



# US DEPARTMENT OF VETERANS AFFAIRS **OFFICE OF INSPECTOR GENERAL**

Office of Audits and Evaluations

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## **VETERANS BENEFITS ADMINISTRATION**

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### **Software Delayed the Establishment of Supplemental Claims for Appeals of Benefits Decisions**

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## Executive Summary

The Veterans Benefits Administration (VBA) provides monthly compensation benefits to veterans for disabilities caused by diseases or injuries incurred or aggravated during active military service.<sup>1</sup> This compensation is based on a review of the information and documentation provided in the veteran's application for these benefits. Additional information may be requested during the review process, and veterans can disagree with a reviewer's decision.

The Veterans Appeals Improvement and Modernization Act (AMA) of 2017 reforms the rights and processes afforded to veterans to appeal decisions associated with VA benefits claims.<sup>2</sup> To implement the AMA, VBA's Office of Administrative Review (OAR) was established in January 2017 to improve and streamline the VA appeals and claims process. Under the AMA, veterans may choose from several options when they disagree with a decision. One such option is a higher-level review, which is a new examination of the same evidence for an issue or multiple issues previously decided by VA.<sup>3</sup>

When veterans elect a higher-level review, the reevaluation is conducted by a senior technical expert known as a decision review officer (DRO). During the review, the DRO may identify deficiencies with the evidence obtained in the previous claim, including missing information or incomplete medical opinions. When a DRO identifies such deficiencies, it is known as a "duty to assist" error.<sup>4</sup> The DRO may also have a difference of opinion, which may lead to additional claim development.<sup>5</sup> If additional evidence is needed, a supplemental claim is created to complete the development.<sup>6</sup>

A VA staff member closes the higher-level review in the Veterans Benefits Management System (VBMS).<sup>7</sup> Then, a web-based application known as Caseflow interacts with VBMS to synchronize the decision from VBMS and control the claim by automatically establishing a supplemental claim. VBA procedures state the supplemental claim will be established within

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<sup>1</sup> VA Manual 21-1, "Department of Veterans Affairs (VA) Benefits Programs," in sec I.ii.2, topic 1.a., updated September 24, 2019, in *Adjudication Procedures Manual*. Unless otherwise noted, the term "veterans" in this report includes other affected beneficiaries, such as a surviving spouse.

<sup>2</sup> Veterans Appeals Improvement and Modernization Act (Appeals Modernization Act [AMA]) of 2017, Pub. L. No. 115-55, 131 Stat. 1105.

<sup>3</sup> AMA § 2(h)(1), 131 Stat. at 1108; codified at 38 U.S.C. § 5104C(a)(1).

<sup>4</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.5.a., updated December 11, 2023, in *Appeals and Reviews*.

<sup>5</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.1.j, updated December 11, 2023, in *Appeals and Reviews*.

<sup>6</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.5.e, updated December 11, 2023, in *Appeals and Reviews*.

<sup>7</sup> VBMS User Guide, Office of Information and Technology Benefits, Appeals & Memorials (BAM) Services Portfolio, January 13, 2023. VBMS is a web-based program used to process claims.

48 hours of the higher-level review being completed.<sup>8</sup> If this timeline is not met, veterans' benefit decisions and benefits may be delayed. In December 2022, the VA Office of Inspector General (OIG) received a hotline complaint alleging that it took weeks before supplemental claims resulting from higher-level reviews were established, leading to lost claims or delays in their processing. The OIG conducted this review to assess the allegation.

## What the Review Found

The OIG substantiated the allegation that supplemental claims were not always established within 48 hours of higher-level reviews being completed.<sup>9</sup> The review team identified approximately 47,100 higher-level reviews completed in calendar year 2022 and nearly 5,100 higher-level reviews completed in January 2023 alone. From this population, the team reviewed a statistical sample of 190 random higher-level reviews stratified by month.<sup>10</sup>

The OIG estimated from its statistical samples that 44,500 of 47,100 higher-level reviews in 2022 (94 percent) did not have a supplemental claim established within 48 hours of the higher-level review being completed. However, the review team did not find any instances in which a supplemental claim was not eventually established from a higher-level review closed in 2022. The period for establishing the supplemental claims ranged from one to 423 days, with an average of 41 days.

For higher-level reviews completed in January 2023 (when some corrective actions were initiated by VA), an estimated 4,600 of 5,100 (about 91 percent) did not have a supplemental claim established within 48 hours of completion.<sup>11</sup> The time to establish the supplemental claims ranged from one to 71 days, with an improved average of 16 days. Despite the improvement, continued failures to meet the 48-hour timeline potentially delayed eligible veterans' receipt of benefits.

An OAR senior management and program analyst stated that around October 2022, he discovered the time for establishing supplemental claims was significantly higher than the time to establish other claims. As a result of this discovery, VA's Office of Information and Technology (OIT) conducted an analysis to determine what was keeping the supplemental claims

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<sup>8</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.5.e, updated December 11, 2023, in *Appeals and Reviews*.

<sup>9</sup> Unless otherwise noted, a higher-level review refers to a review that leads to a decision of a duty to assist error or a difference of opinion.

<sup>10</sup> Each month of 2022 had 13 claims in the sample with an additional 34 from January 2023. See appendixes A and B for more information on the review's methodology and statistical analysis, respectively.

<sup>11</sup> The percentage is calculated using actual unrounded numbers—that is, 4,585 of 5,065 higher-level reviews (91 percent) did not have supplemental claims established within 48 hours. Numbers are rounded for readability.

from being established within 48 hours and found a synchronization issue with Caseflow.<sup>12</sup> An assistant director and a senior program management analyst both informed the OIG review team that Caseflow was expected to process 72,000 synchronizations per day but, due to a design flaw in Caseflow, the system was only processing about 3,000.

