

**Advisory Committee on Disability Compensation (ACDC) Meeting**  
**Thursday, March 28, 2024 – Friday, March 29, 2024**  
**10:00AM – 1:30PM Eastern**

**EXECUTIVE SUMMARY**

**Transcription Services:** Provided by Jamison Professional Services

**Veterans Affairs (VA) Staff Present:**

- Jadine Piper, Lead Designated Federal Officer (DFO), ACDC
- Claire Starke, DFO, ACDC
- Paulette Jones, DFO, ACDC
- Curtis Carrington, Management Project Analyst, Compensation Service (CS), Veterans Benefits Administration (VBA)
- Leah Young, Management and Program Analyst, CS, VBA
- Linda DeJan, Management and Program Analyst, CS, VBA
- Shemarlo Moses-Stanton, Management and Program Analyst, CS, VBA
- Tonita Cannon, Program Analyst, Budget Office, CS, VBA
- Josh Jacobs, Under Secretary for Benefits (USB), Department of Veterans Affairs (DVA)
- Jelessa Burney, Program Specialist, Advisory Committee Management Office (ACMO)
- Nicole Dumas, VA Schedule of Rating Disabilities (VASRD) Regulations Chief, VASRD Program Office, CS, VBA
- Olumayowa Famakinwa, VASRD Implementation Chief, VASRD Program Office, CS, VBA
- Pamela N. Miller-Casey, Assistant Director, Medical Disability Examination Office (MDEO), VBA
- Robert Chapell, Chief, MDEO, VBA
- Lisa C. Breun-Moreland, Acting Assistant Director, Military Exposures Team (MET), CS, VBA
- Garrett Schmidt, Program Analyst, Pension & Fiduciary (P&F), VBA

**ACDC Members Present:**

- Evelyn Lewis, Chair; Captain (retired), M.D., M.A., PAAFP, DABDA (U.S. Navy)
- Richard Evans (U.S. Navy)
- Molly Jacobs, M.S., Ph.D.
- Ronald Lewis, Ed.D. (U.S. Army Reserve, Army National Guard, U.S. Coast Guard Reserves (USCG))
- Frank LoGalbo (U.S. Navy)
- Patt Maney, Judge, Brigadier General (retired) (U.S. Army)
- James Ridgeway, Esq.
- Eloisa Taméz, R.N., Ph.D., F.A.A.N. (U.S. Army)
- Jarrad Turner (U.S. Army)
- Fred Wagar (U.S. Army National Guard, Active Army, Army Reserves)

## Meeting Summary

**Purpose:** The purpose of the Advisory Committee on Disability Compensation is to provide advice to the Secretary of Veterans Affairs on establishing and supervising a schedule to conduct periodic reviews of the VA Schedule for Rating Disabilities (VASRD).

The purpose of the meeting is for the Committee to receive presentations on various topics relating to their job as a Committee and discuss the submitted biennial report and future meetings.

The committee met in an open, public session on Thursday, March 28, 2024, and Friday, March 29, 2024.

### **Thursday, March 28, 2024, 10:00AM – 1:30PM (Eastern)**

#### **Opening Remarks**

Claire Starke, Alternate DFO, introduced herself and began the meeting, indicating that the meeting is being recorded. She conducted roll call and confirmed they had met quorum and could continue. She then turned the floor over to Jadine Piper, DFO. Ms. Piper welcomed the committee members, VA staff, and guests to the meeting. She introduced herself and reviewed the rules of engagement and indicated that the meeting is open to the public and being recorded. She reminded the committee members that there will be a survey after the meeting, and that they should take notes so they can give feedback in the survey. Before handing the floor over to Chair Lewis for committee introductions, she thanked and recognized Bradley Hazell, previous Vice Chair, who resigned from the committee on March 1, 2024, for his years of work and service to the committee.

Chair Lewis introduced herself, then asked for the rest of the committee members to also introduce themselves. Once the introductions concluded, Ms. Piper continued the meeting and informed the meeting participants that they would begin the session by discussing the committee's overview/vision, which Chair Lewis would facilitate.

#### **Committee Overview/Vision – Chair Evelyn Lewis**

Chair Lewis shared she was asked to provide an overview of the committee and her thoughts around the vision and what she's looking forward to. She said it made her think about how effective the committee has been and could be. From that perspective, she considered the next report to the Secretary, due in October 2024, and what their approach to that report will be. She wanted to be more strategic and improve their effectiveness and impact by doing the work they are doing.

She continued, pointing out that in the reports, there were areas with questions, comments, or recommendations from the committee as a result of presentations or other information they had gathered. One of the questions she brought up is how their committee works and interacts with the other committees for VA. Throughout several of the reports, they've made comments about ethnic minority Veterans and some of the issues they face that some of the larger population of Veterans are not impacted as much by those things. With that in mind, she said they considered what committees out there they should work with more closely. Should they address some of the issues jointly or collaboratively in both committee's reports?

Chair Lewis shared that another thought she had while reviewing the past reports, what she would like to see from the committee is that as they go through the reports and look through the issues mentioned on them is for them to identify areas, they have knowledge or expertise in that they can be helpful with in those sections. They need to decide if additional recommendations need to be made, or what their response would be, or if the recommendation needs to be changed. Reports completed in the past were done in a similar way, with those who have skills or expertise in an area working on recommendations for that area to support the committee's ideas.

For effectiveness, Chair Lewis considered the topics they ask leadership to provide information for the committee and which are most critical to the work the committee is doing. Once the presentations are finished and they have the information, they are going to ensure that any questions they have are quickly sent out and that they get responses to those questions. She felt they should find a better way to track the information they're getting via various presentations and whether or not they are responding to the specific questions being asked in the report.

She also said they needed to think about how frequently they're getting updates on various topics presented, using the PACT Act as an example. Earlier in March, instead of phasing in people who were eligible for signing up for PACT Act and getting benefits, they opened the registration completely which allowed a lot more people to register without being signed up for a claim first. She shared concern about the surge in registration causing difficulty for Veterans to get appointments at some of their VAs. Chair Lewis moved on to speaking about site visits and how successful their last site visit to Reno, Nevada VA was since they were able to have several town hall meetings with Veterans and others in the VA. She hoped that they would be able to have future site visits with as much insight as their last site visit had.

She highlighted a specific public comment from the last meeting where the Veteran's family was providing the Veteran care and it was causing the family significant financial issues due to having to provide care full time for the Veteran and not being able to work full time because the Veteran couldn't be left alone. The family shared how they were trying to get benefits for the Veteran from the VA but were unable to make progress. This made Chair Lewis think about how issues like these are a big part of what the committee is trying to prevent, and asked what the committee was wanting to do in those types of situations. She asked if they were there to provide empathy, or if they were able to do something specifically to help that family.

Chair Lewis requested that the committee members consider these points, and to give their suggestions or recommendations they may have.

Ms. Piper then turned the floor over to Jelessa Burney for their FACA 101 yearly presentation.

### **FACA 101 – Jelessa Burney**

Ms. Burney, ACMO Program Specialist, introduced herself and informed the committee that the briefing she will be giving is an annual requirement that her office provides to new and recurring members.

She shared that currently, VA has 27 Federal Advisory Committees (FAC) and the last one was created in 2023, which is the Advisory Committee on U.S. Outlying Areas & Freely Associated States. ACMO's purpose is to coordinate with the advisory committees to obtain advice and recommendations for the President or our agency official, the VA Secretary, on issues and policies within the scope of the agency's responsibilities and to ensure that Congress and the public remain informed of VA's advisory committees' purpose and membership activities and costs. They will also help the committees by providing insight into their roles as committee members and additionally to inform them on what allows them to provide advice and recommendations to the Secretary.

Ms. Burney informed them that she would be sharing with them some information about the law, VA policy, and then end with best practices. The Federal Advisory Committee Act is a Federal statute that governs the establishment, termination, and management of Federal Advisory Committees (FAC). FACA applies to all groups with at least one non-Federal employee established or utilized by an agency to obtain advice or recommendations, unless an exemption applies.

The requirements of a FAC include a signed and filed charter, a designated Federal officer, public meetings with agenda announced in Federal Register 15 days in advance of the meeting and an opportunity for public to speak or submit written comments, balanced membership, and records maintained and available for public inspection. Ms. Burney explained that for it to be an FAC meeting, they must have a published Federal Register Notice of meeting 30 days in advance, a DFO present, an approved agenda, a quorum, and for the meeting to be open, closed, or partially closed to the public, in addition to a FACA committee that meets in person, virtual, or through tele or video conference, and provides advice or recommendations.

