

**STATEMENT OF JEFFREY LONDON
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VETERANS BENEFITS ADMINISTRATION
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS**

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Chairman Luttrell, Ranking Member Pappas and distinguished members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the disability examinations administered by the Department of Veterans Affairs (VA). Accompanying me today are Jacqueline Imboden, Assistant Director, from Compensation Service, Veterans Benefits Administration (VBA), Henry E. Bridges Jr., M.D., Senior Medical Officer from the Office of Disability and Medical Assessment, Veterans Health Administration (VHA) and Christopher Parker, Associate Executive Director from the Office of Acquisition Logistics and Construction (OALC).

Today, I will provide an update on the oversight of Compensation and Pension (C&P) examinations, discuss VA's progression on implementing the recommendations from the U.S. Government Accountability Office (GAO) and the VA Office of the Inspector General (OIG) and highlight the strong partnership and collaboration VBA has with the Medical Disability Examination (MDE) vendors and VHA. Together, we have expanded capacity and alternative modalities to provide quality and timely disability examinations to Veterans and Service members worldwide to ensure access to vital benefits and services.

Congress first authorized VA to contract for C&P examinations in 1996 in 10 heavily Veteran populated locations through P.L. 104-275. Congress further expanded the authority in 2003 under P.L. 108-183 and again in 2016 under P.L. 113-235. The 2015 law provided VA the ability to contract for C&P exams in all 50 states and worldwide. To ensure all Veterans receive a quality disability examination, all contract examiners must hold an active and unrestricted state license to practice medicine, with no previous or pending disciplinary proceedings involving professional conduct. Exam results conducted by contract examiners are given the same weight and consideration in the VBA disability compensation claim process as those conducted by VHA examiners, to include VBA decision reviews and appeals to the Board of Veterans' Appeals (BVA) and the Federal courts.

Disability Examinations

VBA requires disability examinations and/or medical opinions if there is medical and/or lay evidence of a current disability and evidence indicates that the disability or symptoms may be associated with the claimant's active military, naval, air or space

service, but the file does not contain sufficient medical evidence for a decision on the claim.

Beginning in 2010 and finishing in 2011, VA began mandating all contract and VHA disability examination results be recorded using Disability Benefits Questionnaires (DBQ). These forms are developed and maintained through a partnership between elements of VBA, VHA and BVA.

Since the expansion of the C&P examination program in 2016 through the end of fiscal year (FY) 2022, VA has seen the number of Examination Scheduling Requests (ESRs) completed increase 69% from 1.2 million in FY 2016 to over 2 million in FY 2022. Through the end of June 2023, VA has completed over 1.9 million ESRs, a 21.8% increase from the same period in FY 2022. At the current rate of production, VA should complete over 2.4 million exams this fiscal year.

As of June 30, 2023, the C&P pending inventory for MDE vendors was approximately 287,000 with nearly 113,000 (39.2%) of those being PACT Act-related ESRs. When excluding PACT Act ESRs, MDE pending inventory was approximately 174,000, an increase of 7.3% from the same period in FY 2022.

Examination Experience

It is imperative that the Veteran experience be at the center of the C&P examination process. We recently conducted a human-centered design study with our Veterans Experience Office (VEO) partners, and learned that scheduling, traveling and attending examinations can be extremely difficult for Veterans both physically and emotionally. VBA and VHA continue to leverage telehealth to provide C&P exams reducing the need for Veterans to travel for appointments. We continue working to improve the Veteran's experience to ensure our customers feel informed, safe and heard throughout the entire C&P examination process.

In June 2020, VHA partnered with VEO to implement the national VHA C&P satisfaction surveys. The surveys are comprised of two survey instruments that gain feedback from the Veterans' interaction with VHA C&P on two touch points - Scheduling an Appointment for their C&P examination and the Veteran's interaction with the Examining C&P Clinician. Both surveys noted increases in satisfaction scores in FY23 compared to FY22 and the majority of scores are in the 80th percentile.

VA continues working to improve the Veteran experience in numerous other ways such as collaborating with vendor partners to improve their direct interactions with Veterans and changing internal processes to deliver better service to Veterans. VA continues to use alternate examination modalities such as Telehealth in cases where that is appropriate and has provided guidance to MDE vendors on notifying Veterans of their right to designate the gender of the examiner for certain examination types.

All examination vendors send a customer satisfaction survey card and the choice of completing an online survey within the appointment notification packets, to Veterans scheduled for examinations. The completed surveys are analyzed, results are scored and reported monthly to VA and MDE vendors. MDE vendors must submit service recovery plans addressing any actions they are taking to address negative customer service trends. In FY 2023, through March 2023, the aggregate customer satisfaction for all vendors is 95.94%.

