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Report to the Chairman, Subcommittee on Disability Assistance and Memorial Affairs, Committee on Veterans' Affairs, House of Representatives

February 2010

VA'S FIDUCIARY PROGRAM

Improved Compliance and Policies Could Better Safeguard Veterans' Benefits

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GAO-10-241

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Highlights

Highlights of GAO-10-241, a report to the Chairman, Subcommittee on Disability Assistance and Memorial Affairs, Committee on Veterans' Affairs, House of Representatives

Why GAO Did This Study

Many individuals receiving monthly compensation and pension benefits from the Department of Veterans Affairs (VA) have mental impairments that prevent them from managing their finances. VA's Fiduciary Program selects and oversees third parties, called fiduciaries, to help manage and protect beneficiaries' funds. GAO examined (1) how effective program policies and procedures are in monitoring fiduciaries and safeguarding beneficiary assets, and (2) challenges VA faces in improving program performance and oversight. GAO reviewed program policies, analyzed a nationally representative random sample of case files, interviewed Central Office managers and staff, and conducted three site visits to Fiduciary Program offices which accounted for 25 percent of program beneficiaries. During these visits GAO interviewed regional office managers and staff and conducted 32 file reviews.

What GAO Recommends

GAO recommends that VA strengthen Fiduciary Program policies for monitoring fiduciaries; improve staff compliance with program policies; evaluate alternative approaches to meet electronic case management system needs; and evaluate the effectiveness of consolidating 14 western Fiduciary Program units. VA agreed with our recommendations and noted plans to address them.

View GAO-10-241 or key components.
For more information, contact Daniel Bertoini at (202) 512-7215 or bertonid@gao.gov.

February 2010

VA'S FIDUCIARY PROGRAM

Improved Compliance and Policies Could Better Safeguard Veterans' Benefits

What GAO Found

VA's Fiduciary Program has policies in place that are intended to ensure that qualified fiduciaries are selected and regularly monitored; however, insufficient staff compliance with some policies and weaknesses in others hinder VA's ability to safeguard veterans' benefits. For example, VA was late in conducting required follow-up visits to monitor fiduciaries or provided insufficient documentation to show whether these visits were conducted in about 18 percent of the cases GAO reviewed. In addition, while GAO estimated that nearly 40 percent of fiduciaries who were required to submit financial reports to demonstrate how beneficiary funds are managed turned their reports in late, VA did not always take actions to obtain them on time or provide documentation that an attempt had been made, as required by VA policy. GAO also found that files did not always contain documentation that a bond was secured when required to safeguard beneficiary estates or that the requirement was waived. Fiduciary Program managers and staff said that they did not always comply with VA policies due, in part, to a lack of time, resources, and staff. In addition, VA's policies for conducting on-site reviews of professional fiduciaries who manage funds for multiple beneficiaries do not ensure these fiduciaries are effectively identified and monitored. For example, VA's policy may not ensure that all fiduciaries who need to be reviewed are identified because the agency's policy allows the use of the fiduciary's name—which may be entered inconsistently—to match them to beneficiaries rather than requiring a unique identifier, such as a Social Security number. Moreover, VA does not have a nationwide quality review process to ensure that these reviews are conducted properly and consistently.

GAO identified two key challenges that hinder VA's ability to improve Fiduciary Program performance and oversight. First, managers and staff in the three regional offices visited said VA's electronic fiduciary case management system does not provide sufficient information and is cumbersome to use. For example, the system limits staff's ability to track multiple actions on a case or enter all needed information. Also, the system does not generate comprehensive management reports that would facilitate effective oversight. In addition, managers and staff indicated that available training may not be sufficient to ensure they have the necessary expertise to carry out program responsibilities. Moreover, many managers and staff had less than 2 years of program experience, and the lack of sufficient training may have contributed to inconsistent compliance with some program policies. VA is developing standardized training that it expects to implement some time in fiscal year 2010. VA is also piloting a consolidated Fiduciary Program unit covering 14 western units, in part, to address program challenges. While the pilot is intended to improve program performance and oversight, managers and staff noted that difficulties, such as not having resources in place and up-to-date case files, impeded effective implementation. VA has not yet evaluated the impact and effectiveness of this model.

Contents

Letter		1
	Background	3
	Inconsistent Compliance with Some Policies and Weaknesses in Others Hinder VA's Ability to Monitor Fiduciaries and Safeguard Benefits	7
	System Limitations and Insufficient Training Hamper Program Performance and Oversight; However, VA Is Taking Steps That May Help	14
	Conclusions	20
	Recommendations for Executive Action	21
	Agency Comments and Our Evaluation	21
Appendix I	**Objectives, Scope, and Methodology**	24
Appendix II	**Comments from the Department of Veterans Affairs**	29
Appendix III	**GAO Contact and Staff Acknowledgments**	32
Tables		
	Table 1: Timeliness and Documentation of Financial Reports	9
	Table 2: Timeliness of First Follow-Up Action for Cases with Seriously Late Delinquent Financial Reports	11

Abbreviations

FBS	Fiduciary Beneficiary System
OIG	Office of Inspector General
SDP	supervised direct payment
VA	Department of Veterans Affairs

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United States Government Accountability Office
Washington, DC 20548

February 26, 2010

The Honorable John J. Hall
Chairman
Subcommittee on Disability Assistance
and Memorial Affairs
Committee on Veterans' Affairs
House of Representatives

Dear Mr. Chairman:

Each year, the Department of Veterans Affairs (VA) pays billions of dollars in compensation and pension benefits to disabled veterans and their dependents. For those beneficiaries who are unable to manage their own affairs due to mental impairments,[1] VA appoints a third party to help manage and protect the beneficiary's funds. This third party, called a fiduciary, can be a spouse or other family member, or an entity such as a law firm, hospital, or nursing home. Fiduciaries are selected and monitored through VA's Fiduciary Program. In fiscal year 2008, this program oversaw fiduciaries for more than 103,000 beneficiaries, and these individuals managed nearly 4 percent of the $38.6 billion in compensation and pension benefits VA paid out in that year. Moreover, the average annual benefit amount for beneficiaries in this program was approximately $14,400 in fiscal year 2008, which is about $4,200 more per year than the average for all VA compensation and pension beneficiaries. VA's oversight of beneficiary funds is especially important because the financial management of a person's funds is entrusted to a third party, thus, there is a risk that these funds could be used inappropriately.

Over the years, both Congress and VA's Office of Inspector General (OIG) have expressed concern that VA is not fully safeguarding beneficiaries' assets in the Fiduciary Program. Areas of concern included delays in conducting visits to select fiduciaries and insufficient monitoring of VA fund usage by fiduciaries on behalf of beneficiaries. As a result, the Veterans' Benefits Improvement Act of 2004 increased the degree to which VA is held accountable to its beneficiaries by requiring it to reissue any

[1]VA regulations state that the agency may appoint fiduciaries for beneficiaries and beneficiaries' dependents who are mentally ill (incompetent) or under legal disability by reason of minority or court action. 38 C.F.R. § 13.55.

benefit amount that is misused by a fiduciary due to VA's negligence.[2] The act also increased VA's fiduciary oversight authority and responsibilities. For example, the act requires VA to conduct periodic on-site reviews of professional fiduciaries[3] who oversee more than 20 beneficiaries with total combined benefits exceeding $50,000. You asked us to examine current policies and procedures the VA Fiduciary Program uses to select and monitor fiduciaries, as well as their effectiveness in safeguarding benefits and estates of beneficiaries. Specifically, we examined: (1) how effective VA policies and procedures are in monitoring fiduciaries and safeguarding beneficiary assets and (2) challenges VA faces in improving program performance and oversight.

