

THE VETERANS MONTHLY



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VETERANS GROUPS UNHAPPY WITH VA'S SHARE OF BUDGET

DESPITE INCREASE, MANY DEMAND MORE

In a political climate unrelenting in its demand for fiscal restraint, the White House's vision for VA is to deploy whatever is required to transform the department into a leaner, more forward-looking organization focused on getting results for Veterans. VA's budget request will aim to provide the resources needed to achieve this vision and will help ensure that Veterans receive the care and attention they earned through their sacrifice and dedication to our Nation.

While many government agencies have to come to terms with budgets cuts, VA's budget is growing. As one of only a few agencies scheduled for a funding boost, VA's discretionary spending is expected to increase three percent over last year's numbers. While many Veterans advocacy groups are praising the fact that their allotment has not only been spared but is expected to increase, others have expressed a strong desire to see more come their way.

...Continued on Next Page

Bergmann & Moore, LLC provides premium legal services to Veterans and their dependents. While consultations and other services are offered free of charge, fees are charged for representation before VA on the condition that the case is won. Managed by former VA attorneys, Bergmann & Moore, LLC is composed of seasoned attorneys and support staff who are experts at obtaining benefits for their clients. The firm encourages Veterans and their dependents to make full use of the free services available to them through their local Veterans Service Officer and/or Veterans Service Organizations.



On February 14th, a coalition of Veterans advocacy groups released its annual Independent Budget. Authored by Disabled American Veterans, AMVETS, Veterans of Foreign Wars, and Paralyzed Veterans of America, the Independent Budget calls for \$65.3 billion in VA discretionary spending for the next fiscal year (around \$3.5 billion more than the President requested).

According to AMVETS National Commander Jerry Hotop, "In light of the fiscal climate, AMVETS and the Independent Budget partners view the president's budget proposal for VA as a good jumping-off point. However, it falls short of what we know the veterans' community needs – particularly with regard to prosthetics research and construction."

Large-scale construction projects make up the bulk of the difference between the president's budget and the Independent Budget. In a bid to accelerate the completion of new buildings for which construction is already underway, the Independent Budget calls for nearly \$1.7 billion more in spending there than the President's proposal. Other focuses making up the remainder of the difference amount to roughly \$300 million more in staffing for the Veterans Benefits Administration, \$110 million for research on prosthetics, \$220 million more for information technology improvements, and \$125 million more in grants to extended care facilities that house Veterans.

VFW National Commander Richard Eubank observed that "The VA has great plans to better care for women veterans and those suffering from Traumatic Brain Injuries and other traumas. But it takes funding, an infrastructure, and a commitment by a nation that creates veterans to fulfill its sacred obligation to care for them when they return home wounded and disabled."

As has been the case over the last couple of years, spending increases will center almost exclusively on the needs of Veterans from the Iraq and Afghanistan wars. More than six billion dollars will go to mental health and traumatic brain injury needs alone.

The President's budget includes \$270 million for health issues that mostly affect female Veterans, a 26 percent increase over the previous year. Another \$939 million would be spent to continue expanding VA's homelessness prevention programs, a major priority of VA Secretary Eric Shinseki. The plan would cut some \$709 million in construction funding and shift most of the money to care and benefits programs. Five additional national cemeteries would also be scheduled for development.

To learn more, visit www.independentbudget.org

THIS DAY IN HISTORY - FEB. 17

OPERATION HAILSTONE: FEB. 17, 1944

Operation Hailstone was an immense naval air and surface attack performed by the US Navy against the Japanese naval and air base at Truk (an island group in the south western part of the Pacific Ocean). Allied victory over Japanese forces on Truk helped to ensure allied air and naval superiority during the invasion of Eniwetok (which would afford the US Navy a forward operating base for later movements). In addition to its role as a logistical base, Truk served as the historical home base for the Japanese Royal Navy, supporting various other Japanese garrisons on other nearby islands in the south pacific.

Over the course of two days, the US Navy inflicted damage using air strikes, surface ship actions, and submarine attacks. The American forces managed to inflict major damage to Japanese forces, including the complete destruction of 270 military aircraft that had been used by the Japanese to disrupt American shipping interests.



MEDICAL MINUTE

SLEEP APNEA DISRUPTIVE TO SLEEP CYCLE

Sleep Apnea is a disorder that is increasingly affecting Veterans. It is characterized by one or more pauses in breathing or shallow breaths during sleep. Breathing pauses can range from a few seconds to a minute or more and can occur many times during an hour. Typically, normal breathing abruptly starts with a loud snort or choking sound. Sleep Apnea is typically a chronic condition that harms your normal sleep cycle. You often move out of deep sleep and into light sleep when your breathing pauses or becomes shallow. The result is a lower sleep quality level that leaves you feeling tired during the day.

