



Written Statement for the Record of
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Reevaluating the Rating Schedule: Examining VA's Efforts to Modernize Disability Benefits

before the U.S. House of Representatives,
Committee on Veterans' Affairs,
Subcommittee on Disability Assistance and Memorial Affairs

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Chairman Luttrell, Ranking Member McGarvey, and Members of the Subcommittee,

My name is Stephanie Costello, and I am a Senior Counsel with Berry Law. I am proud to submit this statement for the record in support of the Subcommittee's work on legislation affecting veterans' health care and disability benefits.

I do not do this work alone. I am supported by a team of nearly 60 attorneys and accredited claims agents, most of whom are veterans or members of military families themselves. Their combined experience, dedication, and firsthand understanding of military service allow us to approach every claim with both legal expertise and genuine empathy, ensuring that veterans' voices and needs are fully represented throughout the VA disability process. At Berry Law, we represent veterans nationwide, gaining deep insight into how VA health care delivery, clinical documentation, and administrative policies affect a veteran's ability to establish service connection and obtain accurate disability ratings. Our attorneys regularly interpret and apply VA statutes, regulations, and claims guidance, providing practical expertise on how legislative and policy changes operate in practice, both in the delivery of care and in the evidentiary record used to adjudicate claims.

Berry Law's work focuses not on initial claims, but on appellate advocacy, representing veterans before Regional Offices, the Board of Veterans' Appeals, and the U.S. Courts of Appeals

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for Veterans Claims and Federal Claims. Through this appellate lens, we see not isolated mistakes but recurring patterns that indicate systemic shortcomings. Claims that should have been granted earlier are often denied due to procedural missteps, misapplication of the Rating Schedule, or inadequate medical development. Engaging closely with statutes, regulations, case law, and the practical realities of VA adjudication allows us to identify where modernization efforts break down and highlight opportunities for upstream reform.

Legal representation at the appellate level ensures that veterans are not penalized for administrative shortcomings beyond their control. Our work is fundamentally about fairness and accountability: ensuring consistent application of law, correcting procedural errors, and securing benefits that veterans have earned through service, often years after their initial claims. This blend of military experience, legal expertise, and appellate insight gives Berry Law a unique perspective on both the realities of service and the legal mechanisms that govern veterans' benefits.

The Current State of the VA Disability System:
Recognizing Progress While Identifying Opportunities for Improvement

The Department of Veterans Affairs' (Department) disability benefits system has had a profound impact on the lives of Veterans. For many, VA compensation provides not only financial stability, but also dignity, independence, and recognition of their sacrifices made in service to the nation. The VA's commitment to a non-adversarial, pro-claimant system reflects a core national promise: that those who serve will be supported when they return home.

In recent years, the VA has undertaken significant efforts to modernize the disability adjudication process. The implementation of the Appeals Modernization Act (Pub. L. 115-55), championed by many members of this Subcommittee, along with expanded use of technology and increased reliance on contract medical examinations, has improved timeliness, access, and efficiency. These reforms have successfully reduced certain delays and enabled many Veterans to receive decisions more quickly than in the past, demonstrating measurable progress.

Despite these advances, challenges remain. Many Veterans continue to experience prolonged delays and administrative obstacles in the claims process. Outdated rating criteria, inconsistencies in examinations, and structural inefficiencies can result in claims that are denied, delayed, or under-compensated. These challenges are not caused by a lack of merit in Veterans' claims, but rather by the complexities and limitations of the current system.

Certain aspects of the process illustrate these ongoing issues:

- **Rating Criteria Lag Behind Modern Realities:** The rating schedule often does not fully account for contemporary medicine, occupational demands, or the functional limitations of Veterans' conditions. Episodic symptoms, cognitive impairments, and chronic pain can be undervalued or mischaracterized.

- Procedural Complexity Masks Inefficiency: Multiple layers of adjudication and procedural steps, particularly for mental health and toxic exposure claims, can slow the system without necessarily improving decision accuracy.
- Medical Examinations Are Determinative: Compensation and pension (C&P) and contract examinations play a central role in claim outcomes. Inaccuracies or incomplete evaluations can delay proper compensation, with limited mechanisms for timely correction.
- Limited Feedback and Transparency: Appeals outcomes are not consistently used to correct systemic errors. Regional disparities, examiner performance, and denial patterns remain largely opaque, leaving Veterans uncertain about how their claims are evaluated.
- The Human Impact Is Significant: Delays and repeated denials impose emotional and financial strain on Veterans, affecting trust in the system and, in some cases, discouraging pursuit of benefits to which they are legally entitled.

The VA disability system demonstrates a strong commitment to Veterans and has achieved meaningful progress, yet persistent structural and administrative challenges continue to impede timely, fair, and accurate delivery of benefits. Understanding these challenges is essential to identifying where modernization and reform efforts can have the greatest impact.

From Diagnosis to Action

The encouraging news is that these challenges are not intractable. Many stem from administrative design choices, outdated processes, and gaps in oversight: problems that can be addressed through targeted reforms, better technology, and standardized practices. The following subsections identify the most pressing issues affecting Veterans' access to fair and timely benefits. For each, we propose practical, implementable solutions, most of which do not require new legislation, but instead rely on smarter implementation, improved accountability, and more effective use of existing tools and resources.

By addressing these challenges systematically, Congress and the VA can ensure that modernization delivers not only faster claims processing but also accurate, equitable, and legally sound outcomes. These reforms have the potential to reduce appeals, prevent unnecessary backlogs, and restore Veterans' trust in a system designed to serve them.

