

CRS Report for Congress

Veterans' Benefits: Issues in the 110th Congress

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**Prepared for Members and
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Veterans' Benefits: Issues in the 110th Congress

Summary

Congressional interest in benefits for veterans has increased in the wake of the ongoing wars in Iraq and Afghanistan. This report provides a general discussion of veterans' benefits issues that are part of the legislative agenda of the 110th Congress or are likely to be of legislative interest. Among those issues are disability compensation and pensions; education benefits; homelessness; life insurance; the status or eligibility of groups such as U.S. merchant seamen and World War II Filipino veterans for veterans benefits; Reserve and National Guard eligibility for veterans' benefits; the U.S. Court of Appeals for Veterans Claims; and legal representation for veterans. For each issue, an overview is provided, along with summaries of pertinent pending legislation. In addition, an overview of the benefits and their eligibility requirements, demographics for both the veteran population and the benefit population, and summary data on the FY2008 budget for veterans' benefits are provided. Issues that are not addressed by this report are veterans' medical care and appropriations for the Department of Veterans Affairs. This report will be updated upon relevant legislative activity.

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Veterans' Benefits: Issues in the 110th Congress

Introduction

Congress has been involved with providing benefits to veterans since the earliest days of the nation, enacting the first veterans' pension law in 1789. As the nation grew and successive wars increased the number of veterans, the variety of benefits that were available to veterans — that is, disability compensation, education benefits, life insurance, etc. — continued to develop. In addition, benefits were extended to veterans' dependents and survivors, such as educational assistance, dependency and indemnity compensation, and death pensions.

The ongoing wars in Iraq and Afghanistan have heightened congressional interest in veterans' benefits. This report discusses veterans' benefits issues that are already part of the legislative agenda for the 110th Congress or are likely to be of interest to Congress. These issues include disability compensation and pensions, including the benefit claims backlog and the annual cost-of-living adjustment; education benefits; homelessness; life insurance; the status or eligibility of groups, such as U.S. merchant seamen and World War II Filipino veterans for veterans' benefits; Reserve and National Guard eligibility for veterans' benefits; the U.S. Court of Appeals for Veterans Claims; and legal representation for veterans. These benefits and issues fall under the jurisdiction of the Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA). Also presented in this report are an overview of the benefits and their eligibility requirements, data on both the veteran population and the benefit population, and summary information on the FY2008 budget for veterans' benefits. Issues that are not covered in this report are veterans' medical care¹ and appropriations for the VA.²

Overview

Benefits

Veterans and their spouses, dependents, or survivors may be eligible for a range of benefits, including compensation for service-connected disabilities, educational

¹ For information on veterans' medical care issues, see CRS Report RL33993, *Veterans' Health Care Issues*, by Sidath Viranga Panangala.

² For background information on appropriations for the Department of Veterans Affairs, see CRS Report RL33427, *Military Construction, Military Quality of Life and Veterans Affairs: FY2007 Appropriations*, by Daniel H. Else, Christine Scott, and Sidath Viranga Panangala.

assistance, housing loans, life insurance, burial benefits, and a pension benefit for older or permanently disabled low-income veterans who served during a period of war. Currently, the Veterans Disability Benefits Commission is studying the benefits available to veterans and their survivors as a result of disability or death due to military service. The commission, which was established by Title XV of the National Defense Authorization Act for FY2004 (P.L. 108-136), is charged with evaluating the appropriateness of the benefits, the standards used to determine whether or not a veteran is compensated, and the appropriate level of each benefit. The contractors working for the commission have released reports on some of the study issues,³ and the report of the full commission is due in late 2007.

Eligibility for Benefits

Eligibility for most VA benefits is primarily determined by the individual's active duty military service and the individual's being discharged under conditions other than dishonorable.⁴ For certain benefits, such as the pension benefit, at least part of the active duty military service must have been during a period of war.⁵ For many benefits, the eligibility requirements for members of the National Guard and Reserve called to active duty will be different from those of the regular armed forces. Certain civilian groups have also been recognized as being eligible for veterans benefits. The GI Bill Improvement Act of 1977 (P.L. 95-202) recognized the services of the Women's Air Forces Service Pilots — a civilian group that was attached to the U.S. Army Air Force during World War II — as active duty military service for benefits administered by the VA, and it provided a method for other civilian groups to apply to the Secretary of the Air Force for similar recognition. As of March 2007, a total of 38 civilian groups had received recognition.⁶

Demographics

The VA is the major source, and in some cases the only source, for information on the total veteran population and beneficiaries of veterans benefits. Estimates of the veteran population will be different from the population receiving benefits during a specific time period for several reasons, including not all veterans may be receiving benefits in a given period of time; benefits may be, depending on the specific benefit, provided to veterans, surviving spouses, and children; and some veterans, surviving spouses, or children may receive more than one type of benefit in a given period of time.

³ Links to Veterans Disability Benefits Commission documents and to other information on the group are available on the Commission's website at [<http://www.vetscommission.org/>].

⁴ Even if the condition of discharge generally bars an individual from benefits, certain exceptions may apply. See CRS Report RL33113, *Veterans Affairs: Basic Eligibility for Disability Benefit Programs*, by Douglas Reid Weimer.

