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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
"ADJUDICATING VA's MOST COMPLEX DISABILITY CLAIMS: ENSURING
QUALITY, ACCURACY, AND CONSISTENCY ON COMPLICATED ISSUES"
DECEMBER 4, 2013**

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss issues related to the performance of Department of Veterans Affairs (VA) Regional Offices (VAROs) as identified in reports by the Office of Inspector General (OIG). The reports include audits of the programs and operations of the Veterans Benefits Administration (VBA) as well as inspections conducted at individual VAROs. I am accompanied by Mr. Brent Arronte, Director, OIG San Diego Benefits Inspection Division.

BACKGROUND

Delivering timely and accurate benefits and services to the millions of veterans who provided military service to our Nation is central to VA's mission. VBA is responsible for oversight of the nationwide network of regional offices that administer a range of veterans benefits programs, including compensation, pension, education, home loan guaranty, vocational rehabilitation and employment, and life insurance. These programs are estimated to pay out over \$73 billion in claims to veterans and their beneficiaries in fiscal year (FY) 2014, and comprise approximately half of VA's total budget.

As part of our oversight responsibility, we conduct inspections of VAROs on a 3-year cycle to examine the accuracy of claims processing and the management of Veterans Service Center (VSC) operational activities. After completion of our inspections, we issue a separate report to each VARO Director on the inspection results. Our inspections address the processing of high-risk claims such as traumatic brain injury (TBI) and temporary 100 percent disability ratings. We previously reviewed claims related to post-traumatic stress disorder (PTSD), however due to a change in regulations as well as improved accuracy in processing PTSD claims, we discontinued our reviews of these claims in FY 2012.

In FY 2012, we completed our first cycle of reviews of all VAROs and began our second cycle of oversight. To date, we have completed 20 VAROs in our second cycle of reviews.¹ We are also performing separate reviews focused on two of VBA's major initiatives related to electronic processing of claims through the Veterans Benefits Management System (VBMS) and provisional decisions on claims over 2 years old.

VA REGIONAL OFFICE INSPECTIONS

Since FY 2009, we have conducted 77 VARO inspections and have consistently reported the need for enhanced policy guidance, oversight, workload management, training, and supervisory review to improve the timeliness and accuracy of disability claims processing and VARO operations.² Of those offices that have been inspected twice, the Denver and Milwaukee VARO inspections had the highest (80 percent) level of overall compliance with VBA policy in the areas that we inspected.³ The Baltimore VARO had the lowest compliance rate in areas we inspected. .

An area of concern from an oversight perspective is continued VARO non-compliance with VBA policy despite our initial identification and reports on such problems. In FY 2013, we inspected 20 offices that we previously inspected and found 17 of the offices continued to be non-compliant with VBA policy in one or more of the protocol areas previously inspected.

Disability Claims Processing

In the second round of inspections, we are focusing on processing high-risk claims, TBI claims and temporary 100 percent evaluations. We adjust our inspection protocols as needed, with some review areas continuing year-to-year while others are replaced because VAROs have demonstrated improvements in performance of those review areas or in some cases, changes in VBA policy.⁴

Traumatic Brain Injury Claims

In response to a recommendation in our May 2011 report, *Systemic Issues Reported During Inspections at VA Regional Offices*, VBA agreed to develop and implement a strategy for ensuring the accuracy of TBI claims decisions. The then-Acting Under Secretary for Benefits responded by providing guidance to VARO Directors to implement a policy requiring a second signature on each TBI case that a Rating Veterans Service Representative (RVSR) evaluates until the RVSR demonstrates 90 percent accuracy in TBI claims processing. The policy indicates second-signature

¹ Nashville, Tennessee; Wilmington, Delaware; Baltimore, Maryland; San Juan, Puerto Rico; Anchorage, Alaska; Roanoke, Virginia; Philadelphia, Pennsylvania; Togus, Maine; Waco, Texas; Albuquerque, New Mexico; Muskogee, Oklahoma; Denver, Colorado; Detroit, Michigan; Jackson, Mississippi; Newark, New Jersey; Milwaukee, Wisconsin; St. Paul, Minnesota; Boise, Idaho; Houston, Texas; and Cheyenne Wyoming.

² The 77 inspections include a complete cycle at 56 VAROs and 1 VSC, plus the 19 VAROs and 1 VSC that we have inspected to date in the second cycle.

³ The FY 2013 inspections focused on five operational activities: temporary 100 percent disability evaluations, traumatic brain injury claims, Systematic Analyses of Operations, Gulf War veterans' entitlement to mental health treatment, and the Homeless Veterans Outreach Program.

