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DEPARTMENT OF VETERANS AFFAIRS  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ON  
EXAMINING VA'S CHALLENGES WITH ENSURING QUALITY CONTRACTED  
DISABILITY COMPENSATION EXAMINATIONS**

**SEPTEMBER 18, 2024**

Chairman Luttrell, Ranking Member Pappas, and distinguished members of the Subcommittee, thank you for the opportunity to appear before you to discuss the disability medical examinations administered by the Department of Veterans Affairs (VA). Accompanying me today is Tara Flores, Director, Acquisition Service, Strategic Acquisition Center.

Today, I will provide updates on the Veterans Benefits Administration (VBA) oversight of Compensation and Pension (C&P) examinations, including how we hold contract vendors accountable and improve examination access for all Veterans. Currently, VBA contract medical exam vendors complete over 90% of all C&P examinations while the Veterans Health Administration (VHA) focuses its resources on providing access to Veteran health care and treatment. Although the majority of exams are conducted by VBA contract exam vendors, VA assesses VHA facilities for capacity as the first option to complete the exam. If a VHA facility does not have the capacity, the request is sent to a contract vendor for scheduling and completion. I also will provide an update on implementing report recommendations made by the U.S. Government Accountability Office (GAO) and the VA Office of the Inspector General (OIG).

We are completing a historic number of exams working with our contract vendors. VA is completing more exams than ever before, and we also are ensuring Veterans and Service members receive quality and timely disability exams. Under VA's duty to assist found in 38 U.S.C. § 5103 A(d)(2) and 38 CFR 21.1032, a medical opinion or exam is necessary when there is evidence that the Veteran has a current disability and evidence indicating that the disability may be associated with the Veteran's military service, but there is insufficient medical evidence on record to decide on a claim for service-connected compensation. Since the expansion of the C&P exam program in 2016 through the current fiscal year-to-date (FYTD) 2024 (through July 31, 2024), VA has seen the number of Exam Scheduling Requests (ESRs) completed increase 133.8% from 1.2 million in fiscal year (FY) 2016 to over 3 million in FYTD 2024. This is the most contract exam vendors have ever completed in a single year.

## **Exam Production**

Through the end of July 2024, VA completed over 3 million ESRs, a 36.5% increase from the same period in FY 2023 (2.1 million). Approximately 40.3% of this increase was due to ESRs related to the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act). At the current rate of production, VA expects over 3.3 million ESRs to be completed this fiscal year. This expectation is, in part, because of the PACT Act and how this has fundamentally changed how claims are reviewed by requiring an assessment of whether the Veteran participated in a Toxic Exposure Risk Activity (TERA). The assessment is required even when the Veteran does not affirmatively assert the claimed issue is related to a TERA. As of July 31, 2024, the C&P ESR pending inventory for Medical Disability Examination (MDE) vendors was approximately 258,055 with nearly 99,000 (38.3%) of those being PACT Act-related ESRs. When excluding PACT Act ESRs, MDE pending inventory was approximately 159,302, a decrease of 3.6% from the same period in FY 2023 (165,243). In FY 2024, the average days to complete (ADC) averaged 35.7 days and the average days pending (ADP) averaged 29.6 days.

Whenever a Veteran applies for benefits, our goal is to work with the Veteran to gather the medical evidence necessary to get to yes. Due to this approach, we have been able to grant benefits for 65% of claims in FY 2024, including 75% of PACT Act-related claims, a sharp increase from previous years. As a part of this effort, VBA has experienced an increase in the number of exams per claim and an increase in the complexity of the medical opinions associated with these C&P exams, which has led to a \$789 million increase to contract medical exams in the C&P account in FY 2024. For example, the total number of Disability Benefits Questionnaires (DBQs) and medical opinions requested per claim has increased, which results in more work at a higher price per exam. More complex exam types, such as PACT Act exams, which account for 40% of all exams, cost more to complete. In FY24, ESR average costs rose from \$1,266 to \$1,519. TERA exams are more complex because the examiner must review more materials (for example, the Individual Longitudinal Exposure Records, and consider relevant medical literature associated with exposures, and so on).

Due to the unexpectedly high number of exam requests received over the past several years, VA must recompile the vendor exam contracts before reaching the current contract ceiling of 10.8 million exams. Without another contract vehicle in place, VA will no longer be able to use the current contract once the ceiling is reached. The request for an additional \$789 million is separate and independent of our need to recompile the contracts.

