

GAO

Report to the Ranking Democratic
Member, Committee on Veterans'
Affairs, House of Representatives

October 2005

VETERANS' DISABILITY BENEFITS

VA Could Enhance Its Progress in Complying with Court Decision on Disability Criteria



Contents

Letter	1
Appendix I: Briefing Section	4
Appendix II: Comments from the Department of Veterans Affairs	31

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United States Government Accountability Office
Washington, DC 20548

October 12, 2005

The Honorable Lane Evans
Ranking Democratic Member
Committee on Veterans' Affairs
House of Representatives

Dear Mr. Evans:

To properly decide veterans' disability claims, the regional offices of the Department of Veterans Affairs (VA) must obtain all medical evidence required by law and federal regulations. To do so, in fiscal year 2004, the regional offices asked VA's medical centers to examine about 500,000 claimants and provide examination reports containing the necessary medical information. Exams for joint and spine impairments are among the exams that regional offices most frequently request, and in 2002, VA found that 61 percent of the exam reports for such impairments did not provide sufficient information for regional offices to make decisions complying with disability criteria mandated by the U.S. Court of Appeals for Veterans Claims in *DeLuca v. Brown*, 8 Vet. App. 202 (1995).

In *DeLuca*, the court held that when federal regulations define joint and spine impairment severity in terms of limits on range of motion, VA claims adjudicators must consider whether range of motion is further limited by factors such as pain and fatigue during "flare-ups" or following repetitive use of the impaired joint or spine. Whenever VA regional offices ask VA medical centers to conduct joint and spine disability exams, the medical centers should prepare exam reports containing the information mandated in *DeLuca*. You asked that we determine VA's progress since 2002 in ensuring that its medical centers consistently prepare joint and spine exam reports containing the information required by *DeLuca*.

In conducting our research, we obtained pertinent information from and interviewed officials of the Veterans Benefits Administration (VBA), which manages VA's 57 regional offices; the Veterans Health Administration (VHA), which has 21 health care networks that oversee the operations of VA's 157 medical centers; and the Compensation and Pension Examination Project (CPEP) Office, a national office jointly established by VHA and VBA in 2001 to improve the disability examination process. We assessed and determined that data from the CPEP Office's quality reviews of medical center exam reports for the 10 most frequently requested exams

were reliable for the purposes of our work, and we attended a December 2004 VA training conference aimed at improving the ability of medical center clinicians to conduct and report high-quality disability examinations. In addition, we interviewed officials of Disabled American Veterans, The American Legion, Paralyzed Veterans of America, and National Veterans Legal Services Program. We conducted our review from November 2004 through September 2005 in accordance with generally accepted government auditing standards. After discussing our initial findings on DeLuca with your office, your office asked that we furnish briefing slides containing the information discussed. This letter conveys the requested briefing slides.

In summary, since 2002, VA has made progress in ensuring that its medical centers' exam reports adequately address the DeLuca criteria, but more improvements are needed. As of May 2005, the percentage of joint and spine exam reports not meeting the DeLuca criteria had declined substantially from 61 percent to 22 percent. Much of this progress appears attributable to a performance measure for exam report quality that VHA established in fiscal year 2004. However, a 22 percent deficiency rate indicates that many joint and spine exam reports still did not comply with DeLuca, and moreover, the percentage of exam reports satisfying the DeLuca criteria varied widely—from a low of 57 percent to a high of 92 percent among VHA's 21 health care networks. Further, VA's CPEP Office has found deficiencies in a substantial portion of the requests that VBA's regional offices send to VHA's medical centers, asking them to perform disability exams. For example, the CPEP Office found in early 2005 that nearly one-third of the regional office requests for spine exams contained errors such as not identifying the pertinent medical condition or not requesting the appropriate exam. However, VBA has not yet established a performance measure for the quality of the exam requests that regional offices submit to medical centers.

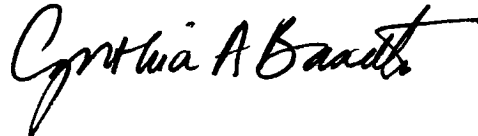
To help ensure continued progress in satisfying the DeLuca criteria, we recommend that the Secretary of Veterans Affairs direct the Under Secretary for Health to develop a strategy for improving the consistency of VHA's networks across the nation in meeting the DeLuca criteria. We also recommend that the Secretary direct the Under Secretary for Benefits to develop a performance measure for the quality of the exam requests that regional offices submit to medical centers.

