Benefit Programs

The Department of Veterans Affairs (VA) is the primary federal agency providing a variety of benefits to our nation's veterans. These include but are not limited to disability compensation, dependency and indemnity compensation, education benefits, home loans, ancillary benefits for service-connected disabled veterans, life insurance, and burial benefits. From its headquarters in Washington, D.C., and through a nationwide system of field offices VA administers its veterans' benefits programs. Responsibility for the various benefits programs is divided among six business lines within the Veterans Benefits Administration (VBA): Compensation, Pension and Fiduciary, Vocational Rehabilitation and Employment, Education, Loan Guaranty, and Insurance. The offices of the Secretary of Veterans Affairs and the Assistant Secretaries provide departmental management and administrative support. These offices, along with the Office of General Counsel and the Board of Veterans' Appeals (BVA), are the major activities under the General Administration portion of the General Operating Expenses appropriation. This appropriation funds the benefits delivery system—the VBA and its constituent line, staff, and support functions—and the functions under General Administration.

Disability compensation payments are intended to provide relief for some of the socioeconomic and other losses veterans experience as a result of service-connected diseases and injuries. When service members die on active duty or veterans' lives are cut short as a result of a service-connected cause or following a substantial period of total service-connected disability, eligible family members may receive dependency and indemnity compensation. Different from disability compensation, veterans' pensions provide some measure of financial support for disadvantaged veterans of wartime service who are totally disabled and unable to work as a result of nonservice-connected causes, or who have reached the age of 65; death pensions are paid to eligible survivors of these wartime veterans who have extremely low incomes.[1] Burial benefits assist families in meeting the costs of veterans' funerals and burials, and provide for burial flags and headstones or grave markers. Other special allowances are provided for select groups of veterans and dependents (e.g., children of Vietnam veterans who suffer from spina bifida).

In recognition of the disadvantages that result from the interruption of the civilian lives of individuals to perform military service, Congress authorized certain benefits to aid veterans in their readjustment. These readjustment benefits provide monetary assistance to veterans who choose to participate in educational or vocational rehabilitation programs and to seriously disabled veterans in acquiring specially adapted housing and automobiles. Educational benefits are also available for children and spouses of veterans who are permanently and totally disabled or die as a result of a service-connected disability.

(Continued)

Under its home loan program, VA guarantees home loans for veterans, certain surviving spouses, certain service members, and eligible reservists and National Guard personnel. VA also makes direct loans to supplement specially adapted housing grants, as well as direct housing loans to Native Americans living on trust lands.

Under several different plans, VA offers limited life insurance to eligible disabled veterans. Mortgage life insurance protects the families of veterans who have received specially adapted housing grants.

These programs have been adopted by Congress, as representatives of a grateful nation, to recognize the sacrifices of those who serve our nation in both peace and war. The veterans organizations comprising *The Independent Budget for Fiscal Year 2014* have worked for a century or more to ensure that veterans and their families are not forgotten once the last soldier, sailor, airman, marine, or coastguardsman returns home, or is laid to rest in some distant land.

This is why *The Independent Budget* veterans service organizations work with Congress and the Administration to ensure that these carefully crafted benefit programs provide for the needs of these selfless men and women.

Veterans' programs must remain a national priority, being viewed in context of the service of those who have sacrificed so much for this great nation. In addition to maintaining and protecting existing veterans' programs, Congress must ensure that these programs are modified and improved as necessary. VA benefit programs achieve their intended purposes only if the benefits are delivered to entitled beneficiaries in a timely manner and at a sufficient level. In order to maintain or increase their effectiveness, we offer the following recommendations in this *Independent Budget*.

ENSURE SUFFICIENT STAFFING FOR THE VETERANS BENEFITS ADMINISTRATION AND THE BOARD OF VETERANS' APPEALS

Congress must provide sufficient resources to ensure adequate staffing levels in the Veterans Benefits Administration and the Board of Veterans' Appeals to address increasing workloads.

COMPENSATION SERVICE

Over the past five years, the Veterans Benefits Administration (VBA) has seen a significant staffing increase because Congress recognized that rising workload, particularly claims for disability compensation, could not be addressed without additional personnel and thus provided additional resources each year to do so. More than 5,000 full-time employee equivalents (FTEEs) were added to the VBA over the past five years, a 33 percent increase, with most of that increase going to the Compensation Service. In fiscal year 2013, the VBA's budget supports an additional 450 FTEEs above the FY 2012 authorized level, assuming that budget level is continued for the balance of the year beyond the six-month continuing resolution approved in September 2012. By contrast, the workload at the VBA, primarily claims for disability compensation, has grown at almost twice that rate, from approximately 850,000 in 2008 to approximately 1.4 million in 2012, an increase of 65 percent. Over the past two years the VBA also has had to manage a surge of claims resulting from the addition of three new presumptive conditions related to Agent Orange exposure (ischemic heart disease, B-cell leukemia, and Parkinson's disease) and approval of previously denied claims resulting from the *Nehmer* decision, although that work is now completed.

In addition, during the past three years, the VBA has been in the process of comprehensively transforming its claims-processing system, with national deployment taking place throughout FY 2013. At the core of the new system is a new organizational model and new information technology (IT) system, the Veterans Benefits Management System (VBMS), that will change the roles and responsibilities of thousands of VBA employees at each of the 57 Department of Veterans Affairs regional offices (VAROs) across the country. While this transformation is taking place, it is difficult to determine whether the Compensation Service's staffing levels are sufficient now and for the future, or whether they require additional or even fewer personnel to address the workload they need to process. For this reason, *The Independent Budget* does not recommend a specific staffing increase for FY 2014, although it is important that Congress and the VBA be certain that staffing levels are regularly adjusted to remain aligned with changes in workload and productivity.

In this regard, it is imperative that the VBA and Congress continue to closely monitor the Compensation Service's actual and projected workload, and measurable and documented increases in productivity resulting from the new organizational model and the VBMS, as well as personnel changes, such as attrition, in order to ensure that staffing is sufficient. Furthermore, the VBA must develop a better, more consistent, and data-driven method of determining future staffing requirements to more accurately inform future funding requirements.

BOARD OF VETERANS' APPEALS

The Board of Veterans' Appeals makes final decisions on behalf of the Secretary on appeals from decisions of local VA regional offices. It reviews all appeals for benefit entitlement, including claims for service connection, increased disability ratings, total disability ratings, pension, insurance benefits, educational benefits, home loan guaranties, vocational rehabilitation, dependency and indemnity compensation, and health-care delivery, primarily dealing with medical care reimbursement and fee-basis claims. The BVA's mission is to conduct hearings and issue timely, understandable, and accurate decisions for veterans and other appellants in compliance with the requirements of law. While the BVA controls jurisdiction over a host of issues, historically 95 percent of appeals considered involve claims for disability compensation or survivor benefits.

In FY 2012, the BVA conducted 12,334 hearings, about 2,400 less than the prior year, and issued 44,300 decisions, about 4,300 less than in FY 2011. The average cycle time from receipt to decision was 117 days, 2 days fewer than the year prior. The BVA's accuracy rate for FY 2012 was 91 percent, about the

same as the prior year. While the number of appeals filed fell from 38,606 to 37,326 in FY 2012, the number of appeals docketed at the BVA increased from 47,763 in FY 2011 to 49,611 in FY 2012.

Based on historical trends, the number of new appeals to the BVA averages approximately 5 percent of all claims received; as the number of claims processed by the VBA is expected to rise significantly, so, too, will the BVA's workload rise accordingly. It is worth noting that in both FY 2011 and FY 2012 a significant number of VA regional office employees who would otherwise have normally worked on certifying appeals to the BVA were instead focused on processing *Nehmer* and other Agent Orange–related cases, creating a backlog of appeals to be certified. In addition, while the VBA is continuing the implementation of its new organizational model and VBMS system, the focus on processing claims has also shifted away from certifying appeals to the Board. With the *Nehmer* work now finished, and as the transformation process winds down over the course of the year, the Department of Veterans Affairs is expected to turn to the backlog of pending appeals, leading to a surge of new appeals being sent to the BVA in the next couple of years, further straining its already resource-constrained capacity to handle the rising workload.

Yet, despite the fact that workload is rising, and is projected to grow significantly as the VAROs begin to process both the backlog of claims and pending appeals, the budget provided to the BVA has been declining, forcing it to reduce the number of employees. Although the VBA had been authorized to have up to 544 FTEEs in FY 2011, its appropriated budget could support only 532 FTEEs. In FY 2012 that number was further reduced to 510. At present, due to cost-savings initiatives, the VBA may be able to support as many as 518 FTEEs with the FY 2013 budget. However, this does not break the downward trend over the past several years, even as workload continues to rise. Based on the expected workload increase in FY 2014, and even adjusting for productivity gains, the IBVSOs believe that the VBA should have at least 544 FTEEs in FY 2014 in order to reduce its backlog.

VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICE

VA's Vocational Rehabilitation and Employment (VR&E) program, also known as the VetSuccess program, is authorized by Congress under title 38, United States Code, chapter 31. The VetSuccess program provides critical counseling and other adjunct services necessary to enable service-disabled veterans to overcome barriers as they prepare for, find, and maintain gainful employment. VetSuccess offers services along five tracks: reemployment, rapid access to employment, self-employment, employment through long-term services, and independent living. In FY 2012, there were more than 121,000 participants in one or more of the five assistance tracks of VR&E's VetSuccess program, an increase of 12.3 above the FY 2011 participation level of 107,925 veterans. In FY 2012, VR&E had a total of 1,446 FTEEs and anticipates an increase of approximately 150 FTEEs for FY 2013. Given the estimated 10 percent workload increases for both FY 2013 and FY 2014, *The Independent Budget* estimates that VR&E would need an additional 230 counselors in FY 2014 in order to reduce its counselor-to-client ratio down to the stated goal of 1:125.

An extension for the delivery of VR&E assistance at a key transition point for veterans is the VetSuccess on Campus program. This program provides support to student veterans in completing college or university degrees. VetSuccess on Campus has developed into a program that places a full-time vocational rehabilitation counselor and a part-time Vet Center outreach coordinator at an office on campus specifically for the student veterans attending that college. These VA officers are there to help the transition from military to civilian and student life. The VetSuccess on Campus program is designed to give needed support to all student veterans, whether or not they are entitled to one of VA's education benefit programs.

In FY 2012, VR&E added 110 FTEEs to work at the Integrated Disability Evaluation System sites. In addition, VA added 20 FTEEs on college campuses to expand the VetSuccess on Campus program.

However, with no additional FTEEs placed in VAROs, and with workload increasing by almost 10,000 in FY 2012, VA's counselor to client ratio is now above 1:145. In order to reduce this to meet VR&E's standard of 1:125, an additional 230 new counselors must be hired for FY 2014.

