



# Appeals Modernization and RAMP

February 2018

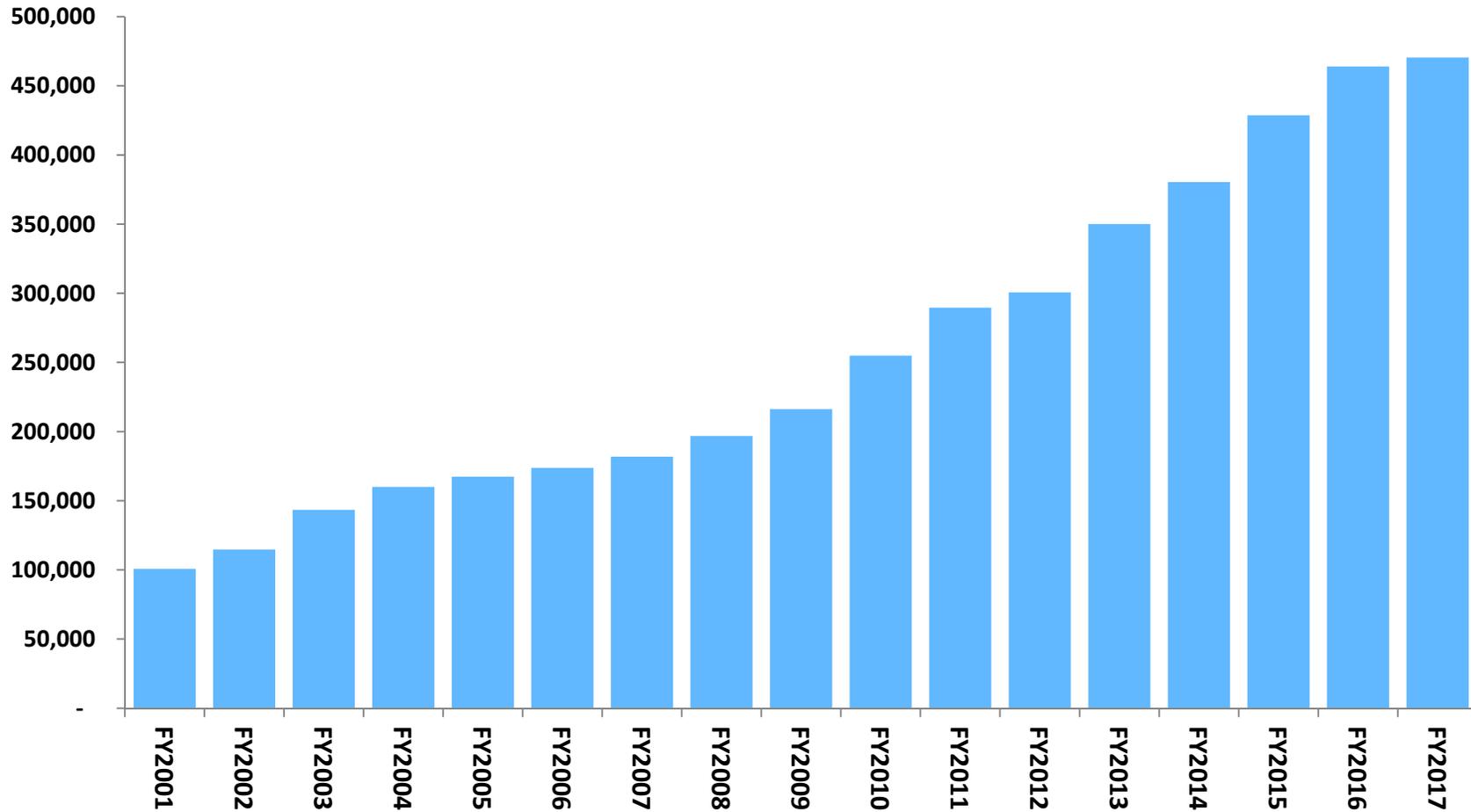
**Veterans Benefits Administration**

**VA**



**U.S. Department  
of Veterans Affairs**

# Pending Appeals



Working Draft, Pre-Decisional, Deliberative  
Document – Internal VA Use Only



