

VETERANS' SERVICES COMMITTEE MEETING
April 18, 2018

Present: Legislators Bryan Moser, Andrea Moroughan and John Lehman, County Manager Ryan Piche and Veterans Director Stephen Kilionski

The meeting was called at 11:10 a.m.

Steve distributed the attached quarterly report, stating that typically first quarter receipts are higher, although clarifying that the retroactive receipts of \$712,329.44 during the quarter were extraordinarily high. The amount includes two disability compensation appealed decisions that had taken six and seven years respectively, resulting in veteran benefits of \$176,000 and \$155,000.

The nomination of VA Secretary Ronny Jackson has been made to the U.S. Senate, but has yet to be confirmed.

The VA Choice legislation allows for veterans outside a 40-mile radius of a clinic, or who has to wait more than 30 days for a visit, the option to treat with their primary doctor and have the VA pay. However, Steve consistently fields complaints for unpaid VA bills for private choice treatment and the inability to get a medical appointment.

Steve is of the opinion that the VA should privatize with an all-inclusive comprehensive program. The current system does not adequately service veterans. Everyone is entitled to good health care, he said, but most particularly our veterans. It is doubtful that privatization would be seriously considered, because the initiative does not have Federal level support.

The Rapid Appeals Modernization Program ("RAMP") is an effort to speed up the handling and resolution of appeals. This program initiated a workload sharing process that allows applications to be handled by any VA regional office across the nation. Steve prepares and sends all Lewis County veteran claims to the regional Buffalo office. If a claim is initially denied at a regional office, it then goes to the Board of Veterans' Appeal in Washington, D.C. where the typical claim takes six years to adjudicate.

The Board of Veterans' Appeal may take one of three actions: uphold the regional office denial, overturn the denial, or send it back to the regional office for more information, which further delays a decision. Steve relates that one claim took 18 years for a final decision.

The new RAMP process is being tested for documented outcomes of actual improvement on veteran claim appeals.

Currently, to open a disability compensation claim, a veteran must provide in-service medical records, a current diagnosis, and a doctor's opinion linking the current diagnosis to the in-service medical condition. The U.S. Court of Appeals for the Federal Circuit ruled in favor of pain-stricken veterans that amends the VA regulations. No longer does a veteran have to provide a doctor opinion that links current treatment to in-service diagnosis. Chronic pain is presumptively linked to a documented in-service diagnosis.

Ryan Piche informed that Steve was recognized as the number one honor student among a class of his peers throughout the State for an accreditation course.

The meeting concluded at 11:30 a.m.

Respectfully submitted,
Terry Clark, Clerk of the Board

CONTACTS AND SERVICES QUARTERLY REPORT

1st Qtr CY 2018	VETERAN STATUS							TYPE			MODE		SERVICES RENDERED														RETROACTIVE AWARD AMOUNT							
	WW II	Korea	Vietnam	Gulf War	Iraq	Afghanistan	Cold War	Other	Original	Veteran	Dep/Widow/FM	Other/Agency	Personal	Tel/Mail/Elec/Fax	AD/DFAS/SBP	NYS Blind Annuity	Burial/Funeral/DC	Comp/SMC/DIC	Education/Tech	Voc Rehab&Empl	Life Insurance	Labor/Employ	Legal Assistance	Home Loan Guar	Medical/Dental	Pension/A&A	Social Security	Social Services	NYS VPTE	Discharge-DD 214	Other	Pension	Compensation	
399	8	8	88	32	59	21	9	22	7	247	69	83	150	249	8	7	38	160	35	8	19	12	12	9	135	77	13	43	49	48	217	\$70,806.00	\$641,523.44	
QUARTERLY TOTAL																																		
Number of Open/Active Claim Files:																	71																Combined Total	
																																	\$712,329.44	

Disability Compensation Payments= **\$554,196.16**

Pension Payments= **\$69,782.00**

Education Payments= **\$88,351.28**

Vocational Rehab Payments= **\$0.00**

Life Insurance Claim Payments= **\$0.00**

Healthcare Enrollments= **28**

Total Funds into the County Economy for 1st Qtr CY 2018= **\$712,329.44**

Highlights **SEE HANDOUTS**

David Shulkin out, Ronny Jackson in as VA secretary

Updated 11:09 PM ET, Wed March 28, 2018

Trump nominates new Veterans Affairs secretary 01:13

Washington- President Donald Trump announced Wednesday he will replace his Veterans Affairs Secretary David Shulkin with Admiral Ronny Jackson, who currently serves as physician to the President.

