

Borne the Battle

Episode # 180

Benefits Breakdown: Appeals Modernization Part II

<https://www.blogs.va.gov/VAntage/71057/borne-battle-180-benefits-breakdown-appeals-modernization-part-ii/>

(Text Transcript Follows)

[00:00:00] Music

[00:00:10] OPENING MONOLOGUE:

Tanner Iskra (TI): Ahh, let's get it. Monday, February 3rd, 2020. Borne the Battle, brought to you by the Department of Veterans Affairs. The podcast that focuses on inspiring veteran stories and puts a highlight on important offices and resources for our veterans. I am your host Marine Corps veteran Tanner Iskra. Hope everyone had a great week outside of podcast land. It's been busy over here. Still unpacking the party barn. As a matter of fact, I unpacked a box from 10 years ago and a lot of memories poured out of that box. Had some of those, Cokes and Mountain Dews from Iraq that I brought back, still full. Had to have been 15 years ago, now. They're going on the shelf and hopefully they don't explode. No new ratings or reviews this week. However, I'm not too disappointed as the last monologue recording was literally two days ago. I had a short week that week, the week prior to this. So, these buttoned up pretty close together, which means it wasn't giving you any time between records to go out to iTunes and let us know what you think. But do remember the more that you do rate and review the show, the higher up that we will be in the iTunes, Spotify, and iHeartRadio...all of those algorithms. Which means, more veterans will be able to hear not only the interviews that we cover but be able to take advantage of the information provided in both the news releases and in the benefits breakdown episodes, like this one. And currently, if we're just looking at reviews, we are at 49 reviews, just one short of 50, which is incredible. And I do hope that you are the 50th to make that difference. Alright, we got one news release this week.

It says for immediate release, VA releases updated DOD list, identifying Agent Orange sites outside of Vietnam. The US Department of Veterans Affairs released in January an updated Department of Defense list of locations outside of Vietnam where tactical herbicides were used, tested or stored by the United States military. The DOD conducted a thorough review of research, reports, and government publications in response to

a November 2018 Government Accountability Office report. Veterans who were exposed to Agent Orange or other herbicides during service may be eligible for a variety of VA benefits, including an Agent Orange registry health exam, healthcare and disability compensation for diseases associated with exposure. Their dependents and survivors also may be eligible for benefits. For more information on that list, you can go to www.publichealth.va.gov/exposures/agentorange/locations/test-storage/index.asp [Link].

Alright. It is episode 180 which means benefits breakdown time. And this is going to be part two on the Appeals Modernization Act of 2017. Back in episode 169 we interviewed Army Veteran, Dave McLenachen, who is the executive director of the VA Benefits Administration's Appeals Management Office. And we talked about the lanes that they were responsible for in terms of disability appellate claims. This episode, we will talk with Chairman Cheryl Mason, who is the chairman of the Board of Veterans Appeals, which is the board in the third lane. The board is a body within the VA made up of veterans' law judges, attorneys, and admin professionals that execute the board's mission, to conduct hearing and decide appeals for veterans and their families. It's the final tribunal statutorily charged with deciding appeals arising from not only the Benefits Administration, but from all three administrations. That's the Veterans Benefits Administration, the Veterans Health Administration, and even the National Cemetery Administration. And you're gonna hear about different types of appeals that they decide in all three. Prior to this role, Chairman Mason was the vice chairman, a chief veterans law judge, a veteran's law judge, and a counsel on the board. So, that means she's worked her entire way up through the Board of Veterans Appeals system. In addition, she was also an attorney at the Federal Labor Relations Authority, and with the Department of the Air Force. She's a former milspouse and currently the spouse of a veteran, and taught law in Europe while her husband was stationed in Ramstein. Like I said, she's pretty much served every level of the board. And I personally learned a lot about the board during this interview, and I can't wait to share it with you. So without further ado, I bring to you Chairman Cheryl Mason.

