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OFFICE OF INSPECTOR GENERAL

Office of Audits and Evaluations

VETERANS HEALTH ADMINISTRATION

VHA Faces Challenges Implementing the Appeals Modernization Act

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Executive Summary

The Veterans Appeals Improvement and Modernization Act of 2017, also known as the Appeals Modernization Act (AMA), charged VA with establishing a new process for more quickly and transparently reviewing benefit claims decisions with which veterans disagree.[1] Veterans routinely make claims for benefits such as disability compensation, education and training payments, and loan guarantees and have the opportunity to dispute VA's decisions on which benefits they are eligible for and in what amounts. The new process for reviewing benefits decisions was implemented starting in 2019 and was designed to be faster and give claimants three review options or lanes:

1. A higher-level review conducted by a more senior claims adjudicator in which no new evidence may be presented
2. A supplemental claim in which the veteran may present new evidence
3. A direct appeal to the Board of Veterans' Appeals[2]

The AMA largely focuses on the Veterans Benefits Administration (VBA) because of previously identified concerns about lengthy VBA wait times for claims decisions.[3] However, the Veterans Health Administration (VHA) also makes benefits decisions, such as allowances for clothing worn and torn by prosthetic devices, and reimbursement of non-VA emergency care. As a result, a significant number of veterans who claim VHA benefits are also entitled to improved appeals processing under the AMA.[4]

In 2019, the VA Office of Inspector General (OIG) reported that VHA's Office of Community Care had difficulty with the rollout of appeals modernization.[5] In 2022, additional concerns prompted this review to determine if VHA processed and tracked claimants' appeals of

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[1] Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act (AMA)), Pub. L. No. 115-55, 131 Stat. 1105 (2017). Claims decided on or after February 19, 2019, are subject to this law. VBA, *Comprehensive Plan for Processing Legacy Appeals and Implementing the Modernized Appeals System*, November 2017, accessed September 7, 2022, https://benefits.va.gov/benefits/docs/appeals-report-201711.pdf. The term "veterans" is used throughout this report to refer to veterans themselves or their family members when referring to claimants seeking an appeal.

[2] AMA, § 2. Under the AMA, the term "appeal" is generally used just to refer to those claims directed to the Board of Veterans' Appeals under the third option. In contrast, the term "decision review" is used for higher-level reviews and supplemental claims.

[3] VA OIG, *Review of Timeliness of the Appeals Process*, Report No. 16-01750-79, March 28, 2018. The OIG found that VBA did not process appeals in a timely manner.

[4] VHA program offices process higher-level reviews and supplemental claims, while the Board of Veterans' Appeals processes appeals. The scope of this OIG review did not cover direct appeals to the Board of Veterans' Appeals.

[5] VA OIG, *VHA Did Not Effectively Manage Appeals of Non-VA Care Claims*, Report No. 18-06294-213, November 21, 2019.

healthcare benefits decisions in accordance with the AMA's requirements and two VHA interim policy notices. This report focuses on VHA's higher-level reviews and supplemental claims.

What the Review Found

The review team assessed a nonstatistical sample of 180 higher-level reviews or supplemental claims (referred to collectively as decision reviews) initiated between February 19, 2019, and June 27, 2022. Based on this assessment, the OIG made two findings. First, VHA program offices did not give claimants the necessary and required information to initiate higher-level reviews and supplemental claims regarding benefits decisions. Before VHA can process decision reviews, claimants must receive necessary information on how to initiate them. Both the AMA and VHA's interim policy notices require VHA to issue claimants decision notices explaining why a claim was denied, how to seek further review of a denied benefit, and other information.

Second, VHA did not accurately track decision reviews because it did not implement effective systems, sufficient policies, or adequate training.[6] VHA processes decision reviews in a decentralized manner, and VHA's many programs were operating independently. Most programs did not have effective tracking systems. The two general interim policy notices VHA issued in 2021 and 2022 required tracking but lacked requirements on how to track. They were in effect for only one year each.[7] In addition, VHA had not finished creating a training course for all processors of decision reviews. By not effectively tracking, VHA risks not processing claimants' decision reviews or not granting veterans the benefits to which they are entitled. Moreover, VHA lacks reliable data on how many decision reviews were processed and how long processing them took, information that VA and Congress need for effective oversight.

VHA Has Not Ensured Claimants Receive Sufficient Information to Challenge Benefits Decisions

The AMA and interim policy notices require VHA to inform claimants why a claim was denied and what they need to do to challenge an unfavorable decision. This is done through decision notices, which must contain seven elements.[8]

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[6] The team selected nonstatistical samples of decision reviews from the program offices' tracking systems. The team could not select statistical samples for projection because VHA lacked complete and reliable data.

[7] VHA Notice 2021-01(1), "The Appeals Modernization Act in the Veterans Health Administration," January 4, 2021; VHA Notice 2022-05, "The Appeals Modernization Act in the Veterans Health Administration," April 27, 2022. VHA issued a new policy notice in April 2023. VHA Notice 2023-03, "The Appeals Modernization Act in the Veterans Health Administration," April 27, 2023. The new notice is generally the same as the previous two policy notices.

[8] AMA; VHA Notice 2022-05; VHA Notice 2021-01(1). According to the interim policy notices, seven required elements apply to VHA: issues adjudicated, a summary of evidence considered, a summary of the applicable laws and regulations, favorable findings, elements not satisfied, an explanation of how to access evidence, and an explanation of the procedures for obtaining a review of the decision.

Some program offices, however, did not comply. The Office of Dentistry did not provide decision notices, and the Consolidated Patient Account Center (CPAC) Program sent decision notices that were not compliant with AMA requirements. Officials from both the Office of Dentistry and the CPAC program did not believe the AMA applied to their programs, and as of April 2023, the Office of General Counsel had not provided VHA with an opinion on whether the Office of Dentistry or CPAC program are subject to the AMA. Disagreeing with the program offices, a leader of VHA's implementation efforts said that both the Office of Dentistry and the CPAC program administer benefits that are subject to the AMA.

Veterans are eligible for dental care if they are in a vocational rehabilitation program, are experiencing homelessness, or meet other criteria, and in these cases, they may seek dental benefits through their local VA medical facility. However, the review team determined that benefits decisions were generally made verbally at the local facility. Therefore, veterans were not given any documentation explaining why they were denied dental care or what to do to contest the denials.

The CPAC program consists of revenue centers around the country that bill veterans and insurance companies for care provided by VA. Veterans may request debt waivers of repayment plans for co-payments. CPAC revenue centers send letters to the claimants that indicate whether relief has been granted, but those letters do not offer the three available AMA review lanes or some of the other required elements. Instead, the letters reference appeal procedures that existed before the AMA. CPAC program officials said the AMA does not apply to debt relief or repayment plan requests.

Although other offices did send decision notices, some of these notices did not fully meet requirements. Both Payment Operations and Veteran and Family Member Programs sent system-generated decision notices that were explanations of benefits or payments, but did not contain the required seven elements. Member Services' three programs—Veterans Transportation Program, Eligibility and Enrollment Division, and Income Verification Division—and Prosthetic and Sensory Aids Services sent decision notices that generally included the required elements, but sometimes were missing addresses for submitting decision review requests, clear reasons for denial, or other information. VHA did not review the programs' decision notices to ensure completeness and mitigate errors.

Without a proper decision notice, claimants may not be able to initiate a decision review request regarding an improperly denied claim. As a result, veterans and other eligible individuals may not receive an earned benefit.

VHA Did Not Accurately Track Decision Reviews Because It Has Not Implemented Effective Systems, Sufficient Policies, or Adequate Training

When claimants successfully initiated decision review requests, VHA and its program offices did not track them completely and accurately. The review team determined that about 35 percent of the 113 tested decision reviews were not entered into Caseflow, the required VA tracking system at the time of those decision reviews.[9] VHA program office staff did not enter them into Caseflow largely because of functionality limitations that make it necessary for program offices to maintain their own systems. In contrast, VBA can use Caseflow to process decision reviews because it interfaces with VBA's system of record, the Veterans Benefits Management System (VBMS). Caseflow limitations for VHA include the inability to identify claimants not in VBMS; generate reports for oversight; save documents and process decision reviews; and differentiate decision reviews by program. As a result, VHA and its program offices did not have accurate and complete data on processed and unprocessed higher-level reviews and supplemental claims.

The interim policy notices identify nine VHA programs subject to AMA requirements.[10] Weaknesses in tracking varied among the programs and the mechanisms each used. Based on the review team's analysis of decision reviews, only one of the VHA programs (the Income Verification Division) was tracking them well, while five programs did not have complete or accurate data to track effectively. Although the data were not complete or accurate, these programs had tracked from 15 (Veterans Family Member Programs) to 5,998 decision reviews (Payment Operations). The remaining three programs had tracked two or fewer decision reviews.

Weaknesses in tracking prevent VHA from reporting to veterans and Congress on its performance in implementing AMA. The AMA required VBA to report on certain metrics for decision review processing—for example, the average time it takes to process supplemental claims and higher-level reviews by regional office—but it is unclear which metrics apply to VHA (versus VBA), and VHA had not requested or received an opinion from the Office of General Counsel as of April 2023.[11] Since VHA does not publicly report on decision review metrics, veterans do not have data to inform them which lane to choose when initiating a decision review, and congressional oversight of VHA decision review processing is limited.

VHA's two interim policy notices provided insufficient guidance for tracking decision reviews. VHA issues policy notices when guidance must be communicated immediately, and they expire

[9] The review team selected 180 decision reviews to evaluate. However, only 113 were evaluated for whether they were entered into Caseflow because the other decision reviews were dated prior to Caseflow being required.

[10] VHA Notice 2022-05; VHA Notice 2021-01(1).

[11] AMA, §§. 3, 5. The AMA required reporting of metrics, but it is unclear which of these metrics apply to VHA versus VBA, and VHA has not requested or received an opinion from the Office of General Counsel about which metrics apply.

after one year.[12] In contrast, directives provide more detailed and consistent guidance and are evaluated every five years.[13] The interim policy notices tasked the Office of Regulations, Appeals, and Policy to work with program offices to establish policy and procedures, and its personnel had meetings with the program offices about appeals modernization.[14] However, no policy resulted. Office of Regulations, Appeals, and Policy leaders told the review team that staffing limitations constrained their ability to move beyond the interim policy notices and issue a formal directive.

The interim policy notices did not include guidelines for intake of decision reviews and retention of related documentation, the absence of which inhibited the implementation of the AMA. While VBA uses a centralized intake system for its decision reviews, VHA programs receive these requests at any of the more than 170 VA medical facilities, other administrative buildings, and VBA's Centralized Mail Portal (onto which contracted staff in Janesville, Wisconsin, upload decision reviews for routing by the Office of Regulations, Appeals, and Policy). This decentralized system makes tracking difficult. OIG notes that the portal could be used as a central location to receive all decision reviews, allowing the Office of Regulations, Appeals, and Policy to better oversee processing by all program offices.

Due to equally inconsistent approaches to retention, the review team was unable to obtain all documentation for the decision reviews it evaluated. For example, the Eligibility and Enrollment Division did not retain documentation for 24 of the 30 decision reviews tested. This occurred in part because VHA lacks a central repository, and in part because VHA records management policy does not explicitly cover higher-level reviews and supplemental claim documents.[15]

Regarding training, the Office of Regulations, Appeals, and Policy has made some resources available to the program offices and has been working to finish designing AMA training for processors that would be tracked in VA's Talent Management System.[16] However, the Talent Management System training was not available as of April 2023.

By not effectively tracking decision reviews to compile complete and accurate data, VHA cannot give veterans the information they need to choose a lane when initiating a decision review, make informed resource decisions, or report metrics to Congress. VHA is working with the Office of Information and Technology to resolve the functionality issues and create usable reports.

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[12] VHA Directive 0999, *VHA Policy Management*, March 29, 2022.

[13] VHA Directive 0999.

[14] The Office of Regulations, Appeals, and Policy led VHA's implementation of the AMA, a responsibility that it delegated to its Claims and Appeals Modernization Office in April 2022.

[15] VA, Records Control Schedule 10-1, January 2021; VHA Directive 6300(1), *Records Management*, October 22, 2018 (amended September 22, 2020). The directive states that VHA follows Records Control Schedule 10-1 for records retention.

[16] The Talent Management System is a web-based application that serves as a single point of access and system of record for education and training of VA employees.

