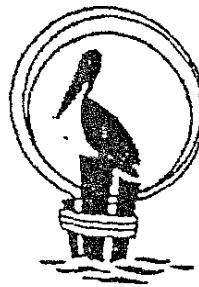




THE PELICAN POST
The official newsletter of the Disabled American Veterans
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THE PELICAN POST

Winter 2012

We hope the new distribution method of receiving The Pelican Post off of the website has not been an inconvenience for you. Eventually we will overcome our growing pains and get the bugs out of our plans. The product being on the website will save us a great deal in manpower and money as well as providing you with great information.

This newsletter is published by the Disabled American Veterans, Chapter #123, Florida, as a service to its members as an information source at no charge or profit. The contents do not necessarily reflect the views or opinions of the membership or its officers.

George Furis, ED.



Commander's Call, by Bill Benagh, Commander

Now that the Holidays are over, it is time to get back to work. Our first order of business was sending ten service officers for a week to the Annual Training Session in Orlando. At the end of that session several of the Chapter Officers participated in the Department Mid-Winter Conference.

We have some new initiatives this year to assist our members and others. The first is that we will soon begin "by appointment only" benefits review and update sessions for veterans and their spouses. The details of this effort will be provided by John Bibby, our Senior Service Officer, in his column. We will also begin assisting veterans who are incapable of visiting our office for assistance.

On the 14th and 21st of January 2012, we had a Forget Me Not Donation table at the Publix Stores in north and south Cocoa Beach.

Later this spring we will have a booth at the Vietnam and All Veterans Reunion at Wickham Park. We were there last year, and a large number of veterans stopped by our booth for information and assistance.

Donations to the Chapter have slowed considerably during the past year and our expenses to assist veterans and families have increased. All assistance is greatly appreciated and is acknowledged by a letter affirming your donation for tax purposes.

Remember, **THIS IS YOUR CHAPTER** and your Officers and Service Officers are here to serve you.

Bill



Membership Report, by Joe Ford, Senior Vice Commander

This being the last report of calendar year 2011, I will present membership data from Oct. 1, 2011 through Dec. 21, 2011. The (membership) activity has been slow, I assume due to the holiday season. Following is a consolidated report of October through mid December 2011:

Deceased—3

New partial members—2

Transfers into Chapter 123—1

New full life members—1
Partial life members--16
Total full life members—547

Joe Ford
Sr. Vice Commander
Membership Chairman



The Chapter Treasurer's Report, by Charlie Zecman

Your Treasurer is keeping the books for the Chapter and reporting to the Commander and members. I take in donations and any other monies that come to the Chapter. We wish to thank the following for their donations:

Harold Genthner, L. E. Lea, Major Harold Casleton, and Joe Ford.



The Service Office Report by John Bibby

NEW PROGRAM! NEW PROGRAM! NEW PROGRAM!

This year we, with the help of the Veterans Council, were able to have 10 Service Officers certified to do service work. While most of the effort put forth will again be during the usual work week, we plan on dedicating two afternoons per week for a new program. We will make two service officers available each of these days with the expectation of seeing four Veterans and their spouses a day.

During these appointments we expect to discuss the possibility of increasing current disability compensation, involvement in VA Health Care program, Dependents Indemnity Compensation (DIC), widow's pension, burial benefits, etc. We are requesting you bring in any paperwork you may have relating to any VA benefits you are currently receiving, as well as your DD 214. This would include any Award or Denial Letters from the VA. We would like to make as complete a review of each case as possible. We will also try to fill out related paperwork, if possible, at this time.

We are requesting the Veteran bring their spouse to these appointments. It has been our experience that, all too often after the Veteran passes, the surviving spouse has no idea of what benefits their spouse was receiving and what benefits are available for them. Many times, the Veteran has no idea there is anything available for the spouse after he/she passes. The only time the spouse comes in is if someone happens to mention to them something is available. We want to change this by planning and preparation.

As stated above, these reviews will be done by **appointment only!** Please call the Veterans Memorial Center **AFTER 1 MARCH, 2012** at 321/452/1774, any morning Monday thru Saturday. The Manager on Duty (MOD) will answer the phone; simply ask him to speak with the DAV Service Officer on duty. The Service Officer will then schedule an appointment.

