
# *REPORT TO THE CONGRESS*

# Opportunity For Economies Under Guardianship Program

B-114859

**Veterans Administration**



*BY THE COMPTROLLER* ***GENERAL*** *OF THE UNITED STATES*



JAN. 11, 1968

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

The General Accounting Office has examined into the Veterans Administration's management of its guardianship program and has made proposals for achieving economies in the Administration's procedures for safeguarding the funds of minor and mentally incompetent beneficiaries. Our findings, conclusions, and recommendations and the Veterans Administration's views thereon are the subjects of this report.

The Veterans Administration has the responsibility of exercising controls over fiduciaries of veterans' benefits to ensure the proper use and conservation of the beneficiaries' funds. At the time of our review, the Administration exercised these controls by making personal contacts with beneficiaries in field investigations every 3 years and by auditing written accountings received from guardians, generally every year.

The Administration audits the accountings as frequently as the accountings are required to be filed with State courts by applicable State laws. Most States require the guardians to file accountings with the State courts annually. In States in which accountings are not required more frequently than once in 3 years, the Administration audits the accountings at 3-year intervals.

We believe that the Administration could achieve economies of up to $900,000 a year, without adversely affecting its management of the guardianship program, if it were to (1) audit guardian accountings at 3-year intervals rather than annually and (2) discontinue certain of its field investigations in cases involving minor beneficiaries under parental custody when stable family situations exist. We believe also that cases involving certain incompetent beneficiaries warrant personal contacts more frequently than every 3 years. We could not determine the additional costs that would result from the increased contacts, but we estimated that, nationwide, they might amount to approximately $50,000 annually.

The Associate Deputy Administrator, Veterans Administration, agreed with our views that field investigations of minor beneficiary cases be decreased and that personal contacts in certain incompetent beneficiary cases be increased, but he disagreed with our proposal that the frequency of audits of guardian accountings be reduced,

The Associate Deputy Administrator stated that the Administration had been instrumental in the enactment of legislation in virtually all States constituting the Administration as a party in interest with State courts *in* cases involving Administration benefits for the legally disabled; that the courts had granted the Administration's attorneys special prerogatives which had the effect of minimizing the cost of administering estates; and that, if the Administration did *not* audit the accountings at intervals prescribed by State laws, the courts might react by requiring the Administration to meticulously adhere to all requirements of *State* statutes, court rules, and local practices.

The Administration's views are recognized in appropriate sections of the report and are included in full as the appendix *to* the report.

Since the Administration is not legally required to audit accountings annually and since substantial economies could be achieved by reducing the frequency of audits without adversely affecting its management of the guardianship program, we are recommending that the Administrator *of* Veterans Affairs have an examination made into the feasibility of arranging with appropriate court officials for workable plans for reducing the frequency of Veterans Administration audits of guardian accountings,

With respect *to* the administration of the statutory limitation on benefit payments for single veterans in public institutions, we are recommending that the Administrator have a study made of the control procedures presently used in the regional offices in those States in which accountings are now audited at 3-year intervals and, if practicable, have such procedures established in other regional offices.

We are issuing this report to inform the Congress *of* the economies that may be realized through reduced audits and of the actions already taken by the Administration to revise its policy on field investigations.

Copies of this report are being sent to the Director, Bureau of the Budget, and to the Administrator of Veterans Affairs.

Elmer B. Staats

Comptroller General
of the United States

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## INTRODUCTION

The General Accounting Office has made a selected review of the policies, procedures, and practices of the Veterans Administration (VA) for safeguarding funds of minor children of deceased veterans, mentally incompetent veterans, and other incompetent beneficiaries under the guardianship program.

On the basis of information obtained in a preliminary examination into the adequacy of VA's policies, procedures, and practices for safeguarding funds of minor and mentally incompetent beneficiaries under the guardianship program, it appeared to us that the VA audits of accountings submitted by fiduciaries designated to receive and administer VA funds paid on behalf of these beneficiaries and the VA field visits to beneficiaries were in excess of those needed to adequately protect the beneficiaries' funds. Accordingly, we decided to make a detailed review to determine whether the frequency of VA audits and field investigations could be reduced.

We did not make an overall evaluation of the guardianship program. Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67), and was performed at eight VA regional offices and at the VA Central Office in Washington, D.C. The scope of our review is described on page 22.

## BACKGROUND

The guardianship program was established pursuant to the World War Veterans Act of 1924 (38 U.S.C. 3201). The purpose of the guardianship program and the consequent responsibility of the VA are to ensure that the benefits paid to fiduciaries on behalf of minor and incompetent beneficiaries are applied to their current needs and that excess funds are conserved for their future needs.

VA discharges its responsibilities by (1) conducting initial investigations to designate qualified fiduciaries best suited to the needs and situations of the

beneficiaries, (2) determining the financial needs of the beneficiaries and arranging for the utilization of funds, and (3) exercising controls over fiduciaries to ensure the proper utilization and conservation of the beneficiaries' funds.

Beneficiaries under the program are (1) deceased veterans' children who are under age 18, or who are not beyond age 21 if they are pursuing a course of instruction in an approved educational institution, (2) veterans who have been adjudged mentally incompetent to manage their own affairs, and (3) other mentally incompetent beneficiaries, including widows who have not remarried, helpless children over 18 years of age, and dependent parents of deceased veterans.