What the OIG Recommended

The OIG made 14 recommendations to the under secretary for health to improve information given to claimants as well as decision review intake, tracking, and document retention. They include determining if the Office of Dentistry and the CPAC program need to implement the AMA, and then taking any needed corrective actions based on that determination; conducting an assessment of AMA compliance barriers for all relevant programs to help ensure all programs' system-generated decision notices comply with required elements; and ensuring that decision notices are provided along with handbooks given to veterans enrolled in VHA health care in case they dispute their priority group assignments.[17] They also included requiring VHA to provide staff and resources to conduct quality control reviews of decision notices. In addition, the OIG recommended working with the Office of Information and Technology to improve technological solutions for tracking and storing decision review documentation, seeking clarification on what reporting metrics sections of the AMA apply to VHA, issuing policy and other clear guidance outlining tracking procedures and documentation retention standards, using a standard intake mechanism, and implementing training for appeals processors.

VA Management Comments and OIG Response

The under secretary for health concurred or concurred in principle with all 14 recommendations. The under secretary provided action plans to address all recommendations. The full text of the under secretary's comments and the action plans appear in appendix C.

The under secretary's planned actions are responsive to recommendations 1–6, 8–11, 13, and 14 and address the issues identified in the report. The under secretary's action plans for recommendations 7 and 12 noted a reliance on available funding, while also recognizing the importance of improving Caseflow functionality and creating a central repository. As discussed in this report, these system barriers are impairing VHA's ability to effectively track and process decision reviews, and the OIG concludes that VHA needs to properly prioritize such efforts and funding to effectively address the recommendations. The OIG will close all recommendations when VHA provides sufficient evidence demonstrating progress in addressing the intent of the recommendations and the issues identified.

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[17] There are eight priority groups, based on military service history, disability rating, income level, and other factors. Among other things, priority groups determine how soon a veteran may receive healthcare benefits and how much a veteran will have to pay toward those benefits (co-pay amounts).

Contents

Abbreviations

AMA	Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act)
CHAMPVA	Civilian Health and Medical Program of the Department of Veterans Affairs
CPAC	Consolidated Patient Account Center
OIG	Office of Inspector General
OIT	Office of Information and Technology
PSAS	Prosthetic and Sensory Aids Service
VBA	Veterans Benefits Administration
VBMS	Veterans Benefits Management System
VHA	Veterans Health Administration
VISN	Veterans Integrated Service Network

Introduction

Veterans routinely make claims to the Veterans Health Administration (VHA) for appointment transportation benefits, clothing allowances related to prosthetics use, and reimbursement for non-VA emergency care. Claimants receive decisions on which benefits they are eligible for and in what amounts. Separate from VHA, the Veterans Benefits Administration (VBA) also provides a variety of benefits to veterans, including disability compensation, education program payments, and loan guaranties.[18] When veterans disagree with a VHA or VBA claims decision, they may appeal through what VA now calls the decision review process.[19]

VA collaborated with congressional staff and veterans service organizations to develop the new decision review process because the prior process was perceived as taking too long.[20] The collaboration resulted in the Veterans Appeals Improvement and Modernization Act of 2017, also known as the Appeals Modernization Act (AMA). VA fully implemented the AMA on February 19, 2019.[21] The AMA was designed to offer faster and more transparent decisions and give veterans more choice in how to appeal, with new review options or "lanes," as detailed below. Because the AMA was driven by concerns about how long veterans had been waiting for decisions on their disability benefits appeals, AMA requirements largely focus on VBA.[22] Yet veterans who disagree with VHA's decisions on their healthcare benefits claims (such as payments for non-VA emergency care and eligibility for dental services) are also entitled to the processing improvements available under the AMA.

In 2019, the VA Office of Inspector General (OIG) reported that VHA's Office of Community Care had problems implementing the AMA, which included officials not knowing the extent of unprocessed appeals.[23] In 2022, the OIG was informed of concerns about VHA's lack of progress on implementing the AMA due to lack of support. In response, the OIG conducted this review to determine if VHA effectively processed and tracked claimants' healthcare benefits decision reviews, specifically higher-level reviews and supplemental claims.

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[18] VBA provides monthly compensation benefits to veterans for disabilities incurred or aggravated during active military service, referred to as "service-connected" disabilities.

[19] The term "veterans" is used throughout this report to refer to veterans themselves or their family members when referring to claimants seeking an appeal.

[20] VA, *Comprehensive Plan for Processing Legacy Appeals and Implementing the Modernized Appeals System*, November 2017, accessed September 7, 2022, https://benefits.va.gov/benefits/docs/appeals-report-201711.pdf.

[21] Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act (AMA)), Pub. L. No. 115–55, 131 Stat. 1105 (2017); VA, *Periodic Progress Report on Appeals, Public Law 115-55, Section 3*, August 2019.

[22] VA OIG, *Review of Timeliness of the Appeals Process*, Report No. 16-01750-79. March 28, 2018. The OIG found that VBA did not process appeals in a timely manner.

[23] VA OIG, *VHA Did Not Effectively Manage Appeals of Non-VA Care Claims*, Report No. 18-06294-213, November 21, 2019.

Decision Review and Appeal Options

The AMA allows veterans to choose from among three options, called lanes, to seek a review of prior claims decisions with which they disagree:

- A higher-level review is a reevaluation by a more senior claim adjudicator who will look at the evidence considered in the previous decision. Claimants cannot provide additional evidence for review when choosing this lane.
- A supplemental claim is appropriate when the claimant identifies or provides potential new evidence in support of the claim that may not have been considered when the prior decision was made. A higher-level review that finds an error in the initial decision also triggers a supplemental review, since the error constitutes new evidence.[24]
- A direct appeal to the Board of Veterans' Appeals is initiated by a claimant who would like a benefits decision to be reviewed by a veterans law judge. Claimants that are non-VA providers are not allowed to submit higher-level reviews or supplemental claims to VHA and must appeal to the Board of Veterans' Appeals. The Board of Veterans' Appeals oversees direct appeals, and the scope of this review did not include those direct appeals.

Figure 1 depicts the decision review process. A supplemental claim may follow any other claim, including a higher-level review. Under AMA, the term "appeal" is generally used to refer to those claims directed to the Board of Veterans' Appeals.[25] The term "decision review" is used for higher-level reviews and supplemental claims.

[24] Another OIG review notes that this occurrence extends overall processing time. VA OIG, *VA Developed Reporting Metrics for Appeals Modernization Act Decision Reviews but Could Be Clearer on Some Veterans' Wait Times*, Report No. 22-00488-81, June 20, 2023.

[25] AMA, § 2.

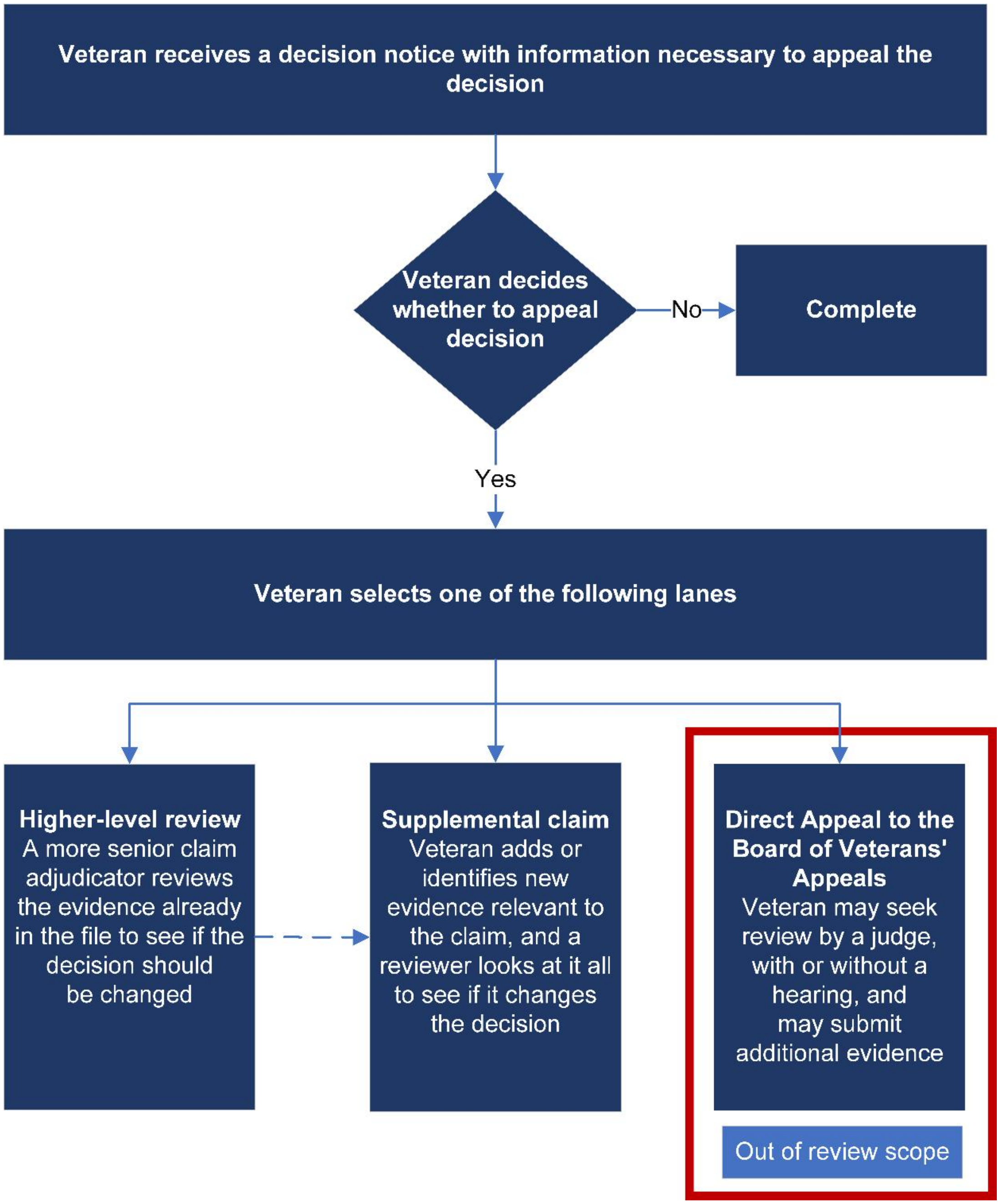

***Figure 1**. Flow of decision reviews and appeals.*
Source: Interviews with officials from the Office of Regulations, Appeals, and Policy and OIG analysis of VHA interim policy notices.
Note: The dotted line from higher-level review indicates that when an error is detected, a supplemental claim review may then be conducted.

AMA Requirements and VHA Policy

The AMA and two policy notices (interim guidelines) govern how VHA processes and tracks its appeals. Policy notices are used when guidelines need to be promulgated quickly; they expire one year after issuance.[26] In contrast, directives provide more detailed and consistent guidance and are to be recertified every five years.[27] Both the AMA and the interim policy notices require VHA to issue a decision notice regarding benefits to every claimant.[28] Claimants receive a decision notice when they apply for a benefit and again if they ask VHA to review a benefits decision. The decision notices provide claimants with the information they need to initiate a higher-level review or a supplemental claim.

These decision notices must include seven elements:

1. Issues adjudicated
2. A summary of evidence considered
3. A summary of the applicable laws and regulations
4. Favorable findings
5. Elements not satisfied
6. An explanation of how to obtain and access evidence
7. An explanation of the procedures for obtaining a review of the decision

AMA Requirements

Under the AMA, VA is required to modernize its appeals process by implementing a new appeals system for all claims for benefits.[29] VA must also submit a report to Congress every 180 days with required metrics and an update on VA's plan to process appeals.[30] Sections 3 and 5 of the AMA mandate implementation of defined performance metrics and goals, such as "the average duration for processing requests for higher-level review … disaggregated by regional office" and the "average duration for processing claims and supplemental claims, disaggregated by regional office."[31]

The AMA is not clear on which parts of sections 3 and 5 apply to VHA, as the language in those sections of the act is generally tailored to VBA. For example, VBA has regional offices, and it reports required metrics monthly on a VA public website, while VHA does not. Given the

[26] VHA Directive 0999, *VHA Policy Management*, March 29, 2022.

[27] VHA Directive 0999.

[28] AMA § 2; VHA Notice 2022-05, "The Appeals Modernization Act in the Veterans Health Administration," April 27, 2022; VHA Notice 2021-01(1), "The Appeals Modernization Act in the Veterans Health Administration," January 4, 2021.

