

VA | Appeals Modernization Act

February 2021

Slides prepared by Office of Administrative Review, VBA



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U.S. Department
of Veterans Affairs

VA's Appeals Modernization Promise

To Resolve Legacy Appeals While Timely Processing AMA Claims and Appeals



Goals and Objectives

- Executing VA's legacy appeals resolution plan
- Processing AMA appeals concurrently



Strategic Approach

- Continuous stakeholder engagement including conducting surveys
- Monitor AMA and legacy appeals workload & allocate resources to meet goals

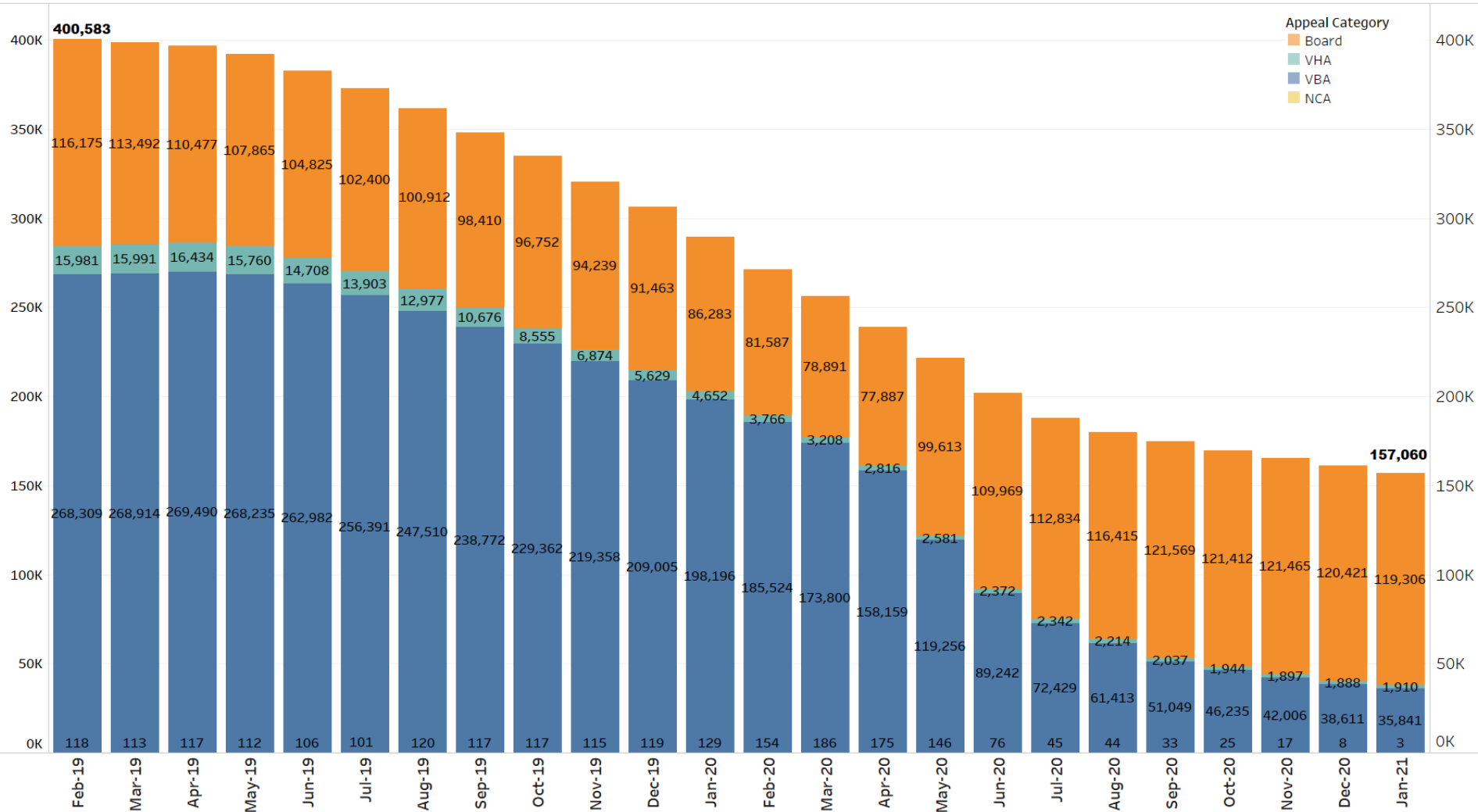


Scope and Context

- Prioritized resolution of legacy appeals
- No substantive change to law regarding Veterans benefits entitlement
- Continuous investment in workforce & training



