

RAO Bulletin Update

1 November 2006

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USFSPA LAWSUIT UPDATE 11:

A 1982 law that allows state courts to divide military retirement as marital property in divorce proceedings has grown a skin of armor, making it impenetrable to court challenge or legislative change. That, at least, is how it must seem to long-time critics of the Uniformed Services Former Spouses Protection Act (USFSPA) and to bureaucrats seeking changes just to improve how the law is administered. Last month, a federal appeals court rejected a host of constitutional challenges to the USFSPA brought by 58 divorced retirees and active-duty members. Also last month, Congress declined to allow the first minor adjustments to the ex-spouse law in 14 years, shelving three Senate-passed provisions. The reason said a congressional staff member was that Lawmakers were peppered with complaints from divorced members and ex-spouses, some saying more than planned should be done to ease their grievances and others wanted the law be left alone. There is still power going through the third rail from the wave of complaints. He was comparing the political hassle of amending the USFSPA to the deadly third rail that lawmakers believe they touch when they try to change the Social Security program.

Divorced members who continue to challenge the legality of the USFSPA in court suffered their latest disappointment 18 SEP 06 when the U.S. Court of Appeals for the Fourth Circuit, in Richmond VA ruled in the Adkins v. Rumsfeld case. The three-judge panel upheld a district court judge's rejection of the lawsuit, examining the various constitutional challenges raised and finding none has merit. The plaintiffs in this case raised money for their legal challenge through a limited liability corporation they established called the USFSPA Legal Support Group. The ULSG has almost 2,500 members of which half donated money to pursue the case. Their lawsuit argued:

- The ex-spouse law violates divorced members' rights to due process and equal protection. Plaintiffs argued persons who joined the military before the law was enacted should be protected from its effect because they served with the expectation of receiving full retired pay, not of seeing it divided as marital property.
- States do not apply the law uniformly, which steps on Congress' authority to raise and support armies.
- The law is discriminatory toward female servicemembers. Their reasoning on this point is that the law was enacted so that ex-spouses are not left destitute after military marriages dissolve. Yet the 24-year-old law fails to recognize the number of women now in service, and the reality that their male ex-spouses are more likely to have independent incomes that lessen their financial need to share in military retired pay.

Writing for the appeals court majority opinion, Judge M. Blane Michael considered and dismissed each of these arguments. He wrote:

- It is incorrect to allege that before the USFSPA was enacted that Congress had promised to shield military retirement from valid court orders.

Some states were dividing retired pay until 1981 when the Supreme Court ruled in its McCarthy



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decision that such division was not back by law. Congress promptly nullified that decision by passing the USFSPA so it can not be held that a promised benefit was taken in violation of due process of law.

- The appeals court found, because USFSPA gives state courts the option to divide military retirement upon divorce, it tolerates variation among the states in how that pay is actually divided between spouses in individual cases.

Congress can prescribe uniformity regarding treatment of service personnel but with this law it chose not to do so. Therefore, there is no constitutional encroachment by state courts on federal authority.

- Regarding the law's impact on the guarantee of equal protection he noted that the USFSPA does not distinguish between men and women but between retired servicemembers and their former spouses. That distinction, he concluded, is based on a legitimate government interest in the personal and economic sacrifices of spouses to sustain marriages through the rigors of service life.

- The argument that the USFSPA is inequitable because it allows ex-spouses access to retired pay without the same service obligation that retirees continue to face including possibility of recall to duty presupposes that the retirement pay can only be characterized as compensation for service rendered during retirement. The presupposition is false. Although military retirement pay has some unique features, it also resembles an ordinary civilian pension in many respects, and Congress grasped that resemblance in passing the Act."

The ULSG in tends to appeal the decision to the Supreme Court..Congress, meanwhile, refuses to make any change to the USFSPA or even to hold hearings. Those Senate-passed provisions knocked from the final defense authorization bill would have repealed the 10-year rule that dictates what court orders the Defense Finance and Accounting Service deems eligible for automatic payment of retired pay to former spouses. Another provision would have directed DFAS to honor all valid court orders involving making cost-of-living adjustments to ex-spouse shares of retirement. A third change would have ended a DFAS requirement to notify retirees when DFAS receives a court order directing division of retired pay. [Source: Stars & Stripes Tom Philpott article 26Oct 06 ++]

NDAA 2007 UPDATE 16:

On 17 OCT President Bush signed into law H.R. 5122, the "John Warner National Defense Authorization Act for Fiscal Year 2007." The annual authorization act addre ssed a number of priorities for the military community, including some very good and long needed provisions.

- The conference report prohibits DoD from increasing any premiums, deductibles, copayment, or other charges under Tricare medical care for retirees, dependents, survivors or members of the Selected Reserve until 30 SEP 07.
- The conference report



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rejects the Pentagon Plan to double current pharmaceutical copays.

- The conference report makes all drilling reserve members eligible for Tricare coverage at the lowest current premium (28% of cost).
- The bill adopted the minimum 2.2% military pay raise as requested in the administration's budget.
- The conference report authorizes \$23.8 billion immediate replacement of Army and Marine Corps supplies and equipment.
- The bill contains a number of provisions to end predatory payday lending practices that trap servicemembers in uncontrollable debt.

Provisions not adopted and/or not put made law by the 109th Congress:

- No action on ending the dollar-for-dollar offset in the military Survivor Benefit Plan (SBP) against the Department of Veterans Affairs Dependency and Indemnity Compensation (DIC), which presently provides 55,000 survivors a flat monthly payment after a service-connected death.
- No action to accelerate the date for termination of the SBP paid-up plan. Thus, 327,000 Military retirees age 70 and older, who have paid into the plan for more than 30-years, will be required to continue to pay until OCT 08.
- Conferees did not accelerate the phase-in of concurrent receipt for 28,000 retirees rated 100% disabled and unemployable by the VA.
- The conference dismissed provision of a new postal benefit program for members of the Armed Forces serving in Iraq and Afghanistan or hospitalized as a result of such service.
- The conference also dropped a provision to lower the age reservists can start drawing retired pay by 3 months for every 90 days deployed since 9/11.
- 17,000 POW who died in captivity will be denied the Purple Heart
- 188,000 Chapter 61 retirees with less than 20 years were denied CRDP/CRSC
- 4 million military & civilian retirees were denied pretax payment of their Tricare & FEHB premiums

One of the provisions of the NDAA directs the Secretary of Defense to establish a task force on the future of military health care. He is supposed to establish the task force within 90 days after the bill is enacted (signed) and to report no later than 31 MAY 07. The establishment of this task force is one of the best solutions to make DoD really look at the overall picture of health care.

One of the major items it is to consider is the utility



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of a universal enrollment fee. The military and veterans community will be represented, as at least one of the members will be an MSO/VSO representative who has experience in health care. Providing that DoD completes the study in time as directed, the timing could be excellent as many of the budget appropriations and authorization hearings for 2008 should still be ongoing and maybe they can be positively influenced by the report. When it is released a summary will be provided in an update. [Source: NAUS Weekly Update 20 Oct & USDR Action alert 29 Oct 06 ++]

VETERANS DAY:

World War I – known at the time as “The Great War” - officially ended when the Treaty of Versailles was signed on 28 JUN 1919, in the Palace of Versailles outside the town of Versailles, France. However, fighting ceased seven months earlier when an armistice, or temporary cessation of hostilities, between the Allied nations and Germany went into effect on the eleventh hour of the eleventh day of the eleventh month. For that reason, 11 NOV 18, is generally regarded as the end of “the war to end all wars.” In November 1919, President Wilson proclaimed 11 NOV as the first commemoration of Armistice Day.

The original concept for the celebration was for a day observed with parades and public meetings and a brief suspension of business beginning at 11 a.m. Congress officially recognized the end of World War I when it passed a concurrent resolution on 4 JUN 26, with these words:

Whereas the 11th of November 1918, marked the cessation of the most destructive, sanguinary, and far reaching war in human annals and the resumption by the people of the United States of peaceful relations with other nations, which we hope may never again be severed, and Whereas it is fitting that the recurring anniversary of this date should be commemorated with thanksgiving and prayer and exercises designed to perpetuate peace through good will and mutual understanding between nations; and Whereas the legislatures of twenty-seven of our States have already declared November 11 to be a legal holiday: Therefore be it Resolved by the Senate (the House of Representatives concurring), that the President of the United States is requested to issue a proclamation calling upon the officials to display the flag of the United States on all Government buildings on November 11 and inviting the people of the United States to observe the day in schools and churches, or other suitable places, with appropriate ceremonies of friendly relations with all other peoples.

An Act approved 13 MAY 38, made the 11NOV of each year a legal holiday -- a day to be dedicated to the cause of world peace and to be thereafter celebrated and known as “Armistice Day.” This was primarily a day set aside to honor veterans of World War I, but in 1954, the 83rd Congress, at the urging of the veterans service organizations, amended the Act of 1938 by striking out the word “Armistice” and inserting in its place the word “Veterans.” With the approval of this legislation (Public Law 380) on 1 JUN 54, November 11th became a day to honor American veterans of all wars. Later that same year, on 8 OCT President Eisenhower issued the first “Veterans Day Proclamation” which stated:

“In order to insure proper and widespread observance of this anniversary, all veterans, all veterans’



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organizations, and the entire citizenry will wish to join hands in the common purpose. Toward this end, I am designating the Administrator of Veterans' Affairs as Chairman of a Veterans Day National Committee, which shall include such other persons as the Chairman may select, and which will coordinate at the national level necessary planning for the observance. I am also requesting the heads of all departments and agencies of the Executive branch of the Government to assist the National Committee in every way possible."

In 1958, the White House advised VA's General Counsel that the 1954 designation of the VA Administrator as Chairman of the Veterans Day National Committee applied to all subsequent VA Administrators. Since MAR 89 when VA was elevated to a cabinet level department, the Secretary of Veterans Affairs has served as the committee's chairman. The Uniforms Holiday Bill (Public Law 90-363) was signed on 28 JUN 68, and was intended to insure three-day weekends for Federal employees by celebrating four national holidays on Mondays:

Washington's Birthday, Memorial Day, Veterans Day, and Columbus Day. It was thought that these extended weekends would encourage travel, recreational and cultural activities and stimulate greater industrial and commercial production.

Many states did not agree with this decision and continued to celebrate the holidays on their original dates.

The first Veterans Day under the new law was observed with much confusion on 25 OCT 71. It was apparent that the commemoration of this day was a matter of historic and patriotic significance to a great number of our citizens, and so on 20 SEP 75 President Ford signed Public Law 94-97 which returned the annual observance of Veterans Day to its original date of 11 NOV, beginning in 1978.

