



**TESTIMONY OF  
Larry Hyland USAF Senior Master Sergeant (Ret)  
National President  
Of  
THE RETIRED ENLISTED ASSOCIATION  
Before a  
JOINT HEARING  
  
Of the  
HOUSE and SENATE VETERANS AFFAIRS COMMITTEES  
  
On  
  
March 16, 2016**



## **DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS**

The Retired Enlisted Association does not currently receive, nor has it received during the current fiscal year or either of the two previous years any federal money for grants or contracts. All the Association's activities and services are accomplished completely free of any federal funding.

**Chairmen Isakson and Miller, Ranking Members Blumenthal and Brown and distinguished members of both Committees**

It is an honor for me to speak before this Joint Committee hearing about TREA's legislative goals and concerns for FY2017 and beyond for America's military veterans and retirees as well as their families and survivors.

We are pleased once again to testify before your Committees about our suggestions as to how Congress can improve the lives of the men and women who have protected our nation's safety and freedoms. I am Larry Hyland, National President of The Retired Enlisted Association. TREA was created in 1963 to give a voice to the needs and ideas of the men and women who have served in America's enlisted ranks before both the federal and state governments. Our members are from all the branches of the Armed Services. They serve or have served on active duty, in the Reserve Components and many of their spouses and surviving spouses are

members of our Auxiliary. Originally our members were military retirees or those who were planning to serve a full military career. Recently we opened our membership to all veterans from the enlisted ranks as well as retirees. As a Congressionally chartered VSO with members who were Department of Defense retirees *as well as* veterans we have always worked on and studied veteran issues. Now happily enlisted veterans are also part of our membership.

Before I begin I must again thank the members and staffs of both your Committees for your active and crucial oversight of the VA. Without it we know that we would not have the Choice Act (to work on), the dramatic improvements in the backlog of initial adjudications and the focus on continuing scandals in various VISNs and VA hospitals scattered throughout the United States. It is clearly an enormous job for all of you as well as for Secretary McDonald, Deputy Secretary Gibson and the numerous hard working and dedicated employees of the VA. But we also know that a great deal more needs to be done and that is what we need to focus on this year.

## **Year 2 of Oversight and Implementation**

After problems have been recognized and possible solutions have been crafted and put in place it is time to see if they work. It is clear to all concerned that the Department of Veterans Affairs needs to be reorganized. It needs to improve and standardize its scheduling and reporting of healthcare throughout the country. It needs to continue to improve its quality and accuracy of initial adjudication and appellate adjudication. It needs to aggressively and enthusiastically enact the new Veterans Choice Program. It needs to successfully implement its new MyVA initiative. And it needs to do all these things in a way that is open and transparent to both the Congress and the public. **The VA must not only improve; it must be seen to improve.** The VA must rebuild veterans' trust in its services and intentions. And to do that, we believe that your Committees must continue to increase your oversight of the VA operations and their implementation of new programs.

## Implementation and Improvement of the Veterans Choice Program

In just 4 months Congress passed the *Veterans Access, Choice, and Accountability Act of 2014 (VACAA)* to try and correct the unacceptable healthcare delays that were occurring in many VA facilities across the United States. It was a true emergency and it was wise to act quickly. However it was inevitable that there would be unexpected problems with instituting a comprehensive law so quickly.

Some were able to be dealt with quickly. For example, calculating the 40 miles from a VA facility as miles driven rather than as the crow flies. Others that are still being dealt with: we urge Congress to pass Senator Moran's of Kansas S. 207 and Representatives Mullin's of Oklahoma and Zinke's of Montana H.R.572 and H.R. 577, respectively, to judge the distance of facilities from where a needed treatment is provided, not just a nearby clinic.

Other problems includes a lack of proper training of VA employees. Again and again we hear stories of VA employees simply giving veterans wrong information about the program, such as who qualifies and how it works etc. **This must be corrected.** Whether the need to provide training is included in the contracts or is made an in-house VA duty it must be done and done quickly. Until this happens the program **cannot** be a success.

TREA has also heard recently of a severe problem that faces veterans who do manage to use the Choice program. If they are being treated for non-service connected disabilities and they also have private insurance the veterans are being required to pay the private insurance policy's deductibles and co-pays. If they were able to be treated at a VA facility they would not be obligated to pay these often very expensive costs. TREA is very grateful that Senator Mike Rounds of South Dakota and this committee has recently introduced **S.2649** the Veterans Equal Cost for Care Act of 2016 to solve this problem by making the veteran pay no more for care under the Choice Act than he or she would in a VA facility.

We are well aware that there is an effort to combine the 6 present VA programs that provide veterans needed care outside a VA facility. TREA believes that creating 1 program with 1 set of rules and procedures will help veterans get the care that is their right.