The analyst then collaborated with VBA's Performance, Analysis, and Integrity group and found instances in which the completed higher-level reviews had not led to supplemental claims.<sup>13</sup> VBA had nearly 3,700 supplemental claims that were established and pending completion for January 2023. An OIT analysis determined that there were also approximately 16,300 unestablished supplemental claims as of January 2023, indicating a backlog of claims waiting to be established more than four times greater than those that had been established.

As previously noted, starting in January 2023, a weekly process was used to address the unestablished supplemental claims. The process consisted of Performance, Analysis, and Integrity staff identifying supplemental claims not established after higher-level reviews were completed. OAR then provided the list of claims to OIT personnel to establish the supplemental claims. The improved time to establish supplemental claims in January 2023 suggests that the corrective actions taken by OAR were effective in reducing delays, but not in eliminating them. OIT reported in an email to OAR that the number of unestablished supplemental claims had dropped to around 150 in July 2023.

An OAR senior management and program analyst explained that because VBMS was unable to track information required by the AMA, Caseflow was being used to establish the supplemental claims. The AMA requires VA to periodically publish metrics related to the processing of appeals, such as the average number of times veterans submitted different claims involving the same condition.<sup>14</sup> Both the OAR executive director and the senior management and program analyst stated OAR plans to discontinue using Caseflow to establish supplemental claims. Documentation provided by the OAR executive director showed that there are plans to prioritize VBA's ability to automatically establish supplemental claims in VBMS when required based on higher-level review decisions to allow for a more streamlined and efficient process for users and veterans.<sup>15</sup> Both the executive director and senior analyst stated that VBMS functionality was anticipated to be in place in fiscal year 2024.

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<sup>12</sup> VA's OIT is responsible for delivering adaptable, secure, and cost-effective technology services to VA. Performance Work Statement (PWS), VA OIT, "OI&T Strategic Support for the MyVA Initiative," September 23, 2015.

<sup>13</sup> The Performance, Analysis and Integrity group provides reports and analysis of data to VBA managers to optimize their operating and business functions. "OPA&I Vision, Mission and Values" (web page), Office of Performance Analysis & Integrity 20B, accessed December 7, 2023, <https://vbaw.vba.va.gov/PAI/about.asp>. (This website is not publicly accessible.)

<sup>14</sup> AMA § 5(1)(Q), 131 Stat. at 1125.

<sup>15</sup> "Benefits and Memorial (BAM) Benefits Integrated Delivery (BID) Fiscal Year 2023 (FY23) Fourth Quarter (Q4) Program Increment (PI) Commitment Plan and Outbrief," July 2023. (This document is not publicly accessible.)

During this review the team discussed a potential recommendation that the under secretary for benefits formally document the interim procedure for ensuring supplemental claims are established and maintain this procedure until the Caseflow synchronization issue is resolved or VBA shifts the function of establishing supplemental claims to VBMS. Before the team issued the official draft to VBA for comment, VBA officials told the team that they had proactively created a standard operating procedure to formalize their process for ensuring supplemental claims are established and that the procedure would continue indefinitely until VBA migrates the process out of Caseflow and into VBMS. The team verified the documentation VBA provided showing the procedure, determined it met the intent of the potential recommendation, and therefore did not make an official recommendation for improvement in this area.

## **VA Comments and OIG Response**

VA noted that the OIG referenced VBA's information accurately and took no issue with the information in the report. VA concurred with the report's findings without comment. The full text of the VA management comments is provided in appendix C.



**LARRY M. REINKEMEYER**  
Assistant Inspector General  
for Audits and Evaluations

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## **Abbreviations**

AMA	Veterans Appeals Improvement and Modernization Act of 2017
DRO	decision review officer
DROC	Decision Review Operations Center
OAR	Office of Administrative Review
OIG	Office of Inspector General
OIT	Office of Information and Technology
VBA	Veterans Benefits Administration
VBMS	Veterans Benefits Management System





## Introduction

The Veterans Benefits Administration's (VBA) compensation program provides tax-free monthly benefits to veterans for compensation due to service-connected disabilities caused by diseases or injuries incurred or aggravated during active military service.<sup>16</sup> This compensation decision is based on a review of the information in a veteran's application for these benefits, in addition to other documentation that may be later requested. When veterans disagree with a VBA decision, they may appeal it directly to the Board of Veterans' Appeals, request a higher-level review of the presented evidence, or submit a supplemental claim with additional evidence. Supplemental claims can also be established from higher-level reviews that are determined to need additional evidence before a decision can be made.

This report focuses on this last category of supplemental claims established from higher-level reviews. In fiscal year 2023, VBA reported they completed approximately 35,200 supplemental claims that resulted from higher-level reviews. According to VBA guidance, these supplemental claims are to be automatically established within 48 hours of the higher-level review being completed.<sup>17</sup>

On December 21, 2022, the VA Office of Inspector General (OIG) received a hotline allegation stating that it took weeks before VBA established supplemental claims resulting from higher-level reviews, leading to lost claims or delays in processing. The OIG conducted this review to assess the merits of this allegation.

Decision review operations centers (DROCs) are responsible for processing remanded appeals, higher-level reviews, and supplemental claims that result from higher-level reviews.<sup>18</sup> When supplemental claims are not established in a timely manner, veterans may experience delays in receiving decisions and, potentially, benefits for which they are eligible.

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<sup>16</sup> VA Manual 21-1, "Department of Veterans Affairs (VA) Benefits Programs," in sec I.ii.2, topic 1.a., updated September 24, 2019, in *Adjudication Procedures Manual*. Unless otherwise noted, the term "veterans" in this report includes other affected beneficiaries, such as a surviving spouse.

<sup>17</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.5.e, updated December 11, 2023, in *Appeals and Reviews*.

