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Department of Veterans Affairs: Claims Process and Compensation and Pension Exams by Contracted Physicians

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SUMMARY

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Department of Veterans Affairs: Claims Process and Compensation and Pension Exams by Contracted Physicians

The Veterans Benefits Administration (VBA) within the Department of Veterans Affairs (VA) provides a wide range of benefits and programs for veterans and their families. Some of these benefits and programs include disability compensation, pension and fiduciary services, educational benefits, and veteran transition and employment services. The VBA's Compensation Service division oversees disability compensation for veterans who have disabilities, illnesses, or conditions that resulted from their military service. The VBA's Pension and Fiduciary Service division oversees needs-based programs for wartime veterans such as veterans' pensions.

To apply for these benefits, specifically disability compensation or pension, the veteran will submit an application, in paper or electronically, to his or her local VA Regional Office (VARO). The application then goes through VA's adjudication process, and at that point VA has a "duty to assist" the veteran through the claims process. VA's "duty to assist" ranges from informing the veteran of missing information from the application to assisting the veteran in gathering evidence from private and federal entities to providing the veteran with a compensation and pension (C&P) exam when necessary. A C&P exam is a medical examination conducted by a VA-contracted medical professional to evaluate the veteran's disability, illness, or condition and determine the level of severity. In the past, these exams were all conducted by VA employees in VA settings. However, over the past several years, VA has transitioned C&P exams to almost all being conducted by contracted physicians in non-VA settings.

This report provides a description of both VA's claims process and the C&P exam process. In addition, the report addresses topics of interest to congressional staff and constituents. These topics include the following:

- An overview of VA's claims process and the subsequent appeals process;
- Data and analysis of the number of VBA claims and backlogged claims from January 2004 through May 2022;
- Key dates of the progression of contracted exams;
- Data on and analysis of the number of C&P exams conducted between 2012 and 2022 (along with data associated with the costs incurred by VBA for the use of contracted physicians);
- Issues and challenges faced in conducting exams and gathering veterans' records to process claims during COVID-19;
- Legislative history of the evolution of C&P exams, initially conducted by Veterans Health Administration (VHA) and VBA and then subsequently conducted by contracted physicians; and
- An overview of the oversight of VBA contract exams by Congress, the VA Office of Inspector General (OIG), and the Government Accountability Office (GAO).

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Introduction

The Veterans Benefits Administration (VBA) within the Department of Veterans Affairs (VA) provides a wide range of benefits and programs for veterans and their families. Some of these benefits and programs include disability compensation, pension and fiduciary services, education assistance, vocational and employment training, and survivor benefits. Two divisions within VBA specifically address monetary benefits for disabled veterans: The Compensation Service oversees disability compensation for veterans who have disabilities, illnesses, or conditions that resulted from military service, and the Pension and Fiduciary Service oversees the needs-based benefit program for wartime veterans such as veterans' pensions.

To apply for these benefits, specifically disability compensation or a pension, the veteran submits an application, either via paper or electronically, to his or her local VA Regional Office (VARO). The application then goes through VA's adjudication process, and at that point VA has a "duty to assist" the veteran through the claims process.[1] VA's "duty to assist" ranges from informing the veteran of missing information from the application to assisting the veteran in gathering evidence from private and federal entities to providing the veteran with a compensation and pension (C&P) exam when necessary. Since the fall of 2016, VA transitioned from C&P exams being conducted by VA employees in VA settings to almost all C&P exams being conducted by contracted physicians in non-VA settings.[2]

Within each VARO, the veteran service representative (VSR) is the primary contact with the veteran. The VSR receives the claim, gathers additional needed evidence, and assists in scheduling the veteran's C&P exam. A C&P exam is a medical examination conducted by a licensed physician to evaluate the veteran's disability, illness, or condition and determine the level of severity. Upon the completion of these exams, the physician is to send the information to the VARO, where it is reviewed for eligibility of benefits. The medical professional who conducts this exam, however, does not rule on whether the veteran's condition is service connected and eligible for VA benefits. Rather, that is the responsibility of VA employees at the VAROs. A rating veteran service representative analyzes and reviews claims, medical records, and C&P assessments to determine if a veteran's condition is service-connected and, if so, the disability rating for the claimed disability. Following the determination, the VSR then enters the necessary data to generate the notification letter describing VA's decision.

This report provides an overview of both VA's claims process and C&P exams, as well as other topics of interest to congressional staff and constituents. This report includes the following topics:

- An overview of VA's claims process and the subsequent appeals process;
- Data and analysis of the number of VBA claims and backlogged claims from January 2004 through May 2022;
- Key dates of the progression of contracted exams;
- Data on and analysis of the number of C&P exams conducted between 2012 and 2022 (along with data associated with the costs incurred by VBA for contracted physicians);

[1] 38 U.S.C. §5103A and 38 C.F.R. §3.159.

[2] Throughout this report, the terms *contracted physician*, *contract physician*, *contracted examiner*, and *contract examiner* are used interchangeably to reflect the language used in the various VA, Government Accountability Office (GAO), and VA Office of Inspector General (OIG) reports; congressional language in legislation and hearings; and media reports. The four terms all mean a non-VA employee who is contracted by VBA to perform a veteran's C&P exam.

- Issues and challenges faced in conducting exams and gathering veterans' records to process claims during COVID-19;
- Legislative history of the evolution of C&P exams, initially conducted by Veterans Health Administration (VHA) and VBA and then subsequently conducted by contracted physicians; and
- An overview of the oversight of VBA contract exams by Congress, the VA Office of Inspector General (OIG), and the Government Accountability Office (GAO).

Department of Veterans Affairs (VA) Claims Process

Overview of the Claims Process[3]

VA's claims process for compensation and pension benefits is a multi-step process. **Figure 1** provides a high-level overview of the process and illustrates the point at which contracted C&P exams occur.[4] There are five key steps in the claims process:

1. The veteran submits a compensation or pension claim through either (1) an online intake system, which, when completed, creates a fully developed claim (FDC) that includes all claim application questions, relevant medical information, current contact information, and completed disability benefit questionnaires (DBQs); or (2) a paper Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits through a regional office or mailed through the U.S. Postal Service.[5]
2. A VSR reviews the veteran's claim and determines if additional information is required or if a C&P exam can be scheduled. A VA employee or a VA-contracted physician may send a letter or call the veteran to schedule the exam as part of the evidence-gathering stage of the process.
3. Unless otherwise told, VA requires a veteran to attend a C&P exam, where supplemental information is collected by a licensed health professional and provided to VBA to help adjudicate the veteran's claim.[6] Upon the completion of the C&P exam, the medical professional reviews the veteran's medical records and completes an exam report. This report is submitted to the VSR and added to the veteran's electronic claim file.
4. A veteran's entire claim file is sent to the rating veteran service representative, who reviews the veteran's entire application, medical records, supporting documents, C&P results, and any other supporting information to make a decision on the veteran's claim.

[3] VA, "Your VA Claim Exam: Know What's Next," https://www.benefits.va.gov/COMPENSATION/docs/claimexam-stepbystep.pdf.

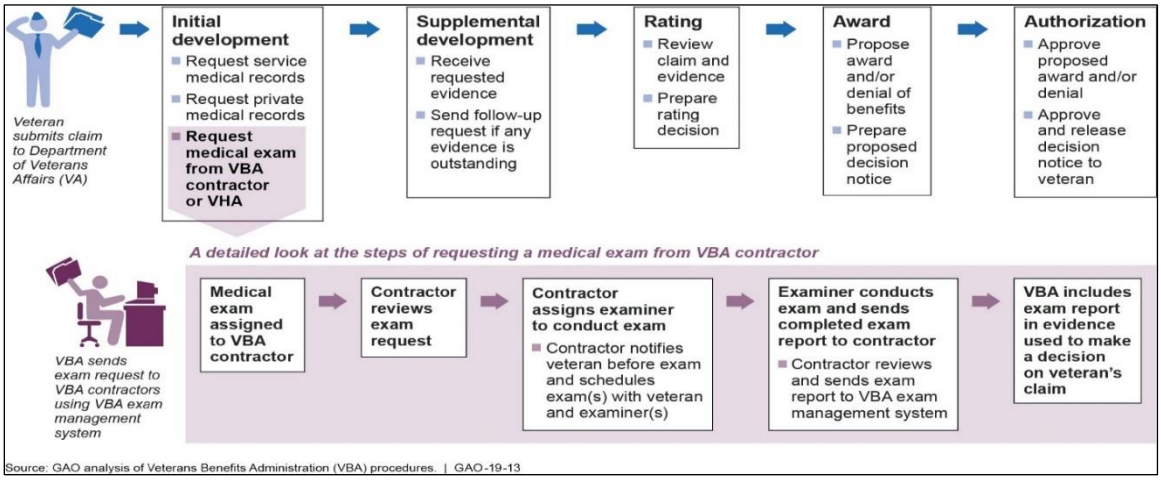
[4] A list of abbreviations used throughout this report can be found in **Appendix A**.

[5] VA, "How to File a VA Disability Claim," April 1, 2022, https://www.va.gov/disability/how-to-file-claim/.

[6] Due to COVID-19, VA suspended all contracted C&P exams from mid-April 2020 through August 2020, when VA began to gradually resume exams in locations where it was safe to do so. This caused veterans to have their C&P exams delayed, cancelled, or rescheduled. The VA issued a fact sheet for how a veteran or servicemember should approach C&P exams during COVID-19. See VA, "Claim Exam Fact Sheet for Veterans and Service Members During the Coronavirus Pandemic," https://www.benefits.va.gov/COMPENSATION/docs/VSM_COVID-19_Communication_Final_Approved.pdf.

5. VBA then issues an initial decision on the veteran's claim and sends out a decision notification packet with details of the decision. The packet also contains instructions on the next steps a veteran can take should he or she disagree with the decision. See "Filing an Appeal" section of this report for a veteran's appeal options.

Figure 1. VBA Disability Compensation Claims Process and Contractor Process for Completing C&P Exams



Source: GAO, *VA Disability Exams: Improved Performance Analysis and Training Oversight Needed for Contracted Exams*, GAO-19-13, October 2018, p. 5.

Fully Developed Claims (FDC)

The FDC system is a voluntary system in which the veteran submits all required VA forms, evidence and supporting documents, income and net worth information (for pension claims only), and all relevant medical information from both VA and private health providers into VA's electronic claims portal.[7] By a veteran submitting all the proper documentation, VBA can move forward with adjudicating the claim without the need to request additional records or information. The veteran has one year to complete the FDC, and if VBA approves the claim, benefits will be backdated to the day the veteran began the application in the system. However, if VBA determines that additional nonfederal records are required to decide a claim, VBA will "remove the claim from the Fully Developed Claims program and process it as a standard claim."[8]

The FDC process was intended to quicken the claims process and address the claims backlog. A claim is considered backlogged when it has been pending in VBA's claims inventory for over 125 days from the date of submission. According to VA's FDC website, as of June 11, 2022, the average number of days to process an FDC was 118.1 days and, for a non-FDC, 141.9 days.[9] As of the same date, there were 591,422 claims pending a decision, with 188,579 of these claims

[7] For a step-by-step overview on how to submit this type of claim, see VA, "Fully Developed Claims: FDC Walkthrough," https://www.benefits.va.gov/FDC/walkthrough.asp.

[8] VA, "VA Fully Developed Claims Program," https://www.va.gov/disability/how-to-file-claim/evidence-needed/fully-developed-claims/.

[9] VA, "Fully Developed Claims," *Veterans Benefits Administration Reports*, June 6, 2022, https://www.benefits.va.gov/reports/mmwr_va_claims_online.asp.

considered backlogged because they had been pending for more than 125 days. See "Claims Inventory" of this report for further details and explanation on VA's claims inventory.

VA's "Duty to Assist" and the National Personnel Records Center (NPRC)

Current law and regulation require VA to assist veterans in developing their claims through the "duty to assist."[10] The "duty to assist" may be applied to assistance in accessing records from either a federal or nonfederal entity, such as the National Personnel Records Center (NPRC) or private physicians. It also applies to other functions, such as providing a C&P exam. Generally, this obligation is used to assist a veteran in filing a claim for disability compensation, disability pension, or health care.

Per Title 38, Section 5103A(c), of the *U.S. Code*, VA shall provide assistance to a veteran to obtain records relevant to a disability compensation claim, and Section 5103A(d) directs VA to provide medical examinations for claims. This section of *United States Code* states that assistance provided by the Secretary:

> (a) shall include providing a medical examination or obtaining a medical opinion when such an examination or opinion is necessary to make a decision on the claim. (2) The Secretary shall treat an examination or opinion as being necessary to make a decision on a claim.[11]

VHA-employed physicians originally fulfilled VA's "duty to assist" in providing medical examinations. However, VA began to contract out these exams following a pilot program implemented through the authority granted in Section 504(b) of the Veterans' Benefits Improvements Act of 1996 (P.L. 104-275). See **Table B-1** for the legislative history of this authority.

