



Federal Update for Feb. 1 – Feb. 12, 2016



DoD Mental Health Programs Update

Significant Changes Proposed

The Pentagon is poised to make significant changes to its mental health benefits for troops, families and retirees, to include eliminating limits on inpatient services and allowing Tricare to cover hormone therapy for transgender individuals. In a notice to be published in the Federal Register on 1 FEB, the Defense Department will propose several changes to mental health services to better align the military health program with the Mental Health Parity and Addiction Equity Act of 2008 and the Patient Protection and Affordable Care Act. DoD is seeking public comment on the proposed changes, which include doing away with time limits on inpatient mental health stays and annual limits for stays at residential treatment centers.

The proposed rule also would eliminate a 60-day limit on partial hospitalization, annual and lifetime limits for substance use disorder treatment and presumed limitations on weekly psychotherapy and family therapy sessions. But the proposed rule also contains a provision that would require Tricare to cover all "medically necessary and appropriate care for the treatment of gender dysphoria," with the exception of surgery, which would still not be covered. Under the rule, transgender service members, family members and retirees would no longer have to pay out of pocket for hormone replacement therapy. Earlier this month, the Washington Blade newspaper quoted Pentagon spokesman Matthew Allen as saying that Defense Secretary Ash Carter will decide this spring whether to lift the ban on transgender individuals serving openly.

On 29 JAN, Defense Department spokesman Air Force Maj. Benjamin Sakrisson said the announcement in the Federal Register is not a harbinger of a change to the ban. "This rule being put up for public comment is in no way related to a decision by the secretary to allow transgender troops to serve openly," Sakrisson said. "It is simply an attempt to align Tricare benefits with the Mental Health Parity Act and other existing legislation." LGBT advocacy groups estimate that 12,500 transgender individuals serve in the military. Last February, Army Pvt. Chelsea Manning, formerly known as Bradley Manning, incarcerated at Fort Leavenworth, Kansas, for sending classified documents to WikiLeaks, was granted access to hormonal treatment to transition to becoming a woman. Manning had filed suit against the federal government to get the treatments. [Source: MilitaryTimes | Patricia Kime | January 29, 2016 ++]

Military Family Benefits

Force of the Future Initiative

Two months after his first wave of changes, Defense Secretary Ash Carter's Force of the Future Initiative aims to make military service more family friendly. Maternity and paternity leave, childcare services, and reproductive medical services are among changing benefits.

- Active duty female members of all services will now have 12 weeks of paid maternity leave. Last year, the Navy began authorizing 18 weeks of paid maternity leave, while the Army and Air Force offered only 6 weeks. Carter's new policy, aimed at providing consistency among the services, will split the difference

- increasing 6 weeks for the Air Force and Army, while cutting 6 weeks from the Navy and Marine Corps programs.

- Increased paternity leave to 14 days of non-continuous leave from the previous 10. Currently, three weeks of adoptive leave is granted to one parent of a dual military couple. DoD is seeking congressional approval to provide two weeks of leave for the other parent.
- Childcare Development Center (CDC) operation hours will be extended to overlap typical work shifts and accommodate military work schedules. CDCs will be required to provide a minimum of 14 hours of continuous coverage.
- DoD will also expand reproductive services to active duty servicemembers. Egg and sperm cryopreservation will be available through a pilot program within TRICARE. These are important steps for many wounded warriors, male and female.

The stress of military service on families is cited as one of the biggest reasons servicemembers leave the military. Secretary Carter's latest announcement aims to help retain the best and the brightest by instituting uniform, family-friendly policies. [Source: MOAA Leg Up | January 29, 2016 ++]

DoD Lawsuit ~ PTSD VN Update

Discharge Upgrade Settlement

Almost two years ago, advocates filed a class action lawsuit against the Department of Defense seeking records for how often veterans with "other than honorable" or "bad" discharges applied for discharge upgrades due to their PTSD diagnoses. Now the DOD will be turning over that information. Last week, the U.S. District Court in Connecticut approved a settlement which requires the Department of Defense to disclose on a quarterly basis the number of applications each military branch receives when a veteran is seeking a discharge upgrade and the outcome of each. This is important because veterans without honorable discharges don't get service connected benefits like health care and disability compensation.

The Veterans Legal Services Clinic at Yale Law School represented the plaintiffs in the lawsuit, Vietnam Veterans of America and the National Veterans Council for Legal Redress. The VVA said that thousands of Vietnam veterans were wrongfully discharged because they suffered from PTSD, at a time when the disorder was not medically accepted. Michael Wishnie is the Director of Yale's Veterans Legal Services Clinic. In a statement, he said the settlement will allow the public to know whether the DOD is fulfilling its obligations under what's known as the Hagel memo. In 2014, then Secretary of Defense Chuck Hagel issued a directive that required military record correction boards to give "liberal consideration" to veterans with PTSD who were seeking discharge upgrades. The settlement will also require the DOD to reach out to veterans who may now be eligible for service connected benefits. [Source: WNPR News | Lucy Nalpathanchil | January 20, 2016 ++]

POW/MIA Recoveries

Reported 16 thru 31 Jan 2016

"Keeping the Promise", "Fulfill their Trust" and "No one left behind" are several of many mottos that refer to the efforts of the Department of Defense to recover those who became missing while serving our nation. The number of Americans who remain missing from conflicts in this century are: World War II (73,515) Korean War (7,841), Cold War (126), Vietnam War (1,627), 1991 Gulf War (5), and Libya (1). Over 600 Defense Department men and women -- both military and civilian -- work in

organizations around the world as part of DoD's personnel recovery and personnel accounting communities. They are all dedicated to the single mission of finding and bringing our missing personnel home. For a listing of all personnel accounted for since 2007 refer to <http://www.dpaa.mil/> and click on 'Our Missing'. If you wish to provide information about an American missing in action from any conflict or have an inquiry about MIAs, contact:

- Mail: Public Affairs Office, 2300 Defense Pentagon, Washington, D.C. 20301-2300, Attn: External Affairs
- Call: Phone: (703) 699-1420
- Message: Fill out form on <http://www.dpaa.mil/Contact/ContactUs.aspx>

Family members seeking more information about missing loved ones may also call the following Service Casualty Offices: U.S. Air Force (800) 531-5501, U.S. Army (800) 892-2490, U.S. Marine Corps (800) 847-1597, U.S. Navy (800) 443-9298, or U.S. Department of State (202) 647-5470. The remains of the following MIA/POW's have been recovered, identified, and scheduled for burial since the publication of the last RAO Bulletin:

Korea

The Defense POW/MIA Accounting Agency announced the identification of remains of two soldiers who had been missing in action since the Korean War. Returning home for burial with full military honors on a date and location to be determined are:

-- Army Pfc. Roy A. Henderson, 18, of Newark, Ohio, was declared MIA in North Korea on July 27, 1950. He was assigned to Company B, 1st Battalion, 29th Infantry Regiment, 25th Infantry Division.

-- Army Cpl. Kenneth R. Stuck, 24, of Hummelstown, Pa., was declared MIA in North Korea on Nov. 2, 1950. He was assigned to Company L, 3rd Battalion, 8th Cavalry Regiment, 1st Cavalry Division.

[Source: <http://www.dpaa.mil> | January 15, 2015 ++]

VA Accountability Update

Demoted Rubens & Graves 2nd Appeal

Two former senior executives with the Veterans Affairs Department who were demoted after allegedly abusing their positions to get plum job assignments have appealed the decision -- again. Diana Rubens and Kimberly Graves were senior executives and regional directors with the VA accused of using their titles to force subordinates out of jobs they wanted for themselves, according to a department's inspector general report from September. The VA tried to demote the women in October, but the case was dismissed in December on account of a technicality after the department didn't provide them with all the necessary information in the allotted period. The VA earlier this month again tried to discipline the women. And again, they appealed the move to the Merit Systems Protection Board, which will determine whether the demotions stand.

"We'll see," VA secretary Bob McDonald said in a recent interview with Military.com. "Both ladies have appealed and we'll see if our calibration of punishment sticks." The secretary acknowledged that it may not -- a move that would further infuriate Republican lawmakers who have criticized him for not firing the employees. The board "could very well overturn even the demotions," McDonald said. Such a scenario is sure to inflame an already contentious relationship between Congress and the VA over how the department has responded to incidents of alleged corruption. Rep. Jeff Miller, a Republican from Florida and chairman of the House Veterans Affairs Committee, has said he'd like to see Rubens and Graves fired, if not prosecuted. He said the VA's decision to demote rather than dismiss the

women showed it's not "committed to real accountability for corrupt employees." The Merit Systems Protection Board will issue a decision on whether to uphold or overturn the demotion of two former senior executives by 1 FEB.

