VA Office of Inspector General

OFFICE OF AUDITS & EVALUATIONS

Inspection of the VA Regional Office Newark, NJ

September 29, 2010
10-03055-259

ACRONYMS AND ABBREVIATIONS

COVERS	Control of Veterans Records System
NOD	Notices of Disagreement
OIG	Office of Inspector General
PTSD	Post-Traumatic Stress Disorder
RVSR	Rating Veterans Service Representative
SAO	Systematic Analysis of Operations
STAR	Systematic Technical Accuracy Review
TBI	Traumatic Brain Injury
VACOLS	Veterans Appeals Control and Locator System
VARO	VA Regional Office
VBA	Veterans Benefits Administration
VSC	Veterans Service Center

Report Highlights: Inspection of the VA Regional Office, Newark, NJ

Why We Did This Review

The Benefits Inspection Division conducts onsite inspections at VA Regional Offices (VAROs) to review disability compensation claims processing and Veterans Service Center (VSC) operations.

What We Found

The Newark VARO correctly processed herbicide exposure and post-traumatic stress disorder (PTSD) disability claims. Management ensured staff followed the Veterans Benefits Administration (VBA) policy to establish correct dates of claim in the electronic record. Further, the staff was generally compliant in correcting errors that VBA's Systematic Technical Accuracy Review (STAR) program identified.

VARO management needs to improve the control and accuracy of processing of temporary 100 percent evaluations and traumatic brain injury (TBI) claims. Overall, VARO staff did not accurately process 35 (29 percent) of the 120 disability claims reviewed.

Management also needs to strengthen controls over the recording of Notice of Disagreements (NODs) for appealed claims, Systematic Analyses of Operations (SAOs), incoming mail upon receipt, and final competency determination processing.

What We Recommended

We recommended that Newark VARO management review all temporary 100 percent evaluations to determine if reevaluations are required and take appropriate actions. Management needs to implement controls to ensure diaries for temporary 100 percent disability evaluations are established. Further, we recommended management provide refresher training on the proper procedures for processing TBI claims.

We also recommended that Newark VARO management strengthen controls to ensure timely establishment of NODs in the Veterans Appeals Control and Locator System (VACOLS), accurate and timely preparation of SAOs, and implementation of a plan for ensuring accurate and timely processing of incoming mail.

Agency Comments

The Director of the Newark VARO concurred with all recommendations. Management's planned actions are responsive and we will follow up as required on all actions.

(original signed by:)

BELINDA J. FINN
Assistant Inspector General
for Audits and Evaluations

TABLE OF CONTENTS

INTRODUCTION

Objective

The Benefits Inspection Program is part of the Office of Inspector General's (OIG) efforts to ensure our Nation's veterans receive timely and accurate benefits and services. The Benefits Inspection Division contributes to improved management of benefits processing activities and veterans' services by conducting onsite inspections at VAROs. These independent inspections provide recurring oversight focused on disability compensation claims processing and performance of VSC operations. The objectives of the inspections are to:

- Evaluate how well VAROs are accomplishing their mission of providing veterans with convenient access to high quality benefits and services.
- Determine if management controls ensure compliance with VA regulations and policies, assist management in achieving program goals, and minimize the risk of fraud, waste, and other abuses.
- Identify and report systemic trends in VARO operations.

In addition to this standard coverage, inspections may examine issues or allegations referred by VA employees, members of Congress, or other stakeholders.

Scope of Inspection

In July 2010, the OIG conducted an inspection of the Newark VARO. The inspection focused on 5 protocol areas examining 10 operational activities. The five protocol areas were disability claims processing, data integrity, management controls, workload management, and eligibility determinations.

We reviewed 90 (24 percent) of 381 disability claims related to PTSD, TBI, and herbicide exposure that the VARO completed during January–March 2010. In addition, we reviewed 30 (22 percent) of 135 rating decisions where VARO staff granted temporary 100 percent evaluations for at least 18 months, generally the longest period a temporary 100 percent evaluation may be assigned under VA policy without review.

Appendix A provides details on the VARO and the scope of the inspection. Appendix B provides the Newark VARO Director's comments on a draft of this report. Appendix C provides criteria we used to evaluate each operational activity and a summary of our inspection results.

RESULTS AND RECOMMENDATIONS

1. Disability Claims Processing

The OIG inspection team focused on disability claims processing related to temporary 100 percent evaluations, PTSD, TBI, and herbicide exposure. We evaluated claims processing accuracy and its impact on veterans' benefits.

Finding VARO Staff Need to Improve Disability Claims Processing Accuracy

The Newark VARO needs to improve the accuracy of disability claims processing for temporary 100 percent evaluations and TBI. VARO staff incorrectly processed 35 (29 percent) of the total 120 disability claims reviewed. VARO management concurred with our finding and initiated action to correct the inaccuracies identified.

Table 1 compares the claims processing accuracy rate of the Newark VARO with the rates of the three VAROs we most recently inspected. We found the Newark VARO's claims processing accuracy rate to be lower than those of the other offices.