VA also assists in contacting the Department of Defense (DOD) and NPRC for a veteran's military personnel file. NPRC is part of the National Archives and Records Administration (NARA) and is the main repository for military and civil service personnel-related records.[12] Generally, DOD transfers to NARA the management of a servicemember's records 62 years after the servicemember's separation from the military.[13] Some DOD records can be requested by either the veteran or VA through the various service branches directly. In addition, in many cases, records for servicemembers who separated after 2002 are digitally accessible by the service branches and can be electronically sent to VA.

According to NPRC, as a result of the COVID-19 pandemic, a significant backlog of records requests to submit for VA benefits has accumulated. Unlike DOD, which maintained operational status throughout the pandemic, NPRC closed for a period of time and had few staff on site. This is described in further detail in the "National Personnel Records Center" subsection of "Challenges Faced During COVID-19."

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[10] 38 U.S.C. §5103A and 38 C.F.R. §3.159.

[11] 38 U.S.C. §5103A(d).

[12] NARA, "National Personnel Records Center (NPRC)," June 22, 2021, https://www.archives.gov/personnel-records-center.

[13] NARA, "National Personnel Records Center: Archival (Accessioned) OMPFS and EMFS," last updated January 6, 2021, https://www.archives.gov/personnel-records-center/division. For more information on NPRC see the "National Personnel Records Center (NPRC)" section of this report.

Filing an Appeal

The Veterans Appeals Improvement and Modernization Act of 2017 (P.L. 115-55) redesigned the veterans benefit appeals system, and the new system went into effect on February 19, 2019.[14] Under this system, a veteran has three options or "lanes" for his or her claim to be reviewed. A veteran is able to select only one lane of appeal at a time. Each lane of review is described below and is also seen in **Figure 2**.

1. **Supplemental claim:** A veteran is able to add any new evidence that is relevant to the veteran's claim. VA is to assist in gathering additional information if needed. A VSR is to then review all the evidence and decide if a change in the initial decision is required.
2. **Higher-level review:** A veteran's claim is to receive a new review by a senior VSR. The senior VSR is to review all the evidence already in the claimant's file to determine if the initial decision should be changed. A claimant is unable to add any new evidence to the claim in this means of appeal.
3. **Board of Veterans' Appeals (BVA):** A veteran may request this type of appeal via three options:

   i. **Direct review:** The veteran does not want to submit any additional evidence and there is no hearing held. A veterans law judge will review the appeal directly.

   ii. **Evidence submission:** The veteran chooses to submit additional evidence, which must be done within 90 days of receiving a Notice of Disagreement. This appeal will also be completed without a hearing but with a judge reviewing all information (both original and additional evidence) directly.

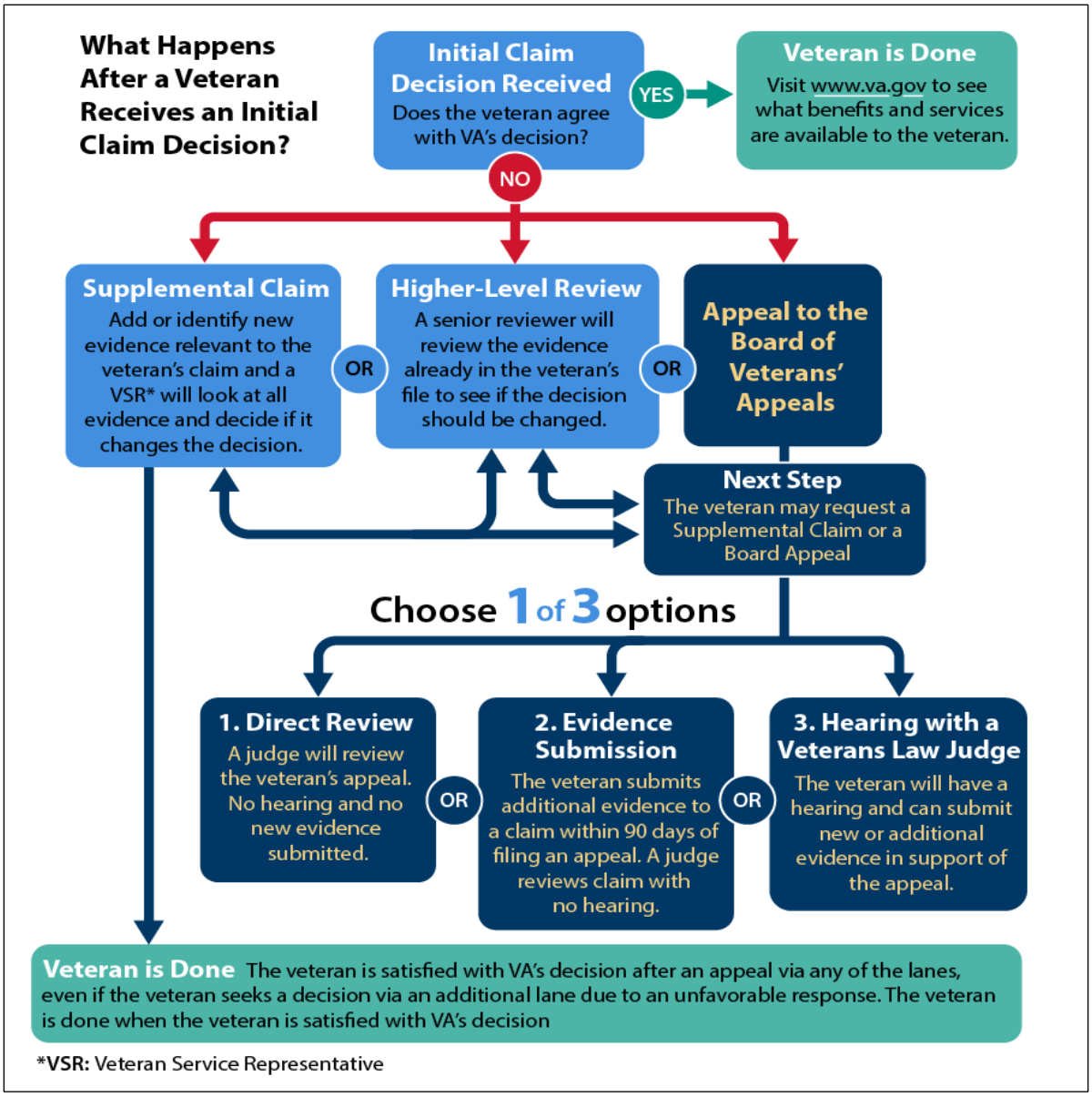
   iii. **Hearing with a veterans law judge:** The veteran decides to submit additional evidence and requests to testify before a judge. A hearing will be scheduled and all new evidence or documentation can be submitted ahead of time but no later than 90 days following the hearing.

If the veteran is satisfied with the VA's decision after pursuing an appeal via any of these lanes, the veteran is done. However, if a veteran receives an unfavorable decision in any of the lanes, the veteran may select another lane for further review, but a veteran may not seek review in multiple lanes simultaneously. In addition, after receiving a decision in any lane, a veteran may file a new supplemental claim by submitting new and relevant evidence. Thus, if a veteran disagrees with VA's decision on a supplemental claim, he or she can submit additional evidence as a new supplemental claim or may request higher-level review or BVA review. Similarly, if a veteran disagrees with VA's higher-level review, the veteran may request BVA review or submit additional evidence as a supplemental claim. Finally, if a veteran disagrees with a BVA decision, the veteran may submit additional evidence as a supplemental claim or file an appeal to the U.S. Court of Appeals for Veterans Claims.[15]

[14] VA, "VA's Appeals Modernization Act Takes Effect Today," press release, February 19, 2019, https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5207.

[15] See CRS In Focus IF11365, *U.S. Court of Appeals for Veterans Claims: A Brief Introduction*, by Jonathan M. Gaffney.

Figure 2. VA Appeals Process



Source: CRS; 38 U.S.C. §5104C. Additional information can be found on VA's Board of Veterans Appeals website at https://www.bva.va.gov/.

Claims Inventory and Backlogged Claims Data and Analysis

Claims Inventory

VBA's claims inventory includes claims that specifically require a rating decision, such as disability compensation and pension, along with survivor benefits, such as dependency and indemnity compensation and survivor's pension. The inventory counts both original and

supplemental claims. A claim is removed from the inventory once the claim is decided or if the veteran appeals a decision. The appealed claim is tracked separately.[16]

Figure 3 presents the inventory, including certain time periods in which there was a significant increase and/or decrease in claims. These data were calculated using VA's Monday Morning Workload Report (MMWR), and an explanation of the methods and limitations for this analysis are found in **Appendix C**. First, the MMWR for November 1, 2010, noted that "as of 10/30/10 Agent Orange presumptive claims (End Product [EPs] 681, 687 and 405) are counted as entitlement rating claims."

Second, the number of claims continued to rise from 2010 to 2015, at which time VA implemented the FDC process and a national work queue. This approach was created to "move claims electronically across regional office boundaries through the National Work Queue—an electronic workload management initiative designed to improve VBA's overall production capacity."[17] This did not remove VAROs out of the processing of claims; rather, it expanded the capacity of offices that did not have significant queues of claims to assist other regional offices that had backlogs of claims. By launching this national approach along with FDC electronic claims processing, VBA decreased the backlog of disability claims by 87%.[18]

Finally, the number of claims began to increase again in 2020 and has continued to increase. This increase was in response to the expansion of statutory and regulatory presumptions of service connection for Vietnam-era veterans and Persian Gulf and post-9/11 veterans. Following the stay on the implementation of the Blue Water Navy Vietnam Veterans Act of 2019 (P.L. 116-23), newly eligible Vietnam-era veterans began submitting claims for presumptive conditions on January 1, 2020.[19] Then, in 2021, two expansions of presumptive service connected conditions also led to an influx in claims. The William M. (Mac) Thornberry National Defense Authorization Act of 2021 expanded the presumptive conditions for exposure to Agent Orange during the Vietnam era to include bladder cancer, hypothyroidism, and Parkinsonism.[20] VA then announced that through the rulemaking process it would grant presumption of service connection for asthma, rhinitis, and sinusitis for exposure to particulate matter (such as burn pit emissions) to Gulf War veterans.[21] In April 2022, VA announced it would begin adjudicating claims for nine rare respiratory cancers as presumptive conditions for certain Persian Gulf and post-9/11 veterans. The gradual increase of claims in 2020 to the present is seen in **Figure 3**.

Backlogged Claims

Currently, VBA identifies a backlogged claim as one that has been pending VBA adjudication for more than 125 days. However, prior to October 2009, a claim was considered to be backlogged

[16] VA, "Claims Inventory," *Veterans Benefits Administration Reports,* April 25, 2022.

[17] VBA, Office of Corporate Communications, "VA's National Workload Approach to Processing Disability Claims," *VAntage Point,* February 16, 2016, https://blogs.va.gov/VAntage/25819/vas-national-workload-approach-to-processing-disability-claims/.

[18] Danny Pummill, Acting Under Secretary for Benefits, "VBA Improves the Veterans Experience: Goes Electronic on Claims, Reduces Backlog and Improves Accuracy," *VAntage Point,* June 14, 2016, https://blogs.va.gov/VAntage/28401/vba-improves-the-veterans-experience-goes-electronic-on-claims-reduces-backlog-and-improves-accuracy/.

[19] Blue Water Navy veterans are those individuals who served on U.S. Navy or Coast Guard vessels within 12 nautical miles offshore of the Republic of Vietnam between January 9, 1962, and May 7, 1975. For more information, see CRS In Focus IF11368, *Expansion of Benefits to Blue Water Navy Vietnam Veterans*.

[20] For more information, see CRS Insight IN11718, *VA Begins Adjudicating Claims for New Agent Orange Presumptions Included in NDAA FY2021*.

