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VETERANS' DISABILITY BENEFITS

VA Should Improve Its Management of Individual Unemployability Benefits by Strengthening Criteria, Guidance, and Procedures

This report was revised on October 23, 2006, to correct two pie charts and accompanying text dealing with the ages of (1) all IU beneficiaries as of October 2005 and (2) new IU beneficiaries from October 2004 to October 2005. See pages iv and v for a list of data changes.



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-06-309](#), a report to congressional requesters

Why GAO Did This Study

As part of its Disability Compensation program, the Department of Veterans Affairs (VA) provides Individual Unemployability (IU) benefits to veterans of any age who are unemployable because of service-connected disabilities. Over the last decade, the number of IU beneficiaries and benefit costs have more than tripled. In 2005, about 220,000 veterans received an estimated \$3.1 billion in IU benefits. In response to a congressional request, GAO assessed VA's management of IU benefits. This report (1) examines the added value of IU benefits for veterans of selected ages and disability ratings, (2) assesses the criteria, guidance, and procedures used for initial decision making, (3) assesses VA's ongoing eligibility enforcement procedures, and (4) compares VA's decision-making and enforcement procedures with those used by other disability programs.

What GAO Recommends

GAO recommends that VA should clarify and strengthen its IU eligibility criteria, guidance, and procedures for initial and ongoing eligibility decisions; and develop a return-to-work strategy for IU claimants. VA agreed with our conclusions and concurred with our recommendations, and stated that it has implemented and plans to implement program changes in areas that we identified as needing attention.

www.gao.gov/cgi-bin/getrpt?GAO-06-309.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Cristina Chaplain at (202) 512-7215 or ChaplainC@gao.gov.

VETERANS' DISABILITY BENEFITS

VA Should Improve Its Management of Individual Unemployability Benefits by Strengthening Criteria, Guidance, and Procedures

What GAO Found

Under VA's disability compensation program, VA can award IU benefits (that is, total disability compensation) to veterans of any age who cannot work because of service-connected disabilities even though VA did not rate their impairments at the total disability level. The added value of IU benefits over a veteran's lifetime depends upon the veteran's level of impairment at the time he or she begins receiving IU benefits and the length of time these benefits are received. To illustrate the potential amount of IU benefits that could be received, GAO estimated the lifetime present value of the added benefits in disability compensation for veterans with different impairment levels who began receipt of IU benefits in 2005 at different ages. GAO found that the lifetime present value of these benefits can range from:

- about \$300,000 to over \$460,000 for veterans age 20 in 2005, and
- about \$89,000 to about \$142,000 for veterans age 75 in 2005.

GAO also found that just under half (46 percent) of new IU beneficiaries was awarded IU benefits at the age of 60 or older, and 19 percent were age 75 or older.

VA's criteria, guidance, and procedures for awarding IU benefits do not ensure that its IU decisions are well supported. VA regulations and guidelines lack key criteria and guidance that are needed to determine unemployability. VA guidelines also do not give rating specialists the procedures to obtain the employment history and vocational assessments needed to support IU decisions. As a result, some VA staff told us that IU benefits have been granted to some veterans with employment potential.

In addition, VA's process for ensuring the ongoing eligibility of IU beneficiaries is inefficient and ineffective. This enforcement process relies on old data, outdated, time-consuming manual procedures, insufficient guidance, and weak eligibility criteria. Moreover, the agency does not track and review its enforcement activities to better ensure their effectiveness.

VA is among the federal disability programs GAO has identified as high risk and in need of modernization, in part, because it is poorly positioned to provide meaningful and timely support to help veterans with disabilities return to work. Specifically, VA's compensation program does not reflect the current state of science, technology, medicine, and the labor market. VA's management of IU benefits exemplifies these problems because its practices lag behind those of other disability programs. Approaches from other disability programs demonstrate the importance of providing return-to-work services and using vocational expertise to assess the claimant's condition and provide the appropriate services. Incorporating return-to-work practices in IU decision making could help VA modernize its disability program to enable veterans to realize their full potential without jeopardizing the availability of benefits for veterans who cannot work.

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Abbreviations

DI	Disability Insurance
HHS	Department of Health and Human Services
IRS	Internal Revenue Service
ITC	Information Technology Center
IU	Individual Unemployability
NDNH	National Directory of New Hires
PMC	Pension Maintenance Center
SSA	Social Security Administration
SSI	Supplemental Security Income
VA	Department of Veterans Affairs
VHA	Veterans Health Administration
VR&E	Vocational Rehabilitation & Employment Service

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This report was revised to correct two pie charts and accompanying text dealing with the ages of (1) all IU beneficiaries as of October 2005 and (2) new IU beneficiaries from October 2004 to October 2005. The report's conclusions and recommendations were not changed.

In the Highlights Page, under "What GAO Found," second paragraph,

- On line 1, we replaced "the vast majority (79 percent)" with "just under half (46 percent)."

In the Results in Brief, page 5, first paragraph,

- On line 13, we replaced "the vast majority" with "just under half;" and
- On line 14, we replaced "79" with "46."

In the Background, page 10, second paragraph,

- On line 2, we deleted "vast;" and
- On line 5, we replaced "77" with "51."

The corrected percentages in "Figure 2: Ages of IU Beneficiaries as of October 2005," page 11, are as follows:

Age Category	Percentage
20 – 49	13
50 – 59	36
60 – 64	13
65+	38

In the section on "The Added Value of IU Benefits Over A Lifetime Depends on the Veteran's Individual Circumstances," page 14, second paragraph,

- On line 2, we replaced "the vast majority" with "just under half."

And page 15, first paragraph,

- On line 1, we replaced "79" with "46."

The corrected percentages in “Figure 4: Ages of New IU Beneficiaries from October 2004 to October 2005,” page 15, are as follows:

Age Category	Percentage
20 – 49	15
50 – 59	39
60 – 64	14
65 – 69	5
70 – 74	6
75+	19



United States Government Accountability Office
Washington, DC 20548

May 30, 2006

The Honorable Jeff Miller
Chairman
Subcommittee on Disability Assistance
and Memorial Affairs
Committee on Veterans' Affairs
House of Representatives

The Honorable Larry E. Craig
Chairman
Committee on Veterans' Affairs
United States Senate

The Honorable Henry E. Brown, Jr.
Chairman
Subcommittee on Health
Committee on Veterans' Affairs
House of Representatives

The Department of Veterans Affairs (VA) manages a range of benefit programs that, among other things, compensate veterans for disabilities incurred or aggravated during active military service. Military personnel in combat are now surviving injuries that would have been fatal in past conflicts, but along with this survival has come an increased rate of disabilities.¹ With the continuing deployment of our military forces to armed conflicts in Iraq and Afghanistan and the use of military personnel in other efforts involving fighting terrorism and national preparedness, the effective and efficient management of VA's disability programs is of paramount importance.² The largest of these programs is the Disability Compensation program, which as of September 2005, paid an estimated \$29 billion in benefits to 2.6 million veterans in compensation for lost

¹ GAO, *VA Disability Benefits and Health Care: Providing Certain Services to the Seriously Injured Poses Problems*, [GAO-05-444T](#) (Washington, D.C.: Mar. 17, 2005).

² GAO, *Military Personnel: Preliminary Observations on Recruiting and Retention Issues within the U.S. Armed Forces*, [GAO-05-419T](#) (Washington, D.C.: Mar. 16, 2005); and GAO, *National Preparedness: Integration of Federal, State, and Local Efforts Is Critical to an Effective National Strategy for Homeland Security*, [GAO-02-621T](#) (Washington, D.C.: Apr. 11, 2002).

earning capacity due to service-connected disabilities. Through this program, VA provides benefits to veterans in accordance with a Schedule for Rating Disabilities that categorizes disabilities on a scale ranging from 0 percent to 100 percent (in increments of 10 percentage points), which is intended to equate to the average loss in earning capacity resulting from the service-connected disability. Under VA's regulations governing Individual Unemployability (IU), VA can grant total disability compensation benefits at the 100-percent level to veterans of any age whose service-connected disabilities are rated at 60 percent or higher and have caused them to be unemployable. Although disability compensation benefits are provided to veterans regardless of their income, VA places an earnings limit on the continued receipt of IU benefits. This limit applies only to the veteran's earnings, and not to the veteran's unearned income or household income. Managing IU benefits involves not only assessing initial eligibility for benefits, but also ensuring beneficiaries' ongoing eligibility by identifying those who are not in compliance with the earnings limit.

VA has experienced a marked increase in IU beneficiaries and expenditures at a time when advances in medicine and technology, along with labor market changes, have provided greater opportunity for people with disabilities to seek and maintain employment.³ This trend has caused concern among Members of Congress about VA's management of IU benefits. Our analysis of VA data shows that the number of IU beneficiaries and payments has more than tripled since the mid-1990s. From September 1996 to September 2005, the number of veterans receiving IU benefits has increased from about 71,000 to about 220,000. Moreover, we estimated that IU benefit payments from 1996 to 2005 have grown from about \$857 million to \$3.1 billion. In September 2005, nearly half of all veterans receiving disability compensation who were rated between 60 percent and 90 percent received IU benefits. (See app. I for a discussion of our estimation methods and figures showing IU beneficiaries and expenditures over the last decade.)

This report continues GAO's long-standing reviews of VA and other federal disability programs. In January 2003, GAO determined that federal disability programs, including those of VA, were in urgent need of

³ For more information on how the relationship between impairments and work has been redefined, see GAO, *SSA Disability: Return-to-Work Strategies From Other Systems May Improve Federal Programs*, [GAO/HEHS-96-133](#) (Washington, D.C.: July 11, 1996); and GAO, *SSA Disability: Other Programs May Provide Lessons for Improving Return-to-Work Efforts*, [GAO-01-153](#) (Washington, D.C.: Jan. 12, 2001).

attention and transformation, and placed the modernization of federal disability programs on its high-risk list.⁴ With regard to VA, we have reported that the agency's Disability Compensation program has struggled to make timely and accurate decisions and that the program does not reflect the current state of science, technology, medicine, and the labor market. Over the last 2 decades, GAO, the VA Inspector General, and the United States Court of Appeals for Veterans Claims,⁵ have raised a number of concerns about VA's management of IU benefits, including problems with both the decision-making process and enforcement procedures. Many of these problems remain to be addressed. You asked us to examine the criteria VA uses in determining initial eligibility for IU benefits and VA's efforts to enforce ongoing eligibility. In response to your request, this report (1) examines the potential added value of IU benefits over a lifetime for veterans of selected ages and disability ratings, (2) assesses the extent to which VA has the decision-making criteria, guidance, and procedures to ensure its IU decisions are well supported, (3) assesses the extent to which VA has efficient and effective enforcement procedures, and (4) compares decision-making and enforcement procedures used by other disability programs with VA's procedures.

To examine the potential added value of IU benefits, we estimated lifetime present value of IU benefits for veterans of various ages with disability ratings between 60 percent and 90 percent. (See app. II for more information on our methods.)⁶ To assess VA's IU decision-making criteria and processes, we reviewed agency regulations and guidance, GAO reports, Court of Appeals for Veterans Claims decisions, VA Inspector General reports, and VA's 2001 proposal to revise the regulations governing IU decision making. Additionally, we interviewed officials from VA's Compensation and Pension Service central office, Vocational Rehabilitation and Employment (VR&E) Service, and Veterans Health Administration (VHA). We visited four VA regional offices,⁷ where we interviewed officials and reviewed a small number of case files for veterans who had been awarded IU benefits to improve our understanding

⁴ GAO, *High-Risk Series: An Update*, [GAO-03-119](#) (Washington, D.C.: January 2003).

⁵ Previously known as the U.S. Court of Veterans Appeals.

⁶ For consistency purposes, we have used 2005 data throughout the report.

⁷ We visited the VA regional offices in Milwaukee, Wisconsin; Oakland, California; Philadelphia, Pennsylvania; and St. Petersburg, Florida; which we chose because of their differing workloads and location in different regions of the United States.

of the IU decision-making process. We also discussed the provision of IU benefits with officials of several veterans service organizations.⁸ To assess VA's procedures for the enforcement of the IU earnings limit, we reviewed VA regulations and policies, and other agency documents. We also performed work at the agency's Compensation and Pension Service central office, Hines Information Technology Center, Pension Maintenance Centers,⁹ and the four regional offices we visited. In addition, we interviewed information technology staff from the Social Security Administration (SSA) who were responsible for conducting the computer match of VA records and SSA earnings data. To compare VA's procedures with those of other disability programs, we reviewed disability programs administered by SSA and private-sector long-term disability insurers.¹⁰ For information on decision making in other programs, we relied primarily on prior GAO reports, but also supplemented this information with interviews with relevant officials to ensure our information was current. We also interviewed SSA officials to gain more information about SSA's own enforcement activities. In addition, because several agencies use the National Directory of New Hires (NDNH) to enforce earnings limits in their programs, we interviewed officials in the Department of Health and Human Services (HHS) regarding access to and the reliability of NDNH data, which contains information on quarterly wages, new hires, and unemployment insurance compensation.¹¹ We conducted our work between January 2005, and March 2006, in accordance with generally accepted government auditing standards.

