APPENDIX

APPENDIX A

NOTE: This disposition is nonprecedential.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

TIMOTHY J. DOLBIN,
Claimant-Appellant

v.

DENIS MCDONOUGH, SECRETARY OF VETERANS AFFAIRS,
Respondent-Appellee

2021-2373

Appeal from the United States Court of Appeals for Veterans Claims in No. 21-2890, Judge Grant Jaquith, Judge Joseph L. Falvey, Jr., Judge Joseph L. Toth.

Decided: April 18, 2023

ADAM R. LUCK, GloverLuck, LLP, Dallas, TX, for claim-ant-appellant. ROBERT R. KIEPURA, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for respondent-appellee. Also represented by BRIAN M.

BOYNTON, CLAUDIA BURKE, PATRICIA M. MCCAR-THY; BRIAN D. GRIFFIN, ANDREW J. STEINBERG, Office of General Counsel, United States Department of Veterans Affairs, Washington, DC.

Before MOORE, *Chief Judge*, LOURIE and STOLL, *Circuit Judges*.

PER CURIAM.

Timothy Dolbin appeals from a judgment of the United States Court of Appeals for Veterans Claims (Veterans Court) denying his petition for writ of mandamus and dis-missing his motion for class certification as moot. *Dolbin v. McDonough*, 34 Vet. App. 334, 337 (2021) ("*Decision*"). Because Mr. Dolbin has received a Board decision, we dis-miss Mr. Dolbin's appeal as moot.

BACKGROUND

Mr. Dolbin, an Air Force veteran, filed claims for service-connected disability compensation in 2008 and 2011. Following decisions by the regional office (RO) and remands by the Board of Veterans' Appeals, Mr. Dolbin's claims were again remanded by the Board in 2017. In April 2018, the Department of Veterans Affairs (VA) offered Mr. Dolbin the opportunity to transfer his claims from the legacy appeals system to the Rapid Appeals Modernization Program (RAMP), a pilot program implemented by the VA pursuant to the Veterans Appeals Improvement and Modernization Act of 2017, Pub. L. No. 115-55, § 4(a), 131 Stat. 1105

(2017) (VAIMA). Mr. Dolbin opted to participate in RAMP and have his claims processed in the "supplemental claim" lane. J.A. 222.

In February 2019, the RO issued a decision on Mr. Dolbin's claims. Mr. Dolbin then appealed the decision to the Board and the Board docketed his appeal according to RAMP rather than his original position in the legacy appeals system. Mr. Dolbin requested that the Board advance his case on its docket under 38 U.S.C. § 5109B, which provides that the Veterans Benefit Administration give previously remanded claims "expeditious treatment," and 38 U.S.C. § 7112, which provides that the Secretary "shall take such actions as necessary to provide for the expeditious treatment" of previously remanded claims. The Board denied Mr. Dolbin's motion, concluding that he failed to show sufficient cause to allow his appeal to be considered out of docket number order.

Mr. Dolbin filed a petition for a writ of mandamus with the Veterans Court asking the court to compel the Board to return his appeal to its original place on the docket and afford it expeditious treatment. In addition, Mr. Dolbin filed a motion for certification of a class consisting of "claimants with active appeals that have been adjudicated by the Board . . . in the Legacy appeals system and returned to the Board in the VAIMA system but have not been returned to their original place on the docket or been afforded expeditious treatment." J.A. 246–77.

On August 26, 2021, the Veterans Court issued an or-der denying Mr. Dolbin's mandamus petition and dismissing his class certification request as moot. *Decision*, 34 Vet. App. at 337. Mr. Dolbin now appeals. We have jurisdiction under 38 U.S.C. § 7292.

DISCUSSION

We have limited jurisdiction to review decisions of the Veterans Court. We may not review factual findings, nor the application of law to fact unless presented with a constitutional issue. 38 U.S.C. § 7292(d)(2); *see also, e.g.*, *Con-way v. Principi*, 353 F.3d 1369, 1372 (Fed. Cir. 2004). Our review is limited to legal challenges regarding the "validity of any statute or regulation or any interpretation thereof[,] . . . and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision." 38 U.S.C. § 7292(c).

