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# Process Analysis: Department of Veteran Affairs Adjudication Process

Luis F. Zaragoza

*Southern Illinois University Carbondale*, [lzarag98@yahoo.com](mailto:lzarag98@yahoo.com)

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PROCESS ANALYSIS: DEPARTMENT OF VETERAN AFFAIRS ADJUDICATION  
PROCESS

by

Luis F. Zaragoza

B.A, Northern Illinois University, 2008

A Research Paper  
Submitted in Partial Fulfillment of the Requirements for the  
Master of Public Administration degree.

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Approved by:

Dr. John Hamman, Chair

Dr. Charles Leonard

Dr. Stephanie Pink

Graduate School  
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## **Introduction**

Veteran Benefits Administration (VBA) adjudicates all claims rendered against it. Any veteran or their dependents is entitled by congress to file from an assortment of claims. Since the end of WWII, the claims program for VBA has grown substantially. This is credited to the large number of WWII, Korean, Vietnam and an ever growing Iraq/ Afghanistan veteran population seeking benefits. Over this period there have been several changes made in the review process to try and expedite service. The most recent have resulted in the adoption of an eleven step process which is known as the Claims Processing Improvement (CPI) model. The CPI was created by the Claims Processing Task Force which was charged with improving the effectiveness and efficiency of claims processing. The model is composed of eleven. It endorses specialization of employees within the claims process with hopes that it will improve quality and expeditious handling of claims. VBA personnel who are tasked with developing claims are structured into specific teams which complete: pre-determination, rating as well as post-determination functions. To date, the CPI model has not lived up to expectations. Research suggests veterans are often forced to process multiple claims resulting from a convoluted procedural quagmire. It also suggests that claims filed for the same issue diminish administrative efficiency. This paper critically examines the CPI model and evaluates ways the process can be improved.

This paper will examine VBA's historical past practices in order to recognize what, if any, attempts have been made to modernize its claim adjudication process. Subsequently, problems that currently plague VBA will be examined to better understand where modernization has failed. This paper proposes that there are current problems in the adjudication procedure. Some of these failures can be found in VBA's inability to adjudicate claims promptly, frustrated veteran complaints and VBA employees who feel unnecessarily scapegoated as a result of a poor adjudication procedure. In order to understand the adjudication process, stakeholders served by

VBA will be identified as well as those tasked with resolving their claims. Who are the people that files claims? What age are they? Do they possess unique qualities which affect adjudication? Additionally, who are the individuals tasked with determining a claim? The following paper will answer these questions.

Current literature suggests that a claim filed by a war veteran is likely to take longer to adjudicate. Yet the majority of claims filed through VBA are from non-war time veterans for non-war related issues. Therefore, it is important to understand the type of claims, of which there are many, made available to veterans. Ultimately, all claim types, whether war veteran or not, contribute to the mounting backlog of claims. All claims types are adjudicated by the same process and by the same VSR's tasked with handling more difficult claims. Once all claims types are described the analysis will move into the specific procedures used to adjudicate a claim, of which there are eleven steps. It is important to understand the individual parts of the whole process. Literature on the issue suggests that delays are more likely to occur only in specific parts of the adjudication procedure. Ultimately these delays negatively affect adjudication efficiency and accuracy. Research suggests claims are likely to be held up, in the initial stages and in the appeals process. Therefore, an examination of each step will shed light in identifying congestion or "choke" points and where they lie in the process.

Once choke points are identified in the adjudication process, several possible solutions will be put forth. Although there are many programmatic changes which can improve efficiency and accuracy, this paper will provide modest solutions, which if implemented in a multipronged approach might bring about immediate positive change. These solutions are grounded in new Information Technology which would improve accuracy and efficiency. Other solutions are grounded in inter-agency cooperation in order to attain veteran records promptly. Often times a

claim will not be resolved because a VSR must wait to receive documentation from other federal agencies that are slow to respond to requests.

### **Background – Veteran Affairs Attempts at Modernization**

Veteran Affairs mission since its foundation has been to fulfill President Abraham Lincoln's promise of caring for veterans and their families. In the following section it will be demonstrated how VA's strategic plan framework has transformed in order to successfully meet the demands imposed on it. Therefore it is important to understand past historical innovations made at VA in order to assess its commitment to veterans. For example the following questions will be analyzed, what significant changes have been implemented at VA in order to advance the cause of veteran benefits? A short analysis of VA's historical past allows for the identification of programmatic changes that are still needed. By providing this perspective, it allows for the identification of existing problems and how VA needs to focus its resources to better serve America's Veterans.

### **Past Services Provided by Veteran Affairs**

For over 105 years, The Department of Veteran Affairs (VA) has provided veterans with hospitalization and compensation. VA's mission and primary tenet is, "To care for him who shall have borne the battle and for his widow and his orphan (The Department of Veteran Affairs, 2011)." In 1989 VA became one of fifteen executive cabinet-level positions in government and is currently supervised by Secretary Eric K. Shinseki. The rich history of VA can be traced back to the Revolutionary War when the Continental Congress encouraged citizens to enlist by promising soldiers pensions if injured. Hospitalization during this time was provided by state and local communities but not the federal government. It was not until the early part of the 1800's that the first hospital was authorized by Congress. One of the crowning achievements of early

veteran benefits occurred in the early part of the 19<sup>th</sup> century with the expansion of compensation and benefits to widows and dependents (The Department of Veteran Affairs, 2011) (Zaragoza, 2012)

During World War One, benefits were expanded to provide rehabilitation, vocational and insurance programs. These services were supervised by three separate federal agencies: the Veterans Bureau, the National Home for Disabled Volunteers and the Bureau of Pensions of the Interior Department. In 1930, with what is considered to now be VA, all three separate federal agencies were brought together as one large agency in order to better coordinate veteran issues while reducing waste. Congress created additional programs such as the G.I. Bill which provided educational benefits as well as VA backed mortgage loans. VA employs approximately 280,000 employees nationwide, second only to the Department of Defense. Of these employees the majority work in the Veteran Health Administration (VHA) branch of VA. Undoubtedly, VHA is the most recognizable branch of VA since it is responsible for all veteran health care. Currently, VA is responsible for over 150 hospitals and over 2,500 outpatient clinics. Those responsible for veterans' claims and pensions belong to the Veterans Benefits Administration (VBA), which is composed of 21,000 employees. VBA is responsible for administering the disability and compensation benefits program to those veterans who are partially or completely disabled due to military related wounds or injuries. Wartime veterans considered low income and completely disabled are eligible to receive financial help through VA's pension program. Since 2008, VA has provided over \$80 billion in compensation benefits to over three million veterans. VBA additionally helps 556,000 children, widows and parents of deceased soldiers (The Department of Veteran Affairs, 2011) (Zaragoza, 2012).



The remaining employees work for the third branch of VA, which is the National Cemetery System. This branch employs around 3,412 employees. In 1973 VA took responsibility of all national cemeteries from the Army. Through 2008, VA participated in approximately 104,000 burials. This number is expected to grow as a result of conflicts throughout the world and an aging veteran population. Lastly, VA provided 361,000 headstones in 2008 (VA National Cemetery Administration, 2011) (Zaragoza, 2012).

