

Clearing the Backlog and Facilitating Benefits for America's Veterans

November 12, 2013



National Council on Disability

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Clearing the Backlog and Facilitating Benefits for America's Veterans

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National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

Letter of Transmittal

November 12, 2013

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

The National Council on Disability (NCD) is pleased to submit the enclosed report, "Clearing the Backlog and Facilitating Benefits for Veterans with Disabilities." The lengthy delays of benefit claims decisions that persist for Veterans returning home with injuries from recent (and past) conflicts confound their transition from military to civilian community living. Testimony before Congress, media coverage, and investigations by the United States Government General Accountability Office (GAO) have confirmed these delays and their impact, with a focus on the U.S. Department of Veterans Affairs (VA). With this report, NCD would like to emphasize opportunities for leadership outside of the VA, and offer the full support and assistance of the Council and staff in accelerating progress through these and other measures.

During NCD's seven-month examination, the backlog affected an estimated 600,000 former service members waiting for initial claims decisions by the VA. The impact of the backlog related to NCD through the lived experiences of veterans whose wait time was more than 125 days emphasizes the critical nature of this problem and the urgency of finding an immediate solution. NCD explored the current state of the backlog, including the impact of increased oversight by Congress and the VA's benefits management system and support initiatives. Among predominant needs identified in the report are more deliberate VA-led interagency coordination and Department of Defense (DOD) cooperation on records management and access. The ongoing need for shared electronic DOD and VA records that are accessible to veterans and their authorized representatives is critical.

Although progress has been made, as the President has said, we are not yet "where we need to be." Among other core points based on the findings of the report, NCD recommends that:

- DOD should adopt a data storage standard compatible with the VA's Veterans Health Information Systems and Technology Architecture (VistA) in order to ease the transfer (and shared use) of medical record information. DOD should be directed by Congress to adopt the system as a first step toward record sharing.
- Congress should revise the Veterans Claims Assistance Act (VCAA) for clarification on due process provisions, veterans' rights to self-determination including control of claims, and the scope of the VA's obligation to develop timely and accurate claims. This revision should include language that outlines responsibilities for other federal agencies.

It is the hope of NCD that the potential solutions contained in this report can contribute to the President's ongoing efforts to provide timely benefits to our country's Veterans. These benefits will speed and promote healthy integration for veterans back into civilian life, allowing them to resume making meaningful contributions to their families, the community, and the American economy, and will allow our nation to show its respect and gratitude for the tremendous sacrifices that American service members have made for our country.

NCD looks forward to working with the Administration in continuing to encourage coordination and collaboration across federal entities and meaningful input opportunities for Veterans who have given so much for America.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jeff Rosen', with a stylized flourish at the end.

Jeff Rosen
Chairperson

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EXECUTIVE SUMMARY

When active-duty service members separate from the military, many face service-connected disabilities and health issues, financial uncertainty, and other adjustments at a time when federal budget cuts and constraints limit the government's ability to provide assistance. Seamless transition from military service to civilian life often depends on how well service members understand their entitlement to benefits and how quickly they can take advantage of training, jobs, and other opportunities.

Serious delays hinder service members' obtaining the benefits that are so crucial to resuming their civilian lives. The US Department of Veterans Affairs (VA) has undertaken efforts to reduce a long-standing disability claims-processing backlog, close transition gaps, and provide supports and services that can assist with the full integration of veterans into their communities. VA's efforts include the April 23, 2013, public announcement of a short-term solution to prioritize and provide provisional decisions for claims that have been outstanding for more than two years. Even so, service members returning from present conflicts may be forced to fall in line behind other veterans with pending, backlogged claims.

Despite showing signs of slight caseload decline, the numbers remain high as service members separating from recent conflicts return with multiple and complex disabilities. Based on a June 12, 2013, hearing, the Senate Committee on Veterans' Affairs reported that two-thirds of approximately 851,000 pending disability claims filed with VA are for veterans who have been waiting more than 125 days for an answer. This combination of existing and new claims raises concern about whether VA will meet its 2015 goal of resolving the backlog and completing disability ratings within 125 days to aid transitioning veterans and their families.

Recognizing the urgency of the claims situation, VA has deployed a benefits business transformation strategy to develop a paperless, technology-driven process model. Features of the evolving model include electronic claims submission, automated decision

applications, improved interoperability, efficient in-process transitions, and targeted quality assurance. The centerpiece of VA's 21st Century Transformation Plan is a paperless claims environment called the Veterans Benefits Management System. Whether this effort and its enabling technologies will be sufficient to reduce the backlog remains in question as VA, Congress, veterans, and veteran service organizations (VSOs) offer assessments and refinements that reflect the complexity of the issues.

The US Department of Defense (DOD) decision to reverse its commitment to join VA in the development of a single electronic health record system adds complications. DOD also has rejected the adoption of VA's Veterans Health Information Systems and Technology Architecture (VistA) system. Potentially, either option would streamline the transfer of military health records between the two departments. However, DOD maintains that VA's system presents an imperfect alternative among several that may offer more viable and cutting-edge solutions. The debate on how to modernize DOD's health records system and ensure records interoperability with VA continues as the disability claims backlog approaches critical mass.

The March 13, 2013, General Accountability Office (GAO) testimony (GAO-13-453T) before Congress stated that external and internal issues affect the VA disability claims backlog, and that the prospect for improving disability claims resolution remained uncertain because timely processing is still a daunting challenge. GAO's December 2012 report (GAO-13-89) provided findings that supported the testimony. GAO found that increased numbers of veterans separating from present conflicts, new regulations, and court decisions allowing eligibility for veterans from earlier conflicts have all contributed to the growing number of claims. GAO's report also attributed the claims backlog to VA internal claims process design and implementation problems.

In partnership with current and former service members, the National Council on Disability (NCD) adds its "voice" to call for long-term effective solutions to the disability claims backlog. "Clearing the Backlog and Facilitating Benefits for America's Veterans" presents NCD's findings and recommendations that include opinions and evaluations by key stakeholders and experts engaged in the VA disability claims-processing backlog.

NCD recognizes that the needs of veterans remain central to the discussion in order to ensure that the VA claims process becomes more timely, accurate, and cost-efficient. The direct contributions of stakeholders are critical to achieving positive public policy changes. Therefore, the voices and experiences of the veterans themselves are a central focus, along with the efforts of federal entities and VSOs. Of equal importance is the opportunity to facilitate reforms that can afford all veterans with service-connected disabilities and their families the dignity and quality of life they have earned—and that our nation has committed to provide.

Summary of Methodology

NCD reviewed relevant data from available literature, extant data in an existing VSO—Paralyzed Veterans of America (PVA)—database, and stakeholder interviews. The PVA database is designed to assist service members who are seeking disability benefits. The privacy of individual veterans has been protected. Among the criteria for participation as a key informant was an initial disability claim pending for more than 125 days with 6 or more claimed conditions. Information derived from the database was compared with themes coded from the interviews that NCD conducted with the veterans. NCD also interviewed key informants from the numerous government agencies that are critical to the claims process or that administer the claims process, including VA experts, DOD, VSOs, service members in the National Guard and Reserves (Reserve Component), and Congressional staff. These participants shared perspectives based on their knowledge of and experiences in national public policy, the VA disability claims process, its history, its vulnerabilities, and current efforts to resolve the backlog. NCD formulated findings and recommendations through the data analyzed and the information contributed by the diverse and expert sources available.

Findings

Several major themes, challenges, and issues emerged from the data sources.

Themes: Veterans who are still waiting for initial disability ratings identified VA system problems that focused on seven major themes: (1) lost or misplaced evidence; (2) additional evidence requirements; (3) transfer of the claims file; (4) delayed transfer of information from DOD to VA; (5) examinations requested by VA; (6) failure to take action; and (7) other challenges. Veterans spoke about the impact of the identified themes, which contributed to reduced quality of life, and risks including unemployment, deteriorating physical and mental health, homelessness, family breakdowns, and anxiety about the future.

Challenges: Key informants linked lengthy waiting periods to veterans delaying decisions about their health care, education, meaningful employment, and community integration. Specific challenges included declining mental health and loss of job opportunities, retention, and promotion resulting from the mounting delays and denial of service-connected disability benefits. The daily living, self-sufficiency, and well-being of veterans and their families are impacted by these critical and sometimes life-threatening challenges. The veterans' perspectives on these difficulties and their personal stories echo recent media focus on the problems that stem from the claims backlog.

Issues: The data from two types of key informants—subject-matter experts and veterans—reveals three major issues that federal entities need to address through collaborative actions: (1) extra-regulatory pressures created by new federal requirements; (2) surges in the number of multi-issue disability claims; and (3) service provider problems. The passage of federal legislation, regulations, or other federal processes that create mandates without sufficient funding consistently worsens the backlog crisis. Surges in claims filing reveal implementation difficulties. Informant perceptions about service provider problems are attributed to VA's resistance to change, insufficient preparation for handling the sheer volume of new claims (despite VA hiring efforts), difficulty adapting to an electronic claims-processing system, lack of in-service training, and management shortfalls, among other issues.

The enduring tradition of sophisticated strategy and strong leadership in military life are equally relevant to public policy and decision making at home in order to forge meaningful solutions to the backlog. Focused attention, adequate budget appropriations, effective legislative remedies and oversight, sufficient training and management preparation, and outreach to increase cross-agency collaboration on relevant issues are essential to resolving the disability claims backlog.

VA reforms that increase the number of fully developed claims also may improve the quality of life for veterans with disabilities and their families. On May 14, 2013, the House Appropriations Military Construction and Veterans Affairs Committee released a draft bill relevant to disability compensation funding, which was included in the June 4, 2013, appropriations bill. The bill would address the disability compensation claims backlog issue (paperless claims process system, digital scanning of health records, and performance-tracking requirements) through a VA funding increase for health and quality-of-life programs. The outcome of both short-term and long-term solutions for ending the initial claims backlog will depend in part on subsequent congressional actions, the leadership role that VA assumes, and interagency collaboration.

Recommendations

As a core and overarching recommendation, NCD encourages deliberate coordination and collaboration among members of Congress, the Executive Branch, relevant federal agencies, and VSOs to resolve the claims backlog issues. The partnership is essential to creating and sharing a superstructure of online information and applications that allow ease and efficiency in processing disability claims. The goal is to finalize and implement a streamlined and accessible electronic claims application and health records system. The system is to be phased into effect after comprehensive testing ensures that it is modernized and simplified, and that the technological tools are ready for use. With congressional support—oversight, guidance, and appropriations—to accomplish these actions with VSO input, VA, DOD, and other federal agencies may develop a plan to tackle the identified problems and ensure timely and accurate records management.

An efficient system must address digital health and service records, online claims applications, evidence files, and appellate procedures. Information and records must be shared easily to eliminate document loss and avoid interagency transmittal delays. Jointly, the appropriate entities can finalize, test, and phase in the implementation of a fully digital records and claims system that expands access to veterans and their authorized VSO representative. Ultimately, these reforms could empower veterans and service members in the management and maintenance of their own claims, speeding resolution and improving personal dignity, integration, and quality of life.

Based on the research and findings, NCD recommends seven points of action:

Recommendation 1: DOD should adopt a data-storage standard compatible with VA Veterans Health Information Systems and Technology Architecture (VistA) in order to ease the transfer (and shared use) of medical records information.

