

**STATEMENT OF
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OF THE
DISABLED AMERICAN VETERANS
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SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
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Mr. Chairman and Members of the Subcommittee:

Thank you for holding today's important hearing on the State of the Veterans Benefits Administration (VBA) and for inviting me to provide testimony to the Subcommittee on behalf of the Disabled American Veterans (DAV). VBA provides an array of benefits to veterans, particularly disabled veterans, including disability compensation and pensions, vocational rehabilitation, education assistance, home loans, and insurance programs. DAV has comprehensive recommendations on how to improve all of these programs that can be found in our legislative agenda as well as in *The Independent Budget*, and we commend both of those publications to the Subcommittee.

Our legislative priorities for the 111th Congress include the full phase-in of concurrent receipt, elimination of the SBP/DIC offset, and increases in the home and auto adaptive grant programs. We also believe that Congress and VBA must address the inequity that exists for disabled veterans receiving vocational rehabilitation benefits under Chapter 31 compared to the new education benefits created by the Post 9/11 GI Bill under Chapter 33. We recommend that Congress authorize Vocational Rehabilitation (Chapter 31) participants to have dual eligibility so that they can receive the higher subsistence allowance offered under the Post-9/11 GI Bill (Chapter 33). This would prevent veterans from having to choose between a program that provides a greater financial benefit and one that focuses on their rehabilitation as they seek to support themselves and their families.

However, for today's hearing focused on the State of the VBA, I would like to focus on their largest and most significant program: veterans disability compensation. For disabled veterans, receiving a timely and proper disability rating is the gateway to all of the VBA benefits to which they are entitled. As such, the problems that have plagued and continue to plague VBA in efficiently administering this program have correctly received the most attention from Congress and VSOs in recent years. In fact, this is the sixth Subcommittee hearing this year examining VBA's claims processing system and I want to applaud you for your continued vigilance on behalf of American's 3 million disabled veterans, their families and survivors.

A core mission of VBA is the provision of benefits to relieve the economic effects of injury, disease, or disability upon veterans and their families. For those benefits to effectively fulfill their intended purpose, VBA must promptly deliver them to veterans. The ability of disabled veterans to provide for themselves and their families often depends on these benefits.

The need for benefits among disabled veterans and their dependents is usually urgent. While awaiting action by VBA, they and their families suffer hardships; protracted delays can lead to deprivation, bankruptcies, and homelessness. Disability benefits are critical, and providing for disabled veterans should always be a top priority of the government.

VBA can promptly deliver benefits to entitled veterans only if it can process and adjudicate claims in a timely and accurate fashion. However, VBA has been unable to meet its claims workload or correct systemic deficiencies.

Mr. Chairman, as you are acutely aware, thousands of disabled veterans today face unacceptable delays and unjustified denials of their applications for VA benefits, particularly disability compensation. As of June 5, 2010, there were 546,387 pending claims for disability compensation and pensions awaiting rating decisions by the VBA; 198,891 (35.9 percent) of the claims exceeded VBA's 125-day strategic goal.

Worse, by VBA's own measurement the accuracy of disability compensation rating decisions for the 12-month period ending in March 2010 was just 83%, continuing a downward trend for the past several years. What these statistics confirm is what DAV and others have known for some time: the process for approving veterans claims for disability compensation is broken. As a result, too many disabled veterans today are waiting too long for rating decisions that are too often wrong.

However, despite the current problems at VBA, there are reasons to be optimistic about its chances for improvement. Over the past six months, with mounting pressure from DAV and other veterans service organizations, there has been a welcome increase in attention from Congress and the Administration to these problems. Both VA and VBA leadership have been refreshingly forthcoming in acknowledging longstanding problems, and have provided candid assessments to this Subcommittee as well as the full Committee in other forums.

These new attitudes by VBA, as well as a recent flurry of activities aimed at transforming the claims processing system are encouraging signs. We are pleased that Secretary Shinseki has made reform of the claims processing system a top priority, as evidenced by his oft-repeated goal of "breaking the back of the backlog this year." We would, however, provide a caution and a caveat to this seemingly laudable goal.

