

# **DEPARTMENT OF VETERANS AFFAIRS**



## **Congressionally Mandated Report Periodic Progress Report on Appeals P.L. 115-55 § 3**

**August 2024**

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## **Executive Summary**

This is the eleventh post-implementation report that satisfies section 3(d) of P.L. 115-55, the Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act (AMA)). As directed by section 3(d) of the AMA, the Secretary of Veterans Affairs (VA) is required to submit post-implementation reports every 180 days.

The VA core values of Integrity, Commitment, Advocacy, Respect, and Excellence are integral to fulfilling the statutory mission of the Department to fully consider and resolve matters raised by Veterans, their dependents, or their survivors.

This report focuses on updates to elements of the Comprehensive Implementation Plan since the February 2024 update report.

## **I. Requirement for Periodic Progress Reports**

Section 3(d) of P.L. 115-55, the Veterans Appeals Improvement and Modernization Act of 2017 (Appeals Modernization Act (AMA)) directs the Department of Veterans Affairs (VA) to submit a report every 180 days for the 7-year period following implementation of the AMA on February 19, 2019. This report must be sent to the appropriate committees of Congress and the Comptroller General and include a discussion of the progress of the Secretary in carrying out the comprehensive plan for processing of legacy appeals and implementing the new appeals system and what steps, if any, VA has taken to address recommendations formulated by the Comptroller General pursuant to subsection (c)(2)(C).

## **II. Government Accountability Office Recommendations on Appeals**

This report provides an update on the findings contained in the Government Accountability Office (GAO) reports noted herein. Both reports align under the GAO high-risk list series, VA's Managing Disability Claims Workload. For more information on the GAO findings, including the status of the recommendations they contain, please see the following hyperlinked websites.

### **A. Summary of Government Accountability Office Reports**

**Report 1:** VA Disability Benefits: Additional Planning Would Enhance Efforts to Improve the Timeliness of Appeals Decisions, [GAO-17-234 \(https://www.gao.gov/products/gao-17-234\)](https://www.gao.gov/products/gao-17-234), published on March 23, 2017.

The GAO Findings: "VA is taking steps to improve the timeliness of its benefit compensation appeals process, in which Veterans who are dissatisfied with claims decisions by the Veterans Benefits Administration (VBA) can appeal first to VBA and then to the Board of Veterans' Appeals (Board). VA has taken actions related to increasing staff, reforming the process, and updating information technology (IT), which are consistent with relevant sound planning practices." GAO made five recommendations, one of which remains open. The five recommendations are:

- 1) Apply sensitivity analyses when projecting staff needs (closed).
- 2) Develop a timelier and more detailed workforce plan (closed).
- 3) Develop a robust plan for monitoring process reform (closed).
- 4) Develop a strategy for assessing process reform (closed).
- 5) Create a schedule for information technology IT improvements that takes into account plans for potential process reform (closed).

**Report 2:** VA Disability Benefits: Improved Planning Practices Would Better Ensure Successful Appeals Reform, [GAO-18-352 \(https://www.gao.gov/products/gao-18-352\)](https://www.gao.gov/products/gao-18-352), published on March 22, 2018.

The GAO Findings: “VA’s plan for implementing a new disability appeals process while attending to appeals in the current process addresses most, but not all, elements required by the AMA. VA’s appeals plan reflects certain sound planning practices, but it could benefit from including important details in several key planning areas.”

GAO made four recommendations, two of which were already closed. Due to successful efforts of VA, the final two recommendations were closed by GAO in April 2024:

- 1) Fully address all legally required elements in the VA appeals plan (closed).
- 2) Articulate how VA will monitor and assess the new appeals process compared to the Legacy process (closed).
- 3) Augment the master schedule for implementation of the VA appeals plan (closed).
- 4) Fully address risk associated with appeals reform (closed).

## **B. Department of Veterans Affairs Progress to Address Government Accountability Office Reports**

VA was pleased to learn in April 2024 that GAO decided to close these remaining open priority recommendations from the 2017 and 2018 reports previously summarized herein based on significant progress the Board and VBA have made during the past several years. Specifically, GAO decided to close the last two open recommendations from [GAO-18-352](#) (Recommendations 2 and 4 – both priority recommendations) and Recommendation 5 from [GAO-17-234](#) (related to priority recommendation 2 from the 2018 report).

In deciding to close these remaining open recommendations, GAO specifically noted that the Board compared remand rates, decision timeliness, and Veteran satisfaction under the legacy and new appeals processes and then transparently “communicated these analyses through various vehicles, such as through periodic progress reports on appeals reform, its Web site, and annual reports.” GAO also noted the VA progress to simultaneously manage two appeals systems, monitor and model workload trends, and project resource needs for processing these workloads. In addition, GAO noted VBA and the Board have risk registers that identify risks, and estimate their significance, likelihood of occurrence, and what actions VA will take to manage the risks. While it was an important milestone for VA to resolve these remaining High Risk List open recommendations from GAO, VA recognizes its work to continue evaluating and improving the implementation and full transition to the AMA system of appeals. In short, the commitment of VA to Veterans is not done and the following activities and actions since the last periodic report help illustrate the ongoing efforts of VA:

### Actions Demonstrating Commitment to Improved Appeals Modernization Act Implementation and Execution

- 1) More transparent reporting of AMA and Legacy appeals trends in quarterly reports for the fiscal year (FY) 2024 Board (va.gov), Congressional mandated

biannual reports, annual reports, and the recent FY 2025 Congressional Budget Justification.

- 2) Continued collaboration on monitoring and reporting the VBA supplemental claims and higher-level review (HLR) rates of appeal and Board appeal receipts to determine whether a steady and consistent trend of Veterans choosing to “appeal first to VBA” continues to empower Veterans as AMA was designed to offer those choices previously not available in the Legacy appeals system. For example, the appeal rate to the Board was 17% in FY 2021, dropped to 14% for FY 2023, and continued to drop to 10% in the first 9 months of FY 2024 through June 2024.
- 3) More developed tracking and reporting reveals a consistent trend for the past 4 and a half years that AMA remand rates are roughly 20% lower than remand rates under the Legacy appeals system, and AMA grant rates are consistently 8-10% higher than grant rates for the Legacy appeals system. This trend has continued through June 2024.
- 4) Significant capacity-building of judges and decision-drafting attorneys occurred during FY 2023 and continues into FY 2024 to address pending inventories and workload surges. During FY 2023, the pending inventory of waiting appeals of the Board dropped for the first time since AMA was implemented and the current inventory continues to go down each month since the last periodic report. The Office of Administrative Review (OAR) increased on-board staffing levels at the Decision Review Operations Centers (DROCS) by 247 full time equivalent (FTE) employees in FY 2023. At the time of this report, the DROCs are authorized to hire up to 1,763 FTEs in FY 2024 and are actively working to achieve allocated staffing levels.
- 5) A focus on AMA quality assurance (QA) trends at the Board shows AMA decision quality continues to be as good or better than Legacy system appeal quality. AMA QA rates at the Board during FY 2023 averaged 93.5%, which is higher than the expected goal and that trend is continuing during FY 2024. The higher-level review QA rate at VBA averaged 98% for FY 2023.
- 6) Education campaigns and workload shifts reduced Legacy system hearings to functional zero and caused AMA hearing requests to drop from 49% in FY 2019 down to a 35% request rate during FY 2023. That trend has continued. While 42% of all pending AMA appeals are currently on the Hearing docket with pending hearing requests, consistent multi-year trends have shown nearly 35% of those hearing requests are later withdrawn or cancelled and those Hearing docket cases are then decided without a hearing held before a Board.
- 7) An 95% reduction in pending original Legacy appeals from 40,994 on October 1, 2022, to 1,694 pending as of June 30, 2024.

#### Future Actions Planned

- 1) Use Board capacity-building during FY 2022 and FY 2024 to continue adjudicating even higher percentages of AMA appeals and substantially increase timeliness of decisions, especially on the AMA Direct docket. While only 32% of

the 103,245 decisions of the Board in FY 2023 were AMA appeals, the Board is on pace to more than double that number of AMA decisions during FY 2024.

- 2) Full resolution of Legacy system appeals remains a risk VA continues to monitor closely. Although VA reduced from over 472,000 in November 2017 down to under 55,500 in FY 2023, the VA-wide pending Legacy system inventory is still nearly 40,000 cases pending as of June 30, 2024. This number is predominantly due to persistent remand challenges and, accordingly, the time for full resolution of those appeals continues to climb to the same levels that Congress recognized as inherent in the system and sought to avoid when passing the AMA legislation 7 years ago.
- 3) Better understand root causes for remands and enhance an enterprise-wide recognition that remands do not provide Veterans with final answers on their appeals and can cause unnecessary delays. For current inventory Legacy system appeals returned to the Board after remand, 54% have been remanded at least twice; 29% have been remanded three times or more; 16% have been remanded at least four times; and 9% have been remanded five times or more.
- 4) Continue to monitor the VA pending claims and appeals inventory for any emerging or changing trends.
- 5) Continue to monitor Veteran choice under AMA enterprise-wide (especially at the Board and VBA) to identify trends to inform future training, potential system improvements, and related resource requests. The rate of Veterans choosing supplemental claims and HLRs continue to steadily climb, while AMA appeal receipts at the Board are relatively flat, with only a slight increase each year.
- 6) Workload trends under the Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxics (PACT) Act of 2022 are still emerging, and ongoing data modeling efforts with VBA will continue to evaluate whether the AMA strategy of “appeal first to VBA” trends for supplemental claims and higher-level review processes will continue with PACT Act claims.
- 7) Board attorney retention rates have vastly improved in recent years, and the Board is closely monitoring whether rapid attorney hiring and changes to onboarding and training during FY 2023 and FY 2024 will impact retention rates.

### **III. VA Office of Inspector General Review on Veterans Health Administration Appeals Benefit Decisions**

Prior to this report, the VA Office of the Inspector General (OIG) conducted a review assessing the effectiveness of Veterans Health Administration (VHA) in processing and tracking claimants’ health care benefit decision reviews according to the AMA requirements and two interim policy notices. The OIG report, [VHA Faces Challenges Implementing the Appeals Modernization Act](https://www.vaog.gov/sites/default/files/reports/2023-09/VAOIG-22-02064-155.pdf) (<https://www.vaog.gov/sites/default/files/reports/2023-09/VAOIG-22-02064-155.pdf>), focused on HLRs and supplemental claims specifically. Based on this assessment, OIG made 2 findings and 14 recommendations to the Under Secretary for Health. VHA has made progress on several recommendations but has not yet requested closure of any of the 14. With support from the Board, VBA, Office of Information and Technology (OIT), and other stakeholders, the VHA Claims and Appeals

Modernization Office (CAMO) presently is leading an integrated project to establish a foundation for further progress toward closing the open recommendations. The Integrated Project Team (IPT) is slated to deliver its report and recommendations to VHA leadership by Q1 FY25.

#### **IV. Comprehensive Implementation Plan Updates Since the February 2024 Report**

##### **Section 3(a)(1) of AMA directs the Secretary to submit a comprehensive plan to the appropriate committees of Congress and the Comptroller General of the United States for the processing of appeals of decisions on Legacy claims that the Secretary considers pending.**

VA has continued to make progress during the previous 180 days to resolve the remaining Legacy system appeals. Current data indicates there are 41,702 pending Legacy system appeals Department-wide, of which 1,694 are pending an initial decision by the Board, and an additional 31,063 have been remanded by the Board to the Agency of Original Jurisdiction (AOJ) for additional development. Both categories of pending Legacy system appeals remain higher than previously projected. Constraints placed on docket order, including advance on docket (AOD) cases (age, financial hardship, serious health conditions), remands from the Court of Appeals for Veterans Claims (CAVC), and post-remanded appeals with earlier Form 9 dates have caused the adjudication of the remaining original Legacy system appeals to take longer than anticipated. As a result, approximately 24,960 (65%) of Legacy system appeals adjudicated through June of FY 2024 were either AOD, Court remand, or post-remand appeals recertified to the Board from the AOJ. The remaining 13,575 (35%) were original appeals.

As shown in Figure 1, AOD, Court remand, and post-remand cases continue to dominate the workload of the Board.



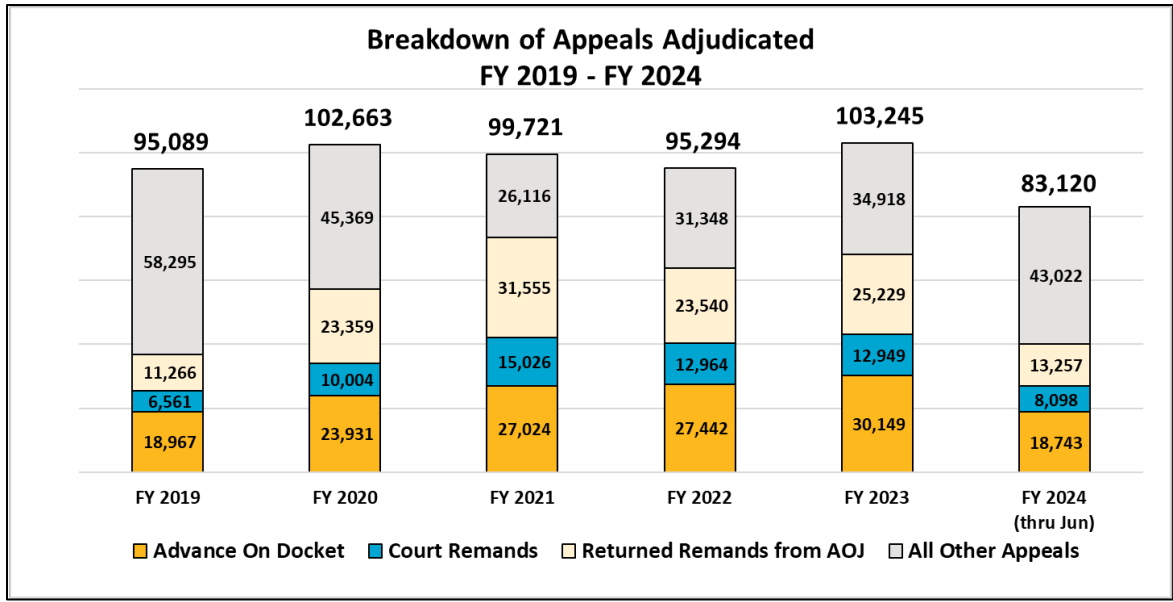


Figure 1. Remands and AOD cases Dominate the Workload of the Board.

