

1962—Pub. L. 87-825, §5(b), Oct. 15, 1962, 76 Stat. 950, struck out items 3004 and 3011.

SUBCHAPTER I—CLAIMS

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-687, div. A, title I, §103(c)(4), Nov. 18, 1988, 102 Stat. 4108, substituted "CLAIMS" for "APPLICATIONS" in heading for subchapter I.

§ 5100. Definitions

In this chapter:

(1) The term "claimant" means any individual applying for, or submitting a claim for, any benefit under the laws administered by the Secretary.

(2) The term "notice" means a communication issued through means (including electronic means) prescribed by the Secretary.

(Added Pub. L. 117-168, title VIII, §807(a)(1), Aug. 10, 2022, 136 Stat. 1805.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5100, added Pub. L. 106-475, §2, Nov. 9, 2000, 114 Stat. 2096, defined "claimant", prior to repeal by Pub. L. 117-168, title VIII, §807(a)(1), Aug. 10, 2022, 136 Stat. 1805.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 117-168, title VIII, §807(b), Aug. 10, 2022, 136 Stat. 1806, provided that: "None of the amendments made by this section [enacting this section, amending sections 5104, 5104B, 5112, 7104, 7105, 7105A, and 7266 of this title, and repealing former section 5100 of this title] shall be construed to apply section 5104(a) of such title [meaning title 38, United States Code] to decisions of the Board of Veterans' Appeals under chapter 71 of such title."

§ 5101. Claims and forms

(a)(1)(A) Except as provided in subparagraph (B), a specific claim in the form prescribed by the Secretary (or jointly with the Commissioner of Social Security, as prescribed by section 5105 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary.

(B)(i) The Secretary may pay benefits under chapters 13 and 15 and sections 2303, 2307, and 5121 of this title to a survivor of a veteran who has not filed a formal claim if the Secretary determines that the record contains sufficient evidence to establish the entitlement of the survivor to such benefits.

(ii) For purposes of this subparagraph and section 5110 of this title, the earlier of the following dates shall be treated as the date of the receipt of the survivor's application for benefits described in clause (i):

(I) The date on which the survivor of a veteran (or the representative of such a survivor) notifies the Secretary of the death of the veteran through a death certificate or other relevant evidence that establishes entitlement to survivors' benefits identified in clause (i).

(II) The head of any other department or agency of the Federal Government notifies the Secretary of the death of the veteran.

(iii) In notifying the Secretary of the death of a veteran as described in clause (ii)(I), the survivor (or the representative of such a survivor) may submit to the Secretary additional documents relating to such death without being required to file a formal claim.

(2) If an individual has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign a form, a form filed under paragraph (1) for the individual may be signed by a court-appointed representative, a person who is responsible for the care of the individual, including a spouse or other relative, or an attorney in fact or agent authorized to act on behalf of the individual under a durable power of attorney. If the individual is in the care of an institution, the manager or principal officer of the institution may sign the form.

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

(c)(1) Any person who applies for, signs a form on behalf of an individual to apply for, or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person, or TIN in the case that the person is not an individual, and the social security number of any claimant, dependent, or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number or TIN required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number or TIN.

(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(d)(1) The Secretary shall publish in a central location on the internet website of the Department—

(A) the disability benefit questionnaire forms of the Department for the submittal of evidence from non-Department medical providers regarding a disability of a claimant, including any form or process that replaces any such disability benefit questionnaire form; and

(B) details about the process used by the Department for submittal of evidence described in subparagraph (A).

(2) Subject to section 6103 of this title, if the Secretary updates a form described in paragraph (1)(A), the Secretary shall—

(A) accept the previous version of the form filed by a claimant if—

(i) the claimant provided to the non-Department medical provider the previous version of the form before the date on which the updated version of the form was made available; and

(ii) the claimant files the previous version of the form during the one-year period following the date the form was completed by the non-Department medical provider;

(B) request from the claimant (or from a non-Department medical provider if the claimant has authorized the provider to share health information with the Secretary) any other information that the updated version of the form requires; and

(C) apply the laws and regulations required to adjudicate the claim as if the claimant filed the updated version of the form.

(3) The Secretary may waive any interagency approval process required to approve a modification to a disability benefit questionnaire form if such requirement only applies by reason of the forms being made public.

(e) In this section:

(1) The term “mentally incompetent” with respect to an individual means that the individual lacks the mental capacity—

(A) to provide substantially accurate information needed to complete a form; or

(B) to certify that the statements made on a form are true and complete.

(2) The term “TIN” has the meaning given the term in section 7701(a)(41) of the Internal Revenue Code of 1986.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1225, §3001; Pub. L. 97–295, §4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 99–576, title VII, §701(61), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101–508, title VIII, §8053(a), Nov. 5, 1990, 104 Stat. 1388–352; renumbered §5101 and amended Pub. L. 102–40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 108–183, title VII, §708(c)(2), Dec. 16, 2003, 117 Stat. 2674; Pub. L. 112–154, title V, §502(a), Aug. 6, 2012, 126 Stat. 1190; Pub. L. 114–315, title I, §101(a), Dec. 16, 2016, 130 Stat. 1538; Pub. L. 116–315, title II, §§2006(a), 2202(b)(1)(E), Jan. 5, 2021, 134 Stat. 4975, 4985.)

Editorial Notes

REFERENCES IN TEXT

Section 7701(a)(41) of the Internal Revenue Code of 1986, referred to in subsec. (e)(2), is classified to section 7701(a)(41) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Prior section 5101 was renumbered section 8301 of this title.

AMENDMENTS

2021—Subsec. (a)(1)(B)(i). Pub. L. 116–315, §2202(b)(1)(E), substituted “2303” for “2302”.

Subsecs. (d), (e). Pub. L. 116–315, §2006(a), added subsec. (d) and redesignated former subsec. (d) as (e).

2016—Subsec. (a)(1). Pub. L. 114–315 designated existing provisions as subpar. (A), substituted “Except as provided in subparagraph (B), a specific” for “A specific”, and added subpar. (B).

2012—Subsec. (a). Pub. L. 112–154, §502(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 112–154, §502(a)(2)(A), inserted “, signs a form on behalf of an individual to apply for;” after “who applies for” and “, or TIN in the case that the person is not an individual,” after “of such person” and substituted “claimant, dependent,” for “dependent”.

Subsec. (c)(2). Pub. L. 112–154, §502(a)(2)(B), inserted “or TIN” after “social security number” in two places.

Subsec. (d). Pub. L. 112–154, §502(a)(3), added subsec. (d).

2003—Subsec. (a). Pub. L. 108–183 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1991—Pub. L. 102–40, §402(b)(1), renumbered section 3001 of this title as this section.

Subsec. (a). Pub. L. 102–83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” after “prescribed by the”.

Pub. L. 102–83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

Pub. L. 102–40, §402(d)(1), substituted “5105” for “3005”.

1990—Subsec. (c). Pub. L. 101–508 added subsec. (c).

1986—Subsec. (b)(1). Pub. L. 99–576 substituted “surviving spouse or” for “widow or” in two places.

1982—Subsec. (a). Pub. L. 97–295 substituted “Health and Human Services” for “Health, Education, and Welfare”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 2202(b)(1)(E) of Pub. L. 116–315 applicable to deaths that occur on or after the date that is two years after Jan. 5, 2021, see section 2202(d) of Pub. L. 116–315, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–315, title I, §101(c), Dec. 16, 2016, 130 Stat. 1540, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to claims for benefits based on a death occurring on or after the date of the enactment of this Act [Dec. 16, 2016].”

