



DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

STATEMENT FOR THE RECORD
OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF VETERANS AFFAIRS
TO THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS,
COMMITTEE ON VETERANS' AFFAIRS
US HOUSE OF REPRESENTATIVES
HEARING ON
"EXAMINING VA'S CHALLENGES WITH ENSURING
QUALITY CONTRACT DISABILITY COMPENSATION EXAMINATIONS"
SEPTEMBER 18, 2024

Chairman Luttrell, Ranking Member Pappas, and members of the Subcommittee, thank you for the opportunity to provide a statement for the record on the Office of Inspector General (OIG) oversight of the contract medical exam program managed by the Veterans Benefits Administration (VBA).

When veterans file claims for disability benefits, VBA claims processors may request medical exams for the veterans before making decisions on their claims. The exams provide critical evidence used to help establish a connection between the claimed disability and the veteran's military service (referred to as "service connection").¹ Exams also help determine the severity of the veteran's disability, which informs a rating decision, and that in turn defines the monthly payment the veteran receives. While Veterans Health Administration (VHA) personnel can perform these exams, they are most often conducted by providers working for vendors under contract with VBA. The OIG has continuously monitored VBA's contract medical exam program because

- VBA has spent more than \$10.4 billion on these contracts from fiscal years 2017 through 2023;
- related errors can lead to improper payments or denials of benefits to eligible veterans; and
- unwarranted or hard-to-access exams can be burdensome on veterans and their caregivers.

As the OIG reports highlighted below demonstrate, the resulting findings and recommendations reflect that although VBA has made progress in implementing OIG-recommended corrective actions, more work needs to be done.

¹ Service-connected disabilities are those proven to be caused by diseases or injuries incurred or aggravated during active military service.

The following three OIG reports on VBA’s contract medical exam program illustrate widespread program administrative shortcomings at the time of the oversight work. The reports describe the impacts of incomplete or improper decisions on disability claims related to exams and how avoidable impediments can affect veterans’ experience with the claims process. The first report is a comprehensive review of VBA’s oversight of contract medical exam quality standards and program improvement.² The other two reports describe more specific concerns that go to the veteran experience: a recent report on the lack of accessibility, safety, and cleanliness of some contract exam facilities and a report from last year that spotlights lapses in complying with contract requirements related to veterans’ options for the distances traveled to exams.³

VBA OFFICES RESPONSIBLE FOR CONTRACT MEDICAL EXAM PROGRAM ADMINISTRATION AND OVERSIGHT

To better understand who is responsible for implementing the OIG recommendations related to the contract medical exam program, some context is first provided on responsible offices and individuals.

Medical Disability Examination Office

VBA’s Medical Disability Examination Office (MDEO) administers the contract medical exam program, which has contracts with four vendors.⁴ Two MDEO suboffices—Acquisition and Budget, and Medical Disability Examination Quality—are responsible for overseeing vendor performance and contract medical disability exam quality, respectively. Acquisitions and Budget enforces the technical terms of the contract, such as coordinating contract modifications and monitoring spending.

MDEO’s quality component conducts reviews to determine each vendor’s level of accuracy. Quality analysts assess a random sample of the vendor’s disability exam reports for compliance with contractual requirements, such as ensuring the inclusion of all necessary medical history for the condition(s) at issue.⁵ If the quality analyst finds that a specific requirement was not met, the exam report is considered “completed in error,” and the vendor is responsible for taking applicable corrective action. MDEO

² VA OIG, [Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions](#), June 8, 2022.

³ VA OIG, [Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams](#), May 8, 2024; VA OIG, [The Medical Disability Examination Office Needs to Better Monitor Mileage Requirements for Contract Exams](#), April 20, 2023.

⁴ Under the Office of Procurement, Acquisitions and Logistics, VA’s Strategic Acquisition Center developed and awarded VBA’s medical disability exam contracts. The contracts are divided among four US geographic regions and two districts outside the continental United States. Added in June 2022, the fourth vendor completed its first exam in December 2022.

