



U.S. Department of Veterans Affairs

Periodic Progress Report on Appeals

Public Law 115-55, Section 3

VA's Mission

To fulfill President Lincoln's promise, "To care for him who shall have borne the battle, and for his widow, and his orphan."

February 2020 Update

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Executive Summary

This February 2020 report is the second post-implementation report that satisfies section 3 of the Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act or AMA), *Comprehensive Plan for Processing of Legacy Appeals and Implementing the New Appeals System*, paragraph (d), *Periodic Progress Reports*. Prior to implementation, VA was required to submit reports every 90 days. After implementation, VA is required to submit reports every 180 days.

On February 19, 2019, VA successfully implemented the new claims and appeals system after benefiting from feedback received from stakeholders, including Veterans Service Organizations (VSO) and the Government Accountability Office (GAO). The Final Rule and corresponding request forms became effective on February 19, 2019.

Initial reporting requirements focused on elements targeting the complete and timely implementation of AMA. As AMA was successfully implemented on February 19, 2019, this report only focuses on elements that are relevant to post-implementation, ongoing support for AMA, and VA's comprehensive plan to process both legacy and AMA appeals.

I. Requirement for Periodic Progress Reports

Public Law 115–55, 115th Congress

The “Veterans Appeals Improvement and Modernization Act of 2017”

Sec. 3. Comprehensive Plan for Processing of Legacy Appeals and Implementing New Appeals System.

*(d) **Periodic Progress Reports.**—Not later than 90 days after the date on which the Secretary submits the plan under subsection (a), not less frequently than once every 90 days thereafter until the applicability date set forth in section 2(x)(1), and not less frequently than once every 180 days thereafter for the seven-year period following such applicability date, the Secretary shall submit to the appropriate committees of Congress and the Comptroller General a report on the progress of the Secretary in carrying out the plan and what steps, if any, the Secretary has taken to address any recommendations formulated by the Comptroller General pursuant to subsection (c)(2)(C).*

II. GAO Recommendations on Appeals

VA will provide a status update for findings addressed in two GAO reports by way of this report. For more information on GAO findings, including the status of the recommendations they contain, please see the hyperlinked Web sites below.

VA Disability Benefits: Improved Planning Practices Would Better Ensure Successful Appeals Reform

[GAO-18-352](#): Published: Mar 22, 2018

GAO Findings:

VA’s plan for implementing a new disability appeals process while attending to appeals in the current process addresses most, but not all, elements required by the AMA. VA’s appeals plan reflects certain sound planning practices, but it could benefit from including important details in several key planning areas.

In GAO’s March 2018 report, which was based on VA’s November 2017 implementation plan, GAO raised several concerns, including the following:

- Whether VA has sufficient personnel and information technology (IT) resources to implement AMA;
- How VA will delineate resources between the legacy and AMA systems;
- How VA will measure success in the new system; and
- The adequacy of VA’s master schedule/project plan and risk assessment.

VA has addressed all concerns discussed in the March 2018 report. Specifically, the following:

- VA's test programs, the Rapid Appeals Modernization Program (RAMP) and the Board of Veterans' Appeals Early Applicability of Appeals Modernization (BEAAM), provided sensitivity analysis and information about Veteran preferences which will improve services to Veterans, VA policies, and operating procedures;
- With the support of project management experts, VA continuously updated and improved the project plan, leading to successful implementation of AMA;
- Test programs supported VA's efforts to improve risk assessment by testing processes and technology prior to implementation;
- Extensive reporting requirements in sections 3 and 5 of AMA ensured transparency in monitoring and assessing process reform; and
- VA expanded quality review and training programs to include AMA procedures.

VA successfully implemented AMA on February 19, 2019, as discussed in more detail in this report.

VA Disability Benefits: Additional Planning Would Enhance Efforts to Improve the Timeliness of Appeals Decisions

[GAO-17-234](#): Published: Mar 23, 2017

GAO Findings:

VA is taking steps to improve the timeliness of appeals issued through the benefit compensation appeals process, in which Veterans who are dissatisfied with claims decisions made by the Veterans Benefits Administration (VBA) appeal first to VBA and then to the Board of Veterans' Appeals (Board). VA has taken actions related to increasing staff, reforming the process, and updating IT, which are consistent with relevant sound planning practices.

GAO recommended that VA develop a plan for recruiting, hiring, and training. These recommendations are addressed in part III, sections 3(b)(1) – (9), (11), and (12), below.

In the 2017 report, GAO recommended that VA develop a schedule for IT updates. This recommendation is also addressed in the 2018 GAO report, discussed above.

Regarding GAO's recommendation that VA conduct sensitivity analysis and develop projection models, VA developed a robust, scalable model, which was presented to GAO. The model will assist VA in projecting timeliness and appeals inventories.

The 2017 report also advised that VA should develop a more robust plan for appeals modernization implementation. As discussed above, VA addressed this concern in response to the 2018 GAO report, and successfully implemented AMA.

Finally, reporting requirements in sections 3 and 5 of AMA ensure transparency in assessing process reform.

III. Comprehensive Plan

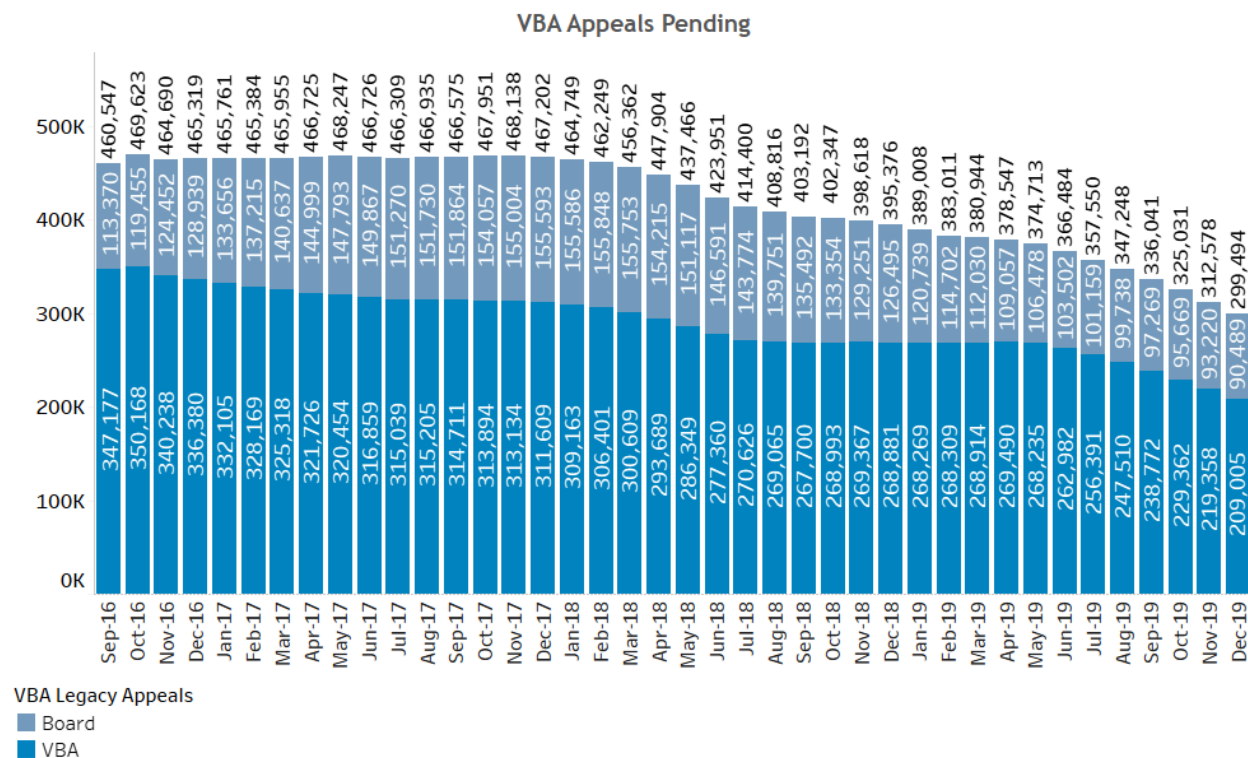
Implementation Plan Requirements

Section 3(a)(1) – Processing of Legacy Appeals

(a) PLAN REQUIRED.—[T]he Secretary of Veterans Affairs shall submit to the appropriate committees of Congress and the Comptroller General of the United States a comprehensive plan for—

- (1) the processing of appeals of decisions on legacy claims that the Secretary considers pending;

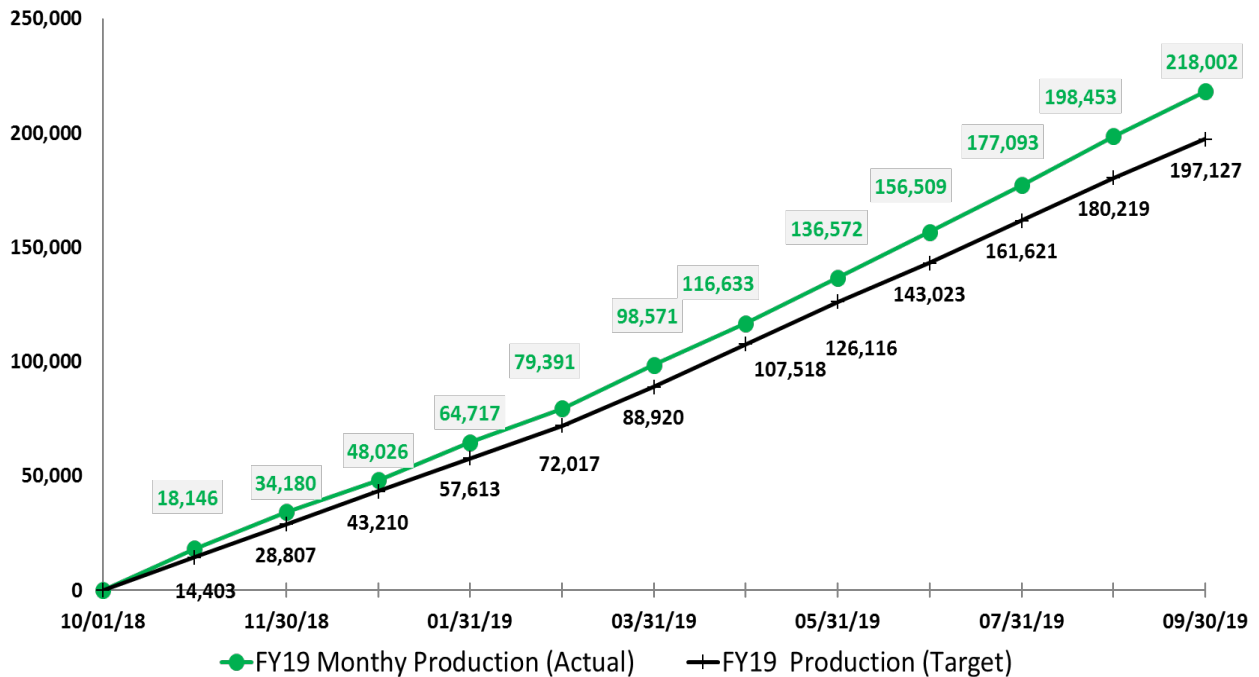
VBA continues to utilize several strategies to resolve the pending inventory of legacy compensation appeals. These strategies include workload redistribution, increased oversight and accountability, leveraging technology for increased efficiencies, and the opportunity for claimants to opt-in from the legacy system to the modernized system. Between September 2016 and the end of December 2019, total VBA legacy appeals inventory has decreased by approximately 40 percent, as depicted in the chart below:



Additionally, VBA continues to leverage the National Work Queue to distribute legacy appeals across regional offices (RO). The Appeals Management Office’s (AMO)

workload redistribution formula uses RO capacity and proficiency to maximize the benefits of workload redistribution.