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–154, title V, §502(b), Aug. 6, 2012, 126 Stat. 1191, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to claims filed on or after the date of the enactment of this Act [Aug. 6, 2012].”

RULE OF CONSTRUCTION

Pub. L. 116–315, title II, §2006(e), Jan. 5, 2021, 134 Stat. 4977, provided that: “Nothing in this section [amending this section and enacting provisions set out as notes below] or section 5101(d) of such title [title 38], as added by subsection (a), may be construed to require the Secretary [of Veterans Affairs] to develop any new information technology system or otherwise require the Secretary to make any significant changes to the internet website of the Department.”

TEMPORARY HALT ON ELIMINATION OF MEDICAL EXAMINER POSITIONS IN DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 116–315, title II, §2002(b), Jan. 5, 2021, 134 Stat. 4968, provided that: “The Secretary of Veterans Affairs shall temporarily suspend the efforts of the Secretary

in effect on the day before the date of the enactment of this Act [Jan. 5, 2021] to eliminate medical examiner positions in the Department of Veterans Affairs until the number of individuals awaiting a medical examination with respect to medical disability of the individuals for benefits under laws administered by the Secretary that are carried out through the Under Secretary for Benefits is equal to or less than the number of such individuals who were awaiting such a medical examination with respect to such purposes on March 1, 2020.”

INITIAL FORM

Pub. L. 116-315, title II, §2006(c), Jan. 5, 2021, 134 Stat. 4976, provided that: “The Secretary of Veterans Affairs shall begin carrying out section 5101(d)(1) of such title [title 38], as added by subsection (a), by publishing, as described in such section, the form described in such section that was in effect on January 1, 2020.”

ALTERNATE PROCESS

Pub. L. 116-315, title II, §2006(d), Jan. 5, 2021, 134 Stat. 4976, provided that:

“(1) ASSESSMENT AND REPORT.—

“(A) IN GENERAL.—Subject to paragraph (2), not later than 180 days after the date of the enactment of this act [sic] [Jan. 5, 2021], the Secretary [of Veterans Affairs] shall—

“(i) assess the feasibility and advisability of replacing disability benefit questionnaire forms that are used by non-Department medical providers to submit to the Secretary evidence regarding a disability of a claimant for benefits under laws administered by the Secretary, with another consistent process that considers evidence equally, whether provided by a Department or a non-Department medical provider; and

“(ii) submit to Congress—

“(I) a report on the findings of the Secretary with respect to the assessment conducted under clause (i); and

“(II) if the report submitted under subclause (I) of this clause includes a finding that replacing the disability benefit questionnaire forms described in clause (i) as described in such clause is feasible and advisable, a plan to replace such forms as described in such clause.

“(B) COLLABORATION REQUIRED.—If, in carrying out the assessment required by clause (i) of subparagraph (A), the Secretary determines that replacing the disability benefit questionnaire forms described in such clause as described in such clause is feasible and advisable, the Secretary shall collaborate with, partner with, and consider the advice of veterans service organizations, and such other stakeholders as the Secretary considers appropriate, on the replacement forms and process for submitting such forms.

“(2) REQUIREMENTS.—The Secretary may only determine under paragraph (1)(A) that replacing the forms described in such paragraph is feasible and advisable if the Secretary certifies that—

“(A) it is in the best interest of veterans to do so;

“(B) the replacement process would include all the medical information needed to adjudicate a claim for benefits under laws administered by the Secretary; and

“(C) the new process will ensure that all medical information provided will be considered equally, whether it is provided by a Department medical provider or a non-Department medical provider.

“(3) IMPLEMENTATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary determines under paragraph (1)(A) that replacing the forms as described in such paragraph is feasible and advisable, the Secretary shall, not later than two years after the date on which the Secretary submits the report under paragraph (1)(B)(i)—

“(i) replace the forms as described in paragraph (1)(A);

“(ii) publish such replacement pursuant to subparagraph (A) of section 5101(d)(1), as added by subsection (a)(2); and

“(iii) update the details under subparagraph (B) of such section.

“(B) REPORTS BY INSPECTOR GENERAL OF THE DEPARTMENT OF VETERANS AFFAIRS.—If the Secretary replaces the forms under subparagraph (A), the Inspector General of the Department of Veterans Affairs shall, not later than one year after the date that the Secretary replaces such forms and not less frequently than once each year thereafter until the date that is three years after the date on which the Secretary replaces such forms, submit to Congress a report on the process that replaced such forms that ascertains whether the process properly protects veterans.

“(4) LIMITATION.—The Secretary may not discontinue the use of the disability benefit questionnaire forms described in paragraph (1)(A) until a replacement form or process is implemented.”

OVERPAYMENTS OF PENSION TO VETERANS RECEIVING PENSION FROM THE DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 116-315, title VI, §6003, Jan. 5, 2021, 134 Stat. 5051, provided that:

“(a) GUIDANCE AND TRAINING FOR CLAIMS PROCESSORS.—As the Secretary of Veterans Affairs considers necessary, but not less frequently than once every three years until the date that is 10 years after the date of the enactment of this Act [Jan. 5, 2021], the Under Secretary for Benefits of the Department of Veterans Affairs shall update guidance and training curriculum for the processors of claims for pension under chapter 15 of title 38, United States Code, regarding the evaluation of questionable medical expenses on applications for pension, including by updating such guidance with respect to what constitutes a questionable medical expense and by including examples of such expenses.

“(b) IDENTIFICATION AND TRACKING.—The Under Secretary shall develop a method for identifying and tracking the number of individuals who have received overpayments of pension under chapter 15 of title 38, United States Code.

“(c) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act and not later than October 31 of each fiscal year beginning thereafter until the date that is four years after the date of the enactment of this Act, the Under Secretary shall submit to Congress a report that includes, for the period covered by the report, the following:

“(1) The number of individuals who received overpayments of pension under chapter 15 of title 38, United States Code.

“(2) The five most common reasons for overpayments described in paragraph (1).

“(3) The number of veterans who had to repay overpayments described in paragraph (1).

“(4) The number of veterans for whom the Secretary waived a requirement to repay an overpayment described in paragraph (1).

“(5) The total dollar amount of overpayments described in paragraph (1).

“(6) The total dollar amount of repayments of veterans for overpayments described in paragraph (1).

“(7) The average dollar amount of repayments described in paragraph (6).”

PLAN FOR PROCESSING LEGACY APPEALS AND IMPLEMENTING NEW APPEALS SYSTEM

Pub. L. 115-55, §§3-6, Aug. 23, 2017, 131 Stat. 1116-1127, provided that:

“SEC. 3. COMPREHENSIVE PLAN FOR PROCESSING OF LEGACY APPEALS AND IMPLEMENTING NEW APPEALS SYSTEM.

“(a) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Aug. 23, 2017], the Secretary of Veterans Affairs shall submit to the appropriate committees of Congress and the Comptroller

General of the United States a comprehensive plan for—

- “(1) the processing of appeals of decisions on legacy claims that the Secretary considers pending;
- “(2) implementing the new appeals system;
- “(3) timely processing, under the new appeals system, of—

- “(A) supplemental claims under section 5108 of title 38, United States Code, as amended by section 2(i);

- “(B) requests for higher-level review under section 5104B of such title, as added by section 2(g); and

- “(C) appeals on any docket maintained under section 7107 of such title, as amended by section 2(t); and

- “(4) monitoring the implementation of the new appeals system, including metrics and goals—

- “(A) to track the progress of the implementation;

- “(B) to evaluate the efficiency and effectiveness of the implementation; and

- “(C) to identify potential issues relating to the implementation.

