



DEPARTMENT OF VETERANS AFFAIRS  
**OFFICE OF INSPECTOR GENERAL**

*Office of Audits and Evaluations*

VETERANS BENEFITS ADMINISTRATION

Telehealth Public-Use  
Questionnaires Were Used  
Improperly to Determine  
Disability Benefits

REVIEW

REPORT #19-07119-80

FEBRUARY 18, 2020



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## Executive Summary

Disability benefits questionnaires, introduced in 2010, are used to gather evidence that supports veterans' claims for benefit entitlements. The questionnaires include both publicly available and internal forms that veterans and those acting for them can print, complete, and submit for processing. Publicly available forms, often called public-use questionnaires, are prepared by private medical providers selected by the veteran, while internal questionnaires are used by VA compensation and pension medical examiners. Two previous audits by the VA Office of Inspector General (OIG) found problems with the Veterans Benefits Administration's (VBA) use of disability benefits questionnaires.<sup>1</sup> In those previous audits, the OIG underscored the need for VBA to implement adequate controls on the use of publicly available forms, whose content could be altered to support baseless or exaggerated disability claims.

This review was prompted by veterans' benefits claims transmitted from VBA's Medical Disability Exam Quality and Program Management Office as part of an effort by VA to identify potentially fraudulent claims in response to prior OIG report recommendations. Moreover, VA regional office staff had related allegations to the OIG hotline. At issue were healthcare providers who did not practice in the state, territory, or country where the veterans reside allegedly being paid to complete the public-use questionnaires and document conditions meriting disability benefits without ever seeing the veteran in person. These questionnaires were being completed via "telehealth"—health care provided remotely through telecommunications technologies. The use of private provider telehealth examinations for rating purposes is prohibited. This review examined whether VBA staff properly processed veterans' compensation claims when disability benefits questionnaires from private providers located in different states or countries than the veterans' residence were used as evidence to support the claims.

### **VBA Claims Processors Improperly Used Telehealth Questionnaires for Determining Benefit Entitlements**

Effective December 2016, the VBA adjudication procedures manual states that a telehealth or telemental health examination report is only acceptable and actionable for rating purposes when prepared by a Veterans Health Administration (VHA)- or VBA-contracted examiner.<sup>2</sup> The OIG substantiated that VBA claims processors improperly used disability benefits questionnaires completed by private providers to determine benefit entitlement without evidence the examination was done in person. As a result, the review team found VBA made improper benefit

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<sup>1</sup> VA Office of Inspector General, *Audit of VA's Internal Controls Over the Use of Disability Benefits Questionnaires*, 11-00733-85, February 23, 2012; VA Office of Inspector General, *Follow-Up Audit of Internal Controls Over Disability Benefits Questionnaires*, 14-02384-45, February 25, 2016.

<sup>2</sup> M21-1, Adjudication Procedures Manual, part III, sub. iv, chap. 3, sec. D, topic 2, "Examination Report Requirements," March 12, 2018.

entitlement determinations in 41 of the 81 claims reviewed, amounting to approximately \$613,000 in payments for claims completed from April 2017 through September 2018. While the team reviewed 81 claims with private provider examinations that were likely completed by telehealth, there were likely many other claims also submitted with private provider telehealth examinations. VA lacks the ability to easily identify private provider telehealth examinations and takes no actions to correct claims where such examinations are improperly used to provide benefits.

The review team determined that VBA staff improperly processed 41 of the 81 claims by relying on the questionnaires to make benefit entitlement determinations that resulted in an initial award or an increase in veterans' benefits. In processing the remaining 40 claims, VBA claims processors correctly used other medical evidence, including VHA- and VBA-contracted examinations.

Improper use of the questionnaires occurred for the following reasons:

- VBA procedures gave inconsistent guidance on how claims processors should handle public-use disability benefits questionnaires.
- The disability benefits questionnaires did not ask whether the examinations were conducted via telehealth, nor did the website or forms indicate that telehealth forms completed by private providers could not be used for benefit entitlement determinations.
- VBA's Medical Disability Exam Quality and Program Management Office did not take sufficient action to monitor and remediate deficiencies resulting from disability benefits questionnaires completed via telehealth for benefit entitlement determinations.

Although VBA prohibited the use of telehealth examinations completed by private providers, it did not provide consistent guidance to claims processors, modify disability benefits questionnaire forms to reflect that prohibition, or adequately monitor to ensure that telehealth public-use disability benefits questionnaires are not used. For instance, VBA has inconsistent guidance for processing public-use disability benefits questionnaires. The adjudication procedures manual mandates that claims processors accept public-use questionnaires at face value, while also telling claims processors not to accept disability benefits questionnaires conducted by telehealth.<sup>3</sup>

Interviews with VBA staff and managers revealed their reluctance to continue accepting public-use disability benefits questionnaires for reasons besides their inherent fraud risk. The executive director of Compensation Service stated that public-use disability questionnaires were initially designed to improve transparency and consistency in the examination process, assist veterans in rural areas, and reduce wait times. However, the executive director explained with the addition of 33 VBA contractor examination vendors, private providers are no longer needed to complete

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<sup>3</sup> M21-1, "Examination Report Requirements."

disability benefits questionnaire forms. Another reason is that updating the publicly available forms poses a challenge. Any revisions to the forms must adhere to the requirements of the Paperwork Reduction Act of 1995 and be approved by the Office of Management and Budget—a process that can take more than one year. The executive director stated that because it takes much longer to update public-facing forms, many of the public-use questionnaires will become outdated. VBA is amending the Department of Veterans Affairs Schedule for Rating Disabilities, with a goal of regularly updating each body system every three to five years.<sup>4</sup> The revisions will require changes to the rating schedule and to all questionnaires.