There are four basic types of fiduciaries appointed under the guardianship program: guardians, legal custodians, wife-payees, and institutional award payees. Guardians, both individual and corporate, are appointed by the courts and are responsible to the courts under the laws of the State in which they are appointed. VA policy prohibits its staff from seeking guardianship appointments when the interests of the beneficiaries can be served by other types of fiduciaries; however, VA recognizes qualified guardians who have been appointed by the courts for beneficiaries. When the circumstances call for guardians, individual guardians--usually close family members--are preferred by VA for minor beneficiaries and corporate guardians--banks or trust companies--are preferred by VA for incompetent beneficiaries.

Legal custodians, wife-payees, and institutional award payees are appointed by, and are responsible to, VA. A legal custodian is the person who is normally vested by a State court with the care of a beneficiary or his estate and who has been appointed by a VA chief attorney to act in a fiduciary capacity. Generally, the mother of a minor beneficiary is appointed by VA as the legal custodian. A wife-payee is the wife of an incompetent veteran, who has been certified by VA as being qualified and willing to receive and administer her husband's funds. An institutional award payee is the manager or superintendent of a non-VA institution in which the beneficiary is a patient.

The guardianship program is administered by the Guardianship Service of the Department of Veterans Benefits. The program is conducted under the direct supervision of a chief attorney in each of the 57 VA regional offices, As of June 30, 1966, more than 600,000 beneficiaries were being served under the guardianship program, as follows:

| Fiduciaries | Beneficiaries | | | |
|---|---|---|---|---|
| | Minors | Veterans | Others | Total |
| Legal custodians | 415,366 | 2,535 | 8,513 | 426,414 |
| Individual guardians | 53,175 | 34,243 | 9,179 | 96,597 |
| Corporate guardians | 26,279 | 25,495 | 3,803 | 55,577 |
| Wife-payees | - | 16,701 | - | 16,702 |
| Institutional award payees | - | 6,781 | - | 6,781 |
| Total | 494,820 | 85.755 | 21,495 | 602,070 |

In the past, VA exercised control over fiduciaries by making annual audits of written accountings from all fiduciaries and by making annual personal contacts with all fiduciaries and beneficiaries. About 1960, the Department of Veterans Benefits initiated a nationwide effort to achieve more effective and efficient administration of its programs.

In October 1963, major changes were made in the guardianship program. The policy far making personal contacts was changed to provide that, between the initial and final visits to beneficiaries, interim contacts be made at 3-year intervals rather than annually. This policy was still in effect at the time of our review in fiscal year 1966. The purpose of these field visits is to ensure that benefits either are being used €or the current needs of the beneficiaries or are being conserved.

In addition, in October 1963, VA rescinded its requirement that written accountings be submitted by legal custodians and discontinued its supervision of cases in which benefits were apportioned between two or more payees, short-term beneficiary cases, and VA institutional award cases. The policy for making VA audits of accountings from court-appointed guardians (individual and corporate guardians) was changed to require that the accountings be audited as frequently as they are required to be filed by State law but not less than once every 3 years. Most States require guardians to account to the courts annually. As in the past, non-Federal institutional award payees are required to submit written accountings to VA annually, while wife-payees are not required to submit accountings.

During fiscal year 1966, chief attorneys incurred expenses of $12.7 million in operating the guardianship program and in performing various other advisory and investigative services. During this period, VA attorneys and field examiners made 72,982 initial field investigations

for the purpose of appointing fiduciaries and 83,657 interim personal contacts with beneficiaries and fiduciaries and traveled more than 6.8 million miles in conducting various types of field examinations. Also, during this period VA audited 140,921 accountings of beneficiary estates having a total value of almost $567 million.

The principal VA officials responsible for administration of the activities discussed in this report are:

| | Tenure of office | |
|---|---|---|
| | From | To |
| Administrator of Veterans Affairs: | | |
| W. J. Driver | Jan. 1965 | Present |
| Chief Benefits Director: | | |
| A. W. Stratton | Feb. 1965 | Nov. 1967 |
| A. W. Farmer | Nov. 1967 | Present |
| Director, Guardianship Service: | | |
| P. H. Thomas | Mar. 1959 | Present |

## ECONOMIES AVAILABLE THROUGH REVISING POLICIES ON AUDITING GUARDIAN ACCOUNTINGS AND CONDUCTING FIELD EXAMINATIONS

We believe that the VA could achieve economies of up to $900,000 a year, without adversely affecting its management of the guardianship program, if it were to (1) reduce the frequency of its audits of guardian accountings and (2) discontinue its interim field examinations of cases involving minor beneficiaries under parental custody in stable family situations. In certain cases involving incompetent veterans and other incompetent beneficiaries, we believe that more frequent field examinations are warranted. We were unable to determine the cost of the additional field examinations, but we estimated that they might amount to approximately $50,000 a year.

### Revision of policy regarding frequency of audits of auardian accountinus

On the basis of our review, we believe that the VA could reduce the frequency of its audits of guardian accountings from 1-year intervals to 3-year intervals and continue to adequately safeguard the funds of beneficiaries, Such a change in VA's policy could result in savings of up to $450,000 a year.

Under its current policy, VA makes audits of guardian accountings as frequently as the accountings are required to be filed with State courts by applicable State laws. Most States require guardians to file accountings annually with the courts. In those States in which periodic accountings are not required more frequently than once in 3 years, VA receives and audits the accountings at 3-year intervals.

To evaluate the need for VA's annual audits of guardian accountings, we examined into the results of some of these audits. During the period covered by our test, the eight VA regional offices that we visited had audited 8,212 accountings which represented about *one* fourth of their annual audit volume. Of the 8,212 accountings, 815, or about 10 percent, were identified by VA as accountings having "unsatisfactory conditions."