The VA's inspector general forwarded its report to the U.S. Attorney's Office for possible criminal charges, but the office in December declined to prosecute. McDonald defended his decision during the recent interview. Regardless of what congressmen say or demand or even what his own department's investigators report, McDonald said he won't fire agency employees unless he believes the case against them is solid and the dismissal will stick. "If you're a member of Congress, you can accuse people of anything. You have no evidentiary standard," he said. "If you're an IG [inspector general], the same thing. You can write up a report with all kinds of innuendo and not have to substantiate it." According to the IG, Rubens got herself into the job of director of the VA's Philadelphia Region and Graves as directors of the St. Louis, Missouri, region by forcing the previous directors to take other jobs. In both cases the women were assuming jobs with less responsibility but were retaining their higher, senior executive service-level salaries. Between the two they also picked up more than \$400,000 from the department through a relocation assistance program for senior executives.

When brought before Congress under subpoena to testify about the IG claims both Graves and Rubens declined to do so, citing their Fifth Amendment rights against self-incrimination. In demoting the two, the VA cut their salaries \$50,000 by stripping them of their senior executive status -- though each will still earn more than \$120,000 a year -- and also transferred them to other regions as assistant directors. McDonald said he knows the decisions are unpopular with Congress, but stands by the call made by Deputy VA Secretary Sloan Gibson, who he has known since they were cadets at West Point more than 40 years ago. The secretary said Gibson previously served as chief executive officer of AmSouth Bancorporation, one of the largest banks in the South, and later successfully headed the USO, where he more than doubled contributions to the organization. "I have immense confidence, trust and even love for him," McDonald said. "When he tells me he's gone through the evidence and the evidence does not support firing but supports demotion, I believe him." [Source: Military.com | Bryant Jordan | January 26, 2016 ++]

VA Prescription CoPay

Tiered Rx System for 2017

Under new rules proposed earlier this month by the Department of Veterans Affairs (VA), most veterans can expect to see \$1 - \$4 in savings per prescription for outpatient medications, starting next year. The new regulations will change the VA's drug payment schedule for veterans with non-service connected conditions in priority groups 2 through 8, to a three-tiered system, similar to the TRICARE pharmacy program. Under the current system, these veterans pay a flat fee of \$8 - \$9 per medication for a 30-day supply, with copayments capped at \$960 per year. Starting in 2017, the VA will implement a three-tier copayment system, capping the annual maximum for copayments at \$700:

Tier	Prescription Drug Type	Copay (30 Day Supply)
1	Preferred Generic Drugs	\$5
2	Non-Preferred Generics And Over-The-Counter	\$8
3	Brand Name	\$11

Because many medications are generics, most veterans should see the new system reduce their out-of-pocket costs. Those with service-connected conditions in priority group one - veterans with disability ratings of 50 percent or more or unemployable - will still be exempt from paying copays under the new rule. VA wants to encourage veterans to use one pharmacy instead of shopping around at multiple pharmacies to fill medications. By using one pharmacy at lower drug costs, VA anticipates veterans will be more likely to take the medications they're prescribed. VA, in turn, will be able to collect better patient data and better manage patient health. [Source: MOAA Leg Up | January 29, 2016 ++]

VA Medical Marijuana Update

21 Lawmakers Write McDonald

Twenty-one lawmakers have written Veterans Affairs Secretary Robert McDonald urging him to let VA doctors discuss marijuana as a potential medical treatment in states where it is legal. Under a VA policy that expires on 31 JAN, VA doctors are not allowed to discuss medical marijuana with their patients or recommend it as a treatment. Senators and representatives — 19 Democrats and two Republicans, including Rep. Joe Heck of Nevada, a physician and Army Reserve brigadier general who chairs the House Armed Services personnel panel — want a new policy that “removes barriers that would interfere with the doctor-patient relationship” in states where medical marijuana is legal.

The policy, lawmakers say, “disincentivizes doctors and patients from being honest with each other.” “You are in a position to make this change when the current directive expires at the end of this month,” Sen. Kirsten Gillibrand (D-NY), Sen. Steve Daines (D-MT), and others wrote 27 JAN to McDonald. “We ask that you act to ensure that our veterans’ access to care is not compromised and that doctors and patients are allowed to have honest discussions about treatment options.” Twenty-three states and the District of Columbia have legalized medical marijuana, and 17 states have laws regulating oils derived from marijuana plants. However, marijuana possession and use continues to be a crime under federal law.

Last year, the Senate Appropriations Committee approved an amendment to the Veterans Affairs spending bill that would have required VA to change its policy on physicians discussing medical marijuana with patients. House lawmakers had introduced similar legislation, but the provision was stripped from the final version of the comprehensive spending bill. Also in 2015, Gillibrand and Sens. Cory Booker (D-NJ) and Rand Paul (R-KY) sponsored a bill seeking reclassification of marijuana as a Schedule II drug, which would allow researchers to study the plant's effectiveness as a medicine without having to go through the long bureaucratic process currently required. In November, Democratic presidential candidate Sen. Bernie Sanders (I-VT) introduced a bill that would repeal all federal penalties for possessing and growing marijuana. Sanders' bill has been referred to the Senate Judiciary Committee but has no co-sponsors.

The VA recommends that its physicians use "evidence-based" practices — therapies proved by scientific research to be effective — to treat mental and physical health conditions such as post-traumatic stress disorder, depression and pain. There has been no research in the U.S. on the effectiveness of medical marijuana for relieving symptoms of PTSD or other conditions, although some veterans groups and marijuana legalization advocates say it does help relieve symptoms of combat-related PTSD and anxiety. Last January, the state of Colorado gave a \$2 million grant to the Multidisciplinary Association for Psychedelic Studies to conduct research on using marijuana to treat post-traumatic stress. Dr. Sue Sisley, who is spearheading that research, is expected to start her work

this year. In July, Colorado health officials voted against adding PTSD to the state's list of eligible ailments for medical marijuana. Voting members of the Board of Health said there was not enough research to support its use as an effective treatment.

Additional lawmakers who signed Wednesday's letter to McDonald were: Booker, and Sens. Barbara Boxer, D-Calif.; Patty Murray, D-Wash.; Brian Schatz, D-Hawaii; Tammy Baldwin, D-Wis.; Michael Bennet, D-Colo.; Ron Wyden, D-Ore.; and Elizabeth Warren, D-Mass.; and Reps. Sam Farr, D-Calif.; Jared Polis, D-Colo.; Chellie Pingree, D-Maine; Steve Cohen, D-Tenn.; Justin Amash, R-Mich.; and Mark Pocan, D-Wis. [Source: Military Times | Patricia Kime | January 27, 2016 ++]

VA Secretary Update

Response to Sen. McCain Criticism

U.S. Department of Veterans Affairs Secretary Robert A. McDonald on 14 JAN dismissed criticism that he hasn't done enough to clean house at his agency since the 2014 scandal over long waiting times for veterans to get health care services, coloring such attacks as noise from the political machine. "That's a red herring," Mr. McDonald said of a letter criticizing his leadership penned Wednesday by Sen. John McCain (R-AZ). Mr. McCain's letter demands answers as to why two VA staffers accused of misconduct at the Phoenix VA Health Care System – the epicenter of the wait list scandal – are being allowed to return to work at the VA.

Asked about the letter Thursday during a visit to Worcester, Mr. McDonald did not directly address the situation regarding the two employees. "Since I've been secretary we've terminated over 2,500 people," he replied, later clarifying that not all those employees had been fired but that in "a lot" of cases they retired after being charged by an administrative investigatory board. "We can't stop them (from retiring)," he said. "The Constitution says that." The VA was thrown into turmoil in April 2014 when it was reported that at least 40 veterans died while on a waiting list for care in Phoenix. An internal VA audit that summer found problems nationwide, including instances in which secret waiting lists were kept to make official wait times look shorter. Mr. McCain said in a statement Wednesday that Mr. McDonald is "singularly responsible for the VA's refusal to take action and its failure to expeditiously hold personnel responsible for the gross mismanagement and neglect of our veterans" in Phoenix and around the country.

Asked about the statement Thursday, Mr. McDonald was unfazed. "Sen. McCain and I were together at the State of the Union address," he said. "Certainly we want to bring people to justice, but what we're not going to do is invent justice." Mr. McDonald said he believes people are being held accountable, and that critics fail to acknowledge the standards of evidence he must prove to mete out discipline. "If you're a member of Congress and you run a hearing, there is no evidentiary standard in law. You can accuse anyone of anything," he said. "(But) our judgment has to stand up on appeal." Mr. McDonald directed a reporter to a section of the VA website that details accountability actions within the agency. According to the site, 62 cases investigated by the inspector general resulted in criminal convictions in 2014, while six senior executives had exited federal service as of June 2015. "Ask Cathedral Henderson if he's been disciplined," Mr. McDonald said, referring to a Georgia VA manager indicted last summer on 50 counts that he ordered his staff to falsify medical records of veterans waiting for outside medical care. "We have a process in this country called due process, and the wheels of justice turn," he said. "Sometimes it takes time."

