
501(C)(3) Veterans Non-Profit

**STATEMENT FOR THE RECORD
PARALYZED VETERANS OF AMERICA
FOR THE
HOUSE VETERANS' AFFAIRS COMMITTEE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
ON
"EXAMINING VA'S CHALLENGES WITH ENSURING QUALITY CONTRACTED DISABILITY
COMPENSATION EXAMINATIONS"
SEPTEMBER 18, 2024**

Chairman Luttrell, Ranking Member Pappas, and members of the subcommittee, Paralyzed Veterans of America (PVA), would like to thank you for the opportunity to submit our views on the Department of Veterans Affairs' (VA) use of contract claims examiners.

When a veteran files a claim for disability compensation, a medical examination is the keystone in the adjudication process. A good, thorough examination is crucial to an accurate outcome; however, a poor examination could lead to years of additional actions, adding to the appeals backlog, and could end up being extremely costly to the VA in terms of funding and of trust. PVA strongly believes medical examinations for complex, service-related medical conditions like spinal cord injuries and disorders (SCI/D), traumatic brain injury, and military sexual trauma (MST), should be conducted by a medical practitioner working directly for the Veterans Health Administration (VHA); however, contract exams may be appropriate for other types of claims. Regardless, the VA must ensure that any contracted compensation and pension (C&P) examiners are qualified to conduct necessary exams and any legislative proposals supporting contract exams should include such provisions.

Equally important to the qualifications of the provider is an accessible, barrier-free facility to conduct exams. In May of 2024, a VA Office of Inspector General (OIG) Report (23-01059-72)¹ found accessibility barriers at more than half of the 135 facilities they visited. PVA members have experienced similar barriers when accessing C&P exams as well as community care appointments. Our members have seen exam rooms that are physically inaccessible and/or lack overhead patient ceiling lifts. Restrooms often have accessibility barriers, causing members to pause and wonder why the VA is sending them to facilities that are ill equipped to accommodate them.

¹ [Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams | Department of Veterans Affairs OIG \(vaig.gov\)](#)

We also receive reports of inaccessible medical diagnostic equipment, such as medical examination tables, weight scales, dental chairs, x-ray machines, mammography, and other imaging equipment. A lack of any one of these diminishes these providers' ability to accurately evaluate service-related medical conditions.

Another barrier encountered by SCI/D veterans is getting to the contract facility. Several of our members have been expected to travel in excess of 100 miles to reach the contracted facility, and occasionally, even while the veteran is critically ill. Some of our veterans' injuries are so severe they may be unable to physically appear for an exam; so, our national service officers (NSO) request on VA Form 21-4138 (Statement in Support of Claim) either a telehealth or in-person visit from a C&P examiner. Many times, these requests are not seen or are simply ignored. Some NSOs write the request on the VA Form 21-526 (Application for Disability Compensation and Related Compensation Benefits) but the contractor insists the veteran must attend in person or they will claim the veteran was a "no-show," causing unnecessary delays to benefits and services the veteran may be eligible for, which forces NSOs to file supplemental claims, further adding to the claims backlog. VA and third-party vendors' policies regarding these situations need to be examined, and greater use of telehealth exams and traveling examiners should be made.

Veterans Deserve Specialized Contract Examiners - VA's M21-1 Adjudication Procedures Manual states that there are only four types of examinations that are *routinely* performed by specialists (hearing, vision, dental, and psychiatric). However, it does note that a specialist examination *may be* requested only if there are conflicting opinions or diagnoses, in compliance with a Board of Veteran's Appeals (BVA or Board) remand, or the issue is deemed "unusually complex."² Immediately, this raises concerns. PVA represents veterans who have an array of disabilities that present themselves through a kaleidoscope of varying symptoms, indicators, and mobility ranges. Many of these conditions are not routinely associated with a neurological disorder, so without specialized diagnostic experience they could be missed, complicating or even extending the veteran's claims process. By definition, these conditions should be flagged as "unusually complex." However, we have heard from our NSOs in the field that they routinely see a lack of expertise which delays the adjudication of a claim. For instance, one office reported that there were several issues with an examiner conducting a peripheral neuropathy examination for veterans whose claims involved multiple sclerosis (MS). In cases involving amyotrophic lateral sclerosis (ALS), this oversight is particularly egregious, as the life expectancy of those with ALS is so short that any delay in the processing of that claim is robbing them of what precious little time they have left.

