

WILLIAM "BO" ROLLINS, DIRECTOR OF FIELD SERVICES, PARALYZED VETERANS
OF AMERICA

STATEMENT OF
WILLIAM "BO" ROLLINS
DIRECTOR OF FIELD SERVICES
PARALYZED VETERANS OF AMERICA
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS,
CONCERNING
IMPROVEMENTS TO THE CLAIMS PROCESS

JULY 9, 2008

Chairman Akaka, Ranking Member Burr, and members of the Committee, on behalf of Paralyzed Veterans of America (PVA) I would like to thank you for the opportunity to testify today on improvements that can be made to the Department of Veterans Affairs (VA) claims process. PVA appreciates the effort being given to updating and modernizing the VA disability system. In fact, we have been very involved with a number of the Commissions that have been charged over the last couple of years-particularly the Veterans' Disability Benefits Commission and the Dole-Shalala Commission-with developing real solutions to the problems facing the Veterans Benefits Administration. We recognize that the claims processing system is in need of change. However, we believe that the current system is a fundamentally good system.

While we generally agree that the claims process takes far too long for many veterans, we do not believe simple quick fixes are the solution to overcoming this problem. As such, we would like to make some recommendations that we believe can improve the entire claims process. We will also briefly address the recommendations of the IBM Claims Processing Improvement Study referenced in the invitation for this hearing. We certainly appreciate the Committee soliciting our views on how to improve a system that so many veterans rely on.

PVA believes that two basic benchmarks must be established when assessing changes to the disability claims system. First and foremost, no current benefit or service for today's veterans should be diminished, including the reduction of resources for those benefits or services, in the interest of change. Second, and no less important, there should be no distinction made between combat and non-combat related disabilities or where the disabling event occurred. PVA views all veterans in the same light and we believe that the current system reflects appropriate priorities.

As Congress and the VA consider implementing changes to the claims process to decrease delays, it is essential that they acknowledge that a certain amount of delay is inherent in the VA adjudication system. The Veterans Benefits Administration (VBA) administers a massive program that handles nearly a million new claims each year. Moreover, these claims are often

very complicated, requiring difficult decisions based on detailed evaluations of medical, legal, and vocational issues. Furthermore, the VBA is a complex organization involving multiple steps at the VA regional offices and at the Board of Veterans' Appeals (Board). And this does not take into account the Court level above the Board. With these thoughts in mind, this should not be interpreted as an excuse for unnecessary delays nor does it mean that real, meaningful improvements cannot be made. In the end, it is important to remember that the claims system is charged with meeting the financial, medical, and vocational needs of the men and women who have served this country honorably, often at great physical and emotional expense.

Paralyzed Veterans of America, along with the co-authors of The Independent Budget, continue to advocate for adequate funding for General Operating Expenses (GOE) in the VA budget, specifically for the VBA. We are particularly pleased with the fact that Congress has appropriated significant increases in funding for VBA over the last couple of years. Likewise, we appreciate the emphasis placed on hiring many new claims adjudication personnel. We have long argued that the only way to give the VA a fighting chance at overcoming the rapidly growing claims backlog is to provide for adequate staffing.

However, it is important to note that simply hiring additional staff is not enough. Equally important is to ensure proper training and accountability of claims adjudication staff at all levels of the process. While it is easy to blame first-line claims staff for improper ratings decisions, much of the blame also has to fall to the management within VBA. Performance measures for all levels of adjudication staff have wrongly focused too much on quantity of claims decided rather than quality.

PVA is also concerned that VBA is not really spending the new funding Congress has provided in the last couple of years in the manner that Congress intended and the veterans service organizations (VSO) desired. Specifically, we believe that VA is spending too much of this new funding on pilot projects and special programs rather than on basic hiring and systemic needs.

We believe that VBA must accelerate the progress toward an electronic claims record system. As long as VA continues to use a paper file shipped around the country, the claims and appeals process will be done in an expensive and antiquated manner. Under the current system, VA staff need the actual claims file to act on claims. In a paperless environment VA staff could act on claims without having to access a claimant's actual claims file. Additionally, transition to a paperless system will permit claims work to be seamlessly transferred to any of VA's regional offices, allowing for quicker decision-making on claims. As demonstrated by the Veterans Health Administration's outstanding electronic medical record system, similar gains in access to records can be realized in the claims and appeals process, as well as significant cost savings as VBA and the BVA move toward a "Virtual VA." We urge Congress to accelerate funding of VA's transition to an electronic claims record.

Recent hearings have demonstrated how far behind the VBA is in using information technology in its claims adjudication process. While we believe that the entire claims process cannot be automated, there are many aspects and steps that certainly can. We have long complained to the VA that it makes no sense for severely disabled veterans to separately apply for the many ancillary benefits to which they are entitled. Their service-connected rating immediately establishes eligibility for such benefits as the Specially Adapted Housing grant, adaptive

automobile equipment, and education benefits. However, they still must file separate application forms to receive these benefits. That makes no sense whatsoever.

