

VA Office of Inspector General

OFFICE OF AUDITS AND EVALUATIONS



Veterans Benefits Administration

*Audit of
Retroactive and One-Time
Payments to Incompetent
Beneficiaries*

March 3, 2011
10-01607-110

ACRONYMS AND ABBREVIATIONS

FBS	Fiduciary Beneficiary System
OIG	Office of Inspector General
PDT	Post-Determination Team
PGF	Principal Guardianship Folder
PMC	Pension Management Center
VARO	Veterans Affairs Regional Office
VBA	Veterans Benefits Administration
VETSNET	Veterans Service Network

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Report Highlights: Audit of Retroactive and One-Time Payments to Incompetent Beneficiaries

Why We Did This Audit

Veterans Benefits Administration's (VBA) Fiduciary Program oversees VA benefits paid to beneficiaries who are incapable of managing their funds. We conducted this audit to determine if the VBA properly managed retroactive and one-time payments of \$10,000 or greater awarded to incompetent beneficiaries served by legal custodians.

What We Found

VBA's existing controls for managing retroactive and one-time payments to incompetent beneficiaries have significant weaknesses. VBA did not effectively ensure these payments valued at \$10,000 or greater were effectively coordinated among VBA offices or that Fiduciary Activities completed required account management and estate protection actions. Fiduciary Activities failed to conduct at least one required account management or estate protection action for 72 (40 percent) of the 180 payments reviewed. This occurred because:

- VBA relied on manual notification processes, lacked policies and procedures to perform required program actions, and did not ensure sufficient management oversight.
- Most Fiduciary Activities either did not provide any training specific to the management of retroactive and one-time payments to incompetent beneficiaries or

the training was informal and/or unstructured.

What We Recommend

We recommended VBA develop an automated award notification process, establish appropriate oversight mechanisms, and ensure training associated with the management of retroactive and one-time payments to incompetent beneficiaries is developed and disseminated appropriately. In addition, we recommended VBA enhance existing policies and procedures to ensure that necessary account management steps are taken on retroactive and one-time payments to incompetent beneficiaries.

Agency Comments

The Acting Under Secretary for Benefits agreed with our findings and recommendations and plans to complete all corrective actions by September 30, 2011.

(original signed by:)

BELINDA J. FINN
Assistant Inspector General
for Audits and Evaluations

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INTRODUCTION

Objective

The VA Office of Inspector General (OIG) conducted this audit to determine whether the Veterans Benefits Administration (VBA) properly managed retroactive and one-time payments of \$10,000 or greater awarded to incompetent beneficiaries served by appointed, professional (non-spousal), legal custodians.

Program Overview

The mission of the Fiduciary Program is to ensure the VA-derived income and estates of incompetent beneficiaries are used solely for the care, support, and welfare of those beneficiaries and are protected from loss or diversion. VBA's Fiduciary Program oversees VA benefits paid to beneficiaries who are incapable of managing their funds either because they are minors or because of injury, disease, or the infirmity of age. VBA's Fiduciary Program is also responsible for the accountability and protection of retroactive and one-time payments made to fiduciaries on behalf of incompetent beneficiaries.

VBA awards retroactive payments based upon adjustments in prior awards for a preceding period. VBA awards one-time payments to provide veterans and their beneficiaries with nonrecurring VA benefits. Fiduciary Program operations, referred to herein as Fiduciary Activities, assess retroactive and one-time payments associated with the initial appointment of fiduciaries as part of the appointment process. Fiduciary Activities assess payments associated with running awards independent of and subsequent to the initial fiduciary appointment process.

Retroactive and one-time payments to incompetent beneficiaries are significant both in number and in total amount paid. In 2009, VBA processed 7,712 retroactive and one-time payments of \$10,000 or greater to incompetent beneficiaries for a total of \$177 million. Legal custodians comprised the largest fiduciary group receiving 5,827 retroactive and one-time payments (or about 76 percent of the total number of retroactive and one-time payments to incompetent beneficiaries) totaling \$121 million. The largest payment to a legal custodian in 2009 totaled \$394,197.

VA Regional Office (VARO) Post-Determination Teams (PDTs) and Pension Management Centers (PMCs) are required to notify Fiduciary Activities of all award actions involving beneficiaries under Fiduciary Activity supervision. Fiduciary Activities are then required to perform account management and estate protection actions (such as assessing requirements for an accounting of funds by fiduciaries, surety bonds, or withdrawal agreements and instructing fiduciaries on fund usage, when applicable) to protect the funds from misuse.

