



# US DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

Office of Audits and Evaluations

---

## VETERANS BENEFITS ADMINISTRATION

---

### **The Fiduciary Program Needs to Verify the Prompt Return of Deceased Beneficiaries' Funds to VA**

**BE A**  
**VOICE FOR**  
**VETERANS**

---

**REPORT WRONGDOING**  
[va.gov/oig/hotline](https://va.gov/oig/hotline) | 800.488.8244

---

## OUR MISSION

To serve veterans and the public by conducting meaningful independent oversight of the Department of Veterans Affairs.

## CONNECT WITH US



**Subscribe** to receive updates on reports, press releases, congressional testimony, and more. Follow us at [@VetAffairsOIG](https://twitter.com/VetAffairsOIG).

## PRIVACY NOTICE

In addition to general privacy laws that govern release of medical information, disclosure of certain veteran health or other private information may be prohibited by various federal statutes including, but not limited to, 38 U.S.C. §§ 5701, 5705, and 7332, absent an exemption or other specified circumstances. As mandated by law, the OIG adheres to privacy and confidentiality laws and regulations protecting veteran health or other private information in this report.



## Executive Summary

The Veterans Benefits Administration's (VBA) Fiduciary Program oversees VA beneficiaries who are unable to manage their own benefits due to injury, disease, advanced age, or youth.<sup>1</sup> Under the program, VA appoints fiduciaries who are authorized to receive direct payment of beneficiaries' VA benefits and distribute funds for their care, support, and welfare.<sup>2</sup> When a beneficiary dies, the fiduciary must disburse the remaining "funds under management."<sup>3</sup> If the beneficiary has a valid will or heir, the fiduciary must hold the remaining funds under management in trust for the deceased beneficiary's estate until the will is probated or heirs are ascertained and disburse the funds according to applicable state law.<sup>4</sup> If the beneficiary died without a will and no heir has been identified, the funds that would typically escheat (revert) to the state must be returned to VA.<sup>5</sup>

The VA Office of Inspector General (OIG) conducted this review to assess an anonymous allegation received in June 2022 that two fiduciaries under the jurisdiction of the fiduciary hub in Indianapolis, Indiana, had not released the funds of four deceased beneficiaries who died in 2010, 2013, 2015, and 2020, respectively. The OIG review identified two additional cases, for a total of six cases, associated with the two fiduciaries (five with one fiduciary and one with the other).<sup>6</sup>

### What the Review Found

The OIG substantiated that, as of June 2022, two fiduciaries, under the jurisdiction of the Indianapolis fiduciary hub, had not promptly released the funds of six deceased beneficiaries.<sup>7</sup> Between August 2022 and November 2022, both fiduciaries returned the funds to either the VA or an heir. The delay, however, ranged from more than 19 months to 12 years from the time of death (or date the final accounting was received by VA, if required) to the distribution of the

---

<sup>1</sup> 38 C.F.R. § 13.10 (2018).

<sup>2</sup> 38 C.F.R. § 13.140 (2018).

<sup>3</sup> 38 C.F.R. § 13.250 (2018). For the purposes of this report, VA-derived "funds under management" are beneficiaries' unspent VA disability compensation or pension benefits payments. VA has no oversight responsibility for other sources of income beneficiaries may have, such as social security or retirement income.

<sup>4</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250. Probate is a court action that deals with the matter of estates and wills. If a veteran receiving benefits dies without a will (intestate), state laws will help identify heirs under surrogacy court supervision. When no will exists, assets should be distributed by an appropriate estate administrator in accordance with applicable state law governing intestate succession. An heir may be designated by a will, or if no will exists, an heir may be appointed to inherit an estate.

<sup>5</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250.

<sup>6</sup> See appendix A for more information about the review's scope and methodology.

<sup>7</sup> Although there is no timeliness standard for fiduciaries to disburse remaining VA-derived funds to a deceased beneficiary's heir or return those funds to VA, those actions should not take years to complete.

funds. A delay in probate proceedings could cause a delay in disbursement. However, the OIG team reviewed VA electronic records and contacted the fiduciaries involved in these cases and found no evidence that any of the six cases were involved in probate.

Although federal regulations include a timeliness standard for a fiduciary to submit a final accounting within 90 days of the beneficiary's death, neither statute nor regulation include a timeliness standard for fiduciaries to disburse VA-derived funds of deceased beneficiaries to heirs or return them to VA.<sup>8</sup>

Until March 2021, VBA procedures required fiduciary hub staff to verify that the fiduciary had disbursed the remaining funds under management for deceased beneficiaries. The Pension and Fiduciary Service removed the procedural requirement to verify distribution of deceased beneficiaries' VA-derived funds to heirs because there is no statutory requirement for them to do so, which is consistent with a VA Office of General Counsel opinion designated as precedential (precedent opinion) that states, "VA's responsibilities with regard to protection of estate assets for the benefit of others generally cease with the death of the veteran."<sup>9</sup> The General Counsel has the power to designate an opinion as precedential, and opinions involving veterans' benefits are binding for VA officials and employees in subsequent matters involving the legal issue.<sup>10</sup>

The General Counsel opinion also states that, generally, VA is authorized to supervise the estate to assure preservation of assets that must be returned to VA.<sup>11</sup> The Pension and Fiduciary Service did not remove the procedural requirement to ensure funds are returned to VA when no valid will or heir exists. Although the procedure to verify disbursement was removed, other procedures stated that a determination must be made as to the existence of a will or heir to determine whether funds must be returned to VA.<sup>12</sup> Procedures and any related guidance do not, however, outline steps the fiduciary hub staff must take to make such a determination such as actions and evidence needed to verify whether the fiduciary identified any valid will or heir.

In March 2021, VBA updated its procedures to include a requirement to establish electronic controls to track the workload only for cases in which VA-derived funds of deceased

---

<sup>8</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250; 38 C.F.R. § 13.280 (2018). A fiduciary accounting is a written report outlining the management of a beneficiary's VA benefits payments and expenses for a specified period.

<sup>9</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

<sup>10</sup> 38 C.F.R. § 2.6(e)(8) (1960); 38 C.F.R. § 14.507(b) (1996).

<sup>11</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

<sup>12</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order," part XI, chap. 4, section D.16.d in *Adjudication Procedures Manual*, updated February 2, 2005. The *Adjudication Procedures Manual* serves as a general guide for processing and adjudicating claims for compensation, pension, and related benefits for veterans and their dependents. VBA's Compensation Service is responsible for updating the *Adjudication Procedures Manual*.

beneficiaries must revert to VA.<sup>13</sup> Further, the manual does not designate a unique identifier for electronic controls related to the return of deceased beneficiaries' VA-derived funds to VA, making it difficult for staff to monitor this workload.

