



US DEPARTMENT OF VETERANS AFFAIRS **OFFICE OF INSPECTOR GENERAL**

Office of Audits and Evaluations

VETERANS BENEFITS ADMINISTRATION

The PACT Act Has Complicated Determining When Veterans' Benefits Payments Should Take Effect

BE A
VOICE FOR
VETERANS

REPORT WRONGDOING
vaoig.gov/hotline | 800.488.8244

OUR MISSION

To serve veterans and the public by conducting meaningful independent oversight of the Department of Veterans Affairs.

CONNECT WITH US



Subscribe to receive updates on reports, press releases, congressional testimony, and more. Follow us at @VetAffairsOIG.

PRIVACY NOTICE

In addition to general privacy laws that govern release of medical information, disclosure of certain veteran health or other private information may be prohibited by various federal statutes including, but not limited to, 38 U.S.C. §§ 5701, 5705, and 7332, absent an exemption or other specified circumstances. As mandated by law, the OIG adheres to privacy and confidentiality laws and regulations protecting veteran health or other private information in this report.



Executive Summary

In August 2022, the President signed into law the Honoring Our Promise to Address Comprehensive Toxics (PACT) Act of 2022.¹ This legislation significantly expanded access to VA health care and disability benefits for veterans exposed to burn pits, Agent Orange, and other toxic substances. It also further complicated the already difficult process for determining the date disability benefit payments begin, which is known as the effective date. The VA Office of Inspector General (OIG) conducted this review to determine whether claims processors are properly assigning effective dates when considering PACT Act–related claims.²

Federal law entitles veterans to compensation for service-connected conditions—that is, those incurred during or aggravated by active military service, as proven by facts and evidence.³ The Veterans Benefits Administration (VBA) administers these tax-free disability compensation benefits, which are overseen by its Compensation Service. In fiscal year 2023, VA provided compensation benefits to over 6.2 million recipients, with payments totaling about \$143 billion.

Veterans may be entitled to benefits on a direct or presumptive basis. For conditions with a direct service connection, the claimed disease or injury must have been incurred during active military service. Alternatively, VA automatically presumes certain disabilities were caused by a veteran's military service. When a presumed condition is diagnosed in a veteran who meets certain requirements, such as having served in a particular location, disability compensation benefits can be awarded. After a veteran submits a claim to VA, claims processors review it and help the veteran gather the evidence needed to evaluate the claim, including ordering medical exams and requesting medical opinions.⁴

When granting benefits, claims processors must determine and apply the most advantageous effective date allowed by law for each claim or benefit awarded.⁵ Claims processors make these

¹ Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022, Pub. L. No. 117-168.

² The OIG considered a claim to be PACT Act–related if it had a “special issue” indicator or if the claim decision contained the terms “PACT,” “TERA,” or “toxic.” A special issue is a claim-specific indicator that can represent a certain claim type, disability, disease, or another special notation that is relevant only to a particular claim. Appendix A provides additional information on the review's scope and methodology.

³ 38 U.S.C. § 1110; 38 U.S.C. § 1131; 38 C.F.R. § 3.303 (2024).

⁴ VA Manual 21-1, “Duty to Assist with Providing a Medical Examination or Opinion,” updated September 30, 2022, sec. IV.i.1.A in *Adjudication Procedures Manual*. Claims processors are members of an adjudication team that includes veterans service representatives, rating veterans service representatives, and others. They are responsible for the development, rating, and authorization activities necessary to process a VBA claim. VA Manual 21-1, “Structure of the Veterans Service Center (VSC),” updated January 24, 2022, sec. I.ii.1.A in *Adjudication Procedures Manual*.

⁵ VA Manual 21-1, “Effective Dates” updated March 31, 2023, sec. V.ii.4.A, in *Adjudication Procedures Manual*; 38 U.S.C. § 5110; 38 C.F.R. § 3.103(a) (2024). VA is obligated to grant “every benefit that can be supported in law while protecting the interests of the Government.”

determinations based on facts gathered while reviewing the evidence.⁶ The proper assignment of effective dates for disability compensation benefits is vital because it establishes the date from which the veteran will start receiving benefits. An incorrect effective date can have a substantial financial effect on veterans.

Three regulations implement the statutory structure for the assignment of effective dates when granting disability benefits:⁷

- The general guidelines for assigning effective dates for benefits are found in 38 C.F.R. § 3.400.⁸ This regulation allows for benefits to be granted from the later of the date entitlement arose or the date the claim was received.
- The provisions of 38 C.F.R. § 3.400 are complicated by veterans' right to express an "intent to file," as specified by 38 C.F.R. § 3.155.⁹ Veterans can notify VA that they intend to file a claim, and doing so gives veterans up to one year to submit the completed claim and preserves the intent to file date as the date the claim was received.
- Finally, claims processors must consider 38 C.F.R. § 3.114 when determining the correct effective date. This regulation may allow veterans to receive an earlier effective date than the date their claim was received if it is granted based on a liberalizing law—or one that brings about a substantive change in law, creating a new and different entitlement to a benefit. Under those circumstances, a veteran may be eligible to an effective date of up to a year in advance of VA receiving their claim, but not earlier than when the liberalizing law took effect.

Historically, assigning correct effective dates has been a long-standing challenge for VBA claims processors. Previous OIG reports identified issues with effective dates, and quality assurance reviews by VBA's Compensation Service have shown a failure to apply correct effective dates is consistently one of VBA's most problematic areas.¹⁰

The PACT Act complicated VBA's effective date determinations by adding locations, dates, and conditions presumed to be associated with certain types of exposures during military service, as well as lowering the requirements for some veterans exposed to toxins. For example, the PACT

⁶ VA Manual 21-1, "Effective Dates."

⁷ 38 U.S.C. § 5110(a) and (b); 38 C.F.R. §§ 3.400 (2024), 3.155 (2024), and 3.114 (2024).

⁸ 38 C.F.R. § 3.400.

⁹ 38 C.F.R. § 3.155. An "intent to file" indicates a veteran's desire to file a claim for benefits and can be submitted electronically, by written form, or orally to designated VA personnel who then record the intent in writing. VA Manual 21-1, "Intent to File (ITF)," updated June 14, 2023, sec. II.iii.2.A., in *Adjudication Procedures Manual*.

¹⁰ VA OIG, [Accuracy of Claims Involving Service-Connected Amyotrophic Lateral Sclerosis](#), Report No. 18-00031-05, November 20, 2018; VA OIG, [Accuracy of Effective Dates for Reduced Evaluations Needs Improvement](#), Report No. 17-05244-226, August 29, 2018; VA OIG, [Processing Inaccuracies Involving Veterans' Intent to File Submissions for Benefits](#), Report No. 17-04919-210, August 21, 2018.

Act expanded locations associated with radiation exposure. The PACT Act also modified the threshold for getting medical exams and opinions for veterans who had evidence of disability and participation in an activity known to pose a risk of toxic exposure—also called a toxic exposure risk activity (TERA). An example of a TERA would be a veteran exposed to drinking water with potentially cancer-causing chemicals while on active-duty deployment. Because the toxic exposure is consistent with the veteran's military service, VA would provide a medical exam and a medical opinion on whether the veteran's disease is related to the exposure.

These substantive changes make the PACT Act a liberalizing law and have a significant impact on how VBA assigns effective dates. When a veteran files a claim that is potentially subject to a PACT Act provision, claims processors must consider whether

- the general provisions for assigning effective dates under 38 C.F.R. § 3.400 apply;
- the veteran notified VA of their intent to file; and
- the liberalizing law provisions of 38 C.F.R. § 3.114 apply—potentially allowing the assignment of an effective date as early as August 10, 2022, the date the PACT Act was signed into law.

What the Review Found

To assess whether VBA accurately assigned effective dates when granting service-connected benefits to veterans, the OIG team reviewed how accurately VBA processed a statistical sample of 100 PACT Act–related claims completed during the one-year period of August 10, 2022, through August 9, 2023.¹¹

Based on its sample review, OIG estimated that about 31,400 of the 131,000 PACT Act–related claims (24 percent) that VBA completed in that time frame had errors in the assigned effective date. The OIG determined an estimated 26,100 of those claims resulted in at least \$6.8 million in improper payments.¹² Furthermore, the OIG estimated at least another 2,300 decisions had the potential to affect veterans' benefits, but the review team could not determine the monetary impact of these errors. Errors that had the potential to affect veterans' compensation benefits payments occurred when claims processors decided claims before taking all the necessary steps, such as gathering additional evidence, to determine whether a more advantageous effective date applied. As a result, some veterans did not receive their correct benefit payments.

¹¹ The team selected its sample by identifying claims with a PACT Act special issue for which service connection was granted, and any claims in which the terms "PACT," "TERA," or "toxic" appeared in the description or the rating decision narrative. See appendix A for more details on the review's scope and methodology and appendix B for an explanation of the review's statistical sampling methodology.

¹² The Office of Management and Budget (OMB) defines federal payments as improper when they are for an incorrect amount, paid to an ineligible recipient, or issued without adequate supporting documentation, OMB, "Requirements for Payment Integrity Improvement," app. C in OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, March 5, 2021.

If VBA continues to make errors at the same rate identified and at the payment rates in effect at the time of this review, it risks making an estimated \$20.4 million or more in improper disability benefit payments through August 9, 2025.¹³ But if VBA implements the OIG's recommendations, or other mitigation efforts to improve the correct assignment of effective dates, it could improve the accuracy of these decisions and reduce any future payment errors, resulting in a lower potential monetary impact.

Although determining correct effective dates for PACT Act–related claims is inherently complicated for claims processors, VBA did not effectively prepare them to incorporate the PACT Act changes. VBA did not provide detailed guidance about effective dates in its PACT Act–related standard operating procedure, its two tools were unreliable for determining effective dates, and it did not initially provide staff with necessary training.