The Board continues to prioritize resources to address pending Legacy system appeal inventories. A record 103,245 decisions were issued in FY 2023, of which 70,584 (68%) were Legacy system appeals. The Board added approximately 200 decision writing attorneys in FY 2023, a 16% increase over FY 2022. The production goal of the Board for FY 2024 is 111,000 decisions (Legacy and AMA).

As shown in Table 1, pending Legacy system appeals have been reduced Department-wide by approximately 38% from 67,223 at the end of Quarter 3 (Q3) in FY 2023 to 41,702 at the end of June 2024. This downward trend will continue until all Legacy appeals are resolved.

Table 1. Pending Legacy System Appeals by VA Office (Q4 FY 2022–Q3 FY 2024).

	FY 2022	FY 2023				FY 2024		
	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
<b>VBA</b>	27,609	25,098	28,488	31,041	33,446	32,859	32,595	31,086
<b>VHA</b>	2,267	2,319	2,051	2,187	1,949	1,833	1,394	1,426
<b>NCA</b>	0	0	0	0	2	2	2	3
<b>Board</b>	62,485	56,646	43,940	33,995	23,967	18,729	12,732	9,187
<b>Total:</b>	<b>92,361</b>	<b>84,063</b>	<b>74,479</b>	<b>67,223</b>	<b>59,364</b>	<b>53,423</b>	<b>46,723</b>	<b>41,702</b>

Note: There were 347,975 Legacy system appeals pending Department-wide at the start of FY 2020, dropping down to 125,340 pending at the end of FY 2021. Quarterly VBA totals reflect removal of the pending AOJ statement of the case (SOC) inventory to provide uniform data reporting. (Data Source: VBA Pending Month Summary Report (June 2024)).

Figure 2 shows the projected inventory of pending Legacy system appeals Department-wide and at the Board through the end of FY 2026. A revised resolution plan was completed at the end of March 2024. The revised plan accounts for actuals through the

end of March, and future inventory levels through the end of FY 2026. The Board finished June of FY 2024 with 202,717 appeals pending adjudication, of which 9,187 are Legacy system appeals, 1,091 appeals below the projected inventory level of 10,278. The Board has issued 83,120 decisions (44,585 AMA and 38,535 Legacy) and held 13,684 hearings (12,335 AMA and 1,349 Legacy) through the end of June in FY 2024.

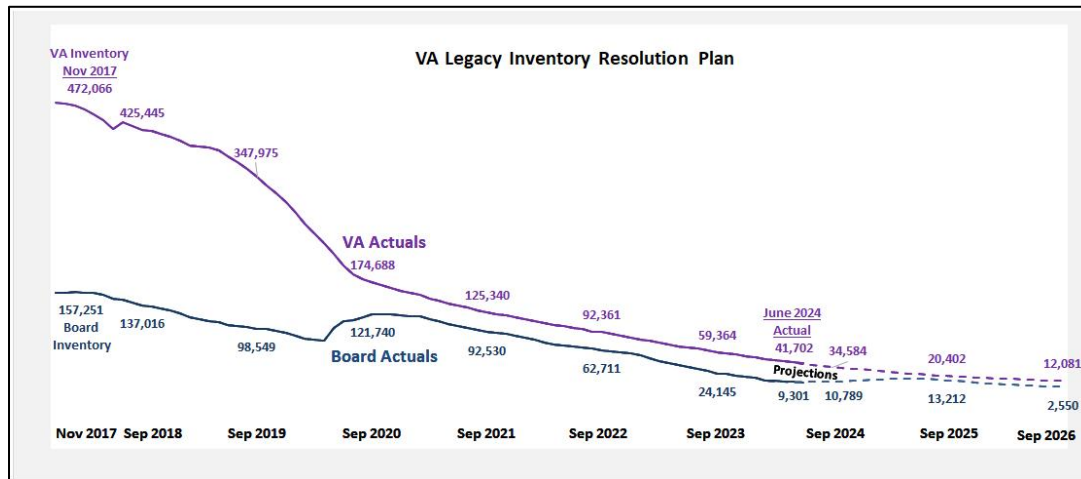


Figure 2. VA Legacy System Inventory Resolution Plan.

Legacy system appeals have been significantly reduced from a Department-wide high of 472,066 in November 2017 to 41,702 pending at the end of June 2024. However, the VA pending Legacy system appeals inventory remains higher than was originally projected. The initial drawdown plan, developed prior to the Coronavirus Disease 2019 (COVID-19) pandemic, was shared on October 29, 2019, and has been updated several times with the most recent version having been issued during Q2 of FY 2024. Each iteration incorporates historical actuals, updated assumptions to include the changing environment, workload projections, Board resources, hiring plans, and various other factors that influence outcomes. Through June of FY 2024, approximately 46% of the workload of the Board was adjudication of Legacy system appeals compared to 73% in FY 2023. As projected, Legacy inventory levels have will continued declining and has provided additional capacity to decide a higher number of AMA decisions in FY 2024. Through June 2024, 44,585 AMA decisions have been completed, already surpassing the total number decided in FY 2023 (32,661) with three months remaining in the fiscal year.

Forum of choice data, shown in Figure 3 continues to indicate that Veterans are overwhelmingly electing to use the virtual tele-hearing capacity, which allows the Board to provide hearings to Veterans in the comfort of their own home or any other chosen location. One trend that the Board continues to highlight during briefings to Veteran service organization (VSO) partners is the slight drop in virtual hearing requests in favor of modified in-person video hearings at regional offices (RO) where VSO representatives meet in person with Veterans for the video hearing with a Veterans Law Judge (VLJ). The Board continues to emphasize this should be the result of true

Veteran choice, rather than for the convenience of representatives to ensure the AMA goals of increased Veterans choice are met.

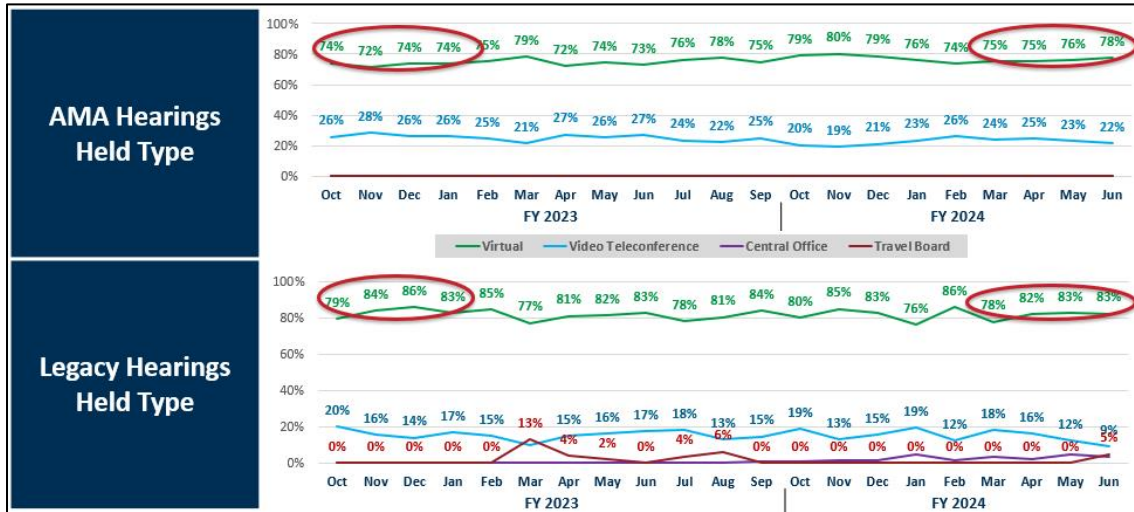


Figure 3. Forum of Choice.

Ongoing communication with Veterans regarding their hearing options during the past 180 days has allowed the Board to continue to make progress in reducing the number of pending Legacy system appeals with a Veteran requested hearing. As shown in Figure 4, the Board ended June 2024 with 768 pending Legacy system appeals with a hearing request, a decrease of 55% from the 1,714 pending in December 2023.

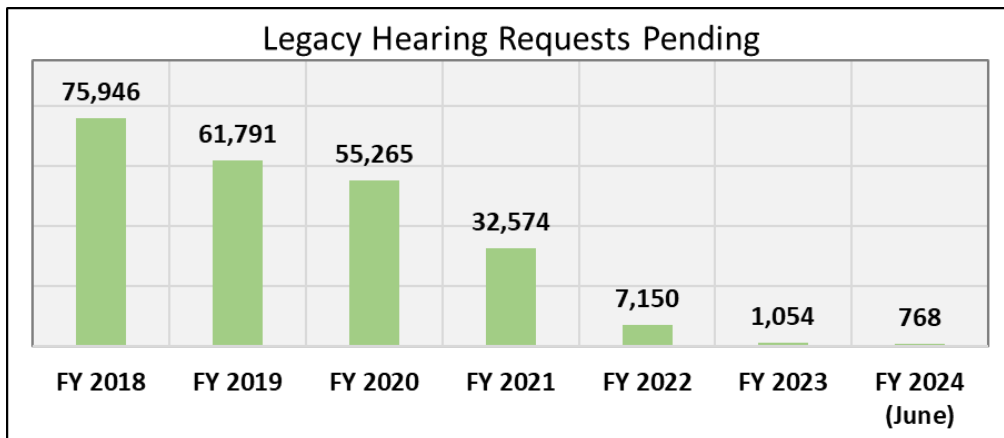


Figure 4. Progress in Reducing Pending Legacy System Hearings.

The Board continues to receive a small number of new Legacy system hearing requests from returned remands from VBA and from Court remands. As a result, the Board projects a residual number of Legacy system hearing requests will remain pending for the foreseeable future.

VBA continues to use several strategies to resolve the remaining inventory of Legacy system compensation and pension appeals. These strategies include workload

redistribution, increased oversight and accountability, leveraging technology for increased efficiencies, and the opportunity for claimants to opt-in from the Legacy system to the AMA. Between October 2016 and the end of June 2024, the total VBA Legacy system appeals inventory decreased by approximately 90.2% as depicted in Figure 5. VBA remand inventory is projected to stay below 34,000 cases and begin a trend downward to a legacy inventory target of 5,000 by the end of FY 2025. VBA will continue to balance multiple workloads.

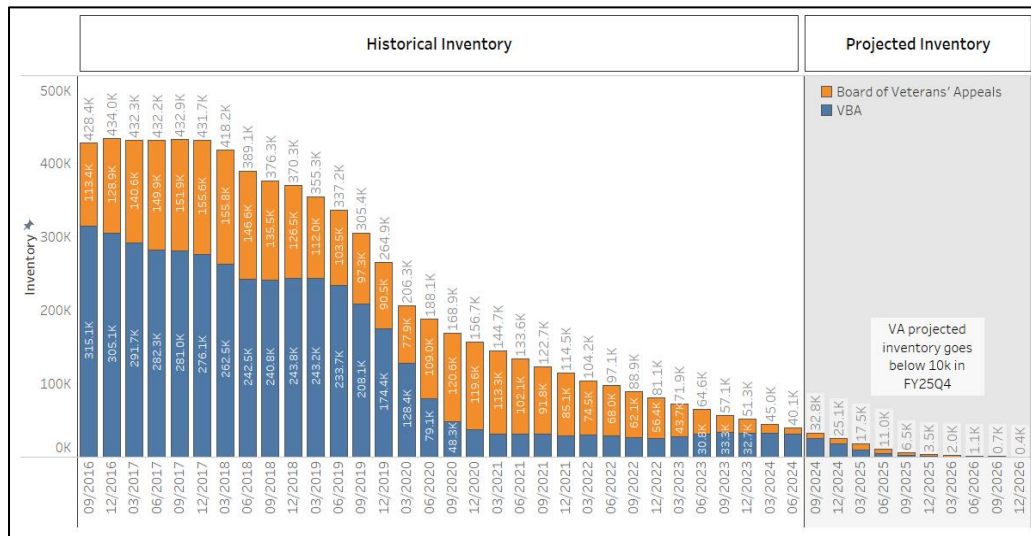


Figure 5. VA Legacy System Appeals Pending, October 2016–June 2024.

As shown in Figure 6, VBA has reduced remand inventory by 28.1% from the start of FY 2021 through June 30, 2024. The Covid-19 pandemic significantly slowed the ability of VBA to complete Legacy System Appeals between April 2020 and June 2022. The slowdown was the result of the reduced ability to schedule and complete examinations and obtain Federal records needed to adjudicate the Legacy system appeal remands. This may cause Legacy system appeals resolution to extend through Q4 of FY 2025.

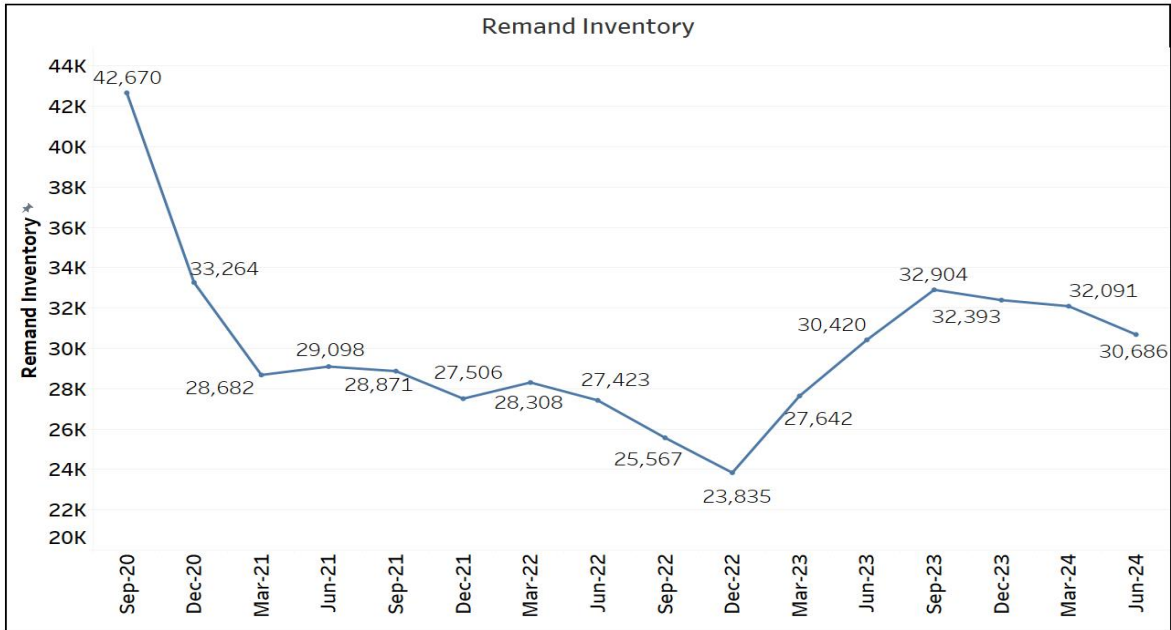


Figure 6. VBA Remand Inventory, September 2020–June 2024.

