

**STATEMENT OF
ZACHARY HEARN, DEPUTY DIRECTOR OF CLAIMS
NATIONAL VETERANS AFFAIRS AND REHABILITATION DIVISION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"EXPLORING NATIONAL WORK QUEUE'S IMPACT ON CLAIMS PROCESSING"**

FEBRUARY 14, 2017

Chairman Bost, Acting Ranking Member Brownley, and distinguished members of the Subcommittee on Disability and Memorial Affairs (DAMA), on behalf of National Commander Charles E. Schmidt and The American Legion; the country's largest patriotic wartime service organization for veterans, comprising over 2 million members and serving *every* man and woman who has worn the uniform for this country; we thank you for the opportunity to testify regarding The American Legion's position on "Exploring the national work queue's impact on claims processing".

Background

The National Work Queue (NWQ) is a paperless workload management initiative designed to improve the Veterans Benefits Administration's (VBAs) overall productive capacity and assist with reaching the Secretary of Veterans Affairs' (VA) goals of eliminating the backlog by processing all claims in 125 days with improved accuracy. The NWQ is designed to serve as an efficient method to process, develop, and adjudicate veterans' claims.

The premise behind the NWQ is to avoid funneling cases singularly through the local VA Regional Office (VARO); instead, its objective is to maximize VA's workforce at its 56 VAROs to avoid delays in developing and adjudicating claims that plagued the Veterans Benefits Administration (VBA) in recent years.

In response to the mounting backlog of disability claims, VA created an electronic claims network called the Veterans Benefits Management System (VBMS) to electronically process veterans' claims. The implementation of VBMS has been credited with assisting in the reduction of the backlog that peaked at 611,073 claims in March 2013. With the implementation of VBMS and the elimination of hard-copy files, VA gained the ability to electronically distribute cases throughout its network of VAROs. Through this, the objective was to maximize its workforce, reduce the burden on certain VAROs suffering from under staffing, with the ultimate goal of having claims adjudicated in a more expeditious manner.

Beginning in mid-2015, VA began discussing with veterans service organizations (VSOs) the NWQ and the program's implementation. By 2016, the NWQ was fully implemented and cases

that were previously processed, developed, and ultimately adjudicated at a claimant's local VARO could have been handled by VA employees at numerous VAROs.

During the creation and implementation phase of the NWQ, The American Legion received multiple briefings regarding the program. We acknowledged that this program would provide a more efficient manner to have claims processed; however, improvements to VBMS would need to be made to ensure that accredited representatives would be able to maintain contact with VA adjudicators throughout the nation. Additionally, there would need to be a notification system installed for accredited representatives so that they would know when a claim adjudicated in another location requires a review.

The American Legion is a decentralized organization. Many of our service officers working within VA's network of regional offices are state employees, funded by state taxpayers. Concerns surrounding the assistance of veterans residing outside of a service officer's state have been raised to The American Legion. These same concerns have been raised by The American Legion to VA. Despite these concerns, VA has yet to provide the necessary adjustment to VBMS to ensure the local representative can review the case.

Over the last 18 months, numerous complaints have been provided to The American Legion's National Headquarters regarding the implementation of the NWQ. Based upon these concerns, The American Legion passed Resolution 104 during the 2015 National Convention in Baltimore, Maryland stating, "VA inform representatives at the local VAROs of decisions by placing a filter in (VBMS) allowing local representatives to find their client's VBMS records, including but not limited to, rating decisions by conducting the client's state of residence search".¹

To illustrate the frustrations of veteran service officers, The American Legion's veteran service officers employed by the Minnesota Department of Veterans Affairs (MDVA) contacted The American Legion recently pertaining to the NWQ; while MDVA communicated these concerns, they echo many of the sentiments we have heard from our field personnel. They identified the following concerns regarding the NWQ and its impact upon the adjudication of claims:

- Glaring inconsistencies in development and adjudications between VAROs;
- Lack of ability to communicate with VA personnel directly responsible for claims' adjudication;
- VA is removing the ability to review adjudications less than 48 hours following some adjudication;
- Removal of mail and notification lists in the process have resulted in an inability for service officers to properly review claims' adjudications prior to promulgation;
- VA notification letters indicate that the power of attorney (POA) has received a courtesy copy of the correspondence. This indication is disingenuous; while true that the POA can review the correspondence on VBMS, there is no copy delivered to the POA and most often, do not know about the correspondence unless a review of the case occurs or the veteran contacts the POA; and

¹ American Legion Resolution No. 104 (Sept. 2015): [*Local Accredited Representative Access to Veterans Benefits Management System Decisions*](#)

- A lack of ownership of the claim by VA personnel. Previous to the NWQ, VA local employees had greater ownership of the development and adjudication of claims; since the NWQ's implementation, a fracture between VA and service officers has occurred in communication and partnership due to frequently receiving little to no response from VA personnel at separate locations.