Mr. Chairman, like you, DAV remains frustrated by the large and growing backlog, or claims inventory as VBA calls it, and especially by their inability to bring it under control. However, it is essential to remember that the backlog is not the problem, nor is it the cause of the problem; rather it is a symptom, albeit a very serious one. It is analogous to a person with a very high fever; they may take aspirin to reduce the fever, but unless the underlying cause for the fever is addressed, the fever can return, increase and the patient's condition may worsen.

For VBA, if leadership, management and employee incentives remain focused first and foremost on reducing the backlog, they may well achieve a smaller backlog, but that does not necessarily translate into veterans being better served. After all, adjudicating more benefit claims more quickly does not guarantee that veterans get the benefits they have earned through

their service and sacrifice. More bad rating decisions done more quickly may lower the backlog – at least for a time – but that is certainly not reform or progress.

To truly reform and transform the system, VBA must remain focused on the underlying problems causing the backlog: a lack of quality, accuracy and consistency in how VBA develops and adjudicates claims for benefits. So, whenever we hear the word “backlog,” or talk about “reducing the backlog,” we want to first hear the words quality, accuracy and consistency.

For these reasons, DAV has been working with a growing coalition of veterans and military organizations to build consensus on how best to reform the claims processing system, not just reduce the backlog. One of our first goals is redefining success from “Reducing the Backlog” to “Getting It Done Right the First Time.” We are confident that a system focused on quality, accuracy and consistency first, if properly built upon a modern IT infrastructure with optimized business processes, will lead to faster processing times and a lasting reduction and elimination of the backlog as a result.

With that as our goal, we want to recognize the efforts that VBA has underway this year which include over three dozen initiatives designed to transform the claims processing system from today’s archaic paper-based system to a modern, IT-centric process. As I said earlier, we are pleased that VBA has recognized the seriousness of the problems and reached out to the VSO community to inform us of their efforts and seek our input and support. We believe that VBA is headed down the right path; however, we remain concerned about whether they will get to the end without effective leadership and proper oversight by Congress.

Unfortunately, today – nearly 1 1/2 years into this Administration – there is still no Under Secretary for Benefits in place, or even nominated. No large organization can be expected to operate at peak efficiency, much less dramatically transform itself, without a chief executive in place to lead that change. The time is long overdue for a new Under Secretary to be named and we call on the Administration to swiftly do just that. VBA must also complete other pending management changes so that they have a permanent leadership team to provide stability as they modernize and optimize the claims processing system.

Mr. Chairman, with 1.2 million members, all of whom are wartime disabled veterans, DAV is deeply invested in helping VBA succeed in reforming their system for evaluating and approving claims for disability compensation and other veterans benefits. Last year, our 240 National Service Officers and 34 Transition Service Officers represented 250,000 veterans and their families – free of charge – in their claims for VA benefits, helping them receive \$4.5 billion in new and retroactive benefits to which they were entitled under the law. Other VSOs provide similar services to hundreds of thousands more veterans, their families and survivors.

I say all this so that the Subcommittee understands that VSOs are more than just knowledgeable and interested observers in the benefit claims process, we are an active and integral component of the system itself. So while we applaud VBA for their new openness and outreach to the VSO community, we are becoming increasingly concerned that they are not fully integrating us into their reform efforts from the beginning.

Over the past year, VBA has launched dozens of new pilot programs at regional offices around the country. In most cases, the pilots were developed without any input from VSOs, either nationally or locally. This is a mistake for a number of reasons: not only do we bring vast experience and expertise about claims processing, but our local and national VSO service officers hold power of attorney (POA) for hundreds of thousands of veterans and their families. Moreover, we make VBA's job easier by helping veterans prepare and submit better claims, thereby requiring less time for VBA employees to develop and adjudicate the claims. We would urge VBA to integrate us into their planning for new initiatives and pilots from the beginning so that we can work together to reform this system for the benefit of all veterans.