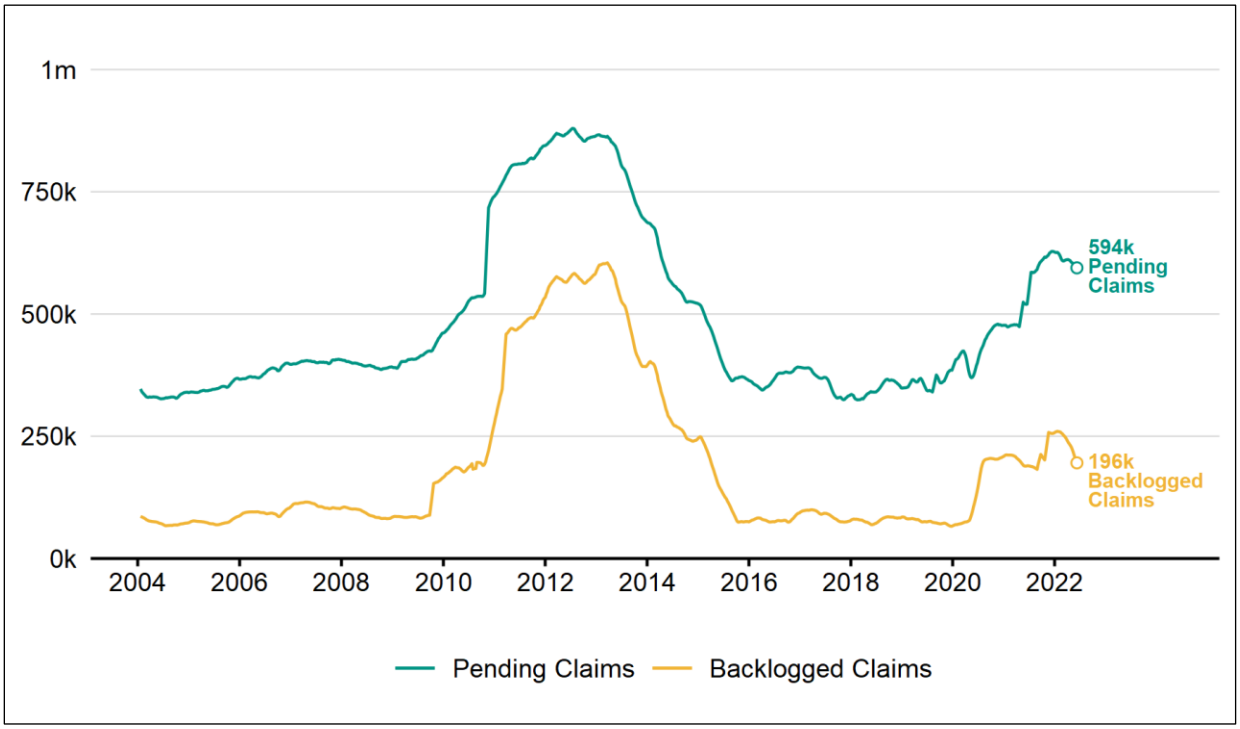
[21] For more information, see CRS Insight IN11724, *VA Now Processing Gulf War Veterans' Disability Claims for New Respiratory Presumptive Conditions*.

when it was pending for 180 days. The October 3, 2009, MMWR introduced a new format where the number of days pending for a claim to be classified as backlogged changed from 180 days pending to 125 days pending.

The backlogged claims data presented in **Figure 3** parallels the data on VBA's claims inventory. The significant increase of backlogged claims in 2009 is due to both the change in the backlog threshold (as previously discussed in this section) and the change in the categorization of Agent Orange claims in 2010, as discussed in the "Claims Inventory" section. Then, beginning in 2020 and continuing to today, there has been a significant increase in the number of backlogged claims due to a number of factors. First, an influx of claims was submitted by newly eligible Vietnam-era veterans beginning January 1, 2020, in addition to those claims that were submitted when the law was enacted (June 2019) but had not yet been adjudicated. Second, VA closed regional offices and temporarily suspended the C&P exam process from mid-April 2020 through August 2020 due to the COVID-19 pandemic. Finally, the expansion of presumption of service connection for Vietnam-era veterans and Persian Gulf and post-9/11 veterans, as described in the "Claims Inventory" section, continues to contribute to the increase of backlogged claims.

Figure 3. Four-Week Rolling Average of Claims and Backlogged Claims Inventory

January 2004 to June 2022



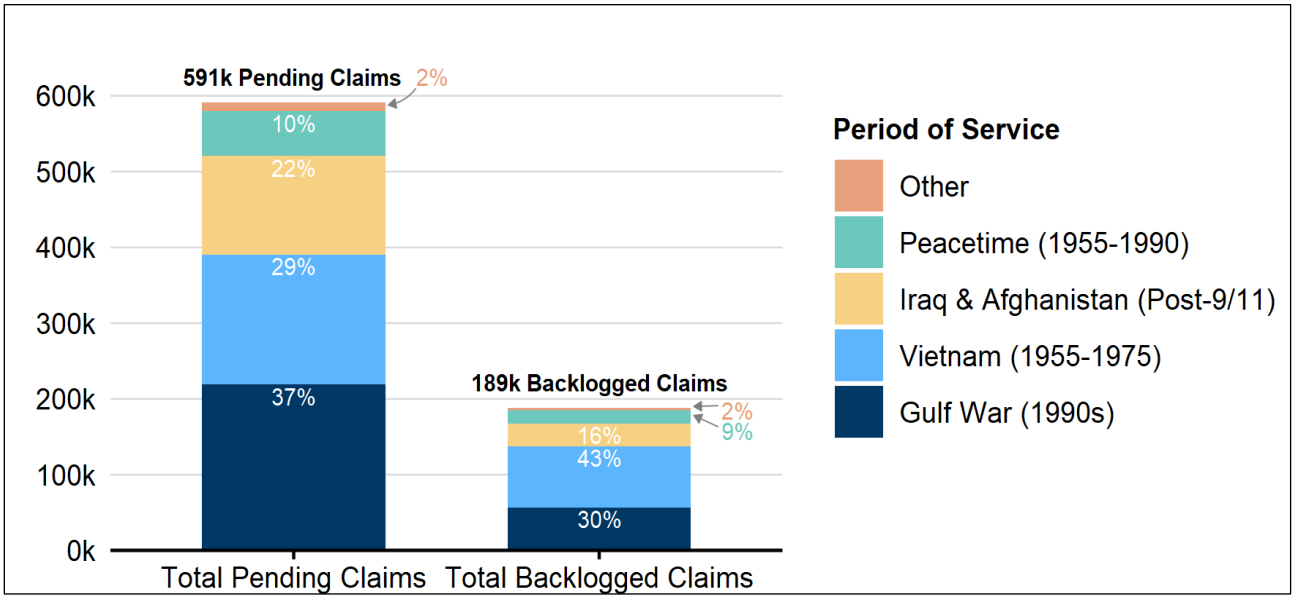
Source: CRS based on information from VBA, "Monday Morning Workload Report," last updated June 11, 2022, https://www.benefits.va.gov/REPORTS/detailed_claims_data.asp.

In addition to tracking the number of claims and backlogged claims, VBA also breaks down the number of pending and backlogged claims by period of military service, which can be seen in **Figure 4.** Note that the claims by period of service data displayed in **Figure 4** are provided as raw

numbers, as opposed to the four-week rolling average that CRS calculated to create **Figure 3**. The numbers graphed in both **Figure 3** and **Figure 4** are updated regularly at VA's website.[22]

Figure 4. Breakdown of Claims by Period of Service

Data as of June 11, 2022



Source: CRS. Data from VBA's Characteristics of Claims web page at https://www.benefits.va.gov/REPORTS/characteristics_of_claims.asp.

Notes: According to VA, the periods of service for this data are explained as follows: Gulf War is the 1990s conflict; Iraq & Afghanistan are the conflicts post 9/11; Peacetime is the end of the Vietnam era to the beginning of Persian Gulf; Vietnam is the entire era; and Other makes up Korea, World War II, and any remaining World War I veterans.

Contracted Compensation and Pension Exams

Over the past 25 years, the use of contracted physicians to perform C&P exams for veterans filing claims with VBA has expanded from 10 regional offices, in the initial stages of the pilot program, to all regional offices. In addition, the use of VHA health professionals has significantly decreased. At one point VHA health professionals conducted all C&P exams. Now, they perform only the exams that are statutorily required to be conducted by VA employees.[23] This section of the report will highlight major "Dates of Importance" of the contracted exam program. An extensive legislative history on the authorization and use of contracted physicians is in **Appendix B**.

[22] VA, "Detailed Claims Data: Claims Inventory and Claims Backlog," *Veterans Benefits Administration Reports*, April 25, 2022, https://www.benefits.va.gov/reports/detailed_claims_data.asp; and VA, "Characteristics of Claims," *Veterans Benefits Administration Reports*, April 25, 2022, https://www.benefits.va.gov/REPORTS/characteristics_of_claims.asp.

[23] These include former prisoner of war protocol examinations; exams that require hospitalization or surgical evaluation (i.e., colonoscopy or laparoscopy); exams for veterans who are inpatients at VHA facilities, nursing homes, or extended care facilities; and exams for veterans who are employees of the contract exam vendors. VA, "Contract Exam Exclusion List," *M21-1 Adjudication Manual*, https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000056862/Contract-Exam-Exclusions-List.

Dates of Importance

October 1996—Authorization of Pilot Program

Section 504(b) of the Veterans' Benefits Improvements Act of 1996 (P.L. 104-275)[24] granted the VA Secretary discretionary authority to establish a pilot program in no more than 10 regional offices to conduct veterans' disability examinations through persons other than VA employees. The act specified that funding for the contracted physicians come from the funds allocated to VA for the administration of compensation and pension payments. Section 504(d) of the act also required the Secretary to submit a report to Congress within three years of enactment on cost, timeliness, and thoroughness of the exams. In the July 16, 1996, issue of the *Congressional Record*, House Members explained that authorizing the pilot was, in part, due to the recommendations of the Blue Ribbon Panel on the Adjudication of Claims, which found that "in some instances, VA medical centers were not responsive to VBA requirements for thorough medical exams."[25] Representative Lane Evans described that "by giving VA regional offices the authority, on a pilot basis, to choose someone other than an unresponsive VA medical center for its medical examinations, we hope to improve the quality and timeliness of compensation and pension examinations."[26] Consensus within the discussion explained that the pilot program was anticipated to speed up the examination-gathering process for the adjudication of claims.[27]

December 2003—Temporary Authority for Use of Contract Physicians

Section 704 of the Veterans Benefits Act of 2003 (P.L. 108-183) extended the temporary authority for the pilot program. This temporary authority was in addition to the authority initially granted under Section 504(b) of P.L. 104-275. In addition, Section 704 of P.L. 108-183 stated that the expanded authority would expire on December 31, 2009, and that "no examination may be carried out under the authority provided in that subsection after that date." Congress also required the Secretary to submit a report to Congress within four years from the date of enactment that included an assessment of the cost, timeliness, and thoroughness of said examinations. S.Rept. 108-169, published in conjunction with the proposed legislation, included a discussion on the background and purpose of the contract disability exams. While the committee noted the success of the pilot program in providing "adequate and timely disability examinations at locations near their home," the committee also expressed its desire to see VA continue its work, stating that "the expanded contract authority specified in this provision would serve as a complement to, and not a substitute for, examinations performed by VHA staff."[28]

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[24] Section 504 of P.L. 104-275, "Veterans' Benefits Improvements Act of 1996," Explanatory Statement on S. 1311, As Amended: Compromise Agreement, *Congressional Record*, vol. 142 (September 28, 1996), p. S11791.

[25] Rep. Terry Everett and Rep. Benjamin Gilman, "Veterans' Compensation and Readjustment Benefits Amendments of 1996," remarks on H.R. 3673, *Congressional Record*, vol. 142, part 104 (July 16, 1996), pp. H7554-H7555.

[26] Rep. Lane Evans, "Veterans' Compensation and Readjustment Benefits Amendments of 1996," remarks on H.R. 3673, *Congressional Record*, vol. 142, part 104 (July 16, 1996), pp. H7555.

[27] Rep. Terry Everett and Rep. Benjamin Gilman, "Veterans' Compensation and Readjustment Benefits Amendments of 1996," remarks on H.R. 3673, *Congressional Record*, vol. 142, part 104 (July 16, 1996), pp. H7554-H7555.

[28] U.S. Congress, Senate Committee on Veterans' Affairs, *Veterans' Benefits Enhancements Acts of 2003*, Report to accompany S. 1132, 108th Cong., 1st sess., October 3, 2003, S.Rept. 108-169, pp. 22-23.

December 2014—Expansion of Contract Authority

The Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235), directed the Secretary to expand the program to no more than 12 regional offices in FY2015 and 15 regional offices in FY2016. This section also granted the Secretary the authority to expand the use of medical disability contracts beginning FY2017 and each following fiscal year to as many VA regional offices as deemed appropriate. Funding for these new contracts would come from VA's compensation and pension appropriated funds.

October 2016—VBA Controls All Contract C&P Exams

In preparation for the expansion of these contracted exams, in March 2016, VA announced the "award of 12 major contracts to be managed by VBA, consisting of a $6.8 billion enterprise-wide MDE program."[29] VA created the Medical Disability Examination Program Office to oversee contract C&P exams and enhance the ability to provide these exams promptly to veterans. Upon the announcement of these contracts, VBA divided the contract exam program into seven districts, five of which aligned with MyVA, a 2015 initiative to divide the U.S into regions as a way to improve internal coordination and interaction with veterans. The other two districts of the exam program provide coverage outside the United States, as detailed in **Figure 5**.[30] According to VA, this transition was made to allow VHA to increase its focus on providing timely and adequate medical care for veterans.

October 2020—VA Announces All C&P Exams Contracted Out

According to both congressional press releases and multiple news articles, VA announced a plan to shift the entire C&P exam program to contract physicians.[31] In her letter to then-VA Secretary Robert Wilkie, Representative Elaine Luria, chair of the House Veterans' Affairs Committee Disability Assistance and Memorial Affairs Subcommittee, stated that the decision was made without notifying Congress and noted that "VA privately advised my staff of the decision after it was made, without a press release or communication to the affected veterans, advocates, or labor representatives."[32] Jon Tester, then-ranking member of the Senate Veterans' Affairs Committee (SVAC), along with several of his Senate colleagues, also expressed concern in an additional letter to then-Secretary Wilkie:

> We were alarmed to learn that VA's vision for the future of the C&P program is to fully utilize private contractors to take over the VA personnel's workload, which we believe has

[29] Steve Bracci, et al., *Veterans Benefits Administration: Inadequate Oversight of Contracted Disability Exam Cancellations*, VA OIG, June 10, 2019, p. 26, https://www.va.gov/oig/pubs/VAOIG-18-04266-115.pdf.

