

# VA'S DISABILITY CLAIMS PROCESSING

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE OVERSIGHT AND INVESTIGATIONS  
OF THE  
COMMITTEE ON VETERANS' AFFAIRS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SIXTH CONGRESS  
SECOND SESSION

—————  
MAY 18, 2000  
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Printed for the use of the Committee on Veterans' Affairs

**Serial No. 106-40**



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U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 2000

67-203CC

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# VA'S DISABILITY CLAIMS PROCESSING

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THURSDAY, MAY 18, 2000

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,  
COMMITTEE ON VETERANS' AFFAIRS,  
*Washington, DC*

The subcommittee met, pursuant to notice, at 10 a.m., in room 334, Cannon House Office Building, Hon. Terry Everett (chairman of the subcommittee) presiding.

Present: Representatives Everett and Brown.

Also present: Representative Bilirakis.

## OPENING STATEMENT OF CHAIRMAN EVERETT

Mr. EVERETT. The hearing will come to order.

Good morning. This oversight investigation subcommittee hearing will examine the Department of Veterans Affairs disability claims processing. It is not a new subject to us. The VA disability claims processing is obviously not serving veterans well. We do not need to have a hearing to know that. Almost every single Member of Congress knows that from just reading his constituent mail.

For the past decade, we know from data on the record that the disability compensation adjudication process has experienced large claims backlogs, high error rates and poor timeliness. I have received a number of letters from veterans who think the VA is waiting for them to die so it will not have to pay them and, indeed, a number of veterans do die before their compensation claims are paid.

I can understand why some veterans are afraid that they will die before those claims are paid and because it actually can take many years for a claim to be decided. I have been extremely surprised and disappointed to learn from testimony submitted today that some of the VA's reported performance data, poor as it was, was false. We will hear more about that during the course of the hearing.

As a matter of fact, after thinking about this overnight, I am so disturbed about this that I am considering calling additional hearings to find out if criminal charges are warranted on this. It seems to me that the pattern indicates after reading the testimony that this cannot just be by chance. As I said, we will talk about that more later.

Our witnesses today will be our colleague, Bill McCollum of Florida; two disabled veterans, Mr. Eugene Birge and Mr. Johnny Nixon; and also representatives from the General Accounting Of-

vice, the VA's Office of Inspector General and the Veterans Benefits Administration.

Our veterans here today are veterans of the Vietnam and Persian Gulf Wars. Mr. Birge is actually a veteran of both wars and Mr. Nixon is a veteran of the Vietnam War.

This hearing is about them and millions of other veterans, wartime and peacetime, young and old, who have been willing to put their lives on the line for this country. How we treat them after military service tells more about us as a country than anything ever said or written. Our young people watch what we do and compare it to what we say and decide whether they, too, should answer the call to serve their Nation.

This hearing is intended to lay the baseline for VA disability claim systems, the system as it has performed over the last decade and as it is today. The subcommittee will have a second hearing tentatively set for June 22 to learn about private sector businesses and what they have achieved through customer service and through best practices. They have international reputations and the bottom line to prove it. They have the kind of customer service that our veterans deserve.

We are going to ask the VA and ourselves why can't veterans have services that good? I might add particularly with the amount of money that we spend on this.

When our veterans come home from fighting the enemies of freedom, they should not have to fight a government agency for disability benefits Congress intended them to have.

I now recognize our ranking Democrat, Ms. Brown, for any opening remarks she may have.

#### **OPENING STATEMENT OF HON. CORRINE BROWN**

Ms. BROWN. Good morning, Mr. Chairman. I appreciate you holding today's hearing as the first in a series on VA disability claims processing, the benefits activities I hear the most complaints about from my constituents.

Claims for compensation are the heart of the VA benefits program. It is estimated that this year nearly \$19 billion, about half of the department's total budget, will be paid as compensation to over 2.5 million veterans and their survivors. Any way you look at it, the business of processing claims for VA benefits is very complicated.

Both the GAO and the Office of Inspector General, as our second panel, have been examining VA claim processing for many years. I must say that I am disappointed in reading the Inspector General's testimony. Its criticism of the VA for distorting performance statistics is simply a rehash of the witness' 2-year-old study using 1997 figures. Although the testimony noted at the end that VA reports it implemented all recommendations, IG does not recognize VA's efforts since 1998, nor does it assess VA's recent claim processing performance.

The GAO, on the other hand, is to be complimented for its April 7, 2000 report on VA processing practices needing to be evaluated.

As the third panel, the VA has a lot of explaining to. I am looking forward to this hearing.

And finally, I am very pleased to have veterans' organization representatives with us here today, sharing their insight from the trenches. They see it up close and personal. And I have to say that I also see it up close and personal because the bulk of the constituent service that I do in my district is with veterans. And, as I said earlier, when veterans have to go to an attorney or to an outside person, that means that the government is not working and we are not doing our job. It is very gratifying when we are able to solve some of these claims.

I see my colleague here, Mr. McCollum, we share borders of our districts, so I am looking forward to his testimony also. Mr. Bilirakis.

**OPENING STATEMENT OF HON. MICHAEL BILIRAKIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA**

Mr. BILIRAKIS. Thank you, Mr. Chairman. I particularly thank you for inviting me, even though I am not a member of the subcommittee, to be here today. I cannot stay too long because I have to chair a hearing that starts at 11 o'clock on Health and the Environment Subcommittee.

Mr. Chairman, I do not have to tell you that health care gets most of the focus as far as the Veterans' Committee is concerned, but thanks to you and a few others, we also are very much concerned about this subject. It is probably the most frustrating part, I think, as Ms. Brown said, besides veterans' health care.

I know a few years ago, Lane Evans, when he was chairman of this particular subcommittee, he tried to concentrate on this area but 2 years flies awfully fast and I guess you just never really get to closure.

But looking at that chart which we have a copy of here, it seems to me there has got to be a simpler way, Mr. Chairman. I know your interest in this subject over the years and I just hope that we can more than anything else be helpful to the VA try to simplify the process. It is just unbelievable to me.

One particular story in which the individual had been filing for 12 years before the decision was made is very disturbing, especially since in the last 6 years, there was a presumptive injury as a result of Vietnam, Agent Orange. And why in the world it would take 6 years after that presumption was in effect is just beyond me, and why it would take 6 years even before that is also beyond me.

It is clear that something has to be cleared up. I just wish that somehow that our Veterans Committee could somehow focus on this issue. We may need to get task force—and forgive me for even making this kind of a suggestion to this chair since I am not even a member of the subcommittee—but we may need some sort of a task force that maybe could focus on this area so we can once and for all try to solve it.

Thank you very much, sir.

Mr. EVERETT. Thank you. And I will tell you, my friend from Florida, I had my first hearing on this subject as chairman of compensation and pensions back in May of 1995 and we have had them ever since.

The disappointing part of it is, I believe, and I am going off the top of my head, that the processing of original claims at that point

was taking over 180 days or thereabouts. And now it is up to over 200 days. We were given information that improvement was being made over the years, but we now find out that that information may have been falsified.

And that is the reason I said earlier and from reading all the testimony, I am convinced that we may need to have witnesses in here under oath to testify about how that happened. The pattern is just too convenient.

So I thank the gentleman for his remarks.

I would like to welcome all our witnesses testifying today. I ask each witness to limit their oral testimony to 5 minutes. Your complete written statement will be made a part of the official hearing record.

Will Moulton, a veteran who resides in Oklahoma, has submitted written testimony and it will be made a part of the record.

[The statement of Mr. Moulton appears on p. 61.]

Mr. EVERETT. I ask that we hold all our questions until each entire panel has testified.

At this point, I would like to recognize and welcome my colleague and friend from the 8th District of Florida, Congressman Bill McCollum, for any remarks he may have to make.

Thank you, Bill.

#### **STATEMENT OF HON. WILLIAM McCOLLUM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA**

Mr. MCCOLLUM. Thank you very much, Mr. Chairman. I am just really pleased that you are holding this hearing this morning. I came here this morning specifically to testify about disability claims processing at the Veterans' Affairs Regional Office in Bay Pines at St. Petersburg.

I know that this issue is not unique to Florida, but I think the fact that you have three of us here, two on your committee and myself from Florida, is a testimony to the fact that we are the state with the second largest veterans population. We have the largest number of veterans who are service connected with disabilities at 75 years of age or older and we are also the largest concentration of veterans with service connected disabilities of 50 percent or more. And we only have one regional office in Florida, compared to California which has three and New York and Pennsylvania and Texas that have two each.

So we are concentrated in our concerns and I came because I had an experience this past year of having been over to the Bay Pines shop after I had had a series of meetings.

I hold meetings semi-annually with the leaders throughout the state but particularly in my area of every major veterans' organization, whether that is AMVETS or the American Legion or VFW or whoever and there are just a lot of them. And we have a great meeting room, a little bit smaller than this, and they have an opportunity and I have an opportunity to discuss veterans issues. And it is very educational.

Well, as Ms. Brown said, last year, the topic du jour was this disability claims backlog at the VA regional office in Bay Pines.

Now, we have had backlogs, but I just want you to know that it has never been more of a concern than it has been this past year with great reason, I think.

I went over as a result of that on September 7, 1999 and visited with Mr. Rupert "Sandy" Bowron, at that time Acting Director of the VA Regional Office, and Barbara Harker, the Veterans' Service Center Manager. And according to them, there had been a backlog in that office of about 28,250 claims in May of the year and that had dropped by the time of my visit to 26,250 and they were trying to figure out how in the next several years they could get that down to 21,000 which in their view was the ideal backlog.

I found that in and of itself remarkable. I do not know why. I think 21,000 is very arbitrary. I am sure there has to be a backlog, but should it be 15, 14, 12, 10? Why 21000? It struck me that that is very convenient, to pick a number that is probably achievable, hopefully achievable long before 2 years.

Then they attributed the backlog and I think they probably were right in some of this to three things: one, continue the training of inexperienced rating specialists, 30 percent of the rating specialists had less than a year's experience at the time of my visit; the September 1998 move to the regional office's current location, they have beautiful new offices now, coupled with the creation and implementation of 20 case management teams to work claims; and clearly the impact of a new telephone system allowing 80 percent more calls to go through and causing employees to spend more time answering veterans' questions, taking more time away from claims adjudication. The two also indicated there was a software problem that contributed to the delays.

I do not doubt any of those, but there is still something fundamentally wrong that I am sure your subcommittee is addressing here today.

We discussed the use of so-called SWAT teams, bringing specialists in from elsewhere to try to help them work off the backlog. They apparently do this from time to time on an ad hoc basis, but I find it remarkable that they told me there was no VA central office system to put together such a team. This is just done if the local VA administrator decides to call somebody up somewhere else. It seems to me there ought to be a pool of experienced personnel to go in when you have excessive backlogs like this and at least work it down to 21,000 and hopefully work it down a lot faster to a lower number.

It struck me also that there is going to be a large number of experienced employees that are starting to retire in the next three to 5 years they told me about and that can make matters worse if we do not do something to rectify it.

Another key aspect of what I did not think was fully addressed during my visit was the time it takes the regional office in St. Petersburg to adjudicate a claim. Currently, a veteran has to wait 11 to 16 months for a claim decision and most of them take well over 16 months. That is a long period of time for each claim once you get it there.

And then the outcome of the meeting, Mr. Chairman, was I requested GAO look into this and I joined subsequently with your committee and I am very appreciative of what GAO is doing on this

at this point in time and I am very happy with that, but I very concerned about the future of what you discover and what happens today.

One of the things that I am worried about is that, as you know, fairly recently, on July 13, 1999, the Court of Veterans Appeals made a decision that the veteran has the burden of submitting the evidence to show his claims are well-grounded and, as a consequence of that, I have a feeling that the numbers may be going down in the backlog technically in that VA office and maybe around the country, but the reason they are going down may not be because they have fixed the problem, it may be because they simply have shifted this burden and are not helping the veterans prepare their claims as much as they were before, therefore there are fewer claims that are there, even though they should be there. And once that problem is remedied, which you know we are about to do, then it is going to have this backlog go back up again because the fundamental problem is not fixed.

So bottom line is that my judgment is Florida is much worse than it has been in the past. There has always been a backlog problem, but I suspect it is true of the Nation, but I know it is true of my state. It is just a huge problem, it cannot be tolerated.

And I urge you to, as I have heard you say in your statement I think you are going to do, take some immediate action to really put some pressure on these folks. There has got to be a better way and a better way of doing it soon. Most of these veterans are really quite elderly and to have this backlog is a great disservice to them, an enormous disservice.

Thank you, Mr. Chairman.

[The prepared statement of Congressman McCollum appears on p. 67.]

Mr. EVERETT. Thank you. Those are concerns of this subcommittee, both myself and Ms. Brown and the other members of the subcommittee.

I will say again, this is something we have been working on since 1995 and we have received promise after promise after promise it was being fixed, have this program going, that program going. And even the figures that were given to us, where they appeared to be improving, now it appears those figures were falsified.

So I think that the VA has an awful lot to answer for. This ship, if it is too big to turn around, maybe we ought to figure out some way to steer the ship.

I thank you for your appearance here today.

Mr. MCCOLLUM. Thank you.

Mr. EVERETT. Again, thank you very much.

Mr. MCCOLLUM. Thank you very much, Mr. Chairman. Thank you.

Mr. EVERETT. I would now like to recognize our veterans panel: Mr. Eugene Birge and Mr. Johnny Nixon. Mr. Nixon will be introduced by my colleague, Mr. Goodlatte of Virginia.

Mr. Goodlatte, you are recognized to introduce our witness.

**OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA**

Mr. GOODLATTE. Chairman Everett, first let me thank you for conducting this hearing. I would also like to thank the ranking member, Ms. Brown. And to thank you and the committee for work that you have done on this issue and particularly for this veteran, Johnny Nixon, one of my constituents.

This issue is one that deserves a great deal of attention and I will say that in addition to the general work that needs to be done to improve the convoluted process that veterans often face and that Mr. Nixon will describe to you with regard to his case, you have been particularly helpful to Mr. Nixon in response to his inquiry to the committee.

They looked into the matter and were able to help him with his particular problem which he will describe to you in greater detail. It is something that has been going on for more than a dozen years in his case and something that my office has been involved in attempting to help him with for several years now.

He is a distinguished Vietnam veteran and someone who I do not think should have been put through the circumstances that he has been put through in his dealings with the Department of Veterans Affairs which I know faces a great many challenges, they have a very fine facility, a medical center in my district as well as a regional office that is headquartered in my district. I work with them on a regular basis. But sometimes the mess that the bureaucracy creates more problems than it solves and so I hope that we can in this process find some ways to streamline the process and make it easier for veterans like Mr. Nixon and millions of others around the country to get attention to their difficulties in a more prompt and expeditious and pinpointed manner.

He will tell a number of difficulties with inaccurate information being put into his file and so on that he then has to go back and get corrected.

So I thank you again for allowing me to introduce Mr. Nixon and I will be able to stay for his testimony. I am then going to have to sneak out to get to another hearing that I have to participate in.

Thank you very much, Mr. Chairman.

Mr. EVERETT. Thank you, Mr. Goodlatte.

I will introduce Mr. Eugene Birge, who resides in my district in Alabama. Mr. Birge is a man who has served his country and community for all of his adult life. He was drafted in 1968 when he was 22 years old and served in the Army in Vietnam as a helicopter door gunner. And those of us who know anything about helicopter door gunners, we recognize what kind of service that was.

He was awarded three combat air medals. In 1974, he entered the Alabama National Guard. He was activated for the Persian Gulf War and served as a Command Sergeant Major. He was awarded a bronze star for that.

Mr. Birge is a 1974 graduate of Troy State University and holds two master's degrees in education. He has been a special education teacher—I admire you very much for having done that in Lockhart, AL for some 20 years. He has been married for 34 years and has a son and a daughter, both in college.

I am certainly proud to have him as a constituent. Rather than go into the details of his testimony, I would prefer to let him do that.

I am reminded both Mr. Nixon and Mr. Birge have family members here and we would like to introduce them, so please do that.

Mr. BIRGE. My wife, Reba Birge.

Mr. EVERETT. We are pleased to have you.

Mr. Nixon?

Mr. NIXON. My wife, Susan Nixon, a nurse for 26 years. My son, Lee Nixon.

Mr. EVERETT. Thank you all for coming today.

Now please proceed with your testimony, Mr. Nixon.

## **STATEMENTS OF JOHNNY L. NIXON, DISABLED VETERAN, AND EUGENE ROLAND BIRGE, DISABLED VETERAN**

### **STATEMENT OF JOHNNY L. NIXON**

Mr. NIXON. Mr. Chairman, subcommittee members, ladies and gentlemen, I count it a high honor to be here today in the Nation's capital. First and foremost, I want to thank Congressman Bob Goodlatte for helping me and for his continuous support on veterans issues in our district.

I also want to thank Congressman Virgil Goode for what he is doing for veterans in his district.

Thank you also, Congressman Stump and subcommittee members, for your interest in our veterans' dilemma.

I am a very proud Vietnam veteran. I love my country. I live in Vinton, VA, the dogwood capital of our state. I am married and have two wonderful children. I am the president of the Vietnam Veterans Association of Virginia.

I must hurry today, not due to time constraints but due to veterans dying as I speak from heavy exposure to Agent Orange and gasses used against our veterans in the Gulf War while awaiting their claims to be processed by the Veterans Administration. I wish this was the day we talk about veterans health care, but it is not, so I will not.

But I must report to our Nation the state of veterans affairs is the worst its been in decades. Many of our World War II veterans and Korean veterans that are service connected cannot eat because they have no teeth, cannot see because they have no glasses, cannot hear because they have no hearing aids.

Yes, I am very angry. Our benefits have been stolen. Where is government? The statesman Benjamin Franklin stated, and I quote, "There have been no changes made until those unaffected are as outraged as those who are."

I filed an Agent Orange claim back in 1988. It took the Veterans Administration 12 years to approve my claim, even after four examinations by government doctors and all four times I was diagnosed with chloracne caused by heavy exposure to Agent Orange. These were not my doctors. I did not know them. I did not choose them.

Since most doctors throughout the United States even today do not know what chloracne is, let me explain. I get large cystic tumors on my face and body. My face secretes about two quarts of

oil a day. I have to surgically remove about 100 of these places a year, not counting what the doctors remove. The itching is terrible, eventually attacking the nervous system.

I am told I will have to take antibiotics, medicine for itching and use face creams for the rest of my life and continue to have surgery on an ongoing basis.

Chloracne is a terrible disease. The rating needs to be much higher than 30 percent. The percentage for scarring needs to be adjusted also. You see, every morning, when I look in the mirror to shave I return to Vietnam and this is a very dangerous thing.

So today please do not expect me to go into the past 12 years because it is filled with hatred and bitterness. People today wonder why veterans go postal. I can tell you.

How many veterans have given up on their claims due to this never ending process by the Veterans Administration?

There is a hundred and thirty pounds of paperwork and 50,000 pounds of red tape. Eliminate it. There have been old regulations incorporated with new regulations, making it impossible for the examiners to assist in getting claims approved. Many veterans refuse to file a legitimate claim because of this charade.

The process and department needs a major overhaul. This is some of the feedback I received from the Veterans Administration while my claim was pending the last 12 years:

Mr. Nixon, just because the government doctors state you have chloracne does not mean you have it, that is just that doctor's opinion.

Second, Mr. Nixon, you received only 2 percent service connection for scarring caused by chloracne because little children do not run from you. Most of my scars are covered by my clothing. I would be glad to show them to you at your request. Please do not leave this hearing room without seeing first hand chloracne.

We need to hire more claims processors but tell them they are to work for the veterans and not against them. All Veterans Administration employees need to use kindness and courtesy when speaking with veterans. We are not second class citizens. We are the reason you do not live in a communist dictatorship.

We need to quit approving claims just because a man says he is going to kill himself. Let's get rid of the fraud in the system. We need nurses in the VA to take care of us and they need to receive higher wages.

Get rid of the people inside the front wall of our VA hospitals asking questions like how much money did you make last year and who is your primary insurance carrier. We are American war veterans, not criminals.

Mr. Secretary Togo West, tear down those walls.

I know this system cannot be fixed overnight, but you Congressmen sit in a position today to get the ball rolling. We just want you to give us your best because we, as well as some of you, gave our best on the battlefield.

In closing, our honorable first president, George Washington, tell us why it must be fixed in this quote: "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the vet-

erans of earlier wars were treated and appreciated by their Nation."

Let's cross party lines on this issue and start taking care of our own first.

God bless you. God Bless America.

[The prepared statement of Mr. Nixon appears on p. 69.]

Mr. EVERETT. Thank you, sir. Mr. Birge.

#### STATEMENT OF EUGENE ROLAND BIRGE

Mr. BIRGE. I would like to begin by saying that I appreciate the opportunity to come. I was born in Lockhart, AL, that is in L.A., Lower Alabama. I was number seven of ten children. Out of the six boys that survived, five of us have served in the military. Four of us have served in combat. One brother served four times in Vietnam. I served in Vietnam and Desert Storm. My other brother served in Korea and Vietnam.

I graduated from Florala High School in 1965 and went to work as a parts salesman, married in 1965 to Reba Thomas Birge.

I was examined six times and after the sixth time I was drafted. I had rheumatic fever when I was a senior in high school and my blood never would clear up. So I was drafted in 1968.

In 1968, I went to Vietnam. In 1970, I returned and went back to my original job at the parts house. That did not seem to be fulfilling to me in any way, so I began college on the GI bill, being on the GI bill. I went to a junior college for 2 years and transferred from there to Troy State at night at Fort Rucker and continued to work at the parts house.

Graduated from Troy State in 1974 with a degree in secondary education, a major in social studies and a minor in English. Began teaching special education at Florala City School in 1974. Taught there for 2 years and then went to W.S. Harlan School in Lockhart and taught there for 3 years.

In 1976, my son Ryan was born and in 1979 my daughter Candace was born. I attended Troy State at Dothan at night and received a Master's in career education and human development.

In August 1979, I began teaching special education at Florala High School and when I say special education, I am talking about children with learning disabilities, emotionally disturbed, emotional conflict, developmentally delayed, anything you want to toss in there in special services. And I have been there ever since.

During this time, I attended Auburn University at Montgomery at night and received another Master's degree in mental retardation. All this was due to the Vietnam GI bill.

I am still married to the same wife of 34 years. My son Ryan is a senior at Auburn University. He will graduate June 10, next month, with a degree in chemical engineering. Candace is also attending Auburn University as a junior. She is pursuing a degree in physical education.

I am the mayor of Lockhart, AL and I have been since 1978. There are about 600 people in Lockhart, for those of you that do not know.

Drafted in 1968, I was sent to Fort Polk, Louisiana for basic training. Some of you all may know that as Tiger Land. Accelerated promoted to E2 because I shot expert with every weapon they

had. Flown to Fort Eustis, Virginia the same day I graduated from basic training to enter Chinook crew chief school. Graduated AIT, advanced individual training, with accelerated promotion to E4. Received a 7-day en route leave to the Republic of Southeast Asia, stationed in Vung Tau, Vietnam, 765th Transportation Battalion, 388th Transportation Company. And what is ironic about this, one of my older brothers was my first sergeant.

Mr. EVERETT. We are going to make your entire testimony a part of the record. If you would please give us your comments on the VA, I would appreciate it.

Mr. BIRGE. Okay.

Mr. EVERETT. I am afraid we are going to run out of time.

Mr. BIRGE. Dealings with the VA has been discouraging for me. My first visit was in 1985. I was requested to go to the VA for an Agent Orange check up because I know for a fact I was sprayed three different times. I was not given any exam. I was asked if my children were born deformed and when I told the doctor no, he replied that I was not sprayed with Agent Orange. I spent 3 weeks in the hospital with kidney stones in Vietnam, but there was no record of this and I still have problem with kidneys.

When I returned after Desert Storm, I was medivac'd back to the United States because of breathing and swallowing problems and a head injury. I filed a claim. The VA requested my records in 1996 and seems like I have been sending records to them ever since then. I do not know what they do with the records they have.

Up until the middle of 1996, I thought everything was going smoothly, then all of a sudden there was a period of about 2 years that I received one letter saying the VA was processing my claim and finally in 1998, a 2-year period later on, I received my rating decision and I still have claims pending.

Thank you.

[The prepared statement of Mr. Birge appears on p. 72.]

Mr. EVERETT. Thank you very much.

Let me ask you: you are a schoolteacher?

Mr. BIRGE. Yes, sir.

Mr. EVERETT. What lesson should the VA learn from the way your disability claim was handled? It took you 2½ years, is that correct? From 1996 to 1998?

Mr. BIRGE. Yes, sir.

Mr. EVERETT. What should the VA learn from this?

Mr. BIRGE. The VA should learn that something is wrong with the system some way or another. I've kept all my documentation. If any of you all know what an LOD is, a line of duty, that means that you got hurt in the service of your country. And yet I had to prove this over and over again. So what I would say is we need the people that are in charge of the VA to hire somebody that can take charge of the thing.

Mr. EVERETT. Would you agree that that is what would normally happen if anybody was not working for the government, if they were working for a private company?

Mr. BIRGE. I know if I did not do my job teaching special ed in Floral, AL, I would not last 30 days. There would be somebody there to take my place.

Mr. EVERETT. This committee has made its position clear on that and one of the things unfortunately we see with the VA, they simply do not take action against people who do not do their jobs.

Mr. BIRGE. Yes, sir.

Mr. EVERETT. And that has been proven over and over and over again by this committee.

Mr. BIRGE. I want to say something that he referred to that I did not put down is we are treated like second class citizens once we get to the VA center. I mean, they are very rude to us. We all have problems, but that is what they are there for.

Mr. EVERETT. That is something that this committee has heard also over and over again.

Mr. Nixon, you endured a long, long battle with the VA. How did you persevere for 12 years? I think frankly a lesser man would have given up.

Mr. NIXON. Yes, Mr. Chairman, you are right, 100 percent. My friends and my family kept telling me to give up. Give up, they will never approve your claim.

But, Mr. Chairman, I did not give up in Vietnam and I will be doggoned if I am going to give up on something I know the government owes me.

Mr. EVERETT. Well, I want to apologize for the Congress for the problems that both of you have had in this. I think perhaps you heard my opening. This is a problem I have been working on since 1995, when I first became a chairman. And I was given assurances by the VA that this was going to improve. At that particular time, frankly, the VA spent \$300 million on modernizing computer systems to have that happen and they do not have much to show for it. To date, I do not know what the money was spent for.

And the quote that you made, one of the problems that this committee has had, and we can go through directors who have mistreated employees, with 30 veterans dying in the Columbia, MO VA hospital, and a whistleblower, the doctor reporting that was being frankly treated poorly during VA's attempt to cover it up; and VA directors who have sexually harassed people, have abused their authority, and I want to tell you, very little happens to these folks.

There is a culture in the VA that is going to end up destroying the VA if something is not done. And I am getting real tired of saying that statement, because I have been saying it since 1995.

And one of the problems is, getting back to what you said, the American people would be outraged if they knew this and one of the difficulties that this committee has had is getting the word out to the American people. It is very difficult. We found \$800 million worth of waste within the VA and DOD, this subcommittee alone, this year. And almost no one in the American public knows that. That is money that ought to be used for claims processing and for health care, but that is not the case.

I do appreciate your service to the country. Again, I apologize for what has happened. I want you to be assured that Ms. Brown and myself take this extremely seriously and you deserve much better. I appreciate the willingness of both of you to be up here and testify. Ms. Brown.

Ms. BROWN. Thank you, Mr. Chairman.

First of all, I want to say I do not have any questions for these gentlemen, but I want to thank you gentlemen for your testimony and for the service to your country. That is what made you veterans in the first place.

I am personally sorry that the system that we created has treated you and other veterans like you badly.

Mr. Nixon, you said that this issue should be bipartisan. You need to know it is bipartisan and when I say that I am not trying to put down anybody, but you cannot talk about a surplus when you have not paid your bills. This is an example of a bill that we owe. You have my commitment that we are going to work to make things better as far as this process is concerned for all veterans.

In my state of Florida, the process is chaotic. I have a lot of success with veterans. Recently in a television interview on another subject, the television station, which is not even in my district in Miami, had been working on a case for a year. They could not get it solved. This is a veteran that for 5 years had been trying to get help. I took the case and in less than a month we were able to process it because we just dogged them until they helped us out.

It is just very gratifying, but we have got to make sure that the system works for all of the veterans. I can tell you that the task force idea—bipartisan, to work to make sure that we come up with a way to process these claims—we are going to do that.

So thank you again for your services to this country. I am sorry that the system up to this point has not worked like it should, but I can promise you it will.

Mr. NIXON. Thank you, Ms. Brown.

Ms. Brown, the Senate subcommittee and all congressmen should not have to do the job for the Veterans Administration.

Ms. BROWN. But we are in charge.

Mr. NIXON. Yes, ma'am. Yes, ma'am.

Ms. BROWN. And we have got to make sure that the VA does their job.

Mr. NIXON. Amen. Yes, ma'am.

Ms. BROWN. The buck stops with us, the Congress.

Mr. EVERETT. Mr. Bilirakis?

Mr. BILIRAKIS. Thank you, Mr. Chairman.

Mr. Birge, you received a rating decision in 1998?

Mr. BIRGE. Yes, sir.

Mr. BILIRAKIS. And then you say you still have pending claims? You have filed additional claims?

Mr. BIRGE. Yes, sir.

Mr. BILIRAKIS. When did you file the claim for which you received the rating decision in 1998?

Mr. BIRGE. When did I file it?

Mr. BILIRAKIS. Yes.

Mr. BIRGE. In 1996.

Mr. BILIRAKIS. In 1996. So that took 2 years, but you have filed additional claims and you have not heard on that yet?

Mr. BIRGE. Roger that, sir. The main one is the esophagus. In my medical records, I believe the dust—

Mr. BILIRAKIS. Yes, I see that. I see that.

Mr. BIRGE. Okay. I mean, it has zero compensation. That means still pending.

Mr. BILIRAKIS. And, Mr. Nixon, of course, you are obviously the veteran that I was referring to in my opening statement. Chloracne is one of the presumptive diseases, so it took about 6 years?

Mr. NIXON. Twelve years, sir.

Mr. BILIRAKIS. Well, 12 years total.

Mr. NIXON. Right.

Mr. BILIRAKIS. But after chloracne was decided upon as being one of the presumptive diseases, it took about 6 years after that?

Mr. NIXON. Yes, sir.

Mr. BILIRAKIS. Unbelievable.

And, you know, Mr. Chairman, the fact that they are treated as second class citizens, and you said it, sir, we have heard that many times. You hear a lot of good things about veterans health care, I do not mind telling you, and they ought to be commended for those, but at the same time, we keep getting this stuff about second class citizens.

Thank you very much, sir.

Mr. EVERETT. Thank you. Again, I want to thank these witnesses and you can go on back to L.A. (Lower Alabama) and take care of it down there, bring us some rain. I will tell you, my farm needs some rain real bad.

Thank you for coming up. We appreciate the testimony both of you have given us.

Mr. BIRGE. Thank you, Mr. Chairman.

Mr. EVERETT. I would like to now call the second panel. I call it with the idea that—I think our information is that we are going to have a series of votes shortly, but let me go ahead and see if we can get started.

I would like to welcome and recognize Mr. Michael Sullivan, the Deputy Inspector General, Office of the Inspector General, Department of Veterans Affairs. Mr. Sullivan is accompanied by Mr. Michael Slachta, Assistant Inspector General of Auditing; Cynthia Bascetta, Associate Director, Health Education and Human Services Division, General Accounting Office. Ms. Bascetta is accompanied by Irene Chu, Assistant Director, Health, Education, and Human Services Division, and Helen Lew, Assistant Director, Accounting and Information Management Division.

As I said, I think we will get some information, but I believe that there is a series of five votes, gentlemen, which means that—I am sorry, but we have probably got 45 minutes to an hour here, that is my guess, but we will know in just a second.

Let me ask Mr. Sullivan go ahead and testify and at least get that far ahead.

**STATEMENTS OF MICHAEL G. SULLIVAN, DEPUTY INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY MICHAEL SLACHTA, ASSISTANT INSPECTOR GENERAL FOR AUDITING; AND CYNTHIA BASCETTA, ASSOCIATE DIRECTOR, HEALTH EDUCATION AND HUMAN SERVICES DIVISION, GENERAL ACCOUNTING OFFICE; ACCOMPANIED BY IRENE CHU, ASSISTANT DIRECTOR, HEALTH, EDUCATION, AND HUMAN SERVICES DIVISION, GENERAL ACCOUNTING OFFICE, AND HELEN LEW, ASSISTANT DIRECTOR, ACCOUNTING AND INFORMATION MANAGEMENT DIVISION, GENERAL ACCOUNTING OFFICE**

**STATEMENT OF MICHAEL G. SULLIVAN**

Mr. SULLIVAN. Thank you, sir.

Mr. Chairman and members of the subcommittee, I am pleased to be here today to discuss our 1998 report regarding the accuracy of data used by VBA in reporting on the timeliness of the processing of disability claims. I am accompanied by Michael Slachta, the Assistant Inspector General for Auditing.

As part of our continuing coverage of the Department of Veterans Affairs compensation and pension program, as well as the department's presentation of its performance in accordance with the Government Performance and Results Act, the OIG conducted an audit to assess the accuracy of data used in the following VBA performance measures: the average days to complete original disability compensation claims; the average days to complete reopened compensation claims; and the average days to complete original disability pension claims.

In the audit, we compared data from VBA's automated systems with source documents to determine whether the proper data was input.

Mr. EVERETT. Allow me to interrupt here and I apologize for doing this, but reconsidering, I think perhaps we need to go and make sure we make those votes. Again, I apologize for asking you to begin. We will just start over when we get back.

Thank you very much.

[Recess.]

Mr. EVERETT. The committee will come to order.

Mr. Sullivan, I apologize again, but if you will start and limit your testimony to 5 minutes and we will put the entire testimony in the record.

Mr. SULLIVAN. Yes, sir. Thank you.

I am pleased to be here today to discuss our 1998 report regarding the accuracy of data used by VBA in reporting on the timeliness of the processing of disability claims. I am accompanied by Michael Slachta, our Assistant Inspector General for Auditing.

As part of our continuing coverage of the VA's compensation and pension program, as well as the department's presentation of its performance in accordance with the Government Performance and Results Act, the OIG conducted an audit to assess the accuracy of data used in the following three VBA performance measures: average days to complete original disability compensation claims; aver-

age days to complete reopened compensation claims; and the average days to complete original disability pension claims.

In the audit, we compared data from VBA's automated systems with source data to determine whether the proper data was input. We reported that fiscal year 1997 data that was used to measure claims processing timeliness was not accurate.

More than 30 percent of the records in each of our three national samples contained inaccurate or misleading data, which resulted in a misrepresentation of the measurement of average processing times.

To illustrate, for original disability compensation claims, VBA reported 128 days. The audit found the actual processing time to be 151 days, or a difference of 23.

For reopened claims, VBA reported a processing time of 109 days. Our audit determined that the actual time was 146 days, or a difference of 37.

For original disability pension claims, VBA reported 71.5 days. The audit determined the actual time was 80 days, or a difference of 8.5 days.

VBA personnel claimed work measurement credit when credit was not warranted. They claimed the wrong work measurement credit at times and input data which did not reflect actual processing times. Further, VBA personnel used the wrong establishment date to compute claims timeliness. These errors understate the actual processing time.

A primary cause of these conditions was that VA personnel either overlooked or were not adequately familiar with applicable data. We could not determine how many deficiencies resulted from clerical errors or whether the personnel intentionally ignored criteria in specific instances.

Some criteria in effect at the beginning of fiscal year 1997 also contributed to these distorted computations of processing days. VBA claims processing criteria instructed personnel to input the date a claim was received in the office processing the claim as the start date of claim without regard for whether the claim was originally received at another VA facility. Thus, if a claim was transferred from one VA facility to another, any days in the first facility or in transit were not included in the computation of processing days.

More accurate timeliness data would enhance the ability of VA managers and others to assess performance and make sound decisions and further would improve the credibility of VA information presented to interested parties such as administration heads, the Congress and veterans.

During the audit, VBA revised criteria, defining the data of claim to be recorded and took other steps to more accurately measure claims processing timeliness. The Under Secretary identified development and maintenance of accurate data systems as one of his major goals. To assist in reaching that goal, he established a Data Collection, Analysis, and Integrity Team.

Recognizing that these actions should result in the input of more accurate data, we also recommend further corrective action, to include:

Appropriate personnel should receive additional training concerning the identification and classification of claims, dates of claim and dates of disposition.

VBA officials should review criteria related to the common deficiencies identified during that review and revise the criteria as needed.

And, finally, VBA officials need to regularly monitor the accuracy of classification codes, dates of claim and dates of disposition to detect any errors.

The Under Secretary for Benefits has reported to us that all audit recommendations were implemented.

Mr. Chairman, this completes my testimony. I will be glad to answer any question you or the members of the committee may have.

[The prepared statement of Mr. Sullivan appears on p. 75.]

Mr. EVERETT. Thank you very much. And I will get right to the point. Is the OIG able to express opinions regarding the current integrity of the VA's data systems?

Mr. SULLIVAN. Mr. Chairman, we have not done further work in this area. We do note GAO has indicated that the average processing time has been reported to have increased. We assume based on that that more honest reporting is occurring, but I have no audit to definitely say so.

Mr. EVERETT. Is the OIG able to express an opinion whether the inaccurate and misleading data was intentionally false information? That data always made the claims processing look better than it really was. Is that not the truth?

Mr. SULLIVAN. I have no hard evidence to say so. We did not find e-mails or anything of that sort that would push or encourage employees to submit inappropriate data. However, some of the examples certainly make it apparent that information that was input was definitely incorrect, inappropriate and misleading.

Mr. EVERETT. And that information, that data always made the VA claims processing appear better.

Mr. SULLIVAN. In most of the cases, it certainly does, sir.

Mr. EVERETT. As an investigator, did you see any patterns?

Mr. SULLIVAN. We saw a systemic condition in that these were the results of national samples, three separate national samples. In doing so, we did not concentrate on any one region. We found these problems at numerous locations around the country.

Mr. EVERETT. Which regional offices were the largest contributors to the misleading information?

Mr. SULLIVAN. As we conducted our review, it was a national review, so we did not concentrate on a particular RO.

Mr. EVERETT. But you could not figure out any one office that sort of led the pack?

Mr. SULLIVAN. No, sir. We did not do that.

Mr. EVERETT. The year that you looked at in detail in which you found the extensive false data was fiscal year 1997. I assume that is correct?

Mr. SULLIVAN. Yes, sir.

Mr. EVERETT. Which year on the GAO chart had the lowest number of days for processing the claims?

Mr. SULLIVAN. That is 1997.

Mr. EVERETT. Is the OIG planning to do another audit of the VBA data system?

Mr. SULLIVAN. Our intent is to include this area in our regular recurring combined assessment program of regional offices. We have this program for our medical centers. We plan to start the same process at the ROs later this summer. This will definitely be one of the areas that we will look at.

Mr. EVERETT. And what is the timeframe? What is the timeframe for that?

Mr. SULLIVAN. What we try to do is assess at least one RO every month. We will spend one week at that RO and look at various aspects of the RO's operations. So probably by August or September of this year, we will have done our first RO site.

Mr. EVERETT. Well, as I indicated earlier, I am extremely concerned about the false information that came up, frankly, to this Committee and to Congress. And, as I indicated, we will be having additional hearings on that in which we intend to put people under oath. I am prompted to do that by the fact that there is a long-standing situation within the VA where they just simply refuse to discipline people who have done wrong—to fire them or reprimand them or do anything to them.

As far as I know, no one has been held responsible for this false information today and the only thing that has occurred is somebody said do not do it again.

Well, I am getting a little tired of this situation of not asking permission because forgiveness is so easy to get.

So let me just ask my colleague, Ms. Brown, for any questions she has.

Ms. BROWN. Thank you, Mr. Chairman.

Mr. Sullivan, is this a copy of the report?

Mr. SULLIVAN. Yes, ma'am.

Ms. BROWN. Okay. Isn't it true that the VBA asked for your investigation?

Mr. SULLIVAN. They certainly did. Yes, ma'am.

Ms. BROWN. And the data was from 1997 and the report was written in 1998.

Mr. SULLIVAN. Correct.

Ms. BROWN. Did you make a series of recommendations?

Mr. SULLIVAN. Yes, we did.

Ms. BROWN. And have those recommendations been implemented?

Mr. SULLIVAN. They have been reported to us as implemented. We have not done a follow-up audit, but they were reported as being implemented to us.

Ms. BROWN. You found no basis for a criminal investigation, but a lack of data integrity and clear procedures?

Mr. SULLIVAN. Yes. We did not pursue any of these areas from the standpoint of criminal, but we did find problems administratively.

Ms. BROWN. Did you all come up with any examples showing taking longer than necessary to process the claims?

Mr. SULLIVAN. Oh, yes, ma'am. We had several examples throughout the report, instances of 400 and 500 days to process a claim. And in some of those cases, the information was not entered

in the work measurement system, which in turn contributed to the data being inaccurate on an average basis.

Ms. BROWN. What kind of recommendations did you make?

Mr. SULLIVAN. We made recommendations that dealt with the training of staff, to be more involved, to understand all the rules, to understand the relationship between work measurement and the providing of benefits to the veteran.

Ms. BROWN. And did the VA follow up?

Mr. SULLIVAN. They have indicated they have followed up on those actions. In fact, Mr. Thompson, upon being briefed about 2½ years ago, immediately got the word out to provide correct data into the system and we expect that that direction had been taken.

Ms. BROWN. In reviewing the report, it seems to me that maybe it is a little misleading to us, as if these recommendations were made, these accusations were made and then the VA had not tried to clear up these areas. In other words, I am thinking that you all need to undertake an update as to the status report as we speak today. This is the year 2000.

Mr. SULLIVAN. Yes, I understand. One of the things we try to do is not overlap with our colleagues in GAO on a number of projects. We feel that we established the backdrop of what was going on in the department back in the 1997–1998 timeframe. Since that time, GAO has conducted this oversight review. We will certainly look at what they have done and make a decision as to whether we need to pursue it further.

Ms. BROWN. But at this time, would you say that based on your information that the VA has followed up on your recommendations?

Mr. SULLIVAN. We believe they have.

Ms. BROWN. Thank you very much.

Mr. EVERETT. Let me thank this panel for coming today and we appreciate your good work.

Now we will move to the third panel, the GAO.

If you will please give your statement, hold it to 5 minutes, and we will have some questions afterwards.

#### STATEMENT OF CYNTHIA BASCETTA

Ms. BASCETTA. Thank you. Mr. Chairman and members of the subcommittee, thank you for inviting us to discuss claims processing in VA's disability compensation program. Also with me today is Barbara Oliver to assist with our charts.

Last year, as you know, 2.5 million veterans, their dependents and survivors received about \$18 billion in compensation, accounting for more than 70 percent of VBA's cash outlays.

For many years, we have reported on processing backlogs, long waits for decisions and high error rates which have all negatively affected service to the veterans. In fact, it is common knowledge that VBA's performance in these dimensions has not yet improved, despite years of studying these problems.

Today, after updating you on current performance, I will draw your attention to the complexities of claims processing and the challenges VBA faces in reversing its poor performance.

Suffice it to say that seemingly intractable performance problems continue to worsen. If you look at the chart on my right on initial compensation claims, you can see that about one-third have been

pending for more than 6 months. More importantly, pending claims have been growing across the board since 1996.

Turning to the chart on average processing time, you can see that on average a veteran now waits 205 days for a disability decision. This exceeds VBA's strategic goal by about 4 months. Veterans whose appeals were resolved in 1999 had to wait much longer, more than 2 years, for a decision.

Despite these long timeframes, the error rate is high. In fact, the price of fewer errors may be even longer timeframes, at least in the short run.

For fiscal year 2000, VBA set an accuracy goal of 81 percent, as compared with last year's actual performance of 68 percent. But under this goal, too many veterans will still experience an error in processing their claim.

The complexity of the process, the chart on my left, was flow charted by GAO staff and it demonstrates the underlying problem. Keep in mind that this flow chart depicts only initial claims processing. It does not include the appeals process.

The pastel blocks demarcate the six basic functions in processing initial claims: receiving, establishing, developing and rating the claim, determining the payment amount and authorizing the claim.

The process contains 66 decision points and 39 queues or waiting periods. Eleven of the queues, the red ones, are for external sources of data, mostly in the development phase. The other 28, however, are VBA's own internal queues.

Another feature of the process is that claims must sometimes loop back to be completed. For example, a reviewer may question whether the rating decision is correct while determining the payment amount. The reviewer would in this case send it back for reconsideration, perhaps for additional development. Submission of additional evidence by the veteran would also require returning to an earlier function and then retracing back through the entire process. This can potentially happen multiple times before completing the claim and notifying the veteran of the decision.

VBA also faces external challenges that compound this complexity. First, workload has increased with the growing number of disabilities claimed per veteran. For example, a sample of 69,000 veterans in 1998 filed an average of 4.6 disabilities per claim. This equates to 316,000 separate decisions for those 69,000 veterans. Such multiple-issue cases are much more complicated to decide.

Second, judicial review has resulted in more time consuming procedural and documentation requirements. Consistent with this, VBA data show that productivity fell in the last 10 years from about 1700 decisions per rating specialist to about 800.

Third, VBA needs to improve its training programs to maximize the productivity of hundreds of new hires that will replace retiring employees over the next few years.

Mr. Chairman, as you know, VBA has several ongoing initiatives aimed at improving performance. However, it is unclear how much progress VBA will make. For example, although they have made a good start in collecting much better program data, they need more evidence based analysis to identify the root causes of their problems. The performance plan, for example, lists many strategies

without explaining how they will speed up decision making or reduce errors.

Moreover, the performance measures commingle compensation cases with pension cases, which are much easier to process. This will have the effect of masking trends in the compensation program, tending to make the compensation statistics look better than they really are.

VBA root cause analysis could also address which problems can be dealt with administratively and which are functions of program design. This more fundamental analysis should ultimately move VBA towards providing the full measure of effectiveness, efficiency and public service that veterans and the taxpayers deserve.

This concludes my remarks, and I would be happy to answer any questions you might have.

[The prepared statement of Ms. Bascetta appears on p. 81.]

Mr. EVERETT. Thank you very much.

VA says it is using IT to improve its timeliness and accuracy, but they do not specifically state performance outcomes or goals associated with these measures. Can GAO quantify measurable outcomes of IT initiatives that have been funded by the taxpayer with a price tag of hundreds of millions of dollars?

Ms. BASCETTA. No, Mr. Chairman, we cannot. Because VBA has not established performance measures for individual IT initiatives, we are unable to quantify the outcomes that might result.

Mr. EVERETT. It seems to me like you want to go somewhere but you do not have a road map to get there and when you get there you do not know where you are.

Ms. BASCETTA. That is part of the reason that we did this flow chart.

Mr. EVERETT. Which at the risk of being accused of being partisan again I say is one of the most idiotic things I have ever seen in my life.

Does VA link its IT initiatives to performance measures and goals?

Ms. BASCETTA. No, not explicitly. They have goals for accuracy and timeliness, but they have not linked specific performance measures with these goals to try to determine how the IT initiatives would contribute to improving timeliness and accuracy.

In addition, they have not at this point articulated specific outcomes. Instead, they have process measures in place for their initiatives. The initiatives represent more of a listing, not necessarily evidence based, of plans that they have to improve their performance in general, but we are not confident that they can assure that they have done the analysis to appropriately target solutions.

Mr. Chairman, I cannot help but think back to a report that we did in 1992 in which we cautioned that heavy IT investments would really be premature without a clear understanding of their own business practices and, in fact, it was that work that generated our need to flow chart their process.

Today, we remain concerned that without sufficient analysis of its business practices VBA will continue to have difficulty isolating their specific problems and creating solutions that are well targeted.

Mr. EVERETT. What is the total number of claims in the VA backlog and how does that number compare with 1995?

Ms. BASCETTA. In 1995, the initial claims backlog was 55,200. Now, for initial claims, the backlog is up to almost 69,000 cases.

Mr. EVERETT. How about total claims?

Ms. BASCETTA. The total backlog—I do not have the number for 1995, (additional information supplied on 1995 total backlog; see attached paragraph) but the total backlog in 1999 is just over 250,000 for rating cases. To give you a measure of the consistency between the number of months pending, we have almost 150,000 of these cases in 1999 pending for over 3 months and about 72,000 pending over 6 months.

In 1995, the total backlog for rating cases was 201,500. Of these, almost 84,000 had been pending for more than 3 months and more than 30,000 had been pending for more than 6 months.

Mr. EVERETT. In 1997, Senator Bond quoted from a GAO report that stated 400 veterans died, and I assume it was that year, while awaiting a decision about their claims adjudication. Can GAO update that figure for 199?

Ms. BASCETTA. Yes, sir. We did. We updated the number for 1999, although we were not able to investigate the specific circumstances of the cases. For example, some of the veterans might have been receiving a benefit payment and could have been waiting for a decision they appealed for a higher rating. In any event, according to the Board of Veterans' Appeals, their administrative data contained 770 cases that were closed because the veteran was deceased. In other words, 770 veterans died before they were notified by the board of their final decision.

I might point out also that since only 5 percent of cases are appealed, the estimate does not include any veterans who might have died waiting for an initial decision. VBA told us that it would have to do some special programming to be able to extract this data and tell us how many initial claims were closed due to death.

Mr. EVERETT. So those 770-odd veterans is a partial number.

Ms. BASCETTA. Yes, it is.

Mr. EVERETT. What should we conclude from that incredibly complicated, complex, convoluted flow chart that you have presented? Where did you get it, for instance?

Ms. BASCETTA. Well, first of all, it is a map of the process, it is not an analysis, so we consider it a starting point and without breaking it apart and desegregating function by function and step by step where the specific problems are, it conveys a sense of the complexity, but it does not give you much in the way of knowing a prognosis.

The chart was developed based on the information that we gathered at one regional office and we updated it much more recently in the last few weeks and generalized it to regional offices.

But, you know, we are really hard pressed to understand why we had to do this and why VBA did not have this process already charted out. I might point out also that they have requested a copy.

Mr. EVERETT. I can imagine that. I recall in 1995 when we had the hearings on the computer modernization one of my main complaints was that they had no plan. They are out there spending taxpayers' money and as far as I have been able to determine as

of today, we do not even know where part of that money went to. And I was shocked coming out of a business background to find out that there was no business plan on how to accomplish this.

The reply I got, well, we are here and we want to get there, but they had no road map to do that. And I certainly found that most disturbing. Ms. Brown.

Ms. BROWN. Thank you, Mr. Chairman.

Ms. Bascetta and Mr. Sullivan, this chart right here, would you give me a comparison between 1999 and 1997?

Ms. BASCETTA. In 1997, the average processing time for initial comp claims was 133 days and it jumped to 168 in 1998 and 205 last year.

Ms. BROWN. So what does that tell you? Do you think this simply reflects more accurately data being used at VA?

Ms. BASCETTA. Well, we have not gone into looking at their actual reporting mechanisms, but we are aware of the IG's work and we attribute the dip to the manipulation of the data during the time period from 1996 to 1997.

Ms. BROWN. I asked about to 1999.

Ms. BASCETTA. Right. We think that that is an accurate portrayal of the number of days.

Ms. BROWN. Okay. And what about you, Mr. Sullivan?

Mr. SULLIVAN. Yes, ma'am. As I had said earlier, on the surface, it certainly looks like more honest data is now being reported.

Ms. BROWN. That is what I wanted to know. GAO has produced two very useful reports this month. I would ask some questions about today's report, "Problems and Challenges Facing Disability Claims Processing," but I want to mention the valuable study the GAO just completed for Mr. Evans. That is the report that VA regional offices have shown considerable ingenuity in handling their workloads of veterans claims. However, the VA has not evaluated these innovative efforts to see what works and why.

We need this kind of evaluation so our regional offices can share their success stories and not reinvent things that have failed or things are doing a good job.

On your chart of VA claims processing, where does the decision get made that a claim is well-grounded?

Ms. BASCETTA. That decision is made in the function establish the claim.

Ms. BROWN. Would you repeat that?

Ms. BASCETTA. Yes. Establish the claim. That is the block in the chart that says "Is the claim valid?"

Ms. BROWN. And who makes that decision?

Ms. BASCETTA. The staff in the regional office who are assigned the case.

Ms. BROWN. What did you say about the training that this person has?

Ms. BASCETTA. Typically, the staff making the decisions are put through a pretty rigorous amount of training. At least that is the policy. And it usually takes 2 or 3 years before a claims examiner is sufficiently proficient to decide cases on their own.

Ms. BROWN. Let's just look at this for a minute. A lot of the decisions and the amount of time we contribute, Members of Congress,

all of it to VA, are there other players who determine the length of time? What are some of those other players?

Ms. BASCETTA. These would be DOD and private physicians where VA would need to get documents on medical information, so there would be other red queues awaiting for outside information.