VA defines an unsatisfactory condition as "any condition unfavorably affecting a beneficiary's health, general welfare, or financial interest which is correctible by the fiduciary, by the VA within its authority, or by referral

to a local official or agency," The health and general welfare aspects of these conditions are more pertinent to the field examinations (p. 15) than to the accountings. The 8,232 accountings, which represented estates valued at about $31.2 million, were audited at a cost to VA of about $34,600, Following is a summary of the accountings with unsatisfactory conditions, classified by types of fiduciaries,

| Fiduciaries | Accountings audited | Accountings with unsatisfactory conditions |
|---|---|---|
| Corporate guardians | 4,505 | 266 |
| Individual guardians | 3,393 | 543 |
| Institutional award payees | 314 | 6 |
| | 8,212 | 815 |

We examined the 815 accountings and the related VA audits and other records. In our opinion, the conditions identified in the 815 accountings by VA as being unsatisfactory were, for the most part, insignificant and had little or no monetary effect on the estates of the beneficiaries.

The most common unsatisfactory condition identified was the absence of certifications or signatures of guardians ok court officials, This condition existed in about 28 percent of the 815 accountings. These accountings were returned to the guardians or the courts for the required certifications or signatures, Other unsatisfactory conditions consisted primarily of minor errors made in the preparation of the accountings or omissions of sufficient information to allow VA to reconcile the accountings.

In almost every accounting that we examined, we found that the unsatisfactory conditions had been brought to the attention of the guardians either by correspondence or by telephone and that the conditions had been corrected or were pending correction at the time of our review. It appeased to us that most of these errors had resulted from oversights on the part of the guardians or from the unfamiliarity of individual guardians with accounting requirements.

VA audits were instrumental in obtaining reductions or refunds of excessive guardians commissions and attorneys fees claimed on 39 of the accountings examined by us. Guardians commissions generally are limited by State law to 5 percent of receipts; however, the courts may allow

additional compensation to the guardians if they perform extraordinary services for the beneficiaries.

In most regional offices we visited, State or county bar association fee schedules had been used to evaluate the reasonableness of attorneys fees. During the period covered by our review, the regional offices approved guardians commissions and attorneys fees totaling about $487,000. The regional offices had questioned the amount of guardians commissions and attorneys fees claimed in 68 accountings and, as a result, commissions and fees were reduced or refunded in 39 of the accountings and a total of $1,412 was recovered for the estates of beneficiaries. In the remaining 29 accountings, the commissions and fees were subsequently approved by VA and/or the courts.

The regional offices also reported seven cases in which individual, guardians had diverted about $14,500 of beneficiaries' funds to their own use. We found, however, that in only one case had the misuse of funds actually been discovered as a result of VA's audit of guardian accountings. In the six other cases, the misuse of funds had been brought to VA's attention by outside sources or had been admitted by the guardians after VA had attempted to obtain the submission of delinquent accountings. VA maintains records for the courts and takes follow-up action to ensure that delinquent accountings are filed with the courts and with the VA. Such action resulted in three of the guardians' admitting, in person or through correspondence, that they had misused beneficiaries' funds.

In the States we visited, corporate guardians are responsible generally for the administration of beneficiary estates and not for the personal care of the beneficiaries. Ordinarily, VA conducts field examinations to determine the beneficiaries' needs. Guardian accountings filed with the courts are essentially statements of receipts, disbursements@ and investments on hand at the end of the accounting periods.

We found that corporate guardians frequently had requested VA and/or court approval prior to making disbursements for other than beneficiaries' day-to-day living expenses, The functions of the corporate guardians are limited primarily to receiving and investing beneficiaries' funds. In view of this fact and the fact that corporate guardians are banks and trust companies licensed by the Federal Government or by State governments to administer

private trust funds, which are subject *to* audit by Federal or State banking authorities, we believe that VA audits of corporate guardians' accountings more frequently than every 3 years are not necessary for safeguarding the funds of beneficiaries.

Individual guardians are usually responsible for the personal care of the beneficiaries as well a5 for the administration of their estates. Family members or persons having close contact with the beneficiaries are usually appointed as individual guardians. Such persons are in a position *to* determine the beneficiaries' needs and to ensure that VA funds are expended for these needs. On the basis *of* the results of annual VA audits of accountings, we believe that audits more frequently than every 3 years are not necessary for safeguarding the funds of beneficiaries,

GAO conclusions and proposals

In December 1966, in a draft of this report that we submitted to VA officials for review and comment, we stated our view that VA should continue to maintain records for the courts and to take follow-up action to ensure that delinquent accounts were filed with the courts at the intervals prescribed by State laws. We stated our view also that VA should continue to require submission of these accountings but that VA could provide a reasonable amount of protection for the estates of beneficiaries by auditing accountings of guardians and institutions at 3-year intervals rather than annually.

We proposed that the Administrator of Veterans Affairs revise VA's policy for auditing guardian and institution accountings to provide that audits of these accountings be made at 3-year intervals.

We estimated that VA could realize savings in audit costs of up to $450,800 annually by auditing guardian accountings at 3-year intervals rather than annually, These savings represent about two thirds of the estimated annual costs of auditing the accountings. We could not determine the precise amount of the potential savings because (1) VA's records relating to the audits of guardian accountings lacked sufficient details to enable us to determine the costs of preparing accountings and providing other free services for beneficiaries with small estates and (2) costs that would be incurred for requesting submission of, and verifying receipt of, such accountings could not be identified. In our opinion, these costs would represent only a small reduction in the above savings.

