Examining How VBA Can Effectively Prevent and Manage Overpayments

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Statement of

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With Respect To

"Examining How VBA Can Effectively Prevent and Manage Overpayments"

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Chairman Bost, Ranking Member Esty 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 Veterans Benefits Administration (VBA) 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 regards to VA however, especially as it relates to how overpayments and debt recoupment issues are addressed, these processes have only made matters worse for veterans due to the time sensitivity of certain issues and the number

of other offices within VA that may be involved.

In the past year, the VFW's National Veterans Service (NVS) has directly assisted more than 200 veterans who have experienced issues stemming from overpayments. According to our estimates, about 60 percent of the cases where NVS has intervened resulted in the veteran being granted either partial or full relief from the debt from VA's Debt Management Center (DMC). However, the onus is on the veteran to prove that they were not overpaid, so getting relief is often times a long, arduous process.

In our experience, we have found that legitimate overpayments most often occur with GI Bill benefits when a veteran's enrollment status changes at his or her college. If a student decides that they are having a difficult time meeting their educational obligations and chooses to switch to part-time, it is the responsibility of the school, not the student, to notify VA. In the event that the school fails to notify VA of the change in status, the veteran will continue to receive the full living stipend and the school will continue to be paid the full-time rate for tuition.

Once the error is noticed, VA will send an ambiguously worded notification of overpayment, which also provides options for repayment. If the veteran is unable to contact VA to establish that the debt is erroneous, make a repayment in a timely manner, or enter into a payment agreement with VA, their debt is sent to collections and VA will garnish payments from their disability compensation benefits until the debt is satisfied.

While the veteran does have the ability to seek relief by filing a relief waiver, VA's inability to provide the veteran clear and concise information regarding their debt in a timely manner significantly hinders the veteran's ability to take action in order to prevent VA from taking further action, such as having their credit negatively impacted.

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 and officially notify veterans of the overpayment despite, in many circumstances, veterans themselves notifying VA that they are being overpaid.

In one recent case, an administrative error by VA triggered a $32,000 overpayment notification for a former California National Guardsman. The veteran did everything that he could do on his own to rectify the situation, including notifying VA that he was being overpaid. Despite this, VA continued to pay him at an incorrect rate. It was not until sometime later when VA caught the error internally that an overpayment notice was sent. The veteran filed a waiver to have the debt discharged; however, the waiver was denied and his disability compensation was garnished. It was not until he contacted the VFW's 1 Student Veteran office, which successfully intervened on his behalf, that the debt was properly discharged and the monies that were withheld from his disability benefits were

returned.

Another case involved a retired military officer whose daughter was using transferred GI Bill benefits. Due to a misinterpretation of its own regulations, VA sent a notification stating that he owed $100,000 as a result of a reduction in rank following his retirement. It was not until the VFW contacted VA Education Service and the DMC directly and explained to them that, despite the reduction in rank, he still completed twenty years of qualifying honorable service prior to his retirement and therefore was obligated to repay nothing. A senior manager in education services agreed and the debt was eventually waived. In this instance, the senior decision maker that initiated the debt process had a number of shortcomings that caused undue worry and hardship for the veteran. Among them were inexperience and unfamiliarity in applying VA law and regulations properly.

Had these veterans not contacted the VFW, there is a significant chance that they would still be fighting to get this debt cleared. These are just two of many situations in which the VFW utilizes our cadre of highly trained and professional Service Officers to better serve veterans, but it is our position that veterans should not be erroneously overpaid in the first place. To be blunt –– there is absolutely no excuse for VA not to know its own regulations or how to effectively implement them; but yet, here we are.

VA's inconsistent administration of veterans' benefits and interpretation of rules and regulations, lack of training for program administrators and lack of effectiveness when communicating with the veterans are the principal reasons VA continues to overpay veterans and spends an untold amount of resources collecting overpayments. With more than 187,000 overpayment notices being sent to veterans in the past year alone, one would hope that VA would not only be prepared to share the most precise information that triggered the notice in the first place, but also be prepared to assist the veteran in a timely fashion. Sadly, as we have seen via numerous media reports, and through our own direct contact with countless veterans in similar situations throughout the past year, this simply is not the case.

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 and schools need to take in order to resolve any outstanding debts as soon as possible. Collections for a benefit as complicated as the Post-9/11 GI Bill can cause significant financial hardships for both veterans and their schools. Organizations representing school certifying officials, like the National Association of Veterans Program Administrators (NAVPA), have long reported that VA's assignment of debt collections to schools and students, as well as erroneous offsets, have been inconsistent across the board.

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. To further complicate things, the VFW's interaction with DMC personnel have made us acutely aware of the fact that there is an overall lack of knowledge regarding VA policy and procedures and their appropriate application.

Many veterans, especially those who have a fixed income, have limited access to the immediate financial resources needed to immediately repay an overpayment. Astoundingly VA has, and often times will as a first option, offset a veteran's entire monthly benefit payment in order to pay down a debt, unless the veteran received the notification of VA's intent to do so and requested an alternative method of payment. 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 veterans monthly benefit payment, 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 their 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.

The VFW suggests that VA work to streamline the collections process by:

1. ensuring that the contact information VA is using for a veteran is current and up to date,
2. clarifying the eligibility criteria for a waiver,
3. outlining in easy-to-understand terms the steps needed to request a payment plan,
4. repealing the need for a veteran to submit a financial status report in the event that the debt cannot be repaid over the course of a year.

Additionally, the VFW feels that VA should take these additional steps regarding the notification and recoupment process:

1. VA must ensure that any and all recoupment actions are suspended once the veteran files an appeal with the DMC, as per the VA regulations;
2. VA must ensure that if the overpayment is found to be erroneous, any damaging information sent to the credit reporting bureaus be corrected immediately;
3. In the event that that a veteran contacts DMC of an overpayment, the veteran should not be held liable for the repayment after such notification is made since there is no excuse for

VA not fixing the problem as soon as it is notified.
4. VA must ensure that Regional Office and DMC staff are trained to conduct proper due diligence, and are better trained in VA's debt management and collections procedures and protocols.
5. If VA is going to set a timeline for the veteran to prove that his or her overpayment is erroneous, then VA should send as much pertinent information as possible regarding the nature of the debt to the veteran, along with the notification letter.

Chairman Bost, Ranking Member Esty, and members of the Subcommittee, this concludes my testimony. I look forward to answering any questions that you may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2017, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.