

A photograph of several American flags flying on a flagpole. The flags are partially obscured by vertical metal poles. The background is a soft-focus green, suggesting an outdoor setting. The text is overlaid on the top right and bottom center of the image.

Office of Senator Blumenthal

April 24, 2020

Veterans Priorities to Combat Coronavirus

Expanding Access to Department of Veterans Affairs Benefits

Congress originally intended to provide benefits and services to nearly all veterans. All servicemembers returning from World War II were initially eligible for benefits unless they were discharged for severe misconduct. But over time, the Department of Veterans Affairs (VA) has more broadly excluded servicemembers from benefits¹, and not every veteran is automatically entitled to VA care. Instead, veterans must meet eligibility requirements in order to qualify for care, and all qualifying veterans are guaranteed a basic medical benefits package.

However, as a result of the Department's overly broad interpretation of who is excluded from benefits, many of those who most need care are ineligible to receive it. During this pandemic, it is vital that as many people as possible have access to healthcare. For all veterans, that should mean access to VA facilities and community care. Congress should pass legislation to temporarily allow the following groups to receive testing and treatment for COVID-19, as well as mental health care, at VA facilities. Where VA facilities lack capacity, community care should be covered.

The following groups should be entitled to VA care during the coronavirus pandemic:

- All veterans with a DD-214, and their dependents and caregivers.
- All veterans, dependents, and caregivers treated for emergent care related to COVID-19 in non-VA facilities.
- All VA employees and their dependents.
- Any military servicemembers and dependents who do not have other health care, such as state-activated Reserve and Guard members.

Strengthen the Supply Chain for VA

In the absence of leadership from this Administration, Congress must take action to ensure that our health care facilities have all appropriate supplies and equipment to combat COVID-19. We are already behind, with many health care workers at VA and around the country working without appropriate Personal Protective Equipment (PPE). Congress must ensure that the Administration is using the Defense Production Act (DPA) to the fullest extent possible, to get these life-saving supplies into the hands of frontline health care workers. VA must appropriately manage production and distribution lines to get PPE, diagnostic and antigen testing, medicine, and other vital supplies to all VA-related facilities, including State Veterans Homes, caretakers of veterans in the community, and nursing homes with veteran patients. Congress must:

- Continue aggressive oversight of the DPA through legislation, letters, and investigations to ensure the Administration is appropriately promoting domestic manufacturing of PPE and other supplies.
- Require the Department of Health and Human Services (HHS) and the Federal Emergency Management Agency (FEMA) to appropriately prioritize VA in the distribution of supplies and equipment.
- Require VA to distribute PPE and supplies to VA employees in accordance with Center for Disease Control (CDC) guidelines.

¹ Bradford Adams and Dana Montalto, *With Malice Toward None: Revisiting the Historical and Legal Basis for Excluding Veterans from "Veteran" Services*, 122 Penn St. L. Rev. 74 (2019).

- Request a VA Office of the Inspector General (OIG) investigation into the causes of the lack of testing availability and the lack of sufficient supplies in the Strategic National Stockpile so VA is prepared for further spikes of this or other illnesses in the future.
- Require VA to create a secondary stockpile system of PPE and other supplies to ensure sufficient supplies in the future.
- Work with local VA systems to acquire supplies from local and regional manufacturers.
- Fund 3-D printers for VA health care facilities to produce their own supplies.
- Fund acquisition of mask sterilization systems to allow for the safe reuse of N95 masks.

Reimburse Veterans Appropriately for Care

VA has also subverted Congressional intent by refusing to reimburse veterans for emergency care at non-VA facilities, despite the law requiring them to do so.² This was litigated in the *Wolfe v. Wilkie* case last year, and the Court of Appeals of Veterans' Claims ruled that VA must cover these expenses. VA has taken advantage of the current crisis to appeal to the court for leniency in their ruling. **Congress should remove language that currently creates the ambiguity in interpretation by VA, to allow veterans to be reimbursed immediately.**

Increase Access to Telehealth Services for Mental Health

VA should continue to increase its Video Connect telehealth appointments with veterans, and additional measures to meet veterans where they are, including moving peer-led support groups to video conference, forming additional public-private partnerships to make portal video-conferencing available to veterans, and offering mental health counseling to VA employees facing unprecedented levels of job stress as they work on the frontlines of the outbreak. VA should also prepare for increased use of existing services, such as by hiring additional mental health care providers or professionals to staff the Veterans Crisis Line, and providing these individuals with training and support focused on the particular challenges of the current crisis, including managing isolation and grief for lost loved ones.

Automatic Registration for Transitioning Servicemembers

It is vital that we implement a system in which **transitioning servicemembers are automatically registered for VA services before leaving military service.** This process can be lengthy and confusing to navigate individually, and integrating VA registration into already existing transition assistance programs would ensure 100% capture of servicemembers. Once enrolled, they would have access to the standard medical package offered by VA to all enrolled veterans, including testing and treatment for COVID-19.