When claims processors review a potential PACT Act–related claim, they need to consider many factors, and they are required to select the effective date most advantageous to the veteran for each benefit granted.¹⁴ Depending on the facts and circumstances of a veteran's military service and the disabilities being claimed, there could be multiple effective date options from which to choose. Claims processors, quality review specialists, and quality assurance staff—as well as the executive director of VBA's Compensation Service—told the OIG team that the implementation of the PACT Act further complicated this task.

To address the PACT Act's complexity, VBA created guidance, tools, and training. This included an information page with resources to process PACT Act–related claims and a standard operating procedure.¹⁵ Despite the importance of correctly applying the liberalizing law provisions of 38 C.F.R. § 3.114 to PACT Act–related claims, the standard operating procedure provided only an electronic link to the regulation. The procedure did not elaborate and provide specific examples on the regulatory requirements in 38 C.F.R. § 3.114 or how it should be applied, such as the requirement that evidence must show a veteran met all eligibility criteria on the date the liberalizing law took effect.

The two tools VBA has available to assist claims processors in determining when a veteran's entitlement to benefits starts are also not reliable. One of these tools is outdated and does not contain the functionality to correctly determine effective dates for PACT Act–related claims, and the other cannot account for recent changes in law, such as those made by the PACT Act.

¹³ The estimate is an extrapolation of the one-year estimate of at least \$6.8 million in improper payments. See appendix C for more information regarding monetary benefits in accordance with section 405 of the Inspector General Act.

¹⁴ VA Manual 21-1, "Effective Dates."

¹⁵ VBA, "Public Law (PL) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 (PACT Act) Implementation Standard Operating Procedure (SOP)," January 1, 2023.

Finally, VBA's initial PACT Act training lacked sufficient details or examples illustrating the impact the law would have on assigning effective dates. VBA staff at all levels said they could benefit from more training on determining correct effective dates. Managers said repetitive or refresher trainings tailored to the challenges presented by PACT Act–related claims with respect to effective dates would also be beneficial.

Since the PACT Act took effect in August 2022, VBA has tried to address recurring issues with staff assigning incorrect effective dates. These solutions include conducting a special-focused review, starting to update one of its tools, providing updated training, and issuing a job aid about all presumptive disabilities. The OIG team did not determine the impact or effectiveness of these efforts because VBA started them after the team performed its scope of work for this review.¹⁶

What the OIG Recommended

The OIG recommended the under secretary for benefits create a job aid for claims processors on how to determine the correct effective date for PACT Act–related claims; remove the outdated effective date builder from VBA's internal job aids page and continue updating the Veterans Benefits Management System-Rating effective date builder to add functionality that applies liberalizing laws on claims when VBA receives an intent to file and when service connection is based on a TERA; evaluate PACT Act refresher training by monitoring the results to assess the effectiveness of the training; and correct all processing errors on cases identified by the review team and report the results to the OIG.¹⁷

VA Management Comments and OIG Response

The acting under secretary for benefits concurred with all six recommendations and provided responsive action plans. The action plans included creating a job aid for claims processors, clarifying that the effective date builder on VBA's job aids page is historical and notifying claims processors that it should not be used for decision-making purposes, updating the Veterans Benefits Management System (VBMS)-Rating system effective date builder to add functionality, and evaluating PACT Act refresher training by monitoring the results to assess its effectiveness. VBA will also review and correct the 24 cases identified by the OIG. VBA estimates that all action plans will be completed by July 31, 2025.

The OIG acknowledges that the scope of this review was the first year after the PACT Act was passed and that, since then, VBA has undertaken some steps to identify and remediate deficiencies identified in this report. The OIG provided responses to general comments on

¹⁶ Special-focused reviews are done as needed to ensure consistency and compliance based on current policy and procedures; they focus on identified areas of interest. The reviews help ensure accuracy by identifying inconsistencies so that timely feedback is disseminated and training needs are met.

¹⁷ The recommendations addressed to the under secretary for benefits are directed to anyone in an acting status or performing the delegable duties of the position.

page 20 of this report and responses to technical comments on pages 19 through 21.¹⁸ The full text of all action plans and comments is included in appendix D.

The OIG believes the actions taken by VBA are generally responsive to the recommendations and will continue to evaluate VBA's actions and processes associated with the assignment of effective dates for PACT Act-related claims. The OIG will close the recommendations upon receipt of sufficient evidence demonstrating progress in addressing the issues identified.



LARRY M. REINKEMEYER
Assistant Inspector General
for Audits and Evaluations

¹⁸ In response to the six technical comments, the OIG made some, but not all, of the suggested changes. In some instances, the OIG determined no change to the report language was necessary.

Contents

Executive Summary	i
Abbreviations	viii
Introduction.....	1
Results and Recommendations	6
Finding: PACT Act Changes Have Complicated Assigning Correct Effective Dates, Resulting in Errors that Affect Veterans' Benefits	6
Recommendations 1–6	18
Appendix A: Scope and Methodology	22
Appendix B: Statistical Sampling Methodology	24
Appendix C: Monetary Benefits in Accordance with Inspector General Act Amendments	28
Appendix D: VA Management Comments	29
OIG Contact and Staff Acknowledgments	34
Report Distribution	35

Abbreviations

OIG	Office of Inspector General
PACT Act	Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022
TERA	toxic exposure risk activity
VBA	Veterans Benefits Administration
VBMS	Veterans Benefits Management System



Introduction

In August 2022, the President signed into law the Honoring Our Promise to Address Comprehensive Toxics (PACT) Act of 2022.¹⁹ This legislation significantly expanded access to VA health care and disability benefits for veterans exposed to burn pits, Agent Orange, and other toxic substances. It also further complicated the already difficult process for determining the date benefit payments begin, also known as the effective date. The VA Office of Inspector General (OIG) conducted this review to determine whether claims processors are properly assigning effective dates when considering PACT Act–related claims.²⁰

Disability Benefits and Claims Processing

Federal law entitles veterans to compensation for diseases or injuries incurred during or aggravated by active military service, as proven by facts and evidence.²¹ The Veterans Benefits Administration (VBA) administers tax-free disability compensation benefits, which are overseen by its Compensation Service. In fiscal year 2023, VA provided compensation benefits to over 6.2 million recipients, with payments totaling about \$143 billion. Disability compensation claims are processed by VBA staff in veterans service centers. After a veteran submits a claim to VA, claims processors review it and help the veteran gather the evidence needed to evaluate the claim, including ordering medical exams and requesting medical opinions.²² Claims processors use a procedures manual as a guide to assist them in analyzing the evidence and deciding claims.²³

When veterans file a claim for disability benefits, claims processors must consider many avenues for determining service connection. For example, veterans may be entitled to benefits for

¹⁹ Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act of 2022, Pub. L. No. 117-168.

²⁰ The OIG considered as PACT Act–related any claims VBA indicated were PACT Act–related using a “special issue” claims indicator and any claims in which the decision contained the following terms: “PACT,” “TERA,” or “toxic.” Further information on scope is contained in appendix A.

²¹ 38 U.S.C. § 1110; 38 U.S.C. § 1131; 38 C.F.R. § 3.303 (2024).

²² VA Manual 21-1, “Duty to Assist with Providing a Medical Examination or Opinion,” updated September 30, 2022, sec. IV.i.1.A in *Adjudication Procedures Manual*. Claims processors are members of an adjudication team that includes veterans service representatives, rating veterans service representatives, and others. They are responsible for the development, rating, and authorization activities necessary to process a VBA claim. VA Manual 21-1, “Structure of the Veterans Service Center (VSC),” updated January 24, 2022, sec. I.ii.1.A in *Adjudication Procedures Manual*.

²³ VA Manual 21-1, Prologue, in *Adjudication Procedures Manual*, updated August 9, 2022. The *Adjudication Procedures Manual* is based on the laws and regulations set forth in Title 38 of the United States Code and Title 38 of the Code of Federal Regulations, the legal authority governing VA benefits.

service-connected conditions on a direct or presumptive basis.²⁴ To receive compensation on a direct basis, a veteran must have incurred the claimed disease or injury during active military service. This must be proven by showing an event, injury, or disease was documented during the veteran's military service and that there is a link between the veteran's current condition and in-service occurrence.²⁵ Additionally, VA automatically presumes certain disabilities were caused by a veteran's military service. When a presumed condition is diagnosed in a veteran who meets certain requirements, such as having served in a particular location, disability compensation benefits can be awarded.²⁶

Process for Determining the Correct Effective Date

VBA's procedures manual explains that claims processors are required to determine and apply the most advantageous effective date available under law to the veteran for each claim or benefit awarded.²⁷ Claims processors make these determinations based on facts gathered while reviewing the evidence.²⁸ The proper assignment of effective dates for disability benefits is vital, as it establishes the date from which the veteran will start receiving benefits. Incorrect effective dates can have a substantial financial effect on veterans.

Three regulations implement the statutory structure for the assignment of effective dates when granting claims for disability benefits.²⁹

- 38 C.F.R. § 3.400
- 38 C.F.R. § 3.155
- 38 C.F.R. § 3.114

The general guidelines for assigning effective dates for benefits are found in 38 C.F.R. § 3.400. Normally, when assigning effective dates for new claims, claims processors apply the date the claim was received or the date the "entitlement arose"—whichever is later.³⁰ Federal regulations do not define the date an entitlement arose, but VBA's procedures manual defines it as the day when the facts show "the entitling criteria are first met."³¹ For instance, when conditions have a

²⁴ VA Manual 21-1, "Direct Service Connection (SC) and Service Incurrence of an Injury," updated September 15, 2021, sec. V.ii.2.A.1.a. in *Adjudication Procedures Manual*; VA Manual 21-1, "Presumptive Service Connection," updated August 2, 2022, sec. V.ii.2.B.1.a in *Adjudication Procedures Manual*.

²⁵ VA Manual 21-1, "Direct Service Connection (SC) and Service Incurrence of an Injury."

²⁶ VA Manual 21-1, "Presumptive Service Connection."

