

**STATEMENT OF
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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
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Mr. Chairman and Members of the Committee:

Thank you for inviting DAV (Disabled American Veterans) to testify about the status of the Veterans Benefits Administration's (VBA's) claims processing transformation efforts.

Mr. Chairman, the timely delivery of earned benefits to the millions of men and women who have served in our Armed Forces is one of the most sacred obligations of the federal government. The award of a service-connected disability rating does more than provide compensation payments; it is the gateway to an array of benefits that support the recovery and transition of veterans, their families and survivors. However, when these benefits are delayed or unjustly denied, the consequences to veterans and their families can be devastating. For those wounded heroes who file claims for disability compensation, the wait to receive an accurate rating decision and award can take anywhere from a few months to several years; longer if they have to appeal incorrect decisions. For that reason, we are grateful that this Committee's first regular hearing of the 113th Congress focuses on one of DAV's highest priorities: completing the reform of the veterans benefits claims processing system.

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. With a corps of 260 full-time professional National Service Officers (NSOs) and 35 Transition Service Officers, DAV assists almost a quarter of all veterans who file claims for disability compensation each year. Last year, DAV NSOs reviewed more than 326,000 claims files, filed 234,500 new claims for benefits, and participated in more than 287,000 rating board actions. In this capacity, we assist VBA in its work by helping veterans file more complete and accurate claims. From our decades of experience working on veterans claims, we fully understand both the magnitude and complexity of the challenges VBA faces in trying to accurately adjudicate more than a million claims each year in a timely manner, and we remain committed to doing all we can to help develop and implement solutions.

Mr. Chairman, there will be much discussion today about the size of the pending backlog of claims, nationally as well as in individual states and cities, and understandably so. Today there are about 900,000 claims for compensation and pension awaiting decisions at VBA, more than double the number pending four years ago. Of those claims, fully 70 percent have been waiting more than 125 days, VBA's official target for measuring the backlog, which is double the number of just two years ago. Moreover, the length of time it takes to process veterans' claims also continues to rise, with the average processing time now almost 280 days, far from VBA's target of 80 days. Several Regional Offices (ROs) are averaging more than a year to process claims. New York takes almost 450 days on average and the Los Angeles RO averages

over 500 days. Looking at these numbers, it is clear that the challenges facing VBA are enormous.

But while there can be a tendency in the media to talk only about reducing the backlog, we continue to argue that VBA and Congress must instead concentrate their efforts on addressing the underlying problems that created and continue to fuel the backlog. After all, VBA could eliminate the backlog quite easily by simply denying all pending claims, or granting every claim, but neither approach would be correct and neither would help to resolve the systemic problems that created the backlog in the first place.

As we have said many times in the past, and it bears repeating today, the backlog is a symptom, not the cause of VBA's claims processing problems. It is similar to a person suffering from a cold, virus or flu who may have severe and painful symptoms, such as a high temperature or body aches. Treating those symptoms alone will do little to rid the body of the underlying illness or to prevent those same symptoms from recurring in the future. Similarly, VBA could direct all existing and new resources to processing claims using old technologies and processes, and perhaps that would more quickly reduce the existing backlog in the short term. But such an approach would do little to build the modern, paperless system necessary for timely and accurate processing of veterans claims in the future, and as certain as the tide, the backlog would roll back in and rise again.

Mr. Chairman, in many ways, VBA today faces the same core problems that have plagued them for decades: too many claims being processed and adjudicated inaccurately without sufficient accountability for the results, rather than a system designed to decide each claim right the first time. The solution to these problems will require new technologies and business processes, and most importantly, a cultural transformation built upon the foundations of quality, accuracy and accountability. From our vantage point as participants in and observers of the VBA claims system, as well as active collaborators in the current transformation process, we believe today's VBA leadership shares our vision.

In early 2010, Secretary Shinseki laid out an extremely ambitious goal for VBA to achieve by 2015: process 100 percent of claims in less than 125 days, and do so with 98 percent accuracy. However, if the only information available was the latest metrics from VBA's ASPIRE Dashboard, one would be hard pressed to find any signs of progress towards achieving the Secretary's goals. But numbers alone do not tell the whole story.