TREA is sure that other difficulties have appeared and will appear when implementing this important piece of legislation. We encourage continued oversight by your Committees so that the program will be improved and serve veterans as it was intended.

### **Benefits Claims Backlog**

TREA wishes to thank the committees for their steadfast commitment to cutting the claims backlog over the years. The backlog ( defined as claims pending over 125 days) stood at almost 611,000 claims in 2013, has been cut by the Veterans Benefits Administration (VBA) to approximately 81,000. In FY 2015 the VBA reported completing nearly 1.4-million claims.

TREA believes that the success in cutting down the backlog of initial claim for benefits is due to the automation of many types of claims, efficiencies made possible by the expansion of the Fully Developed Claims (FDC) process to speed up simpler claims for disability compensation, and also the expanded use of mandatory overtime for VBA employee to handle disability claims – the all hands on deck model.

Today, nearly half of all disability claims filed with the VA are FDCs, and almost all of VBA's 364,000 pending claims are fully electronic with less than 30,000 paper claims remaining in the system. More than one billion record images have been scanned into VBMS and are associated with claimants' new e-Folders, allowing them to be simultaneously read at all VBA offices, 148 VHA facilities and by veterans service organizations (VSO) that represent veterans in their claims before VA. VBA also continues to enhance its Information Technology systems, including the Veterans Benefits Management System (VBMS), the Stakeholder Enterprise Portal (SEP) and eBenefits, which together have revolutionized the filing of claims by electronic means.

TREA is well aware of the fact that the “backlog” is unlikely to ever disappear completely. The increasing number of veterans filing for benefits, combined with the increased number and complexity of the disability claims filed after 15 years of war, longer than our country has ever endured, means that the burden placed on VBA to accurately adjudicate disability claims has increased markedly. In the five years from 2009 to 2014, although the number of claims handled by VBA increased by 100 percent, the accuracy also increased from 83 to 91 percent according to VBA's numbers.

These improvements have not come without a cost, unfortunately. VBA's policy of mandating overtime to deal with the backlog has led to a situation that could burn out the workforce, but if employees are put on a normal 40-hour workweek it isn't clear that the improvements in the backlog can be maintained. Even though VBA hired 7,300 new full-time employees from 2007-2014, we doubt however that hiring pace can be sustained, and we will be watching in the coming years to make sure there is no backsliding on the backlog.

The Veterans Benefits Management System (VBMS) is another area that has come in for criticism recently. The cost of VA's electronic claims network, called the Veterans Benefits Management System (VBMS), is \$1 billion so far and soon will reach \$1.3 billion. Back in 2009 VA estimated that the program would cost \$580 million.

TREA understands that VBMS was designed to be upgraded every three months so that the program would not become obsolete. That, along with VA plans for a major renovation of VBMS in 2018, are what is causing the cost of VBMS to balloon.

While VBMS' costs have roughly doubled in the last seven years, TREA believes that it is an integral part in continuing the all-important fight against the backlog's growth. We would caution against scrapping the program before more concrete facts emerge about its usefulness. While it is true that the system still can't fully support disability and pension claims, because the system is designed to be upgraded with capabilities as they arise, it is not out of the question that in the near future VBMS will be able to meet these requirements. If the claims backlog is the unacceptable outcome Congress declared it to be in years past, then we all must be willing

to pay a substantial price to ensure that America's veterans are treated with dignity, professionalism and respect when they seek help from the VA.

## **Appeals Backlog**

Whereas the definition of a backlogged initial disability claim is one which has been outstanding for more than 125 days, the average delay in the claims appeals process is currently five years. Secretary McDonald recently told the Senate Veterans' Affairs Committee about an appeal that took 25 years to be adjudicated after it was filed. That veteran deserved better from the VA.

When that anecdote is combined with the fact that in January 2016, VA reported that it had over 444,500 appeals pending, it becomes clear that the appeals process also needs to be fixed. TREA believes that the size of this inventory is due in great part to cutting the backlog for initial claims in recent years, as well as the fact that the Board of Veterans' Appeals (BVA) has been chronically underfunded. The latter is why TREA supports the VA's FY 2017 budget proposal that calls for a 42 percent increase in funding for the Board of Veterans' Appeals (BVA), will result in 242 more full-time staff to augment the 680 existing employees. It is important to note that the BVA completed 55,532 decisions in FY 2014. While that sounds and indeed is impressive, over 25,000 (45.5 percent) of those cases were remanded for additional action at the lower level. It is likely that the majority of those 25,000 will then have to make their way BACK to the BVA... and back into the queue. With current staffing levels, it is going to take roughly 12 years to get through the current appeals backlog.

Of the total number of outstanding appeals, nearly 40,000 are pending at the BVA. While appeals may take 1,000 days to go from the Notice of Disagreement (BVA) to a BVA decision, 237,763 (72 percent) of those cases pending in VA regional offices sit an average of 396 days waiting for the issuance of a Statement of the Case (SOC).