Service Officers are present from 0830 to 1200 hours as follows:

| <u>Monday</u> | <u>Tuesday</u> | <u>Wednesday</u> | <u>Thursday</u> | <u>Friday</u> | <u>Saturday</u> |
|---------------|----------------|------------------|-----------------|---------------|-----------------|
| Bill Benagh | John Bibby | John Crain | Clay Smith | Don Bullen | Denise Johnson |
| Ed Caron | Duane Bennett | Dick Malpass | Ed Caron | | Lonnie Crofton |

Florida News

Diploma Program Honors Veterans

Courtesy of the Florida Department of Education

Eligible Florida veterans who joined the military before completing high school can obtain their high school diploma thanks to the Florida Veteran Diploma Program sponsored by the Florida Department of Education in partnership with the Florida Department of Veterans' Affairs. Veterans who were honorably discharged, are current residents of Florida, were inducted into military service prior to completing graduation requirements and meet the additional criteria below are eligible for their high school diploma.

World War II veterans:

- Inducted into military service between Sept. 16, 1940, and Dec. 31, 1946.
- Started high school between 1937 – 1946.
- Scheduled to graduate between 1941 – 1950.

Korean War veterans:

- Inducted into military service between June 27, 1950 and Jan. 31, 1955.
- Started high school between 1946 – 1950.
- Scheduled to graduate between 1950 – 1954.

Vietnam War veterans:

- Inducted into military service during the Vietnam Era between Feb. 28, 1961, through May 7, 1975.

For more information, call (850) 245-9057 or go online at www.fl doe.org/workforce/veteran-diploma.asp.



The Washington Watch

Supreme Court to Hear Stolen Valor Case

The US Supreme Court Agreed to decide if the Stolen Valor Act is constitutional. The Act, which became law in 2006, makes it unlawful to falsely represent, verbally or in writing *"to have been awarded any decoration or medal authorized by Congress for the Armed Forces of the United States, any of the service medals or badges awarded to the members of such forces, the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation of such item."*

Twenty-five Veterans organizations representing millions of veterans have requested the U.S. Supreme Court to uphold a federal law making it a crime to falsely claim receiving a military award for valor. "Imposters, who have included state and federal officials as well as many other successful, prominent people, have enjoyed undeserved praise, honors and other intangible and non-pecuniary benefits by wrongfully taking advantage of the goodwill associated with those awards," the groups say in a briefing filed in the case.

The case to be reviewed by the Supreme Court involves the government's conviction of Xavier Alvarez of Pomona, California. In 2007 while serving as of the local water district board, Alvarez said at a public meeting he was a retired Marine who received the Medal of Honor. In truth, he never served in the military. Alvarez pled guilty to lying about having a Medal of Honor so he could challenge the law's constitutionality in his appeal. He was fined \$5,000 and ordered to do 400 hours of community service at a local Veterans hospital.

The government asked the U.S. Supreme Court to review a decision by the Ninth Circuit Court of Appeals last year which determined the Stolen Valor Act was unconstitutional. The high court plans to hear the case in early 2012, and render a decision by next summer.

Expanded Traumatic Injury Benefits

Service members who suffer severe injuries to the genitourinary organs will now be eligible for Servicemembers' Group Life Insurance Traumatic Injury Protection (TSGLI). TSGLI provides a one-time payment to Servicemembers sustaining certain severe traumatic injuries resulting in a range of losses, including amputations; limb salvage; paralysis; burns; loss of sight, and other traumatic losses. The first payments for genitourinary losses were made to eligible Servicemembers and Veterans on December 2, eligibility for these new losses will be retroactive to injuries incurred on or after October 7, 2001, the beginning of the Global War On Terror. For more information on all of the TSGLI eligibility requirements, or to apply for a TSGLI payment, Servicemembers and Veterans should go to:

www.insurance.va.gov/sgliSite/TSGLI/TSGLI.htm or contact their branch of service TSGLI Office (contact information available at above link).

