



# Decision Reviews and Appeals

## FY 2020, Q4 Update

**Goal Leaders: Chairman Cheryl Mason and Brianne Ogilvie**

**Board**

Cheryl Mason, Chairman, Board of Veterans' Appeals

Deputy Goal Lead (Board): Freda Carmack, Special Counsel in the Office of the Chairman

**VBA**

Brianne Ogilvie, Acting Executive Director, Office of Administrative Review (OAR)

Deputy Goal Lead (VBA): Michael Edsall, Assistant Director (Operations), OAR

# Overview

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## Goal Statement

- Provide claimants who disagree with VA's decisions on claims and appeals with timely reviews under the new, streamlined process authorized by the Veterans Appeals Improvement and Modernization Act of 2017 (AMA). By September 30, 2021, VA will process and adjudicate Supplemental Claims and Higher-Level Reviews within 125 days on average, and Direct Docket Appeals within 365 days on average. VA will collect data throughout FYs 2020 and 2021 in order to establish average processing times for Evidence Docket and Hearing Docket appeals.
- Supplemental Claims and Higher-Level Reviews represent “Decision Reviews” in AMA. Decision Reviews are claims filed in disagreement with a previous decision.
  - Supplemental Claim: The claimant submits or identifies new and relevant evidence to support the claim. VA provides assistance in developing evidence.
  - Higher-Level Review: A more senior claims adjudicator reviews the prior decision and the closed record to determine if an error was made or if a different decision is warranted.
- An “appeal” is completed by a Veterans Law Judge at the Board of Veterans' Appeals (Board) and an appellant may choose one of three appeal lanes:
  - Direct Docket: A Veterans Law Judge reviews the prior decision and the closed record to determine if an error was made or if a different decision is warranted.
  - Evidence Docket: The appellant has 90 days to submit additional evidence before a decision is rendered.
  - Hearing Docket: The appellant testifies before a Veterans Law Judge and may submit additional evidence up to 90 days following the hearing before a decision is rendered.

# Overview

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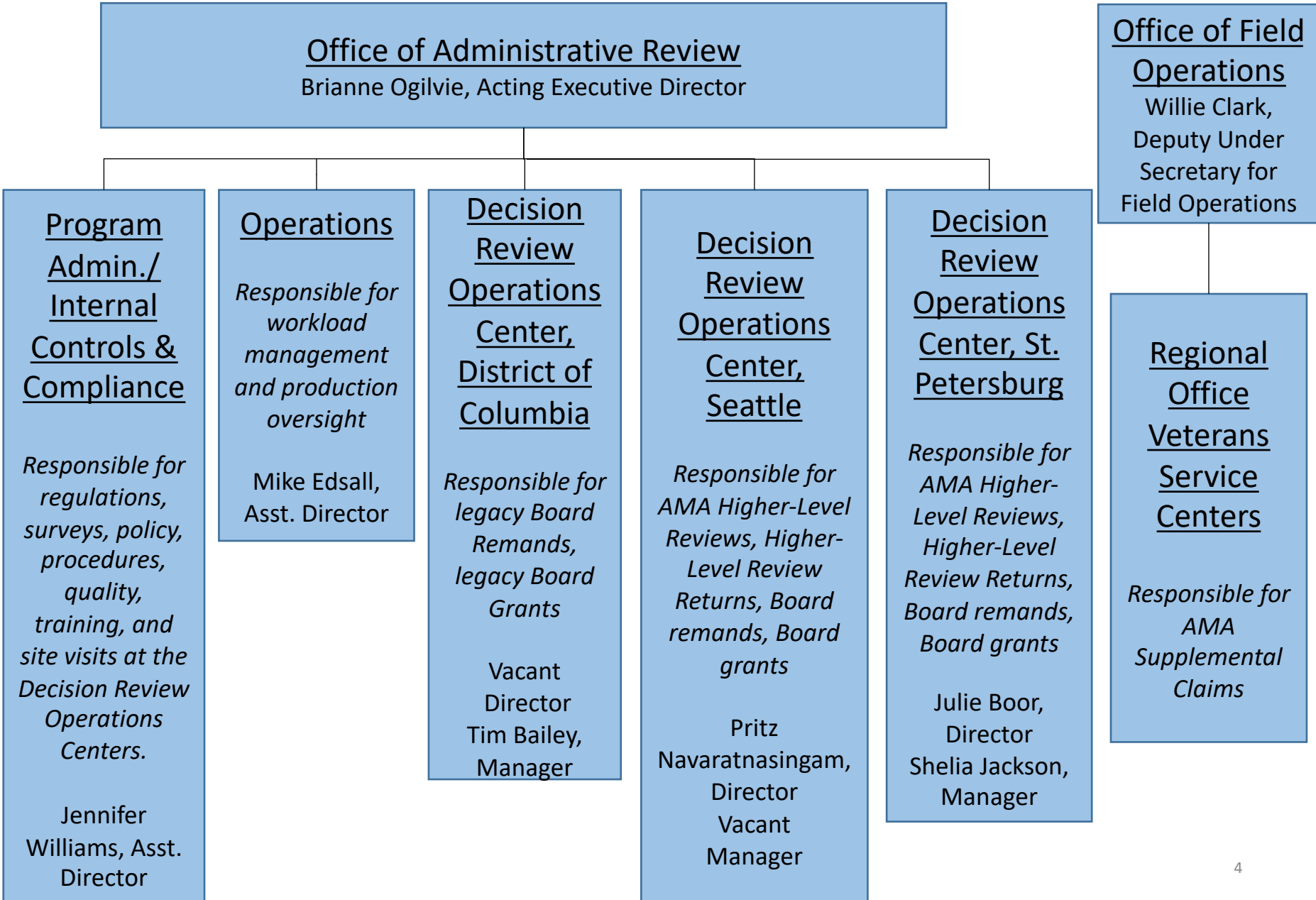
## Challenge