In short, this section provides a roadmap: a clear identification of where the system is falling short, paired with actionable solutions capable of making an immediate and meaningful difference in the lives of Veterans.

I. Rating Schedule Misalignment with Real-World Disabilities

The VA disability rating system was designed to quantify the severity of service-connected conditions and translate them into compensation. While well-intentioned, the schedule is anchored in outdated clinical measurements that often fail to capture the functional limitations Veterans experience in modern work environments and daily life.

Disabilities such as migraines, mental health conditions, orthopedic injuries, and sensory impairments are frequently assessed using narrow, static criteria. These measures ignore the cognitive, emotional, and practical challenges that can make even modest impairments debilitating in today's workplaces, especially for remote or knowledge-based roles.

a. Failure to Reflect Functional Impairment

Veterans with significant limitations are systematically undercompensated because the rating schedule prioritizes numerical or clinical thresholds over real-world functionality. Cognitive load, fatigue, and the demands of modern employment are often overlooked. For example, a Veteran with mild joint pain or chronic headaches may meet the technical criteria for a lower rating despite being unable to maintain a standard work schedule or perform essential tasks consistently. Likewise, conditions that interfere with concentration, memory, or multi-tasking are frequently undervalued, even though they can substantially limit occupational and social functioning.

This gap highlights a clear need for the rating schedule to better capture the realities of daily life with disability. The VA should update the schedule to explicitly incorporate measures of functional impairment across diverse contexts, including episodic and cognitive disabilities. Such updates could provide structured guidance for adjudicators and examiners to assess real-world work impact and daily activity limitations. Incorporating validated functional assessment tools and illustrative examples would help ensure evaluations are consistent, evidence-based, and reflective of actual impairment.

Implementing these changes would produce multiple benefits. Ratings would more accurately reflect the severity of a Veteran's condition, reducing under-compensation and the number of appeals driven by under-ratings. Veterans would gain confidence that the system measures the effects of their disabilities on real life (not just rigid clinical thresholds) restoring trust and ensuring compensation aligns with lived experiences.

b. Inadequate Treatment of Flare-Ups and Variability

Building upon that, many disabilities are also episodic in nature, with flare-ups that temporarily, but often severely, limit a Veteran's functionality. Current rating criteria frequently fail to account for this variability. Examiners are sometimes excused for stating they "cannot estimate" functional loss during flare-ups, leaving Veterans with ratings that do not reflect the realistic or worst-case impact of their conditions. This gap is particularly consequential for

conditions such as migraines, autoimmune disorders, or mental health disorders, where intermittent but debilitating episodes can significantly disrupt daily life and employment.

To address this, the VA should provide explicit instructions for examiners to assess and document the impact of flare-ups on both occupational and daily functioning. Rating criteria should offer clear guidance on incorporating episodic symptom patterns into overall evaluations. Training should also equip examiners to estimate functional loss during peak symptom periods, using both medical evidence and lay testimony to ensure evaluations are accurate and consistent.

Systematically accounting for flare-ups would, again, ensure that Veterans receive compensation that reflects the true impact of their conditions. It would also reduce the number of remands and appeals driven solely by episodic impairments, improving efficiency and fairness. By capturing the full range of functional limitations, the system would prevent Veterans with cyclical conditions from being systematically underrated.

c. Unrealistic Hearing Loss Rating Thresholds

Hearing loss ratings highlight another way the current schedule can misalign with real-world impairment. Present diagnostic codes rely on audiometric thresholds that exclude Veterans with moderate hearing loss, even when they experience significant difficulty communicating, working, safely navigating in public, or performing daily activities. Veterans who use hearing aids often receive 0% ratings, despite enduring substantial functional limitations. As a result, the system frequently fails to capture the everyday impact of sensory disabilities.

The VA should revise hearing loss criteria to prioritize functional impairment alongside clinical measures. This could include establishing a presumptive minimum compensable rating for Veterans who require hearing aids and updating diagnostic codes to better reflect functional, real-world limitations. Comprehensive training for examiners and adjudicators should accompany these changes to ensure consistent application across claims.

Implementing these adjustments would align compensation with actual impairment, enhance confidence in the rating process, and reduce appeals caused by under-ratings. Most importantly, it would provide Veterans with tangible recognition and support for functional challenges that are currently overlooked.

d. Complexity and Redundancy in Evidence Submission

Veterans frequently face the burden of submitting the same medical evidence multiple times: whether for initial claims, supplemental claims, or higher-level reviews. This includes C&P exam results, private medical records, and other documentation. Even when records have already been provided, adjudicators may request them again due to inconsistent record handling or poor communication between offices. This redundancy creates unnecessary delays, increases the risk of errors, and places a significant administrative burden on Veterans.

The VA could address this challenge by implementing centralized, fully integrated evidence management systems that track previously submitted documents and flag duplicate requests. Clear guidance for both adjudicators and Veterans regarding what records are already on file would further reduce repetition. Policies allowing adjudicators to rely on existing evidence unless new information is required would also streamline the process.

Reducing redundant submissions would save Veterans time and frustration, enable adjudicators to make more informed decisions, and minimize remands and appeals. More broadly, a streamlined approach would enhance fairness, improve trust in the system, and increase overall efficiency.

e. Inadequate Consideration of Cumulative Disability and Multi-System Impairment

The current Rating Schedule often evaluates each condition in isolation, without fully accounting for the combined functional impact of multiple disabilities. Veterans with several mild-to-moderate impairments may appear “less disabled” on paper, even though the cumulative effect substantially limits their ability to work, manage daily activities, and engage socially.

