

**STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
THE 100 PERCENT TEMPORARY DISABILITY RATING:
AN EXAMINATION OF ITS EFFECTIVE USE
FEBRUARY 5, 2013**

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss issues related to the effectiveness of the processing of temporary 100 percent disability ratings by Veterans Affairs Regional Offices (VARO) that were identified in an Office of Inspector General (OIG) audit report in January 2011 and that continue to be reported in OIG Benefits Inspections reports to date. I am accompanied by Mr. Brent Arronte, Director, OIG San Diego Benefits Inspection Division, and Mr. Larry Reinkemeyer, Director, OIG Kansas City Audit Operations Division.

BACKGROUND

Delivering timely and accurate benefits and services to veterans is central to VA's mission. The Veterans Benefits Administration (VBA) is responsible for administering 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 \$76 billion in claims to veterans and their beneficiaries in fiscal year (FY) 2013, and comprise approximately half of VA's total budget.

Processing 100 percent disability evaluations comprises one part of VBA's claims workload. VBA policy allows veterans to receive 100 percent disability evaluations for impairments of mind or body that would make it impossible for the average person to pursue a substantially gainful occupation. These impairments may be permanent or temporary. VBA policy requires a temporary 100 percent disability evaluation for a service-connected disability following a veteran's surgery or when specific treatment is needed. At the end of a mandated period of convalescence or treatment, VARO staff are required to request a follow-up medical examination if available evidence is not adequate to help determine whether to continue the veteran's 100 percent disability evaluation.

The OIG's work over the past 3 years has disclosed systemic problems in VBA's processing of these disability evaluation decisions. Specifically, our 2011 report, *Audit of 100 Percent Disability Evaluations*, identified veterans receiving long-term payments caused by significant VARO processing errors, leading to veterans receiving long-term

payments to which they were not entitled. We have repeatedly identified the same problems in our VARO Inspections Program, where we inspect the 57 VAROs and follow up on national audit findings such as VBA's accuracy in processing temporary 100 percent disability evaluations.

After 3 years, and despite VBA concurrence with our audit and inspection reports, we continue to identify a high rate of VARO errors in the processing of temporary 100 percent disability ratings. VBA's efforts to improve accuracy in this area have not been adequate or timely.

OIG REPORTING ON PROCESSING ACCURACY

Audit of 100 Percent Disability Evaluations

Veterans' disability compensation payments are not usually an avenue for cost savings. However, 100 percent disability evaluation processing is one area where systemic problems have led to veterans receiving long-term payments to which they may not be entitled but not caused by any fault of their own. Our 2011 national audit detailed our concerns that VBA paid veterans temporary 100 percent benefits without adequate medical evidence. We projected that regional office staff did not correctly process claims for about 27,500 (15 percent) veterans with 100 percent ratings and that since January 1993 VBA had overpaid these veterans a net amount of about \$943 million. Without timely corrective action, we conservatively projected that VBA would overpay veterans \$1.1 billion over the period of calendar year 2011 through calendar year 2015. We noted that once a temporary 100 percent rating has been in place for 20 years, by law VBA cannot reduce the rating unless the veteran has committed fraud in obtaining the benefits. The law, as clarified in VBA's policies, prohibits creating overpayments in cases involving erroneous awards based solely on VBA administrative errors or errors in judgment. While these practices rightfully protect veterans from suffering financial loss due to staff errors, sound financial stewardship is required to ensure actions are taken to process accurate payments in the future.

VBA did not agree with all our report findings, particularly as they related to projected overpayment projection of \$1.1 billion over the next 5 years. We obtained our overpayment estimates through a valid statistical methodology, which was developed by our Director of Audit Statistics Division. It was reviewed and approved by the OIG Office of Healthcare Inspections Director of Biostatistics, who holds a PhD in statistics.

