

114TH CONGRESS
1ST SESSION

S. 1203

To amend title 38, United States Code, to improve the processing by the Department of Veterans Affairs of claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2015

Mr. HELLER (for himself, Mr. CASEY, Mr. MORAN, Mr. MANCHIN, Mr. TOOMEY, Mr. HEINRICH, Mr. VITTER, Mr. TESTER, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the processing by the Department of Veterans Affairs of claims for benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “21st Century Veterans Benefits Delivery Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—BENEFITS CLAIMS SUBMISSION

- Sec. 101. Improvements to Transition Assistance Program.
- Sec. 102. Requirement that decisions on claims explain advantages of filing appeals within 180 days.
- Sec. 103. Determination of manner of appearance for hearings before Board of Veterans' Appeals.

TITLE II—PRACTICES OF REGIONAL OFFICES

- Sec. 201. Required Comptroller General audit of regional offices of Veterans Benefits Administration.
- Sec. 202. Requirement for management training program for veterans service center managers of Veterans Benefits Administration.
- Sec. 203. Analysis of communication between regional offices of Department of Veterans Affairs and veterans service organizations and Congressional caseworkers.
- Sec. 204. Review of practices of regional offices regarding use of suspense dates.
- Sec. 205. Annual report on capacity of Veterans Benefits Administration to process benefits claims.
- Sec. 206. Requirement to complete efforts to revise resource allocation model of Department of Veterans Affairs.
- Sec. 207. Semiannual report on progress in implementing Veterans Benefits Management System.
- Sec. 208. Report on plans of Secretary of Veterans Affairs to reduce inventory of claims for dependency and indemnity compensation and claims for pension.
- Sec. 209. Increased transparency in Monday Morning Workload Report.
- Sec. 210. Reports on appeals of decisions on benefits claims.
- Sec. 211. Modification of pilot program for use of contract physicians for disability examinations.

TITLE III—GOVERNMENT RESPONSE

- Sec. 301. Increased cooperation across Government.
- Sec. 302. Report on interoperability between electronic health records systems of Department of Defense and Department of Veterans Affairs.

1 **TITLE I—BENEFITS CLAIMS**
2 **SUBMISSION**

3 **SEC. 101. IMPROVEMENTS TO TRANSITION ASSISTANCE**
4 **PROGRAM.**

5 (a) **MODIFICATION TO ENABLE ONLINE ACCESS.—**
6 Section 1144 of title 10, United States Code, is amended
7 by adding at the end the following new subsection:

1 “(f) ONLINE ACCESS.—(1) The Secretary of Labor,
2 in conjunction with the Secretary of Defense, the Sec-
3 retary of Homeland Security, and the Secretary of Vet-
4 erans Affairs, shall take such actions and make such modi-
5 fications to the eBenefits Internet website as may be nec-
6 essary to ensure that members of the armed forces and
7 spouses described in subsection (a)(1) can access materials
8 from the program carried out under this section through
9 an Internet website.

10 “(2) An individual subject to a requirement under
11 subsection (c) may not satisfy such requirement by partici-
12 pating in the program carried out under this section solely
13 through an Internet website.”.

14 (b) PARTICIPATION OF VETERANS SERVICE ORGANI-
15 ZATIONS.—

16 (1) SENSE OF CONGRESS.—It is the sense of
17 Congress that the Secretary of Defense, in collabora-
18 tion with the Secretary of Labor, the Secretary of
19 Homeland Security, and the Secretary of Veterans
20 Affairs, should establish a process by which a rep-
21 resentative of a veterans service organization may be
22 present at any portion of the program carried out
23 under section 1144 of title 10, United States Code,
24 relating to the submittal of claims to the Secretary

1 of Veterans Affairs for compensation under chapter
2 11 or 13 of title 38, United States Code.

3 (2) REPORT.—

4 (A) IN GENERAL.—Not later than one year
5 after the date of the enactment of this Act, the
6 Secretary of Defense shall submit to Congress
7 a report on participation of veterans service or-
8 ganizations in the program carried out under
9 section 1144 of title 10, United States Code.

