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IMPLEMENTATION UPDATE: FULLY DEVELOPED CLAIMS

HEARING

BEFORE THE

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

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IMPLEMENTATION UPDATE: FULLY DEVELOPED CLAIMS

Wednesday, September 11, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 3:02 p.m., in Room 334, Cannon House Office Building, Hon. Jon Runyan [Chairman of the Subcommittee] presiding.

Present: Representatives Runyan, Bilirakis, Cook, Titus, O'Rourke, Ruiz, and Negrete McLeod.

OPENING STATEMENT OF CHAIRMAN RUNYAN

Mr. RUNYAN. Good afternoon, everyone, and welcome. This oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs will now come to order.

Before I begin with today's hearing topic, I would like to take a moment to acknowledge the events of today's date 12 years ago, when a series of coordinated terror attacks was launched in New York City and here in Washington, D.C. With New Jersey's Third District in close proximity to New York City, the impact of the September 11th attacks were felt immediately to many of those in my district and across our country. Those wounds are still healing, as many of our Nation's servicemembers and veterans have served post-9/11 in support of the homeland defense in Iraq, Afghanistan, and other overseas operations.

On the anniversary of September 11th, and every day, we must all appreciate and remember what American veterans have done to secure our freedoms. I know the Ranking Member, Ms. Titus, and other Members of the DAMA Subcommittee share my commitment to ensuring that every hearing we hold addresses the important issues concerning those who have bravely served our Nation. And that is why we are here today to focus on the fully developed claims process, or FDC, to look at this as an avenue to speed up the claims process for our veterans. And FDC is an optional program through the Veterans Benefits Administration that allows veterans to receive a faster decision on their claim by certifying that all relevant records are in their possession and have been obtained and submitted rather than just filing the claim and having VA perform this development.

In addition, Congress passed a law last year that went into effect August 6, 2013, allowing claimants to receive up to 1 year of retroactive benefits as an incentive for filing an FDC. In order to increase awareness for these incentives, VA has partnered with var-

ious Veterans Service Organizations, and many of whom are here today to testify about their outreach efforts and experience with the FDC program.

However, this Committee will always remain vigilant in its oversight of this and all other new VA incentives. It is critical to ensure that the program is truly helping veterans receive more timely and accurate benefit decisions rather than just looking for ways to shift VA's workload.

With that, I would like to welcome our witnesses and thank you all for being here today. Our first panel will consist of Mr. Thomas Murphy, Director of Compensation Service with the Department of Veterans Affairs. Our second panel will consist of several VSOs, including Ms. Verna Jones, Director of Veterans Affairs and Rehabilitation Commission for the American Legion; Mr. Steven Wolf, Assistant National Service Director for the Disabled American Veterans; and Ms. Diane Zumatto, the National Legislative Director for AMVETS; and Mr. W. Clyde Marsh, the President of the National Association of State Directors of Veterans Affairs. We also have several statements for the record that have been submitted from various organizations, and I would like to thank all of those who submitted them for today's hearing.

With those instructions complete, I am eager to hear from all of our witnesses on the implementation of the FDC process. And I would now yield to our Ranking Member, Ms. Titus, for her opening statement.

[THE PREPARED STATEMENT OF CHAIRMAN RUNYAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. DINA TITUS

Ms. TITUS. Well, thank you, Mr. Chairman. And thank you for those remarks about the anniversary of September 11th, something that we can't say often enough. And thank you for holding this hearing. I think it is a very important topic.

You mentioned the much discussed backlog. And I am happy to report and give credit where credit is due that the VA has reduced the claims inventory by nearly 150,000 veterans in pretty short order. Nearly all the claims that have been pending for over 2 years have been processed, and the VA is working hard to eliminate all those claims pending over 1 year by the end of 2013.

Also, the VA has rolled out its electronic processing system in all 56 VA regional offices. That was done earlier this summer, and ahead of schedule, to attempt to get rid of all the piles of paper that we have used in the past. We know, though, that there is no quick fix, and there is still a lot that needs to be done to address the backlog. There are still 437,000-some claims that have been pending for over 125 days as of September 9th, so we have got work to do. There are over 5,000 that have been pending for that long in the State of Nevada alone, and this is just too many. One is too many, but this is certainly too many.

The recent dip in the backlog has been the culmination of more than 4 years of effort and planning by the VA, and it is a direct result of a number of the initiatives that have been introduced within the VA's transformation plan. And today, another program

in this plan is the one that we will be discussing, as you talked about, the fully developed claims, FDC initiative, and the 1-year look back for benefits for those who file claims in this way that took effect on August the 6th. The fully developed claims initiative establishes a method for veterans, with the help of their advocates and many of you in this room in the service organizations, and the DoD, to gather records and provide all the necessary evidence that you need for processing a claim. And the average that we have heard is today the VA is able to adjudicate those claims in about 123 days, which should help a lot to lower the backlog in that, because that is much more quickly than the old way of doing those things.

So I want to commend the efforts of all our VSOs who have been helping with this, American Legion, Disabled American Veterans, National Association of State Directors of Veterans Affairs. Without your help and your close partnership with the VA, I don't think this initiative would have been possible.

Over the August recess, I held a meeting and a training session in District One in Las Vegas with the local VSOs and the director of the Reno office and a training officer to have a personal connection to try to show how to make this work better, how to get the word out, how to communicate with veterans what they need, and I think it was a very successful session. They said they appreciated the one-on-one connection as opposed to just a computer training. And so, I would encourage Members of this Committee and all Members of Congress to reach out to their local VSOs to have similar events and promote this effort.

I also want to thank my friend from Texas, Mr. O'Rourke, who has introduced legislation to help educate veterans about this initiative to make it work better. So I hope we will be considering that in short order.

I remain, with the Chairman, committed to working with the VA and the VSOs, to always improve the care and services that our veterans deserve and to get them to them in a timely manner. So I am optimistic about this new initiative and hope that it will contribute to that goal.

So thank you, Mr. Chairman. I will yield back.

[THE PREPARED STATEMENT OF HON. DINA TITUS APPEARS IN THE APPENDIX]

Mr. RUNYAN. I thank the gentlelady. And at this time, I would like to welcome our first panel and our first witness, Mr. Thomas Murphy, who is the director of compensation service with the Veterans Benefits Administration of the Department of VA.

Your complete and written statement will be entered into the hearing record. And, Mr. Murphy, you are now recognized for 5 minutes for your oral testimony.

STATEMENT OF THOMAS MURPHY, DIRECTOR, COMPENSATION SERVICE VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. MURPHY. Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Department of Veterans Affairs' Fully Developed Claim program. Claims are consid-

ered to be fully developed when a veteran submits a VA form 21-526EZ in either paper or electronic format, as well as, one, all available supporting evidence such as private treatment records; two, notification to VA of any relevant Federal treatment records; and three, they certify they have nothing further to give to VA regarding the claim. FDCs are essential to achieving VA's goal of completing claims within 125 days at 98 percent accuracy in 2015. This is the fastest way to receive a decision on a claim because all evidence needed from the veteran is submitted with the claim.

As of August 30, VA completes FDCs in an average of 123 days. This is less than half the time it takes to go through the traditional process. When a veteran submits evidence with his or her claim, it significantly reduces the amount of time VA spends on it. While some development may still be necessary, such as obtaining Federal records or providing examinations, FDCs eliminate the need for VA to search for evidence. The time saved in this critical step translates directly to reducing processing time, benefiting both the veteran and the VA.

VA is continuing to implement several people, process, and technology initiatives, including FDCs, to meet the department's goal. As of August 31, these efforts have reduced the backlog to about 460,000 claims, a nearly 25 percent reduction off of its peak in March of 2013. VA is required to assist the veteran with substantiating a claim for compensation or other benefits. This is known as duty-to-assist and a duty-to-notify. These duties are met through the veteran's use of the VA form 21-526EZ and the submission of all supporting evidence.

There are circumstances that affect VA's ability to process an FDC in an expedited manner, causing VA to exclude these claims from the program. These reasons include a claim or appeal which is already pending on behalf of the veteran, the wrong form is used, the form isn't signed when submitted, a veteran submits additional evidence after filing the fully developed claim, VA must obtain evidence from a non-Federal source, or a veteran misses or reschedules medical examinations. Through better outreach and training, we have reduced the exclusion rate from about 25 percent at the beginning of this fiscal year to less than 13 percent today.

VA is aggressively pursuing expansion of the FDC program and has conducted a number of outreach initiatives to encourage participation. FDC webinars have been held for claimants interested in the program, and we have advertised it through press releases, social media, and at all VA facilities nationwide. VA has also distributed an FDC toolkit to every congressional office that contains information for inclusion on Web pages and in correspondence with constituents.

VA continues to rely on our VSO partners in spreading the message about fully developed claims. We partnered with the American Legion, Disabled American Veterans, and the National Association of State Directors of Veterans Affairs in order to form the community of practice. VA's community of practice partners are helping to identify best practices in the FDC program, so they can be shared nationwide. In addition, each VA regional office is conducting an FDC workshop for Veterans Service Organizations and other partners. It is designed to ensure all stakeholders understand

the importance of this program. Some of your staffers have attended these workshops.

Community practice partners are committed to increasing the numbers of FDCs they file on behalf of veterans that they represent. In each case, the organization indicates a commitment to supporting FDC submissions. In some cases, it is providing appropriate training, and in others, it is a higher percentage of submissions. Some State Departments of Veterans Affairs, like California and Texas, are even hiring additional staff.

Through these efforts by VA and our VSO partners, we have already received over 148,000 fully developed claims so far this fiscal year. This represents almost 15 percent of receipts. So far this last quarter, almost 25 percent of claims submitted are through the FDC process. Public Law 112-154 provided the authority to grant 1 year of retroactive compensation benefits for veterans who file an original claim that is fully developed and received between August 6, 2013, and August 5, 2015. Interim guidance was issued on August 2. It instructed regional offices on the requirements for granting retroactive benefits while the regulations are being developed.

The fully developed program is a key component of VA's transformation plan, but VA continues to prioritize other specific categories of claims, including claims of seriously wounded, ill, and injured, Medal of Honor recipients, former prisoners of war, homeless veterans, terminally ill, and those experiencing extreme financial hardship. Our partners and advocates have fully embraced the FDC program and have made commitments accordingly. VA continues to reach out and educate all on the fastest way to receive a decision.

This concludes my statement, Mr. Chairman. I would be happy to answer any questions you or other Members of the Subcommittee may have.

[THE PREPARED STATEMENT OF THOMAS MURPHY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Murphy. And I will begin with a few questions. The first thing that really enters my mind, the dual process. Are there two different job descriptions for a developer and a rater, or are they done by similar or the same people?

Mr. MURPHY. There is an RVSR rater and there is a VSR developer, and they are distinct job descriptions.

Mr. RUNYAN. Going the next step, noting that the average processing time for RFDCs is 123 days, and if this is the fastest way to process the claim, is it feasible for VA to process all claims, including non-FDCs, in 125 days before the 2015 deadline?

Mr. MURPHY. Yes, it is. There is a multitude of moving parts here that all add up to all claims processed in 2015 in less than 125 days. FDC is one arrow in the quiver, I guess would be the way to put it. So, yes, it is possible.

Mr. RUNYAN. But here is my hangup on that, because when you say processing of an FDC is 123 days, that is already saying that the VSOs already did the development on that case. You are not combining the numbers here. When you look at it, if a veteran sends you a claim that is not fully developed, you could be up in your 300-day range mark, correct?

Mr. MURPHY. If they send one that is not fully developed?

Mr. RUNYAN. Yes.

Mr. MURPHY. Yes, it can be in that 300-day range mark.

Mr. RUNYAN. I talk about this all the time where we kind of play a shell game, I think, sometimes with the metrics. The actual rating of the claim isn't sped up any faster, correct?

Mr. MURPHY. In the fully developed claim the actual rating time on the claim, yes—

Mr. RUNYAN. The only statistic I see it happens 2 days faster than a non-FDC at the rating mark.

Mr. MURPHY. From the ready-for-decision phase to the time that it is promulgated stays the same, regardless if it is a fully developed claim or not.

Mr. RUNYAN. Okay. You note in your written testimony that developing a claim takes an average of 128 days. That is what we were kind of talking about. If the existing current law remains as is, how is the VA planning to improve the development process? Are you trying to push everyone to FDCs?

Mr. MURPHY. Okay. The development process is reduced in the fully developed claim because when you lay out, there runs, depending on the veteran, anywheres from 4 to as many as 10 parallel paths for development. If I am coming on a fully developed claim on a veteran that already has a service-connection, they are looking for a straight claim for increase, I already have that veteran's service records, I already have their personnel records, I already have their VA medical records, and I simply need any private medical evidence that the veteran wishes to submit, and in some cases a VA examination, which I can do fairly quickly. And that saving of that time, not having to send notices back and forth, and meaning specifically VCAA notices or requests for information from private physicians, all of that translates into faster processing time, and it just reduces that 128-day average down.

Mr. RUNYAN. On the development end of it.

Mr. MURPHY. Exactly.

Mr. RUNYAN. And then next thing I want to touch on is some of your partnerships, and just asking you to provide some details with those partnerships. Recently, the VA and the American Bar Association announced a partnership that would provide pro bono attorneys to assist on pending claims and basically develop FDCs on behalf of unrepresented veterans. Could you provide any details on how that partnership is moving forward?

Mr. MURPHY. We are doing a pilot to see how well this process will work in two regional offices with a select number of cases in conjunction with the American Bar Association. And it is only the piloted with unrepresented veterans, meaning they do not have a POA, a VSO at this time. The veteran is being contacted through mail and being offered this option. They have to select into the process, in which case we will refer them to the American Bar Association office, who will put them in contact with an attorney that is willing to do some pro bono work on behalf of that veteran. Once we see the results of how that pilot works, we will determine is there a benefit and how we would move it out on the bigger scale.

Mr. RUNYAN. And are there any of them in the pipeline?

Mr. MURPHY. We just started the process. We are just a few weeks into it at this point.

Mr. RUNYAN. Thus far going well?

Mr. MURPHY. Thus far, no.

Mr. RUNYAN. Okay. Likewise, the VA just partnered with the College of William and Mary Law School Veterans Law Clinic to identify best practices in the FDC program. Could you provide any details on that partnership?

Mr. MURPHY. The College of William and Mary signed up as part of the community of practice in helping with the veterans at that school and others to, again, develop claims much like the American Bar Association has signed on to do with us.

Mr. RUNYAN. Have they brought any of those best practices that you have noticed to the table that have helped the process?

Mr. MURPHY. I don't have any knowledge of that yet. I am not saying that it hasn't happened. I am just saying that I haven't been involved with that to that degree where I can give you an answer to that one.

Mr. RUNYAN. If you find some, would you please forward them to me?

Mr. MURPHY. I would be happy to.

Mr. RUNYAN. With that, I will yield to the Ranking Member, Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

I would just like to look a little more closely at the numbers, because sometimes when you give us national numbers, that mask problems that may exist at regional offices. Do you have the metrics for Reno, which is the office that serves my district in Las Vegas, and the other regional offices? And do you see any patterns or have any notion of the buy-in from the different offices, what makes one more successful than another, what we might do to help those that aren't being as successful?

Mr. MURPHY. Yes. Let's start with Reno. It has been approximately, rounding up, approximately 1,600 claims submitted through the fully developed claim process in Reno. Represents 23, 24 percent of the claims received in the State. That puts Reno in one of the top 10 performing offices in terms of FDC submissions for this fiscal year so far.

The other part of your question was, do we have that for all offices? Yes, we do. We track it in great detail. We share that information with the Veterans Service Organizations, with the State directors, with the county veterans service officers. And the reason we do that is, the third part of your question was, what is effective and how does it work and how do you get better numbers? And the answer is direct involvement through the national, the State, and the county veterans service officers in partnership with the regional office and the staff in that regional office.

Seventy percent of our veterans that come through and submit claims are represented by a power of attorney. So having those power of attorneys buy into the process the way we are doing through the community of practice and other events is absolutely critical to the success of this program. And if you go back and look at the numbers, first quarter of the fiscal year, we brought approximately 5.1, 5.2 percent of the claims in through the fully developed

claim process. As of this quarter, we are at 24-point-something, rounded up to 25 percent. And that is in small part the VA, but it is primarily in part because the Veterans Service Organizations have stepped up and said this is the best way to take care of veterans, let's drive this program.

Ms. TITUS. That is great. You also mentioned some of the things that will keep a claim from being assessed as fully developed, the wrong information or adding information. Do veterans know ahead of time what is really required of them? And if they make a mistake do they have an option to appeal or are they just thrown out of the system? Are they aware of that going into the process?

Mr. MURPHY. Let me take it from a little bit bigger picture and dig down. Okay?

Ms. TITUS. Okay.

Mr. MURPHY. I need veterans coming in through the fully developed claim process. It makes me more efficient, it makes me put through more claims with the same number of people. So right off the bat, I need to get that number down to a single digit percentage and as low, close to zero, as I possibly can do that. So I need an inclusionary process here.

We are constantly looking at our Web site, explaining to people if you come in through the electronic environment, I can steer you where I need you to go because I can steer the questions you see and the screens that you do. So I can reduce that rate of claims that are rejected. In the paper process, which veterans still have the option to do, the veteran can complete as much or as little as they choose to do on that form. And that is going to dictate whether or not I can put that claim into the fully developed claim process.

So our best tool against that one is the veteran files the claim using their power of attorney, and I have well-educated Veterans Service Organizations at every level in the organization talking to veterans to make sure that they complete that paper process in the best environment. At the same time, we have given the Veterans Service Organizations tools to allow them to come in through the stakeholder entry portal and complete that fully developed claim electronically on behalf of the veteran.

Ms. TITUS. Well, if they are rejected in the program is there an appeal? Can they try it again? Too bad? How does that work?