This action supported the desires of the overwhelming majority of state legislatures, all major veterans service organizations and the American people. Veterans Day continues to be observed on 11 NOV, regardless of what day of the week on which it falls. The restoration of the observance to 11 NOV not only preserves the historical significance of the date, but helps focus attention on the important purpose of Veterans Day: A celebration to honor America's veterans for their patriotism, love of country, and willingness to serve and sacrifice for the common good. [Source: <http://www1.va.gov/opa/vetsday/> NOV 05]

VETERANS DAY UPDATE 01:

The Honorable R. James Nicholson, Secretary of Veterans Affairs, and leaders of major veterans organizations on 18 OCT called on America's veterans to help kindle a new spark of patriotism on Veterans Day 11 NOV by wearing the medals they earned during military service. "We are announcing a Veterans Pride Initiative to remind Americans of the pride and honor in the hearts of those who have served," Nicholson said. "We expect Americans will see our decorated heroes unite in spirit at ceremonies, in parades and elsewhere as a compelling symbol of courage and sacrifice on Veterans Day, the day we set aside to thank those who served and safeguarded our national security. The campaign is modeled after a tradition in Australia and New Zealand, countries who honor the Australian and New Zealand



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Army Corps (ANZAC) on 25 APR. ANZAC Day sees veterans wearing their military decorations whatever they are doing on that day." Nicholson said he hopes a U. S. tradition will ensue to emulate this pride in being a veteran and in honoring our veterans. VA is offering information about the campaign on its Web page, <http://www.va.gov/veteranspride/> where veterans also can obtain information on the correct order of precedence for each military service's award, about how to replace mislaid medals, and learn how to confirm the decorations to which they are entitled. [Source: VA News Release 18 Oct 06]

VETERANS DAY UPDATE 02:

In their annual salute to all veterans McCormick & Schmick's Seafood Restaurants will again provide free meals in honor of Veterans Day. All veterans can receive a free lunch or dinner entrée at McCormick & Schmick's Seafood Restaurants nationwide on Sunday, 5 NOV 06. Vets should show proper identification (VA card, VFW card, veterans ID, discharge papers, etc.) Reservations Are Strongly Encouraged! In a show of thanks to our nation's veterans, Bill McCormick and Doug Schmick offer to serve those who've served at their McCormick & Schmick's Seafood Restaurants. Last year the company served nearly 15,000 vets nationwide. This year's event is taking place on the Sunday before Veterans Day so that families can participate. McCormick & Schmick's annual veterans program began as a small effort in just one restaurant in 1999.

Due to its overwhelming popularity and positive response received from veterans the program has expanded nationwide. A complete list of participating restaurants may be found at www.McCormickandSchmicks.com.

Also thanking active duty and veterans, the Golden Corral restaurants will be having their annual salute to the military on Monday November 13, from 5-9pm.

Military Appreciation Monday (First Monday after Veteran's Day) is set aside for Golden Corral to honor all active duty and retired military personnel with a free "thank you" dinner and beverage at any Golden Corral restaurant. No identification is required. Since 2001, Golden Corral has served 1,230,960 free meals to active duty and retired military personnel. For more information go to their website <http://www.goldencorral.net/>.

The U.S. Department of the Interior and Department of Agriculture have announced a waiver for fees on Veterans Day. On 11 NOV, soldiers and their families will be allowed to use selected lands and parks without being charged the customary fees. This is a gesture of support for the men and women of the U.S. Armed Services, and will be repeated every Veterans day hereafter as well. Participating facilities include recreation lands under control of the National Park Service (www.nps.gov), areas under the Fish and Wildlife Service (www.fws.gov), and the U.S. Forest Service (www.fs.fed.us). Refer to their respective web sites to locate a facility near you. [Source: NAUS weekly Update 20 Oct & Military.com 30 Oct 06 ++]

AGENT ORANGE LAWSUITS UPDATE 06:

The U.S. Court of Appeals for Veterans' Claims in the case of Haas v. VADC-Nicholson slapped-down the VA's "boots on the ground" definition of



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who served in Vietnam...thus opening up the area of Agent Orange claims to "Blue Water Navy," "Fly-Through Air Force" and troops serving in nearby countries. DVA announced they were going to appeal the Court's decision and asked the Department of Justice (DOJ) to appeal the Haas decision for which they have until 7 NOV to act. In the interim the Secretary of Veterans Affairs implemented a stay on the adjudication of Haas-like claims contrary to the VA's "benefit of the doubt" policy when it comes to filing claims. A recent decision of the Court of Appeals for Veterans Claims made it clear that the VA had not followed the proper procedure for taking such action.

Richard V. Spataro Staff Attorney for the National Veterans Legal Services Program (NVLS P) on 28 SEP filed a Writ of Mandamus with the Court, requesting that the Court order the VA to rescind its illegal stay of proceedings on Haas-like claims. The judge then ordered the VA to file an answer to NVLSP's Writ by 26 OCT.

As of 30 OCT the precise grounds of the VA appeal was not known and will not until since VA files their brief. The deadline to do this will be in about three months. NVLSP recommends all veterans who fall into this category go ahead and file their claims now since the VA has not asked the Court to stay its decision. This way they will be on file and, should this all shake out in favor of veterans, the claim will be dated from the day it was received by the VA. VA Regional Offices are not presently processing the new claims while the Central Office considers appealing the Court's decision. Regional Offices have not been given any legal guidance in order to adjudicate the claims. Their hands are tied in this matter. Since VA has not released any special procedure to be followed on how claims should be submitted normal VA claim filing procedures for submitting claims should be followed. NVLSP is an independent, nonprofit, veterans service organization dedicated to ensuring that the U.S. government honors its commitment to our veterans by providing them the federal benefits they have earned through their service to our country. Additional info on them and this subject can be found at www.nvlsp.org. [Source: NVLSP memorandum 30 Oct 06 ++]

TRICARE/CHAMPUS FRAUD UPDATE 02:

Erik C. Peterson, United States Attorney for the Western District of Wisconsin, announced the unsealing of a seventy-five count indictment yesterday charging Thomas Arthur Lutz, DOB 04/24/1967, of Olongapo City, Republic of the Philippines, and the Health Visions Corporation, a Philippine corporation, with defrauding the federal Tricare program. The indictment had been previously returned by a federal grand jury sitting in Madison on 13 JUL 05, and was unsealed in conjunction with the appearance of Lutz in Guam, after his arrest in the Republic of the Philippines.

According to the indictment, between OCT 98 and AUG 04, Lutz and the Health Visions Corporation devised a scheme to defraud the federal Tricare program. Specifically, as part of the scheme, Lutz on behalf of the Health Visions Corporation entered into a kickback agreement with a medical provider in the Philippines in which the provider, at the request of Lutz, paid 50% of the amount of the bills for medical services rendered to Tricare patients referred by Health Visions back to the corporation. In addition, Health Visions and Lutz inflated the bills of other providers by one hundred percent or



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more before submitting the bills for payment by the United States Government. The defendants also created a sham insurance program to circumvent Tricare's requirement that beneficiaries pay a deductible and cost share, and they also submitted fictitious and fraudulent Tricare claims falsely claiming that beneficiaries had been hospitalized and had been rendered services when, in fact, they had not.

Lutz and Health Visions Corporation are specifically charged with 32 counts of mail fraud, 41 counts of filing a false claim, one count of conspiracy to violate the laws of the United States, and the forfeiture count. If Lutz is convicted, each violation of the mail fraud statute carries a maximum sentence of twenty years imprisonment and a \$250,000 fine. The conspiracy and false claim counts each carry a maximum sentence of five years imprisonment and a \$250,000 fine. The Health Visions Corporation, if convicted, is subject to a fine on each count of conviction of \$500,000, or, in the alternative, potentially two times the amount of gain to the defendant or two times the loss to the government. The indictment seeks forfeiture of more than \$900,000 owed to the government.

The charges were the result of an investigation by the Defense Criminal Investigative Service (DCIS) of the Department of Defense's Office of Inspector General, the Naval Criminal Investigative Service, the U.S. Postal Inspection Service, and the Internal Revenue Service. The charges were brought in the Western District of Wisconsin because Wisconsin Physicians Service, the fiscal intermediary which processed and paid these alleged fraudulent claims, is located in Madison, Wisconsin which is in the Western District of Wisconsin. The prosecution is being handled by Assistant U.S. Attorneys Peter M. Jarosz and Daniel J. Graber. Readers are advised that a charge is merely an accusation and that a defendant is presumed innocent until and unless proven guilty. Those previously involved with Health Visions who want to determine their status or to participate in the Federal Witness/Victim Program can call Barb Williams at (888) 415-9821 or (608) 264-5158, write United States Attorney's Office, Western District of Wisconsin, PO Box 1585, Madison WI 53701-1585, or email usawiw.webmaster@usdoj.gov. [Source: Office of the U.S. Attorney, Western District of Wisconsin Press Release 18 Oct 06 & www.usdoj.gov/usao/wiw ++]

TRICARE/CHAMPUS FRAUD UPDATE 03:

A prescription drug provider used by federal employee health insurance plans agreed in Late OCT to pay the government \$155 million to settle multiple claims of fraud. Medco Health Solutions of Franklin Lakes, N.J., allegedly paid kickbacks to health plans to gain their business, took money from drug manufacturers to favor their drugs and destroyed prescriptions to avoid penalties for delays in filling them. The U.S. Attorney's office in Philadelphia announced the settlement 23 OCT, several months before the case was scheduled to go to court. Medco did not acknowledge any wrongdoing in the settlement. Medco is the second largest pharmacy benefit management company in the country, handling prescriptions for more than 60 million Americans. The Office of Personnel Management, which administers the Federal Employees Health Benefits Program, promised not to bar Medco from future participation in government contracts.

Medco has contracts with Blue Cross Blue Shield, the Government Employees Hospital Association, the National association of Letter



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riers, and several other FEHBP insurers to provide prescription drugs. The \$155 million settlement involves more than just the FEHBP, though. Medco also provided drugs for the Defense Department's TRICARE health insurance program, and for Medicare. "Millions of federal employees and Medicare beneficiaries rely on pharmacy benefit managers such as Medco for their prescription drugs," Assistant Attorney General Peter Keisler said. "Hidden financial agreements between [pharmacy benefit managers] and drug manufacturers and health plans...can influence which drugs patents receive, the price we all pay for drugs, and whether pharmacists serve patients with their undivided professional judgment."

This settlement is not the first of its kind for OPM. In JAN 06, the agency's inspector general announced several multimillion-dollar settlements for pharmaceutical wrongdoings as part of his semiannual report to Congress. A similar case ended in a \$54.6 million settlement from AdvancePCS, another pharmacy benefit manager. OPM's IG claimed that AdvancePCS took money from pharmaceutical manufacturers in return for favorable treatment of its drugs in FEHBP contracts. The government also alleged that the company illegally paid health insurance plans to ensure its selection as their pharmacy benefit manager. The IG uncovered \$1.5 million in improper rebates to Group Health Inc., a New York area medical plan. GHI, the inspectors claimed, also was late in repaying another \$5 million in rebates. The company did not respond to requests for comment.

The JAN IG report noted that two FEHB physicians were found to have unethically prescribed painkillers. One, a Washington state psychiatrist, over-prescribed oxycodone and hydrocodone to patients so that he could keep some for himself. A Virginia doctor overly prescribed similar, highly addictive painkillers. Several of his patients died of overdoses, although it was not clear that his prescriptions were the source. Both physicians were debarred from practicing under the FEHB. In an effort to step up its investigations into FEHB drug providers, IG Patrick McFarland said his group is in the process of auditing multiple firms that manage pharmacy benefits and he was focusing more resources on prescription drug fraud. The OPM IG also is investigating some cases involving drugs that are prescribed for uses other than their Food and Drug Administration-approved purpose. [Source: GOVEXEC.com Daily Briefing 12 Jan & 26 Oct 06]

VA CLAIM DELAY CAUSES UPDATE 01:

The National Security Archive, a nonpartisan research organization affiliated with George Washington University, has obtained figures about claims made by veterans of Iraq and Afghanistan that portend an inundation of the VA claims system. The figures, obtained through a Freedom of Information Act (FOIA) request, indicate 32% of veterans of the 1991 Persian Gulf War have filed disability claims over 15 years, while five years into the Afghanistan and Iraq campaigns, 27% of newly discharged veterans already have filed nearly 153,000 claims. The current deluge of claims is adding to a large existing backlog. To counter this, Rep. Steve Buyer, R-Ind., chairman of the House Veterans' Affairs Committee, proposed earlier this year to hire 200 more claims adjudicators and provide \$400,000 for training. The VA has reduced its average processing time for initial benefits to 174 days, but the two wars continue to increase claims.