⁴ Initially, we included Haas claims, PTSD claims, and herbicide exposure-related claims.

reviewers come from the same pool of staff as those used to conduct local station quality reviews. Yet, we continue to identify significant processing errors related to TBI disability claims in our most recent inspections, and in many cases, the errors occur despite secondary reviews.

Our 77 inspections to date showed that staff had made errors in 31 percent of the TBI claims we reviewed. More than half of the errors we identified were due to VARO staff using inadequate medical examination reports to evaluate residual disabilities associated with traumatic brain injuries. We learned through interviews that RVSRs were not consistently returning the inadequate reports to VA medical facilities as required due to pressure to meet production requirements. A common scenario in TBI claims processing involved veterans who had TBI-residual disabilities as well as co-existing mental conditions. When medical professionals did not ascribe the veterans' overlapping symptoms to one condition or another condition as required, VARO staff could not make accurate disability determinations. RVSRs' difficulty in following complex TBI claims evaluation policies is contributing to the TBI claims processing errors.

In the first inspection cycle, we reviewed 1,077 traumatic brain injury claims at 57 offices and found 338 (31 percent) of these contained processing errors. In FY 2013, during subsequent inspections at 20 offices, we examined 411 claims and found 118 (29 percent) of these cases had errors—demonstrating some improvement in the error rate percentages. Twelve of the offices inspected were non-compliant with VBA policy for two consecutive inspections.⁵ In most cases, the errors occurred because VARO staff used inadequate medical examination reports to evaluate residual disabilities associated with traumatic brain injuries.

Temporary 100 Percent Disability Evaluations

In our January 2011 audit report, we projected VBA had not correctly processed 100 percent evaluations for about 27,500 (15 percent) of 181,000 veterans.⁶ We reported that since January 1993, VBA had paid veterans a net \$943 million without adequate medical evidence to support the payments. We concluded that if VBA did not take timely corrective action, it could overpay veterans a projected \$1.1 billion over the next 5 years. The Under Secretary for Benefits agreed with our seven report recommendations for implementing training and internal control mechanisms to improve timeliness in processing these types of claims. To date, VBA has implemented six of the seven recommendations.

However, of major concern is VBA's delay in implementing the final recommendation, to review all temporary 100 percent disability evaluations and ensure each had a future examination date entered in the electronic record... The Acting Under Secretary stated the target completion date for VBA's national review would be September 30, 2011.

⁵ Albuquerque, New Mexico; Anchorage, Alaska; Baltimore, Maryland; Detroit, Michigan; Houston, Texas; Muskogee, Oklahoma; Nashville, Tennessee; Newark, New Jersey; Philadelphia, Pennsylvania; Roanoke, Virginia; San Juan, Puerto Rico; Waco, Texas.

⁶ *Audit of VBA's 100 Percent Disability Evaluations*, January 24, 2011

However, VBA did not provide each VARO with a list of 100 percent disability evaluations for review until September 2011. VBA subsequently extended the national review deadline on four occasions. To date, VBA has not completed this national review requirement and improper monthly benefits continue to be paid despite a lack of adequate medical evidence.

Although VBA has requested we close the final recommendation on several occasions, we have not been able to substantiate that VBA's methodology for identifying all claims that may be paying inaccurate benefits is effective. Further, VBA's methodology does not call into question a veteran's 100 percent disability evaluation if there is also an associated control referred to as an "end product" to alert VBA claims processing staff of the need to review the claim at a later date. Having a control in place is not providing adequate assurance that the reviews will occur or that reviews will be timely. VBA designated the use of end product 684s as the control to ensure staff review 100 percent disability evaluations to determine if the monthly payments are accurate. However, VBA does not have performance metrics in place for end product 684s establishing a timeframe in which staff are expected to review and take corrective actions on pending end product 684s. As of November 19, 2013, VBA had 7,562 end product 684s pending on average for 340 days showing delayed corrective actions to identify and discontinue potential improper payments.

We continue to follow up on these audit results during our VARO inspections and continue to find significant processing errors. Inspection results from 71 benefits inspections show VARO staff incorrectly processed 61 percent of the temporary 100 percent disability evaluations we reviewed, resulting in over \$19 million in overpayments to veterans. The majority of these errors occurred when VARO staff did not input reminder notifications in VBA's electronic system to request reexaminations of these veterans as required by VBA policy.

For the first inspection cycle, we reviewed 1,480 temporary 100 percent disability evaluations at 51 offices and found 973 (66 percent) of these contained processing errors. In FY 2013, during subsequent inspections, we examined 594 claims and found 290 (49 percent) of these cases had errors. Twelve of the offices inspected during FY 2013 were non-compliant with VBA policy for two consecutive inspections.⁷ In most cases and for both inspection cycles, the errors occurred because staff did not enter reminder notifications in VBA's electronic system to request re-examinations for veterans with temporary disability evaluations as required. We did identify improvement in this area in our 2013 inspections; however, in our view the error rates continue to be significant.