To address the first objective, we reviewed the Fiduciary Program's policies and procedures manuals and applicable federal laws and regulations. In addition, we collected and analyzed case-level data from a nationwide stratified random sample of 205 beneficiary case files. We selected these files using data as of March 31, 2009, from VA's electronic case information and workload management system, which we found to be sufficiently reliable for the purpose of sampling cases for review. Our selection methodology allowed us to generalize some of the data we obtained from our case file review to nearly all adult beneficiaries within the Fiduciary Program.[4] All percentage estimates in this report have a margin of error of plus or minus 10 percentage points or less, unless otherwise noted. We also used the same electronic case management system data to assess how reliably fiduciaries managing multiple beneficiaries could be identified. To obtain information on both objectives, we interviewed appropriate managers at VA's Central Office and conducted site visits to 3 of 43 Fiduciary Program units located in VA regional offices—St. Petersburg, Florida; Cleveland, Ohio; and Salt Lake City, Utah—where we interviewed managers and staff about program policies and procedures, as well as VA's internal controls for meeting the

[2]Pub. L. No. 108-454.

[3]For purposes of this report, professional fiduciaries include institutions (such as nursing homes), professional fiduciary services, nonprofit agencies, and state hospitals.

[4]We analyzed case files from a population of about 103,700 adult beneficiaries. This excluded beneficiaries whom VA monitored with alternate methods (such as those who managed their own funds for a probationary period and those who VA monitored through letters or phone calls in lieu of some personal visits), as well as those who had negative estate values.

program's mission and goals and ensuring its integrity.[5] During these site visits and in Washington, D.C., we also spoke with veterans service organization representatives regarding their experiences working with beneficiaries under the Fiduciary Program. In addition, during our site visits we conducted 32 file reviews based on a judgmental sample of cases where either VA suspected that fiduciaries were inappropriately using beneficiary funds or fiduciaries were seriously late in submitting one or more annual financial reports that documented how beneficiary funds were spent. We also collected and reviewed 12 VA on-site reviews of the performance of professional fiduciaries. We chose these reviews based on professional fiduciaries identified in our 32 site visit file reviews. We selected the sites we visited based on differences in geographic location, size of the Fiduciary Program unit, and number of cases with misuse allegations. We specifically selected the Salt Lake City regional office because it is the site of a pilot project to merge 14 western Fiduciary Program units into one hub office.

We conducted this performance audit from December 2008 to February 2010, 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Further details on our objectives, scope, and methodology can be found in appendix I.

Background

Many individuals receiving monthly compensation and pension benefits from the VA have mental impairments that can prevent them from managing their finances.[6] These conditions may result from injury, disease, or infirmities of age. In 1935, Congress created an early version of the VA Fiduciary Program to select and oversee responsible third parties, called fiduciaries, who help manage and protect beneficiaries' funds. In fiscal year 2008, fiduciaries managed approximately $1.5 billion in VA benefits for more than 103,000 beneficiaries.

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

[6]Beneficiaries can be veterans, surviving spouses, or veterans' dependent children or parents.

The VA Fiduciary Program matches beneficiaries who are unable to manage their financial affairs with a fiduciary, giving preference to spouses. If VA is unable to locate a qualified spouse who is willing to serve in this capacity, an individual or other entity, such as a lawyer or nursing home, will be appointed. Fiduciaries who are appointed by VA who are not dependents or close family members can collect a fee for their services (up to 4 percent of a beneficiary's annual benefit amount) and can oversee multiple beneficiaries. Whether a fiduciary is a family member or a professional, the responsibilities are generally the same and may include receiving the beneficiary's VA benefits, paying the beneficiary's expenses, maintaining the beneficiary's budget, and generally seeing to the financial well-being—and, in some cases, the physical well-being—of the beneficiary. Finally, if a court has already determined that a beneficiary is unable to handle his or her own affairs and has appointed its own fiduciary, VA must assess the performance of the fiduciary and determine if he or she is suitable for the position given the needs and welfare of the beneficiary. If VA decides to use the court-appointed fiduciary, the agency generally defers to certain rules set by the court, such as those pertaining to the fee amount that the fiduciary can charge the beneficiary for his or her services.

VA has established a number of policies to guide the selection of qualified fiduciaries and ensure regular monitoring of them. The procedures for carrying out these policies include the following:

- *Visits to beneficiaries and fiduciaries.* VA policy requires staff to conduct initial visits to assess the competence and welfare of the beneficiary, determine whether a fiduciary is required and, if so, select and appoint the most appropriate type of fiduciary. These evaluations typically include a general background check of the potential fiduciary, which could include contacting character witnesses and reviewing a recent credit report. VA staff, in conjunction with potential fiduciaries, may develop a spending plan for the beneficiary's funds. Once the fiduciary is selected, staff conduct periodic subsequent visits to reevaluate the beneficiary's condition and to determine if funds have been properly used and protected. The first routine follow-up visit generally takes place 1 year after a fiduciary is selected, and subsequent visits typically take place every 1 to 3 years thereafter.[7] Unscheduled visits may also be conducted under certain circumstances.

- *Annual reviews of financial reports*. VA policy generally requires staff to obtain yearly financial reports and bank statements from some fiduciaries to determine how beneficiary funds were used. Reports are generally due on the anniversary of a fiduciary's appointment or as otherwise required in the case of court-appointed fiduciaries.[8] When fiduciaries do not submit their financial reports on time, staff are required to follow-up with them to obtain these reports and to document these contacts in the beneficiaries' files. For example, if a report is not received within 90 days of the deadline, VA staff can follow-up with fiduciaries by letter, telephone, or face-to-face contact and may describe the possible repercussions of failing to supply the report, which could include legal action or referral to the OIG.

- *Confirmation of surety bond acquisition*. When it is necessary to protect the interests of the beneficiary, VA generally requires staff to obtain a surety bond from fiduciaries overseeing estates with a value of $20,000 or more that is attributable to VA funds. A bond ensures that the beneficiary's estate will be reimbursed in the event of fiduciary mismanagement or abuse of beneficiary funds. Generally, the bond amount should be adequate to cover the value of the beneficiary's accumulated estate derived from VA funds plus 1 year of VA benefits.[9] Fiduciary Program staff are required to obtain documentation showing that the fiduciary has an adequate bond.[10] VA is required to assess the need for a bond and the bond amount each time it reviews the fiduciary's yearly financial report.

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[7]In some cases, such as when the fiduciary is a spouse or when the beneficiary is institutionalized, some of the subsequent visits may be substituted for with letters or phone calls.

[8]Financial reports are required for fiduciaries who oversee beneficiary estates of $10,000 or more, who are appointed by a court, who are authorized to collect a fee, who oversee estates of beneficiaries who receive the maximum disability payment possible, who are appointed temporarily, or in other situations. Some exceptions generally include fiduciaries who are spouses and chief officers of federal institutions. The time frame for submitting financial reports may vary for court-appointed fiduciaries based on an agreement with the courts.

[9]Bond amounts may vary for court-appointed fiduciaries.

[10]If it is not reasonable or practical to require a surety bond, VA may, in some cases, instead require that the fiduciary enter into a "withdrawal agreement," by which the fiduciary may only withdraw beneficiary funds from a financial institution with the written consent of VA.

- *Periodic on-site reviews of professional fiduciaries.* In addition to visits, VA staff are required to conduct on-site reviews of professional fiduciaries who oversee more than 20 beneficiaries with combined benefits of at least $50,000 once every 3 years. Unscheduled reviews may also be conducted as needed. During the on-site reviews, staff are to examine the financial records of multiple beneficiaries concurrently and examine any questionable expenses. VA developed this policy in 2005 as a result of new requirements included in the Veterans' Benefits Improvement Act of 2004.

