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EMPLOYEES

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ON BEHALF OF

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

AND

AFGE NATIONAL VETERANS AFFAIRS COUNCIL

BEFORE THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

HEARING: REVIEW OF VETERANS' CLAIMS PROCESSING:  
ARE CURRENT EFFORTS WORKING?

JULY 14, 2010

Chairman Akaka, Ranking Member Burr and Members of the Committee:  
Thank you for the opportunity to share the perspective of the American Federation of  
Government Employees (AFGE) and the National Veterans Affairs Council (NVAC), the  
exclusive representatives of Veterans Benefits Administration (VBA)  
front line employees who process disability claims.

Overview

Our testimony focuses on three areas: (1) The Little Rock, Providence and Pittsburgh VBA Pilot  
Programs (2) S. 3517, Claims Processing Improvement Act of 2010; and (3) Telework  
production standards at the ROs and other personnel issues related to claims improvement.

Pilot Programs: Our members have largely positive comments about all three pilots, both in terms of effectiveness and inclusion of front line employees. However, there is a general consensus that it is too early to replicate these experiments on a national scale. Additional adjustments to the claims process and more advanced scanning technology are needed to adequately handle large numbers of claims; the gains in production have been modest to date. The features that drew the greatest praise were the revamped mail system, POD case management structure, medical templates for private physicians and phone assistance.

S. 3517: While AFGE and NVAC are generally supportive of an effort to address the ambiguities and weaknesses in the current rating schedule, we have a number of concerns about the proposed pilot program in Title I, particularly the use of one combined rating code for all musculoskeletal disabilities. Our members were generally supportive of the use of ICD codes. Both RO adjudicators and Board of Veterans' Appeals (BVA)

Telework Production Quotas: We strongly urge VBA to eliminate higher production standards for employees who work from home. Telework is valuable tool for retaining senior claims processors with valuable experience, especially as VBA faces a wave of retirements. VBA has not offered any persuasive justification for this unfair practice, especially in light of severe space shortages at many ROs and a nationwide effort by OPM to increase the use of telework in the federal sector. VBA's telework policies have no more merit than the telework policies that BVA abandoned in 2008 at the urging of Congressman Frank Wolf (R-VA).

## VBA Pilot Programs

### Little Rock RO

The experiences of employees participating in the Little Rock RO PODs/Lean Sigma Process Pilot Program have been very positive. Employees had a great deal of pre-decisional input. Everyone on the team, including front line employees, management and consultants, shared a commitment to helping veterans. Our ability to work together toward this goal was a key ingredient in its overall success and enabled us to identify unnecessary steps in the claims process that could be eliminated

Space was a challenge throughout the pilot, and required us to have seven, instead of eight pods.

We also faced another significant challenge: lack of experienced personnel. A number of employees were promoted from within from Claims Assistant (CA) to Veterans Service Representative (VSR), and from VSR to Rating VSR (RVSR), and both VSRs and RVSRs were promoted coach and assistant coach positions. leaving vacancies below. Currently, we have several unfilled RVSR positions.

Temporary employees with no more than one year of VBA experience and minimal training were hired on a permanent basis for portions of the VSRs duties. At the same time, some RVSRs were hired from outside the VBA, which also lowered our numbers. As a result, only about 25% of the pilot workforce had at least two years of experience.

It was helpful that when POD employees went to training, other PODs covered the work. The only weak link in the training was the "behavioral" portion on interoffice behavior taught by the contractor. This provided very few useful skills for carrying out the pilot.

The "cradle to grave" structure of the PODs worked extremely well. Each POD consisted of at least one claims assistant that brought in the mail, pre- and post-VSRs, at least Super Senior (authorizer) and several RVSR. The ability to work closely together as a team gave us all a strong sense of responsibility and ownership over our work.

The conversion of the old mailroom to an Intake Processing Center (IPC) was very helpful. A GS

12 Super Senior and two mail clerks worked effectively together to distribute the mail to the PODs, reducing the number of pieces of “search mail” (mail that has to be associated with a claims file) from approximately 600 down to 50. I understand that other ROs are replicating the IPC model.

Communication with the contractor was excellent. However, at a later stage of the pilot, the use of in-house employees instead of contractors as manager apprentices proved to be very cost effective. These employees were also more familiar than the contractor with the inner workings of the claims process.

The quality of on-the-job training also increased as a result of POD structure. RVSRs were able to coach VSRs on a regular basis. More generally, our productivity shot up because we worked in close proximity to the other team members.

