

**STATEMENT OF BLAKE C. ORTNER,
ASSOCIATE LEGISLATIVE DIRECTOR,
PARALYZED VETERANS OF AMERICA
BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING
CHALLENGES AND OPPORTUNITIES FACING
THE DEPARTMENT OF VETERANS' AFFAIRS (VA)
DISABILITY CLAIMS PROCESSING SYSTEM IN 2006**

DECEMBER 7, 2005

On behalf of Paralyzed Veterans of America (PVA) I would like to thank you for the opportunity to testify today on the challenges and opportunities facing the Department of Veterans' Affairs (VA) as it processes disability claims in 2006. PVA appreciates the added focus that this Committee and the Subcommittee on Disability Assistance and Memorial Affairs have placed on improving the claims adjudication process, particularly the consistency of claims decisions.

PVA maintains a Veterans Benefits Department which provides assistance and representation, at no cost, to veterans with a spinal cord injury or dysfunction and other veterans seeking health

care and benefits for which they are eligible. This assistance is offered through a network of 58 service offices located at VA Medical Centers and Regional Offices. PVA employs 72 National Service Officers (NSO) who provide services to veterans. Our service officers undergo extensive training prior to being released to assist PVA members, their families, and other veterans.

PVA also represents veterans who choose to appeal unfavorable ratings decisions. PVA attorneys provide direct representation to veterans who are seeking benefits and would otherwise not be able to afford legal assistance at the U.S. Court of Appeals for Veterans Claims (CAVC) and other appellate courts. Attorneys in PVA's Veterans Appeals Litigation Office review cases that have been denied by the Board of Veterans' Appeals to select cases that merit representation by PVA before the Court.

In order to properly address the issues under consideration today, we contacted each of our NSO's stationed around the country. We asked for their comments on problems or positive aspects that they have observed in the claims process. This statement reflects the responses from these individuals.

The responses we received primarily focus on four themes—timeliness and accuracy of ratings decisions, and training and accountability of VA claims adjudication personnel. We recognize that these are certainly not new issues, particularly with the attention that has been given to the Veterans Benefits Administration (VBA) this year. However, we find it disconcerting that the same problems are continually brought up regarding the VBA.

The most important concern voiced by our service officers was accuracy of ratings decisions. This problem is not a new one and has been repeatedly referenced over the last several years. As a result of the recommendations of the VA Claims Processing Task Force, commissioned by the previous Secretary of Veterans' Affairs Anthony Principi, in its report released in October 2001, the VA placed added emphasis on reducing the claims backlog and the time it took to receive a ratings decision. However, PVA believes that the accuracy of claims decisions was negatively impacted by the race to cut the pending workload. This idea was confirmed by many of the statements received from our NSO's. In fact, several of our representatives specifically stated that "VA is concentrating more on the backlog and not on the quality of the decisions."

Furthermore, the VA continues to recognize effectiveness of regional offices through the workload that it completes and not through quality decisions. Regional office managers are pressing ratings employees to process numbers without ensuring that claims decisions are done right the first time. One of our representatives actually stated that his service office theme seems to be "when in doubt, deny, and let the appeals process work it out." Furthermore, some PVA service officers believe that it is "less punishable to make a wrong denial than to make a wrong award of benefits." This is absolutely unacceptable.

However, this is not a universal theme. Some of our service officers explained that their offices appear to be operating slower than others because of an effort to ensure that a veteran receives more accurate and favorable decisions. PVA believes that quality decisions trump expediency.

PVA understands that timeliness also continues to be one of the challenges facing VBA. Secretary Principi made it his goal to cut claims adjudications down to 100 days on average. However, according to the VA's information provided in its Monday Morning Report for the week of November 7, 2005, there are currently over 20 percent of claims that have been pending for more than 180 days. Although we understand that the VA faces a number of challenges as it makes ratings decisions, we still believe that it is unacceptable for veterans to have to wait so long to receive the benefits that they have earned.

