AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

BEYOND TRANSFORMATION: REVIEWING CURRENT STATUS AND SECONDARY EFFECTS OF VBA TECHNOLOGY

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

WEDNESDAY, FEBRUARY 5, 2014

Serial No. 113–51

Printed for the use of the Committee on Veterans' Affairs

Available via the World Wide Web: http://www.fdsys.gov

U.S. GOVERNMENT PUBLISHING OFFICE

86–727 WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON VETERANS' AFFAIRS

JEFF MILLER, Florida, *Chairman*

DOUG LAMBORN, Colorado
GUS M. BILIRAKIS, Florida, *Vice-Chairman*
DAVID P. ROE, Tennessee
BILL FLORES, Texas
JEFF DENHAM, California
JON RUNYAN, New Jersey
DAN BENISHEK, Michigan
TIM HUELSKAMP, Kansas
MIKE COFFMAN, Colorado
BRAD R. WENSTRUP, Ohio
PAUL COOK, California
JACKIE WALORSKI, Indiana
DAVID JOLLY, Florida

MICHAEL H. MICHAUD, Maine, *Ranking Minority Member*
MARK TAKANO, California
JULIA BROWNLEY, California
DINA TITUS, Nevada
ANN KIRKPATRICK, Arizona
RAUL RUIZ, California
GLORIA NEGRETE MCLEOD, California
ANN M. KUSTER, New Hampshire
BETO O'ROURKE, Texas
TIMOTHY J. WALZ, Minnesota

JON TOWERS, *Staff Director*
NANCY DOLAN, *Democratic Staff Director*

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

JON RUNYAN, NEW JERSEY, *Chairman*

DOUG LAMBORN, Colorado
GUS M. BILIRAKIS, Florida
MARK AMODEI, Nevada
PAUL COOK, California
DAVID JOLLY, Florida

DINA TITUS, Nevada, *Ranking Minority Member*
BETO O'ROURKE, Texas
RAUL RUIZ, California
GLORIA NEGRETE MCLEOD, California

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

Page

Wednesday, February 5, 2014

Beyond Transformation: Reviewing Current Status and Secondary Effects of VBA Technology 1

OPENING STATEMENT

Hon. Jon Runyan, Chairman 1

WITNESSES

Statement of Mr. Gerald T. Manar, Deputy Director, National Veterans Service, Veterans of Foreign Wars of the United States 5
Prepared Statement 37
Statement of Mr. Jeffrey C. Hall, Assistant National Legislative Director, Disable American Veterans 7
Prepared Statement 41
Statement of Mr. Zachary Hearn, Deputy Director for Claims, Veterans Affairs and Rehabilitation Division, The American Legion 9
Prepared Statement 46
Statement of Mr. Frank Logalbo, National Service Director, Wounded Warrior Project 10
Prepared Statement 49
Statement of Mr. Eric Jenkins, Rating Veterans Service Representative, Winston Salem Regional Office, American Federation of Government Employees, AFL–CIO and the AFGE National VA Council 12
Prepared Statement 53
Statement of Ms. Diana Rubens, Deputy Under Secretary for Field Operations, U.S. Department of Veterans Affairs 24
Prepared Statement 57
Accompanied by:
Mr. Richard Hipolit, Assistant General Counsel, U.S. Department of Veterans Affairs
Accompanied by:
Ms. Lorraine Landfried, Deputy Chief Information Officer for Product Development, Office of Information Technology, U.S. Department of Veterans Affairs
Statement of Richard W. Thomas, Director, Healthcare Operations, Defense Health Agency 26
Prepared Statement 61
Accompanied by:
Mr. Dave Bowen, Director, Health Information Technology, Defense Health Agency

MATERIALS SUBMITTED FOR THE RECORD

Paralyzed Veterans of America 63
Vietnam Veterans of America 64
Letter From: Hon. Dina Titus, Ranking Minority Member to Hon. Eric K. Shinseki 69

QUESTIONS AND RESPONSES FOR THE RECORD

Questions For the Record 69
Questions From: Dina Titus and Responses From: VA 71

BEYOND TRANSFORMATION: REVIEWING CURRENT STATUS AND SECONDARY EFFECTS OF VBA TECHNOLOGY

Wednesday, February 5, 2014

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND
MEMORIAL AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 3:30 p.m., in Room 334, Cannon House Office Building, Hon. Jon Runyan [chairman of the subcommittee] presiding.

Present: Representatives Runyan, Lamborn, Bilirakis, Cook, Titus, O'Rourke, Ruiz, Negrete-McLeod.

OPENING STATEMENT OF JON RUNYAN, CHAIRMAN

Mr. RUNYAN. Good afternoon, and welcome, everyone. This oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs will now come to order.

Today's hearing will focus upon technological initiatives of the Veterans Benefits Administration as well as the secondary effects of those initiatives.

Specifically we will hear information on the status of the Veterans Benefits Management System 6.0 release and the Veterans Relationship Management System including e-benefits.

We will also address the recently implemented secure electronic transmission of service treatment records between healthcare artifacts the image management solution of the Department of Defense and VA's VBMS.

Additionally, the subcommittee will seek information on VA's work credit system within the new electronic framework of their regional offices, the national work queue, and the proposed rule of VA as to standardized forms.

Many of these new technology solutions will reduce reliance on paper-based processes and were designed to simplify and streamline the VA's services to veterans, their families, and survivors.

To the extent that they increase efficiency, they lead to faster and more accurate outputs to beneficiaries. I remain eager to work alongside the VA to implement this reasonable path forward.

I am optimistic that many of the efforts the VA has employed to date have made a positive change. However, I caution that in the department's efforts to reach the numeric goal of the 125 days

pending for claims in 2015, VA must not prioritize an appearance of success above actual qualitative improvement.

And I assure you that this subcommittee will labor to hold focus upon the quality of both VBA's process and outcomes.

We will hear today that there have been both progress and problems. VBMS consistently experiences serious latency problems with regular weekly, sometimes daily outages. Why do these latency issues continue and how are the regional offices dealing with this complication?

VA indicates that VBMS has been successfully deployed the Board of Veterans' Appeals. I believe that to be true at a superficial level, but I am aware of the functional quagmire of VBMS at BVA.

If we take your statements at face value, it would appear that BVA is productively chugging along with no problems. However, we know that BVA does not have the necessary functionality in VBMS for indexing and file maintenance and continues to experience issues with load time, misplaced documents, and, again, latency.

Additionally, VA's obligation to properly safeguard personal information is paramount. VA represents that the technology tools are accredited and secured under VA's strict security standards to combat evolving cyber security threats. Yet, in recent weeks, e-benefits was compromised to an unknown extent.

The personal information of thousands of veterans was revealed and this simply was unacceptable. It would go without saying, but I will say it nonetheless, this lack of security is of tremendous concern.

One other area that we will hear about today is VA's proposed rule that would require claims to be filed on a standard form and would also require appeals to be initiated using a standard form.

Finally, we will be examining VA's transition to what it refers to as a national work queue, meaning that claims are processed by the next available VA employee, not necessarily the next local VA employee, and in particular examining the effects that such model has on local representation.

I look forward to hearing both the department's explanation of the desired change as well as the comments of the various interested organizations that are seated in our first panel this afternoon.

And with that, I will begin the introductions. Will the first panel be seated at the witness table.

Our first panel today will include Mr. Gerald Manar, deputy director of National Veterans Service with the Veterans of Foreign Wars of the United States; Mr. Jeffrey Hall, assistant national legislative director with Disabled American Veterans; Mr. Zachary Hearn, the deputy director for Claims, Veterans Affairs and Rehabilitation Division with The American Legion; Mr. Frank Logalbo, the national service director with the Wounded Warrior Project; and Mr. Eric Jenkins who is here in representation of the American Federation of Government Employees, AFL–CIO, and the AFGE National VA Council.

Once we conclude with panel one, we will move on to panel two which consists of representatives from the Department of Veterans Affairs and the Department of Defense.

For VA, we will hear from Ms. Diana Rubens, deputy under secretary of Field Operations, accompanied by Richard Hipolit, the assistant general counsel, and by Ms. Lorraine Landfried, deputy chief information officer for Product Development, Office of Information Technology.

And from the Department of Defense, we will hear from Major General Richard Thomas, director of Healthcare Operations, Defense Health Agency, who is accompanied by Mr. Dave Bowen, director of Health Information Technology, Defense Health Agency.

With those introductions complete, I thank you all for being with us today and now yield to the ranking member, Ms. Titus, for her opening statement.

Ms. TITUS. Thank you very much, Mr. Chairman.

I think some of the things I am going to say in the opening statement echo some of the points that you have already made, but sometimes it does not hurt to hear them twice. This is a very important hearing and I appreciate your calling it.

I want to commend the VA for its efforts to address the claims backlog. I know last fiscal year, the VA completed a record 1.7 million claims. You reduced the time veterans have to wait for their claims and you cut the backlog by 35 percent.

So if you continue along these lines, I suspect that at this rate, you'll reach the secretary's ambitious goal by next year.

But I also want to thank the stakeholders who have joined us today because we would not be where we are in reducing the backlog if it were not for the help that you have been giving our veterans and the advice that you gave us and the VA on how to tackle this challenge. Your help is very much appreciated by both the veterans and by us.

We are confident that the VA has seen an increase in production due to some of the mandatory overtime and the implementation of provisional ratings, but results of the new electronic claims system, the VBMS, are unfortunately mixed reviews and despite the promises that we heard of how they were going to make the system more efficient and effective.

According to the strategic transformation plan, the VA expected to reduce the backlog by 345,000 claims based on the efficiencies from utilizing this system alone, just because of that. We're hopeful that that occurs.

However, we remain concerned about that because as VBA staff and stakeholders continue to question the efficiencies that have been gained during this system, there have been excessive down times, latency, lack of access to the system for the VSOs via that stakeholder enterprise portal, and these are all problems that we hope will be able to be addressed.

And as the chairman pointed out, just last week we learned of yet another VBMS outage and then a few days later the media reported that a data breach in e-benefits had led to the release of personal information for some 1,400 veterans.

So needless to say we are not overly impressed by the system's security, efficiency, or effectiveness at this point and we are looking to see some improvements as we move forward.

Adding to this challenge has been the VA's continued lack of transparency regarding the performance of specific VA regional of-

fices. For months, the VA has shuffled claims among the ROs and then reported that the struggling offices have been improving.

Now, I have dealt with this firsthand with the performance of the Reno regional office which serves all the veterans in Nevada and some in California. It was one of the worst in the country, had one of the longest delays and one of the biggest backlogs.

Well, now I have learned that half of their workload was brokered to other stations around the country. That work was actually completed in those other stations, but the Reno RO was given credit for reducing its backlog.

Now, because of that, I wonder, and it remains unclear, if the poor performers have really gotten any better or if they are going to improve in the future or if we are addressing the real cause of the problem and not just the symptoms.

While veterans might be served in a timelier fashion through brokering, and it is a good thing in the short term, it is not a solution in the long term. It is imperative that we know not only how well our veterans are being serviced but how well the VA regional offices that are serving them are really performing.

This is particularly important as you move towards this national work queue where many veterans' claims will be sent to other states or other parts of the country to be worked on.

Just in closing, I would like to state that earlier this year, our subcommittee worked on a bipartisan package of bills that was designed to speed up the benefits process for veterans. The House has passed most of these bills, and I hope that the Senate will soon address them and send them to the President for his signature.

Some of these will be very important as you move towards that national work queue including my bill, Pay As You Rate. So I hope that we can work on those to provide a more timely delivery of payments.

Additionally, I hope that the VA is looking towards the national work queue as a way not just to moving cases from the under performing to places where they can be addressed more quickly but as a way to specialize in medical conditions in certain offices that are especially challenging like military sexual trauma and traumatic brain injury. That could be a potential game changer if you focus on specializing and not just on shuffling the chairs around.

So with that, I would like to restate and emphasize our commitment to the VA, proud of the good work that you do. I know VA employees work hard and this is not an easy process. This committee wants to be your partner. We want you to tell us if something works, help us understand if something is not working, and then be forthright when there are problems so that we can try to address it.

So thank you all for being here, and thank you, Mr. Chairman.

Mr. RUNYAN. Thank you, Ms. Titus.

And with that, I know Mr. O'Rourke does have an opening statement, but protocol says I ask Mr. Cook first.

Mr. COOK. [Nonverbal response.]

Mr. RUNYAN. Mr. O'Rourke is recognized.

Mr. O'ROURKE. Mr. Chairman, I just ask unanimous consent to submit my opening statement for the record.

Mr. RUNYAN. Without objection, so ordered.

Mr. O'ROURKE. Thank you.

Mr. RUNYAN. Ms. Negrete-McLeod, anything?

Mrs. Negrete-McLeod. [Nonverbal response].

Mr. RUNYAN. We welcome our first panel, and, Mr. Manar, you are now recognized for five minutes for your oral testimony.

STATEMENTS OF GERALD T. MANAR, DEPUTY DIRECTOR, NATIONAL VETERANS SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; JEFFREY C. HALL, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; ZACHARY HEARN, DEPUTY DIRECTOR FOR CLAIMS, VETERANS AFFAIRS AND REHABILITATION DIVISION, THE AMERICAN LEGION; FRANK LOGALBO, NATIONAL SERVICE DIRECTOR, WOUNDED WARRIOR PROJECT; ERIC JENKINS, RATING VETERANS SERVICE REPRESENTATIVE, WINSTON–SALEM REGIONAL OFFICE, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO AND THE AFGE NATIONAL VA COUNCIL

STATEMENT OF GERALD T. MANAR

Mr. MANAR. Chairman Runyan, Ranking Member Titus, and Members of the subcommittee, thank you for the opportunity to present to you the views of the members of the Veterans of Foreign Wars of the United States and its auxiliaries on these important topics.

While workload remains near historic highs and quality remains problematic for VA, these are not VA's biggest problems in our view. What confronts VBA is a problem in leadership, leaders at the top so intent on meeting arbitrary goals by 2015 that they have systematically suborned the legal, regulatory, and policy protections granted veterans over the last 75 years.

I say this today with the full knowledge that the Veterans of Foreign Wars has largely supported this leadership as they move to transform the claims processing system. However, VBA policies and practices in claims processing have increasingly become hostile to the interests of veterans.

Secretary Shinseki established aggressive goals for VBA in both claims processing and timeliness by declaring 125 days as the maximum time in which to process a claim with 98 percent quality by 2015. It appears that VA leadership long ago realized that they could not process all claims within 125 days.

In the past few years, the true workload has reached over two million claims and appeals. Today there are over 1.7 million compensation, pension, and education claims and appeals.

Instead of fully fixing its problems, VA leaders redefine them. Since VA could not reduce the entire 1.7 million workload of claims and appeals to a reasonable level by 2015, they decided to define the workload as only disability claims requiring rating action.

Like a mantra, they have repeated that redefinition over and over until the media and Members of Congress use it when talking about the backlog.

Seven hundred thousand disability claims are pending today, just 41 percent of all the claims and appeals VA has to work in its regional offices.

Next VA decided to focus its entire workforce on reducing pending disability claims, leaving nearly 60 percent of the workload nearly untouched. The cost of this neglect is found in two examples.

In the past three and a half years, dependency claims, perhaps the simplest of claims that VA can process, have grown from about 40,000 to nearly 235,000.

Because appeals do not fall within the definition of backlog, VBA has consistently diverted appeals' staff to work disability claims. As a consequence, appeals have grown from 252,000 to over 268,000 in just the past year.

The definition of quality has also changed in several ways. VA's central office directives have relaxed development requirements to allow rating specialists to make decisions using evidence considered inadequate just a few years ago. Claims are decided faster but often less favorably to veterans.

In addition, VA is moving to an issues-based method for determining quality levels. This is significantly different than the case-based method used when Secretary Shinseki set his goal of 98 percent quality. The new method makes VA look better while making the same number of mistakes.

What you see here is a cold-blooded assessment by VA officials that if they cannot achieve their goals under the current standards, they will change the rules to meet their goals. VA is proclaiming vast improvements when, in fact, they have only changed the way they look at quality.

Proposed regulation AO81 styled standard claims and appeals forms is another attempt by VA to change the playing field. We discuss this at length in our written testimony. This regulation change is not about requiring standardized forms. VA has had standardized forms since at least the 1930s. It is about reducing incoming claims and depriving thousands of veterans each year of millions of dollars in earned benefits.

There will be a profound and negative effect on veterans seeking benefits if VA implements these changes.

Congress has spent 75 years or more working to construct a benefit system which is veteran friendly, a system which recognizes the contribution of the men and women who have worn the uniform of the United States.

VA proposed to make rigid a claims processing system which was constructed with the purpose of helping veterans who may not know every rule and policy. VA leaders have apparently decided to ignore the injunction of Omar Bradley, administrator of the Veterans Administration following World War II, who stated we are dealing with veterans, not procedures, with their problems, not ours.

And, finally, we ask this committee to examine what VA leadership is doing. Examine the methods they are using to redefine problems so they can reach their self-created artificial goals.

We ask Congress to block any attempt by VA to reduce rights that veterans and other claimants currently have to submit infor-

mal claims to VA and we ask this committee to force VA to address all pending issues and appeals, not just disability claims.

America's veterans did not sacrifice their time, their bodies, or their lives to be run over by a bureaucratic train racing to declare victory by 2015. They deserve more respect than that for their service to our great Nation.

Thank you for the opportunity of speaking to you today, and I will be happy to answer any questions you may have.

[THE PREPARED STATEMENT OF GERALD T. MANAR APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Manar.

With that, I will recognize Mr. Hall for five minutes for his testimony.

STATEMENT OF JEFFREY C. HALL

Mr. HALL. Thank you.

Chairman Runyan, Ranking Member Titus, and Members of the subcommittee, on behalf of DAV and our 1.2 million members, we appreciate the opportunity to testify today regarding VBA's technology initiatives.

Let me begin today by sharing some insights from a recent unannounced visit to the Newark VA regional office which is the only fully electronic regional office within the VA.

All claims processing performed in Newark today is for all intents and purposes completely paperless. During my visit to Newark, I was able to see virtually every step of the process from the intake processing center through the steps of the development in the core lane concluding with a fully digital claim file being reviewed in the VBMS and a final rating being prepared in the VBMSR program.

Not having seen more than a demonstration of VBMS prior to my Newark visit, I now have greater confidence in the overall performance of VBMS and I am reassured that it actually works as promised.

In speaking with many of the employees at the Newark VA regional office, morale was much higher than it was in the past and it is growing every day. Employees I visited with feel VBMS and the new organizational model while not perfected allow for greater productivity, speed, accuracy, and accountability in completing their work, albeit they do realize there will be routine improvements in the VBMS system and not without problem. Yet, they are optimistic that as their proficiency using the new system escalates, they will be able to demonstrate the increases in all measurable activities.

Recognizing the fact that no modern IT system or software is ever truly finished, it is vitally important. So in addition to the funding required for maintenance of the VBMS system, VBA must continue to make significant investments in the VBMS development for as long as this system is capable of meeting VBA needs.

Like VBMS, the e-benefits system has been in place for more than a year and while the e-benefits system is working and claims are being submitted and received electronically as intended, it is

certainly not without obstacles which must be overcome as they arise and without delay.

One of the first obstacles encountered within the e-benefits system was veterans not being able to set up their account due to problems with the inaccurate information maintained by the Defense Enrollment Eligibility Reporting System or DEERS. This remains a major problem for many veterans, especially older veterans, and must be resolved.

Mr. Chairman, clearly VBA would like to see more veterans file their claims electronically and DAV has been the leader amongst VSOs in increasing the number of claims filed electronically. However, more than a lack of interest from a veteran is the problem of gaining access which the veteran cannot resolve on his or her own.

Simply put, if more veterans filing claims electronically is desired by VBA, then their system needs to be capable of basic matters such as access.

Certainly there are some ongoing issues with the technology. However, DAV remains supportive of VBA's transformation efforts and veterans being able to submit claims electronically through the e-benefits system or on their behalf through the stakeholder enterprise portal with the assistance of our national service officers.

However, the SEP is dependent upon a veteran being required to have an e-benefits account which means without e-benefits access, we cannot file electronic claims for our clients. We are hopeful that changes will occur in the near future so that we can file electronic claims directly with the VBA through the SEP system without the need of going through the e-benefits.

With new technology in place, VBA is now looking at the prospect of a national workload management model which we believe falls in line with similar VBA strategies such as centers of excellence and centralized mail centers.

When considering a major change to the claims process such as a national workload management model or anything of a centralizing nature, thoughtful deliberation must be given to the impact of removing the benefit of face-to-face interaction with VBA which at the very least could be hindered.

As we have done for nearly 100 years, DAV will continue to evolve and adapt to any changes in the claims process. However, any change to the claims process must include VSOs from the earliest planning stages possible.

And, finally, Mr. Chairman, with respect to VA's proposal to require all claims and appeals to be filed on standard VA forms, DAV understands the stated intent of VA's proposed amendments to promote submission of claims and appeals in standard formats in order to capture data for a paperless claims and appeals system. However, we have concerns about the proposed rule and the consequential adverse effect upon veterans.

To be clear, DAV takes no issue with the veterans being required to submit their claims and appeals on standardized forms. It is not new. We do, however, take exception to eliminating the informal claims processing which is also contained within the proposal, thereby causing veterans to lose their rightful entitlements such as

retroactive monetary benefits just so the VBA can speed the process.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions.

[THE PREPARED STATEMENT OF JEFFREY C. HALL APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Hall.

With that, I will recognize Mr. Hearn for five minutes for his testimony.

STATEMENT OF ZACHARY HEARN

Mr. HEARN. Good afternoon, Chairman Runyan, Ranking Member Titus, and Members of the committee. On behalf of our national commander, Dan Dellinger, and the 2.4 million proud veterans serving veterans in The American Legion, I want to take a moment to thank you for bringing us here to share our views and insights about VA's technological transformation.

Really this is not a pro forma thank you, but we generally want to say thank you for listening. You treat us as partners. This committee recognizes that we are in a unique position to speak for what the veterans in America want. We are the voice of those veterans and you listen to us. You think about what we have to say and you consider our experience.

You are working together with us to try to make this work for the veterans because that is what we are all here for. We are trying to make the system work for the veterans. This is a partnership and partnership includes dialogue.

You have received our testimony, the testimony of all my colleagues, and VA's testimony. The way technology impacts the office environment for VA is going to change a lot of things. Some of those changes are going to be good. Some of those changes may not be so good. We know we are all probably going to see changes that nobody saw coming.

But I have talked to veterans. I have talked to many of the over 2,900 American Legion accredited representatives throughout the country. I have talked to my colleagues here and we can see a lot of flags that come up when we think about how some of these things will affect veterans' claims. Our voice is important.

We stated in our testimony the most important factor going forward is what changes are going to make the system better for veterans, not easier for VA, better for veterans.

Is it better for veterans to force them to use an electronic process when according to the Census Bureau roughly half of elderly Americans, a large and vulnerable portion of the veterans' population do not have regular Internet access? Does that make things better for veterans or easier for VA?

The American Legion is honored to help bring veterans to VA in a manner that makes things easier for VA. We are partners serving veterans. VA and The American Legion are partners designed to advocate on behalf of the 21 million veterans.

The American Legion took the lead in promoting the fully developed claims process with veterans and enabled VA to report a reduction in how long it takes to process claims. We do the work up

front and hand it off to VA. VA turns things around faster for veterans and the veterans get their results faster. That is the ultimate win. That is why we do this.

But the choice has to stay with the veteran. First and foremost, we have to make sure that any changes implemented are there to serve the veteran. VA can assure they are making the right decisions to serve veterans by expanding the inclusion of The American Legion and other VSOs as full partners in this process.

Very early on in the planning of what would later become VBMS, VA used to regularly work with the VSOs and we were able to point out things like that early versions did not include an integrated power of attorney to ensure veterans' representatives were seeing the information needed to help veterans with their claims. We worked together and helped to keep the focus on what was going to help the veteran.

You have reviewed the written testimonies. You have seen some specific issues we have raised. We recognize the importance of technological advances to improve the VA claims process. However, any process implemented must be advantageous to the veteran. We appreciate VA's efforts to expedite the claims process, but it cannot be on the backs of veterans.

The most important thing I want everyone here to take away from this is how important it is to recognize all of us as fully participating partners, veterans, VSOs, VA, Congress, and to keep the goal as what is the best way to deliver benefits to veterans who have been disabled serving their country. That more than any number or metric needs to be the target.

Again, I offer my sincere thanks for recognizing the importance of the voices of 2.4 million veterans and the greater community of veterans they serve and for giving us a share in the dialogue at this table, and I will be happy to answer any questions. Thank you.

[THE PREPARED STATEMENT OF ZACHARY HEARN APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Hearn.

With that, I will recognize Mr. Logalbo for five minutes for his testimony.

STATEMENT OF FRANK LOGALBO

Mr. LOGALBO. Chairman Runyan, Ranking Member Titus, and Members of the subcommittee, thank you for holding this hearing and for inviting Wounded Warrior Project to testify today.

In working daily with wounded warriors, we appreciate what advanced technology can bring to claims and adjudication, but the efficiency that technology delivers is not an end in itself. Fundamentally this system must serve our veterans.

Let me provide some context by reference from our most recent annual survey. With almost 14,000 responses, nearly all the warriors we surveyed were injured during post 9/11 service. Almost 60 percent of those injured resulted from IEDs, other blasts, and more than 44 percent reported traumatic brain injury. Seventy-five percent of the respondents had PTSD, the most commonly reported condition.

While many of our warriors rely on computers, many do not. Some with invisible wounds like PTSD, anxiety, TBI have comprehension difficulties or experience anxiety, frustration with computer technology. Many have high anxiety relating to information security. The recent data breach on VA's e-benefits Web site will very likely heighten that concern, maybe even irreversibly.

VBA must meet the veterans where they are. Technology may be the way to reach optimal efficiency, but VA's highest obligation must be to the veteran and it must accommodate the veteran, not the other way around, even at modest cost to peak efficiency.

The principle would seem beyond question and a system long celebrated as for its pro-claimant, veteran-friendly policy, but a recent rule making proposal would abandon the core tenet of that policy.

Under that proposal, VA would throw out current rules that aim to minimize the burden initiating a claim and allow benefits to be paid at the earliest possible date. It would abolish rules that permit a veteran to file an informal claim and receive benefits paid from the date of informal claim that is filed. Instead, it would push the veterans to file claims electronically and penalize those who do not.

VA would levy that penalty by setting new effective date rules on benefit awards with one rule for electronic filers and a different harsh rule for filing claims via paper.

Here is how it would work. A warrior who suffers from multiple injuries from an IED would have to list specific disabilities on a claims form. If the veteran could not identify all the disabilities and simply wrote multiple injuries, VA could not consider that, they would consider it as an incomplete claim.

If the veteran had filed electronically, VA would preserve the effective date of filing as that date. If the veteran had submitted that same incomplete claim on paper, the veteran would be penalized by deferring establishment of an effective date until the claim becomes complete. The difference could mean a loss of thousands of dollars for that veteran.

In essence, pro-claimant VBA policies would abandon any attempt to achieve efficiency and speed. We certainly do not oppose VA's becoming more efficient and timely, but it must comply with the laws centered on serving a veteran.

If new policy is that efficiencies trump veterans' rights, then Congress must make the judgment, not the secretary. VA's proposal would also undermine that safeguard to appellate rights.

Regulations that now permit any expression of disagreement to be taken as a notice of disagreement would be discarded. Instead, veterans would have to use specific forms to file a notice of disagreement. Omitting any required information would render the veteran's notice incomplete.

And a veteran who is unable to complete a form successfully within 60 days would forfeit the right to appeal. Individually and collectively, these changes go much too far.

Moreover, the department's single-minded pursuit of efficiency fails even to acknowledge that applicants for veterans' benefits have a constitutionally protected property interest in their application for benefits and are entitled to due process.

Rather than protecting that property interest, VA aims to establish procedures that would shrink it. And for the first time, it would create a substantial distinction between electronic and non-electronic claims. We see no basis in law to establish this two-tiered discriminatory system.

In striving for efficiency, the proposed rule would create barriers that would deny veterans benefits to which they are entitled. While Congress may elect to take steps to streamline claims and appeals processes, a department charged with administering the law may not unilaterally block statutory pathways to veterans' benefits.

VA describes the effect of the rules it wants to abolish as time consuming, but Title 38, the laws VA administers say nothing about speed.

VA's statutory authority to establish online tools to facilitate claims and processing is not in doubt. Its authority to develop standard forms is not questioned. Many veterans may find online tools helpful, but VA goes too far in trying to establish procedures that will result in veterans losing benefits to which they are entitled.

In the final analysis, the secretary's duty is to administer the law, not to rewrite it. Several important interests are at stake here. The first is adherence to the law. The second is preserving pro-claimant adjudication system.

The third is protecting veterans who for a reason including disability, hardship, remoteness, or fear, they do not have online access to a computer cannot reasonably be expected to communicate through that modality, and, finally, preserving congressional prerogatives.

Given the importance of each of those interests, we ask the subcommittee to press the VA to withdraw its proposed rule making.

Thank you, Mr. Chairman.

[THE PREPARED STATEMENT OF FRANK LOGALBO APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Logalbo.

With that, I will recognize Mr. Jenkins for five minutes for his testimony.

STATEMENT OF ERIC JENKINS

Mr. JENKINS. Chairman Runyan, Ranking Member Titus, and Members of the subcommittee, thank you for the opportunity to share views, discuss our concerns, and provide recommendations regarding the VBMS implementation on behalf of AFGE members working daily processing these claims.

I am a rating specialist at the Winston-Salem regional office where I worked for the past nine years. I am a disabled marine and a combat veteran who served during Operation Desert Storm, Enduring Freedom, and Iraqi Freedom. I have a deep personal and loyal commitment to serving veterans.

I work with VBMS and VBMSR on a daily basis. The constant latency, technical issues, and frequent VBMS shutdowns make it difficult for me and others to serve veterans accurately and effectively.

In the last week, the VBMS system was shut down for more than a day and VBMS was restarted four other times during the week. Because I work in a completely paperless system, all of the work I had completed during the day was now inaccessible until the system restarted.

AFGE recommends the formation of an ongoing stakeholder work group to allow AFGE and veteran service organizations to work with management to address these serious implementation issues.

VBA employees, many of whom are veterans themselves, are deeply committed to completing claims as quickly and accurately as possible for our brothers and sisters who served so honorably. But during these shutdowns, the employees I speak of, many managers do not give them excluded time needed even though they are already facing intense production quotas, performance improvement plans, and possible termination.

