

STATEMENT OF
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FOR THE RECORD

TO THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO
THE REVIEW OF VETERANS' DISABILITY COMPENSATION:
BENEFITS IN THE 21ST CENTURY

WASHINGTON, D.C.

SEPTEMBER 17, 2009

Mr. Chairman, Ranking Member Burr, members of the committee, thank you for this opportunity to provide the views of the Veterans of Foreign Wars of the United States on the report to the Secretary of the Department of Veterans Affairs by the Advisory Committee on Disability Compensation (VDBC). The 2.2 million members of the VFW and our Auxiliaries appreciate the voice you give us at these important hearings.

It seems that every year another study is commissioned to examine some of the problems involving benefits and delivery of benefits available to service disabled veterans. Since the onset of the conflict in Iraq and Afghanistan, thousands of soldiers, sailors, airmen and Marines 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 the nation's attention in 2007. What was most disturbing was that the problems coming to light, while perhaps exacerbated by the current conflicts, have existed to some extent for decades.

Within the past eight years, Congress has been presented with enough ideas, suggestions and recommendations to create another title in the US Code and keep regulation writers at the Department of Veterans Affairs busy for many years to come. It

is of little wonder that we are meeting once again to parse the profusion of proposals and make coherent the competing voices.

To be sure, there are many good things presented in the numerous studies and reports that have been commissioned by Congress, more specifically by this committee. Some are simple, others complex beyond imagination. Some will help VA assist veterans while others could 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 illuminate the path.

Schedule for Rating Disabilities

Service-connected disabilities are evaluated using criteria contained in Part 4 of Title 38 Code of Federal Regulations. The first schedule for rating disabilities was written in 1921. The 1925 revision attempted to adjust evaluations based on the occupation of veterans. That approach proved far too cumbersome and inequitable to be of practical value and the rating schedule was rewritten again in 1933. The last complete revision was published in 1945.

A popular misconception is that the current rating schedule has not undergone a major revision since its last major overhaul in 1945. While the Institute of Medicine and the VDBC found the rating schedule has been revised, often substantively, since 1945, sections of it have been rarely touched and many parts contain medical terminology and evaluative criteria that are appreciably out of date.

Further, some critics of the current disability compensation program suggest the rating schedule can be thoroughly and completely reviewed and updated in as little as six months. While it is true that anyone can revise the rating schedule in a few weeks or months, the result will simply be a different rating schedule, not necessarily a better rating schedule.

It is our considered belief that it will take years of hard work by a competent staff of medical, vocational and legal experts to devise new rating criteria for all the body systems allowing for the accurate assessment of service connected disabilities.

We also maintain revision of the rating schedule cannot be a one-time project. A permanent process must be devised and put in place to ensure that you and your successors, along with the VSO community, never again have to discuss why the primary tool for assessing veterans' disabilities is inadequate and antiquated.

Quality of Life

A six-month study by Economic Systems, Inc. (EconSys), delivered last August, looked at VA disability compensation with regard to earnings loss, loss of quality of life, and transition benefits.

This study was to follow up on recommendations from both the VDBC and the 2007 Dole-Shalala Commission to reform disability compensation, and presented three options for compensating for loss of quality of life. The first would create a standard additional payment based on a veteran's combined degree of disability. Payments would be set by assigning a veteran with a quality-of-life score to the degree of disability.

A second option would create a separate pay scale for loss of quality of life, based on a veteran's combined degree of disability and primary disability. Certain disabilities would be associated with greater quality-of-life loss than others.

A third option would call for the VA to conduct individual clinical and rating assessments and establish separate, empirically-based rates for loss of earnings and loss of quality of life. The VA medical exam would have to be expanded to include a rater to assess a wide range of quality-of-life criteria.

Additionally, the VDBC also said current disability pay should reflect the "adverse impact...on quality of life" of veterans' disabilities. Commissioners recognized that some severely injured veterans are paid a Special Monthly Compensation (SMC) on top of VA disability pay. However, SMC is only a component of a few disabilities listed in the rating schedule, even though every compensable evaluation acknowledges that there is loss of earnings capacity and, by implication, at least some impact on quality of life.

We concur with the thinking of the VDBC that the VA rating schedule still should be revised to compensate many more veterans for diminished quality of life. In the interim, the commission recommends Congress should increase VA disability compensation immediately by 25 percent.

The VFW maintains that decreases in the quality of life resulting from service-connected disabilities, certainly warrants further investigation and research. In the final analysis, when someone suffers a permanent disability while serving their country the injury suffered is more than loss of earnings capacity. No matter how well a prosthetic leg allows someone to walk, how durable an artificial knee is, or how much progress therapy and drugs allows a veteran suffering from TBI to function, the fact is that these

men and women suffer much more than an economic loss. They are deprived of the opportunity to live their lives at the same high level and do the same things they could have done had they not been injured.

