

**STATEMENT OF**  
**GERALD T. MANAR, DEPUTY DIRECTOR**  
**NATIONAL VETERANS SERVICE**  
**VETERANS OF FOREIGN WARS OF THE UNITED STATES**

**BEFORE THE**

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**  
**SUBCOMMITTEE ON NATIONAL SECURITY, HOMELAND DEFENSE**  
**AND FOREIGN OPERATIONS**  
**UNITED STATES HOUSE OF REPRESENTATIVES**

**WITH RESPECT TO**

**Taking Care of Our Veterans: What is the Department of Veterans Affairs Doing to  
Eliminate the Claims Backlog**

**WASHINGTON, DC**

**July 18, 2012**

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE:

On behalf of the more than 2 million members of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify today on the VBA claims transformation plan within the Veterans Benefits Administration (VBA).

The number of compensation, pension and education claims, award adjustments and appeals currently pending before the Department of Veterans Affairs (VA) totals 2,075,272.<sup>1</sup> The VA will tell you it is something different, but that's the actual number.

There are many "rules" in management, but one of the top rules has to be this: You cannot fix a problem unless you know what it is. One wonders why VBA officials insist that the number of claims it has is only its rating workload. However, the problem is not two million pending

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<sup>1</sup> "Monday Morning Workload Report", Department of Veterans Affairs, July 9, 2012.  
<http://www.vba.va.gov/REPORTS/mmwr/index.asp> This total is the sum of all pending compensation, pension and education actions found on the Final Aggregate spreadsheet. It also includes pending appeals shown for compensation and pension programs since these appeal are under development in the VA regional offices and processing centers. VA officials frequently provide lower numbers when discussing the workload and backlog. References to workload usually refer to pending compensation and pension claims requiring rating action. The pending backlog usually refers to pending rating claims requiring rating action pending longer than 125 days. On July 9, 2012, those numbers were 918,819 and 608,068, respectively. The VFW counts all pending work, including appeals, since these actions must be processed by VBA employees.

claims. The problem is that VA has yet to devise a work process that completes those claims in a timely manner with high quality.

We will discuss our views on VBMS and another transformation initiative shortly; however, to understand the current problems it is important that we first examine some of the reasons for the current backlog of pending claims and appeals.

What we have here is a bipartisan multigenerational mess. It is a uniquely American problem.

The American people, through their elected representatives in Congress, recognize the contributions and sacrifice of the millions of men and women who have served in her armed forces in both war and peace. They have come to understand that as horrific as are some injuries received in combat, as many or more service members are disabled from injuries or disease incurred while preparing for war. As a result of this understanding, Congress created a unique set of programs designed to compensate veterans for their service incurred disabilities, provide benefits to the survivors of those who died as the result of that service and ensure that veterans have opportunities to obtain housing and an education.

The VA disability compensation program is complex. It is the result of legislation dating back to at least the 1930s. It is a program which has been refined and expanded, both legislatively and administratively, throughout its existence. It is often cumbersome and occasionally arcane. However, it has served the needs of veterans, their survivors and the American people for over 80 years.

Today's workload problems didn't happen overnight. In fact, their origins date back decades. In the 1970s the VA agreed to VBA staffing cuts in exchange for a budget which would allow it to place computers in its regional offices for the first time. That the computer system it bought was reportedly obsolete at the time it was installed is, perhaps, more an indictment of purchasing practices than anything else. However, this action set the stage for information technology (IT) miscues and missteps which plagued VA down to the present.

