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The Honorable Bob Dole
The Honorable Donna Shalala
Co-Chairs
President's Commission on Care for America's Returning Wounded Warriors

Subject: *GAO Findings and Recommendations Regarding DOD and VA Disability Systems*

As of April 2007, about 26,000 service members had been injured as part of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF), according to the Department of Defense (DOD). Those service members injured in the line of duty are eligible for military disability compensation. When they leave the military, they may also be eligible for compensation from the Department of Veterans Affairs (VA). In fiscal year 2005 alone, the Army, Navy, and Air Force evaluated over 23,000 military disability retirement cases and, in fiscal year 2004, over \$1 billion in permanent and temporary military disability retirement benefits were paid to over 90,000 service members. Through the VA disability compensation and pension claims programs, about \$34.5 billion in VA cash disability benefits went to more than 3.5 million veterans and their survivors in fiscal year 2006.

On April 23, 2007, we briefed the Commission on the results of our recent studies of DOD and VA disability systems (see app. I). This report presents the information we provided during that briefing.

Background

In the DOD military disability retirement system, each of the military services administers its own disability evaluation process. According to DOD regulations, the process begins with a medical evaluation board (MEB) that takes place at a military treatment facility when a physician identifies a condition that may interfere with a service member's ability to perform his or her duties. Cases in which service members do not meet military retention standards according to the MEB are then referred to a physical evaluation board (PEB), which is responsible for determining if service members can no longer perform their assigned military duties, and if the illness or injury that renders them "unfit for duty" is linked to military service.¹ Depending on the overall disability rating and number of years of active duty or equivalent service, the service member found unfit with compensable conditions is

¹ Service members who do not meet military retention standards but whose conditions have not stabilized when their cases reach the PEB are placed on the temporary disability retired list pending a final decision.

entitled to either monthly disability retirement benefits or a lump sum disability severance payment.² In terms of their rights to appeal military disability decisions, service members dissatisfied with PEB determinations may request a formal hearing but are not always guaranteed one and, under certain circumstances, further appeal to the authority that reviews the PEB.

In contrast, when a veteran submits a claim for VA disability compensation for an illness or injury to any of the Veterans Benefits Administration's (VBA) 57 regional offices, a service representative at that regional office is responsible for obtaining the relevant evidence to evaluate the claim. Such evidence includes a veteran's military service records, medical examinations, and treatment records from VA medical facilities and private medical service providers. Once a claim has all the necessary evidence, a rating specialist evaluates it and determines whether the illness or injury is "service-connected" (incurred or aggravated while on active military duty). If so, the veteran is eligible for disability compensation and the rating specialist assigns a percentage severity rating to the illness or injury based on degree of disability. VA monthly disability benefit amounts are based primarily on the severity rating assigned to service-connected injuries and illness and number of dependents.³ Veterans who disagree with the regional office's decision can appeal to VA's Board of Veterans' Appeals and then to the U.S. federal courts.

DOD Military Disability Retirement: Findings and Open Recommendations

In our 2006 report on the DOD military disability retirement system,⁴ we found the services were not achieving the DOD timeliness goals for processing disability cases and DOD was not monitoring achievement of these goals.⁵ Our analysis of Army data on military disability benefit decisions also suggests that outcomes for active duty and reserve component members of the military may not be consistent. More specifically, Army reservists judged unfit for duty were somewhat less likely to receive either permanent disability retirement or a lump sum disability payment than their active duty counterparts,⁶ although we were unable to take into account all factors that might have legitimately explained this difference. Despite the potential

²DOD disability retirement provides those with at least 20 years of service and a rating of at least 30 percent with a monthly payment for life (medical retirement). Those with less than 20 years service and a rating of less than 30 percent receive a lump sum payment (disability severance).

³VA's pension program also pays monthly benefits based on financial need to certain wartime veterans or their survivors. Veterans qualify for pensions if they have low incomes, served in a period of war, and are permanently and totally disabled for reasons not service-connected (or are age 65 or older).

