

**STATEMENT OF
THE HONORABLE CHERYL L. MASON
CHAIRMAN OF THE BOARD OF VETERANS' APPEALS
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON DISABILITY AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES**

"VA Appeals Program: Examining the State of Modernization Efforts"

JULY 13, 2021

Chairwoman Luria, Ranking Member Nehls and Members of the Subcommittee, thank you for the opportunity to testify today about the current state of appeals at the Department of Veterans Affairs (VA). I am accompanied by Ronald Burke, Deputy Under Secretary for Policy and Oversight, Veterans Benefits Administration (VBA) and Brad Houston, Deputy Chief Information Officer for Benefits, Office of Information and Technology (OIT).

I want to express my appreciation for your continued support of our Veterans and their families. I also want to acknowledge our Veterans Service Organization (VSO) partners, who do so much to advocate on behalf of Veterans, as well as our Union partners and other Veteran stakeholders who work with us to provide the best care and services for Veterans and their families. Secretary McDonough has defined his four principles including Advocacy, Access, Outcomes and Excellence to guide the Department in its mission to serve Veterans and their families. This sacred mission is both personal and professional for me, and it remains the honor of my lifetime to lead the Board of Veterans' Appeals (Board) in serving Veterans, their families, caregivers and survivors.

My Vision

The Board's mission is to hold hearings and provide timely appeals decisions so Veterans may have access to the benefits and services they have earned and deserve. Every decision I make, every system I develop, every relationship I build and every tax dollar I spend is guided by whether it improves the Board's ability to increase access and provide timely service to Veterans and their families. I see the Board as the place where Veterans feel heard and employees are proud to come to work every day.

Workload and Performance

In 2016, the Board committed to prioritize Legacy resolution while adjudicating appeals under the Appeals Modernization Act (AMA). Currently, approximately 82% of all the Board's decisions are Legacy appeals. The Department reduced pending Legacy

appeals by 71%, from a high of over 472,000 Legacy appeals pending in November 2017 to less than 135,000 currently. We remain committed to prioritizing this workload for those Veterans who have been waiting the longest.

Because the Board is committed to prioritizing Legacy appeals, roughly 20% of the Board's production focused on AMA workload. A combination of AMA appeal submission outpacing projections by around 6% and Legacy appeals prioritization has led to growth in AMA inventory. AMA created a new decision review process for claims and appeals. Veterans who appeal directly to the Board now have three lanes to choose from: Direct Review, Evidence Submission or a hearing with a Veterans Law Judge. Currently, 25% of that pending workload is in the Direct Lane, 19% is in the Evidence Lane and 57% is in the Hearing Lane. Current average days to complete each lane is 334 days, 353 days, and 571 days, respectively. Towards the latter end of fiscal year (FY) 2023, we project the majority of the Board's monthly production will be focused on AMA appeals.

The COVID-19 pandemic presented unique challenges to the Board for conducting hearings. The Board's employees proved resilient and our partners, including the Union, the VSO community, and Members of Congress, enabled us to adapt to these new conditions.

Despite moving to a 99% telework posture in less than two weeks and canceling all in-person hearings during the COVID-19 pandemic, the Board held 15,669 virtual tele-hearings and adjudicated a record 102,663 appeals decisions in FY 2020. However, the Board still has nearly 91,000 pending hearing requests. This number includes both pending Legacy hearing requests and AMA hearing requests.

As of June 21, 2021, the Board produced over 72,000 decisions and is currently on pace to exceed the FY 2021 target. I set a stretch goal to hold 50,000 hearings this year. We will not achieve this lofty goal; however, we have now surpassed the total number of hearings held in FY 2020 and we are on pace to set a record number of hearings held this year.

We are proud to share that our recent VSignals survey shows 95% of Veterans strongly agree that the Veterans Law Judge in their hearing listened to them, and nearly 92% strongly agree that the Judge explained things in a way that was easy to understand.

It is not enough to only share the remarkable work being done at the Board while Veterans wait for hearings and decisions. More must be accomplished. With your support, we will continue to invest in people, processes and technology to produce fewer pending hearing requests, more appeals decisions, and solutions that deliver timely and accurate benefits and services to Veterans and their families.

Human Capital

The Board's workforce is comprised of diverse professionals devoted to serving Veterans by hearing their stories and providing thoughtful and timely decisions based on the application of law and regulations to the facts of each individual Veteran's appeal. As reflected in the 2020 All Employee Survey, the Board has increased employee engagement scores by 15% and the Best Places to Work score by 30%.

Throughout the pandemic, we listened to employees and embraced the authorities provided for maximum flexibility, using remote and telework options. We adjusted production targets for our decision writing attorneys and held listening sessions with our employees. We are working to increase the number of Veterans Law Judges and for the first time in our history, Judges will be considered for remote work status.

Before the pandemic, 50% of our employees worked a telework schedule or worked remotely. We do not anticipate returning to a full 50% capacity in the office and so we have aggressively worked to reduce the footprint. At the end of May 2021, after working with the Union and employees and with our General Services Administration partners, one of the five floors in the building occupied by the Board in Washington D.C. was returned. We will embrace the new ways of conducting business during a pandemic that benefit employees while improving our ability to meet the mission.

Technology

With the rapid adoption of the Veterans Health Administration (VHA) tele-health platform for use in the tele-hearing environment, the Board became the leader in providing safe and secure virtual tele-hearings. The tele-hearing communication platform enabled Veterans to schedule and attend hearings in a setting of their choice while reducing cancellation rates from 9.8% to 7.6% and no-show rates from 9.6% to 2.1%.

Virtual tele-hearings increase Veterans' access, especially with rural and high-risk populations, improve the Veteran experience, and align with the Secretary's vision to ensure Veterans and their families have timely access to their benefits and services. When the pandemic started, virtual hearings became the safe and only option. Like all of us adjusting to this new environment, our Judges, Veterans and their representatives need additional support to ensure these hearings are productive, timely and positive experiences. Currently, 97% of hearings are held virtually, and virtual tele-hearings are now the primary option for Veterans' hearings.

To fully achieve VA's appeals modernization solution and deliver world class customer service to Veterans and employees, the Board continues to work with our partners in OIT to ensure that Caseflow provides enterprise-wide functionality. Caseflow is a suite of web-based applications designed to improve VA's management, tracking, and adjudication of all appeals. It is integrated with the Veterans Benefits Management System (VBMS) to enable data consistency, enhance the speed and accuracy of

appeals processing, and avoid duplication of IT components.

While great strides have been made, Caseflow provides minimum functionality to support the complete enterprise needs of appeals processing. The Board continues to collaborate with OIT to optimize the Caseflow system and is committed to additional system development that captures and tracks all appeals including VHA and National Cemetery Administration appeals. The Department anticipates future efficiencies such as the retirement, or sunset, of the outdated and unsynchronized Veterans Appeals Control and Locator System (VACOLS), which was created over 40 years ago and is exclusively used for Legacy appeals processing.

Chairwoman Luria, Ranking Member Nehls, this concludes my testimony. I am happy to respond to any questions you or the Committee may have.