Based on its success and demand, VA is expected to increase its VetSuccess on Campus program from 34 colleges in FY 2012 to 50 colleges in FY 2013. With increasing numbers of veterans returning to college campuses thanks to the Post-9/11 GI Bill, the highly regarded VetSuccess on Campus program should also continue to grow in order to support these student veterans. In FY 2014, VR&E should expand to create a presence on a total of at least 70 college campuses, which would require approximately 20 additional FTEEs.

Recommendations:

The VBA and Congress must carefully monitor both workload and productivity in the VBA's Compensation Service, particularly as the transformation is completed in 2013, so that staffing levels can be adjusted annually to reflect such changes.

The VBA must develop an accurate model to measure and project claims-processing workload and productivity, as well as a data-driven model to determine resource and staffing requirements.

Congress must ensure that funding for the VBA rises at a rate commensurate with its increasing workload so that it remains properly staffed to decide veterans' appeals accurately and in a timely manner.

Congress must provide the Vocational Rehabilitation and Employment Service with sufficient funding to support an additional 230 full-time employee equivalents (FTEEs) to meet growing demand and achieve its current caseload target of one counselor for every 125 veteran clients.

Congress should authorize at least 20 new FTEEs in FY 2014 to support the VR&E's expanding VetSuccess on Campus program at a total of at least 70 colleges.

The Veterans Benefits Administration Must Complete the Transformation and Modernization of the Veterans Benefits Claims-Processing System This Year

After three years of planning and testing, the Veterans Benefits Administration will complete the national rollout of a new claims-processing system in 2013, and Congress must provide it with the resources, support, and oversight required to ensure its success.

In 2013, the Veterans Benefits Administration (VBA) plans to fully implement a new organizational model and information technology (IT) system in order to fix the broken veterans benefits claims-processing system. For more than three years, the VBA has been engaged in a comprehensive transformation process designed to transition from paper-based processing of claims for veterans benefits, particularly disability compensation, to a modern, digital, and intelligent IT-based processing system. While it is still too early to judge whether the VBA will be successful, there has been sufficient progress to merit continued support of the current transformation efforts. Over the next year, Congress must provide the resources necessary to complete this essential transformation as currently planned, while continuing to exercise strong oversight to ensure that the VBA remains focused on the long-term goal of creating a new claims-processing system that decides each claim correctly the first time.

BACKGROUND OF CLAIMS-PROCESSING REFORM

The problems plaguing the VBA claims system are well known: the number of claims filed each year is growing, the complexity of claims filed is increasing, the backlog of claims pending is staggering, and the quality of the claims decisions remains far too low.[2] Over the past dozen years, the number of veterans filing claims for disability compensation has more than doubled, rising from nearly 600,000 in 2000 to more than 1.4 million in 2012; in 2013 the VBA expects to receive another 1.4 million claims. The influx of hundreds of thousands of claims from new presumptive conditions related to Agent Orange exposure (ischemic heart disease, B-cell leukemia, and Parkinson's disease) and previously denied claims resulting from the *Nehmer* decision created a workload surge over the past two years that only recently has receded. To address the steady growth in workload, the VBA's workforce has grown by slightly more than 50 percent, rising from 13,500 full-time employee equivalents (FTEEs) in 2007 to 20,750 FTEEs today.

Yet, despite the hiring of thousands of new employees, the number of pending claims for benefits, often referred to as the backlog, continues to grow. As of January 12, 2013, there were 903,789 pending claims for disability compensation and pensions awaiting decisions by the VBA. Compared to four years ago, that is a rise of 518,108 claims pending, more than a 130 percent increase. Over the past year the VBA's expanded capabilities and efforts have slowed and almost stopped the rise of the backlog, which has leveled off and total claims pending are only two percent higher than one year ago. However, the number of claims pending for longer than 125 days, the VBA's official target for completing claims, was 627,039 on January 12, 2013, which is double the number from two years prior, although this rising number has also slowed and is about 9 percent higher than one year ago. More than 69 percent of all claims pending at the VBA have been there more than the target of 125 days and the average time it takes the VBA to process claims is now more than 270 days. But more important than the number of claims processed is the number of claims processed correctly. The VBA quality assurance program, known as the Systematic Technical Accuracy Review (STAR), which is publicly available on VA's ASPIRE Dashboard, shows that over the most recent 12-month period ending in November 2012, rating claims accuracy has been 86.3 percent, a slight improvement over the prior year. During the most recent three-month period the error rate has risen slightly.

While tremendous attention remains focused on the size of the VBA claims backlog, it is important to recognize that eliminating the backlog does not necessarily reform the claims-processing system, nor does it guarantee that veterans will be better served by the Department of Veterans Affairs. The backlog is a symptom, not the root cause of the VBA's claims-processing problems. In order to achieve real and lasting success, the VBA must remain focused on creating a claims-processing system that is carefully designed to decide each claim correctly the first time.

Recognizing that its infrastructure was outdated and ineffective, and that a rising workload could no longer be managed, VBA leadership in 2010 determined that it would be necessary to completely and comprehensively rebuild and modernize its claims infrastructure and processes. The Secretary of Veterans Affairs established an ambitious goal of zero claims pending more than 125 days, and all claims completed to a 98 percent degree of accuracy standard; the VBA outlined a three-year strategy to achieve that goal. Notwithstanding the fact that the VBA has attempted to modernize its claims-processing system without success numerous times over the past half century, *The Independent Budget* veterans service organizations (IBVSOs) see hopeful progress toward a successful transformation.

The VBA's latest transformation efforts began with a comprehensive review of the existing claims process, which included extensive outreach to veterans service organizations (VSOs). The VBA launched dozens of experimental pilot programs and initiatives to test changes that might streamline operations or increase the quality and accuracy of decisions. In the second year, the VBA analyzed and synthesized the results of this study and experimentation and finalized a comprehensive strategy to re-engineer the entire claims process, focusing on three critical areas: people, process, and technology. Over the past year, the VBA further developed, refined, and has now begun to deploy a new organizational model and a new IT system, known as the Veterans Benefits Management System (VBMS), based on lessons learned. By the end of 2012, the VBA rolled out the new organizational model to all but a few VA regional offices (VAROs), and the VBMS is now operational in 16 of them, with

full national deployment scheduled to be completed by the end of 2013.

PARTNERSHIP WITH VSO STAKEHOLDERS

Perhaps as important as the VBA's decision to rebuild and replace the current claims process was its decision to reach out and partner with VSOs accredited by VA, including the IBVSOs, that possess significant knowledge and experience in the claims process to help veterans file claims, Because collectively our organizations hold power of attorney (POA) for millions of veterans who are filing or have filed claims, the VBA recognized that close collaboration with VSOs could reduce its workload and increase the quality of its work. VSOs can make the VBA's job easier by helping veterans prepare and submit better claims, thereby requiring less time and resources to develop and adjudicate them. The IBVSOs have been increasingly consulted on initiatives proposed or under way at the VBA, including fully developed claims (FDCs), disability benefits questionnaires (DBQs), the VBMS, the Stakeholder Enterprise Portal (SEP), the update of the *VA Schedule for Rating Disabilities* (VASRD), and many of the pilots being conducted at VAROs. Consistent with the path set forth by both VBA and VA leadership, the VBA must continue to reach out to its VSO partners, both at the national and local levels, in order to consolidate and sustain a fruitful partnership that results in better service and outcomes for veterans.

PEOPLE: BUILDING A CULTURE OF QUALITY AND ACCOUNTABILITY

With almost 1 million veterans waiting more than 250 days on average for decisions on claims for benefits, it is not surprising that most of the media and Congressional attention also focuses on the size of the backlog. As a consequence, VBA leadership and management too often focus on production, which places tremendous pressure on VBA employees—veterans service representatives (VSRs), rating veterans service representatives (RVSRs), and decision review officers (DROs)—to meet production goals even if it is to the detriment of accuracy. Such an approach may lower the backlog temporarily, but in the end, more bad decisions will lead to more appeals and more re-filed claims, and veterans are not better served. While new operating procedures and technologies can and must be deployed, the VBA cannot expect to be successful in helping veterans receive timely and accurate decisions on benefits claims until it succeeds in building a work culture focused on quality and accountability. That process begins with an unwavering commitment to education and training.

The VBA must increase the quality of and hours devoted to annual training for all employees, coaches, and managers. In recent years, the VBA has changed its training program for new employees, who are now required to complete eight weeks of "challenge" training from specially trained instructors. In addition, the VBA requires that all employees take and pass a skills certification examination every two years (every year for DROs), although it is not yet clear what happens to an employee who repeatedly fails to pass the test. The VBA must ensure that its testing regime is adequate to measure appropriate job skills, and that appropriate human resources accountability measures are in place in cases of repeated failure to pass skills certification examinations.

One of the more hopeful signs of culture change over the past year at the VBA is the creation of quality review teams (QRTs) at every regional office. There are now 600 quality review specialists (QRSs) serving in VAROs who are focused on measuring and improving the quality and accuracy of the claims process. QRTs administer local STARs at VAROs and also conduct what are referred to as "mulligan reviews," in which they focus on finding and correcting errors in process, rather than on penalizing employees for having made errors after the process is complete. This renewed focus on and commitment to quality control throughout the claims process is an essential step toward creating a work culture within the VBA that places the highest priority on quality and accuracy, rather than speed and production.

In order to embed this cultural change within the VBA, it is important that the organization also change how it measures and rewards performance in a manner designed to achieve the goal of getting it right the first time. Unfortunately, most of the metrics that the VBA employs today are based primarily on measures of production, rather than quality. For example, the most common way to measure the VBA's progress is through its *Monday Morning Workload Reports*,[3] which contain measures of production, but not accuracy or quality. Another major tool used to review the VBA's status is its "ASPIRE Dashboard,"[4] which provides current performance statistics for each VARO, as well as national totals. Like the *Monday*

Morning Workload Reports, however, the ASPIRE Dashboard metrics are primarily related to pending work inventory and production times, with only a few measures of accuracy included.

A similar focus on production is reflected in performance standards for VBA employees. While accuracy has been and remains one of the performance standards that must be met by all employees, current performance standards adopted in recent years have done little to create new incentives to promote quality above production. In fact, given the high percentages of VSRs and RVSRs who have struggled to meet the new performance standards, the VBA has acknowledged that adjustments need to be made to ensure that they fairly measure current job performance. Furthermore, the implementation of a new organizational model is changing the roles and workloads of VSRs and RVSRs and consequently requires adjustments be made to their performance standards. Employees handling complex Special Ops claims should not be held to the same performance levels in terms of claims as those handling simpler Express claims. Furthermore, as new processes and technologies come online, it is imperative that the VBA be able to make timely adjustments to performance standards to ensure that production pressures do not outweigh the goals of accuracy and quality. The VBA would benefit greatly if it developed a systematic method to measure average work output so that it could better determine its FTEE requirements as workload rises and falls in the future.