⁵ Many wars have federally designated beginning and ending dates. For veterans benefits, the periods of war are defined in 38 U.S.C. § 101(11). For additional information, see CRS Report RS21405, *Periods of War*, by Barbara Salazar Torreon.

⁶ For a list of civilian groups with recognition, see 38 CFR Chapter 1 § 3.7.

Veteran Population. The VA estimates⁷ the veteran population by various characteristics, including age, sex, state, and period of service. As of September 30, 2006, there were an estimated 24 million living veterans in the United States and Puerto Rico.

The five states with the largest estimated number of veterans (California, Florida, Texas, New York, and Pennsylvania) together accounted for 32.5% of the total estimated population of veterans. The five states with the smallest estimated number of veterans (Alaska, Vermont, Wyoming, North Dakota, and the District of Columbia) together accounted for 1.1% of the total estimated number of veterans.⁸

As of September 30, 2006, the majority of all veterans (63.7%) were age 55 or older, with 4.5% aged 85 or older. Female veterans were 7.2% of the total veteran population and had an age distribution that was generally younger than for all veterans. As of September 30, 2006, only 30.6% of female veterans were aged 55 or older. The majority (57.6%) of female veterans were under age 50.

The Benefit Population. The VA also provides data on the number of beneficiaries of veterans benefits in FY2006. Disability compensation benefits were provided to 2,683,380 veterans, 329,710 survivors, and 1,192 children. In addition, 84,990 veterans were provided with a clothing allowance, and 1,079 veterans received Equal Access to Justice Act (EAJA) payments.⁹ Pension benefits were provided to 332,034 veterans and 203,346 survivors. The caseload for readjustment benefits (including education and training, work-study, tuition assistance, and the all-volunteer force educational assistance programs) was 565,032.¹⁰

Budget

The FY2008 budget submitted by the Administration in February 2007 calls for funding the VA at \$83.9 billion for FY2008. This would be an increase of \$4.4 billion, or 5.5%, over the FY2007 appropriation (including the supplemental). The

⁷ The Department of Veterans Affairs estimates (VetPop2004 Version 1.0, Office of the Actuary, Office of Policy, U.S. Department of Veterans Affairs, December 2004) are based on a model that uses detailed data on veterans from the decennial census through April 2000; actual DOD separations, including Reserve and National Guard forces with a federal activation, through September 2003; and projected DOD separations, including an estimate for an increased level of Reserve separations, through September 2009.

⁸ According to 38 U.S.C. § 101(20), the District of Columbia and Puerto Rico are considered to be states for matters pertaining to veterans.

⁹ Equal Access to Justice Act (EAJA) payments are awards from successful challenges of the Department of Veterans Affairs' policies, procedures, or regulations in the U.S. Court of Appeals for Veterans Claims under the Equal Access to Justice Act.

¹⁰ Department of Veterans Affairs, *FY2008 Budget Submission, National Cemetery Administration, Benefits Programs, and Departmental Administration*, Volume 2 of 4, pp. 2A-3 and 2B-13. [<http://www.va.gov/budget/summary/VolumeIINationalCemeteryAdministrationBenefitsProgramsandDepartmentalAdmin.pdf>].

House-passed bill for the FY2008 appropriations (H.R. 2642) provides \$87.7 billion for the VA, with 50.7% of the funds for mandatory spending.¹¹

One of the key issues for VA non-medical benefits in recent years has been the size of the disability claims workload and the average time (177 days in FY2006)¹² to process claims. The U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110-28), provided additional funding to the VA in FY2007 for resources to address the large number of pending claims and shorten processing times. P.L. 110-28 provided the VA with \$60.75 million for hiring and training of additional claims processing personnel and \$20 million for information technology to support claims processing. The total VA FY2007 appropriation (including the supplemental funds provided by P.L. 110-28) was \$79.6 billion, with 51.9% of the funding for mandatory spending and 49.1% for discretionary spending.

Issues in the 110th Congress

Status or Eligibility

While former members of the U.S. armed forces and members of a number of civilian groups are eligible for benefits administered by the VA, other groups have been requesting either status as veterans or additional veterans benefits from Congress.

U.S. Merchant Seamen. Certain U.S. merchant seamen were recognized in 1988 as having active duty service for veterans benefits under P.L. 95-202. Merchant seamen who received recognition either (1) served aboard Army-owned vessels or certain merchant marine vessels in support of U.S. armed forces (vessels must have some part of a qualifying voyage in contested waters between December 7, 1941 and August 15, 1945); (2) were in a military invasion during World War II; or (3) were requisitioned by the U.S. Army for Operation Mulberry in the 1944 invasion of Normandy. U.S. merchant seamen who do not meet these criteria are not recognized as having active duty service for the full range of veterans benefits.¹³

In the 110th Congress, H.R. 23 (sponsored by Representative Bob Filner) and S. 961 (sponsored by Senator E. Benjamin Nelson) would provide a monthly benefit of \$1,000 to qualified U.S. merchant seamen and their survivors. Under these bills, a qualified U.S. merchant seaman is one who served between December 7, 1941, and December 31, 1946, as a crew member aboard a vessel that (1) was operated by the now defunct War Shipping Administration or the Office of Defense Transportation;

¹¹ For more information on the VA budget, see CRS Report RL34038, *Military Construction, Veterans Affairs, and Related Agencies: FY2008 Appropriations*, by Daniel H. Else, Christine Scott, and Sidath Viranga Panangala.

