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February 14, 2016

Chairmen, Ranking Members, Members of the US House and Senate Committees of Veterans Affairs and the Secretary, Department of Veterans Affairs

Dear Committee Members and VA Secretary:

AFGE Local 520, the exclusive representative of the bargaining unit of VARO Columbia, SC, wants to address the State of VBA Claims Processing for 2016.

First, let's clarify one thing, when it comes to the VA, most Americans, except for the Veterans, their survivors and employees caught in the claims processing hamster wheel, refer to VA hospitals and healthcare. The \$68 million Independent Assessment that Congress mandated as part of the Choice Act, only reinforced it. Furthermore, the talk of privation of VA is also healthcare centric.

MyVA is an enormous undertaking focusing on healthcare and customer service with a long range focus which extends years past the inauguration of 2017. The architects will not be around to ensure its completion, but the senior executives who are to execute this initiative will be. The cost to taxpayers is unknown and there are no real specifics. We have seen this movie before, it is called the transformation of VBA claims processing which will be the focus of this correspondence.

However, first let's examine excerpts from the eighteen page of written *Testimony of Secretary of Veterans Affairs Robert A. McDonald Before the United States Senate Committee on Veterans' Affairs January 21, 2016, VA's Transformation Strategy: Examining the Plan to Modernize VA*, which includes his op-ed from *The Baltimore Sun, VA is Critical to Medicine on October 23, 2014* for a better perspective of our point.

- "... Everything we do must be built on this **rock solid foundation of mission and values** to provide timely quality care and benefits for Veterans."
- This transformation is an **enormous undertaking** and will not happen overnight. ....
- A Veteran walking into any VA facility should have a consistent, high-quality experience... VA, of course, must also be a **good steward of public resources**. Citizens and taxpayers should expect to **see efficiency** in how we **run our internal operations**.

- We want to turn the pyramid structure of VA upside down, consistent with the culture of a High Performance Organization that serves Veterans and their Families.
- Changes to leadership were necessary. **Of our top 16 executives, 10 are new** to their positions since I became Secretary.
- We are bringing in **leadership experts to develop our leaders in new ways**. We have already trained over 5,000 senior leaders while working with the University of Michigan on our “Leaders Developing Leaders” program.
- We have renewed and redefined the working relationships with our union partners. **The union leaders are part of the team** and have had significant input into Mya. We continue to work with them to address issues and make sure our employees are involved as often and early in every major decision.
- **We know that VA has significant issues that need to be addressed**. As you can see, we are listening to various perspectives, bringing the very best America has to offer and we are investing in the long term capabilities of our people to ensure these skills and ideas continue long after individuals on the current leadership team are gone.
- While we have made progress, we are still on the **first leg of a multi-year journey**. We have narrowed down our near-term focus to 12 “breakthrough priorities.”

Here are excerpts from the 12 priorities of 2016 as contained in the written *Testimony of Secretary of Veterans Affairs Robert A. McDonald Before the United States Senate Committee on Veterans' Affairs January 21, 2016, VA's Transformation Strategy: Examining the Plan to Modernize VA*.

“Many of these reflect issues which are not new—they have been known problems, in some cases, for years. We have already seen some progress in solving many of them. However, we still have much work to do.

1. Improve the Veteran Experience.
2. Increase Access to Health Care.
3. Improve Community Care.
  - 2015 Accomplishments:
    - Issued authorizations resulting in 12 million appointments for non-Department care, thanks to the expanded flexibility of the Choice Act.
  - Breakthrough Outcome for 2016:
    - Claims backlog will be reduced to less than 10 percent of total inventory.
4. Deliver a Unified Veteran Experience.
5. Modernize our Contact Centers (Including Veterans Crisis Line).
6. Improve the Compensation & Pension Exam Process.
  - 2015 Accomplishments:
    - The Compensation and Pension Examination (C&P Exam) exam is often a Veteran's first impression of the VA when separating from service. We have received consistent feedback this is a confusing and uncomfortable experience. Last year, VBA, VHA and our Veterans experience team worked together

to redesign this process using Human Centered Design and Lean techniques.

- Breakthrough Outcome for 2016:

- Improved Veteran satisfaction with the C&P Exam process. We will have a baseline satisfaction metric in place by February and will set a goal for significant improvement once we know our baseline.
- VA will have a national rollout of initiatives to ensure the experience is standardized across the Nation.

7. Develop a Simplified Appeals Process.

- 2015 Accomplishments:

- Drove down the disability claims backlog to under 81,717, from a peak of 611,000 in March 2013.
- Automated burial benefits were paid to surviving spouses within 6 days (down from 190 days).
- VA transitioned disability compensation claims processing from a paper intensive process to a fully electronic processing system; 5,000 tons of paper per year were eliminated.
- Decided 1.4 million disability compensation and pension (rating) claims for Veterans and survivors – the highest in VA history for a single year.