PROCESS: IMPLEMENTING A NEW ORGANIZATIONAL MODEL

Over the past three years, the VBA has conducted and evaluated dozens of pilots to improve its claims-processing system, bringing together the most promising initiatives at its "I-Labs" to create a new organizational model. The result is an evolutionary change in how the VBA processes claims for disability compensation by segmenting claims based on their complexity. At the beginning of the new process, the VBA's traditional triage function has been replaced with a new Intake Processing Center that puts an experienced VSR at the front end of the process to divide claims along three separate "lanes:" Express, Core, and Special Ops. The Express lane is for simpler claims, such as fully developed claims, claims with one or two contentions, etc. The Special Ops lane is for more difficult claims, such as those with eight or more contentions; long-standing pending claims; complex conditions, such as traumatic brain injury and special monthly compensation; and other claims requiring extensive time and expertise. The Core lane is used for the balance of claims involving three to seven contentions, as well as claims for individual unemployability.

Based on the early implementation in VAROs, the VBA estimates that about 30 percent of claims will go to the Express lane, about 60 percent will go through the Core lane, and about 10 percent will go to the Special Ops lane. In each of these lanes, integrated teams comprised of VSRs, RVSRs, and DROs will work in close proximity so that they can better coordinate their efforts and increase production through synergistic effects. Although the VBA has measured early increases in both production and quality at some of the first VAROs using the new organizational model, the IBVSOs caution that until it is fully deployed and thoroughly tested, it would be premature to make firm judgments about its efficacy.

There are several other aspects of the new organizational model that must be carefully monitored by both the VBA and Congress as it is implemented nationwide to avoid unintended consequences. First, the VBA must avoid the temptation to put more resources and personnel in the Express lanes in order to generate greater production and artificially lower the pending backlog of claims. While such a redistribution of VBA resources would allow the VBA to move a larger number of simple claims more quickly and thus lower the number of pending claims, it would force much longer delays for veterans awaiting decisions on the more complex claims, including those with eight or more contentions, or those suffering from post-traumatic stress disorder (PTSD). Similarly, the VBA must ensure that new performance standards are developed for VSRs and RVSRs working different tracks in the new organizational model in order to continue incentivizing quality and accuracy along each track. Understanding that this model will continue to evolve as technology evolves simultaneously, it would be wise for the VBA to consult with the American Federation of Government Employees and other labor representatives in developing a mutually acceptable framework for adjusting performance standards in the future as conditions merit. In addition, the VBA should develop a systemic approach to rotating VSRs and RVSRs through each of the tracks so that they have sufficiently trained and experienced

employees able to make adjustments in the organizational model in the future.

The VBA will continue to incorporate many process changes that have been tested and rolled out over the past few years in the new organizational model, including FDCs, DBQs, and simplified notification letters (SNLs). There are also several statutory changes recently enacted that will modify notification and duty-to-assist requirements, as well as pending and proposed legislative proposals that could impact the new organizational model.

The IBVSOs remain fully supportive of the FDC initiative and have worked to promote it to veterans for whom we hold POA, as well as in our communications and outreach efforts. One key to the success of the FDC program is the ability of veterans to use private medical evidence to satisfy a claim, rather than be forced to utilize and rely on VA examinations. DBQs, most of which were developed in consultation with IBVSO experts, have enabled private physicians to submit medical evidence on behalf of veterans they treat in a format designed by the VBA. However, there are still numerous credible reports from across the country that many VSRs and RVSRs do not accept the adequacy of DBQs submitted by private physicians, which continues to result in redundant VA medical examinations as well as the rejection of valid evidence supporting veterans' claims.

The IBVSOs have long encouraged VA to use private medical evidence when making claims decisions because it saves VA and the veteran time in terms of development, and VA the cost of unnecessary examinations. Although there are currently 81 approved DBQs, the VBA has only released 71 of them to the public for use by private physicians. In particular, the VBA should release the DBQ for allowing medical opinions about the relation of injuries and disabilities to service, as well as the DBQ for PTSD, which it is currently prevented from doing due to rules requiring only VA physicians to make PTSD diagnoses. In order to further support efforts to encourage the use of private medical evidence, Congress should amend title 38, United States Code, section 5103A(d)(1) to provide that, when a claimant submits private medical evidence, including a private medical opinion, that is competent, credible, probative, and otherwise adequate for rating purposes, the Secretary shall not request a VA medical examination.

Over the next year, the VBA will develop and begin to implement regulations resulting from sections 504 and 505 of P.L. 112-154, to modify VA's duty to notify and duty to assist claimants. The intent of the legislation is to reduce the time spent by VBA personnel in pursuing private medical evidence that may not exist, may not be relevant, or may not result in an additional benefit to the veteran. While the IBVSOs agree with the goal of eliminating unnecessary steps in the claims process when they are highly unlikely to result in any greater benefit to the claimant, it is important that the VBA carefully implement this authority as Congress intended, as written in the Joint Explanatory Statement accompanying the legislation. As long as there is a reasonable possibility that a veteran could benefit from notice or assistance, the VBA must be required to fulfill those duties.

Finally, the IBVSOs remain concerned about the VBA's implementation of SNLs, which provide automated rating decision and notification letters. SNLs use calculators and evaluation builders to guide rating decisions and then rely on coded, standardized text to generate notification letters and rating decisions. SNLs also contain a free text field to provide additional specific information that allows veterans and their representatives to understand the reasons and bases for VBA rating decisions. Alarmingly, early SNLs produced by the VBA contained little information or explanation for veterans to understand the decision or make an informed decision about whether to accept the decision or appeal it. When veterans see no reasonable basis for denial of a benefit, it is much more likely that they will exercise their right to appeal that decision, particularly since there is no cost to do so.

We were pleased that VBA leadership sought to address the criticism presented by the IBVSOs and others by directing RVSRs to place greater emphasis on use of the free text field in order to provide sufficient reasons and bases for rating decisions. However, based on our reviews, there are still wide variations in how this directive is being implemented from VARO to VARO, sometimes even within a VARO, and there are still too many SNLs that fail to meet an acceptable standard. Despite some improvements made by the VBA pursuant to concerns we have expressed, SNLs do not yet adequately or consistently provide sufficient information required by rating decisions. While we certainly want rules-based decision support to be a central part of the new claims process,

the VBA must not use technological automation to eliminate essential manual steps, such as the inclusion of sufficiently detailed free text explanations. We believe that requiring raters to provide detailed, plain English explanations of their decisions will not only better inform veterans (and their representatives), but will also lead to better-reasoned and more accurate decisions by the raters themselves.

TECHNOLOGY: DEVELOPING NEW DIGITAL CLAIMS-PROCESSING SYSTEMS

Central to the VBA transformation strategy is the development of new technology, including the VBMS, the Stakeholder Enterprise Portal (SEP), an expanded e-Benefits system with VONAPPS Direct Connect (VDC), and the Virtual Lifetime Electronic Record initiative. Among these, the most important is the VBMS, which is the paperless, rules-based claims-processing work tool that the VBA will use to create electronic claims files, manage workflow, and increase production, timeliness, and quality for more than a million claims filed annually, 4 million claims files already located in VAROs, and millions more in archives. Whether the VBMS will "revolutionize" VBA claims processing cannot be known for years to come; however, the transition from paper-based processing to an intelligent, digital processing system is inevitable, and the VBA must complete it successfully.

From the beginning of VBMS development, the IBVSOs have been pleased with the VBA's efforts to incorporate our perspectives, experience, and expertise throughout the IT development process, including accommodating the important role that VSO service officers play in the claims process. Although there have been some obstacles to overcome in providing full access to claims decisions for VSO POA-holders, the VBA continues to work in partnership with VSOs to ensure that claimants will be fully represented in the new digital environment.

The VBMS is designed to replace the old VETSNET suite of applications used by the VBA, including Share, MAP-D, RBA–2000, Awards, and FAS. The current iteration of the VBMS, version 4.0, creates an entirely paperless claims process, from the creation of an electronic claims file through the development and rating process. When a claim is received at a VARO, it is established and then immediately sent to a scanning center where it, and any other existing parts of that veteran's file that may exist, are converted into digital data as part of a new electronic claims file. The VBMS 4.0 also allows direct electronic submission of claims from e-Benefits' VDC, thereby saving time and money required to scan paper documents. The VBMS does not yet include the Awards process, which continues to be done through its stand-alone application, but it will be integrated into the VBMS with an undetermined future release. By the end of 2012, the VBMS had been rolled out to 18 of the 57 VAROs and is planned to be deployed to the remaining VAROs by the end of 2013.

Over the next year, Congress and the VBA must ensure that the VBMS development and deployment receives all of the resources it needs to be successful. New software improvements and updates are planned to be released about every two months in order to expand functionality and capacity, improve usability, and correct problems or bugs in the system. Congress and the VBA must ensure that both the IT and general operating expenses budgets contain sufficient funding for the VBMS, and that funding intended to be used for the VBMS actually goes to that purpose.

A major IBVSO concern throughout the development of the VBMS has been whether the VBA would commit to an all-digital processing environment, or whether it would attempt to process new claims in a digital environment while legacy claims were processed in a paper or hybrid digital-paper environment. Currently, the VBA has indicated that, once a VARO implements the VBMS, all future claims processing will be done through this fully digital system. The VBA will seek to encourage as many claimants as possible to file their claims electronically, either through e-Benefits, or via a POA-holder, such as a VSO, through the SEP. But those who filed on paper, or those who file electronic claims but also have existing paper claims files, will have all of their paper files sent to a scanning center and converted into electronic files for fully digital processing in the VBMS. This decision may require more upfront investment by the VBA in terms of resources, but in the long run it will pay dividends for both the VBA, and more important, the veterans themselves. As the VBA rolls out the VBMS to the remaining VAROs throughout 2013, the resources required for digital conversion of claims files will be sufficient for FY 2013; however,

it is imperative that the VBA be supplemented in FY 2014 to ensure the VBA's budget can make a smooth transition.

Finally, the VBA must be provided with sufficient resources to incorporate other elements of the disability compensation claims process into the VBMS, beginning with the Appeals Management Center, the Board of Veterans Appeals (BVA), and the Court of Appeals for Veterans Claims. Subsequently, the VBMS should incorporate its other business lines (pension and fiduciary, vocational rehabilitation and employment, education, insurance and loan guaranty) in order to create a single, unified benefits-processing system.