### **Problems at the Veterans Benefits Administration**

VBA's primary job is to pay monthly disability compensation to those veterans who suffer service connected disabilities. That is, injuries sustained while serving their country whether at war or peace time. This compensation is awarded based on an individual's unique case and severity of injury or injuries and is adjudicated through VBA's Disability Pension and Claims Process. For those veterans who have dependents, they too are entitled to compensation benefits (i.e. children, spouses, parents of veteran). Additionally, VBA's compensation claims process renders payments to any low-income veteran. VBA's disability compensation claims process has been scrutinized by VA, elected officials and veteran service organizations (i.e., American Legion, Veterans of Foreign Wars). The negative attention received stems from long wait times veterans must endure to receive a decision and the number of backlog claims waiting to be decided on (Government Accountability Office, 2010).

VBA's adjudication system suffers from an accumulation of unprocessed claims. Recent figures estimate that over 400,000 claims lay in wait, with that number expected to grow dramatically in the next few years. As short as six years ago that number stood only at 253,000. VBA says that a typical claim submitted by a veteran should take 162 days to complete and states that the wait time has decreased substantially since the wars in Iraq and Afghanistan

began. VBA's Deputy Under Secretary for Benefits has acknowledged difficulties with its claims process promising to fix these problems (Dao J. , 2009).

The General Accountability Office (GAO) stated that although VBA has improved on matters of compensation claims, it has deteriorated in others. Although the number of claims completed has increased, GAO states that it is not enough to keep pace with the large number of new claims being submitted. As it stands now GAO determined that a claim takes 196 days to complete. When a veteran feels that the decision rendered on their claim is unfair, the veteran files an appeal with VBA which can take 776 days to decide. The appeals wait time has also increased 78 days longer than it was in 2004 (Government Accountability Office, 2010). VBA has attempted to tackle some of its chronic problems by hiring over 4,200 claim adjudicators since 2008. It often take months to train these new employees. Although claim adjudicators have been stretched thin due to an ever increasing number of Iraq/Afghanistan veterans, there are several aggregating factors which add to the backlog of claims. These include aging Vietnam veterans who are experiencing complications from past ailments to new symptoms from their time in service as a result of Agent Orange exposure. Of the 22.7 million veterans, 55% are over the age of 60 (National Center for Veteran Analysis and Statistics, 2010). The current economic slump the country is facing has resulted in many veterans seeking VBA compensation. New efforts by VA and Congress to educate veterans about benefits and their rights have also attributed to the increase in the number of claimants (Dao J. , 2009).

Veteran Service Organizations (VSO), state that VBA's assertion that there are only 400,000 backlogged claims waiting to be adjudicated is incorrect. VSO's state that the figure is closer to one million claims once all types of claims are considered. These include educational benefits, appeals and new claims. These same organizations often feel frustrated by VBA's lack

of standardized procedures for dealing with claims. VSO's state that claims that should be easy to adjudicate are infuriatingly delayed with no viable explanation as to why they are delayed. They conclude this is a result of adjudicators not handling the claim paperwork with care. This leads to another complaint about VBA's claims process, the heavy reliance and archaic use by VBA to utilize hardcopy paperwork rather than electronic copies, which invariably delays the process. A veteran claim can range from a few hundred pages to thousands, depending on complexity (US House of Representatives, 2012). Furthermore, VBA has been criticized by the fact that since its' claim backlog is increasing, VBA's is focused too much on pending claims. As a result, VBA has placed a higher importance on production which ultimately leads to more errors both in quality and accuracy. This emphasis on production also results on claims being adjudicated wrong. This in turn leads to Notices of Disagreements being filed, more appeals, more disagreements and continued appeals. In its' attempt to reduce the number of backlog claims, VBA has created a system that is clogged, and only making the existing problem worse (Hall, 2011).

### **The Claimants and Their Claims**

As of June, 2012 there was a total of 22.7 million veterans' nationwide (National Center for Veteran Analysis and Statistics, 2010). This is comprised of WWII veterans and all conflicts since including those who have served in Iraq and Afghanistan. Of these, only 32% of living veterans utilized VA for a service or benefit (approximately 7.3 million). Furthermore, of the roughly 7.3 million veterans who do receive benefits, 71% received only one of the many services offered to them. Nearly 32% utilized VA's VHA system, followed by benefits administered by Veteran Benefit Administration (VBA) at 29% which include Compensation and Pension, Vocational Rehabilitation and Employment and Life Insurance Service

(Department of Veterans Affairs, Office of Policy, 2004). It is of importance to note that of the roughly 22.7 million living veterans, female veterans were more likely than males to use VBA for service connection related issues. It is estimated that by the year 2025, 12% of females will comprise the veteran population (National Center for Veterans Analysis and Statistics, 2011). The largest bulk of veterans are white males, at 80%. Followed by 10.1 % African American, 5.6% Hispanic, 1.4% Asian/Pacific and .8% American Indian/ Alaskan. Most veterans are located in the Southern region of the United States (French & Bayes, 2011).

**WWII Veterans/Korean War Veterans.** Between September 16, 1940 and July 25, 1947 (WWII period) 16.5 million men and women served in the military. Of these, approximately 73% served overseas. Currently there are 1.7 million living WWII veterans (Department of Veteran Affairs, 2010). Because of the age of veterans in this category, they are more likely to use the following VBA administered benefits: Disability Compensation, Pension Aid, Death Pension (survivor's pension), Dependency and Indemnity Compensation, Long term Health Care and Burial Benefits. The Korean War saw a total of 6.8 million individuals serve between June 27, 1950 and July 31, 1955 (this number does not include WWII veterans who also served in this conflict). There are currently 2.3 million living veterans of the Korean War, 37% less than there were in 2000. VA data states that 172,600 Korea era veterans receive compensation for a service-connected ailment while 71,000 dependents of these receive survivors benefits (Department of Veteran Affairs, 2000).

**Vietnam War Veterans.** A recent report released by VA's Office of the Actuary says there are currently 7.4 million living veterans from the Vietnam War (National Center for Veterans Analysis and Statistics, 2011). Veteran's compensation and pension system anticipates payments of \$44 billion in benefits to approximately three million veterans, with the largest

group of recipients being those of the Vietnam War (Dao J. , 2009). The actual breakdown is as follows: 737,397 Vietnam veterans received disability compensation and 112,207 family members of deceased Vietnam veterans received survivor benefits with an additional 102,088 veterans receiving pensions for non-service disabilities (Department of Veteran Affairs, 2010).

A contributing factor to VBA's backlog of claims is new developments in claims processing relating to Agent Orange exposure. This has put an enormous strain on VBA by increasing the amount of claims it needs to adjudicate. Agent Orange was a chemical sprayed from 1962-1971 during Operation Ranch Hand, a very toxic defoliate used during the Vietnam War. VBA initially accepted only skin irritation, Chloracne, related claims. Since the early 1990's VA began to acknowledge that Agent Orange exposure created unclear medical conditions. As such, VBA authorized that free hospital care be provided to Vietnam veterans suffering from unique ailments. Thanks in part to a National Academy of Science study, which concluded that exposure to herbicides were a cause of many of the cancers afflicting Vietnam Veterans, VBA expanded the list of diseases which were compensable under VBA's claims processing. These included respiratory cancers, bone marrow, prostate and cancers affecting the nervous system (Department of Veteran Affairs, 2012). VBA has said that any veteran suffering from one or more illnesses are considered presumptive service-connected. Meaning VA acknowledges that a veteran's illness is a direct result of their time in service. (Department of Veteran Affairs, 2010).

The most recent reports state that 297,194 veterans took medical examinations under the Agent Orange Registry since 2000. Of these approximately 100,000 filed a compensation and benefits claims asserting that Agent Orange exposure negatively affected their health. VBA stated that 7,520 received compensation benefits for Agent Orange (Department of Veteran

Affairs, 2010). Regardless of how many veterans ultimately received compensation, all 100,000 claims must be reviewed and analyzed for validity which ultimately slows down VBA's ability to handle all types of claims in a timely manner.