The VA could address this by revising rating guidance to explicitly consider cumulative functional impairment. Examiners and adjudicators should evaluate how multiple conditions interact to create a total functional burden, rather than relying solely on additive percentages from separate diagnoses.

By capturing the real-world impact of multi-system disabilities, ratings would more accurately reflect Veterans’ overall limitations. This would reduce appeals based on under-compensation, improve consistency in decision-making, and ensure that VA ratings align with the true challenges Veterans face in daily life.

f. Subsection Conclusion

The misalignment between the VA rating schedule and Veterans’ real-world experiences undermines fairness and confidence in the system. Outdated metrics, limited consideration of episodic conditions, and hearing loss thresholds that ignore functional impact leave many Veterans undercompensated. Updating the schedule to reflect actual daily and occupational limitations would improve consistency, reduce unnecessary appeals, and ensure compensation truly honors Veterans’ service.

While these updates are critical, structural challenges remain, particularly in mental health evaluations. The next section examines how current practices and criteria create systemic inconsistencies, contributing to under-compensation, delays, and avoidable appeals.

II. Structural Deficiencies in Mental Health Ratings

Mental health claims are a critical part of the VA disability system, yet the current rating framework often fails to reflect the complexity, progression, and real-world impact of psychiatric

conditions. Procedural hurdles, rigid and subjective rating thresholds, and unnecessary distinctions contribute to delays, remands, and under-compensation. Addressing these structural deficiencies through simplification, standardization, and better recognition of incremental worsening would improve outcomes for Veterans and enhance fairness and efficiency across the system.

a. Overcomplicated PTSD Service-Connection Framework

PTSD claims are treated differently from other mental health conditions, despite no added clinical or monetary justification. Current law requires Veterans to provide corroboration of the in-service stressor, a requirement that other psychiatric diagnoses do not have. While this framework includes helpful presumptions for combat and Military Sexual Trauma (MST) claims, Veterans with PTSD arising from other service-related traumas continue to face significant procedural hurdles.

These non-combat, non-MST claims may include traumatic training accidents, exposure to life-threatening events during operational assignments, repeated exposure to distressing incidents as medics or first responders, or cumulative trauma from multiple lower-level events. In many cases, documentation of the stressor is difficult or impossible, and the rigid corroboration requirement often leads to remands, delays, and under-compensation, even when medical evidence clearly demonstrates PTSD.

The VA should adopt a standardized, flexible approach for all PTSD claims, extending the principle behind combat and MST presumptions. Corroboration requirements should be evaluated under general evidentiary standards, allowing credible lay testimony and supporting service records to establish the stressor. Examiners and adjudicators should receive consistent guidance on documenting and evaluating PTSD claims under this framework, ensuring that claims are assessed on functional impact rather than procedural technicalities.

This reform would simplify adjudication, reduce remands, accelerate benefits delivery, and reduce Veteran frustration. By treating all PTSD claims consistently and acknowledging the diverse ways trauma can occur in service, the VA can provide fairer, more predictable, and legally sound outcomes without requiring new legislation.

b. Failure to Capture Incremental Worsening

Current mental health ratings also rely on broad, subjective thresholds that fail to recognize gradual but significant worsening of a condition. Increases in medication, hospitalizations, occupational impairment, or social limitations often do not trigger higher ratings, leaving Veterans undercompensated and forcing appeals to achieve recognition of symptom progression.

The VA should revise rating criteria to incorporate graded assessments of functional impairment and incremental symptom changes. Adjudicators and examiners should be trained to document occupational, social, and cognitive impacts over time, even if thresholds are not formally crossed. Recognizing incremental worsening would better align compensation with real-world

disability, reduce repetitive appeals, improve trust in the system, and enhance administrative efficiency by minimizing delays and remands.

c. Subsection Conclusion

Mental health ratings illustrate how procedural complexity, rigid thresholds, and limited recognition of symptom progression create systemic barriers that delay or reduce benefits. The separate PTSD service-connection framework imposes unique corroboration requirements, while broader rating criteria often fail to capture incremental worsening, episodic flare-ups, or gradual functional decline. These structural deficiencies drive under-compensation, unnecessary appeals, and diminished trust in the VA system.

By simplifying the PTSD framework, standardizing stressor evaluation, and recognizing incremental changes in functional impairment, the VA can align ratings with the lived realities of Veterans. These reforms would reduce remands, accelerate benefits, improve consistency and fairness, and support mental health recovery. Addressing both procedural hurdles and subjective thresholds ensures that mental health claims are evaluated accurately, equitably, and efficiently, directly improving outcomes while strengthening the integrity of the system.

Beyond mental health, another major contributor to delays and under-ratings is the overreliance on medical examinations that are often incomplete, inconsistent, or insufficiently tailored to functional realities. When exams fail to capture the full severity, variability, or cumulative impact of a condition, they become outcome-determinative rather than simply informative. The next section examines how deficiencies in medical examinations drive under-compensation, unnecessary appeals, and prolonged adjudication, and explores ways to improve their accuracy, consistency, and relevance.

