



LEGISLATIVE BULLETIN

April 2010

Clarification of Effects of Health Insurance Reform Legislation on Veterans

A number of DAV members and others have asked how the new health insurance reform law (Public Law 111-148, approved on March 23, 2010) would affect our nation's veterans. As many of you know, in general the new law requires most U.S. citizens and legal residents to obtain private health insurance coverage by 2014 or they (or their employers) will face financial penalties through the U.S. Tax Code.

Under this new law, we interpret that all veterans enrolled in Department of Veterans Affairs (VA) health care and their dependents and survivors under CHAMPVA, and all military families, military retirees and dependents enrolled in military health care, TRICARE, and TRICARE for Life, are deemed to have the minimum essential coverage that satisfies the individual requirement for health insurance coverage. As such, we believe these veterans and military families *are not* required to buy private coverage in addition to their government-provided health services, as the DAV had insisted to Congress and the Administration.

Furthermore, under the new law but outside VA and the Department of Defense (DOD), veterans and their family dependents, the same as all other Americans, may gain the option to buy a private plan through state-run insurance exchanges, beginning in 2014. Based on income limits, they may also be eligible for financial assistance in purchasing insurance coverage.

With all the misinformation that has appeared in the media and on the Internet, we can understand why some veterans and their families have become concerned about what they think might happen to them under the new law. One specific and unintended problem surfaced that concerns a few hundred severely disabled children of Vietnam and Korean War veterans with spina bifida, but that problem is being addressed now by the Veterans Committees in Congress with a technical correction. S. 3162, as passed by the Senate, would amend the reform law to guarantee that VA's spina bifida program for these children would be considered minimum essential coverage. Otherwise, we believe veterans who rely on VA health care and their family members who rely on CHAMPVA will be unaffected by the new health reform law.

Nonetheless, in an overabundance of caution due to ambiguous language, legislation has been introduced to clarify the intent of the law, as follows:

- H.R. 4887, passed by the House, passed in the Senate on April 12, 2010 and sent to the President, would provide that coverage under TRICARE and DOD's Non-appropriated Fund Health Benefits Program (for DOD employees of the Army and Air Force Exchange Service and others) constitutes minimal essential health care coverage as required by the health insurance reform law.

- S. 3162, passed by the Senate and pending in the House, would clarify that the health care provided by the Secretary of Veterans Affairs constitutes minimum essential coverage under the Patient Protection and Affordable Care Act (health reform legislation).
- H.R. 4894 would amend the health insurance reform law to ensure nothing in that law could be construed to diminish the authority of the Secretary of Veterans Affairs or the Secretary of Defense over the VA and DOD health care programs, respectively. This bill would also directly amend the reform law to ensure that enrollment in DOD or VA health care is considered minimum essential coverage.

DAV will remain vigilant to protect the VA health care system upon which so many service-connected disabled veterans rely. We will also continue to monitor the implementation of the health insurance reform law to ensure that it will not adversely impact our nation's wartime disabled veterans, their families or dependents.

Key Legislation

On April 22, 2010, the Senate gave final approval to S. 1963, the Caregivers and Veterans Omnibus Health Services Act, which provides an array of supportive services to family caregivers of disabled veterans, including up to \$1.7 billion in caregiver benefits to financially strapped family members caring for the most severely wounded and disabled veterans, including Iraq and Afghanistan veterans. It also provides an array of support services for veterans' caregivers from all eras of military service, including education on how to be a better caregiver, counseling and mental health services, and respite care. The legislation, parts of which were first proposed more than two years ago, has been strongly backed by DAV and other veterans organizations. The House of Representatives approved the bill by a vote of 419 to 0 on April 21, 2010. The bill now goes to the President for his signature.

S. 1963 also expands and improves health care access and services for the nation's 1.8 million women veterans, veterans living in rural areas, and homeless veterans. Once enacted into law, the legislation will help ensure that women veterans, who have played an increasingly essential role in our military, receive quality, timely and gender-appropriate health care services, and will for the first time allow VA to cover the costs for up to seven days of care for newborn infants of certain women veterans eligible for VA medical services.

