



STATEMENT OF
VERNA JONES, DIRECTOR,
VETERANS AFFAIRS AND REHABILITATION DIVISION OF
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON DISABILITY AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"IMPLEMENTATION UPDATE: FULLY DEVELOPED CLAIMS"
SEPTEMBER 11, 2013

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The Fully Developed Claims (FDC) program is an excellent example of what can happen when all of the stakeholders in veterans' benefits work together and put delivering service to veterans first. The service officers who work for the Veterans' Service Organizations (VSOs) present the material to the Department of Veterans Affairs (VA) in an organized fashion, in turn have less time needed to develop the claim, and can cut the processing time to well below backlog numbers. Congress has responded with legislation that offers additional incentive of back pay to reflect the extra time veterans must spend gathering material to send to VA before they can submit their claim. When everything works together, it's the veterans who win. On FDC claims some offices reported processing times of 30-60 days, and the average processing time nationwide dropped to well under VA's goal of 125 days.

Not every claim will be eligible to be processed under the FDC rules. The FDC program isn't a silver bullet that will alleviate all of VA's problems with the backlog. However, with willing participants and adequate screening to get the right cases to VA, the FDC program can help manage resources and take pressure off other areas so VA can focus and finally drive down the backlog of claims.

The VA announced the implementation of the Fully Developed Claims FDC initiative in a meeting conducted at VA Central Office (VACO) in July 2012. Through the implementation of the FDC process, VA explained their intention to reduce the backlog of disability claims that has plagued VA and the veteran community.

VA announced that it would create a "segmented lane" dedicated to adjudicate claims in a timely manner; the "Express Lane" was created to adjudicate a claim qualified as FDC and any claims with up to two conditions. For a service member, veteran, or dependent to submit a claim qualified for the FDC program, all non-federal records that may assist in adjudicating the claim are required to be submitted at the time of application. Non-federal records include, but are not limited to:

- Reserve and National Guard service treatment records
- Private treatment records

- Lay statements from friends, family members, co-workers, etc., supporting the veteran's claim

In November 2012, The American Legion agreed to partner with the White House, Joining Forces, and VA to review the implementation of the FDC process nationwide. Recognizing the FDC initiative was potentially a seismic shift in the manner veterans' claims could be adjudicated and having over 2,600 accredited representatives nationwide, The American Legion enthusiastically agreed to join the initiative.

The American Legion targeted VA Regional Offices (VAROs) nationwide to review the FDC implementation process. Data collected from reports produced by VA regarding FDC submissions by The American Legion allowed for a thorough review of VAROs with high and low FDC submissions.

The American Legion selected the following VAROs for visitations:

- Pittsburgh, Pennsylvania (December 2012)
- Denver, Colorado (January 2013)
- Indianapolis, Indiana (January 2013)
- Baltimore, Maryland (March 2013)
- Nashville, Tennessee (April 2013)
- Oakland, California (May 2013)
- Togus, Maine (May 2013)
- Reno, Nevada (June 2013)

The findings from these visits naturally varied from office to office, although several trends were clear. In areas with strong "buy-in" from the VARO Directors and employees, such as in Indianapolis the results were explosive. The employees embraced the FDC program as they recognized it was a way to award claims expeditiously and avoid the lengthier traditional claims process. It was so well received that the FDC lane had to be split into sub-lanes to accommodate the volume of claims, and the program was still returning better results than the traditional legacy system of claims.

Leadership in the Indianapolis office cited the close relationship with The American Legion and VSOs as instrumental to the success of the program in that office. Because the service officers could work the program effectively with veterans, it helped the VA on the front end and gave the program what it needed to succeed.

One of the criticisms of FDC initially from some veterans' advocates was the concern that FDC was putting too much of VA's work on the veterans. For The American Legion, the information a veteran is required to submit is consistent with our baseline training for service officers about how to put together a proper claim. Service officers did not feel additional work was required, because the FDC program represented *what they were already doing* for veterans when they

organized their claims for submission. By taking the work they were already doing, and submitting it through the FDC program, they opened up the possibility of faster turnaround for the veterans. It was like gaining an additional benefit for all the hard work they normally put in on behalf of the veteran.