Mr. MURPHY. I don't believe we have an appeal process in place on a claim that is removed from the fully developed claim process. Now, just because a claim is removed from the fully developed claim process doesn't mean that, oh, we are going to put you over here and you are on the 280-day track. Okay. I inject a claim into the process at the furthest step that I possibly can, given the development that is needed. So if you didn't sign the form but you have given me all of the evidence that you need, I return the form to you, you sign it, it comes back, it has all the evidence, and it steps into the process at the right step and moves forward from there. So it is not—

Ms. TITUS. You are not back at ground zero.

Mr. MURPHY. Exactly. We take the claim when submitted and put it in the furthest step in process we can given the information contained in that claim.

Ms. TITUS. Okay. Thank you, Mr. Chairman. I yield back.

Mr. RUNYAN. I thank the gentlelady. And before I recognize Mr. Cook, I want to get one question in.

Have you seen an increased number in the FDCs as a result of the 1-year early effective date on the provision that was effective August 6, 2013? Have you seen an increase in the filings?

Mr. MURPHY. We are seeing an increase every week because of multiple efforts going on here. To come back and attribute it to specifically how much is attributable to that 1 year, I don't have that number for you.

Mr. RUNYAN. Okay. With that, Mr. Cook.

Mr. COOK. If I could yield to Mr. O'Rourke.

Mr. RUNYAN. Mr. O'Rourke is recognized.

Mr. O'ROURKE. Thank you, Mr. Chairman. And I want to thank Mr. Cook for yielding. And I think we have a shared interest in the line of questioning I will start with, and hopefully Mr. Cook will follow up.

But the average wait time to hear back on a service-connected disability claim in El Paso, which is served out of the Waco regional office, and actually for all communities in Texas served out of Waco, is now 463 days. In our district office in El Paso, Texas, we are handling hundreds of constituent issues. We are the largest binational community in the world. So you can imagine the number of visa and immigration issues. A lot of Social Security, Medicaid, Medicare. But all of those are trumped by the number of disability claim cases for which we become the primary advocate for the veteran in El Paso.

I have had grown men call me in tears because they have been waiting for years to hear back on a service-connected disability claim. They are injured because of their service to this country. They can no longer work, meet their mortgage obligations. Their home is being taken by the bank. They can't provide for their families. And they can't get a straight answer, yes or no, from the government.

I had a chance to go to Waco to see some of the issues firsthand. I saw one veteran's case being wheeled around on a hand truck to be boxed, sent somewhere else to be scanned, sent somewhere else again to be stored in a warehouse. You have outlined some of the reasons why filing a fully developed claim and filing one online makes a lot of sense for you all. You said, I can do more work, process more claims without hiring more people.

And in a time of sequester, where we are unlikely to see greater public resources to meet the demands of the veterans in our communities and we are expected to do more with less in government, why are you not supportive of the Faster Filing Act, which passed unanimously out of this Subcommittee and out of the Full Veterans' Affairs Committee, which would help the veteran—and by extension help you—to make the best decision for their interests in getting a response back in a period of under 125 days, or maybe even under 100 days if they file it online, would save you money, would allow them a year's worth of retroactive benefits, and makes a ton of common sense and follows some of the things that you are doing already?

And for those who don't know, the Faster Filing Act requires the VA to alert a veteran to the fastest and slowest way to process that claim. The fastest is a fully developed claim filed online. The slowest is one that is not fully developed that is filed in a paper format.

We are just asking the VA in this bill to provide that information to the veteran. He will make the best decision in his or her best interests. It will likely be the best decision for your interests in managing your operations and getting that wait time and total backlog inventory down. And yet when we asked for you to adopt these as administrative procedures, we got a letter back yesterday from Secretary Shinseki claiming that this would place a significant administrative burden on the agency, it would impose difficulties. In essence, it is just too much trouble for you all to do this.

We are trying to get to the same place. We are trying to provide the information to the veteran so they can get an answer quickly. Why won't you support us in this?

Mr. MURPHY. I believe one of the comments the Secretary put in that letter was that we support the bill in concept, but there is some administrative burden in there which will detract from the processing of claims and divert resources from processing claims in order to do that. And I think that in concept with what you have in the bill we like what is there, but we would love the opportunity to sit down, have some conversations about where we see those administrative burdens and how we can get what we see as beneficial to VA and the veteran, and limit some of those administrative burdens that we are talking about here.

Mr. O'ROURKE. I may be able to understand that it might require a little bit of work up front. I think your even short and certainly medium and long-term gains would recoup that initial investment and cost many, many, many times over for you. And for the veteran to know up front that I am going to get an answer back in less than 123 days if I go this way, but I am likely to wait in Waco 463 days, or whatever it is at that time, if I go the other way, they will make the best decision. It just makes so much obvious sense to me that, frankly, I can't understand your answer. I think it is why this has been endorsed by the IAVA, it has been endorsed by the American Legion, it is strongly supported by other Veterans Service Organizations.

I wish you had given us your feedback and concerns prior to this passing out of the Subcommittee, the Full Committee. It is going to go to the floor of the House. I hope that it passes. It is endorsed on a bipartisan basis. I wish you would work with us instead of working against us on this one.

And, Mr. Chair, I will yield back.

Mr. RUNYAN. The gentleman's time from California is expired. If the gentleman from Texas would like his 5 minutes now, he is recognized.

Mr. O'ROURKE. I will yield to the gentleman from California.

Mr. RUNYAN. The gentleman from California is recognized.

Mr. COOK. Thank you very much, Mr. Chair.

Obviously, I share Mr. O'Rourke's concern. We had sent a letter, I cosigned that. And I got to be honest with you, to get it back the day before the night of the hearing, where you are trying to be prepared and ask the pertinent questions, I wasn't too happy. And I

know you are busy, we are all busy. But the rationale, I think we worked on this because we wanted the claimant to have more information.

And a lot of the people are very, very confused about the process. I have gone through this. I am confused. And I am sorry, first of all, just the culture of answering. Everybody talks in acronyms. And maybe I understand most of them and everything like that. And we have got to stop using the acronyms. And I will get on my high horse and I will say the same thing over and over again, don't use terms that lawyers use, and problematic, and just be very, very straight with the veterans. That is the environment that they have operated in. I think they want to know the straight scoop.

And, you know, I am just a dumb marine, and I always go by the old principle, the KISS principle. Maybe it was invented for me specifically. Keep it simple, stupid. And just to get that information out there. And I think oftentimes, when it is user friendly and they understand some of the problems and the delays and everything that is going on there, wouldn't be this perception that the VA is the enemy.

Most of the things that I deal with in my district are veterans, and some of them are not happy. And I am sure you do a lot of great good. We are always trying to take care of those ones that something is wrong. And it is tough. And I think the purpose of the bill was right on target about trying to make sure that we made it simpler, that they would know exactly what is going on. And, you know, I read the second page here, and I was a little miffed at it. And it is like, basically, you know, we got an admin burden, we are too busy, sorry about that, try again next year. And that was just my take on it.

And I have said repeatedly, you know, some of these I think you are making tremendous progress. I think the fact that more and more people are filing claims. It is very, very difficult. And I understand that. But I always go back to the bottom line. I don't understand a lot of things that you do, and I apologize for that. But I always learned that I always try and take care of my troops. So if it is easier to understand what is going on and what they have to do without the acronyms, then I am going to support something like that. So if you could address that.

Mr. MURPHY. I got to break the comments on the bill into two halves. One of them is about providing information to a veteran. We are already programming our Web site, based on your letter to the Secretary and other information from others, to include that information on the Web site and make it publicly available. The objection is not about providing information to veterans about the performance of the fully developed claim and what is the fastest way to put a claim through the process. It is about the administrative burden of providing notices and signatures on the part of the veteran. And it turns into what came out of the VCAA with the duty-to-notify process. And it can have an unintended second-level consequence of slowing the claim process down. That is the part of this bill that we want to avoid.

Mr. COOK. VCAA.

Mr. MURPHY. The Veterans Claims Assistance Act, where we have to notify a veteran of what it takes to submit a claim and what it takes to adjudicate a claim.

Mr. COOK. Okay. You know, I think Congressman O'Rourke's comment about working together, I don't know whether we could sit down and explain our concerns. I think we are all trying to do the same thing. And maybe if we could get there, where we go through this, then maybe we could have a consensus on how to accomplish that. I would be willing to do that.

Mr. MURPHY. I agree, Congressman Cook. I think we are just trying to work out a few of the details to accomplish the very same thing. Information in the hands of a veteran makes the veteran do an informed decision, and it will get them more involved in my process, which makes me faster. It is not a bad thing.

Mr. COOK. Okay. Thank you.

Mr. RUNYAN. I thank the gentleman.

With that, I recognize the gentlelady from California now Ms. Negrete McLeod.

No questions?

With that, I recognize the gentleman from Florida, Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I appreciate it.

And I was reading the testimony of the PVA, and they have a concern, and I am going to ask the question for the gentleman, my concern as well. It says, "Another key concern relates to the potential erosion of due process should a veteran disagree with an FDC decision or desire to add evidence later that supports a higher rating. By agreeing to submit an FDC, claimants essentially waive their rights to contest the decision in exchange for a faster decision." Do you have any comments on that, sir?

Mr. MURPHY. The veteran is not waiving any rights. They are opting into a process which can help accelerate it faster. But the veteran at any time, if they believe they have other evidence which can result in a higher award, can submit that evidence, any time in the process can submit that evidence. In addition to that, if the decision is already made, they can file a new claim or go back in and open an old existing claim.

So this is not meant to be an exclusionary "I am going to do this and I am only allowed to go this path forever." This is at the veteran's discretion to have the ability to include the evidence they want submitted and participate in this process. In return for that, they help us get to a faster decision, resulting in a faster decision on their claim.

Mr. BILIRAKIS. Are you willing to meet with the PVA with regard to this concern?

Mr. MURPHY. Absolutely.

Mr. BILIRAKIS. All right. Very good.

All the other questions, most of the questions were asked, Mr. Chairman. Thank you very much for holding this hearing. I yield back.

Mr. RUNYAN. I thank the gentleman.

With that, I will recognize the gentleman from California Mr. Ruiz.

Mr. RUIZ. I have no questions.

Mr. RUNYAN. No questions?

Any other Members have any further questions? No?

Mr. Murphy, on behalf of the Subcommittee, I thank you for your testimony today, look forward to continuing to work with you on these important matters. And you are excused.

At this time, I would like to welcome our second panel to the witness table. First we will hear from Ms. Verna Jones, Director of Veterans Affairs and Rehabilitation Commission for the American Legion. And second we will hear from Mr. Steven Wolf, the Assistant National Service Director for the Disabled American Veterans. Next we will hear from Ms. Diane Zumatto, the National Legislative Director for AMVETS. And finally we will hear from Mr. W. Clyde Marsh, President of National Association of State Directors of Veterans Affairs. Your complete and written statements will be entered into the hearing record.

And, Ms. Jones, I will recognize you now for 5 minutes for your testimony.

STATEMENTS OF VERNA JONES, DIRECTOR, VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION; STEVEN WOLF, ASSISTANT NATIONAL SERVICE DIRECTOR, DISABLED AMERICAN VETERANS; DIANE M. ZUMATTO, NATIONAL LEGISLATIVE DIRECTOR, AMVETS; AND W. CLYDE MARSH, PRESIDENT, NATIONAL ASSOCIATION OF STATE DIRECTORS OF VETERANS AFFAIRS

STATEMENT OF VERNA JONES

Ms. JONES. Thank you. Good afternoon, Chairman Runyan, Ranking Member Titus, and Members of the Committee. Thank you for inviting the American Legion to testify today about the Fully Developed Claims program. I am excited about this Fully Developed Claims program because we, the American Legion, have been deeply involved since the beginning, and we are finding that this program can be a great example of what happens when all the players—the veterans, the VSOs, Congress, and the VA—all work together to get things done. When everyone works together, it is the veteran who wins.

There was a lot of initial resistance about the FDC program. People had the mindset that, isn't this just making the VSOs do the work of the VA? Isn't this putting too much of a burden on the veteran? That is not how it works. Our service officers are already trained to put together as much of the information up front for every claim for VA, for every veteran that they work on. They are doing the same work that we have always done, but now the VA is moving faster and the veteran has a hand in the processing of their claim. When the VA gets this claim, they can do a better job because they have everything they know the veteran wants to give to them, and they know the claim is in good order.

We have been studying this intensively for almost a year now, and we have conducted some week-long visits. We did eight visits, and we did visit Reno as well. We went to eight regional offices to see how the process was working and see how it was working out in the field. We are finding that what works is when everyone buys into this process. But it has to be buy-in on both sides of the street. If the VA leadership in an office does not believe in the program,

then you are not going to see as much success as the offices where VA leadership buys into the program.

And by the same token, we have had to do a lot of work with our own service offices. We went out to those regional offices, we talked to our American Legion service officers, we looked at the FDC claims, and we found training opportunities to make sure that we were giving the VA a better quality product to work with.

I have seen what we can accomplish when we do this right. Veterans are getting decisions in less than 125 days. We have seen out in different offices, where they get them in 90 days, 60 days, and a few even 30 days from the time they submit it to the time that the claim was adjudicated.

We are working hard to commit our service offices to this program because it gets better results for veterans. And we are hoping that VA is making the same push to their leadership to get more consistent results from all the offices. In offices like Indianapolis, it took buy-in from all levels, from the RO director down to the employees and to the American Legion service officers and the other service organizations. They were ultimately so successful that they had to add additional lanes for the program. And even at that high volume, they continue to turn out better results for the veterans.

Offices where you didn't really see the buy-in, we were disappointed in Baltimore, which could use some help in dealing with the backlog. Baltimore was aggressively excluding veterans from the FDC program. That is what we found during our FDC visits. An example is, in Baltimore they had a veteran, they spent more time trying to exclude a Pentagon 9/11 veteran out of the FDC program than the time it would have taken to adjudicate that claim.

We have to start with the basic question, is this going to help the veteran? With FDC, we believe the answer is yes. There are some things that they can do to make it better. For example, work with the National Guard and Reserve veterans in this program. The last decade has certainly shown the men and women of the National Guard and Reserves are just as involved in defending this Nation as the active duty troops. We should be working to make sure they don't get left out.

When we see how effective this can be and how great the turnaround results are for the veterans who qualify, it can take away the pressure and some of the resources needed to work on the claims of the veterans who don't qualify for this program. We realize this has to be an important part of turning around the backlog.

Thank you again for putting the focus on this program. It is important with oversight to see not only what doesn't work, but the things that are working so we can highlight the way forward. I will be happy to answer any questions that you may have for me.

[THE PREPARED STATEMENT OF VERNA JONES APPEARS IN THE APPENDIX]

Mr. RUNYAN. I thank you, Ms. Jones.

With that, I will recognize Mr. Wolf for his testimony.

STATEMENT OF STEVEN WOLF

Mr. WOLF. Chairman Runyan, Ranking Member Titus, and Members of the Subcommittee, thank you for inviting DAV to testify on

VBA's Fully Developed Claims program so that we can share some of our observations and recommendations. After working 10 years in the field, and recently accepting my position in Washington, D.C., earlier this month, I never thought I would be here testifying even before my boxes have been unpacked. However, I am honored to be here, and I hope my insight and experiences can benefit your work.

During my tenure in Chicago VA regional office, I was fortunate to have been involved from the beginning with one of the first and most successful FDC programs. Working together with VA RO Director Duane Honeycutt and his staff, DAV and other VSOs have made Chicago a model for other stations on how to execute the FDC program. I believe that the most important ingredients necessary for the FDC program to be widely successful is having a strong commitment and open communication between VBA, VSOs, and veterans. Earlier this year, DAV, along with the American Legion, joined the VA to establish the FDC community of practice. Dedicating ourselves, submitting as many FDC claims as possible, I saw firsthand in Chicago how much difference it makes when you have complete buy-in from VBA and VSOs.

One important component of the success was the creation of a dedicated FDC program coordinator whose primary and perhaps only mission is to be responsible for the FDC program. DAV believes that every regional office should designate at least one individual to serve as its FDC coordinator.

In the beginning, one of the major obstacles of the FDC program was the exclusion process, which is the act of removing or disqualifying a claim from the FDC program. In many instances, claims are excluded from the FDC program for reasons that could have been easily avoided simply by contacting a claimant directly or one of the service officers, requesting any identified or missing to be submitted. In Chicago, in an unprecedented event and approach, Director Honeycutt reached out to DAV and offered to contact our NSOs by email, when a case is being prepared for exclusion from the FDC program. This simple act of communication allows our NSOs the opportunity to contact the claimant to easily resolve these issues, thereby avoiding the exclusion and allowing the claim to remain in the FDC program. DAV also believes that this approach should be made national policy.

Additionally, we believe VBA needs to review and revise the policy on excluding FDC claims when additional evidence is submitted, even though that evidence needs no additional development. For example, in Chicago, I had a veteran who submitted an increased claim for a back condition. Later on, he submitted additional X-ray evidence. Under current VBA rules, the submission of this additional X-ray evidence should have prompted removal from the FDC program. However, the VBA employee contacted our NSO, indicated that because this evidence requires no additional development, there should be no reason to remove it from the FDC program. This is another common sense practice that should be adopted and made national policy.

DAV believes that making veterans aware of the advantages of the FDC process is absolutely essential for the greater claimant participation. In addition to regularly promoting the FDC program

through our Web site, magazine, meetings, and conferences, DAV also conducts formal orientation classes. In Chicago, DAV-led orientation classes are held weekly and offered to potential claimants or anyone interested in learning about the FDC process, including VBA employees and other VSOs. Locally, we have agreements with the VSOs so their claimants they represent can come to our DAV orientation classes to learn about the FDC program. Participants are provided detailed information about FDC programs, requirements, how to file an informal FDC, what to expect after filing the FDC claim, and what actions would exclude their claim from the FDC program.

