

6

Appropriateness of the Benefits

The Commission was charged with evaluating the “appropriateness” of benefits provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service. This has been interpreted to mean evaluating the benefits currently available to U.S. veterans and ensuring that they overcome, to the maximum extent possible, the impact of disability and meet the needs of disabled veterans. The Commission believes that these benefits should rehabilitate veterans in a dignified manner and facilitate their reintegration into the community while compensating them for their impairments of earning capacity, functional impairments, and reduction in quality of life.

The benefits to achieve these goals currently include:

- disability compensation
- special monthly compensation
- aid and attendance/housebound
- clothing allowance
- automobile and adaptive equipment
- specially adapted housing
- healthcare:
 - fee-basis program
 - beneficiary travel
- insurance
- veterans’ preference
- burial and memorial benefits
- vocational rehabilitation and employment (VR&E)

The issue known as *concurrent receipt* is also examined in this chapter.

I Veterans' Disability Compensation

Disability compensation is a monetary benefit paid monthly to veterans who are disabled by injuries or illnesses incurred during, or aggravated by, military service and who are discharged under conditions other than dishonorable. Such disabilities are commonly described as "service connected" once they have been adjudicated by the Department of Veterans Affairs (VA). The compensation payment varies by degree of disability, which is rated from 0 to 100 percent in 10 percent increments (Table 6.1). The monthly benefit includes an additional payment for the dependents of veterans whose disability rating is 30 percent or more. Disability compensation and all related benefits are exempt from federal and state income taxes. More than 2.6 million veterans received VA disability compensation in 2006 (Table 6.2). It is anticipated that more than \$32 billion will be spent in 2008 on disability compensation for veterans with service-connected disabilities (Table 6.3).

Table 6.1 2007 Compensation Rates for Veterans

RATING (%)	MONTHLY PAYMENT (\$)
10	115
20	225
30	348
40	501
50	712
60	901
70	1,135
80	1,319
90	1,483
100	2,471

SOURCE: Department of Veterans Affairs, *Federal Benefits for Veterans and Dependents: 2007 Edition*. Washington, DC: VA, 16.

The clear intent of disability compensation as expressed in statute is to compensate individuals for the "average impairments of earning capacity" resulting from the disability (38 U.S.C. § 1155 2006). However, the Commission believes that disability compensation should also address the impact of impairment on quality of life. The Institute of Medicine's Committee on Medical Evaluation of Veterans for Disability Compensation reached the same conclusion. The committee wrote,

The purpose of the current veterans' disability compensation program as stated in statute currently is to compensate for average impairment in earning capacity, that is, work disability. This is an unduly restrictive rationale for the program and is inconsistent with current models of disability. The veterans' disability compensation program should compensate for three consequences of service-connected injuries and diseases: work disability, loss of ability to engage in usual life activities other than work, and loss in quality of life.¹

II Appropriateness of Ancillary and Special-Purpose Benefits

This section examines veterans' ancillary and special-purpose benefits as they relate to compensation for service-connected conditions. The section also analyzes special-purpose benefits, such as health care, insurances, and burial allowances, many of which are for veterans who are not service disabled as well. These ancillary benefits are defined as pertaining to, or deriving from, the entitlement of service-connected benefits.² Ancillary benefits are secondary benefits that are considered when evaluating claims for compensation. Eligibility is contingent on the type and severity of disability of the veteran.³

Veterans suffering from service-connected injuries are the primary recipients of ancillary benefits. Table 6.2 illustrates the number of veterans and dependents who received these benefits in fiscal year (FY) 2006 and the monetary value of each benefit. Table 6.3 illustrates the past, present, and projected future numbers of veterans receiving VA disability compensation and the annual cost. Benefits for survivors are discussed separately.

One of the ancillary benefits for which a veteran with severe disabilities may be eligible is additional compensation called "special monthly compensation" (SMC). These payments include aid and attendance, housebound, and clothing allowances, and are described in depth below.

¹ Institute of Medicine, *21st Century*, 4.

² VA, *M21-1MR*, 2A-7.

³ *Ibid.*, 6B-4.

Table 6.2 Benefits Available to Veterans with Service-Connected Disabilities, Number of Recipients, and Cost, Fiscal Year 2006

VETERANS' BENEFIT		NUMBER OF RECIPIENTS	TOTAL COST
Compensation			
	Veterans	2,683,380	\$26,469,578,000
Clothing allowance		84,990	\$54,412,000
Automotive and adaptive equipment			
	Automobile grants	1,317	\$14,246,000
	Adaptive equipment	7,508	\$36,491,000
Specially adapted housing		593	\$25,780,000
Health care			
	SC ^a 10–20%	495,272	\$2,100,000,000
	SC 30–40% disabling	342,023	\$1,600,000,000
	SC 50% or more disabling	768,537	\$8,100,000,000
	Total service-connected veterans	1,605,832	\$11,800,000,000
Life insurance			
● SGLI ^b death payments		4,558	\$989,358,279
Payments due to	● Service member deaths	2,634	\$898,334,722
Payments due to	● Spouse	847	\$80,263,557
Payments due to	● Child deaths	1,077	\$10,760,000
● TSGLI ^c payments		2,603	\$170,425,000
● S-DVI ^d death payments		5,982	\$61,480,766
● VMLI ^e payments		138	\$9,310,871
Veterans' preference ^f			
	Veterans with preference	410,083	n/a
	Disabled veterans	92,642	n/a
	X > 30% disabled veterans	46,727	n/a
	Total veterans	456,254	n/a

^a SC = service connected^b SGLI = Servicemembers Group Life Insurance^c TSGLI = Traumatic SGLI^d S-DVI = Service-Disabled Veterans' Insurance

^e VMLI = Veterans' Mortgage Life Insurance

^f Only represents the usage of preference within the Federal Government (nonpostal FY 2005).

SOURCES: VA. "Summary Volume IV."

<http://www.va.gov/budget/summary/VolumeIVSummaryVolume.pdf>; U.S. Office of Personnel Management. "Report to the Congress: The Employment of Veterans in the Federal Government FY 2005." <http://www.opm.gov/veterans/dvaap/2005/DVAAP-FY2005.pdf>; Berkheimer, Ruth. E-mail to author, 13 July 2007; Berkheimer, Ruth. E-mail to author, 16 July 2007.

Table 6.3 Average Monthly Number of Veterans Receiving VA Disability Compensation and Annual Cost, 2000–2018

FISCAL YEAR	NO. OF VETERANS RECEIVING DISABILITY COMPENSATION	COMPENSATION (\$ IN 000s)
2000	2,300,642	15,489,107
2001	2,310,880	16,528,735
2002	2,356,592	18,546,021
2003	2,444,807	20,796,151
2004	2,518,464	22,322,160
2005	2,600,583	24,445,389
2006	2,683,380	26,469,578
2007	2,777,250	29,603,277
2008	2,882,152	32,681,865
2009	3,012,951	35,953,362
2010	3,121,260	38,209,446
2011	3,216,419	40,857,787
2012	3,305,267	43,445,987
2013	3,389,028	46,016,403
2014	3,470,339	48,609,617
2015	3,549,128	51,226,934
2016	3,625,364	53,860,459
2017	3,698,913	56,510,733
2018	3,773,953	59,291,416

SOURCE: FY 2008 Midsession Review Budget Submission, e-mail from Mark Seastrom to Ray Wilburn, August 1, 2007.

II.1 Special Monthly Compensation (SMC)

VA evaluates and provides SMC to eligible veterans in addition to their 0 to 100 percent combined degree of compensation. To be eligible for this benefit, a veteran must have suffered additional disability specified in the statute as a result of a service-connected disability or be in need of special assistance. The total amount of compensation that veterans receive is calculated at the time their claims are adjudicated by adding the SMC payment to the amount of the schedule compensation rate with the degree of disability. A veteran's SMC payment depends on the nature of the disability. Disabilities fall within subsections of section 1114 of title 38, United States Code, and range from subsection a to subsection s.

There are many possible combinations to calculate a monthly compensation rate. But, as a basic example, if a veteran with a service-connected disability rated at 100 percent were also a below-the-knee amputee, he or she would have a k award and be paid \$2,560 per month. This amount would comprise the FY 2006 100-percent disability compensation rate (\$2,471 per month) and the special monthly compensation for k (\$89 per month) for a total of \$2,560.