Excluded time is a longstanding policy in VBA that not only protects employees but also ensures that they have the sufficient time to focus on their work serving veterans.

AFGE recommends that VBA work with all the stakeholders to develop an effective contingency plan for VBMS shutdowns. Improvements to VBMS go hand in hand with fixing VBA's currently work credit system.

I am a current member of the National RVSR Performance Standards Work Group which is a joint venture with both management and labor that created the most recent RVSR standards.

The current work credit system creates performance standards that are arbitrary, inconsistent, and focus too much on quantity over quality. VBA has never had a formal work credit system based on actual data that reflects the amount of time required to process specific types of claims and their components.

Given VBA's current transformation strategy, AFGE believes that the timing is ideal for a time motion study to be created, a formal work credit system. AFGE recommends that the committee adopt an approach similar to the one proposed by S. 1982 to form a stakeholder work group to overhaul the current system.

AFGE also should have a more meaningful role in the implementation of veterans' relationship management initiative. It is always good policy to include employees' perspectives in any new initiatives. AFGE has not been given the opportunity to contribute to this implementation.

We also recommend better integration of DoD's file system named HAIMS for greater ease in transmitting medical evidence between DoD and VA for claims processing.

AFGE remains cautious regarding VBA's national work queue strategy including the methods VBA will use to assign work. If an office is considered under performing by VBA, there are concerns that they will now be starved for cases.

Employees in these offices might lose certain essential skill sets if they are deprived of special issue cases.

We were pleased to hear of Under Secretary Hickey's commitment to improving VBA's current resource allocation model so that struggling ROs are not arbitrarily deprived of resources. Therefore, we urge the committee to review the current resource allocation

model and encourage VBA to expedite reforms, especially in light of the rollout of any national work queue strategy.

Finally, AFGE is very troubled by a recent announcement that VBA is considering the use of outside contractors for dependency claims instead of continuing to use the experienced VBA employees.

VBA intends to begin the program in March. AFGE strongly urges Congress to prohibit this counterproductive and illegal solution to the claims backlog. Past evidence with other contracts such as the ACS contract demonstrates that contracts can actually add to the backlog.

The ACS contract was cancelled after only nine months. It wasted VA resources and taxpayer money and forced veterans to wait longer for their benefits.

Once again, I would like to thank the committee for providing AFGE the opportunity to share our views, and I will be happy to answer any questions.

[THE PREPARED STATEMENT OF ERIC JENKINS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Jenkins.

And with that, I will start a round of questions, giving each Member five minutes.

And my first question is actually for you, Mr. Jenkins. Just asking you to elaborate a little bit on HAIMS and VBMS and how you indicate that the integration is not working that well.

Mr. JENKINS. I do not work with it directly. It usually is on the hospital side, VHA side. But dealing with VSRs who actually process the pre-development side say that some of the information they are getting or some of the STRs, which are servicemen's treatment records, are not being uploaded properly and sometimes they are mixed with one veteran or veteran's information.

Mr. RUNYAN. Okay. I know the problems we have been having. Obviously, those continue with your experience there.

Next question, Mr. Manar, in your written testimony, you state your concern that over the past year, the focus of achieving the secretary's goals of ending the backlog by 2015 and achieving 98 percent accuracy in the claims processing has taken on a life of its own and that the goal is no longer to help all veterans but create appearance of success by changing the playing field.

I think this is a concern shared by me and this whole committee and not just in the context which arose in your written testimony.

Would you please comment, in your organization's experience how VA loses its sight of its mission to help veterans in favor of trying to present favorable image of the department. Please provide specific examples of how as you noted that the VA has changed the playing field in order to effect the appearance of success towards its goal of eliminating the backlog.

Mr. MANAR. Thank you, Mr. Chairman.

Let me start with the second question first, examples of how VA has changed the playing field. There have been many court cases as well as VA regulations and I believe statute that requires the VA to provide reasons and bases for the decisions that they make, especially when they are negative decisions.

However, starting with a project that VA initiated two and a half or three years ago, they removed a substantial part of reasons and bases out of rating decisions. And in the letters that are sent to claimants, they tell claimants basically conclusions. They do not explain the analysis or reasons why certain evidence was found to be wanting or substandard. They simply conclude that it was not sufficient to grant the benefit.

This is an example of depriving veterans of the information they need in which to determine whether they should appeal a case. And as I mentioned earlier, appeals are now at 268,000 controlled by VA. The lack of information that veterans receive when they have received decisions may very well account for some of those appeals.

In addition, we have a recent example, the over two-year-old case review project, VA letter 201305 issued in April of last year directed rating specialists to rate on the evidence of record.

Now, two-year-old claims and many one-year-old claims are old. Many of them were old because they were difficult cases. They were not able to get all the evidence that was necessary and, yet, the VA blatantly told their rating specialists to rate based on the evidence of record.

In some cases, they issued what they called provisional ratings and left it up to the veteran to decide whether or not they would submit additional evidence throughout the year. If they failed to submit any more evidence, the decision became final.

Many of these decisions were negative or, if not negative, not at the full benefit level that the individual might have obtained had they completed development.

So these are just two examples of how VA has moved in addition to all the things that we said about their proposal to change regulations to eliminate informal claims, to change the appeals process in this AO81 that we talked about earlier.

Mr. RUNYAN. So in your opinion, VA is less helpful to the veteran in changing the policy on how they respond?

Mr. MANAR. They have decided or so it appears that it is much better for them if they can move cases quickly. They will take less flack than if they continue the process of deliberately developing and acquiring the evidence necessary to make reasoned and substantial decisions.

And it appears, as one of my colleagues pointed out, that VA is more and more moving to make changes not by improving their performance but by eliminating policies or procedures that affect rights of veterans so that they are making these changes seeking to make improvement on the backs of veterans.

Mr. RUNYAN. Thank you, Mr. Manar.

With that, I will recognize the ranking member, Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

I appreciate all of your concerns about the standardized form, and I know that Beto has some legislation that would address it. So I would just like to turn my attention to the problem of transparency.

I wonder if you all would address the fact that as we move towards this national queue, and as cases are moved from one regional office to another. What kinds of problems are you having

tracking things, getting updates, getting information about the case for the veterans that you serve and what recommendations do you have for making that better because it looks like that is the way it is all moving?

We can start at this end maybe.

Mr. JENKINS. It is my understanding, ma'am, that it has not taken place yet. They are moving towards it, but the work queue has not formally——

Ms. TITUS. That part is true, but they are already brokering claims

Mr. JENKINS. Yes, ma'am.

Ms. TITUS [continuing]. From one regional office to another.

Mr. JENKINS. Yes, ma'am.

Ms. TITUS. That is kind of a similar problem, I think. Maybe I am wrong about that.

Mr. JENKINS. Yes, ma'am. Well, during the two-year initiative, our regional office brokered quite a few claims. I started off in what was called Quick Start which was a national mission. It was similar to benefits on delivery, BDD, if you might have heard of that.

So many of the claims we were working, the two-year-old claims were brokered to other regional offices to speed up the process to help veterans get the benefits quicker. But in doing so, it left a void at our regional office once the two-year-old initiative was finished. So that left individuals not having an amount of work to work.

So then we started working cases that are in a service center which we are still brokering cases to this day. And it leaves people wondering. We have many people saying I do not have work today, I do not have any. Although there is a backlog, you are still having individuals saying I do not have enough work for the day.

Personally I have emailed my manager saying I need work, I need something to do.

Ms. TITUS. That is interesting. That is the opposite problem——

Mr. JENKINS. Yes. It is not an every-day thing, but it does happen.

Ms. TITUS. Okay. What about from the veteran standpoint when his or her case is brokered to some other place, what is your ability to help track it or get information?

Mr. HALL. Well, I will start. I do not know if anybody wants to answer that. But, you know, with brokering claims just looking at it from that aspect is not inherently a bad thing. It is much worse in the paper form than it is in the electronic form it would seem.

Now, that would be because when you are taking a file and you are transferring the whole file, then I do not have access to that file if it is sitting in your VA regional office.

Ms. TITUS. Uh-huh.

Mr. HALL. So that is something that may be better in this particular, you know, electronic system that they are using.

To answer your question from a veteran's standpoint, sure, you know, veterans, they contact us as a representative to find out answers. They contact the VA for the same answers whether they have representation or they are calling, you know, without.

And they would like to speak to somebody in the RO which they filed the claim or which they thought they filed the claim, but they

may get somebody on the call center that is sitting in Cleveland when they filed their claim from New York City.

So that was something that was very difficult to overcome and assist a veteran and let them know when you call, you are not going to be speaking to somebody in this particular RO unless you call our office as a representative. But when you call VA, you are going to be talking to somebody in another RO.

That was a big problem for quite a while because, and it may be not that it resolved, but more along the lines that veterans just gave up, you know. I am not going to call there because I am going to be talking to somebody from somewhere else and I want to talk to somebody in the RO that is making my decision. That is what veterans like. That is something that is at risk with the national work, you know, management model.

And, again, DAV, we would like to know more about what their plan is. And I understand that it may have been something that they used, you know, in the process of completing all of the oldest claims first, using kind of a brokering style.

So whether the person is sitting in Reno, you know, when the claim was filed on the East Coast, it is really not going to matter much on the VA end of it. But, again, as my testimony points out, you know, this is going to be at the risk of face-to-face service to veterans. And it seems like the more technology we have, the more fragmented that service to a veteran becomes.

Ms. TITUS. Any additional comments?

Mr. MANAR. If I might, one of the problems, one of the big problems that we see is that whenever VA develops a new software program, VBMS is the most recent example of this, their focus is on getting a system up and running for VA claims processors and developers and all the people who are going to use it on the VA side. And it is almost as if service organizations are an afterthought.

With this Administration, certainly give them credit, they have certainly given us more access. We have more interaction almost on a weekly basis than we have had under previous administrations. But still what we lack today is a really functional work queue that we can manage our own work, look at cases that may have been brokered either electronically or in paper. Finding information or being given notice of decisions that have been made at other offices on cases that originated in our office is lacking.

So VA has a long way to go, I think, before we can have this true partnership where we are working in sync together to help veterans with their claims.

Mr. HEARN. Yeah. Some of the problem, I think, is when you start talking about brokering claims out, you have got several issues. People who reside in states or locations where their regional office is managed effectively and things go on relatively smoothly, they almost feel like they are being punished because they are doing things well.

But the other thing, too, is a lot of the work and effective service with an effective regional office is the relationship is what the important part is between the service officer and VA. If you have a claim now that has gone out to a different location clear across the country, that relationship is severed.

When they went to this type of setup with pension and they had consolidation models that occurred in Philadelphia and Minnesota and other places, that is one of the problems that our service officers felt was that this relationship where I could go up a flight of steps, talk to a rater, and try to work something out that we differed about just at the local level there, that is severed.

And the other thing, too, when you are talking about national work queue, and this is something that we have talked about internally that we have specific concerns about, is that if you have a situation where a veteran is—let's say he is trying to get service connected or she is trying to get service connected for four or five conditions and there is a way to maybe have these conditions interrelate with each other and you are just looking at it and you are saying this rater over here, you need to work on the feet, this rater over here, you are working on the ankles, this rater over here, you are working on the knees, and they are going to look on it as a direct service connection, but you can grant service connection for one of those conditions that could have caused or aggravated the other two conditions, if you have got this separated process, who is going to go back and look at this and say, well, these things could have either manifested secondary or have been aggravated by the service-connected condition that somebody at a different regional office granted.

Ms. TITUS. My time is out, so I will ask you to be brief.

Mr. LOGALBO. Yes, very brief. One of the direct points I would like to make when you look at VA in controlling workload and shifting resources to different ROs to manage that workload, one thing I would like to point out is making sure a training initiative is set out.

Like as you discussed, PTSD, MST, TBI, if there are specialized areas or areas of concern, make sure that there are training initiatives, quality review process to make sure that the veteran or family member is getting the correct decision the first time.

Ms. TITUS. Thank you.

Thank you, Mr. Chairman.

Mr. RUNYAN. Thank the gentle lady.

With that, I will recognize Mr. Cook.

Mr. COOK. Thank you, Mr. Chairman.

I wonder if you could do me a favor, the whole panel. And, you know, by the way, I want to thank you all for your service. The young marine there, he will kind of realize with me I always boil it down to the KISS principle. Keep it simple stupid.

Now, what we have been talking about, if you can bear with this dumb marine up here right now, based upon what you say, and each one of you I'm going to ask and we'll put it in terms of combat ready or non-combat ready, what we are talking about, I'm getting the feeling that in most instances, this whole evolution, what we have been talking about is non-combat ready.

And I use that phrase because we are talking about so many people. So if you could kind of bear with me and just I am putting you on the spot, but—and, by the way, you guys are right there with the troops. You know, you hear what is going on, everything, and you are our eyes and ears. And so that is why I am asking you to do it.

So if you feel comfortable with making that rating or you can do the old A, B, C, D, F or what.

Sir.

Mr. JENKINS. Well, as a marine, I would like to take this first. As you may be able to relate to, a battalion commander does not do anything without talking to his sergeant major.

Mr. COOK. Absolutely.

Mr. JENKINS. And the way VBMS has been implemented, management saw this, but they did not speak to the people who are actually implementing it. And you cannot go to war unless your troops are ready. You can send somebody out there, but you are going to have a lot of body bags to fill.

Mr. COOK. Not combat ready?

Mr. JENKINS. Not combat ready.

Mr. COOK. Thank you.

Sir.

Mr. Logalbo. And, yes, I do agree with Mr. Jenkins as well, is you need to speak to the folks on the ground. You need to speak to the RVSRs. You need to speak to the VSRs. You need to speak to the folks on the ground to get the input not only to go through some of the challenges with the system but also make the system that much better. So I agree in the same analogy.

Mr. COOK. Thank you.

Yes, sir.

Mr. HEARN. The American Legion conducts regional office review visits periodically throughout the year and we have heard similar concerns by service officers and also by employees within VA. So, I mean, as far as recent months, I cannot say for certain if that shift has changed opinion. But over the last year, I would not say that it is combat ready at all, no.

Mr. COOK. Thank you.

Mr. HEARN. Thank you.

Mr. COOK. Yes, sir.

Mr. Hall. Well, as you know, especially in combat, if you do not have effective communication, somebody is going to die. So from a combat ready perspective, I would say this. There is a lot of positives going on in VA as my testimony points out, but combat ready and putting it in that terms, I would not send it.

Mr. COOK. Thank you, sir.

Yes, sir.

Mr. MANAR. I have to agree with my colleagues. VA is doing, despite the negative nature of my oral testimony, VA is doing many things simultaneously and they are working hard. They are doing a lot more than any of their predecessors ever did, but we are not ready for prime time.

Mr. COOK. And, by the way, I appreciate your candor. And to do this, that is a tough question to respond to. And as I said, I appreciate that.

What I would also like in the remaining time, not right now, but if your organizations that you represent, I do not want a five, ten-page analysis of this, I basically want something very, very simple, five things that are working correctly, five things that are not working correctly, and five recommendations.

Now, as I said, no acronyms. If you can put it in military jargon. You are dealing with Paul Cook here. I am not a rocket scientist. But by doing that, and I try to do this when I talk to veterans and what have you, and it is like you got to talk to the troops and you got to put it in the language of the troops, and then you can do something in the language of the troops.

Thank you.

Mr. RUNYAN. I thank the gentleman.

With that, I recognize Mr. O'Rourke.

Mr. O'ROURKE. Thank you, Mr. Chairman.

I first want to thank you and the ranking member for your leadership on this committee. The fact that we are hearing from all the folks who are in the front lines on these issues, the VSOs who are helping out, their members and other veterans to make sure that they have the advocacy necessary to complete their claims, get a reasonable response in a reasonable amount of time including coming up to Congress to testify is greatly appreciated.

Hearing from those who are actually working within the VA on the front lines is also appreciated, and then to have that followed up by our representatives from the VBA is great. So I really appreciate the format and the content of this hearing.

And I want to follow-up on Mr. Cook's request and just ask that as you respond to him, you respond to everyone on this committee. We could all benefit from the response and the experience and wisdom that you can share with us. So I look forward to getting that.

I wanted to thank you for the very critical but I think very constructive feedback on where we are with the VBA right now.

And to Mr. Manar, I think you essentially made the point in your testimony that we are dealing within the confines of a zero sum game. And so if we prioritize resources to resolving the disability claims that are in need of a rating, we suffer in other key areas that VBA is working on. And we can put more resources into that system, but ultimately we are going to have to prioritize, decide what is important and what we are going to follow and look at.

And you gave some examples of, I believe, if I am quoting you correctly, dependency claims going from 40 to 235 thousand outstanding.

Mr. MANAR. That is correct.

Mr. O'ROURKE. I am looking at the IDES backlog for soldiers who are transitioning out and I especially think of those who are at Fort Bliss in El Paso, Texas at the WTU who are languishing when we have, I believe, a 15-day goal that is now averaging 143 days before we can get a response. So those are some other examples.

But given that system, how would you better prioritize the work that VBA is doing? If it is not correct to prioritize disability claims awaiting ratings over these other areas, what is the best way to do this?

Mr. MANAR. Thank you.

First of all, it is important to recognize that until the last five or six years, seven years, VBA was chronically short changed over decades in terms of staffing it needs to process claims. One of the reasons why the workload and backlog grew in the 1990s and then accelerated after the turn of this century is because of staffing levels that existed at least back into the 1970s. I hate to be a histo-

rian about that, but that is what brought us to this point in time, I think.

Congress has done an awful lot to up the staffing of VA and they have made a lot of progress because of the additional people, FTE that you have given them. And all of us are grateful for that. More veterans have been served because of your actions than would have been without it.

But that does not mean that VBA is staffed at the appropriate levels even now. Now we live in a world where there are tight budgets and I doubt that you all can scrape together a whole lot more people to give to VA to process claims.

So to your question, what can VA do? It is a question of managing the workload. They have in terms of appeals, they have designated decision review officers and support staff in each regional office and, yet, because of their drive to work over two-year-old cases and then over one-year-old cases, many of those people have not worked a significant number of appeals in, well, it is going on a year, more or less.

The Board of Veterans' Appeals is running out of appeals work to work as are staffed at the board because work is not flowing to the board. VA needs to release those people and let them get back to work.

A business practice that has been ongoing which caused this drastic increase in dependency claims, VA for decades had this policy that you could not close out an end product on a rating decision until you not only notified the veteran about what they were going to get, but you worked every issue that was related to that including dependency.

Well, what has been going on for the last three years is, and it may have started in the regional offices, but it has never been corrected by central office, to the best of my knowledge, and that what has been going on is that people have got to the point where they are notifying the veteran about the decision and they just roll that dependency issue over into a separate end product.

And they do not deal with it. They have got the evidence. In most cases, they have got, you know, the marriage dates and birth certificates and all the rest of the stuff that they need to pay benefits, but they just roll over for another day. And that accounts for a large number of those things.

But the problem is that managers are not managing their work. They are being driven by the directives of central office. This is what you are going to do and these are the goals that you are going to reach, and they are not allowed to do the things that they should have been trained to do and many of them want to do and that is to manage the work.

In Reno, as an example, I learned just the other day fully developed claims which are supposed to be fast tracked average 263 days in Reno to be completed and that if it is one or two issues, they will put them in a fast track lane. If it is three or more issues, then it just gets mixed in with the regular work.

Well, what is the point of all of that? How does that help veterans? How does it help VA? You have got claims that are in many instances ready to rate at that point, to resolve, and, yet, you just throw them in the mix where they get older and older.

Mr. O'ROURKE. Mr. Manar, let me interrupt for just a minute——

Mr. MANAR. Sure.

Mr. O'ROURKE [continuing]. Only because my time is expired and it is obviously a question that deserves a longer answer than we have time to give today. And I would love ultimately to hear from everyone. If there is a second round of questioning, I will pose that same question to everyone else.

But I really would like to know whether there, because you spoke a lot about process improvements, whether there is any wisdom to prioritizing certain workload over other workload within the VBA as it appears that we are doing to the point that you made earlier or whether it can be handled through other means.

And so look forward to getting that back from the other panelists and also your recommendations per Mr. Cook's request.

With that, I will yield back to the chair. Thank you.

Mr. RUNYAN. Thank the gentleman.

With that, I will recognize Mr. Ruiz.

Mr. RUIZ. I would like first of all to thank you all for coming here and for being so honest in your assessment and willing to roll up your sleeves and get this fixed.

At this point, I can yield my time to Beto O'Rourke so that you can get your answers from the other members.

Mr. O'ROURKE. I appreciate that. Thank you.

If the other members of the panel would like to answer that question about prioritization of certain claims or work activities within the VBA over others, I would love to get your answer. Thank you.

Mr. HEARN. Last year, The American Legion started working pretty heavily with VA and the White House on this FDC process. And one of the things that we discovered when we would go out to these different regional offices, and it was a common line that was used whether it was in Indianapolis or Oakland or Nashville, was if everything is a priority, then nothing is a priority.

That was a line from the employees. That was not a line from a VSO. It was not a line from a department service officer. So there appears to be some consternation, and maybe Mr. Jenkins can explain that a little bit further, too, that even internally that there is not a recognition.

We believe and we have bought in on this fully developed claim process. However, if, like what Mr. Manar said, if it is going to go into a 235-day chute to get the claim done, then it serves nobody any good.

I mean, as far as we are concerned, if the veteran is giving everything to VA to rate the claim and it is ready to go, go ahead and make that a priority. I mean, I am really kind of surprised that it has expanded to that point in roughly 12, 14 months.

Thank you.

Mr. HALL. Could I just elaborate on one thing that Zach had said and that is, you know, the FDC program, it is probably one of the more exciting things happening that is making a positive difference.

And you can look directly at the Chicago VA regional office and see the time lines and how long it takes for a claim.

At the same time, you know, I think VA's overall is somewhere near 25 percent of all claims are fully developed. But let's not forget they are fully developed because of the veteran and because of the VSOs. So we are doing a lot of the legwork, the majority of it, and presenting it to the VA where it makes their job much easier. We are happy to do that. We hope to gain even more of that.

In DAV, our number of FDC claims is increasing more. I mean, that is what we do. Educate the client or the veteran to make sure that they know the most advantageous way to help them navigate the system, number one, but also tell them, listen, if you can do all of this, you are not going to have a year to wait. You will be much quicker in your decision, maybe 120 days, depending on that RO.

So that is something that needs to be constantly promoted not just through the VSOs to the people that we serve, but VA needs to do a much better job in getting that message out.

Mr. O'ROURKE. I do not know if anyone else would like to comment. I do want to follow-up on your remarks by saying that we had hoped that the VA would elect to administratively implement the Faster Filing Act, which recently passed the House of Representatives, which would require them to notify veterans and VSOs that are assisting them in filing their claims of the fastest response time based on the different kind of claims you choose.

So I do not like the new rule making from the VBA and I do not like this forcing veterans and VSOs to use these standardized forms. I believe in empowering the VSOs and the veterans with the information being perfectly transparent and allowing them to make the decision that is in their best interest given what they are willing to do, realizing the average wait times.

In El Paso where we recently had wait times up to 470 days to hear back from the Waco Regional Office, it is now down much lower than that. We wanted to be able to tell veterans if you file a fully developed claim and you file it online, you can get that back in under a hundred days on average and you are eligible for a full year's retroactive—retroactive benefits.

I would love the VA to do a much better, more aggressive job of pushing that information out there. If we cannot get them to do it administratively, we hope that will become law soon and do exactly what you are asking us to do.

I have got about 30 seconds left on Mr. Ruiz's time for anyone who would like to add.

Mr. LOGALBO. Yes, I would like to.

And what we are discussing is how we are empowering and embracing the warriors and the veterans as we look forward face and helping them with claims. When you are actually out there as helping a warrior with a fully developed claim or guiding him through the process and teaching him how to navigate and understand the process, that is where you are going to get more buy-in and the claims are going to be done a lot quicker.

When folks, as you see in Houston, when they reached out to a number of folks regarding appeals to clarify issues to be that forward-facing, veteran-centric focus, they were able to reduce time lines because now the veteran understands the process, the evi-

dence needed. They work hand-in-hand not creating a process that is separate and distinct.

Mr. O'ROURKE. Thank you, and thank you for the responses.

It looks like the time has elapsed. I guess parliamentarily speaking, I yield back to Mr. Ruiz.

Mr. RUIZ. Thank you very much.

Mr. Chairman.

Mr. RUNYAN. The gentleman yields back.

In the essence of time in getting to the next panel, I am going to ask all members to submit any additional questions for the record and we will ask the gentlemen to please respond in a timely manner and also please respond to the subcommittee with Mr. Cook's request. We would like to get that to all of our members here.

So with that, thank you all for your testimony and your service, and you are now excused, and we welcome the second panel to the table.

At this time, I welcome panel two including Ms. Diana Rubens, deputy under secretary for Field Operations, U.S. Department of Veterans Affairs, accompanied by both Mr. Richard Hipolit, assistant general counsel, and Ms. Lorraine Landfried, deputy chief information officer for Product Development.

I also welcome Major General Richard Thomas, director of Healthcare Operations of the Department of Defense Agency or Department of Health Agency who is accompanied by Mr. David Bowen, director of Health Information Technology.

We appreciate all of your attendance here today. Your complete and written statements will be entered into the hearing record.

And, Ms. Rubens, you are now recognized for five minutes for your oral testimony.

STATEMENTS OF DIANA RUBENS, DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF DIANE RUBENS

Ms. RUBENS. Good afternoon, Chairman Runyan, Ranking Member Titus, members of the subcommittee. Thank you for the opportunity to discuss VA's transformation initiatives.

I would like to start by providing an update on our progress in eliminating the backlog. During fiscal year 2013, VA completed a record 1.17 million claims with a 90 percent accuracy at the claim level and 96 percent accuracy at the medical-issue level. Since its peak in March of 2013, the backlog has been reduced by 35 percent and the overall inventory has been reduced by 22 percent.

Also important, the average number of days rating claims have been pending has also been reduced, meaning that today, veterans are waiting 111 days fewer than they were last year at this time for a decision.

None of this progress would be possible without the tremendous support from our partners, including this subcommittee, the remainder of Congress, our veteran service organizations, and, of course, our unprecedented effort and dedication of the VBA employees, 52 percent of whom are veterans themselves.

I would like to update you on a few key initiatives. Our veterans relationship management initiative is providing veterans with seamless, secure, and on-demand access to benefits, information, and services. Veterans now have improved access to benefits information from multiple channels, on the phone, online, and through our shared VA DoD portal called e-benefits.

From fiscal year 2009 to 2013, the number of contacts with VA through these channels increased from 9.1 million to 56.3 million. Currently VA has over 3.3 million e-benefits users representing a 51 percent increase from fiscal year 2012.

Our stakeholder enterprise portal is a secure Web-based entry point that complements e-benefits and gives VSOs access to assist veterans with electronic claims submissions. Over 1,200 registered users across 75 organizations can check the status of claims, review payment history, and upload documentation on behalf of the veterans they represent all within a digital environment.

Our digits-to-digits initiative scheduled for implementation this fiscal year will enable VSOs to submit claims directly using their own claims management systems.

Our Veterans Benefits Management System was deployed six months ahead of schedule in June of 2013. After development over the course of 18 months with side-by-side end users and our SMEs with programmers, we continue to monitor and solicit feedback from partners as well as end users.

In December of 2013, VBMS entered generation three of our system development increasing system functionality, adding more complex automation capabilities, reducing dependency on legacy systems, and enabling the capability to accept veterans' electronic service treatment records from DoD through HAIMS so that STRs will be available for servicemembers separated after January 1st, 2014 when they file their claims.

VBA also established our Veterans Claims Intake Program to streamline the process for receiving paper records and data in VBMS. As of January 10th of this year, VCIP had converted from paper and uploaded into VBMS more than 430 million images.

As I turn to our national work queue, VA transitioning into a paperless process, we are in a better position to adopt a national workload strategy that is boundary-free and improve our capacity to serve veterans.

In April of 2013, VBA's oldest claims initiative aimed at expediting decisions for veterans who had waited the longest, we redistributed claims across the Nation to best utilize resources of all regional offices. The success of this initiative demonstrates the potential for a national workload management strategy by optimizing every member of our VBA workforce.

Our national work queue is being developed in a two-phase approach. In phase one, claims will be managed from a central location and routed, based on individual station capacity, with the first filter for a claim being the one in which the state where the veteran resides, as well as other national priorities. In phase two, claims can be routed to individual employees based on the nature of the claim and the skill set of the claims processor.

Our employee performance standards are routinely evaluated and revised to keep pace with changes in process and technology.

With VBA's transition to electronic claims processing, it is more important than ever to consider the impact of technology on employee performance and ensure that the expectations of our workforce align with the tools employees have to complete their work.

Revised standards were most recently implemented in 2013 and a further revision to VSR and rating VSR standards were last week presented to our national labor partners and is in the final stages prior to implementation.

A recently proposed rule is intended to get benefits to veterans quickly with the most accurate decision possible. The rule would require claims to be filed on a standard form and would require appeals to be initiated using a standard form whenever one is provided for that purpose. The proposed rule does not require veterans file electronic claims in order to receive benefits.

VA gave interested members of the public the opportunity to comment on the proposed rule from October 30th through December 30th. We are currently carefully reviewing the 53 comments that we received from stakeholders and will be responding to them in accordance with the Administrative Procedures Act.

While we know there is more work to be done to reach our goals, we know that the gains we are making in information technology and automation of our processes are critical. In going forward, we will need to sustain the resources for programs like VBMS in order to eliminate our backlog in 2015 and achieve our quality goals.

This concludes my statement, Mr. Chairman. I would be happy to entertain any questions you or other members may have.

[THE PREPARED STATEMENT OF DIANA M. RUBENS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Rubens.

With that, I recognize Major General Thomas for his testimony.

STATEMENT OF RICHARD W. THOMAS

Major General THOMAS. Well, good afternoon.

Chairman Runyan, Ranking Member Titus, distinguished members of the subcommittee, thank you for the opportunity to discuss the department's successful implementation of a new capability which claims adjudicators may electronically request and receive complete electronic DoD service treatment records, or STRs, for newly separated servicemembers.

I would also like to recognize and thank the previous panel members, the VSO members for their continuing service to our country.

I am accompanied today by Mr. Dave Bowen to my left, the chief information officer for the military health system, and this oral statement is provided on behalf of both Mr. Bowen and myself.

