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DEPARTMENT OF VETERANS AFFAIRS  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
HEARING ON  
"RECLAIMING THE PROCESS:  
EXAMINING THE VBA CLAIMS TRANSFORMATION  
PLAN AS A MEANS TO EFFECTIVELY SERVE OUR VETERANS"  
JUNE 19, 2012**

**INTRODUCTION**

Mr. Chairman and Members of the Committee, thank you for the opportunity to discuss the work of the Office of Inspector General (OIG) in the Veterans Benefits Administration (VBA). I will highlight audits and inspections results that identified areas that VBA should address as part of its strategy to improve claims processing. I am accompanied today by Mr. Larry Reinkemeyer, Director of the OIG's Kansas City Office of Audits and Evaluations; Mr. Nick Dahl, Director of the OIG's Bedford Office of Audits and Evaluations; and Mr. Brent Arronte, Director of the OIG's Bay Pines Benefits Inspections Division.

**BACKGROUND**

Delivering timely and accurate benefits to the millions of veterans who served our Nation is a central VA mission. VBA's Office of Field Operations is responsible for oversight of the nationwide network of 57 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 will pay out over \$72 billion in benefits to veterans and their beneficiaries in fiscal year (FY) 2012.

VBA claims processing has been the subject of concern and attention by VA leadership, Congress, and veteran service organizations, due to the large backlog of claims and inaccurate compensation decisions. As of May 2012, VA reported over 850,000 pending rating-related claims; almost 66 percent of them had been pending for more than 125 days—VBA's target time frame for claims completion.

As part of our oversight responsibility, we conduct national audits of VBA programs and processes, such as appeals processing, fiduciary management, and implementation of disability benefits questionnaires. In 2009, we began inspections of individual VA regional offices (VAROs) to examine high-risk claims processing activities and Veterans Service Center (VSC) management operations. By the end of FY 2012, we will have reviewed 56 VAROs in the past 3 years<sup>1</sup>. We have consistently reported the need for

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<sup>1</sup> We will not inspect the Washington, DC, VARO because of the low volume and the type of claims it processes.

enhanced policies and procedures, training, oversight, quality review, and other management controls to improve the timeliness and accuracy of disability claims processing and enhance the effectiveness of VSC operations.

## **DISABILITY CLAIMS PROCESSING**

Our inspections of 50 VAROs from April 2009 through May 2012 disclosed multiple challenges that VBA faces in providing timely and accurate disability benefits and services to veterans. We focused our efforts on specific types of disability claims processing, including temporary 100 percent disability evaluations, post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), and herbicide exposure, which we considered at high-risk for processing errors.

Based on the 50 inspections completed, we determined that VARO staff did not correctly process 1,442 (30 percent) of the 4,812 high-risk claims we reviewed. Of these, about 32 percent affected veterans' benefits and approximately 68 percent had the potential to affect veterans' benefits. The errors we identified resulted in a total of approximately \$15 million in overpayments and \$800,000 in underpayments to veterans.

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 that review area. For example, we are discontinuing our review of PTSD claims because only two of 20 VAROs inspected in FY 2011 did not follow VBA policy when processing PTSD claims. This constituted an improvement from the 8 of 16 VAROs that did not follow VBA policy in processing PTSD claims, as previously reported in our FY 2010 inspection summary report.

Herbicide exposure-related claims represent an area where initially we saw a consistent error rate of about 45 percent. VBA policy states for veterans claiming exposure to herbicide agents during active military service, certain disabilities should be service-connected, provided VBA has verification of the herbicide exposure and the disease manifested to a degree of 10 percent disabling or more at any time after discharge from service. In our first inspection summary report, covering inspections completed from April 2009 to September 2010, we reported that 7 of 16 VAROs did not follow VBA policy. For those VAROs inspected in FY 2011, 9 of 20 did not follow VBA policy when processing herbicide exposure-related claims. However, for inspections completed to date in FY 2012, the error rate was 8 percent. We will discontinue reviewing these claims in FY 2013.