Not only was the list of diseases which were compensable under VBA claims processing expanded, but also the geographical area of potential Agent Orange exposure. This new development will result in an increase in the number of Agent Orange claims submitted. For the purpose of VBA compensation, all veterans who served in country between 1962- 1975 are considered to have been exposed to the chemical (Department of Veteran Affairs, 2012). As are Blue Water Veterans, which is any veteran who served on any ship, Navy or Coast Guard, near the shores of Vietnam. Finally, it has been acknowledged that veterans might have been exposed to the poisonous herbicide in the United States as a result of working at facilities that stored the mixture. Undoubtedly Vietnam era claims put a strain on the claims process even as VBA attempts to address these ailments and expedite these claims. (Veteran Affairs Public Health, 2012).

**Gulf War Veterans.** The Persian Gulf War was comprised of Operation Desert Storm and Operation Desert Shield when more than 5,000,000 service members were called to service during 1990 and 1991. Approximately 700,000 soldiers fought in both stages of the conflict (Board on the Health of Select Populations, 2010). Of the five million, approximately 4,000,000 survivors remain, which is approximately the same figure for dependents. Of those that participated in this conflict, most were drawn from the ranks of the National Guard and Reserves to act as combat or combat support personnel (Reed, 2011). According to VA Secretary Erik Shinseki, more than 250,000 Gulf War veterans receive disability benefits from VBA. Furthermore, 150,000 Gulf War veterans have been treated by VA facilities for ailments

associated with their time in service and their ranks continue to increase (Department of Veteran Affairs, 2010).

This conflict gave rise to what is known as Gulf War Syndrome, a series of unexplained chronic symptoms. These mystery ailments include but are not limited to headaches, pain of the joints, indigo, dizzy spells, breathing problems and memory disorders. The smoke inhaled by soldiers caused by oil fires to pre-deployment vaccinations of anthrax have been likely culprits of these ailments. The result has been an increase of veteran claims for benefits. In March 2010, VBA established new presumptive diseases which are considered to have been acquired while serving in Southwest Asia. These same presumptive diseases will also cover those who served or are serving in Iraq and Afghanistan ( Department of Veteran Affairs, 2012 ).

Of the 700,000 who served directly in the conflict roughly 300,000 filed for disability claims which were granted 85% percent of the time. Recent studies based on this veteran population continue, resulting in new legislation and regulations that must be followed by VBA dictating how ailments afflicting Gulf War era vets should be handled. As of August 2011 VA established that any gastrointestinal ailment afflicting Gulf War veterans would be added to the presumptive list of illnesses. A development that is sure to see an increase in new claims. With these new developments VBA has been responsible for dictating the rules process and training of its Veteran Service Representatives (VSR) to better adjudicate these unique claims. In an attempt to better improve service for Gulf War Veterans, VBA established two memos which instructed VSR's with a step by step process on how to develop and adjudicate claims for those veterans who served in Southwest Asia. Nevertheless this unique veteran population feels marginalized by VA for its archaic culture and procedures. Stakeholders feel that VA has not done enough to explain the rare ailments which afflict them. These also attest to a failure by

VBA in making a connection between those ailments to concrete medical conditions (Binn & White, Ph.D., 2012).

**Veterans Serving in Iraq and Afghanistan.** To date it is estimated that 1.8 to 2.1 million have served in the Global War on Terror (GWOT). Figures are expected to increase as the length of the conflicts and frequency of deployments for soldiers increase. Of these, 712,800 to 840,000 are projected to file compensation claims with VBA. The GWOT is unique in that veterans are more likely to suffer severe injuries rather than die. This is a result of superior medical treatment not available in past conflicts as well as improved military vehicles and advancements in protective body armor. According to Church, this conflict has a higher injury to death ratio (16/1) than any other (Church, 2009). Respectively, Gulf War saw 1.2/1 wounded per fatality, Vietnam 2.6/1, Korean 2.8/1 and WWII 1.2/1. The Department of Defense 2007 figures estimate that 50,500 injuries have occurred so far. Data shows that amputations have already surpassed that of the Vietnam War. The most pressing injuries sustained in GWOT are a result of Improvised Explosive Devices, commonly referred to as IED. These devices cause severe burns and amputations which will require extensive orthotics and prosthetics treatment. The second type of injury which is prevalent is those affecting the brain, such as Post-Traumatic Stress Disorder (PTSD) which is associated with anxiety and stress. Finally there is Traumatic Brain Injury (TBI) which is caused by IED's, mortar fire, rocket propelled grenades is a physical trauma to the brain, where the cells in the brain die. Injuries are not often noticeable, but are caused by the change in surrounding pressure as a result of an explosion. Data states that 43% of GWOT veterans have been diagnosed for TBI while 7% express combined symptoms of TBI and PTSD. It is important to note that Vietnam Veterans are still filing new claims for PTSD, which



can be a clear indicator that GWOT veterans will submit new claims years after they have served (Bilmes, 2007).

### **Types of Claims**

Claims submitted to VBA from war veterans are considerably more time consuming and difficult to adjudicate, in particularly those concerning compensation claims. As a result of their difficulty, demand placed on VBA is great which hurts other programmatic functions and services. With frequency, war veterans are likely to suffer from multiple ailments with varying degrees of severity. The responsibility of the VSR is to compile all medical data and render a disability rating based on all aggregating factors. For example, GWOT veterans are likely to suffer from TBI, PTSD, Tinnitus (ringing of the ear), hearing loss, loss of limbs and eyesight. A veteran may suffer from one or more of these ailments. It is critical to understand that once a war is over, claims do not cease to be submitted. In other words, WWII veterans are still submitting claims in 2013 for injuries incurred in 1942-45 and the same goes for other conflicts.

The question remains, what of those veterans who served in peace time and do not submit compensation claims because no injuries exist? Do they not have a right to any benefit? After all, there are more peace time veterans than war veterans. The answer is VBA is mandated to assist all veterans, wartime and non-wartime, in seeking benefits of which there are many. These include pension, dependent and indemnity compensation claims, medical malpractice and vocational rehabilitation claims. When these claims are submitted they are handled by the same VSR's and by the same processes that result in adjudication. These types of claims are considered easier since they require less time and resources. Yet a veteran who submits these claims must wait behind a mounting backlog of compensation claims before their claim is adjudicated. Frequently, veterans will state that their claim is simple and should be adjudicated

quickly, yet fail to realize that their claim is only one of the many thousands in backlog. Although, these claim types are easier to adjudicate they none the less require VSR's to invest considerable time on them, ultimately contributing to VBA's workload. This paper tries to examine the most problematic parts of the adjudication process, of which lie mostly in the compensation process, yet other contributing factors cannot be ignored. Understanding the totality of the backlog problem and what it is comprised of is crucial. The following section gives a brief description of benefits claims entitled to peace time veterans (war veterans can also apply for them).

This paper will later examine VSR's propensity to adjudicate less difficult claims. This is done in order to meet quotas set forth by VBA. When quotas are not met by employees, negative sanctions are administered. Adjudication of a much simpler pension claim earns a VSR one point yet a more time intensive compensation claim will earn the same. For that reason it is imperative that all claim types are recognized and understood in terms of their difficulty since some VSR's have learned to manipulate the system towards their favor, undoubtedly hurting veterans.