### Providence RO

Overall, AFGE/NVAC members who participated in the Providence, Rhode Island Business Transformation Lab are satisfied with how the pilot is progressing and their role in the project, especially in light of increased efforts by management in recent months to maintain a regular dialogue with front line employees and their AFGE representatives. These employees have high praise for VBA’s unwavering commitment to ensure that every change in the claims process is directed at helping veterans. Our members point to the recent revisions to Aspen and CPI as excellent examples of VBA leadership putting veterans first.

A large part of the success of the project has been the ongoing use of VSRs to conduct quality assurance (QA) over the scanning, indexing and other steps required to convert a paper file to an electronic file (“E-file”), using Capture Point. VSRs work closely with File Clerks and CAs, and regularly share files to properly index and conduct QA. Only original claims are used for the pilot.

One of the frustrating aspects of the Capture Point program that is still unresolved is the inability to categorize every document according to preexisting software codes. As one employee noted, in Challenge training, new employees are working on hypothetical cases that are fully compatible with the software. In contract, Capture Point does not have a “drop down” box for many of the documents in the file, requiring employees to mark these documents as “unknown”, “miscellaneous” or another category that is a close fit, so as not to hold up the claims. (For example, Capture Point does not recognize the WD-53-55 which preceded the DD-214).

Fortunately, managers at the Providence RO were flexible enough to allow this, but other ROs may be less receptive to these strategies.

Our members benefit from the daily morning meetings held at the Intake Processing Center (IPC) that include rank and file and management staff from the ROs, staff from VA Central Office, VBMS Program Analysts, the Service Center manager and at some meetings, the RO director. However, even with these meetings, front line employees were not kept fully informed about new pilot project developments until this month. This communication breakdown was exacerbated by frequent rotations of personnel from Central Office. As a result of promotions and reassignments, only three of the employees working in the Lab have been there since the pilot was launched in October 2009, as compared to 8-10 employees assigned to the pilot at any one time.

The situation greatly improved as a result of the promotion of one of the front line employees to Program Analyst for VBMS. His direct experiences preparing and processing cases under the new procedures have been very valuable at improving communication and collaboration between

rank and file and management, which in turn, has improved the functioning of the pilot. Our members identified two other weak areas of the pilot that should be addressed. First, there is a need for greater consistency in indexing. Currently, it is much more difficult to “flip through a file” electronically, especially if the file is not in the correct order. Second, the goal of 99% accuracy for a three month period after the end of “100% QA” by VSRs is unrealistic, especially after the CAs take over the QA responsibility.

The Providence employees also stated, at this stage in the scanning technology, they are “very scared” about loss of quality once VBA discards the actual paper c- file, especially for damaged files, such as those from the St. Louis fire. When damaged files are scanned and then entered into Capture Point, and then Virtual VA, some are barely readable.

In short, while our Providence RO members feel positive about the Pilot’s ability to reduce the backlog, they also feel strongly it is unwise to roll out Capture Point nationally at this time.

There are too many problems that still need to be resolved, including the potential lack of consistency between ROs. The Providence RO is only a test lab and it started out as one of the top three high performing offices in the country.

### Pittsburgh RO

The Delta Team at the Pittsburgh RO also used the POD “case management” structure. The team consisted of a Claims Assistant, several VSRs and RVSRs, and an Authorizer. The close teamwork was very effective. However, the Pilot suffered from a great loss of knowledge due to a wave of recent retirements, a trend that is likely to worsen over the next three to five years.

The Pilot expedited the mail and also had regular phone contact with veterans. There will be a full rollout of four to five more pods in the coming months.

The ability to complete multiple stages of the claims process within a single team, rather than shifting between times, was an enormous timesaver. Here too, having VSRs, RVSRs and Authorizers on the same team allowed for a regular exchange of knowledge and best practices as well as valuable coaching. The ultimate beneficiary of this valuable synergy is the veteran.

### S. 3517

#### Title I

AFGE and NVAC commend Chairman Akaka’s effort to update and improve the musculoskeletal rating schedule. However, we question the need to make this change through legislation when VBA is already revising the rating schedule.

Our members support that the use of ICD-9/10 codes as a means of aligning VHA with other federal agencies and we urge the use of these codes for all body systems. More generally, standardization of the rating schedule will reduce errors and increase claims processing speed. Our members would also like to see fewer ambiguous terms such as “marked”, “slight” and “normally” that cause frequent disagreements between RVSRs, DROs and veterans, which in turn leads to more appeals.