VBA remand inventory currently is projected to stay below approximately 34,000 pending cases. Once the inventory hits that level, it will begin to decrease towards functional zero, which is projected to occur in the second half of FY 2025. VBA has defined functional zero as an inventory of 5,000 pending cases. When Legacy system remands cannot be granted by VBA, the case is recertified to the Board; thus, remaining in the overall Department-wide Legacy system appeals inventory until the Board renders a final decision.

VBA continues to assess staffing allocations depending on workload needs for the remainder of FY 2024 and FY25 forecast planning. VBA balances resources to manage and administer decisions in both processes—(1) AMA (HLR) and duty-to-assist error corrections or difference of opinion dispositions identified under HLR and the Board lanes and (2) Legacy system appeals. VBA also uses resources to effectuate full grants, as well as remand actions, received from the Board in AMA and Legacy systems.

VBA eliminated the majority of its Legacy system appeals inventory in the Notice of Disagreement (NOD) and substantive appeal (Form 9) stages. Due to appeals processing interruptions caused by the COVID-19 pandemic (for example, the inability to conduct in-person compensation examinations and request Federal records from external organizations), VBA retained a small inventory in the NOD and Form 9 stages, which VBA continues to complete. As of June 30, 2024, only 88 Compensation and Pension NODs and 53 Form 9s remain.

VBA projects achieving a working Legacy system remand inventory in FY 2024. VBA defines this as an inventory of Legacy system remands that are currently “in process.” Annual VBA Legacy system remand output should closely equal the number of remands received annually from the Board.

The other benefit offices of VBA provide the following status reports on Legacy system appeals processing as of June 30, 2024:

- 1) The Pension Program had 196 Legacy system appeals pending within VBA: 2 in NOD stage, 1 in Form 9 stage, and 193 in the remand stage.
- 2) The Fiduciary Program had two Legacy system appeals pending within VBA: one in the NOD stage and one in the remand stage.
- 3) The Insurance Service had seven Legacy system appeals pending within VBA: one in the NOD stage, one in the Form 9 stage, and five in the remand stage.
- 4) The Education Service had 16 Legacy system appeals pending within VBA: all in the remand stage. The Veteran Readiness and Employment Service (VR&E) had 54 Legacy system appeals pending within VBA, with 4 in the NOD stage and 50 in the remand stage.
- 5) The Loan Guaranty Service (LGY) had one Legacy system appeals pending within VBA in the remand stage.

VHA continues to collaborate with the Board and other VA Administrations to address the Legacy system appeals inventory. VHA business lines realigned resources towards eliminating Legacy system appeals inventory while continuing to process claims in a timely manner. All Legacy system appeals are being tracked through the Veterans Appeals Control and Locator System by stage and business line. VHA has continued to draw down the Legacy system appeals inventory, reducing it to 457 cases as of June 30, 2024.

The progress of VHA has been impacted by the ruling in *Beaudette v. McDonough*, 34 Vet. App. 95 (2021), in which CAVC held that Program of Comprehensive Assistance for Family Caregivers (PCAFC) decisions rendered by the VHA Caregiver Support Program (CSP) are appealable to the Board. Consequently, VA worked to notify all individuals who received a previous PCAFC decision dating back to May 2011 (over 400,000 individuals) of their right to appeal to the Board. Many of these decisions were issued prior to February 19, 2019, and would therefore be governed by the Legacy system appeal process if a NOD appealing the decision is received. Prior to the *Beaudette* ruling, individuals who disagreed with a PCAFC decision could only use the VHA Clinical Review Process. Through close collaboration with VHA, VBA, and the Board partners, CSP worked diligently to garner the resources to develop and implement new workflows, processes, and procedures required to support the rights of Veterans and caregivers to pursue an appeal in the legacy review system. Since these are new processes for CSP, timelines for the completion of NODs are not yet known. CSP will monitor timeliness as well as track the number of new NODs being received and develop strategies as needed to balance workload and resource availability.

On February 27, 2024, the U.S. Court of Appeals for the Federal Circuit issued its decision in *Beaudette v. McDonough*, No. 22-1264. The court affirmed the 2021 decision of the CAVC. VHA remains committed to reducing the inventory of Legacy system appeals.

The National Cemetery Administration (NCA) completed all Legacy system appeals.

**Section 3(a)(2) of AMA directs the Secretary to submit a comprehensive plan to the appropriate committees of Congress and the Comptroller General of the United States for implementing the new appeals system.**

Based on a review of available data, the vast majority of Veterans continue to choose VBA lanes for another review after their initial VBA decision. Figure 7 shows that, since AMA implementation in FY 2019 through the end of Q3 of FY 2024, the Board has received a total of approximately 333,405 (14%) appeals, compared to a total of approximately 2,014,467 (86%) AMA decision reviews filed by Veterans choosing either the HLR or supplemental claim options at VBA during the same period. VBA clarified its AMA receipts calculation beginning in FY 2022 to exclude supplemental claims received at VBA more than 1 year after the original rating decision as these claims do not have the effective date for service connection protected and are thus processed by VBA as new claims.

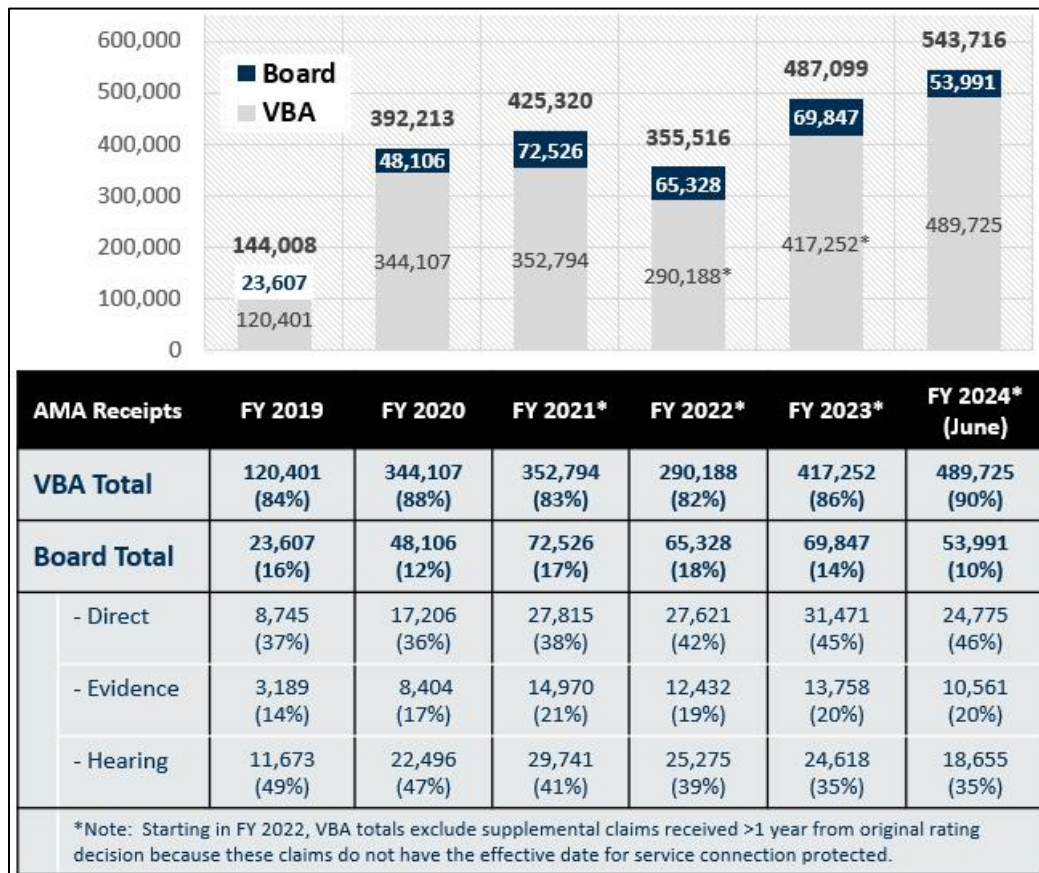


Figure 7. AMA Receipts, Claims (VBA) and Appeals (Board).

Figure 7 also clearly shows Veterans continue to “appeal first to VBA” when compared to the Board. This appears to reflect that the additional review options that VBA offers under AMA are attractive alternatives for Veterans. Figure 8 shows that while the number of VBA AMA decision reviews in HLR and supplemental claims has increased,

the average percentage of AMA appeals received at the Board has started to decline. Initial projections after the passage of the PACT Act (P.L. 117-168) indicated the Board could receive as many as 78,000 additional AMA appeals in FY 2023 and nearly 86,000 in FY 2024; however, that increase has not yet materialized.

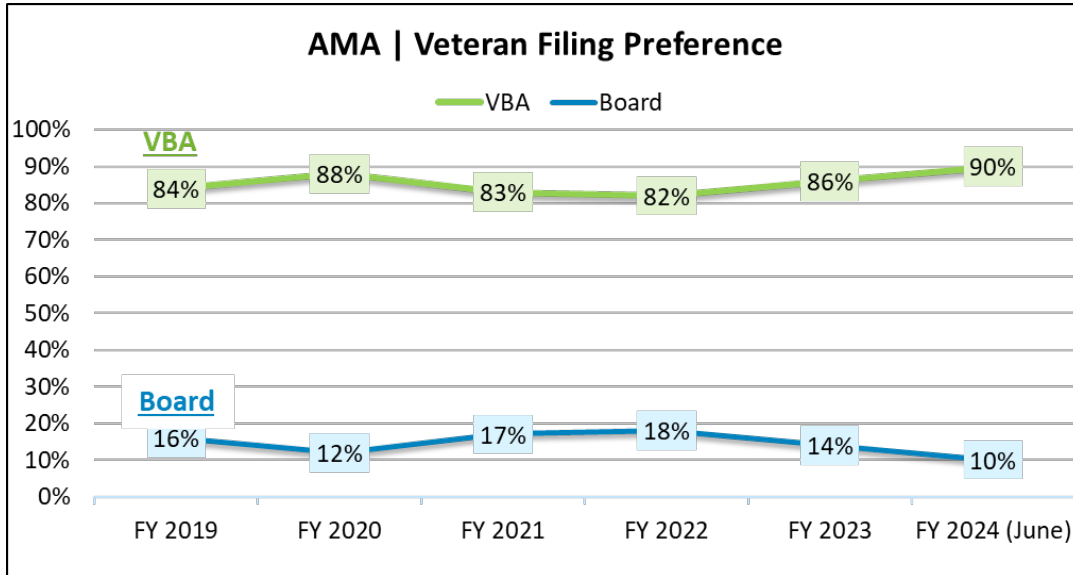


Figure 8. Veteran Filing Preference (Note: Excludes supplemental filings received by VBA more than 1 year from the original rating decision).

Even with continued Department-wide resolution of pending Legacy system appeals, the Board issued a total of 32,661 AMA decisions in FY 2023. Based on the projected declining level of Legacy inventory, which frees up capacity to decide more AMA appeals, the Board projects issuing more than 60,000 AMA decisions in FY 2024. FY 2024 will be the first year in which the number of AMA decisions exceeds the number of Legacy system decisions. Through June 2024, the ratio of AMA appeals adjudicated has steadily increased throughout the year and is currently 68% AMA to 32% Legacy System as shown in Figure 9.



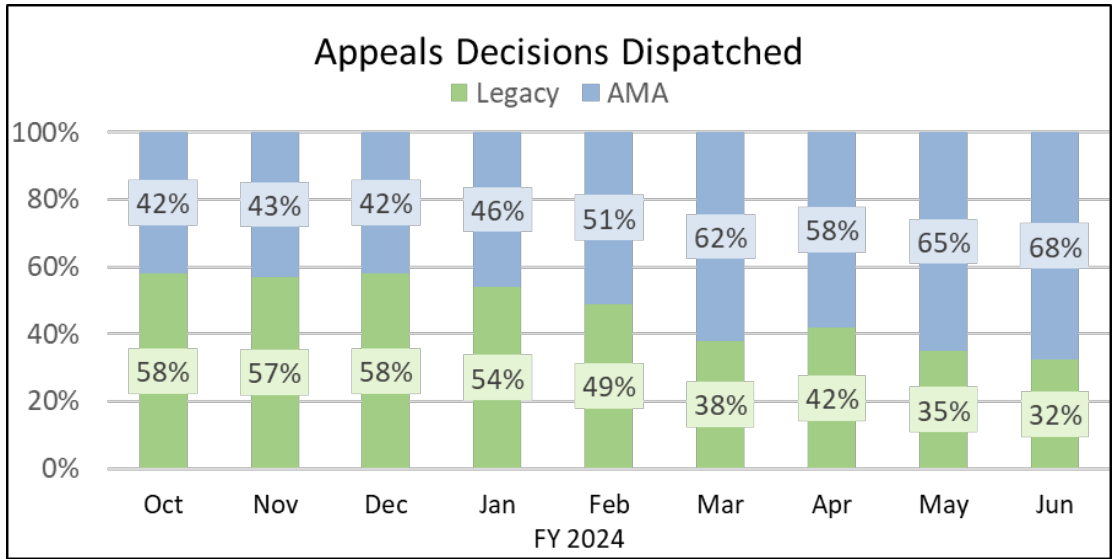


Figure 9. The Ratio of Legacy to AMA Appeals Decided.

The ability of the Board to adjudicate a higher proportion and number of AMA appeals has resulted in completion of the AMA appeals that have been pending the longest. Figure 10 shows that while the average days to complete AMA appeals exceeds the established timeliness goals, resolution of AMA cases is still more than 3 years faster than Legacy system appeals. However, the Board anticipates that the average years to complete an appeal under the AMA will continue to increase as the Board resolves the oldest pending AMA cases before cresting and then settling back to within published goals in the future. That cresting trend appears to be happening this year.