Veterans' groups have criticized the VA for using emergency



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appropriations to fund veterans' benefits rather than realistically planning and budgeting for the veterans' needs. According to Veterans for America (VFA) the newly released data suggests official estimates dramatically understate the future cost of the current Iraq and Afghanistan Wars. If the current trend continues, then VA could receive as many as 400,000 disability claims from the 1.6 million deployed active duty and reserve service members in the Global War on Terrorism. Jonathan Powers, Associate Director of Veterans for America and an Iraq War veteran, warned, "VA already has a backlog, and the claims process is only going to get worse unless VA takes action now. VA has no plan or funding to process and pay existing and future claims to ensure our veterans promptly receive the disability benefits and healthcare care they earned."

Veterans for America (VFA) posts FOIA documents at www.veteransforamerica.org/moduleid/114 to inform the public about the causes, conduct, and consequences of the Iraq and Afghanistan wars. The first FOIA law was enacted in 1966 to promote learning and understanding about government programs and policies. Congressman John Moss thought FOIA was essential to equip the American public with information so they could be responsible citizens. In its most recent FOIA annual report available at www.va.gov/foia/report/FY2005/Terms.html, the VA purported to process 1.9 million FOIA requests during FY 2005, with a median processing time of 11 days. For further information on FOIA refer to [www.gwu.edu/~nsarchiv/NSAEB B/NSAEBB194/index.htm](http://www.gwu.edu/~nsarchiv/NSAEB/B/NSAEBB194/index.htm), For further information on VFA refer to www.veteransforamerica.org/. For further information on the National Security Archive refer to www.gwu.edu/~nsarchiv/index.html. [Source: Armed Forces News 27 Oct 06 ++]

VA COLA 2007 UPDATE 03:

Military retired pay and veterans' disability compensation will increase by 3.3% on 1DEC, marking an annual cost-of-living adjustment that is both less than expected and smaller than last year's 4.1% increase. The 3.3% increase will first appear in January checks. For the second straight year, it is larger than ' JAN increase in military basic pay, which will be just 2.2%. The main reason the retirement COLA is below 4% is that energy prices and transportation costs have dropped in the last three months, according to statistics provided by the U.S. Labor's Department's Bureau of Labor Statistics, which compiles consumer prices. In the past year, some consumer costs have risen by more than 4%. Health care costs increased an average of 4.2% and housing costs jumped by 4.1%, according to the BLS. Food price, on the other hand, rose by just 2.5%. At the same time, transportation costs have dropped by 3.2% from a year ago and overall energy costs have declined by 4.3%.

Annual increases in military and federal civilian retired pay and military survivor benefits are automatic, linked by law to the increase in Social Security benefits. All the benefits are tied to a comparison of consumer prices from the last three months of each fiscal year, which ends on 30 SEP, to the same period of the previous fiscal year. Veterans' disability benefits, veterans' dependency and indemnity compensation for survivors and veterans' pensions do not automatically increase. But Congress passed and President Bush signed a bill guaranteeing they would get the same 1 DEC increase. Military pay raises also are approved on ly by an act of Congress, but that is not the reason why the 1 JAN basic pay increase will be less than the retirement adjustment.



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Military and federal civilian pay raises are computed by law to keep pace with private-sector wage growth, not with inflation. Often, such as in 2002 through 2005, this results in military raises that are larger than retirement increases. But the 1 JAN 06 military raise and now the coming 1 JAN 07 military increase will be lower because private-sector wage growth has been lower than inflation. [Source: NavyTimes Rick Maze article 18 Oct 06]

SSA COLA 2007:

The Social Security Administration announced 18 OCT That the monthly Social Security and Supplemental Security Income benefits for more than 53 million Americans will increase 3.3% in 2007. Social Security and Supplemental Security Income benefits increase automatically each year based on the rise in the Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), from the third quarter of the prior year to the corresponding period of the current year. This year's increase in the CPI-W was 3.3%. The 3.3 percent Cost-of-Living Adjustment (COLA) will begin with benefits that nearly 49 million Social Security beneficiaries receive in JAN 07.

Increased payments to more than 7 million Supplemental Security Income beneficiaries will begin on 29 DEC. Some other changes that take effect in January of each year are based on the increase in average wages. Based on that increase, the maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to \$97,500 from \$94,200. The retirement earnings test exempt amount applicable to earnings for months prior to attaining full retirement age will rise from \$33,240 to \$34,440 a year. For those who are fully retired this will rise from \$12,480 to \$12,950. Exceeding these limits will result in one dollar in benefits being withheld for every \$3 or \$2 in earnings respectively above the limit. Of the estimated 163 million workers who will pay Social Security taxes in 2007, about 11 million will pay higher taxes as a result of the increase in the taxable maximum in 2007. Information about Medicare changes for 2007 can be found at www.cms.hhs.gov. [Source: SSA.gov press release 18 Oct 07]

CSRS COLA 2007:

Federal retirees in the Civil Service Retirement System will receive a 3.3% percent larger pension check in 2007. The government unveiled next year's cost-of-living allowance 18 OCT. It is based on the change in the Labor Department's Consumer Price Index for urban wage earners from the third quarter of one year to the same quarter of the next. The 3.3% boost is smaller than the 4.1% increase for 2006, which was the highest since 1991. But the 2007 rate still is bigger than the several years before 20 06. In 2005 the increase was 2.7%, in 2004 it was 2.1%, in 2003 it was 1.4% and in 2002 it was 2.6%. The COLA will not be the same for retirees in the newer Federal Employees Retirement System. If the change in the CPI is more than 3%, FERS retirees get the COLA minus 1%. So FERS members will get a 2.3% adjustment next year. FERS is more dependent on government matching contributions to the Thrift Savings Plan, a 401(k)-style retirement investment vehicle for federal employees. As a result, FERS retirees sometimes get smaller COLAs, and they only receive the cost-of-living allowance if they are 62 or older. CSRS annuitants must have been retired one full year to receive



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the full COLA. If they do not meet that threshold, they will receive prorated annuities, encompassing one-twelfth of the applicable increase for each month they've received their pension. Federal retirees will receive their first checks reflecting the increase in JAN 07. Current employees in the civil service will get a different annual increase altogether which is based on a pay hike determined by Congress and approved by the president. Lawmakers still are debating between a 2.2% raise, which they already approved for the military, and a 2.7% raise, which they included in initial drafts of legislation for civilians. If civilians get a 2.2% raise, the Federal Salary Council recommended it be allocated between a 1.7% across-the-board boost and a 0.5% locality hike. With a 2.7% raise, the breakdown would be 1.7% and 1%. [Source: GOVEXEC.com Daily Briefing 19 Oct 06]

VA MENTAL HEALTH CARE UPDATE 02:

A network of community-based walk-in veterans' treatment centers is under increasing pressure as more and more former troops who served in Iraq and Afghanistan have come looking for help. A report to be issued 19 OCT from the House Veterans Affairs Committee's Democratic staff says that nearly a third of all Vet Centers have seen the demand rise for outreach and other services. The report surveyed Vet Centers operated by the Department of Veterans Affairs. It found that the number of Iraq and Afghanistan veterans who have sought help for post-traumatic stress disorder (PTSD) doubled, from nearly 4,500 to more than 9,000 from October 2005 through June 2006. The number of veterans with other types of possible mental health and readjustment problems also doubled, and in some cases tripled, the report said. Half of the Vet Centers sampled reported that their expanding caseloads have affected their ability to treat their current clientele. "The administration's failure to increase staffing and other resources for Vet Centers has put their capacity to meet the needs of veterans and their families at risk," the report said. Among the other findings in the report:

- 40% of the centers have sent veterans with readjustment issues who should be receiving individualized therapy into group therapy.
- 30% said they need more staff.
- 25% has taken or will take some action to manage their increasing workload, including limiting services and establishing waiting lists.
- 20% said they have either limited or no capability to provide counseling or therapy for families dealing with veterans suffering from PTSD or other mental health problems.

Rep. Michael Michaud, D-Maine, the House VA Committee member who requested the report said, "The Vet Centers' staff are dedicated and deeply committed to meeting the needs of veterans and their families, but without additional resources, even dedicated staff has limits." The study was obtained on the afternoon of 18 OCT and efforts to contact the VA for comment were unsuccessful.

It was unclear when the VA received the report which can be viewed at <http://veterans.house.gov/democratic/>



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officialcorr/pdf/vetcenters.pdf. It is the result of a confidential survey of Vet Center staffs. The committee's Democratic staff contacted a sample of 64 centers in all 50 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands. Urban and rural areas were represented. Sixty centers responded. In addition to this report, the GAO recently reported that the Administration failed to fund \$300 million in resources which the Administration previously touted for veterans' mental health services in 2005 and 2006 (GAO-06-1119T).

The centers, part of the VA's Readjustment Counseling Service, were created in 1979 under then-VA Administrator Max Cleland, a triple-amputee Vietnam veteran. They were designed to be accessible, storefront clinics where veterans could be seen almost immediately by a staff largely composed of combat veterans.

Vet Centers provide a host of readjustment counseling services to assist veterans in successfully transitioning from military service to civilian life. There are currently 207 Vet Centers located throughout the 50 states, Puerto Rico, the Virgin Islands, the District of Columbia, and Guam. Their core mission is to help veterans suffering from mental and emotional concerns. PTSD, which wasn't even recognized as a medical condition at the centers' founding, is the most widespread mental health problem experienced by soldiers in combat. It can cause nightmares, flashbacks, depression, survivor's guilt and other types of anxiety. Paul Sullivan, director of programs for Veterans for America (a veterans advocacy group) said, " The Vet Center report was disturbing but not surprising. We've been saying that VA is in crisis. It shows that VA does not have a plan. This is additional evidence."

The VA vastly underestimated the number of PTSD cases it expected to see this year, predicting it would see 2,900 cases. As of JUN 06, it has seen more than 34,000 Iraq and Afghanistan veterans for PTSD. A recent VA report shows that more than 1 in 3 Iraq and Afghanistan veterans who've gone to the agency for medical help report that they're under stress or have mental problems. A top Walter Reed Army Medical Center official told Congress last month that 41% of National Guard and Army Reservists reported mental health concerns up to six months after deployment, compared with 32% of the active-duty force. 15% of the Guard and reservists were at risk for PTSD, compared with 9% of active-duty troops. [Source: McClatchy Newspapers Kansas City Star David Goldstein article 19 Oct 06 ++]

VA BUDGET 2007 UPDATE 06:

In JAN 06 the National Security Archive (NSA) asked the Department of Veterans Affairs for records about the number of disability claims filed by veterans who served in the Iraq and Afghanistan wars. The NSA is an independent, nongovernmental research group located at George Washington University. Researchers there use the Freedom of Information Act to obtain declassified government documents and make them available to the public. In response to their initial request the VA made the pronouncement that no documents existed. The archive's researchers were asked to believe that the government had no records of claims by Iraq and Afghanistan veterans. Of course, this could not be true. For the next nine months, the NSA made repeated requests and finally threatened to sue the VA if it did not turn over the records. This month, the government relented and complied. There



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were plenty of reports and plenty of documents. "For the agency to take nine months to find information that is of current public interest in the context of the ongoing global war on terrorism is astounding," said Meredith Fuchs, the NSA's general counsel. "It is one thing for the VA to be reluctant to deliver bad news but another thing entirely to deny the existence of the information."

