

## **Advisory Committee on Disability Compensation (ACDC) Meeting**

**Site Visit: Reno, Nevada Regional Office**

**September 20, 2023**

### **EXECUTIVE SUMMARY**

**Transcription Services:** Provided by Jamison Professional Services

#### **Veterans Affairs (VA) Staff Present:**

- Jadine Piper, ACDC Lead Designated Federal Officer (DFO)
- Claire Starke, DFO, ACDC
- Lisa Lotts, DFO, ACDC
- Rashetta Smith, Reno Regional Office Director
- Xavier Bishop, Reno Regional Office Leadership Team
- Melinda Stewart, Reno Regional Office Leadership Team
- Steven Hatcher, Reno Regional Office Leadership Team
- Bryan Gonzalez, National Contact Center
- Marvin Baker, National Contact Center
- Dr. Latonya Small, Advisory Committee Management Office (ACMO)
- Beth Murphy, Executive Director, Compensation Service (CS)
- Robert Parks, Chief of Part 3 Regulations Team, CS Policy Office

#### **ACDC Members Present:**

- Dr. Evelyn Lewis, Chair
- Bradley Hazell, Vice Chair
- Dr. Eloisa Taméz
- Frank LoGalbo
- Steven Wolf
- Al Bruner

The committee met in an open, public session on September 20, 2023, at the Reno, Nevada Regional Office.

### **Meeting Summary**

**Purpose:** The purpose of the Advisory Committee on Disability Compensation is to provide advice to the Secretary of Veterans Affairs on establishing and supervising a schedule to conduct periodic reviews of the VA Schedule for Rating Disabilities (VASRD). The purpose of the meeting is for the Committee to receive presentations on various topics relating to their job as a Committee, as well as discuss the submitted biennial report and future meetings.

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**September 20, 2023**

**Opening Remarks**

Ms. Rashetta Smith, Reno Regional Office Director, introduced herself and thanked everybody for their participation and time. Ms. Smith thanked the Committee for choosing Reno's regional office for their meeting and that this would be a very interactive session and that she welcomed their feedback.

Ms. Lotts called the Committee to order. Roll was called and quorum was met. She then turned the floor over to the lead DFO, Jadine Piper.

Ms. Piper welcomed the Committee to the meeting and reviewed the rules of engagement for speaking. She then turned the meeting over to the Committee's Chair, Dr. Evelyn Lewis.

Chair Lewis thanked the Committee for attending the meeting and began member introductions.

Ms. Piper introduced herself and said that the agenda for the day would be a Veteran Town Hall and a presentation from Compensation Service in the morning, and in the afternoon, the Committee would meet with Veteran Service Organizations and Congressional staff. She then reviewed the rules of engagement for the meeting and turned the floor over to Chair Lewis.

Chair Lewis asked the members of the Committee to introduce themselves, beginning with the Committee members participating virtually. The floor was then turned over to the Executive Director of Compensation Service, Beth Murphy.

**Compensation Service Presentation**

Ms. Murphy thanked Ms. Piper, the Committee, and the Reno Regional Office for hosting the Committee. She said she wanted to be part of the opening of the public meeting session and was currently located in the VA Headquarters. She said she is the senior executive responsible for Disability Compensation Program Office, which means they work closely with their counterparts in office and field operations which are responsible for all of the claims processors across all of the regional offices. She said they define what correct claims processing looks like.

Her office helps to implement new laws and set policies and procedures for processing claims in the field, as well as having a national training mission to help train and prepare new employees and even teach seasoned employees. She shared that they recently began a new team to focus on exposures and work more closely with their colleagues in the VHA to put more of a focused effort on proactively looking

into the effect of various military exposures. She said they're leaning on the process of potentially expanding the number and types of conditions they consider presumptives. She said they have many missions but those are a few highlights.

Her office also works closely with DoD and the military services, because they have a piece in transition as service members are transitioning off duty and are going to become Veterans. She said they have some processes in place for pre-discharge claims which positions those folks to start working on their claims while still on active duty and transitioning out so they can have benefits delivered as soon as possible after discharge.

Ms. Murphy shared some highlights from FY23. She said in FY23 they have completed just over 1.9 million rating decisions delivering benefits to Veterans who have applied for disability compensation. She said this is the highest they've ever reached in any fiscal year to date. They have received over 2.5 million cases in FY23, which is also the most in any fiscal year. She said it's mostly attributable to the PACT Act. Thousands of additional claims processors have been hired, and they are part of a national training program for claims processors which they have trained over 6,000 in FY23. Since the PACT Act went into effect on August 10, 2022, they have had over 2 million PACT Act claims submitted and over a million have been processed so far.

She concluded by saying volume is fantastic, speed is great, but they need to also have high quality. She said the quality goal they set for themselves for quality is 96 percent; in FY23 they are at 95.52 percent rating quality.