Under both internal and external pressures from the mid-1970s through 2000, VA failed to adequately describe its real workload and consistently underestimated the number of staff needed to process anticipated receipts and its existing backlog of pending claims.<sup>2</sup> This practice, through both Republican and Democratic administrations, abdicated the responsibility of identifying and funding VBA staffing needs to Congress. The result was, until the last decade, significant shortages in critical claims processing FTE in VBA.<sup>3</sup>

In the last decade Congress has authorized substantial increases in FTE. This is a good thing. Unfortunately, no university or trade school prepares students for a job of claims processing. Once hired, VA must train its employees in the laws, regulations, processes and procedures they

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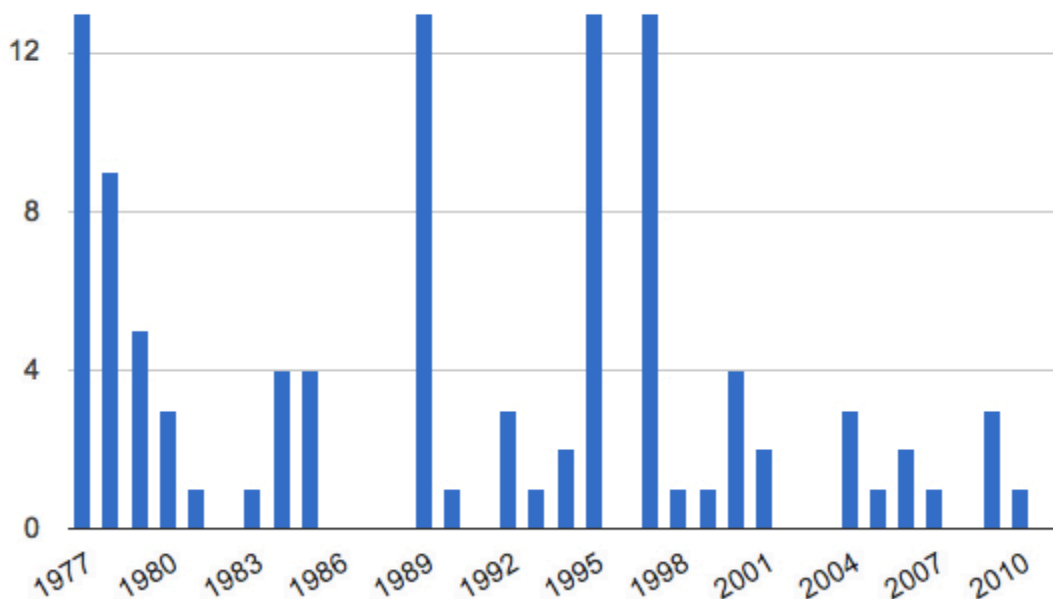
<sup>2</sup> This practice is not confined to VBA staffing levels. Even today, VA repeatedly and substantially underestimates the amount of major and minor construction funds it needs to maintain its extensive medical infrastructure. The Independent Budget, FY 2012. [http://www.independentbudget.org/2012/6\\_new\\_construction.pdf](http://www.independentbudget.org/2012/6_new_construction.pdf)

<sup>3</sup> This was not an insignificant or transient problem. In the 1990's a good rating specialist could complete five (5) or more ratings per day. In a year with 260 workdays, that rating specialist could complete 1,300 ratings. If Congress failed to fund, and VBA failed to staff, just 100 rating specialist positions, 130,000 ratings would not be completed.

must follow in deciding what evidence is needed, whether service connection can be granted, what evaluation to assign and from which effective date. This training takes time and resources. While VBA has streamlined and refined the training process, seeking to make its new employees productive in increasingly shorter periods of time, the truth remains that it takes a year or more for a Veterans Claims Representative (VSR) to learn and mature within their position, and it takes two to three years for a Rating VSR to acquire the skills necessary to make decisions with some speed and with a modicum of quality.

Adequacy of VA budgets was only one of the reasons why VBA is in its current state. Even when Congress passed a budget for VA, it was often months late. The chart, below, shows the number of appropriation bills enacted by October 1st for Congresses from 1977 through 2010. Note that in only four years did Congress complete its work on time. This meant that those departments not blessed with a budget were forced to work under continuing resolutions, often for months. In several years, Congress used continuing resolutions to fund the Executive Branch for the entire year.

