

VETERANS' DISABILITY BENEFITS COMMISSION

Meeting Minutes

Date: Thursday, January 18 – Friday, January 19, 2007

Location: Washington Hotel
515th 15th Street, NW
Washington, DC 20004

Attendees:

Chair:

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

Members:

Nick D. Bacon, 1SG, USA (Ret)
Larry G. Brown, COL, USA (Ret)
Jennifer Sandra Carroll, LCDR, USN (Ret)
John Holland Grady
Ken Jordan, COL, USMC (Ret)
James Everett Livingston, MG, USMC (Ret)
Dennis Vincent McGinn, VADM, USN (Ret)
Rick Surratt (former USA)
Joe Wynn (former USAF)

Absent:

Chairman James Terry Scott, LTG, USA (Ret.)
Donald M. Cassidy, COL, USAF (Ret)
Charles "Butch" Joeckel, USMC (Ret)
Dennis Vincent McGinn, VADM, USN (Ret) January 18, 2007 only

Staff:

Ray Wilburn, Executive Director
Ed Andersen
Conrad Anderson
Jacqueline Garrick
Kathleen Greve
John Harlepas
Steve Riddle
Dietra Shepherd
Paul Stepnowsky
Kurt Von Tish
Jim Wear
Don Zeglin

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	<p>has a higher mortality risk. Gaps become greater as the veteran ages.</p> <p>The Commission requested that a description of methods to be used in the earnings analysis be provided..</p>	
<p>Issue Paper Status & Schedule</p> <p>Mr. Ray Wilburn</p>	<p>The Executive Director reviewed the 8-step process for the 13 issue papers being developed by staff and the timeline for completion. Final approval for all issues is targeted for July 2007.</p>	<p>Issue Paper Status</p>
<p>Review/Approve for Public</p> <p>Survivors Concurrent Receipt</p> <p>Mr. Jim Wear</p>	<p>Mr. Wear presented an update from the last Commission meeting on Survivor Concurrent Receipt (SCR). He reiterated the pro and con arguments and the Commission findings were highlighted. Elimination of the offset would be costly, and for some survivors where the spouse had a lower rank, the survivor would receive more than the active duty pay of the deceased spouse. Options for Commission consideration were also discussed. Comments as a result of VA's legal and technical review were discussed.</p> <p>Mr. Wear also provided comments regarding the Commission's question at the November 2006 meeting that addressed SSA, SBP, & FECA. He reported that SSA is taxable at a certain point (single @ \$25,000). SBP does not refund paid but un-disbursed premiums and FECA is not off set.</p> <p>The Commission discussed revisions to the paper and Commissioner Matz moved and Carroll seconded that changes be made to the paper and then released to the public for comment. Motion carried by unanimous vote.</p>	<p>Survivor's Concurrent Receipt (Research Question 21)</p>
<p>Time Limit to File</p> <p>Mr. Steve Riddle</p>	<p>Mr. Riddle provided a follow up on the Time Limit to File issue by adding the VA's Technical Comments and Legal Review.</p> <p>Commissioners Surratt moved and Jordan seconded to accept technical changes and release for public review and comment. Motion carried by unanimous vote.</p>	<p>Time Limit to File Claims (Research Question 18)</p>
<p>IOM Update</p> <p>Rick Erdtmann, MD</p> <p>With Study Directors:</p> <p>Catherine Bodurow, MSPH - Presumptions</p>	<p>Dr. Erdtmann discussed the status of the 4 current committees. The Medical Evaluation Committee met in January in Irvine, CA and is drafting its final report. He also explained the IOM report finalization and review process that all of the studies will undergo. The Presumption Committee met in December & January to discuss the details of their report. IOM has received useful data from VA and can move forward. The PTSD</p>	<p>IOM Update</p>

