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STATEMENT OF
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BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEES ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS AND HEALTH
UNITED STATES HOUSE OF REPRESENTATIVES
NOVEMBER 17, 2021

Chairwoman Luria, Chairwoman Brownley, Ranking Member Nehls, Ranking Member Bergman, and Members of both Subcommittees:

Thank you for inviting DAV (Disabled American Veterans) to provide testimony for your hearing, "Supporting Survivors: Assessing VA's Military Sexual Trauma Programs."

DAV is a congressionally chartered national veterans' service organization (VSO) of more than one million wartime veterans. To fulfill our service mission, DAV directly employs a corps of benefits advisors, more than 240 national service officers (NSOs), all of whom are themselves wartime service-connected disabled veterans, at every Department of Veterans Affairs (VA) regional office (VARO) as well as other VA facilities throughout the nation including the Board of Veterans Appeals (Board). In 2020, DAV represented veterans and families in more than 160,000 claims.

VA's national screening program provides data on how common military sexual trauma (MST) is among veterans seen in VA. Updated data in May 2021 reveals that about 1 in 3 women and 1 in 50 men report having experienced MST. Given this prevalence, we must ensure that VA processes for MST survivors are sensitive to re-traumatization, respectful and keeping with the best interest of the veteran. Our testimony addresses Veterans Health Administration (VHA) access and services, Veterans Benefits Administration (VBA) policies and regulations, DAV's recent poll of our nationwide benefits advocates and the Servicemembers and Veterans Empowerment and Support Act of 2021.

MST-RELATED HEALTH CARE PROGRAMS

Every VHA facility has a designated MST Coordinator who serves as a contact person and assists MST survivors with referrals and access to VA services and

programs. All treatment for physical and mental health conditions related to MST is provided free of charge and veterans do not need to be service connected. Veterans can be eligible for treatment even if they are not eligible for other VA care and they are not required to have documentation that the MST occurred.

MST-related services are available at every VA medical center and MST-related counseling is also available through community-based Vet Centers. VHA, nationally, offers specialized sexual trauma treatment in residential or inpatient settings for veterans who need more intense treatment and support. VHA does recognize that some veterans do not feel comfortable in mixed-gender treatment settings and some facilities provide accommodations to have separate programs for men and women.

VHA MST Coordinators

Recently, DAV spoke with VA officials and a VHA MST coordinator about the MST services provided by VA as well as the successes and challenges facing VHA and the survivors they assist.

The MST coordinator indicated the MST Team receives referrals from veterans directly, from within VHA, and from other federal agencies to include the Department of Defense (DOD). However, they were not aware of any referrals coming directly from VBA. Conversely, we have spoken with MST coordinators within VBA and they noted they do not provide referrals for MST survivors to VHA for health care services and treatment.

The importance of immediate triaging the referrals for expeditious action was stressed as well as immediate telephone contact with the MST survivor. It was noted that overall, survivors were extremely pleased with the immediate contact and discussion of service and programs. Additionally, the MST coordinator stated that the increased use of tele-health has been an extremely beneficial tool for survivors and that most were embracing its use and more direct access to care. They have also received compliments on the professionalism and experience of the health care team within the Women Veterans Health Clinic.

These positive experiences and streamlined services were the product of a collaborative team approach within the VA medical center itself. They have provided MST training to the business office, the eligibility office, and the phone operator. These efforts have resulted in streamlined eligibility and faster access to care services. The MST coordinator stressed the need for training for all VHA health care providers to improve access and overall service to MST survivors.

There are challenges facing VHA and the MST coordinators which will directly impact the services and care for survivors. Most notably is the lack of a provider-centric system for MST coordinators and care providers. Across the nation, coordinators are reporting that VHA does not have enough providers to offer veterans the necessary care for survivors with complex-trauma conditions. Coordinators and providers are

experiencing burn-out at high rates due to the high demand for services and the lack of additional health care professionals. Thus, this leads to a high turnover rate among providers and can impact the timeliness of access and quality of services.