Ms. BROWN. And how long does it usually take to get information from the National Personnel Record Center in St. Louis? What is the average amount of time?

Ms. BASCETTA. We understand that that can take quite a while, an unbelievably long length of time, but one of the things that we do not know and that we would like to know is if VBA has data on the specific times associated with those queues.

Ms. BROWN. Well, you know, I know for a fact the cases that I work on in my office, part of the problem is that they cannot find the records, they lost the records or, the typical one, we have had fires all over the country.

Ms. BASCETTA. Right.

Ms. BROWN. I mean, it is true. They burn them up in a fire somewhere.

Ms. BASCETTA. The St. Louis fire is a common excuse for not being able to locate a record.

Ms. BROWN. What percentage of the average claim processing time would you say is out of the VA's control?

Ms. BASCETTA. Well, again, we mapped this process, but we did not analyze the functions, so we need VBA to tell us how long these specific steps take and to attribute to those in those cases where they need information from people external to the process how long they have to wait and why and what specific conditions might speed up that wait or might lengthen it.

Ms. BROWN. What are some of the recommendations that you have made to VA to handle those situations that is not in their control?

Ms. BASCETTA. Well, first, again, we strongly recommended that they try to determine the root cause of the problem, is it a lack of communication with the external sources, is it something that is inherent in the process like the fire in St. Louis, and then work on creative solutions to either do the best they can under a set of bad circumstances or create a new process, an alternative process that might be faster. But the first order of business is for them to make an evidence based analysis of the root cause of the problem.

Ms. BROWN. Mr. Chairman, I see that my time is up, but I really think that we need some more guidance from these two committees as far as what recommendations they make and then let's just see how VA is following up on it. It seems as if all of the recommendations that have been given to VA to this point, they have done it, but the problems are still there. How can we solve this problem is what we all want to know. I guess it is not just the VA.

Mr. EVERETT. Let me disagree a bit with my colleague. The fact of the matter is I have been at this since 1995 and the VA has not, in my estimation made a concentrated effort to solve this problem. If you are out in the business world and you are faced with these issues of training and non-communication between DOD and VA, which we discussed at the time beginning in 1995 and my recommendation was to try to spend some of that \$1.3 billion that we

appropriated on some computers to get DOD and VA together to talk to each other so that these files could be moved around rapidly.

At some point in time, I really believe we have to quit making excuses for VA and hold somebody responsible for not getting the job done and we are 5 years now since I have been holding hearings and VA has not got the job done. And we can blame everybody in the country if we want to. We can start fires all over the country. But the fact of the matter is at some point this has to stop. And we owe that to our veterans.

It is not this chairman who is suffering. It is the 770-something veterans who died waiting for adjudication last year because some bureaucrat has not gotten the job done. And I just have to tell you, I am completely discouraged about someone trying to turn this big ship around. If the people currently in charge cannot turn it around, then we need to find some people and put them in charge who can turn it around. That is my soap box for today.

Let me thank this panel and now we will call the next panel up and that is led by the Honorable Joseph Thompson. Mr. Thompson is the Under Secretary for Benefits for the Veterans Benefits Administration, Department of Veterans Affairs.

Secretary Thompson, if you would, I would appreciate it if you would introduce the folks that are appearing with you.

Mr. THOMPSON. Thank you, Mr. Chairman. On my right is Rick Nappi. He is the Deputy Under Secretary for Operations, he is in charge of all the regional offices around the country. On my left is Bob Epley, Director of the Compensation and Pension Service. He is the senior policy official.

Mr. EVERETT. If you would, please hold your testimony to 5 minutes. Your complete testimony will be made a part of the record, and then I will also warn that we may be interrupted for another vote, but please proceed.

**STATEMENT OF JOSEPH THOMPSON, UNDER SECRETARY FOR BENEFITS, VETERANS' BENEFITS ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY PATRICK NAPPI, DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS, VETERANS' BENEFITS ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS, AND ROBERT EPLEY, DIRECTOR, COMPENSATION AND PENSION SERVICE, VETERANS' BENEFITS ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS**

Mr. THOMPSON. Thank you, Mr. Chairman.

Mr. Chairman, Ms. Brown, thank you for the opportunity to speak to you today about our handling of compensation and pension claims.

Previous panels have stated that the current process for deciding claims is too lengthy, too complicated, and too error prone. This is also the assessment of the National Academy of Public Administration (NAPA) study and the Veterans Claims Adjudication Commission study. We in VBA agree with those assessments. Certainly the process takes longer than either VA or veterans would like. There are some reasons for this and, if I could, I would like to share them.

Number one, the complexity of the law itself. Many of the things that give us fits and veterans fits stem from federal law and if you want to look at some of the reasons for the complexity, you need to start there.

Second is the changing nature of claims. We have more complex issues, we have more disabilities per veteran, as GAO testified, and we have the expanded procedural requirements stemming from judicial review.

A third is our own increasing emphasis on quality. We demand and expect a more thorough job than we have had in the past. We have more frequent and more stringent reviews. We have more training. Fifty percent of our decision makers are in a trainee status. We insist that people master their craft before they get fast at it.

We have more honest reporting of the data and I think you heard plenty from the IG and GAO on that issue. I can only tell you that that has been a priority for me since I have been the Under Secretary.

I think another important issue, and one you need to keep in mind, is that when they tried to reduce cycle times back in the mid 1990s, we set other things aside, very important things. We set aside working appeals from veterans, we set aside working remanded cases from the Board of Veterans' Appeals. We set aside doing many quality and data integrity reviews. We stopped doing outreach, in many cases, to disadvantaged veterans. We stopped answering the telephone in a timely fashion. All those things have been restarted and they contribute to some of the work that we see today.

And, finally, I think as important as any other factor is that we have introduced a brand new work process in the regional offices. We have been using an assembly line to process claims which is well diagramed over there on my left.

We are changing that. We prototyped that new process in six offices. We will have 44 offices out of 57 on line this year with a brand new work process.

We also have some other initiatives underway that I think will contribute to making the process faster. We have entered into some very significant agreements with our counterparts in the health care system for medical data exchange. We are working with the National Personnel Records Center which Ms. Brown mentioned. We actually have VA employees working with them to help them work the backlog down. They have 62,000 cases backlogged over there and we are trying to help them work that down.

We are working with DOD's Center for Unit Records Research, to secure evidence. That can take up to a year today.

We just signed an unprecedented agreement with the Social Security Administration (SSA) to give our folks access to their records because veterans oftentimes have already provided SSA with the information that we are now asking them for.

With regards to information technology, I would be the last one to tell you that that is a shining story, but I do think we have some good developments right now. By the end of this year, or early next year, the people who have been looking at 1970s versions of computer screens will see a Windows based system in regional offices.

They will also have, through our Claims Application Processing System (CAPS) program, access to information about the veteran's specific claims, so when he or she asks a question we can answer it very, very completely. Veterans will be able to file applications through the Internet for compensation or pension this year. It is not just simply an image of an application, it is actually interactive, like TurboTax. It is an expert system, believed to be the first in government in our virtual VA imaging system.

This is the largest single IT project we have going on right now. It is designed to get rid of the paper in this process. It will take four to 5 years to do this because this will be the largest imaging system in the world. We maintain 23 million cubic feet of records on veterans, but we are committed to do this and we think we have a good start.

I know this is a complex disability system, probably the most complex in the Federal Government, maybe in the United States, but there are some things that we have in play that, hopefully, will make it a little bit easier to understand.

We are rewriting all of our letters. We have an eight foot pile of letters and documents that need to be rewritten in plain language. We are also rewriting our regulations, working with our own General Counsel. We have reinstated a number of our outreach activities. We are doing transition assistance with separating servicemembers. We are counselling 200,000 servicemembers a year telling them about their benefits.

I think the single most important thing we are doing, Mr. Chairman, is putting a human face on the process with personalizing the service. We now give separating servicemembers the opportunity to file claims before they get out of the military and we process them on, or shortly after, the release from active duty date.

If they come to the regional office, they have a case manager. That is the goal, they will have a case manager, a specific human being, who is responsible for keeping them updated and for working their claim through the system. If they decide to appeal, they will have a decision review officer who will also intervene directly with them to give them the opportunity to have that human interaction instead of dropping a piece of paper into an endless stream of bureaucracy.

We think that we have some evaluation system problems, many of which were mentioned. We are making, we believe, good progress on that. Our Systematic Technical Accuracy Review (STAR) system, which has been well mentioned, detects system-wide errors in mistakes. We have a proposal in the 2001 budget to bring that level down to the individual employee. Right now, we look at systemic problems. We want to bring that down to doing evaluations of individual employees.

We are institutionalizing training. We take every spare dollar we have and we invest it in training our employees. And our balanced scorecard has been cited as one of the cutting edge programs in the Federal Government today in terms of measurements.

I cannot close without mentioning probably the single biggest thing looming on the horizon for us, the Washington Post had an article last week on this, the turnover in the federal workforce. It is even more true for VA. We are a generation of Vietnam era em-

ployees. Most of our senior managers, most of our senior decision makers, are at or near retirement age. They will be leaving, we know that. We have an enormous succession planning issue to deal with.

This is the first year since 1993, I believe, that we will have more people on board at the end of the year than we had at the beginning. We have taken about a 19 percent cut in that period of time.

There is some good news, and I will bring this to a close very quickly. Our backlogs are actually down now, about 60,000 since March of 1999, so we think we are making progress there. Our remands from the Board of Veterans' Appeals are at their lowest level in 10 years. Our appeals to the Board of Veterans' Appeals were down 22 percent between 1997 and 1999. Our busy signals are down over 90 percent. Our remands to be worked at regional offices are down 11 percent. Our error rates are down 9 percent, and today we have more veterans receiving disability compensation than at any time in U.S. history.

We recognize there is a lot to be done that involves literally dozens of major initiatives.

Mr. Chairman, you are looking at three veterans here. The management and leadership of this agency is made up of veterans. We care very much about what we do. We take this job very seriously and we will do everything in our power to do a good job. We stand ready today to try and answer your questions.

Thank you.

[The prepared statement of Mr. Thompson, with attachment, appear on p. 100.]

Mr. EVERETT. Thank you, Mr. Thompson, and thank you for serving your country as veterans, like many of us have. And I hope you recognize that for me, this is *deja vu*.

Mr. THOMPSON. I understand.

Mr. EVERETT. I mean, I was here in 1995 pleading for the same thing. And while I was led to believe things were getting better, I found out the information was falsified. The information was falsified, and things were actually getting worse. I am just frustrated. All I want to see is results for the veterans, and I am sure you want the same thing. But we have been 5 years trying to get there and in the last 5 years—and I do not have those figures in front of me, I can recollect, I think—initial claims were about 180 days in 1995, somewhere in that neighborhood, and they went down and now they are over 200 days, so they have gone back up.

I understand the complexity of the claims has changed, but the fact is if we are going to serve our veterans we have to be prepared to meet those changes. And I just have to tell you in all honesty I do not believe the VA has been prepared to meet those changes.

Having said all that, let me get to some questions. We probably will not get through all these questions, but we will have some of them for the record.

Of the six basic claims processing functions mentioned in the GAO testimony, which function takes the most time?

Mr. EPLEY. Mr. Chairman, I do not have data on that in front of me. We do have studies on that. I think it is fair to say the development of evidence takes the longest period of time in those

basic categories and that were discussed a little bit by GAO and the IG earlier.

Mr. EVERETT. Have you taken any initiatives to reduce that time?

Mr. EPLEY. Yes, sir. We have several initiatives ongoing to try and improve that process. We are working, as Mr. Thompson indicated, with DOD in a couple of places to try and get evidence faster. The Center for Unit Records Research takes an awfully long time to get information when we have to get data on where veterans served to validate stressors and things like that. We are in contact with that unit record center; we are trying to offer our assistance to them and we are doing analysis of the causes of those problems so that our people will learn how to prepare the development better than they do now.

We are also doing an extensive training initiative to teach all of our people, by a national training program, how they should prepare claims, how they need to identify the issues properly, and how to rigorously get the information that they need. We have completed several of those modules over the last 2 years and they are being used by field personnel. We have three more modules on reopened compensation pension and dependency and indemnity compensation ready to be released within a month.

Mr. NAPPI. In addition, Mr. Chairman, we have instituted training for supervisors on inventory management to be very aggressive in the management of the entire inventory and to try and cut the cycle times down for development.

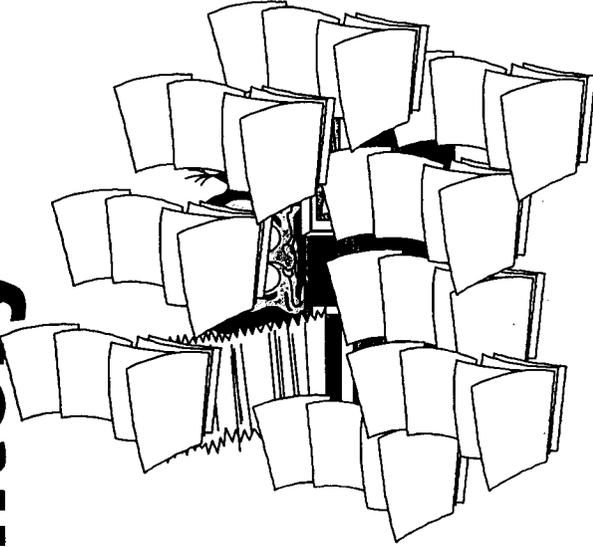
Mr. EVERETT. Would you submit those for the record?

Mr. NAPPI. Yes, we will.

Mr. EVERETT. What would be a reasonable time to adjudicate an initial disability claim?

(The information follows:)

**Inventory**



**Management**

# **Inventory Management**

**What actions we need to complete**

**Today ...**

**This Week ...**

**This Month ...**



# **Traditional Approach to Workload Management**

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**Management/Control =  
Columns “F” and “G”**

- **Already Past Due**
- **No Action Cases**

# **Traditional Approach to Workload Management**

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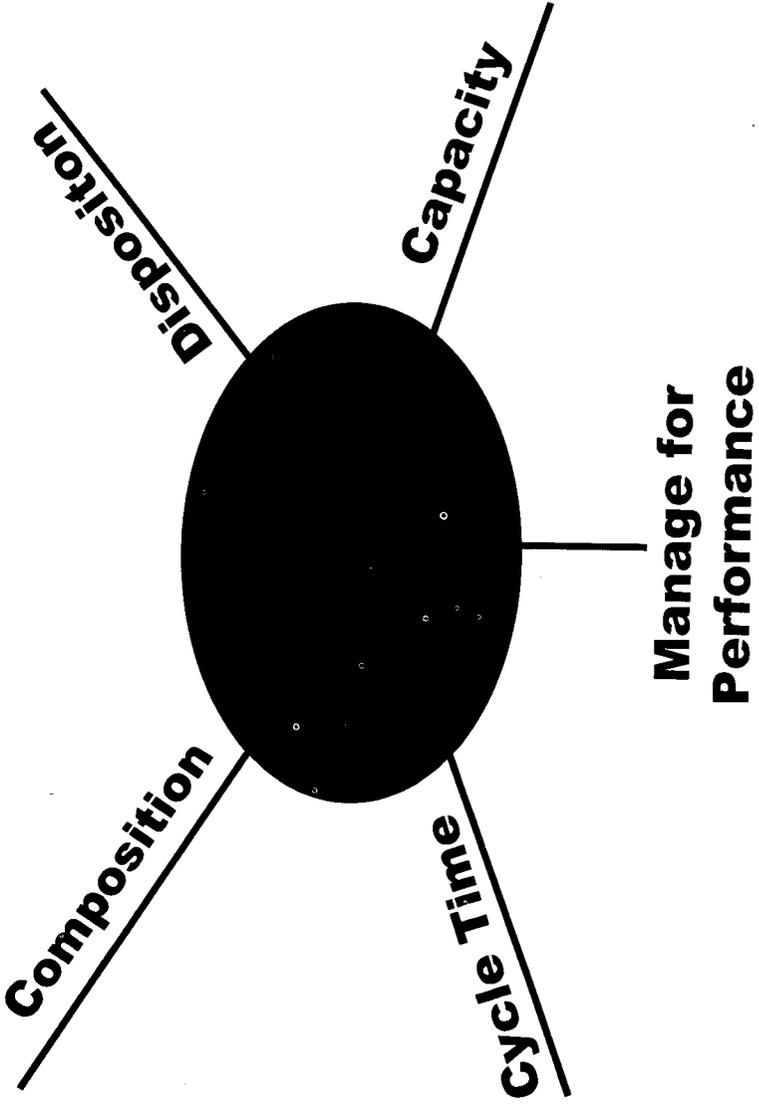
**Claims' Process  
VSR / RVSR**

- **First In, First Out**
- **Oldest First**
- **No Action Cases**

# Inventory Management

- **Team members, coaches, managers -**
- **Have Ready-Access to Workload Data**
- **Can Analyze Data to Understand Caseload Inventory**
- **Empirically Know What Cases to Touch, What Cases Not to Touch**
- **Understand Impact**
  - **on the Customer**
  - **on the Organization**
- **Goal Oriented: Manage to a Target**

# Inventory Management



## **Know Your Capacity**

- **Human Resources**
  - **FTE Needs/Allocation**
  - **Capability**
- **Influences**
  - **Training Needs**
  - **Events**
  - **Special Projects**
  - **COVA, Legislation**
  - **New Processes**
  - **New Technology**

## **Understand Composition**

**•Make-up of Current Workload**

**•Project Incoming Workload**

- Base Formula**
- Consider COVA, Legislation, Projects, Outreach, Pre-discharge, Seasonal, Economy ....**

INVENTORY

INVENTORY

## **Identify Disposition**

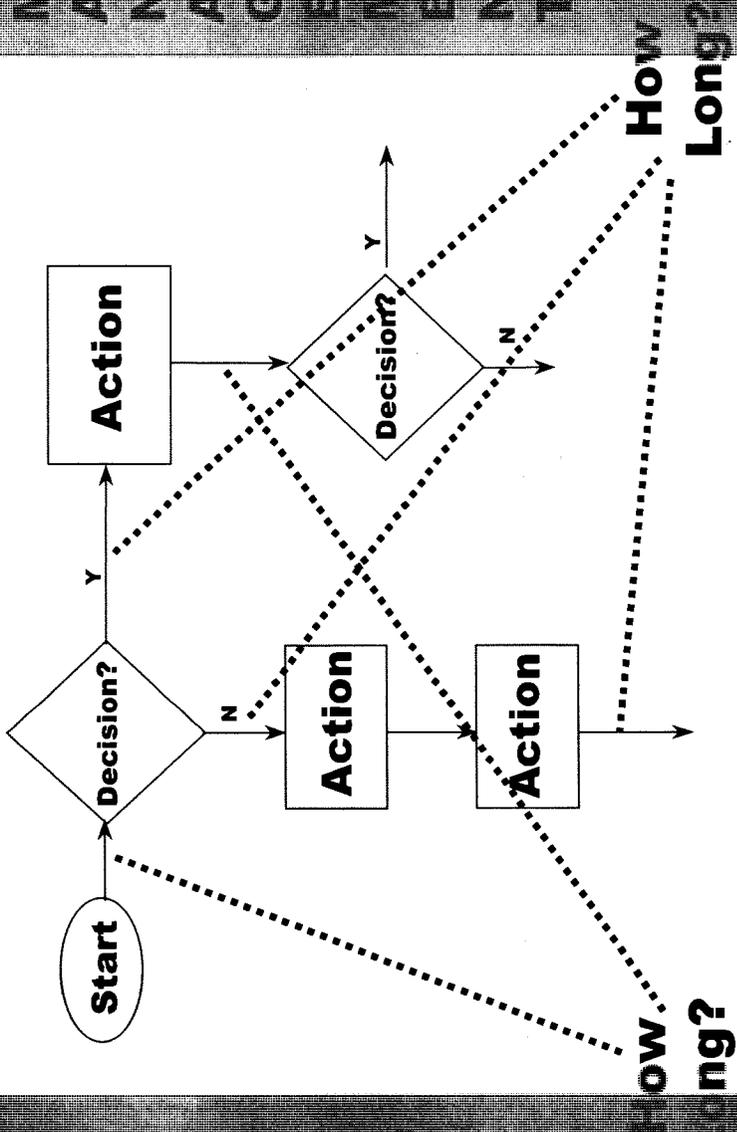
- **Know where cases are**
  - **What Stage Case is At**
  - **Reason**
  - **How Long**
  - **Use of Auto. systems**
- **Realize what Cases are -**
  - **Actionable**
  - **Not Actionable**
- **Active Review of WIPP**
  - **Columns “C” and “D”**

MANAGEMENT

INVENTORY

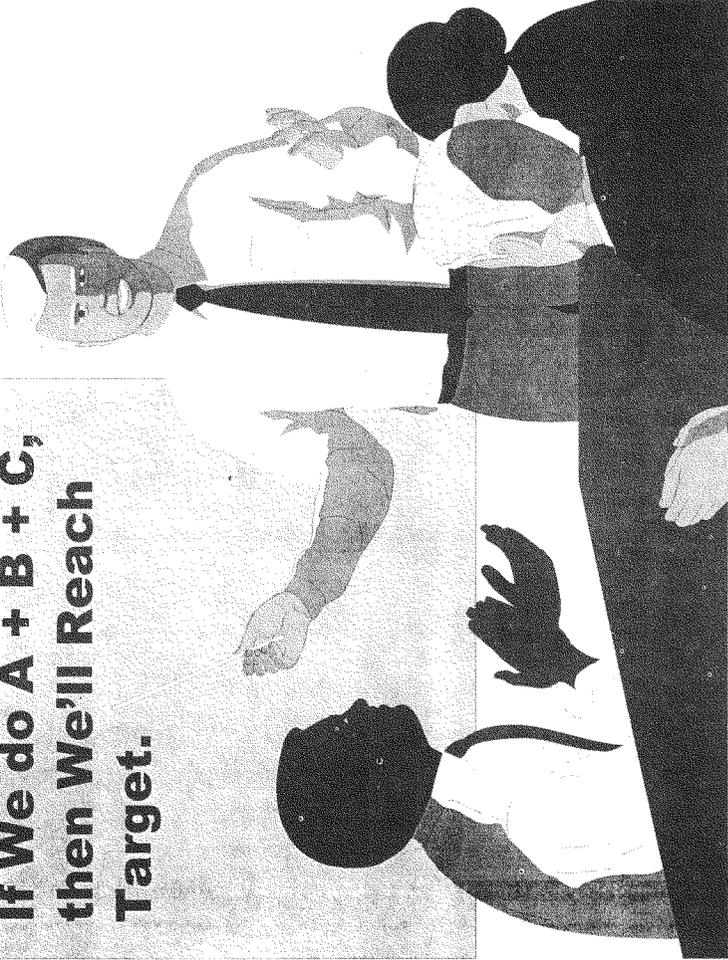
# Analyze Cycle Time

## Claims' Process



## **Manage for Performance**

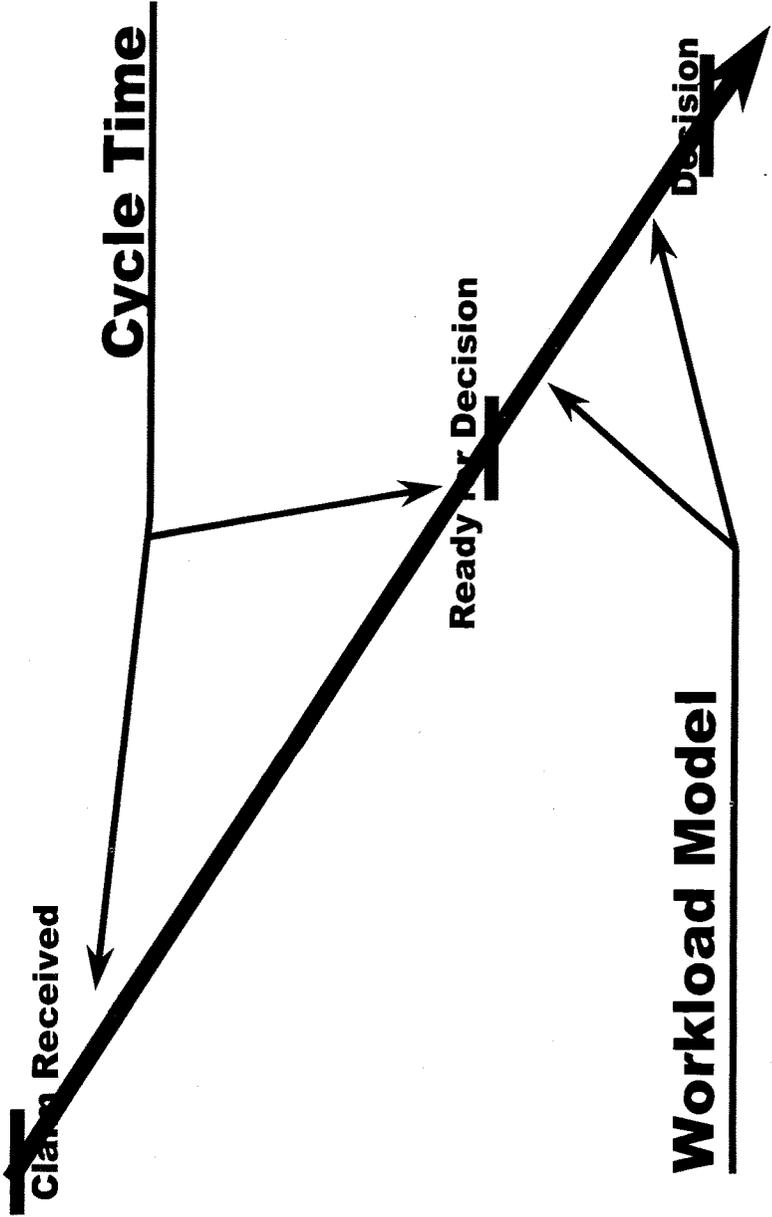
**If We do A + B + C,  
then We'll Reach  
Target.**



MANAGEMENT

INVENTORY

# Inventory Management



## **Identify Disposition**

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- **Know where cases are**
  - **What Stage Case is At**
  - **Reason**
  - **How Long**
  - **Use of Auto. systems**
- **Realize what Cases are -**
  - **Actionable**
  - **Not Actionable**
- **Active Review of WIPP**
  - **Columns "C" and "D"**

Mr. THOMPSON. That actually is something we are in the process of reconsidering.

Mr. EVERETT. Well, as I recall in 1995, I had asked for 60 days because I felt at that time Social Security was processing its claims within 60 days and I think the VA's response at the time was probably 120 days, but you are reevaluating that?

Mr. THOMPSON. Yes. And here is why. What we have found is that what it takes to do a claim is enormously variant. For example, our pre-discharge claim, if you have a separating servicemember and we have their separation exam, we have all of their service and medical records available to us, that is probably less than a month to process the claim.

If somebody comes in and files a claim for 15 or 20 disabilities and they are going back 30, 40 or 50 years in time, that is going to take considerably longer.

So we need finesse, more sophistication in what we set as a goal. We are reconsidering that right now, given what GAO also said in testimony. We are seeing more issues embedded in each claim now. Whereas a World War II veteran on average has 1.7 disabilities that we are compensating him for, if it is a Gulf War veteran, that number is 3.2. We are seeing every year that number goes up a bit, so it changes the dynamics on how much time it takes to do the claim.

Mr. EVERETT. What can this subcommittee do to help you solve this problem?

Mr. THOMPSON. Well, money helps.

Mr. EVERETT. I must say, we have funded hundreds of millions of dollars—

Mr. THOMPSON. I apologize. I did not mean to be flip, but we really do need staffing. We are hoping in the 2001 budget to add more than 500 people into the compensation and pension process.

Secondly, I think some discussions on the underlying rules that we have to follow would help and, because they flow from law and regulation, there are ways to simplify that. For example, the one I like to use is that we laid out how many decisions you can make to calculate the effective date of benefits. That ran for 35 pages of matrices.

We think that there can be some greater consistency, that you should not need to have that many decisions to make just to calculate one date. I think working with the staff on the committee, we can come up with some ways to make this process somewhat simpler.

Mr. EVERETT. Let me just in response to that say that I would welcome and I am sure Ms. Brown would, too, legislative proposals on this.

My time has run out, but I have two questions and then I will yield to our ranking member.

In analyzing what has occurred for the 2½ year gap between Mr. Birge's disability claim in the Montgomery VA Regional Office, a large number, possibly hundreds, of Persian Gulf veteran claims were sent to the national regional office for consolidated processing, but some were not acted on. After 6 months, apparently dozens of them were sent back to Montgomery with nothing having been done.

How could VA management just allow them to sit there so long, especially when Congress has been expressing its concerns for the way the VA claims have been handled for the Persian Gulf veterans?

I have to tell you that the VA served Alabama veterans very poorly when they allowed that kind of thing to happen.

Mr. THOMPSON. If I could, Mr. Chairman, there are two things I would like to say about that. Number one, on the issue of Gulf War claims, I have to confess, although none of us were involved in this decision to centralize or decentralize that processing, in the beginning I know VA assumed the volume would be very low and made some decisions on how they would be handled in certain locales that, in retrospect, given the volume of claims that actually did come in, frankly, we were surprised and overwhelmed.

Regarding Mr. Birge's claim itself, I have looked at it and I have looked at what happened in it. I do not see any answer that satisfies me and I do not think I can give you one that is satisfactory. We just did not do a good job. We did not do a good job.

Mr. EVERETT. Let me also mention Mr. Nixon's claim. Let me read to you part of a VA doctor's medical opinion about Mr. Nixon's condition dated April 29, 1998. "I am really at a loss to provide any additional information as I have done in my two previous documentations, as I think I have been very thorough in stating that with a reasonable medical certainty these findings are compatible with a diagnosis of chloracne and I am not a lawyer and cannot comment any further as to what the legal qualifications are for status and service connections for this and am really uncertain as to how the VA wishes me to further dictate or amplify my findings in the past."

Why in the world would not VA allow Mr. Nixon's claim for a very, very long time, about 9 years? I thought there were presumptions in operation for chloracne and Agent Orange exposure?

Mr. THOMPSON. I will speak to the presumptions. They would apply only if the veteran had developed chloracne within one year of the exposure to the Agent Orange. If it occurs more than a year after that, it is not a presumptive condition any longer. That is the regulation. So in his particular case, and as I said with Mr. Birge, I really do not have a good explanation for why it took so long other than we did not do a good job on it, but I will say it was fairly complicated, it was complex, it was not a clear presumptive condition; i.e., he has it, therefore you should grant. It did involve a fairly detailed analysis.

Mr. EVERETT. Excuse me a moment. Ms. Brown.

Ms. BROWN. Thank you, Mr. Thompson. Let me just take a moment to thank you and your staff. I guess it is pretty hard to talk about being innovative in VA, but, you know, it is hard for me to even pronounce that word and think about VA, but you all are doing a job and I want you to just take a moment to tell me a little bit more about the STAR program. We have 435 Members of Congress, we all have staff to provide constituent service. Do our staff interface at all as far as helping more with the processing the claims and this new computer system, will this help us to work better to serve the veterans?

Mr. THOMPSON. I will answer your latter question. Ideally, these new systems will go a long way towards doing that. I think that one of the most frustrating parts of the job, and all of us began our careers working claims at regional offices, was when a veteran came in with a question on their claim, you had to get the paper in your hand to answer it. The computer system just simply did not have enough information, unless it was so general that anybody could answer it.

The new computer system that we are putting in place now, we have already tested it, we know it works and we have used it in St. Petersburg, and we are beginning to use it nationwide. It will give us the information. We will know what the veteran asked for, what we have requested in terms of evidence, what we have received, every phone contact, every personal interview we have done with the veteran. It would be the same as calling your insurance company. Without pulling a folder out of the drawer, they can tell you what is going on with your particular claim. So I think that will go a long way towards helping us, at least, to explain what is going on, which we find is a significant cause of frustration.

The time is one element, but the other element is keeping them in the dark. In fact, in a lot of our surveys, that actually shows up as the higher and more important element in the claims process, it is not simply how long it takes, it is that they do not know what is going on. They do not understand the process.

I will say for the three of us here, the last thing we want to be called is inept or uncaring bureaucrats in this process. We care about making this work right, so we really want these systems to work and I promise you, we are going to do everything in our power to make this happen.

Ms. BROWN. I have a few questions, but I will just submit those to the record. I am interested in some follow-up discussions in this area because there is a problem. I hate to say it, but part of the problem is also manpower, as you said earlier. I mean, with the number of personnel that you have, we have got to make sure that we are using the personnel we have efficiently and effectively.

Mr. THOMPSON. Absolutely.

Ms. BROWN. And we have innovative ways of serving the veterans. There is a Stand-Down program where homeless veterans can just come in. Maybe we need Claims Days around the country so veterans can just go in and VA could set up and process them. But you all have to come up with the innovative ideas and we will do what we can. We will support you.

Maybe we need a task force, Mr. Chairman, Members of Congress working with the VA to figure out how we can do away with this problem so 2 years from now we are not sitting here having this same discussion.

I yield back my time, Mr. Chairman.

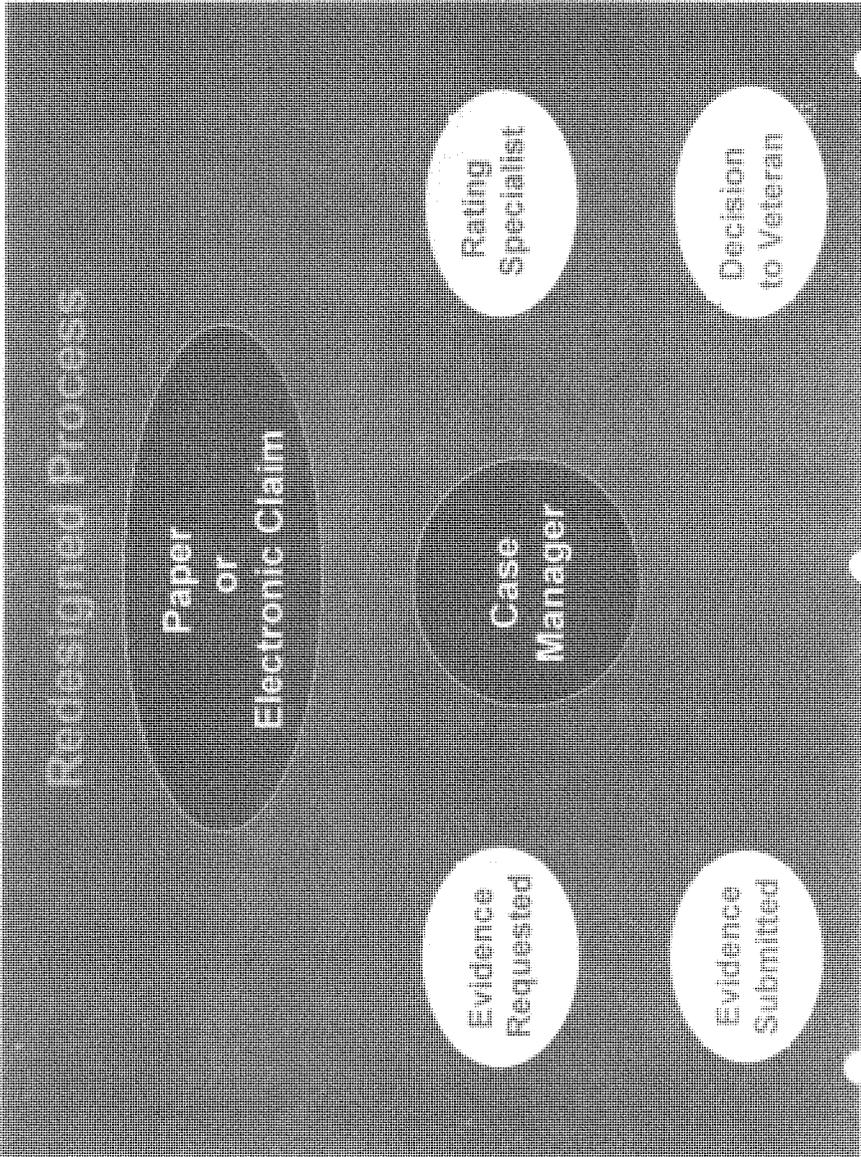
Mr. EVERETT. Let me first of all tell you that in my comments, I do not talk to people on a personal basis, but if you would like some examples of uncaring bureaucrats who physically abused veterans, who physically abused VA employees, I would be more than happy to accommodate you because they are out there and the lack of attention by the VA to do something constructive about ridding themselves of these people is pretty well documented.

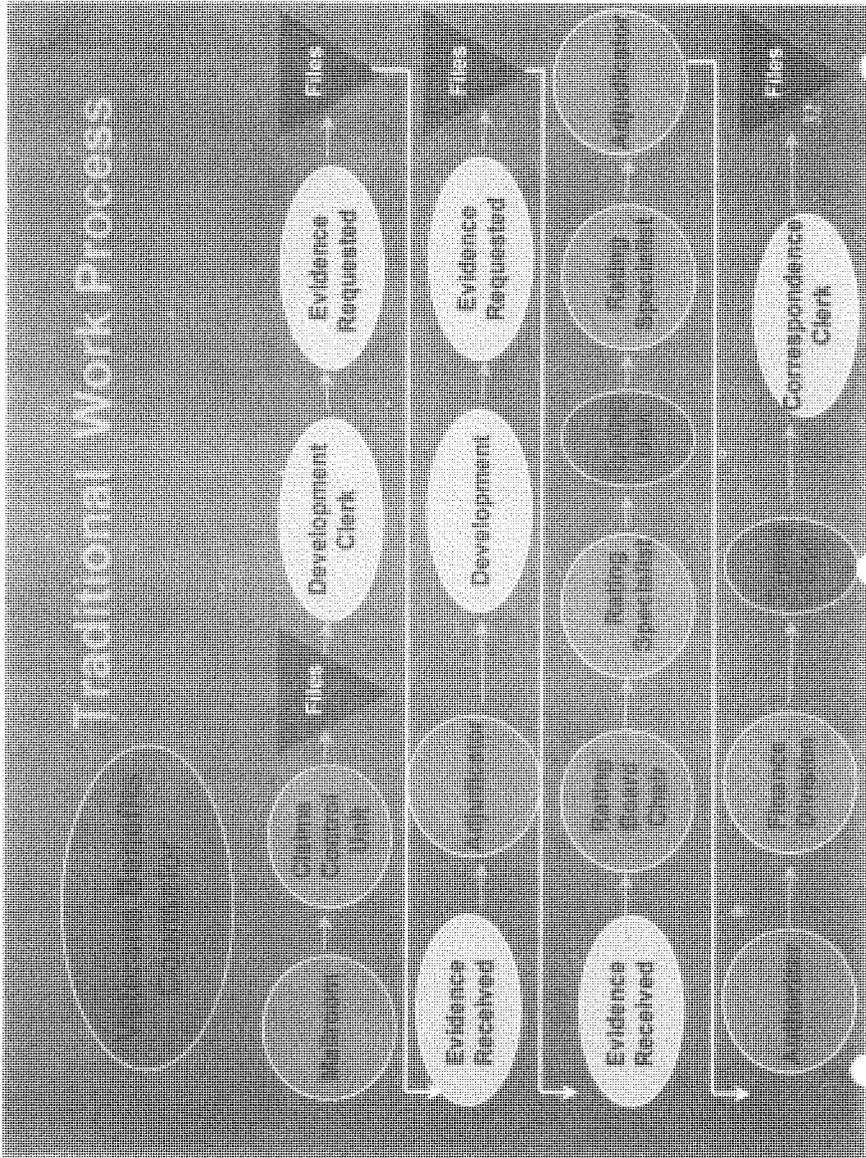
I would ask you to furnish a new flow chart showing us how this picture is changing because I think that would be very helpful. In addition to that, I have additional questions for the record.

Thank you for appearing here today.

Mr. THOMPSON. Thank you, Mr. Chairman.

(The information follows:)





Mr. EVERETT. We have two votes, a 15-minute vote and then a 5-minute vote right after that, so we are probably looking at a half-hour.

Thank you.

[Recess.]

Mr. EVERETT. Let me recognize Mr. Rick Surratt, Deputy National Legislative Director, Disabled American Veterans, and Mr. Geoff Hopkins, Associate Legislative Director, Paralyzed Veterans of America. Mr. Hopkins is accompanied by Jeff Dolezal, Director, Field Services, and Mr. Ron Abrams, Deputy Director, National Veterans Legal Services Program.

Gentlemen, if you will proceed, and we will start with Mr. Surratt. We will just go left to right.

**STATEMENTS OF RICK SURRATT, DEPUTY NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; RONALD B. ABRAMS, DEPUTY DIRECTOR, NATIONAL VETERANS LEGAL SERVICES PROGRAM; AND GEOFF HOPKINS, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; ACCOMPANIED BY PAUL IVAS, ASSOCIATE DIRECTOR, FIELD SERVICES, PARALYZED VETERANS OF AMERICA**

**STATEMENT OF RICK SURRATT**

Mr. SURRATT. Thank you. Good afternoon.

Mr. EVERETT. Let me interrupt. I would ask you to keep it within 5 minutes, and we will put your entire statement in the record.

Mr. SURRATT. I will, Mr. Chairman. Thank you.

Mr. EVERETT. Thanks.

Mr. SURRATT. Compensation and pensions serve to relieve the effects of disability—primarily, the economic effects. Therefore, veterans already need this relief when they apply. Undue delay in delivering the benefit reduces the effectiveness of the program and creates hardships for veterans and their families.

Prompt and accurate claims decisions should be an absolute requirement in the Department of Veterans Affairs. Unfortunately, timely and correct claims decisions have taken a back seat to other objectives.

For most of VA's history, its adjudicators were free to make decisions according to their own personal beliefs rather than the law, and they often did. Extreme public dissatisfaction prompted Congress in 1998 to authorize judicial review of VA's decisions. Judicial review exposed the high error rates in VA's decisions, contrary to VA's consistent claims of 97 percent accuracy.

Since the advent of judicial review, VA has not been able to hide behind those inflated accuracy claims. At the same time, VA has been unable to improve its decisions enough to make them compliant with the law in most instances. Over the past 2 years, we have continued to see high error rates in VA's decisions. Those high error rates have caused more appeals and the necessity to make multiple decisions to correctly resolve a claim. And that generated additional work, of course.

On top of that, other factors such as military downsizing increased VA's workload. Making the situation even worse, budget cutting forced VA to reduce staffing.

It should come as no surprise that VA's workload exceeded its capacity to timely dispose of claims. With increasing backlogs and worsening delays, VA management pushed for quantity at the expense of quality, and that only resulted in more mistakes and in turn, more claims backlogs or even longer delays. After several years, without any effective strategy to break this vicious cycle, VA developed its business process re-engineering plan.

The BPR plan correctly identifies the root causes of VA's poor quality, among them, inadequately trained adjudicators, inadequate staff levels, ineffective work processes and lack of accountability, et cetera.

Corresponding to the problems identified, the BPR plan includes solutions that are appropriate and viable to correct those problems. However, VA is much better at formulating plans than implementing them. We see little improvement in the quality or timeliness of VA's claims decisions. That obviously means that VA has not imposed meaningful accountability on its managers and decision makers. Apparently, VA has not significantly improved the proficiency of its adjudicators, and it has not changed the workplace culture in ways to overcome poor performance.

We have discussed the specifics of VA failures in more detail in our written statement, but let me say the old attitudes and practices still persist. Until VA management takes decisive action to change that, nothing else will. Now, Congress must hold VA's top managers accountable for results. The current situation is inconsistent with satisfactory government performance and our veterans, as we have heard today, are suffering as a result.

Mr. Chairman, that completes my brief testimony. I will be happy to answer any questions you may have on this issue.

[The prepared statement of Mr. Surratt appears on p. 180.]

Mr. EVERETT. Who is next?

#### STATEMENT OF RONALD B. ABRAMS

Mr. ABRAMS. Thank you, Mr. Chairman. I am going to try and keep my remarks brief, too.

Based on our quality reviews, we have gone out to 15 VA regional offices for the American Legion to check the current quality of the work performed in the ROs, that is the regional offices, we found that still full and fair adjudication of claims for VA benefits is not a reality. In fact, as far as we are concerned at NVLSP, we do not believe most VA regional office statistics and we will explain why during the course of this testimony.

We found that when a claimant files a claim for service connected benefits or for compensation they have a greater, and in some ROs a much greater, chance than 50 percent of having the VA improperly adjudicate their claim. We conclude that the initiatives that have been taken so far by VBA management to improve the quality of VA adjudication have not worked. We see very little change, not since 1995, but since 1987 when I testified before this committee as a VA employee who was in charge of the quality program in the VA.

What is working and what we do commend is the DRO program. In the offices that we have been in, that particular person seems

to be doing a very good job. It is like a stop gap. They stop the bad cases from going forward.

There are three major reasons why the quality is so bad. First, there is pressure on VA adjudicators, in spite of what everybody says, to earn rapid work credit. And what happens is that the regional offices who have been encouraged to stop simply exaggerating their work are now adjudicating claims in a premature fashion and denying many veterans before they have had a chance to fully develop their claims. That is the biggest problem that veterans face.

Second, for some types of claims, the VA adjudicators, some of them, have an adversarial attitude.

And, third, if you ever get a chance to read a VA notice letter which may be nine pages of boilerplate and one paragraph of an incomprehensible explanation, you would understand why veterans are frustrated and angry.

Many VA managers were promoted to their current positions during an era when the VA emphasized timeliness and "production." So as Rick said, the culture right now focuses on that. They are going to do lots of cases quickly and quality is not a major issue to them because in many ROs, the ROs check their own quality, they do not have to have that validated by the VA and therefore if they have a goal of 5 percent quality errors, they are finding 5 percent quality errors because if they find more they will get lower evaluations, they will not get bonuses and they will not get promoted, while production and timeliness are objectively measured through the VA computer system.

As a result, in many instances, claims are denied before the veteran has been able to submit evidence or the VA has followed its duty to get all relevant evidence.

I am trying to go quickly.

No significant change in regional office quality will occur until the individual performance standards for regional office managers include a requirement that what they report about their own quality is independently checked by an outside agency. Otherwise, nothing will happen because they do not mean anything.

We do have some recommendations. Do I have time to go into them as to what we can do to cure this? If not, I will stop now.

Mr. EVERETT. Why don't we get into those in the question and answer period?

Mr. ABRAMS. Fine.

Thank you.

Mr. EVERETT. Thank you. Mr. Hopkins.

[The prepared statement of Mr. Abrams appears on p. 188.]

#### STATEMENT OF GEOFF HOPKINS

Mr. HOPKINS. Thank you, Mr. Chairman.

Mr. EVERETT. Excuse me. Let me apologize to Mr. Ivas. That is not the information I had up here, but I do see there is a different card up here.

Mr. Hopkins, please proceed.

Mr. HOPKINS. Yes, Mr. Chairman. This is Paul Ivas. He is our Associate Director of Field Services. He is replacing Mr. Dolezal.

Mr. Chairman, the Paralyzed Veterans of America is honored to be invited to be testify today concerning Department of Veterans Affairs disability claims processing.

We come together once again today, as we have so often in the past, to discuss the deplorable delays and lack of quality in veterans' claims processing. We have heard too many excuses over too many years. We have heard that the Veterans Judicial Review Act, and the court it created, is the problem. We have heard that single-member boards and computerization are the answers. At the end of the day, the problem still remains: veterans must wait an inordinate amount of time for a decision on their claims.

We polled our service officers, the men and women who are on the front line, and asked them a number of questions so that we could provide this subcommittee with snapshots of their experiences out in the field.

First, we asked them to list the three most commonly encountered obstacles to a timely and fair adjudication of a benefit claim. They reported that these obstacles are delays in obtaining evidence, improper claims development and inadequate medical examinations. Other obstacles mentioned were the failure to address all pertinent issues; failure to specify exams needed; and failure to communicate with the claimant.

We asked them to list the three most common areas which present significant opportunities to improve the Veterans Benefits Administration's benefits delivery system. They answered that better, and more thorough, training of rating personnel was essential, more accountability for decision making and fuller cooperation with veterans service organizations.

In addition, we asked them to mention any initiative or pilot program in their regional office that over the course of the last few years has improved the quality or timeliness of the claims adjudication process. They responded that the institution of the decision review officer position, the team case management, approach the veteran service representative position and contract medical examinations have been positive initiatives.

We believe that the institution of DROs was an important and exciting step forward. We note that the VA has proposed a rule regarding review of benefits claims decisions. Although we believe that the DRO program is working well, we have concerns regarding the VA's proposed rule. Proposed regulation 3.2600(a) states in part that "review under this section will encompass only decisions with which the claimant has expressed disagreement in the Notice of Disagreement." Yet the proposed 3.2600(e) takes away this protection of prior decisions by allowing the DRO to review those decisions rather than referring them to central office for review.

We believe that prior decisions that have become final for failure to appeal should be subsumed in subsequent decisions when those decisions were advantageous to the claimant. PVA has submitted comments on this proposed rule. We ask that our comments be made part of the record.

[The statement of Paralyzed Veterans of America appears on p. 194.]

Mr. HOPKINS. Finally, we asked them if there had been a notable increase in the number of claims being denied due to their not

being well-grounded. In *Morton v. West*, the Court of Appeals for Veterans' Claims held that the VA was prohibited from providing assistance to any claimant until his or her claim was deemed well-grounded. The court called a well-grounded claim a condition precedent to receiving assistance under 5107(a). The court stated that "the issue, therefore, is whether the Secretary, by regulation, manual, or C&P policy can and has eliminated the condition precedent placed upon Congress upon the inception of his duty to assist. The answer: No."

Following *Morton*, the VA acted with stunning speed to issue a position to all VA regional offices implementing the holding in *Morton*. We asked our service officers to report to us on the number of claims that have been denied since January 1, 2000 on the basis of them not being well-grounded. Their answer surprised us. Over a quarter of the claims, roughly 26 percent, were denied because they were deemed to be not well-grounded.

Only a few short weeks ago, we testified before another subcommittee of the House Committee on Veterans' Affairs regarding the urgent need to enact legislation concerning the court's erroneous interpretation of clear congressional intent mandating that the VA provide assistance to all claimants.

PVA believes that if a claim is fully developed before it is adjudicated, the quality of the decision will be improved and the length of time a claim spends in the system will ultimately be lowered. It is better and more efficient to do a task once rather than over and over again.

PVA believes that there must be greater accountability for decisions made. There are currently no adverse consequences to adjudicators with abnormally high remand rates. There is a strong tendency to make decisions, get credit for those decisions, without regard to whether or not the decisions were made correct. Individual responsibility and accountability are key if we are to decrease the backlog and provide better quality.

We believe that the VA must never lose sight when percentages and numbers are being tossed about, that behind these numbers and percentages are real people with real problems seeking benefits they have earned in service to this Nation. The delays faced by veterans are unacceptable. We can do better. We must do better.

Mr. Chairman, again, thank you for the opportunity to address the VA's disability claims processing system. I would be more than happy to answer any questions.

[The prepared statement of Mr. Hopkins appears on p. 194.]

Mr. EVERETT. Thank you very much. We thank all of you for your testimony.

Let's kind of have a free-wheeling discussion here.

Mr. Abrams, you have been at it longer than I have and I guess some of the rest of you have, too. I am utterly frustrated, for a number of reasons. We did not have just one hearing starting in 1995, we had a number of hearings.

Mr. ABRAMS. I am aware of that.

Mr. EVERETT. I am thoroughly convinced we can throw as much money at this thing as we want to, but until the culture within the VA changes, I do not know what good it is going to do.

We have spent a lot of money trying to find a solution and yet we still have a situation that you described earlier, Mr. Abrams, of people—and also Mr. Hopkins—that people get these things done in a hurry just to get credit for getting them done without any regard to the content or how accurate they are.

Let me put it another way. If you were in my shoes, what would you do?

Mr. ABRAMS. Several years ago, a bill was introduced to change the VA work measurement system. The way it works now, every time the VA improperly denies a claim in a premature fashion, they get a work credit, they show they do things quickly and it is all to their good unless there is a concomitant negative result on quality.

I do not care how the VA internally tracks its work, where it is in the RO, but you talked to a man today, it took 12 years to get his claim done. That end product, that work measurement that was set up when he first filed his claim 12 years ago may have been taken, and I am guessing because I have not seen his file, 10 to 12 times. That office that should have just had one 12-year-old claim probably took 12 end products, 12 work credits. There was an incentive for them to do that.

We proposed years ago that when a veteran files a claim until the appeal is over the RO has to live with that pending end product, which would show the true length of that claim. They do not report 12 years. I guarantee you, they did not put down that that claim took 365 days times 12. They may have taken a work credit, they may have done that every 180 days.

When I was in the VA, we went to Baltimore, we walked into the adjudication officer's office, he was denying claims without looking at the folder because they were too old.

Until that pressure is lessened, you will not change it. Change the work measurement system, put teeth in the quality review and there will be dramatic changes.

Mr. EVERETT. Who would object to such legislation?

