



Veterans Affairs
Canada

Anciens Combattants
Canada

**REDRESS FOR THE
NEW VETERANS CHARTER (NVC)
RE-ESTABLISHMENT PROGRAM
REVIEW**
(Rehabilitation and Financial Benefits Programs)

Final: July 2009



Canada 



*This report was prepared by the
Audit and Evaluation Division*

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EXECUTIVE SUMMARY

In 2005, the Government of Canada passed the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRCA), often referred to as the New Veterans Charter (NVC). NVC programs offer releasing Canadian Forces (CF) members, Veterans and their families a modernized, comprehensive and integrated range of compensation and wellness programs to support their rehabilitation and re-establishment from military to civilian life. Two of the new programs are the Rehabilitation and Vocational Assistance program and the Financial Benefits program.

To resolve client concerns relating to delivery of the Rehabilitation and Financial Benefits programs two levels of internal redress (i.e. reviews/appeals) have been established. Also, reviews on the Minister's Own Motion allow Veterans Affairs Canada (VAC) staff to conduct a review where there appears to be an error of fact or law: these do not count for one of the two review levels.

Clients have come to expect redress rights if they are not satisfied with a decision made by VAC: VAC personnel understand that clients have such rights. This is one factor demonstrating relevance of the redress process. A second factor is that Rehabilitation decisions have been overturned at each level of appeal, although the volumes are very low to date. Despite the minimal number of clients who have sought redress for Rehabilitation and Financial Benefits, there remains a need to maintain the two levels of appeal, to allow for opportunities to ensure correct and reasonable decisions, and increase the transparency of the decision making process.

The relevance of the redress process can be enhanced through awareness of the Minister's Own Motion process and its application to the Rehabilitation and Financial Benefits programs. Awareness is low among VAC personnel, and where an own motion review is being applied, it is neither being recorded nor tracked.

The success of the redress process is dependent on several factors: staff have the knowledge and supports available to them to ensure decisions are rendered based on evidence and are within the legislative framework, there is consistency in the decision making process, decisions are made in a timely manner, and clients are satisfied with the process. Although there has been a significant amount of training on the NVC Programs, to date there has been minimal training on the redress process for staff that are directly or indirectly involved or impacted by the process, and there is a lack of documented business processes to ensure all staff are receiving consistent direction when processing NVC redress cases. Without formalized business processes and adequate training on the redress process, inconsistency in decisions could potentially occur and objectivity could be impacted.

Based on the data available during the review, turnaround times (TATs) for the NVC redress processes are performing better than or meeting the interim turnaround time of

12 weeks. VAC needs to establish and implement appropriate TATs, and when volumes increase, ensure the proper supports are in place to continue to meet the TATs.

Survey data on client satisfaction with the NVC redress process is not readily available, and the scope of the review did not allow for collecting client satisfaction data. However, the client file review conducted did anecdotally reveal some dissatisfaction with the both the redress process and outcome of decisions. Implementing a client satisfaction survey instrument would assist VAC management in decision making.

The client files reviewed had minimal evidence or documentation of the process followed and the work performed by the personnel involved in reviewing an appeal request. The absence of this evidence makes it difficult to conclude with absolute certainty on the effectiveness and objectivity of the redress process. Also, the absence of formalized business processes and adequate training on the redress process may lead to inconsistency in decisions.

The design of the Rehabilitation and Financial Benefits redress process was based on the Health Care program redress process. The redress policies for the two programs are mostly similar: differences include the Minister's Own Motion option that is available for the Rehabilitation and Financial Benefits programs, and the reconsideration option that is available in the Health Care program. Similarities also exist with the Disability Program redress process; however, significant differences include the involvement of the Bureau of Pensions Advocates (BPA) and the Veterans Review and Appeal Board (VRAB) in the process and effective dates (Disability Pensions only) that are retroactive when decisions are overturned.

The role of client advocacy, i.e. supporting, interceding, and recommending, on behalf of and for clients throughout the NVC redress process is not clear amongst staff. Various opinions were expressed on the topic, with most interviewees (i.e. VAC staff) recognizing the issue. Opinions ranged from; 1) it is the Area Counsellor's (AC) role to advocate for the client, 2) it might be their role, or 3) it is not the AC's role to advocate for the client in the redress process. Obviously, there is value from both VAC's and the client's perspective in having a person who assists clients with, and through the appeal process: understanding and explaining the decisions, the programs, the governing legislation, the redress process, expected timelines, etc.. When clients approach their AC for assistance with an appeal, both the AC and the client needs to know what support and assistance can be provided.

The effective date for the Rehabilitation Program (i.e. the date a client is considered eligible for the program) is not clearly outlined in the NVC legislation and there is no provision for retroactivity when a decision is overturned upon review. The resulting effective date differs from effective dates in many other VAC programs, in which the effective date can be retroactive to the date of application or original favourable decision

date. There has been confusion over the effective date for the Rehabilitation, and subsequently the Financial Benefits program when decisions are overturned.

Redress Activity: April 2006 to December 2008

Program	# Appeal Decisions	# Overturned
Rehabilitation	15	4
Financial Benefits	14	0

There is no pressing reason at this time to make significant changes to the delivery of the redress process. The process is still in its infancy and the number of appeals has been low to date. However, as the NVC programs mature, VAC senior management should revisit potential options for delivery of the redress process related to the eligibility into the Rehabilitation and Financial Benefits Program.

The relationship between VAC and the Office of the Ombudsman (OVO) is in its infancy stages. From the OVO's perspective, there seems to be a good flow of information between the organizations, but there are concerns that information is being filtered at the first point of contact at VAC (NCCN). Since the relationship between VAC and the Office of the Ombudsman is new, the OVO finds itself in a trust building exercise where they have to instill the purpose, the mandate, and operations of the office multiple times to gain the trust of VAC employees.

The report contains seven recommendations, of which five are deemed "Essential" and two "Important". Refer to Appendix F for definitions of the significance of the recommendations. Detailed recommendations contained in this report are listed below.

RECOMMENDATIONS:

Relevance

- R1 It is recommended that the Director General, Centralized Operations and the Director General, Service Delivery Management: (Essential)**
- 1.1 provide training on the Minister's Own Motion to personnel who are involved in making decisions related to the Rehabilitation and Financial Benefits Programs to ensure it is understood and administered appropriately; and**
 - 1.2 record and monitor use of the Minister's Own Motion, as is done with other redress data.**

Performance - Objectives Achievement

- R2** It is recommended that the Director General, Service Delivery Management train staff involved in the redress process to ensure they have the knowledge to assist clients and make appropriate decisions. (Essential)
- R3** It is recommended that the Director General, Policy and Programs, in conjunction with the Director General, Centralized Operations, develop and implement a survey instrument to collect data for measuring client satisfaction related to the NVC redress process, to assist management in decision-making. (Important)

Performance - Effectiveness

- R4** It is recommended that the Director General, Service Delivery Management, develop and implement business processes for the NVC Rehabilitation and Financial Benefits Programs redress processes, and ensure the processes are utilized and appropriately applied. (Essential)
- R5** It is recommended that the Assistant Deputy Minister, Service Delivery and Commemoration Branch reassess the delegated decision-making authorities for Rehabilitation and Financial Benefits Program appeals to ensure the personnel making the decisions have the authority to do so. (Essential)
- R6** It is recommended that the Director General, Centralized Operations ensure there is sufficient documentation captured and put on the appropriate client file(s) during the appeal process and post decision to support decisions. (Important)
- R7** It is recommended that the Director General, Policy and Programs and the Director General, Service Delivery Management (7.1 only): (Essential)
- 7.1** clarify the Area Counsellor's role regarding the redress process for the Rehabilitation and Financial Benefits Programs, and communicate the role to staff and clients; and
 - 7.2** clearly establish in governing documents (legislation/policy) the effective date for the rehabilitation program for clients who are deemed eligible upon review or Minister's Own Motion.

1.0 INTRODUCTION

1.1 Background of New Veterans Charter (NVC)

In 2005, the Government of Canada passed the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRCA), often referred to as the New Veterans Charter (NVC). NVC programs offer releasing Canadian Forces (CF) members, Veterans and their families a modernized, comprehensive and integrated range of compensation and wellness programs to support their rehabilitation and re-establishment from military to civilian life.

Qualified clients become eligible for a suite of programs designed to address their unique requirements. Among these programs are rehabilitation/vocational assistance services and financial benefits, along with job placement services, disability award and other allowances, and group health insurance.

The expected outcomes from the NVC programs include enabling CF Veterans to:

- experience improved health and functional capacity as a result of access to health benefits and rehabilitative service;
- CF Veterans actively participating in the civilian workforce (unless totally disabled or retired) as a result of access to employment-related supports in the form of Vocational Assistance training and Job Placement assistance;
- accessing a level of income adequate to meet basic needs as a result of enhanced employment opportunities provided by Job Placement assistance, and enabling access to employment enhancement supports such as re-training opportunities as part of vocational rehabilitation;
- actively participating in and integration into their communities; and
- feeling recognized for their contribution to the security of the country.

Rehabilitation Program

The Rehabilitation Program follows Veterans Affairs Canada's (VAC) client-centred case management model focusing on the reasonable restoration of client functioning in five major areas; 1) mental and physical functioning of the client, 2) family relationships, 3) financial security, 4) employment and personal productivity, and 5) community participation. Needs are determined, goals agreed, and a plan established for the provision of services and benefits that will be needed. Services the Rehabilitation Program offers include:

- Medical - Health Care experts will work with clients to stabilize and restore health, make it easier for clients to cope with their health problems, and help the body and mind function as well as possible.
- Psycho/Social - help clients restore their independence and adapt their life to their situation.