[00:05:10] Music

[00:05:16] Interview:

(TI): Chairman Mason, thank you for taking the time to sit down with us and break down this third lane of appeals modernization. You know, back in

benefit's breakdown, episode 169, I was speaking- I was talking to, uh, Dave McLenachen. We were able to break down the high level and the supplemental chain, but when we got to the Board of Veterans Appeals, he was very quick to go, "You need another subject matter expert for that lane." So definitely thank you for taking the time to, to do this.

Cheryl Mason (CM): Sure.

(TI): Now, like we talked about in the intro that you didn't get to hear, you're not a veteran, but you are a veteran spouse. Correct?

(CM): I am. I'm not only a mil- a veteran's spouse. I am actually the daughter of a World War II veteran who died by suicide when I was four.

(TI): Oh my gosh.

(CM): My brother was an Army Reservist. Also, so in the veteran category, died by suicide when I was 17. So, as a result of my father's service, I was actually a VA benefit recipient for many years. And quite frankly, wouldn't be sitting here, because I wouldn't have been able to go to college had I not received those benefits. So, that's the first piece of who I am.

(TI): Yeah.

(CM): The second piece is I am a military spouse, first and foremost, and once you're a military spouse, you're always a military spouse. I have- I have converted to being a veteran spouse when my husband retired after 20 years in the Air- US Air Force.

(TI): Gotcha. How long have you guys been married?

(CM): 33 years.

(TI): Congratulations.

(CM): Thank you.

(TI): Me and my wife just passed 10.

(CM): Oh, congratulations.

(TI): So yeah, so she- she has followed me through that entire transition.

(CM): Yes.

(TI): So, uhm, on her behalf, thank you for- for sticking by the husband during that entire transition, cause it can be tough. It can be tough for a lot of veterans.

(CM): It's- it's a tough process. The- the service piece is tough for- in the entire family as you adjust to what that looks like. And then when you add members of the family to that process, it becomes even more challenging. And, then if you are- if you are a military spouse, attempting to carve a career out is also a challenge.

(TI): Absolutely.

(CM): And, I managed to do that as well, which is why I'm very passionate about that. But, to really get back to the VA, and one of the things I like to talk about is why I chose VA.

(TI): Yeah.

(CM): I chose VA twice. So, the first time I chose VA was as a young attorney when we first came here, when my husband first received orders from Offutt Air Force base.

(TI): Yeah. Saw that in your bio.

(CM): Mmhmm. So, this was our second tour, so it was our second slot. And, I interviewed, got the job, loved the job, and then as- as it- as it usually happens, the military decided that we needed to go somewhere else. So, we went to Germany, which proved enjoyable, but challenging for it on the employment side.

(TI): You taught there?

(CM): I did. I taught at Central Texas College. I managed their paralegal program for a while until I entered the government workforce again. But I also taught the entire time I was there, paralegal courses.

(TI): Okay. What was it like to- to instruct on base?

(CM): Well, as the daughter of a teacher, I'm actually the black sheep of my family. My entire family, my mother and my cousins and my sister-in-law and everybody I know is a teacher. I'm the only lawyer. It- it was interesting. I will say that teaching on base is, I think, a- a more rewarding experience than some may have because people in the military and spouses and dependents, often are, trying and really want to be engaged in the process. And sometimes you don't always find that—

(TI): Sure.

(CM): in other teaching environments.

(TI): Absolutely. Now again, in- in the, the- the intro that you didn't get to here, we also talked about, uh, that you're a political appointee. Now- now, other than Secretaries of the VA, we normally don't have political appointees on- on Borne the Battle because, you know, optics are everything. You know, I- I don't want to seem like Borne the Battle is favoring anything on either side of the political spectrum. We keep the show very apolitical, and I figure if we focus on the veteran, nothing else matters.

(CM): That's right.

(TI): But I think it's important to have you on for a couple of reasons. One, you're now the chair of a board that is extremely important for veterans, especially at this time, and the history of your- your position. It's a- it's relatively new, correct? You're like the fourth person?

(CM): I am, I am the fourth political chairman of the board. The previous- the previous three chairman, we- we've had technically five slots, but we had a- we had a whole period- a whole term of a chairman where we didn't have one.

(TI): Gotcha.

