

VETERANS' DISABILITY BENEFITS COMMISSION

Meeting Minutes

Date: Thursday, March 22, 2007 - Friday, March 23, 2007

Location: Hamilton Crowne Plaza Hotel
14th & K Streets
Washington, DC 20005

Attendees:

Chair:

Chairman James Terry Scott, LTG, USA (Ret)

Members:

Larry G. Brown, COL, USA (Ret)

Donald M. Cassiday, COL, USAF (Ret)

John Holland Grady

Charles "Butch" Joeckel, USMC (Ret)

Ken Jordan, COL, USMC (Ret)

James Everett Livingston, MG, USMC (Ret)

William M. Matz, Jr., MG, USA (Ret)

Dennis Vincent McGinn, VADM, USN (Ret)

Rick Surratt (former USA)

Joe Wynn (former USAF)

Absent:

Nick D. Bacon, 1SG, USA (Ret)

Dennis Vincent McGinn, VADM, USN (Ret) - Friday, March 23, 2007 only

Jennifer Sandra Carroll, LCDR, USN (Ret) – on the phone

Staff:

Ray Wilburn, Executive Director

Ed Andersen

Conrad Anderson

Jacqueline Garrick

Kathleen Greve

John Harlepas

Steve Riddle

Dietra Shepherd

Paul Stepnowsky – Friday only

Kurt Von Tish – Friday only

Jim Wear

Don Zeglin

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Topic	Key Points	Supporting Materials
March 22, 2007		
Opening Remarks Chairman Scott	The Chairman opened the meeting at 8:36a.m. by welcoming back Commissioner Joeckel and expressing sympathy for the death of Commissioner Carroll's Secretary, Marc Nischik, Master Chief Petty Officer, USN (Ret). He acknowledged the flurry of media attention and Congressional hearings regarding Walter Reed Army Medical Center along with the creation of additional commissions and task forces, and proposed legislation. The chairman has been tentatively invited to testify at a Senate hearing on April 12 th concerning the Commission's comparison of VA and DoD disability ratings and transition issues. He reported on meetings attended by staff and other Commissioners last month, and reviewed this meeting's agenda.	
February 21-22, 2007 Meeting Minutes	Commissioners Cassiday motioned and Brown seconded the adoption of the minutes, which were approved by unanimous vote.	February 2007 Minutes
Opening Statements	Commissioners Joeckel and Brown cautioned against a knee-jerk response to the Washington hoopla generated from Walter Reed. Commissioner Livingston requested to reopen the discussion on Character of Discharge regarding Bad Conduct and Dishonorable Discharges. Commissioner Wynn suggested that more time be spent by the Commission looking at levels of compensation for veterans and families and not just policy issues. He also noted that there are 217 current bills on the Hill.	
CNA Briefing Update: Ms. Joyce McMahon, PhD Mr. Eric Christensen, PhD Mr. Ted Jaditz, PhD Mr. Dan Harris, PhD Ms. Elizabeth Schaefer	Dr. McMahon began with an update on all of the CNA activities for the Commission. She briefly discussed the surveys and the studies on Program Operations, Individual Unemployability (IU) and the Employment/Earnings/Compensation Analysis, and the disability evaluation comparison between VA and DoD. She provided more details regarding the completion rates of the surveys and expects to reach targets by April. They are concentrating on the four cells with younger spouses to improve participation rates of survivors.	CNA Update Slides
Program Operations	Next, Dr. McMahon focused on the CNA study on VA program operations, which were difficult to compare to other federal programs. CNA compared VA to other federal disability compensation programs and explored lessons learned. They looked at various program elements, such as processing, performance measures, training, certification, staffing, and costs. They made their comparison by contacting other federal agency with disability programs (Social Security, FECA, FERS/CSRS and DoD) and reviewing previous evaluations (i.e. GAO, OIG, Commission Site Visit	Program Operation Slides