- Vocational – helps clients learn if it is possible to transfer skills and education from their military job to a similar civilian job. If not, clients may qualify for training through the Vocational Assistance program.

Financial Benefits Program

The NVC Financial Benefits Program comprises of four components:

1. Earnings Loss (EL) Benefit
2. Supplementary Retirement Benefit
3. Canadian Forces Income Support
4. Permanent Impairment Allowance

The EL Benefit ensures income replacement of up to 75% of the Veterans' gross pre-release military salary while the Veteran is participating in an active Rehabilitation or Vocational Assistance Plan: it is taxable and indexed annually.

The Supplementary Retirement Benefit (SRB) is a lump sum taxable benefit that is payable to a Veteran at age 65 who received an EL benefit due to total and permanent incapacity and whose EL benefit has ceased. This makes up for the lost opportunity to contribute to a retirement fund after being released from the Forces.

The Canadian Forces Income Support (CFIS) Benefit is available to CF Veterans who have successfully completed a rehabilitation program, are capable of working, but are not yet employed or are not employed or underemployed.

The Permanent Impairment Allowance (PIA) is a taxable monthly benefit payable to eligible CF Veterans who have one or more physical or mental health problems that are creating a permanent and severe impairment for which the Veteran has received a Disability Award.

Table 1 below shows the program activity in terms of the number of client applications, decisions, approvals and denials for the Rehabilitation and Earnings Loss (EL) programs.

Table 1: NVC Program Activity as of February 28, 2009

Program	Applications Received	Decisions Completed	Eligible	% Eligible	Denied	% Denied
Rehabilitation	3505	3126	2927	94%	199	6%
Earnings Loss*	3528	2881	2862	99%	19	1%

* Activity for the other Financial Benefits programs is not represented due to low numbers

1.2 NVC Redress for Rehabilitation and Financial Benefits Programs

The Rehabilitation Program is a gateway into a suite of VAC's benefits and services, including the Financial Benefits Program. Given that the Department makes important decisions that may significantly impact clients' eligibility for the rehabilitation (including Vocational Assistance), and Financial Benefits Programs, it is important that clients have a means of seeking a review of decisions. Similar to redress processes for other VAC programs, two levels of redress have been established to resolve clients concerns relating to delivery of the Rehabilitation and Financial Benefits Programs. Also, reviews on the Minister's Own Motion allow VAC staff to conduct a review where there appears to have been an error of fact or law. The table below outlines the two levels of review and corresponding decision-makers.

Table 2: Levels of Review and Corresponding Decision Makers*

Program	Original Decision Maker	First Level of Review Decision Maker	Final Level of Review Decision Maker
Rehabilitation and Vocational Assistance	Area Counsellor (Case Manger)	Regional Director, Client Services (RDCS)	Director, Program Operations
Earnings Loss	Area Counsellor	Regional Director, Client Services (RDCS)	Director, Program Operations
	Centralized Processing Centre (CPC): amount of benefit	Manager, Appeals Unit	Director, Program Operations
Survivor/Orphan Earnings Loss	Centralized Processing Centre	Manager, Appeals Unit	Director, Program Operations
Canadian Forces Income Support	Centralized Processing Centre	Manager, Appeals Unit	Director, Program Operations
Supplementary Retirement Benefit	Centralized Processing Centre	Manager, Appeals Unit	Director, Program Operations
Permanent Impairment Allowance	Disability Adjudication	Manager, Appeals Unit	Director, Program Operations

* Is the intent of who decision makers should be, the policy is not updated to reflect changes

A client who is dissatisfied with a Departmental decision relating to rehabilitation services, vocational assistance or financial benefits has the right to apply for a review of the original decision or of a first level appeal decision. The request for redress review must be received in writing within 60 days of receiving notice of the original decision. The review is to be conducted by a person other than the original decision-maker, and is based on a written submission from the client. The Department communicates its decision to the client in writing, and provides reasons for the decision.

The first level review decision will advise the client of their right to seek a review of the first review decision, and will provide the contact information of the Departmental official to whom the request for review may be sent. The applicant is informed of their obligation to provide information as grounds or reasons for requesting further review of a first-level review decision. The decision letter should explain as fully as possible the type of information that will satisfy this requirement (i.e. new evidence not available at the time of the original decision or first level review decision/information regarding an error with respect to any finding of fact or the interpretation of law).

The application for second level redress review must be in writing and submitted within 60 days of receiving notice of the first level review decision. The second level review is conducted by a person other than the original decision-maker or the person who conducted the first level review. The outcome of the appeal will be that the original decision is confirmed, amended or rescinded on the basis of new evidence or on the Minister's determination that there was an error of fact or law. Again, VAC communicates its review decision to the client in writing, and provides reasons for the decision. The second level of review is the final level of review on application available to affected persons. See Appendix A and B for the NVC redress process for Rehabilitation and Financial Benefits.

Another level of decision allows for original decisions, and first or second level review decisions to be reviewed on the Minister's Own Motion. Minister's Own Motions are conducted by an official delegated by the Minister and the original decision or decision on an application for review may be amended; or rescinded only on the basis of an error of fact or law. Minister's Own Motions are separate from, and do not constitute one of the two review levels. A Minister's Own Motion review may not consider new evidence. Where there appears to be an error of fact or law, the Minister must, prior to making a decision to amend or rescind the decision being reviewed, write to the affected person, advise of the nature of the alleged error and provide an opportunity to respond within 60 days. The final decision of the review on the Minister's Own Motion must be communicated in writing to the client.

2.0 STUDY APPROACH

2.1 Review Context and Scope

This study was conducted for the following two reasons: 1) commitment VAC made to Treasury Board (TB) as part of the Audit and Evaluation Plan for the NVC; and 2) commitment to stakeholders within the VA Portfolio.

The terms of reference for the project (see Appendix C) included an independent review of the redress process in place for the NVC Rehabilitation and Financial Benefit Programs. Additionally, the review considered the potential relationship with the Office of the Ombudsman as it pertains to redress. Within the context of Relevance and Performance (Achievement of Outcomes and Effectiveness), the objectives of the review were to:

- to assess the relevance of current review levels;
- to review performance against service standards;
- to review client satisfaction with the process;
- to review the effectiveness and objectivity of the two levels of the process;
- to review the comparability in relation to other VAC programs; and
- to review the potential relationship with the Office of the Ombudsman.

2.2 Methodology

Methods used included the collection and analysis of both qualitative and quantitative data to answer the review's objectives. The qualitative data was gathered through the interviews conducted and the files reviewed, while the quantitative data refers to the analysis of program data obtained and collected from client files, Finance Division and program personnel. Further detail on data collection methods is presented in Appendix D.

The report contains seven recommendations, of which five are deemed Essential and two Important. Refer to Appendix F for definitions of the significance of the recommendations.

2.3 Limitations to the Methodology

The study was conducted to give VA management and Treasury Board Secretariat (TBS) early indications of how well the processes are working and to identify areas for improvement. The project was a limited scope evaluation, consequently, the scope and depth of the project was less than would be conducted in a full evaluation.

There was an absence of client satisfaction data for the review team to assess as VAC has not surveyed clients on the NVC redress process. VAC's biennial National Client Satisfaction Survey was reviewed to determine if there were questions of relevance to

the review, and if any comments from clients related specifically to the NVC redress process. The scope of the study did not include surveying clients to measure satisfaction with the redress process. Client information reviewed during the file reviews provided limited anecdotal information on client satisfaction.

The study was conducted relatively early into the implementation of New Veterans Charter to ensure the process was working as intended and to enable improvements to be made to the process. However, as of December 2008, the total number of appeals VAC has received for the Rehabilitation and Financial Benefits Programs has been very low (approximately five per month). The favourable rate for eligibility for the Rehabilitation Program, and subsequently the Financial Benefits Program, is very high at over 90% and, therefore, the number of eligibility appeals is correspondingly low. As a result, the findings were constrained by the amount of data available for analysis and from which to draw conclusions.

3.0 KEY FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

3.1 Relevance

Objective 1: To assess the relevance of current review levels

Relevance of the review levels pertains to, the need to have the two review levels that have been established, plus the need for the Minister's Own Motion option. The review team sought to determine if the redress options were appropriate and were meeting the needs of clients.

3.1.1 Findings

The Rehabilitation Program is one of the gateways into VAC Programs; the benefits and services offered within the programs are significant to improving the well-being of VAC's clients and their families. Benefits and services are wide ranging and include case management, health benefits, and vocational assistance services that assist clients in finding appropriate employment. Eligibility for the Rehabilitation Program results in automatic eligibility for the Financial Benefits Program. The decision to deny a client eligibility into the Rehabilitation Program can have a severe impact on the client's access to benefits and services, as well as financial compensation through the Financial Benefits Program. VAC wants and needs to make sure the decisions made with respect to client eligibility and accessibility to programs, and benefits and services, are correct, reasonable, and in the best interest of the client; the redress process assists in ensuring this happens. The presence of a redress process, and the availability of two separate review levels, increases the transparency of decision making to clients. Also, it shows clients that VAC is willing to entertain a review and change in the decision to ensure that decisions are correct and reasonable, and clients are treated fairly within the boundaries of the legislation and policy.

The Redress process is borne from legislation, specifically Sections 83 and 84 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRCA), which states clients have access to two review levels of decision, and additionally, where there has been an error of fact or law, the Minister's Own Motion process to correct errors at any stage in the decision making or redress processes.