²⁷ VA Manual 21-1, "Effective Dates" updated March 31, 2023, sec. V.ii.4.A, in *Adjudication Procedures Manual*; 38 U.S.C. § 5110; 38 C.F.R. § 3.103(a) (2024). VA is obligated to grant "every benefit that can be supported in law while protecting the interests of the Government."

²⁸ VA Manual 21-1, "Effective Dates."

²⁹ 38 U.S.C. § 5110(a) and (b); 38 C.F.R. §§ 3.400 (2024), 3.155 (2024), and 3.114 (2024).

³⁰ 38 C.F.R. § 3.400.

³¹ 38 C.F.R. § 3.400(b)(2) (2024). VA Manual 21-1, "Effective Dates."

direct service connection, the effective date is either the day following the veteran's separation from active service (if the claim is received within a year after separation) or the latter of two dates: when VA received the claim or when the entitlement criteria are met.³²

The provisions of 38 C.F.R. § 3.400 are further complicated by veterans' right to express their intent to file, as specified by 38 C.F.R. § 3.155.³³ Veterans can notify VA that they intend to file a claim; doing so gives veterans up to one year to submit the completed claim and preserves the intent to file date as the date the claim was received.

Finally, claims processors must consider 38 C.F.R. § 3.114 when determining the correct effective date. This regulation may allow veterans to receive an earlier effective date than the date of their claim if their claim is granted based on a liberalizing law—or one that brings about a substantive change in law, creating a new and different entitlement to a benefit. In such circumstances, a veteran may have an effective date up to a year before the date of their claim, but no earlier than the date the liberalizing law took effect. Specifically, the law says the evidence must show the veteran was eligible for the benefit on the date the liberalizing law took effect and that such eligibility existed continuously from that date to the date VA received the claim. In that case, two possibilities follow:

- If a veteran files a claim within a year of the date a liberalizing law took effect, benefits can be paid from the date of the law change.
- If a veteran files a claim more than one year after the liberalizing law took effect, benefits can be paid one year before the date VA received the claim.

Assignment of Effective Dates Before the PACT Act

Even before the PACT Act took effect in August 2022, assigning correct effective dates was challenging for VBA's claims processors. Quality assurance reviews by VBA's Compensation Service have shown errors in effective dates have been one of the top three rating error categories since fiscal year 2011.³⁴ For example, in the last fiscal year before the PACT Act, 167 of the 905 identified errors (18 percent) involved some type of effective date error. This weakness was also evident in the fiscal year 2023 report, which included nine months of processing PACT Act–related claims. Of the 1,010 identified errors, 250 involved an effective date error (25 percent).

³² 38 C.F.R. § 3.303 (2024). VA Manual 21-1, "Effective Dates."

³³ 38 C.F.R. § 3.155(b). An intent to file indicates a veteran's desire to file a claim for benefits and can be submitted electronically, by written form, or orally to designated VA personnel who then record the intent in writing. VA Manual 21-1, "Intent to File (ITF)," updated June 14, 2023, sec. II.iii.2.A., in *Adjudication Procedures Manual*.

³⁴ Each month, VBA's quality assurance team uses a random, statistically valid sample of claims completed by all regional offices.

The OIG has also identified recurring problems with VBA's assigning of incorrect effective dates.³⁵ In 2018, OIG reports noted that claims processors are challenged by the complexity of the rules governing the dates, infrequent application of the rules regarding assignment of some effective dates, and inadequacies of the claims-processing system. Although these reports focused on other issues, the OIG also observed an impact from inaccuracies related to the assignment of effective dates.

Assignment of Effective Dates Under the PACT Act

The PACT Act complicated effective date determinations by adding locations, conditions, and activities presumed to be associated with certain types of exposures during military service. For example, the PACT Act expanded locations associated with radiation exposure, as well as presumptive conditions and locations associated with herbicide exposure. These substantive changes make the PACT Act a liberalizing law and have a significant impact on the assignment of effective dates. A December 22, 2022, VBA letter regarding the processing of PACT Act claims provided to all VBA services, staff offices, and regional offices confirmed that the liberalizing law provisions of 38 C.F.R. § 3.114 apply to PACT Act-related claims.³⁶

For instance, for Gulf War-era veterans, the PACT Act added locations for presumptive consideration. For veterans who have Gulf War-related illnesses, these locations include Afghanistan, Egypt, Israel, Jordan, Syria, and Turkey.³⁷ For veterans who were exposed to fine particulate matter, these locations include Egypt, Lebanon, Yemen, Somalia, and Jordan. Additionally, the PACT Act added many new presumptive conditions including head cancer, melanoma, chronic obstructive pulmonary disease, and sarcoidosis.³⁸

For Vietnam War-era veterans, the PACT Act added locations to qualify for presumptive conditions due to exposure to herbicides. These include any service within the specified dates at any US or Royal Thai base or in American Samoa, Guam, Laos, or certain places in Cambodia. The PACT Act also added two presumptive conditions for herbicide-exposed veterans: hypertension and monoclonal gammopathy of undetermined significance.³⁹

Finally, the PACT Act also changed the threshold for getting medical exams and medical opinions for all veterans who have evidence of disability and participation in a toxic exposure

³⁵ VA OIG, [Accuracy of Claims Involving Service-Connected Amyotrophic Lateral Sclerosis](#), Report No. 18-00031-05, November 20, 2018; VA OIG, [Accuracy of Effective Dates for Reduced Evaluations Needs Improvement](#), Report No. 17-05244-226, August 29, 2018; VA OIG, [Processing Inaccuracies Involving Veterans' Intent to File Submissions for Benefits](#), Report No. 17-04919-210, August 21, 2018.

³⁶ VBA Letter 20-22-10, "Processing Claims Involving Public Law 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 (hereinafter referred to as "PACT Act")," December 22, 2022.

³⁷ PACT Act § 405, 38 U.S.C. § 1117.

³⁸ PACT Act § 406, 38 U.S.C. § 1120.

³⁹ PACT Act §§ 403 and 404, 38 U.S.C. § 1116.

risk activity (TERA). For veterans who meet these criteria, VA must provide a medical exam and a medical opinion on whether it was at least as likely as not that there is a link between the veteran's disability and the TERA.⁴⁰ An example of a TERA would be a veteran who files a claim for a nonpresumptive cancer but who has military service records showing they were exposed to potentially cancer-causing chemicals—such as polyfluoroalkyl substances—in drinking water during an active-duty deployment. Because the toxic exposure is consistent with this military service, a medical exam and opinion on whether the cancer is related to this exposure would be warranted.

When a veteran files a claim that may fall under a PACT Act provision, VBA's claims processors must consider

- how to apply the general provisions for assigning effective dates under 38 C.F.R. § 3.400;
- whether the veteran filed an intent to file, as specified by 38 C.F.R. § 3.155; and
- whether the liberalizing law provisions of 38 C.F.R. § 3.114 apply—which would potentially allow an effective date as early as August 10, 2022, the date the PACT Act was signed into law.

⁴⁰ PACT Act § 303, 38 U.S.C. § 1168.

Results and Recommendations

Finding: PACT Act Changes Have Complicated Assigning Correct Effective Dates, Resulting in Errors that Affect Veterans' Benefits

The OIG estimated that about 31,400 of the 131,000 veterans' benefits claims (24 percent) related to the PACT Act that VBA completed from August 10, 2022, through August 9, 2023, had errors in the assigned effective date.⁴¹ Of those, the OIG deduced that 26,100 claims with effective date errors resulted in at least \$6.8 million in improper payments to veterans over the one-year period reviewed.⁴² At least another 2,300 decisions were estimated to have the potential to affect veterans' benefits—although in these cases, the review team had insufficient information to determine the monetary impact of the errors.⁴³ Errors that had the potential to affect veterans' compensation payments happened because claims processors failed to take the steps necessary to gather additional evidence to determine whether a more advantageous effective date might apply.⁴⁴

Although it is inherently complicated for claims processors to determine correct effective dates for PACT Act–related claims, VBA failed to effectively prepare them to incorporate PACT Act changes. The guidance that claims processors use lacks specificity, two tools meant to determine effective dates are unreliable, and VBA did not provide staff with the necessary training on how to determine correct effective dates for PACT Act–related claims. As a result, some veterans did not receive their correct benefit payments. These included both over and underpayments.

If VBA continues to make errors at the same rate identified in the sample and at the payment rates in effect at the time of this review, it risks making an estimated \$20.4 million or more in improper disability benefit payments from August 10, 2022, through two years following the end

⁴¹ See appendix A for details regarding this review's scope and methodology.

⁴² The Office of Management and Budget (OMB) defines federal payments as improper when they are for an incorrect amount, paid to an ineligible recipient, or issued without adequate supporting documentation, OMB, "Requirements for Payment Integrity Improvement," app. C in OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, March 5, 2021.

⁴³ The estimated 26,100 claims with incorrect effective dates and the at least 2,300 claims that were potentially entitled to an earlier effective date do not total 31,400. Confidence interval bounds cannot be summed together to get a total. The confidence interval defined by the one-sided lower bound for the errors with potential entitlement to an earlier effective date gives a conservative estimate for the total value at the 90 percent confidence level. See appendix B for more information on the team's statistical sampling methodology.

⁴⁴ When veterans file claims for disability benefits, many factors—or bases for entitlement—may support service connection. These may be based on inception during service, aggravation during service, or the application of statutory presumptions—all which must be considered by claims processors based on a review of all the evidence of record. 38 C.F.R. § 3.303(a) (2024).

of the review period.⁴⁵ But if VBA implements the OIG's recommendations, or other mitigation efforts improve the correct assignment of effective dates, it could improve the accuracy of these decisions and reduce any future payment errors, resulting in a lower potential monetary impact.

The finding is based on the following determinations:

- Claims processors did not always assign correct effective dates for PACT Act–related claims.
- VBA did not effectively prepare claims processors to navigate the increased complexities associated with determining effective dates for PACT Act–related claims.