⁵ The healthcare provider completes the exam using VA-provided disability benefits questionnaires, which are referred to as “exam reports,” and are added to the veteran’s claim file.

quality staff interact with vendors monthly to share quality review findings and concerns, as well as discuss trends.⁶

The Office of Field Operations and the Compensation Service

Two other VBA entities, the Office of Field Operations (OFO) and Compensation Service, also support the disability exam process. OFO monitors and tracks the delivery of benefits and services to veterans by VBA's 56 regional benefits offices. This includes overseeing the regional office claims processors who request the exams, determine exam sufficiency once completed, and prepare the decision on benefits claims. Compensation Service is responsible for developing and implementing policies and procedures related to the administration of VBA's disability compensation program.

CONTRACT MEDICAL EXAM PROGRAM LIMITATIONS PUT VETERANS AT RISK FOR INACCURATE DECISIONS

The OIG reported in June 2022 on whether VBA oversaw disability exams to confirm they met quality standards and contractual requirements, had procedures for correcting errors found during quality reviews, and gave feedback to the vendors to improve exams.⁷ Overall, MDEO quality reviews adequately identified exam errors. However, the deficiencies identified stemmed in part from limitations with VBA's management and oversight of the program at the time of the review.

While MDEO's quality assurance personnel proficiently reviewed the exams, MDEO did not hold vendors accountable when exams did not meet all accuracy criteria. The contracts stated that the government "will measure the quality of vendor's performance in completing examination requests." Every quarter, MDEO reviewed a sample of vendors' exam reports, with accuracy less than 92 percent considered "unsatisfactory performance." MDEO reported that the three vendors under contract with VBA at the time of the OIG review were consistently below the 92 percent requirement and had been since at least 2017. Additionally, the OIG team determined that even though MDEO identified errors in its reviews, they were not corrected before or after claims processors made their decisions, and MDEO did not use the contracts' monetary incentive/disincentive tools to push for improvements. Improper decisions can result in eligible veterans not receiving benefits, as well as over- and underpayments to successful claimants.

The OIG found VBA's program was deficient at the time of the review because it did not hold vendors accountable for correcting errors and improving exam accuracy. Closer tracking would have helped make certain that vendors conducted accurate exams to support correct decisions for veterans' claims. Because some exams by vendors have not met contractual accuracy requirements, claims processors

⁶ Vendors are responsible for locating and subcontracting with qualified providers to conduct exams in response to requests received from VA. Vendors "shall also train all examiners, staff support, and subcontractors who have routine contact with veterans." MDEO Contract Region 4, November 20, 2019.

⁷ VA OIG, [*Contract Medical Exam Program Limitations Put Veterans at Risk for Inaccurate Claims Decisions*](#).

may have used inaccurate or insufficient medical evidence to decide veterans' claims. VBA needed to address this weakness through better governance and program accountability. The OIG made four recommendations, including ensuring vendors can be held contractually accountable for unsatisfactory performance and establishing procedures for vendors to correct errors. Other recommendations required MDEO to communicate vendor exam errors to OFO and the regional offices and then demonstrate progress in correcting them. In addition, MDEO was asked to analyze available data to identify systemic errors and share identified issues and error trends with vendors. All recommendations have been closed as implemented.

BETTER OVERSIGHT IS NEEDED OF THE ACCESSIBILITY, SAFETY, AND CLEANLINESS OF CONTRACT EXAM FACILITIES

An OIG report, published in May 2024, focused on veterans' feedback regarding the accessibility, safety, and cleanliness of the contract exam facilities.⁸ A veteran's disability benefits exam is typically conducted at the medical examiner's place of business, and those facilities must be accessible, safe, and clean according to contract requirements.⁹ The contracts also mandate that the vendors inspect all facilities where exams are conducted to ensure compliance with the Americans with Disabilities Act (ADA) and Occupational Safety and Health Administration (OSHA) standards.¹⁰ The OIG team inspected 135 facilities for compliance with contractual and legal requirements, identifying one or more ADA and OSHA deficiencies at 114 (about 84 percent) of the facilities. The report focused on three issues related to (1) the lack of oversight over the contract exam facilities, (2) the prevalence of noncompliance with ADA and OSHA standards, and (3) the impact on veterans with mobility issues.

MDEO Must Improve Its Oversight of Contractors' Disability Exam Facilities to Ensure Accessibility and Safety Mandates Are Met

The vendors' contracts require them to inspect all their facilities or subcontracted facilities for compliance with ADA and OSHA standards.¹¹ Yet the OIG team's inspections found that more than 80 percent had deficiencies that were related to accessibility, cleanliness, or safety, which, in some cases, made it difficult to accommodate some veterans who needed exams. As discussed in the section

⁸ VA OIG, [Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams](#).