[30] Bracci et al., *Veterans Benefits Administration*, p. 19; and VA, "VA Announces Single Regional Framework Under MyVA Initiative," press release, January 26, 2015, https://blogs.va.gov/VAntage/16786/va-announces-single-regional-framework-under-myva-initiative/.

[31] See Nikki Wentling, "VA Plans to Outsource All Compensation and Pension Exams," *Military.com*, October 21, 2020, https://www.military.com/daily-news/2020/10/21/va-plans-outsource-all-compensation-and-pension-exams.html; and Leo Shane III, "VA Moving Ahead with Plans to Outsource All Compensation and Pension Exams," *Military Times*, November 16, 2020, https://www.militarytimes.com/news/pentagon-congress/2020/11/16/va-moving-ahead-with-plans-to-outsource-all-compensation-and-pension-exams/.

[32] Office of U.S. Congresswoman Elaine Luria, "Congresswoman Elaine Luria Urges VA to Provide Timely, High Quality C&P Exams," press release, October 21, 2020, https://luria.house.gov/media/press-releases/congresswoman-elaine-luria-urges-va-provide-timely-high-quality-cp-exams; and letter from Rep. Elaine Luria to VA Secretary Robert Wilkie, October 20, 2020.

> the potential for serious long-term negative impacts on the services and benefits provided to our nation's veterans.[33]

The letter continued by reinforcing Congress's intent to establish the pilot program for contracted C&P exams "to supplement VA's internal capacity to perform exams to help veterans, not supplant it."[34]

January 2021—VA's Medical Disability Examinations

Section 2002 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) expanded license portability for physician assistants, nurse practitioners, audiologists, and psychologists to allow for these contracted professionals to conduct C&P exams across state lines. Another provision placed a temporary hold on VA eliminating internal health professional positions related to C&P exams until the wait time for veterans who need exams is lower than it was on March 1, 2020. For contracted health care professionals conducting C&P exams that are underperforming, this section grants the Secretary the authority to hold those individuals accountable.

VA Management of Contracted C&P Exams: Medical Disability Examination Office (MDEO)

Effective October 1, 2020, the start of FY2021, the Medical Disability Examination Program Office was realigned within VBA and is now a separate entity called the Medical Disability Examination Office (MDEO). This realignment is intended to provide better oversight and management of the contracted exams.[35] VBA reassigned two senior executives from other VBA entities to lead this office and tasked them with modernizing and improving the process of C&P contracted exams. On December 6, 2020, VBA opened the MDEO. MDEO now manages all main vendor contracts and the additional ancillary contracts. The main vendor contracts support sites throughout the United States, in 37 foreign and U.S. territories, and at 121 pre-discharge sites. These contracts are divided into districts, which can be seen in **Figure 5**. The ancillary contracts (not pictured) will provide support for vendor credentialing, financial audits, customer satisfaction, and independent validation and verification.[36]

During the December 2020 VA Advisory Committee on Disability Compensation meeting, Mary Glenn, then-deputy executive director of MDEO, explained that MDEO has its own staff that works within the office's four main divisions: (1) data and operations, (2) medical disability exam quality, (3) policy and program management, and (4) acquisitions and budget.[37] In addition, Glenn explained that when VA suspended in-person examinations during the COVID-19 pandemic, all contracted physicians were directed to use acceptable clinical evidence (ACE)[38]

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[33] Senate Committee on Veterans Affairs, "Tester, Colleagues Slam VA Privatization of Compensation and Pension Exams for Disabled Veterans," press release, November 20, 2020, https://www.veterans.senate.gov/newsroom/minority-news/tester-colleagues-slam-va-privatization-of-compensation-and-pension-exams-for-disabled-veterans.

[34] Ibid.

[35] VA Advisory Committee on Disability Compensation Meeting Minutes, December 1-2, 2020, p. 5, https://www.va.gov/ADVISORY/MINUTES/Minutes-ACDCDec2020.pdf.

[36] Email from VA Office of Congressional and Legislative Affairs, July 16, 2021.

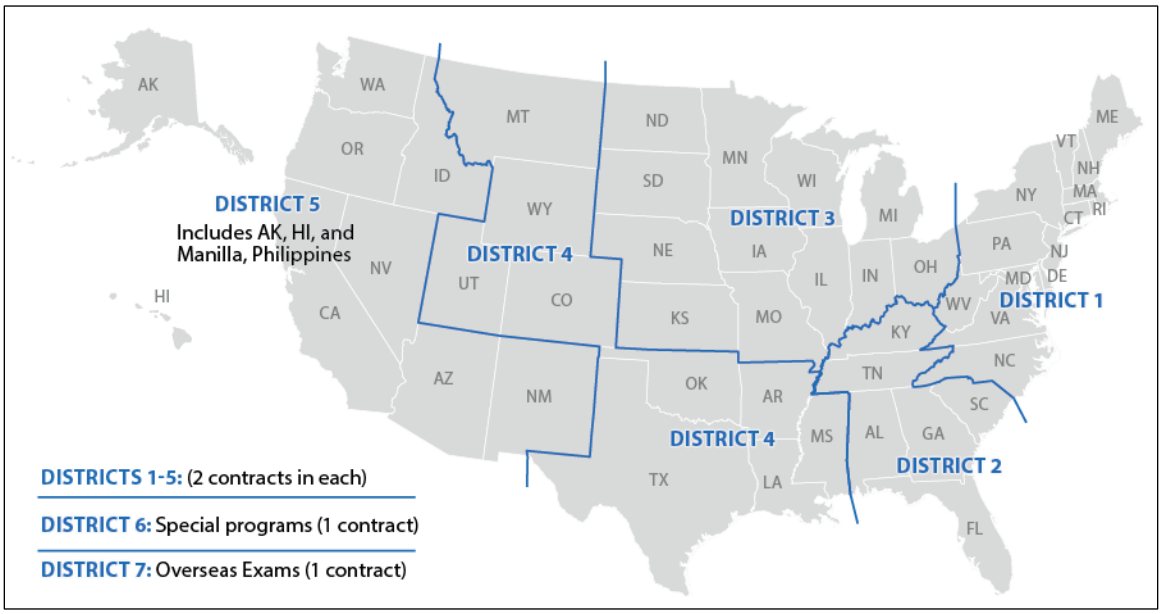
[37] VA Advisory Committee on Disability Compensation Meeting Minutes, December 1-2, 2020, p. 5.

[38] ACE exams are those in which an examiner can review a veteran's medical file and complete a DBQ in place of an in-person exam to expedite the disability rating process.

exams and tele-C&P exams to the greatest extent possible. As VA gradually began to resume in-person exams, if a tele-C&P exam or ACE was feasible for a veteran's claim, the physicians were encouraged to continue to use that option. She also assured the committee that MDEO followed the Centers for Disease Control and Prevention guidelines and implemented "stringent procedures for vendors."[39] Additional adjustments to C&P exams during COVID-19 are described in "Challenges Faced During COVID-19."

In 2021, MDEO contract exam vendors completed more than 1.7 million C&P requests for veterans domestically and internationally, which is a 56% increase over 2020, despite challenges posed by the COVID-19 pandemic. With this increase in completed exams, in 2021, the VBA's pending inventory for C&P exams was reduced from 351,000 to 258,000. MDEO estimates that contract exam vendors will complete over 2.21 million exams for veterans and servicemembers in 2022 and over 2.36 million exams in 2023.[40]

Figure 5. VBA C&P Contract Exam Districts



Source: CRS based upon information in U.S. Government Accountability Office, *VA Disability Exams: Improved Performance Analysis and Training Oversight Needed for Contracted Examiners*, GAO-19-13, October 12, 2018, p. 7, https://www.gao.gov/products/gao-19-13.

Oversight of VBA Contract C&P Exams

Over the past two decades, VA's pilot program to contract out C&P exams has expanded to all regional offices. As the program expanded, Congress continued to monitor the program through hearings, VA OIG reports, and reviews of the program by GAO. **Appendix B** provides a snapshot of the various methods of oversight conducted specifically for contracted exams over the past 20 years. The tables focus on this time period because it is when the expansion of contracted C&P exams began in earnest. **Table B-3** provides a selected list of congressional hearings on the status of the contracted exams as VA's authority for granting contracts was either reauthorized or

[39] VA Advisory Committee on Disability Compensation Meeting Minutes, December 1-2, 2020, p. 5.

[40] VA, FY2023 Budget Submission, Benefits and Burial Programs and Departmental Administration, vol. 3 of 4, March 2022, p. VBA-69.

expanded. **Table B-4** provides a selected list of VA OIG reports that focus on the challenges VA faced in providing contracted C&P exams and ways VA can improve the implementation of the program. **Table B-5** provides an overview of GAO reports that were requested by the committees of jurisdiction and that provide specific recommendations to VA as ways to improve the program. In addition, this table includes some testimony by GAO to the committees.

C&P Exam Data and Analysis[41]

As a result of the legislation passed by Congress, discussed in the "Contracted Compensation and Pension Exams" section and **Appendix B**, there has been a significant increase in the number of contracted C&P exams. The increase in C&P exams correlates to the increase in overall disability claims submitted to VA for adjudication as described in "Claims Inventory." **Figure 6** shows the increase in the number of VBA contracted exams from FY2013 through FY2021 compared to the correlated decrease in the number of exams performed by VHA medical staff. As the number of contracted C&P exams increased, so did the amount of appropriations required to fund the program. **Figure 7** shows the increased cost of C&P exams compared to the overall C&P program budget allocations from FY2006 through FY2021.

Figure 6 displays data on VBA contracted C&P exams and VHA in-house C&P exams that CRS obtained through direct communication with VA liaisons. The VA data for both VBA contracted C&P exams and VHA in-house C&P exams covered FY2013-FY2021. VA explained that VBA officially took over the contracts once held by VHA in FY2017 and in essence took over all contract C&P exams.

Figure 7 provides the cost incurred for certain years for contracted C&P exams by VBA only. This is due to the inconsistent nature of reporting by VHA on the costs incurred to conduct the contracted exams. In November 2001, the House Committee on Veterans' Affairs held a hearing to receive the "VA Claims Processing Task Force Report to the Secretary of Veterans Affairs," which described challenges in the program's implementation and inconsistent recordkeeping. The report stated that "VHA does not specifically monitor costs for its C&P medical examination program, thus making comparisons with private contractors difficult."[42] Therefore, CRS did not include VHA appropriations and costs in this analysis.

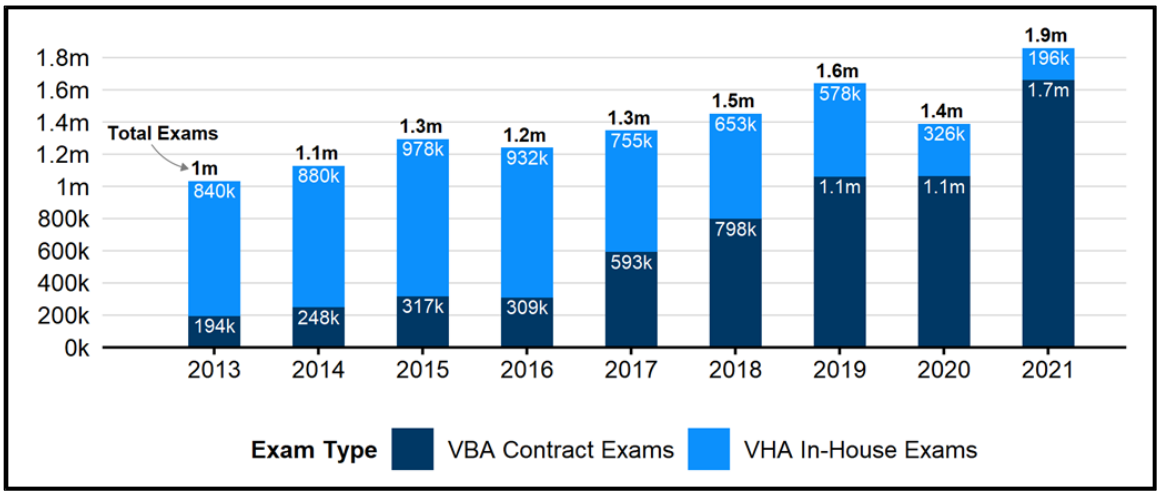
The data included in both charts in **Figure 7** were taken from VA's annual budget request and compares the appropriations for VBA contracted exams with the overall C&P appropriations (calculated as the sum of the "Total Compensation Obligations" and "Total Pensions Obligations" line items). Burial appropriations are not included in the calculation of overall C&P appropriations. Given the difference in scale, VBA contracted exam appropriations and overall C&P appropriations are graphed on separate axes.

[41] Data calculations for this section were conducted by CRS Research Assistant Isaac Nicchitta.

[42] U.S. Congress, House Committee on Veterans' Affairs, *Hearing to Receive the Report of the VA Claims Processing Task Force (Cooper Report)*, 107th Cong., 1st sess., November 6, 2001, H.Hrg 107-16 (Washington: GPO, 2002), p. 80.