What the OIG Did

To assess whether VBA accurately assigned effective dates when granting service-connected benefits to veterans, the OIG team reviewed applicable laws, regulations, and procedural guidance. The team then assessed the processing accuracy of a statistically selected sample of 100 PACT Act–related claims completed during the one-year period of August 10, 2022, through August 9, 2023. The sample consisted of claims with a PACT Act special issue for which service connection was granted and any claims in which the terms “PACT,” “TERA,” or “toxic” appeared in the description or the rating decision narrative.⁴⁶ To understand VBA's guidance for assigning effective dates to PACT Act–related claims, the team interviewed staff at the Providence, Rhode Island and Detroit, Michigan VA regional offices, as well as VA central office staff. See appendix A for more details regarding the review's scope and methodology.

Claims Processors Did Not Always Assign Correct Effective Dates for PACT Act–Related Claims

In nearly one-quarter of cases, the OIG found claims processors did not correctly assign the effective date, or take all necessary steps to do so, when granting veterans' benefits for PACT Act–related claims. The OIG team made this determination by assessing whether claims processors followed VBA regulations, policies, and procedures—specifically the three regulations discussed previously (38 C.F.R. §§ 3.400, 3.155, and 3.114).

⁴⁵ The estimate is an extrapolation of the one-year estimate of at least \$6.8 million in improper payments as noted in appendix C. It is for the review period from August 10, 2022, through two years following the end of the review period. See appendix C for more information regarding monetary benefits in accordance with section 405 of the Inspector General Act.

⁴⁶ A special issue is a claim-specific indicator that can represent a certain claim type, disability, disease, or another special notation. VBA used the special issue “PACT” to identify a claim related to the PACT Act.

Of the estimated 31,400 errors the OIG identified, two types of errors were prominent in the sample:

1. **Incorrect effective dates assigned.** Claims processors assigned a date determined by the OIG to violate a provision of law or regulation.
2. **Potential entitlement to more advantageous effective dates.** Veterans were potentially entitled to an earlier effective date on a basis of entitlement that claims processors did not pursue. Had they gathered necessary evidence, it could have resulted in a more advantageous effective date being assigned to the veteran's claim—and, therefore, resulted in veterans receiving benefit payments starting from an earlier date.

One example of an effective date error occurs when staff misapply the regulation governing the assignment of an effective date based on a liberalizing law (38 C.F.R. § 3.114). This regulation requires evidence that the veteran met all eligibility criteria when the law took effect to qualify for an earlier effective date. But in the OIG's review, the team found earlier effective dates were assigned without evidence that the veteran met this requirement. Therefore, a retroactive effective date should not have been assigned. Example 1 highlights this scenario.

Example 1

A veteran filed a claim on April 21, 2023, for rhinitis. The veteran was discharged from service on April 11, 2019, and had served in Afghanistan, which met the requirement for consideration of a presumptive service connection. The medical evidence of record, including service treatment records, did not show any diagnosis of or treatment for rhinitis prior to the date VA received the veteran's claim—ruling out consideration of a direct service connection. The medical evidence also ruled out entitlement to a retroactive effective date based on 38 C.F.R. § 3.114, as there was no evidence of the disability on the date the PACT Act took effect (August 10, 2022). A VA exam was requested and completed on June 12, 2023, noting the first diagnosis of unspecified rhinitis. A rating decision granted presumptive service connection for rhinitis with an effective date of August 10, 2022, based on 38 C.F.R. § 3.114. But the correct effective date should have been April 21, 2023—when the claim was received—based on the general rule in 38 C.F.R. § 3.400.

As discussed, claims processors are required to assign the most advantageous date allowed by law when granting benefits.⁴⁷ But the team found errors also occurred when claims processors failed to take the steps necessary to gather additional evidence to determine whether an earlier effective date could be granted, as detailed in example 2.

⁴⁷ VA Manual 21-1, "Effective Dates"; 38 U.S.C. § 5110.

Example 2

A veteran who served in Southwest Asia filed a claim for compensation for chronic obstructive pulmonary disease and chronic bronchitis on May 31, 2022. Medical records showed the veteran was diagnosed with chronic obstructive pulmonary disease before August 10, 2022, the date the PACT Act was signed. The veteran's service treatment records showed evidence of bronchitis, upper respiratory infection, cough, and sinusitis. Although this evidence was documented during the veteran's active duty and the claim was received before the law took effect, the claims processor did not explore entitlement on the basis of a direct service connection. Instead, the claims processor granted service connection on a presumptive basis from the date of the law change (August 10, 2022) pursuant to 38 C.F.R. § 3.114. Yet an earlier effective date of May 31, 2022, might have been possible based on 38 C.F.R. § 3.400 under the provisions of a direct service connection. The claims processor should have gathered more evidence to determine whether the veterans' symptoms while serving were related to his current condition and perhaps warranted a more advantageous effective date.

VBA Did Not Effectively Prepare Claims Processors to Navigate the Increased Complexities Associated with Determining Effective Dates for PACT Act–Related Claims

Determining an effective date can be challenging, and the PACT Act further complicated this process by making substantial changes to numerous existing laws, as well as lowering the examination threshold for veterans who participated in a TERA. To determine the most advantageous effective date, claims processors must resolve numerous questions. But VBA does not have a comprehensive list of questions, a job aid, or a guide for claims processors to use in considering all the nuances that could influence an effective date determination. Figure 1 illustrates some questions that claims processors may consider when determining an effective date for a PACT Act–related claim.

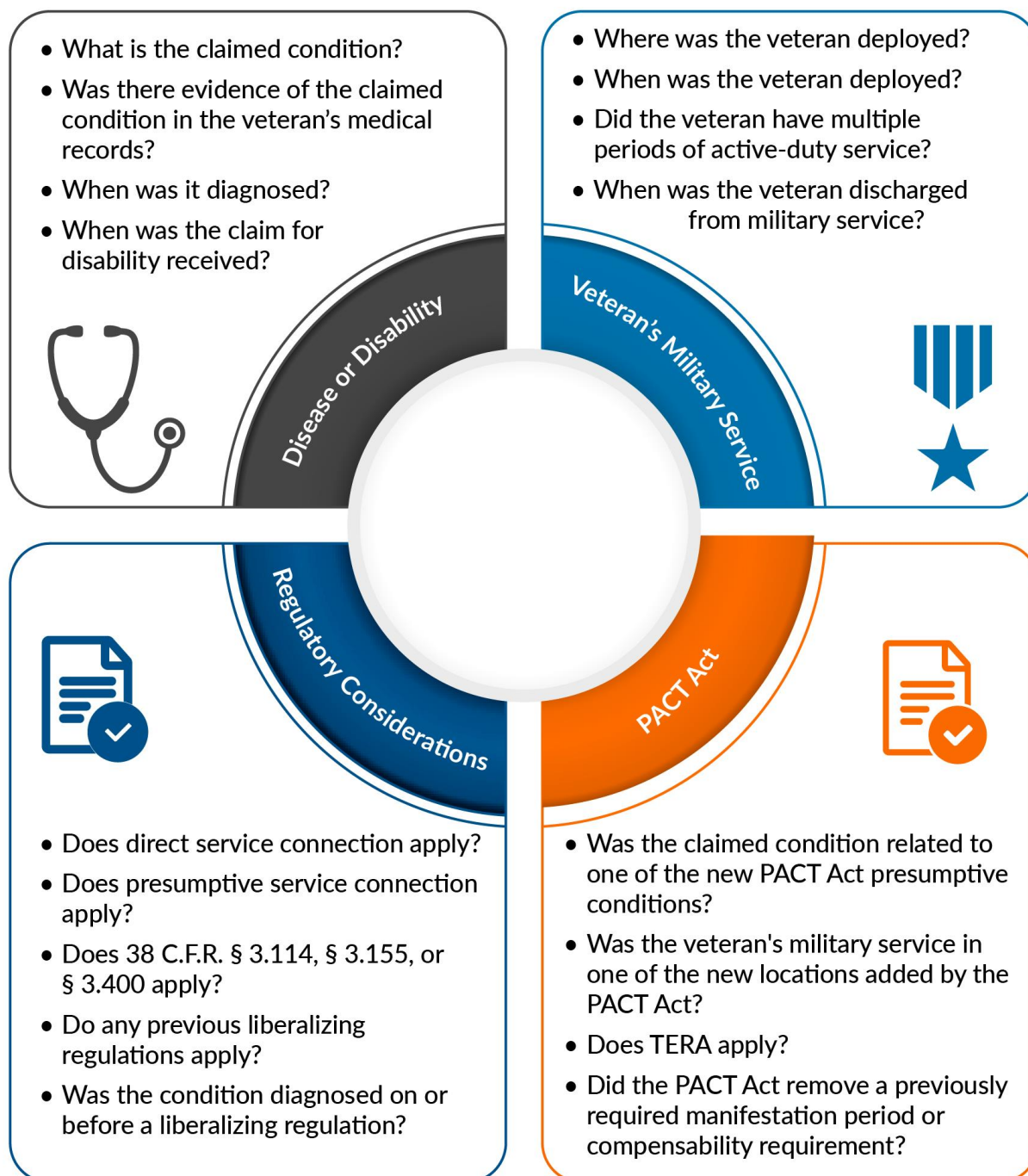


Figure 1. Claims processors' effective date considerations.

Source: VA OIG analysis of considerations claims processors must make when determining an effective date.

Note: The questions shown are not an exhaustive list and are listed in no particular order.

One example that highlights the complexity the PACT Act brought to assigning correct effective dates involves the evolution of 38 C.F.R. § 3.320—a liberalizing regulation that expanded

benefits for veterans who were exposed to fine particulate matter while serving overseas.⁴⁸ This regulation took effect on August 5, 2021, and was updated on April 26, 2022, and then again on August 10, 2022, when the PACT Act was signed into law.⁴⁹ All three iterations happened within about one year.

Initially, 38 C.F.R. § 3.320 provided presumptive service connection for eligible veterans diagnosed with asthma, rhinitis, and sinusitis. The regulation was then amended to add rare cancers associated with fine particulate matter. The PACT Act subsequently expanded the presumption of exposure from only fine particulate matter to substances, chemicals, and airborne hazards, and it also added service locations and presumptive conditions for Gulf War veterans.

