



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

April 23, 2012

Julia C. Matta  
Assistant General Counsel for Appropriations and Budget  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, DC 20548

Dear Ms. Matta:

Thank you for letter of March 15, 2012, seeking the views of the Office of Management and Budget (OMB) regarding the effect of a sequestration on programs administered by the Department of Veterans Affairs (VA). You also sent a similar letter to VA on that same date, seeking VA's views on the same question. OMB is providing this response on behalf of OMB as well as VA.

For the reasons set forth below, in answer to the question that you posed to OMB and VA, the conclusion that we have reached is that all programs administered by the VA, including Veterans' Medical Care, are exempt from sequestration.

As you know, the Statutory Pay-As-You-Go Act of 2010 (PAYGO Act; Public Law 111-139) and the Budget Control Act of 2011 (BCA; Public Law 112-25) made significant changes to the underlying sequestration framework that had been in place for many years under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (BBEDCA). In your letters to OMB and VA, you asked for our views on "whether the Department of Veterans Affairs' accounts, including veterans' medical care accounts, would be exempt from sequestration under the Statutory Pay-As-You-Go Act of 2010, or limited to a two percent reduction under existing provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended."

Prior to the enactment of the PAYGO Act, Congress in Section 255 of BBEDCA (2 U.S.C. 905) had spelled out a list of specific veterans' programs that were exempt from sequestration. This list of exempted VA accounts, in Section 255(b), did not include Veterans' Medical Care. In addition, again prior to the enactment of the PAYGO Act, Congress expressly addressed Veterans' Medical Care in Section 256 of BBEDCA (2 U.S.C. 906). In Section 256(e)(1) and (2)(E), Congress specified that "[t]he maximum permissible reduction in budget authority" for the "Veterans' medical care" account "shall be 2 percent."

In 2010, Congress in Section 11(b) of the PAYGO Act amended Section 255(b) of BBEDCA by removing the list of specifically-exempted VA accounts and by revising Section 255(b) to read as follows:

“(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

“All programs administered by the Department of Veterans Affairs.

“Special Benefits for Certain World War II Veterans (28-0401-0-1-701).”

In the PAYGO Act, Congress did not amend the separate “2 percent” limitation, in Section 256(e), on any reduction to be taken from the “Veterans’ Medical Care” account.

In 2011, Congress in the BCA further amended BBEDCA. However, in amending BBEDCA, Congress did not amend the provisions in BBEDCA, as amended by the PAYGO Act, that address the treatment of VA programs in the event of sequestration.

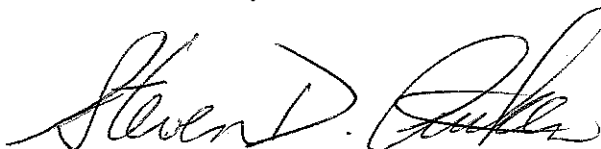
The current situation, then, is that Section 255(b) of BBEDCA provides that there “shall be exempt from reduction . . . [a]ll programs administered by the Department of Veterans Affairs,” and Section 256(e) provides that “[t]he maximum permissible reduction in budget authority” for the “Veterans’ medical care” account “shall be 2 percent.” In addition, the exemption in Section 255(b) for “[a]ll programs administered by the Department of Veterans Affairs” is the later-enacted provision, having been added by Congress in the PAYGO Act, whereas the “2 percent” limitation in Section 256(e) for the “Veterans Medical Care” account was included in the original enactment of BBEDCA in 1985.

The Veterans’ Medical Care program is one of the “programs administered by the Department of Veterans Affairs” and, as such, the Veterans’ Medical Care program comes within the sequester exemption in Section 255(b) under which there “shall be exempt from reduction . . . [a]ll programs administered by the Department of Veterans Affairs.” In addition, giving full effect to Section 255(b), by exempting Veterans’ Medical Care from sequester along with the other “programs administered by the Department of Veterans Affairs,” does not create a conflict with the limitation in Section 256(e) that a reduction to the “Veterans Medical Care” account shall not exceed “2 percent.”

Therefore, in answer to the question that you posed to OMB and VA, the conclusion that we have reached is that all programs administered by the VA, including Veterans’ Medical Care, are exempt from sequestration under Section 255(b). (In providing this response to your question regarding the relationship between Section 255(b) and Section 256(e), we do not address other potential sequester questions under BBEDCA, the PAYGO Act, and the BCA, including the application to VA programs of the “Federal Administrative Expenses” sequester provision at Section 256(h) of BBEDCA.)

Thank you again for this opportunity to provide our views. If we can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Aitken". The signature is fluid and cursive, with the first name "Steven" being the most prominent part.

Steven D. Aitken  
Deputy General Counsel

cc: Jack Thompson  
Deputy General Counsel  
Department of Veterans Affairs