For the VAC programs that offer a Redress process, two formal levels of review is the standard, with some programs offering the Minister's Own Motion and others a reconsideration option (see Objective #5 for further information on the details of other redress processes VAC offers). Reconsiderations in the Health Care Program allow for the original decision-maker to reconsider their decision when a review includes new information that was not presented in the original decision. This option does not apply to the Rehabilitation and Financial Benefits Redress process.

The Minister's Own Motion is an option that VAC personnel have available to them to make corrections where there appears to be an error of fact or law. The Minister's Own Motion can be invoked at any time between the original decision and the final level of review, and it does not replace an appeal level. The Redress policy provides a high level overview of the Minister's Own Motion, but further detailed information is not available on the process that would allow personnel to action an Own Motion review. Awareness of the Minister's Own Motion process and its application to the Rehabilitation and Financial Benefits Programs is low among VAC personnel, and where it is being applied, it is neither being recorded nor tracked. VAC personnel may be correcting errors without realizing the section of the Redress policy they are actually applying.

As of December 2008, only one of six Rehabilitation Program decisions have been overturned at final level appeal, but none of the 19 Financial Benefits first and final appeals have resulted in a change in decision. Most of the appeals relating to the Financial Benefits Program relate to the amount of Earnings Loss the client is receiving and to overpayments that are generated from a change in the client's income. These appeals are based on a formula to calculate the amount and the appeal is essentially a recalculation of the Earnings Loss benefit or an explanation of why an overpayment occurred. Therefore, the resultant amount would not change. Based on a review of client files and discussions with Appeal Unit personnel, several of the appeals could potentially have been avoided through better explanations to clients of both how the program(s) work and of the original or previous decision.

3.1.2 Relevance Conclusion

Clients have come to expect to be able to ask for a review of a decision if they are not satisfied with a decision, and VAC personnel understand that clients have such rights. Although the volumes of appeals are low to date, Rehabilitation decisions have been overturned at each level of appeal. As the Programs mature and the number of clients

and complexities of issues increases, VAC expects an increase in the number of reviews and appeals. Despite the minimal number of clients who have sought redress for Rehabilitation and Financial Benefits, there remains a need to maintain the two levels of appeal, to allow for opportunities to ensure correct and reasonable decisions are being made. If only one appeal is rightly overturned, the relevance of the level is validated as clients will receive the benefits and services they are entitled to.

The Minister's Own Motion provides VAC personnel with the ability to conduct a review where there appears to have been an error of fact or law; however, there is no data regarding the Minister's Own Motion being invoked, and many of the people interviewed were not aware of the option. Awareness and understanding of the Minister's Own Motion process is necessary among VAC personnel who are involved in making decisions related to the Rehabilitation and Financial Benefits Program to ensure expedient corrections to decisions are made.

R1 It is recommended that the Director General, Centralized Operations and the Director General, Service Delivery Management: (Essential)

1.1 provide training on the Minister's Own Motion to personnel who are involved in making decisions related to the Rehabilitation and Financial Benefits Programs to ensure it is understood and administered appropriately; and

1.2 record and monitor use of the Minister's Own Motion, as is done with other redress data.

Management Response:

Management agrees with this recommendation. Recommendation 1 will be actioned in conjunction with Recommendation 2.

Management Action Plan:

Corrective Actions to be taken	OPI (Office of Primary Interest)	Target Date
1.1 Develop and implement business processes in consultation with Program Management, Policy, Legal Services to address cases requiring redress as a result of the Minister's Own Motion.	SDM	February 2010
1.2 Develop tracking tools for recording the use of redress data.	SDM	December 31, 2009

3.2 Performance (Achievement of Objectives and Effectiveness)

Achievement of Objectives

Objective 2: To review performance against service standards

Performance measurement against established service standards provides regular feedback to management regarding the quality and timeliness of service delivery. It also supports management planning and can help prepare for future conditions that are likely to effect service delivery. In addition, performance measurement provides early warning indicators of problems and effectiveness of corrective actions.

3.2.1 Findings

Service standards for NVC redress appeals are currently in development by the Department, but have yet to be formally implemented. In the interim, Health Care claim review turnaround times (TATs) of 12 weeks are being used as benchmarks for NVC redress.

Turnaround times were assessed in the client file review, and were calculated from the date of review request to the record of decision letter date. The results showed that the first level Rehabilitation reviews were averaging 12.5 weeks, EL first level reviews were averaging 6.9 weeks, and Earning Loss second level review were at 15.5 weeks. Performance reports from the VAC Appeals Unit reveal the 3 month average TAT, ending January 2009, to be 5.42 weeks. Second level Rehabilitation review volumes are very low (2 clients at the time of file review), therefore, the average TAT would not necessarily be representative. TAT outliers included one Rehabilitation appeal at 22 weeks and one Earnings Loss appeal at 2 weeks.

TATs can be impacted by several factors. In some instances, information required to process an appeal can be difficult to obtain: relevant information may be in the District Office with the Case Manager, the Client Services Delivery Network is not always current or updated, clients may have to be contacted to send in further information, etc.. Any of these factors will undoubtedly lengthen the time it takes to complete an appeal.

The Centralized Processing Centre (CPC) performs the EL calculations and supports the Appeals Unit with EL appeals (See Appendix B for EL appeal process flow). EL appeals are rarely successful as the appeal request relate to the amount of the benefit or how the benefit was calculated. Some facts/issues regarding the EL program include:

- The indexing calculation to determine the present day value of the client's pre-release military salary has been capped at 2%. The consumer price Index (CPI) has fluctuated greatly over the last few decades and the 2% cap is not representative of

this, resulting in clients receiving a lower than expected Earning Loss benefit amount. Clients are disagreeing with the indexing calculation used.

- Some clients do not understand why their disability pension is not taxed, but it is included as an offset against the EL payable amount.
- There can be misunderstandings on the part of the client and VAC staff, as to the offsets that were applied to calculate the benefit and overpayments generated due changes in income, and these situations are generating appeals.

Although there has been a significant amount of training on the NVC programs, to date there has been minimal training on the redress process for staff that are directly or indirectly involved or impacted by the process, and there is a lack of documented business processes to ensure all staff are receiving consistent direction when processing NVC redress cases. Newer staff, and front-end staff in particular, such as National Client Contact Network (NCCN) analysts and ACs, do not have sufficient information or do not always know who to contact within VAC to provide appropriate answers on specific NVC redress questions.

The NCCN is designed to be the main point of contact for the client and are to resolve issues to the best of their ability, but often clients prefer to speak with their AC as they have established a relationship with this person. A client possibly would have to explain their redress question/issue more than once before reaching an answer to their questions/issues or to be able to speak to someone they are comfortable with.

3.2.2 Achievement of Objectives (Performance) Conclusion

Based on the data available, turnaround times for the NVC redress processes are performing better or meeting the interim turnaround time of 12 weeks. Currently, volumes of appeals are low; however, when volumes increase, VAC needs to ensure the proper supports are in place to ensure TATs continue to be met.

Specific training on the NVC redress process is required to ensure clients receive consistent service. This applies to the NCCN analysts who are often the first point of contact, the ACs who are case managing NVC clients, and the RDCS and Client Relations Unit who render the appeal decisions. Clients need to be educated on the EL benefit to ensure minimal adjustments are required and overpayments are kept to a minimum. Client files (hard copy and electronic) need to be updated and maintained on a consistent basis to ensure necessary information is on file and decisions can be made efficiently.

R2 It is recommended the Director General, Service Delivery Management train staff involved in the redress process to ensure they have the knowledge to assist clients and make appropriate decisions. (Essential)

Management Response:

Management agrees with this recommendation. Recommendation 2 will be actioned in conjunction with Recommendation 1.

Management Action Plan:

Corrective Actions to be taken	OPI (Office of Primary Interest)	Target Date
2.1 Develop and implement business processes in consultation with Program Management, Policy, Legal Services to address cases requiring redress as a result of the Minister's Own Motion.	SDM	February 2010
2.2 Develop tracking tools for recording the use of redress data.	SDM	December 31, 2009

Objective 3: To review client satisfaction with the process

Client Satisfaction

Measurement of client satisfaction with VAC's programs and services is essential to ensure client needs are appropriately being met. VAC measures client satisfaction with its programs and services through a comprehensive National Client Satisfaction Survey (NCSS). The scope of the review of the NVC redress process allowed for the use of survey results as a primary source to assess client satisfaction and compare results with other programs and services. However, client satisfaction on NVC redress has not been measured and there are no specific questions on the NCSS that are related to NVC redress process. Client file notes were reviewed to determine levels of satisfaction, and interviewees were asked if they were aware of client dissatisfaction with NVC redress.

3.2.3 Findings

Findings pertaining to client satisfaction with the NVC redress process were constrained by an absence of a client satisfaction measurement mechanism, and subsequently, an absence of survey data available for analysis. Additionally, client complaints directly associated with the redress process are not being tracked and monitored.

When clients contact the Department with questions about decisions, appeal rights and the redress process, staff need to be able to provide adequate information.

Current Survey Information

The National Client Satisfaction Survey (NCSS) is comprehensive and was recently updated to include NVC program questions; however, the survey does not include questions specifically related to redress for NVC. The questions are mainly focussed on outcomes of the programs, satisfaction with contacts (i.e. communication/levels of service), and whether the programs and services meet the needs of the client.

A challenge in measuring client satisfaction with the NVC redress process is being able to attribute the level of satisfaction of the process and not the outcome of a decision. Clients' responses may be more positive or negative, depending on the outcome of the appeal decision, with clients whose previous decline decision is upheld being potentially less favourable in their responses than those clients whose previous decision were overturned.