Agency comments and GAO evaluation thereof

During our review, VA officials advised us that they considered a 3-yeas accounting interval to be the minimum necessary to provide basic protection for the estates of beneficiaries, However, VA officials did not concur with the proposal in our draft report that audits of court-appointed guardians be made at 3-year intervals. In commenting on our draft report by letter dated May 10, 1967 (see appendix), the VA Associate Deputy Administrator stated that:

> "*** the Agency's position is that, in the prevailing climate, it has no choice but to audit the accounts at the intervals prescribed by state law or, in the alternative, go to the various

state legislatures and attempt to prevail upon them to amend their laws to extend the accounting interval."

The Associate Deputy Administrator stated that VA had been instrumental in the enactment of legislation in virtually all States constituting VA as a party in interest and working partner with State courts in cases involving VA benefits for the legally disabled and that this legislation had vested in VA's chief attorneys certain rights before the courts and had imposed on them certain obligations, both as attorneys for the Administrator and personally as officers of the courts. He further stated that a very close relationship had developed over the years between the chief attorneys and the various State courts, and that implicit in this relationship was:

> "the reliance on the part of the courts that VA Chief Attorneys will review the propriety of that which is submitted to them in guardianship matters involving VA beneficiaries, and, in return, the courts grant the Agency's Chief Attorneys special prerogatives including streamlined pleadings and procedures and, in many situations, permission to bring matters before the courts without a formal court appearance by an attorney. This harmonious relationship also enables VA attorneys to obtain prompt hearings when hearings are required, thus avoiding expensive, time-consuming delays waiting to be heard when, as is usually the case, the court's calendar is crowded, These privileges have the effect of substantially minimizing the cost of administering estates in state courts from an Agency standpoint."

The Associate Deputy Administrator stated his belief that, if VA failed to audit the accountings at the intervals prescribed by State laws, the courts might react by requiring VA to meticulously adhere to all requirements of State statutes, court rules, and local practices, and that there was no reasonable assurance that costs would be reduced.

The Associate Deputy Administrator further stated that:

> "The alternative is to go to the state legislatures and to attempt to induce them to amend their statutes to provide for an extended accounting interval, This would entail a long, time-consuming, and expensive process, with a

minimal prospect of reduced operating costs, Informal studies indicate upwards to one-third of court-appointed fiduciary cases involve single veterans in public institutions. As such, these veterans are not entitled to benefits under 38 U.S.C. 3203(B) (2) if their estate exceeds $1500, As to them, an estate review on an annual interval would be required to assure that overpayments did not occur.***

"Compliance with that part of the recommendation which has to do with the audit of institution accountings on a three-year basis is not feasible. The involvement here is about 6,000 accounts annually. The veterans are, almost without exception, single veterans whose benefits are being paid to a state institution by means of an institutional award. Virtually all of them are subject to the estate limitation provisions of the statute previously cited. It is, therefore, essential to the Government's interests that their estates be reviewed not less than annually."

With respect to their principal objection to our proposal, VA officials agreed that VA was not legally required to audit guardian accountings annually. The Associate Deputy Administrator expressed the belief, as cited above that VA's audits of the accountings contributed to its harmonious relationships with the State courts and that privileges accruing from this relationship had the effect of substantially reducing VA's administrative costs.

VA officials were unable to furnish us with specific information on the extent and degree of special prerogatives granted to VA by courts, and neither we nor VA knows the extent of possible future adverse court reactions or the amounts of additional costs that might result from possible increased court involvements which might develop if VA were to audit all guardian accountings only at 3-year intervals. Therefore, we are not making a recommendation that VA unilaterally change its policy on such audits.

We do not agree with the VA view that the alternative to its present practice is to go to the State legislatures and attempt to induce them to amend their statutes to provide for extended accounting intervals. Under the statutes of at least 10 States, the frequency of audits of guardian accountings is left to the discretion of the courts. Accordingly, in these States, changes in the State statutes are not necessary. In the remaining States, audits are required by State statutes, but these statutes do not require

VA to make the audits, VA is not legally required by any law, Federal or State, to audit accountings annually.

Since the basis for VA's policy of auditing accountings annually is its relationship with State courts and since substantial economies could be achieved by reducing the frequency of audits, we believe that VA officials should examine into the feasibility of arranging with appropriate court officials for workable plans for reducing the frequency of VA audits of accountings. We recognize that, initially, the full amount of the estimated savings will not be achieved because some increased use of VA attorneys will be required, However, we believe that savings could be achieved if VA were to make a positive effort to reduce the frequency of VA audits,

VA also objected to our proposal on the basis that annual audits must be made of accountings involving single veterans in public institutions to ensure that, as required by 38 U.S.C. 3203(b)(2), benefits are not paid for such veterans whose estates exceed $1,500. Accountings involving single veterans in public institutions consist of (1) accountings prepared by court-appointed individual and corporate guardians and (2) accountings prepared by institutional award payees designated by VA to receive and administer benefit payments for the veterans,

Regarding the accountings prepared by court-appointed guardians, the VA regional offices in at least four States --Delaware, New Hampshire, New Jersey, and Pennsylvania — generally audit such accountings at 3-year intervals, Our inquiries did not disclose any problems experienced by these offices in administering the $1,500 limitation. We made inquiries at the Wilmington, Newark, and Philadelphia Regional Offices, and were informed that, in these cases, these offices received and audited such accountings at 3-year intervals unless the portions of the monthly payments being conserved as savings for the veterans were so large that the veterans' estates would exceed $1,500 in less than 3 years, In the latter situations, the regional offices call for accountings at the approximate time that the estates will reach $1,500.

