STATEMENT OF
JON A. WOODITCH
ACTING INSPECTOR GENERAL
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
HEARING ON VARIANCES IN DISABILITY COMPENSATION CLAIMS DECISIONS
OCTOBER 20, 2005

Mr. Chairman and other distinguished members of the Subcommittee, I am pleased to be here today to address the May 2005 Department of Veterans Affairs (VA), Office of Inspector General (OIG) report, *Review of State Variances in VA Disability Compensation Payments*. Last December, the VA Secretary asked the Inspector General to conduct this review. His request was in response to a letter which he received from several concerned Members of Congress.

EXECUTIVE SUMMARY

Variances in average annual disability compensation payments by state have existed for decades. The factors that influence these payments are complex and intertwined. Our review concluded that some variance in average annual disability compensation payments by state is to be expected. For every state to have similar average payments, every factor that affects payments would have to be virtually similar. This is not the case.

Compensation payments by state are affected by veteran demographics and benefit rating decisions. Underlying factors, such as – medical examination reports that do not consistently provide sufficient data for rating purposes, incomplete case development, a rating schedule that is subject to differing interpretations, and other factors – can also impact average annual disability compensation payments by state.

Demographic factors – such as the percentage of veterans whose claims are represented by veterans service organizations, rank, military retiree population, and the numbers of dependents – not only vary by state, but are generally beyond VA influence. On the other hand, factors such as disability compensation rating decisions over which VA has direct influence also impact average disability compensation payments.

Our analysis of rating decisions shows that for disabilities that can be independently validated based on physical measurements, such as amputations, the assigned degrees of disability are consistent nationwide. However, other disabilities are inherently more susceptible to variations in rating determinations. For example, conditions involving mental disorders, such as post-traumatic stress disorder (PTSD), where much of the information needed to make a rating decision is not physically apparent and, as such, much more difficult to document, are more susceptible to interpretation and judgment. This subjectivity leads to inconsistency in rating decisions which, in turn, contributes to variances in average annual disability compensations payments by state.

BACKGROUND

For fiscal year (FY) 2004, approximately 2.5 million veterans in the 50 states received disability compensation benefits totaling $20.9 billion. These benefits reflect claims decisions made during the past 60 plus years by VA employees located at 57 regional offices nationwide. As of the end of FY 2004, the national average annual payment per veteran was $8,378. Average annual payments by state ranged from a low of $6,961 in Illinois to a high of $12,004 in New Mexico. Essentially this means that, on average, veterans in New Mexico receive $5,043 more per year than veterans in Illinois. For analysis purposes, we extracted 6 years of data (FY 1999 through FY 2004) from VBA information systems. We grouped the highest six average payment states and the lowest six average payment states, which we referred to as the "high cluster" and the "low cluster."

Recognizing that some variance in average annual compensation payments by state is expected, we conducted our review to determine why the variance exist and whether there is cause for concern. Our review included:

- An examination of demographic and claims processing factors
- A review of 2,100 claims folders
- A survey of 1,992 Veterans Benefits Administration (VBA) rating specialists and decision review officers
- A review of the quality of disability medical examinations
- A review of the VBA Statistical Technical Accuracy Review (STAR) program
- Impact of legislated pay increases
- A review of past studies and reports completed during the past 50 years that addressed issues relevant to the viability of a rating schedule created in 1945

Our report identified a number of factors that influence the variance in disability compensation payments. Two key reasons highlighted in the report are demographic and claims processing factors and rating decisions.

DEMOGRAPHIC AND CLAIMS PROCESSING FACTORS

We analyzed various demographic and claims processing factors to determine which factors impact the variance in average annual payments. Demographic factors are variables that are beyond VA control. The following demographic factors influence the variance in state average annual disability compensation payments.

- Representation – Veterans whose claims are represented by veterans' service organizations receive, on average, $6,225 more per year than those without representation. The high cluster of states shows an average representation of about 70 percent, while the low cluster averages 55 percent.

- Enlisted versus Officer – Data indicates that enlisted veterans receive $1,775 more per year than veterans who served as officers. The high cluster shows an average of 63 percent enlisted personnel receiving benefits compared to 44 percent for the low cluster.

- Retirees versus Non-Retirees – Data indicates that military retirees receive $1,438 more per year than non-military retired claimants. The high cluster averages 28 percent retired military veterans receiving compensation benefits compared to the low cluster, which averages 17 percent.

