



DEPARTMENT OF VETERANS AFFAIRS  
**OFFICE OF INSPECTOR GENERAL**

*Office of Audits and Evaluations*

VETERANS BENEFITS ADMINISTRATION

VBA Improperly Created  
Debts When Reducing  
Veterans' Disability Levels

REVIEW

REPORT #21-01351-151

JULY 28, 2022



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## Executive Summary

In a March 2021 review, the VA Office of Inspector General (OIG) substantiated a confidential allegation that employees at the Veterans Benefits Administration (VBA) regional benefits office in Chicago, Illinois, were not following VBA's procedures when correcting administrative errors.<sup>1</sup> During that review, the OIG identified several cases in which employees improperly created debts in veterans' accounts when reducing their disability levels.<sup>2</sup> However, they were not limited to administrative error corrections. Having discovered these debts, the OIG conducted this review to determine the magnitude of the problem nationwide.

VA provides monthly compensation benefits to veterans for disabilities incurred or aggravated during active military service, referred to as "service-connected" disabilities.<sup>3</sup> VBA assigns a rating for each service-connected disability based on impaired earning capacity.<sup>4</sup> The amount of monthly benefits depends on the combined rating for all service-connected disabilities, which varies from 0 to 100 percent, in increments of 10 percent.<sup>5</sup> In addition, veterans are paid at the 100 percent rate when their disabilities make them unemployable, even if they do not combine fully to 100 percent.<sup>6</sup> Veterans can also receive additional payments called special monthly compensation for certain serious disabilities or combinations of disabilities.<sup>7</sup> Further, VBA generally must afford veterans due process before reducing or stopping their payments, and its employees must properly notify veterans of any decisions made.<sup>8</sup> The OIG review team focused on cases in which a debt resulted from a disability level reduction involving the combined rating, employability status, or special monthly compensation, since these reductions generally should not result in debts.

When VBA employees process a decision, they are said to be generating an "award," regardless of whether the decision grants, denies, or adjusts benefits.<sup>9</sup> VBA's electronic claims-processing system uses the decisions entered to determine the veteran's payment rates over time, and each

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<sup>1</sup> VA OIG, *Handling Administrative Errors at the Chicago VA Regional Benefits Office in Illinois*, Report No. 20-00102-73, March 4, 2021.

<sup>2</sup> Unless otherwise noted, the term "veteran" used throughout this report includes other affected beneficiaries such as a surviving spouse.

<sup>3</sup> 38 U.S.C. § 101(13), (16).

<sup>4</sup> 38 U.S.C. § 1155.

<sup>5</sup> 38 C.F.R. § 4.25.

<sup>6</sup> 38 C.F.R. § 4.16.

<sup>7</sup> 38 C.F.R. § 3.350.

<sup>8</sup> 38 C.F.R. § 3.103; VA Manual 21-1, part 3, sub. 5, chap. 2, sec. B, topic 1, "Notification Requirements," April 25, 2019, rev. January 13, 2020.

<sup>9</sup> A decision is a formal determination of all questions of fact and law affecting the provision of VA benefits.

award displays a table with lines showing effective dates and payment information. Each award must be reviewed for accuracy by at least two employees.<sup>10</sup>

Decisions that change a veteran's compensation benefits may be effective retroactively, increasing or decreasing a veteran's entitlement over periods for which they have already been paid. When an employee generates an award, VBA's electronic system compares the current payment rates with what the veteran received for each prior period, and the award shows the overall net effect (which can be positive, negative, or zero) of all changes. Each retroactive increase results in a VBA payment due the veteran, whereas each retroactive decrease represents an overpayment that results in a debt assigned to the beneficiary. Once a debt is created, the veteran can pay the debt, dispute it, or request a waiver, or VBA can withhold all or part of a veteran's benefits to recoup the debt.

## What the Review Found

The OIG found instances in which VBA employees retroactively reduced disability levels and erroneously created debts without always informing veterans. Based on the review of a statistical sample of 75 compensation awards, the review team estimated that errors occurred in about 2,400 of 3,000 awards completed in 2020 where a debt resulted from a disability level reduction. These errors incorrectly created debts totaling about \$13.4 million.<sup>11</sup> Because the team sampled awards considered at increased risk of claims-processing errors, the errors identified do not represent VBA's overall accuracy rates.

### VBA Employees Erroneously Created Debts and Did Not Always Inform Veterans of These Actions

Errors included inappropriately reducing disability levels retroactively, creating debts when overpayments should have instead been eliminated because they were due to VBA's own administrative errors, and failing to provide veterans with notice and due process for these actions.<sup>12</sup> For example, in one case, a disability was incorrectly removed from the veteran's record with no explanation, retroactively reducing the combined rating. This created an erroneous debt of approximately \$12,257, and the veteran was not given due process or told that the action was taken. Without notifying the veteran of the debt, VBA collected about \$5,118 by

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<sup>10</sup> VA Manual 21-1, part 3, sub. 5, chap. 2, sec. A, topic 2, "General Information on Processing Decisions," July 26, 2019, rev. April 24, 2020, June 4, 2020, and August 10, 2020.

<sup>11</sup> Information on the review scope, methodology, and statistical sampling appears in appendixes A and B.

<sup>12</sup> VA OIG, *Successive VA Errors Created a \$210,000 Debt for a Veteran with a "Service-Connected Mental Illness,"* Memo No. 21-02447-05, November 4, 2021. As this publication describes, VBA incorrectly created a debt of over \$200,000 for a veteran. The review team promptly contacted VBA for corrective action because of the size of the debt, VA's plan to withhold the veteran's entire monthly compensation benefits, and the veteran's prior suicide attempt and mental health treatment for suicidal ideation.

reducing other benefits due the veteran. The collection of the remaining debt of almost \$7,139 was pending as of the start of this review in February 2021.

### **Some Veterans May Be Unaware They Lost Money to Which They Were Entitled**

Veterans who were not notified of reductions in their disability levels were deprived of due process, and consequently their ability to seek further review of these actions was impaired. Moreover, some veterans had debts withheld from their benefits without being told of the debts. These veterans were not given an opportunity to dispute the debts or request waivers, and they were likely unaware they did not receive all their benefits.<sup>13</sup> About \$4.6 million of the estimated \$13.4 million in erroneous debts had been collected from veterans as of February 2021.<sup>14</sup> In addition, approximately \$6.9 million in debt was pending, and about \$1.8 million was corrected before being collected.<sup>15</sup> Although VA reported suspending collection of all veteran benefit overpayments incurred after April 1, 2020, to provide veterans financial relief due to the COVID-19 pandemic, the review team found cases in which these debts were collected anyway. Further, the debts that were still pending remain subject to collection, and VA announced it was resuming debt collection in October 2021.

### **VBA's Electronic System Was Inadequate to Ensure Employees Were Aware They Had Created Debts**

The team determined that errors generally occurred because VBA's electronic system did not show employees each period for which a debt was created. As a result, they may not have been aware they had even created the debts, despite each award being reviewed by at least two people. For example, some employees not only failed to notify veterans of the actions taken, but in some cases also told veterans that overpayments would not be collected, suggesting the employees were unaware they had created the debts.

Although VBA's electronic system compares the past payment rates and new payment rates for each period, line by line, employees see only the overall net effect of the award action just taken without the net effect for each line. Some employees reported relying on the net effect being negative (an overall reduction in benefits) to indicate a debt was created. However, a positive net award could still improperly create a debt. Additionally, a negative net award that accurately created some debts could still erroneously create additional debts over other periods. Employees acknowledged they could not identify all periods when awards created debts

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<sup>13</sup> The OIG expects to publish a management advisory memorandum in the fourth quarter of fiscal year 2022 further addressing the improperly collected debts identified during this review.

<sup>14</sup> VBA corrected some errors where debts had already been collected and repaid veterans an amount estimated at between about \$237,000 and \$1.4 million as of February 1, 2021.