VA records do not readily show the number of single veterans in public institutions either in total or by region. However, information obtained in our reviews indicated that the total may be considerably less than indicated by the statement in the Associate Deputy Administrator's letter that:

"Informal studies indicate that upwards to one-third of court-appointed fiduciary cases involve single veterans in public institutions,''

We were informed that the Wilmington, Newark, and Philadelphia Regional Offices had rarely encountered such cases. A VA Central Office official informed us that the statement in the letter had been based on data in selected guardianship folders submitted during a 2-week period by three VA regional offices to the VA Central Office for a quality review and that, in these cases, the range of court-appointed fiduciary cases involving single veterans in public institutions was from 25 percent to 35 percent.

Regarding VA's views on institutional award accountings, which are not subject to State statutes, VA's objection to reducing the audit frequency in these cases is based on its belief that most of the veterans involved are single and are thus subject to the $1,500 limitation, These approximately 6,080 cases represent only a small percentage of the total annual accountings that are audited annually, and our estimated savings of $450,000 does not include possible savings due to reduced audits of institutional accountings.

During the period covered by our review, VA had audited 314 institutional award accountings at the eight regional offices we visited and had found six accountings which were considered to have unsatisfactory conditions. The $1,500 limitation had not been exceeded in any of these six accountings, and, in our opinion, the unsatisfactory conditions in the accountings were not serious.

Since the regional offices in the four States generally audit court-appointed fiduciary accountings involving single veterans at 3-year intervals, we believe that VA should review the procedures used in those States in administering the $1,500 limitation, and, if feasible, adopt such procedures for the institutional award cases as well.

Recommendations

We recommend that the Administrator of Veterans Affairs have an examination made into the feasibility of arranging with appropriate court officials for workable plans for reducing the frequency of VA audits of guardian accountings.

With respect to the administration of the statutory limitation on benefit payments for single veterans in public institutions, we recommend that the Administrator have

a study made of the control procedures presently used in the regional offices in those States in which accountings are now audited at 3-year intervals and, if practicable, have such procedures established in other regional offices.

Revision of policy regarding conducting of interim field examinations

We believe that VA could discontinue interim field examinations in the large majority of cases involving minor children under parental custody without adversely effecting the interests or welfare of the beneficiaries. We estimate that this change in VA's policy would result in savings of up to $440,000 a year, On the other hand, we believe that VA should increase interim field examinations in certain cases involving mentally incompetent beneficiaries. We could not determine the costs of the additional field examinations, but we estimated that they might amount to approximately $50,000 annually.

At the time of our review, it was VA policy to make personal contacts with all beneficiaries, except those hospitalized in VA institutions, every 3 years after the initial appointments of the fiduciaries. The purpose of the visits 4s to make general evaluations of the beneficiaries' health and general and financial welfare and to identify and correct any conditions which have unfavorable effects on the beneficiaries.

Reports on the health and welfare of beneficiaries are prepared by field examiners after each visit. These reports list the standard categories for classifying the most common types of unsatisfactory conditions. When field examiners find unsatisfactory conditions, they check the appropriate categories and give narrative descriptions of the conditions and the corrective actions taken. VA includes this information in its budget submissions to the Congress. VA reported that over 17,400 unsatisfactory conditions affecting beneficiaries had been found and corrected during fiscal year 1966.

During the period covered by our review, the eight regional offices which we visited had conducted 4,040 interim field examinations, which represented about one fourth or their annual volume, and had reported finding 1,026 unsatisfactory conditions in 535 cases, Our review of the 585 cases showed that 371, or 63 percent, involved minor children living with their natural mothers or €athers; 180 cases, ox 31 percent, involved incompetent veterans and other adults; and 34 cases, or 6 percent, involved minor children living with custodians other than their natural parents.

The majority of unsatisfactory conditions reported in cases involving minor children under parental custody were, in our opinion, insignificant and had little effect on the

children's welfare. On the other hand, we found that some of the conditions affecting incompetent beneficiaries involved situations in which VA funds were not being used for the beneficiaries' needs.

### Interim field examinations could be discontinued in cases involving minor children under parental custody

We made a detailed review of the 371 cases involving minor children under parental custody, which contained conditions classified by VA as being unsatisfactory. We examined the initial field examination reports and all subsequent interim reports. We found that generally the field examiners had reported the children's welfare as being satisfactory and had reported their homes and environments as being adequate and suitable for the children's needs.

Summarized below, by VA categories, are the most frequently reported unsatisfactory conditions affecting minor children under parental custody.

1. **Funds not invested or improperly invested**

   We found that the unsatisfactory conditions reported under this category involved, in the majority of the cases, the improper registration of investments rather than improper investments. In many cases, the mothers had been designated as trustees rather than as custodians or the accounts had been registered in the children's names rather than in the names of the mothers as fiduciaries of the children. At one office we visited, the field examiners had reported conditions as being unsatisfactory because the children's funds had been deposited in banks, although savings and loan associations in the areas were paying higher rates of interest.

2. **Funds not used for dental or medical care**

   We found that the unsatisfactory conditions reported under this category involved, in the majority of the cases, routine dental care. There were no indications that the beneficiaries had required serious or emergency treatment. In one office we visited, a number of cases were reported, even though the beneficiaries' dental or medical needs were being taken care of or had already been provided for with other than VA funds, because the parents were not aware that VA funds could be used for dental or medical care.

3. Failure to obtain maximum VA or other benefits

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4. Unjustifiable failure to assure continuance of education

One office we visited had reported unsatisfactory conditions under this category in 67 cases in which the mothers were not aware of State legislation that provided for waiver of tuition and fees at State-supported colleges for children of deceased or totally disabled veterans. We found that this office had reported also such unsatisfactory conditions under the preceding category in 62 other cases. Many of these minors were then in elementary schools. Other offices had reported unsatisfactory conditions under this category when minor beneficiaries had failed to complete high school.

