

**STATEMENT OF
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OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE
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Mr. Chairman and members of the Committee:

I am pleased to present the views of the Disabled American Veterans (DAV) on the challenges and opportunities facing the Department of Veterans Affairs (VA) disability claims processing system. We commend the Committee for holding today's hearing and for its continued efforts to improve the system of support our grateful nation has established for those who defend our safety and freedom. Today's date was well chosen for this discussion; sixty four years ago this morning, 2,335 American servicemen were killed and 1,178 were wounded during the Japanese attack on Pearl Harbor. It is appropriate that we bear in mind the bravery and sacrifice of those fallen and wounded in past wars, as well as those who now face peril every day during the War on Terror. It is a sad, sobering realization that thousands of active duty members, along with members of the Reserves and National Guard, will require disability compensation upon release from active duty. Our nation's deep appreciation for their sacrifices is best illustrated through our commitment to ensure that veterans' medical needs are met and that economic benefits are available, especially to those who become injured while on active duty.

The VA was established to fulfill this commitment by providing health care and administering benefits and services to veterans in return for their sacrifices. This includes assisting veterans with the development of claims for disability compensation and ensuring that they are aware of all other potential benefits, such as entitlement to training under the Vocational Rehabilitation and Employment (VR&E) program. Though seemingly straightforward, the task involves making judgments on a number of complex issues. Adjudication of such a massive number of disability compensation claims requires a proportionately large number of well-trained employees who possess at least a basic level of knowledge in anatomy and physiology and a thorough understanding of governing statutes, regulations, and precedent decisions by the Court of Appeal for Veterans' Claims. Since its inception in the early 1990s, the Court has imposed requirements that VA disability rating decisions be better reasoned, better explained, and better supported by the record.

Coupled with the demands for more thorough development and greater deliberation on each claim, is an ever increasing workload. In November 2005, VA reported that there were 366,122 rating cases pending. In November 2004, there were 338,180 rating cases pending. Though these figures do not represent an alarming increase, they do indicate that the VA has not been able to reverse the trend of steadily increasing numbers of pending cases.

Multiple in-depth studies by various agencies and committees have listed an array of factors that have contributed to the mounting claims backlog. The DAV too, has presented several statements on this topic. In May 2005, the DAV testified before the Senate Veterans' Affairs Committee and submitted an extensive statement describing how VA has struggled in this mission.

Problems with claims processing, accurate decisions, and timely benefits delivery have plagued and challenged VA for several years. Many underlying causes have brought about this now seemingly insurmountable situation, but the main reoccurring theme has been the failure to properly develop and correctly decide claims on the first effort. This failure has resulted from an emphasis being placed on quantity rather than quality. In other words, too many VA rating boards have created a façade of productivity via high numbers, when the concern should be with striking a balance between efficiency and accuracy. Placing priority on numbers alone is detrimental because it results in more appeals and the need to revisit work that has already been performed. Meanwhile, newer claims pile up, and, in the overall focus, more time and resources are consumed than if the work had been accomplished properly on the first try. Rating board personnel must be more accountable for accuracy in claims decisions.

The DAV Service Program exists largely because of the VA disposition regarding claims. It is common knowledge within the veterans' community and at military discharge facilities that a DAV National Service Officer (NSO) will review an individual's service medical records or VA claims file with an entirely different perspective than many VA employees. Too often, a VA employee will view a file as an obstacle to get past as quickly as possible, while an NSO views the same file as a record of the pain and suffering an individual has endured on behalf of our free society. The VA's reputation for carelessness results in appeals even in cases that are error free. The 'scuttlebutt' among many veterans is that every VA decision should be questioned just to ensure nothing has been overlooked. In such instances, the DAV is a benefit to the VA because it can allay many veterans' concerns by verifying whether decisions are accurate or not. Thus, DAV is instrumental in reducing the number of appeals that have no merit.