<sup>15</sup> The debts collected, pending, and corrected do not precisely sum to the total debts created, due to rounding.

without manually comparing past payment rates and new payment rates for each period. They agreed that it would be easy to overlook an erroneously created debt when the overall net effect matched what was expected for the decision being processed. Moreover, they said having the electronic system show employees each period a debt is created would help them prevent erroneous debts.

## What the OIG Recommended

The OIG made four recommendations to the under secretary for benefits, including correcting the errors identified by the review team.<sup>16</sup> VBA should also review all compensation awards completed since January 1, 2020, with debts related to reduced disability levels and take corrective action as appropriate. Updating VBA's electronic system could make it easier for employees to see when their actions create a debt. Finally, VBA should conduct periodic reviews to determine whether OIG recommendations have been effectively implemented or additional measures are needed. Taking these steps should help VBA prevent improperly created debts in the future and help ensure veterans receive all benefits to which they are entitled.

## VA Comments and OIG Response

The director, Northeast District, performing the delegable duties of the under secretary for benefits, concurred with the OIG's recommendations and provided corrective action plans for each recommendation. For recommendations two and four, VBA did not provide a target completion date. OIG personnel will begin their follow-up on the progress of VBA actions in 90 days and will expect a more definitive implementation date at that time. The OIG will monitor implementation of planned actions and will close the recommendations when VBA provides sufficient evidence demonstrating progress in addressing the intent of the recommendations and the issues identified. Appendix C contains the full text of VA management's comments.



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<sup>16</sup> The recommendations addressed to the under secretary for benefits are directed to anyone in an acting status or performing the delegable duties of the position.

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## Introduction

In a March 2021 review, the VA Office of Inspector General (OIG) substantiated a confidential allegation that employees at the Veterans Benefits Administration (VBA) regional benefits office in Chicago, Illinois, were not following VBA's procedures when correcting administrative errors.<sup>17</sup> During that review, the OIG identified several cases in which employees improperly created debts in veterans' accounts when reducing their disability levels.<sup>18</sup> However, these debts were not limited to administrative error corrections. Having discovered these debts, the OIG conducted this review to determine the magnitude of the problem nationwide.

### Determining the Amount of VA Disability Benefits

VA provides tax-free monthly compensation benefits to veterans in recognition of the effects of disabilities incurred or aggravated during active military service, referred to as "service-connected" disabilities.<sup>19</sup> A veteran may have one or more service-connected disabilities, which can result from all types of diseases or injuries. When a veteran files a claim for compensation, VBA personnel complete a decision as to whether each disability listed in the claim is service-connected; they then assign the appropriate rating and effective date for each service-connected disability. Ratings vary from 0 to 100 percent, in increments of 10 percent, based on impaired earning capacity.<sup>20</sup>

The amount of monthly benefits depends on the combined rating for all service-connected disabilities. Because a person cannot be more than 100 percent able-bodied, or more than 100 percent disabled, disability ratings are not simply added together. When a claimant has multiple disability ratings, VA uses a table to calculate the combined VA disability rating, which is rounded to the closest increment of 10.<sup>21</sup>

Sometimes veterans receive monthly payments that are higher than their combined rating. For example, because impaired earning capacity is the critical factor, a 100 percent monthly benefit rate is awarded when the veteran's disabilities make him or her unemployable, even when they do not combine to 100 percent.<sup>22</sup> Further, VBA awards additional payments called special monthly compensation for certain serious disabilities or combinations of disabilities such as the

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<sup>17</sup> VA OIG, *Handling Administrative Errors at the Chicago VA Regional Benefits Office in Illinois*, Report No. 20-00102-73, March 4, 2021.

<sup>18</sup> Unless otherwise noted, the term "veteran" used throughout this report includes other affected beneficiaries such as a surviving spouse.

<sup>19</sup> 38 U.S.C. § 101(13), (16).

<sup>20</sup> VBA Annual Benefits Report, Part 2—Compensation, Fiscal Year 2020, accessed August 18, 2021, [https://www.benefits.va.gov/REPORTS/abr/docs/2020\\_compensation.pdf](https://www.benefits.va.gov/REPORTS/abr/docs/2020_compensation.pdf); 38 U.S.C. § 1155.

<sup>21</sup> 38 C.F.R. § 4.25.

<sup>22</sup> 38 C.F.R. § 4.16.



loss of an eye or limb, or the need to rely on others for daily life activities like bathing or eating.<sup>23</sup> Finally, VA pays additional amounts based on the number of dependents the veteran has.

## Processing the Award

Processing a decision is referred to as an “award” action, regardless of whether the decision grants, denies, or adjusts benefits.<sup>24</sup> VBA’s electronic claims-processing system uses the decisions entered to determine the veteran’s payment rates over time. The award displays a table with separate lines for each time there is a change, such as adjustments to the disability level, dependents, or cost of living.<sup>25</sup> Each line shows the effective date, reason for the award line, and payment rate. The lines also include information supporting the payment rates, such as the disability level and number of dependents. For example, if an October 2020 award retroactively established payments at the 100 percent rate effective November 1, 2019, the award would include a November 1, 2019, line for the new disability level, as well as a December 1, 2019, line for a cost-of-living adjustment. Table 1 shows how the award would display the effective date, reason, and payment rate for each award line.

**Table 1. Example of Award Line Information**

| Effective date | Reason                    | Payment rate (\$) |
|----------------|---------------------------|-------------------|
| 11/01/19       | Original award            | 3,057.13          |
| 12/01/19       | Cost-of-living adjustment | 3,106.04          |

*Source: VA OIG presentation of award information.*

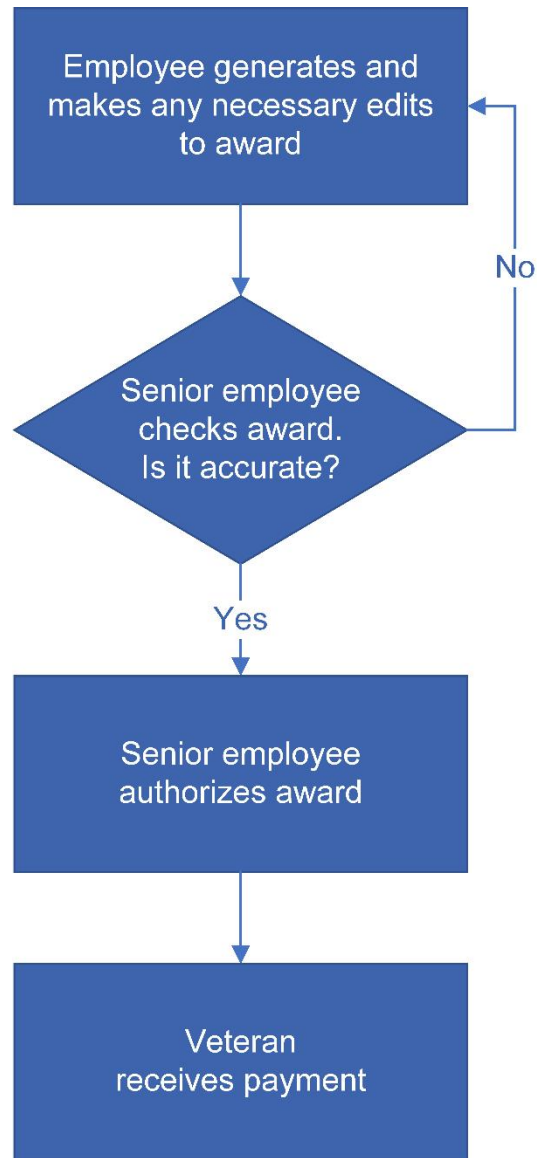
Figure 1 shows the steps in the process. First, a VBA employee generates a proposed award using the electronic system. The employee then reviews the proposed award to ensure it is accurate before routing it to a senior employee. Second, the senior employee reviews the award and either returns it for correction or authorizes it, releasing benefits to the claimant.<sup>26</sup>

<sup>23</sup> 38 C.F.R. § 3.350.

<sup>24</sup> A decision is a formal determination of all questions of fact and law affecting the provision of VA benefits.

<sup>25</sup> Throughout this report, disability level includes the combined disability rating, employability status, and special monthly compensation.