Aggressive workload management combined with increased oversight helped expedite legacy appeals actions. National output exceeded Fiscal Year (FY) 2019 targets for appeals actions by approximately 11 percent, as depicted in the following chart:



VBA hired an additional 605 full-time equivalents (FTE) in FY 2019 to adjudicate appeals. Hiring increased available resources for processing compensation and pension appeals from 1,495 to 2,118 FTE. AMO designated 1,306 FTE of the total 2,118 FTE toward the processing of legacy appeals. An additional 725 FTE are dedicated to administering decisions in the new claims system—specifically higher-level reviews (HLR) and duty to assist error corrections identified under the HLR and the Board lanes.

Using the factors described above, VBA plans to eliminate legacy inventory in the notice of disagreement (NOD) and substantive appeal (Form 9) stages in FY 2020 and reduce legacy inventory in the remand stage to a steady state in FY 2021. VBA defines *steady state* as the elimination of all legacy inventory in the NOD and Form 9 stages, with an inventory of remands that equals the number of remand decisions issued per year.

VBA’s other benefit offices provide the following status reports on legacy appeals processing:

As of December 31, 2019, there are 20 legacy fiduciary appeals pending at fiduciary hubs and 2,049 pension legacy appeals pending at Pension Management Centers (PMC). Additionally, there are 631 pending legacy appeals with one or more pension-

related issues that are assigned to ROs and not PMCs. Pension and Fiduciary (P&F) Service will continue to utilize all current appeals resources in PMCs and fiduciary hubs to work legacy appeals until all legacy appeals are processed. Insurance Service continues to track 64 pending legacy appeals in different stages of the appeals process, including five certified to the Board. A specialized work team is in place to focus on resolving these appeals. Veterans with legacy appeals pending have received AMA opt-in invitations.

The Insurance appeals work team continues to prioritize and control legacy appeals inventory to ensure resolution of these appeals as quickly as possible. By developing additional controls of the legacy appeals inventory, the Insurance Service expects to report a significant decrease in these appeals in the coming months. Included on this work team are six experienced Senior Veterans Claims Examiners (SVCE) who focus on resolving outstanding legacy appeals.

As of December 31, 2019, Education Service has 628 legacy cases pending in various stages of the appeals process, of which 329 are actionable. Legacy cases with an NOD that are not actionable are generally cases where the appellant has been issued a Statement of the Case (SOC) and Education Service is awaiting a response from the appellant. Three regional processing offices (RPO) work appeals based on original jurisdiction and capacity.

As of December 17, 2019, Vocational Rehabilitation and Employment Service (VR&E) has 104 actionable legacy appeals under its jurisdiction. Of these, 59 are in the initial phase of the appeals process and 45 have been remanded to the RO from the Board for additional action. To resolve actionable legacy appeals, VR&E will require field staff to process remands immediately and certify all claims in which a Form 9 has been received to the Board for action, reducing the number of actionable legacy appeals to 49. Of these remaining 49 appeals, instruction will be provided to VR&E field staff to ensure that claimants who are eligible to opt-in to the modernized appeals process have information on how to do so, and claimants who are not eligible have their claim moved forward in the second quarter of FY 2020.

Between June 1, 2019 and December 31, 2019, Loan Guaranty Service (LGY) received five legacy appeals. Certificates of Eligibility (COE) were issued for two of the five cases. SOC's were issued for the other three, and appellants were given the option to opt-in to the modernized process. As of December 31, 2019, LGY did not receive a response from any of these appellants. Specially Adapted Housing (SAH) does not have a legacy appeals inventory.

The Board continues to set and exceed targets. In FY 2019, the Board's target was 90,050 dispatched decisions and it exceeded this target by over 5,000 decisions. In FY 2020, the Board's target is 91,500 dispatched decisions—another unprecedented target following the Board's historic output of 95,089 decisions in FY 2019. Through December 2019, the Board dispatched 23,966 decisions to Veterans, 21,689 of which were legacy appeals.

In addition, the Board held a record 22,743 hearings in FY 2019, over 98 percent of which were legacy hearings. A goal of 24,300 hearings held is set for FY 2020, which the Board is currently on pace to achieve.

In addition to maintaining an ambitious output goal in FY 2020, the Board continues to build on various initiatives for more efficient adjudication of legacy appeals. The “One Touch” program, which was discussed in the November 2018 and August 2019 reports, enables Veterans Law Judges to identify and quickly adjudicate hearing cases that are within docket range and have clear dispositions—delivering faster results for waiting Veterans. As of January 2020, Veterans Law Judges adjudicated over 2,202 hearing cases with an approximate 59 percent cumulative grant rate.

The Board’s specialized case team (SCT) comprises attorneys who efficiently adjudicate unusual or difficult cases and assist on other special projects as needed. At the end of December 2019, 56 attorneys were competitively selected for details to the SCT. Regular, staggered turnover provides a majority of attorneys an opportunity to participate in the program while maintaining consistency in decision-making and ensuring that institutional knowledge remains intact. SCT output numbers have remained steady: in FY 2020, SCT attorneys produced, on average, 1.25 signed cases more per pay period than other Board decision-writing attorneys. SCT attorneys account for approximately seven percent of Board attorneys and they draft over nine percent of the Board’s cases.

As noted in previous reports, the Board uses a case distribution algorithm to prioritize legacy appeals.

The Veterans Health Administration (VHA) continues to collaborate with the Board and the other administrations to address legacy appeals inventory. VHA business lines realigned resources in order to eliminate legacy appeals inventory while continuing to process claims in a timely manner. All legacy appeals are being tracked through the Veteran Appeals and Control Locator System (VACOLS) by stage and business line. VHA made considerable progress drawing down legacy appeals inventory, reducing it to 6,594 by December 31, 2019 while receiving 14,917 new NODs in calendar year 2019. VHA will continue to prioritize legacy appeals until it depletes the legacy inventory.

The National Cemetery Administration (NCA) has dedicated personnel to process legacy appeals and it uses VACOLS to manage legacy appeals inventory. All legacy appeals correspondence includes AMA opt-in guidance.

Section 3(a)(2) – Implementing the New Appeals System

(2) implementing the new appeals system;

VA successfully implemented the modernized system as outlined in Public Law 115-55 on February 19, 2019. To successfully implement the AMA, each administration had to modify applicable policy and procedures; update forms, letters and regulations; and train all affected employees on the new process.

VBA has no substantive updates to provide since the last report. As stated in the August 2019 report, VBA's benefit offices successfully implemented AMA and provided the necessary policy and procedural guidance and training to all impacted employees. Benefit offices continue to assess the new claims system and make process improvements to maintain the effectiveness and efficiency of the program.

Since August 2019, the Board continues to execute on its change management plan and it conducted the following key activities:

- Held multiple trainings with internal and external stakeholders, including VSOs and advocate partners, to provide information and guidance on appeals modernization and to enhance the flow of appeals at the Board;
- Distributed weekly e-mail communications highlighting important AMA updates, trainings, tips, and activities at the Board;
- Published monthly internal newsletters with sections dedicated to communicating ongoing changes, sharing AMA updates, and celebrating milestones;
- Collaborated with VHA National Center for Organizational Development to deliver training that prepared managers and leaders to coach Board staff through AMA changes;
- Held biweekly meetings with the Chief of Knowledge Management to ensure the integration of change management concepts into the training curriculum at the Board;
- Hosted town halls to emphasize to Board employees the value of AMA and the procedural and organizational changes associated with its implementation;
- Shared progress updates with VA Administrations to ensure appropriate alignment, synchronization, and integration of appeals change management efforts;
- Implemented a social media strategy for the Office of the Chairman that included AMA messaging and updates; and
- Continued to collaborate with SharePoint developers to improve the layout and framework of the Board's internal SharePoint site, which houses AMA materials in a central repository.

As previously reported, the Board collaborates with the Veterans Experience Office (VEO), which uses the VSignals tool/database, to survey Veterans who have an active appeal at the Board. These surveys provide valuable insight into Veteran experiences at various stages of the appeals process, both in the legacy system and the modernized system. Current surveys include interviews with legacy and AMA appellants. A survey dashboard, which allows the Board to view data through various filters such as age, gender, and geographic location, went live on October 1, 2018. The compiled survey results provide the Board with important comparative data regarding Veteran experiences in both the legacy and the modernized systems.

VHA worked closely with the Office of General Counsel (OGC) and the Board to implement AMA. VHA program offices created process models and developed the guidance necessary to implement the three options available to claimants under the new law.

VHA Appeals Modernization regulation AQ44(P) has completed VA concurrence and is pending with the Office of Management and Budget (OMB).

VHA adapted VBA and Board explanatory and training materials to address the unique needs of each VHA workstream. VHA continues to update VHA Directive 1032, Health Benefits Appeals Processing, and VHA Directive 1041, Appeal of VHA Clinical Decisions, to accommodate AMA requirements and cleanly bifurcate clinical and non-clinical review processes. Only non-clinical decisions may be reviewed at the Board.

VHA is working with the Board to establish an efficient method of transferring files to replace the legacy process of mailing paper files.

NCA leveraged VBA-created training to educate all levels of its Field Programs to understand the impact of AMA. NCA dedicated personnel to process HLRs and supplemental claims.

The Central Mail Portal (CMP) is being triaged by leadership until administrative support is adequately trained to take over the function. Until NCA can upload CMP evidence into the Veterans Benefits Management System (VBMS), all documents must be downloaded into the NCA's electronic depository, Feith Document Database.

NCA added supplemental claims response letters to Memorial Enterprise Letters (MEL). HLR letters will be added to MEL using the same format. MEL will continue to be used for this function until the appeals workload is integrated into NCA's Memorial Benefits Management System (MBMS), which is not expected until mid-2022.

NCA manages HLRs and supplemental claims with an Excel spreadsheet on a SharePoint site.

Section 3(a)(3) – Timely Processing Under New Appeals System

(3) timely processing, under the new appeals system, of—

(A) supplemental claims under section 5108 of title 38, United States Code, as amended by section 2(i);

(B) requests for higher-level review under section 5104B of such title, as added by section 2(g); and

(C) appeals on any docket maintained under section 7107 of such title, as amended by section 2(f).

With implementation of AMA, VBA has two distinct compensation and pension workloads for its 2,118 appeals FTE: legacy appeals and AMA decision reviews. VBA's current target is to reduce compensation and pension legacy appeals inventory to a steady state, as defined in section 3(a)(1).