VBA currently has three dozen initiatives underway to help them modernize the claims approval process. Several of them, such as the pilots in Little Rock and Providence, as well as the Fully Developed Claim and Individual Claimant Checklist were Congressionally mandated in Public Law 110-389. Others, such as the Quick Pay Disabilities pilot in St. Petersburg, the Rapid Evaluation of Veterans' Claims pilot in Atlanta and the Case Management pilot in Pittsburgh were initiated by VBA regional offices with central office approval. VBA's Innovation Initiative also produced 10 winners developed and submitted from regional offices, eight of which are actively being implemented. There are also eight "quick hit" ideas that were developed at a Regional Directors Workshop this spring, including pilots testing phone development and a walk-in claims rating program. Many other ideas that DAV and others have been promoting, including the increased use of private medical evidence and interim ratings, are also currently being tested in the field.

Although we believe that VBA is moving in the right direction, we do have concerns about how all of this experimentation will come together to optimize VBA's claims processing system. It is not enough just to test ideas through pilot programs or studies; there must be a coherent and coordinated plan to evaluate and integrate the results of all this experimentation. We urge this Subcommittee to maintain the aggressive oversight demonstrated throughout this Congress, and would offer a few comments on a couple of these programs.

In the past month, VBA rolled out the Fully Developed Claim (FDC) program nationally. DAV has long advocated for exactly this type of program to eliminate time and resource-wasting over development. However, the recent directives implementing this program nationally require a couple of modifications to fully protect the rights of veterans. Under the normal claim processing system, a veteran can file an informal claim in order to protect the effective date for which they may be entitled to disability compensation; they are then provided up to 12 months to complete the application. However, if a veteran chooses to submit a claim under the FDC program, there is no mechanism to allow them to submit such an informal claim. As such, veterans would effectively lose the compensation due to them during the time they spent assembling their claim, forcing them to choose between a quicker decision under FDC or an earlier effective date under the regular process. This in turn would likely create a disincentive for filing claims under the FDC program, increasing VBA's workload. We have discussed this issue with VBA and Congressman Joe Donnelly and urge the Subcommittee to work with them to allow veterans to file informal claims protecting their effective dates in the FDC program.

Another issue of concern in the FDC program relates to the waiver veterans must sign to allow VBA to move forward in processing their claim without having to send VCAA (“Veterans Claims Assistance Act”) notification letters. If VBA later determines that the claim filed as “fully developed” no longer meets that criteria, they can exclude it from the FDC program and move it back into the regular claims processing queue. However, under the rules sent out by VBA, they would not then have a duty to then notify veterans of that change, nor inform them of their VCAA rights. While it make sense for veterans to waive VBA’s requirement to perform some VCAA duties in exchange for quicker decisions under the FDC program, if the veteran no longer benefits from participation in that program, it is only logical that their full VCAA rights be restored.

I would also like to share a concern about the implementation of the pilot program creating standardized templates for private medical evidence underway at the Pittsburgh RO. DAV strongly supports this initiative and believes it can play a significant role in helping to eliminate unnecessary and duplicative VHA exams, which result in the loss of time and resources for both VBA and veterans. VBA has historically taken a dim view of private medical evidence due to the possibility of fraud. While no one can provide a 100% guarantee against the possibility that some doctors, or even some veterans, may seek to submit falsified private medical evidence, that must not result in unnecessary obstacles to the receipt and use of private medical evidence in making rating decisions. Just as in any other application or submission to VA, or to any government agency, there exist methods to detect and punish such fraud. As they implement the private medical template pilot program in Pittsburgh, we encourage VBA to take a reasonable approach for receiving, accepting and evaluating private medical evidence without creating restrictive rules to unrealistically eliminate any possibility of fraud.

In another new initiative, VBA is seeking to expand and encourage the use of its existing authority to assign interim ratings when there is sufficient evidence to establish a compensable service-connected condition for one or more contentions. The expanded use of interim ratings will more quickly provide many service-disabled veterans with financial support and access to VA health care and other benefits, while allowing further development of any remaining contentions in the normal development and adjudication process. DAV and other VSOs fully support this initiative and urge the Subcommittee to do all it can to encourage VBA to move in this direction.

Perhaps most important to VBA’s reform and modernization is the ongoing development of several new IT systems - particularly the Veterans Benefits Management System (VBMS) and the Veterans Relationship Manager (VRM) to manage work flow and provide greater access to veterans and VSOs. Over the past six months, VBA has accelerated the development of the VBMS, and just completed prototype development of what was called the Virtual Regional Office (VRO) located in Baltimore.

