

110TH CONGRESS
2D SESSION

H. R. 5576

To amend title 38, United States Code, to make certain improvements in the claims processing of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2008

Mr. BUYER (for himself and Mr. LAMBORN) introduced the following bill;
which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to make certain improvements in the claims processing of the Department of Veterans Affairs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veteran Claims Back-
5 log Reduction Act of 2008”.

6 **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or a repeal of, a section or other

1 provision, the reference shall be considered to be made to
 2 a section or other provision of title 38, United States
 3 Code.

4 **SEC. 3. ASSISTANCE IN PROVIDING NOTICE AND ASSIST-**
 5 **ANCE TO CLAIMANTS REQUIRED AS A CONDI-**
 6 **TION OF RECOGNITION AS AGENT OR ATTOR-**
 7 **NEY.**

8 (a) ASSISTANCE.—Chapter 59 is amended—

9 (1) in section 5902(b)—

10 (A) in paragraph (1), by striking “and” at
 11 the end;

12 (B) in paragraph (2), by striking the pe-
 13 riod at the end and inserting “; and”; and

14 (C) by adding at the end the following new
 15 paragraph:

16 “(3) unless such individual has certified to the
 17 Secretary that the individual will assist the Sec-
 18 retary in complying with the Secretary’s obligations
 19 under sections 5103(a) and 5103A of this title.”;
 20 and

21 (2) in section 5903(a)—

22 (A) in paragraph (1), by striking “and” at
 23 the end;

24 (B) in paragraph (2), by striking the pe-
 25 riod at the end and inserting “; and”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(3) such individual has certified to the Sec-
4 retary that the individual will assist the Secretary in
5 complying with the Secretary’s obligations under
6 sections 5103(a) and 5103A of this title.”.

7 (b) TRAINING FOR RECOGNIZED REPRESENTATIVES
8 OF ORGANIZATIONS.—Section 5902 is amended by adding
9 at the end the following new subsection:

10 “(e) The Secretary shall establish a training program
11 to provide training to individuals recognized under this
12 section. Training provided pursuant to this subsection
13 shall include a certification.”.

14 (c) TREATMENT OF CERTAIN CLAIMS.—

15 (1) IN GENERAL.—Subchapter I of chapter 51
16 is amended by adding at the end the following new
17 section:

18 **“§ 5109C. Treatment of certain claims**

19 “(a) TREATMENT OF FULLY DEVELOPED CLAIMS.—
20 In the case of a claim submitted to the Secretary that is
21 certified as fully developed by the veteran submitting the
22 claim and by a representative of an organization recog-
23 nized under section 5902 of this title who is a graduate
24 of the training academy established under subsection (e)
25 of that section, the Secretary shall consider the claim to

1 be fully developed and shall evaluate the claim based on
 2 the evidence provided.

3 “(b) PRESUMPTION REBUTTABLE.—Where there is
 4 affirmative evidence that a claim certified as fully devel-
 5 oped under subsection (a) is not fully developed, the Sec-
 6 retary may take such actions with respect to such claim
 7 as the Secretary determines are necessary to fully develop
 8 the claim.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
 10 tions at the beginning of such chapter is amended
 11 by adding at the end of the items relating to sub-
 12 chapter I the following new item:

“5109C. Treatment of certain claims.”.

13 **SEC. 4. QUALITY CONTROL ASSESSMENT FOR REGIONAL**
 14 **OFFICES OF VETERANS BENEFITS ADMINIS-**
 15 **TRATION.**

16 (a) ESTABLISHMENT OF SYSTEM.—Chapter 7 is
 17 amended by adding at the end the following new section:

18 **“§ 713. Veterans Benefits Administration quality con-**
 19 **trol assessment**

20 “(a) ASSESSMENT REQUIRED.—At least once each
 21 fiscal year the Secretary shall conduct a quality control
 22 assessment of one percent of the ratings specialists and
 23 veterans service representatives employed by the Veterans
 24 Benefits Administration. In conducting each such assess-
 25 ment, the Secretary shall study a statistically valid sample

1 of the employee’s work and review the quality of that
2 work.