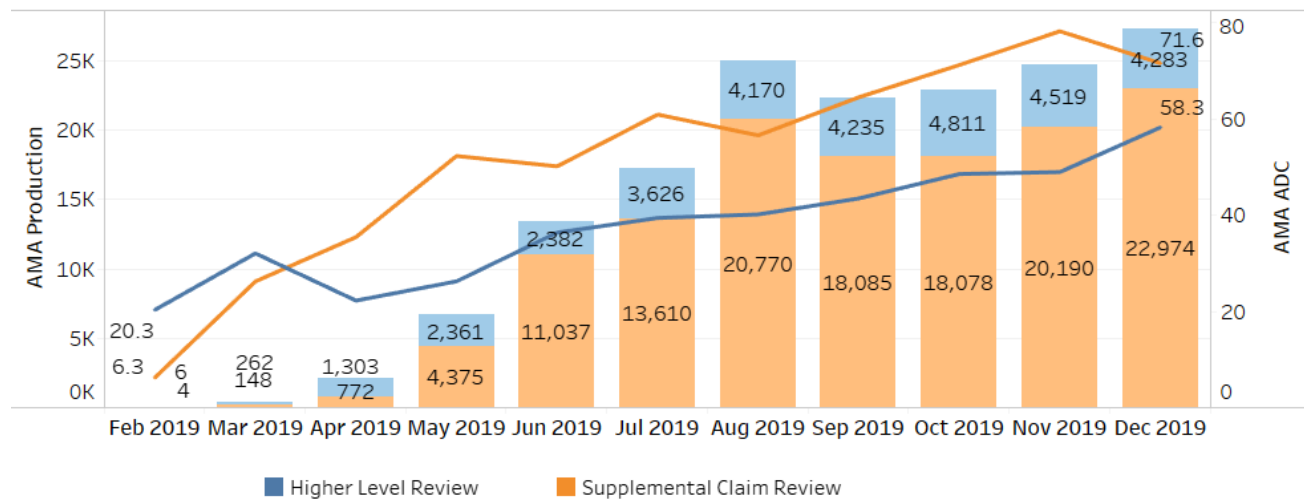
At the end of FY 2020, VBA projects it will require approximately 400 dedicated FTE to maintain the steady state of legacy work returned from the Board. The 712 FTE currently assigned to the Decision Review Operations Centers (DROC) in

St. Petersburg and Seattle will process compensation HLR claims, duty to assist error corrections (returned due to errors in assisting claimants with obtaining evidence needed to support their claims), Board AMA full grants, and Board AMA remands. They will not process Board legacy grants or legacy remands.

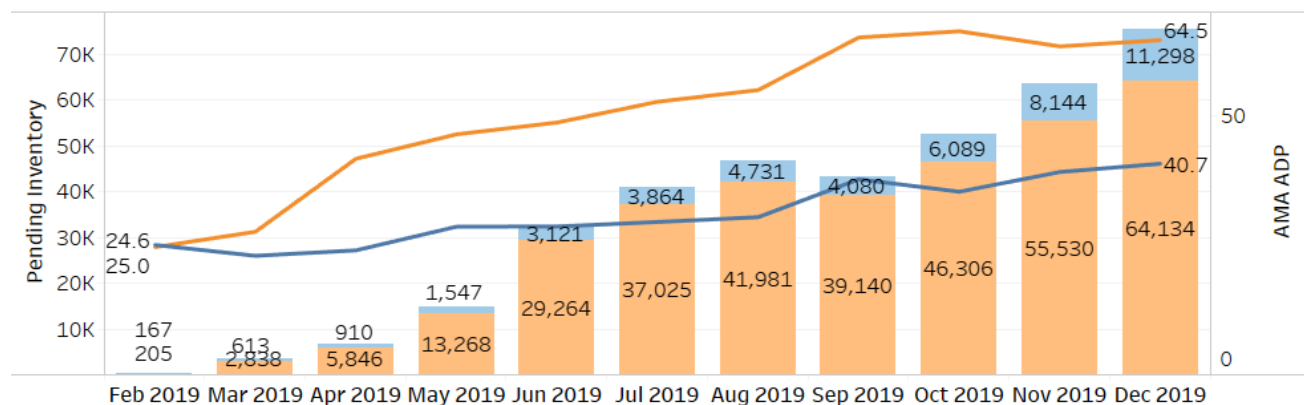
VBA’s goal is to maintain processing timeliness of an average of 125 days to complete for both HLRs and supplemental claims. Overall timeliness for completing AMA workload at VBA (i.e. HLRs and supplemental claims) from AMA implementation on February 19, 2019 through December 31, 2019, was approximately 61.0 days. This processing time remains well below the 125-day goal for average days to complete (ADC).

For the same period, ADC for HLRs was 43.4 days with 31,958 completions. Average days pending (ADP) for HLRs was 40.7 days for a pending inventory of 11,298 claims. For supplemental claims, ADC was 65.3 days with 130,043 completions, and ADP was 64.5 days for a pending inventory of 64,134. The first graph below provides the monthly breakdown for completions and ADC for HLRs and supplemental claims. The second graph provides the monthly breakdown for pending inventory levels and ADP for HLRs and supplemental claims.

AMA Completions and Average Days to Complete (ADC) Month-to-Date (MTD)



AMA Pending Inventory and Average Days Pending (ADP)



VBA continues to review data, manage risks, and model multiple scenarios to allocate resources to timely process claims under the modernized system. Additionally, VBA's Compensation Service and P&F Service, along with the AMO, collaborate to ensure claims processors have the necessary guidance, training materials, and systems functionality to process claims in an efficient manner that aligns with the 125-day ADC timeliness goal. For example, electronic notification of the statutory duty to assist is now available on the proposed supplemental claim form which is anticipated to reduce development time to manually send these statutory letters and expediate the processing of these claims.

Specific to the other VBA benefit programs:

The new claims process has not had a significant impact on overall processing times for either insurance applications or disbursements. The goal of processing cases in less than 12 days and disbursements in less than 5 days is still a priority. Under the new process, the Insurance Service's performance goals continue to be achievable.

Since there has not been a significant impact, Insurance Service's 12 SVCEs process supplemental claims, and the 12 SVCEs and 7 Unit Chiefs conduct HLRs. Performance requirements and position descriptions for employees working AMA claims and legacy appeals now include specific timeliness goals that are based on completing both HLRs and supplemental claims within an average of 30 days.

As of February 2019, employees were trained to process insurance applications and claims under the new system. Insurance Service currently utilizes information obtained from Caseflow and from the Veterans Insurance Claims Tracking and Response System (VICTARS) to ensure that timeliness requirements are met.

Education Service set additional internal goals of processing all HLRs in an average of 45 days or less and supplemental claims in an average of 60 days or less. In FY 2019, the ADC for HLRs was approximately 25.1 days; for supplemental claims it was 20.8 days. Through December 2019, the ADC for HLRs and supplemental claims was approximately 22.6 days and 15.7 days, respectively.

During the reporting period of June 1, 2019 to December 31, 2019, VR&E processed 90 requests for an HLR. These requests were completed in an average of 64 days. During this same period, VR&E processed 25 requests for supplemental claims. These were completed in an average of 39 days. These processing times are significantly shorter than VR&E's goals for processing HLRs within 90 days and supplemental claims within 125 days. As of December 31, 2019, VR&E continues to maintain timely processing of AMA claims.

As of December 31, 2019, LGY completed 28 HLRs and 22 supplemental claims within an average of 4.2 days and 6.7 days, respectively. LGY's timeliness goal is to complete both HLRs and supplemental claims within an average of 7 days. SAH processes HLRs and supplemental claims within an average of 14 business days.

As explained in previous updates, the Board continues to prioritize legacy appeals, AMA appeals on the Direct Docket, appeals that are advanced on the docket due to the Veteran's age (75 or older), illness, financial hardship, or other reasons, and appeals remanded to the Board by the Court of Appeals for Veterans Claims (CAVC). Appeals from all four Board dockets are assigned to Veterans Law Judges for adjudication using a case distribution algorithm.

Since the implementation of AMA, the Board is meeting its 365-day timeliness goal for processing Direct Docket appeals. In FY 2019, 1,214 Direct Docket appeals were dispatched with an ADC of 142 days. Through the end of December 2019, the Board completed 1,865 Direct Docket appeals with an ADC of 178 days.

The Board is collecting data to establish average processing times for Evidence Docket and Hearing Docket appeals.

VHA continues to track appeals volume, inventory, and timeliness. This data allows VHA managers to adjust staffing and priorities as needed to maintain timely processing of post-decision reviews in the new system.

NCA has taken steps to operate in a completely paperless environment. NCA has also coordinated with the National Archives and Records Administration to expedite processes for NCA's specific needs. These steps will reduce previous cycle time segments. Additionally, the NCA Appeals Team is fully staffed and collecting data to establish metrics to achieve AMA goals.

NCA uses Caseflow to report the status of HLRs and supplemental claims. VBA grants NCA access to VBMS to manage claims in Caseflow and supports NCA's requests to add claimants to the Veterans' corporate record.

Section 3(a)(4) – Monitoring Metrics and Goals of New Appeals System

(4) monitoring the implementation of the new appeals system, including metrics and goals—

- (A) to track the progress of the implementation;*
- (B) to evaluate the efficiency and effectiveness of the implementation; and*
- (C) to identify potential issues relating to the implementation.*

VBA's implementation of AMA has concluded. The efficiency and effectiveness of VBA's implementation can be seen in the success of the program to date as detailed below.

From AMA implementation on February 19, 2019 through December 31, 2019, VBA's compensation benefit program achieved the following:

- The AMA claim grant rate for VBA (excluding Board-granted appeals) was approximately 37.4 percent;
- Issues were granted at a rate of approximately 29.8 percent;

- Total AMA retroactive payments (including Board grants) were over \$308 million;
- Overall timeliness for completing the AMA workload at VBA was approximately 61.0 days, well below the 125-day goal for ADC; and
- VBA continues to maintain a 96 percent national accuracy rate for disability compensation decision reviews under the HLR and supplemental claim lanes. VBA maintains the same 96 percent accuracy rate for legacy claims.

Insurance Service uses VICTARS as the primary claims processing system for the Insurance Center. This system is used in conjunction with both Caseflow and the Insurance Appeals Program Tracking System (IATS) to process cases and track metrics for HLRs, supplemental claims and appeals to the Board.

VR&E established internal policy goals to complete HLRs within an average of 90 days and supplemental claims within an average of 125 days. As of the end of December 2019, VR&E is far exceeding these goals, reporting an ADC for HLRs of 64 days and an ADC for supplemental claims of 39 days.

LGY made changes to the QA process in order to comply with AMA reporting requirements and updated the existing site visit protocol. Since implementation of the new system, QA staff successfully incorporated AMA review into the standard protocol. The QA team conducted three site visits to observe the effectiveness of this program. At the time of the audit, two Regional Loan Centers (RLC) had two COE appeals that were properly handled; the other RLC did not have any applications for appeal. The LGY QA unit is conducting further reviews during upcoming site visits with the various RLCs and plans to provide additional guidance if non-compliance is identified.

The Board concluded the AMA implementation phase and is now adjudicating AMA appeals across all lanes while prioritizing the adjudication of legacy appeals. AMA was intended, in part, to reduce the Board's remand rate by closing the record, and it has succeeded. From February 19, 2019 to December 31, 2019, the Board's legacy appeals remand rate was approximately 39.6 percent while AMA appeals had a 25.4 percent remand rate. At the same time, the Board's grant rate was slightly higher in AMA appeals at approximately 39.6 percent while the legacy grant rate was 35.7 percent, demonstrating that remand rate reduction did not harm appellants appearing before the Board. Moreover, the Board's Office of Quality Review (QR) transitioned from reviewing test program cases to a full, separate accuracy program for AMA appeals for FY 2020. QR and the Office of Knowledge Management (KM) have provided trainings for judges and attorneys both on the fundamentals of AMA appeals and potential approaches to complex legal issues inevitably created by modernization.

The VHA IPT provides oversight and collaboration among business lines to ensure adherence to VA's enterprise-wide IMS project plan and timelines. Each respective program office manages matters regarding decentralized processes, oversight and accountability, data management, and business line specific processes. VHA is collecting data to establish adequate metrics and revise current goals for the new system.