As stated earlier, neither statute nor regulation include a timeliness standard for disbursement. As stewards of taxpayer dollars, however, VA should be promptly reclaiming funds when there is no valid will or heir to use those funds. Heirs also should not have to wait excessive periods to receive funds to which they are entitled. Although not statutorily required, VBA is also not prohibited from verifying disbursement of funds due to deceased beneficiaries' estates. Such verification would not only ensure heirs received funds to which they are entitled, it would also help identify funds that must be returned to VA if potential heirs thought to have existed at the time that the case was initially reviewed could not be verified. Moreover, a fiduciary can dispose of related records after two years from the date that VA either removes the fiduciary or the fiduciary withdraws.<sup>14</sup> There is a potential risk of fraud, theft, and loss if there has been no verification within those two years that funds have been properly disbursed.<sup>15</sup>

For two of the six cases, VA-derived funds were not promptly disbursed to the deceased beneficiaries' heirs. About \$800,000 of VA-derived funds were not released for more than 19 months in one case and nearly seven years in the other.

For the remaining four cases, no heirs were identified, and VA-derived funds were not promptly returned to VA. For these four cases, about \$9,300 of VA-derived funds were not promptly returned to VA, with delays ranging from five to 12 years after the beneficiaries' deaths.

Although the OIG's review focused only on the two fiduciaries related to the initial allegations, the process deficiencies the review team identified could have significant effect across the Fiduciary Program.

## What the OIG Recommended

To address identified weaknesses, the OIG made four recommendations to the under secretary for benefits.<sup>16</sup> VBA should ensure the Pension and Fiduciary Service provides sufficient guidance for fiduciary hub staff to determine whether VA-derived funds of deceased

---

<sup>13</sup> VA, *Fiduciary Program Manual*, "Actions Required When Escheat is in Order," part 2, chap. 1, sec. C, topic 3.e, updated March 17, 2021. The *Fiduciary Program Manual* serves as a general guide for activities and decisions inherent to providing fiduciary assistance to VA beneficiaries. The Pension and Fiduciary Service is responsible for updating the *Fiduciary Program Manual*.

<sup>14</sup> 38 C.F.R. § 13.140(a); 38 C.F.R. § 13.500 (2018). The fiduciary must keep all paper and electronic records relating to the fiduciary's management of VA benefit funds for the beneficiary for the duration of service as fiduciary for the beneficiary and for a minimum of two years from the date that VA removes the fiduciary or from the date that the fiduciary withdraws as fiduciary for the beneficiary.

<sup>15</sup> The OIG did not identify any instances of fraud during this review.

<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.

beneficiaries must be returned to VA. Additionally, the Pension and Fiduciary Service should consider reimplementing the procedural requirement to verify fiduciaries disbursed funds to deceased beneficiaries' estates when a valid will or heir exists. The OIG also recommended the Pension and Fiduciary Service identifies existing electronic controls or implements new ones that allow VBA staff to track the Fiduciary Program workload related to the return of deceased beneficiaries' VA-derived funds to VA, if not disbursed to heirs. Further, the Pension and Fiduciary Service and the Office of Field Operations should establish a methodology and monitor workload to ensure the prompt return of deceased beneficiaries' VA-derived funds.

## **VA Comments and OIG Response**

The principal deputy under secretary for benefits, on behalf of the under secretary for benefits, concurred or concurred in principle with all four OIG recommendations. VBA requested closure of recommendation 1 as implemented based on a March 2023 procedural update that focuses on what records to consider in determining if funds should be returned to VA and the need to document whether no heir or valid will exists. In response to recommendation 2, VBA concurred in principle and did "consider" the recommendation as requested; however, VBA does not intend to reimplement the procedural requirement to verify the disbursement of VA-derived funds to deceased beneficiaries' estates when a valid will or heir exists. The reason provided includes that the fiduciary or administrator of the estate is responsible for disbursing the funds to the beneficiary's estate or heirs as appropriate and VBA did not identify any statutory, regulatory, or other authority that specifically requires VA to supervise the disbursement of funds to the deceased beneficiary's estate. For recommendation 3, the VBA response stated the fiduciary hubs will leverage their workload management plans to prescribe the specific task types for controlling and monitoring actions related to the return of decedents' funds to VA. VBA also requested closure for recommendations 2 and 3 as implemented. In response to recommendation 4, VBA will update Strategic Oversight and Analysis Review (M21-4, Chapter 5, Topic 7) procedures to address the return of deceased beneficiaries' VA-derived funds, with a target implementation date of July 31, 2023. Appendix B provides the full text of VA's management comments.

The OIG found the actions planned are generally responsive to the recommendations. The OIG will monitor implementation of all planned actions and will close recommendations 1, 3, and 4 when VBA provides enough evidence to demonstrate sufficient progress in addressing the intent of the recommendations and the issues identified. The OIG considers recommendation 2 closed.



LARRY M. REINKEMEYER  
Assistant Inspector General  
for Audits and Evaluation

# Contents

Executive Summary.....i

Abbreviations.....vii

Introduction..... 1

Results and Recommendations ..... 4

    Finding: VBA Did Not Have Adequate Procedures to Ensure Fiduciaries Promptly  
        Returned Deceased Beneficiaries' Funds to VA ..... 4

    Recommendations 1–4..... 13

Appendix A: Scope and Methodology ..... 15

Appendix B: VA Management Comments ..... 17

OIG Contact and Staff Acknowledgments.....20

Report Distribution .....21

## Abbreviations

FY	fiscal year
OIG	Office of Inspector General
VBA	Veterans Benefits Administration



## Introduction

The Fiduciary Program of the Veterans Benefits Administration (VBA) oversees VA beneficiaries who are unable to manage their own benefits due to injury, disease, advanced age, or youth.<sup>17</sup> Under the program, VA appoints fiduciaries who are authorized to receive direct payment of beneficiaries' VA benefits and distribute funds for their care, support, and welfare.<sup>18</sup> When a beneficiary dies, the fiduciary must disburse the beneficiary's remaining VA-derived funds under their management.<sup>19</sup> If the beneficiary had a valid will or heir, the funds must be disbursed according to the beneficiary's estate.<sup>20</sup> If the beneficiary died without a will and no heir has been identified, the funds that would typically escheat (revert) to the state must be returned to VA.<sup>21</sup>

The VA Office of Inspector General (OIG) conducted this review to assess an anonymous allegation received in June 2022 that two fiduciaries under the jurisdiction of VBA's Indianapolis fiduciary hub had not released the funds of four deceased beneficiaries. The OIG review identified two additional cases, for a total of six cases associated with the two fiduciaries (five with one fiduciary and one with the other).