Furthermore, certain specific disabilities require an automatic rating under the disability ratings schedule. For example, it does not take a great deal of time and effort to adjudicate a below knee single-leg amputation. An advanced information technology system can determine a benefit award for just such an injury quickly. We believe that it is time for the VA to automate consideration of ancillary benefits and specific ratings disabilities that are generally automatic.

With this thought in mind, we believe that it is essential that VBA expeditiously adjudicate claims that can be adjudicated quickly. By tying into an advanced information technology system, the VA could identify and decide claims that can be granted quickly. We have observed through our national service officers in the field that oftentimes the VA continues to develop evidence in cases where the evidence already developed supports the grant of claimed benefits.

PVA also believes that centralized training better prepares ratings specialists at all levels. Training of rating specialists was historically conducted at the local level by the more senior staff. The VA now provides centralized training at its Veterans Benefits Academy located in Baltimore, Maryland and via the VA intranet. The Compensation and Pension Service also issues Decision Assessment Documents (DAD) in response to Court precedent opinions to inform staff of these decisions. The VA should be lauded for these actions. Furthermore, as we have called for in The Independent Budget, co-authored by PVA, AMVETS, Disabled American Veterans, and the Veterans of Foreign Wars, Congress should fully fund VA's training initiatives. Improved and continued centralized training should help reduce inconsistencies and disparities between Regional Offices and should improve consumer confidence.

Meanwhile, we believe the VBA should use experienced adjudicators to decide initial claims and to prepare Veterans Claims Assistance Act (VCAA) notice letters. Rather than using its most inexperienced adjudication staff to perform initial review of claims, VA should employ more experienced adjudication personnel to review claims to determine what information or evidence each claimant should submit to VA in order to support their claims. After identifying the evidence or information that is needed to substantiate each claim these more experienced VA adjudication personnel should then have the responsibility to prepare and send VCAA notice letters to each claimant advising each claimant of the evidence or information they need to submit to VA in order to substantiate their claims.

It also is important to realize that decisions made on appeal require greater expertise and often involve more complex questions of medicine and law. As such, it takes years to train a competent ratings specialist. Trainees and other adjudications staff with little claims rating experience should simply not be conducting appellate review due to the complexity of these decisions. Increases in staffing today should be seen as an investment in the future. Unfortunately, in the end, staffing issues do not have a quick fix.

With regards to the VCAA notice letters, we believe that there is much room for improvement in their quality and readability. The only individuals impacted by what we deem to be substandard VCAA notice letters are veterans. Current VCAA notice letters issued by the VA tend to be long and contain complicated legal language that most average veterans cannot comprehend. By

simplifying VCAA notice letters, claimants will have less confusion and will have a better understanding of the information and evidence that the VA needs to grant their claims.

We also believe that VA should not be reluctant to issue regulations overruling court opinions that have required the VA to provide unnecessary information in VCAA notice letters. VA often complains that much of the delays that it experiences in developing and adjudicating cases result from Court opinions "interpreting" the nature and content of an adequate VCAA notice letter. Congress should consider amending the law to direct VA to fill in the contours of an adequate VCAA notice letter by regulation.

The VA and veterans' service organizations can also explore opportunities to share resources for training. For example, PVA has prepared a Guide for Special Monthly Compensation (SMC) that has been adopted by the VA for use when training ratings specialists. This information has been included on the VA's intranet. The PVA Guide has also been distributed via BVA Special Monthly Compensation training. PVA staff also interacts with other veterans' service organizations at their training events. Moreover, Congress should require the VA to provide greater access for veterans' service organizations to VA's training modules.

We would also like to make a couple of minor recommendations that could prove particularly beneficial to veterans filing claims. First, we believe VA should establish phone banks that allow veterans/claimants to get their questions answered. The VA should establish these phone banks in each regional office around the country. The phone banks should then be staffed by experienced claims adjudicators who would be responsible for calling claimants concerning their claims and offering advice or suggestions to veterans on the evidence or information that they need to submit in order to substantiate the claim. We believe this could go a long way towards improving the customer relations problem that the Veterans Benefits Administration clearly has when it comes to dealing with veterans filing claims.

The VA should also establish a secure internet web portal where claimants can go to get answers to their questions on their claims. By establishing such a portal, if and when the VA transitions to a paperless claims processing system, claimants will have greater access to information. Moreover, it could provide veterans with some degree of transparency as to what the status of their claims is in the process.

We remain concerned that VA does not readily accept medical statements and medical opinions prepared by private physicians. Congress should enact legislation that requires VA to accept a medical report or a medical opinion provided by a private physician unless VA is able to articulate sound reasons for declining to accept the private medical opinion. Experience seems to suggest that VA adjudicators are disinclined to accept private physician statements or medical opinions simply because the statements or medical opinions are prepared by private physicians and not VA doctors. These actions occur regardless of whether the private physicians' findings are sound. By refusing to credit private medical statements or medical opinions, VA unnecessarily delays adjudication in many claims.