The news definitely was bad. The records show that about one in five service members leaving the military after serving in Iraq and Afghanistan has been disabled to some degree. More than 104,000 of the 567,000 returning veterans from the two wars have been given disability compensation so far, and more are applying for it each day. At least 1.5 million U.S. troops will serve in Iraq and Afghanistan, which suggests the possibility of 400,000 disabled veterans if current proportions hold. The potential burden to U.S. taxpayers is staggering. The Bush administration last year had to send the VA Secretary to ask Congress for \$2 billion more for veterans' care because of an embarrassing series of inadequate budget requests. Senate Republicans are pushing a bill that would appropriate \$26 billion for veterans medical services next year - about 15% more than the administration proposed. "Failure to do otherwise," says Sen.

Olympia Snowe, R-Maine, "would be an open invitation to returning to the budget shortfalls of the past that contributed to historic primary care backlogs." The Congressional Budget Office estimates that the administration's 2007 veterans' health budget is \$10 billion below what's needed. Backlogs in claims processing and appointments with physicians have increased during the past two years, due to the troops returning from the battlefields.

The administration admits that the year began with 52,000 people stuck on waiting lists to receive care at VA hospitals, but veterans groups believe the number is much higher now. The White House cannot begin to defend its budget requests if all the numbers are put on the table. The numbers will only get worse, as healthy veterans develop symptoms of service damage years later. About 30,000 Iraq and Afghanistan vets already have sought treatment for post-traumatic stress, and that number could increase exponentially as war-related psychological problems develop. Now that the Pentagon is making contingency plans to keep 140,000 troops in Iraq through 2010 raises the ominous prospect of creating a generation of disabled veterans that would rival those from the Vietnam War. Were it not for the Freedom of Information Act and the NSA, Americans might be tempted to believe that the White House has a plan to care for the nation's veterans. [Source: Palm Beach Post Dan Moffett article 15 Oct 06 ++]

VA HEALTH CARE ENROLLMENT UPDATE 01:

Many veterans believe if they lose their job and its associated health care insurance they will be able to get health care at their local Veterans' hospital. Primarily because they were told upon discharge that, as veterans, they were eligible to use these facilities. But under federal rules blamed on budget constraints, millions of middle-class veterans who weren't injured in the military can no longer enroll in the U.S.

Department of Veterans Affairs health-care system. The change occurred in 2003, and news of it has



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gradually trickled down to veterans. Under the 2003 enrollment policy, a single veteran in who earns \$32,600 or more, and doesn't have a service-connected injury or illness, is not allowed to enroll in the VA medical system. Those enrolled before 17 JAN 03 are grandfathered in, and

there's a special provision for veterans returning from Iraq or Afghanistan. The Washington Post has reported that as many as 10 million veterans who aren't in the system will not be allowed to enroll under the new rule. In just the past three years, more than 250,000 veterans who sought care at the nation's VA hospitals have been turned away because of the new rule.

VA officials contend the changes were necessary, given limited funds, the growing numbers of veterans seeking care, and the need to focus on those with service-connected disabilities and the poor. Nondisabled, higher-income veterans made up much of the rapid growth in its health-care enrollment between 1996 and 2003, hindering the system's ability to care for the disabled and poor. This growth is reflected in the VA's medical budget, which reached \$30.7 billion this year. Generally those who are turned away state they had not heard of the rules change. There have been no mass mailings or other wider effort to inform all veterans. Information is available on the internet and at local VA offices and there is a pamphlet that describes enrollment policies. Recent veterans returning from war do receive letter notification from the VA.

Under the current enrollment policy, veterans fall into one of eight priority groups established in 1998. The highest-priority veterans are those with service-connected disabilities considered 50% or more disabling, and those determined to be unemployable because of service-related conditions. Those no longer eligible for care as a result of the 2002 policy change are in the lowest-priority group — Priority Group 8, which includes veterans without service-connected injuries or illnesses and with an income above a geographically specific cutoff. The VA calls the change a suspension but does not say when it will end.

The new rule isn't the only way the VA has tried to limit enrollment. In 2002, rising demand for services prompted the VA to issue a national memo that discouraged recruiting veterans for enrollment. A similar directive issued in 2004 for the VA MidSouth Healthcare Network, said "facilities may not aggressively take steps to recruit new enrollees or new workload." There are an estimated 24 million veterans in the United States, and about 5.4 million are expected to seek care from the VA this year, compared with 2.9 million a decade ago. [Source: Louisville Courier-Journal Laura Ungar article 15 Oct 06 ++]

VA COPAY UPDATE 04:

There is no monthly premium required to use VA care. You may, however, have to agree to pay copays. If you have insurance, it may cover the cost of copays. Veterans are categorized into Priority Groups 1 through 8 by the VA to establish their eligibility to receive VA medical care. These groups plus a few other factors determine the amount of copay they must pay for their medicine or medical care. Following is a breakdown of who must pay what:

- For 2006 an annual Medication



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copayment cap of \$960 was established for veterans enrolled in priority groups 2 thru 6. Medications will continue to be dispensed when the copayment cap is met. Medication provided for treatment of nonservice-connected (NSC) conditions is \$8 per prescription. An annual medication copayment cap was not established for veterans enrolled in priority group 7 or 8.

- Veterans in Priority Group 1 (50% or more) are not subject to copayments.
- Veterans in Priority Group 2 (30% & 40%) and below are subject to copayments. Basic and specialty outpatient care is \$15 & \$50 per visit respectively. Inpatient care is \$10 per day per diem charge or \$953 for first 90 days and \$465 for each subsequent 90 days. Nursing Home or Day Care/Inpatient Respite Care/Geriatric Evaluation is \$97 & \$15 per day respectively. Domiciliary care is \$5 per day.
- Veterans in Priority Group 3 (10% & 20%) are subject to copayments. Those in receipt of a Purple Heart or are former POWs are also placed in this priority group. Veterans who have been POWs are exempt from Medication Copays.
- Veterans in Priority Group 4 are subject to copayments. Catastrophically Disabled veterans placed in this priority group can be subject to full medical care copayments or to reduced inpatient copayments under the Geographic Means Test criteria.
- Priority Group 6 Health insurance and all applicable copayments will be billed when the care is for conditions not related to the veteran's exposure or experience. Veterans in this priority group are subject to full medical care copayments or to reduced inpatient copayments under Geographic Means Test criteria and to medication copayments.
- Veterans in special Categories are subject to copayments when their treatment or medication is not related to their exposure or experience. The initial registry examination and follow-up visits to receive results of the examination are not billed to the health insurance carrier and are not subject to copayments. However, care provided that is not related to exposure, if it is NSC will be billed to the insurance carrier and copayments can apply.
- All veterans receiving prescriptions for NSC conditions who meet the low-income criteria (income limits for the VA NSC pension program) are exempt from the medication copayment.
- Veterans enrolled in priority group 7a and 7c have income above the VA Means Test threshold but below the Geographic Means Test threshold and are responsible for 20% of the inpatient copayment and 20% of the inpatient per diem copayment. The geographic means test copayment reduction does not apply to outpatient and medication copayments and veterans will be assessed the full applicable copayment charges. Note that reduced inpatient copayments can apply to veterans in Priority Groups 4 and 6 based upon the income of the veteran.
- Veterans assigned to Priority Group 7e or 7g are not eligible for enrollment if a



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decision to restrict enrollment of new Priority Group 7 veterans has been made. These veterans are eligible for care of their NSC conditions on a humanitarian emergency basis and are charged the applicable tortuously liable billing rate for services provided. Veterans in Priority Group 7e are eligible for care of SC conditions at no charge.

- Veterans enrolled in this priority group 8a and 8c are responsible for the full inpatient copayment and the inpatient per diem copayment for care of their NSC conditions. Veterans in this priority group are also responsible for outpatient and medication copayments for care of their NSC conditions.

- Veterans assigned to Priority Group 8e or 8g are not eligible for enrollment. These veterans are eligible for care of their NSC conditions on a humanitarian emergency basis and are charged the applicable tortuously liable billing rate for services provided. Veterans in Priority Group 8e are eligible for care of SC conditions at no charge. [Source: www.va.gov/healtheligibility/costs/ Nov 06 ++]

VDBC UPDATE 07:

At the Oct. 19 Veterans' Disability Benefits Commission hearing, military and veterans' organizations joined in opposing the concept of offering disabled veterans a single lump-sum payment rather than monthly disability compensation. The Commission had asked for association inputs on a draft report on this subject by the Center for Naval Analyses (CNA). The AUG 06 report can be viewed at https://www.1888932-2946.ws/vetscommission/e-documentmanager/gallery/Documents/September_2006/CNA_Draft_LumpSum_Aug2006.pdf. The report explored the advantages and disadvantages of a lump-sum program to both the veteran and VA and raised its own questions about the idea. Joseph Violante, Legislative Director for the Disabled American Veterans, testifying for the group of associations, said any savings to the government would necessarily come at the expense of the disabled veterans. He highlighted potential inequities for veterans whose disabilities worsened in the future and the difficulty and expense of building administrative systems to consider such appeals. After hearing the testimony, the commissioners unanimously agreed to table consideration of a lump-sum, buy-out plan. Commissioners intend to approve that decision formally at a future meeting, said Ray Wilburn, spokesman for the commission.

The commission then turned to consider line-of-duty rules, concurrent receipt, and characters of discharge. Concurrent receipt generated the most animated crosstalk. The four preliminary options the commission plans to address are:

- * Endorse the current tiered approach;
- * Endorse an offset of military retired pay by VA disability compensation;
- * Endorse full concurrent receipt of both military retirement and VA disability compensation;
and
- * Endorse expansion of



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Concurrent Retirement and Disability Pay to include 10-40%.

During the public comment period, MOAA's Col. Mike Hayden (USAF-Ret) noted that there may be some uncertainty about what is considered "full" concurrent receipt, and urged the commissioners to ensure they consider an option that vests earned retired pay for "Chapter 61" retirees who are forced into medical retirement before attaining 20 years of service. The next scheduled meeting of the VDBC will be 16-17 NOV 06 at the Embassy Suites Hotel Washington DC. The commission, created by Congress in 2004, is conducting the first comprehensive review of veterans' disability benefits in 50 years. Its recommendations are to be delivered to lawmakers next fall. Information about the VDBC inclusive of minutes of all previous meetings and future schedules can be found at www.vetscommission.org. [Source: MOAA Update 20 Oct 06 ++]

VA DISABILITY BUYOUT UPDATE 02:

The idea of lump-sum offers for lower-rated disabled veterans was raised in 1956, the last time the VA disability system was overhauled. It has been endorsed periodically since then, by various studies. The Department of Defense uses lump sums under its own disability retirement program. Service members rated 30% disabled or more qualify for monthly disability retirement. But those rated 10 or 20% by DoD can only get a lump-sum disability severance. Most DoD disabled retirees apply for a VA rating after leaving service. That can result in a higher rating and better benefits. Those with DoD ratings of 10 or 20% typically see their monthly VA compensation delayed until an amount equal to their lump sum from DoD is recouped.

CNA Corp., formerly known as the Center for Naval Analyses, was hired by the Veterans' Disability Benefits Commission to study and report on the advantages and disadvantages of a lump-sum option for VA. CNA reviewed how an option might be designed, who should be eligible and what savings might be gained. In their completed report CNA said veterans might view lump sums as more useful in transitioning to civilian life. They also might enjoy having a choice. And because lump sum recipients would have fewer interactions with VA, the timeliness of the VA claims process might improve. VA compensation costs, over time, also would fall because total dollars paid in lump sums would be a lot less than paid over a lifetime as monthly compensation. Compensation savings, in time, could be 10 to 20%.

CNA concluded the VA also would save on administrative costs. That would be especially true if veterans who accepted lump-sum payments were prohibited from applying for a "re-rating" as their disabilities worsened. But CNA acknowledged that lump-sum settlements raise new worries about the welfare of veterans who accept such deals. Some would use lump-sum payments foolishly, placing their financial futures in greater jeopardy. Another issue is what these veterans can do if their disabilities worsened. To better understand the implications, CNA tracked how VA disabilities in the year 2000 changed over the next five years.