SBP/DIC Offset Missing From the National Defense Authorization Act

The Senate voted on December 1, 2011 to approve approximately 56,000 survivors to receive their military Survivors Benefit Plan (SBP) and Dependents Indemnity Compensation (DIC) without the offset. However, noticeably absent from H.R. 1540, the fiscal year 2012 National Defense Authorization Act, was the Senate-approved provision repealing the SBP/DIC offset.

This provision has become an annual ritual as every year the Senate promises to eliminate the offset and the House drops it out of the plan. This has to do with the Senate not having to set aside money to pay for the estimated \$6.6 billion over ten years and the House, on the other hand, is required to find the funds to pay for the legislation.

It means the amendment is defeated every year during negotiations between the House and Senate when the final defense authorization bill is hashed out.

Once again this provision was not agreed on and it is greatly disappointing. Nor does it appear to include previously agreed to House language allowing modest increases and extending the Special Survivor Indemnity Allowance (SSIA). Apparently that language was dropped as well.

Worried About Benefit Cuts in 2012?

Military. Com, Week of January 23, 2012

According to the [DoD Buzz](#), Members of both parties in Congress are gearing up for a protracted game of political chicken over the potential threats to the future of DoD's budget. The impact of the sequestration will not go into effect until January 2, 2013, meaning that military servicemembers, retirees, federal employees, and their families are not likely to see any changes in benefits or pay in 2012. However, the threat is real for 2013.

The Pentagon plans to continue its efforts to "revamp" health benefits for military retirees and raise health care costs for military retirees under age 65. The plan includes proposed increases in enrollment fees, co-pays, and deductibles.

Stay tuned, much more on this will be coming!

The TRICARE-WALGREENS Divorce is Final

Please do not forget that TRICARE will no longer cover prescriptions filled at Walgreens pharmacies after December 31, 2011. If you continue to fill your prescriptions at a Walgreens pharmacy after December 31, 2011, you will be responsible for paying 100% of the prescription cost. You will then have to submit a paper claim for non-network reimbursement. I can only imagine the hassle that will be!



The Veterans Administration

VA Medical Center Chief at Haley Hospital: "We are financially solvent"

By William R. Levesque, St. Petersburg Times Staff Writer

TAMPA — The new chief of the James A. Haley VA Medical Center is dismissing reports about the hospital's financial struggles and says Haley enjoys robust financial health.

Kathleen Fogarty became Haley's director four months ago and was immediately faced with stories by the *St. Petersburg Times* about Haley's frantic efforts to close a fiscal 2011 deficit once as high as \$47.5 million.

In her first interview since becoming Haley's director, Fogarty insisted Friday that Haley was doing well financially, expects no fiscal 2012 deficit and this year received one of the largest budget increases of any Department of Veterans Affairs hospital. Haley got a 6.8 percent budget hike for fiscal 2012, which opened Oct. 1, pushing its budget to \$706 million.

Fogarty acknowledged that in previous years Haley may have lost money by failing to accurately document the level of care provided to patients. This is important because under VA funding formulas, more complex care leads to increased funding.

"I don't believe we were capturing all of the workload," she said. "Now we're catching up." One other budget challenge for Haley is "right-sizing" the hospital as 33,000 patients have moved off its rolls to a new VA medical campus in Orlando, where a major VA hospital is scheduled to open in 2014.

Orlando already is providing outpatient services to veterans from that area who once had to drive to Haley in Tampa. "Orlando," she said, "needs to grow. Tampa needs to compress."



Kathleen Fogarty

Navy Veteran Sentenced to 6 Months, \$20,000 Overpayment for Fraudulent Claims

A Navy Veteran was sentenced to six months in prison and will serve three years of supervised release after his release from prison. He must also repay \$20,000 in restitution to the Veterans Administration.

He was found guilty of submitting a false Marriage Certificate to the VA so his girlfriend and her children could receive medical care. He also submitted 54 false travel claims for travel he did not do. He submitted 34 medical claims for his girlfriend and her children and also falsely received medical disability benefits for his girlfriend and her children. It is not clear how the case was uncovered, but it clearly **DOES NOT PAY TO SUBMIT FALSE CLAIMS!**

Another One: Veteran Accused of Lying About Purple Heart

A Veteran and former nurse at the Canandaigua Veterans Administration Medical Center in New York is accused of submitting doctored military records and falsely claiming he was a recipient of a Purple Heart medal.