Fiduciary Program policies and procedures are developed by Fiduciary Program Central Office staff under the Office of Policy and Program Management within the Veterans Benefits Administration. Individual Fiduciary Program units are generally colocated in VA regional offices that also oversee other Veterans Benefits Administration programs. One major exception to this is the Western Area Fiduciary Hub, where Fiduciary Program units and files from 14 western VA regional offices were merged into a single unit colocated in the VA regional office in Salt Lake City, Utah, beginning in January 2008.[11]

Each regional office is held accountable for meeting performance measures established by VA, including workload timeliness and accuracy measures. For example, performance measures for Fiduciary Program units include the timeliness of visits and the accuracy of beneficiary case file documentation, as measured through VA's internal quality review processes. VA tracks Fiduciary Program performance measures for timeliness by generating reports based on case-level data recorded in its electronic case management system, known as the Fiduciary Beneficiary System (FBS). Because FBS only maintains this case-level data for about 30 days, we could not validate the accuracy of the performance reports and, therefore, could not use them in our study.

VA's OIG has reported on the inappropriate use of beneficiary funds by fiduciaries over the years, and Congress, GAO, and VA's OIG have cited a number of concerns with VA's efforts to safeguard beneficiaries' assets. In 2006, VA's OIG noted concerns regarding overdue visits, which may

[11]Fiduciary Program units that were merged into the hub were units from the following VA regional offices: Albuquerque, Anchorage, Boise, Denver, Fort Harrison (Montana), Honolulu, Los Angeles, Oakland, Phoenix, Portland, Reno, Salt Lake City, San Diego, and Seattle.

increase the risk of inappropriate use of beneficiary funds.[12] In addition, the report cited concerns with VA's efforts to follow up with fiduciaries and obtain late financial reports. The report further noted concerns regarding missing or undocumented bond information, as well as the adequacy of the amount of coverage required under the bond. In 2004, GAO cited concerns about the lack of systematic coordination between VA, the courts, and other federal agencies in regards to overseeing third parties who manage the funds of others.[13]

Inconsistent Compliance with Some Policies and Weaknesses in Others Hinder VA's Ability to Monitor Fiduciaries and Safeguard Benefits

Program Staff Do Not Always Comply with Policies for Conducting Visits and Obtaining Timely Financial Reports and Bonds

Although VA has established Fiduciary Program policies intended to ensure that qualified fiduciaries are selected and regularly monitored, staff did not always take required actions within established time frames or document in the case files that required actions were taken. Such actions included conducting initial and follow-up visits to beneficiaries and fiduciaries, following up with fiduciaries to obtain late financial reports, and ensuring that fiduciaries managing large beneficiary estates purchased bonds.

Initial Visits

VA policy states that initial visits to appoint fiduciaries are to be conducted within 45 days of a request for a fiduciary, and VA's

[12] See, for example, Department of Veterans Affairs Office of Inspector General, *Audit of Veterans Benefits Administration Fiduciary Program Operations*, Report No. 05-01931-158 (Washington, D.C.: June 27, 2006) and *Audit and Appointment and Supervision of Fiduciaries*, Report No. 7R5-B13-074 (Washington, D.C.: May 1, 1997).

[13] GAO, *Guardianships: Collaboration Needed to Protect Incapacitated Elderly People*, GAO-04-655 (Washington, D.C.: July 13, 2004).

performance goal is to conduct at least 90 percent of these visits on time. Conducting initial visits on time is important because fiduciaries cannot begin receiving and handling VA benefits until these visits are completed, and beneficiaries may depend on VA funds for basic living expenses.

We sampled and reviewed 67 case files in which initial visits were supposed to be conducted between July 1, 2006, and June 9, 2009,[14] and found that 37 visits were conducted within the 45-day time frame, and 10 were from 3 to 39 days late.[15] For one case, the file lacked documentation that an initial visit was made at all.[16] Managers and staff in some offices we visited said compliance with the timeliness policy for initial visits was improving, but was still a concern. They attributed some compliance issues to a continued lack of staff and resources.

Follow-up Visits

According to VA managers, it is VA's policy that follow-up visits to fiduciaries are to be conducted within 120 days of the scheduled date, and the on-time goal for these visits is also 90 percent. Timely follow-up visits are important to determine the continued suitability of the fiduciary and to protect beneficiaries from potential misuse of their funds.

Our sample estimated that approximately 61,000 adult beneficiaries were supposed to have had at least one follow-up visit between July 1, 2006, and June 9, 2009. We estimated that 76 percent of these visits occurred within the 120-day time frame, and approximately 12 percent were 1 to 216 days late. About 6 percent of cases lacked documentation to indicate that a scheduled follow-up visit occurred at all and, in the most extreme case, there was no documentation that a follow-up visit had been conducted

[14]VA implemented recommendations from VA OIG's June 2006 report on the Fiduciary Program (Report No. 05-01931-158) by July 1, 2006. Recommendations involved VA's efforts to conduct visits, obtain and review fiduciary financial reports, and obtain fiduciary bonds. As such, we chose this as the start date of our analysis. The concluding date of June 9, 2009, is the date by which we requested all files be sent to us.

[15]We could not determine if VA met its nationwide performance goal of conducting at least 90 percent of initial visits on time because the number of cases in our sample for which we could assess initial visit timeliness between July 1, 2006, and June 9, 2009, was too small to project our results to the population.

[16]While the remaining 19 cases included documentation that an initial visit occurred; we were unable to assess the timeliness of these visits because documents in the file lacked the date stamps needed to determine when the visits were requested and/or completed. Lack of date stamps could indicate that the photocopies of the files that VA provided us were of poor quality or that the documents in the original files were never stamped with one or both of the necessary dates needed to assess timeliness.

although it was overdue by 16 months as of June 9, 2009. Finally, an additional estimated 6 percent lacked documentation as to when the visits were conducted.[17] Similar to initial visits, program managers and staff noted that compliance with the 120-day time frame for follow-up visits can be challenging due in part to a lack of staff and time. Program managers said that conducting visits in a timely manner may be especially challenging in regional offices with only one or two Fiduciary Program staff who may also have responsibilities outside of the Fiduciary Program. In addition, managers and staff noted that conducting timely visits can be challenging in areas where staff must drive long distances to see beneficiaries and fiduciaries.

Annual Financial Reports

VA policy generally requires that some fiduciaries submit annual financial reports documenting how they managed beneficiaries' funds. Based on our nationwide sample, we estimate that fiduciaries for about 33,000 beneficiaries were required to submit such reports for the time period we reviewed. Table 1 shows that, for more than one-half of these files, fiduciaries either submitted their financial reports late or it was not possible to determine if or when they were submitted. Late financial reports were submitted between 1 and 140 days late.

Table 1: Timeliness and Documentation of Financial Reports

Submission of financial reports	Percentage
Financial reports submitted on time	47[a]
Financial reports submitted late	39[b]
No documentation that financial reports were ever submitted	8[c]
No documentation of when financial reports were submitted	6[d]
Total	**100**

Source: GAO analysis of VA documents.

[a]The margin of error was approximately plus or minus 13 percent.

[b]The margin of error was approximately plus or minus 12 percent.

[c]The margin of error was approximately plus or minus 11 percent.

[d]These reports lacked the date stamps necessary to assess timeliness.