“(b) ELEMENTS.—The plan required by subsection (a) shall include, at a minimum, the following:

- “(1) Delineation of the total resource requirements of the Veterans Benefits Administration and the Board of Veterans' Appeals, disaggregated by resources required to implement and administer the new appeals system and resources required to address the appeals of decisions on legacy claims.

- “(2) Delineation of the personnel requirements of the Administration and the Board, including staffing levels during the—

- “(A) period in which the Administration and the Board are concurrently processing—

- “(i) appeals of decisions on legacy claims; and

- “(ii) appeals of decisions on non-legacy claims under the new appeals system; and

- “(B) the period during which the Administration and the Board are no longer processing any appeals of decisions on legacy claims.

- “(3) Identification of the legal authorities under which the Administration or the Board may—

- “(A) hire additional employees to conduct the concurrent processing described in paragraph (2)(A); and

- “(B) remove employees who are no longer required by the Administration or the Board once the Administration and the Board are no longer processing any appeals of decisions on legacy claims.

- “(4) An estimate of the amount of time the Administration and the Board will require to hire additional employees as described in paragraph (3)(A) once funding has been made available for such purpose, including a comparison of such estimate and the historical average time required by the Administration and the Board to hire additional employees.

- “(5) A description of the amount of training and experience that will be required of individuals conducting higher-level reviews under section 5104B of title 38, United States Code, as added by section 2(g).

- “(6) An estimate of the percentage of higher-level adjudicators who will be employees of the Department of Veterans Affairs who were Decision Review Officers on the day before the new appeals system takes effect or had experience, as of such date, comparable to that of one who was a Decision Review Officer.

- “(7) A description of the functions that will be performed after the date on which the new appeals system takes effect by Decision Review Officers who were Decision Review Officers on the day before the date the new appeals system takes effect.

- “(8) Identification of and a timeline for—

- “(A) any training that may be required as a result of hiring new employees to carry out the new appeals system or to process appeals of decisions on legacy claims; and

- “(B) any retraining of existing employees that may be required to carry out such system or to process such claims.

- “(9) Identification of the costs to the Department of Veterans Affairs of the training identified under paragraph (8) and any additional training staff and any additional training facilities that will be required to provide such training.

- “(10) A description of the modifications to the information technology systems of the Administration and the Board that the Administration and the Board require to carry out the new appeals system, including cost estimates and a timeline for making the modifications.

- “(11) An estimate of the office space the Administration and the Board will require during each of the periods described in paragraph (2), including—

- “(A) an estimate of the amount of time the Administration and the Board will require to acquire any additional office space to carry out processing of appeals of decisions on legacy claims and processing of appeals under the new appeals system;

- “(B) a comparison of the estimate under subparagraph (A) and the historical average time required by the Administration and the Board to acquire new office space; and

- “(C) a plan for using telework to accommodate staff exceeding available office space, including how the Administration and the Board will provide training and oversight with respect to such teleworking.

- “(12) Projections for the productivity of individual employees at the Administration and the Board in carrying out tasks relating to the processing of appeals of decisions on legacy claims and appeals under the new appeals system, taking into account the experience level of new employees and the enhanced notice requirements under section 5104(b) of title 38, United States Code, as amended by section 2(e).

- “(13) An outline of the outreach the Secretary expects to conduct to inform veterans, families of veterans, survivors of veterans, veterans service organizations, military service organizations, congressional caseworkers, advocates for veterans, and such other stakeholders as the Secretary considers appropriate about the new appeals system, including—

- “(A) a description of the resources required to conduct such outreach; and

- “(B) timelines for conducting such outreach.

- “(14) Timelines for updating any policy guidance, Internet websites, and official forms that may be necessary to carry out the new appeals system, including—

- “(A) identification of which offices and entities will be involved in efforts relating to such updating; and

- “(B) historical information about how long similar update efforts have taken.

- “(15) A timeline, including interim milestones, for promulgating such regulations as may be necessary to carry out the new appeals system and a comparison with historical averages for time required to promulgate regulations of similar complexity and scope.

- “(16) An outline of the circumstances under which claimants with pending appeals of decisions on legacy claims would be authorized to have their appeals reviewed under the new appeals system.

- “(17) A delineation of the key goals and milestones for reducing the number of pending appeals that are not processed under the new appeals system, including the expected number of appeals, remands, and hearing requests at the Administration and the Board each year, beginning with the one year period beginning on the date of the enactment of this Act [Aug. 23, 2017], until there are no longer any appeals pending before the Administration or the Board for a decision on a legacy claim.

- “(18) A description of each risk factor associated with each element of the plan and a contingency plan to minimize each such risk.

“(c) REVIEW BY COMPTROLLER GENERAL OF THE UNITED STATES.—

- “(1) IN GENERAL.—Not later than 90 days after the Comptroller General of the United States receives

the plan required by subsection (a), the Comptroller General shall—

“(A) assess such plan; and

“(B) notify the appropriate committees of Congress of the findings of the Comptroller General with respect to the assessment conducted under subparagraph (A).

“(2) ELEMENTS.—The assessment conducted under paragraph (1)(A) shall include the following:

“(A) An assessment of whether the plan comports with sound planning practices.

“(B) Identification of any gaps in the plan.

“(C) Formulation of such recommendations as the Comptroller General considers appropriate.

“(d) PERIODIC PROGRESS REPORTS.—Not later than 90 days after the date on which the Secretary submits the plan under subsection (a), not less frequently than once every 90 days thereafter until the applicability date set forth in section 2(x)(1) [of Pub. L. 115-55, set out in a note under section 101 of this title], and not less frequently than once every 180 days thereafter for the seven-year period following such applicability date, the Secretary shall submit to the appropriate committees of Congress and the Comptroller General a report on the progress of the Secretary in carrying out the plan and what steps, if any, the Secretary has taken to address any recommendations formulated by the Comptroller General pursuant to subsection (c)(2)(C).

“(e) PUBLICATION.—The Secretary shall make available to the public on an Internet website of the Department of Veterans Affairs—

“(1) the plan required by subsection (a); and

“(2) the periodic progress reports required by subsection (d).

“(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Committee on Veterans' Affairs and the Committee on Appropriations of the Senate; and

“(2) the Committee on Veterans' Affairs and the Committee on Appropriations of the House of Representatives.

“SEC. 4. PROGRAMS TO TEST ASSUMPTIONS RELIED ON IN DEVELOPMENT OF COMPREHENSIVE PLAN FOR PROCESSING OF LEGACY APPEALS AND SUPPORTING NEW APPEALS SYSTEM.

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The Secretary of Veterans Affairs may carry out such programs as the Secretary considers appropriate to test any assumptions relied upon in developing the comprehensive plan required by section 3(a) and to test the feasibility and advisability of any facet of the new appeals system.

“(2) REPORTING REQUIRED.—Whenever the Secretary determines, based on the conduct of a program under paragraph (1), that legislative changes to the new appeals system are necessary, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives notice of such determination.

“(b) DEPARTMENT OF VETERANS AFFAIRS PROGRAM ON FULLY DEVELOPED APPEALS.—

“(1) IN GENERAL.—The Secretary of Veterans Affairs may, under subsection (a)(1), carry out a program to provide the option of an alternative appeals process that shall more quickly determine such appeals in accordance with this subsection.

“(2) ELECTION.—

“(A) FILING.—In accordance with subparagraph (B), a claimant may elect to file a fully developed appeal under the program by filing with the Secretary all of the following:

“(i) The notice of disagreement under chapter 71 of title 38, United States Code, along with the written election of the claimant to have the appeal determined under the program.

“(ii) All evidence that the claimant believes is needed for the appeal as of the date of the filing.

“(iii) A statement of the argument in support of the claim, if any.