3 “(b) ANNUAL REPORT.—Not later than 90 days after
4 the last day of a fiscal year, the Secretary shall submit
5 to Congress a report on the assessments conducted under
6 this section during that fiscal year.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of such chapter is amended by adding
9 at the end the following new item:

“713. Veterans Benefits Administration quality control assessment.”.

10 **SEC. 5. ELECTRONIC PROCESSING OF CLAIMS FOR BENE-**
11 **FITS ADMINISTERED BY SECRETARY OF VET-**
12 **ERANS AFFAIRS.**

13 (a) ELECTRONIC PROCESSING OF CLAIMS.—Subtitle
14 I of chapter 51, as amended by section 251(c), is further
15 amended by adding at the end the following new section:

16 **“§ 5109D. Electronic processing of claims**

17 “(a) SYSTEM REQUIRED.—The Secretary shall carry
18 out a two-year pilot program under which the Secretary
19 shall develop and maintain a system for processing claims
20 for disability compensation under this title using rules-
21 based technology. Such system shall use medical and mili-
22 tary service data to generate recommendations with re-
23 spect to disability ratings.

24 “(b) QUARTERLY REPORTS.—For the period during
25 which the Secretary carries out the pilot program under

1 subsection (a), the Secretary shall submit to the Commit-
 2 tees on Veterans' Affairs of the Senate and House of Rep-
 3 resentatives quarterly reports on the pilot program.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
 5 at the beginning of such chapter, as so amended, is further
 6 amended by adding at the end the following new item:

“5109D. Electronic processing of claims.”.

7 **SEC. 6. TREATMENT OF BENEFICIARY OF VETERAN'S AC-**
 8 **CRUED BENEFITS AS CLAIMANT FOR PUR-**
 9 **POSES OF INCOMPLETE CLAIMS AS OF**
 10 **DEATH OF VETERAN.**

11 (a) IN GENERAL.—Section 5102 is amended by
 12 added at the end the following new subsection:

13 “(d) TREATMENT OF BENEFICIARIES AS CLAIMANTS
 14 ON DEATH OF VETERANS.—If a veteran who is a claimant
 15 dies before completing the submission of a claim for any
 16 benefit under a law administered by the Secretary, the
 17 person who would receive any accrued benefits due to the
 18 veteran under section 5121(a)(2) of this title shall be
 19 treated as the claimant for the purposes of completing the
 20 submission of the claim, except that such person may only
 21 submit new evidence in support of the claim during the
 22 60-day period beginning on the death of the veteran.”.

23 (b) EFFECTIVE DATE.—Subsection (d) of section
 24 5102 of title 38, United States Code, shall apply with re-

1 spect to the claim of any veteran who dies on or after
2 the date of the enactment of this Act.

3 **SEC. 7. EVALUATION OF TRAINING AND ASSESSMENT PRO-**
4 **GRAMS FOR EMPLOYEES OF VETERANS BEN-**
5 **EFITS ADMINISTRATION.**

6 (a) EVALUATION REQUIRED.—The Secretary of Vet-
7 erans Affairs shall enter into a contract with a private en-
8 tity with experience evaluating quality assurance and ben-
9 efits programs under which that entity shall—

10 (1) conduct an evaluation of the items required
11 to be included in the annual report of the Secretary
12 under section 7734 of title 38, United States Code,
13 that were included in the last such report submitted
14 before the date of the enactment of this Act, that re-
15 late to the training and performance assessment pro-
16 grams of the Department of Veterans Affairs for
17 employees of the Veterans Benefits Administration
18 who are responsible for matters relating to com-
19 pensation or pension benefits under the laws admin-
20 istered by the Secretary; and

21 (2) not later than 180 days after the date of
22 the enactment of this Act, submit to the Secretary
23 the results of such evaluation.

24 (b) SUBMISSION OF RESULTS TO CONGRESS.—The
25 Secretary shall include the results of the evaluation re-

1 quired under subsection (a) with the first annual report
2 required to be submitted to Congress under section 529
3 of title 38, United States Code, submitted after the date
4 on which the Secretary receives such results.

