



Report to the Chairman, Committee on
Veterans' Affairs, House of
Representatives

June 2015

VETERANS' DISABILITY BENEFITS

VA Can Better Ensure Unemployability Decisions Are Well Supported

GAO Highlights

Highlights of [GAO-15-464](#), a report to the Chairman, Committee on Veterans' Affairs, House of Representatives

Why GAO Did This Study

VA generally provides Individual Unemployability benefits to disabled veterans of any age who are unable to maintain employment with earnings above the federal poverty guidelines due to service-connected disabilities. Because the population of veterans who receive these supplemental benefits has been growing, GAO was asked to review VA's management of these benefits.

This report (1) examines age-related trends in the population of Individual Unemployability beneficiaries and benefit payments; (2) assesses the procedures used for benefit decision-making; and (3) describes suggested options for revising the benefit. GAO analyzed fiscal year 2009 through 2013 data provided by VA—the most recent years available; reviewed applicable federal laws, regulations, and program policies; visited six regional offices selected for their differing accuracy rates, workload, and geography; reviewed a non-generalizable sample of claims; and spoke with rating specialists, experts, and VSO representatives.

What GAO Recommends

GAO recommends that VA issue updated guidance to determine eligibility; identify a comprehensive quality assurance approach to assess benefit decisions; verify veterans' self-reported income; and move forward on studies suggested by its advisory committee. VA concurred with all of GAO's recommendations.

View [GAO-15-464](#) For more information, contact Daniel Bertoni, (202) 512-7215, bertonid@gao.gov.

June 2015

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VA Can Better Ensure Unemployability Decisions Are Well Supported

What GAO Found

The number of older veterans receiving Individual Unemployability benefits, a disability supplement, has been increasing, as has the total amount of benefit payments. In fiscal year 2013, 330,000 veterans received this benefit, which the Department of Veterans Affairs (VA) provides to disabled veterans of any age who are unemployable because of service-connected disabilities. From fiscal years 2009 through 2013, the most recent data available, there was a 22 percent increase in the number of veterans receiving these benefits, and a 73 percent increase in the subgroup of beneficiaries aged 65 and older. Moreover, among new beneficiaries in 2013, about 2,800 veterans were 75 and older, of which more than 400 were 90 and older. These trends have given rise to questions about what constitutes "unemployability." Only a small proportion, 4 to 6 percent, of beneficiaries had benefits discontinued during these years—about 70 percent of which were due to the death of the beneficiary. During the 5-year study period, disability payments to those receiving Individual Unemployability—the base payment plus the supplement—increased by 30 percent (to \$11 billion in fiscal year 2013). For that year, GAO estimated \$5.2 billion for the supplement alone.

VA's procedures do not ensure that Individual Unemployability benefit decisions are well-supported. For example, contrary to federal internal control standards, the guidance on determining unemployability is incomplete for ensuring consistency. In discussion groups with GAO, VA's rating specialists said they disagreed on the factors they need to consider when determining unemployability, weighed the same factors differently, and had difficulty separating allowable from non-allowable factors. Some specialists said these challenges create the risk that two raters could examine the same evidence and reach an opposite decision to approve or deny a claim. Also, VA's quality assurance approach primarily checks the procedural accuracy of decisions and does not ensure a comprehensive assessment of whether decisions are complete, accurate, and consistent. In addition, VA does not independently verify self-reported earnings information supplied by applicants and beneficiaries, although the agency has access to Internal Revenue Service data for this purpose. VA officials said they are waiting for a data system, expected in 2016, to conduct verifications. However, by postponing verification of self-reported earnings, the benefit is at risk of being awarded to ineligible veterans.

Based on a review of literature, GAO identified various options for revising eligibility requirements and the structure of the Individual Unemployability benefit. Six options focus on eligibility requirements, such as considering additional criteria when determining unemployability and applying an age cap of 65. The seventh option would change the benefit structure by reducing payments as beneficiaries earn income in excess of the poverty threshold. Experts and representatives of veterans service organizations (VSO) that GAO interviewed identified the potential strengths of each option (such as improved decision accuracy) and potential challenges (such as increased need for fiscal and administrative resources). In addition, VA's advisory committee recommended in 2012 that the agency study age and require vocational assessments when weighing veterans' unemployability; VA agreed to study both, but has not yet taken action.

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Abbreviations

CBO	Congressional Budget Office
HHS	Department of Health and Human Services
IOM	Institute of Medicine of the National Academies
IRR	inter-rater reliability
IRS	Internal Revenue Service
NDNH	National Directory of New Hires
OIG	Office of Inspector General
QRT	quality review team
SSA	Social Security Administration
SSDI	Social Security Disability Insurance
STAR	Systematic Technical Accuracy Review
TDIU	Total Disability Individual Unemployability
VA	Department of Veterans Affairs
VASRD	Veterans Affairs Schedule for Rating Disabilities
VBA	Veterans Benefits Administration
VSO	veterans service organizations

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June 2, 2015

The Honorable Jeff Miller
Chairman
Committee on Veterans' Affairs
House of Representatives

Dear Mr. Miller:

The Department of Veterans Affairs (VA) compensates veterans for work-related disabilities incurred during active military service—aiding a total of about 3.7 million veterans through its Disability Compensation program in 2013. When veterans are deemed to have a service-connected disability, the level of compensation they are awarded is based on an assessment of disability ranging from 0 to 100 percent (in increments of 10 percentage points) and is intended to reflect an average loss in earning capacity resulting from their service-connected disability. In recognition of its position that “average loss” does not always adequately compensate individual veterans in their particular circumstances, VA provides a supplemental compensation for veterans with a demonstrated need.¹ Specifically, the Total Disability Individual Unemployability (TDIU) benefit is provided to veterans, irrespective of age, who are deemed to be unable to obtain or maintain gainful employment due to their service-connected disability (VA assigns these veterans a 100 percent disability rating).

In 2003, GAO designated federal disability programs, including VA's Disability Compensation program, as high risk due in part to challenges agencies face in keeping their criteria for evaluating disability and determining compensation consistent with advances in medicine, technology, and changes in the labor market and society. Meanwhile, more veterans are receiving disability benefits, including TDIU, and many disabled veterans are living longer and collecting disability benefits for longer periods of time. These trends have led to questions regarding

¹ Veterans who are eligible for Total disability Individual Unemployability (TDIU) do not actually receive separate TDIU payments. Instead, TDIU serves as a method by which veterans can have their disability rating raised to 100 percent and receive larger disability payments. For ease of reporting, however, we refer to TDIU “benefits” and the TDIU “supplement” throughout this report.

TDIU benefits including whether this supplement to the regular disability compensation benefit should be provided to veterans of retirement age. For example, the Congressional Budget Office (CBO), as part of a broader examination to reduce the federal deficit, estimated that restricting TDIU benefits to veterans younger than their full Social Security retirement age would reduce costs by \$15 billion between 2015 and 2023. You asked us to examine TDIU benefits.

This report addresses the following questions:

1. What are the age-related trends in the population of TDIU beneficiaries and the trend in the total TDIU benefit payments?
2. How well do VA's procedures position the agency to ensure that TDIU benefit decisions are supported?
3. What alternative options have been proposed for revising the eligibility requirements and design structure for TDIU benefits?

To describe the age-related trends in the population of TDIU beneficiaries, we obtained and analyzed data from VA regarding new and continuing beneficiaries covering fiscal years 2009 through 2013 (the most recently available data). The data included information such as the beneficiaries' age, schedular disability ratings, benefit discontinuations and total amounts paid in disability benefits.² To assess the reliability of the data, we obtained detailed information from agency officials on the methods used to generate the data requested, including limitations and assumptions made by VBA officials. In addition, we performed logic testing of the computer program VA used to extract the data. Through these means, we found these data to be sufficiently reliable for the purpose of analyzing age-related trends in the TDIU beneficiary population and the benefit payments.

To describe the procedures VA uses to support TDIU eligibility decisions, we examined relevant federal laws, regulations and procedures for new and continuing claim determination decisions, including the TDIU policy manual and guidance documents. We also conducted interviews with VA and its Veterans Benefits Administration (VBA) officials in their central

² A veteran's schedular disability rating is the assigned percentage disability determined by VA using the Veterans Affairs Schedule for Rating Disabilities (VASRD). The percentage is meant to reflect the severity of service-connected disabilities.

office, and six regional offices. These offices were selected to represent a range of TDIU caseloads, percentages of claims resulting in granted benefits, accuracy of eligibility reviews, and geographic locations (Boston, Massachusetts; Denver, Colorado; Manchester, New Hampshire; New Orleans, Louisiana; Portland, Oregon; and Seattle, Washington).³ During our visits to five of these regional offices (the sixth office served as a preliminary site visit), we held 11 discussion groups of 2 to 3 rating specialists using an interview protocol. We also interviewed quality review team (QRT) coaches, QRT members, and regional office management.⁴ We reviewed training materials and quality assurance data provided by the regional officials. In addition, we conducted a non-generalizable file review of 34 randomly-selected claims resulting in granted and denied benefits decided between April 2012 and April 2014.

To identify the options that have been proposed to revise the TDIU eligibility and structure, we reviewed prior VA proposals, CBO options for reducing the federal budget deficit, and literature related to TDIU. We also conducted interviews with five disability experts familiar with TDIU benefits and representatives of two veterans service organizations (VSO) to obtain their views on any potential opportunities and challenges the options pose. We did not independently assess the individual merits or accuracy of the views expressed by the experts and VSO representatives.

We conducted this performance audit from January 2014 to June 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

³ Throughout this report we refer to VBA when discussing items that fall under its roles and responsibilities; otherwise we refer to VA.

⁴ Quality review teams are regional teams of quality assurance reviewers within VBA.

VA Disability Compensation Benefits

VA provides monthly disability compensation to veterans with disabling conditions caused or aggravated by their military service.⁵ Since 1925, VA has used the Veterans Affairs Schedule for Rating Disabilities (VASRD) to assign disability ratings to veterans based upon the existence and severity of service-connected disabilities. The severity of a disability is based on an average reduction in earning capacity across a group of veterans with similar physical or mental impairments brought on by their service. This degree of severity is expressed as a percentage and is often referred to as a “schedular rating.” For veterans with multiple service-connected disabilities, VA calculates the rating using a table that applies a formula for combining multiple ratings into a single rating.⁶ The rating dictates the amount of monthly compensation—set by law—a veteran receives, as shown in table 1. Veterans receiving a 100 percent rating are deemed to have a total disability.

Table 1: VA Monthly Disability Compensation Payment Levels for Veterans with No Dependents, in 2013

Disability rating (percent)	Monthly payment (dollars)	Disability rating (percent)	Monthly payment (dollars)
10	\$129	60	\$1,206
20	255	70	1,293
30	395	80	1,503
40	569	90	1,689
50	810	100	2,816

Source: VA data. | GAO-15-464

Note: These payment rates were effective December 1, 2012, through November 30, 2013.

History of the TDIU Benefit and the Eligibility Decision-Making Process

In 1934, VA revised its disability compensation program to establish TDIU compensation. VA has testified that the TDIU supplemental benefit was created to allow veterans to be deemed totally disabled even if they do not meet the criteria for a 100 percent rating. VA provided the rationale that while the rating schedule is intended to identify impaired earnings reduction for the average veteran, it does not always adequately

⁵ 38 U.S.C. § 1101 et seq.

⁶ For a description of the procedures used to calculate combined disability ratings, see GAO, *Veterans' Disability Benefits: VA Should Improve Its Management of Individual Unemployability Benefits by Strengthening Criteria, Guidance, and Procedures*, [GAO-06-309](#) (Washington, D.C.: May 30, 2006).

compensate individual veterans based on their particular circumstances. The TDIU benefit was established during the Depression, when Social Security retirement benefits were passed into law. In 1945, VA established that age was not to be considered a factor in evaluating entitlement to TDIU.

Today, TDIU benefits are generally a way VA can increase an eligible veteran's schedular disability rating to 100 percent based on the veteran's inability to earn income above the amount set by federal poverty guidelines because of their service-connected disabilities. To be eligible for TDIU compensation, a veteran must have a single service-connected disability rated at least 60 percent or multiple disabilities with a combined rating of at least 70 percent (with at least one disability rated at 40 percent or higher).⁷ In addition, the veteran must be unable to obtain or maintain "substantially gainful employment" as a result of these service-connected disabilities. VA generally considers "substantially gainful employment" to be employment above the federal poverty guidelines—\$11,490 for an individual with no dependents in 2013.⁸ VA refers to the inability to maintain gainful employment as "unemployability." Because a TDIU award yields a higher rating percentage, it leads to higher levels of compensation above the base schedular rating amount. For example, the rating for a veteran with no dependents could be increased from 60 percent (\$1,026 per month) to 100 percent (\$2,816 per month), an increase of \$1,790 per month—or \$21,480 a year.

