

**Veterans' Disability Benefits Commission
Meeting Minutes**

Date: Monday, May 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 |
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| Opened at: 8:00am | | |
| Welcome and Introduction James Terry Scott LTG, USA (Ret.) Chairman | The meeting convened at 8:00 AM, with an introduction of the appointed members of the Commission and a brief personal and/or professional biographical description of each member. There are two vacancies on the Commission, one to be filled by the President and one by the Senate Minority Leader. A summary of the Commission's charge, its independent/bipartisan nature, the complexity of the issues and the solemn responsibility entrusted to the Commission were outlined, to include the conducting of a thorough and | Staff to begin a resource library of materials. |

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| | <p>objective analysis of the full range of programs intended to meet the needs of disabled veterans and certain family members. The Commission findings, recommendations and report are to be presented to the President and Congress by August 2006.</p> <p>Ray Wilburn has been selected as Executive Director for the Commission. Additional staff will be hired or detailed from the Department of Veterans Affairs (VA), the Department of Defense (DoD), and other Federal agencies and will be conducting business from the Commission offices located at 1101 Pennsylvania Avenue, NW, in Washington, DC.</p> | |
| <p>Remarks</p> <p>The Honorable Gordon H. Mansfield Deputy Secretary of Veterans Affairs</p> | <p>A brief historical overview of the benefits program in VA was provided, stressing its continued and future mission to serve the Nation's veterans.</p> <p>Recent Government Accountability Office (GAO) criticisms of the program suggest that the system requires updating and modernization to meet the needs of 21st century veterans.</p> <p>The changing nature of war itself has led to the need to broaden the scope of services VA offers.</p> | <p>None</p> |
| <p>Federal Advisory Committee Responsibilities</p> <p>Phil Riggin, VA Federal Advisory Committee Management Officer</p> | <p>Understanding of and commitment to the work of a Federal Advisory Committee, which functions under the mandates and parameters of the Federal Advisory Committee Act, were the focus of this presentation.</p> <p>VA has 27 advisory committees. Similar to this Commission, 16 other committees have been established in law, with the remainder established at the discretion of the Secretary.</p> <p>These advisory committees work together with the Secretary and Department officials to provide expertise and advice in such areas as education, nursing, rehabilitation and special needs.</p> | <p>Please see Commission website</p> <p>5-9-2005 8:45 – 9:00 am</p> |
| <p>Commission Ethics Responsibilities</p> <p>James E. Adams Deputy Assistant General Counsel, VA Office of General Counsel</p> | <p>Attendees were informed about the ethics rules for federal advisory committee members, including financial disclosure requirements, potential conflicts of interest, limitations on teaching, speaking and writing engagements, acceptance of meals and gifts and policies designed to maintain the integrity of the Commission and foster a positive public perception of its affairs.</p> | <p>Please see Commission website</p> <p>5-9-2005 9:00 – 9:15 am</p> |

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| BREAK | | |
| <p>Compensation and Pension Service Presentation</p> <p>Renee Szybala, Director, and Steve Simmons, Deputy Director for Operations VA Compensation & Pension Service</p> | <p>The range of current Veterans Benefits Administration (VBA) program services include disability benefits, education benefits, vocational rehabilitation and employment, home loans, burial benefits, dependent and survivor benefits and life insurance.</p> <p>The terminology and key principles used to classify service-connected disability, secondary service connection, presumptive service connection and service connection due to undiagnosed illnesses, such as Gulf War syndrome, were defined and discussed. Evaluation criteria, a sample compensation scale and duty to assist were included, along with a discussion of individual unemployability, which is a regulatory (not statutory) distinction, and concurrent receipt.</p> <p>On the rating schedules: it was noted that there are over 700 possible disabilities in 15 body systems, each with a four-digit diagnostic code, compounded by additional combination diagnostic codes. By law, VA is required to keep updating the rating schedule, which it has and continues to do. Thirteen of the 15 body systems have been completely updated, but each update is arduous and complex because of the medical and clinical coordination and the convolution of the diagnostic codes.</p> | <p>Please see Commission website</p> <p>5-9-2005 9:30 – 11:30 am</p> |
| LUNCH | | |
| <p>Briefing on Legislative History and Literature Review</p> <p>George Kettner President, Economic Systems, Inc. (ESI)</p> | <p>ESI was awarded a contract to conduct a comprehensive review of the literature and legislative history of VA's Disability Compensation Program, including congressional intent. This project was executed in two-documents, with the overarching task of identifying recurring themes, issues and concerns of a major policy nature; perspectives of major stakeholders; and Congressional intent related to the mission, purpose, and outcomes.</p> <p>Key Points from Briefing</p> <p>Congressional Intent</p> <ul style="list-style-type: none"> • The veterans' disability compensation program is intended to provide compensation for average impairment in earnings capacity. • Loss of earnings capacity is based on "average" impairment. However, legislation | <p>Please see Commission website</p> <p>5-9-2005 12:45 – 1: 50 pm</p> |