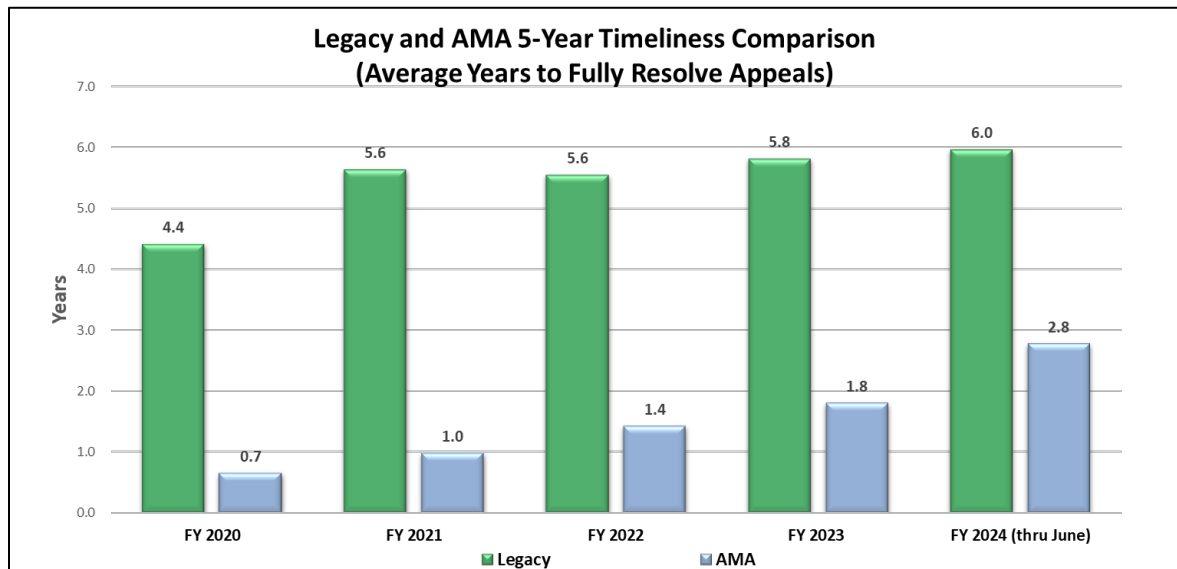


Figure 10. Legacy and AMA 5-Year Timeliness Comparison.

VBA continues to administer Veterans Signals (VSignals) surveys to measure satisfaction with and understanding of the AMA decision review processes that occur within VBA under the HLR and supplemental claim lanes. VBA deploys the initial survey

to the Veteran upon receipt of a decision review request and sends either an HLR or a supplemental claim survey at the completion of the selected decision review process.

VHA worked closely with the VA Office of General Counsel (OGC) and the Board to implement the AMA. VHA program offices created process models and developed the guidance necessary to implement the three review options available to claimants under the modernized system. During FY 2020, VHA established a CAMO inside the VHA Central Office and an executive-level Appeals Governance Council (AGC), comprised of VHA leaders whose areas are affected by appeals modernization.

VHA and the Board partnered with VBA and OIT to improve the preparation and transfer of electronic claims files for review on appeal. VHA is leveraging the VA Centralized Mail Portal to route documents. The Board, OIT, and VHA coordinated the creation of a Caseflow "Pre-Docket Queue" to manage VHA appeals and the required file production. The Board Intake Team places VHA appeals in the Caseflow pre-docket queue, which prompts VHA to transfer the records relevant to that appeal to the Board. Work is continuing in this effort to further ensure timely communication and document transfer, including future enhancements to the Centralized Mail Portal and the Caseflow. VHA took initial steps toward the implementation of centralized VHA appeals management, designed to improve the quality and timeliness of VHA decision reviews. VHA also is working with the Board and OIT on enhancements to Caseflow to allow VHA to actively manage its HLR and supplemental claim workload.

In response to the holding in *Beaudette*, PCAFC decisions include notice of the right to seek further review options, including HLR, supplemental claim, and Board appeals. VHA worked closely with the Board and OIT to establish the necessary functionality and processes to transfer PCAFC evidence files to the Board to enable the Board to process and adjudicate appeals of PCAFC decisions. CSP has developed new workflows to support AMA review options and has provided training to field based CSP staff, VHA patient advocates, and others on expanded PCAFC review and appeal options post-*Beaudette*.

VHA also established the VHA AMA Implementation IPT on December 12, 2023, to address the OIG recommendations as well as findings from a VHA functional assessment. The purpose of VHA IPT is to evaluate the enterprise-wide functions that govern VHA claim and decision review processing at the program level and identify solutions that would establish the appropriate oversight and governance, coordination, and administration functions necessary to ensure compliance of VHA with the AMA. Regular sessions are convened with participants to gather insights. Upon conclusion, the VHA AMA Implementation IPT will deliver recommendations that outline process improvement needs and IT solution requirements for VHA Leadership approval, funding, and implementation support.

NCA dedicated personnel to triage and process supplemental claims and HLRs. NCA manages the workload with a SharePoint list for the following three business lines' software programs: Time of Need (Burial Operations Support System); Memorial

Products (Automated Monument Application System); and Pre-Need (Eligibility Office Automation System). NCA intends to integrate all three systems into the Memorial Benefits Management System by FY 2026. NCA also uses Caseflow with the exception of some pre-World War I cases.

**Section 3(a)(3) of AMA directs the Secretary to submit a comprehensive plan to the appropriate committees of Congress and the Comptroller General of the United States regarding the timely processing of (A) supplemental claims, (B) requests for higher-level review and (C) appeals on any docket maintained under section 7107 of such title.**

The Board is concurrently managing appeals in the following dockets:

- 1) Legacy system appeals docket;
- 2) AMA appeals on the Direct Review docket;
- 3) AMA appeals on the Evidence Submission docket; and
- 4) AMA appeals on the Hearing docket.

The separate “dockets” for AMA allow the Board to appropriately track and process the different evidentiary procedures for each type of AMA appeal as well as track timeliness goals set for each of those types. As a general matter, each case before the Board will be decided in regular order according to its respective place on the docket to which it is assigned by the Board. However, with the exception of AMA appeals that require certain expedited treatment, all AMA appeals are currently assigned to judges based on docket order regardless of the particular evidentiary record before the Board under 38 U.S.C. § 7113. Appeals that have been granted AOD status or remanded to the Board by CAVC are prioritized for distribution, as required by statute. After AOD cases and CAVC remands, appeals are distributed based on the order in which the VA Form 9 (in Legacy system appeals) or VA Form 10182 (in AMA appeals) was received. See 38 U.S.C. § 7107(a)(4); 38 C.F.R. §§ 20.800, 20.902.

AMA affords Veterans greater choice if they disagree with a VA decision. Since implementation through the end of May 2024, approximately 24% of Veterans have requested a review of the decisions of their initial claims, of which 86% have chosen to file a supplemental claim or request for HLR at VBA for a quicker resolution, and 14% have filed an appeal to the Board. As noted earlier, this excludes supplemental claims received by VBA more than 1 year after the original rating decision. As shown previously in Figure 7, the rates of appeal to the Board continue to decline. During FY 2023, 14% of VA AMA claims received were appeals to the Board, followed by 10% through May 2024. Another intended goal of the AMA legislation was to reduce the remand rate of the Board. That strategy appears to be working. Through May 31, 2024, 61.0% of the Legacy system appeal decisions of the Board contained at least one remanded issue compared to only 39.1% of AMA appeals, a difference of 21.9%. As displayed in Table 2, the Board continued to meet its 365-day average timeliness goal for processing direct review docket appeals in FY 2023. The Board issued 8,931 decisions with an average days to complete (ADC) of 314 days. With all AMA appeals

now distributed based on docket date (oldest first), the anticipated increase in Direct docket timeliness continues to materialize through June 2024 and 15,238 decisions were issued in an average of 866 days. This is primarily attributed to the increased capacity to decide AMA docket appeals and a higher percentage of appeals decide that do not qualify for priority processing, which are decided in docket order (oldest first).

Table 2. Board AMA Docket Timeliness, FY 2023–Q3 FY 2024.

Average Days to Complete (ADC)	Direct Review	Evidence Submission	Hearing
<b>FY 2023</b>	314	695	927
<b>Percent that qualified for priority processing</b>	82%	60%	54%
<b>FY 2024 (through Q3)</b>	866	1,056	1,089
<b>Percent that qualified for priority processing</b>	36%	24%	39%

As noted previously herein, due to the declining inventory of Legacy appeals, the Board is able to distribute a higher number of AMA appeals for decision. In FY 2023, the majority (54-82%) of the AMA decisions of the Board were noted as priority (AOD or CAVC) appeals that were decided out of docket order and much quicker, with the remaining decisions being decided in docket order (non-priority) (see Table 2). With an increased number of AMA docket appeals being distributed for decision through June 2024, now only 24-39% of decisions were priority appeals. As anticipated, this results in a larger proportion of the oldest AMA cases being decided and an increase in the average number of days to decide AMA appeals. The Board expects the average days to complete AMA appeals for all dockets will exceed the established timeliness goals before cresting and settling back to within published goals. Through June 2024, the average days pending for each of the dockets began to flatten out and decline in the case of the direct review and evidence dockets, indicating we may already be at that cresting point.

Table 2 also shows that in FY 2023, 82% of the direct review, 60% of the evidence submission, and 54% of the hearing docket decisions that were dispatched qualified for priority processing. Through June 2024, the percentage of direct review, evidence, and hearing docket decisions dispatched that qualified for priority processing has decreased to 36%, 24% and 39%, respectively.

Through the end of June 2024, the average days pending (ADP) for an appeal in the AMA direct review docket was 621 days; the ADP for the evidence submission docket was 666 days; and the ADP for the AMA hearing docket was 739 days. The ADP for all AMA appeals currently is affected by the Legacy system appeals resolution plan as well as the completion of AMA appeals that qualify to be adjudicated out of docket order. However, as predicted and published in earlier reports, June 2024 data indicates ADP

for AMA dockets has begun to flatten out, meaning the oldest non-priority cases are now being adjudicated at a rate where the ADC will quickly crest and then begin falling until they settle at or below the timeliness goals that were set for each docket. The Board continues to inform the VSO community of current ADP and ADC for each Board docket and also provides the data for other stakeholders on its external websites, <https://www.bva.va.gov/decision-wait-times.asp>. and [https://www.bva.va.gov/Quarterly\\_Reports.asp](https://www.bva.va.gov/Quarterly_Reports.asp)., to help explain the average wait time trends and what the Board is doing about it.

VBA currently has 1,763 FTE dedicated to processing the remaining Legacy appeals and AMA workloads. Through constant monitoring, tracking, and modeling, VBA will leverage the capacity of these resources as determined by workload needs. The breakdown of FTE at each DROC are as follows:

Location	#FTE
Washington DC DROC	582
Seattle DROC	530
St. Pete DROC	635
St. Paul Restricted Access Claim Center (RACC)	16

The goal of VBA is to maintain processing timeliness of an average of 125 days to complete the AMA workload (HLRs and supplemental claims). Overall average timeliness for completing the AMA workload at VBA from AMA implementation on February 19, 2019, through June 30, 2024, was approximately 105.1 days, which measures below the ADC goal of 125 days.

For the same period, ADC for HLRs, including AMA full grants, was approximately 74.6 days with 650,443 completions. ADP for HLRs, including AMA full grants, was 55.8 days for a pending inventory of 65,966 claims. For supplemental claims, to include associated HLR returns, ADC was 116.1 days with 1,819,339 completions, and ADP was 117.6 days for a pending inventory of 281,294. The “AMA completions and ADC month-to-date” graph in Figure 11 provides the monthly breakdown for completions and ADC for HLRs and supplemental claims. The “AMA pending inventory and ADP” graph in Figure 11 provides the monthly breakdown for pending inventory levels and ADP for HLRs and supplemental claims.

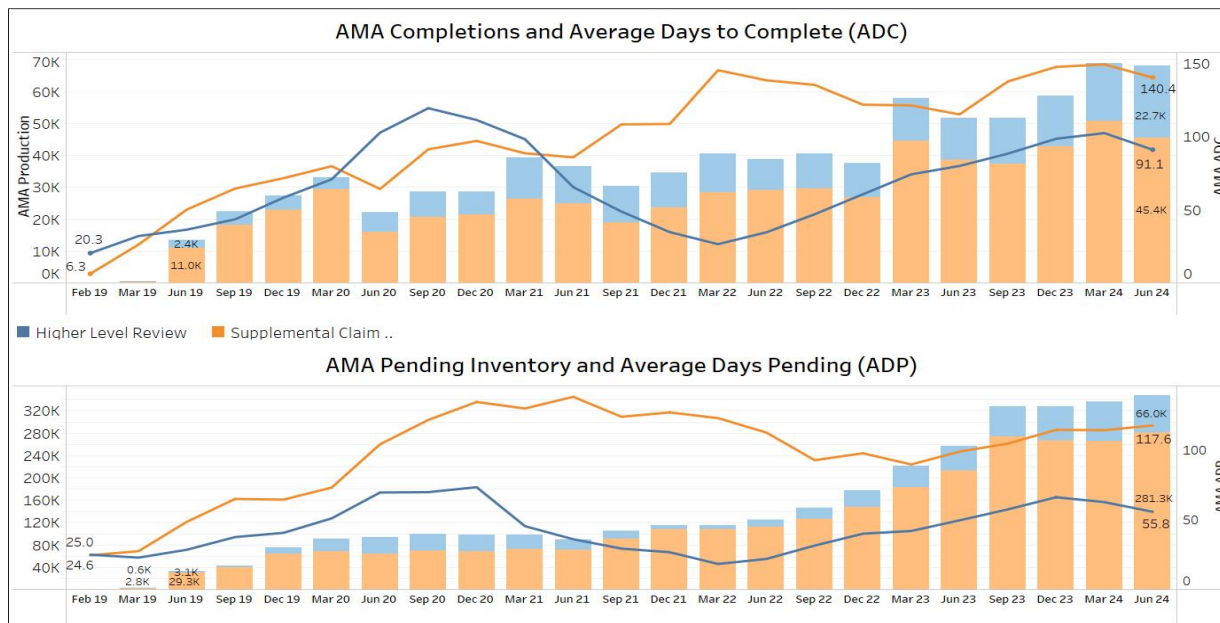


Figure 11. VBA Quarterly AMA Completions and Inventory, February 2019–June 2024.