As you know, VBA set out on a path three years ago to completely transform their IT systems, business processes and corporate culture, while simultaneously continuing to process more than a million claims each year. Today, VBA is actively rolling out new organizational models and practices, and continuing to develop and deploy new technologies almost daily. In the midst of this massive transformation, it is hard to get the proper perspective to measure whether their final design will be successful. But for anyone who has ever lived through a major home renovation, or seen a home makeover show on television, that experience would have many parallels to what VBA is experiencing during its transformation. During the renovation, the homeowner would have to live through the mess and chaos of contractors demolishing walls, ripping out pipes and tearing up floors, making living there much more difficult during this

process. And even though the homeowner knows what the finished renovation is supposed to look like and how it will improve their home, it is hard to judge whether the renovation will be successful when they can observe nothing but open walls, exposed wires, and unexpected problems arising that add time and cost to the renovation.

In a similar way, current observations of VBA's transformation efforts logically focus on the openly exposed flaws, problems and unfinished initiatives, but it would be premature to conclude that this imperfect and uncompleted transformation process is a precursor to a flawed final outcome. It would be equally premature to sit back and simply trust that the final result will be successful based on nothing more than plans and promises. Instead we must all remain actively engaged in overseeing and supporting VBA to achieve the results we all desire.

MILESTONES OF PROGRESS

Mr. Chairman, taking all of the above into consideration, DAV believes that VBA is on the right path, that they have set the right goals and that they have leadership committed to transforming and institutionalizing a new claims processing system to better serve veterans. How successful the current transformation efforts will ultimately be remains an open question to be answered at a later time, and on that point there can and will be differing opinions. However, we hope that following today's hearing there is no disagreement on one point: there can be no turning back. VBA must complete this essential transformation from its outdated, paper-based claims system to a modern, paperless, automated claims system. The stakes for veterans and the investment by VA are high, so failure is not an option.

Recognizing that its old system was irretrievably broken, in 2009 VBA launched dozens of new ideas, initiatives and pilots grouped in three categories: people, processes and technology. Having thoroughly tested, validated and synthesized the best practices culled from all of this experimentation, VBA is currently rolling out many of these new programs nationally. The biggest and most important amongst these is the Veterans Benefits Management System (VBMS), the new IT infrastructure for claims processing. Over the past year, VBMS has been rolled out to 20 Regional Offices, and will be fully deployed to all remaining ROs before the end of the year, possibly as soon as June. It is important to remember that VBMS is not yet a finished product; rather it continues to be developed and perfected as it is deployed so it is hard to judge whether the final system will deliver all of the functionality and efficiency required to meet VBA's future claims processing needs. However, there have been a number of extremely important milestones that are themselves significant signs of progress.

In our view, probably the most crucial milestone was VBA's decision to scan all paper claims files for every new or reopened claim requiring a rating-related action. This decision embodied VBA's total commitment to creating a fully digital, paperless, automated claims processing system, which DAV and other VSOs had strongly encouraged for years. Although this will require significant upfront investment to cover the costs of scanning tens of millions of paper records, in the long run it will pay dividends for both VBA and veterans.

Another important milestone is the creation of digital e-folders, which serve as the cornerstone of the new VBMS system. E-folders facilitate instantaneous transmission and

simultaneous reviewing of claims files. Every new or reopened rating-related claim made at an RO that has adopted VBMS will now have an e-folder created and all supporting documentation will be scanned and reside in that e-folder. For claims that were already in process at the time of conversion to VBMS, those claims will be developed using legacy systems, but will be rated inside VBMS with an e-folder, but supporting documentation will continue to reside inside a traditional paper claims folder. At present, there are an estimated 200,000 e-folders and that number will continue to grow as the remaining ROs convert to VBMS this year. In addition, the Appeals Management Center (AMC) is now working in VBMS and able to review e-folders. The Board of Veterans Appeals (BVA) will also begin receiving appeals in VBMS on a pilot basis this month.