Over the past three years, the VBA has made significant progress in designing, testing, developing, and now deploying a comprehensive new claims-processing system. At the same time, through expanded resources and greater focus, the VBA has slowed the rise of the backlog of pending claims for the first time in years. The question now is whether the VBA's transformation process, which is centered around a new IT system, a new organizational model, and a new culture of quality, will be able to simultaneously improve accuracy and increase production so that every veteran can expect each claim for benefits to be decided correctly the first time. It will be imperative that Congress not only provide sufficient funding to meet these challenges, but aggressively oversee the implementation of the VBA's transformation plans in order for VA to finally fix the claims-processing system.

Recommendations:

The VBA must continue to work closely with its veterans service organization partners in reforming and completing claims-processing work.

The VBA must continue to look for ways to increase the quality and hours devoted to annual training, strengthen certification examinations, and in consultation with labor representatives, develop accountability measures for employees who repeatedly fail to pass the exams.

The VBA must change how it measures and rewards performance at every level in order to create a culture focused on quality and accuracy rather than speed and production.

In implementing its new organizational model, the VBA must ensure that it properly balances resources provided to each of the three processing lanes so that both complex and simple claims receive equitable consideration.

The VBA should encourage the use of private medical evidence by releasing disability benefits questionnaires for medical opinions and post-traumatic stress syndrome claims.

Congress should pass legislation requiring VA to give due deference to private medical evidence that is competent, credible, probative, and otherwise adequate for rating purposes.

The VBA must faithfully implement sections 504 and 505 of P.L. 112-154 as Congress intended in order to protect veterans' rights during the claims process.

The VBA must ensure that simplified notification letters or any other automated rating process continue to provide sufficient and specific information to inform veterans and their advocates about the reasons and bases for rating decisions.

Congress must ensure that the VBA is provided with sufficient funding to complete the development and implementation of the Veterans Benefits Management System, as well as the digital conversion of all active paper claims files.

Updating and Revising the Rating Schedule

As the Veterans Benefits Administration continues working to update and revise the* VA Schedule for Rating Disabilities*, it should continue to seek broad input and must ensure that the proposed rules follow both the letter and spirit of the law establishing disability compensation.

The amount of disability compensation paid to a service-connected disabled veteran is determined according to the *VA Schedule for Rating Disabilities* (VASRD), which is divided into 15 human body systems with more than 700 diagnostic codes found in title 38, Code of Federal Regulations, part 4. In 2007, both the Congressionally mandated Veterans Disability Benefits Commission, established by the National Defense Authorization Act of 2004 (P.L. 108-136), as well as the Institute of Medicine Committee on Medical Evaluation of Veterans for Disability Compensation in its report, *A 21st Century System for Evaluating Veterans for Disability Benefits*, recommended that the Department of Veterans Affairs regularly update the VASRD to reflect the latest understanding of disabilities and how disabilities affect veterans' earnings capacity.

In line with these recommendations, the Veterans Benefits Administration (VBA) is currently engaged in the process of updating all 15 body systems in the VASRD. Additionally, it has committed to review and update the entire VASRD every five years thereafter.

To help implement the recommendations of the VDBC, Congress established the Advisory Committee on Disability Compensation (ACDC) in P.L. 110-389 to advise the Secretary on "…the effectiveness of the schedule for rating disabilities…and… provide ongoing advice on the most appropriate means of responding to the needs of veterans relating to disability compensation in the future." In its 2009 "Interim Report" and its first "Biennial Report" dated July 27, 2010, the committee recommended that the VBA follow a coordinated and inclusive process while reviewing and updating the *Schedule for Rating Disabilities*. Specifically, the ACDC recommended that veterans service organization (VSO) stakeholders be consulted several times throughout the review and revision process, particularly before any proposed rule is published for public comment.

The VSOs help hundreds of thousands of veterans each year with their claims for benefits before VA. Collectively, they spend millions of dollars each year training service officers in the laws, regulations, policies and practices used by VA to make benefit determinations to ensure that those they represent receive every benefit to which they are entitled under the law. VSO service officers have a unique understanding of the VASRD and other regulations used by VA to make claims decisions. Historically, revisions to the VASRD have been completed behind closed doors, with the first indication of changed criteria for evaluating specific disabilities being the publication of a proposed rule. It is imperative that the regulatory process, especially in an area as critical as the VASRD, be as open to public scrutiny as possible. Over the past year, however, the VBA has listened to our concerns and opened up the process and decided to include VSO representatives on many of the committees formed to propose changes to the VASRD.

The VBA subsequently decided to provide additional information concerning half of the body systems under review in a public forum. During this forum, members of the public, including VSOs, were allowed to review the draft regulations and provide feedback and suggestions concerning the proposed changes.

While most of the proposals to update the VASRD were based on changes in medicine, medical treatment, advances in rehabilitation, and the understanding of the long-term effects of service-connected disabilities, the IBVSOs found some significant problems that needed to be corrected, particularly in the proposed revision to the section on mental health. The mental health working group proposal contained so many flaws that its implementation would have been devastating to veterans who suffered psychological injuries during their service.

Under the working group's proposal, veterans' disability ratings would have been based on estimated individual reductions in earnings capacity, rather than the "average impairments of earnings capacity" required by statute. This, in turn, would have led to several unacceptable consequences:

> Veterans with the same disability and severity of symptoms would receive different levels of compensation depending on their success at work.

Veterans able to work successfully despite their disabilities would receive less compensation than veterans who, for whatever reason, did not work.

All of the myriad obstacles and challenges that disabled veterans face in every aspect of their daily lives, other than those that occur in the workplace, would no longer be considered relevant when determining ratings.

The working group's proposal would have also limited the consideration of impairments only to situations in which the VBA adjudged them to be "occupationally-relevant," which would have the effect of redefining and limiting the role of "functional impairment" in existing statute and regulation. Unfortunately, this redefinition and misuse of "functional impairment" in the mental health proposal is also embedded in many of the other body systems' proposed draft rules, either explicitly in the preamble or implicitly in proposed rating criteria, and must also be corrected.

The VSOs provided the VBA with detailed criticisms and concerns about the proposed mental health changes, as well as the other proposed changes. As a result, the VBA decided that significant additional work was needed on the mental health section of the VASRD, and withdrew that proposal. The VBA also determined it was necessary to create a new working group that included VSO representatives, to restart the process from the beginning.

The VBA's unprecedented transparency and willingness to solicit views and opinions of stakeholders during the information development and policy formulation stages is likely to produce changes to the VASRD that accomplish the goals of modernizing the rating schedule so that it can appropriately evaluate the long-term residuals of service-connected disabilities.

However, Congress should closely examine any changes to the VASRD proposed by the VBA in order to ensure that revisions adhere strictly to the existing statute, which requires that the levels of disability compensation be based on the "average loss of earnings capacity." Any changes to this long-standing and well-tested standard would have severely negative consequences for the VA disability compensation system, and especially for the millions of disabled veterans who rely upon it.

Recommendations:

The VBA should continue the involvement of the veterans service organizations (VSOs) in the *VA Schedule for Rating Disabilities* (VASRD) revision process.

Congress should carefully review any proposed rules that would change the VASRD, particularly if such rules would change the purpose or basic nature of veterans' disability compensation, including the average impairments of earnings capacity standard.

The VBA should conduct regular after-action reviews of the VASRD update process, with VSO participation, so that it may apply lessons learned to future body system updates in the VASRD.

Compensation for Quality of Life and Noneconomic Loss

In conjunction with the ongoing update and revision of the* VA Schedule for Rating Disabilities, *the Department of Veterans Affairs should develop and implement a system to compensate service-connected disabled veterans for loss of quality of life and noneconomic loss.

In 2007, the Institute of Medicine (IOM) Committee on Medical Evaluation of Veterans for Disability Compensation published a report, *A 21st Century System for Evaluating Veterans for Disability Benefits*, recommending that the current VA disability compensation system be expanded to include compensation for nonwork disability (also referred to as "noneconomic loss") and loss of quality of life.[5] The report touched upon several systems that could be used to measure and compensate for loss of quality of life, including the World Health Organization-devised International Classification of Functioning, Disability, and Health; the Canadian Veterans' Affairs disability compensation program; and the Australian Department of Veterans' Affairs disability compensation program.[6]

The IOM distinguished between the purpose of disability benefits and the operational basis for those benefits.[7] The report grouped the operational measures used for compensating disabilities into seven categories and subcategories:

> IA. Medical impairment: anatomical loss refers to impairment ratings that are based on anatomical loss, such as amputation of the leg.
>
> IB. Medical impairment: functional loss refers to impairment ratings that are based on the extent of functional loss, such as loss of motion of the wrist.
>
> II. Limitations in the activities of daily living refers to limitations on the ability to engage in the activities of daily living, such as bending, kneeling, or stooping, resulting from the impairment, and to participate in usual life activities, such as socializing and maintaining family relationships.
>
> IIIA. Work disability: loss of earning capacity refers to the presumed loss of earning capacity resulting from the impairment and limitations in the activities of daily living.
>
> IIIB. Work disability: actual loss of earnings refers to the actual loss of earnings resulting from the impairment and limitations in the activities of daily living.
>
> IV. Nonwork disability refers to limitations on the ability to engage in usual life activities other than work. This includes ability to engage in activities of daily living, such as bending, kneeling, or stooping, resulting from the impairment, and to participate in usual life activities, such as reading, learning, socializing, engaging in recreation, and maintaining family relationships.
>
> V. Loss of quality of life refers to the loss of physical, psychological, social, and economic well-being in one's life.[8]