Mr. ABRAMS. I hate to tell you, but the Republicans on the committee were not happy with it and the VA objected to it strenuously.

Mr. EVERETT. And this was when?

Mr. ABRAMS. Three or 4 years ago.

Mr. EVERETT. Was it the full committee?

Mr. ABRAMS. You would have to check with the Democratic staff.

Mr. EVERETT. I am scratching my head. As I have said many times, I come out of a business background—okay. I am informed by counsel for the minority that it was probably in the benefits subcommittee in 1993.

It just seems to make perfect good sense to me.

Mr. SURRATT. Mr. Chairman, I would like to add to that something along the same lines.

The way the system is now, there is no disincentive for making poor decisions or incentive for making good decisions at the level of the first line adjudicator.

Mr. EVERETT. There is no disincentive anywhere in the VA for doing anything.

Mr. Surratt. Right. So somehow—I mean, quite frankly, I think we have to say that part of that or all of it is on the management's shoulders, but until the person that makes that decision the first time has some incentive to make quality decisions and some disincentive to make poor decisions, you are not going to change that and timeliness, how fast they get it out and how many end products they can claim is going to be what they strive for.

So in some ways that has to be changed and in some way VA's management, Mr. Thompson and his deputies, have to take more decisive action to do an attitude adjustment from his office down to the very level where they make the decision, because there is a culture out there that unfortunately does not strive to serve veterans well. They strive to serve themselves, I think, more.

Mr. Everett. I am not going to repeat myself, but I guarantee I can sit here and give you an hour of cases where veterans have been abused and no action has been taken. I can give you examples of where veterans have been used in human experiments with an cardiac catheterization procedure where the veteran had denied permission for the research being done on him. I can really go on and on and on, and the problem that bothers me is there was almost nothing done about that.

There is no accountability for making bad decisions or poor work performance within the VA. We all want that for the veterans, but we also ought to want it for the American taxpayer. I do not believe they are getting what they have paid for out of the VA. And it disturbs me greatly. Mr. Abrams.

Mr. Abrams. Last night, knowing I was coming here today, I got a call from Senator Patty Murray's office in Seattle. The VA now has a policy where they will bypass the DAV service officer, the American Legion service officer, the PVA service officer and call a veteran directly.

Now, we objected to that. We had a meeting with Mr. Epley about it and did not get anywhere. In this particular case, this woman who was filing a claim had alleged she was raped in service and she was diagnosed with PTSD, the doctors linked it to the rape, she had evidence of the rape. Somebody in the regional office, according to her, called her, told her she was a liar, upset this disturbed person very much. She ran barefoot four miles to an American Legion office, crying hysterically.

The Legion service officer complained like crazy, he did not even know they were going to make the call. He called me, I got on a conference call with the regional office and the representative for Senator Murray, complained about that, said that the evidence in the file looked like it should be granted and said "please call me back after you make a final decision." Subsequently I was notified that this veteran received about a year of retroactive 100 percent compensation benefits.

What concerns us is the VA in its efforts to go quickly is now bypassing the representatives that are entrusted to protect their clients. This is something that should not be, and this is one more example of the rush to judgment on these cases.

Mr. Everett. And also I might add the congressionally ordained advocates for the VA are the VSOs.

Well, it is also bad, but I can give you 12 or 14 hospital directors who have been guilty of sexual harassment and given 25,000 dollar buyouts or allowed to retire. This is the culture that exists, I do not know how to turn it around. I have said to the VA time and time again, you are going to destroy the VA unless you change this culture.

Mr. ABRAMS. The director of the Washington regional office a year and a half ago was transferred to Boston after a VA internal audit found that that office was about as bad an office as you could possibly find. Cases were lost and could not be found. Claims were just piled in a corner, and no one knew what was going on. This particular person was transferred back to her hometown.

Mr. EVERETT. A director—again, I am not trying to one-up you, but he was found guilty—I mean guilty of sexual harassment and physical and verbal abuse and transferred to where he has a retirement home in Florida and given a raise and an 80,000 dollar moving fee, wasn't it?

Mr. ABRAMS. There is a perception in some of the regional offices that we talked to, during our 15-station odyssey, that they believe that Congress, especially the House, wants them to adjudicate claims quickly, to the exclusion of quality.

Mr. EVERETT. And why would they believe that?

Mr. ABRAMS. That is what they think. They think that because there are quotes from Congressmen, "why does it take the VA more than 100 days to adjudicate a simple compensation claim?" And our view from NVLSP is that sometimes it takes a year to adjudicate a complicated compensation claim, but it would only take a year if everything was done right the first time.

What happens is you get a 12-year-old claim because it gets messed up and it becomes like a big snowball rolling down the hill. The RO commits error after error after error, to the point where they do not know exactly what is happening. The attitude in the ROs, in some of them, is if it is wrong and you think we are wrong, appeal it to the BVA. We are done.

And it is our attitude, I am sure here among all of us, that the goal is to get veterans their benefits as quickly as possible without having to take 4 years to get to the Board of Veterans' Appeals or another three to go through the Court of Appeals for Veterans Claims.

Mr. EVERETT. I want to ask each of you, what is the magic number to adjudicate an initial disability claim? What would you say it would be? Social Security, as I recall, does it about in 60 or 66 days.

Mr. Surratt. Well, I do not profess to know the magic number. I believe VA surveyed veterans, though, 2 years ago and the answer to that survey showed that veterans thought 60 days was a reasonable period of time to adjudicate a claim.

Mr. EVERETT. Somehow we have to pull this thing together. The thing that bothers me, I went over to Kosovo not too long ago and we stopped off in Prague and I used my credit card to buy something and it was done just like that. And somehow or other we cannot seem to move information around between DOD and St. Louis and the ROs and the whole VA to process claims. We are in the 21st century. We ought to be able to do things like that.

Mr. ABRAMS. I want to add something to what Rick said. He said that it takes about 60 days and that is what veterans think. However, the way the system works, veterans should file their claims as soon as they believe they have a non-frivolous claim and then they should go out in the best of situations and independently, if they have the money, get all their evidence, the medical opinions, the buddy statements, whatever they need.

We have been able to get cases through in a week once we have submitted the complete package, but it has taken me when I have worked a case, maybe 3 or 4 months to get all the evidence I would need to make the claim good.

Some of these claims are complicated and Joe Thompson was right, you are not going to be able to do all cases in 60 days, but the VA is obligated when the case comes in to explain to the veteran under the statute 5103—that is Section 5103 of Title 38—what is lacking in the claim.

The current system today—and this may upset you—is that when a veteran files a claim that is not well-grounded and the VA does not recognize that, denies the claim on the merits, never tells the veteran what is lacking in the claim and it goes to the Board of Veterans' Appeals and the board decides it is not well-grounded, they create a final denial and the veteran never was told through the 5 or 4 years of that claim what he or she needed to do to make the claim at least plausible. They have to start over. They have lost 5 years.

Mr. EVERETT. Well, that does upset me.

Ms. Brown sends her regrets that she could not return, but Counsel has a couple of questions.

Mr. CRANDELL. Thank you, Mr. Chairman.

I have a question for all of you. As Ron Abrams suggested, both veterans and Congress find the delays in claims processing very frustrating, and press VA about timeliness. You all suggested that accuracy may be the real problem. I would like you—is that the case? How does accuracy affect timeliness?

Mr. Surratt. I will respond to that first. Of course, if you make a mistake, if the veteran is entitled, if you make the wrong decision, of course he is delayed until the correct decision is made, but that means that you have to rework the case to make the proper decision and that adds to your workload.

If you have enough resources just to barely do it right the first time and you have to do it twice, obviously you are going to overload the system and that is what has happened and VA's reaction to that is the vicious cycle that I speak of.

Once they get these large backlogs and Congress begins to look harder, they shift the focus to the quantity at the expense of quality and make even more mistakes and then the whole thing starts spiraling into a situation where the errors increase, the backlogs increase and nothing gets accomplished.

Mr. ABRAMS. We were in Philadelphia doing a quality check. The first case that we picked up, a veteran was claiming hearing loss. He claimed he was exposed to a loud noise in service. He was denied in 1973 when he came home from Vietnam. This was the first case I picked up. He had just tried again.

We looked at the file and what the VA is supposed to do each time is go back to the service medical records, see what happened, and work the case forward. This was 1998. We looked at that and we found that on his DD-214 which is the discharge paper he had a purple heart with a gold star. A gold star on a Purple Heart indicates he suffered several injuries all at one time.

He was not service-connected for anything, and it was inconceivable to me that somebody with serious injuries in service who filed a claim would not get anything. So we looked and it turned out that a rocket blew up right in front of his face, scarred him terribly, and they never considered that claim whatsoever for the last 23 or 24 years.

That claim was pending for 24 years. We pointed that out, and within an hour an or two they had issued a retroactive 24-year check.

But these claims can go on forever. The VA has a tendency to, one, take an adversarial attitude towards certain claims. Let us be very clear there. Generally a veteran has to fight to get PTSD benefits. Most veterans have to appeal to the Board of Veterans' Appeals and when they win, the regional office generally gives them zero or 10 percent evaluation. They have to appeal and then they fight to get their proper evaluation. Claims for back conditions, claims for secondary service connection and especially claims for individual unemployability all encounter all encounter unnecessary problems.

We had a case in Boise, ID, a veteran with a GAF score—global assessment of functioning—of 40, which means that he can hardly function, was told by his doctor, his psychiatric expert, that he could not work. He went every day to a scrap yard where they allowed him to bang a piece of metal against another piece of metal without pay, they just let him hang out there.

The regional office there said he had a job, and they would not give him any benefits for unemployability because he was employed. When we pointed out this made absolutely no sense at all, we were told that is what the appellate process is for. We complained about it, they ignored us, it is now at the Board of Veterans' Appeals. We plan to litigate that case if it is not adjudicated correctly. This is the frustration that we feel.

Mr. IVAS. I might add, the VSOs have a cadre of hard-working NSOs that are out in the regional offices on the front lines, and what is frustrating for us that we obviously see these errors and we point them out to the VA in our 646s and statements of the case, responding to the decisions made by the VA. And they are not considering our arguments at all, especially when we are right.

For a veteran to wait for his case to be resolved by the BVA 3 years later and the BVA points out that the service officer was correct and the VA was wrong, you know, a veteran had to wait 3 years for that answer when he could have gotten it from the regional office from the get-go.

So they need to do it right the first time. They need to listen to the VSOs much more than what they do now.

Mr. ABRAMS. Help us pass the well-grounded claim bill, the one that was introduced by Senator Murray in the Senate and then

Lane Evans in the House. Encourage the VA to make its management system accountable and things we expect to improve.

Mr. EVERETT. Thank you very much for your testimony.

I want to thank all our witnesses today for giving the subcommittee the benefit of their testimony. The current state of disability claims adjudication is an overly complex process that, quite frankly, gives many of our veterans terrible service.

In 1999, at least 770 of them died before their claims were decided. The actual number is certainly considerably higher than this. Satisfactory levels of service to veterans will not be achieved without some real changes.

The VA's disability claims processing system is broken. It has been so for the past 10 years and the VA has outlined what it is doing to improve and I appreciate that, but if past performances can be taken as any indication, the VA will continue to fail unless it makes more fundamental improvements both in process and management. Otherwise, any gains will be marginal and probably temporary.

Furthermore, if the VA wants to improve its credibility with veterans and Congress, it is going to have to finally hold its managers, supervisors and employees accountable for their performance. The IG's report on data falsification is just the latest in a lengthy list of problems at the VA for which no one has been held accountable.

Our Nation's disabled veterans deserve better service than they are currently receiving. Congress, the VA, and veteran groups must work together to solve these problems outlined today so that we timely honor our veterans with the benefits that they have earned. They have done their part, but we have a long way to go.

Thank you very much. The hearing is adjourned.

[Whereupon, at 2:10 p.m., the subcommittee was adjourned.]



## APPENDIX

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STATEMENT FROM WILL MOULTON, VETERAN, C FILE #2283-028h,  
PREPARED FOR THE SUBCOMMITTEE ON VETERANS' AFFAIRS, THE  
OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE, FOR THE HEAR-  
ING ON VA DISABILITY CLAIMS AND PROCESSING SCHEDULED FOR  
THURSDAY, MAY 18, 2000

TO: The Honorable Terry Evertt, Congressman and Chairman of  
the Committee, and members of the Committee.

I am pleased to be able to submit this statement in writing before this committee.

To begin with, I wish to express my deepest gratitude to Mr. Kingston Smith for all of his help. I would not be making this statement at this time without the advice and information he has given me. I wish to commend him to the chairman and members of this committee.

I first received notice of these hearings from a newspaper article in the Tulsa World. I had had a claim pending with the VA for almost 6 years when I came across the article. Based on information from that article, I called Congressman Terry Everett's office in Alabama and was referred to his office in Washington. I talked to Victoria (I apologize for not knowing her last name) and a few days later I received a call from Mr. Smith and subsequently presented several statements to him in the form of letters. He has asked me to file a written statement and informed me that it would be presented into evidence at the hearing. Once again, I thank you for this opportunity.

On June 10, 1993, I went to the Oklahoma City VA Hospital for a laser surgical procedure on my right eye, having had several laser procedures on both eyes prior to that. I complained of loss of vision in that eye after the June 10th laser surgery, and my vision has been very poor from that time until now. I see only blurs and shadows from my right eye. It was not that way before the surgery: I actually saw better out of my right eye than my left. One month prior to the eye exam, my vision was recorded at 20/60 in my left eye and 20/50 in my right eye. The vision in my left eye is still 20/60, but I have had many problems with my right eye: vision usually being recorded, at different times with different eye doctors, between 20/200 to 20/800.

When I went to the surgery on June 10th, Dr. Montgomery, a young intern, was scheduled to do the surgery that day. Before the procedure began, he told me they had been having some "problems" with the Laser machine. He said they were having to turn it up higher than normal to get an adequate burn. Laser surgery burns out new growth in the eye of patients who are experiencing diabetic retinopathy. New growth of vascular tissue is abnormal and takes place in the disc of the eye. It is called Neovascularization. Dr. Montgomery told me the normal setting was between 400 and 500, but he said they were having to turn the machine up to 800 or more to get adequate burns.

Dr. Montgomery was with the University of Oklahoma Department of Ophthalmology and was an intern in training at the Dean McGee Eye Center in Oklahoma City. Dean McGee Eye Center is a private Eye Institute and the VA contracts with them to examine and perform procedures on Veterans at the VA Hospital. The two facilities are only a few blocks apart. The Doctors at Dean McGee take these interns to the VA Hospital and allow them to do their intern practice at the Hospital. The Dean McGee Doctors are in a supervisory capacity at the VA Hospital. The day of the surgery in question Dr. Kingsley, a member of the Dean McGee Staff, was supervising. Once, during the surgery, Dr. Kingsley, walked into the room and Dr. Montgomery asked him if he had the machine turned too high. Dr. Kingsley said something like "That's pretty high," but I can't remember the exact words.

In July of 1994, I filed a Claim with the VA Regional Office (hereinafter referred to as the RO) in Muskogee, OK. over the damage to my right eye. The RO denied my Claim in March of 1995. I appealed. I received notice in October of 1995 that my Claim would be sent to Washington within 60 days. Along about May or June of 1996, I called the Board of Veteran Appeals (hereinafter referred to as the BVA) to check on the status of my appeal. The BVA informed me that my Claim's File was not on the Docket. I called the RO and they told me they had "lost" my Claim's File. It took them about a year to find it; and, in the early part of 1997 they finally sent my appeal to the BVA. About 5 or 6 months later, the summer of 1997, the BVA sent the RO a Remand to get an exam from an Eye Doctor. The RO had submitted a report from their own Staff Doctor, who is not an Eye Doctor, and had based their denial on that report. The BVA wanted an exam from a Certified Eye Specialist, although I had already submitted reports from three Board Certified Ophthalmologists in support of my Claim.

The RO sent me to Dr. Fransen (whose partner, Dr. Kingsley, was involved in the laser surgery over which I filed my Claim), Dr. Fransen is a Senior Staff Doctor at the Dean McGee Eye Center. I saw Dr. Fransen in October of 1997. He issued a report to the RO disagreeing with the three Medical exams I had submitted. I was denied again on the basis of his report which was issued in February of 1998. The RO denial was issued to me in writing in March of 1998. They gave me 60 days to respond with any new evidence before they sent it back to the BVA.

Before the 60 days was up, I submitted a fourth medical opinion from another Board Certified Ophthalmologist. At that time I thought they would either deny my Claim and send it back to the BVA or give me a Service Connected Rating. But, instead, they sent my Claim's File to Patty Maddox, a Medical Administrator at the Okla. City VA Hospital. She is in charge of setting up exams for the RO. They told her to get another eye exam with Dr. Fransen, and I complained about that to her in writing. I said it was unfair to be examined by a Doctor whose partner was involved in the laser surgery over which I had filed my Claim. Ms. Maddox told him what I said, and he refused to do another exam or even issue a statement.

She held my Claim's file in her office for almost 2 years. She told me in several telephone conversations that the reason for the delay was that the RO told her not to send it back until she found a Doctor to refute my Medical evidence. She just recently got another Doctor from the Dean McGee Eye Center, Dr. Sigler, to issue a statement. He did not do an exam. He is a new Doctor on staff, and, not surprisingly, agreed with Dr. Fransen.

The RO again denied my claim based on Dr. Sigler's statement. The RO now has my File back in their office and is getting ready to send it back to the BVA once again. This makes the third time the RO has denied my Claim, and they have informed me once again that I have 60 days from March 22 to file any new evidence.

Some of the things that bother me most about this entire ordeal are (1.) Why didn't the RO make a decision in the summer of 1998 when they had Dr. Fransen's report and the new evidence I had submitted. In refusing to make a decision at that time, they were going against the BVA Remand. The BVA Remand stipulated for one eye exam, and they had that exam from Dr. Fransen, and his report, by February of 1998. Instead they sent it back to the Oklahoma City Hospital in an attempt to get another exam from Dr. Fransen. Another thing that really disturbs me is (2.) Why did Patti Maddox hold my Claim's File in her office for 2 years? And, (3.) Why did the RO send me to the Dean McGee Eye Center for an exam? Dr. Montgomery and Dr. Kingsley were both employees of the Dean McGee Eye Center, and both were directly involved in the surgery over which I filed my complaint. No one at the Dean McGee Eye Center should have been involved in a subsequent exam. In my opinion there is no way a statement from any Doctor at the Dean McGee Eye Center could be impartial.

All the doctors I saw and submitted statements from were completely independent. They had no connection with the VA, and I submitted all the Medical evidence to these four physicians. They had access to the VA records as well as Dr. Fransen's report. Dr. Sigler said that my Doctors did not have access to all of the VA Medical Records, but that is not true: I gave them copies off all previous statements and exams before they issued their reports. As proof of that, I just recently received a letter from Dr. Binstock on May 9, 2000. (one of the four Ophthalmologists who issued a statement in support of my claim), he states that he did have access to all the medial records. I am also faxing a copy of his most recent letter to Mr. Smith. He also has copies of the other four letters if you are interested.

There is no doubt in my mind that the laser procedure is the cause of the loss of vision in my right eye. The vision loss was immediate. I was quite concerned and called the VA Hospital within a day or two. And they scheduled me for another

exam a week later and recorded my vision at 20 count fingers. That is, all I could see was 2 fingers from about 3 feet away.

I wasn't aware of the VA Claims processing procedure at that time. It was some-time later in talking with a Veteran's counselor at the Oklahoma State Employment Agency that I became aware that I had grounds for a claim. And shortly after that conversation I filed the claim (July 1994).

The loss of vision could not have been a "natural progression" of diabetic retinopathy as Dr. Johnson, the Staff Doctor at the VA Regional Office said it was. It happened suddenly and was a result of the laser surgery, and the four medical opinions I have submitted attest to that.

In less than 2 months, it will be 6 years since I first filed this claim with the Veteran's Administration. Soon it will be on its way once again to the BVA, and I see no end in sight.

I thank you again for the opportunity to make this statement.

**REMARKS OF  
THE HONORABLE LANE EVANS  
Hearing on  
Processing of Veterans' Claims**

**May 18, 2000**

Thank you, Mr. Everett and Ms. Brown for holding this hearing today. Accurate and timely processing of veterans' claims for service-connected disability compensation is one of the three most important functions of the Department of Veterans Affairs (VA). Veterans who have been disabled in the service of our country understandably have certain expectations. They expect VA to recognize and compensate their injuries or illnesses in a timely manner and to the full extent of their disability. Further, simply establishing service connection – and this is not always simple – is often the gateway to receiving needed VA health care.

Mr. Chairman, in fairness to VA, part of the unacceptable delay in adjudicating claims is due to the untimely response by other agencies. They fail to respond promptly to requests from the VA for required information. Even so, VA's claims adjudication process has too often been both too slow and inaccurate.

While the Veterans Benefits Administration (VBA) works, it has never worked as well as it should. There is not one single, magic action that will solve VBA's problems. I do have some recommendations, however.

1. When a veteran initially contacts VA about a compensation claim, the first thing VA should do is provide every veteran a simple description of the claims process and a clear explanation of the kind of evidence he or she needs to prove a claim.
2. We recently held a hearing on the Morton decision, and on my Duty to Assist Veterans Act, H.R. 3193. The duty to assist legislation would reestablish the duty of the VA to assist veterans in developing the evidence needed to establish entitlement to benefits. This legislation has over 150 bipartisan cosponsors, and has been strongly endorsed by the Nation's principal veterans service organizations. I say to the VA, support H.R. 3193. I say to my colleagues in Congress, "Let's enact this legislation this year."

3. Last year I introduced the Veterans' Claims Adjudication Improvement Act of 1999, which was enacted as part of the Veterans Millennium Health Care and Benefits Act. This legislation requires the Veterans Benefits Administration of the Department of Veterans Affairs to have a Quality Assurance program which meets governmental standards for independence and internal controls. I expect VA to implement this crucial legislation and hope it will be referenced in today's testimony from VA.
4. To his credit, Under Secretary for Benefits Joe Thompson instituted on a trial basis a new system for measuring the quality of the claims adjudication work performed by VBA. I would also like to hear more about the current status of VA implementing the Systematic Technical Accuracy Review (STAR). This major change in assessing the quality of VBA's decision-making is on the right track. As important as the assessment is, STAR data needs to be analyzed in a timely fashion so that appropriate action can be taken to correct the deficiencies identified.
5. In addition, VBA's efforts to guarantee the integrity of its data – a problem pointed out by the Office of the Inspector General (OIG) in 1998 – are very important. I look forward to learning about these efforts in more detail. I am particularly concerned that the current "End Product Code" system for measuring timeliness may be providing misleading data. It is my understanding that the present system does not indicate how many end product credits are taken on one claim when the veteran submits evidence over the one year period for submission of evidence allowed under current law.
6. One measure of quality of VBA regional office decisions is data from the Board of Veterans Appeals. This data shows that approximately 60% of the cases appealed to the Board are either reversed outright or remanded for further work by the regional office. In fiscal year 1998, of the claims remanded to the regional offices, 44% involved claims that the regional office had failed to obtain evidence from VA records. More recent data suggests a decrease in the percentage of remands to obtain VA medical records. VA medical records are in the constructive control of ONE-VA, and they should be obtained without delay before a disability determination is made.

7. Regional Office staff should be directed to obtain all relevant evidence on a claim before denying it. This should reduce the number of times a veteran presents additional evidence requiring re-review of the claim.
8. On the Information Technology side, we have looked at the failures of VetsNet for a long time. I urge VA to stop barking up the wrong tree, and write off our losses. Give up VetsNet, make the best of what we have in the short run, and let's move forward to integrate the information currently available with other data sources.

I look forward to hearing today's testimony. While we can not underestimate the difficulty of adjudicating claims for service-connection in the complex world of modern conflicts and peace-keeping activities, I hope the witnesses today will offer some concrete suggestions for improving the accuracy and timeliness of claims processing.

Testimony of the Honorable Bill McCollum  
Before the House Veterans Affairs Subcommittee on Oversight and Investigations  
Hearing on the Department of Veterans Affairs Disability Claims Processing  
May 18, 2000

Mr. Chairman, Committee Members and Guests

I am pleased to speak to you this morning about disability claims processing at the U.S. Department of Veterans Affairs Regional Office at the Bay Pines complex in St. Petersburg, Florida. I recognize this issue is not unique to Florida's veterans but I believe their concerns deserve to be heard and share with you some information I thought you would find helpful. I am here before you on their behalf.

Before I continue, let me provide you some background about military veterans in the State of Florida.

- Florida has the second largest veterans population in the U.S., just behind California;
- Florida has the largest number of veterans with service connected disabilities ages 75 and older;
- Florida has the largest concentration of veterans with service connected disabilities rated 50 percent and higher;
- Florida has one VA Regional Office, California has three regional offices; Texas, New York, and Pennsylvania each have two regional offices.

As I speak to veterans, hold semi-annual meetings with veterans organizations representatives, and as mail to my district offices will attest, the backlog of claims at the VA Regional Office in St. Petersburg is at the top of every veteran's list of concerns.

According to figures provided to me at my semi-annual meeting in August 1999 with representatives of veterans service organizations such as: Air Force Association, American Legion, AMVETS, American Ex-POWs, Association of the U.S. Army, Central Florida Veterans Association, DAV, Marine Corps League, Military Order of the Purple Heart, National Association of Uniformed Services, City of Orlando Mayor's Veterans Committee, Osceola County Veterans Council, Paralyzed Veterans of American, the Retired Officers Association, State Veterans Advisory Council, VFW and Vietnam Veterans of Central Florida, one of the top concerns of the veterans present was the backlog of 30,000 claims at the VA Regional Office. Concerned that such a high number of claims were in question, I visited the Regional Office on September 7, 1999 to determine for myself the extent of the problem.

I met with Mr. Rupert F. "Sandy" Bowron, Acting Director for the VA Regional Office, and Barbara Harker, the Veterans Service Center Manager. At that time, according to them, there had been a claims backlog at the Regional Office of about 28,250 claims in May 1999, that had dropped to about 26,250 claims by the time of my visit. The ideal number of claims backlog for

them is 21,000, which they hoped to reach within a couple of years. They attributed the backlog to three factors: (1) continued training of inexperienced ratings specialists—30% of the ratings specialists had less than a year's experience at that time; (2) the September 1998 move to the Regional Office's current location coupled with the creation and implementation of 20 case management teams to work claims; and (3) the impact of a new telephone system allowing 80% more calls to go through, causing employees to spend more time answering veterans' questions, taking more time away from claims adjudication. The two also indicated there was a software problem that contributed to delays.

We discussed possible solutions such as agency SWAT teams being sent in to assist them with the backlog. They acknowledged they previously had SWAT teams come in to help with the backlog. But this is strictly on an ad hoc basis. There is no VA central office system for putting together a specialty team to go to a regional office and stay however long is necessary to work off a backlog or other problem. Even if the backlog was cleared up, they expressed concerns about anticipated retirements of large numbers of experienced employees starting in the next three to five years that would deprive them of knowledgeable individuals who can process claims in a thorough and timely manner, and assist less experienced employees.

A key aspect of the backlog that was not fully addressed during that meeting is the time it takes the St. Petersburg Region Office to adjudicate a disability claim. Currently, a veteran has to wait 11 to 16 months for a claims decision. Large numbers of claims are taking the entire 16-month period and longer. I realize that delays are inevitable but veterans should not have to wait this long.

Outcomes of my September 1999 meeting include my request of a General Accounting Office (GAO) study of the backlog and my co-sponsorship of H.R. 3193. I also wrote to the Regional Office in March 2000, expressing my concern about the possibility that the July 14, 1999, U.S. Court of Appeals for Veterans decision that the veteran has the "burden" of submitting evidence to show his claim is "well-grounded" has allowed the Regional Office to deny large numbers of claims, thereby reducing their backlog, but in the end, not serving veterans. I have not received a response to my correspondence.

In closing, I believe the VA's disability claims processing system is broken and needs to be overhauled. I know what I'm saying is not a surprise to any of you since you have championed veterans' concerns for years. But the situation in Florida is much worse than in the past and simply can not be tolerated. I urge the Committee to take action immediately to remedy this situation and pledge to work with you to seek an equitable solution - Florida's veterans and our nation's veterans deserve nothing less.

Thank you.

**Date of Speech: 5-18-00**

**Johnny L. Nixon  
309 Lynnhaven Circle  
Vinton, Va. 24179  
SSN: 223-72-0208**

**Title: Claims Processing**

**Thank you Congressman Goodlatte**

**Mr Chairman, Subcommittee Members, and Ladies and Gentleman:**

**I appreciate your invitation and No I am not related. I am the President of the Vietnam Veterans Association of Virginia. I have a wife who has been a nurse for 26 years and 2 children, we reside in a wonderful small town called Vinton . The Dogwood Capital of Virginia. I have cancer caused by Agent Orange.**

**You see I am not A Republican, I'm not a Democrat and I am not Independant. I am a Very proud Vietnam Veteran and I vote for honesty, and integrity no matter which side of the aisle it comes from. This is why I want to thank Congressman Bob Goodlatte for helping me with my Agent Orange Claim Even today he is working to get the 5 years the VA still owes me in back compensation. I hope all of you are doing as much in your districts for the Veterans as Congressman Bob Goodlatte is doing in his.**

**I wish this was the forum for Veterans Health Care. Our Veterans are being treated terrible! It isn't, so I won't. Maybe you will invite me back sometime.**

**The honorable Statesman Benjamin Franklin stated and I quote" There will be no changes made until those unaffected are as outraged as those who are" end quote.**

**I did not come today to visit the Smithsonian or the Vietnam Veterans Wall I come to our Capital today not on behalf of Johnny Nixon but on behalf of every Veteran that has ever worn the the greatest uniform known to man. The United States Veteran. I must tell you I am a very angry today!**

In 1988 I filed a claim with the VA due to tumor like cyst and skin rashes invading my body causing my lymph nodes to swell. This started while I was on duty in Vietnam in 1970. It took many years before I would find out what was the causation or even the name of this dreaded disease. Cloracne caused by Heavy Exposure to Agent Orange! At the VA's direction in the last 12 years I had to undergo 4 C&P Exams. These were not my doctor's. I did not choose them! I did not know them! The diagnosis at all 4 exams was the same, Cloracne caused by Heavy Exposure to Agent Orange! It took 12 years to get my claim approved, and then only with the intervention of Chairman Stump and Congressman Quinn. Congressman should not have to do a job that belongs to the Department of Veterans Affairs!

The Processing Department of Veterans Affairs needs a major overhaul. They talk to Veterans like they are second class citizens. I asked them in Roanoke Va. how many Veterans claims have been approved for Cloracne in the past 10 years. I was told with the exception of mine zero! Mine would not have been approved without intervention from my Congressman! Even after 4 positive diagnosis by the Government's Doctors! I have tried for 12 years to figure the processing system out and to this date I can't! Congressman Veterans are dying as I speak we must fix this system NOW! There is 100 pounds of paper work and 50,000 pounds of redtape Eliminate it! I felt for a long time that someone had sent a memo down from Washington stating not to approve any Veterans Claims.

Let me share with you some of the feedback I received from the Department of Veterans Affairs while waiting for my claim to be approved in those 12 years.

1. Mr. Nixon just because the Government doctors state you have Cloracne doesn't mean that you have it it is just that doctors opinion.
2. Mr. Nixon the reason you were only given 10% service Connection for the Scars caused by Agent Orange is because little children don't run from you in fear. Most of my scars are covered by my clothing but the VA says that doesn't count people can't see them. Everyday I look in the mirror to shave I return to Vietnam.

Congressman The Processing Department of Veterans Affairs need to assist Veterans with their claims not look for ways to deny their claims!

There needs to be a fraud hotline concerning those Veterans that have filed bogus claims and believe me there are many of those. They should have to pay back every dime. It must be stopped!

**Some of you Congressman are Veterans and some of you are not, but everyone of you have the power today to see that these claims are processed in a timely manner so these Veterans are compensated for their deasease's before it is to late! Let's take care of our own first, we gave our best on the battlefield please give us yours!**

**In Closing, Our fist President George Washington stated and I quote" The willingness with which our young people are to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the veterans of earlier wars were treated and appreciated by their nation." End Quote.**

**God bless you and God bless America!**

**Johanny L. Nixon**

Eugene Roland Birge—P. O. Box 15, Lockhart, AL 36455

Born March 12, 1946, in Lockhart, AL, #7 of 10 children. Attended W. S. Harlan Elementary, grades 1-8.

Graduated from Florala High School, Florala, AL, grades 9-12, in 1965. After graduation worked as an auto parts salesman from 1965-1968.

Married Reba Thomas in December, 1965.

After being examined 6 times, I was drafted in 1968 and served through 1970. The delay in being drafted was due to having rheumatic fever in 1964.

Returned to the U. S. in 1970 and continued to work as an auto parts salesman through 1970. Attended Lurleen B. Wallace State Junior College beginning September, 1970 through 1972. Used the Viet Nam G.I. Bill to finance. Transferred to Troy State University at Ft. Rucker and attended night classes and continued to work at Florala Auto Parts. Graduated from Troy State University at Ft. Rucker, 1974, with a B. S. degree in secondary education, major in social studies and a minor in English.

Began teaching special education at Florala City School in August, 1974. Taught here two years and then went to W. S. Harlan Elementary School and taught here for three years.

In 1976, our son Ryan Allen was born and in 1979 our daughter Candace Eugenia was born.

Attended Troy State University at Dothan at night and received masters degree in Career Education and Human Development.

In August, 1979, I began teaching special education at Florala High School and have been there ever since. During this time I attended Auburn University at Montgomery at night and received another masters degree in Mental Retardation.

Still married to the same wife for 34 years. Ryan is a senior at Auburn University and will graduate June 10, 2000, with a degree in Chemical Engineering. Candace is also attending Auburn University and is a junior. She is pursuing a degree in Physical Education.

I am the Mayor of Lockhart, AL, and have been since 1978.

#### MILITARY BACKGROUND

Drafted in 1968 and was sent to Ft. Polk, LA, for basic training. Accelerated promotion to E2 after graduation. Flown to Ft. Eustis, VA with no leave and entered Chinook Crewchief School. Graduated AIT with accelerated promotion to E4. Received a 7 day leave in route to Southeast Asia. Stationed in Vung Tau, Viet Nam, 765<sup>th</sup> Transportation BN, 388<sup>th</sup> Trans. Co. My brother C. Birge served as acting 1<sup>st</sup> Sgt. of this company. When brother returned to the states, I was

transferred to the 330<sup>th</sup> Transportation Co. and assigned to the Checkmate Flight Platoon where I served as right door gunner on a CH47 Chinook helicopter. After 9 months tour of duty, I was promoted to E5. During my tour of duty, we were shot down 3 times in a hot LZ and managed to repair and fly out without any casualties. While in Viet Nam, I attended several aviation connected schools. Received 3 air medals and the normal awards that goes with a combat soldier.

In 1974, I entered the Alabama National Guard, C Co. 131 Armor, Florida, AL. Entered as an E5 and promoted one year later to E6. Became MOSQ through correspondence. Attended B Nox, A Nox, Sr. Sgt. School and First Sgt. School. Promoted to E7 in 1979 and E8 in 1986 after attending Master Gunter School at Ft. Knox, KY. During the time of E8, I served as the BN. Operations Sgt. and Master Gunter. Eighteen months later, I was selected state-wide as Command Sgt. Major. I was then transferred to the 440<sup>th</sup> Ordnance BN. I was activated for Desert Storm in November, 1990. Served 7 months in the desert and received a bronze star. I was air evacuated back to the U. S. with a swallowing and breathing problem in June, 1991. After returning to the U. S., I was placed on medical hold at Lister Hospital, Ft. Rucker, AL. After 10 months on medical hold, I was released back to the Alabama National Guard, 440<sup>th</sup> Ordnance BN. After the 440<sup>th</sup> was deactivated, I was assigned to the 2<sup>nd</sup> and 152 Armor BN. in Onizota, AL. Later assigned to the 111<sup>th</sup> Ordnance Group in Opelika, AL. Later I was assigned to the 131 Armor BN. In Ozark, AL. Released from duty because of medical problems.

1964, Acute Rheumatic Fever

1978, Broken Nose

1984, C-6-7 Anterior Cervical Disectomy

28 Oct. 91, Nissen Fundoplication

7 Nov. 91, Infected Fascial Edges Wound Debridement and Reclosure

17 Jan. 92, C-4-5 Anterior Cervical Disectomy

1992, Gall Bladder removed

1994, C-3-4, Anterior Cervical Disectomy, Rod Installed

Being treated for the following by VA:

1. Labyrinthitis
2. Spinal Disc Condition
3. Traumatic Arthritis
4. Barrett's Esophagus
5. PTSD
6. Hypertension
7. Enlarged Prostrate
8. Sleep Disorder

Dealings with the VA have been very discouraging for me. My first visit was in 1985. I was requested to go to the VA for an exam on agent orange and kidney problems. I wasn't given an exam. I was asked if my children were born deformed. When I told the doctor no, he replied that I wasn't sprayed with agent orange. I spent 3 weeks in the hospital with kidney problems in Viet Nam, but the VA had no record of this. I never heard any of the results from my visit to the VA.

Medical records that the VA requested in 96 were sent to them. It seemed as if I was sending records every time I turned around. Until the middle of 96, I thought everything was going smooth. Then all of a sudden there was a period of about 2 years that all I got was a letter stating that the VA was processing my claims. Finally in 98, I received my rating decision. I still have pending claims.

During my tour of duty in the desert, I had more than one occurrence of PTSD. I was told that I was under too much stress. Also I was responsible for sending teams into Kuwait to recover ammo that was stored in churches, hospitals, and schools. A team would be gone for two weeks at the time.

During this period of time, I began having breathing and swallowing problems. I went to the hospital and several tests were run by an internal medicine doctor. He told me I needed to go home because I was allergic to the dust in my area.

I decided I couldn't leave because too many of my troops needed me. After several more visits, my problem began to get worse. During a scud attack, I hit my head and hurt my neck. This was when my labyrinthitis (vertigo) began. Finally I went to the 85<sup>th</sup> EVAC Hospital and the doctor in charge told me I didn't have a choice. I had to be medevacked to the U. S.

My knees had been giving me a lot of trouble but for some reason when I hit my head, they began to hurt worse. When I arrived in Germany, the army had some support braces made for both knees and gave me 800 mg. of Motrin for pain.

After a seven to ten day layover, I arrived in the U. S. and began treatment at Lyster Army Hospital in Ft. Rucker. I guess I must have taken every pill available for my esophagus. The doctors at Ft. Rucker said I had to have it repaired as well as my stomach. I spent 21 days in the hospital at Ft. Rucker. A few weeks later the Army decided to fix my neck. This was done by Dr. Barnard from Flowers Hospital in Dothan, AL. I continued to have trouble with my legs and knees. I went on my own to Dr. Allen and he tried to help but I ran out of money. Also during this period of time, I began having chest pains. The Army doctors told me it was gas. After several test, I went to a civilian doctor in Crestview, Dr. Stewart. My gall bladder had to be removed. This cost me money. Later down the road I still had problems with my neck and I went to the Medical Center in Pensacola. Dr. Raymond fixed my neck by placing a pin in it.

I have had sleep disorders since my tour of duty in the desert. I guess this was brought about from the many nights and days of scud attacks. I have been diagnosed as having sleep apnea and I have an apparatus I sleep in at night.

**STATEMENT OF  
MICHAEL G. SULLIVAN  
DEPUTY INSPECTOR GENERAL  
DEPARTMENT OF VETERANS AFFAIRS**

**BEFORE  
THE UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON VETERANS AFFAIRS  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

**HEARING ON DEPARTMENT OF VETERANS AFFAIRS  
DISABILITY CLAIMS PROCESSING**

MAY 18, 2000

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to discuss the accuracy of data used by the Veterans Benefits Administration (VBA) in reporting on the timeliness of the processing of disability claims. As part of our continuing coverage of the Department of Veterans Affairs compensation and pension program, the Office of Inspector General conducted an audit to assess the accuracy of data used in the following VBA performance measures:

- Average days to complete original disability compensation claims.
- Average days to complete reopened compensation claims.
- Average days to complete original disability pension claims.

This review was one of a series of audits assessing the accuracy of data used to measure the Department of Veterans Affairs' (VA's) performance in accordance with the Government Performance and Results Act (GPRA).

In this audit we compared data from VBA's automated systems with source documents to determine whether the proper data was input. The audit found that data used to measure claims processing timeliness was not accurate. Comparisons of data from automated systems with source documents for three nation-wide random samples of claims completed in Fiscal Year (FY)

1997 disclosed significant discrepancies. VBA personnel claimed work measurement credit when credit was not warranted, claimed the wrong work measurement credit, and input data which did not reflect actual processing times. More than 30 percent of the records in each of our three samples contained inaccurate or misleading data, which affected measurement of processing times:

- For Original Disability Compensation Claims, VBA reported 128.2 days. The audit found that the actual processing time was 150.8 days for a difference of 22.6 days.
- For Reopened claims, VBA reported a processing time of 109 days. Our audit determined that the actual time was 145.6 days for a difference of 36.6 days.
- For Original Disability Pension Claims, VBA reported 71.5 days. The audit determined the actual time was 80 days for a difference of 8.5 days.

VBA personnel input inaccurate data because they overlooked, or were not adequately familiar with, work measurement criteria. Also, in certain situations, compliance with criteria resulted in the input of misleading data.

By way of example, some of the common deficiencies noted that inflated the number of cases worked included:

- VBA personnel improperly recorded reopened claims in conjunction with appeals or personal hearings. As a result, personnel received work measurement credit for reopened compensation claims in addition to credit for actions related to the appeals or hearings. Since all of the issues were related to the appeals or personal hearings, VBA's criteria did not authorize personnel to record work measurement credit for reopened claims in these situations.
- Claims were prematurely recorded as completed. VBA's criteria state that all issues raised by a claim must be resolved before the claim is considered completed. However, in each instance, personnel input data indicating work on the claim was completed while they continued

to work on issues raised by the claim. When work was actually completed, data was input indicating a second claim was completed.

- VBA personnel input data indicating they completed work on claims when there actually were no claims and only correspondence was required.
- Personnel improperly input data indicating they completed work on reopened claims when they only corrected prior errors. According to VBA criteria, correction of a prior error should not be recorded as a separate claim.

In the following examples VBA used the wrong establishment date to compute their timeliness. These types of errors understate the actual processing time.

- When claims were transferred among VA facilities, VBA personnel input the date of receipt in the office processing the claim or a later date rather than the date of initial receipt in a VA facility. These claims were received by VA as many as 599 days earlier than the recorded date of claim.
- Personnel input the date the claim was first recorded in the automated system as the date of claim. These claims were actually received in VA facilities 1 day to 134 days before they were recorded in the system.
- The recorded date of claim was the date when an award or disallowance was prepared. Data from the automated systems erroneously indicated each of these claims was processed in 6 days or less. Actual processing times ranged from 40 to 731 days.
- When a claim is received from a veteran whose claims folder has been stored in the VA Records Processing Center, VBA personnel must retrieve the claims folder before processing the claim. VBA personnel used the date the folder was received from the Records Processing Center as the date of claim rather than the date the claim was received in the VA Regional Office. These claims were actually received 8 to 90 days earlier than indicated by the recorded data.

- Another error noted was that the recorded dates of disposition were not the dates when work on the claims was actually completed. This type of error resulted in computations of average processing times, which were shorter than actual processing times.
- Personnel completed necessary work but, for unknown reasons, failed to record completion of the work until a later date. Work on these claims was actually completed 1 day to 149 days earlier than the recorded date.
- Misleading dates of claims disposition were recorded for claims that were transferred from one office to another for completion of certain processing steps. VBA personnel made decisions on these claims and notified the claimants of their decisions before the claims folders were returned to the offices of jurisdiction and the claims were recorded as completed. Work on each of these claims was completed 6 to 14 days earlier than indicated by the recorded date of disposition.

We determined that the cause of the conditions noted was that VA personnel either overlooked, or were not adequately familiar with, applicable criteria. We could not determine how many deficiencies resulted from clerical errors or whether personnel intentionally ignored criteria in specific instances. However, the frequency of errors involving classification of claims, appeals, and deferred issues indicated personnel did not know, or misinterpreted, the work measurement criteria.

Criteria in effect at the beginning of FY 1997 contributed to distorted computations of processing days. VBA claims processing criteria instructed personnel to input the date a claim was received in the office processing the claim as the start date of claim without regard for whether the claim was originally received at another VA facility. Thus, if a claim was transferred from one VA facility to another, any days in the first facility or in transit were not included in the computation of processing days.

Other criteria resulted in the input of misleading dates of disposition. When an office has a large backlog of pending claims, some of those claims may be sent to another office for assistance in completing the processing. VBA criteria state that, if the two offices are not served by the same data processing center, completion of work on the claims will be recorded after

the claims folders are returned to the office of jurisdiction. In this situation, the recorded data will reflect more processing days than were actually required to complete work on the claims.

More accurate timeliness data would enhance the ability of VA managers and others to assess performance, make sound decisions, and enhance the credibility of VA information presented to interested parties.

VBA has revised criteria defining the date of claim to be recorded and has taken other steps, which should result in more accurate measurement of claims processing timeliness. Criteria were revised to define the date of claim as the earliest date that the claim was received by any VA facility. The Under Secretary for Benefits identified development and maintenance of accurate data systems as one of VBA's major goals. To assist in reaching that goal, he established a Data Collection, Analysis, and Integrity Team. The Team's initiatives include identifying data needs, establishing a data inventory, and developing data validation methodology.

Prior to the completion of our audit, the Deputy Under Secretary for Benefits issued a letter to all regional office directors stressing the need to improve the accuracy of data in VBA's management reporting systems. After mentioning our preliminary audit findings, the letter stated VBA's Compensation and Pension Service personnel would attempt to identify offices that appeared to be manipulating data. Also, the letter indicated onsite VBA surveys of regional offices would be resumed.

Compensation and Pension Service personnel analyzed transaction data concerning 103,000 claims recorded as completed in the first quarter of FY 1998 and identified transactions that appeared to be unusual. The Deputy Under Secretary for Benefits sent VBA Area Directors the results of that analysis with a letter indicating that questionable practices should be identified and eliminated.

While the revision of criteria defining the date of claim and other actions initiated should result in the input of more accurate data, we believe additional corrective actions were needed. Appropriate personnel should receive additional training concerning the identification and classification of claims, dates of claim, and dates of disposition. To ensure that procedures are clear and that compliance with instructions will result in accurate measurement of processing times, VBA officials need to review criteria

related to the common deficiencies identified during our review and revise the criteria as needed. In addition, VBA officials need to regularly monitor the accuracy of classification codes, dates of claim, and dates of disposition to detect errors. The Under Secretary for Benefits has reported that all audit recommendations were implemented.

### Conclusion

VBA personnel input data which significantly distorted computations of processing times of original disability compensation claims, reopened compensation claims, and original disability pension claims. Based on our sample results we concluded that the FY 1997 timeliness data was not accurate enough to provide a meaningful measure of VBA's performance. To provide managers and other stakeholders with more useful timeliness data in the future, VBA officials needed to take action to improve the quality of data input and implement controls to detect inaccurate data.

The Under Secretary for Benefits concurred with our recommendations and provided acceptable implementation plans. According to his comments, VBA committed to an expanded emphasis on information quality and is actively developing a Data Management Office. The Data Management Office will be responsible for incorporating recommendations from recent reviews of VBA's programs to improve the quality of all VBA data collecting, reporting, and analysis activities.

Mr. Chairman, this completes my testimony and I will be happy to answer any question you or the Members of the Committee may have.

United States General Accounting Office

**GAO**

**Testimony**

Before the Subcommittee on Oversight and Investigations,  
Committee on Veterans' Affairs, House of Representatives

For Release on Delivery  
Expected at 10:00 a.m.  
Thursday, May 18, 2000

**VETERANS BENEFITS  
ADMINISTRATION**

**Problems and  
Challenges Facing  
Disability Claims  
Processing**

Statement of Cynthia A. Bascetta, Associate Director  
Veterans' Affairs and Military Health Care Issues  
Health, Education, and Human Services Division



Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to provide an overview of claims processing in the disability compensation program through which the Department of Veterans Affairs (VA) provides cash benefits to more than 2.5 million veterans, their dependents, and survivors. The compensation program pays monthly benefits—based on degree of disability—to veterans who have service-connected disabilities (injuries or diseases incurred or aggravated while on active military duty). Administered by the Veterans Benefits Administration (VBA), the compensation program is VBA's largest program, accounting for about 72 percent of fiscal year 1999 cash outlays (about \$18 billion out of \$25 billion). For years, the compensation program has been the subject of concern and attention within VA and by the Congress and veterans' service organizations. The concerns have focused on backlogs of claims, long waits for disability decisions, and the poor quality of these decisions, all of which have negatively affected the quality of service provided to veterans.

We have issued a number of reports on VBA's claims-processing operations, and the Congress has sponsored studies of the disability compensation program, including studies by the Veterans' Claims Adjudication Commission and the National Academy of Public Administration (NAPA). Today, drawing on this body of work, I will focus on four key areas related to compensation claims processing: (1) long-standing performance problems, (2) claims-processing complexities, (3) challenges to improving performance, and (4) VBA's initiatives to improve performance.

In summary, VBA's problems with large backlogs and long waits for decisions have not yet improved, despite years of studying these problems. Moreover, VBA's new quality measurement system shows that nearly one-third of decisions are incorrect or have technical or procedural errors. Many performance problems stem from the process's complexity, which is growing as the number of service-connected disabilities per veteran increases and judicial review requires more procedures and documentation. Although VBA has initiated a number of efforts to streamline its claims-processing performance, it is unclear how much improvement will be gained. Also, VBA may need to collect and analyze additional case-specific data to better understand its claims-processing problems and better target its corrective actions. Furthermore, because some issues affecting VBA's performance are a function of program design, more fundamental changes may have to be considered to realize significant improvements.

## **BACKGROUND**

Veterans may submit claims to any one of VBA's 57 regional offices. To develop a veteran's claim, the regional office obtains the veteran's existing medical and military service records and, if necessary, arranges for the veteran to be examined by physicians in the Veterans Health Administration (VHA).<sup>1</sup> The regional office evaluates the veteran's service-connected impairments and assigns a rating for the degree to which the veteran is disabled, ranging from zero to 100 percent (expressed in 10-percent increments). For veterans with multiple disabilities, the regional office combines the ratings for each disability into a single, composite rating. If a veteran disagrees with the regional office's decision, he or she can ask for a regional office hearing or submit a "notice of disagreement" and file an appeal asking VA's Board of Veterans' Appeals to review the decision. The Board makes the final decision on such appeals and can grant benefits, deny benefits, or remand (return) the case to the regional office for further development and reconsideration. After reconsidering a remanded decision, the regional office either grants the claim or returns it to the Board for a final VA decision. If the veteran disagrees with the Board's decision, he or she may appeal to the U.S. Court of Appeals for Veterans Claims. If either the veteran or VA disagrees with this court's decision, they may appeal to the Court of Appeals for the Federal Circuit.

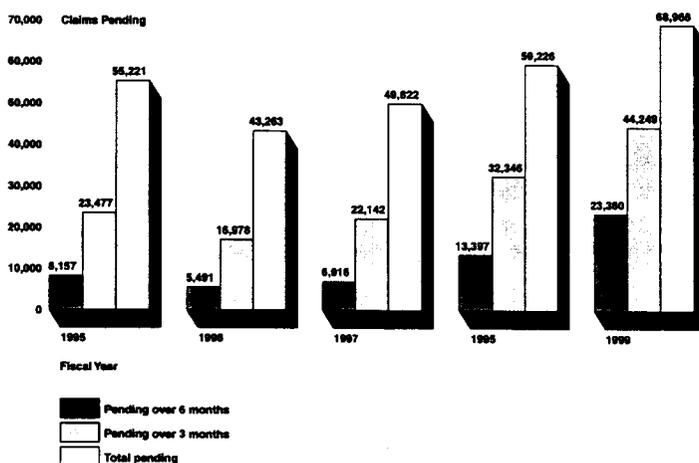
<sup>1</sup>Before fully developing a claim, the regional office determines whether the claim is well grounded, that is, that there is evidence supporting a plausible case that the veteran has a current disability related to a service-connected condition.

### LONG-STANDING PERFORMANCE PROBLEMS IN COMPENSATION CLAIMS PROCESSING

For a number of years, VBA's regional offices have experienced problems processing compensation claims. These have included large backlogs of pending claims, lengthy processing times for initial claims, high error rates in claims processing, and questions about the consistency of regional office decisions.

As acknowledged by VBA, backlogs of claims have resulted in veterans having to endure long waits to receive decisions on their initial claims and on their appeals. As shown in figure 1, at the end of fiscal year 1999, VBA had about 69,000 pending initial compensation claims, of which over 23,000 (34 percent) had been pending for more than 6 months. You can see that in all categories the number of claims pending has been growing since 1996.