Table 1. VARO Claims Processing Accuracy Comparison

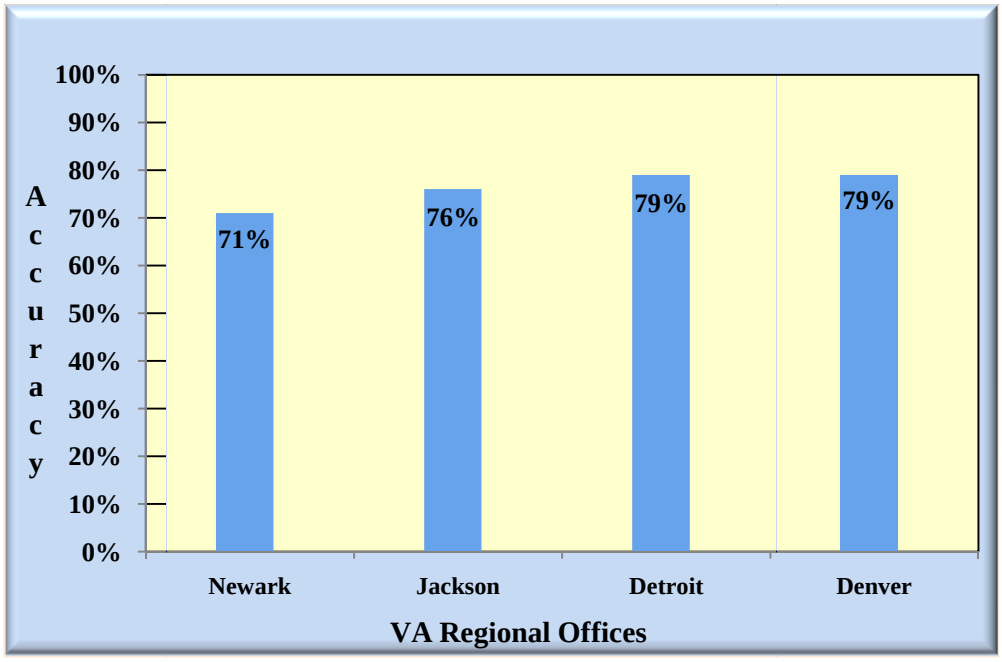

Table 2 reflects the errors affecting, and those with the potential to affect veterans' benefits processed at the Newark VARO:

Table 2. Disability Claims Processing Results

Type	Reviewed	Claims Incorrectly Processed		
		Total	Affecting Veterans' Benefits	Potential To Affect Veterans' Benefits
Temporary 100 Percent Evaluations	30	24	7	17
PTSD	30	0	0	0
TBI	30	11	2	9
Disabilities Related to Herbicide Exposure	30	0	0	0
Total	**120**	**35**	**9**	**26**

Temporary 100 Percent Evaluations

VARO staff incorrectly processed 24 (80 percent) of 30 temporary 100 percent disability evaluations we reviewed. VBA policy requires a temporary 100 percent evaluation for service-connected disabilities needing surgery or specific treatment. At the end of a mandated period of convalescence or cessation of treatment, VARO staff must request a follow-up medical examination to help determine whether to continue the veteran's 100 percent disability benefits.

Based on analysis of available medical evidence, 7 of the 24 processing inaccuracies affected veterans' benefits—5 involved overpayments totaling $498,123 and 2 involved underpayments totaling $9,743. Examples of the most significant overpayment and underpayment follow:

- A Rating Veterans Service Representative (RVSR) correctly proposed reducing a veteran's prostate cancer evaluation from 100 percent to 20 percent disabling. At the time of our inspection, VSC staff had not taken the final action to reduce the veteran's benefits. As a result, VA overpaid the veteran $231,384 over a period of 8 years and 4 months.
- An RVSR did not grant a veteran special monthly compensation for meeting criteria for housebound status. As a result, VA underpaid the veteran a total of $6,382 over a period of 1 year and 8 months.

The remaining 17 inaccuracies had the potential to affect veterans' benefits. All 17 involved rating decisions that established the need for future reexaminations of temporary 100 percent disabilities. For 16 cases, however, VSC staff failed to schedule the follow-up medical examinations needed to determine whether the temporary 100 percent evaluations should continue.

For the remaining case, the VAMC had completed an examination, but VSC staff did not review the medical evidence or make a decision on the claim.

We could not determine if 16 of these 17 temporary 100 percent disability determinations would have continued because the veterans' claims folders did not contain evidence of the medical examinations needed to reevaluate each case. An average of 3 years and 6 months elapsed from the time staff should have scheduled these medical examinations until the date of our inspection—the date staff ultimately ordered the examinations to obtain the necessary medical evidence. The delays ranged from 7 months to 8 years and 5 months.

For temporary 100 percent evaluations, including those where rating decisions do not change a veteran's payment amount (confirmed and continued evaluations), VSC staff must input a suspense diary in VBA's electronic system. A diary is a processing command that establishes a date when VSC staff must schedule reexaminations. As diaries mature, the electronic system generates reminder notifications to alert VSC staff to schedule the reexaminations.

Six of the 17 temporary 100 percent errors resulted from staff not establishing diaries for confirmed and continued evaluations. VSC management stated, and we verified, the office had no procedure in place that required senior staff members to review implementation of confirmed and continued rating decisions. As such, oversight did not occur to ensure staff properly established diaries for these decisions.

PTSD Claims

We determined VARO staff correctly processed all 30 PTSD claims reviewed. As a result, we determined the VARO is following VBA policy and we made no recommendations for improvement in this area.

