



Opinion

Veterans Affairs' backlog and wait-times 'a perfect storm'



As Veterans Affairs Deputy Minister Walt Natynczyk stated before the House Veterans Affairs Committee earlier this year, we have indeed reached a 'perfect storm' on the current backlog of veterans' disability claims, which has only been compounded by the onset of the COVID-19 crisis, writes Brian Forbes. *The Hill Times* file photograph by Jake Wright

VAC is making a number of positive steps to alleviate the backlog of veterans' disability claims. But the government has to make this a higher priority in order to establish a more immediate resolution for veterans and their families who are often facing severe financial insecurity during this COVID-19 crisis.

BRIAN FORBES

OTTAWA—The National Council of Veteran Associations in Canada (NCVA) continues to call for dramatic and innovative steps

to be taken by Veterans Affairs Canada (VAC) to address the current unacceptable backlog and turnaround times experienced with respect to veterans' disability claims.

As Veterans Affairs Deputy Minister Walt Natynczyk stated before the House Veterans Affairs Committee earlier this year, we have indeed reached a "perfect storm" which has only been compounded by the onset of the COVID-19 crisis.

The following represents the core elements of NCVA's position in relation to this ongoing administrative crisis.

The department should adopt the position that veterans' claims be considered at face value and be based on the reasonable evidence provided by the veteran and his or her family, with the proviso that individual files could be monitored over time and "spot audits" carried out to

address any potential abuses. The clear reality that medical reports usually required by VAC to support these applications continues to be almost impossible to obtain at this time must be recognized in assessing this present dilemma.

Even though medical offices and therapists' clinics are starting to reopen, these individual health professionals are simply overwhelmed with their own backlog and rescheduling delayed appointments. The preparation of medical reports to support veterans' claims is not a priority at this time for these beleaguered physicians and therapists.

Unless creative steps are taken, the adjudicative delays



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and turnaround time dilemmas will not be relieved in the short term, given the reality of the extreme difficulty in obtaining these medical and or therapist reports to substantiate individual veterans' applications.

There is a general consensus among major veteran stakeholders that this administrative and or adjudicative measure leading to a form of fast-tracking or automatic entitlement deserves immediate attention.

It has been the longstanding view of NCVA that this form of automatic entitlement approach should have been implemented by VAC years ago in regard to seriously disabled veterans, with the objective of expediting these specific claims so as to circumvent governmental "red tape," and in recognition of the fact that nearly all these cases are ultimately granted entitlement in the end, often following many months of adjudicative delay. It is our considered position that now is clearly the time to extend this thinking to all veterans' claims.

It is noteworthy that the current mandate letter received by the minister of veterans affairs from the prime minister contains a specific direction that VAC should implement a form of automatic entitlement with respect to common disabilities suffered by Canadian veterans.

It is also extremely significant that many financial assistance programs rolled out this year by federal and provincial governments are premised on the philosophy of "pay now and verify later." In regard to a number of financial initiatives, the earlier need for medical reports to substantiate entitlement to these programs has been waived by the government, given the impracticality of accessing any input from the medical profession in Canada at this troubled time.

It is to be noted that the initial reaction of the department to this proposed form of fast-tracking and or automatic entitlement was that this approach could be implemented for benefits that are paid on a monthly

basis; however, given the fact in relation to disability awards that the majority of veterans are still opting for lump sums, this would represent a concern for the department.

In addressing this concern, it is our recommendation that, as an interim step in granting this form of automatic entitlement, the disability award could be paid as a monthly allowance with a preliminary assessment in the first instance. Ultimately, the department would have the ability to fully assess the extent of the veteran's disability in order to determine the veteran's final assessment, at which point the veteran could choose to convert his or her monthly allowance to a lump sum award with the appropriate financial adjustment to consider the monthly amounts already paid.

The great advantage in this recommendation is that the veteran's entitlement would be established early on and the veteran's concerns surrounding financial security and access to health care and treatment benefits would be addressed in this manner.

The old adage that "desperate times call for bold and creative measures" is particularly apt in this situation.

The department issued a policy statement in June 2020 in response to this serious concern entitled "Timely Disability Benefits Decisions: Strategic Direction for Improving Wait Times" (<https://www.veterans.gc.ca/eng/about-vac/addressing-wait-times/wait-time-strategic-direction>). This communication piece has been a significant priority for some time, not only for NCVA, but also for the Standing Committee on Veterans Affairs and many other stakeholder groups.

In our considered opinion, this policy document is a statement of good intentions for the mid-term to long-term objectives cited in the material, but fails to effectively remedy the present backlog crisis which has only been intensified by the COVID-19 challenge.

Although it is somewhat

encouraging that the VAC policy statement has adopted a number of our proposals including the prospective employment of automatic entitlement for common disabilities, the utilization of presumptions for certain consequential disabilities, and the lessening of the requirement for medical referrals in specific cases, the department's report unfortunately concludes that this will take considerable time to implement.

Furthermore, the departmental policy statement places significant weight on the announcement that an approximate \$90-million has been approved by the government for VAC in a supplementary budget estimate to retain new employees to deal with the ongoing backlog. However, this newly acquired departmental staff will face a steep learning curve and will not be operational until January 2021 at the earliest.

It is also noteworthy that the Parliamentary Budget Office recently completed an evaluation of the VAC backlog through a financial analysis report issued on Sept. 21, 2020, titled "Disability Benefit Processing at Veterans Affairs Canada" (https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/RP-2021-023-M/RP-2021-023-M_en.pdf). The PBO concluded that, without further significant increases in government funding to augment VAC staffing resources, the department would not substantially impact turnaround times for veterans' claims for years into the future, given the current pace of adjudication.

The department presented a formal briefing of its policy position on June 30, 2020, to various Ministerial Advisory Groups. As part of the ongoing dialogue surrounding this presentation, NCVA took the strong position that the department needs to accelerate its plan of action through an adoption of the above-cited fast-tracking protocols/automatic entitlement approach for all outstanding veterans' applications.

Given the unattainability of medical reports from various health-care providers, the following fundamental question

requires an immediate answer: what level of evidence is the department prepared to accept to approve current claims in the backlog?

Clearly, individual veterans and/or their advocates who are preparing disability applications must be cognizant of the department's position in relation to this important subject as to the sufficiency of evidence required for VAC approval.

In our judgment, the "approve and verify" philosophy we have espoused for many months is a crucial ingredient to the solution in this context.

Rather surprisingly, as part and parcel of our discussions, VAC has indicated through the briefing process that, ostensibly, "higher government authority" is required to implement this form of creative initiative.

With all due respect, we are somewhat mystified by this prerequisite for government authority, as it has been readily apparent that VAC has determined the overall question of sufficiency of evidence for many decades in adjudicating veterans' applications. In this context, the impact of the benefit of the doubt/presumptive provisions of veterans' legislation has been in place for many years. In our experience, this unique set of adjudicative principles gives the department great latitude to reach a constructive resolution in relation to policy amendments to address the present conundrum regarding wait times.

In summary, the VAC policy statement contains a number of positive steps to alleviate the backlog and the unacceptable wait-times relevant to veterans' disability claims. However, the scope and pace of these initiatives require a higher priority from the government in order to establish a more immediate resolution for veterans and their families who are often facing severe financial insecurity during this COVID-19 crisis.

Brian Forbes is chair of the National Council of Veteran Associations and chair of the Executive Committee of The War Amps.

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