In written comments on a draft of this report, VA agreed with our conclusions and concurred with our recommendations.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies of this report to the Chairman, House Committee on Veterans' Affairs; the Chairman and Ranking Democratic Member, Senate Committee on Veterans' Affairs; and the Secretary of Veterans Affairs. We will also make copies available upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me on (202) 512-7215 or bascettac@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Irene Chu, Assistant Director; Ira Spears, Analyst-In-Charge; Joseph Natalicchio; and Walter Vance also made key contributions to this report.

Sincerely yours,

A handwritten signature in black ink that reads "Cynthia A. Bascetta". The signature is written in a cursive style with a long, sweeping underline.

Cynthia A. Bascetta
Director, Education, Workforce,
and Income Security Issues

Appendix I: Briefing Section



VA Could Enhance Its Progress in Complying with Court Decision on Disability Criteria

Briefing for Staff of
Representative Lane Evans
Ranking Democratic Member
House Committee on Veterans' Affairs



- Objective
- Background
- Scope and Methodology
- Key Findings
- Conclusions
- Recommendations



Objective

- In 2002, the Department of Veterans Affairs (VA) found that about 61 percent of the joint and spine disability examination reports prepared by VA medical centers did not provide the information required for VA's joint and spine disability decisions to comply with DeLuca v. Brown, 8 Vet. App. 202 (1995). GAO was asked to determine the progress VA has made since 2002 in ensuring that joint and spine exam reports prepared by VA medical centers provide VA regional office claims adjudicators with the medical information that DeLuca requires for disability decisions.



Background

- To determine disability severity, VA claims adjudicators must use medical criteria published in federal regulations. For certain musculoskeletal disabilities, such as joint and spine impairments, the regulations specify range-of-motion limitations that adjudicators must use to determine severity.
- However, the U.S. Court of Appeals for Veterans Claims held in DeLuca that, in addition to the range-of-motion limitations specified in VA’s regulations, adjudicators also must consider any additional functional limitations that may occur during “flare-ups” or following “repetitive use” because of painful motion, weakened movement, excess fatigability (or lack of endurance), or incoordination.



Background, cont'd

- Ensuring that joint and spine exam reports meet the DeLuca requirements is important. Otherwise, a claims adjudicator may not assign an appropriate severity rating for a veteran's condition.
- Under VA's quality review standards, a joint or spine exam report satisfies the DeLuca "repetitive use" criteria if the exam report indicates the extent, if any, and the number of degrees, if possible, to which range of motion is additionally limited by pain, fatigue, weakness, or lack of endurance following repetitive use. The additional functional loss may be stated in terms of either degrees of loss of motion or the additional percentage of loss of motion.



Background, cont'd

- Under VA's quality review standards, a joint or spine exam report satisfies the DeLuca "flare-up" criteria if the report either states the claimant does not experience any flare-ups or provides a description of the flare-ups.
- The Veterans Benefits Administration (VBA) operates 57 regional offices whose claims adjudicators develop required evidence and decide disability claims.
- The Veterans Health Administration (VHA) operates VA's 157 medical centers. VHA has organized these medical centers into 21 geographic areas known as Veterans Integrated Service Networks (VISN). Each VISN oversees the operations of the medical centers within its assigned geographic area.



Background, cont'd

- To obtain the medical evidence required to make disability decisions, VBA regional offices asked VHA's medical centers to perform about 500,000 disability examinations in fiscal year 2004.¹
- In 2001, the VA Claims Processing Task Force reported ongoing concerns about the quality of the VBA-VHA disability examination process.
- In 2001, VBA and VHA jointly chartered the Compensation and Pension Examination Project (CPEP) Office to improve the disability examination process.

¹Because of workload issues at certain medical centers, 10 regional offices use the services of a contractor to obtain disability examinations.



Background, cont'd

- In 2002, after VA developed exam-specific quality indicators for the 10 most frequently requested disability exams, the CPEP Office did its initial (baseline) review of VHA medical centers' disability examination reports, including joint and spine exam reports.²
- To assess quality, the CPEP Office uses 10 exam-specific indicators to assess joint exam report quality and 11 indicators for spine exam report quality. In both cases, two of the quality indicators address DeLuca's repetitive use and flare-up criteria.

²The 10 exams that regional offices most frequently request are audio (hearing), eye, feet, general medical, initial post-traumatic stress disorder (PTSD), joints, mental disorders other than initial PTSD and eating disorders, subsequent review of PTSD, skin (not scars), and spine.



Scope and Methodology

- We interviewed or obtained information from officials of:
 - VBA central office
 - VHA central office
 - CPEP Office, Nashville, Tenn.
 - VHA VISN offices in Duluth, Ga; and Linthicum, Md.
 - VHA medical centers in Baltimore, Md; and Birmingham, Ala.
 - VBA regional offices in Atlanta, Ga; and Baltimore, Md.