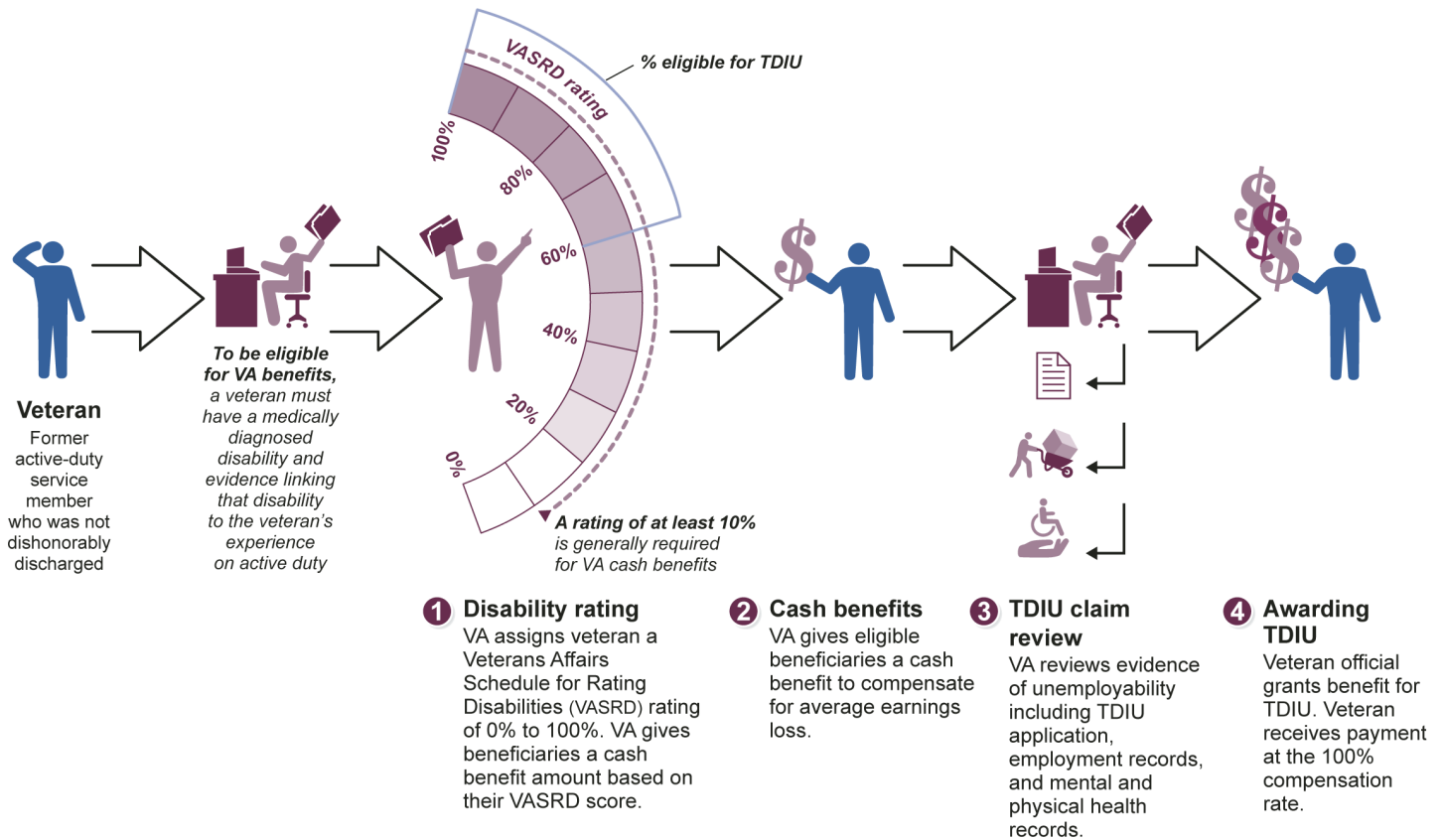
⁷ In some instances, veterans with lower ratings may also be evaluated for and granted TDIU benefits. This exception, known as an extra-schedular rating, may be granted if the Under Secretary for Benefits or Director of VA's Compensation Service reviews and approves the claim despite it not meeting the required percentage standards. A full statement as to the veteran's service-connected disabilities, employment history and all other evidence having a bearing on the issue must be submitted to VA's Central Office. TDIU benefits granted through extra-schedular reviews were included in our demographic analysis of TDIU beneficiaries, but we did not review the procedures for TDIU benefits granted through these special reviews.

⁸ VA guidance defines "substantially gainful employment" as employment at which non-disabled individuals earn a livelihood with earnings comparable to the particular occupation in the community where the veteran resides. If a veteran is employed, to be eligible for TDIU benefits such employment must be marginal, which under VA regulations is generally deemed to exist when annual earned income does not exceed the poverty threshold established by the Census Bureau of the U.S. Department of Commerce. Throughout this report we refer to the income eligibility requirements for TDIU benefits as income thresholds.

Disability compensation claims processing, including TDIU claims, is performed at 57 VBA regional offices.⁹ See figure 1 for a description of how TDIU-related claims processing is performed. Veterans are assigned a VASRD rating through VBA's review of their service-connected disabilities. When a claim for TDIU benefits is raised, a rating specialist determines if the veteran meets the schedular rating requirements and is unemployable. The rating specialist considers additional evidence—beyond that related to the veterans' military service and medical diagnosis required to decide a disability compensation claim—to decide whether the veteran's service-connected disabilities make them unemployable. In determining unemployability, the rating specialist reviews the veteran's employment history as well as the reason(s), if any, for termination of employment. Unlike other benefit programs, such as Social Security Disability Insurance (SSDI), VA does not consider reaching retirement age as a cause for ineligibility.

⁹ For quality assurance purposes, VBA counts one of its sub-offices as a separate regional office, in addition to its 56 regional offices. Thus, for reporting purposes, we refer to 57 offices.

Figure 1: The Total Disability Individual Unemployability (TDIU) Benefit Decision-Making Process



Source: GAO analysis of VA documents. | GAO-15-464

Note: This figure is intended to present a basic overview of VA's TDIU benefit claims review process. For clarity purposes, we omitted some steps, processes, and appeal options. Also note that in step one of the figure, the VASRD percentage rating required for TDIU benefits is 60 percent for a single disability or 70 percent combined for multiple disabilities. Assigning the veteran a schedular rating precedes the TDIU claim review; however, those reviews may be made and communicated in the same disability rating decision.

Once veterans begin receiving TDIU benefits, VBA reviews TDIU beneficiaries' employment and income annually to determine whether they continue to meet the eligibility requirements. VA terminates the supplemental TDIU benefits for those who do not provide the required information or are determined no longer eligible. VA requires beneficiaries to annually self-certify their employment and income. Specifically, in an Employment Questionnaire required for the continuation of TDIU benefits,

the beneficiaries report their employment status during the previous 12 months including the type of work, hours worked, time lost for illness, and highest gross earnings per month.¹⁰ A beneficiary's income can exceed the income threshold for twelve consecutive months before VA discontinues the TDIU benefit.

VBA's Steps to Measure Accuracy of Disability Compensation Claims Decisions

VBA measures the accuracy of disability compensation claim decisions mainly through its Systematic Technical Accuracy Review (STAR), including TDIU claims. Specifically, for each of the 57 regional offices, completed claims are randomly sampled each month and the data are used to produce estimates of the accuracy of all completed claims. VA reports national estimates of accuracy from STAR reviews to Congress and the public through its annual performance and accountability report and annual budget submission. VBA also produces regional office accuracy estimates, which it uses to manage the compensation benefits program. Beginning in October 2012, VBA began using data from STAR reviews to also produce issue-based estimates of accuracy that measure the accuracy of decisions on the individual medical conditions within each claim. VBA also performs local quality reviews conducted by regional office quality review teams (QRT) formed to assess and monitor quality of staff performance and decisions. Specifically, QRTs review completed claims to assess individual rating specialist's performance. In addition, QRTs review in-process claims, which are claims that the specialists have not yet finalized, to identify common errors and help prevent inaccurate decisions. See appendix II for additional information on these and other VBA quality assurance measures.

In November 2014, we issued a report on VBA's quality assurance efforts.¹¹ We found, among other matters, that VBA had not always followed generally accepted statistical practices when calculating accuracy rates through STAR reviews, resulting in imprecise performance information. We also identified shortcomings in QRT practices and implementation that could reduce their effectiveness. We made a number

¹⁰ The annual monitoring is not required when the veteran reaches 69 years of age or older, has had a TDIU rating for 20 continuous years, or has been assigned a 100-percent schedular rating.

¹¹ See GAO, *Veterans' Disability Benefits: Improvements Could Further Enhance Quality Assurance Efforts*, [GAO-15-50](#) (Washington, D.C.: November 19, 2014).

of recommendations to VA to improve its measurement and reporting of accuracy, review the multiple sources of policy guidance available to claims processors, enhance local data systems, and evaluate the effectiveness of quality assurance activities. VA concurred with our recommendations. See appendix II for additional information on STAR and QRT reviews.

The TDIU Beneficiary Population Is Growing, Especially among Older Veterans

The Number of TDIU Beneficiaries and Benefit Costs Increased Over 5 Years

In fiscal year 2013, 332,934 veterans received TDIU benefits, an increase of 22 percent since fiscal year 2009, as shown in table 2. In 2013, there were 31,159 veterans who began receiving TDIU for the first time; that is, new beneficiaries. Moreover, the number of new beneficiaries increased in each of the 4 years we compared to the subsequent year and represented about 9 to 10 percent of the overall TDIU population in each of the 5 years we examined.¹² Similar to the number of new beneficiaries, the number of beneficiaries whose benefits were discontinued also increased in each of the 4 years we compared; these discontinued beneficiaries comprised from 4 to 6 percent of the TDIU population. Overall, of the 74,224 beneficiaries whose benefits were discontinued from fiscal year 2009 through fiscal year 2013, 69 percent were discontinued due to the death of the beneficiary. Benefits were discontinued for the remaining 31 percent¹³ because beneficiaries generally either (1) earned enough income to exceed the income threshold, (2) failed to submit the required annual Employment

¹² We could only measure the change in the number of beneficiaries for four years because we had 5 years of data—we could not compare 2009 to the prior year.

¹³ VA officials were unable to provide the frequency for these reasons for discontinuing a veteran's benefits; according to the officials, they group these categories together and do not individually track them.

Questionnaire for the continuation of benefits, or (3) received a change to their schedular rating.¹⁴

Table 2: Number of Total Disability Individual Unemployability (TDIU) Beneficiaries, Fiscal Years 2009-2013

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Total TDIU beneficiaries ^a	273,408	288,468	303,264	316,758	332,934
New TDIU beneficiaries	24,799	27,908	28,233	29,732	31,159
TDIU beneficiaries whose benefits were discontinued ^b	10,737	12,296	15,246	16,596	19,349

Source: VA data. | GAO-15-464

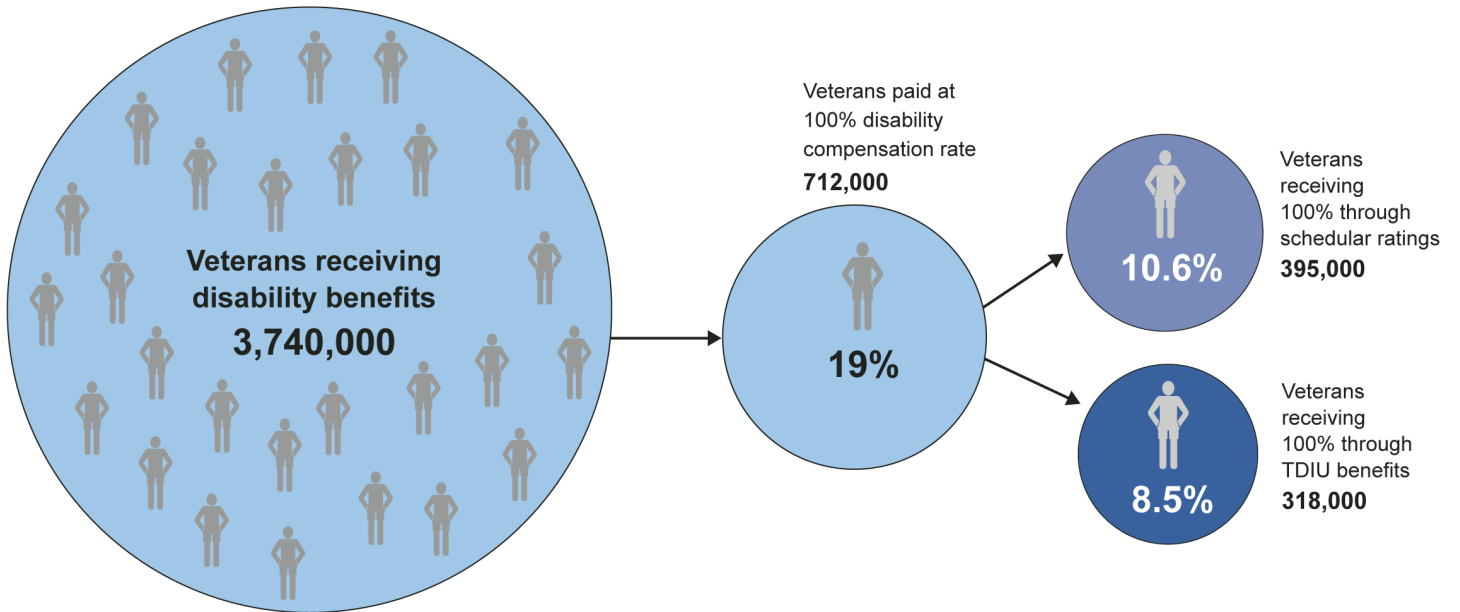
^a The number of “Total TDIU beneficiaries” includes all the beneficiaries who received TDIU at any point during the fiscal year, regardless of initial granting date or attrition from the program. As a consequence, the total count of beneficiaries includes overlap between the new beneficiaries and discontinued beneficiaries, such as when a new beneficiary was discontinued from the benefit in the same fiscal year. In these instances, the beneficiary is double counted; therefore, “new beneficiaries” minus “discontinued beneficiaries” cannot be used to come up with a net count for any one year.

^b The number of “TDIU beneficiaries whose benefits were discontinued” includes all the beneficiaries whose TDIU benefits were discontinued during the fiscal year. Reasons that the benefits were discontinued included (1) the death of the beneficiary, (2) the beneficiary earned income over the eligibility threshold for more than 12 consecutive months, (3) the required annual Employment Questionnaire was not submitted, or (4) the beneficiary’s schedular rating changed.