RESULTS AND RECOMMENDATIONS

Finding VBA Needs To Improve the Management of Retroactive and One-Time Payments of \$10,000 or Greater Awarded to Incompetent Beneficiaries

VBA's existing controls for managing retroactive and one-time payments to incompetent beneficiaries have significant weaknesses. VBA did not ensure retroactive and one-time payments of \$10,000 or greater awarded to incompetent beneficiaries served by legal custodians were effectively coordinated among VBA offices or that Fiduciary Activities completed required account management and estate protection actions. We projected that \$25.7 million in payments were at risk nationwide because VBA failed to complete one or more required account management actions. We estimate over the next 5 years \$128.5 million in payments will be at risk.

These weaknesses occurred because:

- VBA relied on manual notification processes for notification of payments because the Fiduciary Beneficiary System (FBS) does not interface with Veterans Service Network (VETSNET)—VBA's claims processing system.
- VBA lacked policies and procedures to perform required program actions and did not ensure sufficient management oversight.
- Most Fiduciary Activities did not provide formal training specific to the management of retroactive and one-time payments to incompetent beneficiaries.

Consequently, VA funds designated solely for the care, support, welfare, and needs of incompetent VA beneficiaries are at risk of potential misuse.

Ineffective Coordination

Fiduciary Activity staff failed to perform required account management and estate protection actions for retroactive and one-time payments in many cases because program files did not contain documentation to indicate that PDTs and PMCs provided award action notifications to Fiduciary Activities. This likely occurred because the coordination of retroactive and one-time payments between PDTs, PMCs, and Fiduciary Activities is a predominantly manual, paper-driven process. When VBA offices do not provide notification of award actions concerning retroactive and one-time payments, it reduces the opportunity for Fiduciary Activities to perform required account management and estate protection actions on a consistent and timely basis.

VBA policy requires award actions (such as retroactive and one-time payments) involving beneficiaries under Fiduciary Activity supervision be furnished to the Fiduciary Activity. Upon review, Fiduciary Activity staff are required to date, initial, and file award actions in Principal Guardian Folders (PGFs). VBA policy requires Fiduciary Activity staff to annotate the PGF with any actions taken. However, PGFs did not contain award action notifications from PDTs and PMCs for 40 (22 percent) of 180 payments made totaling \$1.1 million, 20 from the PDTs, and 20 from the PMCs. Further, there is no paper trail to demonstrate that coordination occurred between the PDTs, PMCs, and Fiduciary Activity staff. The lack of award actions in PGFs was more prevalent for payments associated with running awards than for payments associated with initial appointments, as shown in Table 1.

Table 1

Number of Payments without Evidence of Payment Award Actions		
Payments \$10,000– \$24,999	Associated with Initial Appointments	4 of 55 (7 percent)
	Associated with Running Awards	20 of 35 (57 percent)
Payments \$25,000 and Greater	Associated with Initial Appointments	1 of 55 (2 percent)
	Associated with Running Awards	15 of 35 (43 percent)
TOTALS		40 of 180 (22 percent)

The FBS does not interface with other VBA information technology systems, such as VETSNET, VBA’s claims processing system. Consequently, FBS cannot automatically notify Fiduciary Activity staff of a retroactive or one-time payment. Instead, Fiduciary Activities rely on notification from manual processes such as e-mail, facsimile, postal mail, and hand-delivery. Notification could be delayed or never occur due to manual processes, which can lead to delays in beneficiaries receiving entitled benefits. VBA is unable to determine when and if PDTs and PMCs provide payment notifications to Fiduciary Activities without an automated notification process or implementation of an adequate audit trail to demonstrate the coordination between PDTs, PMCs, and Fiduciary Activities.

In response to a recent OIG report on the Fiduciary Program, *Audit of the Fiduciary Program’s Effectiveness in Addressing Potential Misuse of Beneficiary Funds* (Report Number 09-01999-120, March 31, 2010), the Under Secretary for Benefits stated that the Fiduciary Program will conduct an operational analysis of FBS. This effort will determine whether the

system should be upgraded or replaced in order to better support program requirements. We believe that an upgraded FBS or replacement system should include automatic notification of retroactive and one-time payments to the Fiduciary Program.

***Inconsistent and
Untimely Account
Management and
Estate Protection***

Fiduciary Activities were not consistent or timely about performing required account management and estate protection actions for retroactive and one-time payments of \$10,000 or greater awarded to incompetent beneficiaries. Specifically, Fiduciary Activities did not consistently perform required assessments to determine the need to establish accountings or if estate protection was needed or adequate. Further, Fiduciary Activities did not consistently document the intended use of retroactive and one-time payments awarded to incompetent beneficiaries, in spite of the generally high-dollar value of these payments.

Fiduciary Activities did not perform at least one required account management and estate protection action for 72 (40 percent) of 180 payments, valued at approximately \$1.8 million. None of the required actions were taken for 37 (51 percent) of these 72 payments, totaling approximately \$800,000. Additionally, Fiduciary Activities were not timely about performing required actions such as assessing accounting requirements or obtaining estate protection.