Just last month, the DoD delivered on our commitment to make certified, complete, electronic STRs available in support of the Veterans Benefits Administration's transition to a fully digital environment for claims processing.

We are now providing the VA with access to electronic STRs for servicemembers who separated or were discharged after January 1st, 2014 in our Health Artifact and Image Management Solution, or the HAIMS, repository.

Now, to achieve this goal, the DoD significantly revised our HAIMS deployment strategy. Working closely with our VA partners, the DoD established a tiger team of experts to plan and develop the required secure system interface needed to allow the VA to query the HAIMS repository for relevant STRs. Now, this tiger team is critical to ensure that the resulting solution would align with the disability benefits claims adjudication workflow.

Now, the process for digitizing a servicemember's STR and making it retrievable by the VBA begins with the DoD personnel scanning any paper-based elements of a newly separating servicemember's service treatment record. The digitized STR comprised of both scanned information and existing digital content from the servicemember's DoD electronic health record is then submitted into the HAIMS repository and made available to the VA as a single record.

When a separated servicemember or a veteran files a claim, a VBA claims adjudicator then establishes a claim in the Veterans Benefits Management System. The system initiates an automated request for the STR and when the requested record has been located and retrieved, the system alerts the claims adjudicator that the STR is available to support the claims process.

The process I just described supports probably the most important contribution the DoD makes to the VA's effort to expedite the claims processing for our veterans. By providing the VA with the complete, certified, electronic STRs at the point of a servicemember's separation, the DoD helps to ensure the claims adjudicators have the military service-related healthcare evidence needed to adjudicate a VA disability claim.

Now, we are quite pleased with the successful and ongoing collaboration with our VA colleagues to deliver this needed service to our veterans.

Chairman Runyan, Ranking Member Titus, and distinguished subcommittee Members, this concludes my oral statement. Mr. Bowen and I would be happy to answer any questions that you or the subcommittee members may have. Thank you.

[THE PREPARED STATEMENT OF RICHARD W. THOMAS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Major General Thomas.

And with that, I will start a round of questioning, and my first question is for Mrs. Rubens.

Although in your introduction to testimony you note that veterans may submit claims electronically through e-benefits' Web site, you glossed over the recent e-benefits system defect in which thousands of veterans may have had their personal information broadcast to other users.

Have there been any other problems such as outages, glitches, or information compromises associated with the VA's e-benefits portal since the most recent breach of the veterans' personal information on January 15th of 2014?

And I know for a fact yesterday there was actually an outage of e-benefits because I received it about 4:40, 4:45 last night. So I would like to hear your response to that question.

Ms. RUBENS. Mr. Chairman, thank you.

Obviously we take very seriously the security of our personally identifiable information of our veterans. Ms. Landfried is prepared to speak to the specifics of last week, but I will tell you that we continue to work very closely from a business and OIT side as we identify these kinds of issues.

Ms. Landfried.

Ms. LANDFRIED. Thank you.

First, before I start, I would like to apologize to any servicemember, any veteran, or their family member who may have had their information viewed by another veteran who was on the system on the evening of January 15th. We hold ourselves to a very high standard in the Office of Information Technology and during that incident, we did not meet that standard.

The specifics of what happened, we were doing an update to a system that feeds into e-benefits. We completed the update. After an install, we verify to see if it is working. During that verification, we discovered that users on the system were able to see information about other users.

As soon as we found out that the newly installed software was the cause, we removed that software from the system and verified that the potential to see another person's information while you were viewing your own no longer existed.

Then as a further precaution, we took the e-benefits system offline so that we could do a review end-to-end to make sure that there were not any other vulnerabilities. We waited until that Sunday morning to bring the system back online working with our VBA colleagues to make sure that when we did bring the system online that the VBA call center was staffed. Even though it was on a weekend, we did this just in case any of the veterans using the system coming back online had any questions or concerns or saw anything out of the ordinary.

Mr. RUNYAN. Have there been any other issues? The committee received notification of an outage as of last night, so what are the other issues?

Ms. LANDFRIED. The incident last night, although e-benefits was impacted, it was actually an issue at the Austin data center with domain controllers. If users were able to refresh their browser a few times, the issue cleared. The duration of the impact really was dependent on how long it took for that to reset.

So the issue was not with the e-benefits system, but to an end user that does not really matter because they were not able to get to the system at the exact time that they needed it.

Mr. RUNYAN. A department official also stated that up to 5,351 people may have been affected by this defect. How was this number determined and is VA confident that this number is accurate?

Ms. LANDFRIED. Sure, I will take that. Yes I am confident that that number is accurate. Whenever there is an incident, as I explained the first thing we look at is, what was the cause, so that we can get systems back and operational for VBA and our veterans.

As soon as we did that and determined that we had stopped the problem, we then examined all of our audit logs so that we could determine exactly who was on the system at the time that the incident occurred and what functions they were using. The problem

was contained to four or five functions on the system, so it was not every system or every function that you could get to on the e-benefits portal.

I am confident in that number because that is the maximum number of people who were on the system at that time. They were the maximum number of people who could have potentially viewed another veteran's information.

According to, all of the logs that have been examined at this point, the actual number of veterans whose information was potentially seen by another veteran on the system was 1,362.

I failed to mention before that, whenever there is a potential Pll loss there are two things that we do at the department. One is, we communicate it. We notify Congress. We work with our VSO partners to get the message out to them. I put out a blog post.

And then in parallel, we have a data breach core team that looks to make sure that all of the material is complete and then determines what the remediation should be for the people that were potentially impacted.

Mr. RUNYAN. Thank you.

With that, I will recognize the Ranking Member, Ms. Titus.

Ms. TITUS. Thank you.

I would like to continue that, Ms. Landfried, if you do not mind. I appreciate what you do when a problem like that happens, but I would ask you two things. One is, has that data breach team completed its investigation and made any recommendations, and what safety provisions have you put in place to keep this from happening again?

Ms. LANDFRIED. Sure. First of all, the data breach core team is wrapping up their review and they have begun the notification process. Letters have started going out to the impacted people, and part of the remediation that has been offered is how to get free credit monitoring in the event that any of the information that was viewed by other people on the system falls into the wrong hands.

In terms of how we respond to the event, as Ms. Ruben said, we take very seriously our obligation to protect veterans and their personal information as if it were our own. So we have a multilayered defense in place to combat, you know, whatever the issue might be.

That includes monitoring outside the VA network by external partners; monitoring internally of the VA network; monitoring of our servers, our applications, as well as desktop devices. It is sort of a defense in-depth type of strategy to make sure that information is protected to the best of our ability.

Ms. TITUS. So is it just back to business as usual or are you putting in place something new to keep this problem from recurring?

Ms. LANDFRIED. With this particular problem it was a combination of events that happened. There was the software that we put in that did not behave which caused e-benefits to expose information that it shouldn't have. We have put additional error handling in e-benefits to make sure that should it ever see that same error condition, that we won't have that same condition.

We have also reviewed all of our other applications that have similar features to make sure that they also have appropriate error handling in case they ever encounter this problem.

Ms. TITUS. Thank you.

Now, I will go back to my previous problem which is the brokering of cases. I know in Reno 5,000 cases have been brokered to other places around the country. And my question is, that is kind of lipstick on a pig. I mean, you are dealing with the symptoms, but not the causes of the problem. Now, in the short term, those 5,000 cases may get decided quicker, but still there is a problem at the Reno office if they couldn't handle it.

Also, I wonder, does a case have to get to be stale or get to sit around for a long time or almost be at the status of being part of the backlog before it is brokered? You know Reno is not going to be able to do it. Why don't you just broker those cases up front and then figure out some way to fix the Reno office? Would you answer that for me.

Ms. RUBENS. Sure. Thank you, ma'am.

I understand your concern that brokering them out is not necessarily addressing the issues that we have got in Reno and I want to assure you that we are doing two things.

First and foremost, obviously, is working to get veterans who have been waiting the longest their decisions, and at the same time, working with the Reno regional office to ensure that we are maximizing the efficiency and ensuring the accountability throughout the chain so that the work being done in Reno continues to work. They have got great quality today, but also work to improve timeliness and output to ensure that they are capable to providing the service to the veterans of Nevada.

We will continue to use that approach so that we are, one, taking care of veterans, and, two, ensuring that the systems that are in place in Reno are working the way that they should to improve the output in the performance of the Reno regional office itself.

Ms. TITUS. Thank you, Mr. Chairman.

Mr. RUNYAN. I thank the gentle lady.

With that, I recognize Mr. O'Rourke.

Mr. O'ROURKE. Thank you, Mr. Chairman.

Ms. Rubens, thank you for your answers so far and for being responsive to me and to our office, accompanying us to the Waco regional office to look at the backlog issue there, which, as I noted earlier, has gone from something like 470 days on average to, I guess, close to 250, which is not yet near where it should be, but much better than where it was. And so we hope that it continues to move in that direction.

I have three questions that I hope to be able to get you to answer today. There are so many issues brought up by the representatives from the VSOs and the gentleman from the AFGE, but one that I want to focus on is the assertion made by Mr. Manar that in prioritizing disability claims that need to be rated, we are not committing the necessary resources to take care of other critical VBA responsibilities. He mentioned a few. I mentioned a few in my response to him.

Could you comment on that and let us know whether or not that is the case?

Ms. RUBENS. Thank you, sir.

And I would tell you that as we are prioritizing not only the aging claims, I will remind us all that we also established, of course, those priorities for the Congressional Medal of Honor recipi-

ents, our former POWs, homeless, terminal, extreme financial hardship, as well as our fully developed claims, in an effort to ensure that we were addressing all of those.

When you talk about the fact that we had a record year for claims processed in the rating bundle, I would draw to your attention that we have also had a record year for the number of non-rating claims that we completed, and so I would tell you that we are continuing to work, whether it is across non-rating or appeals work to ensure we are accomplishing work across the spectrum.

I know we talked at some length about where we are at with our IDES work. I would tell you that VBA has also worked to improve the outcomes on behalf of those servicemembers going through the IDES program. Our Seattle regional office is processing for the army. We have added resources, 180 folks last year, and, of those, we recently promoted and sent to training another 36 rating specialists who are going to make those decisions on the claims on both preliminary and final ratings in the decisions, working with the army to agree on our approach as to how we work towards those claims. And so we are taking a holistic approach and working all of the veterans' claims.

Mr. O'ROURKE. So if I could just summarize it to a one-word answer, it would be, no, we are not suffering in other areas for prioritizing the disability claims and the other issues that you raised?

Ms. RUBENS. Correct.

Mr. O'ROURKE. Okay. How would you then explain how far off the mark we are when it comes to IDES, and I realize the steps that you just outlined that you are going to take to rectify the problem, but if our goal is 15 days and we are at 143 days, how did that happen and how soon or can you make a commitment to the date on which we will be back to 15 days or get to 15 days in the first place?

Ms. RUBENS. So I would tell you that the outcome of being as far behind as we are is a number of issues to include our inability to keep up with the surges in work that we began to receive through the IDES program. As we made those adjustments, our ability to turn claims processors from other work and into the IDES work and get them trained up is something that has taken us some time. We are very much engaged in doing that.

We have plans in place that will get us for both pre-lim and final decisions caught up by March and October of this year in conjunction with the agreement that we have got with the army. I have continued to have regular and ongoing calls with our folks in Seattle to ensure that we are working to those goals and we continue to anticipate meeting them. We have also used some resources from our Providence IDES processing center to help back down that time and age for our army participants in the IDES program.

Mr. O'ROURKE. And to put a point to it, we will be at 15 days at what point?

Ms. RUBENS. So I guess the 15 days, if I recall, really is the upfront component and there are pieces of the IDES program that start with the claims intake, the getting the exam accomplished. And I would like to make sure that I am referring to the right target of 15 days with you so that I am not misleading you.

Mr. O'ROURKE. The VA has two parts of this; the Department of Defense has the rest. I am looking at the VA rating which is one of those parts which—the first VA rating which has a goal of 15 days. The actual in the case that we are looking at is 191 days. The Army average is 143 days. That is the one I want to know when we are going to be able to get to our goal.

Ms. RUBENS. So as we work to the agreement with the army about which we would, I will say tackle first, we determined that we would complete the final rating initially. Those are the servicemembers who have gotten not only the preliminary from us, but finished the work with the army on the MEB/BEB process. That target is March and it is August of this year that we are targeting the preliminary rating in 15 days.

Mr. O'ROURKE. Okay. And then we won't have time for your response because I have run out of time, so I will just pose my third question as an appeal. You heard from the VSOs in terms of their feelings about the standardized form, and I understand the logic behind implementing that and the rule, but I think you have heard about the discomfort and distress and the disservice that we might end up doing to our veterans with that rule. So I would appeal to you to use something like the Faster Filing Act to allow veterans, VSOs to file a claim in whichever way they think is best.

But make sure that we are very transparent with the information about how soon that claim is likely to be resolved based on current trends, which, again, you can elect to implement administratively. The VA has chosen not to, so the legislation has passed the House. Before that becomes mandated by law, we just appeal to you to implement that administratively. I think that could do a world of good given how much harm we fear this rule may do.

So, with that, I will yield back to the chairman.

Mr. RUNYAN. I thank the gentleman.

With that, I recognize Mr. Ruiz.

Mr. RUIZ. Thank you all for coming today and thank you for your efforts in trying to fix this problem. I am interested in the e-benefits program and initiative and I am assuming that this program will allow users to file and follow their claims from their own home, correct, Ms. Rubens?

Ms. RUBENS. Yes, sir.

Mr. RUIZ. Okay. So the whole purpose is to have our veterans log on so they can have an easier way to file and follow their claims.

So what are you doing to train and educate our veterans and our volunteer veteran service officers and those in the community who work with veterans to utilize this e-benefits, and how is it getting all the way into the community at the grassroots level?

Ms. RUBENS. Terrific. Thank you very much.

And, yes, in fact, we believe that e-benefits is going to give us that, and our veterans, frankly, that simpler process for them to come in online, upload documents, check their status of claims, as well as 58 other self-service initiatives.

As we work to get the word out, frankly, it has been an across-the-board push educating—starting here with members of the committee and staff, with our VSO partners, and press releases, as well as information that we regularly post up online.

Any outreach event, frankly, sir, that we go to, we also have members, whether it is from our benefits assistance service here in Washington or our regional offices across the country, out at those outreach events with an e-benefits site working to get folks informed about e-benefits, and for those that are not registered for a premium account so that they can, in fact, make use of all of those online services.

Mr. RUIZ. A lot of our veterans are more senior and not very computer savvy, so they would require some hands-on training walking through with computers. Do you have those training workshops, not just lectures or panels or flyers, but actual training for veterans?

Ms. RUBENS. So I would refer back to the veterans who participate in our outreach events. If they come in, we will work with them to show them, whether that is in our outreach event or in our regional office, to show them how to get into e-benefits and use it. I would tell you we are very much engaged and our VSO partners have been awesome in helping to ensure knowledge about e-benefits and utilizing e-benefits is there.

Also, for our veterans who are not computer literate, as we continue to build that functionality for our stakeholder enterprise portal, it will allow our VSO partners who hold power of attorney for those veterans to come in and submit claims online on behalf of those veterans who are not computer friendly.

Mr. RUIZ. Now, we are starting a veterans university in our district where we are going to train and educate a lot of our veterans and our veteran service officers in the area to really help them learn the system and learn what they qualify for and train them on how to help other veterans.

I would like to invite your experts into the district to do a series of these for our VFWs, our American Legion, and our other VSOs, and our veterans in my district so that we can help them access their claims better.

Ms. RUBENS. Wonderful. We would like to be at any outreach event you might hold.

Mr. RUIZ. Okay.

Ms. RUBENS. Great.

Mr. RUIZ. Thank you.

I yield back my time.

Mr. RUNYAN. I thank the gentleman.

With that, I am actually going to have another round of questions. We are going to have votes here pending in the next five, ten minutes maybe.

I have two questions, one for Ms. Rubens and one for Major General Thomas, and I will start with Ms. Rubens because some of the VSO testimony contradicts some of the things you actually said in your opening statement. All of the VSOs had testimony that contained some negative feedback on the proposed rule to require the use of standardized claims forms.

In part, some of these concerns include the elimination of all informal claims, the creation of a new, arbitrary—burden on claimants to submit a completed claim suggesting that the VA will not work a claim until the veteran complies with certain bureaucratic hurdles.

Can you explain from the department's perspective how this new rule would benefit the veteran?

Ms. RUBENS. Thank you, Mr. Chairman.

And I will start and if Mr. Hipolit has something to add, I will turn to him. I will tell you that organizationally VBA continues to look at how do we gain efficiencies in processing claims because we think that will help us process claims more quickly and to a higher degree of quality for our veterans if we can readily identify the veteran and the issues claimed in evidence that is either available or attached.

To that end, we have gone through the regulation proposal. We have gathered 53 sets of comments, many from our VSO partners, and many with great, thoughtful information that we are going to cull through very closely. And as we work to publish the final rule, obviously, we will work to address every one of those comments.

Mr. Hipolit, is there something that you might add to that?

Mr. HIPOLIT. I would just like to add that although the proposed regulation would do away with the term informal claim, there are still certain aspects of the old system that would be preserved in the rule to the benefit of veterans, particularly in the electronic filing environment. If a veteran comes in and starts to develop a claim and has what we would call an incomplete claim under the rule, that would still serve to preserve their effective date.

We have also made it clear that in cases where there is medical evidence that would allow an increase in benefits, a VA exam or whatever that could be the date of a placeholder that could then be the basis for an effective date if the veteran came in and filed a claim within a year there after.

So some aspects of the old system are still preserved, even though the term informal claim is no longer used. As was mentioned, though, a lot of the VSOs did have concerns about the impact of the rule, and there may be changes to what has been proposed in a final rule.

We have greatly appreciated receiving those comments. We are in the process of analyzing those in depth now and we are going to certainly take those into account moving forward.

Mr. RUNYAN. Every single VSO that sat up there had a concern about it.

I think, Mr. Hipolit, you have addressed it, and, Ms. Rubens, you have addressed it a little bit, but it is a concern that they all have. And just make sure when you go through the process that you are weighing concerns the way they should be weighed.

My next question is for Major General Thomas.

Both DoD and VA state in written testimony, the deadline for implementing HAIMS transfer of digital STRs to the VA was met, but at a the recent oversight visit, subcommittee staff was informed that there had been some complications with the rollout.

Can you detail these complications and then state what has been done to fix those problems?

Major General THOMAS. Yes, sir, absolutely.

You know, I think the initial rollout here is really to get the system to IOC or initial operating capability. They have goals and milestones to get to the FOC and there is a targeted date for that.

And I know that, specifically, there were some issues working with the VA here to address a certain timeout issue affecting subscription service to obtain the—or to retrieve the full service treatment record.

And I will defer to Mr. Bowen, if you want to give any more specific details about complications?

Mr. BOWEN. Yes, sir.

Mr. Chairman, we do have some issues we are working through. They are involved around some of our workflow processes on the DoD side still needing to be refined. I know we have had one instance where a document was misclassified and so it showed up in the wrong section of the service record that transferred over to the VA, but, nonetheless, was there. The system worked as planned. We just put the document into the wrong section. So we are working on that.

We have some issues around duplicate records showing up on the VA side. We are working through those issues. We believe that may be a user education issue on the VA, where the claimant has actually requested multiple times, so working through that.

Teams are looking at the details of all of these issues. We are logging them. We are tracking them, and the teams are meeting every single day to work through these issues, research the problems, and get them resolved.

Mr. RUNYAN. Thank you.

Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

I would just ask Ms. Rubens how station targets are set for VA regional offices? We have discovered, of course, especially in Reno, that they are not being met. I wonder if those targets are realistic and what happens to hold offices accountable that do not meet those targets?

Ms. RUBENS. Yes, ma'am. Thank you.

Targets are based on the resources within each regional office. The expectation that a resource from one office will be equivalent to the resources in another office, and so from one RO to another, it is based on how many individuals they have working within the service center to make decisions. And I would tell you that in any instance where a regional office is not meeting its targets, feedback is ongoing and appropriate accountability measures are taken.

Mr. RUNYAN. I thank the gentle lady, and thank all of you for being here with us today.

The panel is excused. I appreciate the time and attention that went into preparing your remarks for today.

VBA is moving forward in a positive direction with technological updates to its processes, but it is obvious that there will be continuing growing pangs along the way. It is frustrating when the department delivers a message that everything is going as planned when we know that is not always the case.

Accordingly, I would ask you all to, again, keep communication open with this subcommittee.

I would also ask unanimous consent that all members have five legislative days to revise and extend their remarks and include any extraneous material. Hearing no objection, so ordered.

I thank the Members for their attendance today, and this hearing is now adjourned.

[The Statement of Paralyzed Veterans of America appears in Appendix]

[Whereupon, at 6:26 p.m., the subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENT OF GERALD T. MANAR

DEPUTY DIRECTOR, NATIONAL VETERANS SERVICE VETERANS OF FOREIGN WARS OF THE UNITED STATES

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to present our views on the current status of Veterans Benefits Administration (VBA) transformation and secondary effects of VBA technology.

The wide ranging focus of today's hearing on the status of VBA's transformation and intended and unintended consequences of these changes is both apt and timely. VBA is moving forward so quickly and on so many fronts to modernize its claims processing tools that it is only appropriate that all of us pause from time to time, and determine where the Department of Veterans Affairs (VA) is at in the process and examine the effects of this massive effort.

While the VFW is both an observer of these changes and a participant in many of them, and we have some knowledge and understanding of all the topics you are interested in today, we will confine our comments to three issues which concern us the most: VA's national work-queue strategy within Veterans Benefits Management System (VBMS); how that strategy will affect VFW representational activities; and the recently proposed rule mandating electronic forms and its potential impact on veterans and veterans' rights.

VA's National Work-Queue Strategy

VA has one of the most geographically diverse claims adjudication operations of any federal agency or department in the federal government. Claims processing occurs in VA regional offices found in every state. Several states have two regional offices; California has three. Regional offices also exist in Puerto Rico and the Philippines. In addition, claims processing has been further dispersed to other locations, including Sacramento and Orlando. Claims intake sites, and some claims processing personnel, are also located on scores of military bases around the nation.

Even with this widespread diffusion of personnel, claims processing is still largely worked on by staff in the office with jurisdiction over the geographic area in which the veteran lives. Except for several counties in the southern part of the state, for instance, New Jersey claims are processed in Newark; claims submitted by residents of Nevada are processed in Reno; and claims from veterans living in California are adjudicated in San Diego, Los Angeles or Oakland. However, for at least 30 years, VBA has increasingly transferred cases from offices with high workloads to those more capable of processing the work more quickly—a process called brokering. VBA has developed tools to assess the capacity of offices to handle more work and moved the work to those locations.

The VFW has often been critical of the practice of brokering work. All too often, VBA has chosen to move work around rather than address the problems extant in overburdened offices with overworked staff. Inadequate training, poor management and other factors have not always been addressed in a timely manner in order to fix known problems and ameliorate the need to transfer work to another office.

Further, the practice of brokering work has the unintended consequence of undermining the "ownership" of claims that many VA employees feel, which has a subtle but real effect on the quality of development and decisions in cases not from their state. Poor quality of decisions in brokered claims has been a common complaint of veteran service officers and VA employees alike. While VBA claims that quality of brokered work is no different than work that is not brokered, the near constant cacophony of reports to the contrary makes us question VBA's claims.

We are in the midst of a great and long overdue renaissance in claims processing technology. While we may still talk about the electronic transfer of claims from one office to another, the reality is that the only thing transferred is the authority to work a claim, or pieces of that claim, to an office other than the one with jurisdiction over it. For the first time in its history, VBA has the capability to develop a claim in Phoenix, rate a claim for PTSD in Pittsburgh and evaluate the other claimed conditions in Jackson. The question is not whether they can do this. It is, rather, how they can do this while ensuring that veterans receive quality correspondence from Phoenix and legally correct decisions from Pittsburgh and Jackson.

The VFW generally supports VBA's modernization efforts, recognizing full well that in order to be effective, it must take advantage of all the resources and assets it has available to it. The VFW has worked with VBA administrators, innovators

and contractors over the past three years, often on a daily basis. The VFW, along with other major Veteran Service Organizations (VSOs), have cooperated with VBA by providing not just our time, ideas and observations, but also by providing personnel to work side by side on specific projects.

Even though we are living through an unprecedented period of cooperation and transparency, we find that significant gaps exist in what we are allowed to see and comment on. For instance, other that talking to us about the vision of developing a national work-queue, of truly nationalizing the work to more effectively deal with workload peaks and valleys, VBA leadership has not yet presented us with a coherent picture of their vision nor have they sat down to explore with us how representatives from veterans service organizations fit into that plan.

Impact of A National Work-Queue Strategy on Service Organization Representation

Over the past few years, as the major VSOs sat with VBA personnel and contractors to discuss how accredited service officers will access and use VBMS, SEP, D2D and other programs, they often seem confounded and occasionally confused by the divergent business models that exist between VSOs. There are two basic business models between the major VSOs. The VFW and the American Legion service programs generally follow a federal model: most representational activity is performed at the local regional office level by service officers employed by the respective organizational Departments or states. For instance, the VFW Department of Michigan employs the VFW service officers who work in Detroit. While the national VFW contributes to Michigan's service program, the employees do not work for the national organization.[1]

This business model works best when local service officers work with and support local veterans and other claimants. The claims are worked in the regional office where they are collocated which allows them to develop professional relationships with local VA personnel. This close proximity allows them to get problems corrected quickly and informally, helping veterans receive the benefits to which they are legally entitled and avoiding unnecessary appeals.

Other VSOs, such as the Disabled American Veterans and the Military Order of the Purple Heart, employ a cadre of national service officers. While these service officers may be stationed in the various regional offices, they work for the national organization. The national organization in this business model may find it easier to repurpose or redirect their service officers and can tell them which cases they are to review regardless of geographical boundaries. While there are significant differences in these two business models, under the current work processing system employed by VA, both models work similarly. In both, local service officers assist claimants, review decisions made by VA and work to get mistakes corrected without the need to appeal.

Today the work queue provided to service officers only shows the work in the office where they are situated. While the service officer can search for a specific claim and view whatever information is available in VBMS and Virtual VA for any case in the VA system, they must do this on a case by case bases since the current work queue does not show work outside the geographical boundaries of the office in which they work.

There are over 4,000 Illinois cases brokered from the Chicago regional office to other offices around the United States. Our service officer currently has no way to obtain a list of all Illinois VFW cases being worked in another VA office. Although he may have helped many of these claimants file a claim with VA, he is unable to identify which cases have been brokered or what is being done with them unless he searches these cases one by one. VA can and should do better.

Under a national work-queue plan, VA must accommodate the service organizations which have represented veterans for decades. It is not enough to allow service officers in Detroit to review a file and rating for a claim brokered to Detroit from Fargo. VA must allow the service officer in Detroit to review a Michigan claim which was developed three states away and rated in Utah. VA is developing this capability for its claims personnel. It is critical that VSO service officers are not left behind.

This, then, comes full circle to our previous comments about VBA's failure to sit down with VSOs, discuss the needs of each service organization, explore in a robust and frank manner how VBA systems can be modified to allow for the various busi-

[1] The national VFW employs service officers at the Board of Veterans Appeals supporting claimants who have appealed to the BVA. Other national service officers work at over 16 military installations helping service members understand VA benefit programs and, where appropriate, file a claim for compensation.

ness models employed by the various VSO's and then commit to making these system changes concurrent with developing a national work-queue.

VA Proposed Rule AO81–Standard Claims and Appeals Forms

VA published a proposed rule on October 3, 2013, which caught the attention of the veteran community. Disguised as a proposal to require claimants to complete standardized forms, it actually proposed to:

- Eliminate all informal claims——
- Create a new and arbitrary burden on all claimants to submit a "complete claim" before VA is required to take any notice of a claim.
- Advance the concept that VA will work no claim until a veteran first complies with every arcane bureaucratic requirement it creates.

The comments of the VFW, along with over 60 other responses, were submitted by the December 30, 2013, deadline. Every major veteran service organization, and virtually all of the other respondents, opposed these changes.

Over the past five years, the VFW has been generally supportive, both publicly and privately, of the focus and vision of both Secretary Shinseki and Under Secretary for Benefits Hickey. Together they have accomplished more, and advanced VBA further than all of their predecessors for at least the previous decade combined. However, we have become increasingly concerned over the past year that the focus on achieving the Secretary's goals of ending the "backlog" by 2015 and achieving 98 percent accuracy in claims processing has taken on a life of its own; that the goal is no longer to help all veterans but to create the appearance of success by changing the playing field.

These regulatory proposals change the playing field for veterans. In order to force them to use specifically designated forms, VA makes it demonstrably harder for veterans to begin a claim. Under current law, a claimant need only submit a communication to VA indicating his or her intent to file a claim for one or more benefits. If a formal application is not of record, VA is obligated to send the claimant an application to complete. The claimant has one year in which to return the completed application. If benefits are awarded, benefits may start as early as the date of receipt of that first communication.[2]

If these changes go into effect, that first communication can no longer act as an effective date, nor does it compel VA to respond to the veteran. VA may eventually send a letter to the veteran stating the communication was received. However, VA will not take any action until the veteran fully completes and returns a required form. Omission of a single required entry means that the veteran has not submitted a "complete claim" and VA will continue to do nothing.

While surely not intended by Secretary Shinseki, the implementation of these changes will result in substantial delays in veterans being able to file a "complete claim" and a substantial reduction of benefits because the date of claim is delayed by months while veterans are forced to comply with arbitrary administrative requirements. The backlog will be reduced, not because VA is more efficient, but because it tells thousands of veterans that they have not filled out VA forms to its satisfaction. Because a date of claim is not established until VA accepts an application as "complete," veterans will lose months of benefits. These proposed changes are not in keeping with the veteran friendly laws enacted by Congress over the last four score years.

The VFW believes that there is an alternative to this draconian and heavy handed approach. The acceptance of an informal claim in the absence of a "complete claim" does not harm VA. It is nothing more than a place holder. If a claimant submits a "complete claim" within one year, then VA can use the date of receipt of the informal claim as a possible effective date as is currently allowed by law and regulation, allowing VA to obtain the data it wants from claimants in the form it wishes to receive it, regardless of the initial informal claim. However, claimants are not harmed because, under current law, they have one year in which to submit a claim form satisfactory to VA.