The lack of communication and ability to effectively advocate for veterans has proven terribly frustrating to many of The American Legion's service officers. It has added to an increased level of distrust; some service officers have reported an increase of VA personnel starting to appeal the decision to the Board of Veterans' Appeals (BVA), because of the perception of an increased level of authority. The frequency of the statements rose to the level that The American Legion contacted VA's Office of General Counsel (OGC) to question the validity of the statement. In a response to The American Legion on December 12, 2016, OGC stated, "It is not accurate to say that the (BVA) has greater authority than the (VARO) to grant benefits, or any authority at all to circumvent the law and award benefits at will."

The American Legion's service officers in Minnesota also reported that they were misled regarding the distribution of claims of their veterans. Initially, they were informed by VA that the NWQ would result in 99 percent of Minnesota veterans' claims being adjudicated at the St. Paul VARO. Statistics do not bear true, however; since the NWQ's implementation, the number has reduced drastically to only 30 percent of veterans in Minnesota having their claims adjudicated within the St. Paul VARO.

Annually, The American Legion visits VAROs as part of the Regional Office Action Review program. Last year, The American Legion visited 10 VAROs; beyond reviewing the quality of adjudications with the VARO, we have the opportunity to meet with senior leadership and line employees at the sites. Significant concerns regarding the NWQ were raised from veteran service representatives through senior VARO personnel.

Common complaints from VA personnel were about the inability to have ownership of local claims, and one VARO could complete the majority of the work surrounding an end product (EP), if the product is not completed by the end of the business day, it could be reassigned in the NWQ to another station with the new station gathering the credit for the work. A senior VARO employee expressed that the organization operates in a production environment, and yet the proper credit for the production is not necessarily being applied. While service officers would prefer that all claims were adjudicated within their local VARO, most also recognize that the complexity of claims and the need to adjudicate the claims in an efficient manner needs to exist. We recognize the importance of the NWQ; however, the efficacy of the NWQ and the support of the program does require support of the veteran service organizations (VSOs).

For nearly two years, VSOs have been briefed regarding the NWQ, and during that span, we have advised VA of the needed changes to VBMS to allow the NWQ to be successful. VA continually states that they recognize VSOs as key stakeholders; however, if VA continues to fail to listen and implement the suggestions by the VSOs.

The American Legion's service officers support a thriving VA; we have a fleet of advocates exceeding 3,000 accredited representatives that are available to support VA in its efforts to improve the delivery of benefits – but VA needs to listen and address our concerns. For two years, we have been advised that our suggestions are not “high priority” if you are a key stakeholder and have been provided this statement for this period of time, it is natural to wonder how “key” of a stakeholder you are. To be clear, service officers are not a hindrance to the process, they could be a powerful part of the solution.

The efficacy of the NWQ rests upon VA making the necessary following adjustments:

- Improving the standardization of adjudications nationwide;
- VA creating an environment where they are encouraged to communicate with service officers regarding individual claims. The creation and use of an informal conference could be included in the point system to increase participation and potentially reduce appeals;
- Create a notification/mail system to alert the local service officer of actions taken on a case;
- Rater does not receive points assigned to the EP until the service officer indicates completion of adjudication review;
- Creation of an alert from the service officer to the adjudicator indicating a concern surrounding adjudication. Through this implementation, VA could avoid numerous appeals simply through having a discussion with the service officer;
- Provide hard copy decisions if the claim has not been electronically processed, the Power of Attorney (POA) does not have access to the e-folder within VBMS, or if a rating decision or correspondence is generated with the EP being cleared the same day
- Include examination requests in VBMS; POAs have no knowledge if the process is being correctly executed; and
- Do not permit VA employees to remove an adjudication awaiting review until two full working days have expired.

Conclusion

The American Legion thanks this committee for their diligence and commitment to our nation's veterans as they struggle to receive the benefits they have earned for their service to the country. The American Legion appreciates the efforts VA has made to improve processing claims. When one considers the backlog of claims we all experienced less than four years ago, there has certainly been great improvement. Success and improvement does exist however; veterans' claims needs to be adjudicated in a timelier fashion. The American Legion is simply asking for VA's focus not to be solely on VA but to the fleet of thousands of advocates that work with VA on a daily basis. Through this cooperation, we are confident that the NWQ can be a viable product for future claims' adjudications. Questions concerning this testimony can be directed to Warren J. Goldstein, Assistant Director in The American Legion Legislative Division (202) 861-2700.