- Collect data sufficient to establish reliable appeals processing times for the Evidence and Hearing Dockets.
- Complete Direct Docket Appeals in an average of 365 days.
- Complete Higher-Level Reviews and Supplemental Claims decisions in an average of 125 days.

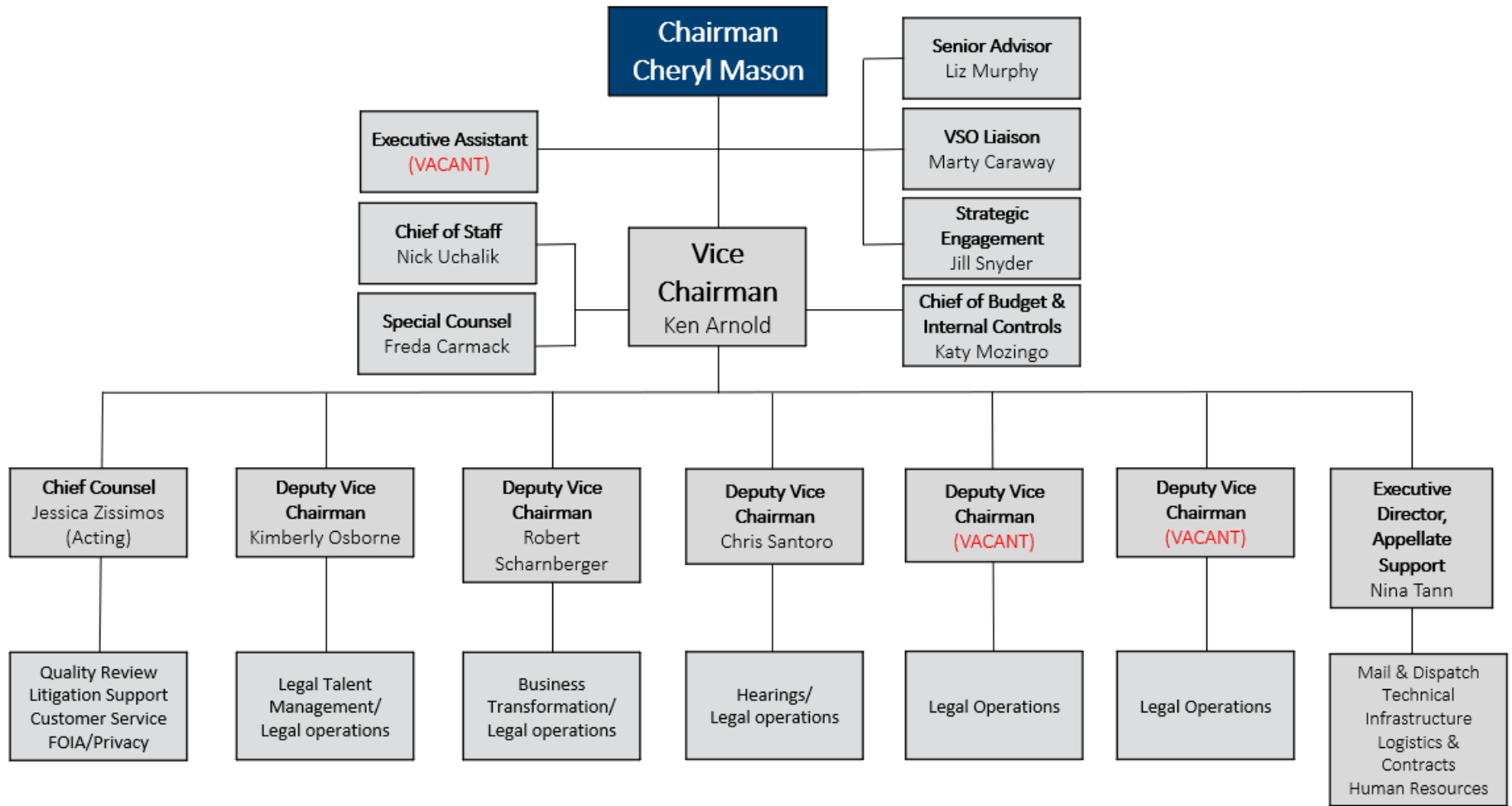
## Opportunity

- Improve VA's claims and appeals process by providing claimants/appellants the option to choose a process that meets their needs while receiving a timely decision on their claim or appeal.
- Provide informed averages for appeals processing times for the Appeals Evidence and Hearing Dockets that both satisfy AMA's promise to provide more timely final decisions and provide predictability for Veterans, their representatives, and internal and external stakeholders.

# Leadership & Implementation Team – Decision Reviews (VBA)



# Leadership & Implementation Team – Appeals (Board)



Freedom of Information Act (FOIA)

# Goal Structure & Strategies – Decision Reviews (VBA)

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- Continue utilizing National Work Queue and a rules-based capacity model to distribute Higher-Level Reviews to the Seattle and St. Petersburg Decision Review Operations Centers
- Continue utilizing National Work Queue and a rules-based capacity model to distribute Supplemental Claims to the Regional Offices
- Implemented time-in-queue monthly targets for the Decision Review Operations Centers to ensure the timely processing of all Higher-Level Reviews
- Continue to monitor the Higher-Level Review and Supplemental Claim workload and actively seek out and then mitigate challenges and risks that could impact VBA's ability to complete these reviews in an average of 125 days or less