In FY 2023, the overall average timeliness for completed AMA work was 110.1 days. The ADC for HLRs, including AMA full grants, was 73.3 days with 151,669 completions. The ADC for supplemental claims, including HLR associated returns, is 122.9 days with 436,040 completions. In FY 2024, through June 30, 2024, the overall average timeliness for completed AMA work is 134.1 days. The ADC for HLRs, including full grants, is 97.5 days with 165,523 completions. The ADC for supplemental claims, including HLR associated returns and AMA remands, is 147.3 days with 457,348 completions.

VBA continues to review data, manage risks, and model multiple scenarios to allocate resources to timely process claims under the modernized decision review process. In addition, the VBA Compensation Service and Pension and Fiduciary Service, along with OAR, collaborate to ensure claims processors have the necessary guidance, training materials, and systems functionality to process claims in an efficient manner that aligns with the 125-day ADC timeliness goal.

The following are specific to the other VBA benefit programs for the period between January 1, 2024, and June 30, 2024:

- 1) Insurance Service completed one HLR with an average of 55.0 days and seven supplemental claims with an average of 114.1 days.
- 2) Education Service completed 320 HLRs with an average of 8.9 days and completed 774 supplemental claims with an average of 7.9 days.
- 3) Veteran Readiness and Employment Services (VR&E) completed 287 HLRs with an average of 81.0 days and completed 72 supplemental claims with an average of 51.2 days.

- 4) Loan Guaranty (LGY) completed 52 HLRs with an average of 16.5 days from the date received and completed 167 supplemental claims with an average of 20.2 days.
- 5) VHA continues to track appeals volume, inventory, and timeliness. VHA, through CAMO and its team of six contracted employees, is now using the VA Centralized Mail Portal to receive and route some HLRs, supplemental claims, and other documents. VHA also is working internally and with VBA partners to examine the potential for directing all VHA HLRs and supplemental claims through the Centralized Mail Portal. This is already the case for the VHA CSP, which has established a dedicated mailing address and queues within the Centralized Mail Portal for routing of correspondence related to PCAFC decisions, including requests for HLRs and Supplemental Claims. Expanding this practice throughout VHA business lines would facilitate better tracking of the AMA review work. Recent technological enhancements have created a more efficient process for the Board to request files for AMA appeals of VHA decisions. As of January 2024, when detailee support ended, VHA solely manages this routing through a dedicated team of six contractors. VHA continues to examine staffing needs.
- 6) NCA tracks timeliness with a SharePoint list. NCA is adequately staffed to handle the new appeals system claims volume.

**Section 3(a)(4) of AMA directs the Secretary to submit a comprehensive plan to the appropriate committees of Congress and the Comptroller General of the United States regarding monitoring the implementation of the new appeals system, including metrics and goals to (A) track the progress of the implementation; (B) evaluate the efficiency and effectiveness of the implementation; and (C) to identify potential issues relating to the implementation.**

The Board and VBA continue to closely monitor and analyze receipts of AMA appeals for trends to identify potential issues and lessons learned during implementation since FY 2019. As noted earlier, comparisons of AMA claims received at VBA and the Board now excludes supplemental claims received at VBA more than 1 year after the original rating decision. These claims do not have the effective date for service connection protected as they have not been continuously pursued. As depicted previously in Figure 7, an ever-increasing number of Veterans continue to choose to file a VBA HLR of supplemental claim over an appeal to the Board under AMA. While the VBA AMA claim receipts in the supplemental claim and the HLR lanes are steadily climbing, the number of AMA appeals brought to the Board has remained between 65,000 and 75,000 each year for the past 3 years.

The Board continues to monitor and assess the number of cases with a pending hearing request and has noted a continuing drop in the number of Veterans choosing hearings under the AMA. In part, this may be due to higher grant rates under the AMA. The Board also continues to closely monitor and analyze resolution rate trends under the Legacy system and the AMA during the past 5 years so stakeholders can better

compare the two systems and the overall merits and effectiveness of the AMA system and the Legacy system.

The much lower appeal rates to the Board under AMA previously discussed, combined with the increasing percentage of Veterans instead seeking the new and faster review options at VBA, provide encouraging evidence that these expanded Veteran choices are providing more timely and effective final resolution for Veterans. Figure 12 shows remand and resolution rates for Legacy system appeals, while Figure 13 shows the same data for the AMA. Remand rates under the Legacy appeals system have remained relatively stable, with 59% of all appeal decisions being remanded, while remand rates under the AMA system have consistently been much lower—15 to 20% better than Veterans experience under the Legacy system.

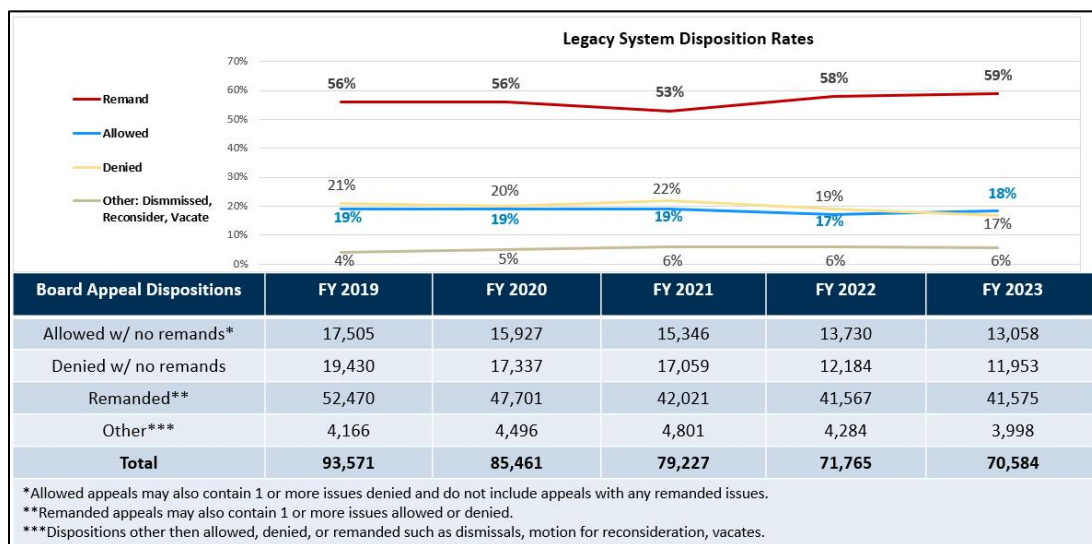


Figure 12. Legacy System Appeals Resolution Rates, 5-Year Trend.

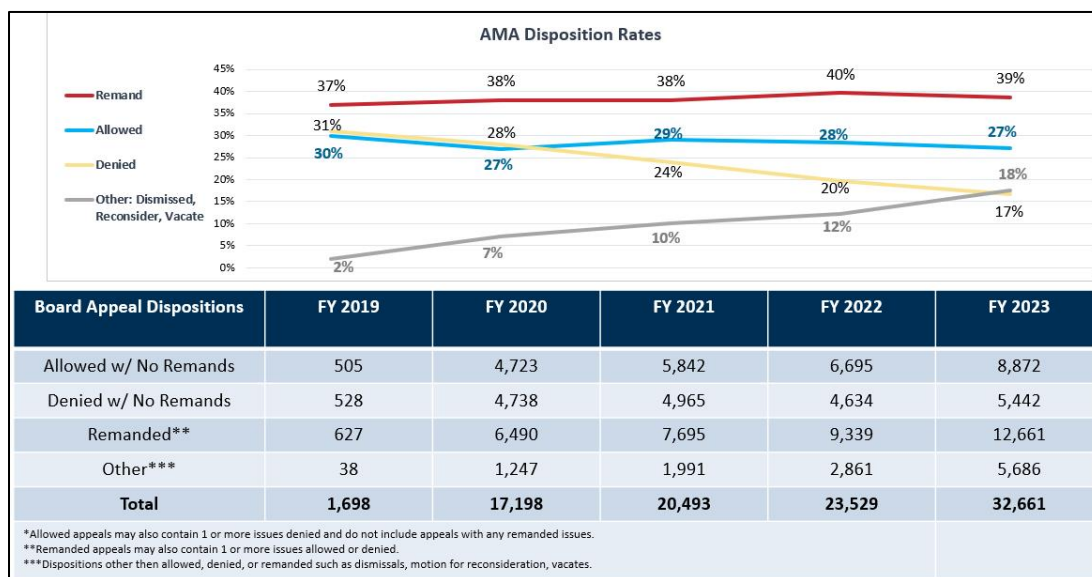


Figure 13. AMA Resolution Rates, 5-Year Trend.



It is important to reiterate how Veteran trust scores have been impacted under the Legacy appeals system and the AMA. This difference is particularly notable when appeals are first docketed at the Board under both systems and after a Veteran receives a Board final decision under both systems. Simply put, trust scores under the AMA have been consistently and significantly higher.

The Veterans Experience Office continues to administer the Vsignals customer experience survey to Veterans who have an active appeal at the Board. Results of these surveys provide valuable insight into Veteran experiences at various stages of the appeals process in the Legacy and the AMA systems. The Board uses this survey data to measure understanding and improve the hearing experience, as well as revise its letters and decisions to provide better information and improved clarity to Veterans. Figure 14 shows that Veterans' trust in the Board continues to increase throughout the lifecycle of their appeal at the Board.

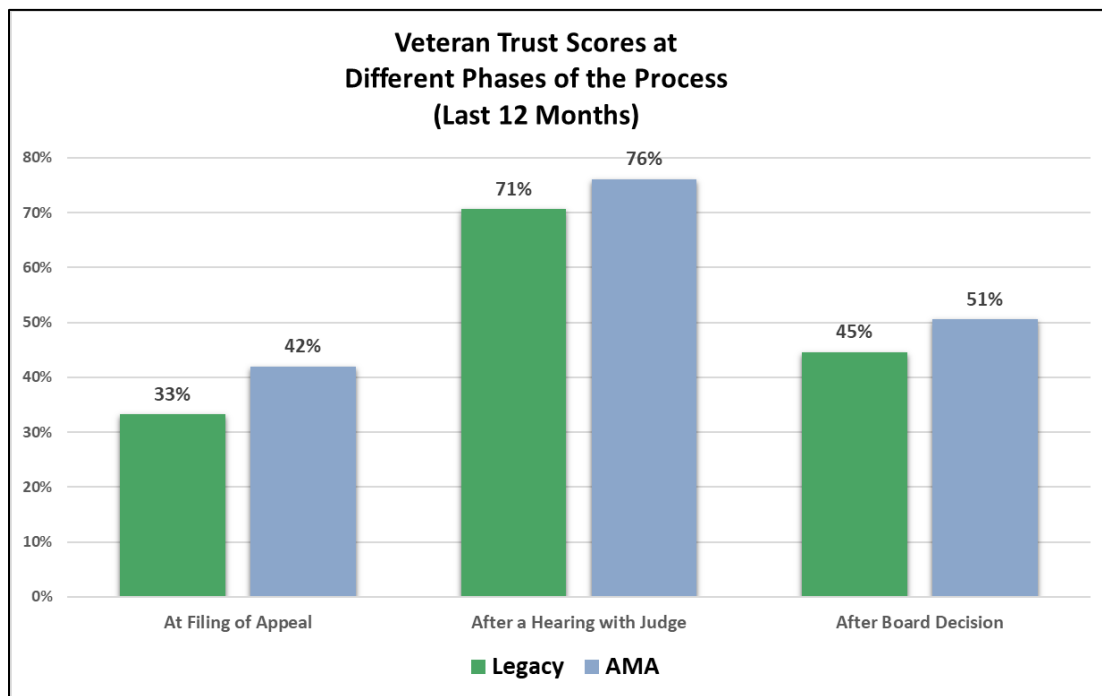


Figure 14. Trust Scores Rising (Note: Survey results July 2023–June 2024).

Figure 14 also shows Veteran trust in VA commitment to them is lowest when they file their appeals. That is unsurprising, considering they are appealing a “no” decision from the VA with respect to their claim for benefits and services. However, that score dramatically increases to approximately 71%-76% after a Board hearing and remains higher after issuance of the Board decision. The survey data demonstrates that the Veteran experience during the appeal process is generally positive, with overall trust scores rising approximately 9-12 percentage points from the time they first file with the Board until after they receive the Board decision.

While only about half of Veterans agree they “trust” the Board after getting their final decisions, that is far higher than the percentage of those same Veterans who received a “grant” on one or more issues in their appeals, which is about a quarter of Veterans

receiving a decision on their appeal. Veteran trust scores increase 9-12 percentage points from the time they initially file an appeal through the time when they receive a decision under the Legacy and the AMA appeal systems. The Board attributes this to increase to improved Veteran understanding based on their experiences with Board VLJs during hearings and based on the clarity of the Board decisions, especially in explaining why certain issues cannot be granted. The Board also notes that Veteran trust scores remain higher under the AMA than the Legacy system at each stage of the appeal process.

Since AMA implementation, VBA continues to assess the claims system and make process improvements to ensure the effectiveness and efficiency of the program.

The AMA QA goal of the Board for FY 2023 is 92%, the same goal for Legacy system appeals. AMA QA rates for the Board averaged 93.5% in FY 2023. The HLR QA goal is 93%. In FY 2023, VBA averaged 98% quality for HLRs.

VHA CAMO is working with the AGC, affected program offices, other VHA stakeholders, the Board, VBA, OIT, and OGC to create and enhance systems and processes to monitor the quality and efficiency of modern appeal operations and VHA adherence to claim processing revisions made as a result of the AMA. CAMO works with the Centralized Mail Portal and the Casflow development teams to create additional features for enhanced capabilities and management of VHA appeals.

Each respective program office in VHA continues to manage its internal processes, oversight, accountability, and data. CAMO is working with VHA offices to aggregate VHA data to establish adequate metrics and revise current goals for the new system. CAMO has requested OGC clarification of VHA reporting requirements under AMA. Once that opinion is received, CAMO will work with affected program offices to develop necessary measures and interim tracking tool or tools, if necessary. In addition, VHA convened a VHA AMA Implementation IPT to assess and develop recommendations for systems enhancements related to claims and decisions review processing, tracking, and data management. Upon conclusion, VHA will submit recommendations for VHA Leadership approval and implementation support for system requirements that enable consistent oversight and accountability across VHA claims and decisions review management.

