

Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



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Giving veterans the benefits they deserve - LGBTQ+ veterans and spouses

Benefits for LGBTQ+ veterans and spouses

Kimberly Adams, law graduate and veterans advocate

On the heels of the PACT Act ([featured here in last week's Big Ideas](#)), even more VA benefit gaps were recently closed for veterans. This time, the changes are impacting the LGBTQ+ community by extending survivor benefits to partners unable to wed until after the Supreme Court's 2015 Obergefell v. Hodges decision. This new benefit will support spouses who were not legally married long enough to qualify for survivor benefits when their veteran partner passed away.

The closing of this gap signals the ongoing positive evolution of the military's attitude towards its LGBTQ+ veterans and their families. While broadly represented within the military community (it's estimated there are more than one million LGBTQ+ veterans living in the US today), it wasn't until 2011 that the "Don't Ask, Don't Tell" policy, barring openly LGBTQ+ American citizens from military service, was repealed. As recently as 1982, the U.S. Department of Defense (DoD) released a policy stating that "homosexuality is incompatible with military service."

The new benefit stream, announced October 13, is already available for surviving spouses who can prove the existence of a marriage-like relationship prior to their legal marriage post-Obergefell. This can be established through things like proof of a commitment ceremony, establishment of a joint bank account, or a joint home purchase. With this proof, the VA will count time together from the start of the marriage-like relationship - opening many survivors to the benefits they deserve.

The introduction of these new benefits is widely celebrated. The change means LGBTQ+ surviving spouses will have access to the critical benefits they deserve - extra dollars to make ends meet, put food on the table, and live with a little more comfort after their partner's passing. And perhaps more importantly, it may help living LGBTQ+ veterans - and the families of those already deceased - feel affirmed as true and welcome members of the veteran community. They are veterans in their own right who made a sacrifice as valid and valued as that of any other fellow serviceperson.

But the implementation of these new benefits will not be without complications. The military has deeply alienated its LGBTQ+ members for decades. The vestiges of this treatment will not disappear easily. And even as they are invited to access this new support, many will question whether and where the old prejudices may lurk throughout the institution. For the LGBTQ+ veteran community - perhaps especially older members and their loved ones who survived the darkest decades for their community - the road to undo this damage and regain trust will be long.

Given this, advocates are concerned about how to adequately and equitably educate and shepherd those who might benefit from these changes to their local VA organizations. Things are a lot better now, but many will still feel unwelcome and uncomfortable from past mistreatment and bias. Others still - as with the PACT Act - will struggle to fully understand the benefit or access it whether online or in person. This could be due to limitations around transportation, technology, or literacy. Even for those who do take successful steps to seek access, it's anticipated there will be challenges around proving the "marriage-like partnership" that may result in inequitable or unfair results. There are many ways LGBTQ+ folks may have chosen to be committed and together before they could legally marry. Finally, there may be work even within veterans organizations to ensure representatives working on this issue treat applicants with equity and dignity.

The solution to this - as always - is strong community partnerships and aggressive education. Local LGBTQ+-serving organizations are encouraged to contact Community Legal Aid with questions or referrals. While the nonprofit doesn't directly assist veterans in accessing VA benefits, we can help explain what's offered and point them in the right direction. For those who have hesitations, we can often help facilitate warm hand-offs to maximize the chance that a meaningful connection is made and services are accessed.

At this time of awakening, we can all play an important role ensuring LGBTQ+ veterans and their family members are honored and supported. Many made the heaviest of sacrifices to serve our

country - and were forced to do so hiding their true selves.

To learn more about the benefits for LGBTQ+ veterans, [visit the VA's website.](#)

This article is part of Legal Aid's "Big Ideas" series.

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