



Federal Update for September 9 - 13, 2013



Walz Opposed to Syria Proposals

Mankato, MN [9/9/13]—Today, Representative Tim Walz returned to Washington, DC with a message from his constituents on Syria.

“While I believe the use of chemical weapons is despicable and the world must take action to ensure that cruel dictators are not allowed to use such weapons without repercussions, at this time I cannot in good conscience support current proposals to take unilateral, military action.”

Walz cited his skepticism that even limited military action would stay limited due to unforeseen consequences and his concern that it could result in American boots on the ground with no defined strategy to bring them home.

In the past two weeks, Representative Walz has reached out to southern Minnesotans for their input, participated in a classified briefing in DC, and studied proposals for intervention. On Friday, residents from across southern Minnesota, of varying political beliefs, showed up to share their opinion with Representative Walz at his Congress on Your Corner event in St. Peter. The message has been clear and consistent: oppose unilateral, US military intervention.

Representative Walz commended President Obama for seeking Congressional approval before launching military strikes saying, “After 12 years of war, the American public has every right to weigh in and expect that their views be represented in Congress.”

In August, Representative Walz joined over 100 of his colleagues in sending President Obama a letter urging him to consult with Congress before taking military action in Syria.

VA Care for TFL Eligible Vets

Retirees eligible for Tricare for Life (TFL) will face higher outpatient costs at VA hospitals and clinics starting 1 OCT if they continue to seek care there for conditions not rated as service-connected. Tricare managers this spring discovered that, for more than a decade, Tricare was exceeding its legal authority by covering almost all outpatient costs that VA assessed on elderly retirees who were treated for ailments or injuries not linked to time in service. On 1 OCT that will end. Tricare policy regarding TFL retirees and VA health care will “get back into sync” with statutory requirements, Michael O’Bar, deputy chief of Tricare policy and operations, said 20 AUG. Wisconsin Physicians Service, support contractor for the Tricare for Life program, sent letters this month to 12,000 TFL retirees all of whom, over the past year or so, received VA care for conditions unrelated to service disabilities. Though they have paid very little out of pocket in the past, the letter warned, they soon could face higher costs for that VA-provided care.

The law that established Tricare for Life as a prized supplement to Medicare for retirees 65 and older directs Tricare to cover the cost of TFL claims only after Medicare has paid its share, followed by any other health insurance that retirees might have to serve as second payer. VA does not actively recruit Tricare beneficiaries to its clinics and hospitals, officials explained. But VA is a Tricare network provider and will deliver care to Tricare beneficiaries as capacity allows. This usually is for specialty services, but some VA facilities also have primary care capacity. More often, when VA already is caring for a veteran with a service-connected condition, in order to care for the whole patient, VA has offered veterans the option of using their Tricare benefit for routine care that falls outside their service-connected condition. The hitch is that while VA facilities are Tricare-authorized providers, they are not Medicare certified so VA cannot bill Medicare for that care given older military retirees for non-service connected ailments, officials recently realized. That means Tricare can pay no more than 20 percent of Tricare-allowable charges. The beneficiary legally is responsible for the 80 percent Medicare won’t pay because VA is not a Medicare-certified provider.

Tricare, in effect, has been violating the law by covering the whole tab for VA care to these TFL beneficiaries. O’Bar explained that Tricare overpaid because it relied on a Memorandum of Understanding between VA and DOD on care

reimbursements signed in 1995. The memo wasn't updated to reflect the Tricare for Life law enacted in 2001. A new memo is being drafted. O'Bar said making the required change effective 1 OCT gives retirees time to avoid higher VA costs by finding private sector care providers who will accept Medicare, and using TLF, as designed, to cover provider costs that Medicare won't pay. Many veterans, including many TFL retirees, qualify for cost-free VA health care services due to compensable service-connected conditions or other qualifying factors. These veterans will see no change come October. Among veterans who will still get all VA health care and prescriptions at no charge are veterans with service-connected disabilities rated 50 percent or higher and former prisoners of war.

The 12,000 TFL retirees who received letters this month were identified from a review of TFL claims involving VA care of non-service connected ailments from April 2012 through May 2013. O'Bar acknowledged there could be more who use VA care infrequently. But the overall number still would be small compared to 1.2 million total TFL beneficiaries, he said. Tricare estimates that it improperly covered only about \$1 million of VA costs per year, or an average of \$83 per retiree. So if added VA costs are imposed, TFL beneficiaries are more likely to be irritated than financially distressed. Those who use private sector providers in combination with their TFL benefit usually avoid any out-of-pocket health costs, beyond Medicare Part B premiums that all TFL users must pay. O'Bar said TFL otherwise has been operating as Congress intended. "VA is the one place where we have been out of sync with the [legal] requirement and we are working hard to get back in," O'Bar said. "As we do that we're trying to make sure we communicate with our beneficiaries on what's going on and giving them plenty of lead time...to work with our Tricare for Life contractor, Wisconsin Physicians Service, in locating an alternative source of care." By using Medicare authorized providers in the private sector and Tricare for Life as "wraparound" coverage to Medicare, these TFL beneficiaries, O'Bar said, "will not pay anything for their care."

