STATEMENT OF
GERARDO AVILA, DEPUTY DIRECTOR FOR
MEB/PEB & DOD BOARDS
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

"THE INTEGRATED DISABILITY EVALUATION SYSTEM (IDES) AND VA'S PRE-DISCHARGE PROGRAMS FOR SEPARATING SERVICEMEMBERS"

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Chairman Bost, Ranking Member Esty and distinguished members of the Subcommittee on Disability Assistance and Memorial Affairs (DAMA); on behalf of the 2 million members of The American Legion and National Commander Denise H. Rohan; The American Legion, the largest patriotic service organization for veterans serving every man and woman who has worn the uniform for this country, thank you for the opportunity to testify regarding The American Legion's position on the "Integrated Disability Evaluation System and VA's pre-discharge programs for separating servicemembers".

The goal of the Integrated Disability Evaluation System (IDES) since its inception in 2007 has been to streamline the medical separation process and create a seamless transition for wounded, ill, and injured servicemembers from the Department of Defense (DoD) to the Department of Veterans Affairs (VA). This seamless process would create a one-stop shop and encourage better coordination between DoD and VA. Key components would include reducing the overall time it takes a servicemember to complete the IDES process, a medical evaluation for receipt of VA benefits, utilizing a single examination process that meets the needs of both VA and DoD, and increasing transparency of both the DoD disability evaluation system and the VA claims process.

Prior to the IDES program, the transfer of wounded, ill and injured servicemembers from DoD to VA was fragmented. This led to large gaps in medical care and VA disability compensation. These large gaps in coverage placed further stress on those servicemembers most at risk and at the crucial point of transitioning out of active duty service. It also hindered their ability to plan for their financial future due to their VA claims not being adjudicated for months and in some cases, years after their separation. In many instances it seemed that DoD and VA were using different sets of criteria to rate disabilities, all too often unfit conditions received a different set of ratings from DoD compared to VA. Servicemembers were confused by this new system, and many were unaware of their rights and how the process worked.

As a response to fill the void, The American Legion works to assist servicemembers across the United States. Until recently, The American Legion assisted with the Medical Evaluation & Physical Evaluation Board (MEB/PEB) process at the Servicemember & Family Assistance Center (SFAC) at Joint Base Lewis-McChord, WA. Additionally, the National staff offices in Washington

D.C. supports surrounding region by assisting transitioning servicemembers at the Warrior Transition Units located at Walter Reed National Military Medical Center (WRNMMC), and Fort Belvoir, VA. The American Legion helps in reviewing the findings of the board, writing rebuttals, and answering questions on the IDES process. Also, The American Legion maintains service officer staff at the VA's Benefits Delivery at Discharge (BDD) sites in Winston-Salem, NC and Salt Lake City, UT and have assisted veterans with over 500 BDD and Quick Start (QS) claims quarterly. The service officers also review exam results, as well as represent servicemembers in hearings when warranted.

The American Legion continues to focus on the many challenges facing today's transitioning servicemembers. The IDES program, while not perfect, has been helpful in reducing the number of days it takes to complete the medical board process, which has drastically reduced the gap from separation date to receipt of benefits. The American Legion supports the idea of having one compensation & pension (C&P) exam and rating decision with the results being accepted by both VA and DoD.

While the above improvements have been made, The American Legion still has the following concerns:

DoD Rating individuals placed on the Temporary Disability Retirement List (TDRL):

Servicemembers found unfit to continue service for a condition that is not stable enough to assign a permanent rating will end up on TDRL. If the individual is retired and is transitioned out of service, they will be required to undergo periodic examinations by DoD to see if the condition has improved, worsened, or become stable enough to assign a permanent rating. The agreement and spirit of IDES is that DoD would stay out of the rating business and leave the decision to VA. The American Legion believes that DoD is violating the principles of IDES and should not be conducting ratings. The American Legion suggests that DoD communicate with VA and inquire if the individuals ratings have changed. By doing so, the one rating decision will be maintained. Additionally, the ability to add new conditions once a servicemember is enrolled in IDES can cause issues. Medical appointments and treatment do not stop once an individual is enrolled in IDES and the probability of receiving a new diagnosis is likely. The American Legion has represented individuals who were unable to add new conditions and told to file a claim with VA once they were separated. While the advice is true, the goal of IDES was to correctly rate an individual by both DoD and VA concurrently and prior to seperation. By allowing new conditions to be added, the servicemember will have a complete picture of their financial outlook and can concentrate on transitioning and not have to think about another VA claim.