⁴GAO, *Military Disability System: Improved Oversight Needed to Ensure Consistent and Timely Outcomes for Reserve and Active Duty Service Members*, GAO-06-362 (Washington, D.C.: Mar. 31, 2006).

⁵Some of the military officials we spoke with believe the goals themselves are unrealistic, particularly when addendums to the MEB's findings are required, such as in orthopedic or psychiatric cases requiring certain medical tests.

⁶It is important to recognize that, due to the part-time nature of reserve service, some laws governing military disability compensation result in different experiences with the disability system for reservists, which may account for this difference. Because reservists are not on duty at all times, it takes longer for them to accrue the 20 years needed to qualify for monthly disability retirement benefits when their disability rating is less than 30 percent. Also, by law, service members determined to be unfit for duty are automatically eligible for disability compensation if they have at least 8 years of active duty service, even if their conditions existed prior to entry into the military or were not aggravated by their military service. Part-time status makes it more difficult for reservists with preexisting conditions to be covered by this "8-year rule" and therefore eligible for disability compensation of any kind.

for inconsistent disability decisions within and across the services, neither DOD nor the services systematically evaluated the consistency of these decisions or compiled the data on the characteristics of service members needed to do so. Finally, we found that training for MEB and PEB disability evaluation staff designed to produce timely and consistent decisions was lacking.

At this time there are several open recommendations to DOD to ensure that military disability retirement decisions are timely and consistent. We have recommended that DOD

- evaluate the appropriateness of current timeliness goals;
- assess the adequacy of training for MEB and PEB staff;
- require the Army, Navy, and Air Force to take action to ensure that data on disability rating and benefit decisions are reliable;
- require the services to track and regularly report these data; and
- determine, based on these reports, if ratings and benefit decisions are consistent and timely across the services.

VA Disability Compensation: Findings and Open Recommendations

In recent years we have completed several reviews on various aspects of VA disability compensation that have led to a number of recommendations for improvements in the system. With regard to claims processing between fiscal years 2003 and 2006, the average number of days these claims were pending increased by 16 days, to an average of 127 days. At the same time, appeals resolution remained a lengthy process. In fiscal year 2006, it took an average of 657 days to resolve appeals. Moreover, the accuracy of VA compensation decisions was 88 percent in 2006, well short of its goal of 98 percent.

VA claims processing timeliness and decisional accuracy often are hampered by its inability to obtain the information it needs in a timely manner. For example, to obtain information needed to fully develop some post-traumatic stress disorder (PTSD) claims, VBA must obtain records from the U.S. Army and Joint Services Records Research Center (JSRRC), whose average response time to VBA regional office requests is about 1 year. Moreover, VBA does not evaluate the quality of the information it receives from service records, which is critical to the accuracy of VA disability decisions based on this information. In addition, although VBA has had difficulty obtaining medical information needed to accurately adjudicate claims

involving joint and spine disabilities, it has no performance measure for the quality of the medical exam requests in these cases.⁷

Beyond the issues we have identified with timeliness and accuracy of VA disability compensation decisions, VBA's fiscal year 2005 budget justification did not clearly explain how the agency would achieve the productivity improvements needed to meet its compensation and pension claims processing performance goals with fewer employees. More transparent budget justifications were needed to better inform congressional oversight of VBA by making it easier to evaluate whether the agency's budget requests reflect the resources, particularly staffing, needed to achieve expected performance.

There is also a need to consider more fundamental reform of the VA disability compensation program, particularly with regard to its disability criteria and field structure. VA eligibility criteria for disability continue to be based primarily on physicians' and lawyers' estimates made in 1945 of the effects of service-connected impairments on the average individual's ability to perform jobs requiring manual or physical labor. Moreover, the program's eligibility criteria do not sufficiently account for developments in science, medicine, and technology, as well as changes in the nature of work that have occurred in the past 62 years—which potentially affect the extent to which disabilities limit one's earning capacity.

