



DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
ENSURING ACCESS TO DISABILITY BENEFITS FOR
VETERAN SURVIVORS OF MILITARY SEXUAL TRAUMA
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Chairwoman Luria, Ranking Member Bost, and members of the Subcommittee, thank you for the opportunity to discuss the Office of Inspector General's (OIG's) oversight of the Department of Veterans Affairs' (VA's) processing of disability benefits for posttraumatic stress disorder related to military sexual trauma (MST). Sexual trauma experienced while in military service affects both men and women—with serious and long-term consequences. According to the Department of Defense, more than 7,600 individuals reported a sexual assault in fiscal year (FY) 2018 for an incident that occurred during their military service, an increase of about 12.6 percent from the previous year.¹ Understandably, many survivors are reluctant to report the sexual assault either at the time of its occurrence or even much later. It is, therefore, imperative that VA reviews each MST-related claim for benefits expeditiously, thoroughly, and with sensitivity by engaging a group of specialized staff to ensure eligible veterans receive the benefits to which they are due. Accurate and efficient claims management and decision-making can help minimize additional trauma while furthering VA's mission to serve the needs of the nation's veterans.

In August 2018, the OIG published the report, *Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma*. The OIG's audit team examined whether responsible staff correctly processed veterans' MST-related claims in accordance with Veterans Benefits Administration (VBA) procedures.² Based on the review, the OIG found that nearly half of denied MST-related claims were not properly processed following VBA policy. The potential impact on veterans seeking benefits related to MST is considerable given VBA's estimate of

¹ *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2018*.

² [Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma](#), August 21, 2018.

about 12,000 MST overall claims being processed per year and the growing number of reports to the Department of Defense. The audit team identified several deficiencies that led to the improper denial of benefits such as lack of specialization, inadequate MST-related claim training for processing staff, deficient internal controls, and discontinued special focus reviews.

BACKGROUND

In October 2017, the OIG implemented a new national inspection model for VBA oversight. Under this new approach, the OIG conducts nationwide audits and reviews of high-impact programs and operations within VBA. The purpose of these types of audits and reviews is to identify systemic issues within VBA that affect veterans' benefits and services, determine the root causes of identified problems, and make useful recommendations to drive positive change across VBA. Previously, the OIG largely conducted its oversight through routine inspections of VBA's 56 regional offices. The OIG's August 2018 MST report was one of the first reports that the OIG published under the new national inspection model.³

PTSD

Posttraumatic Stress Disorder (PTSD) is a mental health condition that military members can develop after experiencing or witnessing life-threatening events such as combat, natural disasters, personal trauma, or other significant stressors.⁴ According to VBA, a veteran must have a current diagnosis of PTSD, credible evidence that the stressor occurred during military service, and a link between the current PTSD symptoms and the in-service stressor for VBA to establish service connection for PTSD.

MST

VBA defines MST as a subset of PTSD personal trauma claims, specifically related to sexual harassment, sexual assault, or rape that occurred in a military setting.⁵ According to a 2013 report by the RAND Corporation National Defense Research Institute, the vast majority of sexual assault survivors do not seek immediate care and the incidents are not reported to

³ Other reports published under the new national inspection model include [Unwarranted Medical Reexaminations for Disability Benefits](#), July 17, 2018; [Processing Inaccuracies Involving Veterans' Intent to File Submissions for Benefits](#), August 21, 2018; [Accuracy of Claims Involving Service-Connected Amyotrophic Lateral Sclerosis](#), November 20, 2018; [Deferrals in the Veterans Benefits Management System](#), May 15, 2019; [Decision Ready Claims Programs Hindered by Ineffective Planning](#), May 21, 2019; [Inadequate Oversight of Contracted Disability Exam Cancellations](#), June 10, 2019.

⁴ 38 Code of Federal Register §3.304(f), Posttraumatic stress disorder.

⁵ M21-1 Adjudication Procedures Manual, Part III, Subpart iv, Chapter 4, Section H, Topic 4, *General Information on Personal Trauma*. (Historical)

authorities.⁶ Reasons for not reporting, which are particularly relevant to the military, include reluctance to submit a report when the perpetrator is a superior officer, concerns about negative implications for performance reports, worries about punishment for collateral misconduct that may be related to the trauma, and the perception of an unresponsive military chain of command.

It is often difficult for victims of MST to produce the required evidence to support the occurrence of the sexual harassment, sexual assault, or rape. Because of this difficulty with obtaining evidence of stressors, VBA provided further guidance in 2011 to ensure consistency, fairness, and a “liberal approach” for MST-related claims.⁷ These guidelines eased the requirements for the types of supporting evidence VBA could accept to support and identify an in-service stressor for MST.