Identified errors were more prevalent with payments associated with running awards than those associated with initial appointments. The error rate was 69 percent for the 70 payments associated with running awards and 22 percent for the 110 payments associated with the initial appointment of fiduciaries.

Our projection for the 72 payments with errors indicates Fiduciary Activities did not adequately perform required account management and estate protection actions for \$25.7 million in payments. We estimate over the next 5 years \$128.5 million in payments will be at risk. Appendix D contains additional information regarding the 72 processing errors identified.

***Accounting
Assessment
Issues***

Fiduciary Activities were inconsistent or untimely about assessing the need to establish fiduciary accounting requirements when awarding retroactive and one-time payments to incompetent beneficiaries. Fiduciary Activities failed to perform accounting assessments more often for payments associated with running awards than payments associated with initial appointments.

The Fiduciary Activity is required to review each award action to determine the effect it might have on the beneficiary or the fiduciary arrangement. An accounting of beneficiary funds is required when a beneficiary's VA estate reaches a value of \$10,000 or greater and is managed by legal custodians. VBA policy requires Fiduciary Activities to perform accounting assessments

prior to payment release for all retroactive and one-time payments, except those associated with running awards valued at less than \$25,000.

Not Performed

PGFs contained no documentation, such as notation on the estate action record, to indicate Fiduciary Activities assessed the need to establish an accounting requirement for 47 (26 percent) of 180 payments valued at \$1 million. Follow-up with the VAROs indicated that if an accounting assessment had been conducted as required, 27 (57 percent) of the 47 payments would have resulted in Fiduciary Activities establishing accounting requirements for fiduciaries responsible for managing these payments. Fiduciary Activities may have failed to conduct the necessary accounting assessment for about half of the 47 payments because the PGFs did not contain award action notification from the PDTs or PMCs. When Fiduciary Activities do not consistently assess retroactive and one-time payments to ensure accounting requirements are established when needed, VBA reduces its opportunity to verify the disposition of these payments.

*Errors More
Prevalent with
Running Awards*

Accounting assessment errors were more prevalent for payments associated with running awards (53 percent error rate) compared to payments associated with initial appointments (9 percent error rate). In addition, an average of 148 days elapsed from the date the payment was released to the date the assessment was performed for 8 (23 percent) of 35 payments \$25,000 and greater associated with running awards. Fiduciary Activities should have completed accounting assessments prior to releasing these payments.

*Estate Protection
Actions Not
Performed or
Untimely*

Fiduciary Activities did not consistently perform or timely assess the need for estate protection or obtain adequate protection when required. The inconsistent or untimely performance of estate protection assessments were more prevalent with payments associated with running awards than payments associated with initial appointments.

The Fiduciary Activity is required to review each award action to determine the effect it might have on the beneficiary or the fiduciary arrangement. VBA policy requires Fiduciary Activities to consider a bond or other method of protection when a beneficiary's VA estate exceeds \$20,000. Fiduciary Activities must perform this assessment prior to payment release for all retroactive and one-time payments, except those valued at less than \$25,000 associated with running awards. VBA policy requires that fiduciaries obtain estate protection before payment release when VBA determines that estate protection is required during the fiduciary appointment process.

*Assessments Not
Performed*

PGFs contained no documentation to indicate Fiduciary Activities assessed the need for estate protection for 58 (32 percent) of 180 payments valued at \$1.5 million. Our follow-up efforts with the VAROs indicated that if Fiduciary Activities had assessed the need for estate protection as required,

at least 10 (17 percent) of the 58 payments should have resulted in requiring fiduciaries who managed these payments to obtain appropriate estate protection. Fiduciary Activities may have failed to assess the need for estate protection for 26 of the 58 payments because the PGFs did not contain award action notification from the PDTs or PMCs.

***Assessment Errors
More Prevalent with
Running Awards***

Estate protection assessment errors were more prevalent with payments associated with running awards (66 percent error rate) compared to payments associated with initial appointments (11 percent error rate). In addition, Fiduciary Activities performed estate protection assessments from 5 to 211 days after payment release with an average of 78 days for 5 (14 percent) of 35 payments \$25,000 and greater associated with running awards. Fiduciary Activities should have completed estate protection assessments prior to releasing these payments.

***Not Obtained When
Required***

For 32 payments where Fiduciary Activities determined the need to either establish or adjust estate protection, Fiduciary Activities did not ensure the required protection (such as a surety bond or withdrawal agreement) was obtained for 13 (41 percent) of the 32 payments valued at just over \$572,000. Specifically, Fiduciary Activities did not ensure fiduciaries obtained estate protection for 7 (54 percent) of the 13 payments. The value of the 7 payments was \$253,000. For the remaining six payments totaling about \$319,000, estate protection should have been obtained prior to payment release but was instead obtained an average of 36 days after payment release. Delays in establishing estate protection put the estates at unnecessary risk for the period when no protection existed.

