

THE 100% TEMPORARY DISABILITY RATING: AN EXAMINATION OF ITS EFFECTIVE USE

HEARING BEFORE THE SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS OF THE COMMITTEE ON VETERANS' AFFAIRS U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS FIRST SESSION

TUESDAY, FEBRUARY 5, 2013

Serial No. 113-2

Printed for the use of the Committee on Veterans' Affairs



U.S. GOVERNMENT PRINTING OFFICE

78-764

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON VETERANS' AFFAIRS

JEFF MILLER, Florida, *Chairman*

DOUG LAMBORN, Colorado
GUS M. BILIRAKIS, Florida
DAVID P. ROE, Tennessee
BILL FLORES, Texas
JEFF DENHAM, California
JON RUNYAN, New Jersey
DAN BENISHEK, Michigan
TIM HUELSKAMP, Kansas
MARK E. AMODEI, Nevada
MIKE COFFMAN, Colorado
BRAD R. WENSTRUP, Ohio
PAUL COOK, California
JACKIE WALORSKI, Indiana

MICHAEL H. MICHAUD, Maine, *Ranking
Minority Member*
CORRINE BROWN, Florida
MARK TAKANO, California
JULIA BROWNLEY, California
DINA TITUS, Nevada
ANN KIRKPATRICK, Arizona
RAUL RUIZ, California
GLORIA NEGRETE MCLEOD, California
ANN M. KUSTER, New Hampshire
BETO O'ROURKE, Texas
TIMOTHY J. WALZ, Minnesota

HELEN W. TOLAR, *Staff Director and Chief Counsel*

SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

JON RUNYAN, New Jersey, *Chairman*

DOUG LAMBORN, Colorado
GUS M. BILIRAKIS, Florida
MARK AMODEI, Nevada
PAUL COOK, California

DINA TITUS, Nevada, *Ranking Minority
Member*
BETO O'ROURKE, Texas
RAUL RUIZ, California
GLORIA NEGRETE MCLEOD, California

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

February 5, 2013

	Page
The 100% Temporary Disability Rating: An Examination Of Its Effective Use	1
OPENING STATEMENTS	
Hon. Jon Runyan, Chairman, Disability Assistance and Memorial Affairs	1
Prepared Statement of Hon. Runyan	22
Hon. Dina Titus, Ranking Minority Member, Subcommittee on Disability Assistance and Memorial Affairs	2
Prepared Statement of Hon. Titus	22
WITNESSES	
Rick Weidman, Executive Director for Policy and Government Affairs, Vietnam Veterans of America	4
Prepared Statement of Mr. Weidman	23
Linda Halliday, Assistant Inspector General for Audits and Evaluations, Office of the Inspector General, U.S. Department of Veterans Affairs	6
Prepared Statement of Ms. Halliday	25
Accompanied by:	
Larry Reinkemeyer, Director, Kansas City Audit Operations Division, Office of the Inspector General, U.S. Department of Veterans Affairs	
Brent Arronte, Director, San Diego Benefits Inspection Division, Office of the Inspector General, U.S. Department of Veterans Affairs	
Diana Rubens, Deputy Under Secretary for Field Operations, Veterans Benefits Administration, U.S. Department of Veterans Affairs	13
Prepared Statement of Ms. Rubens	30
STATEMENT FOR THE RECORD	
Mr. Carl Blake, National Legislative Director, Paralyzed Veterans of America	32

THE 100% TEMPORARY DISABILITY RATING: AN EXAMINATION OF ITS EFFECTIVE USE

Tuesday, February 5, 2013

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON DISABILITY ASSISTANCE
AND MEMORIAL AFFAIRS,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:53 p.m., in Room 334, Cannon House Office Building, Hon. Jon Runyan [Chairman of the Subcommittee] presiding.

Present: Representatives Runyan, Bilirakis, Amodei, Cook, Titus, and O'Rourke.

OPENING STATEMENT OF CHAIRMAN RUNYAN

Mr. RUNYAN. Good afternoon and welcome everyone. This first oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs for the 113th Congress will now come to order.

I would like to begin this hearing by welcoming all the Members of the Subcommittee, including our new Ranking Member, Congresswoman Titus.

Ms. TITUS. Thank you.

Mr. RUNYAN. You're welcome. I am honored to have the opportunity to continue chairing the DAMA Subcommittee this Congress and look forward to working with all of you. It is my hope that we will all come together in a bipartisan way and share ideas to best serve our Nation's veterans and find practical solutions to the issues before this Subcommittee.

Our hearing topic today will focus on temporary total disability ratings. Temporary total disability ratings serve a very important function in the benefits scheme. This type of rating is assigned when it is established by medical evidence that surgery or certain treatment was performed necessitating a period of recovering during which the veteran cannot work; however, according to a January 2011 report by the VA Office and the Inspector General, VBA has not been correctly processing and monitoring such claims.

As a result, the OIG stated that since January 1993 VBA has overpaid veterans a net amount of \$943 million. The OIG also stated that without timely action, the VBA could overpay veterans a projected 1.1 billion over the next five years. These numbers are troubling to say the least.

As all of us here today are aware, our Nation's fiscal health is one of this Congress' top priorities. Part of this process includes trimming government spending and eliminating government waste.

It is my hope that by bringing attention to this topic we can assure that every dollar appropriated to the VA is being spent properly on care and benefits for our veterans.

We heard from VA in June of last year during sworn testimony that the errors were due to a computer glitch. VA advised that the glitch would be fixed by July 2012.

It is simply unacceptable in a time of tightening belts that over \$1 billion is being wasted by the VA due to a computer error when the money could be put towards benefits and health care for our Nation's veterans.

Nonetheless, two new regional office audits by the OIG last month found that 50 percent of the temporary 100 percent disability evaluations reviewed were incorrect. The explanations given in the OIG audits stated that the 50 percent accuracy rate occurred because the staff did not establish controls to monitor the processed reductions initially, nor did they schedule future medical examinations as required.

So something doesn't add up here. If the computer glitch was fixed in July of 2012, but over 50 percent of the temporary total rating claims were still being processed incorrectly of January 2013, that leads me to believe that these are human errors, not computer errors.

All of us here today are well aware of the growing workload faced by claims examiners; however, we must remember that even though each VA employee touches many veterans' lives every day, an individual veteran has only one file, so it is important to process every claim correctly the first time.

I want to thank the Vietnam Veterans of America, the OIG, and the VA for their valuable input as we work together to find a solution to this problem, and I welcome the witnesses to continue this ongoing discussion and offer their own specific recommendations on how to improve not just temporary disability claims processing, but the entire system of processing disability claims.

I would now like to call on the Ranking Member for her opening statement.

[THE PREPARED STATEMENT OF CHAIRMAN RUNYAN APPEARS IN THE APPENDIX]

OPENING STATEMENT OF HON. DINA TITUS

Ms. TITUS. Well, thank you very much, Mr. Chairman, and thank you for calling today's hearing on this very important topic.

I also want to thank the witnesses for being here and kind of apologize for making you wait for us, but we certainly appreciate you doing so.

As the new Ranking Member of the Disability Assistance and Memorial Affairs Committee, I look forward to working with you, Mr. Chairman, and all the Members of this Committee. Some are not strangers. Mr. Bilirakis and I have been friends for a long time, and Mr. Amodei, who serves on this Committee, is also from Nevada, so I think we can have good bipartisan cooperation as we address these important issues for our veterans.

I also look forward to getting to know the stakeholders better and to work with them as we try to address how our veterans re-

ceive the benefits that they have so honorably earned and truly deserve.

As you mentioned today, we are here to examine 100 percent temporary disability ratings, which is very important to our wounded warriors.

As you know, 100 percent disability ratings provide compensation when a disability prevents a veteran from seeking gainful employment and returning to civilian life that he left or she left.

You know, we have heard though, that this process that this system is not working the way that it should be. Previous audits have pointed out some of the problems, and I think some of those have been addressed.

In January of 2011, the VA Office of the Inspector General discovered that 15 percent of the ratings evaluations were being incorrectly processed. And they projected that these errors could be corrected, but in the meantime, they could cost the VA over \$1 billion in overpayments.

Now, as the Chair mentioned, but it bears repeating, \$1 billion is something to be concerned about. But this doesn't just go one way in terms of overpayments. At the Reno VA regional office, which serves my congressional district in Southern Nevada, the Inspector General found that over half of the 100 percent disability evaluations were incorrectly processed. And while a number of these involved overpayments there were also some under payments, and we certainly don't want our veterans to be underpaid.

For example, we found one veteran with service-connected bone cancer and prostate cancer who was underpaid nearly \$10,000 over a period of three years. We must address this.

The IG reported that 93 percent of these errors could be avoided with three simple fixes: Follow-up exam dates put into electronic records, calendar notifications that are observed and not just ignored or overlooked, and if staff secures the proper medical evidence before changing the evaluation to a permanent rating.

I am concerned that these problems exist in all the areas, not just in Nevada, and that is why we need to look at it nationally.

So I am looking forward to hearing the testimony today, to look at how some improvements have been made, what we need to do to be sure that they all go into effect, and I not only want to hear from you what you have been doing and what the results are, but I need for you to tell us what we as Members of Congress can do to help make your job easier and more efficient and effective.

So thank you very much, Mr. Chairman. I yield to you.

[THE PREPARED STATEMENT OF HON. DINA TITUS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you.

With that, at this time I would like to welcome our first panel to the witness table.

First we will be hearing from Mr. Rick Weidman, Executive Director for Policy and Government Affairs with Vietnam Veterans of America. Next we will hear from Ms. Linda Halliday, Assistant Inspector General for Audits and Evaluations of the VA, Office of the Inspector General. She is accompanied by Mr. Larry Reinkemeyer, the Director of the Kansas City Audits Operations Division and Mr.

Brent Arronte, Director of the San Diego Benefits Inspection Division, both with the VA Office of the Inspector General.

Your complete and written statements will be entered in the hearing record.

And Mr. Weidman, you are now recognized for five minutes for your oral testimony.

STATEMENTS OF RICK WEIDMAN, EXECUTIVE DIRECTOR FOR POLICY AND GOVERNMENT AFFAIRS, VIETNAM VETERANS OF AMERICA; MS. LINDA HALLIDAY, ASSISTANT INSPECTOR GENERAL FOR AUDITS AND EVALUATIONS OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY LARRY REINKEMEYER, DIRECTOR, KANSAS CITY AUDIT OPERATIONS DIVISION, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS; BRENT ARRONTE, DIRECTOR, SAN DIEGO BENEFITS INSPECTION DIVISION, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF RICK WEIDMAN

Mr. WEIDMAN. Thank you very much, Mr. Chairman.

Vietnam Veterans of America appreciates the opportunity to share some thoughts on this problem under consideration today.

First, I want to thank you publicly having already thanked you privately for your assistance in making sure that the goals to our mothers in memory statue project moves ahead by getting it through the Congress and signed into law, and that is a great service and I know that most of our moms across America really appreciate that.

As a general statement regarding VA management, I think all of us have been concerned for a very long time that—about two things. One is that there seems to be a lack of accountability on the part of management at many places, in other words, people are not held accountable. And secondly, that the management system measurings may not be the right things.

We believe strongly in the military axiom that a unit does well that which a commander checks well, and if in fact it is not being checked well and/or there are incentives to do something other than what you want them to do then most staff will take the path of least resistance.