[29] AMA, §§ 2, 3.

[30] AMA, § 3.

[31] AMA, §§ 3, 5.

inapplicability of aspects of those AMA provisions to VHA, VA reported the following general information for VHA in the August 2022 congressionally mandated report:[32]

> Each respective program office in VHA continues to manage its own internal processes, oversight, accountability and data. [The Claims and Appeals Modernization Office] is working with VHA offices to aggregate VHA data to establish adequate metrics and revise current goals for the new [appeals] system.

VHA Policy Notices and Required Systems

VHA issued Notice 2021-01(1) on January 4, 2021, and Notice 2022-05 on April 27, 2022. The policy notices establish VHA interim guidelines implementing the AMA and other legal requirements related to appeals until a full directive is published. The first interim policy notice was in effect for one year, and the second interim policy notice was set to expire April 30, 2023.[33] The interim policy notices require VHA oversight and tracking to ensure claims and decision reviews are processed efficiently and accurately. They do not include specific procedural requirements. The first interim policy notice did not reference Caseflow (the required VA tracking system) or the Centralized Mail Portal (a VBA-managed portal used to upload mailed decision reviews and route them to the appropriate program office). The second policy notice does require the use of Caseflow and the Centralized Mail Portal to process AMA documents.[34]

Caseflow

Caseflow is VA's workload management system intended to ensure accurate and timely processing of appeals and decision reviews. Both the Board of Veterans' Appeals and VBA worked with the United States Digital Service to develop Caseflow for VA, and they currently use Caseflow to process appeals and decision reviews.[35] According to the chief of the Claims and Appeals Modernization Office, the development of Caseflow for VA occurred without VHA's involvement. As the OIG reported in 2019, VHA was not fully prepared for appeals modernization, was not consistently involved in discussions regarding the Caseflow system, and did not participate in its testing. VHA Office of Regulatory and Administrative Affairs staff said they relayed concerns about implementing Caseflow to the Office of General Counsel, but that

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[32] VA, *Periodic Progress Report on Appeals, Public Law 115-55*, *Section 3*, August 2022. VA has included similar language about VHA in monthly reports to Congress since February 2020.

[33] VHA issued a new policy notice in April 2023. VHA Notice 2023-03, "The Appeals Modernization Act in the Veterans Health Administration," April 27, 2023. The new notice is generally the same as the previous two policy notices.

[34] VHA Notice 2022-05.

[35] VA, *Comprehensive Plan for Processing Legacy Appeals and Implementing the Modernized Appeals System*. The United States Digital Service is a technology group originated by the White House in 2014.

office was less concerned about VHA's readiness than about VBA's readiness to implement the new appeals process because VHA had a smaller portion of the appeals inventory.[36]

Centralized Mail Portal

The Centralized Mail Portal is a system through which VBA receives decision review requests. VHA also receives some decision reviews through this portal. Claimants can send decision review requests by mail to a facility in Janesville, Wisconsin, where contracted staff upload the requests into the portal. Staff from the Office of Regulations, Appeals, and Policy look at any VHA decision review requests that come into the portal and route them to the appropriate program office or suboffice for processing.

VHA Records Management Directive

The records management directive states that VHA follows VA's records control schedule to manage, maintain, and dispose of records.[37] The records control schedule requires VHA to retain documents related to eligibility, including denied applications for medical benefits, for at least seven years.[38] The directive also requires that information collected must be available for easy retrieval when necessary.[39]

Governance of VHA Appeals

VHA's Office of Regulations, Appeals, and Policy is the principal oversight office for VHA appeals, supported by suboffices. VA's Office of Information and Technology (OIT) is involved in programming the systems used for processing appeals.

VHA's Office of Regulations, Appeals, and Policy

The Office of Regulations, Appeals, and Policy was VHA's lead for implementing the AMA, including assisting program offices with drafting and developing regulations and policies.[40] Its leaders report to the chief of staff for the Office of the Under Secretary for Health. The April 2022 VHA interim policy notice designated the Claims and Appeals Modernization Office—a suboffice of the Office of Regulations, Appeals, and Policy—as VHA's lead for implementing the AMA. The interim policy notice said the Claims and Appeals Modernization Office was expected to work with program offices to draft policy and procedures.[41] The office was also expected to work with the Appeals Governance Council, created by VHA in February 2021, to

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[36] VA OIG, *VHA Did Not Effectively Manage Appeals of Non-VA Care Claims*.

[37] VHA Directive 6300(1), *Records Management*, October 22, 2018 (amended September 22, 2020).

[38] VA, Records Control Schedule 10-1, January 2021.

[39] VHA Directive 6300(1).

[40] VHA Notice 2021-01(1).

[41] VHA Notice 2022-05.

develop strategy and oversee AMA implementation.[42] The Appeals Governance Council is composed of VHA leaders whose programs are affected by the AMA. Figure 2 shows the Office of Regulations, Appeals, and Policy and its suboffices. Those offices with blue shading are central to AMA implementation. This report refers to these offices collectively as the Office of Regulations, Appeals, and Policy.

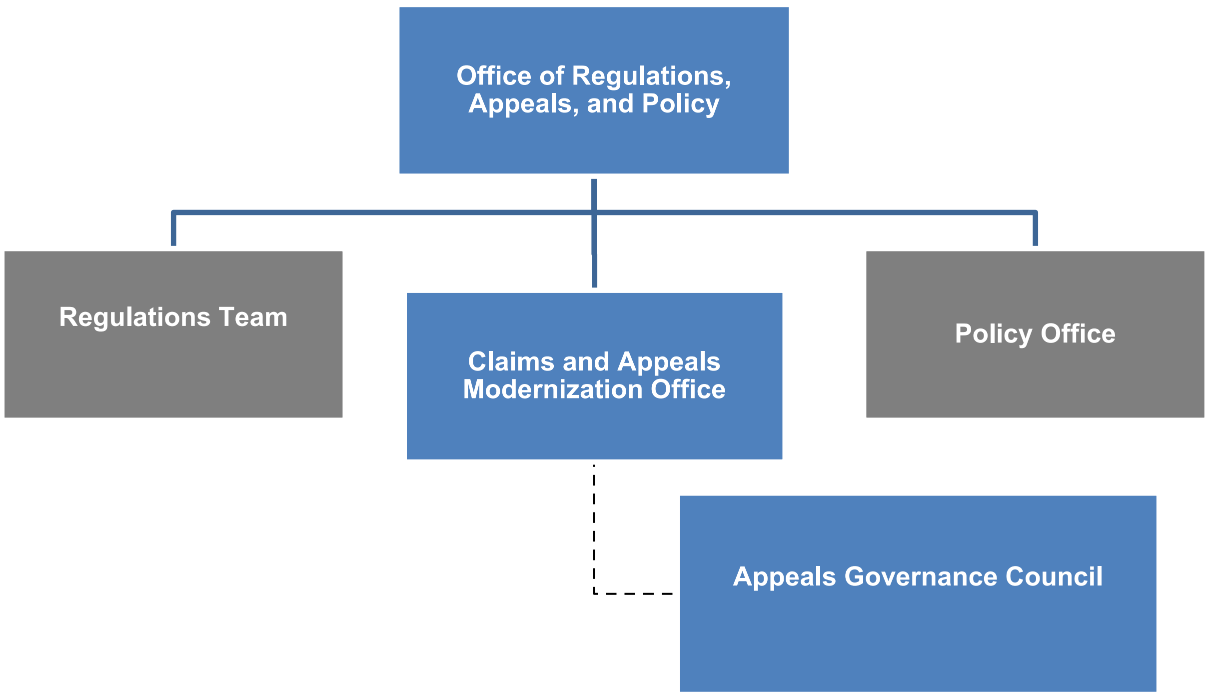

Figure 2. *The Office of Regulations, Appeals, and Policy's organizational structure.*
Source: Organization charts provided by the Office of Regulations, Appeals, and Policy; VHA Notice 2022-05.
Note: The dotted line between the Claims and Appeals Modernization Office and the Appeals Governance Council reflects their collaboration to provide strategies for and oversight of AMA implementation.

VA's Office of Information and Technology

OIT is responsible for maintaining and updating Caseflow for all VA entities. OIT also supports VHA's appeals modernization with other technological efforts and is assisting with determining the feasibility of developing a document repository that can interface with Caseflow.

VHA Programs That Process Healthcare Benefit Claims

Unlike VBA where claims processing is centralized, VHA is decentralized and has veterans submit applications or benefit claims directly to the programs that administer the various

[42] VHA Notice 2021-01(1); VHA Notice 2022-05.

healthcare benefits. The program offices and the benefits they offer are shown in table 1. (For information on each program office's estimated number of claims, see appendix A.)

Table 1. Program Offices That Administer Healthcare Benefits

Program office and suboffice	Description of office and benefits
Office of Member Services	Facilitates access to healthcare, benefits, and support services for veterans and their families
1. Health Eligibility Center's Eligibility and Enrollment Division	Processes eligibility and enrollment
2. Health Eligibility Center's Income Verification Division	Processes changes to a veteran's placement in a particular priority group based on updated income information
3. Veterans Transportation Program	Processes the following: • Beneficiary travel claims, such as approved meals and lodging expenses • Beneficiary travel mileage reimbursement, such as for costs related to driving to and from appointments • Special mode transportation reimbursement, such as for transport by ambulance or wheelchair van
VHA Office of Finance	Develops budgets and allocates funds
4. Payment Operations	Processes payments for non-VA emergency care
5. Consolidated Patient Account Center Program	Processes billing of veterans and insurance companies for co-pays of care provided by VA
Office of Integrated Veteran Care	Manages direct and community care in one system to deliver seamless care to veterans
6. Veteran and Family Member Programs	Manages the following: • Civilian health and medical programs (CHAMPVA) • Foreign medical program • Camp Lejeune Family Member Program • Spina bifida program • Children of women Vietnam veterans program
Prosthetic and Sensory Aids Services (PSAS)	Provides prosthetic and orthotic services, sensory aids, and medical equipment for veterans to optimize their health and independence
7. PSAS	Provides the following: • Clothing allowance • Home improvement and structural alteration grants
Office of Dentistry	Provides dental services to qualifying veterans
8. Office of Dentistry	Determines dental care eligibility
Geriatrics and Extended Care	Manages programs for veterans who face the challenges of aging, disability, or serious illness
9. VHA State Home Per Diem Program	Awards grants to state veterans homes, which are nursing home, domiciliary, or adult day healthcare facilities

Source: VA OIG analysis of program offices listed in VHA Notice 2021-01(1) and their benefits; and interviews with VHA officials.

These program offices have their own procedures to receive and process decision review requests. For example, veterans seeking a review of their placement in a particular priority group should submit a request directly to the Eligibility and Enrollment Division in Atlanta, Georgia.[43] Veterans requesting a review of a denied clothing allowance application could initiate a higher-level review or supplemental claim at the prosthetics office in their local medical facility. Each program receives, records, and saves decision review requests differently, using software systems or spreadsheets. These differences make VHA's oversight of AMA implementation difficult.

[43] There are eight priority groups, based on military service history, disability rating, income level, and other factors. Among other things, priority groups determine how soon a veteran may receive healthcare benefits and how much a veteran will have to pay toward those benefits (co-pay amounts).

Results and Recommendations

Finding 1: VHA Has Not Ensured Claimants Receive Sufficient Information to Appeal Benefits Decisions

The AMA and the interim policy notices require VHA to send decision notices to the claimant for all benefit claims decisions.[44] However, VHA does not have a standard decision notice that all programs must use, and each program handled this responsibility differently. The decision notices must include the following seven elements: (1) the issues adjudicated, (2) a summary of evidence considered, (3) a summary of the applicable laws and regulations, (4) favorable findings, (5) the elements not satisfied, (6) an explanation of how to access evidence, and (7) an explanation of the procedures for obtaining a review of the decision.[45]

Officials from two programs—dentistry and Consolidated Patient Account Center (CPAC)—stated that the AMA does not apply to their decisions. As a result, the Office of Dentistry did not provide benefit claimants with any decision letters, and the CPAC program used debt forgiveness denial letters that were not compliant with the AMA. Disagreeing with the program officials, one of VHA's AMA implementation leaders said that both the Office of Dentistry and the CPAC program administer benefits that are subject to the law. Two other programs—Payment Operations and Veteran and Family Member Programs—had information technology systems that did not generate complete decision notices. The remaining programs sent decision notices that generally included the required elements, but sometimes lacked addresses of where to submit decision review requests and other important information. The interim policy notices assign the Office of Regulations, Appeals, and Policy responsibility for providing appropriate oversight, but the office's officials said they do not have the resources to oversee the program offices' compliance with decision notices.[46] By not sending notices that complied with requirements, VHA deprived some claimants of sufficient information to initiate decision review requests.