The authors of these proposed changes must believe themselves to be clever, because while doing away with informal claims they create the concept of an "incom-

[2] "Any communication or action, indicating an intent to apply for one or more benefits under the laws administered by the Department of Veterans Affairs, from a claimant, his or her duly authorized representative, a Member of Congress, or some person acting as next friend of a claimant who is not sui juris may be considered an informal claim. Such informal claim must identify the benefit sought. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the claimant for execution. If received within 1 year from the date it was sent to the claimant, it will be considered filed as of the date of receipt of the informal claim." 38 CFR 3.155(a)

plete claim" only for claims started electronically. Incomplete electronic claims can be completed at any time within a year after they are started, and VA may use the date the claim was started electronically as the date of claim. They create a special incentive for claimants who are aware of, and comfortable with the online application process. VA elects to penalize claimants who do not have a computer, access to the Internet, an e-Benefits account, or just like to sit at the kitchen table and complete a paper form.

It is strange that VA chooses to not just incentivize the filing of an electronic claim; instead they have decided to penalize veterans who write a letter or fill out most of a prescribed form by delaying the start of any earned benefits by many months. The Internal Revenue Service incentivize Americans to file electronically by processing refunds with lightning speed. However, they do not reduce a refund simply because the filer chooses to send in a paper form 1040.

VA has proven that it can process claims submitted electronically much faster than those received on paper. Many dependency claims filed electronically today can be worked in minutes while over 235,000 previously filed paper claims continue to wait.[3] What more incentive do people need? It is VFW's contention that these draconian measures are unneeded to encourage many thousands of veterans to file electronically.

There is one other consequence of the elimination of the informal claim. The Fully Developed Claim (FDC) program, created by VA to encourage veterans to accomplish all required development before submitting a claim to VA in exchange for expedited claims processing, will be dealt a severe and likely fatal blow. In Fast Letter 10–22, Fully Developed Claim Program (June 15, 2010), specifically addresses and endorses the use of informal claims in FDC claims. Veterans may notify VA that they intend to file a claim under the FDC program. VA acknowledges that notification and tells the veteran that they have one year in which to submit a complete FDC.[4]

Implementation of the changes proposed by VA to eliminate informal claims will take away a major incentive offered to veterans for accomplishing their own development. Without the ability to file an informal claim, veterans stand to lose months of retroactive benefits if they chose to submit an FDC. We fully anticipate that veterans will decide that the cost of delay in filing a claim is too great. Without the ability to file an informal claim they will elect to file a standard claim and forgo the FDC program. Currently, over 27 percent of disability claims submitted to VA are accepted as Fully Developed Claims. Implementation of this rule will eliminate this vast savings of VA manpower overnight.

The VFW does not oppose the use of standardized forms, nor do we oppose the required use of such forms in order to complete a claim for benefits. However, the proposed elimination of the ability to file an informal claim will have a profound impact on every veteran who does not or cannot use a computer to start a claim.

This proposed rule will take away a basic and fundamental right that has existed for many decades. It unnecessarily increases the complexity of starting a claim with VA, and will substantially reduce the amount of compensation awarded to veterans and other claimants. Further, because VA will not count any attempt to file a claim until the veteran has filled out every form to VA's satisfaction, it will have the effect of reducing pending claims, making VA appear to be more efficient than it really is.

The VFW opposes these proposed changes. We believe them to be unnecessary to accomplish VA's stated objectives and harmful to veterans and other claimants. We have talked to VA leadership about these proposed changes with little apparent result. We ask Congress to take action to protect the ability of claimants to file an informal claim, whether electronically or on paper.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions you or the committee may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

---

[3] Monday Morning Workload Report, *http://www.vba.va.gov/reports/mmwr/*, January 27, 2014. VA reported that dependency claims, controlled by End Product (EP) 130 totaled 235,189; 74.2 percent were pending over 125 days. In the last 42 months the number of dependency claims has grown 474 percent from 40,990 in June 2010.

[4] Fast Letter 10–22, Fully Developed Claim Program, June 15, 2010, states in part: Consider any communication or action that shows intent to apply for benefits under the FDC Program as an informal FDC. [emphasis supplied] Upon receipt of an informal FDC: Advise the claimant to complete and return a formal claim within one year to receive benefits from the date of receipt of the informal claim.

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2013, nor has it received any federal grants in the two previous Fiscal Years.

PREPARED STATEMENT OF JEFFERY C. HALL

DAV ASSISTANT NATIONAL LEGISLATIVE DIRECTOR

Chairman Runyan, Ranking Member Titus and Members of the Subcommittee:

On behalf of the DAV (Disabled American Veterans) and our 1.2 million members, all of whom are wartime wounded and injured veterans, thank you for asking DAV to testify before the Subcommittee today regarding the current status of the many technological initiatives occurring in the Veterans Benefits Administration (VBA), including the Veterans Benefits Management System (VBMS) 6.0, Veterans Relationship Management (VRM), e-Benefits, Stakeholder Enterprise Portal (SEP), the work-credit system in an electronic environment, national work-queue strategy, and the potential impact of the proposed rule mandating the use of standardized forms within the Department of Veterans Affairs (VA). As the nation's leading veterans service organization (VSO) assisting veterans seeking disability compensation and other benefits, DAV has tremendous experience and expertise relating to the processing of claims as well as the various ways veterans may appeal adverse actions and decisions.

Mr. Chairman, I recently had the opportunity to accompany DAV National Service Director Jim Marszalek on a visit to the Newark, New Jersey, VA regional office (VARO). As you may know, the Newark VARO is the only fully electronic regional office within the VA, also known as an "e-VARO." All claims processing performed in Newark today is fully electronic and for all intents and purposes, completely paperless.

Upon receipt of a claim for benefits on a standard VA Form 21–526 by the Intake Processing Center (IPC), employees first check the system to determine if an electronic record already exists. If no electronic record exists, the IPC begins building the veteran's electronic file (e-File) by first establishing where the paper file is currently located and then requesting the file be sent to the scanning facility where it will be converted digitally and become the base of the e-File. IPC employees then input the basic information from the paper claim into a newly created VBMS record, including the specific contentions or issues being claimed. Based upon the number and/or complexity of the issues being claimed, IPC employees then assign the claim to one of the corresponding processing lanes: Express for one or two issue simple claims, Core for most standard claims with less than eight issues, and Special Ops claims with more than eight issues or complex claims, such as post traumatic stress disorder (PTSD), military sexual trauma (MST), or traumatic brain injury (TBI). After the IPC has created the VBMS record, the paper claim is sent to the centralized scanning facility to be converted digitally in the same manner as the paper claims file.

For veterans who visit the Newark VARO wishing to file a claim, computers are available so the individual can create an e-Benefits account and file their claim electronically. Help is available if needed. Should that individual have paper evidence to submit along with the claim, it can be scanned and uploaded in Newark or it may follow the same path as above, being sent to the scanning facility, depending on the amount of the paper evidence. Clearly, for those submitting claims electronically via e-Benefits, the less cumbersome initial processing is for VBA. For veterans who want DAV to represent them and file their claim through SEP, we also begin that process by having them establish an e-Benefits account.

Once the now electronic claim has been received in the corresponding lane by an assigned Veterans Service Representative (VSR), development can begin. Each day, the VSR opens his or her work queue, selects a case, and begins undertaking the necessary development. The VSR may be requesting service or private treatment records, a VA physical examination and Disability Benefits Questionnaire (DBQ), or other necessary development. Not only does this assist greatly with organization during claims development and working with the veteran's information, it provides tremendous benefit in productivity and output, having everything electronic and at a person's fingertips.

Being able to actually watch a working demonstration from a Rating Veterans Service Representative (RVSR) proved to be invaluable during the visit to Newark. When RVSRs come in each day, they are greeted with a much more harmonious

working environment, with neat work spaces instead of the customary mountains of paper and files that used to be there waiting for them. Now all of a veteran's claims and related information has been converted electronically within the VBMS system to be process or searched; and by more than one user at a time if necessary. When the RVSR opens the work queue, he or she is able to quickly ascertain what has been done and what needs to be done in each respective case. The RVSR is able to review the veteran's e-File and see all of the development as it relates to the claim, tab certain information and make notes. When the case is ready for rating, the RVSR opens the VBMS rating program (VBMS–R) on a second screen program to prepare the actual rating. Gone are the stacks of paper and cumbersome files laid in front of an RVSR, replaced with two computer screens, one for the VBMS showing the veteran's e-File with tabbed notes to review for quick reference, and the other opened to the actual VBMS–Ready for the RVSR to input pertinent information and produce a final rating with much greater ease than in the past.

In speaking with many employees at the Newark VARO, including the leadership, they uniformly told us that employee morale is higher than in the past and growing every day. Employees feel VBMS and the new organizational model, while not perfected, allow for greater productivity, speed, accuracy and accountability in completing their work. Employees realize there will be continuous upgrades and improvements to the VBMS system, but they believe that as their proficiency using the new system rises, they will be able to demonstrate further increases in all measurable activities.

It is important to note that no modern IT system or software is ever truly "finished" and therefore it is vitally important to continue making significant investments in VBMS development in order to allow this system to be capable of meeting VBA's needs. For example, the coding and embedding of rating calculators inside the VBMS remains a labor-intensive, time-consuming process and one that needs to continue as the VA Schedule for Rating Disabilities (VASRD) is continually updated in the future. Furthermore, as new IT technologies emerge, and new requirements for the VBA are identified, the VBMS must evolve to address those needs and opportunities, requiring an aggressive development program that has sufficient resources, in addition to funding just required to maintain the current IT hardware and software.

Mr. Chairman, while a backlog of claims pending longer than 125 days still exists in Newark and nationally, there are measurable signs of progress resulting from VBA's transformation efforts. The number of claims in the backlog is down by about one-third, the total number of pending claims has been reduced by about one-fifth and the average days pending continues to drop as the oldest claims are now being processed first. Questions remain as to whether this progress can be sustained two, five or 10 years from now, and based only on the currently available data and information from the VBA, it is not certain whether this level of progress will be sufficient to meet the Secretary's ambitious 2015 goals. Nonetheless, DAV continues to support VBA's transformation efforts through our working partnership and we remain optimistic that the documented progress is not simply short-term progress that will stall; rather, it is progress that must be sustained and accelerated if VBA is to finally eliminate the backlog.

Veterans Relationship Management (e-Benefits & SEP)

Although not as well known as VBMS, the VRM systems are equally important to the current transformation. The VRM system provides both veterans and VSOs the ability to file claims electronically. Like VBMS, the e-Benefits system with VONAPPS Direct Connect (VDC) has been in place for more than a year. While VBMS is the paperless, rules-based system VBA uses to create electronic files, manage workflow, and determine ratings, the e-Benefits and SEP systems were created to allow veterans to file claims electronically and manage benefits online.

Notwithstanding the recent problems related to the security of the e-Benefits system, in general over the past two years it has been working as intended. More and more claims are being submitted and received electronically; however, there have been obstacles to be overcome, some of which still remain. One of the first obstacles veterans encountered in e-Benefits was problems with inaccurate information maintained by the Department of Defense in the Defense Enrollment Eligibility Reporting System (DEERS). When a veteran's personal information is inaccurate in the DEERS system, such as one incorrect digit in a birth date, the veteran is unable to set up an e-Benefits account until that information is corrected. The system does not provide adequate support and correction. Such a problem can be a daunting task that causes some veterans to become frustrated, abandon the process and possibly not file a claim at all. Although this seems to occur more frequently with older vet-

erans less familiar with computers and the Internet, it is nonetheless a major obstacle that must be corrected immediately.

Many of our DAV clients have reported problems trying create an account and file a claim electronically. DAV service officers work diligently with our clients to find solutions, but it can take a great deal of time to resolve these issues with DEERS before the e-Benefits system will allow a veteran to create an e-Benefits account and file a claim electronically.

Mr. Chairman, VBA wants more veterans to file claims electronically and DAV has been the leader among VSOs in increasing the number of claims filed electronically. However, regardless of the level of interest from veterans for electronic filing, if access continues to be a problem for many veterans, particularly when they are not given information or tools to resolve those problems, there will be too many veterans who walk away from e-Benefits. Nonetheless, DAV is fully committed to promoting electronic filing of claims through e-Benefits, or on their behalf through the SEP with the assistance of our National Service Officers (NSOs). Even SEP, however, is dependent upon a veteran having an e-Benefits account in order to receive official information from VBA, thus heightening the need for VBA to resolve the issue with VSOs' ability to file claims directly in SEP without the need to do so through e-Benefits.

The SEP is a crucial IT component for reforming the claims process because it allows our NSOs the ability to file a veteran's claim electronically, accept a power of attorney (POA), and upload evidence, while being fully integrated with VBMS. The SEP allows DAV and other VSOs to do for veterans what the VDC and e-Benefits allows veterans to do for themselves, but with the benefit of assistance and expertise of an experienced representative. Early problems with the SEP development were encountered with access as well. Essentially, VSOs were not able to access any information about a claimant they represented through VBMS unless the POA box was properly checked. Although this issue has been addressed and resolved to a degree, the problem still persists in certain locations and leaves our VSOs unable to assist a client even with simple matters such as obtaining the status of a claim in VBMS. Like e-Benefits, the VBA must continue to address and resolve these types of problems in VBMS with immediacy to ensure that DAV and other VSOs are able to fully represent veterans in this electronic environment.

Work Credit in an Electronic Format

DAV has long said that the only real solution to the claims backlog is the development of a new claims processing system that focuses on quality and accuracy, not just production and timeliness. While accuracy has been and remains one of the performance standards that must be met by all employees, current performance standards adopted in recent years have done little to create new incentives to promote quality above production. As new processes and technologies come online, such as VBMS and the new organizational model, it is vital for the VBA to make timely adjustments to outdated performance standards to ensure that production pressures not outweigh the goals of accuracy and quality, while creating a systematic accountability for work-credit that would function with the new organizational model and within the electronic environment. Implementation of the new organizational model has changed the roles and workloads of VSRs and RVSRs, which requires consistent adjustments to be made to performance standards. For instance, employees handling complex Special Ops claims should not be held to the same performance levels in terms of claims completed per day as those handling simpler Express claims. Although VBA revised its performance standards and work credit system, further refinement is needed to create the proper system of work incentives.

DAV believes it to be absolutely imperative for the VBA to develop a scientific methodology for measuring the resources (primarily personnel) required to accurately and timely process the current and future anticipated workload as well as develop a new data-driven model for allocating those resources among VAROs. Crucial data needed to establish a sound performance plan or work-credit system is readily available in the VBMS and includes such information as specific development or rating actions, workload management, quality, accuracy, output, as well as the correct application of pertinent laws and regulations.

Mr. Chairman, as the transformation to a completely paperless system changes the dynamics of the daily business of assembling, developing and processing claims, VBA must also change VBA's work-credit strategy to ensure each employee is properly credited for the work they complete. DAV believes VBA must take the time now to ensure development of a new performance plan and work-credit system within an electronic environment , not only to hold management and employees accountable, but perhaps more importantly to ensure proper resources and staffing can be calculated and provided. It is also essential for the proper allocation of those re-

sources and staffing in the most prudent and forward-thinking manner. Additionally, it is absolutely crucial for VBA to look back at claims accuracy rates using STAR and other reviews to continually adjust these standards so that they have sufficient resources not just to process the workload of claims, but to make sure that they are doing them right the first time.

National Workload Management Model

Another top priority for VBA, VSOs and veterans is the timeliness of processing claims. While demonstrated progress was achieved last year in reducing the backlog of claims, other VBA initiatives such as a national workload management model, Centers of Excellence and centralized mail centers, are being proposed, developed and tested.

Although we have not yet seen detailed information of any national workload management model, our understanding is that this will allow all claims to be processed nationally by VSRs and RVSRs, regardless of their physical location or the origin of the claim. This is essentially the same approach VBA took last year when they processed all claims pending more than two years within a short period. With all claims now being submitted and/or converted electronically, claims processing can be done by any fully trained VSR or RVSR regardless of their location. This approach is not unlike the process of brokering claims from one VARO to another when assistance is needed, which VBA has relied heavily upon over the years. So taking the basic concept of brokering claims and VBA's "all hands" strategy they used last year to process the oldest claims and applying it to national workload may have the potential for success; however, we would like to know more details of how this type of model would work.

For the past several years, VBA has discussed the general concept of establishing Centers of Excellence, wherein specific VAROs would be designated to process specific types of claims for the entire country. For example, a particular VARO would be designated as a Center of Excellence for claims involving PTSD, MST, and TBI, and all claims containing such conditions would be processed by that facility for the entire country.

While Centers of Excellence could relieve the majority of VAROs from processing some of the more time consuming, complex claims, it must be done properly, with certain principles guiding such a model. One key question is whether claims split by issues and processed by multiple centers. What would happen when a VARO receives a claim for PTSD and an orthopedic condition – would the origin VARO process the orthopedic condition or would a PTSD Center of Excellence process all issues? Such questions are crucial and we believe that VBA must move in a deliberate and thoughtful manner to ensure that Centers of Excellence are truly "excellent," not just "centers."

VBA has already begun progress towards testing centralized mail centers, each designated to perform all initial intake processing for a designated group of VAROs. For instance, there may be one such mail center located in Wisconsin to receive all incoming mail from five or six VAROs, wherein all initial intake processing will be accomplished in the same manner as each respective VARO does at present. Eventually, claimants may no longer send paper documents to their respective VAROs, instead sending all documents directly to the mail center, as is done for some other government agencies, such as for passports.

As we have done for nearly 100 years, DAV will continue to evolve and adapt to any changes in the claims process; however, such fundamental, structural change to the claims process should include VSOs in the planning process from the earliest planning stage possible. When considering a major change to the claims process such as a national workload management model or anything of a centralizing nature, thoughtful deliberation must be given to the impact of removing the benefit of face-to-face interaction between highly-trained VSO service officers and VBA, which at the very least would be hindered.

Mr. Chairman, the process of veterans submitting claims and receiving personal assistance from VBA has been around much longer than computers and automation. Many wounded, ill and injured veterans have relied heavily upon personal assistance to help them navigate the complexity of the claims process. While a national workload management model may be a potentially important strategy for VBA's goal of reducing the backlog, equal consideration must be given to the effect it will have on individual veterans. We know that many veterans rely heavily on personal interaction and assistance to help navigate VBA's complex system; how will service be affected when a claim is filed by a veteran residing in one state but processed by a VBA employee in another state?

We have already seen the challenges of creating the national call center, wherein veterans often call and end up speaking with someone far removed from the VARO

of original jurisdiction. DAV NSOs routinely receive complaints from veterans who are unable to speak to a person in the call center or if they are able to get through, someone who is unable to answer basic status questions. Such problems with VBA's call centers have caused many veterans to lose some confidence in VA and the claims process.

Would a national workload management model, centralized mail center, or Centers of Excellence further fragment personal contact for veterans? DAV understands the need for and embraces change; however, these changes must be done thoughtfully to ensure that they are equally positive for veterans and VBA alike. Some of the changes, like e-Benefits, involve "self-service," wherein veterans, especially those without representation, can be much more immersed in the claims process; however, there are and will always be many who cannot and must rely heavily upon personal contact with their local VARO. This is not to say a national workload management model or anything of a centralizing nature will not work, but we believe every effort must be made to preserve the benefit of local claims processing first, and then perhaps allowing all claims over a designated amount for each VARO to be processed within a national workload management model.

Standardized Forms

Finally Mr. Chairman, VA is proposing to amend its adjudication regulations and the appeals regulations and rules of practice of the Board of Veterans' Appeals (Board), in order to require all claims to be filed on standard forms prescribed by the Secretary, regardless of the type of claim or posture in which the claim arises; and, to require that VA would only accept an expression of dissatisfaction or disagreement with an adjudicative determination by the agency of original jurisdiction as a Notice of Disagreement if it is submitted on a standardized form provided by VA for the purpose of appealing the decision, in cases where such a form is provided.

DAV understands the stated intent of VA's proposed amendments as an effort to improve the quality and timeliness of processing claims and appeals. The purpose of the regulatory change is to promote submission of claims and appeals in standard formats in order to capture data for a paperless claims and appeals system. Nonetheless, we have concerns about the proposed rulemaking and the consequential adverse effect upon veterans.

First, requiring a veteran to submit a claim on a standardized form is not a new concept. In fact, claim for disability benefits is defined under title 38, Code of Federal Regulations, section 3.151(a) as "[a] specific claim in the form prescribed by the Secretary must be filed in order for benefits to be paid." So requiring a veteran to file a claim on a standardized form is the current practice; however, the real question is how the new proposal would impact the effective date of a claim received.

Currently, when a claim is received on a form not prescribed by the Secretary, it is an informal claim, which, by definition under title 38, Code of Federal Regulations, section 3.155 is "[a]ny communication or action, indicating an intent to apply for one or more benefits . . ." provided the informal claim identify the benefit sought. Upon receipt of an informal claim, if a formal claim on a prescribed form has not been submitted, VA will then provide the veteran the proper application for execution and the veteran would have one year to complete then submit the required form(s). Should the veteran submit the required form(s) seven months later, benefits would be payable retroactively to the date the informal claim was received by VBA. This proposal goes much further than requiring a standardized form to be used; it effectively removes the preservation of date of claim by eliminating the informal claim from the process. Under this proposed rule, if a veteran does not submit a claim in the standardized format, they too will be provided the form; however, if that same veteran does not submit the proper forms until seven months later, that will be the effective date of the claim—not the actual date the veteran submitted his or her non-standard form claim, thereby losing entitlement to seven months of benefits.

DAV takes no issue with veterans being required to submit their claims on standardized forms, because that is not the root of what is being changed. This proposed rule will cause many veterans, who may have needed that seven months due to illness or other reasons, to lose the benefit of the informal claims process, unless they file their claim electronically; for those individuals their effective date will be preserved. Whether this is meant to entice veterans to file their claims electronically, clearly there will be veterans who stand to lose their rightful benefits. We have submitted our comments to the proposed rule and call upon Congress to further examine this matter, as it will have a major adverse impact on veterans and the benefits they need and earned.

This proposed rule also seeks to require veterans to submit their notice of disagreement on a standard form. As we have stated, DAV does not have an issue with requiring the use of a standard form, which may make it easier for VA to extract pertinent information as to what the veteran disagrees with; however, this proposal will cause many veterans to lose their appeal rights. Quite simply, under this proposal if a veteran does not use the standard form and complete exactly as directed, no additional time period will be provided to the veteran for correction. The appeal period will simply end. Currently, veterans are allowed one year to appeal any VBA decision. If a veteran submits his notice of disagreement on day 365, he or she will still have 60 days from the date of the Statement of Case to submit the actual appeals form, VA Form 9, Appeal to Board of Veterans' Appeals. We have submitted our comments to this proposal as well; however, this is another example of making this non-adversarial process adversarial and unnecessarily complicated, especially for veterans.

Mr. Chairman, there is a distinction being created between those who possess the resources and capabilities to meet the electronic claims filing requirements, and those who are not able to do so. VA serves veterans and claimants of all diverse backgrounds, with varying physical and mental capabilities, education, and financial resources. Some claimants, particularly those of limited financial means and those with severe mental or physical impairment, will be penalized by not retaining some measure of accommodation for allowing an effective date for entitlement to benefits to be based upon the receipt of communication expressing such belief.

Setting aside special consideration for claimants capable of filing electronically, and excluding those who cannot, will cause a certain portion of the eligible claimant population to be treated differently. Based on resources, electronic access and capabilities, one group of claimants will receive special consideration for the effective date of a claim, while the other group, of limited resources, will be penalized with a later date based on receipt of a complete application.

Because of this disparity, and its effect on a claimant population that may require extra assistance, we recommend that an incomplete electronic or non-electronic claim, to be considered a request for an application of benefits under the proposed provisions of title 38, Code of Federal Regulations, section 3.155(c), be established as the effective date of entitlement if an appropriate complete application is received within one year of the date the Secretary notifies the claimant and the claimant's representative, if any, of the information necessary to complete the application.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions from you or members of the Subcommittee.

PREPARED STATEMENT OF ZACHARY HEARN

DEPUTY DIRECTOR FOR CLAIMS VETERANS AFFAIRS AND REHABILITATION DIVISION, THE AMERICAN LEGION

The Department of Veterans Affairs (VA) is in the midst of a massive transformation of the manner in which they do business, the business of processing disabled veterans' claims for benefits. In an attempt to move beyond the legacy system of paper files that threatened the physical integrity of their own buildings under the massive weight of backlogged disability claims,[1] VA has promised an electronic operating environment, the Veterans Benefits Management System (VBMS) that will move the agency into the 21st century and eliminate many problems that have caused the current backlog of claims.

While The American Legion has long maintained no electronic system can be a complete panacea for the myriad problems that plague the disability claims system, VBMS will offer some improvements and does offer opportunities to help alleviate some problems that contribute to lengthy delays for disabled veterans. However, the change to the new system also presents new concerns, new challenges, and without careful consideration of the impact of these changes, veterans could be negatively affected by the changes. The most important consideration moving forward is that VA must include veterans as stakeholders in the decision making process about how to proceed into this brave new world of electronic claims processing. Nobody is better placed to see the impact on veterans than Veterans Service Organizations (VSOs) such as The American Legion, who provides accreditation to over 2,900 service officers across the nation to serve the needs of veterans navigating the complex

[1] VA Office of the Inspector General (VAOIG) Report 12–00244–241 "Claims Folder Storage at the VA Regional Office, Winston-Salem, North Carolina" August 9, 2012

disability claims process. Our American Legion service officers have already helped nearly 11,000 veterans file new claims this fiscal year, and are proud to serve and represent over 720,000 veterans nationwide.

It goes without saying that any changes to the process need to focus, not on what makes things easier for VA, but on what makes the process best able to serve veterans. After all, the entire purpose of the VA is to serve those who have borne the battle for this nation, and their surviving spouses and orphans.

While there are many areas potentially affected by the changes to the new electronic system, The American Legion would like to focus on three areas for the purposes of this testimony. The American Legion is concerned about recent attempts by VA to force veterans into options which may not be in their best interest; about how a move to divide work hinted at in testimony from VA may impact the claims process; and how splitting claims and opening up the processing to a cloud network may negatively impact the ability to communicate between VA and the VSOs who represent veterans, to the detriment of those veterans' claims.

Veterans Losing the Ability to Choose

Recently, in the Federal Register, VA promulgated a proposed rule change[2] which, though potentially innocuous on the surface, could negatively impact veterans. The change, insisting that all initial claims must be filed on a specific VA form, effectively eliminates the current "informal claim" which has been important for protecting the effective dates of veterans' claims.

Through the elimination of the traditional informal claim, VA eliminates the opportunity to create an effective date at the point where the veteran opts to pursue a disability claim. Our understanding of the proposed regulation affects only the veterans seeking disability compensation through non-electronic means. If a veteran applies for disability compensation through electronic means through the submission of an "incomplete application", VA will establish an effective date at the time of the incomplete application submission as long as the veteran submits a complete application within one year.

Through adoption of these changes, VA will essentially create a division between veterans with Internet access and those without Internet access. According to the National Center for Veterans Analysis and Statistics, the average age of male veterans was 64 years old in 2011;[3] the United States Census Bureau reported that only 45.5 percent of Americans (veteran and non-veteran) age 65 and older have access to the Internet from any location.[4] Assuming these statistics are similar in the veteran community as the non-veteran community regarding Internet accessibility, VA could be potentially eliminating for millions of veterans an appropriate effective date simply by virtue of whether the veteran has access to the Internet.

Beyond the issue surrounding informal claims is the status of inferred claims. The proposed regulation suggests that the veteran would no longer be permitted to receive a grant for service connection based upon an inferred claim as the veteran never filed for the claim. Frequently, a veteran may have secondary or aggravated conditions by a service connected condition the veteran is seeking. If the veteran receives the appropriate nexus statement supporting this relationship either from a VA medical professional or an outside medical professional, the veteran under current regulations is entitled to receive these benefits; however under this proposal, this would not occur.

Ultimately, The American Legion is concerned VA is sacrificing veterans' choices and options in the interest of making the claims system easier for VA to work with. However, the disability claims system does not exist to serve VA; it exists to serve the veterans disabled through service to their country.

While it may be beneficial, both for veterans and the VA, to have veterans submit claims in a certain fashion, such as through the Fully Developed Claims (FDC) process or through the e-Benefits portal, not every veteran is going to find that choice in their best interest or find that choice to be the one that meets their particular set of needs. There are better ways to approach channeling veterans towards the proper path for receiving benefits. Legislation such as the "Veterans Benefits Claims Faster Filing Act" (HR 1809/S 1148) provides information to veterans and allows them to make the choice that best suits their needs. Through this information, many veterans will see the benefits of applying through the FDC program, or of filing electronically. Veterans will still be encouraged and channeled towards the better options, but only if that's the option that works best for that veteran. We cannot

[2] "RIN 2900–AO81-Standard Claims and Appeals Forms"-78 Fed. Reg. 65,490 (October 31, 2013).

[3] *http://www.va.gov/vetdata/docs/SpecialReports/Profile-of-Veterans-2011.pdf*

[4] *http://www.census.gov/prod/2013pubs/p20-569.pdf*

take away veterans' rights to choose the options for their claims that best suit their needs.

Splitting The Issues

In his testimony before this committee on December 4, 2013, VA's Director of Compensation Service Tom Murphy edged toward the notion in his responses to questioning that VA may soon be able to split multi-issue claims and send the individual issues to those best able to process that medical concern. This sort of proposal, seemingly simple at the outset, has potential ripple effects both good and for ill.

In his testimony, Director Murphy notes VA's concern about the rising complexity of VA claims. According to Murphy the average VA claim now contains 7.2 medical issues for consideration.[5] In conversations with claims raters, many American Legion Department Service Officers (DSOs) report they are told VA employees are expected to process five claims per day to meet their work product goals. Even simple math means a VA employee is expected to read, analyze and apply all existing rules and regulations to 36 distinct medical issues in a single day, or 180 medical issues per week. Clearly, it's worth looking at how work credit is counted if this is the workload raters are expected to accomplish.

However, the solution cannot be as simple as merely splitting the issues off into individual chunks and distributing the work amongst many. In addition to the more traditionally understood method of service connection for a disability—that the injury or disease had its onset during the veteran's period of active service—veterans are also entitled to service connection for a disability " . . . which is proximately due to or the result of a service-connected disease or injury."[6] If a veteran's multi-issue claims are to be split up, with the individual issues farmed out to multiple VA employees, there must be a mechanism in place that will still look at the whole picture of the veteran and determine the possibility of secondary service connection. Exactly what this means or how it could be best implemented still requires consideration.