- Breakthrough Outcome for 2016:

- Subject to successful legislative action, put in place a simplified appeals process, enabling the Department to resolve 90 percent of appeals within one year of filing by 2021.
- Increase current appeals production to more rapidly reduce the existing appeals inventory.

9. Improve Employee Experience (Including Leadership Development).

10. Staff Critical Positions.

11. Transformation the Office of Information & Technology (OIT).

12. Transform Supply Chain.

We are rigorously managing each of these “breakthrough priorities” by instituting a Department level scorecard, metrics, and tracking system. Each priority has an accountable and responsible official and a cross-functional, cross-Department team in support. Each team meets every other week in person with either the Secretary or Deputy Secretary to discuss progress, identify roadblocks, and problem solve solutions. This is a new VA – more transparent, collaborative, and respectful; less formal and bureaucratic; more execution and outcome focused; principles based, not rules-based.

We have seen this movie before, it is called VBA transformation of claims processing. It started 2009 with 40+ initiatives without a plan and a goal of zero backlog disability claims and an accuracy rate of 98% by 2015. However, all the key proponents are now gone. What is left?

The VA Secretary's 12 priorities for 2016 include three VBA claims processing issues and OIT. We must conclude that the claims backlog was erroneously listed Community Care.

- Claims backlog will be reduced to less than 10 percent of total inventory.
- Improve the Compensation & Pension Exam Process
- Develop a Simplified Appeals Process.
- Transformation the Office of Information & Technology (OIT)

Now, let's look at the State of VBA claims processing.

### Workload

The backlog was not reduced to zero, but has grown. As of the MMWR dated February 8, 2016, the backlog has oscillated and increased by **10,534** since the beginning of the FY16 and endured the highest weekly increase (**5,720**) the week of 2-1-16 to 2-8-16.

WEEK	C&P RB BACKLOG
10/05/15	72,623
02/01/16	77,437
02/08/16	83,157

The VBA has implemented all their initiatives to include the panacea VBMS, but the pesky disability claims backlog will not go away. Why? They have used up all their excuses and there is no other ADHOC procedure to use to manipulate the numbers. Furthermore, now the results of unstaffing the claims process are crystal clear. Now, the 2016 goal is to reduce the backlog by 10%.

However, this number does not include the EP 930 which are primary premature rating decisions and stands at **21,376** with **11,501** over 125 days.

The appeals backlog to include the ones sitting at the Board of Veterans Affairs (BVA) and the Court of Appeals' for Veterans Claims (CAVC) is over **440,000** which exceeds the number of disability claims (**356,593**) pending as of MMWR dated February 8, 2016.

Now, the 2016 solution according to the VA Secretary's written testimony for appeals is outlined as follows:

- "Breakthrough Outcome for 2016:
  - Subject to successful legislative action, put in place a simplified appeals process, enabling the Department to resolve 90 percent of appeals within one year of filing by 2021.
  - Increase current appeals production to more rapidly reduce the existing appeals inventory" *Id.* (page 11)

Again, we want to use the VARO Columbia's appeals number and the total number of decision makers processing appeals as an example of the nonsense of goal two. There are 10 Decision Review Officers (DRO) and 4 with less than 8 months of experience to process 12,965 as of MMWR dated February 8, 2016. Their duties include: preparing rating decisions (to include implementing decisions from BVA/CAVC), Statements of the Case, Supplemental Statements of the Case, reviewing VA Form 646s from service organizations, DeNovo and traditional reviews, conduct local and informal hearings, certifying claims to BVA, all other duties associated with making a decision on an appeal, interview with attorneys and service representatives, mentoring and training, working priority Congressional and other inquiries locally as well as nationally. It is all encompassing and never ending. Do you think that this is sufficient staffing to do a quality job? We cannot forget about our computers and VBMS – the massive latency issues, out-of-memory, line drawing errors that go on throughout the day, as well as all the work arounds, having to log in dozens of times over and over again, etc., just to mention a few.

The date (2021) used for a simplified appeal process is utterly ridiculous. Veterans need help and they need it now. As a footnote, ask VBA how many letters go back to Veterans advising that their claims cannot be processed under the FDC program; however, the credit for FDC has already been reported.

If this was not enough, there are the nonrating claims and award adjustments. According to the MMWR as of February 8, 2016, the nonrating claims totaled **310,731** with an average days pending of **386.6** and the award adjustments totaled **449,970** with **66.7** over 125 days.

Again, let's use the Columbia VARO as an example. There are **10,479** nonrating claims and **17,347** (a total of **27,826**) award adjustments as of MMWR as of February 8, 2016 with 16 VSRs, 2 RVSRs, and 14 temporary VSRs working the national drill pay claims initiative (End Product 290) to process them.

