**NATIONAL ORGANIZATION OF VETERANS’ ADVOCATES**



**Prepared Statement**

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**For the**

**Full Committee on Veterans’ Affairs**

**U. S. House of Representatives**

**Focusing on People: A Review of VA’s Plans for Employee Training, Accountability, and Workload Management to Improve Disability Claims Processing**

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The National Organization of Veterans' Advocates, Inc. (NOVA) thanks Committee Chairman Miller and Ranking Member Michaud for the opportunity to testify about the disability claims process at the Department of Veterans Affairs (VA). NOVA is honored to share our views for this hearing, “Focusing on People: A Review of VA’s Plans for Employee Training, Accountability, and Workload Management to Improve Disability Claims Processing.”

NOVA is a not for profit 501(c)(6) educational membership organization incorporated in the District of Columbia in 1993. NOVA represents nearly 500 attorneys and agents assisting tens of thousands of our nation's military Veterans, their widows, and their families obtain benefits from VA. NOVA members represent Veterans before all levels of VA’s disability claim process. This includes the Veterans Benefits Administration (VBA), the Board of Veterans’ Appeals (BVA or Board), the U.S. Court of Appeals for Veterans Claims (Veterans Court or CAVC), and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). In 2000, the CAVC recognized NOVA's work on behalf of Veterans when the CAVC awarded the Hart T. Mankin Distinguished Service Award.

On April 18, 2012, NOVA testified before this committee and addressed several issues:

1. The need for Access to Veterans Electronic Records by Private Practitioners
2. Entering Information Sent to VA in a Correct and Timely Manner
3. Improving Access to VBA Points of Contact for Private Practitioners
4. Decreasing Blocked Calls and Incorrect Information Given by VA

These issues all relate to VA’s workload management and attention thereto will improve disability claims processing by allowing VA to dedicate employee resources to disability claims processing rather than responding to status inquiries and record copy requests and will help assure accuracy of incoming and outgoing information. Yet, a year after its testimony, NOVA can report no meaningful progress in any of these areas despite repeated attempts to work with Agency personnel through a variety of channels. NOVA would like to summarize and clarify its observations and concerns in these areas as relates to accredited attorneys and agents and the Veterans they represent.

1. Access to Veterans Electronic Records (VBMS)

On two occasions last year, NOVA formally raised its concerns to Congress relating to the need for timely, accurate, and complete access to a VA claimant’s file by a Veteran’s authorized representative. This is absolutely vital in order to protect the rights of our Veterans and, without question, will positively contribute to the improvement of claims processing.

Congress has proscribed that “[a]ll files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Secretary… shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.” See 38 U.S.C. § 5701(a). The statute mandates thereafter that the Secretary “shall make disclosure” of these protected VA records to “a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant” when such disclosure would not be injurious to the claimant. See 38 U.S.C. § 5701(b).

The information and evidence that serves the basis of a Veteran’s claim comprises the VA claims file as we know it today. For the vast majority of our Veterans, this file is in paper format and, as such, is perhaps the single impediment to accurate and timely VA claim processing.

Access by a claimant to his or her VA case file heretofore has been possible only by visiting the VA Regional Office (VARO) by appointment to review the file or by requesting a paper copy of that file. In our experience, neither process is effective. Request for paper copies result in response delays of many months, with 6 to 12 months or more being common. The records are copied individually and by hand and the result is less than optimal. Forms are copied in no order whatsoever, are provided out of sequence with other, nonrelated documents intermingled within another’s pages, are often upside down, with backside information lacking, or are illegible due to poor copying techniques or VARO overprinting of facility identification markings. Worse, portions of the record are frequently missing and, in many cases, contain confidential and privileged records from other VA claimants unrelated to the case at hand. Accordingly, the information provided is less than optimal for assisting the representative in the claims development, adjudication and appeals processes.

The Veterans Benefit Administration (VBA) claims file is still in paper format for nearly all Veterans. Health records, created and maintained by the Veterans Health Administration (VHA), to the contrary, are presently and have been in electronic format for some time. The paper claims file is a dinosaur that is at the heart of VA’s inability to improve disability claim processing. Its very existence results in manpower, copier and postage expenses that are entirely unwarranted in today’s technologically advanced society. Worse, a paper system invites inaccurate information through misfiling, impedes a Veteran’s ability to obtain timely information regarding his or her claim so he or she can assist in the claims development process, and represents a misuse of limited VA resources. Other government agencies, like the Social Security Administration (SSA), have long-ago recognized the inherent difficulties and expenses of a paper based system and have effectively transitioned to a secure, on-line electronic format, entitled “Appointed Representative Suite of Services” (ARSS).

VBA’s e-Benefits system, also known as the Veterans Benefits Management System (VBMS), was to address the deficiencies noted above but the progress from NOVA’s perspective has been dismal, with no viable solution in sight. This is the top complaint of NOVA members who work with Veterans every day. The lack of access undermines our Veterans’ due process and property rights but also directly contributes to the delays in claims processing.