On appeal, Mr. Dolbin argues that the Veterans Court erred in denying his petition for writ of mandamus and dis-missing his motion for class certification. Specifically, Mr. Dolbin argues that the Veterans Court relied on incorrect statutory provisions and improperly limited the scope of 38 U.S.C. § 5109B.

We begin with Mr. Dolbin's argument that the Veterans Court improperly denied his petition for a writ of mandamus. On July 5, 2022, nearly a year after the Veterans Court's August 2021 decision, Mr. Dolbin received a Board decision on his pending claims. *See* [Title Redacted by Agency], No. 191217-54095, 2022 WL 4457787 (Bd. Vet. App. July 5, 2022) ("*Board*

Decision"). The Government argues that Mr. Dolbin's petition for a writ of mandamus is now moot because the Board decision provided Mr. Dolbin with the relief he sought in his petition. Appellee's Br. 14–15. We agree.

Mr. Dolbin acknowledges that "there is no further relief that could be provided by the Court through a grant of his mandamus petition," but asserts that the case is not moot because it falls within the exception to mootness for cases that are capable of repetition yet evading review. Reply Br. 8–9. This exception "applies 'only in exceptional situations,' where (1) 'the challenged action [is] in its duration too short to be fully litigated prior to cessation or expiration,' and (2) 'there [is] a reasonable expectation that the same complaining party [will] be subject to the same action again.'" *Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 170 (2016) (quoting *Spencer v. Kemna*, 523 U.S. 1, 17 (1998)). Mr. Dolbin has failed to demonstrate both prongs.

In particular, Mr. Dolbin has not shown that the challenged action is too short in duration to be litigated and the lengthy procedural history of his case indicates the contrary. After opting into the RAMP program and filing his appeal to the Board, he waited almost eight months to file his motion requesting the Board to advance his case. J.A. 243–44. After the Board denied his motion, he filed his petition at the Veterans Court five months later. J.A. 10–30, 246–77. Finally, the Board issued a decision on Mr. Dolbin's case nearly a year after the Veterans Court decision, further demonstrating that the duration was not so

short as to evade review. *See generally Board Decision*.

Even if the challenged action were deemed too short in duration to be litigated, Mr. Dolbin has not demonstrated a reasonable expectation that he will again be subject to the same situation. Indeed, Mr. Dolbin agrees that his sub-sequent appeal of the Board's July 2022 decision is "in a different procedural posture than his previous appeal," and thus, he is unlikely to be in a situation where his appeal is transferred from the legacy appeals system to RAMP following a remand. Reply Br. 9–10. Thus, Mr. Dolbin's petition for writ of mandamus is moot and the capable of repetition but evading review exception does not apply. We dismiss this portion of Mr. Dolbin's appeal as moot.

Next, we address Mr. Dolbin's argument that the Veterans Court erred in denying his motion for class certification. The Government argues that Mr. Dolbin's motion for class certification is similarly moot because Mr. Dolbin's individual claim is moot, and the Veterans Court did not consider the merits of the class certification motion. Appellee's Br. 15, 21–22.

A class action is usually moot if the named plaintiff's claim becomes moot before the class certification. *See Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 73 (2013) ("In the absence of any claimant's opting in, respondent's [collective action] became moot when her individual claim became moot, because she lacked any personal interest in representing others in this action."). Here,

the Veterans Court dismissed Mr. Dolbin's class certification motion as moot because "Mr. Dolbin's petition [for a writ of mandamus] is . . . denied on grounds that would apply to any member of the putative class." *Decision*, 34 Vet. App. at 337. In other words, the class was uncertified at the time that Mr. Dolbin's claim became moot. Accordingly, the July 2022 Board decision mooted both Mr. Dolbin's individual action for mandamus and the uncertified class action because Mr. Dolbin no longer had a personal interest to represent others. Mr. Dolbin nonetheless argues that an exception that allows a class action to proceed despite the named plaintiff's claim being moot applies here. Reply Br. 3–4. We disagree.

One exception is the "relation back" doctrine, which ap-plies where other similarly situated plaintiffs will continue to be subject to challenged conduct and the claims "are so inherently transitory that the trial court will not have even enough time to rule on a motion for class certification be-fore the proposed representative's individual interest expires." *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 399 (1980). While others may be subject to the same docketing procedures as Mr. Dolbin, the claims here are not inherently transitory for the same reasons that Mr. Dolbin's petition for a writ of mandamus is not too short in duration to be litigated. Accordingly, the relation back doctrine is not applicable here.