VA's Legacy Appeals



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VA Legacy Workload Breakout

Total inventory (VA-wide) is **157,060**

Agency of Original Jurisdiction

Appeal Stage	VBA	VHA	NCA
Notice of Disagreement	2,587	1,247	0
Statement of the Case*	1,227	50	2
Form 9	684	72	0
Remands	31,343	541	1
Total Inventory	35,841	1,910	3

*Awaiting Veteran action. These appeals drop from the inventory if the Veteran does not respond with a Form 9 within 60 days.

Board of Veterans' Appeals

Board Inventory	118,519	769	18
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Data date: January 31, 2021



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Oversight: AMA Decision Reviews

The *Veterans Appeals Improvement and Modernization Act of 2017* (AMA), fully implemented on February 19, 2019, provides claimants who disagree with a VA claims decision with the choice of 3 decision-review options:

- 1) supplemental claim, 2) higher-level review, or 3) appeal directly to the Board of Veterans' Appeals.

VBA has oversight of the following two administrative review options:

**Supplemental
Claim**

**Higher-Level
Review**



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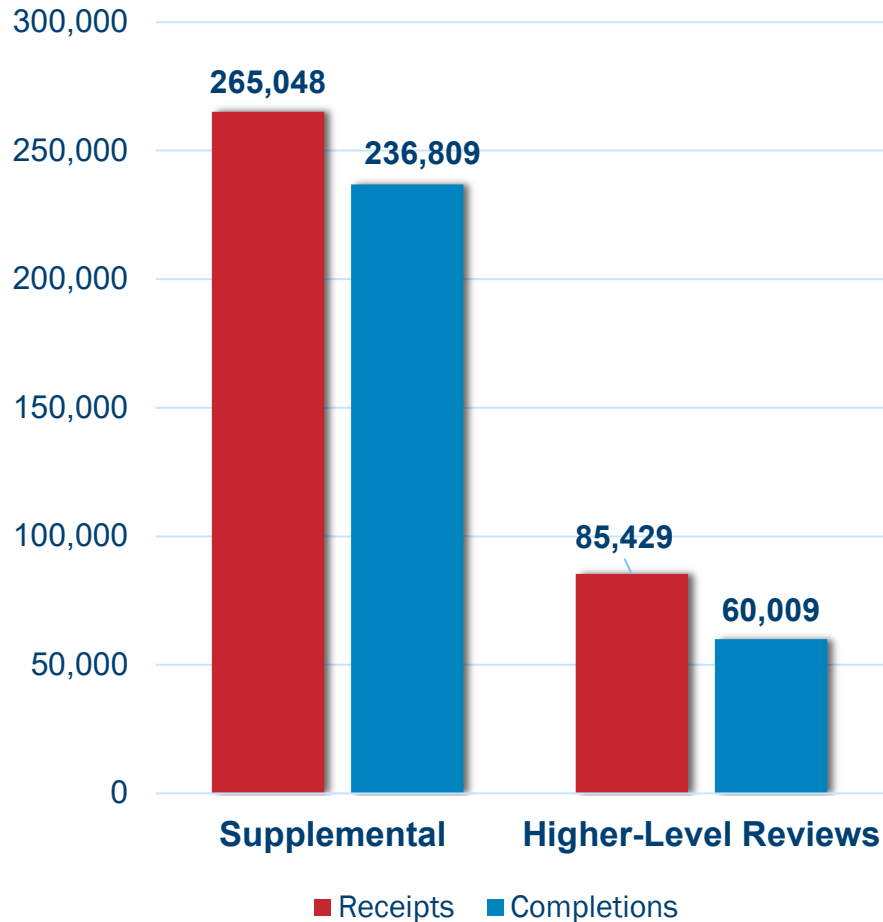
AMA – Three Review Options