The feedback from the majority of our claimants is that they are excited to be involved from the get-go, especially knowing they can play a major role in speeding their decision process. Mr. Chairman, DAV believes the FDC program has been extremely successful in having a positive impact on reducing the backlog of disability claims. We look forward to the program's continued success and working with VBA and Congress to make that happen. This concludes my statement. So I will be happy to answer any questions you or your Members of the Subcommittee may have.

[THE PREPARED STATEMENT OF STEVEN WOLF APPEARS IN THE APPENDIX]

Mr. RUNYAN. I thank you, Mr. Wolf.

And with that, I will recognize Ms. Zumatto for her testimony.

STATEMENT OF DIANE M. ZUMATTO

Ms. ZUMATTO. Good afternoon, Chairman Runyan, Ranking Member Titus, and Committee Members. Thank you for the opportunity to allow AMVETS to voice both our praise and concerns regarding VA's efforts to reduce the claims backlog via the Fully Developed Claims program. AMVETS fully supports the submission of complete claims packages, as we are aware that any other position hurts both our veterans and the VA employees working their claims.

Notwithstanding the fact that VA completed a record-breaking 1 million claims per year in fiscal years 2010 through 2012, the number of claims received continues to exceed the number processed. In response to this disturbing trend, VA began implementing a comprehensive transformation plan meant to increase productivity and accuracy of disability claims processing. While the FDC program is merely one element of this plan, it is hoped that, once fully implemented, that it will substantially contribute to the elimination of the claims backlog.

Filing an FDC is undoubtedly the fastest way for veterans to receive a decision on their disability claims, as it takes the onus of locating documents off of the VA and puts it on the veteran. Under the FDC program, veterans are required to provide all supporting documents and records with their original claims. When veterans are able to meet this criteria, it significantly reduces the amount of time VA needs to accurately process their claims, as well as the veteran's wait time.

According to the VBA's Monday Morning Workload Report, under the FDC program the number of pending claims has dropped from

the high water mark of 919,461 on 16 July, 2012, to the current level of 760,820 pending claims on 24 August, 2013. Additionally, the number of claims in the backlog has declined from 633,469 on 25 March of this year to 459,998 on August 31 of 2012.

One major concern that AMVETS does have with the FDC program is the removal of the veteran's dependents information from a veteran's claim. Dependents have now been relegated to an award adjustment action. AMVETS sees this as an ineffective and less efficient way to work, since a claim with dependents must now be touched multiple times instead of only once before it is finalized and authorized. Since the FDC started in May 2010, the number of pending dependents issues has increased from a monthly average of 40,000 to 205,467, according to the 24 August MMWR. This seems to suggest that we are merely shifting the backlog of claims from veterans to their dependents.

We at AMVETS have a major concern with the new backlog of dependent award actions. The 205,000 pending issues are merely the ones that VA has identified. How many veterans who are entitled to dependents allowance have not been identified? Currently, that number is unknown. Any way you look at it, the removal of dependents from veterans' claims does not make sense. VA's own annual reports since 2005 show that for the majority of rating decisions, veterans qualify for dependents allowance. This has steadily climbed from 51 percent in 2005 to 56 percent, as noted in the 2011 annual report, which is the most current report available. Additionally, it is of critical importance that sufficient funds be allocated to manage the backlog and to provide multiple levels of oversight as part of the VA's attempt to correct the situation.

I would like to conclude my remarks by noting for the record that AMVETS fully supports both Secretary Shinseki and Under Secretary for Benefits Hickey. We need to ensure that the VA's leadership has the necessary resources to fix the system. This concludes my remarks. I will be happy to take any questions. Thank you.

[THE PREPARED STATEMENT OF DIANE M. ZUMATTO APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Zumatto.

Mr. Marsh is now recognized for his testimony.

STATEMENT OF W. CLYDE MARSH

Mr. MARSH. Mr. Chairman, distinguished Members of the Committee, my name is Clyde Marsh. I am the president of the National Association of State Directors of Veterans Affairs and the director of the Alabama Department of Veterans Affairs. I am honored to present the views of the 50 States, the District of Columbia, and five U.S. territories on the implementation of the very important Fully Developed Claim program.

As State governmental agencies, we are charged with the duty of assisting veterans in filing claims for disability, compensation, pension, and survivor benefits. We strongly support the concept, methodology, and strategy undertaken by VBA in the current FDC program as one of several means to reduce the current veterans claims backlog, while also reducing time for a rating decision. To help facilitate success of this program, each State will endeavor to

provide specific mission guidance, goals, and checklists to increase both the quantity of submissions as well as the quality of claims. In addition to our association's support, to date, 46 of our States and territories have submitted letters of commitment to VA in support of FDCs.

The provision that provides for up to 1 year for retroactive effective date for awards of disability compensation is an incentive for veterans to file FDCs. This change serves to negate the need for veterans to submit informal claims for the sole purpose of establishing a date of claim. We strongly support the Fully Developed Claims goal of providing a response to claimants within 90 days. Transparency will be particularly important to ensure veterans' confidence in this process. As advocates for veterans, we accept the responsibility for helping them to understand that they are certifying the truthfulness of the information that they are authorizing for release of information necessary to ensure a rating decision. We recommend an increased role for State Directors of Veterans Affairs in the overall effort to manage and administer claims processing, regardless of whether a State uses State employees, national chartered Veterans Service Organizations, and/or county veterans service officers. Collectively, we have the capacity and capability to assist DVA. We are engaged in the establishment of standards for training, testing, and accrediting service officers to include continuing education and performance standards.

Several States have taken the lead by integrating the FDC process into their claims operation. An example that has yielded positive results is the Texas Veterans Commission State-funded initiative that included a 28-member team to specifically file fully developed claims. They have submitted nearly 8,900 claims to VBA for processing. Similar efforts of varying scope are ongoing in States nationwide, with resources, organizational structure, and operating procedures varying from State to State.

We ask that attention be given to the following areas. One, disability benefits questionnaires need to be simplified and shortened, especially for less complex conditions. Doing so will enhance physician participation. Two, e-Benefits makes it possible for veterans to file claims. However, the current Web site needs to encourage veterans to seek representation. Also, VBA needs to ensure that all States can easily access the Stakeholder Enterprise Portal. Three, outreach and trainings are critical to the success of the FDC program, and program coordinators should be included at the VA regional offices. Four, we are working with the VBA to ensure that future Fast Letters include State Departments of Veterans Affairs. And five, to fully implement the Veterans Benefits Management System. It is valid, and it must succeed in order to improve the claims process.

Mr. Chairman and distinguished Members of the Committee, we appreciate your work on behalf of veterans. And be assured that State Directors of Veterans Affairs remain dedicated to doing our part. We are partners with the Federal VA in the delivery of services and care for our Nation's patriots. As procedures and policies are developed within the FDC program, we look forward to participating in the process. We will continue to provide feedback as the program runs its course to achieve maximum impact in eliminating

the claims backlog. Thank you for your inclusion of the National Association of State Directors of Veterans Affairs in this hearing. And I stand ready to answer questions.

[THE PREPARED STATEMENT OF W. CLYDE MARSH APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Mr. Marsh.

And I will begin the first round of questions. My first question is for Ms. Zumatto.

You touched on these a little bit, but I wanted to go a little deeper and maybe clarify. In your testimony, you categorize the FDC program as moderately successful. What additional steps do the VA and other stakeholders need to take in order to make this program fully successful? We can't fix every one of them. What is the big one we can tackle?

Ms. ZUMATTO. That is a very interesting question. I don't know whether the Committee knows or not, I don't actually process claims myself. So what I would like to do is take it back and speak with our national service officer and get his input. He was instrumental in writing the testimony for today's hearing. And I would like to defer to his expertise to make sure that I am giving you the best answer.

Mr. RUNYAN. Please do.

Mr. RUNYAN. Then I want to touch on Mr. Wolf's expertise and experiences at the Chicago RO. Could you briefly describe the policy conversations that took place and ultimately shaped the FDC program into its current form? And along that line, were there some early challenges with the program in Chicago? And how were these addressed and resolved? And would you say the program is operating as envisioned when it was created in 2009?

Mr. WOLF. Thank you, Mr. Chairman.

First off, I think the biggest thing was communication between the VSOs and the VA. Meeting with the management team, our management team, other VSOs, coming up with a plan to include everyone, and the program being totally, I guess, bought into. This was the most important key in the beginning stages.

After that, the changes started to occur. One of the biggest things or obstacles that we were running into was veterans just didn't know about the program. Therefore, we started adapting the orientation programs. We started word of mouth with veterans. We started getting the word out. Once the veterans started coming in wanting to do the program, it made it easier for us to process some of these claims.

Mr. WOLF. I would say that the program can improve. It is running smoothly. However, there are still a lot of veterans in every State that don't know about the program, and even ones that do know about the program, they need to be educated on the program in order to stay in the program and not be thrown out into the traditional process where it may take longer to get their claims resolved.

Mr. RUNYAN. Would you say it is running about the pace that I think most people envisioned it?

Mr. WOLF. I don't know what most people envisioned, Mr. Chairman. In Chicago, based on my experiences, we have increased the

FDC claims there. And I am satisfied with the claims there, but I know that we can do better.

Mr. RUNYAN. I mean, it sounds like a lot of the programs we have in the VA and in the Federal Government—nobody knows about them.

Can you talk a little bit about submitting more evidence and how that process works? Because, as the last panel said, it sounded like it was pretty flawless, but it seems like you kind of had a little bit different of a view on how new evidence gets submitted and the process moves forward from there. Is it as seamless as the first witness said?

Mr. WOLF. What happens, based on my experience, when a veteran comes into our office and we educate them on what is needed, we initially file an informal claim. This protects the veteran's effective date, and it gives the veteran 1 year to obtain all the additional evidence needed. We give them a list specifically indicating what they need in order to stay in the FDC program. If a veteran submits something after the FDC claim is filed, at times, that claim could be removed. By VA standards, it should be removed. However, this is where we have been using email communications with the VA, and it has become successful. And we would like to see that continue and not remove these claims from the FDC program.

Mr. RUNYAN. But it is not codified policy, correct?

Mr. WOLF. No, sir.

Mr. RUNYAN. But in your experience, in the RO you were in, it worked with the open communications?

Mr. WOLF. Yes, Mr. Chairman. It works in Chicago. And we would like to see that nationwide, obviously, to protect our veterans.

Mr. RUNYAN. Thank you very much.

With that, I will recognize the Ranking Member, Ms. Titus.

Ms. TITUS. Thank you.

First, Ms. Jones, I would like to thank you and the American Legion for visiting Reno. I hope we treated you well while you were there.

Ms. JONES. Yes, ma'am.

Ms. TITUS. I wonder if you could share with us any perceptions about the visit. We heard some good numbers earlier from Mr. Murphy about some of the improvements there. I wonder if you could comment on what you found.

Ms. JONES. Thank you. We had a great visit in Reno. They treated us very nicely.

When we went to Reno, we actually had an opportunity to visit with the fully developed claims coordinator and attend a fully developed claims training meeting where the fully develop claims coordinator conducted training for the VSOs. And a lot of the fully develop claims from Reno had been brokered out. I think at the very beginning of the fully developed claims process with Reno and maybe the changeover in leadership, that they weren't quite sure at the beginning where those claims needed to go, and so some of the fully developed claims were just piling up. Looking at the amount of time that it took for a veteran to submit the information, and then for Reno to act on it, had a big lag time at the beginning.

And then they brokered out most of those fully develop claims and started over, so to speak, with the ones that were being submitted to Reno.

They did a much better job with the second set of fully developed claims that were coming through that office. We had an opportunity to talk to the American Legion service officers in Reno and train them as well. And when we went back to look at the Reno office through the VA and the American Legion, they are doing a much better job than before the visit.

Ms. TITUS. Well, thank you. I appreciate it. I am certainly glad to hear that.

My other question is to Ms. Zumatto. You mentioned that there is a real need for the VA to make changes with regards to dependents and dependents' claims and the information for dependents. Do you have any specific suggestions to how we can address some of the challenges that dependents face when they file claims? And if you want to answer that or anybody else can answer that as well.

Ms. ZUMATTO. Well, I would say this, that the way things were done previously, where the dependents were included as part of the veteran's claim, it seems like that would be a more efficient way to continue. Right now, under the FDC, apparently it is like two tracks. And so even though it is a veteran and his or her dependents, at the end of the process there are, you know, different codes that have to be referred to and, you know, any correspondence that goes back and forth between the VA and the dependents and/or the veteran are being done separately. And as the numbers show, now we are getting a backlog on the dependent issue.

So, I mean, it is great that we are reducing the backlog with veterans. But if we are just robbing Paul to pay Peter, whatever, are we really making any progress? So beyond that, again, I can take this back and get more specific information. But for right now, that is really all that I could offer.

Ms. TITUS. And I would appreciate that. If you could, thank you.

Would anybody else like to comment on that?

Mr. WOLF. I would like to comment. So for DAV's standpoint, the best way to file a dependency claim—whether it be adding a spouse or a child—would be through the Stakeholder Enterprise Portal where your claim can be done in 1.2 days versus more than 120 days, the paper route.

Ms. TITUS. Thank you.

Mr. Chairman, maybe we could get some more information from the VA about why they changed this policy and what their reasoning was about why that would be a better way to do things and see if it has turned out to be the case or not.

Mr. RUNYAN. Okay. We will take a look at that.

Ms. TITUS. Thank you.

Mr. RUNYAN. Mr. O'Rourke.

Mr. O'ROURKE. Thank you, Mr. Chair. And I want to also thank you for convening this panel. And I really appreciate the nature of your questions about how do we ensure that something that is perhaps working well becomes fully successful. And the feedback that we have received today is especially helpful to that end.

And I want to commend the VSOs who have been very responsive to our office. You know, when we were writing this Faster Filing Act legislation, all of your organizations responded to us, gave us feedback to improve it, let us know if you could support it or why you could not support it. I wish we had heard back from the VA before the Subcommittee voted on it, before the Full Committee voted on it, you know, sooner certainly than a day before we had today's hearing.

But having said that, I think it is important to acknowledge that Mr. Murphy from the VA has remained. He is listening to your testimony. And I think that while we have that chance to have the administration here, to have those of us who might be able to offer legislative remedies to some of the problems and to get it fully successful, we should make the most out of it.

So before I ask some specific questions around that, I also wanted to, Mr. Marsh, through you, thank one of your member organizations, the Texas Veterans Commission. They cohosted with our office earlier this month a Beat the Backlog event. For the other members, it was highly successful. We had nearly 100 veterans come in. We were able to give them current status, file additional information. We were able to begin 22 new fully developed claims and start them online. So a modest beginning, but it is something that we want to build on. And certainly TVC was instrumental in helping us do that, the Texas Veterans Commission.

So for each of you, if you could each take a minute or less in the KISS manner that Mr. Cook was talking about. What is one, maybe two things that you want me, us, to focus on to improve the FDC process, either administratively or legislatively? And begin with Ms. Jones and take it down the line.

Ms. JONES. Thank you.

Though we certainly do support the fully developed claims process, there are a couple of concerns. One, more training. I think that some of the things we saw when we were out conducting the fully developed claims visit that there was lack of consistency. Where you would see one office, how they handled submission of new evidence or if a veteran has—say they submit five contentions on their claim, a fully developed claim, and four of them are, by definition, a fully developed claim, it concerns me that they would push that whole claim, that whole veteran back out into the traditional process because one of those contentions does not meet fully developed claim criteria, by definition. So we would like to see work on that, to help us be able to have that veteran, get some money coming into the homes of those veterans by adjudicating those four contentions and deferring the one and still have that be a fully developed claim, by definition.

Mr. O'ROURKE. Thank you.

Mr. Wolf.

Mr. WOLF. Thank you. Obviously DAV would like to see more accountability within the VA regional offices regarding the fully developed claims process.

Mr. O'ROURKE. Is that published data on a quarterly, monthly basis in terms of how those claims are being processed, the rejection rate, that kind of data and accountability?

Mr. WOLF. More so accountability with management and the staff within the VA regional offices. Just to hold accountability for the claims to be processed in a timely manner and to be taken seriously when VSOs and veterans are awaiting the decisions.

We would also like to think that the utilization of common sense methods that I spoke about in my testimony be utilized nationwide and not just throw out FDC claims for missing signatures and such.

Mr. O'ROURKE. And, Mr. Wolf, I am going to go to Ms. Zumatto just to make sure I have enough time in what remains.

Ms. Zumatto, you mentioned the dependents issue. Would that be your primary recommendation for us to look at?

Ms. ZUMATTO. That would be probably the top thing. That, and I agree with what my colleagues have said, we need to have improved training for the VSOs and for the veterans themselves. And we need to have continuing education for the VA employees.

Mr. O'ROURKE. And, Mr. Marsh, if you were to focus us on one issue that you think could improve this FDC process.

Mr. MARSH. I would say that we need to let the FDC process run its course to work and support the ongoing efforts of training in all States, at all regional offices, and funding and support by Congress is key and essential to making that happen. And key pieces of that are ensuring that the Stakeholder Enterprise Portal works because that is the conduit for States to get in and for veterans to submit those claims and FDC seamlessly and faster. And the veterans' benefits, VBMS, these are all different pieces that make this process work to eliminate that backlog. And funding and letting these particular programs work, of course, we need to make it better and do more, which we are doing, I think that is the key to success.

Mr. O'ROURKE. Thank you. Thank you all.

Mr. Chairman, I yield back.

Mr. RUNYAN. I thank the gentleman.

Ms. Negrete McLeod, do you have any questions?

I have one more question for Mr. Marsh.

You noted in your written testimony that many areas of the country are still underserved due to veterans' lack of information and awareness to their benefits. Could you describe how your organization is addressing this issue and particularly how you are raising awareness for the FDC program?