CNA found that by 2005 almost no veteran saw his or her disability rating drop and only five percent of disabilities had a rating increase. The average increase was between 20 and 30 percentage points. Skin, hearing, sight, gynecological and lymphatic conditions showed the



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smallest rating changes, an average of less than two percent. Ratings for post-traumatic stress disorder rose sharply, with that average between 30 and 40 percentage points.

To estimate both near-term costs and long-term potential savings from use of lump-sum settlements, CNA assumed they would be offered only to veterans rated 10 or 20 percent disabled and with conditions having no more than a two-percent probability of a rating increase over the next five years. Likely candidate conditions that fit the profile include tinnitus, thumb amputations, hypertension and scars on the face, neck or head. CNA calculated that offering lump sums to newly-rated veterans with these ratings and types of conditions would raise VA compensation costs by \$545 million in the first year. More surprisingly, the VA wouldn't break even and begin to see net savings from this change for 25 years. The Veterans' Disability Benefits Commission has examined and rejected a proposal that the VA begin offering veterans with lower-rated disabilities a lump-sum payment instead of lifetime monthly compensation [Source: NavyTimes Tom Philpott article 26 Oct 06 ++]

HEALTH CARE QUALITY/PRICE UPDATE 01:

The Assistant Secretary of Defense for Health Affairs, Dr. William Winkenwerder held a press conference 12 OCT to point out how DoD is supporting the President's Executive Order to Promote Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs." The Executive Order called for creating transparency in health care, which means providing more information to beneficiaries about issues such as health care costs. Dr. Winkenwerder highlighted the following examples of DoD's leadership on this mandate:

- DoD created an informational link on the TRICARE website at <http://tricare.osd.mil/tricarecost.cfm>. to help educate beneficiaries regarding what TRICARE will cover for certain medical visits and procedures.
- Development of the Armed Forces Health Longitudinal Technology Application (AHLTA). This is an electronic military medical record on a secure database that is available worldwide 24/7. Currently, 8.6 million medical records are stored in AHLTA, out of a possible 9.2 million beneficiaries. This system allows the military to capture information in real time, which can be stored permanently and also be retrieved from another location. This method of capturing and transferring of medical data is especially beneficial when dealing with injured service members on the battlefield. Imagine
- Implementation of a wireless handheld device, known as Battlefield Medical Information System Tactical (BMIST), which enables the medical personnel to enter data that is recorded and immediately transmitted electronically to the AHLTA system. With this a medic or corpsman who evaluates the service member's condition at the site of injury can place their medical assessment and the type of treatment received on-site into the database, which allows the information to be readily available for the healthcare provider when the injured service member arrives at the medical triage center. There are approximately 30,000 BMIST's currently being used in OEF and OIF.



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- Testing another medical collection device to be used when the BMIST signals can not be sent. With this medical information can transferred from the BMIST to a microchip placed into a type of dog tag, which is than physically transferred with the injured service member . The chip is then downloaded into the AHLTA system upon the injured service member's arrival to the triage center.

- These new systems allow for a quick seamless transfer of medical information that significantly improve the method(s) in which military medicine does business and how they are saving lives during time of war.

- Deployment of the Electronic Surveillance System for Early Notification of Community-based Epidemics (ESSENCE) which is encrypted into AHLTA systems. ESSENCE allows 24/7 worldwide monitoring of DoD medical data for patterns of medical conditions that present in an unusual manner. For example, if a large number of DoD personnel are experiencing flu- like symptoms at different hospitals and health clinics at one or multiple geographical location(s), ESSENCE would allow for these cases to be analyzed as a whole rather than as viewing them as non-related individual cases. This program has the potential to determine whether there is an outbreak, such as the flu or food poisoning, that warrants an alert and increases the response time by the DoD and the Centers of Disease Control (CDC).

- Deployment of the Military Health System Population Health Portal MHSPHP which is encrypted into AHLTA systems. This is a health management system that prompts DoD health care providers of preventative clinical services, such as immunizations, blood work, or radiological exams, needed for their patient's disease prevention and/or management.

The DoD is also working with the Department of Veterans' Affairs (VA) to share beneficiaries' medical information. The goal is to provide a seamless transition of medical data between the two agencies. Transparency of medical information is important for many reasons. Most importantly is when during a time of war wounded service members transfer from their initial treatment at Walter Reed Army Hospital or the National Naval Medical Center at Bethesda to one of the VA's four Poli-trauma centers for rehabilitation. Transfer of medical data is also important when the service member retires from active duty and transitions to the VA for some of their health care. For more information on the DoD's transparency initiatives, go to the TRICARE website at <http://www.ha.osd.mil/AHLTA>.

Veteran groups have expressed concerns regarding delays by the DoD in getting medical records of wounded and injured soldiers transferred to DVA. The delays are preventing timely medical care and in some cases threatening the lives of veterans returning from Iraq and Afghanistan. At a hearing last month before the House Veterans Affairs Committee witnesses gave several examples of wounded and disabled veterans from across the country who did not receive their medical records in a timely fashion and suffered as a result. Gary Kurpius, the VFW's national commander, said the rhetoric from both DOD and the VA about a "seamless" transition from active-duty medical care to the VA just is not true.



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U.S. Sen. Susan Collins, a member of the Senate Armed Services Committee, said this week that the House hearings caught her and other committee members by surprise. Collins said when Congress returns to work after the elections she intends to ask the Armed Services Committee to look into the issue. Unfortunately, DoD's AHLTA system is not compatible with the VA's electronic health record system VISTA. The Senate appropriations committee has urged DoD to switch to VA's record system. However, Defense officials say VISTA would need significant modification to meet military needs and the switch would be long and costly. In the short term it appears neither DoD nor VA intend to modify their systems to make them compatible. [Source: NMFA Weekly News 25 Oct 06 ++]

MEDICARE REIMBURSEMENT RATES UPDATE 02:

On 11 SEP 06 in a bi-partisan show of unity, some 265 Representatives petitioned House Speaker Hastert and Leader Pelosi with a letter which stated, "If the Congress does not act soon, the Medicare sustainable growth rate (SGR) formula will cut payments to physicians and health care professionals by almost 5%, effective 1 JAN 07. When added to the additional cuts required under current law through 2015, physician payments will be reduced by a total of 37% even as liability insurance, fuel, and other costs escalate more rapidly than inflation and the need to invest in health information technology to improve care quality is increasing important ... To preserve Medicare patients' access to care, we must act immediately to avert these cuts to Medicare physician payments. We ask that you work quickly with the Committee on Ways and Means, the Committee on Energy and Commerce, and the undersigned to address this critical issue. Thank you for your attention to this urgent matter."

Although both chambers are well aware of the forthcoming Medicare crisis, it is obvious that the leadership of the Senate and House have failed to avert the situation in their haste to recess for the November elections. They have one last chance when they return for their lame duck session after the elections and before they return to district for Thanksgiving and Christmas. This rate decline will impact on ALL eligible Tricare users since Tricare reimbursement rates to medical care providers are tied to Medicare reimbursement rate. As rates go down fewer and fewer physicians will continue to participate as authorized Medicare/Tricare providers making it harder to locate one to meet your medical needs. All members of the military community are encouraged to send a message to their representatives before Congress reconvenes in mid-November and ask that action be taken in the 109h Congress to stop this cut. This can be accomplished by accessing the USDR Action Alert website [http://capwiz.com/usdr/index_frame.dbq?url=http://capwiz.com/usdr/issues/alert/?alertid=9133751&queueid=\[capwiz:queue_id\]](http://capwiz.com/usdr/index_frame.dbq?url=http://capwiz.com/usdr/issues/alert/?alertid=9133751&queueid=[capwiz:queue_id]), entering your zip code, and selecting the representative/s you want a preformatted message/letter on this subject to be sent to. [Source: USDR Action alert 25 Oct 07 ++]

NAVY ELECTRONIC SERVICE RECORD:

Navy officials announced 19 OCT the implementation of the electronic service record (ESR) within the web enabled version of the Navy Standard Integrated Personnel System (NSIPS). Now, everyone will be able to view their personnel, training and awards data without visiting their personnel office. The ESR provides individual sailors, personnel support activity



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Detachments (PSDs), personnel offices that are service record holders (Pers Off), Navy Operational Support Centers (NOSC), and Customer commands of PSD(s), with secure worldwide internet access to personnel, training, and awards data. The ESR replaces the paper service record as the single field level data entry point for service record maintenance. The ESR quick reference guide provides User guidance for service record maintenance and is available at Navy Knowledge Online (NKO) under organizations (NSIPS LINK).

Effective immediately all active duty and reserve sailors may request an ESR self-service user account at <https://nsips.nmci.navy.mil> or through the NMCI homeport portal by selecting the Enterprise Records Management System link. This access provides the ability to review all personnel, training, and awards data by choosing the view option in the ESR. Anything impacting on pay or awards will still have to be done through a sailor's PSD. Individuals will have limited ESR self-service administrative only update capability. Task updates include:

- (1) Emergency contact information and person assigned to direct disposition of (PADD).
- (2) Home and mailing address.
- (3) Official email address.
- (4) Personal information (religion, race, ethnic code).
- (5) Civilian employment information (CEI) – reserve personnel only; and
- (6) Competencies (reserved for future use).

Afloat activities still on the client-server version of NSIPS will continue to make entries in paper field service records until they are converted to WEB NSIPS. There will be a 9-12 month transition period to ensure current record information is available to activities without ESR access. During this time, all activities must continue to mail printed documents to COMNAVPERSCOM (PERS-312) to update the official record stored in the Electronic Military Personnel Records system (EMPRS). [Source: CNO Washington DC NAVADMIN msg 19 Oct 06 ++]

MOBILIZED RESERVE 25 OCT 06:

The Army, Navy, Air Force, Marine Corps and Coast Guard announced the current number of reservists on active duty as of 25 OCT 06 in support of the partial mobilization. The net collective result is 362 fewer reservists mobilized than last reported for 11 OCT 06.

Total number currently on active duty in support of the partial mobilization for the Army National Guard and Army Reserve is 80,279; Navy Reserve 5,797; Air National Guard and Air Force Reserve 6,723; Marine Corps Reserve, 7,268; and the Coast Guard Reserve, 265. This brings the total National Guard and Reserve personnel, who have been mobilized, to 100,694, including both units and individual augmentees. At any given time, services may mobilize some units and individuals while demobilizing others, making it possible for these figures to either increase or decrease.