## Fiduciary Program

According to VBA's *Annual Benefits Report* for Fiscal Year (FY) 2021, the Fiduciary Program served more than 121,000 beneficiaries who received over \$2.9 billion in VA-derived funds. The Fiduciary Program used the web-based Veterans Benefits Management System to manage the fiduciary workload.

Two offices within VBA share oversight responsibility for the Fiduciary Program. The Pension and Fiduciary Service establishes policy and procedures, provides training, and generally oversees claims-processing accuracy. The Office of Field Operations sets production goals and manages the employees who process veterans' claims.

---

<sup>17</sup> 38 C.F.R. § 13.10 (2018).

<sup>18</sup> 38 C.F.R. § 13.140 (2018).

<sup>19</sup> 38 C.F.R. § 13.250 (2018). For the purposes of this report, VA-derived "funds under management" are beneficiaries' unspent VA disability compensation or pension benefits payments. VA has no oversight responsibility for other sources of income beneficiaries may have, such as social security or retirement income.

<sup>20</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250. When no will exists, assets should be distributed by an appropriate estate administrator in accordance with applicable state law governing intestate succession. An heir may be designated by a will, or if no will exists, an heir may be appointed to inherit an estate.

<sup>21</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250.

The program is administered by six fiduciary hubs.<sup>22</sup> Each fiduciary hub is responsible for administering the program in an assigned geographic region. The Indianapolis hub (covering 14 states) is the focus of this report, as the allegations are directed to oversight of two fiduciaries within its geographic area.<sup>23</sup> The fiduciary hub manager reports to the Indianapolis VA Regional Office director. As of April 2022, the Indianapolis fiduciary hub oversaw about 24,000 fiduciaries serving more than 31,000 beneficiaries.

## Disposition of Beneficiary Funds after Death

By law and regulation, when a deceased beneficiary has a valid will or heir, the fiduciary must hold the remaining funds under management in trust for the deceased beneficiary's estate until the will is probated or heirs are ascertained and disburse the funds according to applicable state law.<sup>24</sup> A VA Office of General Counsel opinion designated as precedential (precedent opinion) states, "VA's responsibilities with regard to protection of estate assets for the benefit of others generally cease with the death of the veteran."<sup>25</sup> The General Counsel has the power to designate an opinion as precedential, and opinions involving veterans' benefits are binding for VA officials and employees in subsequent matters involving the legal issue.<sup>26</sup>

When a beneficiary with a fiduciary dies without leaving a valid will and without heirs, all VA benefit funds managed by the fiduciary for the deceased beneficiary on the date of death must be returned to VA if such funds would escheat to a state.<sup>27</sup> Regarding this topic, the General Counsel opinion referenced above also states,

Generally, VA is authorized to supervise the estate only to the extent necessary to assure that the fiduciary fulfilled his or her responsibilities to the beneficiary and to assure preservation of assets which may be reclaimed by the Government pursuant to 38 U.S.C. § 5502(e).<sup>28</sup>

The fiduciary may deduct a reasonable fee from the deceased beneficiary's account to determine whether the deceased beneficiary left a valid will or is survived by heirs or whether the

---

<sup>22</sup> The six fiduciary hub locations are Columbia, South Carolina; Indianapolis, Indiana; Lincoln, Nebraska; Louisville, Kentucky; Milwaukee, Wisconsin; and Salt Lake City, Utah.

<sup>23</sup> The hub is responsible for program activities in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont.

<sup>24</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250. Probate is a court action that deals with the matter of estates and wills. If a veteran receiving benefits dies without a will (intestate), state laws will help identify heirs under surrogacy court supervision.

<sup>25</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

<sup>26</sup> 38 C.F.R. § 2.6(e)(8) (1960); 38 C.F.R. § 14.507(b) (1996).

<sup>27</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250.

<sup>28</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

beneficiary's funds under management should be returned to VA if those funds would otherwise escheat to a state.<sup>29</sup>

In certain circumstances, fiduciaries are required to submit accountings to VA, which is a written report outlining the management of a beneficiary's VA benefits payments and expenses for a specified period.<sup>30</sup> An accounting, by itself, may not prove whether funds were disbursed. In all cases where the funds of a deceased beneficiary must be returned to VA, fiduciaries are required to submit a final accounting within 90 days of the beneficiary's death.<sup>31</sup> For cases involving a will or heirs, fiduciaries are required to submit a final accounting within 90 days of the beneficiary's death only if the fiduciary was required to submit an annual accounting prior to the beneficiary's death.<sup>32</sup> Although VBA procedures set a 90-day requirement for fiduciaries to provide final accountings, when required, neither statute nor regulation include a timeliness standard for disbursing funds within a set period to an heir or to VA.<sup>33</sup>

## Fiduciary Records Retention Requirements

VA regulation does not require a fiduciary to keep paper or electronic records relating to management of a beneficiary's benefit funds for more than two years after either the fiduciary withdraws or VA removes the individual from the position.<sup>34</sup> VBA may remove a fiduciary if staff determine that fiduciary services are no longer required for a beneficiary, to include the death of a beneficiary.<sup>35</sup>

---

<sup>29</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250. Per regulation, reasonable fee means an amount customarily charged by attorneys or other professionals authorized to do such work in the state where the deceased beneficiary had a permanent place of residence.

<sup>30</sup> 38 C.F.R. § 13.280 (2018).

<sup>31</sup> 38 C.F.R. § 13.250; VA *Fiduciary Program Manual*, "When Final Accountings Are Required," part I, chap. 3, sec. B.3.a, updated November 10, 2022. The *Fiduciary Program Manual* serves as a general guide for activities and decisions inherent to providing fiduciary assistance to VA beneficiaries. The Pension and Fiduciary Service is responsible for updating the *Fiduciary Program Manual*.

<sup>32</sup> 38 C.F.R. § 13.250; 38 C.F.R. § 13.280. There are exceptions to the annual accounting requirement, such as when the fiduciary is the beneficiary's spouse or the chief officer of a federal institution.

<sup>33</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250.

<sup>34</sup> 38 C.F.R. § 13.140(a).

<sup>35</sup> 38 C.F.R. § 13.500 (2018).

## Results and Recommendations

### **Finding: VBA Did Not Have Adequate Procedures to Ensure Fiduciaries Promptly Returned Deceased Beneficiaries' Funds to VA**

The OIG substantiated the allegation that as of June 2022, two fiduciaries under the jurisdiction of the Indianapolis fiduciary hub had not released the funds of four deceased beneficiaries who died in 2010, 2013, 2015 and 2020, respectively. The OIG identified two additional cases in which the fiduciaries had not released funds promptly. Between August 2022 and November 2022, both fiduciaries returned the funds for all six cases to either VA or an heir, but the delay ranged from more than 19 months to 12 years before the funds were distributed. Probate proceedings could cause a delay in disbursement; however, the OIG team reviewed VA electronic records and contacted the fiduciaries involved in these cases and found no evidence that any of the six cases were involved in probate. In total, these six cases involved about \$810,000 of VA-derived funds.

