

PREVENTING HARM TO VETERANS: EXAMINING VA'S OVERPAYMENTS AND DEBT COLLECTION PRACTICES

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PREVENTING HARM TO VETERANS: EXAMINING VA'S OVERPAYMENTS AND DEBT COLLECTION PRACTICES

Thursday, September 19, 2019

COMMITTEE ON VETERANS' AFFAIRS,
U. S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:23 p.m., in Room 210, House Visitors Center, Hon. Chris Pappas [Chairman of the Subcommittee] presiding.

Present: Representatives Pappas, Rice, Rose, Cisneros, Peterson, Bergman, Radewagen, Bost, and Roy.

OPENING STATEMENT OF CHRIS PAPPAS, CHAIRMAN

Mr. PAPPAS. The hearing will come to order. Without objection, the chair is authorized to declare a recess at any time.

This afternoon's hearing of the Oversight and Investigations Subcommittee is entitled "Preventing Harm to Veterans: Examining VA's Overpayments and Debt Collection Practices."

The Department of Veterans Affairs provides an array of important benefits to millions of veterans who have valiantly served our country. At times, the Department makes overpayments in administering these programs. Unfortunately, this Subcommittee has heard of too many cases in which VA's efforts to recover overpayments result in confusion, frustration, and significant financial hardship for veterans, and VA makes a lot of overpayments.

In some cases, overpayments have accumulated over years and can total thousands of dollars for individuals. The VA overpayments regularly create debts in excess of \$2500. For example, the Department has over 150,000 cases of such debts in its disability compensation program alone.

In fiscal year 2018, VA's Debt Management Center sent out over 600,000 debt notices for veteran benefits overpayments alone. These notices relate to \$1.6 billion of overpayments that VA is attempting to recover. Let me repeat that: \$1.6 billion in a single year.

These numbers clearly show that VA has a lot of work ahead to reduce the number of overpayments sent to veterans. Of course, receiving a notice of payment due can prove particularly burdensome for veterans on fixed incomes, recovering from a disability, or for those who are supporting families. For almost all veterans, receiving a surprise letter saying thousands of dollars are due in 30 days will be quite a shock to them. Working through a confusing bu-

reaucracy to figure out why and how to make repayments is just frustrating, and it is also a major challenge for anyone who is trying to make ends meet.

The causes of VA's overpayments are many. Life events such as the death or divorce of a spouse can affect a veteran's benefit. If the veteran's account is not updated accordingly, for instance, if VA doesn't process the change on a timely basis, an overpayment will be made each month until the record is updated. That's right, VA's own internal delays or mistakes can cause overpayments to veterans and trigger collections.

When VA identifies an overpayment, its Debt Management Center is responsible for working with veterans and other beneficiaries to recover funds. However, two other parts of the VA, the Veterans Benefits Administration and the Veterans Health Administration, also play a direct role in identifying and notifying veterans about overpayments and debts. As with many issues that the Department faces, the siloed nature of VA is a challenge in this instance.

Unfortunately, for many veteran's debt collection doesn't stop with the VA. The Department will ultimately transfer overpayments that it has not recovered to the Department of the Treasury, which may pursue more aggressive collection methods, and charge interest and fees on top of that debt.

All of these many steps and the number of players both in and outside the VA show why communication with veterans needs to be clear and effective. Yet veterans who have been overpaid will generally receive letters from multiple VA offices; these letters are often confusing and none of these letters give a complete explanation as to why the overpayment occurred and what the veteran can do about it.

I have heard this message loud and clear from my own veteran constituents, and my fellow Subcommittee Members have heard the same. Veterans themselves must piece together the full picture.

Veterans service organizations offer free support and help to veterans who receive overpayment notices from the VA, but even with this support it can be difficult to navigate the VA's debt collection processes. I look forward to hearing from many of these organizations and advocates during the second panel of this afternoon's hearing.

One point I want to explore is the Department's requirement in law to waive recovery of overpayments if the collection would be against, quote, "equity and good conscience." Obviously, if the collection of an overpayment would bring harm to a veteran on a fixed income receiving disability payments, something is wrong. The law was intended to ensure that collections only happen in an appropriate manner; however, as we will hear, there are many cases where the VA falls short of this goal. Of course, I think we can all agree that the fewer veterans that face collection from the Department the better. But even with efforts that are underway, the level of overpayment that VA makes and then attempts to recover from veterans continues to be staggering.

I look forward to a constructive discussion on the steps the Department will take to stop these overpayments in the first place, ensuring that no veterans are harmed by confusing collection processes.

With that, I would like to recognize our Ranking Member, General Bergman, for 5 minutes for any opening remarks he may wish to make.

OPENING STATEMENT OF JACK BERGMAN, RANKING MEMBER

Mr. BERGMAN. Thank you, Mr. Chairman, and thank you for holding another hearing on this very important topic.

Mr. Chairman, I do not need to tell you the dramatic impact debt can have on an individual. As a military commander, I saw troops who were ineligible to deploy because they were deeply in debt. An unexpected trip to the doctor or an emergency car repair can be very stressful for many families. Financial problems can also lead to professional problems and increase a person's risk of suicide.

To that point, Mr. Chairman, particularly since September is National Suicide Prevention Month, I want to note that I have along with Chrissy Houlahan introduced H.R. 3495, the Improve Act, that would expand the Department of Veterans Affairs' suicide prevention programs by supporting entities that provide and coordinate suicide prevention services for veterans and their families. I appreciate you cosponsoring the bill with me and hope that this Committee can consider it as soon as possible.

Today, however, we are here to talk about veteran debt that is owed to the VA, the agency's methods for collecting on the debt, and the impact of VA's collection efforts have on veterans. This is not a new issue for this Committee.

As the chair of this Subcommittee the last Congress, I held an oversight hearing in May of 2017 to review the VA's financial management program, including VA's debt collection practices. In addition, Representative Bost, former chair and current Ranking Member of the Subcommittee on Disability Assistance and Memorial Affairs, also held a hearing last Congress to examine how the Veterans Benefits Administration could effectively prevent and manage overpayments.

I sat on Mr. Bost's Subcommittee last Congress and what I learned was that VBA creates benefit debt in excess of \$1 billion, much of which is traceable to benefits processing errors or failure to process changes such as a dependency change in a timely manner. When processing delays result in a veteran being overpaid, VA creates a debt to recover the overpayment. Ensuring the dependency changes are processed appropriately and quickly seems like a straightforward way to avoid creating debt. However, when I asked the VA if they had a plan to get better, the response was that they were trying. Well, trying is not good enough.

I hope to hear VA has taken ownership of this issue and can point to concrete steps that it has implemented to reduce avoidable benefit-related debt.

It is important to recognize that not all veteran debt is due to VA processing errors. For example, medical debt owed by veterans is often debt created to collect copays from higher-priority group veterans who receive medical care and prescriptions for non-service-connected conditions. VA is also authorized to recover costs for treatment and prescriptions from third party insurers related to a non-service-connected medical condition. In fact, VA anticipates recovering \$3.9 billion in fiscal year 2020. Third party debt collected

by VA stays with VA and is used to provide medical care and services. I assume we agree that VA should continue aggressively collecting the third-party debt.

Mr. Rychalski, as the Assistant Secretary for Management and Chief Financial Officer, you oversee the Department's finances, including its debt-collection activities, it seems that you have made honest efforts to address the underlying problems making this process so onerous and burdensome for all parties involved. For example, I understand the VA is working on fixing the IT issues that prevent a myriad of VA legacy IT systems from communicating basic data with each other, such as changes to a dependency information or benefit eligibility adjustments, both of which could alter the amount of compensation the beneficiary is entitled to, and result in overpayment and subsequently debt.

Mr. Rychalski, I understand that your staff is put in a difficult place every day. They are charged with striking a balance between making compassionate consideration of a veteran's financial circumstances and a policy requirement for aggressive collection of debt owed to VA. I look forward to hearing how VA balances those interests. I also look forward to hearing the efforts your office has taken to identify trends in creation of veteran debt and to explore the strategies in place to reduce the amount of veteran debt that is the result of errors or untimely processing of claims.

Finally, I appreciate the expertise of our VSO partners. The front-line perspective they bring to this discussion, gleaned through decades of service to veterans and their families, is invaluable, and I thank them all for their candid testimony.

With that, Mr. Chairman, I yield back.

Mr. PAPPAS. Thank you.

I will now recognize our first panel. This afternoon, we have Mr. Jon Rychalski, Assistant Secretary for Management and Chief Financial Officer of the Department of Veterans Affairs. Mr. Rychalski has served in this role since December of 2017. Accompanying him this afternoon will be three additional representatives from offices across the Department. First, we have Mr. Joseph Schmitt, Executive Director of the Department's Debt Management Center. We also have Mr. Charles Tapp, Chief Financial Officer of the Veterans Benefits Administration. We also have Ms. Susan Reed, Executive Director of Revenue Operations in the Office of Community Care at the Veterans Health Administration.

Mr. Rychalski will provide testimony for the Department and all of the VA witnesses will respond to questions.

The Subcommittee thanks you for appearing today, Mr. Rychalski, and you have 5 minutes for your opening comments.

STATEMENT OF JON J. RYCHALSKI

Mr. RYCHALSKI. Thank you very much. Chairman Pappas, Ranking Member Bergman, distinguished Members of the Subcommittee, thank you for the opportunity to discuss VA's overpayments and collection processes. Because you have introduced my colleagues, I will not go through a second round of introductions; I will get right into my testimony.

Overpayments or debt can have a devastating impact on the lives of veterans, and this can be exacerbated by poor management prac-

tices that work against rather than for the veteran. From my oral statement, I am going to give you my candid assessment of where we are with debt management, the good and the bad, and what you can expect in the future.

My assessment is that the VA's debt management structure processes evolved over many years in a fragmented manner that was designed for VA convenience and to comport with antiquated VA systems as opposed to minimizing the negative impact on veterans. At times, debt workload has been set aside while resources were redeployed to higher priorities like processing original claims for compensation and pension. No one disagrees that legitimate overpayments must be collected, but the mechanics of how that happens make all the difference, and we are too often fragmented, uncoordinated, and highly variable in our processes. Frankly, we have a way to go before we can declare success.

Fortunately, we have a highly motivated Secretary who has made customer service a top priority, so I have the mandate.

First, I want to highlight where I see our greatest deficiencies. Debt management is still very fragmented by administration and even within the administrations. Veterans cannot get one site-picture of their debt and they still receive multiple communications, too clunky and too confusing. Despite computer matching agreements, we are not anywhere near preventing veteran debt. Processing time lags exacerbate the situation. Our mission must be to prevent debt creation.

We don't have robust online customer relationship management capabilities; we have some, but nothing close to the extent that we need.

Acknowledging our frailties, I would like to highlight where we have made progress, and I believe that we have made some good progress.

First, VBA has used the National Work Queue and establishment of non-rating resource teams to dramatically reduce and manage debt-related workload inventory. The Office of Community Care now has special programs to help high-risk veterans who may be struggling to pay VA medical copayments. They work with facility suicide prevention coordinators to offer high-risk veterans financial assistance that best meets their needs.

We are using computer matching agreements more effectively, like Social Security death matches weekly, and taking steps to increase DoD data feeds for Reserve duty drill pay from annually to monthly by mid-2020. We prospectively notify veterans from these matches to let them know there is a potential overpayment, and we take action as soon as possible to minimize the size of the overpayment.

We have made notable progress on an electronic solution for dependency changes. Veterans changed their dependency over 400,000 times in fiscal year 2019 and about 80 percent, or 320,000 transactions, were completed via an electronic means that resulted in an immediate system update.

We worked with industry professionals to overhaul a number of debt notification letters, so they are more user-friendly and easy to understand, and we are in the process of working with VSOs and others to rewrite even more.

The Debt Management Center instituted important changes, like automatically defaulting to a 12-month repayment plan for compensation and pension debts, including drill pay-related debts, rather than the previous practice of offsetting all overpayment as soon as possible. The response from affected veterans has been overwhelmingly positive and appreciative.

Most importantly, we are capitalizing on the Secretary's customer service priority and have partnered with the Veterans Experience Office to dramatically improve customer service through their many training initiatives, including Own the Moment and Veterans Journey Maps.

Going forward, here is what I would like to accomplish in the next year. First, have the capability for veterans to view debt online. We expect medical debt to be available in the next 3 to 4 months, and compensation, pension, and education debts sometime in mid-2020. This is still not where I would like to be with everything in one place, but it is a big step in that direction.

I would like to consolidate and standardize debt management and notification processes within each administration to decrease the amount of letters and reduce confusion. I would like to continue to reduce the inventory of debt-related workload and greatly reduce the processing time for actions like waivers. I would like to increase our utilization of our Veterans Experience Office and VSOs to improve the effectiveness of our engagement with veterans.

Within the next 3 years, I would like to consolidate all debt into a single portal, giving the veteran the ability to see all debt in one location, to make payments, and communicate with VA staff regarding the debt; I would like to have a single, coordinated point of issuance for all debt letters and all electronic debt notifications; and, finally, I would like to better leverage computer matching agreements, and identify new data sources and methods to prevent the creation of debt.

I look forward to working together and appreciate your continued collaboration in support of the Department. There is significant work ahead of us and we look forward to working with you as we improve our service to America's veterans.

Thank you. We are now ready to take your questions.

[THE PREPARED STATEMENT OF JOHN RYCHALSKI APPEARS IN THE APPENDIX]

Mr. PAPPAS. Well, thank you very much, Mr. Rychalski, for that statement. I know Members have questions, but I would ask the unanimous consent of the Subcommittee to recognize Miss Rice for a few minutes to take make an opening statement and take that out of order.

Seeing no objection, Miss Rice, you are recognized.

Miss RICE. Mr. Chairman and Mr. Ranking Member, thank you very much for this courtesy.

It is concerning to me the number of the overpayment debt collection cases that I have seen in my district have involved elderly veterans. I am just going to give you the example of one pretty stark example. We had the daughter of one of my constituents reach out to my office for assistance on behalf of her father, who was a 94-year-old veteran. He was informed that he owed VA thou-

sands of dollars for overpayments. This gentleman was on a fixed income and relied upon his VA benefits, so this created a real threat of financial hardship for him at obviously a very vulnerable age.

In 2011, his wife had passed away, and he informed the VA at that time about the death of his dependent, so his benefits would be adjusted. It was not until 7 years later, 2018, that he received a letter from the VA, notifying him that the VA had made the dependency change then and that his benefits would be decreased to retroactively account for that entire time period. Even though the veteran had informed the VA of his dependent's death and 7 years had passed before VA actually processed that change, he and his family are now burdened with this debt.

Now, in addition to the processing delay, the information provided to the veteran and my office once we got involved was incredibly limited and confusing. There was no explanation for how the VA had determined the total amount that he owed and the veteran's request for a waiver was denied because it hadn't been submitted within the short timeframe veterans have to dispute a debt.

I mean, I hope that everyone on this panel sees the ridiculousness of this situation. This 94-year-old veteran, who served his country and played by the rules and informed the VA of the passing of his wife, to be hit with this financial burden when he can't—I mean, he can't pay for his life if they are going to take this money away from.

So my question is, why would it take 7 years for the VA to process a dependency change? It is not as if there was a delay in the reporting; the information was in the possession of the VA. And why is the financial burden shifted onto the veteran when they did nothing wrong?

Mr. RYCHALSKI. So the first thing I say is that is so regrettable, I mean, there is no way I could justify what happened there. It should never take 7 years, I mean, the whole thing. And, to be honest, in my current role, you know, I have come across similar stories. So that is a complete failure on the part of the VA.

What I would say, though, is that we you know, sort of strike a balance between being good stewards of the taxpayers' dollars and following the law, and also trying to protect veterans. In a situation like that, it shows all the things that we need to improve with the VA. I mean, where we want to get is, we, you know, identify the debt early and work with the veteran if it has to be repaid. We have situations where you have people making small payments, small monthly payments, the debt will never be paid off, right? But if we get them to a point it is something they can afford, we are complying with the law, that is where we want to be in compassionate debt counseling.

I mean, I hope those are the exceptions. I know stories like that myself, but it is absolutely regrettable. There is no way I could justify what happened there, not at all.

Miss RICE. Well, I appreciate that answer and I would like to be able to work with you, because there is simply—I mean, I think this case highlights exactly what you said, which is when rules are put in place and they are not followed by—I mean, the veteran is following the rules, doing everything that they are supposed to by

the book, and then 7 years later they are saying, okay—first of all, how are you even coming up with the dollar amount that is owed?

Mr. RYCHALSKI. I could tell you, as you were explaining that story—not to break in, I apologize—

Miss RICE. Yeah.

Mr. RYCHALSKI [continued]. —it made me think of a similar story that I heard of, you know, in preparation for this, a similar story with an older veteran, some wacky things that the VA did that really caused problems for this veteran, this veteran was about 100 years old, and that is what we are trying to get away from and that is sort of the challenge we face. I mean, I think we are making some progress, but there is no way you can justify situations like that, it just defies logic.

Miss RICE. Well, I appreciate your willingness to at least—what I would like to do is help work with you to try to address the situation for this gentleman, because obviously he depends on his benefits from the VA to support him as a 94-year-old man.

Mr. RYCHALSKI. And we want to hear about those cases, we want to work with him. Any case that you have like that, any questions, if they can come to us, I really feel like we could—we can work with the veteran and we can get them to a place that, you know, it is something they can afford, or whether it is a waiver or compromise or, you know, getting rid of the debt, it is getting those before they get to that point.

Miss RICE. Yeah.

Mr. RYCHALSKI. Yeah. Preventing them in the first place, but if they happen, we want to know about it.

Miss RICE. Well, I feel in your hands, obviously, I am hoping that these issues that are highlighted just in this one anecdotal story can be fixed—

Mr. RYCHALSKI. Yes.

Miss RICE [continued]. —now that attention is brought to it.

Thank you very much and I will be in touch with you.

And, Mr. Chairman, again, and Mr. Ranking Member, thank you very much for taking me out of order. I yield back.

Mr. PAPPAS. Thank you. I will now recognize myself for questioning for 5 minutes.

Mr. Rychalski, thanks very much for your opening statement. As we know, this has been a large and consistent problem for years. The \$1.6 billion figure that I cited here this morning has been pretty consistent over the last several years. So preventing overpayments has got to be a focus as part of the solutions that you outlined today. VA has a long way to go in many ways, including modernizing its accounting software, creating that portal that you spoke about, that has not yet been completed, and there should be some steps that can be taken to prevent these additional overpayments from occurring.

