



Paralyzed Veterans  
of America

# WASHINGTON UPDATE

*Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.*

Written and produced by Paralyzed Veterans of America - Government Relations Department

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## UPDATE ON PVA'S COVID-19 RESPONSE

On May 6, PVA National hosted a webinar for PVA members about the response of VA's SCI/D System of Care to the coronavirus pandemic. Dr. I. Manosha Wickremasinghe, MD, Executive Director, VA SCI/D System of Care, provided updates on health care issues important to veterans with spinal cord injury or disease and answered questions from PVA members. The [webinar recording](#) is available on PVA's COVID-19 response page. Please visit the page regularly for updates focused on the needs of PVA members during the pandemic: <https://pva.org/covid-19/>.

## PVA PROVISION ON AID AND ATTENDANCE INCLUDED IN LATEST COVID RESPONSE PACKAGE

On May 12, House Democrats released an 1800-page, \$3 trillion package to further address the ongoing coronavirus pandemic. The "Health and Economic Recovery Omnibus Emergency Solutions Act" or "HEROES Act" (H.R. 6800) includes several provisions that address the needs of veterans and people with disabilities. Although the House is set to vote on the bill on May 15, the bill is primarily a messaging bill from the House majority of items that they would like included in the next pandemic response bill.

Included in the legislation was a PVA proposal to temporarily raise rates of VA Special Monthly Compensation (SMC)/Aid and Attendance (A&A) benefits to offset higher home care costs being reported by some members due to the pandemic. Increased costs are being reported due to providers' expenses related to the provision of personal protective equipment such as gloves and masks or having to replace an aide on short notice. If Congress includes this provision in a final package, rates for A&A could be temporarily increased by as much as 25 percent to help veterans alleviate these costs.

Other provisions in the bill include VA debt collection relief, extension of deadlines for VA claims and appeals, and streamlined VA payments to community providers for emergency care claims

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during the pandemic. The legislation would also provide additional stimulus checks and make dependents 17 and older eligible.

Certain VA employees would become eligible for hazard pay due to caring for COVID-19 patients. VA health care providers would also be assured access to paid sick leave if they are exposed to or are diagnosed with the virus.

The legislation also includes several provisions of interest to the broader disability community:

- **Section 811 “Housing for Persons with Disabilities”**—\$200 million would be provided to maintain operations for such housing, for providing supportive services, and for taking other necessary actions to prevent, prepare for, and respond to coronavirus, including actions to self-isolate, quarantine, or to provide other coronavirus infection control services as recommended by the Centers for Disease Control (CDC).
- **Home and Community Based Services**—Medicaid would receive increased federal support and the Secretary for Health and Humans Services (HHS) would be directed to evaluate the implementation and outcomes of these services.
- **Testing Strategies**—HHS would have to update the COVID–19 strategic testing strategy identifying ways in which social distancing efforts, when determined appropriate by public health officials, can be undertaken in a manner that optimizes the health and safety of people and reduces disparities (including disparities related to race, ethnicity, sex, age, disability status, socioeconomic status, and geographic location) in the prevalence of, incidence of, and health outcomes with respect to, COVID–19. Such strategy must include specific plans to ensure accessibility of testing to people with disabilities, older individuals, and individuals with underlying health conditions or weakened immune systems.
- **Data Collection**—CDC would award grants to state, local, and territorial health departments to support the modernization of data collection methods to increase data related to health inequities, such as racial, ethnic, socioeconomic, sex, gender, and disability disparities.
- **Emergency Leave**—leave provisions contained in the previously passage COVID-19 package would be extended to caregivers of seniors or adults with disabilities.
- **Voting Accessibility**—states would be directed to ensure that all absentee ballots and related voting materials in elections for federal office are accessible to individuals with disabilities in a manner that provides the same opportunity for access and participation (including with privacy and independence) as for other voters.

Meanwhile, PVA continues to advocate for issues not included in the House legislation. These issues include extending eligibility for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) program to adult children up to age 26. We are

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also advocating for the [Auto Grant](#) legislation that was introduced earlier this year to be included in a future infrastructure package.