**Figure 1: Initial Compensation Claims Pending at Year-End, FY 1995-99**

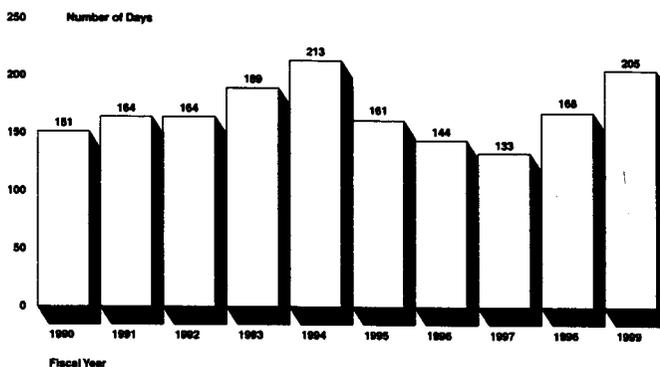


Source: VBA data.

The average time for processing initial compensation claims peaked at 213 days in fiscal year 1994, as shown in figure 2. Thereafter, timeliness seems to improve through fiscal year 1997, as average processing time declined to 133 days. However, according to VA, apparent improvements were based on timeliness data that substantially understated the actual time required to process claims. This was revealed by a VA Inspector General audit, which found that timeliness data reported by regional offices had been in error by as much as 34 percent. After VBA took action to correct the data reporting problems, the average processing time again climbed, reaching 205 days in fiscal year 1999. This places VBA far from reaching its strategic goal of 74 days average processing time for claims that require disability ratings.<sup>2</sup>

<sup>2</sup>In its fiscal year 2001 performance plan, VBA did not establish separate processing-time goals for compensation and pension claims. Instead, the 74-day goal is a composite goal for all compensation and pension actions requiring disability ratings. Initial compensation claims, on average, require more time to process than initial pension claims.

**Figure 2: Average Processing Time (in Days) for Initial Compensation Claims, FY 1990-99**



Source: VBA data.

When veterans appeal decisions made by regional offices, the average time spent to resolve the appeals is even longer than the time that the regional offices spent making the initial decisions.<sup>3</sup> For appeals resolved during fiscal year 1999, the average time required was over 2 years (745 days) from the date the veteran submitted a notice of disagreement with the regional office's decision.

In addition to problems with timeliness of decisions, VBA acknowledges that the accuracy of regional office decisions needs to be improved. VBA historically had reported that regional offices processed claims accurately over 95 percent of the time; however, concerns about accuracy arose in the 1990s when dramatic increases occurred in the percentage of appealed cases remanded to regional offices by the Board of Veterans' Appeals.<sup>4</sup> As a result, VBA implemented a new accuracy measurement system in fiscal year 1999 under which the error rate includes not only incorrect decisions on whether to grant or deny claims but also procedural and technical errors such as failure to include all required documentation in the case file or to properly notify veterans of decisions. Using the new method, VBA calculated an accuracy rate of 68 percent (32-percent error rate) for initial decisions requiring disability ratings. For fiscal year 2000, VBA has set an accuracy goal of 81 percent; its long-term strategic goal is 96 percent accuracy.

Another problem is the perception of inconsistency in decisions made by different regional offices. In 1997, NAPA identified several factors that could lead to inconsistency in VBA's decisions: (1) achieving consistency across 57 decentralized offices is inherently difficult, (2) regional office staff must deal with a variety of medical issues that often require them to make subjective judgments, (3) VBA's regulations were unclear and subject to varying interpretations, and (4) VBA lacked a comprehensive training strategy that identified training needs and used standardized training to meet these needs. NAPA stated that VBA needed to identify the degree of subjectivity expected for various medical issues, set consistency standards, and measure the level of consistency as part of the quality review process or through testing of control cases in several regional offices.

<sup>3</sup>A relatively small proportion of initial decisions are appealed to the Board of Veterans' Appeals. In fiscal year 1997, for example, veterans filed appeals in 5.4 percent of all regional office initial decisions.

<sup>4</sup>Not every remand indicates that the regional office made an error. For instance, remands can result from submission of new evidence or changes in regulations that occur after an appealed case is sent to the Board.

### CLAIMS PROCESSING IS COMPLEX

Regional offices perform six basic functions in processing initial claims for service-connected disability compensation. Although VBA has made some changes in the process and plans to make additional changes, regional offices will still need to perform the six basic functions:

- receive the claim—the veteran submits the claim form to the regional office in person, through a veterans' service organization, or through the mail;
- establish the claim—the regional office enters basic information about the veteran and the claim into a computer system and sets up a claim file folder;
- develop the claim—the regional office reviews the claim file folder for military service and medical information, requests and obtains missing information, and reviews all pertinent information to determine basic eligibility;
- rate the claim—the regional office analyzes the veteran's service records and service and private medical records and determines the veteran's level of disability;
- determine the payment amount—the regional office reviews the claim file folder to ensure that the rating is consistent with statutes and VBA policies and to determine the payment amount; and
- authorize the claim—the regional office reviews previous work on the claim, approves the initiation of benefit payments, and provides notification of the decision to the veteran, along with information on how to appeal should the veteran disagree with the decision.

As we reported in 1994, many in VA blamed part of the claims-processing delays on the traditional, assembly line processing approach used in regional offices.<sup>5</sup> Under the traditional approach, each claim passed sequentially through several individuals who separately performed the six processing functions mentioned. VBA has started moving toward a team-based, case management approach under which a regional customer service team is collectively responsible for processing each claim from beginning to end, thereby avoiding multiple handoffs of the claim to individuals who separately perform each task. The regional offices are in various stages of implementing this new approach. In addition, the regional offices have implemented two systems to assist them with their work. One tracks the location of claims folders, while the other system prevents the entry of duplicate requests for service verification and service medical records. Also, for claimants discharged from military service after May 1, 1994, the Department of Defense now automatically transfers their service medical records to VA, alleviating the need to request these records.

The changes made to date, however, have done little to streamline the overall process. Currently, the process contains as many as 66 decision points and 39 queues (or waiting points) (see the app. for a depiction of the initial compensation claims process). Of the 39 queues, 28 are points at which claims wait for attention from regional office staff, and 11 are points at which regional office staff wait for information from external sources not under their control. For example, NAPA reported in 1997 that it was not unusual for regional offices to take as long as 80 days to request and obtain information such as (1) military service dates; (2) service medical records; (3) verification of receipt and amounts of military severance pay, separation pay, and/or retired pay; (4) medical records from private physicians, hospitals, and VA medical centers; and (5) other evidence in the custody of military authorities or other government agencies. Even after obtaining this information, regional staff often find they need additional medical evidence to determine a veteran's precise current medical status. In such cases, the staff must schedule the veteran for an examination by a VHA or contract physician. If regional staff find that the physician's initial examination is not adequate, they must request a follow-up examination.

<sup>5</sup>Veterans' Benefits: Status of Claims Processing Initiative in VA's New York Regional Office (GAO/HEHS-94-183BR, June 17, 1994).

Another factor that can increase complexity and contribute to claims-processing delays is that veterans have the right, by law, to submit additional evidence at any point during VA's initial claims process, including during appeals on these claims to the Board of Veterans' Appeals. The submission of such evidence can result in delays because claims processors must further develop the claim and reevaluate the veteran's degree of disability.

### CHALLENGES TO IMPROVING PERFORMANCE

In addition to the claims-processing system itself, VBA faces challenges to its efforts to improve timeliness and accuracy in claims processing. These include (1) claims characteristics that increase workloads, such as the number of disabilities claimed by veterans; (2) decisions by the U.S. Court of Appeals for Veterans Claims that expand claims-processing requirements; and (3) a significant number of retirements by experienced staff that will require VBA to train many new employees.

#### Certain Characteristics of Claims Increase Workloads

Veterans seeking compensation benefits often claim multiple disabilities. For example, in a sample of about 69,000 veterans whose initial claims were rated during fiscal year 1998, VBA found that the veterans claimed a total of about 316,000 disabilities, or an average of about 4.6 disabilities per veteran; the largest number of disabilities claimed by an individual veteran was 56. To process these claims, regional office staff had to make about 316,000 separate decisions that required development of evidence; determination of whether the disability was service-connected; and, if the disability was found to be service-connected, evaluation of the degree of disability.

The number of disabilities determined to be service-connected has also been increasing. Of all the veterans who began receiving compensation benefits during fiscal year 1998, the average veteran had 2.72 service-connected disabilities. Compared with 1989, this represents an increase of about 30 percent in the number of service-connected disabilities per veteran.

The increase in the average number of service-connected disabilities per veteran may be due to several factors. For example, NAPA commented on the possible effects of VA's cooperative effort with the Department of Defense to perform medical examinations of veterans before their discharge from the service and to begin the claims process closer to the time of discharge. NAPA raised the possibility that these efforts potentially could result in the identification of a greater number of disabilities. The increase in disabilities per veteran also may be attributable in part to the recognition of new disabilities that are more difficult to evaluate. For example, the Agent Orange Act of 1991 presumed that anyone who served in Vietnam had been exposed to Agent Orange and extended compensation for certain diseases presumed to result from exposure. In another instance, the Veterans' Benefits Improvement Act of 1994 identified Gulf War Syndrome as a compensable disability, which was the first time the Congress authorized VA to compensate veterans for "undiagnosed illnesses" for which only symptoms can be discerned. VBA data show that Gulf War veterans have more service-connected disabilities than any other group of veterans since World War II.

Another factor that drives regional office workloads is "repeat" (or subsequent) claims filed by veterans after their initial claims are decided. According to VBA, repeat claims include requests for reevaluation of disabilities previously claimed or the evaluation of new disabilities not claimed previously. In fiscal year 1998, veterans filing repeat claims outnumbered veterans filing initial claims by about three to one. Additionally, as mentioned, the number of service-connected disabilities per veteran has been increasing. This increases the potential for repeat claims because each additional disability represents the potential for a request for reevaluation.

### Establishment of the U.S. Court of Appeals for Veterans Claims Heightened Complexity

Until the passage of the Veterans' Judicial Review Act in 1988, decisions by VA's Board of Veterans' Appeals were not subject to judicial review. The act, however, established the U.S. Court of Veterans Appeals (now known as the U.S. Court of Appeals for Veterans Claims) and gave veterans the right to appeal the Board's decisions to the Court.<sup>6</sup> As the Board found its own decisions being remanded by the Court, the Board in turn began remanding many more cases to the regional offices for rework. (As mentioned, not every remand indicates that the regional office made an error.) Before the Court was established, the Board annually had remanded less than 25 percent of the cases it reviewed; however, after the creation of the Court, the proportion of cases remanded by the Board reached as much as 50 percent. Recently, the remand rate has declined—for the first 4 months of fiscal year 2000, the remand rate was about 29 percent, according to VBA and Board officials.

Perhaps more importantly, the Court's decisions also contributed to substantial increases in the time required to process claims. According to the Veterans' Claims Adjudication Commission, VA historically has lacked clear and definitive administrative procedures, but prior to creation of the Court, VA's vague rules had not been a problem because the rules were subject only to VA's interpretation. The Court's interpretation, however, of statutory and regulatory provisions generally has been more expansive than VA's and has imposed greater procedural and documentation requirements on VA. For example, before the Court's creation, regional office staff generally wrote one brief statement for each claim that summarized their overall evaluation and rating of all disability issues. Now, regional staff must separately describe the evidence and the decision rationale for each disability issue. The Adjudication Commission's 1996 report stated that the number of work hours required to process the average case had doubled since the creation of the Court. Consistent with this finding, VBA data show that the number of decisions produced per rating specialist in fiscal year 1999 (797 decisions) was less than half the number produced 10 years earlier in fiscal year 1989 (1,716 decisions).

### Wave of Retirements Presents Challenges for VBA's Training Program

According to VBA, it takes 2 to 3 years of experience for claims decisionmakers to achieve a fully productive level of expertise. Currently, about half of such VBA staff have 3 years or less of decision-making experience. The proportion of less experienced decisionmakers is likely to increase in the near future because of the expected retirement of over 1,100 experienced decisionmakers in the next 5 years. In the current fiscal year, VBA will add 440 new staff to the compensation and pension programs. In fiscal year 2001, VBA plans to redirect 183 existing staff positions to compensation and pension claims processing and hire 243 new staff. This highlights the need for an effective claims-processing training program. VBA has acknowledged that its training program has not adequately prepared its workforce to produce accurate disability decisions, and VBA has recognized the need for an effective, centralized, and comprehensive training program.

### EFFECTIVENESS OF VBA'S PERFORMANCE IMPROVEMENT INITIATIVES REMAINS UNCLEAR

VBA has acknowledged the need to improve the timeliness and accuracy of claims processing. Accordingly, VBA has an ongoing effort to reengineer the initial disability claims process as well as other initiatives aimed at improving performance. At this point, however, VBA's initiatives are in various stages of testing and implementation, and it is not clear whether or to what extent these initiatives will improve timeliness or accuracy. Also, in some cases, VBA may need additional data to identify the underlying causes of its claims-processing problems. For example, as we reported in March 1999,

<sup>6</sup>The name of the Court was changed under a provision of the Veterans' Programs Enhancement Act of 1998 (P.L. 105-368).

VBA could further improve its claims-processing accuracy measurement system by collecting more specific data that would help identify error-prone cases and target corrective actions.<sup>7</sup>

VBA's initiatives for improving claims processing encompass efforts such as implementing a case management approach for processing claims; working with the Department of Defense to administer physical examinations before servicemembers are discharged from military service; using electronic networks to obtain existing military service and medical records; improving the guidance and training for VHA physicians; developing computer-based training modules for regional office staff; and instituting a "balanced scorecard" that measures program performance on the basis of claims-processing accuracy and timeliness as well as unit cost, customer satisfaction, and employee development.

In addition, during fiscal years 1986 through 1999, VBA spent at least \$380 million to modernize its information technology systems to support its operations.<sup>8</sup> Of the \$380 million, at least \$28 million was spent on initiatives specifically intended to improve compensation claims processing, from the establishment of claims through benefit payment and accounting. These initiatives are at various stages of completion. For example, in 1996 VBA implemented an initiative to track the location of veterans' claims folders. Since then, VBA has been developing a system to replace the compensation and pension payment system.

Also, in February 1999 VBA began testing the use of a case management approach to claims processing at six demonstration sites. As part of this test, VBA is using two automated tools: (1) the Claims Processing System applies rule-based technology to identify necessary evidence when a claim is initially received and produces reader-friendly letters requesting evidence and (2) the Claims Automated Processing System collects and stores information about pending claims. In August 1999 VBA completed a 6-month assessment of the demonstration project and concluded that neither system had any discernible effect on performance measures such as pending workload, timeliness, and productivity. VBA found that the Claims Processing System was labor intensive and had system access problems. It also found that the Claims Automated Processing System could not produce some management reports; this problem, according to VBA, has been fixed. According to a recent status report on its efforts to reengineer claims processing, VBA plans to continue using the Claims Automated Processing System to assist employees in providing case management services, but VBA discontinued the mandatory use of the rule-based Claims Processing System at the demonstration sites.

Despite VBA's efforts to improve its performance, its timeliness problems in claims processing continue and its accuracy in claims processing has far to go to reach VBA's strategic goal for accuracy. At present, it is unclear how much improvement will be gained through VBA's initiatives. Also, while VBA has improved its data collection efforts, it may still need to collect and analyze additional data, such as specific information on error-prone cases, to further understand its claims processing problems and better target corrective actions. Furthermore, as we mentioned in last year's testimony before the Subcommittee on Benefits, some issues affecting VBA's performance are not in its direct control and are a function of the design of the program.<sup>9</sup> As a result, it may be that only incremental gains can be made without changes in the current design of the program.

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Mr. Chairman, this concludes my prepared remarks. I would be pleased to respond to any questions you or Members of the Subcommittee may have.

<sup>7</sup>*Veterans' Benefits Claims: Further Improvements Needed in Claims-Processing Accuracy* (GAO/HEHS-99-35, Mar. 1, 1999).

<sup>8</sup>Our analysis of VBA's modernization obligations shows that the cost of these activities may be understated because VBA lacks a managerial cost-accounting system to track payroll benefits and indirect costs associated with modernization.

<sup>9</sup>*Veterans Benefits Administration: Progress Encouraging, but Challenges Still Remain* (GAO/T-HEHS-99-77, Mar. 25, 1999).

**GAO CONTACT AND STAFF ACKNOWLEDGMENTS**

For future contacts regarding this testimony, please call Cynthia A. Bascetta at (202) 512-7101. Others who made key contributions to this testimony are Irene Chu, Tonia Johnson, Helen Lew, Steve Morris, Barbara Oliver, Martin Scire, Ira Spears, Henry Sutanto, and Paul Wright.

**VA'S INITIAL COMPENSATION CLAIMS PROCESS**

Figures 3a through 3i depict the initial compensation claims process. A list of abbreviations and forms referred to in the figures is included after figure 3i.

**Figure 3a: Process Legend**

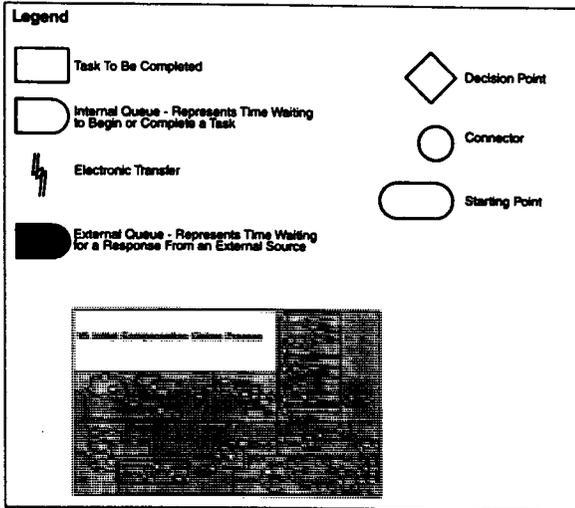


Figure 3b: Receive a Claim

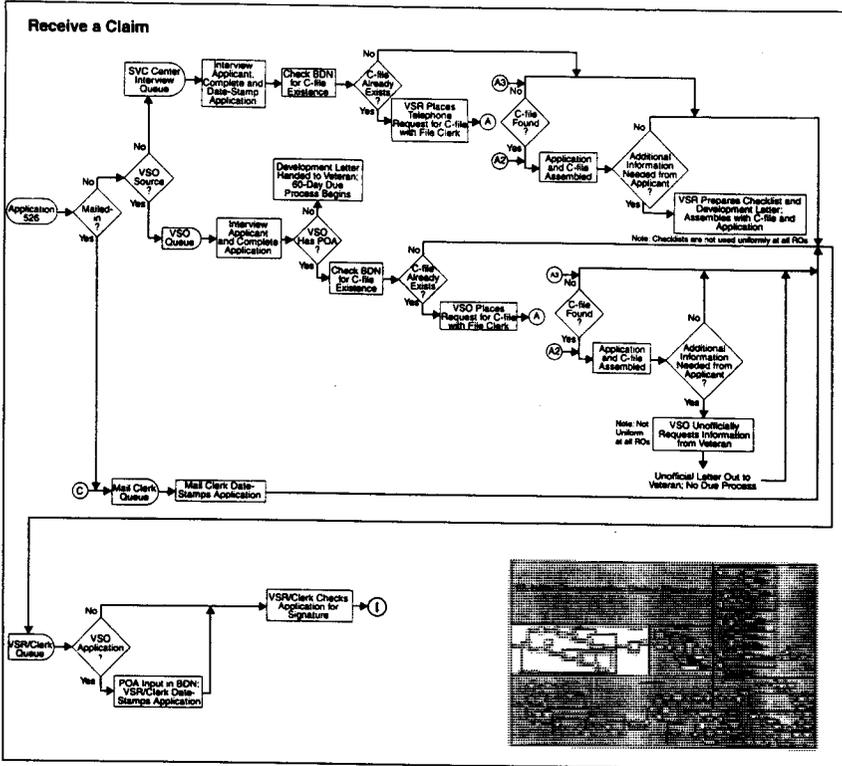


Figure 3c: Establish a Claim

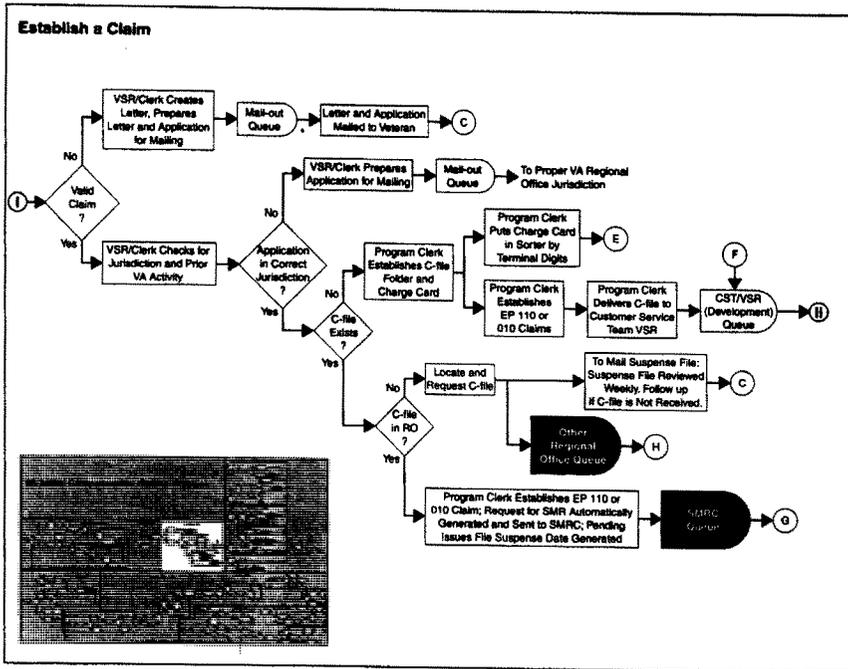


Figure 3d: Develop a Claim (Part 1)

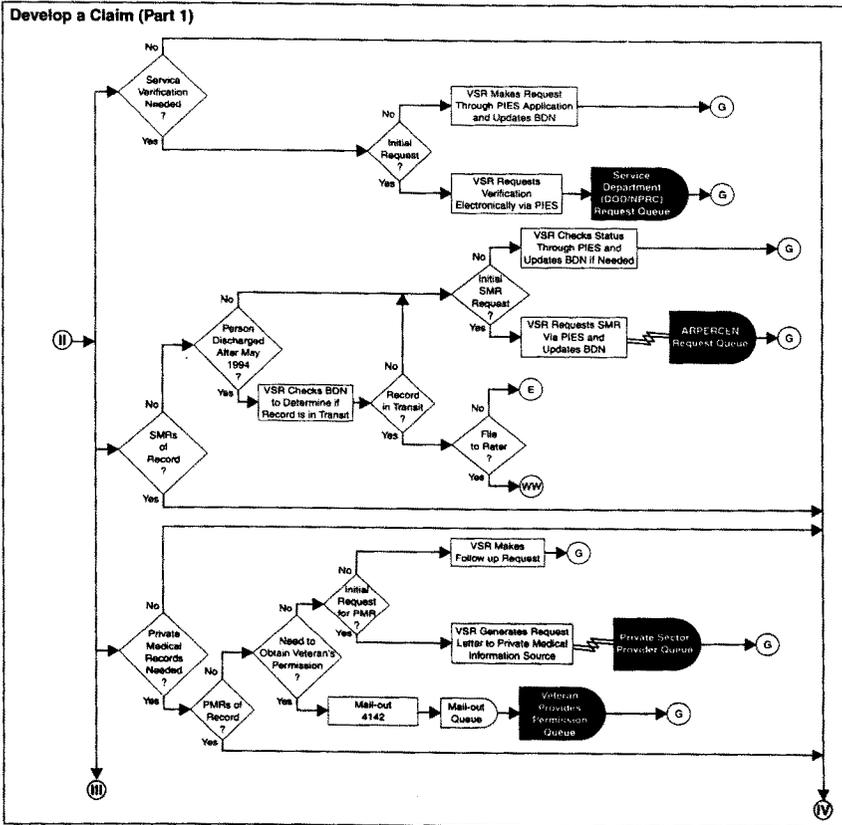


Figure 3e: Develop a Claim (Part 2)

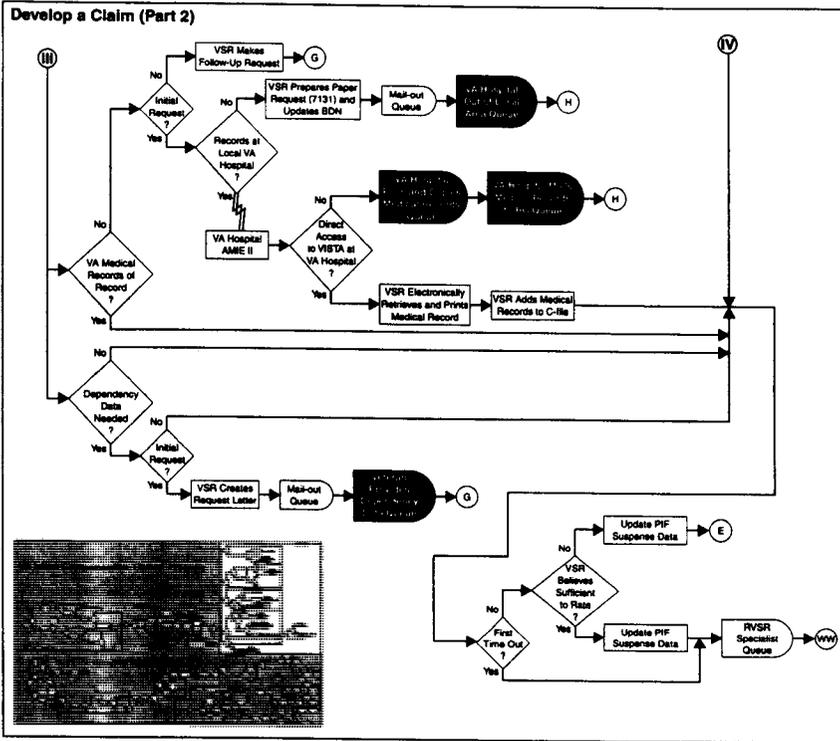


Figure 3f: Rate a Claim

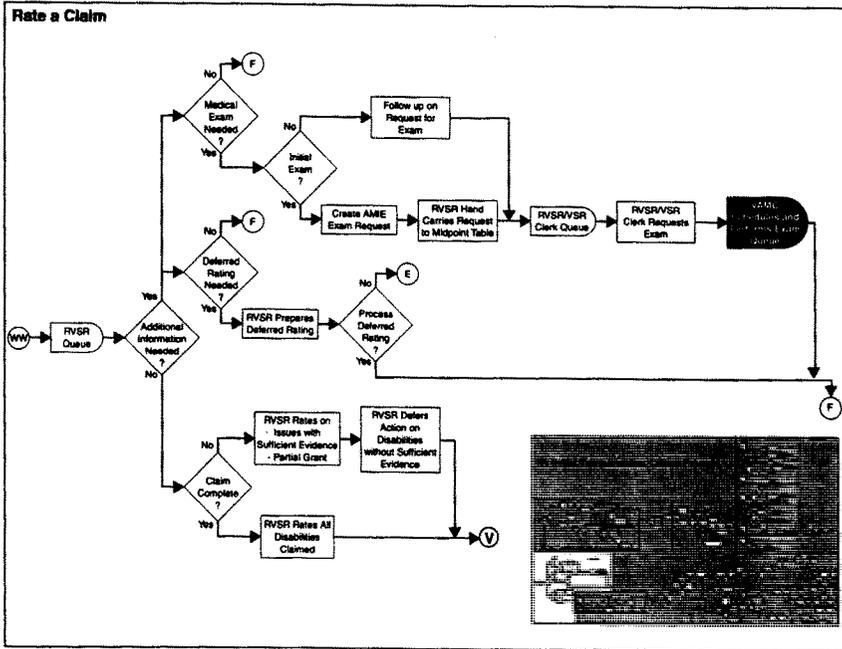


Figure 3g: Determine Payment Amount

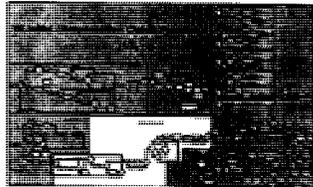
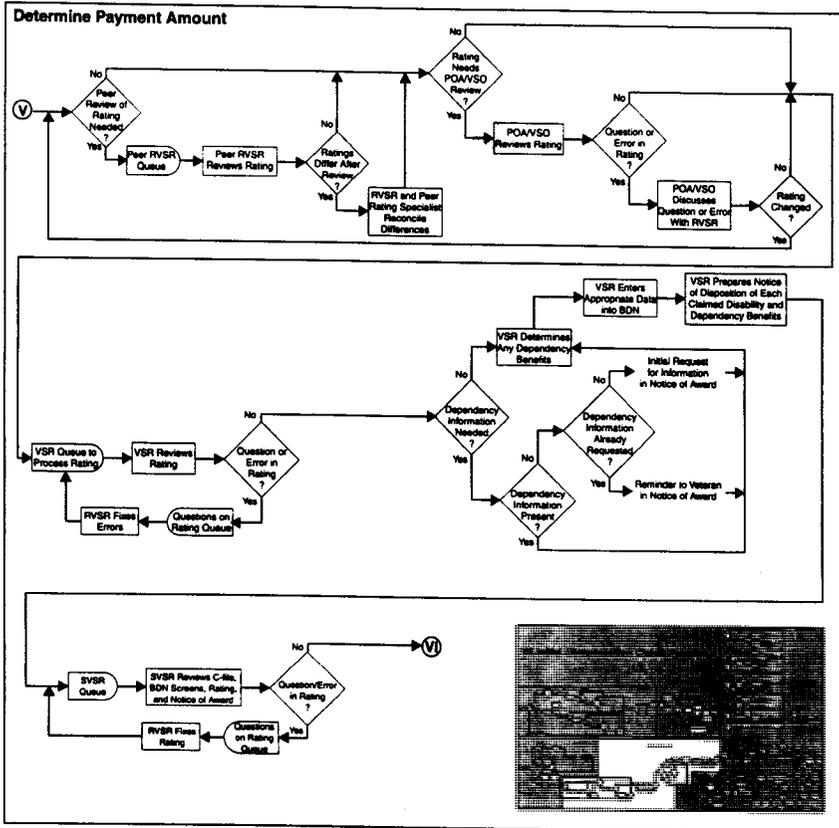


Figure 3h: Authorize a Claim

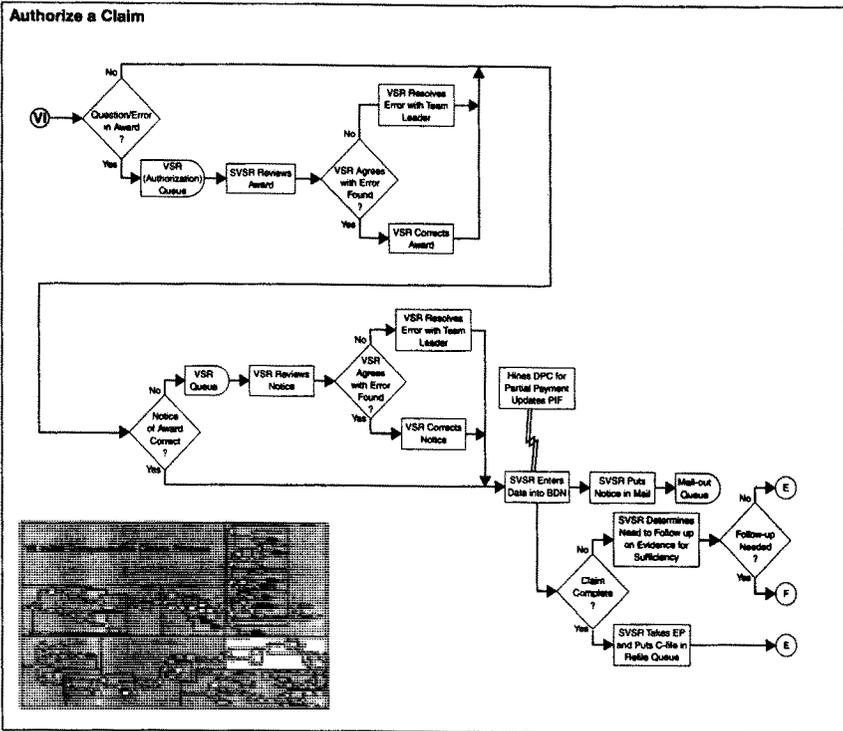
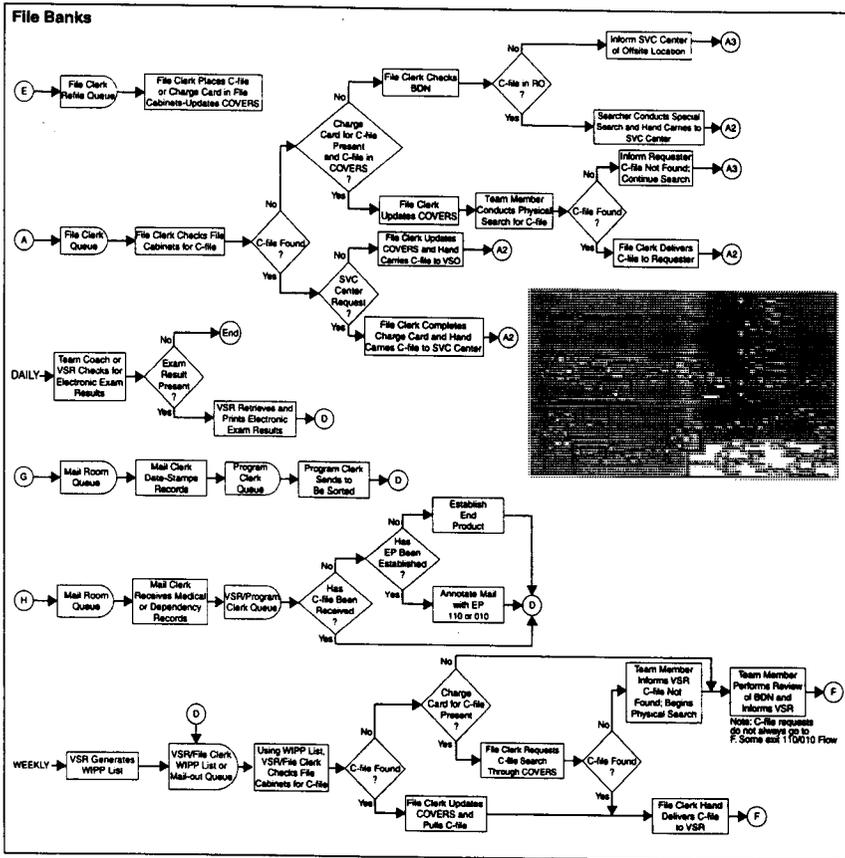


Figure 3j: File Banks



## APPENDIX

## APPENDIX

**Abbreviations**

AMIE	Automated Medical Information Exchange
ARPERCEN	Army Reserve Personnel Records Center
BDN	Benefits Delivery Network
C-file	claims file
COVERS	Control of Veterans Records System
CST/VSR	customer service team/veterans service representative
DOD	Department of Defense
EP	end product (claims control)
Hines DPC	Hines (Ill.) Data Processing Center
NPRC	National Personnel Records Center
PIES	Personnel Information Exchange System
PIF	pending issues file
PMR	private medical records
POA	power of attorney
RO	regional office
RVSR	rating certified veterans service representative
SMR	service medical records
SMRC	service medical records center
SVC	service center
SVSR	senior veterans service representative
VISTA	Veterans Health Information Systems and Technology Architecture
VSO	veterans' service organization
VSR	veterans service representative
WIPP	work in progress

**Forms**

010	Original service-connected compensation claim with more than seven issues
110	Original service-connected compensation claim with seven issues or fewer
526	Veterans' application for service-connected disability compensation and nonservice-connected pension benefits
4142	Veterans' release of information (permission) form to obtain medical records from a private physician or hospital
7131	Request (electronic or hard copy) for medical records from a VA medical facility

(105778)

**Statement of Joseph Thompson**  
**Under Secretary for Benefits**  
**Department of Veterans Affairs**  
**Before the House Committee on Veterans' Affairs**  
**Subcommittee on Oversight and Investigations**  
**May 18, 2000**

**Introduction**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today on Department of Veterans Affairs disability claims processing. I am pleased to be here with you to provide a status report on the adjudication of these claims and to discuss the efforts the Department has made to improve claims processing.

During my pre- and post-confirmation meetings with various stakeholder representatives from throughout the veterans support community, I received candid and knowledgeable feedback regarding the issues, challenges, and opportunities facing VBA. That feedback provided a clear picture. The scan showed a consensus among those with whom we work most closely and support most directly, regarding the issues of greatest concern for the future of veterans benefits delivery. The most frequently identified issues were:

- inadequate quality of claims decisions and too many remanded claims from the Board of Veterans Appeals (BVA)
- high workload backlogs in compensation and pension (C&P) claims
- underachieving information technology efforts
- insufficient succession planning
- unclear and fragmented organizational direction
- outdated work processes
- inefficient and unreliable data systems
- poor communications with veterans and VSOs

Two years ago, we set out to correct these problems. The solution that we developed includes seven interrelated strategies. These strategies will be enumerated below with a description of some of the ongoing initiatives that support them.

## **Complexity of the VA Claims System**

The Veterans Disability Compensation Program is the most complex disability claims system in the Federal government. The process veterans must follow is complicated. The same is true of our decision making process. We believe that both can be simplified, resulting in improved benefits for veterans and greater speed and accuracy in the claims process.

To see how the process has evolved, consider this brief history. In 1636, the Plymouth Colony Laws had only one provision for veterans benefits:

*"It is enacted by the Court that if any man shall be sent forth as a soldier and shall return maimed he shall be maintained competently by the colony during his life."* (Exhibit 1).

Similarly, the first veterans benefits law passed by the U.S. Congress, in 1789, stated in its entirety:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the military pension which have been granted and paid by the States respectively, in pursuance of the actions of the United States in Congress assembled, to the Invalids who were wounded and disabled during the late war, shall be continued and paid by the United States, from the fourth day of March last, for the space of one year, under such regulations as the President of the United States may direct."* (Exhibit 2)

By contrast with these simple mandates, the current process has the following features:

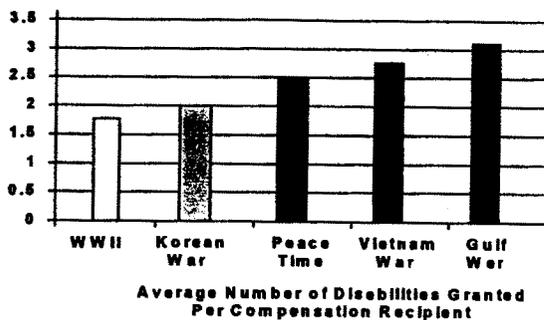
- Title 38 of the United States Code is now over 1000 pages long and includes dozens of different benefit programs for disabled veterans, their dependents, and their survivors.
- The regulations VA has created to implement these various benefit programs have become extensive themselves. These bound regulations are now over 1000 pages.

- The "Rating Schedule" (codified in Title 38, Code of Federal Regulations) alone is 65 pages long, and identifies over 700 disabilities for which benefits can be paid.
- There are 112 presumptions for service connection of specific diseases (Exhibit 3).
- These programs now include special monthly compensation for numerous different disability combinations.
- There are benefits for the disabled spouses and children of certain veterans.
- In addition to active duty service in the Army, Navy, Marines, Air Force, and Coast Guard, there are 65 types of service which also can qualify a person for C&P benefits (Exhibit 4).
- Veterans typically file for more than one disability. With respect to new claims, the average is 4.58 disabilities claimed (FY 1998). However, veterans' claims sometimes involve dozens, or even hundreds of issues, each of which requires review.
- Claims can span decades and contain thousands of documents. Many claims exceed the capacity of VA's "red rope folders" and additional folders must be used. (Exhibit 5 shows a single case file that is more than five feet high).
- In the vast majority of claims, VA must request additional records through the National Personnel Records Center (NPRC), the VA Records Processing Center, the VA Medical Centers, and other organizations. This waiting period can add significantly to the overall time needed to process claims.

- A contractor studying the adjudication process in the 1990s listed over 400 pages of flow charts documenting the C&P evaluation process.
- A checklist for training employees documented more than 120 opportunities for major errors that could be made on a single, straightforward rating decision (Exhibit 6).

The interpretation and implementation of our veterans benefits laws have also been significantly affected by the U.S. Court of Appeals for Veterans Claims (CAVC) and the U.S. Court of Appeals for the Federal Circuit. Through their decisions, the courts have instructed the Department that we are incorrectly interpreting and applying a number of statutes and regulations. This often requires our Central Office staff to amend our regulations, which can be an arduous process. Our regional offices are required to regularly change their procedures based upon new legislation, the courts' decisions, and new regulations. The courts have issued a number of decisions over the past 10 years that require decision-makers to do a better job of documenting their deliberation process.

As mentioned, veterans themselves are filing claims for more service-connected disabilities than in the past. As the following graph illustrates, the average number of service-connected disabilities granted to Gulf War veterans is more than 80% greater than for World War II veterans.

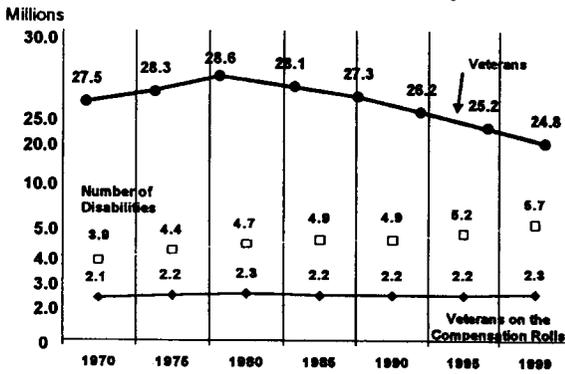


Similarly, as the graphs below show, veterans are more likely to file claims and have them granted than in the past. From 1979 to 1999, the number of living veterans declined from 27.5 million to 24.8 million. During this same period, the total number of disabilities for which VA is paying service-connected benefits increased from 3.9 million to 5.7 million, and the number of veterans receiving service-connected compensation increased from 2.1 million to 2.3 million. Currently, more veterans are receiving disability compensation than at any other point in time in U.S. history.

### Veterans Receiving Compensation by Period of Service as a Percentage of Each Cohort



### Veteran Population/Disability Trends



## **The Recent GAO Report on VBA Claims Processing**

The Department has reviewed a draft of the General Accounting Office's recent report, *VETERANS' BENEFITS: Promising Claims-Processing Practices Need to be Evaluated* (GAO/HEHS-00-65). As we stated in our response to the GAO, we agree that, historically, the VBA has not had good mechanisms for analyzing and using "best practices". The Department is committed to improving this situation and we are well on our way to achieving that. My testimony today will describe a number of important "best practices" that have been analyzed by VBA and are being implemented nationwide.

In addition, we agree with GAO that VBA should establish time frames for development and implementation of a formal plan for evaluating and disseminating information on practices that will improve claims processing nationwide. VBA has already developed a draft procedure for receiving, evaluating and disseminating "best practices" in all of its business lines, not just the Compensation and Pension Service. On February 22, 2000, VBA officials provided that draft plan to GAO (Exhibit 7), with a request for its comments or suggestions. VBA anticipates having this procedure in place by the end of the third quarter of FY 2000.

Although they are not mentioned in the GAO report, VBA has established six Business Process Re-engineering (BPR) demonstration sites that are, by their very nature, test-bed environments for "best practices" in handling C&P claims. These demonstration sites are testing new techniques in the case management process, including PC-based case management tools. They are

also developing and utilizing a series of reader-focused letters that clearly tell our customers about the claims process and the status of their claims. These sites are measuring the impact of their efforts on timeliness, accuracy, customer satisfaction, employee satisfaction and cost.<sup>1</sup> After careful testing and evaluation, those initiatives that are considered "best practices" are implemented at other regional offices.

Other examples of VBA-wide best practices that are being successfully implemented nationwide are the Decision Review Officer (DRO) Program and VBA's phone strategy, described in detail in VBA's semi-annual BPR report. We recently provided GAO a copy of that report. Today I will give you updates on DRO and our phone strategy.

## **VBA's Reforms: Current Status**

I last testified on claims processing before this Subcommittee in March 1999. Since that time, I believe that VBA has made significant progress in the processing of disability claims.

During the past year, with the help of all our stakeholders, we have been working aggressively to address weaknesses in our claims processing system and have built a base for the organization of the future that is flexible and veteran focused. Following the plan we published in 1998 in Roadmap to Excellence: Planning the Journey, we are now making important progress in what we set out to accomplish. We will ensure that what we are doing is

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<sup>1</sup> These measurements are known together as VBA's "Balanced Scorecard."

consistent with our Mission, Vision, and Core Values as well as with VBA's long history of providing quality service to this country's veterans and their families.

## **Strategies**

VBA has developed several strategies to guide our efforts at achieving excellence throughout the decision making process. These strategies recognize the compliment of factors that need to be addressed to effectively redesign and implement improved business processes. The guiding strategies include:

- Business Processes
- Quality Expectations
- Training and Employee Development
- Technology
- Communications/Accessibility
- Performance Measures
- Crosscutting Issues

In the following discussion, I will focus on some of the significant best practices and innovations that we have initiated and relate each to one of the seven strategies.

## **Business Processes**

### **Educating Servicemembers About Their Benefits**

VBA now begins a dialogue with servicemembers early in their military careers to provide information on benefits issues. We are collecting data from the

Department of Defense (DOD) to build records that can serve as a basis for servicemembers' future benefits needs. Because the overwhelming majority of servicemembers participate in our Servicemembers' Group Life Insurance and GI Bill education programs, they are regularly kept apprised of their benefits throughout their enlistments. In addition, VA now provides extensive briefings and counseling to active-duty servicemembers and their dependents. During FY 1999, over 217,000 servicemembers and dependents attended 5,466 briefings provided by VA. Also during FY 1999, almost 7,000 servicemembers received individualized benefits counseling from VA staff. We hope to expand these efforts in the future, as funding allows.

#### **Pre-Discharge Exams (Benefits Delivery at Discharge)**

This initiative, which places VBA employees at military discharge sites, allows for the complete development, examination, and rating of a compensation claim before, or just after, the individual's separation from military service. These sites allow servicemembers to file for and receive benefits more quickly, and have significantly reduced the average number of days necessary to process original compensation claims. Compensation claims are being finished shortly after veterans return to civilian life. In FY 1999, the average processing time for pre-discharge claims was approximately 26 days compared to 204.8 days for all other original compensation claims. This clearly indicates the positive impact of this initiative. In addition, VA Vocational Rehabilitation participation and medical care enrollment can flow from these grants of compensation benefits.

Another advantage of the Benefits Delivery at Discharge Program is that VA establishes a complete service medical record when the veteran leaves active duty. This means that, no matter how far in the future a veteran elects to file a claim, VA will not need to request service medical records from any outside source.

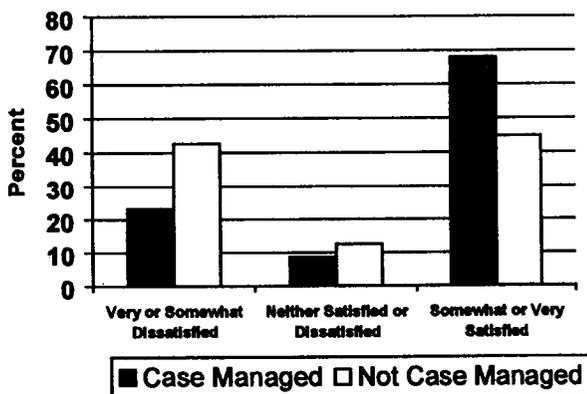
VBA is working with both DOD and the Veterans Health Administration (VHA) to provide these pre-discharge services, including agreement on sites where medical exams will be conducted. At these sites, we are providing seamless, timely, and comprehensive assistance during the transition from military to civilian life. VBA now provides such services at 52 military discharge sites in this country. We hope to extend our presence to 3 overseas discharge sites (Germany, Japan and Korea) in the near future.

### **Case Management**

In addition to accuracy and quality of claims decisions, backlogs and cycle times remain a concern. Our drive to improve the quality of claims decisions, coupled ongoing training involving approximately 50% of our decision-makers, have had a short-term negative effect on both areas. However, a strategy now being put into place will reverse the gradual increases in backlogs and cycle times observed during the last few years.

Focusing on veterans means personalizing services to meet the unique needs of each veteran. At six regional offices, we have implemented a C&P case management system that is more responsive to veterans' needs. At these

offices, each Veterans Service Representative (VSR) serves as a VA point of contact for assistance and is able to advise claimants about the types of evidence needed, steps that are the veteran's responsibility, and when a decision may be expected. The VSR is the veteran's point of contact for assistance. Ultimately, the VSRs will be able to process a claim from first contact through the final decision. This will reduce the inefficiency of "handing off" cases to other employees who are not familiar with a case. By the end of this year, we plan to have 41 of 58 regional offices using the case-management approach. Early feedback from veterans (see graph) indicates that this approval is a significant improvement over the old "assembly line."

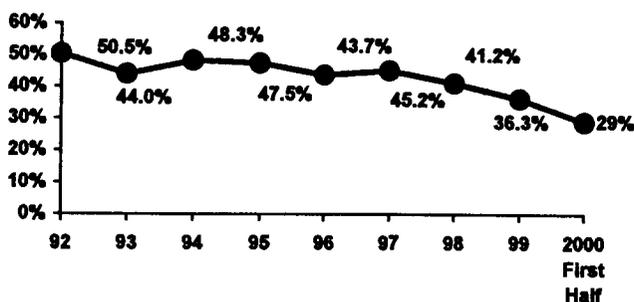


**Customer Satisfaction at Case-Managed Stations**

### **Reducing Remanded Cases**

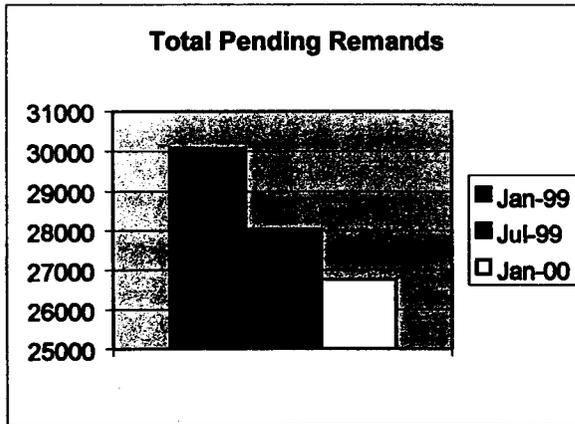
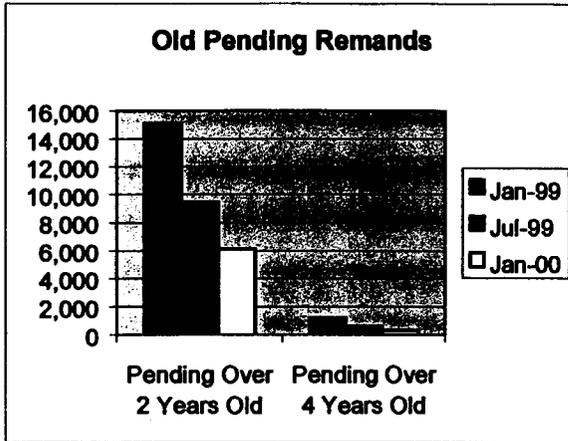
Another encouraging trend in the processing of veterans' claims over the past few years has been the consistent decline in the percentage of claims

remanded by the Board of Veterans' Appeals (BVA) for additional development by the VA regional offices. As shown by the graph below, the BVA remand rate has declined from over 50 % in FY 1992 to 36 % in FY 1999. The rate has declined even further to 29% through March 2000.



**Decline of BVA Remand Rate**

In addition, the following graphs show that VBA's nationwide directive to have our regional offices process these remanded cases on a priority basis, has significantly reduced the numbers of such pending cases.

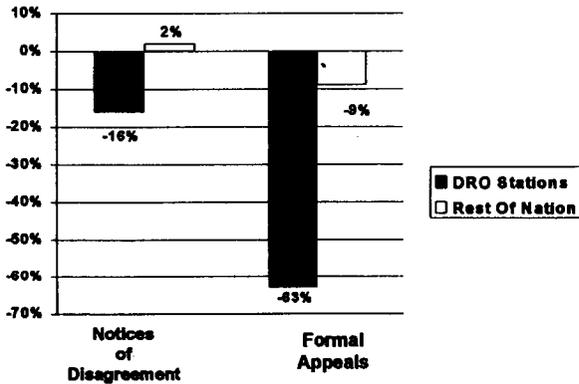


**Decision Review Officer (DRO) Program**

This is a fundamental redesign of claims handling in cases where claimants

disagree with our decisions. Under this program, DROs and Veterans Service Center Managers will have *de novo* review authority to grant benefits based upon the same evidence used by the original decision-maker. These reviewers may conduct additional development, an informal conference, or formal hearing with claimants and/or their representatives. We believe this program will provide a more efficient means for resolving disagreements concerning claims and reduce the number of appeals going to the Board of Veterans' Appeals. On a pilot basis, this program has been very effective and popular with claimants and advocates, and we plan a nationwide rollout later this year.