What the OIG Did

The review team evaluated the AMA and VHA policies on providing notice to claimants for benefit claims decisions made on or after February 19, 2019. The review team also interviewed VHA staff involved in decision review processing to understand how their decisions have been communicated to claimants. To assess whether claimants received appropriate notice on decisions, the review team evaluated a nonstatistical sample of 180 decision reviews from

[44] AMA; VHA Notice 2022-05; VHA Notice 2021-01(1).

[45] According to the interim policy notices, only seven required points apply to VHA.

[46] VHA Notice 2022-05; VHA Notice 2021-01(1).

program offices' available tracking systems and determined if VHA program offices or suboffices sent decision notices consistent with requirements in the AMA and VHA notices.

Finding 1 is based on the following determination:

- Program offices did not consistently provide veterans with AMA-compliant decision notices, increasing the risk that claimants may not understand their rights or lack sufficient information to appeal.

Program Offices Did Not Consistently Provide Veterans with AMA-Compliant Decision Notices, Increasing the Risk That Claimants Lack an Understanding of Their Rights or Sufficient Information to Appeal

VHA does not have a standard decision notice that all programs must use or adapt to their needs. The review team determined that the Office of Dentistry did not send decision notices, and the CPAC program sent denial letters that were not compliant with AMA requirements. Two others, the Payment Operations Program and the Veteran and Family Member Programs, sent system-generated decision notices that did not include all required elements. The remaining programs sent decision notices that generally included the required elements, but sometimes lacked addresses for filing appeals and other important information. Table 2 presents the team's testing results by program.

Table 2. Preliminary Decision Notice Analysis

Program office and suboffice (if applicable)	Did the office have decision notices?	Did the decision notices generally include the required elements?
Member Services		
Eligibility and Enrollment Division	Yes	Yes
Income Verification Division	Yes	Yes
Veterans Travel Program	Yes	Yes
VHA Office of Finance		
Payment Operations	Yes	No
CPAC Program	Yes	No
Office of Integrated Veteran Care		
Veteran and Family Member Programs	Yes	No
Office of Prosthetic and Sensory Aids Services	Yes	Yes
Office of Dentistry	No	N/A
VHA State Home Per Diem Program Office*	Yes	Yes

Source: VA OIG analysis of decision notices provided by program offices.

** The State Home Per Diem Program Office had a compliant template but the program had not received any decision review requests.*

The Office of Dentistry Questioned Its Role in Deciding Eligibility for Dental Services and Sent No Decision Notices

VHA's interim policy notices contain a list of program offices and types of decisions that require a decision notice, including the Office of Dentistry and determinations of dental eligibility.[47] However, the Office of Dentistry did not provide claimants for dental eligibility with any written decision notices when they were denied eligibility. Leaders from the Office of Dentistry, as well as dental service officials at four VA medical facilities, told the review team that the AMA is not applicable to their program, including the requirement to provide a written decision notice. It was their understanding that dental eligibility is controlled by VBA. According to the Claims and Appeals Modernization Office's chief, as of April 2023, the Office of General Counsel has not provided VHA with specific guidance on whether dental eligibility is subject to the AMA, and VHA had not requested an opinion.

Veterans can obtain eligibility for dental services in multiple ways. One common way is if the veterans have a permanent 100 percent service-connected disability. A local dental office can then verify eligibility by checking veterans' medical records. Veterans who are also eligible include those enrolled in a vocational rehabilitation program or experiencing homelessness. In these cases, veterans may contact their local VA medical facility. At that point, staff in the dental office within the VA medical facility make an eligibility determination based on available records. Dental staff at two VA medical facilities shared with the review team the eligibility criteria used to make their decision. However, the review team determined that this decision is communicated to the veteran verbally, not in writing, and there were no policies or procedures from the Office of Dentistry requiring written notices. If veterans went to a dental clinic within a VA medical facility and were told they were not eligible, VBA also would not send decision notices because VBA staff would be unaware of the VHA denial.

The CPAC Program Did Not Send Decision Notices Compliant with AMA Requirements

VA is required by law to bill private health insurance carriers for medical care, supplies, and prescriptions provided for the treatment of veterans' non-service-connected conditions. The CPAC program consists of revenue centers around the country that bill veterans and insurance companies for care provided by VA. CPAC program officials said they consider veteran requests for debt waivers and repayment plans for co-payments. VHA's interim policy notices include the CPAC program as an entity subject to the AMA, but they do not specify what benefits

[47] VHA Notice 2022-05; VHA Notice 2021-01(1).

administered by the CPAC revenue centers are appealable.[48] While not detailed in the notices, the Claims and Appeals Modernization Office's chief said that CPAC program officials make decisions on debt waivers and repayment plans that should be subject to the AMA. CPAC program officials, in contrast, said they did not believe that either debt waivers or repayment plans decided by the program were reviewable under the AMA. When claimants request debt relief, CPAC revenue centers continue to send letters that indicate whether the relief is granted, and if not, the reason. Those letters do not include information about any of the available AMA lanes if the claimant wants to appeal the decision. Rather, they reference appeal procedures in place prior to the AMA. In April 2023, the Claims and Appeals Modernization Office's chief told the review team that the Office of General Counsel had not issued a decision on whether the CPAC program has appealable decisions.

Recommendation 1 requires the Office of Regulations, Appeals, and Policy, in coordination with the Office of General Counsel, to determine whether the Office of Dentistry and the CPAC program have appealable benefits decisions governed by the AMA, and if so, to update policies, processes, and procedures with the programs accordingly, including ensuring that claimants receive written decision notices that meet all act requirements.

Payment Operations and the Veteran and Family Member Programs Sent System-Generated Decision Notices Insufficient under the Law

Payment Operations reimburses non-VA emergency care when applicable requirements are met. Payment Operations sent system-generated explanations of benefits or payments as decision notices to claimants, but these notices did not include the required seven components. The review team tested 21 Payment Operations' decision notices related to the payment of non-VA emergency care and they all included

- the issues adjudicated (indicated as amounts paid),
- a summary of the applicable laws and regulations, and
- the elements not satisfied (indicated as the reasons for denial).[49]

However, some or all of the Payment Operations' decision notices did not include

- favorable findings,

[48] VHA Notice 2022-05; VHA Notice 2021-01(1).

[49] The review team sampled 30 decision reviews from the Payment Operations' system. However, eight of them were incorrectly classified as decision reviews, and one of them was an appeal that was forwarded to the Board of Veterans' Appeals. The team evaluated whether the remaining 21 had decision notices that included the required elements.

- an explanation of how to access evidence,
- a summary of evidence considered, or
- an explanation of the procedures for obtaining a review of the decision.

A program management officer explained that Payment Operations would need to hire more clinicians to identify and include favorable findings, such as eligibility for reimbursement of non-VA emergency care, for all administratively denied claims. For example, a claim may be administratively denied for not being filed within stated timelines.[50] At that point, to comply with the AMA, a clinician would need to review the claim to identify favorable findings (eligibility for payment of non-VA emergency care) even though that evaluation could not result in the claim being paid because it was not timely filed. While required under AMA, identifying favorable findings would add additional time and expense to claims processing.

Although Payment Operations' decision notices included denial reasons, they were not always clear. For example, a claimant responded to a decision notice in a letter stating the "paperwork is completely indecipherable," and "please respond to this letter with... how I might proceed in order to appeal."[51]

Similar to Payment Operations, the Veteran and Family Member Programs sent system-generated decision notices related to reimbursement decisions on CHAMPVA claims, which were the overwhelming majority of claims processed by this program. The review team's assessment of 29 initial decision notices determined that they all included

- the issues adjudicated (indicated as amounts paid), and
- the elements not satisfied (indicated at the reason(s) for denial).[52]

None of the initial decision notices evaluated included

- a summary of evidence considered,
- a summary of the applicable laws and regulations,
- favorable findings,
- an explanation of how to access evidence, or

[50] 38 C.F.R. § 17.126; 38 C.F.R. § 17.1004. The deadline for filing a service-connected, non-VA emergency claim is two years and the deadline for filing a non-service-connected, non-VA emergency claim is 90 days.

[51] The review team encountered this example during its review of 21 decision reviews.

[52] The review team evaluated 30 decision notices, but one of them was not system-generated and therefore excluded from this analysis.

- an explanation of the procedures for obtaining a review of the decision (the letters did include an address to send appeals).

Veteran and Family Member Programs' officials explained the missing elements, saying they send most of their decision notices to healthcare providers seeking reimbursement for healthcare services, and providers cannot select the higher-level review or supplemental claim lane to appeal decisions. Based on claims data provided by program officials, the review team estimated that 98 percent of claims were from healthcare providers.[53] To their credit, after a claimant (generally a healthcare provider) initiated a decision dispute based on an explanation of benefit, the Veteran and Family Member Programs sometimes generated an AMA-compliant decision notice.

The Claims and Appeals Modernization Office's chief pointed out that it is very expensive to generate AMA-compliant decision letters for healthcare providers, and a program analyst from the Office of Finance said that, depending on the level of detail required, manual entry is needed for all decision notices, of which there were more than 1.5 million in fiscal year 2021. Satisfying this requirement would necessitate additional staff hours.

The Veteran and Family Member Program also includes healthcare eligibility and claim payment determinations for veterans and their family members who have certain conditions and were at Camp Lejeune for 30 days or more between January 1, 1957, and December 31, 1987. These claims are processed separately by the VA Financial Services Center. According to a director in the Financial Services Center, as of September 2022, there was no appeals process that complied with the AMA for those Camp Lejeune claims. Further, according to the director, these claims were to move to the same system used by Payment Operations in the first quarter of 2023, but that move was delayed and the Financial Services Center planned to use the old system during 2023.

To improve Payment Operations' and Veteran and Family Member Programs' decision notices, recommendation 2 calls on the Office of Regulations, Appeals, and Policy to evaluate the program offices' barriers including all required elements in decision notices and to take corrective action, including seeking congressional relief if needed. Recommendations 3 and 4 require Payment Operations and the Veteran and Family Member Programs to update their systems to generate AMA-compliant decision notices to the extent possible.

[53] These claims included CHAMPVA, the Foreign Medical Program, the Spina Bifida Program, and the Children of Women Vietnam Veterans Program. The claims did not include the Camp Lejeune Family Member program.

The Remaining Programs Did Not Include Filing Addresses, Clear Denial Reasons, or All Appellate Rights on Decision Notices

Member Services' three programs and PSAS generally sent decision notices that included the required elements, but sometimes contained other errors. Examples of these mistakes are below.

- **Veterans Transportation Program**. Twelve of the 30 decision reviews the OIG evaluated had decision notice templates that were not completed. Examples included missing addresses for claimants to use when requesting decision reviews or more evidence, and the reason the claim was denied was not clear.
- **Member Services' Eligibility and Enrollment Division**. Staff provided veterans with enrollment handbooks when they were determined to be eligible for VHA healthcare. However, the division did not include decision notices with these handbooks that explained why veterans were assigned to a specific priority group and how to seek review of that decision if they chose to dispute it. The AMA and interim policy notices require VHA to provide decision notices for all benefit claim decisions, including healthcare eligibility.[54]

The interim policy notices assign the Office of Regulations, Appeals, and Policy responsibility for providing appropriate oversight and tracking to ensure that VHA higher-level reviews and benefit claims are processed accurately, but the notices do not dictate how that oversight will be conducted.[55] Although the office did not conduct reviews to ensure that relevant program offices issued decision notices with the seven required components, it did provide those programs with a template that contained the components required in the decision notice. Its personnel also met with program office staff at various times to discuss the requirements. The Claims and Appeals Modernization Office chief said staff have only reviewed for compliance decision notices brought to managers' attention. Moreover, the chief stated that he was aware program offices did not always issue AMA-compliant decision notices.