DAV has been closely involved in advising the VBMS team throughout its development and has confidence in their strategic plan; however, it would be a mistake to simply trust that the finished product will do the job as intended. Similar to a home renovation, there is a need to have qualified, independent experts review plans and inspect progress at regular intervals. Although a homeowner may know where they want electrical outlets located, it is unlikely that they would be qualified to judge whether the electrical wiring schematic and supplies are safe or sufficient to handle the intended load. In a similar manner, while we believe VBA's plans for VBMS contain the necessary features and functions, we do not have the technical expertise to determine whether the enterprise architecture and iterative development process will ultimately result in a successful IT system. For this reason, DAV continues to recommend that VBA bring in an independent panel of IT experts to review the plans and progress of VBMS. Such a team could be composed of leading IT experts from companies such as Google, Apple, and Amazon, who would volunteer a day or two to help evaluate whether VBMS is likely to achieve its intended purpose, or whether there are significant concerns that merit further scrutiny or corrective actions.

Other key technological developments supporting paperless claims processing include e-Benefits and the Stakeholder Enterprise Portal (SEP), which allow veterans and their representatives to file claims, upload supporting evidence and check on the status of pending claims. More than 2,000 claims have been initiated via e-Benefits through its VONAPPS Direct Connect (VDC) application and just last month, DAV was able to file the first SEP claim on behalf of a veteran for whom we hold power-of-attorney (POA), which is now being processed inside VBMS for a truly end-to-end digital claim.

In terms of business processes milestones, VBA has fully rolled out its new transformation organizational model (TOM) to every Regional Office. Based on the best practices from their pilots and initiatives, this new organizational model is centered on two major changes in how ROs manage their work. The traditional triage function is now done through an Intake Processing Center (IPC) at every RO, which places more experienced employees at the front end of the process in order to better direct claims along several new segmented processing lanes. The smaller, less complex claims will be processed in the "express lane," the most complex claims will be done in the "special ops" lane, and the bulk of the claims will be done in the "core" lanes. In each of these segmented lanes, cross-functional teams of Veterans Service Representatives (VSRs) and Rating Veterans Service Representatives (RVSRs) work together on claims, allowing greater interaction throughout the process, and are expected to yield greater

accuracy and timeliness. This new organizational model also allows each RO to better align its workforce according to experience and expertise levels. Other key process improvements that DAV strongly supports include the Fully Developed Claims (FDC) program, which expedites ready-to-rate claims, and Disability Benefits Questionnaires (DBQs), which standardize and encourage the collection of private medical evidence to aid in rating decisions.

On the people side of its transformation efforts, VBA has also initiated vitally important changes that should yield positive long-term improvements. DAV was especially pleased that VBA fulfilled one of our longstanding recommendations through the creation of local Quality Review Teams (QRTs), whose primary function is to monitor claims processing in real time to catch and correct errors before rating decisions are finalized. The QRTs have been trained by the national STAR (Systematic Technical Accuracy Review) quality assurance staff to provide consistent application of VBA rules and regulations. QRTs are also helping to develop and implement training and mentoring programs in many ROs, providing a much-needed emphasis on quality and accuracy, rather than just speed and production. The decision to move 600 VSRs and RVSRs out of day-to-day production and into QRT positions is a powerful sign of VBA's commitment to creating a culture of quality.

Finally, one of the most important and encouraging aspects of VBA's transformation efforts has been the open, transparent and collaborative manner in which they have worked with stakeholders, particularly with VSOs. From the outset of this transformation, VBA leaders reached out to DAV and other VSOs seeking our ideas and support to help fix the broken claims system. Throughout the development of VBMS, SEP, TOM, FDC, DBQs and many other small and large initiatives, VSOs have been regularly invited to share our perspectives and ideas. Since being confirmed, Under Secretary Allison Hickey has repeatedly demonstrated her passionate commitment to expanding the partnership between VBA and VSOs, and we believe that veterans will be better served thanks to her strong and principled leadership.

RECOMMENDATIONS

Mr. Chairman, DAV believes that significant progress has been made, but that vitally important work remains. In order to support VBA's transformation efforts and further improve the delivery of benefits to veterans, DAV makes the following recommendations.

First, Congress must continue to perform aggressive oversight of VBA's ongoing claims transformation efforts, particularly new IT programs, while actively supporting the completion and full implementation of these vital initiatives.

