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Disability Assistance and Memorial
Affairs, Committee on Veterans' Affairs,
House of Representatives

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VA DISABILITY BENEFITS

Routine Monitoring of
Disability Decisions Could
Improve Consistency

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Highlights of [GAO-06-120T](#), a testimony before the Subcommittee on Disability Assistance and Memorial Affairs, House Committee on Veterans' Affairs

Why GAO Did This Study

The House Subcommittee on Disability Assistance and Memorial Affairs asked GAO to discuss its work on the consistency of disability compensation claims decisions of the Department of Veterans Affairs (VA). GAO has reported wide state-to-state variations in average compensation payments per disabled veteran, raising questions about decisional consistency. In 2003, GAO designated VA's disability programs, along with other federal disability programs, as high risk, in part because of concerns about decisional consistency. Illustrating this issue, GAO reported that inadequate information from VA medical centers on joint and spine impairments contributed to inconsistent regional office disability decisions.

What GAO Recommends

In 2004, GAO recommended that VA develop a plan to use data from a new administrative data system to identify indications of inconsistent decision making that need to be studied. VA concurred but has not yet developed such a plan. In October 2005, GAO recommended that VA develop a strategy for improving consistency of disability examination reports needed by regional offices to make proper decisions across the nation on claims involving joint and spine impairments. VA concurred.

www.gao.gov/cgi-bin/getrpt?GAO-06-120T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Cynthia A. Bascetta at (202) 512-7101.

VA DISABILITY BENEFITS

Routine Monitoring of Disability Decisions Could Improve Consistency

What GAO Found

GAO's November 2004 report explained that adjudicators in the Department of Veterans Affairs often must use judgment in making disability compensation claims decisions. As a result, it is crucial for VA to have a system for routinely identifying the effect of judgment on decisional variations among its 57 regional offices to determine if the variations are reasonable and, if not, how to correct them. In 2002, GAO reported that state-to-state variations of as much as 63 percent in average compensation payments per disabled veteran indicated potential inconsistency. The nature of the criteria that adjudicators must apply in evaluating the degree of impairment due to mental disorders provides an example of the extent of judgment required.

VA's Medical Criteria for Evaluating the Degree of Impairment Due to Mental Disorders

Degree of impairment as characterized in VA's medical criteria	Disability severity rating (in percent)
Totally impaired	100
Deficient in most areas such as work, school, family relations, judgment, thinking, or mood	70
Reduced reliability and productivity	50
Occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks	30
Mild or transient symptoms that decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or symptoms can be controlled by continuous medication	10
Not severe enough to interfere with occupational or social functioning or to require continuous medication	0

Source: VA's Schedule for Rating Disabilities.

GAO's October 2005 report on decisions for joint and spine disabilities showed one important way to improve consistency. Specifically, regional offices often rely on VA's 157 medical centers to examine claimants and provide medical information needed to decide the claims. However, VA has found inconsistency among its medical centers in the adequacy of their joint and spine disability exam reports that regional offices need to decide these claims. As of May 2005, the percentage of exam reports containing the required information varied across the medical centers from a low of 57 percent to a high of 92 percent. This could adversely affect the consistency of disability claims decisions involving joint and spine impairments. Although VA has made substantial progress, more remains to be done to improve the level of consistency in the disability exam reports.

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to discuss our work on the consistency of decisions that the Department of Veterans Affairs (VA) makes on veterans' disability compensation claims. Ensuring that VA's disability decisions are consistent across the nation is vital to ensuring the integrity of VA's disability program. In 2002, we reported that wide variations existed across the nation in the average compensation payments per disabled veteran, and we recommended that VA study such indications of inconsistency in the decision making of its 57 regional offices.¹ As you know, in January 2003, GAO designated VA's disability program, along with other federal disability programs, as high risk, in part because of concerns about the consistency of decision making.²

In December 2004, the media published data showing that the average compensation payment per disabled veteran varied from a low of \$6,710 in Ohio to a high of \$10,851 in New Mexico. In response, the Secretary asked the Office of Inspector General in December 2004 to study the reasons for the wide variations in average payments, and in May 2005, the Inspector General reported its findings and made recommendations for improvement.³ As the Inspector General found, much needs to be done to ensure that VA renders consistent decisions across the nation.

