

118TH CONGRESS
2D SESSION

H. R. 7917

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2024

Mr. BOST (for himself, Ms. STEFANIK, and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Appeals Effi-
5 ciency Act of 2024”.

1 **SEC. 2. IMPROVEMENTS TO EFFICIENCY OF ADJUDICA-**
2 **TIONS AND APPEALS OF CLAIMS FOR BENE-**
3 **FITS UNDER LAWS ADMINISTERED BY SEC-**
4 **RETARY OF VETERANS AFFAIRS.**

5 (a) ANNUAL REPORT ON LENGTH OF ADJUDICA-
6 TIONS.—

7 (1) IN GENERAL.—Section 5109B of title 38,
8 United States Code, is amended—

9 (A) by striking “The Secretary” and in-
10 serting “(a) IN GENERAL.—The Secretary”;
11 and

12 (B) by adding at the end the following new
13 subsection:

14 “(b) ANNUAL REPORT.—The Secretary shall submit
15 to the Committees on Veterans’ Affairs of the House of
16 Representatives and the Senate an annual report that in-
17 cludes, with respect to the period covered by the report,
18 a statement of the average length of time a claim (or issue
19 within a claim) that is remanded by the Board of Vet-
20 erans’ Appeals is pending before the Secretary after such
21 return or remand.”.

22 (2) DEADLINE.—The Secretary of Veterans Af-
23 fairs shall submit the first report required by sub-
24 section (b) of section 5109B of such title (as added
25 by paragraph (1)) by not later than one year after
26 the date of the enactment of this Act.

1 (b) REQUIREMENT TO TRACK CERTAIN CLAIMS FOR
2 BENEFITS.—

3 (1) IN GENERAL.—Chapter 51 of title 38,
4 United States Code, is amended by inserting after
5 section 5109B the following new section:

6 **“§ 5109C. Requirement to track and maintain infor-**
7 **mation on certain claims for benefits; no-**
8 **tice of certain assignments**

9 “(a) IN GENERAL.—The Secretary shall use tech-
10 nology to track and maintain information (including infor-
11 mation with respect to timeliness) on—

12 “(1) claims for benefits under the laws adminis-
13 tered by the Secretary (including issues within such
14 claims) that are—

15 “(A) continuously pursued in accordance
16 with—

17 “(i) sections 5104C(a) and 5110(a)(2)
18 of this title; or

19 “(ii) any other policy established by
20 the Secretary;

21 “(B) filed in the National Work Queue (or
22 any successor system) but have not been as-
23 signed to an office of the Veterans Benefits Ad-
24 ministration for adjudication;

1 “(C) afforded expeditious treatment by the
2 Veterans Benefits Administration pursuant to
3 section 5109B of this title or any other policy
4 established by the Secretary;

5 “(D) remanded by the Board of Veterans’
6 Appeals to the Secretary pursuant to section
7 7104 of this title; or

8 “(E) pending a hearing by the Board of
9 Veterans’ Appeals under section 7107 of this
10 title;

11 “(2) instances in which an adjudicator of the
12 Veterans Benefits Administration does not comply
13 with a relevant decision of the Board of Veterans’
14 Appeals to remand a claim for benefits under the
15 laws administered by the Secretary (or issue within
16 such claim), including such instances in which the
17 relevant decision concerned a failure on the part of
18 the agency of original jurisdiction to satisfy the Sec-
19 retary’s duty to assist under section 5103A of this
20 title;

21 “(3) supplemental claims under section 5108 of
22 this title filed—

23 “(A) in accordance with section 5104C(a)
24 and section 5110(a)(2) of this title; and

1 “(B) after the date of the applicable final
2 decision of the Secretary with respect to a claim
3 for benefits under the laws administered by the
4 Secretary (or issue within such claim);

5 “(4) first notices submitted to the Secretary of
6 the death of individuals in receipt of benefits under
7 the laws administered by the Secretary,
8 disaggregated by such individuals who were—

9 “(A) assigned a fiduciary; and

10 “(B) not assigned a fiduciary; and

11 “(5) decisions of the Board of Veterans’ Ap-
12 peals to remand a claim for benefits under the laws
13 administered by the Secretary that the Chairman of
14 the Board of Veterans’ Appeals determines were un-
15 necessary pursuant to subsection (f) of section 7104
16 of this title.

