

A Report by a Panel of the
NATIONAL ACADEMY OF PUBLIC ADMINISTRATION
for the U.S. Congress and the Veterans Benefits Administration

Veterans Benefits Administration: Review of the Disability Claims and Appeals Processes



U.S. Department
of Veterans Affairs



National Academy of
Public Administration®

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October 2016

***Veterans Benefits Administration:
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Foreword

The United States owes its approximately 22 million men and women who have served proudly in the military uniform a profound debt of gratitude. These individuals have served the country with honor and distinction in conflicts from World War II to the present day and receive a variety of services from the U.S. Department of Veterans Affairs (VA). One of the three administrations at VA—the Veterans Benefits Administration (VBA)—provides a variety of benefits and services to Servicemembers, Veterans, and their families. Within VBA, the Compensation Service provides monthly payments to Veterans in recognition of the effects of disabilities incurred or aggravated from diseases, injuries, or events during active military service.

VA, however, has not always lived up to its goal to process claims on a timely basis, and the backlog of unprocessed disability claims peaked at over 611,000 in 2013. Over the past few years, VBA implemented a complex set of actions to address this backlog, ultimately reducing the claims backlog to less than 100,000 claims in August 2015. Despite this progress, the claims backlog has remained in the national spotlight given questions about the sustainability of VBA’s processes and the increase in appeals inventory. Against this backdrop, Congress stepped in and mandated in the FY 15 appropriations that the National Academy of Public Administration (the Academy) conduct an independent review the disability claims process and related business practices, with a particular focus on long-term sustainability.

The Academy formed a Panel of seven Fellows, several of whom are veterans, supported by a professional study team to conduct this study. The Panel’s report—a result of extensive independent research, including more than 200 interviews with VA employees and leaders, a wide variety of external stakeholders, and congressional staff, conducted over the past year—provides Congress and VBA with options for improving efficiency and quality of disability claims and appeals processing. The Panel presents 10 recommendations and multiple specific actions that it believes should be taken to not only increase the efficiency and quality of disability claims and appeals processing, but also ensure that stakeholders and VBA work together more effectively to improve service to veterans.

As a congressionally chartered non-partisan and non-profit organization with over 800 distinguished Fellows, the Academy has a unique role of bringing nationally-recognized public administration experts together to help agencies address their challenges. We are pleased to have had the opportunity to assist VBA by conducting this study, and we appreciate the constructive engagement of the administration’s personnel and other stakeholders who provided important insight and context needed to inform this report. I extend my deep appreciation to the Academy Panel, who provided invaluable expertise and thoughtful analysis to this undertaking, and to the professional study team that provided critical support throughout the project.

Dan G. Blair
President and C.E.O.
National Academy of Public Administration

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Acronyms and Abbreviations

Academy	National Academy of Public Administration
AMC	Appeals Management Center
AQRS	Authorization Quality Review Specialist
ASPEN	Automated Standardized Performance Elements Nationwide
BAS	Benefits Assistant Service
BDD	Benefits Delivery at Discharge
BDN	Benefits Delivery Network
Board	Board of Veterans' Appeals
C&P Exam	Compensation and Pension Examination
CA	Claims Assistant
CAPRI	Compensation and Pension Record Interchange
CBO	Congressional Budget Office
CMA	Change Management Agent
CMI	Centralized Mail Initiative
D2D	Digits 2 Digits
DBQ	Disability Benefits Questionnaire
DoD	Department of Defense
DRO	Decision Review Officer
FDC	Fully Developed Claim
FTE	Full-Time Equivalent
FY	Fiscal Year
GAO	Government Accountability Office
IPR	In-Process Review
IQR	Individual Quality Review
IT	Information Technology
IU	Individual Unemployability
NCA	National Cemetery Administration
NOD	Notice of Disagreement
NWQ	National Work Queue
OBPI	Office of Business Process Integration
OSP	Office of Strategic Planning
QRT	Quality Review Team
QS	Quick Start
RBC	Rules Based Calculators
RMC	Records Management Center
RO	Regional Office
RVSR	Rating Veterans Service Representative

SEA	Strategic Environmental Assessment
SEP	Stakeholder Enterprise Portal
SNL	Simplified Notification Letters
SPOE	Single Point of Entry
STAR	Systematic Technical Accuracy Review
STR	Service Treatment Records
SOC	Statement of the Case
SSOC	Supplemental Statement of the Case
U.S.D.S.	United States Digital Service
VA	Department of Veterans Affairs
VACOLS	Veterans Appeals Control and Locator System
VASRD	VA Schedule for Rating Disabilities
VBA	Veterans Benefits Administration
VBMS	Veterans Benefits Management System
VEC	Veterans Experience Center
VHA	Veterans Health Administration
VRM	Veterans Relationship Management
VSC	Veterans Service Center
VSO	Veterans Service Organizations
VSR	Veterans Service Representative

Executive Summary

The United States offers Veterans of its armed forces the most comprehensive benefits and services of any nation. These benefits and services are administered by the Department of Veterans Affairs (VA). Claims for disability compensation benefits are adjudicated and managed by the Veterans Benefits Administration (VBA), one of three mission-oriented administrations within the VA.

The number of Veterans claiming disability compensation benefits from the VA has nearly doubled since 2000, increasing from 2.3 million to 4.5 million in 2015. The cost of those benefits has more than tripled, rising from \$20 billion to \$63 billion over those 15 years. Since 2010, VA has received more than one million claims a year for benefits. Over this period, the complexity of claims has materially increased due to the changing nature of injuries and illnesses faced by today's Veterans, as well as improved diagnostic skills.

Since 2010, employees working in VBA's 56 Regional Offices (ROs) have processed over one million disability claims annually. While there has always been an inventory of pending claims, VA Secretary Eric Shinseki (2009-2014), in 2009, defined the backlog as claims waiting more than 125 days for decision. He also established a goal of 98 percent accuracy level by the end of FY 2015.¹ In large part, by setting these aggressive goals, VBA focused considerable attention, resources, and initiatives over the past several years to complying with these measures. VBA reached an important milestone on August 25, 2015, overcoming a backlog peak of 611,000 claims in March 2013, when the number of backlogged claims fell below 100,000. Since that time, the backlog has remained at around 70,000-80,000 claims.

At the request of Congress, the National Academy of Public Administration (the Academy) convened an independent Panel of experts to conduct an independent review of the progress of the VBA in reducing the backlog since 2010 and examines the increased appeals inventory over the past two years. The Panel of Academy Fellows, several of whom are Veterans, with support from a professional study team of experienced analysts, interviewed over 200 individuals representing a wide range of stakeholders. The study team visited a number of VBA facilities and District/Regional Offices and conducted an extensive review of prior reports, statutes, regulations, and guidance documents. VA and VBA staff were open and supportive throughout the process. The Panel's report offers short-term, medium-term, and long-term recommendations to further enhance services to

¹ Federal Government Fiscal Year runs October 1-September 30

Veterans seeking benefits, offers mitigation strategies to avoid potential future backlogs, and suggests ways to reduce the pending inventory of appeals.

Background

The statutory purpose of a compensation payment is to replace lost earnings capacity caused by a service-related disability. Determination for compensation payments is based on the rating of someone's disability in terms of degree ranging from 10 percent to 100 percent disabled, based on an assessment of 15 body systems. VBA uses a Disability Benefits Questionnaire (DBQ) examination sheet (which is a questionnaire, not a medical exam) that qualified medical personnel must use to verify a claim based on a discussion with a Veteran and a review of available medical data. A medical exam (the Compensation and Pension exam – or C&P exam) that verifies a disability is also often used, and VBA routinely updates required elements covered by the exam to reflect changes in medical advances. The bases for a disability determination are the DBQ, C&P exam, and confirmation of the military service record verifying that the cause of the disability occurred during active military service.

Over the years, and generally in an effort to enhance fairness and accountability, the disability compensation program has become increasingly complex. Laws, regulations, rules, and court findings have been layered onto the basic framework described above. The resulting complexity has challenged both Veterans seeking benefits and VBA that must administer them. To navigate this complexity, a vast web of support organizations has evolved. Veterans seeking benefits are supported not only by VBA, but also by a vast web of programs and services provided by thousands of volunteers and paid staff at the State and County government levels, Veterans Service Organizations (VSOs), and other supportive non-profit organizations.

VBA achieved its goal of decreasing the claims backlog to under 100,000 claims in 2015, and its data show that the backlog has remained at 70,000-80,000 in recent months. Alongside these successes, however, there has been a large increase in the appeals inventory, which effectively doubled from 2014 to 2016. As of January 2016, over 443,000 Veterans were waiting for final appeal adjudication. VA now projects that “by the end of 2027, under the current process, without significant legislative reform, Veterans will be waiting on average 10 years for a final decision on their appeal.” The pending inventory could climb to over 2 million cases in the appeals inventory by 2027. The problem is further compounded because federal law requires the Board of Veterans' Appeals (the

Board) to remand appealed cases to VBA's Appeals Management Center (AMC),² for correction of errors. In Fiscal Year (FY) 2015, 46.4 percent of cases heard by the Board were remanded for correction. These corrections are, in many cases, a response to new evidence being submitted that VBA did not have in the original claim rating. VBA must, therefore, take back the claim and use new evidence to repeat the rating process for the claim. This rework has a cascading impact on the work volume of the rest of the claims and appeals processes.

Results in Brief

In accord with the Academy's contract with VBA, this report focuses primarily on evaluating actions taken to address the disability claims backlog and appeals inventory. Based on its review, the Panel has three principal observations:

1. VBA succeeded in reducing the backlog of disability claims by implementing an integrated set of defined process modernization initiatives and by imposing mandatory overtime for three years. These solutions were significant first steps to prepare the way to further optimize claims processing and improve the quality of disability determinations.
2. VBA continues on its aggressive course of modernization, including developing a comprehensive plan for further enhancing its disability determination processes. In addition, VBA can use advanced technology and tools, including data analytics, to increase its understanding of the outcomes resulting from these improvements and to use that information to drive the next level of process efficiencies and quality improvements.
3. The claims and appeals adjudication processes need to be fundamentally transformed. VBA cannot accomplish the needed transformation of the claims and appeals processes by itself (that is, in isolation from other stakeholders). Improving the claims and appeals adjudication processes will also require more effective engagement among all stakeholders, including VSOs, the Department of Defense (DoD), Congress, Veterans, and other interested parties.

These three principal observations are supported by more extensive research structured by the project's scope of work, which is discussed in the remainder of this summary.

² The Appeals Management Center is the VBA body that addresses certain remanded cases from the Board. See M21-1, Part I, Chapter 5, Section G for further description of AMC's role and jurisdiction.

Objectives and Summary Findings

The report addresses six objectives, each briefly described in this summary and more fully explained in the report. Five were specified in the scope of work, while an additional objective examining the increase in the appeals inventory was mutually agreed upon with VBA. The Panel's recommendations are listed at the end of this Executive Summary and are found in Chapters 3 and 4 of the report.

Objective #1: Assess VA's progress in transforming the disability claims process and reducing the backlog, along with its preparation for future claims processing.

The Panel concludes that VBA reduced the claims backlog significantly using its "Strategic Plan to Eliminate the Compensation Claims Backlog" (the Backlog Elimination Plan). This plan focused on retraining staff, reorganizing and streamlining business processes, and building and implementing technology tools. The claims backlog was reduced during the course of implementing this plan. Initiatives judged as having the most impact on backlog reduction are discussed in detail in Chapter 3.

Objective #2: Assess VA's redesigned business processes and systems, management structures, and any specific changes necessary to accommodate the increase in claims complexity.

VBA has been asked through numerous studies and reports issued over the past 60 years to update and redefine what can be done to improve Veterans' expectations in obtaining benefits and using them as a foundation for post-military life. The Panel finds that VBA has developed new systems to accommodate the increase in claims complexity, but has not created an approach to assess these systems' impact on improving a Veteran's experience and success in transitioning from military to civilian life.

As part of a comprehensive approach to understanding the impact of these new systems on Veteran transition, the Panel concludes that VBA needs to update the definition of "disabled," including the rating of its severity, as part of the ratings schedule update of the body systems that is now underway. The Panel also concludes that VBA should further consolidate and interpret quality-related data (including collection and clarification of the data fields that form the basis of the decision and ratings) and increase use of rules-based analytics and other statistics-based decision-making tools to triage and process cases.

Objective #3: Identify any additional specific procedures that will need to undergo change as VBA achieves a fully electronic, paperless environment.

More work is required to enhance portability (which will help manage the process in the short-term) and interoperability of data. This work—to more effectively connect VBA, the Veterans Health Administration, DoD, and the military departments—is an important but long-term and challenging issue.

Objective #4: Propose mitigation strategies, including short-term, medium-term, and long-term, that VBA should utilize to reduce the backlog while improving service to Veterans and their families.

The Panel proposes that VBA pursue the following mitigation strategies to further reduce the backlog while improving service to Veterans and their families, and offers a perspective as to whether these are short-term, medium-term, or long-term mitigation strategies.

- **Consider new metrics for defining the backlog**

The Panel contends that a fresh look should be applied to how to define the backlog. Since 2009, VBA has used a complexity-based scale to triage all cases received in order to distribute them to its staff for processing, known as the “three lane approach”. VBA’s decision to segment cases based in complexity suggests that a one-size-fits-all decision to define backlog for all cases at 125 days may be outdated. VBA should create new metrics for defining backlog that takes into account claim complexity. The Panel concludes that taking this step will allow for less complex cases (or “express lane” cases) to be processed more quickly, thus positively addressing the backlog numbers. Revised metrics will also enable VBA to use important performance data to inform decisions related to the merits of certain modernization and transformation initiatives.

These strategies are medium-term and should be achievable in a one to three year timeframe.

- **Promote consistent practices and performance across Regional Offices (ROs)**

VBA’s improvements included a move from paper-based to an electronic format heavily dependent on scanned images of paper records. In addition to major gains in record availability, portability and tracking, this move to electronic records allowed the introduction of a National Work Queue (NWQ). The NWQ distributes work to ROs that have capacity and provides insights into variations in productivity and accuracy. This approach inspired the new slogan: “It’s the nation, not the station.” VBA should further leverage these new capabilities to emphasize the use of advanced analytics and the identification of best practices that can be built into an

improved, standardized and consistent processing of claims system wide. At the same time, it is important to recognize there are aspects of RO administration that benefit from local autonomy to promote efficient and effective operations.

These strategies should be achievable in the short-term – during a one-year timeframe.

- **Leverage the network of support organizations to enhance claims and appeals productivity**

VBA can take actions to better manage and strategically leverage the expansive network of support organizations, both paid and voluntary, which support Veterans. Key areas to focus on collaborating with this support network include improving the transition process from military to civilian life as well as the processes for applying for disability compensation. The partnership that VBA and these support organizations currently fosters is a force multiplier that has enormous potential. VBA has active engagement with these organizations already. VA's Advisory Committee Management Office provides management support to 26 different Federal Advisory Committees that solicit advice and recommendations from outside experts and the public concerning all VA programs. VBA's Benefits Assistance Service is the administration's outreach service, and is charged with ensuring a presence and unified message across the country, including collaboration with internal and external stakeholders (e.g., Veteran Services Organizations, Department of Defense, and other state and community partners). VBA should continue to build on the existing relationships as well as developing new ones to take full advantage of strategic partnerships.

These strategies are medium-term and should be achievable in a one to three year timeframe.

- **Assess the cumulative impact of program requirements**

A myriad of federal laws and court decisions over the years, along with layers of policy determinations, added complexity to the claims system, and ultimately extended wait times for Veterans and their families to receive disability compensation. Often these laws and rules are so intertwined and interdependent that the impacts of additions or changes made by well-intentioned policymakers are not understood. Further, faced by stakeholder opposition and increased partisanship among lawmakers, VA continues to face challenges advancing its legislative agenda. In its 2012 response to Congress examining the factors that contribute to extended processing times and VBA's effort to reduce processing time,

GAO identified federal laws and court decisions in the past decade that, in addition to expanding benefits, have added requirements that have increased wait times. For example, the Veterans Claims Assistance Act of 2000 established the so-called “duty to assist,” requiring VA to assist Veterans in obtaining evidence before making a decision, including all relevant federal and non-federal records. Considerable claim rework may be required when a Veteran submits additional evidence or identifies a new condition. In addition, a non-standard format for both claims and appeals can also result in significant delays. VA already charts its rules and regulations to help ensure they are timely and properly executed, but additional improvements can be made to this analysis to ensure there is a comprehensive evaluation of how the complex and interdependent aspects of legislation and rule changes might impact Veterans and VA alike.

These strategies are medium-term and should be achievable during a one to three year timeframe.

The mitigation strategies listed above reflect some of the most significant ways to address reduction in backlog while also improving services. They reflect short-term and medium-term strategies that should be achievable within a three-year period; none should require a long-term timeframe of over three years to achieve.

Objective #5: Examine the increase in appeals of disability determinations that have resulted in a doubling of the appeals inventory between 2014 and 2016.

VBA deployed a similar package of administrative initiatives to the appeals process as it did to the claims process by hiring more staff and upgrading and modernizing its systems to tackle the growing inventory. Additionally, VBA has proposed statutory initiatives, including a three-lane appeals process currently under consideration by Congress that was designed in collaboration with stakeholders. This legislative proposal is intended to help resolve the long-term issue of a broken appeals process, while addressing the immediate problem of an unacceptably high appeals inventory. As Congress deliberates, VBA is experiencing unprecedented workload levels and record numbers of appeals. While legislation should be a positive step to advance efforts to address the appeals inventory, more needs to be done. VBA can also continue working closely with its external stakeholders to find common solutions that can enhance the process with administrative actions and through collaborative efforts.

Objective #6: Identify circumstances that may arise in the future that will most likely lead to another backlog.

The report speaks to various factors that might contribute to claims volume growth and greater claims complexity, which may, in turn, cause future backlog spikes. The report notes that declaration of a new “presumptive” condition is the likely biggest catalyst to claims volume surges that could cause future backlog growth.

Essential Elements to Comprehensive Transformation

VBA has begun a journey toward transformation that has great promise. To be successful, it will require continued diligence and leadership to drive large-scale changes in approaches and adopt effective use of the latest technology in its work in order to enhance outcomes for Veterans. Such initiatives also include enhanced collaboration with external stakeholders to contribute to greater efficiencies and quality assurance to the growing volume and complexity of VBA’s disability claims and appeals work.

In order to enhance the Veteran experience in the 21st Century environment that is worthy of this nation, urgent actions are required to bolster efforts to construct a more holistic approach to supporting Veterans and define a modern disability philosophy. VBA, by itself, cannot construct these critical building blocks. The broader community of stakeholders must coalesce around the importance of these fundamental issues and then take action. To be successful, political leadership, adequate resources, greater partnership across parallel interest groups, and expanded interoperability with respect to medical and service records will be imperative.

The Panel views this report as an opportunity to inform decisions to be made and actions to be taken by Executive Branch and Congressional leaders, especially in the pivotal timeframe of a transition to a new Administration. The report outlines key areas on which to best focus efforts to maximize short-term, medium-term, and long-term opportunities to improve services for Veterans and achieve measurable outcomes.

Report Recommendations

Recommendation #1: VBA Should Build Upon and Expand Modernization Efforts to Further Reduce the Disability Claims Backlog. This Should Include:

- 1.1 Using advanced analytics to evaluate the effectiveness of any future process change, once implemented, for ongoing validation of effective results and to discern whether refinements are needed.
- 1.2 Prioritizing the re-write of its Simplified Notification Letters sent to Veterans as part of their letter and form review to ensure that all decision letters are clear and easy for Veterans to understand.
- 1.3 Exploring new ways to incentivize service organizations to submit Fully Developed Claims for Veterans they work with.

Recommendation #2: VBA Should Transform the Work of How Claims Are Processed on the Front Line Now that Claims Are Electronically Accessible Nationwide. This Should Include:

- 2.1 Employing its proven experience in change management to ensure effective National Work Queue adoption and adaptation across Regional Offices, training and communication.
- 2.2 Integrating a reporting mechanism into the Veterans Benefits Management System to replace the Automated Standardized Performance Elements Nationwide system and to avoid the challenges of a self-reporting system.
- 2.3 Developing new performance standards for all positions in order to measure performance related to the processes required for timeliness and accuracy of claims decisions and remove performance quotas based merely on “touching” the document (as opposed to advancing the adjudication).
- 2.4 Identifying more detailed metrics and improved performance incentives. This would include rethinking what the unit of measurement should be in terms of results of the “team” that is adjudicating the claim (as opposed to rewarding the individual for the “touch” on the claim). It will also include evaluating VBA’s capacity to provide innovative solutions for improving process (rewarding creative thinking and managed risk to move claims more quickly through the process without sacrificing quality).

Recommendation #3: VBA Should Prioritize Updates to Claims Data to Better Reflect Case Complexity. This Should Include:

- 3.1. Prioritizing its efforts to effectively consolidate all quality related data and properly interpret the data, including collection and clarification of the data fields that form the basis of the decision and ratings.
- 3.2. Prioritizing the completion of its rating schedule update to include injuries resulting from today's modern war settings.

Recommendation #4: VA and DoD Should Expand Their Collaboration Efforts to Create a Seamless Transition from Military Service to Civilian Life. This Should Include:

- 4.1. Building on capturing critical data elements necessary for the ongoing clinical care and future rating disabilities for each Veteran.
- 4.2. Establishing a single portal unified account that becomes a single "front door" to all benefits, services, and required documents that reflects the "Servicemember for Life" philosophy.
- 4.3. Jointly confirming Service records and medical data are complete at separation.
- 4.4. Extending and improving the transition process from military to civilian life by educating Servicemembers about options for improving their quality of life to include availability of educational, financial, and health benefits.

Recommendation #5: VBA Should Adopt the Use of Rules-Based and Analytic Approaches to Adjudicating Express Lane Claims. This Should Include:

- 5.1. Adopting automated rules-based adjudication to assist in improving processing time and accuracy of disability claims, especially for those determined to be less complicated, e.g., in the Express Lane category or dependent claims. VBA should also propose legislative change to allow final disability determinations to be assisted by an electronic system.
- 5.2. Maximizing the use of big data and using data analytics in the application of statistical methods of claims adjudication for all three claims categories (i.e., "lanes").

Recommendation #6: VBA Should Consider Developing New Metrics to Track Disability Claims Backlogs that Better Reflect the Complexity of Cases. This Should Include:

Assessing whether the definition of backlog should have a similarly gradated approach, consistent with VBA's adoption of a three-tiered categorization of claims complexity (express, core, and special operations).

Recommendation #7: VBA Should Promote Consistent Practices and Performance Across Regional Offices. This Should Include:

- 7.1 Continuing to expand the role of the Change Management Agent with additional training and development so that additional modernization and transformation activities are communicated effectively.
- 7.2 Reassessing the reporting relationships and degree of empowerment regarding Regional Office-level management and decision making in order to enhance a system-wide consistent performance across the 56 Regional Offices.

Recommendation #8: VBA Should More Proactively Leverage the Network of Support Organizations. This Should Include:

Identifying opportunities for greater strategic leveraging of the network of hundreds of official support organizations and thousands of volunteer organizations and individual volunteers as a workforce multiplier.

Recommendation #9: VBA Should Assess the Cumulative Impact of Program Requirements in Order to Prioritize Policy and Decision-Making Activities. This Should Include:

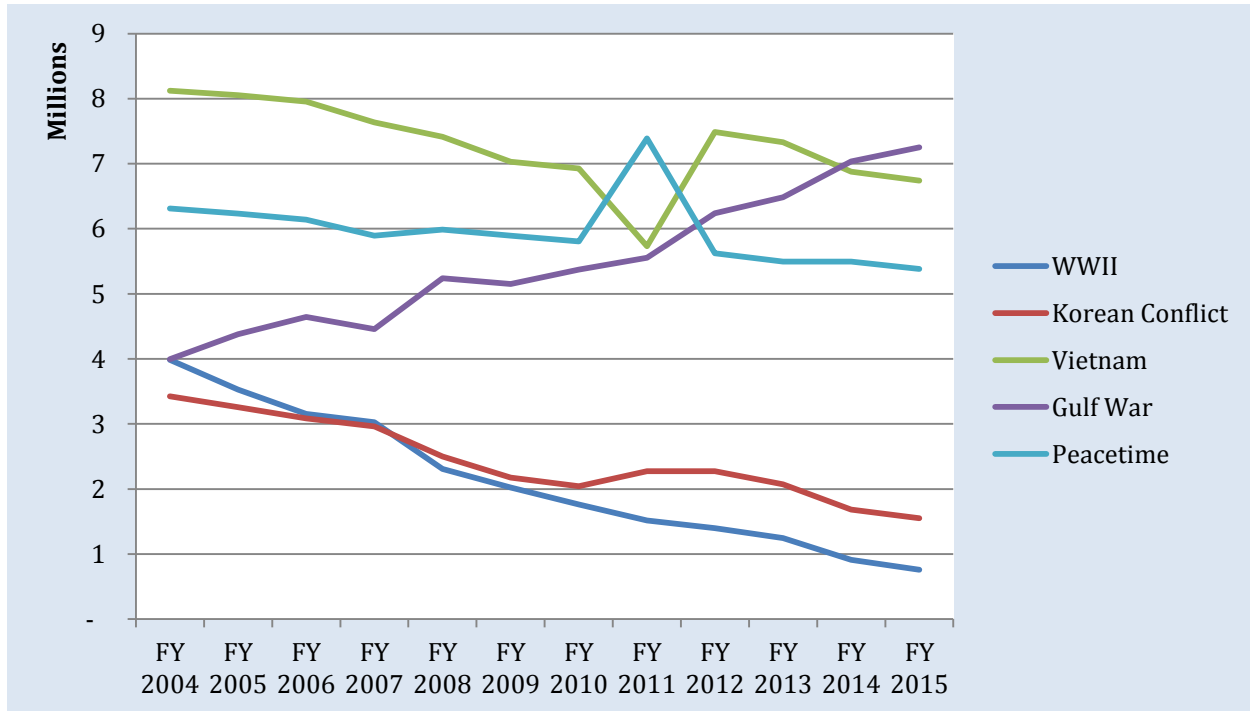
Mapping out its program's current laws, rules, policies and procedures to: (1) further understand their interactions and impacts; (2) more effectively develop and advance legislative proposals; (3) inform the Department, Office of Management and Budget, and the Congress about the conflicts and unintended consequences of potential changes to the compensation and benefits program; (4) refine their development of implementing regulations to ensure any change in law accomplishes what's intended; and (5) to enhance communications to Veterans.

Recommendation #10: VBA and the Board of Veterans' Appeals (the Board) Should Apply Lessons from Reducing the Claims Backlog to the Appeals Inventory. This Should Include:

- 10.1 Continuing to provide a Workload Report on appeals, but making it easier to access than is currently available via the VBA "Detailed Claims Data" website. The report should be distributed weekly to Congress and stakeholders via the VA website.
- 10.2 Providing, through VBA's Performance Analysis and Integrity office, data analysis for this report to ensure that VBA can define acceptable time-cycles for each step in the appeals adjudication process after appropriate reforms are in place.
- 10.3 Adopting, to the extent possible, the three-lane structure recommended by stakeholders during the Appeals Summit conducted in 2016.
- 10.4 Adopting a goal, after appropriate reforms are in place, that sets a time by which the pending appeals inventory will be drawn down to a much lower figure: for example, by 2021, VBA will clear up the pending inventory, and from then on provide most Veterans with an appeals decision within one year.
- 10.5 Continuing to work with the U.S. Digital Service and build on the success of Caseflow, the Board's newly developed web-based document management system.
- 10.6 Prioritizing the incorporation of appeals into the National Work Queue, now a central piece of claims processing work.
- 10.7 Devising a means to allow Veterans to choose whether to appropriately bound the submission of evidence so that Veterans can get appeals determinations in a timelier manner versus continuing with the continuous evidentiary loop. This includes an assessment of the current legal and regulatory authority of the Department to determine if there exists the ability introduce such changes administratively.
- 10.8 Exploring how VBA and the Board of Veterans' Appeals (the Board) can better collaborate to expedite those cases that require a minimal amount of new evidence or action but still currently require a remand from the Board back to VBA. VBA should also consider using the Appeals Management Center to provide a liaison between the Board and VBA to expedite this process.
- 10.9 Emphasizing that the stakeholder appeals summit strategy to address both the broken appeals system and the appeals inventory would solve a problem that is just as serious as the claims backlog issue that received so much Congressional support.

Chapter 1: Introduction

There are currently about 22 million Veterans³ who have served their country through conflicts spanning from World War II through today's conflicts. The largest number of today's Veterans, an estimated 7.3 million of the total, served during the Vietnam War Era.⁴ The Veteran population also includes those who served in World War II, the Korean Conflict, the Gulf War, and in Peacetime.⁵



Source: Department of Veterans Affairs, Veterans Benefits Administration, *Annual Performance Reports, 2004-2015*

Figure 1: Veteran Population Trend by Period of Service, FY 2004-2015

Widely varied with respect to age and with respect to needs, today's Veteran population receives benefits and services from the Department of Veterans Affairs (VA), which has the mission of providing support and assistance to Veterans and their families, a mission that the federal government has worked to fulfill since the founding of VA.

³ Department of Veterans Affairs, National Center for Veterans Analysis and Statistics, "Veteran Population - National Center for Veterans Analysis and Statistics"

⁴ Risen, Tom, "Veterans Day Data Boot Camp"

⁵ VA defines the various periods of service as follows: WWII – 1941-1946; Korean Conflict – 1950-1955; Vietnam Era – 1961-1975; Gulf War Era – 1990-Present (including current conflicts); Peacetime Era – other time periods not covered

VA employs 335,000 full-time employees (as of 9/30/15)⁶ across the Department and three Administrations to provide its services. The Department's three Administrations⁷ include the National Cemetery Administration (NCA), Veterans Health Administration (VHA), and Veterans Benefits Administration (VBA). In 2015, \$164.5 billion⁸ was appropriated to serve Veterans.

This report focuses on VBA's Compensation Service, whose mission is to provide monthly payments to Veterans in recognition of the effects of disabilities incurred or aggravated from diseases, injuries, or events during active military service. The purpose in law for the disability compensation payment is to replace the lost earnings capacity due to a disability.

About 60 percent of VBA employees work directly on disability compensation. In 2015, VBA distributed benefits of \$63 billion⁹ to 4.5 million Veterans (out of a total of 22 million) who receive compensation funds. The Fiscal Year (FY) 2015 payment volume was at a notable high for recent years, with VA's spending on disability compensation tripling from \$20 billion in FY 2000.

⁶ As of 9/30/2015, more than 298,000 full time equivalent (FTE) employees support VA's health care system (Veterans Health Administration), one of the largest in the world. Among the remaining over 36,000 FTE employees, approximately 21,522 are involved with providing compensation and pension, as well as other benefits to Veterans and their families, 1,730 FTE provide burial and memorial benefits for Veterans and their eligible spouses and children and 13,451 FTE employees, located primarily in the Washington, DC area, provide policy, administrative, information technology, and management support to the programs.

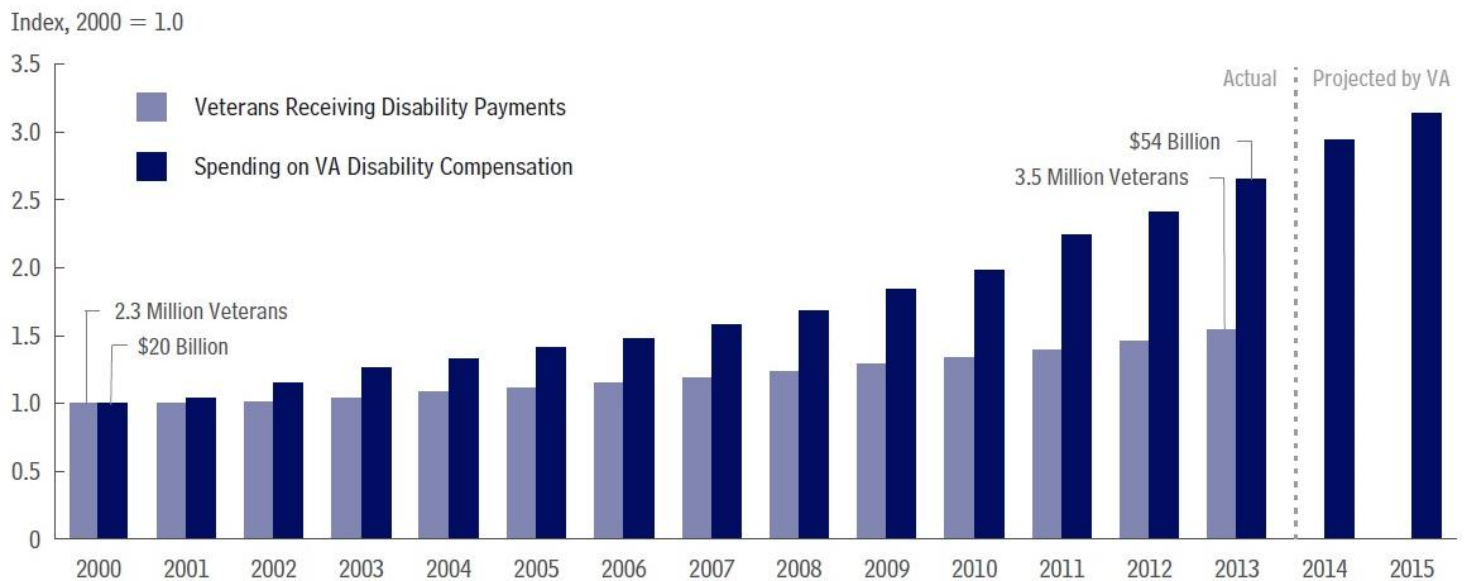
Source: Department of Veterans Affairs, Office of Finance, *2015 VA Agency Financial Report*

⁷ VA refers to its three components, VBA, VHA, and NCA, as Administrations.

⁸ For FY 2015, VA's total budget authority of \$211.1 billion primarily consisted of \$164.5 billion in appropriation authority and \$36 billion in the unobligated balance from prior year budget authority.