VBA believed our analysis was skewed and the sample was not truly random. Our audit focused on those areas that presented the highest risk to VBA. Therefore, of the 239,000 veterans with at least one service-connected condition rated 100 percent disabling, we excluded 58,000 veterans from our review because their medical condition was not likely to improve, such as a double amputee. Our sample is representative of the stated audit universe of 181,000 veterans. We selected random samples from the audited universe and properly weighted projections based on the sample design. The sample design and size was more than sufficient to allow the assumption of a normal sampling distribution across the stated universe. In accordance with accepted sampling procedures, we projected the number of errors and potential monetary benefits only to

the population we reviewed. The report clearly states that VARO staff did not correctly process evaluations for about 27,500 (15 percent) of the approximately 181,000 veterans who might require periodic evaluations. Although the error rates may have been less had we included the 58,000 veterans in our universe, the potential monetary benefits could have potentially increased since we would have projected to a universe of \$73 billion instead of \$52 billion.

The primary message of our report is VBA paid veterans without adequate medical evidence and the management of temporary disabilities needs strengthening. VBA approved significant monthly benefits to veterans without knowing if the veteran's medical condition warranted the continued benefit.

VBA agreed to implement our recommendations to:

- Improve the electronic system so future medical exam dates would automatically populate in the electronic system.
- Provide training to VARO staff to take appropriate and timely action on medical examination reminder notifications.
- Conduct a review of all temporary 100 percent disability evaluations and ensure each evaluation has a future medical examination date entered in the veterans' electronic records.

In response to this last recommendation, the then Acting Under Secretary for Benefits agreed to review all temporary 100 percent disability evaluations and ensure each evaluation had a future examination date entered in the electronic record. Our report stated, "If VBA does not take timely corrective action, they will overpay veterans a projected \$1.1 billion over the next 5 years." The then Acting Under Secretary for Benefits stated in response to our audit report that the target completion date for the national review would be September 30, 2011. VBA subsequently extended the national review deadline to December 31, 2011, then to June 30, 2012, and then again to December 31, 2012.

Results from OIG Inspections of VA Regional Offices

Our benefits inspections continue to show that inaccuracy in processing temporary 100 percent disability evaluations is a systemic issue. In October 2009 while conducting the national audit, we also began our VARO Inspections program which includes reviews of the temporary 100 percent disability evaluations. None of the 53 VAROs we have inspected since then have fully followed VBA policy in processing these evaluations. Based on our claims sampling, we determined that VARO staff did not adequately process temporary 100 percent evaluations for 1,016 (66 percent) of 1,551 veterans. All 53¹ VAROs inspected had errors, with the Cheyenne Veterans Service Center at the top of the list with errors in 100 percent of the evaluations we sampled, and the Des Moines, Iowa, and the Lincoln, Nebraska, VAROs with the best performance in this area with a processing error rate of 27 percent. The attached chart shows the accuracy rate

¹ The 53 total includes 2 inspections of the VARO in Detroit, Michigan.

of temporary 100 percent disability evaluations for all 53 VAROs from our first 3-year cycle, including 2 inspections we have completed since the start of our second 3-year cycle.

These errors often occur when VARO staff fail to input suspense diaries to VBA's electronic record. A suspense diary is a system command establishing a future date when VARO staff must determine the need to schedule an examination to reevaluate a case. As a diary matures, the electronic system generates a reminder notification to alert VARO staff to schedule the mandatory reexamination. About 46 percent of the total processing errors we identified since our inspections began occurred when VARO staff did not input suspense diaries in VBA's electronic system as mandated by VBA policy. When there is no reminder to schedule a reexamination, the temporary 100 percent disability evaluation will continue throughout a veteran's lifetime because nothing calls such cases into question again for reexamination.

The electronic system works as designed when a reminder notification is generated, alerting VARO staff to schedule a mandatory reexamination. However, in 15 percent of the total processing errors, reminder notifications existed, but VARO staff did not process them, or they prematurely cancelled the notifications. In these instances, VARO staff either failed to take the appropriate action to schedule the medical reexaminations or they removed the diaries prior to the system generating notifications to schedule medical follow-up.

As a result of the 53 VAROs we assessed for temporary 100 percent disability evaluations since October 2009, our inspections have identified a total of just over \$15,500,000 in overpayments and almost \$283,000 in underpayments. Where we identify claims processing inaccuracies, we provide this information to help the VARO improve future performance. Processing any adjustments based on this review is solely a VBA management decision.

