



**STATEMENT FOR THE RECORD**

**MILITARY OFFICERS ASSOCIATION OF AMERICA**

**on**

**Pending Health Care and Benefits Legislation**

**2nd Session, 114<sup>th</sup> Congress**

**SENATE COMMITTEE on VETERANS AFFAIRS**

**May 24, 2016**

**CHAIRMAN ISAKSON, RANKING MEMBER BLUMENTHAL,** and Members of the Committee, the Military Officers Association of America (MOAA) is pleased to present its views on veterans' health care and benefits legislation under consideration by the Committee today, May 24, 2016.

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

On behalf of our more than 390,000 members, MOAA thanks the Committee for its steadfast commitment to the health and well-being of our servicemembers, veterans and their families and for considering the very important provisions in this legislation related to the Department of Veterans Affairs (VA) health care and benefits programs.

MOAA's position and recommendations are provided on the following bills:

- S. 2896, Care Veterans Deserve Act of 2016
- S. 2883, Appropriate Care for Disabled Veterans Act of 2016
- S. 2679, Helping Veterans Exposed to Burn Pits Act
- S. 2520, Newborn Care Improvement Act
- S. 2487, Female Veteran Suicide Prevention Act
- Draft Legislation, Reform the Rights and Processes Relating to the Appeals of Decisions
- Draft Legislation, Modify Requirements for VA Compensation and Pension Examinations

#### **HEALTH CARE:**

##### **S. 2896, Care Veterans Deserve Act of 2016**

This bill would eliminate the sunset date of the current Veterans Choice Program, expand eligibility for the program, and extend operating hours for VA Health Administration (VHA) pharmacies and medical facilities.

MOAA thanks Senators John McCain (R-AZ) and Thom Tillis (R-NC) for their effort to improve the Choice Program so more veterans will have access to VA and community health care programs.

The bill is a good start in addressing some of the underlying problems in the Choice Program, but doesn't address the other six disparate Care in the Community Programs which are not integrated with the Choice Program, thus continuing to add more complexity and confusion to the program, further limiting veterans access to health care.

MOAA supports the following provisions in the legislation:

- Requires VA to provide information about the availability of care and services for veterans enrolled in the health system.
- Allows VA to contract with a national chain of walk-in clinics to provide hospital care and medical services to enrolled veterans. While MOAA is supportive of this section of the bill, we are concerned about the additional costs on VHA by allowing all veterans,

including those with non-service connected conditions, to access this care at no cost. Such a change deviates from VHA's current payment practices where veterans with non-service-connected conditions are typically required to pay a copayment for their care.

- Grants VA the authority to allow licensed health care professionals at any location in any State, regardless of where the health professional or patient is located, to provide treatment through the use of telemedicine.
- Requires VA to conduct best-practices peer review of each medical center to evaluate the efficacy of health care delivered in the facility. MOAA recommends adding a provision in this section to require VA to also conduct an assessment of capacity to determine existing gaps in furnishing care and services, including forecasting the short- and long-term demand and its impact on the system.

While the bill provides a number of positive improvements to the current health system, the bill lacks the necessary funding and resources needed to support the requirements of the legislation. Given the current rates of usage of all Care in the Community Programs, including Choice, VA expects demand to continue for the foreseeable future.

In fact, the months of March and April 2016 were the highest performing months for VA community care authorizations, including Choice—approximately 374,000 in March and 319,000 authorizations were created in April. And for Choice, VA projects the funding for the program will run out sometime in May 2017, well before the end of the fiscal year when the program is scheduled to sunset.

Implementing the requirements outlined in S. 2896 without the associated funding would place additional budget pressures on an already fiscally constrained system, and, would likely result in further fragmentation of the system, ultimately limiting veterans' access to care—outcomes opposite of what the bill intends to achieve.

Instead, MOAA believes VA's Plan to Consolidate Care in the Community provides the best strategy forward. We urge Congress to fully fund and to consolidate all VA Care in the Community Programs, including the Veterans Choice Program as requested by the Department, in legislation to give the Secretary greater flexibility in managing community care dollars.

### **S. 2883, Appropriate Care for Disabled Veterans Act of 2016**

MOAA supports this bill, which would require a report to Congress on VA's capacity to provide specialized treatment and rehabilitative needs of disabled veterans.

The bill reestablishes the requirement in law indefinitely, eliminating the original expiration date of 2008.

The need for specialized treatment and rehabilitative care and services has never been greater. We thank Senators Sherrod Brown (D-OH), Patty Murray (D-WA), and Bernard Sanders, (I-VT) for introducing the bill so our most vulnerable veterans get the care they need for a better quality of life.