So I am wondering if you could talk a little bit about the structure of VA and how it is set up to address such a big systemic challenge like this. Ultimately, who is responsible for reducing these overpayments, who is in charge?

Mr. RYCHALSKI. So, ultimately, I am responsible for reducing the overpayments. And with respect to the structure, sort of as I described in my opening statement, we are highly federated, and I

think that we have a lot of people with good intentions working in a somewhat antiquated system in a highly bureaucratic organization. Where we want to be—and the other thing I would say about that is, we don't make use of all the potential sources of data and intelligence that we could to identify situations like that.

That said, in my own mind, I thought of, you know, areas how could we eliminate some debt, and I will give you an example. I at one point was an active Reservist, I had a VA disability, and so in some cases we are not going to be able to, I think, prevent the debt, and I will give you an example. I was an IMA, an Individual Mobilization Augmentee, and there would be times I would decide fairly soon that I was going to do my IMA days like maybe tomorrow or the next day or even next week, there is probably no way the VA is going to know that. So some of this is going to happen.

The thing we need to do is sort of bring this together to where we are using all of the intelligence that we have available to us, whether it is their computer matching agreements, other information in the VA, to try and anticipate and prevent, and we are a ways from doing that.

So what we can do now is try and, you know, expedite things like the drill pay matching, getting dependency notifications in the system as quickly as possible, I think those are the near-term things to try and bring this down. Longer term, we need to become much more sophisticated in how we go after the information that is available out there and engaging with the veteran.

Mr. PAPPAS. Well, I appreciate those comments. One of the things we need to insist on is a timetable for this. Can you give us some specific dates on when you will hit those marks?

Mr. RYCHALSKI. I can. As I mentioned in my testimony, so these are sort of my goals for the year, and I am very comfortable that we can meet these. There are some stretch goals we have as well, but in the near term, the online notification, online availability of statements, I mentioned that for VHA we expect in the next 3 to 4 months a beneficiary, a veteran, can go online and see what they owe to VHA for medical copayments, things like that.

For VBA, electronic notification. This is where you can sign up and receive things electronically via email, or you can still get it via mail. But we think by mid-2020—and by that, I mean mid-fiscal year 2020, so March, April timeframe is what we are looking at for that.

With respect to drill pay, this is another big area. It used to be back in the day and when I was in DoD, when I was a drilling Reservist, they did that annually. They would get a download from the Defense Manpower DMDC Data Center, they would do an annual reconciliation, they would do a batch mailing out to veterans. So, over the course of that year, that accumulated, right? Well, now they get real-time feeds from DMDC and they are in the process of working this. They can do monthly matches and they can take it from a year to the month that the veteran did their drill pay. I can't give you an estimate of the magnitude of what that is going to mean, but I think it is going to be substantial, and so we expect that also in mid-2020 to be in place.

Those are our big initiatives for the next year.

Mr. PAPPAS. Well, the clock is running and each day that these reforms aren't realized is another day that a veteran is overpaid and potentially put in dire financial straits as a result.

As you mentioned in your opening statement, processes have evolved over time in recent years without regard for impact on individual veterans. And under current law, as you know, you are not supposed to pursue overpayments if the recovery would go against equity and good conscience. So can you comment on that in view of what VSOs and our offices have discovered about how some individual veterans have been treated?

Mr. RYCHALSKI. You know, I went to—I am going to defer that question to Mr. Schmitt, because I think he—he works that day-to-day at the Debt Management Center and I believe he has got a better perspective on compassionate debt collection and the things that they do, how they go about this.

Mr. SCHMITT. Thank you, sir.

Thank you, Mr. Chairman. One of the things that we are doing—I will just cover a series of things that the VA's Debt Management Center really is doing. Let's just talk real quick about outreach. We work with the VSOs across the United States to attend all the major conferences to make sure we can get ahead to prevent debt. So we work with the veteran's service organizations and school certifying officials. This last year, DMC reached 10,900 VSO's and SCO's and of those people who reach millions of veterans individually, we have reached out with them, we have given them presentations. And thanks for their partnership, we often get recognition for those efforts to say, hey, here is what we are doing, here is how you can avoid becoming indebted to the U.S. Government.

For first thing it is when we think about education, how do we think about when you change your rate of pursuit or you drop a class. If you do that before the timeframe, that results in an overpayment. Well, let's not do that. Or it can also help school certifying officials when they go in and sign up for class, much like I did with my Post-9/11 GI Bill, we are able then to understand that, hey, if you drop a class, this is what results.

So it is really education on the front end that really helps us out.

In terms of the compassion piece, when it comes to the VA's Debt Management Center as delinquent, we've done many things in the last year—or last 2 years since we reported before this panel. We no longer take everybody's entire benefit check; we have an automatic 12-month repayment plan. And in those cases when a 12-month repayment plan doesn't work, we work with them individually on a financial plan that works for them. So we do that in concurrence with them.

Our debt counselors who work with veterans every day go through a 13-and-a-half-week academy, they are highly trained in understanding at-risk and veterans in general, and 44 percent of our workforce are veterans.

Those are just to name a quick few, but we are doing a lot more in terms of compassionate care towards veterans. And we have debt counselors, they are not out there doing proactive calling, they are actually listening to their concerns, working with them, creating payment plans, and then validating. If it is a waiver or a

compromise, let's look at the validity of this debt, and in many cases, if we find it is not, we can go ahead and refund that money.

Mr. PAPPAS. Thank you for those comments.

Mr. SCHMITT. Yes, sir.

Mr. PAPPAS. I want to now turn things over to the Ranking Member, General Bergman, for 5 minutes.

Mr. BERGMAN. Well, again, thank you, Mr. Chairman, and this is an important hearing. In fact, as I sat and I looked with the chart that was up here before at the 1.7, or whatever it is, billion dollars, reminded me of my first term on the budget committee where we were given the stat that every year, so annually, the U.S. Government pays out roughly 150 billion, with a B, dollars in improper payments.

So when you think about the overall improper payment spending of the Federal Government and this is not a very large percentage of that, but I will tell you what, if you are one of those veterans, it is a big deal. That \$149 billion really don't—you know, that is not going to affect you, but this is a big deal.

So, again, thank you for what I have seen already in the progress that we are trying to make here.

Mr. Rychalski, dependency changes, such as a divorce or a change in the number of dependent children, are another source of benefit debt. In your testimony you state that veterans can go online, send changes through regular mail, or call VA to initiate a dependency update. These options result in immediate changes to a veteran's disability compensation award, limiting the chance for an overpayment. In DAV's written testimony, however, they suggest that e-Benefits only processes the addition of dependents and not the removal of dependents.

Could you or somebody, you know, on the panel clarify what dependency changes e-Benefits can or cannot process?

Mr. RYCHALSKI. Yeah, and I am going to ask Charles Tapp to take that question. I believe it has to do with the requirements, the documentation requirements associated with removing a beneficiary. So it is not a matter of the functionality of the system, it is more a matter of the requirements associated with it. But Mr. Tapp, I think, can help us.

Mr. TAPP. Yes. Thank you for that question.

So I just confirmed again just this morning as far as e-Benefits, it is true you can add, and add spouses and dependents, as far as dependent children, and you can also remove a spouse, but you cannot remove a child. Because of the due diligence that goes along with it, it requires more of a manual process to move that forward.

Mr. BERGMAN. Okay.

Mr. RYCHALSKI. Can I make just one clarifying question? And this is sort of where we strike the balance with how quickly we do something and how much due process we give someone, and that is probably something you are familiar with as well. There are some things that we could do faster, potentially, but we may limit the individual's ability to dispute a debt or due process.

I want to just give you one vignette—and I apologize, I will do it very quickly—but we had an initiative a while back—and Joe Schmitt can talk more about it—in areas that were hit by a natural disaster. We thought, you know what, those poor people don't need

to be worrying about their debt or paying debt, and so we are going to suspend the debts for everybody in this area affected by this natural disaster. What happened was, a lot of people there did not like that. We did it proactively, we didn't notify them. We said, hey, your debt is suspended, you don't have to worry about it until everything is taken care of. We got a lot of negative feedback from people that said, I am not really affected by it, I want to keep paying this, don't ever do that again. So now we have to sort of reach out.

So I only throw that out for your consideration that sometimes we can do things too quickly or we think we are doing a good thing and people are like, no, not so much.

I apologize.

Mr. BERGMAN. No, that's okay. Well, you know, you try to do the right thing, then the people informed you it wasn't the right thing for them, but your heart was in the right place.

Mr. RYCHALSKI. Yeah. So we sort of hit and miss, but we learn from it.

Mr. BERGMAN. Okay. Mr. Schmitt, VA's regulations provide that VA will take, quote, "aggressive action," end quote, to recover debt, but also provide that when a veteran requests a waiver, VA is to apply an equity-and-good-conscience standard, that is what you do. Would you please explain the DMC's role in the waiver process and, if you know, how the equity-and-good-conscience standard is weighed?

Mr. SCHMITT. Yes, sir. Thank you for the question.

I don't own the waiver process. We are initially referred with from the veteran to pass that over to the Committee on Waivers and Compromises with Veterans Benefits Administration, so I will let him talk to the waiver process, but I would like to talk to you about when a debt comes to the VA's Debt Management Center and how we really follow through on equity and good conscience.

And so every time a veteran contact us it is roughly at the point of 60 days post-initial notification. We work with them with our VA's Debt Management Center debt counselors to listen to their stories and to apply whether it be a waiver, a compromise of the debt, whether it be an automatic repayment plan of 12 months, there is no further verification of income needed for those.

But for those people who are even in further dire need who have a debt that was unbeknownst to them or came to them as their dependency claim, in those cases we talk with them, provide a financial status report, and then we give them extended repayment plans, commensurate with the time that we had mentioned earlier. I think Miss Rice had mentioned, Congresswoman Rice had mentioned that there had been some time in between when it was initially submitted and came to fruition. In those cases, the VA's Debt Management Center makes a payment plan commensurate with the time also it took, in many cases we can have payment plans in excess of 10 years.

Mr. BERGMAN. Okay.

Mr. SCHMITT. Now, for those folks, the American taxpayer may say that that is a long time, but the veteran, and also being a veteran who was \$1.3 million indebted due to saving my son's life, I thoroughly understand the weight of what that requires, and I do

my best or our team does our best to really make sure we are taking care of them.

Mr. BERGMAN. Thank you.

I see my time has expired, Mr. Chairman. I yield back.

Mr. PAPPAS. Thank you.

I would now like to recognize Mr. Rose for 5 minutes.

Mr. ROSE. Thank you, Mr. Chairman and Ranking Member both for your leadership on this extraordinarily important issue.

As a veteran, I understand in critical issues like this, there but for the grace of God go I. So I am really sick and tired of people thanking soldiers for their service and then screwing them over, and I know you all agree with me.

So I would like to tell you the story of just one veteran in my community, Staten Island and South Brooklyn. We really pride ourselves on being a place that looks out for vets, as I know many communities in the country do. So I was shocked when I heard of a case, though, in my district resulting in nearly \$18,000 in debt due overpayment for just one veteran. This retired military veteran receiving disability benefits notified the VA of his pending divorce, so that they could make appropriate changes. And in fact, a short while later, the VA confirmed—confirmed—that they received an electronic alert indicating that the divorce was pending.

After doing his due diligence, this veteran, though, thought he was in the clear, thinking any fluctuation in benefits was due to a change in COLA, until nearly 10 years later this veteran finds out that, because the VA did not have the actual papers received via snail mail to confirm this divorce, he incurred \$18,000 in debt. Now he has had large deductions to his monthly benefits and now he needs to hire costly attorneys for an issue that he thought was resolved.

This case is not unique. Can you imagine someone making a mistake and then you have to hire lawyers to help solve it? Greatest country on earth and we have to do this to our veterans.

So my first question to you is that, can you commit today that you will work with my office and me personally so that we can resolve this issue, so that this veteran, who served in uniform so we all could enjoy the freedoms that we enjoy today, doesn't have to pay high-priced attorneys to fight his own country.

Mr. RYCHALSKI. Yes, absolutely.

Mr. ROSE. Okay. Thank you very much.

What is going on with this snail mail thing? Why, if you get an electronic alert—have you heard problems like this before?

Mr. RYCHALSKI. I have heard similar stories, yes. And I defer to Joe and Charles as well for—I imagine they have heard of similar situations where a veteran has notified the VA and we haven't processed it in a timely manner, missed it, and they—as I mentioned to Congresswoman Rice, it is completely regrettable and, one of the things that we are looking at, how can we make this more failsafe.

In my own mind, one of the things to do is to have sort of multiple venues. We do use snail mail, but having an online presence—

Mr. ROSE. But you admit that it is on you guys? You admit that you make—

Mr. RYCHALSKI. We are notified and we don't—absolutely, 100 percent, I absolutely agree with that.

Mr. ROSE. But he is the one bearing the consequences of the mistake.

Mr. RYCHALSKI. And, to your point, it sounds to me and this is a situation, he did get screwed, there is no question.

Mr. ROSE. So we are working on this issue, though. That is—

Mr. RYCHALSKI. We are working on it—

Mr. ROSE [continued]. —a positive.

Mr. RYCHALSKI. —yes. The issue that you are describing we are working on. We are trying to find ways to prevent this from happening, yes.

Mr. ROSE. Okay. Is there any type of forgiveness for legal fees that veterans have to incur so as to fight the VA Department?

Mr. RYCHALSKI. I mean, I think I would have to take for the record. That is probably a legal matter and I don't know it well enough, but I will take it for the record and get you an answer.

Mr. ROSE. Okay. Anyone else, anything else to add about this snail mail thing?

Mr. TAPP. Yes, sir. So, based on the timing that you mentioned as far as snail mail, there have been improvements in our processes as far as in-taking mail and scanning the mail, so that it moves through our system much more quickly. Because you are right, 10 years ago, snail mail and getting to the right place at the right time was absolutely a problem. But, again, in the more recent history over the last couple of years, we are scanning the mail, ingesting the information into the e-folder for a military member or a veteran, so that we can process those claims a lot more quickly.

Mr. ROSE. Anyone else? All right. So I look forward to working with each and every one of you, so we can resolve this case without high-priced New York City attorneys being involved.

Thank you again.

Mr. PAPPAS. Thank you, Mr. Rose.

I now would like to recognize Mr. Roy for 5 minutes.

Mr. ROY. Thank you, Mr. Chairman, I appreciate it. I apologize for being late. As many of my colleagues, we were voting and then taking meetings off the floor and so forth. So here we are.

I am glad that I am privileged to serve on this Committee where at least on a bipartisan basis, I think we tend to actually try to work forward and get things done together, because I don't know if there is any place in the world that has more activity and less productivity than this complex, as we run around from committee to committee and people wonder what we are doing. But at least here in the Veterans Committee, we are at least trying to accomplish some things, so I appreciate you all being here.

I have missed obviously parts of it and hopefully I am not being too repetitive, but I do, having read through the testimony that was provided, have a question for Mr. Rychalski, if I might.

In your written testimony, it states that the VA's Central Benefits Communication Management Program processes roughly 40,000 letters a day; does that sound right?

Mr. RYCHALSKI. Yes, that sounds right.

Mr. ROY. And that you are looking to move towards an opt-in electronic notification system—

Mr. RYCHALSKI. Correct.

Mr. ROY [continued]. —is that right?

Mr. RYCHALSKI. Yes.

Mr. ROY. And so if you just kind of do back-of-the-envelope on that in terms of cost, you know, 40,000 letters, you probably get a bulk discount rate on postage, whatever that rate is, but times 365 days, I mean, you are at 8 million bucks or something, depending on what the postal rate might be. So an annual cost of about \$8 million or something on postage alone. Have you estimated what the cost savings of moving to an electronic notification system could be?

Mr. RYCHALSKI. I have not specifically, and I don't know that we have done a cost estimate. I also don't know factually if we could completely—and maybe we could—completely stop the regular mail if they opt in. So that is actually a very fair question, good question. I would have to sort of get back to you—

Mr. ROY. Okay.

Mr. RYCHALSKI [continued]. —what we can do and what cost savings, but I agree with you, there could be substantial cost savings.

Mr. ROY. Okay. That would be great, I appreciate it.

And then, Mr. Schmitt, I also serve on the Technology Modernization Subcommittee, and I have been closely looking at and reviewing the VA's Electronic Health Record Modernization effort, that is a thing I hear a lot about in the district. We have got Audie Murphy in San Antonio and then we have got, you know, 80,000 veterans who go to the VA in Kerrville. And so, you know, I hear a lot about as we are moving to MISSION, you know, and the follow-up to Choice about how getting this right is critical to those things functioning. And so I think that is really on the hearts and minds of the veterans that I talk to. They go, well, we love the idea behind MISSION and what is happening, at least what we hear, we loved conceptually the idea of Choice, so we are hoping MISSION will fix some of those things and move it in the right direction. But this question, right, about having records and then how that works for them of bouncing in and out and going to a doctor and then coming back and all of that.

So my question is, it is my understanding that the new—and I remember a hearing we had not too long, the new Cerner health record system includes debt management capabilities in block 2 of the implementation timeline, and what improvements to the billing and debt management process does the new platform bring and what challenges does it present?

Mr. RYCHALSKI. I think that would be a question better for Susan Reed.

Mr. ROY. Sure, great. Yeah, I'm sorry about that, that would be great.

Mr. RYCHALSKI. Yeah.

Ms. REED. That's okay. Thank you for that question.

At this point, I think it might be too soon to tell. That is definitely something that we are looking at as we go through our planning for the rollout of the EHR.

I think the important thing that we want to keep in mind is that we want to make sure the veteran is in the center of that implementation.

Mr. ROY. Okay, thank you. I appreciate it. No more questions.

Mr. PAPPAS. Thank you.

I will now recognize Mr. Cisneros for 5 minutes.

Mr. CISNEROS. Thank you, Mr. Chairman. Thank you all for being here today.

You know, it is stated, or I read that the VA will not charge a veteran for the Veterans Administration's own mistake; is that true?

Mr. RYCHALSKI. If there is an overpayment, even if it is the VA's fault, legally, I am obligated to get repayment on it. So I think it is not—it depends on your definition, but not 100 percent true. If we make a mistake and overpay someone, I am legally obligated to try and collect that debt.