VBA did not adequately monitor or respond to issues with telehealth public-use disability benefits questionnaires. The Medical Disability Exam Quality and Program Management Office conducts validation reviews of claims with private provider questionnaires and provides potentially fraudulent questionnaires to the OIG. However, the office has taken no other action despite the concern expressed by staff that telehealth public-use disability benefits questionnaires are potentially fraudulent. Even when the validation reviews confirm that telehealth examinations were used for benefit entitlement purposes, the claims are not returned to VA regional offices for correction. According to the director, there is no process or responsibility for the Medical Disability Exam Quality and Program Management Office to notify any other organizations in Compensation Service of the issues identified during validation or quality reviews. These factors raise the question whether public-use disability benefits questionnaires remain a viable tool in streamlining veterans' claims processing.

VBA's internal controls over telehealth public-use questionnaires remain inadequate to prevent their use. As a result, these disability benefits questionnaires contain an inherent risk of fraud. In the course of the OIG review, VBA staff reported identifying numerous private organizations that provided questionnaires in return for a fee or a portion of veterans' disability compensation benefits. Staff indicated that the number of these organizations identified continues to grow. While VBA has taken steps to mitigate the risk, this review identified further internal control and procedural deficiencies regarding the use of the questionnaires.

## **What the OIG Recommended**

The OIG recommended that the under secretary for benefits determine whether public-use disability benefits questionnaires continue to be an effective means of gathering evidence to support claims for benefit entitlement and, if not, take steps to discontinue their use. In addition, the OIG recommended updating the VBA procedures manual to inform claims processors what to do if they suspect that disability benefits questionnaires were completed via telehealth; adding a question to public-use disability benefits questionnaires about whether the examination was

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<sup>4</sup> The VA Schedule for Rating Disabilities provides guidance for evaluating the severity of disabilities resulting from military service. The schedule encompasses 15 body systems, such as mental disorders, musculoskeletal, neurological, and genitourinary.

completed in person or through telehealth, and notifying veterans and private providers on public-facing forums and disability benefits questionnaires that telehealth examinations are not acceptable for making benefit entitlement determinations.

## **Management Comments**

The under secretary for benefits concurred with Recommendations 1 through 4 and provided acceptable action plans for all recommendations. The OIG will monitor VBA's progress and follow up on the implementation of the recommendations until all proposed actions are completed.



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## Abbreviations

OIG	Office of Inspector General
OMB	Office of Management and Budget
VBA	Veterans Benefits Administration
VHA	Veterans Health Administration



## Introduction

In 2010, the Veterans Benefits Administration (VBA) started using disability benefits questionnaires to help speed up the processing of veterans' claims for disability compensation benefits. The questionnaires are designed to expedite decision-making by providing a summary of medical information in a standard format in accordance with the VA Schedule for Rating Disabilities.<sup>5</sup> VA compensation and pension medical examiners are expected to complete the appropriate questionnaire, tailored to specific disabilities or types of disabilities, such as hypertension, arthritis, or prostate cancer. Claims processors at VBA then use the questionnaires to determine whether an injury or disease is related to the veteran's military service and what level of compensation should be awarded based on the severity of that disability.<sup>6</sup> VA also makes questionnaires available for veterans who prefer to have their private providers complete the questionnaires at veterans' personal expense. These are known as public-use disability benefits questionnaires, as opposed to the internal questionnaires used by VA compensation and pension medical examiners, because veterans and those acting for them can print, complete, and submit the forms for processing.<sup>7</sup>

Over the past several years, the VA Office of Inspector General (OIG) received numerous allegations that public-use disability benefits questionnaires were being used fraudulently. VBA's Medical Disability Exam Quality and Program Management Office began conducting targeted validation reviews in February 2017 in response to a prior OIG report recommendation. The office informed the OIG that as of December 2018, it had submitted 225 claims to the OIG that indicated potential fraud related to the use of public-use questionnaires. Staff at the Medical Disability Exam Quality and Program Management Office related that the use of these public-use questionnaires could lead to inaccurate disability benefit decisions. Additionally, the OIG received 30 cases from staff working at VA regional offices. Cases provided by the Medical Disability Exam Quality and Program Management Office and VBA staff that the OIG reviewed were completed across the United States and processed in 34 of the 56 VA regional offices. These allegations raised concerns that healthcare providers who did not practice in the state, territory, or country where the veterans reside were being paid to complete the public-use questionnaires and document conditions meriting disability benefits without ever seeing the

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<sup>5</sup> The VA Schedule for Rating Disabilities provides guidance for evaluating the severity of disabilities resulting from military service. The schedule encompasses 15 body systems, such as mental disorders, musculoskeletal, neurological, and genitourinary.

<sup>6</sup> VA Office of Inspector General, *Audit of VA's Internal Controls Over the Use of Disability Benefits Questionnaires*, 11-00733-85, February 23, 2012. Claims processors develop the claims, gather any evidence needed to support the claims, and make benefit entitlement determinations.