VA officials said they are prepared to explain the cost change to TFL beneficiaries who show up for care on or after 1 OCT. Indeed, TFL retirees will be asked to sign a form that explains how they could face higher costs if they elect to use Tricare benefits for certain VA care, and they don't have other health insurance or don't qualify, through disability, for full VA benefits. More information is available by calling the TFL contractor at 866-773-0404 or by visiting online

www.Tricare.mil/tfl. Information on Tricare-authorized and Medicare-certified care providers can be found at: www.Tricare.mil/findaprovider. [Source: Mil.com | Tom Philpott | 22 Aug 2013 ++]

VA COLA 2013 Update

An 8 AUG estimate from the Congressional Budget Office (CBO) anticipates that veterans benefits will have a 1.5% Cost of Living Adjustment (COLA), effective 1 December 2013 and seen in the January payments. The cost estimate is in response to S.893, the Veterans Compensation Cost-of-Living Adjustment Act of 2013. The bill authorizes COLA increases of 1.5% for veterans disability payments and Survivor Benefit Plan (SBP) annuity payments. The bill has passed out of committee and awaits the vote of the entire Senate. A similar House bill, H.R. 569, is currently pending in the House Veterans Affairs Committee. Most experts agree that they are likely to pass, but we can never be sure. COLA increases are automatic for military retirement pay, and other federal benefits such as Social Security. However, benefits paid by the VA must be separately approved by Congress. [Source: Mil.com News 23 Aug 2013 ++]

VA Caregiver Program Update

Are You a Caregiver for a Veteran? If so, you might want to take advantage of the online workshop which provides information and support to caregivers. It's called Building Better Caregivers™ and it's a free workshop for family caregivers of Veterans. If you are taking care of a Veteran, this workshop will help you learn a variety of skills like time and stress management, healthy eating, exercise and dealing with difficult emotions. Participants log on two to three times each week to review lessons, exchange ideas with other caregivers and access tools to make caregiving easier. The program, developed at Stanford University, has been recognized for its ability to reduce caregiver stress, depression and increase their overall well-being. This comprehensive online workshop addresses specific needs of caregivers who care for Veterans with dementia, memory problems, traumatic brain injury, post-traumatic stress disorder, or any other serious injury or illness. How does it work? It's a six-week, highly-interactive, online small-group workshop where 20-25 family caregivers complete the online workshop together. It's facilitated by two trained moderators, one or both of whom also are caregivers. Participation may be at two to three times during each week, for a total of two hours a week for six-weeks. VA and the National Council on Aging are making this

program available through an innovative partnership to provide self-management support for family caregivers. “VA is committed to providing caregivers with the support they need to help those who live with scars borne in battle in defense of our nation’s freedom,” said Secretary of Veterans Affairs Eric K. Shinseki. “We are especially pleased to be working with the National Council on Aging which has worked with multiple generations of Veterans and is uniquely qualified to provide this support to caregivers of Veterans from all eras.”

How Do You Sign Up? Caregivers of Veterans interested in participating in Building Better Caregivers™ should contact a local Caregiver Support Coordinator. There is one designated Caregiver Support Coordinator at every VA Support Coordinator by visiting www.caregiver.va.gov and entering your ZIP code in the ZIP code finder. [Source: VA News Release | Hans Petersen | 26 Aug 2013 ++]

GI Bill Update

The Post 9/11 GI Bill recently celebrated its four-year anniversary and Veterans Affairs (VA) officials are trying to figure out how student veterans are using the money in order to determine how effective the program truly is. The results will help to determine how long the generous benefit survives, and in what form. VA Deputy Undersecretary for Economic Opportunity Curt Coy told reporters recently that the VA will launch a series of new tools in the coming months to help student veterans evaluate career paths, compare colleges and make sure they’re using their education money wisely. Prior to now, the VA has been spending most of its time making sure students were actually getting their money. Problems during the implementation phase in 2009 were widely reported at the time.

New automated systems that VA has put in place have simplified the process, and dramatically cut down on delivery times for most veterans’ checks. The department now averages processing of payments for enrolled students in about seven days according to VA Undersecretary for Benefits Allison Hickey. The post-9/11 GI Bill, passed by Congress in response to veterans complaints that the legacy GI Bill programs hadn’t kept up with tuition inflation, grants a monthly living stipend and a full four years’ tuition at any state school to veterans who served at least three years since September 2001. Service members who stay in for 10 years can transfer their benefit to a spouse or child. Since August 2009, more than 1 million veterans and dependents have used the benefit for a total

cost of nearly \$30 billion. But VA officials can't point to any clear results from that spending yet. So VA announced its new effort to track student success in using the new GI Bill, compiling data on graduation, degrees earned and job placement.

The Enlisted Association (TREA) has argued that the Post 9/11 GI Bill, along with many other veterans' benefits, is earned benefits and not optional assistance or "entitlements." However, even the original GI Bill was cut down 12 years after its passage in 1944. If it happened in the past, it can happen again and that is something that TREA will be constantly guarding against. Since service members have up to 15 years from the time of their separation from service to access the education benefits, over the upcoming years even more veterans and dependents will seek to access the tuition money, which would only increase congressional focus on the program. That will mean tracking not just traditional college graduation rates but also usage of vocational programs and success rates for non-traditional students, who tend to balance family and full-time jobs with schooling. [Source: TREA News for the Enlisted 19 Aug 2013 ++]

PTSD Update

The Department of Defense and Veterans Administration initiated its five-year plan this month by establishing part one of President Obama's 2012 executive order to research the diagnosis and treatment of post-traumatic stress disorder and traumatic brain injury. This Consortium to Alleviate PTSD, a collaborative effort between the University of Texas Health Science Center, San Antonio, Boston VA Medical Center and San Antonio Military Medical Center, will attempt to develop the most effective diagnostic, prognostic, novel treatment and rehabilitate strategies to treat acute PTSD and prevent chronic PTSD. The Chronic Effects of Neurotrauma Consortium, a collaborative effort between Virginia Commonwealth University, the Uniformed Services University of the Health Sciences and Richmond Virginia Medical Center, will examine the factors which influence the chronic effects of TBI in order to improve diagnostic and treatment options. A key point will be to further the understanding of the relationship between TBI and neurodegenerative disease.