<sup>18</sup> VA Manual 21-5, "General Information on Legacy Appeals," chap. 7, topic 7.A.1.m., updated May 27, 2022, in *Appeals and Reviews*. A remanded appeal is an appeal that has been returned by the Board of Veterans' Appeals to VBA for development of additional evidence, due process, or reconsideration of issues. "Board of Veterans' Appeals" (web page), VA, accessed January 8, 2024, <https://www.bva.va.gov/about/index.asp>. The Board of Veterans' Appeals renders the final decisions on appeals. "Appeals Modernization Act and Decision Review Options Communications Toolkit" (pdf), VBA, accessed August 16, 2022, [https://www.tn.gov/content/dam/tn/veteranservices/learning/vso-tools/job-aids/AMA%20Communications\\_toolkit.pdf](https://www.tn.gov/content/dam/tn/veteranservices/learning/vso-tools/job-aids/AMA%20Communications_toolkit.pdf). VA regional offices are responsible for processing supplemental claims submitted by veterans or their authorized representatives.

## Veterans Appeals Improvement and Modernization Act of 2017

The Veterans Appeals Improvement and Modernization Act (AMA) of 2017 reformed the rights and processes relating to veterans' appeals of VA benefits decisions.<sup>19</sup> VBA's Office of Administrative Review (OAR) was created in January 2017 to improve and streamline the VA appeals and claims process and assumed responsibility for implementing the AMA framework. The AMA allows veterans to choose from one of the three following review options when they disagree with a VBA decision:<sup>20</sup>

- A **direct appeal** allows a veteran to submit additional evidence that a veterans law judge at the Board of Veterans' Appeals reviews. The Board of Veterans' Appeals may remand appeals to the DROCs for additional actions, such as requesting more information from the veteran or scheduling a medical examination.
- A **higher-level review** is a new examination of the same evidence for an issue or multiple issues previously decided by VA. A senior reviewer at a DROC takes a new look at the case and determines whether the decision will be changed based on a difference of opinion or a prior error.
- A **supplemental claim** is considered when a veteran has identified additional evidence to be taken into account. They can also result directly from higher-level review decisions that determine additional evidence is needed. This report focuses only on the supplemental claims that result from higher-level review decisions.

VBA centralized its processing of higher-level reviews and supplemental claims into two DROCs, in Seattle, Washington, and St. Petersburg, Florida. A third DROC in Washington, DC, is responsible for processing legacy appeals.<sup>21</sup>

## Processing Higher-Level Reviews

When a veteran elects a higher-level review, the reevaluation is conducted by a senior technical expert known as a decision review officer (DRO).<sup>22</sup> As stated above, the DRO looks at the

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<sup>19</sup> Veterans Appeals Improvement and Modernization Act (Appeals Modernization Act [AMA]) of 2017, Pub. L. No. 115-55, 131 Stat. 1105.

<sup>20</sup> AMA § 2(h)(1), 131 Stat. 1105, 1108; codified at 38 U.S.C. § 5104C(a)(1).

<sup>21</sup> VBA Office of Administrative Review DROC Implementation, "Decision Review Operations Center (DROC) Implementation" (standard operating procedure), September 28, 2020; VA Manual 21-5, "General Information on Legacy Appeals," chap. 7, topic 7.A.1.p., updated May 27, 2022, in *Appeals and Reviews*. A legacy appeal is a disagreement with a VA benefits decision made before February 19, 2019, the effective date of the new appeals system under AMA.

<sup>22</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.1.d, updated December 11, 2023, in *Appeals and Reviews*.

previous decision to determine whether an error or a difference of opinion changes that decision. Higher-level reviews do not allow veterans to provide additional evidence for consideration.

VA has a duty to assist veterans in gathering evidence to support their claims for benefits.<sup>23</sup> This responsibility includes making reasonable efforts to develop the claim by obtaining relevant records, such as a medical examination or opinion to substantiate the claim.<sup>24</sup> If a DRO identifies a deficiency with the evidence gathered in the previous claim, it is considered a duty to assist error.<sup>25</sup> For example, if the veteran needed a medical examination and VA made no effort to request it, that would be a duty to assist error.

The DRO may also determine additional development is needed based on a difference of opinion.<sup>26</sup> For example, a DRO could decide to grant service connection for a disability by weighing evidence differently than the previous decision-maker. However, if there is insufficient medical evidence to determine the severity of the disability, the DRO will document the grant of service connection under a difference of opinion and then return the request for development so that VA may order a medical examination and evaluate the disability. When VA obtains that examination, a decision will be made to formally grant service connection and assign the disability level and effective date.

After a DRO determines additional development is needed for a higher-level review, a software program creates a supplemental claim to complete the development. VA notifies the veteran of the actions taken to gather evidence in support of the claim, completes the required development, and decides the claim based on the new evidence.<sup>27</sup>

## Software Applications for Processing Higher-Level Reviews and Supplemental Claims

VBA uses two web-based software applications to manage its higher-level reviews and supplemental claims. The Veterans Benefits Management System (VBMS) is designed to support end-to-end claims processing through a consolidated portal.<sup>28</sup> The Caseflow system was developed to support AMA implementation by processing appeals from veterans who have

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<sup>23</sup> 38 U.S.C. § 5103A; 38 C.F.R. § 3.159(c) (2022).

<sup>24</sup> VA Manual 21-1, “Duty to Assist With Providing a Medical Examination or Opinion,” in sec. IV.i.1.A, topic 1.a, updated September 30, 2022, in *Adjudication Procedures Manual*.

<sup>25</sup> A duty to assist error is a failure to properly apply VA provisions for gathering evidence during the processing of the reviewed decision. VA Manual 21-5, “Higher Level Review Procedures,” chap. 5, topic 5.5.a, updated December 11, 2023, in *Appeals and Reviews*.