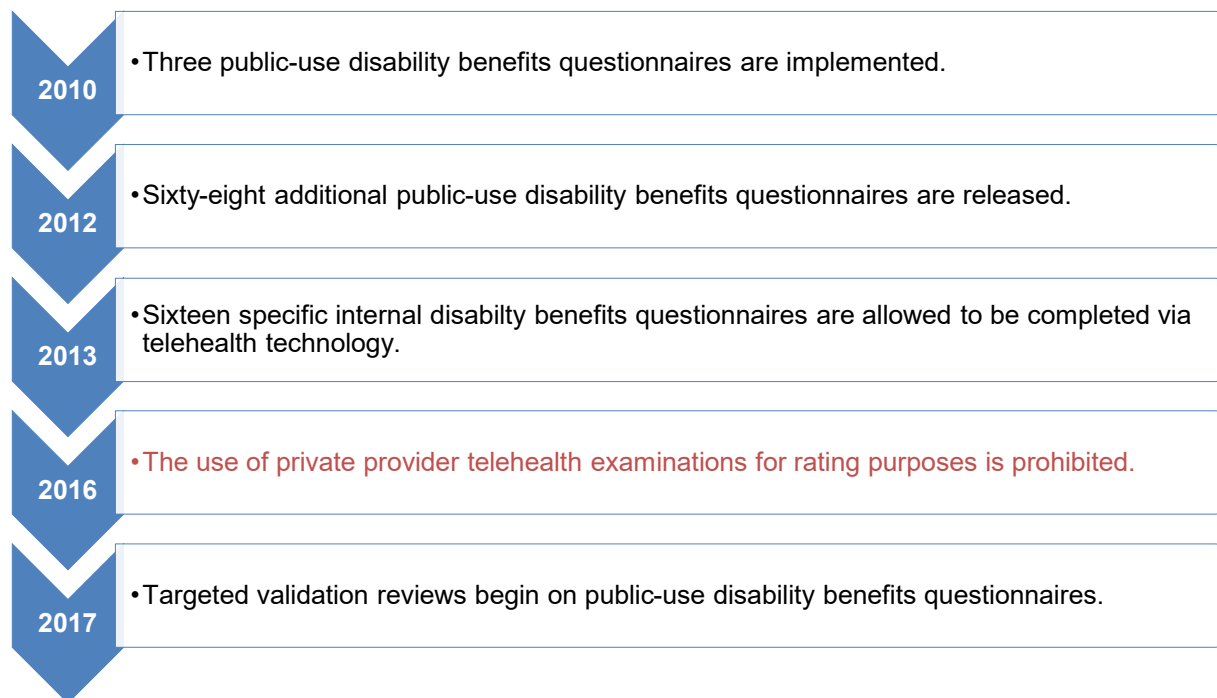
<sup>7</sup> These may also be referred to as private disability benefits questionnaires.

veterans in person. These claims were reviewed on an individual basis by the Investigations division of the OIG. Some of these claims remain the subject of open investigations.

The allegations prompted the OIG review to determine whether VBA staff properly processed veterans’ disability compensation claims when support for the claims came from public-use disability benefits questionnaires completed by private providers located in different states or countries from the veterans’ residence.

## Public-Use Disability Benefits Questionnaires

VBA initially implemented three public-use disability benefits questionnaires in October 2010 and released an additional 68 questionnaires in March 2012 (Figure 1) to help reduce the claims backlog. The questionnaires changed the way that VA collects medical evidence to support veterans’ disability compensation claims. The streamlined forms use check boxes and standardized language so that benefit entitlement determinations can be made accurately and quickly. Veterans have the option to have their private provider complete an examination using the questionnaire to provide medical evidence for disability benefits claims. As of March 2012, 71 disability benefits questionnaires covering a full range of medical conditions could be completed by a private provider. While some questionnaires are specific to a single condition—such as hypertension, arthritis, or prostate cancer—most forms can be used for several related conditions.



**Figure 1.** Rollout and evolution of public-use disability benefits questionnaires  
 Source: OIG analysis of relevant documents related to disability benefits questionnaires

In September 2013, VBA and the Veterans Health Administration (VHA) expanded the use of disability benefits questionnaires by allowing the limited use of “telehealth” technology for disability examinations. Telehealth is the use of technologies to provide clinical care when distance separates those receiving services and those providing services. The use of telehealth technology was intended to broaden access to services, and VBA identified 16 internal questionnaires that were suitable for completion via telehealth.<sup>8</sup>

According to the 2013 guidance, before a compensation and pension examination is completed via telehealth, strict criteria must be followed, including the following:

- All sites selected to conduct telehealth examinations must meet current VA telehealth conditions of participation for clinical video telehealth.
- Providers must be able to see the patient clearly and have full and unrestricted access to the patient as necessary to obtain clinical details and conduct the appropriate examination.
- Examiners conducting examinations with telehealth technology have to be fully credentialed and privileged to conduct such examinations to include certification of current Office of Disability and Medical Assessment training and training specific to telehealth as determined appropriate by VHA.
- A telehealth clinical technician, a health technician, registered nurse, or another VA employee must be available at the facility for the examination.

As of December 2016, VBA prohibited the use of telehealth examination reports completed by private providers for determining benefit entitlement.<sup>9</sup> Certain questionnaires can be completed via telehealth by VHA- or VBA-contracted examiners, and procedures allow disability benefits questionnaires to be completed by private providers, as long as the examinations are conducted in person.

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<sup>8</sup> In addition to compensation and pension telemental health examinations, the following 16 disability benefits questionnaires are suitable for being completed using telehealth technology: ischemic heart disease; hypertension; heart conditions; ear conditions (including vestibular and infectious); loss of sense of smell or taste; sinusitis, rhinitis, and other conditions of the nose, throat, larynx, and pharynx; endocrine diseases (other than thyroid, parathyroid, or diabetes); esophageal conditions; kidney conditions; prostate cancer; urinary tract conditions; sleep apnea; hairy cell and other b-cell leukemias; tuberculosis; narcolepsy; and respiratory conditions.

<sup>9</sup> M21-1, Adjudication Procedures Manual, part III, sub. iv, chap. 3, sec. D, topic 2, “Examination Report Requirements,” March 12, 2018. In March 2017, VBA clarified that both telehealth and telemental examinations are unacceptable for benefit entitlement determinations. For purposes of the report, the use of telehealth includes telemental health examinations.

