H.R. 3835: Veterans Appeals Efficiency Act of 2025 (Chairman Bost)

Courtesy of the House Committee on Veterans' Affairs Majority Staff

HOUSE COMMITTEE ON
VETERANS' AFFAIRS
CHAIRMAN MIKE BOST

BACKGROUND:

When the Department of Veterans Affairs (VA) Veterans Benefits Administration (VBA) denies a veteran's claim for VA benefits, that veteran has the option to appeal that denial to the VA Board of Veterans' Appeals (Board). If the Board finds that VBA failed to satisfy its "duty to assist" the veteran with obtaining evidence to support their claim, the Board remands (sends back) the claim to VBA to obtain that evidence, and VBA should comply with the Board's order.[1] If the Board denies that veteran's claim on appeal, the veteran has the option to appeal that Board decision to the U.S. Court of Appeals for Veterans Claims (Court), a federal court separate from VA. When the Court finds the Board made a legal error in a decision, the Court most often remands the case back to the Board to issue a brand-new decision.

Veterans wait an average of 2 years or more for a Board decision on their appeal, with some veterans waiting upwards of 5 years. At the Board's current rate,[2] and with current staff, the Board cannot reduce its current inventory of roughly 200,000 appeals, and cannot issue faster (and accurate) decisions, without improvements to streamline its policies and procedures. Further, there is lack of specific guidance on when a veteran's appeal is eligible to advance to the front of the line (e.g., due to serious illness), leading to inconsistent Board decisions on veterans' requests to do so.

Aggregation of veterans' claims allows for multiple claims to be decided all at once. For years, federal agencies (such as the U.S. Equal Employment Opportunity Commission) have successfully aggregated claims to increase efficiency. However, current law is unclear on whether the VA Board has the authority to aggregate veterans' appeals. Thus, the Board does not use this efficiency tool to streamline veterans' claims. Further, in the federal courts, aggregation of claims is known as "class actions." Under current law, the Court is prohibited from certifying any class that includes veterans who have not yet received a Board decision. This excludes the vast majority of veterans who could benefit from joining a class action, as most potential class members wait years for the Board to review a VBA denial of their claim. Further, plaintiffs in other federal courts can join class actions when they have received an initial unfavorable decision, but veterans who already received a VBA denial of their claim cannot. Thus, these veterans are denied the same access to class action remedies as other Americans. This loophole in the law also prevents the Court from fully using its class action authority to efficiently processing pending appeals.

In FY 2024, the Court remanded 83% of appeals back to the VA Board because of legal errors in Board decisions. "Limited remands" are when the Court orders the Board to address specific issues that the Board erred on, without requiring the Board to issue an entirely new decision on the entire appeal. Limited remands increase efficiency at both the Board and the Court levels, because neither body would be required to review a second time those issues that the Board did not err on the first time around. Though the Court currently has the authority to issue limited remands, it does not have rules and procedures in place for when a veteran can request a limited remand and when the Court should issue one. As a result, limited remand orders are extremely rare.

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[1] *Stegall v. West*, 11 Vet. App. 268, 271 (1998) (requiring that the Board ensure that VBA complied with the Board's prior remand orders).

[2] In FY 2024, the Board issued decisions or remands in 116,192 appeals. The Board's goal is to issue 118,000 decisions or remands in FY 2025. However, since FY 2021, the Board has received over 65,000 appeals each year.

BILL SUMMARY:

The *Veterans Appeals Efficiency Act of 2025* would:

- Require VA to better track the timeliness of claims throughout the claims and appeals process, including claims that were never decided due to the veterans' suicide, and report that data to Congress.
- Require VA to prescribe guidelines for when and how veterans can advance to the front of the appeals line at the VA Board of Veterans' Appeals (Board).
- Allow the Board to aggregate veterans' appeals that involve common questions of law or fact, pursuant to a third-party research entity's recommended policies and procedures and require VA to periodically report to Congress on how aggregation has improved appeals processing efficiency.
- Codify current caselaw requiring the Veterans Benefits Administration (VBA) to comply with the Board's orders.
- Authorize the Court to certify class actions that include veterans who are waiting for Board decision on their appeal for VA benefits.
- Codify the Court's current authority to issue limited remands to the Board and require the Court to issue rules for how and when it may do so.
- Require the Board to identify recurring question of law or fact that the Board reviews, for which binding guidance would assist the Board in consistently and efficiently deciding appeals with those common issues, and to report those findings to Congress.
- Require VA to enter into a contract with a third-party research entity to – in conjunction with veterans' and survivors' advocates and legal experts – study (1) the feasibility of authorizing the Board to issue binding legal decisions, and (2) recommend rules or principles to which the Board should adhere when aggregating appeals. A report of the study would be submitted to Congress, and the Board would be required to implement the recommendations pertaining to aggregation.

THE MESSAGE:

- The *Veterans Appeals Efficiency Act of 2025* would build on the improvements to the appeals process that were enacted under Chairman Bost's *Veterans Appeals Improvement and Modernization Act of 2017* [Pub. L. 115-55], by providing tried and true tools to the VA Board of Veterans' Appeals and the U.S. Court of Appeals for Veterans Claims to process appeals efficiently.

- The *Veterans Appeals Efficiency Act of 2025* would improve VA Board of Veterans' Appeals policies and processes so veterans, including seriously ill veterans, are not forced to wait years for a decision on their claims for VA benefits on appeal.

- The *Veterans Appeals Efficiency Act of 2025* would streamline the overall appeals process to ensure veterans receive their decisions on their claims for VA benefits as fast as possible.

- The *Veterans Appeals Efficiency Act of 2025* would continue to modernize the VA's appeals process to better serve veterans and their families applying for VA benefits.

- The *Veterans Appeals Efficiency Act of 2025* would ensure that veterans have the same option to joining a class action at the Court, as every other American has in other federal courts.