So what you measure and how you measure it and hold individual adjudicators accountable is absolutely key.

It is important, we believe, to understand the system in context. Since at least 1998, there has been this thing called backlog. It has been in the press, people have banged on both leadership—political leadership as well as civil servant leadership within the VBA about the backlog, and it has become almost like a great monster in the background and great for boating.

We need to move a bit beyond that, because what has happened is, when a system is under stress, the people in it are under stress. When people are under stress for a long period of time their effectiveness and efficiency begins to drop, and frankly, we think that is part of the problem that is reflected in the reports before us.

In other words, if you are dogged if you do, and dogged if you don't, and it is repeated over and over and over again that you don't have adequate resources to meet all of those demands then the system will show fatigue and make errors. That doesn't excuse those errors at all, it doesn't excuse the under payments or the overpayments, but I think it makes it more understandable.

One of the recommendations made by this Committee in the past backed up by a number of veteran service organizations, including VVA, is that Veterans' Benefits Administration do joint training of adjudicators with our veteran service officers and the county veteran service officers as well as the state people. That still hasn't happened.

The importance of that is that if at least everybody is proceeding on the same base of knowledge, even though approaching it from a different perspective, we will have many more fully developed claims that will in fact speed up a lot of the adjudications.

Number two, our recommendation to help make this better, this overall situation, is a statement of account that comes every month that can be automated.

The overwhelming majority of the younger ones and more and more of older veterans are now in E-benefits and My Healthy Vet, the respective electronic systems that are a secure communications with the Veterans Benefits Administration for E-benefits and My Healthy Vet for the Veterans Health Administration. It is a way on that they can go on secure thing mechanism and find out this is what you were paid this month for X, for Y, for Z. It would help those in the GI Bill understand what it is for, and it would also help people who are on temporary 100 percent disability would warn them that if you haven't had a physical and haven't gone in for a reevaluation you need to do so. And so it is another way to make sure there is a backstop in the system.

Number three, the third thing is we certainly will be busy talking to our friends and supporters on the Appropriations Committee, and I know this Committee will be sending forth views and estimates. And I would just stress, because it is—although a good case can be made from more staff for VBA, I don't see that happening in this particular fiscal climate. But what I do beseech you to do is not cut the IT budget. Let the automation go forth.

A lot of the solution, we all know who have looked at this and studied it from the Congress' point of view, from the IG's point of view, is that the more automated this system is, then you have equal application of the rules no matter where one lives in this country, no matter which adjudicator is involved, and so much of the problem will be solved that way.

I see that my time is nearly up. I will just end with thanking you again for this hearing, Mr. Runyan and Ms. Titus and look forward to answering any questions and working with you to improve this vexing situation.

[THE PREPARED STATEMENT OF RICK WEIDMAN APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you.

And Ms. Halliday, you are not recognized for your testimony.

STATEMENT OF LINDA HALLIDAY

Ms. HALLIDAY. Chairman Runyan, Ranking Member Titus, and Members of the Subcommittee, thank you for the opportunity to discuss the OIG's audit and inspection results regarding the effectiveness of VBA's processing of temporary 100 percent disability evaluations.

I am accompanied by Mr. Brent Arronte, the Director in the OIG San Diego Benefits Inspections Division and Mr. Larry Reinkemeyer, the Director of the OIG Kansas City Audit Operations who issued that National Report in 2011.

Delivering timely and accurate benefits and services to veterans is central to VA's mission.

Processing 100 percent disability evaluations comprises one important part of VBA's workload; however, our 2011 report, the audit of 100 percent temporary disability evaluations, identified veterans receiving long-term payments without adequate medical evidence to support the continued entitlement of those benefits.

We projected that since January 1993, regional office staff overpaid veterans a net amount of about \$943 million. Without timely corrective action, we conservatively projected that VBA would overpay veterans 1.1 billion dollars over the period of calendar years 2011 through 2015.

VBA agreed to review temporary 100 percent evaluations to insure proper controls existed to process these evaluations correctly; however, VBA's efforts have not been aggressive enough to effectively address this issue.

VBA did not begin its internal review until September 2011 and extended the review deadline multiple times, extending the most current deadline to December 31, 2012.

After two years, VBA is still working to complete the national requirement, and we are concerned about the lack of urgency in completing this review, which is critical to minimizing the financial risks of making inaccurate benefit payments.

Further, our VARO inspections over the past three years have continued to report systemic problems in VBA's processing of temporary 100 percent disability ratings. We found inaccuracies in 66 percent of the cases we reviewed. These errors resulted in just over \$15.5 million in overpayments and almost \$293,000 in underpayments.

Using actual error rates known from our benefits inspections, today we estimated that approximately \$232 million of overpayments occurred in Fiscal Year 2012. This estimate compares favorably with the projection that we identified in our national audit of about \$220 million annually.

VBA has testified that system glitches are the reason for many of the errors related to temporary 100 percent disability processing.

In 2011 and again in August 2012, VBA modified its electronic system to insure diary dates automatically populate and remain in the system without manual entry.

A suspense diary generates an electronic reminder for VBA staff to schedule a medical reexamination to reevaluate the case. When there is no reminder, a disability evaluation and corresponding benefits will continue throughout the veterans lifetime because nothing calls the case into question again for review.

We have not tested these system modifications, and therefore, we have no assurance that they have resulted in system-wide corrections; however, we do know the system fixes have not addressed the continuing problem of VA regional office staff errors in failing to establish and prematurely canceling suspense diaries that exist in the system.

As long as VBA delays taking effective action to address this issue, VBA and VA remain at risk of underpaying some veterans and repeatedly overpaying others without proper medical support.

Mr. Chairman, thank you for the opportunity to be here. We would be pleased to answer any questions the Committee and you would have.

[THE PREPARED STATEMENT OF LINDA HALLIDAY APPEARS IN THE APPENDIX]

Mr. RUNYAN. Well, thank you both very much for your testimony. And with that, we will start a round of questions.

My first one is for Mr. Weidman. Can you provide examples how overpayment has and the subsequent recoup by the VA has affected a veterans life? Mr. Weidman?

Mr. WEIDMAN. Oh, I'm sorry.

Mr. RUNYAN. Yes.

Mr. WEIDMAN. What happens on the repayment is, it is more devastating than ever having received the payment in the first place, because the people don't have the resources to pay it back in most cases because they got it, they thought well, I must have deserved it and been entitled to it, therefore the money is gone, and they have to either take it out of the monies which would be much less than 100 percent, usually about 30 or 40 percent of disability, which is much less money, and it leaves people with a credit history that is destroyed from which in many cases they never can recover because of having to pay back an overpayment.

So that is why we suggest this idea of getting everybody on E-benefits, which all the younger vets are, and sending a statement of account every month so that they know what they are getting and why, and there can be additional verbiage that if they need to come in for an exam to justify continued receiving at a certain rate, then it puts some onus back on a veteran to come in and warns him or her that they are heading for deep waters.

Mr. RUNYAN. So you would say, if you had that verification and say they were getting a statement and date certain that they had to have a medical exam, would you put that onus on them and do you think they would be able to make that happen, the veteran themselves?

Mr. WEIDMAN. I think there is actually three entities that share responsibility here. First of course is VBA who gave the temporary rating. Second is VHA, which nobody has talked about yet, which shares—they know that it is their information that caused the VBA compensation in pension to give the temporary 100 percent. And last, but by no means least, is the veteran him or herself to know what are they getting and their responsibility if in fact is of a temporary nature to seek out an appointment with VHA.

Mr. RUNYAN. Thank you.

Ms. Halliday, in your opinion why has the VBA failed to take adequate and timely measures to address the systematic problems?

Ms. HALLIDAY. I think it is general reliance that they needed an IT fix and that took some coordination between VBA and OI&T. We kept telling them it is not just the IT fix. What we were finding were that VARO staff were not making the proper input to put these diaries in place. Regardless of whether you had an IT fix in place, that action had to occur.

So it has been a while that I don't believe VBA has been aggressive enough in addressing that piece of it.

I know recently Ms. Rubens had laid out some corrective action that included training, which is consistently recommended in the benefits inspections reviews to try and reduce the human error associated with processing some of these claims.

Mr. RUNYAN. And going back, you mentioned in your testimony there about the targeted completion date which was moved several times from September 30, 2011 to December 31st, 2011 to June 30th, 2012 and then to December 31st, 2012. Do you know if the December 31st, 2012 deadline was ever met or has it been pushed back even further?

Ms. HALLIDAY. We haven't tested for it, but the evidence would be right now the benefits inspections are still identifying substantial errors.

Mr. RUNYAN. And then finally an alarming statistic in your written testimony says that of the 53 regional offices inspected during your national audit, none have fully followed VBA policy in processing temporary disability claims evaluations.

Can you further elaborate on the extent that these problems are due to human error as opposed to the computer glitch, and do you agree with VBA's insistence that system glitches are the same reason for these errors?

Ms. HALLIDAY. I would like to ask Brent Arronte to respond since he has spent so much time in our VA regional offices doing the inspections.

Mr. ARRONTE. What our inspections have shown is about 46 percent of the errors that we see with suspense dates is what VBA is saying was the result of a systems glitch. We never found a systems glitch. To us a glitch means the system was not working as intended.

We spoke with some about the architecture behind this in 2010 and they told us that the system was never developed to ensure that these diary dates were populated into the system.

With that, two of the fixes that VBA has indicated that they have implemented, one in 2011 and one in 2012, we have not tested that yet, so we haven't obtained the data to see if those fixes are working systematically.

But what we have seen is about 25 percent of the errors are related purely to human error where staff is not putting in or canceling reminder notifications inadvertently, not understanding how to process reminder notifications, and the results are benefits being paid when there is no evidence showing entitlement.

Mr. RUNYAN. Thank you. And with that, I will recognize the Ranking Member Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

I would like to go back to the points that you were making about automation, Mr. Weidman and the statement of account, because that sounds like that is a good idea. It sounds like that information is always helpful when you are trying to make decisions about your future, what your health care needs are, or what opportunities you might be not availing yourself to that might be out there.

I wondered if you would elaborate on that. Have you talked to the VA about how this would work, what it would cost, how much this computer system would work to send out these statements of account that would have both the payments of what people are getting and the notice that they might need to go in for an examination to change their status?

Mr. WEIDMAN. Let me be clear, we don't want them to send anything out by USPS.

Ms. TITUS. Right.

Mr. WEIDMAN. In other words no more paper.

Ms. TITUS. Right.

Mr. WEIDMAN. The problem is, is everybody is drowning in paper now.

But in the E-Benefit system——

Ms. TITUS. Uh-huh.

Mr. WEIDMAN. —even though our friends from the IG noted that the architecture does not call for it, there is no reason why you can't alter the architecture and the rules that if someone receives 100 percent disability that is temporary, that it automatically kicks in to the system so that it doesn't have to be manually entered.

And that is really what we are driving at of program in everything you can program, so that you don't depend on an individual that every single individual does everything right all the time. Automate what you can and you avoid a lot of heartache, and then concentrate on where you need the human factor brought in, and that is a place where the human factor has gotten us into trouble, so let us take it out of the human factor and focus on automation.

Ms. TITUS. Well, perhaps I misunderstood. I thought you said that most of the young veterans were on the E-benefits program but not everybody is.

