

**EXECUTIVE SUMMARY OF
JEFFREY C. HALL
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
APRIL 18, 2012**

- Veterans service organizations (VSOs) play an integral part in the disability claims process, with local and national service officers holding power of attorney for hundreds of thousands of veterans and their families. VSOs assist VA by reducing its workload, ensuring claims decisions are accurate, and helping to improve and redesign VA's claims processing system.
- DAV offers free representation to all veterans, their dependents and survivors seeking VA and other government benefits. DAV has the largest service program with 100 national offices, and a corps of approximately 240 National Service Officers (NSOs) and 30 Transition Service Officers who helped file almost 250,000 claims last year.
- DAV NSOs focus on educating disabled veterans about their benefits and the claims process, assisting them with filing claims for benefits and advocating on their behalf to ensure they receive all their earned benefits. Evidence shows that represented veterans receive more accurate outcomes with higher average awards than unrepresented ones.
- The key to DAV's success, and ultimately the key to VA's success, is a steadfast commitment to quality and accuracy of our work, which begins with an unwavering commitment to the education and training of our NSOs.
- The Veterans Benefits Administration should significantly increase the hours devoted to annual training and require all employees, coaches, and managers to undergo regular testing that measures their job skills and knowledge, as well as the effectiveness of the training itself.
- In order to encourage the use of Disability Benefit Questionnaires, Congress should amend title 38, United States Code, § 5103A(d)(1) to provide that due deference is provided to private medical evidence that is competent, credible, and adequate for rating purposes.
- In order to drive and sustain its transformation strategies, VBA must change how it measures and rewards performance to emphasize accuracy and quality over production.
- Congress must ensure that the funding required and designated for the Veterans Benefits Management System is protected from cuts or reprogramming, and spent as Congress intended.
- VBA must transition as quickly as feasible to a fully digital processing system, which may require significant upfront investment, but will pay long term dividends for veterans.

**STATEMENT OF
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Chairman Miller, Ranking Member Filner and Members of the Committee:

On behalf of the Disabled American Veterans (DAV) and our 1.2 million members, all of whom are wartime disabled veterans, I am pleased to present our views regarding the vital role that claimant's representatives, particularly service officers from accredited veterans service organizations (VSOs), play in the VA disability claims process. Having spent the first seventeen years of my career with DAV in the field working as a National Service Officer (NSO), a National Appeals Officer, an NSO Supervisor and finally a National Area Supervisor, I look forward to providing this Committee some perspectives learned firsthand while assisting thousands of disabled veterans and their dependents in obtaining the benefits to which they are entitled.

Mr. Chairman, we are all aware of the significant problems and challenges facing the Veterans Benefits Administration (VBA) as it seeks to make the benefits claims processing system modern, timely and accurate. The backlog of claims pending is too high and the accuracy of claims decisions remains too low. While Congress has significantly increased resources, funding and personnel over the past several years, there have also been major increases in the number of claims filed, the number of contentions per claim, and the complexity of rating decisions.

VBA remains focused on the goal set by Secretary Shinseki of having zero claims pending more than 125 days and all claims completed to a 98 percent accuracy standard. And while the elimination of the backlog will be a welcome milestone, we must remember that eliminating the backlog is not necessarily the same goal as reforming the claims processing system, nor does it guarantee that veterans are better served. The backlog is a symptom, not the root cause. Just as someone with the flu can take aspirin to reduce their high temperature, that will not cure them of their illness, nor prevent it from returning in the future. For example, VBA could quickly eliminate the backlog of claims by denying all of them, or for that matter granting all of them. However, neither option would be of benefit to veterans in the long run. In order to achieve real and lasting success, VBA must instead remain focused on creating a claims processing system that is carefully designed to get each claim done right the first time.

One of the more positive developments in recent years has been the open and candid attitude of VBA's leadership towards developing a true partnership with DAV and other VSOs who assist veterans in filing claims. VSOs have vast experience and expertise in claims processing, with local and national service officers holding power of attorney (POA) for hundreds of thousands of veterans and their families. In this capacity, VSOs are an integral

component of the VA claims process, operating behind the firewall. Today's hearing is an opportunity to review our role, examine ways we might further assist VBA in its work, and offer recommendations to improve the claims process based on our experience.

