



RAPID APPEALS MODERNIZATION PROGRAM (RAMP)

The Issue:

In 2017, Congress passed the “Veterans Appeals Improvement and Modernization Act” to amend Title 38 to improve VA’s appeals process. Within this legislation, Congress provided VA with the authority to implement a “test” program, or pilot, to measure certain aspects of the appeals reform and assist with the implementation of the Act in February 2019.

RAMP is a pilot that was implemented for certain veterans in November 2017. VA is focusing RAMP on veterans who are in appeal status. So, after a veteran files a Notice of Disagreement at the Regional Office, he may become eligible for the RAMP program. After opting in to the program, veterans will have two choices; higher level review and/or supplemental claim. A higher level review is very similar to a Decision Review Officer review; however, no further evidence may be submitted. The supplemental claim route allows the claimant to submit more evidence.

Veterans must be aware that, to take part in RAMP, they must withdraw all claims from the Board of Veterans’ Appeals. In other words, they must give up their current appeal. Furthermore, if veterans receive an unfavorable decision through RAMP, they are unable to appeal to the Board again until February 2019.

Paralyzed Veterans’ Position:

- Although RAMP may be viewed as beneficial by other veterans service organizations, Paralyzed Veterans does not believe it is necessarily advantageous to our members; however, all determinations must be made on a case-by-case basis after thoroughly reviewing the veteran’s claim. The ramifications are too great if the claimant receives an unfavorable decision. With the complexity of Paralyzed Veterans members’ claims, thoughtful consideration is most important.



PROTECTION OF SPECIALIZED SERVICES

The Issue:

Specialized services are part of the core mission and responsibility of the Veterans Health Administration (VHA). VHA's specialized services, including spinal cord injury/disease (SCI/D), blind rehabilitation, poly-trauma, and mental health, are of paramount importance due to the inability to replicate their comprehensive approach in the private sector. These specialized services must be strengthened and sustained within the VHA through allocation of appropriate resources, adequate staffing, and sufficient capacity.

VHA has neither maintained its capacity nor mission to provide for the unique health care needs of catastrophically disabled veterans. Reductions in both inpatient beds and staff in SCI/D acute and extended care settings have been continuously reported throughout the system of care. In 2015, SCI/D nurses worked more than 105,000 combined hours of overtime due to understaffing. Lack of staffing is an unnecessary and dangerous trend that has led to staff burnout and low morale; in some circumstances, it even jeopardizes the health care of patients. Considering SCI/D veterans are a vulnerable patient population, the reluctance to meet legally-mandated staffing levels is tantamount to willful malfeasance. Congress must ensure VA is able to maintain its capacity to provide quality specialty care by appropriating funds for needed resources, followed by close oversight to ensure compliance and accountability.

Some political leaders advocate providing health care to veterans by contracting for services in the community. This would move veterans out of the "veteran-centric" care environment, lead to a diminution of existing services, and increase health care costs in the federal budget. Furthermore, support services (cardiology, neurology, urology, etc.) are essential to the intricate specialized care provided to SCI/D veterans. If support services are removed from within VHA to the community, then VA specialized care services are also diminished.

For veterans who do receive care in the community, they are not protected under 38 U.S.C. § 1151. If medical malpractice occurs during outsourced care, the veteran must pursue standard legal remedies, unlike similarly-situated veterans who are privy to VA's non-adversarial process. Adding insult to literal injury, these veterans are limited to monetary damages instead of enjoying the other benefits available under Title 38. Congress must ensure that these protections follow the veteran into the community.

Paralyzed Veterans' Position:

- Congress must provide sufficient funding for VA to hire additional clinicians, including physicians, nurses, psychologists, social workers, and rehabilitation therapists, to meet demand for services in the SCI/D system of care.
- Congressional oversight is needed to ensure that VA is meeting capacity requirements within the recognized specialized systems of care, in accordance with P.L. 104-262.
- Congress must ensure veterans who receive care in the community retain current protections unique to VA health care under Title 38, particularly including medical malpractice remedies governed by 38 U.S.C § 1151, clinical appeal rights, no-cost accredited representation, and Congressional oversight and public accountability.