**Appropriations bills enacted by October 1st**



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The problem is that during a continuing resolution VBA does not hire personnel to fill vacancies. Even when a budget is finally passed, it routinely takes VA a substantial amount of time to crunch the numbers and allocate staffing ceilings based on the budget. Only then can managers in VA's regional offices begin the process of recruiting, selecting and training new personnel. In those years when there was no budget, there was no hiring. Consider a regional office such as

<sup>4</sup> "Duration of Continuing Resolutions in Recent Years", Congressional Research Service, 2011, [http://assets.opencrs.com/rpts/RL32614\\_20110322.pdf](http://assets.opencrs.com/rpts/RL32614_20110322.pdf)

Los Angeles which, in the 1990s, had a 10-15 percent attrition rate per year. The inability to hire replacement FTE for extended periods contributed substantially to the increases in workload during that decade at that and many VA regional offices. The problems created by these gaps cascaded down through the years. For instance, personnel were often unprepared to assume greater responsibilities when vacancies above them arose because they had not been in their current position long enough.

The administrations and Congresses of the last several decades are not solely responsible for today's workload crisis within VBA. VA and VBA leaders and managers failed time and again to fully recognize and address problems while they were still malleable.

The people not to blame for the current state of affairs at VA are Secretary Shinseki and Under Secretary for Benefits Hickey. On the day Secretary Shinseki took office in 2009, VBA had about 850,000 pending claims and appeals. There were 1,570,000 claims and appeals pending when USB Hickey was sworn in on June 6, 2012.

Each year, since 2009, VBA has completed more claims than it did the year before. However, with hundreds of thousands of men and women returning from a decade of wars in Iraq and Afghanistan, many wounded from both physical and psychological injuries; increased outreach efforts; over 230,000 fresh claims from veterans of the Vietnam war who were exposed to herbicides; and thousands more seeking additional benefits in the worst economic downturn since the Great Depression, to date, VBA has not yet been able to overcome the burdens of its past.

Since Eric Shinseki became Secretary, VA has had a set of goals. Since Allison Hickey became USB, VBA has had a vision. In our view, they are diligently working to overcome the problems of the past and are driving VA forward more rapidly than any Secretary and Under Secretary for Benefits in memory. Congress has given VA the staffing sufficient to defeat the backlog and the administration continues to voice its confidence that VA is turning the corner and is on the road to success.

While we continue to have significant concerns about VBA, we are working with them to identify problems and make adjustments so that in the end veterans and their families receive every benefit to which they are entitled under the law, in a timely manner and with assurance that decisions are correct.

## **VBMS**

Over the last 20 years we have watched VBA struggle to determine how it would modernize its claims processing systems. "Struggle to determine" because VBA has lacked a coherent vision of what a 21st Century claims processing system should be. Lewis Carol, author of *Alice in Wonderland*, is often quoted as saying: "If you don't know where you're going, any road will get you there." To the despair of many of us, VBA started down many roads, only to find that nearly all got them precisely nowhere.

In our view, VBA is still struggling to find its vision. Without a clear vision, an ultimate goal, it advances in fits and starts, making some progress, but often at the cost of wasted time, money and the energy of its people.

In the last year Allison Hickey, Under Secretary for Benefits, has worked hard to bring that vision into focus. Just a year ago this month she called 50 people to a Strategic Planning and Implementation Workshop. Through two grueling, 12- hour days she worked with them to define where VBA should be by 2015. By the end of the workshop they had taken the vision from its murky, ethereal shape and had developed the outline of goals and the start of a plan.

They started the process of paring away the programs and pilots that weren't working. They sought to identify those things that were working but not delivering sufficient value to continue. Then they began to examine which of the remaining initiatives would help them get to their goals, and figure out what was required to further the process.

In all of this there was recognition that VBA could not overhaul its claims processing systems without first overhauling its computer and software infrastructure.

How best to describe the computer systems used by VBA to process claims? Imagine a house first built in the late 1970s. The house was an old design, but because the plans and materials were already out of date the price to build it was considered reasonable. The house was modest at first, and because it was new, its owners thought that it would serve them for many years to come.