10 (B) CONTENTS.—The report required by
11 subparagraph (A) shall include the following:

12 (i) An assessment of the compliance
13 of facilities of the Department of Defense
14 with the directives included in the memo-
15 randum of the Secretary of Defense enti-
16 tled “Installation Access and Support
17 Services for Nonprofit Non-Federal Enti-
18 ties” and dated December 23, 2014.

19 (ii) The number of military bases that
20 have complied with such directives.

21 (iii) How many veterans service orga-
22 nizations have been present at a portion of
23 a program as described in paragraph (1).

24 (3) VETERANS SERVICE ORGANIZATION DE-
25 FINED.—In this subsection, the term “veterans serv-

1 ice organization” means any organization recognized
2 by the Secretary for the representation of veterans
3 under section 5902 of title 38.

4 **SEC. 102. REQUIREMENT THAT DECISIONS ON CLAIMS EX-**
5 **PLAIN ADVANTAGES OF FILING APPEALS**
6 **WITHIN 180 DAYS.**

7 Section 5104(a) of title 38, United States Code, is
8 amended—

9 (1) by inserting “(1)” before “In the case”; and
10 (2) by striking the second sentence and insert-
11 ing the following new paragraph:

12 “(2) The notice shall include the following:

13 “(A) An explanation of the procedure for ob-
14 taining review of the decision.

15 “(B) An explanation of the advantages of filing
16 for review of the decision within 180 days.”.

17 **SEC. 103. DETERMINATION OF MANNER OF APPEARANCE**
18 **FOR HEARINGS BEFORE BOARD OF VET-**
19 **ERANS’ APPEALS.**

20 (a) IN GENERAL.—Section 7107 of title 38, United
21 States Code, is amended—

22 (1) by striking subsection (e);

23 (2) by redesignating subsections (d) and (f) as
24 subsections (f) and (g), respectively;

1 (3) by inserting after subsection (c) the fol-
2 lowing new subsections (d) and (e):

3 “(d)(1) Subject to paragraph (2), a hearing before
4 the Board shall be conducted, as the Board considers ap-
5 propriate—

6 “(A) in person; or

7 “(B) through picture and voice transmission, by
8 electronic or other means, in such manner that the
9 appellant is not present in the same location as the
10 members of the Board during the hearing.

11 “(2) Upon request by an appellant, a hearing before
12 the Board shall be conducted, as the appellant considers
13 appropriate—

14 “(A) in person; or

15 “(B) through picture and voice transmission as
16 described in paragraph (1)(B).

17 “(e)(1) In a case in which a hearing before the Board
18 is to be conducted through picture and voice transmission
19 as described in subsection (d)(1)(B), the Secretary shall
20 provide suitable facilities and equipment to the Board or
21 other components of the Department to enable an appel-
22 lant located at an appropriate facility within the area
23 served by a regional office to participate as so described.

24 “(2) Any hearing conducted through picture and
25 voice transmission as described in subsection (d)(1)(B)

1 shall be conducted in the same manner as, and shall be
 2 considered the equivalent of, a personal hearing.”; and

3 (4) in subsection (f)(1), as redesignated by
 4 paragraph (2), by striking “An appellant may re-
 5 quest” and all that follows through “office of the
 6 Department” and inserting “In a case in which a
 7 hearing before the Board is to be conducted in per-
 8 son, the hearing shall be held at the principal loca-
 9 tion of the Board or at a facility of the Department
 10 located within the area served by a regional office of
 11 the Department.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall apply with respect to cases received
 14 by the Board of Veterans’ Appeals pursuant to notices of
 15 disagreement submitted on or after the date of the enact-
 16 ment of this Act.

