

**STATEMENT OF BETH MURPHY  
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BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ON  
LOST IN TRANSLATION: HOW VA'S DISABILITY CLAIMS AND APPEALS  
LETTERS SHOULD BE SIMPLIFIED  
MARCH 20, 2024**

Good afternoon, Chairman Luttrell, Ranking Member Pappas, and Members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss the Department of Veterans Affairs (VA) disability compensation claims and appeals letters. With me today are Denise Kitts, Executive Director, Veterans Experience Office, Brian Griffin, Deputy Chief Counsel, Office of General Counsel, and Caroline Fleming, Veterans Law Judge, Office of the Clerk of the Board of Veterans' Appeals (Board).

**Overview of Claims and Appeals Letters**

VA administers a wide variety of benefits to Veterans, survivors, and dependents, to include disability compensation, pension, dependency and indemnity compensation (DIC), and numerous associated ancillary benefits. VA handles claims requesting these benefits, as well as requests for decision review, either supplemental claim or higher-level review, regarding disagreement with the decisions made on those benefits. VA frequently communicates with Veterans and claimants via letter to request or provide information required to complete the claims process, and to provide notification when claims are decided. VA has taken a proactive approach to continually review and revise communications based on stakeholder feedback, to include collaboration with Veterans Service Organizations (VSO) and use of human-centered design (HCD). VA seeks to strike a balance between ensuring our letters are clear and readable for Veterans and claimants and complying with the various statutory and regulatory requirements regarding what our communications must include.

**Statutory and Regulatory Requirements**

Many of the current letter requirements date back to the Veterans Claims Assistance Act of 2000 (VCAA) (P.L. 106-475), enacted on November 9, 2000, which codified VA's statutory duty-to-notify and duty-to-assist requirements in 38 U.S.C. §§ 5102, 5103, and 5103A. This law:

- Redefined VA's requirements to assist claimants with obtaining evidence needed to substantiate a claim;
- Removed the previous requirement that claimants must submit a well-grounded claim to obtain assistance;

- Required notice requirements to inform claimants of evidence needed to substantiate a claim;
- Afforded claimants the opportunity to submit this evidence within 1 year from the date of notification; and
- Required VA to make reasonable efforts to help claimants substantiate a claim (to include potentially obtaining Federal records, private treatment records, and examinations).

VA implemented these requirements in regulation in 38 C.F.R. § 3.159 and 38 C.F.R. § 3.103.

Since the VCAA was enacted, additional laws have been passed that impact VA's notice requirements. For example, P.L. 112-154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, streamlined VA's duty-to-notify and duty-to-assist responsibilities and afforded VA more flexibility in how and when VA delivers the notice required under 38 U.S.C. § 5103. This law allowed VA to deliver notice electronically or in writing. It also removed the requirement that such notice must be provided upon receipt of a complete application, thus allowing the notice to be included on the application so that claimants have this information before submitting a claim. VA implemented this change by including a summary of the evidence required to substantiate various types of claims on initial claim forms, reducing the need for manual letters containing this information to be sent and reducing the time needed to gather all the evidence needed to process the claim.

In addition, P.L. 115-55, the Veterans Appeals Improvement and Modernization Act of 2017 (AMA) significantly revised VA's claims appeal process, as well as the requirements for the notification letter once a decision is rendered on a claim. Under AMA, there are eight items required to be included in decision notification letters (which are frequently referred to as eight-point decision letters). Notification letters must include the following: 1) identification of the issues adjudicated; 2) summary of evidence considered; 3) summary of applicable laws and regulations; 4) listing of favorable findings; 5) for denied claims, elements not satisfied that led to the denial; 6) if applicable, criteria required to grant service-connection or the next higher-level of compensation; 7) information on how to obtain evidence used in making the decision; and 8) a summary of applicable review options to seek further review of the decision. VA updated its regulations, procedural guidance, and letter templates in accordance with AMA requirements.