Several of our service officers explained that the time it takes to develop claims files seems to be getting longer all the time. Our service officers agree that if all the evidence necessary to grant a claim is initially presented, then an award should be made immediately. Instead, the VA usually sends Veterans' Claims Assistance Act (VCAA) letters, as mandated by law, to the individual to inform him or her of the VA's responsibility to further assist them in developing his or her claim. We believe that this simply confuses most beneficiaries. Many of our service officers recommended that VA create a "fast track" for claims that have the information necessary for a ratings decision. This would give the VA additional time to adequately develop questionable and incomplete submissions.

The VA is also slow in many locations in processing claims regarding simple issues. These issues include adding or removing a dependent from a claims file, approving the Specially Adapted Housing Grant or adaptive automobile grant, or reducing a veterans' aid and attendance benefits when a veteran remains hospitalized for a long period of time to prevent an overpayment. Our service officers voiced a great deal of frustration with VA Regional Office

staff who do not take action even after being notified that they have all evidence necessary to make a simple decision. Many of our NSO's stated that addressing these simple issues could take up to a year.

The VA did receive generally favorable reviews regarding its handling of claims for disability benefits of veterans who were injured in Iraq or Afghanistan. We are pleased that the VA is putting its best foot forward to help these young men and women. However, we must reiterate the need for the VA to provide this type of service universally.

We believe that VBA needs to continue to improve its training program as well as follow up the activities of its personnel through adequate accountability of ratings staff at all levels. PVA takes great pride in the training program that we have developed to ensure that veterans seeking benefits get the absolute best representation possible. Our NSO's participate in a rigorous training program. New service officers are designated as NSO Candidates and undergo a 16-month on-the-job training program. Each candidate is paired with an experienced NSO supervisor at a local VA Medical Center or Regional Office. Throughout the training program, candidates take courses to improve medical knowledge, learn relevant federal regulations and codes, and learn how to prepare a claim. The candidate must pass a series of quizzes and exams during the program. In order to be certified as a PVA NSO II, the candidate must pass a comprehensive final exam. The NSO takes a more extensive exam after 18 months to be promoted to NSO III, and after a second 18 months takes another exam to be promoted to Senior NSO. We believe that our rigorous and standardized training is a vital component to the success of this program.

Our NSO program is divided among four primary regions. Our first priority for assignment of NSO's is VA Medical Centers that have a Spinal Cord Injury Center. Our service officers are then placed in areas with a high population of our members or other veterans, particularly cities such as Las Vegas, Orlando, and Philadelphia. It is important to understand that this system is most effective because it is maintained and supervised at the national level. This provides for important uniformity and speedy dissemination of vital information. PVA has made every effort to place our service officers where they can most effectively serve our members and all veterans.

We recognize that one of the immediate problems facing VBA is the impending retirement of many of its staff. However, PVA service officers in the field complain that the VA is addressing this problem in a way that is adversely affecting ratings decisions. They explain that new ratings personnel at all levels are being rushed through the training process. They are then being plugged into staff holes to begin immediately rating claims for benefits. Our service office staff believes that these individuals should be required to undergo more extensive training before being released to make decisions. Our representatives believe that this quick turn through training and rapid placement on ratings boards have led to an unnecessarily high number of bad decisions. This ultimately only leads to appeals on decisions that further slow the process. The VA could have better prepared for this issue long before now. Many of VBA's staff are part of the so-called baby-boomer generation. It is an accepted reality that many of these individuals are rapidly approaching retirement age. The VA should have been gradually working new employees into the mix over the last several years so that it could handle a large exodus of ratings personnel. Unfortunately, it did not take this important step.

PVA believes that accountability may be one of the most important aspects in the claims adjudication process. This is an action that must start at the top. We are concerned that VBA distorts accountability by basing performance on processing a given workload with little to no focus placed on making quality ratings decisions. Regional Office managers will continue to do business in this fashion, as long as there are no repercussions for bad decisions.