¹² Department of Veterans Affairs, *FY2008 Budget Submission, Summary Volume*, pp. 1-22.

¹³ For more information on U.S. merchant seamen, see CRS Report RL33992, *Veterans Benefits: Merchant Seamen*, by Christine Scott and Douglas Reid Weimer.

(2) did not operate on inland waters, the Great Lakes, or any U.S. lake, bay, or harbor; (3) was under contract to, was charter to, or was the property of, the U.S. government; and (4) was serving the U.S. armed forces. In addition, the seaman had to be licensed to serve (or documented for service) as a crew member. The House Committee on Veterans' Affairs held a hearing on H.R. 23 on April 18, 2007. H.R. 447 (sponsored by Representative Jeff Fortenberry) would provide that merchant seamen who received the Mariners Medal be provided VA health care on the same basis as recipients of the Purple Heart.

Filipino Veterans. Under current law, former members of the Regular or “Old” Philippine Scouts who fought during World War II are recognized for all benefits administered by the VA. Former members of the Commonwealth Army of the Philippines are recognized for many of the benefits administered by the VA. However, because of the economic differences between the United States and the Philippines, benefits for residents of the Philippines have a lower dollar value than those for U.S. residents. In addition, former members of two other Philippine groups that fought during World War II, the Recognized Guerilla Forces and the New Philippine Scouts, are recognized for only a limited number of benefits administered by the VA.¹⁴

In the 110th Congress, H.R. 760 (sponsored by Representative Bob Filner) and S. 57 (sponsored by Senator Daniel Inouye) would eliminate the distinction between the Regular or “Old” Philippine Scouts and the other three groups of veterans — Commonwealth Army of the Philippines, Recognized Guerrilla Forces, and New Philippine Scouts — and make them all fully eligible for VA benefits similar to those received by U.S. veterans. Hearings on these bills were held by the House Committee on Veterans' Affairs on February 15, 2007, and by the Senate Committee on Veterans' Affairs on April 11, 2007. S. 66 (sponsored by Senator Daniel Inouye) would require the Secretary of the Army to determine, based on the written application of any person who is a national of the Philippine Islands, whether or not the person performed any military service in the Philippine Islands in aid of the armed forces of the United States during World War II that would qualify the person to receive any U.S. veterans, military, or other benefits.

Reserve and National Guard¹⁵

Reservists called to active duty may, depending on the length of active military service and discharge conditions (other than dishonorable), qualify for the full range of benefits administered by the VA. Reservists that are not called to active duty (i.e., not activated) may qualify for some benefits administered by the VA. National Guard members establish eligibility for benefits by being called to *federal* service during a period of war or a national emergency. More specifically:

¹⁴ For more information on Filipino veterans, see CRS Report RL33876, *Overview of Filipino Veterans' Benefits*, by Sidath Viranga Panangala, Christine Scott, and Carol D. Davis.

¹⁵ Reservists are members of the reserve elements of the Army, Navy, Air Force, Marine Corps, and Coast Guard. National Guard are members of the Army National Guard and the Air National Guard.

- Reservists and Guard members are eligible for disability compensation for service-connected disabilities — disabilities that are incurred or aggravated during active duty (or active-duty training) — and for certain other conditions incurred during inactive-duty training.
- Reservists and Guard members may be eligible for educational benefits. The determination of eligibility is made by either the Department of Defense or the Department of Homeland Security if the Reservist or Guard member is activated, or by the Reserve component if the Reservist or Guard member is not activated.
- Reservists and Guard members may be eligible for VA home loans if they have served at least six years, are activated for at least 90 days, or have service-connected disabilities. Reservists or Guard members who are not eligible for the VA home loan benefit may be eligible for Federal Housing Administration (FHA) loans on favorable terms.
- Reservists and Guard members are eligible for VA life insurance.
- Reservists are eligible for VA burial flags if they served their initial obligation, were discharged for service-connected disabilities, or died while they were members of the reserves.

To date, no bills that would affect the current benefits of the Reserve or the National Guard have been introduced into the 110th Congress.

Disability Compensation and Pension Benefits

A veteran disabled because of an injury or disease that was incurred, or aggravated, during active military service may be entitled to a monthly *disability compensation benefit*. The veteran must have been discharged, or separated from service, under conditions other than dishonorable. The following groups of veterans qualify for disability compensation because their disabilities are presumed to be service-connected: former prisoners of war; veterans exposed to herbicides during military operations in Vietnam; veterans exposed to ionizing radiation; and certain Gulf War veterans.

The monthly disability compensation benefit is not subject to federal income taxes, and the amount varies based on the level of disability and the number of dependents. To receive benefits, a veteran must file a claim for benefits and have the VA evaluate his or her disability to assign a rating for the disability of between 0% to 100% (in 10% increments).¹⁶

¹⁶ For more information on the VA's disability rating system, see CRS Report RL33991, *Disability Evaluation of Military Servicemembers*, by Christine Scott, Sidath Viranga Panangala, Sarah A. Lister, and Charles A. Henning.