VA policy requires staff to contact fiduciaries when their financial reports are 35 to 65 days late and again when they are 90 days late. At that time, they may inform the fiduciary of the possible repercussions of a failure to

[17]In this 6 percent, while the files contained the report documenting that the visit had occurred, these reports lacked the date stamp necessary to assess timeliness.

comply, which may include legal actions, a referral to the OIG, or other actions.[18] After 120 days, the financial reports are considered "seriously delinquent," and appropriate action is to be taken. Staff in one regional office we visited acknowledged that follow-up contact is important because without it, precedent can be set for fiduciaries to continually turn in late financial reports. Moreover, failure to take action to secure timely financial reports may result in a finding of negligence, which will require VA to reissue any misused benefits.[19]

Our nationwide sample and site visit file reviews showed that follow-up contact was frequently not done or not documented by program staff. Of the 30 case files in our sample where financial reports were submitted more than 65 days late, 19 case files either lacked documentation of any follow-up actions or showed that such actions were not taken within VA established time frames. This included two cases where the files did not contain any documentation of follow-up actions, and the most recent financial reports were submitted nearly 5 months late. Moreover, we found additional instances of inadequate staff follow-up on seriously delinquent financial reports during our site visit file reviews. We reviewed 20 such cases, and table 2 shows that, for the most recent financial reports submitted in these cases, staff were generally either late in conducting such follow-up actions or did not document the file to show if such actions were taken. The 14 late actions in table 2 were between 3 days and about 11 months late, with 8 actions being more than 4 months late.

[18]VA primarily tracks case file referrals to its OIG using its electronic case management system, FBS. We did not use this information in our study, however, because we could not validate its accuracy. This is because FBS does not retain information on referrals beyond 30 days after the referral is acted upon.

[19]The statute provides that if there is a negligent failure to investigate or monitor a fiduciary that results in a misuse of benefits, VA will make up that loss to the beneficiary. 38 U.S.C. § 6107.

Table 2: Timeliness of First Follow-Up Action for Cases with Seriously Late Delinquent Financial Reports

Follow-up actions	Number of cases
Timely first follow-up action (within 65 days of financial reports being late)	1
Untimely first follow-up action	14
No documentation that actions occurred	4
No documentation of when actions occurred	1
Total number of cases	**20**

Source: GAO analysis of VA documents.

In one case, a fiduciary's financial report was submitted more than 2 years later than the original due date, and only after VA initiated action to suspend payment. However, VA's policy notes that this action can be taken when a fiduciary is more than 90 days late submitting a financial report. In another case, a financial report due in June 2006 was not submitted until nearly 2 years later. The file did not indicate that any follow-up actions had occurred, although the case is now being investigated for possible misuse of funds. Staff in all regional offices we visited said that they sometimes did not take follow-up actions or failed to document actions they did take, in part, because they lacked the time or believed that some actions did not warrant documentation.

Bonds

According to VA managers, VA policy generally requires staff to consider requiring fiduciaries who oversee estates with a value of $20,000 or more in VA funds to purchase a bond to protect beneficiaries' estates. Our nationwide sample showed that program staff sometimes failed to obtain proof that a fiduciary purchased a bond, when required, or did not adequately document in the beneficiary case files that the bond requirement was waived.[20] Of the 52 case files in our sample for which fiduciaries were required to purchase a bond, 8 case files lacked adequate documentation to indicate whether a bond was purchased or that the bond requirement was waived because the fiduciary met conditions for an exception. Some of the 8 cases involved substantial benefit amounts. For example, 2 cases in our sample, which contained no documentation that bonds were purchased, had VA estate values of approximately $82,000 and

[20]The number of cases in our sample requiring a bond was too small to project our results to the population.

$62,000—leaving these beneficiaries and VA vulnerable to a substantial loss if funds were misused. Some staff in regional offices we visited said that they were often uncertain about what types of bonds are required for certain types of fiduciaries, and this was confirmed by our site visit file reviews. For example, in one case, a Fiduciary Program staff member was told by a fiduciary who was an attorney that an individual bond was unnecessary because the fiduciary had a "blanket" bond that covered all VA responsibilities. Although this staff member documented in the case file that he was unsure if this was correct, he took the fiduciary's word that an additional bond was not required. However, we were told by managers and staff that a blanket bond was most likely not acceptable in this case, and the staff person should have required the fiduciary to obtain an individual bond.[21]

VA's Policy for Periodic On-site Reviews Does Not Ensure Effective Monitoring of Professional Fiduciaries

In 2005, VA developed a new policy requiring Fiduciary Program staff to conduct periodic on-site reviews of professional fiduciaries[22] as required by the Veterans' Benefits Improvement Act of 2004.[23] These financial reviews examine records kept by fiduciaries who manage funds for multiple beneficiaries. Cumulatively, such benefits can be a substantial amount of money and the reviews can help detect discrepancies among beneficiary accounts, which may not be detected by examining annual financial reports for a single beneficiary. Though managers and staff in regional offices we visited and in the Central Office said that on-site reviews are useful when conducted properly, we found two associated policy weaknesses: (1) not all fiduciaries who need these reviews can be reliably identified and (2) VA lacks a nationwide quality review process to ensure that these on-site reviews are conducted properly and consistently.

Not all fiduciaries who need reviews can be reliably identified. While VA is required to conduct periodic on-site reviews for professional fiduciaries who oversee more than 20 beneficiaries with combined benefits totaling $50,000 or more, we found that VA cannot reliably identify all those who meet this criteria. Each Fiduciary Program unit generates a list of

[21]Central Office explained that fiduciaries typically need a bond for each individual beneficiary. A blanket bond is generally only acceptable if the fiduciary is a government entity, in which case a blanket bond covering all of their beneficiaries would be acceptable as long as the amount was adequate.

[22]VA began conducting these reviews in 2006.

[23]Pub. L. No. 108-454, § 504 (codified at 38 U.S.C. § 5508).

fiduciaries meeting this criteria by using VA's electronic case management system to link or match a fiduciary to all of their beneficiaries. However, this computer match is based on a fiduciary's name, rather than a unique identifier, such as the fiduciary's Social Security number or tax identification number. Central Office managers and staff, as well as managers in two regional offices we visited, acknowledged that these matches may not reliably identify all the beneficiaries managed by a fiduciary because fiduciary names can be entered inconsistently into the system. For example, if a fiduciary's name is entered using different spellings or abbreviations, such as *JOHN SMITH* versus *JON H. SMITH*, it may not show up in the system as the same fiduciary across multiple beneficiary case files. While VA's case management system includes a field for unique fiduciary identifiers, VA policy does not require this information. Central Office staff acknowledged that requiring a unique identifier would decrease VA's chances of making mistakes in identifying fiduciaries with multiple beneficiaries who require reviews.

VA lacks a nationwide quality review process to ensure that periodic on-site reviews are conducted properly and consistently. While VA has nationwide quality review processes to ensure that actions—such as conducting visits and obtaining financial reports and bonds—are carried out in accordance with VA policies, Central Office managers acknowledged that VA lacks a similar process for on-site reviews.[24] Having such a process is not only a key internal control,[25] but it is also important for ensuring that the on-site reviews are conducted properly and consistently across all Fiduciary Program units nationwide. While local managers are required to examine the on-site review files and reports after completion, our examination of 12 files from the three regional offices we visited suggests that requiring only a local review may be insufficient. Four of the files we examined lacked key case selection information, preventing managers from determining whether cases were selected according to VA policy. This policy states that cases associated with beneficiary complaints or those with a history of late or questionable financial reports should receive priority consideration for review. In addition, although VA policy

[24]Both regional office managers and Central Office managers and staff regularly review a set number of beneficiary case files on either a monthly or yearly basis.

[25]Internal controls should generally be designed to ensure that ongoing monitoring occurs in the course of normal operations, including regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties. See GAO/AIMD-00-21.3.1.

requires that at least 25 percent of a fiduciary's beneficiary case files (or up to 25 case files) be examined during the on-site reviews, we found that this threshold was not met in four reports. While Central Office staff track whether on-site reviews are completed, and noted that they have considered implementing a national quality review process to ensure that they are conducted properly, such a process has not yet been developed.