VBA		BVA
Supplemental Claim <ul style="list-style-type: none"> Replaces “reconsiderations” and “reopening” claims with “new and material” evidence 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 is always protected when submitted within 1 year of prior decision. Tracked and controlled under EP 040 series Decisionmakers are Veterans Service Representatives (VSRs) and Rating VSRs (RVSRs) 	Higher-Level Review <ul style="list-style-type: none"> 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 <i>De novo</i> review with full difference of opinion authority Duty to assist errors returned to lower-level for correction (quality feedback) Tracked and controlled under EP 030 series Decisionmakers are Decision Review Officers (DROs) and Senior VSRs 	Board Appeal <ul style="list-style-type: none"> Evidence only docket: The appellant may submit evidence within 90 days following submission of the NOD. The Board does not have a duty to assist, and the record is otherwise closed. Direct docket: 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: The appellant is scheduled for a hearing. Additionally, the appellant may submit evidence within 90 days following the scheduled hearing. The Board does not have a duty to assist and the record is otherwise closed.

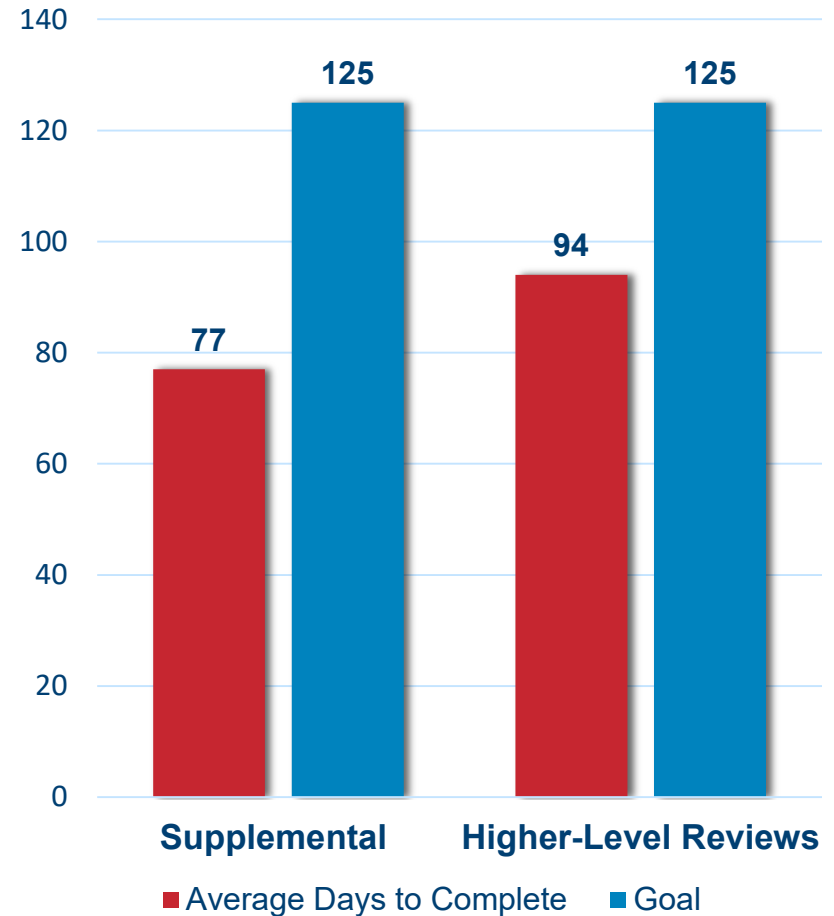


FY 2020 VBA AMA Data

Receipts and Completions



Timeliness



Data date: September 30, 2020



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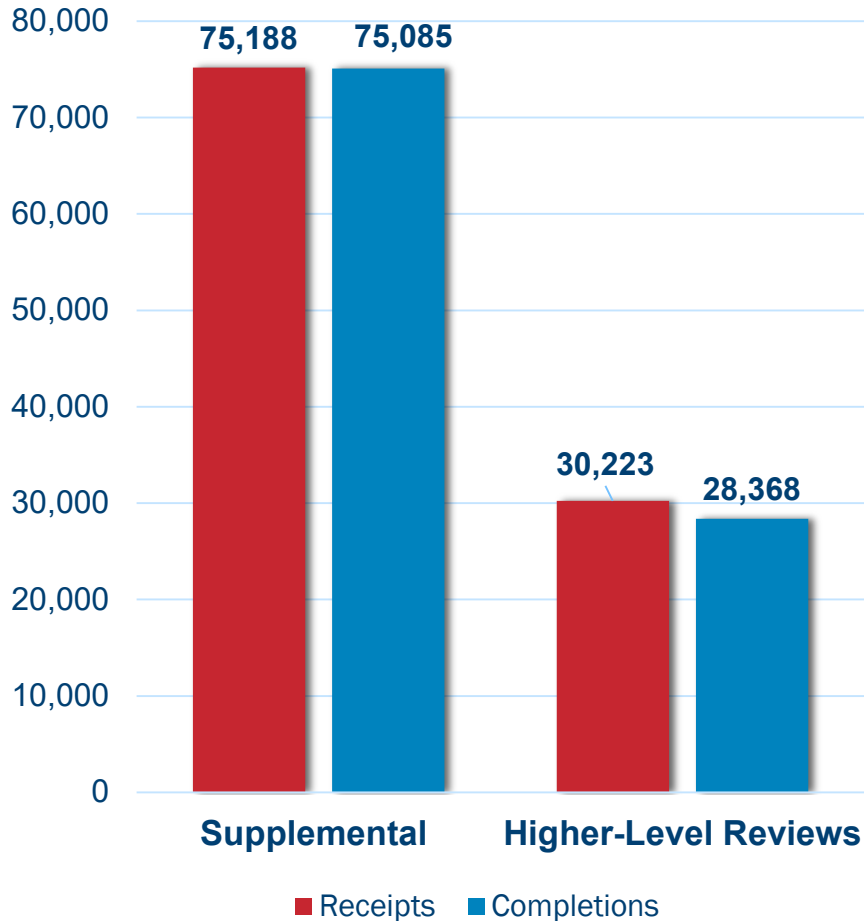
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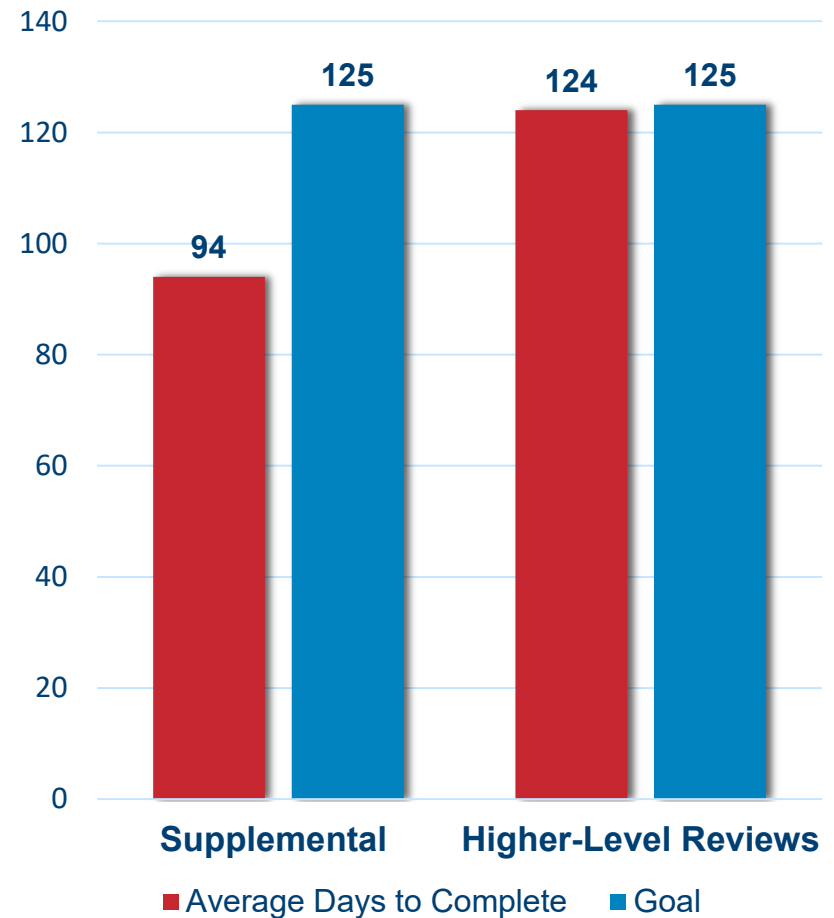
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FY 2021 VBA AMA Data

Receipts and Completions



Timeliness



Data date: January 31, 2021

VBA AMA Grant Rate

Lane

Grant Rate
(FY through 01/31/2021)