As you requested, my remarks today will draw upon two GAO reports. The first, issued in November 2004, addressed VA's need for a systematic approach to identifying consistency issues that need to be studied in detail.⁴ The second report, issued on October 12, 2005, examined VA's efforts to achieve consistency among its medical centers in the quality of the medical information they provide to regional offices in order to make decisions on disability claims involving impairments of joints and the

¹GAO, *Veterans' Benefits: Quality Assurance for Disability Claims and Appeals Processing Can Be Further Improved*, [GAO-02-806](#) (Washington, D.C.: Aug. 16, 2002).

²GAO, *High-Risk Series: An Update*, [GAO-03-119](#) (Washington, D.C.: January 2003).

³VA Office of Inspector General, *Review of State Variances in VA Disability Compensation Payments*, Report No. 05-00765-137 (Washington, D.C.: May 19, 2005).

⁴GAO, *Veterans Benefits: VA Needs Plan for Assessing Consistency of Decisions*, [GAO-05-99](#) (Washington, D.C.: Nov. 19, 2004).

spine.⁵ Improving the quality of the medical information for these impairments could improve VA's decisional consistency.

In summary, as we reported in November 2004, VA's adjudicators often must use judgment in making disability decisions. As a result, variation is an inherent factor in the decision-making process. This makes it crucial that VA have a system for routinely identifying variations among its 57 regional offices so that such variations can be studied to determine if they are within the bounds of reasonableness and, if not, how to correct the problem. Also, as we reported in October 2005, to achieve consistency, VA must deal with issues involving not only its regional offices but also its 157 medical centers which conduct most of the disability examinations that regional offices rely on to provide the medical information they need to make disability decisions. As we reported, VA has found inconsistency among its medical centers in the extent to which they provide regional offices with exam reports containing all the medical information needed to ensure that regional offices make decisions awarding the appropriate level of benefits to veterans with joint and spine impairments. Some medical centers consistently provide high-quality exam reports, while others do not, which means the benefits awarded to veterans with similar joint and spine impairments could differ, depending on which medical center examined them. Although VA has made substantial progress in correcting this problem, more remains to be done to ensure that all medical centers provide exam reports containing adequate information for regional offices to make proper decisions.

Background

Regardless of a veteran's employment status or level of earnings, VA's disability compensation program pays monthly cash benefits to eligible veterans who have service-connected disabilities resulting from injuries or diseases incurred or aggravated while on active military duty. A veteran starts the disability claims process by submitting a claim to one of the 57 regional offices administered by the Veterans Benefits Administration (VBA). In the average compensation claim, the veteran claims about five disabilities for which the regional office must develop the evidence required by law and federal regulations, such as military records and medical evidence. To obtain the required medical evidence, VBA's regional offices often arrange medical examinations for claimants. For example, in

⁵GAO, *Veterans' Disability Benefits: VA Could Enhance Its Progress in Complying with Court Decision on Disability Criteria*, [GAO-06-46](#) (Washington, D.C.: Oct. 12, 2005).

fiscal year 2004, VBA's 57 regional offices asked the 157 medical centers administered by the Veterans Health Administration (VHA) to examine about 500,000 claimants and provide examination reports containing the medical information needed to decide the claim.

On the basis of the evidence developed by the regional office, an adjudicator determines whether each disability claimed by the veteran is connected to the veteran's military service. Then, by applying medical criteria contained in VA's Rating Schedule, the adjudicator evaluates the degree of disability caused by each service-connected disability in order to determine the veteran's overall degree of service-connected disability. The degree of disability is expressed as a percentage, in increments of 10 percentage points—for example, 10 percent, 20 percent, 30 percent, and so on, up to 100 percent disability. The higher the percentage of disability, the higher the benefit payment received by the veteran.