Since 1920 DAV has offered free representation to veterans, their dependents and survivors seeking benefits and services from the Department of Veterans Affairs (VA) and other government agencies. In this capacity, DAV NSOs focus on educating disabled veterans about their benefits and the claims process, assisting them with filing claims for benefits and then by advocating on their behalf to ensure they receive all the benefits and services they have earned through their service. DAV and other VSOs also assist VA by reducing their workload, ensuring more accurate claims decisions and helping to improve and redesign VA's claims processing system.

DAV has the nation's largest service program with 100 offices located throughout the United States and in Puerto Rico. Relying on a corps of approximately 240 NSOs and 30 Transition Service Officers (TSO), we provide free representation to veterans and their families with claims for benefits from the VA, the Department of Defense and other government agencies. In fact, DAV represents more veterans than all other accredited VSOs combined. In 2011, DAV NSOs and TSOs assisted nearly a quarter million veterans and their families with their claims, obtaining approximately \$6.5 billion in new and retroactive benefits.

Mr. Chairman, we firmly believe that the key to our success, and ultimately the key to VA's success, is the steadfast commitment to quality and accuracy in our work, and that begins with an unwavering commitment to the education and training of our NSOs.

The primary responsibility of DAV NSOs is to function as attorneys-in-fact, assisting veterans and their families with claims for VA disability compensation and pension; vocational rehabilitation and employment; education; home loan guaranty; life insurance; death benefits; health care and much more. NSOs also represent veterans and active duty military personnel before Discharge Review Boards, Boards for Correction of Military Records, Physical Evaluation Boards and other official panels. In addition, DAV NSOs conduct free informational seminars and community outreach programs.

To develop the high level of expertise this job requires, new NSOs begin with a rigorous 16-month on-the-job training program, conducted by tenured supervisory NSOs with subject matter expertise. Throughout their training, DAV closely monitors the progress and knowledge retention of NSOs through web-based testing and monthly evaluations. In addition to the training provided directly by DAV, NSO trainees must also successfully complete academic instruction in Anatomy & Physiology, Medical Terminology, Composition and/or Legal Research & Writing, and Public Speaking, from an accredited college or university. DAV's National Service staff is responsible for developing, administering and monitoring the entire training program, as well as the instructor's performance and the progress of each NSO trainee.

NSOs trainees who have successfully completed the first four months of training, and passed the requisite tests and other evaluations, will begin performing supervised claims work in their fifth month. They will continue working on their individual caseload, while continuing to receive training and instruction, and must pass a comprehensive web-based examination every

four months on the topics covered for that given period. At the conclusion of their 16th month on the job, they will be required to pass a comprehensive web-based examination covering all of the topics from the entire training period.

However, DAV training is not only provided to new NSOs as they first learn the job, rather DAV training programs are a lifelong commitment to achieving excellence throughout an NSO's career. Beyond their initial 16 month training, all NSOs must participate in a comprehensive Structured and Continuing Training (SCT) program designed to keep them up-to-date on changes to the laws and regulations affecting veterans' benefits. This training includes not just all NSOs, but also all Supervisors and Area Supervisors.

DAV's SCT program provides in-depth review of laws, regulations, VA M-21 and similar manuals, VA Fast Letters, Board of Veterans' Appeals practices, as well as opinions of the VA Office of the General Council and holdings from the US Court of Appeals for Veterans Claims. Moreover, the DAV SCT program delves deeply into the VA Schedule for Rating Disabilities (VASRD) by providing a meticulous breakdown of each anatomical system and correlating diagnostic codes and ratings. When dealing with the complexities of the VASRD, the SCTs accompanying CD-ROM collection, Special Monthly Compensation "slide rule" and case studies prove to be extremely useful throughout the NSO's career. In fact, there are many outside DAV who have benefited from our SCT program; this includes other VSOs and VA employees, as well as DoD Physical Evaluation Board members, who have utilized our SCT materials to enhance their knowledge.