# Goal Structure & Strategies – Appeals (Board)

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- Collect and review data on Direct Docket appeals to monitor processing times and best ensure decisions are issued within an average of 365 days
- Collect appeals data throughout FY2020 and FY2021 and establish metrics to predict average case processing times for the Evidence and Hearing Dockets. Metrics may include receipt rates for cases on each docket, hearing scheduling rates, and average waiting time until dispatch
- Analyze the effect of decreasing legacy inventory on AMA appeals processing, to include pending legacy Remanded Appellate Decisions at VBA
- Monitor the effect of virtual tele-hearings and VEText technologies on the Board's hearing rate
- Track by issue for both legacy appeals and AMA appeals

# Summary of Progress – Decision Reviews (VBA) – FY2020, Q4

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- Since the start of FY2020, VBA is meeting its 125-day timeliness goal for processing Higher-Level Reviews and Supplemental Claims.
- VBA completed 60,009 Higher-Level Reviews with an average days to complete of 94 days.
- VBA completed 236,809 Supplemental Claims with an average days to complete of 77 days.
- During Q4 VBA experienced higher than normal receipts indicating a possible change in Veteran filing behavior. VBA met that challenge by authorizing resource allocation and working with the DROCs to increase productivity. VBA continues to monitor average days to complete to adjust resources as needed to maintain timely processing.
- NOTE: Though VBA met their FY2020 goals, this APG requires VBA to test the new goals for Higher Level Review and Supplemental Claims to ensure that they remain realistic over the long term. As resources are reallocated from legacy workload, VBA continues to monitor these measures as the inventory continues to mature. (VA may adjust its goals based on better-than-anticipated processing times).