Source: Department of Veterans Affairs, Office of Finance, *2015 VA Agency Financial Report*

⁹ Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume III Benefits, Burial Programs, and Departmental Administration*, 51



Source: Congress, Congressional Budget Office, *Veterans’ Disability Compensation: Trends and Policy Options*, 2

Figure 2: Trends in the Number of Veterans Receiving VA Disability Payments and in Spending on VA Disability Compensation

While Figure 1 (published in 2013) relies on projected spending for FY 2014 and FY 2015, actual spending for both years maintains the trend of ever increasing disability compensation spending. Actual spending was \$58 billion in FY 2014 and \$63 billion in 2015.¹⁰

1.1 Origin of this Report and Scope

Since 2010, employees working in VBA’s 56 Regional Offices (ROs) have processed over one million disability claims annually. While there has always been an inventory of pending claims, VA Secretary Eric Shinseki (2009-2014), in 2009, defined the backlog as claims waiting more than 125 days for decision. He also established a goal of 98 percent accuracy level by the end of FY 2015.¹¹ In large part, by setting these aggressive goals, VBA focused considerable attention, resources, and initiatives over the past several years to complying with these measures. VBA reached an important milestone on August 25, 2015, overcoming a backlog peak of 611,000 claims in March 2013, when the number of backlogged claims fell below 100,000. Since that time, the backlog has remained at around

¹⁰ Source: Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume III Benefits, Burial Programs, and Departmental Administration*, 51

¹¹ Federal Government Fiscal Year runs October 1-September 30

70,000-80,000 claims.¹² The decrease in the claims backlog over this period of time is, in no small measure, an important accomplishment reflecting VBA's dedication and focused effort.

Even with these accomplishments,, the claims backlog has remained in the national spotlight because of persisting concerns over the sustainability of the processes given future uncertainties of claims volumes and complexities, as well as the increase in appeals inventory. Amid these continuing concerns, Congress, in the Consolidated and Further Continuing Appropriation Act, 2015,¹³ mandated that VBA engage the National Academy of Public Administration (the Academy) in a 12-month project to review the disability claims process and related business practices.

The project addresses six objectives, each briefly described in this summary and more fully explained in the report. Five were specified in the scope of work, while an additional objective of examining the increase in the appeals inventory was mutually agreed upon and added over the course of the project.

1. Assesses VA's progress in transforming the disability claims process and reducing the backlog, along with its preparation for future claims processing;
2. Assesses VA's redesigned business processes and systems, management structures, and any specific changes necessary to accommodate the increase in claims complexity;
3. Identifies any additional specific procedures that will need to undergo change as VBA achieves a fully electronic, paperless environment;
4. Proposes mitigation strategies, including short-term, medium-term, and long-term, that VBA should utilize to reduce the backlog while improving service to Veterans and their families;
5. Examines the increase in appeals of disability determinations that have resulted in a doubling of the appeals inventory between 2014 and 2016; and
6. Identifies circumstances that may arise in the future that will most likely lead to another backlog.

¹² Department of Veterans Affairs, Veterans Benefits Administration, "Detailed Claims Data - Veterans Benefits Administration Reports"

¹³ *Consolidated and Further Continuing Appropriations Act, 2015*, Public Law 113-235

1.2 Previous Reports on VBA

Since 2000, there have been dozens of publicly available reports completed by a wide variety of government agencies (for example, VA, U.S. Government Accountability Office, Office of the Inspector General), consulting firms, think tanks, and the Academy addressing topics that overlap with this report's scope. This section provides a high level summary of key themes of these reports in order to provide a context for this one, as well as to highlight how this report might contribute to the broader dialogue around disability claims and appeals.

1.2.1 Summary of Publically Available Reports

For purposes of this summary, other reports were reviewed that met two parameters: (1) reports that were completed since 2000; and (2) reports that address VBA's processing of disability claims and appeals.

A review of previous reports examining VBA's disability claims and appeals process shows a body of recommendations addressing a wide range of issues critical to VBA's mission. These recommendations, a total of some 166 across 14 reports over the course of 15 years, can be divided in two categories: those that are process oriented, and those that look at implications beyond just VBA. About half of the studies focused predominately on tactical, process oriented issues, providing recommendations on topics such as the need for new claims and appeals processing systems, improvements to information technology (IT) infrastructure/data analytics, and more systematic training for employees. The remaining reports seek to cover a combination of tactical and broader issues, for example how VBA might improve working relationships with external organizations.

1.2.2 Previous Academy Studies

With respect to Academy reports on the VBA claims process in particular, two were completed in the past 20 years (in 1997 and 2008). In both reports, the Academy noted that all stakeholders want VBA to succeed, are deeply committed to supporting Veterans, and take seriously suggestions for improvement. However, they both noted that attempting to address issues by focusing only on factors that can be addressed solely within VBA's organizational boundaries will result in limited change, and that VBA is susceptible to high backlogs.

Management of Compensation and Pension Benefits Claim Processes for Veterans, 1997¹⁴

The compensation and pension claims process was the main focus of this Academy report. The Academy Panel found that “although promising steps had been taken to improve management, longstanding underlying problems continued to exist.”¹⁵ The Panel concluded that VBA’s organizational culture focused on short-term needs, leading to an inability to plan, implement and review elements essential to the successful management of complex programs, as well as the lack of a fundamental and deeply-felt vision of how the organization as a whole should be performing. The Panel’s recommendations highlighted the need for improvement in leadership, strategic management, business process reengineering, IT, and the appeals process, with suggested timelines for these improvements.

Furthermore, the report described VBA as being at a “crossroads” during that period, a time when VBA was expected to reduce its staff by 31 percent within the next several years. This reduction and the steady flow of increased claims and appeals could not be addressed by technology alone. At the time, VBA was in the process of undergoing a complete IT systems modernization as well as a reengineering of the claims process itself. It was the belief of the 1997 study’s Panel that failure of the claims process reengineering undertaken to meeting its goals, combined with impending staff reductions, threatened to force VBA into another historic level backlog.

After Yellow Ribbons: Providing Veteran-Centered Services, 2008¹⁶

Rather than conducting a full-scale independent examination of the specifics of improving claims processing, the 2008 Academy report surveyed over 200 recommendations that had been published previously for the VA to cull out “the practical questions of organizational capacity, management strategy and implementation.”¹⁷ The report focused on administrative and management challenges for improving services to Veterans. Given the mission of VA and the substantial level of resources devoted to its programs, the Panel found that this orientation of the work toward the individual Veteran was not always present. At the time, VA’s structure and operations remained fragmented along administrative and program lines which resulted in inefficiencies and hampered any efforts to improve service delivery. The Panel’s recommendations centered on a more rigorous and sustained effort to make VA and its operations “Veteran-Centered,” focusing on actions

¹⁴ National Academy of Public Administration, *Management of Compensation and Pension Benefits Claim Processes for Veterans*

¹⁵ *Ibid*, vii

¹⁶ National Academy of Public Administration, *After Yellow Ribbons: Providing Veteran-Centered Services*

¹⁷ *Ibid*, ix

such as improving service delivery and communications capabilities to Veterans, enhancing working relationships with external partner organizations, and establishing a performance-driven management structure and philosophy.

Additionally, the 2008 Panel noted that VBA would be focusing on an impending large backlog over which VBA had limited ability to respond since the budgeting process delayed hiring of additional staff and implementation of a surge strategy prior to the backlog occurring. Still, the Panel emphasized that VBA was not taking enough steps to communicate with Congress, its internal and external stakeholders, and most importantly Veterans, in a manner that suggested they were being proactive in managing the workflow for claims and appeals. This environment laid the groundwork for Secretary Shinseki's decision to define "backlog" and focus performance on productivity and quality goals in VBA's work.

1.2.3 Current 2016 Academy Study

VBA remains focused on ways to optimize its processes through new actions and improvements to previous initiatives. This Academy Panel's report highlights similar issues to those addressed in the previous body of work, with an intentional principal focus on what actions VBA and VA can control. It looks to address in a coordinated manner what VA/VBA can accomplish in collaboration with other federal agencies, Congress, or with partner organizations. As the first comprehensive independent report to review the disability claims and appeals process following major efforts to eliminate the historic backlog, the Academy Panel also intends for this report to serve as a roadmap for VBA as it continues to make changes in its current operating environment.

1.3 Study Approach

To undertake this study, the Academy convened an expert Panel of seven distinguished Academy Fellows, several of whom are Veterans, with a broad range of relevant skills and experience. The Panel provided ongoing guidance and counsel to a six-member study team of experienced analysts (see Appendix A for biographical information on Panel and study team members).

The study team approached its research in a multifaceted manner. The team conducted extensive research and analysis of VBA documents as well as documents provided by the Government Accountability Office; VA Office of Inspector General; external stakeholders; Congress; relevant publically available research; and the media. The study team interviewed over 200 individuals, including those from VA, Department of Defense, congressional committee staff; external stakeholders, including representatives of Veteran Service Organizations; two former VA Secretaries; and a number of former VBA officials

(see Appendix B for a complete list of interviewees). Additionally, the study team visited a number of VBA facilities and District/Regional Offices (see Appendix C for a list of study team site visits). The study team did not have the task to audit or independently validate the data provided by VBA and, therefore, has relied on its veracity in providing statistical information for the report.

1.4 Report Structure

To improve service to Veterans, the Panel was asked to verify that VBA's modernization has reduced the backlog and has put in place processes and systems to manage future work. The Panel's work is intended to provide greater clarity on the disability claims and appeals processes and recommend actions that VBA may take to enhance efficiency and address claims backlog and appeals inventory volumes while exploring broader, more comprehensive, issues and identifying involving external stakeholders that are connected with improving the claims and appeals processes, as well as actions that need congressional support.

This report is divided into six chapters plus a conclusion.

- Chapter 1 provides a high level overview of the origin, scope, and approach of the analysis.
- Chapter 2 provides background information on VBA as an organization, disability compensation and appeals, and key internal and external stakeholders in order to give context to the report's analysis and recommendations.
- Chapter 3 discusses claims processing and VBA's efforts to reduce the claims backlog. The chapter describes action VBA has taken to redesign processes and systems to address increased claims complexity, its move to a fully electronic environment, and outlines other mitigation strategies to further enhance claims processing efficiency and quality.
- Chapter 4 discusses appeals and makes recommendations which VBA can potentially implement using new methods and programs adopted for use in claims processing in order to decrease the appeals inventory.
- Chapter 5 discusses factors that could impact potential future surges in backlog.
- Chapter 6 focuses on a broader set of analyses, noting that VBA's disability claims and appeals work, as it is currently structured, staffed and managed, also has

important connections with external stakeholders that play important roles in addressing claims backlog and appeals inventory challenges.

- A report conclusion follows chapter 6.

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Chapter 2: Disability Claims and Appeals Background

This chapter offers background on disability claims and appeals in order to provide important context to build upon in later chapters. Basic information is provided on organizational structure, claims and appeals processes, distribution of disability benefits, and stakeholders who support the Veterans Benefits Administration (VBA)'s Compensation Service.

2.1 Veterans Benefits Administration Organizational Structure

The Department of Veterans Affairs (VA) strives to achieve President Lincoln's promise to Veterans:

*"To care for him who shall have borne the battle, and for his widow, and his orphan by serving and honoring the men and women who are America's Veterans."*¹⁸

VBA's mission is:

*"To serve as a leading advocate for Servicemembers, Veterans, their families and survivors, delivering with excellence Veteran-centered and personalized benefits and services that honor their service, assist in their readjustment, enhance their lives, and engender their full trust."*¹⁹

In achieving this mission, VBA offers a broad range of benefits and services, which are supported by individual program offices, a vast field operations network, and a forward-thinking strategic planning operation. As described in VBA publications, the following section summarizes its organizational structure and responsibilities.

VBA's benefits and services range from payments for injury incurred in military service, to skills training, and stakeholder communication and engagement. To provide these benefits and services, VBA is organized around eight program offices, or business lines. The following table lists VBA's eight business lines and provides summary information regarding the volume of services provided by each in FY2015:

¹⁸ Department of Veterans Affairs, "Mission, Vision, Core Values & Goals - About VA"

¹⁹ Department of Veterans Affairs, Veterans Benefits Administration, *Veterans Benefits Administration Fiscal Year 2014-2020 Strategic Plan*, 4

Table 1: Business Lines and Volume of Service Offerings in FY 2015

Business Line	Volume of Service Offerings
Compensation	\$63 billion* in disability compensation paid to 4.5 million Veterans; Over \$6 billion in compensation paid to survivors and dependents; Completed record-breaking 1.4 million claims in FY15
Pension and Fiduciary	\$5.6 billion in pensions paid to approximately 500,000 Veterans and survivors; 183,000 fiduciary beneficiaries (individuals whose benefits are managed by VA)
Insurance	6.4 million beneficiaries insured; \$1.3 trillion in coverage over 10 lines of protection; 11 th largest insurance program in the United States
Benefits Assistance Service	Over 5.2 million registered eBenefits users; 422,000 Facebook likes; 61,000 Twitter followers; Over 50,000 outreach hours; Over 2.15 million encounters with Veterans and their families
Education	\$12.3 billion in education benefits paid to over 1 million beneficiaries; 4 million claims processed
Loan Guaranty	631,000 home loans guaranteed, totaling \$153 billion
Vocational Rehabilitation & Employment	\$1.2 billion paid to nearly 100,000 Veterans; 132,000 participants in FY15, 7% more than in FY14
Transition, Employment & Economic Impact	55,000 transition assistance events held, reaching 520,000 Servicemembers and families in FY15; Veterans Employment Center hired over 365,000 Veterans

Source: Department of Veterans Affairs, Veterans Benefits Administration, “NAPA Kick Off Meeting” November 2015

*Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume III Benefits, Burial Programs, and Departmental Administration*, 51

These eight business lines are supported by VBA’s nationwide network of District/Regional Offices. The five District Offices are responsible for the effective management of the Regional Offices (ROs) in their assigned area (Continental, Midwest, North Atlantic, Pacific, and Southeast). The 56 ROs (located within all 50 States, Puerto Rico, and the Philippines) process claims and administer benefits from the eight business lines to Servicemembers, Veterans, and their families.

VBA also relies on three additional facilities to support the work of its business lines and field offices. These facilities include:

- The **Records Management Center**, which receives and stores inactive claims folders;
- The **Appeals Management Center**, which processes appeals remanded from the Board of Veterans' Appeals; and
- The **National Work Queue Office** which oversees the implementation of the new electronic NWQ functionality for claims processing at the ROs.

Finally, VBA's Office of Strategic Planning (OSP) directs and coordinates strategic and operational planning, programming, and transformational initiatives for VBA through three divisions that coordinate efforts among VBA's business lines and mission support offices. In addition to promoting strategic and transformation efforts within VBA, OSP houses the following staff offices:

- The **Veterans Relationship Management Program Office**, an enterprise initiative that serves Veterans and other clients through seamless, secure, and on-demand access to benefit information and services;
- The **Veterans Benefits Management System (VBMS) Program Office**, whose mission is to help improve the timeliness and quality of claims decisions and processes through the management and on-going development of VBMS; and
- The **Office of Business Process Integration** ensures that VBA's strategic needs and requirements for business and data systems are properly documented, integrated, and communicated.

Appendix D has VBA's organizational chart and detailed descriptions of all VBA offices mentioned above; see Appendix E for additional information on support services (such as call centers) provided by VBA to Veterans; and see Appendix F for a full list of District/Regional Offices and Support Facilities.

2.2 Disability Compensation

VBA's disability compensation program is complicated, and can be accessed as early as when a Servicemember leaves the military.

2.2.1 Pre-Discharge

The process for applying for disability compensation for a current Veteran may begin well before formal separation from the U.S. Armed Forces.

The Transition Assistance Program (TAP) is a series of briefings that Servicemembers preparing to separate from the military are required to attend. The VA component of the curriculum is a set of two briefings. The first TAP briefing covers information on the majority of VBA-provided benefits and services, while the second TAP briefing provides information on services and programs related specifically to healthcare and the disability compensation claims process. This second TAP session includes training on how to navigate through eBenefits, the web-based self-service portal.²⁰ Additionally, VBA has a series of avenues that Servicemembers can pursue to submit claims up to 180 days prior to separation or retirement from active duty or full-time National Guard/Reserve duty. These programs include Quick Start (QS),²¹ Benefits Delivery at Discharge (BDD),²² and the Integrated Disability Evaluation System Examination.²³ While pre-discharge options are available, a majority of Veterans choose to wait until after separation from the military, sometimes until well after separation, to file a disability claim.

In FY 2016, 25,201 QS claims were completed at an average of 133.5 days, a slight increase in processing time from FY 2015 of 0.5 percent. The backlog of QS claims stood at 10 percent, a minor decrease of 0.3 percent from FY 2015. Overall, despite the conflicting movement in QS claims' metrics, the change from FY 2015 to FY 2016 is ultimately negligible. BDD claims, however, experienced moderate improvements. In FY 2016, 28,479 BDD claims were completed at an average of 127.5 days, a 15 percent processing time

²⁰ Department of Veterans Affairs, Veterans Benefits Administration, "Transition Assistance Program – VA Benefits Briefings"

²¹ Quick Start allows Servicemembers to submit a claim for disability compensation one to 59 days prior to separation

Source: Department of Veterans Affairs, Veterans Benefits Administration, "Pre-Discharge Home"

²² Benefits Delivery at Discharge allows Servicemembers to submit a claim for disability compensation 60 to 180 days prior to separation

Source: Ibid

²³ The Integrated Disability Evaluation System Examination is used to determine a Servicemember's fitness for duty, and is administered jointly by VA and DoD. If the Servicemember is found medically unfit for duty, the IDES gives them a proposed VA disability rating before they leave the service.

Source: Ibid

decrease from FY 2015. In terms of backlogged claims, the BDD claims backlog stood at 5.9 percent, a decrease of 2 percent from FY 2015. See Table 3 of Appendix G for detailed performance metrics of pre-discharge claims.

2.2.2 Disability Compensation Claims

Disability compensation claims are comprised of any number of individual medical issues²⁴ that Veterans assert as being connected to military service. For a claim to be granted, a nexus between a current medical condition(s) and an event(s) occurring while in military service must be determined through evidence submitted in support of the claim. The exception is a “presumptive” condition (discussed in more detail in Chapter 5), which is a condition that VA assumes has a nexus between a reported medical condition and an event in service.²⁵ The amount of basic benefits paid is dependent upon the severity of disability, which is based on evidence gathered and rated from 0 percent to 100 percent, in 10 percent increments (that is, 10 percent, 20 percent, 30 percent, and so on.). According to the Code of Federal Regulations,²⁶ the percentage ratings represent, as far as can practicably be determined, the average impairment in earning capacity resulting from such diseases and injuries and their residual conditions in civil occupations. Chapter 3 contains a more detailed discussion of the steps involved in adjudicating compensation claims.

In FY 2016, VBA completed 1,046,120 disability compensation claims at an average of 128.9 days, which is a 30 percent decrease in average processing time from FY 2015 but still short of the 125 day goal. These claims were completed with 86 percent claim-based accuracy, a shortfall from the administration’s goal of 98 percent and 3 percent drop in accuracy from FY 2015. Accuracy was better at the issue-level (distinctly different from claim-based accuracy measures²⁷) in FY 2016 at 94.8 percent. But similarly to claim-based, VBA’s issue-level accuracy experienced a drop from FY 2015 of 1 percent. Overall, while VBA made significant improvements in processing time, quality suffered moderately and both metrics failed to meet goals. See Table 2 of Appendix G for detailed performance metrics of claims processed at Veterans Service Centers.²⁸

²⁴ A medical issue refers to any medical condition, disease or injury, claimed by a Veteran as being the result of prior military service. Examples of medical issues include amputation, PTSD, migraine, hearing loss, and arthritis.

²⁵ With presumptive conditions, it is still required to validate the event in service and determine the severity of the current medical condition. It is only the nexus between a valid event in service and current medical condition that is assumed. These conditions are discussed in more detail in Chapter 5.

²⁶ *Schedule of Disability Ratings*, 38 CFR Book C

²⁷ Issue-level accuracy measures the accuracy of decisions made on individual medical issues contained with a single disability compensation claim, while claim-based accuracy measures the accuracy of the decision made on a disability claim as a whole.

²⁸ Veterans Service Centers are the offices within VBA ROs that process claims for benefits and services for Veterans and their families.

2.3 Appeals

If a Veteran disagrees with any aspect of their initial rating decision, he/she has the right to appeal up to one year after the initial decision was made. Appeals fall into two broad categories: (1) those seeking to reverse the denial of an initial claim; and (2) those seeking to increase the rating associated with a granted claim. The appeals process is based on an open evidentiary record, meaning that at any point during the appeals process a Veteran is able to submit new evidence that may support his/her case. In summary, the process has four stages that are divided between review and decision at VBA and the Board of Veterans' Appeals (the Board), which is an independent body within VA. A more detailed discussion of the appeals process and current inventory²⁹ is provided in Chapter 4.

2.4 Important Internal and External Stakeholders

The disability claims lifecycle is heavily influenced by, and in many cases requires the participation of, a number of stakeholders. These stakeholders fall into six categories:

1. **Veterans:** How and the extent to which individual Veterans engage with the system is central to VBA's mission and work.
2. **Offices within VA:** These offices support disability claims and appeals either by providing direct inputs to, and management of, aspects of either process or through indirect programming and mission support. Relevant offices include the Office of the Secretary, the Veterans Health Administration (VHA), select mission support offices, including the Office of Information Technology and Veterans Experience Office, and the Board. See Appendix H for detailed information on relevant offices within VA; see Appendix I for additional information on VHA and healthcare options for Veterans.
3. **Offices within the Department of Defense (DoD):** Relevant offices are those that manage medical and service records for Servicemembers while they are on active duty, which are central evidentiary components to the claims and appeals process. Specifically, this category includes the Office of the Under Secretary for Personnel and Readiness, Defense Health Agency, and the Military Health System. See Appendix J for detailed information on relevant DoD offices.

²⁹ See Table 5 of Appendix G for data on the current appeals inventory. The inventory is also discussed in detail in Chapter 4.

4. **Service Organizations:** These are groups which work to assist Veterans in filing disability claims and appeals with VBA and the Board, and act as their advocate with VA and Congress. Broadly, these organizations fall into three categories: non-profit organizations (many of which are national in scope), state-run and administered agencies or commissions, and individual county offices. To date no exact count exists of all service organizations available to Veterans and their families. See Appendix K for more detailed information on some of these organizations.
5. **Congress/Executive Branch:** As a government agency, VBA relies on Congress and the Office of Management and Budget for approval of its budget and legislative agenda.
6. **Private Sector:** This much broader category includes (though not necessarily limited to) private medical clinics, contractors, and research organizations whose interactions with VBA range from support of the claims and appeals process to providing evidence for claims.

The roles of all of these stakeholders are further discussed at various points in Chapters 3 through 6.

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Chapter 3: Claims Processing

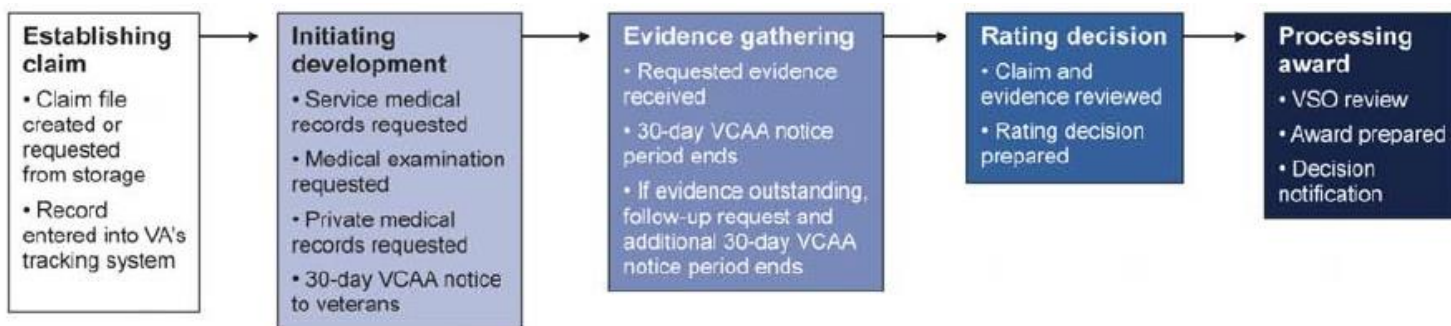
This chapter addresses actions taken to reduce the disability claims backlog and offers recommendations with respect to claims processing. After providing a short summary of the disability claims process, the chapter is organized into four separate sections, each addressing objectives outlined in the project's scope of work (Chapter 4 addresses the fifth project objective concerning appeals, and Chapter 5 addresses the sixth project objective concerning circumstances that may occur in the future that could lead to another claims backlog). After the brief description of the claims adjudication process, a number of the Veterans Benefits Administration's (VBA) efforts to reduce the claims backlog are assessed. These initiatives were introduced as The Backlog Elimination Plan, implemented during 2011-2015. A discussion follows of how VBA has redesigned processes and systems to address increased claims complexity, moved to a fully electronic environment, and utilized other mitigation strategies to further reduce the claims backlog.

The Backlog Elimination Plan's initiatives described in this chapter were a productive foundation for achieving VBA's goal of leveling the mountain of backlogged cases. These efforts were successful, and are a credit to the leaders and members of VBA's disability claims processing team. Implementation of the Backlog Elimination Plan brought VBA closer to unlocking even greater efficiencies. The plan's initiatives were logical first steps in a more detailed process transformation effort that has either been more recently planned by VBA, or that this report recommends be included in VBA's on-going planning

The Panel commends VBA's leadership for clearly demonstrating a long-term commitment to implement process improvement. However, VBA also relies on external stakeholders to some extent to achieve mission goals. VBA must request evidence from sources outside of VBA to efficiently adjudicate a disability claim. With these important constraints and challenges in mind, VBA's leadership must remain on course to implement new, transformational initiatives to enhance claims processing efficiency to improve the Veteran experience.

3.1 Claims Process

VBA's process for adjudicating disability claims is a five-stage process that starts following receipt of a claim. A short explanation of these stages forms the foundation for this chapter's discussion of VBA's progress in reducing the claims backlog, accommodating complexity, and achieving a fully interactive electronic environment.



Source: Government Accountability Office

Figure 3: VBA Claims Process Flow Chart

Once a claim is received by VBA, the process of adjudicating that claim follows a five stage process, as outlined below:

Submission

Veterans may submit a traditional or Fully Developed Claim (FDC) in a variety of ways.³⁰

- With a traditional claim, a VBA representative will be responsible for obtaining relevant records from any Federal agency.
- With an FDC, a VBA representative is still responsible for obtaining all Federal records, but the Veteran is responsible for submitting all non-Federal records in his/her possession that are required for adjudicating the claim.

Stage 1: Establishing a Claim

Once received, the claim is then reverted to VBA's electronic processing system - Veterans Benefits Management System (VBMS) – and the date of receipt is recorded as the claim's effective date.

Stage 2: Initialing Development

During this stage, the claim is reviewed by a Veteran Service Representative (VSR), a VBA employee who requests necessary evidence required to prove the nexus connecting a current medical condition to an event in military service. Sources for required evidence may include the Veteran, medical professionals, government agencies, or another authority. Basic evidence needed for a claim includes:

³⁰ Veterans may also choose to work with and be represented by a service organization, which can submit the claim and even make alterations on behalf of the Veteran if granted Power of Attorney.

- Discharge or separation papers;
- Service Treatment Records (STRs); and
- Medical evidence, the most common of which is the Compensation and Pension Exam (C&P exam)³¹ conducted by VHA or medical exam contractors, although medical evidence from a Veteran's own physician is also accepted.

Stage 3: Evidence Gathering

Any evidence requested during stage three is received and reviewed by a VSR. If any information is found to be insufficient, follow-ups are requested. It is common for a claim to return to the evidence gathering stage if it is determined at a later point that additional evidence is required for a decision to be made.

Stage 4: Rating Decision

Once the claim contains all relevant evidence, it moves to a Rating Veteran Service Representative (RVSR). An RVSR recommends a decision on the claim and prepares required documents detailing that decision. If more evidence is required, the claim will be returned to the development stage of the process. Otherwise, the RVSR carefully reviews all the medical evidence, applies the policies set forth in federal regulations³² to determine entitlement to each issue claimed, and documents the results in a rating decision.

Stage 5: Processing Award

The RVSR's rating decision is reviewed, a final authorization is made, and VBA then sends a decision packet, including a letter detailing the rating decision and payment if the claim is awarded, to the Veteran. All awarded benefits are payable based on the claim's effective date.

3.2 Progress in Reducing Backlog

VBA reduced the backlog from a high of approximately 611,000 cases in March 2013 to less than 100,000 in August 2015.³³ In the months preceding this report's publication in October 2016, the backlog had remained in the range of 70,000-80,000 cases. The backlog drop is impacted by several key initiatives described in this section.

³¹ The C&P exam is performed based on the Disability Benefits Questionnaire (DBQ), which is a standardized form that can be used by any healthcare provider to capture important information regarding a Veteran's claimed disability that is needed by VBA to accurately evaluate and promptly decide the Veteran's claim.

³² *Schedule of Disability Ratings*, 38 CFR Book C

³³ The evolution of the backlog is described in Appendix L.

3.2.1 Initiatives Contributing to Backlog Reduction

To eliminate the claims backlog and achieve the established goals of processing all claims within 125 days with 98 percent accuracy, a series of integrated people, process, and technology initiatives (more than 40 initiatives in total) were introduced through the VBA's Strategic Plan to Eliminate the Compensation Claims Backlog (see Appendix M for a summary of these initiatives and their implementation).

According to VBA leadership, even though VBA reported it had a number of Implementation After-Action Conferences to review, assess, and refine several backlog elimination initiatives, the independent impact on backlog reduction of each individual initiative included in the Backlog Elimination Plan was not evaluated. The Panel concludes there is value in determining the benefit impacts to individual process improvements, when possible.

This next section describes and assesses initiatives cited most often by VBA leadership and employees as having an impact on reducing the backlog. Twelve initiatives primarily contributed to reducing the backlog. They are divided into two subsections: imposing mandatory overtime and implementing process changes, and electronic records.

Imposing Mandatory Overtime and Implementing Process Changes

The following initiatives are connected with VBA's efforts to modernize the claims process and manage its workforce.

1. **Mandatory Overtime** – Backlog reduction progress was achieved in part,³⁴ according to then Under Secretary for Benefits (USB) Hickey, from the use of mandatory overtime for a three-year period ending September 2015. During that period, claim processors were generally asked to work at least 20 hours of overtime each month. Under Secretary for Benefits, Allison Hickey, stated that mandatory overtime is not sustainable; the Panel agrees.
2. **Simplified Notification Letters (SNL)** – SNLs replaced former customized content used to explain rating decisions to Veterans with an increased number of auto-text selections intended to result in an easier to read document. Although rating decision productivity and accuracy were reported to be improved, many Veterans find it difficult to understand the rating of their claim due to the often complex, legal language used in these letters. VBA has work underway³⁵ to try to increase Veteran

³⁴ Daly, Tom, "VA Says Its Backlog Is At A 'Historic' Low"

³⁵ Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume III Benefits, Burial Programs, and Departmental Administration*, 193

satisfaction with VA letters and forms. In March 2016, VBA began the Notification Letter Improvement Initiative (NLII) to re-design correspondence, coordinating this effort with VSOs and Veterans, who identified those decision notices as most needing change. Veterans have participated in a usability study to assess different formats, and development of new decision letter formats is now underway. Because millions of letters are sent to Veterans every year, the Panel urges VBA to prioritize the re-write of decision letters as part of its letter and form review.³⁶

3. **Disability Benefit Questionnaires (DBQ)** – DBQs, developed based on a suggestion originally submitted by a VBA employee, were developed to streamline the collection of needed medical evidence. Used by Veterans to give to their doctors in order to provide medical information that is directly relevant to determining a disability rating, DBQs have helped to reduce the number of insufficiently documented medical exams. Roughly one million medical examinations, resulting in over 2.8 million completed DBQs, were completed by VHA examiners in 2015. Since their introduction, VBA has received over 20,000 DBQs from private physicians.³⁷ Further, in 2015, VBMS has been able to intake all DBQs in an electronic PDF format, with over half of DBQs transmitting some XML data which could be used to automatically populate the evaluation builders to propose a rating decision. The Panel fully supports the use of DBQs in order to evaluate all claims, including expansion of DBQ’s ability to transmit XML data.
4. **Electronic Rating Support** – Electronic rule-based calculators and interactive disability rating schedules support decision-makers in determining ratings, the correct diagnostic code, and benefit level. These tools are supported by the Panel as they are intended to help decision-makers process claims more quickly, with increased consistency and accuracy.
5. **Fully Developed Claim (FDC)** – The FDC program gives Veterans the option to receive faster decisions by submitting all relevant records when submitting their claim and certifying that they have no other evidence to submit. Veterans Service Organizations (VSOs) have been instrumental in working with Veterans to assist them in accessing their records and compiling a completed record. During 2015, VBA completed FDCs 49 percent faster than all other disability claims,³⁸ and has been successful at promoting FDCs at outreach events. FDCs accounted for 56

³⁶ Department of Veterans Affairs, Veterans Benefits Administration, Correspondence to the Academy from the Acting Principal Deputy Undersecretary of Benefits

³⁷ Ibid, 196

³⁸ Ibid, 195

percent of total claims received in 2015. The Panel sees FDCs as a means of empowering Veterans to receive faster decisions on their claims and supports further incentivizing VSOs to increase their submission of FDCs.

6. **Segmented Lanes** – Using a case management approach, VBA reorganized its Regional Offices’ workforce into cross-functional teams working together in one of three segmented lanes based on the complexity and priority of the claim: express, special operations or core. VBA employees are assigned to the lanes based on their experience and skill levels. The Panel supports the use of these teams as a way to better prioritize claims processing and more fully utilize employee expertise.
7. **Quality Review Teams (QRT)** – QRTs were established in each RO. These teams, consisting of experienced and skilled claims processors, assess and monitor quality in the claims process, including through in-process reviews aimed at reducing reworks (the backward movement of a claim in the process). When implemented these teams were estimated to achieve the second highest reduction of backlogged claims because of the high volume of reworked claims (though the actual impact of these teams on reworks was not tracked). Through field interviews the Panel learned of the importance of these teams in contributing to improved accuracy, mentoring others, and increasing morale through skill development, and the ability for employees to share their enhanced skills development with others. The Panel supports the ongoing use and improvement of these teams.
8. **Challenge Training** – VBA’s revised and enhanced Challenge Training was designed to make new claims processors more productive and proficient at the start of their careers, while minimizing the impact of experienced staff, by extending the training period and incorporating hands-on experience previously conducted within Regional Offices (ROs) into centralized training. Compared to their predecessors, new employees who graduated from Challenge Training complete 150 percent more claims per day, with a 30 percent increase in accuracy.³⁹ The Panel supports VBA’s focus on ensuring that the skills learned during Challenge Training can be actively incorporated into work across all ROs.

³⁹ Office of Management and Budget, *The President’s Budget for Fiscal Year 2017*, 159

Electronic Records

The following initiatives are connected with VBA's efforts to move from paper-based to electronic records.

9. **Veterans Benefit Management System (VBMS)** – VBA has transformed the equivalent of 5,000 tons of paper into what is essentially a 100 percent electronic claims process through the development and implementation of VBMS. Before 2011, Veterans faced extensive wait times to receive their disability benefit decisions due to an extremely inefficient paper-driven process when days or weeks could pass waiting for folders associated with applications to arrive, and folders, up to 18 inches or more in thickness, were delivered to various processing stations.

