



VA Regional Office
AFGE LOCAL 520
PO BOX 1778
COLUMBIA, SC 29202
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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 continue the dialogue of the lack of oversight/leadership and unbalanced workload approach.

On November 13, 2014, there was a US House Committee on Veterans Affairs hearing entitled Assessing the Implementation of the Veterans Access, Choice, and Accountability Act of 2014.

As usual, Chairman Miller presented the facts and raised the tough questions regarding the information that has been circulating about the disciplinary actions taken against VA employees especially Senior Executives.

- “McDonald said there are more than 100 people under investigation by the FBI, the Justice and the agency inspector general, including 40 SESers. VA terminates or separates more than 3,000 people a year.” *McDonald says ‘biggest reorganization of VA’ to rebuild trust is underway, Federal News Radio 1500 AM, November 7, 2014*
- “Disciplinary action had been taken against 5,600 employees within the last year and more firings were to come, McDonald told CNN, adding “we are acting aggressively, expeditiously, and consistent with the law.” *Veterans Affairs Chief Announces Big Restructuring Over Wait Times, Time, November 10, 2014*
- “On the eve of Veterans Day, McDonald said that “the largest restructuring in the department’s history is under way” and that at least 35 people are facing disciplinary action, with as many as 1,000 to follow. *VA Secretary: ‘We’ve got to design this organization so it doesn’t depend on my cellphone’, The Washington Post, November 14, 2014*

Here is what Chairman Miller said at the hearing regarding the accountability aspect of the law and the numbers concerning disciplinary actions that has been circulated:

- “When I originally drafted this provision I believe that it would be able to provide Secretary McDonald with the tools that he needed and wanted to finally hold failing leaders accountable. When President Obama signed it into law he agreed by saying and I

quote, “If you engaged in an unethical practice, if you cover up a serious problem, you should be fired period. It shouldn’t be that difficult.” end quote”

- Furthermore, VA has taken the liberty of creating an additional bureaucratic office – the Office of Accountability Review to review proposed removal and additional bureaucratic delay - a five day advance notice of removal which essentially operates like a new internal appeal process. These questionable actions are nowhere to be found in the law that we wrote and the President signed.”
- “So let me take a moment to try and set the record straight. Based on a briefing VA provided to Committee staff yesterday, VA only has one year of aggregated data on disciplinary action taken against any of its over 330,000 employees making meaningful comparisons against previous years impossible.
- Further, the list of 5000 mentioned by the Secretary is proposed disciplinary action only, and the list of over 1000 is a list of proposed removal for any type of poor performance not necessarily connected to the debacle we had discussed at length in this Committee. And only the list of 42 provided at my request on a weekly basis include employees proposed for discipline due to the crisis which is engulfed the VA over the last year.
- Once more, since August 7, only one SES employee has been removed under the new law and this person removal was not directly related to patient wait time or data manipulation. So I don’t understand in the wake of the biggest scandal in the history of the Department of Veterans Affairs how only 42 employees, only 4 of which appear to be senior executives individuals have been proposed for discipline with none yet removed.

Excerpt from the article, *Veterans Affairs Regrets Process Used to Rehire Executive After Fatal Incident*, News4 I-Team, November 14, 2014 shows the depth of this accountability/leadership problem.

The U.S. Department of Veterans Affairs has admitted it made a “deeply regrettable” decision by rehiring a highly paid executive involved in a 2011 scandal.

The executive, Jed Fillingim, had admitted his role in a fatal drinking and driving incident in a government truck on an agency business trip. Newly obtained internal VA memos show top administrators were so concerned about the decision they also staged an emergency meeting in Washington, D.C., in 2011 to discuss potential blowback and strategize their response to criticism.

