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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 Veterans Benefits Administration transformation and workload unveiled.

As the conversation has moved to the privatization of health care and the VA Choice Program, the VBA is still facing problems. However, since the reduction of the backlog and missing the target of zero backlog claims and a 98% accuracy rate by 2015, little or no focus has been placed on the continuing problems facing the VBA.

Excerpts from the transcription of a radio interview, *REP. JEFF MILLER OUTLINES FAILURES OF VETERANS CHOICE PROGRAM, WMFE 90.7, JUNE 8, 2016*, speak to the problems that exist at the VBA as well.

ROBERT SIEGEL, HOST:

- “NPR has reported that the Veterans Choice program which was supposed to clear up the backlog of veterans waiting for care has failed in its purpose. We’ve heard it called a new layer of bureaucracy. Delays in treatment are still common. In fact, more vets are waiting for care this year than last. And delays in reimbursement for health care providers are also common.
- Representative Jeff Miller is chairman of the House Committee on Veterans’ Affairs. He’s a Florida Republican, and he’s one of the original sponsors of Veterans Choice. And he joins us from Capitol Hill. Welcome to the program.
- MILLER: Well, I mean, it – we’re two years now into the law, and if they haven’t been able to fix it by now, if we’d give them 120 days to set it up, they still would be squawking and saying that there were problems. There was a crisis. Everybody knew there was a crisis. And you know, quote the 90 started when the president signed the bill into law, but VA was well on notice of what the language was and what they were going to need to do.

- I mean, look; the Department of Veterans' Affairs – if you asked them to set up an ice cream stand, they'd forget to go out and buy the freezer. No program that's been rolled out by the department in recent years has come without flaws and without problems. (Emphasis Added)
- MILLER: Part of the problem is the bureaucracy is so large, and it's very difficult for anybody. And we've said this from the very beginning – that it doesn't matter who the secretary is. When you have 350,000 people, it's very difficult to move the agency in a different direction. (Emphasis Added)
- SIEGEL: If the bureaucracy is so big and unwieldy, how do you fix that? What would you ideally see done at the secretary's office?
- MILLER: Well, I think you need to look at the efficiency with which the agency does the job that they're supposed to do. There's over 20,000 schedulers right now that work at the Department of Veterans Affairs. You would think that there wouldn't be any problems scheduling veterans time to see a physician, but for some reason, we've got problems out there just in that one area.
- SIEGEL: Ten billion dollars put into Veterans Choice, and there are now more vets waiting for care than before. What do you do now? What's next? What happens?
- MILLER: We continue to work with the department, with the secretary, with the veterans service organizations that are out there. I believe that many folks now accept the fact that Choice is going to be here. I think it's going to take some time. I mean, nobody expected this to be resolved overnight. You can go back and check the transcripts of most of the interviews, and nobody thought that it was going to be resolved immediately."

The same old song and dance. A VA crisis is identified. A law is passed or a transformation is instituted expeditiously without a thorough plan to successfully implement it/them. This is the reason for flawed technology, untrained front line employees and managers, quick fixes with collateral damage as the aftermath, a bureaucracy that continues to grow, and a leadership team void of sound management principles to tackle the crisis.

Then, billions of taxpayers' dollars are thrown at the problem without any real oversight which silence the negative news cycle. However, in the case of Veterans Choice, two years later the problem not only still exists, but has gotten worse with an added problem of private providers not being paid timely and most importantly Veterans still dying waiting for appointments.

At the heat of the crisis, a new secretary is appointed. However, instead of concentrating on fixing the problem, he embarks on another transformation -"MYVA" which has added more bureaucracy. For example, the VBA had four regional district offices now there are five. There is also a new Veterans Experience Office.

On May 27, 2016, employees were sent an email from VACO, Subject: MESSAGE FROM MYVA TASK FORCE: Five Things About My VA. Excerpts are as follows:

"Memorial Day is a somber holiday of remembering and honoring who served. VA has the privilege of honoring the resting place of more than 3.4 million Veterans and their families at 133 National Cemetery Administration (NCA) facilities around the country,

and we serve millions more through health care and benefits every single day. This Memorial Day, when asked about VA and what the Department is up to, here are five things every VA employee should know:

1. First, despite the coverage you may have seen, Secretary McDonald is by no means taking his eye off the ball when it comes to wait times for care. To the contrary, VA is working diligently to lower wait times AND to improve customer satisfaction with our services, just like a business would. It is not enough to work towards a number; we must also ensure that our Veterans are receiving the care they deserve when they want to receive it....