Mr. WEIDMAN. Not everybody is, but it is surprising to me how fast people have taken to E-benefits. We have had an E-benefits booth at our national convention and our national meetings and at many of our state conferences around the country for the last four or five years and people take to it like ducks to water because it is easier.

And there was a time ten years ago where we had a hard time getting many VVA members to get on the Internet, and it is a question of be careful what you ask for. Now they are on the Internet and I get, you know, 300 emails a day from folks inside VVA.

But my point is the young ones are already on and the older veterans are now getting on. It is a way to notify people. Everybody has access to a computer.

Ms. TITUS. Uh-huh.

Mr. WEIDMAN. And because it is through the system that is already developed adding in the notification and statement of account that is generated automatically doesn't cost you any postage, it doesn't cost you anymore staff time, it is just simply a way of

failsafe checking to know what you are entitled to. And if that is not correct then you can reach out to a person in the local regional office.

Ms. TITUS. Maybe we need a policy to encourage more people to get onto this system. I know it is perhaps a generational thing, who uses computers and who is a little more intimidated by them, so perhaps we could look at that.

I would just ask both of you, do you think these problems are more problems of process or do you think they are problems of policy? Do we have the policies in place that will make this work and they are just not being carried out or complied with or do we need to change the policy?

Mr. WEIDMAN. I think the policy is adequate, it is a question of how do we get across the board compliance? And from our point of view, the across the board compliance really comes from this is a process that can be automated so why isn't it?

Ms. TITUS. Uh-huh.

Ms. HALLIDAY. I would concur that the policy is adequate. We measure all of our work against that policy. We are looking for the areas where there isn't compliance, and that is generally what we find.

So you will have some errors generated with not having automated edit checks within the system and then you are going to have people error in a system this large.

Ms. TITUS. Do we need better training of our employees?

Ms. HALLIDAY. We absolutely need better training.

Ms. TITUS. All right. Thank you, Mr. Chairman.

Mr. RUNYAN. All right. Mr. Cook. Mr. Cook is now recognized.

Mr. COOK. Thank you, Mr. Chair.

You know, I am trying to soak all this in here and I've got to tell you I am very, very disturbed. One as a veteran—Vietnam veteran and secondly as a former IG. And where you go in and you discover a problem and where the answer is, well, the dog ate the computer or it is almost like when I was—after I retired, I was in the academic environment where you have the different excuses why certain things couldn't happen.

And so I am kind of curious as to where the onus is on. The IG goes in there and says, hey, this has screwed up A, B, C, D. Within six months we want corrective action that says you have done the following things and then you go back and you check to make sure that that has been done or hasn't been done.

And so I am wondering is there still this, well, we can't do it because of technology or because we don't have our people trained?

And I am trying to accept that, because you know, I've got to tell you up front, I am a veteran IR-1, very, very sympathetic, particularly to anybody who has been wounded in combat, has the whole thing, and it is just unsatisfactory.

You got six months to fix the problem. If you can't do it for the veterans who put their lives on the line then I am sorry, we got to get somebody in there who can do it. And that is my attitude right now.

And so, you know, I am brand new and I come from a different perspective, sir, you know that I was involved in this heavily in California and so I get a little bit passionate about it. So I don't

know, the standard excuses about technology, I just cannot accept at this time.

So I am wondering about follow-up in terms of the individuals that were involved, when they were going to correct it, whether they just say we are waiting on technology. If you can address that I would appreciate it.

Ms. HALLIDAY. Thank you.

We had expected VBA to keep their commitment to work this national requirement and we just watch slippage upon slippage. I think that you have to ask VBA as to why it took so long. We are extremely concerned, given the value of the financial payments that were going out the door as running benefits that were not accurate.

The accountability lies with VBA, I think we were very aggressive in trying to work with them to make sure they understood the problem and that they went to fix the problem. We received a lot of push back over just the projection, but very little focus on fixing the problem.

Mr. WEIDMAN. I understand your attitude about zero tolerance, Mr. Cook, and from the point of view of the veteran on the street, absolutely agree with it.

But what I am saying and this whole thing is an example of a statement of account, only was suggested by our state president in Alaska in response to a meeting with those going to school at the university up there and said can we get a statement of account?

We discussed it with the under secretary last week and they are going to try and do this. It is actually something that can be done within the current architecture of the system.

There are some other things that they haven't done that we have been recommending and this Committee has been recommending for a long time.

Number one, joint training. It has never gone anywhere. We are willing to do it and sit down and negotiate what should go into training of our folks with the VA and frankly they ought to be sitting down with us, because if the claim is not prepared correctly they can't adjudicate correctly. Their time for a properly prepared fully developed claim in adjudication is ten minutes. You either—it is there or it is not there, because the way we teach people to organize a claim is in such a way that you can look and it is there with the supporting documents and boom.

A lot of the problem comes in when you have a file this high of disorganized mess and it takes somebody half a day in order to even give a cursory glance to what is in the file. And the reason is, it is not properly prepared.

So I think that the understanding on both sides, if you will, of the veteran service organizations, county veteran service folks, and the state folks would be much higher if in fact we had joint trainings in California, in Texas, in where ever across the country that that would make a great deal of sense. That is one.

Two, as you probably know from the folks in VBA that you work with in California, if nothing else we are a tenacious bunch of SOBs and we will be coming back about getting this minor tweak, if you will, on the architecture of this system in order that people can run a statement of account, and number two, an automatically

generated letter and enter it into what is now a manual thing. Why? I mean why?

Let me offer an analogy, Mr. Chairman, if I may. The analogy is on the Veterans Health Administration side. They had scandals all over the country about doing colonoscopies and not properly cleaning the machines. Well, it turns out that their—and why do I know this is because I talked to the service disabled veteran-owned company who makes a machine that is self-cleaning who they couldn't even get through the door to show it to VA. And instead of having to depend on a grade three doing everything correctly to sanitize this machine every single time in every hospital in the VA system all you do is flip the switch and boom it is done.

If you can automate it, automate it, and then free up your FTEE to devote to things that you really need people to do as opposed to the machines.

Mr. RUNYAN. Thank you. Mr. Amodei? You have no questions. I actually have another one and I will open up a second round to the other members also. This question is just for Mr. Weidman, it is the only question I have.

As we do get to a point where we have to determine if a veteran should stay on or should be reduced, what is his likelihood of actually getting that appointment in a timely manner?

Mr. WEIDMAN. That depends on a medical center, quite frankly. The—I said earlier that it is a shared responsibility with the VHA and—but VHA has never been given or held accountable to that responsibility, nor have they been held nearly accountable enough for completing every single question, if you will, on the C&P examination. And they need to be. And it is not something that is an imposition on them, it is something that is part and parcel of their duties and responsibilities as part of the whole organization and it is not being done. They have never taken any responsibility for their part of it.

Mr. RUNYAN. Thank you. Ms. Titus, do you have anything further?

Ms. TITUS. Just quickly, thank you. I'd like to ask Ms. Halliday, it disturbs me that the VA and the IG just do not see eye-to-eye on some of these findings, like the sample size and audit, when the data was collected, that sort of thing. So can you just go over for me when the data was collected for the review that went into the report issued in January of 2013, so that we can see that that was collected after the VA says some of these improvements were made that you had recommended earlier?

Ms. HALLIDAY. Yes. Normally what our benefits inspections do is they will pull out of the temporary hundred percent that are active in that last completed quarterly fiscal period. We take a cyclic approach when we do these.

So we do not expect to really start seeing and being able to validate the corrective actions till our summer reports, which we will start pulling that data in March of this year.

Ms. TITUS. I am sorry. I know you said you had some concerns and some preview showed that things still were not being met, but it is a little unfair to kind of indict the VA for things that you have not really measured yet; is that right? Are you comfortable with

being able to do that later this summer, to be able to see if some of these things are working or not?

Ms. HALLIDAY. We will absolutely see, as we start to pull the data that falls into post corrective actions on the IT system modifications. So we do expect to see that.

Ms. TITUS. Do you expect it to be better?

Ms. HALLIDAY. I am hopeful it will be better. Although we have not really tested it, we have had some observations that appear it works, but we do not have that reasonable assurance that a full system-wide fix is in place yet.

Ms. TITUS. Okay. Thank you, Mr. Chairman.

Mr. RUNYAN. Mr. Cook, Mr. Amodei, anything else? No. With that being said, ladies and gentlemen, on behalf of the Subcommittee, I thank you for your testimony and look forward to continuing to work with you on these important matters, and you are now excused. And I will call the next panel up.

At this time, I will welcome Ms. Diana Rubens, Deputy Under Secretary of Field Operations in the Veterans Benefits Administration at the U.S. Department of Veterans Affairs. I appreciate your attendance today. Your complete and written statement will be entered in the hearing record. Ms. Rubens, you are now recognized for five minutes for your testimony.

STATEMENT OF DIANA RUBENS

Ms. RUBENS. Thank you. Good afternoon, Chairman Runyan, Ranking Member Titus, and Members of the Subcommittee. Thank you for the opportunity to discuss the Veterans Benefits Administration's process of the temporary 100 percent disability rating.

As we have all mentioned, the VA regulations authorize 100 percent disability rating under specific criteria, tied to individual disabilities or when any service-connected impairment of mind or body makes it impossible for a veteran to pursue substantially gainful employment.

These can be granted either on a temporary or permanent basis. VBA grants a permanent rating if medical evidence shows the veteran's total disability is not likely to improve. A temporary 100 percent disability ratings are awarded when service-connected disabilities require complex surgery, convalescence, or specific in-patient or intense treatment, such as radiation or chemotherapy.

At the end of that period of convalescence or following association of treatment, VBA is responsible for reviewing the veteran's medical condition to determine whether to continue the temporary 100 percent rating.

If the medical exam shows material improvement in the veteran's condition, and VBA determines a reduced rating is necessary, we then initiate an action to reduce benefits.

When VBA proposes a reduction in benefits, the beneficiary is notified and they have an opportunity to submit additional evidence and/or request a pre-reduction hearing. It is also possible that the 100 percent evaluation is determined to be permanent.

In January of 2011, the VA OIG released the report of its audit, of our temporary 100 percent disability ratings. The audit examined two areas, whether VBA regional offices were correctly assigning 100 percent disability ratings as either permanent or tem-

porary, and whether RO's were effectively monitoring and re-evaluating those temporary ratings.

The audit found the temporary 100 percent disability ratings were not being correctly monitored for re-evaluation. They identified three primary causes, and made seven recommendations, including a recommendation that VBA review all temporary 100 percent disability ratings, to ensure each evaluation had a future examination date entered into the electronic record, and to continue reviewing all temporary 100 percent disability ratings going forward. We agreed to implement all of those recommendations.

Our challenges we have talked about was the system. In September of 2010, during the course of the audit, we identified, VBA identified a system software problem causing many properly established future exam dates to drop out of the system, contributing significantly to the problems being identified by the IG.

After extensive analysis, the VA determined that the complexity of the system requirements for future examination processing required a complete redesign of that system functionality. Unfortunately, the first fix that we implemented in June of 2011 simply revealed additional problems, which were not fully resolved until July of '12. That redesign successfully corrected the previously identified system defects, and we believe has corrected the problem going forward.

During the extensive system correction, VBA took two courses of action. The first extensive and ongoing training of our workforce and claims reviews. These reviews were conducted three separate times to ensure future examination dates were properly recorded for temporary 100 percent ratings and to schedule medical exams for those veterans who were overdue for re-evaluation.

