

**STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
FIELD HEARING ON
"RHETORIC v. REALITY: INVESTIGATING THE CONTINUED
FAILURES OF THE PHILADELPHIA VA REGIONAL OFFICE"
OCTOBER 3, 2014
BURLINGTON COUNTY COLLEGE, PEMBERTON CAMPUS
PEMBERTON, NEW JERSEY**

Chairman Runyan and Ranking Member Titus, thank you for the opportunity to discuss the results of the Office of Inspector General's (OIG) work related to the Veterans Benefits Administration (VBA). We will focus on previously issued reports regarding the Philadelphia VA Regional Office (VARO), as well as recent situations that have come to our attention through the VA OIG Hotline and directly from current and former VARO employees. I am accompanied today by Nora Stokes, Director, OIG Bay Pines Benefits Inspection Division; Al Tate, Audit Manager, Atlanta Audit Division; and Jeffrey Myers, Benefits Inspector, San Diego Benefits Inspection Division.

BACKGROUND

Delivering timely and accurate benefits and services to the millions of veterans who served in our Nation's Armed Forces is central to VA's mission. The Philadelphia VARO is responsible for administering a range of benefits to 825,000 veterans and their families living in eastern Pennsylvania, Southern New Jersey, and Delaware. These services include administration of compensation and pension, loan guaranty, national call center services, and vocational rehabilitation and employment benefits—programs that annually total approximately \$4.1 billion.

The OIG's Benefits Inspection Program was created at the request of Congress in 2009 to review individual VARO operations. We are on schedule to complete a review of each VARO approximately every 3 years. Our inspections focus on high-risk functional areas within each VARO's Veterans Service Center (VSC) such as disability claims processing, management controls, workload management, eligibility determinations, and public contact. In addition, our inspectors identify and report on systemic issues impeding VARO performance, including examining issues or allegations referred by VA employees, Members of Congress, VA leadership, or other stakeholders. Upon completion of each inspection, we issue a report to the VARO Director on the results and publish a report with the Director's comments. We completed benefits inspections of the Philadelphia VARO in October 2009 and again in August 2012.

In May 2014, we received a number of allegations through the VA OIG Hotline of mismanagement at the Philadelphia VARO. We were concerned that many of these allegations included indicators that VARO staff have a serious mistrust of VARO management. Based on our initial assessment at the VARO, we performed an unannounced visit to the Philadelphia VARO on June 19, 2014, and issued a Management Advisory Memorandum on June 20, 2014, to alert the Under Secretary for Benefits (USB) of situations requiring corrective actions (Exhibit A). Shortly thereafter, OIG issued another notification to the Under Secretary on July 23, 2014, outlining concerns about facility conditions at the VARO facility located at 4700 Wissahickon Avenue.

To summarize, from the date of our unannounced visit to the Philadelphia VARO on June 19, 2014, until our last visit on August 15, 2014, VA OIG benefits inspectors, auditors, and criminal and administrative investigators conducted over 150 interviews with VARO management and staff to assess the merits of over 100 complaints and allegations of gross mismanagement and potential wrongdoing. In general, most staff we interviewed felt the working environment at the Philadelphia was hostile and did not trust management because they felt they were not treated fairly or with respect. Generally, employee complaints addressed a broad range of issues including unfair work assignments; discriminatory practices based on disability, race, and gender; and denial of a reasonable accommodation request. Our work related to these allegations is ongoing, therefore we must limit our testimony today to our two prior benefits inspections and the concerns raised in the management advisory notices to the USB.

OIG BENEFITS INSPECTIONS OF THE PHILADELPHIA VARO

Since we first began benefits inspections of VAROs in April 2009 to present, we have conducted 93 benefits inspections at VAROs and have consistently reported the need for enhanced policy guidance, oversight, workload management, training, and supervisory review to improve the accuracy and timeliness of disability claims processing and VARO operations.

