

**STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
COMMITTEE ON VETERANS' AFFAIRS
ON
"VA FINANCIAL MANAGEMENT"**

MAY 24, 2017

Chairman Bergman, Ranking Member Kuster, and distinguished members who proudly serve on this subcommittee; On behalf of Charles E. Schmidt, the National Commander of the largest Veteran Service Organization in the United States of America representing more than 2.2 million members; we thank you for the opportunity to comment on this important issue regarding veteran debt collection. It is my duty and honor to represent The American Legion and assist this committee in understanding the Department of Veterans Affairs (VA) debt collection process and touch on areas of improvement, as well as provide insight on how The American Legion assists in these matters.

The American Legion has worked extensively on matters concerning VA debt management and recognizing the importance of these issues has had a dedicated representative at the Debt Management Center (DMC) in Saint Paul, MN since 1978 specifically to support and assist veterans who fall into debt with VA. With nearly 40 years of service our representative has been instrumental in assisting thousands of veterans avoid financial hardships by; filing waivers, negotiating offsets of current VA benefits, establishing reasonable monthly payment plans to avoid financial burdens, and has assisted in ending erroneous collection actions; and has correct or helped to reclaim improper collections.

The VA categorizes debt into six different areas;

- Benefit debt, (including benefits for veterans and burial, and first and third party debts for medical care and hospital services),
- VA program debt (including capital grants, and emergency and humanitarian care debt),
- Vendor debt,
- Employee debt (including payroll, travel, agent cashier, property),
- Intra-governmental debt, and
- Freedom of Information Act debt.¹

Benefit debt is the most common type of debt affecting veterans, which is why The American Legion's primary focus in our debt collection management office is assisting veterans affected

¹ https://drive.google.com/file/d/0B70_mGYT1tJETzZGWUZKYzdGXzg/view

by overpayments of benefits, and addressing how to best mitigate or repay the funds owed. Of the millions of dollars in benefits awarded to veterans by the VA every year, thousands of veterans are paid incorrect amounts. When these incorrect payments are more than the amount due to a veteran, debt is incurred and collection actions will ultimately be triggered. A VA benefit debt can be generated through a number of actions, like; change in income or net worth, dependent status, receipt of retired pay, school attendance, failure to obtain the release of home loan liability, hospitalization, treatment co-payments, overpayments to schools while using the G.I. Bill, and double payments of drill pay and VA benefits pay to members of the Reserves and National Guard.

VA Debt Collection Process within the VHA

According to VA, in 2014, 88% of all debts owed were related to the Veteran Health Administration (VHA), whereas only 8% of all debts owed originated at the Veteran Benefits Administration (VBA).² Once a debt has been created at the regional office of jurisdiction, VA is required to send notice in writing to the subject of the alleged debt. This notice must include the exact amount of the debt, the reason for the debt, and the individuals' rights and remedies in connection with the debt. Additionally, it must inform the debtor that collection may be made through offset of current or future benefits and that interest and administrative costs may be assessed. Once the debt is generated, it is referred to the Debt Management Center (DMC) for collection actions.

Within 30 days the DMC sends a collection due process letter advising the debtor of the debt amount and provides a notice of their rights and obligations. If the debtor is actively drawing benefits, the letter will indicate that failure to respond will result in a full benefit offset beginning with the first pay period 60 days after the date of the notification letter. If the debtor is not actively drawing benefits a second letter is mailed 30 days later as a reminder to take action. The letter advises that if the debt is not satisfied, or an agreeable repayment plan is not established within 60 days, the account will be reported to Credit Collection Agencies as delinquent. The letter will further state that the Treasury Department may refer the account to private collecting agencies and the account may be subject to garnishment of non-federal wages under the Treasury's Administrative Wage Garnishment Program. If no action is taken, third and fourth letters are mailed 30 days apart. If no action is taken 60 days after the third letter, the account is referred to the Treasury Department for active collection.

In our experience, the VA makes every attempt to keep these debts "in-house" and tries to notify the veteran in numerous ways. According to the Code of Federal Regulations (C.F.R.) 1.911 (d), VA is required to send a notice of debt that must include the exact amount of the debt, the reason for the debt, the individual's rights and remedies in connection with the debt, and inform the debtor that collection may be made through offset of current or future benefits and that interest and administrative costs may be added.

Sometimes, notification letters are sent to wrong addresses due to updated information not being provided to the VA debt collection team. Failure to update the system with the correct and

² https://drive.google.com/file/d/0B70_mGYT1tJETzZGWUZKYzdGXzg/view

current contact information can lead to a veteran who owes a debt not being properly informed of their rights. The American Legion calls upon VA to continually update their contact database to ensure the most up-to-date information for a veteran is available so the VA may contact the veteran for a multitude of reasons, including debt collection.