A cumulative roster of all National Guard and Reserve personnel, who are currently mobilized, can



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be found at <http://www.defenselink.mil/news/Oct2006/d20/61025ngr.pdf> [Source: DoD News Release 25 Oct 06]

TRICARE UNIFORM FORMULARY UPDATE 15:

On 23 OCT 06 Dr. William Winkenwerder Jr., Director, TRICARE Management Activity, decided to move Crestor and Caduet, which lower so-called "bad cholesterol" (LDL), to Tricare's "third tier" of medications effective 1 FEB 07. This means the copay for these drugs will rise from \$9 to \$22 for a 30 day supply. Third-tier drugs can still be obtained at the regular \$9 copay if the doctor specifies the drug is medically necessary for the patient (e.g., works better or avoids side effects associated with other drugs) and the medical necessity determination is approved by DoD. The other cholesterol lowering drugs previously on the formulary will maintain their former tier 1 or 2 status. Previously approved Oral contraceptive medications Seasonale, Ovcon-35, Ovcon-50, and Estrostep FE medications will attain tier 3 status effective 24 JAN 06. [Source: TMA News Release 23 Oct 06]

VA "IU" GROWTH UPDATE 02:

IU now costs the VA more than \$3.1 billion a year for more than 220,000 veterans and continues to rise. Addressing this issue Congressional Leaders requested the GAO conduct a study which has been completed. The GAO originally issued their report in May and reposted it on 26 Oct 06. The full report can be accessed at www.gao.gov/new.items/d06309.pdf. Highlights are:

1. Under VA's disability compensation program, VA can award IU benefits (that is, total disability compensation) to veterans of any age who cannot work because of service-connected disabilities even though VA did not rate their impairments at the total disability level. Over the last decade, IU beneficiaries and benefit costs have more than tripled. In 2005, about 220,000 veterans received an estimated \$3.1 billion in IU benefits. The added value of IU benefits over a veteran's lifetime depends up on the veteran's level of impairment at the time he or she begins receiving IU benefits and the length of time these benefits are received. GAO estimated the lifetime present value of the added benefits in disability compensation for veterans with different impairment levels who began receipt of IU benefits in 2005 at different ages was about \$300,000 to over \$460,000 for veterans age 20 and about \$89,000 to about \$142,000 for veterans age 75. GAO also found that just under 46% of new IU beneficiaries were awarded IU benefits at the age of 60 or older, and 19% were age 75 or older.

2. VA's criteria, guidance, and procedures for awarding IU benefits do not ensure that its IU decisions are well supported. VA regulations and guidelines lack key criteria and guidance that are needed to determine unemployability. VA guidelines also do not give rating specialists the procedures to obtain the employment history and vocational assessments needed to support IU decisions. As a result, some VA staff told us that IU benefits have been granted to some veterans with employment potential.



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3. VA's process for ensuring the ongoing eligibility of IU beneficiaries is inefficient and ineffective. This enforcement process relies on old data, outdated, time-consuming manual procedures, insufficient guidance, and weak eligibility criteria. Moreover, the agency does not track and review its enforcement activities to better ensure their effectiveness.

4. VA is among the federal disability programs GAO has identified as high risk and in need of modernization, in part, because it is poorly positioned to provide meaningful and timely support to help veterans with disabilities return to work. Specifically, VA's compensation program does not reflect the current state of science, technology, medicine, and the labor market. VA's management of IU benefits exemplifies these problems because its practices lag behind those of other disability programs. Approaches from other disability programs demonstrate the importance of providing return-to-work services and using vocational expertise to assess the claimant's condition and provide the appropriate services. Incorporating return-to-work practices in IU decision making could help VA modernize its disability program to enable veterans to realize their full potential without jeopardizing the availability of benefits for veterans who cannot work.

5. GAO recommends that VA should clarify and strengthen its IU eligibility criteria, guidance, and procedures for initial and ongoing eligibility decisions; and develop a return-to-work strategy for IU claimants.

VA agreed with GAO's conclusions, concurred with their recommendations, and stated that it planned to implement program changes in areas that were identified as needing attention. As a result many IU vets are now being called in by the VA for re-evaluation. It is not known at this juncture whether or not all IU vets will be re-validated or if a target date has been established to accomplish this. [Source: Veterans Advocate Carl Young msg 26 Oct 06 ++]

PTSD REEVALUATION UPDATE 07:

According to Anna Johnson, a doctoral candidate at the University of North Carolina, Chapel Hill, veterans exposed to combat have a higher long-term risk of heart attacks and strokes. Johnson found that, compared to non-veterans, combat veterans' 10-year risk of heart disease is more than 3 percentage points higher. She presented the findings at the American Heart Association (AHA) annual conference on Cardiovascular Disease, Epidemiology and Prevention, in Phoenix. In the study, Johnson and her colleagues followed nearly 5,000 men, including veterans who saw combat, veterans who didn't, and non-veterans who served as controls. "They came in for visits every few years," she said, "with about four visits each since the 1980s." Researchers looked at measures such as blood pressure, smoking, cholesterol levels and other factors to predict their heart disease risk over the next decade. The men started the study between 1987 and 1989, and the last follow-up questionnaires were conducted in 2001 and 2002.

Johnson's team found that the mean predicted 10-year risk of heart disease risk was 10.2% for the non-veterans, 11.5% for the veterans not exposed to combat and 13.3% for those exposed to combat.



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She said, "While others have studied veterans and their risk of combat, nobody has looked at predicted risk. Many previous studies did not separate subjects who were in combat from those who were not and the follow-up time is longer than in most studies. Other studies have looked at shorter-term risk and found limited evidence for a higher risk of cardiovascular events." Johnson said deciphering how combat boosts heart risk was beyond the scope of her study. In a previous study, which Johnson presented last year at another AHA conference, she found that veterans of World War II, Korea and Vietnam who had seen combat were 60% more likely to be heavy drinkers than those who had not, and four times as likely to be problem drinkers than those who hadn't been in the armed forces at all. She also found that combat vets were 20% more likely to be heavy smokers than vets who hadn't seen combat and nearly two times as likely to smoke heavily compared with non-vets.

Joseph Boscarino, a Vietnam veteran and senior investigator for the Giesinger Clinic in Danville PA has researched combat exposure and post-traumatic stress disorder (PTSD) for 30 years. He said this new study adds to the growing literature that combat is related to heart disease. But he added that based on his research, it was determined combat by itself is not significant when you control for PTSD in a study. PTSD is a psychiatric condition triggered by a life-threatening event such as military combat, disaster or serious accident. People with PTSD often suffer from nightmares, flashbacks and other persistent reminders of a past traumatic event. In other words, Boscarino said, "Combat by itself doesn't make you more at risk for heart disease, it is whether you develop PTSD. It appears that PTSD is a good predictor of heart disease risk."

Vets submitting claims for service contacted compensation should keep in mind that heart attacks and strokes are not presumptive medical conditionals associated by PTSD. A medical professional needs to make that association for them. When being evaluated they may want to consider providing this information to that evaluator who may or may not take this study in consideration. The VA's Oakland Regional Office has awarded compensation when medical professionals have made the association. For more information on stress and heart disease refer to the American Heart Association site at www.americanheart.org. [Source: Veterans Advocate Carl Young msg 27 Oct 06 ++]

TRICARE OVERSEAS PROGRAMS:

Active duty military families who live overseas can choose how to get their health care under Tricare. They have four Tricare Overseas options: Tricare Prime, Tricare Global Remote Overseas (available in designated remote locations), Tricare Standard and Tricare For Life Overseas.

Military retirees and their families who live overseas cannot enroll in Tricare Prime, but they can use Tricare Standard. Point-of-service charges now apply to active duty family members enrolled in the Tricare Global Remote Overseas and Tricare Puerto Rico Prime programs. Point-of-service was already in effect for those enrolled in overseas military treatment facilities under Tricare Overseas Program Prime. Point-of-service allows all Tricare Prime enrollees to get non-referred, non-authorized care from providers of their choice.



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Point-of-service has an annual deductible, and enrollees pay more when they use this option instead of getting a referral and/or authorization for care.

Active duty family members enrolled in an overseas military treatment facility, Tricare Global Remote Overseas or Tricare Puerto Rico Prime should ask their primary care manager or their enrolled program's call center for authorization when seeking routine or specialty care from a host nation provider. If they don't, point-of-service charges may apply. Point-of-service doesn't apply when active duty family members have other health insurance that covers the care they receive. Point-of-service doesn't apply to active duty service members, but if they get care without the proper authorization, Tricare may deny the claim. The point-of-service deductible is \$300 per individual or \$600 per family, and the cost-share is 50% of Tricare-covered services. The deductible applies only to outpatient services, and the cost-share applies to both inpatient and outpatient services. Point of service deductibles and cost shares do not apply to the annual fiscal year catastrophic cap of \$1,000 for active duty family members. For more information, Tricare Overseas Program Prime and Tricare Global Remote Overseas refer to <http://www.tricare.osd.mil/overseas/>. Tricare Puerto Rico Prime enrollees should refer to <http://www.tricare.osd.mil/puertoricohealthcare/>. [Source: TMA Press Release Oct 06 ++]

GULF WAR SYNDROME UPDATE 01:

DoD has just released the fifth report in a series called "Gulf War and Health: Volume 5, Infectious Diseases" which focuses on infectious diseases by identifying nine diseases and 34 different long-term health effects that might appear weeks to years after initial infection. A 1998 Congressional mandate required the VA to contract with the National Academy of Sciences Institute of Medicine to use a specific procedure to determine the illnesses that warrant a presumption of connection to service in the 1991 Gulf War. The report can be ordered or read online at the National Academies Press website <http://www.nap.edu/catalog/11765.html>. [Source: NAUS Weekly Update 27 Oct 06]

PURPLE HEART MUSEUM:

The nation's roughly 1.7 million Purple Heart recipients will get a museum to call their own. Its mission is to collect and preserve the stories of Purple Heart recipients from all branches of the service and across the generations in an attempt to ensure that all recipients are represented. The National Purple Heart Hall of Honor, to open 10 NOV in Vails Gate, N.Y., will be the first national museum dedicated to those who have received the Purple Heart. Veterans Affairs Secretary R. James Nicholson will present Purple Hearts (considered the oldest U.S. combat award) to three soldiers and a Marine at an event 1 NOV in Washington to celebrate the opening of the museum nine days later. The National Purple Heart Hall of Honor will be the first facility to honor all recipients who have been wounded or killed in action. The museum will remain "the sole repository dedicated to the preservation of the stories of wounded patriots' sacrifice," according to the Military Order of the Purple Heart, a nonprofit organization representing 39,000 Purple Heart recipients based in Springfield VA.

The museum will have a series of exhibits, videotaped interviews with veterans, historical photos, documentary



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film footage, period objects and the Roll of Honor, an interactive computer program detailing the stories of each recipient. The 7,500-square-foot facility will house a reception area, gallery, exhibit hall, education center and presentation room. The \$6.2 million facility was built on the grounds of the Vails Gate New Windsor Cantonment State Historic site. This is the site of the final encampment of Gen. George Washington's Continental Army. In 1782, Washington created the purple-cloth Badge of Merit to honor the service of his troops. That badge was the precursor of the Purple Heart, presented to service members wounded in combat or to the next of kin of troops killed in combat. New Windsor Cantonment and Washington's Headquarters are two of Virginia's 35 state historic sites throughout the state managed and operated by the State Office of Parks, Recreation and Historic Preservation. The Brigade of the American Revolution, a nationwide organization founded 35 years ago to recreate the life and times of the Revolutionary War soldier, has weekend encampments at the site as does the recreated 3rd New York Regiment. To contact the hall call (845) 561-1765, Fax (845) 561-6577 or mail National Purple Heart Hall of Honor, New Windsor Cantonment State Historic Site, P.O. Box 207, Vails Gate, NY 12584-0207 or refer to the Heritage section of <http://nysparks.state.ny.us/>. [Source: Various 30 Oct 06 ++]

MILITARY BANK SCAM:

Stars and Stripes reports that e-mails addressed to a "BOA Military Bank Customer" might appear to be from Community Bank, the financial institution on many U.S. bases run by Bank of America under a contract from the Department of Defense. It may be targeting those who hold government travel cards through Bank of America or those who choose to open accounts specifically geared toward servicemembers. The e-mails are just another in a series of scams from someone trying to steal money or personal information from unsuspecting computer users. Legitimate companies and organizations will never ask for information in e-mails such as user IDs, passwords, account numbers or Social Security numbers. [Source: Military.com 30 Oct 06]

VA DATA PRIVACY BREACH UPDATE 26:

As another instance of data loss at the Department of Veterans Affairs comes to light, the VA's Office of the General Counsel (OGC) has awarded a contract to Identity Force for identity theft protection services for more than 5,700 citizens, 660 of whom were veterans. The contract is the result of a 8 MAY 06 incident in which a backup data tape was reported missing from the general counsel's regional office in Indianapolis IN. VA spokeswoman Jo Schuda said the missing data contained mostly legal records dating back to the 1970s. Along with the legal issues there were attorney work products. The data contained entries for any kind of legal cases that the attorneys worked on, not necessarily veterans. The office sent notification letters this summer to as many of the individuals involved as possible, but they couldn't find complete addresses for some because of the age of the cases. About 2,000 of the more than 7,000 individuals were deceased. There is no indication any of the affected individuals have suffered problems as a result of this missing tape.