SMC differs from other forms of disability compensation in two ways. First, the benefit is associated with noneconomic factors, including personal inconvenience, social inadaptability, and profoundness of disability. Second, VA will consider entitlement to the benefit based on the medical evidence when adjudicating a claim for service connection. (VA considers entitlement to SMC an "inferred issue.") In 2005, 210,148 disabled veterans were receiving SMC awards.⁴

Veterans with catastrophic disabilities and their families face many challenges that make it harder for them to maintain a reasonable standard of living and compete with their peers. SMC adjustments help protect the health and welfare of severely disabled, service-connected veterans and their families. However, after considering the studies conducted by IOM and CNAC and other information, the Commission concluded that there are some instances, such as Aid and Attendance (discussed in the following subsection), in which the level of SMC is inadequate to offset the burden placed on veterans by their disabilities.

Recommendation 6.1

Congress should consider increasing special monthly compensation where appropriate to address the more profound impact on quality of life by the disabilities subject to special monthly compensation and review ancillary benefits to

⁴ C&P Services, *Compensation by SMC*.

determine where additional benefits could improve disabled veterans' quality of life.

II.1.A Aid and Attendance or Housebound

Veterans may be eligible for aid and attendance (A&A) or housebound SMC payments. Under 38 C.F.R. § 3.352(a), the following conditions allow veterans to be considered for regular aid and attendance: (a) they cannot keep themselves ordinarily clean and presentable, (b) they cannot dress and undress themselves, (c) they frequently need adjustment of special prosthetic or orthopedic appliances, which by reason of the particular disability cannot be done without aid, (d) they cannot feed themselves due to the loss of coordination of upper extremities or extreme weakness, (e) they cannot attend to the wants of nature, (f) they have physical or mental issues that prevent them from avoiding the hazards or dangers of daily life.

In determining entitlement to an SMC payment based on the need for aid and attendance, consideration is given to all factors. Accordingly, if a veteran can dress him or herself, but can not attend to the wants of nature, he or she may still be entitled to the higher rate as long as it is determined that he or she is so helpless as to need regular aid and attendance. He or she may then use that money to hire any necessary assistance.⁵

There are three rates for aid and attendance within special monthly compensation. These rates are specified in subsections *l*, *r1*, and *r2*. If the veteran has a single 100-percent schedular-evaluated disability and requires the aid of another person to perform the personal functions required in everyday living, the veteran would be considered for A&A under 38 U.S.C. § 1114 (l). If the veteran is entitled to the maximum rate under either 38 U.S.C. § 1114 (o) or (p) and was in need of regular A&A, the veteran would be considered for A&A under 38 U.S.C. § 1114 (r)(1). If the veteran meets the requirements for *r1* and then clearly establishes the need for supervised daily skilled health care on a continuing basis, the veteran would be considered for a higher A&A benefit under 38 U.S.C. § 1114 (r)(2). These veterans suffer from the most severely disabling conditions and might be bedridden as the result of multiple sclerosis, for example. The rates for *r1* and *r2* are \$6,164 and \$7,070 per month, respectively.

A veteran who is not eligible for aid and attendance might be eligible for housebound care. Under 38 U.S.C. § 1114(s), veterans are eligible for housebound care if they: (a) suffer from service-connected disability, (b) have an

⁵ VA General Counsel, *Ancillary and Special-Purpose Benefits*, 14.

additional service-rated disability or disabilities independently ratable at 60 percent, or (c) are permanently housebound due to a service-connected disability. The amount of compensation available to a single housebound veteran is \$2,766 per month.

The aid and attendance factors are not needs based and reflect the ability to perform functional activities in caring for oneself or managing the surrounding environment. Additionally, the primary focus is on physical impairments and locomotion. Very little emphasis is placed on cognitive (e.g., TBI) or psychological impairments and the needs of those conditions for supervision and management as well as aid and attendance.

Aid and attendance is not extended to the severely injured active duty who are in a medical hold or temporary disability retired list (TDRL) status awaiting discharge but who are in need of a caregiver. Although there are other VA benefits available to the active-duty persons, such as the automobile and housing allowances, aid and attendance is not.

Recommendation 6.2

The amount of payment for aid and attendance should be adjusted to fully pay for the extent of assistance required.

Recommendation 6.3

Extend aid and attendance to severely injured active-duty service members who are in a status pending discharge.

II.2 Clothing Allowance

In 1972, VA was given the authority under Public Law 92-328 to provide a clothing allowance to eligible veterans.⁶ The monetary value of the benefit was initially \$150. During the last 35 years, the clothing allowance benefit has been increased by Congress 33 times to offset inflation. In 2006, VA spent \$54,412,000 on clothing allowances and expects these expenditures to rise to \$61,157,000 for FY 2008.⁷ At this writing, VA is authorized to pay certain service-connected veterans \$662 per year for a clothing allowance.⁸ Veterans accrue this benefit, and are paid yearly on September 1. The benefit is evaluated

⁶ U.S. Congress, "38 U.S.C. § 1162."

⁷ VA, *Budget Summary*, 3A-4.

⁸ VA, "Special Benefits Allowances."

as part of the compensation process and is provided to veterans who use a prosthetic or orthopedic appliance that tends to wear out or tear clothing, or who use prescribed skin medication that causes irreparable damage to outer garments.⁹ A veteran who is hospitalized continues to receive a clothing allowance irrespective of the duration of the hospitalization. A veteran who is incarcerated receives a reduced amount depending on the duration of the incarceration.¹⁰ Essentially, the longer the period of incarceration, the lower the amount of monies provided to veterans for their clothing allowance. The death of a veteran does not terminate the payment of the benefit since it is accrued. In this instance, the allocation of the lump sum payment is payable without pro rata accumulation for any portion of a year in which the veteran died.¹¹

II.3 Automotive and Adaptive Equipment

This benefit is provided to any veteran entitled to compensation under chapter 11 of title 38 and any member of the Armed Forces serving on active duty who has any of the following disabilities, if such disability was the result of an injury or illness incurred or aggravated by military service: (1) loss, or permanent loss of use, of one, or both feet, (2) loss, or permanent loss of use, of one or both hands, and/or (3) permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20° in the better eye.

An individual eligible for this benefit may receive a maximum amount of \$11,000 to purchase one automobile. They may also receive an allowance for the purchase of adaptive equipment, which includes power steering, power brakes, power windows, lifts, power seats, and any other special equipment necessary to assist in the health and safety of the veteran, such as air conditioning and/or other interior modification. Veterans are given adaptive equipment for replacement automobiles. Automobile adaptive equipment may be installed or reimbursed on two vehicles every four years. There can be exceptions to this time limit if there are problems with the vehicle, such as fire or theft. A change in the veteran's clinical condition may also warrant new equipment beyond the two-in-four rule. VA can repair any of the equipment it installs, such as hand controls, or any of the equipment it reimburses for, such as an automatic transmission. If the repair costs become excessive (more than half the cost to replace) on the equipment VA installed, it will replace the part with new equipment and not count

⁹ VA, M21-1MR, 7-3.

¹⁰ Ibid., 7-4.

¹¹ Ibid., 7-6.

this against the veteran's entitlement. Additionally, veterans who do not receive the grant are still entitled to vehicle entry and exiting equipment. This includes lifts and van modifications, but does not include any operational equipment. Finally, a veteran with severe burns or other skin condition that makes them hypersensitive to sunlight may have tinted windows installed. Table 6.4 contains a history of automobile allowance rates.

Table 6.4 Historical Automobile Allowance Rates

1946	1971	1975	1978	1981	1985	1988
\$1,600	\$2,800	\$3,300	\$3,800	\$4,400	\$5,000	\$5,500
1998	2001	2003				
\$8,000	\$9,000	\$11,000				

SOURCES: PL 79-663, PL 91-666, PL 93-538, PL 95-476, PL 97-66, PL 98-543, PL 105-178, PL 107-103, PL 108-183.

In 2006, VA spent \$14,246,000 on automobile allowances and \$36,494,000 on adaptive assistance. VA projects FY 2008 expenditures of \$14,200,000 on automobile allowance and \$38,800,000 for adaptive assistance.¹²

Current law does not extend this benefit to all service-connected veterans that suffer from burn injuries. Unless the burns are so severe as to render the limb without function and veterans are rated as "loss of use," they do not get the automobile grant and in turn cannot receive reimbursement for operational equipment. However, there is a documented need for this benefit for service-connected veterans with severe burns. The treatment of "burn victims take[s] far longer than for other trauma patients—one to two days for every 1 percent of the body burned."¹³ As a result, veterans with severe burns can face years of therapy. In the interim, they must continue to function in society while dealing with the unwanted attention that comes with the disfigurement of severe burns. Unfortunately, the struggle is made more difficult because the alterations needed to their vehicles are often cost prohibitive.

¹²VA, *Budget Summary*, 3A-14.

¹³ Blankenship, "Treating the Severely Wounded."