All NSOs are required to take pre-tests and then successfully complete 32 monthly training modules with post-testing requirements for each module. At the end of each month, NSOs must successfully pass web-based testing in order to move forward in their training. At the end of each 16-month period, a comprehensive 160-question web-based test must be passed in order to move forward to the second 16-month training period, which is delivered in the same manner as the first 16-month period. Once an individual successfully completes the entire 32 months of SCT training, NSOs have gained a wealth of knowledge and become more proficient in their duties. In addition, DAV is the only VSO whose training program has been certified for college credit by the American Council on Education (ACE), which awards 12 college credits to our NSOs upon successful completion of the first 32 months of SCT training.

However, DAV SCT does not end there, but will continue throughout an NSO's career at DAV. When an NSO completes the entire 32-month SCT program, they then start the entire training cycle again from the beginning, but with the changes, updates and new information that is provided by DAV's national training staff who constantly monitor and update the course materials. By the time an NSO has 15 years of service, they will have completed the SCT training regimen four times. We are certain that the high quality of the services we offer are directly related to the emphasis we place on lifelong learning for all of our service officers.

By comparison, the VBA training program for its employees, particularly Veterans Service Representatives (VSRs) and Rating Veterans Service Representatives (RVSRs) is shorter, less rigorous and has fewer testing requirements. It begins with an initial orientation phase at Regional Offices where new employees will undergo eight weeks of "Challenge" training providing them a basic introduction to their job responsibilities. Although "Challenge"

training had been four weeks long, a couple of years ago it was expanded into a more intensive eight-week course conducted at a central training academy near Baltimore, Maryland. Recently, however, VBA stopped sending new employees to the training academy due to budget constraints on travel, and instead is now conducting the training locally, relying on a cadre of trainers to conduct and/or oversee the training at each RO. While there is certainly merit in a "train the trainer" approach, centralized training of new employees has unique benefits suited to the current transformation taking place at VBA. In addition to providing a more focused environment for new trainees to learn their roles and responsibilities, it allows a more consistent transmission of new cultural values to trainees, particularly the paramount importance of quality and accuracy. We have concerns that this change was made strictly for short term financial considerations rather than to achieve the long-term goal of reforming the claims processing system.

Since expanding the "Challenge" training to eight weeks, VBA's policy is to have new VSRs and RVSRs immediately begin working on claims after they complete their initial training, although they will continue receiving both on-the-job training and mentoring from more senior employees in their RO. They also continue with a required course of online learning through VBA's Training and Performance Support System (TPSS) on subjects such as how to utilize VBAs computer-based programs, medical terminology, how to review and interpret medical evidence, as well as understanding and applying the law and regulations when evaluating evidence and rendering decisions. After they have completed all of the TPSS modules for new employees, they will then have the same continuing training requirements as all VSRs and RVSRs, which consists of 85 hours of annual training. While there are tests conducted during the initial training, and there is also a one-time certification examination required for all VBA employees, there is no regular testing performed to measure the effectiveness of annual training, nor is there any other regular testing of employees to ensure that they have the knowledge and skills required to successfully perform their jobs, or to identify individual or systemic deficiencies in the claims processing system.

Considering the complexity of their jobs, and in order to build a culture of accuracy and quality, VBA must ensure that employees complete all of their training requirements, and must take steps to ensure that they have adequate time to do so. DAV continues to recommend that VA significantly increase the hours devoted to annual training for all VSRs, RVSRs and Decision Review Officers (DROs). In addition, we believe it is essential that all VBA employees, coaches, and managers undergo regular testing to measure job skills and knowledge, as well as the effectiveness of the training. At the same time, VBA must ensure that certification examinations as well as any other tests that are developed accurately measure the skills and knowledge needed to perform the work of VSRs, RVSRs, DROs, coaches, and other managers.