It is for these reasons that TREA supports **H.R. 800**, the Express Appeals Act which is sponsored by Congressman Beto O'Rourke (D-TX), and cosponsored by both HVAC Chairman Jeff Miller (R-FL) and HVAC Ranking Member Corinne Brown (D-FL). This is the so-called Fully Developed Appeals (FDA) initiative that directs the VA to carry out a five-year pilot program to provide veterans with the option to appeal claims for disability compensation through an expedited process.

Under the Express Appeals Act, the claimant would have the choice to waive receipt of a Statement of the Case, Decision Review Officer (DRO) review, a hearing before a Board of Veterans Appeals (BVA) panel and other developmental and review opportunities currently available in the VA appeals process. The claimant, at the Notice of Disagreement stage, would have a one-time opportunity to submit additional evidence and argument. In exchange for this waiver, the appeal would bypass all regional office activity and move directly to the BVA, where it would be placed on a separate docket to be considered in the order it was received. This approach has the advantage of bypassing nearly three years of delay at the regional office. However, it must be recognized that a speedy decision by the BVA may not be advantageous to all claimants – some veterans need to be able to develop new evidence after they have already started their appeal.

It is important to note that currently veterans appealing their decision have roughly three years to submit additional evidence, undergo new treatment and examinations, produce fresh argument, and in other ways help perfect the record prior to BVA review. Under law favorable to veterans, the record remains open and subject to amendment almost up to the point of decision by the BVA. Understandably, VA blames this for increasing the time that it takes to reach a decision.

However, we have recently been made aware of the possibility that the VA is seeking to redress the delays caused by allowing veterans to develop new evidence during the appeals process by closing the evidentiary record for all veterans who appeal their claims decision. **TREA believes very strongly that this is not the right approach.**

Veterans who agree to a FDC process should be allowed to have their claims expedited. Other veterans, especially those who are aware at the outset that they need to add to the evidence in their case but are unwilling to wait so that they don't miss their opportunity to appeal altogether should not be punished.

We look forward to participating in further talks regarding this important topic.

## **VA Health Care**

Improving wait times and scheduling for medical care at the VA will mean nothing if the care itself is not first rate. In many VISNs throughout the country it is terrific. In other parts of the country it is far from it. The quality of the healthcare provided by the VA across the country must be standardized and first rate. We are well aware that the VA is working hard to hire top notch talent doctors, nurses and other healthcare professionals but they are having problems. We know that this is a problem for the United States medical system, not just in the VA but it is a continuing problem in the largest hospital system in the United States. It is not happening as quickly as everyone wishes. But the VA must not let up. It is a particularly acute problem when it related to mental health professions. Many Veterans are suffering from many mental health problems after 13 years of war and when one considers the years, of war, numerous tours of duty and present cuts in the size of the military it is surprising there is not much more. Additionally there has been a dramatic increase in veterans' suicides, including among older veterans. This along with the special issues facing women veterans makes it obvious that the VA must quickly increase their corps of mental health professionals.

The coordination of prescriptions of psychotropic drugs by the VA and DoD must also be addressed. We have heard that a service member being treated for a mental health condition at the Department of Defense may have to deal with a dramatic change in medicine when he or

she enters the VA system. This can cause dramatic problems that could be avoided if the two departments coordinate their formularies or at least coordinate their prescribing practices,.

There are also some new proposals for healthcare programs that TREA find very promising.

Not all injuries suffered by Armed Services personnel are immediately evident and wounds from exposure to toxic chemicals can have lifelong and generational effects. We are still determining today what the impact of those exposures may be.

We are pleased to support legislation sponsored by Congressman Benishek that would establish a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces that are related to that exposure.

This legislation will allow the VA to research the effect of exposure to toxic substances on the descendants of veterans. Veterans seeking care for symptoms of toxic exposure are frequently misdiagnosed due to a lack of scientific understanding, and the research the VA has conducted on suspected birth defects related to toxic exposure is severely limited.

This bill is an important piece of bi-partisan legislation that will help our nation keep its promises to our veterans.

Two other bills, **S.564** originally sponsored by Senator Moran of Kansas and Senator Tester of Montana and **H.R. 353** sponsored by Rep. Sean Duffy of Wisconsin would improve the life of our veterans by providing more hearing care. It is well known that a loss of hearing causes terrible strains to peoples' emotional health. The bills also follow the important development of allowing veterans to be treated in the private sector when care at VA facilities is not available or sufficient. The result should be happier lives for many veterans...

