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# United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

March 16, 2010

REPLY TO:

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The Honorable Eric K. Shinseki  
Secretary of Veterans Affairs  
810 Vermont Avenue NW  
Washington, DC 20420

Dear Secretary Shinseki,

In arguments before the Supreme Court in the case of *Astrue v. Ratliff*, shocking figures were presented regarding the number of veterans claims where on appeal the government's position is found to be not just wrong but unjustified. In fact, while there was some dispute between the attorney who asserted that the figure was 70% and the government attorney who conceded that the figure was somewhere over 50%, Chief Justice Roberts called the situation "startling." I share the reaction of the Chief Justice and seek answers about how you intend to correct this unacceptable situation.

The severe and growing backlog of veterans' claims at the Department of Veterans Affairs (VA) is well documented and has been a major concern for Congress for some time. However, the alarming information presented in this case sheds new light into just how dysfunctional the situation has become. The fact that the VA's decisions are not only overturned on appeal frequently, but that a majority of claims were so wrongly decided in the first place that the government's position is found to be substantially unjustified would seem to indicate serious systemic problems with the VA's process for approving veterans' claims. This is backed up by anecdotal descriptions I have heard from Iowa veterans describing problems at the VA ranging from miscommunication to mistakes causing unnecessary delays as they work through the claims process.

These erroneous decisions result in hardship for veterans who are forced to wait longer and deal with additional red tape in order to receive the benefits, like health services or disability compensation, to which they are entitled. At the same time, by diverting resources from approving additional claims to dealing with appeals in which the VA's position is not only wrong but without justification, the backlog of claims awaiting approval is only made worse. Furthermore, when a claim goes to appeal and the court finds the government's position to be unjustified, attorneys for the plaintiff are eligible to have their fees paid by the government under the Equal Access to Justice Act. In this way, both the veteran and the taxpayer are needlessly harmed.

To better understand where this situation stands, I ask that you answer the following questions:

1. What is the accurate percentage of veterans claims appeals in federal court where the government's position is found to be unjustified?

RANKING MEMBER,  
FINANCE

Committee Assignments:

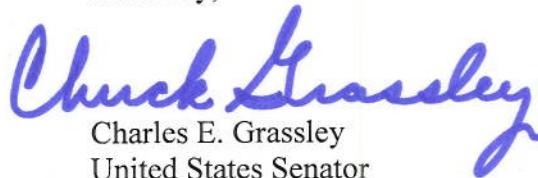
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INTERNATIONAL NARCOTICS  
CONTROL CAUCUS

2. What is the VA doing to improve the quality of VA claims decisions and reduce unnecessary appeals?
3. What is the total amount of attorney's fees paid by the VA under the Equal Access to Justice Act for each of the past 5 years?
4. What is the source of the funds for attorney's fees paid by the VA and were funds diverted from another part of the VA budget to pay these costs?

Congress has provided substantial additional resources for the VA to hire more personnel to process claims and I am certainly open to additional legislative action that would help solve this problem. However, it is clear that devoting more taxpayer dollars alone is not the answer. Clearly, the VA needs to undertake a serious effort to improve the operation of its benefit claims approval system. Until this problem is tackled head on, thousands of veterans who were injured in service to their country will continue to face needless delays and red tape to receive the benefits we owe them and millions of taxpayer dollars will continue to be at risk. I look forward to hearing how you plan to aggressively address this issue and ask that you respond by March 26, 2010.

Sincerely,

  
Charles E. Grassley  
United States Senator