The veterans' service organizations play an active role in assisting veterans through their national service officer programs. As such, in recognition of the professionalism and expertise of the service officers who already work very close with VA staff, we believe certain opportunities to

assist veterans filing claims should be expanded. First, Congress should authorize accredited veterans' service organization representatives to file any type of claim for the veteran without obtaining the veteran's signature. This will allow veterans to access benefits that they may not know are available in an expeditious manner. The VA should also authorize accredited service officers access to VA computer systems to input important data such as updates to personal information. This would relieve VA staff of some of the minutia that accompanies their own job responsibilities. It will also ensure that otherwise critical information impacting the claim filed by a veteran is updated in a timely manner.

We believe that allowing veterans' service organizations to assist injured service members who are still on active duty and who are going through the medical evaluation board process would be a beneficial change. These men and women will ultimately turn to the VA for health care and benefits, and veterans' service organizations are one of the best resources in the transition process. Congress should consider changing the statute to allow for a Power-of-Attorney (POA) to be valid before both the Department of Defense and the VA. Moreover, we believe veterans' service organization national service officers should be granted access to active duty service members preparing for discharge up to six months prior to the discharge. This could certainly expedite the transition process as well as the time it takes for the soon-to-be veteran to receive a ratings decision for a disability claim.

PVA staff also reviewed the recommendations included in the IBM Claims Processing Improvement Study. We generally support all of the recommendations included in the report. However, there is one recommendation that we do not support in the report. Specifically, the IBM report suggests that evidence to support a claim should be filed within 30 days rather than the current 60 days. PVA has provided written comments in response to proposed VA regulations to establish strict time limits on the time to file evidence. PVA wholeheartedly opposes this suggestion. Claimants are not always in a position to obtain and file evidence quickly, whether as a result of health conditions or other circumstances. Moreover, the recommendation of the IBM report and the proposal by the VA seems to ignore the fact that many of the problems with obtaining evidence in a timely manner are not the fault of the veteran at all. We have often waited months simply trying to get a medical opinion from a doctor to include as evidence for a claim. To require a veteran to submit evidence within 30 days is simply unrealistic.

We would also like to recommend that VA consider contracting with IBM to study the Board of Veterans' Appeals (Board). Given the comprehensive scope of recommendations included in the Claims Processing Improvement Study, similar recommendations could certainly benefit the Board. Moreover, we believe that it may be time for Congress to consider decentralizing the operations of the Board of Veterans' Appeals. While we understand why the Board was originally centralized in the Washington, DC area, the benefits of that type of control seem to have passed. The centralized Board has now become a huge bottleneck in the current VA adjudication system causing a rapidly growing case backlog of its own and intolerable delays in administrative appeals. Currently, it takes the Board more than 900 days to decide an administrative appeal. A decentralized Board would likely achieve efficiencies and improve customer satisfaction. At the same time, we realize that decentralization would require the veterans' service organizations to change the way we provide service at this level. But we believe that this is a change worth making.

We also believe Congress should require that members of the Board be Office of Personnel Management (OPM) qualified Administrative Law Judges (ALJ). As ALJs, we believe Board members would be better qualified decision-makers and have the independence currently lacking in how Board members are selected and managed.

PVA would like to make a simple recommendation as it relates to the Court of Appeals for Veterans Claims (Veterans Court). It is a known fact that the Veterans Court is dealing with a heavy caseload. As such, we would recommend that Congress consider increasing the number of Veterans Court judges. Earlier this year, PVA testified in support of legislation-S. 2091-before this Committee that would address this need. We certainly believe that adding two new judges to the Veterans Court could improve its speed and efficiency. However, if two new judges are added to the Court, it is important to ensure that the terms of the first two are appropriately staggered. We believe that one judge should serve for no more than five or seven years and the other judge should serve 10 to 12 years. This will ensure that the first two new judges and all subsequent judges will not leave the Court at the same time.

We would also recommend that Congress take more care to encourage the nomination of judges who have some prior experience in Veterans Law. Similarly, Congress could also ensure that the Veterans Court maintain an experienced and skilled central legal staff that would be in a position to assist newly appointed judges. With skilled legal staff and experienced Veterans Law judges, the transition to a nine-member (or expanded) Veterans Court would be eased.

PVA appreciates the efforts of this Committee to address the difficulties facing the Veterans Benefits Administration as it works to overcome the growing claims backlog. While we understand the desire to improve specific benefits for veterans, it is imperative that the systemic problems with the claims process are addressed. We look forward to working with the Committee to develop meaningful reforms to the claims processing system that do not diminish the benefits provided to the men and women who have served and continue to serve this nation honorably.

Thank you again for the opportunity to testify. I would be happy to answer any questions that you might have.