5. Other

Many of the conditions reported under this category were similar to the conditions discussed in the above sections. A number of other conditions were reported as being unsatisfactory because mothers had utilized minors' funds beyond the authorized limitations without prior approval of the chief attorneys. In all of these cases, the field

examiners, on behalf of the chief attorneys, had approved the expenditures as being in the interests of the beneficiaries and the examiners had authorized the mothers to continue to use VA funds when needed. Despite their approval of these expenditures, the field examiners had reported these conditions as being unsatisfactory.

We believe that the categories of unsatisfactory conditions often overstated the conditions described in the field examination reports. In our opinion, the majority of the conditions reported as being unsatisfactory were not significant.

Generally the field examiners' instructions or advice to the mothers were considered to be corrective actions and no additional follow-up actions were made or deemed to be necessary. We found that in only one of the 371 cases we reviewed had a mother been discharged as custodian. In this case, the mother was receiving VA funds although the minor beneficiaries were no longer residing with her. VA does not maintain records to identify cases of this nature; however, we requested the chief attorneys in the regional offices we visited to furnish us with all cases they could recall in which mothers had been discharged as custodians. We were furnished with only four such cases.

## Conclusions

We believe that VA could discontinue interim field examinations in the large majority of cases in whish minor beneficiaries reside with their parents, We believe also that, at the time of the initial appointment investigations, the field examiners could make determinations as to the need for future interim contacts based on the environmental conditions and family relationships, We further believe that it is misleading for VA, in its budget submissions to the Congress, to report many of these conditions as unsatisfactory, in view of the trivial nature of the conditions and the insignificant effects on the welfare of the beneficiaries,

We estimated that more than $880,000 was being paid annually in personnel costs, as well as undeterminable amounts of travel costs, in conducting interim and final field examinations in cases of minor beneficiaries under parental control, On the basis of our examinations of VA data on field examinations, we believe that up to one half of this amount could be saved by eliminating interim field examinations in cases of minors under parental custody in stable family situations. Data for making a more precise estimate of this savings was not available.

Agency action

At the completion of our field work, we discussed our findings with officials of the VA's Guardianship Service. Subsequently, the Department of Veterans Benefits authorized chief attorneys to waive interim field examinations in cases involving minor beneficiaries under parental custody in stable family situations. These instructions provide for final personal contacts with all minor beneficiaries, generally when they reach the 11th year of their education. The purpose of these final contacts is to make thorough up-to-date reviews of the administration of the beneficiaries' estates and to explain VA benefits and other Federal and State educational and vocational assistance programs for which the beneficiaries may be eligible.

In his May 10, 1967, letter, the Associate Deputy Administrator stated that the VA was in complete agreement with our recommendation that VA discontinue interim contact field examinations in cases involving minor beneficiaries under parental fiduciaries when stable family situations exist. He stated also that both the VA and the GAO studies indicated that trivial situations were being reported as unsatisfactory conditions in VA investigation reports in the minor beneficiary area. He further stated that necessary revisions of instructions on definitions of unsatisfactory conditions would be included in the program manual revision.

The Associate Deputy Administrator stated also that "*** the resources made available by reason of waiver of interim investigations in minor cases could approximate upwards to $400,000 annually in cost." He indicated that these resources could be more profitably employed for necessary investigative work on other guardianship cases.

More frequent field examinations should be made in certain cases involving incompetent beneficiaries

We made a detailed review of the 180 cases involving incompetent veterans and other adults, in which conditions had been classified by VA as being unsatisfactory. In the majority of the 180 cases, the field examiners had reported that the amounts being released by corporate guardians for the beneficiaries' care and maintenance were not sufficient to provide for all of their needs or that institutionalized beneficiaries were not being provided with personal comforts although funds were available for such purposes.

On the basis of our review of VA files and discussion with VA officials, we believe that the conditions in some of the 180 cases were of a serious nature in that they had resulted from (1) the inability or reluctance of the persons vested with the care of the beneficiaries to notify the guardians or VA of the beneficiaries' needs and (2) the uncooperative or indifferent attitude of the beneficiaries toward accepting medical attention or other assistance,

At the time of initial appointment of a guardian, the VA field examiner generally makes a determination as to the monetary needs of the beneficiary. Arrangements are then made to have the guardian pay a monthly care and maintenance allowance to the person responsible for the personal care of the beneficiary. When the beneficiary is a patient in a State or private institution, arrangements are usually made to have a portion of the funds paid directly to the institution for the beneficiary's care and maintenance and another portion deposited in a personal account to be used to provide personal comforts for the beneficiary.

One VA chief attorney informed us that State institutions in his region were overcrowded and did not have sufficient personnel for ensuring that funds were used for beneficiaries' personal comforts. In another regional office, we found that, in a large number of cases, the persons responsible for the care of incompetent beneficiaries had not notified VA or the guardians that additional funds were necessary. In many of these cases, the guardians were maintaining estates in excess of $10,000 for the beneficiaries. The chief attorney in this regional office assured us that the persons responsible for the care of incompetent beneficiaries were aware that funds were available for, and intended €or use for, beneficiaries' needs. However, he could offer no explanation as to why these persons had not notified VA or the guardians when additional funds were needed for the beneficiaries,

For the most part, those conditions which appeared to us to be of a serious nature had been reported as corrected after the field examiners had requested the guardians to increase the monthly care and maintenance allowances or after the examiners had informed hospital officials and personnel that funds were available for providing beneficiaries with personal comforts. The next interim contact was scheduled, in the majority of these eases, for 3 years later. In our opinion, the cases involving more serious conditions warrant field examinations more frequently than every 3 years.

