Pre-Discharge Claims Programs Are VA and DOD Effectively Serving Separating Military Personnel

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Statement of
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Committee on Veterans' Affairs
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With Respect To

"Pre-Discharge Claims Programs: Are VA and DOD Effectively Serving Separating Military Personnel?"

WASHINGTON, D.C.

Chairman Bost, Ranking Member Esty and members of the Subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, I would like to thank you for the opportunity to testify on the Integrated Disability Evaluation System (IDES) and the Department of Veterans Affairs' (VA) pre-discharge programs for separating service members.

As the nation's oldest major veterans service organizations (VSO), the VFW serves 24 military installations to help veterans navigate and understand their earned VA benefits. Given the structure of the IDES program, we only have minimal interaction with service

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members as they navigate this process. Therefore, most of this testimony will focus on VA's pre-discharge claims programs.

To the VFW, filing claims prior to separation from the military is one of the most important processes that a service member can complete during the transition process. Not only does this ensure timely delivery of benefits after discharge, but it also increases the likelihood of granting benefits, setting veterans up for future success.

The reason that the VFW has invested significant resources to support transitioning service members is to foster a lifetime of advocacy on their behalf. As you know, the VFW and organizations like us provide this service free of charge. This is not just a courtesy that we provide. This highly-regulated professional service is a cornerstone of the VFW's mission to advocate for our nation's veterans.

When we say a lifetime of advocacy, we mean that the advocacy we provide does not stop after the initial appointment with a transitioning service member to file an initial VA claim. Instead, from that point forward, we hold limited power of attorney to advocate on behalf of the veteran and his or her dependents in any claim actions before VA. What this means is that after service, if a condition worsens, if the veteran marries or has children, the VFW's global network of more than 1,900 highly-trained, professional, and VA-accredited advocates is there to help navigate the process. Even when the veteran passes away, VFW advocates are there to support the surviving family members in understanding and accessing any benefits to which they are entitled.

According to VA, this lifetime of advocacy yielded nearly $7.7 billion in earned benefits for nearly 500,000 VFW-represented claimants in fiscal year (FY) 2017 –– an increase of more than $200 million over FY 2016. The VFW believes in this lifetime of advocacy, and the most critical point in establishing this relationship is the time when a service member chooses to leave the military. For this, I want to thank both VA and the Department of Defense (DOD), whom we heard from today, for allowing the VFW to play a critical role in this transition.

I just had the opportunity to visit with our work sites on Camp Pendleton, Naval Base San Diego, and in the San Diego VA Regional Benefits Office, so I have seen firsthand the importance of collaboration among DOD, VA, and the VSOs to best serve our transitioning service members.

A positive experience for a transitioning service member in navigating their VA benefits sets everyone up for success. The veteran receives timely, accurate benefits, setting them on a course to financial stability during a difficult transition. VA can more easily process benefits for veterans whose health conditions clearly manifest during their time on active duty, making VA an approachable and non-adversarial steward of these critical benefits. DOD fosters a smooth transition into civilian life, solidifying its rapport with veterans and

ensuring the sustainment of the all-volunteer force. Finally, it postures the VFW to provide the best possible service to our clients no matter where they choose to go after they leave the military.

As transition programs evolve, Congress, DOD, and VA all seek to make changes to better suit the transition experience. Many times, these changes result in improved service for the transitioning service member, such as the Transition Assistance Program (TAP) mandate included in the VOW to Hire Heroes Act; DOD's deployment of the military lifecycle model for transition; VA's establishment of the pre-discharge claims program; or the joint DOD/VA commitment to develop a single medical record for service members and veterans.

Unfortunately, sometimes changes have unintended consequences that may result in a degraded transition experience for the service member. This is where the VFW takes its responsibility as a veterans' advocate to inform the agencies of jurisdiction and this committee of our concerns.

Recently, VA made two significant changes to its pre-discharge claims programs that make the VFW concerned about the future of this critical interaction and the professional services we provide to our transitioning military members. First, VA shifted its timelines for the Benefits Delivery at Discharge (BDD) program, only allowing service members to submit BDD claims from 180 – 90 days prior to discharge. Second, VA eliminated the Quick Start (QS) claims program entirely, meaning veterans with 89 days or fewer left on active duty no longer have an option tailored to their unique circumstances to easily access their earned benefits.

The VFW understands why VA wanted to shift the timeline for BDD to 90 days. We understand that this allows VA to complete exams and propose rating decisions to deliver benefits as close to a service member's date of discharge as possible. In a vacuum, this is a positive step. However, coupled with the elimination of QS and the military's cumbersome transition timelines, the VFW believes this change would disqualify most service members the VFW serves from easily accessing their benefits on their way out of the military.

