

113TH CONGRESS
1ST SESSION

H. R. 2138

To direct the Secretary of Veterans Affairs to resolve the backlog of disability claims of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mr. MCCARTHY of California (for himself, Mr. MILLER of Florida, and Mr. COFFMAN) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Veterans Affairs to resolve the backlog of disability claims of the Department of Veterans Affairs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending VA Claims
5 Disability Backlog and Accountability Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Secretary of Veterans Affairs is statu-
2 torily obligated to provide to individuals who served
3 in the Armed Forces and sustained an injury as a
4 direct result of such service with health care, dis-
5 ability compensation, and related resources.

6 (2) Disability compensation payments are in-
7 tended to provide relief for some of the socio-
8 economic and other losses veterans experience as a
9 result of service-connected diseases and injuries.

10 (3) A recent review by the Government Ac-
11 countability Office found that the backlog of dis-
12 ability claims at the Department of Veterans Affairs
13 has more than tripled since 2009 and the average
14 length of time to complete a claim has increased
15 from 161 days in 2009 to 260 days in 2012.

16 (4) In August 2012, approximately 568,043
17 claims or two-thirds of all compensation rating
18 claims are backlogged.

19 (5) The Government Accountability Office
20 found that delays in obtaining service and medical
21 records for veterans who served in the National
22 Guard or Reserve is a significant factor in length-
23 ening the claims process for these veterans even
24 though they make up 43 percent of veterans who
25 served during the Global War on Terrorism.

1 (6) The Government Accountability Office
2 found that if a veteran submits a disability claim
3 and reports receiving disability benefits from the So-
4 cial Security Administration, the Department of Vet-
5 erans Affairs is required to help the veteran obtain
6 relevant Federal records, including medical records
7 from the Social Security Administration to process
8 the claim.

9 (7) There is an interagency agreement between
10 the Department of Veterans Affairs and the Social
11 Security Administration, but the protocols of the De-
12 partment and the response time of the Administra-
13 tion can take a year before the Department has ob-
14 tained the requested information.

15 (8) The Government Accountability Office
16 found that approximately 50 percent of claims proc-
17 essing staff have been in their current role for less
18 than two years and are not yet proficient in their
19 duties requiring supervision and review from more
20 experienced claims processing staff, diverting them
21 from their claims processing responsibilities.

22 (9) Veterans and their families have already
23 selflessly and willingly sacrificed for our nation and
24 faced numerous hardships; they should not have to

1 continue to face undue and avoidable hardships after
2 their service as they seek the benefits they earned.

3 (10) On March 24, 2013, the Secretary of Vet-
4 erans Affairs Eric K. Shinseki stated in an interview
5 on State of the Union television show, “no veteran
6 should have to wait for claims as they are today. We
7 have a fix for this. We’re open for business. And we
8 will end the backlog in 2015.”.

9 (11) On April 15, 2013, the Secretary, in writ-
10 ten testimony before the Committee on Veterans’ Af-
11 fairs of the Senate, again stated that the “VA re-
12 mains focused on eliminating the disability claims
13 backlog in 2015 and processing all claims within
14 125 days at a 98-percent accuracy level.”.

15 (12) On April 19, 2013, the Secretary again
16 stated in a New York Times article titled “V.A.
17 Aims to Reduce Its Backlog of Claims”, that the
18 Department will “eliminate the backlog by 2015.”.

19 (13) Numerous congressional inquiries for
20 progress reports and detailed information regarding
21 the disability claims backlog remain unanswered,
22 while the Secretary continues to state the claims
23 backlog will be eliminated by 2015, claims proc-
24 essing accuracy will be increased to 98 percent, and
25 claims processing will take no longer than 125 days

1 as a direct result of the “Strategic Plan to Eliminate the Compensation Claims Backlog” of the Department.
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4 (14) The Government Accountability Office
5 found that the “Strategic Plan to Eliminate the
6 Compensation Claims Backlog” of the Department
7 does not adequately articulate how the Department
8 will meet its goals, and planning documents that the
9 Department provided does not meet the established
10 criteria of the Government Accountability Office for
11 sound planning, potentially leading to concerns
12 about the ability of the Department to reduce claims
13 backlogs.