It may be as simple as providing each overall claim with an overseer to ensure the entirety of the veteran's claim remains in focus. It may be more complicated, such as issuing instructions to the physicians who examine the veterans and provide opinions, as well as the raters who render the final determination along the lines of:

> *This veteran is being evaluated for service connection for [X] condition. Service connection is allowed through direct linkage to an event or disease occurring during active duty service and/or through secondary service connection, wherein the current disability is caused or aggravated by a service connected condition. The veteran is ALSO being evaluated for service connection for [Y] and [Z] conditions. In your opinion/decision, please address whether those conditions, individually or in concert, are as likely as not contributory to the cause or aggravation of [X] condition.*

In essence, such a divided process would likely need to expand the reliance on hypothetical consideration within the claims system. Whether this would be effective or not, or whether it would ultimately be in the best interest of veterans will require a good deal of further discussion. Suffice to say, while there may be some benefit to ensuring that VA's 100 best evaluators of mental health disorders work on the lion's share of mental health claims, the implementation of such a plan is unlikely to be a simple or smooth transition process. There are going to be many questions raised, and the needs of veterans must be considered at every step along the way. The VSOs must be included in VA and congressional decision making along this road.

Processing In The Cloud

One of the other concerns raised by VBMS's ability to split claims into individual issues and redirect them throughout the entire cloud of the nationwide system is the breakdown in communication between VA employees and the VSOs that represent veterans, as well as the communication factor for veterans themselves. Past VA experiments in moving claims out of the Regional Offices (ROs) in which they are filed have caused problems.

In 2008 and 2009 respectively, VA's Pension Management Centers (PMCs) took on the additional task of processing responsibilities for death pension applications

[5] Witness Testimony of Mr. Tom Murphy, Director, Compensation Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs—December 4, 2013

[6] 6 38 CFR § 3.310(a)

and Dependency and Indemnity Compensation (DIC) claims.[7] In addition to the problems caused increasing the backlog on these death pension and DIC claims because the PMCs were not equipped to adequately process the volume directed to them,[8] The American Legion Department Service Officers (DSOs) reported an even greater problem. Whereas when these claims were still located in the ROs, the DSOs were able to communicate regularly with the VA staff processing the claims and ease the process along for the widows and widowers, in the PMCs communication was next to impossible. When the delays started piling up, DSOs, working on behalf of the recently widowed surviving spouses, some of the most vulnerable clients, couldn't even get basic information about the claims.

In a successful RO, the relationship between the VA staff and the VSOs working for veterans in that office is one of open communication. Often, the people involved can talk together and solve a lot of problems quickly and without extra bureaucratic red tape. When people work together as partners it is a lot easier to get things done, to the benefit of veterans. It's a mutually beneficial relationship.

An American Legion DSO can spot a situation where a veteran's claim was denied because VA failed to consider important evidence and raise that issue with the rater and coach before the decision is promulgated. Often times VA and the VSOs agree and can save a lot of time for the veterans, who otherwise would have to submit to a lengthy appeals process that can add years, not months to the total claim time. Furthermore, this helps keep claims off of VA's active inventory if the situation can be resolved reasonably. Similarly, sometimes a VA employee working on rating a claim will notice a veteran, despite being prompted by a letter, has failed to submit critical evidence. Many employees will pick up the phone, or jog down a flight of stairs or two to find the veteran's service officer and see if they can rapidly acquire the evidence and help move the process along. They can speak to each other in short hand because they both know exactly what's needed in the complicated claims system. It helps the VSOs and it helps VA, but most importantly, it helps the veterans get timely, accurate decisions.

What The American Legion found in the consolidation of death pension and DIC claims to the PMCs was that this easy communication was shut down. Even though VA intended to help the claims process by consolidating, when they ran into trouble, the communication with the key partner—the VSOs—was hindered by geography and lack of infrastructure to address this vital back and forth between rater and DSO.

The American Legion believes this would not happen if VSOs were a vital part of the planning stages of any consolidation or workflow change plans.[9] Currently, the VSOs are not as included in that process as we would like them to be. Before VA lunges forward with another scheme to alter the manner in which they process claims, it would behoove them to ensure they have on board all the partners who could help them to be successful and fully supportive.

On behalf of National Commander Dan Dellinger and our 2.4 million members, The American Legion would like to thank the Committee for their consideration of the many ramifications of VA's electronic transformation. The American Legion looks forward to working with the Committee, as well as VA, to ensure the new electronic system is effectively implemented to fulfill the most important goal: getting veterans the benefits they deserve in a timely manner. For additional information regarding this testimony, please contact Mr. Ian de Planque at The American Legion's Legislative Division, (202) 861–2700 or *ideplanque@legion.org*.

PREPARED STATEMENT OF FRANK LOGALBO

NATIONAL SERVICE DIRECTOR, WOUNDED WARRIOR PROJECT

Chairman Runyan, Ranking Member Titus, and Members of the Subcommittee:

Thank you for holding this hearing relating to VBA technology, and for inviting Wounded Warrior Project (WWP) to provide testimony.

---

[7] VAOIG Report 10–00639–135 "Veterans Benefits Administration Review of Pension Management Centers" March 30, 2011

[8] VAOIG Report 10–00639–135 "Veterans Benefits Administration Review of Pension Management Centers" March 30, 2011

[9] American Legion Resolution No. 25: "The American Legion Policy on Department of Veterans Affairs (VA) Consolidation Efforts"—MAY 2009

As an organization that works daily with wounded warriors, to include advising and assisting them in securing VA benefits to which they are entitled, we believe we can provide a helpful perspective to your inquiry this morning.

WWP recognizes and appreciates the advances technology can bring to claims adjudication. All of our benefits staff gained adjudication and advocacy experience in an era of paper-filled claims files and manual processes. Yesterday's development and adjudication processes are not a model for the 21st century, and it would be foolish for us to insist that VBA roll back the changes it has instituted and cling to last century's processes and systems. But as VBA continues to build out streamlined, technologically-based systems and capabilities, it must also be mindful of those it serves.

VA's troubled experience with a longstanding claims backlog is an inescapable reminder of the need for changes. The backlog has certainly highlighted both inefficiencies in the system and opportunities for shrinking that backlog through smart use of technology and streamlining. Certainly the system should become much more efficient. But efficiency is not an end in itself. Fundamentally, this system must serve veterans who have incurred disability in service. And even as the computer and internet-based tools have largely become the predominant mode of communication and commerce, they are not necessarily the means by which each of our veterans communicate or transact business. Some wounded warriors do not have ready access to this technology, some may not be computer-literate, and some may be anxious about or otherwise uncomfortable with using these technologies. It may not "optimize efficiency," but VBA must accommodate those warriors, not the other way around.

Let me provide some context to amplify the point, by reference to our most recent annual survey, which is based on almost 14 thousand responses (more than 50% of the nearly 27 thousand wounded warriors we surveyed).[1] Nearly all respondents (98.7%) reported that they experienced at least one injury during their post 9/11 service. Almost 60% of these warriors' injuries resulted from blasts, including IEDs, mortar, grenades, and bombs. The survey showed that the most commonly reported injuries were PTSD (75%), anxiety (74%) and depression (69%). More than 44% reported traumatic brain injury (TBI). Among those reporting multiple injuries or health problems, more than two-thirds reported between three and seven injuries or health problems.[2]

My staff and I have found that some warriors who have sustained invisible wounds, like PTSD, anxiety, and TBI have comprehension-difficulty with, or experience anxiety or a high degree of frustration with computer technology. It is also not unusual for warriors with these conditions to have higher levels of concern with, or even serious anxiety relating to, information-security. The recent data-breach on VA's e-Benefits Web site[3] will very likely heighten that concern, perhaps irreversibly.

We raise these examples to highlight a point. This system must meet these veterans where they are. Even as technology provides VBA the means to do its work with greater efficiency, its highest obligation must be to the veteran. It would follow that VA must accommodate those who, for whatever reason, cannot or choose not to, employ that technology in filing or appealing claims, even at some modest cost to peak "efficiency."

Such a principle would seem beyond question in a system long celebrated for its pro-claimant, veteran-friendly policy. But a recent VA notice of proposed rulemaking, "Standard Claims and Appeals Forms,"[4] (hereinafter, "the NPMR") would abandon a core tenet of that policy.

VA would eviscerate "current rules [which] are meant to minimize the burden associated with initiating a claim, and allow benefits to be paid from the earliest possible date if the claim is ultimately granted."[5] At the heart of the current system is VA's longstanding acceptance of an "informal claim" for benefits, that is, "[a]ny communication or action, indicating an intent to apply for one or more benefits."[6] VA now proposes to redefine what is meant by a claim for benefits. While 38 C.F.R. sec. 3.1(p) currently defines the term "Claim-Application" to include an "informal communication in writing . . . ", that "informal communication" would no longer be

---

[1] Franklin, et al, 2013 Wounded Warrior Project Survey Report, July 2013.

[2] Id.

[3] See J. Hicks, "VA software glitch exposed veterans' personal information," Washington Post (Jan. 22, 2014), accessed at *http://www.washingtonpost.com/blogs/federal-eye/wp/2014/01/22/va-software-glitch-exposed-veterans-personal-information/*.

[4] 78 Fed. Reg. 65,490 (Oct. 31, 2013).

[5] Id.

[6] 38 C.F.R. sec. 3.155(a).

recognized as a "claim," under VA's proposal. Instead, VA would require all claims to be filed on standard forms. It proposes to "incentivize" submission of claims to facilitate efficient processing by establishing new rules governing effective dates of awards that for the first time would draw a distinction between "electronic" and "non-electronic" claims. VA's rule changes would actually penalize veterans who do not submit claims online.

We offer an illustration of how these proposed rules would work. A warrior who suffered multiple injuries from an IED explosion might have difficulty with the question on VA's application for compensation, Form 21–526, that asks for a listing of specific disabilities, and might instead simply answer "multiple injuries." VA would likely deem that an "incomplete claim." Under the proposed regulation, if the veteran had submitted that claim electronically, VA would allow the veteran to preserve the filing date as the effective date for an award of benefits. But if the veteran had submitted that same incomplete claim on paper, he or she would be penalized. Instead of allowing the veteran that early effective date, VA would defer the effective date until the claim had become "complete," with the result that the veteran could lose thousands of dollars.

Under the VA's NPRM, what has long been hailed as "the pro-claimant policy"[7] underlying the veterans' benefits system would give way to an overriding emphasis on achieving "efficiency," "speed," and a "modernized process." WWP does not contest the challenges facing the Department in managing a claims backlog, nor are we opposed to achieving greater efficiency and timeliness of claims processing and appellate review. We certainly appreciate as well that the Department has statutory authority to prescribe rules and regulations and to prescribe forms of application for benefits. But the Department's exercise of that authority must remain faithful to a statutory scheme that is centered on serving the veteran. In our view, if efficiency and modernization are to be given primacy over longstanding rights that have been afforded veterans under the Department's benefits system, Congress must make those changes. Consistent with that view, our comments to the NPRM urged that the Secretary withdraw the proposed rulemaking.[8]

In essence, the proposed rule would upend important principles cemented in law and regulation. Among them, it would abolish a principle and practice that permits a veteran to file an informal claim and receive benefits paid from the date that informal claim is filed. The proposed rule would also for the first time effectively create a two-tier system that distinguishes substantively between veterans who have the capability of interacting with VBA online and those who do not, rewarding one and penalizing the other. (Under the NPRM, a claimant who by reason of disability, lack of computer access, or otherwise is unable to file a claim online would forfeit a statutory entitlement to an early effective date under circumstances where that initial claim was incomplete.) Procedural rules critical to safeguarding appellate rights would also fall under the NPRM. Regulations that now permit any expression of disagreement to be taken as a notice of disagreement would be discarded, to be overtaken by a first-time requirement that a veteran must file any notice of disagreement on a specified form. Moreover, omitting required information would render the veteran's NOD "incomplete," and were the veteran unable to complete the form (or unsuccessful in doing so) within a 60-day "grace period," the veteran would forfeit the right to appeal.

In our view, these changes go much too far, and cannot be squared with the statutory framework the Secretary is charged to administer. Moreover, with the Department's seemingly single minded pursuit of speed and "efficiency," its rulemaking pays insufficient attention to other critical interests here at stake. Of great concern, the NPRM fails even to acknowledge that applicants for veterans' benefits have a constitutionally protected property interest in their application for benefits and are entitled to constitutionally prescribed procedures in connection with their claims for benefits under the Due Process clause.[9] Rather than protecting that property interest, the NPRM proposes to establish procedures that would literally shrink it.

In striving for efficiency, the proposed rule would create real barriers that risk denying veterans benefits to which they are entitled. While Congress may elect to take steps to streamline claims' and appellate processes, a Department charged with

---

[7] See, R. Riley, "The Importance of Preserving the Pro-Claimant Policy Underlying the Veterans' Benefits Scheme: A Comparative Analysis of the Administrative Structure of the Department of Veterans Affairs Disability Benefits System," 2 Veterans L. Rev. 77 (2010).

[8] Wounded Warrior Project, Comments on RIN 2900–AO81—Standard Claims and Appeals Forms (Dec. 24, 2013) at *http://www.regulations.gov/#!documentDetail;D=VA-2013-VBA-0022-0027.*

[9] Cushman v. Shinseki, 576 F. 3d 1290 (Fed. Cir. 2009).

administering the laws providing benefits and other services to veterans[10] may not unilaterally block statutory pathways to veterans' benefits. While the Secretary has authority to prescribe rules and regulations necessary or appropriate to carry out the laws administered by the Department, those rules must be "consistent with those laws."[11]

Those laws are clear. Section 5102 of title 38 codifies the principle of an informal claim, namely a "request made by any person claiming or applying for, or expressing an intent to claim or apply for, a benefit . . ."[12] (Emphasis added.) Such an expression of intent to apply for or claim a benefit triggers an obligation on the Secretary's part to "notify the claimant and the claimant's representative, if any, of the information necessary to complete the application."[13] Under section 5102(c), the veteran has one year within which to complete that application. Where that veteran ultimately submits a fully developed claim within that year, section 5110(b)(2)(A), (as amended by Public Law 112–154) allows the veteran to preserve the date of submittal of that application as the effective date of an award of benefits. ("The effective date of an award of disability compensation to a veteran who submits an application therefor that sets forth an original claim that is fully-developed (as determined by the Secretary) as of the date of submittal shall be fixed in accordance with the facts found, but shall not be earlier than the date that is one year before the date of receipt of the application.")[14]

The Department's proposal is tantamount to a plan to graft onto this statutory framework an utterly novel distinction between claimants who file completed electronic claims—who would gain the benefit of such earlier effective date—and nonelectronic filers who would not. We see no basis in law for such a two-tiered system, or any reasonable basis to discriminate between these two classes of claimants.

The NPRM runs similarly afoul of the law in proposing to limit substantially the manner in which a claimant may initiate appellate review. The statutory provisions governing the initiation of appellate review are prescriptive only insofar they impose a time limit within which a notice of disagreement (NOD) must be filed,[15] and provide that the NOD "must be in writing."[16] The Department, by administrative fiat, would effectively rewrite that clear statutory provision to redefine the phrase "in writing" to mean a completed and timely submitted copy of a mandatory form where (under proposed new section 38 C.F.R. sec. 19.24(c)) "a form may be considered incomplete if any of the information requested is not provided, including . . . for compensation claims . . . if it does note enumerate the issues or conditions for which appellate review is sought, or does not provide other information required on the form to identify the claimant, the date of the VA action the claimant seeks to appeal, and the nature of the disagreement . . ."[17] The NPRM would convert what is a permissive statutory pathway to appellate consideration into a closed-door policy under which the "VA would not accept as an NOD any other submission expressing disagreement with an adjudicative determination"[18] than the fully completed form.

As with other changes it seeks to institute through the NPRM, VA characterizes the regulations it seeks to revise or abolish entirely as involving time-consuming processes or as barriers to processing cases more expeditiously. We see nothing in the statutory fabric to suggest that speed is an end in itself. While WWP would welcome greater timeliness of claims processing and appellate review, those objectives should not be achieved at the expense of longstanding, statutorily-based procedural safeguards.

VA's statutory authority to establish online tools to facilitate claims-filing and processing is not in doubt. Its authority to develop standard forms is not questioned. Many veterans may see benefit to employing such tools–at their option. But VA goes much too far in seeking to impose procedural requirements under which some veterans will lose benefits to which they are entitled. It runs that grave risk under circumstances where its rationale is at odds with the very statutes the Secretary is to carry out as well as with a longstanding pro-claimant regulatory framework that it proposes to abandon in significant part in the name of "modernization" and efficiency.

---

[10] 10 38 U.S.C. sec. 301(b).
[11] 11 38 U.S.C. sec. 501(a).
[12] 38 U.S.C. sec. 5102(a).
[13] 38 U.S.C. sec. 5102(b).
[14] 38 U.S.C. sec. 5110(b)(2)(A).
[15] 15 38 U.S.C. sec. 7105(b).
[16] 16 Id.
[17] 78 Fed. Reg at 65495 (October 31, 2013).
[18] 18 Id.

In the final analysis, the Department's determination to effectively reinvent some of the most fundamental elements of the claims-filing and appellate-review-initiation to achieve greater speed and efficiency are, in our view, simply beyond the Secretary's powers. Mr. Chairman, we trust you would agree that the Secretary's duty is to administer the law, not to rewrite it.

Many interests are at stake here: adherence to law; preserving a pro-claimant adjudication system; protecting veterans who—for reasons including disability, hardship, remoteness, or fear—do not have effective online computer access or cannot reasonably be expected to communicate through that modality; and preserving congressional prerogatives. Given the importance of each of those interests, we ask the Subcommittee to press VA to withdraw its proposed rulemaking.

PREPARED STATEMENT OF ERIC JENKINS

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO AND THE AFGE NATIONAL VA COUNCIL

Executive Summary

The American Federation of Government Employees and the AFGE National VA Council (hereinafter "AFGE"), the exclusive representative of employees processing disability claims at the Department of Veterans Affairs (Department) Veterans Benefits Administration (VBA) Regional Offices (ROs) supports the Department's transformation efforts and appreciates the opportunity to share views on behalf of our members working on the frontline processing claims. AFGE appreciates the opportunity to share our views on the implementation problems associated with VBMS.

Our greatest concern with transformation is VBMS' regular shut downs. AFGE urges the Committee to require VBA to create a national plan in conjunction with AFGE when VBMS is inoperable as well as provide employees with excluded time. AFGE also urges the Committee to address VBA's broken work credit system that is currently not based on data. AFGE also urges the Committee to ensure that AFGE has a more active role in discussions related to new initiatives.

VBMS Updates

AFGE consistently receives reports from members at ROs nationwide regarding shutdowns and technical problems with VBMS. AFGE would like to remain a strong partner with VBA to improve VBMS to better process claims and to make the system more user friendly. AFGE requests the establishment of a working group to improve VBMS, which would include AFGE, management, and VSO stakeholders.

Since the program's expansion, the additional users have exacerbated existing latency problems with VBMS. Employees on the east coast report that the system experiences latency as more users log on to VBMS (as the other time zones begin arriving to work). AFGE has reported the latency issue to VBA management consistently throughout VBMS' rollout.

AFGE members also report that VBMS shuts down on roughly a weekly basis. AFGE regularly receives reports from ROs nationwide of VBMS shut downs. For example, during the last month, VBMS shut down on roughly a weekly basis. The shut downs varied from just over an hour to spanning multiple days.

During each of these shutdowns, the majority of employees were not provided with excluded time. Excluded time protects employees from missing performance standards based on situations beyond their control. Inoperable software should qualify for excluded time since employees are being judged during shut downs on their performance within VBMS.

When VBMS shuts down, employees are directed to use VBA's legacy software (RBA 2000) that does not use electronic files. However, newer employees have no training in RBA 2000, meaning they cannot be productive during shutdowns. New employees must be trained in RBA 2000 in the event of a VBMS shut down. Employees also receive far lower work credit when completing work in RBA 2000 (or any other work that is not completed in VBMS), meaning their performance standard will be even more difficult to achieve when VBMS is experiencing shut downs and technical problems. There is also limited work to complete in RBA 2000 since most claims are now paperless. AFGE fully agrees with VBA that when system shut downs threaten the service we provide to our veterans, every effort must be made to remain productive during the work day. AFGE urges the Committee to require VBA to develop a plan for when VBMS is inoperable, and AFGE must be at the table when creating this plan.

Offices also report inconsistencies in how managers deal with completing work when VBMS is shut down. As mentioned above, some managers direct their employees to begin work in RBA 2000 or other non-electronic work. We also urge other ROs to follow the lead of the San Diego RO where employees received training when VBMS is not functioning, which is a productive use of time.

Beyond shut downs, AFGE members reported other issues with VBMS. Claim authorization is not yet completed in VBMS, so VSRs cannot complete promulgation of claims. For development and rating, VBMS separates these two tasks in different programs, meaning employees must exit the program and reenter in order to switch from development to rating. This extra step inhibits efficiency, slows down employees, and hurts veterans.

Another malfunction reported by VSRs and RVSRs occurs when additional paperwork enters the system from a claim that is being processed; sometimes, the information disappears for several days. The employee's performance is impacted by this malfunction and the veteran may receive a claim decision with an error. If information is not present when an employee completes a claim due to a system malfunction, VBA should not punish the employee for that error.

AFGE remains frustrated with the lack of success of VBMS. Our members are all motivated to serve veterans as quickly and effectively as possible. AFGE believes that when VBMS is shutdown, VBA must make all efforts to ensure that any production slowdown is avoided while not punishing employees for any inadequacies of the system.

Undersecretary Hickey has mentioned the opportunity for employees to provide feedback to her regarding VBMS' functionality through weekly conference calls. While AFGE applauds Undersecretary Hickey for stating her interest in hearing directly from front line bargaining unit employees (BUEs), this phone call does not include sufficient input or participation from AFGE, resulting in too few BUEs on the calls. The phone calls should include AFGE as the exclusive representative of these employees. Without the union present, many employees fear retaliation from management for any negative feedback related to VBMS. Undersecretary Hickey has stated clearly that she would like to hear any negative feedback related to VBMS so that we can all continue to improve the system. With active, ongoing union involvement, this information sharing can be accomplished. We urge VBA to work directly with AFGE to ensure sufficient participation of BUEs on these calls.

AFGE Recommendations

- AFGE urges the Committee to require VBA to provide employees with excluded time when VBMS is not operational.
- The Committee should require VBA to develop a contingency plan for operations when VBMS is shutdown to maintain productivity and not negatively impact employees' performance ratings. AFGE should have a seat at the table when creating this plan.
- AFGE should have an ongoing, meaningful role in providing feedback to VBA and the Committee must involve AFGE in the feedback loop for improving VBMS.

Current Work Credit System Problems

VBA has never had a formal work credit system based on actual data that reflects the amount of time required to process specific types of claims and their components. VBS should not deprive employees of the proper credit for critical work needed to process claims accurately and timely the first time. The broken work credit system creates performance standards that are arbitrary, inconsistent, and focus too much on quantity over quality.

The agency has made a few perfunctory efforts to establish a more reliable set of measures over the years. However, AFGE has not seen any work credit study or work credit system based on actual data. Given VBA's current transformation and the national rollout of VBMS, AFGE believes the timing is ideal for a scientific based time motion study to create a formal work credit system.

The first essential step is to develop an inventory of tasks that employees must complete on a daily basis. The current work credit system does not include an inventory of employees' daily tasks.

Some of the main problems with the current work credit system include:

- Lack of consistency
- Lack of a solid methodology
- Failure to update its "system"
- Lack of participation from the front line employees and veterans service officers with direct knowledge of the work process
- Lack of work credit for a variety of tasks

The only study AFGE is aware of is the 2008 IBM Gap Analysis study. However, the study is outdated now with VBMS' implementation.

In 2013, AFGE conducted an informal survey of Regional Offices to identify how well the current work credit system measures (or does not measure) the hours and skills required to complete different tasks. Responses from employees working in approximately a dozen different offices indicated widespread inconsistencies in how much work credit is awarded for the same tasks. Perhaps more troubling, employees in every Regional Office and position are required to perform daily tasks for which they are provided zero credit or only partial credit. By denying credit for significant tasks, the current work credit system increases workplace stress, puts pressure on employees to rush through claims, and results in unwarranted negative performance ratings.

AFGE encourages the House of Representatives to endorse the approach set forth in Chairman Sanders' S. 928, which is currently in the Senate VA Committee's Omnibus legislation S. 1950. Chairman Sanders' approach brings the major stakeholders to the table, including management, employees, and VSOs, into a working group. The working group would be tasked with evaluating and recommending changes to the current work credit system based on data. This approach encourages productivity, while ensuring employees will be evaluated fairly and accurately.

More specifically, employees reported that they receive inadequate or zero work credit for the following tasks:

- **Productive time lost due to breakdowns in VBMS:** As noted earlier, VBMS still has frequent and significant malfunctions, at both the RO and national levels.
  - VBA must create a standardized plan to keep ROs productive during VBMS shutdowns, as well as grant excluded time. Employees must not be evaluated based on the system becoming inoperable.
- **Deferred ratings:** Deferred ratings occur on a daily basis in Regional Offices. It is important to spend time on these issues since the veteran should be assisted and informed accurately about additional medical evidence they will need for their claim. RVSRs do not receive any credit for cases where there is a deferred rating an RVSR may work on a case where the veteran has claimed ten issues, but only two can be rated. The RVSR must spend significant time on the other eight issues, but will receive no credit for this.
  - VBA must provide credit for employees giving deferred ratings.
- **Multi-issue and complex cases:** VSRs are not given adequate credit for rating a case with significantly more issues or complexity. Given VBA's segmented lanes initiative with VBMS, this problem is now exacerbated. Employees receive additional credit for completing cases with at least three issues. VSRs do not receive any additional credit for developing a case with thirty issues versus a case with three issues. Employees also are denied sufficient credit for processing cases involving complex claims such as military sexual trauma and TBI.
- **RVSRs Working Development:** RVSRs regularly work on developing cases. Sometimes, RVSRs will receive a case to rate that needs additional development. Other times ROs do not have the proper ratio of VSRs to RVSRs; consequently, there are not enough cases to rate. When a case needs additional development, RVSRs do not receive credit for this work.
  - VBA must provide credit for VSR work done by RVSRs.
- **Mentoring:** Experienced processors often mentor newer employees, an essential role for ROs. Congress and VBA have long recognized the benefits of mentoring from experienced employees, yet claims processors receive no credit for assisting or mentoring newer employees.
  - VBA must provide adequate credit for mentoring by experienced employees.
- **Training:** Employees are not given sufficient work credit for time spent during training. Often times, training is shifted away from classroom instruction to reading slides or a packet at their desk with less time allotted by managers than required by the curriculum.
  - VBA must provide adequate time and work credit for training.

The absence of a valid work credit system exacerbates the well documented problem of VBA managers manipulating backlog data to improve performance measures. Veterans who fought for this nation deserve to have their claims processed in a timely manner, and waiting over two years for a decision from VBA is unacceptable. While undergoing transformation, VBA must accurately determine productivity and quality and judge an employees' performance based off of data driven metrics.

Veterans Relationship Management Initiative

VBA has not provided AFGE with an opportunity to play an active role in the implementation of the majority of aspects with the Veterans Relationship Management (VRM) initiative. It is both good policy and required by our labor management contract to engage in meaningful discussions and bargain over changes to the workplace and new initiatives. AFGE did sign a memorandum of understanding with VA on the Customer Relations Management and Unified Desktop aspects on February 9, 2012, two of the VRM aspects. AFGE urges VA to approach us with other initiatives for employee input moving forward and to comply with its contractual obligations to notify us of new pilot projects and initiatives.

Contracting

AFGE recently learned that VBA is considering the use of an outside contractor for dependency claims, work which is currently completed in ROs nationwide. VBA plans on beginning the program in March. AFGE strongly urges Congress to prohibit this counterproductive and illegal solution to the claims backlog. The FY2009 Omnibus Act, P.L. 111–8, Division D, §735 prohibits work last performed by federal employees from being given to contractors without first conducting a formal cost comparison. Past evidence with other contracts, such as the ACS contract, demonstrates that contracts can actually add to the backlog. With the ACS contract, the files set for development were not processed for 9 months and then were sent back to the ROs where they were processed. This contract hurt taxpayers, wasted VA resources, and forced veterans to wait longer for their benefits.

HAIMS and VBMS

Currently, HAIMS, DoD's file system, and VBMS are not well integrated, resulting in unnecessary delays and a worsening of the backlog. The number of delays in claims for veterans would be greatly improved if these two systems were in sync. AFGE encourages VA and DoD to integrate their two files systems for greater ease in transmitting medical evidence for claim processing.

National Work-Queue Strategy

VBA plans on using a national program to assign work to ROs nationwide, once all of the files have been digitized. For example, if a veteran submits a claim with ten contentions, and one is PTSD, the PTSD claim may be sent to a different RO than the rest of the claim. AFGE remains cautious regarding VBA national work queue strategy.

Specifically, AFGE has concerns over how VBA plans on assigning work through the national work queue strategy. For example, AFGE has not received a definition of an "under performing office." There may be discrepancies in the levels of production between offices, but this must be clearly defined before VBA begins diverting cases away from an RO. If an office is considered under performing by VBA, there are concerns that they will now be starved for casework. Also, supposedly high performing offices may fall further back in the pack with the additional casework.

Undersecretary Hickey has referred to improving VBA's current resource allocation model, where struggling ROs are starved of resources (while higher performing offices receive additional resources). However it appears that little progress has been made. Therefore we urge VBA to review its resource allocation model. While implementing any national work queue strategy, VBA must simultaneously review and change its resource allocation model.

Thank you for the opportunity to provide input from AFGE and its National VA Council on this important legislation.

Eric Jenkins Bio

Eric Jenkins works as an RVSR in the Winston Salem RO. Eric has worked at VBA for 9 years, first as a VSR for 6 years, and now as an RVSR for nearly 4 years. Eric is a 15 year veteran of the Marine Corps and a service connected veteran. He is a combat veteran, deployed in Afghanistan and in Iraq for both Operation Desert Storm and Iraqi Freedom. Eric also works as a shop steward in AFGE Local 1738. Eric graduated from North Carolina State University with a degree in political science.