This occurred because procedures and related guidance did not include steps for determining whether a will or heir existed and did not specify follow-up actions, such as monitoring activities or identifying evidence needed to verify the distribution of VA-derived funds to a deceased beneficiary's heir.<sup>36</sup> The Pension and Fiduciary Service removed the procedural requirement to verify distribution of deceased beneficiaries' VA-derived funds to heirs because there is no statutory requirement for them to verify distribution, which is consistent with a VA Office of General Counsel precedent opinion that states, "VA's responsibilities with regard to protection of estate assets for the benefit of others generally cease with the death of the veteran."<sup>37</sup> The Pension and Fiduciary Service did not remove the procedural requirement to ensure funds are returned to VA when no valid will or heir exists. Before March 2021, there also was no requirement to establish electronic controls to manage the workload associated with the VA-derived funds of deceased beneficiaries being returned to VA.

---

<sup>36</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order," part XI, chap. 4, section D.16.d in *Adjudication Procedures Manual*, updated February 2, 2005; VA Manual M21-1MR, "Process for Determining Applicability of Escheat Provisions," part XI, chap. 4, section E.22.a in *Adjudication Procedures Manual*, updated February 2, 2005. The requirement to verify distribution was removed effective March 12, 2021. The *Adjudication Procedures Manual* serves as a general guide for processing and adjudicating claims for compensation, pension, and related benefits for veterans and their dependents. VBA's Compensation Service is responsible for updating the *Adjudication Procedures Manual*.

<sup>37</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

Because a fiduciary can dispose of related records two years after a beneficiary dies, there is a potential risk of fraud, theft, and loss if there has been no verification within those two years that funds have been properly disbursed.<sup>38</sup>

The following determinations formed the basis for the finding and led to the OIG's recommendations:

- Fiduciaries did not promptly release deceased beneficiaries' funds.
- VBA procedures did not specify how to determine whether a valid will or heir exists and verify disbursement.
- VBA procedures did not require an electronic control for tracking funds pending return to VA.

## What the OIG Did

Using VBA's electronic system, the Veterans Benefits Management System, the review team analyzed four cases under the Indianapolis fiduciary hub's jurisdiction associated with two fiduciaries identified by the anonymous complainant. The team also analyzed two additional cases involving the same fiduciaries. They conducted an in-person site visit to the Indianapolis fiduciary hub to interview managers and staff. The team also interviewed a representative for both fiduciaries involved with the cases identified in the allegation.<sup>39</sup> To gain an understanding of VA regulations and procedures for processing deceased beneficiaries' funds, the team interviewed staff from VBA's Pension and Fiduciary Service, the Northeast District Office, and the Office of Field Operations. Appendix A provides additional details on the scope of work and the methodology used.

## Fiduciaries Did Not Promptly Release Deceased Beneficiaries' Funds

As stated earlier, there is no time limit for fiduciaries to disburse VA-derived funds of deceased beneficiaries to heirs or to VA under federal law.<sup>40</sup> That said, the OIG determined that disbursements in the cases reviewed appeared unnecessarily delayed. As of June 2022, the two fiduciaries under examination had not released the funds of six deceased beneficiaries to their heirs or VA. It was not until August 2022 through November 2022 that both fiduciaries returned the funds to either VA or the heir. The delays in distributing VA funds ranged from more than 19

---

<sup>38</sup> 38 C.F.R. § 13.140(a); 38 C.F.R. § 13.500. The fiduciary must keep all paper and electronic records relating to the fiduciary's management of VA benefit funds for the beneficiary for the duration of service as fiduciary for the beneficiary and for a minimum of two years from the date that VA removes the fiduciary or from the date that the fiduciary withdraws as fiduciary for the beneficiary.

<sup>39</sup> Both fiduciaries were listed as entities, not individuals. The representatives the OIG team interviewed were involved in the management of the entities' fiduciary activities.

<sup>40</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250.

months to 12 years after the beneficiaries' deaths. In total, the six beneficiaries had about \$810,000 of VA-derived funds as part of their estates.

## Two Cases with an Heir

For two of the six cases, fiduciaries were required to disburse about \$800,000 in VA-derived funds to the deceased beneficiaries' heirs.<sup>41</sup> As illustrated in table 1, the amount of time to disburse funds was nearly seven years in one case and more than 19 months for the other.

**Table 1. Two Cases with an Heir**

Beneficiary date of death	Date fiduciary final accounting was received by VA	Date funds were sent to heirs	Time elapsed in sending funds to heirs*	Amount of benefit funds disbursed to heirs
April 2015	December 2015	November 2022	Nearly seven years	\$212,703
December 2020	Accounting not required	August 2022	More than 19 months	\$588,873

Source: VA OIG analysis of beneficiaries' records.

\* For the first case in table 1, the time to disburse was calculated from the date a final accounting was received. For the second case, the time to disburse was calculated from the date of the beneficiary's death because the fiduciary was not required to submit a final accounting. The fiduciary was exempt from submitting an accounting because the fiduciary was a federal institution (a VA medical center).

Example 1 summarizes the case in which it took nearly seven years after the date VA received the final accounting from the fiduciary before the heir received VA-derived funds.

### Example 1

*This beneficiary died on April 16, 2015. On December 28, 2015, VA received an accounting from the fiduciary. Hub staff approved the accounting on January 8, 2016, and sent an accounting approval letter to the fiduciary, which did not instruct the fiduciary what to do with the beneficiary's remaining VA-derived funds. VBA procedures at that time required fiduciary hub staff to verify that any remaining VA-derived funds under management for deceased beneficiaries had been disbursed by the fiduciary, as appropriate; however, this*

<sup>41</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250. When a deceased beneficiary has a valid will or heir, the fiduciary must hold the remaining funds under management in trust for the deceased beneficiary's estate until the will is probated or heirs are ascertained and disburse the funds according to applicable state law. Probate is a court action that deals with the matter of estates and wills. If a veteran receiving benefits dies without a will (intestate), state laws will help identify heirs under surrogacy court supervision.

*did not occur.<sup>42</sup> On February 17, 2022, the fiduciary called VA stating that VA-derived funds had not been disbursed to the beneficiary's heir.<sup>43</sup> On March 22, 2022, a hub employee informed the then acting fiduciary hub manager that a fiduciary was still holding funds for three deceased beneficiaries, including this beneficiary. An employee at the Indianapolis fiduciary hub confirmed that \$212,703 was disbursed to the beneficiary's heir in November 2022, nearly seven years after VA received the final accounting from the fiduciary.*

For the case that took more than 19 months before funds were disbursed, fiduciary hub staff were not aware of the beneficiary's death in December 2020 until more than 15 months later (April 2022) when the fiduciary contacted the hub staff for confirmation of the beneficiary's executor of the estate.