In court documents, Christopher M. Barlow, special agent with the U.S. Department of Veterans Affairs said Marc S. Restucci of Manchester, Ontario County, admitted to creating and submitting false documents to support a fraudulent claim for disability benefits to the Department of Veterans Affairs.

Court documents state that Restucci, who served in the U.S. Army from June 1976 through June 1979 and also served with the Army National Guard through 1998, had a disability claim approved in 1999, paying him monthly benefits for back, neck and knee injuries. However, in 2008, Restucci submitted an additional disability claim for a thumb injury for service-related post-traumatic stress disorder, which was denied.

Restucci challenged the denial in 2010, which led to the investigation determining he never had combat duty while serving overseas, and the assertion that he had been awarded a Purple Heart for his injuries was false. Restucci has admitted to creating and submitting several false documents, court documents said. There is no ruling on the case as yet.

I REPEAT, IT DOES NOT PAY TO SUBMIT FALSE CLAIMS!

And Finally, One More: Woman Charged With Misappropriation Of Veterans VA Benefits

U.S. Attorney Bill Nettles announced that Myrtis Williams, age 44, of Denmark, South Carolina, has been charged in a three-count Indictment with misappropriating Veterans' benefits that she was managing for a Veteran who had been deemed incapable of handling his own affairs, a violation of Title 38, United States Code, Section 6101.

The Indictment alleges that in 2006, Williams agreed to serve as a fiduciary and received an initial payment of \$188,000 for the benefit of the veteran.

Williams is charged with three instances where she allegedly entered into prohibited financial arrangements with the veteran's funds. First, she is charged with purchasing a piece of rental property for \$61,000. Later she is alleged to have taken out a \$25,000 mortgage on this property and converting part of the proceeds to her own use. The third count alleges that she used over \$22,000 of the veteran's funds to purchase a BMW vehicle that she then listed herself as the primary driver.

The maximum penalty Williams could receive for each count is 5 years imprisonment and fines of up to \$250,000. The case was investigated the Department of Veterans Affairs, Inspector General, Office of Investigations and is assigned to Assistant United States Attorney Dean A. Eichelberger of the Columbia office for prosecution.

The Moral is: Do Not File False Claims or Think You Can Defraud The VA!

T'aint Worth It!

VA Disability Settled About Camp Lejeune Contamination

AJacksonville, North Carolina resident and former Camp Lejeune Marine has a medley of maladies, many of which he believes can be traced to his exposure to contaminated drinking water during the 13 years he spent on base. This fall, he received an award from the Department of Veterans Affairs granting him 100-percent disability for colon cancer, first diagnosed in 1998, and 20 percent for bladder cancer, diagnosed in 2005. The award presumed his service at Camp Lejeune and the contaminated water supply as the nexus to his disabilities. The Veteran remains unsure of what portion of his time spent on base caused his cancers: living in base housing at Tarawa Terrace, where the drinking water supply was contaminated with the organic solvents TCE and PCE, or working at a warehouse building 1101 in the Hadnot Point Industrial Area.

More than a quarter-century later, engineers found a massive underground layer of gasoline, the result of a decades-long leak at the fuel farm that snaked through underneath portions of the industrial area, including building 1101. In total, an estimated 1.1 million gallons of fuel spilled into the ground before the farm closed in 1991.

The Veteran listed both his time living on Tarawa Terrace and his tenure working in building 1101 and nearby building 1108 on his disability claim. The VA paperwork was nonspecific about what element of his exposure led to the claim being granted. VA officials never responded to requests for more information about the decision process.

The Veterans cancers are in remission but he now worries about his two daughters, ages 48 and 49, who went to school at Tarawa Terrace and were exposed to the contaminated well water on a daily basis. The Department of the Navy is funding independent research initiatives.

The Marine Corps encourages all those who lived or worked at Camp Lejeune before 1987 to register to receive notifications regarding Camp Lejeune Historic Drinking Water.

We at the DAV encourage all who were stationed there during that time frame with any type of related conditions to establish a claim with the Department of Veterans Affairs. All claims for the Camp Lejeune contaminated water will be transferred from all Regional Offices to the Louisville, Kentucky Regional Officer to be processed there. All claims should include the month and year of arrival and departure, where the Veteran lived (on base or off base) and where the Veteran worked on base. Currently, the VA has no statutory authority to compensate dependents of Veterans exposed to the water contamination.