***Fund Usage Not
Consistently
Documented***

Fiduciary Activities did not consistently document the intended use of retroactive and one-time payments awarded to incompetent beneficiaries. For payments associated with initial appointments, Fiduciary Activities are required to document the fiduciaries' intended use of these funds. Fiduciary Activities did not document how the funds were to be allocated for 14 (13 percent) of 110 payments associated with initial appointments totaling approximately \$343,000. PGFs contained award action notifications for 11 (79 percent) of the 14 payments.

According to VBA management, there is no requirement to instruct fiduciaries on how to use the funds for retroactive and one-time payments associated with running awards. In cases where Fiduciary Activities do not request an accounting of beneficiary funds, VBA policies require Fiduciary Activities to verify the receipt and disposition of funds during follow-up field examinations; however, these examinations could occur up to 3 years after payment release. As a result, verification whether these funds were used in the best interest of the beneficiary could take as long as 3 years. Therefore, we also reviewed the 70 payments associated with running awards to determine whether Fiduciary Activities were instructing appointed fiduciaries

on the appropriate allocations of these payments and whether this was a weakness in existing controls. Payments were released to fiduciaries without documenting the intended use of the funds for 48 (69 percent) of 70 payments totaling \$1.4 million. PGFs did not contain award action notifications for 27 (56 percent) of the 48 payments.

***Inadequate
Management
Controls***

Inconsistent management of retroactive and one-time payments occurred because VBA lacks the necessary management oversight to ensure payments are appropriately managed. In addition, VBA policies and procedures concerning retroactive and one-time payments between \$10,000 and \$24,999 associated with running awards are inadequate to ensure Fiduciary Activities conduct appropriate analyses and funds are adequately protected. Finally, some VAROs indicated Fiduciary Activities failed to perform required account management and estate protection actions due to insufficient training related to the management of retroactive and one-time payments.

Oversight

VBA lacks the necessary management oversight to ensure retroactive and one-time payments are appropriately managed locally or nationwide. VBA does not separately evaluate retroactive and one-time payments for compliance with internal policies as part of VBA's national or local quality assessments of Fiduciary Program operations.

VBA's national quality assurance program, the Systematic Technical Accuracy Review, and local VARO quality assurance reviews examine a sample of PGFs that had actions processed during the month prior to the reviews. However, the samples do not specifically target retroactive and one-time payments and may only include a limited number of high-dollar payments as part of the review. For example, according to one VARO, staff conducted 133 local quality reviews of fiduciary cases since November 2009. Of the 133, only 10 (8 percent) had either a retroactive or one-time payment associated with the case.

Additionally, these quality assurance reviews do not analyze whether the appropriate coordination occurred or whether Fiduciary Activities performed account management and estate protection actions timely. VBA will not have reasonable assurance appropriate coordination is occurring or if account management and estate protection actions are performed and in a timely manner without sufficiently reviewing the management of retroactive and one-time payments.

***Policies and
Procedures***

VBA policy and procedures do not ensure effective coordination and account management and estate protections between PDTs, PMCs, and Fiduciary Activities for retroactive and one-time payments less than \$25,000 associated with running awards. Policies and procedures do not specify when notification or account management and estate protection actions have to

occur, before or after the payment is released. Generally, beneficiary VA-derived estates valued at \$10,000 or greater require an accounting of beneficiary income and expenses. Additionally, Fiduciary Activities must consider estate protection (such as a surety bond or a withdrawal agreement) for estates valued at greater than \$20,000. If the Fiduciary Activity receives payment notification after payment release, the funds are placed at greater risk until Fiduciary Activities complete appropriate account management and estate protection actions.

In addition, VBA policy and procedures do not ensure that Fiduciary Activities document the intended use of retroactive and one-time payments associated with running awards. VBA lacks assurance the funds will be used solely for the care, support, welfare, and needs of incompetent beneficiaries of VA funds when Fiduciary Activities do not document the intended use of these funds.

Lack of Training

Although VBA requires Fiduciary Activity staff to receive recurring training in account management and estate protection, most Fiduciary Activities in our sample indicated they did not provide formal training specific to the management of retroactive and one-time payments. In addition, some Fiduciary Activity staff indicated they did not perform required account management activities due to insufficient training related to the management of retroactive and one-time payments.