FAC meetings may be closed in whole or part under limited circumstances, such as when discussing trade secrets, personal information, and criminal matters. Per FACA, there are three common exemptions to close a meeting: discussion or classified information, reviews of proprietary data submitted in support of Federal grant applications, and deliberations involving considerations of personal privacy. The Office of General Counsel (OGC) must concur on the meeting closure for it to be a closed meeting.

Ms. Burney shared that FACs may meet privately if they are conducting preparatory work, where two or more committee or subcommittee members gather to solely gather information, conduct research, analyze relevant issues and facts in preparation for a FAC meeting, or to draft papers for deliberation by FAC; and administrative work, where two or more committee members gather to discuss administrative matters of the FAC. She explained that during an administrative call, the committee members are not allowed to engage in discussing any reports or recommendations. They are allowed to: conduct FACA 101 session; conduct ethics training session using ethics training slide with members taking the VA OGC Ethics Training for Special Government Employees; provide/obtain the SGE self-certification statements from members; review, discuss, or complete Financial Disclosures from 450s if applicable; vendorize committee member in VA systems if needed; discuss research; finalize meeting agenda; finalize travel plans; or finalize meeting logistics.

When it comes to testifying or speaking on FAC matters, the committee members do not have the authority to testify on behalf of the committee and do not speak for the VA, and since they are acting in their personal capacity if they do testify or speak, VA cannot reimburse them for expenses or pay a stipend. If asked to testify, they may speak about FAC matters only in their personal capacity, their testimony must clarify that they are providing their personal opinion and are not speaking on behalf of the VA or FAC, and they are asked to inform the FAC's DFO as a courtesy if they are going to testify. Ms. Burney reviewed FAC best practices, which include: master the committee calendar, know your role, formally establish subcommittee in accordance with VA guidelines, dedicate meeting time to discuss individual presentations, use the subcommittee to engage other FACs, use SMART template, use VA library services for data and information searches, speak to subject matter experts, do annual field visits, and ask DFO on guidance on FACA or ethics questions.

Having finished her presentation, Ms. Burney turned the floor back over to Ms. Piper.

### **VA Schedule for Rating Disabilities (VASRD) – Nicole Dumas**

Ms. Piper turned the floor over to Nicole Dumas, VASRD Regulations Chief, to introduce herself and begin the presentation. Ms. Dumas said she would be providing them with the VASRD updates.

Ms. Dumas shared that she would be talking about the goals for VASRD, status of final rules, briefly cover cost estimate and concurrence process, risk and mitigation strategies, and the lessons they have learned through the process.

VA's goal for VASRD is to ensure that disability rating criteria accurately reflects medical advancements, as well as improving technology that will ensure disability evaluations more accurately compensate Veterans based on impairments and average earning ability. With any discussions about updating the VASRD, it's important they also talk about 38 USC 1155 because it is the code that gives VA the authority to update VASRD and how they should update it. They don't just update symptoms based on medical advancement or conditions, but they also must account for how the conditions impact

the Veteran's ability to earn wages. VA is currently in the process of fully updating the VASRD for the first time since 1945. VA has finalized 10 out of 15 body systems.

She shared an overview of the 15 body systems. VA published the first rule in this iteration, dental and oral, in 2017. The digestive body system changes were approved and so the changes will become effective May 19, 2024. Respiratory, ENT, and mental disorders are currently pending review of the final rules.

Ms. Dumas said she had received a question about whether any changes were being made to the respiratory/ENT rule based on the proposals from February 2022. She said they received thousands of public comments during the open comment period for the rules and have made responses to those and provided the responses within the final rule. She was unable to say if any changes were made to the final rule, as it is currently going through concurrence and could still be changed.

She shared information she had received from Office of Financial Management (OFM) to give a brief understanding of why they experienced delays with getting the updated costing. Prior to being able to provide costing, OFM requires from VASRD a draft of regulation changes, data related to conditions being proposed for change, and assumptions related to those changes. Some of the rules that are in the concurrence process didn't previously have to have hospital impact accounted for. Now, OFM has to reach out to Veterans Health Administration (VHA) and other areas to provide those estimates, which has accounted for some of the delays.

Ms. Dumas shared a slide giving an overview of the concurrence process. They normally say it takes 12 to 24 months to complete a rulemaking, but that's not always relevant to VASRD rule updates due to the complexity of some of those rules. She highlighted that any delays experienced in the concurrence process will end up creating further delays, because they ensure the data for cost is still up to date if the concurrence takes some time. The number of public comments received also affects the amount of time before the rule can be drafted to go to the concurrence process.

She continued, sharing that she would be sharing some of the risk and mitigation strategies they consider when they discuss rule making. The first is dedicated to the concurrence process, as some significant delays can be experienced during that process. To help with this, they follow up with all of the partners throughout the concurrence process and have meetings when possible, rather than waiting for everybody to respond via e-mail. They also encourage their senior leaders to engage with concurrence partners if necessary. One of the major updates they need to do to their tools is to ensure the changes reflected in the rule are also reflected in disability benefits questionnaires.

She emphasized that it is VA's goal that the rulemaking for the VASRD contains the most up to date medical knowledge and technology, and there have been a lot of medical advances since the last update to the body systems. A second area is economic data being a potential tool for VA to use if they determine it's a viable tool to update criteria within VASRD. The last area is internal reviews that will be done in the future, ensuring that the processing of claims is more consistent, which can be done with updating terms to be more consistent.

Ms. Dumas shared some lessons learned from the first iteration, with four areas she wanted to discuss. The first area was personnel. When VA began updating VASRD for this iteration, the VASRD staff did not yet exist so a staff was created to steward VASRD part 4. They've increased the FTE for that particular staff as well. With personnel, they want to make sure they are properly staffed.

She said they also wanted to minimize the number of updates within a single rulemaking, which doesn't mean rules won't be updated as needed. They also want to make sure they maintain contact with subject matter experts so they can continue to use them when they have questions from stakeholders or the public that are related to information the SMEs are better at answering.

Lastly, they want to work on timing and make sure they're doing proper planning for concurrence and the cost related. If they can move rules along, it would decrease the amount of times they have to ask for a cost estimation.

James Ridgeway asked about goals for future iterations. He said the slides indicate they're looking at medical data and economic data, and that he's familiar with Social Security's approach. He asked if they have plans or a process for using adjudication data, as Social Security looks at heat maps of outcomes of all adjudicators for issues when they're looking at updating rules so when they produce something new, the language is clearer.

Ms. Dumas said they sort of use that data with the earnings/loss data, as well as their internal reviews. They have received information from the field where there's inconsistencies so they can account for variations. They do also have a quality review team that does investigate that type of data.

Chair Lewis asked where VASRD is with making the changes they've said they're going to make in their last update to the committee in early 2023. Ms. Dumas said they haven't started any workgroups yet, but they've observed changes they want to make on diagnostic codes. Chair Lewis asked if there was a timeline for the workgroups and engaging with subject matter experts (SME). Ms. Dumas said they are looking to finish with Iteration 1 first, but they are making strides to get drafts created for areas that need more major updates.

Chair Lewis said they heard in one of their last meetings that there was some consideration for using ENL earnings data to help inform updates. She asked if that was still in consideration and asked that the committee hear about what data would be used and how so they can see what it looks like and how it would work.

Ms. Dumas said Olumayowa Famakinwa would be briefing them on that information, and he was the next presenter.

Fred Wagar said they mentioned digestive rules were already published. He asked where that can be found. Ms. Dumas shared a link to the rule in the chat, but said it is not affective until May 19, 2024. With no further questions, Ms. Dumas took her leave. The following comments and links were a part of the typed chat during this presentation.

[11:15 AM] Mark D Worthen PsyD (Unverified)

I am not a Committee Member, but as a former VA C&P psychologist, I would like to say that VA's proposed rule to revise the General Rating Formula for Mental Disorders is a huge improvement. It is a smart, evidence-based revision that will (I believe) provide more equitable and generous disability benefits to veterans suffering from service-connected mental disorders. Great work VA!

Schedule for Rating Disabilities: Mental Disorders, 87 Fed. Reg. 8498 (Feb. 15, 2022).