### **Four Cases without an Heir**

For the remaining four cases reviewed, fiduciaries were required to return VA-derived funds to VA because the deceased beneficiaries had no identified heirs.<sup>44</sup> In October 2022, two months after the OIG initiated this review, the two fiduciaries under examination disbursed about \$9,300 in beneficiaries' VA-derived funds to VA. However, as illustrated in table 2, the delays appeared excessive—ranging from five to 12 years after the beneficiaries' deaths.

---

<sup>42</sup> VA Manual M21-1MR, "Process for Determining Applicability of Escheat Provisions." The requirement to verify distribution was removed effective March 12, 2021.

<sup>43</sup> The fiduciary's guardianship program manager stated that the remaining funds of deceased beneficiaries were discovered after reviewing bank statements associated with all the fiduciary's clients.

<sup>44</sup> 38 U.S.C. § 5502; 38 C.F.R. § 13.250.

**Table 2. Four Cases without an Heir**

Beneficiary date of death	Date fiduciary final accounting was received by VA	Date funds were returned to VA	Time elapsed before returning funds to VA*	Amount of benefit funds returned to VA
March 2010	No evidence in VBA systems that a final accounting was received	October 2022	More than 12 years	\$531
May 2013	October 2013	October 2022	About nine years	\$6,099
July 2015	August 2015	October 2022	Nearly seven years	\$468
January 2017	March 2017	October 2022	More than five years	\$2,156

Source: VA OIG analysis of beneficiaries' records.

\* For the first case in table 2, the time to disburse was calculated from the date of the beneficiary's death because a final accounting was not found in VBA's record system; however, in April 2022, VA received a bank statement from the fiduciary showing funds in the beneficiary's account after death. For the other cases, the time to disburse was calculated from the date a final accounting was received.

Example 2 summarizes the second case in table 2, in which the hub did not receive the VA-derived funds until about nine years after the date VA received the final accounting from the fiduciary.

### **Example 2**

*This beneficiary died on May 28, 2013. On October 25, 2013, VA received an accounting from the fiduciary. Hub staff approved the accounting on November 5, 2013, and sent an accounting approval letter to the fiduciary, which instructed the fiduciary to provide a copy of the approved accounting to the beneficiary's estate. VBA procedures require fiduciary hub staff to review a deceased beneficiary's records and determine whether the fiduciary must return VA-derived funds to the department (when there is no valid will or heir).<sup>45</sup> This review was not conducted. On March 22, 2022, a hub employee informed the then acting fiduciary hub manager that a fiduciary was still holding funds for three deceased beneficiaries, including this beneficiary. On September 20, 2022, hub staff sent a letter to the fiduciary requesting that all remaining VA-derived funds for this beneficiary be returned to VA. In October 2022, about nine years after VA received the final accounting from the fiduciary, the fiduciary hub received a check from the fiduciary in the amount of \$6,099.*

<sup>45</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order."

## VBA Procedures Did Not Specify How to Determine Whether a Valid Will or Heir Exists and Verify Disbursement

Until March 2021, VBA procedures required fiduciary hub staff to determine the applicability of escheat provisions (intestate funds that typically revert to the state that should be returned to VA) and verify that any remaining VA-derived funds under management for deceased beneficiaries had been disbursed by the fiduciary.<sup>46</sup> All six beneficiaries died before 2021, so those verification procedures applied in all cases. The procedures, however, did not specify what evidence was needed to determine whether escheat was applicable, nor what documentation was sufficient to verify distribution.<sup>47</sup> For example, procedures did not provide guidance on whether hub staff could accept a fiduciary's verbal or written confirmation, whether source documentation (such as a copy of a will) was required to determine the applicability of escheat provisions, or whether a bank statement was adequate to show funds were disbursed and to whom. Further, VBA's guidance to fiduciaries provides limited instructions regarding steps to determine whether a valid will or heir exists, simply stating,

Any saved VA benefits belong to the beneficiary's estate and must generally be given to the legal representative of the beneficiary's estate. You may contact the probate court or an attorney for further information.<sup>48</sup>

The March 2021 procedures update no longer required hub staff to verify funds were disbursed by the fiduciary.<sup>49</sup> Although the procedure to verify disbursement was removed, other VBA procedures still specified that, in order to determine whether escheat provisions apply, a determination must be made as to the existence of an heir or a will.<sup>50</sup> However, those procedures and any related guidance did not include steps the fiduciary hub staff must take to make such a determination, such as actions and evidence needed to verify whether the fiduciary identified any valid will or heir.

The review team asked a Pension and Fiduciary Service assistant director why the procedural requirement to determine whether funds were disbursed to an heir or to VA was removed from the *Fiduciary Program Manual*. In response, this assistant director stated that procedures were updated to accurately reflect the statutory requirements of 38 U.S.C. 5502. A VA Office of

---

<sup>46</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order" and "Process for Determining Applicability of Escheat Provisions."

<sup>47</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order" and "Process for Determining Applicability of Escheat Provisions."

<sup>48</sup> Pension and Fiduciary Service, *A Guide for VA Fiduciaries*, 2013 ver. 1.0 (historical); Pension and Fiduciary Service, *A Guide for VA Fiduciaries*, October 2021.

<sup>49</sup> VA *Fiduciary Program Manual*, "Process for Determining Applicability of Escheat Provisions," part 2, chap. 1, sec. D, topic 4.a, updated November 9, 2020. The requirement to verify distribution was removed effective March 12, 2021.

<sup>50</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order."

General Counsel opinion supports that there is no statutory requirement for VBA to verify disbursement to an heir, stating that VA's responsibilities with regard to protection of estate assets for the benefit of others generally cease with the death of the veteran.<sup>51</sup> That opinion also states that, generally, VA is authorized to supervise the estate to assure preservation of assets that must be returned to VA. The Pension and Fiduciary Service did not remove the procedural requirement to ensure funds are returned to VA when no valid will or heir exists.

Although not statutorily required, the law does not prohibit VBA from verifying disbursement of funds due to deceased beneficiaries' estates.<sup>52</sup> Verifying disbursements to estates would not only ensure heirs received funds to which they are entitled, it would also help identify funds that must be returned to VA if potential heirs thought to have existed at the time the case was initially reviewed had since died or were no longer designated recipients of funds.

### **VBA Procedures Did Not Require an Electronic Control for Tracking Funds Pending Return to VA**

VBA does not track funds being held for disbursement when a valid will or heir has been identified, which is consistent with the VA Office of General Counsel precedent opinion that states VA's responsibilities for protecting estate assets for the benefit of others generally cease with the death of the veteran.<sup>53</sup> After March 2021, there is no requirement that disbursement of funds due to deceased beneficiaries' estates be verified.