<sup>26</sup> VA Manual 21-5, “Higher Level Review Procedures,” chap. 5, topic 5.1.j, updated December 11, 2023, in *Appeals and Reviews*.

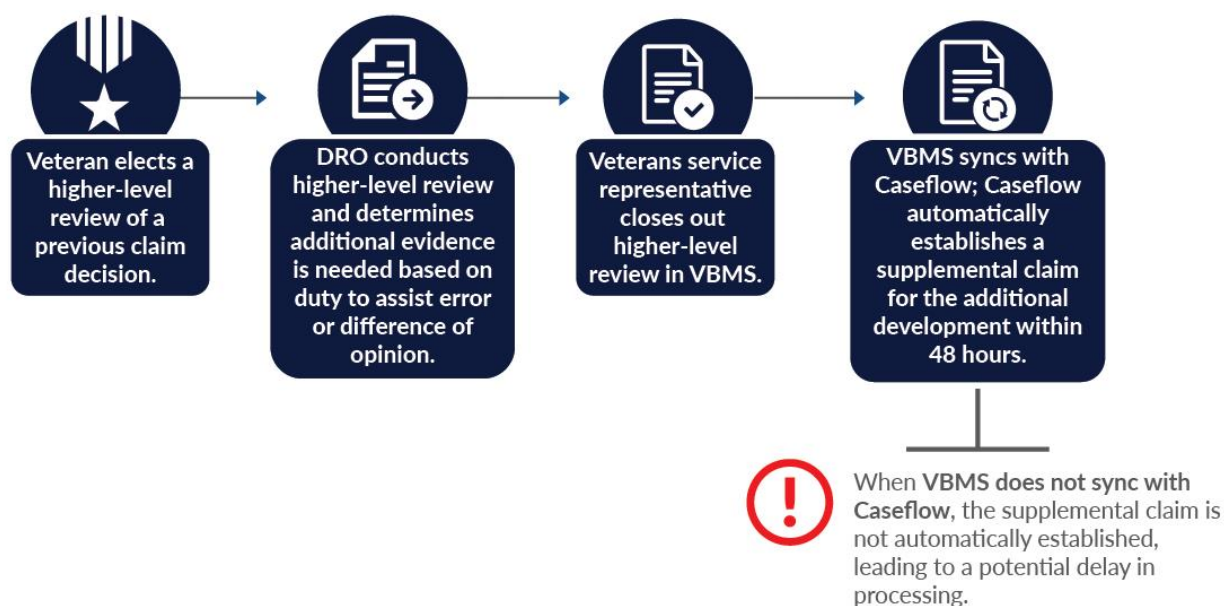
<sup>27</sup> VA Manual 21-5, “Higher Level Review Procedures,” chap. 5, topic 5.5.e, updated December 11, 2023, in *Appeals and Reviews*.

<sup>28</sup> VBMS User Guide, Office of Information and Technology Benefits, Appeals & Memorials (BAM) Services Portfolio, January 13, 2023.

chosen its supplemental claim or higher-level review options.<sup>29</sup> An OAR senior management and program analyst stated that the Caseflow application was used to establish higher-level reviews and supplemental claims because, unlike VBMS, it can track information the AMA requires VA to provide. Among those requirements, VA must periodically publish metrics relating to appeals processing, such as the average number of times veterans submitted different claims involving the same condition (for example, an initial claim and a supplemental claim).<sup>30</sup> Caseflow became the system for all AMA appeals when it was released by VA's Office of Information and Technology (OIT) in February 2019.<sup>31</sup>

Caseflow interacts with VBMS and will automatically solicit from it the latest status for a claim. Once a higher-level review is completed by a VA staff member in VBMS, Caseflow is automatically notified to synchronize the decision from VBMS and establish the supplemental claim. VBA procedures state the supplemental claim will be established within 48 hours.<sup>32</sup> OAR explained that it takes 24 to 48 hours due to data synchronization within the Caseflow system.

Figure 1 shows how a higher-level review should lead to establishment of a supplemental claim.



**Figure 1.** Process for establishment of a supplemental claim from a higher-level review.

Source: VA OIG analysis of VBA claim procedures.

<sup>29</sup> Caseflow is a system owned by the Board of Veterans' Appeals. OAR, "Failed End-Product Establishment" (white paper, December 9, 2022).

<sup>30</sup> AMA § 5(1)(Q), 131 Stat. at 1125.

<sup>31</sup> VA's OIT is responsible for delivering adaptable, secure, and cost-effective technology services to VA. Performance Work Statement (PWS), VA OIT, "OI&T Strategic Support for the MyVA Initiative," September 23, 2015.

<sup>32</sup> VA Manual 21-5, "Higher Level Review Procedures," chap. 5, topic 5.5.e, updated December 11, 2023, in *Appeals and Reviews*.

## Results of the Review

### **Finding: Software Limitations Kept Supplemental Claims from Being Established within 48 Hours**

The OIG substantiated the hotline allegation received in December 2022 that it sometimes took weeks for VBA to establish supplemental claims resulting from completed higher-level reviews (instead of 48 hours), potentially leading to processing delays.<sup>33</sup> In 2022, an estimated 44,500 of 47,100 supplemental claims (94 percent) were not established within 48 hours. The average time to establish supplemental claims was 41 days, with a range from one to 423 days. The failure to establish supplemental claims within VBA timelines led to a processing backlog, potentially delaying eligible veterans' benefits. While delays were found, the team did not identify any instances in which a supplemental claim from a higher-level review closed in 2022 was not eventually established.

The executive director and a chief management and program analyst with OAR, along with a manager from VA's OIT, attributed the delays to Caseflow's inability to consistently establish the supplemental claims.<sup>34</sup> A design flaw within Caseflow prevented it from automatically establishing supplemental claims within 48 hours of a higher-level review being completed.