IMPROVE BENEFITS FOR CATASTROPHICALLY DISABLED VETERANS

The Issue:

Paralyzed Veterans believes it is time to improve benefits for the most severely disabled veterans, particularly with regards to the rates of Special Monthly Compensation (SMC).

There is a well-established shortfall in the rates of SMC paid to the most severely disabled veterans that VA serves. SMC represents payments for “quality of life” issues, such as the loss of an eye or limb, the inability to naturally control bowel and bladder function, the inability to achieve sexual satisfaction, or the need to rely on others for the activities of daily life, like bathing or eating. To be clear, given the extreme nature of the disabilities incurred by most veterans in receipt of SMC, Paralyzed Veterans does not believe that a veteran can be totally compensated for the impact on quality of life; however, SMC does at least offset some of the loss of quality of life. Many severely injured veterans do not have the means to function independently and need intensive care on a daily basis. Many veterans spend more on daily home-based care than they are receiving in SMC benefits.

One of the most important SMC benefits is Aid and Attendance. Paralyzed Veterans recommends that Aid and Attendance benefits be appropriately increased. Attendant care is very expensive and often the Aid and Attendance benefits provided to eligible veterans do not cover this cost. Many of our members who pay for full-time attendant care incur costs that far exceed the amount they receive as SMC-Aid and Attendant beneficiaries at the R2 compensation level (the highest rate available). Ultimately, they are forced to progressively sacrifice their standard of living in order to meet the rising cost of necessary care. As the veteran is forced to dedicate more and more of his or her monthly compensation to supplement the shortfalls in the Aid and Attendance benefit, it slowly erodes the veteran’s overall quality of life.

Another concern is the improper interpretation of the Automobile Adaptive Equipment (AAE) rules by VA. A lack of training, combined with uncorrelated and conflicting information sent to VA field offices by the Veterans Benefits Administration and the Veterans Health Administration, has resulted in disabled veterans not receiving reimbursement for standard AAE that they have received in the past.

VA is also currently undergoing rule changes that will impact veterans’ access to prosthetics devices. These devices are critical to the health and well-being of disabled veterans. It is imperative that VA ensure adequate and proper access to prosthetics as it considers any future rule changes.

Paralyzed Veterans’ Position:

- Congress needs to improve benefits for the most severely disabled veterans, to include increasing the rates of SMC, as well as Aid and Attendance benefits, maintaining appropriate AAE reimbursement, and ensuring access to prosthetics as VA considers rule changes.



EXPAND ELIGIBILITY FOR THE VA COMPREHENSIVE CAREGIVER PROGRAM

The Issue:

The current VA Program of Comprehensive Assistance for Family Caregivers is only available to a veteran seriously injured due to military service on or after September 11, 2001. Congress must eliminate the unjust date of injury requirement and include “service-connected illness” as a criterion for the program. Doing so will give the majority of veterans’ caregivers access to critically needed support services.

Caregivers are the most important component of rehabilitation and eventual recovery for veterans with catastrophic injuries. Their well-being directly impacts the care veterans receive. There is no reasonable justification that can be provided as to why pre-9/11 veterans with service-connected injuries or illnesses should be excluded from the caregiver program.

The program currently provides respite care, a monthly stipend, paid travel expenses to attend the veteran’s medical appointments, and healthcare through CHAMPVA. Without these services, caregivers are likely to exhaust their savings, experience burnout, or suffer their own injury or illness. This means the veteran is more likely to be placed in an institutional setting that is far more costly to the taxpayer. Both the exclusion of “serious illnesses and diseases,” and the use of the “date of injury” as eligibility requirements for such an important benefit are unjust. As a result, the veteran suffers.

As the largest cohort of veterans (Vietnam era) ages, the demand for long-term care resources will continue to grow significantly. Catastrophically injured veterans will require the most intensive and expensive institutional care. By providing their caregivers the means to care for them at home, with family, they will live more normal lives while also delaying the costs of institutional care. Paralyzed Veterans urges Congress to pass legislation that would open eligibility earlier than September 11, 2001, and also include as eligible those veterans whose catastrophic illnesses are a result of service.