Over the next 40 years many rooms were added to the house. The rooms had funny names, such as BIRLS, COVERS, RBA 2000, BDN and MAPD<sup>5</sup>, to name a few. Each room was added at different times. Some doors failed to open onto hallways. Some had central air conditioning while others had none. In some rooms the plumbing worked fine while there were chronic problems in others. Visitors to this house often had to go back outside and enter through a different door just to get to another room. As a consequence of poor planning and design, the house was not very efficient and it was difficult to live in.

This analogy describes the computer systems VA uses today. While it is true that many changes and improvements have been made, the basic foundation on which all these systems are built is inadequate to support a functional claims system. It is slow, inefficient, requires repetitive input and it is difficult to update and repair.

VBMS is VBA's attempt to build a foundation for a new house. It's not just designed to sustain the software programs VBA envisions for the immediate future, it is intended to be sufficiently flexible to allow the addition of programs not yet contemplated.

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<sup>5</sup> Benefits Identification and Records Locator System; Control of Veterans Records System; Rating Board Automation 2000 was an updated version of the original Rating Board Automation program; Benefits Delivery Network; Modern Awards Processing - Development

It is important to understand that VBMS is the foundation. VBMS is designed to facilitate the creation of efficiencies. As such, we do not anticipate that the rollout of VBMS over the next year will initially result in significant improvements in claims processing timeliness or quality. In fact, if history is any guide, the deployment of VBMS will actually slow claims processing during the first six months as software problems are identified and fixes installed.

We do anticipate some efficiencies from the start. For instance, information concerning individual veterans, now scattered in multiple locations requiring separate input, will be stored in one location. Whenever that information is required, VBMS is designed to retrieve that centrally stored data.

For instance, right now a Veterans Service Representative (VSR) must enter a veteran's address in several different programs to ensure that the address is current. Systems do not automatically update. Similarly, a veteran's Power of Attorney (POA) must be entered in different programs to allow access by veterans representatives. With VBMS, a VSR need update the system in one place only and other programs will draw from that central data point to find the most current address or POA.

There has been some discussion of late that the deployment of VBMS may be delayed. There is a fine line between rolling out a new program too soon and delaying rollout too long while seeking to fix all the problems. VBA's initial plans for rapid development and deployment of VBMS were, in our view, unrealistic from the start. It is our understanding that development and testing of VBMS was to be conducted in rapid succession: collect the business requirements in Baltimore for a few months, deploy the first version to Providence for six months, update and deploy the second version to Salt Lake City for six months then roll it out to the other regional offices. To date VBMS is in four regional offices and, we are told, fewer than 800 cases have been processed to completion.

We believe that rolling out VBMS prematurely, before it is fully stressed to identify the majority of issues and problems it contains, is a bad business practice, bad for veterans and bad for morale of an already demoralized VA workforce. Examples are replete in the history of VBA claims processing of what happens when a new software program is deployed before it is ready for prime time.

BIRLS has been a useful tool to aid claims processors for many decades. It contains, among other things, data on veterans' military service. In an effort to clean up and verify the data contained in this program, VBA undertook a project in the 1980s called BIRLS Redesign. This program was rolled out to the field without adequate testing. As a result, tens of thousands of records had to be corrected or updated by hand, costing VBA thousands of man-hours of lost productivity.

In the 1990s VBA developed a program called RBA to assist rating specialists in the completion of rating decisions. In 2000, VBA updated the program and deployed it to the field without sufficient beta testing. As a consequence, creation of rating decisions slowed to a crawl while thousands of VA's most critical decision makers spent months identifying software bugs and struggled with "workarounds" while computer programmers fixed problems.

While it is counterproductive to delay release of a computer program until all the bugs are identified, these two examples are ample evidence of what happens when a new program is inadequately tested and released too soon.

