

TECHNOLOGY MARCHES AHEAD AT VA

Is It Leaving Some Veterans and Advocates Behind?

By Chantal Wentworth-Mullin

AT A GLANCE

VA technological modernization has undoubtedly provided useful efficiencies and improvements to the process of applying and advocating for veterans' benefits. However, the focus on modernization, without acknowledging access issues, has also created barriers.



On the modernization landing page of its website, the U.S. Department of Veterans Affairs states that “modernization is delivering a stronger future by transforming VA into a high-performing organization that is simplifying operations and empowering employees to deliver superior customer service, while enabling veterans to more easily access the high-quality care and benefits they have earned.”¹ With the VA modernization goal in mind, this article focuses on existing and emerging technology within the Veterans Benefits Administration (VBA); electronic access to veterans’ claim files; VA use of artificial intelligence optical reading technologies; the direct upload process; and virtual hearings. Many of the changes VA has implemented have provided greater efficiency for veterans and their families; for others, they have created roadblocks to advocacy.

Case study: The challenges and cost of VA technological modernization

VA has a history of missteps trying to integrate efficient technology. Perhaps the latest and most widely known stumble is the nearly 20 years and \$16 billion (thus far) the agency has spent on electronic medical records systemization.² Arguably, this change is necessary for VA. In nearly all VA medical

centers (VAMCs), a veteran’s records of care are held independent of records at any other VAMC anywhere in the country. Should a veteran move to a different state or seek care from another VAMC, his or her medical records cannot be readily shared from one VA medical center to another. Veterans must obtain a copy of their records and provide them to the new VAMC or complete a medical records request so their records can be accessed at another center.

VA intended to create a system through which a veteran’s VAMC records are shared regardless of location. The system is also poised to link with Department of Defense medical records to create ease of access to a full review of a veteran’s medical history and smooth transitions from one system to another. Such a system will be especially helpful for capturing records from overseas military treatment hospitals, on-base or on-post hospital emergency rooms, and medical visits during boot camp — all of which have proven troublesome to retrieve.³

In 2001, VA made its first attempt to modernize and standardize its health records. Due to deadlines, costs, and auditing failures, the agency stopped funding the project in 2009.⁴ Two years later, VA made another attempt at health-record modernization in coordination with the Department of Defense, only to pull the plug in 2013 because of deadlines and



cost issues.⁵ Later in 2013, it launched another modernization effort, co-opting the Department of Defense electronic records system.⁶ VA transitioned to the system it currently uses in 2018, and ever-optimistic projections earlier this year claimed that the Department of Defense should have its system fully in place by 2023, with VA following in 2027.⁷

This timeline for the Electronic Health Record Modernization Program (EHRP) highlights just a portion of the cost of VA's modernization and its impulse to leap to change without the proper contingencies in place. Recent news has confirmed fiscal and deadline concerns. After a push from the Senate Committee on Veterans' Affairs, VA on March 19 "initiated a strategic review" of this system.⁸ This was triggered by concerns over the performance of the EHRP pilot program at the Mann-Grandstaff VA Medical Center in Spokane, Washington, which has resulted in errors in prescriptions, patient access, and training.⁹

The Veterans Benefits Management System

Viewing a veteran's electronic file requires his or her representative to hold valid power of attorney over the veteran's claims at VA¹⁰ and the ability to access the Veterans Benefits Management System (VBMS), the VA client portal.¹¹ A VA-accredited attorney or agent (e.g., a veteran service officer, or VSO) may be granted a contractor's account that provides access to VBMS, allowing the representative to view a veteran client's files.¹² This access requires attorneys to follow VA's training and security process, which is initiated and facilitated by the local VA regional office.¹³ Not all VA-accredited advocates use VBMS, but it is one of the most important tools they can obtain.

Why is access to VBMS so helpful and why should advocates actively work to incorporate it into their practice? In VBMS, an advocate can view the veteran's complete claims history. In addition, an advocate can track pending claims in real time and view any correspondence from VA prior to its mailing.

If the veteran client previously filed a claim with VA, VBMS can potentially offer instant access to personnel records, service treatment records, and other records or documents in VA's possession. This has been especially important since the onset of the COVID-19 pandemic, as the National Archives has functioned on a skeleton staff and provides records only to "support burial honors for deceased veterans; life-threatening medical emergencies; requests from homeless shelters

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seeking to gain admittance of a homeless veteran; and comparable emergencies."¹⁴ All other veterans with claims before the VBA whose service records are not already in their file must wait until the National Archives is up and running again.

