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***STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
FEBRUARY 5, 2014***

Chairman Runyan, Ranking Member Titus and Members of the Subcommittee:

On behalf of the DAV (Disabled American Veterans) and our 1.2 million members, all of whom are wartime wounded and injured veterans, thank you for asking DAV to testify before the Subcommittee today regarding the current status of the many technological initiatives occurring in the Veterans Benefits Administration (VBA), including the Veterans Benefits Management System (VBMS) 6.0, Veterans Relationship Management (VRM), eBenefits, Stakeholder Enterprise Portal (SEP), the work-credit system in an electronic environment, national work-queue strategy, and the potential impact of the proposed rule mandating the use of standardized forms within the Department of Veterans Affairs (VA). As the nation's leading veterans service organization (VSO) assisting veterans seeking disability compensation and other benefits, DAV has tremendous experience and expertise relating to the processing of claims as well as the various ways veterans may appeal adverse actions and decisions.

Mr. Chairman, I recently had the opportunity to accompany DAV National Service Director Jim Marszalek on a visit to the Newark, New Jersey, VA regional office (VARO). As you may know, the Newark VARO is the only fully electronic regional office within the VA, also known as an "eVARO." All claims processing performed in Newark today is fully electronic and for all intents and purposes, completely paperless.

Upon receipt of a claim for benefits on a standard VA Form 21-526 by the Intake Processing Center (IPC), employees first check the system to determine if an electronic record already exists. If no electronic record exists, the IPC begins building the veteran's electronic file (eFile) by first establishing where the paper file is currently located and then requesting the file be sent to the scanning facility where it will be converted digitally and become the base of the eFile. IPC employees then input the basic information from the paper claim into a newly created VBMS record, including the specific contentions or issues being claimed. Based upon the number and/or complexity of the issues being claimed, IPC employees then assign the claim to one of the corresponding processing lanes: Express for one or two issue simple claims, Core for most standard claims with less than eight issues, and Special Ops claims with more than eight issues or complex claims, such as post traumatic stress disorder (PTSD), military sexual trauma (MST), or traumatic brain injury (TBI). After the IPC has created the VBMS record, the paper

claim is sent to the centralized scanning facility to be converted digitally in the same manner as the paper claims file.

For veterans who visit the Newark VARO wishing to file a claim, computers are available so the individual can create an eBenefits account and file their claim electronically. Help is available if needed. Should that individual have paper evidence to submit along with the claim, it can be scanned and uploaded in Newark or it may follow the same path as above, being sent to the scanning facility, depending on the amount of the paper evidence. Clearly, for those submitting claims electronically via eBenefits, the less cumbersome initial processing is for VBA. For veterans who want DAV to represent them and file their claim through SEP, we also begin that process by having them establish an eBenefits account.

Once the now electronic claim has been received in the corresponding lane by an assigned Veterans Service Representative (VSR), development can begin. Each day, the VSR opens his or her work queue, selects a case, and begins undertaking the necessary development. The VSR may be requesting service or private treatment records, a VA physical examination and Disability Benefits Questionnaire (DBQ), or other necessary development. Not only does this assist greatly with organization during claims development and working with the veteran's information, it provides tremendous benefit in productivity and output, having everything electronic and at a person's fingertips.

Being able to actually watch a working demonstration from a Rating Veterans Service Representative (RVSR) proved to be invaluable during the visit to Newark. When RVSRs come in each day, they are greeted with a much more harmonious working environment, with neat work spaces instead of the customary mountains of paper and files that used to be there waiting for them. Now all of a veteran's claims and related information has been converted electronically within the VBMS system to be process or searched; and by more than one user at a time if necessary. When the RVSR opens the work queue, he or she is able to quickly ascertain what has been done and what needs to be done in each respective case. The RVSR is able to review the veteran's eFile and see all of the development as it relates to the claim, tab certain information and make notes. When the case is ready for rating, the RVSR opens the VBMS rating program (VBMS-R) on a second screen program to prepare the actual rating. Gone are the stacks of paper and cumbersome files laid in front of an RVSR, replaced with two computer screens, one for the VBMS showing the veteran's eFile with tabbed notes to review for quick reference, and the other opened to the actual VBMS-Ready for the RVSR to input pertinent information and produce a final rating with much greater ease than in the past.