2. We are transforming the Department to put Veterans and their families at the center of everything we do, and we call the strategy MYVA. We want Veterans to see us as a VA they are proud of and we are working towards this goal by:

- Improving the Veteran experience.
- Improving the employee experience.
- Achieving support services excellence.
- Establishing a culture of continuous performance improvement.
- Enhancing strategic partnerships.

3. Part of this transformation is acknowledging and building upon the necessity of VA as an institution....

4. Speaking of lowering wait times, the Veterans Benefits Administration has reduced the number of disability claims pending more than 125 days by 88 percent from a high of over 600,000 claims in 2013 to fewer than 75,000 claims today. Approximately 99 percent of disability compensation claims are now filed electronically instead of using the old, paper-based system and the vast majority of disability claims are now pending fewer than 90 days.

5. We are putting Veterans in control of how, when, and where they wish to be served by creating a mobile application so Veterans can schedule, reschedule, or cancel appointments on their Smartphones. This mobile application is being piloted now and will be rolled out later this year. We are also creating ... single website so Veterans have ... rather than asking them to understand our complicated internal structure.”

VA is a great place to work because of our outstanding employees who serve our Nation’s Veterans every day....”

This is the propaganda employees receive and shows how out of touch Top VA leadership is regarding the problems that face Veterans and employees. However, the reality is as follows:

- Retaliation of these outstanding employees” is still alive and well. Furthermore, when the VA leadership, and not the employees themselves say, “VA is a great place to work” it demonstrates a heightened degree of blindness to the problems that employees face every day in an attempt to serve Veterans efficiently.

- The wait time has increased and thousands of Veterans are waiting for an initial appointment as well as private providers for their payments. Newsflash – Veterans cannot have an experience at VA if they cannot get an appointment.
- The vets.gov website still reads, “This site is a work in progress.” There has been no change since it was first launched into cyberspace.
- The VBA touts its reduction of the backlog. However, these are the overall numbers and backlog since the beginning of FY16.

WEEK	C&P RB OVERALL	WEEKLY DIFF	WEEK	C&P RB BACKLOG	WEEKLY DIFF
10/05/15	368,771	0	10/05/15	72,623	0
05/02/16	349,394	-1,200	05/02/16	75,883	-2,650
05/09/16	352,858	3,464	05/09/16	76,532	649
05/16/16	351,676	-1,182	05/16/16	74,589	-1,943
05/23/16	356,013	4,337	05/23/16	74,452	-137
05/31/16	356,878	865	05/31/16	73,049	-1,403
06/06/16	360,502	3,624	06/06/16	76,201	3,152
Total Diff		-8,269			3,578

- Let's stop taking about the past backlog reduction because it is well documented how it was obtained. For the record, there is a litany of collateral damage still pending because of how it was obtained. Here is what's happening now. The overall numbers are going north and the backlog is **3,578** higher than the beginning of FY16. This is not continuous and consistent improvement. Especially, since the VBA transformation is complete and technological wonder “VBMS” has been fully implemented for more than two years.
- Appeals to include the ones at the BVA is over **450,000** without any plan to reduce it. The legislative option is rapidly passing by to address a new appeals process, but even if it passed in the future, it will not address the current crisis.
- Then there are over **100,000** known claims that need to be worked or reworked as of the MMWR dated June 6, 2016, because of the collateral damage. The results of the NEHMER Agent Orange (AO) claims pending lawsuit is unknown at this time. Details regarding these claims can be found at the end of this letter.

○ <u>E-BENEFITS INFORMAL CLAIMS RETROACTIVE PAY</u>	35,408
○ <u>2014 COST OF LIVING ADJUSTMENTS -</u>	22,714
○ <u>TBI EXAMINATIONS</u>	24,800
○ <u>FIDUCIARY APPOINTMENTS</u>	14,000
○ <u>VDC DROPPED-EVIDENCE REVIEW</u>	10,000
○ <u>NEHMER AO CLAIMS (LAWSUIT PENDING)</u>	?????

- The backlog was reduced **523,907** claims since March 3, 2013, but the appeals and the collateral damage caused by the reduction of the backlog have risen to **432,682**. This does not include the **360,502** disability compensation claims, the **360,812** award adjustments, the **256,421** nonrating claims, the **72,837** minus the **10,430** EP 140s which is included in disability compensation claims pending as of MMWR dated **June 6, 2016**, which are a direct result of a pass given by all **(the Congress, the service organizations,**

the media, and other stakeholders) because of the claims backlog crisis. Manipulation of policies and procedures to reduce the compensation claims backlog crisis to create another one is not continuous improvement, but is accountability gone awry.

- Death claims have increased **87.3%** since January 2015.