5 (c) REPORT.—Not later than 180 days after the date
6 on which the Secretary submits the report referred to in
7 subsection (b), the Secretary shall submit to Congress a
8 report on any actions the Secretary has taken or plans
9 to take in response to the results of the evaluation re-
10 quired under subsection (a).

11 **SEC. 8. ELECTRONIC MONITORING OF CLAIM STATUS.**

12 (a) MECHANISM FOR ELECTRONIC MONITORING RE-
13 QUIRED.—Subchapter I of chapter 51 is amended by in-
14 serting after section 5101 the following new section:

15 **“§ 5101A. Electronic monitoring of claim status**

16 “(a) MONITORING OF CLAIM STATUS.—The Sec-
17 retary shall make available, on the Internet website of the
18 Department, a mechanism that can be used by a claimant
19 to check on the status of any claim submitted by that
20 claimant. Such mechanism shall provide to the claimant—

21 “(1) if a decision has been reached with respect
22 to such a claim, notice of the decision; or

23 “(2) if no such decision has been reached, no-
24 tice of—

1 “(A) whether the application submitted by
2 the claimant is complete;

3 “(B) whether the Secretary requires addi-
4 tional information or evidence to process the
5 claim;

6 “(C) the estimated date on which a deci-
7 sion with respect to the claim is expected to be
8 made; and

9 “(D) the stage at which the claim is being
10 processed as of the date on which such status
11 is checked.

12 “(b) RELATIONSHIP TO OTHER NOTICE REQUIRE-
13 MENTS.—Monitoring provided pursuant to subsection (a)
14 shall not satisfy the responsibility of the Secretary to pro-
15 vide notice under section 5102, 5103, or 5104 of this
16 title.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of such chapter is amended by inserting
19 after the item relating to section 5101 the following new
20 item:

 “5101A. Electronic monitoring of claim status.”.

21 **SEC. 9. PILOT PROGRAM ON SUBMITTAL OF CLAIMS TO**
22 **ANY REGIONAL OFFICE OF THE DEPART-**
23 **MENT OF VETERANS AFFAIRS.**

24 (a) PILOT PROGRAM REQUIRED.—The Secretary of
25 Veterans Affairs shall carry out a two-year pilot program

1 under which the Secretary shall permit a qualifying vet-
2 eran filing a claim for benefits under a law administered
3 by the Secretary to submit such claim to any regional of-
4 fice of the Department of Veterans Affairs. The Secretary
5 shall promptly notify each qualifying veteran of the oppor-
6 tunity to participate in the pilot program.

7 (b) QUALIFYING VETERANS.—For the purposes of
8 the pilot program under subsection (a), a qualifying vet-
9 eran is a veteran who would, except as provided under the
10 pilot program, be required to submit a claim to one of
11 five regional offices of the Department selected by the Sec-
12 retary based on below average performance.

13 (c) REPORTS.—

14 (1) INTERIM REPORT.—Upon the selection of
15 the Secretary of five regional offices for the purposes
16 of subsection (b), the Secretary shall submit a report
17 to Congress that lists the offices selected and the
18 Secretary's rationale for selecting such offices.

19 (2) FINAL REPORT.—Not later than 90 days
20 after the completion of the pilot program under sub-
21 section (a), the Secretary shall submit to Congress
22 a final report on the pilot program that contains the
23 Secretary's recommendations with respect to the al-
24 location of resources among the regional offices of
25 the Department.

1 **SEC. 10. EXECUTIVE MANAGEMENT FELLOWSHIP PRO-**
2 **GRAM.**

3 (a) FELLOWSHIP PROGRAM.—Chapter 77 of title 38,
4 United States Code is amended by adding at the end the
5 following new subchapter:

6 “SUBCHAPTER III—EXECUTIVE MANAGEMENT
7 FELLOWSHIP PROGRAM

8 “§ 7751. **Executive Management Fellowship Program**

9 “(a) FELLOWSHIP PROGRAM.—There is in the De-
10 partment an Executive Management Fellowship Program.
11 The purpose of the program shall be to provide eligible
12 employees of the Veterans Benefits Administration with
13 training and experience in the private sector.