## **Veterans Mental Health and Suicide Prevention**

Last year the first thing the members of the 114<sup>th</sup> session of Congress did was pass the Clay Hunt SAVE Act. It was intended to improve the mental health care the VA provides to treat the terrible risk of veterans suicide. However, there are reports of continuing problems with the veterans suicide hotline. It is crucial that the VA provide effective treatment for this most terrifying of all service connected maladies.

## **VA Construction**

TREA is headquartered in Aurora, Colorado. Thus, we have a special interest in ensuring that construction of the new VA Medical Center in Aurora is completed as quickly as possible, and is a first class facility. Policies must be enacted that ensure the terrible decisions that have been made during its construction are never repeated. To that end, TREA supports the House's passage of HR 3106, the VA Construction Reform Act.

The bill would direct the VA to provide design and planning assistance to other federal entities contracted to manage large construction projects on a non-reimbursable basis. This is in addition to the requirement signed into law last year that VA enter into agreements with other federal entities to manage the design, acquisition, construction and contract changes for “super” construction projects that exceed \$100 million.

We particularly like the requirement that the VA be barred from obligating or expending funds for advance planning or design activities for super construction projects until 60 days after Congress has been notified, as well as the fact that Congressional approval would be required before the VA could obligate funding for a major medical facility or super construction project if the project's total expenditures exceed the authorized amount by 10 percent or more.

Additionally, the appointment of an assistant inspector general to oversee construction projects and leases and the development of a 10-year investment plan for medical facilities will go a long way towards ensuring that a Colorado-style debacle cannot happen again on the taxpayers' dime. We call on the Senate to pass this legislation this year.

## **Female Veterans**

Women presently make up 15% of the active duty and 17% of the Reserve Components. By 2040 the VA projects that women will make up just under 18% of all living veterans. They are therefore becoming much more of a presence at the VA. The numbers keep growing. There are already over 100,000 women veterans from OIF/OEF and Operation New Dawn, and 52% of these women veterans are enrolled in VA health care.

The VA is well aware that they need to modify their practices to reflect the needs of their changing beneficiary pool. In 2010 the VA Advisory Committee on Women Veterans issued a report, "Women Veterans—A Proud Tradition of Service," and we continue to urge that more of their recommendations be implemented. The VA hospitals and clinics should design their facilities to be more comfortable for women. There should be more focus given to specific female medical needs and there should be areas where children can be cared for while their mothers are seeing a doctor.

These past years have also revealed the serious problem of sexual assault in the military. While the Department of Defense is the present focus on how to solve this terrible problem it has already become a problem for the VA must deal with. The VA must develop appropriate mental health programs to treat, these female victims (and indeed male victims as well). Again we call on the VA to create a larger and more sophisticated mental health practice, because this is another group of patients that they must serve.

It has also been discovered that women veterans are less likely to self-identify as veterans as men are. This seems to be especially true of women who did not serve in war zones. Therefore it is imperative for the VA to study different methods of outreach for women veterans who deserve and need their services.

## **Veteran Employment**

We wish to thank the committee for their commitment to lowering the veteran unemployment rate. In October of 2013 the veteran unemployment rate stood at 6.7%. The most recent numbers from the Bureau of Labor Statistics (BLS) indicate that the veteran unemployment numbers decreased from 4.7% in January to 4.1% in February. The national unemployment rate remained unchanged at 4.9% last month.

Meaningful employment can be an anchor to a returning servicemember even when they are facing other obstacles like Post-Traumatic Stress(PTS), Traumatic Brain Injury (TBI), or substance abuse. Unfortunately it is younger veterans who disproportionately suffer from PTS and TBI, and their unemployment rate is also higher than the national average. The unemployment rate last month for 25-34 year old veterans stood at 6.2%; nationally that number was 5.3%. For veterans over the age of 55 the unemployment rate last month was 4.4%; nationally that number was 4.0%. In every other demographic category, the veteran unemployment rate is lower than that of their peers.

Enforcing the three-percent rule contract set aside and increasing Small Business Administration funding for new Veterans Business Development Centers and other similar programs will provide veterans with necessary training, business planning, networking, and access to capital. We is working with the Veteran Entrepreneurship Task Force (VET-Force) to achieve these aims. We believes that since veterans tend to hire other veterans, advancing veteran-owned businesses goes a long way towards ensuring that America successfully

reintegrates the so-called “tsunami” of veterans that are continuing to re-enter civilian society as the drawdown continues..

Congress has repeatedly demonstrated its commitment to this problem by reauthorizing the Work Opportunity Tax Credits (WOTC) originally contained within the 2013 VOW To Hire A Hero Act, the Veterans' Retraining and Assistance Program (VRAP) and of course the Post-9/11 GI Bill. While we would like to see some form of VRAP reauthorized so that many of the 35-64 year old veterans who did not get a chance to participate the first time around can sharpen their skills to compete in this cutthroat economy, we are most concerned at this moment about ongoing threats to the Post-9/11 GI Bill.