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| | <p>does not define "average."</p> <ul style="list-style-type: none"> • Implicitly, the intent is to compensate for loss in quality of life due to service-connected disability. • Intent may be changing: Concurrent receipt is partially allowed. <p>Trends in National Disability</p> <ul style="list-style-type: none"> • No universally agreed upon definition of disability – literature cites at least 20 identifiable definitions. Comparative data are of limited value. • Number of disabled in the United States is increasing: aging population, relaxation of eligibility requirements, public awareness. <p>Key Potential Research Questions for VA on Disability Compensation:</p> <ul style="list-style-type: none"> • How well does the VA Disability Compensation Program meet Congressional intent of replacing average impairment to lost earnings capacity of veterans with service-connected disabilities? • Does the program benefit help to improve quality of life due to service-connected disabilities? • Does VA's measure of impairment, disability criteria, and the rating schedule need to be reexamined? | |
| <p>Military Retirement and Survivor Benefits</p> <p>The Honorable David S. C. Chu, Ph.D., Under Secretary of Defense for Personnel and Readiness</p> | <p>Disability benefits fit within the larger context of compensation in the military. Compensation includes the whole range of pay allowances that service members receive; demands fairness and equity; and is a model of complexity. The challenge is to offer a package that attracts and motivates talented people to stay and rewards them when they are effective, thus supporting the quality and numbers of personnel the military needs to meet its mission and goals.</p> <p>A historical perspective on medical coverage in the military: it grew out of practice and slowly became sanctioned over decades by statute. Medical care costs are now almost 8 percent of the departmental budget and growing. If present trends continue, it will be 10 to 12 percent by the end of the decade and the middle years of the next decade. DoD now purchases over half of its medical care from the private</p> | <p>Please see Commission website</p> <p>5-9-2005 2:00 – 3:30 pm</p> |

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| | <p>sector and operates three different levels of TRICARE: standard, extra, and prime.</p> <p>The conference report on the supplemental for fiscal year 2005 has supported the Department's initiative to raise the serviceman's group life insurance from the current level of \$250,000 to \$400,000, and has included a dismemberment feature of up to \$100,000 to assist those who suffer significant physical trauma and transition costs, in order to avoid replacing the veteran's benefits that are there, but to help bridge this important period of change.</p> <p>Military and civilian disability programs are fundamentally different in their philosophies and focus. Civilian programs are structured to replace a portion of earnings during rehabilitation. Military personnel receive full pay and benefits during rehabilitation. Both sectors have experienced substantial growth in recent years and a philosophical shift is emerging.</p> <p>For example, there are many gradations of physical impairment and an environment now that supports individuals who are able to rehabilitate, qualify and meet physical fitness tests, and wish to continue to serve on active duty to do so. This willingness to serve and serve well in one's occupational specialty may preclude an individual from receiving immediate disability compensation, but this same impairment may also have implications down the road. This is where the strengths of VA's disability system are then engaged, with the collective objective to place the individual on a satisfying career path.</p> <p>The Commission may need to help shape a new approach to disability and survivor benefits.</p> | |
| Public Comment Periods | <p>Edith G. Smith Member, Legislative Committee Gold Star Wives of America Springfield, VA</p> <p>Dennis Dykman Harrisburg, PA</p> | <p>Parents' DIC and Survivors Benefits: Why are there planned policy changes with regard to "Parents" and not other DoD disability retirement programs?</p> <p>General questions regarding VA benefits and concurrent receipt.</p> <p>None</p> |