During our first inspection of the Philadelphia VARO in October 2009 we reviewed claims processing actions related to claims for temporary 100 percent disability evaluations, post-traumatic stress disorder, traumatic brain injuries, and herbicide exposure-related disabilities.¹ The overall inaccuracy rate for the 120 claims reviewed was 33 percent, resulting in improper payments to 14 veterans totaling just over \$475,000. Moreover, we identified 21 errors with the potential to impact veterans' benefits if left uncorrected, and 4 other miscellaneous errors. We made other recommendations for improving VSC operations, the safeguarding of veterans' personally identifiable information (PII), and the processing of adjustments in fiduciary claims for veterans.

Prior to the start of inspections for each new fiscal year, we review the protocols and change as needed or appropriate. For the fiscal year 2012 inspections, we

¹ *Inspection VA Regional Office Philadelphia, Pennsylvania*, March 4, 2010.

discontinued our review of post-traumatic stress disorder claims due to policy changes that relaxed stressor requirements. We also discontinued our review of herbicide-related claims due to significant improvement in claims processing action associated with these types of claims.

While conducting our second benefits inspection work onsite in August 2012, we reviewed claims processing actions related to claims for temporary 100 percent disability evaluations and traumatic brain injuries.² In comparison with our previous inspection, the overall inaccuracy rate for the 60 claims reviewed in 2012 increased slightly. Within this sample of 60 claims, we identified improper payments to 4 veterans totaling \$194,130 and 18 errors with the potential to impact veterans' benefits if left uncorrected. Additionally, we reported that VARO staff did not comply with VBA policy when processing health care entitlement decisions for Gulf War veterans. This report also included recommendations for the VSC to improve its homeless veterans outreach efforts. Based on information received from VBA, we closed our report in November 2013 indicating that they had acted on our recommendations in the report. The effectiveness of the actions taken by VBA will need to be assessed during our next inspection.

While the claims processing inaccuracy rates from both inspections were at unacceptably high levels, they remained somewhat consistent between 2009 and 2012. At the same time, the VARO's inventory of pending rating-related claims more than doubled—from 7,182 pending in 2009 to 15,615 in 2012. Further, it took VARO staff an average of 122 days in 2009 to complete rating-related claims whereas in 2012 it took 288 days to complete similar work. Despite the increase in inventory and time to process claims, the VSC experienced a reduction of 94 positions from April 2009 to March 2014. Based on repeated areas of non-compliance with VBA policy, we remained concerned about the VARO's ability to process high-risk disability claims accurately and timely.

During our 2012 inspection, we also found that the Philadelphia VARO management team continued to face multiple challenges within the Veterans Service Center. These challenges included the need to improve oversight of operational activities, gain control over workload, and improve the accuracy of disability claims processing.

Comparison to Other VA Regional Offices

Our benefits inspection protocols are designed to review disability claims processing actions we consider at increased risk of processing errors. Therefore, our inspection results do not represent the overall accuracy of disability claims processing at the VAROs. Noteworthy, to date, none of the VAROs inspected have been totally compliant with all operational areas reviewed. The following offers a comparison of our Philadelphia VARO inspection results with those of other offices previously inspected in the same time frame.

² *Inspection VA Regional Office Philadelphia, Pennsylvania, April 9, 2013.*

- October 2009 Benefits Inspection: From April 2009 through September 2010, we published 16 VARO inspection reports. Of the 16 VAROs on which we reported, the Jackson, Mississippi, VARO had the highest level of overall compliance (70 percent) with VBA policy in the areas inspected. The Philadelphia VARO was the 6th most compliant of 16 VAROs inspected, with an overall compliance rate of 55 percent when our report was published in March 2010.
- August 2012 Benefits Inspection: From January through September 2013, we published 20 VARO inspection reports. Of the 20 VAROs, the Milwaukee and Denver VAROs had the highest level of overall compliance (80 percent). The Philadelphia VARO was tied with five other VAROs for being the 13th most compliant, with an overall compliance rate of 20 percent when we published our report in April 2013.