Overall, TDIU beneficiaries make up a substantial portion of the group of veterans who receive benefit payments at the 100 percent disability compensation rate. In fiscal year 2013, there were 3.7 million veterans receiving disability benefits and those with service-connected disabilities who receive benefit payments at the 100 percent disability compensation rate accounted for 712,000 of the 3.7 million, as shown in figure 2. Within the population of veterans whose benefits were paid at the 100-percent rate, TDIU beneficiaries made up 45 percent.

¹⁴ Changes to the schedular rating include instances when the beneficiary’s rating dropped below where he or she would generally continue to remain eligible—60 percent for a single disability or 70 percent for multiple disabilities—or when the beneficiary received an increase (non-TDIU) to a 100 percent rating for a single disability.

Figure 2: Proportion of Veterans Receiving Disability Benefits with 100 Percent Total Disability Individual Unemployability (TDIU) Benefits, as of September 30, 2013

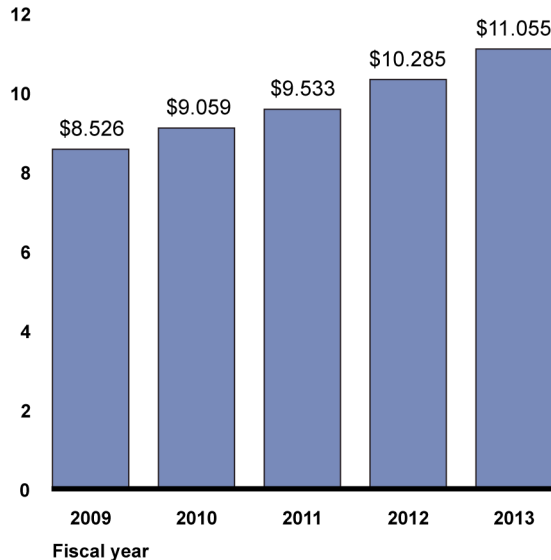


Source: GAO analysis of VA data. | GAO-15-464

According to data provided by VA, TDIU beneficiaries received disability compensation payments totaling approximately \$11 billion in fiscal year 2013, as shown in figure 3, which represented a 30 percent increase—or approximately \$2.5 billion—since fiscal year 2009.

Figure 3: Disability Compensation Paid to Total Disability Individual Unemployability (TDIU) Beneficiaries, Fiscal Years 2009-2013

Disability compensation paid to TDIU beneficiary population (dollars in billions)



Source: GAO analysis of VA data. | GAO-15-464

Note: The TDIU population is paid the same benefit level as veterans rated at 100 percent disabled.

In fiscal year 2013, over two-thirds of TDIU beneficiaries had dependent family members, which increased their benefits payments, while 31 percent were single with no dependents. These TDIU beneficiaries received higher benefit payments depending on (1) whether the beneficiary had a spouse, dependent parent, and/or child and (2) the number of such dependents.¹⁵ For example, when comparing the payments beneficiaries received in fiscal year 2013, a TDIU beneficiary with no dependents received \$2,816 per month, a beneficiary with a spouse and no other dependents received \$2,973, while a beneficiary with a spouse and one child received \$3,088.

¹⁵ There are many categories of individuals whom VA considers to be a child of a veteran, including unmarried individuals who are (1) legitimate or illegitimate children, (2) legally adopted before age 18, and (3) certain stepchildren. Such individuals generally must either be under 18 years old, have become permanently incapable of self-support before reaching age 18, or be pursuing a course of instruction at an educational institution approved by VA. For more details on who counts as a child of a veteran, see 38 C.F.R. § 3.57.

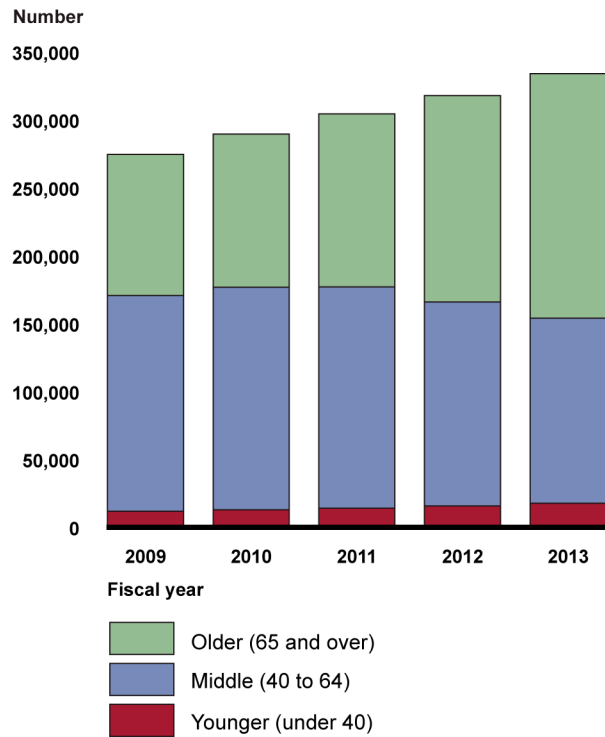
We estimate that, in fiscal year 2013, the TDIU benefit was a \$5.2 billion supplemental payment above what beneficiaries would have received at their regular scheduled rating in the absence of TDIU benefits. VA does not track the overall costs of TDIU benefits, so we used disability compensation payment rate information, data on the TDIU beneficiary population, and data on the population of all new beneficiaries to calculate this estimate. For more information on how we calculated this estimate, see appendix I.

The Number of Older TDIU Beneficiaries Has Increased

The number of older beneficiaries (age 65 and older) increased for each of the 5 years we examined and by fiscal year 2013, they represented the majority (54 percent) of the TDIU population, as shown in figure 4.¹⁶ By 2013, 180,043 beneficiaries fell within this age group, representing a 73 percent increase from fiscal year 2009. Of these older beneficiaries, 56,578 were 75 years of age and older in fiscal year 2013 while 10,567 were 90 years of age and older. The number of younger beneficiaries (under 40 years of age) increased by 56 percent from fiscal year 2009 through 2013, although they made up a small proportion (5 percent) of the overall TDIU population in fiscal year 2013. In contrast to the growth in the number of older and younger beneficiaries, the number of middle-aged beneficiaries (aged 40 to 64) dropped by 14 percent to about 136,000 beneficiaries in fiscal year 2013.

¹⁶ We categorized veterans who were 65 years of age and above as “older” because age 65 has been the traditional age at which individuals would be eligible to receive their full Social Security retirement payment. However, the full retirement age gradually increases from 65 (for 1937 and earlier birth cohorts) to 67 (for 1960 and later birth cohorts). We further categorized middle-aged beneficiaries (40 to 64) and younger beneficiaries (under 40) in such a way as to provide a relatively even spread in ages between the two categories.

Figure 4: Number of Total Disability Individual Unemployability (TDIU) Beneficiaries by Age Group, Fiscal Years 2009-2013

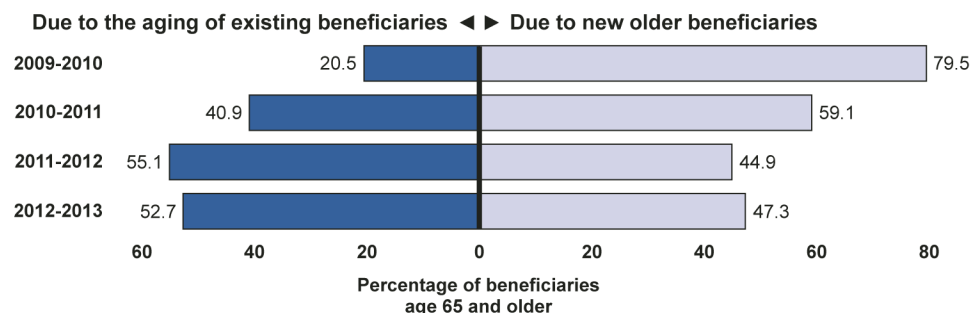


Source: GAO analysis of VA data. | GAO-15-464

The increase in older beneficiaries, as described above, was largely attributable to older beneficiaries who began receiving TDIU benefits for the first time. Fifty-three percent of the increase in older beneficiaries, from fiscal year 2009 through fiscal year 2013, was attributed to the new older beneficiaries. The rest of the increase in older beneficiaries was attributed to aging of the existing TDIU population, with middle-aged workers (aged 40 to 64) aging into the age 65 and over population. A year-by-year breakdown is shown in figure 5. In comparing the new beneficiary population in fiscal years 2009 and 2013, the number of new older beneficiaries more than doubled to reach 13,259 beneficiaries. Of these new older beneficiaries, 2,801 were aged 75 and over while 408

were aged 90 and over.¹⁷ See appendix III for the breakdown of new older beneficiaries by age groups.

Figure 5: Sources of the Increase in the Older Total Disability Individual Unemployability (TDIU) Beneficiary Population, Fiscal Years 2009-2013



Source: GAO analysis of VA data. | GAO-15-464

VBA's Guidance, Quality Assurance Approach, and Income Verification Procedures Do Not Ensure That TDIU Decisions Are Well Supported

¹⁷ According to data from the Census Bureau's American Community Survey, only a small percentage of veterans work beyond age 65. Between 2011 and 2013, 17.5 percent of veterans aged 65 and older and 7.9 percent of veterans aged 75 and older were employed. The American Community Survey 3-year Public Use Microdata Series percentage estimates are reported as having 95 percent confidence intervals of +/- 1 percentage point of the estimate.

VBA Has Provided Incomplete Guidance on How to Determine a Veteran's Unemployability

VBA provides guidance to rating specialists to help them determine if veterans meet the eligibility requirements for TDIU benefits. This guidance tasks rating specialists, based upon the evidence at hand, to determine veterans' unemployability; it also recognizes that the process is subjective and involves professional interpretation. The guidance briefly lists factors that rating specialists should consider when deciding if a veteran is unemployable. For example, rating specialists should, as appropriate, consider medical opinions, treatment records, notes from vocational rehabilitation efforts, and receipt of Social Security disability benefits. The guidance also briefly lists factors that rating specialists are to treat as "extraneous" and therefore exclude from their analysis, such as a veteran's age, the availability of work in the community, and the effects of non-service-connected disabilities on the ability to work.¹⁸

However, the guidance provided by VBA on which factors to consider when determining if a veteran is "unemployable" is incomplete in three ways, creating potential variation in TDIU claim decisions. First, rating specialists in some (5 of 11) of the discussion groups we held at five regional offices disagreed on whether they are permitted to consider additional factors that are not specifically mentioned in VBA's guidance.¹⁹ Rating specialists held varying opinions on whether factors such as enrollment in school, education level, or prior work history should be used to decide the benefit claim. Some examples of the variability in decisions this incomplete guidance results in are shown in the examples below:

- A rating specialist recently reviewed a claim for TDIU that was submitted by a veteran suffering from traumatic brain injury. The rating specialist found that the veteran was enrolled in school part time and earning A's in engineering classes, which the specialist felt clearly demonstrated employability. However, another rating specialist within the group stated that the veteran's enrollment in classes would not be part of her decision-making.

¹⁸ Because the relevant federal laws and regulations do not provide specificity regarding how VA should implement the TDIU benefit, we focus instead on the relevant guidance, which provides such detail.

¹⁹ We conducted a total of 11 in-person discussion groups with 2-3 rating specialists in each group across 5 of the regional offices, for a total of 29 rating specialists. The rating specialists were selected by VBA regional office officials and represented different ages, experience levels, and lengths of tenure at VA. During each discussion group we followed an interview protocol to collect information on TDIU claim decisions.

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- A rating specialist granted benefits to a veteran with an 8th grade education because the specialist felt the veteran was unqualified for work other than the lumberjacking he had performed since leaving the military, despite the fact that the examiner found that the veteran could work in a job with fewer physical demands. A fellow rating specialist agreed that the veteran was qualified for few jobs, but would not have granted the benefit because the veteran's physical restrictions did not disqualify the veteran from certain other jobs.
 - Another rating specialist denied benefits for a veteran who was a retired dentist. The veteran's medical examiner submitted a written opinion that the veteran could not perform dental work due to his inability to stand; however, the rating specialist decided the veteran's prior work in such a high-skilled career was an indication that he could engage in a different line of work. Yet, another rating specialist stated that he would have instead relied solely on the opinion of the medical examiner and consequently granted the TDIU benefit.

Second, rating specialists noted that for those factors that rating specialists can consider in their decision-making process, the guidance is silent on which factors, if any, should be given greater priority or weight. We confirmed that this information was not in the manual or guidance provided by VBA. As a result, during 5 of our 11 discussion groups with rating specialists, we heard differences in opinion about the primacy of factors rating specialists applied when making a decision on unemployability. The majority of rating specialists in the discussion groups (7 of 11) specifically noted that they could come to an opposite decision when reviewing the same evidence if the evidence were weighed differently. For example, during a few of these discussion groups, rating specialists told us they relied heavily on medical opinions while others considered Social Security Disability Insurance (SSDI) payments as the strongest marker of a veteran's inability to work. In another instance, a rating specialist told us that a medical opinion was always weighted more heavily than all other evidence in the veteran's file while another specialist expressed a hesitancy to rely too much on the examiner's opinion.

