

**STATEMENT OF
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DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE**

**"SUPPORTING DISABLED VETERANS: THE STATE OF CLAIMS PROCESSING
DURING AND AFTER COVID-19"**

May 12, 2021

Chairman Tester, Ranking Member Moran and Members of the Committee: Thank you for the opportunity to testify today about the current state of VBA and our efforts to continue providing the benefits and services Veterans deserve during the unprecedented COVID-19 pandemic. Joining me today are Willie Clark, Deputy Under Secretary for Field Operations, VBA, and Toby Mathew, Chief Officer, Office of Disability and Medical Assessment, Veterans Health Administration (VHA).

State of VBA Claims Processing

VBA's core responsibility is to ensure Veterans, their families and survivors have timely access to their earned VA benefits. Within weeks, following the onset of the pandemic, VBA seamlessly transitioned to a virtual environment and continued to provide benefits and services to Veterans while ensuring the safety and well-being of both Veterans and employees. The success in continuity of service to Veterans while operating in a mass telework environment stems from VBA's already flexible telework policy and a long-standing commitment to information technology modernization and digitization efforts.

In response to the national emergency on March 13, 2020, VBA transitioned to maximum telework. Despite a changing environment, VBA remained focused on delivering excellence for Veterans. In fiscal year (FY) 2020, VBA topped 7,000 claims completed in a single day on 18 occasions, a third of which (6) occurred after the national emergency declaration. VBA is serving more Veterans and families while improving the accuracy of completed disability claims. The issue-based quality rate in the last three months reached 96%. VBA has shown a .54% uptick in quality from February 2020 to February 2021.

VBA has also focused on improving service levels across our entire portfolio. Since March 2020, VBA has placed emphasis on drawing down the inventory and average days pending (ADP) of the "Not-Rating Inventory." Below are the achievements made between March 31, 2020, and April 21, 2021:

- Overall, Not-Rating Inventory reduction of 51% (from 379,014 to 185,340) with a reduction in ADP by 32% (from 179 days to 121 days).
- Accrued claim inventory reduced by 81% (from an inventory of 13,215 to an inventory of 2,464) with a reduction in ADP by 50% (from 367 days to 182 days).
- Freedom of Information Act/Privacy Act inventory reduced by 56% (from an inventory of 100,780 to an inventory of 44,576) with a reduction in ADP by 37% (from 159 days to 100 days).

- Initial survivor pension inventory was reduced by 78% (from an inventory of 17,247 to an inventory of 3,841) with a reduction in ADP by 49% (from 100 days to 51 days).
- Survivor Burial inventory was reduced by 81% (from an inventory of 31,163 to an inventory of 5,811).
- Hospital adjustment inventory was reduced by 96% (from 5,549 to an inventory of 208) with a reduction in ADP by 82% (from 197 days to 36.4 days).

VBA regional offices (RO) that can reopen have done so, with nearly all providing public-facing services, to include allowing Veterans to participate in hearings with the Board of Veterans' Appeals judges. Additionally, VBA's National Contact Centers (NCC) focused all available resources to ensure Veterans had access to assistance during the pandemic. From March 1, 2020 – March 31, 2021, the NCC answered over 7.5 million calls, with an average speed to answer of 29 seconds and an abandoned call rate of 1.59%. This performance showed a marked improvement from the previous fiscal year.

- FY 2020 through 3/31/20: 3.2 million calls answered with an average speed to answer of 6 minutes and 22 seconds and an abandoned call rate of 11.76%.
- FY 2021 through 3/31/21: 3.6 million calls answered with an average speed to answer of 25 seconds and an abandoned call rate of 1.26%.

VA Home Loan Guaranty (LGY) Program

The COVID-19 pandemic required VA to temporarily adjust policies and issue guidance to ensure Veterans, stakeholders and employees had the necessary tools and information to ensure program continuity. During FY 2020, LGY guaranteed over 1.2 million loans (including an all-time high of 428,000 purchase loans) for \$375 billion, a 100% increase over FY 2019. VA is on pace to achieve another record-breaking year, guaranteeing nearly 1 million home loans fiscal year to date. VA also assisted over 110,000 Veterans at risk of falling further behind on their mortgage payments, which could ultimately lead to foreclosure, to retain their home or avoid foreclosure this fiscal year. Additionally, over 1,200 Specially Adapted Housing grants have been approved to modify Veteran homes to help them live more independently.