14 **SEC. 3. TIMELINE AND METRICS TO RESOLVE BACKLOG OF**
15 **DISABILITY CLAIMS.**

16 (a) IMPLEMENTATION OF STRATEGIC PLAN TO
17 ELIMINATE THE COMPENSATION CLAIMS BACKLOG.—The
18 Secretary of Veterans Affairs shall implement the Strategic Plan to Eliminate the Compensation Claims Backlog,
19 published by the Secretary on January 25, 2013, to ensure
20 that by Memorial Day (May 25), 2015, each claim for disability compensation under the laws administered by the
21 Secretary (in this Act referred to as a “claim”) is approved or denied by not later than 125 days after the date
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1 on which the claim is submitted with an accuracy rate of
2 98 percent.

3 (b) SUPPLEMENTAL REPORT.—Not later than 60
4 days after the date of the enactment of this Act, the Sec-
5 retary of Veterans Affairs shall submit to Congress a sup-
6 plemental report to the Strategic Plan to Eliminate the
7 Compensation Claims Backlog that includes the following:

8 (1) Specific measures, procedures, and metrics
9 to assess the implementation of the plan pursuant to
10 subsection (a).

11 (2) A detailed timeline to implement each initia-
12 tive contained in the Strategic Plan to Eliminate the
13 Compensation Claims Backlog.

14 **SEC. 4. EXPEDITION OF TRANSFER OF CERTAIN RECORDS.**

15 (a) SSA RECORDS.—Not later than 60 days after the
16 date of the enactment of this Act, the Secretary of Vet-
17 erans Affairs shall enter into an agreement with the Com-
18 missioner of the Social Security Administration to ensure
19 that the Commissioner transfers to the Secretary disability
20 or medical records of the Commissioner that the Secretary
21 will use to evaluate a claim by not later than 30 days after
22 the Secretary requests such records.

23 (b) DOD RECORDS.—Not later than 60 days after
24 the date of the enactment of this Act, the Secretary of
25 Veterans Affairs shall enter into an agreement with the

1 Secretary of Defense to ensure that the Secretary of De-
2 fense transfers to the Secretary of Veterans Affairs med-
3 ical records of members or former members of the Armed
4 Forces that the Secretary will use to evaluate a claim by
5 not later than 30 days after the Secretary requests such
6 records.

7 (c) NATIONAL GUARD RECORDS.—Not later than 60
8 days after the date of the enactment of this Act, the Sec-
9 retary of Veterans Affairs and the Secretary of Defense
10 shall jointly—

11 (1) submit to Congress a plan to reduce to 30
12 days the amount of time needed to provide members
13 of the National Guard and the Secretary of Veterans
14 Affairs with the medical records of such members,
15 including by partnering with appropriate officials of
16 Federal or State departments or agencies; and

17 (2) implement such plan.

18 **SEC. 5. CLAIMS PROCESSORS TRAINING.**

19 (a) ESTABLISHMENT.—The Secretary of Veterans
20 Affairs shall establish a training program to provide newly
21 hired claims processors of the Department of Veterans Af-
22 fairs with training for a period of not less than three
23 years. In carrying out such program, the Secretary shall
24 identify successful claims processors of the Department

1 who can assist in the training of newly hired claims proc-
2 essors.

3 (b) ABILITY TO PROCESS CLAIMS.—The Secretary
4 shall carry out the training program established under
5 subsection (a) without increasing the amount of time in
6 which claims are processed by the Department.

7 **SEC. 6. REPORTS BY COMPTROLLER GENERAL OF THE**
8 **UNITED STATES.**

9 (a) REPORTS.—Not later than 90 days after the date
10 of the enactment of this Act, and each 90-day period
11 thereafter, the Comptroller General of the United States
12 shall submit to Congress a report on the progress of the
13 Secretary of Veterans Affairs in implementing the Stra-
14 tegic Plan to Eliminate the Compensation Claims Backlog
15 pursuant to section 3(a).

16 (b) MATTERS INCLUDED.—Each report under sub-
17 section (a) shall include the following:

18 (1) Whether the Secretary is meeting the
19 timeline of the Strategic Plan to Eliminate the Com-
20 pensation Claims Backlog.

21 (2) An analysis of the implementation by the
22 Secretary of such plan.

23 (3) Administrative or regulatory recommenda-
24 tions of the Comptroller General with respect to im-

1 proving the ability of the Secretary to carry out sec-
2 tion 3(a).

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