Conclusion

VBA does not have adequate controls to ensure that effective coordination of retroactive and one-time payments occurs within VBA. Further, VBA lacks reasonable assurance that Fiduciary Activities will consistently perform required account management and estate protection actions for these payments. Weaknesses in existing controls were more prevalent for payments associated with running awards than those associated with the initial appointment of fiduciaries. Consequently, VA funds managed by professional fiduciaries, designated solely for the care, support, welfare, and needs of incompetent VA beneficiaries are at risk of potential misuse by fiduciaries. For example in March 2009, a VARO released a payment of \$123,000 to a legal custodian without performing the required account management and estate protection actions or obtaining required estate protection. VBA later learned the fiduciary misused \$25,000 of the payment.

Recommendations

1. We recommend the Acting Under Secretary for Benefits, as part of Veterans Benefits Administration's planned Operational Analysis of the Fiduciary Beneficiary System, ensure that the Fiduciary Beneficiary System or any future successor system includes an automated process to ensure effective and timely notification of award actions for retroactive and one-time payments.

2. We recommend the Acting Under Secretary for Benefits establish appropriate oversight mechanisms to examine the effectiveness of VA Regional Office management regarding retroactive and one-time payments awarded to incompetent beneficiaries.
3. We recommend the Acting Under Secretary for Benefits enhance existing policies and procedures to ensure all account management and estate protection actions for retroactive and one-time payments of \$10,000–\$24,999 awarded to incompetent beneficiaries are initiated within 30 days of payment release.
4. We recommend the Acting Under Secretary for Benefits enhance existing policies and procedures to ensure appropriate instructions are provided to fiduciaries regarding the use of retroactive and one-time payments of \$1,000 or greater paid to incompetent beneficiaries.
5. We recommend the Acting Under Secretary for Benefits ensure training associated with the management of retroactive and one-time payments to incompetent beneficiaries is developed and provided to Fiduciary Program staff.

**Management
Comments and
OIG Response**

The Acting Under Secretary for Benefits agreed with the findings and recommendations contained in the draft report, and provided responsive implementation plans to address our recommendations. We will monitor VBA's progress and follow up on its implementation until all proposed actions are completed. Appendix E contains the full text of the Acting Under Secretary's comments.

Appendix A Background

Program Authority VBA operates and manages the Fiduciary Program under authority provided by Title 38, Code of Federal Regulations, Sections 13.1 to 13.111. Under this program, VBA oversees benefits paid to beneficiaries who are incapable of handling their funds either because they are minors or because of injury, disease, or the infirmity of age.

Program Administration The Compensation and Pension Service of the Veterans Benefits Administration administers the Fiduciary Program. According to VA's FY 2011 Budget Submission, the Fiduciary Program supervises more than 104,000 incompetent beneficiaries with combined estate values exceeding \$3 billion.

Fiduciaries When VA monetary benefits are payable to a minor or an adult who is incapable of managing his or her own financial affairs, VBA makes payment to a "fiduciary," an individual or entity recognized as responsible for managing the beneficiary's financial affairs. VBA may make payments to a State court-appointed fiduciary, to a Federal fiduciary, or by means of supervised direct payment to an incompetent adult beneficiary. A legal custodian is an individual or legal entity designated by VA to manage VA funds on behalf of an incompetent beneficiary. Generally, legal custodians care for and/or have custody of the beneficiary or the beneficiary's estate.

Retroactive and One-Time Payments VBA awards retroactive payments based upon adjustments in prior awards for a preceding period. For example, a veteran who receives an increase in his or her disability compensation rate would receive a retroactive payment to cover the increased rate of disability going back to the effective date, usually the date of claim.

VBA awards one-time payments to provide veterans and their beneficiaries with nonrecurring VA benefits. Examples of one-time payments include refunds of unassociated accounts established because of returned checks, payments required to bring accounts to current status, and education advance payments.

Initial Appointment and Running Award Payments VBA assesses retroactive and one-time payments associated with the initial appointment of fiduciaries as part of the appointment process. An initial appointment field examination involves the apparent need for and, when necessary, the qualification and appointment of a fiduciary. VBA awards retroactive and one-time payments associated with running awards to existing fiduciaries who manage beneficiaries already in receipt of benefits. These payments are assessed independent of and subsequent to the initial appointment process.

**Retroactive and
One-Time Payment
Controls**

Upon notification of the award action by a PDT or PMC, Fiduciary Activity personnel are required to review the award and determine what, if any, effect it might have on the beneficiary or fiduciary arrangement, to include issues of accountability requirements and estate protection. Specifically, VBA policy requires an accounting of beneficiary funds when an incompetent beneficiary's VA estate reaches a value of \$10,000 or greater and is managed by certain types of Federal fiduciaries.