Without VBMS access, advocates are beholden to regularly calling the VA toll-free line for claim status updates and the U.S. mail for receiving any communication from the agency.¹⁵ Should an advocate want to view the complete documentation in a veteran's claims file (C-file), the advocate or veteran must order a copy from

VA. The wait time for a C-file can be more than a year and it only includes the documents in the file on the day that it was copied. The process takes so long that the C-files are often received long past the time they were needed.

Unfortunately, a veteran cannot obtain documents in his or her benefits file electronically. Through their eBenefits¹⁶ accounts, veterans can only access the *status* of their current claims and appeals, and the experience of many veterans is that the accuracy of the claim status is "touch and go."¹⁷ Advocates do veterans a great service by gaining access to VBA files through VBMS, allowing them to provide veterans far better representation along the way.

AI technologies and substituting forms

VA has leaned heavily on computerized optical character recognition (artificial intelligence, or AI) to automate its categorization and upload processes for documents submitted to the VBA by veterans and advocates. Because they're read by computers, all submitted documents are reformatted to maximize AI efficiency and accuracy. For this reason, all advocates should check routinely on VA's website to confirm they are using the most recent version of the form that they are submitting.¹⁸

The AI reading technology has produced the unfortunate effect of an incorrect code or name for documents that are *not* on or accompanied by a VA-generated form. For example, if a cover letter is on law school or university letterhead, it is not uncommon for the submission to be coded as "education."¹⁹ An advocate's legal brief or memorandum — and even letters from medical providers — can be incorrectly coded as "third-party correspondence." Attachments to a brief, memorandum, or letter are almost always separated from the main document and uploaded separately, each with different coding. This potentially leaves critical and relevant medical evidence,

legal arguments, or supporting documents overlooked by the decision makers considering the veteran's claim. It is wise for an advocate to monitor uploaded documents in VBMS, review the coding for accuracy, and call VA and request a correction if necessary.

Direct upload of submitted documents

In early 2021, veterans' advocates were informed that VA would soon be eliminating faxes as a means of submission. After a nationwide outcry, VA put this elimination on temporary hold. It is inevitable, though, that fax submissions will soon be a thing of the past. The replacement for fax submissions — direct upload — is already available. Direct upload can be accessed by veteran representatives with personal identity verification²⁰ or network access (such as through their VA contractor's account) or with the proper id.me credentials.²¹ Veterans may submit documents via direct upload using the id.me platform or with premium access on eBenefits.

If veterans or their advocates possess the necessary technology (a computer, high-speed internet, a scanner, or e-signing capability) and access to a supporting platform, there are up-sides to direct upload. First, there is a significant improvement in the visual quality of the documents versus the visual quality of a fax or an onsite upload of a document mailed to VA. Second, documents submitted via direct upload appear in the veteran's claims very quickly. In fact, documents uploaded using single sign-on via a VA contractor's desktop can appear in a veteran's file within a matter of hours. After a successful upload, the sender receives email confirmation and access to a bank of the sender's documents with the date they were uploaded.

If the veteran or advocate does not have the requisite technology available for direct upload, the end of fax submission may pose a problem. As a very basic and widely used technology, fax can be accessed by veterans and advocates in stores and libraries; many have fax capability in their homes or offices. Fax machines do not rely on internet connections or cellular signals, nor do they require computer-reliant scanners or printers. It is not unreasonable to expect that any replacement for the fax should *increase* access for veterans and their advocates and not simply increase efficiency for VA.

Virtual hearings

Serendipitously, attending a virtual hearing before the Board of Veterans' Appeals through the VA telehealth platform became an option for all veterans in April 2020.²² In order to appear at a virtual hearing, the veteran or advocate must have a cellphone, iPad or computer with microphone and camera-integrated technology, and internet or cellular service sufficient to support the platform.²³ At our clinic at Syracuse University, we have advocated through virtual hearings since

they became available; the format has proven to be very user friendly and has improved the decision-making process of our veterans' claims. VBA's technical support structure is efficient — if any party encounters technological issues, they are quickly rectified. Even after the COVID-19 pandemic ends, virtual hearings should continue as an option for housebound and transportation-challenged veterans who have the technology.