Moreover, while VA and Congress have addressed quality of life losses resulting from some disabilities through SMC, we believe further study should be conducted to determine which disabilities, and level of disability, adversely affect a veteran's quality of life. To the extent that studies show that service-connected disabilities limit the quality of life of veterans, VA should consider how best to adjust the Rating Schedule to ensure that veterans are adequately compensated.

Transitional issues – Vocational Rehabilitation and Education

The influx of service-disabled veterans, along with the current economic downturn is creating new challenges to the VA's Vocational Rehabilitation and Education service, and we must have programs that focus on the ever-changing needs of the 21st Century service-connected disabled veteran.

Simply put, VR&E needs to be flexible in providing the training (and in some cases retraining) and education necessary to allow disabled veterans to achieve their short and long-term career goals. Conversely, VR&E also needs to be adaptable in assisting disabled veterans to overcome the obstacles created by changing job markets – brought on by corporate downsizing, small business closures and economic uncertainty. To be truly effective, the program must be focused on a goal of avoiding disability-related unemployment later in life.

In recent testimony, the VFW cited several changes that need to be made to ensure VR&E is the best transitional and rehabilitative program in the VA's arsenal:

For Many Disabled Veterans VR&E Education Tracks are Insufficient

For many veterans with dependents the VR&E educational track provides insufficient support. Veterans with dependents are the second largest group seeking assistance from VR&E and they are often those with the most pressing needs to secure meaningful long-term employment. Many seriously disabled veterans are unable to pursue all of their career options or goals due to the limited resources provided to disabled veterans with children and spouses. We must not forget that these veterans are utilizing VR&E because of a disability they incurred in service to our country. Unfortunately, these heroes utilize VR&E's employment track at a rate higher than disabled veterans without dependents. The VFW believes this is likely because immediate employment, while

possibly not the best long-term rehabilitation outlook, immediately provides higher resources to the family that cannot afford long-term educational rehabilitation.

The Veterans of Foreign Wars would like to see VR&E institute a program to help veterans with dependents while they receive training, rehabilitation and education. This could be achieved by establishing a sufficient allowance to assist with the cost-of-living and in some cases by providing childcare vouchers or stipends. Childcare is a substantial expense for many of these veterans. Without aid of some form, many disabled veterans will be unable to afford the costs associated with long-term educational rehabilitation.

By assisting veterans with these expenses, we can increase the likelihood that they will enjoy long-term success and an increased quality of life. This will lead to decreased usage of VA services and is a worthwhile proactive approach.

VR&E Performance Metrics Need to be Revised

Currently VR&E measures the “rehabilitation rate” as the number of veterans with disabilities that achieve their VR&E goals and are declared rehabilitated compared to the number that discontinue or leave the program before achieving these goals. “Rehabilitated” within the employment track means that a veteran has been gainfully employed for a period of 60 days following any VR&E services they received. This form of performance measure could have the latent consequence of incentivizing short-term employment solutions over long-term strategies.

The VFW would like to see all VR&E performance metrics changed to reflect the employable future of the veteran. A veteran’s success in completing a rehabilitation program followed by his employment does not necessarily mean he has been rehabilitated for the course of his employable future. Changing the metrics to reflect a career-long standing will incentivize long-term approaches to VR & E programs. If an injury is aggravated following rehabilitation then a service member may need additional rehabilitation to ensure employability.

VR&E Needs to Reduce Time from Enrollment to Start of Services

The current VR&E program can take up to several months to begin a program of training. This occurs primarily because VR&E is required to validate that entitlement is present. In a recent conversation with VR&E’s central office, the VFW learned that it is extraordinarily rare that entitlement is not found for the VR&E program. If a veteran has

proven eligibility for VR&E, the VFW believes entitlement ought to be assumed thereby minimizing veterans time in gaining access to VR&E programs.

VR&E For Life

The VFW would like to see the delimiting date removed for VR&E. Currently, the delimiting date is set at 12 years after separation from the military, or 12 years following the date a service member learns of their rating for a service-connected disability. This fails to take into account the fact that many service related injuries will not hinder the veteran to the point of needing help or rehabilitation until many years following the injury.

Eliminating VR&E's delimiting date would allow veterans to access the VR&E program on a needs basis for the entirety of their employable lives. Veterans would still have to be approved by VR&E as having an employment handicap resulting from their service-connected disability and would still be subject to the total cap of services. However, dropping the arbitrary delimiting date would ensure rehabilitation for veterans should their service connected disability progress over time.

Once again, thank you Mr. Chairman for allowing the Veterans of Foreign Wars to share our views on these important issues.