Post AMA implementation, the total number of requests for NCA supplemental claims and HLRs is only about 1% of total denials.

## V. Plan Element Updates Since the August 2023 Report

**Sections 3(b)(1) & (2) of AMA require a delineation of the total resource requirements of the VBA and the Board, disaggregated by resources required to implement and administer the new appeals system and resources required to address the appeals of decisions on Legacy claims. These provisions also require delineation of the personnel requirements of the VBA and the Board, including staffing levels during the (A) period in which the Administration and the Board are concurrently processing appeals of decisions on Legacy claims and appeals of decisions on non-Legacy claims under the new appeals system; and (B) period during which VBA and the Board are no longer processing any Legacy appeals.**

The Board continues to evaluate the impact of the AMA workload and the resolution of Legacy system appeals on pending inventory levels, timeliness of appeals decisions, and pending Veteran-requested hearings to help drive the gap analysis of the Board and inform future resource requirements.

The updated resource requirements and workload projections of the Board were outlined in the FY 2025 Budget Submission (Vol. III) released in March 2024. As of May 2024, the Board has 133 VLJs on-board, continues to hire decision writing attorneys, and currently has a total of 1,408 FTEs on-board, which is up 13% from the FY 2023 cumulative FTEs of 1,245.

VHA CAMA partners with other VHA business lines to establish more streamlined appeals processes in their functional areas, as well as increased transparency and accountability. In Q2 FY 2022, the VHA CAMO began onboarding detailees to help process and route the current volume of appeals mail. Detailee support ended in January 2024 and was replaced by contractor support. The Board transitioned their previous embedded detail position with CAMO to a VHA liaison position within the Office of the Chief Counsel. The liaison is available to assist on case or legal issues impacting VHA and the Board. CAMO will continue to review staffing needs.

As a result of *Beaudette v. McDonough*, VHA CSP updated its organizational model and established a dedicated PCAFC review and appeal workstream to support AMA and Legacy system appeals, including quality management. This workstream is now fully established, with the majority of positions filled.

Since August 2023, VHA 104P Payment Operations have continuously identified and implemented operational enhancements. In FY 2023, the team concluded extensive data analysis in cooperation with Employee Labor Relations and the American Federation of Government Employees and updated performance plans to include a new performance standard. Payment Operations match the performance and efficiency gains that are being made by the team.

In addition, Payment Operations developed training modules to enhance personnel proficiency in payment processing and authorizations. These training modules also serve as refresher training for current team members. This collaborative effort aims to streamline operations and improve overall efficiency. Furthermore, VHA 104P Payment Ops Appeals created a Standard Operating Procedure (SOP) for the Healthcare Appeal Tool 3.0. This SOP encompasses decision reviews, associated processes, as well as new comprehensive letters that have been vetted by CAMO to effectively address AMA reviews.

NCA delineated personnel to complete Legacy system appeals, AMA supplemental claims, HLRs, and other workloads.

**Section 3(b)(3) of AMA requires identification of the legal authorities under which the VBA 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 VBA or the Board once the Administration and the Board are no longer processing any appeals of decisions on Legacy claims. Section 3(b)(4) of AMA requires an estimate of the amount of time the VBA 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.**

The Board started FY 2023 with fewer FTEs on-board than originally planned, the Board revised its FY 2023 cumulative FTE goal to 1,341. To meet this goal, the Board started an aggressive hiring plan that resulted in the on-boarding of 200 new decision writing attorneys and law clerks. The successful recruitment strategies of the Board also resulted in 50 new VLJs approved by President Biden. This brings the total VLJ staffing level of the Board to 132, nearly a 30% increase since the new AMA system went into effect. For FY 2024, the Board received over 600 applications and anticipates on-boarding another 150 or more decision writing attorneys to fully staff each VLJ team.

VBA reduced its workforce from 2,100 to approximately 1,250 FTEs before the end of FY 2021, in conjunction with the VBA Legacy system appeals inventory reduction and the resulting reduced need for processing manpower. In furtherance of this effort, VBA allocated resources from appeals processing to other VBA priorities. Passage of the PACT Act in August 2022 resulted in a significant increase in AMA claims receipts. To address the increased workload, VBA implemented strategic hiring plans to increase staffing throughout the organization, mostly through FY 2023 and FY 2024. VHA has no substantive updates to prior reports.

The NCA Appeals Team is properly sized.

**Section 3(b)(5) of the AMA requires 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).**

**Section 3(b)(6) of the AMA requires 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.**

VBA, VHA, and NCA have no substantive updates to prior reports.

**Section 3(b)(7) of AMA requires 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.**

VBA, VHA, and NCA have no substantive updates to prior reports.

**Section 3(b)(8) of AMA requires 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.**

Since February 2024, 90 new attorneys have enrolled in the Board's 20-week New Attorney Training Program (NATP). During this period, the Professional Development Division (PDD) has made periodic improvements to the program content with the goal of continuously improving its effectiveness. The PDD NATP survey analysis team constantly evaluates the effectiveness of the training program by reviewing data analysis received through various quantitative and qualitative methods. This evaluation and review helps to ensure that the training program is achieving its goals and contributing to the mission of the agency.

PDD also facilitated board wide training for all VLJs and attorneys in several areas, including Special Monthly Compensation, PACT Act–Effective Dates and Toxic Exposure Risk Activity, Specialty Adapted Housing and Special Home Adapted Grants, Active Duty/Inactive Duty for Training, Increased Rating for Eye, and Military Sexual Trauma. Additional training for VLJs was provided on several rarely seen specialty case topics, including (1) a May 2024 training on Caregiver appeals and (2) a June 2024 training on Education appeals.

PDD continues to hold open-door hours with experienced attorneys addressing substantive and procedural questions to assist all VLJs and attorneys at the Board. These sessions are aimed at providing invaluable support for all involved.

VHA, NCA, and VBA have no substantive updates to prior reports.

**Section 3(b)(9) of AMA requires an identification of the costs to VA 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.**

VHA, NCA, VBA, and the Board have no substantive updates to prior reports.

**Section 3(b)(10) of AMA requires a description of the modifications to the information technology systems of the VBA and the Board that they require to carry out the new appeals system, including cost estimates and a timeline for making the modifications.**

Technical teams for Caseflow and the Veterans Benefits Management System (VBMS) continue to work closely in conjunction with business teams from the Board to improve system integration and data exchange working towards a fully integrated, enterprise-wide solution that meets post-AMA implementation requirements.

Caseflow system infrastructure was upgraded beginning in Q3 FY 2024 to the latest supported software versions in both Caseflow and eFolder. Distribution limitations around appeals assigned to judges who are no longer with the Board or are otherwise ineligible were addressed. A self-service page is under development that will allow administrators to adjust Automatic Case Distribution settings. This functionality is expected to be deployed into production during Q4 FY 2024. Updates to the algorithm include creating an inactive judge list, creating flexibility in rules for AOD and other AMA appeals with a hearing held, creating flexibility in the affinity distribution concerning the affinity day counters and to exclude specific judges from distribution, changes to the case selection algorithm, for quality reviews for AMA and Legacy case numbers, and the addition of docket-type levels. Caseflow organization administrators now have a search bar to search for specific members of their organization in Caseflow.

The timeliness of HLR auto-establishment was improved with the creation of a new queue and batch processing job outside of Caseflow that syncs End Product Establishments in VBMS. To further streamline the process of decision reviews within the jurisdiction of VBA, VBA is on track to move end product establishment from Caseflow to VBMS. This move will provide VBA with greater control over technical updates and maintenance of these end products, while still coordinating necessary system connections with the Board and the Caseflow IT team.

Virtual hearing capability continue to be an important tool for serving Veterans and their representatives who elect to have hearings in connection with an appeal. Improvements to the integration of Caseflow with VANotify ensure Veterans receive appeal correspondence promptly and accurately, with more accurate data reported through improved notification history reports accessible within the Veteran's eFolder. Timely and accurate communication with Veterans with scheduled hearings supports Board efforts to improve hearing no-show rates and allows the Board to manage finite resources and carefully balance workload against VLJ capacity.

The Caseflow and the VHA teams continued collaboration to make improvements for VHA users, including removing a free text Power of Attorney (POA) entry so that the VHA user can select POA data for only recognized POAs during the unrecognized claimant intake process. Caseflow also provided VHA administrators with ability to view change history records associated to a claim to identify errors, keep accurate records of

changes, and generate metrics on Caseflow use. VHA appeals are now flagged during intake so the appeals can be properly routed to a Specialty Case Team (SCT) queue and reviewed by SCT coordinators and attorneys. In addition, Caseflow provided the ability for VHA administrators to assign permissions differently for modifying issues in a record/case, deleting a record/case, and reassigning records/cases so that modifying or deleting cases can be restricted just to select VHA users.

CAMO continues to work with OIT and the Board to enhance Caseflow capability and VHA Caseflow user experience. Recent enhancements include enabling the ability to record Social Security Numbers or Taxpayer Identification Numbers of non-Veteran beneficiaries in a Caseflow entry that allows VA to appropriately identify and track non-Veteran beneficiaries independently of the eligible Veteran. Caseflow functionality enhancements include implementing a comprehensive claims change history report, which allows VA to keep accurate records of changes, generate metrics and analytics of Caseflow use, and better identify claim processing errors. To ensure incomplete VA Form 20-0995 and VA Form 20-0996 are tracked, Caseflow updates allow case routing specialists to enter “no decision date” on a case and select an issue category. The “no decision date” feature allows a case to be entered into Caseflow and tracked, which minimizes processing delays and avoids mislaid claims. In addition, Caseflow documents a Claimant’s POA, which ensures case routing include the POAs on all Veteran communications.

Appeals Data Platform solutioning project began in September 2023 and aims to deliver a defined platform solution which will instill a high level of trust and drive transparency needed for informed decision making around Appeals data. The Appeals Data Platform is developed in partnership with the Board, OAR and OIT, and defines authoritative models describing VA appeals data from disparate sources presented for enterprise consumption. By creating these models, VA appeals personnel can illustrate the Veteran’s journey through the decision process for Higher-Level Reviews, Supplemental Claims and appeals processes for both AMA and Legacy Appeals with a focus on measuring timeliness goals by tracking decisions across organizations through standardized, aggregated appeal states, durations, and outcomes. At completion, the Appeals Data Platform will provide an authoritative data source for VA enterprise consumption of Appeals data. The Appeals Data Platform has not yet been implemented and made available to the VA Enterprise. Since the last update, the project team has delivered a solution architecture and continues to design the implementation plan and metrics, refine current requirements, and identify and solution data assets. The current timeline has production availability in late FY 2025 with a total cost to solution, implement, and initiate production support estimated to be \$5.1M.

**Section 3(b)(11) AMA requires an estimate of the office space VBA and the Board will require during each of the periods described in paragraph (2), including (A) an estimate of the amount of time VBA 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 VBA and the Board to acquire new office space; and (C) a plan for using telework to accommodate staff exceeding available office space, including how VBA and the Board will provide training and oversight with respect to such teleworking.**

VBA has no substantive updates related to office space and has a robust telework program that offers virtual and remote workplace opportunities.

VHA does not anticipate additional office space requirements. If necessary, VHA has a robust telework and virtual work program to meet any additional demands.

NCA and the Board have no substantive updates to prior reports.

**Section 3(b)(12) of AMA requires projections for the productivity of individual employees at VBA 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).**

The current union of the Board negotiated attorney production standard is three decisions or nine and a half issues per week. These standards are prorated for leave, training, travel, administrative requirements, lost work time due to IT stoppages, and other good causes as determined by management. New decision writing attorneys are expected to meet regular production standards after completion of a 6-month training period. Accounting for the training period and increased emphasis on mentored writing during the first year of employment, new decision writing attorneys have achieved, on average, 72% of the annual productivity standards expected of fully trained attorneys.

Board decisions per FTE, as shown in Figure 15, are calculated as the total number of appeal decisions divided by the cumulative FTE at the Board for the fiscal year, which includes both attorney and non-attorney staff. The timing and number of new hires, attrition, overtime, and leave usage can impact these results differently each year.



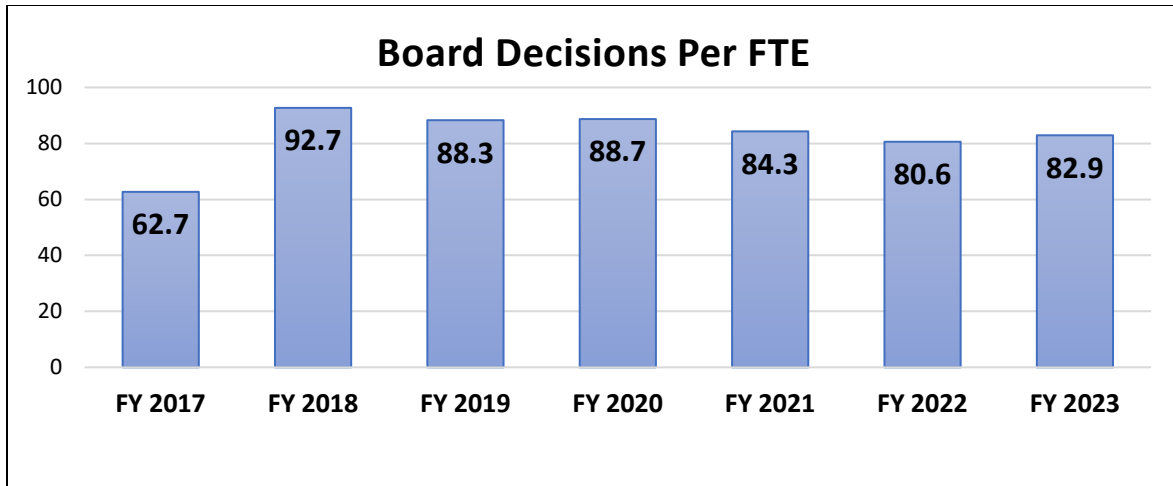


Figure 15. Board Decisions per FTE, FY 2017–FY 2023.

As of June 30, 2024, VBA decision makers completed an average of 1.2 Legacy system appeals per day; 2.6 HLR decisions per day; and 3.9 HLR returns, AMA remands, and AMA Board grants per day. The data provided is derived by dividing the number of FY 2024 completions by the respective average number of decision-makers allocated to that work type. Individual employee standards consider multiple factors such as claim complexity, number of issues rated on a case/claim, employee position, employee experience level, and number of available hours spent processing claims (time is excluded for activities such as leave, training, IT work stoppages, administrative duties such as renewing personal identity verification cards or other good cause). As of June 30, 2024, VBA completed 31,410 Legacy system appeals (including Legacy full grants), 150,184 HLRs, and 69,377 HLR returns, AMA remands, and AMA full grants. The VBA Education Service, Insurance Service, VR&E, and LGY did not have any substantive updates to report.