17 **TITLE II—PRACTICES OF** 18 **REGIONAL OFFICES**

19 **SEC. 201. REQUIRED COMPTROLLER GENERAL AUDIT OF** 20 **REGIONAL OFFICES OF VETERANS BENEFITS** 21 **ADMINISTRATION.**

22 (a) IN GENERAL.—Not later than one year after the
 23 date of the enactment of this Act, the Comptroller General
 24 of the United States shall complete an audit of the re-
 25 gional offices of the Veterans Benefits Administration—

1 (1) to assess the consistency of decisions being
2 made with respect to claims for benefits under laws
3 administered by the Secretary of Veterans Affairs;
4 and

5 (2) to identify ways in which the consistency of
6 such decisions can be improved.

7 (b) IDENTIFICATION OF FACTORS AND BEST PRAC-
8 TICES.—The audit conducted under subsection (a) shall
9 include the following:

10 (1) Identification of the factors, including man-
11 agement practices, that distinguish higher per-
12 forming regional offices from other regional offices.

13 (2) Identification of best practices employed by
14 higher performing regional offices that distinguish
15 the performance of such offices from other regional
16 offices.

17 (c) REPORT.—Not later than 90 days after the date
18 on which the Comptroller General completes the audit re-
19 quired by subsection (a), the Comptroller General shall
20 submit to Congress a report on the results of the audit.

1 **SEC. 202. REQUIREMENT FOR MANAGEMENT TRAINING**
2 **PROGRAM FOR VETERANS SERVICE CENTER**
3 **MANAGERS OF VETERANS BENEFITS ADMIN-**
4 **ISTRATION.**

5 The Secretary of Veterans Affairs shall establish a
6 training program for veterans service center managers, or
7 for employees in successor positions in regional offices of
8 the Veterans Benefits Administration, on matters con-
9 cerning managerial skills and such other skills as the Sec-
10 retary considers appropriate for such managers.

11 **SEC. 203. ANALYSIS OF COMMUNICATION BETWEEN RE-**
12 **GIONAL OFFICES OF DEPARTMENT OF VET-**
13 **ERANS AFFAIRS AND VETERANS SERVICE OR-**
14 **GANIZATIONS AND CONGRESSIONAL CASE-**
15 **WORKERS.**

16 (a) IN GENERAL.—The Secretary of Veterans Affairs
17 shall ensure that each systemic analysis of operations that
18 is completed by a veterans service center manager in a
19 regional office of the Department of Veterans Affairs in-
20 cludes an analysis of the communication between the re-
21 gional office and veterans service organizations and case-
22 workers employed by Members of Congress.

23 (b) VETERANS SERVICE ORGANIZATION DEFINED.—
24 In this section, the term “veterans service organization”
25 means any organization recognized by the Secretary for

1 the representation of veterans under section 5902 of title
2 38, United States Code.

3 **SEC. 204. REVIEW OF PRACTICES OF REGIONAL OFFICES**
4 **REGARDING USE OF SUSPENSE DATES.**

5 (a) REVIEW REQUIRED.—Not later than 180 days
6 after the date of the enactment of this Act, the Inspector
7 General of the Department of Veterans Affairs shall con-
8 duct a review of the practices of regional offices of the
9 Department regarding the use of suspense dates during
10 the disability claim assessment process.

11 (b) REPORT.—Not later than 270 days after the date
12 of the enactment of this Act, the Inspector General of the
13 Department shall submit to Congress a report on the find-
14 ings of the Inspector General with respect to the review
15 conducted under subsection (a).

16 (c) SUSPENSE DATE DEFINED.—In this section, the
17 term “suspense date” means a measure used by the Vet-
18 erans Benefits Administration to set incremental deadlines
19 for disability claims as they progress through the disability
20 claim assessment process.