“(B) TIMING.—A claimant shall make an election under subparagraph (A) as part of the notice of disagreement filed by the claimant in accordance with subparagraph (A)(i).

“(C) TRIAGE.—The Secretary shall, upon expiration of the period specified in paragraph (3)(C)(iii), ensure that an assessment is undertaken of whether an appeal filed under subparagraph (A) of this paragraph satisfies the requirements for appeal under the program and provide appropriate notification to the claimant of the results of that assessment.

“(D) REVERSION.—

“(i) ELECTED REVERSION.—At any time, a claimant who makes an election under subparagraph (A) may elect to revert to the standard appeals process. Such a reversion shall be final.

“(ii) AUTOMATIC REVERSION.—A claimant described in clause (i), or a claimant who makes an election under subparagraph (A) but is later determined to be ineligible for the program under paragraph (1), shall revert to the standard appeals process without any penalty to the claimant other than the loss of the docket number associated with the fully developed appeal.

“(E) OUTREACH.—In providing claimants with notices of the determination of a claim during the period in which the program under paragraph (1) is carried out, the Secretary shall conduct outreach as follows:

“(i) The Secretary shall provide to the claimant (and to the representative of record of the claimant, if any) information regarding—

“(I) the program, including the advantages and disadvantages of the program;

“(II) how to make an election under subparagraph (A);

“(III) the limitation on the use of new evidence described in subparagraph (C) of paragraph (3) and the development of information under subparagraph (D) of such paragraph;

“(IV) the ability of the claimant to seek advice and education regarding such process from veterans service organizations, attorneys, and claims agents recognized under chapter 59 of title 38, United States Code; and

“(V) the circumstances under which the appeal will automatically revert to the standard appeals process, including by making a request for a hearing.

“(ii) The Secretary shall collaborate, partner with, and give weight to the advice of the three veterans service organizations with the most members and such other stakeholders as the Secretary considers appropriate to publish on the Internet website of the Department of Veterans Affairs an online tutorial explaining the advantages and disadvantages of the program.

“(3) TREATMENT BY DEPARTMENT AND BOARD.—

“(A) PROCESS.—Upon the election of a claimant to file a fully developed appeal pursuant to paragraph (2)(A), the Secretary shall—

“(i) not provide the claimant with a statement of the case nor require the claimant to file a substantive appeal; and

“(ii) transfer jurisdiction over the fully developed appeal directly to the Board of Veterans' Appeals.

“(B) DOCKET.—

“(i) IN GENERAL.—The Board of Veterans' Appeals shall—

“(I) maintain fully developed appeals on a separate docket than standard appeals;

“(II) decide fully developed appeals in the order that the fully developed appeals are received on the fully developed appeal docket;

“(III) except as provided by clause (ii), decide not more than one fully developed appeal for each four standard appeals decided; and

“(IV) to the extent practicable, decide each fully developed appeal by the date that is one year following the date on which the claimant files the notice of disagreement.

“(ii) ADJUSTMENT.—Beginning one year after the date on which the program commences, the Board may adjust the number of standard appeals decided for each fully developed appeal under clause (i)(III) if the Board determines that such adjustment is fair for both standard appeals and fully developed appeals.

“(C) LIMITATION ON USE OF NEW EVIDENCE.—

“(i) IN GENERAL.—Except as provided by clauses (ii) and (iii)—

“(I) a claimant may not submit or identify to the Board of Veterans' Appeals any new evidence relating to a fully developed appeal after filing such appeal unless the claimant reverts to the standard appeals process pursuant to paragraph (2)(D); and

“(II) if a claimant submits or identifies any such new evidence, such submission or identification shall be deemed to be an election to make such a reversion pursuant to paragraph (2)(D).

“(ii) EVIDENCE GATHERED BY BOARD.—Clause (i) shall not apply to evidence developed pursuant to subparagraphs (D) and (E). The Board shall consider such evidence in the first instance without consideration by the Veterans Benefits Administration.

“(iii) REPRESENTATIVE OF RECORD.—The representative of record of a claimant for appeals purposes, if any, shall be provided an opportunity to review the fully developed appeal of the claimant and submit any additional arguments or evidence that the representative determines necessary during a period specified by the Board for purposes of this subparagraph.

“(D) PROHIBITION ON REMAND FOR ADDITIONAL DEVELOPMENT.—If the Board of Veterans' Appeals determines that a fully developed appeal requires Federal records, independent medical opinions, or new medical examinations, the Board shall—

“(i) in accordance with subparagraph (E), take such actions as may be necessary to develop such records, opinions, or examinations in accordance with section 5103A of title 38, United States Code;

“(ii) retain jurisdiction of the fully developed appeal without requiring a determination by the Veterans Benefits Administration based on such records, opinions, or examinations;

“(iii) ensure the claimant, and the representative of record of a claimant, if any, receives a copy of such records, opinions, or examinations; and

“(iv) provide the claimant a period of 90 days after the date of mailing such records, opinions, or examinations during which the claimant may provide the Board any additional evidence without requiring the claimant to make a reversion pursuant to paragraph (2)(D).

“(E) DEVELOPMENT UNIT.—

“(i) ESTABLISHMENT.—The Board of Veterans' Appeals shall establish an office to develop Federal records, independent medical opinions, and new medical examinations pursuant to subparagraph (D)(i) that the Board determines necessary to decide a fully developed appeal.

“(ii) REQUIREMENTS.—The Secretary shall—

“(I) ensure that the Veterans Benefits Administration cooperates with the Board of Veterans' Appeals in carrying out clause (i); and

“(II) transfer employees of the Veterans Benefits Administration who, prior to the enactment of this Act [see Tables for classification], were responsible for processing claims remanded by the Board of Veterans' Appeals to positions within the office of the Board established under clause (i) in a number the Secretary determines sufficient to carry out such subparagraph.

“(F) HEARINGS.—Notwithstanding section 7107 of title 38, United States Code, the Secretary may not provide hearings with respect to fully developed appeals under the program. If a claimant requests to hold a hearing pursuant to such section 7107, such request shall be deemed to be an election to revert to the standard appeals process pursuant to paragraph (2)(D).

“(4) DURATION; APPLICABILITY.—

“(A) DURATION.—Subject to subsection (c), the Secretary may carry out the program during such period as the Secretary considers appropriate.

“(B) APPLICABILITY.—This section shall apply only to fully developed appeals that are filed during the period in which the program is carried out pursuant to subparagraph (A).

“(5) DEFINITIONS.—In this subsection:

“(A) COMPENSATION.—The term ‘compensation’ has the meaning given that term in section 101 of title 38, United States Code.

“(B) FULLY DEVELOPED APPEAL.—The term ‘fully developed appeal’ means an appeal of a claim for disability compensation that is—

“(i) filed by a claimant in accordance with paragraph (2)(A); and

“(ii) considered in accordance with this subsection.

“(C) STANDARD APPEAL.—The term ‘standard appeal’ means an appeal of a claim for disability compensation that is not a fully developed appeal.

“(c) TERMINATION OF AUTHORITY.—The Secretary of Veterans Affairs may not carry out a program under this section after the applicability date set forth in section 2(x)(1) [of Pub. L. 115-55, set out in a note under section 101 of this title].

“SEC. 5. PERIODIC PUBLICATION OF METRICS RELATING TO PROCESSING OF APPEALS BY DEPARTMENT OF VETERANS AFFAIRS.