The action plan, starting with the establishment of the two consortiums, will follow within the next six months with a continued collaboration with academia while getting public and private sectors to join forces. Within the next 12 months

the plan will build a framework, continue to standardize, integrate, share data as appropriate, build new tools and technologies, maximize impact of existing research and focus on outcomes and prevention. Finally, the next two-to-four years will be dedicated to exploring genetic markers, identify changes in brain circuitry, confirm potential biomarkers, and establish data sharing agreements. The Department of Veterans Affairs continues to improve prevention, diagnosis and treatment of mental health conditions affecting veterans, service members and military families [Source: Weatherford Democrat | Jim Vines | 25 Aug 2013 ++]

PTSD Update 2

They've heard the success stories: Veterans with PTSD finally able to sleep, less afraid of going out in public and able to deal with stress better, all with the help of a dog. Now, a nonprofit group that trains servicemembers with post-traumatic stress disorder or traumatic brain injury to raise service dogs for wounded veterans is hoping to find out why, in hopes of standardizing the treatment for healing invisible wounds without drugs. The Department of Defense this month awarded a \$750,000 grant to military medicine researchers and Maryland-based nonprofit Warrior Canine Connection for a three-year study to understand the science behind why the dogs seem to help troops get over PTSD. "So many people say 'Oh yes, that seems to be very helpful as integrative medicine, but it can be easily dismissed as warm and fuzzy,'" said Rick Yount, executive director of WCC. "If we can prove with hard science that what we're doing is effective, nonpharmaceutical, [and a] safe, available intervention that can mitigate symptoms of post-traumatic stress, it's likely it'll be more widely accepted, and we can benefit more wounded warriors with invisible wounds."

The study will be done in conjunction with the Uniformed Services University of the Health Sciences, the military medical school in Bethesda, Md. Researchers plan to examine changes in the wounded warriors' physiology, perception, moods and biochemical markers for stress as they learn how to train the dogs, according to Dr. Patty Deuster, a USUHS professor and director of the Consortium for Health and Military Performance. The study will recruit 40 servicemembers, 20 of whom will undergo WCC's service dog training program. The other half will interact socially, but not with a dog. Researchers will compare heart rate, changes in response to stress and other markers between the two groups, according to Deuster. Studies have shown that working with a dog releases oxytocin, a

hormone that helps lower stress and anxiety levels and is essential to bonding, according to WCC. “We think that the dogs are the catalyst that helps release the anti-stress chemistry that improves symptoms of PTSD,” Yount said. “We’re trying to connect some dots that haven’t really been connected. It shows the dogs release oxytocin and now we want to prove cause and effect.”

For Navy veteran Marshall Peters, the golden retriever puppy he’s fostering and training to become a future service dog, Lundy, has been key in helping him get over PTSD and severe insomnia. “When guys are on deployment for six, nine, 12 months, their brain is kind of swamped with cortisol all the time and adrenaline and other things, and your new baseline is that,” said Peters, a service dog trainer instructor with WCC. “Working with the dogs, in my opinion, helps balance that out, kind of create another normal instead of what’s normal on deployment.” Peters, who served for 6½ years, found himself avoiding social situations after returning from deployments. But with the help of Lundy, named after a fellow Navy corpsman killed in Afghanistan, Peters finds himself better able to deal with people. “Issues with isolation kind of go to the wayside,” Peters said. “He’s kind of both a social lubricant and a buffer. Having a very handsome golden retriever walking around, people tend to come up to him. It creates a new level of conversation as before I would actually avoid talking to people. It really helps reintegrate back into that social ability.” Now, the 26-year-old veteran trains other wounded warriors in working with the puppies, directing them to use a cheerful, what he calls a “Minnie Mouse voice” to praise the dogs — in essence, helping them fake a happiness or confidence they may not feel. “I learn something from [Lundy] every day,” Peters said. “Working with him, because he’s a 7-month-old puppy, helps me with my patience and my emotional regulation. I can’t really explain it. But there’s something to it, and we finally have the means to study it and quantify it.”

Founded in 2011, WCC uses the service dog training as pet therapy for servicemembers with PTSD and traumatic brain injury. The dogs take about two years to train, and are later paired with disabled veterans or work at Walter Reed National Military Medical Center, warrior transition units in Fort Belvoir, or other rehabilitation facilities. There are about 35 dogs in training and five that have been placed. The program, which has since expanded to open a branch in the Department of Veterans Affairs Medical Center in Menlo Park, Calif., expects to graduate its first class in October. “To be able to find a treatment, to be able to

see [wounded warriors] actually healing and return to normal functioning with something like training service dogs — without medicine — what a wonderful thing,” Deuster said. “They’re using the one thing that makes this very unique, training a service dog for another wounded warrior, where they know they’re taking care of one of their own. They’re helping one of their buddies. There’s that incredible purpose and meaning.” [Source: Stars & Stripes | C.J. Lin | 27 Aug 2013 ++]

Vet Treatment

When the next generation looks back on Iraq and Afghanistan they will see that one of the steepest costs of these wars was the obligation we incurred to our veterans. Two and a half million Americans have fought in Iraq and/or Afghanistan. Approximately 700,000 have received disability status. More than 250,000 personnel have endured a traumatic brain injury; 125,000 have received a post-traumatic stress diagnosis; and 1,500 have lost a limb. The obligation we have to these veterans is a moral one but it will be measured in dollar terms, a massive cost arriving just as Congress and the White House attempt to control the budget. Fortunately doing the right thing also is the prudent thing. The Pentagon and the Department of Veterans Affairs can control long-term costs by cooperating to make sure that veterans get their needed care right now. But they’re not. Instead, they’re letting bureaucratic gamesmanship push private health care providers onto the sideline as well.

In April the VA and Social Security Disability tab ran to \$970 billion, of which \$134 billion has already been spent and \$836 billion will come over the next 40 years. Layered on top of this sum are unspecified, Pentagon-incurred costs of treating war-related health issues for veterans still on active duty. The burden we place on our armed forces and on our taxpayers will continue to increase as long as we remain in Afghanistan. Once we leave, though, it should plateau -- so long as we tend to wartime wounds rather than letting them fester. Veterans’ health care is no different from any other when it comes to the proverb that an ounce of prevention is worth a pound of cure. On the other hand, the converse also is true -- obligations we postpone will cost even more later.