⁸ The American Legion, Disabled American Veterans, and Paralyzed Veterans of America.

⁹ VA's three Pension Maintenance Centers are located in Milwaukee, Wisconsin; Philadelphia, Pennsylvania; and St. Paul, Minnesota.

¹⁰ We reviewed and reported upon the practices of the three U.S. private insurers in our 2001 report entitled *SSA Disability: Other Programs May Provide Lessons for Improving Return-to-Work Efforts*, [GAO-01-153](#) (Washington, D.C.: Jan. 12, 2001). To update our information, we contacted the insurers in 2005 and two of the three insurers told us they still used similar practices. The other insurer would not comment on its current practices.

¹¹ The data on quarterly wages is reported by states and federal agencies within 1 to 4 months after each reporting quarter. Data on new hires is reported within 30 days from the date of hire and unemployment insurance compensation is reported within 1 month of the end of a quarter.

Results in Brief

The added value of IU benefits over a veteran's lifetime depends upon the veteran's schedular rating at the time he or she begins receiving IU benefits and the length of time these benefits are received. To illustrate the potential amount of IU benefits that could be received, GAO estimated the lifetime present value of the increase in disability compensation benefits for veterans with schedular disability ratings between 60 and 90 percent who began receipt of IU benefits in 2005 at different ages. For example, for younger veterans, those at age 20 in 2005, the estimated lifetime present value of these benefits can range from almost \$300,000 to over \$460,000. For veterans awarded IU benefits at age 75 in 2005, the lifetime present value of these benefits can range from about \$89,000 to about \$142,000. In addition, GAO's analysis of the age at which veterans begin to receive IU benefits shows that just under half of new IU beneficiaries were awarded IU benefits at the age of 60 or older. For example, GAO found that 46 percent of veterans awarded IU benefits from October 2004 to October 2005 were age 60 or older, and 19 percent were age 75 or older.

VA's regulations and guidelines for awarding IU benefits do not ensure that its decisions are well supported. VA regulations and guidelines lack key criteria and guidance that are needed to determine unemployability. VA rating specialists making IU decisions are required to determine whether the claimant is capable of obtaining or retaining substantially gainful employment. VA guidelines, however, do not specify the criteria for determining whether someone has the ability to obtain or retain substantially gainful employment. Instead, rating specialists rely on the concept of marginal employment when making IU decisions. The guidelines generally define marginal employment as annual earnings at or below the poverty threshold for one person, which was \$10,160 for 2005. However, the guidelines do not state how rating specialists are to determine whether a veteran who is not working or is engaged in only marginal employment has the ability to obtain or retain substantially gainful employment. In addition, VA guidelines do not give rating specialists the procedures to obtain the employment and earnings history and vocational assessments needed to support IU decisions. As a result, VA ratings specialists and some vocational rehabilitation staff told us that unemployability benefits have sometimes been granted to veterans who may have employment potential.

In addition, VA has an inefficient and ineffective process to enforce the earnings limit for ongoing eligibility for IU benefits. VA's main enforcement mechanism is its computerized match that identifies beneficiaries with earnings, which is supplemented with a manual review to assess whether those IU beneficiary are in compliance with ongoing

eligibility criteria. While effective enforcement relies on quickly identifying veterans who are no longer qualified, VA's process relies on 1.5-year old earnings data when more current data is available. VA also manually transmits information, which further slows down the process. In addition, the agency's written guidelines do not require staff to thoroughly evaluate all available earnings information to identify those who are not qualified. Furthermore, other earnings related criteria may allow veterans with high earnings to retain their benefits. Finally, the agency does not track and review its enforcement activities to ensure their effectiveness.

VA's practices for its IU benefits lag behind the practices used by other disability programs. VA lacks several features used by the private-sector disability programs we reviewed and by SSA to provide a more thorough assessment of a claimant's ability to work as well as supports and incentives to encourage them to return to work. Private insurers have developed assessment processes that focus on return to work, using a variety of assessment tools and expertise to evaluate claimants' ongoing eligibility and assist those with work potential to return to the labor force. They also offer various financial and other incentives to encourage claimants to return to work. Like insurers, SSA also has access to medical and vocational specialists to evaluate a claimant's ability to work, and provides assistance and incentives to help its beneficiaries' return to work. Furthermore, SSA has taken advantage of federal opportunities to evaluate beneficiaries' ongoing eligibility and to detect and recover benefit overpayments, such as federal databases with recent employment and earnings information to detect unreported beneficiary earnings and federal debt collection methods.

To help VA ensure the integrity of its processes for determining the initial and ongoing eligibility for IU benefits, we recommend that the Secretary of Veterans Affairs (1) clarify and strengthen its eligibility criteria, guidance, and procedures for determining unemployability and (2) update procedures and strengthen criteria for the enforcement of the IU earnings limit. Moreover, to help VA modernize its disability program to enable veterans to realize their full productive potential without jeopardizing the availability of benefits for veterans who cannot work, we also recommend that the Secretary develop a strategy to ensure that IU claimants with work potential receive encouragement and assistance to return to work, while protecting benefits for those unable to work.

We provided a draft of this report to VA, SSA, and HHS for comment. VA agreed with our conclusions and concurred with our recommendations, and stated that it has implemented and plans to implement program

changes in areas that we identified as needing attention. The actions described by VA should strengthen its management of IU benefits; however, we believe that further steps are needed to fundamentally transform IU benefits into a meaningful and timely way of supporting unemployed veterans with service-connected disabilities. VA's comments appear in app. V. In addition, VA, SSA, and HHS provided technical comments, which are reflected in the report as appropriate.

Background

Under VA's Disability Compensation program, the agency can award total (100 percent) disability compensation to veterans who cannot work because of service-connected disabilities, even though their schedular rating is less than 100 percent.¹² Specifically, VA will consider a veteran for IU benefits if the veteran has a single disability rated at least 60 percent or multiple disabilities rated at least 70 percent (with at least one disability rated at 40 percent or more) and there is some evidence that the veteran cannot work. In some instances, veterans with lower ratings may also be evaluated for and granted IU eligibility.

As shown on table 1, veterans receiving an IU total disability compensation rate may receive substantially greater benefits than they would have received based on their schedular rating. IU benefits, like other VA disability compensation benefits, are exempt from federal taxation.

Table 1: VA Basic Monthly Disability Compensation Rates in 2005

Disability rating (percent)	Monthly payment	Disability rating (percent)	Monthly payment
10	\$108	60	\$839
20	210	70	1,056
30	324	80	1,227
40	466	90	1,380
50	663	100	2,299

Source: VA, Fact Sheet: Disability Compensation – 2005 Rates (Washington, D.C.: December 2004).

¹² For VA's regulations governing the adjudication of IU benefits, see Title 38, U.S. Code of Federal Regulation, Chapter 1, Part 3 and Part 4.

VA created IU benefits in 1934. By statute, VA is required to adopt and apply a schedule of ratings to compensate veterans for reductions in average earning capacities resulting from service-connected medical conditions.¹³ This statute calls for compensation benefits to be tied to a schedule of ratings that is to be based, “as far as practicable,” upon the average impairments of earning capacity resulting from such injuries in civil occupations.¹⁴ The statute does not mention individual unemployability as a basis for granting benefits. However, VA regulations allow the agency to grant total (100 percent) disability compensation to a veteran who is unemployable due to his or her service-connected disabilities, but does not meet the requirements for a total disability using the rating schedule. Veterans can receive IU benefits when their service-connected disabilities result in their inability to obtain or retain “substantially gainful employment,” which VA defines as employment that is “ordinarily followed by [individuals without disabilities] to earn their livelihood with earnings common to the particular occupation in the community where the veteran resides.”

VA’s Process for Making IU Decisions and Enforcing Compliance with Its Earnings Limit

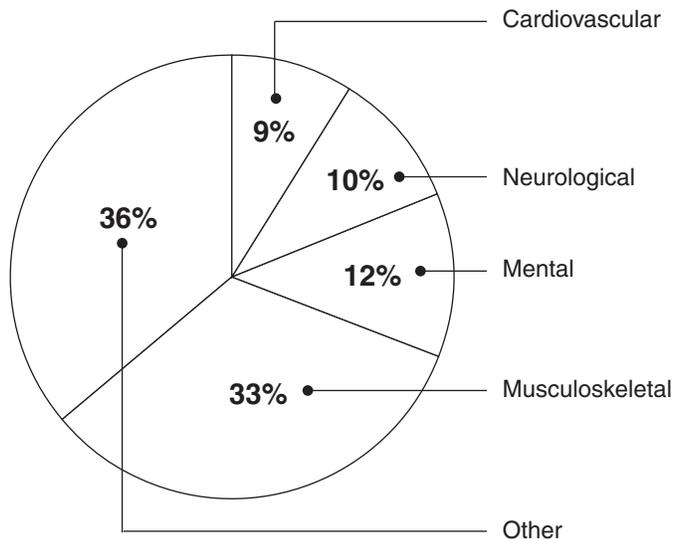
Staff at VA’s 57 regional offices make virtually all eligibility decisions for VA disability compensation benefits, including IU benefits. These regional offices employ non-medical rating specialists to evaluate veterans’ eligibility for these benefits. Upon receipt of an application for compensation benefits, the rating specialist would typically refer the veteran to a VA medical center or clinic for an examination. Based on the medical examination and other available information, the rating specialist must first determine which of the veteran’s conditions are (or are not) service-connected. For service-connected conditions, the rating specialist compares the diagnosis with the rating schedule to assign a disability rating. (App. III provides examples of selected impairments from VA’s disability rating schedule.) As figure 1 shows, the service-connected impairments of IU beneficiaries include a wide range of medical conditions. Multiple disabilities will result in a combined degree of disability, which is expressed as a percentage and represents the overall effect on a veteran of all his or her service-connected disabilities. (App. IV

¹³ See 38 U.S.C. §1155 for the statute giving VA broad authority to create a rating schedule and compensate veterans for the average loss in earnings resulting from service-connected medical conditions.

¹⁴ For VA’s Schedule of Disability Ratings, see Title 38, U.S. Code of Federal Regulations, Chapter 1, Part 4.

explains VA's process for compiling combined ratings.) VA's IU determinations are subject to appeal to the Board of Veterans' Appeals and subsequently the U.S. Court of Appeals for Veterans Claims.

Figure 1: Types of Service-Connected Impairments of IU Beneficiaries as of October 2005



Source: GAO analysis of VA data on impairments of IU beneficiaries by body system.

Note: VA's database lists up to six impairments for each beneficiary. This figure reflects all impairments listed in the VA database for IU beneficiaries.

VA rating specialists initiate IU evaluations when a veteran submits an application for IU benefits or his or her application for compensation benefits contains evidence of unemployability.¹⁵ In all cases, before granting benefits, rating specialists must evaluate the impact that the veteran's service-connected disability has had on his or her ability to perform substantially gainful employment, which for decision-making purposes is generally interpreted as employment that is more than "marginal employment." VA generally defines marginal employment as employment for which the worker's annual earned income is at or below the poverty threshold for one person established by the U.S. Census

¹⁵ In accordance with the decision of the U.S. Court of Appeals for Veterans Claims in *Norris v. West*, 12 Vet. App. 413 (1999), VA rating specialists must infer that claimants for disability compensation are also seeking IU benefits if they meet the schedular requirements and their files contain evidence that they are not gainfully employed.

Bureau—\$10,160 for 2005.¹⁶ However, marginal employment may also be held to exist, on a case by case basis, when a veteran maintaining employment at a sheltered workshop¹⁷ or family business receives annual earnings above the poverty threshold. VA rating specialists are to rely on various sources of information for the evidence needed to support such a determination, including an employment and earnings history furnished by the claimant, basic employment information from the claimant's employers (if any), and a medical exam report from VHA.¹⁸ If the claimant had received vocational rehabilitation assistance from VA or disability benefits from SSA, the rating specialist might also seek information on these services or benefit decisions.¹⁹ Finally, under its regulations, VA rating specialists are not to consider age as a factor in determining eligibility for IU benefits; thus, veterans of any age may be determined eligible for IU benefits.

When we analyzed VA data to determine the ages of all veterans receiving IU benefits as of October 2005, we found that the majority of veterans receiving IU benefits were age 60 or older. Our analysis of VA data shows that 219,725 veterans were receiving IU benefits in October 2005. As shown in figure 2, 51 percent of IU beneficiaries were age 60 or older and 38 percent were age 65 or older.

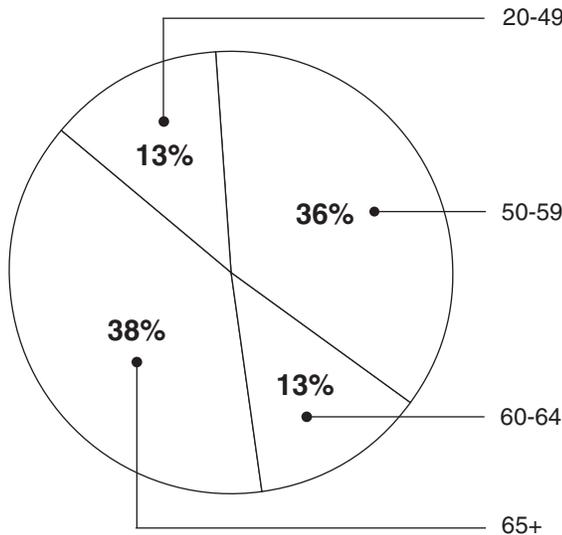
¹⁶ The 2005 poverty threshold is \$10,160 for an individual without a family who is under 65 years of age and is \$9,367 for an individual without a family who is 65 years of age or older.