Mr. MARSH. What we are doing, as a State, is we are holding a supermarket of benefits. These are kind of like rallies throughout the State in different areas where we invite veterans in and other State organizations to support our veterans in many different benefits. We also are sending out newsletters and we are holding training sessions specifically focusing on FDCs now, but also to disseminate information about veterans' benefits, period, throughout the State to help get the word out and get people involved. And also highlighting the importance of, by using this process, we can eliminate and reduce the time for rating decisions.

Mr. RUNYAN. Thank you.

Anyone else have anything else?

Ladies and gentlemen, on behalf of the Subcommittee, I thank you for your testimony today. We look forward to continuing to work with you on the implementation of the FDC program, and we

understand that your partnership with the VA is crucial to the program's success. And you are now excused, and I would like to thank everyone for being with us today. The FDC program has great potential to reduce processing times for our veterans' disability claims. And I look forward to continuing to work with all of you to ensure that we implement the most efficient claims processing initiatives possible.

I would like, once again, to thank all of our witnesses for being here today. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include any extraneous material. Hearing no objection, so ordered.

I thank the Members for their attendance today. And the hearing is now adjourned.

[Whereupon, at 4:20 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Jon Runyan, Chairman

Good afternoon and welcome everyone. This oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs will now come to order.

Before I begin with today's hearing topic, I would like to take a moment to acknowledge the events of today's date twelve years ago when a series of coordinated terror attacks were launched in New York City and here in Washington, DC.

With New Jersey's Third district in close proximity to New York City, the impact of the September 11th attacks were felt immediately to many of those in my District, as they were across our country. These wounds are still healing, as many of our Nation's servicemembers and veterans have served post 9/11 in support of homeland defense, in Iraq, in Afghanistan, and other overseas operations.

On the anniversary of September 11th and every day, we must all appreciate and remember what America's veterans have done to secure our freedoms.

I know Ranking Member Titus and the other Members of the DAMA Subcommittee share my commitment to ensuring that every hearing we hold addresses important issues concerning those who have bravely served our Nation.

That is why we are here today to focus on the Fully Developed Claims process, or FDC to look at this as an avenue to speed up the claims process for our veterans.

An FDC is an optional program through the Veterans Benefits Administration that allows veterans to receive a faster decision on their claim by certifying that all relevant records in their possession have been obtained and submitted, rather than just filing the claim and having VA perform this development.

In addition, Congress passed a law last year that went into effect on August 6, 2013, allowing claimants to receive up to one year of retroactive benefits as an incentive for filing a FDC.

In order to increase awareness of these incentives the VA has partnered with various Veterans Service Organizations - many of whom are here to testify today - about their outreach efforts and experience with the FDC program.

However, this Committee will always remain vigilant in its oversight of this and all other new VA initiatives. It is critical to ensure that the program is truly helping veterans receive timely and accurate benefits decisions, rather than just looking for ways to shift the VA's workload.

With that, I would like to welcome our witnesses. Thank you all for being here today.

Our first panel consists of Mr. Thomas Murphy, Director of Compensation Service, with the Department of Veterans Affairs.

Our second panel consists of several VSOs, including Ms. Verna Jones, Director, Veterans Affairs and Rehabilitation Commission, for the American Legion;

Mr. Steven Wolf, Assistant National Service Director for the Disabled American Veterans;

Ms. Diane M. Zumatto, the National Legislative Director for AMVETS;

And Mr. W. Clyde Marsh, the President of the National Association of State Directors of Veterans Affairs.

We also have several statements for the record that have been submitted from various organizations, and I would like to thank all of those who submitted them for today's hearing.

With those introductions complete, I am eager to hear from all of our witnesses on the implementation of the FDC process.

I now yield to our Ranking Member for her opening statement.

Prepared Statement of Hon. Dina Titus

Thank you, Mr. Chairman, and thank you for holding this hearing on this very important topic.

With regard to the VA backlog, the VA has reduced the claims inventory by nearly 150,000 veterans in very short order. Nearly all claims that have been pending over two years have been processed and the VA is working hard to eliminate all claims pending over one year by the end of 2013. Also, the VA has rolled out in its electronic processing system at all 56 VA regional offices earlier this summer, ahead of schedule, in an attempt to end the era of paper processing.

However, there is no quick fix. There are still 437,372 claims pending over 125 days (as of September 9), with more than 5,378 pending over 125 days in Nevada. This is too many.

The recent dip in the backlog has been a culmination of more than four years of effort and planning by the VA and is the direct result of a number of initiatives within the VA's Transformation Plan. Today we will focus on one such program, the Fully Developed Claims (FDC) initiative, and the one year look-back for benefits which recently took effect on August 6, 2013.

I am proud to work on behalf of the more than 100,000 veterans in Southern Nevada, many of whom have waited months and even years to get a response regarding their benefits claims. The Fully Developed Claims initiative provides a method for veterans, with the help of their advocates and DoD, to provide all the necessary evidence to process a claim. Today, the VA adjudicates FDCs in about 123 days. I am hopeful that this initiative will help to lower the backlog significantly.

I would like to commend the great efforts of our VSOs, the American Legion and the Disabled American Veterans, as well as the National Association of State Directors of Veterans Affairs, who have worked in close partnership with the VA and without which the FDC initiative simply could not have been possible.

Over the August recess, I held a meeting with local VSO chapters to promote the FDC initiative and I was encouraged that VSOs across the U.S. will work with veterans to submit FDC's. I encourage all Members on our Committee to reach out to their local VSO leadership to promote this effort.

I would like to thank my friend from Texas, Mr. O'Rourke, for introducing legislation to help educate veterans about this initiative. I hope the full House will consider this legislation quickly.

As Ranking Member of the Veterans' Affairs Committee, I remain committed to working with the VA and VSOs to improve the care and service for veterans across the country and to ensure these benefits are awarded in a timely manner.

Thank you, Mr. Chairman, and I yield back.

Prepared Statement of Thomas Murphy

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Department of Veterans Affairs (VA) Fully Developed Claims (FDC) program. I will first review the definition of an FDC and then describe the advantages of this program. Finally, I will summarize the VA's efforts to both inform Veterans and engage others to partner with us in this FDC program.

FDCs Defined

Claims are considered to be "fully developed" when Veterans submit a VA Form 21–526EZ (paper or electronic) and all available supporting evidence (such as private treatment records and evidence required in special circumstances, such as unit treatment and personnel records for Guard and Reserve members, notify VA of any federal treatment records at the time they first file a formal claim, and certify they have nothing further to give VA regarding the claim.

FDCs are the Fastest Way for Veterans to Receive a Claims Decision

The widespread submission of FDCs is essential to achieving VA's goal of providing all Veterans with decisions on their claims within 125 days at 98 percent accuracy in 2015. FDCs are the fastest way for Veterans to receive a decision on their claim because all supporting evidence needed from the Veteran is submitted with the claim. As of August 31, 2013, VA completes FDCs in an average of 123 days. When Veterans submit such evidence with their claims, it significantly reduces the amount of time VA must spend gathering evidence from them or other sources. Often, this is evidence that VA must, by law, attempt to collect on the Veteran's

behalf, even if it is already in the Veteran's possession, or is evidence the Veteran could more readily obtain, such as private treatment records. While some claim development may still be necessary, such as securing federal records or providing an examination, FDCs eliminate the need for VA to undertake an often lengthy search for evidence as mandated by the Veterans Claims Assistance Act of 2000. FDCs allow VA to go straight to gathering any required federal records and ordering any necessary medical examinations needed to decide the claim. This is advantageous for Veterans and VA. Eligible Veterans receive their benefits faster, and VA prevents claims from entering its backlog of work. FDCs are typically completed twice as fast as traditional compensation claims.

VA is continuing to implement several initiatives, including FDCs, to meet the Department's goal to eliminate the claims backlog in 2015. In April, VA launched an initiative to expedite disability compensation claims decisions for Veterans who have a waited a year or longer to receive a rating decision. In May, VA announced that it was mandating overtime for claims processors in its 56 regional benefits offices to increase production of compensation claims decisions through the end of fiscal year (FY) 2013. By June 19, VA had completed over 97 percent of all claims over 2 years old, and turned its focus to those over one year old. As a result of these recent efforts coupled with many other people, process, and technology initiatives, as of August 31, the backlog of claims pending more than 125 days reached its lowest point since March 2011. The backlog has been reduced to approximately 460,000 claims, representing a 25 percent reduction from its peak in March 2013. In mid-August, VA had already completed one million claims, setting a record by reaching this goal a month earlier than planned.

Duty to Notify and Duty to Assist

VA is required to assist a claimant in substantiating a claim for compensation or other benefits. This assistance comprises the first phase of the claim process, also known as the development phase, and it is by far the lengthiest segment of the process currently taking an average of 128 days. The requirements to notify and assist are primarily expressed in the following:

Duty to Notify: 38 U.S.C. § 5103 requires VA to provide the claimant and the claimant's representative, if any, notice of information needed to substantiate the claim, including medical or lay evidence not previously provided to VA. This requirement is met through the Veteran's use of the VA Form 21–526EZ (paper or electronic) in the FDC submission.

Duty to Assist: 38 U.S.C. § 5103A requires VA to make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate a claim. In particular, VA must assist the claimant by obtaining:

- Service treatment records and other relevant records pertaining to the claimant's active military, naval, or air service;
- Relevant, claimant-identified medical treatment or examination records at a VA facility or at a facility where care is at the expense of VA;
- Relevant, claimant-identified records held by any Federal department or agency by making requests for the records until such time that the records are secured, it is reasonably certain that such records do not exist, or that further efforts to obtain the records would be futile; and
- Relevant, claimant-identified private records by making no less than two requests for the records, unless the records are received after the first request or it is evident that a second request would be futile.

38 U.S.C. § 5103A also requires VA to provide a medical examination or obtain a medical opinion when such an examination or opinion is necessary to decide the claim.

Submitting FDCs Is Convenient

VA encourages Veterans to submit FDCs through the joint VA–Department of Defense (DoD) self-service Web portal, eBenefits, which provides online information and access to a wide variety of military and Veteran benefits resources. Some of the features within eBenefits allow Veterans and Servicemembers to access official military personnel documents, electronically submit claims for compensation benefits, view the status of their disability compensation claims, transfer entitlement of Post-9/11 GI Bill to eligible dependents (Servicemembers only), and register for and update direct deposit information for certain benefits. This Web portal is located at: *https://www.ebenefits.va.gov/*.

Partnership with Veterans Service Organizations

Veterans Service Organizations (VSOs), including State and County Departments of Veterans Affairs, are essential partners in the FDC program. These organizations

have long played an integral role in submitting Veterans claims - often with representatives working within VA regional offices. VA has consulted with them throughout the development and implementation of VA's plan to end the backlog in 2015 to ensure best practices and their unique insights were incorporated, and they have stepped forward in full support of the FDC Program and our shared goal of better serving Veterans, their families, and Survivors. VA's goal in 2013 has been to increase FDC receipts to 20 percent of all claims received. With the support of our VSO partners, VA has already received over 130,000 FDCs this fiscal year, which represents almost 14 percent of all claims received. The 20-percent goal has been exceeded in this final quarter of fiscal year 2013, with 4th quarter FDC receipts increasing to almost 25 percent of all claims received.

As of August 31, 2013, VA completes FDCs in an average of 123 days—less than half the time it takes to make a decision on a traditional claim. FDCs have been instrumental in helping to reduce the backlog, as VA saves a significant amount of time when evidence is provided at the start of the claims process.

FDC Exclusions

There are some circumstances that affect VA's ability to process an FDC in an expedited manner, causing VA to exclude some claims from the FDC program. We are working hard to minimize these exclusions through better outreach and training. The main reasons for exclusion have been administrative, such as when a claim or appeal is already pending, the wrong form is used, or the form is unsigned. Claims must be excluded from the FDC program for non-administrative purposes as well. This typically occurs when a Veteran submits additional evidence after filing the FDC, when a Veteran explicitly declines FDC processing, or when VA must obtain evidence from non-federal sources. When VA must obtain evidence outside of its control, such as non-federal records, VA is unable to control the timeframe in which the records are received. Missed or rescheduled medical examinations also slow the process. VA has to exclude these types of claims from the FDC program because expedited processing cannot be provided.

Outreach

VA is aggressively pursuing expansion of the FDC program, and has conducted a number of outreach initiatives to encourage participation. FDC webinars have been held for claimants interested in the program and we have advertised the program through press releases, social media, and at VA facilities nationwide. VA has also distributed an FDC toolkit to every Congressional office to help VA increase FDC participation by adding information on this important program to Congressional webpages and in correspondence to constituents who are Veterans.

VA also continues to rely on our VSO partners in spreading the message about FDCs. As previously noted, VSO feedback was instrumental in creating the FDC program, and VA is continuing this partnership through the FDC Community of Practice. VA has partnered with The American Legion, Disabled American Veterans, and the National Association of State Directors of Veterans Affairs (NASDVA) to further improve the FDC program. VA also just recently welcomed The College of William and Mary Law School's Lewis B. Puller Jr. Veterans Law Clinic to the Community of Practice.

VA's Community of Practice partners are helping to identify best practices in the FDC program so they can be shared nationwide. VA recently held a workshop with these VSOs to provide updates on efforts to eliminate the claims backlog and to receive feedback from VSOs concerning the FDC program. In addition, each VA regional office is conducting local training and outreach workshops for VSOs and other partners, such as Congressional caseworkers and field staff, to ensure all stakeholders understand the importance of this program and how to help Veterans utilize it. Community of Practice partners are committed to increasing the number of FDCs they file on behalf of Veterans that they represent. VA expects additional VSOs and Veterans' representatives will join the Community of Practice, helping to further improve the FDC process and increase the number of these claims. By leveraging each other's experience, knowledge and opportunities, we are building a dynamic community of advocates committed to providing Veterans with their earned benefits in support of VA's goal of eliminating the backlog.

One-Year Retroactive Benefits

Public Law 112–154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, provided authority to grant one year of retroactive compensation benefits for Veterans who file an original claim that is fully developed and received between August 6, 2013, and August 5, 2015. Interim guidance was issued to regional offices on August 2, 2013. This guidance instructed regional of-

fices on the requirements for granting retroactive benefits, and it allows these benefits to be granted while the regulations are being developed.

To be eligible to receive these retroactive benefits, several requirements must be met. In addition to the criteria mentioned in the preceding paragraph, the claim must be complete. Veterans submitting informal or incomplete claims are not eligible for the retroactive benefits based on the informal or incomplete submission, though once the claim is completed it may be a basis for retroactive benefits if other criteria are met. Further, the claim must be received on a VA Form 21–526 EZ or online through eBenefits.

The effective date assigned for benefits awarded under these procedures may be up to one year prior to submission of the complete FDC, depending on evidence of when the disability was first diagnosed. If evidence submitted with the FDC shows that the level of disability to be assigned existed for one year prior to submission of the claim, then the Veteran will receive a one-year retroactive effective date. If the evidence of record supports less than one year of disability, as the disability was not present for one year prior to the date on which the claim was filed, then the effective date for benefits will be the date on which the disability was first diagnosed. In addition, staged disability evaluations can be assigned if the evidence shows that the disability worsened during the one year prior to the date on which the claim was filed.

Regional offices continue to update local VSOs and other stakeholders about FDC program and encourage their support and participation. Regional offices are also providing training to local VSOs and encouraging them to help Veterans file applications online through the eBenefits Web portal and to utilize Disability Benefits Questionnaires (DBQ) if private medical records are being submitted. Utilizing these three tools – the FDC program, eBenefits, and DBQs – is the best way for Veterans to expedite the claims process and receive a decision more quickly.

Conclusion

The FDC program is a key component of VA's Transformation plan to eliminate the claims backlog. VA has seen FDC submissions steadily increase, and these claims are processed expeditiously. In addition, VA continues to prioritize other specific categories of claims, including: claims of seriously wounded, ill, and injured Servicemembers separating through the Integrated Disability Evaluation System; Medal of Honor recipients; former Prisoners of War; the homeless; terminally ill; and those experiencing extreme financial hardship. VA has expanded its collaborative partnerships through the FDC Community of Practice and will continue to work with VSOs and stakeholders to refine this program. Our partners and advocates have fully embraced the FDC program and have made commitments to submit FDCs in order to get Veterans faster decisions. We are joined together by our common belief that no Veteran or Survivor should wait extensive periods of time for the benefits they've earned. VA continues to reach out to stakeholders, Veterans, their families, and Survivors to educate them on the fastest way to receive a decision. This concludes my statement, Mr. Chairman. I would be happy to answer any questions you or the other Members of the Subcommittee may have.

Prepared Statement of Verna Jones

The Fully Developed Claims (FDC) program is an excellent example of what can happen when all of the stakeholders in veterans' benefits work together and put delivering service to veterans first. The service officers who work for the Veterans' Service Organizations (VSOs) present the material to the Department of Veterans Affairs (VA) in an organized fashion, in turn have less time needed to develop the claim, and can cut the processing time to well below backlog numbers. Congress has responded with legislation that offers additional incentive of back pay to reflect the extra time veterans must spend gathering material to send to VA before they can submit their claim. When everything works together, it's the veterans who win. On FDC claims some offices reported processing times of 30–60 days, and the average processing time nationwide dropped to well under VA's goal of 125 days.

Not every claim will be eligible to be processed under the FDC rules. The FDC program isn't a silver bullet that will alleviate all of VA's problems with the backlog. However, with willing participants and adequate screening to get the right cases to VA, the FDC program can help manage resources and take pressure off other areas so VA can focus and finally drive down the backlog of claims.

The VA announced the implementation of the Fully Developed Claims FDC initiative in a meeting conducted at VA Central Office (VACO) in July 2012. Through the

implementation of the FDC process, VA explained their intention to reduce the backlog of disability claims that has plagued VA and the veteran community.