Information from both Bureau of Pension Advocates (BPA) and Veterans Review and Appeal Board (VRAB) was reviewed regarding the client satisfaction mechanisms used in those organizations.

Bureau Pensions Advocates (BPA) Survey

BPA is considered Canada's national law firm for Veterans, with lawyers and staff across the country providing services to clients. BPA hands out a survey to clients as soon as their VRAB hearing for first level appeals is complete (i.e. before the decision is known). The survey aims to get feedback on the services and assistance provided by BPA. The client's responses tend to be less biased in giving feedback since the outcome of the decision is not known and would not influence the clients feelings on the process. The return rate of completed surveys is very good (95% return rate) and survey results from 2007-2008 show approximately 90% of clients are satisfied with the service from BPA.

Veterans Review and Appeal Board (VRAB) Survey

VRAB offers independent redress to qualified individuals, with full and exclusive jurisdiction to hear appeals for specific VAC programs resulting from the decisions of the Minister of Veterans Affairs. VRAB may affirm, vary or reverse the Minister's decisions, or refer decisions back to the Minister for reconsideration. The Board is completely independent from the Department of Veterans Affairs. VRAB has conducted client surveys, with the most recent being in 2005. VRAB received high satisfaction ratings in several categories. However, the survey was conducted with clients post decision, which increased the tendency for the clients to reflect on the outcome of the

decision in some capacity rather than strictly on the process and level of service. Results from VRAB's 2005 survey showed clients who had favourable decisions tended to rate every aspect of the hearing and decision process more positively than those who had unfavourable decisions.

Client Service and Communication

Clients currently do not have a complaint escalation mechanism to utilize when calling the NCCN. NCCN analysts have access to Client Service Delivery Network (CSDN) to review clients files and status; however, if client files are not up to date it is difficult to properly answer questions the clients may have. In the file review there were about 10% of files where client correspondence/decision letters were not on file nor posted to CSDN, making it difficult, in these instances, for NCCN analysts to help the client.

The client file review (30 files) revealed some dissatisfaction with the process of redress and the particulars of how decisions are arrived at. The files reviewed indicated clients had difficulty understanding the calculation for the EL benefit. Also, key interviews and the client file review revealed that 20% of the files reviewed had expressions of client dissatisfaction with the length of time of the appeal process as well as the lack of information as to the status of their file. However, the majority of the complaints or frustrations were with the benefits and services they were denied or approved to receive.

The client file review and some interviewees indicated that letters to the clients are not worded clearly and can cause confusion for clients. NCCN analysts often have to interpret letters for the clients. It is imperative that NCCN analysts have access to the clients file on CSDN and any corresponding communication be appended to the hard copy file as well as posted to CSDN. Most letters in the client file reviewed were reasonably well worded but some client specific letters were not quite as clear. Some letters were quite lengthy, making for cluttered and unclear communication.

3.2.4 Achievement of Objectives (Client Satisfaction) Conclusion

Survey data on client satisfaction with the NVC redress process is not readily available, but the client file review did anecdotally reveal some dissatisfaction with both the process and outcome of decisions. Communication with clients would be improved by ensuring employees and clients have a better understanding of the programs and corresponding redress process, and by ensuring clarity of client letters.

R3 It is recommended that the Director General Policy and Programs, in conjunction with the Director General, Centralized Operations develop and implement a survey instrument to collect data for measuring client satisfaction related to the NVC redress process, to assist management in decision-making. (Important)

Management Response:

Management agrees and notes the findings and the small volume of appeals available for analysis (29 Rehabilitation and Financial Benefit appeals).

The DG, Policy and Programs will consider the future need, feasibility, and opportunity for development of a survey instrument to collect data for measuring satisfaction with the NVC programs redress process, as volumes of appealed decisions increase.

Management Action Plan:

Corrective Action(s) to be taken	OPI (Office of Primary Interest)	Target Date
Explore the future needs, feasibility, and opportunity for the development of a survey instrument to collect data for measuring satisfaction with the NVC programs redress process, commensurate with the volumes of appealed decisions in the Rehabilitation and Financial Benefits Programs. This matter will be reviewed in March 2011 to determine whether there is sufficient flow-through of cases to warrant the establishment of a client satisfaction data collection.	NVC Programs Directorate	March 30, 2011

3.3 Effectiveness

Objective 4: To review the effectiveness and objectivity of the two levels of the process

The effectiveness and objectivity of the redress levels pertains to achieving the objective of the redress process, which is to offer a mechanism to clients who are not satisfied with decisions to have the decision reviewed without bias. The mechanism also allows for clients to present new information or evidence that could impact upon a previous decision.

3.3.1 Findings

The decision making authority for the first level appeal for the Rehabilitation Program is currently with the Regional Director, Client Services (RDCS) (see Table 2 on page 3). According to the redress policy, the decision-making authority is with the Regional Director General. The change in position was made to better reflect the RDCS's involvement in the process and to ensure the authority was not as far removed from the process.

The RDCSs do not have a standard process to follow to support them in the decision making process (see Appendix A for an outline of the Rehabilitation Redress process). The review team spoke to two of the four RDCSs and each stated that they use a consultative approach to assist them in making their decision. The client's AC or other District Office (DO) personnel (e.g. the DO Health Care Team) may be contacted to obtain further information. One region stated they implemented a process that if new information is presented, the AC who made the original decision will be invited into the appeal process.

The final level of appeal for the Rehabilitation Program, and both levels of appeal for the Financial Benefits Program are performed by the Appeals Unit in Head Office (HO). (see Appendices A and B). The Appeals Unit has three to four Program Officers who review the NVC files and prepare the cases for the Team Leaders and the Manager, who make the decisions. The Team Leaders make decisions for first level Financial Benefits appeals and the Manager makes decisions for final level appeals for the Rehabilitation and Financial Benefits Programs. However, decision making authority has not been officially delegated to Team Leaders, and the Manager has only been delegated authority for the first level Financial Benefits Program appeal.

Additionally, for appeals pertaining to the EL component of the Financial Benefits Program that involve recalculating the EL benefit, the Appeals Unit seeks assistance from the CPC. The CPC has the expertise that the Appeals Unit does not have regarding the calculation; however, the appearance of objectivity decreases as the CPC performed the original benefit calculation. The Appeals Unit should have the ability to perform the calculations independently of the CPC. Similarly, there are instances where EL appeal requests are forwarded by the Appeals Unit to the CPC when only a recalculation of the benefit amount is required. The CPC performs the recalculation and notifies the client of the result. In these instances, an appeal level is not used, although an appeal was requested.

Decisions relating to program eligibility and program benefits and services are expected to be based on evidence and facts, and kept within the legislative framework and guiding principles of the programs. Objective review and application of program authorities is pertinent to ensure fair and consistent results. One regional office has implemented a process whereby ACs are invited to participate in the first level Rehabilitation eligibility decision reviews when new information is provided by the client. Instituting formal business processes, along with an increased knowledge of the redress process for personnel involved in appeal decisions, would help ensure objective, and consistent decisions. While there was no evidence that NVC redress reviews were not performed objectively, increased controls such as business processes and consistent application of the redress policy, would help ensure objectivity and that redress integrity is maintained.

The absence of formalized business processes results in inconsistencies in how the reviews are conducted and can impact on decisions made. There has been minimal training on redress associated with the Rehabilitation and Financial Benefits Programs for staff that have involvement in the process. The level of awareness and knowledge of the process varies, from minimal knowledge and awareness amongst staff who are not often involved with clients appealing a Rehabilitation or Financial Benefits decision, to staff who have detailed knowledge, having learned as they go and by experience with the process.

The file review revealed that minimal documentation and evidence was being captured with regards to the process followed and the work conducted in the review process. Appeals included reviewing client information, consulting with staff and explaining decisions in letters to clients; however, due to the absence of documentation on file, the review team was unable to assess the appropriateness of both the effort conducted and the resultant decision.

3.3.2 Effectiveness Conclusion

The files reviewed had minimal evidence or documentation of the process followed and the work performed by the personnel involved in reviewing the appeal request. Also, without formalized business processes and adequate training on the redress process, inconsistency in decisions could potentially occur and effectiveness and objectivity could be impacted. Therefore, it is difficult to conclude with absolute certainty on the effectiveness of the redress process.

R4 It is recommended that the Director General, Service Delivery Management, develop and implement business processes for the NVC Rehabilitation and Financial Benefits Programs redress processes, and ensure the processes are utilized and appropriately applied. (Essential)

Management Response:

Management agrees with this recommendation.

Management Action Plan:

Corrective Action(s) to be taken	OPI (Office of Primary Interest)	Target Date
Develop and implement business processes for the redress components of NVC Rehabilitation and Financial Benefits Programs.	SDM	December 31, 2009

- R5 It is recommended that the Assistant Deputy Minister, Service Delivery and Commemoration Branch reassess the delegated decision-making authorities for Rehabilitation and Financial Benefits Program appeals to ensure the personnel making the decisions have the authority to do so. (Essential)**

Management Response:

Management agrees with this recommendation. VAC is currently reviewing the decision making model and delegated authorities to ensure that decisions are made at the appropriate level and that staff have the authority to do so.

Management Action Plan:

Corrective Action(s) to be taken	OPI (Office of Primary Interest)	Target Date
Using the findings and recommendations from the Decision Making Project, develop a strategy to ensure that personnel handling appeals have the authority to do so.	SDM/COD	December 2009
Develop and implement the appropriate tools to support the processing of appeals.	SDM	May 2010

- R6 It is recommended that the Director General, Centralized Operations ensure there is sufficient documentation captured and put on the appropriate client file(s) during the appeal process and post decision to support decisions. (Important)**

Management Response:

Management agrees with this recommendation.