21 **SEC. 205. ANNUAL REPORT ON CAPACITY OF VETERANS**
22 **BENEFITS ADMINISTRATION TO PROCESS**
23 **BENEFITS CLAIMS.**

24 (a) IN GENERAL.—Along with the supporting infor-
25 mation included in the budget submitted by the President

1 for fiscal year 2017 pursuant to section 1105(a) of title
2 31, United States Code, and with the supporting informa-
3 tion included in each budget submittal under such section
4 thereafter, the President shall include a report that the
5 Secretary of Veterans Affairs shall prepare on the capacity
6 of the Veterans Benefits Administration to process claims
7 for benefits under laws administered by the Secretary dur-
8 ing the fiscal year covered by the budget with which the
9 report is submitted.

10 (b) CONTENTS.—Each report submitted under sub-
11 section (a) shall include, for the period covered by the re-
12 port, the following:

13 (1) The number of claims for benefits under
14 laws administered by the Secretary that the Sec-
15 retary expects the Veterans Benefits Administration
16 to process.

17 (2) The number of full-time equivalent employ-
18 ees of the Veterans Benefits Administration who are
19 dedicated to processing such claims.

20 (3) An estimate of the average number of such
21 claims a single full-time equivalent employee of the
22 Administration can process in a year, based on a
23 time and motion study that the Secretary shall con-
24 duct on the processing of such claims.

1 (4) An assessment of whether the Administra-
2 tion requires additional or fewer full-time equivalent
3 employees to process such claims during the next
4 one-year, five-year, and ten-year periods.

5 (5) A description of the actions the Secretary
6 will take to improve the processing of such claims.

7 (6) An assessment of the actions identified by
8 the Secretary in the previous report submitted under
9 subsection (a) and identification of the effects of
10 those actions.

11 (c) PUBLIC AVAILABILITY.—The Secretary shall
12 make each report required by subsection (a) available to
13 the public on an Internet website of the Department of
14 Veterans Affairs.

15 **SEC. 206. REQUIREMENT TO COMPLETE EFFORTS TO RE-**
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18 (a) IN GENERAL.—Not later than 180 days after the
19 date of the enactment of this Act, the Secretary of Vet-
20 erans Affairs shall complete the efforts of the Department
21 of Veterans Affairs to revise the resource allocation model
22 of the Veterans Benefits Administration.

23 (b) REPORT.—Not later than 180 days after the date
24 of the enactment of this Act, the Secretary shall submit
25 to the Committee on Veterans' Affairs of the Senate and

1 the Committee on Veterans' Affairs of the House of Rep-
2 resentatives a report on the resource allocation model re-
3 vised pursuant to subsection (a).

4 **SEC. 207. SEMIANNUAL REPORT ON PROGRESS IN IMPLE-**
5 **MENTING VETERANS BENEFITS MANAGE-**
6 **MENT SYSTEM.**

7 (a) IN GENERAL.—Not later than 180 days after the
8 date of the enactment of this Act and not less frequently
9 than once every 180 days thereafter until the date that
10 is three years after the date of the enactment of this Act,
11 the Secretary of Veterans Affairs shall submit to Congress
12 a report on the progress of the Secretary in implementing
13 the Veterans Benefits Management System.

14 (b) CONTENTS.—The report required by subsection
15 (a) shall include the following:

16 (1) An assessment of the current functionality
17 of the Veterans Benefits Management System.

18 (2) Recommendations submitted to the Sec-
19 retary by employees of the Department of Veterans
20 Affairs who are involved in processing claims for
21 benefits under laws administered by the Secretary,
22 including veteran service representatives, rating vet-
23 eran service representatives, and decision review offi-
24 cers, for such legislative or administrative action as

1 the employees consider appropriate to improve the
2 processing of such claims.

3 (3) Recommendations submitted to the Sec-
4 retary by veterans service organizations who use the
5 Veterans Benefits Management System for such leg-
6 islative or administrative action as the veterans serv-
7 ice organization consider appropriate to improve
8 such system.