Regarding the implementation of VBMS, both the Office of Inspector General (OIG)⁴⁰ and the Government Accountability Office (GAO)⁴¹ have raised concerns regarding the absence of a plan to identify when and at what costs VBMS will fully support the disability compensation and pension claims process and appeals. The OIG found that data used to determine backlog inventory and claims completed “is not consistently reliable.” Furthermore, since September 2009, the OIG found that total estimated VBMS costs increased significantly from about \$579.2 million to approximately \$1.3 billion in January 2015. This increase was due to inadequate cost control, unplanned changes in the system and business requirements, and inefficient contracting practices. VBA did not design performance metrics to assess the actual time saved by processing claims through using the new system.⁴²

VBMS software releases in 2015 and 2016⁴³ have focused on new rating evaluation support, enhancing mapping and prepopulating additional DBQ data into rating calculators, enhancing integration with internal and external systems, reducing reliance on legacy systems, supporting the claims processing across VBA programs, and providing the foundation for data integration at the enterprise level, as it

⁴⁰ Congress, House, Committee, *1988 to 2016: VETSNET to VBMS: Billions Spent, Backlog Grinds On - Statement of Brent Arronte, Deputy Assistant Inspector General for Audits and Evaluations, Office of Inspector General, Department of Veterans Affairs*

⁴¹ Congress, House, Committee, *Veterans Benefits Management System: Ongoing Efforts Can be Improved; Goals are Needed to Promote Increased User Satisfaction – Statement of Valerie C. Melvin, Director, Information Technology, Government Accountability Office*

⁴² Congress, House, Committee, *1988 to 2016: VETSNET to VBMS: Billions Spent, Backlog Grinds On - Statement of Brent Arronte, Deputy Assistant Inspector General for Audits and Evaluations, Office of Inspector General, Department of Veterans Affairs*

⁴³ Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume III Benefits, Burial Programs, and Departmental Administration*, 205

continues to use agile methodology to deliver functionality in three month increments.

The Panel acknowledges the substantial progress made by VBA to establish an electronic claims process. It remains concerned, however, about the rising costs of VBMS to taxpayers and the lack of transparency regarding future costs and planned outcomes. Ongoing responsiveness to GAO and Office of Inspector General recommendations is important to the continued improvement of VBMS. While some progress has been made regarding the use of VBMS to assist in the rating and awarding of claims, accelerated progress will help achieve accuracy, consistency, and reduce wait times.

10. **Centralized Mail Initiative (CMI)** – The Centralized Mail Initiative (CMI) consolidates inbound paper mail from ROs to a centralized intake site, expanding VA’s capabilities for scanning and converting claims evidence, and assists in converting all received source material to an electronic format. The Panel supports CMI as a way to further enhance the electronic claims process, while also allowing ROs to focus their efforts on developing and deciding claims.
11. **eBenefits** – Increased automation now enables Veterans to file claims, upload evidence, and check the status of their claims online through eBenefits, an online tool that gives Servicemembers, Veterans, and their families instant access to DoD and Veterans information. VBA had 212 million contacts with Veterans in 2015, a full 96 percent of which were on-line. This is over 200 million contacts more than in 2009, when the majority of contacts were over the telephone.⁴⁴ The Panel supports self-service through eBenefits as an important customer service solution that puts Veterans in control of how they want to access services. However, Field interviews of Veterans, employees, and VSOs indicate that the eBenefits system is often too complicated for many Veterans to use. In addition, some senior officials at VBA stated that they would recommend Veterans use the support of outside groups, VSOs and others, to obtain assistance in using the system. The Panel is concerned that eBenefits is too complicated for Veterans to use. Given that MyVA’s critical objective is improving the Veteran experience so that every contact the Veteran has with the VA is “predictable, consistent and easy,”⁴⁵ the Panel expects MyVA to simplify eBenefits to improve the Veteran experience.

⁴⁴ Ibid, 158

⁴⁵ Congress, Senate, Committee, *Testimony of Secretary of Veterans Affairs Robert A. McDonald*, 3

12. **VA-Department of Defense (DoD) Interoperability** – Veterans Relationship Management (VRM) was established to provide multiple self-service options for Veterans. VRM includes the Stakeholder Enterprise Portal (SEP), the Direct Electronic Gateway (D2D), and other intake solutions that provide service treatment records from DoD, along with medical records from the Veterans Health Administration (VHA) and private physicians. Field interviews confirm that these initiatives have reduced the time to obtain records from DoD and the Panel views these activities as a good first step towards further interoperability.

In summary, under the strong leadership of Under Secretary Allison Hickey, and commitment of VBA's employees, VBA improved its claims process and successfully reduced its backlog to improve serve to Veterans both now and in the future. The Panel views VBA's initiatives to eliminate the compensation claims backlog as a modernization of the existing process, which is a logical first step toward transformation.

Recommendation #1: VBA Should Build Upon and Expand Modernization Efforts to Further Reduce the Disability Claims Backlog. This Should Include:

- 1.1 Using advanced analytics to evaluate the effectiveness of any future process change, once implemented, for ongoing validation of effective results and to discern whether refinements are needed.
- 1.2 Prioritizing the re-write of its Simplified Notification Letters sent to Veterans as part of their letter and form review to ensure that all decision letters are clear and easy for Veterans to understand.
- 1.3 Exploring new ways to incentivize service organizations to submit Fully Developed Claims for Veterans they work with.

3.2.2 Preparation for Future Claims Processing

National Work Queue (NWQ)

In 2016, VBA implemented the NWQ, an electronic workload management initiative that prioritizes and distributes claims across its ROs to maximize resources and improve processing timeliness at the national level. Previously, claims were shifted between ROs using a manual, so-called, brokering process. Veterans continue to have real-time access to their claims information, as do VSOs. The Panel supports NWQ as an important next step for VBA's use of technology to enhance efficiencies and improve service to Veterans. Given

the introduction of NWQ in May of this year, the Panel concludes it is too soon to comment on NWQ's impact on backlog reduction. VBA's ongoing monitoring will help leadership to determine whether NWQ results both in backlog reduction and changes in workflow management.

VBA's leadership views the rollout of NWQ positively. One important benefit is access to new detailed data available for the first time at the examiner level. However, interviews with NWQ project leadership and users agreed that, despite advance training efforts and support by the NWQ team at headquarters, the initial rollout created unanticipated challenges. For example, training delivered closer to a station's rollout date could have reduced process uncertainties that existed early on. Also, the need for specialized workload management skill training for first-line supervisors was identified during the roll-out and is now being offered. Further, soon after rollout, it became clear that NWQ requires workforce skills and performance incentives to achieve the desired outcomes. Field interviews also confirmed that change management practices used to effectively implement Backlog Elimination Plan initiatives were not used in the implementation of NWQ.

Promoting Innovation

VBA continues to promote innovation through its Office of Strategic Planning's "Idea House" that provides an opportunity for users to submit innovative ideas through a central portal. This project relies upon employee recognition to help solve VBA challenges. VBA is planning two focused campaigns each year where employees are able to submit innovative ideas through the Idea House, followed by collaboration and voting using crowdsourcing⁴⁶, analysis by an expert panel, and ultimately a presentation to the Governance Board⁴⁷ for adoption. A Transformation Initiatives Portfolio includes transforming initiatives undergoing a six-step process: definition, planning, development, implementation, operations and maintenance, and close out. This chapter later includes a discussion about one key portfolio initiative supported by MITRE's research⁴⁸, which used historical claimant and rating data to develop a probabilistic approach to rating. The Panel

⁴⁶ Crowdsourcing is the practice of obtaining needed services, ideas, or content by soliciting contributions from a large group of people and especially from the online community rather than from traditional employees or suppliers. www.merriam-webster.com

⁴⁷ The Governance Board is responsible for the process through which innovation concepts are identified, developed, and implemented within VBA.

Source: Department of Veterans Affairs, *2016 Functional Organization Manual – v3.1*, 81

⁴⁸ MITRE is a Federally Funded Research and Development Center (FFRDC). The MITRE Corporation is a not-for-profit company that operates multiple FFRDCs. <https://www.mitre.org/>. Further, VA co-sponsors the Center for Enterprise Modernization (CEM), one of the FFRDCs.

supports VBA's efforts to promote innovation and the development of a statistical adjudication model to support decision-makers.

Performance Incentives

VBA's current performance standards assign credits to individual employees for performing certain claims processing actions, with a specific number of credits allocated to activities required to adjudicate a claim. Within the Disability Claims process, Veterans Service Representatives (VSRs), Rating VSRs (RVSRs), and Decision Review Officers (DROs) are all subject to minimum work credit standards and achieving a quota of required points. A consequence of this system is that often the more complex claims are set aside so that employees can meet or exceed performance standards. Not meeting the standard can result in a Performance Improvement Plan or other intervention, thus heavily impacting employee activities and actions. No recent work-rate studies have been completed, and some have raised concerns that the current "points system" creates perverse incentives. Some have suggested that, as systems have matured, more sophisticated metrics such as key strokes and touch time⁴⁹ should translate into better analysis of productivity. The recent expansion of available data through NWQ presents the ability to build on data analytics capabilities and inform how performance measurement would best be conducted for claims processors.

The National Performance Plan standards for the VSR position include Quality, Timeliness, Training, and Output as critical elements as well as a non-critical component of Training. The Output component includes work credits for actions such as initial claim development, multiple contention claim development, telephone development, award processing and decision, and award authorization. The work credits span 0.1 for telephone development to 0.7 for initial development and award processing. The smaller reward for actions such as telephone development, for example, tends to result in older claims being set aside to process new, simpler claims in order to achieve the necessary points.

Points are traced through the Automated Standardized Performance Elements Nationwide (ASPEN) system, which is a self-reporting system that is not currently integrated with VBMS. Currently, the points and production that employees are responsible for have to be logged into ASPEN, which becomes the source for local quality review. Progress has been made regarding the quality and detail of data captured at the transactional level and a

⁴⁹ "The touch time is the time that the product is actually being worked on, and value is being added. This is typically only a small proportion of the total production time, most of the time is taken up by moving, queuing etc."

Source: "SIX SIGMA Glossary: Touch Time"

working group has been established to look at this data to better assess what can reasonably be expected to be accomplished on a given day.

VBA's main collective bargaining unit, the American Federation of Government Employees, opposes the use of the transactional data for anything performance-related. However, leaders within VBA view transactional data as a valuable tool to drive behavior and to more accurately allocate credits in the adjudication process. If credits remain as a component of the performance measurement system, more points should be assigned to actions that increase the timeliness and accuracy of the oldest, most urgent claims. Additionally, transactional data could ease any concerns about the self-reporting nature of ASPEN. Efforts have been made to identify a replacement to APSEN, but, as of this writing, one has not yet been identified.

Prior to the introduction of the National Work Queue (NWQ), some employees selected the cases that they prefer to work on in order to most efficiently meet their quotas. This contributed to claims not being processed according to the order they were received. While RO leadership recognizes that people do work differently, and it is important to enable them to fit their own work styles, it should not lead to the detriment of completing claims in a timely manner with quality at the forefront. While NWQ reduces the ability of employees to "cherry pick," they still have a level of autonomy regarding the order in which to work on cases. Employees left with such autonomy may not necessarily align work with the goal of processing the oldest cases first.

MITRE's⁵⁰ ongoing research includes exploring the current performance measurement processes that guide how employee claims adjudication work is incentivized and measured, and what impact it has on VBA's ability to provide quality and timely disability benefit determinations. MITRE researchers have voiced concern that the current performance management system relies on very few measures introduced when the claims process was still paper-based and utilizes a very small number of data points to assess performance, particularly of complex determinations, in a dynamic operational environment.⁵¹ The MITRE work highlights the importance of identifying appropriate measures and incorporating contextual elements to ensure that both individual and team measures are considered. Addressing performance measurement challenges in a production environment such as VBA's is challenging. Although no easy answer exists, building upon data-informed research to refine performance metrics is an important step.

⁵⁰ The MITRE Corporation is a not-for-profit company that operates multiple federally funded research and development centers. MITRE has several research projects underway with VBA.

⁵¹ Geigle, Suzanne and Amy Squires, "*Moneyball* meets Government: Lessons on Agile, Data-Driven Process and Performance Management"

As VBA looks to transform its performance measurement approach, the Panel concludes that measuring the most important elements driving the claims process should be a priority in order to achieve systemic change and progress. Key indicators for an evolving performance measurement approach need to address quality and timely completion of claims, with a goal of resolving the oldest claims more quickly. There also needs to be a shift towards addressing the effect of rework⁵² on subsequent actions, as well as the role both morale and team dynamics play in how work gets done.

⁵² Prior to NWQ, VBA did not have a baseline measurement for rework. NWQ is now capturing measuring the volume and reason for this work. The bulk of rework results from the inadequacy of a medical exam or the need for an exam to be done, as determined by a rater. These two categories make up to 60-65% of rework.
Source: Field Interview

Recommendation #2: VBA Should Transform the Work of How Claims Are Processed on the Front Line Now that Claims Are Electronically Accessible Nationwide. This Should Include:

- 2.1 Employing its proven experience in change management to ensure effective National Work Queue adoption and adaptation across Regional Offices, training, and communication.
- 2.2 Integrating a reporting mechanism into the Veterans Benefits Management System to replace the Automated Standardized Performance Elements Nationwide system and to avoid the challenges of a self-reporting system.
- 2.3 Developing new performance standards for all positions in order to measure performance related to the processes required for timeliness and accuracy of claims decisions and remove performance quotas based merely on “touching” the document (as opposed to advancing the adjudication).
- 2.4 Identifying more detailed metrics and improved performance incentives. This would include rethinking what the unit of measurement should be in terms of results of the “team” that is adjudicating the claim (as opposed to rewarding the individual for the “touch” on the claim). It will also include evaluating VBA’s capacity to provide innovative solutions for improving process (rewarding creative thinking and managed risk to move claims more quickly through the process without sacrificing quality).

3.3 Accommodating Increased Claims Complexity

An increasing number of Servicemembers are exposed to modern war settings, and more of those who are wounded are likely to survive due to advances in protective equipment and medical treatment and procedures, contributing to increasing claims complexity over recent years. This section offers insights into how VBA is responding to this trend.

Analyses of claims indicate that individual claims are increasingly complex to adjudicate.

Data indicate that Veterans are claiming more medical issues per disability claim.⁵³ Over the last 10 years, the number of original claims containing eight or more specific medical issues or contentions has increased by 200 percent and the number of individual disabilities claimed has doubled in the last five years.⁵⁴ The number of medical issues per claim rising generally adds to the overall complexity of adjudicating particular claims.

Claims may be considered complex due to issues requiring special training for claims processors (e.g. multiple organ damage), or claims subject to Federal Court Order. Claims with multiple medical issues often require more time to develop each medical contention and the skills of experienced staff to ensure all contentions are addressed in each claim's rating.

Also, the volume of claims for such medical issues as post-traumatic stress disorder, traumatic brain injury, and military sexual trauma have increased. These types of non-physical issues add complexity to the work of individual claim adjudication, often requiring more time to accurately process. During the six-year period ending FY 2014, the percentage of Veterans compensated for post-traumatic stress disorder more than doubled.⁵⁵

VBA is addressing increasing claims complexity through the use of cross-functional teams working together on one of three segmented lanes based on the complexity and priority of the claim; express (claims expected to take less time), special operations (complex claims expected to take more time or claims requiring special handling) or core (all other of claims). Employees are assigned to the lanes based on their experience and skill levels. The Panel sees the use of these specialized teams as a prudent first step to address claims complexity.

In 2009, VBA began updating the VA Schedule for Rating Disability (VASRD) to incorporate rating criteria that are based on current medical science and earnings data. By the end of 2015, VBA published the updates to five "body systems"⁵⁶ in the Federal Register as proposed regulations. By March 2017, VBA plans to complete updating the 15 body

⁵³ For the purposes of this report, it is assumed, as a general matter, that complexity of a claim increases with the number of medical issues contended. It is understood that this is not always the case.

⁵⁴ Department of Veterans Affairs, Veterans Benefits Administration, "Characteristics of Claims - Veterans Benefits Administration Reports"

⁵⁵ Ibid

⁵⁶ Within the VBA rating scale, disabilities are organized into discrete body systems – EX: musculoskeletal, digestive, organs of special sense, or mental disorders. Specific medical issues, such as PTSD or loss of limb, fall within these broader body system categories.

systems in the rating schedule.⁵⁷ The Panel concludes that prioritizing the long overdue completion of its rating schedule update will enable decision-makers to more accurately and consistently assess injuries resulting from today's modern war settings. Although these efforts are long overdue, they do not address fundamental questions regarding what "disability" means today, as further discussed in Chapter 6.

VBA has addressed claims complexity by initiating a number of initiatives aimed at improving quality (see Appendix M). Significantly, before October 2012, VBA accuracy estimates were claim-based, meaning claims with one or more errors affecting benefits were considered inaccurate.⁵⁸ Beginning in July 2012, VBA's Quality Assurance staff began developing procedures to conduct simultaneous issue-based reviews (that measure the accuracy of decisions on the individual medical conditions within each claim) on claims undergoing traditional Systematic Technical Accuracy Review (STAR), where certified reviewers measure the decision accuracy of disability compensation claims through examining a stratified sample of completed claims and using a checklist to assess certain aspects of each claim. The goal was to identify and correct all errors at the issue level, while accurately finding issue specific rating procedure deficiencies and finding targeted training opportunities.⁵⁹ By October 2012, all rating end products undergoing a STAR review also began receiving an issue-based review.

The accuracy of benefit decisions has increased over the six-year period from 2010 and ending in 2015. While some improvement in VBA's claims accuracy is related to a change in sampling methodology (implemented to achieve consistency with generally accepted statistical practices), VBA's claim accuracy increased from 83 to 91 percent over that same six year period. Additionally, by 2015, VBA achieved an issue accuracy (as distinct from claims accuracy) rate of 96 percent.

By July 2016, however, claims accuracy declined to 88 percent, far below VBA's goal of achieving 98 percent claims accuracy. According to an analysis conducted for VBA, attaining 98 percent accuracy at the claim or issue level is "virtually impossible."⁶⁰ For FY2016, accuracy targets are now 91.5 percent for claims accuracy and 96 percent for issue accuracy.⁶¹

⁵⁷ Office of Management and Budget, *The President's Budget for Fiscal Year 2017*, 197

⁵⁸ Government Accountability Office, *Veterans' Disability Benefits: Improvements Could Further Enhance Quality Assurance Efforts*

⁵⁹ Department of Veterans Affairs, Veterans Benefits Administration, Response to Data Request

⁶⁰ Department of Veterans Affairs, Office of Budget, *FY 2017/FY 2015 Annual Performance Plan and Report*, 50

⁶¹ *Ibid*, 50

Data and reports from various quality and consistency reviews are not consolidated, thus impacting VBA's ability to ensure the right measures, measurement methods, data collection, analysis and corrective remedies. According to VA,⁶² due to funding issues, VBA is now focused on leveraging available technology and adding functionality within the existing STAR database to combine data from multiple sources to improve trend analysis and identify training needs. The Panel concludes that these efforts should be prioritized to improve claims and issue accuracy.

Recommendation #3: VBA Should Prioritize Updates to Claims Data to Better Reflect Case Complexity. This Should Include:

- 3.1 Prioritizing its efforts to effectively consolidate all quality related data and properly interpret the data, including collection and clarification of the data fields that form the basis of the decision and ratings.
 - 3.2 Prioritizing the completion of its rating schedule update to include injuries resulting from today's modern war settings.
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3.4 Achieving a Fully Electronic Environment

The Panel highlights additional specific procedures that need to undergo change as VBA achieves a fully electronic, paperless environment. In this section, we speak about future opportunities, above and beyond what VBA has already done.

3.4.1 VA-DoD Collaboration on Shared Information

VA and DoD continue to aim for a seamless transition to support Servicemembers from accession to discharge so that, upon discharge, the Veteran has accurate and authoritative data to make a claim and receive compensation from VBA. The purpose for this collaboration is to ensure both Departments can meet their missions while supporting their most important assets: their people. The sheer volume of soldiers and Veterans require both Departments to use advanced information technology to log, track and collect personnel, health and mission data used to support compensation claims. For many years and still today, data are collected differently by DoD and VA, and are used for different

⁶² Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume I Supplemental Information and Appendices*, 58

purposes. Those differences have contributed to some of the delay that contributed to the claims backlog.

After years of establishing legal and regulatory relationships allowing DoD and VA to share data and collaborate on process improvements, and after significant monetary and personnel investments in information technology, today Veterans have greater access to their records. The Services can transfer records to VA, and a Veteran can have electronic access to the process used by the federal government to award compensation benefits. The data, however, are not interoperable, meaning that the information cannot be automatically populated into forms, letters or other documents. Data can be obtained and viewed electronically, which saves significant money and time, and ensures that all parties viewing the documents see the same information. Full interoperability would significantly reduce costs and increase output and efficiency.

Medical Records Access

Full interoperability (that is, the challenge of making data “owned” by DoD, VHA, and even VBA to work together) will not likely be resolved soon.⁶³ As stated above, while the data can be viewed and used, VBAs systems for records acquisition, the incompatibility of information and the numerous independent sources of data, will continue to challenge VBA. In this section, we discuss issues and opportunities related to the acquisition of personnel and service treatment records, including medical records from VHA (more information on VHA and healthcare options available to Veterans is provided in Appendix I).

VHA is the sole provider of choice for about 34 percent of Veterans. Veterans can also use other health care plans and systems either solely, or in addition to, VHA and its resources, and many choose to use these other resources out of personal preference. This flexibility in healthcare providers increases the complexity associated with timely access to data. The major challenge is determining how to access this data in a timely manner from DoD and other sources. VBA also has to verify the accuracy of a claim based on collecting complete health care data from health care practitioners who may collect and report the data differently, and use different data management and information technology (IT) systems that are not compatible or interactive with VBA's.

⁶³“In conclusion, VA and DOD are continuing to pursue their nearly 2 decades-long efforts to establish interoperability between their electronic health records systems. Yet while the departments’ various initiatives over the years have increased the amount of patient health data exchanged by the departments and made accessible to providers, these efforts have been beset by persistent management challenges and uncertainty about the extent to which fully interoperable capabilities will be achieved and when”.

Source: Congress, House, Joint-Committee, *Statement of Valerie C. Melvin, Director, Information Technology, GAO – VA and DOD need to Establish Goals and Metrics for Their Interoperability Efforts*, 9

VA and DoD have separate and distinct responsibilities and purposes when evaluating Servicemembers' disabilities, but important actions have already been taken to integrate relevant data. The Integrated Disability Evaluation System (IDES), fully implemented in 2011, was designed to ensure that all relevant medical information was shared between both departments so that each was able to execute their respective responsibilities on the basis of the same medical information. By sharing this information, IDES eliminated the redundancy, inconsistency, and inefficiencies associated with separate VA and DoD disability evaluations systems. The information sharing was not completely electronic until five years later, in 2016. The complete, integrated record is now available in an electronic read-only format through the Joint Legacy Viewer (JLV).⁶⁴ Jointly developed by VA and DoD, and available to both VA and DoD users, JLV provides an integrated, chronological view of real-time electronic health record information from VA and DoD sources. While the integration is in read-only format, it eliminates the need for separate systems to view the information. Read-only format limits how clinicians can use the information in an interactive manner. According to VA's Chief Information Officer, the next step in the process is to "roll out their enterprise Health Management Platform (eHMP) that will allow clinicians to compute data within the platform and offer capabilities for writing notes and ordering laboratory and radiology tests."⁶⁵

Other advances have also been made. VA and DoD have collaborated for over eight years using the forum of the Medical Records Working Group. The original goal was to obtain service treatment records (STRs) from DoD to VA electronically. This goal was met on January 1, 2014. DoD places records in an electronic repository called the Health Artifact Image Management Solutions (HAIMS), and records are pulled electronically from HAIMS into VBMS for processing.

Although VA and DoD currently maintain separate health information systems, the complete, integrated record is now available via the Joint Legacy Viewer (JLV). Jointly developed by VA and DoD, and now available to both VA and DoD users, JLV provides an integrated, chronological view of real-time electronic health record information from VA and DoD sources.

While all of these joint efforts have improved the exchange of health information between DoD and VA, many data exchange delays and redundancies still exist, and additional integration and collaboration between DoD and VA can reduce redundancies and improve efficiencies.

⁶⁴ Heath, Sara, "VA Achieves interoperability through Joint Legacy Viewer"

⁶⁵ Council, LaVerne, "The VA's Interoperability Mission"

Obtaining Accurate Records

VBA needs both personnel and medical records to determine disability and compensation, both of which have been challenging to obtain. The DoD is responsible for, and holds personnel records for, all military personnel. Each individual's record is held within the military service, (Army, Navy, Marines, Air Force, and Coast Guard), as well as with the National Guard and Reserve. DoD, VHA, and VBA are working to coordinate how medical and personnel records are kept and transferred to the VA. They do this through a Joint Executive Committee and a subgroup called the Medical Records Working Group. The group meets weekly to discuss issues and processes, and submits an annual report to Congress.⁶⁶ Personnel records verifying an individual's time and place for service are housed in two different places; at Defense Personnel Records Image Retrieval System (DPRIS) and also with the individual branch of service. VA and VBA use an application known as the Personnel Information Exchange System (PIES) to request records from the National Personnel Records Center which is where records for the 1980s and older are kept for the individual branches of service.

Since 2009, all Servicemembers have been eligible to submit claims for VA disability compensation before leaving military service. Two programs, Benefits Delivery at Discharge (BDD) and Quick Start (QS), are available to Servicemembers who do not qualify for a DoD-approved medical separation. Those who want to separate within 60-180 days may use BDD and must be available to attend all required examinations at their last duty station before leaving active duty. Almost all applicants who use this program complete their claim by the time they leave the military. Those scheduled to leave in fewer than 60 days can begin the claims process through QS but may not have enough time to complete their claims before being discharged. The advantage of pre-discharge programs is that Servicemembers begin receiving disability benefits immediately or soon after separation from the military.

Medical Discharge

Those eligible for a medical discharge from DoD use the Integrated Disability Evaluation System (IDES) jointly administered by DoD and VA, now viewable by both departments electronically so that only a single medical exam is required to support evaluating a Servicemember's disability in both departments. An individual receives a separate rating from each department based on the reason for the evaluation, but evaluators rely on the same data in making a decision. DoD evaluates fitness and readiness for members on the basis of their ability to stay on active duty, with only conditions interfering with ability to

⁶⁶ Medical Records Working Group, *Charter*; VA/DoD Joint Executive Committee, *VA/DoD Joint Executive Committee Annual Report Fiscal Year 2014*

perform military duties rated for compensation. By contrast, VA rates on the average effect of one or more impairments and their effect on a Veteran's earning capacity. These ratings are granted without knowing or assessing an individual's earnings. In 2014, those Veterans using IDES were awarded VA decisions on average within 47 days of separating from military service.⁶⁷

Veterans can request a reevaluation of their claims, and VA's policy is to schedule a new physical exam.⁶⁸ Usually it is the Veteran, and not VA, who asks for the reevaluation, so that he/she can increase their benefits.⁶⁹

Guard and Reserve

National Guard and Reserve units⁷⁰ have only part-time interaction with the military system, and so hold onto their records while still serving. Their records are not digitized/electronic until leaving military service. In the past, VBA was required to send a request for records to specific guard/reserve units (4,400 units across the country) to obtain accurate information on military service, which is essential for linking the service to a disability. To resolve this issue, DoD created single single-points-of-entry (SPOE) for each branch of service. Each branch of service has a SPOE and the corresponding VA single point of contact. VBA's ROs no longer have to reach out to the individual Guard/Reserve units for records.⁷¹ This new arrangement represents an improvement in the process, because VA has put the onus back on DoD to keep these records.⁷² Since 2014, all of the

⁶⁷ Congress, Congressional Budget Office, *Veterans' Disability Compensation: Trends and Policy Options*, 6

⁶⁸ Under 38 C.F.R. Section 3.327 there are restrictions that prohibit VA from initiating reevaluations more often than every other year, and from reevaluating any Veteran over the age of 55.

Source: Congress, Congressional Budget Office, *Veterans' Disability Compensation: Trends and Policy Options*, 6

⁶⁹ Congress, Congressional Budget Office, *Veterans' Disability Compensation: Trends and Policy Options*, 6

⁷⁰ Guard members are U.S. citizens who train part time and work close to their homes until they are called into service. The Guard is used to protect U.S. domestic interests in times of conflict or natural disaster and may be deployed internationally alongside full-time troops when the situation demands. The Reserve consists of Servicemembers who work in their civilian careers or attend college full-time while serving near home. They receive the same training as active-duty Servicemembers, spend one weekend each month in training, and for roughly two weeks a year focus on field and specialty training. Guard and Reserve members participating in active duty are considered Veterans, but those who only engage in civilian assistance or other duties are not. The Guard and Reserve make up a large portion of deployed Servicemembers, but to date are only a small percent of the Veteran population receiving disability and compensation benefits.

Source: www.nationalguard.mil

⁷¹ VA's field offices use VA's PIES application and the PIES information is then sent to a VALO (VA Liaison Office), then the VALO contacts the appropriate military SPOE, once the SPO is contacted by the VALO, the DoD SPOE is responsible for obtaining the records. DoD will then have the records scanned and entered into their health information data base Health Artifact and Image Management Solution (HAIMS) which is relayed into VBMS. For members of the National Guard that have never served on active duty then those records are held at the state level (Surgeon General's office).

Source: Field Interview

⁷² Field Interviews

DoD records are electronic and more easily transferable. Despite this progress, VA continues to face challenges given that pre-2014 records are not electronic, and the department's database system is unable to interchangeably process the information even when it is provided in a portable electronic form.

As a way to address the inconsistencies arising from pre-2014 records, VBA and DoD have a policy in place that asks these Servicemembers to annually review and validate their personnel and medical records, so that they can update them and address inconsistencies prior to leaving the Service. However, according to VBA, some Guard and Reserve members are reluctant to provide all the necessary data from their private health records because they could be used to discharge them before they want to leave as a Guard or Reserve Servicemember. Many rely on part-time appointments to the military to supplement their income and to ensure they have access to VBA benefits⁷³ in the future. In addition, all Guard and Reserve members prior to 2010 continue to grapple with having potentially incomplete records. The incomplete nature of some Guard and Reserve records may delay future claims processing decisions, thus potentially adding to the backlog.

Transition Assistance

A major outstanding issue is inadequate transition support for Servicemembers as they prepare to separate from the military. Many in the military join when they are young and have little or no work experience, much less experience in managing their personal accounts for health care, benefits and other resources provided by VBA. This inexperience makes it challenging for them.⁷⁴ The period of transition is called "out-processing," and many lower ranking Servicemembers have insufficient time to learn about VBA benefits and services because the time for out-processing is generally only one or two weeks, and often Servicemembers are still working and not able to attend VBA information sessions. This lack of time to learn about and access the system is particularly true for Guard and Reserve members, who are provided significantly less time for out-processing.⁷⁵

In addition, since June 2010, the DoD/VA Joint Executive Council approved a plan that directed all Servicemembers to obtain a secure logon to the VBA web portal eBenefits, as way to have access to all of the information about available services and benefits. VBA

⁷³ Field Interviews

⁷⁴ Field Interviews: Specifically cited was the Veterans inability to maintain their own personnel and health records, the lack of portability of these records, the concern Veterans have with potential employers finding out about health issues as they relate to future employment, and the complicated requirements of the VBA services offered, not just compensation, that makes figuring out how to proceed with compensation and other benefits difficult.

⁷⁵ Field Interviews

officials have, however, publically stated that it is difficult to use.⁷⁶ Although it offers self-service tasks and access to benefits related information, VSOs, state, and county organizations offer assistance in setting up accounts and using the system, particularly if it is to apply for benefits.

Creating a Joint-Account and Records Validation Process

Given the issues between DoD and VBA surrounding records inter-operability, and those connected with an inadequate out-processing system when Servicemembers may lack clear understanding of VA services, VBA and DoD could proactively address this through a joint account for all Servicemembers established at the outset of military service. Each Servicemember could create a joint DoD/VA account upon entry into the military that can be accessed by both agencies, both during, and after service. This action would particularly benefit Guard and Reserve Servicemembers who enter and exit the military over a period of years, even decades, and who may re-locate during the time they serve in this capacity.⁷⁷ This account should be updated periodically in order to provide useful information for both agencies to provide a seamless set of services relevant to both DoD and VA missions, as appropriate.

Interoperability is a long-term goal, but in the short-term, both DoD and VA are implementing their own solutions that may not be compatible, but are being presently rolled out to modernize their systems. A greater effort to bring the three key parties together—DoD, VA, and the Servicemember—at the time of transition can result in an enhanced experience for Veterans when engaging with VA. In order to ensure a quality set of records at separation, new initiatives should be taken to require Servicemembers to review and confirm as accurate both service records and medical data at, or soon after, separation. Even recognizing that all service treatment records may be unavailable in real-time for all Servicemembers, such action should enhance accuracy and prompt availability of records for VBA whenever a Veteran might decide to file a disability claim.

⁷⁶ Field Interviews; Department of Veterans Affairs, Veterans Benefits Administration, Correspondence to the Academy from the Acting Principal Deputy Undersecretary of Benefits

⁷⁷ Field Interviews; Additionally cited in field interviews was the difficulty of tracking personnel and medical records for Guard and Reserve. Doing so requires diligent personal outreach and relationship management with the DoD and Military Departments to get records for Guard and Reservists when they leave the military and move to the VA for assistance.

Recommendation #4: VA and DoD Should Expand Their Collaboration Efforts to Create a Seamless Transition from Military Service to Civilian Life. This Should Include:

- 4.1 Building on capturing critical data elements necessary for the ongoing clinical care and future rating disabilities for each Veteran.
- 4.2 Establishing a single portal unified account that becomes a single “front door” to all benefits, services, and required documents that reflects the “Servicemember for Life” philosophy.
- 4.3 Jointly confirming Service records and medical data are complete at separation.
- 4.4 Extending and improving the transition process from military to civilian life by educating Servicemembers about options for improving their quality of life to include availability of educational, financial, and health benefits.

3.4.2 Re-Assessing Adjudication for Express Lane Claims

The growth in claims volume and complexities poses challenges to VBA’s ability to decrease claims processing time. In interviews with VBA leadership, there are active initiatives already underway to utilize existing technology and data analytics to both speed up and enhance accuracy of claims adjudication. In 2013, VBA began an initiative to explore a concept that will utilize probabilistic models to forecast disability ratings based on the type of claim, Veteran characteristics, military service, demographic data, and previous claims history and ratings. One key initiative that might impact the claims process includes research completed by MITRE, in collaboration with VBA, which used historical claimant and rating data to develop a probabilistic approach to rating. Through a contract, a statistical adjudication model is now in development for use by VBA by the end of 2017.