VA has provided electronic access to Veteran Service Organizations (VSOs) but has yet to even define what files will be accessible or what steps must be taken to grant this same access to private attorneys and agents despite the clear advantages for it to do so. For instance, VHA record access has yet to be defined, much less assured. Yet, NOVA has been advised that HVAC committee staff were recently given a briefing by VA officials where they were told that private attorneys and agents presently have access. This is not true. What is true is VA has not determined how access will be provided and what information is to be included. NOVA has been informed that security training will be required but that remains to be undefined further. NOVA has also been told that everyone will be required to have PIV cards and must purchase card readers to enable private access, after undergoing fingerprinting and security background checks. Apparently, VA’s assertions of modeling VBMS after the ARSS system successfully used by SSA are not to be taken seriously. Rather, it has chosen to utilize its limited resources in needlessly developing a complicated process for access that only helps prolong the processing of VA claims.

 2. Timely Entry by VA of Veteran Claim Information

It has been the experience of NOVA’s members that there are substantial time delays between receipt of a claim inquiry, or the submission of evidence, and when it is available to VA claim decision makers. Besides the usual delays associated with receiving and processing the mail, an additional delay is incurred because VA must then determine if it can respond to the inquiry or accept the evidence provided. If the inquiry or evidence submitted is not from the VA claimant, then VA must validate that the information was obtained from the Veteran’s authorized representative. The Veteran conveys his/her authorization by appointing a representative through submission of a VA Form 21-22a. Yet, this appointment is meaningless unless and until VA has taken the effort to enter that information into its system. Such entry in most cases takes several months and much longer many times. NOVA has been informed that these forms are not being submitted timely because no specific VA employee has been directed to assume this responsibility and no work credit is given for this process. Consequently, the form is submitted by whomever, whenever it can be worked in and additional work effort is required either returning the materials submitted or in making further inquiry to verify that the representative has been properly appointed.

Access to a fully functional on-line system, as that employed by SSA, would permit the electronic submission of correspondence and evidence directly to the file without the delays inherent with a paper driven system. This process would help assure that information is filed in the correct Veteran’s file. Moreover, it would eliminate the need for VA to manually receive and process the appointment of a representative. Such access represents considerable time savings to VA, allowing them to devote resources instead to claims development and processing.

1. Access to VBA Points of Contacts

Private representatives have no meaningful access to VBA contacts. Last year we noted that Attorney Fee Coordinators (AFC) at VBA Regional Offices may serve as liaisons with attorneys and agents, many of whom are NOVA members. In most cases, AFCs are cooperative and helpful to NOVA members, providing prompt and accurate status updates on Veterans’ claims; but in many cases, like the Detroit VARO, the AFC has been instructed to restrict assistance to fee related issues only. Instead, the private representative must waste additional time by submitting written inquires that take weeks or months, if ever, for a vague response as to claim or appeal status. Alternatively, a representative may call the VA “800” system but those contacts, without exception, provide even less specific information and afford no guidance on what may be needed to move a claim forward. This is also true for telephonic contact to the Board of Veterans’ Appeals. More promising, but no more effective, is an electronic inquiry though VA’s Inquiry Routing & Information System (IRIS), which provides email and telephonic responses to a Veteran’s representative. Again, the responses are extremely vague and most often result in a simple recitation of the adjudication history i.e., date of claim, notice of disagreement, substantive appeal filing, etc. Too often the response is denied because a power of attorney appointing the Veteran’s representative has not been electronically recorded, despite the fact the form had been filed months earlier. Typically, the response is too vague to be of value i.e., awaiting a decision, awaiting a medical examination, awaiting Decision Review Officer Review, etc.

Access to a fully functional on-line system, as that employed by SSA, would permit timely access to information about a Veteran’s claim, such that evidentiary deficiencies or responses could be addressed by the claimant without delay. Moreover, such access represents considerable time savings to VA, allowing them to devote resources instead to claims development and processing.

1. Decreasing Blocked Calls and Incorrect Information Given by VA

As with the preceding issues, on-line access to Veteran file information will provide accurate, real time information that will obviate the need for telephone inquiries which will, in turn, allow VA to dedicate resources to claims development and processing.

In summary, VA’s timely transition to a fully electronic claims files system that assures full access to all stakeholders, Veterans and representatives alike, is the single most important factor in improving claims processing. VBMS, when and if fully implemented, will allow VA to allocate resources in a meaningful manner and reduce the challenges of an overburdened disability claims processing system.

In conclusion, the matters we testified about in April 2012 still continue a year later, with little or no progress. NOVA has met with VA officials on numerous occasions to try to resolve these and other issues with limited success. The training of individuals within VA needs to address these and other similar issues that will aid Veterans in obtaining their rightful benefits. A cultural change is necessary within VA.

As always, NOVA stands ready to assist the Committee or VA in whatever way possible to further improve and enhance the systemic issues that negatively affect the lives of our Veterans and their families.

We thank you for this opportunity to provide our testimony.