Our quick response depends heavily on programs that help civilian physicians treat, or at least recognize, service-related issues within their own communities. Military and VA facilities are the most evident care facilities, but it is common for

reservists and National Guards to live outside these facilities' coverage areas. A McClatchy investigation in March found a population of 675,000 reservists or National Guards that have concluded their service and therefore have no routine interaction with the military. The Pentagon and VA either will have to expand their infrastructure dramatically to care for those that live outside of health-care coverage areas, or they'll have to partner with civilian providers. Enter a Chapel Hill, N.C.-based initiative called the Citizen-Soldier Support Program. This program trains civilian providers in topics related to traumatic brain injury and post traumatic stress. It likewise provides service members with online resources to locate appropriate care. In October of last year it lost federal funding. Since then CSSP has continued supporting U.S. veterans' health care as fully as possible using private resources.

The reasons for this loss boil down to a typical government problem: the inability of two bureaucracies, the Pentagon and the VA, to get along. Neither wants to admit to a gap in coverage or to cede turf to the other, so both just ignore the problem. CSSP is not the victim here, of course. Veterans that live outside military and VA coverage areas suffer the most. And, down the line, so too will American taxpayers that are missing out on a chance to control these costs now as part of doing the right thing. There is no way to estimate the way costs will grow as we postpone them, but today's fiscal circumstances are very clear. Austerity is the new norm. Congress and the White House agreed in August 2011 to the Budget Control Act, which cut \$900 billion from the federal departments immediately and an additional \$1.2 trillion from them over the following decade. The VA is exempt from these calculations, but growth in its accounts doesn't change the overall savings target.

Every dollar in VA growth is taken from another department. Were it not that way, this growth would just go straight into our debt. Irrespective of how sequestration and other Budget Control Act mechanics may be amended, the principle will remain true: postponed costs will grow, and they will come at the expense of other priorities. As always, it bears repeating that "postponed costs" is an accountant's term for untreated veterans. The right thing is caring for these veterans now. It's also the prudent thing. Professor Bilmes at Harvard has told us about the costs, and the Citizen-Soldier Support Program at the University of North Carolina has shown us a way ahead. The only thing missing is accountability

for the Pentagon and VA to set aside their bureaucratic frictions and tackle the problem. [Source: The Telegraph (GA) | Matthew Leatherman | 21 Apr 2013 ++]

Vet Toxic Exposure Update

A bipartisan group of lawmakers is urging the Centers for Disease Control to complete a new, comprehensive report on the health effects of toxic tap water at the Camp Lejeune Marine base. The lawmakers also want the agency to investigate whether people were exposed to airborne toxins inside buildings after contaminated wells at the North Carolina base were closed in 1985. And they asked the agency to look into the feasibility of a "cancer incidence study" for Lejeune. The four senators and two representatives were reacting to news that the Agency for Toxic Substances and Disease Registry, or ATSDR, a division of the CDC, intends to issue a less comprehensive report than the one it released in 1997. The original public health assessment was withdrawn four years ago because of incomplete data.

They said they also are concerned the agency will ignore "the potential for harmful exposures via inhalation" in the decade and a half after contaminated wells at the coastal North Carolina base were taken off line. "Public Health Assessments are essential and critical to ensuring full and complete information about exposures to hazardous substances is available to the public," the six legislators - U.S. Sens. Richard Burr and Kay Hagan of North Carolina; Sens. Marco Rubio and Bill Nelson of Florida; and U.S. Reps. Dennis Ross of Florida and John Dingell of Michigan - wrote to CDC Director Thomas R. Frieden on 9 AUG. "This is especially necessary in the instance of Camp Lejeune, where hundreds of thousands of unwitting military service members and their families were exposed to extremely high levels of known human carcinogens over a span of more than three decades." Burr, Rubio and Ross are Republicans; Dingell, Nelson and Hagan are Democrats. The lawmakers included the request for a cancer study in a follow-up letter Friday.

Officials from the Agency for Toxic Substances and Disease Registry have not responded to repeated requests for comment from The Associated Press. In a website notification dated January 2011, the agency said it had withdrawn the 1997 report because "additional information has emerged" and affected communities "were exposed to contaminated water for a longer period than we

used in the 1997 evaluation." The notification also said the original report had neglected to include certain information that it has since deemed necessary. "The full extent of the exposure is still being determined. Thus, the 1997 Assessment may be misleading because the information upon which it was based was incomplete," the agency wrote. Retired drill instructor Jerry Ensminger, who believes the toxic water caused the leukemia that killed his 9-year-old daughter, puts it a different way. The 1997 health assessment contained "so many omissions, so many lies, so many errors and obfuscations that the public has never received a full picture of what they were exposed to and what they might expect from being exposed," Ensminger said. He said anything short of a comprehensive reassessment is unacceptable. "It's like pulling damn teeth to get them to do their job," he said of the agency. "Lead, follow or get the hell out of the way. Somebody."

As many as 1 million Marines, dependents and civilian workers are believed to have been exposed to trichloroethylene (TCE), tetrachloroethylene (PCE), benzene and other toxic chemicals that leached into ground water from a poorly maintained fuel depot, dumping and an off-base dry cleaner. Last year, President Barack Obama signed a law providing medical care and screening for those exposed between 1957 and 1987. But Ensminger and others fear that cutoff date is too early. In April 1999, workers in Building 1101 - which housed the Information Management Division, the base communications center and Marine Corps Community Service warehouse - began complaining of a strong petroleum odor. In early December, several workers reported headaches, nausea, and eye and respiratory irritation; two visited the base's Occupational Health Clinic. When technicians sampled the air, they reported "breakthrough" - meaning the charcoal inside the collection tubes was "completely saturated with gasoline vapor." Several buildings were evacuated and later demolished.

