

**STATEMENT OF
RANDALL FISHER, DEPARTMENT SERVICE OFFICER
DEPARTMENT OF KENTUCKY
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"FROM THE INSIDE OUT: A LOOK AT CLAIMS REPRESENTATIVES' ROLE IN
THE DISABILITY CLAIMS PROCESS"**

APRIL 18, 2012

Chairman Miller, Ranking Member Filner and distinguished Members of the Committee:

Thank you for this opportunity to come before you today to discuss the critical role of Veterans' Service Officers in the Department of Veterans Affairs (VA) Disability Claims Process. Service Officers are an often overlooked component of the claims process, yet we are the front line soldiers in the battle for ensuring veterans receive the benefits they deserve. On behalf of over 2,000 accredited service officers of The American Legion, I am honored to be able to relate to you the lessons learned through our struggles to get benefits for those who have become disabled or have earned other benefits in their service to this great nation.

This committee has dedicated a great amount of focus to how VA operates in coping with a growing backlog of veterans' claims. As service officers who daily see the massive scale of the challenges facing VA, we are sympathetic to those men and women who work hard to deliver these earned benefits to the veterans of America, and we believe there are lessons VA could learn from our own experiences. In part because of the dedication of this committee in giving voice to the concerns of service organizations such as The American Legion, the VA is now engaging in greater dialogue with the overall veterans' community to solve our mutual challenges.

The problem is staggering. As of March 31, 2012 according to VA's own figures, there are 897,556 claims currently pending for benefits. Of that figure, more than 65 percent, a total of 589,483 of those claims have been pending for over 125 days. For the past several years VA has received over a million claims for benefits each year. In order to tame this rising backlog we recognize we will all have to work together.

The service officers of The American Legion believe there is a path to success, and that path is dependent on being veteran-centric, placing a high priority on training and understanding the operation of the claims benefits system, and examining the work credit system to ensure it helps foster an environment suited to getting the claims processed properly the first time. We believe if VA makes a commitment to adopting these principles in working with the veterans' community, they will remain ahead of the fight in the battle to tame the backlog.

Veteran-Centric Approach:

American Legion service officers are made up almost entirely of veterans. We understand the plight of veterans because we *are* veterans. Perhaps the greatest role a service officer plays in the process a veteran goes through in order to receive disability benefits is as a translator. We are not only able to translate the military experience of the veteran to VA employees, many of whom are not veterans themselves, we are able to translate the bureaucratic language of the VA back to veterans often confused by arcane complexities within the legal process of the claims system.

As a veteran, you have instant understanding and recognition of the language spoken by military veterans and utilized in military documents. Whether we are understanding abbreviations used on a DD-214 discharge document or understanding the nature of noise exposure suffered by a lance corporal assigned to an artillery unit, we know how to read a veteran's file because the language of the military subculture is our native language.

On a more personal level, when a veteran enters our office to speak to us about their claim, they know they are talking to a brother or sister service member. For lack of better terminology, we establish trust with the veterans because they know we "get" them. The shared sacrifice of shared service is a strong bond. For many veterans, dealing with VA can be dealing with a faceless bureaucracy, no different from interacting with the Department of Motor Vehicles. Sitting down with a service officer to talk about your claim is sitting down with a real person who has seen the same military you served in. Trust goes a long way.

The American Legion has continually advocated for a greater role of veterans within VA. This is helpful on many levels. As a trust issue, it enables veterans to know they are dealing with someone who comes from their background and is instantly perceptible as an ally in their fight for benefits. From a technical perspective it is immeasurably beneficial to be able to sight read military records, to know at a glance what all the parts of a discharge examination should look like and to be able to tell, not only what's present in a military file, but what's missing. Finally, veterans have served their country once by standing up and reciting the oath that inducted them into military service. Working in the claims benefits system, whether for VA or for a service organization such as The American Legion, gives them a continued opportunity in their life to provide service to their country and fellow service members. In the end it represents more jobs for veterans of all ages and eras, critically important when veterans of all ages are suffering from disproportionately high unemployment.