Mr. CISNEROS. Right, but there is a waiver process; is that correct?

Mr. RYCHALSKI. That is correct. And what I would say about the waiver process, and my colleagues can correct me, but the numbers that I saw is about 50 percent of the waivers that are submitted are approved—is that—yeah, I think so. Yes, there is a waiver process, about 50 percent are approved.

Mr. CISNEROS. So what is the process for waivers and how does one go about—who reviews these waivers and how do they get approved?

Mr. RYCHALSKI. So I am going to ask either—maybe Charles Tapp is probably the best, since they own the waiver process, to sort of walk you through the life cycle.

Mr. TAPP. Yes. So when we have a situation where a veteran comes forward and requests the opportunity for a waiver or compromise, basically we have three centers, two that deal with compensation and pension and one with education. Basically, they submit their case, that includes a financial worksheet, and basically, we go through a checklist to evaluate the ability for a veteran to actually repay that debt based on their financial situation or circumstances.

This fiscal year, we have had 27,000 cases that have come in and 58 percent of those have been approved. But, again, it is based on their financial ability to make a repayment.

Mr. CISNEROS. So, Mr. Schmitt, you talked about a 12-month repayment plan, is that only for in regard to the GI Bill or is that regarding all overpayments?

Mr. SCHMITT. Yes, sir, it is in regard to compensation and pension debts alone. And so for those compensation and pension debts that are out there, we offer an automatic 12-month repayment plan.

Mr. CISNEROS. Okay. So, when I was in the Navy, one of my—actually, it was my first job that I did, I was a disbursing officer, so I was in charge of paying everybody. And, kind of similar, when somebody would get overpaid, the Government always takes their money, and there are no questions asked, it doesn't matter, they don't really think, they just take back, and they would at times take a person's entire paycheck. We always worked with them in that situation to try and make sure that they had the funds, and I always had the ability to go and to do that, to make that happen.

But, you know, with these situations right now, when you run into someone who has an overpayment and your situation, you said you are legally obligated to take that back. And even though it may be in a situation where there is a payment plan, it has always been my—at least when I was doing it there and I am sure it is probably still the standard now, that the Government is always going to go and take their money first. So, to get into this payment plan, is the money taken away first and then there is a process to kind of pay it back, or what is the process to get into this payment plan?

Mr. RYCHALSKI. Yeah, so I think it is automatic. What happens is, the veteran is notified of the potential existence of this debt and they are asked to—and they are given some options, and we can debate whether the letter is clear or not. I mean, I can tell you, I have read the letters, they are not that clear, to be honest, and we are going to work on that. But over a series of letters, we ask them to contact us. If they contact us within 30 days and they have a dispute or they want to waive it, or a compromise or something like that, they don't pursue collections. So they have some time there to sort of figure out what to do. If we don't hear from them, eventually what happens is—and they are what we call an active client where they have, you know, a VA payment going out, eventually that will be decremented.

And what Joe was saying is, instead of doing it all at once like, you know, I am used to military pay doing, they will do that over 12 months. The veteran can contact us and let us know that even that 12 months isn't going to be enough. The key is if the veteran sort of gets engaged early. The obligation on us is to get the veteran notified, if that answers your question. But it doesn't come out all at once, it comes out over 12 months, unless we work out something.

But there are a lot of options for the veteran, whether it is not just a waiver, it could be a compromise to pay less, a dispute to have the debt set aside entirely.

Mr. CISNEROS. All right. Thanks for your testimony.

I yield back my time.

Mr. PAPPAS. Thank you, Mr. Cisneros.

Well, we are hearing bells, which means we have some votes to tend to. We appreciate the panel for being here today. So, Mr. Rychalski, Mr. Schmitt, Mr. Tapp, Ms. Reed, thank you for joining us. We hope to look for ways to continue this conversation in the coming months and years to stay on top of this situation. As I mentioned, our offices continue to receive lots of calls from individual veterans who are experiencing overpayment and we need to make sure we are addressing this situation in a way that doesn't put them with a significant financial burden moving forward. We appreciate your commitment to that.

And we will pick this up after votes with our second panel. So, with that, the Subcommittee stands in recess.

Mr. RYCHALSKI. Thank you so much.

Mr. PAPPAS. Thank you.

[Recess.]

Mr. PAPPAS. The hearing will come to order. We are back and we are now joined with our second panel of witnesses. I would like to introduce them here today and thank them for joining us.

First, we have Mr. Shane Liermann. Mr. Liermann is the Deputy National Legislative Director for Benefits at the Disabled American Veterans. The Subcommittee thanks you for appearing today.

And, Mr. Liermann, we will turn it over to you for 5 minutes.

STATEMENT OF SHANE LIERMANN

Mr. LIERMANN. Thank you. Chairman Pappas, Ranking Member Bergman, and Members of the Subcommittee, on behalf of DAV's more than 1 million members, we thank you for the opportunity to present our views at today's hearing. Our full written testimony addresses our recommendations for debt reforms regarding drill pay and incarcerated veterans; however, this afternoon I will focus our recommendations for dependency status change and debt collections.

Mr. Chairman, we understand that in an imperfect claims processing system there will be overpayments, and it is a reasonable expectation that recipients of such overpayments are required to repay that debt. However, we believe that a significant portion of overpayments can be reduced or avoided. VA's lack of timely action causes additional overpayments, and that places additional financial hardships on veterans and their beneficiaries.

One of the most common ways that an overpayment is created is when veterans report a change in their dependency status. Veterans in receipt of VA compensation at 30 percent disabling or higher are entitled to additional monthly benefits based on the number of their dependents. Veterans are required to advise VA of a change that will remove a dependent, which will result in a reduction in their monthly compensation. But if VA delays the processing of that request to remove the dependent, it creates an additional amount of debt that the veteran or the beneficiary is responsible to repay.

Mr. Chairman, VA's adjudication manual lists all dependency actions as non-rating work end products, or EPs. Non-rating work EPs are not considered part of VBA's backlog management and reporting of days pending for processing. This means that non-rating work EPs are a low priority. In fact, currently, there are over 211,000 pending claims to add or remove dependents within VBA.

The VA OIG report of September 2007 indicated an estimated \$50 million in overpayments were avoidable, and found the main reason for the delay in processing dependency status changes is due to its classification as non-rating claims. We have two recommendations to assist with these delays in processing dependency claims.

First, assign dependency claims as rating work end products. This will require VBA to consider all dependency changes as rating work. While this will increase the number of pending claims by assigning a rating work end product code, it will reduce the additional amounts of overpayments that are created by VA's lack of timely action.

Second, allow veterans and beneficiaries to remove dependents from their award electronically in realtime. Through VA's e-Benefits system, veterans can electronically add dependents, and VA will usually make the additions within 48 hours. However, there is not an immediate way to remove dependents electronically. To re-

duce the additional amounts of debt created by not prioritizing these claims, VA must allow veterans to remove dependents from their award as easily as they can be added.

In terms of reforming the overall debt collection process, I want to highlight two of our recommendations. One, reduce the amount recouped or offset from monthly compensation checks. When VA recoups the entire monthly compensation check until the debt is repaid, or even in 12 months, this creates a serious financial hardship, and can actually cause more harm to the veteran and their family by collecting it through their monthly compensation. We recommend that VA reduce all offsets and recoupment to 25 percent or less of their monthly payment.

Number two, waive all amounts of debt created by VA's lack of timely action. As noted, large amounts of additional overpayments are created by VA's low prioritization and lack of timely action, as was noted earlier this afternoon. The veterans should be responsible for the amount of debt they create only and not being taxed with the additional amounts created by VA's lack of action.

In closing, additional overpayments created by VA and the resultant debts often cause severe financial hardships for veterans and their families. In many cases, the burdens of repaying these debts can negatively impact a veteran's quality of life, put them at risk of homelessness, and affect their access to VA health care. We must reform VA's debt policies to ensure we protect veterans from additional harm.

Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions you and the Members of the Committee may have.

[THE PREPARED STATEMENT OF SHANE LIERMANN APPEARS IN THE APPENDIX]

Mr. PAPPAS. Thank you very much, Mr. Liermann.

I will now recognize our second witness, Mr. Carlos Fuentes. Mr. Fuentes is the Director of National Legislative Service for the Veterans of Foreign Wars. And the Subcommittee thanks you for appearing here today, Mr. Fuentes, you have 5 minutes.

STATEMENT OF CARLOS FUENTES

Mr. FUENTES. Chairman Pappas and General Bergman, on behalf of the VFW and our Auxiliary, I would like to thank you for the opportunity to present our views on how VA can effectively prevent and manage overpayments. Having to deal with erroneous forfeiture of benefits or financially-constraining repayment plans have a detrimental impact on the well-being and livelihood of those who have worn our Nation's uniform.

The majority of veterans the VFW assists with overpayment issues results from confusion or errors with education benefits. Through the VFW's One Student Veteran Program, we have been notified by countless veterans who have received debt notifications because VA administrative errors have caused overpayments. The VFW also hears and addresses overpayment issues through our network of more than 2,500 highly-trained VA-accredited service officers around the world. Changes in dependency claims is the most common reason for overpayments in VA disability compensa-

tion. VA's inability to timely address concurrent receipt issues also cause overpayments, which VA is later required to recoup.

For example, a veteran who is still a National Guard or Reserve component is not eligible to receive VA disability compensation and drill pay concurrently. VA's delay or errors in processing such adjustments commonly create overpayments for veterans. The VFW urges Congress to eliminate the concurrent receipt issues that often result in veterans or their survivors having to repay benefits that they should be eligible to receive, but have to pay back because of misguided laws that require them to forfeit one earned benefit for another.

Once an overpayment is noticed, VA will send ambiguously-worded notifications of overpayments, which also provides options for overpayments. If veterans are unable to contact VA to contest the debt, provide repayment, or enter into payment agreements with VA, their debt is sent to collections and VA will begin garnishment of their disability compensation benefits until the debt is satisfied.

While veterans have the ability to seek relief by requesting a waiver, VA's inability to provide them with clear and concise information regarding their debts in a timely manner significantly hinders their ability to take action. In a perfect world, discrepancies will be noticed and addressed immediately; however, there have been instances where it has taken upwards of 5 years and 10 years for VA to properly notify veterans or notice overpayments. In some instances, veterans themselves have to notify VA before any action is taken.

To its credit, VA has made concerted efforts to eliminate overpayments and, in some cases, informed veterans that they will not be held liable for overpayments, but more must be done. VA's inconsistent administration of veterans' benefits, misinterpretation of rules and regulations, lack of training for program administrators, and lack of effective communication with veterans are the principal reasons VA continues to overpay veterans.

Many veterans, especially those on fixed incomes, have limited access to financial resources needed to immediately repay an overpayment; however, VA will often offset a veteran's entire monthly disability compensation benefit in order to pay down a debt, without the veteran knowing about the debt or being afforded the ability to request an alternative method of payment or relief.

This is why the VFW has supported legislation that would require the use of certified mail when notifying a veteran of debt. And, to address confusing letters, the Veterans Benefits Transition Act of 2018 required VA to collaborate with veteran's service organizations to develop a standard and plain language format for all the debt letters sent to veterans.

The VFW is unaware of the development of such standard format and urges the Subcommittee to inquire about its status. Plain language letters which detail debt will have a significant impact and will be able to provide veterans the ability to seek relief.

The VFW also urges Congress to pass S.805, the Veteran Debt Fairness Act of 2019, which would improve VA debt collection process, limit VA's authority to recover overpayments caused by administrative errors, and improve the due process afforded to veterans with respect to such recovery.

Mr. Chairman, that concludes my remarks. Thank you for the opportunity, and I am happy to answer any questions you may have.

[THE PREPARED STATEMENT OF CARLOS FUENTES APPEARS IN THE APPENDIX]

Mr. PAPPAS. Thank you very much, Mr. Fuentes.

I will now recognize our third witness, Mr. Mike Saunders. Mr. Saunders is the Director of Military & Consumer Policy at Veterans Education Success.

The Subcommittee thanks you for appearing here today, Mr. Saunders, and you have 5 minutes.

STATEMENT OF MIKE SAUNDERS

Mr. SAUNDERS. Chairman Pappas, Ranking Member Bergman, and Members of the Subcommittee, thank you for the opportunity to provide input on VA overpayments and debt collection procedures.

Veterans Education Success is a non-profit organization that provides free counseling and legal assistance to students using their GI Bill and military education benefits, and works to advance higher education success for all military-affiliated students. We greatly appreciate the Subcommittee's attention to this very important issue, and I would like to thank the VA for their recognition of the problem, but action is required.

We have helped approximately 5,000 veterans with GI Bill problems. We have seen a recent uptick in the number of military-connected students who are experiencing VA clawbacks of their hard-earned GI Bill, giving us a first-hand view of how opaque and, frankly, Kafkaesque the process can be.

Veterans' complaints largely fall into two main overpayment situations: overpayments for a dropped class and retroactive readjustments of GI Bill benefits awarded to a veteran. GI Bill overpayments warrant this Subcommittee's attention.

A 2015 GAO report found a startling 1-in-4 Post-9/11 GI Bill students experience GI Bill overpayment. According to GAO, 90 percent of GI Bill overpayments are caused by veteran enrollment changes. The problem is that VA disburses the entire term of Post-9/11 GI Bill benefits after a veteran sits for just one day of class. If students drop out or drop a class after the first day, the school still gets the tuition and fees for the entire term. This incentivizes some unscrupulous college recruiters to lie to veterans to get them to enroll, knowing the student will likely drop out quickly.

Worse still, VA comes after the veteran for the overpaid tuition, even though the tuition never touched the veteran's hands, but was sent straight to the school. This defies common sense. Students are being asked to come up with tens of thousands of dollars that they don't have and never touched. In contrast, the U.S. Department of Education delays disbursement until after the typical college add/drop period, and claws back tuition from the school and not the student.

We thank the Subcommittee on Economic Opportunity and many Members here today for working with us to solve this through the bipartisan Forever GI Bill Class Evaluation Act, which would delay

GI Bill disbursement until after the typical add/drop period; and the bipartisan Student Veteran Empowerment Act, which would require VA to verify Post-9/11 GI Bill enrollment on a monthly basis, as it already does for the Montgomery GI Bill, rather than waiting until the end of the semester.

Another problem we urge the Subcommittee to address is retroactive readjustment of education benefits. One case brought to VES involves a beneficiary who had the Post-9/11 GI Bill transferred to her by her father, who was assured by his personnel office that retiring 33 days before the end of the 2-year service obligation he incurred for transferring his education benefit would not affect that benefit transfer. VA approved her GI Bill and she went to college. Nevertheless, 7 years after her father retired and 6 years after she graduated, VA sent her a debt collection notice stating that she owed up to \$100,000, and that they were also going to restore her father's education benefit, in clear contravention of the wishes of the family.

If a veteran lied to VA, then VA should go after the veteran, but VA administrative errors are not a veteran's fault. If VA certifies a student's eligibility, it can't ask for repayment 6 years after the student relied on VA's approval and graduated.

Now, turning from GI Bill specifics to VA's overall debt collection practices, we have identified a number of critical problems we hope the Subcommittee will address.

First, VA's aggressive collection tactics are on their face in opposition to VA's emphasis on serving those who have committed to defend us. For example, GAO found that VA collects nearly all its debts by withholding a veteran's other benefits, such as withholding entire disability payments. If you take that much-needed money, veterans have to choose between paying for food, medicine, or housing. Importantly, VA's regulation calling for aggressive debt collection goes well beyond what is called for by statute. We urge the Committee to require VA to bring its regulations in line with statute, and to also to forbid VA from taking more than 25 percent of a veteran's benefits to cover unrelated debts to VA.

Second, VA's aggressive debt collection methods are particularly unfair given the VA relies on outdated methods of notifying veterans. VA's letters alerting veterans of a debt are often confusing and sent to outdated addresses. As one military-connected student who came to VES for help said I don't believe a human has looked at any of the letters I have been sent, they don't add up or make sense. Semesters are omitted, figures they quote as to what I owe on one document don't match with figures they quote on a different document. Dates and explanations don't make sense.

In sum, we firmly believe VA can do better and we request the Committee's assistance in ensuring this happens.

Thank you for the opportunity to present our views, and I am happy to answer any questions you may have.

[THE PREPARED STATEMENT OF MIKE SAUNDERS APPEARS IN THE APPENDIX]

Mr. PAPPAS. Thank you very much, Mr. Saunders.

I will now recognize our fourth witness, Mr. Gerardo Avila. Mr. Avila is the Deputy Director for Military Boards and Memorial Benefits at The American Legion.

The Subcommittee thanks you very much for appearing here today and you have 5 minutes, Mr. Avila.

STATEMENT OF GERARDO AVILA

Mr. AVILA. All right, thank you.

Chairman Pappas, Ranking Member Bergman, and distinguished Members who proudly serve on the Subcommittee, on behalf of our National Commander, James "Bill" Oxford, thank you for the opportunity to comment on an important issue of the Department of Veterans Affairs overpayment and debt collection processes. It is my duty and honor to represent The American Legion and assist this Committee in better understanding this issue, how it impacts our veterans, and provide recommendations for improvement. It is crucial that we address these issues in an effort to ensure that we are not unduly burdening America's veterans with debt as the result of bureaucratic inefficiencies or errors.

Every veteran understood that when they volunteered to serve their country it would come with sacrifice and hardship, what they didn't expect is to be placed in a hardship situation by the very institution who is supposed to be there for them; it is the Legionnaires' collective experience that the creation of overpayments are doing just that. Over the years, VA has made progress in reducing overpayments; however, there is still significant room for improvement.

The American Legion last testified before this Subcommittee on the issue of VA overpayments and debt collections on May 24, 2017. During that testimony, we focused on the initial cause of debt, communication between the VA and the veteran, the collection process, and the garnishment of an active benefit. The American Legion has seen improvement in several of these areas.

First, The American Legion would like to commend VA for taking a proactive role in reducing the dependent claims backlog and initiate new methods enabling veterans to personally update a dependent status via phone, scan, and e-Benefits. Due to these efforts, we have seen a reduction in the debt involving dependency claims, and that the improvement has been the reduction in the amount owed due to simultaneous receipt of drill pay and disability benefits. While a drill payment remains a large originator of debt at VA, collaboration with the Defense Finance and Accounting Service has reduced the total amount owed.

The American Legion is encouraged by these efforts and implores these agencies to continue to work together to eliminate overpayments completely by increasing the frequency with which they rectify their accounts.