Another exception applies where a named plaintiff's in-dividual claim becomes moot after the denial of a class certification motion. *See id.* at 404.

The Supreme Court has stressed that this is a narrow exception only applying to denials on the merits. *See Genesis*, 569 U.S. at 66, 75–76 (describing mootness exception for lack of class certification to "narrowly extend[] . . . to *denials* of class certification motion"). Because the Veterans Court *dismissed* Mr. Dolbin's motion for class certification as moot based on Mr. Dolbin's individual claim, it did not reach the merits of the class certification motion and thus, this exception is not applicable here.

Because Mr. Dolbin's individual claim is moot and the above exceptions do not apply to this case, the class certification claim is also moot. Accordingly, we dismiss this portion of Mr. Dolbin's appeal.

CONCLUSION

For the above reasons, we dismiss Mr. Dolbin's appeal as moot.

DISMISSED

COSTS

No costs.

APPENDIX B

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 21-2890

TIMOTHY J. DOLBIN, PETITIONER,

V.

DENIS MCDONOUGH,

SECRETARY OF VETERANS AFFAIRS, RESPONDENT.

Before TOTH, FALVEY, and JAQUITH, Judges.

O R D E R

TOTH, Judge, filed the opinion of the Court.

Air Force veteran Timothy Dolbin petitions the Court for a writ of mandamus directing the Board to return his appeal to its original position on the Board's docket and promptly issue a decision on his claims for VA disability compensation for degenerative disc disease, right leg numbness, hemochromatosis, hypertension, bilateral hearing loss, tinnitus, Menier's syndrome, anxiety, depression, sinusitis, and GERD.

After a 2017 Board remand, VA offered Mr. Dolbin an opportunity to participate in the Rapid Appeals Modernization Program (RAMP). In April 2018, he opted into RAMP, choosing to have his claims processed in the "supplemental claim lane."

Petitioner's App'x at 192. The optin form explained that RAMP was a voluntary program and that, by opting in, the claimant would withdraw his current appeals and "proceed under the new process" outlined in the Veterans Appeals Improvement and Modernization Act of 2017 (VAIMA). *Id.* Thereafter, VA issued decisions on all of the above-mentioned claims in a February 6, 2019, rating decision. Mr. Dolbin appealed and the Board informed him that his appeal was docketed in January 2020.

Mr. Dolbin claims that, after the Board's remand, he was entitled under 38 C.F.R. § 20.902(a) and 38 U.S.C. § 5109B to have his appeal moved forward on the Board's docket to its original position. He also filed a motion to advance his appeal before the Board. The Board denied his motion, finding that he did not meet the criteria for advancement set out in 38 U.S.C. § 7107(a). Under VAIMA, appeals in RAMP are docketed in the order that they are received on a dedicated docket. Pub. L. No. 115-55, § 4(b)(3)(B)(i)(II), 131 Stat. 1105, 1121.

This case is not, as the Secretary claims, governed by 38 C.F.R. §§ 3.2400, 19.1, 20.4, or 20.800(a)(1), because none of these regulations became effective until 2019. Instead, Congress itself provided the rules governing the Board's docketing system under VAIMA. The Act makes clear that RAMP operates independently of the existing "legacy" appeals system. Pub. L. No. 115-55, § 4(b)(1), 131 Stat. at 1120 ("The Secretary of Veterans Affairs may,

under subsection (a)(1), carry out a program to provide the option of an alternative appeals process").

The Act also clearly sets out a first-come, first-served docketing system for RAMP appeals. Section 4(b)(3)(B) requires the Board to "maintain fully developed appeals on a separate docket than standard appeals" and to "decide fully developed appeals in the order that the fully developed appeals are received on the fully developed appeal docket." *Id.* § 4(b)(3)(B)(i)(I)-(II), 131 Stat. at 1121.

