



National Veterans Affairs and Rehabilitation Commission

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STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"EXAMINATION OF VA REGIONAL OFFICE DISABILITY CLAIMS
QUALITY REVIEW METHODS—IS VBA'S SYSTEMIC TECHNICAL
ACCURACY REVIEW (STAR) MAKING THE GRADE?"

MARCH 24, 2010

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to express the views of the nearly 3 million members of The American Legion on the Department of Veterans Affairs' (VA's) Systemic Technical Accuracy Review (STAR). VA maintains, as stated by Acting Under Secretary for Benefits Michael Walcoff in a January 3, 2010 appearance on **60 Minutes**, that: *"We stress over and over again to our employees that quality is our number one indicator, that's absolutely a requirement for successful performance."* STAR has the potential to be an effective tool to achieve this end; however, VA is currently falling short in their effective implementation of this tool. This failure can, and should be corrected. The American Legion recommends VA consider taking focused actions to reverse this current situation.

On March 12, 2009, VA's Office of the Inspector General (VAOIG) issued Report No. 08-02073-96, **Audit of Veterans Benefits Administration Compensation Rating Accuracy and Consistency Reviews**. This report detailed numerous flaws in the current implementation of the

STAR system. Although VA acknowledged some of those criticisms, The American Legion is unaware of any significant corrective actions by VA leadership.

The VAOIG audit was conducted to evaluate the Veterans Benefits Administration's (VBA's) quality assurance program, of which STAR is a component. Some of the more troubling findings included:

VBA's STAR process did not effectively identify and report errors in compensation claim rating decisions. VBA identified a national compensation claim rating accuracy of 87 percent for the 12-month period ending February 2008. We projected that VBA officials understated the error rate by about 10 percent, which equates to approximately 88,000 additional claims where veterans' monthly benefits may be incorrect. In total, we projected about 77 percent (approximately 679,000) of the almost 882,000 claims completed were accurate for the 12-month period ending February 2008. The 87 percent rate is not comparable to the accuracy rate VBA reports in the Performance and Accountability Report because that rate includes pension claims. Further, this accuracy rate only included errors that affected a veteran's benefits. STAR identifies, but does not report, other errors related to the rating decision's documentation, notification, and administration.

That 88,000 claims are potentially incorrect is certainly troubling and clearly unacceptable to The American Legion. This possible trend will undoubtedly add to the current claims backlog challenge being aggressively addressed by VA Secretary Eric Shinseki. Further problematic is the inaccuracy of VA's system of reporting its own errors and isolating problem areas and/or responsible individuals in the claims rating process. Without external observation, such as this audit by VAOIG, such errors may never have come to light and an inaccurate picture of the overall flaws in the disability system may never have been recorded. More importantly, corrective actions cannot be taken in a timely manner.

Furthermore, the VAOIG audit reports:

VBA officials planned to conduct 22 reviews in FY 2008 consisting of 20 grant/denial rate and 2 evaluation reviews. However, they only initiated two grant/denial rate reviews and these were not completed until December 2008. Furthermore, VBA officials did not initiate either of the two planned evaluation reviews to analyze and improve the consistency of disability compensation ratings and to reduce the variances between states.

Even where problem areas or potential problem areas are identified, VA is not conducting follow up or analysis on their projected plans. Effective as STAR may be, if it is not implemented as intended, it cannot help correct problems. Aggressive congressional oversight would seem essential to assuring timely application of these procedures.

VAOIG concluded in this instance:

Without an effective and reliable quality assurance program, VBA leadership cannot adequately monitor performance to make necessary program improvements and ensure veterans receive accurate ratings. Further, without implementing an effective rating consistency program, VBA officials cannot successfully assess or prioritize the improvements needed for claim rating consistency.

If this was the only problem discovered, it would be enough to call into question the effectiveness of the system as currently configured. However, with further investigation it becomes clear that the current use of STAR does not accurately assess the claims benefits operational picture.

The report states:

In addition, VBA officials excluded brokered claims from STAR reviews. We reviewed a sample of brokered claims and found an accuracy rate of 69 percent.

The brokering of claims is increasingly becoming an integral part of the way VBA conducts operations today. Brokering is a system utilized by VA to shift claims from Regional Offices with a larger workload to Regional Offices with less substantial workloads to increase the ability to process a greater number of claims overall. Brokering claims also raises other serious issues that merit further investigation. Accountability is one of the major concerns. The American Legion believes that without STAR analysis of the brokered claims there is a lack of accountability for these claims, which is deeply troubling.

How effective is the actual STAR analysis? This quote from the report raises additional unsettling issues for The American Legion:

STAR reviewers did not identify some of the missed errors because they either did not thoroughly review available medical and non-medical evidence (or identify the absence of necessary medical information), or they inappropriately misclassified benefit entitlement errors as comments.

The American Legion asks how can a system intended to assess the quality and accuracy of actions by VBA be effective, if evaluators do not have access to the full file information required to make the decision?

Even with these errors and flaws in the current system, such a potentially powerful tool for self correction should not be abandoned completely. Perhaps a better solution is to look for ways, both internal and external, in which the present system could be adapted to effectively improve the use of the existing components.

In order to rectify existing problems within STAR, The American Legion suggests VA could make improvements by implementing a three-step process for change.