The MST-Related Claims Process

Each VA Regional Office (VARO) has two MST coordinators—one male and one female. They are designated as the local points of contact for veterans with MST-related claims. These employees typically also have other claims processing responsibilities. Upon receipt of an MST-related claim, the coordinator must attempt to contact the veteran by telephone. The purpose of this telephone call is to determine whether the veteran reported the claimed traumatic event in service, and if so, determine how they reported it and identify how to obtain this evidence. If the assault was reported, the veteran is urged to supply the report or provide the name of the military base where the report was filed. If the MST coordinator is unable to reach the veteran by telephone, a Veterans Service Representative (VSR) must send a letter to the veteran requesting information about the reporting of the sexual assault.

VSRs are VARO employees whose duties include determining what evidence is necessary to decide an MST-related claim, undertaking development action to obtain necessary evidence, and determining when a claim is ready for decision. Once obtained, VSRs must thoroughly review all evidence to confirm the stressor or identify behavior markers for MST. A marker is an indicator of the effect or consequences of the personal trauma on the veteran. If the evidence shows possible PTSD symptoms or a current diagnosis, credible evidence of the stressor, or a single marker for MST, the VSR must request a medical examination. The purpose of this examination is to provide a report that includes a medical diagnosis, if warranted, and an opinion about whether the diagnosis is related to the claimed sexual assault to establish the required nexus.

The claim evidence and exam results are then sent to a Rating Veterans Service Representative (RVSR), who are also VARO employees, with the authority to make formal decisions on

⁶ Coreen Farris, Terry L. Schell, and Terri Tanielian, *Physical and Psychological Health Following Military Sexual Assault, Recommendations for Care, Research, and Policy*, RAND, 2013.

⁷ VBA Training Letter, Adjudicating PTSD Claims Based on MST. (Historical)

veterans' claims. Before RVSRs can decide a veteran's MST-related claim, they must ensure that all required steps were completed. These steps include executing the procedures for obtaining the veteran's complete military personnel file; thoroughly reviewing all evidence, including military personnel files and service medical records for potential behavioral markers; and requesting a medical examination when appropriate. Once RVSRs determine that all appropriate procedures were completed, they evaluate the evidence and make a decision on the veteran's claim. RVSRs may deny an MST-related claim without requiring a medical examination only if there is no "credible evidence" of a stressor, no evidence of a behavioral marker, or no evidence of symptoms of a mental disorder.

PREVIOUS OIG AND GAO REPORTS IDENTIFIED ISSUES WITH MST-RELATED CLAIMS PROCESSING

In December 2010, the OIG published a report, *Review of Combat Stress in Women Veterans Receiving VA Health Care and Disability Benefits*.⁸ The report assessed whether VBA developed and disseminated MST training and policies to claims processors. The OIG identified deficiencies in evaluating and processing MST claims and recommended that VBA conduct specialized training and an analysis of the consistency in which MST claims were processed. As a result, VBA implemented special focus quality improvement reviews of MST-related claims and directed VAROs to designate MST specialists beginning in 2011.

In June 2014, the Government Accountability Office (GAO) published a report, *Military Sexual Trauma Improvements Made, but VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions* and identified similar deficiencies.⁹ GAO noted that VBA began assigning MST-related claims to specialized claims processors and required them to receive MST-specific training; however, quality reviews and analyses of claim decisions had shortcomings. They recommended improved training and enhanced MST-related quality reviews and outreach.

OIG FINDS ALMOST HALF OF VETERANS' DENIED MST-RELATED CLAIMS WERE PROCESSED INCORRECTLY

At the time of the OIG review, VBA reported to the OIG that over the last three years it had been processing approximately 12,000 veterans' claims per year for PTSD related to MST. In FY 2017, VBA denied about 5,500 of those claims (46 percent). The OIG review covered a

⁸ [*Review of Combat Stress in Women Veterans Receiving VA Health Care and Disability Benefits*](#), December 16, 2010.

⁹ [*Military Sexual Trauma Improvements Made, but VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions*](#), June 2014.

population of 2,851 MST-related claims that VBA staff denied and completed from April 1, 2017, through September 30, 2017, of which 169 MST-related claims were sampled.

Incorrectly Processed Claims

The OIG audit team found that VBA staff incorrectly processed veterans’ denied MST-related claims in 82 of 169 cases during the review period. The team provided VBA with details on the 82 veterans’ claims that staff incorrectly processed. VBA reviewed the cases and agreed with the OIG audit team’s conclusions. Based on this review, the OIG estimates that VBA did not properly process approximately 1,300 of 2,700 denied MST-related claims (49 percent).