We could not determine the costs of increased field visits in these cases because the frequency of the examinations will depend on the conditions found in individual cases. On the basis of cases noted by VA in which funds had not been used for the essential needs and personal comforts of incompetent beneficiaries and assuming that these cases might warrant annual, rather than triennial, visits, we estimated that additional costs of approximately $50,000 a year, nationwide, might result from the increased visits.

Agency action

At the completion of our field work, we discussed this finding with officials of the VA's Guardianship Service. Subsequently, the Department of Veterans Benefits encouraged chief attorneys to make contacts more frequently than every 3 years, when warranted, in cases involving incompetent beneficiaries. In his letter dated May 10, 1967, the Associate Deputy Administrator stated that he agreed with our view that the frequency of interim investigations in cases involving incompetent beneficiaries should be increased.

## SCOPE OF REVIEW

Our review was made at eight VA regional offices—Chicago, Illinois; Winston-Salem, North Carolina; Detroit, Michigan; Indianapolis, Indiana; Denver, Colorado; St. Petersburg, Florida; Philadelphia, Pennsylvania; and Seattle, Washington--and at the VA Central Office, Washington, D.C.

We reviewed Federal laws; VA policies, procedures, and practices governing the administration of the guardianship program; and State Legislation applicable to guardianships in the States in which the eight VA regional offices were located. We examined 815 of the 8,212 accountings audited by, and 585 of the 4,040 reports on field examinations made by, the eight VA regional offices during June, July, and August 1965 and the related documents and records on the audits and field examinations in VA case files. We discussed our findings and views with appropriate officials and employees of the eight regional offices and the VA Central Office.

# APPENDIX

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

May 10,1967

Mr. L. H. Drennan, Jr.
Assistant Director, Civil
Accounting and Auditing Division
U. S. General Accounting Office
Room 152, VA Building
Washington, D. C. 20420

Dear Mr. Drennan:

We have reviewed the draft: of your proposed report to the Congress on "Review of Policies, Procedures, and Practices for Safeguarding Funds of Minor and Mentally Incompetent Beneficiaries Under the Guardianship Program". The findings and recoimnendations in that report deal with four basic guardianship areas, i.e.: (1) need for VA audit of state court-appointed individual fiduciaries' accounts at annual intervals when so prescribed by state law [see GAO note below] (2) need for annual audit of accounts of institutional fiduciaries; (3) discontinuance of interim contact field examinations in cases involving minor beneficiaries under parental fiduciaries when there is a stable family situation; and (4) need for more frequent personal contact inveetigations in cases involving adult mentally incompetents.

These recommendations have been the subject of extensive discussions between representatives of VA and your office. As to the first, the Agency's position is that, in the prevailing climate, it has no choice but to audit the accounts at the intervals prescribed by state law or, in the alternative, go to the various state legislatures and attempt to prevail upon them to amend their laws to extend the accounting interva 1.

Early in the history of the Guardianship Program, it was found that the Agency needed a ready forum in the community in which the fiduciary and beneficiary resided to protect the beneficiary's interests and to assure restitution when benefits were misused. To accomplish this, the VA was instrumental in the enactment of legislation in virtually all of the 50 states constituting the VA as a party in interest and working partner with state courts in situations involving payment of VA benefits in behalf of the legally disabled. These statutes vest

GAO note: Deleted comment relates to a matter discussed in the draft report but omitted from this report.

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Accounting and Auditing Division

in the Agency's Chief Attorneys certain rights before the *courts* and impose on them certain obligations, both as attorney for the Administrator and personally as an officer of the court in the jurisdiction in which the Chief Attorney is licensed to practice. The Agency's status in state courts is entirely unique among Federal Agencies and Departments. This course of action was a direct result of a series of Congressional investigations which established the existence of widespread fiduciary theft and other improper use of funds paid in behalf of legally disabled beneficiaries. It was found that fiduciaries were misappropriating upwards of 10% of all benefits paid and generally misusing *a* substantial portion of the remainder, This state of affairs was due to the fact that the courts completely lacked the machinery *to* assure proper estate administration. Accordingly, the Congress directed the Agency to provide this capability to the end that the interests of these beneficiaries would be protected. Over the years this has not only assured restitution, but the general knowledge that it exists has been a strong deterrent to fiduciary mischief.

Over the years, a very close relationship has been developed between the Agency's Chief Attorneys and the various state courts. Essentially, it is *a* matter of the courts providing the forum and the Agency the machinery to make it effective. Implicit in it is the reliance on the part of *the* courts that VA Chief Attorneye will review the propriety *of* that which is submitted to them in guardianship matters involving VA beneficiaries, and, in return, the courts grant the Agency's Chief Attorneys special prerogatives including streamlined pleadings and procedures and, in many situations, permission to bring matters before the courts without a formal court appearance by an attorney. This harmonious relationship also enables VA attorneys to obtain prompt hearings when hearings are required, thus avoiding expansive, time-consuming delays waiting to be heard when, as is usually the case, the court's calendar is crowded. These privileges have the effect of substantially minimizing the cost of administering estates in state courts from an Agency standpoint.

The Agency's failure to hold up its end of the bargain (i.e., audit of court fiduciaries' accounts at the intervals prescribed by state law and advising the courts of improprieties) would place the courts in the position of having to proceed at their own risk. This would put the Agency in the position of dealing at arm's length with them. The predictable reaction is they, too, would deal at arm's length with the Agency, which would mean meticulous adherence to all requirements of state statutes, court rules, and local practices. We believe it follows that, apart from the ill will, misunderstanding, and increased beneficiary detriment that would inevitably result, there is no reasonable assurance that costs would be reduced.