An accounting is the fiduciary's written report of his or her management of a beneficiary's income and estate. It consists of a beginning inventory, an itemization of income and expenses, and an inventory of assets remaining at the end of the accounting period. Fiduciary Activities are required to assess the need for an accounting requirement prior to payment release for retroactive and one-time payments except for those less than \$25,000 associated with running awards.

VBA policy requires Fiduciary Activities to consider a bond or other method of protection when a beneficiary's VA estate exceeds \$20,000. The purpose of surety bonds and withdrawal agreements is to protect the estate of the beneficiary against mismanagement or abuse by the fiduciary. Surety bonds are agreements whereby a fiduciary obtains insurance to ensure the fulfillment of his/her responsibilities. Withdrawal agreements are third-party contracts in which the VA, legal custodian, and a financial institution agree that funds issued by VA for the beneficiary that are deposited into an account with the financial institution may be withdrawn only with the written consent of the Veterans Service Center Manager.

VBA policy requires Fiduciary Activities to assess the need to obtain or adjust estate protection prior to payment release for all retroactive and one-time payments except those less than \$25,000 associated with running awards. In addition to assessing requirements for accountings and estate protection, Fiduciary Activities are required to document the intended use of retroactive and one-time payments associated with initial appointments.

Previous OIG Work Previous OIG reports provide indications of the vulnerability of incompetent beneficiary accounts to fraud. Our most recent audit report, *Audit of the Fiduciary Program's Effectiveness in Addressing Potential Misuse of Beneficiary Funds* (Report Number 09-01999-120, March 31, 2010), found VBA's Fiduciary Program did not consistently pursue delinquent fiduciary accountings and follow up on potential misuse of beneficiary funds. It further noted VBA lacked elements of an effective management infrastructure to monitor program performance and oversee fiduciary activities.

Appendix B Scope and Methodology

Scope

We reviewed and analyzed coordination and account management and estate protection actions for 180 statistically selected retroactive and one-time payments of \$10,000 or greater awarded to incompetent beneficiaries served by legal custodians from January 1 through December 31, 2009. We conducted fieldwork from February through August 2010. We reviewed documentation within PGFs and identified errors as of March 31, 2010. The audit focused on legal custodians because they managed the largest number of payments and funds. In 2009, legal custodians comprised the largest fiduciary group, receiving 76 percent of the total number of retroactive and one-time payments to incompetent beneficiaries totaling \$121 million.

Methodology

We reviewed applicable regulations, policies, procedures, and identified pertinent criteria. The audit team used VETSNET, Benefits Delivery Network, and FBS as the source for retroactive and one-time payment data. Appendix C provides details regarding the statistical sampling methodology used during the audit.

We obtained copies of pertinent PGFs associated with payments drawn from a statistical sample of all payments nationwide for the period from January 1 through December 31, 2009. The 180 payments sampled were associated with 34 VAROs and VBA's Western Area Fiduciary Hub.

We reviewed documents contained in the PGFs concerning retroactive and one-time payments to determine if the files contained evidence of payment coordination and if Fiduciary Activities performed required account management and estate protection actions. We used VirtualVA, an electronic file system, to review PGF file contents instead of requesting PGFs for payments managed by VBA's Western Area Fiduciary Hub. We did not review VirtualVA to determine if all documents were included as part of the electronic conversion from hardcopy PGFs.

We also coordinated with the VAROs to determine if staff performed appropriate actions and, if so, how long it took to complete these actions. Further, we distributed follow-up questions and potential discrepancies and errors associated with sampled payments to the pertinent VAROs and the Fiduciary Program Office to obtain agreement and to determine the causes of the identified weaknesses. In addition, we asked the VAROs and Pension Management Centers for information concerning their local processes and policies for processing retroactive and one-time payments to incompetent beneficiaries.

Evaluating the coordination of retroactive and one-time payments included the processes used and timeliness of notification of payments between VARO Post-Determination Teams, Pension Management Centers, and

VARO Fiduciary Activities. We considered award action notifications to be either VA Form 21-592, "Request for Appointment of a Fiduciary, Custodian or Guardian," or VA Form 21-8947, "Compensation and Pension Award." Specific account management and estate protection actions we evaluated included the intended use of payments and assessing requirements for accountings and estate protection, when applicable.

***Reliability of
Computer-
Processed Data***

We used computer-generated data from VETSNET, Benefits Delivery Network, and FBS for the period from January 1 through December 31, 2009, to support the scope of our audit. We compared relevant electronic data with source documentation in beneficiary PGFs to test the reliability of this data. We determined the computer-generated data to be sufficiently reliable to meet the audit objectives and support our recommendations.

***Compliance with
Government
Auditing
Standards***

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C Statistical Sampling Methodology

We selected a statistical sample of retroactive and one-time payments totaling \$10,000 or more made to legal custodians on behalf of incompetent beneficiaries to determine if VBA properly managed retroactive and one-time payments of \$10,000 or greater awarded to incompetent beneficiaries served by legal custodians.