Third, the guidance does not provide instruction on how to separate extraneous factors from allowable ones. Some of the discussion groups (6 of 11) told us that not having this guidance was a significant challenge for them. Findings from our case file reviews also illustrate this issue: one file described a 77-year-old veteran claiming TDIU benefits for blindness that was caused by (1) a service-connected disability, (2) glaucoma, and (3) macular degeneration. However, because all three conditions related to the veteran's quality of vision, the rating specialist noted in the file her

difficulty separating the effect of the service-connected disability from the non-service-connected glaucoma and macular degeneration due to the man's age. Rating specialists also told us that despite guidance to the contrary, they still consider age as a factor. At one end of the age spectrum, specialists in the majority (7 of 11) of the discussion groups told us that they have difficulty rationalizing granting benefits to veterans beyond 65 years of age. In each of these groups, at least one rating specialist provided an example of when they may consider age as a factor in the TDIU benefit decision. For example, one rating specialist shared a case of an older veteran who retired from police service more than 10 years before applying for TDIU benefits. He specifically had a concern with program rules which did not allow him to consider the veteran's age and retirement status. At the other end of the age spectrum, rating specialists in four of the discussion groups described difficulties in granting TDIU benefits for younger veterans because they do not want these veterans, in the future, to be discouraged from attempting a return to work for fear of losing the benefit.

Format and Delivery of TDIU Guidance Does Not Support Efficient Claims Decision-Making

Rating specialists in the majority (7 of 11) of our discussion groups at five regional offices reported that VBA's guidance for reviewing TDIU claims is formatted and delivered in ways that make it difficult for them to complete their decision-making responsibilities in an efficient manner. Federal internal control standards highlight the need for collecting, consolidating, and distributing pertinent information in a form that allows employees to perform their duties efficiently.²⁰ For several reasons, VBA's guidance falls short of this standard. First, TDIU guidance is delivered using multiple formats, including manuals, policy and procedure letters, summaries of relevant legal decisions, frequently-asked-question responses, monthly bulletins, feedback from quality assurance reviews, e-mails, and internal webpages. However, the information provided in these various forms can also vary, making it challenging for rating specialists to have a definitive source for TDIU benefit decision guidance. Moreover, some of the guidance, for example the information provided to frequently-asked-questions, is sent only to the regional office which submitted the question, according to rating specialists in a couple of the 11 discussion groups. Second, VBA rating specialists in 8 of the 11 discussion groups

²⁰ GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

told us they have difficulty finding the most current guidance. While VBA has a manual for TDIU benefit decisions, officials at all six regional offices told us that the manual is outdated. VBA officials acknowledged this condition and stated they issue interim guidance in many forms between manual updates because such updates are time-consuming and difficult to do on a regular basis. Third, rating specialists in a couple of the discussion groups told us that the guidance they receive typically lacks search features, which may allow them to readily find the most current TDIU guidance. For example, the rating specialists described having to read through numerous bulletins to find guidance on TDIU and then look for the specific guidance they need as opposed to being able to use a key word search to capture all related information.

Some VBA central and regional office efforts address the disparate nature of the guidance. To locate guidance more readily, two of the six regional offices we visited had developed “cheat sheets,” which they said captured all of the guidance into a single searchable document. VBA officials also told us they are taking steps to develop an electronic manual that is intended to consolidate and replace many other forms of guidance, including manuals and memoranda of policy changes, for processing all claim types and will include a search feature. VBA is initially creating a web portal to house all existing guidance and subsequently will consolidate the guidance into one processing manual. VBA has completed two of the four stages for the web portal and is in the process of rewriting the manual. Officials told us they plan to complete the consolidation by the end of fiscal year 2015.

VBA's Quality Assurance Approach Does Not Provide a Comprehensive Assessment of TDIU Decisions

VBA's quality assurance approach—accomplished mainly through its Systematic Technical Accuracy Review (STAR)—may not be providing a comprehensive assessment of TDIU claim decisions. The agency's current approach does not allow it to identify variations in these decisions or ascertain the root causes of variation which may exist. Federal internal control standards state that agencies should assess performance using control activities, such as quality assurance checks, and that performance information should provide agency officials with information on the extent to which claims decisions are complete, accurate, and consistent.²¹

²¹ GAO, *Managing For Results: GPRA Modernization Act Implementation Provides Important Opportunities to Address Government Challenges*, [GAO-11-617T](#) (Washington, D.C.: May 10, 2011).

However, VBA's quality assurance standards indicate that a quality assurance officer reviewing TDIU decisions for errors cannot substitute his or her professional opinion with the opinion of the rating specialist who made the original decision. The officer cannot substitute, for example, his or her interpretation of the medical and vocational evidence, as well as an interpretation of the underlying regulations governing the benefit. For the quality assurance officer to decide that the rating specialist made an error, it must be clear and undebatable. Because of this high standard, a STAR review of a sample of claims finalized during the first three quarters of fiscal year 2014 determined that nearly 95 percent of TDIU claims (872 of 920) were error-free.²² Of the 48 claims found to contain an error, all the errors were found to be "procedural," such as an incorrect date for the onset of unemployability. No "decisional" errors were found, which are errors in the decision to grant or deny the benefit.²³ According to VBA officials, it is unlikely that they will find many decisional errors because there is so much individual judgment allowed in TDIU claim decisions, and VBA's quality assurance standards do not allow for the reevaluation of the professional opinion of the original rating specialist.

Beyond STAR, the regional offices also conduct quality review team (QRT) reviews for disability compensation claim decisions in general, but these reviews may not be providing much insight into the completeness, accuracy, and consistency of TDIU claim decisions. The regional offices use QRT reviews to identify trends in error and review individual rating specialist's performance (for past claim decisions as well as claims still in review). However, VBA officials in almost all (5 of 6) of the regional offices told us that these reviews generally include very few TDIU claims. Moreover, QRT reviews apply a similar approach to calculating errors as STAR reviews. For example, QRT reviews give deference to professional opinion and officials we spoke with noted that questionable decisions made by rating specialists are typically coded as a "training comment" rather than as an "error." In such instances, QRT officials discuss the claim with the rating specialist. Only one of the regional offices we visited

²² In fiscal year 2013, STAR determined an accuracy rate of approximately 94 percent for TDIU claims.

²³ When VA determines that a claim for benefits was decided in error the veteran is notified and has 60 days to provide additional evidence before the award is reduced or discontinued.

was systematically tracking the type of TDIU errors in its QRT review process.

Quality assurance approaches that VBA has used with non-TDIU disability compensation claims suggest that other options may be available to generate additional insight into a comprehensive assessment of the completeness, accuracy, and consistency, as well as possible enhancements, of TDIU claims decisions. For example, as we reported in 2014, VBA conducted a targeted review of military sexual trauma claims using a consistency questionnaire to test rating specialists' understanding and interpretation of policies in response to concerns that post-traumatic stress disorder claims related to military sexual trauma were not being accurately decided.²⁴ Performing a similar review to gauge the degree of consistency in TDIU claim decisions could help VBA identify differences—perhaps beyond reasonable limits—in how rating specialists interpret the guidance and apply their professional judgment. Further, measuring consistency of decisions for specialists working in different regional offices could provide additional insight. VBA has used other quality assurance approaches to assess non-TDIU disability compensation claim decision-making, which are discussed in greater detail in appendix II. While we recognize that TDIU benefit decisions have an inherently subjective component, the current approach that VBA uses cannot ensure that the decisions are comprehensively assessed for completeness, accuracy, and consistency.

VBA Does Not Verify Self-Reported Income Eligibility Information

While VBA requires TDIU claimants and beneficiaries to provide information on their employment earnings, VBA places the benefits at risk of being awarded to ineligible veterans by not using third-party data sources to independently verify self-reported earnings. To begin receiving and remain eligible for TDIU benefits, veterans must meet the income eligibility requirements. VBA first determines a claimant's income by requesting information on the last 5 years of employment on the claim form and subsequently requires beneficiaries to annually attest to any income changes. Rating specialists use the information provided by claimants to request additional information from employers and, when possible, verify the claimant's reported income, especially for the year

²⁴ GAO, *Military Sexual Trauma: Improvements Made, but VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions*, [GAO-14-477](#) (Washington, D.C.: June 9, 2014).

prior to applying for the benefit. In order to receive verification, VBA sends a form to the employers identified on the veteran's benefit claim and asks them to provide the income earned by the veteran. However, VBA officials indicated that employers provide the requested information only about 50 percent of the time. This estimate was consistent with what we heard from our discussion groups of rating specialists and the number of completed forms found in the files we reviewed. Rating specialists in 5 of the 11 discussion groups told us the low response rate is often due to businesses having closed, lack of incentives to return the form, and staff at human resources offices being unfamiliar with the veteran. If VBA does not receive verification from a veteran's employer after multiple attempts, it accepts the veteran's claimed earnings. None of the rating specialists in the 11 discussion groups we held in five regional offices discussed other ways of verifying the self-attested income that beneficiaries' report on the initial TDIU claim or the annual form that must be submitted to continue to receive benefits. However, one rating specialist explained that in the rare instances when beneficiaries indicate earning above the income threshold, the specialists review additional documents, such as tax documents, submitted by the veteran.

VBA previously conducted audits of beneficiaries' reported income by obtaining income verification matches from Internal Revenue Service (IRS) earnings data through an agreement with the Social Security Administration (SSA), but is no longer doing so. For example, VBA obtained reported income annually and compared lists of TDIU beneficiaries to their self-reported income. VBA officials told us that the agency is not performing income verification matches for TDIU claims despite having standing agreements with the IRS and SSA to do so. In 2012, VBA suspended income verification matches to allow for the development of a new system that would allow for more frequent, electronic information sharing.²⁵ VBA officials told us that they plan to roll out a new electronic data system that would allow for compatibility with SSA data sources in fiscal year 2015. They noted that they plan to use this system to conduct more frequent and focused income verifications to ensure beneficiaries' continued entitlement. VBA officials also anticipate being able to use the system to conduct income verifications for initial TDIU applicants beginning in fiscal year 2016. However, they did not

²⁵ Income verification matches made in 2012 and before were done on an annual basis with paper worksheets.

provide us with a plan or timeline for implementing this verification system.

In addition, VA has not fully taken advantage of previous opportunities to use the National Directory of New Hires (NDNH) to verify self-reported income information for the TDIU program. The NDNH, which is maintained by the Department of Health and Human Services (HHS), was established in part to help states enforce child support orders against noncustodial parents and contains more timely state wage information. The NDNH also includes data from state directories of new hires, state records of unemployment insurance benefits paid, and federal agency payroll data, all of which can be used to help establish a picture of a claimant's work history and earnings. NDNH data are updated at least quarterly, providing a more recent snapshot of earnings than the IRS wage information that SSA obtains. However, access to the NDNH is limited by statute. In our 2006 report on VA's TDIU benefits, we recommended that VA use this directory to enforce earnings limits in their programs.²⁶ VA was subsequently granted temporary statutory authority, twice, to access the NDNH for use in employment and income verification. Specifically, VA had such access from December 26, 2007, through November 18, 2011, and again for a period of 180 days beginning on September 30, 2013. VA, however, never reached an agreement with HHS to use the data during these time periods due to its limited financial and workforce resources at the time, according to officials. VA no longer has statutory authority to access the NDNH data. SSA, on the other hand, does have statutory access to NDNH data, and SSA's Office of the Inspector General (OIG) recently reviewed the accuracy and effectiveness of NDNH data in identifying overpayments for SSA benefit programs including SSDI. The OIG concluded that NDNH's quarterly data specifically aided SSA in identifying \$141 million in improper payments in fiscal year 2009.

Options for Revising TDIU Eligibility Requirements

²⁶ [GAO-06-309](#).

We Identified Seven Options That Have Been Proposed by Others to Revise TDIU Eligibility Requirements and the Benefit Structure

Based on a review of literature, we identified a number of options proposed by others for revising the TDIU benefit: six focused on revising eligibility requirements and one that would change the benefit structure.²⁷ More specifically, the six eligibility-related options involve changing existing requirements in various ways, for example, setting age limits, lowering the disability rating requirement, or increasing the income thresholds. The seventh option we identified would affect the benefit structure by lowering, but not immediately eliminating, the TDIU benefit payments as beneficiaries earned income beyond the eligibility limit.

Based on interviews with selected experts and representatives of veterans service organizations (VSO), we identified a range of potential strengths and challenges associated with each option. When discussing the potential strengths and challenges of each option, the experts and VSO representatives commonly mentioned the equity of the proposed change, an increase or decrease of VA's management and administration efforts and cost, and the effect on veterans. There was a range of opinions from the experts and VSO representatives across the options' strengths and challenges. Moreover, some stakeholders expressed opposite views, which could be attributable to differences in the interpretation of the material as well as differing policy stances. We did not independently assess the individual merits or accuracy of the views expressed by these experts and VSO representatives; however, we recognize that weighing and possibly implementing any of these revisions would be a complex process. For example, a couple of the options present possible opportunities for VA to better target TDIU benefits to veterans who are unemployable, but implementation of these options could pose challenges in ensuring that all veterans are treated equitably. Each of the seven options and the potential strengths and challenges identified by stakeholders that we interviewed are summarized below.

Discontinue beyond retirement age: Discontinue the TDIU payment when the veteran reaches Social Security's full retirement age (65 to 67, depending on birth year). This option was proposed by the Congressional

²⁷ In this report, we are not recommending or endorsing the adoption of any particular policy option or package of options. Rather, we identify them from the literature review as potential options that could be considered. For more information about how we identified these options, including the reports or other materials that present these options, see appendix I.

Budget Office (CBO) in 2013.²⁸ CBO based this option on the rationale that most veterans who are older than Social Security's full retirement age would not be in the labor force because of their age, and that a lack of earnings among them would probably not be attributable to service-connected disabilities. CBO also noted that veterans over age 65 who currently receive TDIU benefits—most of whom began receiving them in their 50s—would likely have income from other sources, including the regular VA disability compensation benefit and Social Security retirement benefits. CBO also provided an argument for retaining the current policy, noting that the benefit should be based solely on an ability to work and that using age as a factor would be unfair. CBO stated that some disabled veterans would not be able to replace the TDIU supplement and that their Social Security retirement benefit and personal savings are low. If the option to discontinue TDIU payments when the veteran reaches Social Security's full retirement age were implemented, the veteran would continue to receive disability compensation payments at a dollar amount appropriate to the underlying VA disability rating. Veterans beyond Social Security's full retirement age at the time of their initial application would be ineligible for TDIU. CBO did not address how the discontinuance of TDIU benefits could possibly interact with Social Security retirement benefits.