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The alternative is to *go* to the state legislatures and to attempt to induce them to amend their statutes *to* provide for an extended accounting interval. This would entail a long, time-consuming, and expensive process, with a minimal prospect of reduced operating costs. Informal studies indicate upwards to one-third of court-appointed fiduciary cases involve single veterans in public institutions. As such, these veterans are not entitled to benefits under 38 U.S.C. 3203(B) *(2)* if their estate exceeds $1500. As to them, an estate review on an annual interval would be required to assure that overpayments did not occur. As to many cases, changing situations would dictate an inquiry into the case at an annual interval to adjust allowances as dictated by the facts found, The account audit is a convenient and inexpensive way of accomplishing this, and adjustments of allowances, indicated surety bond increases, etc., can be made in connection with the account at no additional cost. To sum up, we question whether this approach would save anything in the foreseeable future, hawing in mind the salary levels of the attorneys who would be involved in the effort and the minimal seduction in cost, if any, which could be reasonably anticipated.

Compliance with that part of the recommendation which has to do with the audit of institution accountings on a three-year basis is not feasible. The involvement here io about 6,000 accounts annually. The veterans are, almost without exception, single veterans whose benefits are being paid to a state institution by means of an institutional award. Virtually all *of* them are subject to the estate limitation provisions of the statute previously cited. It is, therefore, essential to the Government's interests that their estates be reviewed not less than annually, There is, of course, also she welfare of the incompetent veteran himself to be considered, and this review will, to a considerable extent, protect it. Manpower involvement is negligible since the account is a simple, one-page statement, usually containing five or six entries,

We are in complete agreement with your recommendation to discontinue interim contact field examinations in cases involving minor beneficiaries under parental fiduciaries when a stable family situation exists, We ales agree with your finding that the frequency of interim investigations should be increased in incompetent adult beneficiary cases. Our change in program policy was promulgated on June 20, 1966, in the Department of Veterans Benefits Interim Issue 27-66-1. Initially, there was substantial disagreement, however, as to the impact of this policy change upon manpower requirements. Our findings, as *a* result of an independent study covering nearly two years, demonstrated that we could more profitably employ available resources in the adult area rather than in interim contacts in minor parental situations where

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stable family situations were found. Your findings based on your study support this conclusion. Both studies reflected considerable frequency of trivial situations being reported as unsatisfactory conditione in investigations conducted in the minor beneficiary area. Conversely, the studies showed a high frequency of beneficiary neglect in adult cases. You believe, and we agree, that tightening of the definitions of uneatisfactory conditions is needed in minor cases. Necessary revision of existing instructions will be included in a program manual revision now underway.

We are in agreement that the resources made available by reason of waiver of interim investigations in minor cases could approximate upwards to $400,000 annually in cost. This is based on the assumption that there is involved between 15,000 to 20,000 investigations of this type. We now have nearly 110,000 adult incompetents on Chief Attorney rolls, and the number is steadily increasing. On a triennial interim contact basis, they will produce about 34,000 investigations a year, With the same over-all manpower available, we are currently running about 9,000 initial appointment investigations over last year. Since initial investigations are substantially more time-consuming than the investigations being waived, we estimate that they are consuming upwards to two-thirds of the manpower made available through waiver of contacts in minor cases. It follows that we will be hard-pressed to accomplish the demonstrably needed additional investigations in adult cases with the manpower that remains.

In the past seven years, the Agency's Guardianship Service moved from an extremely conservative program concept (i.e., annual mitten accounts from fiduciaries, whether appointed by state courts or otherwise, supplemented by annual personal contact investigations in all cases) to the present approach, which is designed to obtain maximum utility by concentrating available resources where they are most needed. This was accomplished step by step as experience gained demonstrated the probability that the succeeding step could be taken without Jeopardizing the interests of the beneficiaries served.

The steps in this evolvement were as follows:

a. Extension of personal contact investigations to a triennial interval.

b. Extension of Federal fiduciary written accounts (those established under Federal law and thus not subject to state law requirements) to two years.

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Accounting and Auditing Division

c. Elimination of requirement of Federal fiduciaries' written accounts.

d. Discontinuance of Chief Attorney involvement in apportioned award, short-term beneficiary entitlement, and VA institutional award cases,

e. Waiver of triennial personal contact investigations in parental-minor situations in which a stable family situation exists.

f. Increase in the frequency of personal contact investigations in adult incompetent beneficiary cases where most needed.

The foregoing was addressed to the elimination of low priority activities and the substitution of less costly alternatives. Coincident with it, substantial savings were also achieved in the area of work design as follows:

a. Elimination of specialized professional assignments to achieve better cross-utilization.

b. Professional supervisory overlay reduced by consolidating roles of the "in-office" attorney responsible for making decisions and the field attorney responsible €or developing the facts upon whish the decisions were based.

c. Substitution of trained non-professionals for attorneys in estate administration areas involving work of a quasi-legal and judgmental nature,

As a result of these actions, Chief Attorneys' Offices in the past fiscal year were operated with 17.5 percent leas employees than in 1960, and they serviced 55.4 percent more beneficiary cases, conducted 12.6 percent more investigations, and 8.9 percent more legal actions. We are proud of our record of accomplishment.

Mr. L. H. Drennan, Jr.
Assistant Director, Civil
Accounting and Auditing Division

Thank you for your report. We will be glad to furnish you any additional information which you may desire.

Sincerely,

Associate Deputy Administrator
For and in the absence of CYRIL F. BRICKFIELD
Deputy Administrator