- 1) ***Compile results nationwide of rating errors identified by STAR evaluations.*** Currently there appears to be no systemic method to track errors. This data could be critical to identify patterns, whether in an individual sense, on a Regional Office (RO) level, or nationally across the scope of VA operations. If this information is currently gathered, it does not appear to be used for analysis to detect trends which could indicate systemic problems within VA. This data, coupled with data gathered on errors at lower levels from the Board of Veterans Appeals (BVA) and the Appeals Management Center (AMC), would be an excellent tool to assess VA's quality overall by supplying details that could indicate problem areas.

It is not enough to know what VA's accuracy rate across the system is. VA must also know where are their greatest areas of concern in order to determine areas that could be addressed and provide the most efficient and effective use of resources.

- 2) ***Utilize data and patterns gathered from STAR to plan and implement a program of training.*** Adequate and effective training is a key concern noted often in the adjudication of claims. This data could show specific topics in which employees need additional training to improve accuracy of ratings. Such information could help VA leadership craft an effective training schedule to maximize the training resources. Future training would not be generalized, but rather targeted to fix specifically identified problems. This focused approach would assure that training resources would be used to the greatest possible impact.
- 3) ***Augment STAR for accuracy with outside oversight to ensure the effectiveness of the program.*** One obvious complaint about the current implementation of STAR is a lack of adequate follow up. The American Legion believes third-party oversight offers the opportunity to provide impartial and critical follow up to assure compliance. The American Legion strongly advocates the use of external oversight for validation.

The American Legion recommends VA should closely monitor and record common errors from previous BVA and AMC remands and grants. Such status monitoring and documentation could help VA identify errors consistently made in a Regional Office or by specific individuals that are eventually recognized and corrected later in the process. The American Legion believes this would help isolate trends needing immediate corrective action. Unless there is a mechanism for identifying, compiling, reporting and correcting those errors, the office(s) or individual(s) making repeated mistakes continue. This concept also applies to the systemic review nationwide of claims by STAR. The American Legion believes if the error reporting of all three entities is combined, it would constitute an even more effective pool of data to enhance VA's analysis of internal problems.

As Acting Under Secretary Walcoff stated, that quality of processing and not quantity of processing is the primary concern of VA, then an overarching and thorough assessment of every aspect of claims rating in which quality falls short is essential to rectifying the system. The

American Legion believes there is plenty of data available to be harvested that would reveal exactly where VA is making its most common mistakes. There is no question that there are issues where VA struggles more than others. The American Legion recommends VA should effectively use this data to focus available resources where VA could improve accuracy. VBA should analyze where the process is weakest and use the analysis to develop meaningful training to improve performance.

The most obvious solution to improve accuracy is meaningful and timely training of employees. Utilizing the wealth of information on weak points that can be generated by compiling data on common errors, VA can create a targeted training plan focused on weakness most in need of improvement. If focused and meaningful, VA's continuing education and training can maximize effectiveness of performance.

When The American Legion conducts its quality assessment visits to Regional Offices around the country, one of the most common complaints from VA personnel, who actually process the claims, is the lack of useful training. An all too often made complaint from VA personnel is that the training is repetitive, unclear and not in areas that they struggle with most. Employees identify segments of the rating schedule that they find:

- most confusing,
- raise questions about compliance with notification due to the Veterans' Claims Assistance Act (VCAA), or
- questions on how to better communicate with examining physicians to achieve exams that provide enough information to adequately rate a claim.

STAR review, in conjunction with data gathered from the BVA, AMC and perhaps employee review can find where VA employees are struggling most and get them the training they need to get the job done right the first time. The American Legion is confident that VA employees want to get the claims right, but struggle under the dual burdens of inadequate training in a complex system and time pressures that place a greater value on production rather than on quality. VA recently increased the required training time annually from 80 hours to 85 hours. More of this training will be standardized. By reforming training with regard to common errors identified through internal review processes such as STAR, VA can build on its commitment to more effective and meaningful training and provide its employees all the skill sets and knowledge they need to do their jobs right – the first time.

The fact that VA has been inconsistent following up on corrections identified by STAR highlights the need for outside oversight. Even when problems have been identified, VA has fallen short at the goal of rectifying those problems. VA states a target of 90 percent accuracy, yet VAOIG has pointed out that VA's internal numbers are artificially inflated by inaccurate self-reporting and still fall short of those numbers. Incentives for bonuses in the management of Regional Offices are all numbers-based and driven by workload measurement (quantity not quality). Consequently, there appears to be little to no incentive within VBA to accurately report numbers that would work counter to achieving these bonus goals. The American Legion recommends that external audits and congressional oversight would greatly help redirect emphasis on quality over quantity.

Under the provisions of Public Law 110-389, the Veterans' Benefits Improvement Act of 2008, the VA Secretary is to contract with an independent entity to conduct, over a three-year period, an assessment of the VA quality assurance program. In addition, the VA Secretary is to report the entity's findings and conclusions to Congress. The American Legion looks forward to this report, but would encourage VA to aggressively strive for marked improvements in accuracy before, during and after this mandated assessment. The American Legion is confident that VA is capable of internal improvement. There is sufficient information now to begin making STAR work the way it should for VA employees and veterans.

The American Legion stands ready to answer any questions of this Subcommittee and thank you again for this opportunity to provide testimony.