⁹ Medical Disability Examination Contracts, Section 5.1 Place of Performance.

¹⁰ Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq.; Medical Exam Contract, Section 8.5 Deliverable Tasks Nov 28, 2018.

¹¹ The applicable 1991 and 2010 building standards (whichever is applicable to the site); Americans with Disabilities Act of 1990 (web page); <https://www.ada.gov/law-and-regs/design-standards/1991-design-standards/> and "2010 ADA Standards for Accessible Design" (web page);, <https://www.ada.gov/law-and-regs/design-standards/2010-stds/>, accessed April 19, 2024, 29 C.F.R. Part 1910.

on veteran impact, these included inaccessible entries and exits, dirty rooms, exam tables that did not lower, audio-testing spaces that did not accommodate wheelchairs, as well as fall hazards.

The deficiencies went largely undetected by VBA because MDEO did not provide sufficient oversight to assess the accuracy of vendors' self-certification of ADA and OSHA compliance. While the original vendor contracts *required* MDEO to conduct site visits both randomly and in response to complaints about exam facilities, MDEO modified the contracts in 2021 to state MDEO "may" conduct both random and complaint-based site visits. In fiscal year 2022, MDEO visited 76 randomly selected sites but did not visit any sites in response to complaints. An MDEO assistant director said sites were selected based on their proximity to exam vendors' headquarters.

MDEO Depended on Vendors for Contract Facility Information

As of May 2024, MDEO did not have independent access to the vendor's inventory of all contract facilities used to perform disability exams. This limited MDEO's ability to conduct site visits because the vendor-provided lists can be incomplete or weighted toward more compliant facilities. To explain their reluctance to request independent access to exam facility location lists, MDEO expressed concern that the vendors may perceive their provider list as proprietary. The OIG asserts, however, that VA routinely receives proprietary information from contractors and can institute controls to limit access to only VA personnel with a need to know. Particularly when oversight of veteran safety and disability benefits exams are at issue, VA must have accurate information. One MDEO assistant director noted it was difficult to provide an exact number of contract facilities, as some examiners practice at more than one location, multiple examiners practice at the same locations, and some examiners have short-term leases. That said, MDEO's executive director stated they are working on maintaining their own list and information on contract exam facilities, so staff can conduct site visits and desk audits.¹²

The OIG's first of nine recommendations asked MDEO to submit a plan and documentation of progress on implementing VBA's maintenance of an independent, updated list of contract facilities. VBA concurred with maintaining a list of facilities but stated it was unable to independently verify all active vendor subcontracts. This recommendation, and the other eight discussed below, remain open (not fully implemented) at this time. In accordance with the OIG's routine follow-up process, the first request for an update on all the recommendations was made on August 9, 2024.¹³ VBA subsequently requested an extension on providing responses until September 20, 2024. The OIG will assess all documentation VBA provides before determining whether the responses reflect sufficient progress on implementation to close the related recommendations.

¹² Per MDEO, desk audits would include virtual inspections of contract exam facilities through photographs, internet images, and any available information to validate facility compliance.

¹³ The follow-up staff provides VBA 30 calendar days to respond. Nothing precludes VA from submitting information before target dates or scheduled follow-up.

MDEO Assigned Exam Vendors the Task of Distributing Satisfaction Surveys Rating Their Own Performance

VBA contracts with a separate survey vendor to work with the four exam vendors to obtain veteran contact and appointment information to provide all veterans with a paper survey card regarding their exam experience, as well as access to other methods such as email or text. However, the survey vendor was distributing the blank customer satisfaction survey forms to the exam vendors instead of directly to the veterans. The exam vendors then were supposed to send them to individual veterans. In doing so, the exam vendor was positioned to distribute surveys to veterans that rated their own performance. Consequently, the survey vendor also could not monitor how, or if, the customer satisfaction surveys were distributed and whether every veteran examined received one. MDEO does not have a full picture of veterans' experiences as well. MDEO needs the survey vendor or other distributor with no vested interest in the results to be responsible for disseminating the surveys to veterans. Additionally, because the survey vendor's performance was tied to the response rate, MDEO could not evaluate its performance.¹⁴

VBA concurred with the report's second recommendation to comply with the requirements of the customer satisfaction survey contract by routing exam comment cards directly between the survey vendor and the veteran examined.