[https://teams.microsoft.com/l/message/19:meeting\\_MWNINDNhNzEtNTNmYy00YmNhLTg4MTctMTE3ZTUwOWY0MmE2@thread.v2/1711640419755?context=%7B%22contentType%22%3A%22chat%22%7D](https://teams.microsoft.com/l/message/19:meeting_MWNINDNhNzEtNTNmYy00YmNhLTg4MTctMTE3ZTUwOWY0MmE2@thread.v2/1711640419755?context=%7B%22contentType%22%3A%22chat%22%7D)

[12:49 PM] Mark D Worthen PsyD (Unverified)

Just FYI, some articles that might give the VBA staff and the contracted researcher team some insights to racial disparity factors:

Maureen Murdoch et al., Racial Disparities in VA Service Connection for Posttraumatic Stress Disorder Disability, 41 MED. CARE 536 (2003).

Marc I. Rosen et al., Racial Differences in Veterans' Satisfaction with Examination of Disability from Posttraumatic Stress Disorder, 64 PSYCHIATR. SERV. 354 (2013).

Brian P. Marx et al., The Influence of Veteran Race and Psychometric Testing on Veterans Affairs Posttraumatic Stress Disorder (PTSD) Disability Exam Outcomes, 29 PSYCHOL. ASSESS. 710, 716 (2017).

Hillary A. Wandler, The Role of Culture in Advocating for Accurate Diagnosis and Rating of Veterans Psychological Disabilities, 2 MENTAL HEALTH L. & POL'Y J. 1 (2013).

### **Earnings and Loss Study (ELS) – Olumayowa Famakinwa**

Ms. Piper turned the floor over to Olumayowa Famakinwa, VASRD Implementation Chief. Mr. Famakinwa thanked her and introduced himself. He shared that he'd be turning over the presentation for the ELS to their contractor who has worked on it, but he would be available for questions after the presentation. He turned the floor over to Dr. Pat Mackin.

Dr. Mackin thanked him and introduced himself as the project manager. He said he would be assisted by Dr. Sarah Prenovitz, who heads the research team for the project. Dr. Mackin shared that most of their estimation work is occurring in the Bureau of the Census workspace because of the types of data they're working with. Any time they report on the findings, they're required to include disclosure statements which verify the results have been reviewed by the disclosure review board, and don't include any information that could identify individuals by their earnings or information.

Dr. Mackin gave an overview of the ELS project and the phase they are currently in, which is the third phase. He said he would also be sharing how the results may be used



in reviewing the VASRD and how the evidence translates into recommendations on how or if the ratings are revised

He shared that it's a multi-phase project that started in 2017, which was a proof of concept in estimating the loss of earnings capacity for individuals with disabilities. The second phase, ELS2, took what they did in ELS1 and refined the methodology and laid groundwork for a more mature data model, which focused on getting better data sources. In the third phase, they had access to IRS earnings data that gave them not only observations on more Veterans but also multiple years of earnings so they could see how earnings changed over time.

They are now in ELS3, which is a 5-year project, and is taking the groundwork laid in the first two phases and applying it to estimate earnings loss for hundreds of diagnostic codes using increasingly refined methodology. They have produced estimates for 500 diagnostic codes and will do at least another 100 diagnostic codes in the next year. They have also made significant advances in the data and modeling techniques which increase precision. Instead of only providing estimates of what the average loss of earnings was, they want to also ask questions like, is the earnings/loss experience dispersed across Veterans, or is it relatively uniform for those with a given condition? Dr. Mackin shared an example of estimation results and turned the floor over to Dr. Prenovitz to explain the results.

Dr. Prenovitz said the graphs showed multiple points in time relative to the onset of a Veteran's disability, with points showing when the Veteran received their rating as well as the years before and after they received their rating. They chose 6 years before the rating as the beginning of the time they look at because they felt it was a period of time that should be well before the onset of the disability, but they want to get as close as possible to the onset date. After reviewing results, they felt that 3 and 5 years before the rating was a good average for onset.

She said from the data, they can say they're 95% confident that the true level of earnings loss lies somewhere between the top and bottom bar shown in the slides. The information provides multiple pieces of evidence related to average loss, percentage change in earnings, timing of loss, persistence of loss, and loss relative to other rating levels and conditions.

Dr. Prenovitz shared that one of the things they were working on in Iteration 3 is improvements to their model, when thinking about rating level estimates. In their first rating level estimate model, they only observed Veterans and included information from onset to when their rating changes. They developed a revised model that looks at all observations and attributes earnings losses to rating level at the time of earnings observation. They also considered it from a clinical perspective with a clinical team to see if there were clinical differences between similarly rated individuals.

When thinking about the rating level results, they think about what it means when estimates overlap or do not follow the expected pattern, and the effects of presumptive conditions. They are working on improving precision, such as with a family of estimation techniques that were developed to create estimates for small groups of people when a precise estimate is needed but difficult to obtain due to small sample sizes. These strategies include meta-analysis which allows them to aggregate from a variety of

estimates; multi-level regression, which allows them to model the variation between Veterans and their different experiences in a regimented way which often results in more precise estimates; and estimates which allow them to bring in outside information about what their expectations would be and use those to inform the estimation approach. They will still be using a data driven approach, where if the expectations do not match the data, the result they get will be based on the data.

Dr. Prenovitz informed them that they are also working on ways to potentially incorporate data from unemployment insurance records. The data comes from the Longitudinal Employer Household Dynamics (LEHD) study, which offers much larger sample sizes than is available in the current main use data set, because it covers all employees over a broad class of employers, though it doesn't include all employers. It also provides information on quarterly earnings estimates, which can be valuable when thinking about the timing of onset or changes over time in earnings loss. They are currently working on ways to use that in their main estimation with the hope of being able to have the larger sample sizes and greater frequency of information.

Dr. Prenovitz shared that clinical data could be used to identify Veterans with a given diagnostic code who have different etiologies, patterns of onset, symptoms, and other items that would potentially result in earnings loss. The clinical data may allow them to understand when they see variation in Veteran's earnings loss experiences, if it's due to differences in medical conditions. They also can use clinical data to understand a Veteran's other health conditions and how different diagnostic codes interact. She told them that they are continuing to develop a detailed analysis plan to explore other options to improve analysis in the future. One is to increase accuracy and precision of estimates by using new strategies, estimates, and techniques, and finding different ways to control for variation that were not part of their initial models. They are also exploring additional dimensions of earnings loss, so understanding better how the earnings losses occur and the patterns they take and utilizing additional data sources like the unemployment insurance data through the LEHD. They continue to produce annual working papers describing possible ways to produce estimates.

Dr. Prenovitz gave the floor back to Dr. Mackin. Dr. Mackin shared that one of the ways they do ongoing work is through the detailed analysis plans and continue to do five of those each year. Some of the analysis plans end up being incorporated as improvements into the model, such as rating level estimates that were based on a detailed analysis plan.

For future work, Dr. Mackin said they have added estimates for at least 100 diagnostic codes each year, so they plan to have at least 600 by the end of next year, which is the final year of the contract. They continue to adopt the enhancements and changes in precision and will continue to implement detailed analysis plans. The priorities are looking at using clinical data and seeing how it incorporates or supports estimates. Another source of data was a demonstration project by the Social Security Administration called the Benefit Offset National Demonstration. He said VA has been in discussions with Social Security for a few years to set up a joint research project to take advantage of the information found on employment and earnings. They will also be looking at analysis of earnings losses by participation in other programs, such as a

group of Veterans with similar VA experiences such as same diagnostic codes at the same levels, but some are receiving Social Security benefits, and if they see differences in earnings losses there.

Dr. Mackin gave the floor back to Mr. Famakinwa and opened the floor for questions. Mr. Famakinwa thanked him and Dr. Prenovitz for the presentation.

Mr. Ridgeway asked if they have looked at any conditions where there was significant update to the rating criteria to compare how well the fit was under the old criteria versus the new criteria. He felt one of the most useful things could be comparing whether the old versus new was better or worse, and look at the difference, since sometimes VA looks at objective measurements or subjective adjectives or use treatment as a proxy. Mr. Famakinwa said the rating schedule has existed since the 1920s with major revisions since that time, but most of those have occurred in 1945, the '70s, in the '90s to early 2000s. As it relates to earning loss data, administrative IRS data, the date ranges they have access to for that information is 2005 to 2019. In that range, there haven't been many major changes to the rating schedule that they could compare observations of the data to current changes. The data they have doesn't allow them to facilitate the type of comparison Mr. Ridgeway is asking about.

Dr. Mackin said that from a research perspective, it is an issue they've discussed and it's come up while looking at results. They have the data in the range that Mr.