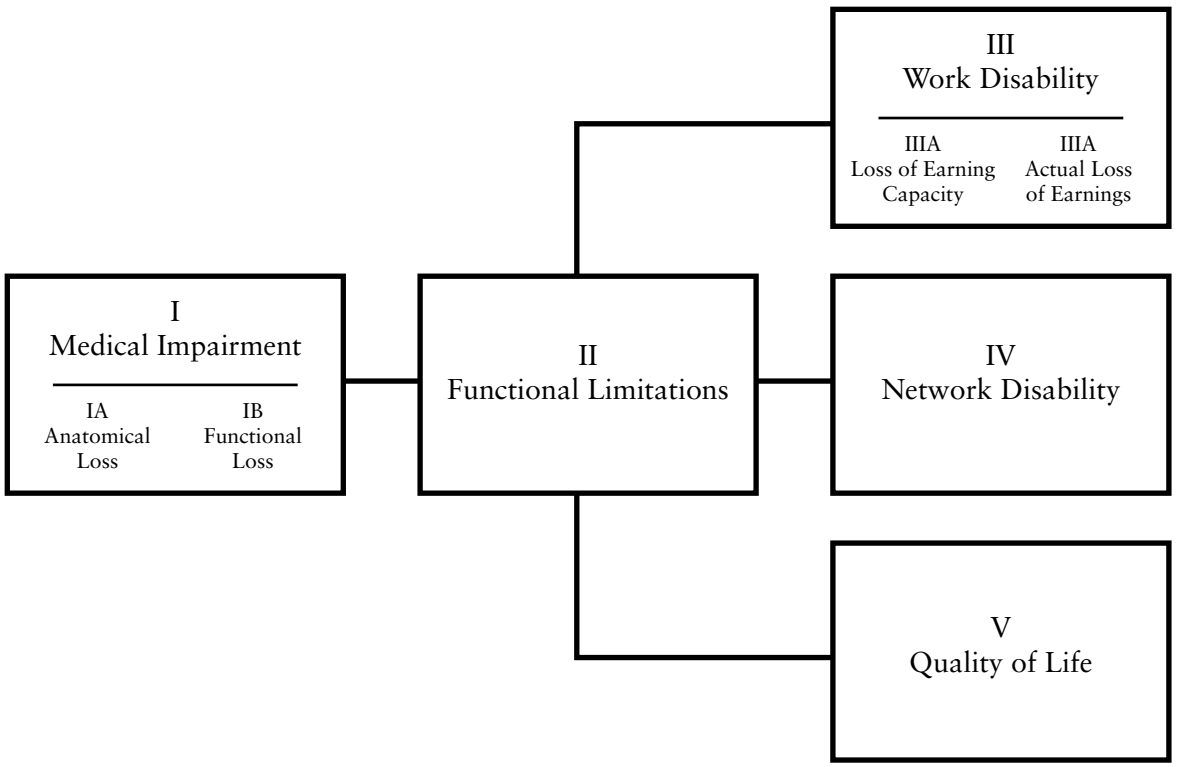
The report organized these categories into the relationship shown in figure 1.

Under the current VA disability compensation system, the purpose of the compensation is to make up for average loss of earning capacity (IIIA), whereas the operational basis of the compensation is usually based on medical impairment (IA and IB).[9] Neither of these models generally incorporates noneconomic loss or quality of life into the final disability ratings, although special monthly compensation does in some limited cases. The IOM report stated:

> In practice, Congress and VA have implicitly recognized consequences in addition to work disability of impairments suffered by veterans in the *Rating Schedule* and other ways. Modern concepts of disability include work disability, nonwork disability, and quality of life (QOL)…" [and that] "This is an unduly restrictive rationale for the program and is inconsistent with current models of disability."[10]

The Congressionally mandated Veterans Disability Benefits Commission (VDBC), established by the

Figure 1. IOM Disability Model



National Defense Authorization Act of 2004 (P.L. 108–136), spent more than two years examining how the *Rating Schedule* might be modernized and updated. Reflecting the recommendations of a comprehensive study of the disability rating system by the IOM, the VDBC in its final report issued in 2007 recommended:

> The veterans disability compensation program should compensate for three consequences of service-connected injuries and diseases: work disability, loss of ability to engage in usual life activities other than work, and loss of quality of life.[11]

The IOM report, the VDBC (and an associated Center for Naval Analysis study), and the Dole-Shalala Commission (President's Commission on Care for America's Returning Wounded Warriors) all agreed that the current benefits system should be reformed to include noneconomic loss and quality of life as factors in compensation.

Recommendations:

Congress should amend title 38, United States Code, to clarify that disability compensation, in addition to providing compensation to service-connected disabled veterans for their average loss of earnings capacity, must also include compensation for noneconomic loss and loss of quality of life.

Congress and VA should determine the most practical and equitable manner in which to provide compensation for noneconomic loss and loss of quality of life and move expeditiously to implement this updated disability compensation program.

STANDARD FOR SERVICE CONNECTION

Standards for determining service connection should remain grounded in the existing statute, which recognizes the 24-hour nature of military service.

Disability compensation is paid to a veteran who is disabled as the result of an injury or disease (including aggravation of a condition existing prior to service) while in active service if the injury or the disease was incurred or aggravated in line of duty.[12] Compensation may also be paid to National Guard and reserve service members who suffer disabilities resulting from injuries while undergoing training.

Periodically a committee, commission, government agency, or member of Congress proposes that military service should be treated as if it were a day job: if a service member happens to get sick or injured while working a shift, he or she may be eligible, after discharge, for medical treatment and, perhaps, compensation from the Department of Veterans Affairs. Conversely, if a service member is injured before or after work, or becomes ill from a disease that isn't obviously related to military service, he or she would not be eligible for service connection at all. Further, medical care after service would be the responsibility of the veteran alone.

The military does not distinguish between "on duty" and "off duty." A service member on active duty is always at the disposal of military authority and is essentially on call 24 hours a day, 365 days a year. A soldier on leave can be playing with her children in the morning and be ordered back to base to be deployed that same afternoon. A ship returning from a six-month tour in the Persian Gulf can be turned around in mid-ocean to undertake a new mission that will keep its crew away from home for additional weeks or months. The ground crews that prepared planes in support of missions in Iraq, Afghanistan, and Libya worked not just from 9 to 5, but anytime they were needed, day or night. No one "asks" them if they can work overtime; they are ordered to report and work as long as required to get the job done. Unlike a day job, they cannot quit. Servicemen and -women are there when needed, every day. Far too often they are put at risk of injury, disease, or death in defense of all Americans.

Congress created the Veterans' Disability Benefits Commission (VDBC) to carry out a study of "the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service…." After more than 30 months of hearings, study, analysis, and debate, the VDBC unanimously endorsed the current standard for determining service connection.[13]

Current law requires only that an injury or disease be incurred coincident with active military service. There is no requirement that a veteran prove a causal connection between military service and a disability for which service connection is sought.

The Independent Budget veterans service organizations believe current standards defining service connection for veterans' disabilities and deaths are practical, sound, equitable, and time-tested. We urge Congress to reject any revision to this long-standing policy.

Recommendation:

Congress should reject suggestions from any source that would change the definition of service connection for veterans' disabilities and death.

RELAXED EVIDENTIARY STANDARDS FOR PROVING POST-TRAUMATIC STRESS SYNDROME AND MILITARY SEXUAL TRAUMA CLAIMS

The Department of Veterans Affairs should accept a diagnosis of post-traumatic stress disorder from a private mental health professional in the same manner as it accepts a diagnosis of PTSD from a VA mental health professional.

For years, *The Independent Budget* veterans service organizations (IBVSOs) asked Congress to expand the provisions of title 38, United States Code, section 1154 to any veteran who served in a combat zone in order to both ease the evidentiary burden on veterans and reduce time-consuming development required of the Department of Veterans Affairs so that veterans could more readily obtain service connection for certain disabilities related to service, especially post-traumatic stress disorder (PTSD). In combat zones, seemingly minor injuries are often overlooked while medical treatment is provided to those more seriously injured. Further, many combat service members tend to trivialize their own injuries when in the presence of more severely injured comrades. The result is that many injuries occurring in combat zones go unreported and unrecorded.

In 2010 VA validated this *Independent Budget* recommendation when it amended title 38, Code of Federal Regulations, paragraph 3.304 to eliminate:

> …the requirement for corroborating that the claimed in-service stressor occurred if a stressor claimed by a veteran is related to the veteran's fear of hostile military or terrorist activity and a VA psychiatrist or psychologist, or a psychiatrist or psychologist with whom VA has contracted, confirms that the claimed stressor is adequate to support a diagnosis of PTSD and that the veteran's symptoms are related to the claimed stressor, provided that the claimed stressor is consistent with the places, types, and circumstances of the veteran's service.[14]

This change effectively removed the single greatest barrier to the proper and timely adjudication of claims involving PTSD incurred while in combat.

However, under this regulation VA will not accept a diagnosis of PTSD from a private psychiatrist or psychologist if the stressor is related to service in a combat zone. It requires a separate examination and confirmatory opinion from a VA mental health professional before it will consider a grant of service connection for PTSD. In our view this is an unwarranted waste of scarce mental health resources, significantly delays adjudication of claims, and puts an undue burden on veterans.

In recent years the Veterans Benefits Administration (VBA) has repeatedly stated that it will accept evidence from private physicians in lieu of a VA examination if that evidence is adequate for rating purposes. VA has developed scores of disability benefits questionnaires that can be completed by private physicians for this purpose. This policy change has saved VA millions of dollars in unnecessary examination costs and substantially speeded the adjudication of some disability claims.

Further, the VBA encouraged veterans service organizations in 2012 to submit what it calls "fully developed claims" with the promise of expedited claims processing. A vital part of a fully developed claim involves the submission of current medical evidence from private physicians.

While the IBVSOs recognize that VA mental health professionals have, by necessity, developed an expertise in treating veterans with PTSD, the requirement that only they are capable of confirming that a veteran suffers from PTSD and that the stressor is related to military service is both wrong and wasteful of scarce mental health resources.

An additional anomaly is this: the regulation states that a psychiatrist contracted to perform compensation examinations is able to diagnose PTSD and confirm the relationship of the stressor to service. However, the VBA would apparently not accept a diagnosis and confirmation if that same psychiatrist diagnoses and treats a veteran in his or her private practice.

The savings to VA would be substantial if the acceptance of information from private health-care professionals allowed VA to avoid scheduling unnecessary examinations.

MILITARY SEXUAL TRAUMA

Evidentiary standards for establishing a service-connected disability resulting from military sexual trauma should be relaxed. One in five female veterans and one in 100 male veterans reported to VA that they experienced military sexual trauma (MST) while on active duty.[15] A recent study examined MST in men and women deployed in the wars in Iraq and Afghanistan. A sample of 470 service members (408 men and 62 women) completed anonymous self-report questionnaires. Seventy-seven of the 470 surveyed reported MST: 51 (12.5 percent of men) and 26 (42 percent of women).[16]

VA defines MST as–

> ...psychological trauma, which in the judgment of a VA mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the Veteran was serving on active duty or active duty for training.

Sexual harassment is further defined as–

> ...repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.[17]

Numerous studies have shown that a majority of veterans fail to report rape, attempted rape, or other forms of MST. According to the Department of Defense Sexual Assault Prevention and Response Office, 86.5 percent of sexual assaults go unreported, meaning that official documentation of many assaults may not exist.

Sexual assault is one of the most devastating crimes that can happen to a person. Long after physical injuries heal, psychological wounds can develop. While the long-term effects of rape can vary greatly among victims, many experience anxiety, depression, and PTSD.

For decades VA treated claims for service connection for a psychiatric problem resulting from MST in the same way it treated all claimed conditions: the burden was on the claimant to prove that the condition was related to service. Without medical or police records, claims were routinely denied.

More than a decade ago VA relaxed its policy of requiring medical or police reports to show that MST occurred.[18] Rating personnel are instructed to consider evidence showing a sudden change in behavior, a request for transfer from a unit, and correspondence to, or statements of, friends or relatives as secondary evidence that could be used to support the assertion of an assault during service.