In December 2022, several laws related to military sexual trauma (MST) claims were enacted which required updates to VA letters. Public Law 117-300, the Dignity for MST Survivors Act, was enacted, which required VA to audit denial letters for claims related to MST to ensure use of trauma-informed language in order to prevent Veterans from being re-traumatized through insensitive language. Public Law 117-303, the MST Claims Coordination Act, also requires VA to provide MST claimants with certain information at specified points in the claims process.

The compensation decision notification letter is often lengthy due to the eight required items which must be included following AMA, the attached copy of the rating decision, and inclusion of additional helpful information and guidance for Veterans and claimants regarding potential next steps, including potential eligibility for ancillary benefits. For example, in the notification letter, VA may solicit for unclaimed, chronic disabilities shown by the evidence. In such cases, VA would also include a copy of the application form, which adds length to the letter. While not required, the notification letter may also include content on the following, which provides useful information: how VA combines rating percentages; how to contact VA by phone, online, mail, and on social media; how to obtain representation; and information on the spectrum of Veterans Benefits Administration (VBA) benefits available.

VBA's pension, survivor, and fiduciary programs are similarly bound by statutory and regulatory requirements governing VBA's duties with obtaining and relaying evidence needed to substantiate a claim. Some pension, survivor, and fiduciary letter templates are used to address more than one benefit or claim type to ensure consistency. For instance, when a claimant applies for survivor benefits via VA Form 21P-534EZ, Application for Dependency and Indemnity Compensation, Survivors Pension and Accrued Benefits by a Surviving Spouse of Child, VBA is required to provide a decision on each of those three benefit types in the decision notice. As a result, there are situations where letters require tailoring based on individual circumstances to ensure consistency in the level of service provided to claimants. This requires VBA to be cognizant of the need to allow our letter formatting to have some freedom in templates to ensure adaptability for the circumstance. This assists in cases where a letter may be communicating a partial grant, or where the development of specific evidentiary needs is communicated.

For decision reviews and appeals-related letters, the same procedures as disability compensation letters are used. Decision review rights are included with all decision notification letters, which outline the options under the AMA (supplemental claim, higher-level review, or appeal). In addition, when the Board grants a legacy or AMA appeal in full or in part, VBA issues a notification letter implementing the grant. These letters note whether the Board decision reflects a "full" or "partial" grant as to the issue or issues on appeal. Such letters further outline actions required of the claimant to subsequently continue the legacy appeal process where applicable, or to continuously pursue a claim or appeal under the AMA system. In some cases, the Board will decide all relevant facets of an appeal, such that VBA's notification letter upon implementation will direct the claimant to the review rights document sent by the Board.

The Board currently uses approximately 150 different letters to share information with or seek clarity from Veterans and appellants throughout the appeals process. All form letters used by the Board have undergone multiple levels of review. Over one-half of the outgoing letters from the Board originate in the Office of the Clerk of the Board (OCOB). The Board has recently instituted a process to regularly review and update those letters on a yearly basis, or more frequently if required by changes in statute,

caselaw, or regulations. All the letters originating from the Legal Division of OCOB have undergone a review for clarity and legal accuracy within the past 6 months.

### **The Veteran's Voice**

Beginning in October 2021, VBA partnered with the Veterans Experience Office (VEO) to learn about the experience of Veterans who navigate the disability claims process and VA employees who process disability claims. The team utilized HCD methods and produced a journey map, service blueprint, and a VSignals survey specific to the disability compensation program, which was deployed in April 2023. These artifacts help build empathy for and understanding of the Veteran experience. The survey is being used to institute Veteran-centered measurement regarding the disability claims process to inform future process and program improvement opportunities.