Famakinwa mentioned, but some Veterans in that range may have been rated earlier, so the issue is whether they can accurately tie a given observation to the time that a rating was received. When they present the results and interpret them in the reports, there are results on an individual basis where they may point out that issue, that they could be looking at results for Veterans who aren't necessarily at the same level of disability even though they have the same rating level because of possibly being rated under previous rating criteria. Mr. Ridgeway thanked them for their response.

Chair Lewis said she continues to have a difficult time trying to digest Iteration 1, 2, and now 3, and what it indicates. She felt that one piece she had questions or concerns about is the presentation around the VASRD talks about looking at data down the line, and that data possibly coming from what they're finding out in their studies. She asked how the data they're coming up with is going to be used, particularly with ratings on the VASRD side from clinical input. The thought of integrating clinical information into those models is still down the line, but how would that information be integrated? How would they utilize the information from the studies and surveys to inform the VASRD and decisions being made to update it?

Mr. Famakinwa answered that now they're able to group Veterans by rating level into earnings loss information, so while they have not yet integrated the clinical information regarding that Veteran, when they know the rating level assigned, they can make some assumptions about the symptoms they're experiencing depending on how descriptive the criterion for the specific disability is. And so therefore they can impose their understanding of what the limitations would be on the Veteran as the clinical information helps to tie into the earnings loss data. He gave the example of diabetes mellitus, and if the rating is 20% under 7913, that means the Veteran is on insulin or oral hypoglycemic agent. In that sense, even though they don't have clinical data for all the Veterans

they're observing in their ELS, they can look at all the Veterans who have 20% for diabetes and assume that's where they are at in their treatment and make conclusions as to what that means for the number of earnings losses they're observing.

Chair Lewis asked what they're doing to check to see if their assumptions are correct. Mr. Famakinwa said that from a VA rulemaking process, it's sometimes a case-by-case basis. In their data, they could see the number of Veterans observed in any given rating category and by sample size, which they take into consideration. The contractors are also doing work in terms of clinical analysis documents that also provide greater context. He emphasized that earnings loss data is another piece of the puzzle used when a revision is made to VASRD in the future and won't be the only data used.

Chair Lewis asked if they could get access to the work they've done. Mr. Famakinwa said they're still working on it. Chair Lewis thanked him.

Jarrad Turner asked what the timeline is when the committee asks for information to be shared with data. He also asked if they have a way to ensure that the sample sizes have a diversified group of Veterans. Mr. Famakinwa said that as far as a timeline for information to be shared, they are putting together documents that can be shared more broadly. They are trying to find a point that they can share information that is the most stable to share and not likely to change very quickly after being shared. He deferred to the others to answer Mr. Turner's second question.

Dr. Mackin said that as far as representation, with the VA data they're using, it's the universe of Veterans that they start with. So, to the extent that the groups are represented in the Veteran population, they are included in the data. Therefore, it should be a good representation of all groups involved. He said there are also sophisticated sampling plans the census uses to ensure representation and, in some cases, to over-sample some groups that are in lower prevalence in the population to be sure they're getting proper observation. He feels that the data represents the population as a whole. Mr. Turner thanked him.

Chair Lewis emphasized that they do want them to get the information correct, but they can see it before it's perfect because they're on the same side and can provide valuable feedback.

Mr. Wagar asked for clarification on the statement in their slides about Veterans newly rated with changed presumptive service connection policy may not experience same earning loss as a typical Veteran with the same condition prior to the policy change. Dr. Mackin said that in general, to be rated for a disability, the Veteran has to establish service connection. So typically, they'll be rated for conditions they had upon separation from active duty. When there's a policy change and there's a group of Veterans who have the condition but it becomes presumptively service-connected, so not tied back to their service medical records, will have a different amount of time they've had the condition and may have adapted to it in terms of how they work and what jobs they can do so their experience in how it affects their earnings in employment may be different. It's not that it's a different condition, but because of the way the policy worked, it's based on how and when they were rated. The data also isn't saying that they

experienced less earnings loss, but that the earnings loss occurred at a different timeframe.

Ms. Piper thanked Mr. Famakinwa, Dr. Mackin, and Dr. Prenovitz for providing the ELS updates.

### **Medical Disability Examination Office (MDEO) Site Visit Overview**

Ms. Piper introduced the next speakers, Pam Miller-Casey, Assistant Director, MDEO, and Robert Chapell, Chief, MDEO. Mr. Chapell thanked her and said he's one of the three acquisitions chiefs supporting MDEO. Ms. Miller-Casey introduced herself as the assistant director and said they're looking forward to sharing their information with them. Mr. Chapell began the presentation of the site visit program, stating that the purpose is to ensure vendors are in contract for compliance with what they require of them in terms of performing medical disability examinations. For that, they randomly select locations to visit from their master list, and also do complaint-based visits when complaints are received. Occasionally, they also do visits in conjunction with other types of travel they do including site visits and conferences.

Together with the visits, he shared that they look at subcontracted clinic locations and mobile units as well. During the visits, they seek feedback from the examiners so they can share best practices with everyone across the board for things learned during the visits.

Mr. Chapell said they give notice to the vendors that they will be visiting, verify the sites and addresses and that the examiners are active, and coordinate everything through an on-site POC. They work together as teams, with a team usually consisting of one acquisition person, one operations person, and one clinician. They then go and visit the sites. He shared that previously, they were doing one region at a time, but currently they are doing four regions at a time for site visits. Each region has an RO location where the team is sent to visit a number of sites during that timeframe.

During the site visit, they operate off of a checklist they have developed specifically for the visits. Things they look for include notable observations, best practices, and action items. They also engage the examiners and their staff and try to get an understanding from them and their perspective regarding questions they have and anything that is happening in the program. They take pictures of things like the entrances, exam rooms, waiting areas, and equipment, and through their checklist they make a determination about what is going to be an action item, a notable observation, or best practice. Mr. Chappell defined a notable observation as something they want to tell the vendor to address. Best practice is something they observed on their visit that they think should be shared with other vendors if it's something that could be useful to the Veteran experience. Action items are things that do not meet the contract terms as stated, and they require immediate correction from the vendors when these are identified.

At annual vendor headquarter visits, they provide oversight and review compliance with the contract, have discussions about important topics, review their business processes and any performance issues, and discuss their observations about their contract

compliance with the site visit program. Each of the site visits is attended by senior leadership, acquisition staff, operations staff, quality staff, training staff, and PPM staff. When they do headquarter visits, they also do site visits in conjunction.

To accompany their in-person site visits, they also conduct administrative site reviews. It supplements the in-person program by allowing them to get a site visit conducted at a more rural location. They have the vendors supply them a similar report that they would do in an in-person review, including photos, and complete a questionnaire that goes with it. They also provide their OSHA and ADA certification documents. He shared that if MDEO sees anything of concern, they will reach out to the vendor with corrective action. Mr. Chappell shared some information about the growth of the program, stating that in FY22 they conducted 72 site visits but in FY23 they did 267, and they're looking at over 400 for FY24. He then opened the floor for questions.

Mr. Wagar asked if they ever do unannounced visits. Mr. Chappell said they do not. Mr. Wagar asked how they determine the locations they will go to. Mr. Chappell said there's a random process where all locations are compiled and the number of the location will be selected and provided to each team. The leaders of each team will look at the locations and determine which are feasible based on mapping of the area. It's not possible to get to every location in every area because of the distance between locations when they conduct the visits.