## Prior OIG Reports Identified Significant Issues

Two previous OIG reports found significant issues with internal controls over public-use disability benefits questionnaires.<sup>10</sup> The reports found that VBA lacked adequate controls on the use of publicly available forms, whose content can be altered to support baseless or exaggerated disability claims. In response to both OIG reports, VBA agreed to strengthen internal controls to mitigate the risk of fraud. VBA agreed to identify a means of electronically capturing and analyzing information contained on completed public-use disability benefits questionnaires, to revise policies and procedures to include annual validation reviews, to revise the methodology to identify the complete universe of questionnaires, and to incorporate the revisions into standard operating procedures. Despite initially agreeing, VBA only partially implemented the OIG report recommendations, in part due to budgetary constraints.

### Audit of VA's Internal Controls Over the Use of Disability Benefits Questionnaires

The 2012 report found that the expedited rollout of the questionnaire process did not give VA sufficient time to design, evaluate, and implement adequate internal controls to prevent potential fraud. In addition, the report found that while VBA has a quality assurance review process to check a limited number of questionnaires completed by private physicians, the quality assurance reviews did not provide reasonable assurance that fraudulent questionnaires would be detected.

In response to a recommendation in the 2012 report, VBA officials said they began vetting public-use disability benefits questionnaires for fraud. From April 2011 to August 2012, VBA reviewed 1,276 questionnaires completed by private providers and referred 66 of them to the OIG as potentially fraudulent. VBA's review also found that there was little consistency among the regional offices regarding how to identify public-use questionnaires in the Veterans Benefits Management System. For instance, some claims processors incorrectly labeled public-use disability benefits questionnaires as VA medical examinations. To assist claims processors with proper identification of public-use questionnaires, Veterans Benefits Management System staff added a new document type for questionnaires submitted by non-VA providers called "Disability Benefits Questionnaire (DBQ) – Veteran Provided."

### Follow-Up Audit of Internal Controls Over Disability Benefits Questionnaires

The follow-up report, published in February 2016, found that VBA had not fully implemented corrective actions from the 2012 report to address control weaknesses or established adequate

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<sup>10</sup> VA Office of Inspector General, *Audit of VA's Internal Controls Over the Use of Disability Benefits Questionnaires*, 11-00733-85, February 23, 2012; *Follow-Up Audit of Internal Controls Over Disability Benefits Questionnaires*, 14-02384-45, February 25, 2016.

controls to identify and minimize potential fraud. The report also highlighted that VBA controls did not electronically capture questionnaire information, or adequately ensure questionnaires provide notification that information is subject to verification. In addition, the controls did not confirm that claims processors correctly identified claims supported by public-use disability benefits questionnaires or make certain that clinician information was complete.

In response to a recommendation in the 2016 report, the Medical Disability Exam Quality and Program Management Office began conducting targeted validation reviews in February 2017. The focus was on claims where a disability benefit was granted based on evidence gathered from a public-use disability benefits questionnaire. As part of their validation reviews, Medical Disability Exam Quality and Program Management Office staff said they send a certification form asking providers if they completed the questionnaire and if any information on the form was altered. From these reviews, staff reported identifying numerous private organizations that provided questionnaires in return for a fee or a portion of veterans' disability compensation benefits. Staff indicated that the number of these organizations identified continues to grow. Staff also related concerns that the organizations are coaching veterans on what to say to maximize their benefits.

The director of Medical Disability Exam Quality and Program Management Office reiterated concern about potentially fraudulent disability benefits questionnaires being submitted by private providers on behalf of veterans. To address this concern, VBA concentrated on the following:

- Providers submitting a high number of public-use disability benefits questionnaires
- Providers who are not the veterans' treating physician
- Providers who are completing the questionnaires from different states or countries than where veterans reside
- Claims with information that the veteran is alleging a mental disability secondary to an already established service-connected condition

From the February 2017 inception of targeted validation reviews of questionnaires through December 2018, VBA identified 225 claims with questionnaires that were referred to the OIG hotline for possible action.

## Results and Recommendations

### **Finding: VBA Claims Processors Improperly Used Telehealth Questionnaires for Determining Disability Benefits**

The OIG substantiated allegations that VBA claims processors improperly used telehealth public-use disability benefits questionnaires to grant or increase veterans' compensation benefits. These questionnaires were completed by private providers with no evidence that the examinations were completed in person as required.<sup>11</sup>

The VBA procedures manual states a telehealth or telemental health examination report is only acceptable and actionable for rating purposes when prepared by a VHA- or VBA-contracted examiner. Claims processors must not accept, in lieu of VA examination, any questionnaire that has been prepared by a private provider unless the examination was completed in person.

The team reviewed a total of 81 compensation claims completed from April 1, 2017, through September 30, 2018, which involved public-use disability benefits questionnaires completed by private providers who did not practice in the state, territory, or country where the veterans reside. The review team determined that for 41 of the 81 claims (51 percent), claims processors improperly used public-use disability benefits questionnaires to award or increase veterans' benefits without evidence that the examinations were completed in person. For the 41 incorrectly processed claims, VBA staff relied on evidence provided on these public-use disability benefits questionnaires completed to either award or increase disability compensation benefits. Considering the locations of the private providers that completed the questionnaires and the veterans' residences, as well as the lack of any evidence the medical examinations were completed in person, the team determined that the questionnaires were likely conducted via telehealth. Many of the questionnaires were subsequently confirmed by VBA to have been completed by telehealth. The remaining 40 claims were correctly processed; on those, VBA claims processors used other medical evidence, including VHA- and VBA-contracted examinations, rather than telehealth public-use questionnaires to make benefit entitlement determinations.

The improper use of these questionnaires happened because VBA lacked sufficient controls over the use of telehealth public-use disability benefits questionnaires.