(CM): And so, I am the fourth political chairman. I am the first woman and the first military spouse. But, prior to the department becoming a political cabinet agency and my position becoming a political appointee, it was a administrator type position. It was called chairman even then. The other thing I would like to point out is yes, I am a political appointee. However, I also have 25 years of service at VA.

(TI): I was going to say, plus you- you were in the board as a- as a- as a lawyer. So, I think, you know—

(CM): I was.

(TI): Yeah, but like I said—

(CM): So, I'm a different- I'm a different person because of that experience.

(TI): Absolutely. Absolutely. Now, the board- the Board of Veterans Appeals. It's about 1100 people, including administrative positions. Who else

makes up the board? What other positions are there? We talked about your- your previous position.

(CM): Right. It's almost 1200 people these days. We've grown even a little bit more.

(TI): Roger.

(CM): We have about- we currently have 96 veterans law judges who are appointed by the secretary and approved by the president, of which I was, and still am, technically. And, I've been in that- I've been a veteran's law judge since 2003. Then we have about 750 attorneys, that fluctuates. And we have about 200-225, operations and support staff who, all of us working together are the ones who get those decisions for veterans and make sure the veterans hold hearings. Uh, get- get their hearings. The- the board's mission is very straight forward. Our job is to hold hearings and issue decisions for veterans. But sometimes people get confused about the board.

(TI): Okay.

(CM): The board is the secretary's designee to decide appeals from across the VA enterprise.

(TI): Meaning?

(CM): Which means we take appeals from all three administrations, Veterans, Benefits Administration, Veterans Health Administration, National Cemetery Administration, and a few from general counsel. And the board's history is very rich in the department. We were actually created by executive order initially by President Roosevelt in 1933.

(TI): Oh, wow.

(CM): And we were created to provide or afford every opportunity and assistance to claimants for a full consideration and determination and take final action that is fair to the veteran and the government.

(TI): It's interesting that you said that you- you take appeals from all three administrations not just- not just the health administration. Give me an example of like an appellate decision from cemetery or benefits.

(CM): Cemetery would be an example of a cemetery would be a burial, or an allotment. A burial slot—

- (TI): Okay.
- (CM): situation. And usually in that situation, it has to do with who has the ability to get that payment for that slot.
- (TI): Interesting.
- (CM): Because, if there is not a spouse, you know, there's sometimes issues between spouses.
- (TI): Sure. Oh, ya don't say!
- (CM): Sometimes that happens. For Veterans Health Administration, what we generally see there, uh, the majority of- of the appeals we see are medical reimbursement. And our biggest client by far is Veterans Benefits Administration, which runs the gamut from medical to education, to loans, to pension, to voc-rehab. We see pretty much if Veterans Benefits Administration has a business line, we're seeing appeals from it.
- (TI): So, way much more, if that's even a sentence. Way more, so, way more than just disability appellate decisions.
- (CM): Yes, that's, you know, disability compensation is a large portion of what we do. That's where the veterans get the majority of their compensation, but I would say education and pension are the next two that we see. And then medical reimbursement loans are- are sprinkled in there. We also see some legal issues, much like I just described with cemetery.
- (TI): Yeah. Very good. Going back to Dave's blog and the reason I came to the board today, I saw one comment on that blog, and it said, if the VA would spend more time, sorry, I'm going to say this without laughing. If the, if the VA would spend more time working to assist a veteran with his benefits instead of increasing the paperwork required for benefits. But I don't see that happening when a lawyer is the director. Chairman, we already know that, you know, the data coming back from the Appeals Modernization is that appeals are being resolved in- in record times. So, the paperwork content of that comment, I'm not really too concerned about, it's going faster. So, to me, the speeds are already improving, but talk to me about the board and why having a legal background in your position is beneficial.
- (CM): Well, first of all, it's required [Laughter]. First and foremost, the law says that I have to be a lawyer and I have to be a veteran's law judge.
- (TI): Very good.

(CM): So those- those two requirements are- are- it's just required. The board is, again, like I said, the secretary's designee to decide appeals across the department. So, going back to 1933, President Roosevelt created us to be the lawyers to - to make sure that the appeals were handled correctly for the department.