<sup>26</sup> Some awards also require the concurrence of the veterans service center manager or designee if they involve large payments or certain manual adjustments.



**Figure 1.** Award process.

*Source: VA OIG analysis of VA Manual 21-1 and Veterans Benefits Management System User Guide.*

## Determining the Effect of Changes to Payment Rates

A new decision may change a veteran's compensation benefits. For example, a disability could improve or worsen, or the veteran's number of dependents could change. Since these new decisions are generally made after the change has occurred, they may be effective retroactively and can increase or decrease a veteran's entitlement over periods for which payments have already been made. When an employee generates an award, VBA's electronic system compares the current payment rates to what the veteran has already received for each period, and the award shows the total net effect of all changes.

If an award retroactively increased a veteran's payment rate, the veteran would be entitled to a payment of the difference for each previous month affected. In contrast, if an award retroactively reduced a payment rate, it would create an overpayment and a debt in the amount of the difference for each previous month affected. The veteran could then pay the debt, dispute it, or request a waiver.<sup>27</sup> VBA could also withhold all or part of a veteran's benefits to recoup the debt.<sup>28</sup>

## Providing Notice of Decisions and Due Process

Veterans are entitled to written notice of any decision made on a claim. This notice is prepared and released for mailing by the employees processing the award. Each notice is specific to the decisions made and must provide complete and accurate information. The decision notice is critical to ensuring veterans understand what decisions were made and why, the impact on their benefits, and their rights. For example, the notice must summarize the evidence VA considered and the laws and regulations applicable to the claim, include the reasons for the decision, and inform the veteran of the options available for seeking further review of the decision. When VA changes a veteran's entitlement to benefits, the notice must also include the monthly payment rates and effective dates of those payments, as well as information about any additional benefits to which the veteran may be entitled. Further, if the decision will create an overpayment in the veteran's account, the notice must inform the veteran of the overpayment and the right to request a waiver or a repayment plan.<sup>29</sup>

In addition, veterans have a right to due process before VBA makes a decision to reduce or stop benefit payments.<sup>30</sup> In these cases, VBA generally has to send advance notice that includes the proposed decision with detailed reasons, proposed payment rates and effective dates, and information on the possible creation of an overpayment.<sup>31</sup> Veterans then have 60 days from the date of the advance notice to submit evidence showing the proposed action should not be taken.<sup>32</sup> The advance notice also informs veterans of their right to request a hearing.<sup>33</sup> If a veteran requests a hearing within 30 days, payments should continue at the current rate until the hearing is held and a final decision is made.<sup>34</sup>

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<sup>27</sup> 38 C.F.R. § 1.911.

<sup>28</sup> 38 U.S.C. § 5314; 38 C.F.R. § 1.912a.

<sup>29</sup> All of these requirements are detailed in 38 C.F.R. § 3.103 and VA Manual 21-1, part 3, sub. 5, chap. 2, sec. B, topic 1, "Notification Requirements," April 25, 2019, rev. January 13, 2020.

<sup>30</sup> 38 C.F.R. § 3.103.

<sup>31</sup> VA Manual 21-1, part 1, chap. 2, sec. B, "Notice of Proposed Adverse Action," July 17, 2019, rev. January 15, 2020, and March 25, 2020.

<sup>32</sup> 38 C.F.R. § 3.103.

<sup>33</sup> VA Manual 21-1, "Notice of Proposed Adverse Action."

<sup>34</sup> VA Manual 21-1, part 1, chap. 2, sec. C, topic 3, "Hearings Requested in Response to a Proposed Adverse Action," February 19, 2019.

## Results and Recommendations

### **Finding: VBA Employees Improperly Created Debts When Reducing Veterans' Disability Levels and Did Not Always Inform Veterans of These Actions**

Based on a statistical sample, the review team estimated that VBA employees erroneously created debts when reducing disability levels in about 2,400 awards completed in 2020. Errors included inappropriately reducing disability levels retroactively, creating debts when overpayments should have been eliminated instead, and failing to provide veterans with notice and due process for these actions.<sup>35</sup> Further, veterans were not always informed that debts were created, and VA withheld some of the debts from veterans' benefits without telling them. Employees incorrectly created debts totaling about \$13.4 million during 2020, about \$4.6 million of which had been collected between January 2020 and the start of this review in February 2021. As described in more detail below, errors generally occurred because awards generated by VBA's electronic system did not show whether a debt was created for each award line, making it easy for employees to overlook actions that created debts. As a result, employees may not have been aware they created the debts.

Detailed support for this finding is provided in the following sections:

- VBA employees erroneously created debts and did not always inform veterans of these actions.
- Some veterans may be unaware they lost money to which they were entitled.
- VBA's electronic system was inadequate to ensure employees were aware they had created debts.

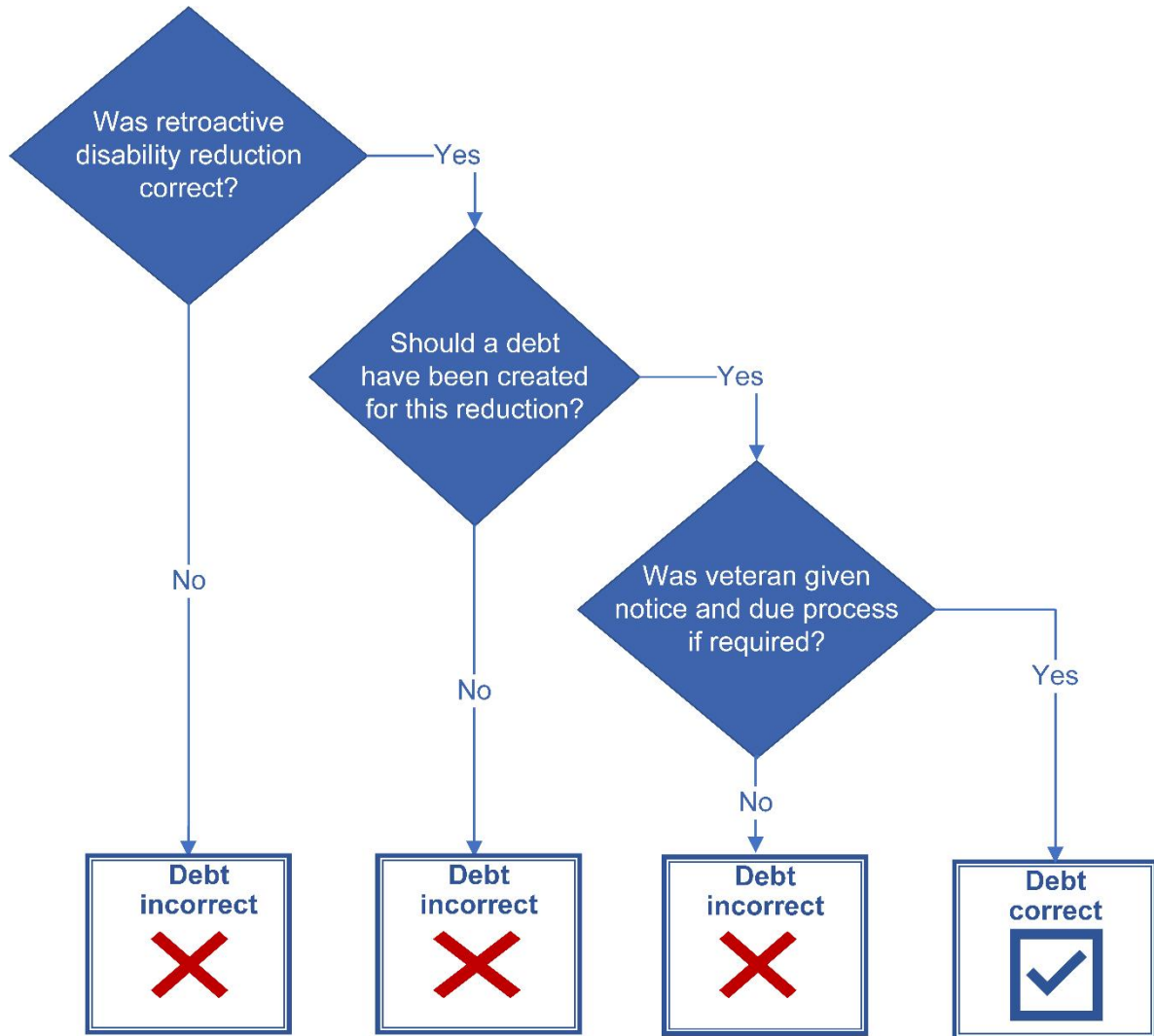
### **What the OIG Did**

The team reviewed a statistical sample of 75 awards, drawn from some 3,000 compensation awards completed from January 1 through December 31, 2020, that created debts due to a decrease in the veteran's disability level. The review team focused on cases in which a debt resulted from a disability-level reduction. VBA employees generally decrease disability levels prospectively without creating a debt. Even when employees reduce disability levels retroactively to correct VBA's administrative errors, employees eliminate the overpayments they

