

**STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
THE TRAINING PROVIDED TO VETERANS BENEFITS ADMINISTRATION
CLAIMS ADJUDICATORS AND THE STANDARDS USED TO MEASURE
THEIR PROFICIENCY AND PERFORMANCE**

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Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on the training provided to Veterans Benefits Administration (VBA) claims adjudicators and the standards used to measure their proficiency and performance. We commend the Subcommittee for holding this hearing to discuss these important issues.

TRAINING

Proper mandatory training is a key factor in the quality of Department of Veterans Affairs (VA) regional office rating decisions. The Board of Veterans' Appeals (BVA) combined remand and reversal rate (59.4 percent) of regional office decisions for Fiscal Year 2005 is a direct reflection of the lack of importance placed on training by the VA regional offices. Over the past few years, The American Legion's Quality Review Team has visited almost 40 VA regional offices for the purpose of assessing overall operation. The American Legion reviews recently adjudicated claims and interviews service center staff. Our site visits reveal that, at many regional offices, there have been too few experienced supervisors that could provide trainee adjudicators proper mentoring and quality assurance. In addition, at many stations, ongoing training for the new hires as well as the more experienced staff would be postponed or suspended, so as to focus maximum effort on production.

Although the Under Secretary for Benefits has stated on numerous occasions that training of personnel is a top priority within VBA, the inconsistency in VBA's training approach and in its implementation needs to be thoroughly reviewed and addressed by upper management within the Department. In the experience of The American Legion, the lack of proper training and oversight adversely impacts all areas of VBA. Please note that each of VBA's 57 regional offices appear to have different approaches to training and also differ in the importance placed on training. According to a May 2005 report from the VA Office of the Inspector General (VAOIG) based on a survey of rating veteran service representatives (RVSRs) and decision review offices

(DROs), the respondents expressed positive opinions regarding the quality of their training but indicated that training has not received high priority.

- 57 percent reported the quality of training to be good or very good
- 16 percent reported the quality of training to be poor or very poor
- 45 percent reported that they had received 10 hours or less of formal classroom instruction on rating policies and procedures in the last 12 months.
- 24.1 percent reported that they had received 11-20 hours of formal classroom instruction in the last 12 months.
- 18.0 percent responded that their regional office provides formal classroom instruction on rating policies and procedures once a week.
- 45.6 percent responded that their regional office provides formal classroom instruction on rating policies and procedures once a month.
- 36.4 percent responded that their regional office provides formal classroom instruction on rating policies and procedures once a quarter or less often.

The information obtained in the VAOIG's survey is consistent with what The American Legion has found in talking to service center staff during our quality review site visits. Some stations have regular formalized or structured training programs, while others have training programs that are best described as more informal and sporadic. Some stations have well established and structured training for new employees, but ongoing training for experienced staff is very limited.

We are appreciative of the importance the Under Secretary for Benefits has placed on training of VBA personnel. We are also aware of the centralized training program that has been implemented; however, a national training standard/requirement, in addition to the centralized training conducted by Compensation and Pension Service (C&P), for regional office personnel is also needed. Consistent and standardized training at each regional office must take place for all personnel—experienced and new hires alike. The American Legion believes it is crucial that such a program be implemented and closely monitored for compliance by the Under Secretary for Benefits. Management in stations not in compliance with such training requirements must be held accountable; otherwise any national or centralized training effort will not be successful.

Additionally, The American Legion believes it is essential to proper training that information (reasons for remand or reversal) from BVA decisions, DRO decisions and errors noted in National STAR and other internal quality reviews be tracked and examined for patterns. This information should then be used in mandatory formal training to ensure that common errors and other discrepancies occurring in regional office rating decisions are not repeated. This information should also be used for remedial training purposes when patterns of errors are identified for specific individuals. Although such data is currently being collected and disseminated to the regional offices, it appears that consistent utilization of this data in regular formalized and specific training has been lacking. Unless regional offices (both managers and individual adjudicators) learn from their mistakes and take corrective action, there will continue to be a high rate of improperly adjudicated claims, resulting in a consistently high appeals rate and subsequent high BVA remand/reversal rate of regional office decisions.