Mr. McDonald, 62, a former army captain who served as president of Procter & Gamble from 2009 to 2013, chalked up much of the criticism he's faced to politics. "We're in the midst of a political campaign and in politics there are multiple sides," Mr. McDonald said. He said a statement made by Mr. McCain that senior VA officials gave inaccurate testimony to Congress was not true. "(She) did not lie," he said of Skye McDougal, a VA executive who was accused of lying to Congress about wait times in 2015. After Mr. McCain voiced outrage at her being tapped to head a VA system in his state last fall, she accepted a different position in Missouri that lawmakers there are now fighting. Mr. McDonald said the question posed to Ms. McDougal by Congress was a "very technical" one and said that she gave an inaccurate answer because she didn't hear it properly. "There was no malfeasance, no intent to deceive," he said. "Only in the political spectrum would you think there was an intent to deceive, and our people aren't political. They care about veterans. "

Mr. McDonald also defended his agency's handling of discipline in the cases of Diana Rubens and Kimberly Graves, VA executives an inspector general report last year concluded used their positions to transfer themselves into cushier jobs that came with hundreds of thousands of dollars in relocation pay. Many called for the two to be fired, but they were demoted instead. Mr. McDonald noted that the Justice Department chose not to prosecute the women and lauded the efforts of his enforcer, Deputy VA Secretary Sloan D. Gibson, a classmate of his at West Point and a man of 'tremendous integrity.' "He said that the evidence showed that those two individuals should be demoted, so he demoted them," Mr. McDonald said, adding there was every incentive but the evidence to go further. "He (told Congress) he's not going to do something to be politically expedient; he's going to do the harder right rather than the easier wrong." Mr. McDonald said he believes that politicizing the discipline issue does a disservice to veterans. "Let's get everybody to focus on caring for veterans," he said shortly before an aide, citing time constraints, ended the Telegram & Gazette interview. "Let's not use veterans as political pawns." [Source: Telegram & Gazette | Brad Petrishen | January 14, 2015 ++]

VA Secretary Update

VA Needs to be Principle vice Rule Based

Veterans Affairs officials want to speed the benefits appeals process, simplify their websites and hotlines, and fix lingering problems with outside care programs — all within the next 11 months. Department Secretary Bob McDonald unveiled an ambitious list of goals for his department in 2016 during a Senate hearing Thursday, saying the moves build on continuing reform efforts already underway. "Our goal is to be the No. 1 customer service agency in government," he said. "We know we have a lot to do to get there." The hearing 21 JAN before the Senate Veterans' Affairs Committee came at McDonald's request, to provide more information to lawmakers about the corporate-style MyVA restructuring launched more than a year ago. Many of those efforts so far have been internal planning steps, but McDonald is promising that veterans will see significant changes in their interactions with VA in the year to come.

Several of the goals point to continued issues of contention between Congress and the department. The number of pending benefits appeals cases has ballooned to more than 400,000 in recent years, even as the first-time claims backlog has dropped by more than 400,000 cases. McDonald said he wants "a simplified appeals process, enabling the department to resolve 90 percent of cases within one year" by 2021. The move would likely limit veterans' ability to continually update their disability evidence but would provide quicker resolution to a process that averages more than three years for a decision.

The secretary also touted plans to expand health care options outside the department in coming months, in response to criticism from lawmakers over the slow and erratic implementation of the new VA Choice Card program. "Our objective is that by the end of 2016, a veteran can go wherever they want (for health care) and it will be paid for," McDonald said. Doing that will require an overhaul of several outside care reimbursement programs, and consolidating them into a more efficient bureaucracy.

But both of those goals will require congressional cooperation and action, commodities that are difficult given the partisan infighting on Capitol Hill and the shortened legislative session this election year. "You can have all the greatest ideas ... but if you can't do what you need to do, we're just talking to each other," said Sen. Jon Tester (D-MT). Committee chairman Sen. Johnny Isakson (R-GA) acknowledged that the appeals overhaul alone "will take significant legislative willpower, but it's not impossible." Other department goals — such as updating the vets.gov website, modernizing VA contact centers and hotlines, increasing training for employees — won't require outside help. McDonald promised cultural changes throughout the department, repeating promises to put veterans at the center of all programs and priorities. "We have an organization that is rules based, and we need to get an organization that is principles based," he said.

But lawmakers have been critical of the progress so far on that promise. McDonald fielded several complaints from senators of too few public firings of problem employees, and concerns that accountability issues threaten to derail his larger reform efforts. "It's the little things that get you, not the big ones," Isakson said. "I admire your vision ... but if we don't have a recognized system of accountability, it's not going to work." McDonald promised to continue working closely with lawmakers in coming months, both on the proposals unveiled Thursday and ones coming as part of the president's budget proposal, to be unveiled 9 FEB. [Source: MilitaryTimes | Leo Shane | January 21, 2016 ++]

VA Secretary Update

Reform is Like Turning the Titanic

McDonald told the Senate Veterans Affairs Committee 21 JAN that he and other top leaders are turning the VA around, "providing more and better care than ever before" and holding employees accountable, including firing about 2,600 workers since he took office 18 months ago. The VA has struggled to respond in the nearly two years since a scandal emerged in Phoenix over chronic delays for veterans seeking medical care, and falsified records covering up the long waits. Similar problems were soon discovered at VA medical centers nationwide, affecting thousands of veterans and prompting an outcry in Congress. Despite the scandal, his "vision for VA (is) to become the No. 1 customer-service agency in the government," McDonald said.

McDonald praised passage of a 2014 law intended to make it easier for veterans to receive private care, noting that VA authorized 12 million private appointments last year alone. The move to private care was intended to alleviate chronic delays many veterans face in getting treatment at the VA's nearly 1,000 hospitals and outpatient clinics, or to make it easier for veterans who live far away from a VA health site. Bolstered by the new law, the VA hired more than 41,000 people last year, bringing the total number of employees to more than 340,000, McDonald said. The new hires included 14,000 health care workers, 1,300 of them doctors and 3,600 of them nurses. Still, McDonald said the agency is plagued by "critical shortages" in health care, including 34 vacant positions directing VA medical centers

nationwide. "Negative news articles" published since the wait-time scandal broke out in Phoenix have hampered recruitment efforts and made it difficult for the VA to hire and retain qualified workers, McDonald said. Employment applications are down by about 75 percent compared to two years ago, he said.

Many Republican lawmakers have urged the VA to fire more workers to demonstrate what they say is sorely needed accountability at an agency hamstrung by career employees who face few consequences for wrongdoing. Lawmakers were flabbergasted last year after two high-ranking VA officials were demoted rather than fired amid allegations that they forced lower-ranking regional managers to accept job transfers against their will and then stepped into the vacant positions themselves. Disappointment turned to anger after it was revealed that even the demotions were rescinded following a paperwork mix-up. "Frankly, this ineptness clearly illustrates that VA can't even slap a wrist without missing the wrist," said Rep. Jeff Miller, R-Fla., chairman of the House Veterans Affairs Committee.

Earlier this month, the VA said that the two senior executives, Diana Rubens and Kimberly Graves, were demoted to general workers within the Veterans Benefits Administration. Rubens, a former top official at the VA's Washington headquarters, now serves as assistant director of the VBA's Houston regional office. Graves, a former director of VBA's 14-state North Atlantic Region, serves as assistant director in Phoenix. Both received unspecified pay cuts. Senators appeared generally sympathetic to McDonald's message, in contrast to often contentious hearings in the House. Sen. Joe Manchin (D-WV) said McDonald has a tough job. Reforming the VA "is like turning the Titanic," he said. [Source: Associated Press | Matthew Daly | Jan 21, 2016 ++]

VA Appeals Update 15

McDonald Makes 2nd Plea to Lawmakers

In his second plea to Congress in a week, Veterans Affairs Secretary Bob McDonald on 27 JAN said his department's benefits appeals process is "failing veterans" and asked lawmakers for a massive overhaul to fix the process. "Decades worth of law and policy layered upon each other have become cumbersome and clunky," McDonald said in a statement to House lawmakers and the press. "Most importantly, it is now so antiquated that it no longer serves veterans well as many find it confusing and are frustrated by the endless process and the associated length of time it can take to get an answer." The Cabinet secretary said he needs both legislation and resourcing to "put in place a simplified appeals process" to handle the cases in a matter of months, instead of years.

McDonald's call echoed comments he made to the Senate Veterans' Affairs Committee on 21 JAN during a hearing on department reforms. He said that with lawmakers' help, officials could reduce the processing time for appeals cases to less than a year by 2020, much quicker than the current three-year average wait for decisions. VA officials have worked in recent years to clear the backlog of first-time benefits applications after intense public criticism about the waits facing veterans seeking disability payouts. Over the last three years, the number of cases pending for four months or more has dropped from more than 612,000 to fewer than 80,000 this week. But officials missed their publicly stated goal of reaching zero by the end of 2015. At the same time, the number of appeals — cases where veterans believe claims processors have misunderstood the severity of their injuries and shortchanged their benefits payouts — has risen by more than one-third, to 440,000 cases.