II.4 Specially Adapted Housing

This benefit assists veterans or service members to adapt a presently owned home or to acquire or construct a home adapted with special features. Specially adapted housing (SAH) agents work in conjunction with the Veterans Service Center and the Veterans Health Administration (VHA) physicians to determine eligibility for an SAH grant and the feasibility of home adaptations.¹⁴ A veteran or an active-duty service member is eligible for SAH when he or she is entitled to compensation for a permanent and total service-connected disability that meets certain criteria.¹⁵ The maximum amount of money that a veteran can receive is \$50,000. A veteran can elect to use \$14,000 of this grant on alterations to a family member's home under the Temporary Residence Assistance Adaptation Program (TRAAP).

The following conditions meet the initial criteria for SAH eligibility:

- loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair;
- blindness in both eyes, having light perception only, combined with the loss or loss of use of one lower extremity;
- loss or loss of use of one lower extremity together with residuals of organic disease or injury, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or
- loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbow.

There are other types of grants that certain service-connected veterans may be entitled to use for housing. The Home Improvement and Structural Alteration grant administered by VHA as a part of home health services is available in the amount of \$4,100 (a) for any service-connected disability, (b) for any disability of a veteran who has a service-connected disability at 50 percent or more, or (c) for the disability of a veteran who is actually in receipt of or entitled to receive disability compensation under the circumstances prescribed in 38 U.S.C. § 1710(a)(2)(C) and is available in the amount of \$1,200 to other veterans entitled to medical services under § 1710(a) (38 U.S.C. § 1717 [a][2] [2007]). This is a one-time benefit.¹⁶

Additionally, some veterans are eligible to receive special housing adaptation (SHA) grants. Specifically, SHA-eligible individuals are those who have blindness

¹⁴ VA, *M21-1MR*, 2A-8.

¹⁵ *Ibid.*, 3-2.

¹⁶ VA, *Federal Benefits for Veterans*, 9.

in both eyes with 5/200 visual acuity or less and/or anatomical loss or loss of use of both hands. The maximum amount is \$10,000. The same eligibility requirements are shared between the \$10,000 SHA grant and the Home Improvement and Structural Alteration grant. Of the SHA grant, \$2,000 can be used to alter a family member's home under TRAAP.

In 2006, VA spent \$25,780,000 on specially adapted housing, and expects these expenditures to rise to \$26,520,000 for FY 2008.¹⁷

In its 2004 publication *Evaluation of VA's Home Loan Guaranty Program*, Systems Flow, Inc. (SFI) concluded in 2004 that SAH is "a successful program that is exceeding its performance standard."¹⁸ The program was well received by the veterans participating in it: 94.3 percent of participating veterans stated that they were satisfied or very satisfied with the grant.¹⁹ However, at the time of the report, only 5.3 percent of eligible disabled veterans surveyed reported that they received information on the program.²⁰ Furthermore, the program failed to account for "the rising cost of construction [for it] is a leading factor as to why the maximum grant amount may not be sufficient in the future."²¹ To remedy this issue, the report recommended that VA "increase the maximum SAH amount based on annual increases in construction costs."²²

Current law does not extend this benefit to all service-connected burn injured veterans. In addition, this benefit does not take into account a veterans' need to relocate or allow his or her family to grow. A severely injured service member may need to temporarily live with a caregiver, but over time may gain more independence and be able to live alone. The TRAAP is a limited allowance capped at \$14,000 given for actual construction, equipment, and installation costs. Plus, it counts against the overall SAH grant. If the TRAAP allowance is used to modify transitional housing, then those funds would not be available for a more permanent residence.

Recommendation 6.4

The automotive and housing adaptation benefit should be modified to cover service-connected veterans who need this assistance and are not currently eligible—for example, severe burn victims.

¹⁷ VA, *Budget Summary*, 3A-14.

¹⁸ Systems Flow, *VA's Home Loan Guaranty*, 10–13.

¹⁹ *Ibid.*, 10–12.

²⁰ *Ibid.*, 10–14.

²¹ *Ibid.*, 10–13.

²² *Ibid.*, 10–13.

Recommendation 6.5

Provisions should be made to accommodate changing life circumstances by allowing a specially adapted housing grant at least twice.

II.5 Health Care

The Veterans Health Administration (VHA) delivers health care to service-connected disabled, poor, and other categories of veterans through its 21 Veterans Integrated Service Networks (VISN) that comprise 156 hospitals, more than 800 community-based outpatient clinics, 136 nursing homes, 43 residential facilities, and 209 Vet Centers. The number of unique patients treated has risen from 3.8 million in FY 2000 to 5.5 million in FY 2006. Of the 631,174 Operation Iraqi Freedom/Operation Enduring Freedom (OIF/OEF) veterans who have left active duty and became eligible for VA since FY 2002, only 184,500 were treated by VA.^{23,24} There are over 7 million healthcare enrollees. The VA medical care and research funding obligation was over \$31.5 billion for FY 2006.²⁵

II.5.A VHA Priority Workload

Veterans are eligible to enroll in VA health care by priority group. These groups are:

1. Veterans with service-connected disabilities rated 50 percent or more disabling; veterans determined by VA to be unemployable due to these conditions
2. Veterans with service-connected disabilities rated 30 percent or 40 percent disabling
3. Veterans who are former prisoners of war; veterans awarded a Purple Heart medal; veterans whose discharge was for a disability that was incurred or aggravated in the line of duty; veterans with service-connected disabilities rated 10 percent or 20 percent disabling; veterans awarded special eligibility classification under 38 U.S.C. § 1151, "benefits for individuals disabled by treatment or vocational rehabilitation"
4. Veterans who are receiving aid and attendance or housebound allowances from VA; or have been determined by VA to be catastrophically disabled

²³ VA, *2006 Performance and Accountability*, 1–2.

²⁴ VHA, *VA Health Care Utilization*, 4.

²⁵ VA, *Organizational Briefing Book*, 3.

5. Non-service-connected veterans and noncompensable service-connected veterans rated 0 percent disabled whose annual income and net worth are below the VA established thresholds; veterans receiving VA pension benefits; veterans eligible for Medicaid programs
6. World War I veterans; Mexican Border Period veterans; compensable 0 percent service-connected veterans; veterans solely seeking care for disorders associated with: exposure to herbicides while serving in Vietnam, exposure to ionizing radiation during atmospheric testing or during the occupation of Hiroshima and Nagasaki, service in the gulf war, illness possibly related to participation in Project 112/SHAD; service in combat in a war after the gulf war or during a period of hostility after November 11, 1998, are eligible for VA health care for 2 years following discharge from military service for combat-related conditions
7. Veterans with income and/or net worth above the VA established threshold and income below the HUD geographic index who agree to pay copays: *Subpriority a*: Noncompensable 0 percent service-connected veterans who were enrolled in the VA health care system on a specified date and who have remained enrolled since that date; *Subpriority c*: Non-service-connected veterans who were enrolled in the VA health care system on a specified date and who have remained enrolled since that date; *Subpriority e*: Noncompensable 0 percent service-connected veterans not included in *subpriority a* above; *Subpriority g*: Non-service-connected veterans not included in *subpriority c* above
8. Veterans with income and/or net worth above the VA established threshold and the HUD geographic index who agree to pay copays: *Subpriority a*: Noncompensable 0 percent service-connected veterans enrolled as of January 16, 2003, and who have remained enrolled since that date; *Subpriority c*: Non-service-connected veterans enrolled as of January 16, 2003 and who have remained enrolled since that date; *Subpriority e*: Noncompensable 0 percent service-connected veterans applying for enrollment after January 16, 2003; *Subpriority g*: Non-service-connected veterans applying for enrollment after January 16, 2003.²⁶

Veterans who would be assigned to priority groups 8e or 8g are not eligible for new enrollment as a result of a restriction that suspended enrolling new high-income veterans (with incomes above \$27,000) who apply for care after January 16, 2003. Veterans enrolled in priority groups 8a or 8c will remain enrolled and eligible for the full range of VA health care benefits.²⁷ Enrollment in VA health care therefore is not automatic for all separating service members. They must first make an application to the nearest VA facility where they will

²⁶ VA, *Enrollment Priority Groups*.

²⁷ *Ibid.*

relocate and have their eligibility determined. OIF/OEF veterans currently have 2 years of open enrollment.

Table 6.5 illustrates the workload distribution for service-connected and non-service-connected users of VA health care by priority group, and the associated cost of that care.

The reliance of service-connected veterans on VA health care increases from 42 percent for those 10–20 percent disabled, to 58 percent for those 30–40 percent disabled, to 83 percent for those 50–100 percent disabled. Overall, 59 percent of service-disabled veterans use VA health care. As might be expected, the cost of care increases with severity of disability from \$4,324 to \$4,678 to \$10,415 for those 10–20 percent, 30–40 percent, and 50–100 percent, respectively. The total cost of \$11.8 billion for health care for service-disabled veterans represents the largest benefit other than disability compensation. In spite of the higher cost per patient among the service-connected population, the majority of VA health care expenditures (57 percent) are on non-service-connected veterans. It is also noteworthy that the service-connected population makes up 33 percent of all patients treated, while the non-service-connected users represent 67 percent. This indicates a reliance on VA by other groups of veterans who are primarily indigent, and perhaps uninsured.