The Office of Regulations, Appeals, and Policy attempted to obtain resources for additional staffing to conduct oversight. Specifically, it proposed a new standalone program office with oversight responsibility called the Benefits Modernization Office that potentially would have been larger than the Office of Regulations, Appeals, and Policy with over 50 additional staff. According to the chief of the Claims and Appeals Modernization Office the proposal was submitted to a VHA resource board, which was disbanded without evaluating the proposal. Another senior leader said that instead of preparing another proposal, the Office of Regulations, Appeals, and Policy requested a functional assessment of its office.

[54] AMA; VHA Notice 2022-05; VHA Notice 2021-01(1).

[55] VHA Notice 2022-05; VHA Notice 2021-01(1).

Recommendation 5 is for the Office of Regulations, Appeals, and Policy and the program office for Member Services' Eligibility and Enrollment Division to ensure that decision notices on priority group assignments are included with enrollment handbooks given to veterans. Recommendation 6 is for VHA to identify resources and assign duties to conduct quality control reviews of decision letters with program offices to remediate deficiencies.

Finding 1 Conclusion

VHA is required to provide claimants written decision notices when benefits, payments, or eligibility for care and services is denied. The notices must contain seven requirements outlined in the AMA. VHA does not have a standard decision notice that all programs must use or adapt, resulting in wide variability among programs. Most of the programs had decision notices that were deficient to some extent, and the Office of Dentistry did not provide written decision notices at all.

When VHA programs do not provide claimants with the necessary information related to their decisions, claimants may not know how to initiate a decision review request. Decision notices are critically important in cases of improper denials. Without the necessary information to initiate a decision review request, these errors may not be corrected, and claimants may not receive benefits to which they are entitled.

VHA also should engage the Office of General Counsel when the Office of Regulations, Appeals, and Policy and the program offices disagree over appeals modernization implementation. Currently, there is a disconnect between what is required in VHA's interim policy notice and the decision review processes taking place in the Office of Dentistry and CPAC revenue centers. As a result, veterans may not be receiving their full appellate rights as required by the AMA.

The OIG's recommendations are meant to help ensure that eligible claimants for VHA healthcare benefits and services are given important information about their right to appeal decisions and how to go about doing so.

Recommendations 1–6

The OIG recommended that the under secretary for health take the following actions:

1. Require the Office of Regulations, Appeals, and Policy, in coordination with the Office of General Counsel, to determine whether the Office of Dentistry and the Consolidated Patient Account Center Program have appealable benefits decisions governed by the AMA, and if so, to update program policies, processes, and procedures accordingly, including ensuring that claimants receive written decision notices that meet all act requirements.

2. Require the Office of Regulations, Appeals, and Policy to evaluate the program offices' barriers to including all required elements in decision notices and take corrective action, seeking congressional relief if needed.
3. Using the evaluation findings from recommendation 2, require Payment Operations to update its systems to generate AMA-compliant decision notices to the extent possible.
4. Using the same evaluation findings, require the Veteran and Family Member Programs to update its systems to generate AMA-compliant decision notices to the extent possible.
5. Require the Office of Regulations, Appeals, and Policy and the program office for Member Services' Eligibility and Enrollment Division to ensure that priority group assignment decision notices are provided with enrollment handbooks given to veterans.
6. Identify resources and assign duties to conduct quality control reviews of decision letters with program offices to remediate deficiencies.

VA Management Comments

The under secretary for health concurred with recommendations 1 through 6 and submitted action plans for each recommendation, with a target completion date of July 2024. Appendix C includes the full text of the under secretary's comments, which are summarized below.

In response to recommendation 1, the under secretary said that the Office of Regulations, Appeals, and Policy will work with the Office of General Counsel, the Office of Dentistry, and the Consolidated Patient Account Centers to identify benefits subject to the AMA and revise policies, processes, and procedures based on that determination.

For recommendation 2, the under secretary stated he is establishing an integrated project team to work with the Office of Regulations, Appeals, and Policy as well as affected program offices to evaluate barriers to complying with AMA decision notice requirements and take corrective action.

To address recommendations 3 and 4, the under secretary stated that Payment Operations and the Veteran and Family Member Programs will evaluate barriers to complying with AMA decision notice requirements with the Office of Regulations, Appeals, and Policy. The under secretary noted that Payment Operations staff deployed improved decision notices in March 2023, but more work remains. Based on the evaluation, Payment Operations and Veteran and Family Member Programs will improve decision notices or seek congressional relief, as appropriate.

In addition to improving decision notices for Payment Operations and Veteran and Family Member Programs, to address recommendation 5, the under secretary said that the Office of

Regulations, Appeals, and Policy will work with the Office of Member Services and the Office of General Counsel to develop compliant priority group assignment notices to distribute with enrollment handbooks.

To satisfy recommendation 6, the under secretary instructed the Office of Regulations, Appeals, and Policy to work with the integrated project team and the affected program offices to assess compliance with the AMA and establish benefits decision quality assurance requirements across VHA.

OIG Response

The under secretary's planned actions are responsive to recommendations 1–6 and address the issues identified in the report. The OIG will close all recommendations when VHA provides sufficient evidence demonstrating progress in addressing the intent of the recommendations and the issues identified.

Finding 2: VHA Did Not Accurately Track Decision Reviews Because It Has Not Implemented Effective Systems, Sufficient Policies, or Adequate Training

Implementing the AMA, applicable to both VHA and VBA, was a large undertaking designed to modernize the appeals process. VA focused its modernization efforts on VBA because VBA has far more appeals. VHA processes decision reviews in a decentralized manner, through numerous programs and program offices, making modernization efforts more difficult. Therefore, VHA still faces challenges implementing the AMA.

As detailed above, VHA issued two interim policy notices with one-year expirations. The interim policy notices assigned the Office of Regulations, Appeals, and Policy to work with program offices to draft policy and oversee and track decision reviews.[56] While the office worked with program offices, the collaboration did not result in accurate and complete information for monitoring processed and unprocessed decision review requests. The review team found that about 35 percent of sampled decision reviews were not in the required tracking system.

As a result, VHA lacked assurance that all veterans' benefits decision review requests were processed and properly tracked, much less in an improved manner. Among the reasons for this was that VHA did not implement effective systems, sufficient policies for centralized intake and document retention, or adequate training. These deficiencies have left VHA leaders and congressional stakeholders without the information they need to conduct effective oversight. The AMA requires performance metrics be reported on a VA website, but VHA has not determined which metrics to use for reporting (in part because the AMA does not specify which pertain to VHA), nor does it have complete and accurate data to do so.[57]

What the OIG Did

To understand how VHA processes and tracks higher-level reviews and supplemental claims, the review team evaluated policy, procedures, and other related guidance and interviewed staff from VHA program offices (listed in table 1) and central offices. In evaluating each program's tracking and processing of decision reviews, the review team selected nonstatistical samples of decision reviews from their tracking systems. The team could not select statistical samples for projection because VHA lacked complete, reliable data on higher-level reviews and supplemental claims. For example, PSAS did not track at the program level, and the prosthetic representatives at the Veterans Integrated Service Networks (VISNs) tracked inconsistently or

[56] VHA Notice 2021-01(1). VHA Notice 2022-05. VHA issued a new policy notice in April 2023. VHA Notice 2023-03, "The Appeals Modernization Act in the Veterans Health Administration," April 27, 2023. The new notice is generally the same as the previous two policy notices.

[57] AMA, §§ 3, 5.

not at all.[58] In addition, both Payment Operations and the Veteran and Family Member Programs incorrectly categorized communications with claimants as decision reviews. The team evaluated up to 30 decision reviews from each program, amounting to 180 decision reviews from the tracking systems used by six of the nine program offices and suboffices in table 3. The team assessed whether these sampled decision reviews were in Caseflow, the required tracking system. Decisions related to medical determinations and caregiver eligibility decisions were excluded from this review.[59]

More information on the review scope and methodology appears in appendix A.

The following determinations support finding 2:

- VHA did not accurately track decision reviews.
- Limited functionality contributed to program offices not entering more than one-third of the OIG-tested decision reviews into the required system.
- VHA has not publicly reported its decision review metrics and attempts would be hampered by the identified data problems.
- VHA has not implemented sufficient policies or adequate training to track and process decision reviews.

VHA Did Not Accurately Track Decision Reviews

The two VHA interim policy notices required decision review tracking. These notices were issued because VHA had not yet finalized a directive with specifics on how to manage appeals modernization, including consistent ways to track decision reviews. The second interim policy notice required the use of Caseflow in April 2022, and some of its programs had required it before then.[60] The program offices tried to use Caseflow despite its numerous functionality issues, including inability to generate reports for VHA by program office. Concerns with Caseflow functionality caused some program offices to continue to track decision reviews using their own tools, which were often unreliable. As a result, VHA did not have complete or accurate data to report.

Tracking appeals is not an administrative exercise, as deficiencies can have a significant impact on eligible beneficiaries and the ability of VHA and Congress to identify areas for improvement.

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[58] VHA delivers health care through 18 regional networks called VISNs. Each VISN is led by a director responsible for the coordination and oversight of administrative and clinical activities at medical facilities in the network.

[59] A medical determination is not subject to the AMA and is a decision by a qualified healthcare professional about the need for and appropriateness of specific types of medical care and treatment for an individual. VHA included caregiver decisions in its April 2022 interim policy notice after this review was initiated, but had not completed eligibility criteria according to the chief of the Claims and Appeals Modernization Office.

[60] VHA Notice 2022-05.

Poor tracking increases the risk of veterans' decision review requests going unprocessed—undermining the very purpose of the AMA to improve the timeliness of such reviews. It also yields unreliable data for veterans trying to assess which lane produces the quickest determinations. Veterans could rely on information aggregated from the tracking data to help decide which option to pursue in appealing a prior claim decision if the information were accurate. VHA leaders are also deprived of the data they need to allocate staffing, training, and information technology support resources or to meet reporting obligations to Congress under the law.

Limited Functionality Contributed to Program Offices Not Entering a Third of the OIG-Tested Decision Reviews into the Required System

Prior to VHA making Caseflow a requirement for all program offices in April 2022, six of the offices had required its use in program-specific procedures at different times since the implementation of the AMA.[61] The team evaluated a sample of 180 decision reviews initiated between February 19, 2019, and June 27, 2022, across these six programs (shown in table 3). Of the sampled decision reviews, this assessment focused on 113 that were required to be in Caseflow. The remaining 67 sampled decision reviews were excluded from Caseflow testing because they were dated before their respective program offices required the use of Caseflow.

The review team determined that 39 (about 35 percent) of the 113 sampled decision reviews that should have been in Caseflow at that time were not.[62] Table 3 presents the team's testing results.

Table 3. Decision Reviews in Caseflow

Program office	Sampled decision reviews	Sampled decision reviews that should have been in Caseflow	In Caseflow	Not in Caseflow
Eligibility and Enrollment Division	30	27	14	13
Income Verification Division	30	26	24	2
Veterans Transportation Program	30	11	10	1
Payment Operations	30	24	8	16
Veteran and Family Member Programs	30	3	2	1
Prosthetic and Sensory Aids Service	30	22	16	6

[61] VHA Notice 2022-05.

[62] The team could not derive a sample from the complete population of decision reviews because programs did not have complete and accurate data. Therefore, the team selected samples from available program office tracking systems and determined whether appeals processors had input decision review information into Caseflow.

Program office	Sampled decision reviews	Sampled decision reviews that should have been in Caseflow	In Caseflow	Not in Caseflow
Total	**180**	**113**	**74**	**39**

Source: VA OIG analysis.
Note: The Consolidated Patient Account Center Program, the Office of Dentistry, and the Office of Geriatrics and Extended Care were not included in this assessment because they did not establish a requirement to enter decision reviews into Caseflow prior to April 2022.

Even though Caseflow is the required workload management system for VA's decision reviews, it has functionality limitations specific to VHA. The lack of reporting capability, for example, meant VHA could not use Caseflow to track the number of pending and completed decision reviews or how long processing took, either at a program level or VHA-wide. Despite these limitations, program offices entered some decision reviews into Caseflow because it was the required system, while using their own mechanisms for additional tracking.