Scope and Methodology, cont'd

- We also interviewed officials of:
 - Disabled American Veterans
 - The American Legion
 - Paralyzed Veterans of America
 - National Veterans Legal Services Program.
- We attended a VA training conference for improving the ability of VHA clinicians to conduct and report high-quality disability examinations.
- We assessed the CPEP Office's quality review data for the 10 most frequently requested exams and found these data were reliable for the purposes of our work.
- We conducted our review from November 2004 through September 2005 in accordance with generally accepted government auditing standards.



Key Findings

- VA has made progress since 2002 in ensuring that medical centers prepare joint and spine exam reports satisfying the DeLuca criteria. Much of this progress appears to be due to an overall performance measure that VHA established for exam reports for the 10 most frequently requested exams.
- However, many joint and spine exam reports still do not comply with the DeLuca criteria, and VHA's 21 VISNs vary widely in the percentage of exams that satisfy the DeLuca criteria.
- The CPEP Office has found that a substantial portion of regional office requests for exams are inaccurate or incomplete.



VA Has Made Progress in Satisfying DeLuca Criteria

- In its 2002 baseline review of disability exam report quality, CPEP found that about 61 percent of VHA's joint and spine exam reports did not contain the information required by DeLuca.
- However, by May 2005, the percentage of joint and spine exam reports not containing the information required by DeLuca had declined substantially from 61 percent to 22 percent. (See table 1.)



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

Table 1: VHA's Performance in Satisfying the DeLuca Criteria

Time frame of exam reports reviewed by CPEP	Percentage of joint and spine exam reports that did not satisfy the <u>DeLuca</u> criteria				
	Repetitive use criteria		Flare-up criteria		Overall percentage of joint and spine reports not satisfying the <u>DeLuca</u> criteria
	Joint exams	Spine exams	Joint exams	Spine exams	
July-September 2001 (2002 baseline study)	60	64	64	58	61.5
June-August 2004	49	52	32	26	40.0
March-May 2005	27	27	17	17	22.0

Source: CPEP.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

- To improve disability exam report quality, including satisfying the DeLuca criteria, VA has done the following .
 - VHA required medical centers in 2002 to develop quality improvement plans for exams and exam reports for the 10 most requested exams, including joint and spine exams.
 - CPEP distributed musculoskeletal exam training videos and other resource materials in 2002 and 2004.
 - CPEP sponsored national training conferences in 2003 and 2004 that included training on the DeLuca criteria.
 - Via satellite broadcasts, VHA conducted training on DeLuca for its medical centers in 2004, and VBA, for its regional offices in 2005.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

- VA also did the following to improve joint and spine disability exam report quality.
 - To focus attention on the DeLuca criteria, CPEP has published monthly DeLuca performance statistics for each of VHA's 21 VISNs since October 2003.
 - VBA instructed regional offices in 2004 to send back to the medical centers any musculoskeletal exam reports not adequately addressing the DeLuca criteria.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

- In addition, CPEP and VA's Office of Information developed and distributed software during 2004 and 2005 that provides medical centers with automated templates for clinicians to use in conducting and reporting disability exams, including joint and spine exams.
 - The templates provide a guided and structured approach for conducting exams and entering the results at a computer workstation. Using the templates is optional.
 - CPEP believes the templates can help ensure that clinicians do not omit necessary exam information, such as for the DeLuca criteria.
 - CPEP is conducting a study in which medical center clinicians use a selected template routinely in order to gather data on the costs and benefits of using the templates.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

- Finally, in fiscal year 2004, VHA established a performance measure for the quality of exam reports for its VISN directors. This performance measure for exam report quality takes into account a VISN's combined performance on all of the 10 most frequently requested exams. For fiscal years 2004 and 2005, VHA defined fully successful performance as when 64 percent of the exam reports prepared by a VISN's medical centers satisfy at least 90 percent of the CPEP quality indicators.
- The two VISNs we visited told us they had included this performance measure in the performance plans of the directors for the medical centers in their VISN.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

- Since VHA instituted the exam report quality performance measure, the combined quality of exam reports for the 10 most frequently requested exams has improved broadly, indicating that the performance measure may have been a catalyst for improvement. (See table 2.)
- Still, it should be noted that because the performance measure applies to a VISN's combined performance on all 10 types of exam reports, poor performance on one exam type could be masked in the overall average performance statistic if performance on another exam type is sufficiently high to allow the VISN to still meet the fully successful definition of performance.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

Table 2: Number of VISNs Meeting the Fully Successful Definition for the Combined Exam Report Quality of the 10 Most Frequently Requested Exams

Time period	Number of VISNs that achieved the fully successful standard
1 st quarter-fiscal year 2004	0
4 th quarter-fiscal year 2004	15
3 rd quarter-fiscal year 2005	21

Source: CPEP.