Management Action Plan:

Corrective Action(s) to be taken	OPI (Office of Primary Interest)	Target Date
Centralized Operations developed a checklist documenting actions taken, pending issuing of the Business Process for NVC redress processes, to ensure that there is sufficient documentation on the client's file during the appeal process and post decision to support decisions.	COD	June 30, 2009

Objective 5: To review the comparability in relation to other VAC programs

3.3.3 Findings

VAC offers several programs and services to eligible clients to assist and support them. The main programs include the Disability Program, the Health Care Program and the NVC. Each of these programs provide benefits and services, based on legislation, policy and need.

The study team reviewed the redress processes for the Health Care program, the Disability Program, and the NVC Rehabilitation and Financial Benefits Programs. A comparison was conducted of processes and key factors such as the number of appeals levels available, the decision making authority bodies, support available to the client, and length of time to get decisions. Brief descriptions of the process are outlined below.

Health Care Program

Overview

VAC's Health Care Program is designed to enhance the quality of life of VAC clients, promote independence, and assist in keeping clients at home and in their own communities by providing a continuum of care. The Program provides treatment and other health-related benefits, Veterans Independence Program benefits and services, and long-term care in its one remaining Departmental facility, as well as community or contract facilities.

Redress

The Health Care Program provides for a redress process for clients dissatisfied with a decision, in accordance with Section 36 of the Veterans Health Care Regulations (VHCRs). Decisions could be either related to program eligibility or to the benefits and services the program offers. The process offers two internal levels of review, in which formal re-examination of decisions are made by departmental officials other than the original decision makers. Depending on who the original decision-maker was, the first level of appeal decision authority is either made by a regional office official or the Appeals Unit in Head Office, with the final level appeal always being made by a Head Office official.

Within each level of redress the Health Care Review policy allow for reconsiderations when new information is presented. A reconsideration allows for the previous review or decision level to be consulted to determine if the case should be returned to them for reconsideration when new information is received that might result in an unfavourable decision being overturned.

Additionally, the Health Care program policy contains a provision on benefit of doubt that applies to the provision of benefits, services or care (and not to the eligibility decision). This provision allows for VAC staff to, based on evidence and circumstances, draw every reasonable inference in favour of the client/applicant or where there is doubt, resolve such doubt in favour of the client/applicant.

Disability Program

Overview

The Disability Program comprises Disability Pensions, Disability Awards, and other allowances, and is VAC's largest program in terms of clients and expenditures. The Disability Pension Program has existed for decades, and provides a monthly pension amount and limited benefits related to the pension. The Disability Award Program was introduced in 2006 as part of the NVC, and it recognizes and compensates CF clients for non-economic effects of service-related disability by providing a lump sum award. To qualify for the Disability Program, clients/applicants must have a medical disability that is attributable/connected to, was incurred during, or was aggravated by service. Disability pensions and awards are based on entitlement and based solely on the relationship between service and disability.

Redress

VAC clients are notified by letter of their eligibility decision for the Disability Program. The letters include appeal rights and contact information. If a client has additional or new information, or if there has been an error of fact or law, the client can request a Departmental review. In a Departmental review, a second adjudicator reviews the application and evidence and makes a decision.

Subsequent to a Departmental review or, instead of seeking a Departmental review, clients who do not agree with VAC's decision may appeal to VRAB. VRAB is an independent Board with full and exclusive jurisdiction to hear appeals from the decisions of the Minister of Veterans Affairs. The Board may affirm, vary or reverse the Minister's decisions, or refer decisions back to the Minister for reconsideration. VRAB is completely independent from the Department of Veterans Affairs.

VRAB provides two levels of review on disability related decisions, plus reconsiderations when new evidence of an error of fact or law may have occurred. VRAB's objective is to ensure applicants and clients receive the disability pensions or awards and related benefits to which they are entitled.

Clients also have the right to free legal representation in order to assist with Disability redress process. BPA is a nation-wide organization of lawyers (called advocates) and staff within VAC. The Bureau's main function is to provide free advice, assistance and representation for individuals dissatisfied with decisions rendered by VAC, specifically

with respect to their claims for entitlement to disability benefits, or any assessment awarded for their entitled conditions.

BPA's Head Office is in Charlottetown, Prince Edward Island and has 14 district offices across Canada, each staffed by at least one advocate, and there is an Appeal Unit in Charlottetown comprising a team of advocates and staff. BPA's mandate is to assist clients in the preparation of applications for review or for appeals and to arrange for them to be represented by an advocate at hearings before VRAB. As a result of BPA's advice and assistance, approximately one-third of cases are counselled out, which means BPA provides advice that results in clients not proceeding with a Departmental review or appeal. Alternatively, clients may also contact a representative of a Veterans' organization or, at their own expense, or any other representative of their choice.

NVC Rehabilitation and Financial Benefits Program

Redress

There are two internal levels of review that are conducted by a person other than the original decision-maker, and reviews on the Minister's Own Motion to conduct reviews where there appears to have been an error of fact or law. Clients must request the review(s) in writing and state the reason(s) for the review. New evidence or information regarding an error of fact or law must be presented at the second level review. For reviews on the Minister's Own Motion, the original decision or decision on an application for review may be amended or rescinded. A review on the Minister's Own Motion may not consider new evidence and does not replace a review level; it is in addition to the review levels.

Effective Dates

The effective date for the Rehabilitation Program (i.e. the date a client is considered eligible for the program) is not clearly outlined in the NVC legislation; however, the NVC policy states that the effective date of the rehabilitation plan that is developed for clients is the program eligibility date. For the EL program, the effective date of the benefits is the date VAC determines a rehabilitation or a vocational assistance plan should be developed for the client (i.e. the effective date for rehabilitation).

As a result of the legislation/policy, clients who successfully appeal an unfavourable Rehabilitation eligibility decision (i.e. the client is deemed eligible for the Rehabilitation and Financial Benefits Programs) end up with an effective date that is the date of the appeal decision. The resulting effective date differs from effective dates in many other VAC programs, in which the effective date can be retroactive to the date of application or original favourable decision date.

There has been discussions among Program Policy, Program Management and the Client Relations Unit regarding the effective date for Rehabilitation and Financial

Benefits Programs. Clarification of effective dates was required after a case had its effective date changed back to the appeal decision date (i.e no retroactivity) and questions were raised by VAC staff as to why this was done. Currently, the effective date for the Rehabilitation and Financial Benefits Programs remains the date of favourable decision, and any changes to the effective date determination would require legislative change.

For Disability Pension and Health Care programs, successful appeals can result in effective dates that are retroactive to the date of program application. The effective dates for the Rehabilitation and Financial Benefits Programs are not consistent with VAC's other major programs, and has the potential to result in clients not being reimbursed for expenses the clients may have incurred prior to decision.

Advocacy

The role of client advocacy, i.e. supporting, interceding, and recommending, on behalf of and for clients throughout the NVC redress process is not clear amongst staff. Various opinions were expressed on the topic, with most interviewees (i.e. VAC staff) recognizing the issue. Opinions ranged from it is the AC's role to advocate for the client, to it might be their role, to it is not the AC's role to advocate for the client in the redress process. Some interviewees mentioned there might be a role for BPA or for someone from VAC to be designated to assist and support clients with, and through the process.

Obviously, there is value from both VAC's and the client's perspective in having a person who assists clients with, and through the appeal process: understanding and explaining the decisions, the programs, the governing legislation, the redress process, expected timelines, etc. There is inconsistency in the level of awareness of the redress process and the role of the AC with regards to the redress process.

Another aspect of the AC's role that is unclear is in counselling out clients if clearly they are not eligible for the program, benefit or service. The frequency of these activities may be low as direction on the AC's role in redress is neither clearly defined nor communicated. Aspects of these processes can be especially confusing for dual clients, those who are receiving benefits from the traditional programs (i.e. Disability Pension, Treatment and Benefit programs), as well as NVC programs as clients can seek assistance from BPA for some of their appeals, but not for others.

An example of the lack of clarity regarding the AC's role in redress that was used in discussions with staff related to the Rehabilitation eligibility decision. The AC is the decision maker or is directly involved in the decision to approve or deny eligibility into the Rehabilitation Program. Interviewees were asked if it was the AC's role to assist the client in appealing the eligibility decision. Responses varied from no, as it would undermine their own decisions, to possibly assist with aspects of the appeal, to

someone else should assist. Since there have not been many Rehabilitation appeals, many ACs have not had clients appeal a Rehabilitation decision.

Clients are notified in decision letters of their appeal rights and whom to contact for further information or assistance. For the Disability Program, some letters indicate to contact the client's District Office, and some indicate to contact the NCCN for information on the Disability Program. For the Health Care program, clients are directed to appeal again to final level appeal (for first level appeal decisions) and to contact the NCCN to make their needs known.

Advocacy for and on behalf of client appealing decisions is well established in the Disability Program. Clients who are dissatisfied with a decision in the Disability Program have the right to free representation from BPA. BPA represents clients throughout the appeal process, and advocates for the clients to help ensure the client receives the benefits and services the client is entitled to. However, BPA is unable to assist clients with their Health Care or Rehabilitation and Financial Benefits appeal, despite some clients seeking such assistance. For the Health Care program, advocacy is similar to Rehabilitation and Financial Benefits in that clients can seek assistance from their AC and get information from the NCCN.

Table 3 below provides an overview of the redress process for each of the Rehabilitation and Financial Benefits Programs, the Health Care Program, and the Disability Program. Following the table, key difference and similarities are described.