## **Veteran Education**

**H.R. 3016**, which passed the House by a voice vote earlier this year, would cut the Basic Allowance for Housing (BAH) for dependents of veterans who have not transferred the Post-9/11 GI Bill benefit within 180 days of the enactment of the law. TREA is extremely thankful for the many positive items included in 3016, such as the Fry Scholarship expansion and the expansion of eligibility for the Yellow Ribbon program to Fry Scholarship beneficiaries. However, we reject the notion that in order to improve upon the benefits that our country provides for those who have borne the burden of battle, and their loved ones, our country must decide to roll back hard-earned benefits in other areas for America's warfighters.

We are being forced into a situation which requires TREA, and the other MSO/VSOs, to choose between robbing Peter to pay Paul, or letting Paul starve. It's a false choice, and it is not one that the richest country in the history of the world should be using to decide on how to best execute its veteran policies.

Further, the other “pay-for” contained within **H.R. 3016** is a \$20,000 cap on tuition for flight school training at public universities for veterans using the Post-9/11 GI Bill. While TREA agrees with the principle that there should be some maximum benefit level, we disagree with the concept of an inflexible, across the board cap that could possibly result in veterans receiving certifications from flights schools that are worthless in the private sector.

The fact is, to get hired as a pilot in the private sector you must have hundreds, if not thousands, of flight hours. A \$20,000 cap on annual tuition will prevent veterans from receiving enough flight hours to be considered for many commercial pilot jobs. This is not an appropriate way to thank veterans for their service.

### **Survivors’ Education Benefits**

TREA was extremely happy when spouses of those who have fallen since 9/11/01 were finally included in the Fry Scholarship program. Again, thank you. Still there are glitches. Widows and widowers have 15 years to use the program. But many of the survivors are quickly coming up to the end of that window. (It is amazing to note that we are over 14 years beyond 9/11. Rep. Duckworth (D-IL), in both the 113<sup>th</sup> session of Congress and now in the 114<sup>th</sup> session of Congress, introduced a bill to lengthen that time period. There has been work to include the provisions of **H.R.2531** in one of your omnibus veterans bills. Whether done that way or as a stand-alone bill we hope that you will support this improvement. The change will not affect many people but it will mean the world to those whom it does help.

A widow/widower of a servicemember who died on active duty before 9/11 or who died of a service connected disability qualifies for education benefits under Chapter 35 of Title 38 of the U.S. Code. Their benefits do not reflect the improvements of the Post 9/11 GI Bill. Nor has it



kept up with the Montgomery GI Bill. They receive only \$ 1,003.00 a month as a full time student, with no housing allowance and no book stipend.

The average cost to attend a four-year public university has reached \$14,256 per year. In 2003, the last increase for Chapter 35 benefits, the average cost of a four-year degree was \$10,674. While Chapter 35 benefits have remained the same, the cost of education has increased by 33%. It is time to increase the DEA's monthly stipend.

It is also time to henceforth have the DEA program be adjusted proportionally whenever Congress raises the payments for MGIB (Chapter 30) or the Post 9/11 GI Bill (Chapter 33).

### **Survivors Benefits**

A small percentage of the American people are fighting her wars, protecting her shores and preserving her freedoms. And their families and loved ones are bearing the terrible loss and loneliness when one of them dies. Of course America wants to protect and help those who are left behind. It is our duty. As President Lincoln said in his Second Inaugural address it is America's duty to "care for his widow and orphan" This same quote can be found on the front of the Department of Veterans Affairs National Headquarters. We are grateful for all the time and effort both Congress and the VA has spent trying to make this pledge a reality.

**SBP/DIC Offset-** We yet again strongly urge Congress to end the unfair SBP/DIC offset and to make DIC equivalent to other federal survivor programs. Currently the flat DIC payment is \$1,254.19 a month- so survivors of all but the most senior enlisted retirees never receive a dime of the SBP that was purchased either with their retired pay or with their lives on active duty. In 2009 a Special Survivor Indemnity Allowance was passed to partially deal with this obviously unfair practice. Starting at \$50 a month in 2009 and increasing in steps until reaching

\$310 per month in 2017 this inequity is being partially offset. This year DIC widows are receiving \$150 a month in SSIA payments. But then the allowance disappears. (Please see section below.) This clearly does not solve the problem. There are two groups of widows (and widowers) who are harmed by this offset. The first group is made up of those whose spouses died on active duty and the second group is made up of those whose spouses died of service-connected disabilities or injuries. Both groups should be relieved of this burden.