Finally, VBA continues to process claims for disability compensation and pension benefits at 57 regional offices, where large performance variations and questions about the consistency of decisions persist. Despite these claims processing challenges, VA has no systematic method for ensuring consistent decision making across all offices. VBA and others have suggested that consolidating claims processing into fewer regional offices could help improve claims processing efficiency, save overhead costs, and improve the accuracy and consistency of decisions.⁸

There are currently several open recommendations to VA. To improve disability claims processing timeliness, accuracy, and consistency, we have recommended that VA

- move forward in implementing a systematic quality review program that evaluates and measures the accuracy of the VA unit at the National Personnel Records Center's responses to all types of regional office requests for information from service records;

⁷When VA regional offices ask VA medical centers to conduct joint and spine disability exams, the medical centers are required to prepare exam reports containing the specific information related to joint and spine disabilities mandated in what is referred to as the *DeLuca* court decision. In 2005, we reported a 22 percent deficiency rate in the quality of the exam requests regional offices submit to medical centers in these cases, which indicates that many joint and spine exam reports still did not contain the required medical information needed to comply with the *DeLuca* decision. The percentage of exam reports satisfying the *DeLuca* criteria varied widely among the VA's 21 health care networks—from a low of 57 percent to a high of 92 percent.

⁸In January 2003, GAO designated modernizing DOD, VA, and other federal disability programs as a high-risk area, because of these service delivery challenges and because our work over the past decade has found that these programs are based on outmoded concepts from the past.

- assess whether it could use an electronic library of historical military records, to identify veterans whose PTSD claims can be granted on the basis of this information, rather than submitting all research requests to the Joint Services Records Research Center;
- develop a strategy for improving consistency among its health care networks in meeting the criteria for joint and spine exam reports. VA could require that its medical centers use the automated templates for joint and spine exams;
- develop a performance measure for the quality of exam requests that regional offices send to medical centers;
- prepare the following information and work with the relevant appropriations subcommittees on how best to make it available for their use:
 - an explanation of the expected impact of specific initiatives and changes in incoming disability claims workload on requested staffing levels;
 - information on disability claims processing productivity, including how VBA plans to improve productivity; and
 - an explanation of how disability claims complexity is expected to change and the impact of these changes on productivity and requested staffing levels;
- use VA's annual performance plan to delineate strategies for and progress in periodically updating its *Schedule for Rating Disabilities* and labor market data used in its disability determination process;
- study and report the effect that a comprehensive consideration of medical treatment and assistive technologies would have on the VA disability programs' eligibility criteria and benefit package. The analysis should estimate the effects on the size, cost, and management of the program and other relevant VA programs; and
- undertake a comprehensive review of its field structure for processing disability compensation and pension claims. This review would address staff deployment, opportunities for consolidating disability compensation and pension claims processing, and human capital and real property issues.


Conclusions

Decisions affecting eligibility for military disability benefits and VA disability compensation have a significant impact on the future of service members dedicated to serving their country. Given the importance of these decisions and the complexity of evaluation processes and rules governing eligibility for these benefits, it is essential that DOD and VA take the necessary steps to ensure that decisions in these cases are accurate, consistent, and timely.

We will make copies of this report available to other interested parties upon request. In addition, this report will be available at no charge on GAO's Web site at www.gao.gov. If you have any questions about this report, please contact me on 202-512-7215 or bertonid@gao.gov. Contact points for our Office of Public Affairs may be found on the last page of this report. Clarita Mrena (Assistant Director), Scott Heacock (Analyst-in-Charge), and Greg Whitney (Senior Analyst) also made significant contributions to this report.

A handwritten signature in black ink that reads "Daniel Bertoni". The signature is written in a cursive style with a large initial 'D' and a small 'o' at the end.