Nevertheless, thousands of claims for service connection for PTSD resulting from MST have been denied since 2002 because claimants were unable to produce evidence that assaults occurred.

The extraordinarily high incidence of sexual trauma on active duty in the military, the persistent failure of victims to report such trauma to medical or police authorities, and the resulting disproportionate burden placed on veterans to produce evidence of MST—often years after the event—in order to obtain service connection for PTSD, leads the IBVSOs to the conclusion that current VA regulations and policies with regard to MST lead to a high level of denials of claims for PTSD in female veterans. The VA Under Secretary for Benefits recently acknowledged this disparity compared to PTSD claims due to causes other than MST.

Years ago Congress recognized that events experienced in combat zones were often not documented, resulting in the denial of thousands of otherwise legitimate claims for service connection. Congress amended 38 U.S.C. 1154 to ease the evidentiary burden on veterans who suffered injury in combat. VA followed with an amendment to title 38, Code of Federal Regulations, 3.304 to allow VA to accept a veteran's statement of a stressor if it occurred in combat and a mental health professional diagnosed PTSD and concluded that the alleged stressor causing the PTSD occurred in combat.[19]

Given the high incidence of female veterans experiencing sexual trauma while on active duty, the IBVSOs believe it reasonable to consider military service to be the equivalent of an active combat zone for MST claims and grant the same reduced evidentiary burden as provided in 38 CFR 3.304(f)(3) to them.

Recommendations:

Congress and VA should amend the existing standard to allow veterans to submit, and VA to accept, the diagnosis of PTSD by a qualified private clinician along with confirmation that the stressor is directly related to PTSD and military service.

VA should amend 38 CFR 3.304 to read as follows:

If a stressor claimed by a veteran is related to military sexual trauma and a mental health practitioner confirms that the claimed stressor is adequate to support a diagnosis of post-traumatic stress disorder and that the veteran's symptoms are related to the claimed stressor, in the absence of clear and convincing evidence to the contrary, and provided the claimed stressor is consistent with the places, types, and circumstances of the veteran's service, the veteran's lay testimony alone may establish the probity of the stressor.

CONCURRENT RECEIPT OF COMPENSATION AND MILITARY LONGEVITY RETIRED PAY

All military retirees should be permitted to receive military longevity retired pay and VA disability compensation concurrently.

Many veterans retired from the armed forces based on longevity of service must forfeit a portion of their retired pay, earned through faithful performance of military service, before they receive VA compensation for service-connected disabilities. This is inequitable—military retired pay is earned by virtue of a veteran's career of service on behalf of the nation, careers of usually more than 20 years.

Entitlement to compensation, on the other hand, is paid solely because of disability resulting from military service, regardless of the length of service. Most nondisabled military retirees pursue second careers after serving in order to supplement their income, thereby justly enjoying a full reward for completion of a military career with the added reward of full civilian employment income. In contrast, military retirees with service-connected disabilities do not enjoy the same full earning potential. Their earning potential is reduced commensurate with the degree of service-connected disability.

In order to place all disabled longevity military retirees on equal footing with nondisabled military retirees, there should be no offset between full military retired pay and VA disability compensation. To the extent that military retired pay and VA disability compensation offset each other, the disabled military retiree is treated less fairly than a nondisabled military retiree by not accounting for the loss in earning capacity. Moreover, a disabled veteran who does not retire from military service but elects instead to pursue a civilian career after completing a service obligation can receive full VA disability compensation and full civilian retired pay—including retirement from any federal civil service position. A veteran who honorably served and retired after 20 or more years who suffers from service-connected disabilities should not be penalized for becoming disabled in service to America.

A longevity-retired disabled veteran should not suffer a financial penalty for choosing a military career over a civilian career, especially when, in all likelihood, a civilian career would have involved fewer sacrifices and quite likely greater financial rewards. While Congress has made progress in recent years in correcting this injustice, current law still provides that service-connected veterans rated less than 50 percent disabled who retire from the armed forces on length of service may not receive disability compensation from the Department of Veterans Affairs in addition to full military retired pay. *The Independent Budget* veterans service organizations believe the time has come to finally remove this prohibition completely.

Recommendation:

Congress should enact legislation to repeal the inequitable requirement that veterans' military longevity retired pay be offset by an amount equal to the disability compensation awarded to disabled veterans rated less than 50 percent, the same as exists for those rated 50 percent or greater.

Annual Cost-of-Living Adjustment

Congress should authorize an automatic adjustment of disability compensation and dependency and indemnity compensation benefits annually and end the practice of rounding down such increases.

Congress has annually authorized increases in compensation and dependency and indemnity compensation (DIC) by the same percentage that Social Security is increased. Increases in Social Security benefits are based on the Consumer Price Index (CPI). Disability compensation is paid to the men and women who returned home from military service with the residuals of disease or injury incurred coincident with their service. Compensation was designed to replace the earnings capacity lost because of service-connected disabilities. DIC is paid to the surviving spouse and minor or school age children of a service member who died on active duty or a veteran who died from a service-connected disability.

Inflation erodes the value of these benefits. Under current law the government monitors inflation throughout the year, and if it occurs automatically increases Social Security by the percent of increase for the following year. Over the years Congress has amended laws governing most other benefit programs to ensure that they are adjusted each year by the same percentage that Social Security is increased. This approach eases the burden of work on Congress and ensures that individuals who are entitled to these benefits are assured of a timely adjustment in their benefits and are not further harmed by the impact of inflation.

Congress has not enacted legislation to automatically increase compensation and DIC by the amount of increase of inflation in the previous year. While Congress has always increased compensation and DIC based on inflation, there have been years when such increases were delayed, which increases the financial strain on veterans and their survivors. Delays also introduce unnecessary stress on those who have already sacrificed themselves or their loved ones in service to our nation.

The Independent Budget veterans service organizations (IBVSOs) urge Congress to enact legislation indexing compensation and DIC to Social Security cost-of-living (COLA) increases. The IBVSOs also note that the CPI index used for Social Security does not include increases in the cost of food or gasoline, both of which have risen significantly in recent years. While no inflation index is perfect, the IBVSOs believe that the Department of Veterans Affairs should examine whether there are other inflation indices that would more appropriately correlate with the increased cost of living experienced by disabled veterans and their survivors.

VETERANS' AND SURVIVORS' BENEFITS PAYMENT ROUNDED DOWN

In 1990, Congress, in an omnibus reconciliation act, mandated that veterans' and survivors' benefit payments be rounded down to the next lower whole dollar. While this policy was initially limited to a few years, Congress eventually made it permanent. Rounding down veterans' and survivors' benefit payments to the next lower whole dollar reduces the payments by up to $12 per year. Each year's COLA is calculated on the rounded-down amount of the previous year's payments. While not significant in the short run, the cumulative effect over time results in a significant loss to beneficiaries. For example, a veteran totally disabled from service-connected disabilities would have received $1,823 per month in 1994. Today that benefit is paid at $2,769 per month. However had that veteran received the full COLA each year as shown in the CPI, that benefit would now be $2,846.[20] A reduction of $47 per month means that the veteran receives $564 less each year. The cumulative effect of this provision of the law effectively levies a tax on totally disabled veterans and their survivors, costing them hundreds of dollars per year.

Recommendations:

Congress should index compensation and dependency and indemnity compensation benefits to Social Security to ensure the timely adjustment of benefits resulting from inflation.

Congress should repeal the current policy of rounding down veterans' and survivors' benefits payments.

VA should conduct a study to determine if there are other inflation indices that more appropriately measure the erosion of disability compensation benefits.

MORE EQUITABLE RULES FOR SERVICE CONNECTION OF HEARING LOSS AND TINNITUS

For combat veterans and those with military occupations that typically involved acoustic trauma, service connection for hearing loss or tinnitus should be presumed.

Many veterans exposed to acoustic trauma during service now suffer from hearing loss and/or tinnitus. Too often, they are unable to *prove* that their hearing problems began in or were caused by military service, often because of inadequate in-service testing procedures, lax examination practices, or poor recordkeeping. The presumption requested herein would resolve this long-standing injustice.

The Institute of Medicine issued a report in September 2005 titled *Noise and Military Service: Implications for Hearing Loss and Tinnitus*. The IOM found that patterns of hearing loss consistent with noise exposure can be seen in cross-sectional studies of military personnel. Because noise exposure is endemic to military service, the total number of veterans who experience noise-induced hearing loss as a result of military service may be substantial.

Hearing loss and tinnitus are common among combat, combat arms, combat support, and combat service support veterans. These veterans were typically exposed to prolonged, frequent, and exceptionally loud noises from such sources as gunfire, tanks and artillery, explosive devices, and aircraft. Exposure to acoustic trauma is a well-known cause of hearing loss and tinnitus. Yet many combat veterans are not able to document their in-service acoustic trauma, nor can they prove their hearing loss or tinnitus was due to military service. World War II veterans are particularly at a disadvantage because testing by spoken voice and whispered voice (the standard practice in the 1940s) was universally insufficient to detect all but the most severe hearing loss.

Further, certain noncombat jobs are known to involve work around extremely loud machinery. Prolonged exposure to noise from tanks, trucks and engines, and machinery on ships, for instance, can cause hearing loss and/or tinnitus.

Audiometric testing in the service was insufficient; therefore, confirming records are lacking for a variety of reasons. Congress has made special provisions for other deserving groups of veterans whose claims are unusually difficult to establish because of circumstances beyond their control. Congress should do the same for veterans exposed to acoustic trauma, including combat veterans. Congress should instruct the Department of Veterans Affairs to develop a list of military occupations that are known to expose service members to noise. VA should be required to presume noise exposure for anyone who worked in one of those military occupations and grant service connection for those who now experience documented hearing loss or tinnitus. Further, this presumption should be expanded to anyone who is shown to have been in combat.

Recommendation:

Congress should create a presumption of service-connected disability for combat veterans and veterans whose military duties exposed them to high levels of noise and who subsequently suffer from tinnitus or hearing loss.

COMPENSABLE DISABILITY RATING FOR HEARING LOSS NECESSITATING A HEARING AID

The* VA Schedule for Rating Disabilities *should provide a minimum 10 percent disability rating for hearing loss that requires use of a hearing aid.

The *VA Schedule for Rating Disabilities* (VASRD) contained in title 38, Code of Federal Regulations, part 4 does not provide a compensable rating for hearing loss at certain levels severe enough to require the use of hearing aids. The minimum disability rating for any hearing loss severe enough to require use of a hearing aid should be 10 percent, and the VASRD should be amended accordingly.

A disability severe enough to require use of a prosthetic device should be compensable. Beyond the functional impairment and the disadvantages of artificial hearing restoration, hearing aids negatively affect the wearer's physical appearance, similar to scars or deformities that result in cosmetic defects. Also, it is a general principle of VA disability compensation that ratings are not offset by the function artificially restored by a prosthetic device.