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<sup>35</sup> VA OIG, *Successive VA Errors Created a \$210,000 Debt for a Veteran with a "Service-Connected Mental Illness,"* Memo No. 21-02447-05, November 4, 2021. As this report describes, VBA incorrectly created a debt of over \$200,000 for a veteran. The review team promptly contacted VBA for corrective action because of the size of the debt, VA's plan to withhold the veteran's entire monthly compensation benefits, and the veteran's prior suicide attempt and mental health treatment for suicidal ideation.

had made rather than creating debts because beneficiaries are not responsible for administrative errors.<sup>36</sup> The team used VBA's electronic systems, including the Veterans Benefits Management System, to review the sample veteran claims folders and relevant documentation required to assess whether the debts were accurate, following the process outlined in figure 2.



**Figure 2.** Review team process for assessing debt accuracy.

Source: VA OIG analysis.

<sup>36</sup> 38 U.S.C. § 5112(b)(10); VA Manual 21-1, part 3, sub. 5, chap.1, sec. I, topic 3, “Handling Cases Involving Administrative Error,” October 24, 2018, rev. January 22, 2020, May 7, 2020, and November 9, 2020. Generally, when VBA employees make mistakes that result in veterans being overpaid, the mistakes are considered administrative errors. However, mistakes are generally not considered administrative errors if veterans were at fault because they took or failed to take an action, committed fraud with the intent of achieving financial or personal gain, or knew or should have known they were not entitled to the erroneous benefits.

The review team conducted virtual site visits due to pandemic precautions in July and August 2021. The three visits were to the VA regional benefits offices in San Diego, California; St. Petersburg, Florida; and Waco, Texas. Appendixes A and B provide additional details on what the review team did and on the statistical sampling methodology.

## **VBA Employees Erroneously Created Debts and Did Not Always Inform Veterans of These Actions**

From the results of the statistical sample, the review team estimated VBA erroneously created debts in about 2,400 of 3,000 awards completed in 2020 where a debt resulted from a disability-level reduction. Because the team sampled awards considered at increased risk of claims-processing errors, the errors identified do not represent VBA's overall accuracy rates. In some cases, the disability-level reductions were incorrect, or they should have been implemented prospectively rather than retroactively. In other cases, employees properly reduced veterans' disability levels to correct administrative errors; however, they improperly created debts instead of simply eliminating the amount of the overpayments. In many cases employees also did not provide veterans advance or final notice as required.<sup>37</sup>

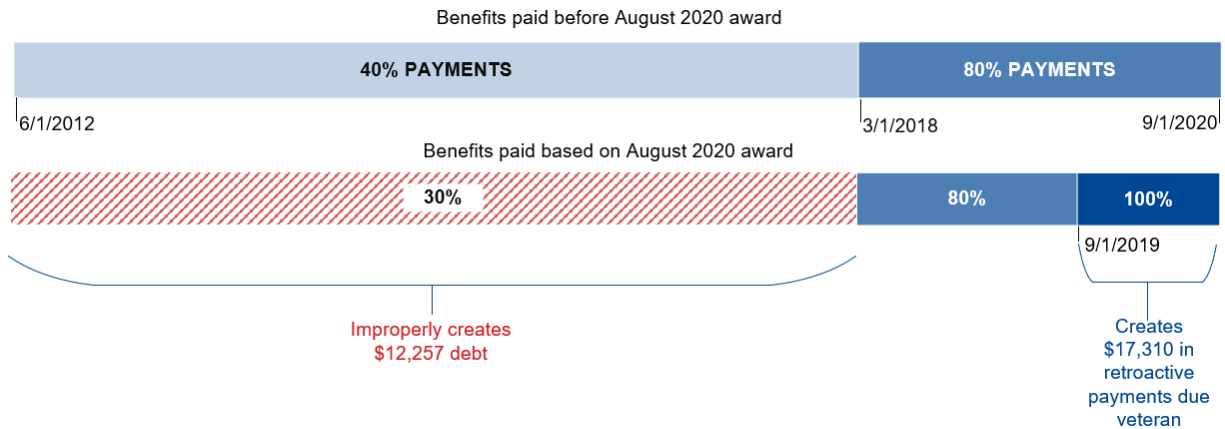
Examples 1 and 2 illustrate cases in which VBA employees created debts when they inappropriately reduced veterans' disability levels without notifying them.

### ***Example 1***

*A veteran received benefit payments at the 40 percent rate from June 2012 through February 2018, and at the 80 percent rate from March 2018 to September 2020. Then VBA decided the veteran was unemployable due to service-connected disabilities, and an August 2020 award increased payments to the 100 percent rate retroactively from September 2019 on, resulting in about \$17,310 in benefits due the veteran. However, a 10 percent disability was also incorrectly removed from the veteran's record with no explanation. Further, the veteran was not given due process or told that the action was taken at all. As a result, the award also retroactively reduced the veteran's payment rate to 30 percent from June 2012 to March 2018 and improperly created a debt of approximately \$12,257. Of that amount, about \$5,118 was collected by reducing benefits due the veteran before notifying them of the debt. The veteran was later notified of the remaining debt of almost \$7,139 which was still pending collection as of February 2021. Figure 3 illustrates the payment changes in the August 2020 award.*

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<sup>37</sup> 38 C.F.R. § 3.103.



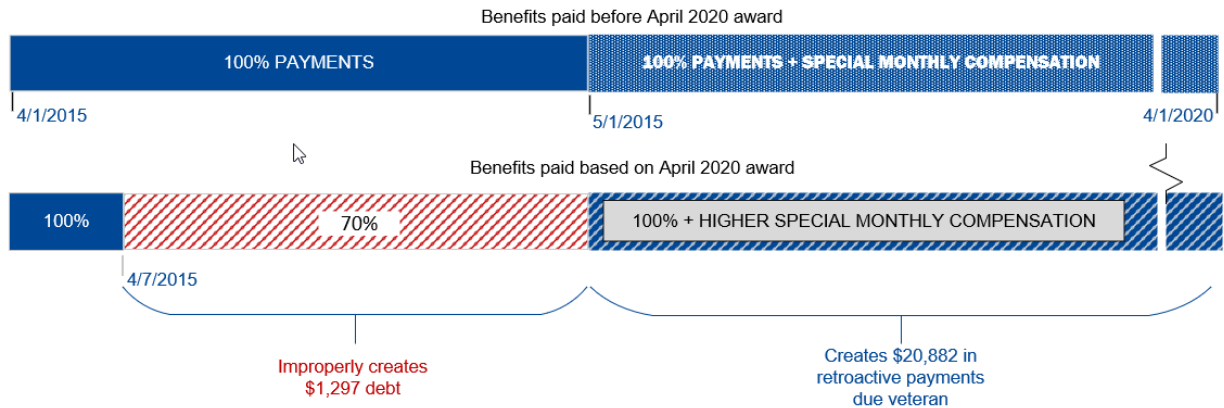
**Figure 3.** Effect of payment rate changes for example 1.

Source: VA OIG analysis of sample case.

