



STATEMENT FOR THE RECORD

MILITARY OFFICERS ASSOCIATION OF AMERICA

On

“Pending Legislation”

115th Congress

SENATE COMMITTEE on VETERANS’ AFFAIRS

May 17, 2017

CHAIRMAN ISAKSON, RANKING MEMBER TESTER, and Members of the Committee, the Military Officers Association of America (MOAA) is pleased to present its views on pending legislation under consideration by the Committee.

MOAA does not receive any grants or contracts from the federal government.

EXECUTIVE SUMMARY

On behalf of the Military Officers Association of America, the largest military service organization representing the seven uniformed services, including active duty and Guard and Reserve members, retirees, veterans, and survivors and their families, MOAA thanks the committee for holding this very important hearing and for your continued support of our nation's servicemembers and veterans and their families.

This is a critical time for the Department of Veterans Affairs (VA) as the agency continues its aggressive transformation efforts. MOAA believes many of the bills being considered today will build upon the work of the committee and the secretary of VA to further enhance the agency's health and benefits systems. Our association looks forward to working with the members and staff to strengthen and improve the legislation enacted this year.

MOAA offers our position on the following select bills. MOAA takes no position on the remaining bills before the committee, as some are outside our scope of expertise.

Health Care:

- **S. 112**, Creating a Reliable Environment for Veterans' Dependents Act
- **S. 591**, Military and Veteran Caregiver Services Improvement Act of 2017
- **S. 681**, Deborah Sampson Act
- **S. 784**, Veterans' Compensation Cost-of-Living Adjustment Act of 2017
- **Draft Bill**, Serving Rural Veterans Act of 2017

Benefits/Accountability:

- **S. 1024**, Veterans Appeals Improvement and Modernization Act of 2017
- **S. 1094**, Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017

Health Care

S. 112, Creating a Reliable Environment for Veterans' Dependents Act—The bill would authorize per diem payments for homeless veterans receiving comprehensive support services in order to furnish care to their dependents.

MOAA supports the bill. Veteran homelessness continues to be a high priority for the VA and our nation. Since the VA launched a massive campaign to end veteran homelessness in 2009, rates have steadily declined, down by nearly 50 percent. While rates are declining, veterans with families have been increasing in recent years. As the VA continues to serve more veterans than

ever by providing health care, education, job training, and many other wellness and welfare services, there is still more to be done—and the needs are so much greater for veterans with children. Per diem payments for homeless veterans will go a long way toward giving veterans a hand up as they move down a path to achieving family stability and long-term security.

S. 591, Military and Veteran Caregiver Services Improvement Act of 2017—This measure expands eligibility and comprehensive assistance and benefits for family caregivers participating in the VA’s Caregiver Support Program.

Specifically, the bill expands eligibility for participation and services to family caregivers of veterans of all eras, rather than the current population of post-9/11 veterans, and includes ‘illness,’ rather than just ‘serious injury,’ as a criterion for eligibility.

Additionally, the measure provides for a number of other program expansions, including:

- Child care services or monthly stipend for such services;
- Financial planning and legal services;
- Adjustment to calculating caregiver stipend for performing personal care services;
- Authority to transfer entitlement of unused post-9/11 education benefits to family members;
- Flexible work arrangements for certain federal employees;
- Lifespan respite care; and
- Establishment of an interagency working group on caregiver policy.

MOAA generally supports the measure. Since passage of P.L. 111-163, the Caregivers and Veterans Omnibus Health Services Act of 2010, MOAA and our partners in The Military Coalition have supported the expansion of eligibility for the Caregiver Support Program to veterans with illnesses and to those who served before Sept. 11, 2001.

Given the current challenges and assessment of the program, MOAA would not support the additional program expansions in the bill at this time until the VA has completed a thorough review of the program and offered recommendations to Congress on how to improve the program. The association, however, does support the establishment of an interagency working group as a valuable asset to the VA as it reforms and refines the Caregiver Support Program going forward.

MOAA urges the committee to adopt the provisions to expand eligibility to veterans who served before Sept. 11, 2001, and veterans with illnesses and to establish an interagency working group on caregiver policy.

S. 681, Deborah Sampson Act—The bill would improve the benefits and services provided by the VA to women veterans. Women are joining the military at rates unlike any other time in history, and they are accessing VA health care at higher rates than male veterans. While the VA has worked hard to address the growing demand, the department requires additional resources to implement system improvements and services to meet current and future needs of women veterans.

MOAA supports S. 681. Offering peer-to-peer assistance and legal and supportive services, extending newborn care, eliminating barriers to access, and establishing data collection and

reporting requirements will help the VA better target the needs of women and minority veterans. MOAA, however, takes no position on Sec. 504, Sense of Congress on changing the motto of the VA to be more inclusive.

S. 784, Veterans' Compensation Cost-of-Living Adjustment Act of 2017—Each year legislation is introduced to provide a cost-of-living increase in compensation rates for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of veterans. This bill provides for such increase effective Dec. 1, 2017.

MOAA supports S. 784.

Draft Bill, Serving Rural Veterans Act of 2017—The bill would authorize the VA to pay for the costs of training and supervision of medical residents and interns at certain non-department facilities. Additionally, the bill would require the secretary to conduct a pilot program to establish or affiliate with residency programs at facilities operated by the Indian tribes, tribal organizations, and the Indian Health Service.