TBI Claims

The Department of Defense and VBA commonly define a TBI as traumatically induced structural injury or physiological disruption of brain function caused by an external force. The major residual disabilities of TBI fall into three main categories: (1) physical, (2) cognitive, and (3) behavioral. VBA policy requires staff to evaluate these residual disabilities.

VARO staff incorrectly processed 11 (37 percent) of 30 TBI claims. Following is a summary of the two inaccuracies affecting veterans' benefits.

- An RVSR incorrectly assigned a 10 percent evaluation for residual TBI-related disabilities based on memory, attention, and concentration problems. However, the medical evidence did not indicate the veteran had any of these symptoms. As a result, VA overpaid the veteran $2,540 over a period of 10 months.

- An RVSR granted service connection for residual TBI-related disabilities with an evaluation of 10 percent disabling. However, the RVSR failed to assign separate evaluations for migraine headaches and tinnitus, both diagnosed at the time of the TBI examination. As a result, the veteran was underpaid $1,485 over a period of 9 months.

Following are details on the remaining nine TBI inaccuracies that had the potential to affect veterans' benefits.

- In five cases, RVSRs failed to assign separate evaluations for migraine headaches despite distinct diagnoses provided in the VA medical examinations. Assigning separate evaluations does not immediately affect these veterans' benefits; however, failure to assign separate evaluations may affect future evaluations for additional benefits.
- In one case, an RVSR incorrectly granted service connection for residual TBI-related disabilities without a medical diagnosis. This did not affect the veteran's monthly benefits because the disability evaluation remained at 70 percent.
- In one case, an RVSR prematurely evaluated residual TBI-related disabilities using an inadequate medical examination. Neither VARO staff nor we can ascertain all of the residual disabilities related to a TBI without an adequate or complete medical examination.
- In one case, an RVSR failed to assign a 10 percent evaluation for memory impairment as a residual TBI-related disability, as shown in a VA medical examination report. This change did not affect the veteran's current 100 percent disability evaluation, but may affect future evaluations for additional benefits.
- In one case, an RVSR incorrectly evaluated residual TBI-related disabilities as 10 percent disabling. VA examination results showed TBI residuals warranted 40 percent evaluations. This change does not affect the veteran's current 100 percent disability evaluation, but may affect future evaluations for additional benefits.

Generally, errors associated with TBI claims processing occurred because VSC staff interpreted VBA policy incorrectly. Interviews with RVSRs revealed they were unaware separate evaluations should be assigned for medical conditions with distinct diagnoses, but evaluated as zero percent disabling. A senior RVSR provided training to VSC staff on the new TBI processing procedures. However, VARO management stated the training did not specifically address the issue of assigning separate non-compensable evaluations. As a result, veterans did not always receive correct healthcare entitlements or benefits payments.

Disabilities Related to Herbicide Exposure Claims

VARO staff correctly processed all 30 herbicide exposure-related claims reviewed. As a result, we determined the VARO is following VBA policy and we made no recommendations for improvement related to the processing these types of claims.

Recommendations

1. *We recommend the Newark VA Regional Office Director conduct a review of all temporary 100 percent determinations under the regional office's jurisdiction to determine if reevaluations are required and take appropriate action.*
2. *We recommend the Newark VA Regional Office Director implement controls to ensure staff establish diaries for temporary 100 percent disability evaluations.*
3. *We recommend the Newark VA Regional Office Director conduct refresher training to ensure Rating Veterans Service Representatives properly evaluate disabilities related to traumatic brain injuries.*

Management Comments

The VARO Director concurred with our recommendations for improving disability claims processing accuracy. VSC staff reviewed 95 additional temporary 100 percent evaluations and requested medical examinations when appropriate. The Director indicated staff will complete this review by October 1, 2010. In addition, supervisors will conduct random reviews of temporary 100 percent disability evaluations to ensure diaries are input correctly in the electronic record. Further, the Director informed us VBA is working to address temporary 100 percent disability evaluations that may no longer be in the electronic system due to an information technology issue.

According to the Director, on September 15, 2010, VARO staff received training on the proper procedures for establishing diaries for future medical examinations when granting temporary 100 percent disability evaluations. In addition, on September 22, 2010, RVSRs and Decision Review Officers received training on properly evaluating disabilities related to a TBI.

OIG Response

Management comments and actions are responsive to the recommendations.

2. Data Integrity

We analyzed claims folders to determine if the VARO is following VBA policy to establish effective dates and dates of claim in electronic records and to timely record NODs in VACOLS. We determined VARO staff need to strengthen controls over recording NODs in VACOLS.

Effective Dates

Generally, an effective date indicates when entitlement to a specific benefit arose. We determined VARO staff incorrectly established an effective date for 1 (less than 1 percent) of 120 disability claims we reviewed. An RVSR incorrectly granted service connection for the veteran's disabilities effective

June 5, 2009, approximately 5 months prior to the veteran's military discharge date of November 23, 2009. As a result, the veteran was overpaid $2,105 over a period of 5 months.

Because we found only 1 inaccuracy out of a total of 120 claims, we determined the VARO is generally following VBA policy regarding data integrity. As such, we made no recommendation for improvement in this area.

Dates of Claim

In addition to establishing the time frame for benefits entitlement, VBA generally uses a date of claim to indicate when a document arrives at a VA facility. VBA relies on accurate dates of claim to establish and track key performance measures, including the average days to complete a claim.