### **Pension Claims**

Pension Claims are a benefit paid to veterans who served during a Period of War (see index figure 5) who have no income or of limited funds. The veteran must be 65 years and above or be considered permanently and totally disabled regardless of age. In addition, those veterans who reside in a nursing home and veterans that receive social security disability are entitled to Pension Claims. Eligibility requires a veteran to have received an honorable discharge. Additionally the veteran must have served for 90 days of military service with at least one day occurring during a war time period (Department of Veteran Affairs, 2012).

Furthermore the income of the veteran must be below \$12,256 with no dependents or less than \$16,051 with one dependent. These threshold amounts are set by congress. VBA determines payments to the veteran based on the following calculation: If the veterans and their spouse make a yearly combined income of \$10,000 the VBA pension payment given to the veteran will be \$6,051 (the congressionally mandated threshold of \$16,051 minus \$10,000). The \$6,051 is then divided by twelve months which results in a monthly payment to the veteran in the amount of \$504.25 (Department of Veteran Affairs, 2012). If the veteran and their dependent were to make more than \$16,051 the veteran would not be eligible for that given year. As of June 2012 there are approximately 300,000 veterans receiving VA Pension payments (National Center for Veterans Analysis and Statistics, 2012).

### **Compensation Claims**

Any person who earns an honorable discharge (other than dishonorable) and leaves service with an incapacitating injury or disease suffered during their time in service is entitled to a paid benefit called Disability Compensation (Reed, 2011). This benefit is also paid to veterans who previously suffered from an injury, but whose injury was aggravated by their time in service. The monetary reward varies depending on the severity of the injury. All disbursed payments are tax free to the veteran. To apply for this benefit a veteran must provide their discharge papers (DD214), records of their dependents (birth certificates, marriage license) and medical evidence (any hospitalization and physician records). For fiscal year 2012, VBA had processed over one million compensation claims. FY 2012 was the third consecutive year for VBA to surpass the one million mark. August 2012 saw VBA set a record for most claims processed with 107,462 claims a record previously set in 2010 of 103,296 in one month. Since

2008 these types of claims have increased by 50% which is above the handling capability of VBA (Department of Veteran Affairs, 2012).

### **Dependent and Indemnity Compensation Claims (DIC)**

This benefit is paid to survivors of a deceased veteran. To qualify for eligibility the veteran's death must have occurred while in service or whose injuries during service resulted in their death after being discharged. Those eligible to receive benefits are husband or wife of the veteran and their surviving children. The spouse of the deceased must not have remarried. Under some cases cohabitation with the veteran is enough for eligibility. Children of the deceased are eligible so long as the child is 18 years of age or 23 with school attendance and unmarried. Whenever a child is not capable of self-support this benefit is paid for the duration of their life. When there is no significant other to collect DIC payments the monthly amount is divided equally among the surviving children. As of August 2012 the maximum monthly allowance is \$1,195 with an additional \$259 for children (\$259 is per family unit not per child). There are only two forms needed to apply for this benefit, VA Form 21-534a and Form 1300 Report of Causality. If a veteran dies while serving in a theater of combat DIC does not automatically begin. It is therefore the responsibility of the dependents to apply for this benefit (Department of Defense, 2012). Recent numbers state that there are 295,667 non veterans who receive this type of benefit (Department of Veteran Affairs, 2012).

### **Medical Malpractices Claims**

As a result of injury or death a veteran or dependent may file a tort claim with any of VA's 22 regional counsel offices. All claims must be filed under the Federal Tort Claim Act (FTCA). These offices are part of VA's Office of General Counsel (OGC) and they serve as an investigate branch which looks into allegations of malpractice. Whenever possible OGC tries to

settle these claims through administrative review and settle before going to court. If the issues are not resolved during administrative review, claimants may advance to federal court. Unlike non-federal hospitals, the defendant is The United States Government and not a specific doctor. It is then the duty of Department of Justice (DOJ) to defend the United States. Any time during this process, a claim can be resolved through payments to the veteran or dependents. The severity of the injury will dictate the benefit reward. In 2011 GAO reported that from 2005 to 2010 there has been an increase of 33 percent in tort claims filed against VA. During this time approximately 80% of claims were resolved during the administrative review process. The remaining claims were solved through the courts. In addition, all claims resolved through administrative review resulted in aggregately less paid amounts than those settled in court. GAO's most recent figures state \$30million was awarded for 277 claims resolved during administrative review. For 114 claims solved through the courts a total of \$49 million was awarded. In the same way those claims solved through administrative review take far less to resolve than those claims resolved by litigation (Government Accountability Office, 2011).

Data states that malpractice claims are on the rise which is the result of more Vietnam and GWOT veterans becoming part of VA's health care system. Also the lack of accountability of individual doctors is to blame. To reiterate, when a non-federal hospital is sued, the claim will mention the doctor's name and anyone involved. Losing a lawsuit for these individuals means higher costs which leads to better safety records. While at VA a doctors name is never mentioned in a court case. A veteran or dependent can apply for this claim in the same manner as they would for DIC. To meet eligibility the claimant must prove the following: 1) the injury or death of the veteran was not their fault, 2) the veteran must have been treated by VA medical employees and 3) the death or physical injury was a result of negligence, inadequate training of

VA employees, poor decision making which occurred at any VA medical facility. If malpractice is established, compensation will be paid in the same manner as DIC. These types of claims demand strict adherence to the law since FTCA has specific prohibitions which must be met, therefore it is recommended that veterans seek professional legal counsel. Settlements over \$150,000 must be approved by OGC and any amount over \$300,000 must be approved by the DOJ (Reed, 2011).

### **Vocational Rehabilitation Claims**

This type of claim, commonly known as Chapter 31, is for veterans seeking help finding a suitable job. Whenever placement is not possible the veteran may be eligible to receive training in order to facilitate job placement. This program is specifically meant to serve veterans with a service connected disability of 10% or more. Also, for veterans suffering from severe disabilities, the program will provide assistance in order to allow a veteran to live as independently as possible. The program offers independent living services, rehab support, on the job training, help with keeping a job and finding proper job placement to meet the skills of the veteran (Department of Veteran Affairs, 2012). In 2012 there are approximately 6,000 veterans utilizing Chapter 31 benefits (National Center for Veterans Analysis and Statistics, 2012).

### **The Claims Process**

The previous section identified all claim types adjudicated by VSR's. Furthermore, not all claims types are of the same difficulty, some are easier to resolve than others, but altogether contribute to the mounting backlog of claims. Therefore the question must be asked, how can the claim adjudication processes become more efficient in order to reduce the backlog? To accomplish this, one must examine each step of the adjudication process; from the initial submission of a claim through the appeals process. Solutions cannot be identified without first

examining the parts of the whole process. In this manner, finding problems or choke points in the process will be easier to identify and subsequently make it easier to suggest possible programmatic changes in order to improve efficiency. The following section will examine the eleven step claims process to better understand, where if any, improvements can be administered.