Recommendation 2: Congress should ensure that access to DOD's Defense Personnel Records Information Retrieval System is accessible to the Title 38 accredited representatives who develop and submit claims on behalf of veterans (with appropriate privacy protections and veteran authorizations).

Recommendation 3: Congress should revise the Veterans Claims Assistance Act (VCAA) to clarify due-process provisions, veterans' rights to self-determination including control of claims and the scope of VA's obligation to develop timely and accurate benefit determinations.

Recommendation 4: Federal agencies involved in the claims process should ensure that staffing levels are increased proportionately to manage higher demand and that mandates by Congress include an estimated increase in government operating expense.

Recommendation 5: VA should adopt the Acceptable Clinical Evidence (ACE) process for nationwide implementation.

Recommendation 6: Congress should ensure that federal agencies develop policies that make responding to VA records requests a high priority and that define a timetable for response that is monitored and enforced.

Recommendation 7: Congress should provide adequate funding to finalize, implement, and maintain the Veterans Benefits Management System (VBMS) and supportive technologies.

Well-timed action is urgent. It is particularly critical to the transition from military to civilian life. Like the Iraq War surge of disability claimants, the anticipated end of the war in Afghanistan will strain VA's resources as more service members file disability claims. Federal Government actions that facilitate an efficient and effective transition are needed to support each veteran's goals for self-sufficiency and full integration.

SECTION 1. INTRODUCTION

“The problem is very complex.... Veterans from Iraq and Afghanistan are coming home with more injuries. They’re surviving combat at a much higher rate, so claims for disabilities are five times more complicated than [sic] they ever were.”

—Chief policy officer for Iraq and Afghanistan Veterans of America, a former Army Captain who served in Iraq¹

American service members bravely volunteer to protect our citizens and the nation’s security, borders, and interests. When these men and women return home, between 20 to 40 percent will need to recover from physical, sensory, and/or emotional injuries sustained during service.²

In 2009, the Ninth Circuit Court of Appeals rendered an opinion that documented frightening statistics—18 veterans were committing suicide daily, with a thousand more attempted suicides per month.³ Citing disparities in treatment categories, claims services, and delays in the appeals process, the Ninth Circuit applied due-process rights squarely to military personnel returning from service with medical and other claims.⁴

VA, through its Veterans Benefits Administration (VBA), reacted swiftly and decisively to reach distressed veterans and their families. Changes at VA included expanding medical treatment categories to include emotional injuries, establishing a widely used hotline to deal with emergencies, and facilitating the creation of online benefits applications and claims procedures. Nonetheless, significant backlogs continue to exist, and veterans continue to live with (sometimes grave)⁵ risk.

This NCD inquiry evaluates the perceived factors contributing to the sustained VA backlog and recommends measures to facilitate the resolution of initial disability claims and appeals. Also, NCD considers how national public policy changes may help to ensure that veterans with disabilities and injuries receive the benefits necessary to heal and to integrate successfully into civilian life.

The nation's debt remains unfulfilled as adjudication averages 262 days, the highest measure in 20 years for veterans who have submitted claims for benefits—a number that totals near 900,000 today—which includes close to 600,000 backlogged claims.⁶ In essence, more than half of these claims are pending in the VA claims backlog. Initial claims represent 25 percent of the total figure.⁷ Each claim represents a veteran, dependent, or survivor seeking support, ranging from payments for service-connected disability and death to education and insurance entitlements. For many veterans, their lives are affected adversely by delayed access to these benefits, particularly for those veterans transitioning from the military and adjusting to life with a disabling physical, mental, or sensory condition.

Thirty-seven percent of VA disability claims in the June 22, 2013, inventory of claims are for “backlogged initial claims,” according to VA’s *Monday Morning Workload Report*.⁸ In this weekly updated report, the number of claims received by VA continues to exceed the number processed. Backlogged initial claims are defined as claims a veteran, dependent, or survivor has filed for the first time and that have been waiting for 125 days or more for a VA disability rating.⁹ A fifth of these claims are considered “complex” (where veterans claim eight or more disabilities for service connection). Many of the claimants need their VA monetary and health benefits to help them transition between active service and civilian life. For these men and women, the exhausting wait for a proper disability rating and subsequent decision may have devastating consequences. Lengthy waiting periods also complicate recovery and reinforce negative views, such as the perception that VA seeks simply to “delay, deny, and hope that I die”¹⁰ to avoid the cost of fulfilling the promise to assist in the reintegration and full inclusion into civilian community living.

While extensive waiting periods affect claimants across all wars, one veteran key informant expressed his concern about the backlog’s detrimental effects on older veterans who live in small, rural areas. “Many didn’t ask for a lot, are receiving less as they age, [and are] afraid the government will simply ‘turns [sic] its back on us because we didn’t file earlier’” (see Appendix C). The fact remains that some veterans die while awaiting benefits. For those who manage to outlive the process, a retroactive check in

any amount cannot buy back the dignity, relationships, and opportunities sacrificed while waiting months and years for an initial disability rating. Veterans' personal stories reveal that these problems are compounded when they endure extensive waiting in line among hundreds of thousands¹¹ to get their VA benefits.

NCD recognizes that the VA claims backlog problem has been discussed extensively and studied in an effort to find meaningful solutions. The scope of inquiry for this paper draws upon testimony before Congress; agency, commission and inspector general reports; VA workload reports; media articles; veteran service and advocacy resources; stakeholder interviews; and VA's 21st Century Transformation Plan.¹²

NCD's analysis seeks to augment lessons learned and recommendations from other investigations. A critical focus is the impact that the VA claims backlog has on the lives of veterans with disabilities and their families, as evidenced throughout the analysis and recommendations in this paper.

SECTION 2. BACKGROUND

“I just want this to be over. It’s causing my PTSD to get worse and adding to my stress and anxiety.”

—Veteran’s Interview (Appendix C)

War and peace have tremendous costs and consequences. Recruiting civilians and training for military service; equipping infantry and supporting forces; deploying to, from, and within combat theaters—all are expenses immediately associated with going to battle. But the greatest, often hidden, cost of war proceeds from a sentiment that dates back to 1865. President Abraham Lincoln admonished America “to care for him who shall have borne the battle and for his widow and his orphans....”¹³ These words reflected the government’s obligation to acknowledge military service with earned entitlements due to service-connected issues. Lincoln’s edict endured, as Congress later established a formal system of veterans’ benefits after the United States entered World War I in 1917. The evolution of a veterans’ benefits system continued during World War II, with an increased focus on vocational rehabilitation and education programs, home loan guarantees, and unemployment insurance. These benefits represented the nation’s expression of gratitude for the deep personal cost of time served in combat.

Throughout the development of the benefits system, and into the 1980s, the Federal Government agency now known as the VA¹⁴ saw continuous growth and bureaucratic reorganization. Within VA, as the benefits structure advanced, so, too, did its “veteran-friendly” philosophical underpinnings. Supreme Court Justice Samuel Alito distinguished the VA claims adjudication process from other government disability evaluation systems by its “unique administrative scheme.”¹⁵

Uncommon in traditional law, the VA’s Veterans Benefits Administration (VBA) system is characterized by paternalism, the protection of and heightened deference for the rights of veterans. Examples of this extraordinary standard of protection range from a lower evidentiary burden to the general absence of statutes of limitations for claiming entitlements.¹⁶ Veterans who file disability claims rely on the benevolence of the system

to provide information, develop claims, and administer benefits. However, some stakeholders participating in NCD's interviews question whether this approach to providing ratings and decisions contributes to the problems many veterans face today.

Rory Riley, Staff Director and Counsel at the House Committee on Veterans' Affairs stated, "We must redefine what it means to be 'veteran friendly' in this modern context. WWII veterans played a more passive role in the claims process, depending on the paternalistic nature of VA at that time. In the 21st century, veterans have more access to information and are better equipped to play a more active role in the process."¹⁷ She concluded that facilitation of the non-adversarial, pro-claimant philosophy seems to have caused tension between opposing views on what should be the claimant's burden versus VA's obligation.

The idea of promoting the self-empowerment of service members and veterans as participants in the claims process has progressed from the abstract to the practical. The Army now mandates that all soldiers download their records prior to discharge, placing squarely on the soldier the responsibility for maintaining the quality of records crucial to determining entitlements.¹⁸ Veterans today are more knowledgeable, as information on medicine, disabilities, and VA benefits becomes more accessible; modern veterans are more likely to become active participants in the claims process. Veterans also are claiming more disabilities than before. The number is up—from an average of 8 to 16 per claim—and there is a 330 percent increase in the complexity of claims, according to Under Secretary of Veterans Benefits Allison Hickey.¹⁹ The increase in veterans' awareness also contributes to the surge in VA disability claims. The surge in disability claims shows no signs of abating in the near future.

SECTION 3. MAJOR ISSUES

The number of veterans filing initial disability compensation claims and supplemental claims for increased benefits has multiplied every year since 2000.²⁰ In 2011, VA received double the number of claims compared to a decade earlier. A recent news headline, “VA Claims Backlog Hits Record 1.1 Million,” highlights the glacial pace of the VA claims process.²¹ The numbers demonstrate the depth of the VA claims backlog crisis. Currently, every pending claim is counted in the Compensation and Pension (C&P) Rating Bundle, as reported in the VBA Monday Morning Workload Reports. Within the C&P Rating Bundle, also known as the claims inventory, are all of the claims pending longer than 125 days. This is the actual backlog. On December 29, 2012, the claims inventory totaled 900,667 claims, of which 616,551 were considered backlogged.²² Six months later, the June 2013 VA report showed 801,931 total claims pending, with 65.4 percent of those pending over 125 days.²³

Reasons for little change in the number of pending claims are multifaceted: a higher percentage of veterans seeking benefits during a weak economy; an unprecedented number of reserve component members now eligible for benefits; greater access to information about VA benefits; greater survivability; and other legal, demographic, and cultural reasons. NCD has identified three major issues as contributors to the current backlog of pending disability claims: extra-regulatory pressures, complex claims, and service-provider problems.

Extra-Regulatory Pressures

Historically, the backlog crisis has been worsened by the unintended consequences of changes in federal legislation, regulations, adjudications, or other decisions that create claims-related mandates that may not necessarily receive appropriated funding.

Examples between 2001 and 2011 that stakeholders attribute to complicating and increasing the claims process include the Veterans Claims Assistance Act of 2000 (VCAA);²⁴ certain new federal agency actions creating presumptive disabilities and

entitlements linked to Agent Orange, posttraumatic stress disorder (PTSD), and other illnesses; and court decisions.