“The Secretary of Veterans Affairs shall periodically publish on an Internet website of the Department of Veterans Affairs the following:

“(1) With respect to the processing by the Secretary of appeals under the new appeals system of decisions regarding claims for benefits under laws administered by the Secretary, the following:

“(A) For the Veterans Benefits Administration and, to the extent practicable, each regional office of the Department of Veterans Affairs, the number of—

“(i) supplemental claims under section 5108 of title 38, United States Code, as amended by section 2(i), that are pending; and

“(ii) requests for higher-level review under section 5104B of such title, as added by section 2(g), that are pending.

“(B) The number of appeals on any docket maintained under section 7107 of such title, as amended by section 2(t), that are pending.

“(C) The average duration for processing claims and supplemental claims, disaggregated by regional office.

“(D) The average duration for processing requests for higher-level review under section 5104B of such title, as added by section 2(g), disaggregated by regional office.

“(E) The average number of days that appeals are pending on a docket of the Board of Veterans' Appeals maintained pursuant to section 7107 of such title, as amended by section 2(t), disaggregated by—

“(i) appeals that include a request for a hearing;

“(ii) appeals that do not include a request for a hearing and do include submittal of evidence; and

“(iii) appeals that do not include a request for a hearing and do not include submittal of evidence.

“(F) With respect to the policy developed and implemented under section 7107(e) of such title, as amended by section 2(t)—

“(i) the number of cases moved from one docket to another pursuant to such policy;

“(ii) the average time cases were pending prior to moving from one docket to another; and

“(iii) the average time to adjudicate the cases after so moving.

“(G) The total number of remands to obtain advisory medical opinions under section 5109(d) of title 38, United States Code, as added by section 2(j).

“(H) The average number of days between the date on which the Board remands a claim to obtain an advisory medical opinion under section 5109(d) of such title, as so added, and the date on which the advisory medical opinion is obtained.

“(I) The average number of days between the date on which the Board remands a claim to obtain an advisory medical opinion under section 5109(d) of such title, as so added, and the date on which the agency of original jurisdiction issues a decision taking that advisory opinion into account.

“(J) The number of appeals that are granted, the number of appeals that are remanded, and the number of appeals that are denied by the Board disaggregated by docket.

“(K) The number of claimants each year that take action within the period set forth in section 5110(a)(2) of such title, as added by section 2(l), to protect their effective date under such section 5110(a)(2), disaggregated by the status of the claimants taking the actions, such as whether the claimant is represented by a veterans service organization, the claimant is represented by an attorney, or the claimant is taking such action pro se.

“(L) The total number of times on average each claimant files under section 5110(a)(2) of such title, as so added, to protect their effective date under such section, disaggregated by the subparagraph of such section under which they file.

“(M) The average duration, from the filing of an initial claim until the claim is resolved and claimants no longer take any action to protect their effective date under section 5110(a)(2) of such title, as so added—

“(i) of claims under the new appeals system, excluding legacy claims that opt in to the new appeals system; and

“(ii) of legacy claims that opt in to the new appeals system.

“(N) How frequently an action taken within one year to protect an effective date under section 5110(a)(2) of such title, as so added, leads to additional grant of benefits, disaggregated by action taken.

“(O) The average of how long it takes to complete each segment of the claims process while claimants are protecting the effective date under such section, disaggregated by the time waiting for the claimant to take an action and the time waiting for the Secretary to take an action.

“(P) The number and the average amount of retroactive awards of benefits from the Secretary as a result of protected effective dates under such section, disaggregated by action taken.

“(Q) The average number of times claimants submit to the Secretary different claims with respect to the same condition, such as an initial claim and a supplemental claim.

“(R) The number of cases each year in which a claimant inappropriately tried to take simultaneous actions, such as filing a supplemental claim while a higher-level review is pending, what actions the Secretary took in response, and how long it took on average to take those actions.

“(S) In the case that the Secretary develops and implements a policy under section 5104C(a)(2)(D) of such title, as amended by section 2(h)(1), the number of actions withdrawn and new actions taken pursuant to such policy.

“(T) The number of times the Secretary received evidence relating to an appeal or higher-level review at a time not authorized under the new appeals system, disaggregated by actions taken by

the Secretary to deal with the evidence and how long on average it took to take those actions.

“(U) The number of errors committed by the Secretary in carrying out the Secretary's duty to assist under section 5103A of title 38, United States Code, that were identified by higher-level review and by the Board, disaggregated by type of error, such as errors relating to private records and inadequate examinations, and a comparison with errors committed by the Secretary in carrying out such duty with respect to appeals of decisions on legacy claims.

“(V) An assessment of the productivity of employees at the regional offices and at the Board, disaggregated by level of experience of the employees.

“(W) The percentage of cases that are decided within the goals established by the Secretary for deciding cases, disaggregated by cases that involve a supplemental claim, cases that involve higher-level review, and by docket maintained under section 7107(a) of such title, as amended by section 2(t), or in the case that the Secretary has not established goals for deciding cases, the percentage of cases which are decided within one year, two years, three years, and more than three years, disaggregated by docket.

“(X) Of the cases that involve higher-level review, the percentage of decisions that are overturned in whole or in part by the higher-level adjudicator, that are upheld by the higher-level adjudicator, and that are returned for correction of an error.

“(Y) The frequency by which the Secretary readjudicates a claim pursuant to section 5108 of such title, as amended by section 2(i), and the frequency by which readjudication pursuant to section 5108 of such title, as so amended, results in an award of benefits.

“(Z) In any case in which the Board decides to screen cases for a purpose described in section 7107(d) of such title, as amended by section 2(t)(1)—

“(i) a description of the way in which the cases are screened and the purposes for which they are screened;

“(ii) a description of the effect such screening has had on—

“(I) the timeliness of the issuance of decisions of the Board; and

“(II) the inventory of cases before the Board; and

“(iii) the type and frequency of development errors detected through such screening.

“(2) With respect to the processing by the Secretary of appeals of decisions on legacy claims, the following:

“(A) The average duration of each segment of the appeals process, disaggregated by periods in which the Secretary is waiting for a claimant to take an action and periods in which the claimant is waiting for the Secretary to take an action.

“(B) The frequency by which appeals lead to additional grant of benefits by the Secretary, disaggregated by whether the additional benefits are a result of additional evidence added after the initial decision.

“(C) The number and average amount of retroactive awards of benefits resulting from an appeal.

“(D) The average duration from filing a legacy claim with the Secretary until all appeals and remands relating to such legacy claim are completed.

“(E) The average number of times claimants submit to the Secretary different claims with respect to the same condition, such as an initial claim, new and material evidence, or a claim for an increase in benefits.

“(F) An assessment of the productivity of employees at the regional offices and at the Board, disaggregated by level of experience of the employees.

“(G) The average number of days the duration of an appeal is extended because the Secretary se-

cured or attempted to secure an advisory medical opinion under section 5109 of title 38, United States Code, or [former] section 7109 of such title (as in effect on the day before the date of the enactment of this Act [Aug. 23, 2017]).

“(H) The frequency by which claims are reopened pursuant to section 5108 of such title and the frequency by which such reopening results in an award of benefits.

“(3) With respect to the processing by the Secretary of appeals of decisions on legacy claims that opt in to the new appeals system, the following:

“(A) The cumulative number of such legacy claims.

“(B) The portion of work in the new appeals system attributable to appeals of decisions on such legacy claims.

“(C) The average period such legacy claims were pending before opting in to the new appeals system and the average period required to adjudicate such legacy claims on average after opting in—

“(i) with respect to claims at a regional office of the Department of Veterans Affairs, disaggregated by—

“(I) supplemental claims under section 5108 of title 38, United States Code, as amended by section 2(i); and

“(II) requests for higher-level review under section 5104B of such title, as added by section 2(g); and

“(ii) with respect to appeals, disaggregated by docket of the Board maintained under section 7107 of such title, as amended by section 2(t).