PERFORMANCE STANDARDS

The emphasis on production continues to be a driving force in the VA regional office, often taking priority over such things as training and quality assurance. Performance standards of adjudicators and rating specialists are centered on productivity as measured by work credits, known as “End Products”. Both veteran service representatives (VSRs) and rating veteran service representatives (RVSRs) have minimum national productivity requirements that must be met each day. Some stations also set their own standards, based on their claims backlog and other station specific requirements that is over and above the national requirement. Unfortunately, the end product work measurement system essentially pits the interests of the claimant against the needs of VA managers. The conflict is created because the regional offices have a vested interest in adjudicating as many claims as possible in the shortest amount of time. This creates a built-in incentive to take shortcuts so that the End Product can be taken. The system, in effect, rewards regional offices for the gross amount of work they report, not whether the work is done accurately or correctly, often resulting in many claims being prematurely adjudicated. These problems are caused by inadequate development, failure to routinely identify all relevant issues and claims and ratings based on inadequate examinations. Such errors are often overshadowed by the desire of VA managers to claim quick End Product credit. The result has been a traditionally high remand rate by the Board of Veterans’ Appeals (BVA) and the U.S. Court of Appeals for Veterans Claims (CAVC). The BVA’s combined remand and reversal rate (59.4 percent) for Fiscal Year 2005 is arguably a direct reflection of the greater emphasis placed on production over training and quality assurance.

It seems to The American Legion that VBA management has been reluctant to establish a rigorous quality assurance program to avoid exposing the longstanding history of the manipulation of workload data and policies that contribute to poor quality decision-making and the high volume of appeals. VBA’s quality-related problems and the fact that little or no action is being taken to prevent or discourage the taking of premature End Products have been longstanding issues for The American Legion. The current work measurement system, and corresponding performance standards, are used to promote bureaucratic interests of regional office management and VBA rather than protecting and advancing the rights of veterans. The end product work measurement system, as managed by the VA, does not encourage regional office managers to ensure that adjudicators do the “right thing” for veterans the first time. For example, denying a claim three or four times in the course of a year before granting the benefit sought allows for a total of 5 end product work credits to be counted for this one case, rather than promptly granting the benefit and taking only one work credit. In the view of The American Legion, the need for a substantial change in VBA’s work measurement system is long overdue. A more accurate reliable work measurement system would help to ensure better service to veterans. Ultimately, this would require the establishment of a work measurement system that does not allow work credit to be taken until the decision in the claim becomes final, meaning that no further action is permitted by statute whether because the claimant has failed to initiate a timely appeal or because the BVA rendered a final decision.

PROFICIENCY/COMPETENCY

C&P conducted an open book (pilot) job skill certification test for VSRs several years ago in which the pass rate was extremely low (approximately 23 percent). Even more alarming than the low-test scores was the fact that those who took the test had several years of experience in the position and were considered to be proficient.

C&P subsequently finalized its VSR proficiency test and conducted tests in May and August of this year. Employees participating in the testing underwent 20 hours of training prior to taking the test and the success rate (approximately 42 percent) for the May test was much higher than the pilot test. The results for the August test have not been released yet. C&P plans on conducting two VSR tests each year, one in winter and the other in the summer.

The American Legion applauds the new testing program as a step in the right direction but we still have concerns. Although successful completion of the test will be required for promotion or assignment to a rating board, it is not mandatory as a condition of employment in that position. C&P is in the process of developing a test for RVSRs and DROs but a timeline for completion or implementation has not yet been determined. Unfortunately, like the VSR test, the test for RVSRs and DROs will not be mandatory as a condition of employment.

The goal of competency testing is to ensure that an individual in any given position is competent, proficient, and otherwise qualified to perform the duties required of that position. This testing goal will not be achieved if testing is not mandatory or is not provided for all levels or for all positions.

CLOSING

The American Legion realizes that VBA faces many difficult challenges during the upcoming fiscal year. Although we have offered our suggestions and comments, we realize that there is no easy solution and we will continue to work closely with VA to ensure our nation's veterans receive the benefits to which they are entitled. That concludes my testimony. I will be happy to answer any questions.