If a veteran disagrees with the regional office adjudicator's decision on whether a disability is service-connected or on the appropriate percentage of disability, the veteran may file a Notice of Disagreement. The regional office then provides a further written explanation of the decision, and if the veteran still disagrees, the veteran may appeal to VA's Board of Veterans' Appeals. Before appealing to the board, a veteran may ask for a review by a regional office Decision Review Officer, who is authorized to grant the contested benefits based on the same case record that the original adjudicator relied on to make the initial decision.

After appealing to the board, if a veteran disagrees with the board's decision, the veteran may appeal to the U.S. Court of Appeals for Veterans Claims, which has the authority to render decisions establishing criteria that are binding on future decisions made by VA's regional offices as well the board. For example, in *DeLuca v. Brown*, 8 Vet. App. 202 (1995), the court held that when federal regulations define joint and spine impairment severity in terms of limits on range of motion, VA claims adjudicators must consider whether range of motion is further limited by factors such as pain and fatigue during "flare-ups" or following repetitive use of the impaired joint or spine. Previous to this decision, VA had not explicitly considered whether such additional limitations existed because VA contended that its Rating Schedule incorporated such considerations.

VA Needs a System for Routinely Monitoring Variations Inherent in Deciding Disability Claims

Because adjudicators often must use judgment when deciding disability compensation claims, variations in decision making are an inherent possibility. While some claims are relatively straightforward, many require judgment, particularly when the adjudicator must evaluate (1) the credibility of different sources of evidence; (2) how much weight to assign different sources of evidence; or (3) disabilities, such as mental disorders, for which the disability standards are not entirely objective and require the use of professional judgment. Without measuring the effect of judgment on decisions, VA cannot provide reasonable assurance that consistency is acceptable. At the same time, it would be unreasonable to expect that no decision-making variations would occur.

Consider, for example, a disability claim that has two conflicting medical opinions, one provided by a medical specialist who reviewed the claim file but did not examine the veteran, and a second opinion provided by a medical generalist who reviewed the file and examined the veteran. One adjudicator could assign more weight to the specialist's opinion, while another could assign more weight to the opinion of the generalist who examined the veteran. Depending on which medical opinion is given more weight, one adjudicator could grant the claim and the other could deny it. Yet a third adjudicator might conclude that the competing evidence provided an approximate balance between the evidence for and the evidence against the veteran's claim, which would require that the adjudicator apply VA's "benefit-of-the-doubt" rule and decide in favor of the veteran.

An example involving mental disorders also demonstrates how adjudicators sometimes must make judgments about the degree of severity of a disability. The disability criteria in VA's Rating Schedule provide a formula for rating the severity of a veteran's occupational and social impairment due to a variety of mental disorders. This formula is a nonquantitative, behaviorally oriented framework for guiding adjudicators in choosing which of the degrees of severity shown in table 1 best describes the claimant's occupational and social impairment.

Table 1: VA’s Medical Criteria for Evaluating the Degree of Occupational and Social Impairment Due to Mental Disorders

Degree of occupational and social impairment as characterized in VA’s medical criteria	Disability rating (in percent)
Totally impaired	100
Deficient in most areas such as work, school, family relations, judgment, thinking, or mood	70
Reduced reliability and productivity	50
Occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks	30
Mild or transient symptoms that decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or symptoms can be controlled by continuous medication	10
Not severe enough to interfere with occupational or social functioning or to require continuous medication	0

Source: VA’s Schedule for Rating Disabilities.

Note: The Veterans’ Disability Benefits Commission is currently reviewing the appropriateness of VA’s Rating Schedule, including the criteria for mental disorders.