Figure 6. VBA Contracted Exams vs. VHA In-House Exams

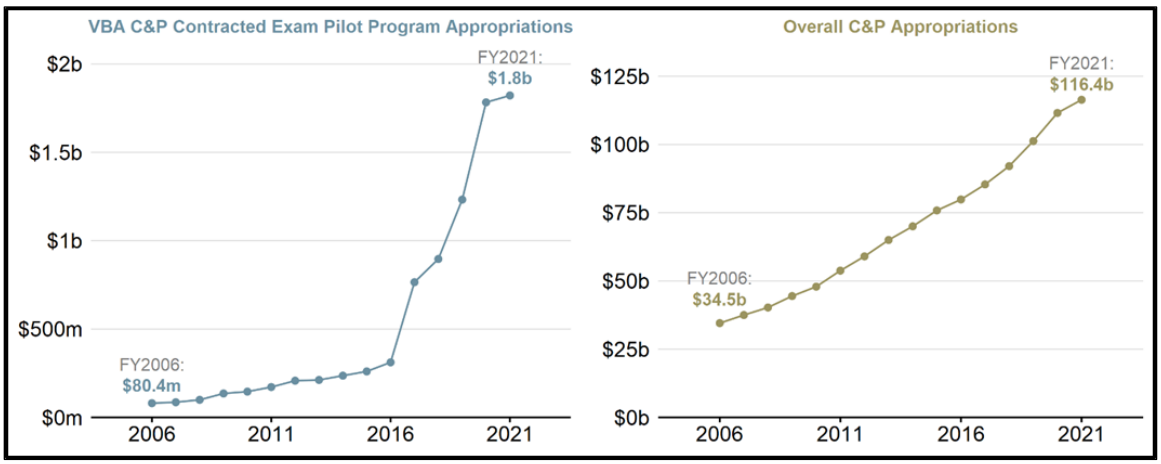
FY2013-FY2021



Source: Data provided to CRS by VA Congressional Liaison Office.

Figure 7. VBA C&P Contracted Exam Pilot Program Appropriations vs. Overall C&P Appropriations

FY2006-FY2021



Source: VA, Annual Budget Submissions, Benefits and Burial Programs and Departmental Administration, vol. 3 of 4, FY2008-FY2023.

Note: Amounts are in nominal (i.e., non-inflation-adjusted) dollars.

Challenges Faced During COVID-19[43]

C&P Exams and Benefits

Facing the COVID-19 pandemic, on March 18, 2020, VBA announced via Facebook and Twitter that all regional offices would close to the public starting March 19, 2020.[44] Most VA employees would telework to ensure the continuity of processing claims. However, offices would no longer be accepting walk-ins for claims assistance, scheduled appointments, counseling, or other in-person services. VBA directed veterans who had claims-specific questions or any other questions to use the Inquiry Routing and Information System or to call 1-800-827-1000.

In a March 26, 2020, interview, then-VA Under Secretary for Benefits Dr. Paul Lawrence addressed the issue of veterans who needed C&P exams completed as part of their benefits applications. Due to travel restrictions and social distancing policies, Dr. Lawrence explained VBA's attempt to provide exams without in-person contact:

> So we're trying to do more, a lot more through telehealth. You know phone call or a Skype session or something. We can get these exams done that we're flexing in new ways. Where once things were done in person … now they're being done electronically.[45]

Following Dr. Lawrence's interview, on March 31, 2020, VA announced changes to several in-person meetings and programs to ensure the safety of both the staff and VA benefit recipients during this time. Some of these changes included

- providing educational counseling through online and telephone services;
- using teleconferencing and VA Video Connect for case management, general counseling, and connecting veterans to Veteran Readiness and Employment services;
- conducting informal conference hearings by telephone or video conferencing;
- providing virtual briefings and individualized counseling for transitioning servicemembers; and
- conducting examinations for disability benefits using tele-C&P exams. (If an in-person examination was required, the veteran would be notified for scheduling by a contract physician.)[46]

On April 6, 2020, VBA announced via email that it was "suspending in-person C&P examinations until further notice and will continue to conduct C&P exams through ACE and Tele-C&P, when possible."[47] The email provided guidance on filing claims and information to assist veterans with

[43] For additional information on VA's response to COVID-19, see CRS Report R46340, *Federal Response to COVID-19: Department of Veterans Affairs*.

[44] This announcement was included as a banner on the VBA regional offices web page. However, this banner was not permanent and has since changed to reflect the latest status.

[45] Federal News Network, "Coronavirus Hits Just as VBA Was Getting Claims Backlogs Under Control," March 26, 2020, https://federalnewsnetwork.com/veterans-affairs/2020/03/coronavirus-hits-just-as-vba-was-getting-claims-backlogs-under-control/.

[46] VA, "VA Expands Virtual Services to Support Veterans Due to COVID-19 Pandemic," press release, March 31, 2020, https://www.blogs.va.gov/VAntage/73202/va-expands-virtual-services-support-veterans-due-covid-19-pandemic/ ; and VA, "VA Expands Virtual Services to Support Veterans Amid Regional Office Closures Due to COVID-19 Pandemic," press release, March 31, 2020, https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5408.

[47] Email from VBA, Monday, April 6, 2020, "Your Virtual C&P Examination Alternatives During the Pandemic."

submitting medical documentation without appearing in person. On April 3, 2020, VA announced that claimants who need extensions in filing their paperwork "can simply submit [the request] with any late-filed paperwork and veterans do not have to proactively request an extension in advance."[48]

On April 9, 2020, VA issued an update to its "Coronavirus FAQ's: What Veterans Need to Know" with directions on how to switch an appointment or a C&P exam from an in-person appointment to a telehealth appointment.[49] In addition, VBA released a series of documents to provide veterans clearer guidance on how to handle their claims—and especially their C&P exams—during the pandemic.

At the end of May 2020, VBA resumed in-person C&P contracted exams where the local conditions permitted, and by December 31, 2020, the majority of C&P exam locations were beginning to schedule or had already resumed scheduling and providing C&P exams. However, it was not until June 1, 2021, that exams requiring the removal of the veteran's personal protective equipment were able to resume at all U.S. exam locations.[50]

As a result of the suspension of in-person C&P exams, closures of regional offices, and delays in accessing records through NPRC, a significant backlog of claims and C&P exams developed, as further explained in the next section. Due to concerns by veterans, survivors, various veterans service organizations (VSOs), and congressional officials, the House and Senate Veterans' Affairs Committees have held hearings on the status of veterans' claims and C&P exams during the pandemic. On March 23, 2021, Elizabeth Curda, director of GAO's Education, Workforce and Income Security, testified before the House Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs that the days pending for completion of contract C&P exams increased from 23 days in January 2020 to 91 days in February 2021.[51] Curda provided **Figure 8** to the House Subcommittee in her written testimony, demonstrating the number of pending exams in correlation to the average number of days pending for the exams. The significant increase in both the number of pending exams and days pending is a result of the suspension of in-person C&P exams for several months during 2020. Additional highlights of her testimony to both the House and Senate committees can be found in the tables included in **Appendix B**.

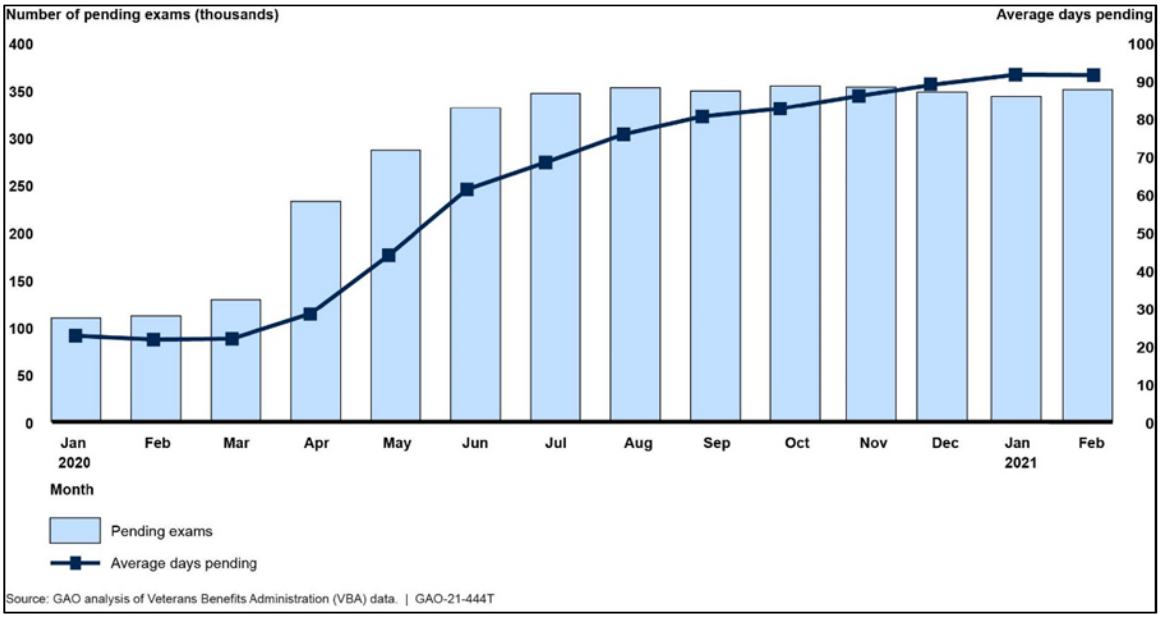
[48] VA, "VA Extends Financial, Benefits and Claims Relief to Veterans," press release, April 20, 2020, https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5412.

[49] VA has continued to update this factsheet throughout the pandemic with the status of VA medical facilities, claims and debt submission guidelines, and status of VA national cemeteries and burials. VA, "Coronavirus FAQs: What Veterans Need to Know," August 3, 2021, https://www.va.gov/coronavirus-veteran-frequently-asked-questions/.

[50] VA, "VA Claim Exam Resumption Fact Sheet," last updated June 14, 2021, p. 1, https://benefits.va.gov/COMPENSATION/docs/claimexam-resumption-factsheet.pdf#.

[51] GAO, *VA Disability Exams: Better Planning Needed as Use of Contracted Examiners Continues to Grow*, GAO-21-444T, March 23, 2021, pp. 6-7, https://www.gao.gov/assets/gao-21-444t.pdf.

Figure 8. Number of Pending Disability Medical Exams and Average Days Pending Completion by VBA Contractors, January 2020 to February 2021



Source: GAO, *VA Disability Exams: Better Planning Needed as Use of Contracted Examiners Continues to Grow*, GAO-21-444T, March 23, 2021, pp. 6-7, https://www.gao.gov/assets/gao-21-444t.pdf.

On May 12, 2021, Acting Under Secretary for Benefits Thomas J. Murphy testified

> As of April 2021, approximately 65% of the total claims inventory is awaiting an examination and 10% is waiting pending Federal records. VBA is making every effort to process as many disability compensation claims as possible during the pandemic and will not deny a claim due to the pandemic-related inability to complete in-person exams or receive Federal records…. Currently, there are over 58,000 non-actionable exams because Veterans have not yet elected to appear for their C&P examinations.[52]

The non-actionable exams were part of the discussion in the April 2021 meeting between VBA and VSOs in which VBA said that the status of these exams is due to veterans being unwilling to meet for their C&P exams, even virtually, or that VBA is unable to establish communication with the veterans. VBA informed the VSOs that these claims "will be held in abeyance until the veteran engages with the contract vendor or 60 days following the declared end of this national medical emergency."[53]

Virtual C&P Exams

While in-person exams were suspended, VHA and VBA trained contracted examiners to use telehealth technology to conduct virtual exams. This training included expanding the use of ACE

[52] U.S. Congress, Senate Committee on Veterans' Affairs, Statement of Thomas J. Murphy, Acting Under Secretary for Benefits Veterans Benefits Administration Department of Veterans Affairs Before the Committee on Veterans' Affairs, United States Senate, 117th Cong., 1st sess., May 12, 2021, pp. 3-4, https://www.veterans.senate.gov/services/files/6B9FFC5E-B16D-42B4-B229-0D3EF8E12BF2

[53] Paul Frost, "VA Updates MOAA, Other Groups on Compensation and Pension Exam Status," *MOAA.org*, April 5, 2021, https://www.moaa.org/content/publications-and-media/news-articles/2021-news-articles/va-updates-moaa,-other-groups-on-compensation-and-pension-exam-status/.

exams in which the examiner reviews a veteran's medical file and completes a disability benefits questionnaire (DBQ) in place of an in-person exam to expedite the disability rating process.[54] To increase the use of tele-C&P and ACE exams, VA expanded the number of examinations eligible for use of telehealth technology from 19 to 34. This change allowed VBA contracted examiners to complete 114,749 ACE exams and 110,746 tele-C&P exams between April 2020 and April 2021.[55] As a result, in June 2020, VA announced a significant increase in telehealth video appointments through VA Video Connect, which allows veterans and their caregivers to meet with the veteran's health care team virtually on any device with internet access. Between February and May 2020, VA saw more than a 1,000% increase in the program's use, with appointments increasing from approximately 10,000 to 120,000 per week.[56]

In VA's FY2023 budget submission, MDEO provided data on the contract C&P exam inventory and also the number of contracted exams that were completed using either ACE or Tele-C&P. At the height of the backlog of pending C&P exams in 2021, there were 351,000 exams pending. MDEO was able to reduce that inventory to 258,000 as "contract vendors continue[d] to increase their volume of completed [exam scheduled requests] each month, resulting in a decrease in the excess inventory of examinations."[57] In addition, MDEO reported that in 2021 over 115,000, or approximately 7%, of C&P exams were completed using ACE with an additional 85,000, or approximately 5.1%, of exams completed using Tele-C&P.[58]

National Personnel Records Center (NPRC)[59]

NPRC, located in St. Louis, MO, is the main repository for the federal government's military and civil service personnel-related records. NPRC holds more than 4 million cubic feet of records and stores these documents permanently in accordance with the Federal Records Act. The significant majority of these records are in paper format, requiring staff to be on-site to complete research and requests. Due to the COVID-19 pandemic, NPRC closed in March 2020, leaving only minimal staff on site to complete emergency requests, such as records needed for death/burial benefits or for medical procedures such as surgery. **Table 1** is a chronological overview of NPRC's timeline of operating status throughout the pandemic based upon the banner postings on NPRC's website.[60]

Table 1. Chronology of NPRC Operating Status

March 2020	NPRC closes with only a few staff on site to address emergency veteran records requests.
June 24, 2020	NPRC entered Phase One of a gradual reopening, which included an on-site staffing capacity of 10%.