VARO staff established the correct dates of claim in the electronic records for all 30 claims we selected for review. These claims were pending processing from 31–60 days at the time of our inspection. As a result, we determined the VARO is following VBA policy regarding dates of claim and we made no recommendations for improvement in this area.

Notices of Disagreement

An NOD is a written communication from a claimant expressing dissatisfaction or disagreement with a benefits decision and a desire to contest the decision. An NOD is the first step in the appeals process. VACOLS is a computer application that allows VARO staff to control and track a veteran's appeal and manage the pending appeals workload. VBA policy states staff must create a VACOLS record within 7 days of receiving an NOD. Accurate and timely recording of an NOD is required to ensure the appeal moves through the appellate process expeditiously.

Finding Controls over Recording Notices of Disagreement Need Strengthening

The VARO's Appeals Team did not always record NODs in VACOLS within VBA's 7-day standard. VARO staff exceeded VBA's 7-day standard for 12 (40 percent) of the 30 NODs we reviewed. It took staff an average of 15 days to record these 12 disagreements in VACOLS. The most untimely action occurred when staff did not create a record for 24 days. This occurred because management required that Decision Review Officers analyze NODs prior to staff recording them in VACOLS. VSC staff's practice of not promptly recording NODs in VACOLS affects data integrity and misrepresents VARO performance.

Existing procedures required Decision Review Officers to perform cursory reviews of new NODs prior to recording them in VACOLS. This review included identifying necessary evidence required to process the NOD and directing the appropriate staff to gather such evidence. According to a

Decision Review Officer, and based on daily workload, it takes between 5—10 days to initiate a review of NODs. VARO management agreed this procedure does not ensure staff will meet the 7-day goal.

Management stated it would modify local procedures for achieving the 7-day goal if this specific measurement were in the Director's Annual Performance Standards. Further, management indicated it places a higher priority on completing overall appeals work rather than on ensuring staff meet the 7-day control time.

As of June 2010, the VARO averaged 15 days to control NODs, exceeding the VBA goal by 8 days. Although staff can improve appeal control time, the VARO's NODs have been pending completion on average for 127 days, 75 days better than the national average of 202 days.

Data integrity issues make it difficult for VARO and senior VBA leadership to accurately measure and monitor VARO performance. Further, VBA's National Call Centers rely upon VACOLS information to provide accurate customer service to veterans. Unnecessary delays in controlling NODs affect national performance measures for NOD inventory and timeliness.

Recommendation

4. *We recommend the Newark VA Regional Office Director develop and implement a plan to ensure staff record Notices of Disagreements in the Veterans Appeals Control and Locator System within 7 days as required by policy.*

Management Comments

The VARO Director concurred with our recommendation. According to the Director, Claims Assistants now have the responsibility of recording NODs into VACOLS instead of Decision Review Officers. This change will improve the VARO's ability to achieve VBA's 7-day goal. The Director also commented that the VARO does not feel timely recording of NODs is a data integrity issue.

OIG Response

Management comments and actions are responsive to the recommendation. However, it is our opinion that the untimely recording of NODs may affect accurate reporting of the pending appellate workload, which presents a data integrity issue.

3. Management Controls

We assessed management controls to determine if VARO management adhered to VBA policy regarding correction of errors identified by VBA's STAR staff. Further, we assessed controls to determine if VARO management accurately and timely completed SAOs. We determined management should improve oversight regarding the timely and accurate completion of SAOs.

Systematic Technical Accuracy Review

The STAR Program is VBA's multi-faceted quality assurance program to ensure that veterans and other beneficiaries receive accurate and consistent compensation and pension benefits. VBA policy requires that the VARO take corrective action on errors that STAR identifies. VARO staff generally followed VBA policy regarding the correction of STAR errors.

VARO staff did not correct 2 (6 percent) of 31 errors identified by VBA's STAR Program staff between January–March 2010. In addition, VSC management erroneously reported to STAR staff that all corrective actions were completed. We did not consider the frequency of errors significant and we made no recommendations for improvement in this area.

Systematic Analysis of Operations

An SAO is a formal analysis of a VSC organizational element or operational function. SAOs provide an organized means of reviewing VSC operations to identify existing or potential problems and propose corrective actions. VARO management must publish an annual SAO schedule designating the staff required to complete the SAOs by specific dates.

Finding

Improved Oversight Is Needed to Ensure Timely and Accurate Completion of SAOs

The Veterans Service Center Manager is responsible for ongoing analysis of VSC operations, including completion of 12 annual SAOs. Our analysis revealed 5 (42 percent) of the 12 SAOs were either not completed timely per the annual schedule or incomplete at the time of our inspection. This occurred because VARO management did not provide adequate oversight to ensure VSC staff completed SAOs in accordance with VBA policy. As a result, management may not have identified existing and potential problems for corrective actions to improve VSC operations.

Two (17 percent) of the 12 SAOs were both untimely and incomplete, 2 (17 percent) were incomplete, and 1 (8 percent) was untimely. Of those untimely SAOs, the number of days past the scheduled completion dates ranged from 31 to 91 days. Managers informed us that, in their opinion, SAOs provide little or no value toward improving VARO performance. Further, managers indicated they do not have adequate time to review SAOs for content and often sign them just to get them done.

We identified several areas where the VARO did not follow VBA policy regarding completing SAOs. For example, management did not thoroughly complete the Claims Processing Timeliness SAO. Our analysis revealed VARO delays ranging from 18 to 530 days in processing competency determinations. If management had properly completed the required SAOs, it might have identified these delays and developed a plan to improve claims processing timeliness.