In a March 1982 report, chemist Wallace Eakes described a visit to the base. Among the sites tested was Building 71 - built as a storage and mixing facility for DDT and other dangerous insecticides, but later used as a day care center. Eakes said the findings were "a shock to all concerned." He said a preventive medicine officer took air and soil samples in the area "under the guise of a normal health survey," and that the air samples were then analyzed in Norfolk. Two months later, technicians from the Naval Regional Medical Center collected samples and submitted them to the Navy Environmental Health Center for analysis. A May

1988 feasibility study recommended that Lejeune monitor ambient air for buildings located near contamination "hot spots." Nine years later, in June 1997, an engineering firm issued a report on leaking underground storage tanks at the Hadnot Point Fuel Farm. The firm noted that several buildings were in the affected area, and that the trenches around them might spread contamination. When ATSDR released its health assessment two months later, vapor intrusion was not listed as a risk for those working in the Hadnot Point area.

Tina Forrester, acting director of the agency's Division of Community Health Investigations, told members of the Lejeune community assistance panel last month that the agency was reviewing the vapor intrusion issue, but that it did not yet have enough data to assess exposures. In the past, the Marine Corps has cited regulations that it only maintains certain records for five years. Ensminger notes that the base was declared a Superfund site in 1989, meaning all records should have been preserved. "Now, where the hell are the analytical results?" he asked. To solve the problem of missing or incomplete data on well contamination, the agency performed complex water modeling to estimate toxin levels back to the 1940s. The legislators suggested something similar could be accomplished with the data on vapor intrusion. "If ATSDR does not have the records of vapor intrusion and air quality sampling from the (Navy), we request you provide us with an alternate scientific process to reconstruct and analyze this particular aspect of potential exposure," they wrote.

Forrester told the Lejeune panel that the Agency for Toxic Substance intended to issue an "addendum" to the health assessment - called a health consultation - that would include the water modeling and other data not available the first time. She suggested that waiting for another comprehensive public health assessment would take too long. "I think the problem is that this is uncharted territory," epidemiologist Richard Clapp, who also is a member of the community assistance panel, said in an email. "On its face, it seems that the new information about vapor intrusion, plus the newly modeled benzene exposure estimates would require substantial effort by the staff to do even an update" to the assessment. The lawmakers indicated that a simple addendum to the agency's original report would not be sufficient, however. "We expect you will ensure ATSDR continues to fulfill its Congressional mandate to `expand the knowledge base about health effects from exposure to hazardous substances,'" they noted, "and that you will do so by re-issuing a Public Health Assessment" as required by law. They gave

Frieden until Aug. 26 to respond. [Source: The Associated Press | Allen G. Breed | 16 Aug 2013 ++]

Vet Benefits ~ Gay Couples

The Department of Veterans Affairs can no longer rely on its unique reading of federal law to refuse to provide full benefits to a California veteran in a same-sex marriage, a federal judge declared in a ruling filed 29 AUG. U.S. District Judge Consuelo Marshall of Los Angeles sided with Tracey Cooper-Harris of Pasadena, Calif., a 12-year Army veteran, who sued the VA for denying her full disability benefits because she is married to a woman. The VA is the defendant in several lawsuits over its assertion that the Supreme Court's decision in June striking down the Defense of Marriage Act didn't apply to it. VA Secretary Eric Shinseki argued in a letter to Sen. Jeanne Shaheen, D-N.H., a member of the Armed Services Committee, that Title 38 of the federal code regulating veterans' benefits still defined a spouse as "a person of the opposite sex." Because that statute hadn't yet specifically been overturned, he wrote, the VA continues to recognize it. Should the ... spousal definitions be revised or determined to be unconstitutional, VA will be prepared to update its policies and systems in a timely manner," Shinseki wrote Aug. 14.

But Marshall found that the Supreme Court's June decision in *Windsor v. U.S.* made that section of the law unconstitutional "under rational basis scrutiny." Therefore, the VA can't deny benefits to same-sex partners as a matter of law, she wrote. "The denial of benefits to spouses in same-sex marriages is not rationally related to any of these military purposes" in the statute, she wrote. The order permanently enjoins the VA from relying on that law "to deny recognition of Plaintiffs' marriage by the state of California." Cooper-Harris, who served in Iraq before her honorable discharge in 2003, married another woman in 2008. In her suit, she reported that even though she suffers from multiple sclerosis, she gets only \$1,478 a month in VA disability - \$124 less than for a married veteran. The VA and Cooper-Harris didn't immediately return calls seeking comment early Friday. But Stephen Peters, president of the American Military Partner Association, said in an email message to NBC News that Title 38 clearly violated the constitutional rights of our military veteran families. "This decision sets our nation on a path to honoring and serving all of our veterans and their families,

regardless of their sexual orientation," he said. [Source: U.S. News | M. Alex Johnson | 29 Aug 2013 ++]

Vet Deportation

Milton Tepeyac, who served eight years as a U.S. Marine, scrapes by on \$3 an hour in this northern Mexican city, where he has lived since the U.S. government deported him in April. His rented room floods when it rains. Scorpions skitter in. To kill them, he had to pay an exterminator \$40 — a third of his weekly paycheck. Once he served in the Kuwaiti desert in a recon battalion, a highly trained grunt monitoring the movements of Saddam Hussein's military across the border in Iraq. Later he ran a seafood business in Phoenix, drove a BMW and owned a five-bedroom house with a billiards room and a pool. But then, with his business foundering in the 2008 recession, he was offered \$1,000 to help with a drug deal that turned out to be a police sting. He was convicted of felony "possession of marijuana for sale" and was sentenced to four years in an Arizona prison. When he completed his time, he was deported from the country where he had lived since he was 3. "It was a stupid thing to do," Tepeyac, 37, said of his crime. "I feel like I'm stuck in a perpetual nightmare. I can't seem to adjust to this life. In the Marines, we have a motto that we never leave a man behind. I feel like I've been left behind."