With no questions, Ms. Murphy took her leave after thanking everybody again.

### **Veteran's Town Hall**

Ms. Piper informed them they would now begin the Veteran's Town Hall.

Chair Lewis began by saying one of the things the Committee wanted to do was have a conversation with Veterans about their experience with the claims process and the exam process, et cetera. She thanked them for attending and encouraged them to share their experiences with the Committee.

Mr. Hazell gave a quick overview of what the Committee does in order to help guide their discussion. Mr. LoGalbo shared what the VASRD is and how the Committee looks at it to help with their recommendations. Once his explanation was finished, Chair Lewis asked if anybody had questions about how their Committee works before they got into other discussions.

With no questions, Chair Lewis shared that what they want to know about and understand better is what's happening on the Veteran's level when it comes to the claims process and what could improve.

Denise Estes (phonetic), a representative from a Veteran Service Organization (VSO) for Veterans of Foreign Wars (VFW), said she was there to represent their incarcerated Veterans. She said when their claim goes through, she tries to make it a point to let VA know they are incarcerated and if the checks for compensation are sent to the prison where they are being incarcerated, the prison won't allow them to have the checks because they are over the maximum allowed amount and so the check will just sit there until they are released. VA can request for the checks to be sent back to them since the prison doesn't automatically send them back. Ms. Estes said that several months down the road, the Veteran could get a debt letter if there was a mistake and they were compensated too much from VA. She said currently she has a BVA case where the Veteran had \$14,000 sent from VA, where the prison kept that money, and the amount he's supposed to be receiving is being withheld.

Chair Lewis asked for clarification of when the prison is holding the check, if it's considered cashed. Ms. Estes said she didn't know, only that once the check is sent out a debt can be written up and sent to debt management. Chair Lewis asked if anybody had a better understanding of how that works.

Mr. Hazell asked if the debt was because the retroactive pay was more than the amount VA is supposed to give to incarcerated Veterans. Ms. Estes said yes, and that unless VA is told that the Veteran is incarcerated, they will send out the money without checking. She said she had talked to some VA employees who said they didn't know how to check if a prisoner was incarcerated, but she pointed out that the address for those Veterans are often the prison itself so it's obvious they're there.

The second issue that Ms. Estes brought forward is that compensation and pension (C&P) examiners will send a letter to an incarcerated Veteran about having an appointment at a specific time in a specific place, when the prison isn't going to release the prisoner for that appointment and so the Veteran is penalized for not attending.

Chair Lewis said they will definitely take note of that and look into it. She said for the PACT Act, if they have put in a claim or are looking to put in a claim, what is their experience with doing that and what could be done better? Mr. LoGalbo asked what the entire process looks like from a Veteran's perspective?

Maria Ruvalcalba from Disabled American Veterans (DAV) said they have filed many claims for PACT Act. She said that when it comes to Gulf War Veterans, they have gotten mixed answers on if prostate cancer is a reproductive cancer. She said the same examiner denied two claims for prostate cancer. She asked if they knew the answer to that.

Mr. Hazell said that regulations have not yet been proposed but from his

understanding, prostate cancer is being considered as a type of reproductive cancer. He said he will check the policy letter to make sure it specifically states that. He shared his experience at a VSO and said he had seen those types of claims go through fine. He asked her to check to see if those claims ultimately went through and were approved despite the negative opinion from the examination.

Ms. Ruvalcalba then asked if they knew if there was any work being done on whether brain tumors that are non-cancerous can be service-connected, because currently they are not but the tumors caused by military exposure still cause a lot of other problems for the Veterans. Mr. Hazell said he was unsure and had not heard about that being looked at yet.

Chair Lewis said both of the issues brought forth by Ms. Ruvalcalba went back to what they spoke about the previous day with consistency not being seen across the entire process from Veteran to Veteran. She said those were good questions for the Committee to take back to get answers to.

Ms. Ruvalcalba also mentioned that she used to be able to tell her Veterans that the process generally took six months before they would know if their claim was approved, but with the many extra cases from the PACT Act she is seeing a much longer delay and doesn't know how long to tell the Veterans it could take. She asked if that was also being seen in other areas or if there was a timeframe she could provide. Mr. Hazell said they didn't know either.

Kim Lopez interjected and said that a lot of times when they do check the status, the claim is at the end of the queue but may sit in one place for six months or longer because they are not a priority. She asked what she could tell her military sexual trauma (MST) Veterans when their claim is sitting for so long, because to them it looks like their claim is not important and they're not going to be listened to which is especially difficult for MST survivors. Mr. Hazell said they were not really able to answer questions like that, but they could bring back the information and make sure the right person learns about it. However, speaking as himself and not as a Committee member, he also is a VSO and tells Veterans that those claims can only be processed at specialized processing sites by people who are specifically trained for MST claims. This can cause a little more of a delay but ensures that the claim is being given the specialized attention it needs.