(TI): Makes sense.

(CM): So that's the first and foremost, but to really understand, and I'm sure that Dave McLenechan handled this when he spoke about it, the Appeals Modernization Act was created to give veterans choice, control, and provide clarity in the claims and appeals process.

(TI): Yes.

(CM): We had - but we had moved to the point in the department that veterans were confused, about where their case was, what was happening with it. There's still some of that, but it's better. There is less paperwork. Everything is now virtual for- for the most part - there's still a few pieces of paper around, but not many.

(TI): Sure.

(CM): But, and the other piece of that is we do adjudicate. We decide those appeals. We hold those hearings. Again, our mission, hold hearings. Ya gotta be a judge for that—

(TI): [Laughter]

(CM): and issue legally correct decisions. So, in order to apply the law to the- the evidence of the case—

(TI): You kind of got to know that.

(CM): Yeah.

(TI): Yeah, absolutely. Makes total sense to me. Just, saw that, and if you haven't seen that blog and you haven't listened to that episode and you're listening to this right now, I highly suggest go back, listen to that. That's part one of this- of this conversation. Before the modernization, you talked about modernization. What was the average wait time for a decision and what's the goal now for a decision from the board?

(CM): So, we are still working legacy cases, which is the pre AMA case. We're also working the appeals modernization piece at the same time.

(TI): Yeah.

(CM): So, the boards are working both. Prior to appeals modernization being implemented, veterans would wait on average from the time a case started, to VBA, VHA or NCA, to the time it went out the door at the board, an average of seven years, which was way too long.

(TI): Absolutely.

(CM): And they were stuck. They couldn't move because the process locked them in after you file basically a form nine, you're stuck. And if a case goes back on remand in that process, which means we need more evidence—

(TI): Yeah, or you want to, or you're supplying more evidence.

(CM): Right. We're asking the veteran for more evidence or there's something we have to get. Then, the case can still get stuck in that loop.

(TI): Yeah.

(CM): And so that was what we were very concerned about and what our stakeholders were concerned about because there was no way out for the veterans.

(TI): He was also talking about things like, if you wanted to follow a notice of disagreement, could have been on a napkin.

(CM): It could have been. The way the case law was. Yes. The case laws -

(TI): That's amazing.

(CM): the case law is- is interesting around legacy and we're looking forward to see what the case law says in AMA, but right now for the board, we have three lanes and I know we're going to talk about them a little bit, but the fastest lane is the direct lane, which is the lane that we -we do an average of 365 days.

(TI): Gotcha.

(CM): And so once the case gets to the board, which the veteran can still have the options of going through the processes at VBA and should actually look at those processes for a higher level on supplemental to see if those are a quicker options before they come to the board. Once they come to the board, that one lane is an average of 365 days.

(TI): I watched the video, the very well-produced video again, of the three lanes and- and that- that we put out on our YouTube page. And, a lot of questions came to me right after I watched that video, you know, which is, I mean that can, that the video is a great 10,000-foot view of modernization. But these are some of the questions that came to my brain. Overall, why would somebody choose the board over the other two lanes and what are some benefits and what are some drawbacks over supplemental and higher level?

(CM): Okay, so why would they choose the board? Well, my advice first would be to work with your representative and make sure that you are making the right choice.

(TI): Okay.

(CM): Because the agency of original jurisdiction, if we use VBA for example, they're going to be quicker. They just are.

(TI): Yeah.

(CM): So, depending on what you want, whether you need additional evidence that's a supplemental claim line, or you just want a review, that's the higher-level lane. Those are four and a half months on average, and right now they're faster than that. So, make sure that you're choosing, you know, what you're choosing when you choose, the board will be longer. That's a given.

(TI): Yeah.

(CM): There are some situations where veterans really feel that they just want to go to the board. And it varies with the veteran and it varies with the representative. And so that situation is really a personal—

(TI): Representative meaning VSO or attorney?

(CM): Or attorney, yeah—

(TI): Okay.

(CM): We- we have both at the board—

(TI): Got you.