We are also encouraged that VA has instituted a more forgiving process when garnishing an active benefit as a means to repay a debt. The old practice of garnishing the entire amount resulted in many veterans facing financial hardship. Veterans and their families rely on the monthly VA benefits to make ends meet.

While these improvements are a step in the right direction, we have the following recommendations. Internally, VA must fix the

lack of integration between the various information management systems. The lack of interoperability results in issues ranging from incorrect addresses to not being able to provide a clear answer on the initial source of the debt. In a perfect scenario, all IT systems would generate a veteran's latest status and most up-to-date information.

Additionally, most accredited representatives do not have access to the various systems that VA utilizes. This lack of access makes it nearly impossible for representatives to assist the veteran in navigating the complex and confusing network. In a recent pension case we assisted on, we found that the medical documentation needed had been provided to the VA, but had not been processed by the pension center. Since there was no contact with DMC, the amount owed was referred to the Treasury Department for offset. Thanks to our representatives, we were able to track down the medical information and provide it to the pension center to avoid further harm.

As the result of issues like this, The American Legion calls upon VA to continue to integrate its information management systems and expand access to accredited representatives.

The best solution to avoid an overpayment is for VA to immediately be notified when a veteran's status has changed. Information like change in net worth, monthly drill, or incarceration is already being collected by different entities, who in many cases are the first to become aware of this change. The goal should be to develop partnerships with key agencies to ensure critical information is accessible and can be provided to the veteran.

In an effort to eliminate overpayments, The American Legion urges VA to aggressively seek out partnerships and collaborate with as many agencies and organizations as necessary to correctly reflect a veteran's current status.

The American Legion agrees that if a veteran sees a benefit they are not entitled to, they should have to pay it back. Well, we disagreed with—or some of the collection practices used that have resulted in unnecessary financial harm to our veterans.

From our recent meetings with VA officials and through our daily interactions with the DMC, we feel that the employees' hearts are in the right place. By implementing our recommendations, the VA will put itself on the path to solving the overpayment issue.

We would like to thank this Committee once again for the opportunity to testify on this important, and I will be happy to answer any questions.

[THE PREPARED STATEMENT OF GERARDO AVILA APPEARS IN THE APPENDIX]

Mr. PAPPAS. Well, thank you very much for the testimony of the four Members of this panel here today, and for your dedication on a daily basis to all those who have served and are serving our Nation. We really appreciate your advocacy and your presence here today.

We will begin the questioning portion of this panel and I will begin by recognizing myself for 5 minutes of questioning. I want to focus in a little bit on the letters that were talked about with the VA earlier and were alluded to by some of you here today as well.

We all know that Congress passed a law that requires the VA to work with veteran's service organizations to improve these letters to veterans. We have heard stories about how veterans can receive multiple communications that are many times quite confusing and opaque. So I am wondering how the VA has worked with your organizations to improve these letters, and do you think the VA has made improvements in recent years in debt collection notifications and in ensuring that these notifications are clearer for our veterans?

That's open to the entire panel.

Mr. LIERMANN. Thank you, Mr. Chairman. The reason it gets so confusing is they always send two letters.

First, the VA regional office, if it is a debt created by a dependency issue, they will send a letter to the veteran notifying them there may be an overpayment and they may owe money to the VA. Then they will get a separate letter from the Debt Management Center, sometimes 2 to 3 weeks, sometimes months later, and then that letter doesn't provide any information other than here is how much you owe us and, if you don't take action in 30 days, we will take your monthly compensation check.

So that is the way the process currently works, and I don't believe they have reached out to us any time soon to discuss any of the new letters. I know that recently VA has shown us letters after they have already drafted them, but I am not aware of any current ongoing discussions about improving those with the VSOs' assistance, Mr. Chairman.

Mr. FUENTES. I have seen a report from VA saying that they are working on the standard plain-language format that is required by the Veterans Benefits Transition Act 2018. But we talked to all the folks over at the VFW who would be invited to these meetings where they would collaborate with us and none of us are tracking any invitations. So I don't know if they are forthcoming or not, but so far, we have not been engaged in that discussion.

Mr. SAUNDERS. No, not on this issue, we have not worked with the VA at all. And just to echo what Shane said, the case that I referenced in my opening statement, I actually saw all the documents that that beneficiary got from the VA. She got her initial statement from the regional office laying out why they thought she owed a certain amount of money, and then she got three different letters from Debt Management Center that totaled up to \$100,000. The first letter said she owed \$68,000, so it wasn't even clear how much she owed. Yeah, just the process is pretty unclear.

Mr. AVILA. I would agree with the letters. The letters that we have seen were more on the VBA side notifying when a veteran is service-connected, but not necessarily specific to the debt management and the collection process.

And I think just to echo on how the—the debt is created, obviously, everybody knows at the regional office, and they are the ones that have the detail and they send out the notification. And if the veteran did not get that, then the next letter they are going to get is from DMC. DMC might have limited information. I think this goes to the point about the integration of the IT systems. So, if every IT system had the correct information, DMC would not only

have a dollar amount, but they would be able to explain to the veteran when they call about why do they owe this amount.

And I think nobody likes to pay money back, but if you are given the reason why you owe, then you say, okay, yes, that is correct, and I think veterans would be more willing to pay the debt if they knew the full information.

Mr. PAPPAS. Well, thank you. And I am just curious if each of you would be willing to be available to work with the VA on this problem moving forward. If we could just have a yes or no, if you will make yourselves available to the VA to be consulted about the issue around communications.

Mr. LIERMANN. Absolutely.

Mr. FUENTES. Yes, and we feel it is absolutely necessary.

Mr. SAUNDERS. Yes.

Mr. AVILA. Correct, we will be.

Mr. PAPPAS. Well, thank you for that.

I was struck by many of the examples of real problems that are caused by these debt collections that we heard in your testimony here today. Clearly, these show just the nature of the problem and the frustration that is felt by veterans and their families causes harm.

Mr. Liermann, I am wondering if I could just ask you a little bit about drill pay and disability compensation. I understand that VA is proposing to suspend compensation benefits when it receives notice that a veteran will receive drill pay. Can you speak to your concerns about that specific proposal?

Mr. LIERMANN. Yes, Mr. Chairman. Thank you.

The way the current process works with drill pay is the VA will not take any action until they are notified, generally by DoD. If the veteran notifies the VA—excuse me, the veteran notifies the VA in advance of their drill pay, then VA can start taking actions in collecting that amount. In the proposal, the proposed legislation that was introduced earlier, they are suggesting that they stop paying the veteran if the veteran may receive drill pay. Without him actually—or her—being on Active duty, getting that drill pay, their proposal is to stop the payment the minute they find out they may receive it before they even get it.

So our concern is; one, VA is not going to pay them their compensation because they believe that they are getting drill pay; two, if their drill pay status or their drill changes, which is very common for a lot of people in the Guard and the Reserves, orders change quite frequently, then they won't get an Active duty check for that month, nor are they getting their VA compensation check that month. And the VA is proposing to take away the due process portion of that as well.

So, while they are trying to correct the problem, we think they are creating a larger problem by taking away that due process and essentially the veteran may not receive any pay for that period from his drill or Guard duty or from the VA, and that is a big concern for us.

Mr. PAPPAS. Okay. My time is up. I would like to turn it over to our Ranking Member, General Bergman, for 5 minutes.

Mr. BERGMAN. Thank you, Mr. Chairman.

Mr. Liermann, let's just kind of continue down that road just a second on that question that the Chairman just asked. So, as you characterized the details of it, of what they would do, would that be in your mind considered one of those non-technical barriers to achieving a goal, or is that just a way of doing—you know, just a way of doing business? Is there a way to not do that?

Mr. LIERMANN. I think, as I reported earlier, if they do more reporting and they do monthly reporting of when drill pay is being paid for veterans who are also getting compensation, I think that is a better way to do it. If we start collecting before they are being paid, I think that is just a horrible way to go and putting veterans in a more vulnerable position than we already are. That was a proposed piece of—I'm sorry, that was a proposed regulation in April, there is no more comment periods, it is closed, we are just waiting for them to drop the final rule and address all the comments that were submitted in April.

Mr. BERGMAN. Okay. Well, again, there has been a suggestion that there are non-technical barriers in a different subject to removing dependents through e-Benefits. Do you know what those non-technical barriers are, Mr. Liermann?

Mr. LIERMANN. I am not sure what the VA meant by non-technical, but here is how we view this as being real simple. The veteran gets to choose who they receive benefits for, they report their number of dependents. So, if the veteran says I want to remove a dependent, I don't see how that becomes a technical problem or a larger problem on VA, because now they are paying less money out.

Generally, when you have to add a dependent, they require a lot of information—birth certificates, marriage certificates—but they have waived all of that in e-Benefits to allow you to do that instantaneously. So we don't understand what their barrier problem is in allowing them to remove them instantaneously in e-Benefits.

Mr. BERGMAN. Okay. Mr. Fuentes, have you got any big events going on this week?

Mr. FUENTES. I do have a personal one, sir.

Mr. BERGMAN. What would that be?

Mr. FUENTES. Expecting our first child tomorrow, so—

Mr. BERGMAN. Congratulations.

Mr. FUENTES. Thank you very much.

[Applause.]

Mr. BERGMAN. That is a big deal. Just remember, you cannot give a baby too much, it is absolutely impossible. Just try to remember that when they are 2.

[Laughter.]

Mr. FUENTES. Thank you, sir.

Mr. BERGMAN. Now, Mr. Fuentes, on a more serious note here, the situation at hand here, concurrent receipt of drill pay and VA benefits is one of the VFW's, you know, top priorities. Do you have any examples of how it affects the average veteran who chooses to continue serving in the Guard and Reserve after they separate from Active duty?

Mr. FUENTES. General, I served under you, very, very, very far under you when I was in the Marine Corps Reserve—

Mr. BERGMAN. You were the reason I had a job. My job is to serve you guys.

Mr. FUENTES. Thank you, sir. And I am sure you can relate as much as I did that, you know, you can't live off of drill pay. Right? And we are using the Reserve component a lot more to fight today's wars than we have in previous years. So we need Reserve component servicemembers. This is one of the reasons that folks will want to leave. Right? So they are either required to forfeit their earned benefits, because they are disabled veterans, or work for free. Those are just not viable options.

And then on top of that, because of bureaucratic issues, they are now faced with, you know, this—I have an example here, \$32,000 in debt that they have to pay at once or find a way to collect the money to pay for it. That is unacceptable and our view is that we just need to get rid of the issue by getting rid of the requirement to collect or forfeit VA disability pay.

Mr. BERGMAN. Okay. Well, you know, Mr. Chairman—and I see my time is about up here—I think it would be a good issue for us to look into to see. As Mr. Fuentes states, we need to retain good men and women in the Guard and Reserve, especially with all the experience they have gained, and we need to make sure that we are not creating a barrier. Again, there is a cost to everything, but we don't want to create a barrier to long-term retention of good folks.

So, with that, I yield back.

Mr. PAPPAS. Well, thank you very much. And if the Ranking Member would indulge just a couple more questions here before we conclude, I would like to get a couple more issues out there.

And, Mr. Avila, just one for you. Your testimony notes that in the first 30 days of the debt collection process, it is a crucial timeframe for our veterans to receive protection from garnishment. Thirty days isn't really a sufficient time to complete that required action. So what can the VA do to ensure that veterans are able to receive protection from garnishment?

Mr. AVILA. So you are absolutely correct, the first—a veteran can request a waiver up to 120 days, but that first 30 days I would mention, that is the crucial period to avoid any garnishment and affecting their benefits. And we already know from issues that sometimes the veterans did not receive the notifications, the initial notifications. So we believe and we support a movement to up to maybe 90 days, and this will give the veteran ample time to respond back to DMC and to take appropriate action before any garnishment or possible loss of benefit can occur.

Mr. PAPPAS. Well, thank you, sir, for that.

And, Mr. Saunders, one for you as well. I am surprised that there is such a disparity between how the VA handles this issue versus other agencies of our Federal Government, including the Department of Veterans Education, and I am wondering if you can explain how DoD deals with overpayments and if there is anything that can be, you know, learned from VA in how to approach these issues with veterans.

Mr. SAUNDERS. Thank you for the question, Chairman. The Department of Education pays out their Federal education money in stages. They certify that a student is enrolled in the beginning and then they pay it out after the add/drop period, and then they have another period at the end of the semester when they pay a final

amount of money and they claw back any overpayments from that final amount that they pay the schools.

So they are taking the money from the schools and it smooths out the process for the students.

Mr. PAPPAS. Well, thanks for that. And I guess as it pertains to our veterans, that sort of, you know, planned-out process is a lot easier for them, many of whom are living paycheck-to-paycheck, just like most Americans.

Mr. SAUNDERS. Absolutely. And, you know, the add/drop period, a lot of people add/drop classes, and communicating to people the impact that that can have on your benefit, it is unfair to the veteran to force them to take classes that they wouldn't take and any other student wouldn't be forced to take.

Mr. PAPPAS. Well, thank you for that.

General Bergman, I think, had one additional question here.

Mr. BERGMAN. Yes, thank you, Mr. Chairman. You know, 5 minutes go fast, but we have got a lot of meaty things here to discuss.

Mr. Saunders, in your written statement you commented that VA should try to reduce the amount of retroactive adjustments for GI Bill payments, which amount to VA making a processing mistake, and then going back to the veterans to make up the difference once the mistake is found. Why would these veterans not have a case to ask for equitable relief in these situations?

Mr. SAUNDERS. That is a great question, General Bergman. So equitable relief is—it is like a final remedy, it exhausts all your future appeals with the VA. It is a way to get it done, but if for whatever reason some situation, it wasn't resolved completely, you would prefer the process be handled by waiver. You would want to go to VA's Education Service and have them tackle the problem. That is the preferred way is to have human eyes on it.

Mr. BERGMAN. Okay, good. Well, thank you very much, and I appreciate the extra time, Mr. Chairman.

Mr. PAPPAS. Absolutely, any time.

And I think, before we close today's hearing, I just want to thank once again our folks on the second panel here today for your responses and your willingness to be a part of the solution moving forward. And I thank as well the Department of Veterans Affairs for sticking around and for their input on our first panel.

Just some concluding observations. I think this afternoon we heard from VA officials that preventing these overpayments is an important goal they are working toward. We also heard from that providing clear guidance, direction, and support for veterans is another important goal. We also heard from those working with and advocating for our veterans here today that too many people continue to suffer confusion, frustration, and financial harm as a result.

VA's testimony did not lay out for us a clear path toward preventing hundreds of thousands of veterans receiving debt notices each year. It seems all too likely that the Subcommittee could hear testimony a year from now showing that another billion and a half dollars in debt collections is outstanding, which was the same level around the time of this Subcommittee's last hearing.

I wasn't satisfied wholly with the VA testimony that tried to outline steps for ensuring that the Department communicates clearly

and effectively with veterans even after new requirements were put into law last year, and I think more work needs to be done there. I appreciate our veterans service organizations' commitment to be a part of that.

It is worth repeating that the many different parts of VA involved with notifying veterans and collecting debts is a major obstacle getting in the way of reforms. Ultimately, fixing debt management will mean a VA-wide solution.

General Bergman, I believe that our staffs should work together with the Department to address these issues and needs, and I think this should include legislation for any possible new authority and requirements that would help this situation.

So, Mr. Ranking Member, I would like to give you any time you would like for any closing remarks.

Mr. BERGMAN. I have none.

Mr. PAPPAS. Well, seeing none, I wish to express again my appreciation to all the witnesses for appearing here today, for your thoughts and views.

And Members of this Subcommittee will have 5 legislative days to revise and extend their remarks, and include any extraneous material.

So, without objection, the Subcommittee stands adjourned.

[Whereupon, at 4:21 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Jon J. Rychalski

Good Afternoon Chairman Pappas, Ranking Member Bergman, and Members of the Subcommittee. I am Jon J. Rychalski, Assistant Secretary for Management and Chief Financial Officer of the Department of Veterans Affairs (VA). Joining me today are my colleagues, Joseph Schmitt, Executive Director of the Debt Management Center (DMC), Charles Tapp, Chief Financial Officer Veterans Benefit Administration (VBA), and Susan Reed, Executive Director, Office of Community Care - Revenue Operations, Veterans Health Administration (VHA).

I want to thank the Subcommittee for this opportunity to discuss our efforts to address a critical aspect of financial management, overpayments and collection processes. We are working to address overpayments as part of a broad effort to transform VA into a world-class customer service organization and tackle issues affecting Veterans that have lingered for years. The focus of our efforts is to improve our processes, communications and awareness to significantly reduce the occurrence of overpayments - thus eliminating collections.

As part of this transformation, we are working closely with Congress, Veterans Service Organizations (VSOs) and other stakeholders to reform delivery of care and service to our Nation's Veterans and their loved ones. This reform includes improving our debt management practices. I highlighted the tangible actions VA has taken to eliminate the opportunities for these overpayments to occur (reducing the quantity and dollar value of the overpayments), as well as ways VA has improved the overall Veteran experience to make the repayment of the debt as simple and easy as possible based on each Veteran's unique financial situation. This collection is required under "Collection and Compromise" of 31 U.S.C. § 3711, which provides that "the head of an executive, judicial, or legislative agency shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency." VA's debt recovery requirement is consistent with what citizens experience when receiving an overpayment from other Federal Agencies.

Veteran debt commonly occurs when Veterans receive more financial assistance than they are entitled to by law. For example, VA is prohibited by 38 U.S.C. § 5304(c) from paying disability compensation for days in which a Veteran is receiving drill pay as a member of the Reserves or National Guard. To minimize negative impacts on Veterans from this situation, VA changed its policies to make repayment of the debt less burdensome. For example, compensation and pension debts, including drill pay, now have a 12-month default re-payment period rather than immediately withholding the full amount of drill pay from future compensation payments, which could cause substantial financial harm.

Furthermore, to address the root cause of the debt, VA is currently working with the Department of Defense to enable us to dramatically increase the frequency of computer matches of compensation and drill pay, and we are on track to go from annual to monthly matches by mid-2020. These actions will continue to significantly reduce the incidence of overpayments and the amount of accrued overpayment to each Veteran. VA staff have also worked with the DMC and VSOs, using human-centered-design techniques, to rewrite several dozen overpayment letters to more clearly explain what Veterans need to know about their debt and the full range of options available to resolve the debt. Culturally, we are improving customer service rather than simply recovering as much of an overpayment quickly as possible.