In February 2021, VA collaborated with other Federal housing programs and agencies to ensure a consistent federal approach to assist borrowers who were financially impacted by the COVID-19 pandemic. For example, an interagency workgroup coordinated extensions for forbearance requests and moratoriums on eviction and foreclosure. Additionally, VA worked with other Federal housing agencies and the Consumer Financial Protection Bureau to publish fact sheets and launch a comprehensive website for COVID-related housing assistance and resources to include information about the Coronavirus Aid, Relief, and Economic Security Act

VA Transition Assistance Program (TAP)

Despite the challenges of COVID-19, from the beginning of FY 2021 to April 20, 2021, VA conducted 791 Benefits and Services briefings for TAP (732 in-person briefings and 59 briefings via our instructor-led virtual delivery platform), completed 15,930 one-on-one engagements and now has full operational capacity to offer virtual Benefits and Services briefings at installations worldwide. For the same period of FY 2019 through April 2019 (prior to

the pandemic), we conducted 3,660 Benefits and Services briefings and 43,435 one-on-one engagements. For FY 2020 through April 2020, we conducted 2,851 Benefits and Services briefings and 38,833 one-on-one engagements. Additionally, VA continues to provide support to transitioning Service members, newly separated Veterans and their families through the online Women's Health Transition Training, Personalized Career Planning and Guidance Tele-counseling, virtual Economic Development Initiatives and VA Solid Start.

COVID Relief for GI Bill Students

From the beginning of COVID-19, VA has worked with Congress to preserve GI Bill benefits for those students impacted by COVID-19. In the Spring of 2020, P.L. 116-128, P.L. 116-140 (Student Veteran Coronavirus Response Act of 2020) and section 5202 of P.L. 116-159 (Continuing Appropriations Act 2021 and Other Extensions Act) were enacted. These laws gave VA temporary authority (from March 1, 2020, through December 21, 2021) to pay education benefits and Monthly Housing Allowance payments to GI Bill students at the higher in-person training rate when a student was forced to convert to online learning solely due to COVID-19. Furthermore, P.L. 116-315 (Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020) further extends COVID-19 relief through various authorities to continue to pay benefits based on a student's enrollment status prior to the pandemic and providing other assistance that helps to minimize the impact of COVID-19 on a student's educational benefits and goals.

Veteran Readiness and Employment (VR&E)

Due to the COVID-19 pandemic, VR&E Service transitioned to using tele-counseling and telephone contact to continue to provide case management services. Since the start of the pandemic (March 2020) through April 2021, VA has completed over 175,630 tele-counseling appointments. VA continues to offer tele-counseling services to Veterans who prefer this option. Additionally, P.L. 116-140 allowed VR&E Service to extend periods of services for the 18-month limitation of employment services and extend beyond of the 12-year eligibility termination date.

Outreach, Transition and Economic Development (OTED)

In response to the pandemic, VBA transitioned to virtual outreach in March 2020 and conducted over 2,900 outreach events (93% virtual); reaching over 173,000 Veterans and receiving over 1,560 VA benefit(s)/health care claims through December 2020. In the first quarter of FY 2021, VBA completed over 1,030 outreach events (93% virtual) reaching over 108,000 and interacting with nearly 14,000 Veterans while receiving over 1,000 VA benefit(s)/health care claims. From March 1, 2020 through December 31, 2020, the VA Solid Start program reached more than 71,000 newly separated Veterans. During these conversations, VA Solid Start representatives provided information on a wide variety of VA benefits and services.

Claims Processing

The pandemic has created delays in VA's ability to reach decisions on Veterans claims, resulting from our inability to obtain Compensation and Pension (C&P) examinations and Federal records, which are critical evidence necessary to decide disability claims. As of April 2021, approximately 65% of the total claims inventory is awaiting an examination and 10% is pending Federal records. VBA is making every effort to process as many disability

compensation claims as possible during the pandemic and will not deny a claim due to the pandemic-related inability to complete in-person exams or receive Federal records.

VBA is committed to ensuring all claims received during the pandemic are processed timely and accurately and fulfill our duty to assist. For example, VBA issued guidance to all RO claims adjudicators that the COVID-19 pandemic is considered a “good-cause” basis to grant extensions of time limits to submit claims documents, reschedule a hearing or reschedule a C&P medical examination. VBA also provided multiple avenues to conduct formal hearings, such as substituting an informal conference in lieu of a formal hearing for legacy appeals and providing virtual hearings as a substitute for formal hearings for both claims and legacy appeals.