Recommendation

5. *We recommend the Newark VA Regional Office Director develop and implement a plan to ensure timely and accurate completion of mandatory Systematic Analyses of Operations.*

Management Comments

The VARO Director concurred with our recommendation and indicated the office is currently completing the remaining SAOs for FY 2010. Further, the VARO will complete an SAO schedule to ensure staff complete reports timely and address all required areas. The Director also noted the inspection team said it reviewed SAOs for timely completion and not for accuracy.

OIG Response

Management comments and actions are responsive to the recommendation. Our testing for accuracy focused on whether the VARO had completed all of the required steps within the SAOs.

4. Workload Management

We assessed controls over VARO mailroom operations to ensure staff timely and accurately processed incoming mail. Further, we assessed the VSC's Triage Team mail processing procedures to ensure staff reviewed, controlled, and processed all claims-related mail in accordance with VBA policy. We determined that controls over VARO mailroom operations and Triage Team mail processing procedures need strengthening.

Mail Room Operations

VBA policy states staff will open, date stamp, and route all mail to the appropriate locations within 4–6 hours of receipt at the VARO. The Newark VARO assigns responsibility for mailroom activities, including processing of incoming mail, to the Support Services Division.

Finding Controls Over Mail Processing Need Strengthening

VARO mailroom staff did not always date stamp all mail the same day it arrived in the mailroom as required. This occurred because the Support Services Division supervisor and mailroom staff were unaware of VBA's policy in this regard. As a result, beneficiaries may not have received accurate benefit payments.

We observed mail received in the mailroom on July 12, 2010, but not processed until the next business day. Because mailroom employees were unaware of the same day processing requirements, it was an accepted practice at Newark VARO to process the mail on the next business day. Staff indicated, and we confirmed, the U.S. Postal Service delivers VARO mail between 1:00 and 4:00 p.m. each day. This late delivery contributes to delays in mail processing. VARO management has been unsuccessful in attempts to have the mail delivered earlier.

VARO management informed us that mailroom employees were aware of the VBA policy regarding timely mail processing, but the employees did not always meet this requirement. Management did not address this issue with the supervisor of mailroom operations because they believed next day processing rarely occurred.

Because incoming mail may not have always received the proper date stamps, beneficiaries may not have been paid benefits on the correct dates. Generally, a benefit payment date is the first of the month following the date stamped on the incoming claim. For example, if mailroom staff properly date stamp claims-related mail received on January 31, the benefits would be payable on February 1. However, if mailroom staff improperly date stamp this same mail on February 1, the payment date would be March 1, and VSC staff would unintentionally underpay the beneficiary by 1 month.

Neither VARO employees nor we could identify any veterans' claims affected by improper date stamping of mail. However, analysis of Veterans Service Network Operations Reports revealed staff processed a combined total of 55 claims on June 1, 2010, and July 1, 2010. Because mailroom staff do not always correctly date stamp all mail on the day it arrives, VA could potentially underpay these 55 benefits claims by 1 month.

Triage Mail Processing Procedures

VARO staff are required to use VBA's tracking system, Control of Veterans Records System (COVERS), to electronically track veterans' claims folders and control search mail. VBA defines search mail as active claims-related mail waiting to be associated with a veteran's claims folder. Further, if claims folders are located in the file storage area, staff should not place mail on search.

Finding Triage Team Mail Management Procedures Need Strengthening

Triage Team members did not always manage search mail according to VBA policy. For 9 (30 percent) of 30 pieces of search mail reviewed, staff did not properly use COVERS to ensure timely processing and adequate control of the search mail. This occurred because the mail plan did not incorporate procedures for the Triage Team supervisor to oversee the search mail process. As a result, beneficiaries may not have received accurate payments.

Further, staff did not retrieve search mail even though COVERS contained electronic notices of pending search mail. COVERS provides on-screen notification of search mail awaiting pick-up when staff access an electronic record for a specific claims folder.

The most significant delay occurred when VARO staff did not immediately associate search mail with a veteran's claims folder. On May 15, 2003, the

VARO received medical evidence indicating the veteran was unable to handle his financial affairs. The veteran's claims folder was located in a file storage area within the VARO. Instead of correctly associating the mail with the claims folder, staff incorrectly placed this mail at a search mail point. Because of improper mail handling, staff did not address the medical evidence until approximately 6 years later. During that period, the veteran received $4,758 without having a fiduciary assigned to manage those benefit payments.

Additional delays in claims processing occurred because staff did not place all evidence they received on search in COVERS. Following are examples of weaknesses associated with the mail plan.

- On November 17, 2009, VARO staff received original service treatment records but did not place them on search in COVERS. These records remained unassociated with the claims folder for approximately 8 months. As a result, the RVSR did not timely review the evidence. VBA policy states staff must consider original service treatment records as they have the potential to overturn previously denied conditions or justify greater disability evaluations.
- On June 17, 2010, the VARO received evidence regarding stressful events during service, which could support the veteran's claim for PTSD. Staff did not put the evidence on search in COVERS and were not aware of the mail until we identified it during our inspection. As a result, staff unnecessarily delayed processing this claim by 17 days.

