



Appeals Reform: Will VA's Implementation Effectively Serve Veterans?

Jan 30, 2018

Statement of

John Towles, Deputy Director
National Legislative Service
Veterans of Foreign Wars of the United States

For the Record

United States House of Representatives
Committee on Veterans' Affairs

With Respect to

“Appeals Reform: Will VA’s Implementation Effectively Serve Veterans?”

WASHINGTON, D.C.

Chairman Roe, Ranking Member Walz and members of the committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, I want to thank you for the opportunity to present the VFW’s views on the Department of Veterans Affairs (VA) efforts in implementing appeals reform.

When the negotiation process began for what would come to be Public Law 115–55, the Veterans Appeals Improvement and Modernization Act of 2017, it was made clear that the input and support of Veterans Service Organizations (VSOs) was important to the success of the new appeals framework. As we testified in May of 2017, our goal with this bill was to build a process that placed the veteran first, was easy to navigate, and protected a veteran’s rights every step of the way. The VFW, along with several other organizations, have long advocated for appeals reform, and were honored to be a part of the process with the

NATIONAL HEADQUARTERS

406 W. 34th Street
Kansas City, MO 64111
Office 816.756.3390
Fax 816.968.1157

WASHINGTON OFFICE

200 Maryland Ave., N.E.
Washington, D.C. 20002
Office 202.543.2239
Fax 202.543.6719

info@vfw.org
www.vfw.org

assurance that the level of engagement that existed during the bills development would be sustained after the bill became law.

However, once the legislation was passed, we began having concerns almost immediately with how VA was planning to implement the new appeals process. Not only did we feel as though the roll-out was hasty, but reckless. As a result, in September of 2017, the VFW and the Disabled American Veterans (DAV) sent a joint letter to Deputy Secretary of Veterans Affairs Thomas Bowman expressing our major concerns.

Some of the concerns cited in the letter included the proposed speed of the roll out; the language used in the initial opt-in notification letter and phone script; and the overall lack of engagement that we, and nearly every other VSO involved in the crafting of this legislation, had been afforded up to that point.

While VA has addressed some of the issues identified in the joint letter, the VFW has lingering concerns with regard to the speed and haste in which VA is implementing these changes and communicating with our organization regarding the progress that has or has not been made, and the data that supports that narrative.

As an organization that represents a large portion of appellants with cases pending before the Board of Veterans Appeals (BVA), our clients depend on us to provide the most accurate advice in order to increase the chances of a successful outcome. We have been representing veterans for more than a century and have a fairly good understanding of how the system works. Having researched the possible impact of the program on our clients, we have found that there are circumstances where opting-in may actually be detrimental to the veteran.

Many of our clients have been waiting for years to have their cases heard at BVA. They have invested time and energy into appealing their claims, and many of them are appealing denials for extremely complex issues. For our organization to recommend that they opt-in to a program that is potentially faster, and may lead to their case being decided more quickly, but may also lead to them losing their place in line at BVA if they are denied in the first phase of the program, would be irresponsible.

The most recent version of the eligibility notice refers veterans who are interested in opting-in to contact their “VSO, attorney, or claims agent” so that they can assist in determining the best option. However, it is unreasonable to expect that we will be able to assist them in this decision if we have almost zero knowledge of whether or not the Rapid Appeals and Modernization Program (RAMP) is more effective than the current appeals system.

We have attempted to conduct thorough due diligence so that we can better inform our members and clients by engaging directly with VA prior to making any recommendations. We have asked that they provide us the tools and resources that we require to do the best

job that we possibly can, but we are often met with either silence or hypotheticals. Given the current proven and documented success rates of VFW appeals that are classified as legacy and the myriad of unknowns, whether due to lack of participation by our clients or lack of interest in sharing data from VA, all evidence points to a better chance of success by not opting in at this time.

To be blunt, we have not been shown any evidence from VA, or anyone else, that would suggest that RAMP will actually improve a veteran's chance of a favorable outcome. As a result, the majority of our nationwide cadre of professionally-trained, accredited advocates and our BVA- based professional staff have declined to recommend participation to our clients who have received eligibility notices to participate in the program, and will continue to do so until we are provided with more thorough data from VA.

During a Senate Committee on Veterans' Affairs hearing two weeks ago, Secretary Shulkin reported that 75 percent of RAMP decisions "are going in favor of the veteran." While 75 percent may seem to indicate RAMP is a good option for veterans, VA's testimony does not clarify how many appeals were adjudicated and what VA defines as favorable. To VA, issuing a zero percent service-connection may qualify as favorable. A veteran would disagree if the decision is for a debilitating condition that merits a higher rating. As a result, we have declined to recommend participation in the program to veterans we serve who have received eligibility notices, and will continue to do so until we are provided with more thorough data from VA.

The VFW has yet to see empirical data that would otherwise change our position. Should better communications and more reassuring information be made known to us by VA, we would then be more able to wholeheartedly recommend RAMP as a viable option.

VA has recently invited VSOs to participate in work group discussions regarding RAMP implementation. The VFW is participating in these discussions and hopes VA will include our input and recommendations moving forward.

The VFW urges Congress and VA to properly resource VBA and the Board of Veterans Appeals to ensure they are able to timely adjudicate appeals from veterans who do not opt into the new appeals process, and the potential influx of supplemental claims and higher level review requests at VA Regional Offices. VA must be empowered to manage its workload, and stakeholders must be properly informed if the new framework to expected to succeed.