9 **SEC. 208. REPORT ON PLANS OF SECRETARY OF VETERANS**
10 **AFFAIRS TO REDUCE INVENTORY OF CLAIMS**
11 **FOR DEPENDENCY AND INDEMNITY COM-**
12 **PENSATION AND CLAIMS FOR PENSION.**

13 Not later than 90 days after the date of the enact-
14 ment of this Act, the Secretary of Veterans Affairs shall
15 submit to Congress a report that details the plans of the
16 Secretary to reduce the inventory of—

17 (1) claims submitted to the Secretary for com-
18 pensation under chapter 13 of title 38, United
19 States Code; and

20 (2) claims submitted to the Secretary for pen-
21 sion under chapter 15 of such title.

22 **SEC. 209. INCREASED TRANSPARENCY IN MONDAY MORN-**
23 **ING WORKLOAD REPORT.**

24 (a) **DISAGGREGATION OF CLAIMS BY DECISIONS RE-**
25 **QUIRING DISABILITY RATING.**—The Secretary of Vet-

1 erans Affairs shall include in each Monday Morning Work-
2 load Report published by the Secretary the number of
3 claims for benefits under laws administered by the Sec-
4 retary that have been received by a regional office of the
5 Department of Veterans Affairs and are pending a deci-
6 sion, disaggregated by—

7 (1) claims that have been pending for more
8 than 125 days;

9 (2) claims that have been pending for 125 days
10 or fewer; and

11 (3) claims that do not require a decision con-
12 cerning a disability rating.

13 (b) INCLUSION OF INFORMATION ON ASSIGNMENT OF
14 PARTIAL RATINGS.—The Secretary of Veterans Affairs
15 shall include in each Monday Morning Workload Report
16 published by the Secretary in the portion of the report
17 entitled “Transformation” and in the portion of the report
18 entitled “Aggregate” the number of partial ratings as-
19 signed.

20 (c) REPORT ON FULLY DEVELOPED CLAIMS.—The
21 Secretary of Veterans Affairs shall include in each Monday
22 Morning Workload Report published by the Secretary the
23 following:

1 (1) The total number of fully developed claims
2 for benefits under laws administered by the Sec-
3 retary that—

4 (A) have been received by a regional office
5 of the Department of Veterans Affairs; and

6 (B) are pending a decision.

7 (2) The total number of such claims that have
8 been pending for more than 125 days, disaggregated
9 by station.

10 (d) STATION DEFINED.—In this section, the term
11 “station” means the location of a regional office of the
12 Department where claims for disability compensation are
13 processed.

14 **SEC. 210. REPORTS ON APPEALS OF DECISIONS ON BENE-**
15 **FITS CLAIMS.**

16 (a) PUBLIC AVAILABILITY.—The Secretary of Vet-
17 erans Affairs shall make the reports of the Department
18 of Veterans Affairs entitled “Appeals Pending” and “Ap-
19 peals Workload By Station” available to the public on an
20 Internet website of the Department.

21 (b) APPEALS GRANTED BY STATION.—The Secretary
22 shall include in one of the reports described in subsection
23 (a) the percentage of appeals granted by station.

24 (c) CLAIMS PREVIOUSLY ADJUDICATED BY APPEALS
25 MANAGEMENT CENTER.—The Secretary shall include in

1 one of the reports described in subsection (a) the percent-
 2 age of claims previously adjudicated by the Appeals Man-
 3 agement Center that were either subsequently granted or
 4 remanded by the Board of Veterans' Appeals.

5 (d) STATION DEFINED.—In this section, the term
 6 “station” means the location of a regional office of the
 7 Department where claims for disability compensation are
 8 processed.

9 **SEC. 211. MODIFICATION OF PILOT PROGRAM FOR USE OF**
 10 **CONTRACT PHYSICIANS FOR DISABILITY EX-**
 11 **AMINATIONS.**

12 Section 504 of the Veterans' Benefits Improvement
 13 Act of 1996 (Public Law 104–275; 38 U.S.C. 5101 note)
 14 is amended—

15 (1) by redesignating subsections (c) and (d) as
 16 subsections (d) and (e), respectively; and

17 (2) by inserting after subsection (b) the fol-
 18 lowing new subsection (c):

19 “(c) LICENSURE OF CONTRACT PHYSICIANS.—

20 “(1) IN GENERAL.—Notwithstanding any law
 21 regarding the licensure of physicians, a physician de-
 22 scribed in paragraph (2) may conduct an examina-
 23 tion pursuant to a contract entered into under sub-
 24 section (a) at any location in any State, the District
 25 of Columbia, or a Commonwealth, territory, or pos-

1 session of the United States, so long as the examina-
 2 tion is within the scope of the authorized duties
 3 under such contract.