System Limitations and Insufficient Training Hamper Program Performance and Oversight; However, VA Is Taking Steps That May Help

We identified two key challenges that limit VA's ability to improve Fiduciary Program performance and oversight. First, VA's electronic fiduciary case management system does not provide sufficient information to managers and staff about their cases, and it is cumbersome to use. Second, some managers and staff may not have received sufficient training to ensure that they have the necessary expertise to effectively monitor individual fiduciaries and oversee the program. VA is taking steps to build expertise about the case management system and the program itself by developing additional standardized training and piloting a consolidated Fiduciary Program unit covering 14 western VA regional offices.

VA's Fiduciary Case Management System Provides Insufficient Information and Is Cumbersome to Use

VA's electronic fiduciary case management system, FBS, does not provide sufficient data to effectively manage the Fiduciary Program. FBS provides some useful information on individual case files, pending workloads, and program performance; however, many managers and staff characterized it as an antiquated system that is cumbersome to use. Several system limitations hamper the agency's ability to maintain accurate and timely data and provide management with quality information about the program—typical internal control standards by which government agencies are expected to operate.[26] Managers and staff cited several system weaknesses, including: (1) data field limitations and (2) difficulties generating useful management information.

Data field limitations: The accuracy and completeness of the information that FBS provides is limited because the system's data fields are configured to track a fixed number of pending activities and because some of the data fields are too restrictive. As a result, fiduciaries may be ineffectively monitored. For example, a required visit might not be

[26] GAO/AIMD-00-21.3.1.

scheduled due to restrictive data fields that prohibit tracking crucial dates or omit important information about the performance of a fiduciary.

Staff and managers in the three regional offices we visited said they often need to track more upcoming actions than FBS permits. For example, staff noted that FBS accepts only one due date for upcoming financial reports, even though multiple financial reports may be due simultaneously if one or more is late. In such cases, the due date for the most recent over-due report overrides the older due date, even if the older financial report has not yet been submitted. In one case we reviewed, Fiduciary Program staff had to follow up on two financial reports from a professional fiduciary that were due in 2006 and 2007, while simultaneously tracking an upcoming financial report due in 2008. To compensate for this FBS limitation, staff in one regional office we visited and staff in Central Office said that such actions are tracked manually outside of the system. Some staff, for example, keep personal notes as reminders of pending actions while others input data into spreadsheets.

Fiduciary Program staff also told us that the usefulness of FBS is limited because not enough information is captured about cases due to restrictive data fields. For example, staff sometimes use a “remarks” data field to enter notes that help managers and staff understand certain events and oversee a case, but said they may need to omit some information because of limitations on the number of characters for that field. In addition, one Central Office official we spoke with said that some FBS data fields can be too general to adequately convey important case information. For example, one entry option in FBS to denote why a fiduciary has been removed from a case is “resignation”. However, fiduciaries can resign for a variety of reasons, such as because of changes in personal circumstances or because program staff encouraged the fiduciary to resign due to poor money management practices. Another entry option—unfit—also does not adequately convey the reasons for removal. For example, fiduciaries may become unfit due to a serious illness or may be deemed unfit because they were not adhering to the VA approved spending plan. The Central Office official we spoke with also provided further evidence that the entry options for removal are too general, stating that the option "other" was one that staff frequently chose, due to lack of more precise options.[27]

Difficulties with FBS-generated management reports: Managers at the three regional offices we visited told us that they do not always find the FBS management reports easy to generate or helpful in overseeing the program. For example, one manager told us that monitoring staff performance was difficult because the system does not generate a single report that shows all upcoming work that staff need to conduct over a certain period of time. Instead, several reports need to be generated and cross-referenced, which can be cumbersome. In addition, FBS does not store historical information beyond 30 days that would allow managers to examine past issues with fiduciaries or staff performance. For example, managers in two regional offices said that in order to look at historical information on seriously delinquent financial reports, they would have to manually examine monthly paper printouts generated in prior months by FBS. Managers explained that finding these printouts in their archives is time-consuming and, because they are not required to keep printouts beyond 2 years, information beyond that time may not be available. A 2007 internal VA report also stated that FBS requires extensive knowledge to use, which inhibits effective oversight and management at all levels of the program.[28] The report recommended that VA begin long-term planning to replace FBS with a more user-friendly workload tool that is comparable to other operational management systems within VA.

Although there is acknowledgement among Fiduciary Program management that FBS is outdated, VA has no formal plan or time line to replace it. Managers and staff at the Central Office said that VA has not yet submitted a request to VA's Office of Information Technology to update FBS. One Central Office official told us that although VA intends to make such a request in the future, it has not done so yet because of the need to focus on other aspects of the program. This official also mentioned that the Central Office will offer nationwide FBS training to managers in fiscal

[27]The remaining entry options for fiduciary removal include "death of a fiduciary," "beneficiary moved to a new jurisdiction," and "misuse of funds." Central Office officials noted that the "misuse of funds" option was only to be used in cases of proven illegal misuse of funds.

[28]VA, *Fiduciary and Field Examination Pilot Implementation Team Report* (Washington, D.C.: Nov. 5, 2007).

year 2010 to increase both managers' knowledge about the system and their willingness to use it.

VA Provides Some Training for Fiduciary Managers and Staff, but Additional Standardized Training Is Needed

Managers and staff in all three regional offices we visited said the Fiduciary Program is complex and requires a great deal of specialized knowledge to effectively monitor fiduciaries and provide program oversight. Although the Fiduciary Program has a policy manual to guide staff in carrying out their responsibilities, managers and staff said there are many nuances and exceptions that take time to master, particularly since each fiduciary and beneficiary situation may be different. In addition to these program complexities, managers in all of the regional offices we visited said that high staff turnover has contributed to a large number of inexperienced managers and staff in their Fiduciary Program units who need training.[29] For example, in two of the three regional offices we visited, only about one-third of staff (15 out of 47) had more than 2 years of experience in the program.[30] In addition, we were told that many managers at the regional offices we visited had been in their position for less than 2 years and had little or no Fiduciary Program experience.[31] Managers noted that limited training for these managers and staff may have contributed to various program problems, including failures to properly monitor fiduciaries or document certain actions in beneficiary case files. Our case file review showed that about 15 percent of the files in our nationwide sample lacked sufficient documentation of at least one required action between July 1, 2006, and June 9, 2009, making it impossible to know whether staff acted as required but failed to document it, or failed to complete the action.[32]

[29]One common reason managers gave for high staff turnover was that Fiduciary Program positions tend to have low pay grade ceilings, so if staff want to advance beyond these ceilings, they must leave the Fiduciary Program. We attempted to obtain VA data on staff turnover to determine both the Fiduciary Program turnover rate and how it compares to other programs, but we were told that such data was not readily available.

[30]The third office, discussed in the next section, was the office which consolidated staff from the fiduciary units in 14 western regional offices.

[31]Managers explained that regional offices may rotate managers through different units, and some managers we spoke to had collateral responsibilities for other units as well.

[32]These actions were previously discussed in this report and include failure to properly document: (1) required follow-up actions to obtain late financial reports, (2) initial and follow-up visits to beneficiaries and fiduciaries were conducted, (3) fiduciary financial reports were received, and (4) the purchase of bonds or the waiving of the bond requirement.

VA has provided some training to ensure that Fiduciary Program managers and staff are proficient in carrying out their responsibilities, and some regional offices have developed their own training. VA provides a standardized computer-based training program for new staff who conduct visits to beneficiaries and fiduciaries and for those needing a refresher. Central Office managers and staff also said that they hold monthly teleconferences and conduct periodic visits to individual Fiduciary Program units to discuss selected topics. In addition, managers and staff in all three regional offices we visited said that they conduct their own weekly or biweekly training sessions on selected topics, such as how to determine whether bonds are required, and what kinds of situations constitute misuse. However, they noted that individual training occurs primarily on the job, and the effectiveness and consistency of such training depends on the expertise of staff conducting the training.

