

**Veterans' Disability Benefits Commission
Meeting Minutes**

Date: Thursday, June 9, 2005

Attendance:

Commission Members present were:

Chairman

James Terry Scott, LTG, USA (Ret)

Members

Nick D. Bacon, 1SG, USA (Ret)
Larry G. Brown, Col, USA (Ret)
Jennifer Sandra Carroll, LCDR, USN (Ret)
Donald M. Cassidy, Col, USAF (Ret)
John Holland Grady
Charles "Butch" Joeckel, USMC (Ret)
James Everett Livingston, MG, USMC (Ret)
Dennis Vincent McGinn, VADM, USN (Ret)
Rick Surratt
Joe Wynn

Commission Staff

Ray Wilburn – Executive Director

Topic	Key Points	Supporting Materials
Opening Remarks Chairman Scott,	The meeting opened at 8:30 a.m. with welcoming remarks and a brief reiteration of the Commission's charter and acknowledgement of the Commission members. The three major objectives of the Commission study are to analyze (1) the appropriateness of benefits under laws in effect, (2) the appropriateness of benefit levels, and (3) the appropriateness of the	

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	<p>standards for determining how death and disability are to be compensated.</p> <p>A synopsis of the preparatory business meeting conducted by the eleven members of the Veterans' Disability Benefits Commission on June 8, 2005, was reported as follows:</p> <p>The purpose of this meeting was to:</p> <ol style="list-style-type: none"> 1. Organize the Commission into Subcommittees, and 2. Consider ways to meet the statutory requirements of Public Law 108-136 "to consult with the Institute of Medicine (IOM) of the National Academy of Sciences with respect to the medical aspects of contemporary disability compensation policies." <p>Three Subcommittees were formed to undertake the tasks of addressing issues relevant to the Commission's charge. These Subcommittees are:</p> <ol style="list-style-type: none"> 1. The Transition, Coordination and Readjustment Subcommittee will be chaired by Commissioner Livingston. Members of this Subcommittee will also include Commissioners Bacon and Joeckel. 2. The Compensation Subcommittee will be chaired by Commissioner Grady. Additional members of this Subcommittee will include Commissioners Brown, Cassidy and Surratt. 3. The Duty/Service Connection Subcommittee will be chaired by Commissioner McGinn. Commissioners Carroll and Wynn will serve as members of this Subcommittee. <p>Other Subcommittees may be added, as needed, or these three Subcommittees may be modified to adapt to the responsibilities of meeting the Commission's charge.</p> <p>Each of these Subcommittees will report</p>	
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	<p>its activities to the full Commission at public meetings of the Commission. The Subcommittees will make recommendations to the full Commission which will make all decisions.</p> <p>Two representatives of IOM provided an overview of the process and procedures used by the IOM in conducting its work and gave the Commission examples of recent studies the Institute has or is in the process of conducting for various government entities.</p> <p>Commissioner Grady made a motion to conduct a planning meeting with IOM to discuss how IOM will assist the Commission as required in Public Law 108-136. The motion was seconded by Commissioner Carroll and unanimously approved by voice vote.</p> <p>The two Commission vacancies are pending: one to be appointed by the President and one by the Senate Minority Leader.</p>	
<p>VA Profile of Disability Compensation Recipients & Survivors</p> <p>Ruth Whichard Veterans Benefit Administration (VBA) Director, Office of Performance Analysis & Integrity</p>	<p>There are currently 2,555,696 veterans with 7,284,267 service-connected disabilities who receive disability compensation, representing payments of \$20-plus billion annually. There are also 324,019 survivors receiving annual payments of \$3.8 billion. Disability compensation recipients represent about 75 percent of beneficiaries receiving VA benefits.</p> <p>Disability compensation recipients were described by period of service with the largest period population being the Vietnam Era with 883,092 receiving benefits. Diabetes and PTSD are the most prevalent disabilities for the Vietnam period of service.</p> <p>Basic monthly benefit rates, based on combined percent of disability, range from \$108 to \$2,299 plus special monthly</p>	<p>Agenda - link at 9:00 - 10:00 am VBA</p>

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	<p>compensation payments.</p> <p>The Commission requested a breakdown of special monthly compensation categories by definition and the rate paid.</p> <p>Additional data was also requested on the 200,892 Individual unemployability (IU) compensation cases which are paid at the 100 percent rate; the number of dependents affected by IU; and information on how the number of dependents impacts the aggregate monthly rate compensation rate.</p> <p>Gulf War service period began August 2, 1990, and has not ended.</p>	
<p>May 9-10, 2005 Meeting Minutes</p>	<p>On motion by Commissioner Brown, duly seconded, the minutes were approved and accepted.</p>	<p>Website link to May 9-10 Minutes</p>
<p>VA Presentation on Post-Traumatic Stress Disorder (PTSD) and Individual Unemployability (IU)</p> <p>Bill Russo VBA Chief, Regulations Compensation & Pension Service</p>	<p>PTSD claims are based on stress from combat, personal assault, and other life-threatening situations experienced or witnessed.</p> <p>Claims require medical evidence of diagnosis, evidence of stressor, and evidence of nexus or connection.</p> <p>VA determines severity of PTSD by applying its Rating Schedule, which stratifies compensable evaluations of 10, 30, 50, 70 and 100 percent.</p> <p>PTSD claims increased significantly in the past five years with 231,000 veterans now rated with service-connected PTSD; 62,439 of these cases receive individual unemployability benefits. PTSD is most prevalent in Vietnam Era veterans.</p> <p>Individual unemployability (IU) policy was created by agency regulation in 1941. Current VA policy pays veterans who are unable to secure or maintain employment because of service-connected conditions at the 100 percent rate.</p>	<p>Agenda - link at 10:15 - 11:30 am VBA</p>