III. Overreliance on Inadequate Medical Examinations

Medical examinations are central to the VA disability system, forming the evidentiary foundation for rating decisions. Yet the system increasingly relies on procedural, checkbox-style exams that often fail to capture Veterans' lived experiences, consider legally required elements, or incorporate the full medical record. When exams are flawed, the consequences fall entirely on Veterans: claims are denied, appeals are prolonged, and benefits are delayed. Strengthening the quality, standardization, and legal alignment of medical examinations is essential to ensure that Veterans are evaluated fairly and consistently.

a. "Check-the-Box" Evaluations

Many C&P exams emphasize mechanical checkboxes over functional assessment. Examiners may provide conclusory statements that fail to reflect lay or medical evidence demonstrating greater impairment. Adjudicators who defer to these checkboxes without critical review risk under-compensating Veterans and triggering unnecessary appeals.

Exams should be redesigned to prioritize functional evaluation, with structured prompts for episodic or fluctuating symptoms and explicit integration of lay and treatment evidence. Adjudicators should be trained to critically evaluate exams in context, ensuring the full record, not just checkboxes, guides rating decisions. This approach would more accurately reflect Veterans' impairments, reduce preventable appeals, and improve administrative efficiency.

b. Human Failures in C&P Exams

Even legally sufficient exams can fail when examiner-Veteran interactions are poor. Veterans often report feeling dismissed or unheard, discouraging them from pursuing valid claims and sometimes leading to permanent loss of benefits. Examiners should receive training on effective communication, active listening, and validating Veterans' experiences, along with sufficient time to document functional impacts. Emphasizing human-centered practices ensures that Veterans feel respected, strengthens the evidentiary record, and supports more accurate ratings.

c. Inconsistent Contract Examinations

The VA increasingly relies on contract examiners to meet timeliness goals, but these exams often lack alignment with VA-specific legal standards. Secondary service connection and aggravation are frequently overlooked, producing legally insufficient exams that result in denials, remands, and repeated evaluations.

Contract exams should be standardized and legally aligned through clearer instructions, enhanced training, and improved adjudicator-examiner communication. Examiners should receive guidance on theories of entitlement, and templates should ensure all required analyses are completed consistently, not just direct connections or connections through toxic exposures. Standardized, legally sound exams would reduce remands and unnecessary appeals while providing Veterans with fairer, timelier decisions.

d. Subsection Conclusion

Overreliance on procedural checkboxes, poor examiner-Veteran interactions, and inconsistent contract exams undermines fairness and accuracy in the VA disability system. By redesigning exams to emphasize functional impairment, improving examiner conduct, and standardizing contract assessments, the VA can ensure that Veterans' lived experiences and legally relevant evidence are fully considered. These reforms would reduce preventable errors, expedite claims, strengthen trust in the system, and ensure that ratings more accurately reflect real-world disability.

While improving the design, conduct, and standardization of medical examinations is essential, systemic issues persist even when exams are legally sufficient and functionally accurate. Inconsistent oversight, limited feedback loops, and weak accountability allow errors, disparities, and preventable delays to persist across the VA disability system. The next section examines how gaps in quality control and accountability perpetuate under-compensation, uneven evaluations, and

prolonged appeals; and explores practical approaches to strengthen oversight, ensure consistent application of standards, and restore trust in the system.

IV. Lack of Quality Control and Accountability

Even when VA regulations and rating criteria are clear, outcomes for identical claims often vary widely depending on the Regional Office, examiner, or adjudicator handling the case. The absence of robust quality control and accountability mechanisms allows errors to persist and repeat, undermining Veterans' trust in the system. Without transparent performance metrics, consistent oversight, or consequences for substandard work, the VA cannot ensure that claims are processed fairly or uniformly. Strengthening quality control and accountability is essential to reduce preventable errors and promote equitable treatment for all Veterans.

a. Inconsistent Application of Rating Criteria

Identical claims often receive different ratings depending on who reviews the evidence or where the claim is processed. Currently, the VA lacks robust quality assurance metrics and standardized monitoring for adjudicators. This inconsistency undermines trust, forces Veterans to appeal decisions they should not have had to contest and wastes valuable time and resources for both the agency and the Veterans it serves.

The VA should implement transparent quality control measures, including regular audits of rating decisions, cross-office standardization reviews, and clearly defined benchmarks for adjudicator performance. Ongoing training informed by observed errors, coupled with data-driven guidance on rating criteria, would help ensure consistent decision-making. Additionally, regional performance metrics should be systematically analyzed and shared internally to identify and address systemic issues before they affect Veterans.

Greater consistency in rating decisions would reduce unnecessary appeals and remands, saving both time and resources. Veterans would experience fair and predictable treatment regardless of location, examiner, or adjudicator. Reliable quality control would also enable VA leadership and Congress to detect and address systemic weaknesses more effectively, strengthening accountability across the system.

b. No Accountability for Problematic Examiners

Currently, there is no public or Veteran-accessible system to identify examiners with substantiated complaints or histories of poor performance. When flawed exams lead to denials, Veterans often have no recourse other than appeals, forcing them to bear the consequences of VA personnel errors. This lack of accountability raises due process concerns and erodes confidence in the fairness of the system.

The VA should establish a mechanism to track and disclose examiner performance issues, including substantiated complaints, terminations, or barred examiners. Veterans should have the ability to challenge decisions based on examinations conducted by individuals with documented

performance deficiencies. Additional oversight and targeted training should be provided to all examiners to ensure adherence to legal standards and professional, best practices.