In speaking with many employees at the Newark VARO, including the leadership, they uniformly told me us that employee morale is higher than in the past and growing every day. Employees feel VBMS and the new organizational model, while not perfected, allow for greater productivity, speed, accuracy and accountability in completing their work. Employees realize there will be continuous upgrades and improvements to the VBMS system, but they believe that as their proficiency using the new system rises, they will be able to demonstrate further increases in all measurable activities.

It is important to note that no modern IT system or software is ever truly “finished” and therefore it is vitally important to continue making significant investments in VBMS development in order to allow this system to be capable of meeting VBA’s needs. For example, the coding and embedding of rating calculators inside the VBMS remains a labor-intensive, time-consuming process and one that needs to continue as the VA Schedule for Rating Disabilities (VASRD) is continually updated in the future. Furthermore, as new IT technologies emerge, and new requirements for the VBA are identified, the VBMS must evolve to address those needs and opportunities, requiring an aggressive development program that has sufficient resources, in addition to funding just required to maintain the current IT hardware and software.

Mr. Chairman, while a backlog of claims pending longer than 125 days still exists in Newark and nationally, there are measureable signs of progress resulting from VBA’s transformation efforts. The number of claims in the backlog is down by about one-third, the total number of pending claims has been reduced by about one-fifth and the average days pending continues to drop as the oldest claims are now being processed first. Questions remain as to whether this progress can be sustained two, five or 10 years from now, and based only on the currently available data and information from the VBA, it is not certain whether this level of progress will be sufficient to meet the Secretary’s ambitious 2015 goals. Nonetheless, DAV continues to support VBA’s transformation efforts through our working partnership and we remain optimistic that the documented progress is not simply short-term progress that will stall; rather, it is progress that must be sustained and accelerated if VBA is to finally eliminate the backlog.

Veterans Relationship Management (eBenefits & SEP)

Although not as well known as VBMS, the VRM systems are equally important to the current transformation. The VRM system provides both veterans and VSOs the ability to file claims electronically. Like VBMS, the eBenefits system with VONAPPS Direct Connect (VDC) has been in place for more than a year. While VBMS is the paperless, rules-based system VBA uses to create electronic files, manage workflow, and determine ratings, the eBenefits and SEP systems were created to allow veterans to file claims electronically and manage benefits online.

Notwithstanding the recent problems related to the security of the eBenefits system, in general over the past two years it has been working as intended. More and more claims are being submitted and received electronically; however, there have been obstacles to be overcome, some of which still remain. One of the first obstacles veterans encountered in eBenefits was problems with inaccurate information maintained by the Department of Defense in the Defense Enrollment Eligibility Reporting System (DEERS). When a veteran’s personal information is inaccurate in the DEERS system, such as one incorrect digit in a birth date, the veteran is unable to set up an eBenefits account until that information is corrected. The system does not provide adequate support and correction. Such a problem can be a daunting task that causes some veterans to become frustrated, abandon the process and possibly not file a claim at all. Although this seems to occur more frequently with older veterans less familiar with computers and the Internet, it is nonetheless a major obstacle that must be corrected immediately.

Many of our DAV clients have reported problems trying create an account and file a claim electronically. DAV service officers work diligently with our clients to find solutions, but it can take a great deal of time to resolve these issues with DEERS before the eBenefits system will allow a veteran to create an eBenefits account and file a claim electronically.

Mr. Chairman, VBA wants more veterans to file claims electronically and DAV has been the leader among VSOs in increasing the number of claims filed electronically. However, regardless of the level of interest from veterans for electronic filing, if access continues to be a problem for many veterans, particularly when they are not given information or tools to resolve those problems, there will be too many veterans who walk away from eBenefits. Nonetheless, DAV is fully committed to promoting electronic filing of claims through eBenefits, or on their behalf through the SEP with the assistance of our National Service Officers (NSOs). Even SEP, however, is dependent upon a veteran having an eBenefits account in order to receive official information from VBA, thus heightening the need for VBA to resolve the issue with VSOs' ability to file claims directly in SEP without the need to do so through eBenefits.

