

**Claims for compensation wait 213 days for a decision. If there's an appeal, add two years. Ten percent of the caseload is cleared when claimants die while awaiting a decision.**

# Fixing the Mess in Veterans Benefits

By David Masci

**C**IRCUMSTANCE has forced James Badini to take a long look at the nation's veterans benefits claims system, and he doesn't like what he sees.

Mr. Badini developed severe allergies and bronchitis while serving in the Air Force from 1967 to 1971. His health condition worsened, and in 1974 he filed two disability claims with the Department of Veterans Affairs (VA).

Two years later, the VA ruled that Mr. Badini was not entitled to receive benefits for his allergy. He appealed the decision and in 1978, four years after he filed the claim, the VA awarded disability compensation for his allergy condition.

As for his bronchitis case, Mr. Badini is still fighting the VA—more than twenty years after he filed the claim. "Part of it is my fault," he said, noting that at times he simply stopped pursuing the claim. Still, he puts most of the blame on the VA, which, he said, simply botched his case.

"People who wouldn't normally make mistakes [do] make mistakes because they are under pressure to put out so many cases," he said.

Complaints like Mr. Badini's are

## Compensation and Pensions

Average number of days to process a claim

Case type	FY 1994	FY 1996	FY 1998
Veteran's compensation .....	213 .....	140 .....	106 .....
Veteran's pension .....	123 .....	88 .....	77 .....
Survivor's pension .....	65 .....	51 .....	44 .....
DIC .....	111 .....	76 .....	68 .....

*In 1994, Congress ordered the VA to streamline its claims process on the appellate level and to significantly reduce the time required to process a claim. Figures for 1994 are actual. Figures for 1996 and 1998 are goals set by the government. "DIC" stands for Dependency and Indemnity Compensation.*

common in the veterans community. Many have waited years to have their claims resolved, with the delays caused mainly by a huge backlog of cases. Others say that their cases have been bungled by the VA, causing further delay and hardship.

### Bleak Picture

Statistics from the past paint a bleak picture of the benefit system. According to the VA itself, a veteran who filed a new compensation claim in early 1994 waited an average of 213 days for a decision from the regional office. Moreover, if that decision were appealed, the veteran could expect to wait more than two years for a ruling from the Board of Veterans' Appeals (BVA). If the BVA sent that case back to the regional office for reprocessing, another year or two would elapse before a final decision was rendered.

For years, descriptions of the VA's adjudication system ranged from merely "inefficient" to "in crisis." Finally, in 1994, Congress started to address the issue, passing legislation that gave the agency a mandate to streamline the appellate claims process and reduce the overall time required to process a claim.

Many veterans advocates agree that since then, the VA has reduced the overall case backlog and the time it takes to process a claim.

The number of claims pending fell from 531,000 in September 1993 to some 450,000 in September 1995. The number of days needed to process a new compensation claim dropped from 170 at the end of 1994 to 146 at the end of 1995. The time it takes for the BVA to rule on a case has also dropped, from 781 days in 1994 to 687 days in October 1995.

Opinions differ, however, as to

the degree of progress one should ascribe to these changes.

According to VA officials, the system is now working much more efficiently than it did just two years ago. "We've been able to implement a more simplified and targeted process," reported Stephen L. Lemons, central area director for the Veterans Benefits Administration (VBA), referring to efforts to cut red tape and put more people to work resolving claims.

Mr. Lemons and his colleagues at the VA said that the process will continue to improve and that, over the next few years, the backlog will reach manageable levels.

Veterans service organizations are far less optimistic.

Kenneth A. Goss, the Air Force Association's director of National Defense Issues, said: "While the VA says it is working to fix the claims-processing system, far too many vets die or are left destitute before their request for aid is answered. Claim files get lost, misrouted, or stuck in one place for far too long. Statistics quoted by the VA are averages; far too many vets wait years to get their claims resolved."

"The backlog is coming down, and so is the timeliness of the processing claims, but not dramatically enough," said Robert J. Collins, a field representative for the National Veterans Service of the Veterans of Foreign Wars (VFW).