Daniel Bertoni
Director, Education, Workforce,
and Income Security Issues




Briefing for the President's Commission on Care for America's Returning Wounded Warriors

GAO Recommendations to Improve the DOD and VA Disability Evaluation Systems

Daniel Bertoni
Director
Education, Workforce, and Income Security Issues

Monday, April 23, 2007

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Comparison of the DOD and VA Disability Compensation Systems

Department of Defense (DOD):	Veterans Affairs (VA):
Compensates military service members rendered unfit for military duty as a result of service-connected disability	Compensates veterans with service-connected disabilities to make up for an average reduction in civilian earnings capacity they are likely to experience
Considers only conditions making member unfit for duty	Considers all service-connected injuries and illness
Rates conditions based on <i>VA Schedule for Rating Disabilities</i>	Rates conditions based on <i>VA Schedule for Rating Disabilities</i>
Compensation is based on years of military service and disability rating	Compensation is based primarily on disability rating and number of dependents
Lump sum or monthly payments	Monthly payments only

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DOD Disability System: Recent GAO Findings & Conclusions

Evaluating the consistency and timeliness of military disability decisions

- Between fiscal years 2002 and 2005, the Physical Evaluation Board (PEB) caseload for all services increased from 15,000 to 23,000.
- Timeliness data generally show that services are not meeting DOD timeliness goals.
 - Medical Evaluation Board (MEB) and PEB processing time, (Goal is 70 days for combined processes).
 - In FY 2005, the Army reported that 26 percent of active duty cases and 52 percent of reserve component cases took over 90 days to process.
 - PEB processing time only, (Goal is 40 days)
 - In FY 2005, the Navy reported that 13 percent of active duty and 32 percent of reserve component cases took over 60 days to process.
 - In FY 2005, the Air Force reported that 22 percent of active duty and 36 percent of reserve component cases took over 60 days to process.
- Neither DOD nor the services systematically evaluate the consistency of military disability decisions, even though DOD provides guidance to promote consistency and timeliness.
- Lack of oversight by DOD and the services provides little assurance decisions are consistent. DOD does not monitor achievement of timeliness goals for processing cases.

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DOD Disability System: Recent GAO Findings & Conclusions (cont'd.)

Comparability of disability determinations for Army active duty and reserve members

- Army reservists are somewhat less likely to be determined eligible for military disability retirement, which may be due to it taking longer for them to accrue years of service.
- However, among Army active duty and reserve soldiers determined eligible for military disability retirement, ratings of the severity of their conditions appear to be comparable after controlling for other factors.

Monitoring military disability evaluation decisions for service members

- DOD allows the services to implement their disability evaluation systems differently, but does not adequately monitor disability decisions for service members.

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DOD Disability Retirement: GAO's Open Recommendations to DOD

Evaluating the consistency and timeliness of military disability decisions

- Evaluate the appropriateness of current timeliness goals
- Assess the adequacy of training for MEB and PEB staff

Monitoring military disability evaluation outcomes for service members

- Require the Army, Navy, and Air Force to take action to ensure that data on disability rating and benefit decisions are reliable
 - Require the services to track and regularly report these data
 - Determine, based on these reports, if ratings and benefit decisions are consistent and timely across the services
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VA Disability Compensation: Overview of Recent GAO Findings & Conclusions

VA disability claims processing

- VA continues to face challenges in improving service delivery to veterans. These challenges include:
 - Making timely, accurate, and consistent decisions.
 - Obtaining military service records needed to adjudicate disability claims, particularly claims of Post-Traumatic Stress Disorder (PTSD), in a timely manner.
 - Ensuring that VA medical exam reports provide the information needed to adjudicate claims of joint and spine disabilities, as required by a court decisions.

Budget transparency

- VA does not make budget information, particularly staffing resource requests, transparent.