ALLEGATIONS OF MISMANAGEMENT

Since May 2014, we received numerous allegations regarding the operations of the Philadelphia VARO. Allegations included a broad range of issues such as “cooking the books” referring to data manipulation and taking actions that appear to reduce workload backlogs, mail mismanagement, and potential duplicate payments. Further, one allegation raised concerns that the Fast Letter 13-10 guidance issued by VBA provided opportunities for “cheating” on the dates of mishandled claims (Exhibit B). Several allegations raised concerns of inappropriate reprisals against whistleblowers. This led us to make an unannounced visit to the VARO on June 19, 2014. Since our June 2014 work began we expanded our work to include reviewing allegations of:

- Staff not timely scanning documents into Virtual VA, the electronic claims repository.
- Staff inappropriately shredding or destroying military and returned mail that could not be delivered.
- Staff hiding mail within the VARO.
- Staff "cherry picking" and processing easily appealed claims out of order, potentially misrepresenting performance.
- Staff not addressing over 32,000 electronic inquiries from veterans and beneficiaries.

The paramount issue is the Fast Letter guidance. In issuing this guidance, VBA deviated from its longstanding policy of establishing dates of claims, which adversely affected claims processing for many VAROs across the Nation. By design, the Fast Letter guidance required claims processing staff to apply current dates to older claims previously overlooked. Many of the Philadelphia VARO staff told us they took exception to this Fast Letter guidance on adjusting dates of claims and thus we concluded those actions were inherently contrary to VA core value of integrity.

Philadelphia VARO and Fast Letter 13-10

VBA uses dates of claims within the electronic processing environment to control and manage its claims inventory and generally prioritize which cases staff will process first. VBA policy states that the date of claim is the earliest date a claim is received at a VA

facility. Each document VA receives in any of its facilities or locations where it has a presence must be annotated with the date of receipt. Incorrect application of dates of claims results in delayed claims processing actions and compromises the integrity of reported time it takes VARO staff to process claims.

On May 20, 2013, VBA issued Fast Letter 13-10, which provided an exception to this longstanding date of claim policy. The Fast Letter guidance advised staff to adjust dates of claims for unadjudicated claims to a more current date, that is, the date each claim was “discovered” in the claims folder. VARO staff were to use a special designator, “Unadjudicated Claims Discovered,” to identify these unprocessed claims in the electronic record. Without this electronic label, VBA staff cannot identify claims where the dates of claims were adjusted under the new guidance. The Fast Letter also reminded staff to consider the earliest date stamp shown on the claim document when determining the effective date for benefits payments—a requirement VBA staff must follow for all claims, found/discovered or otherwise. Additionally, the Fast Letter required the VARO Director or Assistant Director to approve each adjusted date of claim and send an email notification to VBA Compensation Service.

During our onsite review beginning June 19, 2014, we identified 30 instances where the Philadelphia VARO’s Pension Management Center (PMC) staff adjusted dates of claims using the Fast Letter guidance. However, in some of the cases, we determined staff had misapplied the guidance. The following are examples of how VARO staff misapplied the guidance.

- PMC managers instructed claims processing staff to apply the “date discovered” rule to manage their backlog of mail.
- PMC staff cancelled claims that were already established and pending in the electronic record and reestablished the claims using current dates. PMC staff were already aware that the claims existed, so they should have used original date of claim not the “date discovered” rule. Such actions made the average days that claims were pending appear better than if staff had used the original dates the claims were received.

While the VARO Assistant Directors signed the memorandums approving the adjusted dates of claims to recent dates, they did not provide the required notification to VBA Compensation Service after VARO staff adjudicated the claims. Philadelphia VARO management indicated the Fast Letter guidance was confusing as their explanation for misapplying the guidance. We disagreed and felt the guidance provided in this 3-page Fast Letter was clear even though it deviated from longstanding policy that ensured consistency and accuracy regarding how long a veteran waited for his or her claim to be processed.

