

**STATEMENT OF
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OPERATIONS
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DEPARTMENT OF VETERANS AFFAIRS (VA)**

**BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS
U.S. HOUSE OF REPRESENTATIVES**

OCTOBER 25, 2017

Good afternoon, Chairman Bost, Ranking Member Esty, and Members of the Subcommittee. We appreciate the opportunity to address the process by which VA manages overpayments that are incurred by Veterans who are in receipt of disability compensation and pension benefits. Joining me today is Beth Murphy, Executive Director of Compensation Service, and Roberta Lowe, Acting Director of VA's Debt Management Center (DMC).

Today, I will discuss reasons for overpayments and how to minimize them, how VA notifies Veterans about them, and steps VA is taking to assist Veterans with repayments of subsequent debts. Finally, I will discuss VA's policy regarding debt collection and the processes by which Veterans can arrange repayment or waivers of the established debts.

Reasons for Overpayments

In general, an overpayment of VA benefits is identified when VA finds a Veteran or other beneficiary has received monetary payment for benefits to which he or she was not entitled. In 2016, almost 238,000 Veterans received overpayments. Overpayments are considered improper payments under the Improper Payments Elimination and Recovery Act of 2010. VA is required by law to retroactively recover the overpayments to the extent the Veteran or beneficiary was not entitled to receive this money.

Overpayments may occur when Veterans or beneficiaries, receiving disability compensation or pension benefits, fail to notify VA in a timely manner of certain circumstances or life events such as divorce, incarceration, return to active duty, or other loss of dependent status. They may also occur when Veterans or beneficiaries advise VA of changes, but we are unable to process the claim in a timely manner. It is important to note VA does not establish overpayments when compensation or pension benefits were erroneously awarded due to claims processing errors by VA employees.

Process of Notifying Beneficiaries of Overpayments

Before VA reduces benefits as a means of recouping overpayments, we are required by law to provide due process notice to the Veteran or beneficiary, advising him or her of the proposed adjustment in benefits. The beneficiary then has 60 days to submit evidence explaining why VA should not make the proposed adjustment.

Veterans or beneficiaries may also request a predetermination hearing to provide information pertaining to the proposed action. After the due process period expires, VA reviews all evidence and makes a final decision, which may include reducing or

terminating an award and/or creating a debt. VA notifies the Veteran or beneficiary of the decision and the date of benefit reduction or termination, if applicable, and provides applicable appeal rights. If VA determines there has been an overpayment, the beneficiary also receives a letter explaining the debt owed and repayment options.

Steps VA is Taking to Prevent Overpayments

VA employs a number of measures to minimize overpayments. First, VBA includes important reminders in benefit decision notification letters about the need for Veterans and beneficiaries to inform VA immediately of issues or life events that could impact monthly payment amounts.

Second, VA has data matching agreements with the Social Security Administration, Federal Bureau of Prisons, and other Federal agencies to minimize individuals receiving benefits that are not statutorily permissible. VA also works with these agencies to ensure critical data feeds, such as dates of death, incarceration, etc., are transmitted to VA as timely and efficiently as possible.

Third, VBA is deploying technological solutions and leveraging automation to reduce overpayments. For example, drill pay from the Department of Defense (DoD) has been a major contributor to the number of VA overpayments. By law, Servicemembers are not entitled to receive both drill pay and VA disability compensation for the same periods of time. In 2016, VA automated the notification process required when Guardsmen and Reservists receiving VA compensation actively drill and receive pay. VA's new automation process, through collaboration with DoD, improves VA's management of drill pay adjustments.

These administrative adjustments are part of VBA's non-rating workload. During fiscal year 2017, VBA made several changes to allow for a more balanced approach to the overall workload. VBA appreciates Congress' support in providing resources to staff specific teams across the Nation dedicated to the non-rating workload, and we have prudently used these additional resources to lower the non-rating claims inventory. As of April, the National Work Queue is distributing non-rating claims, which allows this work to be moved efficiently based on capacity. Additionally, VBA has adapted a strategic approach to how we use our claims processing overtime resources. We now target specific claims and steps within the claims process to ensure we direct overtime where it will produce the most benefit. These enhancements have led to improvements in performance. Overall non-rating inventory dropped by approximately 23 percent with a 19 percent decrease in the average number of days pending for these claims. The inventory of Dependency claims decreased by approximately 26 percent with a 50 percent improvement in timeliness, and the inventory of drill pay claims dropped by 58 percent. We still have work to do and will remain focused on continuing to implement appropriate preventative measures.

VA's Policy Regarding Debt Collection and Waivers

VA's debt collection guidelines and practices are designed to balance strong financial management with commitment to compassion and Veteran advocacy. VA navigates the debt collection process in a manner that provides the best service to our Veterans and beneficiaries and complies with Federal debt collection statutes and policy. VBA beneficiary debts are serviced by VA's DMC. DMC provides a centralized

debt collection program while also offering all Federal collection tools provided by the Department of the Treasury. Most importantly, DMC contact center counselors work with Veterans and beneficiaries to resolve their debts through extended payment plans, benefit offsets, waivers, compromises, dispute resolution, and hardship refunds.

A Veteran can request a waiver of his/her debt within 180 days of receiving a debt notice. If the waiver request is not timely, the debtor receives appeal rights. If received timely, the waiver request goes to the VBA Committee on Waivers and Compromises (COWC) at the Regional Offices in St. Paul, MN, or Milwaukee, WI. The COWC considers elements such as fault, unjust enrichment, and financial hardship when deciding to grant, partially grant, or deny a waiver request following the principles of equity and good conscience.

VA will not pursue payment when it would be unfair, unconscionable, or unjust. However, the COWC will automatically deny a waiver if there is any indication of fraud, misrepresentation, or bad faith. If the waiver is not approved, the debtor receives applicable appeal rights. Completed waiver decisions are returned to the DMC for processing. If denied, the debt collection process resumes. If the waiver is granted, collection action is terminated, and any collections received are refunded.

There is also a process by which a debtor may submit a compromise offer for acceptance of a partial payment in settlement and full satisfaction of the offeror's indebtedness.

Conclusion

In closing, VA is committed to refining existing processes and implementing new ways to minimize overpayments and the impact of the overall process on Veterans. This includes leveraging technology, working more collaboratively with other agencies and partners, and engaging with Veterans and other beneficiaries to remain apprised of significant events in their lives.

Mr. Chairman, this concludes my statement. We would be pleased to respond to questions you or other Members may have.