VHA has not ascertained any change in individual employee productivity as a result of the AMA rollout but will continue to monitor the matter. As noted in earlier sections of this report, each respective program office within VHA manages its own internal processes, oversight, and accountability. Processing of appeals on PCAFC decisions under the Legacy and AMA systems are new workflows for VHA managed by the Review and Appeals workstream within the VHA CSP. Additional time will be needed before timelines for issuance of decisions under these processes will be known to inform productivity projections.

NCA updated employee performance standards with an emphasis on timeliness.

**Section 3(b)(13) of AMA requires 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 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.**

The Board Chairman continues to promote, educate, train, and inform Veterans and stakeholders about AMA, with a focus on choice, control, and clarity for Veterans. In October 2023 and January 2024, the Chairman hosted a VSO outreach call, updating participants on the Board metrics and best practices. The Chairman and VLJs continue to attend and speak at VSO conferences, educating hundreds of representatives on best practices to advise Veterans about their choices under AMA. Board and VBA senior leadership, along with several VLJs, representatives from VSOs and the private bar, also attended the February 2024 VA AMA Summit. Additional information regarding their outreach activities is available in Appendix A.

As previously indicated, the Board uses the VSignals customer experience survey. Based on responses received from the Board's VSignals survey since the last report, Veteran trust continued to rise from 46% in December 2022 and averaged 51% during through Q3 FY 2024. This coincides with an increasing percentage of AMA appeals. It also appears that overall Veteran trust levels under the AMA continue to climb at the stage when their appeal is filed at the Board, while trust scores remain consistently lower among Veterans when they have Legacy appeals docketed at the Board.

VBA uses a real-time dashboard to track survey distribution, response rates, demographics, and other pertinent information. Data from the dashboard shows that between July 1, 2020, and June 30, 2024, there were 599,516 surveys sent and 129,471 responses received, of which 54,064 responses were for the filing survey; 17,748 responses received were for the HLR survey; and 57,478 responses received were for the supplemental claim survey.

The VSignals dashboard is a customer experience listening and measurement platform providing a touchpoint between AMA claimants and VBA. Short customer experience surveys that measure a specific service experience are sent to individuals shortly after an interaction with an AMA service. This data is analyzed and displayed in a dashboard designed specifically for VBA leadership to help them gain a near real-time understanding of the current customer experience. The VSignals platform ensures optimal and effective service for the Veteran, family, caregiver, and VBA. Insights derived from survey responses and comments are leveraged to inform AMA Program improvement. VSignals measurement methodology is recognized as a best practice by the Office of Management and Budget and was specifically mentioned in the President's Management Agenda.

VHA partnered with the Board to solicit VSOs' views regarding the VHA implementation of AMA and is considering that input as VHA continues to assess the claims system and

make process improvements to maintain the effectiveness and efficiency under AMA. The VHA AMA Implementation IPT, which convened in December 2023, will propose an implementation plan for standardized beneficiary communications and outreach accompanied by current AMA guidance.

NCA has no substantive update to prior reports.

**Section 3(b)(14) of AMA requires 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.**

Improvements to the Board's external website, [www.bva.va.gov](http://www.bva.va.gov), are ongoing to support Veterans, family members, and representatives by providing access to clear, concise, and useful information, including updated monthly metrics and information about the Legacy system and the AMA process and timelines. The Board's website ensures Veterans and stakeholders can easily find important appeals related information in an intuitive and easy to follow user interface.

VHA, NCA, and VBA have no substantive updates to prior reports.

**Section 3(b)(15) of AMA requires 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.**

VBA has no substantive updates to prior reports.

VHA published Appeals Modernization regulation AQ44, which sunsets Legacy system reconsideration processes, in July 2022. See [87 Fed. Reg. 43746](https://www.federalregister.gov/documents/2022/07/28/43746). VHA is considering the potential scope for further regulation of post-decision review processes but does not have a timeline.

NCA has no substantive updates to prior reports.

**Section 3(b)(16) of AMA requires 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.**

The Board continues to process opt-in requests consistent with statutory and regulatory requirements. VBA, and NCA have no substantive updates to prior reports.

Caseflow has an integration dependency on VHA implementing a case management system and platform for uploading and handling supporting documentation. VHA is

conducting research for intake to support the possible influx of VHA Appeals to the Board due to the CAVC decision pertaining to PCAFC appeals.

**Section 3(b)(17) of AMA requires 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, until there are no longer any appeals pending before the Administration or the Board for a decision on a Legacy claim.**

The VA Legacy System Appeals Resolution Plan includes a prioritized reduction of Legacy appeals, informed by Veteran and stakeholder engagement, as well as sound project management practices. The plan continues to show a marked reduction in the number of Legacy system appeals pending before the Board and in VBA, VHA, and NCA. The plan shows significant progress in the reduction of the number of pending Legacy system appeals by 88.5%, from 347,975 pending at the start of FY 2020 to 41,702 pending at the end of June 30, 2024.

The goal of the Department was to resolve Legacy system appeals by the end of calendar year 2022. However, the COVID-19 pandemic significantly impacted the ability to schedule and complete in-person examinations and obtain Federal records, delaying the completion of the development necessary to adjudicate the Legacy system appeal remands. The goal also was impacted by longer-lasting effects of COVID-19 such as the reduced ability to conduct in-person hearings at the regional offices, hiring delays, and a reluctance to opt into virtual tele-hearings. See Figure 16.

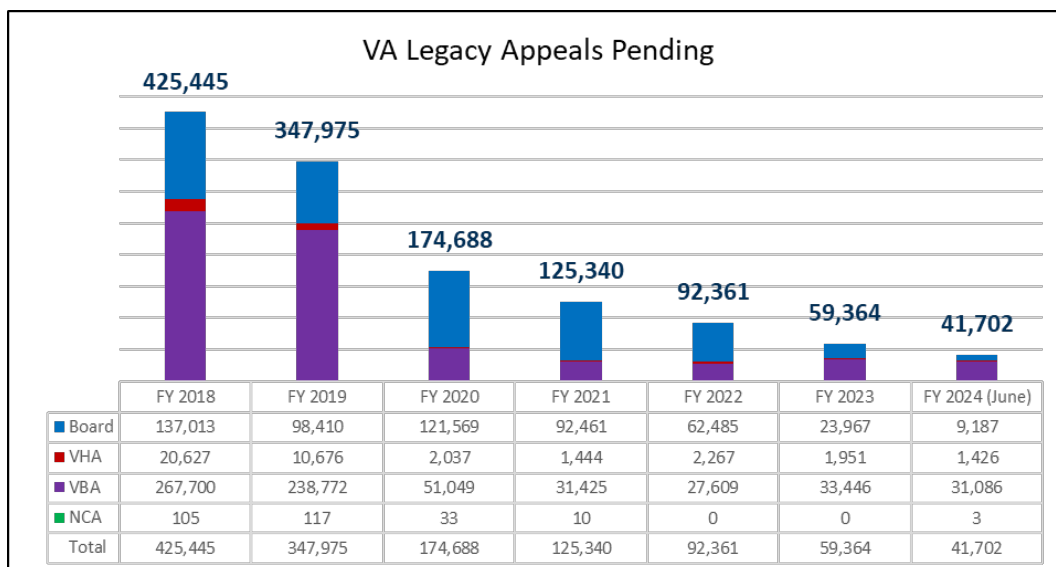


Figure 16. VA Legacy System Appeals Pending, FY 2018–FY 2024 (June). Based on the relative age of appeals pending in the Legacy and the AMA systems, the Board estimates approximately 45% of its workload in 2024 will be the adjudication of

Legacy system appeals. FY 2024 will be the first year in which the number of AMA decisions will exceed the number of Legacy system decisions.

Progress has been made, but there is still a higher-than-expected number of original Legacy system appeals pending an initial decision by the Board. Adjudication of these original appeals has taken longer than anticipated because of the constraints placed on the docket order by including AOD cases (for example, age, financial hardship, and/or serious health conditions), court remands, and post-remanded appeals with earlier Form 9 dates. As a result, approximately 68% of the Legacy system appeals adjudicated in FY 2023 were either AOD, Court remands, or post-remand appeals, with the remaining 32% being original appeals. Through June 2024, approximately 65% of the Legacy system appeals adjudicated were either AOD, Court remands, or post-remand appeals, with the remaining 35% being original appeals.

With continued high levels (greater than 55%) of decisions being remanded to the agency of original jurisdiction, combined with appeal remands received from CAVC, it is likely the Board could experience another 32,000 previously adjudicated Legacy system appeals returned during FY 2024 due to remands. The Board highlights the potential to finish the year with fewer than 8,000 pending depending on the rate of recertification of remanded appeals pending from VBA to the Board.

Under the law, the Board generally must adjudicate post-remand Legacy system appeals (for example, Legacy remands that are returned to the Board following necessary development), in addition to new appeals received, Legacy and AMA, relative to their respective place on the docket to which they are assigned. Aside from appeals remanded by CAVC and those granted AOD for good cause by statute, the Board generally considers such appeals, within each respective docket, under a first-in, first-out method. The remand rate of the Board for Legacy system appeals has ranged from approximately 38.8% to 46.04% between FY 2016 and FY 2023, as reflected in Table 3.

Table 3. Board Legacy System Dispositions, FY 2016–FY 2023.

<b>Board Legacy System Decisions*</b>					
<b>FY</b>	<b>Decisions</b>	<b>Allowed</b>	<b>Remanded</b>	<b>Denied</b>	<b>Other</b>
2016	52,011	31.8%	46.0%	18.0%	4.2%
2017	52,661	29.9%	43.5%	21.6%	5.0%
2018	85,288	35.8%	38.8%	20.9%	4.6%
2019	93,571	35.8%	39.0%	20.8%	4.5%
2020	85,461	33.8%	40.6%	20.3%	5.3%
2021	79,227	32.0%	40.4%	21.5%	6.1%
2022	71,765	34.7%	42.3%	17.0%	6.0%

Board Legacy System Decisions*					
2023	70,584	33.6%	43.8%	16.9%	5.7%
*The historical reporting system for Board decisions with multiple issues identifies the disposition of an appeal based on the following hierarchy: allowance, remand, denial, or other actions (for example, dismissals). When there is more than one disposition involved in a multiple issue appeal, the reported disposition for Board Statistical Reports will be categorized based on the disposition hierarchy noted above.					

Since February 2020, 1 year after the last initial rating decision was issued under the Legacy system, no new Legacy system appeals have been received by VBA.

As noted in Section 3(a)(1), VBA eliminated much of its Legacy system inventory in the NOD and Form 9 stages in FY 2020 and significantly reduced its remand inventory in FY 2020 and FY 2021. As of June 30, 2024, VBA has 1,763 FTEs available to manage administering decisions in the AMA system, specifically HLRs duty to assist error corrections identified under the HLR and the Board lanes and the remaining Legacy system appeals. VBA has 16 FTEs dedicated to processing Legacy and AMA claims filed by VA employees. All remaining FTEs include staff support and management.

Veterans may elect to opt into an AMA decision review lane on statements of the case issued after February 19, 2019, rather than remain in the Legacy system appeals process. From implementation through June 30, 2024, appellants have opted 17,055 Legacy system appeals into AMA through this avenue. In FY 2024, through June 30, 2024, there have been 460 opt-ins, representing a rate of 51 per month. In FY 2023, opt-ins from the Legacy system process decreased at a rate of 60 per month as compared to 106 per month in FY 2022. A total of 715 opt-ins were received in FY 2023.

Specific to other VBA benefit programs as of June 30, 2024, Legacy system appeals included the following:

- 1) The Pension Program had 196 legacy system appeals pending in VBA, with 2 in the NOD stage, 1 in the statement of the case (SOC) stage, and 193 in the remand stage.
- 2) The Fiduciary Program had two legacy system appeals pending in VBA, with one in the NOD stage and one in the remand stage.
- 3) The Insurance Program had seven legacy system appeals pending in VBA, with one in the NOD stage, one in the Form 9 stage, and five in the remand stage.
- 4) The Education Service had 16 legacy system appeals pending in VBA, with all in the remand stage.
- 5) The Veteran Readiness and Employment Service (VR&E) had 54 legacy system appeals pending in VBA, with 4 in the NOD stage and 50 in the remand stage.
- 6) The Loan Guaranty Service (LGY) had one legacy system pending in VBA within the remand stage.

VHA has made progress drawing down the Legacy system appeal inventory, reducing it to 457 as of June 30, 2024. VHA continues to reassess resource requirements and

streamline processes with the goal of eliminating Legacy system appeals inventory as quickly as possible. As noted herein, this plan may be impacted by the holding in *Beaudette*, which held that PCAFC decisions are appealable to the Board, including those issued prior to February 19, 2019.

NCA completed all Legacy system appeals.

**Section 3(b)(18) of AMA requires a description of each risk factor associated with each element of the plan and a contingency plan to minimize each such risk.**

Updates are provided to risks as necessary; however, where there are none, no updates are provided. The Department has identified the following risks and mitigation strategies:

**1. Resource Requirements (Section 3(b)(1))**

Risk: As previously reported, a modernized IT solution for VHA claims processing and management is currently unavailable. VHA adjudication records are maintained in different repositories, in different formats, are not always accessible to authorized individuals who may have a business need, are not easily accessed by Veterans and other claimants, and add barriers to the intake of VHA appeals. If a modernized IT solution for VHA claims processing and management remains unfunded and undeveloped, there will be a negative impact on timely resolution for Veterans and other claimants.

Mitigation: VHA will continue to use current IT capabilities until necessary processes and modifications are complete. VHA will work with OIT to develop new IT capabilities to enable the intake and management of appeals through the use of Caseflow, the Centralized Mail Portal, and eventual integration with a new VHA Case Management System.

Risk: Passage of the PACT Act will result in a surge of PACT-related claims and eventual appeals to the Board. This surge will likely impact inventory and timeliness levels and delay resolution of Legacy system appeals as AMA PACT appeals may qualify to be advanced on the docket ahead and decided sooner.