As a deported veteran, Tepeyac is one of a little-known cadre of warriors who served in the U.S. military as green-card holders — permanent legal residents but not U.S. citizens — then committed a crime after returning to civilian life, were convicted and punished, then permanently expelled from the United States. No one knows how many there are. U.S. officials said they do not keep track, but immigration lawyers and Banished Veterans, a group formed to help the deportees, said that at least hundreds, and perhaps thousands, have been deported in recent years. Some committed felonies; others were deported for drug possession, bar fights, theft or forgery. Veterans who fought for the United States in wars from Korea to Afghanistan have been sent to Mexico, Germany, Jamaica, Portugal, Italy, England and other nations. Most of them came to the United States as children; many have been deported to countries where they know no one and don't speak the language. Deported veterans are receiving almost no attention in the Washington debate over immigration reform. Despite

their full-throated support for U.S. troops, political leaders are generally unwilling to advocate on behalf of convicted criminals.

U.S. immigration law states that noncitizens who commit serious crimes forfeit their right to remain in the country. Deported veterans and their advocates say those who wear the uniform should be treated as U.S. citizens: punished for any crimes they commit, but not deported. Retired Air Force Gen. Richard Myers, who served as chairman of the Joint Chiefs of Staff under President George W. Bush from 2001 to 2005, said deporting veterans "is not fair, and it's not appropriate for who we are as a people." "One thing America has always done is revere its veterans," he said. "To say to them, 'You swore to support and defend the Constitution and put your life on the line for the rest of us. But you're not a citizen. So, too bad. You're gone.' I just think that's not us." Although deported veterans are banned for life, they are welcome to return when they are dead. Honorably discharged veterans, even deportees, are entitled to burial at a U.S. military cemetery with an engraved headstone and their casket draped with an American flag, according to the Department of Veterans Affairs. The VA will even pay \$300 toward the cost of bringing a deportee's remains to the United States. One of the few politicians who have been willing to raise the issue is Rep. Mike Thompson (D-CA) an Army veteran who was wounded in Vietnam. He and a Republican colleague, Ileana Ros-Lehtinen (FL) introduced legislation this year that would have required the secretary of homeland security to sign off on each deportation proceeding against a veteran. "If someone is willing to put on the uniform of the United States military, the last thing they should have to worry about is their immigration status and that of their family; we shouldn't be deporting them," Thompson said in an interview. But in June, he said, House leaders declined to consider the proposal, which he called a "slap in the face to our veterans, our service members and our history as a nation of immigrants." Veterans are divided on this issue. "We hold all military veterans in high regard, but if following our nation's laws is a requirement for any guest to remain in our country, then that's the law," said Joe Davis, a spokesman for the nation's largest veterans group, the Veterans of Foreign Wars. "An honorable discharge is not a free pass."

Craig Shagin, a Pennsylvania lawyer who represents Tepeyac and is a leading national advocate against deporting veterans, calls the issue 'a question of loyalty.' "When Milton was in the Marines, doing dangerous work on behalf of the

United States, we treated him as an American," Shagin said. "Why would that change when he is out of uniform? Because he failed to file a couple of pieces of paper?" Of all Tepeyac's mistakes, one he especially regrets is not applying for citizenship when he was eligible. If he had, he would not have been deported. Under U.S. law, Tepeyac had been entitled to apply for citizenship when he was 18; he had received his green card five years earlier. Also, once he joined the military the next year he could have applied for citizenship immediately, under a policy Bush enacted in 2002. But he never filled out the paperwork. He said he thought that he automatically became a citizen when he swore his Marine Corps oath to "defend the Constitution of the United States against all enemies, foreign and domestic." "It never really crossed my mind that I could ever be deported," Tepeyac said. According to the Pentagon, about 35,000 noncitizens are serving in the U.S. military. Since 2009, about 9,800 military recruits have earned their citizenship during basic training in a program run by the military and the United States Citizenship and Immigration Services (USCIS). They are part of more than 89,000 people who have received citizenship through military service since 9/11. That includes 140 who were granted citizenship after being killed in the line of duty. [Source: The Washington Post | Kevin Sullivan | 13 Aug 2013 ++]

Vet Jobs Update

Veterans and people with disabilities who often struggle to find work could have an easier time landing a job under new federal regulations. The rules, announced 27 AUG by the Labor Department, will require most government contractors to set a goal of having people with disabilities make up at least 7 percent of their employees. The benchmark for veterans would be 8 percent, a rate that could change from year to year, depending on the overall number of former military members in the workforce. The new requirements could have a major impact on hiring because federal contractors and subcontractors account for about 16 million workers, more than 20 percent of the nation's workforce. But some business groups have threatened legal action, complaining that the rules conflict with federal laws that discourage employers from asking about a job applicant's disability status. Labor Secretary Thomas Perez called the new policy a "win-win" that will benefit workers "who belong in the economic mainstream and deserve a chance to work and opportunity to succeed." He said it also would benefit employers by increasing their access to a diverse pool of new workers. "To create opportunity, we need to strengthen our civil rights laws and make sure they have

the intended effect,” Perez said. The unemployment rate for people with disabilities is 14.7 percent, nearly twice the rate of 7.4 percent for the general population. The jobless rate for all veterans is 7.3 percent, but for veterans who served in the Iraq and Afghanistan wars it’s 9.9 percent, according to the most recent data from the U.S. Bureau of Labor Statistics. The rules are expected to affect about 171,000 companies doing business with the federal government, said Patricia A. Shiu, director of the Labor Department’s Office of Federal Contract Compliance Programs. Generally, the rules affect those contractors with at least 50 employees and \$50,000 in government contracts. Shiu estimated that as many as 585,000 people with disabilities and more than 200,000 veterans could get new jobs if all the companies meet the hiring goals within the first year.