Under the VCAA, VA is obliged to obtain missing records and any other evidence needed for a disability claims application. This requirement slows the processing times exponentially. VA documents an 83 percent increase in VA claims-processing time and inventory since 2000.²⁵ According to VA, of the 1.1 million Operation Enduring Freedom and Operation Iraq Freedom (OEF/OIF) veterans released from service between 2001 and 2009, more than 37 percent, or approximately 405,000, have filed for disability benefits. Nearly 50 percent of those claims were filed with incomplete information.²⁶

In 2001, a change in federal law added several new disabilities to the entitlements list, including Type II diabetes mellitus. A 2002 GAO report cited the addition of diabetes to the presumptive service-connected disability for Vietnam veterans:

VBA received about 56,500 diabetes claims through November 2001 and expect[ed] to receive an additional 78,000 claims during the remainder of fiscal year 2002. The influx of new claims processing staff during fiscal year 2001 also temporarily hampered the productivity of experienced staff. According to officials at some of the regional offices [which GAO] visited, experiences rating specialists had less time to spend on rating work because they were helping train and mentor new rating specialists.²⁷

In *Nehmer v. Department of Veterans Affairs*, the Ninth Circuit Court of Appeals liberalized entitlement to benefits for thousands of Vietnam veterans who had been exposed to Agent Orange and their survivors.²⁸ The decision mandated the immediate adjudication of thousands of claims by a set deadline under the threat of a class action lawsuit. The decision, for the first time in its history, required recompense to a class of claimants, many with complex disabilities and dates of entitlement that spanned more than 30 years.

To meet this requirement, VA reassigned the most experienced claims developers and rating specialists from appeals and fast-track offices to work on the complex *Nehmer* claims. An unintended consequence was the addition of many initial and resubmitted claims to the backlog. VA's strategy left existing non-*Nehmer* claims to sit idle for up to

two years. Once the *Nehmer* claims were older than 125 days, those claims also became part of the backlog, which created a domino effect on other types of claims and related appeals.

Some see the *Nehmer* mandate as a self-inflicted wound by VA. The National Service Director for Disabled American Veterans (DAV), Garry Augustine, states, “*Nehmer* claims were VA’s mistakes, and the [VA] paid the price for misinterpreting the regulation for a long time.”²⁹

A 2010 VA rule relaxed provisions for establishing entitlement to service connection for PTSD.³⁰ While the overall PTSD claims’ increase applies to veterans from all wars, veterans of the Vietnam and Gulf Wars comprise the vast majority of increases in numbers. The increase by 71,198 applications between 2011 and 2012 is the highest rate of increase recorded for PTSD claims (see Appendix B).³¹

New regulations that open presumptive service connections for veterans with Amyotrophic lateral sclerosis, or Lou Gehrig’s disease; the addition of seven new Gulf War illnesses; disability linked to contaminated water at Camp Lejeune; as well as initiatives supporting veterans experiencing unemployment and homelessness also impact VA resources. Tapping the resources once dedicated to claims processing, developing, and rating functions highlights the tension that VA faces with regard to existing capacity, increased demand, and unfunded new requirements.

For fiscal year 2010, VBA spent \$32 million in overtime pay for employees performing claims-processing functions, completing nearly 250,000 actions related to rating claims by stretching its capacity.³² This included core activities of development actions and the preparation and promulgation of rating decisions in addition to collateral assignments, such as working *Nehmer* claims. This happened again in 2011—the same year that the national backlog nearly doubled—resulting in a backlog that now sits at more than half a million claims in VA regional offices across the country.

Complex Claims Increase

A veteran with multiple physical and mental health issues filing a disability claim reports “[I am] not getting any answers from VA [nor] know which records VA has or if they even have [my] records....”

—Veteran’s Interview (Appendix C)

As the number of newly entitled claimants seeking benefits continues to rise in the wake of new laws and regulations, so, too, does the complexity of many of those claims. There are more issues per claim, and disabilities such as musculoskeletal and neurological injuries prove more difficult to rate.³³ Increases are seen in the number of service members who survive severe combat-connected physical injuries and mental illnesses. Advances in battlefield medicine and combat armor ensure the survival of more service members. Essentially, with each war, including current conflicts, medical advances change the type of injuries that wounded warriors can sustain and still survive.³⁴

During a February 2010 congressional committee hearing on VA’s fiscal year 2011 budget request, VA leaders were asked to estimate and justify a reasonable productivity goal for rating-related claims processed per employee.³⁵ VA cited a 2009 metric study by the Institute for Defense Analyses (IDA) that was contracted to assess VBA’s productivity evaluation standards. That IDA study involved an analysis of rating-related claims processed and based on employee experience levels. It also included an assessment of the adequacy of the number of personnel assigned to each regional office for each type of claim adjudication position. Despite a recommendation of goals needed for claims processors, no goals have been revised based on that study.

VBA is piloting a new grading standard at the Salt Lake City VA Regional Office to overcome the challenges of working with complex claims.³⁶ Under the pilot project, which began in 2012, claims examiners are graded on the number and accuracy of the separately rated disabilities in a claim rather than on the claim in its entirety. This issue-claim-based point system gives claims examiners credit for accurate ratings while highlighting areas where additional training is needed.³⁷ According to Hickey, VBA’s

accuracy review database, Systemic Technical Accuracy Review (STAR), has been re-coded to “measure medical issue quality—NOT just claim level quality by Regional Office” to allow employees to assess the quality at the medical issue level and receive credit for those they accurately rate. Whether this new point system will facilitate a greater flow of complex claims through the process remains to be determined. However, cautious optimism is based on the concerted effort to recognize and resolve the issue.

Service Provider Problems

A veteran, who served in Iraq and was injured in an improvised explosive device (IED) blast, has multiple claims issues, including a severe traumatic brain injury (TBI) diagnosis. Based on interactions with claims examiners, he believes that his disability claim paperwork “was simply thrown away.”

—Veteran’s Interview (Appendix C)

The third major issue contributing to the claims backlog relates to the VA’s internal vulnerabilities and problems. The VA’s Baltimore VBA Regional Office exemplifies the difficulties, which resulted in Baltimore being rated the nation’s worst performing of VA’s 56 offices, averaging 429 days for claims resolution—six times VA’s goal of 70 days, and 162 days longer than the national average.³⁸ Before the backlog problems surged again during the earlier years of the wars in Iraq and Afghanistan, Baltimore showed a manageable workload: its pending claims numbered 5,000 or fewer. In 2007, VA selected Baltimore to pilot a joint VA-DOD Integrated Disability Evaluation System (IDES), to improve the transition for service members leaving Walter Reed Army Medical Center and other military hospitals. Some critics maintain that VA officials failed to assess adequately Baltimore’s preparedness for the IDES project and according to former VA staffer and current Veterans of Foreign Wars Deputy Director Gerald Manar, problems in the regional office were longstanding.³⁹ The top VA benefits rating specialists in Baltimore were assigned to the pilot project, leaving inexperienced employees to process complex claims. The number of pending claims in Baltimore began to skyrocket, reaching 6,200 by 2008 and 7,000 in 2009.⁴⁰ In November 2009, when VA Secretary Eric K. Shinseki expanded eligibility for compensation for three major

ailments linked to Agent Orange, a flood of new or renewed claims by Vietnam veterans exposed to the toxic herbicide added to the Baltimore office woes.

On February 14, 2013, Hickey announced the end of the pilot program, returning the Baltimore office to a single-mission focus without a reduction in manpower as part of a plan to overhaul its workflow and management.⁴¹

As reflected in the 2013 VA Budget Major Appropriation Issues, the high cost of addressing internal operations is a critical consideration in providing benefits to eligible veterans, dependents, and survivors of the Global War on Terrorism, and the cost is expected to increase.⁴² Despite the hire of nearly 4,200 new employees into the VBA since 2007,⁴³ the sheer volume of incoming claims creates ongoing problems.

Observers also perceive that interconnected internal problems include VA's resistance to change and its failure to adapt to technology. "It took far too long for VA to embrace electronic processing. This may have better prepared VA for the foreseeable surge in claims," remarked Riley. "It was not a secret that we were sending large numbers of troops to battle. Somebody should have anticipated the surge when they inevitably returned and discharged. This includes adequate staffing. They should have better anticipated the need for higher numbers [of claims to be processed]."⁴⁴

Another example of internal inefficiency involves ordering duplicate or unnecessary VA medical examinations that increase the waiting periods, prove inadequate for rating, and reiterate the existing medical evidence of record. In 2009, VA's Office of Inspector General (OIG) found that the percentage of incomplete C&P exam requests remained steady over the prior few years at around 17 percent.⁴⁵ Augustine remarked, "VA exams are overused. The culture in the field promotes the idea that a VA exam must be ordered no matter what. The non-VA evidence of record isn't given the weight it deserves. This cultural mindset needs to shift."⁴⁶

To VA's credit, a January 2013 initiative called Acceptable Clinical Evidence (ACE) was launched at the St. Paul VA Regional Office to explore the medical examination concerns. VA is weighing whether eliminating the requirement for an in-person medical

examination for some veterans can shorten claims-processing times by using existing medical evidence, disability-benefits questionnaires, and telephone interviews.⁴⁷

Evaluation of the effectiveness of this initiative in reducing the backlog is forthcoming.

Staff training is another internal problem as the focus on claims-processing accuracy intensifies. Linda Halliday, VA's Assistant Inspector General for Audits and Evaluations in the OIG, testified during a June 2012 House Committee hearing. She based her testimony on findings that regional office staff did not adequately process claims. During testimony, Halliday attributed errors to inconsistent or insufficient training, VA medical examiners providing inadequate TBI medical examination reports, and rating veterans service representatives (RSVRs) not returning adequate reports to the medical examiners for correction as required.⁴⁸ Beyond the health-related inefficiencies, Halliday reported:

... the need for “enhanced policies and procedures, training, oversight, quality review, and other management controls to improve the timeliness and accuracy of disability claims processing and enhance the effectiveness of VSC [Veteran Service Center] operations.” She concluded that VBA contributed to the growing inventory and time delays by failing to assign enough staff to process appeals and—since compensation claims processing was the highest priority—not ensuring that appeals staff acted promptly.⁴⁹

The testimony supports an earlier (2010) GAO report that acknowledged VA's efforts and recommended consistency reviews to address the identified deficiencies. VA proposed two actions—developing an annual consistency review schedule and hiring additional quality-assurance staff.⁵⁰

While some stakeholders remain cautiously optimistic, critics continue to call for VA leadership to ensure VBA improvement of disability claims processing. In their annual joint report, Independent Budget for Fiscal Year 2014,⁵¹ the VSOs contributing to the document call for revised measures. The measures include increasing the quality and hours VBA devotes to annual training, changing how VBA assesses and rewards performance at every level, and using plain language in communications to veterans. Simplified notification letters or any other automated rating process can help VA continue to provide sufficient and specific communications to inform veterans and their advocates

about the reasons and bases for benefits rating decisions.⁵²

VSO representatives maintain that VA's long-term success hinges on a cultural shift from focusing on speed to a new culture built upon quality and accuracy. In DAV's 2012 Annual Report, the organization emphasized the importance of focusing on long-term institutional fixes and reducing the number of backlogged claims in the short run. "It is not enough to simply lower the backlog, after all backlogs can return," the report reads. "Moreover, it doesn't matter how quickly a claim is completed if it is not done correctly."⁵³ During testimony before Congress, the organization emphasized the importance of focusing on long-term institutional fixes and reducing the number of backlogged claims in the short run. DAV's Joseph Violante stated that "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."⁵⁴

At least one vital aspect of VA's internal inefficiencies can be linked to coordination and collaboration needs involving DOD. In April 2013, members of Congress noted that "in some cases veterans' disability claims remain delayed because it takes up to 175 days for VA to receive complete records from DOD."⁵⁵ Many disability claims must be substantiated by records maintained by DOD. These records transfer from DOD to VA upon the service member's separation from the military, a process that heavily relies on the expedience and efficiency of human-driven scanning and transferring activities. While this process was considered a viable short-term solution, VA and DOD were pressured to collaborate and devise a single electronic health-record management system that offered efficient access and exchange of records between the two agencies.