A veteran of limited means who has wartime service (i.e., part of his or her military service occurred during a period of war) and is either age 65 or older or is permanently and totally disabled (not service-connected) may be eligible for a monthly *pension benefit*. However, the pension benefit was designed to provide monthly income to very-low income veterans who served during times of war, so the veteran's gross income can reduce the maximum benefit. The pension benefit is higher if the veteran is housebound or requires aid and attendance.¹⁷

One bill pending in the 110th Congress would change the manner in which disabled veterans could qualify to receive Social Security Disability Insurance (SSDI) benefits. H.R. 2943 (introduced by Representative John P. Sarbanes) would permit veterans with service-connected disabilities that are rated and certified by the VA as total to be eligible for SSDI benefits without having to be evaluated by the Social Security Administration (SSA) if they meet the other requirements for SSDI benefits. Currently, SSA evaluates all applicants (veterans and non-veterans) to determine their eligibility for SSDI benefits.¹⁸

Claims Backlog. The large and growing number of pending claims has become a concern for veterans service organizations, the VA, and Congress. According to the VA,¹⁹ for the week ending March 3, 2007, there were 632,140 pending claims for disability compensation benefits and pensions. This was an increase of 7.4% from the week ending March 4, 2006 (when there were 588,789 claims pending) and an increase of 20.5% from the week ending March 7, 2005 (when there were 524,956 claims pending).

The size of the claims backlog is related to the increase in the number of claims. According to the VA, the number of claims has increased from 578,773 in FY2000 to 806,382 in FY2006. The VA attributes the increase in claims to several factors, including (1) the large size of the military's active duty force; (2) the aging of the veteran population; and (3) increases in the number and complexity of conditions claimed. The VA has also expanded outreach efforts that have contributed to the increase in claims.²⁰

¹⁷ Aid and attendance is an additional benefit paid to veterans, their spouses, surviving spouses, and parents. This allowance is paid in all compensation, dependency indemnity compensation, and pension programs. The payment is based on the need for aid and attendance of another person, or by a specific disability.

¹⁸ For more information on the Social Security Disability Insurance (SSDI) program, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Scott Szymendera.

¹⁹ Veterans Benefit Administration, *VBA Weekly Monday Morning Workload Report, Week Ending March 3, 2007*. Weekly reports for all periods cited in this report are available at [<http://www.vba.va.gov/bln/201/reports/mmrindex.htm>]

²⁰ U.S. Congress, House Committee on Veterans' Affairs, Hearing on the Impact of OEF/OIF on the VA Claims Process, Statement of Ronald R. Aument, Deputy Under Secretary for Benefits, Department of Veterans Affairs, March 13, 2007, available at [<http://www.va.gov/OCA/testimony/hvac/sdama/070313RA.asp>].

To address this issue, legislation has been introduced in the 110th Congress that would have an impact on disability determinations by the VA. The Wounded Warrior Assistance Act of 2007 is pending in both the Senate (S. 1283, introduced by Senator Mark Pryor) and in the House (H.R. 1538, introduced by Representative Ike Skelton). Both bills contain provisions that address disability evaluation, including a mandate for a joint Department of Defense (DOD)-VA study and report to Congress on the disability evaluation systems used by each department, recommendations for improvement, and the feasibility of consolidating the two systems. H.R. 653 (sponsored by Representative Thomas M. Reynolds) would have the Secretary of Veterans Affairs accept (if there is no clear and convincing evidence to the contrary) that an injury or disease is service-connected based on the sworn affidavit of a veteran who served in combat on or before July 27, 1953 (prior to or during the Korean War). H.R. 797 (sponsored by Representative Tammy Baldwin) and S. 1163 (introduced by Senator Daniel Akaka) would expand disability compensation for veterans who are visually impaired in both eyes by using a standard definition of blindness used by other federal agencies, including the Social Security Administration. The House passed H.R. 797 on a 424-0 vote on March 21, 2007, and the Senate Committee on Veterans' Affairs approved S. 1163 on June 27, 2007.

Cost-of-Living Adjustment. Under current law, certain benefits for veterans, survivors, and dependents — disability compensation, pension, dependency and indemnity compensation, and the clothing allowance — are not automatically adjusted for inflation. Each year legislation has been introduced and enacted to provide an annual cost-of-living (or inflation) adjustment (COLA) equal to the COLA provided to Social Security recipients.

In the 110th Congress, S. 423 (sponsored by Senator Daniel Akaka) and H.R. 1284 (sponsored by Representative John Hall) would provide a veterans cost-of-living adjustment equal to the COLA for Social Security benefits effective December 1, 2007. H.R. 1284 was passed by the House on a 418-0 vote on March 21, 2007, and S. 423 was approved by the Senate Committee on Veterans' Affairs on June 27, 2007. S. 161 (sponsored by Senator John Thune) and H.R. 402 (sponsored by Representative Joe Knollenberg) would create an automatic veterans COLA based on the Social Security adjustment.