VA officials have blamed the rise on the growing number of veterans filing benefits claims, noting the percent of cases heading to appeals has held steady at around 12 percent in recent years. They also note that administrative moves alone to certify and transfer appeals usually take more than two years. Veterans also have the option of adding new illnesses and disabilities as the appeals process drags on, giving them the opportunity to receive larger payouts but also lengthening the wait on decisions. McDonald called the current wait times for veterans in the process “unacceptable.” The VA secretary says he wants a new appeals process “with the timely and fair appeals decisions veterans deserve, and adequate resourcing.” House lawmakers have begun work on legislation to reform the appeals process. A bill sponsored by Rep. Beto O’Rourke (D-TX) would create a “fully developed appeals” process, limiting introduction of new evidence and arguments but guaranteeing quicker processing time and decisions.

Mirror legislation is expected to be introduced in the Senate in coming days. The proposal could become the basis of the type of reform McDonald wants, and has support from key lawmakers from both political parties. But Senate Veterans’ Affairs Committee Chairman Johnny Isakson (R-GA) last week warned that getting an overhaul plan through Congress in an election year “will take significant legislative willpower, but it’s not impossible.” McDonald said plans are underway to move on upgraded mail systems and digitized records that will speed the process some. Staff is undergoing retraining to better handle those cases. “But (those steps) will not be enough,” he said. “We must also look critically at the many steps in the current complex appeals process used by VA and by veterans and their advocates to design a process that better serves veterans.” [Source: Military Times | Leo Shane | January 27, 2016 ++]

VA Appeals Update

McDonald’s Statement on Need to Reform

Last week I presented to the Senate Veterans Affairs’ Committee the way forward for the important transformation of the Department of Veterans Affairs—what we call MyVA. We aim to improve our care and services to all Veterans. In order to do that, I made clear that we would need Congress’ help in legislating a fair, streamlined, and comprehensive process for new appeals, as well as providing much needed resources to address the current pending inventory of appeals. I look forward to working with all stakeholders to design an appeals process that better serves Veterans.

VA will need legislation and resourcing to put in place a simplified appeals process that enables the Department to resolve the majority of our appeals in a reasonable timeframe for Veterans.

The appeals process we currently have set in law is failing Veterans—and taxpayers. Decades worth of law and policy layered upon each other have become cumbersome and clunky. Most importantly, it is now so antiquated that it no longer serves Veterans well as many find it confusing and are frustrated by the endless process and the associated length of time it can take to get an answer.

In 2012, VA made the commitment to end the disability claims backlog. It took too long for Veterans to receive a decision on their claim. Our commitment has resulted in transformational change. The disability claims backlog has been driven down to fewer than 82,000, from a peak of 611,000 in March 2013. At the same time, we have fully transitioned to a paperless, electronic processing system, eliminating 5,000 tons of paper a year. Last year, we decided 1.4 million disability compensation and

pension claims for Veterans and survivors – the highest in VA history for a single year and that comes on the heels on two previous record-breaking years of productivity.

As VA has become more efficient in claims processing, the volume of appeals has increased proportionately. While it remains true that 11-12 percent of Veterans who receive a disability rating file for an appeal, more processed claims means more appeals. This is VA's next challenge.

The current pending inventory of appeals stands at more than 440,000 and is estimated to grow rapidly. Right now, Veterans who file an appeal wait an average of three years for appeals to be resolved by the Veterans Benefits Administration (VBA), and an average of five years for appeals that reach the Board of Veterans Appeals' (Board), with thousands lasting much longer. That's unacceptable.

We are applying lessons learned from the transformative change that allowed us to reduce the disability claims backlog. Like our work with the claims processing, the appeals process will need changes in people, process and technology. Upgraded technology will make changes to our mail system and paper records, and incorporate some efficiencies in the way appeals are managed and processed. Retraining and increased staff will be necessary. But they will not be enough. We must also look critically at the many steps in the current complex appeals process used by VA and by Veterans and their advocates to design a process that better serves Veterans.

A new appeals process would provide Veterans with the timely and fair appeals decisions they deserve, and adequate resourcing that permits the VBA and the Board to address the growing inventory of appeals.

Robert A. McDonald

Veterans Affairs Secretary

[Source: VA Media Advisory | January 27, 2016 ++]

VA Incarcerated Vets Benefits

Disability Payments

Clay Hull has a stubborn sense of justice. After an improvised explosive device blast in Iraq ended his time in the military, he fought the Army and the Department of Veterans Affairs over the amount of compensation they awarded him for his injuries. "If I'm in the wrong, I'll admit it. But I'm not going to let somebody just push me around, especially the VA," he says. It was complicated and drawn out, but Hull now gets the maximum the VA pays for disability. The money pays for his mortgage, support for his young son and feed for the livestock on Hull's 3 acres in south central Washington — 2 1/2 hours from Seattle. He has a day job as a shipping clerk and then comes home to work on his place. He's currently fixing a fence that runs along his property line.

Four years after he moved in, Hull went to prison on a weapons charge. Hull notified the VA he was in prison. The VA was supposed to review Hull's disability payments to see if they should be reduced until he got out. But during Hull's entire 18 months in prison, the full VA payments kept coming. In February 2014, when Hull was settling back into normal life, he received a letter from the VA: The agency wanted all the money back. "Thirty-eight grand and they were wanting it in a lump sum payment," Hull says. "There was no negotiating with them. They would just shut off all benefits until they were repaid." Hull couldn't pay. While in prison he had spent the money on his mortgage and child

support for his son. He says he had done his part by filing the right paperwork. Now the VA was threatening him. "After the stress they caused, I'm sorry to have ever been a vet or served this country," he says.

Hull took his paperwork to Leo Flor, an attorney and veteran who served eight years in the Army. At the time, Flor worked for the Northwest Justice Project, a publicly funded legal aid program in Washington state. The first thing he had to do in Hull's case was deal with the threat to cut off his benefits. "This is the money they use to buy groceries; this is the money they use to put gas in their cars," Flor says. He won that round, but getting Hull's benefits restarted was only the beginning. Flor, who has worked with a lot of vets in this situation, had to prove that Hull's overpayment was the VA's mistake. In 2015, the Department of Veterans Affairs says it overpaid 2,200 incarcerated vets more than \$24 million. Money it then tried to get back. The VA puts the burden on veterans. Vets are expected to file all the right paperwork — and do it from behind bars. "It's not a system that's designed to be used while you're incarcerated and have your ability to speak by phone and have your ability to use the Internet gone," Flor says.

When Hull was in prison he was obsessive about keeping track of his correspondence with the VA. He made copies of every note he mailed them. In those letters he told them he was in prison and explained why he needed the benefits to support his family. He even kept receipts for money he withdrew to buy the stamps. "You're always afraid you're going to lose an important piece of paper. And you have duplicates of so many things in so many different areas you end up with a stockpile of paper. I've honestly gone through at least a case of printing paper just making copies of things," he says. All that paper meant Hull had a chance. And so he appealed. The VA benefits system is set up to accommodate incarcerated veterans who have financial responsibilities. If it had worked, it's possible Hull would have been granted an exception to pay for his mortgage and his child support.

That request was never addressed, leaving Hull with a debt. On March 5, 2014, Flor sent the VA all of Hull's records. Then on Dec. 18, 2014, the VA sent Hull another notice of intent to collect the debt. Flor was incredulous. It was as if the VA hadn't read anything he'd sent. On Dec. 23, 2014, Flor sent the entire package of records to the VA again. Eventually, Hull received a short letter in the mail. "June 4, 2015 — that's when they sent it," Flor says. "It says, 'This is to inform you that your request for waiver of your compensation pension debt has been approved by the committee on waivers and compensations.'" "Finally, after a year and a half, Hull's \$38,000 debt was erased.

The VA says it knows this is an issue. "Without a doubt, we need to do a better job making sure that doesn't happen," says Dave McLenachen, the VA's acting deputy undersecretary for disability assistance. He says the VA is swamped. The agency settled 3 million claims for benefits adjustments just last year. "The month after we get the notice, we should be doing it quickly and doing the benefit adjustment to keep any debt as small as possible," says McLenachen. "There's no disagreement here. But given the resources available to us, we get to them as quickly as possible." That still leaves many veterans like Hull on the hook to prove their case and win, or forfeit their benefits to pay back the debt.