- VBA procedures gave inconsistent guidance on how claims processors should handle public-use disability benefits questionnaires to make benefit entitlement determinations.
- VA public-use disability benefits questionnaire forms lacked any definitive means of identifying whether the examinations were conducted via telehealth, and the website

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<sup>11</sup> M21-1, "Examination Report Requirements."

where forms can be downloaded, as well as the forms themselves, did not explain that they could not be used for benefit entitlement determinations unless completed during an in-person exam.

- VBA's Medical Disability Exam Quality and Program Management Office did not take sufficient action to monitor and remediate deficiencies resulting from telehealth public-use disability benefits questionnaires.

This caused claims processors to improperly use telehealth public-use benefits questionnaires for 41 of the 81 disability compensation awards reviewed. As a result of those 41 improperly decided claims alone, VBA paid veterans approximately \$613,000 for claims completed from April 2017 through September 2018. These improper payments were generally the result of claims processors relying solely or primarily on evidence from examinations completed by out-of-state providers. VBA is unable to extract specific information from disability benefits questionnaires and, therefore, is unable to identify potentially fraudulent or suspicious public-use questionnaires. VBA does use a set of criteria to identify potentially fraudulent claims for validation reviews. However, when the team compared the 30 reviewed claims forwarded to the OIG hotline by regional office staff with the claims reviewed by VBA's Medical Disability Exam Quality and Program Management Office, there was no overlap, showing that the validation reviews are not capturing many potentially fraudulent claims.

## **What the OIG Did**

The OIG reviewed 51 of the claims related to the use of public-use questionnaires that the VBA's Medical Disability Exam Quality and Program Management Office alleged were potentially fraudulent. Staff at this office related that the use of these public-use questionnaires could lead to inaccurate disability benefit decisions. Additionally, the OIG reviewed 30 allegations provided by individual staff working at VA regional offices. Overall, the team conducted a detailed review of 81 claims for veterans' disability compensation benefits that were completed from April 2017 through September 2018 by staff throughout the United States and processed in 34 of the 56 VA regional offices.

The review team used VBA's electronic systems, including the Veterans Benefits Management System, to review veteran claims folders and relevant documentation required to determine whether VBA staff accurately processed claims supported by public-use disability benefits questionnaires. The team conducted site visits to Sioux Falls, South Dakota; Nashville, Tennessee; and Washington, DC. During these site visits the team interviewed key staff at the regional offices, Medical Disability Exam Quality and Program Management Office, Quality Assurance, and VBA Central Office.



## **VBA Lacked Sufficient Controls to Prevent the Use of Telehealth Public-Use Disability Benefits Questionnaires**

The OIG found that VBA did not establish sufficient controls to prevent the use of telehealth examinations. The following is an example of how a claims processor improperly used a telehealth public-use disability questionnaire to determine benefits entitlements.

### **Example**

*A veteran living in North Carolina filed a claim for a mental health condition due to three service-connected conditions—allergic rhinitis, maxillary sinusitis, and asthma. For support, the veteran provided a public-use disability benefits questionnaire completed by a private provider in Puerto Rico. There was no evidence the examination was completed in person. A VA examination was subsequently ordered, and an in-person mental health examination conducted. During the latter examination, the veteran confirmed that the private provider examination was arranged by a civilian agency and that the public-use disability benefits questionnaire was completed via teleconference. The VA examiner, a licensed clinical psychologist with access to the veteran’s record, wrote that the available evidence did not suggest a direct relationship between the veteran’s mental health symptoms and the service-connected conditions. The claims processor, however, relied solely on the telehealth public-use disability benefits questionnaire and improperly awarded benefits of approximately \$6,500.*

This report finding discusses the following weaknesses in controls to prevent the use of telehealth public-use disability benefits questionnaires:

- Procedures gave inconsistent guidance for claims processors on using telehealth public-use disability benefits questionnaires to determine benefits eligibility.
- Neither the website nor the questionnaires explained that the forms could not be completed using telehealth, and there is no question on the public-use forms about whether the examination was completed in person.
- VBA’s Medical Disability Exam Quality and Program Management Office did not adequately monitor or respond to issues with telehealth public-use disability benefits questionnaires.

### **Procedures Gave Inconsistent Guidance**

In December of 2016, VBA updated its procedures manual to disallow the use of telehealth public-use disability benefits questionnaires to make disability compensation decisions if the forms were completed by private providers, although public-use questionnaires completed during

an in-person exam are acceptable.<sup>12</sup> According to Compensation Service policy and procedures staff, this change was made after consultation with the Medical Disability Exam Quality and Program Management Office staff, who agreed that telehealth questionnaires completed by private providers should not be used for making benefit entitlement determinations. The Medical Disability Exam Quality and Program Management Office director stated the prohibition was put in place due to the number of telehealth questionnaires completed by private providers that were potentially fraudulent.

While VBA updated procedures to prohibit the use of telehealth examinations completed by private providers, VBA still has language elsewhere in the procedures manual that encourages claims processors to accept public-use disability questionnaires without additional scrutiny, unless they suspect actual fraud. Initially, questionnaires were to be completed only by the veteran's treating physician and were required to include an authorization from the veteran to collect medical information from the medical provider. These requirements were to ensure that the information provided on the questionnaires could be verified. However, VBA removed these requirements in July 2015. Current procedures allow almost all questionnaires to be completed by any licensed medical professional, without regard to the provider's area of medical expertise or relationship to the veteran.<sup>13</sup> VBA's procedures manual states that questionnaires from treating providers should be taken at face value, though it does state that questionnaires are subject to possible verification.<sup>14</sup>

The review team interviewed claims processors at the Sioux Falls and Nashville VA regional offices. There was general agreement among all the claims processors interviewed that examinations completed by private providers located in different states or countries from where the veterans reside were likely completed via telehealth; however, the claims processors were inconsistent in dealing with questionnaires that lacked evidence they were completed in person.