OAR took action in December 2022 to mitigate the delays. During January 2023, it took an improved average of 16 days to establish supplemental claims. Although this exceeds the 48 hours in which supplemental claims should be established, the OIG acknowledges VBA has taken important steps to help ensure supplemental claims are established more quickly. However, until the design flaw with Caseflow is fully corrected or VBA uses VBMS to establish supplemental claims, eligible veterans remain at risk of having their benefits delayed.

The following determinations support this finding:

- Most supplemental claims were not established within 48 hours, potentially delaying benefits.
- Delays in establishing supplemental claims were largely due to a system flaw with Caseflow.
- OAR took corrective actions to help ensure supplemental claims were established more quickly.

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<sup>33</sup> Unless otherwise noted, a higher-level review refers to those that lead to a decision of a duty to assist error or difference of opinion.

<sup>34</sup> OAR manages and operates the DROCs by establishing policies and procedures, providing quality control and training, and conducting site visits. VBA Office of Administrative Review DROC Implementation, "Decision Review Operations Center (DROC) Implementation."

## What the OIG Did

The review team identified about 47,100 higher-level reviews completed by VBA in calendar year 2022 and nearly 5,100 completed in January 2023. From this population, the team reviewed a random sample of 190 higher-level reviews: 13 from each month in 2022 (156 higher-level reviews) and 34 higher-level reviews from January 2023. OAR issued guidance in December 2022 to DROC staff and managers noting they were aware of times when Caseflow failed to establish a supplemental claim. The guidance advised staff to identify and inform the systems support team when a supplemental claim is not established after the higher-level review is closed.<sup>35</sup> The team reviewed a separate strata consisting of higher-level reviews closed in January 2023 to determine if OAR's guidance improved the establishment times for supplemental claims compared to 2022.

The review team interviewed VBA's OAR managers and staff, VA OIT managers, and the managers and staff assigned to the DROCs in Seattle, Washington, and St. Petersburg, Florida. Appendixes A and B provide additional details on the scope, methodology, and statistical sampling.

## Most Supplemental Claims Were Not Established within 48 Hours, Potentially Delaying Benefits

The OIG review team estimated that 44,500 of the 47,100 higher-level reviews completed in 2022 (94 percent) did not have a supplemental claim established within 48 hours. However, the team did not identify any instances in which a supplemental claim from a higher-level review closed in 2022 was not eventually established. It took from one to 423 days, with an average of 41 days, for VBA to establish the supplemental claims.

The team's analysis of higher-level reviews completed in January 2023 revealed an estimated 4,600 of 5,100 reviews (about 91 percent) did not have a supplemental claim established within 48 hours of completion.<sup>36</sup> Again, the team did not find any instances in which the supplemental claim was not eventually established for higher-level reviews closed in January 2023. The time to establish the supplemental claims ranged from one to 71 days, with an average of 16 days. The improved time to establish supplemental claims in January 2023 suggests corrective actions taken by OAR helped to reduce these delays, which can affect how promptly eligible veterans receive their benefits, but did not eliminate them.

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<sup>35</sup> OAR Quality Call Bulletin, December 2022. (This document is not publicly accessible.)

<sup>36</sup> The percentage is calculated using actual unrounded numbers—that is, 4,585 of 5,065 higher-level reviews (91 percent) did not have supplemental claims established within 48 hours. Numbers are rounded for readability.



## **Delays in Establishing Supplemental Claims Were Largely Due to a System Flaw with Caseflow**

VA's OIT conducted an analysis on what caused the supplemental claims to not be established within 48 hours and determined the root cause was a synchronizing issue between Caseflow and VBMS. An OIT supervisor specialist provided an executive brief that explained Caseflow's process to solicit the latest status for a claim from VBMS.<sup>37</sup> As figure 1 in this report depicts, once a higher-level review is completed, Caseflow is automatically notified to synchronize the decision from VBMS and establish the supplemental claim. An assistant director and a senior program management analyst both told the OIG review team that Caseflow was expected to process 72,000 synchronizations daily but was only processing about 3,000. An OAR assistant director stated a design flaw with Caseflow contributed to the delays.

A supervisor at the Seattle DROC informed the review team that he had noticed the issue with supplemental claims not being established as early as 2019. In addition, a supervisor and a quality review specialist at the St. Petersburg DROC stated they discovered unestablished supplemental claims as early as 2020. Supervisors from both DROCs provided the OIG with emails showing OAR was notified of the unestablished controls when issues were noticed. Both the executive director and a chief management and program analyst with OAR acknowledged they were aware of occasional instances in which supplemental claims were not being established in a timely manner before fiscal year 2023 but, at that time, it was not frequent enough to be considered a systemic issue.

An OAR senior management and program analyst stated that around October 2022, he discovered the time for establishing supplemental claims was significantly higher than the time to establish other claims. OIG's analysis of supplemental claims established in the first quarter of 2022 showed the median time to establish supplemental claims was seven days.<sup>38</sup> Analysis of the final quarter of 2022 showed the median time to establish claims had increased to 49 days, which is when OAR identified that the issue was systemic. Additionally, the AMA does not require that VA track the time to establish supplemental claims, which may have contributed to OAR not monitoring this measure and consequently not finding the systemic issue sooner.

After discovering the growing volume of higher-level reviews that did not lead to a supplemental claim, the senior management and program analyst collaborated with VBA's Performance, Analysis, and Integrity group to identify occurrences.<sup>39</sup> VBA had nearly 3,700 supplemental

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<sup>37</sup> "Uptick in Failed EP040 [End Product 040] Establishment for AMA HLR [Higher-Level Review] Returns," updated December 9, 2022, and December 12, 2022. (This source is not publicly accessible.)