The SEP is a crucial IT component for reforming the claims process because it, allows our NSOs the ability to file a veteran's claim electronically, accept a power of attorney (POA), and upload evidence, while being fully integrated with VBMS. The SEP allows DAV and other VSOs to do for veterans what the VDC and eBenefits allows veterans to do for themselves, but with the benefit of assistance and expertise of an experienced representative. Early problems with the SEP development were encountered with access as well. Essentially, VSOs were not able to access any information about a claimant they represented through VBMS unless the POA box was properly checked. Although this issue has been addressed and resolved to a degree, the problem still persists in certain locations and leaves our VSOs unable to assist a client even with simple matters such as obtaining the status of a claim in VBMS. Like eBenefits, the VBA must continue to address and resolve these types of problems in VBMS with immediacy to ensure that DAV and other VSOs are able to fully represent veterans in this electronic environment.

Work Credit in an Electronic Format

DAV has long said that the only real solution to the claims backlog is the development of a new claims processing system that focuses on quality and accuracy, not just production and timeliness. While accuracy has been and remains one of the performance standards that must be met by all employees, current performance standards adopted in recent years have done little to create new incentives to promote quality above production. As new processes and technologies come online, such as VBMS and the new organizational model, it is vital for the VBA to make timely adjustments to outdated performance standards to ensure that production pressures not outweigh the goals of accuracy and quality, while creating a systematic accountability for work-credit that would function with the new organizational model and within the electronic environment. Implementation of the new organizational model has changed the roles and workloads of VSRs and RVSRs, which requires consistent adjustments to be made to performance standards. For instance, employees handling complex Special Ops claims should not be held to the same performance levels in terms of claims competed per day as those handling simpler Express claims. Although VBA revised its performance standards and work credit system, further refinement is needed to create the proper system of work incentives.

DAV believes it to be absolutely imperative for the VBA to develop a scientific methodology for measuring the resources (primarily personnel) required to accurately and timely process the current and future anticipated workload as well as develop a new data-driven model for allocating those resources among VAROs. Crucial data needed to establish a sound performance plan or work-credit system is readily available in the VBMS and includes such information as specific development or rating actions, workload management, quality, accuracy, output, as well as the correct application of pertinent laws and regulations.

Mr. Chairman, as the transformation to a completely paperless system changes the dynamics of the daily business of assembling, developing and processing claims, VBA must also change VBA's work-credit strategy to ensure each employee is properly credited for the work they complete. DAV believes VBA must take the time now to ensure development of a new performance plan and work-credit system within an electronic environment, not only to hold management and employees accountable, but perhaps more importantly to ensure proper resources and staffing can be calculated and provided. It is also essential for the proper allocation of those resources and staffing in the most prudent and forward-thinking manner. Additionally, it is absolutely crucial for VBA to look back at claims accuracy rates using STAR and other reviews to continually adjust these standards so that they have sufficient resources not just to process the workload of claims, but to make sure that they are doing them right the first time.

National Workload Management Model

Another top priority for VBA, VSOs and veterans is the timeliness of processing claims. While demonstrated progress was achieved last year in reducing the backlog of claims, other VBA initiatives such as a national workload management model, Centers of Excellence and centralized mail centers, are being proposed, developed and tested.

Although we have not yet seen detailed information of any national workload management model, our understanding is that this will allow all claims to be processed nationally by VSRs and RVSRs, regardless of their physical location or the origin of the claim. This is essentially the same approach VBA took last year when they processed all claims pending more than two years within a short period. With all claims now being submitted and/or converted electronically, claims processing can be done by any fully trained VSR or RVSR regardless of their location. This approach is not unlike the process of brokering claims from one VARO to another when assistance is needed, which VBA has relied heavily upon over the years. So taking the basic concept of brokering claims and VBA's "all hands" strategy they used last year to process the oldest claims and applying it to national workload may have the potential for success; however, we would like to know more details of how this type of model would work.