### Temporary 100 Percent Evaluations

VBA grants veterans temporary 100 percent disability evaluations for service-connected disabilities requiring surgery, convalescence, or specific treatment. At the end of a mandated convalescence or cessation of treatment, VARO staff should review the veteran's medical condition to determine whether to continue the temporary evaluation. In January 2011, we issued a report, *Audit of 100 Percent Disability Evaluations*, in which we projected VBA did not correctly process temporary 100 percent evaluations

for about 27,500 (15 percent) of 181,000 veterans. We also reported that since January 1993, VBA paid veterans a net \$943 million without adequate supporting medical evidence. We concluded that if VBA does not take corrective action, it could overpay veterans a projected \$1.1 billion over the next 5 years.

In response to the report, the Acting Under Secretary for Benefits agreed 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 the national review would be September 30, 2011. However, VBA did not provide each VARO with a list of temporary 100 percent disability evaluations for review until September 2011. VBA subsequently extended the national review deadline to December 31, 2011, then to March 31, 2012, and then again to June 30, 2012. To date, VBA has not completed this national review requirement and monthly benefits continue to be paid despite a lack of adequate medical evidence.

Our inspections continue to show that accuracy of temporary 100 percent disability evaluations is a systemic issue. None of the 20 VAROs we reported on in FY 2011 followed VBA policy in processing temporary 100 percent disability evaluations and the early results of our FY 2012 inspections indicate that this remains an area of concern. Our recent inspections of the three California VAROs emphasize the need for continued management attention to these types of claims we randomly sampled. Our results showed the Los Angeles VARO to be one of the poorest performers, with an error rate of 97 percent in processing temporary 100 percent disability evaluations. The San Diego VARO ranked near the middle of all VAROs inspected, with an error rate of 77 percent. Oakland's error rate was also high at 53 percent. At the time of our inspections, collectively, overpayments for these errors in the California VAROs totaled over \$1.5 million, while underpayments were about \$21,000.

Further, the San Diego VARO completed its review of VBA's temporary 100 percent disability evaluations, but did not take appropriate actions in 17 (22 percent) of 78 claims involving prostate cancer. VARO management erroneously reported to VBA's Western Area Office that staff had requested VA medical reexaminations to determine whether the veterans' disabilities warranted the continued evaluations. However, evidence in the veterans' claims folders revealed VARO staff had neither requested the medical reexaminations, nor put controls in place to manage these cases. Without appropriate action to justify the need for continued payments, these 17 claims have the potential to cost just over \$400,000 annually.

#### Traumatic Brain Injury

From April 2007 through September 30, 2009, based on outpatient screening of veterans requesting VA health care treatment following military service in Operation Enduring Freedom and Operation Iraqi Freedom, VA determined that over 66,000 veterans could possibly have TBI. VA ultimately confirmed that just under 25,000 veterans had sustained TBI. Claims processing workloads corroborated that amount.

Nineteen of the 20 VAROs inspected in FY 2011 did not follow VBA policy in processing claims for residuals<sup>2</sup> of TBI. We found that VARO staff did not adequately process about 740 (45 percent) of 1,650 TBI claims that we reviewed. Generally, the errors related to inconsistent or insufficient training, VA medical examiners providing inadequate TBI medical examination reports on which to base disability claims decisions, and Rating Veterans Service Representatives (RVSRs) not returning these inadequate reports to the medical examiners for correction as required. 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 the other as required, VARO staff could not make accurate disability determinations. RVSRs told us they often did not return the inadequate reports due to pressure to meet productivity standards. We continue to see this as an issue in our FY 2012 reviews.

#### Disability Claims Processing Timeliness

Ensuring timely claims processing is a widespread concern. VBA policy requires that division managers conduct monthly reviews of all claims pending more than 1 year. Due to concerns raised about processing claims at the California VAROs, we reviewed their compliance and found this was not done. Our examination of the ten oldest claims at these VAROs showed all three unnecessarily delayed processing of some of the claims. We found that processing of 80 percent of the claims we reviewed at the Los Angeles VARO had been unnecessarily delayed, while 50 percent had been unnecessarily delayed at the San Diego VARO. The Oakland VARO had a delay rate of about 29 percent in processing its oldest claims. Reasons for the processing delays included pending appeals on other conditions, lost or misplaced files, and unresolved claims issues. One claim at the Oakland VARO remained incomplete for nearly 8 years because VARO rating staff overlooked the contentions the veteran made when the claim was initially submitted. If division managers conduct monthly reviews of the VAROs' aged workload as required, they can take appropriate actions to avoid additional delays in processing veterans' claims. Due to issues identified, we will include a review of the implementation of this policy and a review of a sample of the oldest completed claims during our inspections conducted in FY 2013.