As service officers we also act as translators back to the veterans when they receive contact from the VA. While VA is making strides in contacting veterans to explain such notoriously complicated documents like routine VCAA letters, the task of "interpreting" this language often falls to the service officer. This is our job, to understand what the VA is asking for, even if the legal dialect makes it less than clear. Because, day in and day out, we must analyze claims before the VA, we are sometimes the best person to read through that letter and tell the veteran what is really missing with their claim.

This ultimately can save work for VA as well. With an unrepresented veteran, the confusing nature of the letters often leads to veterans submitting redundant or unnecessary information, adding further clutter and confusion to the claims file. For example, in a case where VA acknowledges a veteran's present condition of diabetes, but requires further proof that the veteran was "on the ground" in Vietnam, it is not uncommon for an unrepresented and uninformed veteran to become confused and send VA more current medical information about the level of disability presented by their diabetes, missing the crucial request from VA for clarification on their service in Vietnam. A trained service officer can better communicate that need to the veteran, reassuring them that VA recognizes the extent the diabetes is affecting their daily life, and directing the veteran's research to proving their ship docked in the harbor which would grant the point of service connection still under contention.

The process works both ways. We are not only impassioned advocates on behalf of a veteran's claim; we are also facilitators for the VA in delivering understanding to the veterans of the claims process and where the work needs to be best directed. We accomplish this so effectively because we speak the language of veterans. We accomplish this because we *are* veterans.

Training:

Being a veterans' advocate is like being a doctor and lawyer all rolled into one. This is a technical and sometimes confusing and complicated business. The veterans' disability system is unlike any other system of disability and requires specialized knowledge. You have to understand how to read doctors' examination notes and how to piece together fragments in incomplete military records. Moreover you have to understand not only a convoluted section of the United States Code, but also remain up-to-date on current precedential decisions being handed down by the Court of Appeals for Veterans Claims (CAVC).

Maintaining a level of expertise in all of these areas and more requires a dedication to training. The American Legion provides national schools for its service officers twice a year, in Washington, DC and in Indianapolis. These multiday schools are intensive and a great resource. By coming together we not only get targeted training based on evaluation of emerging concerns and changes, but we also interact regularly with our fellow service officers to share best practices and relate patterns we are witnessing in the VA system overall. The training is not limited to those schools either; it is an ongoing process, facilitated with regular updates and it has a high priority in proportion to work.

Too often in speaking to VA employees we hear of training as an afterthought, something that gets in the way of working. We are encouraged to work in a culture that respects the training as a toll essential to getting our work done, rather than an obstacle to getting that work done. We hear VA employees at the Regional Offices dismiss cases by the CAVC as "something the Board [of Veterans Appeals] deals with, not the RO" when unfortunately that is far from the truth. If Regional Offices better implemented the precedential decisions from the CAVC at the local level, claims wouldn't have to go to the Board. They could be settled right there at home for the veteran. We could cut a lot of the backlog down with some better training for VA at the Regional Office level.

Our training is often based on the common problems we see coming up again and again in the claims process. We train on understanding VA examinations because of the number of times we see exams come back improperly, with the wrong forms filled out or the wrong conditions examined. We train on areas of the rating schedule where there appear to be inequities, such as mental health disorders where ratings can be uneven and even seemingly random. We train how to understand what to look for so we can best advocate and explain to VA why the veteran deserves the rating we believe the evidence supports.

VA could learn from this and use this as a model to construct their training. If an outside organization can base training off of common errors and recent court decisions, VA should be able to manage a training program that is targeted to common errors found in STAR evaluations and in trends discovered through overturned appeals. Especially as they convert to their electronic Veterans Benefits Management System (VBMS) they should have even more tools to track where training is needed and make it the priority it needs to be. VA needs to examine the mindset service organizations have taken, which is that taking the time necessary to train does not detract from the ability to work, but rather enhances the ability to get the work done right.