VA is also examining how trust can be measured within the customer satisfaction survey instrument and in cooperation with all instruments being utilized, regardless of modality. These changes will help to determine how adjustments to the program are received by Veterans and allow the program to make adjustments to improve the opinion of our Veterans based on their direct feedback. Trust is seen as a primary motivator in the process and the more VA can understand this element, the better we can steer the program towards innovative concepts and improvements.

To help ensure that exam facilitates meet the needs of Veterans, VA conducts in-person site visits and separately, virtual desk reviews to ensure that provider locations where Veterans are seen for exams are in compliance with the contract terms. Post-site visit reports consist of best practices and items requiring vendor actions. All action items are tracked until completion.

Additionally, VBA is actively working with VEO to adapt a current MDE customer experience survey to the enterprise-wide Veterans Signals survey platform already being used for customer input on VHA-administered C&P exams. This would allow for detailed analysis of customer input regarding their MDE exam experience by asking Veterans for their perspectives on elements such as receiving appointments at preferred dates and times, being treated with courtesy and respect during the exam process, being treated with care and compassion by the examiner and fostering an exam experience that allows for Veterans to ask questions or raise concerns during the exam. This input will be directly leveraged to identify and act upon identified pain points requiring corrective action or quality improvement in the C&P vendor exam process.

Contractual Oversight

VBA oversees 18 exam contracts and 9 ancillary contracts. These contracts provide additional oversight by applying metrics for timeliness, production, quality and customer satisfaction. Ancillary contracts verify examiners' credentials and provide financial and data audits to include invoice validation and beneficiary travel. VBA contracts with a third-party vendor to audit and ensure providers have current and appropriate licenses to practice within their healthcare specialty. Additionally, ancillary contracts are in place to deliver, and track required contract vendor training.

Training

All contract examiners are required to complete extensive training prior to conducting any disability medical examination. In addition to general certification courses, courses on Veteran culture and experience, suicide awareness and prevention, lethal means safety and various specialty courses are included in the required training.

All examiners, both contract and VHA, undergo the same specific C&P exam training and certification, regardless of whether they complete exams part-time or full-time. The required training consists of online courses initially developed by VHA's Office of Disability and Medical Assessment (DMA). In addition to general certification training, all examiners who provide specialized exams (e.g., traumatic brain injury, mental health, etc.) are required to take supplementary courses specific to those specialty exam types. VBA contracts also require MDE vendors to provide examiners with a basic overview of VA programs. Contract examiners are required to complete recertification training every five years. Further, any contract examiners who have not completed an exam in the previous 12 months must recertify before conducting an exam.

VBA exam contracts include a requirement for all vendors to provide detailed training plans for all examiners, support staff and subcontractors who have routine contact with Veterans to reinforce VA requirements, regulations, and quality assurance. VBA reviews each plan to ensure training plans address all contract training requirements; training assessments and evaluation feedback; how the vendor disseminates training material and documents to completion; and how new training courses are incorporated into training plans. VBA provides feedback to vendors as appropriate and ensures updates are made prior to approval of any training plan.

Training validation is a critical VBA oversight function. VBA uses monthly rosters of invoiced DBQs completed to perform compliance reviews of randomly selected active examiners. These samples allow VA to validate that examiners who are actively conducting examinations are properly certified. VHA validates training through the quality assurance program by ensuring examiners signing DBQs are trained and certified to complete C&P exams.

Quality

VA is committed to the quality of all disability examinations completed. To assess the quality of vendor exams, VBA reviews a sample for each contract using standardized audit criteria, resulting in approximately 1,400 quality reviews conducted each month. Each quality review is completed using a quality criteria checklist and confirms the examiner complied with all government instructions, addressed all questions completely and that the exam report aligns with information of record and includes explanations when it does not. The resulting accuracy findings are used to assess vendor performance and presented in a quarterly report.

VBA provides quality feedback to its vendors in various ways, to include monthly error citation reports for each contract, vendor-specific monthly quality calls, vendor-

specific monthly clinician calls and ad-hoc answers to questions. Additionally, VBA conducts special reviews on specific exam types, providers, or based on error trends to provide additional oversight and feedback. The quality requirement outlined in the contract is 96%. In FY 2023, through March 2023, the aggregate quality score for all vendors is 96.8%. Overall quality has been trending upward for the past six quarters, culminating with an FY 2023 Q2 quality of 97%.