The age restriction proposed in this option has been implemented in the federal Social Security Disability Insurance (SSDI) program. In SSDI, once program beneficiaries reach full retirement age, their benefit converts to a Social Security retirement benefit, although the amount of their benefit payment remains the same.

- Potential Strengths Identified by Stakeholders
 - Could better target the intended population—older veterans might not be likely to work past retirement age.
 - Benefit costs might be reduced due to the reduction in payments to older veterans.
- Potential Challenges Identified by Stakeholders

²⁸ Congressional Budget Office, *Options for Reducing the Deficit: 2014 to 2023* (Washington, D.C.: November 2013), 48.

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- Some veterans might not have income replacement available—especially those who had been on TDIU in advance of reaching retirement age.
 - Could be unfair to veterans—older individuals might have the option of working past the retirement age, but older veterans whose service-connected disabilities stop them from working cannot.

Consider vocational assessment: Consider the results of a mandatory vocational assessment before granting TDIU benefits. The Institute of Medicine of the National Academies (IOM) has reported that there are vocational counselors with the appropriate education and training to assess employability, but not all veterans who claim TDIU receive such an evaluation.²⁹ The vocational assessment would address whether the veteran could be rehabilitated in order to maintain employment. In addition, rating specialists working on TDIU claims would receive training in how to interpret the findings from the vocational assessment. Rating specialists would then be able to use this assessment, along with the results of medical reports and other information, to help determine the veterans' ability to engage in work activities.

- Potential Strengths Identified by Stakeholders
 - Could help provide a more complete appraisal of the veteran's ability to work.
- Potential Challenges Identified by Stakeholders
 - Could require VA to expand its vocational rehabilitation program to address the increase in required assessments.
 - Could cause delays in benefit decisions.
 - Rating specialists and vocational rehabilitation counselors might need to receive additional training on how to assess the vocational rehabilitation findings.
 - Could increase the burden on veterans as they would likely need to submit to an additional assessment.
 - By adding a new factor to consider, could possibly increase the subjectivity of claim decision-making, thereby possibly creating more variation in decisions.

²⁹ Institute of Medicine of the National Academies, *A 21st Century System for Evaluating Veterans for Disability Benefits* (Washington, D.C.: 2007), 247.

Gradually reduce payment: Implement a gradual reduction in the TDIU payment as the veteran, in returning to work, exceeds the maximum income that determines eligibility for TDIU, which was \$11,888 per year for an individual in fiscal year 2013. The existing TDIU regulations call for a discontinuation of a TDIU benefit once a veteran has income above the maximum after having worked for more than a year. IOM found that, as a consequence, the beneficiary's total monthly disability payment could be reduced by anywhere from 40 percent to 64 percent.³⁰ This reduction represented the drop in disability pay from the 100 percent disability rating, which the veteran received with TDIU, to the pay at their regular scheduled disability rating. They noted that this drop in disability payments might deter some veterans from trying to return to work.

The option to implement a gradual reduction in the TDIU payment is similar to the design of a program SSA is testing for SSDI beneficiaries, which reduces payments by \$1 for every \$2 of income earned beyond the maximum allowed to maintain eligibility. Participants in the program have also received benefits counseling with the goal of helping them to return to work.³¹

- Potential Strengths Identified by Stakeholders
 - Beneficiaries could have an incentive to return to work since the beneficiary would continue to earn benefits even as they earned income beyond the maximum allowed instead of losing the benefits entirely.
 - Could reduce the total amount of benefits paid out by VA since some beneficiaries would receive reduced benefit payments as they earn income beyond the maximum income.
 - Could provide positive mental health improvements as the beneficiaries return to work.
- Potential Challenges Identified by Stakeholders

³⁰ Institute of Medicine of the National Academies, *Evaluating Veterans*, 249-250.

³¹ The program began in January 2011 and is ongoing. Evaluations of the program can be found in the reports for SSA, *BOND Implementation and Evaluation: First- and Second-Year Snapshot of Earnings and Benefit Impacts for Stage 1* (at http://www.ssa.gov/disabilityresearch/documents/BOND_Deliverable%2024c2_S1Y2_Snapshot%20Rpt_June%202.pdf) and *BOND Implementation and Evaluation: First- and Second-Year Snapshot of Earnings and Benefit Impacts for Stage 2* (at http://www.ssa.gov/disabilityresearch/documents/BOND_Deliverable%2024c5_8-14-14.pdf).

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- Beneficiaries could have a disincentive to work if the resulting earned income above a certain threshold begins to reduce the benefit payment amount.³²

Increase earnings limit: Increase the maximum earnings limit for TDIU eligibility to match that used in the SSDI, which was \$12,480 per year (for a non-blind individual) in fiscal year 2013. Economic Systems, Inc. (Econosys) noted in its study on VA compensation payments that very poor veterans with disabilities would also be eligible for SSDI and, therefore, the maximum earnings limits for TDIU and SSDI should be aligned.³³

- Potential Strengths Identified by Stakeholders
 - Could reduce any confusion for veterans and VA regarding the maximum income allowed to qualify for SSDI and TDIU.
 - Beneficiaries could have more earnings and still qualify for TDIU.
 - Could be easy to implement the increase.
- Potential Challenges Identified by Stakeholders
 - Likely increases VA benefit costs and workload as more veterans qualify for TDIU under the higher earnings limit.

Lower disability rating criteria:³⁴ Lower the TDIU eligibility criteria for veterans with multiple disabilities to a combined scheduled disability rating of 60 percent. The existing TDIU regulation states that a veteran with multiple disabilities is eligible for TDIU if the combined rating is at least 70 percent so long as one of the multiple disabilities is rated at least 40 percent.³⁵ The change in the multiple disability ratings threshold would

³² One of the experts and one of the VSO representatives who thought this option could act as an incentive observed that the option could also act as a disincentive.

³³ Economic Systems, Inc., *A Study of Compensation Payments for Service Connected Disabilities*, a report prepared at the request of the Department of Veterans Affairs, Office of Policy and Planning, September 2008, Vol I, 40.

³⁴ This option is based on proposed rules published by VA in 2001 that the agency withdrew in 2005. See 66 Fed. Reg. 49,886 (Oct. 1, 2001) and 70 Fed. Reg. 76,221 (Dec. 23, 2005). When VA withdrew its proposed regulations, it indicated that it planned to develop a new proposal to be published at a later date. However, we were not able to identify any such proposals published in the Federal Register.

³⁵ Regulations also state that veterans with a single disability rating at 60 percent and who meet the other criteria are eligible.

also eliminate the requirement that one of the disabilities have a minimum rating of 40 percent.

- Potential Strengths Identified by Stakeholders
 - Lowering the criteria could make it easier for veterans to qualify for TDIU if they did not have any disabilities above 40 percent, but were still considered unemployable.
 - Could provide consistency in the eligibility criteria since, instead of requiring a 70 percent rating for veterans with multiple disabilities and a 60 percent rating for veterans with a single disability in order for the veteran to be eligible for TDIU, the minimum required rating of a 60 percent disability would be the same for veterans regardless if they had a single or multiple disabilities.
- Potential Challenges Identified by Stakeholders
 - Could increase the benefit costs and the workload for VA as more veterans would qualify.
 - May overemphasize the effects of a disability rating comprised of multiple disabilities, which may not be as severe as the effects of a single disability with the same rating.

Add new unemployability criteria: Amend the criteria for assessing “unemployability” to include the veteran’s education, work history, and the medical effects of an individual’s age on his or her potential employability. For example, an older veteran with a college education could have the appropriate education and training needed to make it easier to transition to a new type of employment. As noted by IOM, shifts in the labor market have reduced the physical demands for labor, potentially making inclusion of these additional criteria for TDIU decisions appropriate.³⁶ However, an older veteran with less education and whose experience is limited to a more physically demanding trade might not be able to find alternative employment.

The option to amend criteria for assessing “unemployability” is similar to the criteria used to assess certain SSDI applicants, which considers an individual’s education and work history, along with age, to assess the capacity of the applicant to work in other jobs.

- Potential Strengths Identified by Stakeholders

³⁶ Institute of Medicine of the National Academies, *Evaluating Veterans*, 249.

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- The new criteria would add factors that could be relevant for VA to consider when determining whether a veteran is employable.
 - Potential Challenges Identified by Stakeholders
 - Could be unfair to veterans—veterans who are otherwise similar might not be treated equally when deciding eligibility.
 - By adding multiple new factors to consider, could possibly increase the subjectivity of claim decision-making, thereby possibly creating more variation in decisions.
 - Rating specialists might need additional training and guidance to ensure consistency in their TDIU benefit decisions.
 - VA could incur additional administrative costs as claims could require additional documentation before a decision is made.

Use patient-centered work disability measure: Adopt a “patient-centered work disability measure” to evaluate TDIU eligibility. In addition to assessing the veteran’s work history, as currently performed, VA would consider other factors, including motivation and interests. To be sensitive to the veteran’s unique circumstances and areas of concern, VA staff would measure multiple factors—impairments, functional limitations, and disability—relevant to health-related work disability. Particular care would be taken to include measures of physical, psychological, and cognitive function.

- Potential Strengths Identified by Stakeholders
 - Could provide a more complete appraisal of the veteran’s employability.
 - By applying the assessment consistently to all veterans using the prescribed measures, the results could be standardized—potentially improving the consistency of the decisions.
- Potential Challenges Identified by Stakeholders
 - VA could incur additional administrative cost as the measure would require collecting additional information.
 - Could delay the benefit decisions while rating specialists collect the additional information required for the measure.
 - Rating specialists could need additional training and guidance regarding how to apply the measure.
 - This could require VA to make changes to how the agency measures disability, such as through the inclusion of their motivations and interests.

Advisory Committee Recommended Revisions to TDIU, but VA Has Not Taken Action

In 2012, the Advisory Committee on Disability Compensation made recommendations to VA regarding potential revisions to the TDIU benefit, and while VA concurred with those recommendations, it has yet to take actions in response to them.³⁷ The advisory committee is composed of experts with experience in the provision of VA disability compensation or who are leading medical or scientific experts in relevant fields. The committee, when consulted by the Secretary of Veterans Affairs, is required to provide, among other things, an ongoing assessment of the effectiveness of the schedule for rating disabilities and advice on the most appropriate means of responding to the needs of veterans with respect to disability compensation.³⁸ Taking the committee's advice into consideration could better position the agency to meet federal internal control standards. For example, in its 2012 report, the committee noted the increase in the number of veterans receiving TDIU benefits as well as concerns regarding potential internal inconsistencies in TDIU decisions. As a consequence, the committee recommended that the agency (1) study whether age should be considered when deciding if a veteran is unemployable and (2) require a vocational assessment for all TDIU applicants.³⁹ VA concurred with the recommendation to study whether age should be considered. The agency also concurred with the recommendation that called for it to require a vocational assessment, though VA noted that before it could proceed, it needed to complete a study on whether it was possible to disallow TDIU benefits for veterans whose vocational assessment indicated they would be employable after rehabilitation. To date, VA officials have told us, without explanation, that no such studies or analyses, in either area, have been planned or initiated.

Conclusions

The benefits veterans are entitled to, as well as VA's decisions on what constitutes a work disability, are in need of constant refinement to keep pace with changes in medicine, technology, and the modern work

³⁷ The committee is required to issue reports no less than every 2 years on VA's programs and activities related to the payment of disability compensation and include recommendations as it deems them appropriate.

³⁸ 38 U.S.C. § 546.

³⁹ The Advisory Committee on Disability Compensation's 2014 biannual report contained no new recommendations regarding TDIU while noting that the committee intended to issue new recommendations no later than 2016.

environment. Within this broad context, VA can position itself to better manage the TDIU benefit and look for opportunities to strengthen the assessments of its eligibility decisions. Unfortunately, the integrity of the decision-making process for the TDIU benefit is at risk due to incomplete guidance that leaves much open to interpretation. As a consequence, rating specialists may be using and interpreting evidence differently to determine unemployability—this could mean that benefits could be granted for one veteran and possibly denied for another veteran with similar circumstances and impairments. Within this environment, VA’s quality assurance approach may not be fully identifying the extent to which errors made by rating specialists are occurring or providing adequate assurance on the overall soundness of the TDIU benefit decision-making process. Specifically, little if anything is known about the consistency of TDIU decision-making across individuals in the same regional office as well as across regional offices. We heard about the subjectivity and challenges in the claims decision-making process throughout our visits to VBA regional offices, which elevate the need to use a thorough process to ensure that rating specialists are bringing reasonably consistent judgments to benefit decisions—which for some individual veterans, could result in 50 or more years of benefits. In addition, VA does not use available third-party earnings data to verify veterans’ self-attested employment history and income information. Without such verification, VA cannot adequately ensure that the eligibility standards are being met, which places these benefits at risk of being awarded to ineligible veterans. These deficiencies also have the potential of increasing the cost of TDIU benefits because some ineligible veterans may be receiving benefits and other deserving veterans could be denied benefits. Having a strong framework for program integrity is important for any federal program, and in light of the multi-billion dollar—and growing—TDIU benefit, taking steps to ensure payments are properly awarded to veterans is essential.