In the course of the reviews, VBA continued to identify cases that were not properly controlled or tracked for completion of all required actions. Either because proper corrective action had not yet been taken, or had been taken prior to the July 2012 system fix.

To address the concern, a back-up process has been put into place to identify cases without a future examination date established, and require a review of these cases to either establish a future date or ensure the rating decision correctly documented that hundred percent rating as permanent.

Because of the input of the future exam dates, remains a manual input process within our current legacy system, we continue this back-up process to ensure that the hundred percent ratings are appropriately identified as either temporary, with a future exam scheduled, or as permanent. That review is being done every two weeks.

Equally important to VBA's long term management of our temporary 100 percent evaluation is our transformation process. The culmination of people process and technology enhancements designed to eliminate the claims backlog and achieve our goal of processing all claims within 125 days at 98 percent quality. Our new paperless processing system, the Veterans Benefits Management System, is employing rules based functionalities that will allow VBA to more effectively monitor and timely adjust 100 percent ratings.

Using all that we have learned and implementing the fixes in our legacy systems, once VBMS is in place nationwide, these rule sets will ensure we automatically comply with the business rules and procedures associated with temporary 100 percent ratings.

VBA is committed to providing timely and accurate payments to veterans while ensuring proper stewardship of taxpayer dollars. We have already taken significant corrective actions, including case review, legacy system software changes, mandatory training, increased oversight, and technology enhancements into our new VBMS system, to ensure that our temporary 100 percent ratings are monitored and adjusted appropriately.

At the same time, we acknowledge our regional offices have not yet completed action on all the individual cases requiring review. We continue to carefully monitor with these cases to completion, partnering with OI&G to ensure we are providing veterans with timely and accurate benefit payments.

This concludes my statement. I would be pleased to answer any questions you or the Members of the Subcommittee may have.

[THE PREPARED STATEMENT OF DIANA RUBENS APPEARS IN THE APPENDIX]

Mr. RUNYAN. Thank you, Ms. Rubens. In your written testimony, you stated that the redesign completed on July 2 of 2012 fixed the computer issue. Can you explain why the most recent IG or OIG reports for the Anchorage and Detroit regional office, which were issued in January of '13, a full two years after the OIG's initial review, have indicated more than half of the temporary total disability claims were processed in error?

Ms. RUBENS. Yes, Chairman Runyan, thank you. As I reviewed those most recent reports on Detroit and Anchorage, and find that the data collection that they used to base their assessment on was from January to March of 2012, prior to the final full system fix.

We acknowledge that during that time we were continuing to review from an annual standpoint the listing of cases, but also realized that the full system fix did not go into place until July of 2012.

Mr. RUNYAN. Do you dispute the number that human error accounts for 25 percent of that?

Ms. RUBENS. I would tell you that we readily acknowledge the human element, if you will, of the rating activity. Wherein as a rating specialist has to indicate whether or not it is permanent or temporary evaluation, and that the diary needs to be put into place. We believe that we have done a tremendous amount of training, and will continue to do that to ensure that the human element is also addressed.

Mr. RUNYAN. In layman's terms, is there a 30-second response to what was the nature of the computer glitch?

Ms. RUBENS. I will do my darndest to put it in something not too technical, which shouldn't be too hard, because I am not too technical.

As I understand it, as we would put the diary into the system, indicating that the veteran would require a future review exam, if subsequent award action was taken for that veteran, having nothing to do with the review, it would drop that diary out of the sys-

tem; thereby, if you will, erasing the reminder that would pop up at the appropriate time to do the review exam.

Mr. RUNYAN. Okay. According to the OIG's testimony, the National Review that VBA said it would undertake in 2011 has been repeatedly delayed, with the most recent postponed delay dated December 31st, 2012 was the National Review completed by December 31st, 2012, or was the deadline pushed back even further? I had asked that question in a previous panel, and I would like to see if you have pushed it back even further.

Ms. RUBENS. So as we initially had the conversation about the need to conduct the review, identified the problem within the system, there were, I am going to call it, several buckets that we looked at of work that we wanted to look at.

We started first with the first—the top three, most prevalent conditions that were causing the system review need. There were about 81,000 of those initially. As we reviewed those very quickly, the next thing that we began to do was establish through lists the reviews required for subsequent claims.

Those began to be issued to regional offices in January of '12, and were issued through all of FY '12. So when you say that we have delayed, I would say that we had different buckets. We had what we thought was going to be a system fix in June of 2011, identified, in fact, that that was not the fix that we needed, and if you will, went back and continued to pull those other claims to ensure that in the translation, if you will, we hadn't lost track.

Even today, as we have veterans who are granted a temporary 100 percent disability evaluation, while we believe that we have got the system fixed in place that requires our rating specialist to indicate this evaluation is permanent or this evaluation requires a review, we recognize the human element of somebody having to put that in, that verification that it is permanent.

And so that is why we are continuing to run every two weeks a trap, if you will, on new 100 percent evaluations to ensure it either indicates it is permanent, or it is temporary, and it has a diary established, to ensure that the human element, as it comes into play, is backstopped if you will by technology.

Mr. RUNYAN. That tool is in the current version of VBMS?

Ms. RUBENS. Both in our legacy system, and as we were building VBMS, the functionality is coming into play there as well. So we are trying to do it on both sides.

Mr. RUNYAN. Thank you. I would like to recognize the Ranking Member Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman. Earlier, Ms. Halliday said she hopes the next review will show that these things you have put in place show improvement. Do you hope so, too, or can you give us more reassurance than that?

Ms. RUBENS. I am going to give you more reassurance. We have done over half a dozen training sessions around all of the issues of permanent and total ratings, reviews for both our veteran service representatives as well as our rating specialists. We believe that the fix is in place, but also to ensure that, in fact, both the human component, as well as the technology component are working, we are running those filters, those traps, if you will, every two weeks and generating or capturing any of those that are not either

permanent or have a future diary in place, and ensuring that the regional offices are reviewing those lists promptly to indicate one or the other.

Ms. TITUS. Do you have any sense, or any record, or any calculation of how much was overpaid during the time it took you to fix that glitch?

Ms. RUBENS. So for the first group of claims that we reviewed, that first 81,000, as we looked at the number of reviews, in fact, 70 percent of those are now permanently rated at a hundred percent. As we continued to look, an additional 15 percent of those are still temporarily rated at a hundred percent, and have that future diary established. Ongoing care or treatment necessitates that push out, if you will, of the review exam.

And unfortunately, 13 percent are now deceased and I would say I am not sure that we could evaluate or assess that that rating should have been reduced, and that about 2 percent of them where we have reduced the rating.

So I would tell you that as we look at our estimate, it would have resulted in something closer and still not acceptable, \$215 million in overpayments. Part of the system fix that we think that we have got in place now to go along with the training in the future as we move into the electronic environment, that we build into our veterans' benefits management system, incorporating the rules based components into our new environment to ensure we continue to monitor and evaluate our temporary 100 percent evaluation utilization.

Ms. TITUS. Have you considered Mr. Weidman's recommendation about that statement of account? Do you think that would work or be helpful for you all could do that?

Ms. RUBENS. I will tell you that we have seen tremendous growth and utilization of our E-benefits account. From about 18 months ago, it was somewhere in the 200, 250,000 accounts to over 2 million today. Every quarter, we look to establish new functionality to make the system better and more user friendly for our veterans. Mr. Weidman's idea is terrific, one that I think goes along with the efforts that we are engaged in now to begin to use our E-benefits account as our notification for anything having to do with a claim, and this is a perfect combination to incorporate the temporary 100 percent evaluation.

Ms. TITUS. And just one last thing, as I understand it, if you have been on temporary disability for 20 years, it automatically becomes permanent; is that right?

Ms. RUBENS. Yes, ma'am.

Ms. TITUS. Is that a figure that needs to be addressed or does that work well or does that accommodate our veterans?

Ms. RUBENS. I do not have any information, but I can take a look at the number that actually get to that 20-year marking and get back to you.

Ms. TITUS. Okay. Thank you, Mr. Chairman.

Mr. RUNYAN. Thank you. Mr. Cook?

Mr. COOK. I am almost afraid to speak or ask questions on this. I appreciate your candor on this. I probably have, I do not know, personal experiences with this because I did deal with the VA, particularly when the different rules had changed for Agent Orange,

because full disclosure, I was diagnosed and treated for leukemia. And, you know, I talked to my oncologist and what have you, and he said, well, it is probably related to Benzine, and he was giving me the medical background, but he also talked about Agent Orange. And early on, the VA did not make that correlation. They did not want to give a benefit.

I wanted to see how this would work, because I had a lot of—I belong to a lot of veterans organizations, including the one that was represented at the table, and the Disabled American Veterans and everything else. I submitted a claim to see what would happen. And it was kind of frightening, in that I got a phone call to come down there, and I did all the physicals and then about six months later, they said, well, can you come back for a follow-up. So I came in there. And they said, you have to have a hearing examination. I said, what do I want a hearing examination for. And they said, well, you know, your disability, you know, I said, it has got nothing to do with hearing, I think I can hear fine except when my wife is talking, and then I have problems.

But they had my name mixed up, and it is also based on social security number, so I was kind of shocked about it. I said, well, what about the claim that I put in there, to see if—they said it is being processed.

About three months later, it came back, and it said it was disapproved because there was no evidence that I was in country, meaning Vietnam, even though I had submitted a DD-214, had a physical examination, and had evidence that I had been awarded two Purple Hearts, which I did not get in a barroom brawl at Camp LeJeune, it was actually in Vietnam.

So I was just very disturbed in terms of the process or following through. It was kind of like an ongoing battle, and I got very frustrated. I have got to be honest with you. But talking to other veterans, particularly Vietnam veterans, there is a perception out there, which is very, very dangerous that the VA does not care about them. And this is an awful thing to say, and I think there are veterans, and I mention the Vietnam veterans that feel, well, you know, we are going to die anyway, we are at that age bracket now, where we are dying in X amount right now, and they do not want to address our concerns.

So it is not just a glitch in the system, at least from my perception. There is that feeling that if you are one of these categories that are in the categories of Vietnam veterans that the perception is, as I said, that you are not to have the same attention or—and I would hope that this is not true, and I do not think it is, but because of some of these areas where the computer is down, these things with veterans' groups and—they get really excited about it, you know, all these different veterans' groups, they are almost paranoid on some of these things.

So I think it is not just an issue of the payment and overpayment, it is whether this organization that was formed to help the veterans is actually carrying through on that. And I would hope that, you know, in addition to that, that could be looked at in terms of this perception and how it gets out to these veterans. If you want to address that, I would appreciate it.

Ms. RUBENS. Certainly, Mr. Cook. And I would say first, thank you for your service. I apologize for the personal experience that you had, and I would tell you that there have been a number of things that VA and VBA in particular have been working to do to change that perception. And I would say on two fronts, one from the more current conflicts, the level of effort that we have put in to ensuring that the transition is one where we are providing as much information as possible about the benefits available to them, and it is part of a comprehensive briefing, if you will, that looks not just at what VBA will do, but what VA can do as well as Department of Labor, Department of Education.

From the Vietnam veteran experience, I recognize that that is something that from a timing standpoint, I cannot speak to personally. I can tell you that from the standpoint of VA today, we have worked very hard to ensure—we are changing those experiences. Perhaps at the conclusion, I could maybe get a little more insight from you about timing.