For the four cases shown in table 2 (cases without heirs), fiduciary hub staff were required to review a deceased beneficiary's records (which should include a fiduciary's record of whether a valid will or heir was identified) and determine whether the fiduciary must return VA-derived funds to VA.<sup>54</sup> However, prior to March 2021, the *Fiduciary Program Manual* did not include a requirement to establish an electronic control to track the return of beneficiaries' funds to VA. For all four cases in table 2, the beneficiaries' dates of death were prior to March 2021.

Effective March 17, 2021, the *Fiduciary Program Manual* was updated to require fiduciary hub staff to establish a 30-day administrative task for cases involving escheat (reversion of intestate benefit funds to VA that would otherwise go to the state).<sup>55</sup> Administrative tasks are electronic controls designed to assist fiduciary hubs in identifying and tracking activities that require

---

<sup>51</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

<sup>52</sup> 38 U.S.C. § 5502.

<sup>53</sup> VA Office of General Counsel Precedent Opinion, VAOPGCPREC 5-98 (April 2, 1998).

<sup>54</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order." The Office of General Counsel opinion also authorizes fiduciary hub staff to preserve assets that will be returned to VA.

<sup>55</sup> VA *Fiduciary Program Manual*, "Actions Required When Escheat is in Order," part 2, chap. 1, sec. C, topic 3.e, updated March 17, 2021.

follow-up action.<sup>56</sup> Upon approval of the accounting, this procedure required hub staff to notify the fiduciary that the remaining VA-derived funds must be returned to VA and establish this task for follow-up.<sup>57</sup> Administrative tasks include a task type and title. The task type is the general category associated with a specific kind of action such as claims establishment. The task title provides a distinguishing name for that action, such as change of address, credit check, and direct deposit. However, the manual does not designate a unique task title for administrative tasks related to the return of deceased beneficiaries' VA-derived funds to VA, making it difficult for staff to monitor this workload. Although VBA established an electronic control, it had not taken the additional action needed to enable monitoring for the prompt return of VA-derived funds.

The review team asked the Indianapolis fiduciary hub manager whether hub staff were able to generate a report of pending electronic controls associated with funds that are pending return to VA. The fiduciary hub manager stated that no reports with the requested information are available. Instead, the hub manager provided the OIG review team a locally generated report that included 775 deceased beneficiaries' cases that may or may not involve funds that must be returned to VA. This report did not include a field indicating whether VA-derived funds had been disbursed. The fiduciary hub employee that generated the report acknowledged that the report was not 100 percent accurate; important fields such as "Next of Kin" and "Person Listed on Will" were not available; and records would need to be checked manually to determine whether funds must be returned to VA. Fiduciary hub staff are responsible for ensuring administrative tasks are processed in a timely fashion.<sup>58</sup> Without the ability to quickly and easily generate a reliable report to identify this workload, staff cannot effectively monitor specific cases.

The team also asked representatives from VBA's Pension and Fiduciary Service, the Northeast District Office, and Office of Field Operations whether their staff were able to generate a report of pending electronic controls associated with funds that are pending return to VA and whether they monitored electronic controls for these cases. An assistant director at the Pension and Fiduciary Service provided the OIG review team a report, dated December 5, 2022, that included nearly 15,000 pending administrative tasks for various Fiduciary Program oversight activities. Based on the report, it was unclear how many of the 15,000 tasks might be associated with funds pending return to VA. An assistant director at the Pension and Fiduciary Service, a management analyst from the Northeast District Office, and a program analyst from the Office of Field Operations all stated that they were unable to identify specific administrative tasks related to funds subject to return to VA. They also stated the *Fiduciary Program Manual* does not provide

---

<sup>56</sup> VA Manual M21-4, "Fiduciary Administrative Tasks," app. F, topic 2, updated September 29, 2021. The purpose of this manual is to prescribe and discuss workload and staffing controls applicable to compensation, pension, and fiduciary activities.

<sup>57</sup> VA *Fiduciary Program Manual*, "Actions Required When Escheat is in Order."

<sup>58</sup> VA Manual M21-4, "Fiduciary Administrative Tasks."

specific guidance as to which task type the hub staff are required to select when establishing the required 30-day task for follow-up, resulting in each hub being left to use different task types pertaining to funds returned to VA. All three offices also responded that they do not monitor electronic controls associated with funds pending return to VA. VBA cannot effectively fix this oversight problem without defining distinct task types and titles related to the return of deceased beneficiaries' VA-derived funds.

## Conclusion

The OIG substantiated the allegation that as of June 2022, two fiduciaries under the jurisdiction of the Indianapolis fiduciary hub had not released the funds of four beneficiaries who died in 2010, 2013, 2015 and 2020, respectively. The review team identified two additional cases in which the fiduciaries had not promptly released the funds remaining after the beneficiaries' deaths. Of the six cases, two involved funds, totaling about \$800,000, due to the deceased beneficiaries' heirs. There is no statutory requirement for VA to verify distribution of VA-derived funds to deceased beneficiaries' estates; however, VA is not prohibited from doing so. The remaining four cases involved funds of about \$9,300 due to VA. Between August 2022 and November 2022, both fiduciaries disbursed the funds, but the delay ranged from more than 19 months to 12 years after the beneficiaries had died (or following the date the final accounting was received by VA, if required).

This occurred, at least in part, because procedures applicable to the deceased beneficiaries' funds did not specify what evidence was needed to determine whether VA-derived funds needed to revert to VA, nor what documentation was required at that time to verify disbursement per VBA's manual provision in effect until March 2021.<sup>59</sup> Moreover, there was no requirement before March 2021 to establish electronic controls that track workload and monitor VA-derived funds of deceased beneficiaries being returned to VA. Although current procedures require an electronic control, there is no unique identifier, making it difficult to monitor whether disbursements were properly and promptly made.

Although there is no timeliness standard for fiduciaries to disburse remaining VA-derived funds to a deceased beneficiary's heir or return those funds to VA, those actions should not take years to complete. Heirs should not have to wait such excessive periods to receive funds to which they are entitled. As strong stewards of VA taxpayer dollars, VA should also be promptly reclaiming funds when there is no valid will or heir so those funds can be used for the benefit of other veterans and their families.

---

<sup>59</sup> VA Manual M21-1MR, "Actions Required to Determine if Escheat is in Order" and "Process for Determining Applicability of Escheat Provisions."

Although this review focused only on the two fiduciaries related to the initial allegation, the process deficiencies the team identified could have significant effects across the Fiduciary Program. To address identified weaknesses, the OIG made four recommendations.