Ms. Lopez also said that communication can be difficult with many Veterans depending on their generation and said that VA should look at contacting them multiple ways and not just a phone call.

Mr. LoGalbo asked those attending how they feel about the letters they receive asking for more information for their case, if they are helpful letters or if they still don't

understand what they're supposed to do. Ms. Lopez said the letters are confusing and that the Veteran usually either thinks it means they were denied, or they're asking what else the VA needs from them because they feel like they've given enough information. She said that she tries to frame it as, they're providing you an opportunity to submit something that maybe you found after you submitted a claim.

Ms. Starke paused to explain some of the acronyms being used by the VSOs when talking about claims.

Chair Lewis asked about the Veteran's experience with C&P exams, specifically when it comes to contractors who are conducting those exams. She asked for comments about any part of the experience or the whole experience beginning with getting the appointment or notification of appointment for the exam.

One Veteran shared that she is also an employee at the Reno Nevada Regional Office so she had to go to Sacramento for her appointment so there was not a conflict of interest. She said that when she got to the appointment, the examiner pulled out the DBQ but then asked her if she knew anybody in the hospital. When she said yes, the examiner then spent several minutes trying to get names of people so she could get a referral to get work out of the VA hospital. Then they did the DBQ. She said since they can't look at their own files, a friend of hers looked at her file and said there was a lot missing and told her what information was missing from her file to submit.

Scott Lotts, a Veteran, said he was sent to a contractor for his C&P exam who was a nurse practitioner (NP) two years out of school. He spoke to the NP about his problems and what the doctor had told him, how he had Hashimoto's and brain disease at the same time. The NP told the Veteran that it wasn't possible to have them at the same time. It made the Veteran feel like the NP was not able to correctly give him an exam when the NP was disagreeing with things that the Veteran's doctor had done testing on and diagnosed. He said that after he was done with that C&P exam, he was called while he was on his way home and told that he needed to have a mental evaluation, which the doctor didn't show up for. He said he tried three times to speak to the doctor, and when he finally was in contact with her for the examination after three months, the doctor spoke with him for a few minutes and then said he was fine.

Mr. Hazell asked if it was a C&P exam for the mental health condition, or if it was for treatment purposes. The Veteran didn't know, he wasn't told, but it was through the contractor. Mr. Hazell asked if his representative had been able to see why that occurred. The answer was no. Mr. Lotts said he had to see the contractor a second time for a C&P exam, this time for his thyroid. The contractor did the examination, checked reflexes, things that didn't have to do with his thyroid.

Mr. Hazell asked how long ago the experience was. Mr. Lotts' wife said it was years ago. Mr. Lotts said the experience makes him not want to put in a claim because he doesn't want to go through the same thing again.

One of the VSOs said that she's seen multiple Veterans who have had the same experience, where they went to a C&P exam and they were told they couldn't possibly have two diagnosed conditions at the same time. A lot of times, they are also told that the examiner doesn't have access to their records when they should. The C&P examiner also sometimes tells the Veteran they should put in new claims for various other things when the VSO feels it can complicate things and they'll then have multiple claims open.

Mr. Hazell encouraged the VSOs who are seeing these and other issues where the examiner is doing things outside of the scope of their profession or other problems that arise with examinations to contact their VA regional office and put in a dispute about the examiner.

One VSO said that it seems like Veterans are being sent further than 50 miles away for examinations and that she knew in the past there was a law or rule that prevented that. Mr. Hazell said the distance driven changes depending on the type of examination.

Sandy Schemer (phonetic) from the American Legion as a VSO said she had a few questions. She said one was for Dependency Indemnity Compensation (DIC) claims, saying she had a few surviving spouses where the timeline is challenging for them where they submitted paperwork within a few weeks of their spouse passing but it is taking much longer for the DIC benefits to be awarded. This can be difficult for surviving spouses because once their Veteran spouse passes, the surviving spouse may not have access to many of the things as far as healthcare, et cetera, until the DIC claim is approved. Ms. Schemer asked if there was a way to have a different lane for these types of claims because of how much financial stress they are in without it. Mr. LoGalbo said they could take it back as a recommendation.

They were out of time for the town hall, but everybody was encouraged to e-mail them with further questions or concerns.

### **Compensation Service Policy Update**

Ms. Piper introduced Mr. Robert Parks. He began with an introduction, informing them that he works with the Compensation Service Policy Office and is the Chief of Part 3 Regulations Team. That team works with claims adjudication. He said he works with the people who write the regulations, implement laws, et cetera, that enable claims processors to know how to do their jobs.