⁷ Albuquerque, New Mexico; Boise, Idaho; Cheyenne, Wyoming; Denver, Colorado; Detroit, Michigan; Houston, Texas; Jackson, Mississippi, Milwaukee, Wisconsin; Muskogee, Oklahoma; Newark, New Jersey; Philadelphia, Pennsylvania; Waco, Texas.

Post-Traumatic Stress Disorder

When we began our VARO inspections, we included PTSD claims processing as a review area. In our summary report dated May 2011, we projected VARO staff did not correctly process 1,350 (8 percent) of approximately 16,000 PTSD claims completed from April 2009 through July 2010. About 38 percent of the errors were due to staff improperly verifying veterans' alleged stressful events, a requirement for granting service connection for PTSD. VARO staff lacked sufficient experience and training to process these claims accurately. Additionally, some VAROs were not conducting monthly quality assurance reviews. For these reasons, veterans did not always receive accurate benefits.

Effective July 13, 2010, VA amended its rule for processing PTSD disability compensation claims. The new rule allows VARO staff to rely on a veteran's testimony alone to establish a stressor related to fear of hostile military or terrorist activity, as long as the claimed stressor is consistent with the circumstances of service. This change significantly reduced processing errors associated with PTSD claims. Prior to the rule change, we identified a 13 percent error rate in PTSD claims processing; after the rule change the error rate dropped to 5 percent. As such, we no longer review these types of claims.

Operational Issues

One area that we continue to review is VBA's Systemic Analysis of Operations (SAOs). An SAO is an organized means of reviewing VSC operations to identify existing or potential problems and propose corrective actions. During the first inspection cycle, we identified 30 of the 56 offices inspected were non-compliant with VBA policy. In FY 2013, during subsequent inspections at 20 offices, 9 of the offices inspected were non-compliant—of these 6 were non-compliant for two consecutive inspections.⁸ Generally, SAOs were untimely and/or incomplete because VARO management did not have adequate oversight to ensure SAOs addressed all necessary elements and operations of the VSC and that they were submitted by the required due date.

Another area of concern is VBA management vacancies. We noted a correlation between VAROs producing complete and timely SAOs and VSC compliance with other VBA policies. We found that five VAROs, where managers ensured SAOs were timely and complete, were the most compliant in other operational activities we inspected. Conversely, of the six VAROs that had untimely and/or incomplete SAOs, five had the lowest performance in other operational activities, such as claims processing, mail handling, and data integrity. At five of the six least compliant VAROs, vacancies in senior management positions contributed to delays in completing SAOs and implementing corrective actions. These VAROs had Director or Veteran Service Center Manager positions vacant or filled with temporary staff for periods of 5 months or greater. For example, during the 8-month absence of the Anchorage Veterans Service Center Manager, that office did not have any senior leadership physically in place to manage and oversee operations.

⁸ Anchorage, Alaska; Baltimore, Maryland; Boise, Idaho; Houston, Texas; San Juan, Puerto Rico; Waco, Texas.

CURRENT OIG WORK ON VBA INITIATIVES

We are assessing VBA transformation initiatives to improve claims processing and eliminate the backlog. Specifically, we are conducting reviews of two key VBA initiatives: processing of claims over 2 years old and implementation and accuracy of the Veterans Benefits Management System (VBMS)—VBA’s web-based, paperless claims processing solution to support improved business processes.

Claims Processing Initiative: Rating Claims Pending Over 2-Years

On April 19, 2013, VBA implemented a special initiative to address the oldest pending disability claims in the current backlog. VBA stated the intent of the initiative was to work all claims pending for more than 2 years within 60 days, beginning April 19, 2013. VAROs were directed to devote all RVSRs and as many Veterans Service Representatives as needed to ensure all claims pending over 2-year old were processed and completed. According to VBA, RVSRs were to immediately process the 2-year old claims based on the available evidence in the veterans’ claims folders. Further, rating decisions produced were to be considered provisional ratings unless all evidence in support of the claims had already been received (and the claim was considered ready-to-rate) or the ratings assigned provided the highest evaluation for the particular diagnostic code for each claimed issue. However, if medical examination reports or other Federal records were needed, these older claims could not be processed as provisional rating decisions.

