

**ANSWERS TO QUESTION FOR THE RECORD OF A HEARING
"ASSESSING WHETHER VA IS ON TRACK TO SUCCESSFULLY IMPLEMENT
APPEALS REFORM"**

**COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES**

July 24, 2018

Ranking Member Walz

QUESTION 1: The GAO, stakeholders and Committee staff have continually pressed the need for detailed planning outlines. Yet, the VA has failed to provide truly detailed plans and risk assessment. Please explain the reason you have not provided the above details.

VA Response: VA has provided detailed plans and risk assessments to the Congress and GAO, most recently in the August 2018 Update of the Comprehensive Plan. In a March 2018 report, the Government Accountability Office (GAO) assessed VA's November 2017 plan, available at <https://benefits.va.gov/benefits/docs/appeals-report-201711.pdf>, and found that VA could do more to successfully implement the Appeals Modernization Act. (This report did not address or consider the February 2018 update.) GAO's initial analysis of this plan determined that VA's plan addressed 17 of 22 required elements, partially addressed four, and did not address one element. VA agreed with GAO's four recommendations, and GAO has subsequently acknowledged that VA has taken steps to address the recommendations. VA agreed with all recommendations and has made significant improvements since the November 2017 plan, as acknowledged by GAO at the July 24th hearing. VA's updated plans include additional details that address personnel requirements and projections supported by updated sensitivity analyses through modeling. The August 2018 update to the implementation plan will provide additional detailed plans and risk assessment requested by GAO.

VA also has updated the integrated master schedule to reflect interdependencies among activities, as recommended by GAO. VA's master schedule reflects the start and finish dates, responsible office, status, and dependencies for each task.

QUESTION 2: Please explain in detail, what procedures and plans are in place if the VBA or the Board of Appeals is not ready for full implementation of AMA in February 2019. Please note, that an answer stating that you will be ready is not sufficient. Please explain in detail, your contingency plans if you are not ready for full implantation of AMA in February 2019.

VA Response: VA remains confident that it will have the people, process, and technology in place to support the Secretary's January 2019 certification, and that the Department is ready to implement the Appeals Modernization Act in February 2019. VA has provided a detailed plan for implementation, with risks and mitigation factors, in November, February, and May, and will continue to do so every 90 days until implementation, as required by Section 3 of the Appeals Modernization Act. These Congressionally mandated reports are published on VA's website, upon submission to Congress and GAO, at <https://benefits.va.gov/benefits/appeals-reports.asp>.

Assuming the hypothetical scenario that the Secretary could not certify this readiness until a later date, the law itself prescribes the contingency plan. Under section 2(x)(1) of the Modernization Act, the new process applies to benefit claim decisions made on or after the date that is 30 days after the date of the Secretary's certification. Thus, if the Secretary certifies on a later date, current law remains in effect until the date that is 30 days after that certification, and decisions made prior to that date would be reviewed in the current, legacy appeals process. To account for this development, VA would continue its Rapid Appeals Modernization Program (RAMP) for Veterans with legacy appeals, to include those who disagree with a VA decision prior to the Secretary's ultimate certification and the corresponding applicability date 30 days later.

QUESTION 3: I understand that the updated regulations have been sent to the Federal Register. This late time of publishing the regulations for review puts us very tightly against the February 2019 implementation deadline. Can you guarantee today that you will give the full time for public comment, including the crucial commenting period for the VSO community?

VA Response: The notice of proposed rulemaking proposing amendments to VA regulations in parts 3, 8, 14, 19, 20, and 21 of title 38, Code of Federal Regulations, to implement the AMA was published in the Federal Register on August 10, 2018 (83 Fed. Reg. 39,818). The notice provides a 60-day comment period, closing on October 9, 2018, during which members of the public, including the Veterans Service Organization (VSO) community, may submit comments on the proposed regulations. VA has no intentions of shortening that comment period. All comments received during the comment period will be considered in framing final rules, which VA is on track to publish to support timely implementation of appeals modernization.

QUESTION 4: Did you use any outside consultants when planning the overall program for the Appeals Modernization Act (AMA) implementation?

- a. If so, who were they, what was the total cost and what was their level of involvement?
- b. If not, please explain why the VA did not utilize outside project manager consultants to help implement the AMA.

VA Response: The Board collaborated internally with the Office of Enterprise Integration (OEI) to identify an expert project manager who will oversee implementation of the Appeals Modernization Act. This project manager is a VA employee. Also in collaboration with OEI, the Board obtained outside contractor support with expertise in change management and strategic communications to assist the Board through the implementation of a new appeals framework. The cost of this outside contracting support in fiscal year 2018 is \$563,631.88.

Finally, the Board collaborated with the Office of Information and Technology (OIT) to obtain contract support to produce process mapping of the Board's current legacy standard operating procedure. These contractors also provided process mapping for what the Board's process will be once the Appeals Modernization Act is implemented in February 2019. To quickly produce an accurate process model, the Board needed a resource with a deep understanding of VA needs and processes that could be quickly deployed. With that in mind, VA looked within its environment to identify already existing capability and capacity to support the Board. VA identified an existing firm fixed price (FFP) contract that OIT's Quality Continuous Improvement Organization, within the Office of Quality, Privacy, and Risk, already had in place for VA process standardization that could quickly meet the Board's needs. Because the modeling needed by the Board fell within the existing FFP contract performance work statement and list of deliverables, no additional expenses were incurred to support the Board process modeling.

Additionally, the Veterans Benefits Administration (VBA) obtained outside contractor assistance in the implementation of the modernized appeals system by providing outside project management support. As of July 2018, four contractors provided project management support to VBA, and since August 2017, contractors have worked hours combined at a cost of approximately \$313,000.

QUESTION 5: Regarding the new Caseflow program, is training for this program a priority? Are your IT systems able to handle the workload during the RAMP pilot program and the full implementation of Appeals Modernization, including the Board pilot?

- a. **If not, when will the systems be ready?**
- b. **Do you need any additional support from Congress to be ready?**

VA Response: Regarding training on new information technology (IT) systems being developed by Digital Service, all Caseflow applications are being designed iteratively "with users, not for them," in accordance with Digital Service values. Training is a priority; Digital Service and VA collaborate to provide training on a regular and recurring basis.

All IT systems will be able to handle the workload during RAMP, the Board's Early Applicability of Appeals Modernization (BEAAM) and the full implementation of Appeals Modernization. Caseflow Queue has been used by attorneys at the Board

since February 2018 and Veterans Law Judges since May 2018. In August 2018, Caseflow will be testing VSO access to Caseflow Queue. Testing with Board administrative support staff will take place in September 2018, enabling the Board to process post-RAMP appeals in October 2018, as planned. By the end of the calendar year, all users who need access to Caseflow to complete Appeals Modernization Act appeals will have that access.

Caseflow Intake, in addition to continuing to support RAMP, is validating integrations with the Veterans Benefits Management System (VBMS) and Benefits Gateway Services using cases from the BEAAM research program. Work is being completed to allow users to connect VBMS contentions with appeal issues and to edit contentions post-Intake without severing the tracking connections required by law. By December 2018, Intake will expand to include non-compensation lines of business.

Currently, VA is fully on track to meet all milestones and deliverables. VA does not request additional support from Congress to be ready.