HLR

17.3% (claim based)

9.8% (issue based)

**Supplemental
Claim**

48.4% (claim based)

36.1% (issue based)



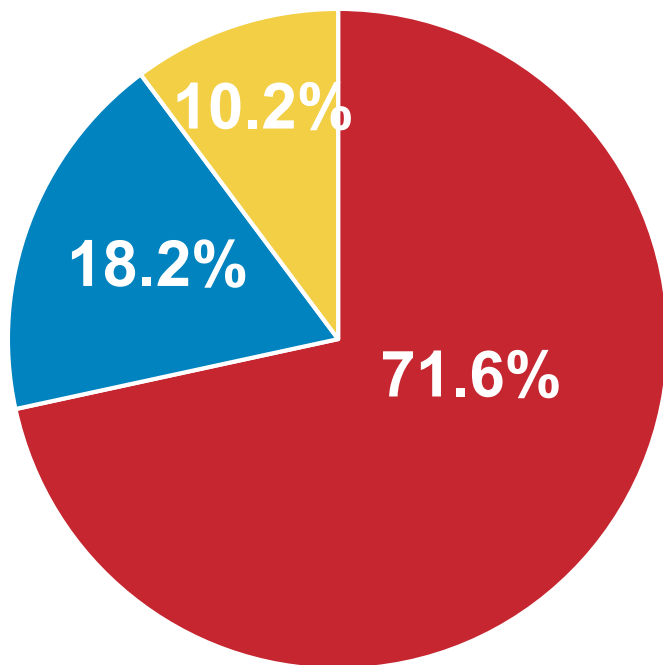
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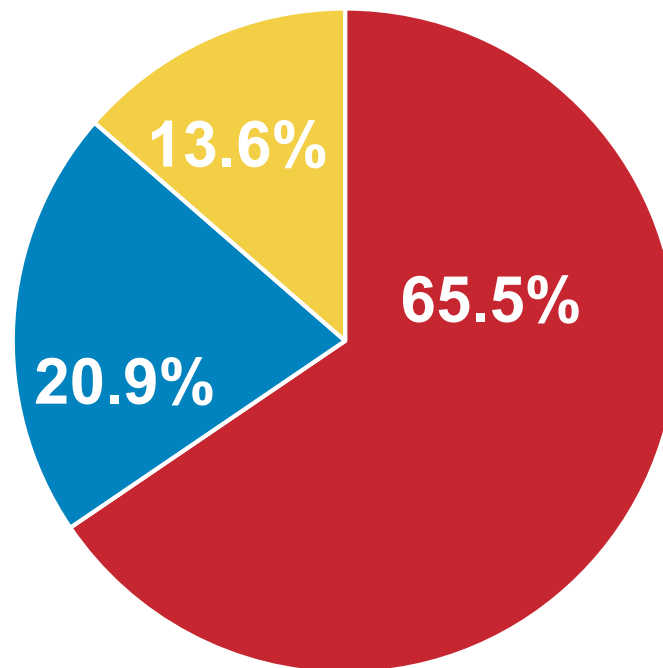
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AMA Choices – FY20 v. FY21 (Initial Filings)