These efforts at process transformation need to be carefully tested in order to ensure that Veterans are served effectively, and VBA must balance its evaluation of rules-based processing of claims with its legal interpretation that prohibits a fully automated claims process. Any potential benefits from using technology and data analytics to assist in claims adjudication must be backed by thorough pilot studies, careful roll-out, and regular monitoring of results, with an eye to identify unintended negative consequences.

Recommendation #5: VBA Should Adopt the Use of Rules-Based and Analytic Approaches to Adjudicating Express Lane Claims. This Should Include:

- 5.1 Adopting automated rules-based adjudication to assist in improving processing time and accuracy of disability claims, especially for those determined to be less complicated, e.g., in the Express Lane category or dependent claims. VBA should also propose legislative change to allow final disability determinations to be assisted by an electronic system.
- 5.2 Maximizing the use of big data and using data analytics in the application of statistical methods of claims adjudication for all three claims categories (i.e., “lanes”).

3.5 Strategies to Reduce Backlog while Improving Service

The Panel proposes the following four mitigation strategies to reduce the backlog while improving service to Veterans and their families, offering a perspective as to whether these strategies are short-term, medium-term, or long-term mitigation strategies:

- Consider new metrics for defining backlog;
- Promote consistency across Regional Offices;
- Leverage the network of support organizations; and
- Assess the impact of program requirements.

3.5.1 Consider New Metrics for Defining Backlog

In 2009, VA Secretary Shinseki defined disability claims inventory as a “backlog” as claims awaiting final adjudication for more than 125 days. The Secretary also established the goal of claims completed in 125 days at a 98 percent accuracy level (i.e. claims-based accuracy) by the end of FY 2015. In various interviews, VBA officials were asked about what research was applied or data considered in setting the 125-day figure. In response, high-level explanations were proffered, but no formal research provided, to explain the metric. There was a consistent view from VBA meetings that the figure of 125 days was, and remains, reasonable. On the other hand, with respect to quality, VBA revised down the 98 percent accuracy goal after concluding that it is “virtually impossible” to consistently achieve this level of accuracy.

In defining the backlog, VA’s leaders put a spotlight on processing time and quality of disability claims processing, focusing VA’s and stakeholders’ attention on the issue and the

need to reduce the backlog inventory. Creating a backlog status served, in part, to define both acceptable and unacceptable wait times, and mobilized resources that became part of the Backlog Elimination Plan, as previously discussed.

The Panel concludes that a fresh look should be given to how the backlog is defined. Since 2009, as described above, VBA has used a complexity-based segmentation scheme to triage all cases received in order to distribute them to its staff for processing. The three different complexity levels, known as the three-lane approach, reflects the fact that cases vary in complexity. Thus, a one-size-fits-all rule to define backlog at 125 days for all cases merits reconsideration.

Should VBA decide to create new metrics for defining backlog that takes into account claim complexity, the Panel concludes that taking this step will have two important potential consequences:

- Presuming that processing times for less complex cases are shorter than 125 days, it is likely that VBA could adopt a more aggressive backlog metric for these cases (that is, a target lower than 125 days). With an accelerated metric to define backlog shorter than the current one, it is likely that less complicated cases would be adjudicated more quickly, thus positively impacting overall backlog inventory.
- By analyzing three different categories of cases and deciding on revised metrics for each, VBA will be able to access and use important performance data to help decide whether process improvements have merit, and for which category of case.

Consideration of a new metric to define backlog based on complexity of claims should be achievable in the medium-term (1-3 years).

Recommendation #6: VBA Should Consider Developing New Metrics to Track Disability Claims Backlogs that Better Reflect the Complexity of Cases. This Should Include:

Assessing whether the definition of backlog should have a similarly gradated approach, consistent with VBA's adoption of a three-tiered categorization of claims complexity (express, core, and special operations). After appropriate research, it might be determined that claims categorized as express should have a much shorter processing time than the current 125 days. It may also be the case that research would support the establishment of a special operations case for more complex cases that reasonably should be expected to require more than 125 days of processing time before being categorized as in backlog status. Based upon results of this research, VBA should carefully consider how a change in backlog definitions might best be communicated to Veterans and implemented.

3.5.2 Promote Consistent Practices and Performance Across Regional Offices

VBA's disability claims work is complicated in and of itself, and those who work on claims know that a decision on each claim can have a major consequence on a Veteran and his/her dependents. Claims adjudication work requires consistent application of rules and evaluative protocols provided by VBA's leadership and supported by tailored employee training, easy to access manuals to guide adjudication steps, and adaptation of technology and the like to facilitate efficiency and quality of work. While quality of adjudication is VBA's foremost goal, VBA seeks to enhance processing throughput throughout its network by using tested methods that can be replicated across its 56 ROs, and which thousands of employees engaged in this work can readily and effectively use. Efforts focus on ensuring that all claims are adjudicated virtually identically across the nation, with little difference with respect to key parts of the adjudication process.

VBA's recent modernization efforts have facilitated a move from a paper-based to electronic format, requiring all staff to learn new skills. With the introduction of NWQ, VBA is on course to create a more consistent, nationwide, distribution of work with stronger authority offered to Headquarters, with less autonomy left with ROs. The new slogan is: "It's the nation, not the station." Moving to NWQ also draws greater attention to a more standardized way of processing claims across the nation, with greater attention given to developing a consistent set of practices and processes across ROs. Increased use of data analytics in the future to assist in rating adjudication is another factor that drives increased consistency in practices and performance across VBA's network, and which should lead to more consistent performance.

Still, there is value in balancing RO-specific office culture and allowing for testing of new methods of applying consistent policies when adjudicating claims, and the Panel recognizes that a one-size-fits-all approach, strictly applied, may not be optimal. While national standards are a critical element of success, there are also ways in which local empowerment can be very beneficial and should be enabled, most especially in two ways: experimentation that helps to develop and refine successful new approaches that could then be shared nationwide to all ROs; and thoughtful application of resources to most effectively manage the work at hand in each RO.

Current State of Regional Office Management

Each RO Director runs a sizeable business for each state and manages all services related to the Benefits portfolio, with the claims processing volume at some of the largest ROs running close to 30 percent of the total claim volume processed in their district.

For example, in FY 2016:

- Seattle, WA processed 59,640 which was 27.4 percent of the Pacific District's total claim volume; and
- St. Petersburg, FL processed 49,379 claims, which was 25.1 percent of the Southeast District's total claim volume.⁷⁸

Some ROs are also responsible for business lines, special missions, or support facilities in addition to the administration of benefits. For example, the Saint Louis RO also houses a National Call Center, and Houston has a regional loan center within its facility. The RO Directors are managing staffs with diverse professional backgrounds, expertise, and who are often in disparate locations. Many members of the claims processing staff members are working from home due to a recent initiative to improve work life flexibilities. The efforts of the past several years to reduce the claims backlog, has led to additional management responsibilities for RO leadership to assist with the change associated with new processes and approaches to how work gets done (e.g., VBMS and NWQ).

Grow Change Management Agents

A key component of the claims modernization effort was to create the position of Change Management Agent (CMA) at each RO to communicate with internal stakeholders and provide support to the leadership team acting as conduit with VBA's headquarters. In addition, the CMA engages with the Office of Field Operations, communicating with a counterpart at VBA headquarters, who helps bridge the gap for ROs if they need help or information on transformation efforts. Additionally, there are calls with the ROs and Office

⁷⁸ See Table 4 of Appendix G for additional data on claims processing volume at the largest ROs per district.

of Strategic Planning, the NWQ, and others so that information can be shared with leadership at both the RO and headquarters levels. These transformation efforts have increased the degree to which field employees believe VBA leadership at headquarters focuses on feedback from the field to make improvements.

Success for the CMA role has been described as being able to provide information so that employees understand the impact of the changes in a comprehensive way. Historically, CMAs have received annual training at the Challenge Training Facility in Baltimore, another special office, as well as at the discretion of the ROs. The establishment of the CMA has provided both a sense of empowerment for RO staff as well as a boost in morale for employees. It has articulated the importance of information sharing and valuing the employees' perspective as articulated in *VA Strategic Objective 3.1 Make VA a Place People Want to Serve*. Expanding on this Strategic Objective, VA stated:

“VA established the MyVA Employee Experience priority with the goal of improving the employee experience through a collaborative, inclusive experience that inspires and empowers all VA employees to deliver world-class customer service while demonstrating a sense of pride and achieving their full potential.”⁷⁹

The CMA position is also a powerful example of this objective in action and the importance of identifying and developing leaders and creating a cadre of transformation “ambassadors” to drive progress and improvement. Due to the success of the role, there is an interest in expanding the CMA’s position to include interactions with VSOs and state and county Veterans Service Organizations.

Address On-Going Management Concerns

RO Directors and Service Center Managers have voiced frustration regarding issues about a lack of empowerment. While there have been shifts toward centralizing and standardizing processes, decision-making by RO senior staff has been diminished to the detriment of organizational efficiency and at times, employee morale. While many of the physical delineations related to the geography no longer apply due to the establishment of VBMS, centralized mail, and NWQ, some obstacles remain. For example, significant restrictions on the movement of funds across business lines often hinder RO leadership’s ability to have the appropriate resources required to achieve an RO’s organizational goals. Examples have been shared in which leadership can remain under the overall cap for salaries and full-time employees (FTE) at a particular RO, yet the Director does not have the authority

⁷⁹ Department of Veterans Affairs, Office of Budget, *FY 2017/FY 2015 Annual Performance Plan and Report*

to move budgetary funds and FTEs within those parameters. Not only does this present challenges to claims adjudication, but also can have an adverse effect on employees from other ROs looking to make hardship transfers, for example. Denying the transfer of a qualified employee can create negative morale issues for the employee, as well as the rest of the organization.

Line staff members have voiced similar frustrations regarding their level of empowerment. VA has sought to address such concerns by using several key questions from the Federal Employee Viewpoint Survey to obtain employee feedback about experience with VA leaders on a quarterly basis. Particular emphasis has been placed on the following questions: (1) whether: “Employees have a feeling of personal empowerment with respect to work processes;” and (2): “I feel encouraged to come up with new and better ways of doing things,”⁸⁰ which are two new questions added to the 2016 Survey.

The following recommendation should be largely achievable in the short-term (within one year).

Recommendation #7: VBA Should Promote Consistent Practices and Performance Across Regional Offices. This Should Include:

- 7.1 Continuing to expand the role of the Change Management Agent with additional training and development so that additional modernization and transformation activities are communicated effectively.
- 7.2 Reassessing the reporting relationships and degree of empowerment regarding Regional Office-level management and decision making in order to enhance a system-wide consistent performance across the 56 Regional Offices.

3.5.3 Leverage the Network of Support Organizations

Appendix K provides a list of some, but not all, groups that assist Veterans in filing disability claims and appeals with VBA and the Board of Veterans’ Appeals, and act as their advocate with VA and Congress. They fall into three categories: Veteran Service Organizations, State Veterans Agencies, and County Service Officers. Several hundred such organizations assist Veterans, and VA’s website is organized to assist Veterans make contact with VSOs and other outside support groups. VSO representatives are also present

⁸⁰ Ibid

in some ROs. The partnership that VBA and these support organizations foster is a force multiplier that has enormous potential.⁸¹

VBA already has an active engagement with these organizations. VSOs, state and county officials, along with others, often assist Veterans in creating a claims file. Together stakeholders create an account and log into their electronic benefits files (eBenefits). A stakeholder representative can assist with obtaining all of the information for an FDC. This collaboration has led to an increase in submitting FDCs, which make up 56 percent⁸² of the express lane claims described⁸³ above. It has been a goal of the VBA and these partners to expedite claims processing and improve both the C&P Exam and the DBQ. These improvements and other new processes help in ensuring the Veteran has a complete data file.

At the department level, the MyVA Strategic Goal is aimed to deepen and leverage relationships with strategic partners to further enhance the Veteran experience. VA's Advisory Committee Management Office provides management support to 26 different Federal Advisory Committees that solicit advice and recommendations from outside experts and the public concerning all VA programs. VBA's Benefits Assistance Service is the administration's outreach service charged with ensuring a presence and unified message across the country, including collaboration with internal and external stakeholders including VSOs, DoD, and other state and community partners.

As part of VBA's efforts to enhance cooperation and collaboration with stakeholders, VBA may also take further steps to help facilitate stakeholder actions by providing office space, certification and training to stakeholder representatives, and enhanced policy and guidance to partners who provide important independent assistance to Veterans in the disability claims and appeals process.

⁸¹ "The VA recognizes 149 organizations as partners. Additionally there are an estimated 400,000 service organizations that touch veterans or service members...750 colleges and universities participate in the Post 9/11 GI Bill...124 hospitals and e independent outpatient clinics offer graduate or undergraduate medical education...these figures do not include the Veterans themselves, their family, friends, and caregivers, nor do they include support provided by other federal departments and agencies, along with state, local, tribal and territorial Veteran support offices."

Source: Department of Veterans Affairs, *Strategic Environmental Assessment (DRAFT)*, 40

⁸² Office of Management and Budget, *The President's Budget for Fiscal Year 2017*

⁸³ In 2014, VBA received only 3% of claims in fully developed form.

Source: Department of Veterans Affairs, Veterans Benefits Administration, *Strategic Plan to Eliminate the Compensation Claims Backlog*

The following recommendation should be achievable during the medium-term (1-3 years).

Recommendation #8: VBA Should More Proactively Leverage the Network of Support Organizations. This Should Include:

Identifying opportunities for greater strategic leveraging of the network of hundreds of official support organizations and thousands of volunteer organizations and individual volunteers as a workforce multiplier.

3.5.4 Assess the Cumulative Impact of Program Requirements

A myriad of federal laws and court decisions have added complexity and ultimately extended wait times for Veterans and their families to receive disability compensation. Often these laws and rules are so intertwined and interdependent that the impacts of additions or changes, made by well-intentioned policymakers are not understood. Further, faced by stakeholder opposition and increased partisanship among lawmakers, VA continues to face challenges advancing its legislative agenda.

Policies and Regulations

In its 2012 response to Congress examining the factors that contribute to extended processing times and VBA's efforts to reduce processing time, GAO identified federal laws and court decisions in the past decade that, in addition to expanding benefits, have added requirements that have increased wait times.⁸⁴ For example, the Veterans Claims Assistance Act of 2000 established the "duty to assist," requiring VA to assist Veterans in obtaining evidence before making a decision, including all relevant federal and non-federal records. Rework may be required should a Veteran submit additional evidence or identify a new condition, resulting in significant delay as new notification letters and new evidence or exams may be needed. VBA may also provide partial benefits in the interim until a decision is made on all conditions submitted by a Veteran. The Veteran has a year to submit additional evidence before the decision is considered to be final. A Veteran may submit additional evidence in support of an appeal at any time in the process, resulting in further review, reconsideration of the appeal, and providing further written explanation. VBA also accepts claims and requests for appeals in non-standard formats (on a napkin, for instance) according to interviews with VBA officials. Doing so creates a risk that the claim

⁸⁴ Government Accountability Office, *Veterans' Disability Benefits: Timely Processing Remains a Daunting Challenge*, 16

may not be identified at all, and thus may require further contacts with Veterans, and often new case claim development, exams, notifications, and the like.

VA annually assembles a legislative proposal package to accompany the VA Secretary's budget request or a proposed bill that is submitted, first through OMB for concurrence, and then to Congress for action. VA already charts its rules and regulations to help ensure they are timely and properly executed, but additional efforts can be made to ensure there is a comprehensive evaluation of how often complex, and inter-dependent aspects of legislation and rule changes, might impact Veterans and VA alike.

A Path Forward – MITRE Research

In 2014, MITRE developed a modeling program to evaluate the impact of legislation on federal agencies.⁸⁵ The potential use of the MITRE model and analysis could significantly help VBA, VA, lawmakers, and other stakeholders better understand current law, regulations and policies, and how changes in law and regulations impact Veterans and business practices.

The authors summarize the problem as follows:

Numerous laws, regulations, policies and procedures (collectively defined as 'rulesets') govern how agencies conduct their business practices. Because the sets are so intertwined and interdependent, changes or additions to them affect how agencies comply with these changes. Understanding the full impact of new laws, and the resulting implementing regulations, is complex and an often conflict with existing policies and procedures, or have unintended consequences. By mapping out the entire rule sets that would be affected by even one change to the law, Congress and the VBA can more easily identify conflicts that are not readily visible. The intended beneficiaries of the changes proposed, e.g., the Veteran, (advocates, citizens, and employees of the agency) can understand what the intended changes are expected to accomplish with greater clarity. This allows all the stakeholders to engage on a level playing field—clearly understanding the changes and the effects, and then making adjustments before the changes occur.

MITRE recently used the VA disability compensation ruleset to demonstrate the model, which incorporated the recently passed Veteran's Access, Choice and Accountability Act of 2014 ("Choice Act"). This model could be used by the VA to provide an understanding of

⁸⁵ Lyte, Alex et. al., "Using Path Analysis to Evaluate the Impact of Legislation on U.S. Government Agencies"

the complexity of implementing requirements established by the Act. Specifically, it can predict which existing regulations would be affected and need changes, and it can more objectively measure the scale of the impact of new polices on the agency and Veterans, and finally it can indicate the practical success for implementing the new requirements.⁸⁶

Based on work already underway and recognizing the complexities of obtaining a reliable system, the following recommendation should be achievable early into the medium-term (1-3 years).

Recommendation #9: VBA Should Assess the Cumulative Impact of Program Requirements in Order to Prioritize Policy and Decision-Making Activities. This Should Include:

Mapping out its program’s current laws, rules, policies and procedures to: (1) further understand their interactions and impacts; (2) more effectively develop and advance legislative proposals; (3) inform the Department, OMB, and the Congress about the conflicts and unintended consequences of potential changes to the compensation and benefits program; (4) refine their development of implementing regulations to ensure that any change in law accomplishes what is intended; and (5) to enhance communications to Veterans.

Recommendations in this chapter provide a broad array of specific actions that VBA can either implement on its own, or in close collaboration with other agencies. For those that are already being planned or tested, the Panel endorses these efforts. Some recommendations are new and are intended to further guide continued VBA efforts to transform its methods to better serve Veterans. The Panel concludes that many of the prescribed actions can be addressed during the next few years, while some, especially those involving greater synchronization with DoD and other external stakeholders, may require more time to plan and complete. The Panel is confident that further progress in processing efficiency and quality can be achieved to decrease the current claims backlog and temper a potential backlog spike in future.

⁸⁶ Slater, David, Dr. and Dr. Sanith Wijesinghe, “Network Analysis of Policy Dependencies”

Chapter 4: Appeals

Veterans have the right to appeal a disability claim decision if they are unsatisfied with a decision for any reason. The two main reasons⁸⁷ a Veteran appeals a claim are: (1) a service-connected disability is believed to exist even though the Veterans Benefits Administration (VBA) determined none existed; and (2) a Veteran disagrees with the level of the disability rating. At the time of this writing, approximately 443,000 Veterans are waiting for a final adjudication of their disability claims appeal.⁸⁸ In 2014, the Senate Working Group⁸⁹ reported that there were “more than a quarter of a million Veterans stuck in the appeals process.” In fact, the appeals inventory has effectively doubled from 2014 to 2016. “To say that the Veterans’ benefits system is operating at an exceedingly high volume is an understatement, the Working Group noted.”⁹⁰

The following section describes the current state and concludes that the appeals system is broken and the appeals inventory is unacceptably high. The section describes key factors impacting the Veterans’ appeals system, including an analysis of the most recent attempts for reform.

4.1 Current State of the Appeals Process

The appeals process is categorized broadly into four main stages:

Stage 1: VBA Regional Office Review

When a Veteran files an appeal, by submitting a Notice of Disagreement (NOD) to his/her local Regional Office, it is initially handled at the local VBA Regional Office (RO) level by a Decision Review Officer (DRO) who will review the Veteran’s entire evidentiary record, without deference to the initial rating decision.

Stage 2: VBA Decision

The DRO’s decision to either grant or deny the appeal is presented in a formal Statement of the Case (SOC), which includes a summary of the evidence, a citation to pertinent laws and regulations, and a discussion of the reasons for the decision. A grant will trigger the payment of new benefits or the adjustment of current benefits depending on the reason for

⁸⁷ Field Interviews

⁸⁸ See Table 5 of Appendix G for a breakdown of the appeals inventory.

⁸⁹ VA Claims Backlog Working Group, *March 2014 Report*, 22

⁹⁰ Allen, Michael, “Justice Delayed; Justice Denied? Causes and Proposed Solutions Concerning Delays in the Award of Veterans Benefit”, 10

the appeal. If the Veteran agrees with the decision, the appeal ends. If the Veteran disagrees with the decision, the appeal continues.

If additional evidence is submitted at any point, additional decisions are triggered, requiring VBA to re-review the case and submit a Supplemental Statement of the Case (SSOC). Throughout the life of an appeal, it is possible for multiple SSOCs to be issued.

Stage 3: Certification to the Board of Veterans Appeals

When a Veteran's appeal is continued past the RO level, it becomes a Substantive Appeal and must be certified to the Board of Veterans' Appeals (the Board). Before a review, the Veteran has the right to an Optional Board Hearing before a Veterans Law Judge to discuss the case and present evidence. All hearings are performed under oath, with testimony being offered and additional evidence frequently submitted. A hearing transcript will be created and added to the Veteran's case file.

Stage 4: Board of Veterans Appeals Decision

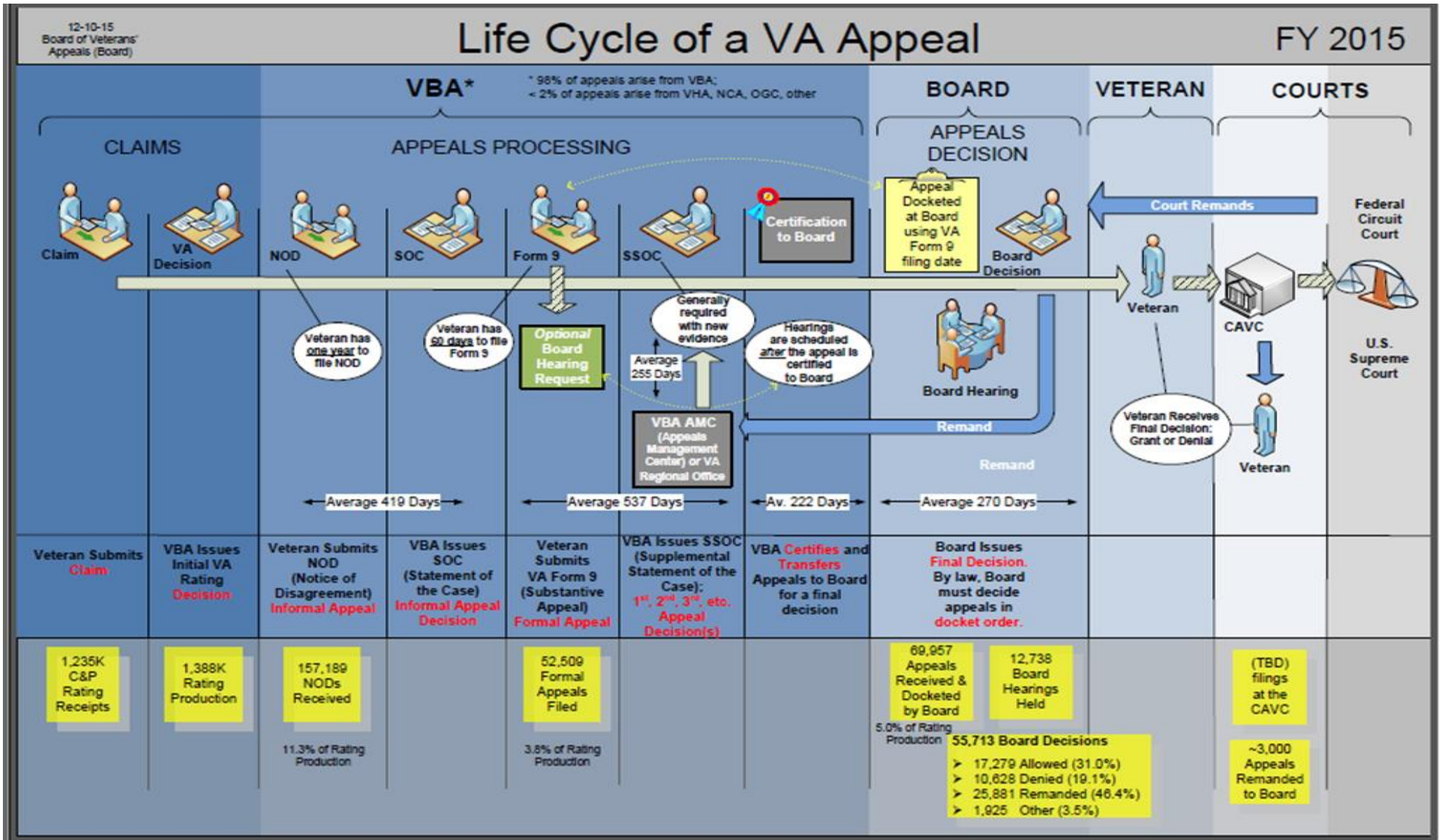
All cases certified to the Board are reviewed by a Veterans Law Judge responsible for completing a *de novo*⁹¹ review of the Veteran's entire evidentiary record before issuing the decision to grant, deny, or remand the case.

- If the appeal is granted, the Veteran will receive a decision from their local VBA RO implementing the Board's decision.
- If the appeal is remanded, two or more issues in the appeal requires more evidence collection before a decision can be made, and so the case will be sent back to VBA via the Appeals Management Center (AMC) and the entire Board review process will begin again.
- If the appeal is denied, the Veteran has the option to file a new claim, file a motion for the Board to reconsider, or review again due to a clear and unmissable error, or file a notice of appeal with the United States Court of Appeals for Veterans Claims.

⁹¹ "From Latin, meaning 'from the new.' When a court hears a case *de novo*, it is deciding the issues without reference to the legal conclusions or assumptions made by the previous court to hear the case. An appeals court hearing a case *de novo* may refer to the trial court's record to determine the facts, but will but rule on the evidence and matters of law without giving deference to that court's findings. A trial court may also hear a case *de novo* following the appeal of an arbitration decision."

Source: Cornell University Law School, "De Novo – Legal Information Institute"

The figure below shows the process in more detail. Multiple courts, including one specifically created for overseeing the Veterans benefits system, have jurisdiction over the process.



Source: Department of Veterans Affairs, Board of Veterans' Appeals, "Board of Veterans' Appeals Overview and Appeals Background", 5
Figure 4: Appeals Process

4.2 The Broken Process and the Large Inventory

VA, VBA, and the Board have a dual problem to solve: the broken appeals system and the large appeals inventory. VA Deputy Secretary Sloan Gibson, in Congressional testimony, stated that the Administration⁹² has made the appeals issue a top priority. He defined the problem as twofold: 1) the process is broken; and 2) too many Veterans are awaiting final adjudication.

Two key factors have lead VA to conclude that the process is broken:

- The process has “no defined endpoint and requires continuous evidence gathering and re-adjudication.”⁹³
- “The system . . . splits jurisdiction of appeals processing between the Board and VBA.”⁹⁴

This process has no defined endpoint, as new evidence can be offered at any time. The Veteran is both in a time of life, and under physical condition, that may change over time. This may give rise to a new independent claim, but the system incentivizes Veterans to submit new evidence to their already existing claim rather than start a new claim.⁹⁵ Consequently, a new claim may be subsumed as an appeal of an existing claim. This “continuous open record allows a Veteran, Survivor, or other appellant to submit new evidence and/or make new arguments at any point from the beginning to the end of the appeals process.”⁹⁶

The result is that “Veterans wait much too long for final resolution of an appeal.”⁹⁷ The waiting time can be, in certain cases, decades, with 3 years being the average appeals processing time in FY 15.⁹⁸ Not all appealed claims are sent to the Board. “For those appeals that reach the Board, on average, Veterans are waiting at least 5 years for an appeals decision, with thousands of Veterans waiting much longer.”⁹⁹ In April of 2016,

⁹² In Chapters 4 and 5, “Administration” refers to the executive branch

⁹³ Congress, Senate, Committee, *Statement of The Honorable Sloan Gibson, Deputy Secretary, Department of Veterans Affairs*, 2

⁹⁴ Ibid

⁹⁵ See the discussion of the current effective date below.

⁹⁶ Department of Veterans Affairs, Board of Veterans’ Appeals, *Annual Report Fiscal Year 2015*, 1

⁹⁷ Ibid

⁹⁸ Ibid

⁹⁹ Ibid, 3

“80,000 Veterans had appeals older than 5 years. 5,000 Veterans have appeals older than 10 years.”¹⁰⁰

The second factor involves the shifting of responsibility back-and-forth from VBA and the Board.¹⁰¹ The law requires the Board to remand to VBA or the AMC¹⁰² for correction of errors. In FY 2015, over 47 percent of cases heard by the Board were remanded for correction.¹⁰³ Many times, evidence has been added to the claim that was not used by VBA to rate the claim. The Board is not authorized to make this determination and the law requires VBA to use the new evidence to rate the claim. This new-evidence loop between VBA and the Board has a cascading impact on the rest of the claims and appeals.

This dual problem is compounded by an increasing appeals workload. From “FY 2010 through 2015, VBA completed more than 1 million disability claims annually, with nearly 1.4 million claims completed in FY 2015 alone. This reflects a record level of production.”¹⁰⁴

This rising claims workload corresponds to a rising increase in appeals workload. The result of the increased workload in a broke system is an increased inventory. “Since 1996, the appeal rate has averaged 11 to 12 percent of all claims decisions. ... Between 2012 and 2015, the number of pending appeals climbed by 35 percent to more than 450,000 today.”¹⁰⁵

Without reform, the Administration argues, the consequences for Veterans awaiting appeals are stark. “VA projects that, by the end of 2027, under the current process, without significant legislative reform, Veterans will be waiting on average 10 years for a final decision on their appeal.”¹⁰⁶ Further, the pending inventory could climb to over two million cases in the appeals inventory by 2027.¹⁰⁷ VA has taken the steps it is able to take to address the appeals issue.

¹⁰⁰ Brody, Mary Ann and Kavi Harshawat, "New Tool Launches to Improve The Benefits Claim Appeals Process At The VA"

¹⁰¹ The Board is independent, and not part of VBA. See Appendix H for a description of the Board’s position in VA.

¹⁰² In 2003, the Appeals Management Center (AMC)—the VBA body that addresses certain remanded cases from the Board. See M21-1, Part I, Chapter 5, Section G for further description of AMC’s role and jurisdiction.

¹⁰³ Department of Veterans Affairs, Board of Veterans’ Appeals, *Annual Report Fiscal Year 2015*, 26

¹⁰⁴ *Ibid*

¹⁰⁵ *Ibid*

¹⁰⁶ *Ibid*

¹⁰⁷ Department of Veterans Affairs, Board of Veterans’ Appeals, "Board of Veterans' Appeals Overview and Appeals Background", 11

4.3 Short-term Strategies Being Undertaken

Similar to its Backlog Elimination Plan to address disability claims, VA is using a people, process, technology framework to organize its short-term appeals strategy. A total of 300 full time equivalents (FTE) were added to VBA and an additional 117 FTEs were added to the Board to address the current appeals inventory.¹⁰⁸ The appeals training curriculum was updated and additional overtime was dedicated to appeals.¹⁰⁹ The Board has made process improvements by adding more videoconferencing for Board hearings. Centralized mail and scanning have been utilized, and the procedural guidance on the appeals process has been updated to increase efficiency. In terms of technology, the Veterans Benefits Management System (VBMS) has been continually updated to improve appeals functionality. Additionally, an electronic appeals hearing scheduling docket is now utilized by the Board.¹¹⁰

One of the most promising technological improvements in appeals processing has been the Board's development of a web-based document management system called Caseflow. The Board reached out to the U.S. Digital Service¹¹¹ and asked for assistance to improve its operations. The result was Caseflow, which automatically detects if required documentation has been added to an appeal before it moves forward in the process. This simple check "helped reduce preventable errors and avoidable delays caused by disjointed, manual processing."¹¹² This feature addressed a core problem with the Veterans Appeals Control and Locator System (VACOLS), which was the manual processing system previously used. "RO employees were required to update all applicable VACOLS fields when action was taken on an appeal."¹¹³ Caseflow was designed with human-centered design principles to improve the experience for the Veteran and assist the VA employee in efficient and effective processing of the appeal. Caseflow is "the first of many tools that will begin to improve paperless appeals processing at the VA."¹¹⁴

¹⁰⁸ Department of Veterans Affairs, Veterans Benefits Administration, "Addressing the Current Appeals Inventory" (WORKING DRAFT), 3

¹⁰⁹ Ibid

¹¹⁰ Ibid

¹¹¹ "The United States Digital Service is a startup at the White House (WH) (and which resides in the Office of Management and Budget (OMB) under the WH Chief Technology Officer (CTO) that pairs the country's top technology talent with the best public servants, to improve the usefulness and reliability of the country's most important digital services."

Source: White House, U.S. Digital Service, "The United States Digital Service"

¹¹² Brody, Mary Ann and Kavi Harshawat, "New Tool Launches to Improve The Benefits Claim Appeals Process At The VA"

¹¹³ VACOLS Review and Update, Manual M21 Section K. d

¹¹⁴ Ibid

One potentially important improvement is VBA's intention to incorporate appeals into the National Work Queue (NWQ) framework.¹¹⁵ While the decision was made to focus scarce resources on standing up NWQ for claims processing, VBA intends to pivot its NWQ focus toward appeals once the claims operation is streamlined. NWQ appeals, similar to claims, would allow VBA to manage the appeals workload centrally, prioritizing and distributing work electronically to maximize resources and improve processing timeliness.

Appeals data are reported on the Monday Morning Workload Report, but these data are not directly displayed on the VBA "Detailed Claims Data" website and the user must download the Excel file and click to the correct worksheet. The data also do not include the cases held at the Board, creating a misleading size of the total appeals inventory as currently presented.

4.4 Factors Affecting the Appeals Issue

Professor Michael Allen,¹¹⁶ an expert in Veterans appeals law, identified four causal factors affecting the appeals process:

1. Congressional support for Veterans and their families;
2. The ad-hoc development of the current Veterans benefits system;
3. The wide array of procedural protections provided to Veterans; and
4. The complex nature of the law underlying the provision of Veterans benefits.¹¹⁷

Although a full discussion and analysis of these factors are outside of the scope of this report, two of the factors—the wide array of procedural protections provided to Veterans and the complex nature of the law underling the provision of Veterans' benefits—must be discussed in some detail.

