

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



Veterans Benefits Administration

*Follow-Up Review
on the Mismanagement of
Informal Claims Processing
at VA Regional Office
Oakland, California*

January 8, 2016
14-03981-54

ACRONYMS

OIG	Office of Inspector General
PTSD	Post-Traumatic Stress Disorder
RVSR	Rating Veterans Service Representative
VA	Department of Veterans Affairs
VARO	Veterans Affairs Regional Office
VBA	Veterans Benefits Administration

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Report Highlights: Follow-Up Review on the Mismanagement of Informal Claims Processing at VARO Oakland, CA

Why We Did This Review

In our previous report, *Review of Alleged Mismanagement of Informal Claims Processing at VA Regional Office Oakland, California* (Report No. 14-03981-119, February 18, 2015), we substantiated the allegation that VA Regional Office (VARO) Oakland staff had not processed or properly stored informal claims for benefits.

During an April 2015 House Committee on Veterans' Affairs testimony, the Office of Inspector General received a request from Congressman Doug LaMalfa to conduct a follow-up review at VARO Oakland. This request was based on an allegation that VARO management had a list of 13,184 unprocessed informal claims for benefits. Additionally, Congresswoman Jackie Speier asked us to determine whether VARO staff altered dates of claim.

What We Found

We did not find evidence of the existence of the alleged list of approximately 13,184 informal claims even after interviews with current and former VARO staff, whistleblowers, and members of a previous Veterans Benefits Administration (VBA) management support team. We reviewed 60 of 1,308 informal claims and found VARO staff had incorrectly processed 6 claims. Five errors contained incorrect effective dates that resulted in approximately \$26,325 in improper payments. We also determined Oakland staff did not timely process 9 of the 60 claims resulting in significant delays in benefit payments to veterans. The delays ranged from

approximately 5 years to 7 years and 8 months.

Through information obtained from VARO staff, we obtained an additional list of 690 claims. We provided management with the list to determine whether staff had correctly processed these potential informal claims.

VARO management did not provide the oversight needed to ensure timely and accurate processing of informal claims, to include the 1,308 identified in March 2015. As a result, veterans did not receive accurate or timely benefits payments.

What We Recommended

We recommended the VARO Oakland Director provide training to staff on proper informal claims processing procedures, conduct a complete review of the additional list of 690 claims that may be informal claims, and to conduct another review of the remaining 1,248 informal claims.

Agency Comments

The VARO Director concurred with our recommendations. Management's planned actions are responsive and we will follow up as required.

GARY K. ABE
Acting Assistant Inspector General
for Audits and Evaluations

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INTRODUCTION

Objective

We did this follow-up review to assess the merits of an allegation that VA Regional Office (VARO) Oakland management maintained a list of the approximately 13,184 unprocessed informal claims for benefits. In addition, we determined whether VARO staff were altering the dates of claim based on Fast Letter 13-10, *Guidance on Date of Claim Issues*, that was terminated effective June 27, 2014.

Previous Report

In our previous report, we substantiated an allegation that VARO Oakland staff had not processed or properly stored informal claims for benefits. Because of VARO management's poor recordkeeping, we could not verify the VARO's original document count of 13,184 unprocessed informal claims. On May 20, 2013, VBA issued Fast Letter 13-10 that directed VARO staff to establish dates of claims for unadjudicated claims to the dates staff discovered the claims in the claims folders. After VBA staff thoroughly reviewed the implementation of the Fast Letter, they suspended, and then terminated its use effective June 27, 2014. VBA instructed VARO staff to follow the permanent procedural guidance found in Veterans Benefits Administration's (VBA) governing directives for all claims.

Other Information

- Appendix A provides details on our scope and methodology.
- Appendix B provides comments by the VARO Director.
- Appendix C provides Office of Inspector General Contact and Staff Acknowledgments.
- Appendix D provides information on report distribution.