#### **APPEALS PROCESSING**

In May 2012, we issued a national report, *Audit of VA Regional Offices' Appeals Management Processes* (May 30, 2012), that reported the nationwide inventory of appeals increased over 30 percent from about 160,000 appeals in FY 2008 to about 209,000 in FY 2010. The inventory of compensation rating claims also increased by 40 percent—from 380,000 to 532,000 claims. We concluded that VBA contributed to the growing inventory and time delays by not assigning enough staff to process appeals, diverting staff from appeals processing, and not ensuring appeals staff acted on appeals promptly because compensation claims processing was their highest priority. Also we identified through a comparison of Veterans Appeal Control and Locator System (VACOLS) and Veterans Service Network Operations Reports that regional office staff

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<sup>2</sup> The major residual disabilities of TBI fall into three main categories—physical, cognitive, and behavioral. VBA policy requires that staff evaluate these residual disabilities.

did not properly record 145 appeals in VACOLS, which delayed processing for an average of 444 days.

We recommended the Under Secretary for Benefits identify and request staffing resources needed to meet VBA's appeals processing goals and conduct *de novo* reviews on all appeals. *De novo* reviews will result in quicker decisions on the veterans' appeals because they allow decision review officers to render new decisions without waiting for new evidence as required with traditional reviews. VBA should revise productivity standards and procedures to emphasize timely processing of appeals and implement an oversight plan that ensures staff record appeals in VACOLS promptly.

The Under Secretary generally agreed that opportunities exist to improve appeals processing at regional offices. VBA is conducting a pilot program to assess the feasibility of implementing our recommendations on staffing resources to meet processing goals and conducting *de novo* reviews on all appeals; revising productivity standards for decision review officers; implementing criteria to initiate a review or develop Notices of Disagreements (NODs) and certified appeals within 60 days of receipt; revising policy to conduct *de novo* reviews on all appeals; and implementing a plan for adequate oversight to ensure staff record NODs into VACOLS. The Under Secretary for Benefits concurred with another recommendation to take appropriate action to complete appeals and provide decisions on the 145 appeals that were not properly recorded in VACOLS.

#### Notices of Disagreement

At 20 VAROs in FY 2011, we inspected controls over the processing of NODs—the first step in the appeals process. Sixteen of 20 VAROs did not timely control NODs in VACOLS. VARO staff exceeded VBA's 7-day standard for 204 (34 percent) of 600 NODs reviewed. Staff took an average of 20 days to record the 204 disagreements in VACOLS.

The untimely recording of NODs in VACOLS occurred because of inadequate oversight. The VAROs' workload management plans and local procedures did not incorporate provisions to ensure prompt control of NODs in VACOLS. Further, there was a lack of staff training on this portion of the appeals workload. Two VAROs were unable to record NODs timely due to personnel shortages.

The data integrity issues identified resulting from untimely control of NODs make it difficult for VAROs and senior VBA leadership to accurately measure and monitor the performance of regional offices. Delays in recording NODs in VACOLS provide inaccurate information on VBA's NOD inventory and timeliness—both critical elements for consideration in workload decisions.

To address timely establishment of NODs, in FY 2011, we recommended Regional Office Directors develop and implement plans for providing adequate oversight to ensure staff timely record NODs in the VACOLS within 7 days as required by VBA policy. Regional Office Directors reported they implemented improvements in response

to our recommendations. These actions are key to reversing the steady rate of NOD processing errors we have noted since our Benefits Inspection program began.