Currently, OIF/OEF veterans are eligible for VA health care for 2 years. Additionally, there is legislative activity to expand health care access for OIF/OEF veterans to 5 years after discharge. Financial stresses will continue to be placed on the system as it has to provide quality long-term care, mental health, and polytrauma rehabilitation to several generations of veterans with varying needs. When veterans are not able to obtain health care because of budget shortfalls and waiting lists then, “such veterans are at high risk for unemployment, homelessness, family violence, crime, alcoholism, and drug abuse, all of which impose an additional human and financial burden on the nation.”²⁸ VA is aware that the growing number of veterans seeking mental health care has highlighted an area in need of improvement. According to VA, there are clinics unable to provide this level of care or that have waiting lists that are making such services virtually inaccessible.

²⁸ Bilmes, *Soldiers Returning*, 13.

TABLE 6.5 VHA Priority Group Workload for FY 2006

PRIORITY GROUP	NUMBER OF ENROLLEES	NUMBER OF PATIENTS	TOTAL SERVICE CONNECTED	COST (\$000s)	MEAN COST	% OF TOTAL PATIENTS	% OF TOTAL COSTS	PATIENTS % OF SERVICE CONNECTED VETERANS
1. SC ^a 50% or more disabling	912,788	768,537	923,701	\$8,100	\$10,515	16	29	83
2. SC 30–40% disabling	522,829	342,023	594,765	\$1,600	\$4,678	7	6	58
3. SC 10–20%	879,965	495,272	1,193,067					
Subtotal SC	2,315,582	1,605,832	2,711,533	\$11,800	\$7,363	33	43	59
3. Non-SC patients in priority group 3	116,098	73,468		\$300	\$3,774	1	1	N/A
4. NSC ^b A&A, ^c housebound, & catastrophic	241,716	177,563		\$3,000	\$17,135	4	11	N/A
5. NSC means tested	2,538,228	1,575,645		\$9,000	\$5,669	32	32	N/A
6. WW I, GW, ^d SC 0% compensable	265,253	134,425		\$300	\$2,418	3	1	N/A
7. > VA means test but < HUD Geo	218,245	168,078		\$600	\$3,690	3	2	N/A
8. > VA means test & > HUD Geo	2,177,314	1,165,789		\$2,800	\$2,393	24	10	N/A
Subtotal NSC	5,556,854	3,294,968		\$16,000	\$4,852	67	57	N/A
Total	7,872,436	4,900,800		\$28,000	\$5,675			

SOURCE: VHA, 2006 Workload Data; Hessling, E-mail to Ray Wilburn.

^a SC = service connected.

^b NSC = nonservice connected.

^c A&A = aid and attendance.

^d GW = gulf war.

II.5.B Fee Basis Program

VA has provided service-connected disabled veterans with contracted care in their communities on a fee basis since 1945. VA is authorized to pay for inpatient, outpatient, prescription, and long-term care in non-VA facilities under 38 U.S.C. § 1703. VA will approve fee-basis care if VA does not provide the necessary level of treatment, or if a VA facility is too far from the veteran's home. For example, fee basis care could be authorized for chiropractic care, maternity care, or dialysis not otherwise available at a VA medical center. A veteran is eligible for inpatient or outpatient treatment on a fee basis when it is for the following:

- a service-connected disability;
- a disability for which the veteran was released from active duty;
- any disability of a veteran who has been rated permanently and totally disabled from a service-connected disability;
- a medical condition aggravating a service-connected condition;
- a disability and is participating in a rehabilitation program under 38 U.S.C., chapter 31;
- is in Alaska, Hawaii, and other U.S. Territories and needs care to prevent the need for hospital admission;
- is being provided a VA regional office observation and examination evaluation;
- is in authorized travel status and needs emergency care;
- is in a VA contract nursing home and needs emergency care; or
- is receiving care at a VA or other government facility on a VA contract and needs emergency treatment that the facility cannot provide.

Necessary outpatient treatment is also provided on a fee basis if a veteran is rated 50 percent or more disabled, needs to complete treatment begun at a VA medical facility, is a Mexican War or World War I veteran, needs aid and attendance, or is housebound. Other eligibility criteria include women who need inpatient care, prisoners of war who need outpatient dental services or who are being treated at an independent VA outpatient clinic and need diagnostic services to determine either eligibility for care or appropriate care to prevent the need for hospital admission.²⁹ In most cases, except urgent care, fee basis must be preauthorized and subject to the capabilities of the medical center so that the veteran does not incur any expenses.

²⁹ VA, *Fee Program*.

Although the Commission did not gather or analyze data on available funds, there appear to be inadequate funds to pay for fee basis care. Currently the Veteran Integrated Service Networks (VISNs) do not receive adequate funding for fee basis services. Therefore, medical providers refuse to service veterans fearing non-payment from VA. Congress should provide adequate dedicated funding to VA for fee basis care.

II.5.C Beneficiary Travel

VA is authorized under 38 USC §111 (g)(1) to pay certain service connected veterans rated 30 percent or greater or receiving VA pension beneficiary travel in order to receive medical care or exams. The reimbursement rate is 11 cents per mile or 17 cents per mile for a repeat Compensation and Pension exam. This rate is subject to a \$3.00 deductible for each one-way trip and is capped at \$18.00 per month.³⁰ This rate was set by Congress in 1978 and has not been increased since.

By comparison, the 2007 General Service Administration automobile mileage reimbursement rate for federal employees is as follows:

- 48.5 cents per mile (if no Government owned vehicle available)
- 28.5 cents per mile (if Government owned vehicle available)
- 12.5 cents per mile (if committed to use Government owned vehicle)
- 30.5 cents per mile motorcycle rate

Although VA recognizes this rate is substantially lower, it claims that paying veterans a higher travel rate would cut into its medical care budget. However, The DAV in 2006 noted that beneficiary travel reimbursements need to be sufficient to encourage disabled veterans to get the care that they need and not delay treatment because of travel expenses.³¹ DAV urged VA to “include a line item in its budget for the cost of increasing veterans’ beneficiary travel reimbursement rates to a more reasonable amount so that it can make the needed adjustment without reduction in funds for direct medical care to sick and disabled veterans.”³²

³⁰ Ibid., 6

³¹ Disabled American Veterans. *Resolution No. 212*.

³² Ibid.

II.6 Insurance

All service members are eligible to participate in Servicemembers Group Life Insurance (SGLI), and coverage up to \$400,000 is available at nominal premiums. Ninety-eight percent of service members elect to participate. The Commission observed that, while 98 percent is a high rate of participation, there is likely to be some number of service members who elect no coverage or too little coverage relative to their insurance needs, and some of those individuals may have dependents who can least afford to be without coverage.

In addition, three insurance programs are available for those with service-connected disabilities. In this section, the following insurance programs for service-connected veterans are discussed: Traumatic Servicemembers' Group Life Insurance (TSGLI), Service-Disabled Veterans' Insurance (SDVI), and Veterans' Mortgage Life Insurance (VMLI).

II.6.A Traumatic Servicemembers' Group Life Insurance

Traumatic Servicemembers Group Life Insurance (TSGLI) is a traumatic injury protection rider under Servicemembers' Group Life Insurance (SGLI) that provides for payment to any member of the uniformed services covered by SGLI who sustains a traumatic injury that results in certain specified severe losses. To be eligible for payment of TSGLI, service members must meet all of the following requirements:

- be insured under SGLI;
- incur a scheduled loss, and that loss must be a direct result of a traumatic injury;
- suffer the traumatic injury prior to midnight of the day that they separate from the uniformed services;
- suffer a scheduled loss within 730 days of the traumatic injury; and
- survive for a period of not less than 7 full days from the date of the traumatic injury.

Every member who has SGLI also has TSGLI effective December 1, 2005, and pays an additional premium of \$1 per month for TSGLI. All service members injured after December 1, 2005, and who have not opted out of SGLI, are eligible for coverage.

Congress directed that TSGLI would be retroactive to October 7, 2001, for members who were injured in OIF/OEF. This means that the member must have been deployed outside the continental United States on orders in support of OEF

or OIF or serving in a geographic location that qualified the service member for the combat zone tax exclusion under the Internal Revenue Service Code. This retroactive directive thus did not apply to those injured within the United States even though their injuries can be as extensive, require the same level of complex care, and incur the same burdens to service members and their families. In 2006, Congress revised the statute to require that injury occur “in theater of operations” for OIF/OEF on or after October 7, 2001, in order to qualify for retroactive TSGLI. However, VA has not yet issued regulations defining the term “theater of operations.”