Rules Liberalized for Veterans with Undiagnosed Illnesses

Veterans of the Gulf War with undiagnosed illnesses have an additional five years to qualify for VA disability benefits. The eligibility window has been extended to December 31, 2016 to qualify for benefits from the Department of Veterans Affairs. "Not all the wounds of war are fully understood," said Secretary of Veterans Affairs Eric K. Shinseki. "When there is uncertainty about the connection between a medical problem and military service, Veterans are entitled to the benefit of the doubt."

A recent change in VA regulations affects Veterans of the conflict in Southwest Asia. Many have attributed a range of undiagnosed or poorly understood medical problems to their military services. Chemical weapons, environmental hazards and vaccinations are among the possible causes.

At issue is the eligibility of Veterans to claim VA disability compensation based upon those undiagnosed illnesses, and the ability of survivors to qualify for VA's Dependency and Indemnity Compensation.

Under long-standing VA rules, any undiagnosed illnesses used to establish eligibility for VA benefits must become apparent by Dec. 31, 2011. The new change pushes the date back to Dec. 31, 2016.

Veterans or survivors who believe they qualify for these benefits should contact a DAV Service Officer. Further information about undiagnosed illnesses is available online at www.publichealth.va.gov/exposures/gulfwar and www.publichealth.va.gov/exposures/oefoif/index.asp

"I Want to Check on My Claim."

These are the words most often heard at the DAV Service Office in the Veterans Clinic in Viera and at the DAV Service Office at the Veterans Memorial Center. The problem is, you **can't** check on your claim! There is no way to track a claim or to check its status once it has been submitted.

The VA nationwide toll free number (1-827-1000) will connect you to one of eight National Call Centers, however, the call center staffs only have computers that show them some scant data regarding who you are and whether or not you have a claim "in process" but not much more than that.

The VA disability compensation claims process is not a computerized operation. Your claim file consists of a paper folder that contains the data that is collected and filled with the evidence VA deems necessary to adjudicate your claim. This folder travels from station to station within the VA Regional Office as it makes the required stops to get to the final decision maker.

Considering that each of the 57 VA Regional Offices has a mountain of backlogged claims numbering in the thousands and it is not possible to render personal service to each Veteran. There is no system in-place to track each claim folder for each veteran.

For years veterans have been advised that they must be patient. To speed up your claim, insure all evidence has been submitted at the start and all documents have been completed precisely and correctly. Once the claim has started the process, the veteran should leave it alone and allow the system to work.

"Must Do's" When Filing Your Disability Claim

Document every communication and save a copy! The reason this is first is because it is really the only way you can backup your position when it comes to your claims or other issues with the VA.

What I'm about to say may shock you if you've been hiding under a rock. The Department of Veterans Affairs has been known to ignore the law or bend the rules when it comes to disability claims. It's true. This ranges from simple violations of due process, "losing or misplacing" documents, to "Shreddergate" (the destruction of veteran files) and erroneous C & P exams that have nothing to do with the issue you claimed. .

Things like this give me a firm case of "not surprised." I know it's a big operation and you must expect a little slippage but it can get totally ridiculous.

Yes, when it comes to the VA, they sometimes blunder which causes you much heartburn. Knowing this is true and expecting issues relating to violations of your rights should not shock anyone. Now that you're aware, here's how to prepare.

Document everything!

- If it's a phone call, ask for the name of the representative, which call center is serving you, and reference number of the call.
- For paper records, have your friendly DAV Service Officer make you a copy of your documents, buy a three-ring binder or something similar, and keep them well organized.
- Get a hole punch or, again, have your friendly DAV Service Officer, punch your documents for your records.
- Create a spreadsheet or log for calls and meetings with VA officials that will allow you to track all communications in all forms.
- **Do not send correspondence directly to the VA.** Send all correspondence by mail to the Disabled American Veterans so it can be logged in their field records.