Implementing these accountability measures would improve the quality and reliability of medical examinations, ensuring that Veterans are not unfairly penalized for examiner errors. Transparency in examiner performance builds trust in the adjudication process, promotes higher standards across the workforce, and reduces preventable appeals. Ultimately, Veterans would receive more accurate, legally sound evaluations without undue risk from flawed examinations.

c. Training and Institutional Knowledge Gaps Among Adjudicators

Regional Offices serve as the frontline of the VA disability system, tasked with processing Veterans' claims in full compliance with federal law. While many adjudicators work diligently, systemic patterns reveal that some ROs inconsistently apply statutes, regulations, and VA policies. These lapses can lead to preventable denials, incorrect effective dates, and missed service connections, eroding trust and prolonging appeals.

Key drivers of these errors include high staff turnover, insufficient standardized training, and gaps in institutional knowledge. Adjudicators may inadvertently misapply rating criteria, miscalculate effective dates, or misinterpret evidence. The result is inconsistent outcomes across offices, repeated appeals, and unnecessary delays that disproportionately affect Veterans.

To address these gaps and ensure Veterans receive timely and legally accurate decisions, the following practical solutions are recommended for implementation at Regional Offices:

- Standardized legal training for all adjudicators on statutes, regulations, and VA precedents relevant to common and high-impact claims.
- Mandatory peer review or oversight for complex or high-stakes claims.
- Transparency and reporting on legal compliance, including remand patterns by office.
- Clear accountability measures and corrective training when systemic legal misapplication is identified.

Implementing these measures would promote consistent application of the law and the Rating Schedule, reducing preventable errors and remands. Veterans would receive faster, fairer claims decisions, restoring confidence that the system functions as intended. By strengthening training, preserving institutional knowledge, and enforcing accountability, the VA can improve accuracy, efficiency, and equity; advancing modernization goals while fulfilling its mission to serve Veterans with integrity.

d. Subsection Conclusion

Lack of quality control and examiner accountability drives inconsistent ratings, preventable appeals, and erodes confidence in the VA system. Transparent audits, standardized

performance metrics, and clear mechanisms to address problematic examiners can ensure Veterans receive fair, consistent, and legally accurate evaluations. Strengthened oversight will improve outcomes, operational efficiency, and trust in the agency's modernization efforts.

However, oversight alone cannot resolve all delays or under-compensation. Even when procedures are followed, outdated or ambiguous diagnostic codes can cause confusion, inconsistent application, and gaps in benefits, especially for conditions whose understanding has evolved. The next section examines how these legacy codes compound systemic inefficiencies and opportunities to modernize them for more accurate, equitable, and consistent evaluations.

V. Outdated and Ambiguous Diagnostic Codes

Diagnostic codes form the foundation of the VA disability rating system, linking medical conditions to specific compensation levels. However, many codes are outdated, vague, or overlap in ways that no longer reflect current medical understanding or functional impairment. These deficiencies force Veterans into unnecessary appeals and litigation to resolve questions that could, and should, be addressed administratively. Updating and clarifying diagnostic codes is a straightforward way to reduce delays, improve fairness, and ensure that Veterans' ratings accurately reflect their real-world limitations.

a. Failure to Update Commonly Litigated Codes

Certain diagnostic codes have remained unchanged for decades, failing to incorporate modern medical consensus or advances in understanding conditions like musculoskeletal disorders, neurological impairments, and gastrointestinal diseases. The lack of specificity or clarity creates overlapping categories that confuse both examiners and adjudicators. As a result, claims are frequently denied or undercompensated, and Veterans must appeal to have the proper standard applied.

VA should systematically review and revise commonly litigated diagnostic codes, updating criteria to reflect contemporary medicine, functional impairment, and real-world occupational impact. Regulatory updates should reduce overlap, clarify definitions, and provide examiners with precise guidance on assessment and documentation. Additionally, training should accompany these updates to ensure that both examiners and adjudicators consistently apply the revised codes.

Modernized, clear diagnostic codes would reduce preventable appeals, minimize inconsistent ratings, and allow Veterans to receive compensation that reflects their actual impairments. Examiners and adjudicators would have greater confidence in applying ratings, which would improve accuracy and fairness across the system. Ultimately, fewer disputes over coding translate into faster, more predictable decisions and improved trust in VA processes.

b. Veterans Bear the Cost of Ambiguity

When diagnostic codes are vague or poorly defined, Veterans often bear the burden of proving entitlement through repeated appeals or hiring legal representation. Delays caused by

ambiguous criteria undermine timely benefits and add emotional and financial strain, despite Veterans providing ample evidence of their disabilities. The system unintentionally punishes those who navigate its complexities responsibly.

Clarifying and standardizing diagnostic codes would directly alleviate the burden on Veterans. The VA should proactively identify areas of frequent dispute, issue updated guidance and implement oversight to ensure consistent application. Public reporting of frequently litigated codes could also inform policy and reduce repeated errors.

By resolving ambiguity at the administrative level, Veterans would no longer need to rely on appeals to correct preventable errors. Benefits would be delivered more quickly, fairly, and consistently, reducing unnecessary stress and financial loss. Clear diagnostic codes strengthen the integrity of the rating system, benefiting Veterans, VA staff, and the broader adjudication process.

c. Subsection Conclusion

Outdated and ambiguous diagnostic codes drive unnecessary appeals, inconsistent ratings, and undue burdens on Veterans. Systematic updates, clearer definitions, and stronger oversight would enable the VA to deliver timely, accurate, and equitable benefits: an achievable reform with immediate impact.