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<p>David Butler, PhD – PTSD Compensation</p> <p>Ms. Alina Baciuc, MPH – PTSD Treatment</p> <p>Ms. Morgan Ford, Medical Evaluation (for Mike McGeary)</p>	<p>Compensation study report is being refined. Dr. Erdtmann also introduced Ms. Baciuc who will be the study director for the PTSD Treatment Committee, which had its first open meeting on January 16, 2007. Dr. Erdtmann reported that Commissioner Surratt provided a statement on behalf of the Commission to the committee. Dr. Erdtmann also indicated that VA General Counsel's answers to IOM's questions had provided sufficient information for the Presumptions committee to complete the review that the Commission had requested.</p> <p>Commissioner Surratt gave an overview of the PTSD treatment meeting and the discussion on the use of psychotherapy and medication to treat PTSD.</p>	
<p>VA Position on Document Release to IOM</p> <p>Mr. Paul Hutter, Acting VA General Counsel (GC)</p> <p>Accompanied by Mr. David Barrans</p>	<p>Mr. Hutter explained to the Commission the VA's pre-decisional process, which is vital in providing the Secretary with the best possible information and opinions. Information disclosed to IOM would have to be transparent since it is IOM's standard to cite and reference all sources of reviewed materials. According to Mr. Hutter, this would have a "chilling effect" on the VA's process to review options and consider approaches.</p> <p>Dr. Erdtmann joined Mr. Hutter and agreed with the challenges they face since both organizations have to protect their process to ensure the best possible outcome. Dr. Erdtmann reiterated his confidence that IOM can successfully move forward with the information they have gotten from VA. He did note that the IOM analysis of the VA process in the past will be less detailed than it would be if all requested data were provided.</p>	<p>VA GC presentation</p>
<p>Age as a Factor</p> <p>Ms. Jacqueline Garrick</p>	<p>Ms. Garrick presented on various studies and reports on the diseases related to aging, but there is little evidence that age should be considered in making decisions on connection.</p> <p>After some discussion, Commissioners Livingston moved and Brown seconded to delete this research question. Motion carried in an 8:1 vote with Commissioner Grady opposing the motion.</p>	<p>Age as a Factor (Research Question 15a)</p>
<p>Duty to Assist</p> <p>Mr. Steve Riddle</p>	<p>Mr. Riddle addressed the duty to assist requirements and the implementation of the Veterans Claims Assistance Act (VCAA) by VA. VA is required to make reasonable efforts to assist veterans in obtaining evidence (military or private records) to substantiate a claim. Mr. Riddle reviewed other documents on the subject from VA, CBO, GAO, the VSOs, and the Veterans Claims</p>	<p>Duty to Assist (Research Question 22)</p>

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	<p>Adjudication Commission (VCAC) that considered the pros and cons on time limits. He also discussed the findings of the Commission's site visits where this issue was also discussed. VA staff and veterans felt that the VCAA letters were too hard to understand and timing became an issue. He concluded by stating that VCAA law benefits veterans, but that it is the way VA applies the law that is at issue. Options for Commission consideration were also presented.</p> <p>After a brief discussion, Commissioners Carroll moved and Brown seconded to release the paper for VA legal and technical review. Motion carried by unanimous vote.</p>	
<p>Apportionment/Garnishment Ms. Jacqueline Garrick</p>	<p>Ms. Garrick discussed apportionment and garnishment, which are two different processes. A veterans' compensation may only be garnished when a portion of military pay has been waived in order to collect VA compensation. Applications for apportionments are made directly to VA by eligible beneficiaries. Apportionments and garnishments primarily apply to cases of alimony and child support. Titles 10, 38, & 42 USC have jurisdiction and state courts decide marital property.</p> <p>Several changes were suggested. Commissioners Wynn moved and Brown seconded to release the paper for VA legal and technical review. Motion carried by unanimous vote.</p>	<p>Apportionment Garnishment (Research Question 24)</p>
<p>Commission Discussion</p>	<p>None</p>	
<p>Chair's Close</p>	<p>The Chair adjourned the meeting at 4:49 pm.</p>	