NCA management completed training on CMP operations and is implementing a new process to expedite HLRs and supplemental claims. NCA currently uses the Burial Operations Support System (BOSS) and Automated Monuments Application System (AMAS) to process cases. These systems were designed prior to the concepts of workload management and cycle time measurements. NCA will continue to operate in these systems to process claims.

Plan Elements

The following sections provide information on each element of the comprehensive plan as required in sections 3(b) through 4(a)(2) of the Act.

Sections 3(b)(1) & (2) – Resource and Personnel Requirements

(1) Delineation of the total resource requirements of the Veterans Benefits Administration and the Board of Veterans' Appeals, disaggregated by resources required to implement and administer the new appeals system and resources required to address the appeals of decisions on legacy claims.

(2) Delineation of the personnel requirements of the Administration and the Board, including staffing levels during the—

(A) period in which the Administration and the Board are concurrently processing—

(i) appeals of decisions on legacy claims; and

(ii) appeals of decisions on non-legacy claims under the new appeals system;

(B) Period during which VBA and the Board are no longer processing any appeals on legacy claims.

As noted in VA's August 2019 report, VBA has no substantive update to prior reports regarding resources and personnel requirements. See the May 2018 report for VBA's last update.

As of the end of December 2019, approximately 79 percent of the Board's staff were dedicated to its primary mission of writing and signing decisions. With a goal of 1,190 cumulative FTE by the end of September 2020, the Board projects the following breakdown: approximately 100 Veterans Law Judges, 849 decision-writing attorneys, and 138 appellate operational support and administrative staff.

The Board projects that, at minimum, 10 percent of the resources associated with attorney and Veterans Law Judge workflow will be required to decide appeals under the new appeals system in FY 2020. The remainder of the Board's resources will be dedicated to processing legacy appeals. This anticipated delineation of resources may change as the Board obtains additional data. Notably, Board attorneys and Veterans Law Judges are subject matter experts in Veterans law; it is the appeals process, rather

than the substantive law, that has changed. Accordingly, individual personnel will generally not be assigned to the legacy or AMA dockets.

The Board plans to report decision output per FTE according to the Board's total decision output in the legacy docket and the new system dockets. For example, if approximately 80 percent of 91,500 decisions issued by the Board in FY 2020 were for legacy appeals, the Board would project that 952 FTE (80 percent of 1,190 total FTE) were allocated to processing and adjudicating legacy appeals at a rate of 77 per FTE. In practice, however, all personnel at the Board could have spent approximately 85 percent of their time working legacy appeals, while simultaneously working appeals in the new system, resulting in a rate of 77 decisions per FTE.

IT modernization was already in process prior to the passage of AMA and would have proceeded in the absence of AMA.

As previously reported, VHA completed a comprehensive assessment of the resources currently used to process appeals and continues to assess the resources needed to manage and process legacy claims and transition to the new system. This includes claims under former 38 U.S.C. §§ 1703 (authorized care), 1728 (unauthorized emergency treatment for service-connected conditions), and 1725 (unauthorized emergency treatment for nonservice-connected conditions). VHA identified and is addressing multiple resource needs, including dedicated staff, regulatory and procedural guidance, and IT modifications.

VHA's Office of Community Care/Payment Operations Management (OCC/POM), which is responsible for most VHA appeals, has consolidated appeals processing at select sites and has dedicated staff to appeals processing.

VHA will use current and future appeals data and execute time studies to better determine the number of FTE needed to manage appeals under both the legacy and new systems.

VHA's Office of Regulatory and Administrative Affairs partners with other VHA business lines to establish more streamlined appeals processes in their functional areas, as well increased transparency and accountability.

NCA recently delineated personnel to address legacy claims versus new AMA claims. NCA will observe the effectiveness of this separation of work and adjust as necessary.

Section 3(b)(3) – Legal Authorities for Hiring and Removing Employees

(3) Identification of the legal authorities under which the Administration or the Board may—

(A) hire additional employees to conduct the concurrent processing described in paragraph (2)(A); and

(B) remove employees who are no longer required by the Administration or the Board once the Administration and the Board are no longer processing any appeals of decisions on legacy claims.

The Board and VBA have no substantive updates to prior reports. Both VBA and the Board will continue to monitor resource requirements and adjust plans as necessary pursuant to applicable legal authorities as originally provided.

NCA recognizes that, once legacy claims are completely processed, its Appeals Team may need to be restructured. NCA has begun updating position descriptions and performance standards for these employees.

Section 3(b)(4) – Estimated Time for Hiring Employees

(4) An estimate of the amount of time the Administration and the Board will require to hire additional employees as described in paragraph (3)(A) once funding has been made available for such purpose, including a comparison of such estimate and the historical average time required by the Administration and the Board to hire additional employees.

VHA and VBA have no substantive updates to prior reports.

The Board continues to onboard new personnel to meet its hiring goal of 1,190 cumulative FTE by the end of FY 2020. As of the first quarter of FY 2020, the Board is reporting 1,136 cumulative FTE and projects completing the majority of its hiring between February and May of 2020.

NCA estimates that, by the end of FY 2020, metrics will demonstrate the need to expand or reduce the Appeals Team to properly address workload affected by AMA.

Section 3(b)(5) – Higher-Level Adjudicator Training and Experience Requirements

(5) A description of the amount of training and experience that will be required of individuals conducting higher-level reviews under section 5104B of title 38, United States Code, as added by section 2(g).

VHA and VBA have no substantive updates to prior reports.

NCA will require that HLRs be worked by employees who reached journeyman level expertise in their respective business line and are graded above the prior decision makers for the case. HLR Adjudicators will complete the documented basic training of all case managers.

Section 3(b)(6) – Estimated Percentage of Higher-Level Adjudicators Who Were Decision Review Officers

(6) An estimate of the percentage of higher-level adjudicators who will be employees of the Department of Veterans Affairs who were Decision Review Officers on the day before the new appeals system takes effect or had experience, as of such date, comparable to that of one who was a Decision Review Officer.

VHA, VBA, and NCA have no substantive updates to prior reports.

Section 3(b)(7) – Decision Review Officer Functions in New System

(7) A description of the functions that will be performed after the date on which the new appeals system takes effect by Decision Review Officers who were Decision Review Officers on the day before the date the new appeals system takes effect.

VHA and VBA have no substantive updates to prior reports.

NCA will revise the specific position description of Appeals Specialist to support the HLR Adjudicator, to train other employees, and to work as a quality reviewer.

Section 3(b)(8) – Training Identification and Timeline

(8) Identification of and a timeline for—

(A) any training that may be required as a result of hiring new employees to carry out the new appeals system or to process appeals of decisions on legacy claims; and

(B) any retraining of existing employees that may be required to carry out such system or to process such claims.

Since the last report, VBA's benefit offices have continued to assess the training needs of employees assigned to process claims under the new and legacy appeals systems.

To address VBA's compensation benefit program, AMO created and instructed seven training courses including the following: Veterans Service Center (VSC) Claims Assistant Intake Refresher Training; Appeals Team Rating Veterans Service Representative (RVSR) Rapid Appeals Modernization Program (RAMP) Refresher Training; Implementing *Procopio* Board Grants; Legacy Appeals: Notification of Board Decisions; Legacy Appeals: Board Remand Directed Development; Legacy Appeals: Effectuation of Board Grants; and RAMP Standard Operating Procedure Updates—Board Found RAMP Elections/Selections.

In August 2019, AMO updated the DROC new hire training curriculum (Challenge). The training system automatically assigns AMA training items as part of After Challenge Training to newly-hired Veterans Service Representatives and RVSRs on completion of Challenge training.

On October 1, 2019, AMO published the FY 2020 National Training Curriculum (NTC), which outlines the annual training requirements for all DROC employees and RO VSC legacy appeals team personnel. The NTC requires that all employees in the target audience complete national training mandated by Compensation Service and AMO, and that stations develop and execute a locally-created training plan to address any employee or station-specific training needs and quality error trends. The NTC also requires that stations submit quarterly training compliance reports for AMO review, in order to ensure completion of mandatory training requirements and identification of potential training deficiencies.

In October 2019, AMO scheduled and delivered Quality Review Specialist (QRS) Challenge Training, which provided one-week of virtual instructor-led training to newly hired QRS on conducting quality reviews, communication, mentoring, effective writing, and system compliance.

In November 2019, AMO published a recommended training plan for onboarding new hires at the DROCs. These training courses provide employees with a general overview of VBA and the DROCs, as well as an introduction to the claims process. The recommended plan supplements local orientation plans and supports employees in reviewing Challenge and other nationally-created training materials prior to attending Challenge.

AMO also implemented a monthly AMO Quality Call in November 2019 for all DROC QRS and management to review quality data, discuss quality error trends, and provide any necessary training and instruction on such error trends. Along with this call, AMO launched a training and quality SharePoint site to support and increase communication with the DROCs on training and quality.

Specific to other VBA benefit programs, Education Service is developing refresher training for deployment under the FY 2020 NTC. Additional enterprise-wide appeals training for all LGY SAH agents by SAH staff is scheduled for January 2020. SAH staff will also conduct on-site training for each RLC during FY 2020 as part of its regular annual training requirements.

At the Board, all new attorneys and law clerks receive training within 12 weeks of arriving at the Board and while they are assigned to KM's Bootcamp. Administrative support staff are trained by their managers in their workplace. KM is developing Administrative Tradecraft Training (ATT) for all administrative staff that covers the new appeals and legacy systems. The Mail Intake Branch has already been trained and the Veterans Law Judge Support Staff will be trained in February 2020.

KM provides recurring Board-wide training on AMA. In addition, the Board and VBA continue to collaborate to produce joint training related to the adjudication of claims and appeals. This training is delivered by podcast and has been viewed by over 4,000 people. The Board and VBA have recorded a training on assessing the competency of lay evidence, which will be released shortly.

As previously reported, each of VHA's appeals processing business lines adapted and disseminated VBA and the Board's explanatory and training materials to the unique needs of their workforce.

NCA Field Programs began online training organized by VBA. New employees will also complete this training as part of their on-boarding.

Section 3(b)(9) – Costs of Training

(9) Identification of the costs to the Department of Veterans Affairs of the training identified under paragraph (8) and any additional training staff and any additional training facilities that will be required to provide such training.

VHA and VBA have no substantive updates to prior reports.

As discussed in previous updates, the Board does not anticipate additional training costs resulting from AMA. In its March 2018 report, GAO agreed with VA's assessment of the AMA impact on training costs.

NCA has not incurred any cost for AMA training.

Section 3(b)(10) – Modifications to Information Technology Systems

(10) A description of the modifications to the information technology systems of the Administration and the Board that the Administration and the Board require to carry out the new appeals system, including cost estimates and a timeline for making the modifications.

All Information Technology (IT) system enhancements necessary for a Minimal Viable Product (MVP) to support AMA have been deployed.

The Enterprise Program Management Office (EPMO) manages and maintains VA's core claims processing system, VBMS. The VBMS team continues to be on track to meet all milestones and deliverables. The team has provided numerous enhancements in support of AMA and delivered increased functionality with the September 2019 (17.1) and December 2019 (18.0) VBMS Releases. The December 2019 VBMS deliverables were received on schedule.