The April 2007 Independent Review Group (IRG) report recommended that “The Secretary of Defense should review the TSGLI to ensure that coverage is extended to include the full spectrum of traumatic brain injury and posttraumatic stress disorder.”³³ This recommendation was based on the IRG findings that patients with TBI and PTSD were not getting the same level of benefits as other severely injured service members.

One of our government’s fundamental obligations is to provide for the needs of veterans arising out of their service to the Nation, but especially needs related to traumatic injuries from combat and other military service, which is inherently hazardous. With the brain injuries, amputations, and other serious trauma common in today’s Global War on Terror, disabled service members, disabled veterans, and the families of these injured warriors have an array of special needs that are a direct consequence of their serious, and often catastrophic, battlefield injuries. Those who undertake the dangerous task of fighting our country’s enemies should not have to do so at their own risk. They should not have to personally pay the costs to insure themselves against the perils of war and military service because that is unquestionably a part of the cost of war and national defense and therefore a primary government responsibility. The Traumatic Injury Protection now provided to service members as a rider to Servicemembers’ Group Life Insurance plans, for which service members are charged an additional premium, should be provided without cost to the service member.

There have been speculative and anecdotal reports about the use of TSGLI payments for everything from health care to home modifications to luxury items. Assessing the appropriateness of the benefit is difficult at this time, since no study has been conducted among recipients to ascertain how TSGLI payments have actually been spent.

³³ Independent Review Group, *Report*, 65.

Furthermore, neither VA nor DoD provide veterans or their families with financial planning assistance for managing this lump sum payment.

Recommendation 6.6

Eliminate the premium paid by service members for Traumatic Servicemembers' Group Life Insurance.

II.6.B Service-Disabled Veterans' Insurance

Service-Disabled Veterans' Insurance (SDVI) was created in 1951 to provide life insurance to disabled veterans who, because of their service-connected disabilities, would be unable to obtain life insurance on the commercial market or would be required to pay high premiums. A veteran who was discharged under other than dishonorable conditions and who has a service-connected disability, except for which the veteran would be insurable according to the standards of good health established by VA, may apply to VA within 2 years from the date service connection was granted for up to \$10,000 in life insurance coverage. Totally disabled veterans may apply for a waiver of premiums for the base policy and supplemental coverage of up to \$20,000.

Total SDVI policies are valued at \$1.4 billion. However, the rate of participation is only 3.5 percent for all veterans eligible. In 2001, the Systems Flow Inc. (SFI) *Program Evaluation of Benefits for Survivors of Veterans with Service-Connected Disabilities Report* found that the SDVI coverage amounts are not consistent with current individual insurance marketing offerings. The average face amount of life insurance policies purchased in 1999 was \$119,900.³⁴ SFI also found that the program "compares unfavorably to premiums in the private sector for healthy individuals."³⁵ Congress explicitly intended to have SDVI premiums hover close to the private sector's premiums for nondisabled individuals. To remedy the issues, the report details several recommendations for VA to "aggressively promote substantial increases in life insurance coverage for service-disabled veterans and lessen the barriers to coverage."³⁶

SDVI premiums were to be comparable to those commercial insurers charged healthy individuals. At the time of the legislation authorizing this program, 1941 mortality tables were in use, and the statute prescribed that premiums would be based on life expectancy as shown by the standard 1941 mortality tables. Because Congress has not amended this law to require use of modern mortality tables, premiums have become higher than those charged healthy persons.

³⁴ Systems Flow, *Program Evaluation of Benefits*, 4:121.

³⁵ Ibid.

³⁶ Ibid., 4:127.

Thus, the program no longer serves its intended purpose and has lost its effectiveness.

Recommendation 6.7

The maximum amount of coverage should be increased and up-to-date mortality rates should be used to calculate premiums for Service-Disabled Veterans' Insurance.

II.6.C Veterans' Mortgage Life Insurance

VMLI was authorized in 1971³⁷ to provide mortgage insurance to severely disabled veterans who would normally be unable to acquire insurance from private organizations. This benefit aims to compliment the SDVI by providing service-connected disabled veterans with the ability to provide for their beneficiaries' financial security. The benefit "provides up to \$90,000 in mortgage life insurance to recipients of VA's specially adapted housing grant to lessen the financial burden of surviving family members."³⁸

VMLI is available to veterans who receive a specially adapted housing grant. The premium a veteran must pay is derived from his or her age, the outstanding mortgage balance, and the remaining term of the mortgage. Termination of this benefit occurs when the veteran reaches his or her 70th birthday, or when the mortgage is paid in full, or ownership of the property is terminated, or the veteran requests a cancellation. This program has provided disabled veterans with the opportunity to care for their families and their own financial needs while securing appropriate housing.

The 2001 SFI evaluation of survivor benefits also evaluated the SDVI program. SFI concluded that it was basically meeting the expectations of Congress that it be available, affordable, and well received by the veterans participating in it. SFI found that, in terms of availability and affordability, the program "pays a premium cost that is significantly lower than the typical costs for a healthy individual in the private sector."³⁹ The participation rate was 65 percent.⁴⁰ Over 70 percent of VMLI participants reported that they were either satisfied or very satisfied with the program. Although the report is favorable on VMLI, SFI found that the program failed to cover significant mortgage amounts.

³⁷ Ibid., 4:141.

³⁸ Ibid., 9.

³⁹ Ibid., 4:59, section 2.

⁴⁰ Ibid., 59 section 2.

VMLI coverage also does not include service members of the Armed Forces who have received VA housing modification grants for severely disabling conditions. An expansion of this benefit would allow those on active duty to maintain the same level of coverage as veterans who have already transitioned.

Recommendation 6.8

Expand eligibility for the Veterans' Mortgage Life Insurance to include service members of the Armed Forces who have received housing modification grant assistance from VA for severely disabling conditions.

II.7 Veterans' Preference for Federal Employment

The Federal Government, since the end of the Civil War, has attempted to alleviate the economic cost associated with military service by providing favorable competitive positions within government employment to veterans.⁴¹ All federal jobs with the exception of the Senior Executive Service are open to preference.⁴²

According to the Office of Personnel Management (OPM), for entitlement to preference, a veteran must meet the eligibility requirements in 5 U.S.C. § 2108:

- The veteran must have received an honorable or general discharge.
- Military retirees at the rank of major, lieutenant commander, or higher are not eligible for preference unless they are disabled veterans.
- Guard and Reserve active duty for training purposes does not qualify for preference.

Preference is given to wartime or campaign veterans and certain survivors on a 5- and 10-point basis.

II.7.A 5-Point Preference

Five points are added to the passing examination score of a veteran who served

- during the period December 7, 1941, to July 1, 1955; or
- for more than 180 consecutive days, any part of which occurred after January 31, 1955, and before October 15, 1976; or

⁴¹ Office of Personnel Management, "Vets Info Guide."

⁴² Ibid.

- for more than 180 consecutive days, any part of which occurred during the period beginning September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last day of OIF; or during the gulf war from August 2, 1990, through January 2, 1992; or
- in a campaign or expedition for which a campaign medal has been authorized, including El Salvador, Grenada, Haiti, Lebanon, Panama, Somalia, Southwest Asia, Bosnia, and the Global War on Terrorism.

Gulf war veterans and those with the appropriate medals who enlisted after September 7, 1980, or entered active duty on or after October 14, 1982, must have served continuously for 24 months, or for the full period called or ordered to active duty to be eligible. The service requirement does not apply to veterans with compensable service-connected disabilities, or to veterans separated for disability in the line of duty, or for hardship.

II.7.B 10-Point Preference

Ten points are added to the passing examination score of a veteran who served at any time who

- has a present service-connected disability, or
- is receiving compensation, disability retirement benefits, or pension from the military or VA.
- Purple Heart recipients also qualify as disabled veterans.

The names of 10-point preference eligible veterans or family members, 5-point preference veterans, and nonveterans are listed in order of their numerical ratings. Entitlement to veterans' preference does not guarantee a job. There are many ways an agency can fill a vacancy other than by appointment from a list of certified applicants.⁴³ OPM has reported that veterans are currently holding 25 percent of all federal jobs.⁴⁴

II.8 Burial and Memorial Benefits

All veterans, with certain exceptions, discharged from active duty under other than dishonorable conditions and service members who die on active duty may be eligible for burial in a VA National Cemetery. Burial includes the gravesite, grave liner, opening and closing of the grave, a headstone or marker, and perpetual care. A funeral service includes an American flag and military honors.