VA is at a junction where it is revising its complex and multifaceted disability compensation benefits program. As VA works on adjusting the eligibility criteria and management of the compensation benefits program, the agency must balance such things as improvements in the assistance available to those with disabilities, the increasing number of veterans, and fiscal constraints. Concurrent with this effort, VA has the opportunity to benefit from the amount of attention the TDIU benefit has received by various experts. Notably, VA’s own advisory committee has pointed out the need for VA to study, for example, age as a possible decision-making factor. The committee members’ expertise and familiarity with VA compensation benefits and veteran needs are meant to aid VA in

identifying what additional information they need to effectively and efficiently review the TDIU benefit. By concurring with the committee's recommendations, but not taking action, VA has delayed the timely analysis of the benefit. The options and the potential strengths and challenges identified by experts and VSO representatives may warrant consideration in any broader benefit refinement discussions and efforts to improve the TDIU benefit design and eligibility criteria going forward.

Recommendations for Executive Action

To help ensure that TDIU decisions are well supported and TDIU benefits are provided only to veterans whose service-connected disabilities prevent them from obtaining or retaining substantially gainful employment, we recommend the Secretary of Veterans Affairs direct the Under Secretary for Benefits to:

1. Update the TDIU guidance to clarify how rating specialists should determine unemployability when making TDIU benefit decisions. This updated guidance could clarify whether factors such as enrollment in school, education level, and prior work history should be used and if so, how to consider them; and whether or not to assign more weight to certain factors than others. Updating the guidance would also give VBA the opportunity to re-examine the applicability, if at all, of other factors it has identified as extraneous.
2. Identify other quality assurance approaches that will allow the agency to conduct a comprehensive assessment of TDIU benefit claim decisions. The approach should allow VBA to assess if decisions are complete, accurate, and consistent, and ascertain the root causes of any significant variation so that VBA can take corrective actions as appropriate. This effort could be informed by the approaches VBA uses to assess non-TDIU claims.
3. Verify the self-reported income provided by veterans (a) applying for TDIU benefits and (b) undergoing the annual eligibility review process by comparing such information against IRS earnings data, which VBA currently has access to for this purpose. VA could also explore options to obtain more timely earnings data from other sources to ensure that claimants are working within allowable eligibility limits.
4. In light of VA's agreement with the recommendations made by the Advisory Committee on Disability Compensation, develop a plan to study the complex TDIU policy questions on (1) whether age should be considered when deciding if veterans are unemployable and (2) whether it is possible to disallow TDIU benefits for veterans whose

vocational assessment indicated they would be employable after rehabilitation.

Agency Comments and Our Evaluation

We provided a draft of this report to VA for review and comment. In its written comments, reproduced in appendix IV, VA generally agreed with our conclusions and concurs with all of our recommendations. The agency outlined how it plans to address our recommendations as follows:

- Regarding our recommendation to update the TDIU guidance to clarify how rating specialists should determine unemployability when making TDIU benefit decisions, VA stated that VBA will review current TDIU policies and procedures to identify necessary improvements including developing new policies and procedures that provide clear guidance on deciding these claims. The updated guidance will address the extent to which age, education, work history, and enrollment in training programs are factors that claims processors must address. VA anticipates that Compensation Service will complete this review and provide options to VBA for a decision by the end of January 2016.
- Regarding our recommendation to identify other quality assurance approaches that will allow the agency to conduct a comprehensive assessment of TDIU benefit claim decisions, VA stated that the Compensation Service Quality Assurance Staff will add TDIU-specific questions to the In-Process Review checklist at the regional offices between July and September 2015. Based on the results of the reviews, VBA will determine the most effective approach for assessing the accuracy and consistency of TDIU decisions by October 31, 2015.
- Regarding our recommendation to verify the self-reported income provided by veterans (a) applying for TDIU benefits and (b) undergoing the annual eligibility review process by comparing such information against IRS earnings data, VA stated that VBA is developing an upfront verification process. This involves expanding the data sharing agreement with SSA, which enables VBA to receive federal tax information via an encrypted electronic transmission through a secure portal. VBA expects to implement this upfront verification process for TDIU claimants by January 31, 2016.

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- Regarding our recommendation to develop a plan to study (1) whether age should be considered when deciding if veterans are unemployable and (2) whether it is possible to disallow TDIU benefits for veterans whose vocational assessment indicated they would be employable after rehabilitation, VA stated that Compensation Service initiated a review of TDIU policies and procedures in April 2015. Compensation Service is considering both the use of age and vocational assessments in TDIU benefit claim decisions and will develop a plan to initiate any studies, legislative proposals, or proposed regulations deemed necessary. VBA expects to complete an action plan by July 31, 2015.

VA also provided technical comments, which we incorporated as appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretary of Veterans Affairs, and the Under Secretary for Benefits. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions regarding this report, please contact me at (202) 512-7215 or bertonid@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix V.

Sincerely yours,



Daniel Bertoni
Director, Education, Workforce, and Income Security

Appendix I: Objectives, Scope, and Methodology

This report: (1) examines age-related trends in the population of Total Disability Individual Unemployability (TDIU) beneficiaries and benefit payments, (2) assesses how the Department of Veteran Affairs' (VA) procedures position the agency to ensure that TDIU benefit decisions are supported, and (3) describes suggested options for redesigning TDIU benefits and eligibility requirements.

To examine these objectives, we reviewed prior GAO, disability commission, and expert reports; relevant federal laws, regulations, and procedures for reviewing new and continuing claims; and program documentation, including procedure manuals, training materials, and supporting documents. We also conducted interviews with VA and its Veterans Benefits Administration (VBA) officials in their central and regional offices; disability experts; and representatives of veterans groups. We collected and analyzed data from VA on TDIU benefit claims and beneficiaries covering fiscal years 2009 through 2013. The data included information such as the beneficiaries' age and disability ratings as well as total amounts paid in disability benefits. To obtain information and views from VBA regional office officials involved in claim reviews, we also visited six regional offices where we held discussion groups with rating specialists and interviewed quality review team (QRT) coaches, QRT members, and regional office management. In addition, we conducted a non-generalizable file review from each of the selected regional offices. We identified options proposed for revising the TDIU benefit and obtained experts' views on the opportunities and challenges the options posed.

Analysis of VA Data

To examine the age-related trends in the population of TDIU beneficiaries and benefit payments, we analyzed data provided by VA for the fiscal years 2009 through 2013. VA provided data from its Veterans Service Network, which is the agency's data entry platform for benefits tracking as well as its Beneficiary Identification Records Locator Subsystem, a system used to verify that an applicant is a veteran. Prior to 2009, VA also used an older system, Compensation and Pension Master Record, for tracking benefits. Agency officials told us that, while this system collected similar information to the newer databases, there was some variation. As a consequence, we limited the years we examined to those covered by the newer databases in order to ensure the consistency of the data. The data included information such as the beneficiaries' age,

schedular disability ratings, benefit discontinuations, and total amounts paid in disability benefits.¹ To assess the reliability of the data, we conducted multiple interviews with knowledgeable agency officials. During these interviews we obtained detailed information on the methods used to generate the data requested, including limitations and assumptions made by VBA officials. In addition, we performed electronic logic testing of the program used to extract the data provided by VA. Based on these efforts, we found the data to be sufficiently reliable for our purpose.

As part of our data analysis, we estimated the cost of the TDIU benefit payments in fiscal year 2013. We defined the cost of the TDIU benefit payments as the difference between the disability payments VA made at the 100 percent disability rate—which beneficiaries would have received due to the TDIU designation—in comparison to the amount beneficiaries would have been paid based on their regular disability rating. We estimated the TDIU benefit cost because we did not have complete information on the disability compensation payments made to individual beneficiaries. For example, the data provided by VA did not include information such as when a new beneficiary began receiving TDIU benefits or data on how much each beneficiary received in monthly disability payments for the full fiscal year—both of which would affect how much VA paid in benefits for the fiscal year. Due to these limitations, we made a number of assumptions for the estimate. We assumed that the population of new beneficiaries had only been receiving payments at the 100 percent disability rate or at their regular disability rate for 6 months and that the rest of the beneficiary population had been receiving payments at the 100 percent rate or at their regular disability rate for the full fiscal year.² We also assumed that the beneficiaries' dependent status and, when applicable, their regular schedular disability rate remained

¹ A veteran's schedular disability rating is the assigned percentage disability determined by VA using the Veterans Affairs Schedule for Rating Disabilities (VASRD). The percentage is meant to reflect the severity of service-connected disabilities.

² We assumed that new beneficiaries had received TDIU payments for 6 months because it was unlikely that the full population of these beneficiaries would have received the benefit for the entire fiscal year. As a consequence, we assumed that they had been receiving the TDIU benefit for 6 months, on average.

constant and that beneficiaries had no more than three children and that all children were under age 18.³

As part of the TDIU cost estimate, we removed the estimated benefit payments that would have been made to beneficiaries whose benefits were discontinued. We assumed that the benefit payments had been discontinued for this population for 6 months, on average. In addition, we calculated a range for the benefits paid to the discontinued beneficiaries at their regular disability rating. One estimate in the range assumed the discontinued beneficiaries were all rated as 60 percent disabled, the lowest disability rating at which a veteran would be eligible for TDIU. The second estimate in the range assumed the discontinued beneficiaries were all 90 percent disabled, which was the highest rating a veteran could receive before experiencing an increase in payments due to TDIU. We also assigned dependent categories to the discontinued beneficiaries where we assumed that the distribution of this population was proportional to the population of (1) TDIU beneficiaries as a whole, (2) beneficiaries who were rated as 60 percent disabled, or (3) beneficiaries who were rated as 90 percent disabled.

To calculate the payment rates that the beneficiaries would have received in fiscal year 2013, we used 10 months of the rates found in VA's disability compensation rate table that was effective December 1, 2012, and 2 months from the rate table that was effective December 1, 2011.⁴ For the totals paid to the new beneficiary population for 6 months, we assumed they were paid at the rates found in the payment rate table that was effective December 1, 2012. We calculated our estimate using the following formula:

Total paid to TDIU beneficiaries - Total that would have been paid to the beneficiaries at their regular disability rate = Cost of TDIU

³ While benefit payment amounts are affected by the beneficiaries' dependent status, which could change during the year, we could not account for such fluctuations. As a consequence, we held this variable constant.

⁴ VA's disability compensation rate table lists the monthly disability payment a disabled veteran is eligible to receive. The monthly payment is dependent on (1) the veteran's dependent status and (2) the veteran's disability rate. Each dependent category, cross tabulated with each disability rate, has a different monthly payment. The only exceptions are the payments at the 10 and 20 percent rating, which are the same regardless of the veteran's dependent status.

In the formula above, we calculated “total paid to TDIU beneficiaries” and “total that would have been paid to the beneficiaries at their regular disability rate” as follows:

Total paid to TDIU beneficiaries = (Total paid to all TDIU beneficiaries for the full fiscal year at 100 percent – the total paid to the new beneficiaries for the full fiscal year at 100 percent – total paid to discontinued beneficiaries for 6 months at 100 percent) + the total paid to the new beneficiaries for 6 months at 100 percent

Total that would have been paid to the beneficiaries at their regular disability rate = (Total paid to all TDIU beneficiaries for the full fiscal year at their regular disability rate – the total paid to new beneficiaries for the full fiscal year at their regular disability rate – total paid to discontinued beneficiaries for 6 months at the specified regular disability rate) + the total paid to new beneficiaries for 6 months at their regular rate

In the above two formulas, the variables we used to calculate the total paid to each of these subpopulations were:

Total paid to a population at the 100 percent rate = $\sum[(\# \text{ of beneficiaries at each dependent status}) \times (\text{the annual, or 6 month, payment at the 100 percent disability rate for the corresponding dependent status})]$

Total paid to a population at the regular disability rate = $\sum [(\# \text{ of beneficiaries at each dependent status for each regular disability rate}) \times (\text{the annual, or six month, payment for that dependent status and disability rate})]$

Selection of VA Regional Offices for Interviews and Review of TDIU Claims

We selected six regional offices we would visit to gather additional information on the TDIU claims review and quality assurance processes, including the challenges associated with such reviews. These six selected regional offices were located in Boston, Massachusetts; Denver, Colorado; Manchester, New Hampshire; New Orleans, Louisiana;

Portland, Oregon; and Seattle, Washington. We selected these regional offices based on the following criteria:⁵

- **TDIU caseload size:** We used data provided by VA on the caseloads of the 57 different regional offices. Such data included total caseloads, completed and pending, by regional office for fiscal year 2013. We selected regional offices to represent varying caseloads by selecting from regional offices we categorized as having high, medium, and low caseloads.
- **Percentage of TDIU claims resulting in granted benefits:** We used data provided by VA on the percentage of TDIU benefits granted and denied at each regional office in fiscal year 2013. We selected regional offices to represent variation of percentages of claims resulting in granted benefits. We sorted the data by the percentage of claims resulting in granted benefits and then divided the sorted list into two main groups representing approval rates of 21 to 40 percent and 41 to 60 percent. The majority of regional offices fell evenly within these two groups. A third group contained three outlying offices that granted benefits in over 60 percent of TDIU claims reviewed. We selected regional offices from each of these three groups. Through our review of the data and interviews with VA, we found these data to be sufficiently reliable for comparing approval rates the different regional offices.
- **Accuracy of eligibility reviews:** We reviewed quality assurance data, provided by VA officials, on the accuracy levels of TDIU eligibility decisions made at each regional office. We used quality assurance data for claims reviewed from October 1, 2013, through January 31, 2014. Most accuracy ratings fell between 95 and 100 percent. As a result, we selected regional offices with as much relative variation in accuracy ratings as possible, given the other selection criteria, by selecting a regional office with ratings outside the 95 to 100 percent range. We interviewed VBA and found these data to be sufficiently reliable for comparing accuracy rates at the different regional offices.

⁵ We eliminated regional offices being visited by another GAO team also reviewing claims decisions.