“SEC. 6. DEFINITIONS.

“In this Act [see Tables for classification]:

“(1) CLAIMANT.—The term ‘claimant’ has the meaning given such term in section 5100 of title 38, United States Code.

“(2) LEGACY CLAIMS.—The term ‘legacy claim’ means a claim—

“(A) that was submitted to the Secretary of Veterans Affairs for a benefit under a law administered by the Secretary; and

“(B) for which notice of a decision under section 5104 of title 38, United States Code, was provided by the Secretary before the date set forth in section 2(x) [of Pub. L. 115-55, set out as a note under section 101 of this title].

“(3) OPT IN.—The term ‘opt in’ means, with respect to a legacy claim of a claimant, that the claimant elects to subject the claim to the new appeals system pursuant to—

“(A) section 2(x)(3); or

“(B) such other mechanism as the Secretary may prescribe for purposes of carrying out this Act and the amendments made by this Act.

“(4) NEW APPEALS SYSTEM.—The term ‘new appeals system’ means the set of processes and mechanisms by which the Secretary processes, pursuant to the authorities and requirements modified by section 2 [see Tables for classification], claims for benefits under laws administered by the Secretary.”

PILOT PROGRAMS ON EXPEDITED TREATMENT OF FULLY DEVELOPED CLAIMS AND PROVISION OF CHECKLISTS TO INDIVIDUALS SUBMITTING CLAIMS

Pub. L. 110-389, title II, §221, Oct. 10, 2008, 122 Stat. 4154, provided that:

“(a) PILOT PROGRAM ON EXPEDITED TREATMENT OF FULLY DEVELOPED CLAIMS.—

“(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of providing expeditious treatment of fully developed compensation or pension claims to ensure that such claims are adjudicated not later than 90 days after the date on which such claim is submitted as fully developed.

“(2) DURATION OF PILOT PROGRAM.—The pilot program under this subsection shall be carried out dur-

ing the one-year period beginning on the date that is 60 days after the date of the enactment of this Act [Oct. 10, 2008].

“(3) PROGRAM LOCATIONS.—The pilot program under this subsection shall be carried out at 10 regional offices of the Department of Veterans Affairs selected by the Secretary for purposes of such pilot program.

“(4) FULLY DEVELOPED CLAIM DEFINED.—For purposes of this subsection, the term ‘fully developed claim’ means a claim for a benefit under a law administered by the Secretary—

“(A) for which the claimant—

“(i) received assistance from a veterans service officer, a State or country [probably should be ‘county’] veterans service officer, an agent, or an attorney; or

“(ii) submits along with the claim an appropriate indication that the claimant does not intend to submit any additional information or evidence in support of the claim and does not require additional assistance with respect to the claim; and

“(B) for which the claimant—

“(i) submits a certification in writing that is signed and dated by the claimant stating that, as of such date, no additional information or evidence is available or needs to be submitted in order for the claim to be adjudicated; and

“(ii) for which the claimant’s representative, if any, submits a certification in writing that is signed and dated by the representative stating that, as of such date, no additional information or evidence is available or needs to be submitted in order for the claim to be adjudicated.

“(b) PILOT PROGRAM ON PROVISION OF CHECKLISTS TO INDIVIDUALS SUBMITTING CLAIMS.—

“(1) IN GENERAL.—The Secretary shall carry out a pilot program to assess the feasibility and advisability of providing to a claimant for whom the Secretary is required under section 5103(a) of title 38, United States Code, to provide notice of required information and evidence to such claimant and such claimant’s representative, if any, a checklist that includes information or evidence required to be submitted by the claimant to substantiate the claim.

“(2) DURATION OF PILOT PROGRAM.—The pilot program under this subsection shall be carried out—

“(A) for original claims filed after the date of the enactment of this Act [Oct. 10, 2008], during the one-year period beginning on the date that is 60 days after the date of the enactment of this Act; and

“(B) for claims to reopen and for claims for increased ratings that were filed after the date of the enactment of this Act, during the three-year period beginning on the date that is 60 days after the date of the enactment of this Act.

“(3) PROGRAM LOCATIONS.—The pilot program under this subsection shall be carried out at four regional offices of the Department selected by the Secretary for purposes of such pilot program.

“(4) CONSTRUCTION.—A checklist provided under the pilot program under this subsection—

“(A) shall be construed to be an addendum to a notice provided under section 5103(a) of title 38, United States Code; and

“(B) shall not be considered as part of such notice for purposes of reversal or remand of a decision of the Secretary.

“(c) REPORTS.—

“(1) FIRST INITIAL REPORT.—Not later than 335 days after the date of the enactment of this Act [Oct. 10, 2008], the Secretary shall submit to Congress a report on the pilot program under subsection (a) and the pilot program under subsection (b) with respect to claims described in subsection (b)(2)(A).

“(2) SECOND INTERIM REPORT.—Not later than 1,065 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the pilot program under subsection (b) with respect to claims described in subsection (b)(2)(B).

“(3) ELEMENTS OF INTERIM REPORTS.—The reports required by paragraphs (1) and (2) shall include the following:

“(A) Data concerning the number and type of claims covered by the respective pilot program.

“(B) The findings of the Secretary with respect to the respective pilot program.

“(C) The recommendations of the Secretary on the feasibility and advisability of continuing or expanding the respective pilot program and any necessary modifications to such pilot program for continuation or expansion.

“(D) Such other information as the Secretary considers appropriate.

“(4) FINAL REPORT.—Not later than 180 days after the completion of each pilot program carried out under this section, the Secretary shall submit to Congress a final report on the feasibility and advisability of continuing or expanding the respective pilot program.”

STUDY OF PERFORMANCE MEASURES FOR CLAIMS ADJUDICATIONS OF THE VETERANS BENEFITS ADMINISTRATION

Pub. L. 110-389, title II, §226, Oct. 10, 2008, 122 Stat. 4159, provided that:

“(a) STUDY OF WORK CREDIT SYSTEM AND WORK MANAGEMENT SYSTEM REQUIRED.—The Secretary of Veterans Affairs shall conduct a study on the effectiveness of the current employee work credit system and work management system of the Veterans Benefits Administration of the Department of Veterans Affairs, which is used—

“(1) to measure and manage the work production of employees of the Veterans Benefits Administration who handle claims for compensation and pension benefits; and

“(2) to evaluate more effective means of improving performance.

“(b) CONTENTS OF STUDY.—In carrying out the study under subsection (a), the Secretary shall consider—

“(1) measures to improve the accountability, quality, and accuracy for processing claims for compensation and pension benefits under laws administered by the Secretary that are adjudicated by the Veterans Benefits Administration;

“(2) accountability for claims adjudication outcomes;

“(3) the quality of claims adjudicated;

“(4) a simplified process to adjudicate claims;

“(5) the maximum use of information technology applications;

“(6) rules-based applications and tools for processing and adjudicating claims efficiently and effectively;

“(7) methods of reducing the time required to obtain information from outside sources; and

“(8) the elements needed to implement—

“(A) performance standards and accountability measures, intended to ensure that—

“(i) claims for benefits under the laws administered by the Secretary are processed in an objective, accurate, consistent, and efficient manner; and

“(ii) final decisions with respect to such claims are consistent and issued within the target identified in the most recent annual Performance and Accountability report submitted by the Secretary to Congress for the most recent fiscal year;

“(B) guidelines and procedures for the identification and prompt processing of such claims that are ready to rate upon submittal;

“(C) guidelines and procedures for the identification and prompt processing of such claims submitted by severely injured and very severely injured veterans, as determined by the Secretary; and

“(D) requirements for assessments of claims processing at each regional office for the purpose of producing lessons learned and best practices.