<sup>38</sup> Median was used to represent establishment times, as outliers skewed averages.

<sup>39</sup> The Performance, Analysis and Integrity group provides reports and analysis of data to VBA managers to optimize their operating and business functions. "OPA&I Vision, Mission and Values" (web page), Office of Performance Analysis & Integrity 20B, accessed January 18, 2024, <https://vbaw.vba.va.gov/PAI/about.asp>. (This website is not publicly accessible.)

claims that were established but pending completion for January 2023. An OIT analysis determined that there were also approximately 16,300 unestablished supplemental claims as of January 2023, indicating a backlog of unestablished claims more than four times greater than those that had been established and were awaiting completion. The OAR analyst notified his supervisors of the backlog. OAR managers then collaborated with OIT to take corrective actions. During a monthly meeting in March 2023, the Under Secretary for Benefits Joshua Jacobs informed Inspector General Missal that the issue with the delays in establishing supplemental claims went as far back as 2019.<sup>40</sup>

## **OAR Took Corrective Actions to Help Ensure Supplemental Claims Were Established More Quickly**

In December 2022, OAR acknowledged that there was no system control to ensure the establishment of supplemental claims within VBA's prescribed timeline and requested that DROC staff follow work-around procedures to establish supplemental claims. In January 2023, a weekly process was put in place in which the Performance, Analysis, and Integrity group would identify supplemental claims not established after higher-level reviews were completed. OAR then provided a list of claims to OIT for a batch establishment of supplemental claims. An OAR official stated that this synchronization process might not resolve some instances and that would require staff to manually establish the claims. Both OAR and OIT managers were not aware of this procedure being documented anywhere beyond working agreements and emails.

Since implementing this weekly procedure, OIT stated in an email to OAR that the number of unestablished supplemental claims had dropped to around 150 in July 2023. The OAR senior management and program analyst stated that the number of unestablished claims will continue to fluctuate until the issue with Caseflow is resolved.

The OAR executive director and a senior management and program analyst both stated that to prevent the delays, OAR plans to no longer use Caseflow to establish supplemental claims. An OAR assistant director also stated work was underway to enable VBMS to track claimed conditions. This added functionality would assist in meeting the AMA's requirements for publishing metrics. Documentation provided by the OAR executive director showed that there are plans to prioritize VBA's ability to automatically establish supplemental claims in VBMS when required based on higher-level review decisions to allow for a more streamlined and efficient process for users and veterans.<sup>41</sup> Both the executive director and senior analyst told the OIG team that automatic establishment was anticipated to be in place in fiscal year 2024.

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<sup>40</sup> At the time, the under secretary was in an "acting" status for that position.

<sup>41</sup> "Benefits and Memorial (BAM) Benefits Integrated Delivery (BID) Fiscal Year 2023 (FY23) Fourth Quarter (Q4) Program Increment (PI) Commitment Plan and Outbrief," July 2023. (This document is not publicly accessible.)



Additionally, the executive director stated action was taken in April 2023 so that the time to establish supplemental claims would be included in their internal reports.

## **Conclusion**

The OIG substantiated the December 2022 allegation that VBA took weeks to establish supplemental claims resulting from higher-level reviews. As a result, thousands of veterans' claims were not established in a timely manner, which possibly delayed compensation for eligible beneficiaries. The OIG identified instances in which supplemental claims were "lost" for a period of time, but VBA discovered the claims and ensured they were eventually established. OAR and OIT used work-arounds to track and resolve unestablished supplemental claims. Despite being notified of issues since 2019, OAR did not recognize this as a systemic issue until 2022. Once OIT determined the delays occurred due to a design flaw with Caseflow, OAR created a procedure to identify unestablished claims and ensure they would be processed. This procedure still requires some manual operations and weekly reconciliations that create some delays and a smaller inventory of unestablished claims. These issues will persist until VBA resolves the synchronization issue or shifts the establishment of supplemental claims to VBMS with added functionality, putting veterans at risk of delayed decisions and benefits.

During this review, the team discussed a potential recommendation that the under secretary for benefits formally document the interim procedure for ensuring supplemental claims are established and maintain this procedure until the Caseflow synchronization issue is resolved or VBA shifts the function of establishing supplemental claims to VBMS. Before the team issued the official draft of this report to VBA for comment, VBA officials told the team that they had proactively created a standard operating procedure to formalize their process for ensuring supplemental claims are established and that the procedure would continue indefinitely until VBA migrates the process out of Caseflow and into VBMS. The team verified the documentation VBA provided showing the procedure, determined it met the intent of the potential recommendation, and therefore did not make an official recommendation for improvement in this area.

## **VA Management Comments**

VA noted that OIG referenced VBA's information accurately and took no issue with the information in the report. VA concurred with the report's findings without comment. The full text of the VA management comments is provided in appendix C.

## Appendix A: Scope and Methodology

### Scope

The VA Office of Inspector General (OIG) conducted its review work from March 2023 and concluded the review in March 2024. The review team assessed higher-level reviews with duty to assist errors and differences of opinions completed from January 1, 2022, through January 31, 2023.<sup>42</sup>

### Methodology

To accomplish the objective, the OIG completed the following actions:

- Reviewed applicable laws, policies, and procedures related to processing higher-level reviews and supplemental claims
- Assessed stratified population samples, consisting of 190 higher-level reviews completed from January 1, 2022, through January 31, 2023 (13 higher-level reviews completed each month in 2022 for a total of 156 and 34 higher-level reviews completed in January 2023)
- Interviewed and obtained information from the Veterans Benefits Administration (VBA) Office of Administrative Review (OAR) managers and staff; VA Office of Information and Technology (OIT) managers; and the managers and staff assigned to the Decision Review Operations Centers (DROCs) in Seattle, Washington, and St. Petersburg, Florida

### Internal Controls

The review team assessed VBA's internal controls significant to the objective. This included an assessment of the five internal control components: (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.<sup>43</sup> In addition, the team reviewed the principles of internal controls associated with the objective. The team identified four components and four principles as significant to the objective.<sup>44</sup> The team identified internal control weaknesses during this review, and VBA took action to address the following control deficiencies:

- Component: Risk Assessment

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<sup>42</sup> Unless otherwise stated, higher-level reviews described in this report refer to those with duty to assist errors and difference of opinion decisions.

