

**STATEMENT OF
LORI PERKIO, ASSISTANT DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE
ON
AID AND ATTENDANCE, A DEPARTMENT OF VETERANS AFFAIRS PROGRAM**

JUNE 6, 2012

Chairman Kohl and Members of the Committee:

The American Legion welcomes this opportunity to comment on the Department of Veterans Affairs (VA) Aid and Attendance program. The American Legion was chartered and incorporated by Congress in 1919 as a patriotic veterans organization devoted to mutual helpfulness. Since that time we have been dedicated to providing service and protection to veterans and we provide accreditation for over 2,000 service officers nationwide to help veterans negotiate the often convoluted and confusing process of obtaining the benefits they have earned through their service and sacrifice on behalf of this nation.

While all veterans are deserving of every protection we can offer them, special attention must be paid to certain groups of veterans who are particularly vulnerable to abuse. As the veteran population, and indeed the overall population of America ages and must make decisions about care in the later years of their lives, it has become clear America's aging veterans are at particular risk from predatory actors. These ill intentioned organizations seek to take advantage of gaps and loopholes in the system to separate veterans from their hard-earned savings with promises of long term care that often do not deliver as promised.

There are literally hundreds of organizations throughout the country that "offer services" to veterans seeking long term care. Unlike service organizations such as The American Legion which provide services free of charge to veterans and their families, these organizations charge fees, often substantial, to the veterans and can deplete hard earned savings and place these vulnerable veterans in a far worse position than they would otherwise be entitled. While these organizations may be legally entitled to operate, it is unclear as to whether or not they are truly serving the best interests of the veterans and their families. There is little apparent oversight of this field; indeed, given the vast scope of how many organizations exist and how widespread they are, it would be difficult to provide extensive oversight.

Furthermore, the influx of these organizations and their manipulation of veterans into diversion of assets and filing for benefits add an undue burden to an already struggling veterans' benefits system. The entire veterans' community is acutely aware of the backlog and wait times for benefits, but few realize the concrete impact this industry is having on that backlog. When VA began tracking pension claims separately in their Monday Morning Workload Report in October

of 2009, there were 55,546 pension claims pending. As of Monday, May 19, 2012 that number had ballooned by nearly 75% to 74,987. To make matters worse, this is clearly impacting processing time at VA's three Pension Management Centers (PMCs). Over the same time period, the number of claims pending more than 125 days, VA's internal standard for what claims constitute a backlog, has more than doubled, exploding from 15,637 claims in 2009 to 34,788 claims in the present day. This influx of claims is negatively impacting all veterans who utilize the pension benefits system, and veterans in the pension system are among the most destitute and vulnerable class of veterans.

While serving as a service officer for nearly two decades I saw firsthand the impact of the struggles with the benefits system on veterans. Today in my work I am still in regular contact with The American Legion's network of over 2,000 accredited service officers on the front lines, and what they see on a daily basis regarding these organizations seeking to worm their way into the veterans' elder care industry raises serious concerns in our organization.

After consulting with our network of service officers, some of the highlights of the concerns raised include:

- In Alabama - a veteran and his wife were contacted regarding assistance with a local assisted living facility. They were told the \$800,000 in savings would be "diverted" to allow them to qualify for VA Aid and Attendance benefits. This couple contacted the Alabama Department of Veterans Affairs for clarification and did not follow through with the application for Aid and Attendance understanding they did not qualify for the pension benefit.
- In California – an organization provided assistance to a veteran promising assistance to file a claim for Aid and Attendance benefits to live in an assisted living facility. The veteran was told he had to pay \$1700 in advance to complete the paperwork in order to receive a monthly benefit of \$1800.
- In Montana - The daughter of a veteran was working with an agency that provided a seminar at the local assisted living facility which promised assistance to veterans and surviving spouses of war time veterans in obtaining Veterans Affairs Aid and Attendance benefits. The daughter contacted the Montana Veterans Affairs Division requesting clarification of the VA program. The company providing the assistance told her she needed to divert her father's assets and made an appointment for her to meet with a financial advisor who was over a hundred miles away.
- In Florida – American Legion service officers have run across a growing number of lawyers specializing in elder law who contact veterans directly through assisted living facilities (ALFs) with promises of how to divert income and assets to qualify for VA pension. Many of these attorneys do not provide follow up assistance with the ultimate pension claims process. All of these lawyers work to appoint themselves as powers of attorney for the veterans, initiating an additional problem when the veterans ultimately seek the assistance needed from Veteran Service Organizations (VSOs) as the process to change the power of attorney for the veteran to allow the VSO to advocate on behalf of the veteran's claim can add as much as an additional month to the claims process.
- Also in Florida – many of these organizations provide "briefings" at ALFs in which they portray VA pension as a "secret government benefit" they can provide to the veterans. In

order to utilize the benefit, they make it appear the veterans must divert their assets into financial instruments run by their companies. Most of these cases involve “helping” the veteran to file for pension, but there is little follow up aid as many of these organizations are actually unfamiliar with the intricacies of VA pension eligibility and therefore they cannot provide accurate information to the veterans about how to best proceed with their claim.

- Service officers in the northern Midwest report issues with organizations cold-calling veterans and charging nearly \$500 for “assistance” with pension benefits, and taking credit card information from the veterans over the phone.
- Other Florida veterans have complained of persons “representing them” for as much as \$6,000 up front with a percentage of any eventual back payment from the VA as a portion of the ultimate fee.
- One attorney bragged in his own newsletter of “earning over \$200,000 helping people receive VA benefits.”
- Even simple internet searches reveal dozens of organizations outright promising “how to hide assets to receive VA pension”

The American Legion service officers across the country all express frustration with seeing veterans and their families, at a difficult and vulnerable crossroads in their lives, being manipulated and taken advantage of by these organizations moving in to separate veterans from their assets with often false promises about VA benefits.

The VA pension system exists to help some of the most financially disadvantaged veterans. These veterans are not being served justly if outside actors can manipulate the system to take advantage of veterans for their own organizations’ financial gain. Other systems, such as Social Security and Medicare, have a longer “look back” period than VA, and some organizations exploit the difference in these periods for their own gain to the detriment of the veterans they claim to be “assisting” with their claims. While The American Legion cannot specifically state what appropriate look back period would be, one that would still adequately serve the needs of the veterans involved, we are examining the issue closely in the hopes of providing sound policy advice for the future of this program.

What is clear is that this is an issue that deserves greater scrutiny. We cannot allow these veterans to be defenseless against the predations of these organizations when they have so selflessly offered the sacrifice of their lives and well being in defense of this nation. The American Legion thanks this committee for their work to help ensure protections of the elderly of this nation, and specifically for taking the time to delve into this matter regarding the aging veterans’ population. It is only with continued attention to this problem that we will be able to offer protection to our nation’s aging veterans.