Table 3: VAC Redress Process Comparisons

Rehabilitation and Vocational Assistance and Financial Benefits	Health Care Program	Disability Pension/Award
First Level Review <ul style="list-style-type: none"> Request review in writing within 60 days of original decision notice. Review conducted by departmental officials other than those who made the original decision. Original decision may be confirmed, amended, or rescinded. Additional or new information can be presented. 	First Level Review <ul style="list-style-type: none"> Request review in writing within 60 days of original decision notice. When new information is received that might result in an unfavourable decision being overturned, the previous review or decision level will be consulted to determine if the case should be returned for reconsideration. 	Departmental Review <ul style="list-style-type: none"> New evidence must be presented after receiving an unfavourable decision, or a determination of an error of fact or law must be made, in order to have the option of the claim being reviewed again by VAC. First Level Appeal Hearings <ul style="list-style-type: none"> VRAB is able to provide a written decision within 30 days of a hearing.
Second Level Review <ul style="list-style-type: none"> Request review in writing within 60 days of first level decision notice. Additional or new information must be presented as grounds for review. The original decision may be confirmed, amended, or rescinded on basis on new evidence or on Minister's determination that there was an error. 	Second Level Review <ul style="list-style-type: none"> Request review in writing within 60 days of original decision notice. When new information is received that might result in an unfavourable decision being overturned, the previous review or decision level will be consulted to determine if the case should be returned for reconsideration. 	Second Level Appeal Hearings <ul style="list-style-type: none"> On average, the Bureau presents 200 claims a month before an Appeal Board. You can expect a 90-day turnaround time for appeal hearings (calculated from the date you contact the Bureau to the hearing date minus the time it takes to obtain information to support your case). VRAB is usually able to give a written decision within 30 days of a hearing.
Additional recourse Minister's Own Motion <ul style="list-style-type: none"> can be invoked at any point in the redress process where there appears to have been an error of fact or law. 		Additional Recourse Minister's Own Motion <ul style="list-style-type: none"> Applicant can apply to VAC or to VRAB to reopen a past decision if new evidence becomes available VRAB decisions can be subject to judicial review in Federal Court

Key Differences: Rehabilitation and Financial Benefits Redress process versus Disability and Health Care programs redress:

- The Disability Program provides advocacy support through the Bureau of Pension Advocates and an independent board (VRAB) hears review and appeal cases;
- There is no time limit for appeals for the Disability Program; 60 day limit to appeal for Rehabilitation and Financial Benefits Programs, and for Health Care Program appeals;
- Disability and Health Care Programs allow for reconsideration/departmental review before beginning formal appeal process;
- Statutory foundation for "benefit of doubt" only for the Disability Program; and
- Effective date for the Disability Pension and Health Care programs goes back to the client's date of application; for Rehabilitation and Financial Benefits the favourable decision date is the effective date.

Similarities:

- Basic elements of the Rehabilitation and Financial Benefits program's redress process are similar to the Health Care program redress process;
- Redress applies to all decisions, unfavourable in whole or in part;
- Requirement for clients to be made aware of their right to request reviews of decisions; and
- Client have ample opportunity to dispute a decision.

3.3.4 Comparability Conclusion

The redress policies for the Rehabilitation and Financial Benefits Programs, and the Health Care program are mostly similar: differences include the Minister's Own Motion option that is available for the Rehabilitation and Financial Benefits Programs and the reconsideration option that is available in the Health Care program. Similarities also exist with the Disability Program redress process; however, a significant differences include the involvement of BPA and VRAB in the process and effective dates that include retroactivity.

The issue of the AC's role in the Rehabilitation and Financial Benefits Redress is important and needs to be addressed. When clients approach their AC for assistance with an appeal, both the AC and the clients needs to know what assistance can be provided and what the redress process entails. Also, the effective date for rehabilitation eligibility when decisions are overturned needs to be clarified and written into the NVC's governing documents.

- R7 It is recommended that the Director General, Policy and Programs and the Director General, Service Delivery Management (7.1 only): (Essential)**
- 7.1 clarify the Area Counsellor's role regarding the redress process for the Rehabilitation and Financial Benefits Programs, and communicate the role to staff and clients; and**
 - 7.2 clearly establish in governing documents (legislation/policy) the effective date for the Rehabilitation Program for clients who are deemed eligible upon review or Minister's Own Motion.**

Management Response:

- 7.1** Management agrees and acknowledges the findings and notes the small volume of appeals received to date that have formed the basis of the analysis.

Under the auspices of the Case Management Review, the role of the Area Counsellor and other components of service delivery are being enhanced through investment in business tools, training, clinical supervision and enhanced decision-making.

The role of the Area Counsellor in the redress process for the Rehabilitation Program and Financial Benefits will be considered as part of the outcome of this review, and the most appropriate response will be determined. At that time, the role of AC in that process will be appropriately communicated.

- 7.2 Management is aware of the issue and is actively working to clarify and propose options for establishing an earlier effective date for those Rehabilitation Program clients who are deemed eligible upon review or as a result of the Minister's Own Motion.

Management Action Plan:

Corrective Action(s) to be taken	OPI (Office of Primary Interest)	Target Date
7.1 The role of the Area Counsellor in the redress process for the Rehabilitation and Financial Benefits will be considered as part of the Case Management review, and the most appropriate response will be determined. At that time, the role of AC in that process will be appropriately communicated.	DG, Policy and Programs and DG, Service Delivery	December 30, 2009
7.2 The requirement for proposed legislative amendment will be assessed, and subsequent actions will be taken to establish the effective date in the CFMVRC Act, Regulations and policy.	DG, Policy and Programs	April 1, 2011

Objective 6: To review the potential relationship with the Office of the Ombudsman

The Office of the Veterans Ombudsman (OVO) is an independent officer reporting directly to the Minister of Veterans Affairs. The Ombudsman is deemed impartial and is mandated to uphold the Veterans' Bill of Rights that was put into effect on April 3, 2007.

The OVO assists Canada's Veterans by providing them with information on the Department of Veterans Affairs programs and services. The OVO also receives and reviews complaints stemming from programs and services provided or administered by Veterans Affairs or pertaining to the Bill of Rights. The mandate and role of the Office of the Ombudsman is outlined in more detail in Appendix E.

3.3.5 Findings

The relationship between VAC and the Office of the Ombudsman (OVO) is currently in its infancy stages. From the OVO's perspective, there seems to be a good flow of information between the organizations, but there are concerns that information is being filtered at the first point of contact at VAC (NCCN).

Since the relationship between VAC and the Office of the Ombudsman is new, the OVO finds itself in a trust building exercise where they have to instill the purpose, the mandate, and operations of the office multiple times to gain the trust of VAC employees.

To lessen the impact of requests on VAC's operations and to ensure that the Ombudsman is directed to the appropriate Office of Primary Interest, OPI(s), the Veterans Services Support Unit (VSSU) has been established. VSSU provides the Ombudsman with required information by facilitating information sharing from appropriate OPI(s). There are three referral types that the VSSU handles, they include General Information Inquiry (not client specific), Information Resolution Request (client specific), and Formal Review. Turnaround time (TAT) for requests from the Ombudsman averages 10 days over a three month period. Year to date totals for inquiries/referrals for rehabilitation was four (4) and Earnings Loss was two (2), as of January 2009.

The OVO indicated to the review team that reaching VAC contacts to follow-up on issues is challenging. Calls are filtered through NCCN and it is often difficult to reach certain individuals. The issue resolution approach of the OVO is to contact the source of the information at the lowest level. For example, the OVO would prefer to contact ACs, as they have direct contact with the clients. The OVO indicated that VAC staff are quick to act on issues and are very cooperative.

The OVO is currently not tracking business issues (e.g. NVC redress issues). They are in the process of implementing a case management system that will provide information for analysis on types and frequencies of issues. The interview did not reveal specific NVC redress issues that have come to their attention, but did indicate that 75% of issues have been individual and 25% relates to systemic problems. According to the OVO, the root of the individual issues are most likely systemic. Issues brought forward by VAC clients to the OVO relate to consistency of decisions, knowledge levels of VAC staff on processes, and communication.

The OVO noted that the NVC is a "living charter" and to date there have been no changes/improvements implemented. Interview results with VAC staff indicate that changes to the NVC charter are moving forward.

The OVO did indicate that they encourage all NVC redress appeal levels be exhausted before a client engages with the OVO. They are to be the "last resort" option, but want

to ensure clients have a voice in the process. In the client file review it was noted that 3 of 30 clients requested the OVO's contact information prior to exhausting all levels of appeal.

VRAB has had some inquiries regarding the OVO. The common issues relate to timeliness of decisions and service. BPA also spends time educating clients to the fact that the OVO is not a form of redress. The role of the OVO needs to be communicated clearly and understood by VAC staff to ensure the relationship continues to evolve in a collaborative and cooperative manner.

3.3.6 Office of the Veterans Ombudsman Conclusion

In conclusion, the relationship between VAC and the OVO is an evolving process. VAC employees are learning the role of the OVO with respect to VAC and are addressing questions and issues from the OVO as they are presented, whether systemic or individual in nature. The client file review presented a couple of clients requesting assistance from the OVO, but the OVO's position is to ensure all redress level reviews are exhausted prior to receiving assistance from the OVO.

4.0 REDRESS DELIVERY OPTIONS

As the NVC programs mature, the number of clients accessing the programs will continue to increase, and new issues and challenges will arise for the redress process. VAC should ensure the mechanism in place is the most efficient and effective way to process client appeals. Both BPA and VRAB have expressed interest in being involved the redress process for the Rehabilitation and Financial Benefits Programs. In 2005, BPA had put forth a proposal regarding BPA involvement in the NVC redress process; however, their proposal was not widely shared nor actioned. In an interview with representatives from VRAB, they expressed the ability of offering faster service by establishing an administrative process apart from the traditional appeal process. By establishing a more administrative process, VRAB members and subject matter experts on staff could resolve issues and reach decisions in a timely matter.