Population

The population consisted of 5,827 retroactive and one-time payments totaling \$121 million made to legal custodians on behalf of incompetent beneficiaries during the period from January 1 through December 31, 2009.

Sampling Design

We used a stratified, simple, random sample to select retroactive and one-time payments made to legal custodians on behalf of incompetent beneficiaries. Each payment in the population had an equal chance of selection. We used a random sequence generator to select the payments for review. After ordering all payments using this process, we selected the first 45 payments in each stratum. We based payment stratification on payment amount and the establishment date of the incompetent beneficiary's record in FBS. This stratification allowed testing for both types of retroactive and one-time payments—payments associated with initial appointments and payments with running awards.

We stratified payments into one of four groups.

- Payments of \$10,000–\$24,999 with beneficiary records established in FBS prior to January 1, 2008.
- Payments of \$25,000 or more with beneficiary records established in FBS prior to January 1, 2008.
- Payments of \$10,000–\$24,999 with beneficiary records established in FBS on January 1, 2008, or later.
- Payments of \$25,000 or more with beneficiary records established in FBS on January 1, 2008, or later.

We used beneficiary records established in FBS on January 1, 2008 or later to identify payments associated with initial appointments. We used beneficiary records established in FBS prior to January 1, 2008, to identify payments associated with running awards. Of the 180 payments reviewed, 110 (61 percent) were associated with initial appointments and 70 (39 percent) were associated with running awards.

After selecting our sample for attribute testing, we identified and eliminated 35 payments because they did not meet the requirements for the scope of our

review or the PGFs were unavailable for review. For example, some payments were released to payees other than legal custodians or were returned to VA. A complete summary of the ineligible payments is shown in Table 2.

Table 2

Payments Not Meeting the Scope of Our Review	
Number of Payments	Reason
2	Payment information unavailable
3	PGF unavailable, requested for national STAR* review
3	Payment is the result of a reissuance of misused funds
10	Payment either returned to VA, suspended, or cancelled
17	Payment made to payee other than legal custodian
35	Total

*Systematic Technical Accuracy Review

Weights

We calculated sampling weights as a product of the inverse of the probability of selection at each stage of sampling. We post-stratified the weights in the analysis to ensure sample totals equaled the known population total of 5,827 beneficiaries.

Projections and Margins of Error

We computed margins of error based on a 90 percent confidence interval. Sampling error is driven by the sample size and complexity as well as population variation for the statistic being examined. The sample is representative of the population from which it was drawn. Our calculations of the statistics and margins of error take into account the probabilities of selection of each sample unit and the complexity of the sample design.

Our review indicates that Fiduciary Activities failed to take one or more required actions for 72 of the 180 payments reviewed totaling approximately \$1.8 million. We chose to use a 90 percent confidence interval to compute the margins of error for sample projections reported in this audit. Ninety percent of the possible samples of the same size and design would result in a projection between \$16.7 million and \$34.7 million in one or more required Fiduciary Activity actions not taken. Table 3 on the next page depicts projections for our universe of interest.

Table 3

Statistical Projections for Payments with One or More Errors					
Results	Projection	Margin of Error*	Lower 90 Percent	Upper 90 Percent	Sample
<i>Numbers</i>					
No	4,041	543	3,498	4,585	108
Yes	1,313	487	826	1,801	72
Total	5,355	N/A	N/A	N/A	180
<i>Percent</i>					
No	75.5	9.1	66.3	84.6	108
Yes	24.5	9.1	15.4	33.7	72
Total	100 %	N/A	N/A	N/A	180
Amount	\$25,705,664	\$8,995,853	\$16,709,811	\$34,701,517	

Note: Based on a 90 percent confidence interval - the margins of error and confidence intervals are indicators of the precision of the estimates. If a large number of samples were selected and estimates were computed from each one, 90 percent of those estimates would fall within the confidence interval.

Appendix D Fiduciary Activity Actions Not Taken

The table includes information regarding the 72 processing errors identified in our review. Identified errors were more prevalent with payments associated with running awards than those associated with initial appointments.