The appeals process and the rights available are based in law that has evolved over time and provides Veterans with more protections than is usually afforded to citizens seeking an appeal of a federal government decision. As discussed above, the law does not limit how many times and at what point a Veteran can introduce new evidence into the decision-

¹¹⁵ See Chapter 3 for a discussion of NWQ.

¹¹⁶ Professor Michael Allen teaches Veterans Benefits Law at Stetson University College of Law where he is also the Director of the Veterans Law Institute. He is a recognized expert on the law of veterans' benefits, has testified to Congress, and has widely published on the subject. <http://www.stetson.edu/law/faculty/allen-michael-p/>

¹¹⁷ Allen, Michael, "Justice Delayed; Justice Denied? Causes and Proposed Solutions Concerning Delays in the Award of Veterans Benefit", 14

making cycle either within VBA or the Board. There is no limit to the number of times this can occur.¹¹⁸

Veterans law is uniquely complex with many interconnected factors and issues. VBA is subjected to certain duties that it must adhere to in administering the disability compensation program. The Board describes one such duty, the “duty to assist,” and its impact on processing appeals:

“The duty to assist throughout the appeals process requires VA to develop further evidence on the Veteran’s behalf and pursue new arguments and theories of entitlement. Each time new arguments are presented and evidence is added/obtained, VA generally must issue another decision considering that evidence, which protracts the timeline for appellate resolution.”¹¹⁹

VA does not define an appeals backlog *per se*, but references to the appeals “backlog” abound¹²⁰ in the trade press. Specifically, in 2015, a *Military Times* article references a “growing backlog of appeals cases.”¹²¹ This conception does not accurately reflect the appeals inventory. Field research demonstrates that simply counting the number of appeals cases does not give an accurate estimate of work needed to reduce the inventory. The 443,000 current case tally represents a workload that is susceptible to the risks of the current appeals system. These risks include multiple remands and many possible loops in the evidence gathering phase of the process.

Some interviewees noted that the disability claims backlog and the appeals “backlog” are different in kind. The disability claims process is sequential, in that each element of administrative work is dependent on the preceding act. Further, VA, in seeking to address the amount of disability claims waiting to begin work, defined the “backlog” as the amount of claims that had been waiting longer than 125 days. By contrast, as discussed earlier, an appeal may go through several rounds of evidence collection and decision at VBA and then shifted to the Board remand for correction and back again.

¹¹⁸ The Veteran is also free to start a new claim for the issue or issues with the same evidence. The res judicata implications of this phenomenon are not discussed.

¹¹⁹ Department of Veterans Affairs, Board of Veterans’ Appeals, *Annual Report Fiscal Year 2015*, 1

¹²⁰ Doyle, Michael, “Then the unnamed vet found himself on the vexing backlog of veterans appealing benefits decisions”; Krause, Benjamin, “VA Plan To Eliminate Appeals Fights?”; Rose, Francis, “The Never-Ending Appeals Process ay VA Hurts All Vets”, which references the Zarembo, Alan Los Angeles Times article, “VA is buried in a backlog of never-ending veterans disability appeals”

¹²¹ Shane, Leo, III, “Lawsuit would force quick decisions on vets' appeals”

In summary, the Panel concurs that the appeals process is broken and the inventory of appeals is far too high. In the Administration's view, "comprehensive legislative reform is required to modernize the VA appeals process and provide Veterans a decision on their appeal that is timely, transparent, and fair."¹²² The appeals issue is just as serious, if not more so, than the claims backlog issue that received so much congressional concern and which is the subject of this report. The Panel agrees that Congress should continue to work on Veterans appeals reform.¹²³

4.5 The Obama Administration's Focus on Appeals

In February 2016, the President submitted his FY 2017 budget to Congress, which included a section on appeals that "puts forward a proposal to fundamentally reform the broken appeals process for disability claims so that it can best serve our Veterans."¹²⁴ To that end, the proposed budget included "legislative proposals to streamline the appeals process and provides additional funding to support technological improvements and the hiring of additional employees to continue to reduce both the initial claim and the appeal backlogs,"¹²⁵ with the goal, by FY 2021, of having Veterans receive a final decision within 365 days from filing an appeal.¹²⁶

In early March 2016, VA convened a "Stakeholders Appeals Summit" that was a series of stakeholder meetings to design this new process.¹²⁷ Key stakeholders worked with VBA to develop a three-lane approach through which appeals could flow. The three lanes provide for a triage-like design to processing different types of claims:

- Lane one—simple errors that can be corrected at the RO level in the "Difference of Opinion Lane."
- Lane two—a "Supplemental Claim Lane" that allows an opportunity for all new evidence to be submitted.
- Lane three—the "Board Lane," in which appeals can go directly to the Board.

¹²² Congress, Senate, Committee, *Statement of The Honorable Sloan Gibson, Deputy Secretary, Department of Veterans Affairs*, 4

¹²³ See Appendix N for other Congressional efforts in appeals.

¹²⁴ Office of Management and Budget, "Honoring Our Commitment to Veterans – The President's Budget for Fiscal year 2017"

¹²⁵ Office of Management and Budget, "Meeting Our Greatest Challenges: National Security and Global Leadership – The President's Budget for Fiscal year 2017"

¹²⁶ Department of Veterans Affairs, Office of Budget, *Fiscal Year 2017 Budget Request Fast Facts*; See Appendix N for a more detailed description of the proposal.

¹²⁷ Department of Veterans Affairs, Veterans Benefits Administration, "Appeals Modernization", 9

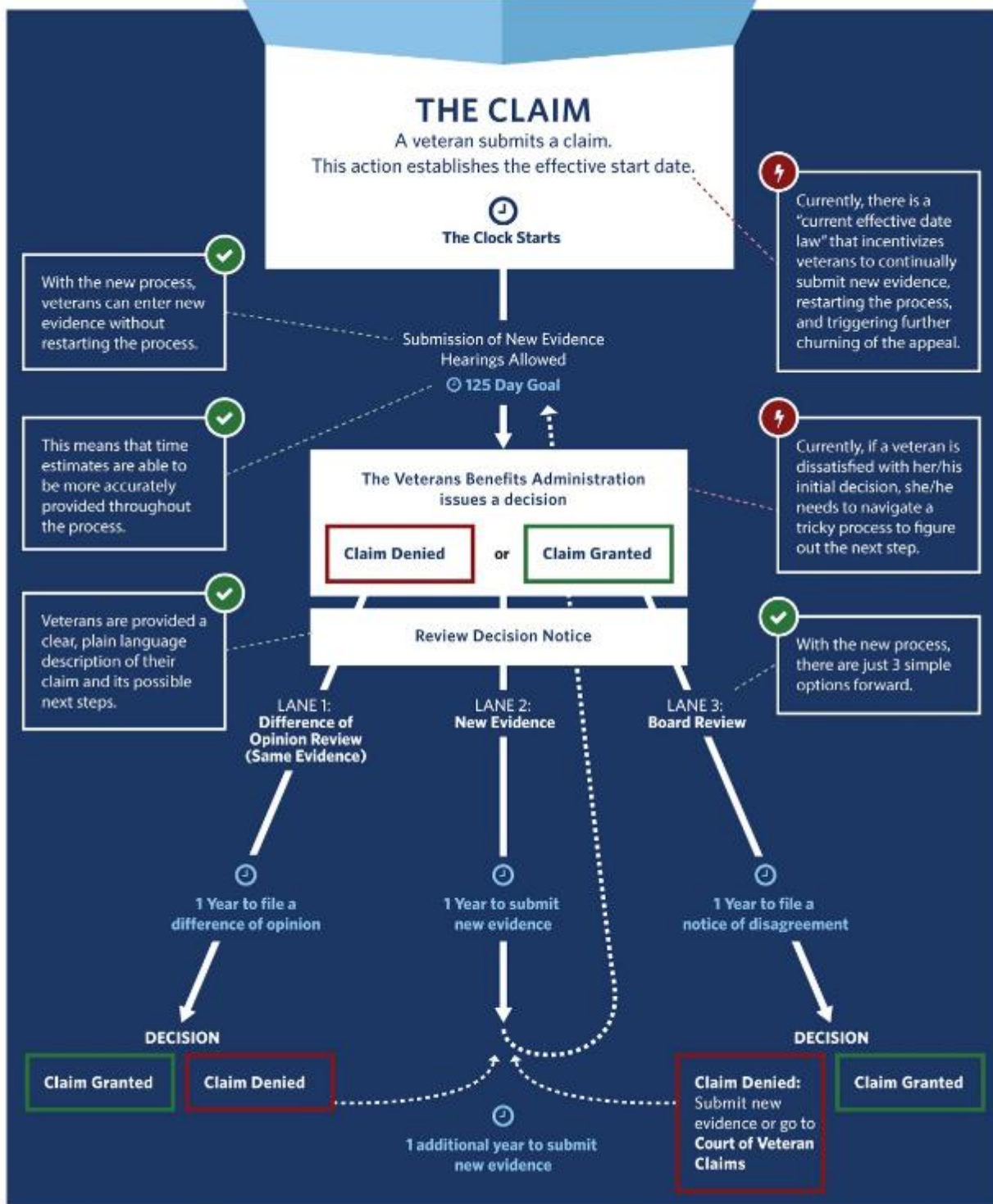
This lane structure, the core of a legislative proposal, has the potential for the greatest impact on the system and the inventory. Other features of this legislative proposal revolve around three issues: (1) closing the evidentiary record at the Regional Office claims decision level; (2) NODs to the Board, and (3) no Board hearings.¹²⁸ The proposal also “creates a single appeals office.”¹²⁹

The proposal also includes notification clarifications that will make the initial contact between VBA and the Veteran clearer, thus improving the process. Approximately 60 percent of the NOD claims were not pursued to the Board.¹³⁰ The SOC comes between the filing of the NOD and the filing of the Form 9—the formal application of appeal to the Board. The proposal assumes that clearer communications with Veterans may prevent the need for further appeals.

¹²⁸ Ibid, 7

¹²⁹ Ibid

¹³⁰ In FY15 157,189 NODs were received and only 52,509 Form 9’s, the application of appeal the Board, were filed. Source: Department of Veterans Affairs, Veterans Benefits Administration, Response to Data Request; See Table 5 of Appendix G for a breakdown of the appeals inventory.



VETS.GOV

April 13, 2016

Source: White House via Vets.gov, "Here's How the VA Is Partnering with Veterans Groups to Reimagine and Redesign The Appeals Process"

Figure 5: Proposed Appeals Process Flow Chart

Other legislative proposals also have promise for improving the appeals process, and these are highlighted in Appendix N.

4.6 Future State of Appeals

At the time of this writing, in October 2016, the House has passed¹³¹ and the Senate is considering¹³² the Administration's proposal. Depending on progress this year, a new Administration and Congress in 2017 will likely require the VBA and its advocates to submit new legislative proposals to reform the appeals process and system. VA has taken several steps in lieu of legislation to try to reduce the appeals inventory. While admirable and helpful in the short-term, these steps do not go nearly far enough to address the broken appeals process and the growing appeals inventory.

The Panel urges VBA to consider the following approaches—most of which it has authority to implement under existing law, regulation, and policy—and to take advantage of collaboration with Congress, stakeholders and partners realized over this past year to refine the appeals process.

¹³¹ *VA Accountability First and Appeals Modernization Act of 2016*, HR 5620

¹³² *Department of Veterans Affairs Appeals Modernization Act of 2016*, S.3328

Recommendation #10: VBA and The Board of Veterans' Appeals Should Apply Lessons from Reducing the Claims Backlog to the Appeals Inventory. This Should Include:

- 10.1 Continuing to provide a Workload Report on appeals, but making it easier to access than is currently available via the VBA "Detailed Claims Data" website. The appeals specific report should include the total number of appeals in the system including Board of Veterans' Appeals (Board) metrics and any other VBA finds appropriate to defining the status and outcome for appeals. An appeals module should be included on the "Detailed Claims Data" VBA website. The report should be distributed weekly to Congress and stakeholders via the VA website.
- 10.2 Providing, through VBA's Performance Analysis and Integrity office, data analysis for this report to ensure that VBA can define acceptable time-cycles for each step in the appeals adjudication process after appropriate reforms are in place.
- 10.3 Adopting, to the extent possible, the three-lane structure recommended by stakeholders during the Appeals Summit conducted in 2016.
- 10.4 Adopting a goal, after appropriate reforms are in place, that sets a time by which the pending appeals inventory will be drawn down to a much lower figure: for example, by 2021, VBA will clear up the pending inventory, and from then on provide most Veterans with an appeals decision within one year.
- 10.5 Continuing to work with the U.S. Digital Service and build on the success of Caseflow, the Board's newly developed web-based document management system.
- 10.6 Prioritizing the incorporation of appeals into the National Work Queue, now a central piece of claims processing work.
- 10.7 Devising a means to allow Veterans to choose whether to appropriately bound the submission of evidence so that Veterans can get appeals determinations in a timelier manner versus continuing with the continuous evidentiary loop. This includes an assessment of the current legal and regulatory authority of the Department to determine if there exists the ability introduce such changes administratively.
- 10.8 Exploring how VBA and the Board of Veterans' Appeals (the Board) can better collaborate to expedite those cases that require a minimal amount of new evidence or action but still currently require a remand from the Board back to VBA. VBA should also consider using the Appeals Management Center to provide a liaison between the Board and VBA to expedite this process.
- 10.9 Emphasizing that the stakeholder appeals summit strategy to address both the broken appeals system and the appeals inventory would solve a problem that is just as serious as the claims backlog issue that received so much Congressional support.

Chapter 5: Potential Circumstances Leading to a Surge in Future Claims Backlog or Appeals Inventory

While VBA's leadership and staff are principally focused on efficiently addressing challenges connected with a substantial daily workload of disability claims and appeals, the leadership recognizes the need to proactively monitor and anticipate potential early warning signs of potential workload surges that may increase the backlog or inventory growth. To offer consistent, timely, and accurate claims and appeals adjudication, and in keeping with VA's mission priorities, VBA will need to continue such monitoring to prevent a slowdown of service to Veterans. Although the future cannot be predicted with any certainty, some circumstances leading to surges can be identified. When accurately identified and effectively monitored, VBA can plan and implement optimal resource allocations to address changes in its workload. As part of the required scope of work of this project, this chapter identifies circumstances that should be monitored to improve VBA's ability to manage a potential future surge in claims backlog or appeals inventory.

5.1 Factors that Could Lead to Claim Volume Increases

VBA statistics show that disability claim volumes (and total annual disability payments) have grown steadily over the past several years. "The number of disability compensation recipients increased substantially from 2000 to 2014, even as the total number of Veterans declined. About 2.3 million Veterans were receiving disability compensation as of the year 2000. By 2014, there were nearly 3.8 million recipients – an increase of almost 1.5 million."¹³³

There has been, generally, a steady growth in volume, distinct from a spike, or surge in volume. As noted in VA's Strategic Environmental Assessment (SEA):¹³⁴

"The greater concern for our Department and the Veteran support community is not the slow demographic trends for which we have time to plan and execute sound strategies; instead, it is rapid and unplanned for increases in our Veteran service population or in particular needs. These rapid changes often emerge from conflicts and wars that involve the U.S. military."¹³⁵

The risk here is connected with a surge in volume, leaving VBA's resources unable to keep pace with the work flow, and which might lead to backlog growth. In this section, important factors that might cause a future spike in claims volume are discussed.

¹³³ Institute for Defense Analyses, *Trends in VBA Disability Compensation Spending*, iii

¹³⁴ Department of Veterans Affairs, *Strategic Environmental Assessment (DRAFT)*

¹³⁵ *Ibid*, 8

5.1.1 Size of U.S. Military and the Total Number of Veterans

The overall size of the military at any one time impacts the number of future Veterans, and thus the potential growth of disability claims. Today's military is roughly 30 percent smaller than it was 20 years ago, when slightly more than 2 million men and women served on active duty. Active duty personnel numbers have remained fairly steady since 2000, with some decreases during the last few years. The projected active duty end strength in the armed forces for FY 2016 was 1,301,300 people on active duty with an additional 811,000 people in the seven reserve components. VA estimates the total Veteran population in 2015 to be 21,681,000 and estimates that this number should drop to 20,170,000 in 2020, and down to 15,073,000 in 2040.¹³⁶ This downward trend is, in part, caused by expectations on the types of wars the United States may engage in during the coming decades, as discussed below. A trend suggesting a smaller total number of Veterans in the future might temper an expectation of a future unanticipated surge based on this factor alone. That said, the recent trend of a higher percentage of Veterans receiving disability benefits is partly a result of an aging, large, cohort of Vietnam Veterans, as well as the declaration of "presumptive" conditions, as is noted below.

5.1.2 Age Distribution of the Veteran Population

Research shows that many Veteran disability recipients were not recently separated from the military. Many Veterans file for disability many years after their leaving the service. The number of Vietnam-era Veterans receiving disability compensation in 2014 increased by 500,000 over the number in 2000. The growing number of claims from older Veterans may be a due to health problems surfacing connected with older age, along with lower income in retirement.

5.1.3 Percentage of Veterans Submitting Disability Claims

Between 2000 and 2010, the number of Veterans receiving disability payments more than doubled, and this growth has continued during the current decade. For example, the number of Veteran's receiving VA disability compensation increased from 3,525,000 in 2012 to 4,500,000 in 2015.¹³⁷ VBA expects the overall growth rate in claims to continue. This will result in more claims and a possible surge in future, but the growth is not expected to be sudden, nor is it likely to be of overwhelming size.

¹³⁶ Ibid

¹³⁷ Some reasons for the increase in the number of Veterans receiving disability payments include declaration of several "presumptive" conditions during the past several years, improved communication with Veterans on disability benefits by both VBA and VSO, and the aging of the still sizable Vietnam Veteran cohort.
Source: Ibid

5.1.4 Combat Wound Survival Rates

According to DoD data, the trend in the ratio of wounded-in-action to killed-in-action accelerated rapidly due to improvements in battlefield medicine, combat evacuation techniques, personal protective equipment, and advancements in technology. For example, one of three soldiers wounded in the Korean War died of wounds, whereas one of ten soldiers wounded in the Iraq and Afghanistan conflict died. This is, obviously, a very positive development. Given the increased survival rates, more Veterans can be served by VBA, and more have service-connected disabilities. If the United States found itself in many and prolonged conflicts occurring during a concentrated period of time, this would likely drive a sudden surge in claims at some point.¹³⁸

5.1.5 Number and Nature of Armed Conflicts

Analysis of military activity includes evaluation of the frequency of combat operations, and the nature of the underlying conflicts. Although it is impossible to predict future conflicts with any degree of certainty, analysis shows that, since 1980, the United States enters into a conventional war on average about every 15 years.¹³⁹ These large-scale combat engagements tend to lead to larger combat deaths and wounded veterans. However, when considering combat operations, it is useful to distinguish between hybrid conflicts and large scale, more conventional, conflicts. Hybrid conflicts blend some element of conventional combat operations with non-traditional operations, including cyber, irregular forces, drones, social media, and special operations units. When considering current combat activities of the DoD, a large number are smaller in scale with respect to personnel and equipment, and have lower operating and human costs attached to them. The counter-insurgency operations in many parts of the world might best be considered hybrid conflicts. A surge in disability claims is most likely to occur during prolonged large-scale combat engagements, and/or with a proliferation of hybrid conflicts, and may not be easily anticipated by VA.¹⁴⁰ While there is no clear mathematical function that might be used to anticipate claim surge vis-à-vis the mix of armed conflicts occurring over time, continued monitoring of the mix of conflicts, and further evaluation of what claim volumes might result from such conflicts, is warranted.

5.1.6 Determination of “Presumptive” Disability Benefits

VBA defines “presumptive” conditions as specific disabilities diagnosed in certain Veterans caused by military service. If one of these conditions is diagnosed for a Veteran in one of these groups, VA presumes that the circumstances of service caused the condition, and disability compensation can be awarded.¹⁴¹

¹³⁸ Field Interviews

¹³⁹ Department of Veterans Affairs, *Strategic Environmental Assessment (DRAFT)*, 11

¹⁴⁰ *Ibid*, 11-15

¹⁴¹ Department of Veterans Affairs, Veterans Benefits Administration, “Disability Compensation: ‘Presumptive’ Disability Benefits”

In 1991, Congress and the VA started paying Veterans who had served on the ground in Vietnam—meaning possible exposure to Agent Orange—and went on to develop diseases that eventually included lung and prostate cancer. In 2001, the VA added Type 2 diabetes to the list of “presumptives” caused by Agent Orange. As a result, the number of Veterans receiving compensation for diabetes climbed from 46,395 to 398,480. Since 2010, the VA Secretary added three more “presumptive” conditions: Parkinson's disease, a rare form of leukemia, and ischemic heart disease, further adding to the disability rolls. The current list of “presumptive” conditions approved by VA includes certain chronic and tropical diseases, former prisoners of war, exposure to Agent Orange and other herbicides, exposure to ionizing radiation, and chronic disabilities after serving in the Gulf War.

In the recent past, declaring a “presumptive” condition has been the most important circumstance for driving a surge in claims volume, and it continues to be the most important factor to monitor moving forward. Since the time period leading to a “presumptive” determination is generally quite long, with issues leading to it in the public eye due to court cases or medical developments, the VA should be in a position to anticipate a “presumptive” determination and take advance steps to prepare for a resulting claims surge.

5.1.7 Overall Economic Conditions

Research exists suggesting a general link between disability risk and economic conditions, particularly in economic cycles characterized by increasing unemployment and bankruptcies as well as deteriorating consumer confidence.¹⁴² This research suggests that people with a disability, but who have not claimed one because they were in a favorable employment situation, are more likely to claim one in a case of job loss or personal economic hardship. Economic pressures may also lead, in some cases, to a higher incidence of fraudulent behavior. Evidence suggesting that economically stressed situations may lead to more disability claims (with a certain time lag) should prompt VA to anticipate how growth in claims connected to these factors may impact future claim surges and possible backlog growth.

5.1.8 Additional Rising Workload Concerns

In summary, seven factors might trigger a claims surge, and all can be monitored. This means that VBA is capable of anticipating higher volumes. And yet, even with excellent monitoring and improved certainty of how these drivers might predictably lead to volume surges, VBA still faces the challenge of mobilizing or re-allocating its claims processing resources in time to address the claim surges and avoid a backlog spike. VBA's current

¹⁴² Cypris, Christian and Elodie Durand, “Economic Crises and the Risk of Disability”

initiatives, described at various points in this report, should put it in a stronger position to address claim volume increases.

Determination of a new “presumptive” condition, in the Panel’s view, is the most likely factor to lead to a sudden future flood of disability claims. VBA has a strategic planning team that, among its other important duties, can monitor these various factors and serve as an early warning to VBA leadership to flexibly respond to address an expected claims surge.

5.2 The Role of Increasing Claims Complexity

As pointed out in the previous section, an increasing number of Servicemembers are exposed to modern war settings, and more of those who are wounded are likely to survive due to advances in protective equipment and medical treatment and procedures. Besides an increased volume of claims that can cause a processing backlog, analyses of claims indicate that individual claims are increasingly complex to adjudicate, as discussed in Chapter 3.

Growing claims complexities have further challenged VBA’s ability to eliminate the backlog, and may be an important factor in a potential future surge in backlog.

5.3 Factors that Could Lead to Increased Appeals Inventory

In addition to addressing circumstances that lead to a surge in claims backlog, it is important to consider circumstances that lead to a surge in appeals inventory. Unlike disability claims, VA has not taken steps to determine a timetable for appeals processing that would result in delineating a backlog of appeals processing. As such, there is no formal “backlog” of appeals processing, but an inventory of claims that are in appeal status.

Given the substantial work VBA has done over the past few years to address the mountain of claims backlog discussed in the previous chapter, and the simple process allowed a Veteran to appeal a disability claim decision (as discussed in Chapter 4), it is not entirely surprising that the appeals inventory number has skyrocketed during the past few years. At the time of this writing, approximately 443,000 Veterans are waiting for a final adjudication of their disability claims appeal.¹⁴³ In 2014, the Senate Working Group¹⁴⁴ reported that there were “more than a quarter of a million Veterans stuck in the appeals process.” The appeals inventory has effectively doubled from 2014 to 2016. Even so, the inventory as a percentage of total claims adjudicated has remained more or less the same

¹⁴³ See Table 5 of Appendix G for a breakdown of the appeal inventory.

¹⁴⁴ Claims Backlog Working Group, *March 2014 Report*, 22

over the past few years. “Since 1996, the appeal rate has averaged 11 to 12 percent of all claims decisions.” The result of the increased workload without implementing mitigating strategies is an increased inventory.

Without reforms discussed in the last chapter, the consequences for Veterans waiting appeals are stark. “VA projects that, by the end of 2027, under the current process, without significant legislative reform, Veterans will be waiting on average 10 years for a final decision on their appeal.”¹⁴⁵ Further, the pending inventory could climb to over 2 million cases in the appeals inventory by 2027.¹⁴⁶

This report has highlighted how VBA has implemented many discrete projects to improve both efficiency and quality in disability claims and appeals adjudication. Past actions, and Panel recommendations for further actions outlined in the previous two chapters, can help mitigate the impact of a surge in claims and appeals in order to mitigate potential future spikes in disability claims backlog or appeals inventory.

¹⁴⁵ Field Interviews; Department of Veterans Affairs, Board of Veterans’ Appeals, “Board of Veterans’ Appeals Overview and Appeals Background”, 11

¹⁴⁶ Department of Veterans Affairs, Board of Veterans’ Appeals, “Board of Veterans’ Appeals Overview and Appeals Background”, 11

Chapter 6: Meeting the Needs of Today's Veterans Through Comprehensive Transformation

VBA states that it has “built an aggressive Transformation Plan that includes initiatives to re-train and reorganize our people, streamline our business processes, and build and implement new technology solutions to eliminate the claims backlog and process all claims faster and at a higher quality.”¹⁴⁷ The Backlog Elimination Plan’s initiatives have achieved measurable impact. As important as these initiatives have been, however, the Panel sees them as efforts at modernizing disability compensation processes, rather than truly transforming them. Simply put, “modernization” is doing what an organization already does better, while “transformation” is changing what the organization does – doing things in new ways, and doing new things. Modernization can be a very valuable step toward transformation, but transformation fundamentally involves radically changing to improve performance. This means working to effect large-scale and dramatic change in mindsets, behaviors, and approaches to create and apply new capabilities, and benefits from support and efforts of key external stakeholders.

VBA has begun a journey toward transformation. That said, successful strategic change and achievement of superior performance will require a sustained effort to evaluate, design, and implement new models for disability compensation. Comprehensive transformation will require both an evolved, holistic approach to addressing Veterans’ needs, as well as a redefining of disability. External stakeholders will need to embrace and support these initiatives in order to achieve sustained success.

6.1 The Goals of the Disability System Must Reflect a Holistic Approach to Serving the Veteran

Secretary McDonald stressed the importance of taking a holistic view of the Veteran in Congressional testimony outlining the MyVA vision: “By revamping our functions to fit Veteran needs, rather than asking Veterans to navigate our complicated internal structure we are rededicating ourselves to the proposition General Omar Bradley expressed in 1947: ‘We are dealing with Veterans, not procedures; with their problems, not ours.’”¹⁴⁸

VBA has made strides in enabling the Veteran and his or her family to manage VA and DoD benefit programs¹⁴⁹ without having to access multiple phone numbers, websites, or to complete redundant paperwork. This is a critical element of recognizing the value of

¹⁴⁷ Department of Veterans Affairs, Veterans Benefits Administrations, “Why Are We Transforming? - VBA Claims Transformation”

¹⁴⁸ Congress, Senate, Committee, *Testimony of Secretary of Veterans Affairs Robert A. McDonald*

¹⁴⁹ Department of Veterans Affairs, Veterans Benefits Administration, *eBenefits: Your VA & DoD Benefits*. Online

serving the Veteran in a holistic way that places the emphasis on the individual and a unique set of needs, as opposed to how activities are categorized within the VA or VBA. VBA has recognized the importance of eliminating stovepipes when handling issues for the Veteran, and this is an approach that needs to be modeled with other stakeholders as well. DoD and VA will need to continue to collaborate in order to embrace a holistic approach that recognizes the lifecycle of the individual who starts as a Servicemember and culminates as a Veteran.

6.2 Veterans Deserve Processes and a Framework to Support a Modern Disability Philosophy

VBA and all of the relevant external stakeholders will need to consider what essential features should characterize how large-scale change should look. An integral first step is to clarify and agree upon the philosophical dimensions of the Veterans Disability Benefits program. While the Backlog Elimination Plan phase that occurred at VBA from 2011-2015 has been completed, updating operations and management of evolving systems must continue. VBA targets an overall effort that will focus its leadership on key goals that will continue to improve the Veteran experience through 2023 that are transparent, clear and achievable. Yet, larger issues remain, and 60 years of report analyses have been calling for focus on what the Veteran needs to maximize disability benefits, and to support and empower Veterans to take ownership of their lives and livelihood. An agreed-upon philosophy of Veteran disability is critical for moving forward.

VBA does not currently articulate a philosophy of what disability means for today's Veterans' benefits. The consequence is that external stakeholders have widely disparate viewpoints regarding the purpose and expectations of VA disability compensation. VBA states on its website that "Disability compensation is a monthly tax-free benefit paid to Veterans who are at least 10% disabled because of injuries or diseases that were incurred in or aggravated during active duty, active duty for training, or inactive duty training. A disability can apply to physical conditions, such as a chronic knee condition, as well as a mental health conditions, such as post-traumatic stress disorder (PTSD)."¹⁵⁰ This description does not reflect a common understanding of what the true intent of Veteran's disability compensation is, nor does it reflect how it can complement the full set of Veteran's benefits (e.g., Education and Training, Vocational Rehabilitation and Employment) in order to empower and enable the Veteran to enjoy a fulfilled and productive post-military life.

¹⁵⁰ Department of Veterans Affairs, Veterans Benefits Administration, "Disability Compensation – Compensation"

Disability ratings in VA's current schedule reflect the degree to which service-connected conditions have resulted, on average, in a loss in earning capacity. This differs from other organizational definitions of disability which suggest that disability is a complete inability to engage in any substantial income earning activity¹⁵¹ and do not categorize the disability in degrees or levels. There remains a lack of coherent messaging regarding the full potential of disability benefits and a common philosophical position on what these benefits should be doing.

The Purpose and Challenge of the Disability Program

The Bradley Commission, in 1956, highlighted fundamental challenges of the Veterans' disability benefits program. "The dominant problems are the carryover from past decades of a backward-looking pension philosophy and our failure to adjust the existing Veterans' programs to fundamental changes in our society."¹⁵² Those challenges continue today.

Well-intended policy makers have added layers of new requirements without addressing those fundamental challenges. As a result, the program is so complex that the assistance of untold numbers of Veteran Service Organization (VSO) representatives and other volunteers is essential to help navigate the system. Moreover, the growing costs, administrative burdens, and in some cases decades of waiting, have left some Veterans dissatisfied with service, disheartened by a broken promise made by the country, and distrustful of the government in general.

VBA has made additions and adjustments to try to complete the updating of the rating schedule¹⁵³ by March 2017. Even so, the underlying rating schedule and the incremental rating structure based on earnings capacity has not been changed since 1945. When this law was adopted, it directed the schedule to, "be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, 80 percent, 90 percent, and total, 100 percent."¹⁵⁴ Updates and additions have been made to reflect additional conditions, but the structure of the rating scale has not been adjusted and remains impracticable. The rating scale has lacked measurable meaning, and does not reflect the practices of any other large system designed to assess need and allocate benefits.

¹⁵¹ Social Security Administration states "The law defines disability as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months".

Source: Social Security Administration, "Disability Evaluation Under Social Security"

¹⁵² The President's Commission on Veteran's Pensions (The Bradley Commission), *Veterans' Benefits in the United States*, 3

¹⁵³ Office of Management and Budget, *The President's Budget for the Fiscal Year 2017*, 197

¹⁵⁴ Ibid

VBA has made considerable progress on streamlining transactions and processes. However, there is a broader imperative to realign stakeholder expectations for disability compensation. While “the Secretary shall from time to time readjust this schedule of ratings in accordance with experience” the rating schedule remains unchanged. A plain reading of the law gives the Secretary authority to move away from the ten percent increments and even the basis of earnings capacity in order to devise a system that addresses the current, real needs of the Veteran. Based on multiple interviews with VBA staff and Veterans, the current interpretation of the schedule does not reflect the orientation toward earnings capacity, but rather one of degree of physical impairment.

There is a tension between the legal framework for structuring the ratings schedule as written, and the application of the facts of the claims. The question asked is: “What percentage is the Veteran disabled?” Based on its reading, the Panel believes that this question is inappropriate. The appropriate question is: “By what percentage is the Veteran’s earnings capacity diminished?” Because of this disconnect, expectations are misaligned with the intended benefit of disability compensation as it is currently articulated in statute.

Leadership within the executive and legislative branches can provide essential guidance on shaping the discussion regarding what disability compensation is, and how it can optimally be delivered to be a foundational element of what the Veteran needs for a strong and healthy post-military life with his or her family.

6.3 How External Stakeholders Can Foster Transformation

VA cannot lead the transformation by itself. Comprehensive transformation needs to be done in conjunction with other key stakeholders who can play a role in the determination and delivery of disability benefits. The actions listed below must be taken in concert with VA and are outside of VA’s control.

6.3.1 Provide Political Leadership Needed for Transformation

In an environment of divisive partisanship and competing interests across diverse constituent groups, it is difficult to drive comprehensive transformation and effect large-scale change. Improving delivery of disability benefits to all Veterans in need (and to do so in a timely fashion) requires collective problem solving and political will to make difficult decisions. At times, efforts to make long-term, comprehensive improvements to processes that support the adjudication of millions of claims and appeals are viewed as “anti-Veteran” because they may appear to limit options for the Veteran. Standardized forms and shorter windows for submitting evidence have been portrayed as efforts to limit benefits to Veterans, when these streamlining efforts actually can serve to improve the quality of

information being submitted and allows for claims to be processed more quickly. These types of misperceptions can result in complete stalling of collaborative efforts to make things better for the nation's diverse Veteran population. Few stakeholders want to be viewed as taking anything away from Veterans and are often deterred from acting.

At the time of this writing in October 2016, the House has passed the VA Accountability First and Appeals Modernization Act of 2016, HR 5620 and the Senate is considering Department of Veterans Affairs Appeals Modernization Act of 2016, S.3328. Depending on progress this year, a new Administration and Congress in 2017 may request VBA and its advocates to submit new legislative proposals to reform the appeals process and system. In addition, the Veterans omnibus legislation in the Senate (S.2921), referred to as the Veterans First Act, was introduced in May 2016 and was designed to change the culture at the VA through accountability reform, along with improving veterans' health care and benefits.