Because 38 C.F.R. § 3.114 applies to all liberalizing regulations, claims processors were required to consider each iteration of 38 C.F.R. § 3.320 when determining effective dates—not just changes made by the PACT Act. Failure to carefully analyze the various provisions of this regulation and the dates they took effect may result in an incorrect effective date determination. Example 3 highlights a situation where a claims processor failed to consider whether an earlier effective date could have been warranted under an earlier iteration of the regulation.

Example 3

On August 23, 2022, a veteran who served in Southwest Asia filed a claim for respiratory conditions. The veteran was discharged from service on February 19, 1994. Certain respiratory conditions are governed by the presumptive criteria of 38 C.F.R. § 3.320, which took effect August 5, 2021. Medical records showed the veteran met all eligibility criteria for the respiratory condition on that date. A rating decision granted service connection with an effective date of August 23, 2022, based on the general provisions under 38 C.F.R. § 3.400. But the veteran was eligible to be considered for an earlier effective date based on the liberalizing law provisions of 38 C.F.R. § 3.114. The veteran's effective date should have been August 23, 2021—one year earlier than the date of claim. This error resulted in an underpayment of about \$3,200 in benefits to the veteran.⁵⁰

⁴⁸ This regulation was published to provide health care, services, and benefits to Gulf War veterans who were exposed to fine particulate matter related to their deployment to Southwest Asia, as well as Afghanistan, Djibouti, Syria, and Uzbekistan. 38 C.F.R. § 3.320 (2024).

⁴⁹ 38 C.F.R. § 3.320 (2021, 2022, and 2024).

⁵⁰ For example 3, the potential effective dates to consider are February 20, 1994 (the day following the veteran's military discharge); August 23, 2021 (one year prior to the date VA received the veteran's claim, as potentially allowable under the liberalizing law provisions); and August 23, 2022 (the date VA received the veteran's claim). Determination of the correct effective date would depend on when the veteran was discharged from military service, the medical evidence, when the veteran filed the claim, what disability the veteran claimed, and to what extent any laws or regulations apply, such as the PACT Act.

In addition to adding new presumptive conditions and expanding applicable locations for some already established presumptive conditions, the PACT Act also lowered the threshold for exams and medical opinions for veterans who participated in any activity known to pose a risk of toxic exposure (a TERA). The liberalizing law provisions of 38 C.F.R. § 3.114 apply to any grants based on this lowered examination threshold. When a veteran has participated in a TERA, claims processors must consider not only whether one of the PACT Act conditions or preceding liberalizing presumptive conditions applies but also whether a direct service connection based on the TERA allows for an earlier effective date, as illustrated in example 4.

Example 4

A veteran submitted a claim on March 10, 2023, for erectile dysfunction. The veteran was discharged from service on April 26, 1966, and had served in Guam. The veteran claimed exposure to herbicides while stationed in Guam, and evidence showed treatment for and a diagnosis of the condition in 2014. Although there was no evidence of erectile dysfunction during the veteran's service, the evidence of record showed the veteran participated in a TERA. Therefore, a VA exam and medical opinion were requested and completed on May 15, 2023. The veteran was diagnosed with erectile dysfunction, and an opinion found the condition was at least as likely as not caused by the veteran's in-service toxic exposure. Service connection was granted for erectile dysfunction effective March 10, 2023, the date VA received the claim, based on 38 C.F.R. § 3.400. But the correct effective date should have been August 10, 2022—the date the PACT Act was signed—as the evidence showed the veteran met all eligibility criteria on that date, and the claim was received within one year of the law's enactment.⁵¹

During interviews conducted by the team, all claims processors and quality review specialists in the two VA regional offices, as well as all Compensation Service quality assurance special review staff, said the implementation of the PACT Act made determining correct effective dates more complex. The executive director of VBA's Compensation Service expressed a similar view when asked about claims processors struggling with applying correct effective dates. She described the PACT Act as big and sweeping with “so many categories of” new presumptive conditions and new, complex concepts and situations introduced at the same time.

⁵¹ For example 4, the potential effective dates are April 27, 1966 (the day following the veteran's military discharge); January 17, 2014 (the date of diagnosis); August 10, 2022 (the date the PACT Act took effect); and March 10, 2023 (the date VA received the claim). Determination of the correct effective date would depend on when the veteran was discharged from military service, the medical evidence, when the veteran filed the claim, what disability the veteran claimed, and to what extent any laws or regulations apply, such as the PACT Act.

But VBA fell short in preparing claims processors to meet the challenges PACT Act–related claims posed, particularly around determining effective dates. It did not provide detailed guidance in the PACT Act standard operating procedure; it allowed two tools to coexist, both of which had significant shortcomings that made them unreliable and inaccurate; and it did not provide necessary training.

The Guidance on Effective Dates in VBA's PACT Act Standard Operating Procedure Was Vague

To deal with the PACT Act's complexity, VBA created an internal information web page with staff resources to process PACT Act claims, including a standard operating procedure.⁵² This document provides information and guidance for claims processors on how to handle PACT Act–related claims and is organized under discrete topics, each relating to specific changes the act made.⁵³ Most claims processors the OIG team spoke to said they use the standard operating procedure when processing PACT Act–related claims. The first two versions, which were applicable during the scope of this review, had only the following vague section related specifically to effective dates:

In some cases when a claim was pending on the date the PACT Act became law, August 10, 2022, both a pre-PACT Act and a PACT Act provision will apply to a Veteran's claim. It is important that claims processors recognize these situations and assign effective dates in accordance with the provisions noted in each of the topics below. If awarding a claim based on a newly added or expanded authority under the PACT Act, apply the provisions of 38 C.F.R. 3.114(a) to the effective date assigned.

Despite the importance of correctly applying the liberalizing law provisions of 38 C.F.R. § 3.114 to PACT Act–related claims, this section of the standard operating procedure provided only an electronic link to the regulation. The two initial versions did not specifically address the eligibility requirements of 38 C.F.R. § 3.114. For a veteran to be eligible for an earlier effective date, all the eligibility criteria must have been met on the date the liberalizing law took effect. While the guidance went on to provide some information regarding effective dates under some topics, many of these topics contained no examples of how 38 C.F.R. § 3.114 should be applied. This was a missed opportunity for VBA to elaborate and provide specific examples on the regulatory requirements in 38 C.F.R. § 3.114 to ensure claims processors understand precisely *how* to determine the most advantageous effective date to assign under that provision.

⁵² VBA, “Public Law (PL) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 (PACT Act) Implementation Standard Operating Procedure (SOP),” January 1, 2023, and February 6, 2023.

⁵³ The PACT Act standard operating procedure is organized using the following topics: overview of the PACT Act, TERA, radiation, herbicides, Gulf War illness, burn pits, service-connected death benefits, and higher-level reviews.

VBA's Two Tools for Determining Effective Dates Had Significant Shortcomings, Making them Unreliable

At the time of this review, VBA had two tools to help claims processors determine effective dates. Both tools are referred to as “effective date builders.” One tool is available on VBA’s internal Compensation Service job aids page, while the other is embedded in the Veterans Benefits Management System (VBMS)-Rating system.⁵⁴ The VBMS is a web-based, electronic claims-processing system that was designed to help provide more timely and responsive customer service and to enable more efficient, accurate, and integrated claims processing.

The Effective Date Builder on the Job Aids Page Is Outdated

The effective date tool on VBA’s internal job aids page is meant to allow claims processors to calculate effective dates for veterans’ compensation. But this tool was last updated in December 2019, and as a result, it lacks the functionality to accurately determine effective dates for PACT Act–related claims.⁵⁵ Nevertheless, as of December 2024, the job aid is still available, and some said they still use it to help determine a proper effective date. Because the job aid is not being updated, it should be removed.

The VBMS-Rating System's Effective Date Builder Is Known to Produce Unreliable Results

Claims processors use the effective date builder in the VBMS-Rating system to calculate effective dates for disability benefits grants, based on existing veterans’ and claims’ information. When entering an effective date, a claims processor has the option to use the tool to generate a suggested effective date and narrative. The claims processor chooses whether to save and proceed with the date they manually selected or to opt for the tool’s suggestion. The effective date builder requires the claims processor to navigate through check boxes to build a suggested effective date with corresponding text that is appended to the rating narrative, but available and required fields vary based on other recorded data. Claims processors can also override the tool’s suggested effective dates if necessary.

The OIG team met with several claims processors and quality specialists and asked them about the accuracy of the builder’s results. Each claims processor said the results are not always accurate, and quality specialists provided similar responses. Some claims processors said the tool does not suggest accurate effective dates when laws change and when a veteran submits an intent to file. Additionally, they said when they use the tool to grant a direct service connection based

⁵⁴ The rating functionality of the VBMS was built to provide rules-based tools and automated decision recommendations. These features were intended to help reduce manually intensive rating activities and allow staff to focus on more complex tasks to improve the consistency, accuracy, quality, and timeliness of rating decisions.

⁵⁵ According to VBA, the effective date builder was a proof-of-concept tool that was designed to be added to VBMS. However, due to competing priorities, VBA did not update the tool.

on a TERA, it does not factor in changes in law. Many claims processors stated the result the tool produces must be edited or changed, and therefore, they must already know the correct result.

The OIG team witnessed these shortcomings with the VBMS-Rating system's effective date builder firsthand during a demonstration by VBA staff. The team could see how the tool does not always suggest an accurate effective date or apply all the nuances of the laws, specifically when a law changes. As the quality specialists said, the builder is only as good as the information a claims processor inputs and nothing prevents claims processors from assigning an incorrect effective date. For example, when a claim involves a direct service connection based on a TERA or an intent to file related to a change in law, the builder did not give the correct effective date.