A lack of available resources by members of the National Guard and Reserves undergoing the IDES process at their home station*:*

In the past, The American Legion has expressed concern about Line of Duty (LOD) investigations, lack of resources, and the accurate dissemination of information on the IDES process for this group of servicemembers. Unlike their active duty counterparts,

LOD investigations are crucial to proving that the disability was incurred due to their service, without it, they will be separated with no retirement or severance. Attempting to undergo this endeavor at home is much more difficult compared to their active duty counterparts who are located at a military instillation where medical, legal services, and transition assistance are co-located. If feasible, members of the Reserves and National Guard should be recommended for assignment to a Warrior Transition Unit while enrolled in IDES.

The American Legion would also like to see improvements in other areas as well, specifically, the pre-discharge program previously referred to as Benefits Delivery at Discharge (BDD) and Quick Start (QS) program. Under BDD, transitioning servicemembers could file their VA disability claim between 60-180 days from their separation dates and those under 60 days could file under the QS program. The goal of the program was to initiate the claim while the servicemember was still on active duty, with the goal of shortening the gap from separation to the benefits receipt date. BDD intended to have the claims completed within 60 days of discharge. According to our two BDD field service officers, this goal was never reached. Almost all BDD claims were taking an average of 6-12 months after discharge to be completed, with QS claims taking even longer earning the nickname "*quick start, slow finish*."

These statements are supported by the last audit conducted by the VA Office of the Inspector General (VAOIG) which conducted a review of the Quick Start program. VAOIG found delays remained and accuracy figures well below VA target numbers. While VA was able to reduce the Average Days to Complete a Claim (ADTC) from 291 days in 2011 to 249 days in 2013 the accuracy of those claims remains below 70 percent. [1] The OIG found the lengthy ADTC rates were due to insufficient program controls in VA and recommended recurring program evaluations and increased training on processing QS claims.

In 2017, the Veterans Benefits Administration (VBA) introduced new changes to the BDD program with the launch of the pre-discharge redesign. The major changes include doing away with the QS program and combining it with BDD. Timelines have also changed. Now servicemembers must file their claim between 90-180 days of their separation. VA will hold claims filed under the 90 day window and begin to work as a traditional or fully developed claims once the separation date is reached. The Salt Lake City Regional Office was selected as the pilot site for the program, and our representative has indicated that the recent changes have been positive thus far. They base their opinions on seeing more pre-discharge claims completed prior to discharge, previously BDD claims were rated after discharge. For example, a claim was completed on October 31st for someone with a discharge date of November 30th and another completed on October 17th with a discharge date of October 31st. Our representatives stated that this was not the case under the previous program and mentioned that the new program is good for veterans because they will receive their compensation right after discharge.

The elimination of the QS program creates a serious concern for The American Legion in cases where VA is quicker to grant service connection for conditions that are diagnosed while still in service, as opposed to being diagnosed even one day after. Servicemembers are at a greater risk

[1] VAOIG Report 12-00177-138 "Audit of VA's Quick Start Program" May 20, 2014

of being delayed service connection for medical conditions unless it's a condition subject to presumptive service connection under Code of Federal Regulations (CFR) paragraph 3.309. If this is the case, a veteran will have to gather supporting documentation to establish the nexus between the disability and their time in service to be granted service connection for the condition. This could result in additional obstacles the veteran must overcome to receive their benefits. Another concern is the inability to add new conditions once under the 90-day window. New conditions claimed will not be accepted and written notification will be sent reminding the servicemember the need to file a new claim after separating.

The American Legion has lent its voice and taken direct actions to ensure today's transitioning servicemembers are fully supported and have all the information available to make sound decisions. We also support a more robust presence of veteran service organizations and other private stakeholders on the DoD side to ensure transitioning veterans have the support required. The American Legion has asked for better dissemination of information by both DoD and VA, as well as requesting to make the IDES system robust enough to assist veterans with Vocational Rehabilitation and Employment programs[2][3]. Better support is needed for National Guard and Reserve members to ensure they do not fall behind their active duty counterparts.

All of these challenges can be improved with better integration of stakeholders at all levels of the process. We cannot allow this severe disparity in access of medical support between the military and veteran communities. These men and women who deserve these earned services must not continue to struggle unnecessarily.

As always, The American Legion thanks this subcommittee for the opportunity to elucidate the position of the 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Derek Fronabarger, Deputy Director of The American Legion's Legislative Division at (202) 861-2700 or dfronabarger@legion.org.

[2] Resolution No. 42: "Compensation Benefits Information Disseminated at all Transition and Access Points"
[3] Resolution No. 32: "Enhancements to Integrated Disability Evaluation System Process"