Mail Management Concerns

During our initial walk-through of the VSC during an unannounced visit in June 2014, we found mail bins full of claims and associated evidence that had not been scanned into Virtual VA since 2011. We became concerned that evidence located in these mail bins

was needed for processing future claims because until the documents are scanned, claims processing staff may be making decisions without all of required evidence.

Another concern centered on the electronic date stamps used by PMC staff at the Intake Processing Center to record dates of claims on the documents received. Management told us that each claims assistant maintained a key that allowed access to the mechanism inside the stamp where they could adjust the electronic date. As such, the opportunity existed for staff to misrepresent dates of claims. Although we did not find any instance during our limited review where staff changed the electronic dates, we did find one instance where the electronic date stamp incorrectly stamped documents with a future date. Management indicated they were aware of this problem and had instructed staff to cross out the incorrect date stamps and re-stamp the documents with the correct dates of claims.

Duplicate Records and Payments Allegations

VARO staff also showed us several instances where veterans or their dependents received duplicate payments resulting from duplicate records in VBA's electronic system. We were told that this is an ongoing problem, both in the PMC and the VSC. Although management was aware of this issue, it was not a priority to make corrections in spite of the potential for improper payments.

In our report, *Audit of VBA's Pension Payments* (September 4, 2013) , we substantiated that VBA's corporate database contained duplicate pension records, and that these duplicate records occurred because VBA relied on PMC staff to identify pre-existing records prior to creating a new record. VBA did not have system controls in place to prevent users from creating duplicate records. As of September 30, 2014, 6 of the 8 recommendations in this report remain open.

VBA's Response

The USB agreed to do the following to address the issues that we reported on:

- Issue a moratorium on Fast Letter 13-10 while VBA determined the appropriate way to move forward.
- Prioritize scanning the claims and associated evidence we identified in mail bins into Virtual VA.
- Establish a key control point, limiting employees' access to keys for electronic date stamps.
- Prioritize the correction of duplicate claims to reduce the risk of potential improper payments.

We plan to follow up on the corrective action taken in future benefit inspections.

FACILITY CONDITIONS

Based on numerous complaints we received from VARO staff about the physical conditions in which they work, we dispatched a group of administrative investigators to the Philadelphia VARO. VARO employees told us, and by our own observations, we

learned of unacceptable conditions at VARO workspace located at 4700 Wissahickon Avenue. According to employees, the environment within this building (a separate building located close to the main VARO) has adversely affected employee health, morale, and productivity. Based on our own observations, we identified several areas that violated VA's Occupational Safety and Health (OSH) standards leading the OIG to issue a Management Implication Notification to the Under Secretary on July 23, 2014, outlining these concerns. For more details on the conditions, please see Exhibit C which is attached.

We recommended the USB take immediate action to ensure that the VBA workspace at 4700 Wissahickon Avenue complies with VA's OSH directives and handbooks, occupational safety and health requirements contained in Federal laws, regulations, and Executive Orders. We also advised that the Under Secretary ensure the protection and safeguarding of all veterans' records.

CONCLUSION

These are challenging times for VA in general and VBA specifically, as they attempt to work through the compensation claims backlog while simultaneously implementing multiple initiatives to move VBA into an electronic, paperless environment. From an oversight perspective, these process changes require an increase in oversight at all levels. Management involvement is critical to minimize the financial risk of making inaccurate benefit payments, maintain a balanced approach to processing all workloads, and ensure the accurate and timely delivery of benefits and services.

Our work at the Philadelphia VARO is ongoing and we will issue a report upon completion of our work. Moving forward, the VARO leadership must work to restore the trust of employees and promote open communication. They can succeed by working transparently and engaging the staff to work together to deliver vital services and benefits to veterans and their families.

This concludes my statement and we would be happy to answer any questions that you or Congresswoman Titus may have.