- Participation of Veterans Receiving Benefits – Data indicates a correlation between the state ranking and the percentage of veterans who reside in a state and who receive disability compensation from VA. For example, the high cluster shows an average of 12 percent of the veterans in those states receiving VA benefits compared to only 8 percent in the low cluster.

  One explanation for this is the rate at which veterans submit new disability claims. Essentially fewer veterans file for benefits in the low cluster of states. For example, the rate of new claims for the high cluster was 103 claims per 1,000 veterans in the state, compared to only 44 claims per 1,000 veterans in the low cluster.

- Period of Service – Vietnam veterans receive, on average nationwide, $2,328 more in annual compensation payments than veterans in the next highest period of service; and there is a correlation between the percentage of recipients who are Vietnam veterans and the state rankings. For the high cluster, 39 percent of the veterans receiving compensation are Vietnam veterans, compared to 34 percent in the low cluster.

  The impact of period of service on the variance is more definitive when analyzing the mix of different periods of service. For example, states with a high percentage of Vietnam veterans and a low percentage of World War II veterans will have higher average annual compensation payments.

- Dependents – Nationally, veterans with dependents receive more per year than veterans without dependents. The percentage of veterans with dependents in the high cluster averaged 44 percent compared to 30 percent in the low cluster.

Brokered claims, transferred cases, and grant and denial rates are claims processing factors that might impact average annual disability compensation payments by state, but VA did not collect and report this information. Brokered claims are cases that are transferred to other states for adjudication due to workload demands. In FY 2004, 13.3 percent, or more than 91,000 cases, were brokered to other states. Transferred cases involve cases originally adjudicated in one state and later transferred and paid out in another state. The concern here, as with brokered cases, raises the issue that average annual disability awards by a particular state can be influenced by rating decisions made in other states. The other factor that might impact the variance would be grant and denial rates for compensation claims. Although VBA published grant rates for a period of years through FY 2002, it discontinued the practice because the data was determined to

be incomplete and misleading. Since this data is no longer collected, we were unable to determine the impact these rates had on the variance, if any.

Our concern over the lack of information is consistent with the November 2004 Government Accountability Office report, *VA Needs Plan for Assessing Consistency of Decisions,* which reported that VA does not systematically assess decision-making consistency among the 57 regional offices because data collected by VA does not provide a reliable basis for identifying indications of inconsistencies.

Our review of demographic factors helped to explain that some variance in average annual compensation payments by state is to be expected. To determine whether the magnitude of the variance was acceptable or problematic, we performed an analysis of ratings data nationwide.

DISABILITY COMPENSATION RATINGS

Our analysis of ratings data shows that some disabilities are inherently more susceptible to variations in ratings decisions. This is attributed to a combination of factors, including a rating schedule that is based on a 60-year-old model and some diagnostic conditions that lend themselves to more subjective decision making.

As discussed in our report, the VA disability rating program is based on a 1945 model that does not reflect modern concepts of disability. Over the past 5 decades various commissions and studies have repeatedly reported concerns about whether the rating schedule and its governing concepts of average impairment adequately reflects medical and technological advancements, changes in workplace opportunities, and earning capacity for disabled veterans.

Although some updates to the rating schedule have occurred, proponents for improving the accuracy and consistency of ratings advocate that a major restructuring of the rating schedule is long overdue. This is evidenced by the fact that even updated sections of the rating schedule continue to result in inconsistent ratings for veterans with the same diagnosis, because rating criteria remains imprecise and confusing. For example, the rating schedule for a sciatic nerve condition causing paralysis of the foot has the following five possible ratings:

- 10% - Mild
- 20% - Moderate
- 40% - Moderately Severe
- 60% - Marked Muscular Atrophy
- 80% - Completely Disabling

Our concern is that the rating schedule does not define the first three levels, so when a rating specialist gets a medical examination pertaining to this condition, they must interpret it and try to align it with one of the rating levels. This results in inconsistent ratings for the same condition because what one rater will interrupt as a mild condition, another may interpret as a moderately severe condition. Our survey of rating specialists and decision review officers resulted in 52 percent responding that they could support two or more different ratings for the same medical condition.

For disabilities that can be independently validated based on physical measurements, the assigned degrees of disability were consistent. Our review of data for 276,000 veteran claims with Musculoskeletal and Auditory disabilities, such as above-the-knee or below-the-knee amputations, tinnitus, and total deafness, found that veterans received consistent ratings nationwide.