During one review errors were identified at the Los Angeles VARO when leadership provided conflicting guidance on the proper procedures for processing provisional rating decisions. We determined 10 (91 percent) of 11 provisional rating decisions we reviewed were not compliant with VBA’s guidance related to the 2-year claims processing initiative. Eight of the 10 provisional decisions were determined to be non-compliant because the rating decisions were made without supporting VA medical examinations as required. One claim was decided without Service Treatment Records, which are considered Federal records and must be obtained by VARO staff prior to rendering a provisional rating decision. In the remaining case, the provisional rating was controlled by a future diary that scheduled the claim for review in 2 years instead of 1 year as required.

Requiring a rating decision to be rendered before a medical examination is obtained as a basis for a decision is in conflict with VBA policy. On May 14, 2013, conflicting guidance was sent to the Los Angeles VARO staff via an e-mail from the VARO Director’s office. The guidance incorrectly stated all 2-year old cases requiring a medical examination must have the medical examinations ordered by May 15, 2013. This conflicts with VBA guidance because if a medical examination was required to decide a claim, the claim could not be completed as a provisional decision until staff obtained the necessary medical examinations. The guidance also incorrectly indicated that any claims with medical examinations not completed by June 3, 2013, were to be decided by a provisional rating.

We are concerned similar errors may exist among other provisional rating decisions completed by the Los Angeles VARO after the conflicting guidance was issued. VBA provided data that revealed the Los Angeles VARO completed 532 provisional rating decisions between April 19–June 19, 2013. VARO staff completed 470 of those 532 provisional decisions claims after the conflicting guidance was disseminated on May 14, 2013. All 10 provisional rating decisions that we identified as non-compliant were completed after this date. We recommended that VBA review all of the provisional rating decisions completed by the Los Angeles VARO after the conflicting guidance was issued to ensure they are accurate.

Veterans Benefits Management System (VBMS)

VBA and VA's Office of Information and Technology (OI&T) are jointly developing VBMS, which is a web-based paperless claims processing system. As one of VBA's main transformational initiatives, VBMS is designed to assist VA in eliminating the claims backlog and serve as the enabling technology for quicker, more accurate, and integrated claims processing in the future.

Over the past several years, the OIG has repeatedly reported deficiencies concerning the development, testing, and deployment of major systems throughout the department. In February 2013, we reported that because of system complexities and the incremental software development approach VA chose, VBMS had not been fully developed to the extent that its capability to process claims from initial application through review, rating, and award, to benefits delivery could be sufficiently evaluated.⁹ Thus we concluded that, as of September 2012, VA had not fully tested VBMS.

In February 2013, the OIG launched a follow-up audit of VBMS to determine whether VA is effectively managing VBMS development and whether the project is positioned to meet schedule, costs, and performance goals. We expect to complete our audit in March 2014. Currently, VBMS has one pilot site that provides the capability to process claims from initial application through review, rating, award, to benefits delivery. VBMS also continues to suffer from system performance issues forcing users to rely on legacy systems to process claims.

In June 2013, VBA completed its implementation strategy to install VBMS at all VAROs. After the rollout of VBMS, VBA's inventory of pending claims was just under 797,000 and took an average of 238 days to complete. By the end of FY 2013, VBA had reduced its inventory of pending claims by 10 percent and reduced the average days to complete by 58 days. We cannot determine if the reduction in the pending inventory or the improvement in claims processing timeliness is related to VBMS or to one of VBA's many improvement initiatives.

In our recent inspections of the Houston, Newark, and Milwaukee VAROs, 25 staff provided us a user perspective of VBMS. Generally, staff expressed frustration with the system in part because of spontaneous system shut-downs, latency issues related to slow times to download documents such as medical evidence for review, longer times to

⁹ *Review of Transition to a Paperless Claims Processing Environment*, February 4, 2013).

review electronic evidence, mislabeled electronic evidence, and mixing evidence from one veteran's electronic file with another veteran's.

Given concerns raised at VAROs and complaints received through the OIG Hotline, we initiated a review of the accuracy of rating decisions completed using VBMS. We want to determine if the automation initiative will be effective in assisting VBA in meeting its goal of eliminating the disability claims backlog and improving the accuracy and consistency of rating decisions. We expect to report on our findings in early 2014.

CONCLUSION

VBA continues to face challenges in improving the accuracy and timeliness of disability claims decisions and maintaining efficient VARO operations. Our inspections and audit work consistently has shown that VAROs do not always comply with VBA's national policy to accomplish their benefits delivery mission. Claims processing and operational problems result in not only added burdens and delayed or incorrect payments to veterans, they also mean wasted Government funds through improper payments that VBA will not likely recover. While VBA made some incremental progress through its own initiatives and in response to our prior report recommendations, more work remains to be done. We will continue to look for ways to promote improvements in benefits delivery operations during our future nationwide audits and VARO inspections.

Mr. Chairman, this concludes my statement. We would be pleased to answer any questions that you or other Members of the Committee may have.