[54] Frost, "VA Updates MOAA."

[55] U.S. Congress, Senate Committee on Veterans' Affairs, *Statement of Thomas J. Murphy, Acting Under Secretary for Benefits Veterans Benefits Administration Department of Veterans Affairs Before the Committee on Veterans' Affairs United States Senate*, 117th Cong., 1st sess., May 12, 2021, p. 4, https://www.veterans.senate.gov/imo/media/doc/VA%20Testimony%2005.12.21.pdf.

[56] VA, "VA Video Connect Visits Increase 1000% During COVID-19 Pandemic," press release, June 12, 2020, https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5467.

[57] VA, *FY2023 Budget Submission*, p. VBA-69.

[58] Ibid., p. VBA-70.

[59] For more information on NPRC and record requests during COVID-19 pandemic see CRS In Focus IF11950, *COVID-19 Impact on Access to Military Service Records*; and CRS Insight IN11668, *VA, HHS to Vaccinate NARA National Personnel Records Center Staff*.

[60] NPRC, https://www.archives.gov/personnel-records-center.

October 5, 2020	NPRC entered Phase Two of reopening, adding additional staff for on-site operations.
November 7, 2020	NPRC reduced on-site staff to less than 10% due to increase of COVID cases.
March 8, 2021	NPRC increased on-site staffing to 20% capacity.
March 29, 2021	NPRC announces it will increase staffing capacity to 25%.
April 1, 2021	VA announces agreement with NARA and Department of Health and Human Services to help vaccinate NPRC staff.
May 10, 2021	NARA chief archivist sends letter to the Secretary of Defense requesting assistance for "pandemic recovery operations" at NPRC.
August 2, 2021	NPRC returned to COVID-19 Phase 0 due to community transmission rate, which reduced the number of on-site staff to 10% capacity.
September 27, 2021	NPRC increased on-site staffing to 25% of pre-pandemic capacity.
October 18, 2021	NPRC increased on-site staffing capacity to 45%.
January 6, 2022	NPRC decreased on-site staffing to 25%.
March 7, 2022	NPRC resumed normal operations.

In early fall 2020, additional staff began to return to the building to process non-emergency requests. However, NPRC closed down again due to a spike in COVID-19 cases among staff.[61] NPRC continued to work on processing both emergency requests and records requests from veterans, their survivors, and VBA. In doing so, NPRC worked directly with VBA to complete requests submitted through VA's "duty to assist" obligation on behalf of claimants for the proper and necessary paperwork. During the first year of the pandemic, as of March 8, 2021, NPRC staff had responded to over 172,000 requests directly from VA to assist with the processing of veterans claims. In addition, NPRC processed over 116,000 urgent requests which included 45,000 burial-related requests, assistance for 7,500 homeless veterans, and 18,000 medical emergencies.[62] Identified as one of the top management challenges by the National Archives' OIG, as of March 31, 2022, NPRC reported that the backlog of records requests stood at more than 500,000. The OIG's report states that while all services to VBA have been restored, "the backlog of public requests continues to grow."[63]

The backlog of requests increased due to the limited staff on site but also because the majority of records being requested are in paper form. These records are housed in close quarters and require staff to access materials on-site, without social distancing. The number of digital service records are limited in scope and are generally available only for those servicemembers who separated after 2002. VA Secretary Denis McDonough testified at the House Veterans' Affairs Committee hearing on March 25, 2021, on the need and importance of staff returning to work to process veterans requests. VA announced on April 1, 2021, the agreement between NARA and VA to expedite vaccinating NPRC staff, due to the limited number of vaccines available at the time, to allow for more staff to return on-site.[64] VA also temporarily assigned 60 staff members to NPRC

[61] National Archives and Records Administration, "Veterans' Service Records: Emergency Requests and Deadlines," June 22, 2021, https://www.archives.gov/veterans/military-service-records/emergencies.

[62] National Archives and Records Administration, "Improvement in Public Health Outlook Holds Promise for Increased Service to Veterans," press release, March 8, 2021, https://www.archives.gov/press/press-releases/2021/nr21-30

[63] Office of Inspector General, National Archives and Records Administration, *Semiannual Report to Congress: October 1, 2021 to March 31, 2022*, pg. 12, at https://www.archives.gov/files/oig/nara-oig-sar22a-1oct21-to-31mar22.pdf#page=12.

[64] Department of Veterans Affairs, "VA Partners with National Archives to Vaccinate NARA Staff," press release,

to locate, retrieve, and scan paper records into digital files. These hiring efforts led to a decrease in the number of days needed to respond to requests.[65]

As the number of pending requests continued to increase, on May 10, 2021, NARA wrote a letter to the Secretary of Defense requesting assistance in "pandemic recovery operations at NPRC in St. Louis."[66] The request for help included three key objectives: (1) "off-site sorting and batching of approximately 400,000 Official Military Personnel Folders (OMPF)" to prepare for and refile records back on site; (2) conducting "on-site searching and retrieval of OMPFs to support eliminating a backlog of 500,000 public reference requests;" and (3) "on-site digitization or photocopying of DD Forms 214 from these records and the dispatch of reproductions."[67] While a portion of the documents are requested from VBA to assist veterans with claims, the majority of these requested documents are from veterans' families as they attempt to file claims themselves with VA.

Despite NPRC's phased return to on-site work and a request for help, on August 10, 2021, VA's National Cemetery Administration notified those on its listserv, including funeral directors, that NPRC returned to COVID Phase 0 level due to the high level of community transmission rate of COVID-19.[68] NPRC announced that this reduction went into effect August 2, 2021, and the on-site workforce decreased to 10% capacity. On NPRC's website, a statement was posted that explained they would "continue to service emergency requests associated with medical treatments, burials, and homeless veterans trying to gain admittance to a homeless shelter. Please refrain from submitting non-emergency requests such as replacement medals, administrative corrections, or records research until we return to pre-COVID staffing levels."[69]

By early fall 2021, NPRC reopened operations as conditions continued to improve in and around the St. Louis, MO, region. On October 18, 2021, NPRC announced that it was able to increase on-site staffing to 45% with the hope of continuing to increase on-site status. Despite a need to decrease on-site staffing in January 2022, NPRC announced on its website that as of March 7, 2022, it has resumed normal operations and is staffed at the pre-pandemic, full capacity. This enhanced staffing is likely to increase the number of requests that can be completed in a shorter period of time.[70]

April 1, 2021, at https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5652. See also CRS Insight IN11668, *VA, HHS to Vaccinate NARA National Personnel Records Center Staff*, by Heather M. Salazar and Meghan M. Stuessy.

[65] Patricia Kime, "VA Adds Staff, Boosts Funding to Tackle Claims Backlog That Nearly Tripled During Pandemic," *Military.com*, June 14, 2021, https://www.military.com/daily-news/2021/06/14/va-adds-staff-boosts-funding-tackle-claims-backlog-nearly-tripled-during-pandemic.html.

[66] Letter from William J. Bosanko, Chief Operating Officer, NARA, to Executive Secretary, Office of the Secretary of Defense, May 10, 2021, https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DoD%20RFA%20for%20NPRC%2005%2010%202021.pdf.

[67] Ibid. DD Forms 214 are the military discharge papers provided to a separating servicemember as proof of service.

[68] Email from National Cemetery Administration, August 10, 2021.

[69] NARA, "Temporary Reduction in Onsite Operations at the National Personnel Records Center (NPRC) in St. Louis," updated August 5, 2021, https://www.archives.gov/personnel-records-center/civilian-personnel/federal-agencies.

[70] National Archives and Records Administration, "Check the Status of a Request for Military Service Records," updated November 5, 2021, at https://www.archives.gov/personnel-records-center/forms. In addition, NPRC explains that individuals who have already submitted records requests can check the status of their requests online, 10 days after submission.

Appendix A. Abbreviations

Table A-1. Abbreviations/Acronyms Used in the Report

Acronym	Description
ACE	Acceptable Clinical Evidence
C&P	Compensation & Pension
C&P Exam	Compensation & Pension Examination[a]
DBQ	Disability Benefit Questionnaires
DOD	U.S. Department of Defense
FDC	Fully Developed Claims
GAO	U.S. Government Accountability Office
HVAC	House Committee on Veterans Affairs
MDE	Medical Disability Examination[b]
MDEO	Medical Disability Examination Office
MMWR	Monday Morning Workload Report
NARA	National Archives and Records Administration
NPRC	National Personnel Records Center
SVAC	Senate Veterans Affairs Committee
tele-C&P	Telehealth Compensation & Pension Exams
VA	U.S. Department of Veterans Affairs
VARO	U.S. Department of Veterans Affairs Regional Office
VBA	Veterans Benefits Administration
VHA	Veterans Health Administration

Source: CRS.

Notes:

a. These are also referred to as medical disability examinations, medical disability exams, C&P examinations, C&P exams, disability examinations, or disability exams.

b. These are also referred to as C&P examinations, C&P exams, disability examinations, or disability exams.

Appendix B. Legislative History[71]

Methodology and Limitations

To conduct this legislative history, CRS examined two notes that appear in Title 38, Section 5101, of the *U.S. Code*, "Claims and forms:"

1. Pilot Program for Use of Contract Physicians for Disability Examinations, and
2. Temporary Authority for Performance of Medical Disabilities Examinations by Contract Physicians.

CRS traced the history of these notes from authorization until the most recent amendment. CRS used research databases to identify relevant reports, hearings, and committee materials. CRS examined the source credits that appear after the text of the *U.S. Code* section and consist of citations to each law that enacted, amended, or otherwise affected the section. A list of laws related to the pilot program for the use of contracted physicians can be found in **Table B-1**. A list of laws related to the temporary authority for C&P exams conducted by contract physicians can be found in **Table B-2**.

CRS searched each of these laws in ProQuest Legislative Insight, a database that compiles digital full text publications associated with the enactment of public laws. CRS searched across these publications using keywords such as *contract physicians*, *medical examinations*, *C&P exams*, *contract disability exams*, and similar terms. CRS identified relevant committee reports, committee prints, hearings, and related documents from these keyword searches to inform the legislative discussion for each public law.

In addition, CRS conducted separate searches in the GAO's website, the Government Publishing Office's Govinfo database, the VA OIG's database, and the ProQuest Congressional database. These four sources helped identify additional hearings and reports that were not directly connected to the enactment of specific public laws but did reflect issues of concern to Congress about veterans' claims and C&P examinations.

Selected hearings related to the laws can be found in **Table B-3**. Selected OIG reports can be found in **Table B-4**. Selected GAO reports can be found in **Table B-5**.

Because keyword searching was used to identify digital documents, it is possible some relevant resources were inadvertently missed as not all digital copies are fully machine readable. As the vocabulary used to describe these examinations evolved over time, CRS attempted to capture pertinent resources with a relevant set of terms. However, it is possible that some relevant terms were not included. In addition, results were necessarily limited by the scope of the databases, the electronic availability of relevant documents, and the fact that not all committee materials were publicly accessible.

Legislative Timeline

The following two tables provide a timeline of legislative action for VA's pilot program and temporary authority to contract physicians to conduct C&P exams.

[71] Research for this section was conducted by CRS Research Librarians Tamar Breslauer, Carol Davis, and Michele Malloy.