VBA has also implemented temporary date-of-receipt policies for claimants affected by COVID-19. Traditionally, VA considers the date for benefit entitlement to be the date the claim is received by VA. However, in response to delays in mail processing during the COVID-19 pandemic, VBA issued temporary guidance that, for the purpose of determining the date of benefit entitlement, any correspondence addressed to VA will be considered received on the date of the postmark affixed by the United States Postal Service (or other mail delivery service).

C&P Examinations

Effective April 3, 2020, VBA suspended all in-person medical examinations to protect the safety and health of both VA employees and Veterans. VBA also revised its claims processing procedures to allow Veterans the opportunity to wait for an in-person examination, and they are assured that no final action will be taken on their claim until an in-person examination can be completed. Currently, there are over 58,000 non-actionable exams because Veterans have not yet elected to appear for their C&P examinations.

To minimize the impact on Veterans, VBA completed as many virtual examinations as possible utilizing telehealth technology and VA's Acceptable Clinical Evidence (ACE) process. VBA issued guidance to expand the use of ACE and increased the eligible examination types from 19 to 34 examinations for virtual completion using telehealth technology. These changes enabled VBA contract examination providers to complete 114,749 ACE examinations and 110,746 tele-C&P examinations during the pandemic, since April 2020. The changes made to virtual exam services will continue beyond the COVID-19 pandemic, and these alternative examination modalities will remain as permanent options for examination when appropriate.

VBA has proactively engaged with its contract examination providers and VHA to establish a plan to safely resume in-person examinations. On May 28, 2020, VBA implemented its plan to resume in-person examinations in phases according to local risk assessments, and by the end of FY 2020, had resumed these examinations nationwide. VBA continues to work closely with VHA and our contract providers to expand their examination capacity to help return to a normal working inventory of about 140,000 examinations by the end of this fiscal year.

Federal Records

In addition to the impacts on examinations, the pandemic also affected VBA's ability to receive Federal records required to process claims. The National Archives and Records Administration (NARA) facilities, including the National Personnel Records Center (NPRC), reduced operations, thus limiting capacity and affecting VBA's ability to receive Federal records. NPRC continues to process records requests related to burial benefits and emergency cases. VBA continues to leverage the use of all records in its custody to verify military service

exposures and stressor events. However, by law, VBA is still obligated to research other records for any verification of service. VA proactively engaged NARA for solutions to add additional shifts, including on weekends, to reduce the number of requests by 90% and as a result, as of April 11, 2021, VBA is now under our pre-pandemic working inventory. Additionally, VA offered COVID-19 vaccinations to NARA employees to support their safe return to work and expedite requests for Federal records.

Reducing the Disability Claims Backlog

VBA is working to address the large increase in its backlog through several ongoing actions. Notable steps already taken include:

- Allowing a temporary increase in VHA C&P examination capacity, to include tele-C&P, ACE reviews and in-person examinations;
- Working closely with the contract examination providers to increase examination capability, while ensuring that Veterans remain safe;
- Utilizing virtual methods to resolve and mitigate delays to development actions; for example, subject to a Veteran's consent, VBA provides virtual hearings for Veterans and their representatives to present argument on the Veteran's claim; and
- Working closely with NARA on solutions to expedite requests for Federal records required to process claims for benefits.

VBA's efforts will also be focused on the following:

- Ensuring Veteran safety and well-being. VBA will continue to hold claim decisions if Veterans do not yet feel safe to report for an examination, which may increase the volume of claims in the backlog.
- Ensuring VBA processes claims that can be worked without examinations, to include many re-adjudications required by a court order (the *Nehmer* court order) for Blue Water Navy Veterans.
- Leveraging Congress' recently expanded entitlement to disability compensation for Veterans suffering from bladder cancer, Parkinsonism and hypothyroidism; deeming these disabilities presumptively caused by Agent Orange exposure. VBA has already begun working these claims.