Recent efforts failed to create and implement a unified "superstructure" where VA and DOD health records could be managed without eroding the potential impact of such a solution on reducing the backlog of claims. Both departments were able to achieve limited interoperability for their respective electronic health records, but collaboration fell short in following through with the implementation of a joint Virtual Lifetime Electronic Record (VLER) for each service member as planned.

DOD's skepticism and resistance of VA's electronic health-record system are based on the complexity and assumed higher probability of failure of the VA system of choice. During a hearing before the House Committee on Veterans' Affairs, the Assistant Secretary of Defense for Health Affairs at DOD, Jonathan Woodson, expressed the department's hesitation. "As good as VistA is, it isn't one system," he argued in reference to the Electronic Health Record (EHR) system's variation as a result of its open-source nature. He concluded that DOD faces considerably more risk than does VA, which already owns the EHR, when considering VistA. DOD must compare it against other EHRs in terms of total cost of ownership, modernization, and how DOD can innovate with any EHR to keep pace with private-sector and federal standards development. Chairman Bernie Sanders (I-VT) expressed his view at a February 2013 Senate Committee on Veterans' Affairs hearing: "I am deeply disappointed by the VA and Defense Department decision to back away from a commitment to develop and implement a truly integrated, single, electronic health record."

Using social and traditional media, some veterans and family members reveal their challenges, express frustration, and offer suggestions for progressive reform:

IAVA's Tom Tarantino told CNN "Men and women come home from war today to record-high unemployment rates, to a GI Bill that is not meeting all of its needs, to record-high disability backlog rates. We have to make sure that even when we bring troops home from Afghanistan, that we still have tak[en] care of these men and women as they transition from being a warrior back to being a civilian."⁵⁶

"The real solution requires hard work and careful planning.... A key component of the VA's efforts has been involving veterans service organizations, such as Disabled American Veterans (DAV), throughout the process.... There is still much work to be done to create a system based on the cornerstones of quality, accountability, accuracy and timeliness; but DAV and other veterans organizations are committed to working with the VA so our veterans can receive the benefits they rightly deserve, when they need them. Bombs and bullets are essential to winning wars, but rhetorical bombs and magic bullets won't solve the VA's problems.... Instead of oversimplifying a complex process, we owe it to our nation's injured heroes to examine the issue with due diligence and thoughtful care."⁵⁷

SECTION 4. 21ST CENTURY TRANSFORMATION

“VA’s Veterans Benefits Administration is aggressively pursuing its Transformation Plan, a series of tightly integrated people, process, and technology initiatives designed to eliminate the claims backlog and achieve our goal of processing all claims within 125 days with 98 percent quality in 2015.”

—General Allison Hickey⁵⁸

Background

Whether new technologies and processes will “revolutionize” VBA claims processing cannot be predicted. However, the agency’s transition from paper-based processing to a comprehensive digital processing system appears inevitable and could improve results. The VA embarked upon its transformation from print-based to digital processing on October 10, 2008, after the signing of the Veterans’ Benefits Improvement Act of 2008, Public Law 110-389.⁵⁹ Section 221(a) of the law directed VA to carry out a one-year pilot program to assess the feasibility and advisability of expeditiously processing fully developed compensation and pension claims within 90 days of receipt. The development phase of the claims process, where information and evidence needed to support applications are gathered, often becomes the longest phase in the process. The fully developed claim (FDC) pilot would test whether the overall processing time could be reduced if VA received all of the available evidence when the claim is submitted and the claims decision process expedited without compromising quality. In 2009, VA implemented the FDC pilot in 10 VA regional offices before eventually expanding the program to all regional offices. There is some support within the VSO community for the use of the FDC initiative and advocacy for broader implementation.⁶⁰

Veterans Benefits Management System

Ultimately, VA’s transformation strategy for the claims process revolves around redesigned business processes and technology improvements focused on streamlining the process.⁶¹ Under this strategy, the claims-processing target time would decrease

from 180 days to 125, with the evidence-gathering and development activities compressed from approximately 140 days to 100. This ambitious time line was based on strategy to “break the back of the backlog,” as Shinseki promised in his comments after his first year at the agency.⁶² Shinseki’s strategy included 40 initiatives, linked to the centerpiece of the 21st Century Transformation Plan, the Veterans Benefits Management System (VBMS): a paperless, rules-based claims-processing work tool. The VBA developed VBMS to create electronic claims files; manage workflow; and increase production, timeliness, and quality for more than 1 million claims filed annually, added to the 4 million claims files already located in VA regional offices and millions more in archives. On February 11, 2013, VBA received approval from Secretary Shinseki to deploy VBMS to all remaining stations by June 10, 2013. Each station was to receive 21 days to complete all necessary preparation activities before going live in VBMS.⁶³ In February 2013, VA Inspector General George J. Opfer called for the development of a plan with milestones for resolving system issues that either adversely affect claims or add to the existing backlog.⁶⁴

Immediate problems hindering the transition to the new paperless claims process included disorganized electronic claims folders and improperly managed hard-copy claims.⁶⁵ During a March 13, 2013, hearing before the US Senate Committee on Veterans’ Affairs, Daniel Bertoni, Director of Education, Workforce, and Income Security Issues, criticized VBA’s failure to outline a coherent plan that adequately established benchmarks for success or failure:

[W]hen we reviewed VBA’s plan documents, we found that they fell short of established criteria for sound planning. Specifically, VBA provided us with several documents, including a PowerPoint presentation and a matrix that provided a high-level overview of over 40 initiatives, but, at the time of our review, could not provide us with a robust plan that tied together the group of initiatives, their inter-relationships, and subsequent impact on claims and appeals processing times.⁶⁶

Bertoni continued by highlighting the lack of established requirements and specific activities to obtain desired results, which would ensure accountability and mitigate risks.⁶⁷

Support Initiatives

In addition to VBMS, the development of new technology remains central to the VBA transformation strategy. This includes the continued development of the Stakeholder Enterprise Portal, an expanded eBenefits system with the Veterans On Line Application Direct Connect, and the Virtual Lifetime Electronic Record initiative. The expanded system is designed to offer more access points for veterans filing claims and greater control of the information needed to substantiate those claims. In addition to these progressive initiatives, another promising development is the Segmented Lanes process—Express, Core, and Special Operations.

This Segmented Lanes process allows VBA to identify and manage more efficiently the adjudication of certain types of claims, such as claims that require expedited handling due to financial hardship, homelessness, advanced age, or terminal illness. Each lane is staffed with a dedicated team of claims processors whose skills and expertise correlate with the nature of the casework to which they are assigned. In place across the majority of regional offices, the process harnesses expertise where it is most useful.

Congressional Oversight and Executive Branch Efforts

Lessons Learned or History Repeated?

Some stakeholders worry that VA is driving the racecar while building the racetrack with the ambitious rollout of the VBMS. This begs the question of whether VA's history of creating high expectations about the potential of new technologies is repeating itself. As one congressional staff member concluded, "VA has been bad historically about having no backup plan in situations like this. They just need to be more realistic and honest about the situation."⁶⁸

Concerns about VA's move toward a paperless, technology-based era of claims management refer to past practices in the department. During the 1980s, VA sought to clean up and verify the data contained in its Beneficiary Identification Records Locator Subsystem (BIRLS) program, a tool used to aid claims processors, through an initiative

called the BIRLS Redesign. Problems with BIRLS began when the system was implemented without adequate testing,⁶⁹ resulting in the need for tens of thousands of records to be corrected or updated by hand at the huge cost of lost productivity. VA repeated this mistake in the 1990s with Rating Board Automation 2000, intended to assist rating specialists in the completion of rating decisions. Again, VA updated the program and deployed it to the field without sufficient testing. The rating process stalled as thousands of VAs' most critical decision makers spent months identifying software bugs and struggling with "workarounds" while computer programmers fixed the problems.⁷⁰

The most prominent platform, the Control of Veterans Records System (COVERS), was VA's system for tracking the location of paper claims folders. An OIG's regional report in 2012⁷¹ underscored earlier GAO findings that, within VA, the VBA's control of veterans' claims folders, which contain personally identifiable information, was not effective. VBA managers did not track the number of lost or rebuilt folders, consistently enforce COVERS policies, or establish effective search procedures for missing claims folders.⁷² Misplaced claims folders led to unnecessary claims-processing delays, increased the likelihood of documents being lost, added burdens on veterans waiting for decisions, and resulted in less time available for regional office personnel to process claims with a high level of accuracy. These examples illustrate VA's persistent problems with managing change and implementing new technologies.

Former VA Under Secretary for Benefits Daniel Cooper's testimony before the House Subcommittee on Benefits states, "The three priority areas where we are focusing our attention are, one, reducing the size of the backlog and the time veterans must wait for decisions on their claims; two, ensuring high-quality decisions while producing large numbers of claims; and, three, establishing greater accountability and consistency in regional office operations."⁷³ Cooper's opinion was restated in issues identified by Hickey nearly 11 years later as well as in the July 2010 Senate committee hearing testimony of Senator Sherrod Brown regarding the claims process.⁷⁴

Past VA leadership's failure to describe adequately the real workload led to the ongoing underestimation of the number of staff needed to process new and pending claims. This also was a barrier to making the case before Congress on appropriate funding for staffing. A statement about VA's efforts to improve claims processing was attributed to former Under Secretary for Benefits Joe Thompson: "The Veterans Benefits Administration has undertaken a number of initiatives to bring about needed change. The reasons for the lack of success include inadequate planning, unclear goals and objectives, poor integration of interrelated efforts, a lack of coordination with other stakeholders, and insufficient implementation planning and follow-up."⁷⁵ Thompson also testified, "More than a decade after initial discussions were held between VA and DOD on the electronic exchange of service treatment records, the process remains paperbound. With the tremendous growth in claims activity, this is a problem that should not be allowed to continue."⁷⁶ Today, shortages in critical claims-processing staff add to the challenges and limit VA's ability to exploit new technologies.