Due to DAV's training program, our NSOs fully understand VA benefits and the disability claims process. Possessing in-depth knowledge of pertinent laws, regulations and specific holdings brought forth by the United States Court of Appeals for Veterans Claims, DAV NSOs educate, assist and advocate for veterans, their families and survivors in seeking earned VA benefits. Whether an individual claimant visits a DAV National Service Office, Transition Service Office or a Mobile Service Office, or corresponds by telephone, mail or e-mail, our first interaction with claimants is meant to educate them about their rights, their benefits and the process of filing claims. We begin by educating a claimant about the benefits to which they are

entitled, the disability claims process, and most importantly, the evidence needed for a successful claim. DAV NSOs and TSOs place a strong emphasis on the vital role claimants can play in this process by encouraging them to be proactive in gathering as much of the evidence as possible. In particular, DAV has worked closely with VBA to promote the Fully Developed Claims (FDC) process to our clients, where appropriate. Although earlier in the rollout of the FDC program DAV and other VSOs had concerns about informal FDC claims, VBA worked with us to develop and issue clear guidance on how to establish informal claims under the FDC program.

DAV also encourages all of our claimants, if possible, to seek private medical evidence to bolster their claims through the use of new Disability Benefits Questionnaires (DBQs), rather than waiting for a VA examination to be scheduled and performed. This is another area where VBA has been highly responsive to VSOs, allowing us to review and make recommendations to improve the format and content of DBQs. However a cultural bias within VBA against private medical evidence could limit the effectiveness of DBQs. Although the law allows the use of private medical evidence, it does not require that it be given equal weight to VA medical evidence. As such, we continue to hear reliable reports that many VSRs and RVSRs continue to discount medical evidence or properly completed DBQs from private doctors, instead ordering unnecessary VA examinations, further delaying the process and adding to VBA's burden.

In order to encourage the use of private medical evidence, Congress should amend title 38, United States Code, § 5103A(d)(1) to provide that, when a claimant submits private medical evidence that is competent, credible, probative, and otherwise adequate for rating purposes, including a private medical opinion submitted on a DBQ, the Secretary shall not request a VA medical examination. With this new language, VA would not have to accept private medical evidence if, for example, VA finds that the evidence is not credible and therefore not adequate for rating purposes.

DAV NSOs directly assist claimants for whom we hold power-of-attorney (POA) in completing all the necessary forms for a successful claim. We work with claimants to protect the date of their claim, gather and assemble the evidence required to be awarded benefits, complete all of the required filing forms, and submit memoranda or written argument to accompany and support their claims application. In fulfilling these duties, our NSOs improve the quality of the claims filed, thereby reducing the workload on VBA. We also reduce the burden on VBA's contact offices by interacting with veterans seeking routine information or updates on the status of their claims.

DAV NSOs will continue to advocate for our claimants with VBA throughout the claims process. Working directly in VBA Regional Offices, NSOs are given 48 hours to review all rating decisions of our clients prior to their issuance, which allows us an opportunity to interact with the decision makers (RVSRs, DROs and/or RO management) in order to advocate for accurate rating decisions. In this role, we act as a comprehensive quality control check for VBA, reviewing every rating decision affecting veterans for whom we hold power-of-attorney. This will be even more important as VBA becomes fully engaged in their streamlined rating decisions and notification process known as the Simplified Notification Letter or SNL. By catching errors at the RO, where they can more easily and quickly be corrected, we not only serve our clients, we also save VBA the time and resources they would otherwise have expended on lengthy and burdensome appeals.

There is substantial evidence demonstrating that represented veterans receive better and more accurate outcomes than those without representation. For example, veterans represented at the Board of Veterans' Appeals in FY 2011 were awarded benefits 29 percent of the time compared to unrepresented veterans who succeeded less than 23 percent of the time. Studies have also shown that the average award is higher for represented veterans than those without someone to advocate on their behalf. In May 2005, VA's Office of Inspector General (VAOIG) issued a report (05-00765-137) examining variances in disability compensation payments amongst the fifty states. The VAOIG report found that the average compensation for represented veterans was \$10,631 compared to an average of only \$4,406 for unrepresented veterans. As stated in the OIG findings:

“Qualified POA representatives provide a valuable service to applicants by explaining VA benefits, assisting in completion of forms and collection of evidence, monitoring the progress of the claim, and representing them in hearings and appeals. The majority of veterans receiving compensation have appointed POA representatives.”