Hull kept his home, but he's still angry over what he views as a betrayal of a promise by the VA. "I'd worked awful hard, you know this place is paid for with blood money, my blood. Trying to get a future for him," he says, indicating his son, "and these a***** at the VA were gonna wipe that out in one fell swoop, because they didn't open up my mail, didn't read it, or just lost it, or just didn't care, and then thought they had an easy target." The VA says it's working with the Social Security Administration to help better identify incarcerated veterans who are receiving disability payments. Hull still has one

more battle to fight. He's in court trying to overturn the weapons charge that landed him in prison in the first place. [Source: NPR KUOW | Gordon King | January 27, 2016 ++]

VA Data Breach Update

61% Incident Decrease Nov to Dec 2015

In its December monthly report to Congress, the Department of Veteran's Affairs (VA) has reported a near 61 percent decrease in PHI-related healthcare data breaches since November. This is a welcomed change to last month's 36 percent increase in PHI-related healthcare data breaches. According to the report, December saw only 240 PHI-related healthcare data breaches compared to November's 616. Consequently, the number of potentially affected individuals also dropped from November to December, with the VA reporting only 394 affected veterans in December and 693 reported in November.

Although there was a significant decrease in the number of PHI-related healthcare data breaches this month, the VA did have to send more data breach notification letters to VA patients. However, the VA did not need to provide as many free credit monitoring services, indicating that potentially less sensitive financial information such as Social Security numbers were disclosed this month. That said, the breakdown of reported events remained relatively consistent. In both November and December the VA reported 47 lost or stolen device incidents. There were slightly fewer lost or stolen PIV cards in December, as well as a modest uptick in the number of mishandled incidents and mis-mailings. In December there were 78 mishandled incidents and 169 paper mis-mailings. Additionally, there were 3 pharmacy mis-mailings in December.

As usual, the VA also documented a few representative cases which occurred throughout the month. One such incident entailed an inventory report which accounted for a few missing items. However, the Data Breach Response Service found that no data breach had occurred and no VA health information had been breached. The month of December also saw the typical mis-mailing incident, where a veteran receives the wrong results in the mail. For example, in one reported December incident, Veteran A received Veteran B's lab results in mail correspondence between himself and his primary care provider. He alerted his Privacy Officer who then asked Veteran A to return the lab results. Veteran B received a data breach notification letter per HIPAA regulations. Additionally, mailing staff received additional training to help prevent future similar incidents.

There were also a few reported mishandled incidents throughout the month. For example, a member of the housekeeping staff reportedly found a file containing documents with 58 VA patient names and Social Security numbers. In one case, a copy of a patient's EKG report containing full name, Social Security number, date of birth, and EKG date were left at an old ICU desk. Upon investigation, the VA found that there was no way to determine who was responsible for this breach. Employees have received further privacy education. Additionally, the 58 potentially affected individuals were provided with HIPAA data breach notification letters and were given free credit monitoring services. [Source: HealthIT Security | Sara Heath | January 19, 2016 ++]

VA Whistleblowers Update

Disclosures Skyrocketed in 2015

When Bob McDonald was sworn in as secretary of the Veterans Affairs Department, one of his first promises was to protect the employees who aimed to shed a light on waste or wrongdoing within the agency. "At VA, we take whistleblower complaints seriously and will not tolerate retaliation against those who raise issues which may enable VA to better serve veterans," McDonald said in September 2014, shortly after being sworn in as secretary. "We depend on VA employees and leaders to put the needs of veterans first and honor VA's core values of integrity, commitment, advocacy, respect and excellence."

Now in year two of his tenure, McDonald appears to have succeeded at least in creating a culture in which whistleblowers feel comfortable reporting inappropriate behavior. While whistleblower disclosures have climbed in recent years, they skyrocketed in fiscal 2015. The uptick, according to the Office of Special Counsel, a small, independent agency tasked with protecting whistleblowers and federal employees from improper personnel actions, has been driven in large part due to an onslaught of new cases from VA. OSC received 755 whistleblower disclosures in fiscal 2015, a whopping 56 percent increase over the previous year. The agency received nearly 2,000 disclosures from employees across government last fiscal year, a 27 percent surge from fiscal 2014.

The numbers are staggering, and to some represent a reality far different than the one McDonald describes when he depicts a department well on its way to fixing the widespread, systemic shortcomings that have embroiled the VA since they were unveiled -- by whistleblowers -- in 2014. "This uptick in VA whistleblower cases proves that instances of misconduct and retaliation are still all too common within the department," said Rep. Jeff Miller (R-FL), chairman of the House Veterans Affairs Committee, "which is why our committee will remain vigilant in our oversight of VA. Thankfully, under the leadership of Special Counsel Carolyn Lerner, the Office of Special Counsel has had a successful track record of intervening to stop retaliation against VA whistleblowers in a number of high profile and important cases."

VA's contribution to OSC's workload has not just come from whistleblowers. Employees at the department filed 1,400 claims of prohibited personnel practices last fiscal year, a 41 percent increase over 2014. Miller said his concern lies largely with VA's retaliation against whistleblowers, an area in which OSC has also focused. Eight of every 10 favorable actions OSC won for federal employees last year involved reprisal. "When VA leaders refuse to discipline those who retaliate against whistleblowers," Miller said, "it sends a dangerous signal that retaliation has no consequences. If efforts to reform the department are to ever be successful, VA leaders must fix this injustice." To others, the growth of whistleblower and other cases at OSC does not necessarily reflect a proportional escalation of malfeasance in government, but instead a renewed culture in which employees feel safer calling out problems at their agencies.

Under OSC's previous leadership, said Tom Devine, a whistleblower advocate and legal director at the Government Accountability Project, those with stories to tell about waste, fraud and abuse in government developed a cynicism toward the system. Lerner's predecessor, Scott Bloch, was forced out of his job -- and later pleaded guilty in court -- after he withheld information from Congress. The job was vacant for three years before Lerner took over. "Whistleblowers are generally willing to stick their necks out if they think it'll make a difference," Devine said. Since Lerner became head of OSC, he added, they have renewed confidence they can do so. The numbers support that theory; since 2011, when Lerner took over, total cases at OSC have increased by 52 percent. OSC attributes this to the precedent set in recent years.

“As OSC obtains more positive outcomes for whistleblowers,” said Nick Schwellenbach, a spokesman for the agency, “our results promote confidence and more employees are willing to step forward to file a claim or make a disclosure of wrongdoing.” Even as OSC’s workload has increased, the success rate for those bringing cases to the agency has picked up even more rapidly. It resolved 278 cases favorably for employees in fiscal 2015, a nearly 60 percent increase over the previous year, and a more than 800 percent increase since fiscal 2008. The spike in cases has not been easy for OSC, an agency of about 140 employees, to handle. Congress increased its budget in the recent omnibus spending bill by 5 percent to \$24.1 million, but the agency said that boost does not keep pace with inflation or the inundation of new cases. Schwellenbach said the agency plans to hire more staffers to take on the backlog of cases, which has ballooned in recent years but remained stagnant in fiscal 2015.

About 2,000 cases were still outstanding at the beginning of October, and OSC has warned Congress that number could grow even with the funding increase. While the caseload has doubled since 2008, the OSC budget has increased just 31 percent in the same timeframe. The tide could be turning in OSC’s favor, as advocates and lawmakers alike see the value in OSC funding. Even Miller, a fiscal conservative and supporter of a balanced budget amendment, has written letters to the House Appropriations Committee to voice his support for increasing the OSC budget. To many, spending at the agency represents an opportunity for a strong return by rooting out waste and abuse. “It’s less of a traditional cost,” said GAP’s Devine, “and more of an investment in improving government efficiency.” [Source: GovExec.com | Eric Katz | January 19, 2016 ++]

Veterans Affinity Fraud

Spotting Veterans Fundraising Scams

It seems like everywhere you look these days, there’s a sketchy character with a sub-regulation haircut and 5 o’clock shadow and standing on a median at a traffic light, carrying a bucket of cash, and wearing ACUs with patches removed and usually the wrong kind of boots. They’ll say they’re collecting money for veteran’s organizations and charities. Reality is they may not be. Acting on a tip earlier this month, law enforcement traced a suspect to a bar in Portland, Oregon. He was wanted in Ohio for embezzling up to \$100 million in charitable donations, which he collected primarily from Navy veterans. The scam is an old one: Analysts refer to it as “affinity fraud.” This is a common form of fraud in which the criminal gains the victims’ trust by exploiting supposed commonalities – a shared racial, ethnic or religious heritage, membership in the same church, or in this case, an affiliation with the military and veterans. Bobby Thompson – an alias (authorities still aren’t certain of the suspect’s real name), is accused of stealing millions in small contributions, mostly to the U.S. Navy Veteran’s Association, a legitimate charity in Tampa, Florida. The alleged crime spanned some 40 states. Donors thought their donations – often from \$5 to \$50 – were going to help needy veterans. Instead, prosecutors say, they simply lined Thompson’s pockets.

