

**Statement of Michael Walcoff**  
**Associate Deputy Under Secretary for Field Operations**  
**Veterans Benefits Administration**  
**Before the Committee on Veterans' Affairs**  
**Subcommittee on Disability Assistance and Memorial Affairs**  
**United States House of Representatives**

**May 5, 2005**

Chairman Miller and Members of the Subcommittee.

Thank you for providing me the opportunity to appear before you today to discuss the Department of Veterans Affairs' (VA) Appeals Management Center (AMC) operations.

My statement today is divided into two parts. I will begin, as you have requested, by discussing VBA's AMC operation. Then I will briefly discuss the Joint BVA/VBA Remand Reduction Project.

### **Appeals Management Center**

The Appeals Management Center (AMC) was created in July 2003 following a Federal Circuit Court decision that invalidated part of VA's process for handling cases appealed to the Board of Veterans' Appeals (BVA). Prior to that court decision and the establishment of the AMC, BVA had created a development unit to itself develop cases on appeal that needed more development, instead of remanding those cases to the regional offices of jurisdiction to conduct the necessary development. The BVA unit had, in effect, assumed partial responsibility for case development previously assigned to VBA's regional offices. As a result of the Court's decision, the BVA generally may not consider in the first instance any evidence it develops, so the BVA resumed remanding cases that needed more development, and that responsibility was returned to VBA and assigned to the AMC. VBA determined that the best way to manage remand processing was to consolidate the responsibility to a single Appeals Management Center where resources and expertise could be concentrated. The mission of the AMC is to process remands timely and consistently. The AMC has complete authority to develop remands, reach decisions based on additional evidence gathered, and authorize the payment of benefits. If the AMC is unable to grant an appeal in full, the appeal is recertified to BVA for continuation of the appellate process.

Beginning in July 2003, the AMC began receiving work from BVA. Though not fully staffed until January 2004, the AMC began intake, organization, and limited development on remands. In February 2004, the AMC was fully operational and established a goal of completing initial development of all pending remands by spring 2004. This goal was met in June 2004.

The initial work coming to the AMC consisted of two types of cases. The first category of cases consisted of the remands generated by BVA after July 2003. VBA had projected the volume of this workload to be 13,000 remands per year. Based on this projection, the AMC was staffed with 87 employees.

In the second category of cases were those that had been pending development actions at BVA at the time of the circuit court decision. There were 9,000 cases in this category for which BVA no longer had legal authority to initially consider any evidence it developed. These cases were converted by BVA to remands between July 2003 and January 2004 and transferred to AMC jurisdiction. Because of the one-time nature of this influx of 9,000 additional remands, a strategy was developed to increase resources on a temporary basis to assist the AMC with claims decisions. As a result, 46 additional employees were temporarily assigned to accomplish AMC work beginning in October 2004. These employees are located at VBA's resource centers in St. Petersburg, Huntington, and Cleveland.

During its first year of operation, the AMC received approximately 18,000 remands in addition to the 9,000 converted cases. This exceeded the 13,000 remands that had been estimated. Because of this greater than expected volume, VBA and BVA began aggressive joint initiatives to address the root causes of remands. These initiatives focused on increased coordination of data collection, identification of trends, and training.

These joint efforts are proving successful. The remand rate for FY 05 is 43% as of the end of March. This compares with the FY 04 remand rate of 56.8%. For the month of March 2005, the remand rate was 37%. Our goal is to reduce the remand rate to 30% by the end of FY 06.

The AMC is organized much like the Veterans Service Centers in VA regional offices. The AMC consists of one Triage Team, three Development Teams, one Rating Team, and one Authorization Team. The AMC provides public contact functions through a dedicated toll-free number unique to the AMC and has normal office hours for walk-in traffic. The AMC also provides full support for Freedom of Information Act, Privacy Act, and congressional inquiries. Executive direction at the AMC is provided by a director and two assistant directors. One assistant director is responsible for the development of remands and the other is responsible for decisions made on the remands. The AMC's workforce is specifically trained and skilled in processing remanded claims. Organizationally, the AMC reports to the Associate Deputy Under Secretary for Field Operations.

The AMC receives all remanded claims directly from BVA. All new remands are delivered to the AMC daily. A small number of remands are unable to be worked in the AMC for various procedural reasons and are returned to the regional office of jurisdiction. For example, if a remanded claim requires a local hearing, the AMC would be unable to comply with the remand order; therefore, the remand must be worked locally. Additionally, if a remand involves an issue not related to

compensation and pension benefits, the remand is forwarded to the regional office of original jurisdiction.

Development of remands is initiated within 15 days of receipt at the AMC. A letter is sent to the appellant that explains how to contact the AMC, what the appellant can expect during the processing of the remand, and what is required of the appellant and the AMC.

Development is completed in strict compliance with the wording of the remand order. This often requires that steps in the remand order be completed sequentially and that a VA exam, including a medical opinion by a VA physician, be conducted. Once all development steps are completed, the claims file is forwarded to the Rating Team for a decision. If any part of the remand is granted, a decision is prepared. If any part of the remand continues to be denied, a supplemental statement of the case is prepared. Often, both documents are required.