However, we question whether this is the appropriate time to roll out a pilot program that applies a significantly different schedule for rating musculoskeletal conditions. The musculoskeletal system is the most complex segment of the rating code, and any changes should be implemented very slowly and on a modest scale. In addition, we fear that the use of a single combined rating will further increase the backlog and trigger numerous legal challenges.

A single evaluation for musculoskeletal disabilities could also have an adverse impact on claimants by allowing one disability to be discounted in favor of another and lead to more under- and over-evaluations of claims.

If the alternative schedule is abandoned after the end of the pilot, many claims will have to be readjudicated, leading to further confusion and delay.

We are also concerned about exempting this significant change in the rating schedule from the Administrative Procedures Act and the requirement for public comment.

## Title II

AFGE and NVAC support several individual provisions in Title II, but our members had concerns and mixed reactions to many of provisions relating to filing deadlines and appeals. Therefore, we recommend deferring statutory revisions to the claims process until additional insights can be gathered from recent VBA pilot programs and innovations.

More specifically:

Section 201: This proposal may not be necessary as current VBA policy already allows partial adjudication of claims with multiple issues.

Section 202: This proposal may not be necessary as current law already allows VBA to notify the claimant of the need for additional information as part of the duty to provide notice, except in Aid and Attendance cases. Extending this option to A&A cases would be helpful.

Section 203: This proposal may not be necessary as current law already allows VBA to give equal or greater weight to a private health care specialist provider over a VA non-specialist. In addition, VBA is already developing templates.

Section 204: The Fast Track Claims Review Process is similar to current practice, but could be the most helpful for homeless, terminally ill and severe financial hardship cases.

Section 205: We support this proposed requirement that VBA send a notice of disagreement with a rating decision.

Section 206: Shorter filing periods could disadvantage unrepresented veterans. The majority of cases are already filed within 180 days so this change may not do much to speed up the process.

Section 207: Shortening the deadline for filing a substantive appeal to 60 days could cause further delays. BVA already applies the “mailbox” rule to late appeals; this proposal could increase the number of timeliness determinations that have to be made. Furthermore, it is not possible to expedite cases because BVA is already at maximum capacity.

Section 208: The statement of the case already fulfills this function.

Section 209: The provision could adversely impact veterans by depriving them of another opportunity for initial review of the evidence by the agency.

Section 210: This proposed change could lead to numerous legal challenges by claimants seeking a face-to-face hearing. Many veterans would be especially opposed to a videoconference or other substitute for a “day in court”.

Section 211: Authorizing CAVC to determine all issues raised by the appellant could hurt veterans by preventing the agency and claimant from entering into a settlement about the number of claims to be remanded.

Section 212: No comment

Section 213: No comment

## Telework Production Standards and Other Personnel Issues

### Telework Production Standards

Recommendation: To alleviate overcrowding at ROs and retain experienced adjudicators, VA should apply equal production quotas to work-at-home employees, consistent with changes in production standards made at BVA in 2008.

The White House and Office of Personnel Management have stepped up their commitment to flexible workplace arrangements for federal employees. Yet, the Department maintains counterproductive telework policies across all its ROs. Last year, at our request, Congressman Frank Wolf asked the Department to offer telework to more claims processors, and to end the arbitrary, unfair practice of requiring higher production from work-at-home employees. To date, the Department has been unwilling to change these standards.

VA's telework policies at the ROs make even less sense when so many ROs are facing severe space shortages. Many ROs are starting to have two work shifts which are difficult to staff and hard on workplace morale. More attractive telework policies could alleviate the need for many of these second shifts.

### Other Personnel Issues

Recommendation: AFGE and NVAC urge the Subcommittee to increase the frequency of its site visits to the ROs, to include opportunities for candid discussions with employees and their representatives outside of the presence of management.

Terminations of both experienced employees and newly trained employees for failure to meet production standards are on the rise. As discussed below, new employees are often pushed into production before receiving adequate training and experienced employees are working under a broken work credit system that overlooks quality.

AFGE and NVAC are also concerned about reports of local management retaliating against union officials. For example, management recently refused to allow a VSR with valuable skills and experience to work overtime because of her status as a local president with official time.

Recommendation: AFGE and NVAC urge VBA to participate in labor-management forums at the Area level ( as well as the VA Central Office level) pursuant to E.O. 13522.