RECOMMENDATIONS

As noted, there is a lack of coordination between VHA and VBA MST coordinators which means that MST survivors filing for claims are often left without any guidance on the immediate health services available to them through VA and those seeking VHA health care are not provided direct contact with a VBA MST coordinator. Veterans who try to access these services or are seeking more information often report that they have explained their situation to multiple VA employees before being connected with the right person which can be demoralizing and re-traumatizing.

DAV recommends a warm handoff approach between VHA and VBA for these cases. This would benefit veterans without overwhelming them. Once an MST-related claim is filed or contact with a VHA MST coordinator is made, VA should automatically initiate a communication to the veteran providing direct contact information for both a VBA MST coordinator and a VHA MST coordinator, clearly explaining how each can provide assistance and the services available. This can help to reduce the need for survivors to continuously recount their experience when attempting to seek assistance.

VHA MST coordinators and the services provided are essential for survivors to obtain eligibility, access care and heal from their trauma. However, due to a growing demand for MST related care and services, MST providers and coordinators are experiencing high rate of burn-out leading to an increase in provider turnover. The high turnover rate for the MST coordinator position itself—and the fact that it is often an ancillary duty rather than a fulltime, dedicated role—is often cited as creating a lack of continuity that can impact the effective coordination of services.

DAV recommends that VHA consider a provider-centric system for all VHA MST team members that includes an increase of resources and providers to ensure that all survivors receive continuity in care and services. We also recommend that, congruent to the outreach emphasis VA has placed on caring for MST survivors, the department's coordinator positions be made fulltime to allow resources to meet demand.

While the VHA MST-related programs have some looming concerns, overall veterans are satisfied with the services provided. However, this is only part of the process in receiving benefits. On the other side of VA, VBA provides MST coordinators and adjudicates all claims to establish service connection for these illnesses, injuries, and diseases. For most veterans, establishing a claim for service connection is the gateway to VA health care, VA compensation, certain education services and other ancillary programs and benefits. In reference to MST-related mental health claims, VBA has a specific program and process that is unique to veterans with MST-related post-traumatic stress disorder (PTSD). However, as outlined below, VBA has shown its inability to consistently train, develop, and adjudicate claims for PTSD based on MST.

MST-RELATED PTSD CLAIMS PROCESS

Specifically for MST-related or assault based PTSD claims, Section 3.304(f) (5) Title 38 of the Code of Federal Regulations was added 2002 to define the requirements for PTSD based on personal assault. It clearly notes that verification of the stressful event is not required, only corroboration using identifiable markers. This threshold is different than other PTSD related claims. However, as evidenced by the numerous reports of the VA Office of the Inspector General (OIG) and the United States Government Accountability Office (GAO), VBA has struggled for years to get this right for MST survivors.

December 2010 OIG Report

The December 16, 2010, OIG report, *Review of Combat Stress in Women Veterans Receiving VA Health Care and Disability Benefits*, found differences in VBA's denial rates among male and female veterans' claims for PTSD or for other mental health conditions. Specifically, VBA denied female veterans at a higher rate than male veterans for PTSD. The report estimated that VBA denied 49.8% of female veterans compared to 37.7% of male veterans who applied for PTSD disability compensation.

The 2010 report further revealed that none of the regional offices visited had specialized workgroups dedicated to processing MST-related claims. The report concluded that VBA had not assessed the feasibility of implementing MST-specific training and testing for claims processors who work on MST-related claims because it has not analyzed available data on its MST-related workload and how consistently these claims were adjudicated.

May 2011 OIG Report

In the OIG report of May 18, 2011, *Systemic Issues Reported During Inspections at VA Regional Offices*, it was noted that 50% of the VAROs reviewed did not follow VBA policy when processing PTSD claims. OIG projected VARO staff did not correctly process about 1,350 (8%) of approximately 16,000 PTSD claims completed from April 2009 through July 2010. This generally occurred because VARO staff lacked sufficient experience and training to process these claims accurately. Additionally, some VAROs were not conducting monthly quality assurance reviews. For these reasons, veterans did not always receive accurate benefits.

