

STATEMENT OF
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VETERANS OF FOREIGN WARS OF THE UNITED STATES
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
WITH RESPECT TO
CHALLENGES AND OPPORTUNITIES
FACING DISABILITY CLAIMS PROCESSING IN 2006

WASHINGTON, D.C.

DECEMBER 7, 2005

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the 2.7 million members of the Veterans of Foreign Wars of the United States (VFW) and our Ladies Auxiliary, I appreciate the opportunity to present our views on this important topic. I congratulate the Committee for the decision to devote the time and effort to focus attention on what have been chronic problems for the Veterans' Benefits Administration (VBA) and for America's veterans. The backlogs of case work and the resultant delays have been, for a decade or more, resistant to efforts to solve the problem. Most veterans and their survivors have to wait longer than a reasonable period of time for a decision on their claims for disability or death benefits. All too often, the VA decisions have not provided the appropriate benefits authorized by law.

I will not dwell on the statistics regarding the VA's performance, or the number of cases pending, other than to clarify an apparent conflict between numbers that the VFW provided in previous testimony, and numbers provided by the VA.

VBA often provides the rating workload number. As of November 11, 2005, this was 365,503 cases. It is only part of what the approximately 7,336 employees have to face in workload. What concerns the Veterans of Foreign Wars is that the same employees also have 118,523 pending cases not involving ratings, 151,059 pending appeals, which, quite frankly, each take much more time and effort than an original or reopened claim, and 92,898 education claims in the rapidly growing GI Bill program. This adds up to over 760,000 claims for the same 7,336 employees. While VA may choose to focus only on rating workload in their public statements, we believe that VBA and VFW are essentially in agreement on these figures.

The VFW has long supported providing adequate resources to the VBA to provide highly accurate and timely benefit decisions. We realize that VBA is often forced to suffer problems that are directly related to the austerity of their funding. This includes the consequences of addressing, in the short run, critical situations that are a consequence of the inability to assume that the proper long-term resources will be available. However, we also believe that while the current situation of persistent backlogs and delays in claims processing are not entirely related to resource levels, little improvement is possible in the quality of claims decisions without a strong commitment by VA leadership, and the resources necessary to execute an effective improvement plan.

The recent IG report, styled as *State Variances in VA Disability Compensation Payments*, but including material far from that topic, documents as part of a VBA decision maker survey, the growing discomfort in VBA with the workload, and the imbalance to the staffing available to work on it, especially at the decision maker level. These dedicated employees have our sympathy and support. From their point of view, there is truly a never-ending supply of already old work to do. However, this has been the situation for many years. The emphasis from the top of the organization has persistently been on moving the cases along, to reduce the overall count, to bring down the backlog. VFW believes that an unintended price has been paid for this emphasis, both in the quality or accuracy of the decisions, and in VBA's institutional ability to address these chronically high caseloads. The growing frustration and stress of workload pressure have inspired some dedicated VBA employees to find early retirement attractive. The cumulative effect of subordinating training and guidance to production has taken its toll. We find it difficult to reconcile the unreasonable restrictions on discretionary GOE resources, used to administer the much larger compensation entitlement, and resulting poor decision quality in the compensation entitlement program. These restrictions discourage competent administration of the entitlement program, which requires much more effective quality control.

Compared to the compensation program of a decade or more ago, the work is much more complicated. It is now a complex thicket of court decisions, and statutory requirements that occasionally require the re-adjudication of thousands of cases. Veterans' claims adjudication is no longer a business that can be managed simply by the numbers, but VBA persists in this approach. Performance standards for Regional Office Directors encourage them to do more work than their demographic share, but require only mediocre quality. Our impression of management by the numbers includes a balancing of the numbers to even out workload, nationwide. Old work is "brokered" from one office to another office that is relatively advantaged in the age and volume of casework. At the worker level, the reward for work done is more work from another office. Perhaps this is effective in the short term, but after a decade or so, we think that it is possible that the office people may have figured out how to stay in the middle of the pack, low enough not to need to broker out work, but high enough not to be a broker in station as well.

Unfortunately, this plays into a budget process that by design ratchets down the resources available to do the work. Competition is largely limited to production of completed claims, and the system assumes, unless something different is justified, that what is done is adequate. VBA apparently does not set goals to improve quality above a 15% error rate, and lacks an overall plan to improve the situation. Until it does, and asks for the resources to fix things, little will change

for the better. Few cases are reviewed, and with the exception of the very small centralized reviews, the reviews are tempered by a higher priority to move the workload.

We also believe that, in the difficult situation of constant workload pressure, some confounding factors may have established themselves in the claims processing system. VBA operates a quality monitoring system, acronym “STAR” which finds, on a sampling basis, that about 15% of the cases have a significant error. There is little actual constructive feedback to the decision makers. The VFW thinks that, for a claims process that profoundly affects the lives of the veteran claimants, 15% is a very high error rate. It suggests that every VBA decision maker makes a significant error approximately every other day. Veterans and their survivors, after waiting many months, or even years, for a decision from VA, may receive a decision that is significantly flawed.