In another ongoing case, a veteran's claim was remanded back to the regional office (RO) because of an inadequate exam. This veteran had filed a claim related to mistreatment at the VA that had ultimately cost him his legs which were amputated above the knee. After obtaining a medical opinion from a general practitioner, the Board remanded the case with instructions to obtain an opinion from either an infectious disease specialist, wound care expert, vascular surgeon, physiatrist, neurologist, or orthopedic surgeon. However, when the RO sought to obtain a specialist's opinion, they were told by the contractor that "our contract with VA does not require a specialist to perform this particular [examination]" and that they did not have a specialist to perform the exam. A general physician

² [M21-1 IV.i.2.A.6](#)

provided the exam in defiance of the remand order. This case will likely be remanded again and will continue to add to the backlog at the BVA and cost valuable taxpayer dollars, all because a specialist's opinion was denied by the contracted examiners.

To help ensure a quality examination is performed correctly the first time, and to prevent delaying the adjudication or the creation of an appeal, the VA should expand their guidance on the four conditions that are mandated to be performed by a specialist (hearing, vision, dental, and psychiatric) to include the specialties of neurology and gynecology. These two disciplines deal with disabilities that are complex in nature but are also extremely personal. In no instance should a veteran have to go through one of these examinations and then be told that it was insufficient or inaccurate and have to go through that ordeal a second time.

Examinations Must Be Accessible to All Veterans - As referenced above, the May 2024 OIG report highlights even further discrepancies when it comes to the Veterans Benefits Administration (VBA) and their ability to effectively monitor and conduct appropriate oversight for contract exam vendors. In *Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams*, we learned that the OIG identified 114 out of 135 exam facilities with one or more Americans With Disabilities Act (ADA) and/or Occupational Safety and Health Administration (OSHA) deficiencies.

Of the 135 facilities inspected, 99 had complete inspections while 36 had partial inspections. OIG cited facilities being closed with unclear operating hours or exam rooms being occupied and unable to be accessed as reasons for the 36 partial inspections.

VA's Medical Disability Examination Office (MDEO) is expected to, "monitor and oversee exam vendor performance to enforce the terms of the contracts and ensure compliance with agency regulations, procedures, program directives, and the law including ADA and OSHA requirements." The VA has authorized contracted medical disability examinations (MDE) to non-VA medical providers since 1996. Today, contractors account for more than 85 percent of MDEs yet per the OIG report, VBA still lacks a standard operating procedure (SOP) for contract exam facilities, which was a recommendation made in the report. Other recommendations relating to ADA and OSHA requirements include: a training plan for MDEO staff conducting site visits of facilities, developing a plan focused on accessibility requirements of patients, and ensuring that MDEO staff pay more attention to complaints from veterans.

Many of the complaints received from veterans included those related to lack of appropriate wheelchair ramps, raised door jams preventing a wheelchair user from accessing the facility without staff lifting them over it, and being unable to access the needed exam rooms due to accessibility barriers. Specifically, one veteran highlighted in the report stepped out of a tiny audiology booth, caught his foot on the edge and fell, causing him to fracture his hip. This veteran was scheduled for an additional exam that had to be rescheduled because the facility could not accommodate a wheelchair. Another veteran at the same location was being assisted into the same booth because it could not accommodate a wheelchair and the staff dropped him. After his eyes rolled back into his head and he began vomiting, the facility had to call 911 and rush him to the emergency room. A third veteran had an exam table collapse while he was sitting on it.

For wheelchair users, disability access, as well as cleanliness, are critical to ensuring they can safely access medical care, C&P exams, and every other service or program offered by the VA. For VBA to say that because these contract facilities do not perform clinical duties and therefore they do not need to be cleaned to clinical standards is shameful and appalling. Veterans with SCI/Ds are at a much higher risk for both community-acquired and healthcare-associated infections due to factors such as frequent contact with the health care system and frequent and chronic use of invasive medical devices such as urinary and intravascular catheters. They are also more vulnerable by limitations in clearing their airway of secretions due to restricted breathing, and abnormal sensations leading to altered or absent symptoms to indicate early infection. Many of our veterans are older which in itself makes them more vulnerable to environmental hazards or risks. If a veteran has an open wound, they could easily contract something from a dirty exam room and then they would struggle to fight off that infection due to their injuries. And if a PVA member was on an exam table that fell apart under them, that veteran might incur another life-threatening injury or need years of rehab to address the new injuries. These are not risks that PVA takes lightly.