(CM): and, there's not really, we're not yet seeing an indication of one over the other. They seem to both be choosing, occasionally. What we are seeing is they do generally go to a higher level review or supplemental claim

lanes first, and the thing to remember there is they don't lose anything if they- if they do not get the decision they like.

(TI): As long as they file an appeal- appeal within that first year.

(CM): Yes. As long as they file it within one year, they can still come to the board. The important thing about the board to remember is, again, we have three options and we want to make sure we're giving the veteran those options. The direct lane is similar to the higher-level review in that you're just looking at, uh, the veterans law judge is just looking at the case as it was—

(TI): Yeah.

(CM): And, we're not looking at anything else. And it's so that's it's quicker.

(TI): And that's the 365 days.

(CM): That's the 365.

(TI): Gotcha.

(CM): One thing I would like to mention is the board has governed and when we decide cases, we're looking at- at five particular area. What governs us is statute case law, regulations, a secretarial directive or a GC precedent opinion, that's all we're looking at to apply the law.

(TI): Sure.

(CM): Or the situation to the evidence in the case. And so, because we're lawyers, we do a full review of the case and we look at the law as it was. So, it is a deeper look, because we're- we're comparing the law to things and we're lawyers, so we tend to be a little bit detail-oriented.

(TI): Naturally you're going to dig a little deeper [Laughter]. Gotcha. Now there's another lane where you can submit new evidence without a hearing. Again, that sounds like a lot like the supplemental claims review lane. Why would you use the board, which could take longer?

(CM): Well, the supplement- the supplemental claim lane versus the 90-day additional lane at the board. The biggest difference there is the duty to assist.

(TI): Okay.

(CM): In the new process of appeals modernization, what the legislation did and what the law did is it put the duty to assist at the claims agency. Prior to that, it existed at the board, so the duty to assist. So if you need additional help, if you need- if you need an exam or you need the VA to go get records, or you need something else, that's the supplemental claim lane, that's the lane to choose to ask VA to help you. If you're asking for- if you want to have an additional 90 days to submit evidence, that's on the veteran to take that 90 days from the date they filed their 10-182, their notice of disagreement, to submit additional evidence. That additional evidence needs to go to the basis of the rating decision that was made or the initial decision that was made by the, if we use VBA by example.

(TI): Gotcha

(CM): So, if it's a service connection claim. And the Veteran receives a denial from VBA, and they say, when they read the decision letter and the decision, aha! I have additional evidence, they can choose to put that in the supplemental claim lane, or they can choose to come to the board and put it into the lane before us.

(TI): So, I guess the biggest difference is duty to assist with supplemental - do it yourself when it comes to the board.

(CM): Yes.

(TI): Very good. What was the form again for the notice of disagreement? Want to make sure we—

(CM): It's- it's a 10-182.

(TI): 10-182.

(CM): You can find it on every website VA has. The board's VBA's, the general website - the one thing with that form is we did try to make it more veteran friendly.

(TI): Breaking it down- as the Marine Corps, we'd say breaking it down Barney style a little bit.

(CM): Trying. We still had some hoops to jump through called, you know, regulations.

(TI): Sure.

(CM): And so, one of the things on that form is it gives you the option to choose the different lanes at the board. And so, we don't have the technology in place yet to weed those choices out. So, if you choose more than one—

(TI): Yeah.

(CM): It's going to kind of jam up the works. And so, we're probably going to have to send you a letter.

(TI): Got you. Now, I- I totally understand that. You know- you know, the term legalese, you know, in- in journalism we have, you know, journalismese. But, then we'll also, I kind of also come from a,-an experience of Marine speak. So trying to try to find that balance between the two can sometimes be a challenge, but, no, we'll put that, form also on the blog here for this episode on [blogs.va.gov](https://www.blogs.va.gov) [Link: <https://www.blogs.va.gov/VAntage/>] and we'll- we'll make sure that that's also available in this episode. So, if you got this podcast from your podcast player, you can go on [blogs.va.gov](https://www.blogs.va.gov) find the- find the blog and you guys can put it- you guys can find that- that notice of disagreement. Hearings. What is a usual process for a hearing? And I know I'm saying usual in like the loosest term- I know I'm saying usual to a lawyer. Can you walk me, quickly walk me through the states to get, you know, from the beginning of your- of your notice of disagreement to getting in front of a veteran's law judge?