Compare the staffing of appeals and nonrating teams compared to the approximately **112** VSRs and **78** RVSRs working **8,756** disability claims with a laser focus on the **2,592** backlog claims.

There is no mention of the nonrating claims inventory in the 12 - 2016 Priorities in the Secretary's written testimony *Id.*

However, an excerpt from the article, *The president's 2017 budget request: Veterans Affairs Department, Fierce Department IT, February 10, 2016*, implies that non-rating claims have to wait until FY17.

- "... Edward Murray, VA's interim assistant secretary for management and the interim chief financial officer, during a Feb. 9 press call.
- The budget request would also hire 300 additional claims processors to improve the timeliness of non-rating claims while sustaining progress on the disability claims backlog through more efficient benefit claims processing, technology enhancement and improved business processes, said Murray."

The appeals and nonrating inventories can only be described as a National Crisis and contradicts MYVA and the VA's mission "To Care for Him Who Shall Have Borne the Battle for His Widow and His Orphan."

The VA Secretary's written testimony also contained these words, "Automated burial benefits were paid to surviving spouses within 6 days (down from 190 days)." (Id)

However, burial as well as other death claims have risen since January 12, 2015 as indicated below.

DATES	1/12/2015	2/8/2016	DIFF
140	6,129	8,421	2,292
190	9,631	15,998	6,367
160	15,588	28,619	13,031
165	7,537	10,165	2,628
	38,885	63,203	24,318

Furthermore, the MMWR dated February 8, 2016 indicates that EP 690 - Cost of Living Adjustments (COLAs) and other reviews stood at "20,049 with 73% over 125 days old." These cost of living adjustment must be from 2014 because Veterans did not get a COLA for December 2015.

There are also those informal claims discovered in E-benefits hidden under EP 680 - Review of Hemodialysis related cases/conditions. The total number under EP 680 is 37,483 as of the MMWR dated February 8, 2016.

Again, we offer these words of wisdom coined by a thorough report nearly a decade and a half ago.

"VBA's workload is normally discussed in terms of the number of pending claims or the backlog in VBA Regional Offices. Pending claims are generally assumed to be original and reopened claims for disability compensation. However, this shorthand description of the workload over-simplifies what is, in reality, a heterogeneous that consumes direct labor hours of the C&P workforce. To complicate matters further, these end products do not account for all categories of work required in the Regional Offices..." *VA Claims Processing Task Force Report to the Secretary of Veterans Affairs dated October 2001*

VBA's continued failure to realize the complexity of the workload and sole focus on the backlog has left the VBA workload in shambles. Moreover, there is no plan to fix or even address the problems facing the VBA claims processing in 2016. Therefore, the State of VBA claims processing is imploding and causing Veterans to suffer needlessly.

## **Leadership**

The VBA two remaining top senior executives (Pummill and McCoy are influx because of the relocation program debacle and the pending disciplinary actions. Is this what the Secretary meant in his written testimony, "Everything we do must be built on this **rock solid foundation of mission and values** to provide timely quality care and benefits for Veterans." Id (Emphasis Added)

In the Secretary's written testimony he said, "We have already trained over 5,000 senior leaders while working with the University of Michigan on our "Leaders Developing Leaders" program." Id. (page 12)

This leadership failure happened on the Secretary's watch. Is his message getting through or is he being considered a "lame duck"? Was this training effective?

## **Performance Standards**

VBA was working on new performance standards for Veterans Service Representatives and Rating Service Representatives for over a year with no results. AFGE Local 520 was told that the finished product was on the former USB Hickey's desk prior to her abrupt departure. Where are they now? Employees cannot work in a new system with old performance standards that don't take account the latency, labeling, and other problems with VBMS.

## **Veterans Benefits Management Systems**

The VAOIG and GAO reports are of record for all to see. However, an excerpt from the article, *VA E-Claim System Melts Backlog, But Costs Alarm Congress, Military.com, January 28, 2016*, show the American Legion's view on VBMS.

"The American Legion, in a written statement to the committee, complained that its claim assistance officers and the veterans they help are frustrated often by improperly identified scanned documents and VBMS' lack of file search capabilities. As a result, the VBMS "offers little to no improvement over manually searching through paper files, with perhaps additional eye strain from staring at monitors," the Legion advised."

If the American Legion is complaining about VBMS, think about what employees who are on production feel.