## Recommendations 1–4

The OIG made the following recommendations to the under secretary for benefits to ensure the following:<sup>60</sup>

1. The Pension and Fiduciary Service clarifies procedural requirements to fiduciary hub staff on how to verify whether VA-derived funds of deceased beneficiaries must be returned to VA, including whether the fiduciary identified any valid will or heir to whom the funds are otherwise due.
2. The Pension and Fiduciary Service considers reimplementing the procedural requirement to verify the disbursement of VA-derived funds to deceased beneficiaries' estates when a valid will or heir exists.
3. The Pension and Fiduciary Service identifies existing or implements new electronic controls that allow VBA staff to track Fiduciary Program tasks, timeliness, and workload related to the return of deceased beneficiaries' VA-derived funds to VA that would otherwise escheat to a state if not disbursed to heirs.
4. The Pension and Fiduciary Service and the Office of Field Operations establish a methodology and monitor workload to ensure the prompt return of deceased beneficiaries' VA-derived funds.

## VA Management Comments

The principal deputy under secretary for benefits, on behalf of the under secretary for benefits, concurred or concurred in principle with all four OIG recommendations. VBA requested closure of recommendations 1 through 3 and provided a target implementation date of July 31, 2023, for recommendation 4.

In response to recommendation 1, VBA requested closure based on a March 2023 procedural update that focuses on what records to consider in determining whether deceased beneficiaries' funds should be returned to VA and the need to document if no heir or will exists. VBA concurred in principle with recommendation 2 and did “consider” the recommendation as requested; however, VBA does not intend to reimplement the procedural requirement to verify the disbursement of VA-derived funds to deceased beneficiaries' estates when a valid will or heir exists. The reason provided includes that the fiduciary or administrator of the estate is

---

<sup>60</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.

responsible for disbursing the funds to the beneficiary's estate or heirs as appropriate and VBA did not identify any statutory, regulatory, or other authority that specifically requires VA to supervise the disbursement of funds to the deceased beneficiary's estate. VBA stated in regard to recommendation 3 that the fiduciary hubs will leverage their workload management plans to prescribe the specific task types for controlling and monitoring tasks. VBA's comments on recommendation 4 include a plan to update Strategic Oversight and Analysis Review (M21-4, Chapter 5, Topic 7) procedures to address the return of deceased beneficiaries' VA-derived funds, with a target implementation date of July 31, 2023. Appendix B provides the full text of VA's management comments.

## OIG Response

The OIG found actions planned by VBA are generally responsive to the recommendations. The OIG will monitor implementation and will close recommendations 1, 3, and 4 when VBA provides enough evidence to demonstrate sufficient progress in addressing the intent of the recommendations and the issues identified. The OIG considers recommendation 2 closed.

Regarding recommendation 1, the March 2023 procedural update requires fiduciary hub staff to add a note to a beneficiary's record when no heirs, estate executor, administrator, or dependent of any kind were located in available VA records. The OIG contends that VBA procedures should also require fiduciary hub staff to add a note to the beneficiary's record when heirs, estate executor, administrator, or dependents of any kind were located, specifying which records were used to support the determination that funds do not escheat in that case. In either situation, whether VA-derived funds were subject to being returned to VA that would otherwise go to the state or whether a valid will or heir existed, it is important to document the determination in order to provide transparency if a case needs to be reviewed later.

Regarding recommendation 2, the OIG acknowledges VBA's consideration and ultimate decision not to reimplement the procedural requirement to verify the disbursement of VA-derived funds to deceased beneficiaries' estates when a valid will or heir exists. The OIG considers recommendation 2 closed but reiterates that, although not required by statute, VBA is not prohibited from reimplementing this requirement that would help ensure fiduciaries promptly disbursed funds to heirs or others to whom the funds are due.

The OIG will consider closing recommendation 3 once VBA provides workload management plans for each of the six fiduciary hubs that clearly outline how each hub will monitor the return of deceased beneficiaries' VA-derived funds, including the specific task types that will be used for controlling this workload.

The OIG finds the plan for closing recommendation 4 acceptable and will examine the updated Strategic Oversight and Analysis Review (M21-4, Chapter 5, Topic 7) procedures. Also, as evidence of monitoring, the OIG will review copies of the first reviews completed after the procedural update for each of the six fiduciary hubs. This recommendation remains open as well.

## Appendix A: Scope and Methodology

### Scope

The review team conducted its work from August 2022 through June 2023. The team assessed the merits of an allegation received by the OIG in June 2022 that two fiduciaries under the jurisdiction of the Indianapolis fiduciary hub had not released the funds of four deceased beneficiaries. The OIG review identified two additional cases, for a total of six cases associated with the two fiduciaries. The six beneficiaries' dates of death range from March 2010 to December 2020.

### Methodology

To accomplish the review objectives, the team considered applicable laws, regulations, policies, procedures, and guidelines for handling VA benefit funds of deceased beneficiaries of VA's Fiduciary Program. The review team interviewed staff and managers at the fiduciary hub in Indianapolis, Indiana. The team also interviewed a representative from both fiduciaries involved with the cases identified in the allegation.<sup>61</sup> Additionally, the review team asked personnel from the Pension and Fiduciary Service, the Northeast District Office, and the Office of Field Operations about procedures related to the review objective.

### Internal Controls

The review team assessed the internal controls significant to the review objective including the five components related to control environment, risk assessment, control activities, information and communication, and monitoring.<sup>62</sup> In addition, the team reviewed the principles of internal controls as associated with the objective and identified the following two components and two principles as significant to the objective.<sup>63</sup> The team identified internal control weaknesses during this review and proposed recommendations to address the following deficiencies:

- Component: Control Activities
  - Principle 12: Management should implement control activities through policies.

---

<sup>61</sup> Both fiduciaries were listed as entities, not individuals. The representatives the OIG team interviewed were involved in the management of the entities' fiduciary activities.

<sup>62</sup> GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

<sup>63</sup> Since the review was limited to the internal control components and underlying principles identified, it may not have disclosed all internal control deficiencies that may have existed at the time of this review.

- Component: Monitoring Activities
  - Principle 16: Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.

## **Fraud Assessment**

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

- completing the Fraud Indicators and Assessment Checklist, and
- coordinating with the OIG's Office of Investigations.

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

## **Data Reliability**

The review team relied on computer-processed data from the Veterans Benefits Management System, which the team validated with documents contained in the electronic claims folder and information provided by the complainant. The comparison did not find any discrepancies. Therefore, the team found the data sufficiently reliable for the purposes of this review.

## **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: VA Management Comments

### Department of Veterans Affairs Memorandum

Date: July 6, 2023

From: Under Secretary for Benefits (20)

Subj: Office of Inspector General (OIG) Draft Report -- The Fiduciary Program Needs to Verify the Prompt Return of Deceased Beneficiaries' Funds to VA [Project No. 2022-03543-AE-0150] — [VIEWS 10395154]

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

1. Thank you for the opportunity to review and comment on the OIG draft report: The Fiduciary Program Needs to Verify the Prompt Return of Deceased Beneficiaries' Funds to VA. The Veterans Benefits Administration (VBA) provides the attached response to the draft report.