Caseflow is intended to replace VACOLS. Development activities for Caseflow have transitioned to the Office of Information and Technology (OIT) under the Benefits and Memorial Services portfolio. Engineering and development teams for Caseflow and VBMS have been working very closely together, in conjunction with business teams from the Board, to develop a fully-integrated solution to meet the needs of AMA.

In FY 2018, the Chairman of the Board requested that OIT include Virtual Hearing technology in Caseflow. OIT agreed to implement this request by May 2018. A test of

Generation 1 technology was conducted between July 2019 and September 2019. Generation 2 technology is now being tested for integration into Caseflow for easier use, including simplified scheduling and a one-click solution for recording Virtual Hearings.

Caseflow Hearing's geo-matching functionality was changed to ignore state boundaries when identifying which RO is located closest to the appellant. This change helps provide appellants with shorter travel times to attend hearings. Since the VEText functionality was added to Caseflow Hearing, hearing reminders are sent to appellants through text message.

Development of the Appeals Resource Management System (ARMS) is nearly complete for rollout to Production. ARMS will provide reports in the Tableau format and additional Human Resource information for tracking Board activity. A dashboard will allow users to search and modify Veteran records as needed. A SharePoint repository for storing reports as they are created for historical reference is also planned. Once the Authority to Operate (ATO) is received, all Help Desk requirements will be delivered, including knowledge articles and ticketing for service issues.

VHA is collaborating with OIT to identify IT requirements for a long-term goal of creating a unified desktop that can be used to access the information and evidence necessary to process benefit claims and appeals. VHA has also determined that significant requirements for Caseflow Intake are necessary before it can be used to efficiently and effectively manage VHA review and appeals workload or generate VHA workload statistics. VHA will continue to use its current systems to process both legacy and AMA appeals until Caseflow Intake is sufficiently enhanced and a fully integrated system is developed. OIT has submitted an Unfunded Request (UFR). Upon award of the UFR, further VHA development can continue.

Section 3(b)(11) – Estimate of Office Space by Phase

(11) An estimate of the office space the Administration and the Board will require during each of the periods described in paragraph (2), including—

(A) an estimate of the amount of time the Administration and the Board will require to acquire any additional office space to carry out processing of appeals of decisions on legacy claims and processing of appeals under the new appeals system;

(B) a comparison of the estimate under subparagraph (A) and the historical average time required by the Administration and the Board to acquire new office space; and

(C) a plan for using telework to accommodate staff exceeding available office space, including how the Administration and the Board will provide training and oversight with respect to such teleworking.

VBA has no substantive update to prior reports.

The Board does not plan to acquire additional office space to process legacy and non-legacy appeals. The Board's robust telework program has allowed the Board to maintain its physical footprint despite almost doubling FTE over the last 5 years. To avoid needing additional office space to process legacy and non-legacy appeals, the Board has adopted several space management efficiencies, including: sharing office space for Board personnel who work remotely 50 percent or more of the time, converting underutilized space to workspace, using MOUs to secure additional space within the building, and implementing a flexible telework program.

VHA does not anticipate additional office space requirements. If necessary, VHA has a robust telework and virtual work program to meet any additional demands.

NCA has no need for additional space.

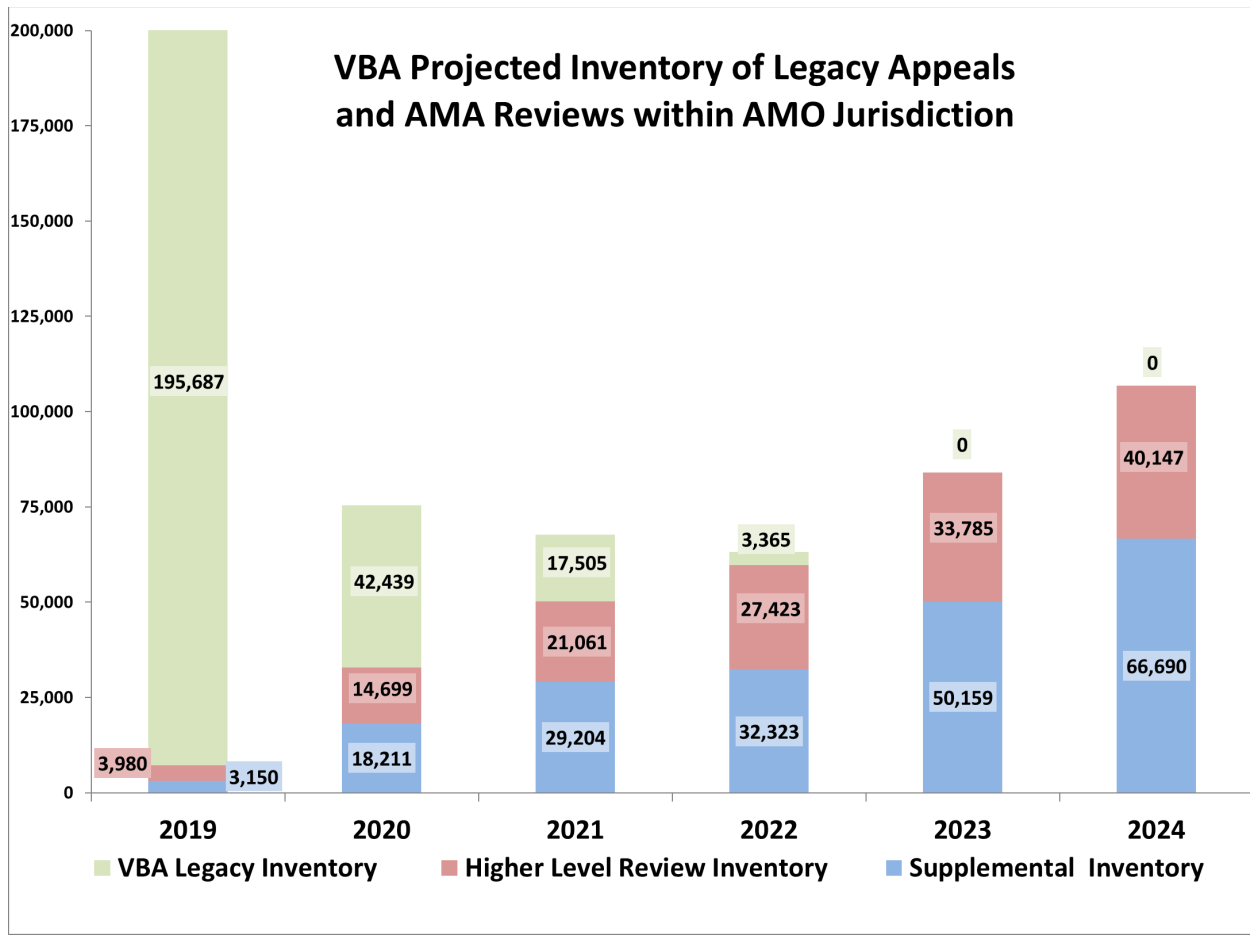
Section 3(b)(12) – Projections for the Productivity of Individual Employees

(12) Projections for the productivity of individual employees at the Administration and the Board in carrying out tasks relating to the processing of appeals of decisions on legacy claims and appeals under the new appeals system, taking into account the experience level of new employees and the enhanced notice requirements under section 5104(b) of title 38, United States Code, as amended by section 2(e).

VBA projects output for compensation and pension legacy claims using completions (FTE per FY). Completions are actions that move claims to the next stage in the process, and may include resolutions, which are actions that end the claim. Based on 218,002 completed actions in FY 2019, the approximate legacy productivity per FTE is 200 completions, which includes 95 resolutions. The estimated annual productivity per FTE under the new process is 205 HLRs or 200 supplemental claims. VBA continues to review AMA data to identify output trends.

The chart below depicts projected AMA review inventory from FY 2019 through FY 2024 (i.e., HLR and Supplemental Claim Duty-to-Assist Errors) and legacy appeals inventory from FY 2019 through FY 2022 based on current staffing and productivity. This model includes numerous factors that could alter forecasts, such as the opt-in rate, refile rate, Board remand rate, and allocation of staffing.

VBA expects to reduce legacy inventory in the remand stage to a steady state in FY 2021, as defined in section 3(a)(1) above, despite the anticipated receipt of approximately 40,000 legacy remands from the Board from FY 2020 to FY 2022 with additional residual remands beyond FY 2022.



In addition to the overall projections noted above for compensation and pension benefits, other individual benefit offices report on output updates below.

The impact of the changes on the output of Insurance employees has been minimal. Employees who currently handle legacy claims are the same employees who handle claims under the new process. All employees who primarily handle claims under the new process are experienced and have received training specific to their positions and roles. Insurance Service continues to monitor the impact of the new process on output and will adjust resources accordingly.

Education Service’s RPOs will use employee productivity reports to calculate individual employee output. Due to the limited volume of AMA cases at the RPOs, working these claims is not a full-time position. In FY 2019, 835 HLRs were completed among all three RPOs. Considering the volume of other work received (over 2.1 million claims), it is not feasible to track an individual employee’s output for AMA claims. The employee is allotted 22 minutes to process each AMA claim, which is consistent with other education work.

VR&E field staff continue to ensure pending legacy claims are handled in a timely manner. For this reporting period, VR&E reduced actionable pending legacy claims

under its jurisdiction from 188 to 104. VR&E field staff are actively working with claimants on the process to opt-in to the new appeals system, if applicable, to reduce the number of legacy appeals moving forward.

As for the enhanced notification requirements provided in 38 U.S.C. § 5104(b), VR&E developed several letters for VR&E field staff use to ensure notification letters meet the intent and requirements of the law. In addition, these letters include drop-down functionality to ensure that issues, as well as statutory and regulatory requirements, are accurately and consistently identified. These letters auto-populate other required elements, such as how to gain access to the evidence used when making the decision and information on next steps if the claimant disagrees with the decision.

All LGY legacy claims continue to be processed by experienced Loan Specialists in the Atlanta RLC. The processing of HLRs and supplemental claims under the new system are completed by all eight RLCs.

The Board finished FY 2019 by dispatching a record 95,089 decisions to Veterans and appellants with a staffing level of 1,077 cumulative (average) FTE, which represents approximately 88.3 decisions per FTE on an annual basis. The organizational performance goal for FY 2019 was originally 80 decisions per FTE. This projection took into consideration hiring and training additional staff as well as the Board's demonstrated decision output trends.

Board output remains robust and steady. The record 95,089 Board decisions dispatched to Veterans in FY 2019 surpassed the previous high achieved in FY 2018 by 9,801 decisions. As stated above, the Board's annual output goal for FY 2020 is 91,500 decisions. This goal takes into account that FY 2020 will be a baseline year for the Board to focus on the following: 1) resolving legacy appeals; (2) holding a higher percentage of scheduled hearings; and (3) working all three dockets of AMA cases in a timely manner.

The Board slightly revised output standards effective October 1, 2019, to account for the slight uptick in the number of issues per decision in FY 2019. To be rated Fully Successful for productivity in FY 2019, attorneys must produce 169 signed decisions or 566 issues in the attorney's signed decisions. To be rated Exceptional, attorneys must produce 185 signed decisions or 620 issues in the attorney's signed decisions. Employee output standards are reduced pro-rata based on holiday and leave usage. Under AMA, individual issues may be split between different review options and different dockets at the Board. Therefore, a standard based on issues aligns with the reporting requirements contained in section five of the AMA. Moreover, the new standard will provide attorneys who regularly handle complex, multi-issue cases another path to achieving Fully Successful and Exceptional ratings.

VHA POM is still collecting baseline data to establish adequate metrics and revise current goals for the modernized system.