Annual Clothing Allowance

Currently, the single annual clothing allowance is \$716. The clothing allowance has been expanded and the eligibility criteria for Veterans with multiple prosthetic and orthopedic devices or who use prescription medications for service-connected skin conditions has changed.

A federal appeals court has ruled that Veterans may be entitled to more than one clothing allowance. The new regulation provides the criteria for more than one annual clothing allowance in situations where distinct garments are affected, and ensures Veterans are adequately compensated for any damage to clothing. Veterans, who because of a service-connected disability, wear or use a prosthetic or orthopedic appliance that tends to wear out or tear clothing, are eligible for payment of an annual clothing allowance. Examples of appliances include an artificial limb, rigid extremity brace, rigid spinal or cervical brace, wheelchair, crutches or other devices prescribed for the Veteran's service-connected disability. Veterans who because of a service-connected skin condition use a medication that causes irreparable damage or stains to outer garments, are also eligible for payment of an annual clothing allowance.

The application deadline for an annual clothing allowance is August 1 of each year. Payments are administered during the months of September and October. Payment of more than one clothing allowance to qualifying Veterans will begin in 2012. VA is in the process of revising VA Form 10-8678,

To accommodate an application for more than one annual clothing allowance, the Veteran must complete the current forms 10-8678 and 21-4138 to indicate that he or she desires consideration for more than one annual clothing allowance.

DFAS Begins Monthly Electronic Account Statements for Military Retirees

The Defense Finance and Accounting Service (DFAS) announced that effective November 1, 2011; every military retiree can receive a monthly electronic statement known as eRAS by using myPay. The eRAS provides a complete summary of a military retiree's pay, deductions and benefits. It also includes information about allotments, income tax withholdings, direct deposit information and a Survivor Benefit Plan counter that shows plan members how much longer they have to pay premiums.

Previously, DFAS issued an annual RAS each December or when a retiree's pay, benefits or other account information changed. The new eRAS was created in response to customer requests for more frequent communication about their accounts. Military retirees can view their eRAS by logging into myPay at <https://mypay.dfas.mil>. Retirees who do not have current user IDs or passwords for myPay can find instructions on how to get them at www.dfas.mil/retiredmilitary. Links to the instructions are located in the upper right hand corner of the Retired Military and Annuitants section under the "myPay Login Instructions" heading.

Retirees who choose to register their email addresses with myPay will receive an email notification every month when their eRAS are available. The myPay website is available 24 hours a day, seven days a week from anywhere in the world, and changes retirees make, using myPay, take effect in just three to five business days.

DFAS Having Current Beneficiary Information is Important to You

The Defense Finance and Accounting Service (DFAS) is requesting military retirees to designate an "Arrears of Pay" (AOP) beneficiary and update their beneficiary as often as necessary. The money earned but not paid in the final month of a retiree's life goes to whoever is listed as his or her AOP beneficiary.

DFAS will also contact this person for help with closing the retiree's account. A lot of retiree's procrastinate on planning for the day they will die, but neglecting to prepare for the future can cause financial hardship for the people retiree's care about most.



All military retiree's should check the back page of their most recent Retiree Account Statement to make sure the AOP beneficiary listed for their accounts are indeed the people they want to receive their final prorated paychecks. Retiree's can choose anyone, from family members to friends to associates, to be their AOP beneficiary; however, if they do not designate someone, the payment of any money that remains in their account at the time of their death could be greatly delayed. It can take many months to locate a retiree's survivors, identify who is legally entitled to their pay, and then make the payment. Fortunately, this situation is easy to prevent.

To designate an AOP beneficiary, retirees should:

- 1.) Complete a Designation of Beneficiary Information Form (DD Form 2894) available at www.dfas.mil/dfas/retiredmilitary.
- 2.) **Sign and date the form.** Unsigned and undated forms will not be processed!
- 3.) Mail the form to: DFAS U.S. Military Retired Pay
P.O. Box 7130
London, KY 40742-7130

Or fax it to 800-469-6559. **Beware that faxing documents is not always reliable.**

However it is vital to notify DFAS of any changes in an AOP beneficiary contact information otherwise all correspondence will be sent to the wrong address delaying closure of the account.

(Taken from the *Afterburner, News for USAF Retired Personnel, September 2011*)

George Furis
Editor