Fundamental reform

- GAO designated modernizing VA and other Federal disability programs as a High-Risk area that may require fundamental reform to more effectively serve individuals with disabilities in the 21st Century. For VA, this includes updating VA's disability criteria and examining its field structure for adjudicating disability claims.
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Recent GAO Findings & Conclusions: VA Disability Claims Processing

Making timely, accurate, and consistent decisions

- From fiscal years 2003 - 2006, the inventory of rating-related claims grew by almost half to a total of about 378,000, due in part to increased filing of claims, including those filed by veterans of the Iraq and Afghanistan conflicts.
 - During the same period, the average number of days these claims were pending increased by 16 days, to an average of 127 days. In fiscal year 2006, it took an average of 657 days to resolve appeals.
 - VA improved the accuracy of its compensation decisions to 88 percent in fiscal year 2006, short of its goal of 98 percent.
 - VA also continues to face questions about its ability to ensure that veterans receive consistent decisions across regional offices.
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Recent GAO Findings & Conclusions: VA Disability Claims Processing (cont'd.)

Obtaining complete and accurate military service records in a timely manner

- VA does not know the extent to which the information that is provided to regional offices by a VA unit at the National Personnel Records Center is reliable and accurate.
 - The average response time to obtain records from the U.S. Army and Joint Services Records Research Center needed to fully develop some PTSD claims is about 1 year.
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Recent GAO Findings & Conclusions: VA Disability Claims Processing (cont'd.)

Many VA medical exam reports do not provide the information needed to adjudicate claims of joint and spine disabilities.

- VA has made progress in ensuring that its medical centers' joint and spine exam reports adequately address range of motion limitations, as required by a court decision. However, many exam reports still did not comply with the criteria in the court decision, and the percentage of reports satisfying the criteria varied widely among VA's 21 health care networks.
 - There are deficiencies in a substantial portion of the requests that VA's regional offices send to VA's medical centers, asking them to perform disability exams.
 - VA has not yet established a performance measure for the quality of the exam requests that regional offices submit to medical centers.
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Recent GAO Findings & Conclusions: Budget Transparency

- VA's fiscal year 2005 budget justification did not clearly explain how the agency would achieve the productivity improvements needed to meet its compensation and pension claims processing performance goals, particularly timeliness of claims decisions, with the requested staffing level.
 - VA's budget justification did not provide projections on claims complexity, such as average disabilities per claim, or explain how changes in complexity affect workload and staffing requirements.
 - More transparent budget justifications would better inform congressional oversight of VA by making it easier to evaluate whether the agency's budget requests reflect the resources, particularly staffing, needed to achieve expected claims processing performance.
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Recent GAO Findings & Conclusions: Fundamental Reform

- VA disability criteria have not been updated to reflect the current state of science, medicine, technology, and labor market conditions.
 - While VA's rating schedule has been updated to reflect medical terminology and new conditions, it has not been updated to reflect the effect these factors have on disabled veterans' earning capacity.
- Examining VA's Claims Processing Field Structure
 - VA has made a number of changes to its field structure and staff deployment in an effort to improve compensation and pension claims processing performance. However, VA has not changed the basic field structure for processing claims for disability compensation and pension benefits, and it still faces performance challenges, such as large variations in claims processing time.
 - VA and others who have studied claims processing have suggested that consolidating claims processing into fewer regional offices could help improve claims processing efficiency, save overhead costs, and improve decision accuracy and consistency.

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GAO's Open Recommendations to VA: Disability Claims Processing

Obtaining complete and accurate military service records in a timely manner

- To adequately ensure the quality of the records research done on behalf of regional offices by the VA unit at the National Personnel Records Center, VA should move forward in implementing a systematic quality review program that evaluates and measures the accuracy of the unit's responses to all types of regional office research requests.
- To improve its timeliness in deciding PTSD claims, VA should assess whether it could use an electronic library of historical military records to identify veterans whose PTSD claims can be granted on the basis of this information, rather than submitting all research requests to the Joint Services Records Research Center.

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GAO's Open Recommendations to VA: Disability Claims Processing (cont'd.)