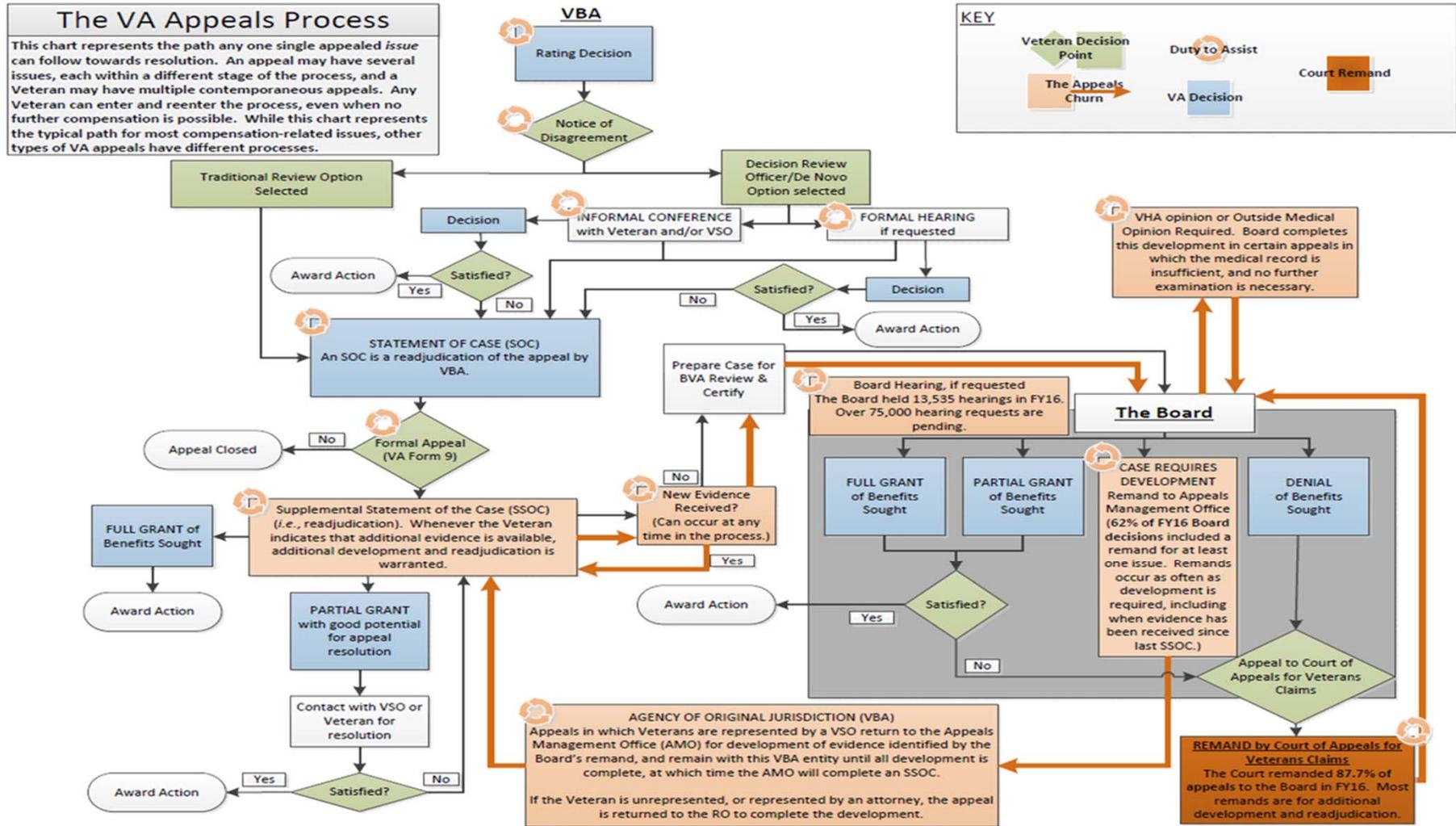
U.S. Department  
of Veterans Affairs

# Current Appeal Process

**The current VA appeal process, which is set in law, is a complex, non-linear process that is unlike other standard appeals processes across Federal agencies and judicial systems.**