To assess the quality of VHA disability exams, the VHA C&P Quality Assurance Program employs an audit review process and a performance measurement component. VHA uses a web-based Quality Audit Review tool that utilizes quality indicators developed by VBA and VHA subject matter experts. Of note, these indicators are not indicative of clinical quality but rather evaluate the completeness of DBQs. The quality requirement is 90% which VHA national C&P exam quality scores have exceeded for the past six years at 97% or greater. This fiscal year through May 2023 the aggregate quality score for VHA C&P examiners is 98%. Results from the audits are shared nationally with C&P staff during national calls. In addition, monthly reports are nationally accessible through the VHA Support Service Center (VSSC).

VHA conducts approximately 5,000 oversight audits of completed C&P examinations annually. VHA's sampling methodology was developed using a statistical analysis and is based on the total number of completed examinations. VHA's DMA develops and monitors Veterans Integrated Service Networks and overall VHA quarterly quality and timeliness performance measures for the VHA C&P examination process.

Contract Improvements

VBA MDE vendors continue to expand provider networks and their internal workforce to increase examination production. Vendors are adding both privately-owned facilities as well as per-diem locations as needed. VA also added a fourth vendor to the Pacific Region, which began processing exam requests on December 16, 2022. VA added two new vendors to the Predischarge contracts and one new vendor to the international contract in April of 2022.

Monetary incentives, both positive and negative, are part of every MDE vendor contract. Vendors are eligible for an up to 3% positive or negative incentive for five performance areas: production, average days pending, average days to complete, quality of DBQs and customer satisfaction. The intent of the incentive is to encourage continuous operational and quality improvement over the life of the contract, and to drive desired outcomes to meet performance requirement targets set by VBA. Eligibility to receive the monetary incentive is based on the contractor's performance in accordance with the contractual performance requirements. These incentives and increased vendor provider networks allowed VA to increase ESR completions by 10.9% in FY 2022 as compared to FY 2021. VA is on track to further increase disability exam completions by 24.7% during FY 2023.

Examination Access

VA and its MDE vendors are working to ensure all Veterans, including rural Veterans, have access to the benefits and care they have earned more easily by using modalities that limit travel for in-person examinations. Furthermore, through the contract exam process, VA has the ability to conduct examinations for Veterans worldwide through several different exam modalities. In FY 2023, the number of international examinations is expected to increase from 26,063 in FY 2020 to over 45,000.

Virtual Exam Modalities

In 2012, VA began using Acceptable Clinical Evidence (ACE) and in 2020, Tele-C&P examinations were utilized to increase flexibility in examination scheduling. Under ACE, VA examiners complete a DBQ by reviewing existing medical evidence and can supplement it with information obtained during a telephone interview with the Veteran, alleviating the need for the Veteran to report to an in-person examination. Similarly, Tele-C&P examinations provide the equivalent of in-person C&P evaluations through the use of telehealth video technologies – they are safe, effective, and often more convenient for the veteran. So far, this fiscal year, through June 2023, MDE vendors have completed over 1.9 million total appointments consisting of over 200,000 (11.9%) ACE and over 160,000 (8.2%) Tele-C&P appointments. This is a 5.3% and 5.1% increase respectively from the same period in FY 2022.

VHA also continues to support the use of virtual care modalities to complete medical disability exams for Veterans as appropriate. To date this fiscal year, nearly 26% of DBQs completed by VHA have been completed virtually via ACE and Tele-C&P, a 3% increase from the previous fiscal year.

Rural Veterans

In addition to increased examination modalities, MDE vendors are using traveling providers, claims clinics and per-diem or rented locations to assist rural Veteran populations. Vendors have mobile units which are deployed throughout the country to augment existing provider networks and provide a full range of exam services to meet Veterans where they are, rather than where we are. Mobile units are equipped to complete general medical and most specialty examinations, as well as diagnostic testing. The units are handicap accessible, with wheelchair lifts and ramps, and are fully self-contained with power supply and internet connectivity, allowing for secure evidence transmission to VA systems. Vendors continue to expand their mobile unit fleets and collectively have 28 operational individual units.

Another innovation used by MDE vendors is boothless technology for audio exams. Boothless technology is an equivalent alternative to traditional hearing evaluations which occur in sound booths. By virtue of technology that measures and reduces background noise, a complete hearing evaluation may occur in non-traditional settings such as an individual's home, prison facility, nursing home, military theatre, schools, and clinic waiting areas. By extension, for the home-bound or for those experiencing transportation barriers, this technology allows greater access and reduces wait times without degrading the quality of the hearing exam.