### **CPI Model: Steps One Through Eleven**

The first step on the road to receiving disability compensation is started when a veteran submits a claim to VBA. The claim is then submitted to one of fifty seven regional offices and must be submitted to the one where the veteran resides. All incoming claims are handled by a Veteran Service Representative (VSR's), who are commonly referred to as VSR's. It is the job of the VSR to help the veteran acquire all necessary evidence in support of the claim. This evidence will include all medical records while in service, medical examinations conducted at VA or by a private physician. The VSR, under Title 38 of the U.S.C contains a section referred to as "duty to assist" which dictates that a VSR should make reasonable attempts to acquire all necessary paperwork on behalf of a veteran's claim. If the VSR believes that additional information is needed, they will schedule a medical examination to be conducted at a VA facility. After all supporting documentation is acquired the claim moves to a Rating Veteran Service Representative (RVSR) who will determine if the claimant is entitled to benefits. Once a RVSR deems a claimant eligible, the representative will rate the veteran. Ratings are given in ten percentage increases, from 0 to 100 percent. Although no monetary compensation is given to a veteran with a rating of zero, they may be deemed qualified to receive free medical care at VA facilities. As of December 2011(latest rating table), basic monthly payments to veterans ranged from \$127 for 10% disability to \$2,769 for a rating of 100% disabled. Additional allowances are given to those veterans with a 30% or more rating, for children and spouses or if the veteran is

taken care of by the parents (Department of Veteran Affairs, 2011). A veteran who suffers from several incapacities is given one aggregate rating. When a veteran believes their disability has gotten worse, the claim can be reopened in order to receive further benefits with a possibility of an increase in rating (Government Accountability Office, 2010).

When a veteran believes that their regional office's claim decision is not correct, the veteran is entitled to submit a Notice of Disagreement Letter to their RO. Upon receiving the disagreement VBA reexamines the case and gives the veteran a more thorough explanation when VBA does not award the appealed disputes. If the veteran is still not satisfied with the new decision, they can appeal to the Board of Veteran Appeals (Board). Before the Board hears the case, VBA will do a re-reexamination of the case. If additional information is submitted by the veteran during this re-reexamination, the veteran will be given further written notification of their denied claims. The Board is comprised by attorneys whose specialty is veterans' law. They also specialize in reviewing benefit claims. The Board will give the veteran the option of a hearing. The board proceeds by denying or accepting the claim, at which point the claim is handed back to VBA in order to gather additional support material so that the claim can be resolved. The Board is not the last avenue to appeal for a veteran. When the Veteran is displeased with the Boards decision, they can appeal to the U.S Court of Appeals for Veterans Claims and finally to the US Supreme Court only on matters of procedure (Department of Veteran Affairs, 2012).

To meet the influx of new claims, VBA has made attempts on several fronts, such as improving workload controls, efficiency in handling claims and accuracy of decisions rendered. Since 2002 VBA has utilized a new and still utilized method on how it uses its human capital in its handling of claims. First VBA structured its claims processing employees by teams,



approximately eight individuals. Each member of this team executes one phase of the claims and appeals procedure. For instance one employee within a team would be in charge of all pre-decision requirements, while others would be in charge of post-decision procedures. In this manner, VBA concluded that a VSR would have fewer tasks to perform, and thus becoming expert in one phase. This would enable each employee to improve his or her personal performance and thus cut back on errors while improving efficiency. For instance one member would be part of the Triage Team, this person is responsible for reviewing all incoming claims and assigns each claim with a tracking number which corresponds to the branch of service and what era the Veteran served in. This same person will adjudicate any claim which requires little review to determine eligibility, i.e. VA Home Loan Application or GI Bill Eligibility. The second type of team is the Pre-Determination Team, which helps the veteran acquire supporting evidence in support of their claim. This group of people ensures that all information is accurate before the claim is given to the Rating Veteran Service Representative (RVSR) for a rating (Government Accountability Office, 2010).

Next, the Rating Team reviews all the work which has been gathered to determine a rating. These individuals are not doctors and seldom have any medical background, but they must decide ratings based on medical evidence marred in heavy medical terminology. Any time a veteran has a question about their case, they are routed to the Public Contact Team, which functions like a call center. These individuals have minimal access to a veterans claim and seldom know what stage the claim is in. Finally, the Appeals team is tasked with reviewing any claim that a veteran wants reviewed. This is done through a Notice of Disagreement; a form the veteran must complete (Government Accountability Office, 2010).

## **How VA Measures Performance**

VBA measures performance in several manners, with timeliness and quality being of the utmost importance when dealing with both claims and appeals. First VBA and the Board measure timeliness of their work by using a shared measure which contemplates the average time it takes all appeals to be adjudicated, with no importance as to the outcome of the appeal or who resolved the claims (VBA or the Board). In other words, the decision rendered in the appeal does not matter, only that the Board saw the claim and decided either for or against the appellant. In 2009, VBA's goal for appeal timeliness was 675 days, yet outside research shows that a more accurate estimate is 775 days. When it comes to quality, both VBA and the Board measure this by reviewing claims randomly, this enables both parties to determine the quantity of errors which may in any way affect the benefits that are being rewarded to the vet. Internally, the goal which VBA strives for is 98% accuracy, while the Board strives to achieve 94%. Unfortunately VA's Strategic Plan 2011-2015, states that accuracy stands at 83.8% with hopes of raising it to 90% by 2013 and improving to 98% by 2015. VA also wants to improve the average wait time it takes for a rating claims to be solved (without appeals) from 230 days in 2012 to 200 in 2013 (Department of Veteran Affairs, 2012).

### **Identifying "Choke Points"**

The previous section identified the adjudication process by which all claims types must go through. It is a lengthy and time consuming endeavor that taxes not only the veteran but also VSR's. Attempts have been made by VBA to improve workload controls and efficiency. Human capital has been transformed from a process requiring VSR's to perform all facets of the adjudication procedure to one that makes VSR's experts in only one facet of the process. In doing so, VBA believes claims can be processed faster and with fewer errors. Yet the fact

remains that the backlog of claims continues and the time to fully adjudicate a claim has steadily increased. The following section will try to identify choke points in the adjudication process, that once identified might make it easier to identify possible procedural changes in order to bring about positive change. The following section will try to explore possible answers to the following: Where in the adjudication process is a claim more likely to be held up? Does it occur in the initial stages or the appeals process? Is the solution to the backlog issue solved by hiring more VSR's?

### **Problem One: Not Enough Employees**

Since GWOT began in 2001, VBA has hired more VSR's to handle all incoming claims. In 2001 VBA employed approximately 12,000 full-time VSR's while in 2012 there were 21,000; and since 2008, VBA has hired more than 4,000 new employees. VBA has also tripled payments benefits disbursed to veterans and their dependents. In 2001 from around \$18billion to \$80billion in 2012 and by 2022 as a result of the ongoing conflicts, it is estimated that these costs will be nearly \$130 billion. Since 2001, VBA has steadily increased the amount of claims it adjudicates each fiscal year from around 500,000 in 2001 to over 1.3 million claims in 2012. Yet with these new developments the number of claims submitted to VBA has increased even more quickly. In 2001 VBA received nearly 700,000 to over 1,250,000 in 2011 (The New York Times, 2012). As for the average time it takes VBA to resolve one claim, the average amount of wait time has not decreased but has repeatedly remained the same over the years. The final result is that VBA has not been able to keep up with the ever increasing amount of claims. New claims are increasing at an alarming rate as a result of GWOT veterans returning stateside. The unique injuries which they are afflicted by, most notably PTSD and TBI, are difficult to address and cause VBA to utilize more resources per claim, than other types of claims in the past. For instance, August

2007 saw 80,383 claims submitted to VBA, a record high (French & Bayes, 2011). VA Secretary Eric Shinseki stated that “We’re not gaining any ground here” in reference to the backlog of claims and frustration heard among VBA employees (US Army Training Command, 2012). By virtue of submitting a claim, a veteran is guaranteed an instant delay.