## **Improving the Veteran Experience**

Currently, Veterans are contacted by contract exam vendors to schedule their appointment and provided an opportunity to reschedule their examinations within five calendar days following the original appointment date. To enhance the Veteran experience, VBA also is exploring options to allow Veterans the flexibility to schedule

their C&P exams when it is more convenient for the Veteran, including a self-scheduling option. In addition, VBA is partnering with VA's Veterans Experience Office (VEO) to conduct human-centered design research and implement solutions to alleviate Veteran pain points associated with contract exams, such as requiring exam vendors to inquire about accessibility and special transportation needs during the scheduling to process to ensure Veteran needs are met. There will be a focus on streamlining the exam scheduling experience and proactive communications to increase Veterans' understanding of the exam process and build clarity, predictability, and flexibility to meet Veteran needs. We are targeting the implementation of scheduling flexibilities and improved communications with Veterans in FY 2025.

In April 2024, VBA implemented improvements to the Customer Satisfaction survey process. A new customer service contract vendor mails survey cards to directly to Veterans to improve process integrity as recommended by the VA OIG. VBA also enhanced the Customer Satisfaction survey by incorporating a VA trust question, thus allowing VA to gain better insights into Veterans' confidence in the contract exam process in the same way as VA gains insights across the VA enterprise through other Veteran Experience surveys. The Veteran trust score from April 2024 to July 2024 is 92%. VA also incorporated a quick-response (QR) code into the survey, thus reducing Veterans' burden of responding by allowing immediate access to their survey using a smartphone or computer. These changes have improved our overall and online response rates. Our overall response rate has improved from 10% to 19.8% and the online response rate has improved from 39% to 79%. The total customer service responses received for FY 2023 and FY 2024 (as of July 31, 2024) is 799,883. The aggregate customer satisfaction score for FY 2023 and FY 2024 is 95.57% as of July 31, 2024.

### **Contractual Oversight**

As part of the disability compensation process, VBA oversees 18 medical disability exam contracts and 11 ancillary support and oversight contracts. Oversight is accomplished through five independent performance measurements: timeliness by (1) average days to complete and (2) average days pending; (3) production; (4) quality; and (5) the Veteran experience via customer satisfaction. VBA uses ancillary contracts to verify examiners' credentials and execute financial and data audits including invoice validation and beneficiary travel. VBA contracts with a third-party vendor to audit and ensure providers have current and required licensing to practice within their healthcare specialty.

Contract exam vendors are awarded positive incentives for exceeding targets and charged negative incentives for poor performance. VBA holds weekly calls with each vendor to discuss production, quality, policy changes, training, and other contract performance issues. Monthly quality calls are held to provide feedback on any error trends. In addition, VBA provides quarterly performance assessments to each vendor by outlining vendor performance evaluation for each performance metric.

VBA also conducts annual corporate site visits to assess and validate vendor contract compliance. VBA conducts frequent in-person and administrative site visits (virtual desk reviews) to ensure facilities are safe, clean, and accessible. In-person site visits allow VBA to inspect vendor exam locations for compliance with VA standards visually. The virtual desk reviews supplement on-site facility inspections and increase overall oversight of all locations where Veterans obtain exams. Post-site visit reports note best practices and items requiring vendor actions. All action items are tracked until completion. In FY 2023, VBA conducted 288 in-person site visits and has, as of August 23, 2024, already conducted 401 site visits in FY 2024 and has plans to complete at least another 50 site visits by the end of FY 2024. To improve oversight, VBA also conducted a series of joint site visits with all MDE contract vendors to ensure consistency in site inspections and MDE vendor compliance. In addition, VBA requires vendors to inspect their exam facilities to ensure they meet VBA's expectations for clean and accessible locations.

## **Training**

Before conducting any Veteran disability medical exams, all contract examiners require extensive training and undergo the same foundational C&P exam training and certification that VHA examiners are required to complete. Contract examiner required training includes General Certification courses, various specialty courses, and supplemental courses such as Veteran Experience, Understanding Military Culture , Suicide Awareness and Prevention , and Lethal Means Safety. Contract examiners are also required to complete recertification training every five years, or if they have not conducted a disability medical exam in the last 12-months. Additionally, VBA is creating training based on identified error trends, changes to examination requirements, or providing best practices to drive higher-quality disability medical exams.