## **Employees**

In his written testimony, the Secretary said,

"We want to turn the pyramid structure of VA upside down, consistent with the culture of a High Performance Organization that serves Veterans and their Families." Id (page 5)

Improving the employee experience—so we can better serve Veterans: VA employees are the face of VA. They provide care, information, and access to earned benefits. They serve with distinction daily. We cannot make things better for Veterans without improving the work experience of our dedicated employees. We must train them. We must move from a rules/fear-based culture to a principles/values based culture. I learned in the private sector that it is absolutely not a coincidence that the very best customer-service organizations are almost always among the best places to work.” *Id* (page 3 -4)

Our dedicated VA employees, if given the right tools, training, and support, can and do go out of their way to provide the best care possible to our Veterans and their families. *Id* (page 15)

When employees continue to see the top VBA executives not being held accountable the “status quo” continues. When VBA employees have to face the aforementioned staff shortages, ineffective tools, little or no training and support, and working conditions that are not conducive to providing quality service to Veterans, they become overwhelmed and cannot possible provide the quality service that Veterans have earned by their service to our Country. Furthermore, words on paper do not make things change in the lives of employees.

## Union

An excerpt from the article, *Does government union chief's threat show AFGE's hand on veterans care?*, *Wisconsin Watchdog.org*, February 12, 2016 contradicts this statement in the Secretary's written testimony “We have renewed and redefined the working relationships with our union partners. The union leaders are part of the team and have had significant input into MyVA.” *Id*. (page 7)

- “He’s going to start treating us as the labor partner ...” the union chief said of

This article also stated, ““If they cared about what happening with the veterans, why wouldn’t (the union) go to everybody, including the Republicans” with the complaints of abuse, Honl added. “But the union just goes to the Democrats.”

AFGE Local 520 takes exception to this uninformed whistleblower because for nearly three years we have been at the forefront of raising VBA issues that affect Veterans and employees. Our correspondence has been faxed to all the Democrats and Republicans who served on the US House and Senate VA Committees during this period.

AFGE Local 520 cannot speak for others, but we have been an active participant doing what Congress found “labor organizations and collective bargaining in the civil service are in the public interest.” 5 U.S. Code § 7101 - *Findings and purpose*; and it further states,

“(a) The Congress finds that—

- (1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and

participate through labor organizations of their own choosing in decisions which affect them—

- (A) safeguards the public interest,
- (B) contributes to the effective conduct of public business, and
- (C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and...

### **VA Office of Inspector General**

After criticizing the VAOIG investigation of the VBA relocation program, excerpts from the article, *The president's 2017 budget request: Veterans Affairs Department, Fierce Department IT, February 10, 2016*, show VA wants more oversight and accountability.

- In response to VA's 2014 hospital waitlist scandal and alleged misuse of privileges by two senior executives at the agency, the budget request reflects an increased investment in oversight. VA's fiscal 2017 budget proposed a \$23.3 million, or 14 percent increase, over the fiscal 2016 enacted level for the OIG.
- "We have increase the Office of Inspector General's budget fairly considerably," said Murray. "This will allow increased oversight of VA programs."
- "This will allow an additional 100 staff members in the office of inspector general, both at current and new locations nationwide, to improve accountability throughout the department. We believe this is right and appropriate given the correlating VA budget and given the increasing number of veterans programs," he said.

Excerpts from the article, *VA Secretary McDonald urges: Accentuate the positive, Federal Times, January 29, 2016*, despite the aforementioned state of VBA claims processing.

- "A day after GOP presidential candidates blasted the Department of Veterans Affairs, Secretary Bob McDonald was at Georgetown University to talk about what the agency could use to fix its woes.
- The secret ingredient: positivity.
- McDonald said, speaking at a Jan. 29 event on Value Based Leadership at Georgetown University, that the agency had previously lost sight of its values and purpose, two integral pieces needed for success.
- "We're in the midst of a transformation in the VA right now," he said. "Our transformation is all about getting centered back on our customer."
- To accomplish the mission, McDonald said he is focusing on not only rebuilding the veteran experience, but also the employee one, to re-imbue the agency with a sense of purpose and values.
- We spend too much time managing by exception. We spend too much time on things that negatively happen," he said. "The way to motivate people is to focus on what's positive."

When Veterans claims are languishing in VAROs, employees are overwhelmed and not afforded the opportunity to train, the continuing breach of VA Core values by senior executives, and no

viable plan to fix the problems that plague claims processing, how you can motivate employees by focusing on the positive?

It is time for a 100% reassessment of VBA claims processing and the pillars of an organization – leadership, processes, people systems, and workplace culture.

Does MYVA address **ALL** the Veterans stuck in the claims processing “hamster” wheel and the employees that serve them or is this the same “horror film” that has been in production since 2009 called Transformation. It has an eerie feeling like the same with its colorful charts and bullet points with little or no details. Moreover, will all of the top 16 executives, 10 which are new to their positions, be around to see it to fruition?

Veterans and VBA employees cannot afford more talk with little action because there is a new administration on the way.



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