On January 20, 2010, Rep. Tim Bishop of New York and lead cosponsor Rep. Carol Shea-Porter of New Hampshire introduced **H.R. 4477, the Military Personnel Toxic Exposure Registry Act**. This bill builds on successful legislative efforts over the last year to prohibit the disposal of toxic waste in open air burn pits in Iraq and Afghanistan and to ensure that the thousands of troops exposed to these dangerous burn pits receive proper medical care. Resolutions adopted by our membership underscore the need to support congressional oversight and federal vigilance to provide for research, health care and improved surveillance of disabling conditions resulting from military toxic and environmental hazards exposure.

In addition to the official registry documenting the troops exposed to these toxic burn pits, the bill also calls for:

- A ban on the open-air burning of large quantities of plastics, which has been widely documented to occur despite the clear health dangers;
- A complete history of all burn pits used in Iraq and Afghanistan;
- Physical examinations for those exposed to burn pits; and
- Annual reports to Congress on burn pits related sicknesses.

DAV urges you to contact your elected officials to request their support for legislation that provides for an official registry documenting the tens of thousands of troops exposed to these toxic burn pits in order to remove obstacles to accessing the VA benefits which many of them will need as a result of exposure.

Status of Fiscal Year 2011 VA Budget

Included in Public Law 111-11 (the Fiscal Year 2010 appropriations act) was advance appropriations for fiscal year (FY) 2011 to cover VA medical care accounts. Congress provided approximately \$48.2 billion in discretionary funding for VA medical care. When combined with the \$3.3 billion Administration projection for medical care collections in 2010, the total available operating budget provided by the appropriations bill is approximately \$51.5 billion.

The Administration submitted the FY 2011 budget to Congress on February 1, 2010. For VA's total budget, the Administration requested \$125 billion for FY 2011, an increase of \$12.2 billion over last year. Compared to the President's request for VA's total discretionary budget of \$60.3 billion, including medical collections. *The Independent Budget* (IB) recommends \$61.5 billion, \$1.2 billion more than the President's request and an increase of \$5.5 billion over last year.

Within a short period after the President's budget submission, each House and Senate authorizing committee is required to submit its views and estimates to their respective Budget Committees relating to budget matters under their jurisdiction. This allows authorizing committees, in our case, the House and Senate Veterans' Affairs Committees, to participate in formulating the budget blueprint and influence the federal budget and subsequent appropriations to support the agencies over which these Committees have jurisdiction.

The House and Senate Veterans' Affairs Committees have submitted their views and estimates, but the House and Senate Budget Committees have yet to develop their separate budget resolutions. The traditional budget calendar indicates that after the Senate and House pass their respective budget resolutions, Congress produces a concurrent resolution on the budget by mid-April. Subsequently, the House Appropriations Committees begin work in May on the 13 annual spending bills designed to be signed into law before the fiscal year begins on October 1.

Veterans' Affairs Committees Views and Estimates

Both of the Veterans' Affairs Committees generally supported the President's budget with some minor adjustments in several discretionary budget accounts. For example, the House recommends increases in Medical and Prosthetics Research, General Operating Expenses (GOE), Office of Inspector General (OIG), Minor Construction and grants for State Veterans Homes and

State Cemetery Construction, for an overall funding level of \$571 million above the President's request.

The Senate Veterans' Affairs Committee recommended increases in similar accounts, including Information Technology, Vocational Rehabilitation and Employment, and for a new program to support family caregivers, for an overall funding of \$380 million above the President's request.