Further, the RAMP opt-in form Mr. Dolbin completed states that "by completing this form, I elect to participate in RAMP . . . and have my eligible appeals proceed under the new process described in the [VAIMA]." Petitioner's App'x at 192. Contrary to his argument, the veteran was fully aware that he agreed to have his claims processed under the VAIMA system and, by the time he opted-in to RAMP, VAIMA had existed for nearly 8 months. And, section 4 of the Act explicitly empowered the Secretary to operate RAMP before the effective date of the entire modernized system. § 4(b)(4)(A).

Moreover, there is no indication that the Board has unduly delayed processing Mr. Dolbin's appeal. His case was docketed in the order received and currently awaits adjudication by the Board. While section 5109B requires the Secretary to ensure that previously remanded claims are processed expeditiously, it does not require the Board to allow a claimant to jump the line—especially when Congress

has already expressed an unequivocal intention for VAIMA appeals to be processed in the order received.

The petitioner also filed a motion for class certification. He requested that the Court certify a class consisting of "claimants with active appeals that have been adjudicated by the Board of Veterans' Appeals in the Legacy appeals system and returned to the Board in the VAIMA system but have not been returned to their original places on the docket or been afforded expeditious treatment by the Board." Petitioner's Request for Class Certification and Class Action, at 2. After considering the requirements for class action in U.S. VET. APP. R. 22, 23, and given the disposition of Mr. Dolbin's petition, the Court does not believe class certification is appropriate.

In *Monk v. Wilkie*, 30 Vet.App. 167, 174 (2018) this Court held that it had the authority to certify class actions and that it would use Rule 23 of the Federal Rules of Civil Procedure as a guide for determining whether to grant a motion for class certification. Rule 23(c)(1) establishes that a court should rule on class certification as soon as "practicable," which provides the Court discretion to determine the best time to rule on the motion. In *Bell Atlantic v. Twombly*, 550 U.S. 544, 557-58 (2007), the Supreme Court explained that, before ordering class certification, courts should scrutinize the pleadings to ensure that a viable claim has been presented to limit unnecessary expenditures by the parties and the court. For this reason, a court can rule on the merits

of a case before reaching the class question if the circumstances so warrant.

Further, if the theory of relief that the putative class representative proceeds under fails as a matter of law, the Court can deny the class certification as moot because the claim of any other putative class member would fail for the exact same reason. An oft-cited case describes the effect that an adverse judgment on the merits presents to a class certification motion in this way:

> Class actions are expensive to defend. One way to try to knock one off at low cost is to seek summary judgment before the suit is certified as a class action. A decision that the claim of the named plaintiffs lacks merit ordinarily, though not invariably,. . . disqualifies the named plaintiffs as proper class representatives. The effect is to moot the question whether to certify the suit as a class action unless the lawyers for the class manage to find another representative. They could not here because the ground on which the district court threw out the plaintiff's claims would apply equally to any other member of the class. After granting the defendant's motion for summary judgment, therefore, and since (as was predictable, given the district judge's ground) no one stepped forward

> to pick up the spear dropped by the named plaintiffs, the judge denied the motion for class certification.

Cowen v. Bank United of Texas, FSB, 70 F.3d 937, 941 (7th Cir. 1995) (internal citations omitted).

The Supreme Court endorsed this view when it dismissed on the merits a putative class action antitrust suit in *Twombly*. 550 U.S. at 548. The Court explained that "when the allegations in a complaint, however true, could not raise a claim of entitlement to relief" courts should be able to dismiss the complaint before imposing costs, such as discovery or class certification, on the parties. Id. at 558-59. Further, there is nothing in *Twombly* to suggest that its holding is limited to civil cases and should not apply equally to class actions in an administrative context.

Here, just as in *Cowen*, Mr. Dolbin's petition is being dismissed on grounds applicable to any potential class member. VAIMA clearly established the Board's first-come first-served docketing system for RAMP appeals, which applies to every member of the putative class. Because the Board's docketing procedure for RAMP appeals was prescribed by Congress, petitioner's argument that § 20.902 controls fails as a matter of law. *See Swain v. McDonald*, 27 Vet.App. 219, 224 (2015) ("It is axiomatic that a regulation may not trump the plain language of a statute."). Having resolved the legal question, we dismiss as moot his class certification motion.