American Indians and Alaska Natives have historically had the highest rates of representation in the armed forces. The VA has dedicated significant attention and resources to addressing the unique needs of Native American veterans as well as veterans who live in very rural areas where access to quality health care can be a challenge. The department has worked hard in recent years to develop partnerships to expand access to services and benefits for Native American veterans and their families so they are able to access the benefits they have earned.

MOAA supports the draft legislation. This legislation builds on the existing work the VA has undertaken to improve access for Native Americans and rural veterans. The bill would provide the VA with additional tools to strengthen existing relationships and agreements with the Indian Health Service and tribal health organizations, as well as \$20 million over an eight-year period to pilot critical educational and training initiatives for residency, intern, and graduate medical education pilot programs.

Benefits/Accountability

S. 1024, Veterans Appeals Improvement and Modernization Act of 2017 – This bill makes fundamental changes to the VA claims adjudication process. It would break up claims processing into three separate lanes, each representing a different phase of the claims process.

MOAA supports the bill. It is indisputable that the VA claims adjudication process is an unworkable solution, and for years the veterans' community has urged Congress and the VA to update these procedures. MOAA appreciates that the bill defines "supplemental claim," makes clear the duty to assist applies to supplemental claims, and provides additional effective date protections. Improvements, however, can be made in the legislation.

Board of Veterans' Appeals Dockets

This bill sets forth that the Board of Veterans' Appeals shall maintain two dockets, one for

claimants requesting a hearing before the board and the other for claimants not requesting a hearing before the board.

MOAA supports allowing claimants the opportunity to submit evidence to the board directly. This allows claimants with legally complex claims to have a veterans law judge consider that evidence in conjunction with the questions of law instead of cycling through the agency of original jurisdiction (AOJ), where the AOJ may lack the legal acumen to adequately resolve the claim.

MOAA recommends the legislation be modified to provide that claimants submitting evidence directly to the board be placed on the “non-hearing docket.” This is the closest docket fit to their circumstances because the claimant is not requesting a hearing. Further, regardless of whether a claimant’s appeal includes additional evidence or not, the veterans law judge will be required to review evidence within the record. In other words, if a claimant merely appeals without submitting additional evidence, the board must still review all existing evidence in the record. Thus, the choice not to submit additional evidence does not prevent the board from having to review evidence.

We do not recommend the other option of placing these appeals on the “hearing docket,” as this would disproportionately disadvantage the claimant. During roundtable discussions leading up to appeals reform legislative proposals, VA officials stated the hearing docket would be much slower than the non-hearing docket. It is unjust to force claimants not requesting hearings to wait behind those requesting hearings for the board to address their appeals, where it does not require any additional work of the veterans law judge to consider the additional evidence.

The VA has expressed concerns that including claimants with additional evidence amongst those without additional evidence on the same docket would confuse the “feedback loop,” but we believe this is manageable. The feedback loop permits the board to provide input to the AOJ regarding errors the AOJ committed in the original adjudication of the claim. There appears to be no reason, however, the Board could not simply exclude the claims with additional evidence from the feedback loop and still provide very useful feedback to the AOJ from the remaining claims.

Collaboration with Veterans Service Organizations

MOAA greatly appreciates that the legislation mandates the VA collaborate with and give weight to the inputs of veterans service organizations. MOAA recommends, however, that references to “the three veterans service organizations with the most members” be modified to “the three veterans service organizations that file the most claims on behalf of claimants.” Veterans service organizations serve many functions in the veteran community, not exclusively confined to filing VA benefits claims. Merely because a veterans service organization has a large number of members does not necessarily mean the organization is the best advisor related to the VA claims process. A more reliable gauge of a veterans service organization’s value to the process is the number of VA claims filed by the organization. The Veterans Benefits Administration already tracks the number of claims filed by each veterans service organization, making this information readily available to VA.

Fully Developed Appeals

MOAA supports granting the secretary the authority to carry out a fully developed appeals program because it would allow a claimant to expedite a claim to the board with all evidence

needed for the appeal. This goal is consistent with the overall intent of VA appeals modernization.

This process would also be almost identical to the process for a claimant participating in the modernized appeals process who chooses to submit additional evidence for the board's consideration. For that reason, MOAA recommends appeals processed using this option be docketed in the non-hearing option. This would prevent the need for the board to maintain a third docket, as the legislation currently contemplates. A third docket with varying processing rules would be very confusing to claimants in understanding whether their claim is being handled properly.

Although this legislation includes extensive changes to the VA claims process, MOAA believes further efforts will be necessary by Congress to improve the process, including, but not limited to, addressing the precedential value of agency determinations and giving equal consideration to both private and VA medical evidence.

S. 1094, Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 – This bill will provide the secretary of VA with additional authorities to expedite the removal of VA employees when warranted. MOAA's understanding is the bill would allow VA employees to still utilize employee union representation, merely within the timeline provided in the legislation.

MOAA supports this bill. The secretary should have all authorities and resources necessary to effectively manage the VA workforce. Although VA employees are predominantly very good at caring for veterans and take this responsibility very seriously, it is clear from recent events there are VA employees who do not and who have spent years embroiling the agency in protracted litigation at taxpayer expense, despite their clear disregard for the best interests of veterans. MOAA believes the agency should be allowed to focus on veterans' needs, and these expedited authorities will allow the secretary to do so.

MOAA thanks the committee for considering this important legislation and for your continued support of our veterans and their families.