In addition to directly helping improve the quality of claims decisions, DAV and other VSOs have been able to help VBA improve and redesign their claims process. Over the past few years, we have worked increasingly close with VBA on a number of their transformation initiatives. We have offered our expert advice to improve DBQs, the Veterans Benefits Management System (VBMS), the Stakeholder Enterprise Portal (SEP), e-Benefits, the FDC program, and many other pilots taking place at ROs across the country. We have and will continue to work with VBA as they complete the redesign of the new operating model so that claims are accurately processed and adjudicated the first time.

VBA faces a daunting challenge of comprehensively transforming the way it processes claims for benefits in the future, while simultaneously reducing the backlog of claims pending within its existing infrastructure. While there have been many positive and hopeful signs that the VBA is on the right path, there will be critical choices made over the next year that will determine whether this effort will ultimately succeed. It is essential that Congress provide careful and continuing oversight of this transformation to help ensure that the VBA achieves true reform and not just arithmetic milestones, such as lowered backlogs or decreased cycle times.

In order to drive and sustain its transformation strategies throughout such a massive organization, VBA must change how it measures and rewards performance. Unfortunately, most of the measures that VBA employs today are based primarily on production goals, rather than quality. This bias for speed over accuracy has long been VBA's cultural norm, and it is not surprising that management and employees today continue to feel a tremendous pressure to meet production goals first and foremost. While accuracy has been and remains one of the performance standards that must be met by all employees, new performance standards adopted over the past two years appear to have done little to create sufficient incentives to elevate quality above production.

After two years of development, VBA's new VBMS IT system is planned to begin rolling out nationally in the next couple of months. The VBMS is designed to provide a comprehensive, paperless, and rules-based method of processing and awarding claims for VA

benefits, particularly disability compensation and pension. As VBA turns the corner on VBMS development leading to deployment, it is imperative that Congress provide full funding to complete this essential IT initiative. In today's difficult fiscal environment, there are concerns that efforts to balance the federal budget and reduce the national debt could result in reductions to VA programs, including IT programs. Over the next year Congress must ensure that the funding required and designated for the VBMS is protected from cuts or reprogramming, and spent as Congress intended.

One area of concern that remains unresolved is how VBA plans to handle legacy paper claims in the new VBMS work environment. While VBA is committed to moving forward with a paperless system for new claims, it has yet to finally determine how to handle reopened paper claims; specifically, whether, when, or how they would be converted to digital files. Because a majority of claims processed each year are for reopened or appealed claims and because files can remain active for decades, until all legacy claims are converted to digital data files, VBA could be forced to continue paper processing for decades. Requiring VBA employees to learn and master two different claims processing systems—one that is paper-based and the other digital—would add unnecessary complexity and could negatively affect quality, accuracy, and consistency.

While there are very difficult technical questions to be answered about the most efficient manner of transitioning to all-digital processing, particular involving legacy paper files, we believe the VBA should do all it can to shorten the length of time this transition takes to complete, and should provide a clear roadmap for eliminating paper files, one that includes clear timelines and resource requirements. While this transition may require significant upfront investment, it will pay dividends for the VBA and veterans in the future.

Mr. Chairman, this will be the third year of the VBA's current effort to transform an outdated, inefficient, and inadequate claims-processing system into a modern, automated, rules-based and paperless system. VBA has struggled for decades to provide timely and accurate decisions on claims for veterans benefits, especially veterans disability compensation, however despite repeated prior attempts to reform the system, VBA has never been able to reach the goals it has set for itself. Critical to VBA's success will be the choices made this year, and it is absolutely essential that Congress continue to provide strong oversight to ensure that the enormous pressures on VBA to show progress toward eliminating or reducing the claims backlog does not result in short-term gains at the expense of long-term reform.

That concludes my statement and I would be happy to answer any questions from you or other members of the Committee.