

**STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON BENEFITS
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ON
IMPLEMENTATION OF THE VA CLAIMS PROCESSING TASK FORCE'S
RECOMMENDATIONS**

JUNE 6, 2002

Mr. Chairman and Members of the Subcommittee:

The American Legion commends you, Mr. Chairman, for scheduling this timely hearing to examine VA's implementation of the short-term recommendations made by the Veterans' Claims Processing Task Force (the Task Force). Today, The American Legion will address the extent to which these recommendations have changed and improved the way veterans' benefits claims are handled and decided. Additionally, The American Legion would like to address the enhancement of the VA/VSO "partnership," which was one of the Task Force's medium-term recommendations.

The American Legion supported the work of the Task Force and participated in the public hearings. The Task Force report provides useful insights into the many issues that directly and indirectly impact the claims adjudication process. The American Legion is in agreement with many of the recommendations; however, we have particular concern with one that we believe should not be implemented, since it may be disadvantageous to claimants. Mr. Chairman, The American Legion believes there are current VBA policies adversely affecting regional office operations and the implementation of these recommendations.

BACKGROUND

In May 2001, the Secretary of Veterans Affairs established the Task Force to analyze and evaluate the Veterans Benefits Administration's (VBA's) claims processing procedures and operations, to include information technology, then make recommendations to improve VBA's ability to properly develop and accurately adjudicate benefit claims. The impetus for this study was the need to respond to mounting criticism from veterans, the veterans' service organizations (VSOs), and the Congress. Clearly, the deterioration in service to veterans is obvious and the growing backlog of pending claims and appeals has reached crisis proportions. In January 2001, when Secretary Principi was confirmed, the backlog of pending claims and appeals was almost 457,000 cases and rising. The Secretary announced his commitment to improving the level and timeliness of service to veterans. His stated

goals for VBA was a reduction of the backlog to 250,000 pending cases with an average processing time of 100 days. Collaterally, this was to be done without compromising the quality or service. These ambitious objectives were to be accomplished by the end of FY 2003.

Toward this end, the Task Force was mandated to complete their review and report to the Secretary within 120 days. The Chairman of the Task Force complied with instructions and submitted the final report to Secretary Principi on October 3, 2001. The report presented a number of findings regarding an array of problems that directly affect VBA operations and the adjudication process. The report included 20 short-term recommendations and 14 longer-term recommendations. Shortly thereafter, Secretary Principi announced the immediate implementation of many of the recommendations. Chairman Cooper was lauded for his efforts and subsequently nominated, then confirmed as the Under Secretary for Benefits.

Within the past several years, VBA has been the subject of no less than three major congressionally mandated studies:

- the Veterans' Claims Adjudication Commission,
- the National Academy of Public Administration, and
- the Congressional Commission on Service Members and Veterans Transition Assistance.

Each of these prestigious groups issued a lengthy report setting forth similar recommended changes within VBA and its procedures. If these changes were fully implemented, each group expected to substantially improve the quality, accuracy, and timeliness of decisions on claims and appeals for veterans' benefits. The desired results were improved overall services to veterans and their families. Many of the recommendations were eventually implemented to varying degrees or incorporated in VBA's strategic plans and projects.

In addition, the Government Accounting Office (GAO) has continued to study VBA operations and procedures, including its computer modernization efforts. GAO noted that, while progress has been made in some areas, VBA remains unable to solve many of the more persistent, core problems affecting its claims processing operations. These reports have also set forth additional recommendations addressing the problem issues.

Prior to the Task Force, VBA had already begun to implement a number of significant policy changes that were intended to focus additional resources and effort on stemming the growth of the claims backlog. These included the deferral or suspension of several new computer programs (rating board automation, rating board redesign, etc.) intended to improve the claims adjudication process, but were found to be cumbersome and less efficient. In addition, the Decision Review Officers (DROs) (responsible for conducting personal hearings at the regional offices and the processing of appeals) were directed to work on claims processing 50 percent of the time and handle hearings and appeals-related work the other 50 percent. For the most part, these policies have remained in effect, although according to reports from several American Legion field offices, the

policies are not always enforced. Many DROs are spending little -- if any -- time on processing appeals cases.

IMPLEMENTATION

Following the issuance of the Task Force's report, VBA began implementing those recommendations involving changes in procedures, which did not require shifting of personnel and resources. By June, instructions were issued to expedite action in cases involving a favorable decision on one or more issues in the claim, rather than waiting until all issues had been adjudicated. This has been an important step forward in improving service to veterans, since it provides benefits or entitlement earlier than under the previous procedure. The American Legion is concerned, however, that the regional offices are taking unfair advantage of this to inflate the amount of work being reported while taking minimal action. Although favorable to the claimant, often cases are not fully developed.

Several of the major initiatives (the establishment of the Tiger Teams and resource centers) have now been in operation for several months. The American Legion believes it is now possible to make some preliminary assessment of the results achieved thus far. With regard to other initiatives, such as the Board of Veterans Appeals developing cases rather than issuing remands and the triage of incoming claims by the regional offices, they are in the early stages of implementation and it would be premature to try and evaluate their potential impact.

The Tiger Team is an 18-month project for the specific purpose of expediting action on the oldest claims, i.e., the approximately 81,000 cases that have been pending for more than one year. The Tiger Team Unit was established at the Cleveland VA Regional Office to work on the claims of veterans age 70 or older with a claim pending for more than a year. It was estimated there were approximately 21,000 cases in this category. The other 60,000 old cases are being handled by nine regional office resource centers. Production quotas were established for this project in keeping with the overall FY 2003 claims processing goal. From the feedback provided by American Legion Service Officers, the Tiger Team in Cleveland and the resource centers are giving these longstanding claims the expeditious action they deserve and benefits are being granted in a substantial number of claims. However, it has been noted that, in their haste to complete action, some of the claimed issues are overlooked or ignored. While other claims are prematurely denied rather than fully developing the case for additional information. While the goal of this project is commendable and the general results to date are encouraging, follow-up action by the veteran's accredited representative is often necessary to ensure the veteran receives all the benefits to which he or she is entitled.