17 “(b) NOTICE OF REASON FOR CERTAIN ASSIGN-
18 MENTS.—In carrying out this section, the Secretary shall
19 prescribe rules and regulations to ensure that a claimant
20 (or the representative of a claimant) may view or other-
21 wise obtain notice of the reasons a relevant claim for bene-
22 fits under the laws administered by the Secretary is—

23 “(1) deferred for additional action by an office
24 of the Veterans Benefits Administration in the Na-
25 tional Work Queue (or any successor system); or

1 “(f)(1) The Secretary, acting through the Chairman
2 of the Board, shall ensure substantial compliance with any
3 decision of the Board to remand a claim.

4 “(2) The Secretary may waive the requirement under
5 paragraph (1) with respect to a decision of the Board to
6 remand a claim to the Secretary if the Chairman of the
7 Board determines—

8 “(A) evidence added to the evidentiary after the
9 date of such decision is sufficient to resolve the
10 issues underlying such decision; or

11 “(B) such decision was unnecessary.

12 “(3) If the Secretary exercises the authority under
13 paragraph (2), the Secretary shall include, pursuant to
14 subsection (d), a written notation of such exercise in the
15 decision of the Board.”.

16 (3) MOTION FOR OGC OPINION.—Section 7104
17 of such title is amended by adding at the end the
18 following new subsection:

19 “(g) The Board may, on its own initiative or upon
20 motion of the appellant, submit to the General Counsel
21 a request for an opinion with respect to a question of law
22 arising in an appeal under review by the Board.”.

23 (d) EXPANSION OF JURISDICTION OF COURT OF AP-
24 PEALS FOR VETERANS CLAIMS.—Section 7252 of title 38,
25 United States Code, is amended—

1 (1) by redesignating subsections (b) and (c) as
2 subsections (d) and (e), respectively; and

3 (2) by inserting after subsection (a) the fol-
4 lowing new subsections:

5 “(b)(1) The Court shall have supplemental jurisdic-
6 tion to review an eligible claim pending a final decision
7 of the Board of Veterans Appeals with respect to such eli-
8 gible claim.

9 “(2) The period during which a claimant may submit
10 a request for administrative review of an eligible claim
11 under subsection (a) of section 5104C of this title shall
12 be tolled for the period beginning on the date on which
13 the claimant submits to the Court a motion for class ac-
14 tion review and ending on the date that is 60 days after
15 the date on which the Court issues a final decision with
16 respect to—

17 “(A) such eligible claim; or

18 “(B) such motion for class action review, which-
19 ever is later.

20 “(3) In this subsection, the term ‘eligible claim’
21 means a claim for benefits under the laws administered
22 by the Secretary for which relief may be granted on a
23 class-wide basis pursuant to the rules of practice and pro-
24 cedure of the Court of Appeals for Veterans Claims.

1 “(c)(1) The Court may remand a matter to the Board
2 of Veterans’ Appeals for the limited purpose of ordering
3 the Board to address a question of law or fact in a claim
4 for benefits under the laws administered by the Secretary
5 that the Court determines the Board failed to—

6 “(A) address, in the relevant decision of the
7 Board, an issue that—

8 “(i) the claimant (or representative of such
9 claimant) raised; or

10 “(ii) was reasonably raised by the evi-
11 dentiary record of such claim; or

12 “(B) provide adequate reasons or bases for the
13 decision of the Board with respect to such question.

14 “(2) In issuing a remand under paragraph (1), the
15 Court may require the Board to issue a decision on the
16 relevant question with a certain period of time prescribed
17 by the Court.