He shared that the Administrative Procedure Act limits him, when doing a public presentation, to discussing items that have been published or are in some way in the public record with regard to regulations. He said he's also not the expert on many of these things but will try to answer to the best of his ability.

Mr. Parks began with the PACT Act, explaining that they extended the filing for the maximum retro benefit the month prior. There are three regulations they're looking at to implement PACT Act. The first is updating the radiation locations, which was published in March 2023. He said the Gulf War Rule is a proposed rule which will be out soon.

For the herbicide issues addressed in PACT Act, he said they are going to be addressed as part of what was originally proposed as AR-10, a regulation that combines Blue Water Navy, the new AO presumptives, and the PACT Act has new Agent Orange conditions and locations.

He said he wanted to address some questions asked earlier. He said that prostate cancer is absolutely covered under reproductive cancer. He said it doesn't specifically say prostate cancer, but it is seen as a reproductive cancer. He said the other question he wanted to respond to was about the head cancer versus nonmalignant tumor of the brain. He said that if you have evidence of a TERA, then they could still be service- connected for that on a direct basis, so advised that a claim be filed in that situation.

Mr. Parks brought up MST and said he had a lot of slides to go through about that topic. He said the first thing he wanted to cover is the VA Peer Support Enhancement Act which was published December 2022. He said they are going to have training on MST. The law requires the VA to set up training to ensure that people who are working on the claims are adequately trained, including health professionals within VHA. He said they would also provide annual training for peer support specialists for MST. When compensation claims involve mental health conditions in general, VA is including an option for Veterans to elect to be referred to an MST coordinator nearest to their residence. He said they're working on the best way to implement that. They've also started working on amending VA forms.

The Dignity for MST Survivors Act creates an annual training requirement on MST claims for Board of Veterans' Appeals. He said that letters sent to MST survivors about their claim are going to be reviewed and modified to ensure they use trauma informed language so that Veterans are not re-traumatized. They are also consulting with VSOs about how to modify those letters.

Mr. Parks said letters are done in many different ways, including some that are automatically generated once a decision is made to get the letter sent to the Veteran

as soon as possible. There are also VBMS letters which can be tailored to many different circumstances. Also, VA will establish protocols for medical providers and contract medical providers to ensure the examinations are done with trauma informed practices.

The MST Claims Coordination Act, he said, is a couple of different things. VA must provide the MST claimant with information, outreach letters, numbers for their crisis line, et cetera. They are establishing an automatic notification system, where if the Veteran is enrolled in the patient system and they consent to notifications, VBA will notify Veterans Health Administration (VHA) shortly before the Veteran receives rating determinations, medical exams, hearings with Board of Veterans Appeals (BVA), et cetera.

Next, he spoke about the STRONG Act, Support the Resiliency of Our Nation's Great Veterans, which was passed in 2023. He said it requires the VA to offer a mental health evaluation to a Veteran who files a claim for a service-connected disability related to mental health diagnosis within 30 days of submitting that claim.

Mr. Parks said that the current way they adjudicate posttraumatic stress disorder (PTSD) based MST claims, when a claim is made for PTSD based on MST, they have a regulation where the claims processor can go beyond what is in the Veteran's record diagnosis wise and they look for markers in the Veteran's service or after service which are not specifically tied to what they're claiming but can be markers. He used the example of if a Veteran files a PTSD claim for MST because they were assaulted by a superior at a certain time in the Veteran's career. The claims processor can look at that Veteran's records and saw that right after that point in time, the Veteran requested a transfer or went to seek treatment or suddenly had disciplinary issues that were not present before the claimed in-service stressor.

He told them that that regulation is in the process of being updated. He said that the original regulation didn't have any definition for MST or personal trauma or any of the markers that could be seen, so those are going to be added. He said they are also defining sexual harassment in that regulation and will be listing covered mental health conditions so that not only PTSD but any mental health condition can have markers in the records.

Chair Lewis asked about what type of markers were looked for. Mr. Parks said there is information in the M21 manual including the markers. He said that they would not be limiting the types of markers to only what is listed. It would be more of a "such as, but not limited to" type of situation. He said a Veteran could point out some areas where they know that their behavior changed after an MST. It's not limited to things that are overtly reported, but if they are able to get a buddy statement type thing to show that the person's behavior changed after a date or time.

Mr. Parks shared some more legislative updates. One was the Cleland-Dole Healthcare Benefits Improvement Act, which is a large piece of legislation with a lot of pieces. He said one specific part he wanted to address was clothing allowance, which is a one-time annual benefit provided to Veterans whose health conditions cause their clothing to be worn out more quickly, such as if they have artificial limbs, prescribed creams that stain or ruin clothing, using crutches or other tools that will cause extra wear and tear on clothing. He said the Cleland-Dole Act changes the continuous benefit so that for certain conditions or certain Veterans, they don't have to reapply every single year. The benefit would be renewed every year for a specific amount of years before they have to reapply. In addition, VA would have to conduct periodic reviews for continued entitlement.