DATES	1/12/2015	6/6/2016	DIFF	Total Increase
140	6,129	10,430	4,301	70.2%
190	9,631	16,158	6,527	67.8%
160	15,588	35,915	20,327	130.4%
165	7,537	10,334	2,797	37.1%
	38,885	72,837	33,952	87.3%

- As to “establishing a culture of continuous performance improvement”, the VBA has failed to change its National Performance Standards for VSRs, RVSRs, and DROs. The VSR and RVSR performance standards revisions have been in the works for over 18 months. Furthermore, there are no National Performance Standards for the Claims Assistant (CA) position. Therefore, each VARO is now allowed to establish their own individual standards for CAs. This is standardization gone amuck which will result in 56 different versions.
- Employees still complain of VBMS documents accessibility and visibility, indexing, and its technology.
- There have been more workaround procedures to count and keep up with, and unfortunately they continue today.
- Training is another major problem.

Excerpts from the article, *TRANSITIONING SERVICE MEMBERS COMPLETE VA CLAIM PROCESS TRAINING*, Naval Support Activity Bethesda, June 9, 2016, speak to training of active service members as VSRs and the disadvantage of veterans looking for a job now with the Veterans Benefits Administration as VSRs.

- “Eleven soon-to-be discharged service members received certificates of completion for the Warrior Training Advancement Course at a graduation ceremony June 2.
- The eleven individuals successfully completed the 14-week course, which has active-duty service members learn how to become a veterans service representative for the U.S. Department of Veterans Affairs (VA).
- “I feel like it is a way to give back to the veterans because we have to look out for each other,” said Hospital Corpsman 2nd Class Jatiela Moore. “It’s kind of like I’m going from active duty working with Wounded Warriors and veterans, to now becoming a civilian and being there for them again in a whole different entity.”
- Moore, who is set to leave military service in August, said the course focused on learning all the necessary steps in processing claims, such as making sure all the paperwork was in order. But the course also stressed the importance of remembering that each claim represented a person.

- The course, which started in 2014, allows the Department of Defense and VA to collaborate by allowing active duty service members to be trained on the VA's system so they can process veterans' benefit claims on the first day of their new job. After completing the course, the 11 individuals are interviewed and can apply to work at any one of the VA's 56 Veterans Benefits Administration regional offices."

This training opportunity is not given to Veterans. Therefore, these active duty members get a direct leg up on Veterans who have been seeking a job as a Veterans Service Representative at the Veterans Benefits Administration for years. The question is what hiring authority will be used for these jobs? The shocking revelation from this article is that this has been going on since 2014. This has been one of VA and DOD's best kept secrets, but is it legal or fair to Veterans?

Furthermore, the service member in this article completed training on June 2, 2016, but does not separate from the military service until August 2016. If hired and there is no doubt that it will happen if nothing gets in the way of an honorable discharge within the next 60 days. However, the service member will have to be retrained. One of the most important lessons learned from years of training VSRs is immediate on-the-job-training (OJT) is essential to the position. A two month break between training and OJT for an employee is a total waste of the resources used to train them.

Another ramification of this agreement is the resources taken from the VBA understaffed workforce to train these service members who may not become employees, a lack of a cadre of trainers to accomplish the mission, and the lack of technology at the military installation to accomplish the mission as this email demonstrates.

On June 7, 2016, Columbia VARO VSR and RVSR employees received an email,
Subject: Request for Instructors – WARTAC – Ft Carson (Reply by COB Today).
Excerpts are as follows:

- "Compensation Service is requesting field support to fulfill the instructor needs for WARTAC 2016-3, which will be held at Ft. Carson in Colorado, Springs, Colorado.
- During the session, 40 Servicemembers will be trained on VSR Challenge curriculum. ...As there will not be secure, reliable WI-FI, each instructor must travel to Fort Carson with a government issued laptop and VA Air Card provided by the RO. Instructors will also need to work with their local IT to have CAG printing access to their accounts prior to arriving on site."

AFGE Local 520 is not against the opportunities given potential Veterans, but not to the detriment of Veterans who have been seeking employment opportunities for years. In addition, this is another weight placed on an understaffed VBA workforce trying to maintain a colossal workload.

Excerpts from the article, *VA Admits 25,000 Veterans Received Improper Brain Injury Screening, WWGP 1050 AM Mainstream Country, June 10, 2016*, validate the TBI issue, but raising the

question who will conduct the follow-up exams, highlights a Veteran's experience, and the previously silent Veterans' advocates chiming in after the fact.