⁴³ Office of Personnel Management, *Veterans Preference*.

⁴⁴ Office of Personnel Management, *Veterans Continue Entering Federal Employment*.

A claimant can be almost anyone if they paid for a veteran's burial or funeral in a private cemetery. In addition, the expenses were paid for a veteran who: (1) was discharged under conditions other than dishonorable; (2) died because of a service-related disability; (3) was receiving VA pension or compensation at the time of death; (4) was entitled to receive VA pension or compensation, but decided not to reduce his or her military retirement or disability pay; or (5) died in a VA hospital, nursing home under VA contract, or while in an approved state nursing home.⁴⁵

The following benefits are available to claimants: funeral allowance, burial plot allowance (\$300), transportation allowance (variable amount), a U.S. flag, a headstone or marker, a Presidential Memorial Certificate (if requested by the veteran's next of kin), and burial in a VA National Cemetery.⁴⁶ If the veteran dies from a service-connected disability, then the claimant is eligible to receive \$2,000 to offset the expenses of a funeral.⁴⁷

The headstone is provided without charge. This includes the expense of purchasing the appropriate headstone, engraving it, and sending it to any cemetery. If the claimant decides to bury the veteran in a private cemetery, the cost of placing the headstone will be borne by the claimant. However, a monetary benefit in lieu of a headstone or marker is available.

In 2006, VA spent \$141 million for the burial of 104,900 veterans, maintaining 2,922,180 graves, buying 344,900 headstones, and sending out 384,300 Presidential Memorial Certificates. VA expects these expenditures to rise to \$178,910,000 for FY 2008.

III Vocational Rehabilitation and Employment

The mission of the Vocational Rehabilitation and Employment (VR&E) Service is "to enable veterans with service-connected disabilities and employment handicaps to obtain and maintain suitable employment. When the severity of disability prohibits a veteran from maintaining suitable employment, VR&E assists them to achieve maximum independence in daily living."⁴⁸ Chapter 31 of 38 U.S.C. authorizes the VR&E program.

⁴⁵ VA, "Burial and Plot-Interment Allowances."

⁴⁶ New York State, "Burial Benefits."

⁴⁷ Garson, *Civil Service Reform Act*.

⁴⁸ Veterans Benefits Administration, *Annual Benefits*, 86.

The numbers of applicants to and participants in VR&E have risen significantly during the past 15 years, but the number of individuals who have been rehabilitated has remained constant. The number of applicants increased by 73 percent between FY 1992 and FY 2003 (from 37,829 to 65,298), and the number of participants increased by 67 percent during that period (from 58,155 to 97,158). Yet the number of individuals rehabilitated (as measured by obtaining a job or achieving independent living) has averaged only about 10,000 per year.⁴⁹

Table 6.6 shows statistics on VR&E applicants, participants, rehabilitated persons, and related data for FY 2006. Among participants that year, the majority (40,127) were gulf war era veterans.⁵⁰ Participants' most common age groups were between 30-39 years for males (10,037) and females (4,591).⁵¹ In descending order, the three most common percentage disability ratings for participants were 30 percent, 40 percent, and 20 percent.⁵²

Definitions for eligibility and entitlement are discussed in section III.2.A below.

Table 6.5 VR&E Activities, 2006

STATUS	TOTAL
Applicants	57,856
Denied eligibility	3,415
Denied entitlement	6,884
Entitled to services	36,513
Participants (subsistence recipients)	52,982
*Active cases	90,767
Rehabilitated (9,115 employed, 2,947 living independently)	12,062

SOURCE: Veterans Benefits Administration, Annual Benefits Report Fiscal Year 2006.

Washington, DC: VBA, 2007, unpublished; VA Office of Policy and Program Management.

*VBA Technical Review on the Veterans' Disability Benefits Commission Issue Paper.

Washington, DC: VA, 2007. 2.

⁴⁹ 2004 and 2005 Veterans Benefits Administration Annual Benefits reports

⁵⁰ Veterans Benefits Administration, *Annual Benefits*, 89.

⁵¹ *Ibid.*, 93.

⁵² *Ibid.*, 91.

III.1 VR&E History

The War Risk Insurance Act of 1914 was the precursor of vocational rehabilitation initiatives (Pub. Law 63-193, 38 Stat. 711 [1914]). In 1917, the War Risk Insurance Act Amendments provided for war veterans' rehabilitation and vocational training in cases of dismemberment, injuries to sight or hearing, and other injuries resulting in permanent disability (Pub. Law 65-90, 40 Stat. 398, 407. [1917]). VA's vocational rehabilitation programs further evolved after World War II, the Korean War, and the Vietnam War.

Since the mid-1980s, the organization and field structure of VR&E changed several times. Since 2000, these changes have been made to emphasize employment rather than education and training. Although education and training are significant components to rehabilitation, they are not the final outcome. Veterans who obtain degrees but not jobs, have not fulfilled their potential. Therefore, by highlighting employment, VA hopes to increase the number of veterans who find meaningful careers.

III.2 VR&E Program Description

VR&E is an integral part of the VA compensation package. It can be pivotal to helping separating service members transition into the civilian work force. During the Transition Assistance Program (TAP) or Disabled TAP (DTAP) briefings, separating service members are informed about VR&E.

III.2.A Eligibility and Participation

There are several requirements that individuals must meet to become eligible for participation in VR&E. First, active-duty service members awaiting discharge due to a disability and veterans who have a compensable disability incurred after September 15, 1940, are eligible to apply for VR&E for up to 12 years from the date when VA granted service connection. Entitlement is established if the veteran is rated at 20 percent or more with an employment handicap or is rated at 10 percent with a serious employment handicap. As defined by VR&E, an employment handicap is an impairment of the individual veteran's ability to prepare for, obtain, or retain employment consistent with his or her abilities, aptitudes, and interests. A vocational rehabilitation counselor/counseling psychologist (VRC/CP) makes the entitlement determination based on a comprehensive evaluation, which includes assessments of the veteran's interests and abilities and the extent of impairment.⁵³ A veteran can be found eligible and entitled but still be denied services if the counselor determines that rehabilitation

⁵³ VR&E Task Force, *Report to the Secretary*, 45–46.

is unachievable or unnecessary. If the veteran is granted services, the VRC/CP and the veteran develop a plan that specifies an employment or independent-living goal and outlines the services and resources needed to achieve it. VR&E has five established tracks to recovery, as illustrated in Table 6.6.

If a veteran is not entitled to VR&E services, the VRC/CP will refer the veteran to other resources, such as state vocational rehabilitation programs, the Department of Labor (DOL), small business advisors, Internet-based resources, student financial aid information, or a combination thereof. Although VR&E does not train veterans to serve as volunteers, many severely injured veterans—such as those with TBI who are unemployable—have the potential to act as volunteers given the training and assistance to adjust to new environments and activities.

Age is not a factor in determining eligibility or entitlement to VR&E services. Table 6.7 illustrates the age distribution of male participants in VR&E in FY 2005.⁵⁴ More than 1,000 veterans over age 60 participated in the program that year. According to the *Older Americans Update 2006*, the percentage of Americans 65 years and older in the workforce has increased. This trend is not merely due to financial necessity. Older Americans today are more functional now than in the past. They desire social contact, intellectual challenge, and the sense of worth that comes from working.⁵⁵ Employment serves many purposes at any age.

⁵⁴ Veterans Benefits Administration, *Annual Benefits*, 88.

⁵⁵ Forum on Aging-Related Statistics, *Older Americans Update 2006*, 18–19.

Table 6.6 VR&E Five Tracks to Employment

REEMPLOYMENT	RAPID ACCESS	LONG TERM	INDEPENDENT LIVING	SELF-EMPLOYMENT
Return to former civilian job	DOL Realifelines	On-the-job training	In-home assessment	No traditional employment
Uniformed Services Employment and Reemployment Rights Act (USERRA), 1994	Army Material Command	Apprenticeships	Assistive technology	Flexible schedule
	DOD support programs	Internships	Independent-living skills training	Accommodating work environment
	VA Coming Home to Work	Job shadowing	Community support programs	Funding for start-up supplies, etc.
	Military Severely Injured Center	Higher education (tuition, books, etc.)	Referrals: medical, dental, eye, etc.	Assistive technology
	Helmets to Hardhats			
	Private-sector initiatives			

SOURCE: Vocational Rehabilitation and Employment Task Force. Report to the Secretary of Veterans Affairs: The Vocational Rehabilitation and Employment Program for the 21st Century Veteran, Washington, DC: VA, 2004, 45–46.