Additionally, a veteran may request copies of the debt and coinciding information from the original office of jurisdiction where the overpayment was created. If the veterans feels necessary, they may file an appeal with VA. If the veteran chooses to file an appeal, then they will need to notify the VA in writing before the 30-day deadline if they are requesting a hearing to contest the debt. The debtor's right to inspect the record is also included in the original debt notification letter.

Many of the issues associated with a veteran incurring a VA based debt is caused by the lack of an integrated records system within the VA. The American Legion recommends the VA implement an integrated system that all VA branches can access for the most up-to-date information regarding a veteran's most recent contact information. Through American Legion Resolution No. 44, we support the VA in creating and implementing an updated and modernized integrated system.³

Furthermore, The American Legion believes that overpayments to veterans who receive benefit pay and drill pay during their Reserve, National Guard drill or Active Duty period can be easily remedied if the VA and Department of Defense (DOD) compare drill records once a month, and not once year or however often they currently do it. When a soldier is activated for their Reserve or National Guard training, or even Active Duty, they are not eligible to receive VA disability payments. The soldier has the option of either receiving either drill or VA disability, and they typically choose the higher of the two. If VA does not stop the payment, then an overpayment is created. It has been our experience that DOD and VA only compare this information every year, or sometimes every few years, sending servicemembers into debt that accumulates over many years. Errors like this are preventable and put unnecessary stress on our nation's heroes. We support any legislation that aims to address this issue using Resolution No. 228: *Timely Processing of Overpayments for Reserve Components and/or Active Duty Pay*, which states that The American Legion supports "plac[ing] greater emphasis on processing of these overpayments for the performance of Reserved Component and/or Active Duty pay so not to have multiple years processed at the same time".⁴

VA Debt Collection Process within the VBA

When a veteran is attending an institution of higher learning VA pays the institution the amount owed for the veteran to attend the school. Sometimes, because of improper reporting, the school is overpaid, and other times the veteran may change his or her course schedule which often results in an overpayment of benefits to the school. Many veterans are unaware their schedule adjustment triggers an overpayment because there is little or no guidance provided to enrolled veterans on VA's policy.

³ The American Legion Resolution No. 44 (2016): [Department of Veterans Affairs Rural Healthcare Program](#)

⁴ American Legion Resolution No. 228 (2016): [Timely Processing of Overpayments for Reserve Components and/or Active Duty Pay](#)

In a study conducted by the Government Accountability Office (GAO), GAO noted that education institutions make frequent errors when reporting enrollment information to VBA and that not all schools send their certifying officials to attend the various training opportunities offered by VBA, contributing to additional improper education claims being filed on behalf of the veteran.⁵

The American Legion recommends that educational institutions authorized to accept GI Bill payments review GAO's report and ensure that they comply with all findings in an effort to avoid future overpayments.

VA Partnership with the Treasury

In most cases, delinquent accounts over 120 days are referred to the Treasury Department for collection. Once a debt is referred to the Treasury Department the debtor is subjected to the Treasury's collection tools, interest, and any administrative fees and veteran service organizations are no longer empowered to assist. The American Legion strongly recommends that veterans who receive debt notification letters from DMC immediately contact an advocate like The American Legion for assistance to prevent the debt from spiraling out of control. It has been the experience of The American Legion that the VA DMC office is much easier and sensitive to the veterans particular circumstances and needs than the Treasury department, which is why veterans need to act quickly to avoid garnishment actions and negative credit reporting.

Finally, the DMC does not charge interest or fees when collecting on compensation and pension debt, a policy that The American Legion strongly. While the DMC does not charge interest on compensation and pension debt, they do assess interest on Home Loan Guaranty, Chapter 34 and Chapter 35 education debts where the rate of interest is 4% for these types of debt.

Conclusion

Debt collection within the VA and Treasury Departments are complicated and nuanced. The American Legion sees room for improvement, and we have highlighted some of those suggestions in this testimony. Overall The American Legion believes that VA does an adequate job in protecting veterans from added exposure when they are identified as having been overpaid and want to ensure that veterans are aware of their rights, resources, and consequences should they neglect to address these issues right away.

And finally, The American Legion calls on DoD and VA to integrate their systems seamlessly so that the responsibility does not fall to the veteran to make notifications to either VA or DoD that should be the responsibility of the departments and the Administration as highlighted in GAO report 16-42.

As always, The American Legion thanks this committee for the opportunity to elucidate the position of the over 2.2 million veteran members of this organization. For additional information

⁵ <https://www.gao.gov/products/GAO-16-42>

regarding this testimony, please contact Mr. Derek Fronabarger, Deputy Director of The American Legion Legislative Division at dfronabarger@legion.org or (202) 861-2700.