Table B-1. Pilot Program for Use of Contract Physicians for C&P Exams

Date	Public Law	Title	Brief Summary
October 9, 1996	P.L. 104-275	Veterans' Benefits Improvements Act of 1996	Section 504(b) granted the VA Secretary discretionary authority to establish a pilot program to provide disability examinations to veterans through contracted non-VA physicians.
December 16, 2014	P.L. 113-235	Consolidated and Further Continuing Appropriations Act, 2015	Section 241 amended Section 504(b) of the Veterans' Benefits Improvements Act of 1996 by directing the VA Secretary to carry out the pilot program in a limited manner. The pilot program could expand to not more than 10 VA regional offices before FY2015 and to not more than 15 regional offices in FY2016. In FY2017 and each fiscal year after, the VA Secretary could carry out the pilot program in regional offices that he or she deems appropriate.
December 16, 2016	P.L. 114-315	Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016	Amended Section 704(c) and (d) of the Veterans Benefits Act of 2003 by inserting additional sections to improve the use of contracted physicians. Section 109 of the act granted the ability of licensed, VA-contracted physicians to conduct disability examinations at any location in any state; the District of Columbia; or any U.S. commonwealth, territory, or possession so long as the examination is authorized under VA's contract.
March 23, 2018	P.L. 115-141	Consolidated Appropriations Act, 2018	Section 256 amended Section 504(d) of the Veterans' Benefits Improvements Act of 1996 to direct expenses associated with carrying out the pilot program, including "payments for pilot program examination travel and incidental expenses," to be reimbursed to accounts for VBA's general operating expenses from amounts available for payment of compensation and pensions.
December 31, 2018	P.L. 115-407	Veterans Benefits and Transition Act of 2018	Section 702 made technical corrections to P.L. 104-275 by "redesignating the second subsection (c) as subsection (d)." This correction led to the previous subsection (d) to become subsection (e).
January 5, 2021	P.L. 116-315	Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020	Title II, Section 2002(f), provided: "The Secretary shall take such actions as may be necessary to hold accountable the providers of medical examinations pursuant to contracts under section 504 of the Veterans' Benefits Improvements Act of 1996 (P.L. 104-275; 38 U.S.C. §5101 note) who are underperforming in the meeting of the needs of veterans through the performance of medical examinations pursuant to such contracts."

Source: CRS. Based upon *U.S. Code* and Congress.gov.

Table B-2. Temporary Authority for C&P Exams Conducted by Contract Physicians

Date	Public Law	Title	Brief Summary
December 16, 2003	P.L. 108-183	Veterans Benefits Act of 2003	Section 704 granted temporary authority (in addition to the authority granted in Section 504(b) of P.L. 104-275) to the VA Secretary to provide disability examinations through non-VA employees using the appropriated funds other than those in the C&P program. The temporary authority granted under this section was set to expire on December 31, 2009.
October 10, 2008	P.L. 110-389	Veterans' Benefits Improvement Act of 2008	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2009, to December 31, 2010.
October 13, 2010	P.L. 111-275	Veterans' Benefits Act of 2010	Section 809 extended VA's authority to use appropriated funds to contract with non-VA providers to conduct disability examinations through December 31, 2012. The examinations were conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits.
October 5, 2012	P.L. 112-191	VA Major Construction Authorization and Expiring Authorities Extension Act of 2012	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2012, to December 31, 2013.
December 20, 2013	P.L. 113-59	VA Expiring Authorities Extension Act of 2013	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2013, to December 31, 2014.
September 26, 2014	P.L. 113-175	Department of Veterans Affairs Expiring Authorities Act of 2014	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2014, to December 31, 2015.
September 30, 2015	P.L. 114-58	Department of Veterans Affairs Expiring Authorities Act of 2015	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2015, to December 31, 2016.
September 29, 2016	P.L. 114-228	Department of Veterans Affairs Expiring Authorities Act of 2016	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2016, to December 31, 2017.

Date	Public Law	Title	Brief Summary
December 16, 2016	P.L. 114-315	Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016	Amended Section 704 of the Veterans Benefits Act of 2003 by inserting additional sections to improve use of contracted physicians. Section 109 of the act granted the ability of licensed, VA-contracted physicians to conduct disability examinations at any location in any state; the District of Columbia; or any U.S. commonwealth, territory, or possession so long as the examination is authorized under VA's contract.
December 12, 2017	P.L. 115-91	National Defense Authorization Act for Fiscal Year 2018	Amended Section 704(c) of the Veterans Benefits Act of 2003 by extending VA's authority for contract disability exams for one year from December 31, 2017, to December 31, 2018.

Source: CRS based upon *U.S. Code* and Congress.gov.

Table B-3. Selected Congressional Hearings to Address Contract C&P Exams

Senate Committee on Veterans' Affairs (SVAC) and House Committee on Veterans' Affairs (HVAC)

Committee	Date	Hearing Title and URL	Highlights
HVAC	November 6, 2001	*H.Hrg 107-16 Hearing to Receive the Report of the VA Claims Processing Task Force (Cooper Report)* https://www.govinfo.gov/app/details/CHRG-107hhrg53323/CHRG-107hhrg53323	Admiral Daniel L. Cooper, chairman of VA's Claims Processing Task Force, and task force member Carolyn Hunt presented the study and findings of the task force. The task force made 34 recommendations to the VA Secretary, of which 20 could be implemented within a six-month period (identified as short-term recommendations), while those identified as medium-term recommendations could take two or more years to implement. Some of these recommendations include reducing the backlog, improving the process of gathering records from NPRC, extending the time frame for routine C&P re-examinations, redefining claims processing errors, and strategizing and implementing one integrated VA system. Admiral Cooper testified that all of the recommendations they made were unanimously agreed upon by all members of the task force.

Committee	Date	Hearing Title and URL	Highlights
SVAC	September 30, 2009	*S.Hrg. 111-327 Hearing on VA Contracts for Health Services* https://www.govinfo.gov/app/details/CHRG-111shrg53066/CHRG-111shrg53066	Joseph A. Williams Jr., Acting Deputy Under Secretary for Operations and Management, VHA, testified that VA provides veterans' care (1) directly in a VA medical center, (2) through fee-based care, or (3) through contracts with local providers. The written testimony included a detailed overview of VHA's oversight of contract health care services as well as VBA's C&P Service's oversight of contract exams. Williams also explained that, while the majority of C&P exams are conducted by VHA, VBA's C&P Service has the authority to contract with outside medical providers for C&P exams. Williams explained that, during FY2008, approximately 24% of C&P exams were performed by either QTC Medical Services or MES Solutions, the two contracted examiners.[a] C&P Service evaluates the performance of the contracts through (1) quality, which requires at least a 92% accuracy rate; (2) timeliness, which requires a 38-day turnaround from exam request to final report; and (3) customer satisfaction, which is based upon a survey questionnaire and requires a satisfaction standard of at least 92%.
HVAC	June 25, 2014	*H.Hrg. 113-77 VBA and VHA Interactions: Ordering and Conducting Medical Examinations* https://www.govinfo.gov/app/details/CHRG-113hhrg89376/CHRG-113hhrg89376	Thomas Murphy, Director of Compensation Service, VBA, testified that C&P exams are performed under specific clinical requirements that are the same if the exam is provided by a VA medical professional or a VA contracted medical professional. For a VHA clinician to conduct a C&P exam, VBA must refer the veteran's case to VHA for examination. At the time, VHA had nearly 8,200 registered and certified C&P examiners, which included full-time and part-time VHA employees, residents, fee-for-service examiners, contractors, and specialty providers.
HVAC - Subcommittee on Disability Assistance and Memorial Affairs	November 15, 2018	*H.Hrg 115-81 Exploring VA's Oversight of Contract Disability Examinations* https://www.govinfo.gov/app/details/CHRG-115hhrg35835/CHRG-115hhrg35835	GAO presented findings from its October 2018 report (highlights included in **Table B-5**) on the quality and timeliness of VBA contracted exams, the extent of VBA's monitoring of contractor performance, and how VBA ensures contractors are qualified and well-trained. Margarita Devlin, Principal Deputy Under Secretary for Benefits, VBA, testified that, as the contract exam program expanded, VBA regional offices used an online tool to provide real-time data to determine if VHA had the capacity to conduct a specific C&P exam. If not, the office directed the veteran's exam to a contracted provider. Devlin explained that the contracts are organized into five districts in the continental United States with two venders per district, with an additional overseas contract and one contract serving transitioning servicemembers. Devlin also testified about the challenges implementing these contract exams, including system limitations on managing exam requests and one vendor—no longer working under a VBA contract—that was underperforming.
SVAC	May 22, 2019	S. Hrg. 116-179, *Hearing on Pending Legislation* https://www.veterans.senate.gov/services/files/F0B051E2-71F5-4323-9922-D8ED12A502CE	VA officials commented and provided statements on S. 1101, "Better Examiner Standards and Transparency for Veterans Act of 2019," which would authorize VA to contract with non-physician health care providers to conduct disability exams.

Committee	Date	Hearing Title and URL	Highlights
HVAC - Subcommittee on Disability Assistance and Memorial Affairs	March 23, 2021	*VA Compensation and Pension Exams During the COVID-19 Pandemic: A Path Forward* https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=111370	David McLenachen, executive director of the Medial Disability Examination Office within VBA, testified that VBA contractors have increased their exam capacity 20% above pre-pandemic levels in response to the large number of pending exams and the large number of exams requiring in-person evaluation. McLenachen explained that each examiner must hold an active state license to practice, and VBA is monitoring the qualifications of over 12,000 contracted examiners. VBA created a new learning management system for contractors to complete required training and obtain required certification. Deputy Assistant Inspector General for Audits and Evaluations Brent Arronte testified at the hearing regarding the increase in VA's disability exam inventory caused by the pandemic. Because VA canceled in-person disability exams as a protective measure, a backlog of exams mounted quickly. In addition, some claims were improperly denied due to canceled appointments during the pandemic. Arronte's testimony mentioned the OIG's November 2020 report and VBA's failure to create a documented plan to reduce the exam inventory to pre-pandemic levels.
SVAC	May 12, 2021	*Supporting Disabled Veterans: The State of Claims Processing During and After COVID-19* https://www.veterans.senate.gov/hearings/supporting-disabled-veterans-the-state-of-claims-processing-during-and-after-covid-19	Thomas Murphy, Acting Under Secretary for Benefits, testified that, at the onset of the pandemic, VBA initiated mass telework to minimize potential COVID-19 exposure to veterans and employees. In addition, VBA revised the claims process to allow veterans to wait until in-person C&P exams were available with the assurance that VBA would not take action on the veterans' claims until their exams were completed. These processes remain the same way to date. Murphy also explained that VBA increased the number of exams capable of being completed via telehealth from 19 to 34 and is in the process of centralizing all military sexual trauma claims into five regional offices as a way to deliver higher quality, more consistent claims.
SVAC	November 17, 2021	*Hearing on Pending Legislation* https://www.veterans.senate.gov/2021/11/hearing-to-consider-pending-legislation-11-17-21	Both VA officials and VSOs testified during the hearing to discuss pending legislation, including S. 3163, the Rural Exam Act; draft language of the Veterans Benefits Improvement Act of 2021; and S. 2329, BEST for Vets Act of 2021. VA officials testified that while they can support the three bills, adjustments would be required to provisions in each of the bills.

Source: Table created by CRS based on searches in ProQuest Legislative Insights, ProQuest Congressional, and GovInfo databases.

Note:

a. For more information on QTC Services see https://www.qtcm.com/about-us/ and for MES Solutions see https://www.messolutions.com.

Selected VA Office of Inspector General (OIG) Reports

Table B-4. Selected VA-OIG Reports on C&P Exams

Date	Report Title and URL	Highlights
June 25, 2009	*Audit of VA Incomplete Compensation and Pension Medical Examinations* (08-01392-144) https://www.va.gov/oig/52/reports/2009/VAOIG-08-01392-144.pdf	The OIG conducted an audit to determine ways in which VHA and VBA could increase the number of C&P exams completed. The audit also examined reasons for veterans canceling their C&P exams. The audit found inconsistences among VHA's health care facilities' methods in contacting veterans to schedule C&P exams. OIG found that despite VHA's policy to contact the veteran (phone call) and mail an appointment notification letter, many veterans were contacted to schedule appointments only by letter without any phone call. Additional inconsistences were found on how requests for rescheduling exams were handled and how VHA handled C&P exam requests with multiple exam appointments. The OIG recommended that VHA and VBA establish clearer requirements and processes for how employees are to contact veterans and assist in rescheduling appointments and create a process to ensure VBA employees provide complete and accurate information for exam requests.
March 17, 2010	*Audit of VA's Efforts to Provide Timely Compensation and Pension Medical Examinations* (09-02135-107) https://www.va.gov/oig/52/reports/2010/VAOIG-09-02135-107.pdf	The OIG conducted an audit to determine whether or not VA dedicates enough resources to conduct timely C&P exams for veterans. The audit analyzed requests for C&P exams that VBA referred to both VHA medical staff and to VBA contractors. Upon completion of the audit, OIG concluded that VA had not established sufficient procedures to handle the exam workload, account for the exam costs, and determine a VHA facility's capacity to complete exams. The OIG made a total of 10 recommendations for VHA and VBA.
July 17, 2018	*Veterans Benefits Administration: Unwarranted Medical Reexaminations for Disability Benefits* (17-04966-201) https://www.va.gov/oig/pubs/VAOIG-17-04966-201.pdf	The report found that VBA employees did not follow VA's policy for requesting medical reexaminations for veterans on a consistent basis. This led to veterans whose cases are considered excluded from reexamination to still be requested by VBA to have medical reexaminations. VA's M21-1 Adjudication Manual Part II.iv.3.2.d, "When Not to Schedule Review Examinations," explains these exemptions: a veteran who has a permanent disability that is unlikely to improve, a veteran who has a disability without substantial improvement over five years, an evaluation that is 10% complete or less, a combined evaluation that would not change even if a reexamination would reduce one or more disabilities, or a veteran who is over 55 years old at the time unless required by regulation. Based upon the six-month review period (March-August 2017), "VBA spent $10.1 million on unwarranted reexaminations," of which $5.3 million was spent on VHA clinicians and $4.8 million on VBA contractors. The OIG explained that these "unwarranted reexaminations also created unnecessary work for VA employees," leading to a reduction in processing benefits claims (from pp. ii, 9).