The VFW believes that there is at least symmetry to the VBA claims error rate. For this reason, we insist that when VA signals its intention to revisit claims decisions granting benefits, or sets higher approval standards for the decision makers for granting benefits, that there is equal, perhaps greater justification to revisit those decisions that denied the benefit. In VBA’s current production mentality, getting to closure on a decision with marginal evidence development will, in most cases, result in a denial, not in an overgenerous grant. It is also the case that most veterans, contrary to the views expressed by the VA Inspector General, once they are denied, do not appeal the VA’s decision.

The problem of too few resources, and too little commitment to error free decisions, spins off problems with which we are all familiar, like the findings in the VAIG *Variances* report that VA recently conceded were mostly VA’s responsibility.

A GAO report (GAO-05-47) describes deficiencies in the VBA budget formulation process, and “productivity increases” mandated by OMB. This is a euphemism for arbitrary cuts. This is not conducive to either better than mediocre performance, or risk taking by the VA leadership to improve the situation. It is, however, conducive to waste in the entitlement account.

The IG, in their recent study, found an association between a higher average compensation payments and representation by veteran’s service organizations (VSO). We believe that this may in part reflect the VSOs success in identifying rating decision maker’s errors, and insisting on their correction, either locally, or on appeal. While we are proud of the efforts that VSOs make to assist veterans and their survivors, we have serious reservations about VA’s tolerance for a level of errors that most people would not accept in most of life’s other transactions, like one’s bank account or virtually any consumer product or service. We also have serious concerns for those veterans who file claims with VA without assistance.

Furthermore, we do not believe that this deficiency in the ability to produce consistently accurate decisions can be divorced from the more public issue of the claims backlog. Clearly, a significant and cumulative portion of the work must be adjudicated more than once, often in an adversarial and inefficient situation leading to even more burdensome appeals. As pointed out in the VSO’s *Independent Budget, FY 2006*, the emphasis on production at the expense of quality leads only to short-term gains.

Through most of the recent history of claims processing in the VBA, appeals have been the storm looming on the horizon. We have observed in VBA the tendency to focus on what is the immediate priority, often at the expense of other essential tasks. Too often in recent years, the priority has been new claims, and the other task has been appeals. As with the other claims, the backlog of appeals has been confounded with a larger than appropriate error rate, incessant remands directly resulting from these errors, and in many cases, extraordinary delays in processing.

VBA has sought to address these problems by creating an Appeals Management Center (AMC) here in Washington. By all accounts, the AMC and its dedicated and committed staff have begun to make a difference. The AMC was, however, necessarily created from the best available trained employees in VBA, and its mission is to meet a need in the appeals process that frankly was not being successfully addressed before. The AMC addresses the problem of appeal remand development, and with the cooperation of VFW and other VSOs, even successfully addresses some claims prior to or instead of returning them to BVA. Creation of the AMC does, however, reduce VBA's capacity in the other offices to deal with claims, perhaps even affecting VBA's existing efforts to improve quality, by the number of employees transferred to the AMC. This should be cause for concern for officials with overall responsibility for VBA's mission.

We supported the establishment of the AMC, and continue to work with their people to improve the appeal process, but we are concerned that the resources in VBA are finite, their people require long and complex training and are not easily replaced, and that the organization is eroding as a result of crisis management, an aging workforce, and a program that seems to be growing relentlessly more complex. Perhaps the answers lie in some combination of technology, more effective and enlightened training, and a new generation of employees, committed to serve a new generation of wartime veterans. Most troubling to us is the possibility of significant policy change, not necessarily favorable to veterans, which would further complicate and render more adversarial the claims process than it is today.

VBA indeed faces a dilemma. They have a complex and often modified program, a frustrated workforce, myopic focus on production to address backlogs to which training and quality control are subordinated, and a reliance on brokering work from office to office to avoid short term crises. Added to this are an increasing burden of appeals, and a new generation of wartime veterans deserving of the best service. The future is indeed challenging for VBA.

We do know, however, that the answer does not lie in the dismantlement or diminishment of America's commitment to our heroes, either in the programs necessary to support them, or the organization necessary to provide these earned benefits.

Perhaps VBA should be congratulated for doing a lot with marginal resources. However, tolerating an error rate as high as this in decisions committing payments from the compensation entitlement, to produce marginal savings in the discretionary GOE account, is false economy. It seems clear that VBA has no plan or methodology to eliminate, or even accurately identify, the serious errors that plague one out of every seven or eight claims decisions, much less the fortitude to request the resources, and commit to the goals that such a plan would require. It also seems obvious to us that faulty decision making cannot be addressed by panaceas like improved

information technology, or program “reform” and its attendant complexity and duplication. What is required is the commitment, from the top down, to do every claim properly, consistent with the letter and the spirit of the law, and the resources and tools necessary to ensure that happens. Reform of this magnitude is not without precedent in government agencies, but it is only possible when all concerned are truly interested in improvement, and not just in putting a positive spin on the latest bad news. We think that, with support, the VBA is capable of both this kind of improvement, and the internal honesty necessary to accomplish it.

We also think that there is no more deserving population of beneficiaries of this reform than the current generation of veterans, who are returning from Iraq, Afghanistan, and elsewhere in the Global War on Terrorism.