Work Credit System:

Much of the inherent culture at VA revolves around the number of claims completed. Unfortunately it is somewhat lacking in the critical accuracy component of getting the claim done right. We work in the same Regional Offices as the VA employees. We hear their complaints all the time too. Accuracy and training just don't merit the same consideration as meeting the quotas and getting the right number of claims done each week.

As service officers, we are sympathetic to the case loads. We have to look at every case file for every veteran we see as well. The difference is we know that if we miss something we're letting a fellow veteran down. Yes, it might take a little bit longer to go over that claims file and make sure everything is in order and we got the claim done right. However, we also know if we got it done right, that claims file is not coming back to our desk again. When you take the time to get a claim right the first time, you are actually saving yourself work down the road.

The VA employees deserve a tracking system for claims that will reflect that mentality. We can see the numbers VA posts proudly on their national website every Monday morning. Those numbers track the number of claims they complete. VA needs to show their employees they are just as committed to quality by making a system that tracks more than just raw claims. There must be some way to factor in accuracy and to account for the needed training.

Recommendations:

These categories represent a broad overview of the mentality and work environment when a service officer tackles the task of representing veterans for their deserved disability benefits. There are a couple of simple lessons VA can learn from how we do business that will hopefully help them achieve their stated goals of 98 percent accuracy and no claim pending more than 125 days:

- Hire more veterans. Veterans bring immeasurable useful experience to the job and they present a face for a veteran accessing the system that tells them this is someone who understands their suffering and is there to help them.
- Make training a priority. You can't do the job if you don't know how to use the tools.
 - VA training planners need to adopt the models used by VSOs and develop training targeted to weaknesses and that is current to the changes in law, regulation and decisions by the higher courts.
 - Training also needs to have the same priority as the other activities of work. Taking time away from working on a claim is okay if you need that time to make sure you process that claim properly.
- Reevaluate the Work Credit System.
 - Accuracy needs to have the same priority as raw numbers.
 - Training needs to be better integrated into the time management system.

Summary

None of these challenges is insurmountable. We are all in this together, whether we're a VA employee, a service officer or a veteran seeking a benefit. We have to work together.

Service officers are passionate about our veterans because we see them and speak to them on a daily basis. In many ways we are the public face of the disability process for veterans, or at least the human face. When you field a call from a veteran every week hoping for an update on their claim, it can be heart rending, knowing how close to the edge some of these veterans are, knowing how much a difference resolving their claim can make for them. For a service officer, a claims file can never become just a number in front of you because you can always see the human face of who is being affected.

That is why it is important for us to express our experience from years in the trenches. On behalf of the service officers accredited by The American Legion and on behalf of The American Legion itself, I thank you for taking the time today to listen to our testimony and consider our input into the puzzle of solving the claims backlog.

**EXECUTIVE SUMMARY OF RANDALL FISHER
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Service officers are the front line of defense in many ways for veterans trying to navigate the disability claims system. They are the human face who interacts on a daily basis with veterans to translate the demands of VA to the veteran and to translate the military experiences and sacrifices of the veteran to the VA. Due to this unique position as go-between for veterans and VA, service officers have some insight to offer in terms of improving VA's performance in dealing with veterans' benefits.

- Be more veteran-centric. Hire more veterans who can not only easily speak and understand the language of veterans, but also present a friendly and familiar veteran face to the community of veterans seeking aid from VA.
- Overhaul VA training.
 - Ensure the training is targeted to common errors identified by STAR and other methods.
 - Ensure training reflects ongoing developments in the CAVC and with law and regulation changes.
- Reexamine the Work Credit System.
 - Place Accuracy on a level with Raw Output.
 - Make sure the work credit system accounts for training time necessary to the schedule.