- “(NEW YORK) — Almost 25,000 veterans were examined for traumatic brain injuries by Veterans Affairs medical providers who were not qualified to diagnose them, the U.S. Department of Veterans Affairs has admitted.
- In response, VA Secretary Robert McDonald granted “equitable relief” to all of those affected, a policy that will allow veterans to undergo new TBI exams, conducted by a qualified specialist, and receive disability benefits for diagnosed TBIs from the effective date of the original claim.
- **The VA will send a letter, a draft of which was obtained by ABC News, to each of the affected 25,000 veterans.** (Emphasis Added)
- “You are receiving this letter because your initial TBI exam was not performed by one of these specialists,” the draft reads, “and we are offering you the option to undergo a new TBI exam by an appropriate specialist.”
- **The letter gives recipients one year to request a new exam.** (Emphasis Added)
- But some veterans said they feel the measures are not enough. Retired U.S. Army Captain Charles Gatlin was injured by a truck bomb explosion in Iraq in 2006. The Army conducted extensive neurological testing on Gatlin, determined his brain injuries were permanent and ultimately discharged him with a 70 percent disability rating.
- But when Gatlin went to the VA in Fort Harrison, Montana, to receive his VA disability rating, a brief screening conducted by a psychologist, not one of the four qualified specialists, dropped Gatlin's disability rating to 30 percent, attributing some of his difficulties to post-traumatic stress disorder.
- **“It took me 3 years, it caused problems in my marriage, stress in my life,” Gatlin told ABC News.** (Emphasis Added)
- But he was ultimately victorious, was re-evaluated and his disability benefits were re-instated.
- Still, Gatlin and his wife, Ariana Del Negro, said they feel that the brain injury examinations conducted by the VA are not thorough enough. Though a veteran's examination must be conducted by one of the four specialists, **subsequent examinations conducted for disability evaluation purposes may be conducted by other types of clinicians. And though nearly 25,000 veterans will receive the opportunity to be re-evaluated, Del Negro pointed out that the brief screenings are limited in scope.** (Emphasis Added)
- **“I don't have a great deal of hope things will change significantly,” she said.** (Emphasis Added)
- **Veterans service organizations expressed a mix of disappointment and optimism.** (Emphasis Added)
- “We're really disappointed that the VA conducted all these examinations using non-certified physicians or health care professionals to examine veterans who claimed TBI,” Jerry Manar of the Veterans of Foreign Wars told ABC News. “On the other hand, we're glad that the VA is finally responding and is voluntarily undertaking this review that should be helpful to most, if not all affected veterans.”

- Jonathan Schleifer, policy director of Iraq and Afghanistan Veterans of America, said, "The VA makes mistakes like any large organization. What we're pleased about is that we've seen a real shift in the last year in the way they deal with their mistakes and the way they're focusing on improving the quality of care."
- On Capitol Hill, officials said the House Committee on Veterans' Affairs had been investigating this issue for years. Rep. Jeff Miller, the chairman of the committee, commended Secretary McDonald for rectifying the issues.

For the record, the TBI issue was investigated by the media outlet - KARE 11 in Minnesota. If it was not for their investigations and the voice of Minnesota US Representative Walz, this issue would have been shoved under the rug like so many others. So, it is sheer hypocrisy for these service organizations to weigh-in now and be sympathetic to the VA and the Secretary. Surely, they should have known about this National problem.

Furthermore, for VA to send letters to these Veterans and asking if they want another examination and giving them one year to respond is not service, but another delay tactic. They should have rescheduled these Veterans for another examination, control the issue by establishing a tracking end product, and reevaluate the decision. Now, there is no control except a letter that was sent.

Excerpts from the article, *Advocate: VA Must Reform Appeals Process 'Sooner Rather Than Later'*, Military.com, Jun 10, 2016, is more of the same political wrangling, the service organization saving face and projecting that time will solve the decades old problem to compensate for their lack of advocacy on this issue, but the reality is the crisis persists without any sense of urgency. However, it only validates what AFGE Local 520 has been saying since this legislative solution was raised.

- "A director at the Veterans of Foreign Wars doesn't know if Congress will pass legislation aimed at fixing the VA appeals claims backlog before or after the November presidential election.
- But given the problem has been growing for several years -- and a roughly 18-month implementation window, Gerald Manar is comfortable saying his organization "certainly supports addressing this problem and getting it done sooner rather than later."
- In an interview Thursday with Military.com, the national services director for the VFW added, "but the problem is, this is a major election year."
- With all 435 members of the House and 34 senators -- about a third of the Senate -- seeking re-election in the fall, there is little time to get a proposed appeals reform bill through the two congressional veterans' affairs committees and out to the two chambers for votes.
- "The VA is pushing very hard to get both committees to do something this year," he said. "Whether it happens before July [when Congress goes into recess] or in the lame duck session, they understand that if it doesn't get done this year, it'll be another year before it gets done."
- Manar also noted even if the bill is approved by Congress, about a year and a half will pass before the Department of Veterans Affairs can actually begin implementing it.