PREPARED STATEMENT OF DIANA M. RUBENS

DEPUTY UNDER SECRETARY FOR FIELD OPERATIONS VETERANS BENEFITS ADMINISTRATION (VBA)

Good Morning, Chairman Runyan, Ranking Member Titus, and Members of the Subcommittee. Thank you for the opportunity to discuss VA's transformation initiatives with a focus on technology, workload management, and a proposed rule to require standardized forms. I am accompanied today by Mr. Richard Hipolit, Assistant General Counsel and Ms. Lorraine Landfried, Deputy Chief Information Officer for Product Development in the Office of Information and Technology (OIT).

Backlog Update

I would like to start by providing the Subcommittee with a brief update on our progress to date in eliminating the disability claims backlog. During fiscal year (FY) 2013, VA completed a record 1.17 million claims with 90-percent accuracy at the claim level and 96-percent accuracy at the medical-issue level. Claim-level accuracy measures the accuracy of the entire claim, regardless of the number of medical issues. The claim is either 100 percent accurate or 100 percent in error. However, medical issue accuracy evaluates individual medical conditions. Since its peak in March 2013, the backlog has been reduced by 211,000 claims, or 35 percent, and the overall inventory of pending claims has been reduced by 200,000 claims, or 22 percent, through the end of December 2013. The average number of days rating claims are pending has also been reduced from a peak of 281 days in March 2013, to 170 days at the end of December 2013, meaning Veterans are currently waiting 111 fewer days for a decision than they were just 9 months ago.

None of this progress would be possible without the tremendous support VA receives from its partners including this Subcommittee, the rest of Congress, our Veterans Service Organizations (VSO), and county and State Departments of Veterans Affairs. Our progress is also the result of the unprecedented effort and dedication of VBA employees, 52 percent of whom are Veterans themselves, and the support provided by our partners in VA's OIT and the Veterans Health Administration. Veterans themselves have contributed to our progress by participating in the Fully Developed Claims program and submitting claims electronically through the e-Benefits Web site. We appreciate the support of all of our partners and stakeholders as we continue working to eliminate the claims backlog, and we fully expect the reductions in backlog to continue.

Technology-Focused Transformation Initiatives

VA's Transformation Plan includes initiatives to retrain and reorganize our people, streamline our business processes, and build and implement new secure technology solutions that are getting us out of paper-bound, manual processes to improve our service to Veterans, their families, and Survivors. The Department takes seriously our obligation to properly safeguard personal information. The technology tools being developed to transform VBA are accredited as secure under VA's strict security standards. These products are protected by VA's numerous scanning tools, firewalls, and network and host intrusion prevention systems, as part of VA's arsenal to ensure a strong, multi-layered defense to combat evolving cyber security threats to VA's sensitive personal information and VA information systems.

At the Subcommittee's request, I would like to update you on a few key technology initiatives that have had a significant impact on our increased production and quality and show promise for the way ahead.

Veterans Relationship Management (VRM)

VRM continues to engage, empower, and serve Veterans and other clients with seamless, secure, and on-demand access to benefits information and services. Veterans now have improved access to benefits information from multiple channels—on the phone, online, and through our shared Department of Defense (DoD)/VA portal called e-Benefits. From FY 2009 to FY 2013, the number of contacts with VA through these channels increased from 9.1 million to 56.3 million.

Currently, VA has over 3.3 million e-Benefits users, representing a 51-percent increase from FY 2012. Through 58 self-service features, e-Benefits users have generated over 410,000 requests for official military personnel documents, 405,000 requests for VA guaranteed home loan certificates of eligibility, 31 million claim status requests, and over 3.4 million self-service letters. Additionally, there has been a steady increase in electronic claim submissions for disability compensation benefits. Since October 2012, over 40,000 compensation claims and 44,000 dependency claims have been submitted online, and VA expects electronic claims submissions

to continue to increase. Over 50 percent of dependency claims submitted online via the automated Rules Based Processing System are now processed in 1 business day.

VA is relying on VSOs to continue to perform their vital advocacy and assistance role within VA's transformed benefits delivery model. The Stakeholder Enterprise Portal (SEP) is a secure, Web-based entry point that complements e-Benefits and gives VSOs and other authorized advocates access to assist Veterans with electronic claim submissions. Using the portal, 1,200 registered users can check the status of claims, review payment history, and upload documentation on behalf of the Veterans they represent—all within a digital environment. When filing a claim online in e-Benefits, a Veteran can request the assistance of a VSO by choosing from a list of accredited representatives in VA's database. When logging into SEP, the chosen VSO representative is alerted to the Veteran's request, and upon acceptance, is given power-of-attorney authorization to access the Veteran's claim and assist with preparation. Once the VSO representative believes the claim is ready for submission, he or she can send notification back to the Veteran in e-Benefits, and the Veteran submits the claim to VA.

VBA "Digits to Digits" is a technology initiative which will enable VSOs to submit claims directly to VA using their own claims management systems. It is scheduled for implementation in FY 2014. This machine-to-machine interaction will benefit Veterans by accelerating the speed in which claims are filed. Veterans' representatives will also benefit by being able to leverage their current claims management systems and reduce printing and shipping expenses. The eight current pilot participants include: AMVETS; and the States of California, Georgia, Illinois, Kansas, Kentucky, Tennessee, and Virginia.

Telephone systems improvements have also increased access to benefits information and services. Eight call centers now utilize a consolidated queue to improve efficiency and utilization of call agents. The consolidated queue allows calls to be routed to the next available agent with the appropriate skill set. Veterans and other callers have also benefited from the Virtual Hold feature, which automatically calls the individual back. More than 10 million calls have been returned since this feature became available in September 2011; and in FY 2013, VBA had a 95 percent reconnect success rate. Additionally, callers have the option to pick a date and time for VA to call back. JD Power and Associates found that callers who use VBA's Virtual Hold feature have a customer satisfaction score 11 points higher than the customer satisfaction scores for non-Virtual Hold callers.

VBA also improved the tools that call agents use. Unified Desktop technology was deployed to over 750 agents at the National Call Centers. This technology combined 13 separate applications into one consolidated view of the Veteran. Call agents can now access the caller's contact history and utilize "smart scripts" to provide quick, consistent, and high-quality responses to callers. For example, Unified Desktop technology has helped VBA reduce the length of calls by an average of 30 seconds for 354,000 callers requesting benefits letters since June 2012.

Veterans Benefits Management System (VBMS)

VBMS, VA's Web-based electronic claims processing system, was deployed to all 56 regional offices 6 months ahead of schedule in June 2013. VBA has also successfully deployed VBMS to the Appeals Management Center, the Records Management Center, the Board of Veterans' Appeals (Board), all National Call Centers, and all VA medical centers. More than 25,000 unique end-users throughout VA have access to VBMS. This technology helps us move away from paper-based to electronic claims processing and begin to gain processing speed within a digital claims processing environment. Currently, more than 78 percent of our claims inventory which equates to 535,000 claims can be processed electronically, which is an increase from 32 percent in June 2013. In addition, VBMS improves access, drives automation, and enables greater exchange of information and increased transparency to Veterans, our workforce, and other stakeholders.

The evolution of VBMS is occurring across four distinct generations of development. Generation One of VBMS began in 2010 with the conceptualization, piloting, development, and deployment of baseline system functionality with improved quality and efficiency. The development of Generation One of VBMS concluded with the successful implementation of Release 4.1 in January 2013.

As we moved into the development of Generation Two of VBMS, the focus was on building additional system capabilities while leveraging simple automation features. VBA deployed three major Generation Two software releases: VBMS 4.2, 5.0, and 5.1. These releases included improvements to correspondence and work queue tools, additional rating functionality, and more extensive data exchange and system integration capabilities.

In December 2013, VBMS entered Generation Three of system development with the Release 6.0. The focus of this generation of development are increasing system functionality, adding more complex automation capabilities, reducing dependency on legacy systems, and enabling the capability to accept Veterans' electronic service treatment records (STR) from DoD. VA has been actively working with DoD to accelerate development of the Healthcare Artifacts and Image Management Solution (HAIMS) so STRs would be available in the HAIMS repository for Servicemembers separated from January 1, 2014, forward. We have developed an automated interface capability to enable the secure electronic transmission of disability benefit claimants' STRs between DoD's HAIMS and VBMS. With the HAIMS–VBMS connection, VA can now retrieve certified and complete electronic versions of STRs for Servicemembers separating on or after January 1, 2014. This major milestone for VA and DoD reduces the amount of time it takes VA to gather required evidence and helps improve the accuracy of claims decisions.

Release 6.0 also contained the first generation of awards functionality, integrated additional correspondence functionality, and delivered initial capabilities to the Board. With this release, Board end-users now have access to a unique eFolder view with the ability to maintain notes on documents and enter bookmarks within the eFolder.

Release 6.1, which is scheduled to deploy in March 2014, will continue to focus on increased automation by mapping and pre-populating Disability Benefits Questionnaires and Evaluation Builders. This release will also integrate VA's legacy electronic records store, "Virtual VA," to reduce our dependency on legacy systems. Throughout 2014, VA will continue to gather end-user feedback on VBMS, assess and validate the effectiveness of the claims processing model as a whole, and implement improvements as needed.

Generation Four of VBMS, which is scheduled to be deployed sometime in 2015, will capitalize on efficiencies and quality improvements gained during the previous year. VA will utilize enhancements made in Generation Three to identify additional automation and process improvement opportunities that can be incorporated into Generation Four, allowing employees to focus on more difficult claims by reducing the time required to process less complex claims.

VBA established the Veterans Claims Intake Program (VCIP) in 2012 to streamline the process for receiving records and data into VBMS and other VBA systems. VCIP converts claims and other paper records into a digital format that is usable within VBMS. Under VCIP, documents are scanned and converted into electronic format, and important information and data are extracted and populated in an electronic folder accessible to claims processors through VBMS. As of January 10, 2014, VCIP has converted from paper and uploaded into VBMS more than 430 million images.

Workload Management

As we continue to execute our claims Transformation Plan, we are adjusting the way we manage and measure our work. Leveraging technology, we are finding ways to more efficiently manage claims to deliver more timely and accurate decisions to Veterans, their families, and Survivors. As workload management is adjusted and new technology is introduced, we are also evaluating how work credits and performance management should change.

National Work Queue

Historically, regional offices have been primarily dedicated to processing claims of the Veterans living within the state or area of jurisdiction. These jurisdictional boundaries were driven by limitations of operating a paper-based system, where claims records and files were physically stored, processed, or mailed between the Veteran, the regional office, and the closest supporting VA medical facility. This geography-bound process led to significant inefficiencies and variances in timeliness in overall claims production. As VA transitions to a paperless claims process, we are in a better position to adopt a national workload strategy that is "boundary-free" and thus improve overall production capacity to serve Veterans in the same way they served—side by side without regard to state affiliation.

VBA's previous "brokering" strategy helped balance the inventory of pending claims across regional offices to better serve Veterans, their families, and Survivors. Dedicated brokering centers were established at 15 regional offices to handle claims from regional offices with workload challenges and claims associated with national priority missions, such as the special processing of Agent Orange claims subject to the provisions of the Nehmer court decision. While somewhat effective in handling "surge" work, these brokering centers did not fully optimize capacity that still existed within regional offices from a national perspective.

In April 2013, VBA launched its Oldest Claims Initiative to expedite decisions for Veterans who had waited at least 2 years for a decision on their claim. VBA redistributed the oldest claims across the Nation to best utilize the resources of all regional offices. This centralized workload management and redistribution achieved excellent results. Within 2 months, we completed more than 97 percent of the 67,000 claims identified for processing under the 2-year initiative. In June, the focus turned to completing all claims that had been pending more than 1 year. VBA completed 98.2 percent of the claims that were pending over 1 year by October 31, 2013. Over 500,000 Veterans received decisions on their claims under this initiative. VBA could not have accomplished these results without the capability to nationally manage the workload without jurisdictional borders. VBA's experience in managing this initiative demonstrates the potential of a national workload management strategy for improved benefits delivery by optimizing every member of the VBA workforce.

The new paperless claims processing environment offers even greater potential for more streamlined and efficient processing, with claims being directed to the right decision makers at the right time, no matter where that decision maker is physically located.

The national work queue is being developed in a two-phased approach. In Phase I, claims will be managed from a central location and routed based on individual station capacity as well as national priorities. With more claims being processed electronically, centralized management will enable VBA to more easily adjust workload distribution. In Phase II, claims will be assigned to different regional offices based on claim-specific data. Assigning claims to employees based on specific characteristics of a claim will improve the timeliness and accuracy of decisions.

As VA implements the national work queue, Veterans will still be able to visit regional offices or call our National Call Centers for personal assistance with their claims. They will also be able to go online to check the status of their claims and explore other self-service features. VSOs and other authorized representatives will still have full access to claims information for the Veterans they support through SEP. Congressional staff will have access to VBA employees as they do today to check on the status of a constituent's claim. The electronic claims process provides real-time updates, no matter where the claim is assigned for processing.

Work Credit System

In conjunction with the advancements in technology, VBA is diligently working to update performance tracking mechanisms. To create organizational consistency, VBA maintains performance standards for timeliness and accuracy. These standards are routinely evaluated and revised to keep pace with changes. With VBA's transition to electronic claims processing, it is more important than ever to consider the impact of technology on employee performance and ensure the expectations of our workforce align with the tools employees have to complete their work.

In response to organizational and process changes, VBA regularly revisits and revises performance standards. These standards have historically been developed via a committee consisting of representatives from the Compensation Service; Pension and Fiduciary Service; Office of Field Operations; Human Resources; our labor partners; field managers; and subject matter experts. Revised standards were most recently implemented in February 2013, and a further revision to Veterans Service Representative (VSR) and Rating VSR production and quality standards was recently presented to our national labor partners and is in the final stages prior to implementation. VA works diligently to ensure standards are developed that accurately align performance expectations with the overall organizational mission and goals, as well as the current claims processing environment.

Currently, VBA uses the Automated Standardized Performance Elements Nationwide (ASPEN) system. ASPEN is a proprietary software system that does not connect to VBA information systems. Because of the existing limitations and growing challenges from using a proprietary software product in a developing VBA digital environment, VBA is addressing the need for performance management services. In November 2013, VBA established a team to capture business requirements for new performance management services. These new services will enable current, real-world scalability and unlimited configurability, with powerful security features to provide the support and functionality necessary to integrate into our existing and future systems.

Proposed Rule To Require Standardized Forms

In order to get benefits into Veterans' hands as quickly as possible, with the most accurate decision possible, VA has proposed a rule that would require claims to be filed on a standard form and would require appeals to be initiated using a standard

form whenever one is provided for that purpose. VA's proposed rule does not require that Veterans file electronic claims in order to receive benefits.

VA gave interested members of the public the opportunity to comment on the proposed rule from October 30 through December 30, 2013. VA is carefully reviewing the 53 comments it has received from stakeholders and will be responding to them in accordance with regular Administrative Procedure Act procedures.

Conclusion

While we know there is more work to be done to reach our goals, the combined effects of our Transformation Plan are having a significant impact. The gains we are making in information technology and the automation of our processes are critical, and going forward, we will need to sustain the resources for programs like VBMS in order to eliminate the backlog in 2015 and achieve our quality goals. FY 2014 is a crucial year in our transformation, and I look forward to your continued support and commitment on behalf of Veterans, their families, and Survivors.

This concludes my statement, Mr. Chairman. I would be happy to entertain any questions you or the other Members of the Subcommittee may have.

STATEMENT BY RICHARD W. THOMAS

DIRECTOR, HEALTHCARE OPERATIONS AND CHIEF MEDICAL OFFICER, DEFENSE HEALTH AGENCY

AND

MR. DAVID M. BOWEN, DIRECTOR, HEALTH INFORMATION TECHNOLOGY, DEFENSE HEALTH AGENCY

Executive Summary

As a direct result of the collaborative efforts by DoD and VA, Veterans Benefits Administration (VBA) claims adjudicators who use the Veterans Benefits Management System (VBMS) in all 56 VA Regional Offices now have the capability to retrieve certified and complete electronic versions of the DoD Service Treatment Records (STRs) for Service members who separated or were discharged after January 1, 2014, to assist in processing disability benefits claims. This enables VBA to process future Veterans' disability claims for newly separating Service members in a fully digital claims-processing environment; reduces the amount of time it takes to gather required evidence; and helps to improve the accuracy of disability claims decisions.

DoD is responsible for providing VA with Service members' information to allow accurate and fair claims adjudication. STRs provide the necessary military service related healthcare evidence needed to reach a decision of a Service connection on a VA disability claim. VA has recently required that these records be certified prior to transfer from the DoD to VA. DoD subsequently issued policy to ensure compliance.

The certification process requires that the final military treatment facility (MTF) for each military Service verify the completeness of each Service member's STR at the point of separation from military service. When the MTF certifies the STR, it indicates to VA that no further records exist and the STR for the Service member is complete as of the date of certification.

In January 2013, in support of VBA's transition to a fully digital environment for claims processing, DoD committed to accelerate the deployment of the Health Artifact and Image Management Solution (HAIMS) for the purpose of transferring electronic STRs to VA. DoD committed to the development and implementation of a secure interface to allow VA to query the HAIMS repository for relevant STRs effective not later than January 2014. We have achieved this goal.

To do this, DoD revised its HAIMS deployment strategy, refocused its training strategy to deliver training to Patient Administration Department (PAD) personnel and clinic administrative staff, and formed a VBA interface "tiger team" to plan and develop the automated interface. The certification process was also modified to ensure that the complete STR has been uploaded and is retrievable from HAIMS. In DoD, the process begins with authorized DoD personnel scanning the paper-based elements of a newly separating Service member's STR. This and the Service member's DoD electronic health record, is submitted into the HAIMS repository and made available to the VA as a single record. HAIMS now fully supports the electronic transfer of digital STR information, including military and private-sector treatment records, to VA.

As of December 31, 2013, the Services stopped mailing hard copies of STRs to the VA and the STR scanning process commenced on January 2, 2014.

Chairman Runyan, Ranking Member Titus, and distinguished members of the subcommittee, thank you for extending the invitation to discuss the collaborative actions taken by the Department of Defense (DoD) and the Department of Veterans Affairs (VA) to enable the secure electronic retrieval of disability benefits claimants' certified Service Treatment Records (STRs) by VA. As a direct result of our collaborative efforts, Veterans Benefits Administration (VBA) claims adjudicators who use the Veterans Benefits Management System (VBMS) in all 56 VA Regional Offices now have the capability to retrieve certified and complete electronic versions of STRs for Service members who separated or were discharged after January 1, 2014, to assist in processing disability benefits claims. Achieving this milestone represents a meaningful step forward – it enables VBA to process future Veterans' disability claims for newly separating Service members in a fully digital claims-processing environment; reduces the amount of time it takes to gather required evidence; and helps to improve the accuracy of disability claims decisions.

DoD is responsible for providing VA with Service members' information to allow accurate and fair claims adjudication. STRs, in particular, are an important part of that information in that they provide the necessary military service related healthcare evidence needed to reach a decision of a Service connection on a VA disability claim. Because of the reliance on this information, VA has recently required that these records be certified prior to transfer from the DoD to VA. DoD subsequently issued policy to ensure compliance with this process.

The certification process requires that the final military treatment facility (MTF) for each military Service, including the National Guard and Reserve component, verify the completeness of each Service member's STR at the point of separation from military service. When the MTF certifies the STR, it indicates to VA that no further records exist and the STR for the Service member is complete as of the date of certification.

In January 2013, in support of VBA's transition to a fully digital environment for claims processing, DoD committed to accelerate the deployment of the Health Artifact and Image Management Solution (HAIMS) for the purpose of transferring electronic STRs to VA. Specifically, DoD committed to the development and implementation of a secure interface to allow VA to query the HAIMS repository for relevant STRs effective not later than January 2014. We have achieved this goal.

In order to accommodate this new requirement, DoD revised its HAIMS deployment strategy by realigning technical resources to support HAIMS deployment, refocusing its training strategy to deliver training to Patient Administration Department (PAD) personnel and clinic administrative staff, and forming a VBA interface "tiger team" to plan and develop the automated interface. The certification process was also modified to ensure that the complete STR has been uploaded and is retrievable from HAIMS. As a result of this focused effort, HAIMS fully supports the electronic transfer of digital STR information, including all military and private-sector treatment records, to VA.

Funding for this effort included Joint Incentive Funds (JIF) used to support the Military Departments' procurement of high-volume scanning equipment and additional personnel to digitize paper-based medical information for newly separating Service members.

As of December 31, 2013, the Services stopped mailing hard copies of STRs to the VA and the STR scanning process commenced on January 2, 2014. The process for digitizing a Service member's STR and making it retrievable by VBA begins with authorized DoD personnel scanning the paper-based elements of a newly separating Service member's STR. The digitized STR, comprised of the scanned information and digital content from the Service member's DoD electronic health record, is submitted into the HAIMS repository and made available to the VA as a single record.

Chairman Runyan, Ranking Member Titus, and members of the distinguished subcommittee, thank you for the opportunity to testify today. The Secretary of Defense is committed to ensuring that information is made available to VA when a Service member's status changes to civilian status as a Veteran and he or she files a disability benefits claim. DoD continues to work closely with VA to ensure that important information regarding a Service member, including relevant medical information, is available for ongoing healthcare delivery or adjudication of VA benefits.

We look forward to your questions.

PARALYZED VETERANS OF AMERICA

Chairman Runyan, Ranking Member Titus, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to offer our views on the Department of Veterans Affairs (VA) current status of its transformation and the secondary effects of the Veterans Benefits Administration's (VBA) use of technology. While PVA has been encouraged by many of the effects that the integration and wide-spread implementation of technology has had, we still have concerns that we have expressed in the past, both to VBA and to Subcommittee members and staff.

As VA progresses in its new processing model for disability compensation claims, we are seeing a flurry of activity and updates to the Veterans Benefits Management System (VBMS). Currently VBMS 6.0 appears to be on target, but this timeliness does not necessarily address the real potential problems. This system has been able to accommodate many of the myriad of adjustments designed to standardize and automate VA claims processing and access to information. The tradeoff has been the often incompatible gateways to retrieve information, such as the need to access multiple systems with various passwords to retrieve required information. These VBA problems are short term, however, because VBMS will ultimately morph into the Stakeholder Enterprise Portal (SEP), a secure web-based portal which facilitates access to VA systems under a single umbrella. VBMS is currently being utilized to implement scheduled program releases at this point because SEP cannot be programmed in time to accommodate the targeted release dates. Incremental program changes are thus being made in VBMS and will be available in the SEP Portal when VBMS effectively morphs into SEP. This update will greatly simplify access to all available VA systems via a single gateway.

Supporting the improvements to VBMS is the national work queue strategy within VBA which is a critical and reasonable component of VBMS. The system was designed to be fluid and to facilitate the movement of work where it can best be done. In the past the only way an NSO could review a claim was to have the C-file on their desk. The significant impact of VBMS will be to expand their capability beyond the confines of the office which will help to reduce the backlog and maintain the reduction, though PVA still has concerns with the backlog simply moving into the appeals realm.

In conjunction with the queue strategy is the work credit system which has always been a problem with VBA, and the automated IT component of this issue doesn't change the situation. The issue stems from what is measured and how the date is utilized once it is collected. This issue has historically steered VBA in the wrong direction when it comes to resource allocation, which is the end result of the application of work measurement data. Under Secretary of Benefits Hickey has been wise not to strip resources from offices that place on the lower end of the work measurement graph as that doesn't address the real problem.

One concern that PVA and other Veterans Service Organizations (VSO) have recently expressed is VA's recent statements on requiring electronic forms submission. This plan, if enacted, would significantly disadvantage veterans in seeking their earned benefits. If a veteran doesn't express his intention to secure a benefit on the right form, he or she won't be recognized as having made a claim. The burden is on the veteran and VA's duty to assist will be seriously diluted, potentially interfering with a veteran's access to their rightful benefit. This is a path that PVA cannot endorse.

PVA's major concern at this point is the ability of VBA employees to effectively comprehend and implement the new transformation initiatives as these new programs are rolled out. VA employees are conscientious, hard working individuals, however, the ongoing changes have always been a challenge, as it would be for any employee. In addition, PVA has often testified on the lack of good training programs by VA that provide adjudicators with the base of knowledge needed for the complicated job of claims processing. Additionally, there often seems to be difficulty in getting the new policies, procedures or processes down to the lowest staff level. We believe this trend continues despite the transformation.

VBA has implemented a policy of designating super users to receive extensive training on new transformation applications, and these employees are subsequently directed to train their fellow employees on the use of the program. Our concern in this area is that the employees selected to receive this training may be highly qualified and may have the requisite IT skills to effectively utilize the full potential of the new initiative, but the employees that this person is designated to train, may not be as IT savvy. The potential for major misunderstandings is an aspect that cannot be ignored. PVA is concerned that the transformation initiatives can only work

if there is adequate effective training and this may or may not be correlated with the number of documented hours recorded for this purpose.

The process of transformation has progressed to the point where turning back is not an option, nor is redesign of the entire process feasible. Unfortunately, if this training plan was a bad decision, it will not be known until it is too late. Thus we reiterate our concerns that PVA has emphasized in the past that the success of VBMS greatly depends on the process design, like rules-based processes, and supportive technologies like Special Monthly Compensation (SMC) calculators, that undergird the system. This is the challenge for a rules-based computer system, it does not have the human interaction to fully understand the circumstances of a specific injury, particularly for those with catastrophic disabilities. The numerous issues faced by veterans with catastrophic injuries create a complex set of outcomes that cannot be easily reconciled by logic-based systems that cannot appreciate nuance in disability assessments. Calculators used in rules-based systems historically fail to compute the right ratings for persons with multiple issues. This type of decision analysis uses decision trees that attempt to enable the rater to simplify and resolve complex questions. This technique, however, can be problematic when the analysis involves highly qualitative assessments that are reduced to binary choices.

In summary while we see many obstacles to the progress of transformation based technologies, we see the potential to overcome these problems by empowering first line supervisors to effectively manage their employees. This level of management is responsible to evaluate the ability of their employees to effectively utilize the tools that are available to them. They are the ones who must decide if it is necessary to forgo a short term gain by requiring additional training for an employee who is not able to effectively utilize the potential time savings afforded by any of the new automated features of claims processing. While there is great pressure to increase efficiency and to reduce the claims backlog, employees must be properly trained and motivated by their first line supervisor. If not, they are simply moving the backlog downstream to the detriment of the veteran.

One final concern we have is recognition of the fact that VBA transformation initiatives are being scrutinized by multiple interested parties, not the least of which is this Subcommittee as well as other members of Congress. While oversight is critical, excessive reporting requirements and requests for responses to defend actions discovered in investigative committee reviews can be unreasonably burdensome and time consuming. This can also cause the parties to focus more on protecting their own jobs than on providing the best services for our veterans.

Mr. Chairman, we would like to thank you once again for allowing us to address VBA's technology transformation. We continue to hope that the advances in technology use will benefit all veterans, but VA must remember that technology is not the easy fix many portend it to be. This is particularly true when considering those with catastrophic disabilities.

PVA would be pleased to take any questions for the record.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2013

National Council on Disability—Contract for Services—$35,000.

Fiscal Year 2012

No federal grants or contracts received.

Fiscal Year 2011

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$262,787.

VIETNAM VETERANS OF AMERICA

SUBMITTED BY JAMES R. VALE, ESQ., DIRECTOR, VETERANS BENEFITS PROGRAM

Chairman Runyan, Ranking Member Titus, and other members of this distinguished and important committee, Vietnam Veterans of America (VVA) appreciates the opportunity to offer our statement for the record concerning VBA Technology. Please know that VVA appreciates the efforts of this committee for the fine work you are doing on behalf of our nation's veterans and their families. There are 5 issues we would like to bring to your attention.

I. Scanning Veterans Claims Folders (CFILES)

VBA has to complete its transformation from paper to electronic files if it is going to make significant progress in improving its timeliness in claims processing. To accomplish this huge undertaking VBA is scanning millions of veterans' claims folders (CFILEs). These CFILEs are the agency's official record of the veteran's current claim and any past claims and appeals. These CFILEs can range from less than 50 pages to literally thousands of pages (enough to fill several filing cabinet drawers).

Inside a CFILE

On the left flap is the accounting and payment history. The middle section should contain, in chronological order, the initial claim form (21–526), reopened claims, private medical records, past rating decisions, other evidence submitted by the veteran or the veterans representative, evidence added by VA (such as printed pages from the Veteran's medical records from VA hospitals), evidence from other agencies (such as the Social Security Administration), and all correspondence sent to the veteran. The right flap contains the veteran's Power of Attorney form (VA Form 21–22), and DD214.

The service treatment records (STRs) including the veterans military medical and dental records are contained in a large envelope, usually attached in the middle section of the CFILE. The STRs contain the veteran's enlistment physical, contains outpatient treatment records, and separation physical. Lab results (usually on sticky notes) are stuck on the outpatient treatment notes. X-rays are also included. Older records are usually hand-written and hard to read. Records from WWII are very delicate and require careful handling.

Once the first CFILE is completely full a second folder is created (Volume II), then a third (Volume III), and so on. Sticky notes are used to help flag key parts in the file. Highlighting is also used. All the volumes are bound together by large rubber bands.

Unfortunately, Veteran Service Officers all too often find the paper documents in CFILES in complete disarray. For whatever reason, these documents are not in chronological order, but in random order, much like what is left over after playing a game of "52 Pickup." Sometimes documents from other veteran's CFILEs get mixed in. I personally have seen a CFILE containing documents from 3 different veterans.

Not all CFILEs are Scanned

VSOs were promised by VA the CFILEs would be scanned and searchable. To date, VA says 82% of the CFILEs are scanned. This 82% are initial claims, and do not include over 800,000 reopened claims, appeals, dependency claims, and claims already decided. We understand VA has had to prioritize which CFILES get scanned first, and noticed this massive scanning effort has led to delays in veterans claims at ROs across the country, but we recognize this is a temporary situation.

CFILEs are not Fully Searchable

The VA promised efficiencies would be gained by the electronic CFILEs being searchable. In practice, what has happened is after each page is scanned it is grouped together with similar documents and categorized under a specific label. *Only the label, and not the document's contents, are globally searchable in VBMS*. To search within the document you must open it and perform a separate search within that document (if it was scanned using Optical Character Recognition or OCR). What we now have is a pile of paper being replaced with a "Pile of PDFs."