Once a decision is made, accredited representatives (i.e., veteran service officers) are allowed the opportunity to review the unpromulgated decision. Following review by the representative, the file is forwarded to the Authorization Team, which processes the award and notifies the appellant. If a full grant of benefits is possible, the award action is completed, payment authorized, notification sent, and the completed file returned to the regional office of jurisdiction. If the appeal is not granted in full, the appeal is recertified to BVA. No claims files reside permanently at the AMC.

The AMC is reducing the number of pending remands. Since October 2004, the AMC inventory of pending remands has been reduced from 24,000 to 21,000. The goal is to reduce the pending inventory to 18,000 by the end of FY 05. The goal for FY 06 is to reduce the pending inventory to 12,000. Once these goals are met, the additional resources assigned to the AMC will be redirected to compensation claims at VBA's regional offices.

The AMC has enabled VBA to significantly improve the time it takes to complete a remand. During FY 03, regional offices took an average of 700 days to complete a remand. Currently, it takes the AMC an average of 400 days to complete a remand. We continue to strive for further improvement. A strategic goal of 230 days on average to complete a remand has been established. The goal of 230 days represents the minimum time needed to complete a remand given the notification, evidence collection, and follow-up requirements of the Veterans Claims Assistance Act of 2000 (VCAA) and other legal requirements. VBA does not require additional resources to reduce the number of remands pending. The high number and average age of pending remands are more closely related to procedures and due process requirements than to a lack of available resources. Remands are unique in that they often require sequential development steps, with requisite waiting periods between each step. Often

remand instructions require that VBA contact the claimant to request identification of any outstanding evidence, obtain a medical release, or complete other development requirements, and our procedures provide the claimant with a 60-day timeframe to provide a response to such requests. Together with the waiting time our procedures require for third-party evidence, the appeals resolution process is necessarily prolonged to ensure that all necessary evidence is obtained and considered.

In addition, to ensure that VA has exhausted its efforts to obtain all federal records and made all reasonable efforts to obtain non-federal records, remand instructions sometimes require VBA to repeat prior efforts to assist the veteran obtain medical treatment records or other evidence that was generated many years ago. The custodians of these records are often very difficult to locate. In the case of federal records, the law requires that VA's efforts to secure these records, such as Social Security Administration records, continue until VA is reasonably certain that the records do not exist, or that further attempts to obtain these records would be futile.

Finally, remand orders often require VBA to obtain complex medical opinions from medical specialists that may not be readily available at all VA medical centers or in smaller cities, further increasing processing time.

### **Joint BVA/VBA Remand Reduction Project**

In July 2004, the Deputy Secretary requested that VBA and the Board of Veterans' Appeals (BVA) accomplish three tasks:

- Agree upon a reliable process for capturing information prospectively on reasons for remands,
- Conduct a retrospective analysis of a representative sample of remands to validate the agreed-upon tool, and
- Develop a plan for remedying the problem of avoidable remands.

A VBA/BVA team developed a new protocol to record reasons for remands. The protocol, in use since November 2004, distinguishes between remands due to VBA error, remands based on BVA's authority to develop evidence in the absence of a VBA error, and unavoidable remands, such as those resulting from changes in law.

On November 8, VBA/BVA submitted a report to the Deputy Secretary containing its planned remedial measures. VBA agreed to change claims procedures to more thoroughly document the record when attempts to secure federal records (e.g., Social Security records) failed, or attempts to verify PTSD stressors failed. VBA also agreed to conduct additional field training.

A broadcast on the importance of reducing remands was held in February 2005 with participation from the Deputy Secretary and BVA and VBA leadership.

Additional broadcasts were held on other subjects that would result in reduced remands, including preparation of medical examination requests. A computer-based training module on certifying a case to BVA was developed and sent to all VBA regional offices. Completion of the training module is mandatory for all Rating Veterans Service Representatives and Decision Review Officers on the Appeals Team.

Lastly, VBA has established a mailbox for questions on remands from the field. An intranet site was also created with a management reports function allowing a regional office to review its remand errors.

The review and monitoring of remand data are on-going efforts. Analysis of the remand data allows VBA to determine the impact of current improvement efforts, as well as to identify future trends and develop and implement countermeasures to ensure avoidable remands are eliminated to the greatest extent possible. We anticipate that future efforts will include additional training, quality reviews, and regulatory changes, as appropriate.

## **Conclusion**

In summary, VBA has increased its focus on the appellate workload over the past several years. Through our actions and actions taken in collaboration with BVA, we have implemented measures to reduce the number of remands and improve the timeliness of appeals processing. We believe we are moving in the right direction, and continuing efforts will allow us to significantly improve the appeals process for veterans.

Mr. Chairman, this concludes my statement. I will be happy to respond to any questions that you or other members of the Subcommittee might have.