For the past several years, VBA has discussed the general concept of establishing Centers of Excellence, wherein specific VAROs would be designated to process specific types of claims for the entire country. For example, a particular VARO would be designated as a Center of

Excellence for claims involving PTSD, MST, and TBI, and all claims containing such conditions would be processed by that facility for the entire country.

While Centers of Excellence could relieve the majority of VAROs from processing some of the more time consuming, complex claims, it must be done properly, with certain principles guiding such as model. One key question is whether claims split by issues and processed by multiple centers. What would happen when a VARO receives a claim for PTSD and an orthopedic condition – would the origin VARO process the orthopedic condition or would a PTSD Center of Excellence process all issues? Such questions are crucial and we believe that VBA must move in a deliberate and thoughtful manner to ensure that Centers of Excellence are truly “excellent,” not just “centers.”

VBA has already begun progress towards testing centralized mail centers, each designated to perform all initial intake processing for a designated group of VAROs. For instance, there may be one such mail center located in Wisconsin to receive all incoming mail from five or six VAROs, wherein all initial intake processing will be accomplished in the same manner as each respective VARO does at present. Eventually, claimants may no longer send paper documents to their respective VAROs, instead sending all documents directly to the mail center, as is done for some other government agencies, such as for passports.

As we have done for nearly 100 years, DAV will continue to evolve and adapt to any changes in the claims process; however, such fundamental, structural change to the claims process should include VSOs in the planning process from the earliest planning stage possible. When considering a major change to the claims process such as a national workload management model or anything of a centralizing nature, thoughtful deliberation must be given to the impact of removing the benefit of face-to-face interaction between highly-trained VSO service officers and VBA, which at the very least would be hindered.

Mr. Chairman, the process of veterans submitting claims and receiving personal assistance from VBA has been around much longer than computers and automation. Many wounded, ill and injured veterans have relied heavily upon personal assistance to help them navigate the complexity of the claims process. While a national workload management model may be a potentially important strategy for VBA’s goal of reducing the backlog, equal consideration must be given to the effect it will have on individual veterans. We know that many veterans rely heavily on personal interaction and assistance to help navigate VBA’s complex system; how will service be affected when a claim is filed by a veteran residing in one state but processed by a VBA employee in another state?

We have already seen the challenges of creating the national call center, wherein veterans often call and end up speaking with someone far removed from the VARO of original jurisdiction. DAV NSOs routinely receive complaints from veterans who are unable to speak to a person in the call center or if they are able to get through, someone who is unable to answer basic status questions. Such problems with VBA’s call centers have caused many veterans to lose some confidence in VA and the claims process.

Would a national workload management model, centralized mail center, or Centers of Excellence further fragment personal contact for veterans? DAV understands the need for and embraces change; however, these changes must be done thoughtfully to ensure that they are equally positive for veterans and VBA alike. Some of the changes, like eBenefits, involve “self-service,” wherein veterans, especially those without representation, can be much more immersed in the claims process; however, there are and will always be many who cannot and must rely heavily upon personal contact with their local VARO. This is not to say a national workload management model or anything of a centralizing nature will not work, but we believe every effort must be made to preserve the benefit of local claims processing first, and then perhaps allowing all claims over a designated amount for each VARO to be processed within a national workload management model.

Standardized Forms

Finally Mr. Chairman, VA is proposing to amend its adjudication regulations and the appeals regulations and rules of practice of the Board of Veterans’ Appeals (Board), in order to require all claims to be filed on standard forms prescribed by the Secretary, regardless of the type of claim or posture in which the claim arises; and, to require that VA would only accept an expression of dissatisfaction or disagreement with an adjudicative determination by the agency of original jurisdiction as a Notice of Disagreement if it is submitted on a standardized form provided by VA for the purpose of appealing the decision, in cases where such a form is provided.

DAV understands the stated intent of VA’s proposed amendments as an effort to improve the quality and timeliness of processing claims and appeals. The purpose of the regulatory change is to promote submission of claims and appeals in standard formats in order to capture data for a paperless claims and appeals system. Nonetheless, we have concerns about the proposed rulemaking and the consequential adverse effect upon veterans.