However, the rating schedule criteria for other body systems, such as mental disorders, were more susceptible to interpretation and judgment. We selected the mental disorder system for further analysis because it had the highest overall nationwide rating average of 58 percent, and it included PTSD, which is the fastest growing disability condition.

From FYs 1999 to 2004, the number and percentage of PTSD cases increased significantly. While the total number of all veterans receiving disability compensation grew by only 12 percent, the number of PTSD cases grew by 80 percent – from 120,000 cases in 1999 to over 215,000 cases in 2004. During the same period, PTSD benefits payments increased 149 percent from $1.7 billion to $4.3 billion, while compensation for all other disability categories only increased by 42 percent. While veterans being compensated for PTSD represented only 9 percent of all compensation recipients, they received 21 percent of all payments. Also, the number of 100 percent ratings for PTSD increased from 34,568 in FY 1999 to 102,177 in FY 2004, for a 195.6 percent increase.

Data shows that differences in the number of 100 percent rated PTSD cases approved by state accounts for 34 percent of the variance. Basically, this means that $1,720 of the $5,043 variance is attributed to these ratings. The driver is not the amount of the awards but the variance in the number and percentage of veterans with 100 percent PTSD ratings in each state. States with higher average annual disability benefit payments have higher percentages of 100 percent PTSD ratings. For example, New Mexico has the highest payment average of $12,004, and 12.6 percent of its veterans are rated 100 percent for PTSD. Illinois has the lowest average payment of $6,961 and only 2.8 percent of its compensation recipients are rated 100 percent.

PTSD CASE REVIEW

To understand why this variance may be occurring, we reviewed 2,100 PTSD cases at seven VBA regional offices and found required procedures for documenting rating decisions were not consistently followed, and that raters approached stressor verification requirements differently from state to state. In 527 (25 percent) of the 2,100 cases reviewed, we found inconsistencies in the methods raters used to develop and verify veteran-reported evidence about the claimed service-related stressor event before granting compensation benefits. The error rate ranged from a low of 11 percent in Oregon to a high of 40.7 percent in Maine. The bottom line is that there was no documentation in the 527 case files to support the claim that the PTSD was caused by an event related to military service.

The 25 percent error rate is not an indicator of fraud. It reflects noncompliance with VBA rules and regulations concerning required documentation to justify and support rating decisions. These documentation requirements are essentially internal controls designed to ensure veterans

receive everything they are entitled to under the law, and to serve as a basis for declining claims when the required documentation does not exist.

To demonstrate the potential consequence of not obtaining or developing adequate evidence to support a PTSD claim, the 25 percent error rate equates to questionable compensation payments totaling $860.2 million in FY 2004. Over the lifetimes of these claims, the questionable payments would be an estimated $19.8 billion if all 25 percent were found to be unsupported. It is important to note that we recommended that VBA do a 100 percent review of all PTSD cases rated 100-percent in order to identify specific claims that were not supported with the required documentation and to rework those cases accordingly. VBA concurred with this recommendation and agreed to review approximately 72,000 100 percent rated PTSD cases approved between FY 1999-2004.

Our intent in reviewing the 72,000 cases is to have VA identify instances where the documentation requirements were not complied with, and to work with the veterans and their representatives to identify and obtain the required supporting evidence. In those cases where it is determined that the claimant is not entitled to receive disability compensation, we believe that appropriate due process action should be initiated to resolve the matter.

We also determined that veterans sought less mental health treatment after their ratings were increased to 100 percent. Of 92 PTSD cases reviewed, we found that 39 percent had a 50 percent or greater decline in mental health visits after obtaining a 100 percent status. The average decline in visits was 82 percent, with some veterans receiving no mental health treatment at VA facilities they were routinely visiting prior to receiving the 100 percent rating. While mental health visits declined, some of these veterans continued to receive all other medical care at the VA. This situation raises several important questions. Are veterans receiving the mental health care they need? How effective is VA's diagnosis and treatment for PTSD? Does the compensation program serve as an incentive to some veterans to exaggerate PTSD symptoms for the monetary benefits? We believe VBA should look at this issue in its review of all 100 percent PTSD ratings.

