

VA versus the IRS

by Debbie Burak, Founder, VeteranAid.org

As the backlogged number of unprocessed VA claims is knocking on the door of 1 Million, one has to wonder is anybody really at home. Is anyone really trying to find "the" solution of how to fix and bring this broken agency up to the standards our veterans and their families deserve?

I had high hopes for the new VA administration, but to date, have not been impressed. Every day there is yet another story about a Regional Office that has been caught shredding and changing dates on applications, or boxes of unopened applications are being discovered. There are not enough fingers to cover the holes in this dam.

If the IRS was having this issue with collecting taxes from "We the People", I can promise you that this would have been resolved and systems put into place to make certain it would never happen again. Of this you can be certain, the IRS would not stand by and have 1 million tax returns waiting to be processed.

So here is my take on all this and a couple of questions that I believe bear asking.

I think the VA needs to take a crash course in how the IRS does things. These folks don't lose tax returns they keep up with every dime you make. You can file on-line, they know if you haven't filed, and if you are owed a refund, you can expect it in 30-45 days. If you owe money and don't pay, you are assessed a penalty and will pay dearly for that. Big incentive for making sure you allot the right amount of deductions. Most of us hope to never know what an audit notification looks like.

If your taxes are complicated or more than you want to deal with, you can make an appointment with the fine folks at H&R Block or your personal accountant and pay someone to prepare them for you.

Now here is where I take issue. How is it that you can legally seek the expertise of someone who understands complicated tax laws, forms, and all the legitimate deductions and credits you are entitled to just to make certain that the IRS gets a full accounting of your finances and their piece of your pie, but veterans and their families legally are restricted from any assistance attached with a fee and are left to figure it out on their own.

Two government agencies, two different approaches, two different agendas.

It is legal to make sure you pay your taxes, but illegal to make certain your claim for benefits is correct and complete in order to "receive" your entitlements. Interesting that there should be such a stark contrast between the two and who actually benefits from this arrangement.

Decades ago the VA instituted a law that an attorney could not charge a veteran more than \$10.00 for representing him. This was done to "protect" the veteran from being taken advantage of by those who would be so inclined to do so.

So one might have to ask, who is truthfully exploiting and taking advantage of our veterans and their families? Considering some recent actions on the part of the VA, the answer to this question may not be what you'd expect.

The application for Improved Pension was originally a 4-page, simple straight forward application. Due to the benefit being highlighted and the rise in the number of applications being submitted, the VA decided it was time to increase it to a 26-page application, and write it so that you probably won't figure it out increasing the odds they won't have to pay, or at the very least delay having to pay.

While the benefit sat idle and unused, 4 pages seemed to make perfect sense. Now that Baby-Boomers are our largest demographic and the VA is being flooded with applications for Aid and Attendance, whose best interest is it in that the process should suddenly become so much more complicated? The veteran is not who first comes to mind as to who

stands to gain the most from this change. It seems a little suspect as to the true motivation for having done so. Is the VA once again "protecting" the veteran?

If you don't get it right the first time, you should not feel too badly about it as the national rate of applications being returned to the originating VA regional and local offices as being incomplete or missing documentation is 46%.

I wonder if these same employees who failed VA "Open Book" tests could find permanent employment with the IRS. I suspect that performance standards are probably just a "little" higher. Millions of taxpayer's monies going uncollected - not going to happen, but it is ok for a million veterans to be waiting on the VA to get it right. There is something incredibly wrong with this scenario.

The VA continues to operate off an antiquated "Fiduciary" process refusing to acknowledge POA or DPOA. The IRS acknowledges POA. Your mom or dad might have some investments that pay dividends, so there may be some monies to be collected, so for the sake of efficiency they will gladly work with you to assure a proper return has been filed.

The VA's refusal to respond to the demands of accepting POA and doing away with the fiduciary process is once again done in the name of "protecting" the veteran. According to the VA they have to make certain that the family member or other interested party who holds POA can't take advantage of the veteran or widow and have access to the pension money to spend at their discretion such as purchasing Depends or Ensure.

I'm sure that somewhere there is someone who absconded with funds they were not entitled to and did in fact take advantage of a veteran, but I'm willing to wager a guess that most who are providing care for a loved one have spent the check out of their own pocket long before it is received.

It is the lesser of two evils. On one hand you have the family member who is taking advantage of the veteran or widow by writing a check every month to the ALF or caregiver hoping they will have enough to pay it as credit cards are maxed out and all funds have been depleted while waiting to be approved as a fiduciary.

On the other hand you have the VA who wants to take months to arrange for a fiduciary to be appointed without much care as to how you will pay for everything pending their approval. In the meantime if you have to move your loved one to a lesser quality facility due to costs, or arrange to bring them in-home and provide the care yourself, keep in mind the VA is only doing their job and "protecting" the veteran or widow.