Category of Payments		Payments Reviewed	Fiduciary Activity Actions Not Taken			Payments with One or More Actions Not Taken	Percent	Value
			Accounting Assessment	Estate Protection Assessment	Fund Use Documented			
Payments \$10,000 – \$24,999	Associated with Initial Appointments	55	8	5	10	15	27	\$224,148
	Associated with Running Awards	35	24	29	N/A	29	83	\$423,131
Payments \$25,000 and Greater	Associated with Initial Appointments	55	2	7	4	9	16	\$337,437
	Associated with Running Awards	35	13	17	N/A	19	54	\$841,105
TOTAL		180	47	58	14	72	40	\$1,825,821

Appendix E Acting Under Secretary for Benefits Comments

Department of Veterans Affairs

Memorandum

Date: February 14, 2011

From: Acting Under Secretary for Benefits (20)

Subj: OIG Draft Report—Audit of Retroactive and One-Time Payments to Incompetent Beneficiaries [Project No. 2010-01607-R9-0257]—VAIQ 7072990

To: Assistant Inspector General for Audits and Evaluations (52)

1. Attached is VBA's response to the OIG's Draft Report: Audit of Retroactive and One-Time Payments to Incompetent Beneficiaries.
2. Questions may be referred to Catherine Milano, Program Analyst, at 461-9216.

(original signed by:)

Michael Walcoff

Attachment

**Veterans Benefits Administration
Comments on OIG Draft Report
Audit of Retroactive and One-Time**

Payments to Incompetent Beneficiaries

The Veterans Benefits Administration (VBA) concurs with the findings in OIG's draft report and provides the following comments in response to the recommendations:

Recommendation 1: We recommend the Acting Under Secretary for Benefits, as part of VBA's planned Operational Analysis of FBS, ensure that FBS or any future successor system includes an automated process to ensure effective and timely notification of award actions for retroactive and one-time payments.

VBA Response: Concur. VBA completed its analysis of the Fiduciary Beneficiary System (FBS) and has determined the need to replace the system. The replacement system will be required to include an automated process to notify the fiduciary activity of all award actions for beneficiaries determined to be unable to manage their financial affairs. VBA anticipates the functional requirements document, articulating the business processes for the future FBS program, will be completed by September 30, 2011.

Recommendation 2: We recommend the Acting Under Secretary for Benefits establish appropriate oversight mechanisms to examine the effectiveness of VA Regional Office management regarding retroactive and one-time payments awarded to incompetent beneficiaries.

VBA Response: Concur. Compensation and Pension (C&P) Service will modify M21-4, Chapter 5.06 (11) to include, as part of the Fiduciary Systematic Analyses of Operations, the requirement to examine the effectiveness of managing retroactive and one-time payments awarded to beneficiaries unable to manage their financial affairs. Additionally, C&P Service will include an assessment of local oversight of retroactive and one-time payments awarded to incompetent beneficiaries in its regional office site visits. C&P Service anticipates publishing the change to M21-4 and modifying the site visit protocol by April 30, 2011.

Recommendation 3: We recommend the Acting Under Secretary for Benefits enhance existing policies and procedures to ensure all account management and estate protection actions for retroactive and one-time payments of \$10,000 - \$24,999 awarded to incompetent beneficiaries are initiated within 30 days of payment release.

VBA Response: Concur. C&P Service will publish guidance that will enhance and clarify existing policies and procedures regarding the account management and estate protection requirements for retroactive and one-time payments in excess of \$10,000. Guidance on award notification letter requirements will be included. C&P Service anticipates publishing this guidance by April 30, 2011.

Recommendation 4: We recommend the Acting Under Secretary for Benefits enhance existing policies and procedures to ensure appropriate instructions are provided to fiduciaries regarding the use of retroactive and one-time payments of \$1,000 or greater paid to incompetent beneficiaries.

VBA Response: Concur. C&P Service will modify VA Form 21-4703, *Fiduciary Agreement*. The modified form will include instructions for the fiduciary regarding the necessity to conserve any one-time or retroactive benefit received unless specific written authorization to expend the funds is received from the fiduciary activity. VBA anticipates completing the modifications to VA Form 21-4703 by April 30, 2011.

Recommendation 5: We recommend the Acting Under Secretary for Benefits ensure training associated with the management of retroactive and one-time payments to incompetent beneficiaries is developed and provided to Fiduciary Program staff.

VBA Response: Concur. C&P Service will publish a training letter that will ensure all fiduciary activity personnel and applicable claims processing personnel receive specific training regarding policies and procedures for the management of retroactive and one-time payments to beneficiaries who are unable to manage their financial affairs. The training will be included in the Learning Management System, which will enable validation that the appropriate personnel complete the training. C&P Service anticipates publishing this guidance by April 30, 2011.

Appendix F **OIG Contact and Staff Acknowledgments**

OIG Contact	Timothy J. Crowe, Director
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Acknowledgments	Craig Ward Jessica Blake Dennis Capps Melissa Colyn Lee Giesbrecht Kristopher Kasey Mark Mullery
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Appendix G Report Distribution

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This report will be available in the near future on the OIG's Web site at <http://www.va.gov/oig/publications/reports-list.asp>. This report will remain on the OIG Web site for at least 2 fiscal years.