The offset takes a dollar from the SBP payment for every dollar the widow receives from DIC. Each payment covers a different purpose and should be treated separately. The DIC is an indemnity (compensation or insurance) payment that is paid by the Department of Veterans Affairs (VA) to the survivor of a member of the military whose service directly causes his or her death. The SPB annuity, paid by the Department of Defense reflects the longevity of the service of the military member. It is ordinarily calculated at 55% of retired pay. Military retirees who elect SPB pay a portion of their retired pay to ensure that their family has a guaranteed income should the retiree die. If that retiree dies due to a service connected disability, only then would their survivor become eligible for DIC.

SBP was created as a purchased annuity- an earned employee benefit. This is a retirement plan. Qualification for SBP for an active duty death was added to stop the grim but extremely well intended practice of medical personnel keeping a lost comrade "technically alive" until he or she could be retired.

There is no offset if a federal civilian retiree dies of a service connected disability. The survivors will receive the civilian SBP and the VA's DIC without offset. As stated above it takes into account longevity of service. The vast majority of families affected by this offset served a full career in the military. We all now accept the maxim that you recruit a member but you retain a family. This is part of the retirement package. Even the name Dependency Indemnity Compensation (DIC) makes clear that it was created for a very different reason. It is an indemnity program to compensate a family for the loss of a loved one due to his or her military

service. Again, they are different programs created to fill different purposes and needs. The survivor does receive a taxable pro-rated share of the paid SBP premiums back without interest in a lump sum. But that cannot make up for the cost and difficulty paying those premiums all those years of retirement caused. If a disabled veteran earns a civilian pension as a federal civil servant the family will never lose either their survivor payment or their DIC to any offset. The service member did what he could to provide for his spouse. This is behavior the Federal Government wishes to encourage.

Year after year we (and many other VSOs and MSOs) have asked that this unfair offset be abolished. Hopefully, this may finally be the year. Of course we are well aware that the VA pays its DIC program and that correction of this problem is under the jurisdiction of the Armed Services Committees. However, we know how much your Committees care about the widows and widowers of our servicemembers and we hope that you can convince your friends and colleagues that this is an injustice that should be corrected.

Indeed there is one small group of widows/widowers who today may receive both SBP and DIC without an offset. It is those who retain DIC after remarrying at or after the age of 57. The Veterans Benefits Act of 2003 (H.R. 2297, Section 101) provided for DIC with remarriage after age 57 "without a reduction in other federal benefits." (such as SBP). When the Department of Defense refused to implement a lawsuit ensued and in its decision the Federal Court of Appeals ruled: *"As recognized by the trial court, there are many plausible explanations for Congress' decision to repeal the DIC-SBP offset only for surviving spouses who receive DIC by reason of their having remarried after age 57. Perhaps Congress intended to encourage marriage for older surviving spouses. **Perhaps section 1311(c) simply represents a first step in an effort to eventually enact full repeal.** After all, the service member paid for both benefits: SBP with premiums; DIC with his life. Perhaps it was recognition that the political process is the art of the possible, and that prudence counseled against making the perfect the enemy of the good. Whatever the reason, the government has failed to make the "extraordinary showing of [Congress'] contrary intentions" that would permit this court to construe section 1311c in a way that eviscerates its plain language. ....Accordingly, the judgment of the United States Court of Federal Claims is affirmed."* (Chief Judge Haldane Robert Mayer)

So justice is being served for a small group of survivors.

Once again Rep. Joe Wilson (R-SC) and Senator Bill Nelson (D-FL,) with original co-sponsor Senator Susan Collins (R-ME), have sponsored bills to once and for all end this unfair offset for everyone else affected. When it is studied by different groups again and again it is found to be unfair and unwise. Indeed, even the Military Compensation and Retirement Modernization Commission saw this as a problem that they wished would be corrected.

We again urge you to pass **H.R. 1594** and **S. 979**.. The offset should be abolished.

**Extension and enlargement of SSIA program-** As noted above the SSIA allotment has been ameliorating the SBP/DIC offset's unfairness. However it is scheduled to end completely after 2017. We hope that, at the very least, you will find the money to extend and expand this urgent payment. **H.R.4519** sponsored by Rep. Grayson (D-FL) would extend the program for 5 years and would increase the amount from \$310 to \$800 during the extension.

**DIC Equality-** Dependency and Indemnity Compensation (DIC) sets a flat monthly rate regardless of rank if the service- connected death occurred after January 1, 1993. There have not been significant increases in the rate since that date though there have been regular COLA increases and it is presently \$1254.19 a month. In 2009 a GAO report "Military and Veterans' Benefits" (GAO 10-62) found "DIC payments are almost always less than workers' compensation payments for survivors of federal employees who die as a result of job-related injuries". The present DIC monthly payment for a surviving spouse of \$1254.19 is only 43% of the disability compensation rate for a fully disabled single veteran, whose rate is \$2906.83 per month. Indeed the DIC monthly rate is 12% below the payment to other surviving spouses of federal employees. \$15,000 a year is simply insufficient.