(CM): Sure, sure. So, first and foremost, I always like to tell people I held hearings as a veteran's law judge. So, shortly before I became the chairman, and I would never ever take a hearing away from a veteran. But I do ask that if a veteran or their representative want a hearing, to please make sure that you really want a hearing.

(TI): Very good.

(CM): Because we have a lot of hearing requests. And so, if you don't hold that hearing, you're taking a place of someone who- who does want a hearing.

(TI): Sure.

(CM): So that's something to keep in mind. But so, if you elect a hearing on your 10-182, then the case will come in. We will put it in- into the docket order. Everything that the board does is by docket order. It's required under the law. So the case comes in based on the docket date of the ten one eight, 10-182.

(TI): Meaning first come, first served.

(CM): First come first serve, but date on the date of the docket.

(TI): Gotcha. But we're- but we're still going through the legacies before we even get to that part.

(CM): Exactly, and there's 59,000 of those pending.

(TI): Say that again.

(CM): 59,000.

(TI): Very good.

(CM): There's currently 13,000 AMA cases as of last week for hearings just for hearings.

(TI): Got you. Wow.

(CM): So- so you put that, you would request a hearing, when your hearing comes, your docket time comes up and we are working those together. So simultaneously we're- we're looking at things, so it's possible that you could get a hearing because we do try to spread that out and try to work things. We have an algorithm that manages that process.

(TI): Sure.

(CM): We will then schedule you for a hearing and when we schedule you for a hearing, you're going to get a letter. Telling us you've have been scheduled for a hearing. Now in legacy, there's only two types of hearings. You can, or, I'm sorry, in AMA, there's only two types of hearings you can have. It's either central office in front of a judge or it's by video currently.

(TI): I saw that, not only on your LinkedIn that you shared that, but I also saw that when I promo'd that- that news release, back in December, walk me through, you- you can both do now hearings, both in person and in your living room?

(CM): Yes. So- so—

(TI): Interesting.

(CM): So, in- in either legacy or AMA, you can do, uh, you can ask for hearings. And traditionally the board has offered in person or video hearings through teleconferencing. So those still exist in both areas. What we are

rolling out and currently under testing since July, and we expect to roll out in early 2020, is what we call virtual - virtual hearings, which is very similar to tele-health. So, you will be able to have a hearing on your phone, on your iPad, on your computer.

(TI): Interesting.

(CM): By linking through the video connect app on VA. So if you get a letter from the V- from the board that says, we've scheduled your hearing, it's on this date - it will- it will also tell you, in the future, once we roll this out for full functionality, you also can choose the virtual capability. If you'd like to choose the virtual capability, please contact us at this number. We don't have that quite firmed up yet. We're working on that until we make sure we have all the technology in place to adequately support what we're doing.

(TI): Sure.

(CM): But the video, uh, technology where veterans could go to a regional office or in some cases a hospital and, be linked by video to a judge here, and sometimes a VSO in a different location, we have that capability right now, but the capability to be able to do it on your phone or to have a hearing on your phone or on your iPad or on your computer is very, very new. And we're very excited about the opportunities that's going to give us to connect with our veterans and provide access.

(TI): Absolutely. So, if I want it in person, where do I got to go, right here? Right?

(CM): Right here.

(TI): Right here in D.C.

(CM): Downstairs. Mmhmm. We have three hearing rooms, right downstairs. We have, like I said, we currently have 96 judges. The judges hold hearings quite- quite a few hearings. Last year we hit a record. We held 22,793 hearings- 743 hearings, sorry, last year. That's a record. Most of our- most of our hearings are the teleconference type.

(TI): Gotcha.

(CM): But we do a fair amount still in legacy and travel board, where we go out to the facilities. Those aren't available in AMA in the future, so, or now, so we do AMA by teleconference.

(TI): Especially with the teleconference, and it doesn't- it doesn't make sense to spend the pack, you know, spend the money to go out there.