Legislation that addresses large-scale culture change and recognizes the need to empower VA employees while retaining accountability is critical to transforming the disability and appeals processes. Statutory changes are often the precursor to comprehensive transformation and VA leadership may need additional authority and support to make these substantial changes. These legislative initiatives reflect positive initial steps towards transformation. They do not respond to all of the challenges VA and VBA face nor do they address the need for redefining disability and the necessary approach all stakeholders must take in serving Veterans and their families.

As areas of opportunity for improvement are identified, the key lever of legislative action (e.g., to provide additional funding or flexibilities) often plays a prominent role. The nation has a deep commitment to improving the Veteran's experience and ensuring that this country honors the commitment of those who have served. Where legal mandates and statutory changes are presented, there should also be the adequate funding to support the changes that need to be implemented.

6.3.2 Allocate Adequate Resources

Addressing the issue of rising costs is extremely challenging and it cannot be done by one agency alone. Nor is it the obligation of one entity, but a collective societal obligation. The Institutes for Veterans and Military Families, Syracuse University and National Security and Counterterrorism at Syracuse University have urged the adoption of a National Veterans Strategy with a keen focus on shared responsibility and partnership between VA and Congress, state and local governments, Veteran support organizations, and the private sector. Accordingly, instead of being viewed as "institutional turf" to defend, annex, or

avoid altogether, Veterans' policy should be viewed as a shared responsibility and be governed collaboratively to the greatest extent possible.¹⁵⁵

6.3.3 Manage Expectations of the Veteran and His or Her Support Network

VBA and VA continue to expand and refine their efforts to improve the experience Veterans have when they contact the VA for assistance, and to ultimately enable employees to quickly convey accurate, up-to-date information by telephone and online. Providing additional self-service capabilities so that both Veterans and their families can be better supported has been a focal point of VA efforts and is highlighted as the first of Secretary MacDonald's 12 Breakthrough Priorities to Improve the Veteran Experience.

In 2016, VA created the Veteran's Experience Center (VEC), run by a newly-appointed executive, VA's Chief Veteran Experience Officer who works within the Secretary's Office. The VEC has been charged with improving customer experiences across VA by delivering effective and easy customer experiences in which Veterans feel valued. VEC is working to build trust and manage Veteran expectations by providing necessary information in a manner that the Veteran prefers. Veterans' active engagement and communication of expectations is a critical element of success for improving the Veterans' experience. Without Veteran engagement, none of the VA's initiatives can be fully successful. The outreach processes continue to improve as VBA has increased its mechanisms for engaging the Veteran and providing information to them using technology. Veterans are able to engage with VA and VBA through MyVA and eBenefits, which have expanded the access to resources and self-service applications. Significant effort also has been made to reach out directly to Veterans. Veterans have a crucial role in proactively engaging VBA in order to identify the benefits that will help them to enjoy a highly-productive post military life. Their proactive role in pursuing well-deserved benefits is integral to the successful delivery of disability compensation.

VSOs have demonstrated a deep commitment to serving their constituents and clearly care deeply about all Veterans they serve as individuals. However there is at times a disconnect between VBA's principle of serving *all* of the Veterans in need of care and VSOs focus on a subset of Veterans to whom they are committed to represent and support. There is value in identifying a path forward towards transformation with these key advocates as well as the broader network of Veteran support that exists and includes non-profit organizations, state and local Veteran support organizations. This collaborative approach should build on the collective efforts and common ground this support ecosystem shares with VA and VBA. The outcome can be a network that enables VBA to serve as many Veterans as possible with timely and accurate determinations.

¹⁵⁵ Syracuse University, Institute for Veterans and Military Families, Syracuse University & Institute for National Security and Counterterrorism, *A National Veterans Strategy: The Economic, Social, and Security Imperative*

An independent third party will be best poised to facilitate activities that would include conducting a research initiative to bring in perspectives from this ecosystem. This third party could help VBA understand the broader system in which they operate and devise ways of effectively marshaling the energies of partner organizations toward more coherent support of Veterans? This would help VBA to most accurately identify their desired outcomes, measurements of success, and development of their legislative agenda. This objective analysis can determine how the care, expertise, and passion can be focused and formalized to partner with VBA to help Veterans.

6.3.4 Expand Interoperability with DoD and Others

The challenge of achieving interoperability of medical and service records between VA and DoD, as well as with others who control data critical to accurate and timely claims determinations is massive. Notable progress has been made to date. DoD and VA clinicians are currently able to use their existing software applications to view records of more than 7.4 million shared patients who have received care from both departments.¹⁵⁶ A key foundational element to interoperability is establishing data portability. With complete portability, data can be moved across platforms that are not interoperable. Even where true interoperability does not currently exist, solutions like data portability are powerful in and of themselves.

In July 2016, GAO, and the VA testified before Congress¹⁵⁷ specifically on the interoperability issue. Members noted that they have been requesting that DoD and VA make their systems interoperable so that data and information could easily be exchanged, thereby expediting claims review and processing. GAO however, emphatically stated that interoperability was “years away.”¹⁵⁸ VA commented that cloud based technology would help reduce overhead costs, but that VA, its Administrations and DoD continued to have separate systems. One witness suggested that the systems are so large that there is no system existing today that can encompass the information and needs of both Departments. Further, they added that the Veterans Benefits Network was over 50 years old, that the system was always in maintenance mode, they were filling gaps, doing application upgrades, and then adding new capabilities.

The challenge of collaborating across very different organizational cultures continues to be another daunting hurdle. Currently, while progress has been made to strengthen the working relationship between VBA and DoD, there is still the cultural divide that includes

¹⁵⁶ Congress, House of Representatives, Joint-Committee, *Statement by Mr. Christopher A. Miller, Program Executive Office, Defense Healthcare Management Systems*

¹⁵⁷ Congress, Senate, Subcommittee, *Hearing to Review the VA Electronic Health Record Network (Vista)*

¹⁵⁸ Ibid

disagreement on how to achieve full interoperability and what the path forward looks like. Additionally, accountability metrics have not been established to measure outcomes and clearly define the goal of the interoperability efforts. GAO raised concerns about VA's shift in strategy from a joint record-sharing system to a modernization of their current one.¹⁵⁹ According to GAO, the approach has lacked clear planning, analysis, transparency and clearly-stated outcomes.

6.4 Why Act Now? The Current Path Is Fiscally Unsustainable

The cost to continue this complex compensation program in its current configuration is unsustainable. Improving the system so that it is easier to navigate will result in a more efficient system and will reduce costs. In terms of cash outlays, the Compensation Program's cost has increased substantially. Since 2000, program costs have more than tripled¹⁶⁰ reaching \$63 billion in FY 2015.¹⁶¹ That trend is projected to continue, with costs estimated to surpass \$80 billion by FY 2018.¹⁶² One key driver of this significant rate of increase is the incentives built into the compensation program itself. For example, Veterans unable to work due to a service-related disability may qualify for Individual Unemployability (IU), which entitles them to receive payments at 100 percent disability rating, even though they have a lower combined degree of disability.¹⁶³ To qualify, for IU the Veteran needs a single issue rated at 60 percent disability, or a combined 70 percent rating with a single issue of at least 40 percent.¹⁶⁴ In 2014, there were nearly 320,000¹⁶⁵ IU recipients (or 8 percent of the total recipients), receiving a total of \$11.6 billion annually (or 23 percent of the total disability program payments).¹⁶⁶

The IU is just one example of the complex disability rating system VBA is currently reviewing¹⁶⁷ and the reason many have called for a comprehensive review. In fact, a 2007

¹⁵⁹ Government Accountability Office, *Electronic Health Records: VA's Efforts Raise Concerns About Interoperability Goals and Measures, Duplication with DoD, And Future Plans*

¹⁶⁰ Congress, Congressional Budget Office, *Veterans' Disability Compensation: Trends and Policy Options*

¹⁶¹ Department of Veterans Affairs, Office of Budget, *Congressional Budget Submission FY 2017: Volume III Benefits, Burial Programs, and Departmental Administration*, 55

¹⁶² *Ibid.*, 58

¹⁶³ Institute of Defense Analysis, *Independent Assessment of the Quality Assurance Program in the Department of Veterans Affairs*, 2

¹⁶⁴ *Ibid.*

¹⁶⁵ In 2014 there were 3,949,060 benefits recipients.

Source: Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report FY 2014: Compensation*

¹⁶⁶ Institute for Defense Analysis, *Trends in VBA Disability Compensation Spending*, iv

¹⁶⁷ In 2009, the Veterans Benefits Administration (VBA) Under Secretary for Benefits (USB), on behalf of the Secretary for Veterans Affairs (VA), directed the revision and update of the 15 body systems that are contained in the VA Schedule for Rating Disabilities (VASRD), 38 C.F.R. Part 4, under the authority of 38 U.S.C. § 1155.

study of the Institute of Medicine¹⁶⁸ called for an overhaul of the rating schedule to reflect both the current economy as well as society's view toward Veterans. Specifically:

The purpose of the current Veterans' disability compensation programs as stated in statute currently is to compensate for average impairment in earning capacity, that is, work disability. This is an unduly restrictive rationale for the program and is inconsistent with current models of disability.

6.5 To the Incoming Administration

The Panel views this report as an opportunity to inform decisions to be made and actions to be taken by Executive Branch and Congressional leadership, especially in the pivotal timeframe of a transition to a new Administration. The incoming Administration will be positioned to demonstrate immediate attention and leadership to support the ongoing VA/VBA initiatives to improve service to Veterans. The Panel has outlined key areas on which to best focus efforts to maximize both short-term and long-term opportunities to improve services for Veterans and achieve measurable outcomes.

VA and VBA have made significant progress in the Backlog Elimination Plan processes and introducing new technology to their operations. This focus should continue internally as additional efforts are explored for opportunities to collaborate with stakeholders external to VA and to support and build upon initial success.

¹⁶⁸ The National Institute of Medicine is a part of the National Academy of Sciences.

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Conclusion

In recent years, VBA has introduced important process improvements to enhance efficiency and quality of disability claims processing. Even with the most skilled leadership, adequate resources, and state-of-the-art technology, however, VBA cannot fix itself in isolation from other stakeholders. It must work effectively with Veterans Service Organizations (VSOs), the Department of Defense, Congress, and Veterans, among others. There are hundreds, if not thousands, of external stakeholder organizations that have a potential role to play in working with VBA to improve claims and appeals adjudication.

While VBA's efforts to improve its processes and enhance collaboration with other federal agencies and stakeholders are absolutely critical, a broader transformational effort must be undertaken to address fundamental issues around disability benefits for our Veterans. The distinction between modernization and transformation is critical to this report. Transformation requires adjudicating claims in a new way, leveraging the most sophisticated technology and data analytic methods to drive a more efficient and accurate adjudication process that serves Veterans well and in an ever-timelier manner.

Given profound changes in medicine, the nature of work, and other social changes during the past few decades, the time is ripe for VBA to reevaluate how best to provide Veteran disability benefits, review the definition of disability, and re-assess the underlying disability rating system—much of it dating back to 1945.

Since solutions can also be found beyond VBA's organizational borders, the Panel urges a broader, more comprehensive approach that involves Congress, VSOs, other interested parties, and Veterans themselves to improve service to Veterans and their families. Interviews with VBA leaders clearly show a commitment to approaching this important work creatively, using every tool available to enhance the experience for both Veterans and VBA employees. The current Administration has made important strides in reducing the backlog and improving service to Veterans. As a new Administration takes office, it is time to take the next step by conducting a fundamental review of roles and responsibilities of the key parties involved to determine how service to Veterans can be further improved.

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Appendix A: Panel and Study Team Biographies

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** Veteran*

STUDY TEAM

Joseph P. Mitchell, III, *Director of Academy Programs* - Dr. Mitchell leads and manages NAPA's studies program and serves as a senior advisor to NAPA's President and CEO. He has served as Project Director for past Academy studies for the Government Printing Office, the U.S. Senate Sergeant at Arms, USAID/Management Systems International, the National Park Service's Natural Resource Stewardship and Science Directorate, and the USDA Natural Resources Conservation Service. During his 16 years at the Academy, Dr. Mitchell has worked with a wide range of federal cabinet departments and agencies to identify changes to improve public policy and program management, as well as to develop practical tools that strengthen organizational performance and assessment capabilities. As the Academy's studies director, he has provided executive-level leadership, project oversight, and subject matter expertise to over 50 highly regarded organizational assessments and studies, consulting engagements, and thought leader engagements. He holds a Ph.D. from the Virginia Polytechnic Institute and State University, a Master of International Public Policy from The Johns Hopkins University School of Advanced International Studies, a Master of Public Administration from the University of North Carolina at Charlotte, and a B.A. in History from the University of North Carolina at Wilmington.

Roger Kodat, *Project Director* - Roger has led fifteen projects as a consultant to the Academy, several focusing on strategic planning and organizational transformation. He brings 20 years of commercial and investment banking experience with JPMorganChase, and six years of senior level federal government experience at the Department of the Treasury. He was appointed by President George W. Bush in 2001 to serve as Deputy Assistant Secretary of Treasury, responsible for Federal Financial Policy. Some of his tasks at Treasury included: policy formulation for the 2006 Postal Accountability and Enhancement Act; rule-making and oversight of Federal loan and loan guarantee programs; and managing the Federal Financing Bank (a \$32 billion bank at that time). Mr. Kodat holds a BS in Education from Northwestern University and both an MBA in Finance and MA in Political Science from Indiana University.

Brenna Isman, Senior Advisor - Brenna supports the Academy as a Project Director and Senior Advisor. She leads and advises projects that provide organizational assessment, strategic plan development, and performance improvement guidance to Federal agencies as well as Offices of the Inspector General and other regulator organizations. Brenna's consulting experience includes both public and private sector clients in areas of stakeholder engagement, organizational development, and communication strategy. Prior to joining the Academy, Brenna was a Senior Consultant for the Ambit Group and a Consultant with Mercer Human Resource Consulting facilitating effective organizational change and process improvement. She holds a Masters of Business Administration from American University and a Bachelor of Science in Human Resource Management from the University of Delaware.

Karla Perri, Senior Advisor - Karla supports the Academy as a project director and senior advisor. She is an executive and attorney with over 25 years of experience in Federal and State environmental, energy, and sustainability issues. Presently, she is also a Principal in a major Washington DC consulting firm providing strategic advice to corporate clients on Federal and Congressional issues in these topic areas. In addition, she founded and is President of Federal Solutions, LLC, a woman-owned consulting firm. Ms. Perri is also a former Presidential appointee to the Senior Executive Service at the Department of Defense. She is a featured speaker, facilitator and participant at a number of national forums related to defense energy and sustainability issues. She holds a J.D. from the George Washington University, an M.A. in Public Administration from Colorado State University, and a B.A. in Political Science from the University of South Carolina.

Kim Hildred, Senior Advisor - Kim currently serves as President of Hildred Consulting, LLC, which she founded after retiring from the U.S House of Representatives in early 2015. Kim served as staff director of the Committee on Ways and Means Subcommittee on Social Security where she assisted the Committee in the development and passage of legislation to strengthen Social Security retirement, survivors, and disability programs, as well as in the oversight of these programs. Her prior service includes three years deciding Social Security disability claims for the States of Kansas and Wisconsin, followed by 10 years of increasingly responsible positions managing Social Security disability programs in the Chicago and Philadelphia regional offices of the Social Security Administration. Kim has a Bachelor's degree from Waynesburg University and her Master's degree from Duquesne University.

Matt Gripp, *Research Analyst* - Matt is a Research Analyst at the Academy. He recently earned his Master of Public Administration from the Trachtenberg School of Public Policy and Public Administration at George Washington University, with a concentration in Public-Private Management and Policy. There he studied Public-Private Partnerships, Social Impact Bonds and other government innovations that seek to align private sector forces with efficient, effective and equitable public ends. Matt has also earned his Juris Doctorate from St. Thomas University School of Law, Miami Gardens, Florida. There he was a member of the Intercultural Human Rights Review, the first such law review to examine human rights from a comparative, world perspective. He also interned at the United Nations headquarters in New York. Matt received his Bachelor of Arts, Philosophy, from the University of Central Florida.

Eric Christensen, *Senior Research Associate* - Eric graduated from the State University of New York at Albany with a B.A. in Political Science. After graduation he served as a campaign manager in a mayoral election; interned for U.S. Senator Charles Schumer and volunteered on voter outreach for City Councilman Vincent Gentile in Brooklyn. He then received his M.P.A. from Cornell University and is a member of Pi Alpha Alpha national honor society for public affairs and administration. While at Cornell University he served as a consultant on a rural regeneration initiative in Haiti. He also interned for Public Policy Solutions, Inc., in San Luis Obispo, CA and was a consultant for Tompkins County Government where he co-authored a report on budgetary priority setting, performance measurement, shared services and charter revision for Tompkins County. During his time at the Academy he has worked on several projects related to organizational transformation, change management, and strategic planning for a diverse group of federal agencies.

Mary Ann Aabye, *Research Associate* - Mary Ann joined the Academy with experience in project management and event planning. Mary Ann has a BA in International Studies and a BA Economics both from American University (2013), and is currently pursuing a Masters degree in Public Policy at the University of Maryland. Prior to beginning her masters, Mary Ann interned for several organizations including World Learning and the Coalition for Nonprofit Housing & Economic Development. Since her undergraduate years Mary Ann has worked at Oikocredit USA, where she started as a Marketing and Communications Intern in 2012, responsible for creating briefings, blogs posts and the newsletter. In 2013, Mary Ann took on the role of Conference Planning Consultant tasked with executing the first national Oikocredit USA Investor Summit. In the spring of 2015 she became the Membership Engagement Consultant where she worked to develop membership materials. That summer, Mary Ann completed an internship with the U.S. Department of State, where she worked in the Educational and Cultural Affairs Bureau.

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Appendix B: Participating Individuals and Organizations

(Titles and positions listed are accurate as of the time of the Academy's most recent contact)

The study team met with over 200 stakeholders through formal interviews and meetings. The Academy would like to thank these individuals for their contributions.

U.S. Department of Veterans Affairs

Office of the Secretary

Gibson, Sloan – Deputy Secretary

Board of Veterans' Appeals

Eskenazi, Laura – Vice Chairman

Ridgway, James – Chief Counsel, Policy and Procedure

Office of the Assistant Secretary for Policy and Planning

Basso, John – Director, Strategic Planning Group, Office of Policy

Medve, John – Executive Director, Interagency Collaboration and Integration Office

Ryan, Carla – Interagency Collaboration and Integration Office

Tran, Dat - Principle Deputy Assistant Secretary for Policy and Planning

Zlowe, David - Director, Office of Performance Management

Office of Information Technology

Kelley, Sean – DCIO, Account Manager, Benefits & Veteran Experience

Paluch, Jay – Former Program Manager, VBMS

Office of the Inspector General

Sullivan, Dana – Director, Benefits Inspection Division

Boyd, Jason - Project Manager, San Diego Regional Office

Veterans Benefits Administration

Albers, Kimberly – Veterans Service Center Manager, Salt Lake City Regional Office

Baker, Chiquetta - Rating Quality Review Specialist, Baltimore Regional Office

Becnel-Taylor, Adrienne – Nashville Regional Office

Bilosz, Mark – Director, Winston-Salem Regional Office; Former Deputy Director for Policy and Procedure, Compensation Service

Blanchard, Monica - Supervisor, Rating Teams, Baltimore Regional Office

Bloomquist, Jim - Multi-Media Specialist, Professional Development Academy, Management Engagement, Office of Employee Development and Training

Bodyk, Andrew – External Liaison for the Department of Veterans Affairs (National Guard and Reserve)

Bontempo, Dawn – Director, Veterans Benefits Management System Program Office

Bridges, Monte - Quality Review Team Coach, Baltimore Regional Office

Britain, Kenesha - Assistant Director, Baltimore Regional Office

Brown, Carlos – Employee Relations, Labor Relations Specialist (HR Specialist), Baltimore Regional Office

Brown, Julie - Assistant Vocational Rehabilitation and Employment Officer, Baltimore Regional Office

Buchanan, Rick – Retired; Former Director, Office of Strategic Planning

Burke, Ronald – Assistant Deputy Under Secretary for Field Operations

Campbell, Malinda - Human Resources Specialist, Houston Regional Office

Carson, Laurine – Assistant Director, Policy Staff

Carter, Hyshawn - Program Specialist, Professional Development Academy, Office of Employee Development and Training

Chapman, Doug - Veterans Service Center Manager, Winston-Salem Regional Office

Che, Jane – Staff Assistant, Office of the Chief of Staff

Chen, Charles – Program Analyst and Contracting Officer’s Representative, Office of Strategic Planning

Clark, Willie – Acting Under Secretary for Field Operations; Former Director, North Atlantic District

Cozzens, Candace - Public Contact Representative, National Call Center, St. Louis, MO

Dahl, Brandon – Lead Management Analyst, Records Management Center

Detty, John - Compensation Service, VBA Training Academy

DiTucci, Christina – Officer, Congressional and Legislative Affairs

Douglas, Viola - Public Contact Representative, National Call Center, St. Louis, MO

Dufrene, Emile - Veterans Service Center Manager, Houston Regional Office

Durham, Lara – Nashville Regional Office

Ellenberger, Maureen – Former Director, Veterans Relationship Management Program Office

Fashanu, Shana - Assistant Supervisor, Appeals, Baltimore Regional Office

Flohr, Cheryl - Assistant Director, Pre-Discharge/Retired Pay Program

Frueh, Mike – Chief of Staff

Grant, Robin – Nashville Regional Office

Green, Lisa - Acting Veteran Service Center Manager, Baltimore Regional Office

Hafele, Teresa – Rating Quality Review Specialist, Baltimore regional Office

Hale, Cantrist - Change Management Agent, Baltimore Regional Office

Gregory, Marie – Office of Disability Assistance

Hamilton, Yvonne – Assistant Director, St. Louis Regional Office

Hedge, J.M. - Assistant Director, Houston Regional Office

Heil, John - Acting Assistant Director (Loan Guarantee Officer), Houston Regional Office

Hemphill, Douglas – Director, Professional Development Academy

Henderson, Jeff – Chief, Quality Review and Consistency, Compensation Services

Hendrick, Curtis – Authorization Quality Review Specialist, Baltimore Regional Office

Hill, Anthony - Instructional Systems Specialist, Professional Development Academy, Office of Employee Development and Training

Houston, Brad – Director, Office of Business Process Integration

Hunt-Nelson, Anita - Human Resources Specialist, Houston Regional Office

Irizarry, Daniel - Change Management Analyst, Houston Regional Office

Jones, David - Assistant Veteran Service Center Manager, Baltimore Regional Office

Jordan, James - Senior Rating Veteran Service Representative, Baltimore Regional Office

Kirby, Joe “Jay” G. - Management Analyst, Southeast District Office

Klaus, Gina - Vocational Rehabilitation and Employment Officer, Baltimore Regional Office

Kraft, Travis - Assistant Director, Nashville Regional Office

Kruse, Elizabeth – Deputy Director, Office of Operations Management

Lacy-Rush, Michelle – National Call Center Manager, St. Louis, MO

Laisure, Richmond (Dick) - Director, Records Management Center

Lassen, Linda - Management Analyst, National Call Center, St. Louis, MO

Lee, Simon, Program Analyst, Office of Field Operations

Lehnbeuter, Ken - Rating Veteran Service Representative, Baltimore Regional Office

Loeffelman, Daniel - Public Contact Representative, National Call Center, St. Louis, MO

Lough, Julie - Assistant Veterans Service Center Manager, Winston-Salem Regional Office

Maher, Elisabeth – Analyst, Office of Disability Assistance

Malin, Kathryn - Director, Boise Regional Office

Mancuso, Dirk - Assistant Veterans Service Center Manager, Houston Regional Office

Manker, Jamie – Acting Principle Deputy Under Secretary; Former Chief Financial Officer, Office of Resource Management

Markey, Mary - Veterans Service Center Manager, Oakland Regional Office

Marsh, Mitzi - Director, St. Louis Regional Office

Martine, Teresa - Acting Support Services Division Chief, Baltimore Regional Office

Martone, Elizabeth – Congressional Liaison, Office of Congressional and Legislative Affairs

McCarroll, T. Michelle - Supervisory/Lead Management Analyst, Southeast District Office

McCarron, Diane – Chief, Baltimore Training Staff

McCoy, Beth – Director, Compensation Service; Former Deputy Under Secretary for Field Operations

McDonald, Edna - Director, Nashville Regional Office

McDonnough, John – Winston-Salem Regional Office

McNeel, Cecelia - Human Resources Specialist, Houston Regional Office

Meador, Larry - Assistant Veterans Service Center Manager, Houston Regional Office

McLenachen, David – Director, Appeals Management Center; Former Deputy Under Secretary for Disability Assistance

Miller, Clyde

Miller, Megan – Winston-Salem Regional Office

Miller, Nichole - Program Specialist, Professional Development Academy

Mittelstaedt, Lois – Retired; Former Chief of Staff

Moore, Gary – Veterans Service Center Manager, St. Louis Regional Office

Mullins, Michelle – Nashville Regional Office

Murphy, Tom – Acting Under Secretary for Benefits; Former Director, Compensation Service

Nickens, Stanton – Assistant Director, St. Louis Regional Office

Odom, Angela - Veterans Service Center Manager, Nashville Regional Office

Parhalow, Taylor – Nashville Regional Office

Parkin, Alecia - Assistant Supervisor, Rating Teams, Baltimore Regional Office

Patton, Julie – Winston-Salem Regional Office

Peterson, Michelle – Nashville Regional Office

Pozzebon, Lisa – Assistant Deputy Under Secretary, Office of Field Operations

Pummill, Danny – Retired; Former Acting Under Secretary for Benefits

Reynolds, Robert – Director, Benefits Assistance Service

Rivenback, John – Nashville Regional Office

Rutland, Linda – Compensation Service, VBA Training Academy

Sanchez, Marvin - Public Contact Representative, National Call Center, St. Louis, MO

Schinner, Janet - Coach, Appeals Team, St. Louis Regional Office

Seastrom, Mark – Director, Performance Analytics and Integrity

Sherrell, Cheryl - Instructional Systems Specialist, Professional Development Academy,
Office of Employee Development and Training

Sirhal, Tim – Management Analyst, Office of Disability Assistance

Skeens-Wilson, Leigh Ann – Director, Winston-Salem Regional Office

Smith, Kenneth - Deputy Director, Operations Analysis

Stewart, Jennifer - Labor Relations Specialist, Houston Regional Office

Stienberg, Scott - Decision Review Officer, Baltimore Regional Office

Svetitz, Joe – Assistant Veterans Service Center Manager, Winston-Salem Regional Office

Swantz, Adam - Assistant Director, New York Regional Office

Swotter, Lindsay – Winston-Salem Regional Office

Taylor, Brian - Change Management Agent, Winston-Salem Regional Office

Terry, Jolonda - Veteran Service Representative, Baltimore Regional Office

Thompson, Keith – Southeast District Director

Thompson, Michele - Coach, National Call Center, St. Louis, MO

Toledo, Rosangelie - Management Analyst, Baltimore Regional Office

Trivilino, Donna - Training Manager, Houston Regional Office

Tucker, Jen – Management Analyst, Midwest District Office

Voigt, Bruce – Deputy Director and Program Manager, Office of Strategic Planning

Von Essen, Mary - Rating Quality review Specialist, Baltimore Regional Office

Waller, Antoine – Director, Baltimore Regional Office

Ward, Brad - Assistant Director, Winston-Salem Regional Office

Wesley, Arlinda - Supervisor, Appeals, Baltimore Regional Office

Williard, Diana - Quality Assurance Officer, Compensation Service Southeast District Office

Wolfe, Rebecca - Assistant Supervisor, Appeals, Baltimore Regional Office

Veterans Health Administration

Murray, Patricia – Director, Clinical Programs and Administrative Operations, Office of Disability and Medical Assessment

American Federation of Government Employees (AFGE)

Pretlow, Renee – President, Houston, TX

Tyler, Bill – President, St. Louis, MO

Government Accountability Office

Bertoni, Daniel – Director, Education, Workforce, and Income Security Team

Bird, Mark – Assistant Director

Blackwood, James-Christian – Managing Director, Strategic Planning and Liaison

Melvin, Valerie – Director, Information Technology

Trout, Eric – Analyst-in-Charge

The MITRE Corporation

Cook, James (Jim) – Vice President and Director, Center for Enterprise Modernization

Dingwall, Alison – Group Leader

Firth, Zach – Project Leader

Galvan, Gabe – Portfolio Director, CVET

Geigle, Suzanne - Senior Principal

Lennon, Patricia – Department Head, Benefits Services, CVET

Lyte, David

Mathieu, Jennifer - Multi-Discipline Systems Engineer, Principle

Milbourn, Gordon - Multi-Discipline Systems Engineer, Principle

Park, Josh – Portfolio Manager, CVET

Salter, David – Operations Research Analyst, Lead

Squires, Amy – Strategy and Performance Consultant, Center for Connected Government-Enterprise Business Strategy

Swarup, Vipin - CCG Chief Engineer, Technology

Whitehead, Peter – Lead Enterprise Systems Engineer

Wijesinghe, Sanith

Other External Stakeholders

Armstrong, Nickolas, PhD. - Senior Director for Research and Policy, Syracuse University Institute for Veterans and Military Families; Adjunct Professor, Maxwell School of Citizenship and Public Affairs, Syracuse University

Baker, Roger - Former Chief Information Officer, U.S. Department of Veterans Affairs

Barr, James - Space and Naval Warfare Systems Command (SPAWAR)

Bezold, Clem, PhD. - Chairman and Senior Futurist, Institute for Alternative Futures

Epley, Robert – Former Under Secretary for Compensation and Pension Services, Veterans Benefits Administration, U.S. Department of Veterans Affairs

Gingrich, John - Former Chief of Staff (to Secretary Shinseki), U.S. Department of Veterans Affairs

Gould, Scott – Former Deputy Secretary for Veterans Affairs, U.S. Department of Veterans Affairs

Haynie, J. Michael, PhD. - Vice Chancellor, Syracuse University; Director, Syracuse University Institute for Veterans and Military Families

Heppner, D. Gray, M.D. - Chief Medical Officer, New Link Genetics

Hickey, Allison - Former Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs

Hosek, Susan – Adjunct Economist, RAND Corporation

Kosiak, Steven – Partner, ISM Strategies; Former Associate Director for Defense and International Affairs, Office of Management and Budget

Krull, Heather, Dr. – Economist, RAND Corporation

Leven, Peter, Dr. – Former Chief Technology Officer, U.S. Department of Veterans Affairs (2009-2013)

McCarthy, Dennis – Lieutenant General, U.S. Marine Corps (Retired)

Nickolson, R. James - Senior Counsel, Brownstein Hyatt Farber Schreck; Former Secretary of Veterans Affairs, U.S. Department of Veterans Affairs (2005-2007)

Peake, James – Former Secretary of Veterans Affairs, U.S. Department of Veterans Affairs (2007-2009)

Perry, Kristopher - Director, Office of Veterans Affairs and Military Programs, University of Connecticut

Rosker, Bernard – Senior Fellow, RAND Corporation

Simmons, Stephen – Former Deputy Director for Compensation and Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs

Sullivan, Peter - Co-Founder, Sergeant Sullivan Center, Washington, DC

Tanielian, Terri – Senior Social Research Analyst, RAND Corporation

Thompson, Joe - President, Aequus Inc.; Former Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs

U.S. Department of Defense

Conner, Michel - Chief, Office of Warrior Support, National Guard Bureau

Wilson, Liz – DoD/VA Collaboration Executive Director, Office of the Under Secretary of Defense for Personnel and Readiness

United States Congress

Blum, Gretchan - Professional Staff Member, Senate Committee on Veterans' Affairs

Brinck, Mike - Deputy Staff Director, House Committee of Veterans' Affairs

Brown, Justin - Democratic Staff Director, Subcommittee on Disability Assistance and Memorial Affairs, House Committee on Veterans' Affairs

Daly, Cecilia - Professional Staff Member, Subcommittee on Disability Assistance and Memorial Affairs, House Committee on Veterans' Affairs

Henke, Robert J. – Clerk, Majority Staff, Subcommittee for Military Construction, Veterans' Affairs, and Related Agencies, U.S. Senate Appropriations Committee

Lettieri, D'Ann – Professional Staff, Majority, Subcommittee for Military Construction, Veterans' Affairs, and Related Agencies, U.S. Senate Appropriations Committee

Schulken, Chad C. – Professional Staff, Subcommittee for Military Construction, Veterans' Affairs, and Related Agencies, U.S. Senate Appropriations Committee

Shearman, David - Professional Staff Member, Senate Committee on Veterans' Affairs

Veteran Service Organizations

Abrams, Ron - Joint Executive Director, National Veterans Legal Services Program

Bean, Rose – Paralyzed Veterans of America

Boller, Quellen D. (Danny) - National Service Director, AMVETS

Couser, Lamarr – National Service Officer, Disabled American Veterans

Gamboa, Adrian – American Legion

Harvey, John – Veterans Affairs Secretary for Virginia

Hope, Scott - Assistant National Service Director, Disabled American Veterans

Hynes, Deborah – Maryland Department of Veterans Affairs

Labozetta, Matthew - Assistance Director for Claims, American Legion

Manar, Gerald - Deputy Director, National Veterans Service, Veterans of Foreign Wars

Manchester, Robert - Houston Regional Director, Texas Veterans Commission

Marszalek, Jim - National Service Director, Disabled American Veterans

Munler, Phil – Maryland Department of Veterans Affairs

Rauber, Diane - Director of Legislative and Regulatory Affairs, National Organization of Veterans' Advocates, Inc.

Sticham, Barton F. - Joint Executive Director, National Veterans Legal Services Program

Taylor, Jerry – Maryland Department of Veterans Affairs

Vale, James - Director, Veterans Benefits Program, Vietnam Veterans of America

Varela, Paul - Assistant National Legislative Director, Disabled American Veterans

Appendix C: District/Regional Office and Support Facility Site Visits

The study team made site visits to the following VBA District/Regional Offices and Support Facilities.

DISTRICT/REGIONAL OFFICES

St. Louis, MO – February 3-4, 2016

Nashville, TN – February 8-9, 2016

Winston-Salem, NC – February 18, 2016

Houston, TX – February 24-25, 2016

Baltimore, MD – June 8, 2016

SUPPORT FACILITIES

Records Management Center, St. Louis, MO – February 3, 2016

National Call Center, St. Louis, MO – February 4, 2016

Challenge Training Center, Baltimore, MD – March 3, 2016

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Appendix D: Veterans Benefits Administration Office Descriptions and Organizational Chart

Office of Strategic Planning (OSP)

The **Transformation Initiatives and Future Concepts (TI&FC)** division identifies strategic gaps in VBA operations and develops relevant solutions to address business needs. Working with the Programming and Strategic planning divisions of OSP, TI&FC provides analytical expertise to observe, identify, and address patterns in the internal and external operating environment that could emerge as barriers to or opportunities for organizational success. In collaboration with VBA business lines and mission support offices, TI&FC develops and executes program initiatives to inform leadership of recommended process changes.¹⁶⁹ TI&FC also spearheads OSP's role in two VBA governance boards. First is the Planning and Programming Review Board, which is responsible for recommending approval of planning and programmatic requirement and prioritizations for VBA business lines and support staff. Second is the Transformation Governance Board, which is responsible for the process through which innovation concepts are identified, developed, and implemented within VBA.