14 “(b) FELLOWSHIP.—(1) A fellowship provided under
15 this section is a one-year fellowship during which the eligi-
16 ble employee who is the recipient of the fellowship shall
17 receive training at a private-sector entity that is engaged
18 in the administration and delivery of benefits.

19 “(2) The Secretary shall enter into such agreements
20 with private-sector entities as are necessary to carry out
21 this section.

22 “(c) SELECTION OF RECIPIENTS.—In August of each
23 year, the Secretary shall select at least six and not more
24 than 10 eligible employees to receive a fellowship under
25 this section.

1 “(d) ELIGIBLE EMPLOYEES.—(1) For the purposes
2 of this section, an eligible employee is an employee of the
3 Veterans Benefits Administration who—

4 “(A) is compensated at a rate of basic pay not
5 less than the minimum rate of basic pay payable for
6 grade GS–14 of the General Schedule and not more
7 than the minimum rate of basic pay payable to a
8 member of the Senior Executive Service under sec-
9 tion 5382 of title 5, United States Code;

10 “(B) enters into an agreement with the Sec-
11 retary under subsection (e); and

12 “(C) submits to the Secretary an application
13 containing such information and assurances as the
14 Secretary may require.

15 “(2) For purposes of paragraph (1)(A), the term
16 ‘basic pay’ does not include any comparability payment
17 under section 5304 of such title 5 or any other similar
18 payment

19 “(e) AGREEMENTS.—An agreement between the Sec-
20 retary and a recipient of a fellowship shall be in writing,
21 shall be signed by the recipient, and shall include the fol-
22 lowing provisions:

23 “(1) The Secretary’s agreement—

24 “(A) to provide the recipient with a fellow-
25 ship under this section; and

1 “(B) to afford the participant the oppor-
2 tunity for employment in the Veterans Benefits
3 Administration (subject to the availability of
4 appropriated funds for such purpose and other
5 qualifications established in accordance with
6 section 7402 of this title).

7 “(2) The recipient’s agreement—

8 “(A) to accept the fellowship;

9 “(B) after completion of the fellowship, to
10 serve as a full-time employee in the Veterans
11 Benefits Administration for at least two years
12 as specified in the agreement; and

13 “(C) that, during the two-year period be-
14 ginning on the last day of the fellowship, the re-
15 cipient will not accept employment in the same
16 industry as the industry of the private entity at
17 which the recipient accepts the fellowship.

18 “(3) A provision that any financial obligation of
19 the United States arising out of an agreement en-
20 tered into under this chapter, and any obligation of
21 the recipient which is conditioned on such agree-
22 ment, is contingent upon funds being appropriated
23 for educational assistance under this chapter.

1 “(4) A statement of the damages to which the
2 United States is entitled under this chapter for the
3 recipient’s breach of the agreement.

4 “(5) Such other terms as the Secretary deter-
5 mines are required to be included in the agreement.

6 “(f) TREATMENT OF RECIPIENTS.—The recipient of
7 a fellowship under this section shall be considered an em-
8 ployee of the Department for all purposes, including for
9 purposes of receiving a salary and benefits, and shall re-
10 main eligible for all promotion and incentive programs
11 otherwise available to such an employee.

12 “(g) REPORT TO CONGRESS.—Not later than 60 days
13 after completing a fellowship under this section, a recipi-
14 ent shall submit to the Committees on Veterans’ Affairs
15 of the Senate and House of Representatives a report on
16 the fellowship. Each such report shall describe the duties
17 of the recipient during the fellowship and any rec-
18 ommendations of the recipient for the application of indus-
19 try processes, technologies, and best practices. A report
20 submitted under this subsection shall not be reviewable by
21 the Secretary before being submitted to the Committees.”.

22 (b) DEADLINE FOR IMPLEMENTATION.—Not later
23 than 90 days after the date of the enactment of this Act,
24 the Secretary of Veterans Affairs shall implement the Ex-
25 ecutive Management Fellowship Program required under

1 section 7751 of title 38, United States Code, as added by
2 subsection (a).

3 (c) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by adding
5 at the end the following new items:

“III—EXECUTIVE MANAGEMENT FELLOWSHIP PROGRAM

“7751. Executive Management Fellowship Program.”.