Given the complexity of the program and the level of staff experience at many Fiduciary Program units, managers and staff in the three regional offices we visited said that additional standardized training is needed. Central Office managers acknowledged that such training would be beneficial and noted that they are in the process of developing two standardized training programs. Central Office management said that they expect to implement these training programs some time in fiscal year 2010.

VA Consolidated Western Fiduciary Program Units to Improve Performance and Oversight but Has Not Yet Evaluated the Outcomes of This Effort

Beginning January 2008 through September 2008, VA consolidated Fiduciary Program unit managers, staff, and files from 14 western VA regional offices into a single location in Salt Lake City, Utah—referred to as the Western Area Fiduciary Hub—to improve program performance and oversight. VA officials expect the hub to achieve these improvements through increased staff expertise, more consistent training, better leveraging of staff resources, and increased program efficiencies. For example, the hub created specific management positions for the Fiduciary Program and divided some staff into teams to focus on specific actions and responsibilities in an effort to build program expertise, including expertise with FBS. In addition, the hub provides opportunities to train more staff at once, which could help to further build staff expertise and potentially increase the consistency of training. The hub eliminated jurisdictional boundaries that prevented staff from conducting visits that were geographically close, but outside of their assigned jurisdiction or area of responsibility, which VA expects will help balance workloads among staff and reduce travel time. Additionally, the hub moved its paper-based beneficiary case file system to an electronic file system, called Virtual VA, by scanning in paper documents in an attempt to more efficiently transfer information between the hub and staff conducting visits in other offices.

While some VA managers and staff in the hub believe consolidation can help improve Fiduciary Program performance, they described some challenges that have impeded effective implementation of the pilot project. The hub's managers explained that there had been multiple changes in management and, until January 2009, they did not consider the hub to be fully functional, which was approximately 1 year after it opened. Managers and staff also told us that the hub was implemented before appropriate planning and resources were in place. For example, new standard operating procedures specific to the hub, as well as new phone systems, were put in place over 15 months after the initial rollout. During our visit, managers and staff agreed that all of the necessary equipment to conduct visits, such as computers, printers, and navigational systems, were still not fully in place. Hub managers and staff also said there were unforeseen difficulties with Virtual VA, such as inconsistent access and system crashes multiple times a day. In addition, managers and staff noted that documents were sometimes scanned into the wrong electronic beneficiary case file, and a backlog of incoming documents to be scanned meant they could not be certain that case files in Virtual VA were up to date. Managers also said that the beneficiary case files they received from some regional offices had not been properly maintained, which slowed the hub's ability to meet performance goals and time frames. In some cases, for example, staff had not taken required actions to address seriously delinquent financial reporting and that potential misuse of funds had gone unidentified for significant periods of time. As a result, hub staff spent a large portion of time updating old cases and performing necessary follow-up actions, in addition to completing incoming work. Managers and staff noted that they have gained valuable insight and knowledge in implementing the hub that could help inform future office consolidations.

Because the hub is still undergoing multiple changes and has not yet been evaluated, it is unclear whether consolidation of Fiduciary Program units has improved program performance and oversight. Central Office staff told us that the agency has been focusing on getting the hub fully operational as opposed to evaluating its performance. However, a VA official from the Office of Field Operations said that the agency may conduct an evaluation of the hub in early 2010, but has not yet developed a specific time frame or a plan to conduct such a study.

Conclusions

The Fiduciary Program provides a valuable service in ensuring that billions of dollars in benefits to one of VA's most vulnerable populations—those who are unable to manage their own financial affairs due to mental impairments—are safeguarded.

Past reports show that this program can be susceptible to misuse of funds, so it is important that VA take actions to minimize risks to its beneficiaries. Since 2005, VA has made several efforts to better monitor fiduciaries and oversee the program, such as adding on-site reviews to help ensure that professional fiduciaries are appropriately managing beneficiaries' funds as required in the Veterans' Benefits Improvement Act of 2004 and consolidating western Fiduciary Program units to improve performance. However, VA continues to face challenges safeguarding Fiduciary Program benefits because staff inconsistently comply with program policies, some policies are weak or unclear and, as program managers and staff stated, the program lacks adequate resources and tools.

Insufficient compliance with VA policies for monitoring fiduciaries, including lack of timely follow-up on late financial reports, presents the opportunity for funds to be used inappropriately and could preclude VA's prompt detection of such use. In addition, failure to ensure that fiduciaries purchase bonds when necessary can leave beneficiaries' estates unsecured and VA liable for replacing misused funds. Further, in the absence of stronger policies and procedures for on-site reviews of professional fiduciaries, staff may lack key information to determine if fiduciaries who serve multiple beneficiaries are performing satisfactorily and in the best interest of the beneficiaries. Although improving compliance and policies in these areas may take additional resources, such an investment will likely lead to improved staff and program performance. Additionally, without investing in a case management system that provides sufficient information and can be more efficiently navigated, managers and staff may not readily have all the information they need to effectively monitor fiduciaries and oversee the program. Also, in the absence of sufficient standardized training, managers and staff may not have the expertise needed to effectively carry out program responsibilities. Finally, although VA's Western Area Fiduciary Hub has the potential to enhance program expertise and consistency, improve the delivery of training, and help VA better leverage staff resources, it has not yet been evaluated. Without a formal evaluation of hub outcomes, VA will not be able to determine its impact and whether this effort can address long-standing problems in the program.

Recommendations for Executive Action

To ensure that maximum efforts are made to safeguard beneficiary assets, we recommend that the Secretary of Veterans Affairs take the following four actions:

- Ensure that policies regarding file documentation, follow-up with fiduciaries for late financial reports, and bond acquisition are understood and carried out by staff. This might be accomplished by increasing standardized training for staff, clarifying certain policies, and improving management review and oversight.
- Improve the policies for periodic on-site reviews of professional fiduciaries by taking additional actions such as:
    - Requiring a unique identifier for all fiduciaries to better determine which professional fiduciaries meet the criteria to have on-site reviews.
    - Implementing a nationwide systematic quality review process to examine completed on-site review reports.
- Evaluate alternative approaches to effectively and efficiently meet the electronic case management system needs of Fiduciary Program managers and staff. This could include developing or acquiring a replacement system or enhancing the existing system.
- Move forward with developing a plan to systematically evaluate the extent to which the hub pilot project is addressing identified program weaknesses. This could include documenting lessons learned during implementation.

Agency Comments and Our Evaluation

We provided a draft of this report to VA for review and comment. VA generally agreed with our conclusions and concurred with our recommendations. Its written comments are reproduced in appendix II.

VA agreed with our recommendation that it ensure that policies regarding file documentation, follow-up with fiduciaries for late financial reports, and bond acquisition are understood and carried out by staff and cited actions it is taking to do so. VA's actions include preparing additional interim guidance and standardized training that, among other things, will address file documentation and appropriate follow-up. The standardized training, which will be provided to all fiduciary managers and staff nationwide who are directly involved in administering the Fiduciary

Program, is scheduled to begin in March 2010. VA is also planning a Fiduciary Managers Training Conference in 2010 to provide in-depth training on a variety of fiduciary topics. In addition, VA expects to publish a revised policy manual by September 30, 2010, that will clarify existing guidance, establish new policies, and enhance oversight.