¹⁷ A sheltered workshop is a workplace that provides a supportive environment where individuals with disabilities can acquire job skills and vocational training.

¹⁸ Employers report such information as the claimant's rate of pay, duties and responsibilities, and reason for leaving.

¹⁹ If available evidence is insufficient to award IU benefits and the record shows that the claimant is receiving Social Security disability benefits, complete copies of the SSA records must be obtained and considered.

Figure 2: Ages of IU Beneficiaries as of October 2005



Source: GAO analysis of VA data.

Studies and Proposals for Strengthening VA's Provision of IU Benefits

In 1987, we issued a report that identified several problems with VA's administration of IU benefits and made several recommendations for improvement.²⁰ We found that VA did not require sufficient medical and vocational evaluation of IU claimants to support award decisions. To address this weakness, we recommended that, in cases involving IU benefits, VA ensure that its (1) examining physicians provide observations on how the service-connected medical condition impairs the veteran's functional capabilities and (2) vocational counselors provide vocational information, including an assessment of how the veteran's service-connected condition affects job skills and employment potential. Furthermore, we identified potential overpayments to IU beneficiaries and suggested that the Congress provide VA with access to Internal Revenue Service (IRS) earnings information to monitor IU eligibility and help detect and prevent overpayments. Since we made the recommendations, the Congress provided the agency with access to IRS earnings data, which the agency is using to monitor compliance with the ongoing earnings limit. However, to date, VA has not implemented our recommendation that its

²⁰ See GAO, *Veterans' Benefits: Improving the Integrity of VA's Unemployability Compensation Program*, GAO/HRD-87-62 (Washington, D.C.: Sept. 21, 1987).

vocational counselors assess the veteran's job skills and employment potential so that this information could be used in the IU decision-making process.

More recently, two studies highlighted the need for fundamental changes to VA's disability decision making. In 2004, the VA Vocational Rehabilitation and Employment Task Force study recommended that vocational professionals from VA's VR&E should provide more complete vocational assessments to assist in disability and vocational decisions.²¹ More specifically, the task force recommended that VR&E perform a functional capacity evaluation that would identify what work a veteran could do in the paid economy despite his or her disabilities. Also, a 2005 VA Inspector General study pointed to the need for improved IU initial and ongoing eligibility determinations.²² The VA Inspector General found that some veterans receiving IU benefits may not have been entitled because VA had not aggressively used IRS and SSA records and developed proper controls to monitor their income through the verification process.

In addition, the Veterans' Disability Benefits Commission was created by the National Defense Authorization Act of 2004 (Pub. L. No. 108-136) to independently evaluate compensation to veterans and their survivors for disabilities and deaths attributable to military service. Among other things, the Commission plans to include IU benefits in its review. The law requires the Commission to provide a report to the Congress, with recommendations as needed, which addresses the appropriateness of benefits and the standards for granting benefits.

²¹ VA Vocational Rehabilitation and Employment Task Force, *Report to the Secretary of Veterans Affairs: The Vocational Rehabilitation and Employment Program for the 21st Century Veteran* (Washington, D.C.: March 2004).

²² The Department of Veterans Affairs, Office of the Inspector General, *Review of State Variances in VA Disability Compensation Payments*, Report No. 05-00765-137 (Washington, D.C.: May 19, 2005).

The Added Value of IU Benefits Over A Lifetime Depends on the Veteran's Individual Circumstances

In a recently issued report, we noted that additional benefits are available to veterans with total disabilities.²³ In particular, awarding IU benefits increases a veteran's monthly disability compensation. The increase in the monthly compensation for IU beneficiaries is the difference between the compensation at the veteran's schedular rate and the compensation at the 100-percent rate. For example, a schedular rating of 60 percent would entitle a veteran to \$839 per month in 2005. The veteran, however, would be entitled to \$2,299 per month if granted IU benefits—a difference of \$1,460 per month or \$17,520 per year.²⁴ The lower the veteran's schedular rating, the higher his or her increase in monthly disability compensation when awarded IU benefits.

When the present value of IU benefits is considered over a veteran's lifetime, the value of these added benefits depends upon the veteran's schedular rating at the time he or she begins receiving IU benefits and the length of time these benefits are received. To illustrate the potential amount of added benefits that could be received due to IU, we estimated the lifetime present value of the increase in disability compensation benefits for veterans with schedular disability ratings between 60 and 90 percent who began receipt of IU benefits in 2005 at different ages. To calculate these lifetime present values, we used the SSA general population mortality tables for males to estimate the lifespan of IU beneficiaries.²⁵ Because benefits awarded to younger veterans would be expected to be received for a longer length of time in comparison with older veterans, younger veterans are estimated to receive more in benefits than older veterans who have the same schedular rating. Also, because the lower the veteran's schedular rating, the greater the increase in monthly disability compensation benefits when awarded IU benefits, veterans with lower ratings were estimated to receive more in added IU benefits than

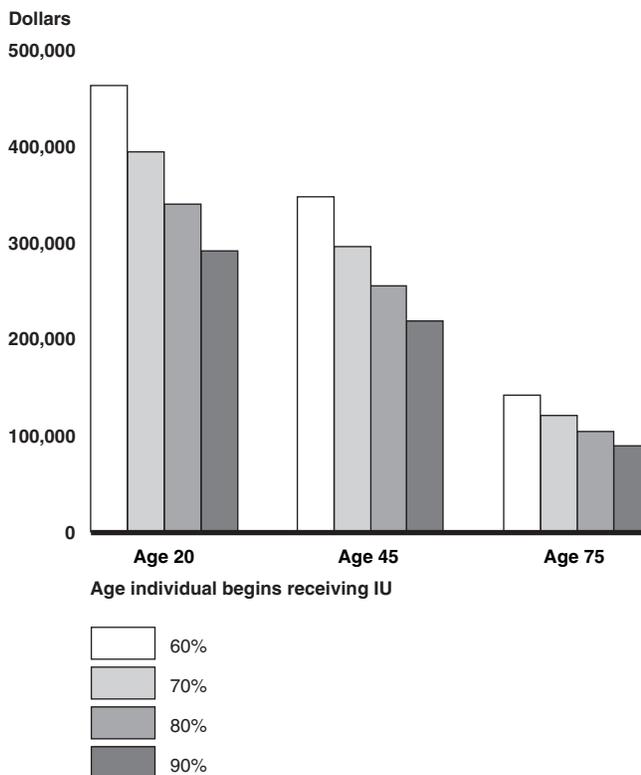
²³ See GAO, *Disability Benefits: Benefit Amounts for Military Personnel and Civilian Public Safety Officers Vary by Program Provisions and Individual Circumstances*, GAO-06-4 (Washington, D.C.: Apr. 7, 2006).

²⁴ Dependents and other circumstances can increase a veteran's monthly compensation. Veterans with a 30 percent schedular rating or higher can receive additional monthly compensation for each dependent, ranging from \$39 to \$130 for a spouse and \$26 to \$88 for a child in 2005, depending upon the veteran's schedular rating. Other special circumstances that increase monthly compensation include, for example, the loss of use of a limb or sensory organ, required attendant care, a spouse with a disability, or a child age 18 or older attending school.

²⁵ See appendix II for more information on the assumptions we made and the methods we used.

those of the same age with higher schedular ratings. For example, for younger veterans, those at age 20 in 2005, the estimated lifetime present value of these benefits can range from almost \$300,000 to over \$460,000. Even for older veterans, the value of these benefits can be substantial. For veterans awarded IU benefits at age 75 in 2005, the lifetime present value of these benefits can range from about \$89,000 to about \$142,000. The estimated lifetime present values of the added benefits for veterans awarded IU benefits in 2005 at selected ages and schedular ratings is shown in figure 3.

Figure 3: Estimated Lifetime Present Values of the Added Benefits for Veterans Awarded IU Benefits in 2005 at Selected Ages and Schedular Ratings

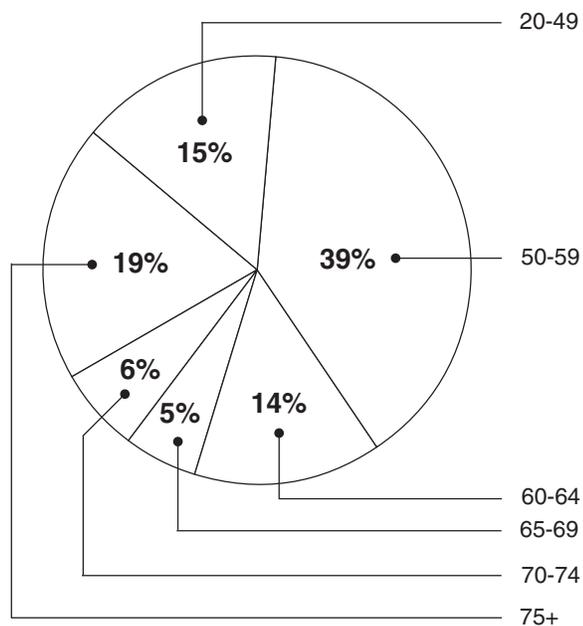


Source: GAO analysis based on VA 2005 schedular disability compensation rates and annuity factors described in appendix II.

When we analyzed VA data to determine the age at which veterans begin receiving IU benefits, we found that just under half of new IU beneficiaries were awarded IU benefits at the age of 60 or older. For example, we found

that 46 percent of veterans awarded IU benefits from October 2004 to October 2005 were age 60 or older, and 19 percent were age 75 or older.²⁶ See figure 4 for the age distribution of new IU beneficiaries from October 2004 to October 2005. Data for the 2 prior year periods show a similar pattern in the age distribution of new IU beneficiaries.

Figure 4: Ages of New IU Beneficiaries from October 2004 to October 2005



Source: GAO analysis of VA data.

Note: Percentages do not sum to 100 because of rounding.

In addition to disability compensation benefits, some IU beneficiaries are also entitled to military disability retirement benefits or normal retirement

²⁶ We calculated the number of new beneficiaries because VA's beneficiary database does not include the date that each veteran began receiving IU benefits. We used VA beneficiary database information for the month of October for 4 years from 2002 to 2005. For annual estimates we compared consecutive years. For example, all IU beneficiaries on the 2005 database, but not on the 2004 database, were identified as new IU beneficiaries for October 2004 to October 2005.

benefits based on years of military service.²⁷ In general, however, an offset provision restricts most veterans from receiving the full value of both benefits, unless they have 20 or more years of service. Recent legislation allows veterans with combat-related disabilities and 20 or more years of service to receive the full value of both benefits.²⁸ Also, recent legislation is phasing out the offset for veterans who have 20 or more years of military service and disability ratings of 50 percent or more. The phase out is taking place between January 1, 2004, and December 31, 2013, but IU beneficiaries with 20 or more years of service will be eligible for full concurrent receipt with no offset beginning October 1, 2009.²⁹ However, the recent legislation to eliminate the benefit offset is likely to affect relatively few IU beneficiaries, as our review of IU beneficiary data as of October 2005 shows that only about 8 percent of all IU beneficiaries have 20 years or more of service.

VA's Decision-making Criteria, Guidance, and Procedures Do Not Ensure That IU Decisions Are Well Supported

VA's regulations and guidelines for awarding IU benefits do not ensure that its decisions are well supported. VA regulations and guidelines lack key criteria and guidance that are needed to determine unemployability. In addition, VA guidelines do not give rating specialists the procedures to obtain the employment and earnings history, and vocational assessments needed to support IU decisions. As a result, VA rating specialists and some vocational rehabilitation staff told us that unemployability benefits have sometimes been granted to veterans who have employment potential.

²⁷ Military disability retirement benefits and normal retirement benefits based on years of military service are provided by the Department of Defense. Entitlement to these benefits is determined at the time a person leaves military service. To qualify for disability retirement, a person must be found unfit for duty due to a disability incurred or aggravated during active service, and have either (1) a disability rating of 30 percent or more, or (2) a disability rating less than 30 percent and 20 or more years of service. A person who is found fit for duty and has 20 or more years of military service generally would qualify for normal retirement.

²⁸ Beginning in May 2003, these veterans can receive a special benefit under the Combat-Related Special Compensation Payment program equal to the amount of the offset.

²⁹ In 2003, the Congress authorized Concurrent Retirement and Disability Payments to phase in the concurrent receipt of retirement and disability compensation benefits for eligible veterans from January 1, 2004 to December 31, 2013. The National Defense Authorization Act for Fiscal Year 2006, however, reduces the phase-in time for IU beneficiaries so that IU beneficiaries with 20 or more years of military service will receive the full value of both benefits starting in October 2009.