Depending on severity, the rating for Sleep Apnea can vary from 0 to 100%. Please contact your VA Medical Center if you feel that the above description characterizes your sleep routine. ■



MILITARY ORDER OF THE PURPLE HEART

AN INTERVIEW WITH JOHN BIRCHER, NATIONAL DIRECTOR OF PUBLIC RELATIONS

Q. How did the Military Order of the Purple Heart get started?

A. Chartered by Congress in 1958, The Military Order of the Purple Heart (MOPH) is composed of military men and women who received the Purple Heart Medal for wounds suffered in combat. Although our membership is restricted to the combat wounded, we support all Veterans and their families with a myriad of nation-wide programs by Chapters and National Service Officers.

Q. What are some of the programs you offer to Veterans?

A. The MOPH Service Program exists to assist ALL Veterans in working with the VA and filing claims for the many benefits that are available and which they have earned. The program provides Veterans' benefits experts at various VA regional offices, hospitals, vet centers, and state and county Veterans facilities.

What we do:

- Provide available assistance to ALL Veterans, their dependents, widows and orphans.
- Process veterans' claims for compensation, pension, medical care, education, job training, employment, Veterans' preference, housing, death, and burial benefits.
- Serve on President's Committee for employment of people with disabilities.
- Assist in identifying and helping homeless Veterans.

Q. How can Veterans take advantage of these programs?

A. The Veteran can go online to the MOPH website,

www.purpleheart.org, and navigate to the Service Program section. Once there the Veteran can find the National Service Officer closest to his/her home on the interactive map that will provide all the necessary contact information. Alternatively, while visiting a VA facility the Veteran can just ask for the office of the MOPH National Service Officer.

Q. What are the challenges facing Purple Heart recipients?

A. The fact that a Veteran is a recipient of a Purple Heart Medal and is still alive indicates that they have already suffered a traumatic experience. Often times, Purple Heart recipients have suffered the loss of one or more limbs, a traumatic brain injury or, at the very least, Post Traumatic Stress Disorder (PTSD). All too often, the stigma of undergoing mental health assistance keeps those who could benefit most from such help from seeking the assistance they need.

Q. How will the MOPH develop in the next five years?

A. Since its inception, the MOPH has dedicated itself to the service and support of all Veterans and their families. For the MOPH, it's not about who we are, but about what we do. In addition to the National Service Program, each year the Chapters and Departments (States) perform a myriad of local and regional activities that provide assistance to individual Veterans and groups that are in need.

Q. How can readers help the MOPH?

A. Funding for the many programs and services of the MOPH is raised by the MOPH Service Foundation through its Car Donation Program and its Thrift Store Operations. To make a donation, go online to www.mophsf.org. ■



The Oklahoma City MOPH Chapter 588 out on parade

ST. LOUIS VAMC REENTERS SPOTLIGHT

The St. Louis VA Medical Center in St. Louis recently stopped performing surgeries after a routine inspection stoked fears of contaminated equipment. Suspicions centered on spots that were found on surgical trays and water stains that were found on at least one surgical instrument. Hospital officials have since inspected all other surgical materials and had vendors at the center inspecting and testing all surgery-related equipment.

The episode is the latest case of sterilization problems at the John Cochran VA Medical Center. As for the current status of the possible contamination, it is not known how many patients might have been affected or when surgeries might resume. VA does, however, have a policy to work with all affected Veterans to arrange for alternate care and will help reschedule surgical appointments.

In 2010, VA notified 1,812 Veterans who were treated at the St. Louis VA Medical Center dental clinic between the dates of February 1, 2009, and March 11, 2010, that they might have been exposed to HIV, hepatitis C and hepatitis B. This notification stemmed from a fear of dental equipment that might have been improperly sterilized. The result of the ordeal was that of the 1,022 Veterans who were tested, two of them were positive for hepatitis B and two for hepatitis C. However, VA was quick to assure the public that the diseases were not linked to the sterilization problem but to outside sources.

The U.S. House Committee on Veterans Affairs held hearings on the situation at the St. Louis center in July. U.S. Rep. Russ Carnahan (D) of St. Louis, who recently announced his appointment to the committee, has been one of the most vocal critics of the medical center's response to the issue of contamination. According to Carnahan, "How many times does something have to happen before they fix this facility? Clearly the problems there go well beyond one department. It's time for a full, top-to-bottom, independent review of the entire facility. It needs to happen and it needs to happen now. The health and safety of our veterans is too important to wait."