**Decision Review Officer Impact  
Results - FY 98 vs FY 99**



**Organizational Restructuring**

VBA has continued using an organizational systems design (OSD) model over the past year to align our activities and move towards excellence. It has

allowed us to systematically examine our environment from the standpoint of both internal and external stakeholders and to blend together the changes to the complex systems that drive our organizational outcomes. It is the basis for our on-going and future work.

We are changing our processes and structure to become more flexible and adaptable to meet the needs of our employees and customers. In addition to the test and pilot programs at the six Business Process Re-engineering centers discussed above, fundamental structural changes have been undertaken by VBA. This includes organizational realignment of our Regional Offices into nine Service Delivery Networks (SDNs). The SDNs give VBA the flexibility to review work collectively and shift it among regional offices when an office becomes backlogged. The regional office directors within each SDN meet regularly to discuss which "best practices" are most effective, and then also share such information through their SDN web sites.

## **Quality Expectations**

### **Accuracy in Claims Decisions**

In October 1998, the C&P Service implemented a review process called the Systematic Technical Accuracy Review (STAR) program, which includes checks and balances to ensure its objectivity. These reviews are based on a random sampling of claims decisions by each VA regional office. The reviews are conducted by individuals recruited from the C&P program staff, based on their program experience and demonstrated expertise in the subject area being reviewed. VBA's current claims accuracy rates are: 58% for authorization

matters (e.g., income determinations or removing dependents), 53% for fiduciary matters, and 67% for rating matters.

VBA's current method of computing accuracy has changed dramatically from our prior Statistical Quality Control (SQC) program. Under SQC, we addressed several technical questions for each case that was reviewed. If one error was cited in 20 technical questions, then the accuracy rate would be computed as 95%. Under STAR, the technical questions on the checklist have been modified – they reflect issues that impact the veteran's outcome – and if any answer is failed, then the case is in error.

Perhaps the most useful point of comparison between STAR and the prior program is to compare data on basic benefit determinations. For rating related end products reviewed under STAR, only 4.2% of the cases reviewed had an error in the categories of grant or denial of claimed issues, or in the disability rating level determination. That 95.8% rate of accuracy in the outcome of the case is comparable to the range (94.5% to 96.6%) found for the "correctness of decision" category under the SQC program. Other errors that STAR is finding include improper development for evidence and inadequate notification to veterans of decisions made in their claims.

I want to be clear regarding these accuracy rates. First, we are proud that VBA is now measuring and reporting our accuracy rates in a thorough and comprehensive way. Second, we consider our current accuracy rates to be entirely too low and we will improve them.

We will do this by continuing to use the STAR results to identify error patterns and focus training where it is needed most. Our "feedback loop" promotes consistent, incremental, and continuous improvement in the quality of claims processing. Reviewers thoroughly write up cases to document errors and show what action would have been correct. The case write-ups are sent to the regional office from which the case originated, where the errors and corrections are shown to the employee who made the errors. STAR staff issues periodic reports summarizing findings and trends, discussing examples of problems, and instructing how to address them. The reports are issued periodically to all Veterans Service Center employees. In addition, STAR staff communicate with VBA's training staff to help target training on problem areas. Finally, we are using STAR data to identify and correct unclear instructions in our procedure manuals.

In addition to STAR, we are developing a program for FY 2001 that will track the decision accuracy for each of our regional office employees. The Systematic Individual Performance Assessments (SIPA) program will gather such data that will be used to determine which employees need re-training on certain topics.

#### **Data Integrity**

We are committed to ensuring that information reported by all levels of VBA is honest and accurate. Errors in VBA's reporting, both deliberate and accidental, had for years given a false impression of performance. VBA

established a Data Management Office to ensure that timely, accurate and comprehensive veteran and VBA business data was produced to enable reliable strategic planning and forecasting. On a programmatic level, the C&P Service routinely reviews end product transactions and provides reports for local managers review and action. Data integrity teams, consisting of both field and headquarters staff, reviewed the policies and procedures used by regional offices to take work credits.

The Under Secretary for Benefits has directed station management to promote a culture and atmosphere where the integrity of our data is of the highest degree possible. Our most recent data verifies that significant progress has been made in this area.

## **Training and Employee Development**

### **VBA Employee Training**

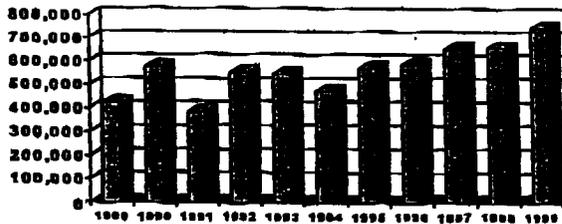
We recognize that our employees are our most precious asset and we are providing them with the tools, knowledge, and training to do their jobs well. Centralized training development has strengthened our training program considerably. Training is being delivered using the following modes:

- Traditional classroom and group learning settings continue to serve as the backbone of VBA training. Our local, regional, centralized, and satellite based training all use variations on the traditional class room settings.
- We are continuing to develop computer based instruction (CBI) applications. As an example, the Training and Performance Support

System (TPSS), involving a number of training modules for the Rating Certified Veterans Service Representatives (formerly Rating Specialists), now provides a mechanism to assure employees can perform their tasks correctly. This program won the 1998 Gold Medal for Best Multimedia Technical Training Program from Multimedia and Internet Training magazine.

- We are exploring ways to further our use of the Internet and Intranet for web-based training, which could expand our external sources of training.
- We are using the VBA Satellite Broadcast Network to bring uniform training to all regional offices simultaneously.
- We are using the Video Teleconferencing System, shared with the Board of Veterans' Appeals (BVA), to provide training by closed-circuit television classroom setting or by computer to an individual's workstation.

The graph below shows the major increase in the number of training hours VBA has invested in its adjudication and veterans services staffs over the past decade.



**Increase in Training Hours**

**Opportunity Program and Succession Planning**

Over the next few years, VBA will lose many experienced staff to retirement. We need to increase staffing before their exodus so that they can share their experience and corporate knowledge with the new employees who will take their places. We need to increase staffing to compensate for this loss of experience.

We have an aggressive succession plan in place, targeting jobs and skills we need to preserve, and ensuring that our workforce reflects the diversity of the population we serve. With a goal of ensuring that all new employees understand and are committed to our mission, we bring them into the VBA Training Academy in Baltimore for our Opportunity Program, a two-week overview of VBA, VA, and veterans issues. Between this fiscal year and next, we hope to add more than 1,000 employees to the C&P claims process, either from new hiring or by transfers. Technical training and development, as well as leadership development, are important elements of our training and will ensure that we achieve the goals of our succession plan.

**Technology**

VBA is making steady progress toward the establishment of a modern claims processing and information management environment. Our current information technology initiatives are designed to support business changes within the Veteran Service Center environment and significantly improve the

disability claims process.

Now in the 21<sup>st</sup> century, VBA is taking advantage of state-of-the-art and emerging technologies to the greatest extent possible. (We are pleased to report that our efforts to comply with Y2K requirements were entirely successful.) We have established an Information Technology (IT) Investment Board to oversee our IT efforts and have initiated third-party reviews of our IT structure and development approach.

Some of our major IT initiatives are:

- **Electronic Claims Filing.** During the past year, VBA has placed most of its application forms for various benefits on our web site at [www.vba.va.gov](http://www.vba.va.gov). Veterans and their service organization representatives have told us that this has been very helpful. However, a claimant must still print out the form, fill it in, and mail it to a VA regional office for adjudication.
- **Veterans On-Line Applications.** VBA has now developed an electronic version of the basic application for service-connected compensation and non-service-connected pension benefits. Known as Veterans On-Line Applications (VONAPP), this will allow veterans to access and fill out a claims form on the Internet and file it electronically with a VA regional office. Using "expert system" technology, veterans will be able to complete applications for compensation without detailed knowledge of the program. The beta test of this project is scheduled to begin this

June at our six Business Process Re-engineering demonstration sites and two other regional offices.

- **Electronic Claims Processing (Virtual VBA Lab)** is a demonstration project using imaging in an electronic work environment. Virtual VBA Laboratory at our Washington, DC regional office, is an electronic claims processing system that employs imaging technologies. This is conducted through a unique partnership with a consortium of private sector companies. Reducing dependency on paper and allowing the submission of electronic information will reduce the number of times information is handled. Delays in processing caused by misrouting will be decreased, resulting in fewer inquiries, and storage and retrieval of all electronic information will become more efficient. We are working with the VHA and BVA in this initiative, to ensure compatibility and facilitate the ability to exchange information. When implemented, this project will revolutionize the administration and handling of compensation and pension claims by eliminating the need for veterans service representatives to retrieve, examine, and update paper files.
- **Claims Automated Processing System (CAPS)** is a Consolidation of Claims Processing System (CPS) and Claims Automated Tracking System (CATS). CPS is a rules-based development system that helps ensure that we request all appropriate information from the claimant.

CATS is a case management tool to track the status of veterans' claims. Employees trying to respond to veterans' questions have had very limited information available to them in an electronic environment. This new system not only provides a detailed status for each claim, it also helps to ensure that we have gathered all the appropriate information we need to decide the claim. CAPS is being implemented at each regional office as they switch to the case management process.

- **Personnel Information Exchange System (PIES)** is an application to electronically exchange information on a veteran's service medical records or to request verification of military service. PIES requests and retrieves information from the National Personnel Records Center (NPRC) in St. Louis. VHA employees can also use it to generate electronic requests for service verification to help veterans seeking medical care.
- **Enhanced Automated Medical Information Exchange (AMIE II)** is a system that electronically links regional offices with VA medical centers so that clinical and treatment records for resolving veterans' pending claims can be quickly and accurately exchanged.
- **Rating Process Redesign.** Rating Board Automation (RBA) was designed to assist VBA decision-makers in the preparation of disability rating decisions. While, to some extent, RBA has performed this function, the more complex and legal analyses required in making decisions on

claims for VA benefits has resulted in a need to redesign the decision making process. It is not only the automated process, but also the thought process of decision-makers that must be redesigned. A combination of a redesigned rating decision, improved RBA functionality, and a better understanding of agency regulations and processes are needed if we are to improve the quality of the rating document and restore sound analytical decision making. We have begun this process by redesigning the rating document for easier understanding. We are also developing associated training to reinforce the importance of properly identifying issues, weighing evidence, and preparing sound, legal justification for our rating decisions. The updated RBA system is now being tested with an anticipated installation date of August 2000.

Improving our data collection and analysis remains a priority. The following have significantly enhanced our data collection:

- **Veterans Issue Tracking Adjudication Log (VITAL)** – This application is integrated with the C&P awards processing system to collect, monitor, and store statistical data for special issue claims (undiagnosed illnesses, POWs, PTSD, Radiation, Mustard Gas, Agent Orange, etc.). VITAL became operational in November 1998. Existing data was converted into VITAL from manual reporting systems, including the Tobacco Claims Tracker, SIRS (Special Issue Rating System), and the Gulf War Tracking System.

- **Data Warehouse** – The Data Warehouse is VBA's newest resource for past, present, and future veteran and business information. The Data Warehouse now supports many information systems that provide key information for all of VBA's business lines to users at all levels and is extremely helpful in managing current work, providing overviews of completed work, and helping to predict future work. The best example of this is VBA's Annual Report, published last year.
- **Operations Center** – The operations center serves to provide easy access and flexible usage of VBA's mission critical business information and provides direct access to the Data Warehouse. It will serve as a clearinghouse for all VBA projects status reporting and outcome measures. This was also commented on favorably by Government Executive magazine (March 2000 issue, p. 6) (Exhibit 8).

## **Communications/Accessibility**

### **Reader-Focused Writing**

Focusing on veterans means improving how we communicate. VBA's Reader-focused Writing effort seeks to make our written communications readily understandable. We are rewriting our form letters in plain language. Focus groups show that veterans have a much clearer understanding of these revised letters compared with letters previously sent by VA. This is no small undertaking. The number of documents which must be rewritten runs into the thousands.

(Exhibit 9 shows the 8-foot tall stack of documents identified as needing to be rewritten. About 65% of these are compensation and pension documents.)

#### **Telephone Access for Veterans**

While we continue to focus on quality and timely processing of claims, we cannot lose sight of the importance of being accessible to veterans and beneficiaries when they place a call to one of our "800" numbers. I am pleased to report that VBA reduced its national blocked call (caller receives a busy signal) rate from 33 percent in February 1999 to 5 percent in February 2000. The improvement was the result of our nationwide implementation of the National Automated Response System (N-ARS). This system provides both veteran-specific interactive voice responses (IVR) from our mainframe applications in the Hines Data Center, and generic informational messages to answer as many calls as possible with an automated response on a 24-hour basis. The IVR self-service features allow veterans to access information in their own accounts and release forms and applications to themselves. Of course, our telephone system also allows callers to speak with VA staff to get answers to more specific questions. These systems provide better access for veterans not only for compensation and pension benefits, but also for education, insurance, loan guaranty, and vocational rehabilitation benefits.

#### **Regulations Rewrite**

VBA, in cooperation with the VA Office of General Counsel, is in the process of simplifying our regulations and procedures to make the claims process faster and easier. We have formed a Plain Language Regulation

Rewrite Team, which has begun rewriting our regulations in clear and non-technical language.

We have formed several "Fast Track" regulation teams, consisting of both VBA and General Counsel staff. The first of these teams completed the development of a new regulation on the Decision Review Officer Program – from initial drafting to approval by Secretary West – in just over a month. This is much faster than the process for most regulations.

Based on input from VA's Inspector General and from our regional office staffs, we have begun simplifying the adjudication due process procedure manual. One important change is to allow veterans to provide certain information, such as date of birth, Social Security number, changes in mailing address, income, or marital status, by telephone, fax or e-mail, instead of in writing.

## **Performance Measures**

### **Customer Feedback**

Focusing on veterans means that we listen to what they are saying about our services and benefits and then act on that input. We are using customer surveys to get that feedback. We recently finished our 4th survey of C&P customers and are using the data and analysis from these surveys to guide our programs. Overall customer satisfaction rates have remained relatively constant over the past few years: 57% of respondents were "very" or "somewhat" satisfied with the way their claims were handled by VA. As mentioned, our customer

satisfaction rates at the six regional offices now using the case management system (which will become the standard procedure for all our regional offices) are significantly higher than at other offices.

### **Balanced Scorecard**

The logical extension of being veteran focused is to provide exceptional service to veterans. The Balanced Scorecard is now serving as the tool for assessing whether the customer and business measures we have established are reflecting our commitment to achieving exceptional service. The Balanced Scorecard measures VBA's progress on timeliness, accuracy, customer satisfaction, employee satisfaction and cost per claim. The same Government Executive article, cited earlier, recently called VBA's Balanced Scorecard "one of the most advanced systems in government for keeping everyone aware of performance" (March 2000 issue, p. 60) (Exhibit 8).

### **Crosscutting Issues**

Our journey to excellence must involve our partners and stakeholders. Developing and maintaining effective partnerships has been a cornerstone to our achievements thus far.

### **Partnership with Veterans Service Organizations**

VBA's long standing partnership with the veterans service organizations has now been expanded to include the Training, Responsibilities, Involvement, and

Preparation (TRIP) program, which provides for the training and certification of VSO representatives to enhance their ability to assist veterans with the claims process. Specifically, TRIP training will help them to more efficiently secure evidence needed to support their clients' claims and give them access to several VA computer programs that will help them in their advocacy work. We conducted four pilot TRIP training sessions over the past year. In March, we moved out of the pilot phase by conducting a TRIP training session with a veterans service organization at our Veterans Benefits Academy in Baltimore. On March 30, we sent the TRIP training package to our training coordinators at all VA regional offices.

#### **Social Security Data Exchange**

VBA is obligated to verify such things as Social Security Numbers, income information, and date of death, which are submitted by applicants and beneficiaries. VBA has signed a Memorandum of Agreement (MOA) with the Social Security Administration that permits VBA to read data contained in SSA Records. This will enable VBA to verify or supplement information submitted by claimants and will improve payment accuracy, reduce potential overpayments, and expedite claims processing.

#### **Contract Exams**

Authorized by Public Law 104-275, this pilot project is measuring the effectiveness of contracting with non-VA medical source to conduct C&P

disability examinations. The quality and timeliness of these contract exams is encouraging and we plan to provide a detailed report on this program to Congress in the near future.

### **Labor Partnerships**

VBA has placed a renewed emphasis on our relationship with our labor partners, the American Federation of Government Employees (AFGE) and the National Federation of Federal Employees (NFFE). This has been evidenced by recent agreements which involve, for example, VBA's business process reengineering and organizational consolidations which will enable us to better serve veterans.

Our labor partners have agreed to a process that will require new hires and current employees applying for certain positions (Veterans Service Representative, Rating Veterans Service Representative, and Decision Review Officer) to pass a certification-of-skills test to hold one of these positions. VBA teams and groups tasked with designing and implementing new initiatives include our labor partners, whose input enhances the final outcome. We have established a cooperative labor-management relationship and have established a variety of mechanisms to assure and enhance our communications with each other. These efforts will continue in the coming years.

### **Conclusion**

Although VBA's efforts at simplifying the claims process are producing good results, we are limited in what we can do administratively. In some

instances, the underlying veterans benefits statutes are, themselves, complex. Simplification of a number of these statutes by Congress could make the claims process faster and less arduous for applicants.

While we still have much work to do, we believe that, over the past few years, the Department has made considerable progress in rebuilding the foundation upon which improvements in the veterans' claims process can be achieved. As I have said before, we owe veterans and their families the best service we can provide in the most sensitive, caring way possible to ensure that they receive benefits in a manner befitting their service to our Nation.

This concludes my prepared statement.

# **EXHIBIT 1**



1636  
 38  
 Part II  
 If a souldier by ill report that if any man shall be slain by him  
 a souldier and shall be maimed hee shall be maimed by some  
 1636. 38. Part II. of the Laws of the Colonie

It is enacted by the Court that if any man shall be sent  
 forth as a souldier and shall returne maimed hee shall be  
 maintained competently by the Collonie during his life.

-- Laws, Plymouth Colony  
 Volume II, Transcript 106  
 Manuscript 38

## **EXHIBIT 2**

# Congress of THE United States,

begun and held at the City of New York, on  
Wednesday the fourth of March, one thousand seven hundred and eighty nine.

## AN ACT providing for the payment of the Invalued Pensioners of the United States.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the military pensions which have been granted and paid by the States, respectively, in pursuance of the act or acts of the United States in Congress assembled, to the Invalids who were wounded or disabled during the late war, shall be continued and paid by the United States, from the fourth day of March last, for the space of one year, under such regulations as the President of the United States may direct.

Frederick Augustus Prentiss, Speaker of the House of Representatives.

JOHN ADAMS, Vice President of the United States, and President of the Senate.

Approved September 26. 1789.

G. Washington - President of the United States.

# **EXHIBIT 3**

**PRESUMPTIONS TIMELINE**  
(FOR PRESUMPTIONS CURRENTLY IN EFFECT)

DATE	CONDITION(S)	AUTHORITY
August 9, 1921	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Psychoses</li> <li>• Tuberculosis, pulmonary, active (Act of March 4, 1923, expanded the presumption to include all forms of tuberculosis)</li> </ul>	Act of August 9, 1921, ch. 57, § 18, 42 Stat. 147, 153 (neuropsychiatric disease)
December 1921	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Anemia, primary</li> <li>• Arteriosclerosis</li> <li>• Diabetes mellitus</li> <li>• Endocrinopathies</li> <li>• Hodgkin's disease</li> <li>• Leukemia</li> <li>• [Purpura idiopathic, hemorrhagic] (not carried forward in 1933 regulations, restored by former 38 CFR § 3.86(a), 10-19-49)</li> </ul>	Internal memorandum implementing Veterans Bureau Regulation No. 11, November 12, 1921
June 7, 1924	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Encephalitis lethargica residuals</li> <li>• Dysentery (<i>tropical disease added as chronic disease</i>)</li> <li>• Paralysis agitans</li> </ul>	World War Veterans Act of 1924, ch. 320, § 200, 43 Stat. 607, 615
1925	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Arthritis</li> <li>• Cardiovascular-renal disease, including hypertension</li> <li>• Endocarditis</li> <li>• Hansen's Disease (<i>tropical disease added as chronic disease</i>)</li> <li>• Myocarditis</li> <li>• Nephritis</li> <li>• Tumors, malignant, or of the brain or spinal cord or peripheral nerves</li> </ul>	Veterans' Bureau Schedule for Rating Disabilities (1925)

DATE	CONDITION(S)	AUTHORITY
April 12, 1933	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Epilepsies</li> <li>• Organic diseases of the nervous system</li> </ul> [This list carried forward prior presumptions for chronic disease <i>except</i> rickets, obesity, acidosis, beriberi, chronic cholecystitis, diabetes insipidus, gout, hemophilia, haemochromatosis, hemoglobinuria, nephrolithiasis, ochronosis, pellagra, purpura, scurvy, polycythemia (erythemia), and chronic valvulitis.]	Instruction No. 2, implementing Vet. Reg. No. 1, E.O. 6089, March 31, 1933
August 14, 1935	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Osteitis deformans (Paget's disease)</li> </ul>	Instruction No. 2-A implementing Vet. Reg. No. 1, E.O. 6089, March 31, 1933
December 28, 1945	<b>Tropical Diseases:</b> <ul style="list-style-type: none"> <li>• Malaria</li> </ul>	VA Circular No. 8, section I
January 3, 1947	<b>Tropical Diseases:</b> <ul style="list-style-type: none"> <li>• Filariasis</li> <li>• Leishmaniasis (including kala-azar)</li> <li>• Schistosomiasis</li> <li>• Yaws</li> </ul>	VA Technical Bulletin 8-6
June 24, 1948	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Bronchiectasis</li> <li>• Calculi of the kidney, bladder, or gallbladder</li> <li>• Cirrhosis of the liver</li> <li>• Coccidioidomycosis</li> <li>• Osteomalacia</li> <li>• Raynaud's disease</li> <li>• Scleroderma</li> <li>• Thromboangiitis obliterans (Buerger's disease)</li> <li>• Ulcers, peptic (gastric or duodenal) [<i>Note: Restored prior presumption of Veterans' Bureau Schedule of Disability Ratings, Extension 6 (Nov. 2, 1928), which had not been carried forward by 1933 regulations.</i>]</li> </ul>	Act of June 24, 1948, ch. 612, § 1, 62 Stat. 581 (P.L. 80-748)

DATE	CONDITION(S)	AUTHORITY
June 24, 1948	<b>Tropical Diseases:</b> <ul style="list-style-type: none"> <li>• Blackwater fever</li> <li>• Cholera</li> <li>• Dracontiasis</li> <li>• Loiasis</li> <li>• Onchocerciasis</li> <li>• Oroya fever</li> <li>• Pinta</li> <li>• Plague</li> <li>• Yellow fever</li> </ul>	Act of June 24, ch. 612, § 1, 2, 62 Stat. 581, 582 (P.L. 80-748)
February 9, 1949	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Atrophy, progressive muscular</li> <li>• Brain hemorrhage</li> <li>• Brain thrombosis</li> <li>• Myasthenia gravis</li> <li>• Myelitis</li> <li>• Palsy, bulbar</li> <li>• Sclerosis, amyotrophic lateral</li> <li>• Sclerosis, multiple</li> <li>• Syringomyelia</li> </ul>	Former 38 CFR § 3.86(a); 14 Fed. Reg. 571
October 19, 1949	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Purpura idiopathic, hemorrhagic [<i>Note: Restored prior presumption of internal memorandum implementing Veterans' Bureau Regulation No. 11 (Dec. 1921), which had not been carried forward by 1933 regulations.</i>]</li> </ul>	Former 38 CFR § 3.86(a), 14 Fed. Reg. 6176.
August 31, 1950	<b>Chronic Diseases:</b> <ul style="list-style-type: none"> <li>• Sarcoidosis</li> </ul>	Former 38 CFR § 3.86(a); 15 Fed. Reg. 5906

DATE	CONDITION(S)	AUTHORITY
June 17, 1957	<b>Tropical Diseases:</b> • Amebiasis	Veterans' Benefits Act of 1957, P.L. 85-56, § 304(4), 71 Stat. 83, 95
August 12, 1970:	<b>Prisoner of War Diseases:<sup>1</sup></b> • Avitaminosis • Beriberi (including beriberi heart disease) <sup>2</sup> • Chronic dysentery • Helminthiasis • Malnutrition (including optic atrophy associated with malnutrition) • Nutritional deficiency (other than pellagra) • Pellagra • Psychosis	P.L. 91-376, § 3, 84 Stat. 787, 788
August 28, 1979	<b>Diseases Associated with Amputation:</b> • Ischemic heart disease or other cardiovascular disease	38 CFR 3.310; 44 Fed. Reg. 50, 339
August 14, 1981	<b>Prisoner of War Diseases:</b> • Anxiety states	Former Prisoner of War Benefits Act of 1981, P.L. 97-37, § 4, 95 Stat. 935, 936
March 2, 1984	<b>Prisoner of War Diseases:</b> • Dysthymic disorder (or depressive neurosis)	Veterans' Compensation and Program Improvements Amendments of 1984, P.L. 98-223, § 111, 98 Stat. 37, 40
August 26, 1985	<b>Diseases Associated with Herbicide Exposure or Vietnam Service:</b> • Chloracne	38 CFR § 3.311a(c), 50 Fed. Reg. 34, 452
October 28, 1986	<b>Prisoner of War Diseases:</b> • Organic residuals of frostbite • Post-traumatic osteoarthritis	Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, P.L. 99-576, § 108, 100 Stat. 3248, 3252
May 20, 1988	<b>Chronic Diseases:</b> • Lupus erythematosus, systemic	Veterans' Benefits and Services Act of 1988, P.L. 100-322, § 313, 102 Stat. 487, 535

<sup>1</sup> Beri-beri and pellagra had been included as a "chronic constitutional disease" in the 1925 Schedule of Ratings but was dropped from the chronic diseases list of 1933.

<sup>2</sup> Final rule published July 12, 1994, added note to include ischemic heart disease in former POWs who had experienced localized edema during captivity.

DATE	CONDITION(S)	AUTHORITY
May 20, 1988	<b>Prisoner of War Diseases:</b> <ul style="list-style-type: none"> <li>• Irritable bowel syndrome</li> <li>• Peptic ulcer disease</li> <li>• Peripheral neuropathy</li> </ul>	<b>Veterans' Benefits and Services Act of 1988, P.L. 100-322, § 312, 102 Stat. 487, 534</b>
May 20, 1988	<b>Diseases Associated with Radiation Exposure:</b> <ul style="list-style-type: none"> <li>• Cancer of the bile ducts</li> <li>• Cancer of the breast</li> <li>• Cancer of the esophagus</li> <li>• Cancer of the gall bladder</li> <li>• Cancer of the pancreas</li> <li>• Cancer of the pharynx</li> <li>• Cancer of the small intestine</li> <li>• Cancer of the stomach</li> <li>• Cancer of the thyroid</li> <li>• Leukemia</li> <li>• Lymphomas</li> <li>• Multiple myeloma</li> <li>• Primary liver cancer</li> </ul>	<b>Radiation-Exposed Veterans Compensation Act of 1988, P.L. 100-321, § 2, 102 Stat. 485</b>
October 26, 1990	<b>Diseases Associated with Herbicide Exposure or Vietnam Service:</b> <ul style="list-style-type: none"> <li>• Non-Hodgkin's lymphoma</li> </ul>	<b>38 CFR 3.313(b); 55 Fed. Reg. 43, 123</b>
October 15, 1991	<b>Diseases Associated with Herbicide Exposure or Vietnam Service:</b> <ul style="list-style-type: none"> <li>• Soft-tissue sarcoma<sup>3</sup></li> </ul>	<b>38 CFR 3.311a(c), 56 Fed. Reg. 51, 651 (since moved to 38 CFR 3.309(e))</b>
October 30, 1992	<b>Diseases Associated with Radiation Exposure:</b> <ul style="list-style-type: none"> <li>• Cancer of the salivary gland</li> <li>• Cancer of the urinary tract<sup>4</sup></li> </ul>	<b>Veterans' Radiation Exposure Amendments of 1992, P.L. 102-578, § 2, 106 Stat. 4774</b>

<sup>3</sup> Presumption of service connection for Chloracne, Non-Hodgkin's lymphoma, and soft-tissue sarcoma were codified in P.L. 102-4, enacted February 6, 1991. According to the Explanatory Statement in the Congressional Record (January 29, 1991), the Act codified "decisions the Secretary has announced." Final rules were in effect at that time for Chloracne and Non-Hodgkin's lymphoma. The final rule on presumption for soft-tissue sarcoma, however, was not published until October 1991. The law also broadened the presumption for chloracne to include "other acneform disease consistent with chloracne."

<sup>4</sup> Final rule published May 16, 1994, defines the term "urinary tract." 38 CFR 3.309(d)(2)(xv)

DATE	CONDITION(S)	AUTHORITY
May 19, 1993	<p><b>Diseases Associated with Service in the Republic of Vietnam:<sup>5</sup></b>  <i>Added under the soft-tissue sarcoma disease category:</i></p> <ul style="list-style-type: none"> <li>• Extraskkeletal Ewing's Sarcoma</li> <li>• Congenital and infantile fibrosarcoma</li> <li>• Malignant ganglioneuroma</li> </ul> <p>These tumors are not listed as separate presumptions. Rather, they join the list of specific diseases included in that disease category. [Also, this regulation moved the other 20 soft-tissue sarcoma tumors listed at 38 C.F.R. 3.311a(c)(2) to 38 C.F.R. 3.309(e).]<sup>6</sup></p>	38 CFR 3.309(e), 58 Fed. Reg. 95, 29109
February 3, 1994	<p><b>Diseases Associated with Exposure to Certain Herbicide Agents:</b></p> <ul style="list-style-type: none"> <li>• Hodgkin's disease</li> <li>• Porphyria cutanea tarda</li> </ul>	38 CFR 3.309(e), 59 Fed. Reg. 23, 5106

<sup>5</sup> These tumors, although rarely if ever occurring in an individual old enough to have been accepted for military service, were included under the category "soft-tissue sarcoma" to conform with PL 102-4.

<sup>6</sup> The subject matter of 38 CFR 3.311a was moved to 3.307 and 3.309; 3.311a was removed. The tumors referred to are: Adult fibrosarcoma; dermatofibrosarcoma protuberans; malignant fibrous histiocytoma; liposarcoma; leiomyosarcoma; epithelioid leiomyosarcoma; epithelioid leiomyosarcoma (malignant leiomyoblastoma); rhabdomyosarcoma; ectomesenchymoma; angiosarcoma (hemangiosarcoma and lymphangiosarcoma); proliferating (systemic) angioendotheliomatosis; malignant glomus tumor; malignant hemangiopericytoma; synovial sarcoma (malignant synovioma); malignant giant cell tumor of tendon sheath; malignant schwannoma (including malignant schwannoma with rhabdomyoblastic differentiation (malignant Triton tumor), glandular and epithelioid malignant schwannomas); malignant mesenchymoma; malignant granular cell tumor; alveolar soft part sarcoma; epithelioid sarcoma; clear cell sarcoma of tendons and aponeuroses.

DATE	CONDITION(S)	AUTHORITY
June 9, 1994	<b>Diseases Associated with Exposure to Certain Herbicide Agents:</b> <ul style="list-style-type: none"> <li>• Multiple myeloma</li> <li>• Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea)</li> </ul>	38 CFR 3.309(e), 59 Fed. Reg. 110, 29724
August 18, 1994	<b>Diseases Associated with Chronic Effects of Exposure to Mustard Gas or Lewisite:<sup>7</sup></b> <b>38 CFR 3.316(a)(1)</b> <ul style="list-style-type: none"> <li>• Chronic conjunctivitis</li> <li>• Keratitis</li> <li>• Corneal opacities</li> <li>• Scar formation</li> <li>• Nasopharyngeal cancer</li> <li>• Laryngeal cancer</li> <li>• Lung cancer (except mesothelioma)</li> <li>• Squamous cell carcinoma of the skin</li> </ul> <b>38 CFR 3.316(a)(2)</b> <ul style="list-style-type: none"> <li>• Chronic form of laryngitis</li> <li>• Chronic form of bronchitis</li> <li>• Emphysema</li> <li>• Asthma</li> <li>• Chronic Obstructive Pulmonary Disease</li> </ul> <b>38 CFR 3.316(a)(3)</b> <ul style="list-style-type: none"> <li>• Acute nonlymphocytic leukemia</li> </ul>	38 CFR 3.316(a)(1),(2),(3), 59 Fed. Reg. 159, 42499

<sup>7</sup> Regulations establishing presumptive service connection for disabilities related to mustard gas or lewisite exposure specified three categories of conditions under which exposure must have occurred to trigger the presumption for each listed disability.

DATE	CONDITION(S)	AUTHORITY
February 3, 1995	<b>Undiagnosed Illness</b> Based on signs or symptoms of fatigue; signs or symptoms involving skin; headache; muscle pain; joint pain; neurologic signs or symptoms; signs or symptoms involving respiratory system (upper or lower); sleep disturbances; gastrointestinal signs or symptoms; cardiovascular signs or symptoms; abnormal weight loss; menstrual disorders	38 CFR 3.317(b), 60 Fed. Reg. 23, 6665
November 7, 1996	<b>Diseases Associated with Exposure to Certain Herbicide Agents:</b> <ul style="list-style-type: none"> <li>• Acute and subacute peripheral neuropathy</li> <li>• Prostate cancer</li> </ul>	38 CFR 3.309(e), 61 Fed. Reg. 217, 57586
November 30, 1999	<b>Diseases Associated with Radiation Exposure:</b> <ul style="list-style-type: none"> <li>• Bronchiolo-alveolar carcinoma</li> </ul>	Veterans Millennium Health Care and Benefits Act, P.L. 106-117, § 503

# **EXHIBIT 4**

**VONAPP** **Service Branch Type**  
**List Maintenance**  
*Select a record to edit or delete* *sorted by Service Branch Code, Ascending*

Service Branch Code	Service Branch Description
AF	Air Force
AF ACAD	Air Force Academy
AFR	Air Force Reserves
ANG	Air National Guard
AR	Army Reserves
ARMY	Army
ARNG	Army National Guard
CG	Coast Guard
CG ACAD	Coast Guard Academy
CGR	Coast Guard Reserves
MC	Marine Corps
MCR	Marine Corps Reserves
MM	Merchant Marine
NACAD	Naval Academy
NAVY	Navy
NR	Navy Reserves
USMA	US Military Academy

Point of Contact: Larry Freiheit (capifrei@vba.va.gov)  
 VONAPP (Veterans On-Line Application) version B001 (12/1/99)

[Back to menu](#)

[Back to !\[\]\(b15a52694309ea4c274a394158422056\_img.jpg\)](#)

VONAPP

Other Service Branch Type  
List Maintenance

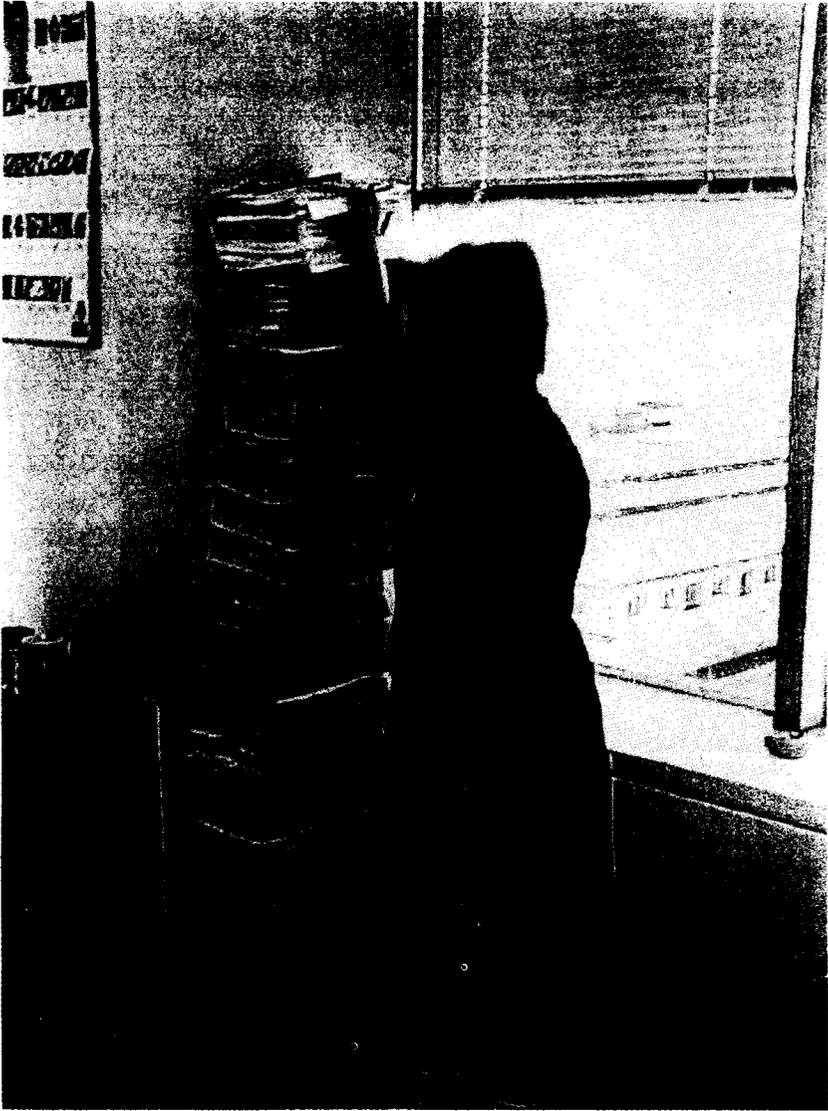
Edit

*Select a record to edit or delete**sorted by Other Service Branch Type, Ascending***Other Service Branch Type Code**

Aerobically Fit  
 Air Force Civilians  
 American Airlines Civilians  
 Army Air Corps or Army Air Force  
 Army Nurse Corps  
 Army Nurse Corps Female Civilian-Bataan/Corregidor  
 Aviation Camps  
 Braniff Airways Civilians on ATC Contract WWII  
 Civilian Navy IFF Tech Pacific Combat WWII  
 Civilian Personnel OSS Secret Intelligence  
 Civilians PNAB defended Wake WWII  
 Civilians US Coast Geodetic Survey Vessel WWII  
 Coast and Geodetic Survey  
 Consairway Div Civilian on Contract Overseas WWII  
 Contract Surgeons  
 Engineer Field Clerks WWI  
 Environmental Science Services Administration  
 Female Dietetic/Therapy personnel  
 Guam Combat Patrol  
 Hon-Discharged Mbrs of Amer Volunteer Guard  
 Honorable Discharged Mbrs Flying Tigers WWII  
 Lighthouse Service  
 Male Civilian Ferry Pilots  
 National Oceanic & Atmospheric Admin  
 Navy Nurse Corps  
 Northeast Airlines on ATC Contract WWII  
 Northwest Airlines Civilian Contract Overseas WWII  
 Pan Am Civilians on Contract Overseas WWII  
 Philippine Commonwealth Army  
 Philippine Guerilla Combined service  
 Public Health Service  
 Quartermaster Corps Female Clerical WWI  
 Quartermaster Corps Keswick Crew Corregidor WWII  
 Reconstruction Aides and Dietitians WWI  
 Regular Philippine Scout  
 Revenue Cutter Service  
 Russian Railway Service Corps  
 Signal Corps Female Telephone Oper Unit WWI  
 Special Philippine Scout  
 Training Camps  
 TWA Civilians on ATC Contract Overseas  
 UAL Civilians on ATC Contract Overseas  
 US Civilian Volunteers Active Defense Bataan  
 US Civilians of AFS Who Served Overseas WWI  
 US Civilians of AFS Who Served Overseas WWII  
 US Merchant Seaman Blockship Operation Mulberry  
 Wake Island Defenders From Guam  
 Women's Air Force Service Pilots  
 Women's Army Auxiliary Corps  
 Women's Army Corps  
 Women's Reserves of the Coast Guard  
 Women's Reserves of the Marine Corps  
 Women's Reserves of the Navy

04/07/2000

# **EXHIBIT 5**



# **EXHIBIT 6**

**What are VSRs and  
Rating Specialists up  
against?**

**Hang on to your seats . . .**



OS ISSUE	PRODUCT	ATTORNEY	NO.
10-01-99	010	DAV	00
SOCIAL SECURITY NUMBERS: VETERAN		SPOUSE	
11B-ORIG 347		DATE	
BIRTH: VETERAN	04-29-75	SPOUSE	WIDOW
NAME AND ADDRESS - PAYEE		NAME OF SPOUSE	
[REDACTED]		[REDACTED]	
NAME OF VETERAN		SEX	NAME OF SPOUSE
[REDACTED]		F	[REDACTED]
MONTHLY RATE		PRIOR NET AWARD DATA	
[REDACTED]		EFFECTIVE DATE	
[REDACTED]		WITHHOLD - RECoup	
[REDACTED]		TYPE AMOUNT	
BRL 500		RAO	PAY GR.
B 07-12-94		11-29-99	
ABC SERVICE NO.		CROSS REFERENCE NO.	
[REDACTED]		[REDACTED]	
DATE OF DEATH		AGREY DECEN	INT. SPOUSE
[REDACTED]		[REDACTED]	
HON SAT		[REDACTED]	
ZIP CODE	FORM. PAY. NO.	CODE	AMOUNT
83709			
DIRECT DEPOSIT		DISALLOWANCE	
EFFECTIVE DATE		CODE-REASON	
12-01-99	00	[REDACTED]	
NET MONTHLY RATE	WITHHOLDING TYPE	OFFSET/RECoup AMOUNT	DISABILITY ENTITLEMENT
0.00		9 288.00	01 030
INCOME	DEPENDENCY TOT	SCA/ R/P	SPECIAL LAW/MSCC
	00 00	0/0	
EFFECTIVE DATE	LOSSER	CONTROL	OFFSET - RECoupMENT
12-01-99	9-030	MO YR	TYPE
			SEVR
			11408.21
			288.00
* Data integrity issues			
ADDL CHILDREN			
DESCRIPTION			
AMOUNT			
PERSON TO BE NOTIFIED			
BASIC BURIAL			
8516 01 030			
NIC BURIAL			
8100 01 000			
FLIGHT/INT.			
5299 08 000			
HOST/MARKER			
5250 08 000			
TRANSPORTATION			
5100 08 000			
TOTAL			
5201 08 000			
BASIC FOR PAYMENT:			
AMOUNT PAYABLE:			
SHARE:			
AMOUNT THE PAYEE:			
LESS COLLECTION:			
NET PAY:			
DICTATED LETTER REQUIRED: POTENTIAL ADVERSE RATING			
326 2/1/99 DOR 2/23/00			
ENTERED BY	DATE	AUTHORIZED BY	DATE
1034	02-23-00		3/3/00
SILVER FORM 21-8947			
COMPENSATION AND PENSION AWARD			

<b>Rating Decision</b>		Department of Veterans Affairs Bates Regional Office		Page 7 02/23/2000
NAME OF VETERAN	V.A. FILE NUMBER	SOCIAL SECURITY #	POA Disabled American Veterans	

ACTIVE DUTY (Month/Day/Year)				ADDITIONAL SERVICE CODE	COUNTRY STATUS	SPECIAL PAYMENT CODE	PURSE EXAM (Date/Time)		
BOB	EAD	BOB	EAD				Name		
07-12-94	11-29-99								
COPY TO: DAV, VOC REHAB, VAMC				EFFECTIVE DATE	BASIC	HOSPITAL -	LOSS OF USE	ANCE LOSS	OTHER LOSS
				S					
				M					
				C					

**NOTE:** Disability Severance Pay awarded for Diagnostic Code 8516

**JURISDICTION:** 010;10 Original disability claim received 11-30-99

- 1. SC (GW INC) (15)  
8516 RIGHT ULNAR NEUROPATHY/ HISTORY OF RIGHT WRIST FRACTURE
- (14) (DOMINANT)  
30% from 11-30-99 (24)  
8100 HEADACHES (22)
- (21) 0% from 11-30-99
- 3. NSC (GW) (28) (25)  
5299 (26) RIGHT KNEE PAIN (NWG Not shown in service)  
5299 (26) LEFT KNEE PAIN (NWG No actual disability) (27)  
6260 (24) TINNITUS (NWG No record of condition) (28)  
6100 (24) BILATERAL HEARING LOSS (NWG Not found last exam) (21) (29)  
5201 (24) RIGHT SHOULDER PAIN (claimed as right shoulder and arm) (NWG Not shown in service) (28)  
5299 (24) CERVICAL SPINE PAIN (NWG Not shown in service) (28)  
6600 (28) BRONCHITIS (NWG Not found last exam) (27)  
5295 (24) LOW BACK PAIN (NWG No actual disability) (27)

\_\_\_\_\_  
Rating Specialist

00223.RTG

<b>Rating Decision</b>		Department of Veterans Affairs Boise Regional Office		Page 1 02/23/2000
NAME OF VETERAN	VA FILE NUMBER	SOCIAL SECURITY NR	POA Disabled American Veterans	

**ISSUE:**

1. Service connection for right ulnar neuropathy/history of right wrist fracture.
2. Service connection for headaches.
3. Service connection for right knee pain.
4. Service connection for left knee pain.
5. Service connection for tinnitus.
6. Service connection for bilateral hearing loss.
7. Service connection for right shoulder pain (claimed as right shoulder and arm).
8. Service connection for cervical spine pain.
9. Service connection for bronchitis.
10. Service connection for low back pain.

**EVIDENCE:**

1. Service medical records for the period 6-4-93 to 3-5-99
2. VA examination dated 1-12-00, 1-20-00

**DECISION:**

1. Service connection for right ulnar neuropathy/history of right wrist fracture is granted with an evaluation of 30 percent effective November 30, 1999.
2. Service connection for headaches is granted with an evaluation of 0 percent effective November 30, 1999.
3. Service connection for right knee pain is denied.
4. Service connection for left knee pain is denied.
5. Service connection for tinnitus is denied.
6. Service connection for bilateral hearing loss is denied.
7. Service connection for right shoulder pain is denied.
8. Service connection for cervical spine pain is denied.
9. Service connection for bronchitis is denied.
10. Service connection for low back pain is denied.

**REASONS AND BASES:**

1. Service connection for right ulnar neuropathy has been established as directly related to military service. This condition is evaluated as 30 percent disabling from November 30, 1999. An evaluation of 30 percent is assigned for incomplete paralysis of finger and wrist movements which is moderate. A higher evaluation of 40 percent is not warranted unless evidence demonstrates incomplete paralysis of finger and wrist movements which is severe.

## Rating Decision

Department of Veterans Affairs  
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NAME OF VETERAN

VA FILE NUMBER

SOCIAL SECURITY NR

POA

Disabled American Veterans

The veteran injured her wrist during service, ultimately undergoing arthroscopic surgery on 7-19-97. The veteran stated that there was really no improvement in the wrist following surgery. Sensory nerve study conducted 10-30-98 did not show evidence of neuropathy, but she continues to have pain and weakness. She cannot tie a knot behind her neck or put on a necklace. She is no longer active in sports and dog training as she was prior to the injury. She reported tingling, weakness, and discomfort in the right wrist after typing or writing, and she cannot use a screwdriver. Physical therapy has not helped. (On exam the skin was hypersensitive on the dorsum of the right wrist, and there was a decrease in grip strength. The skin of the fingers was normal to touch. Flexion was 35 degrees, extension was 35 degrees, ulnar deviation was 25 degrees and radial deviation was 35 degrees. Although there is technically no paralysis of the wrist, a 30 percent evaluation is appropriate based on moderate loss of motion, and also on the accompanying sensory limitations affecting functions such as writing, typing, and strength. A higher evaluation is not possible as paralysis is not severe. A separate rating for wrist injury itself is not possible as the ulnar nerve also controls wrist movements.)

2. Service connection for headaches has been established as directly related to military service. This condition is evaluated as 0 percent disabling from November 30, 1999. A noncompensable evaluation is assigned for characteristic prostrating attacks averaging less than one in two months over the last several months. A higher evaluation of 10 percent is not warranted unless attacks average one in two months.

The veteran was seen in March of 1995 for headaches. The headaches were diagnosed as tension headaches, then sinus headaches. At the VA exam the veteran said she still gets headaches on an average of 2-3 times per week. She stated that she has been given a Toradol shot for headache three times, with the last being in September of 1998. Currently, if she gets a headache she takes Excedrin, and it is best if she takes a nap. There is no aura, and no photophobia. A 0 percent evaluation is assigned for headaches based on headaches managed with Excedrin. (A higher evaluation is not possible since there is no evidence that the headaches are prostrating.)

3. The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

A well-grounded claim for service connection requires evidence of a current disability, evidence of incurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability. There is no record of treatment in service for right knee pain. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates that the claimed condition was incurred in or aggravated by military service.

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There is no evidence of right knee complaints in the service medical records. At the VA exam the veteran stated that she feels she has developed right knee pain secondary to a 1994 left knee injury. She takes Motrin for knee pain. On exam, flexion was 125 degrees, extension 0 degrees. There was pain reported with vertical patellar movement. Collateral and cruciate ligaments were intact, and drawer test was negative. Both knees were normal on x-ray. The impression was knee pain and no underlying disability was assessed. Because there is no evidence of right knee problems in the service medical records, the veteran's claim for service connection must be considered not well grounded. In addition, pain is a symptom and not a disability for which compensation can be paid. In order to establish a well-grounded claim, the veteran should submit medical evidence showing the existence of a diagnosed knee disability and its relationship to military service.

- ④ The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

Compensation is payable for a disease or injury which causes a disabling physical or mental limitation. The evidence regarding left knee pain fails to show a disability for which compensation may be established. It is therefore not a well-grounded claim which can be resolved. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates an actually disabling condition.

The veteran twisted her left knee in 1994 and was treated for pain. There are no further reports or treatment of left knee pain in the service medical records. At the VA exam the veteran states she still has some pain in her left knee, particularly with standing too long, or with full extension, and the knee pops. On exam of the left knee flexion was 135 degrees, extension 0 degrees, and there was no pain with patellar movement. The collateral and cruciate ligaments were intact and drawer test was negative. X-rays of the knee were normal. The impression was knee pain with no underlying diagnosis. Since pain is a symptom rather than a disability for which service connection can be established, the veteran's claim must be considered not well grounded. In order to establish a well-grounded claim the veteran should submit medical evidence showing a disability of the left knee and its relationship to the twisting injury in 1994.

- ⑤ The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

A well-grounded claim for service connection requires evidence of a current disability, evidence of incurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability. There is no record of tinnitus showing a chronic disability subject to service connection. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates the existence of the claimed condition and its possible relationship to service.

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NAME OF VETERAN

VA FILE NUMBER

SOCIAL SECURITY NR

POA

Disabled American Veterans

The veteran denied having tinnitus both in her service medical records and at the VA exam. Since the veteran does not have tinnitus, her claim for service connection must be considered not well grounded. In order to establish a well-grounded claim, the veteran should submit medical evidence of tinnitus and its relationship to her military service.

6. A well-grounded claim for service connection requires evidence of a current disability, evidence of incurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability. Although there is a record of treatment in service for hearing loss, no permanent residual or chronic disability subject to service connection is shown by service medical records or demonstrated by evidence following service. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates a permanent residual or chronic disability.

Service connection may not be established when decibel loss for the frequencies 500, 1000, 2000, 3000, and 4000 Hertz are all less than 40 decibels, the decibel loss in at least three of these frequencies is 25 decibels or less, and speech recognition scores are better than 93 percent. The evidence of record does not show audiometric findings which meet the criteria for a grant of service connection for defective hearing.

Examination findings show an average decibel loss of 4 in the right ear and no decibel loss in the left ear, and speech reception of 100% in both ears.

The veteran's service medical records refer to asymmetrical hearing loss in 1997 and 1999, and she was referred for a specialist examination. Results of actual hearing tests conducted in the service are not currently of record. However, the current VA audiology exam shows results within normal limits in both ears. There was only a slight decibel loss in the right ear, still within normal limits as stated by the examiner, and no decibel loss in the left ear. Since the veteran does not have a hearing loss, her claim must be considered not well grounded. In order to establish a well-grounded claim, the veteran should submit medical evidence that she has a hearing loss and that it began in service.

7. The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

A well-grounded claim for service connection requires evidence of a current disability, evidence of incurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability. There is no record of treatment in service for right shoulder pain. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates that the claimed condition was incurred in or aggravated by military service.