OTHER ISSUES

As part of our review, we issued a questionnaire to 1,992 VBA rating specialists and decision review officers to gain their perspective on training and other issues that affect the rating of disability claims; 1,349 responded, 45 percent of the respondents are veterans, and 59 percent have service-connected disabilities. Results included:

- Sixty-five percent reported insufficient staff to ensure timely and quality service.

- Fifty-two percent responded they could support two or more different ratings for the same medical condition.

- Forty-one percent estimated that 30 percent or more of the claims were not ready to rate when presented for rating.

- Twenty percent estimated that more than 10 percent were actually rated without all the needed information.

Another factor impacting the consistency of ratings is insufficient medical examination reports. Our review determined that medical disability examination reports do not consistently provide the specific information needed for rating purposes. Based on our questionnaire of 1,992 rating specialists and decision review officers, 32 percent of the respondents estimated that 20 percent or more of the medical examination reports provided for rating purposes were incomplete and should have been returned. To overcome this problem, the VA Compensation and Pension Examination Program is developing automated medical examination templates to provide a means for structured data entry of all information needed for rating decision purposes. However, at the time of our review, very few raters were familiar with the examination report templates.

We assessed the effectiveness of the STAR program in identifying and reducing processing errors in rating decisions. STAR managers said that for many disabilities the rating schedule is subjective and ratings assigned by different raters could vary and still be considered correct. They also said that they do not identify or analyze rating inconsistencies among raters or states. Nor did the STAR program detect the evidence development weaknesses identified in our review of the 2,100 PTSD cases.

We also reviewed prior internal and external studies conducted during the last 50 years that addressed the rating schedule as the basis for compensating veterans with service-connected disabilities. Although done at different times, these studies have repeatedly raised questions about whether or not the rating schedule reflected economic, medical, and social changes on the earning capacity of disabled veterans since 1945.

Fraudulent and improper claims are additional factors that will unnecessarily increase the amount of disability compensation payments if left unchecked. From FY 1999 to 2004, the OIG successfully prosecuted 455 individuals who committed VA compensation and pension fraud. These cases resulted in $25.6 million in fraudulent payments.

CONCLUSION

Variances in average annual disability compensation payments by state have existed for decades. The factors that influence these payments are complex and intertwined. As stated in our report, compensation payments by state are affected by veteran demographics and inconsistent benefit rating decisions. Some disabilities are inherently prone to subjective rating decisions, especially for conditions such as PTSD. This subjectivity will cause inconsistencies in rating decisions which, in turn, contribute to variances in average annual compensation payments by state.

RECOMMENDATIONS

To address the issues raised in this report, we made the following recommendations. The Under Secretary for Benefits agreed with the findings of this report and our recommendations.

1. Conduct a scientifically sound study using statistical models, such as a multi-variant regression analysis, of the major influences on compensation payments to develop baseline data and metrics for monitoring and managing variances, and use this information to develop and implement procedures for detecting, correcting, and preventing unacceptable payment patterns.

2. Coordinate with the Veterans' Disability Benefits Commission to ensure all potential issues concerning the need to clarify and revise the Schedule for Rating Disabilities are reviewed, analyzed, and addressed.

3. Conduct reviews of rating practices for certain disabilities, such as PTSD, IU, and other 100-percent ratings, to ensure consistency and accuracy nationwide. At a minimum, these reviews should consist of data analysis, claims file reviews, and onsite evaluation of rating and management practices.

4. Expand the national quality assurance program by including evaluations of PTSD rating decisions for consistency by regional office, and to ensure sufficient evidence to support the rating is fully developed and documented, such as verifying the stressor event.

5. Coordinate with the Veterans Health Administration to improve the quality of medical examinations provided by VA and contract clinicians, and to ensure medical and rating staff are familiar with approved medical examination report templates and that the templates are consistently used.

6. In view of growing demand, the need for quality and timely claims decisions, and the ongoing training requirements, reevaluate human resources and ensure the VBA field organization is adequately staffed and equipped to meet mission requirements.

7. Consider establishing a lump-sum payment option in lieu of recurring monthly payments for veterans with disability ratings of 20 percent or less.

8. Undertake a more detailed analysis to identity differences in claims submission patterns to determine if certain veteran sub-populations, such as World War II, Korean Conflict, or veterans living in specific locales, have been underserved, and perform outreach based on the results of the analysis to ensure all veterans have equal access to VA benefits.

This concludes my statement. I would like to once again thank Chairman Miller and the other members of the Subcommittee for this opportunity, and welcome any questions you may have.