The **Office of Business Process Integration (OBPI)** ensures that VBA's strategic needs and requirements for business and data systems are properly documented, integrated, and communicated. OBPI works with the Office of Information Technology to facilitate the design, development, and implementation of business systems and information technology to enhance claims and appeals processing within VBA.¹⁷⁰

The **Veterans Benefits Management System (VBMS)** program office is developing an end-to-end paperless claims processing system that incorporates improved business processes with technology. VBMS will assist in eliminating the claims backlog and serve as the enabling technology for quicker, more accurate, and integrated claims processing in the future. The mission of VBMS is to help improve the timeliness and quality of claims decisions and processes, and help our Veterans receive the high degree of service they expect and deserve.¹⁷¹

The **Veterans Relationship Management** program office is an enterprise initiative that engages, empowers, and serves Veterans and other clients with seamless, secure, and on-demand access to benefit information and services.¹⁷²

¹⁶⁹ Department of Veterans Affairs, *2016 Functional Organization Manual – v3.1*, 82

¹⁷⁰ *Ibid*, 83

¹⁷¹ *Ibid*, 85

¹⁷² *Ibid*, 87

Business Line Program Offices¹⁷³

Compensation Service provides program oversight for delivery of disability compensation, a tax-free monetary benefit paid to Veterans with disabilities that are the result of a disease or injury incurred or aggravated during active military service.

Pension and Fiduciary Service provides program oversight that helps wartime Veterans, their families, and survivors with financial challenges by providing supplemental income through Veterans Pension, Survivors Pension, and Dependency and Indemnity Compensation. This service protects the benefits paid to our most vulnerable beneficiaries who, because of disease, injury, or infirmities of advanced age, are unable to manage their VA benefits.

Insurance Service maintains life insurance programs that give financial security and peace of mind for Servicemembers, Veterans, and their families.

Benefits Assistance Service facilitates client services and outreach, web communications, and ensures quality and training for VBA employees who engage Servicemembers, Veterans, and their families through client services such as the National Call Center.

Education Service administers VA's education programs that provide education and training benefits to eligible Active Duty, National Guard, and Reserve Servicemembers, Veterans, and dependents.

Loan Guaranty Service provides oversight of the VA Guaranteed Home Loan Program that guarantees home loans in varying amounts. It ensures Veteran's rights are protected when purchasing a home under this program, and oversees administration of specially adapted housing grants for certain severely disabled Servicemembers and Veterans so they can adapt or acquire suitable housing.

Vocational Rehabilitation & Employment (VR&E) Service assists Servicemembers and Veterans with service-connected disabilities to prepare for, obtain, and maintain suitable employment; start their own business; or receive independent-living services. It oversees their education and provides career counseling to help guide career paths and ensure the most effective use of VA benefits.

Transition, Employment, and Economic Impact is dedicated to helping transitioning Servicemembers, Veterans, and their families take advantage of the benefits they have earned to connect with meaningful careers and achieve long-term economic success.

¹⁷³ Department of Veterans Affairs, Veterans Benefits Administration, "About VBA – Veterans Benefits Administration"

Support Facilities

The **Records Management Center** receives and stores inactive claims folders and returns the folders to the ROs upon request. The RMC is also responsible for review, processing, storage, and distribution of Service Medical Records received from the Armed Services.¹⁷⁴

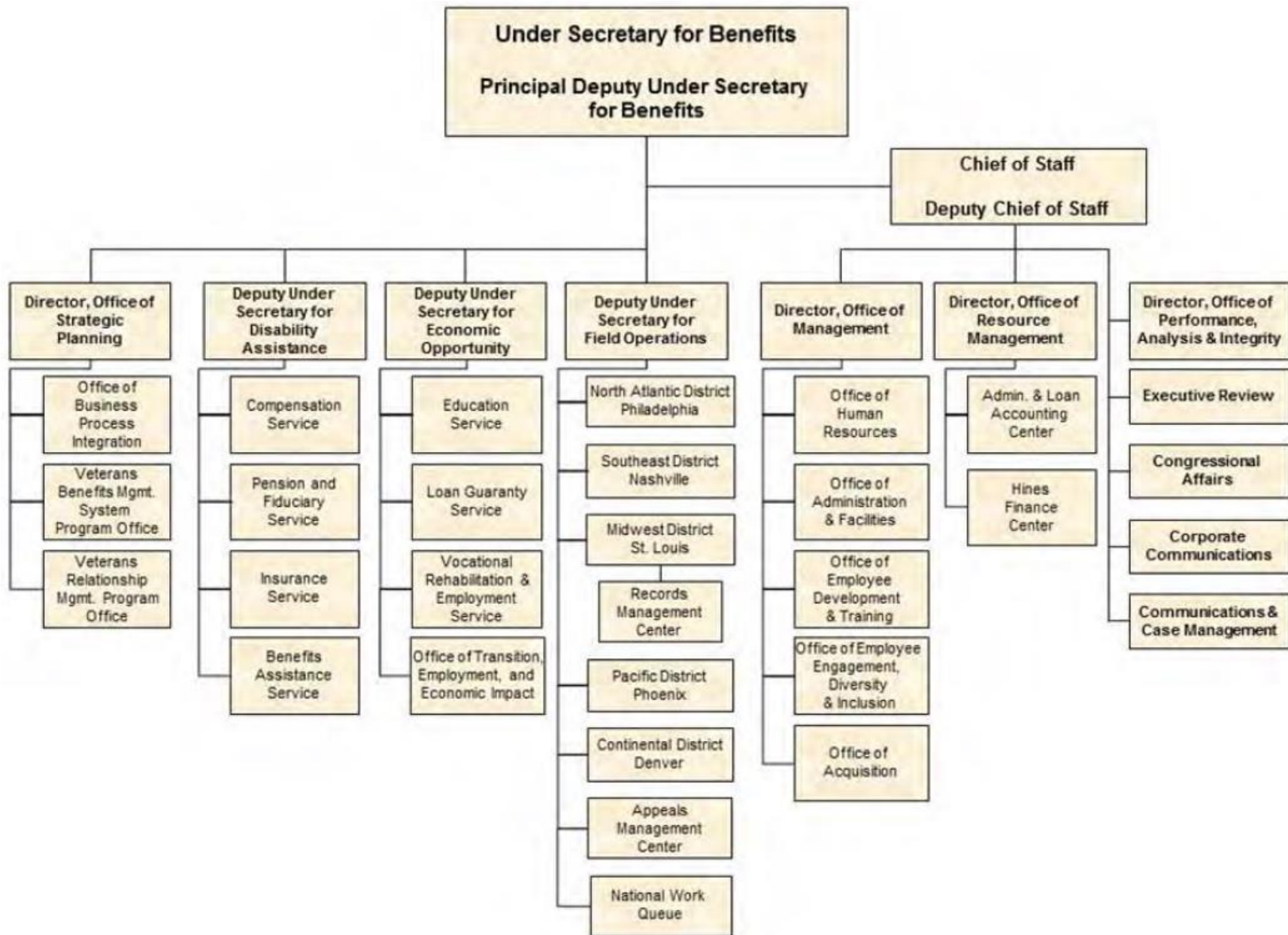
The **Appeals Management Center** is responsible for the processing of appeals remanded by the Board of Veterans' Appeals (Board). A remanded appeal is an appeal that has been returned for development of additional evidence, due process, or reconsideration of issues.¹⁷⁵

The **National Work Queue** office oversees the nationwide implementation of the new NWQ functionality for claims processing at the Regional Offices. The NWQ staff is responsible for distributing workload from a centralized location based on the expertise of available resources at each location, and provides VBA management with improved oversight and visibility of the claims processing on a national level and in real-time.¹⁷⁶

¹⁷⁴ Department of Veterans Affairs, *2016 Functional Organization Manual – v3.1*, 115

¹⁷⁵ *Ibid*, 116

¹⁷⁶ *Ibid*, 133-114



Source: Department of Veterans Affairs, 2016 Functional Organization Manual – v3.1, 77

Figure 6: Veterans Benefits Administration Organizational Chart

Appendix E: Additional VBA Support Services Provided to Veterans

Beyond the benefits and services provided by the eight business line program offices, VBA provides a series of support services to Veterans that are meant to improve their experience.

Veterans Relationship Management/Veteran Experience

In 2010, a multi-year initiative called Veterans Relationship Management (VRM) was established to improve Veterans' access to health care and benefits information utilizing innovative 21st century technologies. The intent of this effort was to improve the Veterans experience when contacting the VA for assistance, and to ultimately enable employees to quickly convey accurate, up-to-date information by telephone and online. There was an acknowledgement that more work needed to be done to improve Veteran engagement and provide additional self-service capabilities so that both the Veterans and their families could be better supported.

The initial areas of focus of VRM included:

- Identity Access and Identification;
- Knowledge Management;
- Customer Relationship Management;
- Voice Access Modernization;
- Self Service; and
- Member Services.

In 2016, the VRM initiative activities became part of the Veteran's Experience Center (VEC), run by a newly appointed executive, VA's Chief Veteran Experience Officer who works within the Secretary's Office. This initiative supports the 2016-2017 Agency Priority Goal to Improve Veterans Experience with VA:

"Fulfilling our country's commitment to Veterans, VA will deliver effective and easy customer experiences in which Veterans feel valued. By September 30, 2017, reach 90% agreement with the statement 'I trust VA to fulfill our country's commitment to Veterans.'"¹⁷⁷

Improving the Veteran's Experience is the first of Secretary McDonald's 12 "Breakthrough Priorities" introduced to the Senate Veterans Affairs Committee on January 21, 2016. The priorities cover key Veteran touchpoints and identify essential enablers as well.

¹⁷⁷ Performance.gov, "FY 16-14 Agency Priority Goal: Improve Veterans Experience with VA"

12 Breakthrough Priorities.

Veteran touchpoints

- 1 Improve the Veterans Experience
- 2 Increase Access to Health Care
- 3 Improve Community Care
- 4 Deliver a Unified Veterans Experience
- 5 Modernize our Contact Centers
(to include Veterans Crisis Line)
- 6 Improve the Comp & Pension Exam
- 7 Develop a Simplified Appeals Process
- 8 Continue to Reduce Veteran Homelessness

Critical enablers

- 9 Improve Employee Experience
(to include leadership development)
- 10 Staff Critical Positions
- 11 Transform OIT
- 12 Transform Supply Chain



myVA

VA



U.S. Department of Veterans Affairs

1

Source: Department of Veterans Affairs, "MyVA Initiative - Vantage Point"

Figure 7: MyVA Breakthrough Priorities

Call Centers

For many Veterans, their first communication and engagement with VBA comes through an initial call inquiring about benefits. VBA has seven National Call Centers (centralized from a system that previously housed a call center in each Regional Office (RO)). Veterans call with inquiries ranging from how to change an address with VA to how to seek immediate psychological help to avoid suicide. The often entry-level VBA employees working in the call centers are tasked with providing timely and accurate information on an expansive number of topics and issues. The Call Center environment is known to be stressful and regularly serves as a "stepping stone" for other positions in the Veterans Service Center. A key metric for the call center employees is the element of timeliness of client contact management with an expectation that, as the employee becomes more experienced, his or her average time per call will decrease. According to St. Louis RO officials, VBA utilized the

JD Power¹⁷⁸ Score for Customer Satisfaction to help VBA obtain feedback on a pilot project to eliminate time standards for the call center employees to reduce their stress and better serve Veterans.

VBA recognizes the balance that must be struck to both address the current national dropped call rate (of approximately 46 percent) as well as the need to provide a quality experience to the Veteran or family member. There is recognition that this is a difficult environment to work in, and efforts are made to support employees and address the relatively high employee burnout and turnover rate connected with the potential stress of the work. The study team observed a call center first hand and learned that some of the most junior employees are tasked with the frontline service of providing guidance and direction to Veterans. Some of these employees can be challenged with trying to address some of the most difficult personal situations such as mental illness and suicide prevention.

eBenefits

In addition to providing in-person contacts, VA has also developed an on-line portal, called eBenefits, which was established in 2009 as a joint VA/DoD web portal to provide resources and self-service capabilities to Veterans, Servicemembers, and their families to research, access and manage their VA and military benefits and personal information. Placing more materials and information online has proven to respond to the need to expand Veteran engagement and is done so in a way that addresses the ever-changing needs and preferences of the Veteran. Using secure credentials, it allows users the ability to perform numerous self-service functions including applying for benefits, and managing benefits and health. It also provides links to other sites that provide services aimed at improving the Veteran's health and wellbeing.

Service Center Feedback

There are also efforts to measure whether in-person meetings with VBA are helpful. Just as VBA partnered with J.D. Power to develop a measurement tool for phone interactions, they are also now partnering with J.D. Power to survey Servicemembers, Veterans and their families, about their experiences with VBA staff and to identify opportunities for improvement.

The VBA and VA system rely heavily on networks of volunteer and financially-supported organizations who all aim to provide emotional, social and career support to Veterans for their lifetime.¹⁷⁹ The VSOs referred to in Chapter 2 help Veterans apply for their benefits. In

¹⁷⁸ J.D. Power experts work with federal, state, and local government agencies to help them gain a comprehensive understanding of constituencies and beneficiaries, and to provide actionable information that will aid in the decision-making process, while measuring the effectiveness of those decisions. www.jdpower.com

¹⁷⁹ Department of Veterans Affairs, Office of the Secretary, *2013/2014 Directory: Veterans and Military Service Organizations*

addition, there are state offices of Veterans Affairs funded by their respective state legislatures, as well as county-run Veterans Affairs offices, which are also formal governmental organizations, that provide a range of services. Numerous religiously affiliated and other non-profit organizations, some with specific missions like serving wounded Veterans, also assist in this process. Some Veterans also hire attorneys who specialize in the claims process, further adding to the range of assistance available to the Veteran. These advocates provide additional feedback regarding the quality of service ultimately provided to the Veteran.

Appendix F: VBA District/Regional Offices and Support Facilities

Regional Office	Business Lines*	Special Missions	Support Facilities
Central Office (Washington, DC)			
			Appeals Management Center
Continental District (Denver, CO)			
<i>New Orleans, LA</i>			
<i>Jackson, MS</i>		Radiation	
<i>Little Rock, AR</i>			
<i>Waco, TX</i>		Nehmer	
<i>Muskogee, OK</i>	Education Regional Processing Center, Education Call Center, National Direct Deposit	Mustard Gas	
<i>Salt Lake City, UT</i>	National Call Center, IRIS, eBenefit Fraud, Fiduciary Hub	Benefits Delivery at Discharge	
<i>Ft. Harrison, MT</i>			
<i>Denver, CO</i>	Regional Loan Center	Spina Bifida	Challenge Training Center (<i>Denver Only</i>)
<i>Cheyenne, WY</i>			
<i>Houston, TX</i>	Regional Loan Center		
Midwest District (St. Louis, MO)			
<i>Milwaukee, WI</i>	Pension Management Center, Fiduciary Hub		
<i>St. Paul, MN</i>	Pension Management Center, Regional Loan Center	Restricted Access Claims Center	
<i>Des Moines, IA</i>			
<i>Detroit, MI</i>			
<i>St. Louis, MO</i>	Education Regional Processing Office, National Call Center	Restored Entitlement Program for Survivors	Records Management Center
<i>Cleveland, OH</i>	National Call Center, Regional Loan Center		
<i>Chicago, IL</i>			
<i>Fargo, ND</i>			
<i>Sioux Falls, SD</i>			
<i>Indianapolis, IN</i>	Fiduciary Hub		
<i>Lincoln, NE</i>	Fiduciary Hub		
<i>Wichita, KS</i>			
North Atlantic District (Philadelphia, PA)			
<i>New York, NY</i>			
<i>Buffalo, NY</i>	Education Regional Processing Office		
<i>Boston, MA</i>			
<i>Manchester, NH</i>			
<i>White River Junction, VT</i>			

Winston-Salem, NC		Benefits Delivery at Discharge, Quick Start	
Philadelphia, PA	Pension Management Center, Insurance Center, National Pension Call Center, National Call Center	Nehmer	
Wilmington, DE			
Pittsburg, PA		Foreign Cases	
Baltimore, MD			Challenge Training Center
Roanoke, VA	Regional Loan Center		
Providence, RI	Disability Rating Activity Site		
Hartford, CT			
Newark, NJ			
Huntington, WV			
Pacific District (Phoenix, AZ)			
Oakland, CA			
Los Angeles, CA			
Manila, Philippines		Filipino Special Pay	
San Diego, CA		Quick Start	
Seattle, WA	Disability Rating Activity Site		
Phoenix, AZ	Regional Loan Center, National Call Center		
Portland, WA			
Anchorage, AK			
Albuquerque, NM			
Boise, ID			
Reno, NV			
Honolulu, HI	Regional Loan Center		
Southeast District (Nashville, TN)			
Atlanta, GA	Education Regional Processing Office, Regional Loan Office		
Louisville, KY	Fiduciary Hub	Camp Lejeune	
Montgomery, AL			
St. Petersburg, FL	Regional Loan Center		
Nashville, TN	National Call Center	STAR	
San Juan, PR			
Columbia, SC	Fiduciary Hub, National Call Center		
*Disability Compensation and Vocational Rehabilitation Claims are processed in all 56 Regional Offices.			

Source: Department of Veterans Affairs, Veterans Benefits Administration, "RO Special Missions"

Appendix G: Claims and Appeals Performance Metrics

Table 2: Performance Metrics of Claims Processed at Veteran Service Centers (VSCs), FY2016 and FY2015 Comparison

Performance Metrics	FY2016 (Data through 9/24/16)	FY2015 (Data through 9/26/15)	% Change: FY2016 to FY2015
Measures of the Backlog:			
Inventory of Claims Pending	338,188	326,725	3.5% ↑
Average Days Pending	89.1	98.2	9.3% ↓
Percentage Pending over 125 Days	20.9%	22.0%	1.1% ↓
Measures of Processing Volume and Speed:			
Completed Claims, Fiscal Year to Date	1,046,120	1,168,376	10.5% ↓
Average Days to Complete, Fiscal Year to Date	128.9	184.8	30.3% ↓
Measures of Accuracy:			
3 Month Issue-Level Accuracy	94.8%	95.95%	1.2% ↓
3 Month Claim-Based Accuracy	86.0%	89.01%	3.0% ↓

Source: Department of Veterans Affairs, Veterans Benefits Administration, "Monday Morning Workload Report - Veterans Benefits Administration Reports", 26 September 2016 AND 28 September 2015

Table 3: Pre-Discharge Programs Performance Metrics, FY2016 and FY2017 Comparison

Performance Metrics	Pre-Discharge Performance, FY2016 (Data through 9/24/16)	Comparison to VSC Claims Processing Performance, FY2016	Pre-Discharge Performance, FY2015 (Data through 9/26/15)	Comparison to VSC Claims Processing Performance, FY2015	% Change in Pre-Discharge Performance, FY2016 to FY2015
Quick Start					
Measures of the Backlog:					
Inventory of Claims Pending	7,884		8,883		11.2% ↓
Average Days Pending	66.8	Pending 22.3 fewer days	70.3	Pending 27.9 fewer days	5.0% ↓
Percentage Pending over 125 Days	10.0%	Backlog 10.9% lower	10.3%	Backlog 11.7% lower	0.3% ↓
Measures of Processing Volume and Speed:					
Completed Claims, Fiscal Year to Date	25,201		25,106		0.4% ↑
Average Days to Complete, Fiscal Year to Date	133.5	Processed 4.2 days slower	132.8	Processed 52 days faster	0.5% ↑
Benefits Delivery at Discharge					
Measures of the Backlog:					
Inventory of Claims Pending	9,229		10,075		8.4% ↓
Average Days Pending	59.8	Pending 29.2 fewer days	71.1	Pending 27.1 fewer days	15.9% ↓
Percentage Pending over 125 Days	5.9%	Backlog 15% lower	8.2%	Backlog 13.8% lower	2.3% ↓
Measures of Processing Volume and Speed:					
Completed Claims, Fiscal Year to Date	28,479		24,936		14.2% ↑
Average Days to Complete, Fiscal Year to Date	127.5	Processed 1.4 days faster	150.0	Processed 34.8 days faster	15.0% ↓

Source: Department of Veterans Affairs, Veterans Benefits Administration, "Monday Morning Workload Report - Veterans Benefits Administration Reports", 26 September 2016 AND 28 September 2015

Table 4: Claims Processed at Largest ROs by District through September 24, 2016

Measures of Claims Processing Volume	Claims Processed	% of District Total	% of National Total
<i>Continental District: Waco, TX</i>			
Completed Claims, Fiscal Year to Date	48,782	23.5%	4.7%
<i>Midwest District: Cleveland, OH</i>			
Completed Claims, Fiscal Year to Date	31,359	15.7%	3.0%
<i>North Atlantic District: Roanoke, VA</i>			
Completed Claims, Fiscal Year to Date	34,615	15.4%	3.3%
<i>Pacific District: Seattle, WA</i>			
Completed Claims, Fiscal Year to Date	59,640	27.4%	5.7%
<i>Southeast District: St. Petersburg, FL</i>			
Completed Claims, Fiscal Year to Date	49,379	25.1%	4.7%

Source: Veterans Benefits Administration, "Monday Morning Workload Report - Veterans Benefits Administration Reports", 26 September 2016

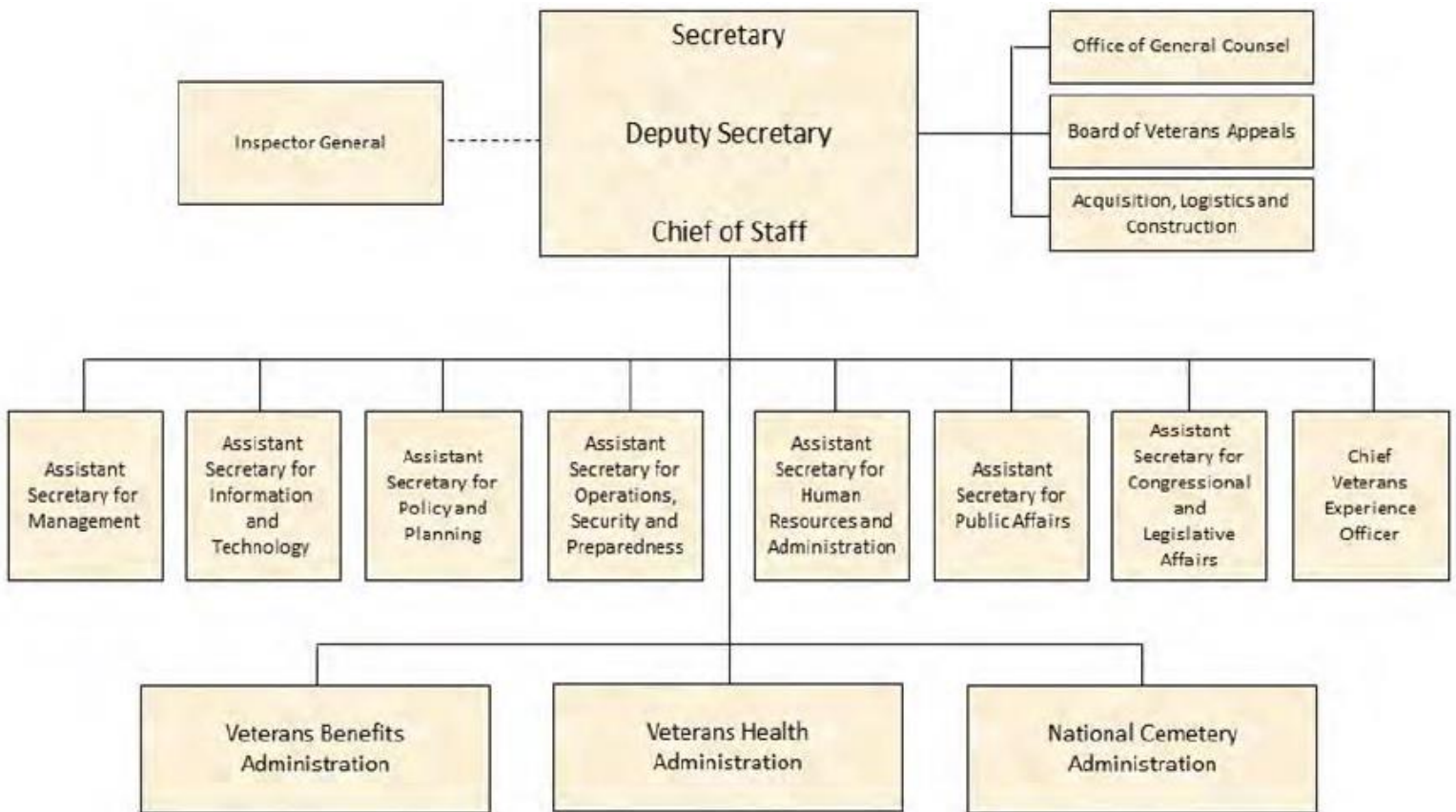
Table 5: Appeals Process Inventory as of January 31, 2016

Appeals Process Milestone	Case Inventory	% of Total Inventory
Grand Total	444,597	100%
Notice of Disagreement (NOD)	237,763	53.47%
Statement of the Case (SOC)	25,383	5.71%
Preparing for Certification to the Board	55,555	12.49%
Original Cases Certified to the Board, Not Docketed	43,732	9.84%
Board Active Docket, Original Cases and Remands	39,352	8.85%
Appeals Remanded to the AMC	11,559	2.60%
Appeals Remanded to ROs	26,055	5.86%
Remands Returned to the Board, Not Docketed	5,198	1.17%

Source: Department of Veterans Affairs, Board of Veterans' Affairs, "Board of Veterans' Appeals Overview and Appeals Background"

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Appendix H: Department of Veterans Affairs Organizational Chart and Select Office Descriptions



Source: Department of Veterans Affairs, *2016 Functional Organization Manual – v3.1, 2*

Figure 8: Department of Veterans Affairs Organizational Chart

VA is the principal advocate for Veterans and their families in ensuring that they receive medical care, benefits, social support, and lasting memorials in recognition of their service to the Nation. The enterprise-wide achievement of this mission is coordinated by the Secretary through the Office of the Secretary.

The **Office of the Secretary** guides the Department toward achieving its mission of serving America’s Veterans and their families with dignity and compassion, and is their principal advocate to ensure that they receive the full suite of benefits to which they are eligible. The Department in this capacity is responsible for the proper execution and administration of all laws administered to control, direct, and manage the VA.

These responsibilities include spearheading enterprise-wide special initiatives, such as the MyVA transformation. MyVA is the vision of providing a seamless, unified Veteran Experience across the entire organization and throughout the country by modernizing VA's culture, processes, and capabilities. The goal of MyVA is to measure success against a single metric, which is the outcome the VA provides to Veterans.¹⁸⁰ The Department is working to create a single customer service structure with a limited number of regional divisions that will apply to all aspects of the agency, from healthcare to benefits, loan centers and even cemetery plots. The breakthrough priorities included in MyVA that have the most impact on disability claims and appeals are¹⁸¹:

- Improving the Veteran Experience;
- Delivering a Unified Veterans Experience;
- Modernizing our Contact Centers;
- Improving the Compensation & Pension Exam; and
- Develop a Simplified Appeals Process.

VA's mission is implemented by three Administrations which give centralized program direction to field offices that provide service and benefit delivery to Servicemembers, Veterans, and their families. VBA is one Administration (discussed in-depth above), along with the Veterans Health Administration (VHA) and the National Cemetery Administration (NCA).

The **Veterans Health Administration** (VHA) administers health benefits to eligible Veterans and dependents through the nation's largest integrated health care system.¹⁸² In total VHA is comprised of 150 medical centers, nearly 1,400 community-based outpatient clinics, community living centers, Veteran Centers, and Domiciliaries, and with more than 53,000 independent health care practitioners the Administration provides care to more than 8.3 million Veterans each year.¹⁸³ Within VHA, the Office of Disability and Medical Assessment oversees VHA's examinations for the Compensation and Pension (C&P) and Integrated Disability Evaluation System (IDES) programs, as well as the Separation Health Examination. The office works closely with its partners (including VBA, the Office of Information and Technology, the Board of Veterans' Appeals, and the Department of

¹⁸⁰ Department of Veterans Affairs, Office of Public Affairs, *MyVA Integrated Plan*, 6

¹⁸¹ Department of Veterans Affairs, Office of Public Affairs, "MyVA Transformation Update – Office of Public Affairs"; See Appendix E for a full list of MyVA priorities.

¹⁸² See Appendix I for a more in-depth discussion of VHA and medical care available to Veterans.

¹⁸³ Department of Veterans Affairs, Veterans Health Administration, "About VHA – Veterans Health Administration"

Defense) to project future requirements necessary to meet the demands for services in response to new initiatives and legislation.¹⁸⁴

The **National Cemetery Administration** (NCA) honors Veterans and their families with final resting places in national shrines, and with lasting tributes that commemorate their service and sacrifice to our Nation.¹⁸⁵ In total, NCA is responsible for 134 national cemeteries and 33 soldiers' lots and moment sites in 40 states and Puerto Rico (there is not a VA national cemetery in every state).¹⁸⁶

The Department is supported by mission support offices which provide centralized services including management, operations, human resources, public affairs, information technology, and congressional affairs. Each of these functions also has a decentralized component within each of the three Administrations, with one notable exception:

The **Office of Information and Technology** (OI&T), the mission support office charged with delivering available, adaptable, secure, and cost-effective information technology services to VA, centrally controls all IT assets and resources leaving the Administrations without any form of decentralized control. OI&T's central control of all IT resources leaves VBA, VHA, and NCA unable to fully manage or determine their own IT needs and priorities.

Additionally, the programmatic directives of some of the mission support offices overlap with the Administrations. Specifically:

The **Office of Policy and Planning** is responsible for policy analysis and planning processes, and their integration into the Department's strategic management process. The Assistant Secretary's functions entail responsibility for performing Department-level policy analyses and development, program evaluations, strategic planning, quality improvement, actuarial studies and assessments, Veterans' demographics, VA/Department of Defense (DoD) coordination services, and statistical analyses.¹⁸⁷ The **Office of Interagency Collaboration and Integration** within the Office of Policy and Planning serves as the VA lead on all items pertaining to VA/DoD initiatives. It facilitates the development and integration of joint policies and programs between VA and DoD and other agencies as needed, specifically the oversight of pre-discharge programs in coordination with VBA.

¹⁸⁴ Department of Veterans Affairs, *2016 Functional Organization Manual – v3.1*, 238

¹⁸⁵ *Ibid*, 242-243

¹⁸⁶ Department of Veterans Affairs, National Cemetery Administration, "Department of Veterans Affairs Cemetery Listing – National Cemetery Administration"

¹⁸⁷ Department of Veterans Affairs, *2016 Functional Organization Manual – v3.1*, 3

The **Veterans Experience Office** was created by the Secretary with the directive of supporting Veterans and their families to deliver an excellent healthcare and benefits experience. This is a Department-wide effort aimed at creating new capabilities in VA to transform processes and services across the organization.

Separate from the Administrations and mission support offices are select independent bodies which report directly to the Secretary. These include the Inspector General, Office of General Counsel, and Acquisition. However, of particular relevance to disability compensation is the Board of Veterans' Appeals.

The **Board of Veterans' Appeals** (the Board) manages all appeals casework within the Department of Veterans Affairs, their jurisdiction extending "to all questions in matters involving a decision by the Secretary under a law that affects a provision of benefits by the Secretary to Veterans, their dependents, or their Survivors."¹⁸⁸ Appeals are initiated at one of the three VA administrations or the Office of General Counsel, and while the majority of appeals originate in VBA, any decision can be appealed for any reason. And as discussed above, management of the disability compensation appeals process is split between VBA and the Board.

¹⁸⁸ Department of Veterans Affairs, Board of Appeals' Appeals, *Board of Veterans' Appeals 2014 Annual Report*, 1

Appendix I: Overview of the Veterans Health Administration and Healthcare Available to Veterans

VHA is the largest integrated health care system in the United States, providing care at 1,233 health care facilities, including 168 VA Medical Centers and 1,053 outpatient sites serving more than 8.9 million Veterans each year. In many areas of the country, several medical centers and clinics may work together to offer services to area Veterans as a Healthcare System (HCS) which allows VHA to provide Veterans easier access to advanced medical care closer to their homes. VHA also utilizes more than 800 Community-Based Outpatient Clinics (CBOC) across the country. These clinics provide the most common outpatient services, including health and wellness visits. VHA manages and operates over 135 Community Living Centers (CLC), skilled nursing facilities, often referred to as nursing homes for Veterans with chronic stable conditions such as dementia, those requiring rehabilitation or those who need comfort and care at the end of life. Furthermore, there are VA residential facilities that provide care to Veterans who suffer from a wide range of medical, psychiatric, vocational, educational, or social problems and illnesses in a safe, secure homelike environment. The U.S. is divided into 21 Veterans Integrated Service Networks (VISNs) which are regional systems of care working together to better meet local health care needs and provides greater access to care.¹⁸⁹

Roughly two-thirds of Veterans using VHA's services are over 65 years of age, have higher rates of physical and mental illness, and are poorer than age-matched non-Veterans. Newer to VA are Veterans deployed after 9/11, for whom physical and emotional trauma have been the signature injuries of their service.¹⁹⁰ VHA also has divided the U.S. into 21 Veterans Integrated Service Networks, or VISNs — which are regional systems of care working together to better meet local health care needs and provides greater access to care.

Veteran's however, have multiple options for health care coverage in addition to the VA. They include the following: Medicare, Medicaid, TRICARE, and private insurance. According to the 2014 VHA Survey of Veteran Enrollees' Health and Reliance upon VA, approximately 78 percent of enrollees have one or more type of public or private health care coverage in addition to VA, including 51 percent who are enrolled in Medicare. As a result, in 2014, enrollees received only 34 percent of their total health care through VA, accounting for about \$53 billion in 2014 costs. If enrollees had chosen to receive all of their health care in

¹⁸⁹ Department of Veterans Affairs, Veterans Health Administration, "About VHA – Veterans Health Administration"

¹⁹⁰ Department of Veterans Affairs, Veteran's Administration, *Blueprint for Excellence*, 3

VA in 2014 (100 percent reliance), this would have required an additional \$91 billion for a total of \$144 billion.¹⁹¹ Expanding access to health care among Veteran's is expected to increase reliance on the VA from the current level (34 percent) towards 100 percent reliance. According to the VA, they believe the reasons a Veteran would choose the VA system is that cost sharing is lower in VA than Medicare and most private insurance, because enrollees do not pay premiums or deductibles. The opportunity to reduce their out-of-pocket health care costs along with the convenience of using community-based providers (an expanding service) will also be a potential reason to for Veterans to shift to the VA. The VA, under the Veterans Access, Choice, and Accountability Act of 2014 (VACAA) commissioned a blue ribbon panel to evaluate how VHA delivers health care, ¹⁹² which overall recommends improvements to VHA that if adopted, could further contribute to more Veteran's relying on the VHA system for their health care needs.