Recently, the VBMS suffered a setback as the system virtually shut down in late 2012 after the digitized process was expanded to 18 out of 57 regional offices.⁷⁷ Claims examiners faced difficulties in accessing veterans' files stored on remote servers and performing relatively simple transactions. VA Office of Information Technology officials explained that "the impact of excessive read/write activity" by removing "all non-essential, non-productive activities for the shared VA environment," should fix the issue. In fact, Hickey has expressed that finding and fixing errors along the way are beneficial aspects of the "agile development" approach needed to maintain momentum as VBMS expansion continues.⁷⁸

Allegations in a March 2013 news report⁷⁹ questioned whether senior VA officials understated the extent of the claims backlog while overstating progress in resolving it. The report stated that initial claims processing takes longer by almost two months than VA publicly had acknowledged. The nationwide wait times ranged between 316 and 327 days, and veterans waiting more than a year rose by more than 2,000 percent. Allegedly, this was the situation despite VA hiring more than 3,000 additional claims processors since 2010 to cope with the influx of returning Iraq and Afghanistan veterans. The hiring

data is seen as misleading and not revealing such factors as high turnover and temporary positions that meant an actual net increase of fewer than 300 people added to review claims since September 2010.⁸⁰

Current State of the Backlog

During 2012, H.R. 5881, the Access to Veterans Benefits Improvement Act, proposed to provide certain congressional staff and agencies with access to VA case-tracking information.⁸¹ H.R. 4481, the Veterans Affairs Employee Accountability Act, proposes to direct the Secretary of Veterans Affairs to ensure that no employee of VA, who knowingly violates any civil law, receives any retention incentive, payment, or award for or during the year of such violation.⁸² These and similar proposed legislation signal the intent of Congress to assume closer oversight of VA to address the backlog and other veterans issues. However, summary and status information on the proposed bills to expedite the disability claims backlog process discloses “no major actions” since 2012.⁸³

Although Congress passed neither of the bills (H.R. 5581, H.R.4481), another measure for a pilot project, the Honoring America’s Veterans and Caring for Camp Lejeune Families Act, was signed by President Barack Obama in August 2012. The legislation called for a four-year pilot program at five VA regional offices to test the skills and proficiency of employees and managers who process claims and pension benefits, in order to determine where improvements can be made, including new training to speed the process. In addition to the pilot program, the law provides several measures to address veterans’ benefits and services.⁸⁴ This legislation empowers the Board of Veterans’ Appeals to streamline its reviews of new evidence, and it requires VA to provide veterans the option of receiving claims-related communications via email or other electronic means.⁸⁵

State efforts to improve the flow of benefits and services to veterans join congressional actions to more closely influence VA’s efforts to reduce the backlog. In 2009, Texas created a Claims Processing Assistance Team that helped reduce pending claims at the regional offices in Waco and Houston by 17,000 in less than two months.⁸⁶ The state

again took action in late July 2012, when the Texas State Legislature created a State Strike Force Team, led by the Texas Veterans Commission. With more than 68,000 claims pending over 125 days, Texas officials reactivated the state team on September 3, 2012.⁸⁷ The State Strike Force Team was established to help veterans and their families receive disability compensation and pension payments faster than the traditional VA process offered. Congressional attention focusing on the State Strike Force Team as a potential model for other states may inspire the creation of a similar Federal Strike Force Team.⁸⁸ In November 2012, Senator John Cornyn (R-TX), a member of the Senate Armed Services Committee, filed an amendment to the Defense Authorization bill that could elevate the Texas model to a national program.⁸⁹

As Congress moves toward greater involvement, VA initiatives aim to improve the claims process. VA officials announced plans for changes through a new processing model. Hickey recently predicted that the changes, new training programs, and completion of a massive claims project related to Agent Orange illnesses will put the VA on track to eliminate the claims backlog.⁹⁰ By the end of 2015, changes that increase both the speed and accuracy of claims specialists are expected to boost the department's output by up to 200,000 cases when it is fully implemented.⁹¹ However, some doubts and concerns remain. Representative Jeff Miller (R-FL), Chairman of the House Committee on Veterans' Affairs, responded to Hickey's vow with skepticism: "Until we see results and not just ink on paper, this is just another announcement."⁹² This sentiment represents a commonly held view among veterans with disabilities and families whose everyday lives are impacted by a seemingly interminable wait to receive benefits.

Interagency Collaboration

The current Administration encourages federal agency collaboration to boost common solutions. In December 2012, VA announced the elimination of annual Eligibility Verification Reports (EVRs) for VA pension recipients. A new automated cross-agency referencing process will conjoin VA efforts with the Internal Revenue Service (IRS) and Social Security Administration (SSA) to verify continued pension benefits eligibility for more than 150,000 beneficiaries.⁹³ By eliminating the annual reports, VA can redirect

more than 100 employees who usually process EVRs to carry out critical functions related to eliminating the claims backlog.

Existing interagency efforts have received mixed reviews. Supporters indicate that IDES shows promise⁹⁴ for expediting the delivery of DOD and VA benefits to injured service members.⁹⁵ IDES supporters also consider 2012 data on performance an improvement over the legacy process the IDES replaced.⁹⁶ However, a GAO report also released in 2012 called for VA to enhance its monitoring of performance.⁹⁷ GAO found in August 2011 that case-processing times under IDES increased over time, and the measures of service member satisfaction had shortcomings. The yearly increase in processing time for active and reserve component members' IDES cases changed from 394 days in 2010 to 420 days in 2011—well beyond established goals of 295 and 305 days, respectively.⁹⁸ In May of 2011, GAO's preliminary observations showed just 19 percent of active-duty service members and 18 percent of reserve component members completed the IDES process and received benefits within established goals, down from 32 and 37 percent, respectively,⁹⁹ one year earlier (in 2010).¹⁰⁰ The medical evaluation board phase of the process fell short of the goals for timeliness and, within that phase, the time required for the military's determination of fitness.¹⁰¹

Further cross-agency efforts relate to support for returning reserve component members who face transition delays because of status and jurisdictional barriers. According to a 2008 Department of Defense report, total reserve component personnel ever deployed to Iraq and Afghanistan reached 254,894 at the end of 2007.¹⁰² Following active-duty service and prior to discharge, reserve component members return to their assigning home state. Thus, each state becomes responsible for determining fitness for duty and maintaining custody of the service members' military and health records. While the National Guard Bureau (NGB) functions as the unifying entity for all locations that have reserve component units, the NGB's influence is advisory in nature. This leaves great variability in how these units manage their personnel and records. It also creates circumstances where reserve component members are held in lengthy medical-hold status. During this time, medical records that are inevitably needed to substantiate

disability claims can be lost or delayed by staff shortages, unclear procedures, or low prioritization.¹⁰³

When filing a claim, reserve component members separating from service are at the mercy of whether VA and DOD will collaborate, since the agencies do not share a common database for accessing medical evidence. Formal requests for evidence from DOD may take considerable time, and in some instances go unanswered. VA claims examiners have limited access to the Interactive Permanent Electronic Records Management System (iPERMS) used by the Guard, Reserve, and active components, or to the databases at the National Archives and Records Administration (NARA). NARA manages the official military personnel files of certain veterans and for limited periods of service. However, NARA does not have direct access to the military treatment records database systems maintained by each state's surgeon general. Often, Guard and Reserve health records are aggregated from a variety of sources (e.g., DOD, VA, private hospitals, field medical units, private sector emergency rooms, etc.).

Provisions were established to have the records of reserve component members transitioning from active to inactive, or "M-day" status, automatically forwarded to VA. According to Marian Barry, Chief of the iPERMS Section, NGB, an April 2009 memorandum of agreement provides VA staff with access to iPERMS through the Defense Personnel Records Information Retrieval System (DPRIS) effective since June 2010.¹⁰⁴ Soldiers can access iPERMS through VA's eBenefits portal as long as they have the necessary clearance. However, service members must hand-carry their records to unit record custodians for transfer onto microfiche, which are maintained until the member discharges from service. Records that get lost must be reconstructed through other evidence (buddy statements, receipts, unit logs, etc.). This severely diminishes the likelihood of meeting the necessary evidentiary burden for substantiating a VA disability claim.

In many cases, veterans grant power of attorney (POA) to "accredited representatives" who gather evidence and develop claims on their behalf. Under 38 C.F.R. §§ 1.600-1.603, accredited service organization representatives may obtain read-only remote

access to the electronic VBA claims records of the claimants they represent. Compensation and Pension Record Interchange (CAPRI) is a Department of VA application that provides read-only access to Electronic Health Record data found in the Computerized Patient Record System (CPRS) used by clinicians and administrators at more than 1,300 sites of care and information related to a veteran's C&P examination(s) at a VA facility. Accredited VSOs submit a valid POA to the Veterans Health Administration in order access a veteran's record in CAPRI. Once a POA is submitted and processed, the veteran's records will appear automatically inside CAPRI to those who have been authorized to view the information.

However, this privileged access is limited to VA records, which presents barriers to processing claims, particularly for those records under DOD's stewardship. DPRIS is a secure electronic gateway that provides authorized government users access to veterans' official military personnel file information from each of the service-specific personnel imaging systems. DPRIS also enables individual service members and veterans access to their own personnel information. DPRIS users include: DOD, VA, Federal Aviation Administration, NARA, National Personnel Records Center, Department of Homeland Security, Customs and Border Patrol, National Reconnaissance Office, Office of Personnel Management, Defense Criminal Investigation Service, and Defense Finance and Accounting Service. However, accredited representatives for veterans seeking disability benefits are not given access to DPRIS, thus requiring lengthy request processes and wait times for service records needed to substantiate claims.

Measures have not been fully implemented that were approved to begin closing the gaps between agencies and to foster better collaboration. In January 2011, the VA-DOD Benefits Executive Committee approved a recommendation from the Medical Records Working Group to develop and deploy a scanning solution known as the Health Artifacts and Image Management Solution (HAIMS). A secure, web-based technology solution, the HAIMS was intended to be an interim measure while DOD and VA jointly developed a single electronic health records system to replace the paper exchange of information. The HAIMS was in testing and on track for accelerated deployment by September 2013.¹⁰⁵ However, the plan appears to have reversed course, with VA and DOD deciding

instead to maintain separate systems while focusing on interoperability. During a Senate Committee on Veterans' Affairs hearing in February 2013, Chairman Bernie Sanders (I-VT) said: "I am deeply disappointed by the VA and Defense Department decision to back away from a commitment to develop and implement a truly integrated, single, electronic health record. President Obama charged the Departments with creating a seamless system of integration so that service members transitioning from active duty to civilian life don't have to worry about whether their health records will be lost or their claims delayed."¹⁰⁶

Valerie Melvin, Director of Information Management and Technology Resources Issues, GAO, attributes the breakdown in progress to poor management and accountability: "As a factor contributing to these weaknesses, the departments' interagency program office which was to be the single point of accountability for electronic health data sharing has not been positioned to fulfill its key management responsibilities."¹⁰⁷ The decision against integrating systems, if sustained, could represent continuing institutional difficulties that signal a lack of cooperation among federal agencies. Collaborative efforts among VA, DOD, SSA, NGB, and IRS are essential to improving the VA claims process.

The day-to-day reality reveals a growing number of service members and veterans who wait in limbo. Meanwhile, VA claims examiners pursue records from multiple sources, schedule VA medical examinations, and work through the complex issues that many of these claims present.

Impact on the Lives of Veterans with Disabilities

A veteran who is aging with a service-connected disability believes a decision would "take a lot of worry" out of his situation.