VA announced that it would create a "segmented lane" dedicated to adjudicate claims in a timely manner; the "Express Lane" was created to adjudicate a claim qualified as FDC and any claims with up to two conditions. For a service member, veteran, or dependent to submit a claim qualified for the FDC program, all non-federal records that may assist in adjudicating the claim are required to be submitted at the time of application. Non-federal records include, but are not limited to:

- Reserve and National Guard service treatment records
- Private treatment records
- Lay statements from friends, family members, co-workers, etc., supporting the veteran's claim

In November 2012, The American Legion agreed to partner with the White House, Joining Forces, and VA to review the implementation of the FDC process nationwide. Recognizing the FDC initiative was potentially a seismic shift in the manner veterans' claims could be adjudicated and having over 2,600 accredited representatives nationwide, The American Legion enthusiastically agreed to join the initiative.

The American Legion targeted VA Regional Offices (VAROs) nationwide to review the FDC implementation process. Data collected from reports produced by VA regarding FDC submissions by The American Legion allowed for a thorough review of VAROs with high and low FDC submissions.

The American Legion selected the following VAROs for visitations:

- Pittsburgh, Pennsylvania (December 2012)
- Denver, Colorado (January 2013)
- Indianapolis, Indiana (January 2013)
- Baltimore, Maryland (March 2013)
- Nashville, Tennessee (April 2013)
- Oakland, California (May 2013)
- Togus, Maine (May 2013)
- Reno, Nevada (June 2013)

The findings from these visits naturally varied from office to office, although several trends were clear. In areas with strong "buy-in" from the VARO Directors and employees, such as in Indianapolis the results were explosive. The employees embraced the FDC program as they recognized it was a way to award claims expeditiously and avoid the lengthier traditional claims process. It was so well received that the FDC lane had to be split into sub-lanes to accommodate the volume of claims, and the program was still returning better results than the traditional legacy system of claims.

Leadership in the Indianapolis office cited the close relationship with The American Legion and VSOs as instrumental to the success of the program in that office. Because the service officers could work the program effectively with veterans, it helped the VA on the front end and gave the program what it needed to succeed.

One of the criticisms of FDC initially from some veterans' advocates was the concern that FDC was putting too much of VA's work on the veterans. For The American Legion, the information a veteran is required to submit is consistent with our baseline training for service officers about how to put together a proper claim. Service officers did not feel additional work was required, because the FDC program represented what they were already doing for veterans when they organized their claims for submission. By taking the work they were already doing, and submitting it through the FDC program, they opened up the possibility of faster turnaround for the veterans. It was like gaining an additional benefit for all the hard work they normally put in on behalf of the veteran.

Not every office has seen the vast improvements seen in Indianapolis. Often, The American Legion found where there was not committed "buy-in" to FDC among management in a VARO, the employees would not buy in, and the program would struggle to succeed. Baltimore, MD represents an example of this sort of model. As even the national press has highlighted, the Baltimore VARO is not one of the higher performing Regional Offices within VA. Systemic problems within the office, including poor file management and high employee turnover contribute to morale issues and poor performance. In Baltimore, it often seemed employees spent more time trying to disqualify claims from FDC than to process them, and therefore the program struggled to succeed.

To illustrate, The American Legion submitted one claim requesting FDC consideration for a veteran who served at the Pentagon on September 11, 2001. On the day of the terrorist attack, the veteran assisted removing individuals from the building and was seeking service connected disability benefits for posttraumatic stress dis-

order (PTSD). Supplied medical records supported a PTSD diagnosis; however, Baltimore VARO opted to remove the veteran from the FDC process. The FDC coordinator indicated that the veteran did not provide information indicating he was serving at the Pentagon on September 11, 2001. The veteran received a citation for his service that day; moreover, billeting and personnel records would also indicate service at the Pentagon on September 11, 2001. These are federal records and could be retrieved by VA; had Baltimore VARO followed VACO's policy regarding the retrieval of federal records, the veteran could have remained in the FDC program and received his benefits in an expeditious manner. Even when federal records were obtained and the veteran was shown assigned to a unit at the Pentagon on September 11, 2001, the VA continued to try to kick the case out claiming, "there's no way to prove they were actually at work that day."

With an obstructionist attitude towards veterans' claims like that, no program in the world is going to help right the ship. Clearly for success with any attempt to whittle down the backlog, buy-in to new methods and tactics is needed.

There is buy-in from high levels within VA. In an interview conducted with The American Legion for the National Convention in Houston, TX in August of 2013, Under Secretary for Benefits Alison Hickey stated, "In 2012 VBA was able to process 60,000 claims under the FDC program. Thanks to The American Legion, in 2013 we've already been able to up that figure to 120,000 claims." VACO is committed to making this program work, and The American Legion believes there are great benefits towards making it work, and would only suggest a few small corrections to help the program maintain its footing.

The American Legion recommends:

- Increased effort and outreach from VACO to ensure consistent buy-in and implementation from VARO to VARO. Without consistent buy-in, the results will be too fractured to have a national impact on claims.
- Include National Guard and Reserve records under the category of federal records VA must help locate. Certainly the last decade has highlighted the vital contribution of Guard and Reserve component service members; they cannot continue to be locked out of effective VA programs such as FDC simply because they serve as citizens as well as soldiers.
- VA must still work to improve accuracy on the claims, even as they increase speed of processing with the FDC program. Comments and errors regarding claims were far too common during VARO visits. Within VA's Monday Morning Workload Report released on September 3, 2013, VA's accuracy rate for the previous three months is 90.3 percent. This is inconsistent with our Regional Office Action Review (ROAR) visits nationwide, where errors are found routinely in over half of the cases reviewed. Cases reviewed by The American Legion staff are not chosen by The American Legion but by VA employees. Additionally, The American Legion successfully argues that VA has either erred or failed to properly develop claims in over 70 percent of claims appealed to the Board of Veterans' Appeals (BVA).

American author Napoleon Hill said, "A goal is a dream with a deadline." The VA Secretary has established a goal for VA disability claims to be adjudicated within 125 days and with 98 percent accuracy by the end of 2015. VA views it as a goal; many veterans view it as a dream. Regardless, the deadline for the goal is rapidly approaching. FDC provides part of the avenue for the Secretary's goal to be accomplished.

Ultimately, we believe FDC is a viable program that can assist VA in reducing the backlog and allow veterans to receive their entitled benefits. As the program expands and the veteran community recognizes its benefits, it will be incumbent upon us to continue to monitor the program as it expands. Additionally, focus should continue to exist on FDC internally with The American Legion Department Service Officers through the Department Service Officer School and other outreach training methods. Through this practice, service officers can continue to provide the best possible service to the veteran community in their quest for veterans' benefits.

As this program continues to develop, The American Legion looks forward to working with the Committee, as well as VA, to strengthen this program and any other program that can help tame the backlog and get veterans the benefits they deserve in a timely manner. For additional information regarding this testimony, please contact Mr. Ian de Planque at The American Legion's Legislative Division, (202) 861–2700 or *ideplanque@legion.org*.

Prepared Statement of Steven T. Wolf

Chairman Runyan, Ranking Member Titus and Members of the Subcommittee:

On behalf of the DAV (Disabled American Veterans) and our 1.2 million members, all of whom are wartime wounded and injured veterans, thank you for asking DAV to share with the Subcommittee our views regarding the Fully Developed Claims (FDC) program within the Veterans Benefits Administration (VBA). As the nation's leading veterans service organization (VSO) assisting veterans seeking disability compensation and other benefits, DAV has tremendous experience and expertise relating to the processing of claims and the various reasons claimants may appeal adverse actions and decisions.

To fulfill our mandate of service to America's wounded, injured, and ill veterans and the families who care for them, DAV employs a corps of 270 National Service Officers (NSOs) all of whom are wartime service-connected disabled veterans who successfully complete their rigorous DAV training in concert with VA's Vocational Rehabilitation and Employment Service. DAV NSOs are located in all VA regional offices (VAROs) as well as in other VA facilities throughout the nation. As disabled veterans ourselves, and through our personal experiences from military life, the compensation claims process, and the VA and military health care systems, we have both expertise and a passion for helping other veterans through the labyrinth of the VA system.

Mr. Chairman, I am a veteran of the United States Marine Corps, serving on active duty from 1993 to 1997, until I was discharged after sustaining permanent service-related injuries. My career as a DAV NSO began in Milwaukee, Wisconsin, in 2002, and after serving as Assistant Supervisor of our San Diego National Service Office, I was promoted to Supervisor of our Chicago National Service Office in 2007, where I served until being promoted to my current position of Assistant National Service Director here in Washington, DC, on August 13, 2013. During my tenure at the Chicago VARO, I was fortunate to have been involved from the beginning with one of the first and most successful FDC programs. Working together with Regional Office Director Duane Honeycutt, VBA, DAV and other VSOs have made Chicago a model for other stations in how to execute the FDC program. I want to thank Director Honeycutt for his commitment to taking care of our nation's veterans and their families as demonstrated by the major improvements he has made in the Chicago VARO.

Over the past several years, much attention has been rightly focused on efforts to reform VBA's claims processing system and reduce the unacceptable backlog of pending disability compensation claims, and today there are statistically significant signs of progress. DAV continues to advocate that the only way to truly address the current problems is by creating a new paperless system and culture focused on getting each claim done right the first time. VBA's transformation strategy focused on three areas: people, process and technology, and has for the most part been implemented nationally. The transformation has been comprised of dozens of initiatives, including new Challenge Training, Quality Review Teams (QRTs), the Veterans Benefits Management System (VBMS), eBenefits, the Stakeholder Enterprise Portal (SEP), the Transformational Organizational Model, Disability Benefits Questionnaires (DBQs), Simplified Notification Letters (SNLs) and the FDC program.

Since the beginning of this year, the number of pending claims has fallen by about 120,000; the number of claims in the "backlog" (those pending more than 125 days) has fallen almost 25 percent from over 600,000 to about 450,000; and the accuracy rate for rating claims has steadily risen from about 85 percent to more than 90 percent in the last three-month period measured. We commend VBA for the progress being demonstrated in reducing the backlog of claims; however, it is hard to determine how much of this progress is the result of the transformation strategy, and how much results from the increased productivity of new claims processors and mandatory overtime they are required to work. It is still too early to assess whether this transformation strategy will ultimately eliminate the backlog and reform the claims processing system; however, there is almost universal agreement that the FDC program has been a success and it must continue to be encouraged and expanded.

The FDC began as a pilot program in 2009 at the VA Regional Office (VARO) in Chicago and several other locations with the intent to reduce the overwhelming volume of backlogged claims and provide veterans with a quicker route to getting a decision. Unlike many other initiatives with the same goal in mind, the FDC program is unique because the claimant is actively involved in the process, specifically with gathering the evidence needed to adequately reach a determination. However,

this concept is not new. In fact, DAV and other VSOs have for decades been able to submit a complete "fully developed" or "ready-to-rate" claim to VBA and DAV NSOs have long urged claimants to obtain as much of the evidence as possible prior to submitting the claim. However, prior to the inception of the current FDC program, claims that were considered "fully developed" or "ready to rate" were handled on a case-by-case basis and there was no formal program with standard procedures or consistency throughout VBA. As a result, even though these "fully developed" claims required less work by VBA and therefore should have resulted in quicker decisions, they were too often treated as just another claim, often sitting for months or years awaiting decisions. As such, this vital opportunity for VBA to process claims with much, if not all, of the development already completed when the claim was received, never really gained any acceptance, support, or cooperation between VBA and VSOs. VBA set out to change that with their new FDC pilot programs.

The first obstacle to overcome was the time-consuming requirement of providing the claimant with a notice of their rights and VA's duty to assist them, based on the Veterans Claims Assistance Act (VCAA), commonly called "VCAA notice." Upon receipt of a new claim, and upon receipt of any additional evidence submitted by the veteran, VBA would send out a VCAA letter, consuming months without any significant progress in adjudicating the claim. For the FDC program to have any chance of becoming a fully integrated practice, VBA first had to overcome the hurdles of providing the claimant a timely VCAA notice, and full understanding, cooperation and communication within the VARO and partnership with VSOs and stakeholders. Creating special "EZ Forms" and providing the VCAA notice along with the application to a claimant allowed the first hurdle to be overcome.

Originally, the FDC program was limited to claims filed using a VA Form 21–526EZ, Fully Developed Claim (Compensation), and 21–527EZ, Fully Developed Claim (Pension). VBA later added the VA Form 21–534EZ, Fully Developed Claim (Death Benefits). These three VA forms, known as the "EZ Forms" are the only forms that can be used to file an FDC claim, as each form describes the evidence necessary to prove certain compensation and pension claims and fulfills the Duty to Notify requirements pursuant to title 38, United States Code, section 5103. Claimants must use one of the prescribed "EZ Forms" or the electronic version through VONAPP Direct Connect (VDC) in order to participate in the FDC process; otherwise their claims will be processed under the traditional claims process.

Additionally, the FDC application will require the claimant to:

1. Certify that the information or claim submitted is truthful;

2. Acknowledge receipt of the VCAA, which is part of the application;

3. Attest to the completeness of the claim and that there is no additional evidence; and

4. Provide authorization to VA for release of information required to process the claim.

Should a claim not contain these basic elements to qualify for FDC participation, the claim would be excluded from the FDC program and be processed under the traditional claims process.

A second important obstacle to overcome was ensuring that veterans who took it upon themselves to assemble their complete claims files, including hard-to-gather private medical evidence, would not lose out on their effective dates if they waited to file a FDC. To do so, VBA had to develop an "informal" FDC procedure, similar to what can be done for a regular information claim, which allows a veteran to "perfect" their claim up to one year from the date of their information claim, and still have benefits based on the effective date of that informal claim.

In the FDC program, upon initial contact, during which the VA Form 21–22 (POA) is received, an incomplete application (informal FDC) is filed to maintain the effective date for any possible future claims. DAV's NSOs are directed to always initiate an informal FDC if any potential development may be needed. A formal FDC is only filed once all information is obtained and reviewed by an NSO within 12 months of the VARO receiving an informal FDC, which ensures preservation of the effective date. Claimants have one year from the date the informal FDC is submitted to VARO to submit a formal FDC, and by VBA's direction, it is imperative that the claimant not specify any particular issues or conditions within the informal FDC memorandum. The purpose of the informal FDC is to allow a claimant to establish the intention of participating in the FDC process and establishing the earliest effective date possible while the claimant proceeds with obtaining necessary evidence to be submitted as a formal FDC claim. If the claimant specifies any issues

or conditions within the informal FDC memorandum, VBA must consider it as a formal claim and will result in being adjudicated under the traditional process.

Before a VA Form 21–526EZ, 21–527EZ, or 21–534EZ is submitted, all additional evidence and information that would have originally been acquired or requested through a traditional claims process is reviewed in depth by an NSO and then submitted as a complete application. This is important, as it may allow for additional claims such as secondary issues to be filed while maintaining the effective date as the date of receipt the informal FDC was received. Additional evidence and information includes, but is not limited to, the following: private treatment reports from non-VA facilities, personal statements, lay statements, additional VA Forms, medical opinions, and Disability Benefits Questionnaires (DBQs).

Moreover, before filing a claim through the formal FDC process, NSOs ensure the claimant has no claims pending, which will exclude a claimant from the FDC process. Likewise, if the claimant has an appeal pending, NSOs ensure the actual claims folder, or C–File, is not located at the Board of Veterans' Appeals (Board), as this will also exclude a claimant from the FDC process. Based on my experience in Chicago, as well as having visited other DAV offices actively engaged in promoting the FDC program, there are some best practices for both VBA and VSOs that we believe can really make this program even more effective across the nation.

First, to make this partnership work, every VARO must have a dedicated FDC Program Coordinator (PC) who's primary, and perhaps only, responsibility is to make the FDC program a success. In the Chicago VARO, the FDC PC on staff is invaluable to the program and a vital conduit between VBA, the claimant and VSOs. The FDC PC is responsible for the integrity of the FDC program, for identifying and monitoring pending FDCs through the VETSNET Operations Reports (VOR); and for case managing any individual FDCs pending near 90 days or longer. The FDC PC is also responsible for locating and retrieving FDC claims folders, reviewing FDC development actions, and also delivering FDC claims folders for expedited processing. The FDC PC must be willing and able to carry out whatever is necessary to get these claims completed as quickly as possible, which is the key to motivating veterans to file FDC claims in the first place. While I know firsthand how important the FDC Program Coordinator is to the process at the Chicago VARO; I am not certain that other VAROs have taken this same approach. DAV believes it is essential to have at least one knowledgeable FDC PC at each VARO to assist with all inquiries and ensure the FDC program is operating as intended. Furthermore, the Service Center Manager must ensure that the FDC PC is provided all the time they require to manage the FDC program, without being pulled away from that primary work in order to help address deficiencies in other areas of the VARO, or to help reach short-term productivity goals.

Another major obstacle in the FDC process has been the exclusion process, or the act of removing or disqualifying a claim from the FDC program, due to such reasons as not submitting sufficient private medical evidence, submitting additional claims, failing to report for a VA medical examination, or using the older (2010) version of the 21–526EZ form. Any one of these issues, or similar, would be reason for a claim being disqualified, because each of these acts or omissions results in additional development work by VBA, which defeats the intent of the FDC. However, too often VAROs were removing claims from the FDC program for reasons that could have been easily avoided by contacting the claimant directly or VSO service officer and requesting any identified but missing evidence, or for other simple matters such as a missing signature.

Working with DAV and other VSOs, VBA has been able to reduce the amount of FDC exclusions, which was unacceptably high in the beginning. VBA has increased their efforts and communication with the claimant or VSO when a claim is identified as not qualified for the FDC program. In Chicago, the VARO contacts our DAV NSOs prior to a claim being removed from the program to allow us the opportunity to resolve the issue and avoid its removal. Take for example a claimant who has submitted a FDC for an increased evaluation for a back condition, but who later submits additional radiological evidence of the back condition. Previously, this action would have prompted removal from the FDC program; however, in Chicago, the VARO employee contacted our NSO, indicating that because the evidence required no additional development, there would be no reason to remove it from the program. This type of effort, communication, and partnership is vitally important not only to the FDC program, but to reforming the entire VBA disability claims process.