VBA should be appropriated sufficient funding to ensure that each veteran's electronic CFILE is truly searchable without having to open each document separately. Opening each document separately delays adjudication, and may actually prevent some VA attorneys and Veteran Law Judges from seeing important documents if they rely solely on searching the document labels and do not open every single document.

CFILE Pages are Mislabeled

VVA represents veterans at the Board of Veterans Appeals, and our appellate attorneys have noticed a problem with pages in electronic CFILES in VBMS being mislabeled. For example, our attorneys' legal briefs and third party correspondence have frequently been mislabeled as "Board of Veterans Appeals Decisions." Consequently, we are concerned this is a much broader problem given the large scale of scanning that is taking place across VBA. We suggest this mislabeling problem be looked at more closely.

Quality Control Concerns

As mentioned previously, CFILES range in size and content. Also, documents contained in these CFILEs may be single or double sided. Many of these pages have staples, paper clips, or sticky notes or flags which have to be removed before being scanned. This is a labor-intensive and mistake prone process. How do we know both sides of each page was scanned? How do we know all the pages were scanned? What if the scanned image is illegible? Once the paper CFILE is destroyed, there is no going back if a quality problem is later discovered with the electronic copy. This potentially creates an electronic "St. Louis Fire" for veterans whose files were either not scanned completely, or have illegible scans.

VBA plans to retire scanned CFILEs, but no official decision has been made on what to do with the STRs. They are DoD property, but DoD does not want the STRs back. VA does not want to continue paying to store them. Prior rating decisions contained in the paper CFILE may not be accessible in legacy VBA systems such as Virtual VA.

VVA recommends retiring the entire CFILE to NARA. That way if there is ever a problem with the scanned file the Veteran can go back to the paper file. Otherwise, we will have a situation similar to what is found within the airline industry where the airlines claim 98% of passenger baggage makes it to their destination, but if you are part of the unlucky 2% whose bags didn't make it, you are out of luck. Here, veterans whose CFILES were not completely scanned or have scanning errors may face denials by VA, much like their predecessors whose military records were destroyed by the infamous 1973 St. Louis Fire.

II. VA National Work Queue

VBA has Regional Offices in every state, some states (NY, PA, & TX) have 2 ROs, and CA has 3 ROs. VBA is trying to balance its work across its 57 regional offices. VBMS will give VA the opportunity to balance its workload across all these ROs. It may also allow the creation of Centers of Excellence for complex or difficult claim issues such as PTSD, TBI, hearing loss, and vision loss. This could improve the consistency of rating decisions, especially for those conditions that are not adjudicated very often, but are complex. For example, vision loss conditions make up only 1.5% of all service connected conditions (2012 VBA Annual Report), but tend to be very difficult and challenging for RVSRS to adjudicate. Using the National Work Queue vision loss claims from around the country could be channeled to specific RVSRs who are experienced in rating these types of claims. Furthermore, RVSRs at every RO could be incentivized to become Subject Matter Experts in particular claims.

Need for Formal Process To Resolve VSO Sign off Issues

As a service officer I have signed off rating decisions at the rating table, and in the cases where I found an error in a rating decision I was able to go straight to the RVSR (or the RVSR's Coach) and get the issue immediately resolved, thus saving the RVSR a quality review error, and saves the veteran a lengthy 2–3 year appeal. This is a win/win for the veteran and the VA.

Not every RO allows service officers access to RVSRs. Some ROs only allow the service officer to meet with the RVSR's coach (when the coach can be found. They are very busy and can be hard to locate). VVA proposes "office hours" at each RO so the service officer can get the issue resolved without the RVSR or coach being interrupted throughout the entire work day by service officer inquiries.

Now that VBMS is here, VBA needs to establish a formal process to deal with service officer sign-offs. If a claim is to be signed off by a service officer in VBMS via SEP, how do sign-off issues get resolved if a service officer finds an error in a rating decision? This become a bigger problem if the service officer is not located at the same RO that generated the decision. VVA proposes a "Dispute Queue" be created where the service officer can send the rating decision for review by the RVSR or Coach.

The advantages of a National Work Queue have to be carefully balanced with the disadvantages. The service officer who is on station and has face to face contact with the RVSRs and DROs is a more effective advocate for veterans than those service officers who are not on station or do not have access to adjudicators. If designed correctly, the National Work Queue can help effectively balance workloads within an RO and across multiple ROs, but carefully planning must be taken to ensure the working relationship between service officers and RVSRS is not weakened.

III. Issues With Stakeholders Enterprise Portal (SEP)

SEP allows VSO many benefits including the ability to accept or reject a veteran's request for representation, submit a claim electronically for a veteran (either take over a claim that was started in e-Benefits, or submit a whole new claim in SEP),

and check the veteran's claims status. It basically allows the VSO to see what the veteran sees in e-Benefits. SEP holds great potential to enable VSOs to better serve veterans, but it does have a few issues that need to be addressed.

Veteran Must Already Have an e-Benefits Account

In order for a VSO to submit a claim for a veteran via SEP, the veteran must already have already created an e-Benefits account. Currently it is not possible to submit a claim for a veteran via SEP if the veteran does not have an e-Benefits account. VA is working on a solution.

POA Request Glitch

In response to multiple VSO requests to improve VA policy governing VA Form 21–22 "Appointment of Veterans Service Organization As Claimant's Representative," known as the "POA Form," VA created functionality in e-Benefits to allow veterans to select their representative online rather than submitting a paper 21–22 form. VSOs were told the veteran can submit a POA request in e-Benefits, and that this request would appear in the VSO's "Service Representation Request" queue in SEP where the VSO can click a button to accept or decline the request. The veteran's e-Benefits account would receive an immediate response from SEP once the VSO accepts or declines the POA request.

Unfortunately, due to a programming bug or glitch, there is a communication error between e-Benefits and SEP that is preventing the veteran's e-Benefits account from updating with the new POA request status after the VSO accepts or rejects the POA request. Thus, the VSO must contact the veteran directly by phone, email, or paper letter to communicate the acceptance or rejection of the veteran's POA request. Imagine a VSO finding 1,000 POA requests to respond to in SEP. That is 1000 phone calls, emails, or paper letters that need to be generated. This creates an unnecessary burden on VSOs, and needs to be corrected by VA as soon as possible.

Out of Date POA Database Impacting e-Benefits

A veteran's ability to find an accredited service officer in e-Benefits is significantly impacted because the database maintained by the VA Office of General Counsel (OGC) used to feed into e-Benefits is woefully out of date.

The VA Office of General Counsel (OGC) only has 4 FTE to monitor approximately 30,000 accreditations (service officers, attorneys, and VA Agents), and these staff are responsible for maintaining the online database that feeds into the POA request feature in e-Benefits (see: *http://www.va.gov/ogc/apps/accreditation/*).

The lack of resources at OGC to monitor these accreditations is well documents by the Government Accountability Office in its report "Improvements Needed to Ensure Claimants Receive Appropriate Representation." The GAO recommended the VA OGC, ". . . take steps to ensure an appropriate level of staff and IT resources are in place to implement the requirements of the accreditation program." GAO–13–643: Published: Aug 1, 2013. Publicly Released: Aug 30, 2013. Available: *http://www.gao.gov/products/gao-13-643*.

Although some short-term fixes are being made to help clean up the database, the long-term solution is for OGC to allocate sufficient FTE to this important OGC function so that the database is up to date.

IV. Diffused Accountability

VBA has to transform its paper-based claims system into a modern, electronic-claims based system, and is making great progress. However, unless structural changes are made to VBA's organizational structure, no amount of technological transformation will fix VBA's underlying and deep-rooted problem: the existing separation of VBA's Operations and Policy Functions.

There are at least two major structural/corporate culture barriers that need to be changed at VBA. First, the bifurcation of separate reporting lines of managers between "operations" and "policy" does not make sense. It only creates too many middle managers and disperses accountability. This needs to be corrected at VBA (and at the Veterans Health Administration (VHA) as well we might add), for the same reasons of reducing managerial slots and affixing clear accountability. The second is the fact that nobody ever got in trouble at Compensation & Pension for saying "No." The default position needs to change from "No" to "how do we get to yes?"

VVA commends VBA on the progress it is making to become an electronic claims system, but strongly urges VBA's organization structure also undergo transformation.

VVA Proposed Rule Rin 2900–AO81—Standard Claims and Appeals Forms

VVA understands the VA's stated intent to improve the quality and timeliness of the processing of veterans' claims for benefits and appeals, and in principle, we do not oppose VA modernizing its claims system and use of standardized forms. *However, we find many of these proposed rule changes in RIN 2900—AO81, as currently written, do NOT have the intended effect of increasing efficiency, and are in fact adverse to veterans' interests by formalizing the claims and appeals processes to the point where benefits are unfairly restricted.*

Although the title of this proposed rule is, "Standard Claims and Appeals Forms," the proposed change goes well beyond mandating the use of forms. VA proposes to:

- Eliminate all informal claims, potentially costing veterans millions of dollars in retroactive payments currently allowed under existing law.
- Essentially change a claim from an application of "*formal or informal communication in writing requesting a determination of entitlement or evidencing a belief in entitlement, to a benefit" to "a written communication requesting a determination of entitlement or evidencing a belief in entitlement, to a specific benefit under the laws administered by the VA.*" This gives VA the opportunity to raise the bar to an unreasonable level where veterans are denied claims for issues that are not specifically claimed.
- Create the concept of a "complete claim," and providing VA the opportunity to unfairly deny claims for failing to meets its arbitrary standards of what it deems to be "complete." Veterans' claims should be decided on their merits, and not summarily dismissed for failing to dot every "I" and cross every,"t".

Currently, the claims clock starts when a veteran submits an informal claim, and the veteran has 365 days to follow up with the formal claim and evidence to perfect the claim. VBA policy makers claim this hurts and unfairly skews VA's claims timeliness statistics. *There is nothing in Title 38 that prohibits VBA from starting the claims clock from when the formal claim is received.* Thus, VA could start the claims clock when the formal claim is received rather than eliminating informal claims. This would reduce VBA timeliness statistics by up to 364 days without costing veterans the retroactive awards they are currently entitled to under the existing informal claims process.

VVA has serious concerns that these proposed changes are adverse to many classes of veterans—especially Vietnam Veterans—seeking VA benefits under Title 38, and some of these proposed changes may be in direct violation of existing court rulings. Furthermore, some of these proposed changes may not pass Constitutional muster given they appear to run afoul with the Due Process and Equal Protection Clauses of the U.S. Constitution. The end result of these proposed changes, if enacted, would be a significant departure from the longstanding, "nonadversarial and pro-claimant" VA system originally intended by Congress.

Although VA is granted authority under 38 U.S.C. 501(a) to make regulatory changes, these proposed regulatory changes appear to be ultra vires. Therefore, VVA strongly opposes these proposed changes as currently written and urges that they be withdrawn.

Mr. Chairman, VVA thanks you and this subcommittee for the opportunity to present our views for the records regarding today's hearing "Beyond Transformation: Reviewing Current Status And Secondary Effects Of VBA Technology".

February 5, 2014
Vietnam Veterans Of America
Funding Statement

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans membership organization registered as a 501(c)(19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the Senate of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For Further Information, Contact:
Director of Government Relations Vietnam Veterans of America. (301) 585–4000, extension 127

James R. Vale, ESQ.

Mr. James Vale is the National Service Director and Senior Attorney for Vietnam Veterans America. He is a licensed attorney from the State of Washington, leads a legal team of 6 appellate attorneys, and oversees accreditation, training, and VBP Program compliance for over 600 accredited service officers. He has been an accredited service officer for 10 years and is accredited by the Associates of Vietnam Veterans, American Legion, Blinded Veterans Association, and Vietnam Veterans of America. He has represented veterans for VA claims at the VA Seattle Regional Office and at the Board of Veterans Appeals.

Mr. Vale is a former Government Relations Intern with the Blinded Veterans Association, and a former David Isbell Summer Law Clerk with the Veteran Pro Bono Consortium. He is a past-presenter at the National Organization of Veterans Advocates (NOVA), has written an article in the National Veterans Legal Services Program (NVLSP), The Veterans Advocate, and has a column in VVA's Magazine, The Veteran.

Mr. Vale is a disabled Navy Gulf War-era Veteran and is legally blind. He earned his Master of Business Administration (MBA) and Master of Aeronautical Science (MAS) from Embry-Riddle Aeronautical University, and Master of Public Administration (MPA) and Education Specialist Degree (Ed. S.) from the University of Arizona, and Juris Doctorate (JD) from Seattle University School of Law. He is also a graduate of both the VA Blind Rehabilitation Service and the VA Vocational Rehabilitation & Employment Program.

Mr. Vale resides with his wife Rowena and his daughter Gabrielle in the DC metro area.

LETTER FROM HON. TITUS TO HON. SHINSEKI

February 27, 2014
The Honorable Eric K. Shinseki
Secretary, Department of Veterans Affairs
810 Vermont Avenue, NW., Washington, DC 20420
Dear Mr. Secretary:

In reference to our Subcommittee on Disability Assistance and Memorial Affairs hearing entitled, "Beyond Transformation: Reviewing Current Status and Secondary Effects of VBA Technology" that took place on February 5, 2014, I would appreciate it if you could answer the enclosed hearing questions by the close of business on April 10, 2014.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for materials for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively and single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Carolyn Blaydes at *Carolyn.blaydes@mail.house.gov*. If you have any questions, please call (202) 225–9756.

Sincerely,
Dina Titus, Ranking Member Subcommittee on Disability Assistance and Memorial Affairs

QUESTIONS FOR THE RECORD–VA

Production

1. Can you please explain, in detail, how station targets for VA Regional Offices are created? Consistently committee staff has found that station targets are not being met. Are the station targets unrealistic? If not, what is being done to hold offices accountable for not reaching their targets?

2. The most recent performance data available in ASPIRE is more than two months old. Can VA commit to providing Congress and the public with timely information regarding the performance of VA Regional Offices?

3. How does VBA define an under performing office?

4. What are the performance standards for individuals working in the various segmented lanes? How many claims is a VSR/RVSR expected to complete if the work

in the "express lane", the "core lane", the "special operations lane", and on non-rating work?

a. Do these standards vary by office or are they the same across the country?

b. If the standard is the same but actions are weighted, please provide us an index explaining how different actions are weighted.

5. Can we please receive a briefing and documentation on the NLA pilot?

6. Can VA please provide the formula for determining "claims produced per Direct FTE" on the executive dashboard as well as the figures used in that calculation?

7. VARO Directors indicated that they are challenged to provide incentives to employees. Can you please provide the code/regulation that governs RO leadership's abilities to provide such incentives?

8. How many provisional rating decisions have been made since the inception of tactic.

a. How many of those claims have been appealed?

9. How many VA Regional Office Director positions are currently vacant? How long have they been vacant for?

National Work Queue

1. One of the concerns raised in the VFW's testimony is the fact that service officers are not provided lists informing them of what claims have been brokered? How does VA currently inform the VSO's of the location of brokered claims, and how does VA expect this to change moving forward?

2. Why was the national work queue not communicated to Congress prior to its implementation?

3. In a National Work Queue, how will poor performing offices and employees be held accountable?

4. How will the resource allocation model be modified in consideration of the National Work Queue?

5. According to the fact sheet provided to the committee on February 3, 2014, with regards to the National Work Queue, VBA has suggested that they will support medical-issue and skill-based workload distribution. Can you please expand upon this; will this be for all medical conditions, what are VBA's intended goals?

6. What is the Area Director's role in the new model and who specifically will manage workload at the National level?

7. VSOs are concerned about losing the ability to have face-to-face interaction with the VA employee processing the claim. How is VA going to ensure VSO service officers can contact the case workers?

8. What is VA doing to ensure the "sense of ownership" is not undermined as the claims are sent to other regions?

9. Please provide statistics on the quality of brokered and non-brokered claims.

10. In the future phase of NWQ, how is VA ensuring that the holistic view of complex claims is retained as the individual issues are sent off to other regions and employees?

11. How is the VA going to allocate resources (FTE, budget, etc.) to high and low performing ROs?

12. There is concern that previous attempts to centralize claims for death pensions and Dependency and Indemnity Claims (DIC) were problematic with high error rates and delays. Is VA incorporating any lessons learned from that experience?

e-Benefits

1. What percent of claims are being submitted through e-Benefits? What are VA's goals for online claim submission?

2. Can you please provide the findings of the breach core data team's investigation to the committee?

HAIMS

1. Is the VBMS–HAIMS interface fully operational? How many service and treatment records has VA retrieved using the HAIMS interface? The November update to the Transformation Plan indicates DoD committed to providing 100% complete searchable electronic records, has DoD now met its commitment and is this capability fully rolled out at all 56 VAROs?
2. Where is HAIMS scanning conducted?

VBMS

1. What is the total for VA spending on VBMS from inception?

Work Credit

1. Can VA provide an update on the current work credit system and any labor agreements and discussions?
2. Can VA provide the committee with a copy of the AFGE labor agreement?

IDES

1. In the hearing VA suggested that it would eliminate the backlog of IDES claims by March (Final Rating) and August (Initial Rating). Can VA please provide additional clarity on its plan to achieve this goal?
2. Can more claims be brokered to the Providence DRAS to reduce the wait times of Servicemembers waiting on rating decision from the Seattle DRAS?
3. Can more IDES ratings decisions be brokered to additional VA Regional Offices?
4. Numerous references have been made to negative experiences from the SM's in IDES with regards to QTC physicians and facilities. How is VA checking the quality and consistency of the QTC examinations, facilities, and personal?

RESPONSES FROM VA TO HON. DINA TITUS

Question 1: Can you please explain, in detail, how station targets for VA Regional Offices are created? Consistently committee staff has found that station targets are not being met. Are the station targets unrealistic? If not, what is being done to hold offices accountable for not reaching their targets?

VA Response: The performance of regional offices (RO) is evaluated against national and RO-specific targets that are based on the Veterans Benefits Administration's (VBA) strategic goals. These targets are established at the beginning of each fiscal year (FY), across all the business lines and for a variety of measures, including quality, timeliness, production, and inventory. Challenging performance expectations are established that build on the previous year's performance, giving consideration to current staffing levels and anticipating that each RO is working to ensure the most efficient utilization of those resources. RO directors are held accountable for their performance, which is reflected in their end-of-year evaluations. As appropriate, performance improvement plans are put in place for employees and closely monitored by the area director.

Question 2: The most recent performance data available in ASPIRE is more than two months old. Can VA commit to providing Congress and the public with timely information regarding the performance of VA Regional Offices?

VA Response: VBA has increasingly been asked for production statistics that reflect the status of claims actually being worked at each RO, referred as claims at the Station of current Jurisdiction (SOJ), instead of the production credited to the station where the claim was originally received, referred to as Station of Origination (SOO). We acknowledged this requirement in recent changes to the Monday Morning Workload Report, which now shows production statistics for each RO both before and after any brokering of claims to or from other ROs. As brokering will continue to increase in FY 2014 and FY 2015, VBA adjusted the data for ASPIRE to reflect SOJ versus SOO in our monthly statistics towards achieving our FY 2015 goals. We have recalculated the previous months of ASPIRE data in FY 2014 accordingly and reposted October 2013 through January 2014. These new files were available online on March 7, 2014. February end-of-month data for Compensation and Pension was posted to ASPIRE on March 11, and we expect to continue publishing prior-month data to ASPIRE no later than the 10th business day of the following month. We apologize for any confusion that may have resulted during this changeover period.

Question 3: How does VBA define an underperforming office?

VA Response: The performance of any one RO can be impacted by a number of internal and external factors including experience level of the employees and management team, types and complexity of received claims, fluctuations of incoming claims volume, and the impact of nationally directed initiatives (such as the brokering associated with the Oldest Claims Initiative). In general terms, an underperforming RO would be one consistently not meeting its performance targets, which are established at the beginning of each fiscal year and intended to build on the previous year's performance.

Question 4: What are the performance standards for individuals working in the various segmented lanes? How many claims is a VSR/RVSR expected to complete if the work in the "express lane", the "core lane", the "special operations lane", and on non-rating work?

VA Response: The performance standards are consistent for all claim processors, regardless of the assigned segmented lane. VBA sets the standards for work to be completed based on the position and experience level of the employee.

a. **Do these standards vary by office or are they the same across the country?**

   VA Response: VBA performance standards are consistent for all claims processors across the Nation.

b. **If the standard is the same but actions are weighted, please provide us an index explaining how different actions are weighted.**

   VA Response: Performance standard credit is weighted for both Veterans Service Representatives (VSR) and Rating Veterans Service Representatives (RVSR). Performance standard credit for VSRs is weighted based on the complexity of the action completed. For example, completing an initial letter in response to a Veteran's claim for benefit is weighted higher than a contact with a Veteran via telephone. RVSR's credit is weighted based on the complexity of the case and number of issues rated. For example, an RVSR on the special operations team that rates a highly complex claim with nine medical contentions will receive a higher weighted credit than a RVSR that rates a claim with two medical contentions on the express team. Attached are the current national performance standards that provide an index of the weighted actions.

Question 5: Can we please receive a briefing and documentation on the NLA pilot?

VA Response: VBA can provide a briefing at the Committee's convenience.

The Veterans Benefits Management System (VBMS) notification letter automation (NLA) automates the award notification letter with very little manual handling by the end user. The expectation is that the implementation of this new process will reduce the time that claims await award generation and authorization. This allows VBA employees to focus their critical expertise on award processing. The new process will facilitate standardization of the letters nationwide in a way not previously possible. The new system supports much more rapid language changes than legacy products, facilitating timely updates to our standardized system language.

This functionality uses rules-based logic to drive generation of notification letters based on various inputs as part of a rating decision or award action. Prior to this automated process, users were required to manually select paragraphs to populate the notification letter.

The Portland RO began the VBMS NLA pilot in August 2013, and it is being used by two of the RO's teams (Express and Non-Rating). The Lincoln RO began piloting VBMS NLA in November 2013.

Program successes include:

- 365 automated letters were generated as part of the pilot.
- 84percent of automated letters generated after VBMS 6.0 release.
- The VBMS NLA pilot supported and led to incorporation of NLA functionality in the VBMS–Awards application.
- Time-study results showed a 40 percent reduction in letter generation time and resources using the VBMS NLA process, compared to the traditional legacy system processing.

The Lincoln and Portland ROs are currently piloting VBMS NLA. National deployment of the VBMS–Awards application with the embedded NLA functionality is currently in the planning stages.

Question 6: Can VA please provide the formula for determining "claims produced per Direct FTE" on the executive dashboard as well as the figures used in that calculation?

VA Response: Claims produced per direct full-time equivalent (FTE) employees represents total claims completed during a given month divided by the cumulative FTE employees for that month. Since rating claims are processed by both compensation and pension employees, cumulative end of month FTEs for both business lines is used.

Direct FTE includes VSRs, RVSRs, Decision Review Officers (DRO), Pension and Veterans Service Center field employees such as Claims Assistants, Fiduciary employees, National Call Center employees, Military Service Coordinators, Homeless Veterans Coordinators, and Women Veterans Coordinators. The end of month February calculation was based on 14,101 direct FTEs.

Question 7: VARO Directors indicated that they are challenged to provide incentives to employees. Can you please provide the code/regulation that governs RO leadership's abilities to provide such incentives?

VA Response: RO directors are allowed to provide performance incentives under the following statute, regulations, and publications:

- 5 United States Code, Chapter 45 - Incentive Awards;
- 5 Code of Federal Regulations (CFR), Part 451 – Awards;
- 5 CFR, Part 531, Subpart E – Quality Step Increases;
- VA Handbook 5017 – Employee Recognition and Awards; and
- Office of Personnel Management publication "Human Resources Flexibilities and Authorities in the Federal Government."

VBA utilizes a three-tier incentive program to recognize individuals and ROs for excellent performance during the fiscal year.

Individual recognition (level one) awards are given to those employees whose performance significantly exceeds their performance requirements. All performance requirements for claims processors contain critical elements for both quality and timeliness/production. At the heart of the performance award program is a foundational focus on quality. Group awards (level two) are made to offices or elements of offices that achieve and exceed performance targets, including all claims accuracy goals.

Special contribution awards (level three) are reserved for recognition by the Under Secretary for Benefits.

Question 8: How many provisional rating decisions have been made since the inception of tactic?

a. How many of those claims have been appealed?

VA Response: Between April 19, 2013, and November 2013, approximately 14,500 provisional ratings were completed (7,300 for 2-year claims and 7,200 for 1-year claims). This represents approximately two percent of the rating-related decisions made under the Oldest Claims Initiative through November 8, 2013.

In April 2013, the Department of Veterans Affairs (VA) implemented a temporary initiative to expedite compensation claims decisions for Veterans who had waited one year or longer. Between April 19, 2013, and November 8, 2013, VA claims raters made provisional decisions on some of the oldest claims in inventory, which allowed Veterans to begin collecting compensation benefits more quickly, if they were eligible.

Provisional decisions were based on all evidence VA had received to date and during the time the claim had been pending.Provisional rating notices noted the evidence;

which the decision was based and listed any documentation that had not been provided or the VA had been unable to obtain. Exams were provided by VHA in an expedited manner if they were required for a rating. When benefits were awarded in the provisional decision, the Veteran began receiving compensation immediately.

This initiative provided a one-year safety net for Veterans to submit further evidence should it become available and protects the Veteran's right to appeal the decision. Any awarded benefits will be retroactive to the original date the claim was submitted. If no additional evidence is obtained, the provisional decision will become final after one year (or earlier if the Veteran requests), at which time a final decision and appeal rights will go into effect. These Veterans then will have the standard year to appeal the decision, effectively extending the current appeal window, while also providing them with near-term decisions and benefits, if eligible, based on the evidence in the claims file.

Because provisional decisions are not final decisions they are not appealable. All Veterans who received a provisional rating will receive a final decision that will include their standard 1-year appeal rights.

Question 9: How many VA Regional Office Director positions are currently vacant? How long have they been vacant for?

VA Response: As of March 24, 2014, six RO director positions are vacant.

Position	Length Open
Regional Office Director, Los Angeles	9 months
Regional Office Director, San Diego	6 months
Regional Office Director, Montgomery	2 months
Regional Office Director, Denver	2 months
Regional Office Director, Oakland	2 months
Regional Office Director, Baltimore	Less than 1 month

Securing skilled and experienced leaders to fill director vacancies remains a top priority for VA. Upon notification of an upcoming vacancy, VA initiates immediate action to recruit the highest qualified candidate. During the search for highly qualified applicants, experienced management officials are detailed to ensure appropriate leadership of RO operations is maintained.

National Work Queue

Question 1: One of the concerns raised in the VFW's testimony is the fact that service officers are not provided lists informing them of what claims have been brokered? How does VA currently inform the VSO's of the location of brokered claims, and how does VA expect this to change moving forward?

VA Response: Veterans Service Organizations (VSO) have full access to claims

information for the Veterans they represent through the Stakeholder Enterprise Portal, including the location that the claim is being worked. In addition, Veterans can access real-time claim status updates through eBenefits or by calling the National Call Centers.

VBA does not expect the relationship between the VSOs and the ROs to change moving forward. VSOs can still ask questions related to specific claims to the Veterans Service Center leadership at the RO where they are located, regardless of where the claim is being processed.

Question 2: Why was the national work queue not communicated to Congress prior to its implementation?

VA Response: The national work queue (NWQ) supported by VBMS has not yet been implemented. Currently, the framework is being developed and is expected to be completed in the first quarter of FY 2015. In the current transition phase, while availability of NWQ functionality in VBMS is pending, VBA is employing the national workload brokering strategy under its Oldest Claims Initiative.

Question 3: In a National Work Queue, how will poor performing offices and employees be held accountable?

VA Response: In the initial release of the NWQ, VBA will match its inventory with claims processing capacity at the RO level, moving claims electronically from a centralized queue to an office identified as having capacity to complete the work. With this national workload approach, VA will continue to focus on the improvement of its traditional performance metrics, with an emphasis on improving quality and consistency of claims processing nationwide to ensure Veterans and their families receive timely benefits, regardless of where they reside. Individual RO employees and managers will continue to be held accountable for both production and quality. Future iterations of the NWQ will include more robust workload management capabilities to automate portions of the claims process and metrics in order to direct work based on national priorities. VA has established a work group that includes VA field and headquarters staff to develop and refine logic that will drive the electronic routing of work through the NWQ and establish appropriate metrics.

Question 4: How will the resource allocation model be modified in consideration of the National Work Queue?

VA Response: The resource allocation model will be modified as more sophisticated VBMS workload management capabilities and metrics become available. VBA has also established a work group that includes VA field and headquarters staff to develop and refine business rules that will collect data for use in the development of future resource allocation models.

Question 5: According to the fact sheet provided to the committee on

February 3, 2014, with regards to the National Work Queue, VBA has suggested that they will support medical-issue and skill-based workload distribution. Can you please expand upon this; will this be for all medical conditions, what are VBA's intended goals?

VA Response: In the initial release of the NWQ, inventory routing will be based on productive capacity at eachRO. Future iterations of the NWQ will include more robust workload management capabilities to automate portions of the claims process and metrics in order to direct work based on national priorities. VBA will analyze the transactional data from VBMS and other corporate systems to assess the complexity of tasks and decisions made by claims processors to determine future skill-based functionality for the NWQ.

Question 6: What is the Area Director's role in the new model and who specifically will manage workload at the National level?

VA Response: The role of an area director remains unchanged. Area directors are responsible for the effective delivery of all Veterans benefits and programs in the field organization. They will continue to provide leadership in all operational areas including performance measurement and improvement, workload management, and resource management. Under the NWQ, VBA will integrate a team of workload managers and analysts to identify patterns, analyze impacts, and recommend policy and procedures for routing claims to ROs.

Question 7: VSOs are concerned about losing the ability to have face-to-face interaction with the VA employee processing the claim. How is VA going to ensure VSO service officers can contact the case workers?

VA Response: VSOs have full access to claims information for the Veterans they represent through the Stakeholder Enterprise Portal. The current relationship between VSOs and RO leadership will not change as a result of the NWQ. VSOs will continue to have the ability to bring their questions and concerns on individual cases to the attention of Veterans Service Center leadership at their local ROs.

Question 8: What is VA doing to ensure the "sense of ownership" is not undermined as the claims are sent to other regions?

VA Response: In April 2013, VBA launched its Oldest Claims Initiative to expedite decisions for Veterans who were waiting the longest for a decision on their claims. VBA managed this initiative from its headquarters and the four area offices, redistributing the oldest claims across the Nation to utilize the resources of all ROs to better meet the needs of our Nation's Veterans. VBA's success with this initiative demonstrated the potential of a national workload management strategy for improved benefits delivery by optimizing every member of the VBA workforce through a sense of holistic ownership.