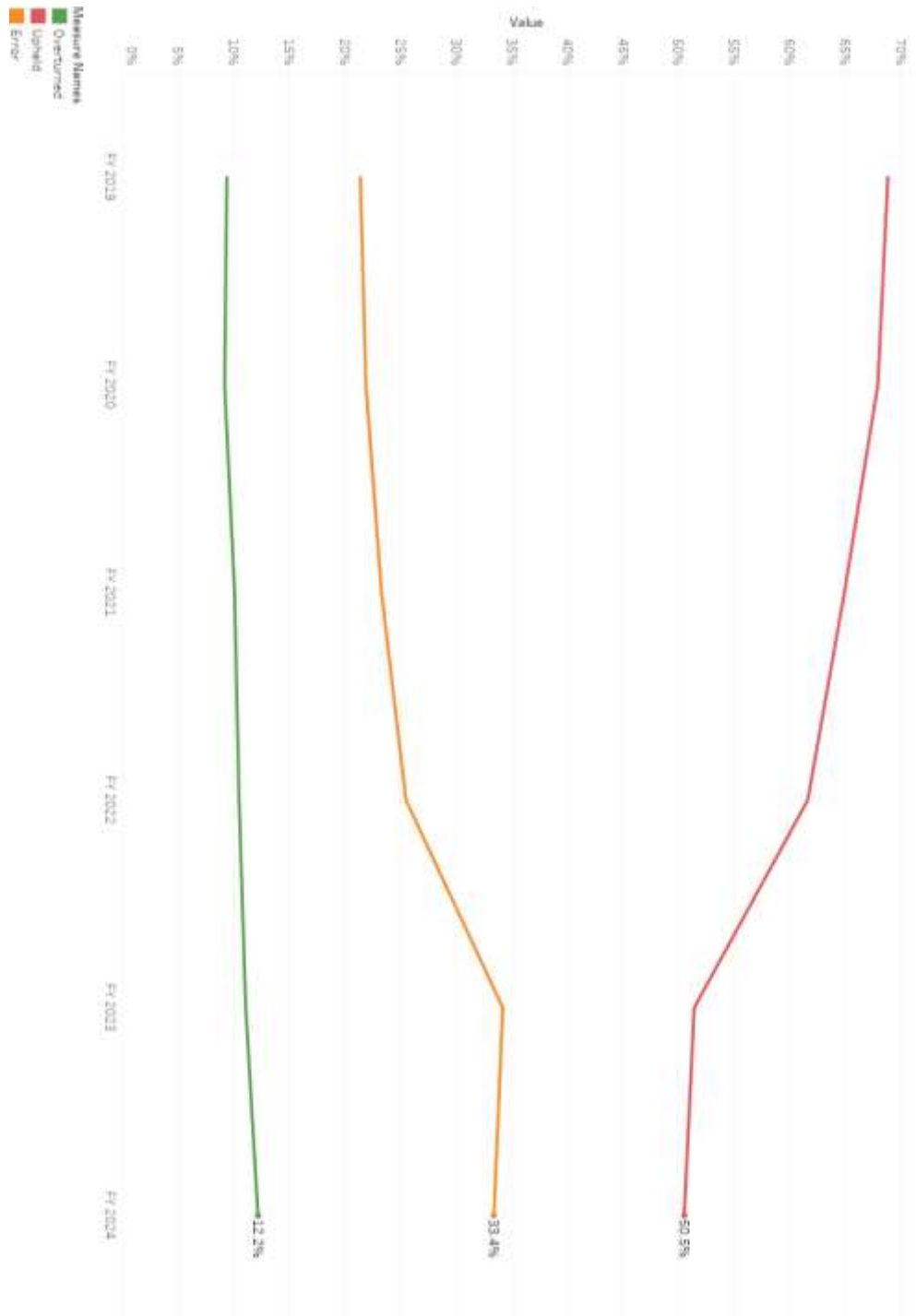
Mr. Wagar asked if they ever sit in on examinations during visits. Mr. Chappell said they do not. The purpose of the visit is not to see if the examinations are being done in a certain way, but instead to ensure contractual compliance with the facilities they are using to conduct the examinations. They do have a clinician that does accompany them on the visits, and they do ask questions of the examiners to ensure whether or not they're conducting examinations correctly. Mr. Wagar asked if Veterans have concerns about their C&P examinations, who they could contact.

Ms. Miller-Casey said there are a couple of different modalities in which Veterans can share their concerns or information about their experiences at contract exams. They can contact the VA directly, and she said they also receive concerns about exams through VSOs and other stakeholders. As part of the contract exam process, they also issue customer service survey cards that provide Veterans with the opportunity to provide feedback about their experience with the contract vendor. She shared that each Veteran who receives a contract exam gets a card for each appointment.

Mr. Wagar expressed his concern about hearing from many Veterans about not getting adequate examinations. Ms. Miller-Casey said that's a valid concern, which is why they try to ensure the examiners are doing what they're being paid to do. In addition to the site visits, they have a quality staff and training team. The quality staff reviews a sample of DBQs completed each month to assess the quality of the DBQ and ensure all aspects of the document is completed appropriately and in accordance with the guidance provided. They also have a training team that validates and oversees to ensure that all of their examiners are receiving proper training. Their policy team conducts special focus reviews on subsets of examiners or DBQ types to look for trends

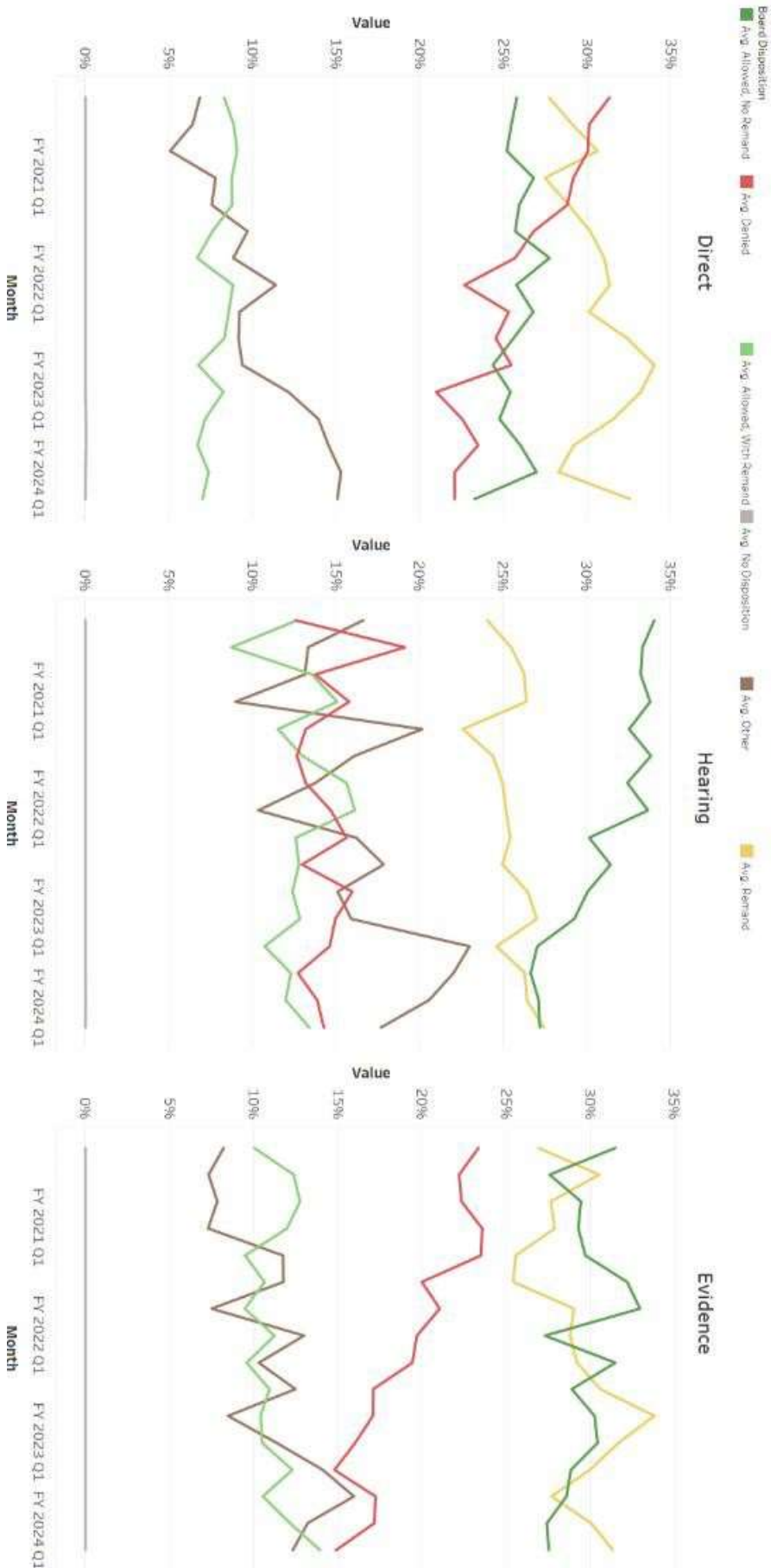
and any issues as it relates to examiner quality. Often out of those reviews, they will find opportunities to provide additional training to examiners. She assured them that examiners who were found to not be doing the job correctly have been suspended or removed from the program.

