

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 875 (Delegate Allen, *et al.*)  
Health and Government Operations

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Veterans - Persons Providing Veterans Benefits Services and Veterans Benefits  
Appeals Services - Fees and Compensation

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This bill prohibits, except as authorized under federal law, a person from charging a fee or receiving compensation for providing veterans benefits services or veterans benefits appeals services or referring an individual to another person to provide veterans benefits services or veterans benefits appeals services. To the extent authorized under federal law, an attorney providing, or referring an individual to another person to provide, veterans benefits services or veterans benefits appeals services may enter into an agreement for division of fees in accordance with the Maryland Rules, as specified.

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Fiscal Summary

**State Effect:** The Maryland Department of Veterans Affairs (MDVA) and the Office of the Attorney General can handle any administrative changes with existing budgeted resources. Nonbudgeted revenues to the Maryland Veterans Trust Fund (MVTF) increase beginning in FY 2025 to the extent civil penalties are issued as authorized under current law.

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** “Compensation” means the payment of money or anything of value or financial benefit received by a veteran or interested party in connection with the provision

of veterans benefits services or veterans benefits appeals services. “Compensation” does not include ordinary wages or salary paid by a disinterested third party or other person otherwise acceding in accordance with federal regulations.

A person who charges a fee or receives compensation for providing veterans benefits services or veterans benefits appeals services must comply with the same ethical standards as those set for attorneys under the Maryland Rules in regard to (1) advertising; solicitation of clients; (2) confidentiality; (3) the duty to care; (4) the duty of honesty; and (5) the duty to zealously pursue the best interest of the person’s client.

### **Current Law:**

#### *Maryland Department of Veterans Affairs – Appeals Services*

MDVA assists veterans, active-duty service members, and their families and dependents in securing benefits earned through military service. Among other services, MDVA connects veterans and their dependents with a variety of State and federal programs. MDVA has an appeals chief and benefits specialists across the State providing veterans benefits appeals services to veterans at no cost. All MDVA benefits specialists are fully trained and accredited by the U.S. Department of Veterans Affairs. In fiscal 2023, there were 4,676 decisions on initial claims and 160 decisions on appeals issues.

#### *Notification Requirements for Veterans Benefits Services and Appeals*

Chapter 312 of 2021 established notification requirements for persons offering veterans benefits services and veterans benefits appeals services. Generally, before entering into an agreement with an individual for the provision of veterans benefits services or veterans benefits appeals services, a person who charges a fee for those services must (1) provide a written disclosure statement to each individual and (2) obtain the individual’s signature acknowledging that the individual understands the disclosure statement. The written disclosure statement must be on a form approved by the Secretary of Veterans Affairs and state that veterans benefits services and veterans benefits appeals services are offered at no cost by MDVA and other veterans services organizations. A violator is subject to a civil penalty of up to \$1,000 for each violation, and any penalty collected must be deposited in the MVTF.

#### *Payment of Fees for Representation by Agents and Attorneys*

Federal regulations (38 C.F.R. § 14.636) govern the payment of fees for representation by agents and attorneys in proceedings before specified agencies and the federal Board of Veterans’ Appeals. Generally, only accredited agents and attorneys may receive fees from claimants or appellants for their services provided in connection with representation, and

the fees must be reasonable. Factors considered in determining whether fees are reasonable include, among other things, the complexity of the case, the level of skill and competence required of the representative in giving the services, and rates charged by other representatives for similar services.

### *Maryland Rules – Fees*

Generally, an attorney may not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include, among other things, the time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service, and the fee customarily charged in the locality for similar legal services. The scope of representation and the basis or rate of the fee and expenses must be communicated to the client, and a fee may be contingent on the outcome of the matter.

### *Maryland Veterans Trust Fund Chapter*

MVTF consists of gifts and grants received by the trust, specified proceeds of ticket sales from the sale of tickets from instant lottery machines by specified veterans' organizations, specified donations from video lottery facility players, designated fees from certain special registration license plates, proceeds from contributions under the checkoff on the individual income tax return form, and specified civil penalty revenues.

Money in the fund may be used to make grants and loans to veterans and their families and support public and private programs that serve veterans in the State. Money in the fund may also be used to invest in general obligations of the State or other securities and pay for the cost of administering the fund. Money expended from the fund is supplemental to and not intended to supplant funding otherwise appropriated to MDVA. The calendar 2023 balance of the fund was approximately \$784,000.

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## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 831 (Senator Klausmeier) - Education, Energy, and the Environment.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Veterans Affairs; Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 2024  
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