We encourage this Committee to continue its oversight of VBA and VBMS while recognizing that it may be necessary to accept modest delays in deployment of this major initiative in order to avert the negative effects of rolling out a program with defects simply to meet a deadline.

VBMS is just one of many initiatives underway in VBA. A list of Transformation Initiatives<sup>6</sup> on VA's website offers a fascinating, though dated, summary of the dozens of ideas tried, adopted or discarded in a quest to find the most efficient way to develop and decide claims in a timely manner.

Simplified Notification Letters (SNL) is an initiative thoroughly embraced by VBA leadership. An examination of what this initiative does to veterans is illustrative of the mindset of VBA in the last year.

The veteran service organizations first became aware of this project in June 2011 when our service officers in Atlanta notified us of its existence. Initially called Disability Evaluation Narrative Text Tool (DENTT) and later Rating Redesign, a team working in the Atlanta and St. Paul regional offices designed a process which could best be described as "Back to the Future". Instead of creating a time machine in a DeLorean, this team reached back to a simpler pre-VCAA, pre-veterans court era when ratings were simply conclusions with no discussion of the evidence considered, nor the reasons and bases as to why the decisions were made.

Instead, this initiative, now called SNL, required the rating specialist to include a set of codes at the end of the rating. The codes, in turn, were used by VSR's to select standard paragraphs for inclusion in the decision notice letters to veterans. While these standard paragraphs were better written and more understandable than those previously used by VA, they were generic and did not include the minimum information needed by a veteran to decide whether the decision was likely to be correct. With only general information provided by VA, veterans are faced with the choice of blindly accepting the decision or filing a Notice of Disagreement<sup>7</sup> in order to obtain the reasons for the decision.

In September 2011, the VFW conducted an on-site review in Atlanta of rating decisions made under this initiative. After reviewing 60 ratings and accompanying notice letters, we concluded that the quality of the rating decisions was worse than that reported by VA through its STAR quality review program, and that veterans were not receiving adequate notice to satisfy legal and judicial requirements. Local management bragged that production was increased by 40 percent when cases were rated under this initiative.

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<sup>6</sup> <http://benefits.va.gov/TRANSFORMATION/docs/initiatives.asp#i-lab>, November 18, 2011.

<sup>7</sup> A Notice of Disagreement is the first step in the appeal process. Upon receipt, VA is required to review the decision, determine if additional development is required, and a new decision is warranted, if no change is warranted, a Statement of the Case, which provides the reasons and bases, as well as applicable citations of law and regulations supporting the decision, is issued to the appellant. 38 CFR 19.26; 20.201.

Over the ensuing months we continued to complain about the inadequate notice being provided to veterans. To be fair, Under Secretary of Benefits Hickey listened to our concerns and changes have been made in the SNL program in an attempt to address the problems we noted.

Under the most recent changes, rating specialists were given additional instructions on providing sufficient details and discussion to explain their decisions. Restrictions on how much “free text” narrative they could insert in a rating were removed. At the time these changes were implemented in late February 2012, we concluded that if field personnel followed the instructions it would be possible to create barely adequate decisions and notice letters.<sup>8</sup>

Since May 2012, the VFW has conducted a review of SNL ratings and letters from several regional offices. Fifty three (53) percent of the cases reviewed contained errors in either the rating, decision letter or both. There were only a few examples of where claimants were provided what we view as legally adequate notice.

VBA’s apparent inability to compel compliance by rating and authorization personnel with the most recent written directives concerning the SNL program force us to renew our opposition to this initiative. While we understand VBA’s desire to increase production, we believe that this increased output is being done at the expense of veterans’ legal right to know why decisions have been made in their cases. No two veterans, nor their disabilities, are alike. Canned generic paragraphs are not sufficient to tell them why their claims were decided in a particular way. VBA should suspend the SNL program until they can ensure that veterans receive adequate notice as required by law.