Education

Congress has demonstrated an interest in providing education benefits to members of the armed forces since 1944. The Servicemen's Readjustment Act of 1944 (P.L. 78-346), more commonly referred to as the GI Bill of Rights, provided support, including education benefits, to veterans of World War II. After the original GI Bill expired in 1956, other laws and programs enacted for similar purposes included the Korean GI Bill (P.L. 82-550), the Vietnam-Era GI Bill (P.L. 89-358), the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP, P.L. 94-502), and the current Montgomery GI Bill (MGIB, P.L. 98-525).

Military education benefits have evolved significantly since their inception in 1944. For example, education benefits initially were completely subsidized by the federal government, the cost of tuition and applicable fees were issued to institutions of higher education on behalf of the veteran, and the veteran could participate in a

myriad of education and training programs. In addition to tuition and fees, the monthly benefit also included a monthly allowance for living expenses. Conversely, current benefits are partially subsidized by the federal government and issued directly to the veteran, who must utilize these payments to cover both educational costs and living expenses. Furthermore, the types of authorized education and training for which the benefit may be used have been restricted.²¹

The current education benefit, the MGIB, consists of three programs: MGIB-Active Duty (MGIB-AD) for individuals who are on active duty or following separation from active duty; MGIB-Selected Reserves (MGIB-SR) for members of the selected reserves; and MGIB-Reserve Educational Assistance Program (REAP)²² for members of reserve components who are called or ordered to active duty in response to a war or national emergency as declared by the President or Congress. Maximum monthly benefit amounts in 2007 range from a high of \$1,075 (MGIB-AD) for active duty members who enlist for three years or more and enroll full-time in eligible programs; to \$860 for individuals in the selected reserves who are called to active duty and who serve more than two consecutive years on active duty (REAP); to \$309 for members of the selected reserves (MGIB-SR) who are not serving on active duty.²³

Congressional interest in the education benefits afforded to military personnel greatly increased after the terrorist attacks of September 11, 2001, and the U.S. military became involved in Iraq and Afghanistan, which resulted in increasing numbers of military personnel and reservists being called to active duty. Several bills have been introduced in the 110th Congress that specifically address the Montgomery GI Bill education benefits. For example, S. 22 (sponsored by Senator Jim Webb) would extend educational assistance under the MGIB to certain individuals who served on active duty on or after September 11, 2001. Similarly, H.R. 1211 (sponsored by Representative Jim Matheson) would increase the amount and the duration of the MGIB monthly payments for members of the Selected Reserve who have been called to active duty following September 11, 2001. Most of the other MGIB bills pending in the 110th Congress focus on increasing the amount of the monthly benefits or providing parity between the benefit amounts for active duty members and reservists who have served on active duty since September 11, 2001. To date, none of the bills have been reported out of committee.

²¹ For more information about the different federal education benefits available to veterans and military personnel, see CRS Report RL33281, *Montgomery GI Bill Education Benefits: Analysis of College Prices and Federal Student Aid Under the Higher Education Act*, by Charmaine Mercer and Rebecca Skinner.

²² This program was authorized by the National Defense Authorization Act for FY2005 (P.L. 108-375).

²³ The benefit amounts shown for each program are for full-time institutional training. The amounts are less for individuals who attend school less than full-time and who served less than the aforementioned number of years. The education benefits payment rate schedule is available at [http://www.gibill.va.gov/GI_Bill_Info/rates.htm].

Homelessness

The ongoing wars in Iraq and Afghanistan have resulted in heightened congressional attention to the issue of homeless veterans. The VA estimates that just under 196,000 veterans are homeless on any given night.²⁴ According to two studies that have attempted to capture the characteristics of the homeless, veterans make up between 19% and 23% of the adult homeless population.²⁵ Both male and female veterans are more likely to be homeless than their nonveteran counterparts.²⁶ Among the explanations for the over representation of veterans among the homeless are mental health diagnoses, including post-traumatic stress disorder, addictions to alcohol and other substances, and physical health problems.²⁷

Multiple programs exist to serve homeless veterans. The primary programs are the VA's Homeless Providers Grant and Per Diem Program, Domiciliary Care for Homeless Veterans program, Health Care for Homeless Veterans program, and the Compensated Work Therapy Program. The Department of Labor also has a program for homeless veterans called the Homeless Veterans Reintegration Program. In FY2006, approximately \$238 million was appropriated for these five programs to assist homeless veterans.²⁸

None of the federal programs for homeless veterans provide funding for permanent supportive housing. Although veterans are eligible for permanent housing through Department of Housing and Urban Development (HUD) programs, the VA programs only provide transitional housing for up to 24 months. The HUD VA Supported Housing (HUD-VASH) program is a collaboration between HUD and the VA that serves homeless veterans who have chronic mental illnesses or chronic substance abuse disorders, and the program provided approximately 1,700 Section

²⁴ John Nakashima, Craig W. Burnette, James F. McGuire, and Amanda Sheely, *Community Homelessness Assessment, Local Education and Networking Group (CHALENG) Report to Congress*, U.S. Department of Veterans Affairs, April 15, 2007, Appendix 5, available at [http://www1.va.gov/homeless/docs/CHALENG_REPORT_FY2006_DRAFT.pdf].

