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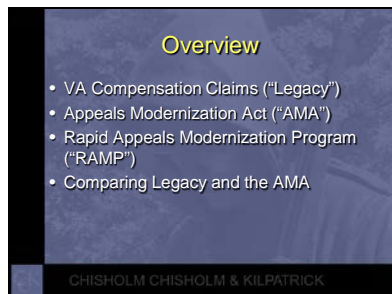
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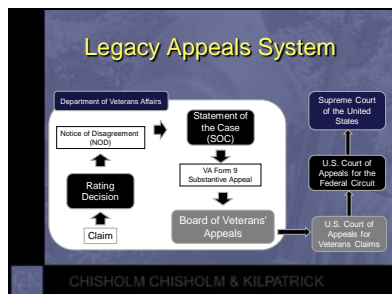
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Slide 3



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Slide 10

**Statement of the Case**

- Issued by the RO
- Typically is a restatement of a denial, but can also include a grant or a partial grant in an accompanying Rating Decision
- Includes citations to statutes and regulations used in making the decision
- Appeal deadline is **60 days** following the date of the notification letter

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Slide 11

**VA Form 9 Substantive Appeal**

- Sent to the RO (or EIC)
- VA Form 9
- Perfects an appeal to the Board of Veterans' Appeals
- Veteran can request a hearing with a Veterans Law Judge at the Board
- Has an option to appeal all issues in the Statement of the Case, or only specified issues

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Slide 12

**Supplemental Statement of the Case**

- Issued by the RO
- Should VA receive any additional evidence prior to certifying the Veteran's file to the Board, this is issued
  - Examples include statements sent by the Veteran, or medical opinions obtained by VA
- If more evidence is submitted/obtained, multiple SSOCs can potentially be issued, catching a veteran in a "hamster wheel" of continued denials before the file is finally certified to the Board
- No response is required, but the deadline to do so is 30 days following the date of the notification letter

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Slide 13

**Board Hearings**

- Optional, and can be requested in the VA Form 9 Substantive Appeal
- Three types, which pertain to location:
  1. Live videoconference
    - The Veteran can go to their local RO, and a Veterans Law Judge at the Board will conduct hearing by videoconference
  2. In Washington, D.C.
    - The veteran travels to Washington, D.C. to appear before a Veterans Law Judge
  3. At a local VA office
    - A Veterans Law Judge will visit the local office for the hearing

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Slide 14

**Board of Veterans' Appeals Decision**

- Can do a combination of things:
  1. Grant an issue
  2. Deny an issue
  3. Remand an issue
  4. Refer an issue
  5. Dismiss an issue (such as withdrawn issues)
- Unfavorable Board decisions can be appealed to the United States Court of Appeals for Veterans Claims **within 120 days**.

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Slide 15

**Board Grant**

- Board grants are implemented by the RO
  - Essentially, "the Board says the thing, the RO then does it"
- Rating Decision is issued by the RO
- If the Board grant is **not** specific to rating and/or effective date, the veteran can file a Notice of Disagreement to appeal for an increased rating and/or earlier effective date

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Slide 16

**Board Denial**

- Can be appealed within **120 days** of the date of the Board decision to the Court of Appeals for Veterans Claims
- Partial grants, where the Board will grant a benefit "but no higher" (a rating) or "but no earlier" (an effective date) can also be appealed to the CAVC

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**Board Remand**

- Remands are not final decisions: If the Board cannot decide one way or the other, the case is sent back to the RO for development.
- Development can include obtaining service records, medical records, and/or new medical opinions or clarifications to existing opinions.
- If the benefit can then be granted, the RO will issue a Rating Decision doing so.
- If the benefit remains denied, a Supplemental Statement of the Case is completed, and the issue is sent right back to the Board for a new decision.

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**Board Referral**

- When the Board notices a claim that was raised but has not been adjudicated by a Rating Decision, that claim is referred back to the Agency of Original Jurisdiction (the AOJ, or the RO) for a decision.
- This can happen following Board hearings, if other issues not on appeal are brought up and discussed.