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			Disabled American Veterans		

The service medical records do not show complaints of or treatment for right shoulder problems. At the VA exam the veteran stated she fell on her right shoulder in 1994 and has had tightness and limited motion since that time. There is not much pain. On examination there was no tenderness or inflammation. Abduction was 100 degrees, adduction 45 degrees, flexion 100 degrees, extension 55 degrees, internal rotation 100 degrees, and external rotation 60 degrees. X-rays showed a normal right humerus and right shoulder. The assessment was right shoulder pain and no underlying disability was assessed. Because there is no evidence of treatment for a right shoulder problem in service and because there is presently no diagnosed right shoulder disability, the veteran's claim for service connection is not well grounded. In order to establish a well-grounded claim, the veteran should submit medical evidence of a right shoulder disability and its relationship to her military service.

8. The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

A well-grounded claim for service connection requires evidence of a current disability, evidence of incurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability. There is no record of treatment in service for cervical spine pain. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates that the claimed condition was incurred in or aggravated by military service.

The service medical records are negative for cervical pain. At the examination the veteran said it does not seem currently as much of a pain, but it pops and it frequently feels tense. She will massage her neck to make it feel better. On examination the cervical spine was not tender and of normal curvature. Flexion was 35 degrees, extension 30 degrees, lateral flexion 30 degrees on each side, rotation was 60 degrees to the right and 70 degrees to the left. Assessment was cervical pain. The veteran states she was seen on 8-18-98 for cervical pain, but this report is not in the service medical records on file. However, service connection can be established only for disabilities which were incurred in service and have existed continuously since service. There was no disability of the cervical spine found on examination and ranges of motion were within normal limits. X-rays of the cervical spine were normal. Since there is currently no evidence of neck problems in the service medical records and no diagnosed disability found at the VA examination, we must consider the veteran's claim for service connection to be not well grounded. In order to establish a well-grounded claim the veteran should submit medical evidence showing the existence of a chronic neck condition beginning in service.

9. The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

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A well-grounded claim for service connection requires evidence of a current disability, evidence of incurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability. Although there is a record of treatment in service for bronchitis, no permanent residual or chronic disability subject to service connection is shown by service medical records or demonstrated by evidence following service. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates a permanent residual or chronic disability.

The veteran had bronchitis in September of 1994. She stated this has not recurred since and bronchitis was not found to exist on the VA exam. FFT studies were within normal limits, assessment was normal pulmonary function. Since the veteran had not had bronchitis since 1994, her claim for service connection is not well grounded. In order to establish a well-grounded claim, it must be shown by medical evidence that the veteran has continued to have bronchitis since the 1994 episode.

10. The law provides that a person who submits a claim for VA benefits must submit evidence sufficient to justify a belief that the claim is well grounded. A well-grounded claim is a plausible claim, one which has merit on its own, or is capable of substantiation. Such a claim need not be conclusive, but it must be accompanied by evidence which shows that the claimed condition exists and is possibly related to service.

Compensation is payable for a disease or injury which causes a disabling physical or mental limitation. The evidence regarding low back pain fails to show a disability for which compensation may be established. It is therefore not a well-grounded claim which can be resolved. In order to establish a well-grounded claim, it is necessary to provide evidence which demonstrates an actually disabling condition.

The veteran was seen in February of 1997 with low back pain of several days duration. Mechanical back pain was assessed and the veteran put on light duty. There are no further reports of back pain in the service medical records. At the VA exam the veteran said she occasionally has low back pain if she sits too long in one position, or with lifting. Her wrist injury has limited her activity. On examination she had good posture, and no muscle spasms. Flexion was 90 degrees, extension 30 degrees, lateral flexion 35 degrees each side, and rotation 20 degrees each side. X-rays showed moderate scoliotic curvature of thoracolumbar spine with no other significant abnormality present. The assessment was again low back pain. Service connection for low back pain cannot be established as the evidence does not show a low back disability subject to service connection. Low back pain is a symptom rather than a disability for which compensation can be paid. In order to establish a well-grounded claim the veteran should submit medical evidence showing she has a chronic back disability related to the 1997 episode of mechanical low back pain.

DEPARTMENT OF VETERANS AFFAIRS  
VA Regional Office  
805 W Franklin Street  
Boise, Idaho 83702-3560

February 23, 2000

In Reply Refer To: 347/JJ

CSS [REDACTED]

[REDACTED] (80)

Dear Ms. [REDACTED]

We made a decision on your compensation claim.

What We Decided

We found the following disabilities are service connected. Here are the conditions and percentages of disability. (81)

(82) 1. We found your Right Ulnar Neuropathy/History of Right Wrist Fracture 30% disabling. An evaluation of 30% is assigned for incomplete paralysis of finger and wrist movements which is moderate. (83) (84)

(85) 2. We found your Headaches 0% disabling. A noncompensable evaluation is assigned for characteristic prostrating attacks averaging less than one in two months over the last several months. (86) (87)

(88) The percentages of your individual disabilities may not add up to your overall evaluation. We use a "combined rating table" to decide how disabled you are. The percentages in this table are set by regulation. Your overall or combined evaluation is 30%. (89)

We did not find the following conditions to be well grounded, therefore they are not service connected:

(90) A well grounded claim for service connection requires evidence of a current disability, evidence of occurrence or aggravation of a disease or injury in service, and evidence of a nexus, or link, between the in-service injury or disease and the current disability.

(91) 1. Right Knee Pain We found no evidence of treatment in service for right knee pain. (92)

(93) 2. Left Knee Pain We found no evidence to show a disability for which compensation may be established. (94)

100-22508

CSS [REDACTED]

- 3. (95) Tinnitus: We found no evidence of tinnitus showing a chronic disability subject to service connection. (96)
- 4. (97) Bilateral Hearing Loss: Although there is treatment in service for hearing loss, no permanent residual or chronic disability subject to service connection is shown by service medical records or demonstrated by evidence following service. (98)
- 5. (99) Right Shoulder Pain: We found no record of treatment in service for right shoulder pain. (100)
- 6. (101) Cervical Spine Pain: We found no record of treatment in service for cervical Pain. (102)
- 7. (103) Bronchitis: Although there is treatment in service for hearing loss, no permanent residual or chronic disability subject to service connection is shown by service medical records or demonstrated by evidence following service. (104)
- 8. (105) Low Back Pain: The evidence of low back pain fails to show a disability for which compensation may be established. (106)

How We Made Our Decision (107)

We carefully considered all the evidence we received. We have attached a copy of the Rating Decision. It shows the evidence we used and the reasons for our decision.

Your Monthly Compensation (108)

Your monthly compensation is shown below. Please understand that the law (38 U.S.C. 5111) says payments must begin the first day of the month after you've become entitled to the benefit.

Rate Entitled	Rate Paid	Amount Withheld	Effective Date	Reason For Change
(109) \$288.00	(110) \$0.00	(111) \$288.00	(112) Dec 1, 1999	(113) Entitlement to compensation at the 30% rate. Withholding due to disability severance pay.

We're paying you as a single veteran with no dependents. (114)

CSS

## How To Claim Additional Benefits For Dependents

(115) We're paying you as a single veteran with no dependents. Veterans who have service-related conditions with a combined evaluation of 30 percent or more may receive an additional allowance for their dependents. Dependents include a spouse, dependent parents, and unmarried children under 18. We also consider as dependents unmarried children between 18 and 23 who are attending an approved school, or unmarried children who were permanently incapable of self-support before age 18. The additional benefit for a spouse is higher if the spouse is a patient in a nursing home or requires the regular aid and attendance of another person. So we can pay additional benefits for dependents, send us the following:

- VA Form 21-686c. Please fill out every blank which applies to you. *You must provide:*
  - exact relationship and the place of birth of any children, such as stepchild, adopted child, or natural child
  - the month, year, city and state of each marriage and divorce
  - the Social Security number for all dependents.

## When We Need The Evidence

(118) Please send the information on your dependent(s) right away, within 60 days if possible. If we receive your response after one year from the date of this letter, we won't be able to pay you any "back benefits".

## Why We've Withheld Benefits For Disability Severance Pay

(119) You received disability severance pay of \$11,408.21 from the military for your right wrist disability. A change in law effective October 1, 1996 provides that the VA shall recoup the amount of disability severance pay received by the veteran after withholding for Federal income tax. We have contacted the Navy for the amount you received after Federal taxes. If you have records showing this amount, please send us a copy. Your records need to show the net amount you received for disability severance pay after federal taxes were withheld, excluding any other military pay. If you do not have records, you may be able to expedite the process by contacting the Navy yourself for the amount. If so, please submit a copy of the document you receive. Once we've collected this amount, you'll start receiving monthly payments for your disability.

## If You Have Questions

(120) If you have any questions, call us toll-free by dialing 1-800-827-1000. Our TDD number for the hearing impaired is 1-800-829-4833. *If you call, please have this letter with you.*

4

CSS [REDACTED]

If You Think We're Wrong

If you think our decision is wrong, you should write and tell us why. The enclosed VA Form 4107 explains your right to appeal. (121)

We've also attached a VA Form 21-8764, Disability Compensation Award Attachment-Important Information, which explains certain factors concerning your benefits.

Sincerely yours,

GUY SAKAMOTO  
Veteran Service Center Manager

- Enclosure(s): Rating Decision (122)
- VA Form 21-686c (123)
- VA Form 21-8764 (24)
- VA Form 4107 (25)

cc: Disabled American Veterans (126)

***And that's not all . . . .***

Let's say this was a dual claim for pension, and pension proved to be the greater benefit for at least some of the years involved.

Further, that veteran had a wife, a minor child, one helpless child, and two children in school. He also claimed a dependent parent.

Veteran, and wife and children had among them seven sources of income.

Net worth had to be considered.

Aid and attendance for one of them was involved.

There was a previous accounts receivable to be recouped.

There was a retroactive period of payment due, involving several COLAs, and income changes.

We had a bilateral factor to consider.

We had an earlier informal claim for benefits to consider.

We had an incarceration, hospitalization or incompetency reduction to consider.

Claimant was prevented by disability from applying earlier.

1992 kicker rates were involved.

Veteran was visually impaired.

**A formal administrative decision had to be prepared for some reason: character of discharge, or common-law marriage, or step-child not recognized, etc.**

Veteran was determined to require a scheduled review examination.

Ancillary benefits were involved such as auto, housing, clothing allowance, or Ch. 35 for dependents.

*Likely all of this? No, of course not.*

*Possible much of this? Yes, indeed.*

***Grand total possibilities for error in this single case  
- any one of which would label the entire case all wrong  
for STAR purposes:***

**234**

or more!

# **EXHIBIT 7**

## Memorandum of Understanding

## Best Practices

1. This memorandum of understanding provides guidance on the process associated with the development, dissemination, and implementation of best practices.
2. Through the Headquarters Redesign process, a mutual understanding regarding various elements of service delivery, to include best practices, was established between the Office of Field Operations and the Programs. The broad guidelines for best practices, developed through the Headquarters Redesign process, are as follows.
3. It is the primary responsibility of the Programs to identify best practices associated with the industry/market (external best practices) and to offer these to the field for their consideration. The field will help identify external best and generate internal best practices (i.e. best practices internal to VBA) for consideration. Prior to sharing best practices, the Programs will validate and ensure the legality of the best practices that have been identified by the Programs and the field. Primary cataloguing, endorsing, encouraging, dissemination, and implementation is the responsibility of the field. Through collaboration, the field and the Programs will determine which practices get piloted and implemented.
4. The guidelines developed through the Headquarters Redesign process are very general. More detailed procedures are attached.
5. To avoid delaying the dissemination of best practices, expedition of the process is recommended. Best practices submitted by the field to Central Office should be reviewed by Headquarters elements, and a decision made regarding the appropriateness of the practice for nationwide dissemination within two weeks of receipt (7 days for OFO review / 7 days for Program review). The designation of a "best practice" point of contact in the Office of Field Operations and in each Program will assist in expediting the process. These points of contact should be named immediately.
6. Dissemination of approved best practices will be twofold. Best practices will be posted to either the Operations Center or Scorecard web sites (or both), depending on their content. Best practices that are directly linked to a scorecard measure will be posted on the Scorecard web site. All others will appear on the Operations Center web site. The Office of Field Operations' point of contact will be responsible for ensuring that the best practices are posted to the appropriate site(s) and for maintaining their content. To further promote new best practices, the practices will be highlighted on Office of Field Operations' weekly conference call.

**Attachment****Best Practice Procedures****Best Practices Identified by the Field:**

- a. Field submits best practice to the Office of Field Operations. It is recommended that the best practice be shared, and implemented (if possible), within the SDN prior to submission to the Office of Field Operations.
- b. Office of Field Operations reviews the practice. OFO will have 7 days to review the practice, refer the practice to the Programs (if appropriate), and disseminate the practice (if appropriate).
- c. If the practice is not program related (e.g. training/development), the Office of Field Operations determines if the practice should be disseminated (skip to step f).
- d. If the practice is program related, the practice will be shared with the designated Program point of contact. The Program will have 7 days to validate and ensure legality of the practice.
- e. After review by the Program, the Program point of contact will notify the Office of Field Operations point of contact regarding the legality of the practice.
- f. If the practice has been endorsed by the Office of Field Operations and the Program (for program related best practices), the Office of Field Operations notifies the submitting party that the practice has been endorsed and will be disseminated.
- g. If the practice is not validated by the Program, the Office of Field Operations will notify the submitting party.
- h. Approved best practices will be posted in two web site locations. To promote new best practices, the practices will be described by the submitting party on an Office of Field Operations conference call.

**Best Practices Identified by Program:**

- a. Program shares best practice with the Office of Field Operations (legality of the best practice is assumed).
- b. Office of Field Operations will ensure that best practice is posted to the appropriate web site. The best practice will be described, by the program, on an Office of Field Operations conference call.

# **EXHIBIT 8**

**VBA**

## Benefits Balancing Act

*The Veterans Benefits Administration faces the tricky challenge of improving both the speed and the quality of its claims processing efforts.*

By Nancy Ferris

**T**he Veterans Benefits Administration, long notorious for slow performance, ran into a whole new buzz saw in 1998 when the Veterans Affairs Department's inspector general found errors in VBA's reports of

how long it took to process veterans' applications for disability and pension benefits.

The mistakes made claims processing look faster than it really was—and the incorrect figures were none too swift. For example, VBA reported that it processed disability claims in an average of 128 days—more than four months—but the actual average was nearly a month longer, 151 days, the IG said. (Today, VBA says, it's about 168 days.)

VBA officials did not dispute the IG's findings. "We've manipulated data," admits Joseph Thompson, the VA undersecretary for benefits and top VBA official. "We've in fact created a generation of managers who believe it's their first job to look good, not to do good, and that needs to change."

VBA had been pushing for years to

deliver benefits more quickly to the 3.2 million veterans and their survivors the agency serves. The result: a dramatic reduction in quality. Only 64 percent of initial claims for benefits were being processed correctly, and of those appealed to the Board of Veterans Appeals, more than half were ruled incorrect or incomplete. Rework on completed claims was taking time and contributing to backlogs.

The General Accounting Office weighed in with a March 1999 report, "Veterans' Benefits Claims: Further Improvements Needed in Claims-Processing Accuracy" (HEHS-99-35), calling for improvements in processing and in the data collected about the processing system. In VBA, field offices are responsible for processing claims and reporting on what they've accomplished.

"Both the regional office reviewers and their managers have an inherent self-interest in having as high an accuracy rate as possible," Cynthia A. Bascetta of GAO's Health, Education and Human Services Division told a House subcommittee. And GAO's report said: "Unless VBA provides adequate separation of duties and organizational independence for accuracy reviewers, potential questions about the integrity of accuracy-related performance data will likely persist."

### Veterans Benefits Administration

Parent department: Veterans Affairs

Created: 1953

Mission: "To provide benefits and services to the veterans and their families in a responsive, timely and compassionate manner in recognition of their service to the nation."

Top official: Joseph Thompson



### In Search of Credibility

Statements like this prompted Thompson to declare that VBA's number one challenge is restoring its credibility. On his first day on the job, late in 1997, Thompson used the agency's teleconferencing system to inform all VBA employees that he wanted the truth. "I know sometimes it's very painful," he says now. "You really want to mumble and get out of the room as quickly as you can. But we're almost always better off for being truthful."

Just asking for the truth didn't cure the agency's problems, of course. "We've had teams reviewing the integrity of our data. We've had counseling sessions with the senior leadership where we thought they were contributing to this," Thompson says.

He also created a Data Management Office to improve the quality of VBA data and reporting. The new office is designed to not only to head off future embarrassments such as the IG's findings, but to give VBA employees more information about performance and results than has been available in the past.

The agency now is rolling out one of the most advanced systems in government for keeping everyone aware of performance. The agency's internal network, or intranet, has made available to every VBA employee a current "balanced scorecard"

## VBA REPORT CARD

<b>Financial Management</b>	<b>C</b>	Activity-based costing data just becoming available. No chief financial officer since 1998.
<b>Human Resources</b>	<b>B</b>	High-tech training programs and workforce planning are above average.
<b>Information Technology</b>	<b>C</b>	Still relying on 30-year-old information systems; upgrade program is years behind schedule.
<b>Capital Management</b>	<b>B</b>	Maintains 68 offices nationwide. Consolidating some facilities with VA hospitals where possible.
<b>Managing for Results</b>	<b>B</b>	Balanced scorecard, available to all on the intranet, keeps eyes on the performance prize.
<b>AGENCY GRADE</b>	<b>B-</b>	

on performance. It reports on speed, accuracy, unit cost, customer satisfaction and employee development. Most scores are updated monthly.

The categories are weighted according to the needs of each VBA division, and perfect scores in every area would add up to 100. One day recently the VBA total was around 60. "You can see that we give ourselves a solid D-," Thompson says cheerfully.

To him, the total is less important than are continuous improvement and balance in agency operations. With the scorecard in place, Thompson says, "the way behavior has changed is that you can't go in and focus on one area. . . . We're seeing improvements in areas that . . . weren't paid as much attention to. So quality is inching up. Some of our appellate work is inching down."

Focusing on several objectives at once isn't easy, Thompson acknowledges, and it requires new kinds of working relationships and management skills. "I hear the moaning" of employees who feel they're now being asked to do it all at once, he adds. Thanks to electronic mail, employees can contact him directly, and Thompson says they do so to complain about the difficulty of balancing quality and quantity, present and future.

Richard Zimnoch sees this challenge firsthand. Zimnoch, a VBA attorney in Newark, N.J., also is the top VA employee in the VA Council of the American Federation of Government Employees, the union that represents the largest number of VBA employees. "There's a lot of frustrated employees," Zimnoch says.

Until this year, VBA has absorbed repeated cuts in its workforce. Few employees

have been forced to leave, but many have been enticed to retire with buyouts or have simply taken other jobs. The results have been uneven, Zimnoch says, with some offices losing few employees and others suffering cuts of 35 percent or more. In the area of compensation and pensions, he notes, "a lot of the work is being accomplished by people working on overtime." Work weeks can be as long as 55 hours.

Besides being shorthanded, Zimnoch says, offices are struggling to achieve a balance between quality and speed. If service reps spend the time it takes to process a claim accurately, their numbers suffer and their managers want to know why. "It's almost like you can't win for losing," Zimnoch says. "To make quality really good, [claims] backlogs get worse."

### Quantity Out, Quality In

Managers all the way up to Thompson would agree with that assessment. The workload reports and balanced scorecard show that claims are taking longer to process now that accuracy is the top priority in the compensation and pension (C&P) programs, where VBA will dispense \$22 billion this year. Compensation programs provide disability benefits for all veterans with service-connected disabilities and their survivors; pension programs provide stipends to low-income disabled veterans and their survivors.

Over the last year, VBA has been installing a new, much more sophisticated case monitoring system called Systematic Technical Accuracy Review (STAR). STAR helps managers identify error-prone cases and alter procedures to head off errors. It also makes performance data

more accessible and provides more complete information. It was the new system that reported an accuracy rate of 64 percent. The previous system was reporting accuracy rates above 95 percent, but VBA and GAO agree that the STAR accuracy figures are more realistic.

In the future, greater accuracy is supposed to reduce rework and paper shuffling, because more cases will be processed correctly and completely the first time they are tackled. An experiment at the Milwaukee regional office shows the potential effect of accuracy on workloads. Officials at that office spent time reviewing cases and identifying where problems arose. Then they developed specific procedural changes to reduce recurrences. As a result, the office cut the percentage of cases returned to it for further action from 40 percent in 1995 to 21 percent in 1998. Similar analyses and revisions are occurring on a national scale now.

The specialists at VBA's 58 regional offices take a veteran's application for benefits, collect military, medical and financial records to verify that the applicant is eligible, and determine the degree of disability. Disabilities are expressed in multiples of 10 percent. If the veteran has more than one handicap, the disabilities are rated individually and then added together.

Often a degree of judgment is required, even though the agency assigns a standard value to each kind of impairment. Not only does the claims examiner need to assess disabilities, he or she also must investigate each pension applicant's finances and update the records over time. This is some of the most time-consuming work VBA does.

In her congressional testimony last year, GAO's Bascetta revived the notion of simplifying the pension program, which provides less than \$5,000 a year to a single disabled, low-income veteran. A congressional commission had proposed simplification in December 1996, pointing out that the pension program dispenses far less money than the compensation program but takes many more resources to administer. VBA officials now say they can streamline the pension program by issuing new regulations, which they are hoping to do this year.

### Better Support Systems

In another move to make work easier, VBA is developing an electronic claims processing system that will automate and speed up the flow of paperwork.

For every one of millions of veterans

and survivors VBA serves, the agency maintains 400 or more pages of paper in files. The piles of paper in the office have a "negative impact on employee morale," says Cheryl Deegan, deputy director of the agency's Washington, D.C., field office.

Thompson describes the situation this way: "Anything you want to do of importance requires you to get your hands on that paper. It greatly limits you in your ability to provide service. If a veteran moves, somehow you've got to get your hands on the paper and transfer it. If they call in with a question that is anything more detailed than what can be seen obviously on a payment record, you've got to get your hands on the file. Things get lost."

In April 1999, VBA won one of Vice President Al Gore's Hammer Awards for development of a pilot electronic claims processing system in the Washington office. With technical assistance and products donated by a consortium of well-known information technology companies, the office had set up a system of electronic claims folders, with paper records scanned into computer files and routed around a local network.

The project garnered headlines such as,

"VBA Bids Adieu to Manual Filing with Free Program," but nationwide implementation of such a system has yet to begin. Even the Washington office has not yet converted to the system, which operates only on an experimental basis. Congress was reluctant to appropriate the money for an agencywide system—one result of VBA's credibility gap—but now the agency has funding and expects to launch a procurement this year.

Meanwhile, as Thompson says, the core systems that generate veterans benefits payments are housed in the same mainframe computers he worked on as a young claims examiner in the mid-1970s—"you know, the orange screens and archaic-looking data arrays." The agency is putting a modern face on those systems.

"I said I don't care if we have hamsters powering the thing in the back room, when we hire a 25-year-old out of college, I want them to see something that looks like Windows or looks like it was built, you know, within the last five years," Thompson says.

Thompson is fond of saying VBA is "in the 15th year now of a seven-year modernization plan" to upgrade its core IT



**"You can buy all the IT you need. You can't easily get good people."**

*Joseph Thompson*

architecture. "Thank God it continues to chug along," he says. "Every month it puts 3.3 million checks or direct deposits in people's hands." Funding cuts, year 2000 distractions and other problems have

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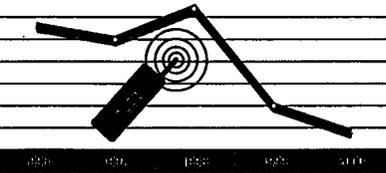
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## Inside the VBA

### Telephone Access Improving

THE VBA HAS MADE A SIGNIFICANT IMPROVEMENT IN THE NUMBER OF TELEPHONE CALLS THAT ARE ANSWERED BY THE VBA'S TELEPHONE CENTER. THE PERCENTAGE OF CALLS THAT ARE ANSWERED IN THE FIRST RING HAS INCREASED FROM 75% TO 85% SINCE THE CENTER WAS OPENED IN 1998.

Percent chance of getting a busy signal

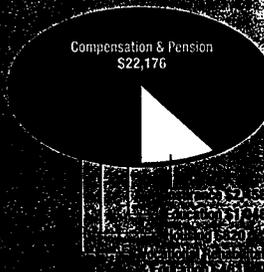


### Did You Know?

- The VBA has made a significant improvement in the number of telephone calls that are answered by the VBA's telephone center. The percentage of calls that are answered in the first ring has increased from 75% to 85% since the center was opened in 1998.
- According to the Veterans Affairs Office of Inspector General, the VBA's telephone center has received a significant number of complaints regarding the quality of service provided to veterans.
- The VBA has a goal of reducing the number of complaints by 50% by the end of 2001.
- The VBA has a goal of increasing the number of telephone calls that are answered in the first ring to 90% by the end of 2001.
- The VBA has a goal of increasing the number of telephone calls that are answered in the first ring to 95% by the end of 2002.
- The VBA has a goal of increasing the number of telephone calls that are answered in the first ring to 100% by the end of 2003.

### Two Programs Dominate

THE VBA'S TWO LARGEST BENEFIT PROGRAMS ARE COMPENSATION AND PENSION. THESE TWO PROGRAMS TOGETHER ACCOUNT FOR 72% OF THE VBA'S TOTAL BENEFIT PAYS.



Source: Veterans Benefits Administration

delayed the now-notorious modernization, known as VetsNet.

One reason Thompson continues to push for VetsNet is that it will permit each employee working on a case to see the big picture by pulling together all the disparate records on a single veteran's benefits. In Thompson's view, the assembly-line approach to organizing work, which has been the norm at VBA for decades, can be mind-numbing.

If an employee's job is to sit at a desk all day with piles of paper and "handle it from

here to here, and it goes to the next person, and they handle it, and you never get any feedback," he says, "you get burned out doing that, after a while." The case-management approach that will be built into VetsNet will make the work more satisfying, he says, because employees will see the outcomes of their work on each case.

**People Are the Key**

Thompson says VBA's employees are the key to its success. "Everybody thinks it's technology, but they're mistaken," he says.

"It is human beings. We are in a life-and-death struggle for the best people with every other agency in government and every other private-sector organization. In my view, you can buy all the IT you need. You can't easily get good people. You really have to work hard to get them and retain them and train them and maximize their capabilities."

One tool he's planning to use is an advanced IT system that will catalog each employee's skills and training, generate learning plans, deliver computer-based training and generate training effective-



Government Performance and Results Act, is attempting to find out more about the effects of its programs, particularly the enormous compensation and pensions effort. "Data are not currently available to measure how veterans and survivors perceive the compensation program or its impact on the quality of their lives," says the VA's fiscal 2000 performance plan. As a result of this and other shortcomings in measuring outcomes, the performance plan for VBA is incomplete.

GAO, in its review of the performance plan last spring, said it was an improvement over the preceding year. Nevertheless, GAO reported, "VA does not yet have all of the information sources and the capacity needed—through its accounting and information systems—to generate reliable data to support its performance plan and to produce credible performance reports" (HEHS-99-138R).

The VA's accounting systems, most of which are centrally operated by the department rather than by VBA, are being upgraded. A new payroll system with human resources management functions and new financial systems with activity-based costing are being installed. At VBA,

however, the situation is complicated because the major function of the core compensation and pension system is to dispense and account for money. Until VetsNet and other new systems are in place, the linkage between expenditures and results will be tenuous.

The department received a qualified opinion on its 1997 and 1998 audits partly because of inadequate accounting for loans VBA had transferred to an outside servicer, information security weaknesses and poor forecasting and actuarial models. Many of these problems have been corrected, and the department is expecting an unqualified opinion for fiscal 1999.

Meanwhile, VBA has undertaken a number of data collection projects, including participating in the American Customer Satisfaction Index (ACSI) survey. The agency's C&P programs received a score of 61 in the survey, lowest of all federal benefits programs measured and well below the 68.6 average for federal agencies. However, 57 percent of the VBA customers interviewed said their satisfaction with VBA is increasing.

Lowest grades went to claims processing; highest went to the courtesy and

helpfulness of VBA employees. Almost one-third of those interviewed said they had complained formally to VBA about its service, and they filed eight complaints, on average.

VBA also does its own customer satisfaction surveys and posts results and analyses on its Web site. Results have been similar. Both VA's surveys and the ACSI found that communication with customers plays a part in their satisfaction, along with other factors. The VetsNet project is expected to help in giving applicants faster and more up-to-date information about their claims.

But VetsNet is only one of 80 major initiatives VBA has been pursuing in the last two years. Thompson says he's trying to keep the work going while rebuilding the entire agency. "The people systems, the IT, the business processes, the really fundamental organizational decisions—all of those things are being changed simultaneously while we're trying to maintain the flow of work," he says.

His own view of VBA's recent performance seems close to that of America's veterans: "We're not nearly what we need to be. We're somewhat better, but we have miles to go." ☉

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# **EXHIBIT 9**

*STATEMENT OF  
RICK SURRETT  
DEPUTY NATIONAL LEGISLATIVE DIRECTOR  
OF THE  
DISABLED AMERICAN VETERANS  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES  
APRIL 13, 2000*

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you on behalf of the Disabled American Veterans (DAV) to discuss processing of disability claims by the Department of Veterans Affairs (VA). Disability benefits make up the core of veterans' programs. As an organization whose more than one million members are service-connected disabled veterans, the DAV is especially concerned about the effectiveness of VA's delivery of these benefits.

Veterans claim disability compensation or pension to fill already existing needs, and the needs are therefore generally more urgent and more essential than the needs for the various other forms of assistance VA furnishes veterans and their eligible family members. Under these circumstances, VA should view the accurate and timely processing of claims and the award of disability benefits as its foremost obligation and primary mission. VA should devote all necessary resources and effort to ensuring that the compensation and pension program stands as a model of effectiveness and efficiency. Unfortunately, VA continues to fall far short of achieving an acceptable level of accuracy in its decisions and timeliness in its disposition of claims and award of benefits to these veterans whose needs are most pressing.

For the disability compensation and pension programs to effectively fulfill their intended purposes, the benefits must be delivered promptly during the veteran's time of need. VA must timely put benefits in the hands of entitled veterans and timely inform veterans not entitled so they will not remain in expectation of relief that is not forthcoming. Errors in decisions that lead to incorrect benefit denials diminish the effectiveness of benefits by depriving deserving veterans of needed relief or delaying that relief until the error is corrected. Errors also become a cause of inefficiency because additional decisions to correct errors and appeals siphon scarce resources, add to the workload, and increase the backlog of cases pending. Because of the backlog, decisions on all claims are delayed, and all veterans awaiting decisions suffer. The pressure to achieve a higher output of claims decisions to reduce the backlog then focuses on quantity at the expense of quality and, in turn, results in even more errors and vicious cycle of ever worsening quality and consequent increases in case backlogs and declining timeliness. Without correction of the root causes of the poor quality and high error rates, the vicious cycle cannot be broken. To be corrected, the root causes must first be properly identified, understood, and acknowledged, of course. Over the past decade, a confluence of several factors thrust VA's claims processing into just such a vicious cycle. The emergence of those factors and unfolding of this situation can be better understood when viewed in the wider historical context of the VA's claims processing system.

Mindful of the Nation's debt to veterans, the benevolent purpose of veterans' programs, and the special treatment veterans deserve, Congress designed the benefits delivery system to be helpful to veterans, nonadversarial, and informal. To treat veterans seeking benefits like litigants in court proceedings or even like ordinary applicants for Government assistance would be entirely contrary to the intended purpose and the spirit with which benefits are bestowed upon veterans. Unlike the passive application and adjudication processes and disinterested decisionmakers of other Government agencies, the VA system was designed to actively work in the veteran's behalf and best interests, and VA employees were charged with fully informing veterans of their rights and assisting them in perfecting and prosecuting their benefit claims. The procedures were designed to be very informal and simple for veterans.

The philosophy underlying the substantive and procedural aspects of veterans' programs is unlike that in any other program. Fundamentally embodied and ingrained in that philosophy is the strong conviction that veterans deserve special benefits, special treatment, and a delivery

system that works for them, not against them. The system's goal, and purpose, is to ensure veterans receive all benefits to which they are entitled, not impede or inhibit their receipt of benefits. The requirements for proof are lenient and the rules are to be applied liberally and in the veteran's favor.

With these characteristics, the system was designed so that knowledgeable VA employees would take charge of the claim, develop the record, and advance the claim through the process to a decision based on all pertinent law and evidence without the veteran being required to understand the legal or procedural complexities and without the veteran having to pay part of his or her benefits to a lawyer. Because of the system's paternalistic and nonadversarial nature, the right to challenge VA's decision in court was deemed unnecessary.

For the system to work as intended, it depended on VA employees, who had wide discretion, to act with goodwill toward veterans and use that discretion to award benefits where possible. Without that goodwill and a spirit of benevolence, and without any outside review, employees could exploit the informality and their discretion to make arbitrary decisions.

In this environment, a culture and mindset did develop within VA whereby adjudicators began making decisions based on their own personal beliefs, attitudes, and predilections rather than the law. The practices coalesced into a virtual set of unwritten rules that contravened liberal provisions in the law and regulations favoring veterans. For example, VA adjudicators routinely gave no credit to certain types of evidence when such evidence tended to support veterans' claims. VA adjudicators rarely applied the rule that veterans were to be given the benefit of the doubt in instances where the evidence neither proved nor disproved a material fact. VA adjudicators reduced veterans' disability evaluations without the evidence required for such reductions by the rules and without observing provisions designed to protect veterans against unwarranted reductions.

Although veterans could appeal such decisions to the Board of Veterans' Appeals (BVA), the mindset and practice there was similar to that of regional office adjudicators. BVA's allowance rate consistently held at about 12% of the cases it reviewed. Many veterans became frustrated by the lack of a meaningful process in which to obtain a remedy for arbitrary and unlawful decisions.

Veterans began to call for legislation to authorize judicial review of VA's claims decisions. Congress held hearings in 1962, but failed to enact legislation. Public dissatisfaction with the VA's administrative appeals system continued, and the call for judicial review intensified in 1975. Congress considered judicial review legislation several times after that. This Subcommittee held extensive hearings on the issue in July 1983. Further hearings were held, and judicial review legislation was finally passed in the 100th Congress in 1988. This legislation established the Court of Veterans Appeals, since renamed the Court of Appeals for Veterans Claims ("the Court") to decide veterans' appeals.

Beginning with its earliest decisions in 1990, the Court's analyses exposed arbitrariness and identified VA's departure from fundamental requirements of law and VA's own procedures. Initially, VA officials resisted the Court's decisions and complained loudly about the Court and the effects of judicial review.

Because BVA had to be concerned that its decisions withstand outside scrutiny, it had to be more thorough, accurate, and justified in its decisions. As a consequence, BVA was forced to markedly increase its allowance rates. In addition, BVA's remand rate more than doubled. Before judicial review, BVA typically returned 18 to 20% of the cases it reviewed to regional offices for corrective action. In fiscal year (FY) 1992, BVA sent more than half of all cases it reviewed back to the field offices to correct inadequate record development or other deficiencies. The degree of the Court's impact on VA was a measure of the quality of VA's decisions before judicial review.

In the early 1990s, VA's backlog of pending claims began to rise sharply. Because of the substantially increased numbers of cases being returned to regional offices on remand from BVA, because of the court-imposed requirement that VA decisions be better reasoned and explained, because of the additional claims due to military downsizing, and because of reduced staffing, VA was losing ground at an alarming rate. The concern about claims processing

problems and growing backlogs led to the establishment of the Blue Ribbon Panel on Claims Processing in 1993. The Panel made more than 40 proposals to improve efficiency in claims processing. These proposals included improved technology, redesigned work processes, and additional training.

VA began a plan to reengineer its work processes in conjunction with phased-in computer modernization. The centerpiece of VA's business process reform was the organization of adjudication teams to handle the full range of responsibilities associated with claims adjudication and to replace the existing "assembly-line" process. VA's plan for computer modernization was based on three stages of development and acquisition. Stage I involved several "transitional" applications or programs for claims processing, exchange and acquisition of information, automated research, record tracking, training, and automated generation of adjudication documents and correspondence. Stage II primarily involved the acquisition of imaging technology for document scanning, retrieval, routing, and storage. Stage III was to fulfill the modernization effort by acquisition of equipment to integrate and centralize all VA data processing applications and information exchange into a system called the Veterans Service Network (VETSNET).

VA's efforts came under outside scrutiny and substantial criticism. VA was faulted for lack of a well-defined direction, lack of adequate control and evaluation of its computer modernization project, and lack of linkage between its modernization plan and reengineering of its business processes, as well as an insufficient evaluation process for its initiatives for improving claims processing. As a result, VA scaled back its computer modernization program, and the centralization and integration of data processing envisioned as VETSNET was never completed.

During the time VA began these reforms and computer modernization, congressional concern was continually intensifying over increasing problems in VA's claims processing. In 1994, Congress authorized the establishment of the Veterans' Claims Adjudication Commission to carry out a study of the claims adjudication system. In 1995, Congress also commissioned a study of veterans' claims processing by the National Academy of Public Administration (NAPA). In response to concerns about the quality of its service to claimants, VA established a Business Process Reengineering (BPR) Office in November 1995.

The Veterans' Claims Adjudication Commission transmitted its final report to Congress in December 1996. Unfortunately, the Commission's study was poorly focused and departed substantially from the Commission's charge to evaluate the efficiency of the existing claims adjudication processes and procedures. The Commission paid little attention to the mechanics, efficiencies and inefficiencies, and strengths and weaknesses of the claims processes, but rather chose to divert its course to an examination of the benefits themselves, and on that subject merely inserted its own unsupported, inexperienced, and often mistaken views. The Commission often failed to make even a minimal showing of cause and effect between its suggested reasons and supposed consequences. The upshot of the Commission's entire report was that reducing VA's caseload could solve the claims backlog, and that this caseload reduction could be accomplished by changing the rules to make fewer veterans eligible for service connection and by restricting veterans' access to the process. In other words, the Commission's philosophy was to reward VA's poor performance by easing its workload. The veterans' service organizations strongly opposed these misguided recommendations.

After conducting a study of the claims processing system, the BPR team issued its report in December 1996. The report called for comprehensive changes in the way VA processes compensation and pension claims. The report acknowledged that poor quality, and the resulting necessity to rework claims, was the primary problems accounting for overload on the system. The BPR team identified several core problems leading to poor quality. The team found that the segmented or compartmentalized claims process left no one accountable for quality in the final product. Because the claims and supporting evidence passed through multiple steps and many hands, errors often occur. The team found that management placed the emphasis on production and timeliness standards, or "making the numbers," instead of producing quality decisions. This lack of emphasis on quality resulted in high error rates, inconsistent decisions, and the appearance of arbitrariness in VA's decisions, which led to a relatively high number of appeals and rework on claims.

The recommended plan adopted the team-based approach to claims adjudication. The plan was to build on the demonstrated strengths of VA's hearing officer program in which personal interaction between claimants and adjudicators, and more thorough review, had proven highly successful. The assembly line process was to be replaced with a new integrated claims process that would allow direct interaction between claimants and more highly trained and skilled adjudication teams. One person on a team would be responsible for ensuring proper completion of all actions related to the claim. A separate post-decision review process would allow a dissatisfied claimant prompt access to remedial action and a "second look" by a hearing officer, redesignated as a post-decision review officer. The post-decision review officer would have authority to (1) change the decision on the basis of the existing record, if warranted, (2) undertake additional action or record development toward favorable resolution, or (3) prepare the case for BVA review if revision of the decision or further action was not indicated. Quality—and thus efficiency—and improved service to claimants were to be the primary goals, supported by training and a certification process for adjudicators, along with better quality review and accountability mechanisms. Implementation plans were compiled in a report issued in June 1997, and the BPR plan was incorporated in the Compensation and Pension Service's (C&P's) business plan and later in VA's first 5-year strategic plan under the Government Performance and Results Act (GPRA), submitted to Congress in September 1997.

In its strategic plan, VA indicated that it planned to attack quality problems in its products by "doing it right the first time." However, if a mistake did occur, it would be candidly acknowledged and corrected as a priority. VA would assess and improve the level of accuracy for all work and correct errors in the shortest possible time as appropriate for each business line. Some of VA's performance goals were to make correct decisions 97% of the time; decrease the BVA remand rate from 43.7% to 20%, and improve the quality of disability examinations so that 99% were sufficient to adjudicate claims. The DAV and other veterans' service organizations strongly supported the BPR initiative.

From its comprehensive study of the Veterans Benefits Administration (VBA), NAPA issued its report to Congress in August 1997. NAPA was critical of VBA's past and planned staff reductions. NAPA noted that no sound basis existed for VA to conclude fewer employees would be able to handle the future workload. The NAPA study also concluded that VBA's most fundamental need was to develop the leadership and organizational capacities necessary to enable it to plan and manage its functions strategically.

NAPA found that VBA management had a history of operating in a reactive rather than a proactive mode. NAPA observed that VBA focused principally on short-term issues, without any comprehensive, effective long-term strategy to solve its problems and permanently improve program performance and service delivery. NAPA saw a repetitive pattern in which VBA was good at generating plans but not good at carrying them out. According to NAPA, VBA's efforts to develop comprehensive performance improvements had failed because of a lack of precision planning and the discipline required to push a generalized vision through to operational reality. During the implementation process, systematic oversight, tracking, and coordination had been inadequate. No systematic cycle had existed for review of effectiveness of the results of implementation. No management action was taken to keep the organization focused on achieving its goals.

Additionally, because lines of accountability were not clear, VBA leaders were not held firmly accountable for high levels of performance. NAPA noted that VBA's operational control is decentralized, with power residing in the area and regional office directors. NAPA found that a sense of powerlessness to take action permeated VBA. In turn, field personnel perceived VBA's Central Office staff as incapable of taking firm action. NAPA said that a number of executives interviewed by its study team indicated VBA executives have difficulty giving each other bad news or disciplining one another. NAPA concluded that, until VBA is willing to deal with this conflict and modify its decentralized management style, it will not be able to effectively analyze the variations in performance and operations existing among its regional offices. Neither would it be able to achieve a more uniform level of performance. Regarding C&P especially, NAPA concluded that the C&P director's lack of influence or authority over its field office employees would greatly hamper any efforts to implement reforms and real accountability. NAPA recommended that the Under Secretary for Benefits strengthen C&P influence over field operations and close the gaps in accountability.

NAPA observed that accountability is the key. A no-nonsense approach to accountability disciplines the strategic management cycle. Top leaders must establish clear, unequivocal accountability for performance and provide full support to executives and organizations charged with accomplishing goals. However, leaders must be willing to discipline those who are not succeeding.

NAPA acknowledged some steps in the right direction, such as efforts to implement GPRA methods and the BPR plan. The real question, according to NAPA, was whether VBA could implement these initiatives successfully.

For years, VA boasted an accuracy rate in the 97% range. With the high reversal and remand rates and the discoveries it made in connection with its own internal review, VA could no longer pretend that it had no serious quality problems. As part of its reforms and efforts to develop measures to assess performance under GPRA, VA replaced its Quality Assurance program in 1997 with its newly developed Systematic Technical Accuracy Review (STAR) program. An initial sample review under STAR, completed in December 1997, revealed a 36% error rate, or 64% accuracy, in rating decisions. This error rate more nearly reflected what we had suspected all along, but we considered it to at least represent a more sincere effort to measure quality, and, hopefully, to take corrective action. VA implemented the STAR system nationwide in October 1998.

Part of VA's efforts to improve claims processing included better disability examinations. Congress authorized VA to undertake a pilot program to determine whether use of non-VA medical examinations for disability rating purposes could improve quality, veteran satisfaction, and efficiency. VA began this pilot on May 1, 1998, and ended it on April 30, 1999, although VA has extended it for another year. VA is now finalizing a report on the results of the pilot project. In addition to these initiatives, VA has made several improvements in its information technology to improve claims processing and case management. These initiatives, as with changes in work processes, are ongoing and evolving.

Currently, most of VA's field stations have completed the transition to team-based claims processing. As the first step in implementing the Decision Review Officer (DRO) program, VA undertook a pilot to test the efficiency of the DRO concept. The pilot began in December 1997 at 12 test stations, and final assessment was completed in April 1999. The results demonstrated that the program has the potential to be one of the most successful elements of BPR. The report highlighted the decrease in appeals received, increase in disagreements resolved at the regional office level, decrease in appeals forwarded to BVA, and quality of decisions by DROs:

- Notices of disagreement decreased at test stations by 16%, compared with a 2% increase for the rest of VA.
- The number of appeals perfected for BVA review at test sites decreased by 63%, compared with a 9% decrease for the rest of the nation.
- The number of appeals granted before they were perfected by claimants increased 103% in test stations, compared with a 16% increase for other VA field offices.
- The number of appeals withdrawn by claimants increased by 13% in test stations, compared with a 16% decrease in withdrawn appeals nationwide.
- The total number of appeals resolved at test stations increased from 11.4% before the pilot to 20.9% during the test period.
- The number of field office decisions upheld by BVA increased 15% during the test period for the pilot stations, compared with a 5% increase in decisions upheld by BVA for the other stations.
- Pending appeals at pilot stations declined by 14% during the test period, compared with a 9% decline for the rest of the Nation.

Although cases supposedly receive more thorough review under the DRO program, the test stations experienced no increase in their backlog due to the additional time devoted to these

cases. At the same time, quality improved substantially in cases reviewed under the program. A STAR review of DRO cases being referred to BVA showed an 81% accuracy rate, where the accuracy rate for cases being referred to BVA from other stations was 52%. These positive results prompted approval to implement the program nationwide during calendar year 2000.

Despite all of these major efforts, VA's claims processing has yet to show substantial overall improvement. Since its initial sample STAR review in 1997, VA has reduced its error rate in claims processing slightly, from 36% to 32%. Largely through the use of overtime, VA was able to reduce its claims backlog in FY 1995 and FY 1996, but the backlog rose again in FY 1997 and 1998, with a slight decline in FY 1999. Although the number of claims received by VA has declined every fiscal year since 1996, the completed workload has also declined every year since FY 1996. The following table shows the number of cases VA received and decided during, and had pending at the end of, FY 1992 through FY 1999:

1992	3,405,413	3,259,021	538,135
1993	3,450,547	3,440,154	531,078
1994	3,360,654	3,417,605	474,132
1995	2,425,608	2,512,858	384,955
1996	2,617,123	2,662,001	342,683
1997	2,549,627	2,510,705	398,257
1998	2,279,009	2,238,221	445,582
1999	2,077,754	2,074,623	427,184

Thus, VA has not gained on its backlog even though it has experienced a decline in new claims.

With these increasing backlogs, delays for veterans awaiting claims decisions have increased. In FY 1995, VA took 161 days to process an original claim for compensation. That decreased to 133 days in FY 1997, but grew to 205 days in FY 1999. Compensation and pension claims pending for more than 6 months grew from 20% in FY 1996 to an estimated 36% in FY 1999. Compensation and pension claims pending for more than a year grew from 11.1% in FY 1996 to an estimated 17.6% in FY 1999. The average age of pending compensation and pension claims grew from 60 days in FY 1996 to an estimated 105 days in FY 1999. Veterans most in need of VA benefits—those who are disabled, many who are elderly, and many who are indigent—are waiting for extended periods for compensation and pension awards.

As of December 1999, the regional offices had 27,000 cases that were on remand from BVA. At the end of FY 1999, the total appellate workload in regional offices was 84,868 cases, which represents 20% of all pending compensation and pension claims. For the years FY 1992 through FY 1999, BVA remanded on average 45.21% of the cases it reviewed. For those same years, BVA reversed an average of 18.18% of the field office decisions it reviewed. Together, the remands and allowances were 63.39% of all cases reviewed. That demonstrates an extremely high error rate in field office decisions. In FY 1999, the remand rate dropped to 36.3%, but the allowance rate rose to 22.1%. That was the highest allowance rate for the years FY 1992 through FY 1999, and possibly the highest BVA allowance rate ever. To the extent cases reviewed by BVA are a representative sample of VA's claims decisions, these high allowance and remand rates demonstrate that VA is not making significant progress in its quest for quality.

In its *FY 2001 Budget Submission: General Operating Expenses*, at pages 2B-9-2B-10, VA candidly admits that high error rates cause its persistent backlog, and the necessity to work its oldest cases means decisions on the newly received ones are placed in the queue and delayed:

- While processing claims for the sake of expediency may make us look good in the short run, the re-work involved in the long run in the form of hearings, appeals, remands, and correspondence is clearly counter-productive.
- We have shifted our focus from working newer cases and have asked our employees to process the older claims to ensure that they continue to move through the system. Consequently, this has adversely impacted our processing timeliness.

- Because of concerns about our high error rate, we have also asked our employees to exercise greater care and review each benefit claim systematically. We have asked them to write better decisions which are understandable to our claimants and which can be sustained through the appellate process.

This explanation shows that VA recognizes the vicious cycle set in motion by poor quality, but it also admits that VA has been incapable of breaking that cycle after several years of trying.

In the *Budget Submission*, VA admits that its management did not anticipate the impact judicial review would have, that it did not prepare its decisionmakers adequately for that impact, and that it has still not adequately trained its adjudicators to understand and apply court precedents. Sadly, VA has been unable to adapt to an environment of judicial review although we have had it for more than a decade.

VA also explained in some detail the difficulties of transition to the reengineered work environment. These difficulties included the necessity for “a major cultural and organizational shift,” and “extensive cross-training.” Again, VA admitted miscalculations by management:

As employees have been pulled away from claims processing and customer service activities to undergo training, there has been a degradation in the service we have provided our customers. Some of this degradation was anticipated, but because we did not adequately assist the Regional Offices to plan for the scope of these changes, performance suffered more than we originally anticipated. We also underestimated the magnitude of the training hours required to teach each group of employees the full range of duties and skills needed to function in a merged environment. While we consider this training a critical investment for the future, the enormity of this effort has had an adverse impact on the productivity of the existing workforce. As cross-training is completed and employees are certified in their positions, performance will improve.

It is axiomatic that major change must be evolutionary, not revolutionary, and gradual and sequential, if it is to succeed. All complications are rarely foreseen, and course corrections become necessary during implementation. Also, it is known that improvements come at a cost. Under what has been termed the “incorporation effect,” the incorporation of new skills for long-term improvement causes a short-term decline in performance. However, we believe, as we will discuss below, VA’s problems in implementation are symptoms of something more than the unavoidable variances and mistakes typical and acceptable in such organizational change. NAPA’s observation resonates here. NAPA warned that VA’s failures of the past predict VA failures of the future because VA repeats the same mistakes.

If, as we contend, VA’s BPR plan correctly diagnosed the root causes of poor quality and provided a technically sound design with concrete measures and strategies to solve the problem, why has it not succeeded? It seems to us the obvious answer has to be ineffective implementation of the plan.

In its FY 2001 budget submission, VA summarizes the constraints that affect implementation as follows:

Transition to the vision requires significant system-wide changes. Consequently, full implementation will take several years. Temporary performance setbacks have occurred during the transition period. Specific areas of risk include: cultural resistance to change, lack of infrastructure support for implementation, ability to adapt to legislative change, and any large increases to the C&P workload. To a certain extent, some of these risks can be managed while others are out of VBA’s control.

The explanations discussed above and this assessment are very revealing—perhaps more revealing than VA recognizes.

We believe NAPA correctly identified one of the failure paths that will work against VA’s efforts to overcome poor performance. Without authority over field office adjudicators, the C&P Director cannot effectively leverage and manage change. Real accountability is absent.

The *Independent Budget* recommended that the C&P Director and other program directors be given line authority over field office directors with respect to the substantive aspects of program performance and compliance.

Some of the classic failure paths are lack of accountability; resistance to change and lack of “buy-in” by all affected employees; and inadequate project planning and project management. From our observations, VA Central Office management effectively communicated its BPR plan and expectations no further down than its field office directors and adjudication officers. Our perception is that first-line adjudicators are oblivious to the mission, vision, values, and strategies of VA’s BPR plan. VA did not inform and convince them of the compelling need for change. Without presenting a clear and convincing case for change and without giving these employees some personal ownership in the effort, VA ignored the failure path almost inevitable when employee resistance or indifference is not addressed at the outset. VA seems to recognize now and should have recognized initially that organizational culture has been and is a major part of the problem. VA made no effort to analyze and address attitudes, behaviors, and territorialism, etc., as a prerequisite to overcoming resistance. Therefore, it did not obtain these employees’ buy-in to the plan and did not secure their commitment or motivate them to be a part of its success.

Poor quality is necessarily a sign that accountability is lacking. We do not believe VA management has impressed upon field office adjudicators the depth and urgency of the problem, and we do not believe VA has communicated clear expectations regarding individual performance. Instead, we believe VA has sent the wrong message by not addressing this issue decisively, fully, and clearly. VA states that it has “asked [its] employees to exercise greater care,” and “asked them to write better decisions.” Unless management communicates a sense of urgency and ensures employees are able and willing to implement change, it will not occur.