—Veteran's Interview (Appendix C)

With more than 1.1 million troops deployed to Iraq and Afghanistan, the rates of physical and psychological injury will create a new wave of claims. Nearly a million claims now sit in the inventory. A great number of them will take years to resolve. The period of

financial instability that often follows discharge from the military remains a time when veterans are at risk for homelessness or other serious or life threatening situations and challenges. A veteran with a catastrophic injury or disease is likely to be further encumbered with aspects of trauma associated with combat. Add to this the lingering effects of prolonged exposure to hostile enemy action, persistent feelings of imminent harm, survivor's guilt, military-civilian transition obstacles, polytrauma associated with the uniquely devastating effects of combat injury, and the increasing statistics of suicides attempted and carried out.¹⁰⁸

In March 2013, the Iraq and Afghanistan Veterans Association called for focus on veterans' experiences as they relate to the VA claims backlog. The organization encouraged service members to "share your backlog stories" on a dedicated website (<http://iava.org/sth2013>). The multiple medical conditions averaging 8.5 claimed by veterans who served in Iraq and Afghanistan reflect the increased complexity and time for administration. This figure contrasts with claims by veterans of earlier war eras. World War II veterans average 1 to 2 medical conditions; Vietnam veterans have 3 to 4; and Gulf War veterans report 9 to 11, increasing recently up to 15, even 20 or more for wounded, ill, and injured veterans.¹⁰⁹

Through personal stories, veterans describe circumstances across different generations and warfronts, but with a central theme: The VA claims backlog has detrimental effects on the lives of many who have served the country and anticipate receiving VA benefits to help them overcome service-related life challenges.

SECTION 5. NCD RESEARCH METHODOLOGY AND RESULTS

Meaningful involvement of stakeholders, including veterans with disabilities in the process used to identify issues, concerns, and trends in the way that complex claims are managed, may help VA correct specific process vulnerabilities and provide more timely initial claims decisions. A four-phase exploratory process was utilized to: assess experiences of veterans with disabilities who endure delayed access to their earned entitlements; explore the factors that appear to contribute to the VA claims backlog; and examine whether these reasons can be generalized to the larger veteran population.

The phased inquiry was conducted using a stepped aggregate analysis:

Phase 1: Qualitative data was collected and analyzed.

Phase 2: Qualitative data was used to develop thematic codes.

Phase 3: A cohort design was developed using existing veterans' database to examine similarity in apparent backlog factors.

Phase 4: Findings that were interpreted as sources and strategies for data collection and evaluation include: (a) conducting a literature review to examine congressional testimony transcripts, official reports, media articles, commentaries, websites and blogs, and other materials related to the claims backlog and its consequences; (b) examining a primary-source electronic VSO database; and (c) conferring with key informants who also identified specific reports and related documents.

Key Informants¹¹⁰

Information from semi-structured key informant telephone or in-person interviews present views of 12 subject-matter experts (see Appendix A) concerned with aspects of the claims process. These sources include leaders within VA, veteran advocates, government staff members, and service providers. In addition to the key informant

interviews with subject-matter experts, informal interviews present the perspectives from 10 veterans living with injuries or disabilities that have initial claims pending. The participants are among the people with information in the VSO database that this NCD investigation utilized. Table 1 provides a profile of the sample veteran population according to demographics of type of military service and combat era—including conflicts dating back to the Korean War, gender, and disability.

Table 1. Demographics of Study

Descriptor	Type	Number
Military Service	Reserve Component	5
	OEF/OIF	6
	Peacetime	1
	Vietnam	2
	Korea	1
Gender	Men	6
	Women	4
Disability Category	IED Blast/Polytrauma	2
	Neurodegenerative	2
	Other	6

Veteran participant identities are coded to ensure anonymity. Collectively, their stories exemplify the experiences of veterans with disabilities whose lives are compromised as they await a VA disability rating (see Appendix C).

NCD summarized the potential effectiveness of VA’s 21st Century Transformation Plan on the lives of veterans with disabilities and their families, and conducted a review of each initiative and its impact. A final task identified state and federal agencies, departments, and offices whose missions relate to the VA claims process and the backlog of initial claims. Among those entities, NCD examined the extent to which issues related to veterans with disabilities seeking benefits—including post-discharge support, barriers to economic self-sufficiency, and quality of family life—had been identified and addressed.

Data Collection and Analysis

The general process consisted of gathering new information and comparing that with existing data. The sources of information were: (1) the key informant qualitative data; (2) an existing VSO database used for quantitative data; and (3) data collected during interviews of veterans with disabilities.

Qualitative Data

Qualitative data was derived through interviews with key informants (See Appendix A for subject-matter experts and Appendix C for veterans with disabilities). Primary inclusion criteria for stakeholders considered individuals who have expert knowledge about and experience with the VA claims process, its history, its vulnerabilities, and current efforts to resolve the backlog. Selection also considered interviewees whose collective breadths of insight were likely to represent public policy perspectives (e.g., representatives of Congress and the US Senate, VA, a major VSO, DOD, and NGB). Additional considerations were given to open-ended guiding questions developed from a review of the literature on the VA claims backlog.

Interview Themes

VA's claims-tracking system reveals several factors that contribute to delays in resolving complex initial claims. To quantify the qualitative data, the researcher used stakeholder interview information to develop themes. Each theme provided a qualitative category whose frequency of occurrence in the veteran interview population would formulate the criteria used to select quantitative data (identified from the VSO database). Thematic grouping allowed focus and identification of factors and consequences of the backlog. Codes were then developed to represent the identified themes and applied to the qualitative data. The thematic groupings of perceptions from the stakeholder interviews consist of seven major reasons for claim delays:

1. Evidence lost or misplaced by VA
2. Submission of additional evidence

3. Transfer of the claims file
4. VA's need to wait for information from DOD
5. Examinations requested by VA
6. No action taken
7. Other reasons

The analysis of the information included identifying the frequency of code occurrence and exploring complexities of meaning within the quantitative data set. The reliability of the analysis can be affected by the subjective definitions used to develop the thematic codes. This and the exploratory nature using open-ended inquiry, rather than an interview survey format, must be considered before implying broad generalization without further research.

Quantitative Data

Quantitative data was selected through the random sampling of specific types of pending initial, multi-issue claims contained in an existing PVA case management database. Selection was based on the date that the claim was filed and whether VA's Modern Award Processing-Development (MAP-D) system contained enough accurate information on the status of the claim for consideration at key points in the process. The timeliness and accuracy factored into providing conclusive information that NCD could compare to the selectivity criteria (the seven coded reasons for claim delays) developed through the qualitative findings. The objective was to review information from veterans currently awaiting a decision on their VA disability claims and to determine whether there appeared to be convergence between what other stakeholders believe about the impact of the VA claims backlog and the perceptions of veterans who live with its consequences. The cohort-design dataset was drawn from a non-VA Case Management System (CMS) containing nearly 35,000 veterans, dependents, and survivors.¹¹¹ These parameters were established for extrapolating the sample population from the CMS:

- Requisite privileged access to review the claim's history.
- Claim was submitted for new service connection.

- Claim is currently unresolved and has been for more than 125 days.
- Claim was submitted between January 1, 2011 and December 31, 2011.¹¹²

Data Analysis

Using these criteria, 2,194 disability claims were identified that were filed for service connection. Of that number, 38 veterans had submitted claims in 2011 with eight or more disabilities (443 issues) that are still pending. The average number of issues per claim was 11, and claims with 8 issues were the most frequently submitted. The highest number of issues on any one claim was 28. The distribution of wartime eras—Gulf War 18 percent, Vietnam War 16 percent, peacetime 11 percent, unknown 5 percent, and issues linked to the Global War on Terrorism zero percent—was determined to be acceptable as a representation of the distribution in the general veteran population.

To determine the suitability of the seven themes perceived as contributing to the backlog of complex initial claims, the codes were applied to the database. The status of each claim was reviewed in COVERS and MAP-D, and recorded. The outliers identified in the second phase of the study (e.g., VA claims with 20 or more issues) were helpful as they highlight the most serious vulnerabilities in the VA claims process; however, their characteristics were not generalized to the sample population given their relative infrequency. Based on this examination, determination was made about the extent to which the seven coded delay factors impacted the database sample population.

Discussion and Conclusions

A claimant alleges that VA letters are intimidating and may include unreasonable requests.... “If **you** don’t get the [requested] info your claim will be denied.” After receiving a 3-day advance notice to come for an exam in California, a veteran who lives in Phoenix, Arizona, believes failure to show would result in VA dropping the claim.

—Veteran’s Interview (Appendix C)

Information obtained through interviews with the veteran key informants confirmed the relevant contributing factors to the delays in processing claims. Reasons for delays focused on common themes. In descending order of frequency, the reasons for delay were attributed to these seven common themes:

1. Examinations requested by VA – Will a more efficient VA examination process, whether that entails scheduling fewer examinations or decreasing the wait time, have a significant impact on claim development and adjudication time?
2. Submission of additional evidence – Stakeholders may underestimate the effect that submitting additional evidence has on the claim. It triggers inescapable requirements (per VCAA) on VA's part to reconcile any new information that could be consequential to the claim's outcome. In at least 30 percent of the veteran interviews, VA medical examinations played a role in the delay. In one instance, no medical exam had been conducted despite the claim being filed nearly three years earlier, in 2010.
3. Awaiting information transfer from DOD to VA – Anecdotally, service members shared during individual interviews a sense that their records were not being well managed—mostly based on lack of communication from VA or their units.
4. No action taken – This seems to reinforce notions of VA organizational culture, lacking resources, and stretched capacity. In one veteran's case, her claim idled for three months simply because VA repeatedly switched claims-processing teams and reassigned her claim to different examiners. Examination of this factor may offer the most immediately applicable remedy.
5. Lost or misplaced evidence – Cases where the delay was attributed to claims evidence lost or misfiled occurred in less than 10 percent of those reviewed for this study, although the perception among the interviewed veterans suggests a higher incidence.
6. Other – Claims that fell in the “other” category reserved for causes beyond VA's control, some caused by the veterans themselves, accounted for nearly 15 percent of the delays.
7. Transfer of claims files – This was the least common factor.

Based on the review of key informant interviews with veterans awaiting decisions, and analysis of the data, NCD's findings suggest validation of common perceptions about VA delays in adjudicating claims—including perceptions among key informants and a veteran's group. In identifying and highlighting the factors that are identified as contributors to the delays, and analyzing veteran perceptions, recommendations can be made to begin decreasing the 60 percent of the nearly 1 million backlogged claims.

Considerations for initial steps toward ending the long-standing negative experience of veterans with disabilities in the delayed claims process might include highlighting the historical and current factors contributing to the delays, and raising public awareness about the personal costs to the veterans. Critical actions may call for investing in new solutions, focusing on and measuring outcomes, and sharing information with veterans and their families, using uncomplicated descriptive statistics and plain language. Their lives remain uncertain or compromised while they wait for determinations about benefit entitlements. As President Obama declared in his State of the Union message...

“We will keep faith with our veterans ... and giv[e] our veterans the benefits ... they have earned.”¹¹³

Doing so requires expedited actions. We can begin by agreeing on the factors contributing to the backlog and determining ways to prevent their reoccurrence. Finally, focus on providing all veterans with disabilities and their families the dignity and quality of life they deserve, and to which we, as a nation, committed.

On June 4, 2013, a White House spokesperson stated that “President Barack Obama is ‘deadly serious’ about wiping out the massive backlog in veterans’ disability benefits claims by 2015.”¹¹⁴

SECTION 6. SUMMARY FINDINGS AND RECOMMENDATIONS

Several causes of the VA claims backlog are broad and well documented, but the documentation often ignores the impact of process and procedure internal to VA on the timely adjudication of complex claims. The initial complex claims represent veterans who often present the most severe, cumulatively impacting, or life-altering disabilities. Evidence confirms that veterans with disabilities face sizable and systemic barriers to receiving benefits. Veterans encounter barriers particularly as they transition from military to civilian life.