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Slide 19

**The Board is Working Harder**

- In FY 2017, the BVA made 52,662 decisions.
- In FY 2018, it made 85,286.
- In FY 2019, the BVA has promised to make 90,000 decisions, but we believe it will be over 100,000 decisions.

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Slide 20

**Reasons for Appeals Reform**

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Slide 21

**Appeals Backlog**

- In 2015, VA's Veterans Benefits Administration (VBA) had 425,000 appeals for compensation benefits pending.
- The average wait time was estimated to be 3 years for a Veteran's appeal to be adjudicated.
- Appeals are increasing at a rate of 20% every year.
  - At this rate, by 2026, the average wait time in the legacy system could rise to eight and a half years.

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Slide 22

**Average Timeframes**

- A March 2017 U.S. Government Accountability Office report found, on average:
  - Regional Offices take **419 days** from receipt of an NOD to issuance of an SOC
  - **537 days** after receiving a VA Form 9 Appeal, the perfected appeal is certified to the Board
  - **222 days** after certification, the appeal is placed on the Board's docket
  - Once docketed, it is **270 days** before the Board issues a decision on the appeal

Source: GAO-17-234, VA Disability Benefits: Additional Planning Would Enhance Efforts to Improve the Timeliness of Appeals Decisions

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Slide 23

**New Appeals Law**

- The Veterans Appeals Improvement and Modernization Act of 2017 ("AMA") became law on August 23, 2017 (Pub L. 115-55).
- Under the new laws, the appeals process changed.
- Appeals still pending within the old system will be called "Legacy appeals."
- The AMA went into effect on **February 19, 2019**.

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Slide 24

**The New VA Appeals System**

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Slide 25

### Appeals Reform

- Opting in: Veterans with any pending legacy appeals can only opt into the New System after receipt of:
  - An SOC
  - An SSOC
- Note that this is different from RAMP, which allowed Veterans to opt in at the NOD, Form 9, BVA certification, or BVA remand stages.

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Slide 26

### Appeals Reform

- Veterans have 3 options to choose from when filing an appeal with a Rating Decision, called "lanes."
  - Supplemental Claim Lane
  - Higher Level Review Lane
  - Board Review Lane
- If appealing, the deadline to do so will be within 1 year of the Rating Decision.

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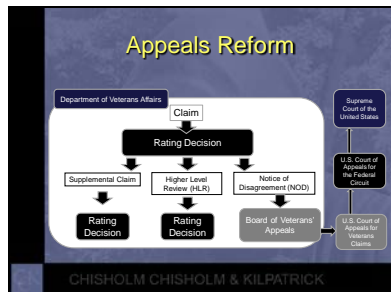
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Slide 28

**Supplemental Claim Lane**

- Case will be reviewed by VBA based on additional evidence that is *new and relevant* to benefits sought.
- New and relevant evidence
  - New: not previously before the adjudicator.
  - Relevant: the evidence tends to prove or disprove an issue in the case.

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**Supplemental Claim Lane**

- Duty to assist applies. VA will assist the claimant in obtaining evidence.
- Results in a Rating Decision.

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Slide 30

**Higher Level Review**

- Authority to conduct higher level reviews is granted to Decision Review Officers (DROs) for rating issues and to Senior Veterans Service Representatives (SVSRs) or Authorization Quality Review Specialist (AQRs) for non-rating issues.

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Slide 31

### Higher Level Review

- The duty to assist does not apply here.
- But, when a duty to assist error is noted, a higher-level reviewer must return the claim to the supplemental claim lane unless the maximum benefit can be granted.

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### Higher Level Review

- Can request an informal conference.
- Cannot request a DRO hearing.
- Results in a Rating Decision.