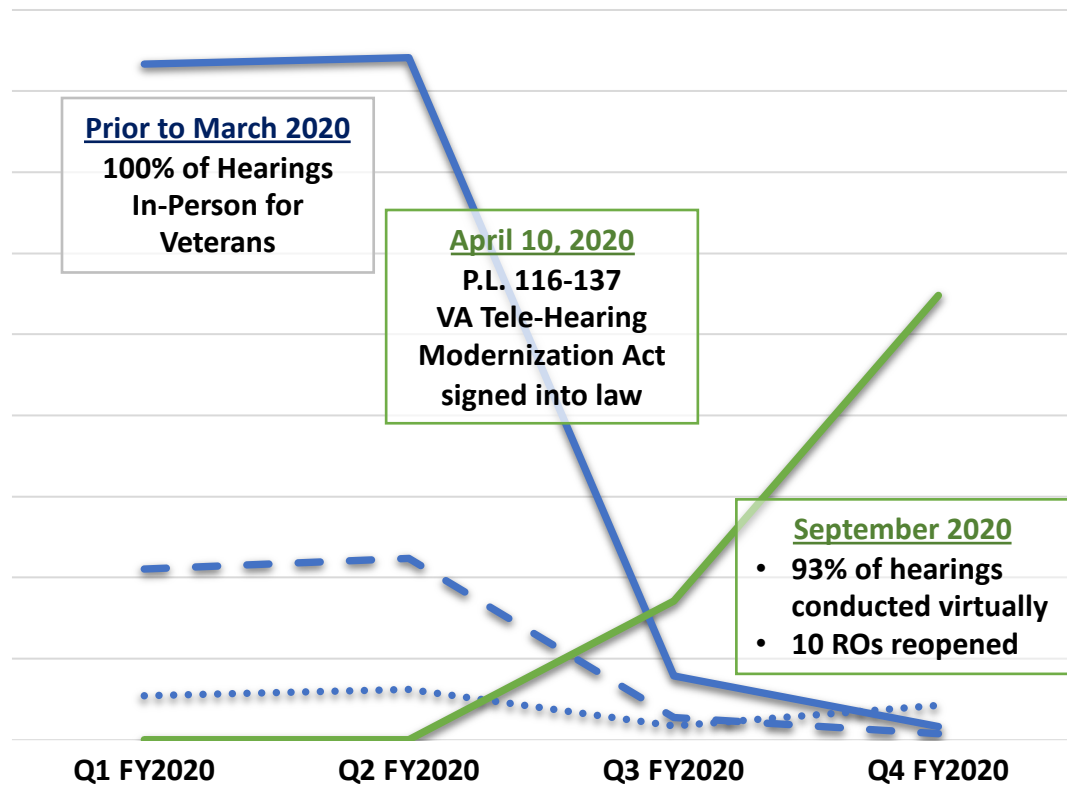
# Summary of Progress – Appeals (Board) – FY2020, Q4

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- At the end of Q4, the Board is meeting its 365-day timeliness goal for processing Direct Docket appeals.
  - The Board dispatched in FY 2020:
    - 12,421 Direct Docket decisions with an average days to complete of 225 days
    - 3,347 Evidence Docket decisions with an average days to complete of 277 days
    - 1,434 Hearing Docket decisions with an average days to complete of 377 days
- In FY 2020, the Board dispatched 17,202 total AMA decisions, comprising nearly 17 percent of the Board's record 102,663 decisions. The Board will continue to track processing times for the Evidence and Hearing Dockets through FY2021 Q2, as well future workload requirements in order to establish reliable processing times for these additional lanes.
- As the prioritization of legacy case resolution and Direct Docket timeliness continues, inventories and timeliness for the Evidence and Hearing dockets will continue to temporarily increase until majority of Board decisions are rendered in the AMA dockets.
- NOTE: The Board is committed to projecting timeliness goals beginning in FY 2022 for the Evidence and Hearings dockets by Q2 FY 2021.