In order for VBA's current transformation plans to have any reasonable chance of success, VBA must be allowed to complete and fully implement them. It is imperative that Congress continue to support this goal, even while continuing to perform aggressive oversight. In particular, we recommend that Congress encourage an independent, expert review of VBMS. At the same time, Congress must continue to fully fund the completion of VBMS, including providing sufficient funding for digital scanning and conversion of legacy paper files, as well as the development of new automation components for VBMS. As stated earlier, it is too late to turn back from paperless processing and we urge Congress to both oversee and support full

funding for this and other vital IT initiatives throughout the final development and implementation phases.

Second, Congress must encourage and support VBA's efforts to develop a new corporate culture based on quality, accuracy and accountability, as well as strengthen the transmission and adoption of these values and appropriate supportive policies throughout all VBA Regional Offices.

The long-term success of all of VBA's transformation efforts will depend on the degree to which these changes are institutionalized and disseminated from the national level to the local level. In addition to training, testing and quality control, the best means of transforming and transmitting cultural change is to properly align measuring and reporting functions with desired goals and outcomes for both VBA leadership and employees. For example, as long as the most widely reported metric of VBA's success is the Monday Morning Workload Reports, particularly the weekly update on the size of the backlog, there will remain tremendous pressure throughout VBA to place production gains ahead of quality and accuracy. Similarly, if individual employee performance standards set unrealistic production goals, or fail to properly credit ancillary activity that contributes to quality but not production, those employees will be incentivized to focus on activities that maximize production. VBA must develop more and better measures of work performance that focus on quality and accuracy, both for the agency as a whole and for individual employees. Furthermore, VBA must ensure that employee performance standards are based on accurate measures of the time it takes to properly perform their jobs.

Finally, Congress must ensure that VBA does not change its reporting or metrics for the sole purpose of achieving statistical gains, commonly referred to as "gaming the system," in the absence of actual improvements to the system. For example, VBA recently changed how processing errors are scored for multi-issue claims. Previously, a claim would be considered to have an error if one mistake on at least one issue in the claim was detected during a STAR review. Under the new error policy, if there are 10 issues in the claim and a single error is found on one of the issues, that would now be scored as only 0.1 error for that claim. While this may be a more valid way of measuring technical accuracy, it also has the effect of lowering the error rate, thereby implying an improvement in quality, even though the same number of errors was detected.

Third, Congress and VBA should enact and adopt new legislation and policies that maximize the use of private medical evidence to conserve VBA resources and enable quicker, more accurate rating decisions for veterans.

DAV and other VSOs have long encouraged VBA to make greater use of private medical evidence when making claims decisions, which would save veterans time and VBA the cost of unnecessary examinations. DBQs, many of which were developed in consultation with DAV and other VSO experts, have been designed to allow private physicians to submit medical evidence on behalf of veterans they treat in a format that aids rating specialists. However, we continue to receive credible reports from across the country that many VSRs and RVSRs do not accept the adequacy of DBQs submitted by private physicians, resulting in redundant VA

medical examinations being ordered and valid evidence supporting veterans' claims being rejected.

Although there are currently 81 approved DBQs, VBA has only released 71 of them to the public for use by private physicians. In particular, VBA should allow private treating physicians to complete DBQs for medical opinions about whether injuries and disabilities are service connected, as well as DBQs for PTSD, which current VBA rules do not allow; only VA physicians can make PTSD diagnoses for compensation claims. Congress should work with VBA to make both of these DBQs available to private physicians.

To further encourage the use of private medical evidence, Congress should amend title 38, United States Code, section 5103A(d)(1) to provide that, when a claimant submits private medical evidence, including a private medical opinion, that is competent, credible, probative, and otherwise adequate for rating purposes, the Secretary shall not request a VA medical examination. This legislative change would require VSRs and RVSRs to first document that private medical evidence was inadequate for rating purposes before ordering examinations, which are often unnecessary.

In addition, VBA should accelerate the development of software that seamlessly translates relevant information from VHA medical examinations performed by treating physicians into appropriate DBQs for VBA rating specialists. This free flow of electronic health data would save veterans time and VBA resources by further eliminating unnecessary VBA compensation exams.

Fourth, Congress and VBA should expand and create new authorities to rapidly award partial or temporary benefits to disabled veterans when the evidence of record clearly supports such awards.