²⁵ The estimate of 19% included only the sheltered homeless population, while the estimate of 23% included the unsheltered and sheltered populations. See U.S. Department of Housing and Urban Development, *The Annual Homeless Assessment Report to Congress*, February 28, 2007, p. 32, available at [<http://www.huduser.org/Publications/pdf/ahar.pdf>] and Martha R. Burt, Laudan Y. Aron, et. al., *Homelessness: Programs and the People They Serve*, Urban Institute, December 1999, p. 18, available at [<http://www.urban.org/UploadedPDF/homelessness.pdf>].

²⁶ See Robert Rosenheck, Linda Frisman, and An-Me Chung, "The Proportion of Veterans Among Homeless Men," *American Journal of Public Health* 84, no. 3 (March 1994), p. 466; Gail Gamache, Robert Rosenheck, and Richard Tessler, "Overrepresentation of Women Veterans Among Homeless Women," *American Journal of Public Health* 93, no. 7 (July 2003), p. 1134.

²⁷ Testimony of Cheryl Beversdorf, Director, National Coalition for Homeless Veterans, before the House Appropriations Committee, Subcommittee on Military Construction and Veterans Affairs, *FY2008 Appropriations*, 110th Cong., 1st sess., March 8, 2007.

²⁸ For more information on programs for homeless veterans, see CRS Report RL34024, *Veterans and Homelessness*, by Libby Perl.

8 vouchers for homeless veterans in 1992. According to the VA, most of those vouchers are still being used by veterans. During the 107th Congress, an additional 2,000 Section 8 vouchers for homeless veterans were authorized in P.L. 107-95, but they were never funded. No other vouchers were authorized until the 109th Congress, when P.L. 109-461 provided for additional HUD-VASH vouchers — 500 in FY2007, 1,000 in FY2008, 1,500 in FY2009, 2,000 in FY2010, and 2,500 in FY2011. At three recent congressional hearings, witnesses and committee Members discussed the issue of permanent supportive housing for veterans, including funding for vouchers.²⁹

In the 110th Congress, S. 874 (sponsored by Senator Richard Burr) and H.R. 2378 (sponsored by Representative Stephanie Herseth-Sandlin) would provide supportive services to help keep very low-income veteran families in permanent housing and prevent homelessness. S. 1084 (sponsored by Senator Barack Obama) would create no fewer than 20,000 Section 8 vouchers for homeless veterans and would provide funds through HUD for the acquisition, rehabilitation, and construction of permanent supportive housing for very low-income veterans and their families. S. 1384 (sponsored by Senator Daniel Akaka) and H.R. 2699 (sponsored by Representative Patrick Murphy) would address the per diem portion of the Homeless Providers Grant and Per Diem Program by removing from law the requirement that per diem payments to service providers be offset by the receipt of other sources of funding. These bills would also institute a demonstration program aimed at preventing homelessness in returning members of the armed services and would reauthorize a transition program for incarcerated veterans.

H.R. 2874 (sponsored by Representative Michael Michaud), which was approved by the House Committee on Veterans' Affairs' Health Subcommittee on July 11, 2007, contains provisions that would create a new program to provide services to low-income veterans and their families, enhance the ability of domiciliary care programs to serve female veterans, and, similar to S. 1384 and H.R. 2699, would reauthorize a demonstration program to assist veterans who are transitioning from prison and other institutions to non-institutional settings.

Life Insurance

The VA administers several life insurance programs for veterans. Three programs are closed for enrollment, but still have active policies: United States Government Life Insurance (a World War I program); National Service Life Insurance (a World War II program); and Veterans Special Life Insurance (a Korean War program). The following current programs are open for enrollment.

²⁹ See U.S. Congress, House Committee on Appropriations, Subcommittee on Military Construction and Veterans Affairs, *FY2008 Appropriations*, 110th Cong., 1st sess., March 8, 2007; Senate Committee on Banking, Housing and Urban Affairs, Subcommittee on Housing, Transportation, and Community Development, *Meeting the Housing Needs of Veterans*, 109th Cong., 2nd sess., August 2, 2006; Senate Committee on Veterans' Affairs, *Looking At Our Homeless Veterans Programs: How Effective Are They?*, 109th Cong., 2nd sess., March 16, 2006, S.Hrg. 109-533, available at [http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?IPaddress=162.140.64.128&filename=28175.pdf&directory=/diskb/wais/data/109_senate_hearings].

Servicemembers' Group Life Insurance (SGLI)³⁰ and Family Servicemembers' Group Life Insurance (FSGLI). SGLI coverage is available to eligible servicemembers in \$50,000 increments up to \$400,000. Spouses and dependent children are eligible for FSGLI if the servicemember is insured under SGLI. Under FSGLI, spouse coverage can be elected in \$10,000 increments up to \$100,000 but cannot exceed the servicemember's SGLI coverage amount. Dependent children coverage under FSGLI is \$10,000 and is automatic for servicemembers with SGLI coverage.