VSC management acknowledged weaknesses associated with mail processing. Specifically, the plan governing mail processing does not incorporate oversight procedures for controlling search mail. Consequently, RVSRs may not have all available evidence when making disability determinations. Untimely association of search mail with veterans' claims folders can cause delays in processing disability claims. As a result, beneficiaries may not receive accurate and timely benefit payments.

Recommendations

6. *We recommend the Newark VA Regional Office Director develop and implement controls to ensure Support Services Division staff process and date stamp all incoming mail the same day it arrives in the mailroom.*
7. *We recommend the Newark VA Regional Office Director amend the mail plan to incorporate procedures for management oversight and control of search mail.*

Management Comments

The VARO Director concurred with our recommendations for improving mail processing in the VARO mailroom and VSC Triage team and noted several corrective actions taken in September 2010. According to the Director, the VARO reached an agreement with the U.S. Postal Service to

deliver mail to the office at 9 a.m. daily. In addition, the Triage Team will assist mailroom staff in date stamping all incoming mail on the date it arrives. The Director informed us staff revised the mail plan by incorporating clear procedures for oversight of search mail. Finally, management briefed Triage employees on their new responsibilities.

Additionally, the Director indicated the VARO ensures mail receives the proper date stamp on the last day of the month, even if it means staff changes the date on the electronic date stamp to reflect the correct date. He also implemented new procedures ensuring staff followed this process throughout the month.

OIG Response Management comments and actions are responsive to the recommendations. During our inspection, no one informed us that staff change the date stamp on the last day of the month to ensure mail receives the proper date stamp. Therefore, we cannot verify this was a current practice during our inspection at the VARO.

5. Eligibility Determinations

Competency Determinations VA must consider beneficiary competency in every case involving a mental health condition that is totally disabling or when evidence raises questions as to a beneficiary's mental capacity to manage his or her affairs. The Fiduciary Unit supports implementation of competency determinations by appointing a fiduciary, which is a third party that assists in managing funds for an incompetent beneficiary. We reviewed competency determinations completed by the VSC Decision Team to ensure staff completed them accurately and timely. Delays in making these determinations ultimately affect the Fiduciary Unit's ability to be timely in appointing fiduciaries.

Finding Controls Over Competency Determinations Need Strengthening

VARO staff unnecessarily delayed making final decisions in 8 (50 percent) of the 16 incompetency determinations completed during January–March 2010. The delays ranged from 18 to 530 days, with an average completion time of 135 days. The delays occurred because the VSC workload management plan did not contain procedures emphasizing immediate completion of incompetency determinations. The risk of incompetent beneficiaries receiving benefit payments without fiduciaries assigned to manage those funds increases when staff do not complete the competency determinations immediately.

VBA policy requires staff to obtain clear and convincing medical evidence that a beneficiary is incapable of managing his or her affairs prior to making a final competency decision. The policy allows the beneficiary a 65-day due

process period to submit the evidence showing an ability to manage funds and other personal affairs. At the end of the due process period, VARO staff must take immediate action to determine if the beneficiary is competent.

In the absence of a definition of "immediate," we allowed 14 calendar days after the due process period to determine if staff were timely in completing a competency decision. We considered this a reasonable period to control, prioritize, and finalize these types of cases.

Using our interpretation of immediate, the most significant case we identified occurred when VARO staff unnecessarily delayed making a final incompetency decision for a veteran for approximately 18 months. During this period, the veteran received $49,418 in disability payments. While the veteran was entitled to these payments, fiduciary stewardship was not in place to ensure effective funds management and the welfare of the veteran.

VARO managers stated they were aware of the VBA policy and defined "immediate" as 3 days or less. However, the workload management plan lacked procedures to meet this goal and ensure oversight of the competency determination process. VARO staff responsible for overseeing and processing final competency determinations stated they were unaware of this policy and they did not prioritize these cases. As a result, incompetent beneficiaries received benefits payments for extended periods despite being incapable of managing these funds effectively.

In addition to the processing delays and accuracies, we identified two instances where staff did not follow VBA policy when determining if beneficiaries were competent to handle VA funds. For one competency determination, staff determined the beneficiary was incompetent without affording the veteran the mandatory due process period.

For the other inaccuracy, VARO staff incorrectly determined the veteran was incompetent due to a court decree of incompetency. VBA policy states when a veteran is found incompetent by court decree, the VARO must obtain additional evidence to support the incompetency determination. However, no additional evidence was available to support that the veteran could not manage his affairs. VARO managers did not concur with our conclusion and told us they believed the decision followed the "intent" of policy guidelines. These inaccuracies resulted in $1,105 provided to fiduciaries erroneously appointed by VARO staff.

On August 16, 2010, we sent a Management Advisory Memorandum to VBA's Director of Compensation and Pension Service. We recommended VBA establish a clear standard for the timely completion of final competency determinations. Therefore, we make no recommendation to the Director of the VARO regarding this issue.

Appendix A VARO Profile and Scope of Inspection

Organization

The Newark VARO is responsible for delivering non-medical VA benefits and services to veterans and their families in New Jersey. The VARO fulfills these responsibilities by administering compensation and pension benefits, vocational rehabilitation and employment assistance, and outreach activities.

Resources

As of March 2010, the Newark VARO had a staffing level of 123 full-time employees. Of these, the VSC had 97 employees (79 percent) assigned.