The other legislative update he wanted to share was the Veterans Auto and Education Improvement Act of 2022 which is now in effect. He said it deals with automobile adaptations and automobiles being provided, which applies to different types of conditions and situations. He said that previously, this benefit was only given once to a Veteran unless it was totaled or destroyed in a way that wasn't the fault of the Veteran. Now, the regulation says if a Veteran has an auto adaption for 10 years, the Veteran can apply for another. The law also allows for a small trailer meant to transport electric wheelchairs, scooters, and other large, heavy transportation devices needed where before, this was at the Veteran's own expense.

Mr. Parks then spoke about AR-25, the Gulf War Particulate Matter Regulation that was originally published before the PACT Act. On September 1, 2023, the final rule was published for AR-25. They removed the requirement for a 10-year manifestation period. For rare cancers under AR-44, they are adding nine new respiratory cancers and are publishing the final rule later in 2023.

For filing a sub-claim, they are in the process of writing the regulations to be in accordance with law. Apportionments was published as a proposed rule in 2023 and will be removing all apportionments other for those who are incarcerated or institutionalized.

He showed a quick slide about changes being made by VA Schedule of Rating Disabilities (VASRD), sharing that he doesn't have all the information about those changes but he would answer to the best of his ability if anyone had questions. He then opened the floor for questions.

A VSO asked about the tinnitus and hearing loss claims, if a Veteran will automatically get rated for hearing loss if they are service-connected for tinnitus. Mr. Parks said they are going to start treating tinnitus as a symptom of hearing loss and could add to the hearing loss evaluation. The VSO then asked about what changes were going to be made to sleep apnea claims. Mr. Parks said his understanding is

that the proposal for the future is to put the sleep issues into more specific categories. They are also going to start rating based on impact, not treatment.

Chair Lewis asked if the new required training is going to be tracked. Mr. Parks said that it would be tracked through Training Management System, (TMS). Chair Lewis asked if it was going to be required and tracked for contractors. Mr. Parks wasn't sure about tracking but said they would probably be required to take the training.

With no further questions, Mr. Parks thanked them for their time and took his leave.

### **Veteran Service Officers Town Hall**

Chair Lewis gave an overview of what that portion of the meeting was going to look like, with the Committee wanting to hear from the VSOs about any issues or comments they had for the Committee. Each member then introduced themselves.

Mr. Hazell and Mr. LoGalbo then explained once again what their Committee does and what their goals are. Mr. Hazell said they would be asking questions to the VSOs to see what their experience was. He asked if there were any questions for the Committee before they began, and there were not.

The first question they asked the VSOs what specific issues or quality issues they were seeing with exams.

Ms. Estes said that many of her Veterans say they don't feel like they're being listened to by examiners, that they're not being given enough time. Chair Lewis asked if it was a contractor examiner or not. Ms. Estes said that they're all contractors.

Jason McDonald said one of the things about examinations that needs to be improved for contracted pension examinations is the ability for VA to ask for a doctor who is qualified for the disability being examined.

Another VSO said they had a Veteran with a positive opinion from an oncologist for a disease that related to oncology but he was sent to a contracted C&P examination where the examiner gave a negative opinion and their claim was denied. They asked why specialized doctors aren't being given more weight than NPs or family doctors. Mr. Hazell asked if they were seeing that across the board or only with specific disabilities. The VSO said it's across the board.

Mr. McDonald also said it was across the board and he's seen it with claims across the country. He's seen the problem even with the Veteran being seen by a physician at VA and still being sent out to a contract examination.

Mr. Hazell asked if Veterans who have a DBQ from their own VA physician are being sent out for another examination despite having a DBQ. Mr. McDonald said that's correct.

Mr. Hazell then asked if, when a private provider's DBQ needs more information or clarification, the VA would then reach out to the private provider to obtain that information or if they just send them out to an exam. Multiple people in the room said exam.

Mr. McDonald also shared an experience where a Veteran had a diagnosed disability that was in his records and he was sent to a contract examiner for a compensation and pension examination. The examiner gave a negative opinion and said the Veteran didn't have the diagnosed condition, which caused the Veteran to be denied erroneously.

Ms. Estes said they are generally able to help fix an issue like that if they catch it quickly enough, but most of the time it goes to the National Work Queue (NWQ) pretty quickly and once it's there, everybody she has spoken to said they're unable to do anything.

Mr. LoGalbo asked what concerns people have in regards to NWQ. Mr. Hazell shared that when they met with VA staff and asked similar questions, they were seeing that it was hard to get consistency across the board.