- Process takes **too long** – There is no defined endpoint or timeframe. Agency cannot manage to a set goal for resolution time.
  - On average Veterans are waiting 3 years for a resolution on their appeals.
  - For those appeals that were decided by the Board in fiscal year (FY) 2016, on average, Veterans waited at least 7 years from filing their NOD until the Board decision issued that year.
- Process is **too complex** – Veterans do not understand the process, it contains too many steps, and it is very challenging to explain it to them in a way that is understandable.
- **Splits jurisdiction** between VBA and the Board – Accountability does not rest with one appellate body. Also creates inherent competition for resources internally within VBA to process both claims and appeals.
- Features an **open record** and ongoing **duty to assist** – Continuous evidence gathering and readjudication prolongs the ability to reach a final decision. The appeal process essentially contains a hidden claims process.

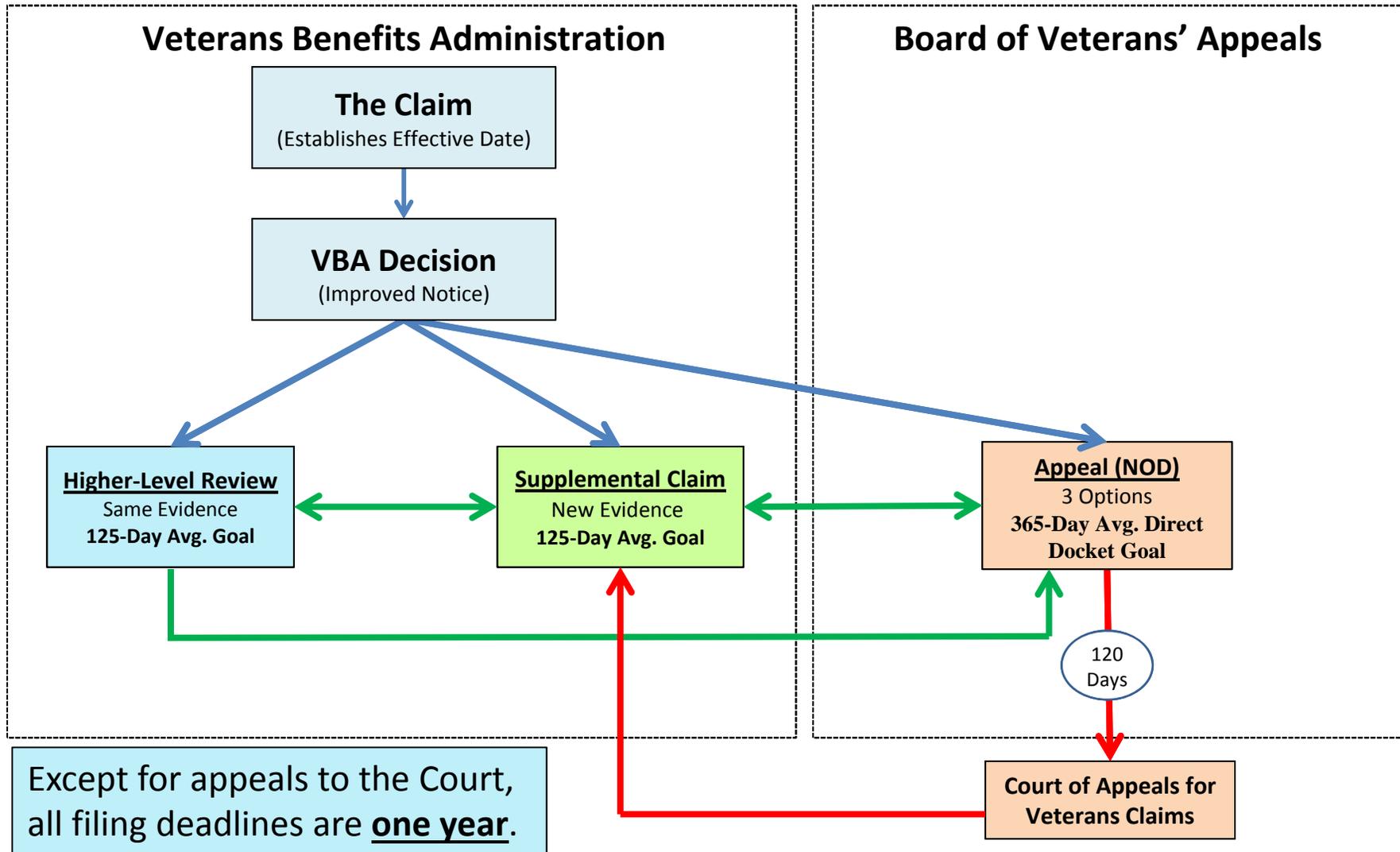
# VA Appeal Process Today



# Appeals Modernization Act

- On August 23, 2017, the *Veterans Appeals Improvement and Modernization Act of 2017* was signed into law. The new law does not take effect until February 2019.
- The law creates a new decision review process, which features three lanes:
  - **Higher-Level Review** – An entirely new review of the claim by an experienced adjudicator
  - **Supplemental Claim** – An opportunity to submit additional evidence
  - **Appeal** – Review by the Board of Veterans' Appeals