Veterans tend to trust other veterans over just about anyone else. And most of us live up to that trust. In some cases, however, veterans are hired as sales representatives, specifically to gain the trust of other veterans. These recently retired officers and NCOs then go back to their former colleagues and leverage the trust and bond others have with them to form business relationships. In 99.9 percent of the cases, there is no fraud going on. Other times, there is, but the veteran may not be in on the game. Perhaps he just used his own influence to gather other veterans together in a seminar, and then turned it over to a guest speaker. In other cases, the veteran is in on the scam. And in still other cases, the con-man is lying about being a veteran. The tragedy is this: So many legitimate veterans support

organizations are doing terrific work in many niches. The criminals make it much more difficult for the legitimate operators to raise the much needed money for these charities to function.

There are really two levels of fraud you have to worry about: The first is agent-level fraud. This occurs when you have a legitimate charity that hired a bad, dishonest agent or representative. The agent then pockets some or all cash donations, and may launder other donations or misdirect them to his own bank account. In other cases, the whole organization may be corrupt. You can have a hard-working, honest representative, but the charity's executive director may be corrupt or incompetent. She could be stealing money from the organization, or she may be a weak executive who has failed to implement the necessary accounting controls within the organization.

To guard against agent-level fraud, give directly to the organizations, rather than via an agent, if at all possible. For example, a credit card donation on a secure website of a reputable and well-known charity is better and safer than a cash donation, handed to an agent you may barely even know. To guard against organizational fraud, stick to charities you are already familiar with – particularly agencies whose effective work you've seen first-hand. You can also use <http://www.charitynavigator.org>, an online resource for investigating and evaluating charity organizations. A few other tips:

- Don't give directly to a telethon or other pitch that involves a middleman or intermediary. A significant portion of your donation will go to the cost of the event or fundraising drive itself. Instead, do your own investigation, and give directly.
- Be careful of charities with names that sound very close, but not quite alike. Unscrupulous people will attempt to exploit donor confusion by naming themselves very similarly to established and reputable charities.
- Verify the 501(c)(3) tax-exempt status of charitable organizations independently.
- Compare executive compensation to the mission. Executive director salaries at the average charity that CharityNavigator.com tracks exceeds \$150,000 per year. In some cases, large charities can warrant paying a capable and experienced executive competitively with the private sector. A huge salary for the director of a small and/or inefficient charity should be a yellow flag – your money may be better donated elsewhere. [Source: Military authority Newsletter | Jason Van Steenwyk | January 2016 ++]

Desert Storm Memorial Update

National Mall Area 1 Proposed

The VFW spoke before the National Capital Memorial Advisory Commission 28 JAN in support of the proposed National Desert Storm Memorial. The VFW fully supports its creation, as authorized by Resolution 305, which was approved by delegates attending the 115th VFW National Convention in St. Louis, Mo. Getting commission approval is another step in a multilayered process that's required for any new monument or memorial in Washington, D.C. The eight commissioners were in agreement that the Desert Storm Memorial should be located in Area 1, which encompasses a large portion of the National Mall, as well as across the Potomac River heading towards Arlington National Cemetery. Whether or not the new memorial will be permitted to be built within the portion identified as "The Reserve" is still to be determined. The Reserve is the most coveted area, as it currently encompasses the Vietnam, Korea, World War II, and the District's World War I monuments. Learn more about the Desert Storm Memorial at: <http://www.ndswm.org>. [Source: VFW Action Corps Weekly | January 29, 2016 ++]

World War I Memorial Update

Design Winner Announced

The congressionally mandated campaign to add a World War I memorial to the Washington landscape took a major step on 25 JAN with the announcement of a winner in its open and international design concept contest. Seeking to remedy a perceived neglect of “the Great War” and the average service members who “did the dying,” the U.S. World War I Centennial Commission voted 8-1 to select from five finalists a concept titled “The Weight of Sacrifice.” It was created by a 25-year-old Arkansan architect in training named Joseph Weishaar. He in turn teamed up with veteran New York based sculptor Sabin Howard to create images of soldiers to be incorporated in a design that creates a “sense of inclusion but is inviting and visible,” said commission vice chairman Edwin Fountain at the design concept’s unveiling at the National Press Club.

Pershing Park, located at 14th and Pennsylvania Ave. Northwest in a heavily trafficked area a block from the White House, honors the top commander of the American Expeditionary Forces sent to fight in Europe 99 years ago. But Pershing was a “soldier’s general who believed generals got too much attention,” said his granddaughter-in-law, Sandra Pershing, who spoke surrounded by two living history actors in restored but genuine doughboy uniforms. The chief defect of the current park’s design, said Fountain, is that it is “not visible and accessible.” The winning design concept “respects the existing design of the park” while contributing to the ambience of adjacent sites, such as the Willard Hotel, the Treasury Department and the Sherman Memorial, he said.

The consensus on the commission is that World War I—which mobilized 4.7 million U.S. troops and caused 116,000 deaths mostly in the final six months—has been “left out of national consciousness and therefore national discussion,” said commissioner Libby O’Connell. “Yet much of our country is organized, economically, socially, politically is because of World War I,” she added, mentioning advances in aviation technology, the suffragists and the United States “beginning to see itself as a positive agent of change in the world.” The war’s shadow, she said, remains cast over today’s fighting in Iraq and Syria, where locals still debate the borders imposed by the 1916 Sykes-Picot line. “So little tribute in the national capital area,” she warned, might make current living warfighters and veterans worry that “their service will not be remembered.” Fountain added that his commission’s project differs from the World War II, Korean War and Vietnam War memorials on the now-filled National Mall in that the others were created with support from living veterans.

Though some critics have pointed out that World War I memorials already exist around the country (including one in the District of Columbia off Independence Avenue), Fountain lamented that many have been “hidden in plain sight” and “repurposed” as general war memorials. His group’s education mission targets young people in case “some dumb high school kid learning about World War II figures out that there must have been a World War I.” The memorial project has been vetted by the National Park Service, Commission of Fine Arts, the National Capital Planning Commission and District of Columbia Historic Preservation Office. The World War I commission has also working with the National World War I Museum in Kansas City, Mo., and the Pritzker Military Museum and Library in Chicago.

Fountain said the design concept may still undergo changes by the National Capital Planning Commission. He hopes for a final approval by the third quarter of 2016, with a goal of completing construction on the estimated \$30 million-\$40 million privately funded memorial by Veterans Day 2018. Present for the design announcement was Rep. Emanuel Cleaver II (D-MO) who helped shepherd the commission’s creation through Congress. He recalled that when he was elected mayor of Kansas City in 1991, one of his first acts was to raise a sales tax to restore the decaying Liberty Memorial on the site

where hundreds of trains came through carrying servicemen to the First World War. Its 1921 dedication by President Coolidge with the allied leaders in attendance was witnessed by a future President, Harry Truman, said Cleaver, who is working in Congress to get Truman memorialized in Washington as well. [Source: GovExec.com | Charles S. Clark | January 27, 2016 ++]

Wounded Warrior Project Update

Where is the Money Going???

A CBS News investigation into a charity for wounded veterans, the Wounded Warrior Project, looks into how the charity spends its donation money. What caught our attention is how the Wounded Warrior Project spends donations compared to other long-respected charities. For example, Disabled American Veterans Charitable Service Trust spends 96 percent of its budget on vets. Fisher House devotes 91 percent. But according to public records reported by "Charity Navigator," the Wounded Warrior Project spends 60 percent on vets. Where is the money is going? In its commercials, Wounded Warrior Project appeals to the American public's generosity, and it works. In 2014 alone the group received more than \$300 million in donations.

"Their mission is to honor and empower wounded warriors, but what the public doesn't see is how they spend their money," said Army Staff Sergeant Erick Millette. Millette came home from Iraq in 2006 with a bronze star and a purple heart -- along with a traumatic brain injury and PTSD. Initially, he admired the charity's work, and participated in its programs. He took a job as a public speaker with Wounded Warrior Project in 2013. But after two years, he quit. "You're using our injuries, our darkest days, our hardships, to make money. So you can have these big parties," he told CBS News. Millette said he witnessed lavish spending on staff. "Let's get a Mexican mariachi band in there, let's get maracas made with [the] WWP logo, put them on every staff member's desk. Let's get it catered and have a big old party," he described. "Going to a nice fancy restaurant is not team building. Staying at a lavish hotel at the beach here in Jacksonville, and requiring staff that lives in the area to stay at the hotel is not team building," Millette continued.

CBS News spoke to more than 40 former employees who described a charity where spending was out of control. Two of those former employees were so fearful of retaliation they asked that their faces not to be shown on camera. "It was extremely extravagant. Dinners and alcohol, and just total accessm" one employee explained. He continued, saying that for a charitable organization that's serving veterans, the spending on resorts and alcohol is "what the military calls fraud waste and abuse." According to the charity's tax forms, spending on conferences and meetings went from \$1.7 million in 2010, to \$26 million in 2014. That's about the same amount the group spends on combat stress recovery -- its top program.