Because culture is such a fundamental part of the inertia preventing change in this situation, and because VA is about to experience a large turnover in its adjudicators, it has an opportunity to instill positive attitudes in its new workforce and overcome the negative culture that has resisted adaptation to, and facing the reality of, the new era of judicial review. Training should be designed to shape their perspectives and attitudes as it teaches them technical skills.

Finally, while case law does add an additional and sometimes complex element to adjudication, VA’s procedures need not become formalized as a result. The high error rates reveal that many adjudicators lack proficiency even in the fundamentals. Yet, VA seems to have openly embraced the misguided “well-grounded” claims requirements imposed by the Court. These requirements are complex, contradictory, and superfluous. If adjudicators do not understand basic principles of service connection and other matters of eligibility, they cannot understand the more complex requirements regarding well-grounded claims. The additional layers of review required to adjudicate the well-grounded issue as a preliminary matter and ultimate entitlement as a separate matter achieve nothing beneficial but are counterproductive inasmuch as they add to the work that must be done to resolve every case. VA should be supporting, rather than opposing, legislation to override the Court’s misinterpretation of law regarding the well-grounded requirement.

VA management cannot delay in addressing these pressing issues. Necessarily and inevitably, all the failures seen here lead back to VA management, and VA management must shoulder its responsibility to get reforms back on track and moving forward. VA cannot take “several years” to complete the transition to accurate and timely decisionmaking. The current situation is one VA, Congress, and the veterans’ community should never become resigned to tolerate.

On behalf of the DAV, I want to thank the Subcommittee for holding this hearing and inviting me to testify. We appreciate the Subcommittee’s interest in this most important issue and hope our testimony will be helpful.

**TESTIMONY OF RONALD B. ABRAMS, ESQ., DEPUTY DIRECTOR  
NATIONAL VETERANS LEGAL SERVICES PROGRAM  
BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
HOUSE COMMITTEE ON VETERANS' AFFAIRS**

**APRIL 13, 2000**

**Introduction**

During the past three years the National Veterans Legal Services Program (NVLSP) has performed, on behalf of The American Legion and several state departments of veterans' affairs, quality reviews of decisions issued by twelve VA Regional Offices (ROs). Our conclusion, based on these reviews and on information received at our service officer trainings, is that although the VA is to be commended for initiatives to stop blatant work measurement (end-product) cheating and to emphasize quality, the most needed change—full and fair adjudication of veterans' claims—has not become a reality. Essentially, while NVLSP commends VBA for its quality initiatives, we are disappointed that these initiatives have not achieved the desired result.

**Premature Adjudications Resulting in Adverse Decisions**

The most important and pervasive problem facing veterans seeking VA disability benefits is the eagerness of some ROs to adjudicate claims before all necessary evidence has been obtained. For example, some ROs prematurely deny claims based on inadequate VA examinations. In some cases, even where the VA examiner clearly fails to respond to a specific question asked by the RO, the examination report is not returned as inadequate. Instead, the claim is adjudicated and denied on the basis of the inadequate report. In other instances, claims are denied before all service medical records are received. Other claims are sometimes denied before the veteran has a fair opportunity to submit independent medical evidence. These all-too-frequent cases of premature denial result from an over-emphasis on timeliness and a lack of accountability.

We certainly believe that claims for VA disability benefits should be accurately adjudicated in a timely manner. However, because of a management emphasis on timeliness, or a perceived emphasis on timeliness, some VA adjudicators appear to believe that they are pressured to make premature final

decisions. In most instances, we have discovered that a decision made prematurely is likely to take the form of a denial of benefits rather than an award of benefits.

Let us make something very clear: The timeliness of VA adjudication is but one factor in the overall assessment of the VA disability claims adjudication system. We realize that the overall timeliness statistics provided by the VBA show that VBA has not met its goal to reduce the time it takes to adjudicate claims for disability benefits. Even though the VA has not met its goal in this respect, we urge that you not overemphasize timeliness to the detriment of quality. It does veterans little good to have their claims promptly, but inaccurately, denied.

One may wonder why VA adjudicators would want to prematurely deny claims. The answer lies in the VA work measurement system. When a claim for VA benefits is prematurely and inaccurately denied, many veterans submit new evidence to reopen their claim. The VA considers the new evidence a second claim and the employee earns double work credit. Adjudication officers, now called service center managers, have informed us off-the-record that they feel pressured to prematurely adjudicate claims because they expect other ROs will do the same--and they want to show that their productivity and timeliness is as good as other ROs. Recently, at an American Legion quality review exit briefing, a RO manager stated: "

You know I was very proud of our improved productivity and timeliness statistics. Now I see that by de-emphasizing quality and emphasizing productivity and timeliness, we have hurt many veterans. This practice must come to a screeching halt.

We ask this Subcommittee to consider working with the VA to change their work measurement system. The VA work measurement system should encourage a timely and accurate adjudication, not just a timely adjudication.

#### **Adversarial Attitude**

Our quality review has identified a systemic attitude problem in some ROs, which may take one of several forms. One example is that despite the general tendency to deny prematurely, some ROs "develop to deny." That is, these ROs

consistently seek to develop negative evidence in cases where all the evidence of record before the RO, without further development, would reasonably support the grant of benefits.

Another attitude problem is that some ROs have biases against certain types of VA claims for benefits. For example, veterans seeking service connection for mental conditions, veterans seeking entitlement to individual unemployability benefits, and veterans seeking entitlement to compensation based upon secondary service connection, in some instances, have to jump over a higher bar than other veterans.

In addition, some ROs either refuse to consider or are unaware of beneficial statutes in Title 38, United States Code. For example our quality reviews have found that 38 U.S.C. § 1154(b), which provides that in most cases the statement of a combat veteran about an injury that occurred during combat will be accepted even though there is no official record of the injury, is sometimes conspicuously disregarded.

#### **Communication Problems**

In many cases, the VA's communication with its veteran-claimants causes real problems. For example, VA notifications often fail to provide an adequate explanation of the reasons and bases for the adverse VA determination. In addition, it is a matter of VA policy not to inform veterans what diagnostic code has been assigned to a service-connected disability for rating purposes. A veteran has the right to challenge the assignment of a diagnostic code because the VA is obligated to pick the most favorable diagnostic code when assigning an evaluation for a service connected condition. See *Powell v. West*, 13 Vet.App. 31 (1999); *Lendenmann v. Principi*, 3 Vet.App. 345 (1992). How can the assignment of a diagnostic code be appealed when the VA has not told the veteran what diagnostic code has been assigned? This appears to be an institutionalized systemic violation of the veteran's due process rights. Other communication problems noted by NVLSP are:

- Inadequate development letters (development letters are sent by the VA to the veteran and his or her representative, asking for further information or evidence) that do not comply with VA's guidance that letters should clearly tell the claimant what evidence is needed and what exactly has to be done to establish entitlement to the benefit sought (see M21-1, Part III, para. 1.04a.); and
- Telephone communication with the veteran that is not monitored or sanctioned by the veteran's representative (the VA does not even inform the representative that it is about to contact the representative's client).

#### **Widespread Errors**

The following is a list of a systemic pattern of errors that we have noticed during our quality review checks. These errors are:

- Assignment of erroneously low disability ratings for service-connected mental conditions;
- Erroneous denial of claims for service connection for mental conditions;
- Failure to consider 38 U.S.C. § 1154(b);
- Erroneous denial of claims of individual unemployability;
- Inadequate requests for medical opinions (for example, the standard of proof in the VA claims process is rarely explained to VA doctors, and in many instances conclusions regarding critical facts are not communicated to doctors who are asked to provide medical opinions); and
- Non-responsive VA examination reports (for example, some VA examiners do not comply with the AMIE protocol, and other examiners fail to respond to specific questions), coupled with the acceptance of these inadequate examination reports by ROs.

In general, there is a lack of coordinated local (RO) quality control and a subsequent failure to act on recognized patterns of errors.

#### **NVLSP Recommendations**

Based on the foregoing observations, NVLSP makes the following suggestions:

- VA's work measurement system should be altered so that quality as well as timeliness are twin concepts that together drive the system.
- To provide VA quality control with "teeth" and prevent end-product and work measurement abuses, an aggressive independent quality control should be performed.
- VBA should conduct regular meetings with its stakeholders to inform them of any actions VBA has taken to correct systemic adjudication problems. The stakeholders should be informed about the patterns of errors identified nationally, the ROs where there are significant problems, VBA's plans to correct these problems, changes in management, progress reports on previous initiatives, and an invitation for the stakeholders to participate and coordinate in the correction of problems.
- VA should institute a system of awards and disincentives for managers and adjudicators. VA managers and adjudicators who perform accurate and timely work should be rewarded. Managers who do not perform adequately should be appropriately chastised.
- VA employees who do a good job should be paid a reasonable salary, receive bonuses and be promoted.
- VA management should more clearly communicate with its employees what it wants from them. If management focuses on quality as well as efficient work, veterans will be better off.

NVLSP acknowledges that the adjudication of claims for VA benefits is very complicated. However, we believe the stakeholders want to help correct adjudication problems. We would be happy to meet regularly with the VA to talk about the problems we have identified and suggested solutions.

We would like to commend VBA managers for initiatives in reducing outright end-product and work measurement dishonesty and efforts to emphasize quality. While these efforts are commendable, it is time to see results. Our experience has taught us that VA managers are reasonable people who want to do the right thing. These managers care about veterans and know that the

claims adjudication system is not working properly. To help these managers we ask you to encourage the VA to make at least the most necessary changes--alter VA's work measurement system, institute an aggressive quality control program, and support its efforts to coordinate with its stakeholders.

We appreciate the opportunity to provide the subcommittee with this testimony. Thank you.

**COMMENTS OF THE PARALYZED VETERANS OF AMERICA  
IN RESPONSE TO THE DEPARTMENT OF VETERANS AFFAIRS  
PROPOSED RULES REGARDING "REVIEW OF BENEFITS  
CLAIMS DECISIONS," RIN 2900-AJ99**

The Decision Review Officer program regulations, as proposed, are well-intentioned and could be an innovative, positive and productive step in VA adjudications. While we support the program, the regulations as proposed raise serious concerns -- especially due process concerns -- and we urge the VA to modify the proposed rules before publishing them in final form.

We agree that the pilot program has been a program that has yielded positive results with VA's present formulation. That formulation has afforded a review conducted by an individual who did not participate in the decision being reviewed and that the reviewer will give no deference to the decision being reviewed. We are hopeful that review of this sort will continue to result in earlier resolution of claims.

Ostensibly, this program as proposed will continue to lessen the number of appeals to the BVA if there is no substantial reworking of the program that is presently in place. But as stated above we are concerned that a disincentive to filing an NOD and the perfection of an appeal will exist. The end result may well be filings of appeals that otherwise might be resolved through the program already in place.

The regulations give the appearance of unfairness, however, for a veteran may only seek review of the current decision, and review of the claims file is purportedly limited by the claimant's notice of disagreement. But, VA, without prior notice to the veteran, may reverse or revise any prior decision on the grounds of clear and unmistakable error. Put another way, there are many more limits placed upon the veteran than upon the VA. For

example, if the Decision Review Officer has authority to review for CUE, why can't a veteran seek such review? We believe that subsection (e) should either be deleted (and all CUE claims adjudicated under 3.105) or that subsection should be modified to reflect that a veteran may seek upon filing an NOD a *de novo* CUE review as well.

Further, we believe due process requires pre-termination notice and other protections if VA intends to use this program to reduce, terminate, or otherwise change previous favorable decisions, which ratings in our estimation should be subsumed by subsequent ratings favorable to the claimant. We are also concerned that faced with the possibility of *de novo* review of other prior, final ratings that veterans will find this a disincentive to filing a NOD to the rating under review.

The program to date has yielded favorable results by improving customer satisfaction, timeliness of disposition, obviating the need for future remands and reduced backlog. However, the disincentive mentioned previously will undo all of these favorable results by allowing appeals to proceed as they usually would, thereby increasing the time expended on appellate processing procedures, i.e., SOC, SSOC, form 9, form 8 etc. This would result in backlog and timeliness problems should *de novo* review be undertaken by a DRO upon filing a NOD within 60 days of the rating at issue. The review itself would consume more time than would be expended by limiting any review to the rating at issue.

With respect to the Decision Review Officer's authority to develop a claim, the regulation should make clear that notice and opportunity to present additional evidence will also be provided to veteran claimants filing an NOD.

It is PVA's understanding that the regional pilot Decision Review Officer program was considered a success, and we are concerned that veterans who are "in the pipeline" may be deprived of the opportunity to participate in a new nationwide program. Therefore, we ask VA to waive the 60-day requirement with respect to currently pending appeals.

Requiring a claimant to file a notice of disagreement within 60 days of notice from VA of the rating decision at issue imposes a new deadline in the VA system. We ask VA to clarify the relationship between this deadline and others, and how a veteran's response affects the issuance of the Statement of the Case.

We also ask that VA clarify the relationship between the Decision Review Officer program and the hearings described under 38 C.F.R. § 3.103(c). Further, VA should discuss the applicability of the Federal Circuit decisions in *Hayre v. West*, 188 F.3d 1327 (Fed. Cir. 1999), and *Brown v. West*, No. 98-7071, \_\_\_ F.3d \_\_\_ (Fed. Cir. 2000), especially if VA wishes to maintain the Decision Review Officers authority to revise decisions based on CUE.

**STATEMENT OF  
GEOFF HOPKINS, ASSOCIATE LEGISLATIVE DIRECTOR  
PARALYZED VETERANS OF AMERICA  
BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS,  
HOUSE COMMITTEE ON VETERANS' AFFAIRS  
CONCERNING  
DEPARTMENT OF VETERANS AFFAIRS DISABILITY CLAIMS PROCESSING**

**MAY 18, 2000**

Chairman Everett, Ranking Democratic Member Brown, and members of the Subcommittee, the Paralyzed Veterans of America (PVA) is honored to be invited to testify today concerning Department of Veterans Affairs' (VA) disability claims processing.

We come together once again today, as we have so often in the past, to discuss the deplorable delays and lack of quality in veterans' claims processing. We have heard too many excuses over too many years. We have heard that the Veterans Judicial Review Act, and the Court it created, is the problem. We have heard that single-member boards and computerization are the answers. At the end of the day the problem still remains – veterans must wait an inordinate amount of time for a decision on their claims.

We polled our Service Officers, the men and women who are on the front line, and asked them a number of questions so that we could provide this Subcommittee with snapshots of their experiences out in the field.

First, we asked them to list the three most commonly encountered obstacles to a timely and fair adjudication of a benefit claim. They reported that these obstacles are delays in obtaining evidence; improper claims development, and inadequate medical examinations. Other obstacles mentioned were the failure to address all pertinent issues; failure to specify exams needed; and failure to communicate with the claimant.

We asked them to list the three most common areas which present significant opportunities to improve the Veterans Benefits Administration's benefits delivery system. They answered that better, and more thorough, training of rating personnel was essential; more accountability for decision-making; and fuller cooperation with Veterans Services Organizations.

In addition, we asked them to mention any initiative or pilot program in their Regional Office that, over the course of the last few years, has improved the quality or timeliness of the claims adjudication process. They responded that the institution of the Decision Review Officer (DRO) position; the team case management approach; the Veteran Service Representative (VSR) position; and contract medical examinations have been positive initiatives.

We believe that the institution of DROs was an important and exciting step forward. We note that the VA has proposed a rule regarding review of benefits claims decisions. Although we believe that the DRO program is working well, we have concerns regarding the VA's proposed rule. Proposed regulation § 3.2600(a) states, in part, that "[r]eview under this section will encompass only decisions with which the claimant has expressed disagreement in the Notice of

Disagreement.” Yet the proposed § 3.2600(e) takes away this protection of prior decisions by allowing the DRO to review those decisions rather than referring them to Central Office for review. We believe that prior decisions that have become final for failure to appeal should be subsumed in subsequent decisions when those decisions were advantageous to the claimant. PVA will be submitting comments on this proposed rule.

Finally, we asked them if there had been a notable increase in the number of claims being denied due to their not being “well-grounded.” In Morton v. West, 12 Vet.App. 477, (1999), currently under appeal, the Court of Appeals for Veterans Claims held that the VA was prohibited from providing assistance to any claimant until his or her claim is deemed well grounded. The Court called a well grounded claim a “condition precedent” to receiving assistance under § 5107(a). The Court stated that “[t]he issue, therefore, is whether the Secretary, by regulation, Manual, and/or C & P policy can and has eliminated the condition precedent placed by Congress upon the inception of his duty to assist. The answer: no.” Morton, 12 Vet.App. at 481.

Following Morton, the VA acted with stunning celerity to issue a position statement to all VA Regional Offices implementing the holding in Morton. We asked our Service Officers to report to us the number of claims that have been denied, since January 1, 2000, on the basis of them not being well-grounded. Their answers surprised us – over a quarter of the claims, roughly 26 percent, were denied because they were deemed to be not well-grounded. Only a few short weeks ago we testified before another Subcommittee of the House Committee on Veteran’s Affairs regarding the urgent need to enact legislation correcting the Court’s erroneous interpretation of clear congressional intent mandating that the VA provide assistance to all claimants.

PVA believes that if a claim is fully developed before it is adjudicated, the quality of the decision will be improved and the length of time a claim spends in the

system will ultimately be lowered. It is better, and more efficient, to do a task once rather than over and over again.

PVA believes that there must be greater accountability for decisions made. There are currently no adverse consequences to adjudicators with abnormally high remand rates. There is a strong tendency to make decisions, get credit for those decisions, without regard to whether or not the decisions made were correct. Individual responsibility, and accountability are key if we are to decrease the backlog and provide better quality.

Some may argue that the way to decrease the backlog is to place more obstacles in the path of veterans seeking benefits, or to make the system more formalized and rule-bound. We do not believe that this is the case. The answer to inordinate claims processing delays is certainly not to make benefits more difficult to get, or make the process more arduous and onerous. The answer is not to narrow the path and raise the gate.

We believe that the VA must never lose sight, when percentages and numbers are being tossed about, that behind these numbers and percentages are real people with real problems seeking benefits they have earned in service to this Nation. The delays faced by veterans are unacceptable. We can do better. We must do better.

Mr. Chairman, again, thank you for the opportunity to address the VA's disability claims processing system. I will be happy to respond to any questions.

**STATEMENT OF PHILIP WILKERSON, DEPUTY DIRECTOR  
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION  
THE AMERICAN LEGION  
TO THE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
ON  
VA DISABILITY CLAIMS PROCESSING**

**MAY 18, 2000**

Mr. Chairman and Members of the Subcommittee:

We wish to commend you, Mr. Chairman, for scheduling this hearing on the many important and complex issues affecting the quality and timeliness of VA's disability claim process. Given the number of veterans and other claimants who file claims each year and with an annual expenditure of over \$19 billion in compensation and pension payments, it is imperative that Congress maintain strong oversight of the operations of the Veterans Benefits Administration's (VBA) Compensation and Pension Service. The American Legion is, therefore, appreciative of the opportunity to share its thoughts and concerns on this subject.

Over the last several years, the backlog of pending claims and appeals has remained around the 450,000 level. It routinely takes six months to a year or more to process disability compensation claims. In addition, annually, some 60,000 to 70,000 new appeals are initiated. After a wait of over two years for an appeal to reach the Board of Veterans Appeals (BVA or the Board), more than 20 percent will be allowed and more than 30 percent will be sent back to the regional office for further required development and readjudication. Remanded cases may be pending for another year or two, in the regional office before returning to the Board. Sometimes, cases are remanded two and three times because the specified corrective action had not been completed, which adds several more years to the appeal.

Mr. Chairman, The American Legion believes VBA is committed to bringing about much needed change to the claims adjudication system with the overall goal of providing quality, timely service to veterans and its other stakeholders. In recent years, VBA's strategic plans have made many promises and we have, in fact, seen the implementation of a variety of programmatic and procedural changes. However, it is obvious that progress toward major improvements in service continues to be slow and that much remains to be done. The overall quality of regional office decision making remains problematic.

In 1997, The American Legion implemented a program of formal visits to VA regional offices (VAROs). The purpose of this program is to obtain greater insight into the

underlying causes for unacceptably long processing times, the high number of appeals, and the substantial overturn rate by the Board. These visits have provided our staff the opportunity to evaluate, firsthand, the quality of recently adjudicated Legion cases. We have been very pleased with the level of cooperation received and the support expressed for this program by VA officials. To date, our staff has reviewed approximately 300 claims involving original and reopened claims for service connection and entitlement to an increased rating for a service connected disability at 14 VAROs. We found some type of substantive error in 40 to 50 percent of the cases. An exit briefing is held with the regional office director and the service center manager at the conclusion of each visit to discuss specific findings and issues. Subsequently, the regional office director, the Under Secretary for Benefits and his staff, and Legion officials are provided a written report covering operational issues and the individual case review findings.

Mr. Chairman, in comparing the reports of the past two years, we do not find much in the way of overall improvement in the way claims are being adjudicated. There is a pattern of recurring issues, which continue to have a direct and adverse effect on the quality and timeliness of regional office claims adjudication. They relate to budget, staffing, training, quality assurance, accountability, and attitude. These findings confirm our long-held view that quality must be VBA's highest priority. Without guaranteed quality, thousands of claims will continue to churn unnecessarily through the system; much of VBA's valuable financial and personnel resources will be wasted; and veterans will not receive the benefits and services they are entitled to and that Congress intended they should have. The American Legion would like to discuss these issues and cite some of the cases, which have been directly affected.

#### **BUDGET AND STAFFING**

Traditionally, the VA claims process is very labor intensive. It requires the frequent movement of files within the regional office, as a case progresses through the stages of development and adjudication. Modernization of VBA's computer system was to have made this process less labor-dependent and more streamlined and efficient. In anticipation of the promised budget savings and service improvements, VA's staffing, through the late 1980s and the 1990s, was consistently reduced. However, progress toward modernizing VBA's computer systems has been slow with numerous setbacks and delays.

Mandated staffing cuts were implemented through a combination of attrition, buy outs, retirements, and reorganization. Support functions were particularly hard hit, with the widespread elimination of many low-level administrative positions such as clerk typists, file clerks, and mailroom personnel. We found that this frequently caused problems and delays in delivering records to the various locations within the regional office, which has added additional time to the already long claims process. Files were often misplaced or "lost," because they were not kept under computerized control. Mail requiring action was frequently misfiled, misplaced or delayed. At several stations, there was a heavy reliance on part-time VA work-study participants who were inefficient, poorly trained,

and poorly supervised. At some of the stations visited, they had gone so far as to eliminate many of their front-line supervisory positions, which has adversely affected the quality of day-to-day decision making and the ability to provide "hands on" training.

For the last three years, VA's annual budget requests have provided for substantial net increases in regional office staffing. In addition to new hires, VBA is merging staff from other programs such as Veterans Assistance and Home Loan Guaranty into the adjudication division. The reorganization process has been slow, but in general, it seems to be working out. However, the time it will take for these individuals to become fully integrated and productive is going to be largely dependent on the amount, quality and frequency of the training they receive.

Staffing problems have been compounded by a consistently high turnover rate among regional office adjudicators. As a result, there has been a large influx of trainees. At many stations today, 30 to 40 percent of the staff have less than two years of experience and training in claims adjudication.

During the 1990s, new benefit entitlements and the advent of judicial review contributed to a growing backlog of pending claims and appeals. At the same time as the volume of claims was increasing, the adjudication process was becoming much more legally and medically complex. Because of the length of time it was taking to decide claims, veterans, Congress, the Claims Adjudication Commission, the National Academy of Public Administration, the Government Accounting Office, and veterans' service organizations repeatedly criticized VBA. As a result, regional office management efforts and attention have been focused on increasing production and reducing processing time. Unfortunately for veterans, there was not a similar management emphasis on training and quality assurance.

Interviews with regional office personnel revealed that the staffing cuts and the heavy workload have adversely affected workers' morale and performance. There is a real sense of futility among senior rating specialists and rating board members who feel overwhelmed by the ever-mounting backlog of cases and a constant barrage of policy and procedural changes from VA Central Office in Washington. Many of these individuals are eligible or nearly eligible for retirement, which raises the prospect that the regional offices will lose the bulk of their experienced technicians and managers in the very near future.

In 1999, the office of the Assistant Secretary for Planning and Analysis conducted 11 discussion groups with 128 American Legion veterans in Charlotte, Cleveland, Tulsa, Buffalo, Phoenix, Nashville, Montgomery and San Francisco. When these veterans were asked: "What are the biggest threats to VA in being able to continue providing benefits and services to veterans and their families?" The consensus was that *improper funding and staffing of VBA would grind the benefits system to a halt.*

From the experience of our quality reviews, the problem has been and continues to be that the number of VARO staff and their overall level of training is not adequate to handle the volume of claims in a timely and proper manner.

Congress must ensure adequate resources for additional staffing in anticipation of the large wave of projected retirements over the next three to five years. It will be critical for the future that VBA hire enough capable people. However, Congress must insist that VBA have the necessary resources and programs to properly train these individuals and to conduct an effective quality assurance program.

## TRAINING

In general, The American Legion has found that adjudicators and rating specialists must be better trained, or, in some instances, retrained. Most of the stations visited were in a production rather than training mode. The training program has been largely subordinated to the goal of increased production. Managers have been reluctant to invest the time and resources needed for a sound training program. In a system of mass adjudication, such as VA, training will necessarily involve a trade off of production time for improved knowledge and skills. However, we believe experience has shown that, in the long run, training reduces wasted effort, mistakes, delays, and unnecessary appeals. It appeared that mistakes were frequently made because of an apparent lack of basic technical knowledge, a lack of information on the application of established precedents of the Court of Veterans Appeals for Veterans Claims, or training on a particular subject or issue or type of case. The following are several examples of this type of error.

The veteran served from 1951-1953, with a tour of duty in Korea and the award of the Combat Infantryman's Badge (CIB). Recently, the veteran filed a claim for service connection alleging he injured his back in a fall during combat. A VA examination was conducted and the veteran stated he had back pain at the time of discharge. The claim was denied on the basis there was no evidence of a herniated disc in service and that his back problems began in 1955 (even though the VA examination noted a history of back pain at the time of discharge in 1953.) Subsequently, the veteran filed another claim for a shrapnel wound, herniated disc, and a concussion. The regional office sent him a letter stating he needed to submit "new and material evidence" to reopen the claim, but did not explain what additional evidence was going needed. The veteran replied, describing his combat injuries. Another VA examination was conducted, which noted the claims folder was not available for the examiner. The regional office denied the claim for failure to submit new and material evidence. Both of these decisions were wrong, for several reasons. 38 USC 1154(b), 38 CFR 3.304, VBA's Adjudication Manual M21-1, and Court precedential decisions require VA to accept the statement of a combat veteran as proof of a service incurred disability. The most recent VA examination was inadequate, because the examiner could not review the veteran's C-file, and the veteran was not informed of the correct issue in his claim. The case is now in the process of being readjudicated.

Another training related problem found was the frequent failure to recognize and or respond to a veteran's informal or "inferred" claim. An informal claim is when there are statements in the record that could be reasonably construed as making an inference of possible entitlement to a particular benefit. In a number of cases, we saw that Compensation and Pension Examination reports or VA treatment records included statements by the veteran that their service connected disability has caused them to leave their job or they are unemployed because of their service-connected disability. These should have responded to by the regional office as an informal claim for individual unemployability and notices sent to the veteran advising him or her of the criteria for this benefit along with the necessary application form.

As an example of this problem, the veteran served from 1970-1973 with 10 months in Vietnam. In July 1997, he filed a claim for Post-traumatic Stress Disorder (PTSD). In February 1998, he was granted service connection for PTSD and assigned a disability rating of 30 percent. In reviewing the claims folder, it was noted the rating decision was based on the findings of the VA examination done in October 1997. The examining physician noted a history of 50 different jobs since service. The veteran was currently unemployed and complained he was unable to keep a job. The diagnosis was PTSD, severe, unemployable. Based on our review, the regional office was advised that under 38 CFR 3.155 and 3.157, the examination report should have been interpreted as an informal claim for individual unemployability and the appropriate claim form sent to the veteran. The regional office subsequently increased the veteran's rating to 50 percent, but has yet to decide the issue of entitlement to a total rating based on individual unemployability, which has been pending since 9/29/99. It was noted that the average claims processing time at this regional office station was 220 days.

In another case, the veteran filed a claim for service connection for a sinus condition, allergic rhinitis. The regional office denied it as a congenital condition or developmental condition. In this instance, the applicable regulation (38 CFR 4.9) was misinterpreted. There was also a failure to apply the relevant opinion of the VA General Counsel, which specifically addresses this issue of service connection for this disease. The regional office also ignored a longstanding Court precedent and relied on its own unsubstantiated medical opinion to conclude this condition was congenital. This case is now being readjudicated.

### **ACCOUNTABILITY AND QUALITY ASSURANCE**

The American Legion has long advocated the principle that individuals in VA regional offices must be personally accountable for the quality of work performed. There must be both personal and management accountability, if VBA's often stated goal of "Doing it right the first time" is to mean anything. In order to succeed, management must be more concerned with efforts to ensure propriety and focus less on the mechanics of the claims process.

With budget cuts in the late 1980s and 1990s, VBA's quality assurance efforts were severely scaled back and became largely self-reporting. However, several years ago, a new quality review program called Systematic Technical Accuracy and Review (STAR)

Program was instituted. There are now a series of reviews at the VA Central Office, the Service Delivery Network, and regional office levels. When the STAR program began, the reported national average error rate was 36 percent. It is now reported to be 32 percent. While such data is encouraging, it is of little value, unless action is taken to address the cause(s) for the errors identified. At many of the stations visited, management acknowledged there was not enough time for regular training. There was also no effort to correlate the STAR findings with the individual who made the error, for follow-up training and performance evaluation purposes.

In the opinion of The American Legion, the lack of personal and organizational accountability represents a fundamental weakness in the claims adjudication system. Each year, thousands of cases are arbitrarily and needlessly churned through the regional office and the BVA. However, VA adjudicators who persistently make erroneous decisions seldom, if ever, suffer any consequences or disciplinary action. To address this problem, PL 106-117, the Millennium Act, required VBA to implement a quality assurance program. The intent of VBA's new Systematic Individual Performance Assessment (SIPA) Program, which will complement the STAR Program, is to make adjudication staff accountable for their performance.

Accountability also means implementing an accurate, reliable work measurement system accompanied by changes in the way employees and managers are evaluated and promoted. Individual and organizational performance evaluations must be linked with the quality of work produced. The current system of work credits has rewarded individuals and stations for the total number of actions taken, regardless of whether such actions were necessary or proper. It does not accurately reflect the amount of time it takes to process a claim, nor does it include correlated data on appeals filed and disposition by the Board of Veterans Appeals. Without such comprehensive data, management at the local, Service Delivery Network, and VA Central Office cannot effectively analyze how stations are really performing or identify specific problem areas or make decisions about current and future resource needs.

The overall findings of our case reviews illustrate the adverse effect the lack of accountability has on the way individual adjudicators perform. There were a number of the cases in which ratings were based on VA examination reports that were clearly inadequate for rating purposes. In some, the regional office failed to request a medical opinion concerning linkage to service or whether a condition was linked to a service connected disability. In other instances, VA examiners did not comply with protocol provided by the regional office or did not respond to specific questions asked on the examination request. Often physicians were not given the claims folder for review before the examination. We found in these cases that, rather than take the time to send the records back to the medical center for re-examination, the regional office denied the claim and took work credit. Such action frequently led to continued piecemeal readjudication of the claim and/or an unnecessary appeal.

There were other types of errors related to a lack of information or training on basic VA regulations, adjudication manual provisions, and many of the precedential decisions of the Court of Appeals for Veterans Claims. We found that adjudicators have not received the necessary ongoing training and supervision to ensure "quality" decision making. This is primarily a management responsibility and, as such, managers at all levels must be held accountable. Without the necessary technical knowledge and incentives to provide good service along with disincentives to providing poor quality service, individual adjudicators and managers will not change and it will be "business as usual."

We heard the comment, more than once, that if the veteran disagreed with a decision that was what the appeals process was there for. After waiting more than two years for their case to come before the BVA, there is better than a 30 percent chance the case would be remanded because of an inadequate examination or some other fundamental error. This is not quality service.

Poor quality decision making causes hardships for veterans and their survivors. The widow claimed DIC based on the fact the veteran had severe PTSD and committed suicide. A 100 percent evaluation for PTSD had been in effect since 1994. The rating decision denied the claim on the basis that it was not well grounded. It held there was no link between his PTSD and the mental unsoundness that caused his suicide. This was despite the fact that there was only one mental (service-connected) condition present. The adjudicator used his own "medical judgement" about linkage to arbitrarily and improperly deny the claim. This was not only contrary to court precedent, but also VA regulations and manual provisions on the subject of service connection for mental unsoundness in cases of suicide. At our request, the regional office is readjudicating the claim. This will hopefully correct the injustice done to the widow. However, it still begs the question, why was this type of mistake made in the first place? The circumstances here involve fundamental rating concepts, which every adjudicator should be familiar with. Management must identify the cause(s) for such basic errors and take prompt, effective remedial action to prevent recurrence.

#### **TIMELINESS**

The American Legion has long held the position that quality of the service provided by the VA regional office is more important than the speed or the quantity of the work done. An overemphasis on timeliness by VA managers, who have not met the goals set, has resulted in some VA adjudicators making premature denials or clearly erroneous decisions. For the sake of expediency, well-grounded claims have been denied without the necessary "duty to assist" development of evidence or denying a claim where the VA examination was obviously inadequate or incomplete. In cases found to be not well-grounded, the denial letters are often confusing and fail to clearly and simply inform the veteran what evidence is going to be needed to make the claim well-grounded. Such letters generally use computer generated boilerplate language that is vague, confusing, or, in many instances, erroneous.

This following case is an illustration of a premature denial of a well-grounded claim. A Navy veteran claimed service connection for a knee problem. On his application, he indicated dates and places of treatment in service and subsequent to service. A current medical report diagnosed a knee condition with a history of knee surgery in service. The rating decision noted the fact of a knee injury while on active duty. It also noted that the more than a year later, the Separation Physical Examination described the knees as normal and negative. The claim was denied on the basis there was no permanent disability found in service. However, upon a review of the file, it was apparent the regional office ignored the fact that the veteran stated he reinjured his knee after the date of the Separation Examination and remained on active duty for another five months, during which he had knee surgery. No effort was made to ask the National Personnel Records Center in St. Louis to provide the surgical records from the Navy hospital identified. The adjudicator should have known that inpatient hospital records are not part of an individual's Service Medical Record (SMR) file. The regional office is now requesting these additional service records and will readjudicate the claim.

We submit timeliness is important, however, timeliness will not improve until accurate and proper decisions are made the first time a case is decided. If a decision is unfavorable, the regional office must clearly and simply explain why the claim was denied and what is needed to have a claim favorably decided. Until all regional offices make such "customer service" their priority, claims and appeals will continue to churn through the system unnecessarily and critically short resources will continue to be squandered.

#### ATTITUDE

Mr. Chairman, by history, statute and regulation, VA's claims adjudication system is supposed be ex parte, non-adversarial, and pro-veteran in nature. The management and personnel at most of the stations visited clearly seem to embrace this concept. There was a genuine interest, empathy, and concern for the veterans of their state. However, there were some senior adjudicators and rating board members at some stations whose attitude and ratings on claims involving PTSD and other issues were definitely adversarial. Because of their positions, they were involved in training other less experienced adjudicators who were being influenced by their negative attitude. This conclusion was confirmed not only by our case review findings, but comments from VA personnel and veterans service organization representatives. What was particularly disturbing was the finding that the personal biases of these individuals were well known to management and largely tolerated, with no action being taken or planned to address such unacceptable behavior. It was recommended that the issue of attitude needed to be a part of the training program.

In many of the cases reviewed, the ratings expressed a personal opinion, rather than an objective determination based on the law, regulations, and a fair and impartial evaluation of the evidence. There were also instances where development action continued beyond the point at which the claim could have been denied. Such excessive development was used to provide a basis upon which to deny the claim. At

some stations, we found an unhealthy breakdown in communications and responsibility between the staff and management, as well as a breakdown between VA management and the service organizations. The results have often been detrimental to the veterans and their families.

We believe attitude and personal bias played a role in the repeated denials in the following case. In 1996, the veteran claimed service connection for PTSD. A VA examination diagnosed PTSD based on the veteran's account of combat stressors. The regional office did not bother to obtain the veteran's Certificate of Release or Discharge from Active Duty (DD 214) or his service medical records and denied the claim in 1997. The reason cited was there was no evidence of a stressor. In early 1999, the veteran reopened his claim for PTSD, residuals of a head injury (concussion), and tinnitus. He submitted his DD 214, which showed the award of a Purple Heart Medal for a wound to the hand and the Combat Infantryman's Badge. Service connection was granted for PTSD and the residuals of a shell fragment wound to the hand. These were rated at 0 percent from 1999. The recent grant of service connection was correct; however, the veteran's PTSD symptoms met the requirements for a 10 percent evaluation, as required by 38 CFR 3.400, as far back as 1996. The 1999 rating also denied the claim for a concussion, citing no evidence of such injury in service. No referemne was made to the provisions of 38 USC 1154(b) and court precedential decisions relating statements of a combat veteran concerning the incurrence of a service-connected disability. The regional office agreed these issues required further development.

In another case, the veteran served in the Marine Corps from 1957 to 1960. His unit participated in Operation Blue Bat in Beirut, Lebanon from April to July 1958. This involved amphibious landings by Army and Marine troops in Beirut to support the Lebanese government, which was fighting rebel forces in and around Beirut. The veteran was awarded the Armed Forces Expeditionary Medal. Since 1996, the veteran has been repeatedly diagnosed by VA and private physicians as having severe PTSD related to his experiences in Beirut in 1958. The regional office has repeatedly denied his claim, based on the lack of verifiable stressors. This has been despite the veteran's submission of voluminous documents from official military sources, which provide detailed information on this very hazardous operation. He obtained these from the Army Center for Military History and the Armed Services Center for Research of Unit Records. Their description of events is consistent with the veteran's own statements and those from individuals who served with him in Lebanon. The Armed Forces Expeditionary Medal requires that personnel must "Be engaged in actual combat, or duty which is equally hazardous as combat, during an operation with armed opposition, regardless of time in the area." The repeated denial of this claim begs the question, "What more proof do they want?" A review of the rating decisions strongly suggests there is a personal and persistent bias against PTSD by the adjudicator in this case. Beirut, at that time, was an actively hostile, urban guerilla warfare environment for the U.S. forces ashore. The veteran's duties as a motorized messenger took him through many of the disputed areas of the city in order to get to the various Marine positions. Incidents occurred which profoundly affected him. In such circumstances, some of these would never have been officially noted or recorded, while others were. The

veteran has stated he observed a number of American as well as Lebanese civilian casualties, during this period. He has also related details about other personally stressful experiences. The veteran is now severely disabled by his PTSD symptoms and has been unable to work since 1996. This case has been submitted to VBA's Compensation and Pension Service for a formal administrative review.

#### CONCLUSION

The American Legion believes VBA has identified many problems and is working diligently to find solutions that will provide improved service to veterans and their families. There are a spectrum of ongoing and planned initiatives, such as the Pre-Discharge Examinations, Personnel Information Exchange System (PIES), Electronic Burial Claims, Virtual VBA, Decision Review Officer (DRO) Program and personal hearing teleconferencing, to name a few. Most focus on improving the operating efficiency of the process and procedures by which claims are adjudicated. While we support these much-needed changes, we are concerned that they only indirectly address the core problem of continued poor quality decision making. Without a vigorous, comprehensive quality assurance program, thousands of claims will continue to chum needlessly through the regional offices, the Board of Veterans Appeals, and the courts wasting time, effort, and taxpayers' money. Veterans have a right to a fair, proper, and timely decision. They should not have to endure financial hardship and delay before receiving the benefits to which they are entitled by law.

Mr. Chairman, The American Legion appreciates the oversight provided by this committee in helping VBA meet its responsibility to our nation's veterans and their families.

**STATEMENT FOR THE RECORD**

**of**

**Leonard J. Selfon, Esq.  
Director of Veterans Benefits  
Vietnam Veterans of America**

**Before the  
Subcommittee on Oversight & Investigations  
Committee on Veterans' Affairs**

**Regarding**

**Disability Benefits Claims**

**May 18, 2000**

**Vietnam Veterans of America**

**Subcommittee on Oversight and  
Investigations  
Committee on Veteran Affairs  
May 18, 2000**

Mr. Chairman and other distinguished members of the subcommittee, Vietnam Veterans of America (VVA) is pleased to have this opportunity to present our viewpoint on the current state of the Department of Veterans Affairs (VA) disability claims adjudication process. At the outset, we wish to acknowledge how difficult a task the VA faces in adjudicating claims for disability compensation in a timely, accurate and just manner. The sheer volume of such claims at this time, as well as the complexity of veterans benefits law, combine to present daunting obstacles to smooth and efficient claims processing, even if there were no backlog of thousands of claims pending and if there was confidence in the system. Nevertheless, the VA's mission requires that no stone be left unturned to insure that veterans and their dependents receive those benefits to which they are legally and morally entitled.

Before examining the logistics, statutes, regulations and procedures that govern VA claims adjudication, we must first address the apparent attitudes of VA adjudicators. Our accredited service representatives from across the country continually report that in cases where the VA Regional Offices (RO) do not summarily deny claims as not being well-grounded, much of the subsequent VA-requested evidentiary development occurs where there is already sufficient medical and lay evidence of record to substantiate an award of the benefit sought.

The only conceivable purpose behind this additional development is to amass enough evidence to rebut the positive that already exists. If the evidence submitted or secured in support of a claim satisfies the legal requirements for an award of benefits, that should be it. No further development of the evidence is required. The VA must grant the benefit. While VVA keenly advocates that the VA's statutory duty to assist veterans with the factual development of their claims must be adhered to, to seek unnecessary additional evidence in the hope of weighting the record violates Congress' intent as to meaningful assistance. Accordingly, the first step in guarding against an uneven playing field in the adjudication arena is to discourage overdevelopment of the record for what are essentially adversarial purposes that are against the interest of the veteran and intended to possibly amass countervailing evidence to justify denying a claim. This creates an adversarial corporate culture that is inimical to congressional intent and the stated policy of the Undersecretary of Veterans Benefits. Alluded to above, the greatest concerns with respect to VA claims adjudication are timeliness and accuracy. While VVA also has grave concerns as to the regulatory requirements and diagnostic criteria that control awards of service connection and disability evaluations, it is the adjudicators' application

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of existing law to the facts surrounding individual claims where immediate corrective action is needed.\*

Accuracy and timeliness of decisions are directly related. The VA has indicated that its voluminous backlog of claims has resulted in inordinately long processing periods. The VA has also conceded that a substantial part of this backlog is a multitude of claims that have been returned to the VAROs following appeal to the Board of Veterans' Appeals (BVA) or the Federal courts (through the BVA). It is VVA's understanding that some VAROs have a 60 percent-plus error rate in their claims decisions. Consequently, an increase in the accuracy of claims adjudications on the part of VA adjudicators will proportionately decrease the number of appealed decisions; thereby reducing the claims backlog and shortening processing time. VA adjudicators must be held accountable for the accuracy of their decisions, and be afforded adequate training so that they understand and correctly apply their own regulations.

An illustration of adjudicators ignoring guidance with impunity on a common basis is the issue of hepatitis C. While the guidance on hepatitis C is reasonably good, most adjudicators are either not aware of the directive or choose to ignore it. As a result they routinely deny valid claims and cause needless hardship to ill veterans. Most of these claims are appealed, therefore causing the system to be further burdened with appeals and remands. The solution is for the Secretary of Veterans Affairs to declare hepatitis C as a service-connected presumptive condition, as the system is so lacking in quality assurance mechanisms that this is the only way to ensure justice for veterans suffering from hepatitis C.

The lack of sufficient training and policy direction for VA adjudicators is evident in the disparity of outcomes in cases with virtually identical fact patterns in different VAROs or even within the same VARO. There are observable regional differences in the adjudication process, despite the fact that there is a uniform system of laws, regulations and processing guidelines. The VA must focus on the quality of its decisionmaking first and foremost.

Furthermore, VA adjudicators must consider all applicable laws and regulations when making their decisions. Our service representatives report that in cases involving legal presumptions of service connection, VA adjudicators routinely fail to apply or they

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\* For example, 38 C.F.R. § 4.130 (the schedule of ratings for psychiatric disorders) adopts the nomenclature of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, 4<sup>th</sup> ed. (*DSM*). However, the regulation's diagnostic rating criteria is the same for all types of psychiatric illnesses (e.g., neuroses and anxiety disorders, psychoses, cognitive disorders, mood disorders and adjustment disorders). According to *DSM*, the diagnostic criteria for moderate, severe and total disability as the result of post-traumatic stress disorder (PTSD) is vastly different from that contained in the regulation. Consequently, the VA's regulations concerning rating PTSD claims are internally inconsistent.

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misapply pertinent regulations. For example, VA regulations allow for presumptive service connection for certain diseases as the result of exposure to herbicidal agents during service in Vietnam. *See* 38 C.F.R. § 3.309. The presumption dispenses with the need to submit medical evidence of a relationship between such exposure and the subsequent disease. Nevertheless, we see case after case where VA adjudicators summarily deny service connection for diseases not on the presumptive list solely for that reason. This happens even where there is medical evidence of record that supports a finding of service connection. Since such a claim should be adjudicated under regulations dealing with direct, rather than presumptive, service connection, the adjudicators have only done half of their job. The veteran must then wait to complete the appellate process and hope that the adjudicators on appeal do not make the same mistake.

Finally, it is our opinion that in order to properly adjudicate claims for VA disability compensation, there must be meaningful communication between the adjudicators on the Veterans Benefits Administration side of the Department and the VA medical and psychiatric practitioners on the Veterans Health Administration side. Quite often, claims decisions are made without access to recent VA treatment records. These records are often the key to eligibility for benefits, especially in claims for increased ratings (where the veteran's current condition determines the level of benefits). Adjudicators must insure that their decisions are based upon all available evidence. As part of the same agency, there is no reason why the adjudicators cannot retrieve relevant and probative within the VA's control.

VVA realizes that VA claims adjudication reform is a necessarily methodical process. However, it does not have to be a slow, arduous, and painful process full of "make work" as it is today. We further recognize and applaud VA's recent steps to improve its adjudication policies and procedures. We must emphasize, however, that there is much left to do. Benefits decisions affect not only veterans' financial well-being, but also their physical and psychiatric health. Frequently, entitlement to VA health care is predicated upon having a service-connected disability or disabilities. Until the VA can insure that veterans' claims are expeditiously adjudicated with accuracy and integrity, the Department cannot execute its mission.

Vietnam Veterans of America sincerely appreciates the opportunity to present our views on this matter of vital concern to veterans, their dependents and the American people. We look forward to working with Congress on this and other important issues.

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSES  
CHAIRMAN EVERETT TO DEPARTMENT OF VETERANS AFFAIRS

Questions submitted for the record by  
Chairman Terry Everett

**Question 1. Please submit a list of regulatory simplification projects currently in progress regarding the streamlining and simplification of the claims adjudication process.**

The U.S. Department of Veterans Affairs is considering writing several new regulations that we believe will simplify the claims adjudication process.

1. A proposed rule on the Decision Review Officer (DRO) program was published in the Federal Register on February 18, 2000 (65 FR 8329). VA has drafted new regulations to create an expedited dispute resolution process for VA claims. The regulations allow a claimant to have a VA regional office denial decision reviewed by the DRO. This may include an informal conference where the claimant, their representative and VA will discuss the case face-to-face. Based on results of the DRO test program, we are confident it will greatly reduce the number of cases appealed to the Board of Veterans' Appeals.

2. A proposed rule to amend the evaluation criteria for spina bifida was published in the Federal Register on March 13, 2000 (65 FR 13254). The Department is updating regulations regarding the birth defect spina bifida, to provide current medical terminology and more objective evaluation criteria.

3. A proposed rule on certification of military records was published in the Federal Register on June 27, 2000 (65 FR 39580). Current VA regulations require veterans' representatives to submit a certified copy of the veteran's DD214 as proof of service. VA is revising its regulations to allow them to certify that a copy of a DD214 is a copy of the official version, so that VA can accept the copy as proof of service.

The following concepts are under consideration: (1) pension simplification; (2) updating of the Schedule for Rating Disabilities; (3) re-write of numerous adjudication regulations in Reader Focused Writing (plain language); and (4) revisions to Due Process notice requirements.

**Question 2. Please submit a discussion draft of legislative proposals that would streamline the claims adjudication process.**

We are developing several legislative proposals that would streamline the claims adjudication process. Once review and coordination within the Executive Branch is completed, we will be pleased to forward our proposals for consideration by the Committee.

**Question 3. As agreed to at the hearing, please provide the Subcommittee with the VA chart depicting the simplified claims adjudication process.**

See attachment.

**Question 4. What initiatives are underway to reduce the time interval of the claims adjudication functions?**

Timely adjudication of claims and appellate decisions continues to be a major challenge in VA's Compensation and Pension programs. VBA continues to pursue the redefined claims processing concepts outlined in its *Roadmap to Excellence*. Nine Service Delivery Networks (SDN) have been established to align regional offices geographically, allowing the offices in each network to share resources and provide mutual support. VBA is continuing to merge the veterans services and adjudication functions at the ROs into Veterans Service Centers, where Veterans Service Representatives will use a case management approach to complete claims for veterans benefits. Initially, this transition has adversely affected the timeliness of the claims process. However, the long term effect will be to provide more timely and accurate service to claimants. This revised process will be supported by initiatives that affect specific points in the claims adjudication process.

Improvement in technical accuracy remains our number one priority. It is anticipated that improvements in accuracy will drive improvements in other areas, including timeliness. Two current initiatives, Training and Performance Support Systems (TPSS), which encompasses four comprehensive training and performance support systems, and the Systematic Technical Accuracy Review Program (STAR), which monitors the technical accuracy of C&P claims processing, provide up-to-date and diagnostic information about the accuracy of the work being produced at the field stations.

Additional measures to improve service delivery to veterans include:

1. Increase in claims processing personnel. One of my main objectives as Under Secretary has been to focus attention on succession planning. Estimates show that 2,099 Veterans Service Representatives, Veterans Claims Examiners, and Veterans Benefits Counselors, as well as 104 Hearing Officers will be eligible to retire over the next five years. As part of VBA's succession planning strategy to maintain an effective workforce in a time of high attrition, the Compensation and Pension programs will acquire 183 FTE reassigned from other business lines, along with 243 new Veterans Service Representatives to be hired in FY 2001.
2. Benefits Delivery at Discharge is an initiative that allows VBA to develop claims, provide discharge exams, and prepare rating decisions for service

members while they're still on active duty and awaiting discharge. The ultimate objective is to provide every separating service person with a physical examination that meets all VA requirements for rating purposes.

3. Personnel Information Exchange System (PIES) allows Regional Offices to request service medical records and service verification from the National Personnel Records Center. In addition, the Department of Defense is designing and developing two initiatives that will have a direct bearing on our ability to acquire claims information. The Defense Integrated Military Human Resources System (DIMHRS), will create an on-line common pay and personnel system for all the military services. This will provide VBA with the ability to electronically link PIES and DIMHRS to acquire service data. The Defense Personnel Records Imaging System (DPRIS) is designed to provide access to optical, digital imaging systems from individual workstations. Thus, it will enable VBA personnel to electronically review documents pertaining to claims development and further eliminate paper processing.
4. Electronic Burial Claims, now being developed, will provide a rules-based application to minimize the cases referred to a VA employee for preparation or extensive authorization.
5. C&P Benefits Payment Replacement System will allow VBA to pursue an incremental strategy in developing an improved C&P payment system. This strategy provides for the incremental development and integration of functional modules or components designed to reduce the time employees need to spend on claims.

**Question 5. In GAO's testimony, it mentioned that VA has spent at least \$28 million on information technology initiatives to improve the compensation claims processing. What measurable outcomes have resulted from this investment?**

Our commitment to improved performance in claims processing is demonstrated in the number and type of initiatives dedicated to achieving improved performance and directly linked to our strategic objectives. These initiatives have been designed to streamline or enhance the claims process system while providing our employees better tools with which to serve veterans.

In 1999 we enhanced our existing technological tools in order to streamline evidence gathering and tracking processes. The Automated Medical Information Exchange (AMIE) system, the Personnel Information Exchange System (PIES) and the Veterans Appeals Control and Locator System (VACOLS) were successfully deployed. In FY 2000 we expect to have several more tools. Single Logon, which is access to our different applications through one password, was made available to the field offices on April 17, 2000. Claims Application Processing Systems (CAPS), which is a rules-based system with case

management features, will be available at the field offices by September 2000. Rating Board Automation (RBA) 2000, which is an application used by rating specialists to prepare rating decisions, will be deployed in August 2000. Development and Case Management and Establish Claim & Award Screen/Design also are expected to be available by the end of this year. In FY 2001, we will have other tools such as Electronic Burial Claims and Social Security Administration Data Exchange.