The most important change necessary for maximizing the use and success of the FDC program is the full commitment and participation of VBA, VSOs and veterans. Earlier this year, DAV, along with The American Legion, joined with VA to establish the FDC Community of Practice, dedicating ourselves to maximizing the use

and success of the FDC program. As Under Secretary Alison Hickey is fond of saying, VBA is "all-in" when it comes to the FDC program.

I saw firsthand at Chicago how much difference it makes when you have this type of complete "buy-in" amongst the VARO staff and VSOs. A great deal of the credit for this must go to Director Honeycutt, whose positive approach and belief in the FDC program, and his enthusiastic desire to assist our nation's wounded, ill and injured veterans profoundly reshaped the claims process in Chicago. In addition to drastically reducing the claims processing time overall, the number of appeals initiated at the Chicago VARO has also been significantly reduced over the past four years, and DAV has been proud to be a major partner in this effort.

According to DAV analysis, in 2009, the Chicago VARO FDC pilot program yielded an average processing time of 78 days for 25 percent of the FDC claims submitted, while 50 percent were rated within 130 days. This was improved in 2010, when 25 percent of FDC claims were rated within 69 days and half were decided within 115 days. Moving forward with the FDC program nationally, the participation continues to increase, while the number of claims excluded from the FDC is decreasing.

Data received from the VBA reflects that, during the first quarter of fiscal year (FY) 2013, of the total number of claims submitted by our Chicago DAV National Service Office, 21 percent were qualified FDC claims. At the end of the second quarter, the percentage of FDC claims increased to 25 percent and by the end of the third quarter of FY 2013, the percentage of qualified FDC claims submitted by DAV dramatically increased to 38 percent of all claims being filed through our NSOs.

In our opinion, a major reason for the dramatic increase between the second and third quarters of FY 2013 is due to the decrease in the number of claims being excluded from the FDC program, which is attributed to the improved communication between VARO staff and DAV NSOs, allowing us the opportunity to contact the claimant and resolve the issue and keep the claim in the FDC program. To date, approximately 22 percent (10 percent nationally) of the total claims processed at the Chicago VARO are claims submitted through the FDC program with an average processing time of 105 days. DAV is very optimistic about the continued increase in FDC participation largely due to the program and its positive results becoming more known in the veterans' community.

DAV believes that the most important factor in making the FDC program work is educating and communicating directly with the claimant. Communication and cooperation are imperative to the FDC process, which is why DAV NSOs have direct interaction with claimants at all stages throughout the process. NSOs provide claimants with specific guidelines on the proper development of an FDC, and as a general rule, all claimants are requested to contact the assisting NSO office no later than 60 days following the submission of an FDC. Additionally, once a decision has been reached by VBA, DAV NSOs proactively contact our claimants to explain the decision. The education and communication with our clientele have been largely responsible for the success in the FDC claims process and has also resulted in fewer appeals being initiated, or Notices of Disagreement (NODs), being filed. An additional study DAV completed in Chicago between 2009–2011 harvested results indicating 325 NODs had been submitted in 2009 and dramatic reduction to 61 NODs being filed in 2011, which is an astonishing decline of approximately 82 percent.

DAV has assisted VBA greatly in promoting the FDC process to the veterans' community in hope of encouraging more participation, thereby avoiding claims entering the traditional process and lengthy backlog delays. In addition to promoting the FDC program through the DAV website, magazine, literature, meetings, conferences and other means, NSOs introduce DAV clients to the FDC process through formal orientation classes and/or by explaining the difference between an FDC and a traditional claim. Currently, DAV provides these orientation classes in approximately five locations, but we are hopeful to expand this to all of our offices.

In Chicago, these DAV-led orientation classes are held weekly and are offered to potential claimants or anyone interested in learning more about the FDC process, including VARO employees and other VSOs. Orientation classes may vary in size, up to 20 to 25 participants and representation by DAV is not required. In fact, claimants represented by other VSOs participate in the orientation classes to gain valuable information and ask questions about the FDC process. As part of a local agreement between VSOs, DAV does not solicit participants for representation if they are currently represented by another VSO.

During DAV-led orientation sessions, NSOs advise clients of their options in regards to an informal FDC and how future claims received under the FDC process will not affect the established effective date. Additionally, participants are provided detailed requirements of what is needed for a complete FDC, such as service treatment records, private medical records, personal statements, lay testimony, etc.,

which will allow for greater success. The importance of good communication and cooperation is stressed. Once a claimant understands the process and the type of information or evidence needed to be successful in a claim, such as obtaining a completed DBQ or records from their private physician(s), the more excited a claimant is to be engaged with their claim throughout the process. It cannot be overemphasized: the majority of claimants want to be involved with their claim and are more than willing to obtain the necessary information, rather than simply submitting a claim with no supporting information and waiting to receive a decision.

Also, as part of the discussion during orientation, or even one-on-one interviews, DAV NSOs ensure that all clients understand the importance of attending any scheduled VA examinations and the importance of not submitting any additional claims or information requiring development after the FDC has been submitted, as any of these will exclude a claimant from the FDC process. DAV NSOs also ensure claimants are fully aware and informed of any VA literature and websites regarding the FDC.

Finally, in order for the FDC program to continue being successful, full cooperation and communication between VA, the claimant and VSOs is imperative. During the early days of the FDC program, when claims would be excluded from the FDC, neither DAV NSOs nor the claims would be notified that their claim was no longer in the FDC program. In many cases, we would later discover that this exclusion had taken place, although it could have easily been avoided had VBA simply communicated with our NSOs. In Chicago, in an unprecedented approach, Director Honeycutt reached out to DAV and offered to contact our NSOs by email when a case was being prepared for exclusion from the FDC. This simple communication bridge allows the NSO the opportunity to contact the claimant and can often resolve simple problems, such as missing signatures, thereby allowing the claim to remain in the FDC.

Mr. Chairman, DAV believes the FDC program has been very successful and has had a major impact on reducing the backlog of disability claims. We know the FDC program will continue to improve as VBA and VSOs continue seeking to improve our roles, and in that regard, DAV would offer the following recommendations.

First, VAROs need to clearly designate one individual to serve as the FDC coordinator, and VARO Directors must ensure that this person is provided adequate time and resources to successfully work with VSOs to address problems with submitted FDCs as they arise. This person must not be diverted away from their FDC responsibilities to address gaps in regular claims processing, particularly if such a change were being done to make short-term boosts in productivity just to show momentary progress in reducing the backlog.

Second, VBA should revise its national policies on excluding claims from the FDC process so that when a veteran files a FDC and later submits additional evidence that does not require any development, the claim should remain in the FDC program. This process has worked very successfully in Chicago and some other VAROs, and we believe it should be formalized as a national policy.

Third, VBA should not remove claims from the FDC program if VBA determines that secondary claim can be inferred based on the evidence received. When a claimant fulfills all their obligations to file a FDC, actions taken by VBA in satisfying the law should not become a reason to remove that claim from the FDC program. It will not help the veteran and it will not help the FDC program.

Fourth, VBA must continue to encourage and support the use of private medical evidence in order to eliminate the time and resources required to administer compensation medical exams. VBA has taken significant actions to encourage private evidence, such as the development and use of DBQs and the Acceptable Clinical Evidence (ACE) initiative, however there still remains resistance in some VAROs from some employees to give private medical evidence the same weight as VA medical evidence.

Fifth, one concrete way to advance private medical evidence would be for VBA to release all DBQs for veterans' private treating physicians to complete, particularly those designated for medical or nexus opinions and for assessing PTSD.

Sixth, VBA and VHA must reach an agreement and quickly implement new procedures to ensure that all VHA-treating physicians are required to complete DBQs for veterans upon request. Today, many VHA treating physicians are being told that they either should not, or may not have to fill out DBQs for their patients.

Finally, DAV urges Congress to pass legislation amending current law by requiring VA to give equal weight to private medical evidence that is competent, credible, probative, and otherwise adequate for rating purposes; the same weight as VHA-provided medical evidence.

Mr. Chairman, this concludes my statement and I would be happy to answer any questions from you or members of the Subcommittee.

Prepared Statement of Diane M. Zumatto

Good afternoon Chairman Miller, Ranking Member Michaud, and committee thank you for this opportunity to allow AMVETS to voice both our praise and concerns regarding VA's efforts to reduce the backlog of claims that have been pending for more than 125 days via the Fully Developed Claims (FDC) program. AMVETS supports and applauds VA's stated goal of eliminating the backlog of compensation claims by the end of 2015.

Looking back in time, we see evidence that the backlog of compensation claims has been growing steadily since 2009. Notwithstanding the fact that VA completed a record-breaking 1 million claims per year in fiscal years 2010 - 2012, the number of claims received continues to exceed the number processed.

In response to what appears to be a systemic problem, VA has begun implementing a comprehensive Transformation plan—a series of people, process and technology initiatives—to increase productivity and accuracy of disability claims processing. The FDC program is one element of this transformation and it is hoped that, once fully implemented, that it will substantially contribute to the elimination of the backlog by the 2015 goal.

What Is a Fully Developed Claim?

The Fully Developed Claims (FDC) program is an optional new initiative that offers Servicemembers, Veterans, and survivors faster decisions from VA on compensation, pension, and survivor benefit claims.

Veterans, Servicemembers, and survivors simply submit all relevant records in their possession, and those records which are easily obtainable, such as private medical records, at the time they make their claim and certify that they have no further evidence to submit. VA can then review and process the claim more quickly.

Filing a FDC is typically the fastest way for veterans to receive a decision on their claims since they are required to provide all supporting evidence in their possession when they originally submit their claims. Often, this is evidence that VA legally must attempt to collect on the veteran's behalf, which may already be in the veteran's possession, or is evidence the veteran could easily obtain. When veterans submit all such evidence with their original claims, it significantly reduces the amount of time VA spends gathering evidence from them or other sources, which is often the longest part of the claims process.

While VA will still makes efforts to obtain federal records on the veterans' behalf, the submission of non-federal records, and any additional federal records the veteran may have, with the claim allows VA to issue a decision to the veteran more quickly. Typically, VA processes FDCs in half the time it takes for a traditionally filed claim, therefore FDCs help eliminate VA's claims backlog because they increase production of claims decisions and decrease waiting times. Also, VA assigns FDCs a higher priority than other claims which also leads to veterans receiving decisions to their claims faster than traditional claims.

The VA continues to prioritize other specific categories of claims, including those of seriously wounded, terminally ill, Medal of Honor recipients, former prisoners of war, the homeless and those experiencing extreme financial hardship. As part of its drive to eliminate the claims backlog in 2015, the VA also gives a priority to claims more than a year old.

The concept of the FDC program has been moderately successful in its ability to assist VA in reducing the backlog of pending claims. According to the Veteran Benefits Administration's (VBAs) Monday Morning Workload Report (MMWR), a weekly compilation of performance measures for the processing of Disability, Pension and Education benefits, under the FDC program, the number of claims have dropped from the high water mark of 919,461 on the 16 July 2012 to the current level of 760,820 pending claims on the 24 August 2013. Additionally, the number of claims in the backlog has declined from 633,469 on 25 March 2013 (according to the MMWR) to 459,998 on 31 August 2013 (according to the MMWR).

A very real need has always existed for the VA's external partners to assist VA by providing them with complete claims packages on behalf of their clients. This allows VA to receive the claim and proceed to rating it with a minimum of additional development. Years ago these were called ready-to-rate (RTR) claims.

A ready-to-rate claim included every piece of evidence needed for a VA rater to begin rating a claim. This included the application for benefits correctly completed; a certified copy of the veteran's DD214(s), any and all service medical records; civilian treatment records if appropriate; and all necessary documents to verify the veteran's dependents. The only thing the VA might have to do is to request a com-

pensation examination to clarify the status of a condition. An example would be a veteran who is claiming an orthopedic condition in a major joint. 38 Code of Federal Regulations requires a range of motion study so the rating official can determine the appropriate percentage of disability to assign for the condition if service connection is granted.

VA drifted away from the ready-to-rate claim and devised the FDC initiative; however, we feel this is inaccurate, since the title implies a complete claims package; however dependents have been stripped out of the claim.

FDCs "achieved" production synergies by stripping the veteran's dependents information from the claim form. This was most likely done to "save keystrokes." Notification of a veteran's dependents is now contained under the second bullet in the special circumstances section or "the small print", of the instructions on the first page of the VA Form 21–526EZ. The bullet instructs a veteran to attach a VA Form 686c if they have dependents.

The problem now is that the dependents are no longer part of the claim; instead, they have been relegated to an award adjustment action. Adding dependents to a veteran's claim now falls under an entirely different end product code than the claim. We look at this as robbing Peter to pay Paul. It is also an ineffective and less efficient way to work, since a claim with dependent(s) must now be touched multiple times instead of only once before it is finalized and authorized. Additionally, telephone calls and written correspondence concerning the status of the veteran's dependents must now be addressed separately, or "placed on the back burner" as has evidently happened. The need to now respond to two separate status requests, rather than just one is leading to an increasing workload.

Since the FDC started in May 2010, the number of pending dependents issues has increased from a monthly average of 40,000 to 205,467 as of the 24 August 2013 MMWR. The increase in the pending dependents "award adjustment actions" this new dependents backlog coincides exactly with the start of the FDC. I say this because the increase in the number of pending dependents issues started in August 2010, 90 days after implementation (which is the same amount of time VA raters have to complete and promulgate FDC rating decisions) of the FDC program which started in May 2010.

We at AMVETS have a major concern with the new backlog of dependents award actions. The 205,467 pending issues are the ones VA has identified. How many veterans who are entitled to dependents allowance have not been identified? This number is a complete unknown. If they do not find out about this benefit and file to add their dependents more than one year after the original decision, the benefits will be paid from the month the request was filed. Since the request is more than one year after the decision, it would not retroactive.

The removal of dependents rom the application does not make sense for the veterans. VA's own annual reports since 2005 show that for the majority of rating decisions veterans qualify for dependents allowance. This has steadily climbed from 51% in 2005 to 56% as noted in the 2011 annual report, the most current annual report available.

AMVETS fully supports the submission of complete claims packages, as we are aware that any other position hurts our veterans and the VA employees working those claims. Additionally, it is of critical importance that sufficient funds be allocated to manage the backlog and multiple levels of oversight as part of the VA's attempt to correct this situation. We cannot do the VA's job for them, but AMVETS can and will, support any and all efforts that facilitate their efforts.

I would like to conclude by noting for the record, that AMVETS fully supports both Secretary Shinseki and Under Secretary for Benefits Hickey. Both of these leaders have struggled to fulfill their obligations to their fellow veterans thanks to the antiquated civil service system current in place. While we appreciate that this system, and its attendant protections, was originally established to rightly protect against patronage, worker exploitation, and political manipulation. But instead of protecting the best employees and creating an environment in which excellence can thrive, civil service protections now serve to lock the worst employees into place, making it virtually impossible for managers to fire poor performers. Neither VA Secretary Eric Shinseki, nor any future VA secretary, can be fully expected to fix a system in which they are unable to fire bad employees and reward good employees based on merit (instead of tenure). We need to give the VA's leadership the tools they need to fix the system.

These conclude my remarks. Thank you Mr. Chairman.

Attached Graphs:

Pending Claims and the Claims Backlog: July 1999 to Present
Dependency Issue Backlog: December 2009 – August 2013

Percentage of Claims Qualifying for Dependents Allowance: 1999 – 2011

Disclosure

9 September 2013

The Honorable Representative Jeff Miller, Chairman
U.S. House of Representatives
Committee on Veterans' Affairs
335 Cannon House Office Building
Washington, D.C. 20510

Dear Chairman Miller:

Neither AMVETS nor I have received any federal grants or contracts, during this year or in the last two years, from any agency or program relevant to the February 15, 2012, House Veterans Affairs Committee hearing on the U.S. Department of Veterans Affairs Budget Request for Fiscal Year 2013.

Sincerely,

Diane M. Zumatto, AMVETS
National Legislative Director

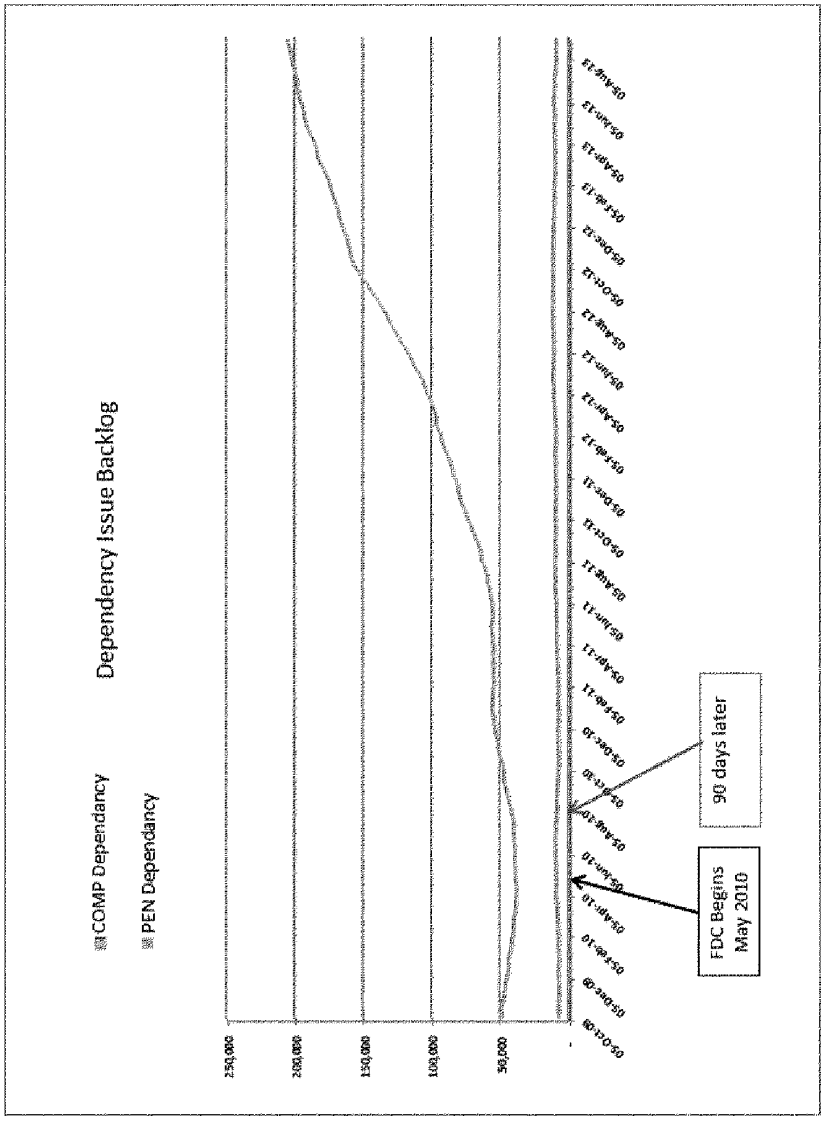
Biographical Sketch

Diane M. Zumatto of Spotsylvania, VA joined AMVETS as their National Legislative Director in August 2011. Ms. Zumatto, a native New Yorker and the daughter of immigrant parents decided to follow in her family's footsteps by joining the military. Ms. Zumatto is a former Women's Army Corps (WAC) member who was stationed in Germany. Zumatto was married to a CW4 aviator in the Washington Army National Guard and is the mother of four adult children. Ms. Zumatto is extremely proud that two of her children have chosen to follow her footsteps into military service.