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	<p>January 19, 2007</p>	
<p>Opening Remarks Commissioner Matz</p>	<p>The Chair opened the meeting at 8:06am</p>	
<p>Opening Statements</p>	<p>None</p>	
<p>VSO Panel on Line of Duty, Character of Discharge, & Concurrent Receipt Mr. Steve Smithson & Mr. Mark Seavey The American Legion</p>	<p>Mr. Smithson began the VSO panel presentation by highlighting the history of line of duty as it applies to the US military and the nature of "24/7" service. The military is more than a job and commitments go beyond that of other employment. He also enumerated the issues surrounding Character of Discharge. The American Legion would oppose any changes to the current standards for either.</p>	<p>The American Legion Statement</p>

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<p>Mr. Jerry Manar, VFW</p> <p>Mr. Mike Hayden, MOAA</p> <p>Panel members were accompanied by: Mssrs. John Davis, Fleet Reserve Association, and Carl Blake, PVA</p>	<p>Mr. Seavey commented on the history of Concurrent Receipt and discussed the differences between VA disability compensation and military retired pay. He also suggested that the Commission extend full concurrent receipt to all retiree groups.</p> <p>Mr. Manar spoke on behalf of several organizations that submitted a joint paper. He primarily highlighted their concerns for full concurrent receipt, which were similar to those enumerated by the American Legion. They recommended no change to line of duty, no differential rates for war/peace time service, no change in conditional discharge, and removal of all prohibition against concurrent receipt.</p> <p>Mr. Hayden discussed concurrent receipt and Temporary Early Retirement Authority (TERA) and Chapter 61 Retirees. He advocated for option 4 in the Commission paper and to add the Chapter 61retirees with less than 20 years .</p> <p>The Commissioners engaged in a discussion with the panel to garner more detailed information on the issue papers and recommendations.</p>	<p>Joint VSO Statement and Slides</p> <p>The Military Coalition Statement</p>
<p>Public Comment: Issue Papers & General</p> <p>Mr. Michael Parker</p> <p>Ms. Edith Smith, Gold Star Wives</p> <p>Mr. John Leonard, MOPH</p>	<p>Commissioner Matz collapsed the next two agenda items into one time frame and called on those from the public who wished to comment on the issue papers or provide statements on other topics of interest.</p> <p>Mr. Parker commented on the concurrent receipt and line of duty papers as well as informed the Commission on convalescent ratings and cases. He criticized the DoD Disability Evaluation System (DES).</p> <p>Ms. Smith provided comments and read a letter from Pat Sharpe that advocated for the removal of the DIC/SBP offset for survivors.</p> <p>Mr. Leonard argued for full concurrent receipt and illustrated his concern using 4 case examples of loss of a leg, each with a different outcome because of combat or length of service.</p>	
<p>Draft Site Visit Summary Report</p> <p>Ms. Jacqueline Garrick</p>	<p>Ms. Garrick summarized the findings of the eight site visits conducted by the Commission throughout 2006, which included town hall meetings. The Commission visited VA Regional Offices, Medical Centers, Vet Centers, and clinics and military bases.</p>	<p>Draft Site Visit Summary Report (Slides)</p>

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	<p>The summary site visit report noted the difficulties with VCAA letters, timeliness in claims development and processing, staffing distribution issues, problems for remote military commands, especially in reaching the Guard and Reserve for TAP classes, and the need for continued IT expansion while still maintaining paper records.</p> <p>Commissioners were asked to provide comments on the draft report within the next week.</p>	
Commission Discussion	None	
<p>Chair's Close</p> <p>Commissioner Matz</p>	<p>Commissioner Matz advised the Commission that Chairman Scott has received several invitations to speak at VSO conventions and meetings and will need to work out a schedule for these. He announced that the next meeting will be February 21-23 at the same venue. He then adjourned the meeting at 11:50am.</p>	

The minutes of the January 18-19, 2007, meeting were unanimously approved by the Commission members in attendance at the February 21, 2007, meeting in Washington, DC.