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| | <p>Frederick S. Gersh Coast Guard disability compensation for Vietnam-era veterans.</p> <p>Larry Madison Concurrent receipt. Deputy Legislative Director The Retired Enlisted Association Alexandria, VA</p> | |
| Chairman: Wrapup and Close | The Commission meetings will resume at 8:00 am on Tuesday, May 10, 2005. | None |
| Adjourned 4:55 pm | | |

The minutes were unanimously approved as written by the Veterans' Disability Benefits Commission members at the Commission meeting conducted on June 10, 2005, in Washington, DC.

**Veterans' Disability Benefits Commission
Meeting Minutes**

Date: Tuesday, May 10, 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

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| Opening Remarks James Terry Scott, LTG, USA (Ret.) Chairman | Day Two of the meeting commenced at 7:59 am. Chairman Scott suggested scheduling the next Commission meeting within 30 days. Pending a discussion with the members about their availability, the dates for another two-day meeting in June 2005 will be determined. The meeting will be announced in the <i>Federal Register</i> and posted on the Commission website at www.va.gov/vetscommission . | None |

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| <p>Panel of Veterans Service Organizations</p> <p>Randy Reese National Service Director, Disabled American Veterans (DAV)</p> | <p>Urged repeal of the requirement that veterans' retirement pay based on service longevity be offset by an amount equal to veterans' VA disability compensation; and outdated mortality tables used for computing Service Disabled Veterans Insurance (SDVI) amounts need update.</p> <p>The responsibility of government for veterans' benefits is rooted in our Nation's history and tradition.</p> <p>Recommended full implementation of Vocational Rehabilitation and Employment Service (VR&E) Five-Track System for Rehabilitation of disabled veterans and increases in veterans' insurance benefits for survivors.</p> | <p>Please see Commission website</p> <p>8:05 - 9:35 am DAV</p> |
| <p>Panel of Veterans Service Organizations</p> <p>John D. Bollinger Paralyzed Veterans of America (PVA)</p> | <p>Described the PVA membership.</p> <p>The complexity of the laws and regulations governing disability compensation means that some disabled veterans are not entitled to benefits; compensation should address not only lost income, but should also attempt to respond to quality of life and the overall impact of disability.</p> <p>Advised that recommendations carefully avoid unintended consequences and offered the Commission access to all PVA publications on the economic consequences of spinal cord injury.</p> | <p>Please see Commission website</p> <p>8:05 - 9:35 am PVA</p> |
| <p>Panel of Veterans Service Organizations</p> <p>James W. Doran National Service Director, AMVETS</p> | <p>Solid definitions of "veteran" and "disability" needed. Presumption of illness definitions are for air and sea service personnel need to be made equal to benefits provided to ground personnel.</p> | <p>Please see Commission website</p> <p>8:05 - 9:35 am AMVETS</p> |
| <p>Panel of Veterans Service Organizations</p> <p>Steve Smithson Deputy Director for Claims Services, The American Legion</p> | <p>It has been 50 years since last review of VA disability system and compensation benefits rating schedule. There are concerns regarding the new Commission's role in its current review.</p> | <p>Please see Commission website</p> <p>8:05 - 9:35 am American Legion</p> |