Caseflow Limitations

VHA encounters limitations with Caseflow that VBA and the Board of Veterans' Appeals do not share. VBA uses the Veterans Benefits Management System (VBMS), a database of veterans' claims, which interfaces with Caseflow and allows VBA decision reviews to be processed in a centralized system. The VBMS and Caseflow interface resolves some of the limitations VHA encounters with Caseflow, which include the following:

- **Identifying claimants not in the Veterans Benefits Management System (VBMS).** Caseflow depends on VBA's VBMS to generate an identifier (a claimant's name). If the claimant does not have a record in VBMS, Caseflow requires that the claimant be added. A veteran who uses only VHA services or a family member of a veteran would not have a VBMS record. According to an official from the Office of Regulations, Appeals, and Policy, only VBA staff can create a record in VBMS. Therefore, VHA program staff stated they must send a request to the Office of Regulations, Appeals, and Policy, whose staff then request the creation of a VBMS record from VBA's Office of Administrative Review.
- **Generating reports for oversight.** A leader from the Office of Regulations, Appeals, and Policy stated they do not have the ability to obtain sufficient data from Caseflow. As a result, they cannot generate reports from Caseflow to account for higher-level reviews and supplemental claims. A user can search by case to see if an individual's decision review request was processed, but a user cannot aggregate data to determine how many decision reviews a program office has completed. In November 2022, a director in OIT thought updates could occur within the year to alleviate this problem, but there was no projected timeline for completion.

- **Saving documents and processing decision reviews.** Caseflow lacks the ability to store documentation for VHA. Each program office is therefore left to store its own decision review documentation and process decision reviews using its own tools. Therefore, VHA staff cannot process higher-level reviews or supplemental claims using Caseflow. In contrast, according to a Board of Veterans' Appeals official, the board does use Caseflow to process VBA appeals because it interfaces with VBMS where VBA's documentation is stored.
- **Differentiating decision reviews by program.** Caseflow does not have an identifier for program type. For example, Caseflow does not have specific fields that would help a user differentiate between PSAS and Payment Operations decision reviews.

The Office of Regulations, Appeals, and Policy and program office leaders did not enforce the use of Caseflow in part because of these limitations.

According to the Claims and Appeals Modernization Office chief, the system problems arose because VHA was not involved in AMA implementation, and VHA's system needs were not fully considered. VA's November 2018 congressionally mandated report said that VHA would work with the Office of General Counsel, the Board of Veterans' Appeals, and VBA to determine system requirements.[63] These requirements have not been updated because VHA appeals modernization has continued to not be as high a priority for VA. VHA is now working with OIT to implement updates to Caseflow that address the stated limitations except the ability for VHA to retain documents, which is being addressed in a longer-term project.

VHA and OIT have been aware of functionality issues since at least 2019, when the OIG reported that Caseflow did not have all necessary fields to effectively manage and track claims.[64] The report stated VHA Office of Regulatory and Administrative Affairs staff had relayed concerns about implementing Caseflow to the Office of General Counsel, but there was less concern about VHA's readiness to implement the new appeals process because it represented a smaller portion of the appeals inventory than VBA. As long as leaders in the Office of Regulations, Appeals, and Policy lack the ability to track the number and status of decision reviews across VHA, they cannot provide oversight to ensure higher-level reviews and supplemental claims are processed.

The OIG recommends (recommendation 7) that VHA and OIT update Caseflow to address identified VHA system requirements within specified deadlines, including adding a program identifier and facilitating entries for individuals and entities that are not veterans.

[63] VA, *Periodic Progress Report on Appeals, Public Law 115-55, Section 3*, November 2018.
[64] VA OIG, *VHA Did Not Effectively Manage Appeals of Non-VA Care Claims*.

Weaknesses of Program Offices' Own Tracking Systems

In lieu of a centralized system for VHA to effectively track and process decision reviews, six of the nine program offices used their own tools and processes. The remaining three programs had tracked no more than two decision reviews.[65] The data that were available reflected that tracked decision reviews ranged from 16 for the Veteran and Family Member Programs to 5,998 for Payment Operations. The review team determined that five programs did not have complete or accurate data on higher-level reviews and supplemental claims. The standout exception for successful tracking was the Income Verification Division, which accurately tracked decision reviews through a central location at the Health Eligibility Center using a spreadsheet.[66]

The review team evaluated the same nonstatistical samples of decision reviews from the five program offices' own tracking systems (outside of any use of Caseflow) that appeared incomplete and identified the following problems:

- The PSAS national program office did not independently track decision reviews. Therefore, the OIG team queried the 18 VISN prosthetic representatives about tracking. Only 12 representatives reported that they tracked their facilities' decision reviews, with 11 using spreadsheets and one delegating tracking to service chiefs at each facility, using their own methods.[67]
- The Veterans Transportation Program maintained a spreadsheet with the number of decision reviews, the status, and the type. However, this list would be complete only if all the facilities reported all decision reviews—something the director of the program could not confirm.
- Payment Operations used a system that required manual entries to track and process decision reviews. The team found eight of the 30 Payment Operations decision reviews tested should not have been included in the tracker as they were not subject to AMA requirements.[68]
- Veteran and Family Member Programs incorrectly categorized 13 of 30 requests the team examined as having chosen the supplemental claim lane. In these 13 cases, the claimant had not yet selected a decision review lane.

[65] The review team could not determine if these estimates were accurate. Two of the programs (Office of Dentistry and CPAC program) did not believe the AMA applied, and the third program deals directly with state homes for veterans (VHA State Home Per Diem Program Office). An estimate of two decision reviews or fewer is reasonable based on how these three programs operate.

[66] The Income Verification Division tracking system showed 285 decision reviews processed from February 19, 2019, to March 31, 2022.

[67] Appendix B details tracking by VISN PSAS representatives.

[68] Eight of the reviews sampled were disagreements over community care that were governed by contracts and not the AMA.

- The Eligibility and Enrollment Division's system did not differentiate between higher-level reviews and supplemental claims.

To track decision reviews while Caseflow functionality is being improved, recommendation 8 calls on the Office of Regulations, Appeals, and Policy to establish interim tracking procedures with the program offices.

VHA Has Not Publicly Reported Its Decision Review Metrics and Attempts Would Be Hampered by the Identified Data Problems

The AMA requires VA to publicly report processing and tracking metrics.[69] Although the act does not specify which ones VHA should report, VHA does not have reliable data to report on any metrics, limiting congressional oversight.

Instead, VA has reported generally on VHA processes. In accordance with section 3, VA reported in February 2018 that VHA intended to develop performance metrics and milestones: "VHA Project Management teams are developing [standard operating procedures] … to ensure … the tracking of milestones, [and] development of performance metrics."

More than four years later in August 2022, VA reported the following general information for VHA: "Each respective program office in VHA continues to manage its own internal processes, oversight, accountability and data. [The Claims and Appeals Modernization Office] is working with VHA offices to aggregate VHA data to establish adequate metrics and revise current goals for the new system."[70] Between February 2018 and August 2022, VA continually reported that VHA was developing tracking data.

The language in section 5 requires VA to periodically publish metrics related to processing reviews, but it is generally tailored to VBA. For example, it requires VA to report "the average duration for processing claims and supplemental claims, disaggregated by regional office," and "the average duration for processing requests for higher-level review … disaggregated by regional office." VBA has regional offices and reports required metrics monthly on a public website, whereas VHA does not have regional offices and does not report metrics.

According to the Claims and Appeals Modernization Office's chief, the Office of General Counsel had not provided, and VHA had not requested, guidance on what metrics VHA is required to report as of April 2023. This reporting would be valuable for VHA leaders who oversee decision reviews and veterans who could use the information to help decide what type of review to seek.

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[69] AMA, §§ 3, 5. Section 3 requires VA to submit a report to Congress every 180 days, which includes monitoring metrics and goals of the new appeals system, and section 5 requires periodic publication of metrics relating to VA's appeals processing.

[70] VA, *Periodic Progress Report on Appeals, Public Law 115-55, Section 3*, August 2022.

Recommendation 9 is for VHA, in coordination with the Office of General Counsel, to seek clarification on how the reporting metrics sections of the AMA apply to VHA and then develop those measures.

VHA Has Not Implemented Sufficient Policies or Adequate Training to Track and Process Decision Reviews

VHA has interim policy notices for appeals modernization that describe general provisions of the AMA and list the VHA offices that process benefits decisions, but they lack specific requirements for tracking decision reviews—specifically, for receiving, processing, and retaining them. In addition, VHA has not finalized training for all processors of decision reviews.

The interim policy notices charged the Office of Regulations, Appeals, and Policy with establishing program policy by working (1) with VHA program offices to draft policy and procedures that would establish a new appeals infrastructure and tracking steps and (2) with the Appeals Governance Council to provide VHA strategy and oversight of AMA implementation. Since 2020, the Office of Regulations, Appeals, and Policy has held routine meetings with program office representatives as well as the Appeals Governance Council, but as of January 2023, had not established detailed guidance on how to process decision reviews or oversee program implementation.

The Claims and Appeals Modernization Office chief told the review team that the Office of Regulations, Appeals, and Policy intended to issue a directive with more guidance. However, he cited staffing limitations as the reason the directive had not been issued. In March 2022, the Claims and Appeals Modernization Office had three full-time employees, and the chief said these three team members spent time routing decision review requests and appeals from the Centralized Mail Portal to program offices. Routing leaves employees less time for completing regulations and directives. In November 2022, officials from the Claims and Appeals Modernization Office said they had five full-time employees, but that was still not enough to complete the directive. Additionally, the chief stated that completing guidance on clinical appeals through regulation has priority over the AMA appeals directive, a factor that has also contributed to the directive's delay.

Recommendation 10 addresses the need for VHA to issue policy and other clear guidance that includes standard tracking processes and procedures, and oversight of that tracking.

VHA Does Not Have a Central Intake Mechanism, Complicating Tracking

As described earlier, claimants can send decision review requests (higher-level and supplemental reviews) to a facility in Wisconsin, where contracted staff upload the requests into the portal. Staff from the Office of Regulations, Appeals, and Policy look at any VHA decision review requests that come into the portal and route them to the appropriate program office or suboffice for processing.

Payment Operations started requiring that all higher-level reviews and supplemental claims go through the portal, mitigating the risk of untracked decision reviews. According to the Payment Operations appeals manager, the office fully implemented use of the portal in October 2022.[71] None of the other eight program offices imposed a similar requirement. If required, the Office of Regulations, Appeals, and Policy would need additional resources to route decision reviews to them.

In addition to the Centralized Mail Portal, VHA programs may receive paper decision review requests at any of the more than 170 VA medical facilities, the Health Eligibility Center, or the seven Payment Operations processing centers. Officials from the Office of Regulations, Appeals, and Policy told the review team they had initially envisioned VHA programs having access to the portal, but like Caseflow, the portal would need to include the ability to differentiate all decision reviews by program office or suboffice to make it an effective central intake mechanism for VHA. Otherwise, Office of Regulations, Appeals, and Policy staff would have to continue to manually direct the decision reviews, which could increase the office's workload by an unknown but potentially significant amount.

Since each program office already receives some higher-level reviews and supplemental claims from the portal, the portal could be used to track and receive all decision reviews if its functionality were expanded. However, the portal is a VBA-contracted system, and according to an official from the Office of Regulations, Appeals, and Policy, VBA is not currently expanding the portal to all VHA programs. Therefore, if the other programs were to require the use of the portal, there would still be challenges implementing it unless VBA expands its use.

Recommendation 11 calls on VHA to work with VBA and others to allow access to all VHA program offices, and on those offices to in turn require that staff use the Centralized Mail Portal for all decision reviews or establish another mechanism that ensures all decision reviews are tracked from request receipt through routing and processing.

[71] The review team did not assess whether Payment Operations was routing all its decision reviews through the Centralized Mail Portal as of October 2022.

VHA Does Not Have Decision Review Retention Standards or a Central Repository, Factors That Led to Missing Decision Review Documentation

It is unclear where, and for how long, VHA must store decision review documentation because this documentation is not referenced in VHA's records control schedule or the policy notices.[72] Therefore, the programs used inconsistent approaches to document retention. According to the chief of the Claims and Appeals Modernization Office, while the records control schedule currently does not specify decision review documentation requirements, he thinks it should. Processors did not always have appropriate information to review for higher-level reviews or supplemental claims because documentation standards were not clear.

VBA uses VBMS as its system of record, and the Board of Veterans' Appeals uses VBMS to review documents and facilitate appeals processing. VHA does not use VBMS or have a similar central repository for higher-level reviews and supplemental claims documentation that would help program offices retain these documents. While the review team was able to obtain some decision review documentation, not all program offices and facilities kept records related to the OIG's 30 sampled decision reviews for each, as noted in the following examples:

- The Eligibility and Enrollment Division did not retain decision notices for 24 of 30 tested records.
- The Veterans Transportation Program did not have records for nine of 15 completed decision reviews.
- PSAS VISN and facility representatives were unable to produce the correct, or any, documentation for six of 30 decision reviews selected for evaluation.