FY20

- Supplemental
- Higher-Level Review
- Appeal to the Board



FY21

- Supplemental
- Higher-Level Review
- Appeal to the Board

Data date: 01/31/2021



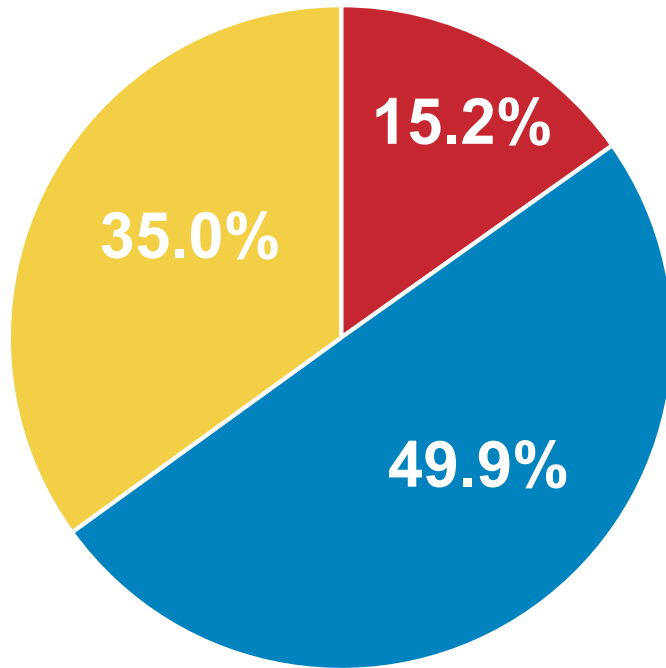
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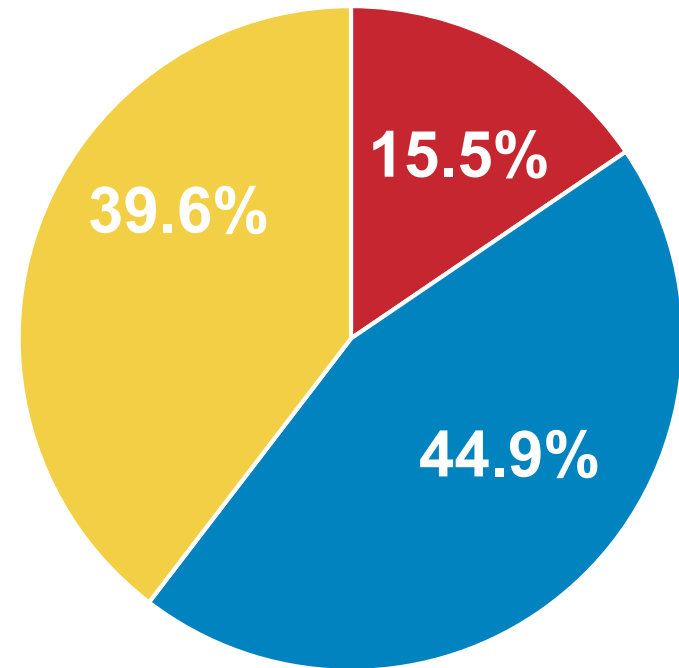
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AMA Choices – FY20 v. FY21 (Refiled Requests)



FY20

- Supplemental
- Higher-Level Review
- Appeal to the Board



FY21

- Supplemental
- Higher-Level Review
- Appeal to the Board

Data date: 01/31/2021



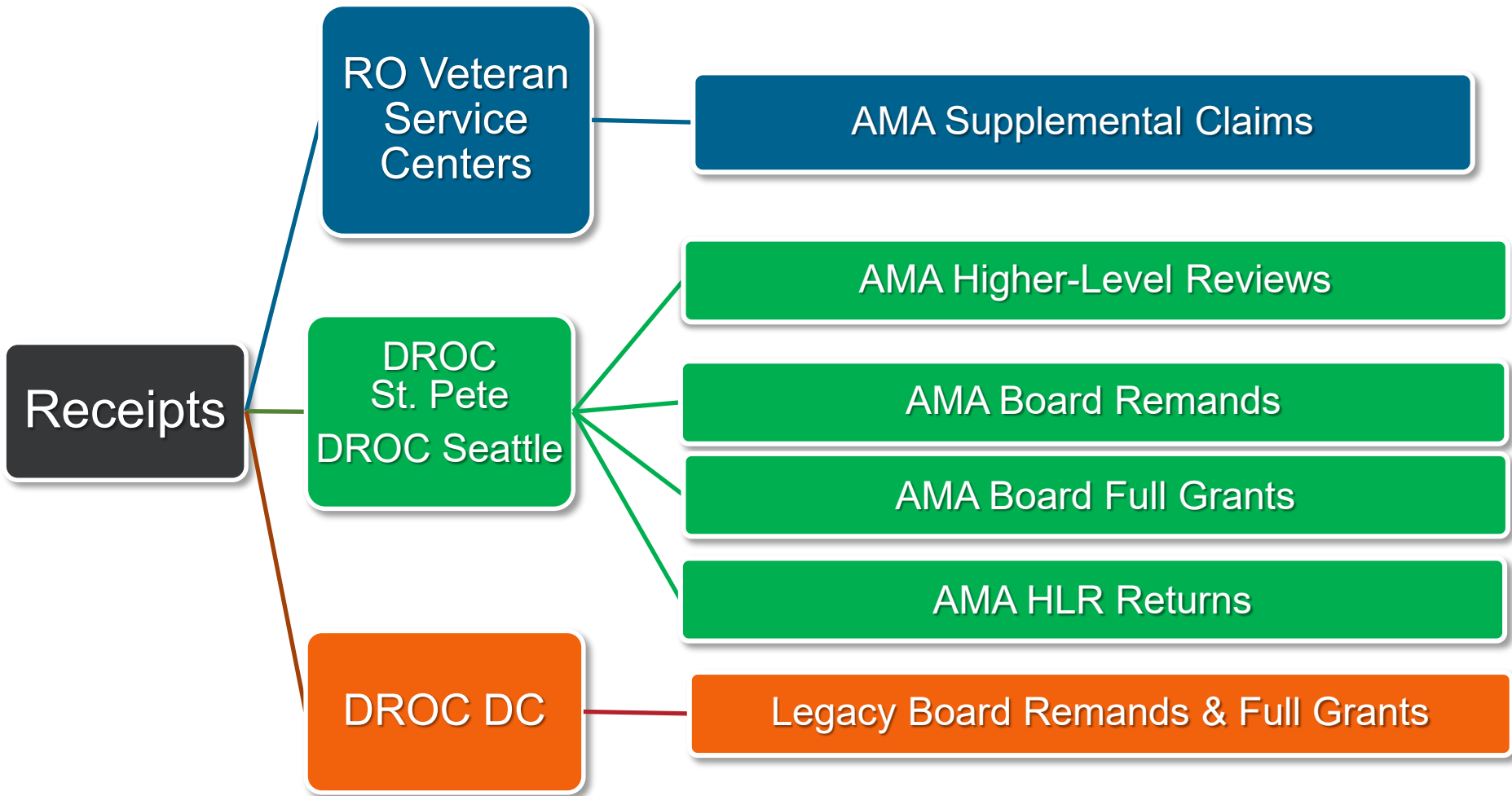
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VBA AMA/Appeals Workload Distribution (End State)