¹⁹¹ Department of Veterans Affairs, *Strategic Environmental Assessment Draft*, 23

¹⁹² Commission on Care, *Final Report of the Commission on Care*

Appendix J: Select Department of Defense Office Descriptions

The Department of Defense (DoD), is responsible for the care and well-being of all active duty Servicemembers and their families. The primary office looking at holistic wellbeing is the Office of Personnel and Readiness.

The **Office of Personnel and Readiness** (OP&R) is the principal staff office for force management as it relates to readiness; National Guard and Reserve component affairs; health affairs; training; and personnel requirements and management, including equal opportunity, morale, welfare, recreation, and quality of life matters.

Healthcare within DoD, part of DoD's responsibility toward active duty Servicemembers and their families, is provided by the Defense Health Agency and the Military Health System.

The **Defense Health Agency** is a joint, integrated Combat Support Agency that enables the Army, Navy, and Air Force medical services to provide a medically ready force and ready medical force to Combatant Commands in both peacetime and wartime. The DHA supports the delivery of integrated, affordable, and high quality health services to **Military Health System** (MHS) beneficiaries and is responsible for driving greater integration of clinical and business processes across the MHS.¹⁹³ The MHS is the enterprise within DoD that provides healthcare to active duty and retired U.S. military personnel and their dependents. Its mission is to provide health support for the full range of military operations and sustain the health of all who are entrusted to MHS care. The network includes 55 military hospitals and 373 military medical clinics.¹⁹⁴

Together these three groups are directly responsible for the production and management of Service Treatment Records (STRs), which are vital to the disability claims and appeals process. Records are produced, updated, and maintained within the hospitals and clinics of the MHS, while the OP&R is the main interface with VA to ensure that records are transferred in a timely manner.¹⁹⁵

¹⁹³ Department of Defense, Defense Health Agency, "Defense Health Agency – About the Military Health System"

¹⁹⁴ Department of Defense, Military Health System, "MHS Facilities"

¹⁹⁵ Department of Defense, "DoD Health Record Life Cycle Management"

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Appendix K: Summary of Select Service Organizations

Service Organizations

Service organizations are groups that work to assist Veterans in filing disability claims and appeals with VBA and the Board, and act as their advocate with VA and Congress. They fall into three categories: Veteran Service Organizations, State Veterans Agencies, and County Service Officers.

Veterans Service Organizations (VSOs) are “non-governmental Veterans organizations that are recognized by the VA to assist Veterans with disability compensation claims. There are 40 VSOs that are recognized by the VA to serve in this capacity. Some VSOs have accredited service officers in all VA regional offices across the U.S., while others are regional in nature.”¹⁹⁶ VBA often refers to the “*Big Six*” service organizations, which are those VSOs that collectively manage the largest proportion of disability claims and appeals received by VBA through a VSO partner. Those six are The American Legion, AMVETS, Disabled American Veterans, Paralyzed Veterans of America, Veterans of Foreign Wars, and Vietnam Veterans of America (additional information on these six organizations is included beginning on the next page).

State Veterans Agencies (SVAs) are state government agencies/commissions that are recognized by the VA and tasked with their respective Governors with the responsibility to address the needs of Veterans, including accessing the spectrum of state and federal benefits available. SVAs are present in all 50 states, as well as the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands. Each SVA operates uniquely, offering varying services and resources to their State’s Veterans. These variances stem from differences in Veteran populations between States, benefits provided by States, and resource allocation from State Legislatures. These factors also impact the level of engagement with VBA Regional Offices and other service organizations. One commonality is that all directors/commissioners of these SVAs are members of the National Association of State Directors of Veterans Affairs, which allows the agencies/commissions collectively to remain engaged with one another and their VA counterparts to share best practices from their own operations and stay connected to new policy developments with VA.

County Service Officers are county employees working at the most local level to assist Veterans with determining their eligibility, and filing claims, for a variety of VA benefits,

¹⁹⁶ IBM Center for The Business of Government. *Collaboration Between Government and Outreach Organizations: A Case Study of the Department of Veterans Affairs*, 10

though the majority of their casework is based on disability compensation. Ultimately, these individuals act similarly to independent insurance agents, able to pass a Veteran's case to any organization qualified to assist the Veteran in completing their claim, but do not physically file claims or appeals on behalf of Veterans.

American Legion

Chartered in 1919

HQ Location	Membership Info/Member Benefits	Leadership	Mission
Indianapolis, IN	<p>Current Membership: 2.4 million</p> <p>Membership is open to anyone who has served federal active duty in the United States Armed Forces in WWI, WWII, Korea, Vietnam, Lebanon/Granada, Operation Just Cause/Panama, or Persian Gulf/War on Terror and has been honorably discharged or is still serving.</p>	<p>National Commander Charles E. Schmidt</p>	<p>The American Legion was chartered and incorporated by Congress in 1919 as a patriotic Veterans organization devoted to mutual helpfulness. It is the nation's largest wartime Veterans service organization, committed to mentoring youth and sponsorship of wholesome programs in our communities, advocating patriotism and honor, promoting strong national security, and continued devotion to our fellow Servicemembers and Veterans.</p>

Source: American Legion, www.legion.org

AMVETS

Established in 1944, Chartered in 1947

HQ Location	Membership Info/Member Benefits	Leadership	Mission
Lanham, MD	<p>73,000 disability claims filed</p> <p>Current Membership: 250,000 members</p> <p>Membership is open to anyone currently serving, or has honorably served, in the U.S armed services from WWII to present, including National Guard and Reserve</p>	<p>National Commander Harold Chapman</p>	<p><i>To enhance and safeguard the entitlements for all American Veterans who have served honorably and to improve the quality of life for them, their families, and the communities where they live through leadership, advocacy and services.</i></p> <p><i>Legislative Action Center: Your voice can make a real impact on issues important to Veterans. AMVETS works to keep you informed and we make it easy to take action on issues. Legislators do care about what their constituents think – your input can make a real difference!</i></p>

Source: AMVETS, www.amvets.org

Disabled American Veterans (DAV)

Established in 1921, Chartered in 1932

HQ Location	Membership Info/Member Benefits	Leadership	Mission
Cold Spring, KY	<p>Over 340,000 benefits claims for Veterans and Family members represented in 2014</p> <p>Current Membership: 1,252,188</p> <p>Membership is open to any man or woman: who served in the armed forces during a period of war or under conditions simulating war, and was wounded, disabled to any degree, or left with long-term illness as a result of military service, and was discharged or retired from military service under honorable conditions.</p>	<p>National Commander David W. Riley</p>	<p><i>Fulfilling our promises to the men and women who served.</i></p> <p>We are dedicated to a single purpose: empowering Veterans to lead high-quality lives with respect and dignity. We accomplish this by ensuring that Veterans and their families can access the full range of benefits available to them; fighting for the interests of America's injured heroes on Capitol Hill; and educating the public about the great sacrifices and needs of Veterans transitioning back to civilian life.</p>

Source: Disabled American Veterans, www.dav.org

Paralyzed Veterans of America (PVA)

Established in 1946, Chartered in 1971

HQ Location	Membership Info/Member Benefits	Leadership	Mission
Washington, DC	<p>Current Membership: 19, 569</p> <p>An individual is eligible for membership by meeting the following criteria: (1) is a citizen of the United States; (2) was regularly enlisted, inducted, or commissioned, and was accepted for or on active duty, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States or an ally of the United States; (3A) was separated from the service in the Armed Forces under conditions other than dishonorable; or (3B) is on active duty or must continue to serve after the cessation of hostilities; and (4) has suffered a spinal cord injury or disease (such as MS, ALS), whether or not service connected in origin.</p>	<p>Executive Director Sherman Gillums</p>	<p>Paralyzed Veterans of America, a congressionally chartered Veterans service organization founded in 1946, has developed a unique expertise on a wide variety of issues involving the special needs of our members – Veterans of the armed forces who have experienced spinal cord injury or dysfunction.</p>

Source: Paralyzed Veterans of America, www.pva.org

Veterans of Foreign Wars (VFW)

Established in 1899, Chartered in 1936

HQ Location	Membership Info/Member Benefits	Leadership	Mission
Kansas City, MO	<p>Current Membership: 1.5 million members</p> <p>Specific eligibility criteria: received a campaign medal for overseas service, have served 30 consecutive or 60 non-consecutive days in Korea, or have ever received hostile fire or imminent danger pay</p>	<p>Commander-in-Chief Brian Duffy</p>	<p><i>To foster camaraderie among United States Veterans of overseas conflicts. To serve our Veterans, the military and our communities. To advocate on behalf of all Veterans.</i></p> <p>National Legislative Service: The VFW's National Legislative Service advocates on Veterans' behalves. By testifying at congressional committee hearings and interacting with congressional members, the VFW has played an instrumental role in nearly every piece of Veterans' legislation passed since the beginning of the 20th Century.</p>

Source: veterans of Foreign wars, www.vfw.org

Vietnam Veterans of America

Established in 1979, Chartered in 1986

HQ Location	Membership Info/Member Benefits	Leadership	Mission
Silver Spring, MD	<p>Current membership: Over 75,000 individual members</p> <p>Membership is open to U.S. armed forces Veterans who served on active duty (for other than training purposes) in the Republic of Vietnam between February 28, 1961, and May 7, 1975, or in any duty location between August 5, 1964, and May 7, 1975</p>	<p>National President, John Rowan</p>	<p>VVA helps to provide greater public awareness of the outstanding issues surrounding Vietnam-era Veterans by disseminating written information on a continual basis through a weekly electronic publication. The VVA Veteran®, VVA's award-winning newspaper, is mailed to all VVA members and friends of the organization. In addition, self-help guides on issues such as Agent Orange and Post-traumatic Stress Disorder are published and made available to anyone interested.</p>

Source: Vietnam Veterans of America, www.vva.org

Appendix L: Evolution of the Disability Compensation Claims Backlog between Fiscal Years 2010 and 2015

The evolution of VBA’s backlog over a six year period of 2010-2015, begins with the unprecedented number of claims received and processed during this time:

Table 6: Claims Received and Completed, FY2010-2015

	FY2010	FY2011	FY2012	FY2013	FY2014	FY2015
Claims Received	1,192,346	1,311,434	1,080,342	1,044,508	1,114,478	1,235,185
Claims Completed	1,076,983	1,032,677	1,044,207	1,169,085	1,320,870	1,387,772

Source: Department of Veterans Affairs, Veterans Benefits Administration, Response to Data Request

For the two-year period ending 2012, claims received by VBA consistently exceeded the number of claims completed, leading to an increased backlog. Three new “presumptive” conditions were introduced during this time, further contributing to the backlog. These conditions applied to Veterans who served in Vietnam or were otherwise exposed to Agent Orange.¹⁹⁷ Following the announcement, and in compliance with provisions of the Nehmer court decision,¹⁹⁸ VBA began re-adjudicating claims for these conditions that had been previously denied. During this initial three-year period, these re-adjudicated claims were evaluated at a record-breaking level of over one million claims per year. By March 2013, the backlog finally reached its peak of 611,000.

In the summer of 2011, recognizing that there would be a surge in claims due to the declaration of Agent Orange as a “presumptive” condition, Under Secretary for Benefits Allison Hickey (2011-2015) began creating an aggressive plan that would serve to accomplish Secretary Shinseki’s goal of eliminating the backlog by 2015. The plan was launched in January 2012. The “Strategic Plan to Eliminate the Compensation Claims

¹⁹⁷ Agent Orange is a herbicide that was widely used by the United States military during Vietnam and which leads to a wide variety of negative health effects following prolonged exposure.

¹⁹⁸ “*Nehmer v. U.S. Department of Veterans Affairs* is a class action lawsuit brought by National Veterans Legal Services Program attorneys in 1986 to challenge a VA regulation that stated, among other things, that chloracne [a type of skin disease] is the only disease that scientific evidence shows is associated with exposure to herbicides like Agent Orange used by the United States in Vietnam. In an order issued on May 3, 1989, the court invalidated the portion of the regulation providing that no condition other than chloracne is associated with herbicide exposure and voided all VA decisions denying benefit claims under that portion of the regulation. As a result of the Nehmer consent decree, over the last two decades, VA has paid an aggregate of more than \$4.5 billion in retroactive disability and death benefits to hundreds of thousands of Vietnam Veterans and their surviving family members”. Source: National Veterans Legal Services Program, “*Nehmer v. U.S. Department of Veterans Affairs*”

Backlog” (Backlog Elimination Plan) focused on retraining, reorganizing, streamlining business processes, and building and implementing technology solutions. The foundation of the Backlog Elimination Plan was an integrated group of over 40 initiatives which were generally categorized as people, process or technology components. By April 2013, one month after the backlog reached its peak, many initiatives had been deployed throughout VBA. Appendix M contains further details on the Backlog Elimination Plan, including a full list of initiatives.

Beginning in 2013, and continuing through the end of 2015, following implementation of the Backlog Elimination Plan, VBA’s completion rate began to outpace receipts and the backlog began to decline. At the same time, VBA began moving to paperless processing of claims documents. By the spring 2014, 75 percent of VBA’s claim inventory was electronic. Over 1,000 claims per week were being received online and by July 2014 one billion claims had been scanned into VBMS (discussed in Chapter 3). The disability claims backlog officially fell below 100,000 claims in August 2015, and has remained below that level since. In 2015, VBA again received and completed over one million claims, while keeping the backlog in the 70,000-80,000 range throughout the fiscal year.

Appendix M: Overview of VBA's Strategic Plan to Eliminate the Compensation Claims Backlog

To eliminate the claims backlog and achieve the established goals of processing all claims within 125 days with 98 percent accuracy, a series of integrated people, process, and technology initiatives were introduced through the *Strategic Plan to Eliminate the Compensation Claims Backlog*¹⁹⁹, as follows:

People: How VBA is Organized and Trained

- Intake Processing Centers: Formalize mail processing for quick, accurate triage of Veterans' claims
- Segmented Lanes: Increase claims processing speed through handling of similar claims, placing a Veteran's claim in one of three lanes (Express, Core, Special Ops) based on specific criteria
- Cross-Functional Teams: Increase knowledge transfer, speed, accuracy through a case management approach to Veterans' claims processing; cross-trained co-raters are co-located to establish, develop, rate and promulgate claims
- Challenge Training: Allows for hand-on experience processing/rating claims during training and is aimed at increasing consistency
- Skills Certification

Process: Levering "Big Bang for the Buck" Improvement Opportunities

- Simplified Notification Letter to Veterans: Standardized and streamlined decision notification process that integrates decision information into one simplified notification letter for Veterans
- New Rater Decision Support Tools: Establish *consistent* rater performance
 - Evaluation Builder
 - Rules-Based Calculators
- Electronic Disability Benefits Questionnaires: 81 new electronic forms that allow physicians to submit medical evidence to support a claim

¹⁹⁹ Department of Veterans Affairs, Veterans Benefits Administration, "Synchronizing VBA's Transformation"

- Fully Developed Claims: Expedite the processing of claims that are submitted with all evidence needed to make a claims decision
- START-Trained Quality Review Teams: Eliminate rework and improve timeliness by utilizing non-punitive “in-process” quality reviews (IPRs) and regular end-of-month performance reviews
- Paperless CAPRI²⁰⁰ Records: Eliminated printing and filing of CAPRI records
- Acceptable Clinical Evidence: Saves burden on Veteran/caregiver and reduces wait time by allowing private medical records to be submitted as evidence
- Appeals Design Team: Improves timeliness, effectiveness, consistency and quality of current process for appealing Veterans benefits decisions

Technology: Systems that Enable VBA to do the Job Better

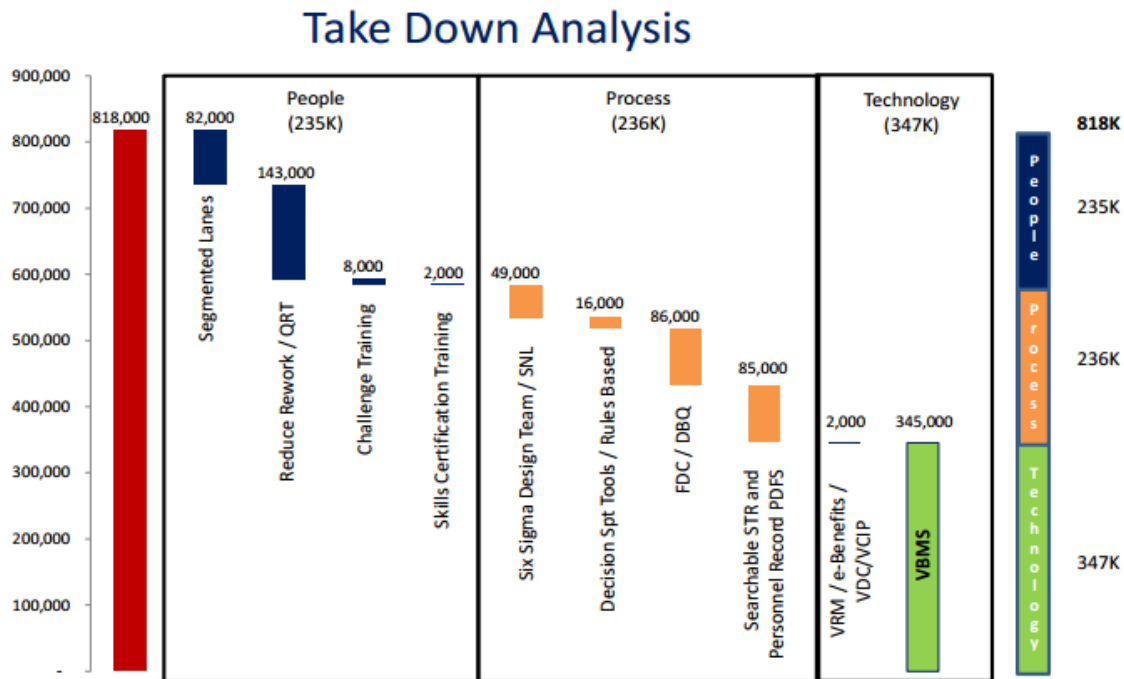
- Veterans Relationship Management
 - Veteran Online Application Direct Connect: Standardized e-forms to facilitate electronic interviews
 - Unified Desktop: Combines 13 different systems into one accessible database
 - Virtual Hold: Automatically calls the Veteran back
 - Scheduled Callback: Allows the Veteran to pick a date and time to be called
 - eBenefits Online Self-Service Portal: Over 41 Self-service features with 24/7/365 Access, including the ability to submit electronic claims
 - Stakeholder Enterprise Portal for VSOs: Facilitates stakeholder roles in the process in a secure environment with identity access tools (submit and track claims and evidence online)

²⁰⁰ “The CAPRI software acts as a bridge between the VBA and VHA information systems. It offers VBA Rating Veteran Service Representatives and Decision Review Officers help in building the rating decision documentation through online access to medical data. It also offers VHA Compensation and Pension (C&P) staff an easy, standardized way of recording C&P Examination reports.”

Source: Department of Veterans Affairs, Office of Information and Technology, “Compensation and Pension Record Interchange (CAPRI) System Administration and Technical Guide”

- Veterans Benefits Management System: Web-based, paperless claims processing system; electronic document and records environment; automated processes, workflow, and workload management capabilities
- Post-9/11 GI Bill Paperless Claims Processing System
- Virtual Lifetime Electronic Record

The chart below summarizes specific backlog reduction predictions associated with individual initiatives:



Source: Department of Veterans Affairs, Veterans Benefits Administration, *Strategic Plan to Eliminate the Compensation Claims Backlog*, 6

Figure 9: Transformation Plan Take Down Analysis

Additional Accuracy Initiatives

The following initiatives were instrumental in helping VBA improve accuracy as it implemented the Backlog Elimination Plan:

- Since FY 1999, VBA has used its national Systematic Technical Accuracy Review (STAR) to measure the decisional accuracy of disability compensation claims, where certified reviewers examine a stratified sample of completed claims and use a checklist to assess certain aspects of each claim. Before October 2012, VBA accuracy estimates were claim-based, meaning claims with one or more errors affecting

benefits were considered inaccurate.²⁰¹ Beginning in July 2012, VBA's Quality Assurance Staff began developing procedures to conduct simultaneous issue-based reviews on claims undergoing traditional STAR claim-based reviews. The goal was to identify and correct all errors at the issue level, while accurately finding issue specific rating procedure deficiencies and finding targeted training opportunities.²⁰² By October 2012, all rating end products undergoing a STAR review also began receiving an issue-based review.

- Established in 2013, and made up of skilled Veteran Service Representatives (VSR), Rating Veteran Service Representatives (RVSR), and Coaches, local and national Quality Review Teams assess and monitor quality in the claims process, including through in-process reviews. These Quality Review Specialists have the claims processing skills to mentor employees to improve and maintain high quality.
- VBA also implemented consistency studies in 2005 to assess regional office (RO) variance across frequently rated diagnostic codes in certain main areas; national service connection rate, national degree of disability rate, and RO variance in frequently rated diagnostic codes. Consistency studies were implemented for claim processing positions in 2013. In addition, since January 2013, monthly calls reviewing quality take place with all ROs.
- VBA reviews quarterly data to identify inconsistencies and variations that may affect Veterans nationally or regionally. Tests are developed to assess persistent differences nationwide, and are then analyzed to determine root causes and whether corrective action is needed.
- The impacts of these initiatives on quality are tracked through a 3-month rolling average accuracy measure reported on ASPIRE, a dashboard of performance indicators for the nation, and region, state, and locality for VBA programs.
- Mandatory skills certification testing, required by statute, is completed for trained compensation claims processors and their supervisors to improve skills and enhance professional development.

²⁰¹ Government Accountability Office, *Improvements Could Further Enhance Quality Assurance Efforts*

²⁰² Department of Veterans Affairs, Veterans Benefits Administration, Response to Data Request

- On August 10, 2015, VBA completed the Live Manual project, where employees from central office and the ROs worked collaboratively to consolidate policies and procedures into a single source available electronically.

Backlog Elimination Plan Implementation

Implementation of these initiatives was built on a foundation of input from, and communication with, Veterans, employees, and stakeholders. Structured feedback mechanisms and events were used to collect process improvement ideas focusing on ways to improve wait times and productivity and reduce rework.

Committed to providing channels of communication that are essential to successful implementation of the transformation plan, Under Secretary Hickey supported ROs through an end-user hotline and holding weekly three-hour “pulse-check” calls with RO employees. The Under Secretary also implemented monthly STAT Reviews, consisting of a day-long meeting with RO directors to discuss challenges and successes using performance measures. The STAT Review focuses on accountability and the sharing of best practices.

The Office of Strategic Planning was established in Headquarters to coordinate strategic planning and the governance process for developing new transformation initiatives. A comprehensive change management approach, led by change managers in ROs, ensured that implementation and training were carefully planned and executed. New ideas were approved through the VBA Transformation Governance Board made up of VBA leadership. The VBA Implementation Center/Operations Center, a division of the Office of Field Operations, prepared, executed and assessed the implementation of transformation initiatives, served as the liaison between the field and Headquarters, and reported implementation metrics to support leadership decision making. Through at least three After Action Conferences during the three-year period ending 2015, several Backlog Elimination Plan initiatives were reviewed, assessed and refined.²⁰³

²⁰³ Department of Veterans Affairs, Veterans Benefits Administration, Correspondence to the Academy from the Acting Principal Deputy Undersecretary of Benefits

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Appendix N: Overview of Current Appeals Legislation under Consideration by Congress

The FY 2017 budget submission calls for this Simplified Appeals Process which is the cornerstone of the Administration's proposal and requires resources that are intended to be "a down payment on a long-term, sustainable plan to provide the best services to Veterans." The budget provides \$156.1 million (an increase of \$46.2 million from the previous year) for the reform efforts. In terms of employees, the budget provides for 922 full time equivalents (FTE) (242 above the previous year) to support the new process. Noting that the appeals process was created 80 years ago and has evolved over time, the proposed reforms "will improve an outdated and inefficient process which will benefit all Veterans through expediency and accuracy."

Secretary McDonald put "Develop a Simplified Appeals Process" as one of the breakthrough priorities included in the MyVA transformation effort. While at a high-level, this breakthrough priority makes the distinction between the appeals production process and the appeals case inventory. Stressing the need for legislative change, Secretary McDonald highlights the dual problem, "Without legislative change, VA will face a soaring appeals inventory, and Veterans will wait even longer for a decision on their appeal."

In early March of 2016, VA convened an "Appeals Summit" –a series of stakeholder meetings to design the new process. The summit was described as an "intensive three-day appeals summit with VSOs and Veterans advocacy groups on the topic of appeals reform, looking at the entire system."

The stated objective of the reform is to "establish a framework for the appeals process, that is simple, timely, transparent, and fair, and that will facilitate final decisions on 90 percent of appeals within 12 months of the filing date." To that end, several key issues emerged for the summit of stakeholders:

- Decreasing the number of appeals by increasing the ability to achieve local resolution at the RO level;
- Effective date protection outside the appeals stream;
- Means for introduction of new evidence;
- Need for improvement of claim decision notices; and
- Maintaining the right to a Board hearing and introduction of evidence at the Board.

VA agreed to:

- Provide effective date protection;
- Provide means for local resolution separate from appellate process;
- Improve the claim decision notification process; and
- Allow option for Board hearings and limited window for introduction of evidence.

The main structural processing reform is the three lane design to accomplish the agreed upon goals.

A “Difference of Opinion Lane” at the regional office level

- Higher-level de novo review of the initial claim decision
- Closed record, with no duty to assist, no new evidence, and no hearings
- Authority to overturn lower-level decision based on Clear and Unmistakable Error (CUE) and/or difference of opinion
- Remands to lower-level for correction of duty to assist errors prior to initial claim decision
- Effective date protection back to initial claim filing date

A “Supplemental Claim” Lane within which all new evidence is submitted

- New and material evidentiary standard changed to new and relevant
- Pre-decisional hearing option is preserved
- Duty to assist Veterans in gathering evidence
- Effective date protection back to initial claim filing date

A “Board” Lane where Appeals are handled

- Notice of Decision to the Board
- No duty to assist
- Two separate Board dockets
 - Non-Hearing Option docket with no introduction of new evidence
 - Hearing Option docket with limited window for introduction of new evidence
- Remands allowed only for correction of duty to assist errors prior to initial AOJ decision

Other Legislation on the Appeals Process

The VA’s legislative proposal is under consideration in a number of venues. These proposals show some progress towards success in passage but none of the different acts, however, achieve what the administration envisions as a comprehensive modernization of the appeals process. There have been several legislative proposals in the recent past that address aspects of the appeals process and none have passed.

The Veterans omnibus legislation in the Senate (S.2921), referred to as the Veterans First Act, includes a section on appeals. Major negotiations of the act were conducted simultaneously with the Appeals Summit. Many in the Veterans community hoped the VA legislative proposal would be a part of the Act since the proposal was constructed with stakeholder input. The Veterans First Act did not incorporate the VA legislative proposal but instead took another, more trodden, path.

The Veterans First Act section 305 envisions a pilot program on fully developed appeals (the “pilot”) to “provide the option of an alternative appeals process.” The five year pilot provides for an optional process for the Veteran that he or she may exit at any time in the life of the appeal. VBA would also not be required to produce a “Statement of the Case” (SOC)—the document that explains the reasoning for the VBA’s denial of the claim. Data show that Veterans can wait up to a year to receive their SOC. Field research revealed that the unit processing time for one SOC is very fast—one to three days depending on the complexity of the case. The SOC requirement itself does not contribute to the total wait time. The overall inventory would still be waiting for processing of some kind if not specifically the SOC.

One area of focus at VBA that has attempted to make processing in the pilot is the notifications to Veterans. Review of appeals processing data shows that a significant number of appeals do not move forward from the SOC stage to the filing of the “form 9” – the formal request to appeal to the Board of Veterans’ Appeals. VBA has attempted to increase Veteran engagement in the overall process in order to inform the Veteran at every stage of the reasoning for VBA’s actions. This strategy seeks to achieve the same end as the pilot. If the reasoning for VBA’s denial of the disability claim is clearly and simply communicated in the first instance, then some Veterans who would have otherwise appealed would not have done so. Some 60 percent of the Veterans that file a Notice of Disagreement do not file a Form 9 supposedly because the Statement of the Case explains the correctness of the original decision.

The pilot would also limit the submission of new evidence. The pilot requires all evidence to be considered be submitted at the time of the claim. Further if any renew evidence is submitted than the appeal will “revert” to the standard process.” This aspect of the pilot is meant to test the hypothesis that new evidence in the appeal causes delay and ultimately backlog of the system.

The pilot would also create a “development unit” to be housed at the Board of Veterans’ Appeals. This development unit would be tasked with developing “federal records, independent medical opinions, and new medical examinations...that the Board determines necessary to decide fully developed appeals.” At first glance, this unit would be able to aid in the efficient adjudication of claims by solving one of the thorniest problems the VBA faces—the collection of records. This method of solving that complicated problem is, however, vulnerable to invalidation by the Court of Appeals for Veterans Claims. One of the bedrock principles of Veterans benefits law is the tenet “one decision- one appeal.” In short, this means that for every claim that a Veteran brings for benefits, her or she is entitled to an appeal of the decision the government makes on that claim. If the Board develops evidence that is not part of the government’s original decision making process and then

rules on the validity of the original claim using that evidence, then the Veteran is, arguably, being deprived of an appeal of a government decision.

This scenario has happened before. In 2003, the Appeals Management Center (AMC)—the VBA body that addresses certain remanded cases from the Board—was created. The AMC was created in the wake of a “Federal Circuit Court decision that invalidated part of VA’s process for handling cases appealed to the Board of Veterans’ Appeals (BVA).” The basis of that invalidation is strikingly close to the “development unit of the pilot.” Prior to that court decision and the establishment of the AMC, BVA had created a development unit to itself develop cases on appeal that needed more development, instead of remanding those cases to the regional offices of jurisdiction to conduct the necessary development. ” As a result, the Court concluded was a deprivation of the one decision one appeal right of the Veteran. The Court concluded that “BVA generally may not consider in the first instance any evidence it develops.” If cases are decided on using the development unit’s evidence then it is possible the Court of Appeals for Veterans Claims or the Court of Appeals for Federal Circuit could eventually invalidate any decisions made on the basis of a deprivation of the one decision, one appeal principle.

Altering this requirement is not beyond Congress’ control. Congressional authority extends over the appeals process and Congress is within its power to allow the Board of Veterans’ Appeals to develop additional evidence without remand to the AMC or BVA. The National Veterans Legal Service Program called on Congress to make such a change. Specifically, “Congress can and should intervene now by amending the law to allow the BVA to develop evidence itself without remanding to the AMC or RO.”²⁰⁴

The pilot language has appeared in other pieces of legislation prior to the Veterans First Act. On the Senate side, S.2473, the Express Appeals Act of 2016 was introduced in January of 2016 and includes essentially the same language of the pilot. H.R. 4616, the Express Appeals Act of 2014 contained a similarly constructed pilot. The legislation directs the Secretary of Veterans Affairs to conduct a five year pilot that would offer an alternative appeals process. H.R. 800 was introduced in 2015 and included the same five year pilot language but added the “fully developed appeals” concept.

Secretary McDonald commented on the pilot in Congressional testimony for S. 2437. In referring to the dual problem of the broken process and the case inventory backlog he concluded that “The fully developed appeal (FDA) pilot program in its current form is not

²⁰⁴ Congress, House, Subcommittee, *Statement of Barton F. Stichman, Joint Executive Director, National Veterans Legal Services Program*, 6

enough to change the current broken VA appeals system.” The pilot is voluntary and does “too little to streamline the VA appeals process for all Veterans.”

The Act requires an appeal processing time report to be published. The report will include a) the average length of time to adjudicate a timely appeal and b) the average length of time to adjudicate an untimely appeal. The report will also include the “the number of appeals and timely appeals that were filed during the one-year period ending on the effective date specified” and “the number of appeals and timely appeals that were filed during the one-year period ending on the date that is two years after the effective date specified.” This report is similar to the “Monday Morning Workload Report (MMWR) that was instituted to track VBA’s progress in processing the claims inventory that made up the backlog. While the act does not specify an interval to publish the report other than “an ongoing basis,” a weekly report served the agency well in keeping the claims backlog progress a high priority.

Other Areas

The current full MMWR does include an appeals section but the VA internet dashboard does not include this section. To view, you must download the full report. Further, the current report does not give the full inventory picture as the BVA numbers are not included. In January, 2016 there were 43,732 cases that were certified to the Board and 39,352 cases that were on the BVA active Docket. These two categories are not reflected in the February MMR or the current form of the report. A full complete inventory count including all categories of counted cases, would be the subject of the appeals report under the act.

Another piece of legislation on the House side included the appeals pilot language as well as another section relevant to appeals that warrants discussion. H.R. 677, The American Heroes COLA Act of 2015 included the pilot with some adjusted to the language. This bill excluded a section that would call for an evaluation of backlog of disability claims and appeals of claims. The rest of the bill is similar to that in the Veterans First Act as well as the other legislative proposals. This significant departure for the rest of the legislation was the inclusion of the creation of a commission or task force to study a wide range of issues impacting the Veteran’s appeals ecosystem.

The appeals section of the commission is wide-ranging in scope. This task force, or commission, is charged with a broad mission regarding appeals. It could serve as the basis to have the “comprehensive national discussion about how we can make President Lincoln’s vision a reality in our modern world.”

Among other issues, the commission is tasked with examining:

1. The anticipated surge in appeals of claims;
2. Possible improvements to the appeals process, including an evaluation and recommendations with respect to whether substantive and structural changes to the overall appeals process are required;
3. An examination of—(I) options that make no major substantive changes to the appeals process; (II) options that maintain the process but make minor changes; (III) options that make broad changes to the process;
4. The necessity of the multi-tiered levels of appeals at the regional office level, including filing a notice of disagreement, receipt of a statement of the case, supplemental statement of the case (if applicable), and substantive appeal (VA Form 9);
5. The role of the Board and the Appeals Management Center; and
6. The role of the Court of Appeals for Veterans Claims and the United States Court of Appeals for the Federal Circuit.

The act clarifies the commission's responsibility to report to various VA offices as well as considerations to take in conducting the study. The act provides that the membership of the commission is to be made of 15 members to be appointed by the leaders of the three branches of the federal government.

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