The following table summarizes the projected errors based on the results of the OIG’s claims review.¹⁰

Table 1. Incorrectly Processed Denial Error Projections for MST-Related Claims

Error Category	Projected Number of Errors	Projected Percentage of Errors
Evidence was sufficient to request a medical exam and opinion, but staff did not request one	740 cases	28%
Evidence-gathering issues, such as VSRs not requesting veterans’ private treatment records	340 cases	13%
MST Coordinator did not make the required telephone call, or VSRs did not use required language regarding the reporting of the assault in letter sent to the veteran	300 cases	11%
RVSRs made a decision on the veteran’s claim based on contradictory or otherwise insufficient medical opinions	270 cases	10%
Total	1,300 cases	49%

Source: VA OIG analysis of statistically sampled MST-related claims completed from April 1, 2017, through September 30, 2017.

Impact of Incorrectly Processed Claims

The OIG team found that VBA staff did not follow required procedures for processing these claims, which potentially resulted in undue stress to veterans as well as a denial of compensation benefits for survivors of MST who could have been entitled to receive them. One mental health provider confirmed for the OIG audit team that it can be traumatizing for individuals claiming MST benefits to relay their stories during examinations. Another mental health provider noted

¹⁰ The OIG team estimated that in about 300 cases (11 percent), multiple errors contributed to the incorrect processing of the denials. Therefore, the numbers and percentages do not sum.

that veterans are confused and upset when VBA denies their claims, and this undue stress can interfere with the treatment process. As a result, the OIG audit team concluded that the trauma of restating or reliving stressful events could cause psychological harm to individuals experiencing MST and prevent them from further pursuing their claims. Additionally, incomplete processing may lead to inaccurate claims decisions and a significant amount of rework for VBA employees.

Causes for Incorrectly Processed Claims

The OIG determined there were several root causes for VBA's failure to properly process MST-related claims.

Need for Specialization. In 2016, the VBA Office of Field Operations implemented the National Work Queue to manage and distribute the national claims inventory and improve VBA's overall production capacity. The distribution of daily workload is based on VARO capacity, national claims processing priorities, and special missions. Prior to implementation of the National Work Queue, VBA had VAROs use the Segmented Lanes Organizational Model, which required VSRs and RVSRs on Special Operations teams to process claims VBA designated as requiring special handling, which included MST-related claims. The OIG team found these staff developed special expertise on these highly sensitive claims due to focused training and repetition. The National Work Queue model allowed these sensitive claims to be directed to any VSR or RVSR, regardless of their experience and expertise. VARO staff suggested that VBA reestablish specialized processing to help employees redevelop the expertise needed for more consistent and accurate MST-related claims outcomes.

Inadequate Training. The goal of VBA's MST training is to improve employee awareness of the characteristics and impacts of MST and ensure claims processors correctly apply the relevant regulations and policies. At the time of OIG's review, VBA had not updated the MST training modules since 2014, despite multiple changes to the Adjudication Procedures Manual. The OIG audit team reviewed the MST training modules and identified several deficiencies including the following:

- Consistently referred to a development checklist that was outdated and inaccurate
- Included erroneous development procedures, such as instructing claims processors to use incorrect medical opinion language
- Misstated the MST Coordinator's role and responsibilities
- Did not address how to rate claims where a diagnosis other than PTSD was provided
- Included incomplete information regarding what constitutes an insufficient or inadequate examination

Furthermore, MST training was provided as one-time only, with no requirement for annual refresher training. The OIG team, therefore, recommended improvements to VBA's training for MST-related claims.

Lack of an Additional Level of Review. At the time of the OIG's work, VBA required a second level of review for some complex claims, such as traumatic brain injury cases, but not for MST-related claims. An additional level of review would serve as an internal control to help ensure VBA staff process claims properly. VBA staff generally thought that an additional level of review would be helpful and could improve accuracy. Compensation Service management indicated this second review would have to be weighed against the cost of the requirement, as well as the delay in claims processing. Still, given the sensitive and time-consuming nature of MST-related claims, the OIG team determined that this added internal control would be appropriate and would help improve the quality of claims decisions.

Discontinued Special Focus Reviews. The Systematic Technical Accuracy Review (STAR) team conducts reviews of claims at each VARO as part of the Compensation Service national quality assurance review program. STAR staff completed special focus quality improvement reviews of MST-related claims beginning in 2011. These reviews, designed to correct deficiencies identified during the claims process, occurred in response to the previously mentioned 2010 OIG report related to "combat stress" experienced by women veterans, and continued, in part, because of the 2014 GAO report on MST-related claims. Staff performed the reviews twice a year and identified errors similar to those identified by the OIG team, such as missed evidence or markers and failure to request necessary medical exams. In December 2015, the STAR office stopped completing reviews of MST-related claims because the error rate for these claims improved from 2011 to 2015. Given the resurgence of a high error rate, the OIG team determined that the STAR team should reinstate special focus quality improvement reviews for MST-related claims.