## **DISABILITY BENEFITS QUESTIONNAIRES**

As part of a major initiative to reduce the claims backlog, VBA and the Veterans Health Administration (VHA) collaborated in the development of Disability Benefits Questionnaires (DBQs) to replace the compensation and pension examination reports previously used. DBQs are streamlined medical examination forms designed to capture essential medical information for purposes of evaluating VA disability claims. DBQs can be completed not only by VHA and VA-contracted clinicians, but also by veterans' private physicians. Currently, 81 DBQs are available, of which 71 are approved for use by non-VA clinicians.

We conducted an audit to provide an early assessment of VA's internal controls over the use of DBQs (*Audit of VA's Internal Controls Over the Use of Disability Benefits Questionnaires*, February 23, 2012). Once VBA personnel make a decision on a veteran's disability benefits application, awarded claims result in recurring monthly compensation payments. Therefore, it is critical to establish adequate front-end controls to identify and minimize risks before benefit payments are initiated.

We found the expedited rollout of the DBQ process did not provide VBA sufficient time to design, evaluate, and implement adequate internal controls to prevent potential fraud. VBA does not verify the authenticity of medical information submitted by veterans and private physicians prior to awarding disability benefits, track disability-rating decisions where DBQs were used as medical evidence, or electronically capture information contained on completed DBQs.

Further, while VBA has a quality assurance review process to verify a limited number of DBQs completed by private physicians, in our opinion, the quality assurance reviews do not provide reasonable assurance that fraudulent DBQs will be detected. Currently, VBA conducts quality assurance reviews on 100 claims completed by private clinicians each month. The reviewers use online resources, which are available to the public, to attempt to validate the medical license information listed on each DBQ. They then fax and/or mail the DBQ to the clinician's office for them to validate its authenticity. If they cannot validate the DBQ, they forward the case to both the appropriate regional office and the OIG for further review. As of May 2012, VBA had referred over 50 DBQs to the OIG for review. The OIG assesses the merits of these referrals and accepts those cases deemed to be high fraud risks for further review. For example, a claim submitted by a veteran confirmed not to be a patient of a private physician would represent a high risk. We have continued to work with VBA on strengthening its quality assurance process. VBA reports it is developing a new standard operating procedure to refine its validation review process.

Developing and implementing additional controls for DBQs—as recommended in our report—should reduce the risk of fraud, allow for greater fraud detection, and help VA identify disability compensation claims that carry an increased risk of fraud. The Under Secretary for Benefits agreed to provide a long-term solution for verifying the identity

and credentials of private physicians. We will follow up on the implementation of corrective actions to determine their effectiveness in preventing and detecting fraud.

### **ONGOING REVIEWS OF VBA TRANSFORMATION ACTIVITIES**

We have recently begun to assess VBA transformation initiatives. Specifically, we have started an audit of the Veterans Benefits Management System (VBMS)—VBA’s web-based, paperless claims processing solution to support improved business processes. VBMS is intended to help eliminate the claims backlog and serve as the enabling technology for quicker, more accurate, and integrated claims processing in the future. Since November 2010, VBA has worked to develop and test this software to provide the required claims processing functionality. VBA plans to begin phased deployment of VBMS to its regional offices beginning in July 2012. As such, it is too early for us to fully assess the effectiveness of this initiative.

We are currently reviewing the claims intake portion of VBA’s claims processing transformation. We are examining VBA’s plans, pilots, and work with the National Archives and Records Administration to digitize existing hard copy claims for processing in the VBMS environment. We expect to report on our results by the end of the year.

In May 2012, we began an evaluation of the effectiveness of VBA’s Quick Start Program to process claims accurately and timely. Quick Start is an element of the Pre-Discharge Program, which VBA established to allow service members to submit disability claims before separation from active duty. This program is expected to ensure veterans receive their benefits quickly after separation from active military service. Although our work is in progress, we have concerns that in FY 2011 the Quick Start Program completed only 22,234 (2 percent) of the more than 1 million disability compensation claims processed. The average days to complete Quick Start claims was 234 days—more than double the target of 105 days and significantly higher than the 188-day average for all disability claims. We expect to publish our results in the fall of this year.

### **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 have shown that VAROs do not always comply with VBA’s national policy and struggle with implementing effective workload management plans and clear and consistent guidance to accomplish their benefits delivery mission. Such 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 has 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.