VA Lacks Key Criteria and Guidance Needed to Determine Unemployability

VA rating specialists making IU decisions are required to determine whether the claimant is capable of obtaining or retaining substantially gainful employment, which agency guidelines define as “that which is ordinarily followed by [persons without disabilities] to earn their livelihood with earnings common to the particular occupation in the community where the veteran resides.” However, VA regulations and guidelines do not provide the criteria and guidance that are needed to determine whether a claimant has the ability to obtain or retain substantially gainful employment or is unemployable because of his or her service-connected disabilities.

VA guidelines also define substantially gainful employment as any employment greater than marginal employment. Marginal employment generally exists when a veteran’s annual earned income does not exceed the poverty threshold for one person.³⁰ In addition, the guidelines recognize that the terms “unemployability” and “unemployable” are not synonymous for compensation purposes because a veteran may be unemployed or unemployable for a variety of reasons. As noted in the guidelines, rating specialists are to determine whether the severity of the service-connected conditions preclude the veteran from obtaining or retaining substantially gainful employment. In doing so, the rating specialists are to identify and isolate the effects of extraneous factors such as age,³¹ nonservice-connected conditions, availability of work, or voluntary withdrawal from the labor market when determining whether a veteran is unemployable solely by reason of service-connected disabilities.

However, the guidelines do not state how rating specialists are to isolate these factors from the veteran’s service-connected disabilities or how these factors should be considered in making IU decisions. For example, the guidelines do not specify how rating specialists are to determine whether a veteran’s lack of work or marginal employment is the result of the veteran’s service-connected disabilities or extraneous factors such as local labor market conditions or the veteran’s “voluntary withdrawal” from the labor force. In particular, the guidelines do not specify the criteria

³⁰ Marginal employment may also be held to exist, on a case by case basis, when a veteran who receives annual earnings above the poverty threshold is employed at a sheltered workshop or family business. Depending on the circumstances, a veteran so employed may be determined eligible to receive IU benefits.

³¹ As noted earlier, VA rating specialists are not to consider age when making IU determinations.

rating specialists should use in determining whether a veteran, who is not working or has only marginal employment, has the ability to obtain or retain substantially gainful employment. For instance, the guidelines do not mention how factors such as education, skills, or prior work history should be used to assess a veteran's ability to work.

Recognizing the deficiencies in VA's regulations and guidelines, the Court of Appeals for Veterans Claims urged VA to "undertake a broad-based review and revision" of unemployability regulations.³² In 2001, the agency proposed regulatory changes to address this and other problems with its IU decision making.³³ The proposal included changes intended to define key terms, such as substantially gainful employment. During the public comment period, however, VA received numerous comments from veterans groups that were strongly opposed to the proposed regulations. In December 2005, VA withdrew this regulatory proposal and initiated a new effort to develop a proposal for revising IU regulations. As of March 2006, VA was still in the process of drafting this new regulatory proposal.

VA Guidelines Lack Procedures for Obtaining Necessary Evidence for Determining Unemployability

VA also lacks adequate procedures for obtaining necessary evidence to support IU decisions. In particular, VA does not have procedures for rating specialists to obtain (1) complete and corroborated employment information from IU claimants and their employers, and (2) vocational assessments of IU claimants that could supplement medical information, even though the agency has an in-house vocational rehabilitation service.

VA Does Not Have Sufficient Procedures to Obtain Complete and Corroborated Employment Information

VA guidelines state that, when making an IU determination, rating specialists are to ensure that the "evidence is sufficient to evaluate . . . the veteran's current . . . employment status." Such evidence generally comes from two sources. First, the IU application form requires veterans to furnish employment and earnings history (e.g., jobs held, number of hours worked, type of work performed, and accommodations) for the 5-year period preceding the date the veteran claims to have become too disabled to work and for the entire time after that date. Second, the guidelines instruct the rating specialist to request related information from each of the claimant's employers for the 12-month period prior to the date the veteran last worked.

³² See *Halestad v. Derwinski*, 3 Vet. App. 213, 216 (1992).

³³ For VA's former proposed rules for its IU benefits decision making, see 66 Fed. Reg. 49886 (Oct. 1, 2001).

At the VA regional offices we visited, several rating specialists stated that the employment information submitted by claimants and employers is sometimes incomplete. VA guidelines state that it is essential that the form contain the claimant's complete work history³⁴ but does not specify what is acceptable for decision making when the work history is less than complete. According to an analysis conducted at a VA regional office, failure of the veteran to submit the requested employment information did not serve as a basis for denying an IU claim.

Also, when assessing the eligibility of claimants who report recent prior work experience, rating specialists told us that they sometimes have difficulty obtaining corroborating information from employers. VA regional office officials stated that it is often difficult to obtain relevant information from employers because, among other reasons, they have moved, gone out of business, maintained poor records, or had such turnover that no one remembers the claimant. One VA regional office official stated that he has instructed his staff not to "hold a benefit hostage to the employer information." We reviewed 29 case files in which IU benefits were awarded at three of the VA regional offices we visited.³⁵ We found that 23 case files contained employment history information submitted by the claimant but only eight of these contained evidence from employers. Three case files did not contain claimant or employer employment forms. In the remaining three case files, the veterans claimed to have not worked or to have been self-employed.

When a veteran claims not to have worked or to have been marginally self-employed during the past 5 years, agency guidelines for IU decision making do not give rating specialists the procedures to obtain corroborating evidence in the form of earned income information from other federal databases. As a result, rating specialists are unable to confirm (or refute) the veteran's claim. Specifically, rating specialists are unable to obtain earnings information from SSA and the IRS. In addition, VA does not have access to earnings information from the NDNH database, which contains quarterly information on earnings. Some rating specialists stated that, if available, they sometimes considered information

³⁴ Employment history for the 5-year period preceding the date on which the veteran claims to have become too disabled to work and for the entire time after that date.

³⁵ At the Milwaukee, Wis.; Oakland, Calif.; and St. Petersburg, Fla.; regional offices, we reviewed 29 case files with the assistance of a rating specialist or decision review officer.

in the medical exam report or hospital records showing that the claimant had been out of work as evidence of unemployability.

VA Lacks Procedures for Obtaining Vocational Assessments of IU Claimants That Could Supplement Medical Information

VA regulations on IU decision making do not contain procedures for rating specialists to request vocational assessments of IU claimants that could supplement claimants' medical information. VA guidelines require rating specialists to consider medical information when granting IU benefits. Specifically, the medical evidence must support a current evaluation of the extent of all the veteran's disabilities and reflect the veteran's condition in the past 12 months. At the regional offices we visited, managers stated that their rating specialists rely heavily on medical examinations conducted by VHA clinicians to make IU determinations.³⁶ Rating specialists at one of these regional offices stated that these medical reports were often the only information they have upon which to base a decision that is not self-reported.

Some rating specialists we interviewed, however, expressed concern that they were awarding IU benefits based on medical reports that provided insufficient support for determining unemployability. VA regional office officials and rating specialists told us that the current medical reports may have limited applicability to IU decision making. Medical reports may have limited applicability because, as we have noted in a prior report, while most medical impairments may influence the extent to which an individual is capable of engaging in gainful activity, vocational and other factors are often considered to be more important determinants of work capacity.³⁷ It is these other factors, along with the person's medical condition, that are considered in a vocational assessment of work potential.

Vocational assessments can supplement the results of medical examinations by taking into consideration factors such as the veteran's education, training, prior work experience, skills, and abilities, to identify the extent to which the veteran is employable. Yet, when making IU determinations, rating specialists do not have procedures to obtain vocational assessments from VR&E counselors. Rating specialists have access to vocational assessments only when they already exist prior to the

³⁶ In addition to VHA, QTC Management, Inc., conducts disability examinations for 10 VA regional offices on an as needed basis.

³⁷ GAO, *SSA Disability: Program Redesign Necessary to Encourage Return to Work*, [GAO/HEHS-96-62](#) (Washington, D.C.: Apr. 24, 1996).

request for IU benefits.³⁸ According to VA officials we spoke with, rating specialists generally make employability determinations without the benefit of a vocational assessment.³⁹ At 3 of the VA regional offices we visited, our review of 29 case files in which IU benefits were awarded found that 25 lacked any vocational assessment.⁴⁰

Lacking vocational assessments for most IU claims, officials at some regional offices we visited told us that they sometimes asked VHA clinicians to assess and make a determination on a claimant's employability. Of the 29 case files we reviewed, 7 contained medical reports that gave opinions on the veterans' employability. These opinions ranged from a comment that the claimant is not a good candidate for working with the public to comments that one veteran is "unemployable in any function" and another is simply "unemployable." Two cases contained employability decisions that were based on examinations of the claimant's functional capabilities. One official in a regional office indicated that medical reports containing opinions on employability often dictate their IU decisions. A senior VHA management official explained that these medical reports should not be the only source used to render an opinion regarding a claimant's unemployability because the agency's clinicians are currently not trained to conduct medical examinations that support decisions on employability.

Rating specialists at some of the VA regional offices we visited stated that, when available, the assessments in VR&E case files were very relevant to IU decision making. VR&E managers and counselors suggested that permitting rating specialists to obtain VR&E assessments of IU claimants could address the need for vocational information. VR&E officials stated

³⁸ Generally, rating specialists have access to vocational assessments only when the claimant sought (1) assistance from VA's VR&E Service, which prepared an assessment as part of its normal service; (2) assistance from a Vet Center, which sent the veteran to a private firm for a vocational assessment as part of a treatment plan; or (3) disability benefits from SSA, which conducted a vocational assessment and included the results in the claimant's records.

³⁹ Only veterans receiving disability compensation benefits are eligible for VA vocational rehabilitation benefits. Of the 2.6 million veterans currently receiving disability benefits, about 95,000 (or less than 4 percent) are receiving vocational rehabilitation services.

⁴⁰ The remaining 4 case files contained assessments conducted by SSA and private vocational counselors for Vet Centers, which provide services to veterans and their families, such as readjustment counseling, community education, and providing access to other VA and community services.

that their counselors are qualified to conduct such assessments and, where appropriate, VR&E counselors could also use this opportunity to use incentives to encourage return to work, develop return-to-work plans in collaboration with the claimant, and identify and provide needed accommodations or services for those who can work. By incorporating vocational assessments into its IU decision-making process, VA can modernize its disability programs by enabling veterans to realize their full productive potential without jeopardizing the availability of benefits for veterans who cannot work.

VA Staff Express Concerns that They May Have Awarded IU Benefits to Veterans with Employment Potential

We discussed IU decision-making criteria and evidence requirements with managers and rating specialists at the regional offices we visited. During these discussions, some rating specialists expressed concerns that they may have awarded IU benefits to some veterans who appeared to be employable. These rating specialists told us that they awarded IU benefits in these cases with the expectation that VA would identify these beneficiaries in the income matching process as having earnings above the IU threshold and discontinue their IU benefits. Another rating specialist stated that he felt compelled by the workload at his regional office to make IU determinations based on existing evidence, even when necessary information was lacking.

VR&E managers and counselors at the regional offices we visited stated that VA has awarded IU benefits to veterans making good progress in their VR&E-sponsored vocational rehabilitation. Our analysis of VA's electronic case files identified 683 veterans who received both IU benefits and a stipend from VR&E, which is generally provided only to veterans who are attending college and who are expected to seek employment at the conclusion of their vocational rehabilitation.⁴¹ VR&E officials and rating staff at three of the VA regional offices we visited brought to our attention veterans who had received VR&E assistance and were making good progress in their rehabilitation plans, only to drop out of the program when they were awarded IU benefits.

⁴¹ Using VA's Compensation and Pension Master File, we identified all disability compensation beneficiaries who received both IU benefits and stipends from VR&E. Using VR&E's case management database, we obtained information on financial and other support provided to a number of these veterans selected through a randomization process.

VA's Earnings Enforcement Process is Inefficient and Ineffective

VA has an inefficient and ineffective process to enforce the earnings limit for ongoing eligibility for IU benefits. VA's main enforcement mechanism is its computerized match that identifies beneficiaries with earnings, which is supplemented with a manual review to assess whether these earnings are within the limit and meet other ongoing eligibility criteria. However, this process relies on old data, outdated and time-consuming procedures, insufficient guidance, and weak eligibility criteria. Moreover, the agency does not track and review its enforcement activities to better ensure their effectiveness.

VA Uses a Multi-Step Process to Evaluate Beneficiaries' Ongoing Eligibility

VA utilizes a multi-step annual computer match and manual process, referred to as its Income Verification Match, to evaluate both the ongoing eligibility of its IU and pension beneficiaries.⁴² During 2004 and 2005, VA's income match, in coordination with SSA and IRS, assessed beneficiaries' income for 2002. VA provided SSA and IRS with data on VA's 2004 beneficiaries that the agencies matched to their 2002 income data. SSA matched VA beneficiaries to its wage and self-employment earnings to provide VA with 2002 earned income data for IU and pension beneficiaries. To provide VA with data on unearned income for its pension beneficiaries, IRS matched the beneficiaries with its 2002 unearned income data. VA's Hines Information Technology Center (ITC) used SSA's match results to identify IU beneficiaries with earned income above \$6,000 in 2002 for further review.⁴³ Hines ITC combined the results of the computer matches for IU and other beneficiaries to produce and mail documents to employers and to the Pension Maintenance Centers (PMC) for further review.