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| The American Legion (continued) | Equality in payout of death gratuities is needed, regardless of where death occurred. Line of duty is fully justified by the demands of military service and the amount of compensation benefits need to be increased to fulfill the purpose of the benefits. | |
| Panel of Veterans Service Organizations Rose Lee, Gold Star Wives | Requested change in 01/01/05 law that provides additional \$250/month payout for dependency/indemnity compensation, (DIC) making it retroactive to 10/07/01. Growing concern that military survivors of past wars are being left out when it comes to increased benefits. "One death, one benefit," reiterated the concern that veterans of all wars and their families be treated equally. Casualty assistance officers often do not have enough training to render assistance to widows. The current amount of DIC payments and the offset of survivor benefits payment annuities by DIC need review. | Please see Commission website 8:05 - 9:35 am Gold Star Wives |
| Panel of Veterans Service Organizations William L. Bradshaw Director, National Veterans Service Veterans of Foreign Wars (VFW) | Urged Commission to call upon current and former officials with knowledge of policy/program decisions of past years to come forth and provide input to deliberations on disability benefits programs. | Please see Commission website 8:05 - 9:35 am VFW |
| BREAK | | |
| Address The Honorable Daniel K. Akaka Ranking Member Senate Committee on Veterans' Affairs (SVAC) | Any proposal scaling back existing benefits in the name of fiscal responsibility devalues the service of present and past veterans. Should not differentiate between injuries occurring while on-duty or off-duty. Any changes in disability compensation will also affect vocational rehabilitation insurance and health care, as well as other VA programs. | None |

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| <p>Panel of Military Associations</p> <p>Colonel Robert F. Norton, USA (Ret) Deputy Director, Governmental Relations, Military Officers Association of America (MOAA)</p> | <p>Making distinctions about the location of death in service would do great harm; making distinctions about disabilities incurred inside or outside a combat zone unfair. Practice of concurrent receipt of retirement pay and disability pay should be allowed to continue. Transition process must be fixed; speeding up of physical/electronic medical records to points of contact.</p> | <p>Please see Commission website</p> <p>10:15 - 11:45 am MOAA</p> |
| <p>Panel of Military Associations</p> <p>Deborah Kline Fryar Deputy Director, Government Relations, National Military Family Association (NMFA)</p> | <p>NFMA recommends the Commission carefully review the DIC and survivor death benefits programs; DIC offset to Survivor Benefit Plan (SBP) should be eliminated.</p> <p>Creation of VA survival office to provide long-term support for surviving spouses/children recommended. Sufficient financial counseling to spouses needs to be offered.</p> <p>The line of duty standard should not be degraded.</p> | <p>Please see Commission website</p> <p>10:15 - 11:45 am NFMA</p> |
| <p>Panel of Military Associations</p> <p>Deidre Parke Holleman National Legislative Director, The Retired Enlisted Association (TREA)</p> | <p>Look to civil legal system monetary judgments and payouts to compare to disability benefits program.</p> <p>The Commission should reflect that the compensation of both the diminution of the quality of life and future lost earnings due to disability are the purpose of disability compensation.</p> | <p>Please see Commission website</p> <p>10:15 - 11:45 am TREA</p> |
| <p>Panel of Military Associations</p> <p>Bill Loper, Director of Government Affairs Association of the United States Army (AUSA)</p> | <p>The rigors and hardships of the 24/7-terms of service make a broader definition of service connection necessary. Any narrowing of the definition of service connection may have major negative impact on veteran benefits.</p> | <p>Please see Commission website</p> <p>10:15 - 11:45 am AUSA</p> |
| <p>Panel of Military Associations</p> <p>Kenneth Goss Director, Government Relations, Air Force Association (AFA)</p> | <p>Advancement in body armor and medical technology has contributed to increased numbers of seriously injured service members. Expansion of VA prosthetic and rehabilitation programs is suggested. Long wait times for health care at VA clinics need to be addressed.</p> | <p>Please see Commission website</p> <p>10:15 - 11:45 am AFA</p> |