# Summary of Progress – Appeals (Board) – FY2020, Q4

## From In-Person to Virtual Tele-Hearings



**Prior to March 2020**  
100% of Hearings In-Person for Veterans

**April 10, 2020**  
P.L. 116-137  
VA Tele-Hearing Modernization Act signed into law

**September 2020**  
• 93% of hearings conducted virtually  
• 10 ROs reopened

- In-Person Hearings**
  - ..... Conducted face to face (Veteran, VSO Representative, Veterans' Law Judge) at HQ in Washington, D.C.
  - Video Teleconference - In-Person at VBA Regional Office for Veterans and VSO Rep, and VLJ participates virtually
  - - Travel Boards - Conducted in-person (Veteran, VSO Rep, VLJ) at VBA Regional Office
- Virtual**
  - Virtual - Conducted virtually by all parties (Veteran, VSO Rep, VLJ)

### Veteran Access to Hearings during COVID

- All in person hearings suspended week of March 15<sup>th</sup>
- Quickly moved to a virtual tele-hearing environment (based on VHA's telehealth platform)
- Sweeping rescheduling effort communicating with Veterans, VSOs and Representatives via phone calls, emails, & letters
- Extensive outreach to VSOs and Veterans to increase understating of virtual tele-hearing environment

**4,634 hearings held after March 22<sup>nd</sup>**

# Key Milestones (VBA)

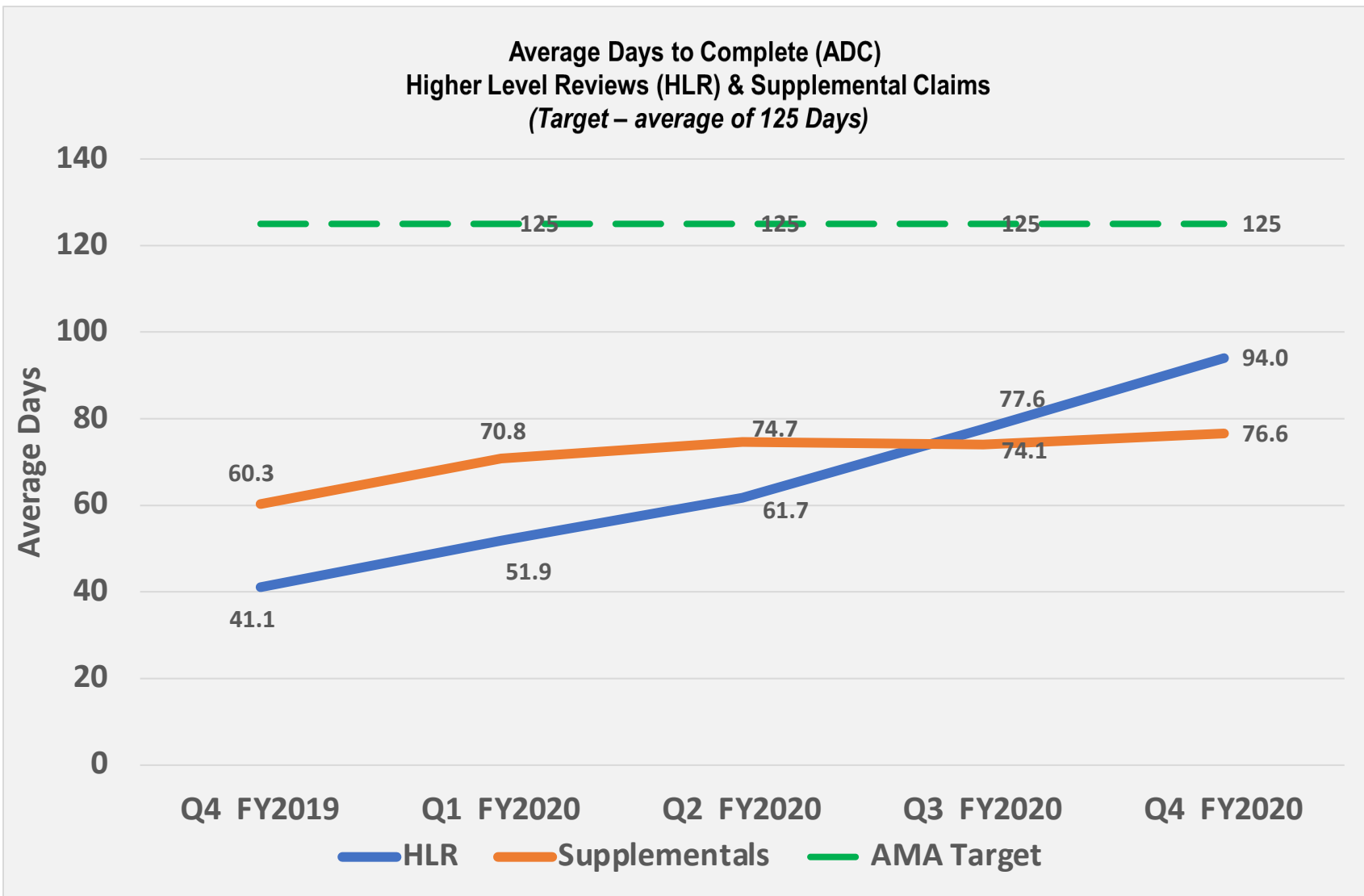
- VBA continues to monitor the Higher-Level Review and Supplemental Claim workload and actively seek out and then mitigate challenges and risks that could impact VBA's ability to complete Higher-Level Reviews and Supplemental Claims in an average of 125 days or less