RECOMMENDATIONS

The OIG made six recommendations to the Under Secretary for Benefits, who agreed to implement the recommendations and make necessary changes to ensure the accurate processing of MST-related claims. Since the report's publication on August 21, 2018, VBA has provided documentation to close recommendations two and six listed below and has provided acceptable action plans for implementing the remaining four open recommendations.

The following list presents additional information on the status for each OIG recommendation based on a March 2019 VBA status update on the implementation of the recommendations:

1. Review all denied MST-related claims since the beginning of FY 2017, determine whether all required procedures were followed, take corrective action based on the results of the review, and render new decisions as appropriate. *Status: Open.*

Status of VBA's Action Plan: VBA reported that it has implemented a plan to conduct a review of the denied MST-related claims decided between October 1, 2016, through June 30, 2018, and take corrective actions based on the review if an incorrect decision was made. From December 2018 through the March update, VBA has reviewed 25 denied claims at the Columbia VARO. These claims were reviewed as part of VBA's first phase review plan to validate the established review process. This first phase ensured the effectiveness of the policies, procedures, and guidance related to the review. In March 2019, VBA began its second and final phase of the review which has been expanded to Muskogee, Cleveland, Huntington, and Portland VAROs. These VAROs will be reviewing approximately 9,700 remaining MST claims with a target completion date of September 30, 2019. Targeted Completion Date: September 30, 2019.

2. Focus processing of MST-related claims to a specialized group of VSRs and RVSRs. *Status: Closed.*

Status of VBA's Action Plan: VBA advised that on November 20, 2018, the Office of Field Operations issued guidance for designating a specialized group of trained VSRs and RVSRs at each regional office to process MST-related, amyotrophic lateral sclerosis, and traumatic brain injury-related claims. Completion Date: April 2, 2019.

3. Require an additional level of review for all denied MST-related claims and hold the second-level reviewers accountable for accuracy. *Status: Open.*

Status of VBA's Action Plan: VBA reported it has instituted a process to conduct second-level reviews of MST-related claims. The OIG is awaiting additional evidence from VBA that a sufficient number of denied claims will be reviewed as part of this process. Targeted Completion Date: November 30, 2019.

4. Conduct special focus quality improvement reviews of denied MST-related claims and take corrective action as needed. *Status: Open.*

Status of VBA's Action Plan: VBA stated that STAR staff will conduct a special focus review of denied MST claims in the fourth quarter of FY 2019. Targeted Completion Date: September 30, 2019.

5. Update the current training for processing MST-related claims and monitor the effectiveness of the training. *Status: Open.*

Status of VBA's Action Plan: VBA stated that it is finalizing the "PTSD Due to MST" training course and would mandate all VSRs and RVSRs training be completed by May 31, 2019. By September 30, 2019, VBA will administer a targeted consistency study to assess the effectiveness of the training. Targeted Completion Date: October 31, 2019.

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6. Update the development checklist for MST-related claims and require claims processors to certify that they completed all required actions. *Status: Closed.*

Status of VBA's Action Plan: VBA reported that on October 1, 2018, it released the updated development checklist for MST-related claims. VBA developed a training module to complement the checklist. When RVSRs sign the rating decision for any disability compensation claim, they are certifying all required development actions have been taken regardless of claim type. Completion Date: January 8, 2019.

The OIG anticipates receiving an additional status update from VBA by June 21, 2019, and will monitor VBA's progress until all proposed actions are completed. The OIG website provides information on the real-time implementation status of all OIG recommendations.

CONCLUSION

Survivors of MST are often reluctant to report incidents and, even when they do, face the potential for significant distress during the claims process for related benefits. Every effort must be made to minimize that from happening. VBA has expressed a strong commitment to fixing deficiencies identified by the OIG that should help alleviate that stress and could also encourage more eligible veterans to step forward. Sustainable progress in reducing the large number of errors associated with denied MST claims can only be made by trained specialists who have the expertise and experience to routinely manage these claims in a sensitive and timely manner. Prior OIG and other oversight reports detailed some of the same problems that were identified in the OIG's most recent report. The significant number of errors in denying MST claims, as detailed in the OIG's 2018 report, and the recurrence of prior problems should indicate the need for vigilance in ensuring that after all OIG recommendations are closed, VBA needs to take measures to sustain that progress. The OIG will continue to provide oversight on these and other processes that have a significant impact on veterans who have suffered harm during their military service.

Chairwoman Luria, Ranking Member Bost, and members of the Subcommittee, this concludes my statement. I would be happy to answer any questions.