At the Sioux Falls VA Regional Office, claims processors and quality assurance personnel treated these public-use disability benefits questionnaires as likely to have been completed via telehealth. Staff generally held that such questionnaires require an additional examination as they cannot be used for making benefit entitlement determinations. As a result, claims processors usually ordered additional examinations in such cases.

Conversely, claims processors at the Nashville VA Regional Office were less likely to have ordered an additional examination when public-use disability benefits questionnaires were completed by private providers located in different states from the veterans' residences. One claims processor said that if there was nothing specific on the questionnaire, they would assume

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<sup>12</sup> M21-1, "Examination Report Requirements," 2.c.

<sup>13</sup> The exceptions to this procedure are the disability benefits questionnaires for mental disorders, posttraumatic stress disorder, and traumatic brain injury.

<sup>14</sup> M21-1, "Examination Report Requirements," 2.a.

it was completed in person. Quality assurance staff explained that it was very difficult for claims processors to know what to do if they suspected an examination was completed via telehealth. They also stated that there are no clear instructions to tell either claims processors or quality review personnel what to do if they suspect telehealth examinations. This is compounded by the fact that the procedures manual is written to encourage claims processors not to scrutinize questionnaires unless they suspect actual fraud. Quality assurance staff concluded that the procedures make it very difficult to determine the best course of action if the questionnaire is valid on its face.

### **VA Website and Questionnaire Form Lacked Critical Information**

VA maintains a website to provide the public with information on questionnaires and access to the forms.<sup>15</sup> Veterans can have their private providers complete any of the 71 questionnaires that are appropriate for their conditions and submit them to VA. Disability benefits questionnaire forms were created for veterans' use in the disability benefits evaluation process. VA informs veterans that these questionnaires will help speed the processing of claims, as well as allow them more control over the disability claims process by giving them the option of visiting a private provider, at their expense, instead of completing an evaluation at a VA facility. However, neither the website nor the form provides information that public disability benefits questionnaires cannot be used if conducted via telehealth.

A review of VA's website for public access to disability benefits questionnaire forms and the public-use questionnaire forms themselves revealed that neither notifies users that telehealth examination reports are not acceptable for benefit entitlement determinations when prepared by private providers. Adding notifications could reduce the likelihood that veterans, at their own expense, would submit telehealth disability benefits questionnaires in support of their claims for benefits. Additionally, unlike internal disability benefits questionnaires, the public-use disability benefits questionnaire does not ask how it was completed and lacks a field such as a checkbox to indicate it was completed in person.

Staff at the Sioux Falls and Nashville VA regional offices involved in claims processing and quality reviews indicated that having a specific question on the public-use disability benefits questionnaire forms to determine how the examination was conducted would be beneficial. Despite the lack of a specific question, the majority of claims processors and all quality review staff interviewed agreed that a questionnaire completed by a private provider located in a different state or country than where the veteran resides was likely conducted via telehealth instead of in person.

While VBA has the capability to update public-use disability benefits questionnaires, the process is complicated and can be very time-consuming. Revisions to public-use disability benefits

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<sup>15</sup> VA website, [https://www.benefits.va.gov/compensation/dbq\\_disabilityexams.asp](https://www.benefits.va.gov/compensation/dbq_disabilityexams.asp).

questionnaires that necessitate data collection from the public must adhere to the requirements of the Paperwork Reduction Act and be approved by the Office of Management and Budget (OMB).<sup>16</sup> Therefore, a question that asks how the examination was conducted would require OMB approval. A program analyst with Compensation Service policy and procedures, responsible for updating VA forms, explained that updating a form and getting OMB approval generally takes nine to 12 months. The analyst said that updating the 71 public-use disability benefits questionnaires would take at least 12 months and could take as long as 36 months. On the other hand, a simple disclosure included on questionnaire forms indicating that questionnaires completed using telehealth are not acceptable for determining benefit entitlement would not require approval because it would not involve collecting information from the public.

The director of the Medical Disability Exam Quality and Program Management Office stated that discussions have been held on adding a question about how the examination was conducted. However, the program analyst with Compensation Service policy and procedures informed the OIG that no request has been received to amend the questionnaires. VBA officials, including the executive director for the Compensation Service, expressed reluctance to update the public-use disability benefits questionnaire forms based on the level of effort and time required to repeatedly revise them.

VBA is amending the Department of Veterans Affairs Schedule for Rating Disabilities. According to the Federal Register, VA has amended or proposed to amend the rating schedule for eight body systems from August 2017 through February 2019.<sup>17</sup> The executive director for Compensation Service explained the goal is to regularly update each body system every three to five years. The revisions for each body system will require changes to the rating schedule and to all questionnaires.

The executive director for Compensation Service related that discontinuing the use of public-use disability benefits questionnaires would be best because they account for only a small percentage of the total number of examinations received. The executive director stated that public-use disability questionnaires were initially designed to improve transparency and consistency in the examination process, assist veterans in rural areas, and reduce wait times. However, the executive director explained with the addition of 33 VBA contractor examination vendors, private providers are no longer needed to complete disability benefits questionnaire forms. VBA is working to update the rating schedule, which will directly affect the information on both internal and external questionnaires. The executive director stated that because updating public-facing forms takes so long, many of the public-use questionnaires will become obsolete.

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<sup>16</sup> The Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq. The act gives the OMB authority over federal agencies' collection of certain information, including questionnaires.

<sup>17</sup> The Federal Register is the Daily Journal of the United States Government. As an example of an amended schedule, effective December 2018, the VA Schedule for Rating Disabilities addressing the hematologic and lymphatic systems was revised.

## **VBA Did Not Adequately Monitor or Respond to Issues with Telehealth Public-Use Disability Benefits Questionnaires**

VBA relies on the Medical Disability Exam Quality and Program Management Office to monitor public-use disability benefits questionnaires to ensure that the questionnaires are accurately completed. According to VBA staff, part of the office's responsibilities is conducting validation reviews of the public-use disability benefits questionnaires.