Mr. Ridgeway asked if, aside from the internal quality review, they are looking at any of the adjudication data to try and identify where problems are? He shared that since 2019, higher level review and Board direct docket review find development errors in 25 to 33% of the cases that go to them and are remanding to be corrected. The majority of those are inadequate examinations, failure to address facts, and failure to solicit a complete and accurate symptom history. He shared some graph data via the chat, noting that the orange lines indicate cases remanded to fix development errors. The graphs are the following:





### Board AMA Dispositions by Docket



The second graph is the Board disposition data under Appeals Modernization Act (AMA), with the orange lines being cases remanded to fix development errors, which are mostly inadequate exams.

Ms. Miller-Casey said they do have several mechanisms in place to track what he is asking, with the policy program having an open line of communication with the Board of Veterans' Appeals. She said they also meet regularly with the exam liaisons in the field offices, and there is an element built into their process that allows field personnel to return exams for clarifications and additional information. That is a data metric that the MDEU office reviews regularly to find trends with examiners and other training issues they can address.

Chair Lewis asked why they don't conduct unannounced visits. Ms. Miller-Casey said they're contracted with the vendors who are sub-contracted with the clinicians who conduct the exams. The clinicians have their own operating hours and times they see Veterans and their own patients, because most of them are private practice providers. They don't want to disrupt the process of either their private practice or the Veteran's appointments. She emphasized that their goal is to ensure the facility itself is laid out in a way that is conducive to being able to conduct exams and that they meet the criteria they've been given.

Chair Lewis said there are a lot of ways to do surprise visits without interrupting the flow of appointments, and suggested utilizing nurses or patients who understand what should be done and go in for an appointment and assess via that data. Ms. Miller-Casey said she would further explore that idea with her team.

Richard Evans asked if there is a line of communication that can be used to address issues Veterans have with their exams, sharing that he has in the past emailed MDEO about items such as tools not being used during the examination that needed to be used. Ms. Miller-Casey said from the feedback of the Veteran mechanism, they get a customer service survey card from every exam they attend. When the MDEO receives a card back from a Veteran, they present that to the MDEO staff who review the information and then speak with the vendor. They also review the examination. She said in some instances, a new exam may be necessary, but it is case specific. She suggested Mr. Evans contact her or Mr. Chappell directly.

She shared that in addition to the survey card element, Veterans also contact the VA directly for issues they have or use their VSOs and other mechanisms to share their concerns. She said they do take all of the information from all different modalities very seriously and review each one.

With no further questions, the committee took a brief break to fill out the feedback survey.

### **Adjournment**

After the short break, Ms. Piper said they would reconvene the next day and thanked all participants for their time before adjourning the meeting.

**Friday, March 29, 2024, 10:00AM – 1:30PM (Eastern)**

**Opening Remarks/Welcome**

Ms. Starke greeted the participants of the meeting and conducted a roll call. Ms. Piper then welcomed everybody to the meeting and informed them of the rules of engagement. The committee members introduced themselves for any new meeting participants.

**Under Secretary for Benefits – Josh Jacobs**

Ms. Piper introduced their first speaker, Josh Jacobs, Under Secretary for Benefits. He gave a brief background of his work and shared that his goal from meeting with the committee is to help identify where the department needs the committee's expertise, experience, and insights to help increase access and improve outcomes for Veterans and their survivors. With implementing the PACT Act, it's increased the total volume of claims but also increased the complexity of the claims process. They have tackled the increased complexity through the standard people process technology approach with modifications. They've grown their work force by more than 25% in the last year and a half, which has been a time and labor-intensive process. They have also focused on process improvement, with a lot of focus on overdevelopment reduction to include a specific focus on moving away from unnecessary exams and rating based on the records if they exist.

He shared that they are also increasingly utilizing technology and creating new tools to help the employees provide more timely, accurate, and equitable decisions. As they stay focused on production and backlog, he said he's asking the department to increase the aperture and focus on other metrics. He suggested the organization focus on patient experience and shared that they're working on measuring the Veteran's experience throughout the claims process.

In addition, Mr. Jacobs informed them that the department is also focusing on equity. They know, based on their data, that they are not serving all Veterans equally. They began the Office of Equity Assurance, have increasingly leveraged their data to identify where there are disparities to ask the right questions and take action. They also commissioned a study to look at mental health grant rate disparities and found that there is about a 10% grant rate disparity between Black Veterans and their white Veteran counterparts.

He shared that another study they just completed showed that when they get Veterans to file within the first year after leaving service, those disparities are effectively eliminated. In addition, when they work with an accredited representative like a VSO, the grant rate increases. They are now taking action to reach out to military bases across the country to encourage more service members to file claims either while going through the process to transition, or within the first year after.

Mr. Jacobs then asked for the committee's input on how they should be using the insights they're getting from the Veteran Experience Office through the journey map

created and through the data they're getting? How can they best utilize the new Office of Equity Assurance?

Mr. Jacobs moved on to speak about outreach, and how for a long time the primary metric for success has been backlog and how it's managed. He said they want to reach Veterans where they are, and don't want to have to wait for the Veterans to come to VA. They have an outreach strategy and plan they're working to finalize, and in the past year have had the most proactive forward leaning outreach effort in VA history. That is resulting in more claims. He said he's also looking for the committee's input on how to expand outreach.

He then shared that there is a lot happening with the decision automation benefits office, which is not full automation but is optimizing the experience for employees. One of the things they need to work through is, as the work changes based on the evolution of the technology, how do they update their performance standards so they're promoting optimal outcomes for Veterans, their families, and survivors, doing so in a way that's fair to employees? They also recognize that technology is not without problems, and they do find errors in the logic. He said they had to also consider how to distinguish between errors made by employees and those made by the automation.

Mr. Jacobs noted that they talk a lot about Veterans, but they want to start doing more for survivors as well. He shared that VBA organized a summit recently that was facilitated by the Veterans Experience Office. It included both survivors and groups that work with survivors. They continue to hear how confusing it is to survivors to understand what benefits they are eligible for and are working to fix that. He then opened the floor for questions and discussion.

Chair Lewis thanked Mr. Jacobs for joining them and sharing his insights. She shared that one way they can be of more assistance is having more information about what is happening. She said things like what kind of data the new office has collected, what it's saying, what it's showing? That way they can come up with additional questions to ask in addition to what has already been gathered. She also thanked him for acknowledging the inequities of how claims are addressed between different kinds of Veterans.

Mr. Jacobs thanked her and said they will get more information to her, including information about the Solid Start Program. Based on the mental health grant rate disparities, they are also changing the language to make sure they're targeting everybody equally.

Mr. Evans said that as far as Veteran experience, they learned yesterday from MDEO that there isn't a process for popping in on examiners like a secret shopper with regards to disability claims so the examiners are held more accountable. For outreach, he shared that anytime VA comes in and brings in a mobile vehicle, the promotion seems to be far reaching and that there are usually lines of people waiting to speak to VA employees. Mr. Jacobs said more oversight is always warranted and that the secret shopper idea is one he will take back with him.

Mr. Turner said between September 29 through October 3, the military conference will be in Atlanta and he shared that they have approached VBA on doing a claims clinic

because there has been a lot of interest because of PACT Act but not enough understanding by Veterans of what it covers. Mr. Jacobs said he would follow up, because he was talking to his communications team earlier that day and were talking about engaging with the military influencer networking. He shared that they are actively doing claims clinics at conferences around the country. He said that something that they've also been speaking about is how to engage with cultural competency and compassion, since everybody has a different experience and response to their grief as survivors.

Mr. Wagar thanked Mr. Jacobs for saying he would look into something like a secret shopper type program for checking on examiners, because he sees a lot of Veterans who complain to him about their exams. He asked for more information about the caregiver program and what steps have been taken to make it a better program. Mr. Jacobs said he would speak with VHA and see who the person would be to follow up with them on that.

Mr. Ridgeway asked how the data is being used from AMA outcomes to identify and fix problems. He said the answer he usually gets is that somebody is probably looking at the data, but they don't know who. He shared information about how many claims are being remanded for better examinations, and how that information needs to be reviewed to also help improve the claims process. Mr. Jacobs thanked him and said he would take that information back with him.

Chair Lewis asked about the program where the VA calls Veterans after they've left the military. Mr. Jacobs said it's called the Solid Start Program, and they call the Veteran three times after discharge. Chair Lewis said they had gotten a briefing on the program when it first debuted but they haven't gotten any updates, so she requested updates and data on how well the program is working. Mr. Jacobs said that he would get back to her on the more specific data, but at a high level, the statistics demonstrate that they have a high contact rate and segment it based on those deemed high priority. He said they got feedback about engaging more with VSOs to get their feedback on communication. Mr. Jacobs also shared that there is a lot of concern with overdeveloping the program, but he would make sure they get the details and data so the committee can assess the efficacy. Chair Lewis thanked him for his time and comments. Mr. Jacobs thanked them for their engagement and encouragement to continue to do better.