PACT Act

The passage of the Sergeant First Class (SFC) Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022 on August 10, 2022, empowered VA to deliver additional care and benefits to millions of Veterans and their survivors. In addition to expanding presumptive criteria for disability compensation claims, the PACT Act created a new examination requirement for claims related to Toxic Exposure Risk Activities (TERA).

To prepare for the expected increase in exam and opinion requests related to toxic exposures, additional training for C&P medical examiners was developed. VBA worked with the War-Related Illness and Injury Study Center (WRIISC) and Health Outcomes Military Exposures (HOME) VHA staff to ensure all VHA and VBA contract examiners received training to assess deployment-related environmental exposures. VBA also developed comprehensive PACT Act training products for VHA and contract medical examiners. These included courses on Key Terms and Medical Opinions, Airborne Hazards and Burn Pits Exposures, and job aids for review of TERA and Individual Longitudinal Exposure Records (ILER). Additionally, VBA developed a reference guide for conducting these types of exams. Since the implementation of the PACT Act, VA has completed over 459,000 PACT Act-related ESRs and as noted earlier, approximately 39% of the total currently pending MDE vendor ESR inventory is related to PACT Act claims.

Separation Health Assessment (SHA)

As reported in the FY 2022 VA/Department of Defense (DOD) Joint Executive Committee Annual Report,¹ VA and DOD completed a multi-year effort to establish content of a single common Separation Health Assessment (SHA) for discharging Service members. SHAs are comprised of both subjective patient histories and objective clinical evaluations. This combined effort streamlines the disability claim process, reduces redundant examinations and ensures medical assessments for those separating from the service are accurate and complete. These changes are intended to substantially improve both the physical and mental health assessments of separating Service members, including real-time assistance and necessary referral services.

To streamline SHAs, clinical subject matter experts and specialty groups covering audiology, mental health, women's health, environmental and occupational exposure, traumatic brain injury, vision and dental health identified baseline elements for inclusion in the common form. Further collaborative efforts produced high-value improvements that address suicide and violence risk screenings, reporting of exposures to occupational and environmental hazards and the communication of resources for survivors of sexual trauma in the military.

¹ Department of Veterans Affairs-Department of Defense Joint Executive Committee annual Joint Report Fiscal Year 2022

VA and DOD have been working tirelessly to implement this new assessment through a joint agency asynchronous launch plan. VA is pleased to report that we began completing SHAs in the new format on May 1, 2023, for all Service members filing claims with VA through the Benefits Delivery at Discharge claim program or the Integrated Disability Evaluation System. DOD is expected to begin completing all discharge examinations in the new SHA format, for those not filing claims with the VA, in FY 2024 across the Service Departments. By the close of FY 2024, all separating Service members will receive their discharge examination in the new format.

Claims Automation Support

VBA is undergoing business modernization efforts designed to leverage technology by automating administrative tasks and workflows, known as Automated Decision Support (ADS) technology. The VBA Medical Disability Examination Office (MDEO) is currently collaborating on Modern Claims Processing (MCP) and efforts with its Office of Business Automation (OBA). This collaboration is yielding positive results in the fields of data ingestion and automation.

ADS is currently being leveraged to order ESRs, when certain business rules are met. Approximately 12,557 ESRs (0.7%) have been requested by ADS from December 2, 2022 through July 19, 2023. Additionally, the DBQ content validation initiative enables the validation of all DBQs in real-time, promoting interoperability within VA and other agencies through the National Information Exchange Model (NIEM) and ensuring DBQs are ready for review when making claims decisions.

DBQ results are also being modernized to transmit as computable data. Currently, 69 of 82 DBQs are received as computable data from the MDE vendors. This allows VA to leverage automated data ingestion which develops logical mapping between DBQ fields and corresponding Veterans Benefits Management System (VBMS) rating calculators. Software automatically populates rating calculators to produce consistent and standardized disability ratings while simultaneously reducing manual data transcription activities for employees.

Internal VBA Collaborations

In FY 2022, VBA established the Over-Development Reduction Task Force for the purpose of reducing over-development within the C&P claims process. Over-development is an unneeded action taken by an employee when processing a claim, resulting in unnecessary delays in providing decisions. The task force, which consisted of members across VBA, analyzed the C&P claims development process to determine ways to streamline and provide more timely claims decisions for Veterans and their beneficiaries.

In order to reduce the overall development timeline and get Veterans their examinations more quickly, the task force focused on improving procedural guidance, updating training, completing special focused reviews and providing targeted feedback to claims processors and implementing system enhancements. The task force's next

phase will focus on eliminating inefficiencies and redundancies in the examination process while providing recommendations for updates to policies, procedures, legislation and/or system enhancements.