First, requiring a veteran to submit a claim on a standardized form is not a new concept. In fact, claim for disability benefits is defined under title 38, Code of Federal Regulations, section 3.151(a) as “[a] specific claim in the form prescribed by the Secretary must be filed in order for benefits to be paid.” So requiring a veteran to file a claim on a standardized form is the current practice; however, the real question is how the new proposal would impact the effective date of a claim received.

Currently, when a claim is received on a form not prescribed by the Secretary, it is an informal claim, which, by definition under title 38, Code of Federal Regulations, section 3.155 is “[a]ny communication or action, indicating an intent to apply for one or more benefits...” provided the informal claim identify the benefit sought. Upon receipt of an informal claim, if a formal claim on a prescribed form has not been submitted, VA will then provide the veteran the proper application for execution and the veteran would have one year to complete the submit the required form(s). Should the veteran submit the required form(s) seven months later, benefits would be payable retroactively to the date the informal claim was received by VBA. This proposal goes much further than requiring a standardized form to be used; it effectively removes the preservation of date of claim by eliminating the informal claim from the process. Under this

proposed rule, if a veteran does not submit a claim in the standardized format, they too will be provided the form; however, if that same veteran does not submit the proper forms until seven months later, that will be the effective date of the claim – not the actual date the veteran submitted his or her non-standard form claim, thereby losing entitlement to seven months of benefits.

DAV takes no issue with veterans being required to submit their claims on standardized forms, because that is not the root of what is being changed. This proposed rule will cause many veterans, who may have needed that seven months due to illness or other reasons, to lose the benefit of the informal claims process, unless they file their claim electronically; for those individuals their effective date will be preserved. Whether this is meant to entice veterans to file their claims electronically, clearly there will be veterans who stand to lose their rightful benefits. We have submitted our comments to the proposed rule and call upon Congress to further examine this matter, as it will have a major adverse impact on veterans and the benefits they need and earned.

This proposed rule also seeks to require veterans to submit their notice of disagreement on a standard form. As we have stated, DAV does not have an issue with requiring the use of a standard form, which may make it easier for VA to extract pertinent information as to what the veteran disagrees with; however, this proposal will cause many veterans to lose their appeal rights. Quite simply, under this proposal if a veteran does not use the standard form and complete exactly as directed, no additional time period will be provided to the veteran for correction. The appeal period will simply end. Currently, veterans are allowed one year to appeal any VBA decision. If a veteran submits his notice of disagreement on day 365, he or she will still have 60 days from the date of the Statement of Case to submit the actual appeals form, VA Form 9, Appeal to Board of Veterans' Appeals. We have submitted our comments to this proposal as well; however, this is another example of making this non-adversarial process adversarial and unnecessarily complicated, especially for veterans.

Mr. Chairman, there is a distinction being created between those who possess the resources and capabilities to meet the electronic claims filing requirements, and those who are not able to do so. VA serves veterans and claimants of all diverse backgrounds, with varying physical and mental capabilities, education, and financial resources. Some claimants, particularly those of limited financial means and those with severe mental or physical impairment, will be penalized by not retaining some measure of accommodation for allowing an effective date for entitlement to benefits to be based upon the receipt of communication expressing such belief.

Setting aside special consideration for claimants capable of filing electronically, and excluding those who cannot, will cause a certain portion of the eligible claimant population to be treated differently. Based on resources, electronic access and capabilities, one group of claimants will receive special consideration for the effective date of a claim, while the other group, of limited resources, will be penalized with a later date based on receipt of a complete application.

Because of this disparity, and its effect on a claimant population that may require extra assistance, we recommend that an incomplete electronic or non-electronic claim, to be considered a request for an application of benefits under the proposed provisions of title 38, Code of Federal Regulations, section 3.155(c), be established as the effective date of entitlement if an appropriate complete application is received within one year of the date the Secretary notifies the claimant and the claimant's representative, if any, of the information necessary to complete the application.

Mr. Chairman, this concludes my testimony and I would be happy to answer any questions from you or members of the Subcommittee.