Support Jobs for Transitioning Servicemembers and Veteran-Owned Businesses

VA must ensure that existing VA education and employment benefits are tailored to the economic realities of COVID-19 as servicemembers prepare to transition into civilian life, or currently unemployed veterans seek new work opportunities. Current VA job counseling and guidance, as well as Vocational Rehabilitation and Employment benefits, must reflect current hiring trends and employers seeking to increase hiring in order to meet demands of COVID-19. Although many

² *Wolfe v. Wilkie*, No. 18-6091, 2019 WL 4254039, (Vet. App. Sept. 9, 2019).

companies are struggling to stay afloat given the current economic environment, some industries are experiencing a surge as pandemic-related positions become available and consumer demand increases for at-home activities and food options, among other relevant trends. VA should ensure that these available positions are marketed to veterans, and encourage businesses that have existing partnerships with VA to continue to hire more heroes.

Additionally, VA should work with the Small Business Administration and Department of Labor to ensure emergency grants for veteran-owned businesses are available to protect these key employment opportunities for veterans and their family members. Congress must ensure that sufficient funding is made available to protect all small businesses, and equip Veterans Business Outreach Centers with enough funding, staffing, and other relevant resources to provide loans and specialized guidance for struggling small businesses.

Improve Staffing at VA

For the 1st quarter of FY2020, VA staffing vacancies numbered 49,082, with 44,131 of these vacancies in the Veterans Health Administration (VHA).³ This persistent workforce shortage is a concern at any time, but is particularly pressing now in light of the current healthcare crisis. VA has attempted several programs in the past to address this situation, but the time for incremental steps has passed.

Congress must take the following steps to alleviate critical personnel shortages:

- Cut red tape in the federal hiring process, including consolidating the more than 20 federal hiring authorities.
- Implement a single federal licensing system for clinical staff in lieu of the current state-by-state system.
- Provide hazard pay to all frontline, clinical staff who perform at least 80% direct patient care and to all janitorial and dietary staff.
- Eliminate pay caps for high-need clinical positions who perform at least 80% direct patient care to allow for competitive hiring.
- Directly recruit students from medical residencies and nursing schools and eliminate their student debt if they commit to working in the VA system for 10 years.
- Directly recruit medics and other military servicemembers in the medical field.
- Fund telework and video conferencing in federal agencies including VA.
- Pilot a paid family leave program, modeled after the Department of Defense's system.

VA Oversight

VA was given \$19.6 billion in the CARES Act and Congress must ensure oversight and accountability for these funds. The Office of the Inspector General (OIG) provides necessary oversight and information to Congress, taxpayers and veterans, and protection of this office must be prioritized. Recent reports indicate that VA may not be accurately reporting internal information regarding policies and procedures, including the number of COVID-19 cases at their

³ <https://www.va.gov/EMPLOYEE/docs/VA-Exec-Sum-Mission-Act-Section-505-FY20-Q1.pdf>

facilities and the amount of PPE available for their employees.

- OIG must have access to VA facilities and all information.
- VA must provide accurate reporting of their policies, staffing and inventory to Congress.
- VA must have formal plans and policies for all processes including PPE provision to staff, sick and emergency leave for employees, and mandatory overtime shifts.
- VA must be empowered to release information directly to Congress without interference from other entities to ensure transparency for the taxpayers of this country.

Protecting GI Bill Benefits

While Congress acted quickly to prevent the rescission of GI Bill benefits when most schools transitioned to online learning, more must be done to protect these earned benefits. Given widespread economic and health uncertainty, student veterans should be given latitude in using their benefits that considers the upheaval of daily life.

- Allow veterans and beneficiaries using the GI Bill to withdraw from classes this semester without penalty by assuming the pandemic presents a mitigating circumstance.
- Eliminate the burden on the veteran to prove that a mitigating circumstance made withdrawal necessary.
- Exclude a withdrawal during the current academic period from the existing “six hour credit exclusion” so that student veterans may use the six hour credit exclusion in the future.
- Provide an additional semester of benefits to GI Bill students who withdrew from classes during to the pandemic.

Freeze VA Rating Reductions

When a veteran has a service-connected disability, VA assigns them a rating between 0%-100% and veterans are paid a set monthly amount that corresponds to their combined disability rating. In many cases, VA is able to reduce a veteran’s rating and the amount of compensation they receive if they have new evidence indicating a change in the veteran’s condition.⁴ VA must give notice to the veteran, who can then request a hearing and submit new evidence. VA then issues a decision, which the veteran can appeal, however the veteran’s compensation is immediately impacted upon VA’s decision. VA should freeze this process for at least a year, to ensure that no one who depends on this income is put in a vulnerable financial state during this pandemic.

Direct Grants for Low-Income Veterans and Military Families

Congress should provide grants to low-income families, including veterans and junior-enlisted military families that may be used for up to four months of household needs, including food, housing, utilities, medical services, child care and other essential family support. Several states already provide these sorts of funds, and Congress should provide similar funds on a federal level. Veterans are uniquely vulnerable in the COVID-19 crisis, being older and sicker than the general population, and will require more assistance from the government. Congress should ensure that our veterans have the money to meet their basic needs of food, water, housing and healthcare.

⁴ 38 CFR § 3.105(e) 2017.