But, in particular, Secretary Shinseki in 2009 addressed the evidence before him to incorporate three additional presumptives, and as you mentioned, leukemia. I particularly hope we can speak privately about that.

But adding to the list of diseases acknowledged as due to the exposure of Agent Orange, Parkinson's, a couple of leukemias, as well as the Ischemic Heart Disease, VBA starting in May of 2010, quite frankly, sir, began a concerted effort to ensure that those Vietnam veterans who had now waited for, in many cases, 40 and 50 years for decisions on those claims had those addressed.

We believe that we have worked under the auspices of the Nehmer decision from 1985 to ensure that the review of those claims has been done in an expeditious quality manner, and continued to work to reach out and ensure that any Vietnam era veteran who had perhaps exposure to Agent Orange and has not had that addressed, has an opportunity to work with us and ensure that we do that.

Mr. RUNYAN. Thank you, Mr. Cook. I have a very technical question. I want to make sure I get it right.

Ms. RUBENS. Okay.

Mr. RUNYAN. I want to talk about training a little bit, outlining your testimony. But my understanding, the temporary ratings are not reduced, they simply expire by virtue of the fact that they are temporary, correct?

Ms. RUBENS. If you were granted a temporary 100 percent evaluation in the system, and we have a diary established, it will come up and we will review any medical evidence that we have. And if it is not sufficient to make a determination as to whether or not permanency should be granted or the temporary evaluation extended, we will request an exam.

The veteran also has the opportunity to present evidence. So it will not just automatically turn off if you will, to ensure that perhaps that veteran who is undergoing treatment for cancer, that has not responded well, if he or she is still undergoing treatment, that that is not turned off while they are still in treatment. Or if a rehabilitation or a convalescence from a surgery has not gone as planned, does not get turned off.

So it is a due process approach, wherein we will notify the veteran of the need for an exam, review the evidence, and make that determination at that time.

Mr. RUNYAN. Because it—even going through some of this, it seems, even with some of the regulations when you look at 38 CRF 4.30, VA's regulation governing temporary disability rating explicitly states, and I quote, "Termination of these total ratings will not be subject to 3.105(e) of this chapter, which permits a rating—where it pertains to rating reductions, but that such total rating will be filed by appropriate schedular evaluation." So it is, I think just in the regulations right there, it is very confusing. And when you—now you go to my first comment of this question, how do you train somebody to actually analyze that, and actually adjudicate that?

Ms. RUBENS. So I think there is a two-fold answer to that. And the first, of course, is that we are conducting the training to address that. And frankly, the second component is, I have begun that conversation with our compensation service responsible for policy to ensure. If there is room for us to clarify the guidance out there, that we in fact work to do that, not only for the rating specialist who today are administering that, but to ensure that as we are building tools into our technology, that it is a more straightforward process to ensure that we, I will say, support and supplement the human factor engaged in that.

Mr. RUNYAN. Thank you. And just one last comment. I know there has been, whether it is the VA disputing the IG numbers or what, I think we all admit there is a problem, and the faster we get to the bottom of it, the more veterans we are going to be able to help. I think that is what we need to focus on. I think we waste a lot of energy a lot of times arguing over the dollar amount. We realize there is a problem, but there is a lot of time and personnel we can put towards fixing the problem.

Ms. RUBENS. Yes, sir. We are working with the IG to ensure that if they have got some other ideas on what we ought to be looking at, that we work together to do that.

Mr. RUNYAN. Ms. Titus, any further questions? Mr. Cook? Nothing.

Well, with that, on behalf of the Subcommittee, I would like to thank you for your testimony. We look forward to working closely with you in addressing these important issues again, and it is having an enormous impact on our Americans, veterans, you are now excused. And I thank everyone for being here today. I would again like to emphasize, I look forward to working with all of you throughout this Congress to provide American veterans across this Nation with timely and accurate benefits and the decisions they deserve.

I would like to thank all of our witnesses for being here today to participate in the discussion on what is a stubborn problem, but one that can be easily resolved so that we return our attention to the more complex claims. I ask for unanimous consent that all members have five legislative days to revise and extend their remarks, and include any extraneous material.

Hearing no objection, so ordered. I thank the members for their attendance today, and this hearing is now adjourned.

[Whereupon, at 4:00 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Jon Runyan, Chairman

Good afternoon and welcome everyone. The first oversight hearing of the Subcommittee on Disability Assistance and Memorial Affairs for the 113th Congress will now come to order.

I'd like to begin this hearing by welcoming all the members of our Subcommittee, including our new Ranking Member, Congresswoman Titus. I am honored to have the opportunity to continue Chairing the DAMA Subcommittee this Congress and look forward to working with all of you. It is my hope that we will all come together in a bi-partisan way and share ideas to best serve our Nation's veterans and find practical solutions to the issues before this Subcommittee.

Our hearing topic today will focus on temporary total disability ratings. Temporary total disability ratings serve a very important function in the benefits scheme. This type of rating is assigned when it is established by medical evidence that surgery or certain treatment was performed, necessitating a period of recovery during which the veteran cannot work.

However, according to a January 2011 report by the VA Office of the Inspector General, VBA has not been correctly processing and monitoring such claims. As a result, the OIG stated that since January 1993, VBA has overpaid veterans a net amount of \$943 million. The OIG also stated that without timely action, VBA would overpay veterans a projected \$1.1 billion over the next five years.

These numbers are troubling, to say the least. As all of us here today are aware, our Nation's fiscal health is one of this Congress's top priorities. Part of this process includes trimming government spending and eliminating government waste. It is my hope that by bringing attention to this topic, we can ensure that every dollar appropriated to VA is being spent properly on care and benefits for our veterans.

We heard from VA in June of last year during sworn testimony, that these errors were due to a computer glitch. VA advised that the glitch would be fixed by July 2012.

Nonetheless, two new Regional Office audits issued by the OIG last month found that 50 percent of the temporary 100 percent disability evaluations reviewed were incorrect. The explanations given in the OIG audits stated that the 50 percent accuracy rate occurred because staff did not establish controls to monitor the proposed reductions initially, nor did they schedule future medical examinations as required.

So—something doesn't add up here. If the computer glitch was fixed in July 2012 but over 50 percent of temporary total rating claims are still being processed incorrectly as of January 2013, then that leads me to believe that these are human errors, not computer errors.

All of us here today are well-aware of the growing workload faced by claims examiners. However, we must remember that even though each VA employee touches many veterans' files every day, an individual veteran has only one file, so it's important to process every claim correctly the first time.

I want to thank the Vietnam Veterans of America, the OIG, and VA for their valuable input as we work together to find a solution to this problem.

I welcome today's witnesses to continue this ongoing discussion and offer their own specific recommendations on how to improve not just temporary total disability claims processing, but the entire system of processing veterans' disability claims.

I would now call on the Ranking Member for her opening statement.

Prepared Statement of Hon. Dina Titus

Mr. Chairman, I would like to thank you for holding today's hearing and to our witnesses for appearing before the Subcommittee today.

As the new Ranking Member of the Subcommittee on Disability Assistance and Memorial Affairs, I look forward to working with you, Mr. Chairman, the other Members of this Subcommittee and all of our stakeholders to tackle the claims backlog, ensuring that our nation's veterans receive the benefits they have honorably earned and rightfully deserve.

Today we are here to examine the issue of 100 percent temporary disability ratings. We know that for our most wounded warriors, a 100 percent disability rating provides compensation when a disability prevents them from seeking gainful employment.

But in January 2011, the VA Office of the Inspector General discovered that 15 percent of these rating evaluations were being incorrectly processed. The IG projects that these errors will cost the VA \$1.1 billion in overpayments during the next five years.

At the Reno VA Regional Office, which serves my Congressional District in Southern Nevada, the Inspector General found that over half of the temporary 100 percent disability evaluations were incorrectly processed. While a number of these cases involve overpayments, some veterans are being underpaid as well, particularly as it relates to special monthly compensation. For example, the audit of the Reno Office found one veteran with service-connected bone cancer and prostate cancer who was underpaid nearly \$10,000 over a period of three years.

The IG reported that 93 percent of the errors could have easily been avoided through three seemingly simple fixes:

1. If follow-up exam dates were entered in the electronic record;
2. If calendar notifications were observed and not just ignored or overlooked; and
3. If staff secured the proper medical evidence before switching a veteran's evaluation to a permanent rating.

I was concerned when I learned that the IG has found the similar errors in all 42 regional offices inspected since this initial audit with an average of 62 percent of these evaluations still being processed inaccurately.

It is my understanding that following this audit, in July of 2011, the VA instituted a technical fix to their computer systems that eliminates the potential for many of the instances of human error that the IG found in their January 2011 Report. I look forward to Deputy Under Secretary Rubens' testimony on the results that these software changes have had on the claims management systems.

I hope today's hearing will shed light on why there still seems to be problems in this area, two years after the IG report, and after the VA took steps to address these concerns. Is this a problem with systems, with training, with accountability, or a combination of these factors?

I hope we will discuss what system fixes have been made, and what management and employee accountability procedures have been implemented since the IG report to prevent these types of inaccuracies. I hope at the end of this hearing that we will reach a consensus on how to address and fix these problems today, and, looking forward, how we ensure they do not happen in the future.

Thank you, Mr. Chairman. I yield back.

Prepared Statement of Rick Weidman

Good afternoon, Mr. Chairman, Ranking Member Titus, and distinguished Members of the Subcommittee. Thank you for giving Vietnam Veterans of America (VVA) the opportunity to offer our comments on the issues regarding the 100% temporary disability ratings with this distinguished committee today.

We have reviewed the three reports from the Inspector General of the U.S. Department of Veterans Affairs (VA) that were issued earlier this month, VA OIG 12-02089-60, January 3, 2-13, entitled "Inspection of VA Regional Office Anchorage, Alaska"; VA OIG 12-03355-88, January 11, 2013, entitled "Inspection of VA Regional Office Detroit, Michigan"; and VA OIG 09-03359-71, January 24, entitled "Veterans Benefits Administration-Audit of 100 Percent Disability Evaluations."

We have analyzed all three reports looking for common threads, and much of the problem is simply failure to consistently use the procedures and tools that are in place. It is clear that the same issue we have all been pressing on for some years, lack of management oversight, is the problem that causes the failure to follow correct procedures. Some of this is because there is not proper accountability mechanisms for managers, and part of it is due to insufficient resources overall in Compensation & Pension (C&P).

As to a general statement regarding management, VVA firmly believes the military axiom applies here: that a unit does well that which a commander checks well. The huge delays (up to 900 days in one instance) simply are something that should not ever occur.

The Veterans Benefits Administration (VBA) management can do a better job of teaching staff how to better and more accurately adjudicate claims, as well as how to work better with the veterans' service organizations, as well as state and county representatives so that there are more fully developed claims coming into the system. VVA and others have been suggesting/urging joint training for some time, but it has yet to happen at any level, to our knowledge. The more complete and better organized these claims are when they are received by the Regional Office staff, the more quickly and accurately they can be adjudicated. If both the VBA staff and the VSOs, et.al. are at least working off of the same knowledge base, albeit a different perspective, then it is much easier to reach an accurate decision quickly, one that is to the satisfaction of all in more than nine out of ten cases. Common/joint training was a recommendation from this committee almost ten years ago, but nothing has ever come of it.