# New Decision Review Process



# New Process – Overview

- **Multiple options for Veterans/representatives**
  - Use one lane at a time for a claimed issue
  - Choosing one lane over another does not prevent the Veteran/representative from later choosing a different lane
  - There are no limits to the number of times a Veteran may pursue a claimed issue in any of the given lanes
- **Effective date for benefits** – Always protected if the Veteran pursues the same claimed issue in any of the lanes within one year
- **Duty to assist and open record** – In the Supplemental Claim lane only, not the higher-level review or appeal lanes
- **Higher-Level Review** – *De novo* review with full difference of opinion authority; replaces current DRO review process

# New Process – VBA Lanes

## Supplemental Claim Lane

- VA will readjudicate a claim if “new and relevant” evidence is presented or identified with a supplemental claim (**open record**)
- VA will assist in gathering new and relevant evidence (**duty to assist**).
- Effective date for benefits always protected (submitted within 1 year of decision)
- Replaces “reopening” claims with “new and material” evidence

## Higher-Level Review Lane

- More experienced VA employee takes a second look at the same evidence (**closed record and no duty to assist**)
- Option for a one-time telephonic **informal conference** with the higher-level reviewer to discuss the error in the prior decision
- *De novo* review with full difference of opinion authority
- Duty to assist errors returned to lower-level for correction (**quality feedback**)