To learn more, visit
www.stlamerican.com/news/local_news/article_c2c83af8-30a7-11e0-96a7-001cc4c002e0.html

SPECIAL INITIATIVE FINANCES VETERAN-OWNED BUSINESSES

In the last three years, the Patriot Express Pilot Loan Initiative (PEPLI) introduced by the U.S. Small Business Administration (SBA) has overseen almost \$500 million in Patriot Express Loans (PEL) extended to small businesses owned and operated by Veterans, reservists and their spouses.

The PEL, which can be used either to expand upon or start a small business, increased over the past two years due in part to the American Recovery and Reinvestment Act, which temporarily eliminated fees for borrowers on all SBA loans and raised loan guarantees to 90 percent. As a result of these steps, more than 6,000 loans have been made nationwide.

The PEPLI was launched on June 28, 2007, to add to the nearly one billion dollars in loans SBA guarantees annually for small businesses owned by Veterans. SBA also offers counseling assistance and procurement support each year to more than 200,000 Veterans, Veterans with service disabilities, reservists and members of the National Guard.

The PEL is a simplified financial product based on the SBA's popular Express Program; the main difference being that the PEL has a lower interest rate and more attractive terms overall. The PEL is offered by SBA's nationwide network of participating lenders and features one of SBA's fastest decision times for loans – typically 36 hours. The PEL is available for up to \$500,000. ■

To learn more, visit www.sba.gov/content/express-programs



A LOOK INTO VA'S FIDUCIARY PROGRAM

A BRIEF EXPLANATION OF THE PROGRAM AND ITS CONTROVERSIES

In most cases, a Veteran's VA benefits cannot be paid to anyone except the Veteran. This is true even if additional benefits are paid to the Veteran because of the existence of qualifying family members. In some cases, however, VA benefits will not be paid to the Veteran, but rather to another individual (or entity) called a "fiduciary" who is paid for their services and has been appointed to manage the money for the use and benefit of the Veteran. A fiduciary can be appointed when a Veteran has been determined to be "mentally incompetent" or, in other words, lacking the mental capacity to contract or manage his or her own affairs (including finances) due to some injury or disease.

The process of appointing a fiduciary may be initiated by an individual wishing to serve as one making a request to the VA to be appointed, along with the reasons they are requesting appointment and any medical evidence. This request can be initiated by a family member, friend, or even a professional entity.

"...the potential exists for a fiduciary to do more harm than good."

Surprisingly, the determination of whether a Veteran is competent to manage his or her financial affairs does not require a court order. Governing regulations give the "sole authority" to make official determinations of competency and incompetency for purposes of receiving VA benefits disbursements to the rating agencies within VA. Unless the medical evidence of incompetency is "clear, convincing and leaves no doubt as to the person's incompetency," the rating agency must obtain a medical opinion addressing the issue. Where a reasonable doubt exists as to an individual's mental ability to manage his or her affairs, the rating agency is required to resolve the doubt in favor of competency.

Unless a court of competent jurisdiction has already issued an order of incompetency with respect to a Veteran, the

Veteran must be given notice of any proposal to find him or her incompetent and an opportunity for a hearing.

If the Veteran requests a hearing, one must be conducted prior to any rating decision of incompetency. If a hearing is not requested (or if the Veteran fails to appear or cooperate), the rating agency may make the determination based on the evidence of record.

If the Veteran is determined to be incompetent, and there is no court appointed guardian, the Veterans Service Center Manager is authorized to select and appoint a fiduciary. An assessment of the proposed fiduciary's qualifications is supposed to include (but is not limited to) the proposed fiduciaries willingness to serve and abide by all agreements, an interview with a VA representative, a review of the proposed fiduciary's credit report, an inquiry into the criminal background and interviews with character witnesses.

Once appointed, a fiduciary receives the Veteran's benefits payments and is responsible, among other things, to utilize the money for the Veteran's needs and ensure that the Veteran's just debts are paid. The fiduciary is precluded from borrowing, loaning or gifting money belonging to the Veteran or co-mingling the Veteran's funds with those of another and must submit an accounting record when required. The fiduciary also has a responsibility to notify the VA when the Veteran's condition improves to a point where he or she no longer needs a fiduciary.