VBA has also developed a Compensation and Pension Information Technology (IT) strategy called Modern Award Processing (MAP), which examines the claims process from establishment through payment and accounting. This strategy provides guidance for current and future IT development efforts. Two key components of this strategy are Virtual VA and C&P Benefits Replacement System (VETSNET Migration).

The Virtual VA project will allow VA to process veterans' claims in an electronic environment. The current paper intensive and time-consuming manual claims-processing system will be eliminated. This will also provide complete and immediate access to claims information to anyone with access to this system, thereby permitting VBA to respond to veterans' inquiries more quickly and in more detail. The functional requirements for Virtual VA have been completed and we will begin building shortly.

The C&P Benefits Replacement System will create a corporate database containing all veteran data. This database will enable the integration of numerous stand-alone systems, allow for data sharing within and across business lines, and provide a means for vastly improved analysis and reporting functionality into the 21<sup>st</sup> Century. The system's architecture will also allow for data sharing and exchanges with other VA and non-VA organizations. This increased and quicker access to the information necessary to process veterans' claims will improve accuracy and timeliness of claims processing.

**Question 6. What measurable outcomes have resulted from VBA's six business process reengineering demonstration sites to date?**

When VBA established the demonstration sites, we decided to use the balanced scorecard measures to evaluate the impact of case management on their performance. On a monthly basis, we aggregate the scorecard results for the six demonstration sites as if they comprised a separate Service Delivery Network and compare them with the rest of the Service Delivery Networks nationwide.

To assess the impact of case management on customer satisfaction, we conducted a survey of veterans whose claims were case-managed by one of the six demonstration sites. The survey was a mini version of the national C&P survey. The results were compared to the 1999 national survey results and

showed that overall customer satisfaction for case-managed claims was eight percentage points higher than the national average.

To assess the impact on accuracy, we extracted the results of the demonstration sites' STAR reviews for claims completed since February 1999. Because of the time lag involved in the reviews, the number of cases reviewed for the six sites is not large enough at this point to be considered a statistically valid sample. To date, 252 rating-related cases have been reviewed for the six sites and the accuracy rate is 72% – six percentage points higher than the national average. We will continue to add cases from the six sites until we acquire a valid sample.

We did not project improvements in timeliness as a result of case management. On the contrary, conventional wisdom in many quarters predicted that timeliness might suffer. It was assumed that case management would require more hands-on processing time to complete a claim. It was also assumed that there would be an adverse impact on production as a result of the training required to learn the case management process and the associated automated tools. However, the results to date indicate that there has been no adverse impact on timeliness. The aggregate processing time for FY 2000 through April for rating-related cases for the six sites was 170.5 days compared to the national average of 174.8 days. For non-rating cases, average processing time for the six sites was 40.8 days compared to the national average of 45.1 days.

Since the demonstration began in February 1999, the pending workload balances for the six sites have declined at approximately the same rate as the rest of the nation (13.7% vs. 13.3%). This reduction in the pending workload took place despite the fact that the demonstration sites lost some production time to train employees on the new process and the use of the automated tools and letters that support case management.

In addition to the scorecard measures, we have also been tracking the number of notices of disagreement (NODs) received to see if case management has a favorable impact on veterans' satisfaction with our decisions. From July 1999 through April 2000, the number of NODs received at the demonstration sites declined by 6.5% from the same period one year earlier. This compares with an 11.6% increase for the nation over the same period.

**Question 7. In Mr. Thompson's statement, he states that in FY1999, the average processing time for pre-discharge claims was approximately 26 days compared to 205 days for all other original compensation claims. Can VBA explain why there is such a significant difference?**

The few months prior to separation from active duty are a unique period of time. The service member's clinical treatment records are routinely available at his or her duty station. The service member is available to have a physical examination or be recalled for additional testing if necessary. We are able to receive

verification of dependents from the military's Defense Eligibility & Entitlement Records System (DEERS). With all the necessary records in one place, we are able to prepare a proposed rating that may be promulgated with payment of benefits upon receipt of the DD Form 214 after separation.

If a veteran waits to file an original claim until some time after discharge, there are a number of factors that may delay consideration of the claim. If the veteran does not provide an original or certified copy of the DD Form 214, verification of the active duty may have to be obtained from DoD. The service clinical records would have to be retrieved from the VA Records Management Center in St. Louis. If it has been some time since discharge, it may be necessary to obtain treatment reports from physicians, medical treatment facilities, etc., to establish continuity of the claimed disability since release from active duty. The veteran may also have to be scheduled for a physical examination. Development for any of the evidence discussed above may result in a delay of several months before the claim may be rated and adjudicated.

**Question 8. VBA appears to be focusing on case management to improve its claims processing performance. While VBA claims that case management will improve customer satisfaction, what evidence does it have that case management will positively affect claims-processing timeliness and quality as well?**

Case management is clearly a major component of VBA's efforts to improve claims processing. Consequently, we have placed a high priority on the successful implementation of the process. However, case management is only one of a series of integrated initiatives designed to improve claims processing that includes Modern Award Processing (MAP), Rating Board Automation (RBA 2000), Virtual VA, and a recent collaborative effort with VHA to improve VBA's access to patient records.

We are also working to positively affect claims processing by extensively investing in training, establishing certification programs for employees in the Veteran Service Representative (VSR) and Rating VSR positions, and instituting the STAR quality review program and the Systematic Individual Performance Assessment (SIPA) initiative. We have built training responsibilities into the Decision Review Officer (DRO) position to ensure that appropriate feedback and training is provided to Rating VSRs.

As we indicated in our response to question 6 above, the case management initiative was not necessarily expected to improve timeliness. However, we believe that the recently developed Case Management Reports System provides a tool that can be used to manage processing cycle times. We are teaching the concept of cycle time management to the entire Veteran Service Center management team as part of the Case Management Rollout Orientation

Program. The orientation covers use of the Claims Automated Processing System (CAPS) and, eventually, the MAPS reports to reduce cycle time.

In the area of accuracy, we believe that the proactive interaction with veterans in the processing of their claims will enable us to address all of the issues raised. We have some early indications that accuracy for rating-related claims may be higher for stations that are case managing. However, the number of case-managed cases reviewed as part of STAR is not large enough to date to represent a statistically valid sample size.

**Question 9. When does VBA plan to do a program evaluation for Compensation as required by the Results Act?**

A formal evaluation of VBA's disability compensation program is scheduled to start in FY 2002. In anticipation of that effort, the C&P Service has been holding meetings with various stakeholders to discuss ways to improve the delivery of benefits and services to veterans.

**Question 10. Mr. Thompson, you heard the IG's testimony about false data, and I can only conclude that VA employees in regional offices were deliberately and systematically falsifying data to make their performance look better. Do you agree? Did anyone receive a performance bonus or promotion based on false reporting? Was anyone disciplined? What regional offices were the most serious offenders?**

I would agree that some questionable or improper claims processing practices evolved in the VBA system as a result of the organization's overemphasis on timeliness of processing and production of end products. However, there are many other complex factors that have contributed to our data integrity problems. Outdated technology and workload control systems, lack of clear policy and procedural guidance, changes in case law, and difficulties in obtaining evidence are only some of the other factors that had an impact.

I am not aware of any employee receiving a performance bonus or promotion based on false reporting. I have on repeated occasions communicated my expectation that all managers and employees take personal responsibility for identifying and correcting any improper practices or procedures. The C&P Service has been reviewing end product actions on a regular basis to identify patterns of questionable transactions and data input discrepancies. I also established a Data Integrity Team to identify causes of inconsistent and invalid data. The Team recommended a number of actions to resolve the data discrepancies. Most of these recommendations have been implemented.

We have worked with a number of stations to assist in finding the causes of data inconsistencies. We shared the results of these reviews nationwide so that other offices could identify and correct similar problems. What we found through our

reviews was that much of the inconsistency in our reporting and work measurement systems was caused by a lack of understanding of the correct procedures to follow. We are addressing this problem through increased training and through clarification and simplification of our policies and procedures. In none of these reviews did we identify any employee who had deliberately falsified data. Therefore, no disciplinary actions were taken or warranted as a result of our reviews.

It is important to point out that these problems were system-wide. While we reviewed cases from regional offices that were having more difficulty in correcting specific problems, there are no regional offices that we would highlight as having more data integrity problems than others.

I am pleased to report that much progress has been made. We continue to monitor our performance data and are working to find additional ways to improve the integrity of our information systems. The importance of training our employees on the proper procedures to be followed in establishing workload controls and taking credit for completed work will continue to be emphasized. We are also focusing on sharing information and best practices that will assist stations in preventing data improprieties.

Finally, I want to reiterate to the subcommittee, as I have on other occasions, that I am firmly committed to ensuring the integrity of VBA's data. One of my first acts on taking on the responsibilities of Under Secretary was to deliver a broadcast message on integrity and ethics to all our employees nationwide. Manipulation of data will not be tolerated for any reason.

**Question 11. Approximately two years ago, Chairman Stump requested interim performance measures and goals for VBA. To date, none have been submitted. Therefore, no later than July 28, 2000, please submit interim performance measures and goals for VBA.**

Response to be submitted at a later date.



THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS  
WASHINGTON, D.C. 20420

JUL 28 2000

The Honorable Terry Everett  
Chairman, Subcommittee on Oversight  
and Investigations  
Committee on Veterans' Affairs  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed is the response to post-hearing question number 11, which was included in your letter of May 19, 2000. Responses to all other questions were submitted to you by the Assistant Secretary for Planning and Analysis in a letter dated July 20, 2000.

If we can be of further assistance, please have your staff contact Bruce Grimes on 273-7124.

Sincerely,

  
Joseph Thompson

Enclosure

Questions submitted for the record by  
Chairman Terry Everett

**Question 11. Approximately two years ago, Chairman Stump requested interim performance measures and goals for VBA. To date, none have been submitted. Therefore, no later than July 28, 2000, please submit interim performance measures and goals for VBA.**

(The data provided below on performance measures and outcome goals is extracted from the 2001 budget submission, which was delivered to Congress in February.)

*Performance Measures.*

Since 1998, VBA has been in the process of implementing a new performance measurement method called the Balanced Scorecard. Instead of focusing only on speed of processing, as in the past, the Balanced Scorecard evaluates performance based on multiple criteria: accuracy, timeliness, cost, customer satisfaction, and employee development. This method is now being used at the National and the Regional Office level.

The following charts show the current performance measures for each of VBA's five benefits programs. These performance measures are derived from the Balanced Scorecard criteria, although they are not arrayed in Balanced Scorecard categories. It is important to note that the chart does not include measures in the category of employee development, which are still being created.

<b>Education</b>						
<b>Performance Measures</b>						
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>Strategic Goal</b>
Performance Measures						
Montgomery GI Bill usage rate	52.8%	54.0%	55.6%	57.0%	60.0%	70.0%
Compliance survey completion rate	81.8%	79.8%	98.1%	88.0%	90.0%	90.0%
Customer satisfaction-high rating	76.0%	76.0%	78.0%	79.0%	80.0%	95.0%
Telephone activities-blocked call rate	45.0%	60.0%	15.5%	23.0%	20.0%	10.0%
Telephone activities-abandoned call rate	N/ A	N/ A	N/ A	18%	15%	5%
Payment accuracy rate	92.9%	94.0%	94.4%	95.0%	95.0%	97.0%
FMFIA Compliance	75.0%	75.0%	75.0%	75.0%	100.0%	100.0%
Average days to complete original education claims	19	25	26.1	26	20	10
Average days to complete supplemental education claims	11	15	16.2	17	13	7
Employee job satisfaction	56.0%	N/ A	56.0%	58.0%	60.0%	75.0%
Administrative cost per traigee	N/ A	156.18	175.47	166.30	162.88	150.00

<b>Compensation &amp; Pension</b>						
<b>Performance Measures</b>						
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>Strategic Goal</b>
<b>Performance Measures</b>						
National accuracy rate (core rating work)	N/ A	64.0%	68.0%	81.0%	85.0%	96.0%
National accuracy rate (authorized work)*	N/ A	70.0%	63.0%	85.0%	88.0%	93.0%
National accuracy rate (fiduciary work)*	N/ A	51.0%	48.0%	75.0%	80.0%	93.0%
Overall satisfaction *	58.0%	57.0%	57.0%	65.0%	70.0%	90.0%
Telephone activities - abandoned call rate	9.0%	13.0%	9.0%	10.0%	7.0%	5.0%
Telephone activities - blocked call rate	45.0%	52.0%	27.0%	15.0%	12.0%	10.0%
Rating-related actions - average days to process	94	128	166	160	142	74
Rating-related actions - average days Pending	94	119	144	150	120	78
Non-rating actions - average days to process	23	32	44	33	40	17
Non-rating actions - average days Pending	56	74	94	59	75	44
Appellate actions- Appeals resolution time **	628	686	746	670	650	365
Fiduciary activities - initial appointment >45 days	20.0%	21.0%	12.0%	8.0%	6.0%	1.0%
Cost per compensation claim completed	N/ A	\$ 285	\$ 325	TBD	TBD	\$ 249
Cost per pension claim completed	N/ A	\$ 132	\$ 150	TBD	TBD	\$ 77
Cost per active compensation case on rolls	N/ A	\$ 127.00	\$ 102.00	TBD	TBD	\$ 121.00
Cost per pension case on the rolls	N/ A	\$ 206.00	\$ 172.00	TBD	TBD	\$ 161.00

\*Estimated Actuals

\*\*Difference from BVA submission due to rounding

<b>Loan Guaranty</b>						
<b>Performance Measures</b>						
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>Strategic Goal</b>
<b>Performance Measures</b>						
Loan guaranties issued	238,833	368,791	396,399	280,000	250,000	N/A
Veterans satisfaction	96.0%	90.0%	TBD	TBD	TBD	95.0%
Lender satisfaction	67.0%	67.0%	TBD	TBD	TBD	80.0%
Foreclosure avoidance through servicing (FATS) ratio	41.0%	37.0%	37.6%	39.0%	40.0%	45.0%
Administrative cost per loan	\$ 291	\$ 233	\$ 111	\$ 120	\$ 125	\$ 125
Administrative cost per default	\$ 212	\$ 304	\$ 338	\$ 340	\$ 335	\$ 320
Administrative cost per property sold	\$ 1,076	\$ 1,470	\$ 1,956	TBD	TBD	TBD
Return on investment	97.2%	99.0%	100.6%	98.0%	100.0%	100.0%
Property holding time (months)			6.7	9	8.5	8
Average days to issue certificates of reasonable value	N/A	N/A	18.8	19	17	15
Statistical Quality Index			TBD	97%	97%	98%

<b>Vocational Rehabilitation &amp; Employment</b>						
<b>Performance Measures</b>						
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>Strategic Goal</b>
<b>Performance Measures</b>						
Speed of entitlement decisions in average days	N/A	88	87.8	79	60	60
Employment timeliness in average days	N/A	83	53.1	52	50	50
Accuracy of decisions (Services)	N/A	85.0%	87.0%	88.0%	96.0%	96.0%
Accuracy of decisions (Entitlement)	N/A	N/A	86.0%	94.0%	96.0%	96.0%
Accuracy of decisions (Fiscal)	N/A	N/A	94.0%	95.0%	99.0%	99.0%
Rehabilitation rate	N/A	42.0%	53.0%	60.0%	65.0%	70.0%
SEH rehabilitation rate	N/A	N/A	49.2%	55.0%	60.0%	65.0%
Customer satisfaction	N/A	86.0%	N/A	80.0%	92.0%	92.0%

<b>Insurance</b>						
<b>Performance Measures</b>						
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>Strategic Goal</b>
<b>Performance Measures</b>						
High customer ratings	90.0%	95.0%	96.4%	95.0%	95.0%	95.0%
Low customer ratings	5.0%	2.0%	1.3%	2.0%	2.0%	2.0%
Percentage of blocked calls	44.0%	17.0%	6.0%	6.0%	5.0%	1.0%
Average hold time in seconds	70	35	20	21	20	20
Percentage of insurance disbursements paid accurately	98.0%	99.0%	99.1%	99.0%	99.0%	99.0%
Average days to process insurance disbursements	4.4	3.2	3.2	3.0	2.9	2.5
Cost per policy maintained	\$ 9.96	\$ 10.34	\$ 11.25	\$ 11.87	\$ 12.07	\$ 13.00
Cost per death award	\$ 87.55	\$ 88.15	\$ 78.18	\$ 85.65	\$ 81.81	\$ 85.00
Cumulative number of computer based training modules completed	-	1	1	4	5	5
Employee satisfaction *	68%	NA	68%	3.5	3.7	4.0

\* Changed measurement to means score on scale of 1 - 5, one being the lowest.

### *Program Outcomes*

Whereas performance measures are used to evaluate service delivery, program outcomes focus on the programs' effectiveness in carrying out their mandates. To establish outcomes, goals, and measures for each program, we are having consultation sessions with stakeholders and conducting program evaluations. We meet with stakeholders to determine whether our outcome statements are valid. We want to make sure that our outcomes are consistent with the stakeholders' expectations. We conduct program evaluations to determine the best ways to measure these outcomes, and then establish goals for achieving them. As the charts below indicate, each program is at a different stage of development. Not all have undergone program evaluations, and stakeholder consultations have not been concluded for others. Therefore, some goals and measures are still to be determined (TBD).

## Compensation and Pension Program

### Interim Compensation and Pension Outcomes/Measures/Goals:<sup>1</sup>

Program	Outcomes	Measure	Outcome Goal
Disability Compensation – Veterans	Recognize and compensate veterans for their contribution and sacrifices made in defense of the nation.	Percentage of compensation recipients who perceive that VA compensation recognizes the contribution and sacrifices made by veterans during military service.	TBD
	Redress the effects of a service-connected disability in diminishing the quality of life for (a) seriously disabled veterans and (b) less than seriously disabled veterans.	Percentage of compensation recipients who perceive that VA compensation redresses the effect of service-connected disability in diminishing the quality of life.	TBD
	Offset the average loss of earning capacity due to service-connected disability for (a) seriously disabled veterans and (b) less than seriously disabled veterans.	Percentage of veterans in receipt of compensation whose total income exceeds that of like-circumstanced non-veterans.	TBD
	Provide incentive for future military service by assuring prospective servicemembers of the nation's obligation to provide for those who are disabled as a result of military service.	Percentage of recently-inducted servicemembers who report that the existence of the VA compensation Program was a factor in helping them decide to enter military service.	TBD
Dependency and Indemnity Compensation	Recognize and compensate the surviving spouses of veterans whose deaths are determined to be service-connected.	Percentage of DIC surviving spouses who perceive that the DIC Program recognizes the sacrifices made by veterans during military service.	TBD
	Ensure a minimum standard of living and an acceptable level of income for surviving spouses in receipt of DIC.	Percentage of surviving spouses in receipt of DIC who have higher incomes than like-circumstanced non-recipients.	TBD
	Provide a level of income that brings surviving parents up to a standard of living that ensures a basic dignity in their lives.	<ol style="list-style-type: none"> <li>Percentage of Parents' DIC recipients who rely on welfare for part of their support.</li> <li>Percentage of recipients of Parents' DIC who have higher incomes than like-circumstanced non-recipients.</li> </ol>	TBD
Non-Service Connected Pension	Recognize and compensate veterans for their contribution and sacrifices made in defense of the nation during wartime.	Percentage of pension beneficiaries who perceive that VA pension recognizes the sacrifices made by veterans during wartime.	TBD
	Provide a level of income that brings veterans and their survivors up to a standard of living that ensures a basic dignity in their lives.	Percentage of VA pension recipients who have higher total family incomes than like-circumstanced non-recipients. Percentage of VA pension recipients who rely on welfare for part of their support.	TBD
	Provide incentive for future military service by assuring prospective servicemembers of the nation's obligation to provide for those who defend the country in wartime military service.	Percentage of recently-inducted servicemembers who report that the existence of the VA Pension Program was a factor in helping them decide to enter military service.	TBD
Burial Allowance	Recognize and compensate the families of deceased veterans for the sacrifices made during military service.	Percentage of burial award or plot allowance beneficiaries who perceive that VA burial benefits recognize the sacrifices made by veterans during military service.	TBD
	Compensate the families of eligible veterans for funeral and burial expenses.	Percentage of total funeral and burial expenses represented by VA burial allowance. For example, if the burial award for a service-connected death is \$1,000 and the total cost of the funeral and burial was \$5,000, the percentage for that particular case is 20%.	TBD
	Compensate the families of eligible veterans for the cost of a burial plot.	Percentage of total cost of a burial plot represented by VA plot allowance.	TBD

<sup>1</sup> Outcomes and measures will be revised after the completion of the consulting process with stakeholders.

Education Program**Chapter 30 - MGIB**

<b>1. Assist in Readjustment to Civilian Life</b>	a. MGIB Usage Rate	a. 70% by 2004
<b>2. Affordable Higher Education</b>	a. Debt Level at Completion	a. Beneficiary will have less debt than non-veteran counterpart
<b>3. Restore Lost Educational Opportunities</b>	a. Survey Questions ⇒Did military experience change the veteran's occupational goal?  ⇒Did military experience and GI Bill usage together change the veteran's occupational goal?	a. TBD
<b>4. Recruitment and Retention of Active Duty and Reserves</b>	a. Participation Rate ⇒degree to which the GI Bill was a recruitment or re-enlistment incentive	a. TBD
<b>5. Retention</b>	a. Survey Question ⇒Was the GI Bill a factor in completing first tour?	a. TBD
<b>6. Enhancing our Nation's competitiveness</b>	a. Graduation or Completion Rate  b. Achievement Index	a. Rate will equal or exceed that of general population.  b. MGIB will enhance Veteran achievement levels

**Chapter 1606 - MGIB-SR**

<b>1. Encourage Membership in Selected Reserve Units</b>	a. Usage Rate  b. Survey Questions ⇒Enlistment Reason -- income -- education (incl. MGIB) -- patriotism -- camaraderie -- retirement benefits ⇒To what degree was MGIB-SR a factor in enlisting or staying in?	a. TBD  b. TBD
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**Chapter 35 - DEA**

<b>1. Provide Opportunities for Education to Children</b>	a. DEA Usage Rate	a. TBD
<b>2. Aid in Attaining Educational Status</b>	a. Graduation/Completion Rate b. Achievement Index	a. TBD b. Benefit will aid child in achievement
<b>3. Aid in Increasing Spouse's Income to Help Family Overcome Veteran's Death or Disability</b>	a. Benefit Index b. Debt Level at Graduation	a. TBD b. Beneficiary will have less debt than non-veteran counterpart

**Chapter 36 - Administration of Educational Benefits**

<b>1. Approval of Programs</b>	a. Peer Review Ratio	SAAs will receive ratings of satisfactory
<b>2. Compliance Surveys</b>	a. Completion Rate	a. Surveys will be conducted in the year scheduled to assure program integrity

**Loan Guaranty Program**

<b>Program Purpose</b>	<b>Measures</b>	<b>Goals</b>
Home Ownership	Home Ownership Rate: Veterans vs. General Population	Veteran homeownership rate will be 12 percent higher than overall population
Assist Veterans and Active Duty Personnel to Retain Homes (Foreclosure Assistance)	Foreclosure Assistance measured through the Servicing Ratio (FATS)  The percentage of veterans avoiding foreclosure by VA intervention actions.	45 percent
Assist Veterans and Active Duty Personnel in Purchasing a Home	% of Active Duty Veterans that could not have purchased a home without VA Assistance	80 percent
SAH Assistance that Meets the Needs of Disabled Veterans	Survey to determine if SAH meets veteran adaptive housing needs and expectation	95 percent indicate met needs/expectations

Vocational Rehabilitation and Employment Program

<b>Program</b>	<b>Outcomes</b>	<b>Interim Measure</b>	<b>Outcome Goal</b>
<b>Vocational Rehabilitation (Chapter 31)</b>	Enable SC disabled veterans to become employable and obtain and maintain suitable employment.	Percentage of veterans exiting the program who obtain and maintain suitable employment.	70%
	Enable SC disabled veterans to achieve a maximum level of independence in daily living.	Percentage of Independent Living veterans obtaining a level of independence in daily living.	TBD
	Chapter 31 program meets the needs of veterans.	Percentage of veterans who believe the program met their rehabilitation needs.	TBD
<b>Vocational Training for Children with Spina bifida</b>	Enable veterans' children with Spina bifida to become employable and obtain and maintain suitable employment.	Percentage of Dependent Children with Spina bifida who meet employment criteria.	TBD

**Insurance Program**

The outcomes for the four programs that are not open to new participants, NSLI, USGLI, VSLL and VRI, have also been combined.

**Service Disabled Veterans Insurance (S-DVI)**

<b>Group Served</b>	<b>Outcome</b>	<b>Goal</b>	<b>Measure</b>
Service-connected disabled veterans	Provide disabled veterans the ability to obtain life insurance at standard premium rates regardless of their service connected impairments for a reasonable time period following establishment of service connection for a disability.	Parity with the average American's ability to purchase reasonable amounts of life insurance at competitive rates and with comparable policy features.	Compare life insurance available under the S-DVI program with the average American's ability to purchase insurance in reasonable amounts at competitive rates and with comparable policy features.

**Servicemembers Group Life Insurance (SGLI) and Veterans Group Life Insurance (VGLI)**

<b>Group Served</b>	<b>Outcome</b>	<b>Goal</b>	<b>Measure</b>
Servicemembers, reservists and separated servicemembers and separated reservists	Place servicemembers and reservists separated from duty on par with those who did not serve by providing them with the opportunity to purchase insurance at premium rates competitive with those that healthy individuals could obtain and by offering insurance coverage options comparable to group life insurance offered by large scale employers to their civilian employees.	Parity with the coverage offered by large scale civilian employers in premium rates, policy features and conversion privileges.	Compare life insurance available under the SGLI/VGLI programs to coverage offered to employees of large companies including face amounts, premium rates, policy features and conversion privileges.

**Veterans Mortgage Life Insurance (VMLI)**

<b>Group Served</b>	<b>Outcome</b>	<b>Goal</b>	<b>Measure</b>
Service-connected severely disabled veterans who have received a grant for specially adapted housing.	Provide mortgage life insurance to severely disabled veterans at standard premium rates.	Parity with the average American's ability to purchase mortgage life insurance protection in reasonable amounts, at competitive rates and with comparable policy features.	Compare mortgage protection life insurance available under VMLI to the average American's ability to purchase mortgage insurance at competitive rates and with comparable policy features.

**United States Government Life Insurance (USGLI)**  
**National Service Life Insurance (NSLI)**  
**Veterans Reopened Insurance (VRI) and**  
**Veterans Special Life Insurance (VSLI)**

<b>Group Served</b>	<b>Outcome</b>	<b>Goal</b>	<b>Measure</b>
USGLI - WWI Veterans NSLI - WWII Veterans VRI - WWII and Korean War Veterans VSLI - Korean War Veterans	These programs will continue to provide insurance protection and benefits to WW I, WW II and Korean War Era veterans.	Provide policyholders with the best financial value from their policies and give them the same or better policy services that would normally be provided on a commercial policy.	Compare maintenance practices and services being provided on commercial policies with those provided for USGLI, NSLI, VRI and VSLI policyholders.  Compare the financial value provided to our policyholders with that provided on commercial policies using the Best Policy Reports Surrender Cost Index.

Questions submitted for the record by  
Ranking Democrat Corrine Brown

**Question 1. What are the preliminary results of your pilot project to measure the effectiveness of contracting medical examinations with a non-VA medical source?**

The Contract Medical Disability Examination Pilot demonstrated that a contractor could learn the VA disability examination requirements and perform at an acceptable level within a one-year period.

**Question 2. What has been the impact of that project on veterans; and when can we expect a final report?**

The final report should be delivered to Congress in the very near future. From what we know of the results at this point, the quality and timeliness of exams done under the Pilot compare well with our historical results.

**Question 3. What, if any, plans do you have to deliver benefits to service members being discharged overseas?**

In 1999, VBA conducted a test of the feasibility of conducting pre-discharge contract examinations in an overseas environment in Germany. Almost one hundred examinations were successfully conducted and the ratings were prepared by the Huntington regional office. Earlier this year, OMB granted VA the approval to expand our pre-discharge efforts overseas in FY 2000 and 2001, by using money from VA's current services. Initially, we will establish pre-discharge sites in Germany and Korea and begin testing the overseas pre-discharge concept. Another pre-discharge site in Japan will be added in the future.

We have contacted military officials in Europe to discuss possible cost sharing for this initiative. They indicated that underutilized clinic space is available that could possibly be provided to VA without charge. We will negotiate maximum cost sharing between VA and DoD, including sharing the costs of housing, schooling for children, transportation, and communication services for VA personnel living abroad.

**Question 4. What, if any, barriers do you face in providing benefits delivery overseas, and how and when do you expect those barriers to be removed?**

The challenges we face with overseas benefits delivery are, as you might expect, those that are not issues in running the program domestically. Access to

personnel and their records, observance of international agreements, obtaining medical examinations adequate for rating purposes, and providing for VA personnel in a foreign country are a few of the more challenging issues.

Military personnel who undergo discharge processing aboard ship may not return to the continental United States prior to a service member's separation. The number of military personnel in this category can be quite significant: a typical aircraft carrier has a compliment of 6500 personnel assigned, and as many as 10% may be on their last cruise prior to discharge. They are released from the ship at an acceptable port and flown to a naval facility in the United States for a limited period of out-processing that is too short for an effective outreach and claims processing cycle. We are currently exploring options to meet their needs, ranging from changing when transition assistance briefings are given, to Internet briefings, to having VA staff on ship.

Military personnel based overseas are concentrated primarily in Germany, South Korea, and Japan. It is not uncommon for them to be located at several small outlying sites (bases, posts, or camps). We are working now with the armed services to identify the best location for meeting the needs of all service members in each of these countries.

Another significant issue is the Status of Forces Agreement (SOFA) the United States has with a host government. These agreements vary by country but impact the number of American nationals who can be placed overseas. They also frequently impose requirements for hiring host nation citizens, limit the length of stay for US citizens, and impose other restrictions. We will work within the SOFA agreements to see that the needs of servicemembers about to become veterans are met.

Securing examinations acceptable for rating and military separation requirements is another issue. We believe our needs can be met through "sharing agreements" with the military to share the cost of examinations when conditions dictate. Any specialty examinations that may be required for which the military does not have qualified specialists available will be procured from the host country through existing contractual agreements established by the military with local providers.

Support for VA personnel and their families stationed overseas is a significant concern. The draft Memorandums of Understanding that we are currently negotiating with the various commands include strong protocols to assure that our staff obtain the same consideration as service members and DoD civilians assigned to these areas.

**Question 5. There are a lot of innovative practices being used by VA at the local level to improve veterans' claims processing right now. The problem**

**is that VA hasn't developed a system for evaluating which new ideas work. How do you plan to address this planning problem which GAO identified?**

In recent years VBA has developed systems and mechanisms for evaluating practices used with its field facilities. A prime example is the establishment of the Business Process Reengineering (BPR) case management demonstration sites. These sites by their very nature are test beds for best practices. Within the six identified sites initiatives designed to improve claims processing are tested prior to implementation nationwide.

These demonstration sites are modeling the case management service process to include: defining and implementing this process; testing PC based case management tools; and developing and utilizing a series of reader-focused writing letters that provide customers with process expectations, evidence needs, and claims status. They are also measuring the impact of this approach on claims processing by tracking a number of processes and service indicators including timeliness, accuracy, customer satisfaction, employee satisfaction, pending workload, and telephone service. After careful testing and evaluation, the initiatives are considered best practices and are rolled out to other stations.

Another initiative designed to evaluate and report on best practices is VBA's Virtual VA lab at its regional office in Washington, DC. This lab is testing a paperless claims folder process that will result ultimately in a controlled roll out to other stations.

Other initiatives aimed at evaluating and disseminating best practices are VBA's telephone strategy, which is described in detail in VBA's semi-annual BPR report, and the Decision Review Officer (DRO) position. VBA tested this new DRO position in a limited number of stations and, based on the findings of the evaluation report, decided to implement this program nationwide.

Earlier this year, VBA developed a process for the dissemination and implementation of best practices that stem from efforts at the local level, i.e., grass roots initiatives. Further development of the associated evaluation process at the local and national levels is underway. This process is being developed in coordination with the Office of Field Operations (OFO) and the program services. The focus of the process is to evaluate and disseminate for implementation locally developed initiatives that can demonstrate real improvements.

The best practice evaluation process will begin at the local level where the initiative is initially implemented. Applying an appropriate evaluation methodology, the station will assess the effectiveness of the practice on improving business operations. A defined format will be utilized for reporting best practices to include a description of the practice, operation impacts (scorecard), policy and procedure impacts, cost, resource requirements, and lessons learned.

Upon review and approval as a best practice, the initiative will be posted on VBA's Intranet site. Best practices will be publicized further on the field operation's hotline calls. Initiatives demonstrating high impacts may be evaluated further via the BPR demonstration sites and adopted as a mandatory practice nationwide.

**Question 6. Inconsistency in decisions made by different VA regional offices was identified by GAO as a long-standing performance problem. GAO noted that in 1997 the National Academy of Public Administration suggested various ways of addressing this concern. What, if anything, have you done along the lines suggested in the 1997 National Academy report to overcome the inconsistency problem?**

VBA currently has several programs and initiatives that work toward consistency among VA regional offices, while also designed to streamline or enhance the claims process.

Improvement in technical accuracy is our number one priority. Systematic Technical Accuracy Review (STAR) Program, is designed to improve the technical accuracy of compensation and pension claims processing and to provide current and diagnostic information about the accuracy of the work being produced at the field stations. Systematic Individual Performance Assessment (SIPA) complements STAR and brings performance assessment and accountability to the journeyman-level individual. SIPA will be the tool for local management to consistently monitor individual performance, identify individual deficiencies, ensure maintenance of journeyman-level skills, promote accuracy and consistency of claims adjudication, and to restore credibility to the system. Training and Performance Support Systems (TPSS), is developing four comprehensive training and performance support systems for the principal service delivery positions at the Veterans Service Centers. TPSS will assure consistency in training provided to the Regional Offices.

**Question 7. According to previous reports by the Inspector General, data used to determine average processing time was incorrect. What steps has VBA taken to assure more accurate recording of processing times?**

The establishment of VBA's Data Management Office represents one aspect of our commitment and focus on data integrity. This organization reflects VBA's efforts to facilitate the availability and use of quality information to support current and future business needs and improved service delivery. The Data Management Office focuses on business information; veterans' information; customer satisfaction; and improved delivery of all types of information through better information technology systems.

I have, on repeated occasions, communicated my expectation that all managers and employees take personal responsibility for identifying and correcting any improper practices or procedures that affect the integrity of our data. This issue has been discussed during satellite broadcasts and conference calls conducted by me personally, by the Office of Field Operations, and by the Program Services.

Additionally, the C&P Service has been reviewing end-product actions to identify patterns of questionable transactions and data-input discrepancies. This information has been made available to all regional offices on a regular basis. The C&P Service issued a letter providing written clarification of the most commonly misunderstood control and work credit issues. We have made significant progress in reducing the percentages of these questionable transactions as a result of these actions.

Since our data problems are so closely linked to our difficulties in establishing a systematic and fair resource allocation process, I also asked VBA's Resource Allocation Deliberation Team to look at the integrity of our data across all business lines. The team was charged with identifying causes of inconsistent and invalid data and recommending courses of action to resolve the data discrepancies. The Data Integrity Team found that major work is needed to improve VBA's culture and capacity to report good business information. Response to the recommendation in this report is monitored through the Office of Field Operations, the Services, and the Data Management Office.

**Question 8. A veteran has one year to submit evidence in support of a claim. It is my understanding that when a claim is denied as "not well grounded", the veteran is given only 30 days to submit additional evidence to "well-ground" the claim. If evidence is submitted after 30 days, but within the one-year period, a new date of claim is established in the VBA computer system. Does this practice allow VBA to show "improved" average processing times by allowing employees to take credit for multiple adjudications of the same claim each time additional evidence is submitted to "well-ground" the claims?**

As stated in the Morton v. West decision, VA does not have the authority to assist claimants in developing evidence for claims that are not well grounded. Therefore, we must first establish a well-grounded claim before conducting further development, such as setting up a medical examination. When we send our letter to the veteran explaining what evidence is needed to well ground the claim, we allow the claimant 30 days to provide the necessary evidence. We decided 30 days would allow the claimant sufficient time to provide the evidence, and still afford him/her an early determination as to whether the preliminary evidence supports a determination that the claim is well grounded. Note that the claim is *not* denied until the claimant either does not respond to our letter, or the

evidence submitted in response does not serve to well ground the claim. If the claim is denied as not well grounded after the 30-day development period, the statutory framework allows the claimant one-year to provide the evidence necessary to complete the claim. If evidence is submitted after the denial, we must again determine if the claim is well grounded. If not, we will again tell the claimant what evidence is needed, and allow thirty days for reply. If so, we will develop and rate the case on its merits. This practice allows us to process claims in compliance with legal requirements and to accurately track average claims processing times.

**Question 9. I am pleased with VBA's efforts to improve claims processing by the "Benefits Delivery at Discharge" pilot. However, I am concerned that the entire financial burden for joint discharge examinations may be falling on the VA. I hope that this issue will be addressed in an evaluation of the discharge pilot that was to have been submitted to Congress. When can we expect that report and what are your preliminary findings?**

The Final Report of the VA-Army Separation Examination Test in 1997 and subsequent Pre-Discharge initiatives with all service branches have shown that one examination serves the purposes of VA and the DoD service department. In the Pre-Discharge initiative there are several military installations which share the cost of discharge physical examinations. The extent of sharing depends upon the type of medical support local military installations have at their disposal, and the local agreements and MOUs that have been established between the VA regional offices, the VA medical facilities or VBA contract examiners, and the military facility in question. For example, the Navy has assumed the entire cost of conducting examinations for service members from Jacksonville Naval Air Station, Cecil Field Naval Air Station, Mayport Naval Station, and Kings Bay Naval Sub Base. For service members from Ft. Knox and the Norfolk Naval Base, the military is performing laboratory testing, X-rays, etc., whereas the VA medical facility or contract examiner is performing the actual physical examinations at VA expense. At all service facilities, the military has supported the effort by providing office space and other resources to VA so that the service member's claims may be taken and examinations conducted. At some military installations examinations are conducted and the rating and adjudication of claims is performed.

To my knowledge, we have not been asked by the Congress to provide a report on the Benefits Delivery at Discharge initiative. There may have been some confusion with the report we are preparing for Congress on the Contract Examination Pilot. We are currently performing a GPRA post-implementation internal analysis of the Benefits Delivery at Discharge initiative. We expect that the analysis will be completed this fall. The Benefits Delivery at Discharge initiative is currently active at 77 military facilities of all service branches in 22 states. This includes 27 Air Force facilities, 25 Navy, 17 Army, 4 Marine Corps,

and 4 Coast Guard. Twenty-four additional military facilities are scheduled to become active in the Benefits Delivery at Discharge initiative by the end of 2000.

Based on the number of Benefits Delivery at Discharge claims we have received thus far, it is projected that we will receive more than 15,000 such claims this year. This projection may increase significantly because many of these installations were activated only recently. We are currently exploring the expansion of the initiative overseas with the objective of establishing Benefits Delivery at Discharge claims processing operations in Korea, Japan, and Germany. We are also considering how we may assist Benefits Delivery at Discharge claims processing for those members of the Navy and Marine Corps who are stationed on ships at sea. Also, please see the response to Question 4 from Chairman Everett.

**Question 10. Some of our witnesses have referred to “prematurely adjudicated claims,” such as claims decided before service medical records or VA medical records are obtained. Does the timeliness criteria of the balanced scorecard provide an incentive for VA employees to prematurely deny claims?**

I would say that the reverse situation is true: that using the Balanced Scorecard as VBA's performance measurement tool ensures that no one performance measure can be manipulated, overemphasized or ignored. Attention must be given to each of the measures to gain overall results. For this reason, there is no inherent benefit in prematurely adjudicating claims. Any gains in timeliness would be offset in the accuracy measures, as premature actions on claims would result in low accuracy scores.

In FY 2001, we propose to add a new measure to the Balanced Scorecard called “Appeals Avoidance.” This measure will give credit to stations that are effective in resolving veterans' issues prior to a formal appeal being filed. This measure serves as a further disincentive, as prematurely denied claims would eventually create negative results in the Appeals Avoidance measure.

We continue to work to reduce the length of time required to obtain service medical records. In September 1999, the Director of the Records Management Center in St. Louis signed an agreement with the National Personnel Records Center, where service medical records are stored. This agreement allowed VBA to take over the service medical record research function from the National Personnel Records Center. VBA currently has 31 full time employees staffing this function. The number of pending requests for service medical records has dropped from 67,000 to approximately 45,000. This decrease in our backlog has taken place while handling all new requests. A total of 90,000 requests have been processed thus far this fiscal year.

**Question 11. What affirmative steps does VBA plan to take to prevent the envy and negativity existent in VBA's organizational culture from infecting new employees? How do you plan to address it in current employees?**

For the past three years, new hires to the Veterans Benefits Administration have been recruited via the Opportunity Program. The Opportunity Program is a VBA initiative to recruit, orient and train employees within their first six months of entry. The Opportunity Program is the cornerstone of VBA's succession planning efforts. To date, over 300 employees have been oriented and trained. We are currently recruiting in excess of 350 new employees, with Opportunity training sessions scheduled throughout the summer. All training sessions are held at the Veterans Benefits Training Academy in Baltimore, Maryland.

The purpose of the Opportunity Program is to focus new employees on VBA's mission of service to our Nation's veterans and their families. The curriculum of the ten-day program is intensive and includes guest speakers from within VBA, VHA, Service Organizations, National Cemetery and members from the Department level. The purpose of these presentations is three-fold: 1) to instill in employees the values of VBA's culture, mission, and vision; 2) to introduce and instill concepts of team work, case management and information technology from the very beginning of an employee's VA career; and 3) to create a foundation for a program of continuous learning in the workplace that will be available to all VBA employees, both new and current.

At the conclusion of the ten-day sessions, employees will return to their offices of jurisdiction where they will participate in technical training modules that will help them develop the necessary skills to become fully functional. The majority of the Opportunity Program hires are within the Compensation and Pension program which helps to foster and develop networks and communities of practice that may prove useful throughout the employee's VBA career.

While we do not agree with your terminology of "envy and negativity," we do acknowledge that there is some resistance to change by some long term employees. Future plans for the Opportunity Program include videotaping presentations so that regional offices can offer a similar forum for all employees. These tapes will be available by the end of this fiscal year. In addition, there has been some discussion of decentralizing the training sessions in order to offer more flexibility for scheduling and allow for a greater number of attendees. This expansion of the participants will help to bring positive cultural changes throughout VBA.

**Question 12. I recognize that the need to establish a link between military service and disability for service-connected compensation claims requires substantial additional work, not required in Social Security disability cases.**

**However, what advantage is there to veterans or VA for VA to decide a claim without first obtaining the kind of disability evidence normally requested by Social Security and other public and private organizations who make disability determinations?**

VA and the Social Security Administration have different standards for entitlement to benefits they administer. While both VA and the Social Security Administration try to obtain evidence that claimant has a disability and evidence of treatment for that disability, the VA benefits system requires additional evidence of a relationship of the disability to service. Before VA can proceed to fully gather all the evidence pertinent to a claim, there must be some evidence of that relationship. This makes a claim for VA compensation a plausible one.

The Court of Appeals for Veterans Claims has indicated that 38 USC 5107(a) reflects a statutory policy that implausible claims should not consume the limited resources of VA and force into even greater backlog and delay those claims which are plausible and require adjudication. Requiring a claim to be plausible furthers that policy and is an advantage to the VA benefits system as a whole.

The Veterans Claims Adjudication Commission questioned whether the cost in time and resources of developing claims that are not plausible is offset by the customer service provided to veterans and their families. It maintained, among other things, that developing claims that are not plausible (1) improperly lifts the burden of proof from the claimant and places it on VA; and (2) unnecessarily expands issues, thereby driving the system toward obtaining irrelevant evidence and developing claims without merit, which results in decreased adjudicative timeliness and efficiency. There is no advantage to a veteran for VA to develop a claim when there is no evidence that the veteran has a plausible claim to a VA benefit.

**Question 13. Last year the Veterans' Claims Adjudication Improvement Act was enacted as part of the Veterans Millennium Health Care and Benefits Act. This requires the VBA to have a Quality Assurance Program which meets governmental standards for independence and internal controls. What progress has VA in the implementation of this crucial legislation?**

In October 1998, the Compensation and Pension (C&P) Service implemented a review process called the Systematic Technical Accuracy Review (STAR) program. The STAR program meets the basic requirements for program audit independence. It provides for independence at the program level, while providing essential oversight to ensure comprehensive review at the regional office level. We believe that this program is consistent with organizational responsibility to improve service quality. While we believe that an audit function and a quality assurance program are complimentary, they are not the same. The audit function described in GAO's Governmental Auditing Standards should be an independent function; however, quality assurance should be an integral

management function and responsibility. Our current system allows local management to be a part of the assessment process while providing oversight to ensure that reviews are performed regularly and accurately. For the audit function, the Compensation and Pension Service reviews sufficient number of random samples to provide for a statistically valid measurement at the program level. Since the C&P Service has no direct line authority or other authority over the regional offices, we feel that the structure of our program is not in conflict with the requirements for independence.

Checks and balances are embedded in the STAR process to assure objectivity. The program is already showing convincing results. At the foundation is the independent review conducted by C&P program staff. The staff responsible for these reviews are recruited based on program experience and demonstrated expertise in the review subject areas. In addition, results are used to identify error patterns and target training toward the areas where it is most needed. A "feedback loop" promotes consistent, incremental, and continuous improvements in the quality of claims processing activities.

This loop consists of:

- Thorough case write-ups documenting errors and showing what the correct action should have been.
- Periodic reports from the STAR staff that will summarize findings and trends, and discuss examples of problems with instructions for addressing them.
- Communication between the STAR staff and the training staff to help target training on problem areas.

Periodic STAR staff reports are to be issued by letter to all Adjudication employees. The case write-ups are sent to the Regional Offices, which typically will refer the exceptions to the employee who did the work.

In November 1998, the Office of Inspector General issued a report entitled, "Review of Education Service's Quality Review System." It reached the conclusion that Education Service had an effective quality review system. In fact, the report had no recommendations with regard to this Service's quality review program. The report also found that Education Service had enhanced its oversight of compliance surveys, and provided guidance to Regional Processing Office (RPO) staff to help them detect and prevent the type of benefit fraud currently under the jurisdiction of the civil division of a U.S. Attorney's Office.

Our Loan Guaranty Service has had a statistical quality control program in place for over 30 years. It has been modified over time to reflect enactment of legislation, as well as, changes in management emphases and priorities. On a regular basis field station supervisors make a random selection of completed cases and evaluate the quality of work based on an established set of requirements. A second line review is also based on random selection. The

results of statistical quality review are a component of the balanced scorecard and form the basis for corrective action as necessary by management.

The Vocational Rehabilitation & Counseling Service (VR&C) Quality Assurance program, instituted by the VR&C Service in FY 1999, is a joint headquarters and field management team effort under the supervision of headquarters management. This joint collaborative effort fosters an outcomes oriented approach to service delivery and program management.

We believe that VBA's Insurance Service's current quality assurance program is accurate, properly conducted, and reflects where training efforts should be directed. In its Statistical Quality Control (SQC) program, covering ten separate SQC entities, members of the Insurance Program Management staff review decisions and/or actions taken by the operating divisions within the Insurance Service. Although co-located in Philadelphia, there exists sufficient independence of duties between the operating divisions and Program Management to meet government standards for program performance audits.

I am proud of the strides VBA has taken to improve data integrity and quality assurance reporting.

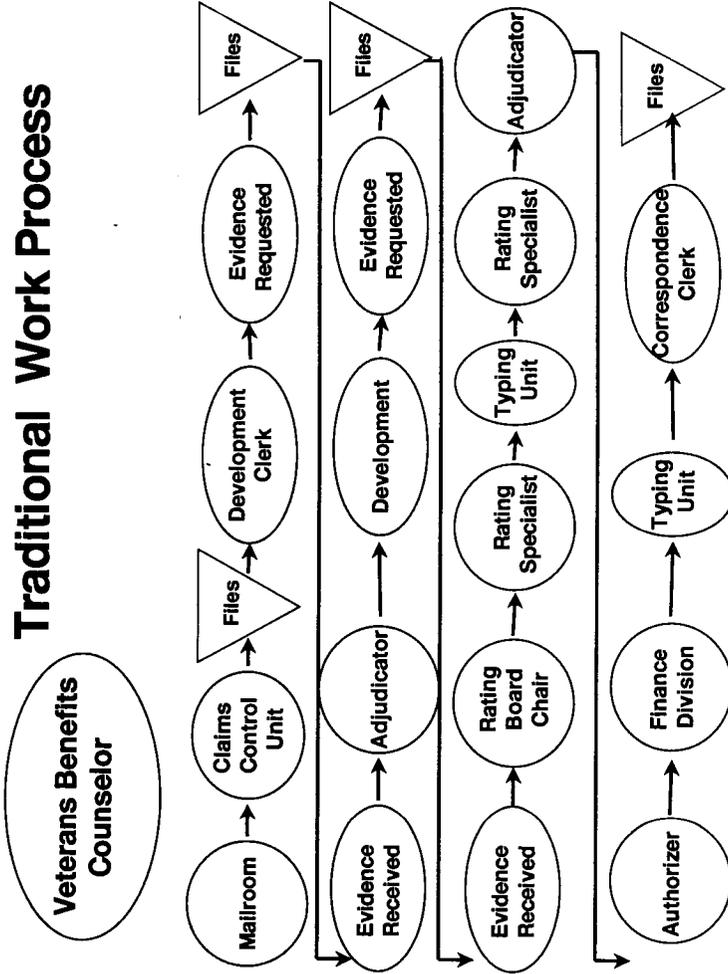
**Question 14. I would also like to hear more about the current status of VA implementing the Systematic Technical Accuracy Review (STAR). This major change in assessing the quality of VBA's decision-making is on the right track. STAR data needs to be analyzed in a timely fashion so appropriate action can be taken to correct the deficiencies identified.**

Continuing review and improvement of the STAR program remains a program goal. A rigorous, effective review process has been established both at the national and local level. Review areas are comprehensive and customer focused. Stated goals of this process include more than simply an audit function to produce a reliable accuracy measure. This program is expected to also provide information that will facilitate improvement by identifying problem areas and assisting in finding solutions. Detailed on-line reports have been created to provide information available for review by analysts and managers at all levels. Reports include identification of all errors by category and a comprehensive listing of a summary of every error narrative reported both locally and nationally since the inception of this program. These narratives are available in a format that can be easily sorted by various criteria to support analysis.

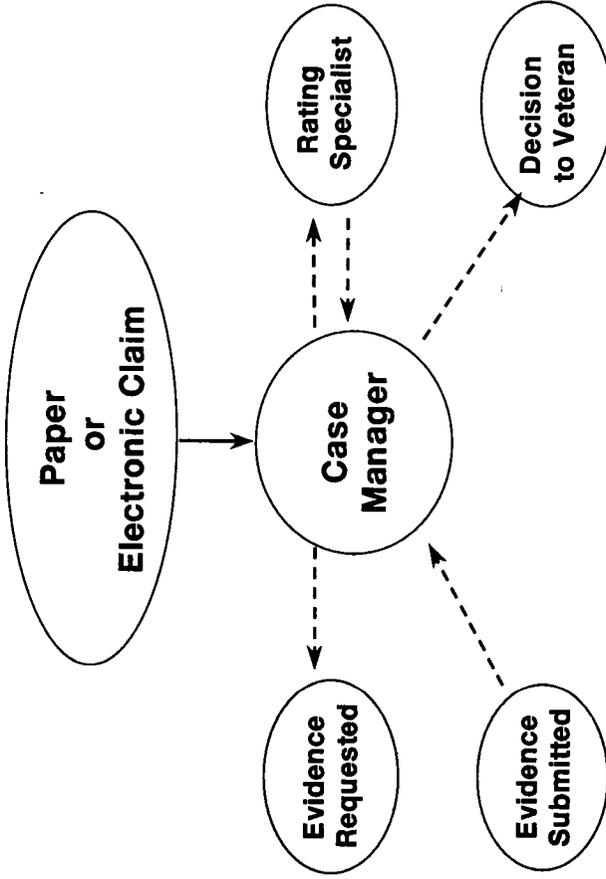
The Program Review Staff in Compensation and Pension Service has recommended twelve manual changes and two regulatory changes based upon review experience. The Staff has also produced several training reports identifying areas of particular concern. Increased activity in this area is scheduled with specific examples of processing concerns identified and

addressed in regular quality assurance bulletins. Separate from, but in concert with quality improvement, a formal Compensation and Pension question and answer forum was created with responses maintained on a VBA Intranet site.

# Traditional Work Process



# Redesigned Process



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