Over the years, The American Legion has actively supported VBA's efforts to improve its operating efficiency and the quality of its decision-making. Secretary Principi has repeatedly promised fundamental changes in the claims adjudication process and has set a timeframe to achieve the stated reduction in the claims backlog that The American

Legion believes may be an overly ambitious and potentially detrimental. We will continue to monitor, with great interest, VA's weekly reports showing substantial increases in production with the steady reduction in the backlog of pending claims. For the week ending May 18, 2002, there were 514,996 cases awaiting some type of action -- 10,098 cases less than the preceding week. In addition, the number of cases over 6 months old declined by 3,589 cases. From this data, it would not be unreasonable to conclude that the regional offices are doing a good job and are well on their way to meeting the Secretary's FY 2003 target.

However, The American Legion continues to look beyond these reports through an internal ongoing program of regional office quality review visits. Over the past three years, visits have been made to 28 stations. Based on our case review findings, The American Legion has become increasingly concerned, not only by the lack of demonstrated improvement in the quality of adjudication decisions, but also of the effect of the policies and initiatives being used solely to achieve the Secretary's claim processing goals.

Two weeks ago, The American Legion's Quality Review Team visited the St. Petersburg VA Regional Office. While there, we were confronted with graphic evidence of premature and erroneous denials of claims, a general lack of compliance with the Veterans' Claims Assistance Act (VCAA) rules, and other types of inappropriate action. It almost appears as part of an orchestrated policy of manipulation of the station's production figures as a means of meeting its mandated production quotas. Management, rating board members, decision review officers, and front-line claims processors are under tremendous pressure from VA Central Office to produce the expected monthly quotas. There were cases in which veterans received letters stating that their claims were being denied, because their military records may have been destroyed in the 1972 fire at the National Personnel Records Center. The problem was that these veterans got out of the service years after the fire took place.

As disturbing as these tactics are, what was even more shocking was the intentional neglect of the backlog of pending appeals and remanded cases from the Board of Veterans Appeals. Remands are not being worked, because the station receives no work credit toward their mandated monthly production quota. This is not a local issue. It is a national issue.

At St. Petersburg, there were over 1,300 remands in which The American Legion holds power of attorney. Some of these cases had been remanded by the Board more than five years ago and were still waiting final regional office action. Mr. Chairman, this is a national disgrace and should not be tolerated.

VA AND VETERANS SERVICE ORGANIZATION (VSO) COOPERATION

Mr. Chairman, you requested The American Legion's comment on the Task Force's recommendation dealing with greater cooperation between VA and the veterans' service organizations (VSOs). The Task Force's first medium – term recommendation

was to utilize VSOs effectively. Specifically, it outlined the need to empower certified Veteran Service Officers to:

- Accept evidence in support of a claim;
- Provide VBA with certified copies of necessary documents; and
- Assist in gathering testimonial evidence (statement in support of a claim).

For several years, The American Legion and the other major VSOs have been participating in VBA's Training, Responsibility, and Involvement in Preparation of Claims Program (TRIP). The concept is to provide the professional veterans' service officers quality training and greater access to VA's computer system. Such access would enable them to prepare and submit more fully developed claims and lessen the amount of time and effort it would take for VA to complete action. At the present time, Level Two training is ongoing.

As a major stakeholder in the VA claims adjudication process, The American Legion continues to have serious reservations about the TRIP program and its practical value to VSO representatives.

The current level of access to the VA system of records provides information about a claim and its status, but does not enable the representative to actually do any new type of development. For the past two years, VA has continued to debate granting VSOs access to veterans' hospital record. As a veteran's recognized representative, The American Legion believes we should be afforded immediate access to a veteran's hospital record. Access to these records accords us information in a timely fashion and provides immediate entry to official evidence which may have an impact on the outcome of a veteran's claim for compensation. Effective and complete claims development cannot be a reality until the VA is willing to truly work in partnership with the VSOs. The American Legion realizes that release of information is controlled by many levels of regulatory protection, but we urge VBA to request opinions from VA General Council to facilitate a more efficient access to VA records for DSOs.

For several years, VBA's claims process has been under scrutiny. All of the reports that have been generated have done little to alleviate the myriad problems that continue to beset the VA. In fact, many of the reports have had similar findings and recommendations. Yet, veterans are still waiting longer than they should to receive a decision on their claims. Having said that, The American Legion is pleased that the Secretary is committed to making drastic and profound improvements in the processing of applications for veterans' benefits. We commend both the President and the Secretary for making the processing of veterans' benefit claims one of the Administration's top goals. The American Legion looks forward to assisting VA in fulfilling its mission to provide the nation's veterans, accurate, timely and uncomplicated decisions with the adjudication of their claims for benefits.

We note that the Task Force report included many references to the need for accountability. We couldn't agree more. We believe accountability is essential at all levels. Management accountability includes the responsibility to analyze the skill level

and ability of employees and to provide appropriate training. Our experience has been that stations that have expanded the concept of training beyond only providing information and include mentoring and development of employee skills necessary to meet the mission needs, these are the stations that will lead us to victory in this war on claims.

Mr. Chairman, the Secretary inherited an incredible claims backlog. We ask that the focus shift from a demand to the resolution of the immediate backlog to a renewed focus on accountability for all levels of management and on training new employees.

That concludes my statement.