Ms. Piper said that if they had more questions for Mr. Jacobs, they could put those questions in their survey response.

### **VBA PACT Act Update – Lisa C. Breun-Moreland**

Ms. Piper introduced their next speaker, Lisa Breun-Moreland, Acting Assistant Director, Military Exposures Team (MET). Ms. Breun-Moreland thanked Ms. Piper and shared that she's worked with VBA for 30 years. Her focus currently is on military exposures and preparing for any disabilities that result from exposures. The PACT Act has allowed them to be more proactive in their work.

She shared that in July 2023, they published a Federal Register Notice that they would begin looking into relationships between leukemias and multiple myeloma, and exposure to particulate matter. That is still ongoing, and they are currently in the process of researching with VA. She said they hope to have results at the end of the fiscal year.

They have also had public forums and public listening sessions where they've talked about the blood cancer and heard from Veterans about other potential presumptives. They are constantly looking at potentials and surveying the landscape for presumptives that may not have been discovered yet. She shared that they are working with VHA daily, and tracking types of queries from Veterans, the media, and VSOs, and also have people looking through claims data to look for trends in the types of claims being filed.

Ms. Breun-Moreland shared a slide showing the path of a particular disability becoming a new presumptive. The path is broken down by color, with the yellow area being the ongoing exploratory phase. The next phase is the research and assessment phase, and then a formal evaluation signed off on by the Secretary, which is the area she hopes to move into by the end of the year for the blood cancers. She said they are also keeping in constant contact with VSOs so they can get feedback. They are happy with the new process and with how proactive VA has been to determine presumptives.

She shared that they are currently working to help Veterans be more able to access VA healthcare, and that it has really improved the process for Veterans, especially those who were in the Gulf War.

What they have seen over the last few years is an increase in claims, approved claims, Veterans being seen at hospitals, and the approval rate of claims. She said they did initially have a larger backlog because more claims came in than anticipated, but because of hiring efforts, they are lowering the backlog a lot.

Ms. Breun-Moreland said that even if a Veteran has a condition that is not presumptive currently, she will still encourage the Veteran to make a claim in case it becomes presumptive in the future.

She thanked the committee for the work they do and opened the floor for questions. Chair Lewis shared that one of her major concerns for PACT Act is access to being seen for some of the issues that the claim was filed for. Looking at the PACT Act dashboard, she said they've seen the progress according to the number of claims filed and awarded. She was concerned about the number of people who are having issues getting appointments at some facilities, waiting months to be seen. She said when you already have this problem and open the door wider for more Veterans to enter the system, they're going to have even more issues accessing the system.

Ms. Breun-Moreland acknowledged it's hard to hire more doctors and nurses quickly to take care of the number of patients who need to be seen, and that VHA is working to hire more healthcare professionals to help with that larger capacity. Chair Lewis acknowledged this but felt it was irresponsible for VA to open the doors wider when they knew that they already had a problem seeing the Veterans who are currently in the

system. Ms. Breun-Moreland said she felt there were plans in place already to help the problem, and that she would get back to Chair Lewis with that information.

Mr. Wagar said he knew that VBA did a lot of hiring to train people prior to PACT Act becoming public, and he used to be a rater. He asked about the process of the presumptives, asking when they get to the Office of Management and Budget (OMB), if OMB can deny it because of funding or if they need to find the funds. Ms. Breun-Moreland said that it's a matter of finding the funds, and that OMB has to help them with that. Mr. Wagar thanked her.

Mr. Ridgeway asked if the exposure team had any interactions with the ILER (Individual Longitudinal Exposure Record). Ms. Breun-Moreland confirmed they do. She said her team works closely in the ILER space. She shared that they are concerned and are in regular communication with DoD about the quality of information in ILER.

With no further questions, Ms. Breun-Moreland took her leave.

### **P&F PACT Act Update – Garrett Schmidt**

Ms. Piper introduced their next speaker, Garrett Schmidt, Management and Program Analyst from Pension & Fiduciary (P&F). Mr. Schmidt greeted the committee and introduced himself as being on the policy and procedures team and is a lead on the PACT IPT and acted in a supporting role on the compensation services PACT Integrated Project Team (IPT) and the strategic management program's PACT IPT. He became a SME on PACT in early 2022.

Mr. Schmidt explained that P&F oversees the needs-based benefits like disability pension and survivor pension, and other survivor benefits like burial, accrued, and service-connected death benefit called dependency indemnity and compensation (DIC). He said the presumptive disabilities for the service-connected benefits become service-connected deaths, and the expanded locations the PACT Act introduced for presumptives directly impacts the benefits P&F oversees.

He informed them that today he will be speaking about how the PACT Act has affected how they promulgate DIC claims and what P&F has done and continues to do to support. The most impactful section of the PACT Act for P&F is Section 204, because it directly affects their business line and the benefits they oversee. The section allows a claimant to elect the evaluation of a previously denied claim for DIC benefits when a law establishes or modifies the presumption of service connection as the PACT Act did.

He stressed that the word "elect" is a survivor-initiated election and is not like Nehmer where it's VA initiated. VA has to take the initiative to identify any potential claimants that were previously denied. However, benefits that are granted as a result of reevaluation may qualify for a retroactive effective date based on the submission date of the previously denied claim. There is no time limit for claimants to elect reevaluation of a previously denied DIC claim.

Mr. Schmidt shared that he had a direct connection to DIC as his father died in service, and so for many years his mother received DIC and a dependency allowance for him

and his brother, in addition to education benefits. He said he mentions this because he experienced first-hand how much of a lifesaving monetary benefit DIC is to survivors. He said that VA has pursued a rulemaking which updated regulations to align with the statutory changes in section 204 and outreach efforts have been underway to conform to the requirements in that section.

The regulation that was added is codified in 38 CFR 3.33. The final rulemaking regs to conform with statutory changes to allow claimants to elect to have certain DIC claims reevaluated based on changes that established or modified a presumption of service connection and to grant benefits as a result of reevaluation retroactively to the date of the submission of the original claim, which can be as far back as the date the original claim was received.

Mr. Schmidt noted that it requires any election for reevaluation to be submitted on a prescribed form for death benefits in accordance with 38 CFR 3.152. The final rule was published to the FR on November 24, 2023, and became effective January 23, 2024. All implementation efforts to include the local procedure manual M21-1 and training updates have been completed to coincide with the effective date of the regulation.

He reminded them that though the rule was not final until January 2024, it was more of a formality as the expedited local procedures were not delayed and were in effect since the beginning of 2023 when PACT Act claims began to be adjudicated.

He shared that outreach to survivors was initiated by VA. He showed some high-level information about the approach to reach all potential claimants. Back in November/December 2022, they sent out 285,000 outreach letters to survivors to let them know of their potential eligibility of re-adjudication and retroactive benefits. In February/March 2024, an additional 30,686 outreach letters were sent. He said that data prior to 2003 is hard to come by, so the gap in time was due to the research it took to find more potential claimants. Research is still underway to find any other potential claimants whose records may be in a retired records center.

Mr. Schmidt noted that even though PACT Act was written to impact DIC directly, it does have a trickle-down effect to implicitly affect non-service-connected survivor pension as well as non-service-connected burial benefits. He said that even if the survivors are checking the non-service-connected section for burial benefits, their service representatives have been trained and are actively being trained on how to identify an implicit claim for service-connected death. He then opened the floor for questions.

Mr. Wagar thanked Mr. Schmidt and asked if they had information on how many people responded to the letters sent out, and how many were granted. Mr. Schmidt said that he could get those numbers to the committee. Mr. Wagar shared that he had several calls from spouses who see advertisements on T.V. by lawyers saying they will help them get money from VA. He asked if spouses are already receiving DIC and look for more money through the advertising lawyers and if that will affect the DIC payments. Mr. Schmidt answered that Tort claims would affect the DIC benefits dollar for dollar.



Dr. Lewis asked if there was a way to get more of the information that can be put into a presentation to be delivered to survivors so they can have a better understanding around the new laws. She also asked if, for the letters they sent out, they worked with other organizations, foundations, VSOs, VFW, American Legion, et cetera, to get the information out faster to the survivors about the new changes.