While it is certainly important to ensure that Veterans who are truly not capable of managing their benefits payments receive assistance, the fiduciary program presents several areas of concern. Authority for making decisions of great importance to the Veteran is entrusted with rating agencies which have already have many other priorities competing for their limited time and attention. If a fiduciary is insufficiently checked, the potential exists for a fiduciary to do more harm than good when entrusted with a Veteran's benefits. The appointment of a fiduciary is a critical matter which should only be undertaken when the need is not in dispute and the fiduciary is responsible and given appropriate assistance and oversight. ■

For more information on the VA fiduciary program, please see: 38 C.F.R. §§ 3.353, 13.55, 13.100, and www.vba.va.gov/bln/21/Fiduciary/index.htm

PENTAGON REPORT SAYS GUARD AND RESERVE SUICIDES ROSE IN 2010

A report issued by the Pentagon in January revealed that while the suicide rate dropped slightly among active-duty soldiers in 2010, it increased significantly in the Army National Guard and Reserve. In 2009, 35 Army reservists committed suicide; that number climbed to 50 in 2010. Broken down by state, Missouri and Texas reported the largest number of suicides – seven each – and were followed by Wisconsin with six, and five each in Arizona, California, Minnesota, North Carolina, and Ohio. Of National Guard members on inactive status in 2010, there were 101 confirmed or suspected suicides, which is more than twice the total for this group, 48, in 2009. Executive Director of the Iraq and Afghanistan Veterans of America called the doubling of the number of reserve suicides, “a wake-up call for every American.”

In contrast, the number of suicides of those on active duty with the Army dropped from 162 to 156. While the 4% decline of suicides among those on active duty is mildly encouraging and suggests that some of the Army’s recent initiatives to combat suicide in its active duty ranks may be having an effect, it does not change the fact that suicide is still a major issue. There were 301 confirmed or suspected soldier suicides among all Army components in 2010, and nearly 1,000 Army soldiers have committed suicide since 2005. One particularly sobering statistic – more military personnel died by suicide than were killed in combat in Afghanistan and Iraq in 2010. For the armed forces, suicide is enemy #1.

Army officials openly admit they do not know the root of the problem. Army Vice Chief of Staff Gen. Peter Chiarelli stated, “If you think you know the one thing that causes people to commit suicide, please let us know because we don’t know what it is.” Chiarelli points to the “high operational tempo” of the Army, relationship issues, substance abuse, and prescription drug abuse as contributing factors. He believes that the new policy of having active Army units remain at home for at least two years between deployments will make a “huge” impact on the suicide rate of those on active duty. Perhaps the Marine Corps could provide additional guidance to the Army in effective suicide prevention, as it reported a drop from 52 suicides in 2009 to 37 in 2010.

Many are quick to dismiss the deaths among guardsmen and reservists as being due to deployments and the time away from home; however, the report showed that more than half of the 112 guardsmen who killed themselves in 2010 had yet to deploy. In fact, some had not even attended basic training or drilled with their reserve units. Unemployment was generally not an issue, either; approximately 85% of the guardsmen and over half of the reservists who killed themselves were employed.

Army officials also recognize that their previous efforts at suicide prevention – such as programs designed to help manage stress, provide substance abuse treatment, and to make it easier to obtain family counseling – were aimed at those on active duty and do not necessarily translate to the needs of the civilian soldiers. These soldiers often only report to their units once a month and are often attached to a unit hundreds of miles away from their homes. The geographic distance and infrequency of contact make it inherently more difficult to provide such services for reservists than those on active duty.

Recognizing the disconnect in the services provided and the needs of the guardsmen and reservists, efforts are being made to find ways to help these groups specifically. Lt. Gen. Jack Stultz, Chief of Army Reserves, called for more attention to be given to guardsmen and reservists as well as their families. He recognizes that for 28 days of the month, these soldiers are with their families, so reducing the stigma of mental health treatment and providing information to families on early signs and symptoms could prove effective. Army leaders also recognize that the Army itself must do more to monitor and check in on its civilian soldiers, and they plan to use technology, like iPhones, to increase communication between soldiers and their commanders. Stultz further urged recruiters “to think more about being a counselor than a traditional recruiter” and ask “[w]hy do you want to join the Army Reserve? What’s going on in your head that you want to join the Army Reserve?” He indicated that the Army Reserve cannot solve the problems of those wanting to join. However – while it may be that reserve service is not the answer for such troubled individuals – this should not be an excuse for the military to turn a blind eye to any issues it sees. Available community resources should be identified for those who may be in need. ■

For more information, please visit
www.govexec.com/dailyfed/0111/011911bb2.htm



VETERAN EVENTS CALENDAR

HERE IS A LIST OF SOME EXCITING
EVENTS HAPPENING NATIONWIDE
THROUGHOUT MARCH

VA Aid and Attendance Workshop

Creekside Terrace
3895 Old Vineyard Road - Winston-Salem, NC 27104
Telephone: (336) 856-1060
March 3rd, 2011
www.nvf.org/events/item.php?id=340

