



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

September 12, 2016
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5620 – VA Accountability First and Appeals Modernization Act of 2016

(Rep. Miller, R-FL, and 29 cosponsors)

The Administration is committed to ensuring that the Nation's veterans have access to the care, services, and benefits that they have earned. Over the past seven years, the President has maintained a steadfast commitment to serving veterans and their families. More veterans are now receiving health care through the Department of Veterans Affairs (VA) than ever before, and VA is delivering more benefits to more veterans in a timely and efficient manner. The Administration is working to end veteran homelessness in cities and states across the country, and has reduced veteran homelessness by nearly half. Under the leadership of the First Lady and Dr. Biden, through their Joining Forces initiative, the Administration has called on all Americans to rally around service members, veterans, and their families to support them through wellness, education, and employment opportunities. And Secretary McDonald has initiated the most sweeping organizational transformation in the history of VA, ensuring that the agency is keeping veterans' best interests at the center of everything it does.

H.R. 5620 includes a provision that would enable another essential reform that would build on this record of progress. By fundamentally restructuring the current process by which veterans can appeal their initial benefits claims decisions, this legislation would ensure that veterans receive the benefits they have earned and are not subject to years of endless waiting and duplicative process. The current appeals process – built up over 80 years of overlapping laws and regulations – is broken and is failing both veterans and taxpayers. Today, more than 450,000 appeals are pending at some point in the process, with veterans waiting an average of at least 3 years for a decision. Moreover, the problem is only going to get worse if the system is not fundamentally reformed. VA projects that, under the current process, the number of pending appeals will soar to more than 2.17 million by the end of 2027, which will require a significant increase in resources to address and result in veterans continuing to wait for an appeals decision for years.

In response to this critical problem, the Administration, with the support of major veteran advocacy groups, put forward a comprehensive appeals reform proposal that would fix this system. The essential feature of this new approach is to step away from a unified appeals process that tries to do many unrelated things inside a single process and replace that with differentiated lanes, which give veterans clear options after receiving an initial decision on a claim. And it would allow all veterans to have a clear answer and path forward on their appeal within one year from filing. H.R. 5620 adopts this comprehensive reform proposal, and the Administration strongly supports this provision.

However, the Administration is deeply concerned that H.R. 5620 contains numerous provisions that would undermine VA's workforce and could ultimately hinder the ability of the over 330,000 dedicated civil servants at VA to effectively serve veterans. The Administration is

strongly committed to strict accountability standards that ensure VA employees act with the best interests of veterans in mind, and instances of misconduct or poor performance in carrying out these duties cannot be tolerated. But the Administration believes that the approach to accountability in the legislation – focused primarily on firing or demoting employees without appropriate or meaningful procedural protections – is misguided and burdensome. This approach significantly alters and diminishes important rights and protections that are available to the vast majority of other employees across the government and which are essential to safeguarding employees' rights and the merit system. Furthermore, the legislation allows for the broad recoupment of awards earned by VA employees, and prevents VA from rewarding its high-performing senior executives. These provisions will make it more difficult for VA to attract the top talent that is needed to serve veterans, limit the rights of VA employees and senior executives, and set back the work done by VA to rebuild veterans' trust.

In addition, many of the provisions in the legislation raise constitutional concerns. Most significantly, certain provisions compress the time period within which VA employees would receive notice and an opportunity to be heard on charges against them before the Secretary of VA may take disciplinary action, including removal, and provide an expedited appeal process in which the disciplinary action would be automatically affirmed if the reviewing agency failed to rule within a certain number of days. We would welcome the opportunity to work with the Congress to address these due process concerns and other potential constitutional concerns raised by the bill.

The Administration encourages the Congress to ensure that accountability actions support, rather than impede, the ability of VA to carry out its duties, and looks forward to continuing to work with the Congress to address these and other important issues on behalf of the Nation's veterans and their families.

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