### Example 2

A veteran received benefit payments at the 100 percent rate before and during April 2015, and at the 100 percent rate with special monthly compensation from May 2015 to April 2020. Then VBA granted the veteran a higher level of special monthly compensation, and an April 2020 award increased payments from May 2015 on, resulting in a total of about \$20,882 in benefits due the veteran. Although the decision showed the veteran was entitled to payment at the 100 percent rate throughout April 2015, claims processors mistakenly reduced the veteran's payment to the 70 percent rate from April 7 to May 1, 2015, with no explanation, due process, or notice that a reduction had occurred. This improperly created a debt of approximately \$1,297. The entire debt made in error was deducted from benefits due the veteran. The remainder of the benefits was ultimately paid to the veteran's spouse because the veteran had passed away; however, the spouse was not notified of the debt error or that it had already been collected. Figure 4 illustrates the payment changes caused by the April 2020 award.





**Figure 4.** Effect of payment rate changes for example 2.

Source: VA OIG analysis of sample case.

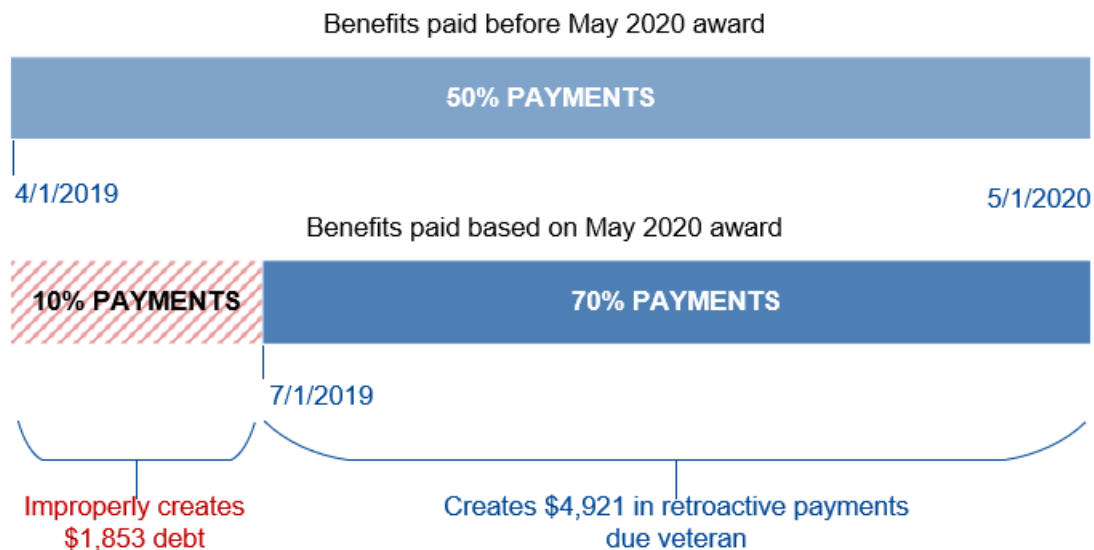
Example 3 illustrates a case in which employees reduced a veteran’s disability level retroactively to correct administrative errors, but erroneously created a debt instead of eliminating the overpayment (as beneficiaries are not responsible for VBA administrative errors). They also failed to properly notify the veteran of the debt creation.

### Example 3

*A veteran received benefit payments at the 50 percent rate from April 2019 to May 2020. Then VBA increased the rating for two disabilities, and a May 2020 award increased payments to the 70 percent rate from July 2019 on, resulting in about \$4,921 in payments due the veteran. The decision also fixed previous errors in effective dates and correctly reduced the veteran’s disability rating to 10 percent retroactively. Since the incorrect effective dates were administrative errors, VBA employees told the veteran that the overpayment would not be collected. However, employees failed to then eliminate the overpayment in the system, and the award retroactively reduced the payment rate to 10 percent from April to July 2019, improperly creating a debt of approximately \$1,853.<sup>38</sup> The entire erroneous debt was collected by reducing benefits due the veteran, and the veteran was not notified. Figure 5 illustrates the payment changes based on the May 2020 award.*

<sup>38</sup> VA Manual 21-1, part 3, sub. 6, chap. 2, sec. B, topic 3, block e, “Eliminating an Overpayment Resulting From Correction of an Administrative Error,” October 11, 2017.





**Figure 5.** Effect of payment rate changes for example 3.

Source: VA OIG analysis of sample case.

The OIG’s first recommendation is that VBA ensure the improperly created debts identified by the review team are corrected.

## Some Veterans May Be Unaware They Lost Money to Which They Were Entitled

Employees failed to give veterans advance notice in most of the cases identified by the review team as being in error and deprived veterans of their right to due process. In addition, veterans often were not told that the reductions had occurred or the reasons for the employees’ final action. Without this information, veterans were likely unaware of their right to seek further review of the reductions.

When a debt is created, VA generally must notify the veteran in writing of the amount, reasons for the debt, and the right to request a waiver or dispute the debt before collecting it from benefit payments.<sup>39</sup> However, the review team found VA withheld money from veterans’ benefits to pay off some of the debts without notifying them. These veterans were not given an opportunity to dispute the debts or request waivers, and they may not have known the debts had been collected from benefits due them.<sup>40</sup>

From the results of the statistical sample, the review team estimated VBA mistakenly created about \$13.4 million in debts. Some of these debts had been collected by the start of this review in

<sup>39</sup> 38 U.S.C. § 5314; 38 C.F.R. §§ 1.911 and 1.912a.

<sup>40</sup> The OIG expects to publish a management advisory memorandum in the fourth quarter of fiscal year 2022 further addressing the improperly collected debts identified during this review, including examples 1 and 3 in this report.

February 2021, and collection of others was still pending. In some cases, VBA became aware of the erroneous debts and corrected the cases before collection. Similarly, in some cases VBA took corrective action and repaid veterans for debts it had already collected. Table 2 illustrates the status of the estimated erroneous debts as of February 2021.

**Table 2. Status of Erroneous Debts as of February 2021**

| Status       | Amount (\$ in millions) |
|--------------|-------------------------|
| Collected    | 4.6*                    |
| Pending      | 6.9                     |
| Corrected    | 1.8                     |
| <b>Total</b> | <b>13.4</b>             |

*Source: VA OIG estimates of erroneous debts created during the review period.*

*Note: Items do not sum precisely due to rounding.*

*\* The erroneous debts that were collected included some cases that were later corrected and repaid to veterans. The OIG estimates that between \$237,000 and \$1.4 million in debts had been repaid as of February 1, 2021.*

VA reported suspending collection on all veteran benefit overpayments incurred after April 1, 2020, to provide veterans financial relief due to the COVID-19 pandemic. As a result, many of the debts identified in this review were still pending. These debts remain subject to collection, and VA announced resuming debt collection in October 2021. Further, the review team identified instances of debts incurred after April 1, 2020, that were collected. As noted in example 3, VBA created and improperly collected a debt of about \$1,853 in May 2020. The debt was collected from other payments due the veteran, even though VA had reported suspending these debts and VBA employees had told the veteran his debt would not be collected.

The OIG's second recommendation addresses the need for VBA to review all compensation awards with debts due to reduced disability levels that were completed since January 1, 2020, and take any necessary corrective actions. VA has reported a significant claims backlog due to several factors, including an increased workload and operational changes driven by the COVID-19 pandemic that slowed the processing time for claims. Although the OIG acknowledges the challenges facing VBA, the review team estimated that errors occurred in about 2,400 awards completed in 2020, with incorrectly created debts totaling about \$13.4 million. Further, the OIG is concerned that similar errors may have continued to occur after 2020. Since these errors have the potential to cause significant financial harm to veterans, VBA needs to identify and correct these improperly created debts and ensure affected veterans are made whole.

## **VBA's Electronic System Was Inadequate to Ensure Employees Were Aware They Had Created Debts**

Generally, errors occurred because awards generated by VBA's electronic system did not show whether a debt was created or the amount for each award line. As a result, employees may not even have been aware they created the debts. Since each compensation award must be approved by at least two people, the review team found that improperly created debts were missed by multiple employees.<sup>41</sup> Consequently, the team determined that these additional VBA reviews were not always effective in preventing these errors.