In response to our inspection reports, VARO Directors concurred with all of our recommendations to increase process oversight and provide staff training on the proper procedures for ensuring the accuracy of temporary 100 disability evaluations. In many VAROs the recommendations are acted upon during the course of our site visits.

VBA'S CORRECTIVE ACTIONS

VBA efforts have not been aggressive enough to effectively address this issue. 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 multiple times, with the most current deadline of December 31, 2012. We found some VAROs still completing their reviews as of January 2013. After 2 years, VBA is still working to complete this national review requirement. We are concerned about the lack of urgency in completing this review, which is critical to minimizing the financial risks of making inaccurate benefits payments.

We also question VBA's methodology for identifying temporary 100 percent disability evaluations for national review. During several of our inspections, we identified in our sample data a number of cases that VBA did not include in the lists it provided to the VAROs for national review. Upon our review of VBA's methodology, we found it had several weaknesses that would not ensure as thorough a review as VBA originally indicated. For example, VBA's methodology excluded certain claims that had controls in the electronic system to generate reminder notifications, with the assumption that processing these claims would therefore be done correctly. We also identified errors associated with some cases they excluded that, as we found before, related to VARO staff not taking proper action on reminder notifications or prematurely cancelling these notifications.

VBA has insisted that system glitches are the reason for many of the errors related to temporary 100 percent disability evaluation processing. In June 2011, VBA officials modified the electronic system to ensure diary dates would automatically populate and remain in the system without manual entry, specifically for confirmed and continued (C&C) ratings. For C&C ratings, medical evidence does not necessitate changing the veterans' existing disability evaluations. For example, a veteran receives a temporary 100 percent evaluation for prostate cancer. Medical evidence from the reexamination to determine if the evaluation should continue shows the veteran still receives treatment for this condition. Therefore, the Rating Veterans Service Representative confirms the veteran remains entitled to the temporary 100 percent evaluation and decides to continue the evaluation until the next required reexamination period, as established by diaries.

Of the total errors we have identified related to suspense diaries, 37 percent involved C&C ratings. We have not tested this system modification to ensure that the suspense diaries remain in the system. As such, we have no assurance that it has resulted in a system-wide correction. However, as part of our inspections, we observed a small number of recently processed temporary 100 percent disability evaluations related to C&C decisions and noted that the suspense diaries stayed in the electronic record. Since the exam dates occur in the future, we cannot ensure that the electronic system will generate notifications to alert VARO staff to schedule medical reexaminations as required.

Further, in August 2012, VBA made a second modification to its electronic system to ensure that supplemental changes to the electronic record, such as processing additional claims, would not cause diary dates to be removed inadvertently from the electronic system. However, we have not observed this process to offer an opinion on it. Because OIG Benefit Inspections staff sample completed claims from the prior quarter, we will not be able to confirm whether this system modification works until we conduct inspections beginning in late January 2013 that would examine first quarter FY 2013 data. Nonetheless, we note that VBA did not make this system modification until 20 months after our original audit was issued in January 2011.

VBA's focus on system fixes has not addressed the staff errors we frequently found to be the cause of inadequacies in temporary 100 percent disability evaluation processing. As we proceed with our benefits inspections, we continue to find processing errors associated with temporary 100 percent evaluations caused by staff error. For example, we still find cases where VARO staff do not correctly schedule medical reexaminations when the system properly generates reminder notifications. We also continue to disclose problems of staff prematurely canceling the reminder notifications. Our FY 2012 VARO inspection reports show 388 (63 percent) of 614 evaluations processed incorrectly, resulting in 101 overpayments to veterans of approximately \$6.1 million, and 10 underpayments at a cost of \$78,000.

CONCLUSION

After 3 years of OIG reporting on inaccuracy issues, VARO error rates in processing temporary 100 disability evaluations remain consistently high. While VBA criticizes that our inspections are narrowly scoped and our claims samples are small, our work is statistically sound and illustrates a continuing, systemic weakness that must be addressed.

VBA's efforts to date have not been fully effective in addressing issues in processing its temporary 100 disability evaluations. VBA has not been aggressive, timely, or thorough in completing its national review. While electronic system fixes may resolve some issues, they do little to address the problem we continue to find with staff error in processing. As long as VBA delays taking effective action to address this issue, VA is at risk of underpaying some veterans and repeatedly overpaying others without proper support thereby diverting millions of dollars from other important programs for America's veterans today and into the future.