VA also agreed with our recommendation that it improve its policies and procedures for conducting on-site reviews of professional fiduciaries. The agency stated that its revised policy will require staff to obtain Social Security numbers or tax identification numbers for organizations and businesses that serve as fiduciaries, in addition to its current practice of requiring this information on individual fiduciaries. The agency plans to issue interim guidance and standardized training on this new requirement in March 2010. Also effective March 31, 2010, VA will begin requiring that all completed on-site reviews of professional fiduciaries be submitted to its Central Office for review and analysis. The Central Office's assessment of on-site reviews is an important first step in ensuring that these reviews are conducted consistently across all offices and in accordance with program policy.

VA also agreed with our recommendation to evaluate alternative approaches to effectively and efficiently meet the electronic case management system needs of the Fiduciary Program. VA has established a work group that will evaluate the current FBS and submit its findings and recommendations in June 2010 for either enhancing or replacing the system.

Finally, VA agreed with our recommendation to move forward with developing and implementing a plan to systematically evaluate the extent to which the Western Area Fiduciary Hub is addressing identified program weaknesses. VA intends to complete such an evaluation by September 30, 2010. We encourage VA to take steps to ensure that the evaluation's design and criteria yield valid information that will help the agency decide whether the consolidation of the western Fiduciary Program units has effectively addressed identified program weaknesses.

VA noted a concern in its comments regarding GAO's extrapolation of case data across the Fiduciary Program population. Specifically, VA commented that a stratified random sample of 205 cases is not large enough to provide precise predictions about the 106,000 adults in the Fiduciary Program. However, we determined our estimates regarding the overall population based on this sample with a precision of plus or minus 10 percentage points. We believe that this was sufficient for the purposes of our report and that our sample size was large enough to achieve this precision. In addition, all margins of error have been disclosed in the report, including footnotes for those estimates of subpopulations with margins of error larger than plus or minus 10 percentage points.

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 to the Secretary of Veterans Affairs and others who are interested. The report also will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions concerning this report, please contact me at (202) 512-7215 or bertonid@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Staff members making key contributions to this report are listed in appendix III.

Sincerely yours,

Daniel Bertoni
Director, Education, Workforce,
and Income Security Issues

Appendix I: Objectives, Scope, and Methodology

The objectives of our report on the Department of Veterans Affairs (VA) Fiduciary Program were to examine (1) how effective program policies and procedures are in monitoring fiduciaries and safeguarding beneficiary assets and (2) challenges VA faces in improving program performance and oversight.

Effectiveness of Program Policies and Procedures

To address the first objective, we reviewed existing information on the Fiduciary Program. We then collected and analyzed data from a stratified random sample of 205 beneficiary case files. We also assessed the reliability of VA's Fiduciary Beneficiary System (FBS) because it was the source for our sample selection. We found the data to be reliable for the purpose of providing a sampling frame.

To address both the first objective and obtain necessary background information on the program, we reviewed available information on the Fiduciary Program, such as the Fiduciary Program's policies and procedures manuals and internal program documents. These included the FBS user's guide to learn how VA tracks and measures Fiduciary Program performance, such as the timeliness of visits. We also reviewed relevant federal laws and regulations. In addition, we examined VA Office of Inspector General (OIG) reports and congressional hearings about the Fiduciary Program to understand previously identified weaknesses in safeguarding beneficiary assets.

We also collected and analyzed case-level data from a stratified random sample of 205 beneficiary case files to generate performance estimates for processes that Fiduciary Program staff use to monitor fiduciaries, such as the timeliness in obtaining financial reports or conducting visits.[1] Our sample was from a population of over 106,000 adult beneficiaries and was stratified based on estate values that were $20,000 and under, and over $20,000. The data was also stratified based on the beneficiary's status as a supervised direct payment (SDP) beneficiary.[2] Ultimately, our analysis did not focus on the SDP strata because we found that these cases

[1]We requested 209 files from VA, but the agency was unable to provide four of them because the cases had been closed and the files destroyed.

[2]SDP beneficiaries manage their own funds under VA supervision for a probationary period of up to 3 years, after which program policy requires that they either be moved out of the program or assigned a fiduciary, unless extenuating circumstances justify their remaining in SDP status.

represented such a small portion of all Fiduciary Program activity.[3] After excluding these SDP cases, our sample allowed us to generalize to a population of over 103,000 adult beneficiaries and to some subpopulations. This population included all adult beneficiaries, other than those who VA planned to monitor with a method other than visits and those who had negative estate values, as of March 31, 2009. All estimates in this report have a margin of error of plus or minus 10 percentage points or less, at the 95 percent confidence level, unless otherwise noted. We developed a data collection instrument to record information from the case files.[4] Activities documented in the beneficiary case files after July 1, 2006, provided the basis for our analysis of recent case activities. We chose to focus our analysis on these recent case activities because, by this date, VA had implemented recommendations from the agency's June 2006 OIG report on the Fiduciary Program. The end date for our sample file review was June 9, 2009.[5] One limitation of the file review was that a limited number of cases did not contain the relevant information we needed to complete our review. One reason was that VA provided us with photocopies of the case files, and some of the date stamps VA used to assess the timeliness of staff activities may not have been legible on the copies. In other instances, the original documents may never have been stamped with the date that the actions began or were completed. For some categories (such as follow-up visits), we used the date that the appropriate document was signed to approximate a missing date stamp in a particular case. We did this when the average difference for all cases in that category which included both the date signed and the date stamped was no more than 7 days. For initial and follow-up visits, we substituted the date signed for the date stamped, respectively, in 10 and 25 cases. For categories where such a difference exceeded this average (such as the request for an initial visit), or if we

[3]The population contained fewer than 3,000 SDP cases, which was approximately 2.5 percent of the population.

[4]To ensure that our data collection efforts conformed to GAO's data quality standards, all cases that GAO analysts recorded were reviewed by another GAO analyst. When the analysts' views on how the data were recorded differed, they met to reconcile any differences.

[5]To determine if the activity was within our time frame of interest, we looked to the documentation of the bond requirement, or to the end date of the financial reporting period. For initial and follow-up visits, we looked to the date stamp indicating that VA received the report of the visit, or if this was not available, to the date the report was signed. For one initial visit, the date stamped received or signed was not available, so we calculated whether the activity would be within our time frame based on VA guidelines for the maximum time allowed between the request date and the date the report of the visit should have been stamped.

could not otherwise substitute the missing date stamp to calculate timeliness, we simply classified cases as having missing date stamps.[6] Additionally, if there was an indication in the file that a visit was scheduled but there was no documentation that the visit occurred, or if a financial report or bond was due, but there was no indication that it was submitted, we classified the activity as having no documentation.[7]

Further, we conducted several tests to assess the reliability of FBS as the source for our sample selection and for other case file information because prior VA OIG findings and some of our interviews raised questions about some FBS data. First, we reviewed existing documentation about FBS and prior VA OIG reports that discussed FBS, and we interviewed knowledgeable staff about how FBS data was collected, stored, and used. Second, we conducted electronic testings of FBS data reliability, such as checking for missing data elements. Third, we traced selected information to the source documents in the case files. Specifically, we compared the estate values in FBS with the documented estate values in the case files for 10 randomly selected cases and found them to be accurate enough for our purposes. Overall, we found FBS to be sufficiently reliable for the purposes of sampling cases for review. We also used FBS data to assess how reliably fiduciaries managing multiple beneficiaries could be identified.

Program Effectiveness and Challenges

To obtain information for both objectives, we interviewed managers and staff at VA's Central Office. We also conducted site visits to three Fiduciary Program units in VA regional offices to assess how Fiduciary Program units oversee fiduciary cases. Finally, we spoke with representatives from veterans service organizations and other Fiduciary Program units.