<sup>43</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

<sup>44</sup> Since the review was limited to the internal control components and underlying principles identified, it may not have disclosed all internal control deficiencies that may have existed at the time of this review.

- Principle 7: Identify, analyze, and respond to risks
- Component: Control Activities
  - Principle 11: Design activities for the information system
- Component: Information and Communication
  - Principle 15: Management should externally communicate the necessary quality information to achieve the entity's objectives
- Component: Monitoring
  - 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 within the context of the review objectives, could occur during this review. The team exercised due diligence in staying alert to any fraud indicators by

- identifying laws, regulations, and procedures related to the review subject matter to help detect noncompliance or misconduct;
- completing the OIG Fraud Indicators and Assessment Checklist; and
- reviewing relevant OIG hotline complaints for related reports of fraud.

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

## **Data Reliability**

The review team used data from VBA and computer-processed data from VBA's corporate database. To test for reliability, the team's goal was to determine if data were missing from key fields, included calculation errors, or were outside the time frame requested. The team also assessed whether the data contained obvious duplication of records, alphabetic or numeric characters in incorrect fields, or illogical relationships among data elements. The team compared veterans' names, file numbers, dates of claims, and end products. They also used information from electronic claims folders to review completion dates from the data received from the 190 higher-level reviews. Testing of the data disclosed they were sufficiently reliable based on the review objectives. Comparison of the data with information from the electronic claims folders disclosed no problems with data reliability.

## **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: Statistical Sampling Methodology**

### **Approach**

To accomplish the objective of assessing the merits of the hotline allegation that the VBA was taking weeks to establish supplemental claims following completion of higher-level reviews, the team reviewed a statistical sample of veterans' records consisting of approximately 47,100 higher-level reviews completed in 2022, and nearly 5,100 higher-level reviews completed in January 2023.<sup>45</sup> From this population, the team reviewed 190 random samples stratified by month. The team reviewed 13 higher-level reviews completed in each month in 2022 (a total of 156) and 34 higher-level reviews completed in January 2023.

### **Population**

The review population included 190 veterans' records with higher-level reviews completed in calendar year 2022 and through January 31, 2023 (review period). For the purposes of the review, the team estimated the population to be approximately 47,100 higher-level reviews completed in 2022 and nearly 5,100 completed in January 2023 alone. The review team did not exclude any records for not meeting scope requirements.

### **Sampling Design**

The review team selected a statistical sample of 190 records from the population of records with higher-level reviews completed during the review period. As stated above, the population was stratified so that 13 samples were represented for each month in 2022 (a total of 156), and 34 samples for January 2023. Sample sizes for the respective reviews were calculated to achieve the desired precision while minimizing the number of samples. Calculations were based on projecting at the 90 percent confidence level.

### **Weights**

Samples were weighted to represent the population from which they were drawn, and the weights were used in the estimate calculations. For example, the review team calculated the establishment timeframe rate estimates by first summing the sampling weights for all establishment times for records in the sample, then dividing that value by the sum of the weights for all sample records.

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<sup>45</sup> Unless otherwise stated, higher-level reviews described in this report refer to those with duty to assist errors and difference of opinion decisions.