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
Implement time-in-queue targets for each office processing Higher-Level Reviews and Supplemental Claims	FY2020 Q1	Completed	Completed	VBA	Monthly time-in-queue targets implemented for each Decision Review Operations Center; all Decision Review Operations Centers have achieved targets for FY 2020 through Q4.
Maintain 125-day average days to complete (ADC) for Higher-Level Reviews	FY2020 Q4	On Track	N/A	VBA	
Maintain 125-day average days to complete (ADC) for Supplemental Claims	FY2020 Q4	On Track	N/A	VBA	

# Key Milestones (Board)

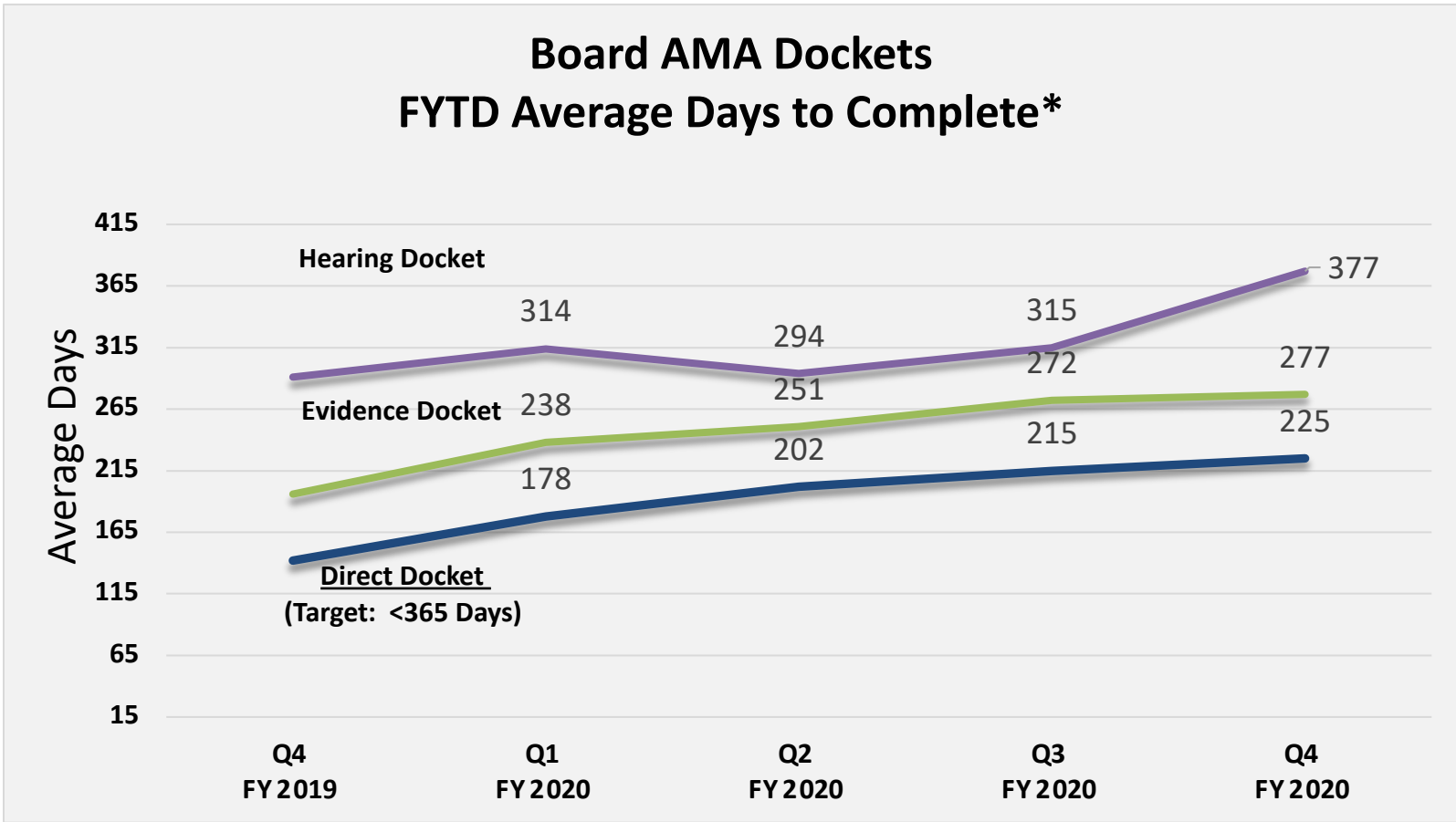
Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
Report number of appeals issued and average time for Direct Docket appeals	FY2020 Q1	Completed		Board	The Board monitors processing time for Direct Docket appeals. In FY2019, 1,214 Direct Docket appeals were dispatched with an average days to complete of 142. In FY2020, the Board dispatched 12,421 Direct Docket appeals with an average days to complete of 225.
Develop methodology to effectively measure average processing times for Evidence Docket and Hearing Docket	FY2020 Q2	Completed	Completed	Board	Methodology and process for collecting and archiving processing times for Evidence and Hearing Dockets is complete. Data is now reported on the Board's internet site and also included in its list of regular performance metrics.
Provide average appeals processing times for Evidence Docket and Hearing Docket	FY2020 Q2	Completed	Completed	Board	Processing times for Evidence and Hearing Dockets are now included in this report.
Provide projected timeliness goals for average days to complete for Evidence and Hearing Dockets	FY2021 Q2	On Track	On Track	Board	The Board is analyzing its workload capacity variations in legacy and Direct Docket inventory to adequately establish goals for average days to complete for the Evidence and Hearing Dockets.