Similarly, VA does not have objective criteria for rating the degree to which certain spinal impairments limit a claimant’s motion. Instead, the adjudicator must assess the evidence and decide whether the limitation of motion is “slight, moderate, or severe.” To assess the severity of incomplete paralysis, the adjudicator must decide whether the veteran’s paralysis is “mild, moderate, or severe.” The decision on which severity classification to assign to a claimant’s condition could vary in the minds of different adjudicators, depending on how they weigh the evidence and how they interpret the meaning of the different severity classifications.

Despite the inherent variation, however, it is reasonable to expect the extent of variation to be confined within a range that knowledgeable professionals could agree is reasonable, recognizing that disability criteria are more objective for some disabilities than for others. For example, if two adjudicators were to review the same claim file for a veteran who has suffered the anatomical loss of both hands, VA’s disability criteria state unequivocally that the veteran is to be given a 100 percent disability rating. Therefore, no variation would be expected. However, if two adjudicators were to review the same claim file for a veteran with a mental disability, knowledgeable professionals might agree that it would not be out of the bounds of reasonableness for these adjudicators to diverge by 30 percentage points but that wider divergences would be outside the bounds of reasonableness.

The fact that two adjudicators might make differing, but reasonable, judgments on the meaning of the same evidence is recognized in the design of the system that VBA uses to assess the accuracy of disability decisions made by regional office adjudicators. VBA instructs the staff who review the accuracy of decisions to refrain from charging the original adjudicator with an error merely because they would have made a different decision than the one made by the original adjudicator. VBA instructs the reviewers not to substitute their own judgment in place of the original adjudicator's judgment as long as the original adjudicator's decision is adequately supported and reasonable.

Because of the inherent possibility that different adjudicators could make differing decisions based on the same information pertaining to a specific impairment, we recommended in November 2004 that the Secretary of Veterans Affairs develop a plan containing a detailed description of how VA would (1) use data from a newly implemented administrative information system—known as Rating Board Automation 2000—to identify indications of decision-making inconsistencies among the regional offices for specific impairments and (2) conduct systematic studies of the impairments for which the data reveal possible inconsistencies among regional offices. VA concurred with our recommendation but has not yet developed such a plan. At this point, VA has now collected 1 full year of data using the new administrative data system, which should be sufficient to begin identifying variations and then assessing whether such variations are within the bounds of reasonableness.

Inconsistent Quality Of Disability Examination Reports Underscores Need to Monitor Consistency of Decisions

Because the existing medical records of disability claimants often do not provide VBA regional offices with sufficient evidence to decide claims properly, the regional offices often ask VHA medical centers to examine the claimants and provide exam reports containing the medical information needed to make a decision. Exams for joint and spine impairments are among the exams that regional offices most frequently request.⁶

To comply with the *DeLuca* decision's requirements for joint and spine disability exam reports, VHA instructs its medical center clinicians to make not only an initial measurement of the range of motion in the impaired joint or spine but also to measure range of motion after having the claimant flex the impaired joint or spine several times. This is done to determine the extent to which repeated motion may result in pain or fatigue that further degrades the functioning of the impaired joint or spine. In addition, the clinician also is instructed to determine if the claimant experiences flare-ups from time to time, and if so, how often such flare-ups occur and the extent to which they limit the functioning of the impaired joint or spine. However, in a baseline study conducted in 2002, VA found that 61 percent of the exam reports on joint and spine impairments did not provide sufficient information on the effects of repetitive movement or flare-ups to comply with the *DeLuca* criteria.