Staff from the Office of Regulations, Appeals, and Policy confirmed they are working with OIT to implement a repository capable of housing documentation related to VHA decision reviews. However, the system would likely be expensive and years from completion if funding were approved.

To ensure the retention of appropriate decision review documentation, recommendation 12 is for VHA and OIT to determine the best way to create a central repository and identify the necessary resources to implement and maintain it. Recommendation 13 calls on VHA to develop decision review retention standards and communicate to the relevant programs what types of claims and appeals documentation should be stored, for how long, and where.

[72] VHA Directive 6300(1) states that VHA follows VA's Records Control Schedule 10-1 to manage, maintain, and dispose of records. VHA Directive 6300(1), *Records Management*, October 22, 2018 (amended September 22, 2020). VA, Records Control Schedule 10-1, January 2021; VHA Notice 2022-05; VHA Notice 2021-01(1).

AMA Training Did Not Reach All Processors of VHA Decision Reviews

The Office of Regulations, Appeals, and Policy and the program offices did not ensure all decision review processors had training on implementing the AMA. The April 2022 interim policy notice stated that the Claims and Appeals Modernization Office was creating AMA procedural training for processors. Accordingly, in August 2022 an official from the Claims and Appeals Modernization Office told the review team the office was developing a training for processors in Talent Management System (VA's online training platform) regarding key components of the AMA.[73] As of April 2023, another official said this training had not yet been finalized.

The Claims and Appeals Modernization Office provided program-specific training on the Centralized Mail Portal in April 2022 and on Caseflow in November 2022. Additionally, as far back as 2020, the Office of Regulations, Appeals, and Policy held routine meetings with program office staff to educate them on issues related to appeals modernization. However, program offices did not ensure the training was taken by all decision review processors, and therefore there were gaps in knowledge. The planned Talent Management System training is intended to reach all processors who need it. Recommendation 14 directs VHA to implement training on processing and tracking appeals that is mandatory for VHA staff who process decision reviews.

Finding 2 Conclusion

Overall, VHA had not fully implemented the AMA in part because it lacked effective systems and sufficient policies to track decision reviews from receipt through processing and retention. All program offices were not entering decision reviews into the required system, instead often using their own systems, which were incomplete and inaccurate. Program offices did not consistently use the required Caseflow system because it lacked key functionality and reporting capabilities, issues known since AMA implementation in 2019. VHA system requirements were not taken into consideration as VBA's needs took precedent given VBA's much larger claims demands. Also hindering tracking were the lack of centralized intake and documentation mechanisms. Without these controls, VHA lacks assurance that decision reviews are being processed, and risks not granting veterans the benefits to which they are entitled. By implementing the OIG's recommendations, VHA leaders can be more accountable to veterans, helping to ensure decision reviews are not overlooked. Further, implementing these recommendations will help provide VHA and Congress with accurate performance metrics for transparency and continuous improvement.

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[73] The Talent Management System is a web-based application that serves as a single point of access and system of record for educating and training VA personnel.

Recommendations 7–14

The OIG recommended that the under secretary for health take the following actions:

7. Work with the Office of Information and Technology to update Caseflow to address identified VHA system requirements within specified deadlines, including adding a program identifier and facilitating entries for individuals and entities that are not veterans.
8. Establish interim tracking procedures with the program offices until Caseflow can be considered a reliable system for VHA oversight.
9. In coordination with the Office of General Counsel, seek clarification on how the reporting metrics sections of the Appeals Modernization Act apply to VHA, and then develop those measures.
10. Issue policy and other clear guidance that includes standard tracking processes and procedures, and oversight of that tracking.
11. Work with VBA and others to allow access to all VHA program offices, and ensure that those offices in turn require that staff use the Centralized Mail Portal for all decision reviews or establish another mechanism that ensures all decision reviews are tracked from request receipt through routing and processing.
12. Work with the Office of Information and Technology to determine the best way to create a central repository and identify the necessary resources to implement and maintain it.
13. Develop decision review retention standards and communicate to the relevant programs what types of claims and appeals documentation should be stored, for how long, and where.
14. Implement training on processing and tracking appeals that is mandatory for VHA staff who process decision reviews.

VA Management Comments

The under secretary for health concurred or concurred in principle with recommendations 7 through 14. The under secretary provided action plans to address all recommendations, with a target completion date of July 2024. Appendix C includes the full text of the under secretary's comments, which are summarized below.

In response to recommendation 7, the under secretary said that the Office of Regulations, Appeals, and Policy will work with the Office of Information and Technology to improve Caseflow functionality. The under secretary emphasized that VHA is committed to accurately tracking and documenting AMA decisions. The under secretary concurred in principle with this recommendation, as it is subject to available funding.

For recommendation 8, the Office of Regulations, Appeals, and Policy will work with the integrated project team and affected program offices to establish a short-term solution for tracking decision reviews.

To supplement improved tracking, in response to recommendation 9, the Office of Regulations, Appeals, and Policy will engage the Office of General Counsel to determine which AMA reporting requirements apply to VHA. The Office of Regulations, Appeals, and Policy will work with the integrated project team and affected program offices to develop those measures and tools to track them. To address recommendation 10, the under secretary stated that the Office of Regulations, Appeals, and Policy will publish updated AMA guidance implementing tracking tools with assistance from the integrated project team and affected program offices.

For recommendation 11, the Office of Regulations, Appeals, and Policy and the integrated project team will collaborate with VBA to expand access to the Centralized Mail Portal or identify a comparable alternative.

The under secretary concurred in principle with recommendation 12 and said that creating a central repository is subject to available funding. He noted that VHA and the Office of Information Technology have been working on this goal since 2019. He further stated that VHA and OIT have made progress, but it is a long-term project that requires multiyear funding.

To develop decision review retention standards for recommendation 13, the under secretary assigned the Office of Regulations, Appeals, and Policy to work with the Office of Health Informatics to update VHA's record control schedule or publish a separate schedule governing benefit claim, review, and appeal files.

Finally, in response to recommendation 14, the under secretary reported that the Office of Regulations, Appeal, and Policy has developed training on AMA decision review processing, which was scheduled to be published in August 2023. Additionally, he stated VHA will mandate the training for all appeals processors and supervisors in a subsequent directive.

OIG Response

The under secretary's planned actions are responsive to recommendations 8–11, 13, and 14 and address the issues identified in the report. The under secretary's action plans for recommendations 7 and 12 noted a reliance on available funding, while also recognizing the importance of improving Caseflow functionality and creating a central repository. As discussed in this finding, these system barriers are impairing VHA's ability to effectively track and process decision reviews, and the OIG concludes that VHA needs to properly prioritize such efforts and funding to effectively address the recommendations. The OIG will close all recommendations when VHA provides sufficient evidence demonstrating progress in addressing the intent of the recommendations and the issues identified.

Appendix A: Scope and Methodology

Scope

The review team performed its work from April 2022 to June 2023 to determine if VHA effectively processed and tracked claimants' appeals of healthcare benefits decisions, specifically higher-level reviews and supplemental claims. The review focused on decision reviews of benefits decisions made on or after February 19, 2019, when VA reported to Congress that it had fully implemented the AMA.

Methodology

To accomplish its objective, the review team identified and assessed applicable laws, regulations, VA policies, operating procedures, and guidelines related to the appeals of healthcare benefits decisions. The review team interviewed national and local staff from the following VHA program offices and suboffices to assess tracking of higher-level reviews and supplemental claims and determine their roles in processing and overseeing these decision reviews: the Office of Regulations, Appeals, and Policy; Claims and Appeals Modernization Office; Office of Member Services; Office of Finance; Office of Integrated Veteran Care; PSAS; Office of Dentistry; and Geriatrics and Extended Care. The team also evaluated up to 30 decision reviews from each program initiated between February 19, 2019, and June 27, 2022, to determine whether they were tracked and processed. This amounted to 180 decision reviews from the tracking systems used by six of the nine program offices and suboffices. To further assess appeals tracking, the review team visited two VA medical facilities, one Payment Operations center, and the Healthcare Eligibility Center. The team also interviewed staff from the Office of Healthcare Transformation, the Board of Veterans' Appeals, and OIT.

Table A.1 details the estimated number of claims for all of the program offices.

Table A.1. Estimated Claims Decisions

Program	Time frame	Estimated number of claims
Health Eligibility Center's Eligibility and Enrollment Division	Fiscal year 2019 through 2021 average	297,000 enrollees
Health Eligibility Center's Income Verification Division	Tax year 2020	112,000 cases to adjudicate
Veterans Transportation Program	N/A	The program office could not provide an estimate because of the decentralized nature of beneficiary travel benefits.
Payment Operations	Fiscal year 2021	More than 1.5 million emergency room claims

Program	Time frame	Estimated number of claims
Consolidated Patient Account Centers	February 19, 2019, through March 31, 2022	On average, more than 3,000 debt relief requests and repayment plans per month
Veteran and Family Member Programs	February 19, 2019, through March 31, 2022	More than 60 million claims
Office of Prosthetic and Sensory Aids Services	N/A	The program office does not aggregate these data; VISN personnel do. See table B.1 in appendix B for estimates.
Office of Dentistry	N/A	Claims are not tracked, and written claim decisions are not rendered. Veterans are told verbally whether they are qualified when they visit the facility dental office.
VHA State Home Per Diem Program Office	N/A – number is a yearly estimate	About 10,000 to 12,000 veterans were admitted to state homes per year prior to the pandemic. The pandemic has cut that number in half.

Source: VHA program offices. These numbers were estimates reported by VHA program offices, and the review team did not confirm their reliability or completeness.

Note: Providers must appeal to the Board of Veterans' Appeals and are not allowed to submit higher-level reviews or supplemental claims.

The review team evaluated each program office's processing and tracking of decision reviews, and the Office of Regulations, Appeals, and Policy's oversight of each program office including whether VHA had implemented standards for tracking. The team also assessed whether decision reviews were appropriately entered into Caseflow, as required. Further, the team assessed Caseflow's capabilities as a tracking system. Lastly, the team determined whether the Office of Regulations, Appeals, and Policy reviewed the denial decision correspondence provided to the claimant to ensure it contained all the required components for appealing the decision.

To determine whether claimants received appropriate notice on decisions, the review team evaluated a nonstatistical sample of decision notices from each program office. The team evaluated the decision notices to determine whether they had the required information and interviewed applicable program office officials when decision notices did not have the required information.

Excluded from the AMA and VHA interim policy notices, and therefore not covered in this review, are medical determinations.[74] As VHA Directive 1041 explains, a medical determination is a decision by a qualified healthcare professional about the need for and appropriateness of specific types of medical care and treatment for an individual.[75]

Also excluded are caregiver decisions. VHA's Program of Comprehensive Assistance for Family Caregivers makes decisions on caregiver eligibility. After the OIG initiated this review, VHA included caregiver decisions in its April 2022 interim policy notice, subjecting them to either clinical review or the AMA's three lanes.[76] In November 2022, the Claims and Appeals Modernization Office's chief said that VHA was still working on eligibility criteria and procedures for getting caregiver appeals to the Board of Veterans' Appeals. Therefore, the review team did not include caregiver decision reviews in the scope of this assessment.

Internal Controls

The review team determined that internal controls were significant to the review objective.[77] The team assessed the five internal control components: control environment, risk assessment, control activities, information and communication, and monitoring. The team identified five components and 16 related principles as significant to the review objective. Of those, the team identified internal control weaknesses in the below four components and nine principles, and made recommendations in finding 1 and finding 2 to address those weaknesses:

- Component 1: Control Environment
  - Principle 4—Demonstrate commitment to competence
- Component 3: Control activities
  - Principle 10—Design control activities
  - Principle 11—Design activities for the information system
  - Principle 12—Implement control activities
- Component 4: Information and Communication
  - Principle 13—Use quality information
  - Principle 14—Communicate internally

[74] AMA; VHA Notice 2022-05; VHA Notice 2021-01(1).

[75] VHA Directive 1041, *Appeal of VHA Clinical Decisions,* September 28, 2020.

[76] VHA Notice 2022-05.