While VBA provided several briefings to DAV and other VSOs on these IT programs, we are concerned that they have not sufficiently sought our input nor considered the role of our service officers during the development of the VBMS system. When they first unveiled their plans for the VBMS, we were assured that service organizations and service officers would be involved in helping to develop this system. Regrettably, despite these assurances and public

invitations to observe and participate in the VRO phase of the VBMS development, the VRO in Baltimore was completed without any VSO observation, participation or input.

VBA has since reached out to DAV and several other VSOs to report on their progress and solicit out comments and we appreciate this opportunity. However, it is imperative that input from VSOs is regularly and comprehensively integrated into the further development of the VBMS, as well as the VRM. As stated earlier, we not only have relevant expertise and perspectives that will benefit the development of these IT systems, we are also direct participants in the claims processing system and must be integrated into their planning. We would encourage VBA to develop regular and ongoing roles for VSO participation and input into future VBMS development.

DAV is also concerned that in the rush to meet self-imposed, aggressive deadlines for piloting and rolling out the VBMS, VBA could end up with an insufficiently robust IT infrastructure. Despite the fact that a modern, paperless claims processing system is at least a decade overdue at VBA, it remains just as imperative today that they “get this done right the first time.” For example, in recent discussions with VBA officials, we were told that rules-based decision support will not be a core component in developing the VBMS system, but that it will be a component to be added-on later, perhaps years later after the full national rollout. It has long been assumed by DAV and many others that the VBMS would be designed to take maximum advantage of the artificial intelligence offered by modern IT in order to provide decision support to VBA’s claims adjudicators. We would urge this Subcommittee to further and fully explore this issue with VBA and suggest that it might be helpful to have an independent, outside, expert review of the VBMS system while it is still early in the development phase.

We are also concerned about how VBA intends to handle legacy paper claims within the new VBMS environment. While VBA is committed to going all-paperless for every new claim submitted once the VBMS is up and running, it is not yet clear whether they also intend to convert all re-opened claims to paperless, digital files. DAV would be concerned if VBA were to develop a separate legacy system, and thus create two claims processing systems: one that is paperless for new claims and one using paper C-files for legacy claims. Given the volume of re-opened and appealed claims each year, VBA can expect legacy files to be re-opened for decades to come. Would VBA employees have to learn and master two claims processing systems: one that is paperless and the other at least partially paper-based? Wouldn’t this be detrimental to quality, accuracy and consistency? We would urge this Subcommittee to ensure that VBA builds the VBMS as an all-paperless program. The VBMS system must include as a core capacity the ability to convert all legacy claims to the new digital environment at its rollout.

Finally, we remain concerned about whether the VBMS development is being driven primarily to speed processing or to ensure quality and accurate decisions. As we mentioned above, rules-based decision support is a key component of quality control. In addition, the VBMS must have comprehensive quality control built in, as well as sufficient business practices established, to ensure that there is real-time, in-process quality control, robust data collection and analysis and continuous process improvements. We urge this Subcommittee and Congress to

continue providing VBA with sufficient resources as well as sufficient time to get this job done right, not just quickly.

Mr. Chairman, in assessing the “State of the VBA,” we want to properly recognize the important steps they have been taken over the past year. VBA’s new openness is encouraging; their candid assessment of the problems they face is refreshing; and their commitment to exploring new solutions is commendable. However, even with this promising start, much work remains to turn this promise into results.

VBA has established an aggressive strategy and schedule for reforming the benefits claims processing system. In order to achieve lasting success, VA must first and foremost focus on quality and accuracy ahead of simply reducing the backlog. VBA must modernize their IT infrastructure and optimize business processes, which will require strong and effective leadership, something they cannot fully realize until there is a new Under Secretary in place. Finally, we firmly believe that VBA cannot be completely successful unless they truly seek and realize a mutually beneficial partnership with the VSO community.

Mr. Chairman, we want to commend you and this Subcommittee for all that you have done to help reform VBA and the claims processing system. It will take your continued leadership over the next several years to ensure that the many promising initiatives underway finally result in a modern, transparent and effective system for delivering benefits to veterans in a timely manner.

Thank you again for the opportunity to present DAV’s testimony today and I would be pleased to answer any questions that the Subcommittee may have.