Traumatic Servicemembers' Group Life Insurance (TSGLI). TSGLI became effective December 1, 2005, and all servicemembers with SGLI coverage are automatically covered by TSGLI. For specified traumatic injuries, TSGLI provides a benefit that ranges from \$25,000 to \$100,000, depending on the type and severity of the traumatic injury. TSGLI benefits are also retroactive to October 7, 2001, for traumatic injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom. The servicemember applies to his or her uniformed service for a TSGLI benefit. The uniformed service determines whether the servicemember is eligible for it, and, if so, the amount that he or she should receive. Then the uniformed service notifies the VA to pay the TSGLI benefit to the servicemember.

Veterans' Group Life Insurance (VGLI). VGLI coverage is available in \$10,000 increments up to \$400,000, but it cannot exceed the level of SGLI coverage that the member had in force at the time of separation from service. Upon separation from service, an SGLI member can convert his or her coverage to a commercial plan offered by participating commercial insurance companies or to a renewable VGLI policy.

Service-Disabled Veterans Insurance (S-DVI). S-DVI coverage is available in \$1,000 increments up to \$10,000 for veterans who do not have dishonorable discharges, were released from active duty after April 25, 1951, and received new service-connected disability ratings within two years of applying for S-DVI coverage. In addition, supplemental coverage of \$20,000 is available for S-DVI policy holders who are under age 65, are eligible for waivers of S-DVI premiums due to total disability, and apply for the supplemental coverage within one year of being notified that the premium waiver has been granted.

In the 110th Congress, H.R. 585 (sponsored by Representative Stephanie Herseth-Sandlin) and S. 225 (sponsored by Senator Larry Craig) would expand retroactive TSGLI coverage by eliminating the requirement that the traumatic injury be incurred in Operation Enduring Freedom or Operation Iraqi Freedom. A hearing on H.R. 585 was held by the House Committee on Veterans' Affairs' Subcommittee on Disability Assistance and Memorial Affairs on June 19, 2007. S. 643 (sponsored by Senator Daniel Akaka) and H.R. 2026 (sponsored by Representative Walter Jones, Jr.) would increase the supplemental S-DVI benefit from \$20,000 to \$40,000. S. 1315 (sponsored by Senator Daniel Akaka) would create a level-premium term life insurance program for veterans who have service-connected disabilities. The

³⁰ For more information on SGLI, please see CRS Report RL32769, *Military Death Benefits: Status and Proposals*, by David F. Burrelli and Jennifer R. Corwell.

coverage would be available in \$10,000 increments up to \$50,000. H.R. 2697 (sponsored by Representative Doug Lamborn) would expand eligibility for veterans' mortgage life insurance to include members of the armed services who are receiving specially adapted housing assistance from the VA.

Legal Representation for Veterans

Since the American Civil War, Congress has regulated the representation of veterans before the VA and its predecessors. This regulation has continued to evolve over the years, with Congress establishing various standards for representation, criteria and guidelines for fees, and limitation on when a veteran may engage the services of an attorney (on a fee basis) to represent him or her in the appeals process.

The VA claims appeal process is a detailed multistep procedure.³¹ A recently enacted law — the Veterans Benefits, Health Care, and Information Technology Act of 2006³² (“act”) — has modified attorney participation in appeals. The Secretary of Veterans Affairs (“Secretary”) is required to provide additional qualifications and standards for agents³³ and attorneys who represent veterans before the VA. These standards deal with (1) training and character and (2) fee criteria and limitations. The Secretary is authorized to charge and collect fees from the agents or attorneys to be used for administrative expenses for veterans' benefits programs. The following grounds for suspension of agents and attorneys are provided in the act: presenting frivolous claims, prior suspensions, charging excessive or unreasonable fees, or failure to comply with the Secretary's regulations.

A significant change that the act made in the role of attorneys in the appeal process is *when in the appeal process an attorney may commence services for fees*. Previously, an attorney could not represent a veteran for a fee until the Board of Veterans Appeals (BVA) made a final decision.³⁴ This had the effect of excluding an attorney from the process until all of the administrative appeals had been exhausted. The act now permits an attorney to enter the appeal process at a much earlier date — after the veteran has received a decision on his or her claim from the VA and decides to appeal this initial decision administratively through the filing of a Notice of Disagreement (NOD).³⁵ *An attorney may now provide representation for a fee after the NOD is filed*. The act requires the Secretary to provide Congress with an evaluation of the effect of the new system of representation. The act also modified the requirements to file attorney fee agreements so as to reflect the earlier point when an attorney or agent can enter the appeals process. The Secretary is also authorized to review a fee agreement, and the Secretary may order a reduction in an agreed upon

³¹ See CRS Report RL33704, *Veterans Affairs: The Appeal Process for Veterans' Claims*, by Douglas Reid Weimer.

³² P.L. 109-461, Title I.

³³ “Agents” or representatives of various veterans' service organizations may represent a veteran in his/her appeal process. See CRS Report RL33704.

³⁴ *Id.* at 3. See Figure I. Appeal Process.