The validation reviews by the Medical Disability Exam Quality and Program Management Office are not adequate for monitoring or preventing the use of telehealth public-use questionnaires. According to VBA officials, the information provided for the reviews does not show where the private providers are located or identify private providers who may be routinely providing fraudulent questionnaires via telehealth.

In response to the previous OIG reports on disability benefits questionnaires, VBA initially agreed to identify a means of electronically capturing and analyzing information contained on completed public-use questionnaires. However, VBA changed its position due to budgetary constraints. Consequently, VBA does not have the capacity to collect or track any questionnaire-specific information, such as the name of the examiner conducting the examination. The OIG was informed by officials with the VBA Office of Performance Analysis and Integrity, which develops and maintains the Enterprise Data Warehouse and generates reports to meet VBA's decision-making and business needs, that without the ability to extract information from disability benefits questionnaires, it is unable to identify potentially fraudulent or suspicious public-use questionnaires. The Office of Performance Analysis and Integrity can provide only broad information to the Medical Disability Exam Quality and Program Management Office for the targeted validation reviews. Many claims with private provider telehealth examinations likely are not identified by VBA.

As a result of the validation reviews, the Medical Disability Exam Quality and Program Management Office does provide claims with potentially fraudulent disability benefits questionnaires to the OIG. However, the office has taken no other action despite the concern expressed by staff that telehealth public-use disability benefits questionnaires are potentially fraudulent. Even when the validation reviews confirm that telehealth examinations were used for benefit entitlement purposes, the claims are not returned to VA regional offices for correction. According to the director, there is no process or responsibility for the Medical Disability Exam Quality and Program Management Office to notify any other organizations in Compensation Service of the issues identified during validation or quality reviews.

### **Conclusion**

The OIG substantiated the allegations related to public-use disability benefits questionnaires. While the review team concentrated on specific allegations of potentially fraudulent claims

submitted to the OIG, these are indicative of a much larger national problem. The allegations involved claimants from all over the United States whose claims were processed in 34 of the 56 VA regional offices. The OIG found that claims processors awarded benefits based on questionnaires completed by private providers located in a different state or country than where the veterans reside, without evidence that the examinations were completed in person. VBA's internal controls over public-use questionnaires remain inadequate to prevent the use of telehealth disability benefits questionnaires. As a result, the team identified inaccurate benefit entitlement determinations for 41 of the 81 claims reviewed totaling approximately \$613,000 in improper payments for claims completed from April 2017 through September 2018.

Public-use disability questionnaires, including telehealth questionnaires, contain an inherent risk of fraud. While VBA has taken some steps to mitigate the risk, this review identified further internal control and procedural deficiencies regarding public-use disability benefits questionnaires. Interviews with VBA staff and managers revealed a reluctance to continue accepting public-use disability benefits questionnaires. This was due to the fraud risk in using the questionnaires, as well as to the difficulty in updating the forms to ensure they remain accurate and usable for benefit entitlement purposes. These factors raise questions about whether public-use disability benefits questionnaires remain a viable tool for streamlining the veterans' claims process.

## **Recommendations 1–4**

The OIG made four recommendations to the under secretary for benefits on the use of public-use disability benefits questionnaires:

1. Determine whether public-use disability benefits questionnaires continue to be an effective means of gathering evidence to support claims for benefit entitlement and, if necessary, take steps to discontinue their use.

If not discontinued, or pending that decision,

2. Update the Veterans Benefits Administration's adjudication procedures manual to assist claims processors in determining whether public-use disability benefits questionnaires were conducted through telehealth and include specific steps on what to do if claims processors suspect that public-use disability benefits questionnaires were completed via telehealth.
3. Revise public-use disability benefits questionnaire forms to include a mechanism for the private provider to indicate whether the examination was completed in person or through telehealth.
4. Notify veterans and private providers on public-facing forums and public-use disability benefits questionnaires that telehealth examinations are not acceptable for use in making benefit entitlement determinations.

## **Management Comments**

The under secretary for benefits concurred with Recommendations 1 through 4 and provided acceptable action plans for the recommendations. To address Recommendation 1, VBA is engaging with veterans service organizations to determine whether public-use disability benefits questionnaires remain a viable option. VBA anticipates developing a path forward on public-use disability benefit questionnaires within nine months. To address Recommendation 2, VBA will review the applicable manual references and remove any ambiguity in sections pertaining to public-use disability benefits questionnaires and clarify specific steps to be taken when claims processors suspect that public-use disability benefits questionnaires were completed via telehealth. VBA will also provide guidance on upcoming calls to the regional offices. For Recommendations 3 and 4, VBA is deferring final action on these recommendations until it determines whether public-use disability benefits questionnaires remain viable.

## **OIG Response**

The under secretary for benefits' comments and actions are responsive to the recommendations. For Recommendations 1 through 4, the OIG will monitor VBA's progress and follow up on implementation of the recommendations until all proposed actions are completed.

## Appendix A: Scope and Methodology

### Scope

The review team conducted its work from April through December 2019. The OIG assessed the merits of complainant allegations of improper processing of claims with public-use questionnaires. Specifically, the review team analyzed 81 veterans' claims, finalized from April 2017 through September 2018, with public-use disability benefits questionnaires completed by private providers located in different states or countries from the veterans' residence.