NCA will be able to assess changes to individual employee output by the end of FY 2020.

Section 3(b)(13) – Outreach Plan

(13) An outline of the outreach the Secretary expects to conduct to inform veterans, families of veterans, survivors of veterans, veterans service organizations, military service organizations, congressional caseworkers, advocates for veterans, and such other stakeholders as the Secretary considers appropriate about the new appeals system, including—

(A) a description of the resources required to conduct such outreach; and

(B) timelines for conducting such outreach.

VBA continues to assist and inform Veterans about review options using its suite of outreach products: posters, brochures, fact sheets, and an informational video. These promotional materials are available on VA's external Web site: <https://benefits.va.gov/benefits/appeals.asp>. In August 2019, VBA published a YouTube video entitled "Appeals Modernization Act-Opting In," highlighting the features of AMA and providing information to Veterans as to how they can participate in AMA. This video has received over 26,500 views. VBA also internally published (through VA Insider and the Vantage Point blog) an article entitled, "Appeals Modernization: Opting in from SOC/SSOC" in August 2019. Those articles have received almost 14,000 views combined.

VBA also launched a VA Appeals Modernization public service announcement (PSA) campaign in August 2019. Currently, the PSA is being aired on over 76 radio stations and 26 television stations Nation-wide. The PSA is off to a strong start with a combined 29,867,000 total impressions as of December 31, 2019.

VBA continues to develop a customer experience survey to measure satisfaction and understanding of the new system. VA plans to deploy the survey to Veterans at appropriate stages in the process in order to observe the overall experience of the Veteran with the decision review process. The results of the survey will help VBA to further refine relevant processes. VBA expects to field this survey in FY 2020. Responses will be consolidated into a real-time dashboard capable of drilling down to specific questions, types of customers, or decision review choice. The dashboard will also provide other means for VA to analyze the information and comments.

The Chairman of the Board continues to promote, educate, train, and inform Veterans and stakeholders about AMA. Such travel includes engagement with various VSOs and stakeholders across the country, speaking engagements and attendance at conferences and training events, and various VA site visits. Additional information regarding the Chairman's outreach activities is available in Appendix A.

As noted above, the Board uses the VSignals tool/database to survey Veterans who have an active appeal at the Board. Since October 1, 2018, a survey dashboard allows

the Board to track specific comments and observations about Board correspondence, decisions and hearings. The Board receives a monthly report on customer experience trends and is in the process of hiring strategic engagement personnel.

The Chairman and the Under Secretary for Benefits regularly communicate and share information with Veterans, advocates, and other stakeholders through LinkedIn, Facebook, and YouTube.

VHA has no substantive update to the last report.

NCA will deliver new information to the funeral home community through Gov Delivery.

Section 3(b)(14) – Timeline for Policy Updates

(14) Timelines for updating any policy guidance, Internet Websites, and official forms that may be necessary to carry out the new appeals system, including—

(A) identification of which offices and entities will be involved in efforts relating to such updating; and

(B) historical information about how long similar update efforts have taken.

VBA's benefits offices are currently reviewing their adjudication regulations to consider if any policies should be revised in order to ensure timely and efficient processing within the AMA framework. This ongoing review process ensures that VBA field staff have accurate policy and procedural guidance to ensure each claimant can navigate the new system in a timely manner.

Compensation Service anticipates completion of this review by the end of the second quarter of FY 2020. Insurance Service has not identified any required updates at this time and continues to utilize policy guidance released prior to implementation. Education Service made updates to M22-4, Part 3, 2.04 in August 2019, which now includes guidance on legacy claims and AMA claims.

VR&E Service is also updating its policy and procedural manual. As such, all policy and procedural guidance on the new system will be reviewed and revised as needed. In addition, VR&E Service has regularly updated notification letters to ensure they are accurate, complete, concise, and to the extent possible, auto-populated.

Since the last report, LGY completed updates for M26-1, Chapter 8, *Appeals*. As part of the updates, LGY added a section relative to the Duty to Assist for supplemental claims. Additionally, to comply with AMA regulations, LGY submitted a change request for HLRs to be assigned to a different RLC other than the one that made the denial decision, when requested by the Veteran. During the 19.5 release cycle on June 28, 2019, LGY added appeals processing functionality to the SAH case management system and the SAH and Special Housing Adaptation (SHA) systems. LGY also added 28 SAH appeal-focused letters.

As previously reported, since implementation of AMA, the Board continues to develop new procedures. This occurs in sync with technological updates, training, and standard operating procedures.

Improvements to the Board's external Web site, www.bva.va.gov, which contains weekly metrics, the current docket date, and information about appeals modernization, are ongoing. The Web site also includes a link to the appeals status tracker on VA.gov. From July 1, 2019 to January 10, 2020, over 2,018,039 discrete users accessed the tracker. The appeals status tracker can be found at <https://www.va.gov/claim-or-appeal-status/>.

VHA's Office of Regulatory and Administrative Affairs continues to work with affected VHA program offices, the Board and OGC to revise internal policies and directives as needed. VHA is updating Directives 1032, Health Benefits Appeals, and 1041, Appeal of VHA Clinical Decisions.

NCA's review will be completed by the end of FY 2020.

Section 3(b)(15) – Timeline for Promulgating Regulations

(15) A timeline, including interim milestones, for promulgating such regulations as may be necessary to carry out the new appeals system and a comparison with historical averages for time required to promulgate regulations of similar complexity and scope.

VBA has no substantive update to prior reports.

As stated above, VHA Appeals Modernization regulation AQ44(P) has completed VA concurrence and is pending with OMB.

Section 3(b)(16) – Outline of “Opt-In” Circumstances

(16) An outline of the circumstances under which claimants with pending appeals of decisions on legacy claims would be authorized to have their appeals reviewed under the new appeals system.

VHA and VBA have no substantive updates to prior reports.

The Board continues to process opt-in requests consistent with statutory and regulatory requirements. They are adjudicated as early-AMA appeals.

NCA will complete traditional appeals with opt-in offers to claimants within FY 2020.

Section 3(b)(17) – Key Goals & Milestones for Reducing Legacy Appeals

(17) A delineation of the key goals and milestones for reducing the number of pending appeals that are not processed under the new appeals system, including the expected

number of appeals, remands, and hearing requests at the Administration and the Board each year, beginning with the one-year period beginning on the date of the enactment of this Act, until there are no longer any appeals pending before the Administration or the Board for a decision on a legacy claim.

As stated in section 3(a)(1), VBA plans to eliminate its legacy inventory in the NOD and Form 9 stages in FY 2020 and reduce legacy inventory in the remand stage to a steady state in FY 2021. VBA defines *steady state* as an inventory of remands that equals the number of remand decisions issued per year. VBA is currently dedicating 1,306 FTE across most ROs and the DROC in Washington, DC, to eliminate legacy appeals.

VBA continues to employ other strategies to resolve legacy appeals. As noted in the prior report, opt-ins from RAMP, which VA ceased accepting on February 15, 2019, reduced legacy appeals inventory by at least one appeal per claimant that opted-in, and in some cases, a single RAMP opt-in eliminated multiple appeals. Legacy appeals processing, and the transition of over 88,000 legacy appeals to RAMP since the beginning of the program, accounted for a reduction in pending legacy compensation appeals by approximately 28 percent.

As of February 19, 2019, upon receipt of an SOC or Supplemental Statement of the Case (SSOC), Veterans may elect to opt-in to an AMA decision review lane, rather than remain in the legacy appeals process. From implementation through December 31, 2019, appellants have opted 3,580 legacy appeals into the modernized system. Opt-ins from the legacy process continue to increase month over month, with only 134 received in May 2019 to 705 received in December 2019. For modeling purposes, VA calculates an additional 12,500 receipts for FY 2019 through FY 2021. VA will adjust its forecast as it collects additional data.

Specific to other VBA benefit programs:

As stated above, as of December 31, 2019, there are 20 legacy fiduciary appeals pending at fiduciary hubs and 2,049 pension legacy appeals pending at PMCs. Additionally, there are 631 pending appeals with one or more pension related issues that are assigned to ROs and not PMCs. P&F Service will continue to utilize resources in PMCs and fiduciary hubs to process legacy appeals until all legacy appeals are processed. P&F Service anticipates processing all remaining legacy appeals by July 2020.

Education Service will continue to review and process all pending legacy appeals until every appeal is resolved. Education Service anticipates finalizing the review of its remaining actionable legacy appeals by the end of FY 2020.

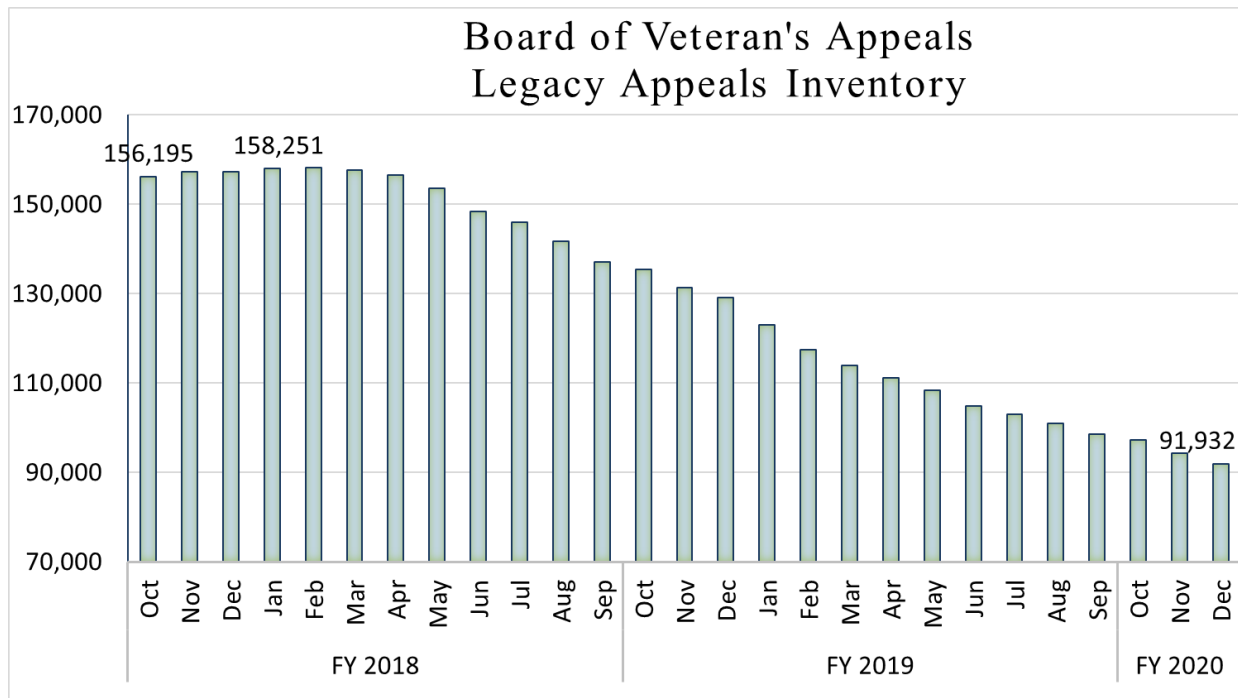
VR&E's goal is to eliminate its current inventory of legacy appeals over the next year. To accomplish this task, VR&E started a systematic review and action plan on legacy appeals in February 2018. VR&E regularly issued instructions for processing targeted legacy appeals on a quarterly basis to ensure VR&E's role in the legacy appeals system

is completed in a timely manner. The last targeted review was completed in July 2019. The July 2019 review instructed VR&E field staff to complete necessary actions on claims under VR&E's jurisdiction. As a result, the number of actionable legacy appeals under VR&E's jurisdiction dropped from 188 in July 2019 to 104. Of those, 59 are in the initial phases of the appeals process; 45 have been remanded to the RO from the Board for action.