On April 28, 2023, VBA launched the Disability Compensation VSignals survey to allow the program office to better understand the voice of the Veteran with respect to the disability claims experience by enabling Veterans to provide input on key elements of the process. Veterans are able to provide input on key dimensions such as VA's communication to Veterans about claims eligibility standards, requirements and reasons or rationale for the initial rating, ease and effectiveness in scheduling the compensation medical examination, ability to keep track of current claims status, extent to which claims decisions are received in a timely manner, understanding Veteran options to challenge initial disability ratings, and gauging whether Veterans trust VA to make fair and accurate decisions on disability compensation claims. This input is actively being reviewed and used by VBA for quality and systems improvement of the disability claims process. Utilizing existing insights from the Journey Map research, HCD methodology, as well as other data assets, and a participatory design approach, VBA is working to develop solutions to improve the Veteran experience, which include enhancements to notification letters to revise the content aesthetics, provide additional resources, and deliver other improvements.

### **Language Change Control Board**

VBA has instituted a governance process for review and updating of compensation and pension-related letters. Since 2013, VBA has utilized a Language Change Control Board (LCCB) to review and approve all disability compensation and pension-related language change requests for letters, glossary texts, fragments, or any other external-facing communications. The LCCB is responsible for ensuring that identified language changes are tracked, reviewed for accuracy, and sent to implementation in a timely manner. The LCCB is made up of members from various staffs across multiple VBA business lines. Requests are generated by statutes, regulation, policy, or procedure being implemented, or when deficiencies within our products are identified by internal or external stakeholders. All letter changes must be concurred upon by a majority of LCCB members. Most letter updates require a system enhancement and prioritization into upcoming Veterans Benefits Management System (VBMS) releases. Following letter concurrence, LCCB requests are submitted for

prioritization and implementation in VBMS and will follow the change until it is implemented in VBMS. From fiscal year (FY) 2022 through February 2024, the LCCB has completed 57 disability compensation and pension-related language change requests.

As an example, a recent LCCB task involved a request to include a paragraph in all decision notification letters under the “What Should You Do If You Disagree With Our Decision” heading to explain the difference between submitting a claim for increase and a supplemental claim, which was implemented in VBMS on July 30, 2023.

### **Additional Letter Improvement Efforts**

Following passage of the Dignity for MST Survivors Act in December 2022, VA formed a collaborative workgroup including members from various VBA offices and the Veterans Health Administration (VHA) to review MST-related letter language to ensure it is trauma-informed. Although the law only required VA to audit the MST denial letter language, VA took a more holistic approach and reviewed MST claim-related grant letters, development letters, and associated text used in rating decisions. In addition to carefully evaluating and re-phrasing the language to be trauma-informed, a thorough review was completed for clarity and flow to improve the Veteran’s perception of the notices. Throughout this process, VA held several meetings with VSOs, seeking their input and providing an opportunity for them to provide feedback. On June 30, 2023, VBA claims processors were given temporary guidance on how to manually modify the decision notification letter when any condition claimed due to MST was denied. On February 11, 2024, VBMS was updated to include the required MST language into applicable automated decision letters.

Additionally, from October to December of 2023, VBA also collaborated with VEO to conduct HCD co-design workshops to redesign Character of Discharge letters sent to former Service members with an Other Than Honorable discharge. The objective was to enhance clarity, accessibility, and usefulness of these letters for Veterans seeking to understand their eligibility for benefits from VA. VA is currently working to implement the findings.

### **Technology**

VBA claims processors operate in a paperless environment and utilize VBMS to process claims for compensation and pension. There are more than 300 different letter templates available for claims processors to use—the number of unique letters grows exponentially when factoring in all the various combinations of decision points and subject matter included in the templates. While some of the information in the letters is automatically generated by system inputs made during the decision-making process, claims processors are required to input specific data fields or select from standardized language to input into the letters and have the option to add free text to the letters.

In FY 2022, VA implemented functionality to enable VBA business lines to edit existing letter templates without the need for information technology resources and inclusion in a VBMS release, allowing for quicker implementation.

**Conclusion**

Chairman Luttrell, Ranking Member Pappas, this concludes my testimony. My colleagues and I are happy to respond to any questions you or the Subcommittee may have.