According to VA, the VFW's claimants on military installations who filed QS claims fluctuated between 33 and 50 percent over the past year. In visiting with our pre-discharge claims sites, we hear that most clients visit our offices with far fewer than 90 days left on active duty, meaning most of our past BDD clients would no longer be qualified for the program. Yes, VA still accepts these claims, but they are no longer processed expediently while the veteran still serves on active duty, and they are no longer tracked with a unique end product (EP) code specific to QS claims, formerly EP code 337.

In the past, this EP code allowed the VFW to track pre-discharge claims work to perform rating reviews and ensure the best possible outcome for our transitioning service members. Now, with the elimination of the QS EP code, claims we submit on behalf of transitioning

service members are assigned as any other claim in VA's National Work Queue. VA will argue that this is not a big deal and that VFW-accredited representatives anywhere can conduct these rating reviews. While this is technically true, we lose optics on these claims and can no longer properly track and report how well VA is serving the transitioning service member population. If we cannot identify problems this early in the process, we are not setting up the service member for post-military success.

This is why the VFW commits substantial resources at the national level to not only initial claims intake but also quality controls on adjudication of the original claim. As of this hearing, the VFW has six personnel stationed at the VA regional offices (VARO) responsible for pre-discharge claims adjudication whose sole responsibility is to review rating decisions and correct any possible errors. Our most recent data indicates that our rating review specialists catch VA adjudication errors in up to 20 percent of pre-discharge claims and are able to resolve such errors prior to promulgation of the award. This quality control allows us to establish the aforementioned lifetime of advocacy that we consider so vital to a veteran's future, posturing our local advocates for success once a recently-transitioned veteran settles down.

Several years ago, recognizing the unique needs of transitioning service members, VA committed not to broker work from the consolidated pre-discharge claims worksites at the VAROs in Winston-Salem, Salt Lake City, and San Diego. VA reneged on this promise last year with its across-the-board implementation of the National Work Queue, as we have testified in the past, and we do not expect VA will go back to its old workflows, since this has seemed to increase productivity and efficiency for VA. However, through unique EP codes and Station of Origination filtering in Veterans Benefits Management System (VBMS), our pre-discharge quality control team was able to track and review work regardless of the VARO of jurisdiction for adjudication. This was a satisfactory middle ground to meet both the needs of VA to broker its work and the VFW's need to maintain optics on specific claims for quality control purposes. However, with the elimination of the QS EP code, we lose optics on this work and can no longer fulfill our commitment to transitioning service members to perform the proper quality controls on their claims.

We have not seen the full effects of this yet, but our rating review specialist at the San Diego VA Regional Benefits Office already reports that QS claims for review are declining, and in meeting with the VARO Director, we learned that the total pending QS workload is all but adjudicated. So what happens now?

This becomes especially problematic for service members who are lower in rank –– the service members who need our services the most. Through surveying the VFW's clients, we have learned that many of our junior enlisted clients do not receive their TAP training in time to file a BDD claim. We also know that the military branches are just narrowly able to satisfy the VOW to Hire Heroes Act requirement for service members to start their

transition training with no fewer than 90 days remaining on active duty. If service members have not been briefed yet on how to access their earned benefits, how can VA expect them to file their claim actions?

This is especially problematic on installations, like Camp Pendleton, that serve large numbers of junior enlisted transitioning service members. On my recent site visit, I saw that most of the clients visiting our representative are much closer to their discharge date than 90 days. Based on our internal numbers, most of our clients on Camp Pendleton were QS claimants prior to October 1.

Moreover, VA exacerbated an already tenuous situation by notifying transitioning service members with fewer than 90 days on active duty that they were "disqualified" from filing BDD claims. This is a situation where language is critical. When the VFW was first presented with this letter, we vehemently disagreed with VA's decision to send it as worded. This concern was ignored. Since the change went into effect October 1, we have heard from all of our pre-discharge claims sites and several of our VARO worksites that veterans have called or visited the office, concerned that something went wrong with their claim. We even have one report from our office at Walter Reed National Military Medical Center that a retiree received a BDD disqualification letter 92 days prior to separation.

Thankfully, many of these clients have confidence in our representatives to explain the situation or resolve any discrepancies. However, what concerns us are the service members that we do not hear from who thinks that the VFW did something wrong. For these veterans, we have lost our ability to advocate, and they already have a negative perception of how both VFW and VA will handle their benefits.

The VFW calls on VA to put veterans, not appearances, first. It must accept claims prior to separation instead of punishing transitioning service members whose chain of command does not permit them the opportunity to begin their transition process 90 days before they separate from military service. At the very least, VA must reestablish an EP code for transitioning service members who file a claim within 90 days of separation to ensure the VFW and other veterans organizations are able to assist veterans in successfully transitioning from military service back to civilian life, regardless of where they choose to call home.