Below are potential options VAC could explore related to the delivery of redress for the Rehabilitation and Financial Benefits Programs.

Option #1

Maintain the status quo: an internal administrative process

Advantages:

- The NVC redress process currently in place is more responsive and less formal than the Disability redress process.
- The volume of appeals is low and VAC has the personnel in place to handle the volumes.

Disadvantages:

- As outlined in this report, improvements to the process can be made that would enhance effectiveness, client satisfaction, and consistency to ensure the process performs as intended.
- Clients do not have an advocate when appealing a decision, including counselling out when applicable.

Option #2

Involve BPA and VRAB in the Rehabilitation and Financial Benefits Redress process

Advantages:

- Clients get consistent service when appealing. There is some indication that clients do not see the division on redress regarding the Disability Program and other programs. As a result of this misunderstanding, some clients request assistance from BPA for their Health Care or Rehabilitation and Financial Benefits Program appeals.
- One role of BPA is to counsel out requests for representation, and clients may be more receptive to not proceed with an appeal based on BPA's advice versus advice from their AC or information from an NCCN analyst. Several of the EL appeals plus many other recalculations could have been avoided through appropriate explanation to the client.
- Increased independence and objectivity in decisions as VRAB is independent of VAC.
- The service relationship portion of the Rehabilitation Program is based on entitlement and eligibility is a gateway into VAC benefits and services. BPA and VRAB have the expertise and the experience to process these reviews.

Disadvantages:

- With existing models, the length of time it takes for clients to get a decision would increase.
- Area Counsellors would lose some ability to stay involved with clients while clients are proceeding with an appeal.

Option #3

Involve BPA only

Advantages:

- With the complexities of the NVC redress process and client issues, it is clear that clients need an advocate or assistance in navigating the systems in place. Clients may become confused, especially if they receive both traditional Disability Pension and Health Care benefits and NVC programs benefits, in that they expect to be able to seek BPA's assistance for all of their redress issues.
- BPA could effectively counsel out NVC clients, ensuring the client knows the process and why requesting an appeal would be unsuccessful.

- Legal consideration might be required in certain instances for interpretation, especially where eligibility is being questioned.

Disadvantages:

- The length of time it takes for clients to get a decision may increase.
- Area Counsellors would lose some ability to stay involved with clients while clients are proceeding with an appeal.

4.1 Delivery Options Conclusion

There is no pressing reason at this time to make significant changes to the delivery of the redress process. The process is still in its infancy and the number of appeals has been low to date. However, as the NVC programs mature, VAC senior management should revisit potential options for delivery of the redress process related to the eligibility into the Rehabilitation and Financial Benefits Program.

5.0 DISTRIBUTION

Deputy Minister

Minister's Chief of Staff

Departmental Evaluation Committee

Senior Assistant Deputy Minister, Policy, Programs and Partnerships Branch

Chair, Veterans Review and Appeal Board

Assistant Deputy Minister, Service Delivery and Commemoration Branch

Assistant Deputy Minister, Corporate Services Branch

Director General, Policy and Programs Division

Director General, Centralized Operations Division

Director General, Service Delivery Management Division

Associate Director General, Program Management

Regional Directors General

Director, New Veterans Charter

Director, Program Policy

Director, Case Management and Program Performance

Director General, Veterans Review and Appeal Board

Chief Pensions Advocate, Bureau of Pension Advocates

Deputy Coordinator, Access to Information and Privacy

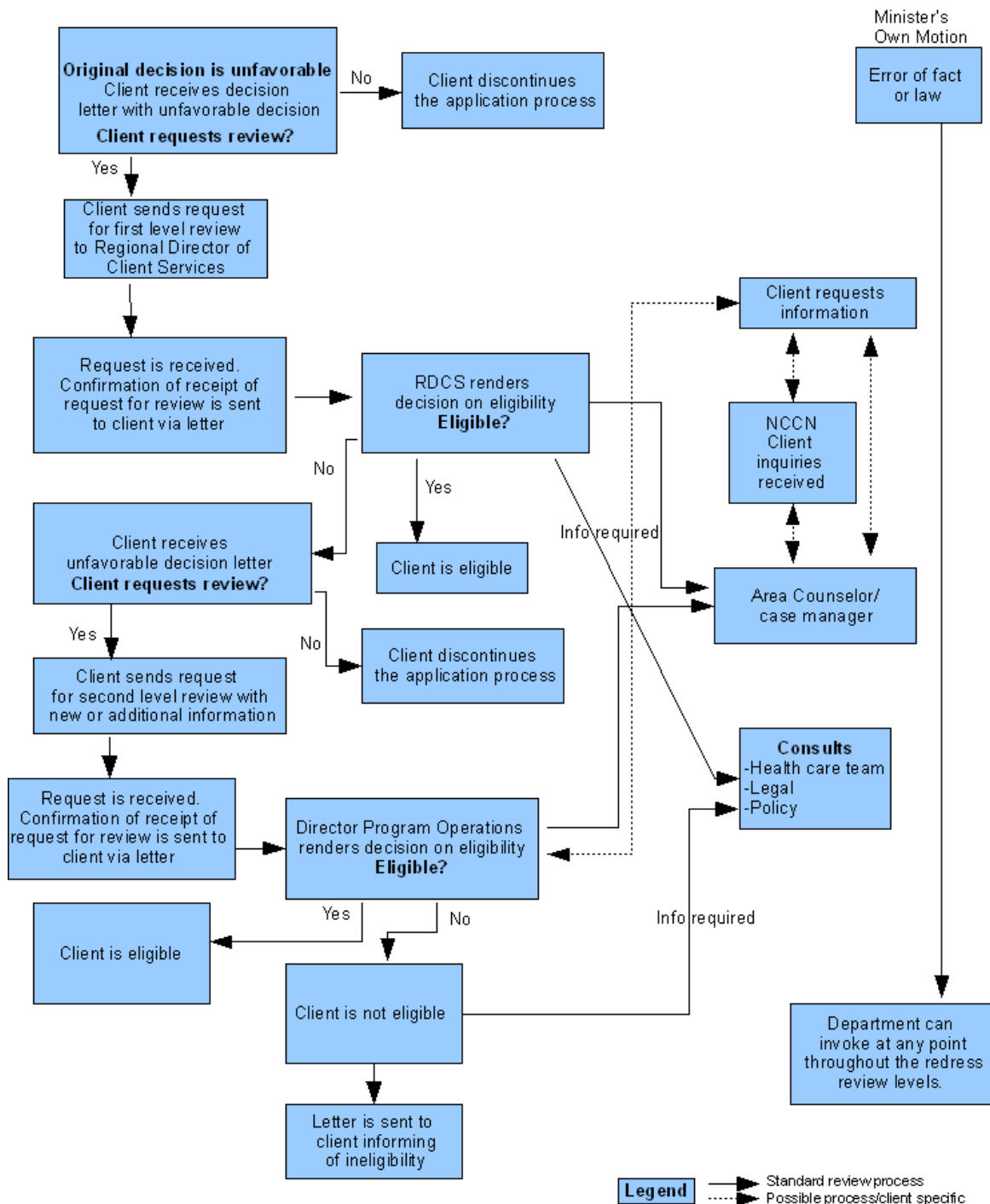
Director General, Communications Division