The VBA contract requires all vendors to provide a detailed annual training plan for all examiners, including all support staff and subcontractors who have routine contact with Veterans or access to their records. This requirement reinforces an understanding of VA standards, regulations, and quality assurance. VBA reviews each plan to confirm it addresses all contract training requirements, training assessments, and evaluation feedback; how the vendor documents completion of required training before scheduling the medical provider to conduct a disability medical exam; and how new trainings are incorporated into training plans. Prior to the approval of training plans, feedback is provided to vendors as appropriate.

Training validation is a critical VBA oversight function because contract examiners may not conduct a disability medical exam without first completing all training requirements. VBA uses rosters of new and active examiners to confirm all newly hired examiners have completed the required certification training prior to being scheduled to conduct exams. VBA also conducts monthly audits using invoiced exams to derive samples of examiners who completed exams. The recently implemented process for validating new examiner training compliance includes full rosters of all active examiners for each vendor and newly inactive examiners. VBA also completes an annual

examiner compliance review of all active examiners to ensure training compliance requirements are met. Capturing this data allows VBA to maintain more accurate information on the number and type of examiners being utilized by each vendor.

## **Quality Compliance**

To assess vendor quality performance, VA conducts DBQ compliance quality audits. VBA reviews a statistically valid sample for each contract using standardized audit criteria, thus resulting in approximately 1,400 quality reviews conducted each month. The quality review confirms the examiner complied with all Government instructions, addressed all questions entirely, and that the exam report aligns with the information of record and includes explanations when it does not. VBA identifies a complete trend analysis of identified errors and communicates with each vendor for process improvement. This vendor quality feedback is provided in various ways, including error citation reports for each contract each month, vendor-specific monthly quality calls, vendor-specific monthly clinician calls, and ad hoc questions and answers. In addition, VBA conducts special focused reviews on specific exam types and providers or based on error trends to provide additional oversight and feedback.

The quality requirement outlined in contracts is 96%, with negative incentives applied when performance is less than 92% and positive incentives when performance is at or greater than 96%. During FY 2024 (through July 2024), VA has completed over 16,000 quality reviews of vendor-completed exam reports, with an aggregate quality score of 96.9%. The aggregate quality performance scores of the 18 vendor contracts from FY 2023 Q3 through FY 2024 Q1 have trended upward, thus culminating with a score of 97.2% for FY 2024 Q1. There was a slight decrease to 96.8% for FY 2024 Q2. However, this decrease is still 0.8% above the quality target of 96% and maintaining the historical upward trend. (Currently, VA is evaluating vendor performances for FY 2024 Q3, which will be available by the end of September 2024.)

## **Examination Access**

VA strives to improve service to Veterans by using VA exam modalities such as Acceptable Clinical Evidence (ACE) and Telehealth (Tele-C&P) exams. Varying exam modalities allow all Veterans, such as those residing in rural areas, housebound Veterans, or those who are elderly and may have difficulty traveling distances, equitable access. In FY 2024 (through July 2024), 417,089 exams were completed using the ACE process, representing a 16.2% increase from FY 2023 and a 41.2% from FY 2022

In FY 2024 (through July 2024), 262,435 exams were completed using the Tele-C&P process, which represents a 13.3% increase from FY 2023 and a 25.1% increase from FY 2022. In addition, vendors deploy mobile units throughout the country to augment existing provider networks and provide a full range of exam services to meet Veterans where they live. These units allow vendors to conduct exams in rural areas of every state within the lower 48 states. Mobile units are equipped to complete general medical and most specialty exams, and diagnostic testing. The units are handicap

accessible, with wheelchair lifts and ramps, and are fully self-contained with a power supply and internet connectivity, thus allowing for secure evidence transmission to VA systems. Vendors continue to expand their mobile unit fleets and collectively have 38 operational individual units.

VA collaborates internally with other offices committed to reaching rural Veterans, such as VBA's Office of Outreach, Transition and Economic Development (OTED) and Office of Field Operations, the Office of Tribal Government Relations, local VHA Outreach Coordinators, and Veterans Service Organizations (VSO) to support claims clinic events by providing on-site C&P exams using MDE vendor mobile units.