In summary, § 20.902(a) does not apply to RAMP appeals and the veteran has failed to establish that the Secretary unduly delayed in processing his appeal. Because Mr. Dolbin's petition is being denied on grounds that would apply to any member of the putative class, his request for class certification and class action must be dismissed.

Accordingly,

The April 30, 2021, petition for a writ in the nature of mandamus is DENIED. The petitioner's May 17, 2021, motion for class action is DISMISSED as moot.

DATED: August 26, 2021

Copies to:

Adam R. Luck, Esq.

VA General Counsel (027

APPENDIX C

NOTE: This order is nonprecedential.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

TIMOTHY J. DOLBIN,
Claimant-Appellant

v.

DENIS MCDONOUGH, SECRETARY OF VETERANS AFFAIRS,
Respondent-Appellee

2021-2373

Appeal from the United States Court of Appeals for Veterans Claims in No. 21-2890, Judge Grant Jaquith, Judge Joseph L. Falvey, Jr., Judge Joseph L. Toth.

ON PETITION FOR PANEL REHEARING

Before MOORE, *Chief Judge*, LOURIE and STOLL, *Circuit Judges*.

PER CURIAM

ORDER

Timothy J. Dolbin filed a petition for panel rehearing.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The mandate of this court will issue August 8, 2023.

FOR THE COURT

August 1, 2023
Date

/s/ Jarrett B. Perlow
Jarrett B. Perlow
Clerk of Court

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

TIMOTHY J. DOLBIN,
Claimant-Appellant

v.

DENIS MCDONOUGH, SECRETARY OF VETERANS AFFAIRS,
Respondent-Appellee

2021-2373

Appeal from the United States Court of Appeals for Veterans Claims in No. 21-2890, Judge Grant Jaquith, Judge Joseph L. Falvey, Jr., Judge Joseph L. Toth.

JUDGMENT

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

DISMISSED

FOR THE COURT

August 18, 2023
Date

/s/ Jarrett B. Perlow
Jarrett B. Perlow
Clerk of Court

APPENDIX E

PUBLIC LAW 115-55 § 2(k), 131 STAT. 1109-10
(AUGUST 23, 2017)
United States Code
Title 38 Veterans' Benefits

38 U.S.C. § 5109B

(k) RESTATEMENT OF REQUIREMENT FOR EXPEDITED TREATMENT OF RETURNED AND REMANDED CLAIMS.—

"§ 5109B. Expedited treatment of returned and remanded claims

"The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the Veterans Benefits Administration of any claim that is returned by a higher-level adjudicator under section 5104B of this title or remanded by the Board of Veterans' Appeals.".

APPENDIX F

PUBLIC LAW 115-55 § 2(t), 131 STAT. 1112-13
(AUGUST 23, 2017)
United States Code
Title 38 Veterans' Benefits

38 U.S.C. § 7107

(t) MODIFICATIONS RELATING TO APPEALS: DOCKETS; HEARINGS.—

"§ 7107. Appeals: dockets; hearings

(a) DOCKETS.—

(1) Subject to paragraph (2), the Board shall maintain at least two separate dockets.

(2) The Board may not maintain more than two separate dockets unless the Board notifies the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives of any additional docket, including a justification for maintaining such additional docket.

(3)(A) The Board may assign to each docket maintained under paragraph (1) such cases as the Board considers appropriate, except that cases described in clause (i) of subparagraph (B) may not be assigned to any docket to which cases described in clause (ii) of such paragraph are assigned. (B) Cases described in this paragraph are the following:

(i) Cases in which no Board hearing is requested.

(ii) Cases in which a Board hearing is requested in the notice of disagreement.

(4) Except as provided in subsection (b), each case before the Board will be decided in regular order according to its respective place on the docket to which it is assigned by the Board.

"(b) ADVANCEMENT ON THE DOCKET.—

(1) A case on one of the dockets of the Board maintained under subsection (a) may, for cause shown, be advanced on motion for earlier consideration and determination.

(2) Any such motion shall set forth succinctly the grounds upon which the motion is based.

(3) Such a motion may be granted only—

(A) if the case involves interpretation of law of general application affecting other claims;

(B) if the appellant is seriously ill or is under severe financial hardship; or

(C) for other sufficient cause shown.