Former employees say spending has skyrocketed since Steven Nardizzi took over as CEO in 2009. Many point to the 2014 annual meeting at a luxury resort in Colorado Springs as typical of his style. "He rappelled down the side of a building at one of the all hands events. He's come in on a Segway, he's come in on a horse." About 500 staff members attended the four-day conference in Colorado. The price tag? About \$3 million. "Donors don't want you to have a \$2,500 bar tab. Donors don't want you to fly every staff member once a year to some five-star resort and whoop it up and call it team building," said Millette. Wounded Warrior Project declined CBS News' repeated interview requests for Nardizzi, but offered their Director of Alumni and a recipient of their services, Captain Ryan Kules. Kules denied there was excessive spending on conferences. "It's the best use of donor dollars to ensure we are providing

programs and services to our warriors and families at the highest quality." When asked why conferences were held at five-star resorts instead of cheaper options, Kules provided the same answer. "Like I said, it's to make sure we are aligned and can build as a team. Be able to be able to provide the best quality services."

"WWP and those donor dollars trained me to speak and be a voice, and that's exactly what I'm doing," said Millette. "I'm sorry, but I'll be damned if you're gonna take hard-working Americans' money and drink it and waste it." Kules also told CBS News the charity did not spend \$3 million on the Colorado conference, but he was not there and was unable to say what it did cost. He also denied that the charity spends money on alcohol or engages in any other kind of excessive spending. To view the CBS Evening News report go to <http://www.cbsnews.com/videos/former-wounded-warrior-employees-accuse-charity-of-wasting-millions>. [Source: CBS News | Chip Reif & Jennifer Janisch | January 26, 2016 ++]

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1991, one of his first acts was to raise a sales tax to restore the decaying Liberty Memorial on the site where hundreds of trains came through carrying servicemen to the First World War. Its 1921 dedication by President Coolidge with the allied leaders in attendance was witnessed by a future President, Harry Truman, said Cleaver, who is working in Congress to get Truman memorialized in Washington as well. [Source: GovExec.com | Charles S. Clark | January 27, 2016 ++]

Sleep Disorder Update

Weighted Blanket Therapy

Andrew Petrulis is finally getting some rest. For years, he didn't want to fall asleep. He was out of the war but sleep put him back in it. His dreams replayed scenes from 11 years of active-duty service as a member of a US Air Force explosive ordnance disposal unit. Master Sgt. Petrulis defused roadside bombs and other improvised explosives with a robot, or sometimes his own hands, throughout Iraq, Afghanistan, and Southwest Asia between 2002 and 2013. He received the Bronze Star twice. He shot at people and got blown up. Bombs went off within feet of him. The explosions rattled his brain. He relived these scenes, over and over, in nightmares.

After an honorable discharge, returning home, and joining the reserves in 2013, an MRI showed scar tissue on his brain. The VA diagnosed Petrulis with traumatic brain injury, severe post-traumatic stress disorder, tinnitus, Achilles and kneecap tendonitis, and depression. The VA rated his disabilities at a combined 140 percent, with PTSD, which his life now revolves around, accounting for 70 percent of that rating. But he was still functional in the sense that he could eat and go to the bathroom on his own. The VA ultimately declared him a 90 percent disabled veteran. He was running on fumes, getting only two or three fitful hours of sleep each night. He had regular panic attacks. Weekly night terrors. Vivid nightmares every other day, or so. He locked himself in his house, alone. Sometimes he'd drink on the couch until he passed out. But mostly he was too afraid to close his eyes. "It got really, really bad," Petrulis, now 31, said. "I couldn't do anything. So I'd just stay up."

Things are different today. Three or four nights a week, after tucking himself in bed, Petrulis slides a prototype 17-pound weighted blanket over his sheets. The blanket is roughly 3 feet wide by 6 feet long, covered in penguin print, and looks a bit like 60 or so 4 x 4 inch bean bags handstitched together. The pockets are each stuffed with polypropylene pellets and a sort of memory foam material. Petrulis is a big guy—6'2", 250 pounds—but the blanket's weight spreads evenly over him. "I feel safer when it's covering my entire body," Petrulis explains. No one can bother him this way. "It sets my mind up for sleeping hard that night." Which he does.

What happens, exactly, while he's under such pressure? It sounds almost too good to be true. Whatever it is, can heavy blankets help other veterans with combat-related sleep problems get some rest too? What about restless deployed troops? Can heavy blankets offer them relief? The underlying idea is dead simple: create a cocooning embrace, like being swaddled. Petrulis compares it to a firm, comforting hug. According to Gaby Badre, a leading sleep researcher who's studied weighted blanket therapy for treating insomnia in adults, there is good reason to believe this is because the deep pressure touch of a weighted material spread over part or all of the body dials down the fight-or-flight arousals of the sympathetic nervous system. (It's generally accepted that a weighted blanket should be at least 10 percent the person's body weight.) There is also speculation that lying under heavy constant pressure such as a weighted blanket feels good because it somehow lights up the brain's reward center, probably triggering the release of neurotransmitters like serotonin and dopamine.

But that's about the extent of our understanding of the science beneath weighted blankets. No one knows precisely what goes on in the brain and throughout the body under this kind of pressure; whether the mechanism is mere placebo, or if something else altogether makes lying under a weighted blanket feel so reassuring and safe that it could bring deep, restorative sleep to those who need it but can't otherwise get it on their own. It's this mystery that still largely colors weighted blankets as non-evidence-based folk remedies to sleep disorders. They have shown promise as anti-anxiety and stress-relief aids in the very young and the very old. There is data and evidence to support claims that heavy blankets can help calm children with attention deficit hyperactivity disorder, autism, and other sensory disorders, as well as elderly people with dementia, added Badre, who's been studying sleep since the late 1980s and currently oversees sleep medicine clinics at The London Clinic, the Institute of Neuroscience and Physiology at the University of Gothenburg, and SDS Kliniken.

The between years, from roughly age 14 through 60, are murkier. There just isn't sufficient data from clinical experience, at least not yet. There is hardly any supporting research, just anecdotal evidence, which shows the potential of weighted blankets having the same arousal-reducing effects as well as sleep-inducing ones in adult populations, including combat veterans like Petrusis. No small number of Iraq and Afghanistan war vets have trouble sleeping. Among patients of the Veterans Health Administration, the healthcare arm of the Department of Veterans Affairs, in 2015, 1,262,393 veterans—over 20 percent—had a sleep disorder diagnosis in the past two years, according to a VA representative. Those million-plus diagnosed sleep disorder cases, to say nothing of undiagnosed cases, are all different; various external factors like back and other muscular, skeletal, and neurological issues, plus prescription drug histories, bring unique forces and circumstances to bear on combat-related sleep disturbances.

Petrulis is one veteran battling sleep after war. And one veteran reporting positive results, with no apparent side effects, from a non-evidence-based sleep aid is notable. But it's not enough to convince the government to fund or conduct clinical research into that aid. Neither the VA nor the Department of Defense are exploring weighted blanket therapy. Petrusis and Chelsea Benard, a licensed occupational therapist who introduced him to weighted blanket therapy in the fall of 2015, wonder why not. Petrusis and Benard, who handstitched the 17-pound blanket Petrusis currently uses, don't think the blanket is a cure-all for his sleep problems, but rather a promising, albeit under-researched supplement to other evidence-based treatment options for sleep and anxiety issues. "What's neat is it's a non-pharmacological approach that can be used as a complement tool to any other kind of treatment," says Benard, who had the idea to try out weighted blankets with adult patients after she saw success using them on kids. "It's not going to have any side effects."

She and Petrusis genuinely believe the technique can help people like him who cope with combat-related PTSD or TBI, whose core symptoms include sleep disturbances. And he says he's tried just about everything when it comes to sleep. The VA initially prescribed him Ambien, which he tried once with no luck. The VA then upped the dosage, but still nothing; he'd sleep a few hours, then be up the rest of the night. They also put him on Valium for panic attacks, but that didn't help either, even after an upped dosage. The VA currently has him on Prazosin, a blood pressure medication developed in the 1980s that's been shown to stanch night terrors, and also has him on Klonopin, an anti-anxiety drug, for panic attacks. He says the Klonopin isn't working, and is unsure whether or not Prazosin is helping. When he tries to power down at night, his brain is often going a million miles an hour. Except while he's under the weighted blanket. He says it's the only thing that helps him sleep. Nothing else gets him in a

place at the end of the day where he can calm down and drift off. To this day, he hasn't had a nightmare with the blanket on. But bad dreams still haunt him.