18 “(3) With respect to any matter remanded to the
19 Board pursuant to paragraph (1), the Court shall—

20 “(A) retain jurisdiction over such matter; and

21 “(B) stay the proceedings of the Court on such
22 matter until the date on which the Board issues the
23 decision required by such remand.”.

1 (e) STUDY AND REPORT ON COMMON QUESTIONS OF
2 LAW OR FACT BEFORE BOARD OF VETERANS' AP-
3 PEALS.—

4 (1) STUDY.—The Chairman of the Board of
5 Veterans Appeals shall carry out a study to identify
6 questions of law or fact the Board commonly con-
7 siders when reviewing appeals pursuant to section
8 7104 of title 38, United States Code, for which pre-
9 cedential guidance would assist the Board in issuing
10 final decisions on such appeals. The Chairman may
11 use artificial intelligence and other technology in
12 carrying out such study.

13 (2) REPORT.—Not later than one year after the
14 date of the enactment of this Act, the Chairman of
15 the Board of Veterans Appeals shall submit to the
16 Committees on Veterans Affairs of the House of
17 Representatives and the Senate a report that in-
18 cludes the findings of the study required by para-
19 graph (1).

20 (f) INDEPENDENT ASSESSMENT OF POTENTIAL
21 MODIFICATIONS TO AUTHORITY OF BOARD OF VET-
22 ERANS' APPEALS.—

23 (1) AGREEMENT.—Not later than 30 days after
24 the date of the enactment of this Act, the Secretary
25 of Veterans Affairs shall seek to enter into an agree-

1 ment with an FFRDC for an assessment of the fea-
2 sibility of modifying the authority of the Board of
3 Veterans' Appeals established under chapter 71 of
4 title 38, United States Code, to permit the Board to
5 issue precedential decisions with respect to questions
6 of law or fact arising in matters before the Board.

7 (2) ASSESSMENT.—An FFRDC that enters to
8 an agreement under subsection (a) shall submit to
9 the Secretary a written assessment that includes the
10 following:

11 (A) The determination of the FFRDC of
12 whether modifying the authority of the Board
13 to permit the Board to issue precedential deci-
14 sions with respect to questions of law or fact
15 arising in matters before the Board is feasible.

16 (B) An assessment of the authority of the
17 Board of Veterans' Appeals to aggregate, for
18 review, more than one appeal under chapter 71
19 of such title that involves substantially similar
20 questions of law or fact pursuant to section
21 7104 of such title (as amended by subsection
22 (c)(1)).

23 (C) The recommendations of the FFRDC
24 with respect to rules or principles to which the
25 Board should adhere when aggregating appeals

1 for review pursuant to section 7104(a) of title
2 38, United States Code (as amended by sub-
3 section (d)).

4 (3) REPORT; IMPLEMENTATION.—Not later
5 than 90 days after the Secretary receives the assess-
6 ment under subsection (b), the Secretary shall—

7 (A) submit to the Committees on Veterans’
8 Affairs of the Senate and House of Representa-
9 tives a copy of such assessment; and

10 (B) create policies and procedures to im-
11 plement the recommendations in the assessment
12 with respect to the authority of the Board of
13 Veterans’ Appeals described in subparagraph
14 (B) of paragraph (2).

15 (4) DEFINITIONS.—In this subsection:

16 (A) The term “FFRDC” means a federally
17 funded research and development center.

18 (B) The terms “claimant” and “notice”
19 have the meanings given such terms in section
20 5100 of title 38, United States Code.

21 (g) PLAN FOR TIMELY ASSIGNMENT OF CLAIMS.—
22 The Secretary of Veterans Affairs shall develop a plan to
23 ensure claims for benefits administered by the Secretary
24 are assigned to an adjudicator of the Veterans Benefits
25 Administration of the Department of Veterans in a timely

1 manner to the National Work Queue (or any successor
2 system of the Department) and submit to the Committees
3 on Veterans' Affairs of the House of Representatives and
4 the Senate a copy of such plan by not later than one year
5 after the date of the enactment of this Act.

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