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### Comparing AMA Lanes

Supplemental Claim Lane	Higher-Level Review Lane
<ul style="list-style-type: none"><li>• VA will readjudicate a claim if "new and relevant" evidence is presented or identified with a supplemental claim (open record)</li><li>• VA will assist in gathering new and relevant evidence (duty to assist)</li><li>• Effective date for benefits protected (submitted within 1 year of decision)</li><li>• Replaces "reopening" claims with "new and relevant" evidence</li></ul>	<ul style="list-style-type: none"><li>• More experienced VA employee takes a second look at the same evidence (closed record and no duty to assist)</li><li>• Option for a one-time telephonic informal conference with the higher-level reviewer to discuss the error in the prior decision</li><li>• De novo review with full difference of opinion authority</li><li>• Duty to assist errors returned supplemental claim lane to correct</li></ul>

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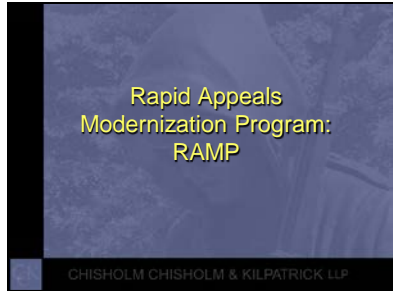
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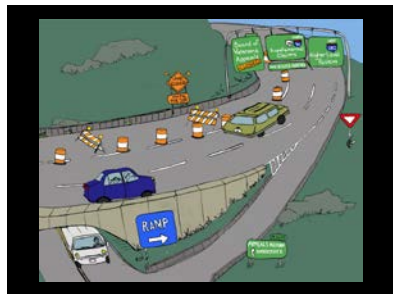
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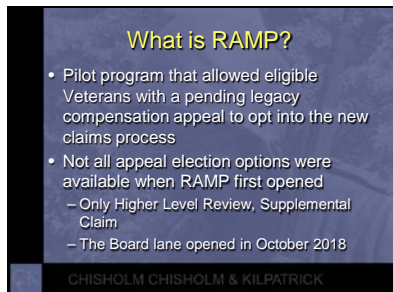
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Slide 49

**RAMP Decisions**

- To feature improved decision notices, containing:
  - Identification of the issues adjudicated
  - A summary of the evidence considered
  - An explanation of the laws and regulations applicable to the claim

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Slide 50

**RAMP Decisions**

- Summary of any findings made by an adjudicator that are favorable to the Veteran
- For denied claim, will identify element(s) required to grant claim that were not met
- Identification of the criteria required to grant the next highest level of compensation

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**RAMP Decisions**

- An explanation of how to obtain or access evidence used in making the decision
- A summary of the applicable review options available for the claimant to seek review of the decision

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Slide 55

**RAMP In Review**

- As of November 2018, approximately 75,000 legacy appeals were transferred into RAMP.
- The average processing time for a decision was approximately 119 days.
- RAMP ran through February 19, 2019, at which time the AMA became effective. All RAMP cases are now treated as AMA cases.

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Slide 56

**Legacy v. AMA**

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Slide 57

**How do AMA cases differ from Legacy cases?**

- Effective dates will be preserved as long as a timely appeal (one year) is filed and a lane is selected.
- Factual findings that are favorable to the Veteran will be preserved and cannot be overturned without clear and convincing evidence.
- Decisions will be clearer, to include favorable findings of fact and applicable statutes and regulations.

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**What kind of fee can you charge?**

Under 38 C.F.R. § 14.636(f):

- 20% fee agreement is presumptively reasonable
- Any fee in excess of 33% is presumptively unreasonable

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**When can you charge a fee?**  
**Legacy:**

- There are two separate triggers for fees:
  - For all cases in which a Notice of Disagreement (NOD) was filed before June 20, 2007, the trigger is the first final decision of the BVA or Court representation
  - For all cases in which the Notice of Disagreement was filed after June 20, 2007, the filing of the NOD is the trigger for fees

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**When can you charge a fee?**  
**Legacy:**

- After the Board of Veterans' Appeals first makes a final decision in the case
  - 5904(c)(1) "a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services of agents and attorneys with respect to services provided before the date of which the Board of Veterans' Appeals first makes a final decision in the case."

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