“(c) REPORT TO CONGRESS.—Not later than October 31, 2009, the Secretary shall submit to Congress a report on—

“(1) the study conducted under subsection (a); and

“(2) the components required to implement the updated system for evaluating employees of the Veterans Benefits Administration required under subsection (d).

“(d) EVALUATION OF CERTAIN VETERANS BENEFITS ADMINISTRATION EMPLOYEES RESPONSIBLE FOR PROCESSING CLAIMS FOR COMPENSATION AND PENSION BENEFITS.—Not later than 210 days after the date on which the Secretary submits to Congress the report required under subsection (c), the Secretary shall establish an updated system for evaluating the performance and accountability of employees of the Veterans Benefits Administration who are responsible for processing claims for compensation or pension benefits. Such system shall be based on the findings of the study conducted by the Secretary under subsection (a).”

REVIEW AND ENHANCEMENT OF USE OF INFORMATION TECHNOLOGY IN VETERANS BENEFITS ADMINISTRATION

Pub. L. 110-389, title II, §227, Oct. 10, 2008, 122 Stat. 4160, provided that:

“(a) REVIEW AND COMPREHENSIVE PLAN.—Not later than one year after the date of the enactment of this Act [Oct. 10, 2008], the Secretary of Veterans Affairs shall—

“(1) conduct a review of the use of information technology in the Veterans Benefits Administration with respect to the processing of claims for compensation and pension benefits; and

“(2) develop a comprehensive plan for the use of such technology in processing such claims so as to reduce subjectivity, avoidable remands, and regional office variances in disability ratings for specific disabilities.

“(b) INFORMATION TECHNOLOGY.—The plan developed under subsection (a)(2) shall include the following:

“(1) The use of rules-based processing or information technology systems utilizing automated decision support software at all levels of processing such claims.

“(2) The enhancement of the use of information technology for all aspects of the claims process.

“(3) Development of a technological platform that—

“(A) allows for the use of information that members of the Armed Forces, veterans, and dependents have submitted electronically, including uploaded military records, medical evidence, and other appropriate documentation; and

“(B) to the extent practicable—

“(i) provides the capability to such members, veterans, and dependents to view applications for benefits submitted online; and

“(ii) complies with the provisions of subchapter III of chapter 35 of title 44, United States Code, section 552a of title 5, United States Code, and other relevant security policies and guidelines.

“(4) The use of electronic examination templates in conjunction with the schedule for rating disabilities under section 1155 of title 38, United States Code.

“(5) Such changes as may be required to the electronic health record system of the Department of Veterans Affairs and the Department of Defense to ensure that Veterans Benefits Administration claims examiners can access the available electronic medical information of the Department of Veterans Affairs and the Department of Defense.

“(6) The provision of bi-directional access to medical records and service records between the Department of Veterans Affairs and the Department of Defense.

“(7) The availability, on a secure Internet website of the Department of Veterans Affairs, of a portal that can be used by a claimant to check on the status of any claim submitted by that claimant and that provides information, if applicable, on—

“(A) whether a decision has been reached with respect to such a claim and notice of the decision; or

“(B) if no such decision has been reached, notice of—

“(i) whether the application submitted by the claimant is complete;

“(ii) whether the Secretary requires additional information or evidence to substantiate the claim;

“(iii) the estimated date on which a decision with respect to the claim is expected to be made; and

“(iv) the stage at which the claim is being processed as of the date on which such status is checked.

“(c) REVIEW OF BEST PRACTICES AND LESSONS LEARNED.—In carrying out this section, the Secretary shall review—

“(1) best practices and lessons learned within the Department of Veterans Affairs; and

“(2) the use of the technology known as ‘Vista’ by other Government entities and private sector organizations who employ information technology and automated decision support software.

“(d) REDUCTION OF CLAIMS PROCESSING TIME.—In carrying out this section, the Secretary shall ensure that a plan is developed that, not later than three years after implementation, includes information technology to the extent possible to reduce the processing time for each compensation and pension claim processed by the Veterans Benefits Administration. The performance for claims processing under this plan shall be adjusted for changes to the numbers of claims filed in a given period, the complexity of those claims, and any changes to the basic claims processing rules which occur during the assessment period.

“(e) CONSULTATION.—In carrying out this section, the Secretary of Veterans Affairs shall consult with information technology designers at the Veterans Benefits Administration, the Veterans Health Administration, Vista managers, the Secretary of Defense, appropriate officials of other Government agencies, appropriate individuals in the private and public sectors, veterans service organizations, and other relevant service organizations.

“(f) REPORT TO CONGRESS.—Not later than April 1, 2010, the Secretary shall submit to Congress a report on the review and comprehensive plan required under this section.”

TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS

Pub. L. 108-183, title VII, § 704, Dec. 16, 2003, 117 Stat. 2672, as amended by Pub. L. 110-389, § 105, Oct. 10, 2008, 122 Stat. 4149; Pub. L. 111-275, title VIII, § 809, Oct. 13, 2010, 124 Stat. 2894; Pub. L. 112-191, title II, § 207, Oct. 5, 2012, 126 Stat. 1440; Pub. L. 113-59, § 14, Dec. 20, 2013, 127 Stat. 663; Pub. L. 113-175, title I, § 106, Sept. 26, 2014, 128 Stat. 1903; Pub. L. 114-58, title IV, § 409, Sept. 30, 2015, 129 Stat. 535; Pub. L. 114-228, title IV, § 412, Sept. 29, 2016, 130 Stat. 941; Pub. L. 114-315, title I, § 109(a)(1), Dec. 16, 2016, 130 Stat. 1544; Pub. L. 115-91, div. A, title V, § 529, Dec. 12, 2017, 131 Stat. 1383, provided that:

“(a) AUTHORITY.—Using appropriated funds, other than funds available for compensation and pension, the Secretary of Veterans Affairs may provide for the conduct of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary by persons other than Department of Veterans Affairs employees. The authority under this section is in addition to the authority provided in section 504(b) of the Veterans' Benefits Improvement Act of 1996 (Public Law 104-275; 38 U.S.C. 5101 note).

“(b) PERFORMANCE BY CONTRACT.—Examinations under the authority provided in subsection (a) shall be conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits.

“(c) EXPIRATION.—The authority in subsection (a) shall expire on December 31, 2018. No examination may be carried out under the authority provided in that subsection after that date.

“(d) LICENSURE OF CONTRACT PHYSICIANS.—

“(1) IN GENERAL.—Notwithstanding any law regarding the licensure of physicians, a physician described

in paragraph (2) may conduct an examination pursuant to a contract entered into under subsection (b) at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

“(2) PHYSICIAN DESCRIBED.—A physician described in this paragraph is a physician who—

“(A) has a current unrestricted license to practice the health care profession of the physician;

“(B) is not barred from practicing such health care profession in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States; and

“(C) is performing authorized duties for the Department of Veterans Affairs pursuant to a contract entered into under subsection (b).

“(e) REPORT.—Not later than four years after the date of the enactment of this Act [Dec. 16, 2003], the Secretary shall submit to Congress a report on the use of the authority provided in subsection (a). The Secretary shall include in the report an assessment of the effect of examinations under that authority on the cost, timeliness, and thoroughness of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary.”

PILOT PROGRAM FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS

Pub. L. 116-315, title II, § 2002(f), Jan. 5, 2021, 134 Stat. 4969, provided that: “The Secretary shall take such actions as may be necessary to hold accountable the providers of medical examinations pursuant to contracts under section 504 of the Veterans' Benefits Improvements Act of 1996 (Public Law 104-275; 38 U.S.C. 5101 note) who are underperforming in the meeting of the needs of veterans through the performance of medical examinations pursuant to such contracts.”