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

(Original signed by)

Michael Frueh, for

Joshua Jacobs

Attachment

**Veterans Benefits Administration (VBA)**  
**Comments on OIG Draft Report**

**The Fiduciary Program Needs to Verify the Prompt Return of Deceased Beneficiaries' Funds to VA**

Veterans Benefits Administration (VBA) concurs with the findings in OIG's draft report and provides the following comments in response to the recommendations:

**Recommendation 1: The Pension and Fiduciary Service clarifies procedural requirements to fiduciary hub staff on how to verify whether VA-derived funds of deceased beneficiaries must be returned to VA, including whether the fiduciary identified any valid will or heir to whom the funds are otherwise due.**

VBA Response: Concur. VA has an obligation to determine if an heir or will exists to ensure preservation of assets, which may be reclaimed by the Department pursuant to 38 U.S.C. § 5502(e) if the assets would otherwise escheat to the state.

On March 31, 2023, VBA's Pension and Fiduciary Service updated procedures in the Fiduciary Program Manual, Part II, 1.C.3.d (Attachment A). The update requires fiduciary hubs to: (1) review available records to determine whether an heir and/or will exists for a deceased beneficiary; (2) examine all documented reports and contacts with the beneficiary, fiduciary, and interested parties in the Veteran's electronic claims folder; and (3) update the Veterans Benefits Management System with an electronic note when the deceased beneficiary's funds must be returned to VA. VBA identifies if the fiduciary provided a valid will or identified an heir in determining whether funds must be returned to VA.

VBA requests closure of this recommendation.

**Recommendation 2: The Pension and Fiduciary Service consider reimplementing the procedural requirement to verify the disbursement of VA-derived funds to deceased beneficiaries' estates when a valid will or heir exists.**

VBA Response: Concur in principle. VBA has considered reimplementing procedural guidance to verify the disbursement of VA-derived funds to a deceased beneficiary's estate when a valid will or heir exists. Through its review of current statutes, regulations, and the Office of General Counsel opinion in VAOPGCPREC 5-98 (Attachment B), VBA did not identify any statutory, regulatory or other authority that specifically requires VA to supervise the disbursement of funds to the deceased beneficiary's estate. The fiduciary or administrator of the estate is responsible for disbursing the funds to the beneficiary's estate or heirs as appropriate.

While VBA may assume some residual responsibility after the death of the beneficiary to ensure, through a final accounting, that the fiduciary fulfilled their obligations to the beneficiary, VBA's responsibilities regarding protection of estate assets for the benefit of others (e.g., heirs), to include distribution of assets under State laws of intestate succession, generally cease with the death of the beneficiary. VBA does not have the authority to dictate the order of disbursement to heirs or how funds are distributed to heirs because disbursement of deceased beneficiary funds is subject to State laws governing interstate [sic] succession. Therefore, VBA does not intend on reimplementing the procedural requirement to verify the disbursement of VA-derived funds to deceased beneficiaries' estates when a valid will or heir exists.

VBA requests closure of this recommendation.

**Recommendation 3: The Pension and Fiduciary Service identifies existing or implements new electronic controls that allow VBA staff to track Fiduciary Program tasks, timeliness, and**

**workload related to the return of deceased beneficiaries' VA-derived funds to VA that would otherwise escheat to a state if not disbursed to heirs.**

VBA Response: Concur. VBA has concluded that existing electronic controls (i.e., tasks) are in place that allow fiduciary hubs to track for the return of funds to VA that would otherwise escheat to a state if not disbursed to heirs. Fiduciary Program Manual, Part II, I.C.3.e directs fiduciary hubs to establish a 30-day task for tracking the return of VA-derived funds to VA that would otherwise escheat to the State (Attachment C).

To ensure compliance with procedures, the fiduciary hub shall leverage its workload management plan to prescribe the specific task types for controlling and monitoring of tasks. M21-4, Fiduciary Administrative Tasks, Appendix F, Topic 2 prescribes that fiduciary hubs must ensure administrative tasks are processed in a timely fashion consistent with procedures. Further, M21-4, Chapter 2, Workload Management Plans, describes the principles of workload management such as controlling the inventory of claims and work items, which includes tasks. Workload reports are available and reviewed at regular intervals by field and central office staff. These reports are used to monitor the status of tasks and other workload related to the return of deceased beneficiaries' VA-derived funds that would otherwise escheat to a state if not disbursed to heirs. Pension and Fiduciary Service reviews fiduciary hub workload management plans as a part of site visit protocols to determine if the fiduciary hub has a structured and systematic approach in managing work to meet organizational goals.

VBA requests closure of this recommendation.

**Recommendation 4: The Pension and Fiduciary Service and the Office of Field Operations establishes a methodology and monitors workload to ensure the prompt return of deceased beneficiaries' VA-derived funds.**

VBA Response: Concur. VBA will update M21-4, Chapter 5, Topic 7, Strategic Oversight and Analysis Review (SOAR) procedures to address return of deceased beneficiaries' VA-derived funds. The update will require fiduciary hubs to complete a SOAR which is a formal review of an organizational element or an operational function of a hub. The SOAR will: (1) be completed no less than annually; (2) review compliance with procedures related to the return of a deceased beneficiary's VA-derived funds; and (3) identify existing or potential problems related to this workload and propose corrective actions, as well as identify best practices.

Target Completion Date: July 31, 2023

*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

---

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

---

<b>Review Team</b>	Lisa Van Haeren, Director Kelly Crawford Casey Crump Kerri Leggiero-Yglesias Bryan Shaw Mark Ward
--------------------	--

---

<b>Other Contributors</b>	Charles Hoskinson Clifford Stoddard
---------------------------	--

## Report Distribution

### VA Distribution

Office of the Secretary  
Veterans Benefits Administration  
Veterans Health Administration  
National Cemetery Administration  
Assistant Secretaries  
Office of General Counsel  
Office of Acquisition, Logistics, and Construction  
Board of Veterans' Appeals

### Non-VA Distribution

House Committee on Veterans' Affairs  
House Appropriations Subcommittee on Military Construction, Veterans Affairs,  
and Related Agencies  
House Committee on Oversight and Accountability  
Senate Committee on Veterans' Affairs  
Senate Appropriations Subcommittee on Military Construction, Veterans Affairs,  
and Related Agencies  
Senate Committee on Homeland Security and Governmental Affairs  
National Veterans Service Organizations  
Government Accountability Office  
Office of Management and Budget

OIG reports are available at [www.va.gov/oig](http://www.va.gov/oig).