# New Process – Appeal Lane

## Evidence Only Docket

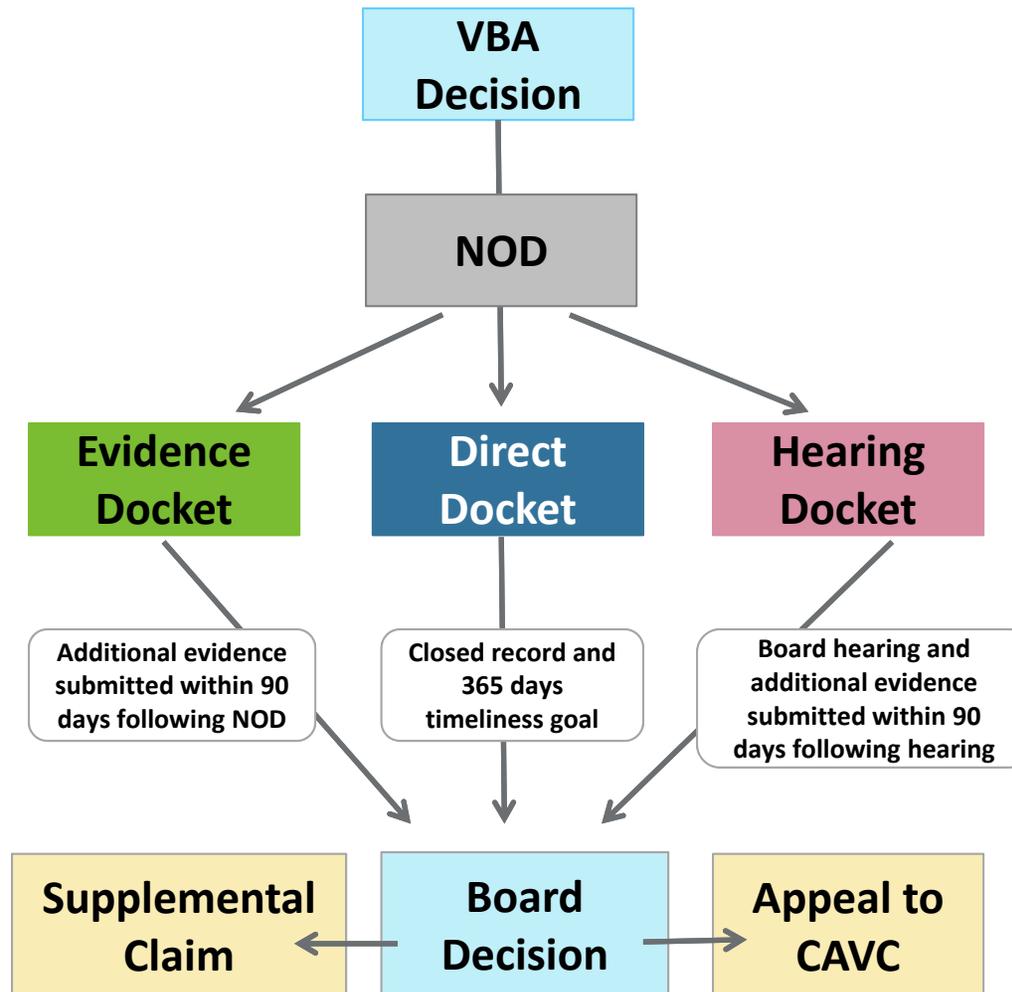
When this option is selected on the NOD, the appellant may submit evidence within the 90 day window following submission of the NOD. The Board does not have a duty to assist and the record is otherwise closed.

## Direct Docket

When this option is selected on the NOD, the appellant receives direct review by the Board of the evidence that was before VBA in the decision on appeal. The Board has a 365-day timeliness goal for this docket. [Quality feedback loop for VBA.](#)

## Hearing Docket

When this option is selected on the NOD, the appellant will be scheduled for a Board hearing. Additionally, the appellant may submit evidence within the 90 day window following the scheduled hearing. The Board does not have a duty to assist and the record is otherwise closed.



# New Process – Benefits

## New process provides:

- Understandable decision review system
- Multiple review options instead of one
- Improved notice about the reasons for VA's decision and available decision review options
- Early resolution of disagreements
- Each lane with a clearly defined start/end point
- Higher-Level Review and Appeal lanes provide quality feedback to VBA
- VBA as claims agency, Board as appeals agency
- Efficient use of VA's and representatives' resources for long-term savings and improved service for Veterans

# Rapid Appeals Modernization Program

- VA began a new program known as the ***Rapid Appeals Modernization Program (RAMP)*** on November 1, 2017
- RAMP allows eligible Veterans with pending **compensation appeals** the option to have their decisions reviewed in the new **Higher-Level Review** or **Supplemental Claim** lanes

# RAMP Eligibility

- Participation is voluntary
- VA will notify eligible Veterans and their representatives
- Veterans must have an active disability compensation appeal in one of the following appeal stages:
  - NOD
  - Form 9
  - Certified to the Board (not activated)
  - Remand

# RAMP Supplemental Claim Lane

- Any decision to award benefits must be based on **new and relevant evidence** or a **clear and unmistakable error** in the prior decision
- In RAMP, VA **presumes** that there is new and relevant evidence when a Veteran first elects to participate
- Tracking under End Product **(EP) 683** with claim label ***RAMP-Supplemental Claim Review (Rating or Non-Rating)***
- Open evidentiary record with **duty to assist** Veterans in gathering evidence to support the claim
- Decision authority given to RVSRs for rating issues and VSRs for non-rating issues