Although VBA's electronic system compares the past payment rates and new payment rates for each period, line by line, employees see only the overall effect without the net effect for each individual line. The overall effect can be positive, negative, or zero, and it is displayed in red on the award if it is negative. Some employees the review team interviewed reported relying on the red, negative net effect (an overall reduction in benefits) to indicate a debt was created. However, they acknowledged that doing so was not an effective way to identify all periods when awards created debts. For example, a positive net award could contain a debt. Additionally, a negative net award that accurately created some debts could still erroneously create additional debts over other periods. Employees therefore agreed that when the overall net effect matched what was expected, they could easily overlook actions that wrongly produced debts.

In most of the cases with errors that the review team identified, VBA employees failed to inform veterans that debts were created or of the actions that caused the debts. Employees interviewed by the review team knew veterans are entitled to notice of any decision made on their claim, including the requirement to inform the veteran when the decision will create a debt. They agreed the notification errors identified by the review team likely occurred because employees were not aware of the actions and resulting debts.

Examples 4 and 5 illustrate cases in which awards showed an overall net effect that met employees' expectations for the decisions being processed, but employees did not appear to be aware they had also inappropriately generated a debt.

### ***Example 4***

*A veteran received benefit payments at the 20 percent rate from December 2008 through January 2020. An award completed in January 2020 increased the veteran's payments to the 80 percent rate effective January 2019, based on a decision that granted retroactive service connection for additional disabilities. This created about \$17,656 in payments due the veteran. However, a protected*

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<sup>41</sup> VA Manual 21-1, part 3, sub. 5, chap. 2, sec. A, topic 2, "General Information on Processing Decisions," July 26, 2019, rev. April 24, 2020, June 4, 2020, and August 10, 2020.

*disability rating was incorrectly removed from the veteran's record.<sup>42</sup> As a result, the award also erroneously reduced the veteran's payments to 10 percent from December 2008 through December 2018, creating a debt of approximately \$15,275.*

*Employees did not appear to be aware of the reduction and resulting debt as they provided no explanation for removing the protected disability rating and did not mention it in their decision. Further, the decision notice did not inform the veteran that the action was taken or that it had created an overpayment. The award included new lines with lower payment rates from December 2008 through December 2018; however, it did not show that a debt was created or the amount of the debt for each award line. Instead, it showed an overall net positive amount, which employees would expect for a decision granting additional benefits. Table 3 shows how each award line contributed to the overall net effect, including whether payments or debts were created (debts appear in parentheses) and their amounts. These line-by-line results (inside the dark borders) could have helped employees identify and prevent the erroneous debt, but they only see the resulting net effect.*

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<sup>42</sup> 38 C.F.R. § 3.951(b); VA Manual 21-1, part 3, sub. 4, chap. 8, sec. C, topic 1, "Twenty-Year Protection of Compensation Evaluations Under 38 CFR 3.951(b)," April 27, 2018. A disability rating in effect for 20 years or more will not be reduced unless it is shown the rating was based on fraud.

**Table 3. Effect of Payment Rate Changes Resulting from Retroactive Benefit Adjustments**

| Start date | New rate (\$) | Old rate (\$) | Difference (\$) | Months in effect           | Net effect by award line (\$) |
|------------|---------------|---------------|-----------------|----------------------------|-------------------------------|
| 12/01/08   | 123.00        | 243.00        | (120.00)        | 36                         | (4,320.00)                    |
| 12/01/11   | 127.00        | 251.00        | (124.00)        | 12                         | (1,488.00)                    |
| 12/01/12   | 129.00        | 255.00        | (126.00)        | 12                         | (1,512.00)                    |
| 12/01/13   | 130.94        | 258.83        | (127.89)        | 1                          | (127.89)                      |
| 01/01/14   | 130.94        | 258.83        | (127.89)        | 11                         | (1,406.79)                    |
| 12/01/14   | 133.17        | 263.23        | (130.06)        | 24                         | (3,121.44)                    |
| 12/01/16   | 133.57        | 264.02        | (130.45)        | 12                         | (1,565.40)                    |
| 12/01/17   | 136.24        | 269.30        | (133.06)        | 12                         | (1,596.72)                    |
| 12/01/18   | 140.05        | 276.84        | (136.79)        | 1                          | (136.79)                      |
| 01/01/19   | 1,631.69      | 276.84        | 1,354.85        | 11                         | 14,903.35                     |
| 12/01/19   | 1,657.80      | 281.27        | 1,376.53        | 2                          | 2,753.06                      |
|            |               |               |                 | <b>Net effect of award</b> | <b>2,381.38</b>               |

⊘ Incorrect debt from disability reduction, 20% to 10%

✓ Payments due veteran from disability increase, 20% to 80%

Source: VA OIG analysis of sample case.

Note: The information inside the box with thick borders is not shown on the award that VBA processors view.



### Example 5

A veteran received benefit payments at the 100 percent rate plus a spousal benefit from March 2015 to May 2020. An award completed in May 2020 correctly removed the veteran's spouse effective October 2019, the month after she died, creating a debt of about \$2,314. No new decision was made to change the veteran's disability rating; however, the award also mistakenly reduced the veteran's payment to the 70 percent rate from March 13 through March 31, 2015, improperly creating a debt of approximately \$973.

Employees did not appear to be aware of the March 2015 reduction and resulting debt as they provided no explanation for the reduction and did not mention it in their notification letter to the veteran. The award included a new line with a lower payment rate from March 13 through March 31, 2015; however, it did not show that a debt was created or the amount of the debt for each award line. Instead, it showed an overall net negative amount, which employees would expect for a decision retroactively removing spousal benefits. Table 4 shows how each award

line contributed to the overall net effect, including whether debts were created (debts appear in parentheses) and their amounts. These line-by-line results (inside the dark borders) could have helped employees identify and prevent the erroneous debt.

**Table 4. Effect of Changes Resulting from Retroactive Reduction in Payment Rates**

| Start date | New rate (\$) | Old rate (\$) | Difference (\$) | Months in effect           | Net effect by award line (\$) |   |
|------------|---------------|---------------|-----------------|----------------------------|-------------------------------|---|
| 03/13/15   | 1,447.71      | 3,068.90      | (1,621.19)      | 0.6                        | (972.71)                      |  Incorrect debt from disability reduction, 100% to 70% |
|            |               | *****         |                 |                            |                               |   |
| 10/01/19   | 3,530.47      | 3,857.24      | (326.77)        | 2                          | (653.54)                      |  Correct debt for removal of spouse                    |
| 12/01/19   | 3,586.96      | 3,918.96      | (332.00)        | 5                          | (1,660.00)                    |   |
|            |               |               |                 | <b>Net effect of award</b> | (3,286.25)                    |   |

Source: VA OIG analysis of sample case.

Notes: Lines with no net effect (\*\*\*\*\*) have been removed. The entry to remove the spousal benefit appears twice because different rates were in effect during the periods shown. The information inside the box with thick borders is not shown on the award that VBA processors view.

Employees reported that at the time of the OIG’s review, the only way to determine whether a debt would be created for each period was to manually compare past payment rates and new payment rates because the award does not show that level of detail. They agreed that if the electronic system made employees aware of each period in which an award creates a debt, it would help them identify and prevent erroneously created debts.

The OIG’s third recommendation is for VBA to update the electronic system to show employees when awards will create debts. Finally, the fourth recommendation is to monitor the effectiveness of the recommendations and determine whether additional measures are needed.

## Conclusion

In 2020, VBA employees improperly created about \$13.4 million in debts for veterans in about 2,400 awards. These incorrect debts could cause financial hardships for veterans, especially when VBA took actions without notifying them in advance and giving them the opportunity to contest the actions. Because VA withheld the debt amount from some veterans’ benefits without notifying them, the beneficiaries may be unaware they did not receive their full payments. By

identifying and correcting cases in which debts were improperly levied, VBA can repay any money that has been inappropriately collected and eliminate any pending debts before they are collected. In addition, by making it easier for employees to see when their actions create a debt, VBA can help prevent future occurrences and help ensure veterans receive all the benefits to which they are entitled.