Hines ITC identified 8,563 IU beneficiaries with earnings over \$6,000 in 2002 for review by VA's three PMCs. For each identified beneficiary, Hines ITC produced and mailed a letter to the employer requesting earnings data to verify SSA-reported earnings. It also produced and mailed to the PMCs several documents for follow-up on each beneficiary, such as a letter for the veteran and a tracking sheet. The three PMCs manually reviewed the information provided by Hines ITC and employers and may have also contacted the veterans, as needed, to determine whether they continued to

⁴² VA also uses the match to assess the incomes of the surviving spouses and children of certain deceased veterans who receive death pension benefits.

⁴³ The IVM threshold was established by VA at the inception of its computer matching effort in 1991.

meet ongoing IU eligibility criteria. In general, IU beneficiaries who have exceeded the annual IU earnings threshold (set in 2002 at \$9,039), have worked 12 consecutive months or more, and have not been employed in a sheltered workshop or family business should have their IU benefits discontinued.⁴⁴ PMCs close the cases when they find beneficiaries meet the eligibility criteria and forward cases that needed additional information for a decision to VA regional offices for further review. The VA regional offices should obtain whatever additional information is needed to determine whether benefits should be discontinued and inform the veteran if VA decides to do so.

VA's Process to Evaluate Beneficiaries' Ongoing IU Eligibility Is Inefficient

In its computer matching process to evaluate ongoing IU benefit eligibility, VA used SSA earnings data that is about 1.5 years old, despite the fact that the data is available earlier and more recent earnings data is available from another federal database. Using old earnings data, along with other processing delays in its review, means that IU beneficiaries with earnings above the IU threshold can continue to receive benefits for up to 2.5 years before VA can determine that their IU benefits should be discontinued. Quick identification of IU beneficiaries who are no longer entitled to benefits is important because VA typically will only discontinue their benefits and will not collect any overpayments.⁴⁵ Although SSA earnings data could be available as early as September following the end of a tax year,⁴⁶ VA postpones the match of IU benefits and waits for unearned income from IRS so that it can evaluate both IU eligibility and pension payments at the same time. Also, HHS' NDNH can provide more current earnings data than SSA, but VA does not have the statutory authority to access this database. The NDNH database includes quarterly wage data for up to 8 quarters, which can be compiled into annual data for matching

⁴⁴ VA has a few exceptions to its IU earnings threshold. For example, beneficiaries who work in protected environments, such as a sheltered workshop or family business, may be considered to be marginally employed and still eligible for IU benefits, even when their earnings exceed the IU threshold. In addition, beneficiaries who have been receiving IU benefits for 20 years or more cannot have their benefits terminated, regardless of their earnings and employment.

⁴⁵ VA can collect IU benefit overpayments only in certain situations, such as when it determines benefits were obtained fraudulently or makes a mistaken overpayment.

⁴⁶ The earnings data available in September is nearly 100 percent complete, according to an SSA official responsible for maintaining the data.

purposes.⁴⁷ Although VA currently lacks access to the NDNH database, other agencies—such as SSA, IRS, and the Department of Housing and Urban Development—have sought and gained statutory authority to access the NDNH to improve their enforcement efforts.⁴⁸ In addition to gaining statutory authority, to obtain access to the NDNH, VA would need to meet data security and privacy safeguarding requirements HHS has established to ensure the security and confidentiality of NDNH data.

VA's enforcement process is also inefficient because VA has not updated its computer matching program to reflect annual changes in its IU earnings threshold. The program identified those who earned more than \$6,000 rather than the annual IU threshold, which was \$9,093 for 2002. As a result, the PMC staff told us that they manually reviewed many more cases than necessary. VA's Hines ITC officials told us that they are prohibited from making any changes in the matching program until the agency has replaced its current compensation and pension payment system, which may take place in 2007.

VA's enforcement process experiences additional delays because the computer matching information is transmitted manually to VA's enforcement staff rather than electronically. VA's ITC mails thousands of paper documents to employers and VA's three PMCs. It mails letters to veterans' employers to provide verification of veterans' earnings to the PMCs. ITC also mails a tracking sheet and a letter for each veteran earning over \$6,000 to the PMCs, where the information is manually collated and reviewed. The center officials told us that they use information from the computer match, employers, and veterans to assess whether beneficiaries meet ongoing IU eligibility criteria and they close the case for those who meet the criteria. If a center did not have sufficient information to determine eligibility, it mailed the case file to a VA regional office for further review. Although VA currently mails paper documents generated from the match to its PMCs and regional offices, software exists to

⁴⁷ NDNH data has some limitations. For example, NDNH does not contain complete information on some types of workers, such as independent contractors, subcontractors, and self-employed individuals, and persons who perform services such as child care for private homes.

⁴⁸ To obtain access to the NDNH database, an agency must seek authority from the Congress through enactment of legislation, which the Congress must pass and the President must sign. Moreover, the agencies may use the NDNH data only for those purposes authorized by law.

transfer the confidential information electronically, and VA officials acknowledged that doing so would make the process more timely.

One action VA has recently taken to enhance enforcement is to reinstate a procedure that requires IU beneficiaries to annually complete a form to provide their earnings and employment status. VA had discontinued use of the form about 6 years ago to reduce the paperwork burden for beneficiaries and instead was annually sending a letter to IU beneficiaries to remind them of their responsibility to notify VA of their employment and earnings. However, VA officials believed that the annual reminder had not resulted in sufficient compliance and in September 2005, reinstated the requirement to complete the VA form. Because the agency has very recently implemented this change, we cannot assess its effectiveness. Although the agency believes that this information will improve its ability to monitor veterans' ongoing eligibility, it still plans to continue the income verification match.

VA Has Insufficient Guidance to Evaluate Beneficiaries' Earnings

VA's written guidance for evaluating beneficiaries' earnings also hinders enforcement by failing to clarify that PMC staff should use all the available earnings information from the match and other sources, such as employers, to assess beneficiaries' initial and continuing eligibility. Lacking this written guidance, VA staff focus on whether beneficiaries' earnings and employment qualified them for benefits for the match year. For example, when PMC staff receive earnings data for veterans who were granted benefits during the match year, the staff disregard the earnings, regardless of the amount, and close the case. Staff do so because they only consider earnings subsequent to granting benefits and know that the new beneficiaries could not have worked for 12 consecutive months in the match year. The match data and the beneficiaries' application information, however, could show that veterans may not have fully disclosed their earnings during the application process and may have exceeded the IU threshold. Staff also disregard some of the earnings information provided by employers that could have had a bearing on eligibility. Although VA's letters to employers request earnings information for the match year and 2 subsequent years, management's verbal guidance at one center was to disregard the earnings from the subsequent years and only consider the earnings of the match year.

VA Has Weak Criteria to Evaluate Beneficiaries' Ongoing Eligibility

VA has weak criteria to determine whether veterans should continue to receive IU benefits. In evaluating IU beneficiary eligibility, PMCs allow beneficiaries to continue to receive IU benefits if their earnings at the time of the review did not exceed the IU threshold. However, some IU beneficiaries can have earnings far above the IU threshold because VA, under current law, continues to provide them benefits until they have maintained employment for 12 consecutive months.⁴⁹ In effect, this law allows beneficiaries to retain their benefits despite unlimited earnings, so long as they do not work for 12 consecutive months. For example, a beneficiary could earn \$50,000 from January to September, choose to stop working for reasons other than his or her service-connected disability, and still be allowed to retain his or her IU benefits.

VA Management Does Not Track and Review the Outcome of Its Enforcement Activities

VA does not effectively track and review the results of its enforcement activities. VA does not track the results of cases reviewed by PMCs or those sent to regional offices. As a result, the agency does not know the results of these reviews or the reasons for continuing or discontinuing IU benefits. For example, the agency does not know how many beneficiaries were identified by its computerized match with earnings below the IU threshold or had higher earnings and continued to receive benefits. Also, without sufficient information to monitor enforcement, the agency cannot ensure that beneficiary cases are being fully reviewed or that appropriate actions are taken to discontinue benefits.

VA's Practices to Manage Its Disability Benefits Lag Behind Other Disability Programs

Private-sector and SSA disability programs provide important features that VA's IU benefits lack. Unlike VA, private insurers have developed assessment processes that focus on return to work and use a wide variety of assessment tools, expertise, and incentives to evaluate claimants' ability to work and encourage and enable those with work potential to return to the labor force. Likewise, SSA requires applicants to provide substantial information for assessment purposes and, in recent years, has implemented a new program to provide return-to-work services and is conducting pilots to test new methods to return applicants and beneficiaries to work. In addition, SSA has implemented critical management practices to help ensure the financial integrity of its disability programs.

⁴⁹ See 38 U.S.C. §1163.

Private Insurers' Eligibility Assessment Processes Focus on Return-to-Work

The eligibility assessment processes of three U.S. private insurers we reviewed focused on returning people with disabilities to work.⁵⁰ The private insurers' assessment processes we reviewed both evaluated a person's potential to work and assisted those with work potential to return to the labor force. Insurers provided assessment and other services shortly after disability onset and throughout the duration of the claim, as needed. Their ongoing assessment process is closely linked to their definition of disability that shifts over time from less to more restrictive—that is, from an inability to perform one's own occupation to an inability to perform any occupation. Both the definitional shift and the ongoing assessment process recognize the possibility for improvement in an individual's work capacity by providing supports and services, such as workplace adaptations or training as well as financial and other incentives to encourage claimants to return to work.

Throughout the duration of the claim, private insurers use a wide variety of tools and expertise to assess the claimant's work potential and develop and implement an individualized return-to-work plan for those with work potential. As part of the process of assessing whether a claimant can perform his or her own occupation, insurers directly contact the claimant, the treating physician, and the employer to collect medical and vocational information and initiate return-to-work efforts, as needed. For example, insurers consult medical staff and use other resources, such as medical guidelines, which describe disabilities and their treatment and duration, to evaluate whether the treating physician's diagnosis and the expected duration of the disability are in line with the claimant's reported symptoms and test results. Insurers' contacts with treating physicians may also be aimed at ensuring that the claimant has an appropriate treatment plan focused on timely recovery and return to work. Insurers may also use an independent medical examination or tests of basic skills, interests, and

⁵⁰ For more information on the medical and vocational tasks, tools, methods and expertise used by private insurers to assess disability claims and provide return-to-work assistance, see *VA Benefits: Other Programs May Provide Lessons for Improving Individual Unemployability Assessments*, [GAO-06-207T](#) (Washington, D.C.: Oct. 27, 2005) and *SSA Disability: Other Programs May Provide Lessons for Improving Return-to-Work Efforts*, [GAO-01-153](#) (Washington, D.C.: Jan. 12, 2001). The 2001 report also examined social insurance disability programs in Germany, Sweden, and The Netherlands, which have also invested in return-to-work efforts and have implemented practices similar to those in the U.S. private sector. Although these countries' disability programs operate in a somewhat different social and political context than U.S. federal programs, the experiences of these countries show that return-to-work strategies can apply to a broad population with a wide range of skills and disabilities.

aptitudes to clarify the medical or vocational limitations and capabilities of a claimant. In addition, they may use medical or vocational specialists to identify possible accommodations for the claimant and may also contact employers to encourage them to provide workplace accommodations for a claimant who has the capacity to work. To determine whether a claimant can go back to his current job, or if not, engage in other work, insurers will identify a claimant's remaining skills and abilities (i.e., transferable skills) by comparing the claimant's capabilities and limitations with the demands of the claimant's own occupation. Included in these assessment tools and methods are services to help the claimant return to work, such as job placement, job modification, and retraining.

The definition of disability shifts after 2 years from being unable to perform one's own occupation to being unable to perform any occupation. This period provides an opportunity for claimants who have the potential to work to recover medically and develop skills to return to work. During this period, insurers may provide financial and other assistance to help claimants with work potential make a successful transition. Insurers try to develop the best strategies for managing each claim, which can include, for example, helping to plan medical care or providing vocational services to help claimants acquire new skills, adapt to assistive devices, or find new positions. For those requiring vocational intervention to return to work, the insurers develop an individualized return-to-work plan, as needed.

Work incentives are an important feature of the private insurers' programs to encourage and facilitate a claimant's return to work. These incentives require the claimant to obtain appropriate medical treatment and can result in a possible loss of benefits if the claimant does not participate in a return-to-work program, if such a program would benefit the individual. To support these requirements, these disability systems help the individual obtain the appropriate medical care and provide financial incentives to promote participation in rehabilitation, such as reimbursement for family care costs. Insurers may provide additional financial benefits to those who participate in a return-to-work plan. For example, one insurer told us that claimants may receive an additional benefit equal to 10 percent of their disability payment for participating in rehabilitation. To further encourage rehabilitation and return to work, insurers may allow claimants who work to supplement their disability benefit payments with earned income. Conversely, insurers may reduce or terminate benefits for claimants who could work, but do not. Claimants' benefits may also be terminated if they refuse to accept a reasonable accommodation that would enable them to work.

If the insurer initially determines that the claimant has no work potential, it monitors the claimant's condition for changes that could increase the potential to work. After 2 years, it reassesses the claimant's eligibility under the more restrictive definition of disability. The insurer continues to look for opportunities that may enable these claimants to return to work. For example, opportunities may occur for claimants when there are improvements in medical treatments and technology, such as new treatments for cancer or AIDS.