Even with clear, updated codes, though, the VA struggles to learn from past decisions. Appeals provide essential feedback, but gaps in tracking, analysis, and implementation allow recurring errors to persist. Without a robust feedback loop, preventable mistakes continue, forcing Veterans into repeated appeals. The next section examines how failures in appeals feedback and reform loops contribute to inefficiency and under-compensation and explores opportunities to make the system more responsive and self-correcting.

VI. Breakdown in Appeals Feedback and Reform Loops

The VA's appeals system is intended to correct errors and ensure fair outcomes for Veterans. Yet, the agency has, seemingly, not systematically analyzed the lessons embedded in Board and Court remands. Without a structured feedback loop, known deficiencies in rating criteria, examiner practices, and adjudication processes persist for years. This perpetuates avoidable errors, contributes to backlog, and undermines the very modernization efforts meant to improve timeliness and accuracy. A feedback-driven approach could transform appeals from a reactive mechanism into a proactive tool for system-wide improvement.

a. No Use of Appeals Data to Drive Reform

Board and Court decisions often highlight recurring issues, such as misapplied diagnostic codes, improper consideration of lay evidence, or inaccurate application of flare-up guidance. Despite this wealth of information, VA rarely translates remand patterns into actionable reforms. Known errors continue to occur in new claims, forcing Veterans to repeatedly appeal issues that

the agency already recognizes internally. This inefficiency wastes time, resources, and, most importantly, the patience and well-being of Veterans.

The VA should create a systematic process to analyze appeals outcomes, identify recurring errors, and adjust training, guidance, and rating criteria accordingly. This could include regular audits, automated tracking of remand reasons, and coordination between the Board, Regional Offices, and central policy staff. Sharing trends with staff and the public would foster accountability and allow targeted interventions to prevent repeat mistakes.

Harnessing appeals data for reform would reduce preventable errors, lower the number of remands, and accelerate benefit delivery. Veterans would benefit from a system that learns from its mistakes, leading to more consistent and legally sound decisions. Moreover, VA staff could focus on resolving new issues rather than repeatedly addressing known deficiencies, improving overall efficiency.

b. No Safeguards When Rating Criteria Change Mid-Claim

When VA updates rating criteria, Veterans often face confusion or loss of benefits due to lack of notice or transparency. Without safeguards, a change in the rules mid-claim can result in lower ratings, unexpected remands, or disputes over which criteria should apply. Veterans may be unaware of new guidance or how it impacts their pending claims, leaving them to navigate complex procedural issues on their own.

The VA should implement clear policies ensuring that Veterans are informed whenever rating criteria change during a claim. Notices should explicitly identify which criteria are being applied, the effective dates of changes, and any impact on pending claims. Additionally, procedural safeguards should allow claimants to request re-evaluation under prior criteria if it benefits their case, preserving fairness and transparency.

These safeguards would prevent unintended harm from mid-claim changes, reduce unnecessary appeals, and provide Veterans with clarity about their claims. Clear communication would foster trust in the system and ensure that procedural changes do not disadvantage those who are diligently pursuing their benefits. By proactively addressing this issue, VA can maintain both fairness and efficiency in its modernization efforts.

c. Underutilization of Technology Beyond Case Management

While VA modernization has improved claims throughput, technology is underused to prevent errors or identify inconsistencies. Tools such as predictive analytics, automated quality checks, or examiner performance tracking could proactively flag potential rating misapplications, duplicate evidence requests, or inconsistencies in decision-making. Without these capabilities, errors continue to propagate through the system.

The VA should expand technology use to include predictive quality assurance, automated alerts for inconsistent ratings, and dashboards for monitoring examiner and adjudicator

performance. These tools could complement human review and ensure that faster processing does not come at the expense of accuracy. Errors could be prevented rather than corrected in appeals. Efficiency gains from technology would enhance accuracy, reduce remands, and increase Veteran confidence. VA could use data-driven insights to improve policies and training proactively.

d. Subsection Conclusion

The lack of structured feedback from appeals and absent safeguards for mid-claim rating changes allow predictable errors to persist, creating unnecessary delays and burdens for Veterans. By analyzing appeals data and establishing protections when criteria evolve, the VA could turn remands from recurring setbacks into opportunities for continuous improvement.

Building on challenges from outdated codes and feedback gaps, errors in assigning effective dates and navigating the appeals process further delay benefits and create inequities. The next section examines how these failures compound inefficiency, prolong resolution, and impose unnecessary hardship, highlighting opportunities to streamline appeals, ensure accurate compensation, and enhance fairness across the system.

VII. Effective Date and Appeals Process Failures

For many Veterans, securing the correct effective date for benefits is just as important as receiving the benefits themselves. Yet, the VA's handling of effective dates and related appeals remains inconsistent and error-prone. Veterans often lose years of back pay due to implementation failures, not because their claims lack merit.

Likewise, there is no streamlined mechanism to correct oversight errors, forcing Veterans into time-consuming, costly appeals. These issues highlight a disconnect between the system's intent, to provide timely and fair benefits, and its real-world outcomes, where settled law is repeatedly relitigated and Veterans bear the burden of administrative shortcomings.

a. Persistent Effective Date Errors Despite Continuous Pursuit

Veterans who pursue claims continuously for years frequently receive an effective date tied only to the most recent supplemental claim. This misalignment disregards established case law recognizing continuous pursuit, resulting in lost backpay and added stress. Many Veterans are unaware that they can appeal these errors, while others must hire attorneys to recover benefits they should have automatically received. The problem is not a legal ambiguity but a failure in the VA's implementation of existing rules.