The Claims Processing Task Force addressed this concern in its report in 2001 by recommending that funding for Regional Offices be tied to the performance of those offices. The Task Force stated that greater resources should be allocated to the highest performing Regional Offices. On the other hand, the Task Force recommended that the poorest performing offices should receive no additional staff or increase in resources to help improve those offices. This seems to be a backwards approach to the problem. It represents continued acceptance of failures in the management structure of those offices. If anything, the VA should focus more of its energy and resources on improving the operations as well as the quality of decisions of underperforming Regional Offices. Sanctioning these offices in this manner would only punish veterans who live in the jurisdiction of the offices in the long run.

Poor accountability of the ratings staff, compounded with their general lack of experience, has fostered an attitude where denials of claims are based on personal opinions. Several of our service officers complained that they have seen this in decisions for veterans who have filed claims based on mental health conditions, such as Post Traumatic Stress Disorder (PTSD).

Our service officers also made recommendations regarding the role of the Veterans Health Administration (VHA) in the claims process. Specifically, they emphasized the need for a universal link between VBA and VHA facilities. This would allow VBA to have instant access to health records and information for a veteran who files a claim. It would ensure that accurate information is available for Compensation and Pension examinations and eliminate the need for additional exams, particularly exams conducted by non-VA contract physicians who may not have treated the veteran in the past. Such a link would also allow the VBA to affect any necessary changes to a veteran's benefits as a result of hospitalization. We hope that as the VA updates its information technology infrastructure and improves its organizational structure, these recommendations will become a reality.

These are specific observations from our field service personnel, dedicated individuals who deal with these issues on an ongoing basis. We look forward to working with the Committee to ensure that veterans' claims are processed in a timely manner and that they receive the most accurate ratings decision possible. We also hope that the VA remains actively involved in effecting changes to improve the claims' adjudication process.

PVA would like to thank you again for the opportunity to testify. We would be happy to answer any questions that you might have.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2005

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program — \$228,000 (estimated).

Paralyzed Veterans of America Outdoor Recreation Heritage Fund – Department of Defense -- \$1,000,000.

Fiscal Year 2004

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program — \$228,000 (estimated).

Fiscal Year 2003

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program — \$228,803.

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Blake Ortner is an Associate Legislative Director with Paralyzed Veterans of America (PVA) at PVA's National Office in Washington, D.C. He represents PVA to federal agencies including the Department of Labor, Office of Personnel Management, Department of Defense, HUD and the VA. In addition, he is PVA's representative on issues such as Gulf War Illness and homeless veterans, and he coordinates issues with other Veteran Service Organizations. He also served as the disability advisor for the dedication ceremonies of the Korean War Veterans Memorial.

He has served as the Chair for the Subcommittee on Disabled Veterans (SODV) of the President's Committee on the Employment of People with Disabilities (PCEPD) and as a member of the Department of Labor's Advisory Committee on Veterans' Employment and Training (VETS) and the Veterans Organizations Homeless Council (VOHC).

A native of Moorhead, Minnesota, he attended the University of Minnesota in Minneapolis on an Army Reserve Officer Training Corps (ROTC) scholarship. He graduated in 1983 with an International Relations degree and was commissioned as a Regular Army Infantry Second Lieutenant. While stationed at Ft. Lewis, WA, he served with the 9th Infantry Division and the Army's elite 2nd Ranger Battalion. He left active duty in September 1987.

He continues his military service as an Infantry Lieutenant Colonel in the Virginia Army National Guard. In 2001, he served a 9-month deployment as part of the SFOR 10 peacekeeping mission to Bosnia-Herzegovina. He returned in July 2005 from a year commanding an Infantry Battalion Task Force in Afghanistan.

Mr. Ortner resides in Stafford, VA with his wife Kristen, daughter Erika and son Alexander.