Ensuring that VA medical exam reports provide the information needed to adjudicate claims of joint and spine disabilities

- VA should develop a strategy for improving consistency among its health care networks in meeting the criteria for joint and spine exam reports. VA could require that its medical centers use the automated templates for joint and spine exams.
 - VA should develop a performance measure for the quality of exam requests that regional offices send to medical centers.
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GAO's Open Recommendations to VA: Budget Transparency

VA should prepare the following information and work with the Committees on Veterans' Affairs and the relevant Appropriations Subcommittees on how best to make it available for their use:

- Explanation of the expected impact of specific initiatives and changes in incoming claims workload on requested staffing levels;
 - Information on claims processing productivity, including how VA plans to improve productivity; and
 - Explanation of how claims complexity is expected to change and the impact of these changes on productivity and requested staffing levels.
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GAO's Open Recommendations to VA: Fundamental Reform

Updating the VA Schedule for Rating Disabilities

- VA should use its annual performance plan to delineate strategies for and progress in periodically updating the *Schedule for Rating Disabilities* and labor market data used in its disability determination process.
 - VA should study and report the effect that a comprehensive consideration of medical treatment and assistive technologies would have on the VA disability programs' eligibility criteria and benefit package. The analysis should estimate the effects on the size, cost, and management of the program and other relevant VA programs.
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GAO's Open Recommendations to VA: Fundamental Reform (cont'd.)

Examining VA's claims processing field structure

- VA should undertake a comprehensive review of its field structure for processing disability compensation and pension claims. This review would address staff deployment, opportunities for consolidating disability compensation and pension claims processing, and human capital and real property issues.
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Relevant GAO Reports and Testimonies

- Veterans' Disability Benefits: Processing of Claims Continues to Present Challenges. GAO-07-562T. Washington, D.C.: March 13, 2007.
- Veterans' Disability Benefits: Long-Standing Claims Processing Challenges Persist. GAO-07-512T. Washington, D.C.: March 7, 2007.
- High Risk Series: An Update. GAO-07-310. Washington, D.C.: January 31, 2007.
- Veterans' Disability Benefits: VA Can Improve Its Procedures for Obtaining Military Service Records. GAO-07-98. Washington, D.C.: December 12, 2006.
- Military Disability Evaluation: Ensuring Consistent and Timely Outcomes for Reserve and Active Duty Service Members. GAO-06-561T. Washington, D.C.: April 6, 2006.

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Relevant GAO Reports and Testimonies (cont'd.)

- Military Disability System: Improved Oversight Needed to Ensure Consistent and Timely Outcomes for Reserve and Active Duty Service Members. GAO-06-362. Washington, D.C.: Mar. 31, 2006.
- Veterans' Benefits: Further Changes in VBA's Field Office Structure Could Help Improve Disability Claims Processing. GAO-06-149. Washington, D.C.: December 9, 2005.
- Veterans' Disability Benefits: Claims Processing Challenges and Opportunities for Improvements. GAO-06-283T. Washington, D.C.: December 7, 2005.
- Veterans' Disability Benefits: Improved Transparency Needed to Facilitate Oversight of VBA's Compensation and Pension Staffing Levels. GAO-06-225T. Washington, D.C.: November 3, 2005.

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Relevant GAO Reports and Testimonies (cont'd.)

- Veterans' Disability Benefits: VA Could Enhance Its Progress in Complying with Court Decision on Disability Criteria. GAO-06-46. Washington, D.C.: October 12, 2005.
 - Veterans' Disability Benefits: Claims Processing Problems Persist and Major Performance Improvements May Be Difficult. GAO-05-749T. Washington, DC.: May 26, 2005.
 - Veterans' Benefits: More Transparency Needed to Improve Oversight of VBA's Compensation and Pension Staffing Levels. GAO-05-47. Washington, D.C.: November 15, 2004.
 - VA Benefits: Fundamental Changes to VA's Disability Criteria Need Careful Consideration. GAO-03-1172T. Washington, DC.: September 23, 2003.
 - SSA And VA Disability Programs: Re-Examination of Disability Criteria Needed to Help Ensure Program Integrity. GAO-02-597. Washington, D.C.: August 9, 2002.
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