4 “(2) PHYSICIAN DESCRIBED.—A physician de-
 5 scribed in this paragraph is a physician who—

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

8 “(B) is performing authorized duties for
 9 the Department of Veterans Affairs pursuant to
 10 a contract entered into under subsection (a).”.

11 **TITLE III—GOVERNMENT**

12 **RESPONSE**

13 **SEC. 301. INCREASED COOPERATION ACROSS GOVERN-** 14 **MENT.**

15 (a) APPOINTMENT OF LIAISONS.—

16 (1) DEPARTMENT OF DEFENSE.—The Sec-
 17 retary of Defense shall appoint individuals as fol-
 18 lows:

19 (A) At least one individual to act as a liai-
 20 son under this section between the Department
 21 of Defense and the Department of Veterans Af-
 22 fairs.

23 (B) At least one individual for each of the
 24 reserve components of the Armed Forces to act
 25 as a liaison under this section between the re-

1 spective component of the Armed Forces and
2 the Department of Veterans Affairs.

3 (2) NATIONAL ARCHIVES AND RECORDS ADMIN-
4 ISTRATION.—The Archivist of the United States
5 shall appoint at least one individual to act as a liai-
6 son under this section between the National Archives
7 and Records Administration and the Department of
8 Veterans Affairs.

9 (b) DUTIES OF LIAISONS.—Each individual acting as
10 a liaison under this section shall expedite the timely provi-
11 sion to the Secretary of Veterans Affairs of such informa-
12 tion as the Secretary requires to process claims submitted
13 to the Secretary for benefits under laws administered by
14 the Secretary.

15 (c) PROCEDURES.—

16 (1) IN GENERAL.—The Secretary of Veterans
17 Affairs, the Secretary of Defense, and the Archivist
18 of the United States shall jointly develop and imple-
19 ment procedures to improve the timely provision to
20 the Secretary of Veterans Affairs of such informa-
21 tion as the Secretary requires to process claims sub-
22 mitted to the Secretary for benefits under laws ad-
23 ministered by the Secretary.

24 (2) TIMELY PROVISION.—The procedures devel-
25 oped and implemented under paragraph (1) shall en-

1 sure that the information provided to the Secretary
2 of Veterans Affairs is provided to the Secretary not
3 later than 30 days after the date on which the Sec-
4 retary requests the information.

5 (d) ANNUAL REPORTS.—Not less frequently than
6 once each year, the Secretary of Veterans Affairs shall
7 submit to Congress a report on—

8 (1) the requests for information made by the
9 Secretary during the most recent one-year period for
10 information from the Secretary of Defense and the
11 Archivist of the United States required by the Sec-
12 retary of Veterans Affairs to process claims sub-
13 mitted to the Secretary for benefits under laws ad-
14 ministered by the Secretary; and

15 (2) the timeliness of responses to such requests.

16 **SEC. 302. REPORT ON INTEROPERABILITY BETWEEN ELEC-**
17 **TRONIC HEALTH RECORDS SYSTEMS OF DE-**
18 **PARTMENT OF DEFENSE AND DEPARTMENT**
19 **OF VETERANS AFFAIRS.**

20 Not later than one year after the date of the enact-
21 ment of this Act, the Secretary of Defense and the Sec-
22 retary of Veterans Affairs shall jointly submit to Congress
23 a report that sets forth a timeline with milestones for
24 achieving interoperability between the electronic health

- 1 records systems of the Department of Defense and the De-
- 2 partment of Veterans Affairs.