# RAMP Higher-Level Review Lane

- **De novo review** of the issue(s) previously on appeal (**difference of opinion authority**)
- Review of all evidence of record on the date that VA receives the Veteran's RAMP election (**closed record & no duty to assist**)
- Tracking under **EP 682** with claim label **RAMP - Higher Level Review (Rating or Non-Rating)**
- Decision authority granted to **Decision Review Officers** (DROs)
- Optional one-time telephonic **informal conference** with the higher-level reviewer to identify specific errors in the case
- Return of the claim for correction when a **duty to assist error or required development** is found and the higher-level reviewer cannot grant the maximum benefit (**quality feedback loop**)

# RAMP – Benefits

## **Benefits for Veterans and their representatives:**

- Faster decisions and early resolution of disagreements
- Improved decision notices
- Allows more Veterans to use the new, more efficient process
- Demonstrates VA's commitment to improve services for all Veterans who have appeals, not just those who receive a future decision
- Accelerates resolution of legacy appeals at the earliest points in the process
- Same effective date for benefits regardless of the Veteran's choice of review option
- Requires VA to have clear and convincing evidence to change any findings favorable to the Veteran in a previous VA decision
- Veterans who participate in RAMP fill the Board's new dockets first

# RAMP – Benefits

## **Benefits for VA and External Stakeholders:**

- Eliminates the inherent inefficiencies in the legacy system, thus decreasing the number of work hours spent by VA and Veterans' representatives working legacy appeals
- Shortens the time that VA and Veterans' representatives must operate two appeal systems
- Allows VA and Veterans' representatives to fully assess and adapt to the new law
- Early resolution in VBA reduces legacy appeals to the Board and Federal courts

# RAMP Opt-in Notice

- Eligible Veterans and their representatives will receive a RAMP Opt-in Notice from VBA that contains:
  - 2-page letter explaining RAMP
  - RAMP Fact Sheet
  - RAMP Election document
  - ARC Coversheet with routing barcode
- Veterans or their representatives must opt-in in writing using the RAMP Opt-in Election document
  - Response requested within **60 days** of mailing
  - Mailed, faxed, or directly uploaded through the Dimensions 360 portal

# Sample RAMP Opt-in Election

**SAMPLE**

## RAMP OPT-IN ELECTION

RETURN THIS PAGE ONLY IF YOU WANT TO PARTICIPATE IN RAMP

Once you have read and understood the attached VA letter, please indicate your election by completing and returning this notice with the coversheet provided to the address noted below.

DEPARTMENT OF VETERANS AFFAIRS  
EVIDENCE INTAKE CENTER  
PO BOX 4444  
JANESVILLE WI 53547-4444

By completing this form, I elect to participate in RAMP. I am withdrawing all eligible pending compensation appeals in their entirety, and any associated hearing requests, to participate in VA's RAMP initiative and have my eligible appeals proceed under the new process described in the Appeals Modernization Act. I understand that I cannot return to the current (legacy) appeals system for the issues withdrawn. I also acknowledge that, in the event I want the Board to review my claim, the Board will not consider my appeal until after the new appeals system goes into effect, which will not be earlier than February 2019.

I elect the following review option (select only one):



Supplemental Claim

I elect to have all eligible issues currently on appeal processed as a supplemental claim. I would like to submit or have already submitted new and relevant evidence in support of my claim for benefits. I understand that I have 30 days from the date of my election to submit additional evidence or notify VA of evidence that VA can assist in gathering.



Higher-Level Review

I elect to have all eligible issues currently on appeal reviewed in the higher-level review process. I understand that this review will be based upon the evidence submitted to VA as of the date of this election and VA will not seek additional evidence on my behalf as part of the higher-level review.

Place a check in the box below if you would like a one-time telephonic informal conference with the Higher-Level Reviewer. If you have an accredited representative (VSO, attorney, or agent) please include his or her contact information below. (This option may cause some delay in the processing of your higher-level review.)

Informal Conference Representative/Org. \_\_\_\_\_

Phone Number \_\_\_\_\_

Claimant or Authorized Representative Signature

1/1/2018

Date

# ARC Centralized Mail Coversheet

## NOTICE

### Appeals Resource Center

Please place this cover sheet on top of any information or documents you send in response to this letter. Failure to do so may delay review of the material you submit.