A word about overall resources at VBA would be in order here. While the budget and the number of personnel at the Veterans Health Administration (VHA) increased dramatically to handle a mounting workload, especially in the period from 2006 to 2010, the VBA gains in resources and staff during that same period did not keep pace with the increase in the overall increase in both the number of claims filed with C&P, and at the same time a sharp increase in the complexity of cases filed.

While VBA "Fast Letters" and other directives are by and large well intended, and usually reasonably well thought out, the "word" often does not reach the individual staff member in a Regional Office in such a way as to modify either their understanding of an issue nor their behavior in applying that understanding to individual claims. The technical term, of course, is "bureaucratic slippage." While that is common in any governmental organization, it is particularly a problem when a large system is "under stress."

There has been an acknowledged issue of a serious backlog of C&P claims since at least 1998. Two Presidential Administrations in a row have taken office vowing to eliminate this "backlog" thing that has become a dark and foreboding backdrop to all that occurs at VBA. All agree that the real task is to modernize this paper system, and drag it into the 21st century. The "backlog" has now continued under the last five Secretaries and two Acting Secretaries of Veterans Affairs. VBA has been under stress for all of this time, which is well more than a decade.

All of this has taken a real toll on this system and the people in it. Some of the failures to pick up on major errors or ensure that basic tools are consistently utilized to avoid either overpayments or underpayments is simply organizational fatigue. This does not excuse these failures, but it does help us to understand it better.

The real solutions to the problem(s) facing C&P are to be found in the need to automate much of the system. VBA is finally on the right track in seeking to use open architecture computer systems in such a way that much of the direct contact with human beings can be eliminated, thereby avoiding the possibility of a rule not applied or applied incorrectly to one or more elements in a claim by a staff member who "did not get the word" at one or more Regional Office.

Using automation the rules would be consistently applied no matter where one lives in the nation. The only way to do that is to set as many claims as possible up in such a way that the applicant veteran can enter his/her own data and apply via the secure "e-benefits" web portal. It is our understanding that later this year a veteran will be able to add or drop a dependent on line, without the necessity to have a staff person do it for them. (This does not address the stacks of more than 180,000 claims to be "adjusted" that are not counted in the overall number that is currently acknowledged as the backlog. Many of these adjustments are vitally important, as not addressing them in a timely way means that Champ VA is not applied to newborn dependents until quite some time later. Needless to say, the healthcare needs of both the mother and child do wait on VBA to get around to the "adjustments.")

We understand the concern the committee has with the possibility of overpayments of temporary payments at the 100% level. Let us suggest that this can be addressed by automation in two ways that do not require additional computer capacity beyond what is already planned:

First, we urge that the VBA send a monthly "Statement of Account" to the through the "E-Benefits" portal to all veterans receiving funds from VA for any pur-

pose, informing them of each element of amounts paid, and the purposes for which VA made each of these payments.

Part of the message in that same letter can/should be to automatically inform veterans receiving a temporary disability that it is their responsibility to seek out a medical exam after a certain date, and/or if their condition significantly improves.

Similarly, our leadership in Alaska has informed us that many attending higher education on the 21st century GI Bill get a different amount each month, with no explanation as to what each varying amount is for. The "Statement of Account" via secure electronic communication would remedy this problem.

Let me note that VVA's concern with overpayments is that like others we are concerned that the taxpayer's money is used correctly. Additionally though, overpayments do as much or greater damage than underpayments because when there comes the inevitable move to recoup these funds, veterans' credit often takes a whack from which they may never recover, so it is important that both under and over payments be avoided.

Finally, VVA urges the Committee in the strongest possible terms to do all that is necessary to ensure that the computerization funds for VBA do not get decimated. We are aware that they are unlikely to get any more staff at this juncture (although a strong case can be made for this need), so it is important that the move to computerize as much as possible not be derailed at this critical juncture.

Mr. Chairman and distinguished Members on this panel, VVA thanks you for the opportunity to present our views here today. I will be pleased to answer any questions you or your colleagues may have.

VIETNAM VETERANS OF AMERICA

FUNDING STATEMENT

FEBRUARY 5, 2013

The national organization Vietnam Veterans of America (VVA) is a non-profit veteran's membership organization registered as a 501(c) (19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For Further Information, Contact: Executive Director for Policy & Government Affairs, Vietnam Veterans of America, (301) 585-4000, extension 127

Prepared Statement of Linda Halliday

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss issues related to the effectiveness of the processing of temporary 100 percent disability ratings by Veterans Affairs Regional Offices (VARO) that were identified in an Office of Inspector General (OIG) audit report in January 2011 and that continue to be reported in OIG Benefits Inspections reports to date. I am accompanied by Mr. Brent Arronte, Director, OIG San Diego Benefits Inspection Division, and Mr. Larry Reinkemeyer, Director, OIG Kansas City Audit Operations Division.

BACKGROUND

Delivering timely and accurate benefits and services to veterans is central to VA's mission. The Veterans Benefits Administration (VBA) is responsible for administering a range of veterans benefits programs, including compensation, pension, education, home loan guaranty, vocational rehabilitation and employment, and life insurance. These programs will pay out over \$76 billion in claims to veterans and their beneficiaries in fiscal year (FY) 2013, and comprise approximately half of VA's total budget.

Processing 100 percent disability evaluations comprises one part of VBA's claims workload. VBA policy allows veterans to receive 100 percent disability evaluations for impairments of mind or body that would make it impossible for the average person to pursue a substantially gainful occupation. These impairments may be perma-

ment or temporary. VBA policy requires a *temporary* 100 percent disability evaluation for a service-connected disability following a veteran's surgery or when specific treatment is needed. At the end of a mandated period of convalescence or treatment, VARO staff are required to request a follow-up medical examination if available evidence is not adequate to help determine whether to continue the veteran's 100 percent disability evaluation.

The OIG's work over the past 3 years has disclosed systemic problems in VBA's processing of these disability evaluation decisions. Specifically, our 2011 report, *Audit of 100 Percent Disability Evaluations*, identified veterans receiving long-term payments caused by significant VARO processing errors, leading to veterans receiving long-term payments to which they were not entitled. We have repeatedly identified the same problems in our VARO Inspections Program, where we inspect the 57 VAROs and follow up on national audit findings such as VBA's accuracy in processing temporary 100 percent disability evaluations.

After 3 years, and despite VBA concurrence with our audit and inspection reports, we continue to identify a high rate of VARO errors in the processing of temporary 100 percent disability ratings. VBA's efforts to improve accuracy in this area have not been adequate or timely.

OIG REPORTING ON PROCESSING ACCURACY

Audit of 100 Percent Disability Evaluations

Veterans' disability compensation payments are not usually an avenue for cost savings. However, 100 percent disability evaluation processing is one area where systemic problems have led to veterans receiving long-term payments to which they may not be entitled but not caused by any fault of their own. Our 2011 national audit detailed our concerns that VBA paid veterans temporary 100 percent benefits without adequate medical evidence. We projected that regional office staff did not correctly process claims for about 27,500 (15 percent) veterans with 100 percent ratings and that since January 1993 VBA had overpaid these veterans a net amount of about \$943 million. Without timely corrective action, we conservatively projected that VBA would overpay veterans \$1.1 billion over the period of calendar year 2011 through calendar year 2015. We noted that once a temporary 100 percent rating has been in place for 20 years, by law VBA cannot reduce the rating unless the veteran has committed fraud in obtaining the benefits. The law, as clarified in VBA's policies, prohibits creating overpayments in cases involving erroneous awards based solely on VBA administrative errors or errors in judgment. While these practices rightfully protect veterans from suffering financial loss due to staff errors, sound financial stewardship is required to ensure actions are taken to process accurate payments in the future.

VBA did not agree with all our report findings, particularly as they related to projected overpayment projection of \$1.1 billion over the next 5 years. We obtained our overpayment estimates through a valid statistical methodology, which was developed by our Director of Audit Statistics Division. It was reviewed and approved by the OIG Office of Healthcare Inspections Director of Biostatistics, who holds a PhD in statistics.

VBA believed our analysis was skewed and the sample was not truly random. Our audit focused on those areas that presented the highest risk to VBA. Therefore, of the 239,000 veterans with at least one service-connected condition rated 100 percent disabling, we excluded 58,000 veterans from our review because their medical condition was not likely to improve, such as a double amputee. Our sample is representative of the stated audit universe of 181,000 veterans. We selected random samples from the audited universe and properly weighted projections based on the sample design. The sample design and size was more than sufficient to allow the assumption of a normal sampling distribution across the stated universe. In accordance with accepted sampling procedures, we projected the number of errors and potential monetary benefits only to the population we reviewed. The report clearly states that VARO staff did not correctly process evaluations for about 27,500 (15 percent) of the approximately 181,000 veterans who might require periodic evaluations. Although the error rates may have been less had we included the 58,000 veterans in our universe, the potential monetary benefits could have potentially increased since we would have projected to a universe of \$73 billion instead of \$52 billion.

The primary message of our report is VBA paid veterans without adequate medical evidence and the management of temporary disabilities needs strengthening. VBA approved significant monthly benefits to veterans without knowing if the veteran's medical condition warranted the continued benefit.

VBA agreed to implement our recommendations to:

- Improve the electronic system so future medical exam dates would automatically populate in the electronic system.
- Provide training to VARO staff to take appropriate and timely action on medical examination reminder notifications.
- Conduct a review of all temporary 100 percent disability evaluations and ensure each evaluation has a future medical examination date entered in the veterans' electronic records.

In response to this last recommendation, the then Acting Under Secretary for Benefits agreed to review all temporary 100 percent disability evaluations and ensure each evaluation had a future examination date entered in the electronic record. Our report stated, "If VBA does not take timely corrective action, they will overpay veterans a projected \$1.1 billion over the next 5 years." The then Acting Under Secretary for Benefits stated in response to our audit report that the target completion date for the national review would be September 30, 2011. VBA subsequently extended the national review deadline to December 31, 2011, then to June 30, 2012, and then again to December 31, 2012.

Results from OIG Inspections of VA Regional Offices

Our benefits inspections continue to show that inaccuracy in processing temporary 100 percent disability evaluations is a systemic issue. In October 2009 while conducting the national audit, we also began our VARO Inspections program which includes reviews of the temporary 100 percent disability evaluations. None of the 53 VAROs we have inspected since then have fully followed VBA policy in processing these evaluations. Based on our claims sampling, we determined that VARO staff did not adequately process temporary 100 percent evaluations for 1,016 (66 percent) of 1,551 veterans. All 53¹ VAROs inspected had errors, with the Cheyenne Veterans Service Center at the top of the list with errors in 100 percent of the evaluations we sampled, and the Des Moines, Iowa, and the Lincoln, Nebraska, VAROs with the best performance in this area with a processing error rate of 27 percent. The attached chart shows the accuracy rate of temporary 100 percent disability evaluations for all 53 VAROs from our first 3-year cycle, including 2 inspections we have completed since the start of our second 3-year cycle.

These errors often occur when VARO staff fail to input suspense diaries to VBA's electronic record. A suspense diary is a system command establishing a future date when VARO staff must determine the need to schedule an examination to reevaluate a case. As a diary matures, the electronic system generates a reminder notification to alert VARO staff to schedule the mandatory reexamination. About 46 percent of the total processing errors we identified since our inspections began occurred when VARO staff did not input suspense diaries in VBA's electronic system as mandated by VBA policy. When there is no reminder to schedule a reexamination, the temporary 100 percent disability evaluation will continue throughout a veteran's lifetime because nothing calls such cases into question again for reexamination.