RESULTS AND RECOMMENDATIONS

Allegation **Did the Oakland VARO Identify a Subset of Unprocessed Informal Claims and Process the Newly Identified Claims Appropriately?**

On April 22, 2015, during House Committee on Veterans' Affairs testimony, Congressman Doug LaMalfa, from California, requested the Office of Inspector General (OIG) to conduct a follow-up review at the Oakland VARO. This request was based on additional evidence brought forward by whistleblowers following publication of our report, *Review of Alleged Mismanagement of Informal Claims Processing at VA Regional Office Oakland, California* (Report No. 14-03981-119, February 18, 2015). The allegation included statements that Oakland VARO management maintained a list of the approximately 13,184 unprocessed informal claims for benefits, which was the subject of our February 2015 report. Additionally, we were asked by Congresswoman Jackie Speier to determine whether VARO staff were altering the dates of claim based on Fast Letter 13-10, *Guidance on Date of Claim Issues*, that was terminated effective June 27, 2014.

Background

In our previous report, we substantiated the allegation that VARO Oakland staff had not processed a significant number of informal claims for benefits dating back many years. We further substantiated that VARO Oakland staff did not properly store 537 informal claims, some dating back to July 2002. The 537 informal claims, documented by VARO management in June 2014, appeared to be part of the original list of informal claims found by VBA's special review team in October 2012; however, because of VARO management's poor recordkeeping, we could not verify or locate the VARO's original document count of 13,184 unprocessed informal claims.

In March 2015, the VARO Oakland Director provided us with a spreadsheet of 1,308 informal claims that contained veterans' names and file numbers, and appeared to represent a working list compiled during the time of the special informal claim review project in 2013. The VARO Director thought the list was a subset of informal claims and part of the approximately 13,184 unprocessed informal claims. The VARO Director stated the list was found on a local shared computer drive, and determined it was necessary to review all the claims on the list to ensure staff had taken proper action. VARO management directed VSC staff to review these claims. This included the VARO's Quality Review Team.

On May 20, 2013, VBA issued Fast Letter 13-10 directing VARO staff to establish dates of claims for unadjudicated claims to the dates staff discovered the claims in the claims folders. After VBA thoroughly reviewed the implementation of Fast Letter 13-10, it suspended, and then terminated,

its use effective June 27, 2014, and VARO staff were instructed to immediately follow the permanent procedural guidance found in VBA's governing directives for all claims, to include "found" claims. This guidance directs VARO staff to establish the date of an unadjudicated claim as the date VA received the claim.

Criteria

In general, Title 38, Code of Federal Regulations 3.400 defines the effective date of an evaluation and award of pension, compensation, or dependency and indemnity compensation as the date of receipt of the claim or the date entitlement arose, whichever is the later.

Prior to March 24, 2015, Title 38, Code of Federal Regulations 3.155 established the requirements for informal claims. An informal claim was any type of communication or action indicating intent to apply for one or more benefits under the laws administered by the Department of Veterans Affairs. This regulation does not apply to any claim filed on or after March 24, 2015.

VA policy also requires VAROs to have an effective Workflow Management Plan. It is a coordinated system used to control how claims and other work move through the adjudicative process. This system is composed of various user plans, computer applications, and most important, managerial oversight to ensure that the plans and systems are used efficiently.

What We Did

We conducted a follow-up site visit at VARO Oakland in June 2015 to assess the merits of the new allegation. We conducted approximately 45 interviews with current and former VARO Oakland and Sacramento Satellite Office management and staff, 3 of whom were whistleblowers, as well as members of a VBA management support team that arrived to assist VARO Oakland in September and October 2012.

We also sampled and reviewed 60 of 1,308 informal claims (5 percent) listed on the spreadsheet provided by the VARO Oakland Director. The informal claims reviewed included 30 claims where VARO staff identified no action was needed on the informal claim, and 30 informal claims where VARO staff identified further action was needed to complete the claim. We reviewed each informal claim to determine whether VARO Oakland staff took timely and accurate action and whether staff established dates of claims under VBA Fast Letter 13-10 guidance.

What We Found

VARO staff incorrectly processed 6 of 60 claims (10 percent) we reviewed. As a result, 5 veterans received 25 improper monthly payments totaling approximately \$26,325. We also determined VARO Oakland staff reviewed five claims containing errors multiple times without taking necessary corrective action. Following are details on those errors.