VA Lacks Some of SSA's Eligibility Assessment and Return-to-Work Efforts

Both VA and SSA disability programs are on our high-risk list, in part, because they do not reflect the current state of science, technology, medicine, or labor market conditions. Nevertheless, SSA's disability programs have efforts to assess eligibility and encourage return-to-work that VA's disability compensation program lacks. For example, SSA requires applicants to provide substantial information for assessment purposes and in recent years has implemented a new program to provide return-to-work services and is conducting pilots to test new methods to return applicants and beneficiaries to work. Moreover, in 2003, SSA's Commissioner announced in a testimony to the Congress that a key operational goal for the agency's disability programs is to foster return-to-work efforts at all stages of decision making.

As with VA's definition of individual unemployability, SSA's definition of disability for its two disability programs includes both medical and employment criteria. For the agency's Disability Insurance (DI) and Supplemental Security Income (SSI) programs, the Social Security Act⁵¹ defines disability as the inability to engage in any substantial gainful activity⁵² by reason of any medically determinable physical or mental impairment(s) that is expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. In addition to SSA's medical criteria, an applicant must also meet non-medical program criteria for both of its disability programs. For DI

⁵¹ 42 U.S.C. §§ 423(d) and 1382c(a)(3).

⁵² SSA has established earnings criteria as an indication of whether applicants are able to engage in substantial gainful activity. In 2005, the substantial gainful activity level for individuals who have impairments other than blindness was \$830 in earnings per month. For blind individuals, the level was \$1,380 in earnings per month. In addition, SSA has established a substantial gainful activity level for self-employed individuals that is not based solely on earnings but includes such factors as the significance of the individual's contribution to the business. (See 20 C.F.R. §§ 404.1575 and 416.975.)

benefits, an individual must have contributed earnings to the DI program, have sufficient annual earnings to receive one credit per year, and generally have at least 20 credits for the last 40 quarters ending with the onset of a disability.⁵³ To receive SSI benefits, individuals must have limited assets and income.

To collect key decision-making information, SSA requires a DI or SSI applicant to provide the agency with extensive medical and vocational information, including the illness, injuries, or conditions and how they affect the applicant's ability to work; 15 years of prior work history; the requirements of the applicant's longest lasting job; medications taken and medical history; education and training; and any vocational rehabilitation. If needed, SSA may also collect additional information from the applicant about his or her pain, fatigue, and ability to perform common daily and other specific activities, like meal preparation or ability to stand and sit, as well as the use of accommodations.

To assess claims for eligibility, SSA generally uses both a disability examiner and a medical consultant.⁵⁴ If needed, the medical consultant will use the collected information to determine what an applicant can still do, despite physical or mental limitations, referred to as the applicant's residual functional capacity.⁵⁵ The residual functional capacity will be used by the decision makers, along with other vocational information in the applicant's file, to determine if the applicant can perform his or her prior job. If not, the decision makers will use this information to determine if

⁵³ Younger workers may qualify with fewer credits. Credits are based on an individual's total annual earnings and a maximum of four credits can be earned each year. For 2005, annual wages or net earnings from self-employment income to obtain one credit was \$920.

⁵⁴ If the applicant is not satisfied with the initial decision, he or she may request reconsideration of the decision and also has an opportunity thereafter to request a hearing before an Administrative Law Judge and for an additional review by SSA's Appeals Council. For additional information on SSA's current disability decision making process, see GAO, *Social Security Disability Insurance: SSA Actions Could Enhance Assistance to Claimants with Inflammatory Bowel Disease and Other Impairments*, [GAO-05-495](#) (Washington, D.C.: May 31, 2005).

⁵⁵ SSA does not evaluate the residual functional capacity of all applicants. Instead, SSA uses a sequential assessment process to more quickly identify individuals who the agency believes are clearly eligible or ineligible for benefits. For example, SSA denies benefits to individuals who are working and earning more than the agency's threshold amount or do not have a severe impairment. SSA grants benefits to applicants whose earnings are below the threshold level and whose impairments meet or equal the agency's pre-established list of medical criteria for impairments considered severe enough to prevent an individual from earning wages above the established threshold.

the applicant can perform another job in the national economy. Although these vocational decisions can be complex, SSA may include, but does not require, that vocational specialists provide input to decision making. SSA, however, has acknowledged the need to strengthen its decision making and has proposed, along with other changes, to establish a national network of medical, psychological, and vocational experts to assist SSA decision makers throughout the country.⁵⁶

The SSA Commissioner's recent commitment to fostering return-to-work efforts is illustrated by some of the agency's ongoing programs and pilot tests.⁵⁷ In September 2004, SSA completed implementation of its Ticket to Work and Self-Sufficiency Program.⁵⁸ The program is intended to provide beneficiaries with greater choice in vocational rehabilitation and employment services so that they can work and become self-sufficient. While we reported in March 2005 that the program was having limited success,⁵⁹ the agency has proposed steps to strengthen the program, such as expanding eligibility and improving incentives to encourage participation by service providers and beneficiaries. Furthermore, SSA has developed a Work Opportunity Initiative, with several demonstration projects, to provide both applicants and beneficiaries with medical coverage or cash incentives to support their ability to work.

⁵⁶ For more information about this change and others proposed by SSA's Commissioner to improve disability decision making, see the agency's notice of final rulemaking for its administrative review process for adjudicating initial disability claims. 71 Fed. Reg. 16424 (Mar. 31, 2006).

⁵⁷ For many years, SSA has had work incentives incorporated into its disability programs to protect the cash and medical benefits of beneficiaries who try to work. GAO, however, has reported that the incentives were ineffective in motivating beneficiaries to work. For related GAO testimony, see *Social Security Disability: Multiple Factors Affect Return to Work*, GAO/T-HEHS-99-82 (Washington, D.C.: Mar. 11, 1999).

⁵⁸ SSA also implemented two supporting programs. The Benefits Planning, Assistance, and Outreach program enables community groups to provide outreach and information to SSA beneficiaries with disabilities to help them make informed choices about using a ticket and returning to work. The Protection and Advocacy for Beneficiaries of Social Security projects provide a broad range of advocacy related services to beneficiaries with disabilities that may be needed by beneficiaries to secure employment.

⁵⁹ For the GAO report on SSA's Ticket Program, see *Social Security Administration: Better Planning Could Make the Ticket Program More Effective*, GAO-05-248 (Washington, D.C.: Mar. 2, 2005).

SSA Has Implemented Practices to Help Ensure the Financial Integrity of Its Disability Programs

While supporting people with disabilities is an essential function of SSA's disability programs, the agency is also responsible for ensuring the programs' financial integrity. In 1997, we designated SSI a high-risk program after several years of reporting on specific instances of abuse and mismanagement, increasing overpayments, and poor recovery of outstanding SSI overpayments. SSA's actions since then included developing a major SSI legislative proposal with numerous overpayment deterrence and recovery provisions. The ensuing enacted legislation directly addressed a number of our prior recommendations and warranted removal of the SSI program from our high-risk list in 2003.⁶⁰ We have, however, continued to monitor the program to ensure that improvements have been sustained.

To help ensure that applicants' and beneficiaries' earnings do not exceed allowed levels, SSA has incorporated several procedures into its eligibility assessments. In assessing eligibility, SSA must determine whether an applicant is working and earning an amount that exceeds its established thresholds. As part of this process, DI and SSI applicants must provide SSA with information on their past work and any current work. If applicants indicate that they are currently working or receiving earnings, or SSA obtains other information that suggests that they may have earnings, SSA requires additional information on their work and earnings. SSA field staff generally must then verify the applicants' reported earnings using another reliable source of information. SSA also uses its online query system to access the NDNH database, which has recent earnings, new hire, and unemployment information, to verify the earnings for DI and SSI applicants it has designated as high risk, such as those whose stated income does not appear to cover their expenses. SSA has found that online access to NDNH data to verify earnings for the SSI program has a high return on investment. For example, using a pilot evaluation, SSA estimated that if it verified earnings online prior to benefit payment, it could annually reduce overpayments by \$30.8 million and have a 3.6 to 1 return-on-investment ratio.⁶¹

⁶⁰ For GAO's report, see *High-Risk Series: An Update*, [GAO-03-119](#) (Washington, D.C.: January 2003).

⁶¹ This estimate is based on a judgmental selection of field offices for the study and does not represent a statistical estimate for the nation, according to an SSA Office of Inspector General report entitled, *Review of the Social Security Administration's Office of Child Support Enforcements Pilot Evaluation*, A-01-00-20006 (Baltimore, Md.: May 30, 2001).

After benefits are granted, SSA performs frequent computer matches that are intended to assess earnings for all its beneficiaries. These matches compare earnings information from its beneficiary databases with two federal earnings databases to detect and prevent overpayments. For its computer matches, SSA uses both its own master earnings file with earnings information from employers and the self-employed and the NDNH database.⁶² SSA uses both databases because the SSA database has more complete earnings information than the NDNH database, whereas the NDNH database has more current earnings information in its quarterly wage database, as well as other important employment data, according to SSA officials. SSA performs periodic matches using its master earnings file to detect and prevent beneficiary overpayments for all its SSI and DI beneficiaries. In addition, SSA performs quarterly matches using NDNH quarterly earnings to detect and prevent overpayments to all SSI beneficiaries. SSA has also found that using NDNH data for the matches can be very cost-effective. In evaluating fiscal year 2002 computer matches using NDNH data, SSA estimated that it could annually realize \$199 million in benefits from collecting and preventing overpayments and expend \$23 million for matching, following up on matches, and overpayment collection, yielding an estimated 8.7-to-1 benefit-to-cost ratio. SSA also plans to expand its use of the NDNH database to perform matches to evaluate all DI beneficiary earnings.

SSA has automated many features of its matching process and follow-up verification and collection activities to help improve the efficiency and effectiveness of its disability programs. SSA's computerized matching process can not only detect potential unreported or underreported earnings, but can also electronically forward matches to the field office responsible for follow-up and provide workload statistics to each level of management to help monitor the process. Field office staff can also use SSA computer systems to view specific information on the match (including the amount of earnings detected), document their follow-up, and initiate collection activities, as needed. For example, the system will send a letter to a current beneficiary who has received a benefit overpayment with information about this debt, such as the amount owed, and options for repayment. Through automation, the agency has increased its ability to ensure that matches are followed up and more efficiently initiate efforts to collect overpayments. SSA's systems also have built in

⁶² SSA also has access to earnings data from 18 states to help monitor and prevent overpayments, according to an SSA official.

security features to help ensure that SSA meets legal requirements to manage the privacy of the earnings and employment data.

SSA uses various collection methods and other tools to manage the debt owed by current and past beneficiaries who received disability benefit overpayments. SSA will withhold monthly disability benefits to collect overpayments from beneficiaries who are still on its rolls. In fiscal year 2005, SSA collected \$2 billion in overpayments using this method. When the person is no longer on SSA's benefit rolls, the agency uses its own billing and follow-up system to collect overpayments. That system enables SSA to send a series of progressively stronger notices requesting repayment and to make telephone calls to negotiate repayment. The agency collects several hundred million dollars a year using this approach. In addition, SSA uses other more aggressive debt collection tools, such as tax refund offsets and administrative wage garnishment, to collect debt from prior benefit recipients who are no longer on its benefit rolls. When unable to collect debts from current or prior beneficiaries, SSA will write off the debts. In 2005, SSA reported debt collection of \$2.4 billion, writing off debt of \$842 million, which left outstanding debt of \$13.1 billion at year end. Table 2 provides a list of the tools used by the agency to manage overpayment debt.

Table 2: SSA's Debt Collection Tools for Benefit Overpayments

Debt collection tool	Description
SSA billing and follow-up	Collection of debt using a series of progressively stronger notices requesting repayment and telephone calls to negotiate repayment
Benefit withholding	Collection of overpayments from monthly disability benefits for individuals still on the disability rolls
Mandatory cross-program recovery	Collection of a former SSI recipient's debt from any DI benefits due to that person
Tax refund offset	Collection of a former beneficiary's delinquent debt from a federal tax refund
Administrative offset	Collection of a former beneficiary's delinquent debt from a federal payment other than a tax refund
Administrative wage garnishment	Collection of a former beneficiary's delinquent debt from their current wages from their employer
Credit bureau reporting	Reporting delinquent debt to a credit bureau to encourage repayment

Source: GAO analysis of SSA information.

To help monitor its debt collection efforts and their effectiveness, SSA also tracks and reports key debt management activities and performance indicators. For example, SSA's annual performance and accountability reports provide data on the quarterly cumulative totals for the debt outstanding, collected, and written off, and the varying age of delinquent debt.⁶³ SSA also provides 5 years of trend data on the results and effectiveness of its activities, such as the percentage of outstanding debt that is delinquent or not expected to be collected and the average cost to collect a dollar of debt, which was \$0.09 for fiscal year 2005. Furthermore, to help monitor its achievement of its strategic goals to improve debt management, SSA measures and sets a goal for the percentage of debt in collection for its Old-Age, Survivors, and Disability Insurance; and SSI programs. The indicators compare debt that is scheduled for collection through benefit withholding or installment payment with total outstanding debt. For fiscal year 2005, SSA reported that it met its collection goals, with 53 percent of SSI debt and 42 percent of Old-Age, Survivors and Disability Insurance debt in collection arrangements.