Others have different concerns. "The problem is quality," said Rick Surratt, assistant national legislative director at the Disabled American Veterans (DAV). Mr. Surratt and others accused the VA of being sloppy in its claims processing. This, they said, forces the VA to devote precious time and resources to cleaning up its mistakes and imposes unnecessary burdens on some veterans.

The benefit claims system has three distinct levels: the VBA, which processes all claims for benefits through its regional offices; the BVA, which hears all cases in dispute between veterans and the VBA; and the Court of Veterans Appeals, which hears a handful of cases each year that are still in dispute after the BVA has rendered a decision.

### **Long, Complex Process**

This process, like many within the federal government, can be long and

complex. It begins when a veteran files a claim for benefits with one of the VA's fifty-eight regional offices around the country. Most claims fall into one of three categories: disability compensation, pension benefits, or educational benefits.

Each claim is examined by a rating board at the regional office. According to the VBA, more than fifty percent of all such claims are routinely granted at this first stage.

If the rating board does not grant all or part of a claim, the veteran is entitled to file a notice of disagreement disputing the decision. In Fiscal 1994, only 1.3 percent—61,813 out of the nearly 4.7 million claims filed—were disputed.

Veterans who dispute a claim first receive a VBA hearing, conducted in Washington by VBA staff. If the decision of the rating board is not altered, or if the veteran is still not satisfied, the case can be appealed to the Board of Veterans Appeals.

The BVA is not part of the Veterans Benefits Administration. It is a separate body within the VA charged with ruling on claims cases appealed from the regional offices. Only 45,000 cases, or roughly one percent of the total number filed in 1994, were appealed to the BVA.

The BVA has broader authority than a traditional appellate tribunal. Usually, appellate bodies only decide whether the law was properly applied in the case at hand—they do not reexamine the factual evidence. This board, however, is empowered to decide questions of fact as well as law.

For instance, if a veteran claims that the VBA denied benefits because it misread his medical records, the BVA could reexamine the records and decide to reverse the original ruling.

According to the federal government's most recent statistics (from 1994), outright reversals of VBA decisions occur in twenty percent of claims appealed. In these cases, the BVA orders the VBA to award the benefit or benefits previously denied.

In another 46.7 percent of the claims that come up for a review, the BVA does not reverse the judgment but remands them to the regional offices for further work. Cases are remanded for a variety of reasons, but chief among them is that the regional office did not have adequate service or medical records to make an informed

decision on the claim. The BVA will order the regional office to search for additional records or, in the case of medical questions, may ask for a new physical examination.

In 22.7 percent of the cases, the regional office decision is affirmed by the BVA and the veteran's claim is once again denied.

The remaining cases, which constitute just over ten percent of the total, are dismissed because the veteran dies during the appeals process or the BVA decides that the claim was entirely groundless.

If the BVA rejects a veteran's claim, he is entitled to another appeal, this time to the Court of Veterans Appeals. The court is the VA's final level of adjudication and only decides questions of law. If no legal issue is at stake, the court will not accept a veteran's case for review.

At all levels in the process, the law requires that, in close cases, the benefit of the doubt be given to the veteran.

### **Paved With Good Intentions**

Still, despite good intentions, the system has not worked for many veterans in the past. Problems stemmed from a number of causes, including mismanagement and personnel cuts. VA officials have acknowledged that too many agency employees were engaged in administrative tasks when they should have been directly involved in processing claims. Also, the number of full-time employees working for the VBA has shrunk in recent years.

"They're trying to do more and more with less and less," said Mr. Collins of the VFW.

Military downsizing has put extra strain on the system, as greater numbers of service personnel have become veterans. This, in conjunction with the upsurge of ailments and disabilities attributed to service in the Persian Gulf War, has led to more claims being filed with the VA.

Another problem was that the Court of Veterans Appeals, created in 1988, began handing down decisions that foisted more work on the regional offices and the BVA. Court rulings struck down or altered rules and procedures used by the VA to adjudicate claims. This, in turn, forced the offices and the BVA to reopen a substantial number of cases, adding to the backlog.