For example, a veteran receives full compensation for amputation of a lower extremity although he or she may be able to ambulate with a prosthetic limb. Additionally, a review of 38 Code of Federal Regulations, Part 4, *Schedule for Rating Disabilities*, shows that all disabilities for which treatment warrants an appliance, device, implant, or prosthetic, other than hearing loss with hearing aids, receive a compensable rating.

Assigning a compensable rating for medically prescribed hearing aids would be consistent with minimum ratings provided throughout the VASRD. Such a change would be equitable and fair.

Recommendation:

VA should amend its *Schedule for Rating Disabilities* to provide a minimum 10 percent disability rating for any hearing loss medically requiring a hearing aid.

AGENT ORANGE IN KOREA

The presumptive service connection end date for veterans who served on the Korean demilitarized zone should be extended.

The delineating dates for presumptive service connection due to exposure to herbicides (Agent Orange) in Korea should be established in the same manner as they are for Vietnam veterans. If a veteran served in the Korean demilitarized zone (DMZ) north of the Imjin River at any time after Agent Orange was applied, presumptive service connection should be granted for the conditions contained in title 38, Code of Federal Regulations, section 3.309(e).

Currently, certain military personnel who were assigned to units operating in or near the DMZ in Korea from April 1968 to August 1971 are presumed to have been exposed to herbicides.[21] Veterans with qualifying service in Korea may be granted service connection on a presumptive basis if they suffer from one or more of the disabilities enumerated in title 38, Code of Federal Regulations, section 3.309(e).

The ending date of August 1971 was established by P.L. 108-183 and is found in title 38, United States Code, section 1821. While *The Independent Budget* veterans service organizations applaud the action of Congress and the Department of Veterans Affairs to extend the ending date for this presumption of exposure from 1969 to 1971, we do not believe that it is sufficient to recognize the length of time that dioxin remains in the soil and potentially harmful to U.S. military personnel.

The Environmental Protection Agency (EPA) reports that "the persistence half-life of TCDD [tetrachlorodibenzodioxin] on soil surfaces may vary from less than one year to three years, but half-lives in soil interiors may be as long as 12 years. Screening studies have shown that TCDD is generally resistant to biodegradation."[22]

The EPA has concluded:

> The toxicity of dioxin is such that it is capable of killing newborn mammals and fish at levels as small as 5 parts per trillion (or one ounce in 6 million tons). Its toxic properties are enhanced by the fact that it can enter the body through the skin, the lungs, or through the mouth.[23]

The dioxin on the Korean DMZ did not lose its efficacy on August 1, 1969, but continued to be absorbed into the bodies of the troops who were operating north of the Imjin River, and wreaks havoc on those veterans today just as it does on Vietnam veterans.

Recommendation:

Congress should change the dates of eligibility for Agent Orange-presumed disabilities in veterans who served in the Korean demilitarized zone at any time beginning in April 1968.

SUPPLEMENTAL GRANT FOR ADAPTATION OF A NEW HOME

Grants should be established for special adaptations to homes that veterans purchase to replace initial specially adapted homes.

Adapted housing grants for eligible service-connected disabled veterans literally open doors to independence. Prevailing societal and structural barriers to access outside the home become easier to confront once the limitations brought on by a veteran's disability are mitigated by living circumstances that promote confidence and freedom of movement. VA adapted-housing grants currently given to eligible veterans are provided on a once-in-a-lifetime basis. However, homeowners sell their homes for any number of reasons, both foreseeable and unforeseeable (e.g., change in the size of families, relocation for career or health reasons, etc.). Once the housing grant is used, veterans with service-incurred disabilities who own specially adapted homes must bear the full cost of continued accessible living should they move or modify a home. Those same veterans should not be forced to choose between surrendering their independence by moving into an inaccessible home or staying in a home simply because they cannot afford the cost of modifying a new home that would both mitigate their service-incurred disability and better suit their life circumstances.

Recommendation:

Congress should establish a supplementary housing grant that covers the cost of new home adaptations for eligible veterans who have already used their initial grants.

Administration of the Specially Adapted Housing Grant Should be Expedited for Eligible, Terminally Ill Veterans

Terminally ill veterans and their families should not have to endure red tape, and in some cases die, before enjoying the benefit of their Specially Adapted Housing Grants.

On September 23, 2008, the Department of Veterans Affairs published regulations establishing amyotrophic lateral sclerosis (ALS) as a service-connected disease. The new regulation provides that "[t]he development of ALS at any time after discharge or release from active military, naval, or air service is sufficient to establish service connection for that disease."[24] This gave veterans who suffer from this progressive neurodegenerative disease additional monetary resources and access to health care. The problem was many did not live long enough to enjoy it. Those that did not quickly die from the illness often deteriorated to a point where a wheelchair and related ancillary benefits were needed in order to live. Those ancillary benefits include Specially Adapted Housing (SAH) grant funding for home modifications made available to severely disabled veterans or service members who suffered the service-connected loss of mobility.

According to a Government Accountability Office report, the median number of days from the submission of an SAH grant application to VA's approval of the grant was 299.[25] After a claimant submits an application for adaptive housing assistance and decides to take advantage of the benefit, he or she must make a number of decisions related to the project—including arranging for mortgage and construction financing, hiring architects, working with VA to review and approve adaptation plans, and soliciting bids from and selecting contractors—before VA approves the grant. VA maintained that the length of time from application to approval is often driven by the amount of time needed by the veteran for project design. However, the project design phase often consists of stringent requirements and lengthy approval processes imposed by VA.

To its credit, VA acknowledged the terminal and quickly debilitating nature of the ALS by raising the minimum disability rating for those with the disease from 30 percent to 100 percent, which spared the veteran from having to go through the protracted claims process in order to receive a higher disability evaluation.[26] But the same regard was not applied to the process for administering the SAH grant. As a result, veterans who have service-connected ALS and become eligible for the SAH benefit, often die while undergoing the lengthy application and approval process.

Terminally ill veterans must have expedited access to SAH benefits. A statutory expedited SAH grant process for veterans with service-connected disabilities rated 100 percent would allow veterans who have received a doctor's prognosis of a terminal illness that will result in the loss of use of upper or lower limbs to receive immediate eligibility for SAH. This expedited process would include veterans who are fully eligible for SAH and those veterans, such as ALS veterans, who are rated 100 percent but who do not yet meet the loss of use requirement of SAH. This expedited authority would allow veterans who either met or will meet the loss of use requirements due to a service-connected terminal illness to avoid certain bid requirements, payment delays, and other program requirements that create delays. A veteran who has acquired a spinal cord injury but who is in otherwise good health has needs different from those of a veteran who has a terminal illness that will quickly lead to loss of function. Consequently, these veterans should have greater authority to more easily waive certain adaptations that are typically required by VA to ensure that their most immediate needs are addressed as quickly as possible such as adapting a bathroom or creating an accessible exit. Similarly, to the current Temporary Residence Adaptation grant, the expedited SAH process would be available on a one-time basis and would count against veterans' SAH benefits.

Recommendation:

Congress should authorize an expedited SAH benefits process that provides immediate access to housing adaptation benefits for veterans who have a service-connected terminal illness that is rated at 100 percent and will result in loss of use of limbs. For veterans (including those with terminal illnesses) who already meet all SAH requirements, Congress should require VA to expedite the approval process and provide veterans with common sense waivers that will ensure that they are able to actually benefit from the adaptations prior to the end of their lives.

Supplemental Entitlement to an Auto Grant for Eligible Veterans

The cost of replacing modified vehicles purchased through the VA automobile grant presents a financial hardship for veterans who must bear the full replacement cost once the adapted vehicle has exceeded its useful life.

The Department of Veterans Affairs provides financial assistance in the form of grants to eligible veterans toward the purchase of a new or used automobile to accommodate a veteran or service member with certain disabilities that resulted from a disabling condition incurred or aggravated during active military service. In December 2011, VA increased this one-time auto grant from $11,000 to $18,900, thus giving service-disabled veterans who need a modified vehicle increased purchasing power. While the *Independent Budget* veterans service organizations recognize the benefit to those veterans who have not yet used the grant, veterans who have exhausted the grant are left to replace modified vehicles, once those vehicles have surpassed their useful life, at their own expense and at a higher cost than the first adapted vehicle due to inflation.

VA acknowledged the impact that higher cost of living had on the intrinsic value of another critical, one-time VA benefit. P.L. 109-233 authorized up to three usages of the Specially Adapted Housing (SAH) grant. P.L. 110-289 provided for annual increases in the maximum grant amount, to keep pace with the residential cost-of-construction index. When the maximum grant amounts are increased, veterans or service members who have not used the assistance available to them up to the allowable three times may be entitled to a grant equal to the increase in the grant maximum amount at that time. This means a veteran who previously used the grant is entitled to additional SAH entitlement—the current rate of maximum entitlement minus what was previously used. The intent of this one-time grant, which allows for prorated supplementary funding as it increases, was to provide veterans with a means to overcome service-incurred disabilities in the home. The same calculus should be applied to the automobile grant.

The Department of Transportation reports the average life span of a vehicle is 12 years, or about 128,500 miles. The cost to replace modified vehicles ranges from $40,000 to $65,000 new and $21,000 to $35,000 used, on average. These tremendous costs, compounded by inflation, present a financial hardship for many disabled veterans who need to replace their primary mode of transportation once it exceeds its expected life.

Recommendation:

VA should provide a supplementary automobile grant to eligible veterans in an amount equaling the difference between the total amount they previously used and the current grant maximum in effect at the time they are replacing their vehicle.

VALUE OF POLICIES EXCLUDED FROM CONSIDERATION AS INCOME OR ASSETS

The cash value of life insurance policies should not be counted as assets, nor should dividends and proceeds be considered income, for the purpose of establishing a veterans' eligibility for other government programs.

Life insurance provides the surviving spouses and dependents of veterans with a means of maintaining financial stability after the sponsor's death. In some cases, however, veterans are forced to surrender their government life insurance policies and apply the cash value of policy surrender toward the cost of nursing home care as a condition of Medicaid coverage. When this occurs, these policies become nothing more than a funding vehicle for the veteran's care prior to death masquerading as a form of protection for survivors. As a result, the government is either paying for a veteran's care in life or paying proceeds to survivors, instead of fulfilling both sacred obligations.

Recommendation:

Congress should enact legislation that exempts the cash value of VA life insurance policies, and all directly resulting dividends and proceeds, from consideration in determining veteran entitlement to health care under Medicaid.

LOWER PREMIUM SCHEDULE FOR SERVICE-DISABLED VETERANS' INSURANCE

Improved life expectancy and new mortality tables should lower premiums for Service-Disabled Veterans' Insurance.