# Key Indicators – Decision Reviews (VBA)



Through the end of fourth quarter FY2020, AMA inventory was approximately 99K. Higher-Level Reviews (“HLR”) and Supplemental Claims (“Supplementals”) remain well below the targeted average of 125 days.

# Key Indicators – Appeals (Board)

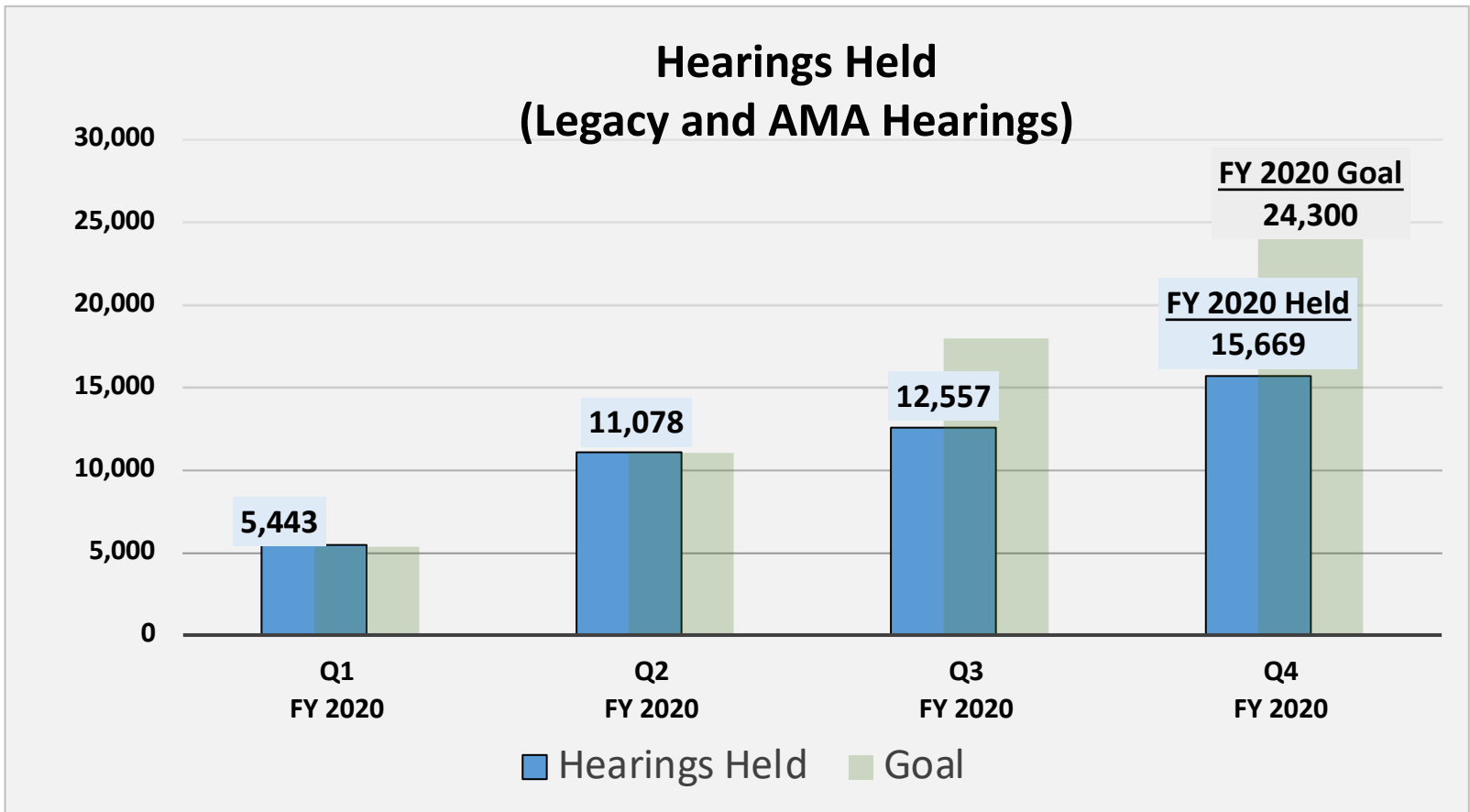


\*Timeliness for the Board’s AMA dockets remain fluid until legacy appeals are resolved at VBA and the Board.

On average, Direct Docket appeals are to be processed within one year from the appellant filing a Notice of Disagreement (P.L. 115-55). The Board continues to assess Evidence and Hearing Docket timeliness goals.

In FY 2020, the Board dispatched 17,202 AMA cases, including 12,421 (72%) Direct Docket appeals, 3,347 (19%) Evidence Docket appeals and 1,434 (9%) Hearing Docket appeals.

# Key Indicators – Appeals (Board)



The Board finished FY 2020 with 15,669 hearings held, 8,631 below goal due to effects of COVID-19.

Steadfast, the Board has set a robust goal to conduct 50,000 hearings in FY 2021, more than double FY 2019’s record of 22,294 hearing held.

# Data Accuracy and Reliability – Decision Reviews (VBA)

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- Higher-Level Review and Supplemental Claim timeliness measures the average days to complete, calculated as the average number of days from the date the claim is filed to the date VBA completes the claim.
- Claims timeliness data is generated from VBA's enterprise data warehouse, an accurate and reliable database that underlies all VBA data reporting
- To better ensure VBA will continue meeting the average-days-to-complete target, VBA measures cycle-based time in queue at each processing office on a monthly basis