GAO/OIG Reports

In June 2023, GAO issued a report² on the increased use of telehealth examinations and the expansion of license portability. The report identified an opportunity for VA to improve its guidance to contract examiners in these areas. As a result, VBA provided clarification in April 2023 regarding the type of examiners eligible for the License Portability Act via Vendor Guidance Memo (VGM) 23-36. Specifically, this VGM clarified that “the only providers currently eligible for license portability are those providers listed in P. L. 116-315, § 2002, which are Physicians, Nurse Practitioners, Physician Assistants, Audiologists and Psychologists.” VBA has also established procedures to ensure that only providers authorized in statute to use license portability authority are completing examinations across state lines.

Additionally, GAO examined VA’s planning and oversight of contracted disability exams.³ GAO identified potential risks regarding capacity and exam quality. In order to mitigate these, VBA continues to work with VHA to execute a memorandum of understanding (MOU) on a comprehensive workload allocation plan for C&P examinations. VBA and VHA continue to assess the impact of the PACT Act on the capacity of VBA’s vendors and on VHA’s capacity to perform primary care and C&P exams. VBA and VHA will also address potential risks in the exam distribution process in the MOU. VA expects the MOU to be drafted by the end of FY 2023. Through VBA’s efforts, the number of ESRs performed by VBA contract examiners increased from roughly 180,000 in FY 2012 to 1.1 million in FY 2020. This total represented more than three-quarters of the 1.4 million ESRs performed in FY 2020.

In addition to the oversight provided by the GAO, VA’s OIG conducted several reviews of the contract examination process. The OIG found that VA needed to implement a process to monitor and assess vendors’ compliance with contractual mileage and travel reimbursement requirements, collaborate with vendors to ensure portals include documentation of express consent of Veterans to travel longer distances and finally to ensure mileage reimbursement information is available in the vendor portals⁴. VA expanded its oversight activities in these areas by modifying its third-party financial audit contract in March 2023. These audits assist in ensuring proper reimbursements are made to Veterans traveling to appointments, supporting documentation is available in vendor portals and added visibility to the VA’s oversight. VBA continues to work with OIG on improving this area of oversight.

² GAO Report 105787, *Actions Needed to Clarify Program Requirements Regarding Examiners*.

³ GAO Report 21-543, *VA: Disability Exams: Better Planning Needed as Use of Contracted Examiners Continues to Grow*.

⁴ OIG Report 22-02067-82, *The Medical Disability Examination Office Needs to Better Monitor Mileage Requirements for Contract Exams*.

OIG further examined VA's governance of and accountability for contract medical disability exams.⁵ Through these findings, VBA has modified its contracts in order to hold contractors accountable for unsatisfactory performance through monetary disincentives. VBA also revised the contracts to require vendors to take all corrective actions when a deficit is identified by VBA. In addition, MDEO worked with Compensation Service and the Office of Field Operations to implement procedures for error correction and analysis of all error data in order to provide issues and trends to vendors. Each month, MDEO reviews random samples of vendors' exams for compliance with contract quality standards. These quality reviews identify instances when the vendor has not complied with contract quality requirements. The results are then compiled into monthly and quarterly performance reports to assess the vendors' performance and determine whether they are meeting the contractual 92% accuracy requirement. As a result of VBA's efforts, in May 2023, OIG agreed to close this report as fully implemented.

In addition to the areas discussed above, OIG examined VBA's disability exam inventory.⁶ VBA has worked with VHA to expand the use of alternative exam modalities in a safe and logically feasible manner. VA used these efforts to reduce the exam inventory caused by the temporary suspension of in-person examinations due to the COVID-19 pandemic. VA reached a peak inventory of 361,854 on March 11, 2021, which was reduced by 24% by the end of FY 2021. In October 2021, OIG agreed to close the report as fully implemented.

Conclusion

I want to express my appreciation for your continued support of Veterans, their families, caregivers, and survivors. VA appreciates the authority provided by Congress to obtain contract examinations for Veterans and transitioning Service members. Continuous oversight and enhancement of the MDE Program remain priorities as well as looking for opportunities to further streamline the examination process.

This concludes my testimony. I would be happy to address any questions you or other members of the subcommittee may have.

⁵ OIG Report 21-01237-127, *VBA Contract Medical Exam Program Limitations Put Veterans At Risk for Inaccurate Claims Decisions*.

⁶ OIG report 20-02926-07, *Reduce Disability Exam Inventory Due to Pandemic and Errors Related to Canceled Exams*.