Mr. McDonald concurred and said he's been very vocal. He said NWQ is good for non-specialty cases, but they don't have enough training for specialized cases like amyotrophic lateral sclerosis (ALS). He shared that a VSR had emailed one of his Veterans asking them to explain what the contention of "higher level aid and attendance" is. That shows it's a lack of training.

Mr. Hazell said that as a VSO, you should be able to reach out to a Change Management Agent (CMA) at the Veteran's local station and they can pull it depending on the situation. Ms. Estes said that she and Ms. Lopez had gotten a long e-mail the last time they tried to reach out to a CMA about an issue and they were told not to touch it. Mr. Hazell asked if that was VA Central Office. Ms. Estes said she thought it was Central Office.

Ms. Ruvalcalba shared that there have been many times that she's reached out for help with a specific issue and was just answered with an e-mail confirming that it was received and seen.

Chair Lewis asked if the VSOs have any suggestions on how they can help bridge the training or information gap. Ms. Estes said they used to have someone they could go to in order to suggest something specific to review if they catch the problem early enough. Travis said that he feels it's a quality control issue where the person doing the work doesn't want to say they did something incorrectly.

Josh Rondini said that when it comes to training, the training of how the cases are done and distributed now is not as good as when he began 12 years ago. He said

there were different lanes for different types of cases. He said currently the VA is hiring a lot of people which is great, but if they are only being trained to do one part of the assembly line and that's all they're focusing on and all they understand, and they don't know what the end product looks like. He felt that the people should be cross-trained so they can work hand in hand instead of as all separate pieces.

Mr. Rondini also said that some RVSRs may save a claim to do later because they were only doing the claims, they wanted to do instead of all of the claims they were assigned. He said as he's noticed errors in claims as he's tracking them, he's been told a number of different things for the same type of issue by different people. He said with new systems, sometimes they want to build on a system without checking to see if the new system is even working the way it's designed.

He shared that he knows RVSRs who have been doing that job for 15 years who don't fully understand TERA and how to make sure everything is being done correctly as far as what exams to send the Veteran to, et cetera. He also brought up multiple errors he had seen AI make in the last two months, including sending the wrong Veterans denial letters. Mr. Rondini told them how he had a Veteran whose claim was deemed by AI to be ready for decision, and after months he checked and saw the claim had been sitting as ready for decision for 140 days. He said once that claim was finally pulled and looked it, it wasn't actually ready for a decision, so it sat there and had to be sent back for an examination opinion.

Chair Lewis asked what they thought the Committee could or should be doing to help alleviate some of these issues.

Mr. Rondini said that yes, training is something but also, he felt people working from home may not be as cohesive as if everybody was in the same office together. He said with all of the changes happening, he thinks it's important that people understand more than just their part of the claims process.

Chair Lewis said that since COVID has changed how we do things and are going to continue doing things, we maybe need to try to account for the change in processes and how to make things feel more unified with so many people working remotely.

Ms. Estes suggested that the RO work with VSOs to identify issues that are happening in claims processing the most often and provide specific training for those issues at whatever level they are happening at.

Chair Lewis thanked them for all of their suggestions about training, and asked them what they have been hearing about the PACT Act and how the Veterans are doing with going through that process.

Ms. Estes said that for the most part, PACT Act is going smoothly. A lot of her

Veterans went in for hypertension and some got a C&P, some didn't. She's had a lot of Vietnam Veterans sharing that they also had burn pits, and National Guard members saying they had a lot of problems dealing with jet fuel on a daily basis, but that hasn't been added to the PACT Act yet. She wanted to know if they should go ahead and try to submit a claim for that or not, because they were unsure. Mr. Hazell said yes, they should. Submit the claim, and claim the toxic exposure. That is what TERA should be covering.

Mr. Rondini said that he felt the PACT Act should have been broken down into pieces to be more easily understood instead of being presented as one big thing that isn't as easy to go through and understand.

### **Congressional Staff Meeting Town Hall**

Ms. Piper shared that it was time to meet with Congressional staff and turned the floor over to Chair Lewis. Chair Lewis thanked Ms. Piper and welcomed everybody who joined for the Congressional staff meeting. Each Committee member introduced themselves for this new group. Mr. Hazell and Mr. LoGalbo explained what the Committee does and why they're having the meeting.

Chair Lewis asked if the attendees had any questions for the Committee before the Committee asked questions for the attendees. With no questions for the Committee at that time, Mr. LoGalbo asked the attendees what they have seen regarding to communication, implementation, or other items with the PACT Act.