VA Deputy Secretary Sloan Gibson said the I-Team’s findings about Fillingim’s misconduct and rehiring indicate there has been a “lack of accountability” within the agency. **But he said the decision to rehire Fillingim was irreversible. Fillingim said there’s a settlement in place in the case. “My ability to take any further action was limited.” Gibson said. The agency wouldn’t provide details on the nature of the settlement.** (Emphasis Added)

Police and federal investigators found Fillingim drove a government truck after drinking with two colleagues at a bar near Dallas while attending a June 2010 conference for federal employees. One of the two colleagues, Mississippi-based VA employee Amy Wheat, who had also been drinking that night, fell out of the truck while it was moving and died after suffering severe head injuries and a severed leg in the fall.

According to police reports, credit card statements from Fillingim and Barney show the men purchased a total of more than a dozen alcoholic drinks at the BlackFinn bar in Addison the night of Wheat's death, including "Jaeger bombs," beer and vodka, some of the drinks for other patrons. The BlackFinn was the first of multiple bars the group visited during a night of barhopping in the government truck.

Rep. Jeff Miller (R-Fla.) said he will continue investigating the VA's decision to rehire Fillingim, including in a meeting next week with the agency's new leader, Secretary Bob McDonald. Miller said, "Accountability is not the VA's strong suit."

Agency spokesman James Hutton also issued a written statement in response to the I-Team's questions about Fillingim. It said, "We are changing our culture, which includes acknowledging when we have not lived up to these values in some cases. The hiring process regarding this employee that took place three years ago is deeply regrettable and not as thorough as it should have been." The statement also said, "As part of this culture change, VA is working hard to hold employees accountable while providing appropriate due process, and enforce better standards of acceptable performance."

In the article, *Reversing Reinvention* by James Thompson letters@govexec.com *Government Executive* June 15, 2003, we find these words from the former Under Secretary for Benefits.

- "Even more important to Admiral Daniel Cooper, Under Secretary for Benefits 'If there is one word ... we mention frequently in the [task force] report and I mention it ad nauseam in any talk I give - it's accountability,'"
- "Cooper says, '...there was not sufficient accountability everywhere. I was convinced that when headquarters said 'everybody do this,' 57 different offices set up the polling machine and they all voted.'"

Here are some excerpts from the article *Execs at cash-strapped VA get generous bonuses*, *Associated Press*, May 3, 2007, shows the farm team continues to produce the same kind of senior executives.

- "Months after a politically embarrassing \$1 billion shortfall that put veterans' health care in peril, Veterans Affairs officials involved in the foul-up got hefty bonuses ranging up to \$33,000.
- The list of bonuses to senior career officials at the Veterans Affairs Department in 2006, obtained by The Associated Press, documents a generous package of more than \$3.8 million in payments by a financially strapped agency straining to help care for thousands of injured veterans returning home from Iraq and Afghanistan.
- Among those receiving payments were a deputy assistant secretary and several regional directors who crafted the VA's flawed budget for 2005 based on misleading accounting. They received performance payments up to \$33,000 each, a figure equal to about 20 percent of their annual salaries.

- Also receiving \$33,000 was Ronald Aument, the deputy undersecretary for benefits, who helps oversee the strained and backlogged claims system that Nicholson (*former VA Secretary*) now says is unacceptable.” (italics added)

In AFGE Local 520’s opinion based on our experiences with the VA leadership, the numerous articles regarding the debacles of the past, IG and GAO reports, and congressional hearings, the real problem at the VA is that the corrosive leadership culture is wide and deep and at the highest levels of leadership. There are so many senior leaders involved that any action/actions against one will only lead to the unveiling of the others. Therefore, there is a great fear to upset the deep underground culture.

As in baseball, the VA has a Single A farm team of senior executives and upper and middle managers. However, the farm team cannot produce any other product than the ones that have been uncovered time and time again in the past. These VA employees take the I out of ICARE and render the others aspects of the acronym - Commitment, Advocacy, Respect and Excellence un-executable.