VBA is starting to see progress in its backlog reduction. As of May 8, 2021, VBA's claims backlog is 191,647, which is a 9.6 % improvement over the end of January 2021 when the claims backlog was about 212,000. VBA estimates the backlog will increase to the mid-200s by the end of the summer due to Blue Water Navy *Nehmer* court order claims. VBA's request for additional employees in the FY 2022 budget includes 429 employees who will directly support claims processing, to include the *Nehmer* and new Agent Orange claims, in response to continued growth in our programs. While these employees are needed to sustain long-term claims processing requirements, they require up to two years of training and experience to achieve an acceptable level of proficiency. Overtime hours worked by experienced staff will be critical to the FY 2022 performance.

By the end of FY 2022, with the above workload assumptions and existing resources, including the \$100 million Coronavirus Aid, Relief and Economic Security transfer, VBA anticipates having a backlog of about 100,000 disability claims. This estimate accounts for the anticipated increased examination production from the contract examination providers, resulting in a reduction of examination inventories to normal levels and the aggressive reduction of Federal records requests by the end of the fourth quarter of FY 2021. The continued “rollover” of claims in inventory that age over 125 days, coupled with claim receipts from the three new presumptive conditions and the requirement to re-adjudicate a large volume of Blue Water Navy claims under the *Nehmer* court order will cause the claims backlog to hit an apex in August 2021 before it begins to reduce.

VA appreciates the \$272 million authorized by the “American Rescue Plan Act of 2021” to support improvements in claims processing and appeals. As part of the funding, VBA will expand the scope of Federal record scanning, which will further reduce claims processing delays resulting from paper record requests maintained by NARA and other Federal records custodians. VBA is also prepared to process more claims in FY 2022, due in part to an additional \$100 million to fund overtime. VBA will continue to prioritize backlogged claims due to the pandemic, *Nehmer* re-adjudication efforts and claims for the three new Agent Orange presumptive conditions. By the end of FY 2022, with sustained improvement to the evidence supply chain (C&P examinations and Federal records), VBA aims to meet the Secretary’s goal of reducing claims pending over 125 days to approximately 100,000.

Specialty Claims

Military Sexual Trauma. VBA is committed to serving Veterans by processing claims related to Military Sexual Trauma (MST) in an accurate and compassionate manner. VBA continues to place special emphasis on MST-related claims and the Veterans experience in VBA’s adjudication of these claims during the pandemic. There are designated female and male MST Outreach Coordinators assigned to each RO that provide outreach, resources and assistance to Veterans seeking benefits based upon MST. Additionally, VA launched a national outreach effort during Sexual Assault Awareness Month to inform Veterans of free counseling and treatment being offered by VA for mental and physical health conditions related to MST.

In November 2018, VBA mandated that only specialized groups of trained Veterans Service Representatives and Rating Veterans Service Representatives who have demonstrated high quality standards process these high priority and complex claims. VBA continues to highlight the importance of MST claims processing during national training, as well as business line and leadership conferences. VBA made sustainable improvements in MST-related claims processing, including eliminating the requirement for potentially unnecessary phone calls that could re-traumatize Veterans; mandating the use of quality checklists with every MST-related claim; improving training for MST claims processors, and continued quality reviews of MST cases through special focused quality reviews, which are used to develop annual training. VBA is in the process of centralizing this important work to five ROs in May 2021. By October 1, 2021, VBA will implement an MST Remote Operation to streamline operations and ensure tighter control and accountability for MST claim decisions. In this phase, MST claims processors will be remotely assigned to an MST division, and work will be assigned to them from the centralized site.

Toxic Exposures. During the pandemic, VBA continued processing claims based on toxic exposure. Consistent with the overall claims inventory, VBA has seen similar delays in

these claims due to delayed in-person C&P examinations and Federal records. For some medical conditions that develop after military service, the information needed to connect these conditions to military service may be incomplete. Information may be needed about specific in-service exposures, or there may be incomplete scientific or medical evidence as to whether an exposure causes a particular condition. VBA is committed to a full review of how it provides benefits to Veterans exposed to environmental hazards. VA believes it is possible to find the balance between the needs of Veterans and the need for an evidentiary scientific basis for action and is moving with a sense of urgency to do so.

Conclusion

Despite the global pandemic, VBA has remained dedicated to serving Veterans and their families. We are able to serve more Veterans than ever before with our strategic telework plans and digitization of records. VBA will continue to deliver accurate and timely benefits to Veterans. Chairman Tester, Ranking Member Moran, this concludes my testimony. I am happy to respond to any questions you or the Committee may have.