MDEO Lacked Formal Standard Operating Procedures and Training for Site Visits to Assess Safety and Accessibility Compliance

MDEO staff have used a checklist with a series of yes/no questions and related comments to be checked off during each facility visit. However, MDEO lacked formal, written, standard operating procedures outlining the responsibilities, tasks, and processes for staff conducting exam facility site visits. According to VBA's contracts with exam vendors, the standard of review for a site visit is based on ADA, the Joint Commission on Accreditation of Healthcare Organizations, OSHA, and any applicable state or local standards. VBA was not, however, providing staff with ADA or OSHA compliance training.¹⁵ The checklist's questions were not specific enough to address whether the contractual standards have been met, and MDEO staff did not appear familiar with specific ADA and OSHA requirements. This was particularly true for questions regarding accessibility for veterans using wheelchairs. Some MDEO employees based their site visit checklist responses on visual observation, not established criteria. One MDEO assistant director noted most training was done on the job for inspecting facilities. MDEO stated that personnel were working on a formal training program and standard operating procedures, which would help staff acquire knowledge, develop skills, and improve performance, especially when employees have different roles and tasks.

¹⁴ In October 2023, VBA onboarded a new customer satisfaction survey vendor.

¹⁵ The OIG did not evaluate whether exam vendors met the Joint Commission's standards for clinical operations.

VBA concurred with the report's third recommendation to develop and implement formal standard operating procedures for the contract exam facility site visits detailing roles, responsibilities, objectives, and monitoring. In response to the fourth recommendation, VBA plans to continue to require ADA and OSHA certification compliance and will make adjustments to the checklist as needed. VBA is addressing recommendation 5 by reviewing its standardized training plan and job aids and will enhance them as needed to ensure compliance with contractual requirements and to integrate the specific safety criteria for all facilities.

MDEO Did Not Verify Vendor Compliance with ADA and OSHA Requirements

Exam vendors are required to self-certify annually that they meet all ADA and OSHA requirements for accessibility, safety, and cleanliness, and to certify all new facilities in the quarter after they are added. However, exam vendors generally relied on subcontractors to self-certify, and MDEO did not validate the self-certifications. One MDEO leader said exam vendors should be able to inspect every facility to ensure compliance, while another reported being unaware of any instance in which action was taken for noncompliance. The vendor's self-certification process was not comprehensive or reliable because there was no validation, likely contributing to the unresolved ADA and OSHA facility deficiencies identified.

Veterans can submit complaints about contract exams through avenues such as the OIG hotline, VA regional offices, the White House hotline, veterans service officers, and MDEO. Exam vendors also submit incident reports to MDEO.¹⁶ However, MDEO was not conducting complaint-based reviews even when survey responses raised problems. The OIG found that MDEO should review all sources to determine if a complaint-based site visit is warranted.

The OIG's report describes two incidents in which veterans were unable to be examined because a contract facility could not accommodate a wheelchair. In one incident, the veteran was injured being transferred from a wheelchair into an audio booth with inadequate space to maneuver a wheelchair.

VBA concurred with the sixth recommendation to conduct complaint-based contract facility inspections, and with recommendation 7 to enforce contractual requirements for vendors to conduct inspections and recertify all facilities for ADA and OSHA compliance. Although VBA requested the latter recommendation's closure, the OIG will only do so after monitoring MDEO's contract enforcement.

Exams Scheduled at Facilities with ADA and OSHA Deficiencies May Create Difficulties for Veterans with Mobility Issues

MDEO told the OIG that vendors are not allowed to cancel an exam specifically because a facility was not ADA-compliant, noting that vendors would need to reschedule appointments if a room, booth, or exam table was not accessible at the time of the scheduled exam for someone who uses a wheelchair.

¹⁶ An incident report is required in instances of physical distress, violent or threatening behavior from the veteran, or natural disaster.

Concerningly, one vendor could not confirm if its scheduling unit asked veterans if they needed accommodations at the time the disability exam appointment was made. The OIG’s inspection confirmed ADA deficiencies may result in the facility being unable to accommodate veterans with mobility issues. Rescheduling these exams after veterans have needlessly gone to a facility takes time and may entail traveling long distances. Rescheduling may also delay their disability benefit claims from being processed. The OIG determined MDEO had not been holding vendors accountable to ensure exam facilities are accessible, safe, and clean for veterans attending exams.