- Average time in queue reflects the average number of business days the claim remains at a processing office
- A monthly time in queue snapshot for each cycle (e.g., initial development, awaiting decision) occurs the morning following the last day of the month
- Like average days to complete, VBA's enterprise data warehouse is the source for time-in-queue data



# Data Accuracy and Reliability – Appeals (Board)

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- The Board closely monitors legacy appeals receipts through its legacy reporting system (VACOLS) and AMA appeals receipts through Tableau
- The Board and VBA partner to monitor AMA election rates and deviance from projections to inform future evidence based estimates
- The Board also closely monitors pending legacy Remanded Appellate Decisions at VBA and VHA that remain under the Board's jurisdiction pursuant to 38 U.S.C. § 7107
- After the majority of legacy appeals at the Board are completed, to include Remanded Appellate Decisions, the Board will be able to better project average days to complete for the 3 AMA dockets
- The Board is analyzing its workload capacity of legacy and Direct Docket inventory at the Board to adequately establish goals for average days to complete for the Evidence and Hearing Docket appeals

# Additional Information

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## Contributing Programs

Organizations:

- Board of Veterans' Appeals
- Veterans Benefits Administration

Program Activities:

- N/A

Regulations:

- N/A

Policies:

- N/A

Other Federal Activities:

- N/A

## Stakeholder / Congressional Consultations

- VA provided its congressionally-mandated update to Congress on AMA in February 2020.