

STATEMENT OF STEVEN HENRY
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FOR THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
“IS VA READY FOR FULL IMPLEMENTATION OF APPEALS REFORM?”
DECEMBER 19, 2018

Chairman Roe, Ranking Member Walz, and members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to offer our views on whether VA is ready to fully implement the Veterans Appeals Improvement and Modernization Act (Public Law 115-55).

PVA employs a highly-trained force of over 70 National Service Officers (NSOs) across the nation who develop veterans' claims for both member and non-member clients. These frontline employees spend a minimum of two years in specialized training. We maintain a National appeals office staffed by attorneys and legal interns who represent clients at the Board of Veterans' Appeals (Board). We also have attorneys who practice before the Board, the US Court of Appeals for Veterans Claims (CAVC), and the US Court of Appeals for the Federal Circuit. Of all the major veterans service organizations (VSOs), only PVA offers such continuity of representation from the filing of a claim through any needed appellate review.

Our most important attribute, though, is that our service officers and attorneys consistently advocate for catastrophically disabled veterans. Complex claims are typical, not the exception.

As we attempt to bring greater efficiency to the claims and appeals system, our perspective is geared toward ensuring that the due process rights of the most vulnerable among us—those most dependent on benefits—are not watered down for the sake of expediency.

The Board is an administrative tribunal within the Department of Veterans Affairs (VA). VSOs play a crucial role in the appeals process by providing representation to veterans who are appealing their benefit claims before the Board. For this reason, access to veteran's records is imperative. Historically, the Board used the Veterans Appeals Control and Locator System (VACOLS), which VSOs had access to. Within VACOLS, a representative could locate the status of the veteran's appeal and other information critical to the veteran's case.

When VA started the process of implementing Appeals Modernization, it was determined that VACOLS would no longer be needed at the Board. Instead, a new program, Caseflow would be developed and implemented. Unfortunately, the process for implementation has not been smooth, nor have VSOs received full access to every facet of the new program. In the December 12th hearing, VA was confident with their progress implementing Caseflow; however, VSOs still do not have access to vital information provided by eReader, eFolder express, and other IT programs, including the ability to download an entire file into PDF form from the Veterans Benefits Management System (VBMS). Although VA is making strides implementing its systems, they are neglecting to provide access for VSOs. VA is exhibiting a false sense of confidence, when in reality, they have made little progress ensuring these programs will be available to VSOs, which are critical when providing comprehensive representation.

In fiscal year (FY) 2018, the Board issued 85,288 decisions, a 62 percent increase over FY 17's total of 52,537. With the increase in decisions came an increase of overall grants. While this is good news, PVA is concerned about how VA, more specifically the Appeals Management Office (AMO), formerly known as the Appeals Management Center (AMC), is addressing the growing backlog of grant promulgations. At one time, veterans had to wait in excess of six months to receive retro payments due to the backlog of grant promulgations at the AMC. VA should be proactive in dedicating resources to address the sharp increase of Board decisions.

PVA's biggest concern with Appeals Modernization is VA's objective to provide decisions within 365 days, while still actively working on a large backlog of traditional appeals. The Board has communicated to VSOs that there will be a time limit of 60 days to complete and submit Informal Hearing Presentations (IHPs) on behalf of veterans who are appealing their benefit claims. PVA is concerned that by placing a time limit on IHPs, VSOs are being asked to divert more resources to new claims, rather than providing equal focus between traditional and new claims. Moreover, if a veteran has 90 days to submit more evidence, how can VA expect VSOs to submit an IHP before reviewing the veteran's complete record? When VA was asked what the consequence of failing to submit an IHP within the mandated 60 days would be, VA's response was "we have no idea." Whether the time limit is 60, 90, or 120 days, VSOs are being held to a standard that has no basis, nor is it included in the proposed regulation changes. Further, VSOs are not given the tools, like full access to Caseflow, to help us meet these goals.

We all want Appeals Modernization to be successful, and we hope VA will provide the tools and information necessary to VSOs to ensure we can fully contribute to its success.