We urge you to solve this problem by passing **H.R. 2539**

**DIC Retention at age 55-** Finally, we hope that survivors will be permitted to retain DIC if they remarry at or after the age of 55. Presently a survivor may retain DIC upon remarriage if he or she is at least 57. Most federal survivor programs allow retention of survivors benefits after remarriage if the survivor is at least 55 years old. Indeed, the age to retain CHAMPVA upon remarriage is the normal federal program age of 55. The difference is because the two benefits were reinstated in different years and during different Congressional negotiations. There are no policy reasons for this awkward and unequal distinction and we hope that this year it can finally be corrected.

### **CHAMPVA until the Age of 26**

TREA is glad and grateful that Ranking Member Brown has taken up the fight of her predecessor to allow young adults to continue on their parent's CHAMPVA health care plan until they reach the age of 26. **H.R. 218** would put this final cohort of young Americans on the same footing as all their peers. While there continues to be disagreements over the virtues of various sections of the Affordable Care Act the entire American population approves of the idea of extending coverage to young adults on their parents' plans. It is by far the most popular part of the ACA and would satisfy its coverage requirement. Young adults (through the age of 25) under TRICARE have this option. Young Adults on FEHBP have this option. Young adults in all private insurance plans have this option. These young people should not be left out. We hope that finally these fine young men and women will also be covered.

### **The Non-Veteran Military Retiree**

TREA likes to say that all Military Retirees are Veterans but all Veterans are not retirees.

However, that is not totally correct. While it is true for the vast sum of Military retirees, one group is left out. Guard and Reserve retirees who have served honorably for 20 or more years but have not been called to active duty for the minimum number of days (normally at least 180 consecutive days of federal active duty) do not qualify as veterans under the current law. (Active Duty for Training does not qualify a member for Veterans Status). This is true even though they were always required to be trained and prepared to be activated during their 20 years or more of service. Indeed, they may have served a great deal of time on other than Title 10 orders, including Titles 32 or 14 orders. In fact, there are 30 types of orders possible for them to be put on, yet only Title 10 orders count toward veterans status. Regardless of how much time they spend on other than Title 10 orders they are not designated veterans if they do not have the requisite time on Title 10 orders.

Even though the increased use of Reserve Component members means this group of people will continue to shrink, this is an anomaly that needs to be corrected. These Military Retirees should be allowed the honor of being designated as a “veteran of the Armed Forces of the United States.”

The House of Representatives has passed a bi-partisan bill in each of the last four sessions of Congress that would correct this situation, the latest being HR 1384, sponsored by Congressman Tim Walz and co-sponsored by 132 other members, and for that we are very grateful. And last year the Senate passed, for the first time, a provision as part of S1203 which would grant veterans status to these individuals. This is no-cost item that has had by-partisan support in the House each session and has had bi-partisan co-sponsors in the Senate each time it has been introduced there.

The individuals covered by this legislation are, in fact, Military retirees and are eligible to receive active duty retiree benefits when they reach 60 years of age including military

retirement pay and TRICARE health care. They have unlimited use of military Commissaries and Exchanges during and after their service. In short, they are recognized and compensated by the federal government as military retirees. In addition, these dedicated members of the National Guard and Reserve already qualify for many Veterans benefits including VA home loans, VA burial and memorial benefits and eligibility for SGLI and VGLI.

The members who fit into this situation by definition would not qualify for a VA disability rating and thus do not qualify for a disability payment or VA health care. Most have civilian health care insurance. Those who don't, qualify for Tricare Retired Reserve and once they turned 60 they qualify for TRICARE Standard. We want to emphasize that this is not an attempt to gain additional benefits for this group of military retirees. In fact, the legislation specifically states that no new benefits will be granted to these individuals by virtue of either of these bills. As a result, the Congressional Budget Office has scored these bills as having no cost.

Until 9-11-01, in many ways members of the Guard and Reserve tended to be treated as stepchildren of the military. Now the nation has realized that our military cannot function without the operational Guard and Reserve. Thus, the simple step of recognizing the service of those who spend twenty years or more as meriting the distinction of being called a veteran is a major issue for them, one of pride and one of having their sacrifices recognized. After all, we now have a Total Force that includes the Guard and Reserve Components. They wear the same uniforms and earn the same medals and awards. Why are they not worthy of the honor of being called "veteran?"

We want to emphasize again, these non-retiree veterans want this change for the recognition and honor—not any increase in benefits. They wish to be termed "veterans of the Armed Forces of the United States." They volunteered to serve, served honorably, and were prepared to serve on active duty if called. TREA firmly believes that a career of military service in the reserve forces of our nation should constitute qualification for veteran status under the law.