At US House Committee on Veterans Affairs on July 14, 2014, a dialogue between Chairman Miller and USB Hickey, Compensation Service Director Tom Murphy, and Director Diana Rubens regarding Fast Letter 13-10 that was used to manipulate the timeliness of dates of claims and End Products 930s and 400s used in the infamous provisional ratings gave raise to this statement by the Chairman, “No, ma’am. I don’t believe that anybody at the table is telling me the truth from VA. I think that you’re using the numbers to hide the backlog.”

AFGE Local 520 wants to confirm that these actions were used to hide/manipulate the backlog and EP 930 to include provisional ratings is still being used to hide the backlog.

C&P RB >125	11/3/2014	11/10/2014	DIFF	11/3/2014	11/10/2014	DIFF
930	28,858	28,566	-292	84.2%	83.5%	-0.8%

Moreover, these provisional ratings are as old today as they were when originally submitted by the Veteran. Let’s stop playing the numbers game with Veterans’ lives.

Here are the true disability claims backlog numbers.

C&P RB >125	11/3/2014	11/10/2014	DIFF	11/3/2014	11/10/2014	DIFF
010	21,243	22,096	853	41.5%	42.9%	1.4%
110	58,955	58,827	-128	48.8%	48.5%	-0.4%
020	150,286	149,534	-752	47.8%	47.3%	-0.5%
930	28,858	28,566	-292	84.2%	83.5%	-0.8%
TOTAL	259,342	259,023	-319	55.6%	55.5%	-0.2%

Here is Deputy VA Secretary Sloan’s response to the question (What is being done on the VBA side or is there a plan for future action?) raised by Representative Jolly at the *US House Committee on Veterans Affairs hearing entitled Assessing the Implementation of the Veterans Access, Choice, and Accountability Act of 2014, November 13, 2014.*

“We continue to be very much on track for eliminating the backlog that is disability claims more than 125 days since submission by the end of Fiscal Year 2015. I still remain confident that’s going to happen. And we continue to refine processes, centralized mail, the imaging processes, and some of the automated decision tools that are being able to bring to bear to expedite the growth in Fully Developed Claims. Almost 40% of our incoming claim volume is Fully Developed Claim and that really not being felt yet fully in term of our productivity because we continue to work older claims before we work newer claims. So, I think that all goes very positively on the disability claims side.”

As to centralized mail, this is an excerpt from an email dated November 6, 2014 from VAVBAWAS/CO/OC that should give the Committee and the Secretary some insight into the danger of electronic mail without proper oversight of computer programs and contractors.

- “Several stations have reported that packets in the SMS CM portal are not appearing in the work queue after super users assign packets from the Assignment Queue. SMS has been provided with several examples and is currently troubleshooting the issue. An update will be provided as soon as the status changes, or is resolved.”

This problem was discovered nearly 5 months ago, but was not investigated until now. How many claims have disappeared since that time?

As to FDC’s, they are processed by the express lane and are given priority processing. Despite this prioritizing and the marketing of FDCs, they are still not processed within 125 days. According the MMWR, a FDC claim average days to complete is 146.9

Here is the AFGE Local 520’s weekly consistency study in reducing the overall and backlog workload using the data from the beginning of FY15. The roller coaster continues while veterans ***DIE*** waiting for a decision on their claims and there is only 9 1/2 months left before the infamous end of FY15 and elimination of the disability claims backlog.

WEEK	C&P RB OVERALL	WEEKLY DIFF	WEEK	C&P RB BACKLOG	WEEKLY DIFF
10/06/14	522,421	1,956	10/06/14	244,602	-573
10/13/14	525,817	3,396	10/13/14	243,072	-1,530
10/20/14	527,465	1,648	10/20/14	244,727	1,655
10/27/14	525,799	-1,666	10/27/14	243,227	-1,500
11/03/14	522,229	-3,570	11/03/14	239,785	-3,442
11/10/14	526,551	4,322	11/10/14	240,495	710
		6,086			-4,680

Non-Rating Workload and Appeals – the Ignored Backlog

When there is nearly three-quarter of a million (744,793) non-rating claims and appeals pending, there should be Congressional and advocacy outcry and a demand by all to VA to fix this problem.