Schuda said she did not know if the tape was lost or stolen and whether it has been recovered. The incident occurred the same month that a VA



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laptop PC and disks containing personal information on 26.5 million veterans were stolen from an employee's home. In August, a laptop containing insurance claims data on about 20,000 veterans who were treated at the Pittsburgh and Philadelphia VA medical centers was stolen from the Unisys office in Reston VA. Unisys was under contract to track the claims. As a result of those incidents, VA Secretary Jim Nicholson established the VA information security program, setting standards for accessing information systems and requiring officials to report compliance failures or policy violations immediately. He also ordered annual cybersecurity and privacy awareness training for all VA employees. Identity Force said that under the terms of the contract, the company is providing the following services:

- Online and toll-free access for individuals to enroll in the Credit Monitoring Services program.
- Automatic daily monitoring of Equifax, Experian and TransUnion credit bureau reports.
- Alerts of any key changes to credit reports.
- On-demand personal access to credit reports and scores.
- Dedicated fraud resolution representatives available to counsel and assist victims of identity theft.
- A \$20,000 identity theft insurance policy.

[Source: e-VETERANS NEWS 16 Oct 06 ++]

USMC PERSONAL DATA BREACH:

The Marine Corps reported 6 OCT that Lincoln B.P. Management, Inc., which manages base housing at Camp Pendleton, Calif., has lost a laptop computer containing personal information on 2,400 Marines. Marines at risk are those living in Pendleton's housing areas at San Onofre I and II, Stuart Mesa and Pacific View. Both the company and the Naval Criminal Investigative Service are investigating. The incident follows the loss of a thumb drive by a Marine major at the Naval Postgraduate School in Monterey, Calif., which contained Social Security numbers of more than 200,000 Marines.

Subsequently, the Marines reprogrammed its system to hide Social Security numbers except for specific needs. Other recent data losses include a laptop stolen from the Department of Veterans Affairs which contained the Social Security numbers of 28.5 million active-duty service members and veterans.

Also, a compromise of personal information on more than 100,000 aviation sailors and Marines. The military community continues to be at risk for identity theft because the government and many large companies cannot get their act together on this issue. Those desiring complete protection can, for a fee, seek personal protection services from companies like LifeLock www.lifelock.com which guarantee protection from identity theft and



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reimbursement if it occurs. [Source: Armed Forces News 27 Oct 06 ++]

VET BENEFITS – FL UPDATE 01:

State Sen. Mike Fresno announced that Florida voters on 7 NOV will have an opportunity to cast a vote on proposed Constitutional Amendment 7. This is an additive veteran's benefit which would give the state's over 20,000 combat-wounded veterans over age 65 a discount on their property tax that's equal to the percentage of their service-connected disability. For example, a veteran with a 50% disability would receive a 50% percent discount. Prerequisites are the veteran must have been a Florida resident at the time of entry into service and who received an honorable discharge. The new discount would cost the state about \$20.1 million annually.

Amendment 7 does not remove any of the state's existing vet tax benefits which are:

- Exemption from all homestead taxes for vets rated 100% service connected permanent and total disability.
- Exemption of \$5000 homestead property tax for vets of all ages with a VA certified service connected disability of 10% or greater.

[Source: eFlorida News 27 Oct 06]

CREDIT CARD OFFERS:

The Fair Credit Reporting Act requires that the credit reporting agencies maintain a list of consumers who do not want to receive pre-approved or pre-screened credit card offers or insurance offers. This list is managed by the four largest reporting agencies: Equifax, Experian, Innovis. It is reasonably easy to add yourself to this list. You simply visit: <http://www.optoutprescreen.com>. This should redirect you to a secure webpage that begins with https. You'll be asked to provide your name, address, Social Security number and date of birth. You don't have to include your Social Security number and date of birth, but your request may not be properly processed without this information. You might want to try without your Social Security number and see if it works. If not, then you can always submit your request again with the additional information. You can either ask to have yourself removed for five years or permanently. If you request a permanent removal, you'll have to print and mail back the permanent election form. If you move, you'll need to register your new address. This certainly won't stop all snail mail solicitations, but it should significantly reduce the number of credit card offers you receive. [Source: NCPOA Tips n' Topics, 28 Oct 06]

DAYLIGHT SAVINGS TIME:

Currently, daylight time begins in the United States on the first Sunday in April and ends on the last Sunday in October. On the first Sunday in April, clocks are set ahead one hour at 2:00 a.m. local standard time, which becomes 3:00 a.m. local daylight time. On the last Sunday in October, clocks are set back one hour at 2:00 a.m. local daylight time, which



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becomes 1:00 a.m. local standard time. These dates were recently modified with the passage of the Energy Policy Act of 2005. Starting in March 2007, daylight time in the United States will begin on the second Sunday in March and end on the first Sunday in November. Not all places in the U.S. observe daylight time. In particular, Hawaii and most of Arizona do not use it. Indiana just recently adopted the use of it beginning in 2006. For the next three years:

- In 2006, daylight time begins on April 2 and ends on October 29.
- In 2007, daylight time begins on March 11 and ends on November 4. [New law goes into effect.]
- In 2008, daylight time begins on March 9 and ends on November 2.

Many other countries observe some form of "summer time", but they do not necessarily change their clocks on the same dates as the U.S. Daylight time and time zones in the U.S. are defined in the U.S. Code, Title 15, Chapter 6, Subchapter IX - Standard Time.

Although standard time in time zones was instituted in the U.S. and Canada by the railroads in 1883, it was not established in U.S. law until the Act of 19 MAR 18, sometimes called the Standard Time Act. The act also established daylight saving time, a contentious idea then. Daylight saving time was repealed in 1919, but standard time in time zones remained in law. Daylight time became a local matter. It was re-established nationally early in World War II, and was continuously observed from 9 FEB 42 to 20 SEP 45. After the war its use varied among states and localities. The Uniform Time Act of 1966 provided standardization in the dates of beginning and end of daylight time in the U.S. but allowed for local exemptions from its observance. The act provided that daylight time begin on the last Sunday in April and end on the last Sunday in October, with the changeover to occur at 2 a.m. local time. During the energy crisis years, Congress enacted earlier starting dates for daylight time. In 1974, daylight time began on 6 January and in 1975 it began on 23 February.

After those two years the starting date reverted back to the last Sunday in April. In 1986, a law was passed permanently shifting the starting date of daylight time to the first Sunday in April, beginning in 1987. The ending date of daylight time has not been subject to such changes, and has remained the last Sunday in October. With the Energy Policy Act of 2005, the starting and ending dates have once again been shifted. Beginning in 2007, daylight time will start on the second Sunday in March and end on the first Sunday in November. [Source: U.S. Naval Observatory Oct 06]

TSP UPDATE 07:

With less than a few weeks left before the mid term elections, the board of the Thrift Savings Plan has started crafting a legislative agenda for the next Congress that may include requests for new rules for automatic enrollment and for default investments. At a monthly meeting 16 OCT, TSP Executive Director Gary Amelio also laid out three other areas in which the board could potentially ask members of the 110th Congress for legislation on post-tax investment options, loan restrictions and fund choices. He said none of the options would be



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worked out until after the holidays. The biggest of the possible changes would be a switch to automatic enrollment . Right now, employees have to actively opt into investing in the \$194 billion federal employee 401(k)-style retirement savings plan when they join the civil service.

Automatic enrollment would require employees to actively opt out of the plan instead. Congress gave fiduciaries of private 401(k) plans the authority to use automatic enrollment in the Pension Protection Act it passed this year, but separate legislation would be necessary before the TSP could mirror that practice.

Already, more than 85% of employees in the Federal Employees Retirement System invest in the TSP and more than 67% of those in the Civil Service Retirement System do. But TSP also is open to members of the uniformed services, and only 23.6% of them participate. The uniformed services generally do not match employee contributions to the TSP, which could account for some of the lower participation numbers. But there is a small pilot project under way to test TSP matching contributions as a recruitment and retention tool for the military. The TSP board is eager to bring more military members into the plan.

Switching to automatic enrollment would come at a price. Even if a small percentage of employees opt out, with 3.6 million participants, the change could mean 50,000 to 100,000 people would need new paperwork and systems. The second potential change is an idea Amelio and board members raised several times during the past year. This is altering the default TSP investment for participants who do not designate how they want their savings allocated. With Congress' approval, the default could be changed from the G Fund, made up short-term Treasury securities specially issued to provide a higher return than inflation, to the new life-cycle (L) funds. The L funds are mixes of the five standard TSP funds that automatically shift money from riskier to more conservative allocations as participants age, and will likely provide a greater return than the very conservative G Fund. Still, the board would have to decide which employees are placed in which L Fund. Another possible legislative change, although less definite, is the addition of a Roth option to the TSP. Roth options allow employees to pay taxes at the time of investment instead of when they take their money out upon retirement. This could mean some employees would pay less overall in taxes. Amelio said he is still looking for ways to continue belt-tightening on the loan program, which allows participants to take out loans on their savings and then pay themselves back. Since becoming executive director in JUN 03, Amelio added fees and restricted the number of general purpose loans to one for each participant. This brought the number of borrowers down to about 750,000 as of September, from about 800,000. As for the possibility of new funds, the board is in a standoff with some members of Congress who are pressuring it to add a Real Estate Investment Trust option.

Board members are waiting for consultants from Ennis Knupp & Associates to complete a review of all possible fund additions. The board also is awaiting results of a TSP participant survey, the first of its kind in 16 years. About 20,000 participants will be randomly selected to complete a mail-in survey, which will ask for opinions on all of the TSP board's legislative ideas. Results are expected by the end of the year. [Source: GOVEXEC.com Daily Briefing 16 Oct 06 ++]



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MILITARY LEGISLATION STATUS UPDATE:

Following is current status on some Congressional bills of interest to the military community. Because of the election recess of Congress there have been no changes in the status shown as of 15 Oct. Support of these bills through cosponsorship by other legislators is critical if they are ever going to move through the legislative process for a floor vote. A cosponsor is a member of Congress who has joined one or more members in his/her chamber (i.e., House or Senate) to sponsor a bill or amendment. The first member to "sign onto" a bill is considered the "sponsor," members subsequently signing on are "cosponsors." Any number of members may co sponsor a bill in the House or Senate. At <http://thomas.loc.gov> you can determine the current status of each bill and if your legislator is a sponsor or cosponsor of the bill you are concerned with. The key to increasing cosponsorship is letting our representatives know of veterans feelings on issues. At the end of some of the below listed bills is a web link that can be used to do that. Otherwise, you can locate who your representative is and his/her phone number, mailing address, or email/website to communicate with a message or letter of your own making:

H.R.303: The 'Retired Pay Restoration Act of 2005' To amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt. Rep Alcee Hastings [FL-23] has signed on to support the bill giving it a total of 240 sponsors. There are no related bills. Last major action was a motion to the Discharge Committee on 5/24/2005 to bring the bill to the floor for a vote. A discharge petition requires 218 signatures for further action. To support this bill and/or contact your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7728776>.