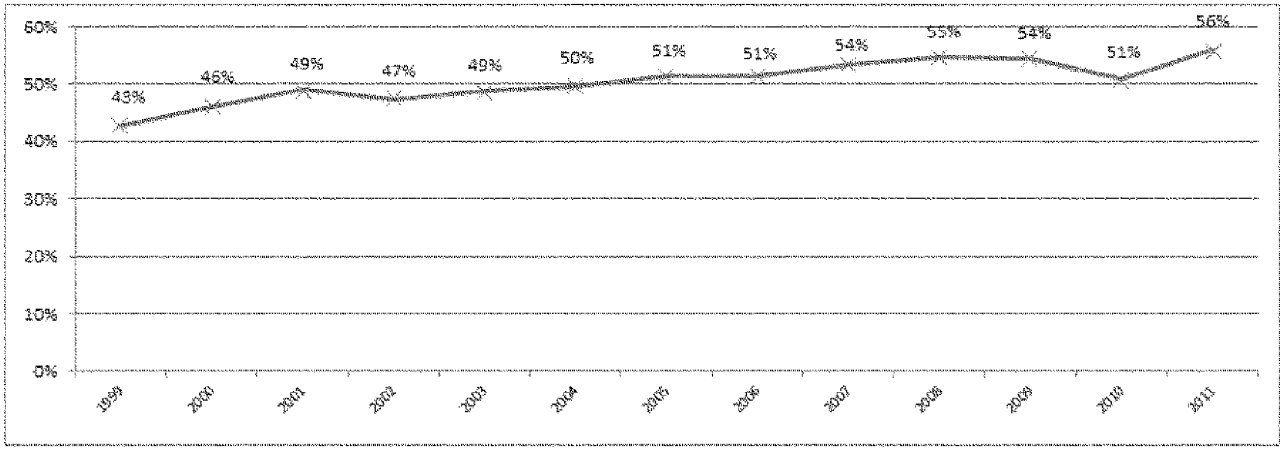
Ms. Zumatto has more than 20 years of experience working with a variety of non-profits in increasingly more challenging positions, including: the American Museum of Natural History; the National Federation of Independent Business; the Tacoma-Pierce County Board of Realtors; the Washington State Association of Fire Chiefs; Saint Martin's College; the James Monroe Museum; the Friends of the Wilderness Battlefield and the Enlisted Association of the National Guard of the United States. Diane's non-profit experience is extremely well-rounded as she has variously served in both staff and volunteer positions including as a board member and consultant.

After receiving her B.A. in Historic Preservation from the University of Mary Washington in 2005, Diane decided to diversify her experience by spending some time in the 'for-profit' community. Realizing that her creativity, energy and passion were not being effectively challenged, she left the world of corporate America and returned to non-profit organization.

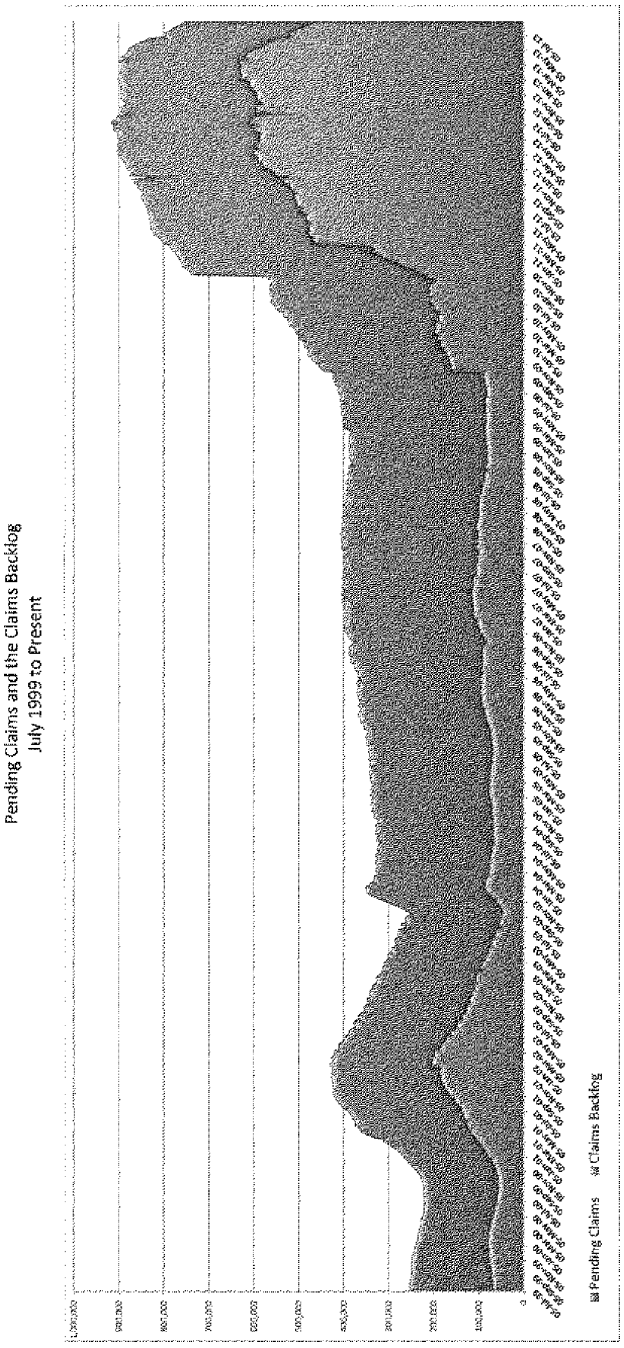
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Dependency Issue Backlog
COMP Dependancy
PEN Dependancy
250,000
200,000
150,000
100,000
50,000
-
FDC Begins May 2010
90 days later

Percentage of Claims Qualifying for Dependents Allowance



NOTE: Data contained in VA's Annual Benefits Reports


Pending Claims and the Claims Backlog
July 1999 to Present
Pending Claims
Claims Backlog

Prepared Statement of Admiral W Clyde Marsh, USN, Retired

INTRODUCTION

Mr. Chairman and distinguished members of the committee, my name is Clyde Marsh, President of the National Association of State Directors of Veterans Affairs (NASDVA) and Director of the Alabama Department of Veterans Affairs. I am honored to present the collective views of the State Directors of Veterans Affairs for all 50 states, the District of Columbia, and five U.S. Territories on the implementation of the very important Fully Developed Claims (FDC) program. Here with me today are Les Beavers – Kentucky, past NASDVA President, and State Director, Randy Reeves – Mississippi.

Nationally, we are second only to U.S. Department of Veterans Affairs (USDVA) in providing services to veterans and our roles continue to grow. Our duties include honoring and working with all veterans and their family members and the various Veterans' Service Organizations (VSO) both within our states and nationally. We have a formal partnership with USDVA through a Memorandum of Understanding (MOU) with Secretary Shinseki signed in February 2012. The MOU pledges the two organizations to maintain effective communications, an exchange of ideas and information, identification of emerging requirements, and continuous reevaluation of existing veterans' programs to meet today's needs.

As governmental agencies, our Governors, State Boards and/or Commissions task their respective State Departments of Veterans Affairs (SDVA) with the responsibility of addressing the needs of our veterans and their families particularly in our role as advocates. We are charged with the duty of processing veterans' claims for disability compensation, pension and survivor benefits. On a daily basis, State Directors and their staffs are confronted with unique situations, which often need to be addressed in an urgent manner. As you well understand, delivery of meaningful services and support is best coordinated at the local level.

SUPPORT FOR FULLY DEVELOPED CLAIMS PROGRAM

NASDVA strongly supports the concept, methodology and strategy undertaken by the Veterans Benefit Administration (VBA) in the current FDC Program as one of several means to reduce the current veterans' claim backlog while also reducing claims processing completion times. To help facilitate success of the FDC program, each state will endeavor to provide specific mission guidance, goals and checklists to increase both the quantity of submissions as well as the quality of claims. In addition to our association's support, to date over three-fourths of the states and territories have submitted individual letters to the Undersecretary for Benefits in support of FDC.

The FDC goal of providing a response to claimants within 90 days, which we strongly support, will go a long way toward reduction of the current claims backlog and give veterans a reasonable expectation on the time to process individual FDC claims. Transparency will be particularly important to ensure veterans' confidence in this process.

NASDVA is in complete agreement with the allowance within Public Law 112–154 that provides for up to a one-year retroactive effective date for awards of disability compensation. This change further creates confidence in the program since it negates the need for veterans to submit informal claims for the sole purpose of establishing "date of claim" affecting retroactive compensation payment(s). As advocates for veterans, we accept the responsibility of helping our veterans to understand that they are certifying to the truthfulness of the information and they are authorizing release of information necessary to enable a rating decision. Likewise, the submission on the VA EZ form(s) meets the requirement for "duty to notify" as required by Title 38 U.S.C. Sect. 503. It is understood that individual veterans, too, have a responsibility to submit all required evidence with their claim.

We believe all veterans, regardless of where they reside, should have equal access to federal and state benefits and services and that federal and state governments must collaborate to achieve this goal nationally. The local relationships between SDVAs and VSO offices with VA Regional Offices (VARO) are critical. Many areas of the country are still underserved due to veterans' lack of information and awareness of their benefits. This directly impacts our veterans' ability to effectively access the VA claims process.

The USDVA and SDVAs must continue to work together to reduce this inequity by reaching out to veterans with information and make every effort to assist them in filing FDCs. Steps should be taken to make disability processing less confusing,

eliminate payment inequities and provide a foundation with appropriate incentives for injured veterans to return to a productive life.

FULLY DEVELOPED CLAIM PROCESS IN THE FIELD

NASDVA recommends an increased role for SDVAs in the overall effort to manage and administer claims processing, regardless of whether the state uses state employees, nationally chartered veterans service organizations (VSO) and/or county veterans service officers (CVSO). Collectively, we have the capacity and capability to assist the Veterans Benefit Administration (VBA). Additionally, a collaborative effort should take place on the establishment of standards for training, testing, and accrediting service officers to include continuing education and performance standards. We can support VA in their "duty to assist" without diminishing our role as the veterans' advocate.

USDVA needs to encourage veterans to use the assistance of SDVAs, VSOs and CVSOs in submitting all claims. Assistance from trained service officers will help ensure claims are submitted with all the supporting documentation necessary to support or substantiate the claim. This will help eliminate requests for clarification or missing information and reduce rejects/remands. The desired result will be expedited processing without distractions or delays due to process errors, incomplete files and missing information or medical documentation.

Over the past two years, several states have taken the lead in developing strategies and processes that have integrated the FDC process into their claims operations. One example that has yielded significantly positive results is the Texas Veterans Commission's (TVC) state funded initiative that included a 32 Veteran Service Officer "Strike Force" to help reduce the VA claims backlog and a 28 member team to file FDCs. Specifically:

- In August 2012, TVC dedicated over half of its Strike Force effort to the FDC process by creating the Fully Developed Claims Teams. Of the total Strike Force, 28 (dedicated) TVC Fully Developed Claims Team members work to ensure that newly filed claims are filed as FDCs.
- In May 2013, during its annual Spring Training Conference, TVC provided four (4) days of concentrated, in-depth training on FDCs to over 240 State and County Veterans Service Officers from around the state.
- To date, the TVC has submitted 8,868 claims to the VBA for processing as FDCs. TVC's efforts have yielded over 71% of FDCs in the Waco VARO and over 60% in the Houston VARO.

Similar efforts, of varying scope, are ongoing in states nationwide. It must be understood, however, that resources, legislative authority, organizational structure and operating procedures do vary significantly from state to state. To the degree they are individually able, NASDVA's member states are resolved to fully support the FDC process.

ITEMS CRITICAL TO SUCCESS OF FDC INITIATIVE

As with any new program and/or initiative there are areas within the FDC process, including policy, where continued discussion, close coordination thoughtful monitoring will be required. NASDVA and its individual states appreciate and are committed to continued open dialogue and cooperation with individual State Regional Offices, VBA, USDVA and Congress to improve the process of serving our Nation's veterans. We ask that attention be given to the following areas:

- A component of the FDC process is the Disability Benefits Questionnaire (DBQs). DBQs need to be simplified and shortened for simple conditions.
  - ➢ DBQs are too complicated and lengthy, especially for simple conditions.
  - ➢ If physicians (including VA physicians) are refusing to complete them, as we frequently hear, then their value to the FDC process is lost.
- The FDC works because it provides incentive for veterans to take the time to ensure their claim is fully developed, prior to filing. In exchange veterans expect, in accordance with expectations set by VA, for the process to take less than 90 days. There is still work to be done on this. For example, although much progress has been made, in Texas the Houston VARO currently averages 101.3 days processing FDCs while the Waco VARO averages 130–145 days. In most states, the FDC process is comparatively new but the comparisons are very similar. NASDVA and USDVA must continue to be vigilant to ensure the process can meet the expectations of our veterans as submissions of FDCs increase.

- Our veterans have a reasonable expectation that once a claim is submitted and accepted as a FDC that it will remain in that process. USDVA must be committed to making sure veterans know, as soon as possible, their claim has been fully accepted as a FDC and they will have a decision in 90 days. We do recognize that there are legitimate reasons for exclusion from the process such as: the veteran needs non-federal evidence development, evidence received after FDC established, claimant declined FDC or VBA administrative reason (e.g. wrong form received, not signed, etc.). However it is critical that VBA promptly notify the veteran and his representative early in the process and that VBA be flexible in that process. A good example of flexibility is, as in the case of missed appointment, finding out why and making every effort to work with the veteran. However, we appreciate that in the event the claim is not eligible for FDC, there will be no harm to the veteran's claim as it will be processed as a normal claim.
- E–Benefits makes it possible for veterans to file claims on their own.

➢ The layout of the current E–Benefits website does not adequately convey the importance of representation in the claims process. VBA needs to encourage veterans to seek representation so that FDCs are filed properly.

➢ VBA needs to ensure that the Stakeholder Enterprise Portal (SEP) within E–Benefits is working properly.

- Outreach and training are critical to the success of the FDC Program. ROs have clearly been instructed to provide FDC training, as outlined in VBA Fast Letter 12–25 (revised 8–13–2013), to VSOs. This should also apply to SDVAs and CVSOs. Any future instructional Fast Letters should, specifically include SDVAs and CVSOs. FDC Program Coordinators at the ROs should also be responsible for outreach and training.
- The Veterans Benefits Management System (VBMS) which is now in place nationally in all VAROs will take us from mountains of paper to a digital data claims system as well as provide instant connectivity and easier access. The full implementation of VBMS is vital to improvement of the claims process in general and to the FDC program specifically.

CONCLUSION

Mr. Chairman and distinguished members of the VA committees, we respect the important work that you are doing to improve support to veterans who answered the call to serve our great country. State Directors of Veterans Affairs remain dedicated to doing our part, but we urge you to remember the increasing financial challenge that states face, just as you address the fiscal challenges at the national level. I would like to emphasize again, that we are partners with federal VA in the delivery of services and care to our nation's patriots. State Directors are veterans' advocates that help veterans receive support and essential benefits they have earned through their honorable service.

As procedures and policies are adopted within the FDC Program, NASDVA looks forward to participating as partners and requests to be involved in the rulemaking process with VBA and USDVA. Since FDC is an evolving program, we will continue to provide feedback for enhancement of the program, which will ultimately benefit affected veteran claimants. As you all are keenly aware, how well the FDC program is administered will mean nothing without continued funding for USDVA programs so that granted claims can be promptly paid.

Thank you for including NASDVA in these very important hearings.

Statements For The Record

PARALYZED VETERANS OF AMERICA

Chairman Runyan, Ranking Member Titus, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to offer our views on the Fully Developed Claims' process and the initiation of the one year look-back for benefits, which took effect on August 6, 2013. The claims backlog has been challenging the Department of Veterans Affairs (VA) for years and PVA appreciates you conducting this hearing to examine the issue.

Over the next several years, an estimated 1.2 million active duty service members will separate from the military and be welcomed home only to fall in line behind veterans who have been awaiting a decision on their VA claims. Of these claims, 66 percent have been "backlogged" for more than 125 days, according to March 2013

Government Accountability Office (GAO) testimony before Congress. The claims backlog, those cases pending 125 days or longer, stands at 490,000, which is down from the 530,000 reported on June 15, 2013. VA says its total claims inventory of 773,000 is the lowest since April 2011, and down from 808,000 on June 15. Those 490,000 claims in the backlog, combined with an anticipated wave of new claims as operations in Afghanistan wind down and the military downsizes, raise concerns about the feasibility of meeting VA Secretary Eric Shinseki's 2015 target goal of eliminating the backlog and adjudicating all VA claims in 125 days or less.