MDE vendors have recently begun using innovative measures to complete C&P Exams, such as boothless technology for audio exams, portable visual field-testing units for optometry exams, and portable technology for in-home sleep studies. These technologies allow for mobile testing, thus limiting the need for Veterans to travel in some geographical areas.

In addition to increased exam modalities, MDE vendors use traveling providers and per-diem or rented locations to assist rural Veteran populations. License portability is used by MDE vendors, thus allowing covered examiners to travel across state lines to supplement the provider network in areas with limited medical provider options. In addition to increasing exam modality options, during the exam scheduling process, contract exam vendors are required to include specific language in appointment notification letters regarding accessibility needs.

### **Over-Development Reduction Task Force**

VBA continues to improve claims development to reduce overdevelopment, thus reducing claims processing time and costs associated with exams. In FY 2022, VBA's Office of Policy and Oversight (OPO) established the Over-Development Reduction Task Force (ODRTF), comprised of members across VBA and charged with promoting consistency and quality by analyzing the claims development process and streamlining processes by eliminating unnecessary employee actions. On January 31, 2024, phase II of ODRTF commenced with a focus on improvement in exam processes, including vendor exams, the use of a standardized exam scheduling request tool (Exam Scheduling Assistant (ESA)) that was created within MDEO, and the effectiveness of automated exam ordering.

The task force is exploring opportunities in policy, processes, and technology to eliminate over-development. Numerous action items have already been initiated for improving guidance to field employees on appropriately requesting examinations and preventing redundancy, and employee training to assist claims processors in scheduling more informed, intentional, and accurate requests for disability exams and medical opinions.

VBA also has submitted improvements to the ESA to alleviate ordering unnecessary exams. The ORDTF implemented updates to the ESA in several specific areas to include Predischarge and claims filed within a year, claims for increase, supplemental claims, and individual unemployability to prevent unnecessary requests for disability examinations and medical opinions. In addition, in July 2024, the ODRTF distributed information to all claims processors regarding the expectation that private DBQs and other evidence submitted by claimants will be weighed and considered when deciding claims. Guidance and resources also were provided regarding awareness of inauthentic DBQs.

## **Remand Tiger Team**

VBA's Office of Administrative Review (OAR) conducted a comprehensive process review (CPR) on issues remanded under the Appeals Modernization Act (AMA) by the Board of Veterans' Appeals (Board) during FY 2023 associated with exams and medical opinions. The top remand reasons were inadequate medical opinions (23%) and inadequate exams (11%). During this time, OAR initiated the Remand Tiger Team, which consisted of members from OAR, the Board, Compensation Service, and MDEO. The Remand Tiger Team seeks to improve the decision review and appeals processes by focusing on the reduction of remands. It is important to note that the Board acts independently from VBA. Currently, efforts are underway to implement new procedures and processes associated with contraindicated medical testing and specialist exams that will allow faster compliance with Board to remand directives. These procedures should be fully implemented by the end of the calendar year 2024.

## **GAO/OIG Reports**

In May 2024, OIG issued a report examining contract examiners' facilities and their compliance with the Americans with Disabilities Act (ADA) and Occupational Safety and Health Administration (OSHA) standards (available on the VA OIG website at [www.vaog.gov](http://www.vaog.gov) entitled Better Oversight Needed of Accessibility, Safety, and Cleanliness at Contract Facilities Offering VA Disability Exams). These standards ensure every facility where exams are performed is accessible, safe, and clean. VBA treats the safety of Veterans as its utmost priority and continues to work diligently to enhance Veteran safety and the Veteran experience overall. OIG made nine recommendations, which VBA is acting on, including updating contract requirements and standard operating procedures, and implementing improved customer feedback mechanisms. VBA is targeting completion of these actions by the end of FY 2024. Since July 2023, VBA has been able to implement and close a total of 11 OIG recommendations, 3 GAO recommendations, and close 2 OIG reports and 1 GAO report.

## **Conclusion**

I want to express my appreciation for your continued support of Veterans and their families, caregivers, and survivors. VBA appreciates the authority provided by

Congress to obtain contract examinations for Veterans and transitioning Service members. VBA remains committed to providing timely and accurate disability examinations to Veterans and Service members, while improving their examination experience. Chairman Luttrell, and Ranking Member Pappas, this concludes my testimony. My colleague and I are happy to respond to any questions you or the Subcommittee may have.