H.R.602: The 'Keep Our Promise to America's Military Retirees Act' to restore health care coverage to retired members of the uniformed services and their eligible dependents. House version of S.407. H.R.602 responds to the Federal Court ruling that only Congress, not military recruiters, can authorize what kind of care will be provided to military retirees, and that only Congress can - and should - make good on promised and earned health care. Referred to the Subcommittee on Health 2/25/05, for a period to be subsequently determined by the Chairman. No new representatives have signed on to support the bill which presently has a total of 260 sponsors.

H.R.808: The 'Military Surviving Spouses Equity Act' to amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation (DIC). A motion was filed to discharge the Rules Committee from consideration of H.RES 271 on 16 NOV 05.

This resolution provides for the consideration of H.R.808 and requires 218 signatures for further action. No new representatives have signed on to support the bill which presently has a total of 212 sponsors. There are no related bills. To support this bill



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and/or contact your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7683586>
To support the discharge petition and/or contact your Representative refer to <http://capwiz.com/moaa/issues/alert/?alertid=8248891&type=CO>

H.R.916: The 'Medicare Access to Rehabilitation Services Act of 2005' To amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps. Last major action was referral to the House Subcommittee on Health 14 MAR 05. House version of S.438. No new representatives have signed on to support the bill which presently has a total of sponsors. To support this bill and/or contact your Representative refer to <http://capwiz.com/moaa/issues/bills/?bill=7103976> & <http://capwiz.com/moaa/issues/bills/?bill=7103896>.

H.R.968: To amend title 10, United States Code, to change the effective date for paid-up coverage under the military Survivor Benefit Plan from October 1, 2008, to October 1, 2005. Last major action was referral to the House Subcommittee on Military Personnel 17 MAR 05. No new representatives have signed on to support the bill which presently has a total of 146 sponsors. There are no related bills. To support this bill and/or contact your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7683511>

H.R.994: To amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums. Last major action was it being ordered to be reported by Voice Vote 6 JUN 05. No new representatives have signed on to support the bill which presently has a total of 340 sponsors. This is the House version of S.484. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7761876>

H.R.995: The 'Combat Military Medically Retired Veteran's Fairness Act of 2005' to amend title 10, United States Code, to provide for the payment of Combat-Related Special Compensation under that title to members of the Armed Forces retired for disability with less than 20 years of active military service who were awarded the Purple Heart. Last major action was referral to the House Subcommittee on Military Personnel 17 MAR 05. No new representatives have signed on to support the bill which presently has a total of 31 sponsors. There are no related bills. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7683281>

H.R.1364: The 'Equal Justice for Our Military Act' to amend title 28, United States Code, to enable the Supreme Court to review decisions in which the Court of Appeals for the Armed Forces denied relief. Last major action was referral to the House Subcommittee on Courts, the Internet, and Intellectual Property 4 APR 05. No new representatives have signed on to support the bill which presently has a total of 5 sponsors. There are no related bills.

H.R.1366: The 'Combat-Related Special Compensation Act of 2005' to amend title 10, United States Code, to expand eligibility for Combat-Related Special Compensation paid by the uniformed services in order to permit certain additional retired members who have a service-connected disability to receive both disability



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compensation from the Department of Veterans Affairs for that disability and Combat-Related Special Compensation by reason of that disability. Last major action was Referral to the House Subcommittee on Military Personnel 6 APR 05. No new representatives have signed on to support the bill which presently has a total of 52 sponsors. S.2385 is a related bill. To support this bill send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7718711> To support Sen. Reid's amendment to the 2007 NDAA bill S.2766 send a message to your Representative refer to <http://capwiz.com/usdr/issues/alert/?alertid=8371516&type=ML>

H.R.2076: The 'Retired Pay Restoration Act of 2005' To amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation. Last major action was referral to the House Subcommittee on Military Personnel 6/21/2005. No new representatives have signed on to support the bill which presently has a total of 29 sponsors. Related bills are H.R.303, S.558, S.845. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7728776>

H. R.2356: The 'Preserving Patient Access to Physicians Act of 2005' to amend title XVIII of the Social Security Act to reform the Medicare physician payment update system through repeal of the sustainable growth rate (SGR) payment update system. Last major action was referral to the House Subcommittee on Health 23 MAY 05. No new representatives have signed on to support the bill which presently has a total of 177 sponsors. S.1081 is a related bill. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7742321>.

H.R.2962: The 'Atomic Veterans Relief Act' to amend title 38, United States Code, to revise the eligibility criteria for presumption of service-connection of certain diseases and disabilities for veterans exposed to ionizing radiation during military service, and for other purposes. Last major action was referral to the House Subcommittee on Disability Assistance and Memorial Affairs 28 JUN 05. No new representatives have signed on to support the bill which presently has a total of 53 sponsors. There are no other related bills. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=7784066>

H.R.4259: The 'Veterans right to Know Act' to establish a Commission to investigate chemical or biological warfare tests or projects, especially such projects carried out between 1954 and 1973, placing particular emphasis on actions or conditions associated with such projects that could have contributed to health risks or been harmful to any United States civilian personnel or member of the United States Armed Forces who participated in such a project or who was otherwise potentially exposed to any biological or chemical agent, simulant, tracer, decontaminant, or herbicide as a result of such projects; and to submit a report to Congress of its findings and recommendations. Last major action was referral to the House Subcommittee on Military Personnel 30 NOV 05.

No new representatives



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have signed on to support the bill which presently has a total of 43 sponsors. There are no other related bills.

H.R.4914: The 'Veterans' Choice of Representation Act' to amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes. Last major action was referral to the House Committee on Veterans' Affairs 9 MAR 06. No new representatives have signed on to support the bill which presently has a total of 8 sponsors. There are no other related bills. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=8835676>

H.R.4949: The 'Military Retirees Health Care Protection Act' to amend title 10, United States Code, to prohibit increases in fees for military health care. Last major action was referral to the House Committee on Armed Services 14 MAR 06. No new representatives have signed on to support the bill which presently has a total of 163 sponsors. There are no other related bills. To support this bill and/or send a message to your Representative refer to <http://capwiz.com/usdr/issues/bills/?bill=8591231>

H.R.4992: The 'Veterans Medicare Assistance Act of 2006' to provide for Medicare reimbursement for health care services provided to Medicare-eligible veterans in facilities of the Department of Veterans Affairs. Last major action was referral to the House Subcommittee on Health 27 MAR 06. No new representatives have signed on to support the bill which presently has a total of 24 sponsors.

There are no other related bills. To support this bill and/or send a message to your Representative refer to http://capwiz.com/usdr/index_frame.dbq?url=http://capwiz.com/usdr/issues/bills/?bill=8670886

H.R.5881: The 'Disabled Veterans Tax Termination Act' to amend title 10, United States Code, to eliminate the offset between military retired pay and veterans service-connected disability compensation for certain retired members of the Armed Forces who have a service-connected disability, and for other purposes.

Introduced 26 JUL 06 by Rep Marshall, Jim (GA-03). There are no other related bills. Last major action was referral to the House Subcommittee on Military Personnel 25 JUL 06. Rep Jo Ann Davis [VA-1] , Rep Chet Edwards [TX-17] & Rep Bob Filner [CA-51] have signed on to support the bill which presently has a total of 3 sponsors To support this bill and/or send a message to your Representative refer to [http://capwiz.com/usdr/index_frame.dbq?url=http://capwiz.com/usdr/issues/alert/?alertid=8969606&queueid=\[capwiz:queue_id\]](http://capwiz.com/usdr/index_frame.dbq?url=http://capwiz.com/usdr/issues/alert/?alertid=8969606&queueid=[capwiz:queue_id])

H.R.6100: introduced the 'Military Education Enhancement Opportunities Act of 2006' to amend title 38, United States Code, to provide for certain servicemembers to become eligible for educational assistance under the Montgomery GI Bill. Introduced by Rep. Mike Billirakis [R-FL-09] on 9/19/06. There are no other related bills. Last major action was referral to the House Subcommittee on Economic Opportunity 9/26/2006. No new representatives have signed



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on to support the bill which presently has no sponsors.

S.185: The 'Military Retiree Survivor Benefit Equity Act of 2005' to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan. There are no other related bills. Last major action was referral to the Senate Committee on Armed Services. No new senators have signed on to support the bill which presently has a total of 35 sponsors.

To support this bill and/or send a message to your Senator refer to <http://capwiz.com/usdr/issues/bills/?bill=7709421>

S.407: The 'Keep Our Promise to America's Military Retirees Act' to restore health care coverage to retired members of the uniformed services and their eligible dependents. Last major action was referral to the Senate Committee on Armed Services 16 FEB 05. A related bill is H.R.602. No new senators have signed on to support the bill which presently has a total of 15 sponsors. To support this bill and/or send a message to your Senator refer to <http://mrgrg-ms.org/fax-it.html>

S.484: To amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for Tricare supplemental premiums. A related bill is H.R.994.

Last major action was referral to the Senate Committee on Finance 1 MAR 05. No new senators have signed on to support the bill which presently has a total of 64 sponsors. To support this bill and/or send a message to your Senator refer to <http://capwiz.com/usdr/issues/bills/?bill=7787396>

S.2147: The 'Multiple Sclerosis' bill to extend the 7 year time period during which a veteran's multiple sclerosis is to be considered to have been incurred in, or aggravated by, military service during a period of war. Last major action was referral to the Senate Committee on Veterans' Affairs 20 DEC 05. The bill has no cosponsors and there is no related legislation in the House.

S.2617: The 'Military Retirees Health Care Protection Act' to amend title 10, United States Code, to limit increases in the costs to retired members of the Armed Forces of health care services under the TRICARE program, and for other purposes. There are no other related bills. Last major action was referral to the Senate Committee on Armed Services 6 APR 06. No new senators have signed on to support the bill which presently has a total of 9.sponsors. To support this bill and/or send a message to your Senator refer to <http://capwiz.com/usdr/issues/alert/?alertid=8675066&type=CO>

S.2658: The 'National Defense Enhancement and National Guard Empowerment Act of 2006' to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes. A related bill is H.R.5200. Last major action was referral to the



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Senate Committee on Armed Services 26 APR 06. No new senators have signed on to support the bill which presently has a total of 39 sponsors. To support this bill send a preformatted or edited message to your Senat or by using the "Write to Congress" feature refer to www.ngaus.org.

S.2694: The 'Veterans' Choice of Representation and Benefits Enhancement Act of 2006' to amend title 38, United States Code, to remove certain limitation on attorney representation of claimants for veterans' benefits in administrative proceedings before the DVA, and for other purposes. This bill was passed/agreed to in Senate 3 AUG 06 by unanimous consent and referred to House Committee after being received from the Senate. Last major action was unfavorable executive comment received from Veterans' Affairs. To support this bill and/or send a message to your Senator refer to <http://capwiz.com/usdr/issues/bills/?bill=8835631>

Note: The House and Senate are adjourned to allow members of both chambers to return home for the final critical weeks before the November 7th elections. All 435 members of the House of Representative, 33 of our 100 Senators, and 36 state governors, along with many other locally elected positions will be decided in that election. On 9 NOV they will reconvene for introduction of bills only and on 13 NOV they will return to work on the nation's business. On 15 NOV they will elect the House Republican leaders and on 16 NOV they will elect the House Democrat leaders. 17 NOV is the Thanksgiving recess target with return on 4 DEC if necessary to complete work. Legislation not passed will die with the end of the 109th Congress. Those concerned with unpassed existing legislation need to encourage their representative to reintroduce the bills in the 110th Congress which convenes in JAN 07. There are only 7 days until Election Day. Be sure you are registered to vote and make your vote count. [Source: <http://thomas.loc.gov> & USDR Action Alerts 15-31 Oct 06 ++]

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