Labor officials said the new benchmarks are only goals and not specific hiring quotas. But companies that can’t provide documents showing they tried to meet the goal could risk having their federal contracts revoked. If a company can’t immediately meet the new goals, it is required to examine recruitment or outreach practices to decide how to improve. No fine, penalty or sanction would be imposed solely for failing to meet the goal, Shiu said.

The new metrics are similar to those contractors have long used for women and minorities. They will take effect in six months to give contractors time to process them. Under the rules, companies must keep detailed records of recruitment and hiring efforts taken to meet the new goals. Daniel Yager, president of the HR Policy Association, which represents more than 350 large U.S. corporations, suggested that his group might challenge the disability rules in court. “Simply mandating a numerical ‘goal’ for all jobs in all contractors’ workplaces, and then requiring employers to invade the privacy of applicants and employees with questions about their physical and mental condition, destroys everything companies have done to integrate individuals with disabilities into the workforce in a sensitive, discreet manner,” Yager said. Carol Glazer, president of the National Organization on Disability, praised the Obama administration for approving the new rules. She predicted that employers would not have a hard time meeting the new benchmarks for workers with disabilities. “There are many organizations in the disability field who stand prepared to help companies meet these goals,” Glazer said. [Source: Washington Post | DC Politics | 28 Aug 2013 ++]

POW/MIA Update

"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 (73,000+), Korean War (7,900+), Cold War (126), Vietnam War (1,655), 1991 Gulf War (0), and OEF/OIF (6). 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.dtic.mil/dpmo/accounted_for.

For additional information on the Defense Department's mission to account for missing Americans, visit the Department of Defense POW/Missing Personnel Office (DPMO) web site at <http://www.dtic.mil/dpmo> or call (703) 699-1169. The remains of the following MIA/POW's have been recovered, identified, and scheduled for burial since the publication of the last RAO Bulletin:

Vietnam

- None

Korea

- The DPMO announced 23 AUG that the remains of a U.S. serviceman, missing from the Korean War, have been identified and will be returned to his family for burial with full military honors. Army Pfc. Herene K. Blevins, 18, of Hagerstown, Md., will be buried Aug. 27, in his hometown. In late November 1950 Blevins and elements of the 31st Regimental Combat Team (RCT) were deployed along the east side of the Chosin Reservoir in North Korea when they came under attack by Communist forces. The 31st RCT began a fighting withdrawal to a more defensible position near Hagaru-ri, south of the reservoir. Following the battle, Blevins was reported missing on Dec. 2, 1950. In 1953, returning U.S. prisoners of war told debriefers that Blevins had been captured by enemy forces and taken to a prisoner of war camp known as "Death Valley." Soldiers also stated that Blevins died from malnutrition shortly after being captured. His remains were not among those returned by communist forces in 1954. Between 1991 and

1994, North Korea gave the United States 208 boxes of remains believed to contain the remains of 200-400 U.S. service members. North Korean documents, turned over with some of the boxes, indicated that some of the human remains were recovered from the area where Blevins was last seen. In the identification of Blevins, scientists from the Joint POW/MIA Accounting Command (JPAC) and the Armed Forces DNA Identification Laboratory (AFDIL) used circumstantial evidence, and forensic identification tools such as dental comparisons and mitochondrial DNA – which matched Blevins’ brother. Using modern technology, identifications continue to be made from remains that were previously turned over by North Korean officials.

- The Department of Defense POW/Missing Personnel Office (DPMO) announced 27 AUG that the remains of a U.S. serviceman, missing from the Korean War, have been identified and will be returned to his family for burial with full military honors. Army Cpl. Donald V. MacLean, 17, of Dover, Ohio, will be buried Aug. 31, in Cary, Ill. In late Nov. 1950, MacLean and elements of the 31st Regimental Combat Team (RCT), historically known as Task Force Faith, were deployed along the east side of the Chosin Reservoir near the P’ungnyuri Inlet, in North Korea, when the RCT was attacked by a large number of Chinese forces. On Dec. 1, 1950, remnants of the 31st RCT began a fighting withdrawal to a more defensible position near Hagaru-ri, south of the reservoir. On Dec. 2, 1950, during the withdrawal, MacLean was reported missing. In 1954, United Nations forces and Communist forces exchanged the remains of war dead, in what came to be known as “Operation Glory.” Among those remains turned over by enemy forces was a box which allegedly contained the remains of a U.S. serviceman who was buried on the eastern banks of the Chosin Reservoir. After all attempts to identify the remains failed, a military review board declared the remains unidentifiable and the remains were interred as “unknown” at the National Memorial Cemetery of the Pacific, known as the “Punchbowl.” In 2012, analysts from the Joint POW/MIA Accounting Command (JPAC) and DPMO reevaluated MacLean’s records and determined that, due to the advances in technology, the remains should be exhumed for identification. In the identification of MacLean’s remains, scientists from JPAC used circumstantial evidence and forensic identification tools, such as dental and

radiograph comparisons. Using modern technology, identifications continue to be made from remains that were previously turned over by North Korean officials.