Workload

As of June 2010, the VARO reported 3,443 pending compensation claims. The average time to complete these claims during FY 2010 was 163.9 days—10.3 days longer than the national target of 153.6 days. As reported by STAR, accuracy of compensation rating-related issues was 83.7 percent or 6.3 percent below the 90 percent VBA target and accuracy of compensation authorization-related issues was 91.1 percent or 4.9 percent below the 96 percent VBA target.

Scope

We reviewed selected management controls, benefits claims processing, and administrative activities to evaluate compliance with VBA policies regarding benefits delivery and non-medical services provided to veterans and other beneficiaries. We interviewed managers and employees and reviewed veterans' claims folders.

Our review included 90 (24 percent) of 381 claims related to PTSD, TBI, and herbicide exposure-related disabilities that the VARO completed during January–March 2010. For temporary 100 percent disability evaluations, we selected 30 (22 percent) of 135 existing claims from VBA's Corporate Database. We provided the VARO with the 105 claims remaining from the universe of 135 to assist in implementing our first report recommendation.

The 135 claims represented all instances in which VARO staff granted temporary 100 percent disability determinations for at least 18 months. Because VARO staff processed too few temporary 100 percent evaluations during January–March 2010 for us to review and draw conclusions, we selected a sample from the universe of 135 existing claims.

We reviewed 16 available competency determinations and 31 errors identified by VBA's STAR Program during the period of January–March, 2010. VBA measures the accuracy of compensation and pension claims processing through its STAR Program. STAR's measurements include a review of work associated with claims that require rating decisions. STAR staff review original claims, reopened claims, and claims for increased evaluation. Further, they review appellate issues that involve a myriad of veterans' disabilities claims.

Our process differs from STAR as we review specific types of claims issues such as PTSD, TBI, and herbicide exposure-related disabilities that require rating decisions. In addition, we review rating decisions and awards processing involving temporary 100 percent disability determinations.

We selected for review dates of claim and NODs pending at the VARO during the time of our inspection. We completed our review in accordance with the President's Council for Integrity and Efficiency's *Quality Standards for Inspections.*

Appendix B VARO Director's Comments

Department of Veterans Affairs

MEMORANDUM

Date: **September 16, 2010**

From: **Director, VA Regional Office Newark (309/00)**

Subject: **Inspection of the VARO Newark, NJ**

To: **Assistant Inspector General for Audits and Evaluations (52)**

1. Attached are the Newark VARO's comments on the OIG Draft Report: Inspection of VARO Newark. We concur with the recommendations and have attached our implementation plan with target completion dates.

2. We appreciate the opportunity to offer some general comments about the phrasing of the report.

3. Questions may be referred to me at (973) 297-3348.

(original signed by:)
MICHAEL BLAZIS
Director

Attachment

OIG Inspection Response

While we generally concur with the findings and recommendations in the report, there are some areas we feel need to be clarified, as the wording is either incorrect or misleading. Below are the areas we believe need revision. We request that this feedback be incorporated into the final report.

1. On page 6 of the report, the paragraph on effective dates should be amended to reflect "***less than 1%"*** for the cases with an incorrect effective date.

2. On page 7 of the report, the Office of Inspector General (OIG) states, "data integrity issues make it difficult for VARO and senior VBA leadership to accurately measure and monitor VARO performance." The Newark Regional Office (RO) feels this is not a data integrity issue. Recording Notices of Disagreement (NODs) within a seven-day time frame is a benchmark rather than a standard. We will, however, rework our process to ensure that we are meeting the seven-day benchmark for entering NODs into Veterans Appeals Control and Locator System (VACOLS).

3. On page 10 of the report, the Newark RO feels the write-up is misleading. The OIG states, "because mailroom employees were unaware of the same day processing requirements, it was an accepted practice at Newark VARO to process the mail on the next business day." There are times when the mail is received at 4:00 PM or even later, which makes date stamping the mail the same day almost impossible. When the mail comes in late on the last day of the month, the RO ensures that the proper date stamp is on the mail, even if it means changing the date on the electronic date stamp. Paying benefits on the correct effective date is a top priority in our office and there is no evidence to suggest that this is not being accomplished. However, we have implemented new procedures to ensure that this process is followed throughout the month.

4. Regarding action item 5, the OIG states, "We recommend the Newark VA Regional Director develop and implement a plan to ensure timely and accurate completion of mandatory Systematic Analyses of Operations." During the exit briefing for this visit the Director of the Eastern Area requested clarification of this item. The OIG Site Visit team clarified that they do not review Systematic Analyses of Operations (SAOs) for accuracy. The OIG stated that they review SAOs for completion.

Recommendation 1: We recommend the Newark VA Regional Office Director conduct a review of all temporary 100 percent determinations under the Regional Office's jurisdiction to determine if reevaluations are required and take appropriate action.

Newark RO Response: Concur

The Newark Regional Office (RO) has ordered examinations as appropriate on the cases cited as errors during the audit. The review of 95 additional cases the OIG provided after the inspection will be completed on October 1, 2010. Appropriate examinations will be ordered when warranted as a result of this review.

Target Completion Date- October 1, 2010

At a national level, Veterans Benefits Administration (VBA) is working to address those temporary 100% evaluations that may no longer be in the system due to an Information Technology (IT) issue.

Recommendation 2: We recommend the Newark VA Regional Office Director implement controls to ensure staff establishes diaries for temporary 100 disability evaluations.