### **Problem Two: Law Laden Adjudication Process Negatively Affects Veterans**

It has been previously stated that the bulk of all claims being submitted to VBA are claims for compensation and benefits which result in a monetary benefit to a veteran. These types of claims are increasing at a dramatic pace. As such it is these claims which take the most time and resources away from VBA. Although claims for GI Bill, VA home loans and the like are numerous, they do not require the same level of scrutiny by VSR’s. And so this next section will focus on compensation and disability claims which make it difficult for other types of claims to be solved in a timely manner. If the process for compensation and disability does not function effectively and efficiently then undoubtedly it hurts other VBA claim types and functions.

The convoluted road the veteran must take towards compensation and disability benefits starts at one of 57 regional offices (RO). The Veteran or dependent is required to fill out a 23 page form which must be sent to the RO. Whoever is applying for benefits must provide evidence in support of the disability for which they seek compensation. Any claim must be substantiated by evidence linking any ailment or disability to their time in military service. The law most applicable to veterans seeking benefits is The Veterans Claims Assistance Act of 2000 (VCAA) which dictates that VBA has a responsibility to assist veterans in helping them gather all appropriate military and medical records in support of their claim (US Government Printing Office, 2000). After the initial 23 page form is received, the VSR will contact the veteran via mail (a Duty to Notify Letter) notifying that the veteran has a timeline in which all relevant

records must be submitted to the RO. Typically a veteran has 365 days to provide all necessary documentation. Under the provisions in the VCAA, it is required that the VSR collect all military records and attempt to obtain any documentation in favor of the claim (VA medical records, social security records). The act also states that the VSR must make reasonable attempts to obtain non-federal documentation (i.e. private doctors). Yet for certain conditions, medical evidence is not enough, as is the case for PTSD. Anytime a claim for PTSD is submitted the veteran must provide an additional explanation about a stressor which caused the symptoms. Deputy Under Secretary for Benefits Ronald Aument has said that this extra step in furnishing a stressor explanation makes PTSD claims some of the most problematic to solve. Often veterans do not understand that they must submit a written explanation of a stressor and so all they submit are medical records. The difficulties in having veterans submit all necessary evidence causes delays. For some veterans the stressor is the act of being deployed and being in theater, often with no firsthand combat exposure, but legitimate for VBA purposes (Veterans for Common Sense v. Shinseki, 2011).

After the initial consolidation of records is completed, the RVSR decides on a scale of 0 to 100, the percentage which will be granted to the veteran. Although 88 percent of all ratings are granted, they are often partially granted which results in appeals by the veteran, which create more paperwork, delays and subsequent appeals. To make matters worse, lawyers who are often better trained to handle the appeals process are not allowed to collect fees from a veteran. As such, many lawyers avoid veterans' law, which results in a shortage of lawyers willing to help. Therefore the veteran is often left to maneuver the law laden process by themselves (Veterans for Common Sense v. Shinseki, 2011).

Associate National Legislative Director of Disabled American Veterans has said of VCAA that although the act mandates assistance by VBA to the veteran, the language of the act is convoluted. It has resulted in a “procedural quagmire...[which] is not fulfilling its intended benefit” to veterans (Griffin & Jones, 2011). When a veteran disagrees and believes that his claim deserves a higher percentage rating they must file a Notice of Disagreement with the RO. Parts of the decision or the whole decision rendered by VBA can be challenged by the veteran, such as appealing the denial of a disability (VSR found the veteran to not have any injury), the rating percentage (0-100%) and the effective date of the disability. Often the veteran will claim that PTSD began while deployed. This would ensure that the veteran is paid retroactively from the time the injury (symptoms began to manifest) occurred to when they were granted benefits. When VBA receives a Notice of Disagreement, the veteran is given two options for appeal: one is a review by a Senior VSR specialist or two, which is a more thorough explanation of the initial rendered decision. When the veteran chooses option one, and the senior VSR reviews but does not resolve all issues with the appeal then a Statement of the Case is given to the veteran. This document allows the vet to appeal to the Board of Appeals which must be done within 60 days of receiving the Statement of the Case. Any further disagreements by the veteran, after the Board of Appeals has rendered a decision can be taken up with the Court of Appeals for Veterans Claims, commonly referred to as Veterans Court. This must be done within 120 days from the day the Board of Appeals has rendered its decision. Furthermore, if the veteran still feels that the decision rendered by the Veterans Court is wrong, the veteran can appeal to the US Court of Appeals for the Federal Circuit. Ultimately the veteran or dependent can take their claim to the US Supreme Court. The process is not only convoluted and law laden but it puts specific time constraints on the veteran. At ANY point in the claims process, if the veteran misses a given

timeline they forfeit their claim, at which point VBA will deny the claim. This can be redressed by having the claim which was denied reopened and having to start the claims process again. The longest delays occur in the appeals process. The courts have stated that the complexity of new PTSD claims inundating the system take longer to adjudicate than an ordinary claim (Veterans for Common Sense v. Shinseki, 2011).

Service members who return from combat often suffer physical as well as psychological ailments. As such, veterans are entitled by the law to benefits. These benefits exist in order to assist veterans and their families while the veteran reclaims their health. Unfortunately, veterans must wait an average of four years before claims are adjudicated. Often times these claims are terminated because veterans die before they can obtain the benefits they need. With the recent conflicts in Iraq and Afghanistan the claims process has put tremendous strain on the VBA resulting in longer delays. For both families and veterans, these postponements result in consternation and undue hardship. Those veterans suffering from combat related mental illness, such as PTSD, cannot afford delays and are often unable to handle the strain put on them by dealing with a broken VBA system. Delays are ultimately the difference between life and death.

### **Problem Three: Archaic use of Paper Files**

W. Scott Gould, VA's Deputy Secretary, has described VBA as a place where technology seems nonexistent. This is in reference to VBA's contempt and slow response in modernizing their claims process with new Information Technology (IT) practices which would reduce cost and improve efficiency. As of now, most of VBA's regional offices utilize hardcopy paper files (see Supplemental Figure 4). When the initial 23 page paper claim is received, a VSR must log into several IT systems and manually transfer the information. The initial 23 page application goes into a folder as part of the veterans VBA record. In this folder any

correspondence to and from the veteran will be kept (all physical paper). As the claims process continues, a VSR will begin receiving military records, private as well as VA doctor documentation and witness testimony in support of a claim. The duty of the VSR is to rummage through all of these documents in order to find supporting evidence in order to complete the claim (Gould, 2012).

Any time a veteran wants an action taken on a claim; they must complete the appropriate paper form and mail it to their corresponding RO. There are currently 522 forms in VA's database. For example if a veteran wants to appeal a decision, form VA-4597 will be utilized. If the veteran has any additional information which was not originally sent in support of their claim FL1-28a must be completed and so on. No one single action throughout the claims process is taken without hardcopy documentation (Department of Veteran Affairs, 2012). This inevitably results in delays and lost paperwork. Of the 57 RO's in the country only four are testing a new IT system which facilitates the handling of paperwork. VBA says that this "new" technology is still a long way from being fully implemented. Yet this "new" technology is akin to Adobe Acrobat Reader which allows the reader to read, email and print electronic copies of any document (Department of Veteran Affairs, 2012). This technology has been around for years yet VA is still not ready for full implementation. As the claim process continues, a veteran's physical record (all documentation) must make its way from the VSR to the RSVR, to the Board, to Appeals, back to the RSVR or VSR. If additional medical information is needed the file will be sent to a VA doctor in order to conduct an interview with the veteran. Files are sent via mail, not only prolonging the length of time a claim is adjudicated but also the possibility of losing the file; at which time the veteran would have to submit the original 23 page application and all supporting documentation again.