³⁵ *Id.*

fee if the Secretary finds the fee excessive or unreasonable. The Secretary's decision may be reviewed by the BVA, which is authorized to make the final review of the issue.³⁶

This change in the veterans' appeal procedure has been somewhat controversial. While veterans' groups such as the National Organization of Veterans Advocates (NOVA) and the Paralyzed Veterans of America (PVA) have supported the change, other groups — most notably, the Disabled American Veterans (DAV) — have vigorously opposed the legislative change, continue to oppose implementation of the law, and are seeking a repeal of the law.³⁷ Opposition to the change may be summarized into three broad categories. First, representatives of veterans' groups have been the exclusive representatives of veterans in the VA administrative appeal process and are reluctant to change this arrangement. Second, there is a belief that any benefits should belong exclusively to the veteran and should not be shared or paid to a legal representative. Third, there is a reluctance to have previous work done by veteran representatives reviewed by attorneys.

On March 5, 2007, H.R. 1318 was introduced by Representative Ron Lewis. If enacted, the legislation would repeal the authority for certain agent or attorney representation in veterans' benefit cases before the VA. In effect, the bill would return to the procedure that existed before P.L. 109-461 became law and permit representation only after the BVA renders a final decision in the case. The bill has been referred to the House Committee on Veterans' Affairs.

U.S. Court of Appeals for Veterans Claims

Sometimes a veteran may not agree with the VA's initial decision concerning an award or the amount of the benefit.³⁸ Within the VA, there is an extensive appeal/review process that concludes with the decision of the Board of Veterans Appeals (BVA).³⁹ Final decisions of the BVA may be appealed to the U.S. Court of Appeals for Veterans Claims (CAVC).⁴⁰ The CAVC is an independent court, separate and apart from the VA. The CAVC does not hold trials, hear witness testimony, or receive new evidence.⁴¹ In deciding a case, the CAVC considers the BVA decision, the briefs submitted by the parties, and the record that was considered by the VA and made available to the BVA.⁴²

³⁶ 38 U.S.C. § 7104.

³⁷ See [http://www.dav.org/voters/claims_process.html].

³⁸ See CRS Report RL33704, *Veterans Affairs: The Appeal Process for Veterans' Claims*, by Douglas Reid Weimer.

³⁹ See CRS Report RL33704.

⁴⁰ See CRS Report RS22561, *Veterans Affairs: The U.S. Court of Appeals for Veterans Claims — Judicial Review of the VA Decision Making*, by Douglas Reid Weimer.

⁴¹ 38 U.S.C. § 7261.

⁴² See CRS Report RS22561.

The veteran who is appealing to the CAVC may represent himself or herself or may be represented by an attorney or an authorized representative.⁴³ VA's Office of General Counsel represents the Secretary of Veterans Affairs and the VA before the CAVC.⁴⁴ Following a final decision of the CAVC, that decision may be appealed to the U.S. Court of Appeals for the Federal Circuit ("Federal Circuit")⁴⁵ by either the veteran or the VA. Appeals to the Federal Circuit are required to be filed within 60 days of the final CAVC decision.⁴⁶ Following a final decision by the Federal Circuit, either the veteran or the VA may petition the U.S. Supreme Court for certiorari, or review, of that decision within 90 days of the Federal Circuit's final action.⁴⁷

Congress has been concerned about the CAVC's backlog of cases and the overall length of time needed to process an appeal through the VA and then through the CAVC.⁴⁸ An additional, related concern is the hardship experienced by those veterans who are not receiving any benefits while their appeals are pending. In response to these concerns, the Senate Committee on Veterans' Affairs held a hearing on the CAVC and the backlog on July 13, 2006.⁴⁹ It was reported at this hearing that there was a backlog of more than 5,800 cases. Among the issues discussed was the possible recall of retired CAVC judges to help reduce the backlog.⁵⁰ Following the hearing, two retired judges were recalled to process or decide more cases through the system. After the recall term of these two judges ended, two other retired judges were recalled. At the present time, two judges are serving in recall status. It has been reported that the CAVC is now on a "record setting pace of decision making."⁵¹ With more appeals being filed each month, it is anticipated that the CAVC will continue to have a heavy workload.

On May 3, 2007, S. 1289 was introduced by Senator Larry Craig. If enacted, the legislation would amend Title 38 of the *U.S. Code* to modify the salary and the terms of the judges of the CAVC. The bill would also modify the recall provisions for retired CAVC judges and other matters relating to the CAVC. The bill has been referred to the Senate Committee on Veterans' Affairs

⁴³ Representation before the court is governed by U.S. Vet. App. R. 46.

⁴⁴ 38 U.S.C. § 7263(a).

⁴⁵ *Id.* § 7292.

⁴⁶ 28 U.S.C. § 2107.

⁴⁷ 38 U.S.C. § 7292(c). A petition for certiorari requests the Supreme Court to review the decision of the lower court. The Court has broad discretion in deciding which cases it chooses to review.

⁴⁸ As all claims and appeals are different, it has not been possible to determine the "average" length of an appeal through the VA and CAVC process.

⁴⁹ U.S. Congress, Senate Committee on Veterans' Affairs, *Battling the Backlog Part II: Challenges Facing the U.S. Court of Appeals for Veterans Claims*, 109th Cong., 2nd sess., July 13, 2006, S.Hrg. 109-694, available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_senate_hearings&docid=f:29716.pdf].

⁵⁰ *Id.* The judges would be "recalled" to serve on the court in their retirement.

⁵¹ See [http://veterans.senate.gov/ranking_member_news.cfm?FuseAction=Home.Home&month=1&year=2007&release_id=897].