VBA currently has the authority under 38 CFR 4.28 to issue prestabilization ratings for veterans who are discharged from active duty due to severe injuries or illnesses that are not yet fully stabilized or healed, and which cause significant limitations in their ability to be employed. VBA also has rules to award intermediate rating decisions with deferred issues as discussed in M21-1MR, Part II, Subpart iv, Chapter 6, Section A. Intermediate rating decisions for multi-issue claims can be made when the record contains sufficient evidence to decide some of the claimed issues, including service connection, even though remaining issues require further development, and will be deferred. Although VBA has had these authorities for a number of years, VBA rarely takes advantage of them to provide at least partial or minimum benefits to veterans on an expedited basis. Concerns about "double work" and performance standards that fail to properly credit these two ratings actions have discouraged the widespread use of these valuable rating authorities.

DAV believes that both prestabilization and intermediate ratings should be encouraged and expanded to apply to additional circumstances. Currently, prestabilization ratings can only be awarded at two rating levels – 50 percent and 100 percent -- thereby limiting the number of veterans who could benefit from this authority. DAV recommends that a third level – 30 percent – be added in order to rapidly award at least some minimum level of benefits to veterans who

need support in their recoveries. The 30 percent rating would also open the door for veterans to receive other important benefits, such as vocational rehabilitation, more quickly to support their transition. In addition, we would encourage Congress and VBA to expand the use of intermediate ratings by creating a category of “interim” or “temporary minimum” ratings for claims in which the evidence of record is already sufficient to support at least a minimum service-connected disability rating. Similar to intermediate ratings, these “interim” or “temporary minimum” ratings should not slow or impede the regular development and processing of the rest of the claim. With the adoption of paperless e-folders and smart processing, all of these temporary rating authorities could be more easily accomplished without the risk of “double work” by VBA.

Although these temporary rating authorities would not directly reduce VBA’s workload or the backlog, providing a rapid award of at least some benefits, based on the available records, to disabled veterans would increase overall confidence in the claims process, and likely help to reduce the number of appeals filed by claimants. Most importantly, these changes would expedite much-needed assistance into the hands of veterans and their families during difficult transitions and recoveries.

Fifth, Congress should enact new legislation to provide a presumption of service connection for tinnitus and hearing loss for veterans who served in combat or whose military occupation specialty (MOS) exposed them to high levels of noise.

During their military service, many veterans were exposed to significant acoustic trauma from very high levels of noise caused by heavy machinery, aircraft, explosive devices or numerous other causes. As a result, many of them later in life develop hearing loss and tinnitus, but often have a hard time proving it was due to their service because of inadequate testing and record keeping while in service. Tinnitus is the number one service-connected disability from all periods of service, with more than 800,000 veterans receiving disability compensation, and that number has steadily grown each year. Over 700,000 veterans have been rated for hearing loss, making that the second highest total for service-connected disabilities. By creating a reasonable presumption, not only would thousands of veterans receive compensation to which they are entitled, but VBA would be able to redirect resources from unnecessary development of these claims to address its other needs. Both the affected veterans and VBA would benefit from this limited and reasonable presumption.

Sixth, Congress should enact legislation to create a new Veterans Economic Opportunities Administration inside VA, which would be comprised of the Vocational Rehabilitation and Employment Service, Education Service, the Department of Labor’s Veterans Employment and Training Service, and other related offices and functions, in order to allow greater focus by VBA on successfully fixing the claims processing system.

DAV and our partners in the *Independent Budget* recommend the creation of a new Veterans Economic Opportunities Administration (VEOA) which would not only help to support veterans seeking new employment and economic opportunities, but would also indirectly support VBA’s transformation efforts. By removing responsibility for managing both the Vocational Rehabilitation and Employment (VR&E) and Education Services, this change would allow VBA

leadership to concentrate more exclusively on claims processing reform. Given the dismal record of the Department of Labor's Veterans Employment and Training Service (VETS) over the past two decades, this reorganization would also allow greater focus and synergy with VA on employment issues, a critical priority for veterans, particularly younger veterans. Moving VETS to VA would also help to protect funding for veterans employment programs since all VA funding is currently exempt from sequestration cuts, while DOL programs are not.

Mr. Chairman, that concludes my testimony and I would be happy to answer any questions that you or other Committee members may have.