Table 6.7 Age Distribution of Male Participants in VR&E, FY 2006

AGE GROUP (YEARS)	NO. PARTICIPATING IN VR&E
22-29	8,366
30-39	10,037
40-44	7,751
45-49	6,749
55-59	5,914
≥ 60	3,907

SOURCE: Veterans Benefits Administration. Annual Benefits Report Fiscal Year 2006. Washington, DC: VA, 2006, unpublished.

III.2.B Services

VR&E services include

- evaluation to determine abilities, skills, interests, and needs;
- vocational counseling and rehabilitation planning;
- job-seeking services, resume development, and work readiness assistance;
- assistance finding and keeping a job, including special employer incentives;
- on-the-job training, apprenticeships, and nonpaid work experiences;
- postsecondary training at a college or a vocational, technical, or business school;
- supportive services, including case management, counseling, and referral;
- self-employment assistance; and
- independent living services.

III.3 VR&E Program Reviews and Evaluations

The Commission reviewed the following VR&E evaluations:

- The Congressional Commission on Servicemembers and Veterans Transition Assistance, completed in January 1999
- The Vocational Rehabilitation and Employment Program for the 21st Century Veteran, completed in March 2004
- VBA's Outcome-Based Assessment of the VR&E Chapter 31 Program, completed in June 2005 by independent auditor Dr. David Dean
- GAO Report: VA Should Improve Its Management of Individual Unemployability (IU) Benefits by Strengthening Criteria, Guidance, and Procedures, completed in May 2006
- GAO Report: Vocational Rehabilitation: VA Has Opportunities to Improve Services, but Faces Significant Challenges, completed in April 2005
- President's Commission on Care for America's Returning Wounded Warriors, completed in July 2007
- Veterans' Disability Benefits Commission Site Visit Final Report, completed in October 2006

According to these sources, VR&E has made significant steps toward improving outcomes, yet VA could undertake new initiatives to further improve the program.

A number of findings and recommendations in these reports resonated with the Commission, and they are summarized below.

III.3.A VA Task Force on VR&E

The 2004 VA Task Force on Vocational Rehabilitation and Employment conducted a comprehensive review of the program and compiled 110 recommendations. Among them, the Task Force cited:

- Limited data and analysis to effectively manage the program
- Low success rates and a high attrition rate of program participants
- Poor planning and implementation of improvement projects
- Need for a more aggressive and proactive approach to serving veterans with serious employment handicaps
- Lack of comprehensive rehabilitative services

The recommendations made by the Task Force stem from two objectives: first, VR&E should place priority on disabled veterans who have the most serious disabilities that impact quality of life and employment; and second, the system should eliminate the need for service connection as a prerequisite for receiving VR&E services. The second objective would allow as many disabled veterans as possible to receive services. This would be especially valuable to transitioning service members who are found unfit for duty and to veterans who are 50 percent disabled and receiving special monthly compensation for the loss of a limb or loss of use of a limb.⁵⁶ The Task Force also recommended that service members found unfit for duty and medically discharged from the military be automatically entitled to VR&E services so that they can make informed choices about their future.⁵⁷ In addition, the Task Force recommended the removal of the time limit for applying for VR&E services so that any veteran could seek VR&E counseling at any time.⁵⁸ A significant number of veterans have never filed a disability claim but would benefit from educational or vocational counseling.⁵⁹

III.3.B GAO Reports

In 2005, GAO reported on VR&E operations and the Task Force report. GAO generally agreed with the Task Force's three key findings, which were the following:

⁵⁶ VR&E Task Force, *Report to the Secretary*, 81.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*, 80.

1. VR&E has not been a VA priority in returning disabled veterans to the workforce.
2. VR&E has a limited capacity to manage its growing workload.
3. VR&E must be redesigned for the modern employment environment.

GAO questioned the validity of VA's practice of basing disability decisions exclusively on medical conditions.⁶⁰ Medical conditions alone are generally poor predictors of work incapacity, because advances in prosthetics and assistive technologies enable many people to compensate for certain impairments in the workplace. In addition, GAO supported the Task Force's finding that, "VR&E should provide more complete vocational assessments to assist in disability and vocational decisions...specifically, perform a functional capacity evaluation that would identify what work a veteran could do in the paid economy despite his or her disabilities."⁶¹ GAO further saw this as a valuable role for VR&E in assisting with Individual Unemployability (IU) determinations. (No such assessment is currently required or authorized.) However, before veterans are deemed unemployable, GAO believes that VR&E counselors who are experts in this area should assess that there are no other services that could benefit these veterans in their ability to sustain gainful employment. As of FY 2005, more than 219,000 veterans were collecting IU,⁶² but VR&E had evaluated only 495 of those cases.⁶³

III.3.C President's Commission on Care for America's Returning Wounded Warriors

The President's Commission on Care for America's Returning Wounded Warriors presented its six recommendations to the President in July 2007, which included two suggestions for encouraging the completion of VR&E training. The first action step would "allow veterans to suspend training for a time or attend part-time (for up to 72-months), with approval."⁶⁴ The second suggestion calls for VA to "pay a bonus of 10 percent of annual transition pay as described by the commission for completing the first and second years of training and a 5 percent [bonus] for completing the third year,"⁶⁵ amounting to a potential 25 percent bonus in total.

⁶⁰ GAO, *VA Should Improve*, 11.

⁶¹ *Ibid.*, 12.

⁶² *Ibid.*, 10.

⁶³ Steier, *Vocational Rehabilitation*.

⁶⁴ America's Returning Wounded, *Report*, 7.

⁶⁵ *Ibid.*

III.4 VR&E Staffing Issues

VA's performance goal is that each counselor or case manager have no more than 125 cases at a time. As of August 2006, however, the 621 VR&E case managers were managing an average of 146 veterans.⁶⁶

The Commission found that specialists employed in the DOL Disabled Veterans' Outreach Program (DVOP) carry an average case load of 50 veterans. The states' Departments of Rehabilitation Services suggest that an average caseload be between 80 and 100 people with disabilities actively seeking employment.⁶⁷ The Army Wounded Warrior program has assigned one family management specialist a caseload of 40 service members to best maximize rehabilitation and transition capabilities.⁶⁸ The VR&E Task Force recommended that VBA add more than 200 new employees to the workforce.

III.5 Satisfaction Reporting

VR&E does not conduct formal customer-satisfaction surveys of employers to assess the services rendered during the rehabilitation process. Therefore, feedback was solicited from the Disabled American Veterans (DAV), which is a major participant in the on-the-job training program to train their new national service officers (NSO). DAV described its members' experiences with VR&E as very successful and a great tool for training new NSOs.⁶⁹ However, DAV also saw the need for VR&E case workers to follow-up with participants on a regular basis, especially when participants are struggling and at risk of failure. Case workers tended not to intercede except when veterans needed specialized equipment. DAV also suggested that satisfaction surveys be conducted to obtain veterans' feedback on the usefulness of the program.

Additionally, the Commission itself tried, for over eight months, to create an opportunity for any veteran interested in a Nonpaid Work Experience Program placement to join the Commission's staff. The process was time consuming, confusing (with multiple contacts to four different VR&E staff members within the central office and the regional offices, and fraught with misinformation). The process produced results only after a veteran interested in interning with the Commission came forward, and after several more weeks of phone calls were made to facilitate the process. The veteran unfortunately had to leave the internship when he could no longer afford the out-of-pocket expense of

⁶⁶ Policy and Program Management, *VBA Technical Review*, 2.

⁶⁷ Garrick, *Site Visit Summary*.

⁶⁸ Carstensen, Veterans' Disability Benefits Commission.

⁶⁹ Austin, Veterans' Disability Benefits Commission.

participating. In this case, increased contact with a VR&E counselor and a review of the plan might have facilitated a more successful outcome.

III.6 Findings

The mission of VR&E is to help veterans with service-connected disabilities to prepare for, find, and maintain suitable jobs. For veterans with service-connected disabilities so severe that they cannot immediately consider work, VR&E offers services to improve veterans' abilities to live as independently as possible. Repeated efforts at program reform throughout the years have met with varying degrees of success.

In considering whether age should be a factor for VR&E, there was evidence that older Americans are involved in competitive employment. Therefore, older, employment-seeking veterans may still need vocational rehabilitation. There is no evidence to support an age limitation.

The VR&E program needs additional case managers to achieve its performance goal of 125 program participants for each case manager.

The Commission agrees with GAO's conclusion that VR&E should screen IU claimants for employability.

The Commission largely agrees with the VR&E Task Force's recommendation to expand eligibility for VR&E counseling to all service-disabled veterans seeking suitable employment and to make any service member found unfit for duty and medically separated from the military automatically entitled to VR&E.⁷⁰ The Task Force also found that all service-disabled veterans should be able to receive VR&E counseling services to help them identify career paths and further determine their eligibility and entitlement to VR&E services.⁷¹

VR&E needs to improve its process of defining, tracking, and reporting on participants, which is confusing and inconclusive in its current state. Intended program outcomes need to be measured beyond 60 days to ensure long-term success among veterans with service-connected disabilities. Additionally, employers and veterans should be surveyed to ascertain customer satisfaction and understand gaps in the program.