Modern case-management systems should automatically track all claim activity, including intents to file, initial claims, supplemental claims, higher-level reviews, and Board appeals. The system could then calculate the earliest legally permissible effective date upon claim grant and provide a clear audit trail for adjudicators. This would ensure that continuous pursuit is properly recognized without requiring Veterans to initiate additional appeals.

Correctly implementing effective dates would prevent unnecessary appeals and restore lost back pay to Veterans promptly. It would increase trust in the system and allow Veterans to focus on recovery and stability rather than litigation over benefits they are legally entitled to receive.

b. No Dedicated Path for Effective Date Appeals

Currently, effective date disputes are processed through the same channels as complex factual or medical disagreements, despite their primarily administrative nature. Veterans must navigate multiple layers of appeal or hire legal representation simply to correct timing errors, creating unnecessary delays and frustration. The absence of a dedicated track for effective date claims compounds inefficiency and undermines fairness.

VA should establish a specialized appeal track for effective date disputes, with adjudicators trained specifically in continuous pursuit, dates of claim, and dates entitlement arose. Standardized criteria, streamlined timelines, and dedicated review processes would allow these appeals to be resolved efficiently and consistently. A dedicated effective date appeal process would accelerate resolution, reduce the need for attorney involvement, and ensure Veterans receive accurate back pay sooner. It would also free up resources in the general appeals system, improving efficiency across the VA.

c. No Remedy for VA Oversight Errors Short of the Board

Veterans have limited recourse when VA makes clear errors, such as mischaracterizing claims, ignoring evidence, or failing to adjudicate reasonably raised issues. Currently, the only options are a Board appeal or alleging clear and unmistakable error (CUE), which carries an extremely high legal threshold. These gaps force Veterans to shoulder the consequences of agency mistakes, including delay, lost benefits, and emotional stress.

The VA should introduce a new intermediate appeal mechanism (e.g., a “Duty to Assist Appeal”) to address oversight errors. Positioned between Higher-Level Review and Board appeal, this process would allow Veterans to challenge omitted claims, mischaracterized issues, or ignored evidence without meeting the onerous CUE standard. Standardized procedures and accessible forms would simplify participation and reduce unnecessary litigation.

Providing a remedy for oversight errors would reduce unnecessary Board appeals, accelerate corrections, and ensure Veterans are not penalized for administrative mistakes. This would increase fairness, accountability, and confidence in VA processes while allowing the appeals system to focus on substantive disputes rather than preventable errors.

d. Subsection Conclusion

Failures in effective date management and oversight reveal systemic gaps in timely, fair benefits delivery. Automating continuous pursuit recognition, creating a dedicated effective date appeals path, and providing remedies for VA errors would help Veterans receive earned benefits without unnecessary delays, improving equity, efficiency, and trust.

Even when appeals expose errors, gaps in transparency and oversight, such as unclear decision-making, inconsistent rule application, and limited visibility into systemic errors, allow mistakes to persist and undermine confidence. The next section examines these transparency and oversight gaps and identifies reforms to strengthen accountability and ensure fair, consistent outcomes.

VIII. Transparency and Oversight Gaps

Transparency and oversight are foundational to trust in any benefits system, yet the VA's disability process has notable gaps in both areas. Veterans often do not know when artificial intelligence tools or contract examiners influence decisions that directly affect their livelihoods.

Likewise, denial patterns across Regional Offices, examiner teams, or demographic groups remain opaque, making it difficult to identify inconsistencies, bias, or systemic errors. Without clear visibility and accountability, errors repeat, delays persist, and Veterans' confidence in the system is undermined. Improving transparency is not merely a procedural issue, it is essential to fairness, accuracy, and public trust.

a. Lack of Disclosure When AI Is Used in Rating Decisions

The VA has begun exploring artificial intelligence (AI) to assist in rating decisions, but Veterans are rarely informed when AI contributes to their claims. This lack of disclosure prevents meaningful review or challenge of flawed outputs and erodes trust in the system. Veterans have a right to know how decisions affecting their benefits are made, yet the current process provides no visibility into the role or influence of AI tools.

VA should require disclosure whenever AI is used in rating decisions. Notices should clearly explain whether AI contributed, in what capacity (e.g., evidence review, issue identification), and how the final decision incorporated or overrode AI-generated input. This transparency would allow Veterans and their representatives to understand, verify, and, if necessary, challenge automated components of the adjudication process.

Disclosure would enhance trust and accountability while supporting more informed appeals. Veterans could better evaluate decisions, and the agency could identify and correct biases or errors in AI tools. This step aligns with broader federal principles for responsible AI use and demonstrates a commitment to fairness and oversight.

b. No Public Oversight of Regional Office Denial Patterns

VA does not routinely publish denial rates by Regional Office, examiner team, or demographic group. Without this data, geographic disparities, systemic bias, or the effects of staffing and leadership changes remain hidden. Veterans and policymakers lack the information necessary to ensure equitable treatment and targeted reforms, leaving some regions consistently disadvantaging claimants without accountability.