Newark RO Response: Concur

On September 15, 2010, the RO provided refresher training via email to all employees, including Rating Veterans Service Representatives (RVSRs) and Decision Review Officers (DROs), on establishing diaries for future examinations when granting temporary 100 percent disability evaluations. In addition, the Rating and Post Determination Team Coaches have begun conducting random review of cases monthly where temporary 100 percent was granted to ensure diaries are input correctly into the IT system.

Target Completion Date- Completed

At a national level, VBA is working to address those temporary 100 percent evaluations that may no longer be in the system due to an IT issue.

Recommendation 3: We recommend the Newark VA Regional Office Director conduct refresher training to ensure Rating Veterans Service Representatives properly evaluate disabilities related to traumatic brain injuries.

Newark RO Response: Concur

On September 22, 2010, the Newark Regional Office will conduct refresher training for both RVSRs and DROs to ensure employees are properly evaluating disabilities related to traumatic brain injuries. Training Letter 09-01 dated January 21, 2009, will be reinforced and the main focus of the training.

Target Completion Date- September 22, 2010

Recommendation 4: We recommend the Newark VA Regional Office Director develop and implement a plan to ensure that the staff records Notices of Disagreement in the Veterans Appeals Control and Locator System within seven days as required by policy.

Newark RO Response: Concur

Effective September 2010, the Newark RO now requires the Claims Assistant to input the NODs into VACOLS after the mail is associated with the claims file in order to comply with the seven-day benchmark. This will have an immediate positive impact on the seven-day benchmark.

Target Completion Date- Completed

Recommendation 5: We recommend the Newark VA Regional Director develop and implement a plan to ensure timely and accurate completion of mandatory Systematic Analyses of Operations.

Newark RO Response: Concur

The Newark Regional Office is in the process of completing the remaining SAOs for fiscal year 2010. For fiscal year 2011, the Newark Regional Office will complete an SAO schedule to ensure reports are completed timely and all required areas are addressed.

Target Completion Date- October 1, 2010

Recommendation 6: We recommend the Newark VA Regional Office Director develop and implement controls to ensure Support Services Division staff process and date stamp all incoming mail the same day it arrives in the mailroom.

Newark RO Response: Concur

In September 2010, the Newark Regional Office reached an agreement with the Post Office. The Post Office now delivers mail to the RO by 9 A.M., daily. The Support Services Division staff, with the assistance of the Triage team, now date stamps all incoming mail the date of arrival.

Target Completion Date- Completed

Recommendation 7: We recommend the Newark VA Regional Office Director amend the mail plan to incorporate procedures for management oversight and control over search mail.

Newark RO Response: Concur

The mail plan was revised to ensure that all employees are aware of their mail processing responsibilities. Additionally, clear procedures were incorporated to ensure management oversight and control over search mail. The mail plan was communicated to all Triage employees in September 2010.

Target Completion Date- Completed

Appendix C Inspection Summary

10 Operational Activities Inspected	Criteria	Reasonable Assurance of Compliance	
		Yes	No
Claims Processing			
1. 100 Percent Disability Evaluations	**Determine if VARO staff properly reviewed temporary 100 percent disability evaluations**. (38 CFR 3.103(b)) (38 CFR 3.105(e)) (38 CFR 3.327) (M21-1MR Part IV, Subpart ii, Chapter 2, Section J) (M21-1MR Part III, Subpart iv, Chapter 3, Section C.17.e)		X
2. Post-Traumatic Stress Disorder	**Determine whether VARO staff properly processed claims for PTSD.** (38 CFR 3.304(f))	X	
3. Traumatic Brain Injury	**Determine whether service connection for all residual disabilities related to an in-service TBI were properly processed.** (Fast Letters 08-34 and 08-36, Training Letter 09-01)		X
4. Disabilities Related to Herbicide Exposure	**Determine whether VARO staff properly processed claims for service connection for disabilities related to herbicide exposure (Agent Orange).** (38 CFR 3.309) (Fast letter 02-33) (M21-1MR Part IV, Subpart ii, Chapter 2, Section C.10)	X	
Data Integrity			
5. Date of Claim	**Determine if VARO staff properly recorded the correct date of claim in the electronic record.** (M21-1MR, Part III, Subpart ii, Chapter 1, Section C)	X	
6. Notices of Disagreement	**Determine if VARO staff properly entered NODs into VACOLS.** (M21-1MR Part I, Chapter 5)		X
Management Controls			
7. Systematic Analysis of Operations	**Determine if VARO staff properly performed a formal analysis of their operations through completion of SAOs.** (M21-4, Chapter 5)		X
8. Systematic Technical Accuracy Review	**Determine if VARO staff properly corrected STAR errors in accordance with VBA policy**. (M21-4, Chapter 3, Subchapter II, 3.03)	X	
Workload Management			
9. Mail Handling Procedures	**Determine if VARO staff properly followed VBA mail handling procedures**. (M23-1) (M21-4, Chapter 4) (M21-1MR Part III, Subpart ii, Chapters 1 and 4)		X
Eligibility Determinations			
10. Competency Determinations	**Determine if VAROs properly assessed beneficiaries' mental capacity to handle VA benefit payments**. (M21-1MR Part III, Subpart v, Chapter 9, Section A) (M21-1MR Part III. Subpart v, Chapter 9, Section B) (Fast Letter 09-08)		X

Appendix D OIG Contact and Staff Acknowledgments

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