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

ATTACHMENT

Errors in Processing Temporary 100 Percent Disability Evaluations and Associated Overpayments and Underpayments Identified In 53 VARO Inspection Reports Since 2009					
53 VAROs (in rank order by percent of errors)	Total Temporary 100 Disability Evaluations Reviewed	Total Errors	Error Percentage	Overpayments Identified	Underpayments Identified
Cheyenne	7	7	100%	\$190,458	\$0
Los Angeles	30	29	97%	\$922,886	\$0
Waco	30	28	93%	\$115,255	\$7,720
Detroit	30	27	90%	\$543,399	\$1,344
Pittsburgh	30	27	90%	\$228,712	\$0
Houston	30	27	90%	\$730,768	\$0
Honolulu	30	26	87%	\$197,185	\$0
Phoenix	30	26	87%	\$192,165	\$0
Philadelphia	30	25	83%	\$389,770	\$29,969
Boston	30	25	83%	\$106,133	\$0
Louisville	30	25	83%	\$596,484	\$0
Indianapolis	30	25	83%	\$1,043,400	\$1,248
St. Petersburg	30	25	83%	\$387,252	\$0
Albuquerque	30	24	80%	\$306,162	\$0
Jackson	30	24	80%	\$123,338	\$0
Newark	30	24	80%	\$498,123	\$9,743
New Orleans	30	24	80%	\$431,033	\$8,974
Atlanta	30	24	80%	\$287,067	\$2,769
San Diego	30	23	77%	\$319,255	\$20,531
Fargo	30	23	77%	\$697,010	\$3,143
Denver	30	22	73%	\$757,672	\$0
Huntington	30	22	73%	\$1,254,007	\$4,173
Columbia	30	21	70%	\$440,156	\$0
Boise	30	20	67%	\$307,679	\$2,240
New York	30	20	67%	\$250,087	\$0
St. Louis	30	20	67%	\$117,856	\$1,536
Providence	30	20	67%	\$43,350	\$30,626
Montgomery	30	19	63%	\$117,333	\$0
Togus	30	18	60%	\$39,356	\$2,497
Reno	30	18	60%	\$399,638	\$9,930
Hartford	30	18	60%	\$151,265	\$0
Little Rock	30	18	60%	\$44,250	\$0
Detroit*	30	18	60%	\$231,436	\$16,515

53 VAROs (in rank order by percent of errors)	Total Temporary 100 Disability Evaluations Reviewed	Total Errors	Error Percentage	Overpayments Identified	Underpayments Identified
Manila	14	8	57%	\$177,152	\$13,936
Seattle	30	17	57%	\$97,981	\$0
Buffalo	30	17	57%	\$124,552	\$45,356
Muskogee	30	16	53%	\$0	\$9,874
Portland	30	16	53%	\$137,262	\$0
Cleveland	30	16	53%	\$561,519	\$8,175
Salt Lake City	30	16	53%	\$113,834	\$11,674
Oakland	30	16	53%	\$284,256	\$1,223
Wichita	30	16	53%	\$134,210	\$0
St. Paul	30	15	50%	\$239,453	\$6,204
White River	30	15	50%	\$531,825	\$0
Winston-Salem	30	15	50%	\$87,513	\$1,152
Anchorage	30	15	50%	\$139,177	\$19,220
Manchester	30	14	47%	\$66,550	\$0
Milwaukee	30	14	47%	\$100,824	\$0
Chicago	30	13	43%	\$40,275	\$12,414
Ft. Harrison	30	10	33%	\$2,823	\$0
Sioux Falls	30	9	30%	\$61,606	\$0
Des Moines	30	8	27%	\$415,648	\$0
Lincoln	30	8	27%	\$17,241	\$0
Totals	1,551	1,016	66%	\$15,793,641	\$282,186

*Note: Overpayment and underpayment dollar amounts are not included in the published Detroit VARO inspection report. Also, Detroit is also the only VARO listed that we have inspected twice since 2009.