LGY has three pending legacy appeals and each appellant was provided the opportunity to opt into the new appeals system. Due to the low volume, LGY has no further plans to reduce or mitigate legacy appeals.

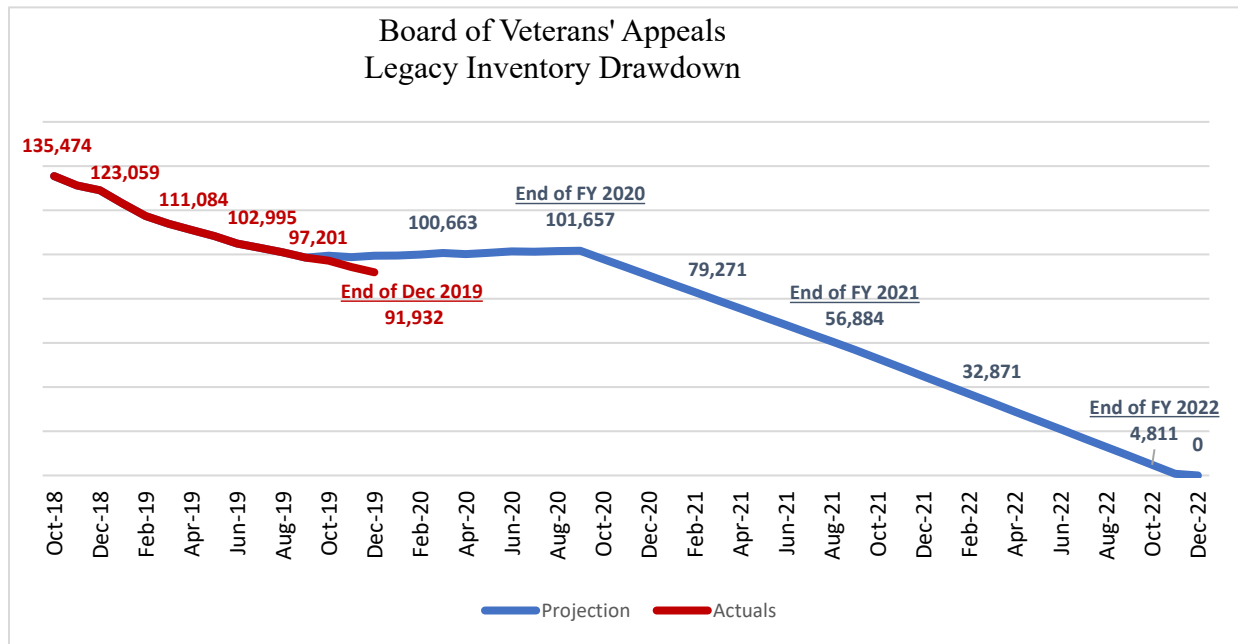
The rate at which the Board's legacy appeals inventory can be resolved is dependent on a number of factors and variables, such as the rate at which appellants with pending legacy appeals opt into the modernized system and the number of legacy appeals received at the Board (including remands) from VBA, VHA, and NCA.

The Board continues to make progress in reducing the number of legacy appeals. Legacy appeals pending peaked at 158,251 at the end of February 2018 and has since declined for 22 consecutive months. At the end of December 2019, the Board had a total of 91,932 pending legacy appeals. This represents a decrease of over 66,000 appeals (approximately 42 percent) over this period, as evidenced in the following chart.



In October, VA finalized a plan to resolve non-remand legacy appeals by the end of calendar year 2022. These projections include a variety of factors and assumptions, to include Veteran appeal rates, legacy receipt rates from VBA, VHA and NCA, preference with respect to what type of appeal a Veteran selects, Veteran refile rates, Board

remand rates, output, and FTE levels. Any trends identified in these assumptions that lead to changes in the model can affect what is currently forecasted below.



As previously explained, the Board must adjudicate post-remand legacy appeals in addition to new appeals received. The Board’s remand rate for legacy appeals has ranged from approximately 46.4 percent to 38.8 percent from FY 2015 to present, as reflected in the chart below. In February 2020, one year after the last rating decision is issued under the legacy system, no new legacy appeals will be received by VBA. From that point forward, VA’s legacy inventory will decrease at a rate dependent on the factors described above.

Board Legacy Decisions*					
Fiscal Year	Decisions	Allowed	Remanded	Denied	Other
2015	55,713	31.0%	46.4%	19.1%	3.5%
2016	52,011	31.8%	46.0%	18.0%	4.2%
2017	52,661	29.9%	43.5%	21.6%	5.0%
2018	85,288	35.8%	38.8%	20.9%	4.6%
2019	93,571	35.8%	39.0%	20.8%	4.5%
2020 Through Q1	21,689	35.8%	40.6%	18.8%	4.8%

*The historical reporting system for Board decisions with multiple issues identifies the disposition of an appeal based on the following hierarchy: allowance, remand, denial, or other (for example, dismissals). When there is more than one disposition involved in a multiple issue appeal, the “reported disposition” for Board Statistical Reports will be categorized based on the disposition hierarchy noted above.

The Board continues to reassess its forecasting model for the resolution of legacy appeals by gathering data regarding Veterans’ preferences in the modernized system. Such reassessment will enable the Board to ensure the accuracy of the model’s outputs and its utility in VA’s appeals modernization forecasting.

VHA has made progress drawing down legacy appeal inventory, reducing it to 6,594 by December 31, 2019, while receiving 14,917 new appeals during calendar year 2019. VHA continues to reassess resource requirements and streamline processes with the goal of eliminating legacy appeals inventory in FY 2020.

NCA anticipates that, by the end of FY 2020, all legacy appeals will be processed and submitted to the Board or opted into the new system.

Section 3(b)(18) – Risk Factors

(18) A description of each risk factor associated with each element of the plan and a contingency plan to minimize each such risk.

The Department has identified the following risks and mitigation strategies:

1. Resource Requirements (Section 3(b)(1))

Risk: As previously reported, a modernized IT solution for VHA claims processing is currently not available. VHA adjudication records are maintained in different repositories, in different formats, are not always accessible to authorized individuals who may have a business need, and are not easily accessed by Veterans and other claimants.

Mitigation: VHA will continue to use current IT capabilities until necessary modifications are complete. Because each business line utilizes different IT systems, VHA will not have one standardized system for appeals processing and will continue to transfer files to the Board using current procedures.

2-3. Personnel (Section 3(b)(2)-(3))

Risk: VBA may not have sufficient personnel to administer the legacy and modernized processes.

Mitigation: As VBA lowers its pending legacy appeals inventory, it will repurpose its most experienced personnel, such as Decision Review Officers, to conduct HLRs. VBA will continue to reallocate its personnel and resources between the legacy and the modernized systems as necessary.

Risk: Current statutes may constrain VBA's ability to scale its workforce to address reduced workload once the inventory of legacy appeals, to include 80,000 pending remands, has been exhausted.

Mitigation: VBA will use any appropriate, applicable legal authority to remove employees only as a last resort. Exhausting the inventory of legacy appeals will not occur quickly. VA anticipates using more routine workforce management methods, such as employee attrition or reassignment, to address staffing changes resulting from the elimination of legacy appeals. The residual risk is low.

Risk: The Board may experience a decline in its workforce through attrition.

Mitigation: The Board will continue enhanced recruitment activity.

Risk: For VHA, a baseline of metrics for the new system is not yet established, and it is unclear whether current staff will meet demand. At this time, however, VHA does not anticipate that additional staff will be needed.

Mitigation: VHA will continue to monitor incoming claims and communicate the need to host stand-downs, offer overtime, and utilize other methods of increasing output when hiring staff can not immediately be addressed.

Risk: Staffing changes at NCA may be required to address claimant demand and post-AMA process changes.

Mitigation: NCA will continue to assess if personnel changes are necessary.

4. Estimated Time for Hiring Employees (Section 3(b)(4))

Risk: At the Board, the amount of time spent on appeals remains unchanged.

Mitigation: With current hiring trends as projected, the Board anticipates that it will achieve a cumulative FTE of 1,190 by the end of FY 2020.

5. Training and Experience Required of Higher-Level Adjudicators (Section 3(b)(5))

Risk: HLR caseload may exceed VHA anticipation.

Mitigation: VHA will continue to monitor incoming claims and reviews under the new system and will either expand the universe of HLR adjudicators beyond team leads and first level supervisors or hire additional staff if necessary.

Risk: At NCA, HLR Adjudicators may be specialized in other areas.

Mitigation: NCA will cross train as necessary.

6. Estimated percentage of higher-level adjudicators who were Decision Review Officers (Section 3(b)(6))

VA does not have updates to the August 2019 report.

7. Decision Review Officer functions in new system (Section 3(b)(7))

VA does not have updates to the August 2019 report.

8. Training Timeline (Section 3(b)(8))

Risk: At the Board, formal training may not be available to some administrative staff in their workplace.

Mitigation: Once Administrative Tradecraft Training (ATT) is 100 percent in place, Board KM can assure that all employees receive the training.

Risk: Although training is mandatory, KM may not be able to enforce 100 percent participation or compliance.

Mitigation: Supervisors must ensure their employees attend training. Also, KM provides training materials and FAQs on the KM SharePoint for reference. KM also began recording trainings for individuals to view the training if they cannot otherwise attend in person.

9. Costs of Training (Section 3(b)(9))

Risk: At the Board, there may be insufficient training materials and supplies for delivering necessary training, or an instructor may not be available.

Mitigation: KM provides course materials electronically. Also, KM team members collaborate when designing training so that if a specific instructor is unavailable, another instructor can deliver the training. KM can also reschedule a training if the original instructor is unavailable.

10. Information Technology (Section 3(b)(10))

Risk: Ongoing resource constraints may impact enterprise-wide Caseflow development.

Mitigation: VA will provide close collaboration within the Department to ensure optimum resource allocation and prioritization of Caseflow requirements.

Risk: If a Linux Administrator is not identified, then there will be a delay in submitting the Authority to Operate (ATO) package. OIT's ATO submission will contain numerous findings not closed out prior to submission, thus adding risk to receiving a full ATO.

Mitigation: A Linux Administrator has been hired and is being onboarded.

Risk: If VA Project Managers are not identified, then several current projects and two FY 2019 projects will be at risk for continued delays and curtailed delivery of requested enhancements. OIT has six initiatives/systems under its Appeals project and only one VA project manager. This could result in delays or a bottleneck. The Appeals project needs two project managers from leadership.

Mitigation: The Product Line Manager has met with the Benefits and Memorials (BAM) Portfolio Director to discuss resources.

11. Estimate of office space by phase (Section 3(b)(11))

Risk: A significant decline in the utilization of the Board's telework and remote programs would result in the Board's inability to provide enough workstations for its staff in its current location.

Mitigation: The telework and remote work programs remain extremely popular and the number of employees who telework or work remotely has consistently increased. There is no indication that this trend will reverse at the Board, as many attorneys are approved for these programs when they apply.

Risk: VHA may require more office space than can be made available.

Mitigation: VHA will rely on telework and virtual workspace.