⁷⁰ VR&E Task Force, *Report to the Secretary*, 81.

⁷¹ *Ibid.*, 96.

The Commission believes that the goal of disability benefits as expressed in Guiding Principle Two, is not being met. In spite of the studies done and recommendations made in recent years, VR&E is not accomplishing its primary goal. The Commission believes that recent studies have provided the necessary analysis and that the VA possesses the necessary expertise to remedy this failure. Simply put, VA must develop specific plans and Congress must provide the resources to quickly elevate the performance of VR&E.

Based on these finding, the Commission makes the following recommendations:

Recommendation 6.9

Access to vocational rehabilitation should be expanded to all medically separated service members.

Recommendation 6.10

All service disabled veterans should have access to vocational rehabilitation and employment counseling services.

Recommendation 6.11

All applicants for Individual Unemployability should be screened for employability by vocational rehabilitation and employment counselors.

Recommendation 6.12

The administration of the Vocational Rehabilitation and Employment Program should be enhanced by increased staffing and resources, tracking employment success beyond 60 days, and conducting satisfaction surveys of participants and employers.

Recommendation 6.13

VA should explore incentives that would encourage disabled veterans to complete their rehabilitation plan.

IV Concurrent Receipt

IV.1 Issue

In the context of veterans' benefits, the term *concurrent receipt* refers to the simultaneous receipt of military retirement benefits from DoD and disability compensation benefits from VA. Concurrent receipt was banned by statute from 1890 to 1999 based on the logic that to receive both payments would mean paying twice for the same military service.

Disability compensation is designed to compensate individuals for the "average impairments of earning capacity" resulting from the disability (38 U.S.C. § 1155 [2006]). Military longevity retirement benefits, on the other hand, are granted to service members based on time served and generally require a minimum of 20 years in service. Alternatively, if an individual is forced to leave the service because he or she is found unfit for duty as a result of a service-connected disability, the person may be eligible to receive military *disability* retirement benefits or separation pay, depending on his or her length of service and disability rating. Military disability retirement benefits are distinct from VA disability compensation.

The historical ban on concurrent receipt required military retirees who were also eligible for VA disability compensation to offset, or reduce, part of their military retirement benefit payments and all of their separation pay equal to the amount of money they receive in VA disability compensation. In 2002, this offset amounted to a \$3.6 billion savings for DoD.⁷²

Although disability compensation has been offered to injured service members since colonial times, the United States did not introduce military longevity retirement benefits until 1861. The first legislation prohibiting concurrent receipt was enacted in 1890 with the reasoning that military longevity retirement benefits "[are] intended to be [compensation] in full for all military services" (21 Cong. Rec. 8510-8511 [1890]). Fifty years later, Congress enacted legislation that allowed retirees to waive a portion of their military longevity retirement benefits to receive VA disability compensation. Many military retirees who qualify for disability compensation choose to receive it because it is tax free and because electing it makes veterans eligible for other VA services and benefits, including priority care in the VA health care system.

⁷² Dye, *Prohibition on Concurrent Receipt*, 6.

Since 1999, Congress has moved towards allowing concurrent receipt, primarily through the implementation of three new benefits. The first, Special Compensation for Severely Disabled Military Retirees (SDMP), was created for veterans with at least 20 years of military service and a service-connected disability rated at 70 percent or higher and who applied for the benefit within 4 years of discharge. Congress specified that SDMP, which was in effect from 1999 to 2003, was “not retirement pay,” and therefore could not be offset by VA disability compensation (The National Defense Authorization Act for Fiscal Year 2000. Pub. L. No. 106-65, § 658, 113 Stat. 518, 1999). The benefit (paid by DoD) ranged from \$100 to \$300 per month, depending on the individual’s disability rating. In 2002, Congress lowered the threshold for SDMP eligibility from a 70 percent disability rating to 60 percent.⁷³

In another move toward concurrent receipt for disabled veterans, Congress created a tax-free compensation in 2002 called Combat-Related Special Compensation (CRSC). Currently, CRSC grants full concurrent receipt to any veteran with 20 years or more on active duty and rated from 10 percent through 100 percent, regardless of Purple Heart status.

Further, to enable qualified disabled military retirees to receive both their full military retirement pay and their VA disability compensation, Congress in 2003 added provisions that have come to be known as Concurrent Retirement and Disability Pay (CRDP) (*The National Defense Authorization Act for Fiscal Year 2004*. Pub. L. No. 108-136, § 641, 117 Stat. 1392, 2003). Paid by DoD, CRDP incorporated SDMP and was designed to be phased in over 10 years. In the first year, the veteran’s monthly CRDP payment was equivalent to the amount specified by the veteran’s disability rating. In the second year, the CRDP payment was increased by 10 percent of the amount of the veteran’s military retirement pay that had been offset (reduced) by VA compensation. In each succeeding year, the CRDP payment was and will be increased by 10 percent of the offset. By this method, qualified retirees will receive their full military retirement pay and disability compensation by 2014.

The Temporary Early Retirement Authority (TERA) program in the 1990s allowed mostly officers to retire early on reduced retirement. TERA retirees are those who retired from DoD who had from at least 15 years but less fewer than 20 years of service. These individuals are eligible for CRDP at a reduced rate based on the number of years they had served when they retired. If they worked as a teacher or police officer immediately after retiring, they could add enough years to receive a regular 20-year retirement from DoD.

⁷³ Ibid., 8.

Congress eliminated the 10-year CDRP phase-in period in 2004 for veterans with disability ratings of 100 percent, granting those individuals full and immediate concurrent receipt. Finally, in 2006, Congress reduced the phase-in period to 5 years for those veterans who qualify for Individual Unemployability (IU) and therefore receive disability compensation at the 100 percent rating level (*The National Defense Authorization Act for Fiscal Year 2004*, Pub. L. No. 108-136, § 641, 117 Stat. 1392, 2003).

The arguments surrounding veterans' concurrent receipt concern what level of disability and what length of service should permit concurrent receipt to a military retiree or a service member whose career is shortened due to disability. Those in favor of concurrent receipt argue that DoD retirement benefits (and separation pay) and VA disability compensation have different stated purposes; therefore, they do not represent dual compensation. These proponents state that DoD retirement benefits and separation pay are disbursed to compensate veterans for their years of service to the country, while VA disability compensation is paid to help offset the adverse effects of a service-connected injury or illness on the veteran's ability to earn a living. By contrast, those opposed to concurrent receipt argue that retirement benefits and disability compensation represent duplicate payments for the same period of service. These opponents further argue that the cost of such duplicate payments is too high for the military and would not lead to any discernable increase in recruitment or retention rates.

At present, concurrent receipt is available to retirees who are receiving military retirement benefits based on 20 or more years of service and who have a VA disability rating of at least 50 percent. After waiving the equivalent part of their retirement pay to receive the disability benefits, these retirees may be qualified for both CRDP and CRSC. However, retirees who are eligible for payments from both programs may receive payments from only one of them, which must be selected annually.

Under current law, so-called Chapter 61 retirees are not eligible for concurrent receipt. Chapter 61 individuals are veterans whose service-connected disabilities forced them to retire from the military before they completed 20 years of service. The military disability retirement benefits of Chapter 61 retirees are payment for a reduced quality of life, loss of function, and decreased future earnings.

IV.2 Findings

The Commission finds that the purposes of military retirement programs and VA compensation programs are distinct, so one cannot be treated as a substitute for

the other. The Commission also finds that Chapter 61 disability retirees and separations should be eligible for concurrent receipt.

The Commission is particularly concerned about disabled junior enlisted service members. Given that many Commissioners served in the infantry, they know that the majority of severely injured service members are younger than age 30. The Commission is also concerned about service members who receive only a lump sum disability severance payment because their disabilities have been evaluated as less than 30 percent by the services, particularly the Army. Moreover, that lump sum payment is recouped by VA as though it were a disability payment.

The Commission concludes that all retirees and those separated due to disability should receive DoD retirement or separation pay as well as VA disability payments. Because of disability and a shortened military career, those separated or retired under Chapter 61, those with combat disabilities, and those with more severe disabilities should be given priority for concurrent receipt.

Recommendation 6.14

Congress should eliminate the ban on concurrent receipt for all military retirees and for all service members who separated from the military because of service-connected disabilities. In the future, priority should be given to veterans who separated or retired from the military under chapter 61 with

- **fewer than 20 years service and a service-connected disability rating greater than 50 percent, or**
- **disability as a result of combat.**

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