**Problem Four: Management**

VBA's management failures are concentrated in the areas of poor property management, information technology and human capital management. Long delays in claims processing illustrate management's lack of awareness in comprehending the negative impact delays have on the individual veteran. GAO has characterized VBA as lacking a modern understanding of technology which is illustrated best in VBA's heavy reliance of paper files versus electronic files. VBA continuously fails to manage its resources effectively by not anticipating the increase in employee workload as a result of an increase in veteran population. In terms of human capital, management has failed by not being able to effectively reward, develop and inspire workers to succeed effectively through the utilization of available resources. VBA must embrace a new human capital transformation in which employees are effectively compensated through a system that values performance. Another immediate challenge faced by VA is that in 2012 34% of its employees are eligible to retire. As VBA leadership retires they take with them knowledge which is not easily transferable to a new group of employees. This will undoubtedly result in a potential by VBA in not being able to meet its obligations to its stakeholders (Government Accountability Office, 2012).

In June 2012, RO employees from the Columbia, South Carolina office took the unprecedented step of picketing their own place of employment in order to shed light on a broken bureaucracy. Their major problems were a lack of management accountability, lack of resources, complexity of the claims process and low morale of employees. The Columbia RO is seen by many as an above average facility, yet in May 2012 the facility had 15,000 claims backlogged and failed 1 out of 3 times to accurately process a claim. VBA management states that new steps are being taken in order to minimize the backlog and help employees tackle claims

more effectively. However front line employees argue that management does not listen to their complaints. Rather than effectively curtail low employee morale, employees argue that new steps implemented by management add additional work for them. They also argue that management has failed to create a proper performance review process which accurately measures their daily productivity. As it stands now, VBA requires VSR's to process a specific amount of claims a day. Employees who do not meet these quotas are faced with negative sanctions. Front liners argue that this quota system rewards employees who take shortcuts. Often times a VSR will manage a claim that is easier to adjudicate and avoid difficult ones altogether. Whenever a VSR falls behind in meeting quotas, they will deny a claim without a legitimate reason only for the fact that denying a claim earns them a quota point. Again, denying a claim takes minimal work and still earns the VSR a point (Dao, 2012).

### **Proposed Solutions**

The challenges faced by VBA cannot be blamed on a single factor, but rather a combination of several programmatic inefficiencies. These inefficiencies range from a substantial reliance of paper files, failures of management, failures in acquiring records promptly to a shortage of VSR's. The following section will propose possible solutions which if implemented might be able to improve overall efficiency of the adjudication process while curtailing the claims backlog. Therefore, the best approach should be a multipronged approach to VBA's problems based on the following remedies.

#### **Proposed Solution One: VBA Must Embrace Technology**

Efficiency and accuracy would improve if VBA embraced Information Technology and implemented it across all RO's. This technology is not new, and should be exploited in order to improve the adjudication procedure. Recently, VBA has moved in that direction, although to

some it is a happening at a slow pace. For instance, the Office of Management and Budget prepared a document for the White House stating that VA was starting a new paperless claims method. The White House budget allocated \$183 million to VA in order to implement this new system. According to the White House this system will help reduce expenses, improve productivity and eliminate procedural errors in the claims process. The number one priority has become providing veterans with a timely and error free claims process. As such VA has reduced its budget for construction projects and focused its energy in modernizing the paperless system (Office of Management and Budget, 2012).

As stated previously in this paper, a veteran's file travels through mail in order to reach the next step in the claims process, often running the risk of being lost. In the past two years VBA has made small but significant strides in their ability to share information across multiple locations. The sharing of data between locations, through computer systems, allows immediate feedback and response. Yet this technology has not been fully implemented in VBA and has only been embraced by VHA (sharing information between doctors and patients). VBA must also create a system that communicates with the military before a soldier leaves service. In this manner, VBA will be able to retrieve a soon to be veterans' medical records without the need to request via paper form (thus avoiding unnecessary delays). Again, VBA has made minimal attempts at this. Both Secretaries of VA and Defense have agreed on a system which will allow military branches to more easily communicate with VBA. Both Secretaries want this new technology to become a model for collecting, disseminating and distributing information (Gould, 2012).

### **Proposed Solution Two: VBA Must Acquire Records More Promptly**

VBA is under the obligation to acquire records from other federal agencies whenever these records affect a veteran's claim. The RO cannot order other federal agencies to provide records but must rely on good faith by those agencies to supply the requested documentation. Often times the RO relies on outside records to resolve a claim for dependent benefits or compensation. Military service records for all veterans are warehoused at the National Personnel Records Center in Missouri. Other agencies such as the Social Security Administration and Office of Personnel Management hold some of the most commonly used documentation pertaining to a veteran's health. More often than not these agencies, when requested to supply documentation for the development of a claim, do not reply in a timely manner or do not reply at all. The records are not lost or damaged but are in good condition and warehoused in a secure location. Lawyers for veterans have often stated that whenever they ask for records from these federal agencies they are often not given the proper attention or information. The majority of the time those representing the veteran do not attain the documentation they seek. VBA will make two attempts to these federal agencies for records, after which time VBA will give up and not request again. This negatively affects the veteran who is entrusting VBA to acquire all required documentation. When records are requested from the National Archives in Missouri, it takes approximately six months or more before the records are received by VBA. The workers at the National Archives must, find, copy and mail the requested file, which unduly burdens the workers. It also frustrates VBA employees because the delays result in claims not being adjudicated. In order to fix this VBA must change the language under Title 38 of the U.S.C to not only say that VBA has a duty to assist the veteran but there should be language that requires other federal agencies to supply records in order to complete the development of a veterans

claim. Also there should be language which dictates that agencies need to act in a timely manner as to not excessively burden the veteran (Reed, 2011).

Recently the Office of Management and Budget (OMB) has promoted interagency collaboration in order to achieve satisfactory outcomes. This can be achieved by creating mutual policies and identifying procedures which facilitate cooperation. Also, agencies should come together in order to agree on roles and duties that should be expected from each other. This collaboration not only benefits VBA in collecting documentation from other federal agencies but ultimately enhances government efficiency. It is crucial that sustainable collaboration is maintained among agencies in order for this to be successful (Government Accountability Office, 2011).

### **Proposed Solution Three: Customer Centric Approach to Claim Adjudication**

VBA must be able to anticipate new developments in the veteran population and train their employees to better adjudicate these claims. The complexities of new injuries as a result of current conflicts are difficult to resolve. Additionally an aging population of Vietnam veterans will result in an increase in benefit claims. It is estimated that the veteran population of 85 years and older will increase by 20% by the year 2019, from 657,477 to 709,523. As veterans die, VBA should expect to adjudicate larger number of dependent benefit claims. In 2011 roughly 41% of veterans were 65 years or older. According to the Social Security Administration at this juncture in life a male is expected to live an additional 17 years with females living an additional 19. As such, survivor benefit claims will increase since 75% of veterans are married. In order for VBA to become more customer centric not only does there have to be technological advancements at VBA facilities, but technology should be utilized in order to connect the veteran to VBA. The use of the internet should be a tool by which a veteran can submit VA forms and

medical paperwork in support of a claim. Through this type of communication a veteran is able to remain at home and not be burdened by going to the post office to mail documentation. The use of teleconferencing should be exploited in order for better communication between a veteran and VBA. For example during an appeal of a claim to The Board, a veteran and his representative could easily teleconference thus unburdening a veteran of a trip to a VA facility. Currently VA has developed a system by which a veteran can submit some forms electronically called E-Benefits. Yet this new electronic system does not allow for the submittal of hundreds of VA forms and does not allow for claim adjudicated paperwork to be submitted (Department of Veteran Affairs, 2012).