- "I think 18 months is a realistic amount of time to gear up to take on the new claims processing initiative," he said. There will be changes required to VA information technology systems and a host of other modifications to the process, he said.
- Sen. Johnny Isakson, a Republican from Georgia and chairman of the Senate Veterans Affairs Committee who sponsored a related bipartisan bill along with ranking member Sen. Richard Blumenthal, a Democrat from Connecticut, said Congress still needs to know "what we do with the 450,000 [veterans] that are waiting."
- The bipartisan Veterans First Act already includes a pilot program for fast-tracking new appeals using a "fully developed claim" system. ... This would allow for a speedier disposition of the claim, they say.
- But those who filed under the existing system cannot simply be moved into a new system.
- Celli said the Legion is "100 percent behind the appeals modernization" being proposed. Along with other organizations, he said, they helped write it. Under the proposal being offered, veterans lose no rights and the VA is able to process claims in an expeditious manner, he said.
- "We in good faith and in consultation with other VSOs and stakeholders sat down with [the Board of Veterans Affairs] and the Veterans Benefits Administration and went into closed-door meetings for three solid days about three months ago and been working together ever since," he said, "to hammer out details to make sure the final product is good for veterans."

Here are ongoing issues that have not been resolved and AFGE Local 520 will continue to be a voice for those who are waiting for action and the benefits and service they have earned by serving their country.


- **2014 COST OF LIVING ADJUSTMENTS** -The MMWR dated May 16, 2016 indicates that EP 690 - Cost of Living Adjustments (COLAs) and other reviews stood at 22,714, with 70.5%, % over 125 days old." Again, these cost of living adjustments must be from 2014 because Veterans did not get a COLA for December 2015.
- **E-BENEFITS INFORMAL CLAIMS RETROACTIVE PAY** - According to the MMWR dated November 9, 2015, there were 43 EP 680 under this category. After the approximately 25,000+ end product (EP) 680s that were established via automation to control the e-Benefits informal claims, the number rose to 25,149 according to the MMWR as November 16, 2015. There are now 35,408, EP 680 - Review of Hemodialysis related cases/conditions with 24,282 68.6% over 125 days as of the MMWR dated June 6, 2016.
- **FIDUCIARY APPOINTMENTS** - "The Department of Veterans Affairs (VA) announced today that an information technology system that it deployed in 2014 and enhanced in 2015, the Beneficiary Fiduciary Field System, allowed it to identify claim processing errors affecting approximately 14,000 Veterans and survivors. These Veterans' and survivors' claims were initially filed over many years, with some going back as far as 2000. ... These cases represent approximately four percent of such proposals since 2000.
<http://www.va.gov/opa/pressrel/> on or about March 25, 2016 (Emphasis Added)

- **TBI EXAMINATIONS** - In addition to the more than 300 cases in Minneapolis KARE 11 originally reported, the VA now says it has identified approximately 24,800 other cases in which TBI exams were not done by the proper specialists. *KARE 11 Investigates: Unqualified VA doctors performed 25,000 TBI exams, KARE May 04, 2016*
- **NEHMER AGENT ORANGE CLAIMS (LAWSUIT PENDING)** - "The National Veterans Legal Services Program, who filed the class-action suit, told McClatchy that since 2010, they've identified more than 1,600 cases in which the VA failed to recognize and pay the required retroactive Agent Orange compensation, resulting in an additional \$42 million being paid to veterans and their survivors." *Agent Orange benefit screening process scrutinized in Congress, Kansas City Star, March 31, 2016*
- **VDC DROPPED-EVIDENCE REVIEW** - the loss of certain documents uploaded through eBenefits and the Stakeholder Enterprise Portal. This defect affected approximately 9,300 Veterans, 10,000 claims, and 80,000 documents of unknown page length,

There is a serious need for a 100% review of each of the 56 VBA VAROs and an evaluation of the VBA transformation – people, process, and technology and its failures. The VBA landscape is cluttered with evidence to support the need and front line employees can attest to the failures and the need for the review, evaluation, and the importance of working to improve the VBA leadership, processes, people systems, and workplace culture.

The VBA needs to move from being a stepchild to a legitimate child of the VA. The VBA holds the key to Veterans getting not only benefits, but access to priority health care. This cannot happen unless claims are processed timely and accurately.

We will continue to be the eyes, ears, and voice for the Veterans and the employees who are called to serve them because the price is still "life and death."



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