## Pending Work Load

Compensation and pension cases

Work load category	FY 1994	FY 1995	FY 1996	FY 1998
New claims received	2,782,000	2,362,000	2,174,000	N/A
Total claims processed	2,818,000	2,428,000	2,263,000	N/A
Pending at end of year	452,000	386,000	297,000	250,000

**Taken together, faster processing and a downturn in new claims have enabled the VA to begin working off the claims backlog. Figures for 1994 are actual. Figures for 1995 and 1996 are estimates. The 1998 figure is a goal.**

In addition, the advent of the court brought new responsibilities to the regional offices and the BVA. Notably, written decisions regarding a case had to be much more detailed. This, of course, required decision-makers to spend more time on each case.

By 1994, the consensus in the VA, veterans' organizations, and Congress was that something needed to be done to make the claims system faster and more efficient. In that year, Congress passed the Veterans Benefits Act, making procedural and other changes designed to allow the BVA to handle more cases more quickly.

Before enactment of this legislation, three board members were required to render a decision in each veteran's appeal. The new law authorized the BVA to allow one board member to decide an appeal. This, according to Charles L. Cragin, BVA chairman, has allowed each board member to handle twenty-five percent more cases than before.

In addition, the act eliminated the BVA's long-standing sixty-five-member cap, giving the BVA the authority to hire more members to reduce the backlog.

### Saving Time and Money

The law also authorized and encouraged the BVA to develop new ways to save time and resources. For instance, hearings have been conducted via videoconferencing. According to Mr. Cragin, innovations like this have reduced delays and freed board members to handle even more cases. "When a board member doesn't have to travel, that saves time and resources," he said.

Finally, the act established the Veterans' Claims Adjudication Commission, a nine-member panel cre-

ated to look at the problems facing regional offices and the BVA and to recommend additional ways to reduce the backlog and processing time.

The commission plans to issue a final report on its findings and recommendations this spring.

Though the act focused primarily on overhauling the BVA, change was also taking place at the regional offices.

"We found that we needed more decision-makers," said J. Gary Hickman, director of the VA's Compensation and Pension Service.

The number of people actually deciding claims has been increased from 500 to almost 900 over the last few years, Mr. Hickman said. During this period, the VBA also authorized \$20 million to pay overtime for workers in the regional offices, allowing them to work more hours in order to further alleviate the backlog.

The VBA has established a medical records center in St. Louis, Mo. Before the center opened, employees at regional offices often wasted much time trying to track down a veteran's records. Now, all medical records are available at one location and are easier to access.

Finally, the VBA, like the BVA, has also turned to technology to maximize efficiency. All regional office employees now have personal computers, for example. "As we've

been able to modernize our equipment, we've obviated the need for clerical personnel," said the VBA's Mr. Lemons. By cutting back the number of administrative workers, regional offices have been able to divert more employees into claims processing.

Even so, veterans' organizations said that the VA has a long way to go

## Average Appeals Response Time

Board of Veterans' Appeals

	FY 1994	FY 1995	FY 1996	Percent Change
BVA cases decided	22,045	28,000	33,600	+52
Average response time in days	781	745	687	-12

**Figures for 1994 are actual. Figures for 1995 and 1996 are estimates.**

before it declares victory in the war to reduce the claims backlog and processing time.

One recurring complaint concerns the quality of the decisions rendered. "The problem is that [regional offices] don't get it right the first time," said DAV's Mr. Surratt, who added that roughly two-thirds of the cases appealed from the regional offices are either reversed or remanded. He recommends that the VBA examine old remanded cases to find the errors that occurred most frequently and develop a strategy to avoid them in the future.

According to Mr. Surratt and others, poor quality at the regional offices overloads the BVA. It also makes more work for the regional offices because almost half the cases heard by the BVA are sent back for reconsideration.

Mistakes also take their toll on the claimants. Some veterans' cases bounce between the regional office and the BVA several times. Many of these have also been held up at the VBA as they move back and forth between the rating board members at the regional office and the hearing officers in Washington.

Veterans' organizations have said that improving quality is the only way the VA can ever reduce the claims backlog to a manageable level. Said Ronald W. Scholz, national service director at the Paralyzed Veterans of America, "If you do it right the first time at the regional office, you will, over time, be able to eliminate the backlog." ■

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