(CM): We can hold a lot more via teleconferencing and we really think the virtual will give us the opportunity. The other thing we're doing with hearings, so to go back to what happens in a hearing.

(TI): Yeah.

(CM): Once you get advised that your hearing is scheduled, your- your advocate will also, your representative, will also be notified. And if there's a problem with scheduling, then there's a contact point you will be given too- 'cause we can reschedule you if it doesn't work for your schedule. We understand that, you know, we pick the date doesn't always work for you. So, we are- we are very accommodating. We have a whole team of people who- who work with our veterans to find better dates that work for the veteran and the advocate. And then, you show up for your hearing. The judge is going to ask you a series of questions after they put you under oath and you're just going to talk about your case. Our hearings are very, non-challengeable.

(TI): Sure.

(CM): We try to- we try to make the- put the veterans at ease. Remember our goal, because we are VA, is to help the veteran get the benefits they earned to the ability that we can under the law.

(TI): Very good. Now I'm talking about a lot of time in the board, but I guess one of the questions I would have, could you get a direct review in the board? Kind of like the three lanes in the- in the VBA and the board. Can you get a direct judgment? Can you get- then can you come back, can- can you go for additional evidence and then can you go for a hearing?

(CM): You could. What would have to happen there is if you received a direct review decision and you did not like that decision, you have two options. You can go in 120 days to the court of appeals for veterans claims, which you still have that option to go to the court. Or you can say, hmm, now that I've read the board decision, I understand what I'm- what I'm missing. Or I thought of something that I didn't think about before. So, you would go back to, for example, Veterans Benefits Administration and go into the supplemental lane, prevent- present new and relevant evidence.

(TI): Yeah.

(CM): If they then deny, you can come back to the board and choose a different lane.

(TI): So, it's all- it's a continuous cycle. If- if need be.

(CM): If need be, but it's—

(TI): if you have additional evidence that keeps coming forward.

(CM): But remember, it's totally up to the veteran this time. It's not the agency deciding for the veteran. This is the Veteran's choice. So, if they decide they want to continue the case or that they're not satisfied, they have those options. Whereas before they would get locked and they would get stuck and then they would be waiting.

(TI): Very good. Very good. Chairman Mason, we've covered a lot of ground in, I want to say a short amount of time. Is there anything else that I didn't ask that you think is important to share?

(CM): Two things. First of all, I'm sure Mr. McLenachen mentioned that there are options to move out of the legacy. If a veteran is frustrated by their legacy situation and they've talked to the representative, you have two options. It's once you get a statement of the case, which you would receive after you filed a notice of disagreement. Time is starting to run short on those. So, if you received a decision from VBA before February 15th of 2019 you still have whatever's left of your year period to file a notice of disagreement. You can still do that. Or if a case goes back on remand to, for example, VBA or VHA, if it goes back on remand and you- they issue a statement, a supplemental statement of the case. At that point, you will be given the option to opt into the new process and come out of the legacy. Couple of things there. You get the effective date protections, which are a big deal.

(TI): Yeah.

(CM): So, that's- that's an important thing to consider, but again, like you said earlier, it's important to have that discussion with your representative or your advocate to make sure you're making the right decision and you understand what that looks like. The other thing I would add is, veterans often wonder where their case is. We get a lot of- VBA gets a lot of phone calls. The department gets a lot of phone calls. We understand that. It takes- it takes longer than we'd like it to, and we all agree it takes too long. There's a place veterans can go to find out that information.

(TI): Really?

(CM): Yes. It's on va.gov [Link: <https://www.va.gov/>]. It was a joint creation by the board and OIT and digital service—

(TI): Okay.

(CM): in March of 2018 and it is called- it's at www.va.gov/claim-or-appeal-status [Link] and I know you're going to put this on there.

(TI): Absolutely.

(CM): But what you can find out, what I like to call this is the who, what, and where of your claim and appeal. If you log on to that, if you're a veteran and you log on to that process, it will tell you exactly where your claim-claim or appeal is in line. It is updated daily. So, you- and you can see how many are in front of you and how many are behind you.