## Recommendations 1–4

The OIG made the following recommendations to the under secretary for benefits:<sup>43</sup>

1. Implement a formal procedure to ensure all improperly created debts identified by the review team are corrected, and certify the results to the OIG.
2. Enact a formal procedure to review all VBA compensation awards not already reviewed by the OIG that were completed since January 1, 2020, with debts due to reduced disability levels, take corrective action as appropriate, and report the results to the OIG.
3. Develop and demonstrate progress toward implementing a plan to update the electronic system to make employees aware of each period in which an award creates a debt.
4. Develop a mechanism to review the effectiveness of the recommendations periodically and a process for determining what additional measures, if any, are needed.

## VA Management Comments

The director, Northeast District, performing the delegable duties of the under secretary for benefits, concurred with all four recommendations. Appendix C includes the full text of VA management's comments.

To address recommendation 1, VBA will review and take corrective action on the errors identified by the OIG.

To address recommendation 2, VBA will enact a formal procedure to review all compensation awards since January 1, 2020, with debts due to reduced disability levels that were not already reviewed by the OIG. In addition, VBA will leverage the feedback identified in the reviews from recommendation 1.

To address recommendation 3, VBA will develop a plan to update the electronic system to increase employee awareness of awards in which debts are created. VBA is actively coordinating

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<sup>43</sup> The recommendations addressed to the under secretary for benefits are directed to anyone in an acting status or performing the delegable duties of the position.

with multiple business lines to identify necessary system updates and integration points. Further, VBA will leverage feedback from subject matter experts conducting corrective actions in recommendation 1 to develop requirements for system updates.

To address recommendation 4, VBA will periodically review a statistically valid sample of cases completed after all OIG recommendations have been implemented to ensure the changes are effective and prevent improper debts due to reduced disability levels.

## **OIG Response**

The director, Northeast District, performing the delegable duties of the under secretary for benefits, provided corrective action plans for each recommendation. For recommendations two and four, VBA did not provide a target completion date. OIG personnel will begin their follow-up on the progress of VBA's actions in 90 days and will expect a more definitive implementation date at that time. The OIG will monitor implementation of planned actions and will close the recommendations when VBA provides sufficient evidence demonstrating progress addressing the intent of the recommendations and the issues identified.



## Appendix A: Scope and Methodology

### Scope

The review team conducted its work from February 2021 through March 2022. The review covered a population of about 3,000 compensation awards completed by VBA staff from January 1 through December 31, 2020, that created debts due to reductions in disability levels.

### Methodology

To accomplish the review objective, the team identified and reviewed applicable laws, regulations, VA policies, operating procedures, and guidelines related to reducing disability levels. Virtual site visits were conducted in July and August 2021 of the VA regional benefits offices in San Diego, California; St. Petersburg, Florida; and Waco, Texas. The review team interviewed and obtained information from VA regional office employees about work processes associated with reducing disability levels. Employees at VA's central office also participated in interviews and provided relevant information.

In coordination with VA OIG statisticians, the team reviewed a random sample of 75 compensation awards using a probability-proportional-to-size sampling approach. The review team focused on cases in which a debt resulted from a disability-level reduction because disability levels and compensation payments are generally decreased in the future, thereby not resulting in a debt. The review team used VBA's electronic systems, including the Veterans Benefits Management System, SHARE, and the Financial and Accounting System, to review the veterans' claims folders and relevant documentation required to assess whether the debts were accurate.

### Fraud Assessment

The review team assessed the risk that fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, significant in the context of the review objectives, could occur during this review. The team exercised due diligence in staying alert to any fraud indicators by

- soliciting the OIG's Office of Investigations for indicators,
- reviewing OIG hotline complaints and concerns for indicators, and
- completing the Fraud Indicators and Assessment Checklist.

The OIG did not identify any instances of fraud or potential fraud during this review.

## **Data Reliability**

The review team used computer-processed data from VBA's Corporate Database. To test for reliability, the team determined whether any data were missing from key fields, included any calculation errors, or were outside the time frame requested. The review team also assessed whether the data contained obvious duplication of records, alphabetic or numeric characters in incorrect fields, or illogical relationships among data elements. Furthermore, the team compared veterans' names, file numbers, and debt information as provided in the data received with VBA's electronic systems and veterans' claims files for the 75 awards reviewed.

Testing of the data disclosed that they were sufficiently reliable for the review objectives. Comparison of the data with information contained in VBA's electronic systems and veterans' claims files did not disclose any problems with data reliability.

## **Government Standards**

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

## **Appendix B: Statistical Sampling Methodology**

### **Approach**

To accomplish the objective, the review team reviewed a statistical sample of veterans' awards. The team used statistical sampling to quantify the extent of awards in which VA employees created debts in veteran's accounts when reducing disability levels.

### **Population**

The target population for this review includes veterans' awards completed by VBA staff from January 1 through December 31, 2020 (review period), that created debts when reducing disability levels including the combined disability rating, employability status, or special monthly compensation. However, without detailed review, these awards could not be distinguished from awards that created debts for other reasons. Consequently, the sampling frame used for this review included all identified awards during the review period that resulted in debts with corresponding disability-level reductions, totaling 4,007 awards. For the purposes of the review, the team estimated the population to be 2,961 awards based on the exclusion of 33 out-of-scope awards (out of 108 total awards reviewed) in which the debts were not the result of a reduction in disability level. Since the excluded sample awards represent others in the original review population that may also be out of scope, the team estimates the population eligible for this review is 2,961 awards.

### **Sampling Design**

The review team initially selected a statistical sample of 75 compensation awards from the population of awards that created debts resulting from reductions in disability level from January 1 through December 31, 2020. These awards were randomly selected with a systematic sampling approach with selection probabilities proportional to the square root of the debt corresponding to disability-level reductions in each award. Because some of these awards were out of scope, they were replaced with backup awards (selected based on the same probabilities, but not systematically) until a sample size of 75 in-scope awards was obtained. In achieving this result, the OIG replaced 33 out-of-scope awards.

### **Weights**

Samples were weighted to represent the population from which they were drawn, and the weights were used in the estimate calculations. For example, the team calculated the number of awards with incorrect debts by first summing the sampling weights for all sample records that contained incorrect debts, then dividing that value by the sum of the weights for all sample

records, and then multiplying this amount by the estimated number of in-scope awards in the population.