In response to the final two recommendations, VBA agreed to analyze all veteran complaints about exam facilities (stating it already reviews them) that are received from all sources. The contract requires the exam vendor to develop a Service Recovery Plan within 15 days to address negative service trends, with timelines and proposed actions. The information will be used to inform the need for complaint-based site visits. MDEO will also develop a plan with its vendors to consistently determine if each veteran requires accessibility arrangements before scheduling an exam.

The target date for completion of all recommendations is September 30, 2024, for the eight recommendations for which closure was not sought at the time of publication.

MDEO NEEDS TO BETTER MONITOR MILEAGE REQUIREMENTS FOR CONTRACTS

A 2023 OIG review examined MDEO’s monitoring of mileage requirements because veterans reported on satisfaction surveys that they had to travel excessive distances to attend exams.¹⁷ The vendors’ contracts require that exams be scheduled

as close to the veteran’s home of record as feasible, but no farther than 50 miles for non-specialist exams and 100 miles for specialist exams. Traveling long distances, while necessary for some medical exams, can be an unnecessary burden on veterans, especially the elderly and those with disabilities. Authorization may be granted for additional mileage when [veterans] expressly indicate their willingness to exceed the above limits.¹⁸

Express consent from the veteran for traveling excessive distances must be documented and included in the record available to VBA.¹⁹

The OIG found MDEO was not sufficiently examining vendor portals to make sure all required details and mileage reimbursements had been made available to veterans. As a result, veterans may not have been aware that they should be scheduled nearby unless they have provided consent to travel farther, and

¹⁷ VA OIG, [The Medical Disability Examination Office Needs to Better Monitor Mileage Requirements for Contract Exams](#).

¹⁸ VA Manual 21-1, “Examinations Requests Overview,” sec. IV.i.2.A in *Adjudication Procedures Manual*, topic 1g, updated May 31, 2022. A specialist exam is any exam conducted by a clinician who specializes in a particular field. Examples include vision, hearing, dental, and psychiatric exams.

¹⁹ In September 2021, a modification was made to each contract to further clarify the definition of “record” to include the veteran portal, the vendor portal, and the Veterans Benefits Management System electronic claims folder.

may be uninformed of the related reimbursement rules. This may be especially burdensome on elderly veterans and others who have difficulty traveling long distances. MDEO also was not monitoring whether vendors had obtained and documented veterans' express consent to travel beyond the contractual mileage limits for exams. The OIG determined that this occurred, in part, because MDEO leaders did not consider it a priority given the small percentage of veterans affected. However, the relatively few number of veterans impacted does not excuse MDEO from its responsibility to hold vendors to their contractual requirements, including those related to reimbursements.

Lack of vigilance increases the risk that VBA will not identify failings or implement improvements that will better support veterans. The OIG recommended that VBA implement a process to closely track and demonstrate progress in assessing vendors' compliance with contractual mileage and travel reimbursement requirements. VBA was called on to collaborate with vendors to confirm portals included mileage reimbursement information for veterans and proper documentation when veterans expressed consent to travel long distances. VBA requested closure of the recommendations at the time of publication, but the OIG held them open until VBA submitted documentation of modifications to the vendors' contracts. The recommendations are now closed.

CONCLUSION

One of the critical foundations of accountability for any program is effective quality assurance and monitoring to detect and resolve issues. The OIG has found in the course of its work that MDEO needs to continuously scrutinize its quality assurance processes and more closely oversee its contract exam vendors in order for veterans to properly receive the disability benefits they are owed without undue burden. VBA and its vendors must take swift corrective action to address any impediments to veterans' having prompt and easy access to suitable exams that will help accurately determine their disability benefits. As stewards of taxpayer dollars, it is also incumbent on VBA to ensure the investment of billions of taxpayer dollars paid to contractors is effective, efficient, and garnering the best possible outcomes.

The OIG remains focused on conducting oversight work and providing practical recommendations that will stimulate meaningful improvements in veterans' experiences during the disability claims process. Next year, the OIG will publish a review of the training given to both VHA and contract disability medical examiners. More generally, OIG staff remains committed to determining the most effective and impactful ways to help VBA improve their delivery of a wide range of benefits to eligible veterans, their families, survivors, and caregivers.