Not every office has seen the vast improvements seen in Indianapolis. Often, The American Legion found where there was not committed “buy-in” to FDC among management in a VARO, the employees would not buy in, and the program would struggle to succeed. Baltimore, MD represents an example of this sort of model. As even the national press has highlighted, the Baltimore VARO is not one of the higher performing Regional Offices within VA. Systemic problems within the office, including poor file management and high employee turnover contribute to morale issues and poor performance. In Baltimore, it often seemed employees spent more time trying to disqualify claims from FDC than to process them, and therefore the program struggled to succeed.

To illustrate, The American Legion submitted one claim requesting FDC consideration for a veteran who served at the Pentagon on September 11, 2001. On the day of the terrorist attack, the veteran assisted removing individuals from the building and was seeking service connected disability benefits for posttraumatic stress disorder (PTSD). Supplied medical records supported a PTSD diagnosis; however, Baltimore VARO opted to remove the veteran from the FDC process. The FDC coordinator indicated that the veteran did not provide information indicating he was serving at the Pentagon on September 11, 2001. The veteran received a citation for his service that day; moreover, billeting and personnel records would also indicate service at the Pentagon on September 11, 2001. These are federal records and could be retrieved by VA; had Baltimore VARO followed VACO’s policy regarding the retrieval of federal records, the veteran could have remained in the FDC program and received his benefits in an expeditious manner. Even when federal records were obtained and the veteran was shown assigned to a unit at the Pentagon on September 11, 2001, the VA continued to try to kick the case out claiming, “there’s no way to prove they were actually at work that day.”

With an obstructionist attitude towards veterans’ claims like that, no program in the world is going to help right the ship. Clearly for success with any attempt to whittle down the backlog, buy-in to new methods and tactics is needed.

There is buy-in from high levels within VA. In an interview conducted with The American Legion for the National Convention in Houston, TX in August of 2013, Under Secretary for Benefits Alison Hickey stated, “In 2012 VBA was able to process 60,000 claims under the FDC program. Thanks to The American Legion, in 2013 we’ve already been able to up that figure to 120,000 claims.” VACO is committed to making this program work, and The American Legion believes there are great benefits towards making it work, and would only suggest a few small corrections to help the program maintain its footing.

The American Legion recommends:

- Increased effort and outreach from VACO to ensure consistent buy-in and implementation from VARO to VARO. Without consistent buy-in, the results will be too fractured to have a national impact on claims.
- Include National Guard and Reserve records under the category of federal records VA must help locate. Certainly the last decade has highlighted the vital contribution of Guard and Reserve component service members; they cannot continue to be locked out of effective VA programs such as FDC simply because they serve as citizens as well as soldiers.
- VA must still work to improve accuracy on the claims, even as they increase speed of processing with the FDC program. Comments and errors regarding claims were far too common during VARO visits. Within VA's Monday Morning Workload Report released on September 3, 2013, VA's accuracy rate for the previous three months is 90.3 percent. This is inconsistent with our Regional Office Action Review (ROAR) visits nationwide, where errors are found routinely in over half of the cases reviewed. Cases reviewed by The American Legion staff are not chosen by The American Legion but by VA employees. Additionally, The American Legion successfully argues that VA has either erred or failed to properly develop claims in over 70 percent of claims appealed to the Board of Veterans' Appeals (BVA).

American author Napoleon Hill said, "A goal is a dream with a deadline." The VA Secretary has established a goal for VA disability claims to be adjudicated within 125 days and with 98 percent accuracy by the end of 2015. VA views it as a goal; many veterans view it as a dream. Regardless, the deadline for the goal is rapidly approaching. FDC provides part of the avenue for the Secretary's goal to be accomplished.

Ultimately, we believe FDC is a viable program that can assist VA in reducing the backlog and allow veterans to receive their entitled benefits. As the program expands and the veteran community recognizes its benefits, it will be incumbent upon us to continue to monitor the program as it expands. Additionally, focus should continue to exist on FDC internally with The American Legion Department Service Officers through the Department Service Officer School and other outreach training methods. Through this practice, service officers can continue to provide the best possible service to the veteran community in their quest for veterans' benefits.

As this program continues to develop, The American Legion looks forward to working with the Committee, as well as VA, to strengthen this program and any other program that can help tame the backlog and get veterans the benefits they deserve in a timely manner. For additional information regarding this testimony, please contact Mr. Ian de Planque at The American Legion's Legislative Division, (202) 861-2700 or ideplanque@legion.org.