The Veterans Benefits Administration (VBA) continues to implement several initiatives to meet the Department's goal of eliminating the claims backlog in 2015. In April 2013, the VA launched an initiative to expedite disability compensation claims decisions for veterans who have waited a year or longer. In the following month, the VBA announced that it was mandating overtime for claims processors in its 56 regional offices to increase production of compensation claims decisions through the end of fiscal year 2013. As a result of these initiatives, the VBA's total claims inventory has declined to a level not seen since August 2011. The number of claims in the backlog has been reduced by 17 percent compared to the highest point in March 2013.

One particular initiative, the Fully Developed Claims (FDC) program, has purportedly played the most significant role in reducing the backlog. Fully developed claims require veterans to provide all supporting evidence in their possession when they submit their claims. Often, this evidence is already in the veteran's possession, or is evidence the veteran could easily obtain, such as private treatment records. By submitting this evidence with their claims, veterans significantly reduce the amount of time VBA spends gathering evidence from them or other sources, often the longest part of the claims process. The FDC process is being touted as the fastest way of processing compensation or pension claims, many being processed in an average of 117 days according to VA.

In May, the VA announced a new partnership with Veterans Service Organizations and others known as the "community of practice." The effort seeks to reduce the compensation claims backlog for veterans by increasing the number of FDCs filed by veterans and their advocates. Also, veterans who file an original "fully developed claim" for service-connected disability compensation may now be entitled to up to one year of retroactive disability benefits. The retroactive benefits, for FDCs submitted between August 6, 2013 and August 5, 2015, are the result of a comprehensive legislative package passed by Congress and signed into law by President Obama last year.

It is PVA's belief that the FDC process has proven effective in reducing the VBA's claims backlog by increasing production of claims decisions and decreasing waiting times. Also, because VA assigns FDCs a higher priority than other claims, veterans receive decisions to their claim faster than traditional claims. That said, PVA notes a number of concerns with the FDC process.

First, very few complex, multiple-issue claims in PVA's inventory, that also involve claims for Special Monthly Compensation, could be submitted as FDCs. When compared with other major Veteran Service Organizations, PVA's contribution to the FDC process has been substantially less. For example, the Veterans of Foreign Wars processed 16 times more FDCs than PVA; the American Legion processed 27 times more; and Disabled American Veterans processed 35 times more FDC claims. This variance is due to a combination of factors. PVA clients tend to be severely or catastrophically disabled veterans or survivors with claims presenting complicated medical questions. Developing these claims with higher complexity is often made more difficult by the unavailability of, or limited access to, evidence from various sources at the time the claim was filed or the need for a medical opinion to reconcile ambiguous interpretations of evidence. Since PVA's goal is to attain the maximum grant possible for clients with complex claims, as opposed to merely getting a decision, the FDC process does not offer the most efficient path to a timely, accurate decision in many cases.

Another key concern relates to the potential erosion of due process should a veteran disagree with an FDC decision or desire to add evidence later that supports a higher rating. By agreeing to submit an FDC, claimants essentially waive their rights to contest the decision in exchange for a faster decision. There has been no data provided on the number of FDCs that were appealed, and it may take years before the Court of Appeals for Veteran Claims reconciles the foreseeable due process issues inherent in the FDC process. With much of the discussion focusing on the VBA disability claims backlog, very little attention has been placed on the appeals process. However, the downstream effects of the backlog fall to the jurisdiction of the Board of Veterans Appeals where nearly 43,000 appeals now await adjudication. Many veterans who endured the wait associated with backlogged claims face

a new waiting game – which lasts 251 days on average – once denied FDCs become appeals. The current remand rate now sits at 46 percent, which means nearly half of appeals are returned to VBA due to errors or incompleteness that must be corrected before the Board can issue a substantive decision. This could be especially problematic for FDCs that are appealed due to the unresolved due process issues that will inevitably ensue. Remanded appeals will spend the initial average of 251 days in the process plus the time it takes to fulfill a remand order. This can take months or even years in some cases. Reducing the backlog cannot be accomplished by simply replacing one for another.

PVA has conducted detailed research into the claims backlog and its impact on the lives of veterans with disabilities as well as lessons learned from past reports, testimonies, and experiences related to the backlog. PVA makes the following recommendations which are drawn primarily from the findings of this research.

First, those most responsible for assembling evidence pursuant to submission of a Fully Developed Claim, which is considered the preferred method of claims submission by VA, should be given controlled access to records in the Defense Personnel Records Information Retrieval System (DPRIS). DPRIS is an electronic gateway that allows authorized users to access the Services' Official Military Personnel File (OMPF) and Joint Services Records Research Center (JSRRC) repositories online in a secure and efficient manner. This authorized access would eliminate wait times associated with the lack of interagency responsiveness and empower claimants to develop their claims with the necessary evidence of record from the outset.

Second, in order to ensure the accuracy of decisions in cases presenting complex medical questions, VBA should provide claimants with timely access to VA clinicians who can provide medical opinions based on applicable regulations and objective review of all available evidence. Veterans Health Administration (VHA) Directive 2012–002, "Documentation of Medical Evidence for Disability Evaluation Purposes," provides for the completion of a Disability Benefits Questionnaire (DBQ) in support of a disability claim upon request. But many treating clinicians still remain disinclined to complete a DBQ, leaving veterans with virtually no other avenue except the lengthy Compensation & Pension exam process for obtaining an expert interpretation of medical evidence. Rather than leave it to the prerogative of VA clinicians to assist, VA should direct them to cooperate with claimants to the greatest extent they are capable.

Finally, VBA should be required to provide monthly reports on the number of Fully Developed Claims that are appealed by Notice of Disagreement and submitted to the Board of Veterans Appeals (BVA) by Form 9, "Appeal to Board of Veterans' Appeals." In anticipation of due process ambiguities linked to FDCs, VBA and BVA should establish a joint working group to explore and develop a process for the timely and efficient implementation of clear due process standards as these issues are reconciled by the Board.

Mr. Chairman, PVA looks forward to the elimination of the claims backlog by 2015 and support the efforts of VA with the Fully Developed Claim process. But we recognize that this will only be possible with strong oversight of this committee and a continued aggressive focus by VA. Otherwise years from now we will still be discussing the backlog while veterans will still be waiting for benefits that they have earned.

Thank you again for the Committee's dedication to our veterans. PVA would be pleased to take any questions for the record.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2013

No federal grants or contracts received.

Fiscal Year 2012

No federal grants or contracts received.

Fiscal Year 2011

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program—$262,787.

VETERANS OF FOREIGN WARS OF THE UNITED STATES

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to provide testimony for the record regarding fully developed claims.

The Fully Developed Claim (FDC) program is simply the formalization of a local VA regional office practice which has existed for decades. Historically, many of VA's Veteran Service Center Managers (formerly Adjudication Officers) agreed to quickly work fully developed claims submitted by veteran service organizations (VSOs). This program was regularized by the Veterans Benefits Administration (VBA) in 2009 and rolled out to all VA regional offices in 2010.

Since 2010, VBA has refined the FDC program and increasingly encouraged veterans and VSOs to submit claims which do not require development of non-governmental evidence. The VA Under Secretary for Benefits, Allison Hickey, expressed a goal that 20 percent of all claims submitted to VBA should be fully developed. Data obtained from VBA shows that FDCs from all sources totaled 21 percent of all claims submitted in the month of July 2013.

While we could claim "mission accomplished" by meeting the FDC goal, that does little to describe both the benefits and problems associated with the FDC program as it is currently implemented. In our testimony we will discuss those issues, as well as our impressions of Section 506 of PL 112–154 which allows VA to award retroactive benefits of up to one year in certain qualifying FDC cases.

Fully Developed Claims Program – What it is

The FDC program shifts the burden of much of the evidence necessary to adjudicate a claim from VA to veterans and other claimants. Essentially, in exchange for a promise to process a claim more quickly, VA requires claimants to locate, obtain and submit all non-government held records necessary to their claim at the time they submit an application to VA.

Those who successfully complete this task, and who take no action that disrupts VA in processing their claims, are rewarded with a decision often within 90–120 days of submission, rather than the more common eight to twelve months VA takes to work non-FDCs.

This is a clear win for VA. In exchange for promising to work a claim to completion more quickly, VA is relieved of the need to develop a claim. This reduces the number of employees (FTE) necessary to perform this work which allows VA to assign them to perform other tasks. In addition, because the bulk of the development is done by the claimant and not VA, traditional measures of claims processing timeliness (average days pending, average days to complete) are reduced. This allows VA to assert that it is processing claims more quickly.

Further, claimants may themselves believe that they have a win since they receive a decision from VA more quickly than do their peers who submitted claims through the non-FDC process. One would think that this is a win-win for both VA and veterans; but is it?

The claims adjudication process follows certain basic steps: claims submission, review, development, decision, and notification. In the FDC program, claims submission, review, decision, and notification are the same as before. What has changed is that much of the development occurs before the claim is submitted to VA, not after. Development must still be done, except in the FDC program, it is done on the veteran's clock, not VA's. If the veteran is focused, knowledgeable and efficient, or has sought the assistance of a trained VSO representative, he or she can accomplish the development much more quickly than can VA. However, if he or she lacks full understanding of what is necessary to successfully complete his or her claim, he or she may take longer to complete the application package. Regardless, development time, whether performed by the veteran or by VA, should be included when considering whether veterans are indeed winners.

We believe that for many veterans, the total time to gather evidence, submit a claim to VA and receive a decision is little different under the FDC program than under the non-FDC model. In addition to the time factor involved in veteran development, there are also some hidden costs inherent in the pre-filing development undertaken by veterans. For example, many private health care providers are reluctant to provide records directly to the claimant or charge significant fees which must be paid, while those same records may be provided to the VA upon official request without cost. As part of the FDC program the VA encourages that the veteran submit a completed Disability Benefit Questionnaire (DBQ); however, many VA treat-

ment providers are reluctant to assist the veteran in this regard. Worse still, we have many reports of VA health care providers refusing to complete DBQs despite VA directives to do so. Finally, private health care providers find DBQ instructions to be confusing.

The FDC program is obviously a success for VA, because timeliness numbers appear improved over traditional claims processing. For most veterans, however, we suggest that this process, from beginning to end, is more a draw than a win. Further, we should not be pitting one veteran against another for VA resources. There are other problems inherent with the FDC program which limits its usefulness and effectiveness:

- If a claim is already pending before VA, the submission of a claim under the FDC program is barred.
- An FDC will not be accepted if an appeal on another issue is pending if the claims folder is not located at the home Regional Office (RO), such as if the pending appeal has been brokered out to another RO or if the appeal has already been sent to the Board of Veterans Appeals.
- VBA Fast Letters make it clear that submission of any additional evidence, no matter how inconsequential to the claim, results in the subsequent exclusion of the claim from the program.
- Submission of an appeal on a previously decided issue will kick a claim out of the FDC program.
- Although VA is responsible for developing necessary records held by the federal government, such as active duty service medical records, VA will not accept an FDC where development of National Guard and Reserve medical records are required. Keep in mind that during the wars in Iraq and Afghanistan, approximately half of all those deployed were activated Guard and Reserve personnel. While service treatment records created for Guard and Reserve members during a period of deployment are technically federal records, the physical location of those records becomes the issue and is outside of the veteran's control.

There are unintended consequences of the FDC program. Principle among them is that many veterans believe that they should submit only one issue with a fully developed claim. The theory here is that each additional issue claimed substantially increases the likelihood that a VA employee will decide additional development is needed, thereby kicking the entire claim out of the FDC program. Further, veterans often limit the single FDC issue to what they view as an "easy claim" or a "sure thing" in the hope that a quick decision will lead to monetary benefits. This strategy may prove successful in the short term, but at a cost. Claims filed later have later effective dates. This means that some veterans lose months of benefits in exchange for a quicker decision by VA.

The VFW supports the FDC program. Throughout this Fiscal Year the percentage of FDC claims submitted by the VFW has steadily increased. In July 2013, 21.8 percent of all claims submitted were accepted by VA as fully developed.

Section 506 of Public Law 112–154

Section 506 states, in pertinent part:

(2)(A) Effective dates. The effective date of an award of disability compensation to a veteran who submits an application therefor that sets forth an original claim that is fully-developed (as determined by the Secretary) as of the date of submittal shall be fixed in accordance with the facts found, but shall not be earlier than the date that is one year before the date of receipt of the application.

(B) Definition. For purposes of this paragraph, an original claim is an initial claim filed by a veteran for disability compensation.

In our view, this law, while well intentioned, will have minimal impact on claims processing by VBA. Further, few veterans will benefit from this liberalizing statute. There are several reasons for this conclusion:

1. It only applies to original claims. According to VA, original claims make up 40 percent of its workload. As of August 31, 2013, VA had 240,000 original claims pending.[1] Section 506 would not apply to the vast bulk of pending disability claims.

2. Qualifying as an FDC will be difficult. The data shows that 23 percent of original claims have eight or more issues; most of the remaining claims have more than

[1] Monday Morning Workload Report; August 31, 2013; *http://www.vba.va.gov/reports/mmwr/*

one issue. As discussed above, the more issues submitted with a claim the more difficult it will be to submit a fully developed claim.

3. While encouraging veterans to file for compensation for conditions they believe are related to service is the right thing to do, the possibility of receiving an additional year of benefits will encourage veterans who have previously not submitted a claim to file one. As a consequence, this provision solicits more claims when VA is struggling to dig out of its current backlog problem.

4. While veterans are encouraged to submit fully developed claims, because of the number of issues claimed and the increased difficulty in submitting an FDC with each additional issue, we anticipate that many claims will not qualify for the FDC program, resulting in increased customer dissatisfaction when they do not qualify.

5. For the same reasons, a decision that a claim is not FDC eligible and, hence, not eligible for up to one year of retroactive benefits, will result in increased appeals.

6. Further, even if a claim does qualify for FDC processing, there is no guarantee that VA will award retroactive benefits because the award is based on "facts found" and is not automatic. Again, failure to award retroactive benefits will result in increased customer dissatisfaction and increased appeals.

The VFW fully supports the FDC program as amended by Section 506. We have invested hundreds of man-hours in training VFW service officers in preparing and submitting fully developed claims which meet the requirements of the program. We believe that this program can be a win-win for both veterans and VA. However, it is important to recognize the limitations of this program, and the implications it may have on some veteran's claims.

This concludes my testimony. Thank you for the opportunity to submit the VFW's views for the record.

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 2013, nor has it received any federal grants in the two previous Fiscal Years.

Questions For The Record

AMVETS RESPONSES TO HEARING QUESTIONS

Question 1 (line 1062): What additional steps do the VA and other stakeholders need to take in order to make the program fully successful. We can't fix every one of them. What is the big one we can tackle?

Question 2 (line1188): You mentioned that there is a real need for the VA to make changes with regards to dependents and dependent's claims and the information for dependents. Do you have any specific suggestions to how we can address some of the challenges that dependents face when they file claims?

Response to Questions 1 & 2: The most beneficial thing VA could do to ensure the success of the FDC program and eliminate the dependents allowance backlog, as well as the claims backlog, is to continue making progress on the development and implementation of the Data to Date (D2D) Program as part of VBMS, including DBQs and calculators.

From a VSO perspective, D2D could have a huge impact for both VA and its VSO partners. D2D is an electronic interface that would permit the VSOs and other external stakeholders to submit complete, fully developed claims packages electronically. This program is meant to be an electronic portal, similar to that used by the IRS, which would allow electronic communication between the VA and all external partners.

Unfortunately, the D2D program has not been fast tracked by the VA and has experienced repeated management turnover during the last 12 months, which has prevented timely and consistent progress. There was even a 4-month period where there was no one to talk to in the D2D 'project office', which forced us to get a contact name directly from VACO.

AMVETS believes that this has occurred since the VA's solution appears to be that their external stakeholders will submit claims electronically via e-Benefits or

VA's SEP and then have to turn around and reenter all of the data again into the VSOs' claims management database systems. Unfortunately again, this is typical of VA to develop a position/solution that excludes their external "partners" from the planning process; however, when fielded it creates a lot of gratuitous work for the VSO "partners." Too many times VA's "policy" of openness and transparency most closely resembles a one-way street for the flow of information.

Our service director attended a meeting 8 or so years ago when the Under Secretary for Benefits said words to the effect that there are a lot of VSO personnel in the ROs and you need to put them to work for you (the VA). VA seems to have wholeheartedly embraced this idea.

In response to VA's plans, let me say that the VSOs are not employed by the VA as VA's clerk typists. Months ago VA boasted of a plan to reduce the number of clerk typists that would allow them to "harvest" the spaces and shift the resources to other more productive areas. As expected when we first heard this, the plan has been to get the VSOs to do the VA's data entry for them. Anyone who disagrees with VA on this is labeled as not wanting to help veterans. Saying this is equivalent to Samuel Johnson's quote that "patriotism is the last refuge of a scoundrel." Both are done with the intent of shaming the target being castigated to do what the attacker wants. In this case it is the VA's work which they cannot keep up with.

The bottom line is that VA needs to automate the entire process with human oversight for the checks and balances. Human hands-on processing that requires multiple looks and re-looks before the original claim is finally completed is as ineffective as demonstrated by the multiple backlogs and causes unnecessary angst for the veterans awaiting a decision concerning the benefits they were promised.

Automation can and will transform the VA permitting it to be the caring, responsive and healing agency they now strive to be following Presidents Lincoln's words during his second inauguration speech, "to care for him who shall have borne the battle and for his widow and his orphan..."

Thank you for allowing us the opportunity to clarify our previous testimony.

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