## PVA RESPONDS TO PROPOSED RULE ON VA CAREGIVER PROGRAM

In early March, VA published a proposed rule that would amend and improve VA's comprehensive family caregiver program. In our May 5 response to the proposed rule, PVA applauded VA's proposal to expand the definition of "serious injury" to include serious illnesses but disagreed with VA's plan to redefine "serious injury" to mean any single or combined VA service-connected disability rated at 70 percent or more. This change alone would bounce nearly a third of the current participants out of the program. Other concerns PVA raised are as follows:

- Requiring personal care services to be provided daily, and every time an eligible veteran completes one or more of seven commonly identified activities of daily living. We have concerns about requiring such dependence on a caregiver.
- Requiring in-person personal care services from another person, and without such personal care services, other in-person caregiving arrangements (including respite care or the assistance of a different caregiver) would be required to support the eligible veteran's safety. Such a requirement is a major change from how the current program has functioned.
- Revoking caregivers from the program because VA made an error in determining the caregiver's eligibility. Neither the veteran nor the caregiver should bear the burden for VA's own errors.
- Requiring reassessment for veterans and family caregivers annually to determine their continued eligibility for participation in the program. For most of our members, their conditions will never improve making the annual assessment unnecessary and certainly not a wise use of tax dollars. We recommended VA add a list of serious injuries that do not warrant continued reassessment for purposes of eligibility.

We were also concerned about the absence of language stating that being employed does not exclude either the veteran or the family caregiver from this program. VA routinely states that employment is not used as an exclusionary criterion, but PVA has documented several cases where our members were discharged from the program—by VA error—simply because they were employed.

The lack of a defined appeals process in the current caregiver program has led to inconsistencies in eligibility. We were disappointed that rather than addressing the appeals process in the proposed regulations, VA has chosen to address it through policy. This denies veterans, their caregivers, and other stakeholders an opportunity to provide comment on it.

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Many of these same concerns were noted by the Senate Veterans' Affairs Committee and other military and veterans service organizations. VA must now consider all comments and recommendations submitted before presenting its final proposal to the Office of Management and Budget. If all goes well, VA will look upon our comments favorably when drafting the final rule. We understand that VA is still planning to launch the expanded program in late summer/early fall.

## NEWS ITEMS OF NOTE

- AAE Proposed Rule Comments Filed

On May 8, PVA filed comments in response to VA's proposed rule about the allowance for automobile adaptive equipment. While we are hopeful that the proposed regulations will provide clarity to veterans, as well as to dealers and modifiers, we also have some areas of concern that we addressed in our comments. For individual veterans, we want to ensure that the policy changes have clear and accessible instructions and rules, so veterans understand what is available to them and how to be reimbursed; that full reimbursement occurs for all Schedule equipment (including power steering) on the vehicle whether itemized on a window sticker or invoice or not; that the VA set clear rules for eligibility for repairs and emergency services; and choice of vendor. Our broader concerns include how the Schedule for reimbursement will be managed and updated; how VA will handle veterans who prefer to work with a provider that is not on the list of registered providers for reasons such as having a long relationship with a vendor or geographic convenience; and how VA is effectively reducing the value to a veteran through depreciation, since the proposed five-year standard is a stark departure from current practice.

- Update on Legislation to Improve SAH

As previously reported, H.R. 3504, the Ryan Kules and Paul Benne Specially Adaptive Housing Improvement Act of 2019, cleared the Senate in late March and is awaiting final consideration by the House. Unfortunately, the House is not currently moving legislation that is not directly related to the pandemic or ongoing relief efforts. Thus, the bill is on hold for now, but it has been placed on a list for possible consideration under the chamber's unanimous consent rule. We hope the House will expedite its passage once they begin to address non-COVID-19 legislation.

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- Second Bill Passed to Protect Users of GI Bill Benefits During the Pandemic

At the end of April, H.R. 6322, the “Student Veteran Coronavirus Response Act of 2020,” was signed into law. It strengthens legislation passed in March to ensure student veterans will not see a reduction in their monthly housing allowance because of their schools moving to online instruction due to COVID-19. H.R. 6322 protects work-study allowances, vocational rehabilitation, and GI Bill housing allowance payments in the event of sudden school closures for student veterans and preserves eligibility for students who cannot transition to an online curriculum for the next semester. It also stops the eligibility clock for student veterans and eligible dependents impacted by school closures during emergency situations by allowing VA to extend – by the same amount of time that a student was prevented from attending school due to an emergency – the “use or lose” date for VA education benefits.

- National Disability Institute Launches Financial Resilience Center

The National Disability Institute has set up a [Financial Resilience Center](#) to assist people with disabilities and their families in finding information about programs and resources to help people navigate the economic upheaval brought by the COVID-19 pandemic. Materials include information on stimulus payments, unemployment information, tips for money management, and warnings against scams.