A case worker said she had seen a lot of people coming to them to file a claim, which isn't something a case worker does. She felt there was misinformation as to who a Veteran should speak to about filing a claim. She said a lot of Veterans who are not eligible due to their time in service are still trying to file, because they are not aware of the time specifications for it. Another case worker concurred and said she also has had Veterans coming to her for filing claims.

Alana Simpson, a region representative for Senator Catherine Cortez Masto. She said she's also noticed Veterans coming to their office about a denial for the claim, where if the Veteran did their claim on their own the office refers them to a VSO. They also offer the Veterans and their family a Veteran Resource Guide.

Alex Goff (phonetic) from Senator Jackie Rosen's office said that they have received records requests because their requests to the DoD for their records were not fulfilled, but not as many Veterans asking them to file a claim for them. Another person agreed and said their office also receives records requests.

Chair Lewis asked why they felt Veterans were coming to their offices for records requests. One person said that a lot of times when Veterans reach out to VA for their

records, they are told to reach out to their senators for help. Another person concurred and said they've been told the same, that the Veterans are told to go to their senator for help with getting their records.

Mr. LoGalbo asked what type of records they were asking for. Multiple people said medical records.

Mr. Goff concurred but wanted to also speak to the quality of the records. He said that in his experience, most times a Veteran has inactive duty in the Reserves, the records are not well kept or detailed.

Mr. Hazell asked if the processing of the requests has gotten faster of the past few years. One person said from NARA, yes, but from the VA, no. Ms. Simpson concurred.

Mr. Goff said he felt maybe there was a disconnect among generational Veterans about knowing how to use tools online versus going through a Senator's office or other means to access their records.

Chair Lewis asked if they've gotten a sense if there are a number of Veterans who can't get their records and have to get them recreated, or if it's a more rare occurrence. One person said that it was more here and there. Ms. Simpson said that the records recreation process really is only good for proof of service, but often doesn't help the Veteran be able to file a claim or anything like that.

Chair Lewis asked if they had been asked for information about the PACT Act claim for family members versus the Veterans. One case worker said that she had had a surviving spouse whose Veteran spouse had died of a disease not on the presumptive list. The surviving spouse had come to them to appeal the case.

Chair Lewis said she had asked because there is a part of the PACT Act that mentions families.

Mr. Hazell asked if they had noticed any issues with filing a claim if that was something they did for their jobs. One person said that the amount of time for a claim to go through the process was the biggest issue, sharing that she had been working with one Veteran for three years on his claim. As a result of the claim taking so long, and the Veteran being unable to work due to his disabilities, he lost his job, home, and is currently homeless and living in a tent.

Ms. Simpson said she had seen Veterans pass away while waiting on their appeal to be seen at BVA. She said it took seven to nine years for one surviving spouse to go through the system before she was approved. She shared that sometimes a Veteran will go through the process and waiting and not have all of the relevant information in their claim file so they either get denied or have to wait longer while they get that



diagnosis or file or nexus letter.

Mr. Goff said he wanted to add that once the BVA took over adjudication of assessing Notice of Disagreements (NOD), they've seen a huge influx of errors because the Regional Office of Jurisdiction (ROJ) is no longer responsible for looking at the NOD and seeing if the appellant rights are even there. So the BVA may accept an NOD for something from 15 years ago, when that's not a valid claim to go forward.

Chair Lewis said it seemed like there was a lot of education that needed to occur across many areas.

Ms. Simpson suggested there be a lot more community outreach because she's seen a lot of Veterans and their families who didn't even know that they could file a disability claim or get VA healthcare. Chair Lewis said that is something that they've heard a lot and are still speaking to people who make those communications and try to find out who is not being reached and why.

Chair Lewis asked the attendees to take down the contact information for the ACDC so they could send other comments, questions, or suggestions to them to help further their purpose as a Committee.

### **Public Comments**

Ms. Piper informed the attendees that it was time for the public comments portion of their meeting. Before opening the floor for comments, she said the Committee would read public comments that were received via e-mail into the record.

Mr. Hazell said the first comment is from a retired captain with US Public Health Service, Captain Hesh (phonetic). He shared that the instructions regarding chronic lymphocytic leukemia (CLL) in remission are to rate residuals under the appropriate diagnostic codes. He said even in remission, CLL patients are considered to be immunocompromised. They have increased susceptibility to infections, which are important residuals. He suggested the Committee consider modifying the ratings for residuals of CLL in light of the COVID-19 pandemic and ongoing circulation of the SARs virus in the United States. Mr. Hazell said that Captain Hesh also included the portion of the VASRD that pertained to CLL and his suggestion and request.