It is equally discouraging that VBA is unwilling to proceed with regional (“area”) labor management forums mandated by the December 2009 White House Executive Order on labor-management forums. VBA continues to lag behind VHA and NCA in participation in labor-management forums. These forums offer a valuable opportunity for labor and management to work together on effective solutions to the claims backlog.

Recommendation: All VBA managers, including coaches, higher levels management and those involved in quality assurance, should be required to pass supervisor skills certification tests.

Many managers at the ROs lack sufficient experience and subject matter expertise to carry out quality assurance duties, leading to greater errors, which in turn lead to more appeals, remands and other delays. In many offices, employees are being supervised by managers with only a few years of experience.

Lack of management expertise also takes a toll on workplace morale. Front line employees facing intense production pressures have to answer to supervisors who have not experienced these demands firsthand.

To date, front line employees and their representatives have had very limited involvement in the development and administration of skills certification tests, despite substantial evidence that the test does not properly measure needed skills and repeated incidence of testing problems.

Recommendation: Management’s performance measures should include quality of training and compliance with training requirements. Management performance measures should reflect the quality and thoroughness of training program. Also, VBA should be required to use a cadre of formally trained instructors from VA Central Office to conduct RO trainings.

Our members report a wide range of deficiencies in the training provided at ROs. Most problematic: widespread training shortcuts for new and experienced employees. After new employees complete their initial classroom training, their on-the-job training at the RO is routinely cut short to rush them into production. It is also common for new employees to be kept at one station to maximize their short term productivity, thus depriving them of exposure to other skill areas that are need for their long term productivity.

Most of the temporary one-year hires who have been converted to permanent C&P employees have only received in-house training and are not being rotated; the lack of initial training and exposure to other teams will deprive them of critical skills in the long term.

Similarly, experienced employees are routinely deprived of their full 80 hours of annual mandatory training by pressured managers who have significant discretion as to how much training time is allowed. We receive regular reports of "training by email", where employees are permitted a fraction of the time that was officially allotted to learn a new concept, and deprived of the opportunity to learn face-to-face from experienced instructors.

RVSRs on the Appeals Team receive valuable training from the Board of Veterans Appeals by videoconference; this training opportunity should be extended to RVSRs on the Rating Board.

Recommendation: Revise Work Credit Systems for the ROs and BVA. These systems should be designed based on scientific time motion studies and regular input from front line employees, their representatives and VSOs.

Despite its assertions over the years, VBA has never produced evidence of a comprehensive reliable time and motion study that would enable it properly assign work credits for different tasks in the claims process. Nor has VBA adjusted individual employee production standards to reflect the increasing complexity and difficulty of the claims process. As a result, employees are pressured to short cut those tasks that are undervalued, such as additional case development.

The ultimate harm falls upon the veterans, who are deprived of full, fair, and timely consideration of their claims, and a growing backlog.

The recently issued VSR standards have exacerbated this problem by eliminating credit for other routine, critical steps in the claims process. Under the old standards, VSRs received work credit based on their performance in 60 criteria; under the new VSR rules, there are only 5 criteria. Most problematic is the complete loss of credit for follow-up development.

Similarly, the current method in which VBA provides credit for RVSR work adversely affects timeliness and quality. More specifically, these standards fail to provide any credit for additional development or completion of VA examination requests, both of which may take an RVSR multiple hours of production time to complete. The lack of credit for additional development or completion of VA examination request often forces the RVSR to choose between serving the claimant's needs and meeting production standards.

VBA is also in the process of developing new production standards for DROs. Our members fear, based on the ongoing pilot project, that DRO standards will also deny work credit for much of the work they currently perform. As one member noted, under new the data capture tool, it will often appear as if the DROs produced zero work, for example, on days they hold hearings or work SSOCs, partial grants and prepare medical opinions or other directed development. They are also concerned that there is no consideration given to the number of issues on the appeal, and they would like to see weighted action credit assigned for development and medical opinion requests

Attorneys at the Board of Veterans Appeals are also calling for an independent study of their work credit system. The BVA work credit system – known as “Fair Share” Production – overemphasizes quantity over quality. For example, managers at the Board focus on weekly decision production numbers that quantitatively measure individual and BVA- wide work product without regard to the complexity of the individual claims or the quality of decisions produced. As a result, the number of remand cases is steadily rising.

Production standards should also be adjusted for new VBA employees. Currently, they are given only 90 days to reach a production standard following a period without any production requirements. Also, they are not given any deductible time to correct prior work. In contrast, the mentors who review their work for errors receive deductible time for their work.

Thank you for the opportunity to testify on behalf of AFGE and the National VA Council.