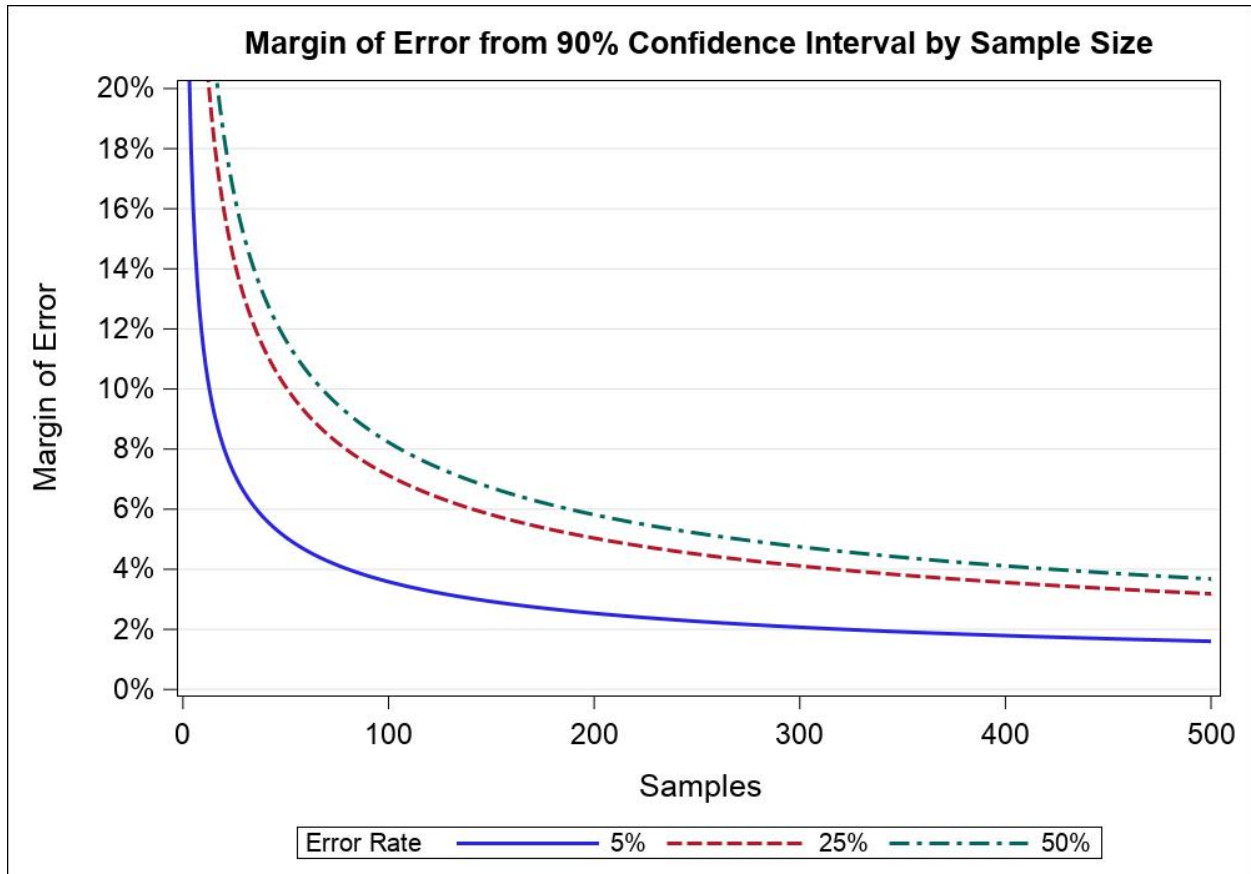
## Projections and Margins of Error

The projection is an estimate of the population value based on the sample. The associated margin of error and confidence interval show the precision of the estimate. If the OIG repeated this review with multiple sets of samples, the confidence intervals would differ for each sample but would include the true population value approximately 90 percent of the time.

The OIG statistician employed statistical analysis software to calculate estimates, margins of error, and confidence intervals that account for the complexity of the sample design.

The sample size was determined after reviewing the expected precision of the projections based on the sample size, potential rate of case establishment times, and logistical concerns of the sample review. While precision improves with larger samples, the rate of improvement decreases significantly as more records are added to the sample review.

Figure B.1 shows the effect of progressively larger sample sizes on the margin of error.



**Figure B.1.** Effect of sample size on margin of error.

Source: VA OIG statistician's analysis.

## Projections

Table B.1 details the review team’s analysis and projected results for higher-level reviews completed in 2022.

**Table B.1. Statistical Projections Summary for  
Higher-Level Reviews Completed in 2022**

Estimate name	Estimate number	90 percent confidence interval			Sample size
		Margin of error	Lower limit	Upper limit	
Supplemental claims not established within 48 hours of higher-level review being completed in 2022	44,492 (94%)	1,407 (3%)	43,084* (91%)	45,899 (97%)	156
Average number of days to establish supplemental claim after higher-level review completed in 2022	41	9	32	50	156

Source: VA OIG statistician’s projection of estimated population based on the team’s findings.

\*Projections and confidence intervals may not total precisely due to rounding.

Table B.2 details the review team’s analysis and projected results for higher-level reviews completed in January 2023.

**Table B.2. Statistical Projections Summary for  
Higher-Level Reviews Completed in January 2023**

Estimate name	Estimate number	90 percent confidence interval			Sample size
		Margin of error	Lower limit	Upper limit	
Supplemental claims not established within 48 hours of higher-level review being completed in January 2023	4,585 (91%)	502 (9%)	4,083 (81%*)	5,087 (100%)	34

Estimate name	Estimate number	90 percent confidence interval			Sample size
		Margin of error	Lower limit	Upper limit	
Average number of days to establish supplemental claim after higher-level review completed in January 2023	16	6	10	22	34

Source: VA OIG statistician's projection of estimated population based on the team's findings.

\*Projections and confidence intervals may not total precisely due to rounding.

Table B.3 compares the difference in the number of days it took to establish supplemental claims between 2022 and January 2023.

**Table B.3. Statistical Comparison of Days to Establish Supplemental Claims between 2022 and January 2023**

2022 mean	January 2023 mean	Difference estimate	90 percent confidence interval		p-value
			Lower	Upper	
41	16	25	14	37	<0.001

Source: VA OIG statistician's projection of estimated population based on the team's findings.

Note: The difference in times is statistically significant at the 90 percent confidence level (p-value is less than 0.10).



## Appendix C: VA Management Comments

### Department of Veterans Affairs Memorandum

Date: April 9, 2024

From: Under Secretary for Benefits (20)

Subj: Office of Inspector General (OIG) Draft Report - Software Delayed the Establishment of Supplemental Claims for Appeals of Benefits Decisions [Project No. 2023-01232-AE-0046] — [VIEWS 11502478]

To: Assistant Inspector General for Audits and Evaluations (52)

1. Thank you for the opportunity to review and comment on the OIG draft report: Software Delayed the Establishment of Supplemental Claims for Appeals of Benefits Decisions. Where Veterans Benefits Administration (VBA) is mentioned, OIG references VBA's information accurately, and VBA takes no issue with the information in the report. VBA appreciates the opportunity to review the draft report and concurs without comment.

*The OIG removed point of contact information prior to publication.*

(Original signed by)

Joshua Jacobs

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

## OIG Contact and Staff Acknowledgments

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<b>Contact</b>	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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<b>Review Team</b>	Dana Sullivan, Director Katie Archuleta Brett Byrd Elyce Girouard Adam Herman Gregory Nelson Despina Saeger Mark Ward Claudia Wellborn
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<b>Other Contributors</b>	Allison Bennett Daniel Blodgett Trang Bui Andrew Eichner Jason Reyes
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