We are working on initiatives working to reduce or eliminate opportunities for overpayments to occur. For example, VA has implemented numerous data matching agreements with other Federal and state agencies. VA conducts reconciliations with law enforcement agencies to prevent overpayments to fugitive felons. Based on this information, VA automatically terminates the award upon expiration of the due process period. The Veteran is provided notice, and then afforded the opportunity to respond and submit evidence that they are no longer a fugitive during this due

process period prior to an award adjustment. This action assists the Veteran by reducing the amount of overpayment incurred while in a fugitive status. VA reconciles reported income information with the Social Security Administration (SSA) to prevent overpayments of Pension and Parents' Dependency and Indemnity Compensation payments; VA verifies information with the SSA and the Bureau of Prisons to identify beneficiaries who may be subject to reduction or termination of compensation payments; and VA checks weekly with the SSA to stop payments to deceased Veterans.

We are also actively working on mitigating several other situations in which a Veteran or beneficiary can be overpaid. Benefits overpayments may occur when there are changes to a granted benefit such as payments made to an educational institution. An example of a change would include if Veterans reduce their course loads after VA has paid the educational institution. In addition, an overpayment can also occur, when Veterans have a change to their dependent status. This typically occurs when there is a death, divorce, remarriage, marriage of a child, discontinued school attendance, or duplicate school child entitlement. While not an overpayment, medical copayments are another reason for VA to initiate debt collection procedures. Certain Veterans who receive VA medical care must also pay a co-payment to VA, which is not collected at the time of service; rather it is subsequently billed to the Veteran. VA notifies Veterans of copayment requirements and provides instructions for submitting timely payments. In certain cases, VA must take actions to recover overdue copayments in accordance with existing law and regulations.

Finally, there are occasions in which a Veteran, through no personal fault, incurs a debt to a VA community care provider due to delayed payments from VA to that provider. This can negatively impact a Veteran's credit rating. To avoid this unnecessary burden, VA is focusing efforts on and making significant progress in reducing delinquent claims to community care providers. We are dramatically improving our claims processing capabilities through several transformative initiatives. First, the Community Care Network (CCN) contracts will usher in commercial claims processing capabilities and strict timelines. These contracts do and will require that network providers will be paid for clean claims through CCN within 30 days. Second, we are implementing a new referral management system to more seamlessly communicate Veteran referral information to the claims processor. This has been a primary reason for denied or problematic claims in the past. Finally, for any claims not adjudicated through the CCN contracts, we are installing a commercial state-of-the-industry claims processing system called eCAMS that will speed the process of claims adjudication and timely filing. We expect these initiatives to result in substantial claims processing improvements in 2020. Let me state emphatically that VA must do everything in our power to avoid erroneously creating Veteran debt or adversely affecting a Veteran's livelihood or credit through no fault of their own.

Due to the complexity of VA's enterprise and the number of systems involved in delivering healthcare, benefits, and services to Veterans and beneficiaries, VA currently tracks the amount and the age of overpayments independently in each Administration. We are working to improve this situation that we acknowledge is untenable for the Veteran. It is our plan to have capability for Veterans to view debt online within the next year.

VHA is developing an electronic option to permit viewing of monthly Patient Medical Statements via the "MyHealtheVet" portal. Veterans may elect to receive a notice of debt by electronic means as well as standard mail. In the future, we expect Veterans will be able to view or print the statements electronically via the portal. These statements are currently delivered to enrolled co-pay-required Veterans by standard mail to advise Veteran patients of their medical copayment debts, provide a description of those debts, and present all payment options available to them.

VBA operates a Centralized Benefits Communication Management Program that processes roughly 40,000 letters per day. Letters processed through CBCM include the range of benefits letters VBA offers, such as compensation entitlement, that are generated through the Veterans Benefits Management System (VBMS). Included in this correspondence are letters notifying Veterans that an event has occurred that might mean they have been overpaid a VA benefit. By early to mid-2020, VBA anticipates launching the option for Veterans to opt-in to receive electronic correspondence. This project will initially encompass disability compensation and pension overpayments and later extend to all VBA lines of business. We intend to send electronic correspondence initially to Veterans who have opted in; however, some correspondence may remain solely in the hard-copy form to meet statutory requirements related to certain notifications.

Ultimately, we will bring all debt together in one location and intend to have that operational by calendar year 2022. We are actively working with our VSO partners and our Veterans Experience Office (which is responsible for the Cross-Agency Pri-

ority Goal of improving customer experience) to apply the same human-centered-design principles to streamline future communications. VA fully supports the intent to develop a standardized notification letter as well as content which clearly conveys to Veterans the specific reason(s) why they are indebted to the United States and what options are available to them to address their indebtedness (i.e., disputing the debt, requesting a waiver, reaching a compromise, and/or requesting a payment plan).

This task is not as straightforward as it may seem on the surface, because there are numerous types of debt letters with numerous back-end systems that run the operations of the business line for which the overpayment occurred, and even more systems to create and print these letters.

VA has increased its self-service offerings to veterans through eBenefits, by utilizing an electronic rules-based processing system. Veterans can now go online, send changes through regular mail, or call VA to initiate an update to dependency information. These options result in immediate changes to a Veteran's disability compensation award, limiting the chance for an overpayment to occur. In FY 2019, the rules-based processing system automatically processed over 130,000 dependency changes for beneficiaries, while Veterans were able to log into eBenefits to modify their dependency information over 170,000 times.

We understand the challenges of overpayment recovery, and we are listening to stakeholders and adopting best practices to minimize the burden on Veterans and their families. If an overpayment occurs, we notify the Veteran and provide an opportunity for them to submit evidence stating why the overpayment information is incorrect. It is very important for Veterans to work with VA in this initial notification period.

If no response is received, typically within 30–60 days, VA DMC may initiate the process for recovery. There, a team of specially trained debt counselors will work with each individual Veteran or beneficiary to establish a payment plan or provide guidance to process a dispute, compromise or waiver request. Veterans can also appeal the debt establishment for up to a year. In cases where an overpayment is not resolved within 120 days, VA must comply with Public Law 104–134 and the Debt Collection Improvement Act of 1996 to refer the debt to the Department of the Treasury. We also report delinquent debt to credit reporting agencies as required by law.

The DMC sends all overpayment collection notifications via standard mail; prior to sending, the Center verifies addresses against information we have in our administrations and the U.S. Postal Service. When notices are returned as undeliverable, we check with external systems such as the U.S. Postal Service's Address Management System, private vendors, and the US Treasury to update addresses. The DMC averages an undeliverable return mail rate of approximately 4 percent due to incorrect addresses, which compares with the U.S. Postal Service's undeliverable rate of 3.7 percent.

We are committed to improving the repayment process based on each Veteran's unique financial situation and delivering the world-class customer service that Veterans deserve. We offer multiple options for Veterans to address overpayments. Our DMC website provides both a toll-free call number and online information on requesting a waiver, submitting a compromise offer - which is a lesser amount that satisfies the full debt, or making an online payment.

We also modified our approach to recovering overpayments. Rather than automatically recovering as much of an overpayment as possible from a Veteran's next disability compensation payment, we are now offering payment plans that automatically deduct a portion of the overpayment from the Veterans monthly compensation payments to minimize any financial hardship.

To further help Veterans, we have been working with Credit Reporting Agencies to find the best way to clear derogatory credit. In FY 2016, VA created an adverse credit repair hotline and provided the phone number and web links to vital information to all the credit reporting agencies to share on their web sites. Since its inception, that hotline has received over 265,000 calls and fixed over 85,000 billing issues. Although privacy concerns are pervasive in these medical debts, we continue to work with the Credit Reporting Agencies to find ways to safely and electronically refute derogatory credit related to community care billing.

VA is committed to protecting the health and welfare of Veterans and is focused on delivering world class benefits and services to Veterans. We have been working with the Subcommittee on this important issue and we look forward to continuing to work with the Subcommittee for the benefit of all Veterans. This concludes my testimony; my colleagues and I are happy to take your questions.

Prepared Statement of Shane L. Liermann

Chairman Pappas, Ranking Member Bergman, and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at today's hearing on "Preventing Harm to Veterans: Examining VA's Overpayments and Debt Collection Practices."

DAV is a congressionally chartered national veterans' service organization of more than one million wartime veterans, all of whom were injured or made ill while serving on behalf of this Nation.

To fulfill our service mission to America's injured and ill veterans and the families who care for them, DAV directly employs a corps of more than 260 National Service Officers (NSOs), all of whom are themselves wartime service-connected disabled veterans, at every VA regional office (VARO), as well as other VA facilities throughout the Nation. Together with our chapter, department, transition and county veteran service officers, DAV has over 4,000 accredited representatives on the front lines providing free claims and appeals services to our Nation's veterans, their families and survivors. We represent over one million veterans and survivors, making DAV the largest veterans' service organization (VSO) providing claims assistance. This provides us with an expert understanding and direct knowledge in navigating the VA claims and appeals process.

Mr. Chairman, additional overpayment amounts created by VA and the resultant debts owed by veterans often cause severe financial hardships for veterans and their families. In many cases, the burden of repaying these debts can negatively impact a veteran's quality of life, put them at risk of homelessness and affect their access to VA health care. Our testimony will discuss the creation of overpayments, VA mitigating additional overpayment amounts, and debt notification, waiver of overpayments and debt collection.

VETERAN AND BENEFICIARY OVERPAYMENT CREATION & MITIGATING ADDITIONAL AMOUNTS

Veterans are entitled to receive compensation based on injuries and illnesses incurred or aggravated by military service. The amount of compensation a veteran or beneficiary is entitled to may change due to many factors, to include changes in dependency, additional service-connected disabilities, reserve or National Guard service or change in the severity of the service-connected condition. Overpayment of benefits can occur when these changes are reported by the veteran and implemented by VA, due to actions or inactions by VA or the veterans themselves.

We believe that a significant portion of overpayments can be reduced or avoided. VA's lack of timely action causes additional overpayments and that places the resultant debts and financial hardships on veterans and beneficiaries. Some of the most frequent overpayment creations and recommendations the Veterans Benefits Administration (VBA) can take to mitigate their complicity in increasing the amounts are addressed below.

Dependency Changes

Veterans in receipt of VA compensation at 30 percent disabling or higher are entitled to additional monthly benefits based on the number of their dependents. This includes spouses, children, step-children, adopted children and dependent parents.

Veterans are advised by the VA to notify them when their dependency status changes. VA criteria require a reduction of benefits for the loss of a dependent due to marriage, divorce, death or in the case of a child, attainment of age 18 generally, or 23 if attending school. When a veteran is divorced or the spouse is deceased, it is the veteran's responsibility to advise the VA of the termination of the marriage for removal of the former spouse from the veteran's benefits.

Even timely reporting of a removal of a dependent will create at least one month of an overpayment. If VA delays the processing of that request to remove the dependent, it creates an additional amount of debt that the veteran or beneficiary is responsible to repay.

Through VA's eBenefits system, veterans can electronically add dependents and VA will usually make the additions within 48 hours. If the veteran submits the dependency information to add a dependent via paper application there is no set time-frame for completion of the work. However to remove a dependent veterans can notify VA through eBenefits about the removal of a dependent but this will only trigger the VA to send paperwork to the veteran. There is not an immediate way to remove dependents electronically.

A review of VA's M21-1 adjudication manual lists all dependency actions as non-rating work end products (EP). EPs are specific codes to identify types of claims or actions required, and VBA uses this system to monitor and manage its workload. However, non-rating work EPs are not considered part of VBA's backlog management and reporting of days pending for processing. This means that non-rating work EPs are of the lowest priority to VBA and receive the least amount of attention.

By failing to place the appropriate attention to dependency claims, VBA has created additional avoidable amounts of overpayments. The VA Office of the Inspector General (OIG) report of September 28, 2007, "Audit of Veterans Benefits Administration Controls to Minimize Compensation Benefits Overpayments" indicated that between January 2004 and March 2006, an estimated \$50.8 million in overpayments were avoidable. The OIG report also found that the main reason for the delay in processing dependency status changes is due to its classification as non-rating claims and a low priority for VBA.

For example, a widow receiving dependency and indemnity compensation remarried in 1986 and notified the VA of the marriage in April 1995, and again in March 2003. However, the VA did not terminate benefits until January 7, 2004, altogether resulting in an overpayment of \$179,966. Had VA acted promptly on the first notification, \$104,866 (58 percent) of the \$179,966, overpayment and debt could have been avoided.

The September 2018 OIG report of "Review of Accuracy of Reported Pending Disability Claims Backlog Statistics" stated that the pending backlog could be significantly understated when compared to some definitions VA has used because it does not include all the claims that had been awaiting rating decisions for over 125 days. For example, VBA only counted rating EPs in its reported backlog; however, other EPs also requiring adjudicative actions that impact veteran and beneficiary monthly payments are not counted in the backlog and subsequently not given any priority or incentive for the completion of dependency claims.

The September 7, 2019, VBA workload report provides that there are 374,362 pending rating-work EPs/claims. As of September 13, 2019, VBA noted the current number of pending dependency claims is over 211,000. As dependency claims are not considered rating work EPs, they are not counted in the VBA report on September 7, 2019. Therefore they are considered a very low priority and employees are not provided any incentive to complete these issues timely, thus creating additional amounts of overpayments that are avoidable.

Recommendations

1. Assign dependency claims as rating work EPs. Within VBA, rating claims work has a higher priority for the assignment, control, and completion of work. Dependency changes are considered non-rating work EPs and a low priority, which creates delays in VA adding new dependents and increases the amount of overpayments caused by delaying the removal of dependents. Assigning dependency claims as rating work EPs will require VBA to consider all dependency changes as rating work. While this will increase the number pending claims, by assigning a rating work EP, it will reduce the amount of additional amounts of overpayments created by VA's lack of timely action.

2. Allow veterans and beneficiaries to remove dependents from their award electronically in realtime. As noted, veterans have the ability to add dependents in real-time via eBenefits. To reduce the amounts of additional amounts of debt created by not prioritizing these claims, the VA must allow veterans to remove dependents as easily as they can be added.

3. Apply the principle of "constructive knowledge" to automatically waive all additional overpayment amounts created by VA. There is a legal concept known as "constructive knowledge" that could be relevant to this problem. The Court of Appeals for Veterans Claims has defined the notice of "constructive knowledge" within the VA. In *Bell v. Derwinski*, 2 Vet. App. 611 (1992), the Court held that the VA is deemed to have constructive knowledge of all VA records and such records are considered evidence of record at the time a decision is made. This concept applies to dependency change of status issues.

For example, if the veteran advises a VA Medical Center, Outpatient Clinic, Vocational Rehabilitation and Employment Services, VA Insurance Center, or other VA program and not the VA Regional Office (VARO) of the change in dependency, the VA is considered to have "constructive knowledge" of the change in status. Since the veteran identified the change to the VA, it had knowledge. This can allow veterans to lessen the amount of the overpayment created by the dependency change by reverting back to the date any office in VA was notified of the change. The same logic

should be applied to the entire federal government, thereby deeming notice to any federal agency as providing notice to VA.

Drill Pay

Members of the reserves and the National Guard are eligible to receive VA compensation for their illnesses and injuries related to their active military service. Drill pay refers to the monetary amount received by reservists and members of the National Guard for performing active or inactive duty for training. Statutes prohibit the concurrent receipt of drill pay and VA compensation or pension. Thus, veterans who perform active or inactive for duty training must choose the benefit they prefer and waive the other. In most cases, veterans choose to receive drill pay as it is usually the greater benefit. Although veterans or the Department of Defense (DoD) may notify the VA, in many instances, the veteran will receive both and creating the overpayment.

At the end of each fiscal year, the Defense Manpower Data Center (DMDC) sends an electronic file to VA that identifies veterans who received both drill pay and VA disability compensation or pension during that fiscal year. This annual audit will identify those in receipt of both and acknowledge additional overpayments for the reservist of National Guard Member.

Current 38 C.F.R. 3.103 establishes the procedures for notice of law in the VA benefits system. In particular, § 3.103(b)(2) establishes procedures that VA must follow before an "award of compensation, pension or dependency and indemnity compensation" can be "terminated, reduced or otherwise adversely affected." Importantly, VA must provide a veteran with notice of a proposed adverse action and 60 days to provide evidence showing why the adverse action should not be taken. VA continues to pay benefits during this 60-day period.

Current regulations provide exceptions for when VA may dispense with the 60-day notice requirement and terminate or reduce benefits at the same time it notifies a veteran of such action. One exception is specific to veterans who inform VA when they return to active duty or participate in training duty. VA may take immediate action to suspend payment of VA benefits when the decision is "based upon a written statement provided to VA by a veteran indicating that he or she has returned to active service, the nature of that service, and the date of reentry into service, with the knowledge or notice that receipt of active service pay precludes concurrent receipt of VA compensation or pension."

VA Proposed Rule Change April 2019

On April 19, 2019, through the Federal Register, VA issued its proposed rule changes regarding active service pay and active duty for training pay (drill pay). It is VA's intention to eliminate the burden of additional debts for those who return to active duty or who receive drill pay.

When a veteran proactively notifies VA of his or her receipt of active service pay, VA may suspend benefits without waiting 60 days. VA proposes to expand this exception to include notice of receipt of active service pay from DoD. In other words, if VA is notified about the active duty for training pay from DoD, they will not provide the veteran with due process and start collecting compensation due to the debt creation. This may sound like a remedy; however, it will create confusion for those veterans and will create additional financial hardships by removing due process. We oppose any attempt to remove the due process and for VBA to start collecting the debt without any notice to the veteran.

VA also proposes to amend 38 CFR 3.103 to allow VA to suspend compensation benefits upon receipt of DoD notice that a veteran has received, is receiving, or will receive active service pay. We take exception to this proposal. 38 U.S.C. § 5304(c) states that "pension, compensation, or retirement pay on account of any such person's own service shall not be paid to such person for any period for which such person receives active service pay." The statute clearly states the veteran must receive the active pay. While this proposal may be well intentioned, it's proposing to suspend VA compensation without the veteran ever receiving drill or active service pay. This violates the statute and there will be situations where the orders may change, thus creating circumstances where the veteran will not receive active service or drill pay or VA compensation. This will again place undue financial hardships on veterans and their families. We stand firm against these proposed rule changes made by the VA.