For veterans living in remote areas where cellular and internet service is patchy or for homeless or low-income veterans lacking the requisite technology, virtual hearings have not been as helpful. This has been compounded by the pandemic as typical locations for hearings (regional offices for video conferences and travel-board hearings and Washington, D.C., for in-person hearings) and convenient alternate locations with borrowed technology continue to be largely closed to the public. If virtual hearings are the future for the VBA, this tool must be implemented with alternative measures for those who cannot access the platform.

Potential solutions

What does a veteran do if he or she lacks the requisite technology or internet? Pre-COVID, many used their local library, nearly all of which offer free Wi-Fi access and computers available for public use. Unfortunately, a significant downside to using a public library is just that — it is public. For example, a veteran looking at his or her eBenefits account on a library computer may be viewing sensitive financial documents, records rife with personal identification information, or health records protected under privacy laws. Veterans taking part in virtual hearings are likely discussing intensely private issues within earshot of strangers or even neighbors or acquaintances. These issues are important to address and, as it turns out, VA may already have a solution.

In response to the plight of veterans in rural areas such as northern Michigan, where veterans often travel an average of 320 miles round trip to access VA health care and internet access can be spotty, VA began a pilot program called ATLAS (Accessing Telehealth Through Local Area Stations).²⁴ The initiative was created with the goal of offering health care closer to veterans' homes, reducing travel times, or making up for a lack of internet and cellular connectivity. ATLAS locations, which include Walmart stores, VFW posts, and American Legion halls, give veterans private spaces with technology and internet access necessary for telehealth visits.²⁵ With ATLAS, VA acknowledged the geographical and technological barriers some veterans face and created a program to address those challenges. ATLAS expansion will provide geographic and technological access to rural veterans by bridging the digital divide.

In yet another helpful program, this one announced in September 2020, VA partnered with Apple to "increase access to

virtual care benefits”²⁶ by providing more than 50,000 veterans with cellular-enabled iPads so they can access the telehealth platform. This program, if expanded or duplicated by the VA Benefits Administration, could reduce barriers to advocacy for veterans, especially those who lack the financial means to access technology.

Conclusion

VA technological modernization has undoubtedly provided useful efficiencies and improvements to the process of applying and advocating for veterans' benefits. On the other hand, the focus on modernization, without acknowledging access issues, has also created barriers. Advocates can provide veterans with access to their records, assist with the direct upload of newer and more complicated VA documents, and facilitate virtual hearings. If VA helps with access to these technologies, as they have with the ATLAS program and the partnership with Apple, it will honor its stated mission: “To care for him who shall have borne the battle and for his widow, and his orphan.”²⁷ ■