Examination of the VA claims backlog and the experiences of veterans with disabilities supports the need for recommendations to decrease backlogs and increase collaborative and innovative efforts to simplify and render the claims process more efficient, effective, and timely. A review of recent VA efforts to modernize the claims process and/or to collaborate with external stakeholders on these efforts demonstrates the potential to provide veterans with timely, accurate VA ratings that open access to other benefits. An analysis of state and federal action also reveals that the claims process can be improved. Suggested improvements and reforms create expectations and optimism that the nation can fulfill its promise to veterans with disabilities and their families by timely provision of benefits and entitlements they have earned.

As a major and overarching recommendation, NCD encourages collaboration among VA, DOD, other federal entities and VSOs to finalize and implement a streamlined, integrated, and centrally accessible electronic claims application and health records system. The system should be phased into operation for interagency use after comprehensive testing to modernize, streamline, and ensure that technological tools are utilized to address the existing backlog. To accomplish this goal, VA and affiliated agencies, with congressional support and oversight, must address identified problems in order to provide a superstructure of online, shared information and applications that will allow ease and efficiency in processing claims.

FINDING 1:

While the disability claims backlog remains within the VA's domain of direct responsibility, resolving it requires a boost in coordination and collaboration among a number of federal agencies and non-governmental entities. VA and DOD share the responsibility of health care provision and record management, albeit at opposite ends of the military service spectrum. Limited accessibility and incompatible systems delay the exchange of records and information flow. As the foundation of VA collaboration with DOD to build a seamless health records system for service members and veterans, VA selected VistA, providing a core EHR System and an open, modular architecture supporting the integration of best-of-breed applications.

Recommendation 1

- **DOD should adopt a data storage standard compatible with VA's Veterans Health Information Systems and Technology Architecture (VistA) in order to ease the transfer (and shared use) of medical record information.** DOD should be directed by the President or Congress to adopt the system as a first step toward record sharing.

FINDING 2:

Veterans who seek help with filing claims often use accredited representatives at VSOs to help them navigate the application process. With permission of individual veterans, the representatives bear authority under Title 38 to access health records and other evidence on behalf of the veteran. Yet, pursuant to filing claims, the representatives are denied timely access to DOD records that are needed to substantiate disability claims.

Recommendation 2

- **Congress should ensure that access to DOD's Defense Personnel Records Information Retrieval System (DPRIS) is accessible to the Title 38 accredited representatives who develop and submit claims on behalf of veterans (with appropriate privacy protections and veteran authorizations).** In order to make fully developed claims the standard path to

claims submission and timely adjudication, it is necessary to expand Title 38 authority to include access to records under DOD's control and, similar to Compensation and Pension Record Interchange (CAPRI), grant accredited representatives controlled access to DPRIS.

FINDING 3:

The due process notices that VA sends to veterans under VCAA contribute to the backlog. Without plain language communication in the notices, veterans are not provided the necessary and consistent guidance to inform and assist interpretation of the federal requirements. VA's letters often create confusion rather than inform veterans with disabilities who seek benefit determinations.

Recommendation 3

- **Congress should revise VCAA for clarification on due process provisions, veterans' rights to self-determination including control of claims, and the scope of VA's obligation to develop timely and accurate benefit determinations. This revision should include language that outlines responsibilities for other federal agencies, including DOD and NGB, in support of VA claims development. VCAA letters to veterans and their families should be brief and clear, ensuring, if computer generated forms are used, standards for specificity are implemented to avoid confusion and delay.**

FINDING 4:

Unfunded federal mandates erode VA's capacity and exacerbate the current claims backlog. When a surge in service-connected disability claims can be anticipated because of federal mandates, there also should be an estimated increase in government operating expense. How will the cost be factored into the budget? What is the expected degradation in the current level of service that is being provided? The end of major combat operations and changes in federal legislation or regulation may trigger the need for funding actions.

Recommendation 4

- **Federal agencies involved in the claims process should ensure that staffing levels are increased proportionately to manage higher demand and that mandates by Congress include an estimated increase in government operating expense.**

FINDING 5:

Unnecessary VA medical exams add substantial delays and factor into the VA claims backlog problem. In accordance with Title 38, Code of Federal Regulations, Section 1.359(c)(4), VA will provide an examination when the claimant's record does not contain "sufficient competent medical information to decide the claim." However, too many examinations are unnecessarily ordered due to intensified quality review standards, and create excessive wait time in the claims development process. Follow-up examinations often are unnecessary and redundant because basic information is addressed in the initial examination. Even when examinations are warranted, too many are inadequate, resulting in (sometimes multiple) remands, greatly adding to the delay.

Recommendation 5

- **VA should adopt the Acceptable Clinical Evidence (ACE) process for nationwide implementation.** In order to improve the quality of exams, VA should ensure examining clinicians possess the requisite expertise to make proper assessments. When medical examinations are performed by the claimant's VA primary care provider or a non-VA physician whose credentials can be independently verified, claims examiners should be required to apply 38 CFR §1.359(c)(4). Through VBA, VA also should enforce the regulation that calls for ordering a VA examination only when the evidence of record or VA's Compensation and Pension Records Interchange does not verify the existence or current level of disability.

FINDING 6:

Current practice directs VA to obtain records in the custody of a federal department or agency and to submit as many requests as necessary to obtain relevant records for disability benefits claimants. Yet the slow pace of claims development is dictated by a lack of responsiveness on the part of external agencies that are responsible for storing health records or other military documents. Currently, it can take from several months to a year or longer to obtain some of these records. Often, several requests for the same information are made to the agencies without response. In some cases, after multiple requests and delays, VA is informed that the records are not available.

Recommendation 6

- **Congress should ensure that federal agencies develop policies that make responding to VA requests for records a high priority and define a timetable for response that is monitored and enforced.** The requirement should begin with DOD, NGB, and SSA, and include any other agencies that have records needed as evidence for disability claims applications.

FINDING 7:

The Veterans Benefits Management System (VBMS) is anticipated to be vital technology for resolving the backlog in the near future. History demonstrates that the success of new technologies depends partially on continued development and adequate funding. The projected cost of VBMS development, sustainment, and deployment to all regional offices will be significant, including costs associated with future proofs of concept, operations, maintenance, and licenses to support VBA operations. The costs associated with VBMS reflect the complexity of the system development effort and scope of capabilities required to transform current paper-intensive processes to an electronic operating environment.

Recommendation 7

- **Congress should provide adequate funding to finalize, implement, and maintain VBMS and supportive technologies.**

APPENDIX A. STAKEHOLDER INTERVIEWS LIST

- Allison A. Hickey, Under Secretary for Benefits, Department of Veterans Affairs
- Tom Murphy, Director of Compensation and Pension Services, VBA
- Rob Reynolds, Director, Benefits Assistance Services, VBA
- Julie Carie, VSO Liaison, Benefits Assistance Services, VBA
- Garry J. Augustine, National Service Director, Disabled American Veterans
- Rory Riley, Staff Director and Counsel, House Committee on Veterans' Affairs
- Brig. Gen. Carol Ann Fausone (ret), USAF, veteran advocate
- James G. Neighbors, SES, Executive Director, DOD/VA Collaboration Office, Office of the Deputy Under Secretary of Defense
- Dr. Rachel Mapes, Special Assistant for Policy, Planning and Evaluation, Office of the Deputy Under Secretary of Defense
- MSG Calvin T. Keller, National Guard Bureau, Headquarters
- MSG Josephine Keller, National Guard Bureau, Headquarters
- Marion Barry, Chief iPERMS Section, National Guard Bureau

APPENDIX B. IMPACT OF 2010 PTSD RULE CHANGE

PTSD—2010 RULE CHANGE

Year	Era of Service (Number of Veterans)					TOTAL
	WWII	Korea	Vietnam	Peacetime/ Other	Gulf War	
2001	18,093	6,523	106,779	6,046	7,479	144,920
2002	21,295	8,020	126,542	7,123	9,262	172,242
2003	23,180	8,993	142,824	7,856	10,938	193,791
2004	24,587	10,016	161,000	8,733	13,519	217,855
2005	25,278	10,944	179,713	9,555	19,356	244,846
2006	24,926	11,382	193,112	10,162	27,465	267,047
2007	26,401	12,704	223,764	11,320	46,768	320,957
2008	24,145	12,381	229,682	11,792	66,758	344,758
2009	22,500	12,360	247,486	12,875	91,661	374,007
2010	20,898	12,516	268,865	14,577	120,454	437,310
2011	19,062	12,781	298,729	16,387	153,879	500,838
2012	17,295	12,790	326,110	19,081	196,760	572,036

Data provided by Performance Analysis and Integrity—Updated: 01/14/2013.

APPENDIX C. VETERAN INTERVIEW NOTES

Identifier: C5867 - Reserve Component, Staff Sergeant

- Served in Iraq, injured by IED blast in 2003 and suffered severe TBI
- Filed a VA disability claim at the Atlanta VARO in June 2011
- While receiving treatment through a private care facility (Shephard), used ex-wife's medical insurance to cover surgeries after initial separation
- Was reactivated in 2009 in order to undergo MEB process
- Transition issues: Reserve pay and incapacitation pay delayed (still awaiting pay for 2012); believes paperwork that was submitted was simply thrown away
- Filed 3 congressional complaints to no avail
- Impact of having a long wait includes having to sell off furniture, endure effects of a poor economy, having half a chicken per day, divorce, no income because of delays in pay attributed to his reserve unit
- Assisted by a Recovery Care Coordinator, found relief through the SHARE initiative program that he heard about through Tricare Reserve
- Experienced PEB delay for 3 years, finally completed December 2012

Identifier: G8459 - US Army Reserve Component, Sergeant

- Served in Afghanistan from April 2009 to April 2010, injured by IED blast in August 2009, diagnosed with TBI, treated at private care facility (Shephard), and required two surgeries
- Was still on medical hold, but filed original disability claim in Atlanta two and a half years before this interview
- Transition issues: Family concerns since remarried after injury, has five kids and lives on military pay and spouse's income; suffers cognitive deficiencies; fighting legal battle over child support; and is looking for work related to his military experience. A concern is that his Tricare entitlement will be cut while waiting for VA claim to be processed. This would leave him without health insurance.

- Impact of having to wait includes dealing with everyday issues related to caring for his family of seven; believes “life just isn’t what it used to be before;” unable to return to same job at cable company for which he worked before deployment. Stated that “Military doesn’t pay as well as a cable maintenance tech” and expressed fear that “Uncle Sam is gonna screw me over.”