So if the veteran is doing without basic essentials and is living in conditions that are not healthy or services being provided are not adequate even though they are entitled to the pension which would allow for better care and services, who is really taking advantage of the veteran?

All of this "protecting" has created an "opportunity for many individuals and companies to "Carpe Diem" - Seize the Moment, and many of these folks, but not all, have found a way to use filing for this pension as a revenue generator, and doing so under the guise of reaching out to veterans and their families at no cost for their assistance to make application, but it sure helps if mom and dad need someone to manage their investments and move them around so they will qualify for the pension from a financial standpoint.

Seminars are being held daily nationwide at \$500.00 a session to learn how you too can use this pension to recruit new business and increase your sales. Don't overlook the kids who are taking care of mom and dad, they will be so grateful for your assistance they will want you to manage their assets as well. While you are at it, sell some annuities.

What most don't realize is that by moving things around to a trust or annuity can often mean that when mom or dad need that money to continue paying for their care, they won't have access to it. It will sit in that trust until they die and the beneficiaries get it.

For those who are fortunate enough to have assets that need protecting, these services are valid, but for those who go into this situation strictly based on wanting to file for this pension, you need to educate yourself on whether this is truly in your best interest in the long run.

Again this frenzy of businesses using this pension to get in the hen house is largely due to the fact that the VA has created a need for these services due to the lack of information, the lack of trained employees well versed in Improved Pension, taking a simple application and turning it into more than it needs to be. If it was as originally designed - a simple 4- page application based on meeting the need for assistance and financial guidelines, there would not be a need nor an opportunity for those who use this as a calling card.

As a result, the VA has responded by now sending out an additional form to those who submit an application that they have to sign stating that neither they nor the veteran have paid anyone for any type of assistance in completing the application. The application will not be processed until this form has been returned.

So in the name of "protecting" the veteran, which in my opinion translates to denying the veteran, there is yet another hurdle to jump through.

Rather an unfair dynamic that the VA has its attorneys and council, but a veteran is not entitled to any representation upon making an initial application for any benefit or compensation. They are only entitled to representation if they are appealing a decision on their claim while the IRS wants to make sure you get it right the first time.

Of the two, which do you think is more efficient?

There are more of us that file income tax returns than there are veterans/widows filing for benefits, so how is it that the IRS can receive and process a higher volume of paper so seamlessly while the VA claims they never received the application even though you have a signed "Registered Return Receipt" proving that they did?

If you posed the question of why the IRS created the EZ form while the VA took an easy form and turned it into 26 pages, it really is self explanatory. One wants your money and the other hedges their bets they can keep their money.

This mindset is nothing new. For insight as to how long this treatment and mentality has been permitted and promoted, one need look no further than what was done to the "Bonus Army" when our veterans marched into Washington in 1932 demanding what had been promised. Not much has changed in 77 years. Do yourself a favor and Google "Bonus Army". You'll be enlightened for having done so.

I know there are a lot of good hardworking people at the VA and local offices who have the right intent, but they are only acting under the directives they have been given. What I want to know is who signs the memo authorizing these practices.

When bonuses hinge on giving a veteran the lowest possible disability rating rather than the rating they deserve, I'm hard pressed to believe that this qualifies as acting in the veteran's best interest. Make no mistake here, there is a vested interest, but somewhere along the way the interest got shifted to self serving.

Like solving any other mystery – follow the money.

Until such time that the VA can get its house in order, I think the individuals who do nothing but help file for Improved Pension and have no hidden agenda or want to sell you anything, should have the right to provide the same assistance as your accountant does. Most of these well intended folks have to stay behind closed doors for fear of retribution by the VA for actually helping a veteran make a correct application.

The VA will argue that the veteran is entitled to assistance with filing for free, but when the SO of the office you walk into knows nothing about the pension, or says you don't qualify, when actually you do, "free" comes at a pretty hefty price.

Yes these folks (the good ones) who work secretly behind the scenes helping veterans and their families should be able to charge a modest fee for their expertise and assistance, but the VA will never sanction anything of the likes, they have too much to lose.

There would be too many applications to approve with no reason to deny them. There are budgets to be justified, bonuses to be earned, and credits for getting a Service Organization assigned as Claimant's Representative rather than the family member so that you can't call and inquire about the status of the claim. The SO isn't paying the monthly bill so they won't have much motivation to follow up and press for a ruling or approval. And lastly they are busy making sure that no one other than them can "take advantage" of a veteran or widow.

The IRS has a few free months before it is tax season again. Maybe they can step in and show the VA how to get the job done. Better yet, instead of employees getting bonuses for the highest number of denied applications or lowest disability ratings given, how about an imposed penalty with incurring interest for any application that takes longer than 90 days to process!

Now there's an idea that has merit.

Debbie Burak- Founder

www.VeteranAid.org

VeteranAid.org is a 501(c)(3) Virginia Corporation that was started to educate veterans and their families about a little-known VA Special Pension.