Most claims processors and all quality specialists the team interviewed said they would benefit from an updated or different type of job aid to help them determine proper effective dates. The VBA's PACT Act standard operating procedure and its two tools need to be updated to give claims processors every advantage in dealing with such complex claims. Errors with effective date determinations have been a long-standing problem recognized by VBA and continue to be so with PACT Act-related claims. VBA should resolve this problem to ensure veterans receive all the benefits they deserve and to mitigate improper payments.

VBA Did Not Initially Provide Necessary Training on Effective Dates for PACT Act-Related Claims

The PACT Act affects a wide array of veterans' claims and introduces multiple new paths for claims with a service connection, which complicates claims processors' ability to determine the most advantageous effective date for veterans' benefits. Claims processors need extensive training not only on PACT Act provisions but also on how these provisions affect the assignment of effective dates.

After the law was enacted, VBA started writing procedures and developing training to prepare staff to start processing PACT Act-related claims beginning on January 1, 2023. The first training module was assigned to staff on December 5, 2022, and those that followed concentrated on the changes from the act itself, such as the expanded service locations for certain presumptive conditions and how to establish a service connection. While this training did include some content relating to effective dates, the team determined it often provided only superficial overviews.

For example, while the training mentions the liberalizing law provisions of 38 C.F.R. § 3.114, the training gives no details or examples on how these provisions are supposed to be applied. All the examples in the training relate only to new provisions introduced by the PACT Act rather

than also including situations where the act may not apply.⁵⁶ Additionally, the knowledge checks all have the same correct answer: August 10, 2022.

Interviews revealed some claims processors may be reflexively selecting August 10, 2022—the date the PACT Act was signed into law—rather than understanding how to determine a correct effective date. One quality review specialist said August 10, 2022, had been so emphasized that claims processors default to that date without fully considering whether it is the correct effective date.

This presents an ongoing risk for VBA because continuing to assign an effective date of August 10, 2022, for claims filed more than a year after the PACT Act was enacted would not be correct. Under 38 C.F.R. § 3.114, the effective date assigned may only be up to one year prior to receipt of the claim. Because the training VBA created for its staff lacked examples or questions relating to some alternative effective dates, it could reinforce a misunderstanding among claims processors that all potential PACT Act–related claims should have an August 10, 2022, effective date.

The acting assistant director for training told the OIG team that the initial PACT Act training was developed based on the standard operating procedure, which was being revised even as the training was being given to staff. She said the training was limited because of the time constraints imposed by trying to begin processing claims on January 1, 2023—fewer than five months after the PACT Act took effect.

Most claims processors, all quality specialists, and both regional office quality managers the OIG team spoke to said more training would be helpful in determining correct effective dates for PACT Act–related claims. Additionally, managers said they would also benefit from repeated trainings or refresher trainings tailored to the challenges PACT Act–related claims present regarding effective dates.

VBA Has Taken Steps to Mitigate Risks Involving Effective Date Determinations for PACT Act–Related Claims

Since VBA began processing PACT Act claims, it has taken some steps toward improving the assignment of effective dates. These included conducting a special-focused review, providing updated training, and issuing a job aid for all presumptive disabilities.⁵⁷

After the PACT Act took effect in August 2022, VBA's Compensation Service heard feedback from the claims processors that its guidance was confusing. Service staff also had their own concerns about processing PACT Act–related claims based on an error trend analysis from

⁵⁶ For example, where PACT Act updates to 38 C.F.R. § 3.320 do not apply, but a previous version of the regulation does.

⁵⁷ Special-focused reviews are done as needed to ensure consistency and compliance based on current policy and procedures; they focus on identified areas of interest. The reviews help ensure accuracy by identifying inconsistencies so that timely feedback is disseminated and training needs are met.

internal quality reviews. These concerns led Compensation Service's quality assurance team to conduct periodic reviews on PACT Act claims processing, which ultimately led them to complete a special-focused review of claim accuracy in October 2023. The review findings showed the misapplication of effective dates under the liberalizing law provisions of 38 C.F.R. § 3.114 to be the leading error category.

In December 2023, VBA presented the findings of its special-focused review to claims processors and published them in the *Compensation Service Bulletin*. In March 2024, VBA announced claims processors were required to take a PACT Act refresher training. This training gave some more complex examples of effective dates that required claims processors to think through various possible outcomes. VBA has also started to update the effective date builder tool in the VBMS-Rating system so it can account for liberalizing laws on claims when VBA also receives an intent to file. Additionally, in July 2024, VBA issued a job aid with an all-inclusive list of presumptive disabilities, the effective dates of the law changes for those disabilities, and any related service requirements.

The OIG team is aware of VBA's mitigation efforts but did not determine the impact or effectiveness of these efforts as the PACT Act-related claims reviewed by the OIG predated implementation of these efforts.

Conclusion

The wide expansion of benefits for eligible veterans under the PACT Act—and the resulting impact on effective dates—has further complicated VBA claims processors' ability to determine correct effective dates and that can significantly affect veterans' benefits. Initial guidance on effective dates that VBA created for PACT Act-related claims was vague and missed the opportunity to provide detailed examples to staff. Further compounding issues, VBA had two tools for claims processors that had significant shortcomings preventing them from providing reliable suggestions for correct effective dates. Finally, the initial PACT Act training claims processors received did not provide necessary information on how best to consider and apply changes from the PACT Act when making effective date determinations.

As a result, the OIG estimated 31,400 claims (24 percent) were decided improperly from August 10, 2022, through August 9, 2023.⁵⁸ An estimated 26,100 of those claims had an incorrect effective date, resulting in at least \$6.8 million in improper payments to veterans over the one-year period reviewed. Another approximately 2,300 claims had the potential to affect veterans' benefits by an unknown monetary amount. If VBA continues to make errors at the rate identified and at payment rates in effect at the time of this review, VBA risks issuing an estimated \$20.4 million in improper disability benefit payments from August 10, 2022, through two years following the end of the review period.

⁵⁸ The number 31,400 is based on the OIG team's review of a statistical sample of PACT Act-related claims.

Because determining effective dates has proven to be historically difficult and a recurring issue for VBA and because of the changes the PACT Act created in 2022, claims processors require clear, understandable guidance to avoid making incorrect effective date determinations in these claims. Accordingly, VBA should ensure claims processors have the guidance, training, and tools they need to assign the most advantageous effective date allowed by law for veterans' claims. This will help VBA ensure veterans receive the benefits to which they are entitled.

Recommendations 1–6

The OIG made the following recommendations to the under secretary for benefits:⁵⁹

1. Create a job aid for claims processors on how to determine the correct effective date for PACT Act–related claims.
2. Remove the outdated effective date builder from the Veterans Benefits Administration's internal job aids page.
3. Continue updating the Veterans Benefits Management System-Rating system's effective date builder to add functionality that applies liberalizing laws on claims when the Veterans Benefits Administration receives an intent to file.
4. Update the Veterans Benefits Management System-Rating system's effective date builder to add functionality that applies liberalizing laws on claims when a veteran's service connection is based on a toxic exposure risk activity.
5. Evaluate PACT Act refresher training by monitoring the results to assess the effectiveness of the training.
6. Correct all processing errors on cases identified by the review team and report the results to the Office of Inspector General.

VA Management Comments

The acting under secretary for benefits concurred with all six recommendations and provided responsive action plans. For recommendation 1, the acting under secretary reported VBA will create a job aid for claims processors on how to determine the correct effective date for PACT Act–related claims. For recommendation 2, VBA will clarify that the effective date builder on its job aids page is historical and notify claims processors that it should not be used for decision-making purposes. For recommendations 3 and 4, VBA will update the VBMS-Rating system effective date builder to add functionality that applies the liberalizing laws to claims received with an intent to file or when service connection is based on a toxic exposure risk activity. For recommendation 5, VBA will evaluate PACT Act refresher training by monitoring the results to

⁵⁹ The recommendations addressed to the under secretary for benefits are directed to anyone in an acting status or performing the delegable duties of the position.

assess the effectiveness of the training. Finally, VBA will review and correct the 24 cases identified by the OIG. VBA estimates that all action plans will be completed by July 31, 2025.

The acting under secretary for benefits also provided general comments and six technical comments, which the OIG addressed below and throughout the report. The full text of the acting under secretary's comments are provided in appendix D.

OIG Response

The actions taken by VBA are generally responsive to the recommendations and the OIG will continue to evaluate VBA's actions and processes associated with the assignment of effective dates for PACT Act-related claims. The OIG will follow up on the planned actions until they are completed.

The acting under secretary's general comments explained that the PACT Act did not change the general principles of claims processing, such as how effective dates are assigned, and that VBA established an intranet site for storing all guidance documents, frequently asked questions, quality and training information, communication, and other links. VBA's general comments also provided an overview of the efforts taken since the start of PACT Act claims processing to ensure accurate processing of PACT Act claims.⁶⁰ The OIG acknowledges this report represents an overview of the situation as it existed during the first year after passage of the PACT Act and that VBA has undertaken some steps to identify and remediate deficiencies in PACT Act claims processing.

The acting under secretary further commented:

VBA is committed to ensuring the accuracy of its training materials and assessing training consistent with the Government Accountability Office (GAO) report GAO-04-546G, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*. The report introduces a framework consisting of a set of principles and key questions that Federal agencies can use to ensure their training and development investments are targeted strategically and are not wasted on efforts that are irrelevant, duplicative, or ineffective. The OIG report *VBA Provided Accurate Training on Processing PACT Act Claims but Did Not Fully Evaluate Its Effectiveness* (Report No. 23-03485-03), published January 15, 2025, stated 'the OIG team found the content of the PACT Act online training courses assigned to VBA claims processors in December 2022 included accurate information on processing claims (see page 6).'

The OIG appreciates VBA's commitment to ensuring the accuracy of its training. As noted, in its January 2025 report, the OIG concluded the December 2022 PACT Act training was accurate. In

⁶⁰ VBA's general and technical comments are reproduced as they were made in the original document received by the OIG.

this review, the team found that—while the training may have been accurate—it was insufficient to ensure claims examiners assigned the correct effective date because it lacked details or examples illustrating the impact the PACT Act had on assigning effective dates. The training did not address how the PACT Act complicated other aspects of VBA claims processing, such as effective dates and liberalizing laws.

