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WRITTEN STATEMENT OF

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PROVIDED TO THE

COMMITTEE ON VETERANS' AFFAIRS

**SUBCOMMITTEE ON DISABILITY ASSISTANCE
& MEMORIAL AFFAIRS**

UNITED STATES HOUSE OF REPRESENTATIVES

***ONE HUNDRED THIRTEENTH CONGRESS
FIRST SESSION***

CONCERNING

IMPLEMENTATION UPDATE: FULLY DEVELOPED CLAIMS

WEDNESDAY, 11 SEPTEMBER 2013

Introduction

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 compensation 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 from 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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