Despite our concerns about some elements of the transformation process, we believe that VBA is headed in the right direction, with energetic leaders who have voiced the clearest set of goals and possess the sharpest vision of any VA leadership team in decades. We continue working with VA to help ensure that the rights of veterans are not abridged in order to process claims more quickly. We continue to maintain that it is more important that VA make correct decisions rather than fast wrong decisions.

We urge this Committee to continue its oversight of VBA while it undergoes this journey from a 20<sup>th</sup> century paper bound claims processing system to a 21<sup>st</sup> century model which effectively utilizes IT to create efficiencies, significantly improve quality and complete claims more timely.

Mr. Chairman, this concludes my testimony, and I look forward to any questions you and the Committee may have concerning these issues or other programs or pilots the VA is conducting to improve the claims process

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<sup>8</sup> VA regulations and Federal court decisions make it clear that VA must provide claimants the reasons and bases for the decisions it makes. “Every claimant has the right to written notice of the decision made on his or her claim...” 38 CFR 3.103(a). “Claimants and their representatives are entitled to notice of any decision made by VA affecting the payment of benefits... Such notice shall clearly set forth the decision made, any applicable effective date, the reasons for the decision...” 38 CFR 3.103(b). See also *Gilbert v. Derwinski*, 1 Vet.App. 49, 56-57 (1990) and *Bolton v. Brown*, 8 Vet.App. 185, 191 (1995).



**Information Required by Rule XI2(g)(4) of the House of Representatives**

Pursuant to Rule XI2(g)(4) of the House of Representatives, VFW has not received any federal grants in Fiscal Year 2012, nor has it received any federal grants in the two previous Fiscal Years.

Gerald (Jerry) Manar



**Deputy Director, National Veterans Service  
Veterans of Foreign Wars of the United States**

Gerald T. Manar was appointed Deputy Director, VFW National Veterans Service in January 2006. As Deputy Director, he oversees the day-to-day operations of the National Veterans Service (NVS) staff in Washington, DC. He assists the Director in managing the national network of professional advocates who assist veterans in applying for benefits primarily from the US Department of Veterans Affairs; and he manages the VFW program which helps educate and assist military personnel while they transition to civilian life.

Manar joined the Navy Reserve in 1970 and served on active duty in the Navy from 1971 to 1973. He joined the Veterans Administration (now Department of Veterans Affairs) in 1974 as a Veterans Representative on Campus in Detroit, Michigan, and became a Veterans Claims Examiner a year later. He moved to the VA Regional Office in Seattle, Washington in 1977 and became a legal consultant in 1978 with the Compensation and Pension Service in VA Central Office in Washington. He was appointed to the School Liability Appeals Board in 1979. He won promotion to Assistant Adjudication Officer in Los Angeles in 1984 and Adjudication Officer in 1986. He supervised over 150 employees who served 1.3 million veterans in the Los Angeles region. He returned to Washington, DC, in 1999 as the rating training officer and quality control specialist at the Washington Regional Office. He retired from VA in 2004.

He served as the Appeals Manager for the Military Order of the Purple Heart for nearly two years prior to joining the Veterans of Foreign Wars.

He holds a Bachelor of Science degree from Eastern Michigan University and a Juris Doctor from the Detroit College (now Michigan State School) of Law.

He is a life member of the VFW. He resides with his family in Northern Virginia.

Committee on Oversight and Government Reform  
Witness Disclosure Requirement – “Truth in Testimony”  
Required by House Rule XI, Clause 2(g)(5)

Name: Gerald T. Manar

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1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2009. Include the source and amount of each grant or contract.

NONE

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2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Deputy Director, National Veterans Service for the Veterans of Foreign Wars of the United States. Responsible for overseeing the day-to-day operations of the National Veterans Service staff in Washington, DC, and assisting the Director in managing the national network of professional advocates who assist veterans in applying for benefits primarily from the US Department of Veterans Affairs.

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3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2009, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

NONE

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*I certify that the above information is true and correct.*

Signature:



Date:

7-11-2012

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