Trump thanked Shulkin via Twitter for his "service to our country and to our GREAT VETERANS" and said Robert Wilkie, the Under Secretary of Defense for Personnel and Readiness, will serve as acting secretary until Jackson is confirmed.

A White House official said the embattled Shulkin was no longer effective in his role, saying his "distractions were getting in the way of carrying out the President's agenda."

Statement by Acting VA Secretary Robert Wilkie – Congress Must Pass Choice Bill Now to Give Best Care Options to our Veterans

April 9, 2018, 02:15:00 PM

Statement by Acting VA Secretary Robert Wilkie Congress Must Pass Choice Bill Now to Give Best Care Options to our Veterans

Today marks four years since the disastrous wait-time scandal in Phoenix came to light, where long wait times at the Phoenix VA and at other department facilities nationwide led to unconscionable delays in receiving care.

Following that scandal, Congress passed the bipartisan VA Choice legislation that allowed Veterans to seek care in the private sector when faced with VA wait times of over 30 days, or when Veterans had to travel more than 40 miles to see a VA doctor.

Funding for the Choice program was set to expire last year, but Congress extended it twice while it worked on a bipartisan deal for the next generation of Choice legislation that would give even better options for Veterans to seek care in the community when the VA was unable to provide them the best standard of treatment.

It's time to fix the Choice Program – as well as the department's other non-VA care efforts – once and for all by merging them into a single, streamlined community care program that's easy to use for Veterans and VA employees.

America's Veterans are looking to Congress and VA to come together now to provide them the best possible solutions for their care. Your VA will be working overtime to achieve the promise of leaving no veteran waiting for care.

The New RAMP Program

April 12, 2018/in Veterans /by Robin Rosenblad, Claims Advocate

As some of you may have heard, the VA is implementing a new program of new procedures with the goal of speeding up the handling and resolution of appeals. The program has been dubbed the Rapid Appeals Modernization Program (RAMP) and has begun to be offered to veterans in select areas as of October 2017 to opt into the process. It will be a voluntary option and totally up to the veteran as to whether he/she chooses to opt into the new program or remain with the existing appeals process. To opt-in, the veteran must file a "RAMP Opt-In Election" Form that will be attached to a letter sent by the VA informing the veteran of this new process.

If a veteran opts into the new RAMP process, the veteran has to withdraw any pending appeals and then the VA will make several other choices available. Once opting in, the veteran can choose from the following:

1. Supplemental Claim Lane – If you have new and relevant information for your claim, the VA is recommending that you choose the Supplemental Claim Lane. They will attempt to process your appeal then within an average of 125 days. You must be ready to submit your additional new information very quickly for this option to work.
2. Higher-Level Review Lane – With appeals for which you have no additional evidence to submit but you believe an error was made in the decision, you can choose the Higher-Level Review Lane. Your claims will then be fully reviewed by a new claims adjudicator. You should be aware that the new review will only consider evidence the VA already has at the time the veteran opts in so no new evidence can be submitted for consideration.)
3. Once in the RAMP program, if a Higher-Level Review Lane appeal is denied, a Notice of Disagreement (NOD) should still be filed within one year to continue the appeal, but the NOD will send the appeal straight to the BVA. This is supposed to save time by not having to wait for the issuance of the Regional Office's Statement of the Case (SOC) or Supplemental Statement of the Case (SSOC) before filing a Form 9 to forward the appeal to the BVA as is done in the existing appeals process.