The irony is that the VA, at least, does offer patients weighted blankets and vests. Just not for sleep disorders. They can be ordered through the VA's Rehabilitation & Prosthetic Services and are provided for orthopedic and neurologic balance disorders, such as multiple sclerosis, Parkinson's, ataxia, and stroke, according to a written statement from the VA. Patients must show documentation of medical necessity and how the blanket is an essential component of their treatment plans. This doesn't extend to treating sensory processing disorders, post-traumatic stress, and anxiety, the statement adds. "We don't necessarily recommend compression blankets," a VA spokesperson said. That's one way of putting it. "We can't necessarily prescribe this because it's not a medical device," says Mysliwicz, the US Army Surgeon General's sleep medicine consultant. [Source: Motherboard | Brian Anderson | January 18, 2016 ++]

IRS Impersonators

Vet Alert

As tax-filing season begins, Veterans should be aware of people contacting them who claim to be from the Internal Revenue Service and the Treasury. These IRS tax impersonators have been using phone calls and emails to take millions of dollars from taxpayers in every state in the country (\$23,000,000 so far.) The callers tell intended victims they owe taxes and must pay using a pre-paid debit card, money order or a wire transfer. The scammers threaten those who refuse to pay with being charged for a criminal violation, a grand jury indictment, immediate arrest, deportation or loss of a business or driver's license.

To prevent taxpayers from falling victim to these scams, the Treasury Inspector General for Tax Administration has expanded their outreach efforts to make sure people remain on high alert. Efforts include video public service announcements in English and Spanish, and working with public and private partner organizations to help get the word out. "The number of people receiving these unsolicited calls from individuals who fraudulently claim to represent the IRS is growing at an alarming rate," said J. Russell George, the Treasury Inspector General for Tax Administration. "At all times, especially around the time of the tax filing season, we want to make sure that taxpayers are alerted to this scam so they are not harmed by these criminals," he said, adding, "Do not become a victim."

The IRS usually contacts people by mail – not by phone – about unpaid taxes. They will never ask for payment using credit cards, prepaid debit card, money order, or wire transfer. They will never request personal or financial information by e-mail, text, or any social media. If you receive an email that you believe is to be a phishing scam, forward the scam emails to phishing@irs.gov. Do not open any attachments or click on any links in those e-mails. If you get a call from someone claiming to be with the IRS asking for a payment, here's what to do:

- If you owe Federal taxes, or think you might owe taxes, hang up and call the IRS at 800-829-1040. IRS workers can help you with your payment questions.
- If you do not owe taxes, fill out the "IRS Impersonation scam" form on TIGTA's website, www.tigta.gov, or call TIGTA at 800-366-4484.
- You can also file a complaint with the Federal Trade Commission at www.FTC.gov. Add "IRS Telephone Scam" to the comments in your complaint.

At <https://www.youtube.com/watch?v=a12HBSxDaLE&feature=youtu.be> you can listen to a recording of an actual IRS scam phone call. For more information about tax scams, visit the official IRS website at www.irs.gov. [Source: Vantage Point | Melissa Heintz | January 26, 2016 ++]

Survivor Benefit Plan | Special Needs Children

New Policy Released

A newly released DoD policy allows military retirees with special needs children to take advantage of a law changing the way their Survivor Benefit Plan can be paid after their death. The Survivor Benefit Plan allows military retirees to provide to a designee a monthly payout after their death of up to 55 percent of their retirement pay, depending on the plan they choose. Users pay a monthly premium. If the retiree outlives the person for whom he has designated the payout, the premiums are lost. In the past, retirees have been hesitant to select a disabled adult child as their beneficiary because they feared any extra income would disqualify the child from receiving other government subsidies for disabled adults, such as housing assistance and Medicaid.

The new law, however, passed as part of the 2015 National Defense Authorization Act, allows the retiree to instead designate certain types of Special Needs Trusts as the recipient of their SBP payout instead of the disabled child. Doing so fixes the issue and should allow the disabled child to receive both government benefits and SBP support after the retiree's death. The policy guidance, published 31 DEC, more than a year after the law was passed, allows retirees to make the changes. To take advantage of the new rules, retirees currently paying into an SBP assigned to a disabled child can make a one-time decision to switch the designated payout to a special needs trust, according to the new policy. If a retiree has already died, his surviving spouse or the child's guardian can elect to the change, the policy says. [Source: NAUS Weekly Update | January 22, 2016 ++]

Congressional Activity

Action taken on bills sponsored by the Minnesota Delegation

H.R.203: Clay Hunt SAV Act. A bill to direct the Secretary of Veterans Affairs to provide for the conduct of annual evaluations of mental health care and suicide prevention programs of the Department of Veterans Affairs, to require a pilot program on loan repayment for psychiatrists who agree to serve in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.

Sponsor: Rep Walz, Timothy J. [MN-1] (introduced 1/7/2015)

Committees: House Veterans' Affairs

Latest Major Action: 02/12/15 Became Public Law No: 114-2 [GPO: Text, PDF]

H.R.1331: Quicker Veterans Benefits Delivery Act of 2015. A bill to amend title 38, United States Code, to improve the treatment of medical evidence provided by non-Department of Veterans Affairs medical professionals in support of claims for disability compensation under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

Sponsor: Rep Walz, Timothy J. [MN-1] (introduced 3/4/2015)

Committees: House Veterans' Affairs

Latest Major Action: 3/4/2015 Referred to House committee. Status: Referred to the House Committee on Veterans' Affairs.

H.R.1384: Honor America's Guard-Reserve Retirees Act. A bill to amend title 38, United States Code, to recognize the service in the reserve components of certain persons by honoring them with status as veterans under law.

Sponsor: Rep Walz, Timothy J. [MN-1] (introduced 3/16/2015)

Committees: House Veterans' Affairs

Latest Major Action: 3/16/2015 Referred to House committee. Status: Referred to the House Committee on Veterans' Affairs.

H.R.1500: TRICARE Prime Enrollment Eligibility. A bill to ensure that certain TRICARE program beneficiaries may enroll in TRICARE Prime regardless of the location of their residence.

Sponsor: Rep Kline, John [MN-2] (introduced 3/19/2015)

Committees: House Armed Services

Latest Major Action: 3/19/2015 Referred to House committee. Status: Referred to the House Committee on Armed Services.

H.R.1532: Keeping our Promises to Veterans Act of 2015. A bill to amend the Veterans Access, Choice, and Accountability Act of 2014 to modify the distance requirements regarding the eligibility of certain veterans to receive medical care and services from non-Department of Veterans Affairs facilities, and for other purposes.

Sponsor: Rep Emmer, Tom [MN-6] (introduced 3/23/2015)

Committees: House Veterans' Affairs

Latest Major Action: 3/23/2015 Referred to House committee. Status: Referred to the House Committee on Veterans' Affairs.

H.R.2742 : Military Working Dog Retirement. A bill to amend title 10, United States Code, to require that military working dogs be retired in the United States, and for other purposes.

Sponsor: Rep Paulsen, Erik [MN-3] (introduced 6/11/2015)

Committees: House Armed Services

Latest Major Action: 6/11/2015 Referred to House committee. Status: Referred to the House Committee on Armed Services.

H.R.2742: Military Working Dog Retirement. A bill to amend title 10, United States Code, to require that military working dogs be retired in the United States, and for other purposes.

Sponsor: Rep Paulsen, Erik [MN-3] (introduced 6/11/2015)

Committees: House Armed Services

Latest Major Action: 6/11/2015 Referred to House committee. Status: Referred to the House Committee on Armed Services.

H.R.3549: VA Billing Accountability Act. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes.

Sponsor: Rep Kline, John [MN-2] (introduced 9/17/2015) Related Bills: S.2052

Committees: House Veterans' Affairs

Latest Major Action: 9/25/2015 Referred to House subcommittee. Status: Referred to the Subcommittee on Health.

H.R.3686: Veterans Care and Reporting Enforcement Act. A bill to direct the Inspector General of the Department of Veterans Affairs to make certain reports publicly available and for other purposes.

Sponsor: Rep Emmer, Tom [MN-6] (introduced 10/6/2015)

Committees: House Veterans' Affairs

Latest Major Action: 10/6/2015 Referred to House committee. Status: Referred to the House Committee on Veterans' Affairs.

S.761: Veterans Access to Care Act. A bill to amend the Public Health Service Act to designate certain medical facilities of the Department of Veterans Affairs as health professional shortage areas, and for other purposes.

Sponsor: Sen Klobuchar, Amy [MN] (introduced 3/17/2015) Related Bills: H.R.3639

Committees: Senate Health, Education, Labor, and Pensions

Latest Major Action: 3/17/2015 Referred to Senate committee. Status: Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

S.2052 : Department of Veterans Affairs Billing Accountability Act of 2015. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to waive the requirement of certain veterans to make copayments for hospital care and medical services in the case of an error by the Department of Veterans Affairs, and for other purposes.

Sponsor: Sen Klobuchar, Amy [MN] (introduced 9/17/2015) Related Bills: H.R.3549

Committees: Senate Veterans' Affairs

Latest Major Action: 9/17/2015 Referred to Senate committee. Status: Read twice and referred to the Committee on Veterans'