



from the NATIONAL ADJUTANT

## Vets Shouldn't Need to Hire Lawyers

Arthur H. Wilson

**W**hat is this country coming to when some in Congress say veterans might need to pay for legal assistance in filing claims with the Department of Veterans Affairs for benefits they have earned as a result of their service and sacrifice for our nation?

Legislation has been introduced in the U.S. Senate and House of Representatives that would remove the prohibition against attorneys being paid to help veterans with benefit claims. Staff from both the House and Senate Veterans' Affairs Committees have told the DAV that veterans complain about not having the right to hire a lawyer to help them navigate the VA system.

Proponents of the measures, S. 2694 and H.R. 5549, say allowing attorneys to represent veterans would improve access to the VA benefits system and make it faster and easier for claimants to obtain their benefits. Ironically, just the opposite would occur. If we legalize the system more, it will grind to a halt.

It is important to note the image of lawyers as opportunists contriving to bilk disabled veterans and their survivors out of their meager government benefits is insulting and demeans those who are drawn to the law as a noble calling. But it is difficult to see how allowing attorneys to charge for their services will improve the system, when it is abundantly clear that what ails the VA has nothing to do with who veterans choose to represent them.

The real issues are the timeliness and accuracy of the decisions handed down by VA claims workers.

It is understandable why some attorneys advocate changing the system. Perhaps veterans who advocate it do so under the belief that they would receive better representation by attorneys. Again, just the opposite is true. For example, in fiscal year 2005, the Board of Veterans' Appeals granted one or more of the benefits sought in 21.3 percent of the appeals in which claimants were represented by attorneys who have the luxury of hand picking their clients. The board granted one or more of the benefits sought in 22.3 percent of the

cases in which a claimant was represented by a veterans service organization.

The VA benefits delivery system was designed to be open, informal and helpful to veterans. The goal was to ensure that veterans receive the benefits a grateful nation has provided for them rather than discourage or inhibit their claims with government "red tape" or lengthy litigation.

Veterans, who fought for our country, should never have to fight our government to get the benefits a grateful nation has provided as a reward for their sacrifices and service. It is intended that these benefits be provided with a minimum of difficulty for the veteran claiming them. It is important, we believe, to remain mindful that veterans obtain their benefits through an informal, non-adversarial and benevolent claims process, not a litigation process. The fundamental distinctions between the VA process and litigation reflect the clear congressional intent and a system deliberately designed to permit veterans to receive all the benefits they are due without any necessity to hire and pay lawyers.

In the VA process, its employees counsel veterans on the basis of eligibility and their potential entitlement to benefits. The VA will assist a veteran in completing and filing the relatively informal application for benefits. The VA takes the initiative to advance the claim forward through the appropriate procedural steps. Congress placed the duty on the VA to ensure all alternative theories of entitlement are exhausted and all laws and regulations pertinent to the case are considered and applied.

Admittedly, the VA often has fallen short of serving veterans in the manner intended. The VA sometimes denies veterans' claims erroneously, even arbitrarily. Veterans sometimes do have to fight an aloof bureaucracy to obtain what they are clearly due. However, if there were regular involvement of lawyers in the claims system, the informal, pro-veteran process would gradually evolve into a formal,

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legalistic and adversarial one. The VA would quite probably have to devote a substantial amount of its scarce resources—including a whole legion of employees—to review attorneys' fee agreements. The increased administrative costs might have to be paid for by a reduction in veterans benefits elsewhere.

A far better use of the VA's already limited resources would be to hire more claims adjudicators and provide intensive training to improve the quality as well as timeliness of decisions. The VA also must enforce

quality standards and uniformity through more effective management and exercise real accountability at all levels of the benefits delivery system. Better and more timely medical examinations and improved information-sharing between the Veterans Benefits Administration and VA health care facilities also are needed.

Only when the VA has taken the steps needed to improve both quality and timeliness of claims decisions and Congress provides the necessary resources will veterans receive the level of service they deserve. The VA's objective—and its duty—is to provide timely and accurate decisions on veterans' claims.

It would be shameful if a veteran seeking disability compensation for

war wounds, for example, was confronted by a passive, indifferent, resistant or contentious bureaucracy and was expected to have to pay a lawyer to get what was due from the government. It would be equally inappropriate to allow lawyers to interject themselves into the claims process just so they could charge veterans for assistance in obtaining their earned benefits.

It is important that lawmakers understand the potentially negative consequences of the measure. So, if you, too, are concerned that the proposal could do more harm than good, contact your Senators and Representatives and urge them to oppose this ill-conceived legislation.

DAV



### Veterans' Coin Toss...

Department of Kentucky Commander Larry Roberts, center, and Department Adjutant Sam Booher, right, prepare for the ceremonial coin toss at a Louisville Fire Arena Football League game June 4 honoring the DAV.



### Disabled American Veterans National Headquarters Audited Statement of Financial Position • December 31, 2005

<b>Unrestricted Assets</b>		<b>Unrestricted Liabilities</b>	
Current Assets	\$ 28,099,843	Current Liabilities	\$ 81,328,538
Investments, at Market	242,458,119	Total Liabilities	81,328,538
Land, Buildings and Equipment,			
Net of Depreciation	11,879,584	<b>Unrestricted Net Assets</b>	
		General and Net Assets	
		Designated by the	
		Board of Directors	241,076,282
		Total Unrestricted Net Assets	241,076,282
<b>Total Unrestricted Assets</b>	<b>\$ 382,397,546</b>	<b>Total Liabilities and Unrestricted</b>	
		<b>Net Assets</b>	<b>\$ 382,397,546</b>
<b>Life Membership Assets</b>		<b>Life Membership Liabilities</b>	
Current Assets	\$ 2,835,993	Current Liabilities	\$ 407,673
Investments, at Market	58,638,873	Reserve for Future Distribution	
		of Life Membership Dues	58,107,141
<b>Total Life Membership Assets</b>	<b>\$ 58,514,816</b>	<b>Total Life Membership Liabilities</b>	
		<b>and Reserve for Future Distribution</b>	
		<b>of Life Membership Dues</b>	<b>\$ 58,514,816</b>

### Disabled American Veterans National Headquarters Unaudited Statement of Financial Position • March 31, 2006

<b>Unrestricted Assets</b>		<b>Unrestricted Liabilities</b>	
Current Assets	\$ 37,418,291	Current Liabilities	\$ 62,124,812
Investments, at Market	270,427,261	Total Liabilities	62,124,812
Land, Buildings and Equipment,			
Net of Depreciation	11,257,822	<b>Unrestricted Net Assets</b>	
		General and Net Assets	
		Designated by the	
		Board of Directors	257,279,362
<b>Total Unrestricted Assets</b>	<b>\$ 319,083,474</b>	Total Unrestricted Net Assets	257,279,362
<b>Life Membership Assets</b>		<b>Total Liabilities and Unrestricted</b>	
Current Assets	\$ 3,914,941	<b>Net Assets</b>	<b>\$ 319,083,474</b>
Investments, at Market	58,933,648		
<b>Total Life Membership Assets</b>	<b>\$ 62,848,589</b>	<b>Life Membership Liabilities</b>	
		Current Liabilities	\$ 724,953
		Reserve for Future Distribution	
		of Life Membership Dues	62,883,636
		<b>Total Life Membership Liabilities</b>	
		<b>and Reserve for Future Distribution</b>	
		<b>of Life Membership Dues</b>	<b>\$ 62,988,589</b>