VBA Subsequent Actions

Starting in 2011, VBA began directing VAROs to designate MST specialists from among their adjudicators with experience processing complex claims. This was designed to improve adjudicator adherence to processing requirements for MST-related claims. The purpose of specialization was to allow regional offices to identify staff with the appropriate skills and sensitivity and afford specialists the opportunity to hone their knowledge of the MST requirements over many claims.

Subsequently, VBA developed additional guidance and training for MST specialists. Specifically, in late 2011, the agency issued a guidance letter and rolled out 1.5-hour and 4-hour training sessions on how to process PTSD claims related to MST. VBA also rolled out a one-hour training session on sensitivity in June 2011. All MST specialists were required to take each course once. With regard to medical examiners who conduct exams for MST-related claims, during this period, VHA instituted comparatively limited training during this period.

Recognizing the systemic problems processing MST claims, in April 2013, VBA sent 2,667 notification letters to veterans whose PTSD claims related to MST were denied between September 2010 and April 2013. VBA advised the veterans to resubmit previously denied PTSD claims related to MST. The initiative was designed to correct any development errors that had occurred before VBA undertook its specialization and training initiatives.

June 2014 GAO Report

In June 2014, GAO released its report, *Military Sexual Trauma: Improvements Made, but VA Can Do More to Track and Improve the Consistency of Disability Claim Decisions*. The report concluded that in contrast to VA's actions to date, which largely have been taken in response to external requests, a more proactive and systematic approach could further dispel confusion among adjudicators and examiners, identify errors, and inform veterans of opportunities to resubmit denied claims.

August 2018 OIG Report

On August 21, 2018, VA OIG published its findings on *Denied Post-traumatic Stress Disorder Claims Related to Military Sexual Trauma*. The OIG report team found that VBA staff did not always follow VBA's policy and procedures, which may have led to the denial of veterans' MST-related claims.

The review team found that VBA staff did not properly process veterans' denied MST-related claims in 82 of 169 cases. As a result, the OIG estimated that VBA staff incorrectly processed approximately 1,300 or 49% of the 2,700 MST-related claims denied during that time. Due to the severity and volume of these errors, VA OIG recommended that VBA review all denied MST-related claims since the beginning of FY 2017 and reopen the cases with errors to ensure veterans receive accurate claims decisions as well as better customer service.

The reasons MST-related claims were incorrectly processed were due to lack of previous specialization, lack of additional level of review, discontinued special focused reviews and inadequate training. VBA previously implemented the Segmented Lanes model, which required those responsible for development, veteran service representatives (VSRs) and those responsible for decision making, rating veteran

service representatives (RVSRs) on Special Operations teams to process all claims VBA deemed highly complex, as well as sensitive issues such as MST-related claims.

The OIG review team concluded that staff on the Special Operations teams developed subject matter expertise on these highly sensitive claims due to focused training and repetition. Under the National Work Queue (NWQ), VBA no longer utilized the Special Operations teams. The NWQ distributed claims daily to each VARO and the VARO determined the distribution of MST-related claims.

As a result, MST-related claims were processed by any VSR or RVSR, regardless of their experience and expertise. The OIG review team determined VSRs and RVSRs that did not specialize, lacked familiarity and became less proficient at processing MST-related claims. The OIG report concluded their report with six recommendations:

1. The Under Secretary for Benefits reviews all denied MST-related claims since the beginning of FY 2017, determines whether all required procedures were followed, takes corrective action based on the results of the review, renders a new decision as appropriate, and reports the results back to the Office of Inspector General.

2. The Under Secretary for Benefits focuses processing of MST-related claims to a specialized group of VSRs and RVSRs.

3. The Under Secretary for Benefits requires an additional level of review for all denied MST-related claims and holds the second-level reviewers accountable for accuracy.

4. The Under Secretary for Benefits conducts special focused quality improvement reviews of denied MST-related claims and takes corrective action as needed.

5. The Under Secretary for Benefits updates the current training for processing MST-related claims, monitors the effectiveness of the training, and takes additional actions as necessary.