- A rating veterans service representative (RVSR) assigned an incorrect effective date of July 28, 2008, to grant service connection for post-traumatic stress disorder (PTSD) based on an invalid informal claim the VARO received from a service organization. According to VBA policy, the VARO cannot accept the claim because the veteran did not assign the service organization as power of attorney at the time of the written communication. Therefore, the correct effective date for service connection for PTSD should have been February 23, 2010, the date the VARO received the valid claim. As a result, VA overpaid the veteran approximately \$22,236 from August 2008 to March 2010, spanning a period of 19 months.
- VSC staff assigned an incorrect effective date of November 5, 2008, to grant service connection for PTSD based on an invalid informal claim the VARO received from a service organization. Subsequently, another RVSR assigned the same incorrect effective date to grant an increased evaluation for PTSD. According to VBA policy, the VARO cannot accept the claim because the veteran did not assign the service organization as power of attorney at the time of the written communication. Therefore, the correct effective date for service connection for PTSD and the increased evaluation should have been January 13, 2009, the date the VARO received the valid claim. As a result, VA overpaid the veteran approximately \$1,690 from December 2008 to February 2009, spanning a period of 2 months.
- An RVSR assigned an incorrect effective date of December 31, 2008, to grant entitlement to individual unemployability and Dependents' Educational Assistance based on the date the power of attorney signed the claim. According to VBA policy, the effective date for individual unemployability will be date of receipt of the claim, or the date entitlement arose, whichever is the later. Therefore, the correct effective date for entitlement to individual unemployability and Dependents' Educational Assistance should have been January 2, 2009, the date the VARO received the claim. As a result, VA overpaid the veteran approximately \$1,445 from January to February 2009, spanning a period of 1 month.
- In the next case, an RVSR assigned an incorrect effective date of April 3, 2007, to grant service connection for PTSD. The correct effective date for service connection for PTSD should have been March 28, 2007, the date the VARO received the informal claim for PTSD. As a result, VA underpaid the veteran approximately \$786 from April to May 2007, spanning a period of 1 month.
- In another case, an RVSR assigned an incorrect effective date of May 10, 2005, to grant service connection for erectile dysfunction and entitlement to special monthly compensation based on loss of use of a creative organ. The correct effective date for service connection for

erectile dysfunction and entitlement to special monthly compensation based on loss of use of a creative organ should have been March 31, 2005, the date the VARO received the claim. As a result, VA underpaid the veteran approximately \$168 from April to June 2005, spanning a period of 2 months.

The remaining error had the potential to affect a claimant's benefits. On February 27, 2008, the Oakland VARO received a claim for aid and attendance with medical evidence from a surviving spouse who was in receipt of Dependency and Indemnity Compensation. The VARO did not process this claim. On February 13, 2012, the Oakland VARO received VA Form 21-2680, *Examination for Housebound Status or Permanent Need for Regular Aid and Attendance*, and an RVSR granted entitlement to aid and attendance effective February 13, 2012. However, the VARO did not initiate claims development to determine whether the surviving spouse warranted an earlier effective date for aid attendance from February 27, 2008, the date the claim was originally received. On July 14, 2014, the surviving spouse passed away. Based on the evidence of record, we could not determine whether the surviving spouse would have been entitled to an earlier effective date for aid and attendance.

VARO management concurred with all the errors we identified. The Oakland Veterans Service Center Manager reported to OIG that VBA's Quality Assurance staff were asked to review our findings, and they agreed with all the errors we identified.

*Delays in
Providing
Benefits*

We found VARO Oakland staff did not timely process 9 of the 60 claims (15 percent) resulting in significant delays in payments of benefits to veterans. Delays ranged from approximately 5 years to 7 years and 8 months. An average of 6 years and 6 months elapsed from the time the VARO Oakland received the claims to the date the veterans received their benefits. Our review showed VARO staff corrected seven of the claims as a result of the special informal claims review project in 2013. However, VARO staff did not correctly process two of the claims until staff conducted additional reviews in 2014 and 2015.