### **S. 2679, Helping Veterans Exposed to Burn Pits Act**

MOAA supports the intent of S. 2679, which would establish a VA center of excellence for preventing, diagnosing, mitigating, treating, and rehabilitating veterans with health conditions relating to exposure to burn pits.

While the bill attempts to address illnesses and other health conditions found in veterans exposed to toxins from burn pits in Iraq and Afghanistan, MOAA believes a center of excellence for all toxic wounds and illness, integrating the collective research, prevention, and treatment efforts, would be a better option for leveraging limited resources and funding to address not only burn pit exposures, but also other conditions such as Agent Orange and Gulf War Syndrome.

### **S. 2520, Newborn Care Improvement Act**

MOAA fully supports this bill. The Newborn Care Improvement Act would extend the period of health care and services VA provides to newborns from seven to 14 days.

MOAA has long supported extending the period of newborn care as it provides for the best health outcomes for both the child and the veteran. We recommend Congress provide VA with the additional funds to support the requirement.

### **S. 2487, Female Veteran Suicide Prevention Act**

This bill would direct the VA to identify the most effective mental health care and suicide prevention programs and metrics in treating female veterans.

MOAA strongly supports this bill as well as its companion in the House, H.R. 2915.

The rising rate of suicides among female veterans is staggering. The VA reports, for female veterans ages 18-29, the risk of suicide is 12 times the rate of civilian women; for the period 2000-2010, suicides among female veterans rose by 40 percent.

Yet little research has been done to address these alarming rates and the underlying physical and mental conditions. This legislation will go a long way in addressing suicide rates and improving the medical care and services necessary to promote physical and psychological health and well-being of all veterans and servicemembers.

### **BENEFITS:**

#### **Draft Legislation, Reform the Rights and Processes Relating to the Appeals of Decisions**

MOAA agrees the current number of appeals pending a decision by VA is wholly unacceptable for veterans and thanks Senator Richard Blumenthal for his leadership in this area. MOAA is very sympathetic to VA's assertions that it is unable to provide veterans with timely appeals decisions given the current claims process. The solution proposed by VA; however, contains no

reliable indication that it will solve the backlog and also removes important procedural protections from veterans.

VA has been unable to provide any statistics or estimates of how this new system will reduce their workload or how VA will be able to provide decisions within the 125-day target goal. In the meantime, the new claims process takes away the veteran's right to have VA assist him or her in their claim development after VA renders its first decision in a claim. This is a dramatic change from the current procedure where VA is required to assist in claim development through the final agency decision. This change renders the entire VA claims system, following the initial ratings decision, an adversarial process where previously it was a paternalistic, non-adversarial process.

For that reason, MOAA believes the duty to assist a veteran should continue following the initial rating decision and end only when a claim reaches the Board of Veterans' Appeals. This will satisfy VA's goal of avoiding additional claims development at the Board, but ensure a veteran obtains needed assistance without having to pay for assistance in an adversarial system.

Elements of the proposed changes could reduce the number of appeals filed by veterans, and thus the backlog, without prematurely ending VA's duty to assist. During meetings between VA and VSOs earlier this year, the general consensus reached by both sides was that many veterans file appeals because they simply do not understand why VA did not grant their claim. Improving the notice provided to veterans so it is thorough and understandable would reduce the number of appeals by itself. The proposed changes to Notices of Decisions would accomplish this.

Another provision in the proposed legislation that would reduce the number and duration of appeals would make favorable factual findings binding upon VA. This is another way to reduce the appeals backlog while not making the entire post-decision process adversarial by ending VA's duty to assist a veteran.

MOAA also believes if this change in the claims proceedings is enacted, veterans who have filed a Notice of Disagreement prior to the passage of the legislation should be allowed to opt into the new claims processing system to allow them to take advantage of the faster processing times. This will allow those veterans to receive quicker decisions, presuming VA is able to meet its 125-day target goal of issuing them. There is no apparent reason to prevent veterans with existing appeals from opting into this new system.

### **Draft Legislation, Modify Requirements for VA Compensation and Pension Examinations**

MOAA does not agree with the proposed modifications to 38 USC 5103A (d) (2), to modify the requirements under which VA is required to provide compensation and pension examinations to veterans seeking disability benefits. These proposed changes would require all veterans to

objectively corroborate in-service incidents, which they may not possibly be able to obtain evidence for, before VA would allow the medical examination to take place.

This scenario would further deteriorate VA's duty to assist a veteran – in this case, before an initial ratings decision is even made. MOAA does not support such a modification.

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