Preventing Harm to Veterans: Examining VA's Overpayments and Debt Collection Practices

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Statement of

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With Respect To

"Preventing Harm to Veterans:

Examining VA's Overpayments and Debt Collection Practices"

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WASHINGTON, D.C.

Chairman Pappas, Ranking Member Bergman and members of the subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on how the Department of Veterans Affairs (VA) can effectively prevent and manage overpayments.

The glacial speed at which VA moves is nothing new to the VFW, or the members of this subcommittee. Normally, bureaucratic redundancies that exist within organizations are meant to serve as a protective mechanism, as they can promote proper oversight, accountability, and thoroughness. With regard to overpayments and debt recoupment issues, however, bureaucratic processes and terminology prevent veterans from seeking the timely relief they need. Having to deal with erroneous forfeiture of benefits or financially constraining repayment plans have a detrimental impact on the well-being and livelihood of those who have worn our nation's uniform.

The VFW assists veterans who experience issues stemming from overpayments. According to our estimates, about 60 percent of the cases where the VFW intervenes results in veterans being granted either partial or full relief from the debt from VA's Debt Management Center (DMC). However, the onus is on veterans to prove that they were not overpaid, so getting relief is often times a long and arduous process.

The majority of overpayments the VFW sees result from confusions or errors with education benefits. The VFW offers a suite of benefits and services to student veterans, including more than $6.5 million in scholarships through the VFW Sport Clips Help A Hero Scholarship, grants to students facing financial hardship through the VFW Unmet Needs Program when their education benefits were not provided on time; a semester-long fellowship to research and advocate to fix issues facing the veterans community through the VFW-Student Veterans of America Legislative Fellowship Program; and casework assistance for veterans facing issues accessing their benefits through the VFW's 1 Student Veteran program. Through our casework assistance, we have been notified by countless veterans who have

received a debt notification from VA because their enrollment status changed and the school failed to notify VA, or an VA administrative error caused an overpayment.

The VFW also hears about and addresses overpayment issues through our network of more than 2,500 highly trained and VA-accredited service officers around the world. Changes in number of dependents is the most common reason for overpayment of disability compensation. Often, VA takes so long to make the change that it creates overpayments. VA's inability to timely address concurrent receipt issues also cause overpayments, which VA is later required to recoup. For example, a veteran who is still in the National Guard or reserve component is not eligible to receive VA disability compensation and drill pay concurrently. VA has a process to validate drill pay with the Department of Defense. Again, VA's delay or error in processing such adjustments commonly creates overpayments for veterans.

The VFW urges Congress to eliminate the concurrent receipt issues that often result in veterans or their survivors having to repay benefits they should be eligible to receive, but have to pay back because of misguided laws that require them to forfeit one earned benefit for another. Disabled veterans who are still serving in the reserve components should not be forced to give up a portion of their VA disability compensation because they choose to continue serving our country. Worse, they should not be required to work for free, which they would be required to do if they choose to receive tax-free VA disability compensation instead of their drill pay. Military retirees are also required to forgo their retirement pay unless they have a service-connected disability rating of 50 percent or higher. The VFW is grateful that Congress provided relief for highly disabled military retirees, but those who are rated between 10 percent and 40 percent service-connected disabled are equally deserving of receiving both of their earned benefits.

Once an overpayment is noticed, VA will send an ambiguously worded notification of overpayment, which also provides options for repayment. If veterans are unable to contact VA to contest the debt, provide repayment, or enter into a payment agreement with VA, their debt is sent to collections and VA will begin garnishment of their disability compensation benefits until the debt is satisfied. While veterans have the ability to seek relief by filing a relief waiver, VA's inability to provide them clear and concise information regarding their debts in a timely manner significantly hinders their ability to take action in order to prevent VA from taking further action, which could adversely impact their credit or cause a financial hardship.

In a perfect world, this discrepancy would be noticed immediately. However, there have been instances where it has taken upwards of five years for VA to properly notify veterans of overpayments. In many circumstances, veterans themselves have to notify VA that they are being overpaid.

To its credit, VA has made a concerted effort to eliminate overpayments and, in some cases, informed veterans that they will not be held liable for overpayments, but more must be done. VA's inconsistent administration of veterans' benefits, interpretation of rules and regulations, lack of training for program administrators, and lack of effectiveness when communicating with veterans are the principal reasons VA continues to overpay veterans and spends an untold amount of resources collecting overpayments.

The VFW understands that overpayments must be recouped in order for benefit programs to work efficiently, but it is important to state that debt notices must be clear and provide concise information regarding what steps veterans need to take in order to resolve any outstanding debts as soon as possible. Ultimately, veterans should be responsible for repaying the overpayment, if it is indeed legitimate. Due to the aforementioned inconsistencies regarding communication from VA, as well as the general lack of information regarding the nature of the debt, many veterans are simply unable to meet the deadline imposed on them by VA.

Many veterans, especially those who have a fixed income, have limited access to the financial resources needed to immediately repay an overpayment. Astoundingly, VA will often offset a veteran's entire monthly benefit payment in order to pay down a debt, without the veteran knowing about the debt or being afforded the opportunity to request an alternative method of payment or relief. Without guaranteeing that the veteran is actually receiving the debt notification letter, however, the VFW feels that this action all but denies the veteran due process which is why we have supported legislation that would require the use of certified mail when notifying a veteran of debt.

Aside from applying for a waiver to fully discharge a debt, VA currently has two alternative options –– one that utilizes a personal checking account, but requires a financial status report to be mailed to DMC, and one that automatically offsets a veteran's monthly benefits,

but also requires a financial status report to be completed and mailed in the event that the debt cannot be repaid in one year's time. Both options provide the veteran a way to pay down the debt over the course of several months, but loses its utility once a financial status report is required, and is only effective in the event that VA has the proper contact information and the veteran received the debt notice in the first place.

To address the issue of confusing letters, section 504 of the VFW-supported *Veterans Benefits Transition Act of 2018*, required VA to collaborate with veterans service organizations to develop a standard and plain language format for all debt letters sent to veterans. The VFW is unaware of the development of such standard format and urges the subcommittee to inquire about its status. A plain language letter which details how debt was accrued and any recourse available would significantly improve the VA debt collection process.

The VFW also urges Congress to pass S. 805, *Veterans Debt Fairness Act of 2019*, which would improve the VA debt collection process, limit the authority of the Secretary of Veterans Affairs to recover overpayments caused by VA errors, and improve the due process afforded veterans with respect to such recovery.

It is important for debt notices to be clear and provide concise information regarding what steps veterans must take to resolve any outstanding debts. Ultimately, a veteran should be responsible for repaying the overpayment, if it is indeed legitimate. Due to the inconsistencies regarding communication of overpayments from VA, as well as the general lack of information regarding the nature of such debt, many veterans are simply unable to meet the deadline imposed on them by VA. To further complicate things, the VFW's interaction with VA's DMC personnel has made it very clear that VA employees lack a proper understanding of VA policy and procedures regarding debt recoupment. The VFW believes S. 805 would address these concerns, and strongly urges the subcommittee to introduce, consider, and advance a House companion.