Recommendation

1. Require Quarterly the Defense Manpower Data Center to provide Quarterly Reviews. We recommend VA should not institute the proposed changes, but instead should require Defense Manpower Data Center to provide quarterly reports

on those veterans receiving drill pay or active service pay at the same time as compensation. This will provide more current updates rather than doing it at the end of each fiscal year, which will prevent and minimize overpayments.

Incarcerated Veterans

Federal law requires VBA to reduce compensation and pension benefits for veterans incarcerated in a federal, state, or local penal institution in excess of 60 days. Effective the 61st day of incarceration, VBA must reduce compensation benefits for veterans convicted of a felony and discontinue pension benefits for veterans convicted of a felony or misdemeanor. VBA reduces compensation benefits to the 10 percent disability rate for veterans rated 20 percent service connected or more. For veterans whose service-connected disability rating is 10 percent, VBA reduces the benefit payment by one-half.

VA Regional Office (VARO) and Pension Management Center (PMC) employees are responsible for making incarceration adjustments. Once the veteran is released from the penal institution, VBA will restore their full benefits. If the VA does not reduce the incarcerated veteran's disability benefits after the 61st day, an overpayment will be created, even when reported timely.

As previously discussed, the importance of timely VA action on reported changes for veterans' benefits can prevent additional amounts of debt. VA also considers incarceration adjustments as low priority and non-rating work EPs.

In June 2016, the OIG issued the report "Audit of Compensation and Pension Payments to Incarcerated Veterans." It determined that between July 2008 and June 2015, VA's ineffective actions in processing incarceration adjustments resulted in significant improper payments totaling more than \$100 million. These improper payments then became the veteran's responsibility to repay.

According to the OIG, VBA did not place priority on processing incarceration adjustments because VBA did not consider these non-rating claims to be part of the disability claims backlog. Both VBA Central Office staff from Compensation Service and the Office of Field Operations as well as VARO service center managers and staff consistently reported that incarceration adjustments were not a high priority.

Recommendations

1. Assign incarceration adjustments as rating work EPs. Within VBA, rating claims work has a higher priority for the assignment, control, and completion of work. However, as discussed above, this low priority places incarcerated veterans and their families at an unfair disadvantage.

2. Automatically apply apportionments to veterans' families at the 61st day of incarceration for a felony. The dependent family of incarcerated veterans can apply for an apportionment of the amount of compensation withheld from the veteran. If it was completed on the 61st day for veterans' families of record, this would lessen any hardships placed on the family and would help to prevent large overpayments being made to the veteran.

3. Apply the principle of constructive knowledge throughout the entire federal government. The VA currently receives information and cross matches on income data with the IRS, incarcerations with the Federal Bureau of Prisons, and the Department of Defense. Once a veteran is identified as an incarcerated veteran with any federal agency, such as income tax applications, changes with the DEERS program within the DoD or changes noted with TRICARE, this would be considered constructive knowledge with the VA and lessen the amounts of additional debts created by VA's lack of timely action.

Nonservice-connected Pension Recipients

VBA processes and adjudicates a variety of pension programs for veterans and a death pension program for survivors. Veterans who are age 65 or older or totally and permanently disabled due to illness and injuries not related to military service, who served during a period of war, and who meet the net worth and income requirements are eligible for nonservice-connected pension. While veterans are not able to receive both compensation payments and pension payments; they can elect which to receive.

The maximum rates of pension will be reduced by the amount of the countable annual income of the veteran; however, veterans can offset their income with proof of unreimbursed medical expenses. The VA considers Social Security payments as countable income and in December 2012, the VA started an initiative with the Internal Revenue Service and the Social Security Administration to electronically verify each veteran's continued eligibility for pension. When the additional income or bene-

fits received change the veteran's countable income, an overpayment for that entire reporting period can be created.

DEBT NOTIFICATION, WAIVER OF OVERPAYMENTS AND COLLECTION

When VBA has identified an overpayment for a veteran or beneficiary, they provide written notice that an overpayment has occurred. Once VBA has identified the debt and notify the claimant, it is sent to a third-party collection agency, the Debt Management Center (DMC).

The DMC collects debts resulting from individuals' participation in VA benefit programs and manages VA's benefit debt portfolio. The DMC is not part of the VA but is overseen by the VA Office of Finance. The DMC manages the entire collection process for VBA. The Veterans Health Administration (VHA) uses the DMC's administrative offset services to refer delinquent first-party medical debts for internal offset against active VA benefits. VHA also uses DMC services to refer debts to Treasury for offset under the Treasury Offset Program.

Statutes provide that when VA has determined that a debt exists, they shall promptly demand, in writing, payment of the debt. VA shall notify the debtor, veteran or beneficiary, of his or her rights and remedies and the consequences of failure to cooperate with collection efforts. As the DMC is the sole collection agency for VBA, the debt is not considered established until the veteran or beneficiary, receives a formal notice of debt from the DMC. The debt notice must include exact amount of the debt, the specific reasons for the debt, in simple and concise language, and the rights and remedies to include requesting a waiver, setting up a payment plan, option for a compromise offer, and that a collection may be made by offsetting their monthly compensation or pension payments.

If the debtor, within thirty days of the date of the notification disputes, in writing, the existence or amount of the debt, offset shall not commence until the dispute is reviewed. If the debtor, within thirty days of the date of notification requests, in writing, waiver of collection, offset shall not commence until the VA has made an initial decision on waiver. If the debtor, within thirty days of the notification requests, in writing, a hearing on the waiver request, no decision shall be made on the waiver request until after the hearing has been held.

VA will pursue collection action once an adverse initial decision is reached on the debtor's request for waiver and/or the debtor's informal dispute concerning the existence or amount of the debt, even if the debtor subsequently pursues appellate relief. The DMC will start collecting the debt after the conclusion of the 30-day period given to debtors. The collection of the debt is usually through recoupment of the entire VA monthly compensation payment.

We understand that in an imperfect claims processing system, there will be overpayments and that it is a reasonable expectation that recipients of such overpayments are required to repay that debt. However, collection of debts via recoupment of the entire monthly payment, causes severe financial hardships for veterans and their families. In many cases, the burden of repaying these debts can negatively impact a veteran's quality of life, put them at risk of homelessness and affect their access to VA health care. Our recommendations below are based on DAV Resolution No. 108, supporting reforms to the recovery of debts by the VA.

Recommendations

1. Reduce the amount recouped from monthly compensation payments. We fully agree that veterans and their families must repay the debts they created. However, currently VA recoups the entire monthly compensation payment until the debt is repaid. In many instances, a veteran's compensation is the majority or sole monthly income. Collecting the entire amount creates a serious financial hardship and can actually cause more harm to the veteran and their family by collecting it via this means. We recommend that VA reduce the recoupment amount to 25 percent or less of the monthly payment.

2. Waive all amounts of debt created by VA's lack of timely action. As noted above, large amounts of additional overpayments are created by VA's low prioritization and lack of timely action. The veteran should be responsible for the amount of debt they created only, and not the additional amounts created by the VA.

3. Time limitation on debt discovery. Every state has a statute of limitations on debt collection to avoid causing financial catastrophe. VA should not collect debts that have been discovered and found to be more than five years old. This would not apply in cases of fraud.

In conclusion, overpayments by VA and the resultant debts owed by veterans often cause severe financial hardships for veterans and their families. In many cases, the burden of repaying these debts can negatively impact a veteran's quality of life, put them at risk of homelessness and affect their access to VA health care. Our recommendations provide avenues to mitigate VA's creation of additional debt as well as discuss reform the debt notification and debt collection process.

Mr. Chairman, this concludes my testimony on behalf of DAV. I would be happy to answer any questions you or other members of the Subcommittee may have.

Prepared Statement of Carlos Fuentes

Chairman Pappas, Ranking Member Bergman and members of the Subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on how the Department of Veterans Affairs (VA) can effectively prevent and manage overpayments.

The glacial speed at which VA moves is nothing new to the VFW, or the members of this Subcommittee. Normally, bureaucratic redundancies that exist within organizations are meant to serve as a protective mechanism, as they can promote proper oversight, accountability, and thoroughness. With regard to overpayments and debt recoupment issues, however, bureaucratic processes and terminology prevent veterans from seeking the timely relief they need. Having to deal with erroneous forfeiture of benefits or financially constraining repayment plans have a detrimental impact on the well-being and livelihood of those who have worn our Nation's uniform.

The VFW assists veterans who experience issues stemming from overpayments. According to our estimates, about 60 percent of the cases where the VFW intervenes results in veterans being granted either partial or full relief from the debt from VA's Debt Management Center (DMC). However, the onus is on veterans to prove that they were not overpaid, so getting relief is often times a long and arduous process.

The majority of overpayments the VFW sees result from confusions or errors with education benefits. The VFW offers a suite of benefits and services to student veterans, including more than \$6.5 million in scholarships through the VFW Sport Clips Help A Hero Scholarship, grants to students facing financial hardship through the VFW Unmet Needs Program when their education benefits were not provided on time; a semester-long fellowship to research and advocate to fix issues facing the veterans community through the VFW-Student Veterans of America Legislative Fellowship Program; and casework assistance for veterans facing issues accessing their benefits through the VFW's 1 Student Veteran program. Through our casework assistance, we have been notified by countless veterans who have received a debt notification from VA because their enrollment status changed and the school failed to notify VA, or an VA administrative error caused an overpayment.

The VFW also hears about and addresses overpayment issues through our network of more than 2,500 highly trained and VA-accredited service officers around the world. Changes in number of dependents is the most common reason for overpayment of disability compensation. Often, VA takes so long to make the change that it creates overpayments. VA's inability to timely address concurrent receipt issues also cause overpayments, which VA is later required to recoup. For example, a veteran who is still in the National Guard or reserve component is not eligible to receive VA disability compensation and drill pay concurrently. VA has a process to validate drill pay with the Department of Defense. Again, VA's delay or error in processing such adjustments commonly creates overpayments for veterans.

The VFW urges Congress to eliminate the concurrent receipt issues that often result in veterans or their survivors having to repay benefits they should be eligible to receive, but have to pay back because of misguided laws that require them to forfeit one earned benefit for another. Disabled veterans who are still serving in the reserve components should not be forced to give up a portion of their VA disability compensation because they choose to continue serving our country. Worse, they should not be required to work for free, which they would be required to do if they choose to receive tax-free VA disability compensation instead of their drill pay. Military retirees are also required to forgo their retirement pay unless they have a service-connected disability rating of 50 percent or higher. The VFW is grateful that Congress provided relief for highly disabled military retirees, but those who are rated between 10 percent and 40 percent service-connected disabled are equally deserving of receiving both of their earned benefits.

Once an overpayment is noticed, VA will send an ambiguously worded notification of overpayment, which also provides options for repayment. If veterans are unable to contact VA to contest the debt, provide repayment, or enter into a payment agreement with VA, their debt is sent to collections and VA will begin garnishment of their disability compensation benefits until the debt is satisfied. While veterans have the ability to seek relief by filing a relief waiver, VA's inability to provide them clear and concise information regarding their debts in a timely manner significantly hinders their ability to take action in order to prevent VA from taking further action, which could adversely impact their credit or cause a financial hardship.

In a perfect world, this discrepancy would be noticed immediately. However, there have been instances where it has taken upwards of five years for VA to properly notify veterans of overpayments. In many circumstances, veterans themselves have to notify VA that they are being overpaid.

To its credit, VA has made a concerted effort to eliminate overpayments and, in some cases, informed veterans that they will not be held liable for overpayments, but more must be done. VA's inconsistent administration of veterans' benefits, interpretation of rules and regulations, lack of training for program administrators, and lack of effectiveness when communicating with veterans are the principal reasons VA continues to overpay veterans and spends an untold amount of resources collecting overpayments.

The VFW understands that overpayments must be recouped in order for benefit programs to work efficiently, but it is important to state that debt notices must be clear and provide concise information regarding what steps veterans need to take in order to resolve any outstanding debts as soon as possible. Ultimately, veterans should be responsible for repaying the overpayment, if it is indeed legitimate. Due to the aforementioned inconsistencies regarding communication from VA, as well as the general lack of information regarding the nature of the debt, many veterans are simply unable to meet the deadline imposed on them by VA.

Many veterans, especially those who have a fixed income, have limited access to the financial resources needed to immediately repay an overpayment. Astoundingly, VA will often offset a veteran's entire monthly benefit payment in order to pay down a debt, without the veteran knowing about the debt or being afforded the opportunity to request an alternative method of payment or relief. Without guaranteeing that the veteran is actually receiving the debt notification letter, however, the VFW feels that this action all but denies the veteran due process which is why we have supported legislation that would require the use of certified mail when notifying a veteran of debt.

Aside from applying for a waiver to fully discharge a debt, VA currently has two alternative options—one that utilizes a personal checking account, but requires a financial status report to be mailed to DMC, and one that automatically offsets a veteran's monthly benefits, but also requires a financial status report to be completed and mailed in the event that the debt cannot be repaid in one year's time. Both options provide the veteran a way to pay down the debt over the course of several months, but loses its utility once a financial status report is required, and is only effective in the event that VA has the proper contact information and the veteran received the debt notice in the first place.

To address the issue of confusing letters, section 504 of the VFW-supported Veterans Benefits Transition Act of 2018, required VA to collaborate with veterans service organizations to develop a standard and plain language format for all debt letters sent to veterans. The VFW is unaware of the development of such standard format and urges the Subcommittee to inquire about its status. A plain language letter which details how debt was accrued and any recourse available would significantly improve the VA debt collection process.

The VFW also urges Congress to pass S. 805, Veterans Debt Fairness Act of 2019, which would improve the VA debt collection process, limit the authority of the Secretary of Veterans Affairs to recover overpayments caused by VA errors, and improve the due process afforded veterans with respect to such recovery.

It is important for debt notices to be clear and provide concise information regarding what steps veterans must take to resolve any outstanding debts. Ultimately, a veteran should be responsible for repaying the overpayment, if it is indeed legitimate. Due to the inconsistencies regarding communication of overpayments from VA, as well as the general lack of information regarding the nature of such debt, many veterans are simply unable to meet the deadline imposed on them by VA. To further complicate things, the VFW's interaction with VA's DMC personnel has made it very clear that VA employees lack a proper understanding of VA policy and procedures regarding debt recoupment. The VFW believes S. 805 would address these concerns, and strongly urges the Subcommittee to introduce, consider, and advance a House companion.

Prepared Statement of Mike Saunders

Chairman Pappas, Ranking Member Bergman, and Members of the Committee: Thank you for the opportunity to provide insight into the debt collection practices at the Department of Veterans Affairs (VA). Veterans Education Success is a non-profit organization that works to advance higher education success for all military-affiliated students and provides free counseling and legal assistance to students using their GI Bill and military benefits.

We are very appreciative of all the hard work this Subcommittee puts into ensuring that the vital function of oversight is properly conducted. We are happy to offer the following comments on VA's debt collection practices and overpayment issues regarding VA educational benefits.

VA's debt collection practices are a critical issue impacting hundreds of thousands of veterans each year. Current VA debt collection practices impact veterans and their families in myriad ways: withholding disability benefits, negative credit reports, large unexpected debts, and other consequences that greatly impact veterans' quality of life.

We have helped approximately 5,000 veterans with GI Bill problems. We have seen a recent uptick in the number of military-connected students who are experiencing VA clawbacks of their earned education benefits, giving us a first-hand view of how opaque and, frankly, Kafkaesque the process can be.

Recommendations

We urge that the Committee take up the following recommendations:

1. **Enact the Forever GI Bill Class Evaluation Act**, which would help solve a major cause of GI Bill overpayments by delaying GI Bill disbursement until the student has completed 10 days of classes, has cleared the add/drop period, and is certain about which classes s/he is taking. This would also help solve GI Bill overpayments by stopping the "Just 1 Day" mentality of unscrupulous college recruiters (who mislead veterans about the college's offerings because they know the college will receive the full term of GI Bill tuition if a veteran sits for just one day of class).

2. **Enact the Student Veteran Empowerment Act**, which would also help solve GI Bill overpayments by requiring VA to undertake monthly verification of Post-9/11 GI Bill enrollment, just like VA already does with the Montgomery GI Bill, in order to catch enrollment changes earlier and not create overpayments by disbursing too much money. Monthly verification of Post-9/11 GI Bill enrollment is one of the Government Accountability Office (GAO)'s recommendations from its 2015 report on GI Bill overpayments.¹

3. **Align VA's tuition clawbacks with the US Department of Education**. Since both VA and the Department of Education send tuition directly to the school, it is the school that should pay back any tuition overpayment. The Department of Education handles this directly with schools through "Return to Title IV" procedures. But VA currently requires students to repay tuition funds that never touched the students' hands. It is unfair to ask students to come up with tens of thousands of dollars, or more, in tuition funds they never touched, which VA sent directly to

¹ U.S. Government Accountability Office, "Post-9/11 GI Bill: Additional Actions Needed to Help Reduce Overpayments and Increase Collections" (Oct. 2015), 10, available at <https://www.gao.gov/assets/680/673230.pdf>. GAO made eight recommendations to the VA to address those issues. These recommendations include: expanding monitoring of available information on overpayment debts and collections; providing guidance to student veterans and schools about the consequences of enrollment changes; providing guidance to schools about the benefits of using a dual certification process; implementing a way for GI Bill beneficiaries to verify enrollment status monthly; expanding the methods by which veterans and schools are notified of overpayment debts; including both the cause of the debt and how to repay it in debt letters; revising policy for calculating overpayments to increase collection; and ensuring full recovery of tuition and fee payments if a school does not charge a veteran for any tuition or fees after dropping a class or withdrawing from school. So far, VA has fully addressed only one recommendation and partially addressed three. VA now provides additional guidance in GI Bill award letters about the possible consequences of changes to enrollment. VA reported to GAO that it plans to implement a monthly enrollment verification system in December 2020, and it has deferred other actions for a later date, citing IT upgrade plans for Fiscal Year 2019 as a reason for the delay. There is no indication on the GAO action tracker that VA has expanded monitoring of overpayment debts and collections, expanded the methods by which veterans are notified of overpayment debts, or included both the cause of overpayment debts and how to repay them in initial debt notification letters.

the school. VA should be aligned with the Department of Education on tuition clawbacks.