During our interviews with Fiduciary Program managers and staff at VA's Central Office and regional offices, we asked about program policies and

[6] There were three cases for which, while the initial visit occurred, the request date for the initial visit was missing. We classified these visits as having no date stamp because we did not have the dates necessary to calculate the timeliness.

[7] For seven cases, the file indicated that a follow-up visit was scheduled to occur within our time frame of interest, but the file had no documentation that the visit occurred. For these exams, we determined that the visit should have occurred within our time frame by reviewing the scheduled date as written in the previous visit and checking the file to ensure that the visit was not postponed for an acceptable reason.

procedures and internal control standards used to ensure effective program performance and safeguard cash benefits.[8] We also asked about program performance goals and standards, and how the Fiduciary Program interacts with other VA offices and programs. Among others, we spoke with the Chief Fiduciary and his staff, officials from the Office of Enterprise Development, Compensation and Pensions, and staff familiar with FBS.

Of the 43 Fiduciary Program Units in VA regional offices, we conducted site visits to three—St. Petersburg, Florida; Cleveland, Ohio; and Salt Lake City, Utah—during which we interviewed staff and managers, reviewed case files, and examined on-site reviews of professional fiduciaries. We considered several factors in selecting the Fiduciary Program units to visit. First, we wanted to maximize the number of beneficiary cases being handled at the offices we visited. Taken together, these three sites oversaw more than 25 percent of all Fiduciary Program beneficiaries in fiscal year 2008. Second, to obtain geographical variation, we chose units in three of the four regions.[9] Third, we selected the Salt Lake City regional office because it is the site of a pilot project that consolidated 14 western regional offices into one hub. Our purpose in conducting these site visits was to gather information about how individual units handled fiduciary cases, including the extent to which staff complied with policies and procedures, and managers and staff understood them and found them useful. To do so, we interviewed program managers and staff and also reviewed a total of 32 site visit files for which there were allegations of misuse or for which financial reports were more than 120 days overdue. We selected these files based on a judgmental sample of files stored at the three VA regional offices we visited. We also collected and reviewed 12 on-site reviews of professional fiduciaries who managed funds for more than 20 beneficiaries with total combined benefits of at least $50,000. We chose these fiduciaries from our 32 site visit file reviews.

Finally, to gain further perspective on the program, we interviewed representatives from 10 veterans service organizations during our site

[8]See GAO/AIMD-00-21.3.1.

[9]We visited offices in the Southern, Western, and Eastern regions, but not the Central region.

visits and in Washington, D.C.,[10] and spoke to managers and staff at Fiduciary Program units in Oakland, California, and Baltimore, Maryland.

We conducted this performance audit from December 2008 to February 2010, 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[10]The American Legion, AMVETS, Catholic War Veterans of the USA, Inc., Disabled American Veterans, Florida Department of Veterans' Affairs, Military Order of the Purple Heart, Paralyzed Veterans of America, Utah Department of Veterans' Affairs, Veterans of Foreign Wars of the United States, and Vietnam Veterans of America.

Appendix II: Comments from the Department of Veterans Affairs

Department of Veterans Affairs
Office of the Secretary

January 29, 2010

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, ***VA's FIDUCIARY PROGRAM: Improved Compliance and Policies Could Better Safeguard Veterans' Benefits*** (GAO-10-241) and generally agrees with GAO's conclusions and concurs with GAO's recommendations to the Department.

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

Sincerely,

John R. Gingrich
Chief of Staff

Enclosure

Enclosure

Department of Veterans Affairs (VA) Comments to
Government Accountability Office (GAO) Draft Report
VA's FIDUCIARY PROGRAM: Improved Compliance and Policies Could Better Safeguard Veterans' Benefits
(GAO-10-241)

GAO Recommendation: To ensure that maximum efforts are made to safeguard beneficiary assets, we recommend that the Secretary of Veterans Affairs take steps to:

Recommendation 1: Ensure that policies regarding file documentation, follow-up with fiduciaries for late financial reports, and bond acquisition are understood and carried out by staff. This might be accomplished by increasing standardized training for staff, clarifying certain policies, and improving management review and oversight.

VA Comments: Concur. The Compensation and Pension (C&P) Service is preparing additional interim guidance and standardized national training, to include file documentation, account audits and appropriate follow-up, surety bonds, fiduciary appointments, and workload management. The guidance and training will also address policies and procedures involving fiduciary units. The standardized training will be provided to all fiduciary managers, field examiners, and legal instrument examiners nationwide and is scheduled to begin in March 2010.

The C&P Fiduciary Staff is revising the fiduciary policies and procedures in the manual M21-IMR, Part XI. The revision will clarify existing guidance, establish new policies and procedures, and enhance oversight of fiduciary activities. The manual revision is projected to be published by September 30, 2010.

The C&P Fiduciary Staff is also planning a Fiduciary Managers Training Conference for 2010 to provide in-depth training on workload management, misuse of funds, accounting follow-up, field examinations, surety bonds, and other fiduciary topics.

Recommendation 2: Improve the policies for periodic on-site reviews of professional fiduciaries by taking additional actions such as:

- Requiring a unique identifier for all fiduciaries to better determine which professional fiduciaries meet the criteria to have on-site reviews.
- Implementing a nationwide systematic quality review process to examine completed on-site review reports.

VA Comments: Concur. Measures requiring the entry of a social security number or tax identification number for each individual serving as a fiduciary are currently in place. The revised policy will require fiduciary units to obtain and enter this information for organizations and businesses that serve as fiduciaries, as well as individuals. Interim guidance and standardized training will be provided in March 2010. This guidance will later be incorporated into the revised manual.

1

Enclosure

Department of Veterans Affairs (VA) Comments to
Government Accountability Office (GAO) Draft Report
VA's FIDUCIARY PROGRAM: Improved Compliance and Policies Could Better Safeguard Veterans' Benefits
(GAO-10-241)

To provide oversight of onsite reviews, C&P Fiduciary staff conduct triennial site surveys of all fiduciary units. Beginning in October 2009, the site survey protocol for fiduciaries includes a requirement to assess on-site review records. The assessment is designed to ensure all necessary reviews are scheduled and conducted to confirm the adequacy of the reports. Additionally, at the onset of each fiscal year, each regional office fiduciary unit must submit a list of all on-site reviews to be conducted in that year. Effective March 31, 2010, all completed on-site review reports will be provided to C&P Service for review and analysis.

Recommendation 3: Evaluate alternative approaches to effectively and efficiently meet the electronic case management system needs of the Fiduciary Program managers and staff. This could include developing or acquiring a replacement system or enhancing the existing system.

VA Comments: Concur. VBA has established a workgroup to evaluate the current Fiduciary Beneficiary System and provide recommendations for either enhancing or replacing it. The workgroup will complete its findings and submit recommendations in June 2010.

Recommendation 4: Move forward with developing a plan to systematically evaluate the extent to which the Hub pilot project is addressing identified program weaknesses. This could include documenting lessons learned during implementation.

VA Comments: Concur. VBA will complete a full analysis of the Western Area Fiduciary Hub pilot by September 30, 2010. The analysis will address program weaknesses, as well as lessons learned.

Additional Comment:

VBA has concerns about the extrapolation of data across the population. The sample size of 205 cases does not provide for precise predictions about population of 106,000 beneficiaries. This sample is further stratified making the sample size for each strata about 100 cases, which is not sufficient to make estimations about population.

2

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

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

Staff Acknowledgments

In addition to the individual named above, Shelia Drake, Assistant Director; Nancy Cosentino; Laura Henry; Wiktor Niewiadomski; Nhi Nguyen; and Nyree Ryder Tee made significant contributions to this report. Roger Thomas provided legal assistance; Jim Ashley, Melinda Cordero, and Walter Vance provided assistance with design methodology and data analysis; and Kathleen Van Gelder assisted in report development.

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