We are grateful that the House has passed HR1384 and that the Senate has passed S1203 with the provision to grant veterans status. While we would prefer to amend Title 38, which is what HR1384 does, we do support S1203 as it stands now and we urge final agreement and passage of one of these bills as soon as possible.

## **Conclusion**

We wish to thank the Senate and House Committees on Veteran Affairs for the honor of testifying before you. We are grateful for the opportunity to speak of our concerns and legislative goals. We are also grateful for the opportunity of working with you and your terrific staffs throughout the year.

The VA is a crucial institution for helping to preserve our Nation's freedoms by serving those who protect all from danger. We know that it is a heavy burden for the members of both Committees to take on the oversight duties for such a huge, far flung, and critical Government Department. We know that there are literally hundreds of thousands of dedicated men and women working at the VA that try every day to provide the first class care that American patriots deserve. But we also know that there is a great deal wrong with some of the systems, the business model, the coordination and yes some of the people who work there. With an organization as large as the VA there are sure to be many unacceptable people. What we must all do is work to identify them and not allow them to be or stay in positions of power, or to keep bonuses for substandard work.

We know that you will do all in your power to assure the continuing improvement of all aspects of the VA's mission. We urge you, along with our fellow VSOs and us to work as a team to make



sure that health care improves, that waiting times drop for disability adjudication and that their accuracy increases. We hope that we will all continue to join together to help our veterans to find jobs and create businesses that will provide them with an adequate income and an occupation that will fill their lives with purpose. The Veterans and their families and survivors who have given so much to preserve this Union are provided the help they need and deserve.



Lawrence M. "Larry" Hyland enlisted the United States Air Force in Sept of 1968 and was initially assigned to Dover AFB, Delaware in 1969. He served two tours of duty at Clark Air Base in the Philippines (1970-1972 and 1973-1979). The first tour saw detachment duty with the 834<sup>th</sup> Air Division, Det. 2, Cam Rahn Bay Air Base, Vietnam in 1970, '71, and '72 and the second tour saw duty at U-Tapao Royal Thai Naval Base, Thailand in 1973, '74 and '75. In 1975, from both Clark Air Base and U-Tapao he took part in the transportation of nuclear fuel from the research reactor at Da Lat, Vietnam and in the air evacuations from Phnom Penh and Saigon. In between the Clark Air Base tours, he had a permanent change of station (PCS) move to and from Little Rock AFB, Arkansas

Upon his return stateside in 1979, he was stationed with the Strategic Air Command (SAC) and stayed with that command until his retirement in 1988. His assignments with SAC included Ellsworth AFB, South Dakota, Offutt AFB, Nebraska and then a last overseas assignment to Andersen AFB, Guam from 1986 to 1988.

His decorations include the Meritorious Service Medal with 2 Oak Leaf Clusters, Air Force Commendation Medal with 2 Oak Leaf Clusters, Air Force Achievement Medal, Air Force Presidential Unit Citation, Air Force Outstanding Unit Award with a Combat V and 1 Silver Oak

Leaf, National Defense Service Medal, Vietnam Service Medal with 3 Bronze Stars, Armed Forces Expeditionary Medal with Bronze Service Star, Humanitarian Service Medal with 2 Bronze Numerals, Philippines Presidential Unit Citation, Republic of Vietnam Gallantry Cross with Palm Unit Citation, Republic of Vietnam Campaign Medal.

Larry retired from the U.S. Air Force as a Senior Master Sergeant in September of 1988 and except for a 1-year stint in Texas, 5 years in Germany and 6 years in Virginia he has called Florida, his home, for most of his post-active duty career living in both the Florida Panhandle and Central Florida. He currently resides in Palm Bay, Florida, with his wife of **33 years**, Paz - a veteran and retiree in her own right having served 14 years on active duty with the U.S. Air Force and 13 years in the U.S. Air Force Reserve. They have two children and seven grand children.

In his post military career Larry worked in several different positions within the Department of the Air Force and as well has had two small businesses, one in which he is currently involved with his wife in the wholesale and retail sale of synthetic lubricants and natural "green" fertilizers.

He is a life member of The Retired Enlisted Association (TREA), and was a chartering member of Chapter 85 in Pensacola, Florida in 1996. He served as their president from 1998-2000. An advocate for veteran issues he is also a life member of the following associations: Veterans of Foreign Wars (VFW), Vietnam Veterans of America (VVA), Non Commissioned Officer Association (NCOA). At the local level in Florida, he is a life member of both the Brevard Veterans Council and Vietnam and All Veterans of Brevard Inc.

Larry was elected to National President of TREA: The Enlisted Association at their national convention in 2014, reelected in 2015 and will be completing his final term of office this September. He has previously served on the national board of directors as a director, a third vice president, and as the Senior Citizens League (TSCL) chair.