Federal Employment Workshop

JobNet Career Center
210 South Street, 1st Floor - Boston, MA 02111
Telephone: (617) 338-0809 x 217
March 11th, 2011
www.jobnetboston.org

Veterans Information Seminar

Southfield City Hall, Parks and Recreation Building
26000 Evergreen Road - Southfield, MI 48076
Telephone: (248) 796-4838
March 15th, 2011
www.cityofsouthfield.com

Combat Veterans Motorcycle Association of Wisconsin First Annual Spaghetti Dinner

Racine Moose Lodge
5530 Middle Road - Racine, WI 53402
Email: jktsdmf@yahoo.com
March 19th, 2011
http://dva.state.wi.us/pa_events.asp



CLAIMS PROCESS ADVICE

VA CLAIMS PROCESS 101: POST-BOARD DECISION

A Board of Veterans' Appeals (BVA) in Washington, D.C. remand is an appeal that was returned to the regional office (RO). This is usually to perform some additional case development. After performing the necessary development, the RO is in a position to issue a new decision. If the claim is still denied, the case is returned to BVA for a final decision. The case keeps its original place on BVA's docket and is reviewed after its return to BVA.

Sometimes remands happen for reasons outside your control, such as new rulings by the U.S. Court of Appeals for Veterans Claims (CAVC) that require the Board to return them for the RO's review. However, by doing (or failing to do) certain things, you can take some control of the situation. For example:

- DO be as specific as possible when identifying the issues you want BVA to consider.
- DO be aware that treatment records and statements from a physician are helpful.
- DO NOT submit unrelated materials.
- DO NOT wait until the last possible minute to request or ask for a change to an existing hearing.
- DO NOT submit evidence directly to the Board unless you include a written or typed statement saying that you waive consideration by the RO

If you disagree with the Board's decision, you can appeal to the CAVC. To appeal a Board decision, you must file the Notice of Appeal with the Court within 120 days from the date when the Board's decision is mailed. To make sure your appeal is timely, please make sure to send it to the correct address.

For additional information, please visit www.vetlawyers.com

VSO SPOTLIGHT

**SHELLY WHITTON, VETERANS SERVICE OFFICER
FOR HALIFAX COUNTY, NORTH CAROLINA**



April 12, 1776, the date commemorated on the North Carolina flag, signifies the Fourth Provincial Congress's adoption of the "Halifax Resolves" during a meeting in Halifax. With that action, North Carolina became the first colony to take a bold, official step toward declaring independence from England. From the Roanoke River to the famed hospitality of its citizens, Halifax County takes pride in its rich history and invites you to come and experience it first hand.

Website: www.halifaxnc.com/veterans.cfm

Know a VSO who should be honored? Email us at drohde@vetlawyers.com and we'll feature them in a future issue.

Q: Why did you decide to become a VSO?

A: I love to feel like I am helping people get what they deserve out of life. Veterans fought for us to have freedom and now its time someone fought for them.

Q: How many Veterans do you serve in Halifax County?

A: There are somewhere around 5,000 Veterans in Halifax County. I serve about 2,000 of those and growing.

Q: How long have you been a VSO?

A: I started out as the Adminstrative Assitant to the VSO here in 1997. Upon her retirement in 2009, I took over as VSO.

Q: What is your favorite part of the job?

A: The satisfaction at the end of the day knowing that I did my best to help a Veteran find the answers they were looking for.

Q: What started you down the path to becoming a VSO?

A: Again, I have to say the fact that I love to help people, especially Veterans because I don't feel they get the recognition they deserve. There has to be someone to stand up and fight for them and believe in them and thats what being a VSO is all about.

Q: What is your biggest challenge in assisting Veterans?

A: Trying to make them understand that its not an overnight process. You have to have patience when dealing with the VA.

Q: What was your most memorable case and what were the circumstances?

A: Although we are still waiting on a decision for this particular case, I would have to say that my most memorable one would be for the Navy Corpman who was in Vietnem for a full tour. He came back to me and cried in my office for two hours because the VA failed to acknowledge his time there even though it was documented right on his discharge. It wasn't just that the VA denied his conditions, but the fact that they denied his service there. We have refiled and are awaiting a decision. His stories from Vietnam were of horror, but to him nothing was as horrible as the VA not acknowledging his time in country. My heart went out to him and it still does.

Q: What advice would you give to Veterans just beginning the claims process?

A: Be patient! Nothing is going to happen overnight. And if you do not understand something, don't be afraid to ask. We are here to help you and never give up on what you know in your heart is rightfully due to you. ■



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