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<p>Individual Unemployability (IU)</p>	<p>Summary Report, etc). Concerns about VA include: timeliness, quality, accuracy, consistency, consolidation, training, staffing, & turnover. CNA concluded that except for timeliness, VA does not seem to be under-performing in comparison to other programs. VA disabilities are more complex than other disability compensation programs to rate and training initiatives are promising. VA is the only program with a standardized training program.</p> <p>Chairman Scott asked the staff get additional information on the length of time experienced within each phase of the VA claims process.</p> <p>Dr. Jaditz reported on IU by describing the program eligibility criteria and changes in the population eligible for IU. Younger veterans are first entering the system with musculoskeletal, skin, neurological, mental, digestive and respiratory disorders. Older veterans are first entering the system with PTSD, auditory, cardiovascular, and genitourinary disorders.</p> <p>In relation to SSDI, veterans with IU have a higher participation rate comparative to those who are 100% disabled.</p>	<p>IU Slides</p>
<p>Raters & National Veteran Service Officers (NSVOs) Survey</p>	<p>Dr. Harris updated the Commission from last month's presentation on the NVSO/Rater surveys. Raters were less likely than NVSOs to report being well-trained. Experience was a mitigating factor, but not veteran status. Raters are much less likely to be veterans than the NVSOs. Veterans saw military service as being useful to raters, and veteran status didn't effect those who responded that they saw claimant's expectations as unrealistic. A majority of both groups saw more clinical representation as moderately to very useful. Challenges faced by the raters include: having enough time to process claims, obtaining evidence, getting guidance from the rating schedule and assigning degree of disability. The difficult to rate conditions were cited as neurological, musculoskeletal, mental, and organs because there is more subjectivity and less guidance from the rating schedule. Age and experience of the raters were factors in reporting level of difficulty.</p>	<p>Survey Slides- Raters & NVSOs</p>
<p>Earned Income, Employment & Compensation Analysis</p>	<p>Dr. Christensen continued with CNA's earnings analysis that demonstrated the differences in veterans and survivors earned income plus benefits for 100% service connected veterans with Special Monthly Compensation and IU. Some slides demonstrated how data on employment and earnings</p>	<p>Earnings Analysis Slides</p>

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<p>Disability Evaluation Comparison of VA & DoD</p>	<p>were adjusted beyond age 65. He provided a break down by gender and body system. He also compared the disabled veteran population to non-service disabled veterans and the general population groups. He demonstrated that 100% service disabled veterans earned significantly less (under \$10,000) than other groups and fewer were employed. Military survivors were also less likely to be employed than other widows by about 10%, and earned about \$10,000 less.</p> <p>Finally, CNA conducted a comparison of disability ratings between VA and DoD. Dr. Christensen reviewed ratings from VA and the service branches (Army, Navy, Marines, Air Force) from FY 2000 – 2006 and compared diagnostic codes. They found a great deal of variance between the branches with the Air Force ratings being much higher than the other branches. The Army, Navy and Marine Corps were more likely to grant <30% (severance pay) disability. All of the branches were more likely than VA to rate for only one disability than for all of the presenting issues. Veterans with a DoD disability were more likely to receive a higher disability rating from VA. On average, VA rated disabilities at a higher percentage rate than DoD.</p>	<p>Comparison Slides – VA/DoD Disability Ratings</p>
<p>Issue Paper Status Update Mr. Ray Wilburn</p>	<p>Mr. Wilburn gave an update on the status of the Commission issue paper process and an overview of where each issue stands.</p>	<p>Progress Report - Slides</p>
<p>Tentative Option Approval (Step 7): Time Limit to File (RQ 18) Mr. Steve Riddle</p> <p>Concurrent Receipt (CR) (RQ21) Mr. Jim Wear Mr. Don Zeglin, Esq.</p>	<p>Mr. Riddle provided a status report to the Commission on the Time Limit to File issue paper that reflected the comments received by the VSOs at the February Commission meeting. The VSOs agreed that no changes should be made to the current regulations on Time Limit to File and the paper was updated to acknowledge the VSO statements. VA and DoD have made efforts to outreach to veterans and to improve their record keeping. The Commission options included maintaining the status quo, or to impose time limits.</p> <p>Following some discussion, Commissioners Surratt moved and Matz seconded to adopt option 1 with amendment to include that a VA benefits briefing be required by DoD prior to separation. Motion carried unanimously with one abstention by Commissioner Grady.</p> <p>Mr. Wear presented five options ranging from most restrictive (the current tiered approach) to most expansive (full concurrent Receipt to include chapter 61 retirees) in allowing veterans to collect VA compensation and various types of DoD disability</p>	<p>Time Limit to File Slides</p> <p>Concurrent Receipt Slides</p>