6. The Under Secretary for Benefits updates the development checklist for MST-related claims to include specific steps claims processors must take in evaluating such claims in accordance with applicable regulations, and requires claims processors to certify that they completed all required development action for each MST-related claim.

VBA responded to the OIG recommendations and indicated the target dates for implementation. VBA responded in reference to recommendation number three and advised that a second level review was only completed by local quality review and requested the issue to be closed. However, the OIG indicated their recommendation was not for a peer review but a second tier review to include Quality Review.

August 2021 OIG Report

On August 5, 2021, VA OIG published its findings on *Improvements Still Needed in Processing Military Sexual Trauma Claims*. The OIG report team found that VBA claims processors did not always follow the policies and procedures for processing military sexual trauma claims that VBA updated in response to the OIG's August 2018 report recommendations for corrective action. This noncompliance occurred because VBA leaders did not effectively implement the OIG's recommendations and did not ensure adequate governance over military sexual trauma claims processing.

The report estimated that about 57% of denied military sexual trauma claims were still not being processed correctly from October 1 to December 31, 2019, which was not an improvement from the 49% rate noted in the August 2018 report covering the period from April 1 to September 30, 2017.

The report concluded that VBA failed to effectively implement previous OIG recommendations designed to improve the processing of MST claims. The OIG found that VBA leaders did not monitor compliance with required procedures for processing military sexual trauma claims, leading to continuing deficiencies. As a result, veteran survivors of MST remain at risk of not receiving the VA benefits to which they are entitled and experiencing additional distress when claims are improperly handled or denied.

Recent VBA Actions

In May 2021, VBA announced the centralization of all claims processing for MST-related PTSD claims to five specific VAROs—Lincoln, Nebraska; Hartford, Connecticut; Columbia, South Carolina; New York, New York; and Portland, Oregon. This effort is to re-establish the specialty for VSRs and RVRS who are developing and adjudicating these cases.

In addition, VBA has two mandatory training courses on MST-related claims. Further, they are requiring that all adjudicators making decisions be placed on a second signature. In other words, a review by a more experienced adjudicator and will continue on this review until they have individually demonstrated 90% or higher accuracy on ten cases.

VBA reported that over 22,000 MST-related PTSD claims were completed in fiscal year (FY) 2021. As of November 8th, over 19,200 MST-related PTSD claims were pending with an average days pending over 187 days. This is greater than 125 days pending, which VA considers as backlogged. For October 2021, VBA completed 1,930 MST-related PTSD claims with a grant rate of approximately 80%.

RECOMMENDATIONS

As noted by the several OIG reports and the GAO report, VA has persistently and improperly developed and adjudicated PTSD claims related to MST. These problems have continued since first identified in 2010.

After eleven years of incorrect processing, DAV recommends unrelenting congressional oversight and VBA implementation of all of the OIG recommendations to alleviate VA's systemic problem with PTSD claims related to MST.

Specifically, DAV recommends that VBA review all denied MST-related claims since the beginning of FY 2017 and allow those survivors to have their cases re-adjudicated. This is consistent with VBA's actions taken in April 2013.

DAV recommends that VBA provide all veterans service organizations and Congress with their mandatory training for all VA employees involved in processing MST-related PTSD claims.

Additionally, DAV recommends that VBA publically publish monthly reports on the number of pending MST-related claims, the days pending, the accuracy ratings, and the percentage of granted cases.

POLL OF DAV'S SERVICE OFFICERS NATIONWIDE

While VBA did change their claims processing for MST-related PTSD claims in May of this year, it may too soon to determine the effectiveness on the claims backlog and the accuracy of the claims being decided. However, DAV recently polled our service offices nationwide for their view of the recent consolidation, their feedback and comments directly from the veterans we represent in these issues.

Roughly 70% of the offices polled have not noticed any improvement or decrease in the quality of the MST-related PTSD claims since May. Twenty percent of those who responded stated there was a noticeable improvement in the quality of these decisions while feedback from others noted that VBA is still not correctly identifying markers in records and are too quickly denying cases.