Unlike VHA where a veteran will have face to face contact with their medical provider, a veteran will never speak or meet the VSR charged with their claim. Instead, a veteran who has questions about their case is routed to a call center where the operator has no significant insight to the claim. By connecting the veteran to the VSR an added layer of accountability is created and a claim evolves from being a series of documents to a realization that the claim has a human side. Currently VBA restricts email, phone and fax contact by veterans and their lawyers to VSR's. This puts the veteran at a disadvantage since communication is only available through mail. VBA must address this issue in order to solve time sensitive matters promptly and without delay. It can be reasonably assumed that VBA might worry that phone calls will inundate VSR's and lead to low production in claim adjudication. Therefore contact should be limited to private practitioners (lawyers, veteran representatives) who will not abuse the privilege. At present, lawyers who have inquiries into a veterans claim are routed to VBA's Attorney Fee Coordinator (AFC) office which handles cases involving lawyers. Yet lawyers are often left frustrated in their dealings with AFC in what lawyers describe as a blatant disregard in providing them with claim

information. Often times AFC will be directed by superiors to disregard a lawyer's inquiry. This only hurts the veteran and fails to live up to VA's creed, to care for him who shall have borne the battle (Bergmann & Moore, 2012).

When a lawyer wants to know whether an appeal was received by VBA on behalf of the veteran the inquiries are ignored until after the appeal period has passed. If the lawyer states that an appeal was submitted in a timely manner VBA will counter by saying an appeal was not received within the window for an appeal; years will be wasted by lawyers trying to prove that a timely appeal was submitted. Other times lawyers will be forwarded to VBA's call center called IRIS. Yet again lawyers and veterans are left frustrated by the fact that they are given the wrong information on their claim. An audit conducted in 2009 by VA's Office of the Inspector General in the report *Veterans Benefits Administration: Audit of National Call Centers and the Inquiry Routing and information System*, veterans' and their agents were able to make contact with and IRIS representative only 76% of the time. Of those reaching an agent only 72% received accurate information about their case. Further data suggested that on any given call made to IRIS the probability of a caller getting ahold of an IRIS representative AND receiving correct information was only 49% (Veterans Benefit Administration, 2010).

### **Conclusion**

The veteran population continues increasing at a dramatic rate. Attempts made by VBA to improve its adjudication procedures in order to meet this new demand have failed to properly work. New regulations by VA have facilitated the ability of veterans to file new claims. Although more than 4,000 VSR's have been hired since 2008, this has been nullified by the fact that VBA still relies on the archaic use of paper files. Its refusal to upgrade to newer technologies negatively affects efficiency and accuracy. Veterans are forced to wait years before their claim

is adjudicated and often are left clueless as to the status of their claims. Yet the implementation of simple changes in the adjudication process can yield positive results. The conversion of all veteran records to electronic files would reduce the amount of time a claim waits to be adjudicated. Observers might conclude that VSR's, the front line employees of the adjudication process, may be to blame. However even VSR's feel frustrated by the system they work for. These employees cite a failure of management to adequately address their concerns, and a complete failure to anticipate trends in the veteran population (increase in Vietnam claims, aging population, increasing GWOT veterans). In order for VBA to meet the demands it is tasked with, it must be able to step into the 21<sup>st</sup> century and exploit technologies which are readily available. Communication between VBA and outside agencies is crucial in order to promptly gather documentation for development of claims. By simply adopting these small changes claims will be resolved quickly and accurately.



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## APPENDIX

## Abbreviations

VA: US Department of Veteran Affairs is a federal agency tasked with providing healthcare and benefits to over 22.7 million living veterans

VBA: Veteran Benefits Administration is a one of three branches comprising VA. This branch is responsible for all adjudicating all benefit claim related matters.

VHA: Veteran Health Administration is one of three branches comprising VA. This branch is responsible for administering all healthcare related issues such as hospitalization and medical care.

VSO: Veteran Service Organization is the collective name given to organizations which provide veterans with assistance and are generally nonprofit in nature. Some organizations are the Wounded Warriors of American, Veteran of Foreign Wars, and American Legion.

VSR: Veteran Service Representative is a VBA employees tasked with adjudicating all claims.

RVSR: Rating Veteran Service Representative is a VBA employee which administers a rating on a claim based on all gathered information collected by a VSR.

PTSD: Post Traumatic Stress Disorder is a psychological ailment which is chronic in nature and is associated with anxiety, depression and hyper vigilance as a result of traumatic experiences.

TBI: Traumatic Brain Injury occurs when the brain is injured as result of an outside force, i.e. explosions. It is associated with cognitive degradation as well as social, physical impairment

BVA: The Board of Veteran Appeals, otherwise known as The Board, is tasked with reviewing appeals by a veteran. The Board will grant a claim in favor of the veteran or send the claim back to an RVSR for further review.

GWOT: Global War on Terror is comprised of Operation Iraqi Freedom, Operation Enduring Freedom and all conflicts which target terrorist cells abroad.

IED: Improvised Explosive Device is the name given to bombs which are utilized to injure, maim or kill soldiers overseas.

IRIS: Stands for Inquiry Routing and Information System and is the name given to the call center responsible for answering questions from veterans of matters associates with a claim.

VCAA: Veterans Claims Assistance act of 2000 is a law created in 2000 which mandates that

VBA employees make reasonable attempts to assist veterans in the collection of paperwork associated with a claim for benefits. The law also charges VBA employees of notifying veterans of developments in the claims process.

GAO: Government Accountability Office is the investigative arm of the federal government charged with auditing and evaluating federal agencies.

**SERVICE CONNECTED:** an injury or illness which was sustained while in military service. The injury is rated under the provisions of VA's Schedule for Rating Disabilities. Ratings range from 0 to 100. A rating of zero is valid and is not the same as no rating.

OGC: Office of General Counsel is tasked with providing legal support to the Secretary of Veteran Affairs.

FTCA: Federal Tort Claim Act is a prohibition in the law which allows a civilian to sue the federal government. Without it, people would not be able to file a lawsuit since the government is considered a sovereign state.

OMB: Office of Management and Budget is responsible for the oversight of federal agencies in the United States of America

<b>Eleven Step Claims Processing Model</b>
Step 1: Veteran fills out 26 page application
Step 2: Veteran submits application to one of fifty seven regional offices
Step 3: VSR receives application and begins assisting veteran in gathering required information
Step 4: VSR determines if additional information is needed. If so a physical is scheduled
Step 5: After all supporting documentation is received, claim moves to RVSR
Step 6: RVSR deems claimant eligible and rating is given to veteran from 0 to 100%
Step 7: If veteran disagrees a Notice of Disagreement Letter is submitted
Step 8: Upon receiving NOD Letter, VBA reexamines claim- more thorough explanation is given
Step 9: If dissatisfied with decision, veteran can appeal to Board of Veteran Appeals
Step10: The board proceeds by accepting or denying the claim
Step 11: If dissatisfied, veteran can appeal to the courts, US Court of Appeals or Supreme Court (Department of Veteran Affairs, 2012)



VITA  
Graduate School  
Southern Illinois University

Luis F. Zaragoza

LZarag98@yahoo.com

Northern Illinois University  
Bachelor of Art, Political Science, December 2008

Research Paper Title:  
Process Analysis: Department of Veteran Affairs Adjudication Process

Major Professor: John A. Hamman