Paralyzed Veterans’ Position:

- Congress must pass the bipartisan S. 2193, the “Caring for our Veterans Act,” passed out of the Senate VA Committee in November 2017. This legislation would incrementally expand the caregiver program to veterans seriously injured during and prior to the Vietnam War. After a two-year period, the program would be open to all eras.
- Congress must also pass H.R. 1802, the “CARE for All Veterans Act.” This legislation would expand eligibility to the caregiver program to include veterans of all eras with service-connected illnesses.



CONGRESS TARGETS SAFETY NET PROGRAMS

The Issue:

With passage of the Tax Cuts and Jobs Act, Congressional leaders announced plans to move on to making significant changes to Medicare and Medicaid in 2018. Since the tax bill will add between \$500 million and \$1.5 trillion to the deficit, many policymakers now contend that spending in federal benefit programs such as Medicare, Medicaid and Social Security must be reined in. Specific proposals contained in Congressional budget plans for 2018 include raising the Medicare eligibility age from 65 to 67, raising Medicare premiums, and converting Medicare to a voucher program. Medicaid cuts of \$1 trillion are assumed to come from turning Medicaid into a block grant program and ending the Medicaid expansion under the Affordable Care Act. The House and Senate budget resolutions also assume over \$5 billion in cuts to Social Security. These programs provide a basic level of economic security and health care protection on which millions of veterans with disabilities and their families depend.

Of the nation's 20 million veterans, 9 million are enrolled in the VA health care system. While most veterans with significant disabilities rely predominantly on the VA, many veterans and their families also utilize Medicare, Medicaid, and private health insurance through TRICARE and civilian health systems. Essential benefits requirements and elimination of lifetime caps and pre-existing condition exclusions have extended private health insurance coverage for millions of people with disabilities. In Medicaid, programs such as Community First Choice and Money Follows the Person promote living in the community and avoid institutionalization for people with disabilities. Faced with smaller Medicaid budgets under changes assumed in the House budget instructions, states could be forced to eliminate these optional services.

Almost all of those 20 million veterans have earned the right to benefits under Social Security and Medicare. Indeed, in 2016, over 9.2 million veterans received Social Security benefits – either retirement or disability - accounting for 18 percent of all adult beneficiaries. Proposals to shrink benefits under these programs or reduce services through damaging cuts in Social Security's administrative expenses threaten not only these veterans but their families or their survivors.

Paralyzed Veterans' Position:

- Paralyzed Veterans opposes any efforts that would undermine insurance protections in the private market that could make it hard for veterans and people with disabilities to obtain affordable, quality health care coverage. Paralyzed Veterans supports removing the institutional bias of Medicaid but opposes block grants, per capita caps or other measures that would radically restructure the program.
- Paralyzed Veterans acknowledges that steps must be taken to ensure the long term solvency of the Medicare and Social Security trust funds. There are numerous reforms that can be made to modernize, strengthen and enhance Medicare and Social Security without damaging these vital safety net benefits.



AUTOMOBILE ADAPTIVE EQUIPMENT

The Issue:

The Automobile Adaptive Equipment (AAE) Handbook and Directives are outdated. The Handbook was written in 2000, and the Reimbursable Amount for Automobile Adaptive Equipment Directive was written in 2011. A lack of training, combined with uncorrelated and conflicting information sent to VA field offices by the Veterans Benefits Administration and the Veterans Health Administration, has resulted in disabled veterans not receiving reimbursement for standard AAE that they have received in the past. This has caused a hardship on those disabled veterans who are dependent on AAE for mobility.

While Congress has not changed the law, VA has gotten more restrictive. VHA Directive 2011-046 states Power Steering is a standard item that would not be reimbursable after December 31, 2016. This could be an ominous portent of all standard equipment in the VA rewrite of AAE.

Paralyzed Veterans and other veterans service organizations (VSOs) have met with VA many times in the last two years to provide recommendations as to how to improve the provision of AAE, offer to provide guidance, and help to rewrite the Directives and suggest methods to incorporate new technology into AAE. At this point, VA has refused to accept help and has refused to include VSOs in the development of rewriting the AAE Directive.

Paralyzed Veterans' Position:

- AAE is essential to the mobility and health of disabled veterans. AAE has forced its way to the top group of priorities that must be addressed by VA. Congress must ensure that VA quickly proceeds with updating and rewriting the AAE Directive by establishing a task force of VA and VSO experts to rewrite the AAE, review recommendations for reimbursement of AAE, and develop a process to conduct a yearly review and update of the AAE Directive.