We reported earlier this month on the progress VA had made since 2002 in ensuring that its medical centers consistently prepare joint and spine exam reports containing the information required by *DeLuca*. We found that, as of May 2005, the percentage of joint and spine exam reports not meeting the *DeLuca* criteria had declined substantially from 61 percent to 22 percent. Much of this progress appeared attributable to a performance measure for exam report quality established by VHA in fiscal year 2004 after both VHA and VBA had taken a number of steps to build a foundation

⁶Because of workload issues at some VHA medical centers, 10 of VBA's 57 regional offices request most of their disability exams from a private contractor, QTC Medical Services. These 10 regional offices are San Diego, California; Los Angeles, California; Salt Lake City, Utah; Seattle, Washington; Atlanta, Georgia; Winston-Salem, North Carolina; Boston, Massachusetts; Roanoke, Virginia; Houston, Texas; and Muskogee, Oklahoma. To assess the quality of QTC exam reports, VBA uses a review system separate from the system for reviewing the quality of VHA medical center exam reports. According to VBA officials responsible for reviewing QTC exam report quality, VBA deemed about 95 percent of QTC's exam reports to be adequate during the quarter ending October 31, 2004. However, the method used to select the review sample does not provide statistically reliable results for any specific type of impairment, such as joint or spine impairments.

for improvement. This included creating the Compensation and Pension Examination Project Office, a national office established in 2001 to improve the disability exam process, and providing extensive training to VHA and VBA personnel.

While VA made substantial progress in ensuring that its medical centers' exam reports adequately address the *DeLuca* criteria, a 22 percent deficiency rate indicated that many joint and spine exam reports still did not comply with *DeLuca*. Moreover, in relation to the issue of consistency, the percentage of exam reports satisfying the *DeLuca* criteria varied widely across the 21 health care networks that manage VHA's 157 medical centers—from a low of 57 percent compliance to a high of 92 percent. It should be noted that the degree of variation is likely even greater than indicated by these percentages because, within any given health care network, an individual medical center's performance in meeting the *DeLuca* criteria may be lower or higher than the combined average performance for all the medical centers in that specific network. Therefore, in the network that had 57 percent of its joint and spine exams meeting *DeLuca* criteria, an individual medical center within that network may have had less than 57 percent meeting the *DeLuca* criteria. Conversely, in the network that had 92 percent of the exams meeting the *DeLuca* criteria, an individual medical center within that network may have had more than 92 percent satisfying *DeLuca*. Unless medical centers across the nation consistently provide the information required by *DeLuca*, veterans claiming joint and spine impairments may not receive consistent disability decisions.

Further, VA has found deficiencies in a substantial portion of the requests that VBA's regional offices send to VHA's medical centers, asking them to perform disability exams. For example, VA found in early 2005 that nearly one-third of the regional office requests for spine exams contained errors such as not identifying the pertinent medical condition or not requesting the appropriate exam. However, VBA had not yet established a performance measure for the quality of the exam requests that regional offices submit to medical centers.

To help ensure continued progress in satisfying the *DeLuca* criteria, we recommended that the Secretary of Veterans Affairs direct the Under Secretary for Health to develop a strategy for improving consistency among VHA's health care networks in meeting the *DeLuca* criteria. For example, if performance in satisfying the *DeLuca* criteria continues to vary widely among the networks during fiscal year 2006, VHA may want to consider establishing a new performance measure specifically for joint

and spine exams or requiring that medical centers use automated templates developed for joint and spine exams, provided an in-progress study of the costs and benefits of the automated exam templates supports their use. We also recommended that the Secretary direct the Under Secretary for Benefits to develop a performance measure for the quality of exam requests that regional offices send to medical centers.

Conclusions

As a national program, VA's disability compensation program must ensure that veterans receive fair and equitable decisions on their disability claims no matter where they live across the nation. Given the inherent risk of variation in disability decisions, it is incumbent on VA to ensure program integrity by having a credible system for identifying indications of inconsistency among its regional offices and then remedying any inconsistencies found to be unreasonable. Until assessments of consistency become a routine part of VA's oversight of decisions made by its regional offices, veterans may not consistently get the benefits they deserve for disabilities connected to their military service, and taxpayers may not trust the effectiveness and fairness of the disability compensation program.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you or the members of the subcommittee may have.

Contact and Acknowledgments

For further information, please contact Cynthia A. Bascetta at (202) 512-7101. Also contributing to this statement were Irene Chu and Ira Spears.

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