While in the Higher-Level Review Lane, a veteran can still request that an informal conference is held. If the appeal has reached the BVA, the veteran may still request that a hearing by video conference or a hearing in Washington D.C. be held (but Travel Board hearings will no longer be an option).

If the process isn't resolved after choosing the Supplemental Claim Lane above, then the veteran would still have the option to choose the Higher Level Review Lane.

The VA says that opting into the new process will NOT change the potential effective date of the claim (which is important to preserve as it could substantially affect the amount of retroactive

pay a veteran receives if his/her claim or appeal is granted). As always though, to preserve the effective date, the veteran must continue to appeal any claim denials without letting deadlines lapse. This could include:

1. Requesting a higher level review within one year of a decision.
2. Submitting a supplemental claim within one year of a decision.
3. Filing an NOD within one year of a decision.
4. Submitting a supplemental claim within one year of a BVA decision.
5. Submitting a supplemental claim within one year of a CAVC decision.

Still To Be Determined...

If this RAMP process truly speeds up the handling of cases as it is supposed to, what remains to be seen are if other measures will be taken to speed up other parts of the process of handling a VA appeal. One of the issues that currently exists that slows down appeals, is the delay in receiving a veteran's Claims File. (The **Claims File** contains all of the documents pertaining to the history of a veteran's claims/appeals and includes all the documentation that the VA has obtained on a veteran's behalf or that the veteran may have sent in.) Our office always orders the Claims File as soon as we agree to accept a veteran's case. However, we often have to wait for 6 months to a year (or more) to receive the Claims file. Having the complete Claims File is essential for reviewing the specifics of an appeal and knowing what may still need to be done for the appeal.

Another question that arises is – if a huge number of veterans opt into the new process – will that bog down the intended outcome of handling the claims more efficiently?

Also – what will the VA consider to be “new and relevant” evidence?

Will these changes require the creation of numerous new positions at the VA, and if so, has the VA been adequately funded to pay for those positions? Or will the VA draw on its existing pool of employees and pull them away from the current appeal process and potentially slow it down further?

We all need to know answers to these and other questions as the letters from the VA informing veterans of their options are starting to be sent to veterans in certain areas already. The VA plans to implement the plan in more areas by early 2018.

Court Rules in Favor of Pain-Stricken Vets

Published: April 13, 2018

More in: *Armed Forces News*



More veterans who suffer from chronic pain related to injuries or conditions they received while in the service now qualify for treatment and benefits from the Department of Veterans Affairs.

The U.S. Court of Appeals for the Federal Circuit ruled April 4 that pain-stricken veterans should get VA benefits, even if their conditions are not directly linked to a medical diagnosis. The ruling overturns a 19-year precedent that barred VA from providing such benefits without a clear diagnosis.

“What this ruling means is that if a physician cannot diagnose the cause of the pain the veteran is experiencing, but the pain is related to an event, injury, or disease that occurred during the veteran’s military service, the veteran should now win disability benefits,” said Bart Stichman, executive director of the National Veterans Legal Services Program, an advocacy group. Stichman represented veterans’ interests as the case was under consideration by the Federal Circuit.

In 1999, a lower federal court had ruled that VA had no authority to act in such veterans’ behalf. The Federal Circuit decision effectively overturned the older ruling.

This latest decision stemmed from the case of a soldier named Melba Saunders, whose service from November 1987 until October 1994 included action during the Persian Gulf War. After leaving the military, Saunders sought VA disability compensation for bilateral knee disorders

she sustained while in uniform. When VA rejected her claim, she appealed to the Board of Veterans Appeals.

In 2011, even after a doctor diagnosed her disorder and agreed that it likely was caused by military service, the appeals board again said no – citing an earlier court precedent. At that point, Saunders appealed to the Court of Veterans Appeals and later the Federal Circuit, where she ultimately gained legal relief.

“The Federal Circuit’s ruling is a significant victory for disabled veterans ... like Melba Saunders, who have served their country in wartime and are now unable to work to their full capacity as a result,” said Mel Bostwick, a private attorney who also represented the former soldier during the legal process.