questions that you or members of the Committee may have regarding this statement or our recommendations.