STATEMENT OF
GERARDO AVILA, DEPUTY DIRECTOR
MILITARY BOARDS & MEMORIAL BENEFITS

THE AMERICAN LEGION

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
HOUSE COMMITTEE ON VETERANS' AFFAIRS

ON

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

SEPTEMBER 19, 2019

STATEMENT OF
GERARDO AVILA, DEPUTY DIRECTOR,
MILITARY BOARDS & MEMORIAL BENEFITS
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS
HOUSE COMMITTEE ON VETERANS' AFFAIRS
ON
"PREVENTING HARM TO VETERANS: EXAMINING VA'S OVERPAYMENTS AND DEBT COLLECTION PRACTICES"

SEPTEMBER 19, 2019

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

[1] https://docs.house.gov/meetings/vr/vr08/20170524/106019/hhrg-115-vr08-wstate-larsenj-20170524.pdf

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 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.

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

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 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