Centre for Excellence in Evaluation, Treasury Board of Canada, Secretariat

Program Analyst, Treasury Board of Canada, Secretariat

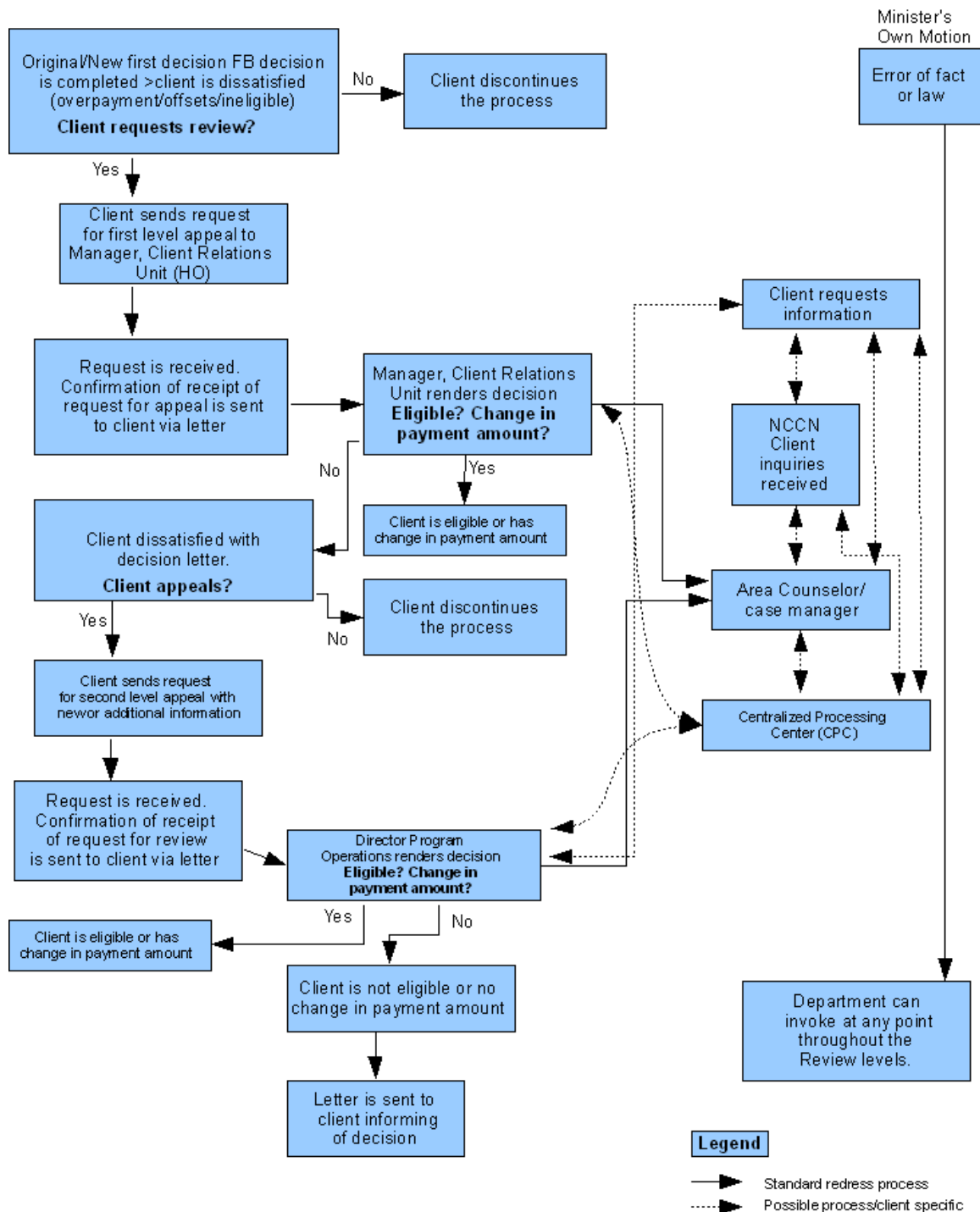
Appendix A - Rehabilitation Redress Process for Eligibility

Rehabilitation Review Process for Eligibility



Appendix B - Financial Benefits Redress Process for Eligibility

Financial Benefits (FB) Redress Process for Eligibility



Appendix C - Terms of Reference - Redress for NVC Re-establishment Program Review

Background: Two levels of internal review have been established to resolve clients concerns relating to delivery of the NVC rehabilitation, vocational assistance and supporting financial benefit programs. This review process is comparable to rights existing under the Veterans Health Care Regulations. The intent was to provide a less formal and faster dispute resolution process than that provided for the larger lump sum payments made in the Disability Awards and death benefits segments of the NVC. These latter segments provide for consideration by the Veterans Review and Appeal Board and assistance by the Bureau of Pensions Advocates. The Review will also consider the implications of the establishment of the Office of the Ombudsman.	
Rationale: As part of the Audit and Evaluation Plan for the NVC Treasury Board Submission, a commitment was made to conduct a review of the redress mechanism. Risk rating is 15/15 or High as shown in the following chart.	
Proposed Statement of Work: An independent review of the redress process of the NVC rehabilitation and vocational assistance, and supporting financial benefit programs.	
Objectives: <ol style="list-style-type: none"> 1. To review performance against service standards. 2. To review client satisfaction with the process. 3. To assess the relevance of current review levels. 4. To review the effectiveness and objectivity of the two levels of the process. 5. To review the comparability in relation to other VAC programs. 6. To review the potential relationship with the Office of the Ombudsman. 	
Cost: 8 person months (2 people x 4 months)	
Target Date: Fiscal Year 2008-09 AEC Decision: April 2, 2007	
Risk Analysis: Overall rating =15 High Priority	
<u>Likelihood</u>	<u>Impact</u>
<u>Complexity</u> Rating: 3 / 3 * - New initiative - Very complex and integrated issues	<u>Damage & Liability</u> Rating: 3 / 3 * - Program expenditures >\$1 M - Potential violation of law - Potential disclosure of highly sensitive client information
<u>Audit & Performance Information</u> Rating: 3 / 3 * - No evaluation has been conducted in this area - Part of schedule of NVC evaluation	<u>Operational Effects</u> Rating: 3 / 3 * - Potential client service disruption 1 to 4 days - Potential of underachievement of operational objectives
Rating Scale 3 = High 2 = Medium 1 = Low	<u>Reputational Loss</u> Rating: 3 / 3 * - Potential for significant loss of trust with clients - Potential for negative media and public attention - Potential for strong criticism by review groups
Overall rating =15, High Priority (Score: 5-8 = Low: 9-12 = Medium 13-15 = High)	

Appendix D - Methodology

Primary Data Collection

Key Stakeholder Interviews

The review team conducted twenty in-person interviews and eight telephone interviews with VAC staff, and one telephone interview with the Office of the Ombudsman. The telephone interview included VAC staff from District Offices in Edmonton, London and Hamilton and from Regional Offices in Ontario and Atlantic.

Case File Review

Thirty client files were reviewed to obtain an understanding of the redress process, the issues clients were dissatisfied with, the adequacy of documentation on file, and to capture key dates to determine turnaround times and assess the findings against service standards. The population of files to review were ordered for clients who appealed a Rehabilitation or Financial Benefits Program decision.

Of the thirty files reviewed:

- Six had evidence of dissatisfaction with the redress process;
- Three requested contact information for the Office of the Ombudsman;
- One requested assistance from BPA.

Secondary Data

New Veterans Charter Program Activity	Summary NVC data on client activity since program inception (April 1, 2006 to February 28, 2009) was obtained from a report produced by VAC's Statistics Directorate.
Appeals Unit Monthly Statistics	This data was obtained from National Operations Division. This information was available on a monthly basis.
Disability Program Statistics	The review team requested Disability Program data related to turnaround times for decisions and departmental reviews related to the Disability Award. VAC's Statistics Directorate provided this data, by fiscal year from April 1, 2006 to November 30, 2008.
Veterans Review and Appeal Board Statistics	This information was obtained from the Veterans Review and Appeal Board and shows volumes of work and turnaround time data, by fiscal year for 2006/07 and 2007/08.
Document Review	In the planning phase, and throughout the review, many documents were reviewed. The document review included documents related to the redress process, the NVC in general, the specifics of the Rehabilitation and Financial Benefits Programs, previous studies, client satisfaction surveys, and related legislative documents.

Sources Cited

- Veterans Program Policy Manual (VPPM) - Re-establishment and compensation programs, Economic Support Programs and Health Care Program
- *Canadian Forces Members and Veterans Re-establishment and Compensation Act* (CFMVRCA)
- Office of the Ombudsman - <http://www.ombudsman-veterans.gc.ca/>
- Bureau of Pension advocates - Discussion paper "The Gateway Issue - A Role for the Bureau"
- Client files/CSDN
- Veterans Review and Appeal Board handouts and web site
- Volume 1 of the Disability Pension Program Evaluation, December 2004

Appendix E - Office of the Ombudsman - Mandate, Role, and Clients

<p>The mandate of the Ombudsman is:</p> <ul style="list-style-type: none"> • to review and address complaints by Canada's Veterans and their representatives arising from the application of the provisions of the Veterans Bill of Rights; • to identify and review emerging and systemic issues related to programs and services provided or administered by the Department or by third parties on the Department's behalf that impact negatively on Canada's Veterans; • to review and address complaints by Canada's Veterans and their representatives related to programs and services provided or administered by the Department or by third parties on the Department's behalf, including individual decisions related to the programs and services for which there is no right of appeal to the Veterans Review and Appeal Board; • to review systemic issues related to the Veterans Review and Appeal Board; • to facilitate access by Canada's Veterans to programs and services by providing them with information and referrals. 		
<p>The Veterans Ombudsman will:</p> <ul style="list-style-type: none"> • Identify, review and suggest ways to resolve new and long-standing issues related to programs and services provided by or administered by Veterans Affairs. • Review and address complaints by clients and their representatives related to the programs and services provided by or administered by Veterans Affairs. • Review systemic matters related to the Veterans Review and Appeal Board ensure clients receive service according to the Veterans Bill of Rights. • Help clients access programs and services by providing them with information and referrals. • Be an independent officer who reports directly to the Minister of Veterans Affairs. • Make recommendations and help raise awareness of the needs and concerns of Veterans. • Work to build Veterans' confidence that their views are important. 	<p>The Veterans Ombudsman will not:</p> <ul style="list-style-type: none"> • Review decisions made by the Veterans Review and Appeal Board or decisions made by Veterans Affairs that can be appealed to the Board. • Review complaints involving other federal departments. • Review court decisions and legal advice provided by the Bureau of Pension Advocates. 	<p>Any applicant or client of Veterans Affairs Canada, or his or her authorized representative, may make a complaint. This includes:</p> <ul style="list-style-type: none"> • Veterans with war service. • Veterans and serving members of the Canadian Forces (Regular and Reserve). • Members and former members of the Royal Canadian Mounted Police. • Spouses, common-law partners, survivors and primary caregivers. • Other eligible dependants and family members. • Other eligible clients.

Appendix F - Significance of Recommendations

To assist management in determining the impact of the observations, the following definitions are used to classify observations presented in this report.

- Critical:** Relates to one or more significant weaknesses/gaps. These weaknesses/gaps could impact on the achievement of goals at the Departmental level.
- Essential:** Relates to one or more significant weaknesses/gaps. These weaknesses/gaps could impact on the achievement of goals at the Branch/Program level.
- Important:** Relates to one or more significant weaknesses/gaps. These weaknesses/gaps could impact on the achievement of goals at the Sub-Program level.