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ENDNOTES

1. *VA Modernization*, US Dep't of Veterans Affairs <<https://www.va.gov/modernization/>> [https://perma.cc/2L6K-46RK]. All websites cited in this article were accessed April 17, 2021.
2. *Deficiencies in Infrastructure Readiness for Deploying VA's New Electronic Health Record System* (VA OIG 19-08980-95), Inspector General, US Dep't of Veterans Affairs (2020), available at <<https://www.va.gov/oig/pubs/VAOIG-19-08980-95.pdf>> [https://perma.cc/7EQX-WALJ] and Sisk, *\$16 Billion Electronic Health Records Modernization Plan is Failing*, IG Says, Military.com (April 28, 2020) <<https://www.military.com/daily-news/2020/04/28/vas-16-billion-electronic-health-records-modernization-plan-failing-ig-says.html>> [https://perma.cc/VNH5-Z9F3].
3. Olsen, *Game Changer*, The American Legion Magazine (January 2021), pp 26–28. Reprinted with permission of the magazine.
4. *Timeline: VA's Electronic Health Record History* <<https://www.congress.gov/116/meeting/house/110555/documents/HHRG-116-AP18-20200227-SD001.pdf>> [https://perma.cc/XA5V-M7XP].
5. *Id.*
6. *Id.*
7. *Game Changer*.
8. *VA Announces Strategic Review of Electronic Health Record Modernization Program Following Push from Tester, Moran*, US Senate Comm on Veteran Affairs (March 19, 2021), available at <<https://www.veterans.senate.gov/newsroom/majority-news/va-announces-strategic-review-of-electronic-health-record-modernization-program-following-push-from-tester-moran>> [https://perma.cc/3RSG-DUMJ].
9. Caroll, *After McMorris Rodgers sounds alarm, VA reviewing electronic health record system*, KREM2 (March 19, 2021), available at <<https://www.krem.com/article/news/local/va-reviewing-electronic-health-record-system-mcmorris-rogers-concerns/293-a36aaa06-df04-4aef-8c14-49fa5146d20c>> [https://perma.cc/D3X3-NKBM].
10. VA Form 21.22a, US Dep't of Veterans Affairs, available at <<https://www.vba.va.gov/pubs/forms/vba-21-22a-are.pdf>> [https://perma.cc/CG5L-AXP8].
11. You must have a valid VA Form 21.22a and the veteran's consent for you to be recognized by the US Dep't of Veterans Affairs as having power of attorney.
12. Different than for attorneys or individual agents, veteran service officers (VSOs) have access through their organization's account and “see” the entirety of the organization's veterans (e.g. Disabled American Veterans, American Legion.) VSOs must still go through the accreditation process, training, and pass a background check.
13. Attorneys, prior to COVID, were VA accredited in 30–60 days, and for agents, it was closer to one year. For VBMS access, the time ranges widely. A VBA-wide systemized process for all regional offices to follow would help greatly (thank you to Diane Rauber for this suggestion).
14. *Phased Expansion of Onsite Workforce at the National Personnel Records Center (NPRC) is Underway*, Veterans' Service Records, National Archives (2021) <<https://www.archives.gov/veterans/military-service-records-0>> [https://perma.cc/9NRR-EPZ9].
15. Lately, this has been a significant issue with required responses that have a 30-day deadline. Our mail at the clinic is arriving two weeks after the date of the letter.
16. eBenefits is a web portal managed by both the US Dep't of Veterans Affairs and the US Dep't of Defense to manage agency benefits according to their *eBenefits Fact Sheet*. <http://wdr.doleta.gov/directives/attach/TEN/TEN_19-14eBenefits_FactSheet_Acc.pdf> [https://perma.cc/CVV7-UP2S].
17. I have fielded more than one telephone call from a panicked veteran that eBenefits indicated that their claim had been closed or they had a claim for a condition for which they did not file.
18. *Find a VA Form*, US Dep't of Veterans Affairs, available at <<https://www.va.gov/find-forms/>> [https://perma.cc/RL99-ZUES].
19. Thank you to Hillary Wandler for discussion of this issue.
20. PIV refers to multi-factor authorization cards that are used by federal agencies for access to federal networks, applications, and buildings. See *PIV Guides* available at *Personal Identify Verification Guide Introduction*, FICAM Playbooks <<https://piv.idmanagement.gov/>> [https://perma.cc/E4FR-DGHI].
21. <<https://www.id.me/>> is another approved identity network that allows advocates an alternative to access a direct upload platform that will interface with VA.
22. Enabled by the VA Tele-Hearing Modernization Act, PL 116-137, 134 Stat 616 (2020).
23. *Board of Veterans' Appeals Virtual Tele-Hearing Option*, US Dep't of Veterans Affairs <https://www.bva.va.gov/docs/VirtualHearing_FactSheet.pdf> [https://perma.cc/2WFE-HSW4].
24. *Veteran Healthcare*, Northern Michigan for Veterans <<https://www.northernmichiganforveterans.org/veteran-assistance/veteran-healthcare.html#:~:text=VWhile%20the%20average%20American%20citizen,round%20trip%20to%20receive%20care>> [https://perma.cc/G3SQ-WJUP].
25. *VA and ATLAS*, US Dep't of Veterans Affairs <<https://connectedcare.va.gov/partners/atlas>> [https://perma.cc/E65G-B2J7].
26. *VA expands Veteran access to telehealth and iPad services*, Office of Public and Intergovernmental Affairs, US Dep't of Veterans Affairs (September 15, 2020) <<https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5521>> [https://perma.cc/UD6F-ZGPH].
27. *The Origin of the VA Motto, Lincoln's Second Inaugural Address*, Celebrating America's Freedoms, US Dep't of Veterans Affairs <<https://www.va.gov/opa/publications/celebrate/vamotto.pdf>> [https://perma.cc/FBP9-5856].