- Geography:** We selected regional offices in as many different VA regions as possible, given other selection criteria, to capture a variation in geographical location. We included regional offices in three of the four VA regional areas (Western, Central, Eastern, and Southern) in our review. Our selection did not include a regional office in the Southern region.

See table 3 for details about the characteristics for each of the regional offices we visited.

Table 3: Site Visit Locations and Selection Characteristics

VA Regional Office	# of claims in FY2013	# of pending claims	Percentage granted (FY2013)	Accuracy percentage (11/12-9/13, 10/13-1/14)	VBA region
Boston, MA	1,052	82	66	97, 100	Eastern
Denver, CO (preliminary site visit)	1,960	107	30	100, 100	Western
Manchester, NH	442	43	50	94, 100	Eastern
New Orleans, LA	1,403	216	45	95, 100	Central
Portland, OR	2,042	248	38	97, 100	Western
Seattle, WA	2,239	163	47	86, 85	Western

Source: GAO analysis of VA data. | GAO-15-464

Note: FY = fiscal year.

Interviews and Discussion Groups with Regional Office Officials

To better understand how TDIU claims decisions are made and reviewed for accuracy, as well as the challenges associated with these duties, we interviewed officials in the office of Compensation Service including quality assurance officials, regional office managers, quality review team (QRT) coaches, and QRT members. In addition, we conducted a total of 11 in-person discussion groups with 2 to 3 rating specialists each across five of the regional offices after conducting initial interviews in the Denver regional office.⁶ The 31 rating specialists that participated were selected by VBA and were intended to represent different experience levels with TDIU claim decisions and lengths of tenure at VA.

⁶ We conducted two discussion groups at four different regional offices and three groups at one office. During our visit to Denver, we conducted a group interview with three rating specialists. We used this interview to develop the protocols we followed during the discussion groups we held at the other five regional offices.

During each discussion group we followed an interview protocol to collect information on TDIU claim decisions. Specifically, we used the following steps to ask rating specialists about the top challenges in making TDIU claim decisions, the impact of the challenges, and possible solutions to these challenges. (1) We asked the rating specialists to brainstorm about challenges they had experienced while making TDIU claim decisions. We documented all challenges mentioned and discussed any contradictory points. (2) We asked the rating specialists to independently identify, in any order, the five challenges from the brainstormed list they felt were the most significant. (3) As the rating specialists shared their independent lists, we tallied their responses and developed a list of the top five challenges, ensuring agreement of all the members of the discussion group. (4) Using this list of top challenges, we asked the rating specialists to brainstorm and share what they felt were the impacts of these challenges on their ability to make TDIU claim decisions and (5) to brainstorm possible solutions that would address the challenges. (6) We asked rating specialists to describe one or two claims decisions that they felt illustrated the challenges discussed.

Review of VA Files with TDIU Claims

Across the six regional offices we visited, we reviewed a total of 34 case files that contained TDIU claim determinations resulting in both granted and denied benefits made between April 2012 and April 2014.⁷ We reviewed at least five files from each regional office. We reviewed the claims files using a standardized checklist we developed using the procedural guidance and forms for TDIU claims. We used the checklist to determine if the required documents were included in the file and if the rating specialist followed the guidance. We also collected information about the veteran and the procedures for reviewing TDIU claims.⁸ For example, we reviewed initial application forms and information; supporting documentation including medical opinions, work histories from employers, disability ratings, and vocational rehabilitation services or Social Security Disability Insurance benefits received; rationale for claim determination;

⁷ Our review included claims where the continuation of benefits form was reviewed. These reviews included claims with outcomes of both the continuation of TDIU benefits or discontinuation of such benefits.

⁸ The Denver regional office served as a test location. In general, the same information was collected but revisions to the checklist were made before conducting the subsequent reviews at the other five offices. We reviewed more files (9 of the 34 total files) in Denver to familiarize ourselves with the files and identify any necessary revisions to the checklist.

and continuation of benefit forms and reviews when applicable. While we reviewed files in the Denver regional office on site, we reviewed the files from the other regional offices from a single location (VBA's regional office in Providence, Rhode Island) using VA's Veterans Benefit Management System database.

To ensure an unbiased selection, we selected files with TDIU claims from a randomly selected sample of files and followed a methodology so that files from the different field offices were selected in the same way. For the files with claims determined at five of the regional offices, we selected files from a list, provided by VBA, of 200 randomly selected files composed of 40 TDIU claims from each regional office, 20 of which were granted and 20 denied. All 200 claims had been decided within the last 2 years. For our review of files in Denver, we selected files from a separate list of 100 files with claims from only the Denver regional office. We selected files by sorting the list by field office and then approved and denied claims. We choose every other approved claim and every other denied claim for each regional office. In the event that there was a problem with the file, we noted the problem and moved down the list following the above procedure for the duration of the review. In total, we selected and reviewed 34 files, 17 with granted TDIU claims and 17 with denied claims, across the regional offices using this process.

The results of the file reviews are not generalizable to all 57 regional offices or all TDIU claims.

Review of Options to Revise TDIU Eligibility Requirements and Benefit Structure

In order to describe options that had been presented to revise the TDIU benefit and eligibility requirements, we conducted a literature search which included identifying relevant reports by disability compensation committees and research organizations. Our search covered reports from 2004 through 2014 using databases such as ProQuest, CQ.com, and the Defense Technical Information Center. We identified any options in the reports that either revised the TDIU benefit or the benefit's eligibility requirements. We selected and summarized the options for revising TDIU eligibility requirements or benefit structure from the six reports along with

options presented in a Federal Register notice from 2001.⁹ Where similar options were found in more than one report, we summarized the common themes across the reports while also including details describing the proposed option that might be specific to one report's presentation of the option. The six reports and Federal Register notice, where the options were presented, are as follows:

- Center for Naval Analyses, Final Report for the Veterans' Disability Benefits Commission: Compensation, Survey Results, and Selected Topics (August 2007).
- Congressional Budget Office, Options for Reducing the Deficit: 2014 to 2023 (November 2013).
- Department of Veterans Affairs Advisory Committee on Disability Compensation, 2012 Report to the Secretary of Veterans Affairs (October 31, 2012).
- Department of Veterans Affairs, Total Disability Ratings Based on Inability of the Individual to Engage in Substantially Gainful Employment. 66 Fed. Reg. 49,886 (Oct. 1, 2001), subsequently withdrawn by 70 Fed. Reg. 76,221 (Dec. 23, 2005).
- Economic Systems, Inc. (Econsys), A Study of Compensation Payments for Service Connected Disabilities (September 2008).

⁹ The option that came from the 2001 Federal Register notice is the option related to lowering disability rating criteria. Specifically, VA published proposed rules in 2001 that would have made several changes related to total disability ratings based on the inability of an individual to engage in substantially gainful employment. One of the changes the rules would have made is reflected in the policy option described in this report. See 66 Fed. Reg. 49,886 (Oct. 1, 2001). However, VA subsequently withdrew the proposed regulations in their entirety in 2005. See 70 Fed. Reg. 76,221 (Dec. 23, 2005). Despite the fact that the proposed rules were ultimately withdrawn by VA, we included this policy option in light of the fact that the rules were still pending during a portion of the timeframe we focused on during this review and because we included any potential changes to the benefit that we identified through our search. Although the comments submitted in response to the proposed rulemaking may have highlighted potential strengths and weaknesses associated with the proposed rule, we did not review those comments as they were beyond the scope of our work. Instead, we report only those potential strengths and challenges identified by experts in the course of our work, consistent with our approach to the other options presented in this report.

- Institute of Medicine of the National Academies, A 21st Century System for Evaluating Veterans for Disability Benefits (2007).
- Veterans' Disability Benefits Commission, Honoring the Call to Duty: Veterans' Disability Benefits in the 21st Century (October 2007).

To identify the potential strengths and challenges related to implementing each option, we conducted semi-structured interviews with experts and representatives from veterans service organizations (VSO). The experts and VSO representatives were provided with a written description of each option as well as the definition for potential strengths and challenges in advance of the interviews. An option was considered to have potential strengths if it provided fair and equitable benefits for veterans or, for VA, if it allowed for administrative improvement or clarity in eligibility criteria. Additionally, an option was considered to have potential challenges if implementation faced concerns (for example, among the veteran community) or impediments (for example, to VA). During the interviews, we obtained experts' and VSO representatives' views on the potential strengths and challenges of each option. We then categorized the responses according to their similarity. In order to provide an independent assessment, we did not obtain VA officials' views on challenges in implementing the proposed options.

We identified the experts through the individual's contributions to the reports containing the alternative options or someone associated with the issuing organization. In addition, we identified the VSOs through our prior knowledge of their work with related topics and the organizations' participation in Congressional testimonies related to TDIU. Table 4 identifies the five experts and two VSO representatives, including their respective titles and professional affiliation.

Table 4: Experts and Veterans Service Organization Representatives Interviewed by GAO

Name and title	Organization
Elizabeth Bass and Heidi Golding, Principal Analysts	Congressional Budget Office
Eric Christensen, Research Team Leader	Center for Naval Analyses
Morgan Ford, Senior Program Officer	Institute of Medicine of the National Academies
Zachary Hearn, Deputy Director of Benefits	American Legion
George Kettner, President	Economic Systems, Inc. (Econsys)
Joseph Violante, National Legislative Director	Disabled American Veterans

Source: GAO analysis. | GAO-15-464

Appendix II: Veterans Benefits Administration's Approaches to Assess Disability Compensation Claims Decisions

Additional information is provided below on the two approaches Veterans Benefits Administration (VBA) uses to review Total Disability Individual Unemployability (TDIU) claims—the Systematic Technical Accuracy Review (STAR) and quality review team (QRT) reviews. In addition, information is provided on other approaches VBA has used to assess non-TDIU claims.

STAR

Since fiscal year 1999, VBA has used its STAR review to measure the accuracy of disability compensation claims decisions. Through the STAR process, VBA reviews a stratified random sample of completed claims, and certified reviewers use a checklist to assess specific aspects of each claim. Specifically, for each of the 57 regional offices, completed claims are randomly sampled each month and the data are used to produce estimates of the accuracy of all completed claims. VA reports national estimates of accuracy from its STAR reviews to Congress and the public through its annual performance and accountability report and annual budget submission. VBA also produces regional office accuracy estimates, which it uses to manage the program. Regional office and national accuracy rates are reported in a publicly available performance database, the Aspire dashboard.¹

Prior to October 2012, VBA's estimates of accuracy were claim-based; that is, claims free of errors that affect veterans' benefits were considered accurate and, conversely, claims with one or more errors that affect benefits were considered inaccurate. Beginning in October 2012, VBA also began using STAR data to produce issue-based estimates of accuracy that measure the accuracy of decisions on the individual medical conditions within each claim. For example, a veteran could submit one claim seeking disability compensation for five disabling medical conditions. If VBA made an incorrect decision on one of those conditions, the claim would be counted as 80 percent accurate under the new issue-based measure. By comparison, under the existing claim-based measure, the claim would be counted as 0 percent accurate unless the error did not affect benefits when considered in the context of the whole claim. VBA uses these STAR review results to guide other quality assurance efforts. According to VBA officials, the agency has used STAR

¹ The Aspire dashboard is an online report of VBA's performance by program. Data are updated monthly and available by regional office and nationally. See http://www.benefits.va.gov/REPORTS/Aspire_dashboard.asp.

data to identify error trends associated with specific medical issues, which in turn were used to target efforts to assess consistency of decision-making related to those issues.

QRTs

In March 2012, VBA established QRTs with one at each regional office. Although regional offices were previously responsible for assessing individual performance, QRTs represent a departure from the past because QRT personnel are dedicated primarily to performing these and other local quality reviews.² The QRT reviews individual rating specialist performance across the parts of claims that an individual processed (individual quality reviews). Also, QRTs review claims the regional office is still processing (in-process reviews) to help prevent inaccurate decisions. In-process reviews specifically aim to help prevent inaccurate decisions by identifying specific types of common errors and serve as learning experiences for staff members and are not used to assess individual performance. Quality reviewers are also responsible for providing feedback to claims processors on the results of their quality reviews, typically as reviews are completed, including formal feedback from the results of individual quality reviews and more informal feedback from the results of in-process reviews. In addition, according to VBA, the focus of in-process reviews performed by QRTs has been guided by STAR review error trend data. Originally, VBA established these reviews to help the QRTs identify and prevent claim development errors related to medical examinations and opinions, which it described as the most common error type. More recently, VBA has added two more common error types—incorrect rating percentages and incorrect effective benefit dates—to its in-process review efforts. VBA officials stated that they may add other common error types based on future STAR error analyses.

Other VBA Approaches

VBA has used other approaches to assess the consistency and accuracy of other types of non-TDIU compensation benefit claims. These approaches include:

- **Special accuracy reviews:** VBA periodically conducts special reviews of claims decisions to assess the accuracy in processing specific types of claims. For example, in our 2014 report on military

² Prior to QRTs, accuracy of individual claims processors was assessed against targets for each employee and were generally performed by the claims processors' supervisors.

sexual trauma, we reported on a special accuracy review VBA conducted in response to concerns that adjudicators were not making accurate decisions for post-traumatic stress disorder claims related to military sexual trauma.³ The VBA review found errors in 98 of 385 randomly selected claims that had been denied (about 25 percent). In particular, the review identified 61 cases where the adjudicators should have identified markers and ordered medical exams rather than denying the benefit. The VBA reviewers made several recommendations for improving the adjudication process such as to: (1) clarify VA policies on markers, (2) build expertise in adjudicating such claims, and (3) develop training.