VA must also rework the disqualification letters to simply notify the veterans that their claims have been received, but it cannot be worked until they separate from service and submit their DD-214 paperwork. It is unconscionable that transitioning service members be led to believe they are not eligible for VA benefits simply because VA refuses to change the wording on its letters. These simple steps will once again ensure that the VFW and similarly-structured organizations can continue to provide the advocacy our clients expect, and transitioning service members will once again have peace of mind that VA is responsibly handling their pending benefits claims.

Unfortunately, the VFW worries there is a larger objective with the recent changes to VA's pre-discharge claims programs. While VA asserts that moving the window to 90 days results in better claims service, the elimination of the QS EP code and the rapid deployment of programs like the Decision-Ready Claims (DRC) process indicate to the VFW that VA's primary objective is to obfuscate the total pending workload.

Based on the VFW's estimates, we would lose optics on up to 50 percent of our pre-discharge workload simply by VA shuffling the BDD timelines and eliminating the QS EP code.The problem is not only that we lose optics on the claims, but VA will not formally establish the BDD-excluded claims until veterans formally submits their DD-214 after they separate from service. This means that any time from 89 days to the time of the veteran's submission does not count as pending work as it formerly counted when the claim was established under a QS EP code.

On December 11, 2017, VA deployed new functionality in DRC, encouraging VSOs to work DRC claims for transitioning service members. While it may seem advantageous for VSOs to be able to request VA exams for separating service members who are not BDD eligible, the process completely falls apart with the requirement for the separating service members to formally submit the claim once they leave military service. Per VA guidance, if we were to work with a separating service member to prepare a DRC claim, the VSO would never actually submit the claim. Instead, the service member would be responsible for not only formally submitting their DD-214 after they leave active duty, but for also completing and submitting the formal paperwork to establish their claim. This is a non-starter for the VFW and our clients because we lose all control of our client's claim. Veterans come to us so that they do not have to worry about these processes and wonder whether or not they are doing something right. Moreover, after our pre-discharge claims representatives work with a separating service member who leaves the military, we have lost the ability to help them without their proactive effort. Our preferred method of doing business is to take care of all the required claims processes while the service member is still on active duty –– especially establishing a claim. To the VFW, the only benefit to shifting the onus to file onto the veteran is that, once again, there is no formal work product pending with VA, implying that claims processing times have improved. To the VFW, we cannot compromise quality customer service so that VA can report more favorable adjudication numbers.

Please do not read this as VFW accusing VA of having nefarious motives in clearing its pending workload. After all, the VA pending workload has been the subject of heavy scrutiny from VSOs, the public, and this committee for years. But maybe it is time to have an honest discussion about this. VA is notorious for unnecessarily drawing out certain business processes, but not all pending work is because of VA inaction, such as development for QS claims, and not all pending work is bad for the veteran, such as the 48-hour review period. As veterans' advocates, it is our job to properly explain these nuances in the VA claims process to veterans before the barracks lawyers get a hold of them and tells them VA is out

to get them. We can help do this. In fact, I did it just this week on a site visit to our pre-discharge claims site in San Diego. During a Transition Goals, Plans, Success (TGPS) Capstone briefing, I had the opportunity to speak with a sailor who was going through the IDES process at Naval Base San Diego. He had been notified of his VA rating, but still has a few weeks left on active duty. His question was simple: When do my benefits start? After a brief explanation of the next steps, he understood why he would not receive his VA benefits while on active duty, and he understood the timelines he would experience once he received his discharge paperwork. After the conversation, he seemed more confident and understanding of what was happening. To this sailor, the timelines did not matter nearly as much as the clarity. If we all set reasonable expectations, and explain the processes behind the timelines, veterans will have a positive experience. This is what we do as advocates.

Unfortunately, confusion and constant changes only perpetuate negative perceptions of VA and the programs VA administers. I say this in our regular meetings with VA: Help us help you. After all, we are the veterans' community. Many of us have been through this transition. We understand what our clients are going through. Our personal experiences, coupled with the training VA requires of us to understand this highly-regulated process means that we can explain things in a context that separating service members will understand. We can carry the water if the focus is veteran-centric.

To the VFW, the time when service members transition off of active duty is one of the most significant changes they will experience in their lives. This Congress and the VSO community have dedicated substantial resources to make sure that we get this right. The VFW values the role that we are allowed to play in the process through both VA and DOD, and we are always looking for ways to improve. Our goal is that we can move forward together to ensure that our transitioning service members have access to the programs, information, and services they need for a successful transition out of military life.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions you or the Committee members may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2018, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.