The OIG considered the technical comments offered by VA and made edits for clarity where appropriate in the report. For technical comment 1, the acting under secretary requested that the OIG more precisely summarize the recommendations in the executive summary to align with the recommendations provided in the draft report. The OIG clarified the executive summary and updated the text to remove mention of a follow-up special-focused review.

For technical comment 2, the acting under secretary requested that the OIG fix a typographical error in a footnote citation of the C.F.R., which the OIG corrected throughout the report.

For technical comment 3, the acting under secretary requested a revision to another sentence describing three regulations that govern VA's assignment of effective dates when granting disability benefits. He stated that, as originally worded, the sentence gave the misimpression that the features of the VA benefits system subsequently discussed in the ensuing bullets originates wholly or primarily in VA regulations instead of 38 U.S.C. § 5110(a) and (b). The OIG disagrees that this language creates an impression that the described features of the VA benefits system originate wholly or primarily in VA regulations or that the cited paragraph is inaccurate. The opening paragraph of the referenced section explains that claims processors must apply the most advantageous effective date by law and footnotes the statute that governs the assignment of effective dates, 38 U.S.C. § 5110. Additionally, Title 38 of the Code of Federal Regulations, together with the United States Code, is the legal authority governing benefits. According to VBA's own *Adjudication Procedures Manual*, regulations are the "overarching legal provisions for general consumption." The report highlights the cited regulations because they specifically regulate the assignment of effective dates and provide guidance, along with the *Adjudication Procedures Manual*, to claims processors; however, in the interest of clarity, the OIG incorporated the suggested edits.

For technical comment 4, the acting under secretary requested a revision to another sentence regarding presumptions and covered locations added by the PACT Act, such that the sentence would have included all the presumptions and covered locations covered by 38 U.S.C. § 1120. However, the purpose of the paragraph in question was to highlight the changes brought about by the PACT Act. This paragraph was not intended to and does not describe the totality of all presumptions and covered locations found in 38 U.S.C. § 1120. This technical comment appears to conflate what the PACT Act added to what was previously covered and everything that is covered by 38 U.S.C. § 1120. While the proposed language does accurately describe all the presumptions and covered locations, it would be inaccurate to state these were all added by the PACT Act.

For technical comment 5, the acting under secretary requested the bracketed revision to this sentence: “These include [service within specified dates at any] US or Royal Thai base or in American Samoa, Guam, Laos, or certain places in Cambodia.” While not included in the excerpt provided in the comment, the opening sentence to the paragraph provides context that these locations apply only to Vietnam War–era veterans; however, in the interest of clarity, the OIG incorporated the suggested edits.

For technical comment 6 VBA contends that it is inaccurate for the OIG to state in the draft report that the PACT Act “expanded” or otherwise revised VA regulations and requested that the OIG remove this term and instead describe the PACT Act as having “established presumptions of exposure to a broader range of hazards (burn pits and other substances, chemicals, and airborne hazards) at a broader range of locations and also established presumptions for a broad range of diseases associated with such exposures.” The OIG disagrees with the premise that the sentence at issue should be read to mean that the PACT Act expanded an existing regulation. The purpose of the paragraph and the use of the word “expanded” is to denote that the PACT Act added presumptions and locations that were not previously covered. This term was used extensively throughout VBA’s own standard operating procedure for processing PACT Act claims and in VA’s own materials and news releases relating to the PACT Act.

Appendix A: Scope and Methodology

Scope

The VA Office of Inspector General (OIG) team conducted its work from March 2024 through January 2025. The OIG team focused on granted PACT Act–related claims outside of the predischARGE program, that were completed from August 10, 2022, through August 9, 2023, containing contentions with the PACT Act special issue, as well as claims in which at least one of the following three terms was used in the rating decision: “PACT,” “TERA,” or “toxic exposure.”⁶¹

Methodology

To accomplish the objective, the OIG team assessed applicable laws, regulations, policies, procedures, and guidelines for the assignment of effective dates on PACT Act–related claims. The OIG team obtained information associated with PACT Act–related claims processing from the Veterans Benefits Administration’s (VBA) central office. The team interviewed staff at VA regional offices in Providence, Rhode Island, and Detroit, Michigan. The team also interviewed staff and officials with the Compensation Service and the Office of Business Integration.

The OIG team obtained completed PACT Act–related claims from August 10, 2022, through August 9, 2023. The team then reviewed a randomly selected sample of 102 claims until it identified 100 completed claims that were in scope for the review. The team identified two claims as outside this scope because they were claims submitted as part of the predischARGE program. See appendix B for more information. The claims in the selected sample were reviewed using VBA’s electronic systems, including the Veterans Benefits Management System (VBMS). The team reviewed relevant documentation to determine whether claims processors properly assigned effective dates on PACT Act–related claims. During this review, the OIG team discussed the findings with VBA officials and considered their feedback.

Internal Controls

The OIG team assessed VBA’s internal controls that were significant to the objective. This included an assessment of the five internal control components: control environment, risk assessment, control activities, information and communication, and monitoring. In addition, the team reviewed the principles of internal controls. The team identified internal control weaknesses related to three components and three principles and proposed recommendations to address them:

⁶¹ Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, Pub. L. No. 117-168. VBA used the following “special issue” to identify a claim as related to the PACT Act: “PACT.” A special issue is a claim-specific indicator that can represent a certain claim type, disability, disease, or another special notation that is relevant only to a particular claim.

- Component: Risk Assessment
 - Principle 9: Identify, Analyze, and Respond to Change
- Component: Control Activities
 - Principle 11: Design Activities for the Information System
- Component: Information and Communication
 - Principle 14: Communicate Internally

Data Reliability

The OIG used computer-processed data from VBA's corporate database. To test for reliability, the team determined whether any data were missing from key fields, included any calculation errors, or were outside the time frame requested. The team also assessed whether the data contained obvious duplicated records, alphabetic or numeric characters in incorrect fields, or illogical relationships among data elements. Furthermore, the team compared veterans' names, file numbers, dates of claims, and end product closed dates as provided in the 100 records reviewed from the VBMS.

Testing showed sufficient reliability for the review objective. Comparison of the data with information contained in the reviewed veterans' VBMS records did not disclose any problems with data reliability.

Government Standards

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

Appendix B: Statistical Sampling Methodology

Approach

To accomplish the objective, the VA Office of Inspector General (OIG) team reviewed a statistical sample of claims for benefits completed from August 10, 2022, through August 9, 2023, in which a veteran's service connection was granted for a claim identified as related to the PACT Act.⁶² The team used statistical sampling to quantify the extent of the accuracy of assigning effective dates for service connection in these claims.

Population

The team identified 133,253 claims completed during the review period from August 10, 2022, through August 9, 2023. However, the team estimated 2,613 claims were outside the scope of review because they were claims submitted as part of the predischARGE program. Consequently, the team estimated that the population of in-scope claims were 130,640.

Sampling Design

The review team selected a statistical sample of 100 claims from the population of completed claims in which a service connection was granted for a claim identified as related to the PACT Act.

Weights

Samples were weighted to represent the population from which they were drawn, and the weights were used in the estimate calculations. For example, the team estimated the error rate by first summing the sampling weights for all claims that contained an error, then dividing that value by the sum of the weights for all claims.

Projections and Margins of Error

The projection is an estimate of the population value based on the sample. The associated margin of error and confidence interval show the precision of the estimate. If the OIG repeated this review with multiple sets of samples, the confidence intervals would differ for each sample but would include the true population value about 90 percent of the time.

The OIG statistician used statistical analysis software to calculate estimates, margins of error, and confidence intervals that account for the complexity of the sample design.

The sample size was determined after reviewing the expected precision of the projections based on the sample size, potential error rate, and logistical concerns of the sample review. While

⁶² Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, Pub. L. No. 117-168.

precision improves with larger samples, the rate of improvement decreases significantly as more records are added to the sample review.

Figure B.1 shows the effect of progressively larger sample sizes on the margin of error.