The electronic system works as designed when a reminder notification is generated, alerting VARO staff to schedule a mandatory reexamination. However, in 15 percent of the total processing errors, reminder notifications existed, but VARO staff did not process them, or they prematurely cancelled the notifications. In these instances, VARO staff either failed to take the appropriate action to schedule the medical reexaminations or they removed the diaries prior to the system generating notifications to schedule medical follow-up.

As a result of the 53 VAROs we assessed for temporary 100 percent disability evaluations since October 2009, our inspections have identified a total of just over \$15,500,000 in overpayments and almost \$283,000 in underpayments. Where we identify claims processing inaccuracies, we provide this information to help the VARO improve future performance. Processing any adjustments based on this review is solely a VBA management decision.

In response to our inspection reports, VARO Directors concurred with all of our recommendations to increase process oversight and provide staff training on the proper procedures for ensuring the accuracy of temporary 100 disability evaluations. In many VAROs the recommendations are acted upon during the course of our site visits.

VBA'S CORRECTIVE ACTIONS

VBA efforts have not been aggressive enough to effectively address this issue. VBA did not provide each VARO with a list of temporary 100 percent disability evaluations for review until September 2011. VBA subsequently extended the national

¹ The 53 total includes 2 inspections of the VARO in Detroit, Michigan.

review deadline multiple times, with the most current deadline of December 31, 2012. We found some VAROs still completing their reviews as of January 2013. After 2 years, VBA is still working to complete this national review requirement. We are concerned about the lack of urgency in completing this review, which is critical to minimizing the financial risks of making inaccurate benefits payments.

We also question VBA's methodology for identifying temporary 100 percent disability evaluations for national review. During several of our inspections, we identified in our sample data a number of cases that VBA did not include in the lists it provided to the VAROs for national review. Upon our review of VBA's methodology, we found it had several weaknesses that would not ensure as thorough a review as VBA originally indicated. For example, VBA's methodology excluded certain claims that had controls in the electronic system to generate reminder notifications, with the assumption that processing these claims would therefore be done correctly. We also identified errors associated with some cases they excluded that, as we found before, related to VARO staff not taking proper action on reminder notifications or prematurely cancelling these notifications.

VBA has insisted that system glitches are the reason for many of the errors related to temporary 100 percent disability evaluation processing. In June 2011, VBA officials modified the electronic system to ensure diary dates would automatically populate and remain in the system without manual entry, specifically for confirmed and continued (C&C) ratings. For C&C ratings, medical evidence does not necessitate changing the veterans' existing disability evaluations. For example, a veteran receives a temporary 100 percent evaluation for prostate cancer. Medical evidence from the reexamination to determine if the evaluation should continue shows the veteran still receives treatment for this condition. Therefore, the Rating Veterans Service Representative confirms the veteran remains entitled to the temporary 100 percent evaluation and decides to continue the evaluation until the next required reexamination period, as established by diaries.

Of the total errors we have identified related to suspense diaries, 37 percent involved C&C ratings. We have not tested this system modification to ensure that the suspense diaries remain in the system. As such, we have no assurance that it has resulted in a system-wide correction. However, as part of our inspections, we observed a small number of recently processed temporary 100 percent disability evaluations related to C&C decisions and noted that the suspense diaries stayed in the electronic record. Since the exam dates occur in the future, we cannot ensure that the electronic system will generate notifications to alert VARO staff to schedule medical reexaminations as required.

Further, in August 2012, VBA made a second modification to its electronic system to ensure that supplemental changes to the electronic record, such as processing additional claims, would not cause diary dates to be removed inadvertently from the electronic system. However, we have not observed this process to offer an opinion on it. Because OIG Benefit Inspections staff sample completed claims from the prior quarter, we will not be able to confirm whether this system modification works until we conduct inspections beginning in late January 2013 that would examine first quarter FY 2013 data. Nonetheless, we note that VBA did not make this system modification until 20 months after our original audit was issued in January 2011.

VBA's focus on system fixes has not addressed the staff errors we frequently found to be the cause of inadequacies in temporary 100 percent disability evaluation processing. As we proceed with our benefits inspections, we continue to find processing errors associated with temporary 100 percent evaluations caused by staff error. For example, we still find cases where VARO staff do not correctly schedule medical reexaminations when the system properly generates reminder notifications. We also continue to disclose problems of staff prematurely canceling the reminder notifications. Our FY 2012 VARO inspection reports show 388 (63 percent) of 614 evaluations processed incorrectly, resulting in 101 overpayments to veterans of approximately \$6.1 million, and 10 underpayments at a cost of \$78,000.

CONCLUSION

After 3 years of OIG reporting on inaccuracy issues, VARO error rates in processing temporary 100 disability evaluations remain consistently high. While VBA criticizes that our inspections are narrowly scoped and our claims samples are small, our work is statistically sound and illustrates a continuing, systemic weakness that must be addressed.

VBA's efforts to date have not been fully effective in addressing issues in processing its temporary 100 disability evaluations. VBA has not been aggressive, timely, or thorough in completing its national review. While electronic system fixes may resolve some issues, they do little to address the problem we continue to find with staff error in processing. As long as VBA delays taking effective action to address

this issue, VA is at risk of underpaying some veterans and repeatedly overpaying others without proper support thereby diverting millions of dollars from other important programs for America's veterans today and into the future.

Mr. Chairman, this concludes my statement. We would be pleased to answer any questions that you or other Members of the Subcommittee may have.

ATTACHMENT

Errors in Processing Temporary 100 Percent Disability Evaluations and Associated Overpayments and Underpayments Identified In 53 VARO Inspection Reports Since 2009

53 VAROs (in rank order by percent of errors)	Total Temporary 100 Disability Evaluations Reviewed	Total Errors	Error Percentage	Overpayments Identified	Underpayments Identified
Cheyenne	7	7	100%	\$190,458	\$0
Los Angeles	30	29	97%	\$922,886	\$0
Waco	30	28	93%	\$115,255	\$7,720
Detroit	30	27	90%	\$543,399	\$1,344
Pittsburgh	30	27	90%	\$228,712	\$0
Houston	30	27	90%	\$730,768	\$0
Honolulu	30	26	87%	\$197,185	\$0
Phoenix	30	26	87%	\$192,165	\$0
Philadelphia	30	25	83%	\$389,770	\$29,969
Boston	30	25	83%	\$106,133	\$0
Louisville	30	25	83%	\$596,484	\$0
Indianapolis	30	25	83%	\$1,043,400	\$1,248
St. Petersburg	30	25	83%	\$387,252	\$0
Albuquerque	30	24	80%	\$306,162	\$0
Jackson	30	24	80%	\$123,338	\$0
Newark	30	24	80%	\$498,123	\$9,743
New Orleans	30	24	80%	\$431,033	\$8,974
Atlanta	30	24	80%	\$287,067	\$2,769
San Diego	30	23	77%	\$319,255	\$20,531
Fargo	30	23	77%	\$697,010	\$3,143
Denver	30	22	73%	\$757,672	\$0
Huntington	30	22	73%	\$1,254,007	\$4,173
Columbia	30	21	70%	\$440,156	\$0
Boise	30	20	67%	\$307,679	\$2,240
New York	30	20	67%	\$250,087	\$0
St. Louis	30	20	67%	\$117,856	\$1,536
Providence	30	20	67%	\$43,350	\$30,626
Montgomery	30	19	63%	\$117,333	\$0
Togus	30	18	60%	\$39,356	\$2,497
Reno	30	18	60%	\$399,638	\$9,930
Hartford	30	18	60%	\$151,265	\$0
Little Rock	30	18	60%	\$44,250	\$0
Detroit*	30	18	60%	\$231,436	\$16,515
Manila	14	8	57%	\$177,152	\$13,936
Seattle	30	17	57%	\$97,981	\$0
Buffalo	30	17	57%	\$124,552	\$45,356
Muskogee	30	16	53%	\$0	\$9,874
Portland	30	16	53%	\$137,262	\$0
Cleveland	30	16	53%	\$561,519	\$8,175
Salt Lake City	30	16	53%	\$113,834	\$11,674
Oakland	30	16	53%	\$284,256	\$1,223
Wichita	30	16	53%	\$134,210	\$0
St. Paul	30	15	50%	\$239,453	\$6,204
White River	30	15	50%	\$531,825	\$0
Winston-Salem	30	15	50%	\$87,513	\$1,152
Anchorage	30	15	50%	\$139,177	\$19,220
Manchester	30	14	47%	\$66,550	\$0
Milwaukee	30	14	47%	\$100,824	\$0

Errors in Processing Temporary 100 Percent Disability Evaluations and Associated Overpayments and Underpayments Identified In 53 VARO Inspection Reports Since 2009

53 VAROs (in rank order by percent of errors)	Total Temporary 100 Disability Evaluations Reviewed	Total Errors	Error Percentage	Overpayments Identified	Underpayments Identified
Chicago	30	13	43%	\$40,275	\$12,414
Ft. Harrison	30	10	33%	\$2,823	\$0
Sioux Falls	30	9	30%	\$61,606	\$0
Des Moines	30	8	27%	\$415,648	\$0
Lincoln	30	8	27%	\$17,241	\$0
Totals	1,551	1,016	66%	\$15,793,641	\$282,186

*Note: Overpayment and underpayment dollar amounts are not included in the published Detroit VARO inspection report. Also, Detroit is also the only VARO listed that we have inspected twice since 2009.

Prepared Statement of Hon. Diana Rubens

Good morning Chairman Runyan, Ranking Member Titus, and Members of the Subcommittee. Thank you for the opportunity to discuss the Veterans Benefits Administration's (VBA's) administration of the temporary 100-percent disability rating. We recognize the critical importance of providing this benefit to our Veterans, which allows them to receive compensation at the 100-percent rate during the times they are most in need. We also recognize our obligation to ensure proper administration of the benefit to Veterans and good stewardship of taxpayers' dollar.

Temporary 100-Percent Disability Rating

VA regulations authorize a 100-percent disability rating under specific criteria tied to individual disabilities, or when any service-connected impairment of mind or body makes it impossible for a Veteran to pursue a substantially gainful occupation. These 100-percent disability ratings can be granted on either a temporary or permanent basis. VBA grants a permanent rating if medical evidence shows the Veteran's total disability is not likely to improve. The 100-percent disability rating is generally held to be permanent when no routine future examination is warranted. Additionally, if a 100-percent rating has been in place for 20 years, VBA cannot reduce the rating unless the Veteran committed fraud in obtaining the benefits.

Temporary 100-percent disability ratings are often awarded when service-connected disabilities require complex surgery, convalescence, or specific inpatient or intense treatment, such as radiation or chemotherapy in the case of most cancers. At the end of a mandated period of convalescence or following cessation of treatment, VBA is responsible for reviewing the Veteran's medical condition to determine whether to continue the temporary 100-percent rating. Generally, medical examinations are required if there is potential for improvement in a disability that might lead to a decreased disability rating. If a medical examination shows material improvement in the Veteran's condition, and VBA determines that a reduced rating is necessary, then VBA initiates action to reduce benefits. When VBA proposes a reduction in benefits, the beneficiary is notified that he or she has 60 days to submit additional evidence and/or request a pre-reduction hearing.