Question 9: Please provide statistics on the quality of brokered and non-brokered claims.

VA Response: VBA's quality assurance program does not currently segregate brokered claims and non-brokered claims. As of March 2014, the quality of rating workload (to include brokered work) was 96.3 percent at the issue level and 90 percent at the claim level.

Question 10: In the future phase of NWQ, how is VA ensuring that the holistic view of complex claims is retained as the individual issues are sent off to other regions and employees?

VA Response: Starting in FY 2015, as workload management functionality is deployed in VBMS, VBA will centrally manage and distribute the claims inventory from the national level. In this phase, the claims workload will be distributed from VBA Central Office down to the RO level, taking advantage of RO capacity from a national perspective and ensuring production consistency. Based on additional VBMS automation in 2015, claims will be routed nationally down to the individual employee level, based on the nature of the claim and the skill set of the claims processor.

After the initial release of the NWQ slated for September 2014, VBA will analyze the transactional data from VBMS and other corporate data to assess the complexity of tasks and decisions made by claims processors. This data will assist VBA in determining skill-based, issue-level functionality for the NWQ.

Question 11: How is the VA going to allocate resources (FTE, budget, etc.) to high and low performing ROs?

VA Response: VBA's area directors and the Office of Field Operations will continue to monitor claims inventory levels, distribution of workload, performance, and accountability and allocate resources accordingly. VBA will also continue to refine its workload management procedures for application in the NWQ electronic environment as well as identify the best distribution of FTE, budget, etc. across the ROs.

Question 12: There is concern that previous attempts to centralize claims for death pensions and Dependency and Indemnity Claims (DIC) were problematic with high error rates and delays. Is VA incorporating any lessons learned from that experience?

VA Response: The initial release of the NWQ will mirror the current claim processing strategy; it is not attempting to centralize additional claim types. As future iterations of NWQ evolve, VBA will explore lessons learned and other takeaways from a holistic perspective.

eBenefits

Question 1: What percent of claims are being submitted through eBenefits? What are VA's goals for online claim submission?

VA Response: As of February 2014, 4.3 percent of disability compensation claims have been submitted through eBenefits in FY 2014. The FY 2014 goal is to receive 12 percent of its disability compensation claims through eBenefits by the end of the year. That target increases to 20 percent by the end of FY 2015.

Question 2: Can you please provide the findings of the breach core data team's investigation to the committee?

VA Response: VA's Data Breach Core Team (DBCT) reviewed the circumstances regarding the January 15 eBenefits software defect and determined that individuals should be offered credit monitoring.

The results of VA's investigation of the incident are included below:

On January 15, 2014, VA's Office of Information and Technology attempted to update a system that supports the eBenefits portal. During implementation of this scheduled enhancement, VA discovered that an error had occurred related to the way the upgrade was deployed, and that error was causing some Veterans and Servicemembers logged into eBenefits to see other individuals' personally identifiable information (PII). VA quickly validated the concerns and reversed the deployment on January 16, 2014. VA moved quickly to limit the scope of the issue and prevent any further exposure and then conducted a top-to-bottom review.

During the 4 hour and 57 minute period of time between system update and subsequent rollback, 1,362 Veterans and Servicemembers who logged into eBenefits may have had their information and information about their dependents seen by up to 5,399 of their fellow Veterans and Servicemembers who were also logged into eBenefits.

VA brought the eBenefits portal back online on Sunday, January 19, 2014, at 10:00 a.m. EST. Before bringing eBenefits back online, the Department ensured that the

software defect had been resolved, that Veteran information was protected, and that potential vulnerabilities were addressed. VA waited until Veterans Benefits Administration call centers were staffed before placing the system back online.

For the majority of the Veterans, Servicemembers, and dependents whose information may have been viewed by other users, the following data elements were at risk for exposure: name, mailing address, partially-concealed financial information, partially-concealed or fully visible Social Security Number, partially-concealed claim number, disability rating, benefit payment amount and effective date, and period of service.

As required by Department policy, VA immediately referred the incident to the DBCT to review. After adjudicating the facts provided, the DBCT determined that notification and credit monitoring should be offered to affected individuals.

As provided by the law, the notifications and credit monitoring are based on the level of risk, impact, and harm to each individual affected. VA completed mailing notification letters on February 14, 2014. Immediately after resolving the issue and determining eBenefits was functioning correctly, VA conducted a thorough after-action review of the situation and established key lessons learned that will help prevent similar incidents from occurring in the future. VA's analysis identified an error exposed by an upgrade to VA's authentication management system. The error caused eBenefits users with accounts matching certain conditions to see the cached data of Veterans or Servicemembers who had logged in just prior to them. VA has now implemented fixes to the eBenefits software so that if a similar error condition occurs again, the attempted action will fail rather than sending unintended information.

Additionally, in an effort to maximize accessibility to systems in high demand, such as eBenefits, VA attempts to perform minor software upgrades and patches without taking the system offline. In this situation, VA performed the upgrade while Veterans and Servicemembers continued to use eBenefits. Because VA did not take dependent systems (such as eBenefits) offline during the upgrade, the return of incorrect information was initiated with the certificate mismatch. This would not have occurred had VA disabled eBenefits while the system enhancement was rolled out. Going forward, VA will not deploy system enhancements while the system is still online.

VA is confident that this incident was not the result of a system security vulnerability or a violation of VA's privacy and information security Rules of Behavior. VA monitors its network for breaches and has studied access to eBenefits during the time of the incident. VA found no indicators of malicious behaviors or processes, nor any indications of a breach through any system security vulnerability. Moreover, there has been no indication that any unauthorized users gained access to other internal network VA web applications using eBenefits as a proxy. Additionally, none of VA's external partners who monitor the Department's network boundaries have reported any unusual activity at the time the software defect was in effect. Finally, when VA rolled back the system update, the problem ceased to exist.

In order to identify the number of users who access the eBenefits system, VA maintains an audit log of who signs in and when. During the period when the defective update was in production, there were 10,154 users logged into the system. Of those users, 5,399 were using features of the system that would have potentially allowed them to see data from other Veterans in addition to their own data, and 1,362 may have had their data and/or their dependents' data erroneously exposed to other Veterans and Servicemembers. The Veterans and Servicemembers who saw information other than their own had read-only access to that data and could not alter any data other than their own.

In order to further address the impacts of the eBenefits portal software defect, VA has consulted and coordinated with appropriate agencies in an effort to ensure this type of incident does not happen again. VA has worked with the Department of Defense Manpower Data Center to uniquely identify all Servicemembers who were impacted. Additionally, the US-Computer Emergency Readiness Team notified VA's National Security Operations Center of possible misconfiguration of an application.

VA is confident in the security and functionality of the eBenefits portal and encourages Veterans to use this important tool to manage and track their claims and other important information. VA immediately responded to maintain Veteran trust in eBenefits after this incident occurred. VA responded quickly to Congressional and media inquiries and communicated with VSOs. VA has also posted on its blog a message to Veterans explaining what happened in this incident and what actions VA plans to take to directly contact affected Veterans. VA will work to continue and enhance this important dialog with Veterans.

Since the time of the incident, VA has received no reports of additional compromise of PII due to this incident.

The eBenefits tool, which is critical for Veterans, VSOs, and VA to help Veterans take control of the benefits they have earned, is now fully functional and available for Veterans and Servicemembers to use.

HAIMS

Question 1: Is the VBMS- HAIMS interface fully operational? How many service and treatment records has VA retrieved using the HAIMS interface? The November update to the Transformation Plan indicates DOD committed to providing 100% complete searchable electronic records, has DOD now met its commitment and is this capability fully rolled out at all 56 VAROs?

VA Response: The interface between the VBMS and the Healthcare Artifacts and Image Management Solution (HAIMS) became fully operational on January 1, 2014. The capability was also fully rolled out to all 56 ROs on January 1, 2014.

Question 2: Where is HAIMS scanning conducted?

VA Response: When the Servicemember separates/retires from military service, the paper STR folder is sent to the respective central cell for digitization and certification. The Army and the Air Force central cells are located in San Antonio, Texas. The Navy continues to operate at its contingency site located at a contract facility in Chantilly, Virginia.

VBMS

Question 1: What is the total for VA spending on VBMS from inception?

VA Response: VBMS (IT – Non Pay only) – Actual IT obligations/spend from FY'09 (inception) to FY'13 for development/investment is $357.3M and for sustainment is $121.1M for a total of $478.4M. Planned IT obligations/spend for FY'14 is $83.8M for development/investment and $100.4M for sustainment for a total of $184.2M.

VBMS (VBA GOE – Non Pay only) – Actual obligations/spend from FY'10 (inception) to FY'13 is $168.1M (Note: Nothing in FY'09). Planned obligations/spend for FY'14 is $159.9M which includes $132.4M for the VCIP (Scanning contract).

Work Credit

Question 1: Can VA provide an update on the current work credit system and any labor agreements and discussions?

VA Response: VBA regularly revisits and revises performance standards in response to organizational and process changes. Revised standards were most recently implemented in February 2013, and revisions to the VSR and RVSR production and quality standards were recently presented to our national labor partners. VBA is currently working with the American Federation of Government Employees (AFGE) on the new performance standards set to be implemented in April 2014.

Question 2: Can VA provide the committee with a copy of the AFGE labor agreement?

VA Response: A copy of the VA/AFGE Master Agreement and Article 67 can be found below. This agreement was amended on January 9, 2012, to include Article 67, which governs skills certification for VBA employees who process claims for compensation and pension benefits.

IDES

Question 1: In the hearing VA suggested that it would eliminate the backlog of IDES claims by March (Final Rating) and August (Initial Rating). Can VA please provide additional clarity on its plan to achieve this goal?

VA Response: To achieve the goal, the Seattle Disability Rating Activity Site (DRAS), has implemented several initiatives and added a new leadership position. In October 2013, the Seattle DRAS began using Disability Benefits Questionnaires (DBQ) for all Integrated Disability Evaluation System (IDES) cases and assigned a permanent division chief over the DRAS mission. In January 2014; the DRAS resumed mandatory overtime. In March 2014, the Seattle DRAS began utilizing the scanning vendor to enable them to process all final ratings in a paperless environment.

Additionally, the Army continues to support the DRAS by lending personnel to assist with making cases ready to rate. As a result of these initiatives, the Seattle DRAS eliminated excess inventory for final ratings in March 2014 and is on track to eliminate excess inventory for proposed ratings by the end of August 2014.

Question 2: Can more claims be brokered to the Providence DRAS to reduce the wait times of Servicemembers waiting on rating decision from the Seattle DRAS?

VA Response: Providence brokered-in 250 proposed ratings per month from the Seattle DRAS from August 2013 to December 2013. Providence's inventory rose beyond the projected 250 claims per month due to the furlough, loss of mandatory overtime, increased receipts from the Air Force (approximately 50 percent increase), and personnel changes. Therefore, brokering was suspended in January 2014 to allow Providence's inventory and timeliness to stabilize. .

Question 3: Can more IDES ratings decisions be brokered to additional VA Regional Offices?

VA Response: IDES ratings generally have more conditions to rate than general ratings and the conditions tend to be more complex (e.g., traumatic brain injury). In addition, the IDES rating process is slightly different from the traditional rating process (e.g., proposed ratings, interacting with the Physical Evaluation Board, etc.). For these reasons, IDES claims are best processed at DRAS sites.

Question 4: Numerous references have been made to negative experiences from the SM's in IDES with regards to QTC physicians and facilities. How is VA checking the quality and consistency of the QTC examinations, facilities, and personal?

VA Response: A VBA medical officer randomly reviews a total of 148 QTC medical examinations each quarter to ensure they are sufficient for rating purposes. When VBA

finds insufficient examinations, it provides feedback to the field, training to the vendor, and/or contacts the Servicemember or Veteran, as appropriate. QTC is meeting its contractual target of 92 percent accuracy.

VBA also surveys Servicemembers and Veterans regarding the quality and timeliness of care they received during their examinations. VBA analyzes the feedback monthly and uses it to support of the overall examination process. VBA and its vendors immediately investigate negative comments, communicating directly with the Veteran or Servicemember when feasible. Below are metrics for the first quarter of FY 2014:

Vendor	Performance	Appointment Time & Place	Cleanliness	Provider concern and attention	Overall satisfaction
QTC	96%	94%	97%	95%	95%

NATIONAL PERFORMANCE PLAN
VETERANS SERVICE REPRESENTATIVE (VSR)
(Excludes PMC and PCT VSRs)

ELEMENT 1 – QUALITY (Critical)

The VSR must consistently and conscientiously exercise sound, equitable judgment in applying stated laws, regulations, policies and procedures to ensure accurate information is disseminated to Veterans and accurate decisions are provided on all benefit claims administered by the Department of Veterans Affairs.

Standard
Quality of Work

Successful Level

GS-7:	The accuracy rate during the evaluation period equals or exceeds 80 percent (cumulative)
GS-9:	The accuracy rate during the evaluation period equals or exceeds 85 percent (cumulative)
GS-10:	The accuracy rate during the evaluation period equals or exceeds 92 percent (cumulative)
GS-11:	The accuracy rate for work produced during the evaluation period equals or exceeds 93 percent (cumulative)

Indicators
A random selection will be made of an average of five actions per month regardless of number of contentions claimed. Quality of action taken on each contention will be evaluated. The selection of actions, while random, must reflect an appropriate mix of work performed by the employee throughout the month (i.e. not from a single day or single week).

If a routine review of a VSR's work demonstrates the need for quality improvement, an expanded sample of an average of 10 actions per month will be reviewed for quality purposes.

The ASPEN checklist to be used will mirror the Systematic Technical Accuracy Review (STAR) worksheet and will include a component on systems compliance, which will be considered a substantive error.

ELEMENT 2 – TIMELINESS/WORKLOAD MANAGEMENT (Critical)
Timely processing of Veterans claims is of paramount importance, as it is highly correlated with customer satisfaction. The VSR will operate in an efficient manner to accurately finalize claims using all appropriate workload management tools and processes.

VSRs are responsible for the cycles/type of work respective to their assigned duties. If multiple timeliness sub-elements apply to a VSR (e.g. average days awaiting award, non-rating, and corrective actions) they must meet the fully successful level for all applicable sub-elements to be successful for the element.

Extenuating circumstances and notification to the employee's supervisor will be considered. An incident will not be called until after the first notification of non-compliance of the above standard.

Timeliness

Timeliness of Rating End Products (including EP 930 series)
Fully successful: All grade levels must meet locally established timeliness requirements, which are to be derived from end of year station targets.

The percentage of claims in each cycle pending over the locally established cycle goal must align with station goals for percentage of claims greater than 125 days. Management for each station sets goals.

Cycle Times

a. Average Days Awaiting Development
b. Average Days Awaiting Evidence
c. Average Days Awaiting Award
d. Average Days Awaiting Authorization

Timeliness of Non-Rating & Control End Products (i.e. EPs 600, writeouts, 800 series)
Fully successful: All grade levels must meet locally established timeliness requirements, which should be derived from station targets.

Timeliness of Direct Services (i.e. IRIS, Congressional Inquiries, etc.)
Fully successful: All grade levels must meet locally established timeliness requirements, which should be derived from station targets. There will be no more than five instances where the VSR fails to meet established timeliness, or failure of employee to notify their supervisor when cases cannot be worked within established time frames and reasons thereof.

Timeliness of Special Projects & Duties (i.e. Women Veterans Coordinators, AEW Project, etc.)
Fully successful: There will be no more than three instances of tasks not being worked within established time frames, or failure of employee to notify their

supervisor when cases cannot be worked within established time frames and reasons thereof.

Timeliness of Corrective Actions
Fully Successful: There will be no more than three instances of failure to complete a returned corrective action, or failure of employee to notify their supervisor when cases cannot be worked, within 3 days of the case being returned to them for correction.

Workload Management
Fully successful: All grade levels must manage their workload in accordance with locally established workload management plans. There will be no more than two instances where the VSR fails to show compliance with established workload management procedures.

Local management will be responsible for creating and communicating a workload management plan that will identify the types of work to be completed.

Indicators
- VETSNET Operations Reports
- Local Tracking Reports
- Supervisory Observation

ELEMENT 3 – OUTPUT (Critical)
Fully successful: VSRs process a minimum cumulative average number of outputs per day. Outputs will be counted as follows:

- Development (Initial Development, Subsequent Development, and Ready for Decision including rating EPs, EP 930s, administrative decisions, appeals, non-rating EPs, and EP 600s) – **.7**
- One to two contention claim development (Initial Development, Subsequent Development, and Ready for Decision including rating EPs, EP 930s, administrative decisions, appeals, non-rating EPs, and EP 600s) – **.5**
- Telephone development -.1
- Process award/decision (generate award, clear end product) - **.7**
- Authorize award - **.33**

Note 1: Subsequent development includes any actionable item, which moves the claim forward and is subject to quality review.
Note 2: Telephone development requires contact with claimant, representative, or medical facility to further the development of the claim. Credit for telephone development may be taken in addition to development credit.
Note 3: VSRs performing Post-Determination authorization duties will receive an additional .5 weighted action for more complex cases involving out of system

payments or retroactive effective dates preceding 1982 (earliest generate line in VETSNET).

Successful Level
GS-7: **4**
GS-9: **5**
GS-10: **5.5**
GS-11: **6**

Indicators
- VOR
- ASPEN

There will be no output element expectation for 90 days following the completion of challenge training regardless of entry grade.

Duplicate credit will not be allowed for self-correction of a VSR's error.

Leave, union time, and special projects or assignments pre-approved at the discretion of the supervisor are considered deductible time. Unmeasured time, such as informal training, was considered in developing the successful level and is not reportable deductible time.

ELEMENT 4 – TRAINING (Critical)
VSR will stay abreast of current laws and regulations, work processes, policies and procedures and computer applications in order to provide optimum service to our Veteran population.

Employees are encouraged to actively participate in self-developmental activities.

Performance for this standard will be mitigated when the VSR's supervisor has not allotted sufficient time for VSR to complete training requirements or if the VSR is not provided a schedule of available training and the deadline they are to complete.

It is the responsibility of supervisors to provide VSRs with a training schedule in advance so they can complete their training requirements.

Successful Level
GS-7/9/10/11: Timely completion of nationally mandated training hours to include core requirements and mandated local training during evaluation period. Completes mandatory training within assigned deadlines with no more than one violation during evaluation period.

Indicators

- Talent Management System
- Supervisory Observation

ELEMENT 5 – Organizational Support (Non-critical)

Functions as a team member to enhance resolution of claims and customer service contacts by work actions. Maintains professional, positive, and helpful relationships with customers by exercising tact, diplomacy, and cooperation.

Performance demonstrates the ability to adjust to change or work pressures, to handle differences of opinion in a businesslike fashion, and to follow instructions conscientiously. As a team member, contributes to the group effort by supporting fellow teammates with technical expertise and open communications and by identifying problems and offering solutions. Performance also demonstrates the ability to effectively communicate in a courteous manner with customers during the personal or telephone interview process.

Successful Level

GS-7/9/10/11: No more than three instances of valid complaints or incidents.

Indicators

- Verbal and/or written feedback from internal and/or external customers
- Observations by a supervisor with the complaint documented

A valid complaint or incident is one where a review by the supervisor, after considering both sides of the issue, reveals that the complaint/incident should have been handled more prudently and was not unduly aggravated by the complainant. Disagreeing, per se, does not constitute "discourtesy." Valid complaints or incidents will be determined by the supervisor and discussed with the employee.

NATIONAL PERFORMANCE PLAN
RATING VETERANS SERVICE REPRESENTATIVE (RVSR)
(Excludes PMC and IDES RVSRs)

ELEMENT 1 – QUALITY (Critical)

The RVSR must consistently and conscientiously exercise sound, equitable judgment in applying stated laws, regulations, policies and procedures to ensure accurate information is disseminated to Veterans and accurate decisions are provided on all benefit claims administered by the Department of Veterans Affairs.

Fully Successful (Issue Based)
Experience level defined by time in position:

6-12 months:	The accuracy rate during the evaluation period equals or exceeds 80 percent (cumulative)
13-18 months:	The accuracy rate during the evaluation period equals or exceeds 85 percent (cumulative)
19-24 months:	The accuracy rate during the evaluation period equals or exceeds 90 percent (cumulative)
Over 24 months:	The accuracy rate during the evaluation period equals or exceeds 92 percent (cumulative)

Indicator

A random selection will be made of an average of five end products (EP) per month regardless of number of issues decided. This includes completed cases and partial ratings to determine the accuracy of the originator. The selection of actions, while random, must reflect an appropriate mix of work performed by the employee throughout the month (i.e. not from a single day or single week).

If a routine review of a RVSR's work demonstrates the need for quality improvement, an expanded sample of 10 total EPs per month will be reviewed for quality purposes.

Once an error is found and recorded concerning a specific issue associated with the claim (ex: effective date), no additional errors related to that issue should be recorded (consistent with M21-4 under the Quality Review Structure for cascading effect).

ELEMENT 2 – TIMELINESS (Critical)

Timely processing of Veterans claims is of paramount importance as it highly correlates with customer satisfaction. The RVSR will operate in an efficient manner to accurately finalize claims using all appropriate workload management tools and processes.

RVSRs are responsible for the types of work respective to their assigned duties. Extenuating circumstances and notification to the employee's supervisor will be considered.

Timeliness of Workload Management (includes rating, non-rating and appeals)

Fully Successful
RVSRs must manage their workload in accordance with locally established workload management plans.

There will be no more than three instances of RVSR specific duties not being completed within locally established time frames, or failure of employee to notify their supervisor when cases cannot be worked within established time frames and reasons thereof during the evaluation period. An incident will not be called until after the first notification of non-compliance of the above standard.

Indicators

1 VETSNET Operations Reports (VOR)
2 Local Tracking Reports
3 Supervisory Assignments and Observation
4 Folder Aging Reports
5 Veterans Appeals Control and Locator System (VACOLS) Reports

ELEMENT 3 – OUTPUT (Critical)

Processes a minimum cumulative average number of weighted actions on rating related EPs and the following: EP 930 series, statements of the case, supplemental statements of the case, claims certified to the Board of Veterans' Appeals, hearing decisions, EP 290, 600, 095, 070, 172, 165.

Weighted action credit will be given based on number of issues completed per the following:

1-2 issues completed: .5 weighted action
3-4 issues completed: 1 weighted action
5-9 issues completed: 1.5 weighted actions

Each additional 5 issues completed will be given .5 weight actions (i.e. 10-14 issues completed: 2 weighted actions; 15-19 issues completed: 2.5 weighted actions; 20-24 issues completed: 3 weighted actions; etc.)

Fully Successful
Experience level defined by time in position:

6-12 months: 1.5 weighted actions
13-18 months: 2 weighted actions
19-24 months: 2.5 weighted actions
Over 24 months: 3 weighted actions

*RVSRs on the Special Operations team will have an additional .25 weighted actions added to their output for each claim worked meeting special operations criteria to account for the complexity of these cases.

Indicators

VOR
ASPEN
VACOLS Reports

Duplicate credit will not be allowed for self-correction of an RVSR's error. Leave, union time, and special projects or assignments pre-approved at the discretion of the supervisor are considered deductible time. Unmeasured time, such as informal training, was considered in developing the successful level and is not reportable deductible time.

ELEMENT 4 – TRAINING (Critical)

RVSR will stay abreast of current laws and regulations, work processes, policies and procedures and computer applications in order to provide optimum service to our Veteran population.

RVSRs are encouraged to actively participate in developmental activities of self and others. For example, this may include volunteering to conduct needed training, mentoring and second signature reviews.

RVSR will complete mandatory Core Technical Training Requirements as outlined on a published training schedule and within specified deadlines.

It is the responsibility of supervisors to provide RVSRs with a training schedule in advance so they can complete their training requirements. It is the responsibility of the RVSR to complete all required training within established guidelines.

Performance under this element will be mitigated when the RVSR's supervisor has not allotted sufficient time for RVSR to complete training requirements or if the RVSR is not provided a schedule of available training and the deadline they are to complete.

Fully Successful

Timely completion of nationally mandated training hours to include core requirements and mandated local training during evaluation period. Completes training within assigned deadlines with no more than one violation during evaluation period.

Indicators

Talent Management System
Supervisory Observation

ELEMENT 5 – Organizational Support (Non-critical)

Functions as a team member to enhance resolution of claims by work actions. Maintains professional, positive, and helpful relationships with internal and external customers (to include fellow employees and all stakeholders) by exercising tact, diplomacy, and cooperation.

Performance demonstrates the ability to adjust to change or work pressures, to handle differences of opinion in a businesslike fashion, and to follow instructions conscientiously. As a team member, contributes to the group effort by supporting fellow teammates with technical expertise and open communications and by identifying problems and offering solutions. Performance also demonstrates the ability to effectively communicate in a courteous manner with internal and external customers (to include fellow employees and all stakeholders).

RVSR provides information to Veterans and claimants that is accurate, concise, complete and written in a non-adversarial, respectful manner that demonstrates courtesy and compassion. This information may be in the form of rating decisions, written correspondence to claimants, and other verbal communication with claimants such as personal hearings.

Fully Successful
No more than three instances of valid complaints or incidents.

Indicator

Verbal and/or written feedback from internal and/or external customers. Observations by a supervisor with the complaint documented.

A valid complaint or incident is one where a review by the supervisor, after considering both sides of the issue, reveals that the complaint/incident should have been handled more prudently and was not unduly aggravated by the complainant. Disagreeing, per se, does not constitute "discourtesy". Valid complaints or incidents will be determined by the supervisor and discussed with the employee.

PERFORMANCE PLAN DECISION REVIEW OFFICER (DRO)

ELEMENT 1 – QUALITY OF WORK

The DRO must consistently and conscientiously exercise sound, equitable judgment in applying stated policies to ensure accurate and timely decisions on compensation and pension benefit claims administered by the Department of Veterans Affairs.

SUCCESSFUL LEVEL: Accuracy rate during the evaluation period equals or exceeds 90 perecnt.

INDICATORS: An unbiased selection will be made of an average of five cases per month per employee. The cases selected will be reviewed [prior to concurrence by a second signature, if applicable] to determine the accuracy of the originator of the decision. Only one error is counted per case reviewed. The errors will be called using the categories identified on Attachment A.

ELEMENT 2 – PRODUCTIVITY

Processes a minimum cumulative average number of three weighted cases per day. Cases will be counted for production purposes as follows:

- ½ case = deferred/supplemental development actions when no other action listed below is possible. This excludes sending/preparing a DRO election letter. This credit is not limited to formal appeal cases and can include any case for which substantive review and deferred/development by a DRO is appropriate.
- ½ case = Informal conference held; case certified to the Board of Veterans' Appeals; preparation time for a hearing; formal hearing held (the 1/2 case for preparing for a hearing should be reported separately from the 1/2 case awarded for holding a formal hearing).
- 1 case = Statement of the Case (SOC), Supplemental Statement of the Case (SSOC) or DRO decision (includes end products (EP) 172/174/070) with less than eight issues decided.
- 2 cases = SOC, SSOC or DRO Decision with 8-15 issues decided.
- 3 cases = 16-23 issues rated; 4 cases = 24-31 issues decided, etc.

Note:

1. Only one type of case credit can be taken at a time. For example, if a DRO does a separate SOC and a rating, only one credit would be taken. The credit with the greater weight should always be used. If separate decisions combine to eight or more issues, this can be combined and two case credits taken.

2. The ½ case development credit may apply to cases where an Notice of Disagreement (NOD) has not been filed. To be applicable, the cases must have

already had a decision made on them, and brought to the DRO's attention because of some conflict with the facts or law as applied in the case. This would also apply to any cases assigned to the DRO by Veterans Service Center management based on the complexity/sensitivity of the case. This credit does not apply to routine rating development cases and, again, can only be claimed exclusive of any other weighted action listed above.

3. The case credit review for an SOC [EP 172 or 174] should be taken per the parameters in M21–4 Appendix C. Concerning formal hearings (EP 174), a full case credit is only available if the formal hearing is actually held; otherwise, the only credit available is the 1/2 case for preparation time, if applicable.

4. The term "DRO decision" is defined as any rating related to an appeal where the DRO has made a favorable decision requiring some type of award action. Separate DRO decision and rating decision documents for the same issue are not required.

5. Weighted case credit for non-appeal cases is the same as the RVSR weights.

SUCCESSFUL LEVEL: Three weighted cases per day (cumulative)

INDICATORS: Production reports

Leave, union time, special projects or assignments pre-approved at the discretion of the supervisor, and 2nd signature reviews (of trainees only) are considered deductible time.

ELEMENT 3 – CUSTOMER SERVICE

Functions as a team member to enhance resolution of claims and customer service contacts by work actions. Maintains professional, positive, and helpful relationships with internal/external customers by exercising tact, diplomacy, and cooperation.

Performance demonstrates the ability to adjust to change or work pressures, to handle differences of opinion in a businesslike fashion, and to follow instructions conscientiously. As a team member, contributes to the group effort by supporting fellow teammates with technical expertise and open communications and by identifying problems and offering solutions. Successful achievement in this element reflects support of all scorecard goals.

SUCCESSFUL LEVEL: No more than three instances of valid complaints or incidents.

INDICATOR: Verbal and/or written feedback from internal and/or external customers. Observations by a manager with the complaint documented.

A valid complaint or incident is one where a review by the supervisor, after considering both sides of the issue, reveals that the complaint/incident should have been handled more prudently and was not unduly aggravated by the complainant. Disagreeing, per se, does not constitute "discourtesy". Valid complaints or incidents will be determined by the supervisor and discussed with the employee.

ELEMENT 4 – TIMELINESS

Works in a manner that supports and contributes to meeting established Veterans Benefits Administration timeliness requirements.

At present the timeliness element is not officially measured. Methods are currently being discussed concerning accurate and equitable ways to measure appeals timeliness. At that time, this element will be revisited.

ATTACHMENT A

Were all claimed issues addressed?
Were all inferred issues addressed?
Were all ancillary issues addressed?
Was effort to obtain all indicated evidence documented?
Was requested VA exam necessary and appropriate or was a necessary exam requested?
Was all evidence received prior to denying claim?
Was the grant or denial of all issues correct?
Were there percentage evaluations assigned correct?
Was the combined evaluation correct?
Were the effective dates correct?
Was all of the applicable evidence discussed?
Was the basis of each decision explained?

○