World War II

- The DPMO announced 21 AUG that the remains of a U.S. serviceman, lost in World War II, have been identified and are being returned to his family for burial with full military honors U.S. Marine Corps Pfc. Manley F. Winkley, 20, of Indianapolis, will be buried Aug. 24, in Marion, Ind. In Nov. 1943 Winkley as a member of the Marine Corps 2nd Division, landed on Tarawa atoll, now part of the Republic of Kiribati, against stiff Japanese resistance. Over several days of intense fighting approximately 1,000 Marines were killed and more than 2,000 were wounded. As a result of these attacks, Winkley was reported killed in action on Nov. 20, 1943. In the immediate aftermath of the fighting on Tarawa, U.S. service members who died were buried in a number of battlefield cemeteries. During World War II, U.S. Navy Combat Engineers, "SeaBees," significantly restructured the landscape to convert the island for use by the U.S. service members. In 1946 when U.S. Army Graves Registration Service personnel attempted to locate all of the battlefield interments, many of the burials could not be located. In 2012 Joint POW/MIA Accounting Command (JPAC) teams conducted excavation operations in the Republic of Kiribati and discovered human remains and equipment that appeared to be those of American servicemen from World War II. To identify the remains, scientists from JPAC and the Armed Forces DNA Identification Laboratory (AFDIL) used circumstantial evidence and forensic identification tools such as dental comparisons and radiographs, which matched Winkley's records.

Medicare Reimbursement Rates 2014 Update

The price tag for a bill to repeal and replace Medicare's sustainable growth rate (SGR) payment formula could cost significantly more than just repealing it, congressional staffers said. Lawmakers have worked with greater tenacity this year to repeal the SGR, in part because of a lower price to repeal the formula, which has drawn broad disdain. The Congressional Budget Office (CBO) said earlier this year it would cost \$138 billion -- more than \$100 billion less than it had estimated in years prior -- to do away with the system. But the first "repeal

and replace" proposal to emerge from the current Congress, which came from the House Energy and Commerce Committee this summer, is believed to add far more to that price tag, making the task of paying for the legislation that much more difficult, the staffers said Wednesday at a background briefing sponsored by the Alliance for Health Reform.

Under the Statutory Pay-As-You-Go Act, Congress must ensure that most new spending is offset by spending cuts or added revenue elsewhere. But the first SGR bill, H.R. 2810, the Medicare Patient Access and Quality Improvement Act, adds several new items of spending. First, Medicare would provide 5 years of 0.5% reimbursement increases each year. Then, starting in 2019, physicians could choose to report certain quality measures and have traditional fee-for-service payments adjusted based on how they compare with their peers on those measures. Physicians could receive a 1% bonus if they perform well or a 1% penalty in payments if they don't. Physicians may opt out of this quality-incentive program if they participate in an alternative payment model such as a patient-centered medical home, accountable care organization or some yet-to-be-determined model. The bill cleared the House Energy and Commerce Committee unanimously on 31 JUL, but offered no way to pay for itself. A CBO spokeswoman said 29 AUG the office was working on estimating the bill's 10-year cost but couldn't provide a time frame for completion. The congressional staffers didn't say 28 AUG what they thought the bill would cost. But lawmakers and lobbyists have long held that the difficult stumbling block in finally putting the death knell in the SGR will be finding a way to pay for a repeal and replacement in a budget-constrained Washington. That's why a sizable price tag on H.R.2810 presents an even larger challenge for its passage, the congressional staffers said. In the meantime, the Senate Finance Committee and House Ways and Means Committee are still crafting their own versions of the bills, staffers on the committees said, but neither has released legislative language. Each -- unlike the Energy and Commerce bill -- will come with payment options.

The Republican-controlled Ways and Means Committee -- which hopes potentially to use the SGR as an avenue to tackle broader Medicare reforms -- has fielded input on several cost-saving measures. But those ideas are likely to be strongly opposed by Democrats since they increase patient cost-sharing, a move Democrats dislike. Despite the remaining challenges, replacing the SGR remains Congress' No. 1 non-Affordable-Care-Act-related health policy issue, the staffers

said. They added there is no hard timeline for getting an SGR bill finally signed into law, but the SGR -- if it's still in place -- would require another annual fix at the end of this year to prevent a round of roughly 25% pay cuts to providers from taking effect. [Source The Gupta Guide | David Pittman | 30 Aug 2013 ++]

Veteran Hearing/Mark-up Schedule

Following is the current schedule of recent and future Congressional hearings and markups pertaining to the veteran community. Congressional hearings are the principal formal method by which committees collect and analyze information in the early stages of legislative policymaking. Hearings usually include oral testimony from witnesses, and questioning of the witnesses by members of Congress. When a U.S. congressional committee meets to put a legislative bill into final form it is referred to as a mark-up. Veterans are encouraged to contact members of these committees prior to the event listed and provide input on what they want their legislator to do at the event.

- September 9, 2013. HVAC will hold a full committee field hearing entitled “A Matter of Life and Death: Examining Preventable Deaths, Patient-Safety Issues and Bonuses for VA Execs Who Oversaw Them.” 9:00 A.M.; Allegheny County Courthouse, 436 Grant Street, Pittsburgh, PA.
- September 11, 2013. HVAC, Subcommittee on Disability Assistance and Memorial Affairs will hold a hearing entitled “Implementation Update: Fully Developed Claims 3:00 P.M.; 334 Cannon
- September 12, 2013. HVAC-Economic Opportunity Subcommittee will hold a hearing entitled “Update on the Administration’s Implementation of the Revised Transition Assistance Program (TAP).”
- September 12, 2013: HVAC, Subcommittee on Economic Opportunity will be holding a hearing entitled “A Review of the Performance of the Veterans Retraining Assistance Program (VRAP) and the Homeless Veterans Reintegration Program (HVRP).” 10:00 A.M.; Cannon 334
- September 17, 2013. HVAC-Health Subcommittee will hold a subcommittee field hearing in Cincinnati, Ohio, entitled, “Making a Difference: Shattering Barriers to Effective Mental Health Care for Veterans.” 10:00 A.M.; Location: Anderson Center, 7850 Five Mile Road, Anderson Township, OH 45230 [Source: Veterans Corner w/Michael Isam 31 Aug 2013 ++]