AIR CARRIER ACCESS AMENDMENTS ACT

The Issue:

Over 30 years ago, President Ronald Reagan signed the Air Carrier Access Act (ACAA). The ACAA prohibits discrimination based on disability in air travel. Despite progress, too many travelers with disabilities still encounter significant barriers, such as damaged assistive devices, delayed assistance, and lack of seating accommodations. Access for people with disabilities must move into the 21st century to ensure that all are able to compete in today's job market and enjoy opportunities available to other Americans.

To address disability-related complaints under the ACAA, passengers with disabilities may file a complaint with the specific airline or the Department of Transportation (DOT). In 2016, passengers filed 32,445 disability-related complaints as reported by 184 domestic and foreign air carriers, which represents a nearly five percent increase over 2015. Top complaints with U.S. carriers for passengers with paraplegia or quadriplegia include failure to provide passenger assistance and appropriate seating accommodations. That same year, passengers also filed 862 disability-related complaints directly with DOT.

Many of the difficulties that travelers with disabilities encounter in air travel are not sufficiently addressed by the ACAA and its implementing regulations. Damaged assistive devices, inadequate training for airline and contractor personnel, and inaccessible airplanes result in missed flights, injuries, and delays that lead to lost time and missed opportunities for people with disabilities. Enforcement of ACAA protections is limited to administrative action and civil fines. Unlike most other civil rights laws, the ACAA lacks a guaranteed private right of action, which means people with disabilities receive limited redress of their grievances.

Paralyzed Veterans' Position:

- Congress must pass the "Air Carrier Access Amendments Act" (H.R.5004/S. 1318) which will address these problems by:
 - Strengthening ACAA enforcement by requiring referral of certain complaints to the U.S. Attorney General, increasing civil penalties for damaged wheelchairs, and establishing a private right of action.
 - Ensuring airlines acquire airplanes that meet broad accessibility standards. Improved structural access includes safe and effective boarding and deplaning processes, procedures, and equipment, along with better stowage options for assistive devices.
 - Improving training for air carrier personnel and their contractors, including those who assist with passenger boarding and deplaning.
 - Requiring the Secretary of Transportation to work with stakeholders to develop an Airline Passengers with Disabilities Bill of Rights.
 - Creating a U.S. Department of Transportation Advisory Committee on the Air Travel Needs of Passengers with Disabilities.



ADA NOTIFICATION LEGISLATION

The Issue:

In February, the U.S. House of Representatives passed the “ADA (Americans with Disabilities Act) Education and Reform Act” (H.R. 620). This legislation would require a person with a disability to give notice to a public accommodation of an architectural barrier under the ADA and allow that accommodation time to cure the problem prior to being able to enforce his or her civil rights through the legal system. Paralyzed Veterans opposes this legislation because requiring any type of notification scheme would lead businesses to delay ADA compliance, and result in decreased access to the built environment for all people with disabilities.

Although proponents of notification insist that it is needed to stop lawsuits, whether frivolous or not, such a requirement would only serve to remove all incentive for businesses to comply with Title III ADA requirements. There are no monetary damages available under Title III of the ADA, only injunctive relief. If a notification and cure requirement, such as that laid out in H.R. 620, became law, a business could simply employ a “wait and see” approach and continue to violate the law without any real fear of consequences.

Title III of the ADA was intended to balance the interests of small businesses along with the accessibility concerns of people with disabilities. It is a myth that the ADA’s requirements are too hard on small businesses. The legislative history of the ADA is rife with concern about the burden on small businesses and as a result, Title III does not require any action with respect to existing buildings that would cause an undue burden or that is not readily achievable. The approach of the ADA was not to exempt small businesses from the requirements of the bill, but rather to tailor the requirements of the Act to take into account the needs and resources of small businesses – to require what is reasonable and not to impose obligations that are unrealistic or debilitating to businesses.

Paralyzed Veterans’ Position:

- Congress must oppose any ADA notification legislation, including H.R. 620.
- Congress must expand access to ADA technical assistance provided to businesses through the ADA National Network.