The non-rating workload and appeals continue to increase. They have increased by 162,106 and 32,611 (totaling 194,717) respectively, since March 2, 2013.

DATES	3/2/2013	11/3/2014	11/10/2014	W-DIFF	DIFF	11/10/2014
Other Claims						
130	181,744	261,634	261,164	-470	79,420	70.6%
290	75,956	112,704	112,573	-131	36,617	82.6%
600	42,562	87,560	88,631	1071	46,069	40.8%
Totals	300,262	461,898	462,368	470	162,106	64.7%

However, another point that should interest ALL is 70.6% are over 125 days. The “over 125 days” optic is misleading. Ask VBA how many of these claims are over 1 year old?

DATES	3/2/2013	11/3/2014	11/10/2014	DIFF
APPEALS	249,814	282,012	282,425	32,611

Here is the second part of Deputy VA Secretary Sloan’s response to the question (What is being done on the VBA side or is there a plan for future action?) raised by Representative Jolly at the *US House Committee on Veterans Affairs hearing entitled Assessing the Implementation of the Veterans Access, Choice, and Accountability Act of 2014, November 13, 2014.*

“I tell you where I’m concerned is in nonrating claims, things like dependency claims, and the like, fiduciary administration ... and claims that are in the appeals process - not necessarily that it has been sent to the Board formally, but are still in VBA because that is where the majority of the claims sit. We’ve got a laundry list of initiatives – automation initiatives, staffing initiatives, and the like, we are executing in the context of the resources we’ve got, but you may or may not recall when I came in on the 24th of July and said we need 17.6 billion dollars. There was actually 360 million dollars in there for VBA. For us to hire staff for nonrating claims and appeals and for fiduciary work. It is still a personnel and resources intensive issue for us.”

This is one of the initiatives the Deputy VA Secretary testified about. However, the numbers and the testimony below show another failure at this point.

... The contract calls for **40,000** dependency claims to be processed **per month** when operating t full capacity. The contractor is currently ramping up to that capacity.” (Emphasis Added)
Witness Testimony of The Honorable Allison A. Hickey, Under Secretary for Benefits,

Veterans Benefits Administration, U.S. Department of Veterans Affairs, Evaluation of the Process to Achieve VBA Goals, July 14, 2014

There should be an investigation regarding how many contracts that have failed since the implementation of the transformation. Here are just a couple – VBMAPs (a contract to develop claims) and FAST track (a IBM contract to process the three new presumptive Agent Orange claims).

The MMWR as of April 7, 2014, shows that EP 130 was at **245,073**.

DATES	3/2/2013	11/3/2014	11/10/2014	W-DIFF	DIFF	11/10/2014
Other Claims						
130	181,744	261,634	261,164	-470	79,420	70.6%

The VA leadership’s answers to problems always start and end with staffing and funding. However, the answers to the VA problems are leadership and accountability.

There is no game plan that can be executed without effective leadership and a well-trained team. There is a void of both at the VA because the VA leadership has attended the same farm team (Single A) and the bullpen is full with the same pitchers throwing the same slow curve ball that should have never been called up to the major league.

Therefore, AFGE Local 520 will continue to keep the following issues in the forefront: the accurate and timely decisions for ALL Veterans and their survivors as well as creating a VBA culture for employees to effectively serve them despite the inaction/words of others.

Lastly, we will continue to monitor the progress of the claims backlog until the end of FY15, and the increase of the other two backlogs – nonrating and appeals that is depriving Veterans of the benefits they have earned and are being deprived of because of ineffective leadership and training.

Ronald Robinson
 President
 (803) 647-2385 (Ofc)
 (803) 239-7682 (Cell)
rbnsnrld@yahoo.com
www.seniorvsr.com
 Employees Putting Veterans 1st

CF:

President AFGE

President NVAC

60 Minutes

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