APPENDIX G

PUBLIC LAW 115-55 § 4(a), 131 STAT. 1119
(AUGUST 23, 2017)
United States Code
Title 38 Veterans' Benefits

(4) PROGRAMS TO TEST ASSUMPTIONS RELIED ON IN DEVELOPMENT OF COMPREHENSIVE PLAN FOR PROCESSING OF LEGACY APPEALS AND SUPPORTING NEW APPEALS SYSTEM.

(a) AUTHORIZATION.—
(1) IN GENERAL.—The Secretary of Veterans Affairs may carry out such programs as the Secretary considers appropriate to test any assumptions relied upon in developing the comprehensive plan required by section 3(a) and to test the feasibility and advisability of any facet of the new appeals system.

APPENDIX H

PUBLIC LAW 115-55 § 4(b), 131 STAT. 1119-20
(AUGUST 23, 2017)
United States Code
Title 38 Veterans' Benefits

(b) DEPARTMENT OF VETERANS AFFAIRS PROGRAM ON FULLY DEVELOPED APPEALS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs may, under subsection (a)(1), carry out a program to provide the option of an alternative appeals process that shall more quickly determine such appeals in accordance with this subsection.

(2) ELECTION.—

(A) FILING.—In accordance with subparagraph (B), a claimant may elect to file a fully developed appeal under the program by filing with the Secretary all of the following:

(i) The notice of disagreement under chapter 71 of title 38, United States Code, along with the written election of the claimant to have the appeal determined under the program.

(ii) All evidence that the claimant believes is needed for the appeal as of the date of the filing.

(iii) A statement of the argument in support of the claim, if any.

(B) TIMING.—A claimant shall make an election under subparagraph (A) as part of the notice of disagreement filed by the claimant in accordance with subparagraph (A)(i).

(C) TRIAGE.—The Secretary shall, upon expiration of the period specified in paragraph (3)(C)(iii), ensure that an assessment is undertaken of whether an appeal filed under subparagraph (A) of this paragraph satisfies the requirements for appeal under the program and provide appropriate notification to the claimant of the results of that assessment.

(D) REVERSION.—

(i) ELECTED REVERSION.—At any time, a claimant who makes an election under subparagraph (A) may elect to revert to the standard appeals process. Such a reversion shall be final.

(ii) AUTOMATIC REVERSION.—A claimant described in clause (i), or a claimant who makes an election under subparagraph (A) but is later determined to be ineligible for the program under paragraph (1), shall revert to the standard appeals process without any penalty to the claimant other than the loss of the docket number associated with the fully developed appeal.

(3) TREATMENT BY DEPARTMENT AND BOARD.—

(A) PROCESS.—Upon the election of a claimant to file a fully developed appeal pursuant to paragraph (2)(A), the Secretary shall—

(i) not provide the claimant with a statement of the case nor require the claimant to file a substantive appeal; and

(ii) transfer jurisdiction over the fully developed appeal directly to the Board of Veterans' Appeals.

(B) DOCKET.—

(i) IN GENERAL.—The Board of Veterans' Appeals shall—

(I) maintain fully developed appeals on a separate docket than standard appeals;

(II) decide fully developed appeals in the order that the fully developed appeals are received on the fully developed appeal docket;

(III) except as provided by clause (ii), decide not more than one fully developed appeal for each four standard appeals decided; and

(IV) to the extent practicable, decide each fully developed appeal by the date that is one year following the date on which the claimant files the notice of disagreement.

(4) DURATION; APPLICABILITY.—

(A) DURATION.—Subject to subsection (c), the Secretary may carry out the program during such period as the Secretary considers appropriate.

(B) APPLICABILITY.—This section shall apply only to fully developed appeals that are filed during the period in which the program is carried out pursuant to subparagraph (A).

(5) DEFINITIONS.—In this subsection:

(A) COMPENSATION.—The term "compensation" has the meaning given that term in section 101 of title 38, United States Code.

(B) FULLY DEVELOPED APPEAL.—The term "fully developed appeal" means an appeal of a claim for disability compensation that is—

(i) filed by a claimant in accordance with paragraph (2)(A); and

(ii) considered in accordance with this subsection.

(C) STANDARD APPEAL.—The term "standard appeal" means an appeal of a claim for disability compensation that is not a fully developed appeal.