Date	Report Title and URL	Highlights
June 10, 2019	*Veterans Benefits Administration: Inadequate Oversight of Contracted Disability Exam Cancellations* (18-04266-115) https://www.va.gov/oig/pubs/VAOIG-18-04266-115.pdf	This report identified several challenges the MDE staff faced in overseeing the contract C&P program. These challenges included, but were not limited to, "limitations with VBA's electronic exam management systems … inadequate staffing of the MDE program," and inability to validate that contractors' exam scheduling requirements were completed in accordance with contract requirements. The OIG report indicated that VBA took appropriate actions by not sending new exam requests to contractors who did not meet VBA's performance requirements. Additional actions could strengthen VBA's oversight, and the OIG made recommendations to do so. VBA concurred and addressed some of the recommendations OIG made. For example, VBA transitioned the electronic exam management system into the overall Veterans Benefits Management System to allow for scheduling and cancellations to be tracked as a standardized data point (from pp. i-ii, 6, 9, 13, 30).
March 16, 2020	*Office of Acquisition, Logistics, and Construction: QTC Medical Services Complied with Medical Disability Examination Billing Requirements* (19-08397-99) https://www.va.gov/oig/pubs/VAOIG-19-08397-99.pdf	This report examined the contract of one specific MDE contractor, QTC Medical Services, to verify compliance with the pricing and billing aspects of its contract. The OIG conducted the review to follow up on its 2008 audit report (https://www.va.gov/oig/52/reports/2008/VAOIG-07-02280-104.pdf) and reports by independent auditors between 2009 and 2015 that raised concerns about QTC's billing practices. Following an analysis of the sampled billing data, OIG concluded that QTC accurately billed VA under the specifications of its contract (from pp. i, 1, 8-9).
November 19, 2020	*Veterans Benefits Administration: Enhanced Strategy Needed to Reduce Disability Exam Inventory Due to the Pandemic and Errors Related to Canceled Exams* (20-02826-07) https://www.va.gov/oig/pubs/VAOIG-20-02826-07.pdf	This report explained that VBA took appropriate action to limit veterans' exposure to COVID-19 by discontinuing in-person exams, increasing telemental health and ACE exams, and notifying veterans of the change in exam processes through the VA website, social media, and VSOs. VBA gradually resumed in-person exams, but a rise in pending exams continued. OIG stressed that VBA needed to address the increase in pending exams. OIG recommended that VBA develop and implement a strategy to reduce exam inventory, develop and implement a plan to increase telehealth exams, and ensure contractors follow telehealth guidance for exams (from pp. v-vi, 5-6).

Source: Table created by CRS based on searches in VA's OIG database.

Selected Government Accountability Office (GAO) Reports

Table B-5. Selected GAO Reports on C&P Exams

Date	Report Title and URL	Highlights
October 12, 2018	*VA Disability Exams: Improved Performance Analysis and Training Oversight Needed for Contracted Examiners* (19-13) https://www.gao.gov/products/gao-19-13	This report was conducted in response to a request from HVAC to review VA's oversight of contracted exams. The review assessed the performance of examiners between July 2017 and October 2018. GAO concluded that VBA does not have accurate and up-to-date data on exam contractors' performance and a new system is needed for VBA to conduct the proper analyses of trends and challenges facing the program. As a result of this review, GAO made four recommendations to VBA to improve performance analysis and training of the examiners (from pp. 2, 4, 12, 20, 21, 26, 28).

Date	Report Title and URL	Highlights
November 15, 2018	*VA Disability Exams: Improved Oversight of Contracted Examiners Needed (Testimony to HVAC)* (19-213T) https://www.gao.gov/products/gao-19-213t	GAO testified before HVAC's Disability Assistance and Memorial Affairs Subcommittee about the results from GAO's October 2018 report and ways VBA can improve its oversight of examiners for the contracted C&P exam program. GAO testified to the following: (1) VBA has "limited information" on contractors' quality and timeliness; (2) VBA lacks "adequate oversight of contractors' performance," and (3) VBA used "an auditor to verify contracted examiner licenses" and does not verify the information or training completion (from pp. 2, 4, 6).
September 19, 2019	*VA Disability Exams: Opportunities Remain to Improve Oversight of Contracted Examiners (Testimony to HVAC)* (19-715T) https://www.gao.gov/products/gao-19-715t	GAO testified before the HVAC's Disability Assistance and Memorial Affairs Subcommittee to provide an update on VA's efforts to "collect more timely and accurate information on contractor quality and timeliness" and to ensure all examiners have completed required training. GAO testified that while VBA has taken steps to address "incomplete quality information and inaccurate timeliness data," VBA has not completed "quarterly performance reports" and has not processed "financial incentives" connected to performance. In addition, VBA had not met its target completion date for implementing a "new exam management system" to improve oversight of exam contractors. GAO also testified that while VBA conducted "random audits" of contractors' self-reporting of training, VBA is still in the process of creating a central training system to collect and ensure adherence to training requirements (from pp. 1-2, 5-6, 8).
September 21, 2020	*VA Disability Benefits: VA Should Continue to Improve Access to Quality Disability Medical Exams for Veterans Living Abroad* (20-620) https://www.gao.gov/products/gao-20-620	GAO reviewed the disability claims and C&P exam process for veterans living abroad to identify trends in VBA claims processing, challenges VBA faces in processing claims in a timely manner, and veterans' ability to access quality C&P exams abroad. GAO interviewed VBA officials in the Pittsburgh, Honolulu, Manila, and San Juan regional offices in addition to VBA headquarters. For veterans living in U.S. territories and other countries that are covered by the exam contracts, a VBA claims processor can submit the exam request electronically. For veterans in all other countries, the claims processor sends the exam request to the U.S. embassy, which in turn is responsible for locating and scheduling an examiner. GAO identified several factors that hinder a veteran's ability to access a C&P exam while living overseas: the unknown quality of the exams as they are provided by embassy-related providers, veterans' inability to be reimbursed for travel for their exams, and the fact that embassy-referred examiners' reimbursement is paid via paper check in U.S. currency and not always accepted by foreign banks (from pp. 1-3, 6, 16, 23, 28, 29).

Date	Report Title and URL	Highlights
March 23, 2021	*VA Disability Exams: Better Planning Needed as Use of Contracted Examiners Continue to Grow (Testimony to HVAC)* (21-444T) https://www.gao.gov/products/gao-21-444t	GAO testified before HVAC's Disability Assistance and Memorial Affairs Subcommittee on VBA's plans for managing the "disability exam workload" and how VBA's "quality review process" is designed to evaluate complex exams. This testimony showed that COVID-19 led to an increase in pending exams from an average of 23 days in January 2020 to 91 days in February 2021. In addition, GAO found that VBA has not implemented several practices recommended by GAO, including assessing risks to capacity and exam quality workload as well as assessing the performance of contractors on complex or specialty claims such as traumatic brain injury, military sexual assault, and Gulf War Illness. As a result, GAO recommended that VBA should develop and document a plan for distributing the exam workload between VHA medical centers and VBA contractors. GAO also recommended that VBA create a process to evaluate the quality of exams for complex claims (from pp. 1, 5, 6-7, 12-13, 15-16).
May 12, 2021	*VA Disability Exams: Actions Needed to Improve Program Management (Testimony to SVAC)* (21-543T) https://www.gao.gov/products/gao-21-543t	GAO testified before the Senate Committee on Veterans' Affairs on findings associated with VBA's plan to allocate exams between VBA contractors and VHA medical centers and VBA's assessment of quality of exam reports for complex claims. GAO concluded that VBA has not documented a strategy to allocate exams to VBA contractors while still maintaining a partial exam capacity at VHA medical centers. In addition, GAO noted that VBA has not evaluated any potential risks of an increased use of contracted examiners. Finally, GAO concluded that "traumatic brain injury, military sexual trauma, and Gulf War Illness" exam reports were returned at twice the rate of overall exams. Examiners stated that they face challenges in identifying veterans' supporting evidence and performing the exams, both of which VBA needs to address (from pp. 5, 6, 7, 8-9).

Sources: Table created by CRS based on searches in GAO's online database, ProQuest Legislative Insights, and ProQuest Congressional databases.

Appendix C. Claims Data Analysis Methodology and Limitations

To analyze the number of VBA compensation and pension claims and backlogged claims, CRS downloaded every VBA MMWR from January 5, 2004, to June 6, 2022, and extracted each week's number of claims and backlogged claims into one common file.[72] **Figure C-1** provides a sample screenshot of the layout for VBA's MMWR that is posted every Monday morning for the previous week.[73] The available MMWR data separated the number of claims and backlogged claims VBA adjudicated each week over the past 18 years. For a given week, the four-week rolling average calculates that data point as the average of the three preceding weeks and that week. The four-week rolling average was chosen as it represents approximately one month of claims filed. **Figure 3** presents C&P claims and backlogged claims as a four-week rolling average based upon VBA's publicly available MMWR data on VBA's website.

Several data issues were identified in earlier versions (2004-2010) of the MMWR. In cases where a given week was missing in the MMWR database, values were imputed from the "Last Week" row in the following week's MMWR, when available. For example, the week of January 9, 2004, was missing from the MMWR data. To account for this missing week, CRS imputed the "Last Week" row values for claims and backlogged claims from the week of January 16, 2004. These "Last Week" rows were also used, when available, during the data compilation process as a quality control measure to ensure that a previous week's values matched the following week's "Last Week" values. In cases where a week's values differed from the following week's "Last Week" values, the "Last Week" values were used to account for any possible data adjustments or revisions that took place between the two weeks.

Figure C-1. Screenshot of VBA's Monday Morning Workload Report

DISTRICT SELECTOR
- Northeast
- Southeast
- Continental
- Pacific
- Other

SPECIAL MISSION SELECTOR
USA - All Missions

Compensation and Pension Rating Bundle Metrics
Station of Jurisdiction View

The Station of Jurisdiction (SOJ) is the regional office assigned to work the claim
Each Special Mission has distinct claim counts
When Special Mission is set to Pension, BDD, or Quickstart, the District Selector has no impact

Report through
Saturday, March 19, 2022

ADP = Average Days Pending
ADC = Average Days to Complete
MTD = Month to Date
FYTD = Fiscal Year to Date

Accuracy is available in Compensation and Pension Special Missions

	CLAIM METRICS								ACCURACY METRICS					
											Rating 12 Month		Authorization 12 Month	
	# Pending	# Pending > 125 Days	% Pending > 125 Days	ADP	# Completed MTD	ADC MTD	# Completed FYTD	ADC FYTD	Rating 3 Month Issue	Rating 3 Month Claim	% Correct	Margin of Error +/-	% Correct	Margin of Error +/-
USA - All Missions Total	611,225	243,482	39.8%	157.9	91,688	153.6	753,518	129.6						
Pacific District	17,324	6,442	37.2%	148.8	19,000	145.4	157,013	127.5						
Albuquerque	551	200	36.3%	141.2	582	175.1	4,551	160.0						
Anchorage	202	66	32.7%	131.4	211	174.5	1,311	165.7						
Boise	477	113	23.7%	135.2	757	128.7	6,553	123.8						
Honolulu	376	136	36.2%	148.1	526	152.7	4,495	139.6						
Los Angeles	1,698	519	30.6%	119.4	1,431	157.4	12,601	134.1						
Manila	292	123	42.1%	157.9	552	136.4	4,459	141.0						
Oakland	1,154	544	47.1%	161.5	835	232.3	5,772	192.7						
Phoenix	2,139	1,103	51.6%	199.9	2,113	173.5	13,887	164.3						
Portland	1,642	688	41.9%	160.7	1,106	195.6	9,594	167.3						
Reno	497	234	47.1%	198.5	455	224.6	3,730	187.1						
Salt Lake City	2,146	1,186	55.3%	228.4	1,062	275.7	7,886	244.4						
San Diego	2,936	781	26.6%	107.0	3,847	119.3	36,219	103.6						
Seattle	3,214	749	23.3%	100.5	5,523	93.2	45,955	85.9						

Source: VA, "Detailed Claims Data: Monday Morning Workload Report," *Veterans Benefits Administration Reports*, March 19, 2022, https://www.benefits.va.gov/reports/detailed_claims_data.asp.

[72] Data calculations for this section were conducted by CRS Research Assistant Isaac Nicchitta.

[73] The layout of the VBA MMWR has changed multiple times. **Figure C-1** reflects the current MMWR layout as of the publication of this report.

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