- **Inter-rater reliability (IRR) studies:** Since fiscal year 2008, VBA has used IRRs to assess the extent to which a cross-section of rating specialists across all regional offices agree on an eligibility determination when reviewing the entire body of evidence from the same claim. These studies are, however, time intensive and only review one claim. The process was administered by proctors in the regional offices and the results were hand-graded by national VBA staff. Given the resources involved, IRR studies have been typically limited to 300 to 500 (about 25 to 30 percent) claims processors, randomly selected from the regional offices.
- **Consistency questionnaires:** As of 2013, VBA has used questionnaires as its primary means for assessing consistency of decision-making across individual rating specialists. A questionnaire includes a brief scenario on a specific medical condition for which a rating specialist must correctly answer several multiple-choice questions. The questionnaires are intended to test for understanding and interpretation of policy and test takers receive feedback. The questionnaires are administered electronically through the VA Talent Management System, removing the need to proctor or hand-grade the tests, which has allowed VBA to significantly increase employee participation. For example, a recent consistency questionnaire was taken by about 3,000 claims processing employees—representing all employees responsible for rating claims. Further, VBA now administers these studies more frequently, from about 3 to 24 per year. According to VBA officials, they plan to further expand the use of

³ GAO, *Military Sexual Trauma: Improvements Made, but VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions*, [GAO-14-477](#) (Washington, D.C.: June 9, 2014).

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consistency studies from two questionnaires per month to six to eight per month, pending the availability of additional funding. Regional offices receive national results; regional office-specific results; and, since February 2014, individual staff results.

Appendix III: Number of All Total Disability Individual Unemployability (TDIU) Beneficiaries and New TDIU Beneficiaries by Age, Fiscal Years 2009-2013

Table 5: Number of Total Disability Individual Unemployability Beneficiaries by Age, Fiscal Years 2009-2013

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Under Age 25	281	300	276	249	220
Age 25-29	2,055	2,579	2,950	3,129	3,183
Age 30-34	2,854	3,476	4,350	5,494	6,730
Age 35-39	5,449	5,397	5,321	5,663	6,424
Age 40-44	8,658	9,382	9,932	10,577	10,928
Age 45-49	13,161	13,524	13,587	13,866	14,555
Age 50-54	17,563	18,497	18,929	19,743	20,455
Age 55-59	34,694	27,970	24,867	24,516	25,256
Age 60-64	84,784	94,517	95,653	81,511	65,137
Age 65-69	28,497	37,386	51,101	73,694	96,869
Age 70-74	15,329	15,957	17,907	21,079	26,596
Age 75-79	19,693	18,468	16,924	15,494	15,025
Age 80-84	16,173	14,891	15,553	17,203	17,869
Age 85-89	18,450	19,075	17,775	15,054	13,117
Age 90 and Over	5,762	7,045	8,135	9,483	10,567
Age Unknown/Missing	5	4	4	3	3
Total	273,408	288,468	303,264	316,758	332,934

Source: VA data. | GAO-15-464

**Appendix III: Number of All Total Disability
Individual Unemployability (TDIU) Beneficiaries
and New TDIU Beneficiaries by Age, Fiscal
Years 2009-2013**

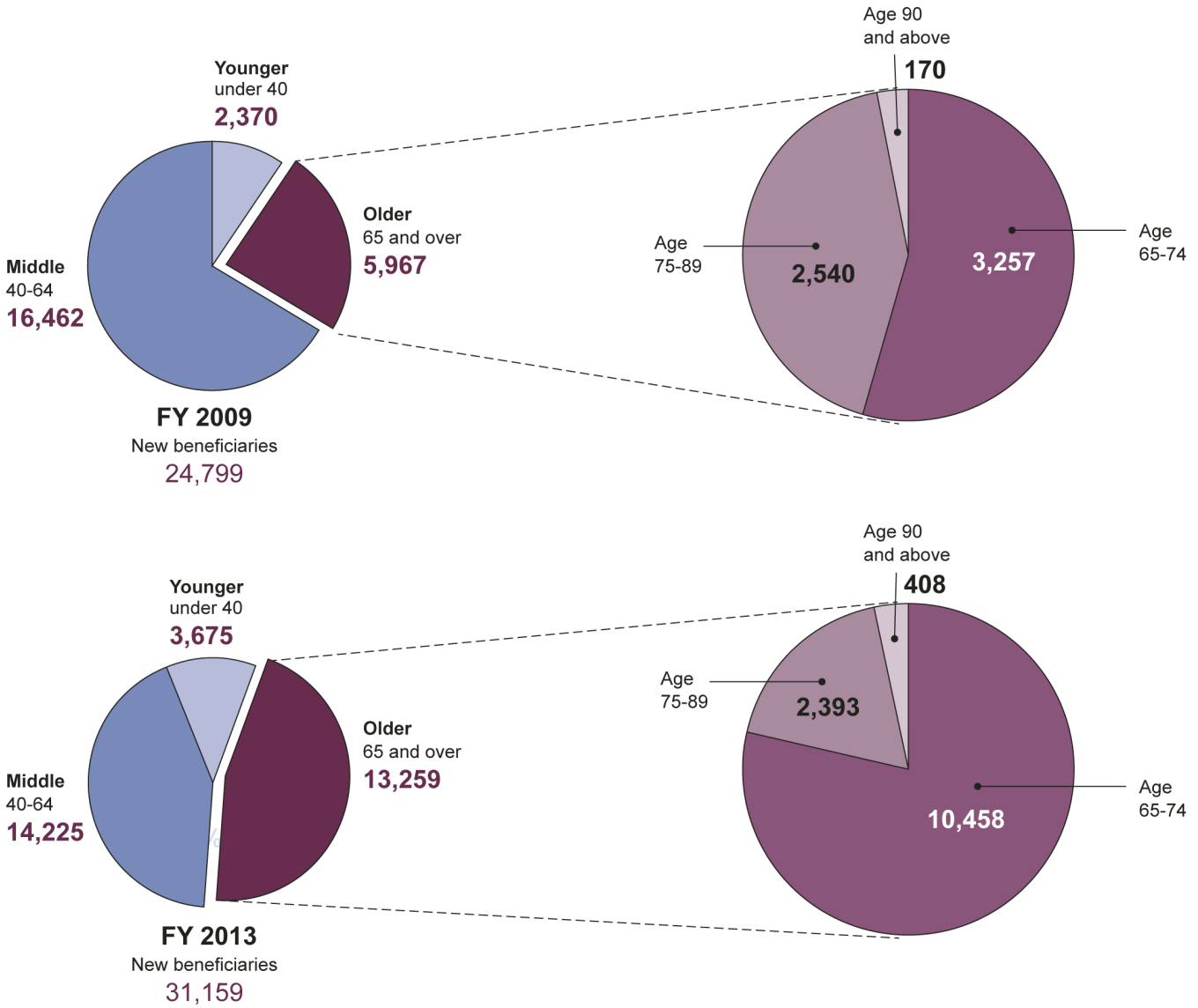
Table 6: Number of New Total Disability Individual Unemployability Beneficiaries by Age, Fiscal Years 2009-2013

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Under Age 25	157	172	144	142	118
Age 25-29	723	906	933	931	960
Age 30-34	645	865	1,004	1,251	1,484
Age 35-39	845	974	791	891	1,113
Age 40-44	1,175	1,380	1,310	1,500	1,577
Age 45-49	1,467	1,669	1,374	1,587	1,792
Age 50-54	1,592	1,974	1,667	2,035	2,171
Age 55-59	3,339	2,855	2,136	2,310	2,499
Age 60-64	8,889	10,021	10,264	8,022	6,186
Age 65-69	2,356	3,249	4,915	6,831	8,526
Age 70-74	901	1,022	1,193	1,481	1,932
Age 75-79	1,055	1,029	951	934	908
Age 80-84	779	790	691	817	901
Age 85-89	706	807	631	667	584
Age 90 and Over	170	195	229	333	408
Age Unknown/Missing	0	0	0	0	0
Total	24,799	27,908	28,233	29,732	31,159

Source: VA data. | GAO-15-464

Appendix III: Number of All Total Disability Individual Unemployability (TDIU) Beneficiaries and New TDIU Beneficiaries by Age, Fiscal Years 2009-2013

Figure 6: Number of New Total Disability Individual Unemployability Beneficiaries by Age Group, Fiscal Years 2009 and 2013



Source: GAO analysis of VA data. | GAO-15-464

Appendix IV: Comments from the Department of Veterans Affairs



DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON DC 20420

May 14, 2015

Mr. Daniel Bertoni
Director, Education, Workforce, and
Income Security Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Bertoni:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office's (GAO) draft report, "**VETERANS' DISABILITY BENEFITS: VA Can Better Ensure Unemployability Decisions are Well Supported**" (GAO-15-464). VA generally agrees with GAO's conclusions and concurs with GAO's recommendations to the Department.

The enclosure specifically addresses GAO's recommendations and provides technical comments on the draft report. VA appreciates the opportunity to comment on your draft report.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Nabors II".

Robert L. Nabors II
Chief of Staff

Enclosure

Enclosure

Department of Veterans Affairs (VA) Response to
Government Accountability Office (GAO) Draft Report
***“VETERANS’ DISABILITY BENEFITS: VA Can Better Ensure Unemployment
Decisions are Well Supported”***
(GAO-15-464)

GAO Recommendation: To help ensure that TDIU decisions are well-supported and TDIU benefits are provided only to veterans whose service-connected disabilities prevent them from obtaining or retaining substantially gainful employment, GAO recommends the Secretary of Veterans Affairs direct the Under Secretary for Benefits to:

Recommendation 1: Update the TDIU guidance to clarify how rating specialist should determine unemployability when making TDIU benefit decisions. This updated guidance could clarify whether factors such as enrollment in school, education level, and prior work history should be used and if so, how to consider; and whether or not to assign more weight to certain factors than others. Updating the guidance would also give VBA the opportunity to re-examine the applicability, if at all, of other factors it has identified as extraneous.

VA Comment: Concur. The Veterans Benefits Administration (VBA) Compensation Service will review current total disability individual unemployability (TDIU) policies and procedures to identify necessary improvements, to include developing new policies and procedures that provide clear guidance on deciding these claims. The updated guidance will address the extent to which age, education, work history, and enrollment in training programs are factors that claims processors must address. Any new policies and procedures that Compensation Service develops will be designed to promote clarity and consistency among VBA’s claims processors nationally. Compensation Service anticipates completing this review and providing options to VBA leadership for a decision by the end of January 2016.

Recommendation 2: Identify other quality assurance approaches that will allow the agency to conduct a comprehensive assessment of TDIU benefit claim decisions. The approach should allow VBA to assess if decisions are complete, accurate, and consistent, and ascertain the root causes of any significant variation so that VBA can take corrective actions as appropriate. This effort could be informed by the approaches VBA uses to assess non-TDIU claims.

VA Comment: Concur. To assess the accuracy of the TDIU decisions and determine root causes for errors in the grants and denials of TDIU, the Compensation Service Quality Assurance Staff will add TDIU-specific questions to the In-Process Review (IPR) checklist at the regional offices between July and September 2015. Based on the results of the IPRs, VBA will determine the most effective approach for assessing the accuracy and consistency of TDIU decisions. Target Completion Date: October 31, 2015.

Recommendation 3: Verify the self-reported income provided by veterans (a) applying for TDIU benefits and (b) undergoing the annual eligibility review

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Enclosure

Department of Veterans Affairs (VA) Response to
Government Accountability Office (GAO) Draft Report
***“VETERANS’ DISABILITY BENEFITS: VA Can Better Ensure Unemployability
Decisions are Well Supported”***
(GAO-15-464)

process by comparing such information against IRS earning data, which VBA currently has access to for this purpose. VA could also explore options to obtain more timely earnings data from other sources to ensure that claimants are working with allowable eligibility limits.

VA Comment: Concur. VBA is developing an upfront verification process by expanding the data sharing agreement with Social Security Administration (SSA), which enables VBA to receive federal tax information via an encrypted electronic transmission through a secure portal. Once a TDIU claim is received, VBA will request the reported income through the secured SSA portal and receive a response within 10-16 days. This process will serve as a more efficient way to receive income data in a timely manner and maintain the integrity of the TDIU program while reducing improper payments. VBA expects to implement the upfront verification process for TDIU claimants by January 31, 2016.

VBA is reinstating the data match agreement with SSA, which collects earned income (employment wages). The agreement allows VBA to compare reported income earnings of TDIU beneficiaries to earnings actually received.

Currently, VBA regional offices have access to the SSA portal. VBA is reviewing existing policies and procedures that will be released to the regional offices in the form of manual updates and training materials. VBA will begin annual eligibility reviews for Veterans receiving TDIU by January 2016.

Recommendation 4: In light of VA’s agreement with the recommendations made by the Advisory Committee on Disability Compensation, develop a plan to study the complex TDIU policy questions on (1) whether age should be considered when deciding if veterans are unemployable and (2) whether it is possible to disallow TDIU benefits for veterans whose vocational assessment indicated they would be employable after rehabilitation.

VA Comment: Concur. In April 2015, Compensation Service initiated a review of TDIU policies and procedures. Compensation Service is considering both the use of age in TDIU determinations and the use of vocational assessments in the adjudication of TDIU claims, and will develop a plan to initiate any studies, legislative proposals, or proposed regulations deemed necessary. VBA expects to complete an action plan in July 2015. Target Completion Date: July 31, 2015.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Daniel Bertoni, (202) 512-7215 or bertonid@gao.gov

Staff Acknowledgments

In addition to the contact named above, Brett Fallavollita (Assistant Director), Melissa Jaynes (Analyst-in-Charge), and David Reed made contributions to this report. Sheranda Campbell, David Chrisinger, A. Nicole Clowers, Beryl Davis, Alexander Galuten, Kirsten Lauber, Sheila McCoy, Philip McIntyre, Lorin Obler, and Greg Whitney also contributed to this report.

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