VA Has Made Progress in Satisfying DeLuca Criteria, cont'd

- If a joint or spine exam report fails on both of the DeLuca criteria (flare-ups and repetitive use), the exam report automatically fails the quality review—that is, it does not pass at least 90 percent of the exam-specific quality indicators.
- As a result, the exam report quality performance measure provides an incentive for VISNs and their medical centers to focus on satisfying the DeLuca criteria because, to optimize the chance to be rated as fully successful on combined performance for all 10 of the most frequently requested exams, VISNs and their medical centers must pay attention to the quality of all 10 exam types, including the joint and spine exams that are subject to the DeLuca criteria.



More Improvement Needed in Satisfying DeLuca Criteria

- As of May 2005, 22 percent of joint and spine exams still did not satisfy the DeLuca criteria. Also, as of May 2005, VA found a large degree of inconsistency in the extent that the 21 VISNs satisfied the DeLuca criteria. Among the 21 VISNs, the percentage of joint and spine exam reports satisfying the DeLuca criteria ranged from a low of 57 percent to a high of 92 percent. (See table 3.)
- It should be noted that within a given VISN, an individual medical center's performance in meeting the DeLuca criteria may be lower than the combined average DeLuca performance for all the medical centers in that VISN. Therefore, in the VISN that had 57 percent of its joint and spine exams meeting DeLuca criteria, an individual medical center within that VISN may have had less than 57 percent meeting the DeLuca criteria.



More Improvement Needed in Satisfying DeLuca Criteria, cont'd

Table 3: Percentage of Each VISN's Joint and Spine Exams Satisfying the DeLuca Criteria as of May 2005

VISN number	Percentage meeting <u>DeLuca</u> criteria
1	57
2	84
3	78
4	80
5	86
6	92
7	83
8	86
9	67
10	76

Note: Table 3 continues on the next slide.

Source: CPEP.



More Improvement Needed in Satisfying DeLuca Criteria, cont'd

Table 3: Percentage of Each VISN's Joint and Spine Exams Satisfying the DeLuca Criteria as of May 2005, cont'd

VISN number	Percentage meeting <u>DeLuca</u> criteria
11	72
12	75
15	79
16	92
17	85
18	87
19	81
20	69
21	73
22	64
23	71

Note: VA had 22 networks until January 2002, when it merged Networks 13 and 14 to form a new network, Network 23.

Source: CPEP.



Many Regional Office Exam Requests Are Deficient

- Since early 2004, CPEP has done monthly reviews of exam requests that regional offices submit to medical centers, and CPEP has found that many requests are inaccurate or incomplete. For example, of the spine exams requested during the second quarter of fiscal year 2005, 32 percent of the exam requests had at least one error such as:
 - not identifying the pertinent condition,
 - not requesting the appropriate exam,
 - not providing clear or useful information in the remarks section of the request,
 - not identifying the specific joint or part to be examined, or
 - not explaining instances in which the exam request contained no telephone number for the veteran who was to be examined.



Many Regional Office Exam Requests Are Deficient, cont'd

- VBA told GAO it may consider establishing a performance measure for the quality of exam requests after CPEP modifies its software so that when CPEP finds an error in an exam request, the regional office would be able to obtain via VA's intranet the identity of the case involved, study the error, and learn from the mistake.
- In July 2005, CPEP said it would soon complete software modifications that will make case-specific exam request error information available to regional offices via VA's intranet.



Conclusions

- Although the percentage of joint and spine exam reports that do not satisfy the DeLuca criteria declined substantially from 61 percent in 2002 to 22 percent at the end of May 2005, more improvement is needed to further reduce the more than one-fifth of these exam reports not meeting the DeLuca criteria. Also, more improvement is needed to reduce wide variations in performance on the DeLuca criteria; among the 21 VISNs, the percentage of deficient exam reports ranged from a low of 8 percent to a high of 43 percent.
- The ability of medical centers to provide exam reports containing the information that regional offices need in order to make accurate disability decisions is negatively affected when regional offices submit inaccurate or incomplete exam requests. Although CPEP has found that many exam requests are deficient, the lack of a performance measure for exam request quality means regional offices do not have the same incentive for improvement that medical centers have had since VHA instituted the performance measure for exam report quality.