12. Projections for the productivity of individual employees (Section 3(b)(12))

Risk: There could be an unanticipated decrease in VBA employee output, leading to a risk of not meeting performance objectives.

Mitigation: RAMP provided actual data for VBA to refine forecasting, identify best practices, and change its procedures, processes, and systems to gain efficiencies and improve timeliness. Should the changes and refinements to processing not yield the expected increases in output, VBA may reallocate internal resources to meet performance objectives. VBA is reviewing AMA data down to the employee level to determine ways to increase efficiency and determine best practices, as well as identify employee training needs.

Risk: VHA may underestimate or overestimate employee output in terms of processing benefits in the modernized system.

Mitigation: VHA will adjust staffing as needed.

Risk: There could be an unanticipated decrease in Board output, leading to a risk of not meeting performance goals and decreased service to Veterans.

Mitigation: The Board closely monitors and assesses decision output and hearing scheduling and adjusts to reallocate resources where needed to meet performance goals while utilizing best practices for efficiency. Use of targeted overtime to offset any reductions in decision output could be applied to mitigate the risk. With the implementation of VEText and the onboarding of a VSO/Stakeholder Liaison, the Board expects less hearing cancellations and no-shows.

Risk: NCA software systems severely impact adjudication speed.

Mitigation: OIT is working to implement new software.

13. Outreach Plan (Section 3(b)(13))

Risk: Veterans may not receive enough information about AMA, or they may be confused by the information they do receive.

Mitigation: VBA leadership has given numerous media interviews and conducted online events to build interest in, and support for, the new system. Similarly, the Chairman of the Board participated in several media engagements and interviews as well as multiple stakeholder events and conferences to provide training and information to stakeholders and Veterans about the AMA process. The Chairman reorganized the Board's website to provide clear and understandable information on the appeals processes. In addition, the Board hired a VSO/Stakeholder Liaison to coordinate and assist VSOs and various stakeholders with AMA. Continuing education and partnership with VSOs and advocates to assist Veterans in reviewing their options and submitting their decision review requests will further aid in a better understanding of the AMA system. Nationwide outreach efforts by both the Chairman and VBA's AMO Director explained and clarified the AMA system so that representatives and other stakeholders better understand the new law and related implications.

Risk: New VHA capabilities, enhancements and procedures need to be socialized with external and internal VHA stakeholders.

Mitigation: VHA is engaging with internal and external stakeholders as necessary.

14. Timeline for Policy Updates (Section 3(b)(14))

Risk: Revising existing AMA policies and/or procedures after full implementation of the law would affect business systems, forms and, possibly, notification letters.

Mitigation: VA will provide advance notice and strategic coordination with partners, all business lines, and program offices on any revisions to procedures and policies to ensure successful implementation of any future changes.

Risk: Updated VHA policies are not currently published.

Mitigation: VHA program offices have provided the affected workforce interim guidance.

15. Timeline for Promulgating Regulations (Section 3(b)(15))

Risk: VHA does not have final AMA regulations.

Mitigation: VHA regulation AQ44(P) has completed VA concurrence and is pending with OMB. VHA will continue to process health benefits claims and appeals in accordance with AMA statutory authorities.

16. Outline of “Opt-In” Circumstances (Section 3(b)(16))

VA does not have updates to the August 2019 report.

17. Key goals and milestones for reducing legacy inventory (Section 3(b)(17))

Risk: Participation in RAMP, which reduced legacy inventory, may not be completed in a timely manner due to legacy appeals and modernized system decision reviews prioritization.

Mitigation: VBA continues to work through the remaining RAMP inventory with the intent of meeting VA’s goal of processing these claims in an average of 125 days. As such, VBA increased the number of RAMP dedicated resources in June 2019 and anticipates completing all RAMP processing during FY 2020.

Risk: VHA may be unable to resolve legacy inventory in a timely manner.

Mitigation: VHA is actively monitoring legacy appeal inventory and will realign resources as necessary.

Risk: The Board may receive a large number of legacy appeals in a short time frame with a corresponding increase in AMA appeals that could result in a delay in reducing the number of pending legacy appeals and impact the processing of AMA appeals.

Mitigation: The Board significantly increased the number of personnel over the past three years to adjudicate legacy and AMA appeals. Additionally, the Chairman reorganized the Board structure to put more personnel in Veteran-facing positions that directly deliver results to Veterans and their families. The Board works closely with VBA, VHA and NCA to monitor legacy workload (case receipts, pending remand

inventory, etc.) in each administration in different queues. The Board also utilizes an algorithm to prioritize Advance on the Docket, legacy, and AMA direct review appeals.

IV. Pilot Programs to Test Assumptions

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Veterans Affairs may carry out such programs as the Secretary considers appropriate to test any assumptions relied upon in developing the comprehensive plan required by section 3(a) and to test the feasibility and advisability of any facet of the new appeals system.

(2) REPORTING REQUIRED.—Whenever the Secretary determines, based on the conduct of a program under paragraph (1), that legislative changes to the new appeals system are necessary, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives notice of such determination.

VBA's Test Program: RAMP

VA launched RAMP in November 2017 to allow eligible Veterans with pending appeals early opportunities to use the new review processes the AMA established. On February 15, 2019, VA discontinued accepting new RAMP elections postmarked after that date in advance of AMA becoming fully effective on February 19, 2019. As of December 31, 2019, over 73,000 Veterans with 88,501 appeals elected to participate in RAMP. These Veterans received decisions much faster than in the legacy appeals system. VA completed HLRs in an average of 123 days and supplemental claims in an average of 171 days. Under RAMP, VA paid out over \$492 million in retroactive benefits. As of December 2019, there are 770 RAMP claims left to process. VBA expects to resolve these claims in FY 2020.

The Board adjudicated appeals arising from RAMP as early AMA appeals in a phased-in approach that allowed the Board to identify and address potential issues and risks related to AMA implementation. Since AMA implementation on February 19, 2019, appeals that arise from RAMP are treated as AMA appeals.

Appendix A – Board of Veterans’ Appeals Outreach

<u>FY- Quarter</u>	<u>Completed Outreach Task Date</u>	<u>Outreach/Communication Activities</u>
FY 2019- Quarter 4	July 27, 2019 <i>VSO Engagement</i>	VA participated in DAV Chapter #10 Information Seminar.
FY 2019- Quarter 4	August 12, 2019 <i>Stakeholder Outreach</i>	The Chairman provided remarks at the National Association of State Directors of Veterans Affairs Conference in Omaha, NE.
FY 2019- Quarter 4	August 14, 2019 <i>Stakeholder Outreach</i>	VA hosted a teleconference with the 4 Corners regarding Virtual Hearings.
FY 2019- Quarter 4	August 20, 2019 <i>VSO Engagement</i>	The Chairman provided remarks at the National Association of State Women Veterans Coordinators Conference.
FY 2019- Quarter 4	August 22, 2019 <i>VSO Engagement</i>	The Chairman provided remarks on Appeals Modernization at the Idaho Division of Veterans Services.
FY 2019- Quarter 4	August 24, 2019 <i>VSO Engagement</i>	VA leadership participated in The American Legion’s 101 st Annual National Convention.
FY 2019- Quarter 4	September 11, 2019 <i>Media</i>	VA issued press release: VA Achieves Historic Goal Delivering More Than 90,000 Appeals Decisions to Veterans in FY 2019, available at: https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5312 .

FY 2019- Quarter 4	September 13, 2019 <i>Stakeholder Outreach</i>	VA leadership participated in the National Organization of Veterans Advocates Fall Conference. The Chairman spoke on a panel and discussed Appeals Modernization.
FY 2019- Quarter 4	September 25, 2019 <i>VSO Engagement</i>	The Chairman participated in a television interview with Government Matters where she discussed Appeals Modernization.
FY 2020- Quarter 1	October 3, 2019 <i>VSO Engagement</i>	The Chairman's representative attended the PA Department of Military & Veterans Affairs training session and spoke about Appeals Modernization.
FY 2020- Quarter 1	October 6, 2019 <i>VSO Engagement</i>	The Chairman provided remarks at the Florida Department of Veterans' Affairs training.
FY 2020- Quarter 1	October 9, 2019 <i>Media</i>	VA issued a press release: VA Board of Veterans' Appeals Makes History with Record Breaking Year in 2019, available at: https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5332 .
FY 2020- Quarter 1	October 15- 18, 2019 <i>VSO Engagement</i>	The Chairman's representative spoke at the Oregon Department of Veterans Affairs about Appeals Modernization.
FY 2020- Quarter 1	October 25, 2019 <i>VSO Engagement</i>	The Chairman's representative provided remarks at the New Jersey Association of Veterans Service Officers training.
FY 2020- Quarter 1	October 29- 30, 2019 <i>VSO Engagement</i>	The Chairman spoke about Appeals Modernization at the Arizona Department of Veterans Services Conference.

FY 2020- Quarter 1	October 29, 2019 <i>Media</i>	VA issued a press release: VA Finalizes Plan to Resolve Legacy Appeals by the End of 2022, available at: https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5345 .
FY 2020- Quarter 1	November 19, 2019 <i>Stakeholder Outreach</i>	VA provided 4 Corners staff a briefing on the Legacy Appeals Resolution Plan.
FY 2020- Quarter 1	November 19, 2019 <i>Stakeholder Outreach</i>	The Chairman met with U.S. Senator Michael Bennett (CO) to discuss Virtual Hearings, and how Veterans in Colorado could benefit from this emerging technology.
FY 2020- Quarter 1	December 3, 2019 <i>Media</i>	The Board released a Blog on Vantage Point regarding Virtual Hearings, available at: https://www.blogs.va.gov/VAntage/68964/veterans-see-virtual-hearings-board-veterans-appeals-early-2020/ .
FY 2020- Quarter 1	December 4, 2019 <i>VSO Engagement</i>	The Chairman's representatives provided remarks at the Texas Veterans Commission training.
FY 2020- Quarter 1	December 9, 2019 <i>Media</i>	VA issued a press release: VA Board of Veterans' Appeals Plans Virtual Hearings in 2020, available at: https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5372 .

Estimate of Cost to Prepare Congressionally-Mandated Report

ATTACHMENT

Short Title of Report: Periodic Progress Report on Appeals

Report Required By: Public Law 115-55, Section 3

In accordance with Title 38, Chapter 1, Section 116, the statement of cost for preparing this report and a brief explanation of the methodology used in preparing the cost statement are shown below.

Manpower Cost:	\$4,666
Contract(s) Cost:	\$0
Other Cost:	\$0
<u>Total Estimated Cost to Prepare Report:</u>	\$4,666

Brief Explanation of the methodology used in preparing this cost statement:

Manpower cost is estimated at approximately 40 hours at the GS-13 level, with a salary and benefit rate of \$65.67 (\$49.38 hourly rate plus 32.99 benefits percent) for a subtotal of \$2,627; at approximately 16 hours at the GS-15 level, with a salary and benefit rate of \$94.28 (\$70.89 hourly rate plus 32.99 benefits percent) for a subtotal of \$1,508; at approximately 2 hours at the GS-14 level, with a salary and benefit rate of \$95.66 (\$71.93 hourly rate plus 32.99 benefits percent) for a subtotal of \$191; at approximately 2 hours at the GS-14 level, with a salary and benefit rate of \$87.91 (\$66.10 hourly rate plus 32.99 benefits percent) for a subtotal of \$176; and at approximately 1.5 hours at the GS-15 level, with a salary and benefit rate of \$109.21 (\$82.12 hourly rate plus 32.99 benefits percent) for a subtotal of \$164.