VA should analyze and publicly report denial patterns by Regional Office, claim type, examiner team, and key demographic factors. These reports could include trend data over time, correlations with staffing changes, and other relevant operational metrics. Public availability of this information would allow stakeholders to monitor performance, identify inequities, and propose data-driven improvements. Public oversight would create accountability, reduce geographic disparities, and empower Congress, VSOs, and Veterans themselves to advocate for consistent, equitable treatment. It would also provide actionable insights for VA leadership to address systemic issues proactively rather than reactively.

c. Insufficient Veteran Education and Communication

Many Veterans do not fully understand the VA disability process, including how ratings are determined or even their appeal options. This lack of knowledge can result in missed deadlines, incomplete submissions, or erroneous assumptions that the system is adversarial rather than supportive. While a single “one-pager” overview exists, it is not consistently accessible, particularly for Veterans navigating cognitive, mental health, or complex claims, limiting its usefulness as a tool for understanding the process. VA should invest in clear, plain-language communication and education initiatives. This could include explainer guides, webinars, and automated updates for every stage of a claim, including, as mentioned above, transparent notice when AI or contract examiners are used.

Importantly, decision letters should already clearly explain the reasoning behind ratings and identify what evidence or arguments could affect the outcome. *See* 38 U.S.C. § 7104(d)(1). In practice, however, many VA decisions fail to provide this level of explanation, leaving Veterans uncertain about why their claims were denied and how to strengthen future submissions. This lack of transparency undermines confidence in the process, contributes to unnecessary appeals, and forces Veterans to navigate the system without clear guidance.

d. Subsection Conclusion

Transparency and oversight are essential to fairness and trust in the VA disability system. Disclosing AI use in ratings and publishing denial patterns by region and examiner would empower Veterans, strengthen accountability, and reveal systemic flaws before they become repeated injustices. However, even with these improvements, gaps remain that harm Veterans. Delays, inconsistent ratings, and procedural barriers affect income, health care, employment, and quality of life.

The next section examines how these failures cause tangible, preventable harm, underscoring the urgency of reforms that protect Veterans.

IX. Veteran Well-Being and System Performance

Beyond administrative inefficiency, the VA disability system has a profound human impact. Delays, repeated denials, and preventable errors do more than slow claims: they exacerbate mental

health conditions, generate chronic stress, and erode trust in the system. Each denial or remand forces Veterans to repeatedly document and justify their disabilities, which can retraumatize claimants and reinforce feelings of frustration, helplessness, and distrust. Preexisting conditions such as PTSD, depression, and anxiety can worsen, and some Veterans may develop new psychological challenges.

Families and caregivers are often affected as well, witnessing loved ones struggling with uncertainty, repeated setbacks, and a lack of clear guidance. Without systemic recognition and intervention, these cumulative burdens can discourage Veterans from pursuing legitimate claims, leaving them undercompensated and emotionally depleted.

The VA can take practical, achievable steps to mitigate these harms without requiring new statutes. This includes tracking metrics on remands, processing times, and claim types that disproportionately affect mental health outcomes; integrating proactive mental health support, including referrals for Veterans engaged in prolonged or complex appeals; and piloting mechanisms to recognize non-financial harms, such as expedited review or prioritized processing for claims affected by repeated preventable errors.

These measures would reduce stress, improve transparency, and enhance fairness, ensuring that Veterans are not penalized for preventable administrative errors. By addressing the emotional and psychological consequences of claims processing alongside financial compensation, the VA can strengthen the Veteran experience, increase trust in the system, and demonstrate a commitment to holistic care. Recognizing the human cost of delays and errors ensures that modernization efforts improve not only efficiency but the lived experience of the Veterans the system exists to serve.

* * *

The VA disability system has transformed countless lives, providing critical support, financial security, and recognition to Veterans who have sacrificed for our country. Modernization efforts, new technology, and expanded access to examinations have made meaningful progress, and many Veterans benefit every day from these improvements. The system works, often remarkably well, but it is not perfect. Persistent structural, procedural, and legal gaps continue to hinder Veterans from receiving timely, accurate, and fair disability benefits.

This testimony has highlighted areas where small, targeted reforms can have outsized impact: updating the rating schedule to reflect real-world functional impairment, improving mental health rating accuracy, standardizing contract examinations, enforcing accountability, and ensuring transparency and proper remedies for Veterans. These fixes do not require wholesale statutory change; they require better implementation, clearer guidance, and meaningful oversight.

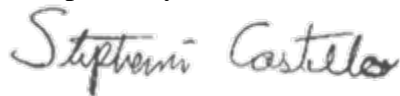
By addressing these issues, the VA can reduce preventable appeals, improve consistency across Regional Offices, and most importantly, ensure that Veterans are compensated fully and fairly for their disabilities. Reforming the system in these practical ways will enhance trust,

preserve the integrity of the disability adjudication process, and align the VA's modernized infrastructure with its mission to serve Veterans with excellence and compassion.

Ultimately, Veterans deserve a system that recognizes the realities of their service-connected disabilities, respects their lived experiences, and provides timely, legally sound decisions. These reforms are achievable, and the benefits – to Veterans, to the VA, and to Congress – are immediate and profound. By working together, we can ensure that modernization truly fulfills its promise: a fair, efficient, and humane disability system that honors those who have served.

On behalf of Berry Law and the Veterans we represent, I want to express our sincere appreciation for the Committee's careful consideration of these important issues. We welcome the opportunity to provide additional clarification, technical assistance, or any further information the Committee may find helpful. Please contact my colleague, Andy Blevins, Senior Counsel, at andy.blevins@berrylaw.com, if we may be of service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Stephanie Costello".

Stephanie Costello