### Methodology

To accomplish the review objective, the review team performed the following:

- Identified and reviewed applicable laws, regulations, policies, procedures, and guidelines related to the public-use disability benefits questionnaires
- Conducted site visits to the VA regional offices in Sioux Falls, South Dakota, and Nashville, Tennessee, as well as to the Medical Disability Exam Quality and Program Management Office in Nashville, Tennessee, and the VBA Central Office in Washington, DC
- Interviewed and obtained testimonial information related to public-use disability benefits questionnaires from VBA employees, including rating veteran service representatives, rating quality review specialists, quality assurance staff, and Compensation Service staff and officials
- Reviewed 81 veterans' claims, finalized from April 2017 through September 2018, with public-use disability benefits questionnaires completed by private providers located in different states or countries from the veterans' residence<sup>18</sup>
- Discussed the findings with VBA officials and included their comments where appropriate

### Fraud Assessment

The review team assessed the risk that fraud, violations of legal and regulatory requirements, and abuse could occur during this review. The review team exercised due diligence in staying alert to any fraud indicators by taking actions such as these:

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<sup>18</sup> Of the 81 claims, 51 were submitted from VBA's Medical Disability Exam Quality and Program Management Office and completed from October 2017 through September 2018. The remaining 30 claims were identified through allegations received from VA regional office staff.



- Soliciting the OIG's Office of Investigations for indicators
- Completing the Fraud Indicators and Assessment Checklist
- Reviewing claims identified by VBA as potentially fraudulent through the targeted validation review process

The review team referred three claims to the OIG Office of Investigations for potential fraud that were not in the scope of claims reviewed because they involved healthcare providers who resided in the same state as the veteran. These claims involved public-use disability benefits questionnaires completed by private providers who certified to an address in a state other than the one in which they are licensed to practice. For example, one provider indicated the examination was completed in California; however, the provider was licensed in Massachusetts.

### **Data Reliability**

To support the findings, conclusions, and recommendations for this review, the review team used data from VBA's Medical Disability Exam Quality and Program Management Office and VA regional office management and staff. To test for reliability, the review team determined whether any data were outside the time frame and whether the data contained obvious duplication of records. Furthermore, the review team assessed the appropriateness and reliability of data, such as veterans' names and file numbers, by cross-referencing the data against information contained in the Veterans Benefits Management System. The review team determined the data used were sufficiently reliable for the review's purposes.

### **Government Standards**

The OIG 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: Monetary Benefits in Accordance with Inspector General Act Amendments

<b>Recommendation</b>	<b>Explanation of Benefits</b>	<b>Better Use of Funds</b>	<b>Questioned Costs</b>
1-4	VBA improperly paid veterans approximately \$613,000 for claims completed from April 2017 through September 2018.		\$613,000
	<b>Total</b>		<b>\$613,000</b>

## Appendix C: Management Comments

### Department of Veterans Affairs Memorandum

Date: January 21, 2020

From: Under Secretary for Benefits (20)

Subj: OIG Draft Report – Telehealth Public-Use Questionnaires Were Used Improperly to Determine Disability Benefits (Project Number 2019-07119-BI-0003)

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

1. Attached is VBA's response to the OIG Draft Report: – Telehealth Public-Use Questionnaires Were Used Improperly to Determine Disability Benefits.
2. Questions may be referred to Renetta Johnson, Chief, Office of Program Integrity & Internal Controls at (202) 632-8699.

/s/

Paul R. Lawrence, Ph.D.

Attachment

*For accessibility, the original format of this appendix has been modified to comply with Section 508 of the Rehabilitation Act of 1973, as amended.*

**Veterans Benefits Administration  
Comments on OIG Draft Report  
Telehealth Public-Use Questionnaires Were Used Improperly to Determine  
Disability Benefits**

The Veterans Benefits Administration (VBA) concurs with the findings in OIG's draft report and provides the following comments in response to the recommendations.

Recommendation 1: Determine whether public-use disability benefits questionnaires continue to be an effective means of gathering evidence to support claims for benefit entitlement and, if necessary, take steps to discontinue their use.

VBA Response: Concur. Prior to the OIG's draft report, VBA began engaging our Veterans Service Organization (VSO) partners to determine whether public-use disability benefits questionnaires (DBQs) remain a viable option. On January 10, 2020, VSOs participated in the initial Private Provider DBQ Workgroup with VBA senior leadership. VBA anticipates developing a path forward on public-use DBQs within nine months.

Target Completion Date: September 30, 2020

Recommendation 2: Update the Veterans Benefits Administration's adjudication procedures manual to assist claims processors in determining whether public-use disability benefits questionnaires were conducted through telehealth and include specific steps on what to do if claims processors suspect that public-use disability benefits questionnaires were completed via telehealth.

VBA Response: Concur. VBA will review the applicable manual references and remove any ambiguity in sections pertaining to public-use DBQs and to clarify specific steps to be taken when claims processors suspect that public-use DBQs were completed via telehealth. VBA will also provide guidance on upcoming calls to the regional offices. VBA expects to complete this by the end of March 2020.

Target Completion Date: March 31, 2020

Recommendation 3: Revise public-use disability benefits questionnaire forms to include a mechanism for the private provider to indicate whether the examination was completed in person or through telehealth.

VBA Response: Concur. However, VBA is deferring final action on this recommendation until the outcome of the efforts to determine whether public-use DBQs remain a viable option, as outlined in response to Recommendation 1.

Target Completion Date: December 31, 2020.

Recommendation 4: Notify veterans and private providers on public-facing forums and public-use disability benefits questionnaires that telehealth examinations are not acceptable for use in making benefit entitlement determinations.

VBA Response: Concur. However, VBA is deferring final action on this recommendation until the outcome of the efforts to determine whether public-use DBQs remain a viable option, as outlined in response to Recommendation 1.

Target completion Date: December 31, 2020

## OIG Contact and Staff Acknowledgments

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<b>Contact</b>	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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<b>Review Team</b>	Charles Chiarenza, Director Raymond Byrnes Kyle Flannery Tyler Hargreaves Lisa Van Haeren
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