In the case with the most significant delay, VARO Oakland received a veteran's claim for PTSD on February 23, 2006. VARO staff did not place administrative controls to track the claim, as required. On May 1, 2006, VARO Oakland erroneously sent the veteran a letter asking him to submit a formal claim. The veteran did not respond to the letter and the VARO did not take further action. On April 25, 2013, based on a special informal claim review project, VARO staff established control of the claim with the date of February 23, 2006. An RVSR incorrectly denied service connection for PTSD on June 19, 2013. However, on October 29, 2013, an RVSR correctly granted service connection for PTSD with a 30 percent evaluation effective February 23, 2006, and the veteran received a retroactive payment of

\$43,217 on November 20, 2013. This veteran waited approximately 7 years and 8 months to receive the benefit.

Use of Fast Letter 13-10

We found that the guidance provided under Fast Letter 13-10 was not a factor in the 60 claims we reviewed because the dates of claims that the VARO staff established were not based on the date the claims were “found.” Instead, VARO staff established the dates of claims based on the actual dates VA received the claims.

List of 13,184 Informal Claims

We did not find any evidence of the existence of the alleged list of approximately 13,184 informal claims. The individuals we interviewed stated that they were not aware of, nor could they substantiate, the existence of a complete list of all the informal claims found in 2012. VARO staff who were involved in the special informal claim review project in 2012 told us they were not recording or reporting their reviews by claim numbers; rather, they were only documenting the number of reviews completed.

Additional Potential Informal Claims Identified by OIG

During our review, through interviews with VARO staff, we learned staff were associating informal claims with the claims folders from May through June 2014. Staff also told us they were not instructed to review the claims to ensure proper action had been taken. This was during the time VARO management determined staff had not taken required action on informal claims that management discovered on a cart, as discussed in our previous report.

Based on the information provided to us, we obtained an additional list of 690 claim numbers from VBA’s Corporate Database that appear to be informal claims that VARO management discovered on a cart while the VARO was undergoing construction from April through May 2014. These informal claims required further review; therefore, we provided VARO management with this list to determine whether staff have correctly processed these informal claims and VARO management agreed to review these identified claims.

Why This Occurred

Generally, the errors in claims processing we identified were the result of inadequate training of VARO staff regarding valid informal claims. Although the VARO conducted informal claims training in June and October 2014, as discussed in our previous report, the VARO did not provide training to decision review officers and RVSRs. Prior to our inspection, VARO management conducted an additional review of the 1,308 informal claims from the list they provided us. However, we determined VARO staff did not identify 3 of the 6 errors in the 60 claims we reviewed. The VARO’s Quality Review Team was involved in this review; however, we could not confirm whether the team reviewed all 1,308 informal claims. Nonetheless, the Quality Review Team reviewed an informal claim in one of the six errors we identified but did not take corrective action to grant an earlier effective date for benefits.

VARO staff stated that there was confusion pertaining to what the VARO could, or could not, accept as an informal claim when the communication came from a service organization. Further, staff told us that during the 2015 review, they did not correct erroneous effective dates that resulted in improper payments of benefits because they stated the only focus of the review was to determine whether claimants were owed benefits. Because the VARO did not correct the effective dates, the ongoing errors have the potential to result in additional improper payments of benefits in the future. Had management ensured VARO staff complied with VBA's informal claim policy, they may have correctly processed the informal claims, to include correcting effective dates.

Additionally, as mentioned in our previous report, the informal claims processing delays were due to a lack of management supervision over the review process. Staff stated, and we confirmed, that completing the processing of the informal claims was not a priority and the review was conducted sporadically, with staff dividing their time to address other higher priority workloads.

**What
Resulted**

VARO management did not provide oversight needed to ensure timely and accurate processing of informal claims to include the 1,308 informal claims that it identified in March 2015. As a result, veterans did not receive accurate or timely benefits payments, and one claimant may have been entitled to receive an earlier effective date for benefits. Based on our interviews with VARO management and staff, we did not substantiate the allegation that VARO Oakland management maintained a list of the approximately 13,184 unprocessed informal claims for benefits. Additionally, our review of the 60 claims showed that VARO staff were not establishing dates of claim based on guidance in Fast Letter 13-10.

Recommendations

1. We recommended the VA Regional Office Oakland Director provide training to the Quality Review Team, decision review officers, and rating veterans service representatives on proper informal claims processing procedures for communications received from service organizations, attorneys, or agents.
2. We recommended the VA Regional Office Oakland Director conduct a complete review of the additional list of 690 claims that may be informal claims, take appropriate actions, and provide certification of completion of the review to the Office of Inspector General.
3. We recommended the VA Regional Office Oakland Director conduct another review of the remaining 1,248 informal claims and provide certification of completion of the review to the Office of Inspector General.