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	<p>An "average person" standard is used to determine total disability for IU purposes. Minimum IU disability standard is one 60 percent rated disability or two or more with combined 70 percent rating, one of which is at least 40 percent. Extra-schedular rating may be available for veterans who fail to meet disability percentage requirements.</p> <p>The number of veterans receiving IU benefits has doubled in past six years to 213,303. Musculoskeletal is the most frequent type of disability for IU with PTSD second most frequent condition.</p> <p>Income verification/matching are performed with Internal Revenue Service and Social Security Administration to maintain program integrity.</p>	
<p>VA Office of Inspector General (IG) Results of Variances in VA Disability Payments</p> <p>Deputy Inspector General Jon A. Wooditch</p> <p>Assistant Inspector General Mike Staley</p>	<p>The 1956 Bradley Commission, the 1971 Economic Validation of the Rating Schedule, and other reviews have questioned the disability rating schedule and the concept of average impairment. No study to evaluate effects of service-connected disabilities on veteran earnings has been conducted since 1971. A 1983 evaluation concluded there was a lack of uniformity in ratings. In 1988 the Government Accountability Office (GAO) found that VA could not ensure accurate and uniform ratings because the rating schedule had not been adjusted to account for medical advances.</p> <p>Systematic schedule updating began in 1989 and remains ongoing.</p> <p>The 1997 National Academy of Public Administration study identified several administrative, medical, regulatory, and quality assurance factors that could lead to inconsistencies in claims decisions, as did subsequent GAO reviews and a 2004 literature review and legislative history analysis of the VA disability compensation program.</p>	<p>Agenda - link at 12:30 - 1:15 pm VA IG</p>

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	<p>The VA IG's review was triggered by data showing \$5,043 variance in annual payments to veterans by state over several decades. Two primary reasons for variance discussed in the IG report are demographic factors and rating decisions. Demographics are beyond VA's control. Rating decisions are abased on a 60-year old model that does not reflect modern concepts of disability. Rating schedule criteria for some disorders are susceptible to interpretation and judgment; mental conditions are more likely to result in variances than ratings that can be validated based on physical data.</p> <p>A review of 2,100 PTSD cases found raters approached stressor verification requirements differently from state to state.</p> <p>The IG report recommends that the Under Secretary for Benefits conduct a review of rating practices for PTSD, IU, and other 100-percent disability ratings to ensure consistency and accuracy and consider establishing a lump sum payment option in lieu of recurring monthly payments for veterans with disability ratings of 20 percent or less.</p> <p>The IG has not tracked the results of recommendations of past studies or determined whether those studies provided for follow-up mechanisms or performance measures.</p>	
<p>VBA Response to IG Study</p> <p>Ron Aument Deputy Under Secretary for Benefits</p>	<p>VA has issued a task order to the Institute for Defense Analysis to assist in examination of major influences on disability compensation variances.</p> <p>2,100 PTSD cases studied by IG will be reexamined to develop protocol for a recommended larger review.</p> <p>New quality review protocols to be developed for ongoing variance monitoring and reviewing.</p> <p>Continued coordination with Veterans</p>	<p>Agenda - link at 1:15 – 1:30 pm</p>

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	Health Administration (VHA) in Compensation and Pension Exam Program, reevaluation of human resources for adequate staffing, and further study of lump sum payment options will also be undertaken in response to IG recommendations.	
Public Comment Period Rick Hurst Veterans of Foreign Wars Rose Lee Edie Smith Gold Star Wives of America	Commission advised to ask more questions to find underlying reasons for apparent VA internal problems. Survivors' benefits seem to be more budget-driven than principle-driven. Commission urged to mold principles for future guidance	
Commission Discussion	Chairman Scott recommended the Commission schedule its next meeting in late July 2005. The date and location will be announced in the <i>Federal Register</i> and posted on the Commission's website at www.va.gov/vetscommission .	
Adjourned at 3:24 p.m.		

The minutes of the June 9, 2005 meeting, as submitted, were unanimously approved by the Veterans' Disability Benefits Commission members at the Commission meeting conducted on July 22, 2005, in Washington, DC.