Forms Redesign

- VBA's Office of Administrative Review (OAR) is currently working to create an online submission platform on VA.gov for AMA requests and is also working on changes to the following AMA forms to make them more efficient/easier to navigate:
 - *Form 20-0996, Decision Review Request: Higher-Level Review*
 - *Form 20-0998, Your Rights to Seek Further Review of Our Decision*
- OAR collected feedback from Veterans, attorney representatives, VSOs, and VA Employees in support of updates. Feedback included:
 - Changing *Informal Conference* section to include fields for representative name and phone number
 - Adding examples to *Specific Issues* section to assist claimants
 - Streamlining the *Signature* section of the 0996 form
 - Clarifying that claimants can choose *any available review option* on the 0998 form and do not have to choose certain options first



AMA Opt-in

- VBA continues to promote the opt-in opportunity to legacy claimants following the Statement of Case (SOC)/Supplemental SOC (SSOC)
 - Legacy claimants have 60 days from date of SOC/SSOC
- VBA encourages consideration of opt-in for legacy appeals following issuance of an SOC or SSOC to receive faster claim resolution
- VBA is updating VA Form 20-0996 to separate SOC/SSOC Opt-In into its own section to assist both legacy claimants and VBA processors
- VBA's OAR designed and assigned mandatory refresher trainings to address AMA intake errors to include SOC/SSOC opt-in issues
- VBA created a separate mail queue for SOC/SSOC opt-ins to prioritize processing and assist VBA processors



Why Should a Claimant Opt-in?

- Consider opting-in from the legacy system following issuance of an SOC/SSOC as a way to get faster claims resolution – VBA’s goal is to issue decisions in 125 days on average for supplemental claims and HLRs
- If claimant has multiple issues on appeal, they may select a different AMA review option for each separate issue on appeal
- If claimant is not satisfied with the results of the option they chose, AMA provides the opportunity to pursue other eligible AMA options
 - This includes retaining the option to appeal to the Board
- Under AMA, claimants who opt-in maintain the same potential effective date for benefits regardless of the review option they choose
- [YouTube video](#) on opting-in



AMA VSignals Survey

- In July 2020, VBA deployed three electronic surveys to capture the end-to-end experience for VBA's two decision review processes
- First survey goes out at the beginning of the selected decision review; second survey goes out once the process is completed
 - All claimants receive the first survey, then receive the applicable second survey based on which process they selected
- Results are used to understand the customer experience and identify opportunities for process improvements
- FY21 through January 31, 2021:
 - Surveys sent: 44,625
 - Responses received: 9,814
 - Response rate: 22.0%