**Management
Response**

The director concurred with our recommendations. The VARO reported training on the proper processing of informal claims has been scheduled for the Quality Review Team, decision review officers, and rating veterans service representatives. The target date for completion was December 31, 2015.

The director stated VARO staff have completed a review of 689 of the 690 potential informal claims, with a target date for completion of all reviews and potential actions of December 18, 2015. Finally, the director stated Compensation Services has agreed to a subsequent review of the remaining 1,248 informal claims to be completed by the Systematic Technical Accuracy Review team. The target date for completion is May 31, 2016.

**OIG
Response**

The director's comments and actions are responsive to the recommendations. We will follow up on the implementation of our recommendations until all proposed actions are completed.

Appendix A Scope and Methodology

We obtained data from the Oakland VARO to conduct our review and sample 60 claims from 1,308 informal claims on a spreadsheet. Additionally, we reviewed a judgmental sample of 10 claims from the 690 informal claims on a spreadsheet. To test the reliability of these data, we compared information with data contained in claims folders. Our comparison did not disclose any problems with the reliability of the data overall.

Regardless, as discussed in our previous report, poor recording keeping in VBA's processing of informal claims resulted in our determination that we could not identify whether each claim within the original allegation of approximately 13,184 informal claims were processed or that VARO staff had adequate control over their informal claims.

Government Standards

We conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

Appendix B VARO Director's Comments

Department of Veterans Affairs

Memorandum

Date: December 3, 2015

From: Director, VA Regional Office Oakland, California

Subj: Follow Up Review of Alleged Mismanagement of Informal Claims Processing at Oakland, California VA Regional Office

To: Assistant Inspector General for Audits and Evaluations (52)

1. The Oakland VARO provides the following response to the OIG investigation and report regarding *Follow Up Review of Alleged Mismanagement of Informal Claims Processing at Oakland, California VA Regional Office*.
2. Please refer questions to Julianna Boor at (510) 637-6000.

(Original signed by:)

Julianna M Boor

Attachment

**Oakland VA Regional Office
Attached Responses
December 3, 2015**

Recommendation 1: We recommended the Oakland VA Regional Office Director provide training to the Quality Review Team, Decision Review Officers and Rating Veterans Service Representatives on proper informal claims processing procedures for communications received from service organizations, attorneys, or agents.

Oakland VARO Response: Concur

The Oakland Regional Office has scheduled training for the Quality Review Team, Decision Review Officers, and Rating Veterans Service Representatives, on proper informal claims processing procedures for communications received from service organizations, attorneys, or agents. Additionally, this training will differentiate the prior informal claims process with the current intent to file standardized claims procedures effective March 24, 2015. Training will be completed by December 31, 2015.

Recommendation 2: We recommended the Oakland VA Regional Office Director conduct a complete review of the additional list of 690 claims that may be informal claims, take appropriate actions, and provide certification of completion of the review to the Office of Inspector General.

Oakland VARO Response: Concur

The Oakland Regional Office has reviewed 689 of the 690 potential informal claims. The final folder has been recalled from a recent folder retirement and sent for scanning. It is anticipated that all reviews and any potential actions will be completed by December 18, 2015.

Recommendation 3: We recommended the Oakland VA Regional Office Director conduct another review of the remaining 1,248 informal claims and provide certification of completion of the review to the Office of Inspector General.

Oakland VARO Response: Concur

The Oakland Regional Office concurs that another review of the remaining 1,248 potential informal claims be completed. However, as the Oakland Regional Office completed a review of these potential informal claims in July 2015, Compensation Services has agreed to complete a subsequent review which will be conducted by the Systematic Technical Accuracy Review (STAR) team. STAR will ensure appropriate actions have been taken and identify any additional training needs on this topic. It is anticipated the STAR review will be completed by May 31, 2016.

Appendix C **OIG Contact and Staff Acknowledgments**

OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
Acknowledgments	Dana Sullivan, Director Ed Akitomo Orlan Braman Michele Stratton

Appendix D Report Distribution

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