VBA and VHA must respect the trust that has been placed on them by veterans. They are equally responsible for the health, safety, and trust of the veterans they serve and it is absurd that VBA believes oversight of their contract facilities is not their responsibility. The MDEO must improve its oversight of facilities while developing an SOP to guarantee that disabled veterans can access contract facilities safely.

How Far Is Too Far? - To a veteran with mobility issues, a trip across town can be a daunting task, however, a journey to an unknown location more than an hour away can be a strain on both the physical and mental health of the veteran. The VA has to ensure that all efforts are made so veterans are not needlessly burdened with an hours long trip to a C&P contractor if there are more reasonable options closer to their home.

According to the VA, of the 19 million total veterans in 2021, approximately one-quarter live in rural areas, far removed from urban areas, let alone VA facilities. In addition, access to transportation is often one of the biggest barriers for veterans with SCI/D attending even routine health care visits. Many of these veterans rely on family members or transportation services to get to their appointments and have often found them to be unreliable, making them late for appointments and requiring them to be rescheduled. PVA has received reports from our NSOs that veterans are having their claims delayed when they *preemptively* try and reschedule an examination that is clearly too far for them to travel.

Recently, a 65-year-old veteran who is service-connected for MS was seeking an increase because his mobility has deteriorated. Increasing weakness in his lower extremities has caused him to fall multiple times and he now requires the use of a cane/walker. Soon he will need a wheelchair. The veteran lives near Cape Cod, Massachusetts, and receives most of his care at the Hyannis VA Community-Based Outpatient Clinic (CBOC), which is less than 10 miles from his home. Rather than scheduling exams for the Hyannis VA CBOC, or a contract examiner closer to the veteran's home, exams were scheduled for Boston and Wellesley which is about two hours away from his home. Unfortunately, some symptoms related to the veteran's MS are increased pain and bowel & bladder issues, making

lengthy trips very difficult for the veteran. On July 15, 2024, this veteran called VBA to cancel the exams and requested to be rescheduled closer to his home. In response, the VA filed a "Report of General Information" noting the veteran called to cancel and request a closer exam location. That same week, all the exam requests were canceled and the claim was moved to "Ready for Decision" in VBMS. After nine days of no action, our NSOs sent a letter to the VA informing them of the request and the reason. It appears no action has been taken, and the claim status is still "Ready for Decision." Now, it may be several months before this claim comes up for review by a VBA employee, at which time they will have to reschedule the exams, causing significant additional delays before a decision is made.

We have heard more reports of veterans not receiving notice for changes to their appointments and when they do they have little or no time to adjust their schedules. In one instance, an 85-year-old Navy veteran, with T-5 complete paraplegia who requires his daughter to be his caregiver, drove from their home in Connecticut to the scheduled examination in New York, a journey of more than an hour, only to arrive and find out that the examination had been canceled due to the examiner not showing up for unknown reasons.

Both of these examples are unacceptable. Even if these are standalone instances, which they are not, the fact that they were done to the most vulnerable of the veteran population should never go unnoticed. Every day, veterans are experiencing similar situations. We ask that Congress conduct increased oversight to these occurrences and determine if legislation is needed to ensure that veterans with significant mobility limitations can be assured that their C&P examinations will be performed within a reasonable distance to their home and at a fully accessible facility.

PVA would once again like to thank the subcommittee for the opportunity to submit our views on the VA's use of contract claims examiners, and would be happy to take any questions for the record.

Information Required by Rule XI 2(g) of the House of Representatives

Pursuant to Rule XI 2(g) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2023

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events — Grant to support rehabilitation sports activities — \$479,000.

Fiscal Year 2022

Department of Veterans Affairs, Office of National Veterans Sports Programs & Special Events — Grant to support rehabilitation sports activities — \$ 437,745.

Disclosure of Foreign Payments

Paralyzed Veterans of America is largely supported by donations from the general public. However, in some very rare cases we receive direct donations from foreign nationals. In addition, we receive funding from corporations and foundations which in some cases are U.S. subsidiaries of non-U.S. companies.