Conclusions

VA's management of IU benefits lacks the strong controls needed for ensuring the integrity of the process for determining the initial and ongoing eligibility for these benefits. In particular, VA lacks the criteria, guidance, and procedures to ensure that its IU decisions are well supported. For example, the guidelines do not mention how factors such as education, skills, or prior work history should be used to assess a veteran's ability to obtain or retain substantially gainful employment in cases when the veteran is not working or is only marginally employed. As a result, the agency cannot assure that it is providing IU benefits only to those who are unemployable due to their service-related disabilities. In addition, due to limitations in the procedures to obtain evidence, VA rating specialists may not have sufficient information for determining whether claimants are unemployable. Without the procedures needed to collect complete and corroborated employment and earnings histories, rating specialists lack access to important indicators of future employability. Moreover, without having the procedures needed to obtain vocational assessments from VA's own vocational counselors, rating specialists lack important information that is needed to determine whether a claimant may be able to obtain or retain substantially gainful employment.

⁶³ For additional information on SSA's debt management activities and results, see SSA's *Annual Performance and Accountability Report* for fiscal year 2005.

Further, VA's income verification process lacks access to timely data, uses an outdated earnings threshold, and relies on a manual process for follow-up on earnings matches, which results in the agency's inability to effectively identify overpayments. In addition, VA's methods for determining ongoing eligibility may allow veterans who do not meet the ongoing eligibility criteria to continue to receive IU benefits. Moreover, VA's limited ability to detect and stop IU payments to beneficiaries no longer eligible to receive them not only increases the cost of IU benefits, it can create an opportunity for program misuse. Finally, because VA does not track the results of its enforcement efforts, the agency cannot determine whether its efforts are cost-effective and cannot hold itself accountable to veterans or other taxpayers.

Finally, the continuing deployment of our military forces to armed conflict has focused national attention on ensuring that those who incur disabilities while serving their country are provided the services needed to help them reach their full potential. Yet, VA is among the federal disability programs we have identified as high-risk, in part, because it is poorly positioned to provide meaningful and timely support to help veterans with disabilities return to work. VA's management of IU benefits exemplifies these problems. Approaches from other disability programs demonstrate the importance of providing return-to-work services and using vocational expertise to assess the claimant's condition and provide the appropriate services. Incorporating return-to-work practices in IU decision making could help VA modernize its disability program to enable veterans to realize their full productive potential without jeopardizing the availability of benefits for veterans who cannot work.

Recommendations for Executive Action

We recommend that the Secretary of Veterans Affairs take the following steps to improve management of IU benefits:

1. To help ensure that IU decisions are well-supported and IU benefits are provided only to veterans whose service-connected disabilities prevent them from obtaining or retaining substantially gainful employment, VA should clarify and strengthen its eligibility criteria, guidance, and procedures for determining unemployability. For example, VA could:

- clarify in its regulations and guidelines how vocational factors, such as education, skills, or prior work history, should be used to assess a claimant's eligibility;
- establish procedures for rating specialists to request VR&E to conduct vocational assessments of IU claimants as appropriate; and

-
- seek legislative authority to use earnings data from the National Directory of New Hires.

2. To improve the efficiency and effectiveness of VA's enforcement efforts to monitor ongoing eligibility, VA should update procedures and strengthen criteria for the enforcement of the IU earnings limit. For example, VA could:

- update and automate its enforcement process, including using more current earnings data and threshold amounts in its income verification match;
- clarify guidance on the review of IU beneficiary earnings following the match; and
- annually track and report on the results of matching process and related enforcement activities.

3. To help modernize its IU decision-making process, VA should develop a strategy to ensure that IU claimants with work potential receive encouragement and assistance to return to work, while protecting benefits for those unable to work. For example, VA could encourage claimants to return to work by having vocational counselors from VR&E develop return-to-work plans and provide assistance to claimants with work potential.

Agency Comments

We provided a draft of this report to VA, SSA, and HHS for comment. VA agreed with our conclusions and concurred with our recommendations, and stated that it has implemented and plans to implement program changes in areas that we identified as needing attention. The actions described by VA should strengthen its management of IU benefits; however, we believe that further steps are needed to fundamentally transform IU benefits into a meaningful and timely way of supporting unemployed veterans with service-connected disabilities. For example, VA seeks to improve decision making on initial and ongoing eligibility by increasing its collection of employment and earnings data. While these are positive developments, our recommendations envision a more comprehensive effort to restore the integrity of IU decision making through a series of reforms that would seek to strengthen IU criteria, guidance, and procedures for determining initial eligibility and enforcing the earnings limit.

VA also proposes to encourage IU claimants to consider employment by including a motivational letter with the notice informing them that they

have been approved for IU benefits. While we recognize VA's intent is positive, providing such letters after veterans have been determined to be unemployable does not provide them with the timely support needed to return to work. Our recommendation envisions that VA implement a number of fundamental reforms that transform IU benefits from simply providing compensation for unemployed veterans with service-connected disabilities to incorporating a broad range of vocational rehabilitation services and assistance that encourage and support such veterans to realize their full productive capacity, while protecting benefits for veterans unable to work. VA will need to expand upon the initiatives outlined in its comments to take full advantage of IU benefit decision making, not only as a means to restore the lost incomes of veterans with service-connected disabilities but, when appropriate, to restore their ability to pursue a livelihood and take their place as fully productive members of society.

VA's comments appear in app. V. In addition, VA, SSA, and HHS provided technical comments, which are reflected in the report as appropriate.

We will send copies of this report to the Secretary of Veterans Affairs, Secretary of Health and Human Services, Commissioner of the Social Security Administration, relevant congressional committees, and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>. Please contact me at (202) 512-7215 if you or your staff have any questions about this report. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. Other major contributors to this report are listed in appendix VI.

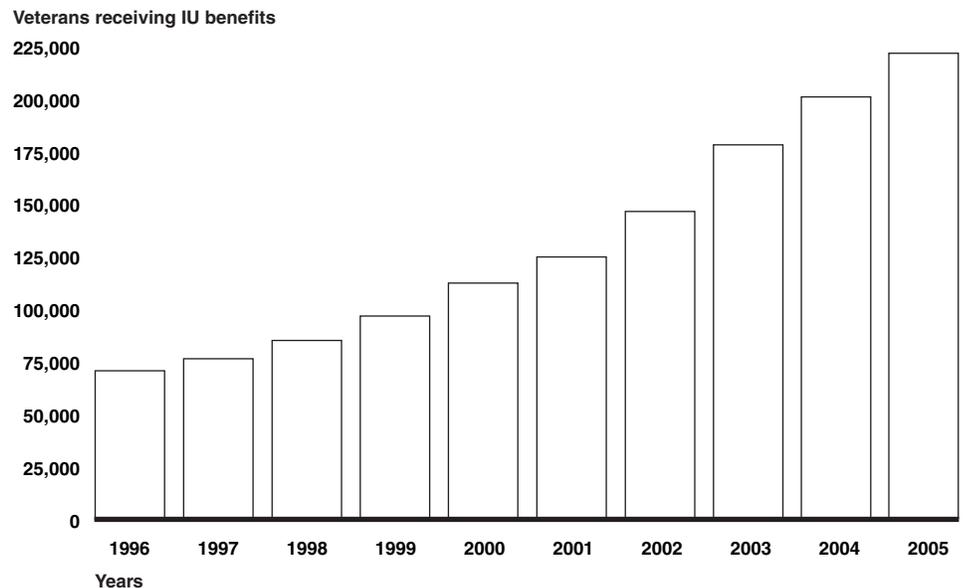


Cristina T. Chaplain
Acting Director, Education, Workforce,
and Income Security Issues

Appendix I: IU Beneficiaries and Estimated Expenditures

We estimated the number of Individual Unemployability (IU) beneficiaries for 1996 to 2005 from monthly internal Department of Veterans Affairs (VA) reports on activity under the Disability Compensation program. For each year, we identified the number of IU beneficiaries from the “end of month” total in the September report for that year. Figure 5 shows the growth in number of IU beneficiaries from 1996 to 2005.

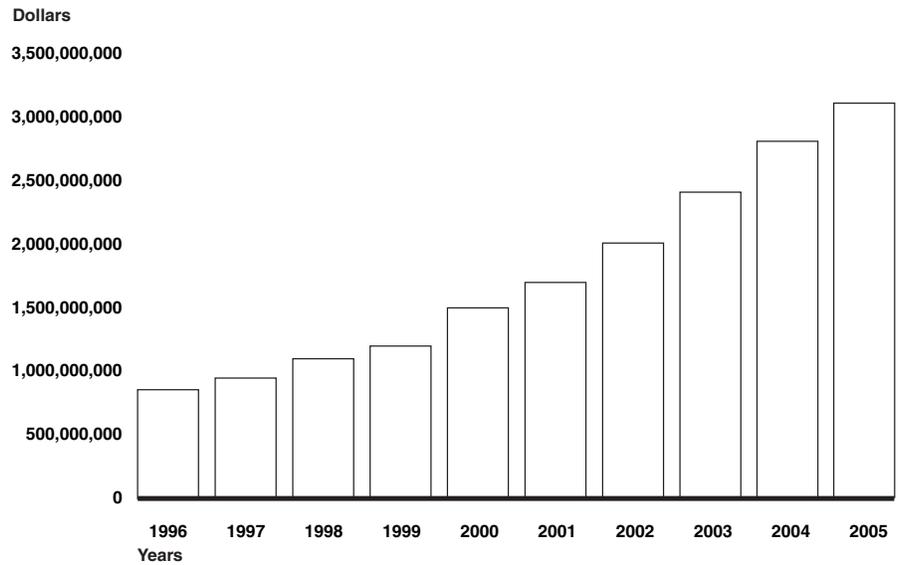
Figure 5: Number of IU Beneficiaries for 1996 to 2005



Source: GAO analysis of VA data.

At the time of our study, VA did not report or maintain separate data on IU expenditures. We estimated VA’s annual added expenditures due to IU benefits for 1996 to 2005 from monthly internal VA reports showing expenditures on the Disability Compensation program. Using data in the September report for each year, we computed average monthly payments due to IU benefits for 1996 to 2005, annualized this amount, and factored in the number of beneficiaries to estimate total expenditures on IU benefits for each year. Figure 6 shows the growth in IU expenditures from 1996 to 2005.

Figure 6: Estimated IU Expenditures for 1996 to 2005



Source: GAO analysis of VA data.

Appendix II: Lifetime Present Value Analysis of IU Benefits

To illustrate the value of IU benefits, we calculated the present value of the added benefits due to IU that would be available over a lifetime to veterans who begin to receive IU benefits at different ages and with schedular disability ratings of 60-, 70-, 80-, and 90-percent. We chose the ages of 20, 25, 35, 45, 55, 65, and 75 to illustrate the added value of IU benefits over a wide range of ages at which veterans could begin to receive such benefits.

For each age and disability rating combination, we calculated the present value of the added increment due to IU that would be received over a lifetime. Our present value analysis uses annuity factors that are based on two key assumptions: the length of time benefits will be received, and the rate at which future payments will be discounted (on the basis that a dollar today is worth more than a dollar received a year from today). For the first assumption about life span, we used Social Security Administration general population mortality tables for males.¹ For the second assumption about the discount rate, we assumed that the rate of interest absent inflation (the real interest rate) is 3 percent, and that inflation is constant at 3 percent annually, resulting in an assumed nominal interest rate (which is the sum of the real interest rate and inflation) of 6 percent. Because the yearly cost-of-living adjustment of VA compensation rates is linked to the consumer price index,² we assumed that this adjustment is equal to the rate of inflation, resulting in a net discount rate for our calculations of 3 percent a year. The present value of the additional amount of disability compensation provided to veterans granted IU benefits for selected ages and schedular ratings is provided in table 3.

¹ We used estimates for males because 2001 data from the Bureau of Labor Statistics show that over 93 percent of veterans are male.

² A cost of living adjustment is not guaranteed, but the Congress has historically passed annual adjustments based on a percentage equal to the increase in Social Security benefits.