4. Require VA to bring its debt collection practices in line with federal statutes and lessen its aggressive practices. VA's regulation calls for, and VA engages in, very "aggressive" debt collection practices. But VA's regulation and practices are not supported by statute, and are unfair to veterans, especially because most debts are inadvertent and unwitting. VA should be required to bring its regulation in line with the statute. VA should also be required to dramatically change its debt collection practices when the cause of the debt is VA's own error in accounting or approval of benefits. For example, "retroactive adjustments" to GI Bill benefits are not fair to a student who has already finished the classes. If VA authorizes a student to attend classes, but later determines the student received a GI Bill overpayment, it is VA that should bear the burden of that mistake, because the student already counted on that GI Bill payment for the classes.

5. Forbid VA from driving veterans into homelessness or hunger. Embrace the draft Senate bill that would limit VA from taking more than 25% of a veterans' benefits to cover unrelated debts to VA. GAO determined that VA collects most debts by withholding a veteran's other benefits, such as disability compensation for disabled veterans. Congress should forbid VA from taking a veteran's other VA benefits if taking those benefits would drive the veteran into hunger or homelessness. America does not need more homeless veterans, especially not disabled veterans, who rely on the VA disability compensation for housing and food. The House could take up the draft Senate legislation that would limit VA from taking more than 25% of a veteran's benefits to cover unrelated debts to VA. VA also should slow down the reporting of debts to credit agencies and the Treasury in situations where VA is unable to reach a veteran, so that veterans are not unnecessarily harmed due to a potential administrative issue.

6. Require VA to modernize its letter process and make the information clearer. As GAO recommended, VA should expand its notification methods to do a better job of reaching veterans beyond letters in the regular mail. VA should install a central address updating system and allow debt collection letters to be sent via email; update its IT infrastructure so it is not relying on letters sent in the mail to outdated addresses; and collaborate with Veterans Service Organizations to create simple, easy to understand letters that clearly indicate the reason for the overpayment, the amount of the overpayment, and how to repay it. (GAO made the same recommendation in its 2015 report.) Veterans deserve clear information. Congress could ask GAO to conduct a review of best practices in debt collection from other agencies and the private sector to ensure VA's internal structure is modernized and clear.²

Below please find background information and more details on each of these recommendations. We appreciate the Subcommittee's time and attention:

I. GI Bill Overpayments are a Key Problem for Veterans

While 88% of VA overpayment debts are related to veterans' health benefits, there has been an increasing number of students using their GI Bill benefits who have incurred overpayment debts.³

GI Bill Overpayments Affect 1 in 4 Beneficiaries: A startling one in four student veteran beneficiaries are affected by an overpayment, according to GAO. In October 2015, GAO released a report analyzing Post-9/11 GI Bill overpayments and VA debt collection efforts.⁴ GAO found that, in Fiscal Year 2014, VA had made \$416 million in Post-9/11 GI Bill overpayments, affecting 1 in 4 beneficiaries.⁵ For-profit institutions received twice as much in overpayments as nonprofit schools and nearly twice as much as public schools.⁶

GI Bill Overpayments are Caused Partly by VA's Payment of Full Tuition After "Just 1 Day": A major cause of GI Bill overpayments is the way VA disburses GI Bill tuition to a school for the entire term after a student sits for just

² 38 USC § 3685(c).

³ Bureau of Consumer Financial Protection, Office of Servicemember Affairs, Annual Report (Jan. 2019), 12, available at <https://files.consumerfinance.gov/f/documents/cfpb-osa-annual-report-2018.pdf>.

⁴ Supra note 1 at 35.

⁵ Id. at 10.

⁶ In Fiscal Year 2014, for-profit schools received \$70 million in overpayments, non-profit schools received \$32 million, and public schools received \$44 million. Id. at 13 n.20.

1 day of class. If a student withdraws or drops a class after the first day, VA nevertheless disburses to the school the entire term of tuition and fees for that student.

This incentivizes predatory schools to use deceptive tactics to convince military-connected students to sit for just 1 day. This “Just 1 Day” mentality leads unscrupulous schools to focus primarily on convincing a veteran to enroll, rather than on the academic success of their students. Veterans who have come to us for help have told us that unscrupulous recruiters lied to them about the types of classes and programs offered, the school’s true tuition and how much they would need to pay out of pocket beyond the GI Bill, the school’s accreditation and their ability to transfer to a public university, whether the school had real professors, the classroom equipment available, and more. From a recruiter’s viewpoint, they are under pressure from their college to enroll veterans with the GI Bill (because the GI Bill is seen as the “military gravy train” and recruiters are told to “get asses in classes,” as one recruiter testified before Congress⁷), and may be less than honest in order to get the veteran to enroll.

This problem is exacerbated by the 90/10 loophole in the Higher Education Act, which inadvertently incentivizes for-profit colleges to target veterans with aggressive and deceptive recruiting in order to get the GI Bill, which the schools use to offset the cap on Title IV funds they otherwise face.⁸ Many such schools explicitly adopt a business model called “churn,” in which they plan for students to drop out quickly, so they focus on quick and short enrollments.⁹ This causes significant waste, fraud, and abuse of a student’s hard-earned education benefits and taxpayer dollars.

In contrast to VA’s disbursement of a full term of GI Bill after just 1 day, the US Department of Education delays disbursement for new students and prorates the amount of tuition the school has “earned” during the term, up until 60 percent of the semester has passed (after the 60 percent cutoff, a school is viewed as having earned 100 percent of the term of Title IV funds).

“Forever GI Bill Class Evaluation Act” Can Solve This: The House Veterans Affairs Committee recently introduced draft legislation titled the “Forever GI Bill Class Evaluation Act,” which would defer disbursement of GI Bill payments until 10 days after the start of the academic term.¹⁰ This bill would greatly benefit both VA and student veterans. It would address the problem of overpayments to the school by only paying for classes after the add/drop date has passed.

GI Bill Overpayments are Also Partly Caused by VA’s Slow Enrollment Verification: According to the GAO report, the biggest cause of GI Bill overpayments in 2014 was veteran enrollment changes, which caused 90% of GI Bill overpayments (VA error constituted 2% and school error 8%).¹¹

A majority of schools rely on a single-stage certification process that is prone to creating overpayments.¹² The problem occurs when a student drops a class early in the semester, even during the add/drop period, but VA does not find out until the end of the semester and has already paid the school for the dropped course, creating an overpayment. The students followed all normal school procedures during the add/drop period, so many veterans are surprised by VA’s assertions that they have a GI Bill overpayment.

GAO recommended VA adopt a two-stage certification process that can help reduce overpayments due to enrollment changes:

“Schools can initially precertify a veteran’s enrollment for \$0 tuition and fees before the term begins, which allows VA to start paying housing benefits without delay. The school can then recertify the enrollment with the actual tuition and fees amount at a later date - e.g., after the period to add or drop classes ends when many enrollment changes have already occurred. Since VA does not send tuition payments until the school certifies an actual tuition and fee amount, dual-certifi-

⁷ See Testimony of Christopher Neiweem, former recruiter for DeVry, before the US Senate Appropriations Committee, Subcommittee on Defense (June 12, 2013), available at <https://www.appropriations.senate.gov/imo/media/doc/hearings/Neiweem%20Testimony.pdf>.

⁸ For-Profit Colleges, Vulnerable G.I.’s, Hollister K. Petraeus, *The New York Times* (Sep. 21, 2011), available at <https://www.nytimes.com/2011/09/22/opinion/for-profit-colleges-vulnerable-gis.html>.

⁹ US Senate Health, Education, Labor and Pensions Committee, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* (Jul. 30, 2012), 77, available at <https://www.help.senate.gov/imo/media/for-profit-report/PartI-PartIII-SelectedAppendixes.pdf>.

¹⁰ US House of Representatives, Committee Repository, available at <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=109773>.

¹¹ Supra note 1 at 12.

¹² Id. at 19.

cation can help prevent tuition overpayments that occur when a veteran drops a class at the beginning of the term.”¹³

VA discussed the benefits of dual-certification in a 2016 webinar for schools, although it is not clear the extent to which VA has been informing schools of dual-certification’s benefits.¹⁴

The Student Veteran Empowerment Act (Section 5) would help solve this: Section 5 of the Student Veteran Empowerment Act requires monthly verification of Post-9/11 GI Bill enrollment, which VA already does for the Montgomery GI Bill. This would help solve VA’s slow verification of enrollment.

II. VA Wrongly Claws Back GI Bill Tuition Overpayments from Students, Rather Than Schools, Even Though Schools Received the Tuition Payments Directly from VA

When a student drops a class or drops out - after discovering that the school was not what was promised, which is fairly common with the aggressive and deceptive recruiting by predatory colleges - an overpayment is created. Even though schools receive GI Bill tuition payments directly from VA, VA goes after the student, rather than the school, when there is a GI Bill overpayment. It does not make sense to place the burden on student veterans to repay tuition overpayments when the tuition funds were sent straight to the school from VA and never touched the student’s hands. Students are shocked and overwhelmed when they receive a letter from VA requesting tens of thousands of dollars, sometimes even \$100,000, for tuition overpayments, when they never had access to those funds. How are students expected to come up with thousands of dollars in cash to repay money they never had?

And what happens when a student asks the school to give back the tuition overpayments? Many bad actor schools laugh in a student’s face. The student is on the hook, but the bad actor school keeps the money.

Agency Alignment with the Education Department Could Solve This: Instead of clawing back from students tuition payments that went directly to the schools without touching the students’ hands, VA should work directly with schools to return overpayments. The US Department of Education currently takes this approach with overpayments of federal student aid funds.¹⁵ VA could make a number of changes to its debt collection process, including its collection methods, how it notifies students of overpayment debt, how it tracks overpayment debt, and the information it provides to schools about GI Bill certification methods.

III. VA’s Aggressive Debt Collection Practices Harm Veterans, Undermine Military Readiness, and Are Not Supported by Statute

VA’s regulations allow aggressive debt collection from veterans that can often hurt veterans and their families.¹⁶

VA’s Practices are Not Supported by Statute: VA’s aggressive debt collection practices are not supported by statute. Federal statute provides:

“any overpayment... may be recovered... in the same manner as any other debt due the United States.”¹⁷

VA’s regulations instead call for very aggressive debt collection. Specifically, 38 CFR § 1.910- “Aggressive collection action,” section (a) states:

“VA will take aggressive collection action on a timely basis, with effective follow-up, to collect all claims from money or property arising from its activities.”¹⁸

¹³The GAO report identified an issue with school officials having inadequate training, which contributed to reporting errors. Congress addressed this issue by granting VA the ability to set training requirements for school officials. Considering VA’s lack of action on GAO’s recommendations from the 2015 report, it would be worth it to determine whether VA followed Congress’s statutory directive to set these requirements. Id. at 20, 22.

¹⁴VBA Education Service Quarterly Webinar (Jun. 2, 2016), available at <https://www.benefits.va.gov/GIBILL/docs/presentations/SCO—Webinar—06-02-2016.pdf>.

¹⁵Supra note 1 at 8.

¹⁶38 CFR § 1.911, “Collection of debts owed by reason of participation in a benefits program,” governs the debt collection practices of the VA. It outlines the procedure the VA uses for benefits programs like the GI Bill and other education benefits: There must be written demands by the VA once a debt is determined to exist (1.911(b)), and the debtor has a right to informally dispute the amount of the debt, request a waiver of collection and a hearing on the waiver request, and finally appeal the VA’s decision underlying the debt (1.911(c)).

¹⁷38 USC § 3685(c).

¹⁸38 CFR § 1.910- “Aggressive collection action.”

VA's Practices are Traumatic to Veterans: In practice, the impact on veterans is significant. VA has sent out hundreds of thousands of overpayment notification letters in the past few years, and annually recoups around \$1.6 billion in debts.¹⁹ To recoup overpayments, VA is allowed to withhold up to 100% of a veteran's monthly disability benefits until the debt is fully repaid.²⁰

One family we helped had this to say about the stress of the situation:

"VA is charging our son \$100,000+ GI Bill/911 saying he doesn't qualify for the benefit...they paid four years college and now...four years later they sent a letter asking to pay back that amount of money. We called them every semester and received letters of the remaining of months/benefit. We are under a lot of stress with this...my husband is an 80% Disabled Veteran with 22 years of service/ honorable discharge and I am a disabled person...I don't stop crying."²¹

VA Withholds Much-Needed Living Allowance for Disabled Veterans and other Benefits: VA's debt collection process for overpayment debts is too aggressive and puts the livelihood and wellbeing of veterans, servicemembers, and their families at risk. Most often, overpayments are collected directly from subsequent GI Bill or other VA payments to veterans.²²

Veterans²³ have four options once they receive a letter from the Debt Management Center (DMC): "[T]hey can arrange to repay the debt in full, set up a payment plan, dispute the existence or amount of the debt, or request a waiver of the debt due to financial hardship or special circumstances."²⁴ If a veteran does not pursue one of these four options, VA takes more aggressive steps to collect the debt, such as offsetting future Post-9/11 GI Bill payments, other VA benefits, or tax returns, and reporting debts to credit rating agencies.²⁵

In its report, GAO found that, at least in Fiscal Year 2014, VA tapped into veterans' other benefits to cover 84% of debts, and another 12% of payments came from other federal payments, such as a veteran's tax funds or social security checks.²⁶

What this means in practice can be horrific. Too often, VA will withhold a veteran's much-needed benefits like disability compensation. Pulling the rug out from under veterans' feet like this can prevent them from finishing their schooling and have devastating effects on their health and well-being. By going after veterans' much-needed basic funds for housing and food, VA's debt collection practices could leave them homeless or hungry. Veterans rely on disability compensation to make ends meet.²⁷ In less dramatic cases, when VA offsets a veteran's benefits, such as a student's Basic Allowance for Housing, it could prevent the veteran from covering his or her expenses and continuing his or her education.²⁸

Worse still, by taking a veterans' much-needed benefits, VA could push veterans with PTSD and other psychological disorders over the edge.

For example, MSG Tad Steckler, a recipient of the Soldier's Medal for heroism who retired after serving for 22 years, was suddenly faced with a \$21,000 disability compensation overpayment. Steckler was unable to work due to his service-connected disabilities, and the added stress of this unexpected debt and possible deduction from his benefits reportedly exacerbated his PTSD symptoms. Loved ones were afraid to leave him alone due to disturbing comments he made that indicated he was contemplating suicide. At one point, he told VA representatives, "How are you going to get the money if I'm dead?" Steckler's story highlights the adverse effect VA debt collection practices can have on veterans.²⁹

¹⁹Veterans shouldn't have to shoulder VA errors: VA debt collection must be improved, Kayla Williams, The Hill (Mar. 28, 2019), available at <https://thehill.com/opinion/healthcare/436219-va-debt-collection-must-be-improved>.

²⁰Id.

²¹E.R., a mother of a veteran who telephoned Veterans Education Success to seek help on Aug. 19, 2019.

²²Supra note 1 at 15.

²³Schools have similar repayment options and are responsible for an overpayment if it is made before the start of the semester. Id at 5.

²⁴Id. at 7.

²⁵Id.

²⁶Id. at 15 n.22 ("In fiscal year 2014, VA collected 61 percent of veteran overpayments by deducting the debts from subsequent GI Bill or other VA payments, 23 percent from direct payments, 12 percent from offsetting other federal payments, and 5 percent from private debt collection agencies.")

²⁷The VA overpaid tens of thousands of veterans, and now it says they have to give their money back, Sara Jerving, Vice (Mar. 27, 2017), available at <https://www.vice.com/en—ca/article/ywn9xb/va-veterans-overpayment>.

²⁸Id.

²⁹Id.

In another example, LCpl Brian Easley, a Marine Corps veteran who suffered from PTSD and schizophrenia, attempted to rob a bank after VA garnished his disability compensation to recover GI Bill overpayments.³⁰ Easley's story ended abruptly after he was killed by police during crisis negotiation.

In March of 2019, a bipartisan group of Senators introduced legislation that would limit the amount VA can withhold from veterans' benefits to 25% and limit the recovery period of overpayments to 5 years.³¹ Senator Jon Tester, speaking on VA debt collection practices and the proposed legislation, said, "It's wrong to put the debt from the VA's accounting mistakes on the shoulders of men and women who have served their country."³²

VA's Retroactive Readjustments of GI Bill Benefits can be Harmful to Veterans: Veterans who bring complaints to Veterans Education Success largely fall into two main overpayment situations: overpayments for enrollment changes, and retroactive readjustments of GI Bill benefits awarded to a veteran. We have seen VA retroactively lower the percentage of GI Bill benefits to which a veteran is entitled after the veteran has begun using the benefits, and even after the veteran has left school. This can often occur years later, many times for substantial amounts, as much as \$100,000.

One such case brought to Veterans Education Success involved a beneficiary who had had the Post-9/11 GI Bill transferred to her by her father, who was assured by his personnel office that retiring 33 days before the end of the two-year service obligation he incurred for transferring his education benefit would not affect that benefit transfer. Seven years after her father retired, and six years after she graduated, VA sent the beneficiary a debt collection notice stating that she owed up to \$100,000, and that they were also going to restore her father's education benefit, in clear contravention of the wishes of the family.

If the veteran lied or misled VA in some way, then it is understandable for VA to request reimbursement. Absent that, and with enrollment certified by VA officials every semester, Congress should give serious consideration as to whether it is fair to retroactively change a veteran's GI Bill payments when he or she has already finished the classes. In these cases, veterans rely on a promise that the GI Bill would cover their classes, VA comes back to the veteran after the classes are completed to say it was a mistake, and the veteran needs to come up with tens of thousands of dollars. This is not a client-oriented action.

In the case of our client, we were able to obtain assistance from the VA Education Service, which agreed to waive the debt. This prevented a young woman's credit from being destroyed and her dreams of becoming a homeowner from being dashed. But we do not believe that VA is taking this approach in a proactive manner.

Retroactive adjustment of GI Bill benefits can also take place when a school moves from a higher-cost BAH "code" to a lower-cost one. A defect in the Long Term Solution (LTS) system, which pays GI Bill benefits, is that if a school moves it will trigger an overpayment notice for any student who has ever attended that school, even if they attended it when it was in the higher-cost area. VA employees must notice this error and manually correct it. Sometimes they are successful and, like all humans, sometimes they are not. VA can do better here.