Recommendations

- To help ensure continued progress in satisfying the DeLuca criteria, we recommend that the Secretary of Veterans Affairs direct the Under Secretary for Health to develop a strategy for improving consistency among the VHA VISNs in meeting the DeLuca criteria. For example, if performance in satisfying the DeLuca criteria continues to vary widely among the VISNs during fiscal year 2006, VHA may want to consider establishing a new performance measure specifically for joint and spine exams. Also, if the CPEP Office's study of the costs and benefits of the automated exam templates supports their use, VHA could require that its medical centers use the automated templates for joint and spine exams.
- We also recommend that the Secretary direct the Under Secretary for Benefits to develop a performance measure for the quality of exam requests that regional offices send to medical centers. This measure could be implemented as soon as the CPEP Office is able provide regional offices with case-specific exam request deficiency data via VA's intranet.

Appendix II: Comments from the Department of Veterans Affairs



THE DEPUTY SECRETARY OF VETERANS AFFAIRS
WASHINGTON

SEP 23 2005

Ms. Cynthia A. Bascetta
Director
Education, Workforce and Income Security Issues
U. S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Bascetta:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office's (GAO) draft report, ***VETERANS' DISABILITY BENEFITS: VA Could Enhance Its Progress in Complying with Court Decision of Disability Criteria***; (GAO-06-46). The Department agrees with GAO's conclusions and concurs with its recommendations. The enclosure details VA actions and plans to implement GAO's recommendations.

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 Could Enhance Its Progress in
Complying with Court Decision of Disability Criteria**
(GAO-06-46)

To help ensure continued progress in satisfying the DeLuca criteria, GAO recommends that the Secretary of Veterans Affairs direct the Under Secretary for Health to develop a strategy for improving consistency among the VHA VISNs in meeting the DeLuca criteria. For example, if performance in satisfying the DeLuca criteria continues to vary widely among the VISNs during fiscal year 2006, VHA may want to consider establishing a new performance measure specifically for joint and spine exams. Also, if the CPEP Office's study of the costs and benefits of the automated exam templates supports their use, VHA could require that its medical centers use the automated templates for joint and spine exams.

Concur in Principle - While it is agreed that more consistency among Veterans Integrated Service Networks (VISN) in complying with the DeLuca disability criteria in determining joint and spine impairment severity is indicated, VA believes that it is premature at this point to devise a new strategy to accomplish that goal. There is ongoing evidence of consistent compliance improvement in results generated by the Veterans Health Administration (VHA) VISN director performance measure for quality of exam reports, which VHA plans to strengthen and refine. Program managers in VHA's Compensation and Pension Exam Program (CPEP) and in its Office of Patient Care Services will continue to carefully monitor data trends throughout the first half of fiscal year 2006 to identify the need for intervention and/or new strategic approaches. In addition, VHA will provide this report to all VISN offices for further review and follow-up action with individual medical facilities requiring focused attention.

GAO also recommends that the Secretary direct the Under Secretary for Benefits to develop a performance measure for the quality of exam requests that regional offices send to medical centers. This measure could be implemented as soon as the CPEP Office is able to provide regional offices with case-specific exam requests deficiency data via VA's intranet.

Concur - A standardized review of examination requests was initiated through the CPEP office in 2004 using the same quality indicator approach used for assessment of quality of examination reports. Initially, the 17 request indicators were a compilation of content and process assessments with substantive and non-substantive indicators carrying the same weight and, therefore, not an

Enclosure

Department of Veterans Affairs (VA) Comments to
Government Accountability Office (GAO) Draft Report,
***VETERANS' DISABILITY BENEFITS: VA Could Enhance Its Progress in
Complying with Court Decision of Disability Criteria***
(GAO-06-46)
(Continued)

effective tool for performance quality measurement. As GAO reports, this initial assessment tool unduly skewed the accuracy results of exam requests as noted in the original request baseline study results.

In August 2005, the Veterans Benefits Administration (VBA) revised the request indicators to clearly establish six request-quality performance indicators that assess the accuracy of the content of the exam request. Six additional indicators focus on the request process and will be tracked for quality monitoring purposes but will not be included in VBA regional office performance indicators.

Use of the revised indicators to assess examination request quality began in August 2005, and first-month results will be available later in September 2005. Due to the significant revision of the request-performance assessment tool, review results will need to be collected for at least 6 months in order to obtain an accurate baseline of regional office request quality prior to the establishment of a baseline for performance measurement purposes.

In September 2005, CPEP will make available a Request Level Scoring Reporter Web link that will provide access to claim-specific request review information for each regional office.

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