**Appendix II: Lifetime Present Value Analysis
of IU Benefits**

Table 3: Lifetime Present Value of Increased Benefits for Veterans Receiving IU by Selected Ages and Scheduling Ratings

Age awarded IU	Schedular Rating (percent)	2005 annual amount of schedular compensation ^a	Annuity factor	Lifetime present value of compensation based on the schedular rating ^b	Lifetime present value of the added benefits due to IU ^c
20	60	\$10,068	26.4768	\$266,568	\$463,874
	70	12,672	26.4768	335,514	394,928
	80	14,724	26.4768	389,844	340,598
	90	16,560	26.4768	438,456	291,986
	100	27,588	26.4768	730,442	NA ^d
25	60	10,068	25.4894	256,627	446,574
	70	12,672	25.4894	323,002	380,200
	80	14,724	25.4894	375,306	327,896
	90	16,560	25.4894	422,104	281,097
	100	27,588	25.4894	703,202	NA ^d
35	60	10,068	22.9946	231,510	402,865
	70	12,672	22.9946	291,388	342,987
	80	14,724	22.9946	338,572	295,803
	90	16,560	22.9946	380,791	253,584
	100	27,588	22.9946	634,375	NA ^d
45	60	10,068	19.8757	200,109	348,222
	70	12,672	19.8757	251,865	296,466
	80	14,724	19.8757	292,650	255,681
	90	16,560	19.8757	329,142	219,189
	100	27,588	19.8757	548,331	NA ^d
55	60	10,068	16.1821	162,921	283,511
	70	12,672	16.1821	205,060	241,372
	80	14,724	16.1821	238,265	208,167
	90	16,560	16.1821	267,976	178,456
	100	27,588	16.1821	446,432	NA ^d
65	60	10,068	12.1007	121,830	212,004
	70	12,672	12.1007	153,340	180,494
	80	14,724	12.1007	178,171	155,663
	90	16,560	12.1007	200,388	133,447
	100	27,588	12.1007	333,834	NA ^d
75	60	10,068	8.1091	81,642	142,071
	70	12,672	8.1091	102,759	120,955

**Appendix II: Lifetime Present Value Analysis
of IU Benefits**

Age awarded IU	Schedular Rating (percent)	2005 annual amount of schedular compensation^a	Annuity factor	Lifetime present value of compensation based on the schedular rating^b	Lifetime present value of the added benefits due to IU^c
	80	14,724	8.1091	119,398	104,315
	90	16,560	8.1091	134,287	\$89,427
	100	27,588	8.1091	223,714	NA ^d

Source: GAO analysis using VA 2005 schedular disability compensation rates and annuity factors described above.

^aDisability compensation is paid monthly. The monthly compensation has been multiplied by 12 to provide annual compensation figures.

^bTo calculate the lifetime present values of disability compensation associated with a veteran's schedular rating, we multiplied the annual schedular compensation by the annuity factor.

^cThe lifetime present value of the increase in disability compensation for veterans granted IU benefits is the difference in the lifetime present value of compensation at the 100-percent rate and the lifetime present value of compensation at the schedular rate. Due to rounding, the sum of the compensation based on the schedular rating and the added compensation due to the receipt of IU benefits may not exactly equal the compensation amount at the 100-percent rate.

^dVeterans with a 100-percent schedular rating would receive the maximum basic disability compensation and would not be awarded IU benefits.

Appendix III: Examples from VA's Rating Schedule for Selected Medical Conditions

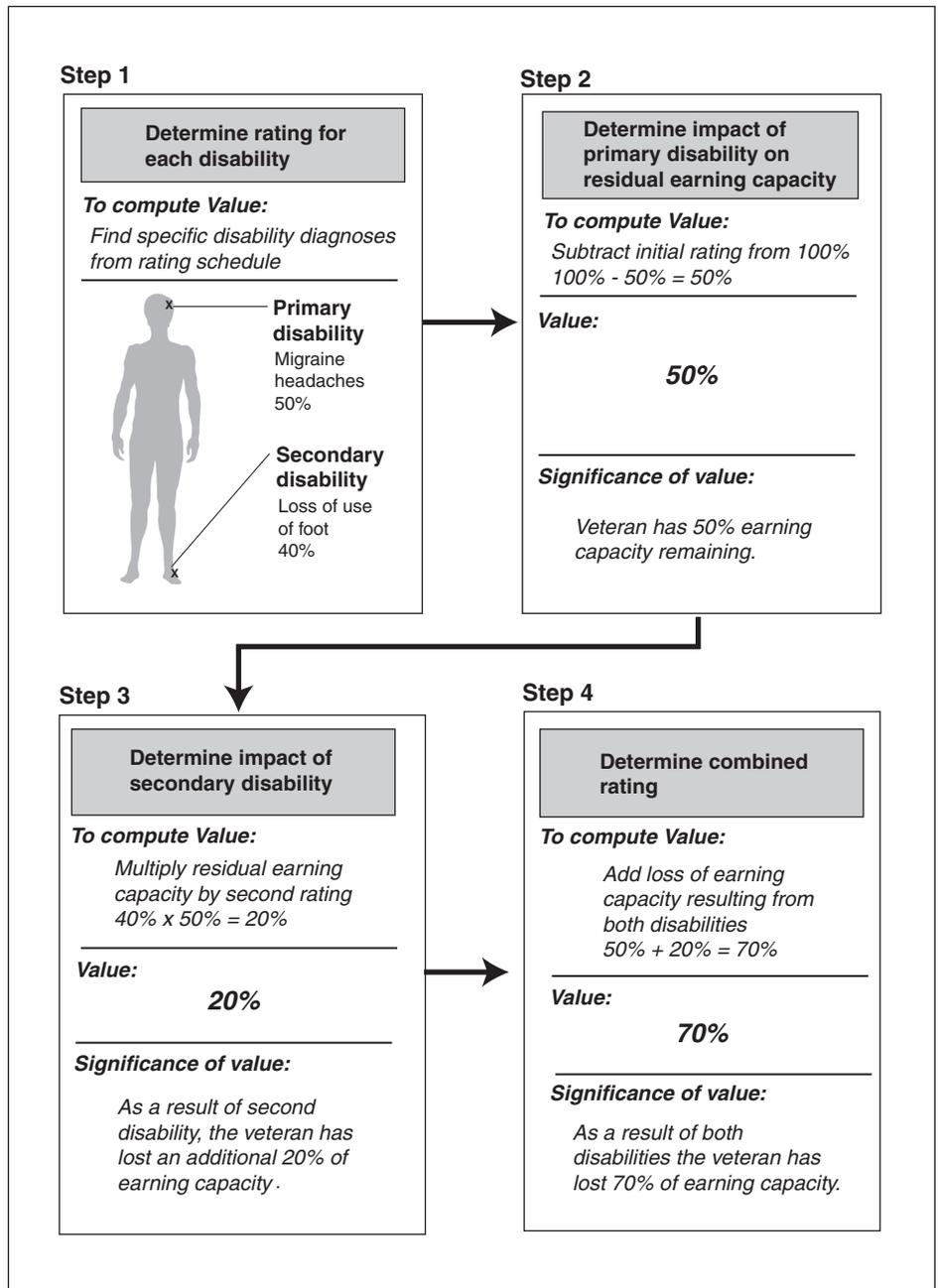
Table 4: VA's Rating Schedule for Selected Medical Conditions

Percent rating	Mental impairments: major depressive disorder	Physical injury: removal of ribs	Illness: migraine headaches
0	Symptoms do not interfere with occupational or social functioning or require continuous medication.		Incapacitating attacks occurring less than once every two months on average over the last several months
10	Mild or transient symptoms decrease work efficiency and ability to perform occupational tasks only during periods of significant stress, or symptoms controlled by continuous medication.	Removal of one rib, or the partial removal of two or more ribs without potential for regrowth	Incapacitating attacks occurring once in two months on average over the last several months
20		Removal of two ribs	
30	Symptoms such as depressed mood and anxiety cause occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks, although generally functioning satisfactorily.	Removal of three or four ribs	Incapacitating attacks occurring once a month on average over last several months
40		Removal of five or six ribs	
50	Symptoms such as flattened affect, panic attacks more than once a week, and impairment of short-and long-term memory cause reduced reliability and productivity.	Removal of more than six ribs	Very frequent, completely incapacitating and prolonged attacks, producing severe economic inadaptability
60			
70	Symptoms such as suicidal ideation and obsessional rituals cause deficiencies in most areas, such as work, school, family, judgment, thinking, or mood.		
80			
90			
100	Symptoms such as persistent delusions or hallucinations and grossly inappropriate behavior cause total occupational and social impairment.		

Source: GAO analysis of VA regulations.

Appendix IV: Example of Procedures to Calculate Combined Disability Ratings

Figure 7: Procedures to Calculate Combined Disability Rating



Source: GAO analysis and images from Art Explosion.

Note: In order to obtain a 50 percent rating, migraine headaches must be characterized by very frequent, completely prostrating and prolonged attacks productive of severe economic inadaptability.

Appendix V: Comments from the Department of Veterans Affairs



THE DEPUTY SECRETARY OF VETERANS AFFAIRS
WASHINGTON

April 24, 2006



Ms. Cristina Chaplain
Director
Education, Workforce, and Income Security Team
U. S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Chaplain:

The Department of Veterans Affairs (VA) has reviewed your draft report, **VETERANS' DISABILITY BENEFITS: VA Should Improve Its Management of Individual Unemployability Benefits by Strengthening Criteria, Guidance, and Procedures** (GAO-06-309), agrees with your conclusions, and concurs with your recommendations.

The Veterans Benefits Administration has already implemented program changes in areas the Government Accountability Office (GAO) identified as needing attention. Improvements will be ongoing. The enclosure details actions taken to implement each recommendation in your report. It also provides some technical clarification.

VA appreciates the opportunity to comment on your draft report.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Gordon H. Mansfield".

Gordon H. Mansfield

Enclosure

Enclosure

Department of Veterans Affairs (VA) comments to
Government Accountability Office (GAO) draft report
***VETERANS' DISABILITY BENEFITS: VA Should Improve Its Management of
Individual Unemployability Benefits by Strengthening Criteria, Guidance,
and Procedures***
(GAO-06-309)

GAO recommends that the Secretary of Veterans Affairs take the following steps to improve management of Individual Unemployability (IU) benefits:

- 1. To help ensure that IU decisions are well-supported and provide IU benefits only to veterans whose service-connected disabilities prevent them from obtaining or retaining substantially gainful employment, VA should clarify and strengthen its eligibility criteria, guidance, and procedures for determining unemployability.**

Concur - VA has taken the following steps to strengthen its eligibility criteria, guidance, and procedures for determining unemployability:

- Our regional offices have been instructed to send a 21-8940 in all disability claims where unemployability is directly claimed or may be an inferred issue. This form provides essential information in determining entitlement.
- It is now mandatory that regional offices send the form 21-4192 to all employers listed on the 21-8940 requesting information about employment history.
- The annual mailing of form 21-4140 to veterans in receipt of IU benefits has been reinstated, requiring that they certify employment activity in the previous year.
- The period during which a veteran must complete the 21-4140 has been extended to age 70 from the previous age 60.

Veterans Benefits Administration (VBA) decision makers review these guidelines along with specific information from past employers, from medical treatment records, from Social Security Administration (SSA) records, and from Vocational Rehabilitation and Employment (VR&E) records to determine eligibility when the claimant has met established schedular disability percentage requirements. We will investigate the information contained in the National Directory of New Hires to determine whether and what stage it would be appropriate to use this data.

Enclosure

Department of Veterans Affairs (VA) comments to
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and Procedures***
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2. To improve the efficiency and effectiveness of VA's enforcement efforts to monitor ongoing eligibility VA should update procedures and strengthen criteria for the enforcement of the IU earnings limit.

Concur - VA has strengthened enforcement efforts by reinstating the VA Form 21-4140 annual certification of employment history for all veterans in receipt of IU benefits who are under the age of 70. By reinstating this form VA believes it will get timely notice of return to work. It also forms a basis for further actions should the veteran have failed to properly notify us of return to work. VA's income verification match with the Internal Revenue Service and the SSA monitors wage income at central locations. If income exceeds the established poverty threshold, development is initiated by the appropriate Pension Center to investigate the veteran's employment status. VA recently shortened the time delay between the year the earnings were received and the year in which we receive the information from IRS and SSA. In calendar year 2006 VA will process two years of earning data. We will investigate the information contained in the National Directory of New Hires to determine whether and what stage it would be appropriate to use this data.

3. To help modernize its IU decision-making process, VA should develop a strategy to ensure that IU claimants with work potential receive encouragement and assistance to return to work, while protecting benefits for those unable to work.

Concur - VA currently provides applications for Vocational Rehabilitation and Employment to all veterans granted compensation at the 10 percent level or higher and again each time the combined evaluation is increased. Additionally, a control is set for follow-up by the VR&E. Our aim is to encourage disabled veterans to utilize the resources available to them including training on resume writing, interviewing skills, testing relating to skills, abilities and aptitudes, and where appropriate training to enable them to return to the workforce or improve their ability to obtain, maintain and advance in the world of work. We are providing guidance to insure that stations follow this procedure when awarding IU benefits. We are also currently working on a motivational letter to be sent at the time of the initial IU award.

Appendix VI: GAO Contacts and Staff Acknowledgements

GAO Contacts

Cristina T. Chaplain, Acting Director, (202) 512-7215, ChaplainC@gao.gov

Cynthia A. Bascetta, Director, (202) 512-7215, BascettaC@gao.gov

Acknowledgements

Carol Dawn Petersen, Assistant Director; Joseph J. Natalicchio, Analyst-in-Charge; and Julie M. DeVault, Senior Analyst; made significant contributions to all aspects of this report. Crystal Bernard, Margie K. Shields, and Jonathan Elkin also made significant contributions. Joan Vogel, Walter Vance, Vanessa Taylor, Roger Thomas, and Joseph Applebaum provided technical assistance.

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