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| <p>Panel of Military Associations</p> <p>Mike Plumer, National Military & Veterans Benefits Advisor National Association for Uniformed Services (NAUS)</p> | <p>Treatment/payment inconsistencies exist in compensation benefits awarded across VA regional boundaries.</p> <p>Urged the Commission to look at title 38, United States Code, and the regulations in consultation with medical professionals and organizations, to make recommendations necessary to align with modern medical and rehabilitative standards. A universal standard is needed for all VA rating specialists.</p> | <p>Please see Commission website</p> <p>10:15 - 11:45 am NAUS</p> |
| LUNCH | | |
| <p>GAO Briefing on Past Studies and Recommended Scope of Analysis</p> <p>Bob Robertson Director, Education, Work Force & Income Security Government Accountability Office (GAO)</p> | <p>Elimination needed of fraud, waste, abuse and mismanagement in payout systems of high-risk disability programs. Between 2002 and 2010, a 30% increase in Social Security Administration (SSA) disability rolls expected. Claims processing times have improved, but have not met VA targets yet.</p> <p>Modernizing efforts will require effective legislative, stakeholder partnerships and Federal collaboration between DoD/Labor/SSA and other Federal agencies.</p> <p>Mental health area is one of the fastest growing claim segments.</p> | <p>Please see Commission website</p> <p>1:00 - 2:00 pm GAO</p> |
| BREAK | | |
| <p>Social Security Programs and Their Relationships to VA/DoD Disability and Survivors Programs</p> <p>Glenn Sklar Associate Commissioner for Disability Programs Social Security Administration (SSA)</p> | <p>SSA disability programs are very different from VA programs. SSA is in the process of making major disability program changes. SSA service levels/rates have improved. [SSA] Commissioner Barnhart plans to overhaul how SSA conducts claims. SSA handles and pays 75% of its claims within 90 days. A \$10,000-threshold is the defined income level for complete disability eligibility.</p> <p>From beginning to end, appeal streamlining is needed. The creation of a fully electronic disability process is the goal. A quick decision unit is part of a</p> | <p>Please see Commission website</p> <p>2:15 - 3:15 pm SSA</p> |

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| SSA (continued) | new initiative to expedite processing of severe cases. SSA disability programs are the gateway to Medicaid/Medicare, in contrast to VA's disability benefits programs. | |
| BREAK | | |
| Topic | Key Points | Supporting Materials |
| Social Security: Future Direction The Honorable Dorcas R. Hardy Social Security Advisory Board | <p>A new 21st Century view of the world of the disabled is emerging, with a new paradigm of thinking focused on the interaction between the individual and his/her environment. There has been a societal shift in attitudes and thinking from one of disability to ability, with an advocacy to return to productivity, empowerment, equality, and independent living.</p> <p>More veterans need to participate in work to best of their abilities by modifying cash benefits and coordinating public and private support services. VA disability has no age limit for application.</p> | <p>Please see Commission website</p> <p>3:15 - 3:45 pm</p> <p>VR&E Report submitted</p> |
| House Committee on Veterans Affairs Briefing Mary Ellen McCarthy on behalf of The Honorable Lane Evans Ranking Democratic Member, House Committee on Veterans' Affairs (HVAC) | <p>Average earnings capacity concept is a proxy for compensation of disabilities incurred or aggravated during service. Knee disabilities are not well-categorized in ratings schedule. Rising rates of post-traumatic stress disorder are expected, and this disability is of particular concern to Congressman Evans.</p> <p>If veterans are harmed during their military service, the Nation has an obligation to redress that harm, which includes not only average loss of earnings, but also lifestyle factors, and the ability to possibly achieve substantially higher earnings. There are a lot of losses associated with disability that are not merely earnings.</p> <p>Recommended reading: A book by Jonathan Shay, M.D., Ph.D., entitled <i>Odysseus in America: Combat Trauma and the Trials of Homecoming</i>, and the Knight-Ridder newspaper report comparing VA's disability payments across the country.</p> | <p>Please see Commission website</p> <p>3:45 - 4:00 pm</p> |

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| Public Comment Period(s) | None | None |
| Commission Discussion | Chairman Scott recommended the next Commission meeting be scheduled in early June 2005. | |
| Adjourned 4:14 p.m. | | |

The minutes were unanimously approved as written by the Veterans' Disability Benefits Commission members at the Commission meeting conducted on June 10, 2005, in Washington, DC.