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Mr. Mike Hayden, The Military Coalition	<p>retired pay.</p> <p>Mr. Hayden explained charts he created that exemplified how CR impacts retirees at 19 years of service and then if they would have had 20 years.</p> <p>The Commission discussion focused on the differences between the five options. Commissioners Brown moved and Cassidy seconded to strike option 1. Motion carried by a 9 to 2 vote (Commissioners McGinn & Grady opposed.) Commissioners Joeckel motioned and Surratt seconded to table discussion until further information on cost could be provided by staff, which carried by unanimous vote.</p>	
<p>Survivor Concurrent Receipt (SCR) (RQ21)</p> <p>Mr. Jim Wear</p> <p>Mr. Conrad Anderson, Esq.</p>	<p>Mr. Wear gave examples of E-7 & O-5 surviving spouses' first year total annual benefits in order to compare the offset of SBP by DIC as required by current law and full concurrent receipt of SBP and DIC. He recapped the statements made at the last meeting by the VSOs on SCR and updated the options. There were 3 options discussed.</p> <p>The Commissioners expressed concern that survivors could receive higher benefits than their spouses received while on active duty or retired. They requested that the housing allowance in the first year after an active duty death be deleted and that an estimated cost be obtained if survivor concurrent receipt were recommended, including the number of potential recipients.</p>	<p>Survivor Concurrent Receipt Slides</p>
<p>Preliminary Outline of Final Report</p> <p>Ms. Jacqueline Garrick</p>	<p>Ms. Garrick presented a preliminary draft of a final report outline. She highlighted the sections that might include an Executive Summary and then an Introduction that looked at veterans, past, present, and future, along with the scope and mission of the Commission. She described subsequent sections as focusing on Veterans, Survivors, Program Operations and Health Care. Sections on Findings and Recommendations, followed by Appendixes could also be included.</p> <p>The Chairman noted that this was a good start and asked the Commissioners to provide their input before the next meeting, and a staff update be provided.</p>	<p>Draft Final Report - Slides</p>
<p>Closing Comments</p>	<p>None</p>	
<p>Chairman's Close</p>	<p>The Chairman adjourned the meeting at 6:18pm.</p>	

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	input and comments will be sought.	
<p>Application of VA Rating Schedule</p> <p>Ms. Caroll McBrine, MD Consultant for Compensation & Pension Service, Department of Veterans Affairs (VA)</p>	<p>Dr. McBrine gave a very detailed overview of the VA Schedule for Rating Disabilities (VASRD) and how it is used by VBA. She discussed how to rate several conditions as examples. She discussed such issues as, exam reports, reasonable doubt, evidence development, total disability ratings, unemployability, age, analogous ratings, aggravation, combined ratings, pre-stabilization, and convalescence.</p> <p>Dr. McBrine also discussed the lengthy process to update the rating schedule, which is undertaken by body systems, and the development of templates, which she is working on for C&P examinations.</p> <p>A lengthy discussion with Commissioners followed.</p>	<p>VA Rating Schedule Slides</p>
<p>Character of Discharge (RQ 23)</p> <p>Mr. Steve Riddle</p>	<p>At the request of Commissioner Livingston, this issue was reopened for discussion since option 1, which endorsed the current statute, was tentatively selected at the last meeting when he was not present. He requested that Option 2 be re-written to include language that would bar veterans with Bad Conduct and Dishonorable Discharges from VA benefits, except for health care for service related conditions under life-threatening circumstances.</p> <p>Staff will provide such an update and the Commission will re-consider Character of Discharge at the next meeting.</p>	<p>Character of Discharge Slides from Feb 2007</p>
<p>Commission Discussion</p>	<p>Chairman Scott announced that the May and June meetings will be 3 days. The next meeting will be April 19-20 at the Almas Temple adjacent to the Hamilton Crowne Plaza at 14th and K Streets, NW, Washington, DC.</p> <p>Commissioner Wynn requested additional panels be held with wounded veterans and their families. Commissioner Joeckel asked for an update on the status of the Transition Report and the Matrix for the next meeting. Commissioner Grady read five of the Guiding Principles used by the Bradley Commission and requested that the Commission consider using them as guiding principles. Staff will provide a copy of those principles.</p>	
<p>Chairman's Close Chairman Scott</p>	<p>The chairman adjourned the meeting at 3:39pm.</p>	

The minutes of the March 22-23, 2007, meeting were unanimously approved by the Commission members in attendance at the April 19, 2007, meeting in Washington, DC.