Electronic Submission of HLRs

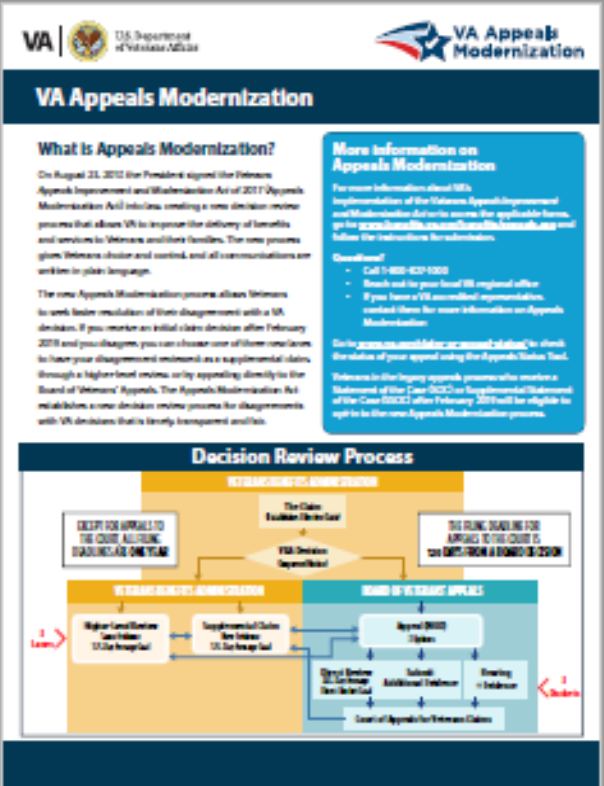
- Office of Administrative Review (OAR) deployed functionality within VA.gov on January 26, 2021, providing Veterans the option for electronic submission of Higher-Level Reviews (HLRs).
- The interface in VA.gov uses an interview format to guide Veterans through the HLR application process
 - Veterans are automatically presented with eligible Compensation and Pension disability decisions
 - Veterans may request an Informal Conference
 - Upon completion, an electronic VA Form 20-0996, Decision Review Request: Higher-Level Review, is submitted automatically to Centralized Mail, established in Caseflow and placed under control via VBMS



Resources & Materials

The following resources can be found on the [VA.gov](https://benefits.va.gov/benefits/appeals.asp) website at <https://benefits.va.gov/benefits/appeals.asp>

- Brochure
- FAQs
- Fact Sheet
- Infographic
- Video
- Poster



The poster is titled "VA Appeals Modernization" and features the VA logo and "U.S. Department of Veterans Affairs" on the left, and "VA Appeals Modernization" with a star logo on the right. The main heading is "VA Appeals Modernization". Below this, there are two columns of text. The left column is titled "What is Appeals Modernization?" and describes the implementation of the Veterans Appeals Improvement and Modernization Act of 2017, highlighting a new decision review process that allows VA to improve the delivery of benefits and services to Veterans and their families. The right column is titled "More information on Appeals Modernization" and provides contact information for the VA Call Center (1-800-424-1000) and instructions on how to file an appeal. Below the text is a flowchart titled "Decision Review Process". The flowchart starts with "VETERAN SUBmits APPLICATION" and branches into "The Claim is Under Review" and "VA Decision Issued". From "VA Decision Issued", it branches into "VETERAN APPEALS DECISION" and "BOARD OF VETERAN APPEALS". The "VETERAN APPEALS DECISION" path includes "Request Level Review" (with "VA Decision" and "VA Decision" boxes) and "Supplemental Claims" (with "VA Decision" and "VA Decision" boxes). The "BOARD OF VETERAN APPEALS" path includes "Appeal (NND) System", "VA Decision", "Supplemental Evidence", "Hearing Evidence", and "Court of Appeals for Veterans Claims". Red arrows labeled "1" point to the "Request Level Review" and "Supplemental Claims" boxes, and a red arrow labeled "2" points to the "Court of Appeals for Veterans Claims" box.

Claimants can find information on filing requirements and the forms to apply at <https://www.va.gov/decision-reviews>.