Congress created the Service-Disabled Veterans' Insurance (SDVI) program for veterans who faced difficulty obtaining commercial life insurance due to their service-connected disabilities. At the program's outset in 1951, its rates were based on contemporaneous mortality tables and remained competitive with commercial insurance.

Since that time, reductions in commercial mortality rates reflected improved life expectancy as illustrated by updated mortality tables. However, the Department of Veterans Affairs remains bound to outdated mortality tables. This results in rates and premiums that are no longer competitive with commercial insurance offerings, which deviates from the intended benefit of providing the SDVI to veterans with service-incurred disabilities who cannot obtain commercial life insurance due to disability. This inequity is compounded by the fact that eligible veterans must pay for supplemental coverage and may not have premiums waived for any reason. Even though *The Independent Budget* veterans service organizations are thankful that Congress authorized an increase from $20,000 to $30,000 in the supplemental amount available with the passage of P.L. 111-275, "Veterans Benefits Act of 2010," Congress's intent will not be met under the current rate schedule because many service-disabled veterans cannot afford VA premiums.

Recommendation:

Congress should enact legislation that authorizes VA to revise its premium schedule for Service-Disabled Veterans' Insurance based on current mortality tables.

Pension for Nonservice-Connected Disability

Congress should extend basic eligibility for nonservice-connected pension benefits to veterans who served in combat environments, regardless of whether or not a period of war was defined.

Pension is payable to a veteran who is 65 years of age or older or who is permanently and totally disabled as a result of nonservice-connected disabilities, and who has at least one day's service during a period of war and has a qualifying low income.[27]

Although Congress has the sole authority to make declarations of war, the President, as commander in chief, may send servicemen and -women into hostile situations at any time to defend American interests. While some of these incidents occur during periods of war (e.g., Somalia, 1992–95) many other military actions take place during periods of "peace" (e.g., Granada, 1983; Lebanon, 1982–87; Panama, 1989). Even the Mayaguez Incident, May 12–15, 1975, falls outside the official dates of the Vietnam War, which ended May 7, 1975.

It is quite apparent that the sole service criteria for eligibility to pension, at least one day of service during a period of war, too narrowly defines military activity in the last century. Expeditionary medals, combat badges, and the like can better serve the purpose of defining combat or warlike conditions when Congress fails to declare war and when the President neglects to proclaim a period of war for veterans' benefits purposes.

Congress should amend the law so that the receipt of hostile fire pay, award of an expeditionary medal, campaign medal, combat action ribbon, or similar military decoration will qualify an individual for VA pension benefits. This action would ensure that veterans who served during periods of peace but who were placed in hostile situations are eligible for nonservice-connected pension if they are otherwise eligible.

Recommendation:

Congress should change the law to authorize eligibility to nonservice-connected VA pension for veterans who have been awarded the Armed Forces Expeditionary Medal, Purple Heart, Combat Infantryman's Badge, or similar medal or badge for participation in military operations that fall outside officially designated periods of war.

Survivor Benefits

In addition to providing disability compensation and other benefits to veterans, the Department of Veterans Affairs provides a multitude of benefits to eligible survivors, predominately surviving spouses, upon the death of the veteran. Benefits available to eligible survivors may include burial allowance, dependency and indemnity compensation, nonservice-connected death pension, life insurance, and dependents educational assistance. Eligibility for many of the survivor benefits available through the VA is generally determined by whether the veteran was rated totally disabled prior to death or whether the death was incurred in service or as a direct result by way of a service connected disability.

INCREASE OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF SERVICE MEMBERS

The current rate of compensation paid to the survivors of deceased members is inadequate and inequitable when measured against other federal programs.

Under current law, Dependency and Indemnity Compensation (DIC) is paid to an eligible surviving spouse if the military service member died while on active duty or the veteran's death resulted from a service-related injury or disease.

DIC payments were intended to provide surviving spouses with the means to maintain some semblance of economic stability after the loss of their loved one. The rate of payment for in-service deaths and certain service-related deaths occurring after service should equal what is provided in other federal programs. All surviving spouses, regardless of the status of their sponsors at the time of death, face the same financial hardships.

Therefore, *The Independent Budget* veterans service organizations believe that the rate of DIC should be increased from 43 percent to 55 percent of a 100 percent disabled veteran's compensation for all eligible surviving spouses. This amount would increase DIC by approximately $300 per month and is in line with survivor benefits of federal workers and other federal programs.

Recommendation:

Congress should authorize dependency and indemnity compensation eligibility increases for all survivors. Congress should increase DIC equal to that of other federal programs. The amount of increase should be 55 percent of VA disability compensation for a 100 percent disabled veteran.

REPEAL OF OFFSET AGAINST THE SURVIVOR BENEFIT PLAN

The current requirement that the amount of an annuity under the Survivor Benefit Plan be reduced on account of, and by an amount equal to, dependency and indemnity compensation is inequitable.

A veteran disabled in military service is compensated for the effects of service-connected disability. When a veteran dies of service-connected causes, or following a substantial period of total disability from service-connected causes, eligible survivors or dependents receive dependency and indemnity compensation (DIC) from the Department of Veterans Affairs. This benefit indemnifies survivors, in part, for the losses associated with the veteran's death from service-connected causes or after a period of time when the veteran was unable because of total disability to accumulate an estate for inheritance by survivors.

Career members of the armed forces earn entitlement to retired pay after 20 or more years of service. Survivors of military retirees have no entitlement to any portion of the veteran's military retirement pay after his or her death, unlike many retirement plans in the private sector. Under the Survivor Benefit Plan (SBP), deductions are made from the veteran's military retirement pay to purchase a survivor's annuity. This is not a gratuitous benefit, but is purchased by a retiree.

Upon the veteran's death, the annuity is paid monthly to eligible beneficiaries under the plan. If the veteran died from other than service-connected causes or was not totally disabled by service-connected disability for the required time preceding death, beneficiaries receive full SBP payments. However if the veteran's death was a result of military service or after the requisite period of total service-connected disability, the SBP annuity is reduced by an amount equal to the DIC payment. When the monthly DIC rate is equal to or greater than the monthly SBP annuity, beneficiaries lose the SBP annuity in its entirety.

The *Independent Budget* veterans service organizations believe this offset is inequitable because no duplication of benefits is involved. Payments under the SBP and DIC programs are made for different purposes. Under the SBP, coverage is purchased by a veteran and at the time of death, paid to his or her surviving beneficiary. On the other hand, DIC is a special indemnity compensation paid to the survivor of a service member who dies while serving in the military, or a veteran who dies from service-connected disabilities. In such cases DIC should be added to the SBP, not substituted for it. Surviving spouses of federal civilian retirees who are veterans are eligible for DIC without losing any of their purchased federal civilian survivor benefits. The offset penalizes survivors of military retirees whose deaths are under circumstances warranting indemnification from the government separate from the annuity funded by premiums paid by the veteran from his or her retired pay.

Recommendation:

Congress should repeal the inequitable offset between dependency and indemnity compensation and the Survivor Benefit Plan because there is no duplication between these two distinct benefits.

Retention of Remarried Survivors' Benefits at Age 55

Congress should lower the age required for remarriage for survivors of veterans who have died on active duty or from service-connected disabilities to be eligible for retention of dependency and indemnity compensation to conform with the requirements of other federal programs.

Current law allows retention of dependency and indemnity compensation (DIC) on remarriage at age 57 or older for eligible survivors of veterans who die on active duty or of a service-connected injury or illness. Although *The Independent Budget* veterans service organizations (IBVSOs) appreciate the action Congress took to allow restoration of this rightful benefit, the current age threshold of 57 years is arbitrary.

Remarried survivors of retirees of the Civil Service Retirement System, for example, obtain a similar benefit at age 55. This would also bring DIC in line with SBP rules that allow retention with remarriage at the age of 55. The IBVSOs believe no eligible survivors should be penalized for remarriage. Equity with beneficiaries of other federal programs should govern Congressional action for this deserving group.

Recommendation:

Congress should enact legislation to enable survivors to retain dependency and indemnity compensation on remarriage at age 55 for all eligible surviving spouses.

Notes

[1] Improved Death Pension Rate Table; http://www.vba.va.gov/bln/21/Rates/pen02.htm.
[2] "VA Struggling with Disability Claims," *Washington Post*, November 11, 2012.
[3] www.vba.va.gov/reports/mmwr.
[4] www.vba.va.gov/reports/aspiremap.asp.
[5] Committee on Medical Evaluation of Veterans for Disability Compensation, Institute of Medicine of the National Academies, *A 21st Century System for Evaluating Veterans for Disability Benefits* (2007).
[6] Ibid., 78–81.
[7] Ibid., 116.
[8] Ibid., 116–17 (emphasis in original).
[9] Ibid., 117, fig.4–1.
[10] Ibid., 117–18.
[11] Veterans' Disability Benefits Commission, *Honoring The Call To Duty: Veterans' Disability Benefits in the 21st Century* (2007), 3.
[12] Title 38 CFR 2.4(b)(1).
[13] Veterans' Disability Benefits Commission, *Honoring the Call to Duty: Veterans Benefits in the 21st Century,* (October, 2007), p. 98, section 1.2.B.
[14] *Federal Register* 75, no. 133 (July 13, 2010), 39843.
[15] *Military Sexual Trauma*; http://www.ptsd.va.gov/public/pages/military-sexual-trauma-general.asp.
[16] *Military Sexual Trauma During Deployment to Iraq and Afghanistan: Prevalence, Readjustment, and Gender Differences;* http://www.ingentaconnect.com/content/springer/vav/2012/00000027/00000004/art00003.
[17] Ibid.
[18] 38 CFR 3.304(f)(5); http://www.gpo.gov/fdsys/pkg/FR-2002-03-07/html/02-5376.htm; http://www.law.cornell.edu/cfr/text/38/3.304.
[19] 38 CFR 3.304(f)(3).
[20] This amount was calculated using the Bureau of Labor Statistics CPI calculator found at http://www.bls.gov/data/inflation_calculator.htm.
[21] Title 38 CFR section 3.307(a)(6)(iv).
[22] Technical Factsheet on DIOXIN 3,7,8–TCDD) (2,3,7,8–TCDD); http://www.epa.gov/ogwdw/pdfs/factsheets/soc/tech/dioxin.pdf, p. 2.
[23] http://www.vn-agentorange.org/newsletters.html.
[24] 38 CFR § 3.318.
[25] http://www.gao.gov/new.items/d10786.pdf.
[26] http://www.gpo.gov/fdsys/pkg/FR-2011-12-20/html/2011-32531.htm.
[27] The requirements for pension, along with applicable definitions, are found throughout title 38, United States Code (e.g., sections 101 (15), 1521, 1501)).