Pub. L. 104-275, title V, § 504, Oct. 9, 1996, 110 Stat. 3341, as amended by Pub. L. 113-235, div. I, title II, § 241, Dec. 16, 2014, 128 Stat. 2568; Pub. L. 114-315, title I, § 109(a)(2), Dec. 16, 2016, 130 Stat. 1544; Pub. L. 115-141, div. J, title II, § 256, Mar. 23, 2018, 132 Stat. 826; Pub. L. 115-407, title VII, § 702(b), Dec. 31, 2018, 132 Stat. 5381; Pub. L. 116-315, title II, § 2002(a)(1), (4), Jan. 5, 2021, 134 Stat. 4967, 4968, provided that:

“(a) AUTHORITY.—The Secretary of Veterans Affairs, acting through the Under Secretary for Benefits, may conduct a pilot program under this section under which examinations with respect to medical disability of applicants for benefits under laws administered by the Secretary that are carried out through the Under Secretary for Benefits may be made by persons other than employees of the Department of Veterans Affairs. Any such examination shall be performed pursuant to contracts entered into by the Under Secretary for Benefits with those persons.

“(b) LIMITATION.—The Secretary may carry out the pilot program under this section as follows:

“(1) In fiscal years before fiscal year 2015, through not more than 10 regional offices of the Department of Veterans Affairs.

“(2) In fiscal year 2015, through not more than 12 regional offices of the Department.

“(3) In fiscal year 2016, through not more than 15 regional offices of the Department.

“(4) In fiscal year 2017 and each fiscal year thereafter, through such regional offices of the Department as the Secretary considers appropriate.

“(c) LICENSURE OF CONTRACT HEALTH CARE PROFESSIONALS.—

“(1) IN GENERAL.—Notwithstanding any law regarding the licensure of health care professionals, a health care professional described in paragraph (2) may conduct an examination pursuant to a contract entered into under subsection (a) at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, so long as the examination is within the scope of the authorized duties under such contract.

“(2) HEALTH CARE PROFESSIONAL DESCRIBED.—A health care professional described in this paragraph is a physician, physician assistant, nurse practitioner, audiologist, or psychologist, who—

“(A) has a current unrestricted license to practice the health care profession of the physician, physician assistant, nurse practitioner, audiologist, or psychologist, as the case may be;

“(B) is not barred from practicing such health care profession in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States; and

“(C) is performing authorized duties for the Department of Veterans Affairs pursuant to a contract entered into under subsection (a).

“(d) SOURCE OF FUNDS.—Expenses of carrying out the pilot program under this section, including payments for pilot program examination travel and incidental expenses under the terms and conditions set forth by 38 U.S.C. 111, shall be reimbursed to the accounts available for the general operating expenses of the Veterans Benefits Administration and information technology systems from amounts available to the Secretary of Veterans Affairs for payment of compensation and pensions.

“(e) REPORT TO CONGRESS.—Not later than three years after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall submit to the Congress a report on the effect of the use of the authority provided by subsection (a) on the cost, timeliness, and thoroughness of medical disability examinations.”

[Pub. L. 116-315, title II, §2002(a)(2), Jan. 5, 2021, 134 Stat. 4967, provided that: “The purpose of the amendment made by paragraph (1) [amending section 504 of Pub. L. 104-275, set out above] is to expand the license portability for physicians assistants, nurse practitioners, audiologists, and psychologists to supplement the capacity of employees of the Department to provide medical examinations described in subsection (b) [set out as a note above].”]

[Pub. L. 116-315, title II, §2002(a)(3), Jan. 5, 2021, 134 Stat. 4968, provided that: “The amendment made by paragraph (1) [amending section 504 of Pub. L. 104-275, set out above] shall not be construed to affect the license portability for physicians in effect under section 504(c) of such Act [Pub. L. 104-275] as in effect on the day before the date of the enactment of this Act [Jan. 5, 2021].”]

[Pub. L. 116-315, title II, §2002(a)(4), Jan. 5, 2021, 134 Stat. 4968, provided that: “On the date that is three years after the date of the enactment of this Act [Jan. 5, 2021], subsection (c) of such section [section 504(c) of Pub. L. 104-275, set out above] shall read as it read on the day before the date of the enactment of this Act.”]

EXPEDITED TREATMENT OF REMANDED CLAIMS

Pub. L. 103-446, title III, §302, Nov. 2, 1994, 108 Stat. 4658, as amended by Pub. L. 105-368, title V, §512(c), Nov. 11, 1998, 112 Stat. 3342, provided that Secretary of Veterans Affairs was to take necessary actions to provide for expeditious treatment, by the Board of Veterans' Appeals and by regional offices of the Veterans Benefits Administration, of any claim that had been remanded by the Board of Veterans' Appeals or by the United States Court of Appeals for Veterans Claims for additional development or other appropriate action, prior to repeal by Pub. L. 108-183, title VII, §707(c), Dec. 16, 2003, 117 Stat. 2673.

VETERANS' CLAIMS ADJUDICATION COMMISSION

Pub. L. 103-446, title IV, Nov. 2, 1994, 108 Stat. 4659, as amended by Pub. L. 104-275, title V, §503(a), Oct. 9, 1996, 110 Stat. 3341, established Veterans' Claims Adjudication Commission which was directed to conduct comprehensive evaluation and assessment of Department of Veterans Affairs system for disposition of claims for veterans benefits and of system for delivery of such benefits, together with any related issues determined to be relevant to study, for purpose of determining

means of increasing efficiency of system, means of reducing number of claims under system for which final disposition is pending, and means of enhancing ability of Department of Veterans Affairs to achieve final determination regarding claims under system in prompt and appropriate manner, and further provided for membership and powers of Commission, personnel matters, definitions and funding, and for submission of preliminary report to Secretary of Veterans Affairs and Congress not later than one year after Nov. 2, 1994, submission of final report not later than Dec. 31, 1996, and for termination of Commission 90 days after submission of final report.

§ 5102. Application forms furnished upon request; notice to claimants of incomplete applications

(a) FURNISHING FORMS.—Upon request made by any person claiming or applying for, or expressing an intent to claim or apply for, a benefit under the laws administered by the Secretary, the Secretary shall furnish such person, free of all expense, all instructions and forms necessary to apply for that benefit.

(b) INCOMPLETE APPLICATIONS.—If a claimant's application for a benefit under the laws administered by the Secretary is incomplete, the Secretary shall notify the claimant and the claimant's representative, if any, of the information necessary to complete the application.

(c) TIME LIMITATION.—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date such notice is sent, no benefit may be paid or furnished by reason of the claimant's application.

(2) This subsection shall not apply to any application or claim for Government life insurance benefits.

(Added Pub. L. 106-475, §3(a), Nov. 9, 2000, 114 Stat. 2096; amended Pub. L. 108-183, title VII, §701(a), Dec. 16, 2003, 117 Stat. 2670.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5102, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, §3002; renumbered §5102, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405, related to application forms, prior to repeal by Pub. L. 106-475, §3(a), Nov. 9, 2000, 114 Stat. 2096.

Another prior section 5102 was renumbered section 8302 of this title.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108-183 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-183, title VII, §701(c), Dec. 16, 2003, 117 Stat. 2670, provided that: “The amendments made by this section [amending this section and section 5103 of this title] shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096).”

§ 5103. Notice to claimants of required information and evidence

(a) REQUIRED INFORMATION AND EVIDENCE.—(1) Except as provided in paragraph (3), the Sec-