Mr. Schmidt said the numbers that he shared are high level, and that all efforts that went into how they reached the additional 30,000 people and the methods taken to reach them isn't information he had. However, he did know who has that information and he said he'd get back to the committee about that. For presentations, there is the Survivors Benefits Office that actively works to get information out to survivors. He said they are always open to having more workshops and presentations for survivors. Mr. Schmidt asked if the committee would like a detailed summary of any planned summits or conferences directly for survivors. Chair Lewis confirmed it would be of interest to the committee.

With no further questions, Ms. Piper thanked Mr. Schmidt for his presentation.

### **Biennial Reports Overview & Discussion**

After a short break, Ms. Piper informed the meeting participants that they would be now going into the biennial reports overview and discussion portion, where Chair Lewis will facilitate the discussion.

Chair Lewis reminded the committee that Ms. Starke had sent out the last two reports to each of the members to read through and gain understanding about the past recommendations and consider how to proceed for the next report. She wanted to begin by asking the committee about what they thought about the reports and different topics they've covered so far, in addition to if any of the topics they've heard about at that meeting should be considered. She said she got a lot of comments that will fit with their conversation, but she wanted to start with their thoughts. She asked Mr. LoGalbo to start with his observations and comments.

Mr. LoGalbo shared he had been thinking about the process of how they create the recommendations, and how to be proactive in establishing subcommittees ahead of time to ensure that as they assign topics, they have specific deadlines and the ability to work on those as active groups to ensure that when they have the report, each of the topic areas are well-written with each person's insight and report. He said they will probably want to identify more about the VASRD update and anything that needs to be changed or updated with how the PACT Act is going. He emphasized the importance of timelines to ensure each person is contributing to working together.

Chair Lewis said they do have a dilemma in that they have not gotten their last report from 2022 back with comments, and the current report being due in October of that year. She asked Ms. Piper if she had any updates on when the committee would be getting those comments. Ms. Piper answered that the update as of that morning is that it's still pending with OGC. Ms. Piper also asked if they would be able to request an extension but were told that it was part of statute and the deadline could not be extended.

Because of the delay in comments from their last recommendation report, Chair Lewis said they might have to work differently depending on when they get the remarks back. They would have to just work off of the topics they recommended in 2022 and be ready to change or edit the current year's recommendations as needed.

Chair Lewis said they would be working on recommendations about the VASRD update and the information from studies they requested in that meeting. She reminded them about the presentations about contract physicians they received and how their last recommendation report had an entire section devoted to that topic. She said it is a topic that would probably be included again. She asked Dr. Eloisa Tamez if she had any comments about the report around the questions Chair Lewis asked earlier.

Dr. Tamez said the last time they broke up into subcommittees, she would like to take part in looking at recommendation 1.2, 1.3, and 1.4. She wants specifically to know more about the services offered to Veterans specific to mental health and agreed with Chair Lewis on needing the information and data from the surveys being done.

Chair Lewis asked for Dr. Molly Jacobs' input. Dr. Jacobs said that when she read through the prior report, she saw a section that addressed unemployability. She asked specifically how they look at under employability and the under-employment level where many Veterans can't work at their prior capacity. Chair Lewis asked Ms. Starke if she could pull up and share the information about the subcommittee groups from the last report so they can see who is still in the committee and who is new so they can pair some people up with the same experience or interest in other areas and so the new committee members can work alongside those who have been part of the committee for a while. Chair Lewis also told Dr. Jacobs that she would get the information that the subcommittees had gathered on that topic in the past to her so that she can review the information they already have.

Chair Lewis asked Mr. LoGalbo if he had worked on the under-employment piece for the previous report. Mr. LoGalbo said that he had had conversations with Bradley Hazell about that, and they looked at a lot of the GAO reports and recommendations, as well as the larger scope of the report and how with Total Disability Individual Unemployability (TDIU) those who go on individual unemployability (IU) they don't know how to make up the difference between the higher compensable rate and the combined evaluation, and what the impact of that was.

Chair Lewis moved on to Richard Evans, asking for his insight on the reports. Mr. Evans said that a lot of the items in the reports had been talked about in the presentations they had been given but agreed that they don't have much to work with without data coming back to them. He said they do need the information requested about the contract examiners, otherwise it makes it difficult to make an educated suggestion. Chair Lewis agreed but said they do have a lot of other information based on what they've made recommendations on before, and from their other committee members who work closely with some of the issues.

Ms. Starke shared on-screen the document Chair Lewis had asked for with the subcommittee member lists for each topic.

Chair Lewis then asked Mr. Ridgeway about his thoughts. He said he's new so he's not sure about the line between the things they're looking to include in October versus things to investigate going forward. He shared that there are several things he had an interest in being part of, such as 4.1 and 4.2 on the training and quality review, as well as the VASRD program operations and how they are analyzing the effect of the changes and how to decide what worked and didn't work. He said he could also lend a hand on TDIU but was not an SME on it and was also interested in the implementation of the Appeals Modernization Act.

Mr. Wagar shared that the IU issue concerns him that the Secretary said he wouldn't share the results of some studies and felt that they needed to continue to push that issue. He said he's also interested in issue 4 and what they're doing to hold contract providers accountable for giving adequate exams. He agreed with Chair Lewis's suggestion to send in secret patient type people to test examinations.

Chair Lewis thanked them for their input and said depending on whether or not they get the comments back from the last report, they will make reference to those with some sections that may stay relatively the same but asking for additional information. She said the team they have with the committee is well-rounded with their experience. She asked Ms. Piper if they could meet as a committee before the next full committee meeting to assign committee members to topic, and Ms. Piper confirmed that they could orchestrate that.

Ms. Piper shared that in the recent past, she had had to go through all the biennial reports to 2010 and asked if the committee would like information on all the topics the committee had recommended in the past to 2010 to present and the responses other than with the 2022 report. Chair Lewis confirmed that the information would be very helpful.

Ms. Piper said that as it pertains to the committee discussion and planning section, they have secured the Indianapolis regional office as a site visit for this fiscal year. She shared that there were a few dates that they needed to look at together with their availability so they can ensure they have quorum with that site visit. Ms. Starke suggested they send out an e-mail with that information.

Ms. Piper said they also have 10 potential sites of which they can select one more for that year to visit and would decide on the second site shortly.

At that time, Tonita Cannon spoke briefly about the daily consultation fee and reminded them to sign the welcome letter that will be sent out to them and send it back to her as soon as possible. She also encouraged them to contact her with any questions.

### **Public Comments**

Ms. Piper informed all call participants that they had reached the public comment section of the meeting, so if any members of the public wished to speak, they should utilize the hand raise functionality for the call.

Caitlin Goodale-Porter introduced herself as an Army and Coast Guard Veteran, sharing that her husband is also an Army retiree. She shared that benefits don't work as easily

with dual-Veteran families, and that some forms to do with Chapter 35 benefits have incorrect and confusing language. She said she had sent this form to many people within VA, and that the committee should have received it before the meeting as well. She asked them to pay more attention to the second page, where it explains how families where one parent is rated 100% but compensation is being withheld or recouped from both parents.

Ms. Goodale-Porter shared that she had an over hour-long conversation with one of VA's attorneys who only told her that they could add more language to make it clearer that both parents lost it, which is incorrect. She said she finally got them to understand that the law is being misinterpreted and they said they would run a more Veteran-friendly interpretation up their chain of command, but nothing has changed since that conversation over a year ago.

She requested their help collaborating to ensure the law is being followed and shared that she knows a lot of Veterans in the Atlanta area, mostly Black Veterans, who are affected by this issue as well.

Chair Lewis thanked her for her comment and said it is now part of the record. Ms. Piper made sure that Ms. Goodale-Porter knew that her comment needed to be reviewed before they respond to her at a later time.

With no further public comments, the public comment section was closed.

### **Meeting Wrap-Up & Adjournment**

Ms. Piper informed the meeting participants that they had reached the end of the meeting and thanked everybody for attending. She reminded the committee members about the invitation letter that they would shortly be receiving and that they needed to sign that and return it as soon as possible. Chair Lewis told the committee members that she appreciated their time and commitment and asked them to e-mail her their thoughts on how to proceed as soon as possible as well so they can proceed.

Ms. Piper thanked Chair Lewis and adjourned the meeting.

/s/  
Evelyn Lewis, MD, MA, FAAFP, DABDA  
Committee Chair

APR 24 2024

/s/  
Jadine Piper  
Committee DFO

APR 25 2024