Identifier: R2611 - Vietnam-era veteran in US Navy

- During time in the Navy, service was on a submarine; left military service in 1974
- Filed original claim after leaving military service
- Worked 23 years in the medical industry as a therapist. Slow deterioration of hearing led to retirement
- Submitted claim for VA disability for hearing loss, tinnitus, and IU in Oklahoma 2 years before interview, but claim was still pending
- Transition issues: A concern is that veterans who live in small rural area, many didn’t ask for a lot, are receiving less as they age, afraid government will simply “turn its back on us because we didn’t file earlier.”
- Impact of having a long wait: Lost \$55,000 a year in having to take early retirement, had no choice but to retire, tried to go back to work, needs income to maintain modest standard of living for him and his wife
- Veteran was unaware of programs like VRAP

Identifier: M5896 - Korean War-era veteran

- Served from 1952 to 1954
- Was suffering from ALS at time of the interview
- Filed a claim for presumptive service connection in Indianapolis in 2011, which still was pending
- Reportedly receiving excellent medical care for his condition

- Believes he might be assigned to wrong Priority Group (7), while eligible for Priority Group 4 based on catastrophic disability thus no co-pays (He needs evaluation). VA decision could give him even higher priority.
- Transition issues: Believes a decision would “take a lot of worry” out of his situation

(Note: VSO interviewer checked SHARE, MAP-D, and COVERS, discovered that the claims folder was sitting in the file bank, contacted the coach of the team that rates ALS cases, and requested expedited handling)

Identifier: L6214 - Army Reservist

- Served since 2000 - active from 2000 to 2004, deployed to Iraq from 2004 to 2005, mobilized from 2006 to 2008
- Filed VA disability claim for multiple sclerosis in Indianapolis in July 2011. Currently the veteran is in Troop Program Unit status.
- Transition issues: Requested PEB but believes unit is avoiding the process. Currently within 5-year eligibility period for VA health care entitlement based on OIF service but concerned her claim won't be decided before the eligibility period ends, leaving her to pay for her medications. She submitted her service medical records to VA after filing claim. VA reportedly lost her records and failed to update her change of address. Army boxed up all documents and sent them to a contractor, and denied her access because it was considered government property; she was instructed to go through her unit to obtain records, but veteran doesn't have the required level of access and had to send an e-mail.
- Impact of having to wait: She is the sole income earner in her family in a high cost of living area. Usual bills (gas, car payment, rent, etc.). Believes her professional career is jeopardized by her condition and fears future inability to pay for medications. Doesn't know how she'll maintain her standard of living.
- Wants government to recognize that “we're still at war” and service members get “trapped in the system” between not getting an LOD and not getting discharged. She wants to just carry on with life, but it takes over a year “just to get my

records.” A review of her claim in MAP-D revealed that her case has been brokered to Cleveland and VA requested service records from her reserve unit. The delay is apparently attributed to the Reserve Unit at this point.

Identifier: Y6526 - US Army Service Member

- Served from 2000 to 2005. Suffered TBI and PTSD in Iraq after a suicide bombing in October 2003; endured losing her commander and having several comrades killed in firefight, December 2003 in Karbala.
- Submitted VA claim for Gulf War illness in January 2011 after law changed. Filed claim in Wilmington, which was subsequently sent to Indianapolis. A claim has been pending for 2 years, although she received a partial rating in July 2012 due to her persistence. This helped quell her anxiety a bit but she was later disheartened after discovery of a processing error, which was denied. Upon inquiry, it was discovered that system screens were not updated and her claim sat for 6 months. Data was not input and veteran still is awaiting exam results. CAPRI showed exams were completed and forwarded but no one associated exams with claims file until the veteran persuaded a senior-level person to look into it, after which there were 15 updates added in January 2013. She believes this added at least a year to the claim delay. She also discovered through conversations with a VSR that her claim had sat for 3 months due to 3–4 “team swaps” and “other priorities.” Her claim then awaited secondary authorization until it was sent back for records gathering although the information sought was already of record.
- Transition issues: She believes the VA examiner missed several issues and was unqualified to conduct an adequate exam. Veteran said of the process: “I just want this to be over. It’s causing my PTSD to get worse and adding to my stress and anxiety.” Has husband in service and two small children, 8 and 5. Alone during “out processing” because her unit was deployed during her pregnancy, did not know about her full benefits. Didn’t know she had a TBI (symptoms had been attributed to pregnancy). Has a one-income family. Fears stigma of being female

and having her combat experience ignored. Believes it was a factor in her past claim problems.

- Impact of having to wait: Veteran could not continue career as civilian police officer, tried to go back to school but has been limited because of memory and related cognitive issues.

Identifier: G5430 - US Air Force

- A Major for 18.5 years, both active and reserve duty, the veteran served as a flight nurse in Iraq. Was in her 50s when deployed. Medically retired due to injuries suffered in Iraq following a 2-year MED board process in which her commander harassed her. She filed a claim for VA disability in California, which was later changed to Arizona after the veteran moved. Claim has been pending for 2 years and she is deeming it a “real mess.” Veteran inquired into claim status after hearing nothing from VA for approximately 4–6 months, triggered by a chance meeting with a VA official at an orientation event.
- Transition issues: She believes VA letters are intimidating because “they sound as if you don’t get [obtain and provide] the info, your claim will be denied.” She reportedly received cold calls from VA informing her of scheduled exams in California (she lives in Phoenix) for appointments occurring 2 days after Christmas with 3 days of notice. Believes her failure to show would result in dropped claim. Regarding TAP training, she believes “they” make the VAS sound like it’s the military and they’ll take care of everything.
- Impact of having to wait: Has anxiety about budget cuts, has friends who lost their benefits. She went from making six figures to 0 for a year. Reportedly “put everything on credit card and lived poorly” during that period.

Identifier: A4859 - Iraq & Afghanistan Reservist

- Veteran is currently an active reservist who served in Afghanistan and Iraq. Filed a claim in San Diego in September 2011 and is undergoing PEB process.

- Transition issues: Faces uncertainty about his continued reserve component service and when he will be discharged; has 3 children and a wife; is worried about making his house payment. He heard that the VA disability claim process will take over a year or two. Plans to rely on savings and GI Bill stipend, but only has 6 months of entitlement remaining. Spouse works but doesn't make enough. Veteran believes "people aren't hiring vets with specialized skills." He has attended job fairs and employment workshops. Feels the economy is causing the backlog of claims. (Note: Interviewer will send Veteran Skills Jobs Act info)

Identifier: K4503 - Vietnam

- After serving during the Vietnam era, he filed a claim in January 2011 in Indianapolis, which was subsequently sent to Cleveland. Claim is for the effects of an ischemic heart disease due to Agent Orange exposure. Veteran learned about liberalizing legislation by reading the Agent Orange Review publication. Became paralyzed during an accident in 2002, no longer employed. Wants VA to "keep vets wholly informed more about what's going on."
- Impact of having to wait: He said waiting has caused him anxiety, heard from VA only once in 2011. It was the only time he heard from them in any respect.

Identifier: E5772 - US Army

- Veteran served in the US Army from 1980 to 84 and from 1984 to 85 (Peacetime era). She filed a VA disability claim for MS and musculoskeletal conditions in August 2011 originally in North Port, Florida, which was moved to St. Petersburg.
- Transition issues: She worked for a temp agency following discharge from military service. After childbirth in 1992, she started having health problems. Has been unemployed since 2003 and believes she received bad information about getting both VA and SSDI, however, she has received better health care once she switched to the VA Women's Clinic. Hasn't had a VA exam yet.
- Impact of having to wait: Needs dental services but cannot receive until rated. Veteran drives a 14-year-old car that badly needs repairs, but she has no extra

money to “keep it up.” Mental challenges have worsened the whole situation. She reports not getting any answers from VA, unable to challenge disagreements or show records. She does not know which records VA has or if they even have records. Reportedly she never asked for the records. “I wish the VA system would update their help to veterans; OEF/OIF veterans get everything. Us older veterans ... they won’t give us older veterans anything.”

ENDNOTES

1. Ledyard King, "House VA Chair Wants to Cut Claims Backlog," *AirForceTimes.com*, accessed February 15, 2013, <http://www.airforcetimes.com/news/2013/02/gnt-house-va-chair-wants-claims-backlog-020813/>.
2. Witness Testimony, Department of Veterans Affairs Under Secretary for Benefits Allison Hickey, "VA Claims Process: Review of VA's Transformation Efforts," House Committee on Veterans Affairs, March 13, 2013, http://www.veterans.senate.gov/hearings.cfm?action=release.display&release_id=5e82bbf7-0117-4a19-8255-ea38ec8513a7.
3. *Veterans for Common Sense v. Shinseki*, <http://cdn.ca9.uscourts.gov/datastore/opinions/2011/07/12/08-16728.pdf>.
4. Due process in the administration of VA benefits informs the beneficiary of a proposed adverse action that could reduce or terminate benefits, and provides the beneficiary with the opportunity to provide additional evidence to contest the action, and/or hold a hearing before VA decision makers. US Department of Veterans Affairs, "Veterans Benefits Administration References Web Automated Reference Material System," Part 1. Claimants' Rights and Responsibilities, Chapter 2. Due Process, http://www.benefits.va.gov/warms/M21_1MR.asp.
5. Bill Briggs, "Military Suicide Rate Hit Record in 2012," *NBC News.com*, January 14, 2013, accessed March 27, 2013, <http://usnews.nbcnews.com/news/2013/01/14/16510852-military-suicide-rate-hit-record-high-in-2012?lite>.
6. Chris Adams, "VA Claims-Processing Delays Hit 20-Year High," *McClatchy-Tribune News Service*, November 30, 2012, accessed December 26, 2012, <http://www.military.com/daily-news/2012/11/30/va-claims-processing-delays-hit-20-year-high.html>.
7. Of the more than a half million disability compensation claims that are older than 125 days, about 60 percent are claims for increased entitlement based on an additional or higher level of disability submitted by claimants already receiving benefits. *Veterans Benefits Administration Monday Morning Workload Reports*, December 29, 2012, accessed January 15, 2013, <http://www.vba.va.gov/REPORTS/mmwr/index.asp>.
8. *Veterans Benefits Administration Monday Morning Workload Reports*, June 22, 2013, accessed July 3, 2013, <http://www.vba.va.gov/REPORTS/mmwr/index.asp#characteristics>.

9. Id.

10. Responses to VA blog entry “VA Expediting Claims Decisions for Veterans Waiting a Year or More,” *Vantage Point—Dispatches from the U.S. Department of Veterans Affairs Blog*, posted April 19, 2013, <http://www.blogs.va.gov/VAntage/9217/va-expediting-claims-decisions-for-veterans-waiting-a-year-or-more/>.

11. Currently, every VA claim that is pending comprises the “Compensation and Pension (C&P) Rating Bundle,” as reported in the *Veteran Benefits Administration Monday Morning Workload Reports*. The C&P Rating Bundle, also known as the claims inventory, also consists of all claims pending longer than 125 days, this constituting the actual backlog. As of March 30, 2013, the entire claims inventory totaled 850,395 claims, of which 588,248 are considered backlogged claims. 2nd Quarter, April 1, 2013, accessed April 18, 2013, <http://www.vba.va.gov/REPORTS/mmwr/index.asp>.

12. A key informant list is included at the end of this paper.

13. Abraham Lincoln, (Second Inaugural Address; endorsed by Lincoln, April 10, 1865), accessed January 5, 2013, [Abraham Lincoln Papers at the Library of Congress](http://memory.loc.gov/ammem/alhtml/malhome.html), <http://memory.loc.gov/ammem/alhtml/malhome.html>.

14. The US Department of Veterans Affairs (VA) was established on March 15, 1989, succeeding the agency called Veterans Administration.

15. *Henderson v. Shinseki*, 131 S. Ct. 1197, 1204 (2011).

16. Veterans Law Library, “Articles on Veterans Law,” accessed August 17, 2013, http://www.veteranslawlibrary.com/Article_Index.html.

17. Phone interview, February 7, 2013.

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