National Audit of 100-Percent Disability Ratings

On January 24, 2011, the Department of Veterans Affairs (VA) Office of Inspector General (OIG) released the report of its audit of temporary 100-percent disability ratings. The audit examined two areas: whether VBA regional offices (ROs) correctly assigned 100-percent disability ratings as either permanent or temporary and whether ROs effectively monitored and reevaluated temporary 100-percent disability ratings.

The audit found that temporary 100-percent disability ratings were not being correctly monitored for reevaluation. The OIG identified three primary causes: Staff did not (1) enter future medical examination dates into VBA's electronic records; (2) monitor automated notifications entered into VBA's electronic records; and (3) com-

ply with VBA regulations that require ROs to ensure a Veteran's condition was not likely to improve before assigning permanent evaluation.

The OIG made seven recommendations, including a recommendation that VBA review all temporary 100-percent disability ratings to ensure each evaluation had a future examination date entered in the Veteran's electronic record. VBA agreed to implement all of the recommendations.

System Problem in Future Examination Processing

In September 2010, during the course of the OIG audit, VBA identified a system software problem that was causing many properly established future examination dates to drop out of the system, contributing significantly to the problems being identified by the OIG. VBA found that the premature removal of future examination dates occurred in three scenarios. Without these future dates in the system, our employees did not receive notification to schedule these Veterans for medical examinations to reevaluate their conditions. After extensive analysis, VA determined that the complexity of the system requirements for future examination processing required a complete redesign of that system functionality.

VBA completed business requirements for the redesign, and new system functionality for future-examination processing was deployed on July 2, 2012. This redesign successfully corrected the previously identified system defects.

VBA Review of Temporary 100-Percent Ratings

VBA conducted three separate claims reviews while system changes were being made to ensure future-examination dates were properly recorded for temporary 100-percent ratings and to schedule medical examinations for those Veterans who were overdue for reevaluation. VBA established a system control for each identified record so corrective action could be taken.

In the course of the reviews, VBA continued to identify cases that were not under proper control to be tracked for completion of all required actions – either because proper corrective action had not yet been taken or had been taken prior to July 2012 and the future date had again dropped from the system. To address this concern, a backup process was put in place to identify cases without a future examination date established and require review of these cases to either establish a future date or ensure the rating decision correctly documented that the 100-percent rating had been established as permanent.

Because the input of future-examination dates remains a manual input process in VBA's current legacy processing system, VBA is now conducting this backup process every two weeks to ensure that all 100-percent ratings are appropriately identified in our system as either temporary (with a future examination scheduled) or permanent.

Training on Future Examination Processing

VBA also continues to provide extensive training for claims processors on inputting future exams:

- Future examination training is provided to all new claims processors during the initial training for new claims processors, known as Challenge training.
- Since fiscal year (FY) 2010, Rating Veterans Service Representatives (RVSRs) have been required to complete the training lesson plan on Rating Reductions. This lesson plan addresses the use of future examinations.
- In January 2011, Compensation Service amended the mandatory "Matching Programs" training lesson plan for Veterans Service Representatives (VSRs). This amended training lesson provides claims processors with instructions on the appropriate actions to take when processing claims with future examination dates. Supplemental material regarding future examinations was provided in mandatory National Core Curriculum training for all VSRs.
- In March 2011, a lesson on permanent and total ratings was mandated for all RVSRs. This lesson included information concerning the establishment of future examination dates.
- In March 2012, Compensation Service created a mandatory lesson plan on "Inferred Issues" for RVSRs that focuses on determining when a future examination is required. The training provides an additional reminder to the field to ensure that future examination dates were not omitted from the award.
- In June 2012, Compensation Service released two mandatory training lessons for RVSRs. These were entitled "Effective Dates" and "Subordinate Issues" and were required training during FY 2012. Both of these lessons address the proper use of future examinations.

VBA Transformation

VBA is in the midst of implementing a series of tightly integrated people, process, and technology initiatives designed to eliminate the claims backlog and achieve our goal of processing all claims within 125 days at a 98-percent quality level in 2015. VBA is developing and deploying technology solutions that drive automation of the claims process. Our new paperless processing system, the Veterans Benefits Management System (VBMS), is employing rules-based functionalities that will allow VBA to more effectively monitor and timely adjust temporary 100-percent ratings.

VBMS software *requires* the decision-maker to either establish the permanency of the 100-percent rating or establish a future examination diary. Once VBMS is in place nationwide, these rule sets will ensure compliance with business rules and procedures associated with 100-percent ratings.

Estimated Overpayments

Based on the audit findings, the OIG projected that VBA has paid Veterans a net amount of \$943 million without adequate medical evidence since January 1993. Further, the OIG projected that if corrective action was not taken, VBA would overpay Veterans another \$1.1 billion over the next five years. VBA believes the overpayment projection of \$1.1 billion over the next five years is significantly overstated.

VBA believes OIG's overall error rate in the report of 15-percent is overstated. OIG reduced the population from which to sample by approximately 58,000 Veterans with conditions that clearly indicated no likelihood of improvement, such as double amputees. VBA believes that removing 58,000 presumed error-free cases skewed the analysis and caused sampling to no longer be truly random.

VBA reviewed records for eight of the top overpayments that were identified by the OIG, and found that three of these cases (38-percent) still warranted 100-percent ratings or payment at the 100-percent rate. Therefore, potentially 38 percent of the errors used to make monetary projections may not be valid.

Nevertheless, VBA agrees that significant overpayments were occurring as a result of not timely reevaluating all cases with 100-percent temporary ratings.

Conclusion

VBA is committed to providing timely and accurate payments to Veterans while ensuring proper stewardship of taxpayers' dollar. VBA has already taken significant corrective actions (including case reviews, legacy system software changes, mandatory training, increased oversight, and technology enhancements in our new VBMS paperless processing system currently being deployed) to ensure temporary 100-percent ratings are effectively monitored and adjusted. At the same time, we acknowledge that our regional offices have not yet completed action on all of the individual cases requiring review. We will continue to carefully monitor these cases to completion and partner with OIG to ensure we are providing our Veterans with timely and accurate benefit payments. Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other Members of the Subcommittee may have.

Statement For The Record

Mr. Carl Blake, National Legislative Director, Paralyzed Veterans of America

Chairman Runyan, Ranking Member Titus, and members of the Subcommittee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to offer our views on the Department of Veterans Affairs (VA) use of the 100 percent temporary total disability rating. First, we must emphasize that this type of rating is rarely used for the veterans that PVA serves through our national service staff. When we file claims on behalf of our members—veterans with spinal cord injury or disorder—and other catastrophically disabled veterans, their final decision generally is a permanent and total rating.

That being said, temporary total disability ratings serve an important and practical purpose for many veterans. The determination for temporary total disability ratings are governed by the provisions of 38 C.F.R. § 4.29, Ratings for service-connected disabilities requiring hospital treatment or observation, and 38 C.F.R. § 4.30, Convalescent ratings. Temporary increases to VA disability ratings in accordance with the provisions of Paragraphs 29 and 30 are simple adjustments to running compensation awards that can be accomplished by employees with a minimum of training. Temporary increases to compensation Paragraph 29 are determined by the verified dates of hospitalization. Meanwhile, adjustments under the provisions of

Paragraph 30 are established by rating action based on available medical information. In each case, the dates of entitlement are clearly indicated, and with only a small amount of attention to detail, there should be no significant errors.

In January 2011, the VA Office of the Inspector General (OIG) published a report entitled "Veterans Benefits Administration, Audit of 100 Percent Disability Evaluations" (Report #: 09-03359-71, January 24, 2011). In that report, the OIG examined approximately 181,000 veterans claims rated with a total disability. Of that number, approximately 11,800 (reported as 43 percent of 27,500 claims that were determined to have errors) of those claims were for temporary total disability that the OIG determined contained errors. OIG concluded that this had led to overpayments of nearly \$943 million with a potential overpayment of approximately \$1.1 billion in the next five years. Unfortunately, the OIG report fails to address the cost of the loss of benefits when veterans with total disabilities were underpaid.

PVA has also reviewed the findings of the recent report "Inspection of the VA Regional Office (VARO), Anchorage, Alaska (Report #: 12-02089-60, January 3, 2013) from the VA Office of the Inspector General (OIG). In the report, the OIG concluded that the Anchorage VARO lacked effective controls and accuracy in processing some disability claims. Specifically, 50 percent of the 30 temporary total disability evaluations reviewed were inaccurate. The OIG attributed these errors to staff that did not establish controls to monitor proposed reductions, or schedule future medical reexaminations as required to determine whether to continue these evaluations.

The remaining errors identified in the Anchorage report for processing temporary total disability evaluations involved Veterans Service Center staff not:

- Scheduling routine future medical reexaminations as required,
- Requesting the necessary medical examination, and
- Timely scheduling hearings for veterans to present evidence in response to proposals to reduce their benefits.

PVA is especially troubled by the fact that these findings are not substantially different from those included in the OIG report from January 2011.

Unfortunately, the overriding concern emphasized by the OIG in both reports is the increased risk of paying unnecessary compensation benefits. In the most egregious case outlined in the Anchorage report, the VARO staff did not schedule a medical reexamination to evaluate a veteran's breast cancer. However, VA medical records showed the veteran had completed treatment, which should have resulted in a reduction in benefits. Because a follow-up medical reexamination was not scheduled, VA continued processing monthly benefits for temporary total disability and ultimately overpaid the veteran \$96,135 over a period of 5 years and 11 months. The report from January 2011 outlined occurrences that were far worse than that scenario.

PVA is concerned that this issue is being framed as wasteful spending on the part of VA. While we do not dispute the findings of the OIG report regarding overpayment of compensation under the rules for temporary total disability ratings, we believe the Committee should similarly examine the VA's failure to provide these benefits in a timely manner or decisions to not grant the maximum entitlement. Too often, an individual can wait for months while convalescing to receive the increase to his or her compensation for temporary total disability. This delay in payment of benefits can put a serious financial strain on a veteran who might be unable to work during that convalescence period. In fact, the OIG identified a case where the VARO staff did not grant a veteran entitlement to an additional special monthly benefit based on evaluations of multiple disabilities, as required. As a result, VA underpaid the veteran a total of \$19,220 over a period of 5 years and 1 month.

Documentation of major discrepancies in determinations for temporary total disability indicates that much larger problems apparently exist in training and evaluation. The discovery of such fundamental and egregious errors that have been ongoing for a ten year period can only be construed as an indictment of a failed training program and failed management practices. If VA employees cannot successfully perform the most basic claims processing functions, what should we expect when they engage the more complex aspects?

First line supervisors must be capable of evaluating the skills and needs of their subordinates, but responsibility cannot stop there. Mid-level and higher management also must bear part of the responsibility. From our perspective, we see front line VA employees that are beaten down by their supervisors under the guise of quality control. STAR reviews, and similar measures, are constantly in pursuit of errors in an effort to improve overall quality. Unfortunately, the result all too often is an intensified focus on the process, and not the outcome.

Mr. Chairman, we would like to thank you once again for allowing us to address this issue. We hope that by highlighting this issue, VA will make meaningful re-

forms to ensure that errors are corrected, that appropriate steps are taken when processing temporary total disability claims, and that veterans receive the correct benefits in a timely manner.

PVA would be pleased to take any questions for the record.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2013

No federal grants or contracts received.

Fiscal Year 2012

No federal grants or contracts received.

Fiscal Year 2011

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation—National Veterans Legal Services Program— \$262,787.