(In Billions)	FY 2010	President's Request	Independent Budget	House Veterans Affairs' Committee		Senate Veterans Affairs' Committee	
				Majority	Minority	Majority	Minority
Medical Care	\$ 44.497	\$ 48.183	\$ 51.962	\$ 48.404	\$ 48.347	\$ 48.183	--
Collections	\$ 3.026	\$ 3.355	--	\$ 3.355	\$ 3.355	\$ 3.355	--
Research	\$ 0.581	\$ 0.590	\$ 0.700	\$ 0.650	\$ 0.640	\$ 0.625	--
GOE	\$ 1.689	\$ 2.149	\$ 1.914	\$ 2.630	\$ 2.647	\$ 2.632	--
OIG	\$ 0.109	\$ 0.109	\$ 0.112	\$ 0.121	\$ 0.159	\$ 0.121	--
Construction	\$ 2.043	\$ 1.750	\$ 2.406	\$ 2.010	\$ 1.558	\$ 1.985	--

DAV will continue to follow these developments to ensure that the needs of sick and disabled veterans are fully met across all VA's appropriations accounts, and we will submit future reports to reflect the progress of the FY 2011 funding of the VA.

DAV Mid-Winter Conference

The DAV's annual Mid-Winter Conference was held February 28-March 3, 2010, at the Marriott Crystal Gateway in Arlington, Virginia. Members in attendance enjoyed presentations on a wide range of subjects from National staff. Members in attendance also took the opportunity to meet with elected officials and/or their staff to discuss issues of vital importance to America's service-disabled veterans and their families. Those who attended the Benefits Protection Team Seminar on Sunday afternoon heard from Representative Chet Edwards (D-TX), Chairman of the House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies. Representative Edwards summarized some of the accomplishments of our grassroots during the 111th Congress and reaffirmed his commitment to continuing to work with the DAV to build better lives for America's disabled veterans.

On Tuesday, March 2, 2010, National Commander Roberto Barrera presented his testimony to a joint session of the House and Senate Veterans' Affairs Committees, with a standing room only crowd in attendance. The presentation was well received by both the DAV members and the elected officials in attendance. Both the written testimony and oral remarks by National Commander Barrera can be found on the DAV website at www.dav.org.

Early Signs of Progress for Reforming the Veterans Benefits Approval Process

Continuing to build on the momentum begun with last year's "Million Claims March," DAV has been actively engaging Congress, the Department of Veterans Affairs (VA), and other veterans organizations to develop and apply new solutions to the VA benefits claims processing

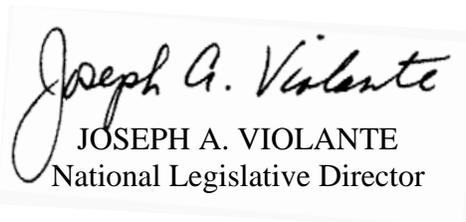
problems. DAV and other veterans organizations have been meeting for months to forge a coalition dedicated to fixing these problems once and for all time. We strongly believe that veterans, especially disabled veterans, deserve to have their claims adjudicated right the first time in a timely and consistent manner.

In February and March, the DAV testified twice before the House Committee on Veterans' Affairs on ways to improve the claims processing system and strengthen VA's quality control programs. In March, we also joined with 13 other veterans organizations in sending a letter to Chairman Bob Filner and Ranking Member Steve Buyer proposing several short-term solutions to the current claims processing problems. Specifically, we called on VA to provide more "interim" ratings for veterans with obvious disabilities, increase the use of private medical evidence when provided by veterans, and expand the BDD program for separating service members who make claims for benefits, including those in the Guard and Reserve. In all of our recommendations we emphasized that the quality of claims' decisions reached was at least, if not more, important than the quantity of decisions finalized.

On March 18, I also participated in a "Claims Summit" organized by Chairman Filner, joining dozens of other veterans organizations to discuss potential solutions to the longstanding problems at the Veterans Benefits Administration. Over the next few weeks, DAV and our veterans service organization partners will meet with the Senate Veterans' Affairs Committee to discuss our recommendations with them, as well as with the union that represents VBA employees. In the months ahead, we will need the support of all these partners, as well as support from our grassroots supporters like you, to make lasting progress towards reforming the veterans benefits approval system.

Conclusion

To ensure the successful enactment of veterans' legislation, our DAV and Auxiliary members must be active members of DAV's grassroots – DAV Commander's Action Network (CAN) — and we all must do our part to let our elected officials know about our support for legislation that helps to build better lives for our nation's service-disabled veterans, their families, and survivors. Thank you for your continued support.



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