(TI): Oh wow. It's queued you.

(CM): It's, yep. So, it's pretty cool. It- one of the things when we tested it, a lot of veterans told us they really felt good about it because they knew we hadn't forgotten them.

[00:34:15] Music

[00:34:22] PSA:

Man 1: I served in Vietnam.

Man 2: I served in World War Two.

Woman: I served in Afghanistan.

Man 1: And VA serves us all.

Man 2: No matter when you served.

Woman: No matter if you saw combat or not.

Man 1: There are benefits for Veterans of every generation.

Woman 1: See what VA can do for you.

Narrator: To learn what benefits you may be eligible for, visit www.va.gov. That's www.va.gov [Link to VA website].

[00:34:50] Music

[00:34:54] Closing Monologue:

(TI):

I want to thank Chairman Mason for coming on the show. Again, I personally learned a lot and if you're listening to this right now, feel free to come back to this and any other benefits break down as references for when you need them. For more information on the board, you can visit www.bva.va.gov [Link]. In addition to- for more information on the entire Appeals Modernization Act that affected both the Veteran Benefits Administration Appeals Management Office, and the board, visit benefits.va.gov/benefits/appeals.asp [Link: <https://benefits.va.gov/benefits/appeals.asp>]. And we also have the two podcasts and those well produced videos on YouTube that I included in the blogs for episodes 169 and one- and this one, 180.

This week's Borne the Battle of Veteran the Week is Army veteran, Roy N. Scow or Scow -I hope I said it right. Roy Scow was born on July 1896 in Manhattan, Montana on his family's homestead. Prior to joining the Army, he worked for the railroad on steam locomotives and even planned to return to his job after the war. He enlisted in the Army in June 1917 and served with the 163rd Infantry Regiment in France. While fighting, an exploding German shell landed right in front of Scow and the blast- the blast from the impact caused him to have a concussion and lose his hearing. Despite his injuries, he returned to duty and was discharged in August of 1919. Scow received a Silver Star, a Purple Heart, and the French version of the Medal of Honor. He returned to the railroad but was eventually let go due to his hearing problems. He then went on to train as a shoemaker and open his own shoe shop in Manhattan, Montana. After the war, Scow continued to stay active in veteran associations and join the Disabled American Veterans, the Veterans of Foreign Wars and the American Legion. He married and went on to have nine children. Roy passed away at 107 years old in April of 2004. We honor his service.

That's it for this episode of Borne the Battle. If you yourself would like to nominate a Borne the Battle Veteran of the Week, you can. Just email us at podcast@va.gov. Include a short writeup and let us know why you'd like to see him or her as a Borne the Battle Veteran of the week. For more stories on veterans and veteran benefits, check out our website, blogs.va.gov [Link: <https://www.blogs.va.gov/VAntage/>]. And follow the VA on social media, Twitter [Link to VA's twitter page: https://twitter.com/DeptVetAffairs?ref_src=twsrc%5Egoogle%7Ctwca], Instagram page: <https://www.instagram.com/deptvetaffairs/?hl=en>],

Facebook [Link to VA's Facebook page: <https://www.facebook.com/VeteransAffairs>], YouTube [Link to VA's YouTube page: <https://www.youtube.com/channel/UCBvOzPLmbzjtpX-Htstp2vw>], RallyPoint [Link: <https://www.blogs.va.gov/VAntage/56052/question-rallypoint-great-place-start/>]. Deptvetaffairs. US Department of Veterans Affairs. No matter the social media, you can always find us with that blue checkmark. And for 2020 or for as long as we can. For the outro, we will be featuring music and other art created by veterans. It could be a song, it could be a monologue, could be poetry, but the point is it has to be something made by a veteran. If you would like to submit your art to be the outro of Borne the Battle, hit us up and submit it to podcast@va.gov. What you're hearing now is "Nobody Knows", featuring Topher and D. Cure off the Ninja Punch music album, Sounds Like Freedom Volume One. Thank you again for listening and we'll see you right here next week. Take care.

[00:38:50] Music

(Text Transcript Ends)