- EEOC Issues Updated COVID-19 Return to Work Guidance

The Equal Employment Opportunity Commission (EEOC) has issued [additional guidance](#) on return to work practices when the COVID-19 restrictions ease. As government restrictions and stay at home orders are modified or lifted, employers can make disability-related inquiries and conduct medical exams if they are job-related and consistent with business needs. If necessary, these inquiries and exams are permitted under the Americans with Disabilities Act to exclude employees with a medical condition that that would pose a direct threat to health or safety. EEOC recommends using guidance from the CDC or other public health authorities to determine whether a threat exists and what screening is appropriate.

- Disability Organizations Press for Additional Guidance on Health Care Rationing

The National Council on Disability, an independent federal agency, issued a [letter](#) to the HHS Secretary urging the department to take additional action to safeguard the civil rights of people with disabilities during the COVID-19 pandemic. The American Association of People with Disabilities issued a [similar letter](#) co-signed by hundreds of civil rights organizations.

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- CMS Announces Independent Commission to Address Safety and Quality in Nursing Homes

The Centers for Medicare & Medicaid Services (CMS) has announced a new independent [Commission](#) that will conduct a comprehensive assessment of the nursing home response to the COVID-19 pandemic. The Commission will provide recommendations to the contractor hired to review and report to CMS to help inform immediate and future responses to COVID-19 in nursing homes. This effort builds upon the agency's [five-part plan](#) unveiled last April to ensure safety and quality in America's nursing homes, as well as recent CMS efforts to combat the spread of COVID-19 within these facilities.

- Legislation to Address Access to the Ballot Announced

This year, multiple primary elections confronted public health concerns as a result of the pandemic. Georgia delayed its primary election by nearly two months. In Illinois, at least 50 polling sites opened late, and hundreds of poll workers backed out due to COVID-19.

The ongoing public health emergency highlights the need to ensure that every state can conduct a safe and reliable election process. Access to vote-by-mail is a critical part of the solution. But currently, only five states conduct statewide vote-by-mail elections. Thirty-three states and the District of Columbia collect ballots by mail or allow “no excuse” absentee voting, in which people can vote absentee for any reason. For the remaining states, a shift to voting by mail may entail logistical and/or legislative complications that could result in delays. Even when vote-by-mail becomes available in every state, many voters will still choose the polls. Voting by mail can pose accessibility challenges for people with disabilities, especially blind, low-vision, or other voters with limited arm and hand dexterity.

One of the bills that may be considered to address these concerns is being introduced by Senator Kamala Harris (D-CA). The “VoteSafe Act of 2020” authorizes a total of \$5 billion to expand vote-by-mail and early voting and to improve the safety of in-person voting during the COVID-19 pandemic. It also requires states to permit no-excuse mail-in absentee voting and to maintain an early voting period of at least 20 days. The measure further provides grants for states to improve the safety, efficiency, and reliability of polling places. Approved uses of funding include ensuring that elections are accessible to voters with disabilities.

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- House Bill Introduced to Expand Transportation Access for People with Disabilities

Representatives Jim Langevin (D-RI), John Katko (R-NY), and Dina Titus (D-NV) have introduced the “Disability Access to Transportation Act,” H.R. 6248, which is bipartisan legislation to expand transportation access for individuals with disabilities. The bill provides \$375,000,00 over five years for the launch of a one-stop paratransit pilot program. The legislation also increases funding for grants to meet transportation needs of older adults and people with disabilities when there are gaps in service and promotes reforms at the Federal Transit Administration to streamline reporting of accessibility complaints.

## HEARINGS, WEBINARS, AND SURVEYS

- The House Appropriations Committee, Subcommittee on Military Construction, Veterans Affairs and Related Agencies will hold a [hearing](#) on Tuesday, May 19 at 12:00 pm ET on VA’s COVID-19 Response. VA Secretary Robert Wilkie is scheduled to testify.
- Throughout May, the Veterans Benefits Administration (VBA) will be hosting several live tele-townhall events. Veterans and beneficiaries can call in to hear the latest information about VBA’s COVID-19 response, Solid Start, Blue Water Navy, and more. Click [here](#) to view the list of upcoming dates and times.
- The Employer Assistance and Resource Network on Disability Inclusion (EARN) presented a [webinar](#) on “The ADA at Work: Considerations for COVID-19,” which is now available for viewing. Topics included the implications of the pandemic on disability-related inquiries, medical examinations, and requirements for reasonable accommodations for telework.
- PVA will hold a webinar in honor of the 30th Anniversary of the Americans with Disabilities Act on July 23 at 2:00 p.m. ET. Information about how to register will be sent at a later date.
- As we prepare for the 30th Anniversary of the Americans with Disabilities on July 26, we need your help. Please complete our survey regarding the accessibility experience of people with disabilities who use wheelchairs. The survey link is available [here](#).