[77] Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation*, December 2020; Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO 14-704G, September 2014.

    - Principle 15—Communicate externally
- Component 5: Monitoring Activities
    - Principle 16—Perform monitoring activities
    - Principle 17—Evaluate issues and remediate deficiencies

Fraud Assessment

The review team assessed the risk that fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, significant in the context of the review objective, could occur during this review. The team exercised due diligence in staying alert to any fraud indicators by

- soliciting the OIG's Office of Investigations for fraud indicators in the area and
- reviewing hotline complaints for allegations of inappropriate processing of decision reviews.

The team did not identify any instances of fraud or potential fraud during this review.

Data Reliability

The team obtained data from various sources during the review and assessed the reliability of the data used to support findings, conclusions, or recommendations related to the review objectives. The sources included program offices' tracking systems and Caseflow, VHA's required system for decision reviews.[78] The program offices' systems were incomplete based on the review team's evaluation of internal controls, and the team determined that these systems did not include accurate data for higher-level reviews and supplemental claims. Caseflow also did not have complete and accurate data based on the review team's evaluation of 113 decision reviews from the program offices' systems, of which more than one-third were not in Caseflow.

While the data were incomplete and inaccurate, the review team was able to select nonstatistical samples to evaluate VHA's processing of decision reviews and providing claimants with the required information to initiate decision reviews. To do this, the review team traced decision reviews back to initial claims, decision notices, and other source documentation. The team found data reliability limitations in the completeness and accuracy of Caseflow and program offices' tracking systems, and these issues became the foundation for finding 2, where the review team reported the issues and made associated recommendations.

[78] Program offices' tracking systems included manual spreadsheets; workload reporting and productivity system, document, and process-enabled repositories; and the healthcare appeals tracking tool.

Government Standards

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation.*

Appendix B: PSAS Decision Review Tracking by VISN

The PSAS national program office did not track decision reviews. Instead, 12 of the 18 VISN prosthetic representatives reported that they tracked their facilities' decision reviews. The review team's analysis of data provided by VISN PSAS personnel is shown in table B.1.

Table B.1. PSAS Decision Review Tracking by VISN

VISN	Does VISN track decision review	Description of tracking	VISN-reported decision review volume from February 19, 2019, through March 31, 2022, unless otherwise stated
1	Y	Tracking is done at the facilities using spreadsheets	VISN could not determine because tracking was done at facilities.
2	Y	An Excel file on a SharePoint site, with higher-level reviews and supplemental claims listed	75
4	N	N/A	N/A
5	Y	An Excel file, with higher-level reviews and supplemental claims listed	363
6	N	N/A	N/A
7	Y	An Excel file, but decision reviews are removed once completed	VISN could not determine
8	Y	An Excel file on a SharePoint site, with higher-level reviews and supplemental claims listed	55
9	N/A	VISN never responded to two information request emails*	N/A
10	Y	An Excel file, with higher-level reviews listed	20
12	Y	An Excel file, with higher-level reviews and supplemental claims listed	5 (since they began tracking in October 2021)
15	Y	An Excel file on a SharePoint site, with higher-level reviews listed	27
16	N	N/A	N/A
17	Y	An Excel file that did not differentiate between higher-level reviews and supplemental claims	155
19	Y	A spreadsheet and an email folder	5
20	Y	Tracking done by service chiefs at each facility, using their preferred method	11 (since they began tracking in April 2021)
21	N	N/A	N/A
22	Y	A spreadsheet on a shared drive, with higher-level reviews and supplemental claims listed	448
23	N	N/A	N/A

Source: OIG analysis of data provided by VISN PSAS personnel.

**The review team informed the PSAS program office that one VISN did not respond; the review team still did not receive the requested information for this VISN.*

Appendix C: VA Management Comments

Department of Veterans Affairs Memorandum

Date: July 21, 2023

From: Under Secretary for Health (10)

Subj: OIG Draft Report, VHA Faces Challenges Implementing the Appeals Modernization Act (2022-02064-AE-0087) (VIEWS 10455245)

To: Assistant Inspector General for Audits and Evaluations

1. Thank you for the opportunity to review and comment on the Office of Inspector General (OIG) draft report on implementing the Appeals Modernization Act. The Veterans Health Administration concurs with the recommendations and provides an action plan in the attachment.

The OIG removed point of contact information prior to publication.

(Original signed by)

Shereef Elnahal M.D., MBA
Attachment

Attachment

VETERANS HEALTH ADMINISTRATION (VHA)

Action Plan

VHA Faces Challenges Implementing the Appeals Modernization Act

(Project No. 2022-02064-AE-0087)

Recommendation 1. Require the Office of Regulations, Appeals, and Policy, in coordination with the Office of General Counsel, to determine whether the Office of Dentistry and the Consolidated Patient Account Center program have appealable benefits decisions governed by the AMA, and if so, to update program policies, processes, and procedures accordingly.

VHA Comments: Concur

VHA's Office of Regulations, Appeals, and Policy (RAP) will work with VA's Office of General Counsel (OGC), VHA's Office of Dentistry, and VHA's Consolidated Patient Account Centers to identify any benefits subject to the Appeals Modernization Act (AMA) procedures and revise policies, processes, and procedures, accordingly. Due to the requirement to coordinate with OGC and subsequent actions being based upon that coordination, an approximate target completion date is provided at this time.

Status: In progress Target Completion Date: July 2024

Recommendation 2. Require the Office of Regulations, Appeals, and Policy to evaluate the program offices' barriers to include all required elements in decision notices and take corrective action, including seeking congressional relief if needed.

VHA Comments: Concur

The Under Secretary for Health (USH) is establishing an Integrated Project Team (IPT) to manage AMA deficiency remediation. The IPT is scheduled to convene in Quarter (Q) 4 Fiscal Year (FY) 2023 and expects to deliver recommendations to VHA leadership by Q2 FY 2024. RAP, with the support of the IPT and program offices identified in the report, will evaluate barriers to compliance with AMA notice requirements and take corrective action.

Status: In progress Target Completion Date: July 2024

Recommendation 3. Using the evaluation findings from recommendation 2, require Payment Operations to update their systems to generate AMA-compliant decision notices to the extent possible.

VHA Comments: Concur

In March 2023, the Office of Finance Payment Operations staff deployed improved decision notices, but more work remains. RAP will work with the Office of Finance to assess continuing barriers to compliance and proceed accordingly.

Status: In progress Target Completion Date: July 2024

Recommendation 4. Using the same evaluation findings, require the Veteran and Family Member Programs to update their systems to generate AMA-compliant decision notices to the extent possible.

VHA Comments: Concur

RAP will work with Veteran and Family Member Programs (VFMP) to assess continuing barriers to compliance across VFMP programs and proceed accordingly. Potential solutions may include system updates or seeking legislative relief, as noted in Recommendation 2.

Status: In progress Target Completion Date: July 2024

Recommendation 5. Require the Office of Regulations, Appeals, and Policy and the program office for Member Services' Eligibility and Enrollment Division to ensure that priority group assignment decision notices are provided with enrollment handbooks given to veterans.

VHA Comments: Concur

RAP will work with Member Services (MS) and OGC to formulate AMA-compliant priority group assignment notice inserts to accompany enrollment handbook mailout packages. MS will verify Government Publishing Office print requirements prior to initiating notice distributions. Due to the need to coordinate with OGC and subsequent actions being based upon that coordination, a definitive time frame cannot be accurately provided at this time.

Status: In progress Target Completion Date: July 2024

Recommendation 6. Identify resources and assign duties to conduct quality control reviews of decision letters with program offices to remediate deficiencies.

VHA Comments: Concur

RAP will work with the IPT and affected program offices to assess AMA compliance shortcomings at all levels - systemic and individual - and establish benefit decision quality assurance requirements across VHA.

Status: In progress Target Completion Date: July 2024

Recommendation 7. Work with the Office of Information and Technology to update Caseflow to address identified VHA system requirements within specified deadlines, including adding a program identifier and facilitating entries for individuals and entities that are not veterans.

VHA Comments: Concur in Principle

RAP concurs in principle, subject to availability of funds. RAP is working with the Office of Information and Technology (OIT) to improve Caseflow functionality. VHA submitted funding requests for FY 2024. Program identifiers are available and used in Caseflow, but their proper application at intake is contingent upon the presence of clear and unambiguous descriptions of VHA benefit decisions to be reviewed, which is sometimes absent. Improving decision notices will improve Caseflow Intake accuracy. VHA Caseflow users presently have the ability to establish a non-Veteran's review in Caseflow, provided that request is related to a Veteran (e.g., the applicant is a Veteran's spouse seeking review of a CHAMPVA decision, or a healthcare provider seeking review of a payment decision following provision of emergency care to an eligible Veteran under 38 U.S.C. §§ 1725 or 1728). Establishing meaningful deadlines would be difficult, as system enhancement depends on many factors, including system complexity and availability of resources, but VHA is committed to accurately tracking and documenting AMA decisions.

Status: In progress Target Completion Date: July 2024

Recommendation 8. Establish interim tracking procedures with the program offices until Caseflow can be considered a reliable system for VHA oversight.

VHA Comments: Concur

RAP will work with the IPT and affected program offices to identify or establish a short-term solution for deficient tracking procedures. While Caseflow is the long-term solution, VHA agrees that interim solutions are needed.

Status: In progress Target Completion Date: July 2024

Recommendation 9. In coordination with the Office of General Counsel, seek clarification on how the reporting metrics sections of the Appeals Modernization Act applies to VHA, and then develop those measures.

VHA Comments: Concur

RAP will work with OGC to ascertain the applicability of AMA reporting requirements and will work with the planned IPT and affected program offices to develop necessary measures and interim tracking tool(s), accordingly. Due to the requirement to coordinate with OGC and subsequent actions being based upon that coordination, an approximate target completion date is provided at this time.

Status: In progress Target Completion Date: July 2024

Recommendation 10. Issue policy and other clear guidance that includes standard tracking processes and procedures, and oversight of that tracking.

VHA Comments: Concur

RAP will work with the IPT and affected program offices to develop and publish a revised AMA Notice or equivalent guidance implementing any case tracking tool(s) VHA identifies or develops in response to recommendation 9.

Status: In progress Target Completion Date: July 2024

Recommendation 11. Work with VBA and others to allow access to all VHA program offices, and those offices in turn require that staff use the Centralized Mail Portal for all decision reviews or establish another mechanism that ensures all decision reviews are tracked from request receipt through routing and processing.

VHA Comments: Concur

As noted in the report, our Veterans Benefits Administration (VBA) colleagues have supported and facilitated VHA access to the Centralized Mail Portal (CMP) and have indicated willingness to support expansion, subject to resolution of logistical issues. RAP will work through the IPT to establish agency claim and review mail policy and will work with VBA and others, as appropriate, to expand access in CMP or identify a comparable alternative.

Status: In progress Target Completion Date: July 2024

Recommendation 12. Work with the Office of Information and Technology to determine the best way to create a central repository and identify the necessary resources to implement and maintain it.

VHA Comments: Concur in Principle

Resolution of this recommendation is subject to funding availability. RAP, with VHA program office support, has been working with OIT partners since 2019 to implement a VHA claims and appeals repository similar to VBA's Veterans Benefits Management System. While VHA and OIT have made good progress to date, this is a long-term project that will require multi-year funding, and OIT has not yet identified funding for FY 2024.

Status: In progress Target Completion Date: July 2024

<u>Recommendation 13.</u> Develop decision review retention standards and communicate to the relevant programs what types of claims and appeals documentation should be stored, for how long, and where.

VHA Comments: Concur

RAP will work with Health Informatics to assess VHA's Record Control Schedule (RCS 10-1) and determine the feasibility of revising that schedule, or, in the alternative, publishing a separate schedule governing retention of benefit claim, review and appeal files.

Status: In progress Target Completion Date: July 2024

<u>Recommendation 14.</u> Implement training on processing and tracking appeals that is mandatory for VHA staff who process decision reviews.

VHA Comments: Concur

RAP has developed a Talent Management System training module on AMA decision review processing. That AMA training module is set to be finalized and published in August 2023. VHA will mandate the training for all claim and appeal processors and supervisors in a subsequent directive. VHA will continue to assess training requirements and will use the IPT to establish long-term plans and requirements.

Status: In progress Target Completion Date: July 2024

For accessibility, the original format of this appendix has been modified to comply with Section 508 of the Rehabilitation Act of 1973, as amended.

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