Mitigation: Mitigation strategies include advocating for increased resources as necessary to increase appeal decision rates, resulting in lower inventory levels and quick appeal resolution. This strategy will require increased hiring and training needs as well as IT support to properly identify and report PACT-related decisions. Specific to processing AMA claims and Legacy system appeals following implementation of the PACT Act, VBA added 307 FTEs in FY 2023 and 344 FTEs in FY 2024 to address the increased inventory of claims. VBA will continue hiring additional FTEs in FY 2024 and FY 2025 to meet the needs of projected increasing receipts. The capacity building of the Board has ramped up as staffing has increased from 1,191 FTE on-board at the start of FY 2023, to now over 1,400 on-board as of the end of June 2024. The Board continues

to evaluate and monitor relatively static AMA appeal receipts (which includes PACT Act appeals) and pending inventory levels that have been trending lower and adjust its resource needs so that it may work towards meeting the established timeliness goals under AMA.

### **2-3. Personnel (Section 3(b)(2)-(3))**

Risk: Current statutes may constrain the ability of VBA to scale its workforce to address reduced workload once the inventory of Legacy system appeals, including approximately 30,686 pending Legacy system appeal remand decisions, as of June 30, 2024, has been exhausted.

Mitigation: VBA will use any appropriate, applicable legal authority to remove employees only as a last resort. VA anticipates using more routine workforce management methods, such as employee attrition or reassignment, to address staffing changes resulting from the elimination of Legacy system appeals. VBA modeling efforts have continued to advance to account for the decreasing workload need and planning for shifting FTE resources from Legacy system work to AMA system work when able to do so. The residual risk is low.

Risk: VHA may not be able to provide timely responses to requests for claims files from the Board at its current staffing levels.

Mitigation: VHA will continue to monitor claim and appeal volume and staffing and adjust staffing and other resources as needed. VHA, through CAMO, is now using the VA Centralized Mail Portal to receive and route to program offices some HLRs, supplemental claims, and other documents. The VHA CAMO office is small, consisting of four full-time employees and routing support is primarily provided by a team of contractors.

Risk: Staffing changes at NCA may be required to address claimant demand and post-AMA process changes.

Mitigation: NCA will continue to assess if personnel changes are necessary.

Risk: The AMA claims receipts due to the PACT Act may outpace the capacity of VBA to complete HLRs timely.

Mitigation: Based on current forecast modeling, VBA is adjusting staffing accordingly in light of the recent increase in HLR receipts and projected HLRs associated with claims filed under the PACT Act. VBA added 307 FTEs in FY 2023, and an additional 344 FTEs were authorized for FY 2024.

### **4. Estimated Time for Hiring Employees (Section 3(b)(4))**

Risk: The hiring actions of the Board may be delayed due to human resources (HR) support levels.



Mitigation: Authorization to hire HR specialists received. As previously indicated, the Board is closing this risk.

Risk: The hiring actions of VBA during the PACT Act may be delayed due to HR support levels, resulting in increased time to process HLRs.

Mitigation: VBA will continue to monitor.

#### 5. Training and Experience Required of Higher-Level Adjudicators (Section 3(b)(5))

Risk: HLR caseload may exceed VHA anticipation.

Mitigation: VHA will continue to monitor incoming claims and reviews under the modernized system and will either expand the universe of HLR adjudicators beyond team leads and first-level supervisors or hire additional staff, if necessary.

Risk: At NCA, HLR adjudicators may be specialized in other areas.

Mitigation: NCA will cross-train as necessary.

#### **6. Estimated Percentage of Higher-level Adjudicators who were Decision Review Officers (Section 3(b)(6))**

VBA has no updates to prior reports.

## **7. Decision Review Officer Functions in the new System (Section 3(b)(7))**

VBA has no updates to prior reports.

## **8. Training Timeline (Section 3(b)(8))**

The Board has no updates to prior reports.

## **9. Costs of Training (Section 3(b)(9))**

The Board has no updates to prior reports.

## **10. Information Technology (Section 3(b)(10))**

Risk: Ongoing resource constraints may impact Department-wide Caseflow development.

Mitigation: Although the Board has a separate budget, OIT resources fall under the Department budget. VA works in close collaboration within the Department to ensure optimum resource allocation and prioritization of Caseflow requirements.

Risk: A recently identified Caseflow system issue resulted in the failure of the end product establishment for HLR returns (duty to assist errors and difference of opinions). End products (EP) are the VBA internal control for pending claims. This issue adversely impacts inventory levels and timeliness, as well as the ability of VBA to serve Veterans timely when an HLR return claim is impacted.

Mitigation: VBA has been actively engaged with VA OIT and the Board to develop and implement a short-term and long-term fix for this issue. At the time of this report, OIT has implemented a short-term solution by manually syncing the system, which results in a majority of the claims being established. The remainder of cases not resolved by the sync are brought under EP control outside of Caseflow. VBA and OIT are working towards the long-term solution of having all claims established in VBMS instead of Caseflow. VBA will continue to provide status updates on this risk and mitigation in future reports.

Risk: A recently identified HLR establishment issue which resulted in the contentions on the HLRs not properly being added to a portion of HLRs at establishment. This issue could result in the same contentions being submitted to multiple AMA lanes simultaneously.

Mitigation: OAR collaborated with internal VBA partners to improve establishment, which improved rate in which contentions were properly being added to the claim at establishment by 70% for HLRs established after May 13, 2024. OAR continues to collaborate with IT partners to identify opportunities for process improvement and establishment accuracy.

## **11. Estimate of Office Space by Phase (Section 3(b)(11))**

The Board has no additional updates.

Risk: VHA may require more office space than can be made available.

Mitigation: VHA will rely on telework and virtual workspace.

## **12. Projections for the Productivity of Individual Employees (Section 3(b)(12))**

Risk: There could be an unanticipated decrease in Board output leading to a risk of not meeting performance goals and decreased service to Veterans.

Mitigation: The Board closely monitors and assesses decision output and Veteran requested hearing scheduling to adjust and reallocate resources when needed to meet performance goals while utilizing best practices for efficiency. The Board works closely with bargaining unit representatives for employees to ensure that it is meeting the output expectations and managing employee performance for success. Robust telework and remote programs positively impacted the recruitment of a diverse workforce and retention of employees and positioned the Board as an employer of choice as we continue to use the voice of our employees and VA policies in support of workplace flexibility. Despite increased hiring the last couple years, the attrition rate has declined from 13.4% in FY 2019, to 8.3% in FY 2023, and is 7.8% through June 2024.

Risk: VHA may underestimate or overestimate employee output in terms of processing benefits in the modernized system.

Mitigation: VHA will adjust staffing as needed.

Risk: NCA software systems severely impact adjudication speed.

Mitigation: OIT is working to implement new software.

Risk: VHA adjudication records are currently maintained in many VHA-centric systems that are currently not architected to integrate with the Caseflow system. This situation is currently adding barriers to the intaking of VHA appeals. If a modernized IT solution for VHA claims processing and management remains unfunded and undeveloped, then VHA appeals will be handled through workarounds that will negatively impact a timely resolution for Veterans and other claimants.

Mitigation: VHA will continue to work with OIT to develop new IT capabilities to enable the intake and management of modernized appeals through Caseflow, the Centralized Mail Portal, and eventual integration with a new VHA Case Management System.

### **13. Outreach Plan (Section 3(b)(13))**

Risk: Veterans may not receive enough information about AMA, or they may be confused by the information they do receive.

Mitigation: The Chairman of the Board participates in multiple stakeholder events and conferences to provide training and information to stakeholders and Veterans about the AMA process. Outreach efforts by the Board and VBA explained and clarified the AMA system so that representatives and other stakeholders could better understand the new law and its related implications. The Board revamped its public-facing website in September 2022 to include “storyboards” with graphics and data trend information to better inform Veteran choice, and these web pages receive more than half of all visits to the Board’s public website. In addition, throughout FY 2023, VBA engaged in a new strategic campaign to increase understanding and awareness of the two VBA-owned AMA decision review options.

Risk: New VHA capabilities, enhancements, and procedures need to be socialized with external and internal VHA stakeholders.

Mitigation: CAMO provides ongoing assistance and support to program offices in generating legally compliant documents, as well as any other assistance that may be needed on an as-needed basis.

### **14. Timeline for Policy Updates (Section 3(b)(14))**

Risk: Updated VHA policies are not currently published.

Mitigation: VHA Notice 2024-07, The Appeals Modernization Act in the Veterans Health Administration, dated June 18, 2024, provides interim policy guidance. VHA program offices also provide interim guidance to their affected workforce. An outcome of the VHA AMA Implementation IPT and VHA leadership endorsement of recommendations is national policy that addresses requirements related to roles, responsibilities, tracking, monitoring, and oversight.

### **15. Timeline for Promulgating Regulations (Section 3(b)(15))**

Risk: VHA does not have final AMA regulations.

Mitigation: In July 2022, VHA published Appeals Modernization regulation AQ44, which sunsets Legacy system reconsideration processes. VHA continues to process health benefits claims and appeals in accordance with AMA statutory authorities. VHA also is working to develop a notice of proposed rulemaking that would establish AMA regulations for VHA.

### **16. Outline of “Opt-In” Circumstances (Section 3(b)(16))**

VA has no updates from prior reports.

## 17. Key Goals and Milestones for Reducing Legacy Inventory (Section 3(b)(17))

Risk: The Board may receive a large number of Legacy system appeals in a short time with a corresponding increase in AMA appeals that could result in a delay in reducing the number of pending Legacy system appeals and impact the processing of AMA appeals.

Mitigation: The Board continues to monitor legacy receipt trends and VBA's projected increase in monthly remand recertifications in the second half of FY 2024 (compared to first half). Significant progress has been made, as less than 41,000 legacy appeals remain, from a high of over 472,000. Increased capacity to decide a higher proportion of non-priority appeals has enabled the Board to reduce pending original legacy appeals to less than 2,000, and overall legacy appeals pending at the Board to less than 10,000.

Risk: VHA may be unable to resolve the Legacy system appeals inventory in a timely manner.

Mitigation: VHA diligently monitors the Legacy system inventory and takes necessary action as program offices complete or continues to update the cases lifecycle. This ensures that documents are promptly relayed to the Board. VHA routinely analyzes data to continuously improve the inventory management and assign all cases to the respective program office.

Risk: CAVC decisions adversely impact the ability of VHA to resolve the Legacy appeals workload in a timely manner. Particularly, the ruling in *Beaudette* may add thousands of PCAFC appeals to the VHA Legacy inventory. VHA CSP has established a team dedicated to addressing Legacy appeals. CSP also has worked in conjunction with the Board to establish processes for transmitting evidence files, receiving remands, and effectuating any grant of Legacy appeals.

Mitigation: VHA is working to establish PCAFC Legacy system appeals processes and capabilities.

Risk: The ongoing *Freund v. McDonough*, Fed. Cir. No. 23-1387 (Appeal), case could result in thousands of previously closed Legacy appeals being reestablished.

Mitigation: VBA is continuing to collaborate with OGC regarding this ongoing court case and will ensure necessary actions are taken on legacy appeals identified as impacted by this issue. The outcome of this ongoing case could result in a delay of VA achieving functional zero in this inventory.

**Section 4 of AMA authorizes the Secretary of Veterans Affairs to 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. 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.**

**VBA Test Program: Rapid Appeals Modernization Program (RAMP)**

VBA has no further updates to RAMP as the program concluded on October 18, 2022. See 87 Fed. Reg. 43387.

**Department of Veterans Affairs  
August 2024**

**Appendix A. Update on Board Outreach.**

<b>FY-Quarter</b>	<b>Outreach Date/Type</b>	<b>Outreach/Communication Activities</b>
FY 2024 Quarter 2	1/18/2024 VSO	VLJ Wesner presented at the VA Puget Sound Health Care System
FY 2024 Quarter 2	1/24/2024 VSO	Chairman Areizaga-Soto met with the leadership of Paralyzed Veterans of America (PVA).
FY 2024 Quarter 2	1/25/2024 VSO	VLJ Norman presented at the Florida Department of Veterans Affairs
FY 2024 Quarter 2	1/30/2024	Chairman Areizaga-Soto presented to a Vietnam Veterans of America VSO Townhall event in San Juan, Puerto Rico
FY 2024 Quarter 2	2/3/2024 VSO	VLJ Burton presented at the National Bar Association Veterans Affairs and Military Law Section
FY 2024 Quarter 2	2/5/2024 VSO	Chairman Areizaga-Soto attended and presented at the National Association of County VSOs Annual Conference.
FY 2024 Quarter 2	2/6-7/2024 VSO Stakeholders	The Board and VBA Office of Appellate Review co-hosted the VA 2024 AMA Summit
FY 2024 Quarter 2	2/12/2024 VSO	Chairman Areizaga-Soto met with the leadership of the Jewish War Veterans and toured the Medal of Honor Museum
FY 2024 Quarter 2	2/17/2024 VSO	VLJ Haddock presented a Special Monthly Compensation Training for the VA Office of General Counsel
FY 2024 Quarter 2	2/20/2024 VSO	Chairman Areizaga-Soto attended and presented at the National Association of State Directors of Veterans Affairs
FY 2024 Quarter 2	2/26/2024 VSO	Chairman Areizaga-Soto attended and presented at the American Legion Winter Meeting
FY 2024 Quarter 3	3/6/2024 VSO	Chairman Areizaga-Soto attended the Veterans of Foreign Wars Legislative Reception
FY 2024 Quarter 3	3/7/2024 VSO	Chairman Areizaga-Soto attended the Disabled American Veterans National Commander's Reception
FY 2024 Quarter 3	4/11/2024 VSO	Chairman Areizaga-Soto hosted a Quarterly Virtual VSO call
FY 2024 Quarter 3	4/16/2024 VSO	Chairman Areizaga-Soto presented at the Minnesota Department of Veterans Affairs 2024 Spring Conference
FY 2024 Quarter 3	4/24/2024 VSO	Chairman Areizaga-Soto attended the Wounded Warrior Program Soldier Ride at the White House
FY 2024 Quarter 3	4/26/2024 VSO	VLJ Fleming, Clerk of the Board Presiding Judge, hosted a listening session with VSOs to discuss Board notice letters
FY 2024 Quarter 3	6/12/2024 VSO	Chairman Areizaga-Soto attended an Open House at the Paralyzed Veterans of America
FY 2024 Quarter 3	6/17/2024 VSO	Chairman Areizaga-Soto attended a farewell reception for senior staff at the American Legion