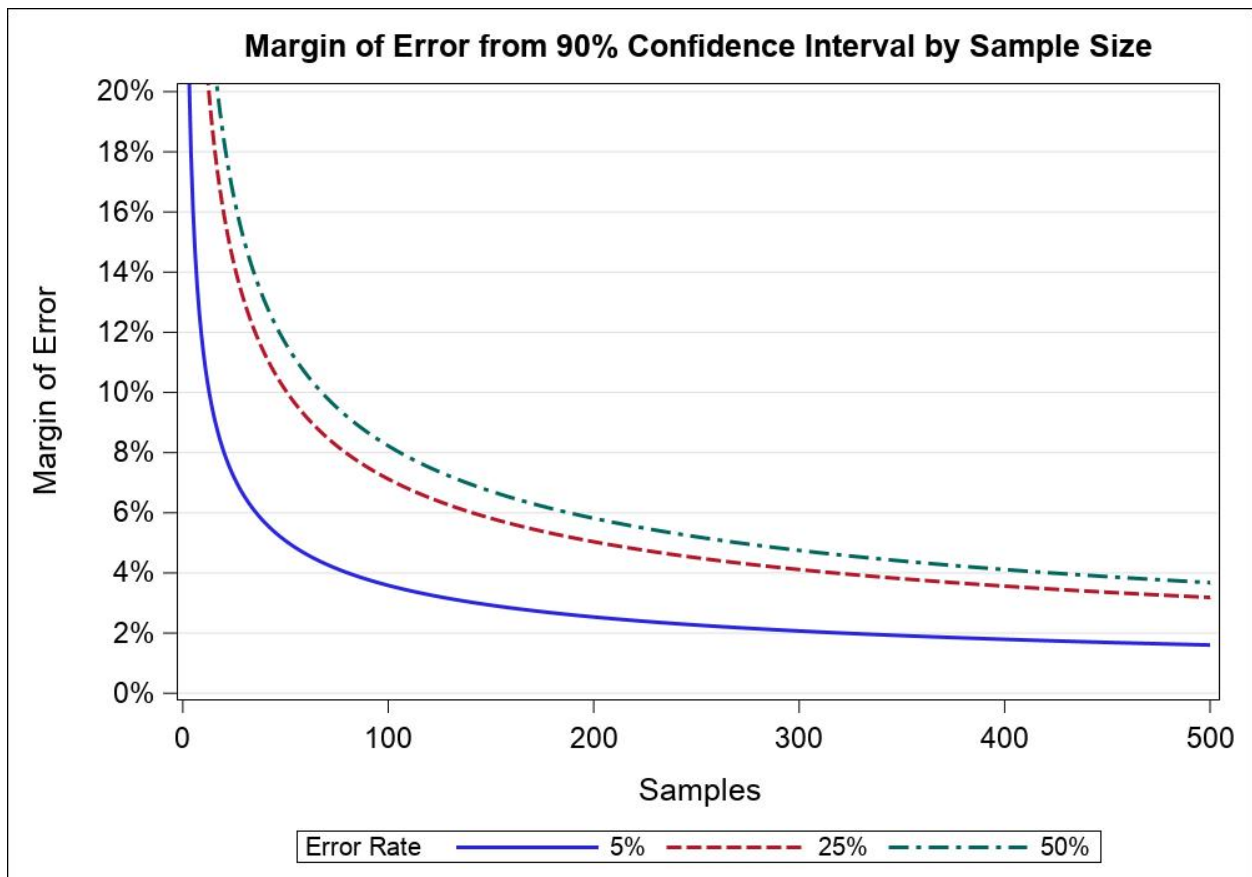
### Projections and Margins of Error

The projection is an estimate of the population value based on the sample. The associated margin of error and confidence interval show the precision of the estimate. If the OIG repeated this review with multiple sets of samples, the confidence intervals would differ for each sample but would include the true population value 90 percent of the time.

The OIG statistician employed statistical analysis software to calculate estimates, margins of error, and confidence intervals that account for the complexity of the sample design.

The sample size was determined after reviewing the expected precision of the projections based on the sample size, potential error rate, and logistical concerns of the sample review. While precision improves with larger samples, the rate of improvement decreases significantly as more records are added to the sample review.

Figure B.1 shows the effect of progressively larger sample sizes on the margin of error.



**Figure B.1.** Effect of sample size on margin of error.

Source: VA OIG statistician's analysis.

## Projections

The tables below detail the review team's analysis and projected results.

**Table B.1. Statistical Projections Summary for Awards in Which Debts Resulted from Reductions in Disability Levels**

| Item                        | Estimated number | 90% confidence interval |             |             | Count from sample |
|-----------------------------|------------------|-------------------------|-------------|-------------|-------------------|
|                             |                  | Margin of error         | Lower limit | Upper limit |                   |
| Estimated population        | 2,961            | 374                     | 2,587       | 3,336*      | 75                |
| Awards with incorrect debts | 2,354            | 460                     | 1,894       | 2,814       | 51                |

Source: VA OIG statistician's projection of estimated population and awards with incorrect debts based on team's findings.

\*Projections and confidence intervals may not total precisely due to rounding.

**Table B.2. Statistical Projections for Estimated Amounts of Debts Incorrectly Created When Reducing Disability Levels**

| Item                            | Estimated amount (\$) | 90% confidence interval |                  |                  | Count from sample |
|---------------------------------|-----------------------|-------------------------|------------------|------------------|-------------------|
|                                 |                       | Margin of error (\$)    | Lower limit (\$) | Upper limit (\$) |                   |
| Total incorrect debts           | 13,383,401            | 3,062,576               | 10,320,825       | 16,445,977       | 51                |
| Total incorrect debts collected | 4,646,007             | 1,777,834               | 2,868,173        | 6,423,842*       | 34                |
| Total incorrect debts corrected | 1,832,754             | 963,135                 | 869,620*         | 2,795,889        | 12                |
| Total incorrect debts pending   | 6,904,639             | 2,588,922               | 4,315,717        | 9,493,562*       | 25                |
| Total collected debts repaid    | 800,951               | 564,105                 | 236,845*         | 1,365,056        | 7                 |

Source: VA OIG statistician's projection of debts incorrectly created based on team's findings.

\*Projections and confidence intervals may not total precisely due to rounding.

## Appendix C: VA Management Comments

### Department of Veterans Affairs Memorandum

Date: May 11, 2022

From: Under Secretary for Benefits (20)

Subj: OIG Draft Report – VBA Improperly Created Debts When Reducing Veterans' Disability Levels  
(Project Number 2021-01351-AE-0060) - VIEWS 07416858

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

1. Attached is VBA's response to the OIG Draft Report: VBA Improperly Created Debts When Reducing Veterans' Disability Levels (Project Number 2021-01351-AE-0060).

*The OIG removed point of contact information prior to publication.*

(Original signed by)

Thomas J. Murphy  
Director, Northeast District  
Performing the Delegable Duties of the  
Under Secretary for Benefits

Attachment

Attachment

**Veterans Benefits Administration (VBA) Comments on OIG Draft Report, VBA Improperly Created Debts When Reducing Veterans' Disability Levels (Project Number 2021-01351-AE-0060)**

VBA concurs with the findings in OIG's draft report and provides the following comments in response to the recommendations:

Recommendation 1: The Under Secretary for Benefits should implement a formal procedure to ensure all improperly created debts identified by the review team are corrected, and certify the results to the OIG.

VBA's Response to the Draft: Concur. VBA will review and take corrective action on the errors identified by the OIG through a formal review procedure.

Target Completion Date: October 1, 2022.

Recommendation 2: The Under Secretary for Benefits should enact a formal procedure to review all VBA compensation awards not already reviewed by the OIG that were completed since January 1, 2020, with debts due to reduced disability levels, take corrective action as appropriate, and report the results to the Office of the Inspector General.

VBA's Response to the Draft: Concur. VBA will enact a formal procedure to review all VBA compensation awards with debts due to reduced disability levels completed since January 1, 2020, as identified by the OIG report and not already reviewed by OIG. VBA will leverage feedback from its reviews in Recommendation 1.

Target Completion Date: TBD

Recommendation 3: The Under Secretary for Benefits should develop and demonstrate progress toward implementing a plan to update the electronic system to make employees aware of each period in which an award creates a debt.

VBA's Response to the Draft: Concur. VBA will develop a plan to update the electronic system to increase employee awareness of awards where debts are created. As part of the plan, VBA will detail specific requirements for system enhancements that will add efficiency to the process. VBA is actively coordinating amongst multiple business lines to identify necessary system updates and integration points. VBA is also leveraging feedback and input from the subject matter experts responsible for conducting any corrective actions outlined in recommendation #1, to develop requirements for system updates. VBA will share the developed plan with OIG once finalized and will provide scope/timeline for plan implementation.

Target Completion Date: March 31, 2023

Recommendation 4: The Under Secretary for Benefits should develop a mechanism to review the effectiveness of the recommendations periodically and a process for determining what additional measures, if any, are needed.

VBA's Response to the Draft: Concur. VBA will periodically review a statistically valid sample of cases completed after all OIG recommendations have been implemented to ensure the changes implemented are effective in preventing improper debts due to reduced disability levels.

Target Completion Date: TBD

*For accessibility, the original format of this appendix has been modified to comply with Section 508 of the Rehabilitation Act of 1973, as amended.*

## OIG Contact and Staff Acknowledgments

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| <b>Contact</b> | For more information about this report, please contact the Office of Inspector General at (202) 461-4720. |
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