In reference to the timeliness of these decisions, 70% have not noticed any improvement or decrease. However, 14% responded that they have seen an increase in the timeliness of the decisions. Further, it was indicated that one case has been determined to be ready for a decision since July of this year and no action has been taken yet as that team is currently working on older cases.

Roughly 50% of responses indicated that veterans are requesting the gender of their VA examiner for their VA examination. However, only 40% responded that the veterans were getting the examination with the gender they requested. Additional

feedback indicates that at several locations, these requests are not being honored due to the lack of availability of the requested gender of the examiner.

Additional comments from survivors about the VA examination process included that the examiner lacked empathy, professionalism and compassion. Others noted the examinations were too short and they were often re-traumatized by the examiner.

Comments were provided in reference to the development process and specifically the letters and correspondence they received from VA. Some survivors felt that VA was telling them they were lying, that the burden of establishing the MST event was too high and others noted they were often re-traumatized by the process.

RECOMMENDATIONS

VA must recognize that MST survivors often experience common feelings of shame, and that the event was somehow their fault and they are not believed. When VA sends a development letter to the veteran who has already presented all the information necessary to corroborate the assault, VA is reinforcing these feelings. While VA may see their letter as a simple request for additional information, an MST survivor reads it as, “We don’t believe you.”

DAV recommends VBA to consult with VHA psychologists and experts specializing in sexual assault to ensure language used in letters to veterans is not inflammatory or impersonal. It is important that these letters be viewed from the perspective of the veteran, not just the VA. These communications should include MST coordinators’ contact information as well as information for the Veterans Crisis Line and VHA health care.

We further recommend that VHA and VBA provide additional training for all VHA examiners and contract examiners. As indicated, many survivors feel that some examiners exhibit a lack of empathy and feel that they have to prove their assault to the examiner.

Many of the issues noted by GAO, the VA OIG and by DAV can be addressed by legislation. Specifically, the Servicemembers and Veterans Empowerment Act of 2021 tackles a multitude of these concerns and could provide the changes sought and recommended.

H.R. 5666, Servicemembers and Veterans Empowerment and Support Act of 2021

H.R. 5666 addresses existing shortfalls in the MST-related claims process to help ensure veterans are aware of access to care and services for conditions related to their trauma, and that they do not face unnecessary hardships throughout the claims process.

This bill would expand the definition of MST to include more technologically modern forms of harassment and abuse; codify evidentiary standards and requirements within the review process; enhance outreach and communication with veterans regarding the claims process for MST-related conditions; mandate studies on the quality of both training and procedures of VBA staff responsible for reviewing and processing these cases; access to inpatient mental health care for MST survivors; and authorize a pilot program to provide intensive outpatient mental health care services for MST survivors unable to access inpatient mental health care at VA medical center within a 14-day window.

DAV supports the Servicemembers and Veterans Empowerment Act in accordance with DAV Resolution Nos. 116 and 074, which call for ensuring that all MST survivors gain access to the specialized treatment programs and services they need to fully recover and that VA conducts rigorous oversight of claims adjudication personnel and review of data to ensure the policies for processing claims for conditions due to MST is being faithfully followed and standardized in all VA regional offices.

In closing, MST survivors appreciate VHA access and utilize their services at a high rate, which is leading to MST Coordinator burn-out and turn over. They need VHA to provide the adequate resources and providers to keep in step with the demands. VBA continues to struggle with proper training, quality review and adjudication of MST-related PTSD claims. DAV's recent poll of our nationwide benefits advocates provide a snapshot of the current adjudication process and advances the concerns from veterans themselves. The Servicemembers and Veterans Empowerment and Support Act of 2021 provides a much-needed compilation of provisions that address many of the long-standing issues DAV has advanced.

VA has a special obligation to provide veterans who are claiming benefits related to military sexual trauma every opportunity to support their claims. VA simply must do better by veterans who have experienced MST. It is time to unify VA's belief in survivors across the entire Department, and put the best interest of veterans at the heart of its approach to handling this often complex and painful process.

This concludes my testimony on behalf of DAV. I would be happy to answer any questions you or other members of the Subcommittees may have.