#### Section completed by VA personnel:

VA File Number (or Social Security Number)

Last Name

First Name

Access to these records is limited to: AUTHORIZED PERSONS ONLY.

Information may not be disclosed from this file unless permitted by all applicable legal authorities, which may include the Privacy Act; 38 U.S.C. §§ 5701, 5705, 7332; the Health Insurance Portability and Accountability Act; and regulations implementing those provisions, at 38 C.F.R. §§ 1.460 – 1.599 and 45 C.F.R. Parts 160 and 164.

Anyone who discloses information in violation of the above provisions may be subject to civil and criminal penalties.

Appeals Resource Center/397



Version 1.2 - September 2017

# RAMP Invitation Schedule

Monthly Mailing					
Date	Oldest Appeals	New Appeals (Estimated)	Date	Oldest Appeals	New Appeals (Estimated)
01-Nov-17	500	N/A	1-Jul-18	30,000	12,000
01-Dec-17	5,000	N/A	1-Aug-18	30,000	12,000
01-Jan-18	10,000	N/A	1-Sep-18	30,000	12,000
01-Feb-18	25,000	12,000	1-Oct-18	30,000	12,000
01-Mar-18	25,000	12,000	1-Nov-18	30,000	12,000
01-Apr-18	30,000	12,000	1-Dec-18	30,000	12,000
01-May-18	30,000	12,000	1-Jan-19	N/A	N/A
01-Jun-18	30,000	12,000	<b>1-Feb-19</b>	<b>Appeals Modernization Implementation</b>	
			<b>TOTALS</b>	<b>335,500</b>	<b>132,000</b>

- Invitation by letter each month
- Started with oldest appeals in each appeal stage
- All new appeals added beginning in February 2018
- Follow-up letters sent 45 days after initial invitations
- RO contacts have a complete listing of mailed invitations

# RAMP Data - Overview

- Letters sent: **15,500\***
  - Elections received:
    - Avg. NOD to Opt-in = 1,413 days
    - Avg. Opt-in to Completion = 38 days
  - Election Choices:
    - HLR = 68%
    - Suppl. = 32%
  - Elections Completed:
    - 54% Grant Rate
    - \$2,919,650

\*Data from mail batch:  
**Nov 1, 2017 – Jan 31, 2018**  
*Initial invitations for Veterans with oldest appeals only.*

**Feb 1, 2018 = 35,087**  
**new invitation letters mailed**  
Oldest and newer appeals  
No results data available yet

# Outcomes

- One Veteran wrote to his VSO representative, “I was awarded my [total disability evaluation] as of January 10, 2018, via the RAMP program . . . I had a nice check in the bank. Thanks so much for all your help. It has been a long road to get there, but it all has been worth it in the end.” His representative reported, “**Another happy Veteran . . . RAMP worked well.**”
- **After 10 years of appealing, a Gulf War Era Veteran receives a 100-percent evaluation in less than two months.** VA denied this Veteran’s claim for a mental health disorder in June 2008. After many years of appeal decisions, including remands from the Board, the Veteran opted into the Higher-Level Review lane in RAMP in November 2017. VA granted service connection with a 100-percent evaluation in 48 days and paid **\$276,490** in retroactive benefits.

# Outcomes

- **A Veteran receives a full grant of benefits in less than 30 days after waiting seven years.** The Veteran submitted a NOD in March 2014 and elected to participate in RAMP in December 2017. VA granted service connection for a mental health disorder, established a 100-percent evaluation effective June 2010, and paid the Veteran **\$104,485** in retroactive benefits.
- **Veteran receives a total disability evaluation retroactive for seven years in 41 days.** In 2014, VA denied this Vietnam Era Veteran's claim for an increased evaluation for his service-connected mental health disorder and entitlement to a total evaluation based upon individual unemployability (TDIU). The veteran elected to participate in RAMP in December 2017. After waiting five years for action on his appeal, he received a grant of benefits in 41 days in RAMP. VA paid the Veteran almost **\$125,000** in retroactive benefits.