Mr. Hazell said the next comment was from Mr. Jester Jersey. Mr. Jersey wrote that he's the son of a Naval Veteran who served for 20 years in the armed forces. Even after transitioning onto a reserved list after retiring, he was activated to serve in Operation Desert Storm. A few years ago, in February 2017, his father suffered a massive stroke while he was home alone. His mother eventually found him. After his father was taken to the hospital, he stayed at a rehab facility before returning home summer 2017. Mr. Jersey continued, writing that his family could not afford to put his

father in a retirement facility so his mother had to care for him while working a full-time job. His mother had to enlist the help of private caregivers to help while she worked. In 2020, private caregivers weren't an option because of the threat of those outside a family home spreading the virus so his mother had to devote more time to care for his father. It being a challenging job for only one person, Mr. Jersey's family asked him to help with the caregiving. For almost four years, he's been assisting his mother to care for his father on a daily basis. He said only recently did they learn his father was entitled to benefits that would help with his care, and that some of the conditions that aggravated his stroke may have also been service related.

For the last few years, Mr. Jersey and his family have been trying to claim the benefits his father is entitled to. They have kept deadlines and gone to all appointments requested for examinations to determine compensation eligibility status. For the last few years, he's been helping his parents navigate the claims process for VA benefits. He wrote that the process has been very slow and confusing. Though they no longer need to rely on private caregivers, Mr. Jersey shared that his family has accumulated a lot of debt in regards to his father's care and multiple medications and transportation costs. He said they have yet to receive any kind of compensation for his care, and that many other Veterans have probably experienced the same thing for years. We owe it to our Veterans to give them the benefits they're entitled to while they are still around to benefit from them. By delaying the benefits being given to those entitled to them, they are degrading the quality of life for Veterans who have served our country.

Mr. Hazell read the next public comment, which was written by Mrs. Esther Jersey. She reiterated much of what her son had written. She wrote that her husband had a massive stroke in 2017. In 2018, she went to the local VA office because her husband needed assistance 24/7. Someone has to help feed, bath, dress, and other care needs. Disability compensation states that a Veteran must have an annual countable income of less than \$16,540. A married Veteran must have an annual countable income of less than \$20,731 annually. If evidence shows the Veteran's net worth exceeds the limit, the VA will deny the claimant or beneficiary. Mrs. Jersey wrote that her husband was homebound and needed regular aid and attendance. The aid and attendance process is very confusing which is why they paid for caregivers out of their own pockets for years.

She asked why there is an aid and attendance provision if it is not there to help the Veterans who are ill? They are accepted right away when they join the military and are healthy but when they are retired and need help, nobody seems to want to help them. She wrote that even more confusing is the fact that aid and assistance allowances are restricted or limited and nobody explains to Veterans who qualify for benefits that aid and attendance still exists once they need it regardless of the

Veteran's net worth. She felt that nobody was trying to help any of the Veterans who are sick and disabled once they are no longer needed to serve their country. Providing for her husband has been difficult, especially getting him to doctor appointments that are not nearby. She shared that she once took her husband to a VA medical appointment that was almost 100 miles away when it was over 100 degrees outside. The transportation didn't have air conditioning so they had to endure that for the entire trip, and her husband nearly passed out many times on the way to the appointment due to heat being bad for his condition. She wrote that the rules should be changed so that the Veterans who need aid and attendance don't have to wait so long and suffer due to it.

Mr. Hazell thanked those who submitted comments. He said usually they receive comments that specifically pertain to denied claims and those are normally handed over to VSOs as necessary so they can be taken care of. Mr. Hazell asked that if the Jersey family were on the line listening, to please seek out assistance with obtaining benefits. He said it sounds like there is a lot of confusion for obtaining disability compensation because there seems to be misinformation or misinterpretation of some of the guidelines. He encouraged them to seek out assistance through a VSO or VA public contact so they can work to get them the help they need.

Ms. Piper opened the floor to the public for anybody who would like to speak, and asked that they limit their comments to under three minutes.

Mr. Jester had been attending virtually and asked to speak. He said what he had to say was similar to the written comments but he wanted to get his piece in under three minutes. He told them about his father's service, how he had a stroke in 2017, how his mother still worked but was able to get him some help after he had his stroke before he suffered too much damage but he did suffer a cerebral hemorrhage and paralysis on the right side of his body. He shared how they had hired private caregivers until COVID and their experience going through a long, confusing process with filing claims with the VA. He once again asked that the Committee find ways to implement changes that allow the process to move faster for Veterans.

Ms. Piper asked if any other member of the public would like to speak at that time. With no other comments, Ms. Piper thanked them for attending and said if anybody had additional comments or would like to request copies of presentations they saw during the day's meeting, they could forward them to the ACDC mailbox. She thanked everybody for their participation and adjourned the meeting.

Jamison Professional Services  
Preparer of the Executive Summary

Jadine Piper  
Committee DFO

A handwritten signature in black ink, appearing to read 'Evelyn Lewis', written in a cursive style.

Evelyn Lewis  
Committee Chair