VA's Notification Process Does Not Adequately Inform Veterans of their Obligations: VA's aggressive approach to debt collection is especially troubling because VA often has not adequately informed veterans of their overpayment debts. At the time of the 2015 GAO report, veterans received information regarding their debts in two separate letters. The initial letter included information on the debt amount and the cause of the overpayment debt, but did not include information on how to repay it.³³ Veterans had to wait for a second letter that explained how to repay overpayment debt. According to GAO, "[t]his delay in receiving all of the information associated with their debt could also delay the collection process since veterans may be less likely to repay their debts until they understand both the cause

³⁰ Prior to the attempted robbery, Easley repeatedly called the Veterans Crisis Line, which hung up on him. He also attempted to plead his case in person at a VA regional office, where he was sent away to obtain paperwork. "They Didn't Have to Kill Him": The Death of Lance Corporal Brian Easley, Aaron Gell, Task and Purpose (Apr. 9, 2019), available at <https://taskandpurpose.com/didnt-kill-death-lance-corporal-brian-easley>.

³¹ Should veterans have to pay for VA's benefit errors?, Leo Shane III, Military Times (Mar. 20, 2019), available at <https://www.militarytimes.com/news/pentagon-congress/2019/03/20/should-veterans-have-to-pay-for-vas-benefits-errors/>.

³² Id.

³³ Supra note 1 at 28.

of overpayments and have the information they need on how to repay them.”³⁴ VA concurred with GAO’s recommendation and said it would, by January 2016, modify initial debt letters to students and schools on both the cause of the debt and how to repay it, but there is no evidence that VA has changed its practices, at least according to the GAO tracker.

VA is Still Sending Only Paper Letters, Which May Not Reach the Veteran: Students often do not receive debt notification letters. As of January 2019, VA was still sending only paper letters to veterans to notify them of their debts.³⁵ Because student veterans move so often, debt notification letters can easily be sent to the wrong address.³⁶

Not receiving notification letters can set off a harmful chain of events for veterans. Not knowing of an overpayment debt can cause veterans to miss key deadlines to request waivers or dispute the debt, resulting in missing out on the opportunity to suspend collection actions.³⁷

For example, one military family we helped just barely received the debt notice because of address changes. In November 2018, our client was living out of the country. She found out that she had a sizeable six year old debt to VA only because VA sent letters to a group house that she lived in before she graduated, and a current resident miraculously knew how to get in touch with her.

In addition to using shockingly outdated addresses, the letters our client received from VA and the DMC told her that she owed \$82,000, and then \$100,000. These are obviously stunningly high amounts and would cause enormous stress to anybody. Moreover, if VA cannot effectively communicate the correct amount of money that is owed, what chance do veterans have of avoiding crushing hits to their credit reports?

VA could address this issue by expanding methods of debt notification, as GAO recommended in 2015. Rather than relying only on mail, VA could use existing infrastructure, such as VA’s eBenefits portal, to notify veterans of their overpayment debt. According to the 2015 GAO report, eBenefits “provides over 3 million veterans with access to personalized information about their VA benefits. VA officials have said this system could be upgraded to provide veterans with online access to debt notification letters; however, the agency has not implemented this proposal due to other funding priorities.”³⁸

These issues with notifying veterans of their debt led GAO to conclude that VA debt collection is hampered by the processes VA uses to notify and collect debts from veterans and schools.³⁹ Additionally, GAO concluded that the lack of a single source of information on both the cause of debts and repayment options creates unnecessary confusion for veterans, which can lead to delays in repayment and administrative burdens for schools.⁴⁰

The House Committee on Veterans’ Affairs Economic Opportunity Subcommittee held a hearing in 2017 which addressed VA debt collection and overpayment issues. Chairman Jodey Arrington discussed the GAO report’s recommendations and implementation issues, saying:

“The GAO made eight recommendations to the VA to reduce these overpayments going forward and to increase collections of this money. However, many of these recommendations still have not been implemented, and based on the Department’s written statement, it is unclear when they will be implemented, if ever. . . [I]t is clear that in many ways it is a matter of lack of IT resources and the need for greater prioritization to be placed on these programs within the VBA. I know that IT resources are tight, but I believe it’s time for the VA to prioritize resources for projects that provide direct impact to veterans...”⁴¹

We understand that there are significant hurdles to updating the current IT system, but we feel that it is necessary not only to safeguard veterans and their fami-

³⁴The VA’s rationale for sending two separate letters was prompt notification to allow veterans to dispute debts. *Id.* at 28–29.

³⁵*Supra* note 3 at 13.

³⁶*Supra* note 1 at 26.

³⁷“Specifically, VA will not suspend collection actions if a veteran requests a waiver or disputes the amount of a debt more than 30 days after the initial notification letter.” *Id.*

³⁸*Id.* at 27–28.

³⁹*Id.* at 34.

⁴⁰*Id.*

⁴¹House Committee on Veterans’ Affairs, Improving the Quality and Timeliness of GI Bill Processing for Student Veterans (Jun. 8, 2017), 26:38, available at <https://republicans-veterans.house.gov/calendar/eventsingle.aspx?EventID=1771>.

lies from having their lives negatively impacted by an unexpected debt, but also to cut down on the money and manpower VA assigns to overpayment issues.⁴²

VA's Letters are Often Confused and Confusing: We have helped veterans who have received letters that just do not make sense. The following is an example of the types of complaints we have seen regarding GI Bill overpayments:

"I... don't believe a human has looked at any of the letters I have been sent. They don't add up or make sense. Semesters are omitted, figures they quote as what I 'owe' on one document don't match with figures they quote on a different document. Dates and explanations don't make sense. All in all the letters appear to be form based, built by bad queries running new protocol on an old file. automatically [sent] to me without review. A small part of me hopes as soon as a person does look at the situation to put together a 'statement of the case,' that they will find a waiver on my file and the whole situation will go away. But I am prepared for the worst."

In 2017, the Veterans Fair Debt Notice Act was introduced in the House to address a number of issues with VA debt collection practices, specifically to have VA work with Veterans Service Organizations to collaborate on standard language for debt letters, and to allow veterans to elect to be notified through electronic means.⁴³ Providing information to veterans would help clear confusion and make it easier for them to dispute overpayment debts. One suggestion, from John Towles, deputy director of legislative service for Veterans of Foreign Wars, is that the VA should provide "line item accounting similar to a credit card statement" to veterans.⁴⁴

VA's Debt Collection Practices Undermine Military Readiness and the Pentagon Budget: Reporting debts to credit agencies can put veterans' and servicemembers' careers at risk. (Active duty servicemembers may use the GI Bill through the "Top Up" program, as a veteran who has subsequently returned to active service, or as a family member of a veteran, and as a result may face VA debt collection.)

In 2018, the US Department of Defense (DoD) announced a policy of "Continuous Evaluation" (CE) of security clearance eligibility, which entails real-time tracking of the credit reports of security clearance holders. According to the CFPB, "over 187,000 veterans received overpayment notices from [the DMC].. Approximately one in four veterans using the Post-9/11 GI Bill received an overpayment."⁴⁵ Considering the number of veterans who receive overpayments, VA is putting a large number of veterans' careers at risk through its aggressive debt collection practices.

Similarly, the CFPB's Office of Servicemembers Affairs recently documented how VA debt collection practices can harm servicemembers' security clearances:

"Recently, in preparation for an upcoming periodic reinvestigation of my security clearance I conducted a review of my credit score and noted [a VA] reporting action which I was previously unaware of. I provided [an] on time [payment] to the VA, however internal processing of that payment caused a delay in crediting the payment to my account. Additionally, VA DMC (debt management center) continued to receive, acknowledge, and process payments up to and beyond the date the debt was transferred to Treasury.. Because VA DMC transferred the debt to Treasury and submitted a negative report to the credit reporting agencies, I have been characterized as financially irresponsible. In more than twenty years of active service to my country and over thirty total years of military service, including three combat tours, I have always lived up to my commitments."

- Active duty servicemember from Louisiana⁴⁶

The harm also extends to the Pentagon's costs and military readiness. The Defense Department has determined:

"Each separation of a Service member is estimated to cost the Department \$58,250, and the Department estimates that each year approximately 4,640 to 7,580 Service members are involuntarily separated where financial distress is a contributing factor."⁴⁷

⁴²The VA is spending millions of dollars to collect debts that it created, Sara Jerving, Vice (Oct. 25, 2017), available at <https://www.vice.com/en-us/article/8xmve3/the-va-is-spending-millions-of-dollars-to-collect-debts-that-it-created>.

⁴³H.R. 3705 - Veterans Fair Debt Notice Act of 2017, available at <https://www.congress.gov/bill/115th-congress/house-bill/3705>.

⁴⁴Supra note 42.

⁴⁵Supra note 3 at 12.

⁴⁶Id.

⁴⁷Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 80 FR 43559 (Jul. 22, 2015), available at <https://www.federalregister.gov/documents/2015/07/22/>

VA's stated mission is "to fulfill President Lincoln's promise 'To care for him who shall have borne the battle, and for his widow, and his orphan' by serving and honoring the men and women who are America's Veterans."⁴⁸ VA's aggressive debt collection practices are currently harming the veterans VA is supposed to care for, serve, and honor.

Conclusion

Veterans Education Success sincerely appreciates the opportunity to share our views on this important topic. Pursuant to Rule X12(g)(4) of the House of Representatives, Veterans Education Success has received no federal grants in Fiscal Year 2019, nor in the two previous fiscal years.

Prepared Statement of Gerardo Avila

Chairman Pappas, Ranking Member Bergman, and distinguished members who proudly serve on this Subcommittee; on behalf of our National Commander, James W. "Bill" Oxford, thank you for the opportunity to comment on the important issue of the Department of Veterans Affairs (VA) overpayment and veteran debt collection practices. It is my duty and honor to represent The American Legion and assist this Committee in better understanding this issue, how it impacts our veterans, and provide recommendations for improvement. It is imperative that we address these issues in an effort to ensure we are not unduly burdening America's veterans with debt as a result of bureaucratic inefficiencies or errors.

The American Legion has worked extensively on matters concerning VA debt management and has had a dedicated representative at the VA's Debt Management Center (DMC) in the Saint Paul, MN Regional Office advocating for veterans for over 40 years.

Update From Previous Hearing

The American Legion last testified before this Subcommittee on the issue of VA overpayments and debt collection on May 24, 2017.¹ Before commenting on further improvements that need to be made, we would like to provide an update on issues we previously testified on and the progress made in a variety of areas. The American Legion's previous testimony focused on four specific areas: ways to prevent overpayments from happening, methods to improve communication with the veteran, regional offices and the DMC, the time period allotted to request a waiver prior to garnishing active benefits, and better options for recoupment of overpayments in an effort to avoid financial hardship situations.

A large volume of veteran debt was created in 2017 due to lack of processing dependent status claims, drill pay for National Guard or Reserve members entitled to VA compensation, and education benefits. The American Legion would like to commend VA for taking a proactive role in reducing the dependent claims backlog and initiating new methods enabling veterans to personally update their dependent status via phone, scan, and eBenefits. Due to these efforts, we have seen a reduction of debt involving a dependency claim. While drill pay and education overpayments still account for the majority of the veteran debt we assist on, the total amount owed has significantly decreased. VA's collaboration and communication with the Defense Finance and Accounting Services (DFAS) has greatly reduced the amount owed by servicemembers, and has assisted in keeping the debt at a manageable level. We are encouraged that VA and DFAS are making efforts to improve processes and encourage them to increase the frequency with which they reconcile accounts in an attempt to eliminate the overpayments altogether. We are also encouraged to hear that VA is exploring possible options with institutions of higher learning who accept federal funds such as the GI Bill on methods to recoup monies paid if the students withdrew or had another authorized reason for not attending or completing the course.

Our second concern involved communication between the veteran, regional office, and DMC. VA uses written correspondence to notify a veteran of an overpayment

2015-17480/limitations-on-terms-of-consumer-credit-extended-to-service-members-and-dependents.

⁴⁸ US Department of Veterans Affairs, About VA, Mission Statement, available at <https://www.va.gov/about—va/mission.asp>.

¹ <https://docs.house.gov/meetings/vr/vr08/20170524/106019/hhrg-115-vr08-wstate-larsen-j-20170524.pdf>

and the collection process. Our concern was, and still is, that many veterans never receive the notification or collection letter as a result of incorrect or outdated addresses on file. While we understand that veterans must take some ownership and keep their contact information up to date with VA, VA must ensure this is not a cumbersome process requiring veterans to change their address repeatedly in an assortment of systems. In accordance with the Code of Federal Regulations (C.F.R.) 1.911 (d), VA is required to send a notice of debt that must include the exact amount of the debt, the reason for the debt, the individual's rights and remedies in connection with the debt, and inform the debtor that collection may be made through offset of current or future benefits and that interest and administrative costs may be added. This must be sent to the veteran's "latest address of record" in order to be valid. The courts have held that this means when a veteran's current address is known to one part of VA, all other parts are responsible for knowing it as well.²

It is our understanding that VA has made efforts to ensure interoperability between information technology (IT) systems, but has not been successful due to a lack of compatibility between outdated legacy systems. In addition to inaccurate mailing addresses, we previously stated issues with the lack of detail contained in the collection letters. In a recent meeting with VA, we were encouraged to learn that VA has made it a priority to update its letters to make them more concise, specific, and easier to understand. The American Legion stands ready to assist in these efforts.

Our third concern focused on the collection process within DMC. Once DMC receives a notification of an overpayment from a regional office, within 30 days a collection due process letter is mailed advising the veteran of the debt amount and provides a notice of the veteran's rights and obligations. The first 30 days are crucial for the veteran to take action to stop any possible garnishment of a current benefit. Even though an applicant can request a waiver up to 180 days, requesting it within 30 days is the only way to prevent garnishment. From our many years of assisting in this arena, it has been our experience that 30 days is not sufficient time to take action, even when the veteran has received the demand letter. The American Legion would support an extension of the 30 day window to request a waiver to avoid garnishment being extended to 90 days.

The last topic we addressed during our previous testimony was the recoupment methods used by DMC. If a veteran does not respond within the first 30 days of the first demand letter and they were actively receiving a benefit, DMC would recoup the entire amount until the debt was paid. Needless to say, many veterans and their families depend on their monthly benefit to maintain fiscal solvency. The American Legion can attest to the thousands of families who were further put in financial hardship as a direct result of this practice. We are happy to report that DMC has discontinued this practice, and currently spreads the amount owed over a 12-month period and recoups the debt at a prorated percentage. While this method is not perfect and can still lead to an entire benefit to be garnished based on the amount owed, this updated practice has been beneficial to most veterans.

The American Legion's Recommendations to Address VA Debt

Based on our experience assisting veterans facing possible garnishment of their benefit, financial hardship, and damaged credit history, we offer the following suggestions to stop or minimize overpayment and improve the collection process to ensure America's veterans are not unnecessarily burdened with undue financial burdens.

Internal Repairs

One of the major obstacles we have identified, as previously mentioned, is the lack of integration of the countless information management systems currently in use at the VA. Most of VA's systems do not communicate with each other. Debt management, education, vocational rehabilitation, appeals, medical care, and home loans all have their own systems, which do not communicate with the main VA benefits system. Information that is updated in these systems does not flow to the others. For example, a debt may be generated by an education office, where the veteran's current address is noted. However, that system does not communicate with debt management's systems, or even with Veterans Benefits Management System (VBMS). Thus, debt management may not be aware of an address update in another system. This can result in debt notification letters being sent to the wrong address and if

² Erickson v. West, 13 Vet.App. 495-501 (2000)

a letter is not returned, DMC concludes that the notice was valid. If no response is received from the veteran, it proceeds with collection actions.

The lack of interoperability between IT systems poses a challenge not just to VA employees, but the veteran service community. The problem of different systems not communicating is difficult to resolve for several reasons. The various systems were developed at separate times, many systems are in different formats, and are still, for the most part, internal. This means that DMC's internal IT systems are not accessible to representatives, or even to other departments within VA. This makes it difficult to avoid mistakes between one part of VA and another. One example is that the records of the Buffalo, NY Education Office are not accessible to most employees of the St. Louis Education Office. Representatives also have difficulty researching a case because sometimes it is necessary to piece together information from several systems in order to have a comprehensive view of what a potential issue may be. At present, representatives must obtain these bits of information manually, by requesting it from the parts of VA that do have access to the systems. Fixes for this problem are in progress, but so far nothing has been able to interface all systems without losing crucial information.

The American Legion calls upon VA to continue efforts to integrate its systems, and to expand representative access to all systems. We also call upon DMC to continually update its contact information, and to research the latest address on file at the VA office where the debt originated. Further, if an invalid notice occurs due to one of these problems, we urge DMC to promptly correct its error, stop the collection process, and re-notify the veteran correctly.

External Repairs

The American Legion believes that the best solution to solve the problem of VA debt is to eliminate the creation of overpayments. A VA benefit debt is generated through a number of actions, to include change of income or net worth, dependent status, receipt of drill pay, incarceration, and school attendance. As previously stated, VA has made significant improvements to minimize overpayment resulting from drill pay. This was accomplished mostly through outreach and collaboration with DFAS. The American Legion believes that further partnerships with additional government agencies and institutions of higher learning will further reduce the creation of overpayments.

Improved communication with the Department of Treasury can reduce or eliminate the overpayments when a veteran's net income changes. Likewise, a similar concept can be applied with the Department of Justice to ensure a veteran's benefit is stopped or reduced when they are incarcerated. Additionally, it has been our experience that some veterans have misconceptions about what income needs to be reported and how it impacts their benefit levels.

Trying to uncover the best solution to establish partnerships with colleges and universities poses a greater challenge, as they don't all fall under one single authority. According to a recent U.S. Government Accountability Office report, student debt is one of the primary creators of VA overpayments.³ The American Legion believes that controls should be put in place to mitigate overpayments as a result of changes in course load and enrollment status.

In an effort to eliminate the creation of overpayments, The American Legion urges VA to aggressively seek out partnerships and collaborate with as many agencies and organizations as possible to correctly update a veteran's current status.

Conclusion

Debt collection within VA and Treasury Departments are complicated and nuanced. The American Legion sees room for improvement, and we have highlighted some of those suggestions in this testimony. Overall, The American Legion believes that VA does an adequate job in protecting veterans from added exposure when they are identified as having been overpaid and works to ensure that veterans are aware of their rights, resources, and consequences should they neglect to address these issues right away.

As always, The American Legion thanks this Committee for the opportunity to elucidate the position of the nearly 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Lawrence Montreuil, Legislative Associate, at LMontreuil@legion.org or (202) 861-2700.



³ <https://www.gao.gov/products/GAO-16-42>