In my personal experience, I did not know of the DAV prior to my medical retirement from the Navy. While going through a medical discharge following a parachuting accident, a Chief Petty Officer who served as a counselor at the naval hospital repeatedly emphasized that VA disability rating decisions frequently contain errors and that they should always be reviewed by a DAV NSO. He was so adamant, that I remembered and followed his advice a year later when I finally received my initial VA assessment, which was twenty points lower than the percentage the military had assigned. I found that the chief's advice was sound; it took an NSO merely a moment to consult the rating schedule and realize the VA had assigned the wrong diagnostic code to my injury. With his help, the simple technical error was corrected, but it would have cost me thousands of dollars and eligibility to educational benefits under VR&E had I not followed the chief's advice and questioned the accuracy of the VA decision.

My initial negative impression of the VA as a careless bureaucracy was altered somewhat through later experience. Following my transition from the military, I completed the 16 month DAV training program and became an NSO. During my tenure as an NSO, I learned that there are many VA employees who possess the highest level of integrity and are deeply concerned

with producing accurate decisions while maintaining productivity. The VA must find a way to identify and place such meticulous, caring personnel in leadership roles so that newer employees adopt similar attitudes and understand that each claim file may represent a veteran who has paid a dear price for his or her country. Often, VA employees with whom I was associated would express frustration that managerial impetus was on production over quality and that there were timeliness problems in developing and deciding claims, as well as authorizing awards, and completing actions on appeals and remands. VA leadership must establish clear, unequivocal goals and enforce accountability through a willingness to replace individuals who are not succeeding. Though urgency is necessary to stay abreast of the workload, quality cannot take a backseat to the blind pursuit of production quotas. As obvious as these realities are, VBA seems to set them aside, and field offices are directed to reduce backlogs at all cost.

While attitudinal change will help prevent the continued snowballing of the claims backlog, reducing it will depend on the VA's ability to train an adequate number of adjudicators to handle the future influx of claims. The most common complaint among VA employees pertains to inadequate staffing. Consultation with various DAV offices around the country revealed that about two-thirds of our NSO supervisors reported insufficient, overworked VA staff. These same supervisors reported low morale among VA employees consequent to the burdens and problems due to understaffing.

Another frequently occurring criticism was that, contrary to law, the VA usually seeks its own examination or medical opinion even when evidence provided by the claimant is adequate for rating purposes. VA adjudicators tend to mistrust private medical records submitted on behalf of a claimant even though evidence from private physicians is generally more thorough than VA evidence because it is based on a longstanding physician/patient relationship. Most VA examinations and treatment notes are based on brief examinations or the one-time treatment of a particular veteran. Rarely do VA physicians have the personal knowledge or continuity of experience with patients compared to family physicians or private specialists. Duplication of examinations delays the claims process in cases where the evidence provided by the claimant is sufficient to support a grant of benefits.

Another recurring comment was that adjudicators do not actually consult the laws, regulations, and other legal authorities to make decisions, but rather rely almost totally on standard formats in the computer-assisted rating tool, Rating Board Automation 2000, to make decisions, thereby omitting consideration of pertinent laws and regulations in some instances.

Many of the problems and frustrations within VA can be remedied through effective training. An effective training program requires knowledgeable and experienced instructors who have the time necessary to devote to their jobs. In turn, well-trained adjudicators must have adequate time to thoroughly review evidence and make well-researched and well-reasoned decisions. To ensure accuracy, competent quality reviewers should review a random sample of work from each adjudicator, and remedial training should be imposed when deficiencies are revealed.

Accomplishing these objectives will require adequate resources, which are essential to an efficient and effective benefits delivery system. Adequate resources will allow the VA to

develop a training program to increase the proficiency of existing adjudicators, and bolster VA adjudication staffs to levels that allow for a reasonable amount of time to thoroughly develop and deliberate on compensation claims. The VA cannot overcome the problems it is facing without adequate resources. We urge the Committee to consider the recommendations and funding levels presented in *The Independent Budget (IB)*. The *IB* is an estimation of the needs of veterans in the coming fiscal year, and it is produced via the collective efforts of the DAV, the Veterans of Foreign Wars, the Paralyzed Veterans of America, and AMVETS. The DAV and its fellow veterans' service organizations are cognizant of the high costs associated with veterans' benefits, but these men and women have paid the price. They have served and defended our country honorably and admirably, and we have an obligation to ensure they are not forgotten.

We appreciate the Committee's interest in these issues, and we appreciate the opportunity to present the DAV's views, which we hope will be helpful.