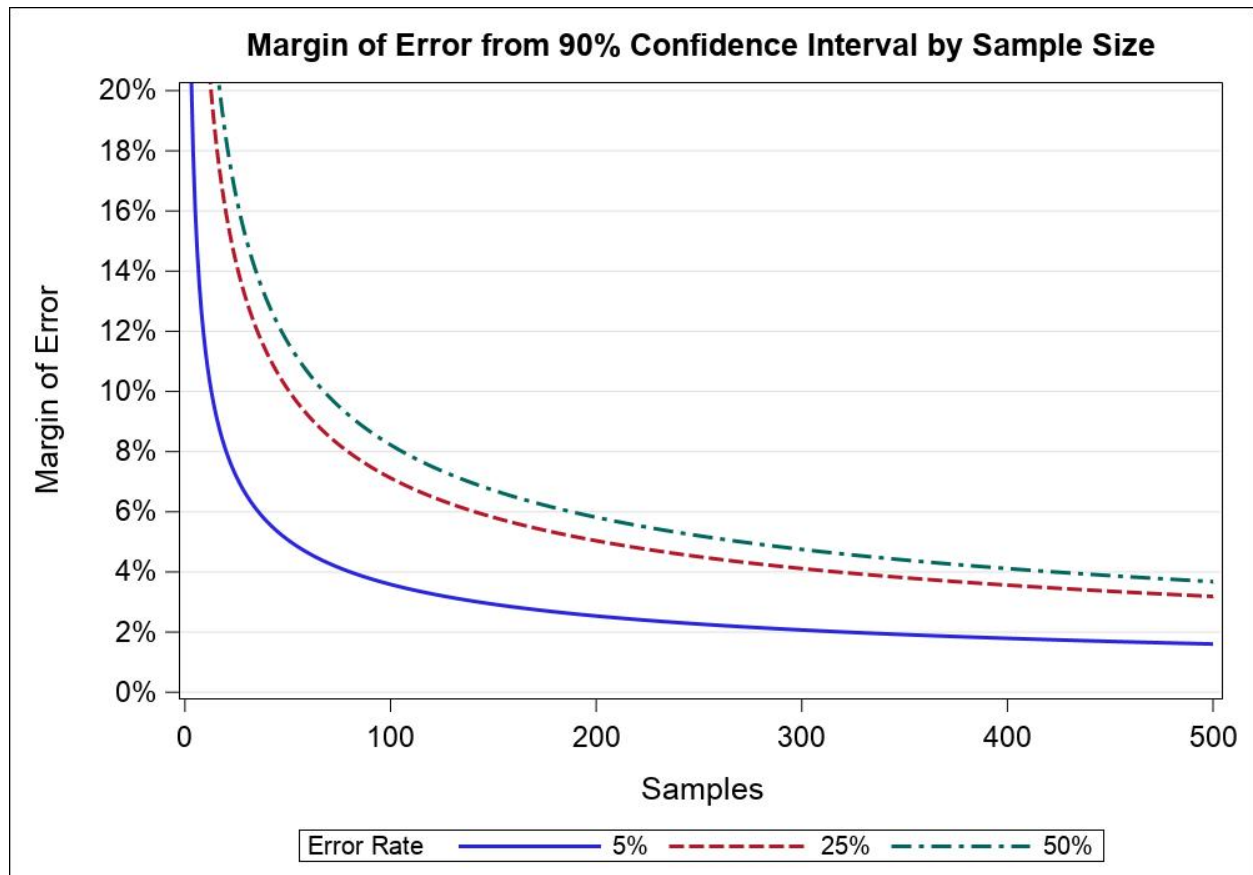


Figure B.1. Effect of sample size on margin of error.

Source: VA OIG statistician's analysis.

Projections

Tables B.1 and B.2 detail the OIG's analysis and projected results. Table B.3 shows estimates of improper payments related to incorrect effective dates.

Table B.1. Statistical Projections Summary for Estimated Population of PACT Act–Related Claims with Service Connection Granted

Estimate name	Estimate number	Margin of error, 90 percent confidence interval	Lower limit	Upper limit	Sample count / Sample size
Claims in scope	130,640	3,835	125,127	132,798	100/102
Claims out of scope	2,613	3,835	455	8,126	2/102

Source: VA OIG statistician's projection of estimated populations.

* For the out-of-scope population, the one-sided lower bounds are used due to poor precision. The confidence interval defined by the one-sided lower bound gives a conservative estimate for the total value at the 90 percent confidence level.

Table B.2. Statistical Projections Summary for Estimated Claims with Errors on Effective Dates in PACT Act–Related Claims (Counts and Rates)

Estimate name	Estimate number	Margin of error, two-sided 90 percent confidence interval	Two-sided lower limit	Two-sided upper limit	Margin of error, one-sided lower bound	One-sided lower limit	Sample count /
Combined errors	31,354 (24%)	9,871 (7.5%)	22,292 (17.1%)	42,034 (32.1%)	7,285 (5.6%)	24,069 (18.4%)	24
Incorrect effective dates	26,128 (20%)	9,289 (7.1%)	17,773 (13.6%)	36,352 (27.8%)	6,745 (5.2%)	19,383 (14.8%)	20
Potential earlier effective dates	5,226 (4%)	4,980 (3.8%)	1,777 (1.4%)	11,737 (9.0%)	2,947* (2.3%)	2,278* (1.7%)	4

Source: VA OIG statistician's projection of estimated claims with errors.

* For the potential earlier effective date errors, the one-sided lower bounds are used due to poor precision. The confidence interval defined by the one-sided lower bound gives a conservative estimate for the total value at the 90 percent confidence level.

Table B.3. Statistical Projections Summary for Estimated Improper Payments on Effective Dates in PACT Act–Related Claims

Estimate name	Estimate number	Margin of error, one-sided lower bound	Lower limit	Sample count
Improper payments	\$15,390,094	\$8,603,367*	\$6,786,727*	7

Source: VA OIG statistician's projection of estimated improper payments.

** For the improper payments, the one-sided lower bounds are used due to poor precision. The confidence interval defined by the one-sided lower bound gives a conservative estimate for the total value at the 90 percent confidence level.*

Appendix C: Monetary Benefits in Accordance with Inspector General Act Amendments

Recommendation	Explanation of Benefits	Better Use of Funds	Questioned Costs ⁶³
1–6	The OIG estimated incorrect effective dates assigned in PACT Act–related claims from August 10, 2022, through August 9, 2023, resulting in at least \$6.8 million in improper payments over the one-year period reviewed. As a result, at least an estimated \$20.4 million in improper payments could occur when including the review period and the additional time from the end of the review period through two years.	\$0	\$20.4 million
	Total	\$0	\$20.4 million

⁶³ The VA Office of Inspector General (OIG) questions costs when VA action or inaction (such as spending or failure to fully compensate eligible beneficiaries) is determined by the OIG to violate a provision of law, regulation, contract, grant, cooperative agreement, or other agreement; when costs are not supported by adequate documentation; or when they are expended for purposes that are unnecessary or unreasonable under governing authorities. Within questioned costs, the OIG must, as required by section 405 of the Inspector General Act, report unsupported costs. Unsupported costs are those determined by the OIG to lack adequate documentation at the time of the audit. Unsupported costs were not identified during the review.

Appendix D: VA Management Comments

Department of Veterans Affairs Memorandum

Date: February 21, 2025

From: Acting Under Secretary for Benefits (20)

Subj: Office of Inspector General (OIG) Draft Report - The PACT Act Has Complicated Determining When Veterans' Benefits Payments Should Take Effect [Project No. 2024-01153-AE-0044] – [VIEWS 12658833]

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

1. Thank you for the opportunity to review and comment on the OIG draft report: The PACT Act Has Complicated Determining When Veterans' Benefits Payments Should Take Effect. The Veterans Benefits Administration (VBA) provides the attached response to the draft report.

The OIG removed point of contact information prior to publication.

Michael J. Frueh

Acting Under Secretary for Benefits

Attachment

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

The PACT Act, which was signed into law on August 10, 2022, marked the largest and most significant expansion of Veterans' care and benefits in decades. VBA took immediate action to ensure claims processors received guidance on processing PACT Act claims and, in December 2022, VBA provided the training needed to begin processing these claims as quickly as possible. This ensured all frontline claims processors who handle claims for disability compensation benefits based on toxic exposure were ready to process claims on January 1, 2023, and could accurately apply the provisions of the law. Notably, the PACT Act did not change the general principles of claims processing, such as how effective dates are assigned under 38 C.F.R. § 3.400, 38 C.F.R. § 3.155, and 38 C.F.R. § 3.114. To ensure all PACT Act related information was easily accessible to claims processors, VBA established a comprehensive intranet site for storing all guidance documents, frequently asked questions (FAQ), quality and training information, communications, and other important links.

For this report, the OIG team focused on grants of PACT Act–related claims completed from August 10, 2022, through August 9, 2023. Since August 2023, VBA has completed multiple process improvements that were not covered or addressed in this report. VBA's more recent efforts to facilitate accurate processing of PACT Act claims include:

- Completed three updates to the PACT Act Implementation Standard Operating Procedure (SOP),
- Delivered 12 training courses to claims processors,
- Updated 56 courses that are part of the training curriculum for new claims processors with PACT Act claims processing procedures, and
- Conducted two Special Focused Reviews (SFRs) to ensure consistency and compliance exists based on current policy and procedures.

VBA is committed to ensuring the accuracy of its training materials and assessing training consistent with the Government Accountability Office (GAO) report GAO-04-546G, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*. The report introduces a framework consisting of a set of principles and key questions that Federal agencies can use to ensure that their training and development investments are targeted strategically and are not wasted on efforts that are irrelevant, duplicative, or ineffective. The OIG report *VBA Provided Accurate Training on Processing PACT Act Claims but Did Not Fully Evaluate Its Effectiveness* (Report No. 23-03485-03), published January 15, 2025, stated "the OIG team found the content of the PACT Act online training courses assigned to VBA claims processors in December 2022 included accurate information on processing claims (see page 6)."

VBA provides the following technical comments:

Page v, last paragraph, first sentence

"The OIG recommended the under secretary for benefits create a job aid for claims processors on how to determine the correct effective date for PACT Act–related claims, remove the outdated effective date builder from VBA's internal job aids page and continue updating the Veterans Benefits Management System-Rating effective date builder to add functionality that applies liberalizing laws on claims when VBA receives an intent to file and when a service connection is based on a TERA, assess the effectiveness of the PACT Act refresher training by performing a follow-up special-focused review of effective date determinations, and correct all processing errors on cases identified by the review team and report the results to the OIG."

VBA Comment: VBA requests OIG ensures this paragraph aligns with the recommendations provided on page 19 of the draft report. OIG recommended the Under Secretary for Benefits evaluate PACT Act refresher training by monitoring the results to assess the effectiveness of the training. VBA recommends the following language:

“The OIG recommended the Under Secretary for Benefits create a job aid for claims processors on how to determine the correct effective date for PACT Act–related claims, remove the outdated effective date builder from VBA’s internal job aids page and continue updating the Veterans Benefits Management System-Rating effective date builder to add functionality that applies liberalizing laws on claims when VBA receives an intent to file and when a service connection is based on a TERA, evaluate PACT Act refresher training by monitoring the results to assess the effectiveness of the training, and correct all processing errors on cases identified by the review team and report the results to the OIG.”

Pages i and ii, footnotes 3 and 6

It is unclear why the report cites to the 1961 version of the C.F.R. If the intent is to refer to current Department of Veterans Affairs (VA) regulations, the parenthetical year citation should be changed to “(2024)” to indicate the most recently published print version of the C.F.R. See <https://www.govinfo.gov/app/collection/cfr/2025>.

Page ii, first full paragraph, first sentence, and page 2, second full paragraph, first sentence

“Three regulations govern VA’s assignment of effective dates...”

This language creates the impression that the features of the VA benefits system discussed in the ensuing bullets originates wholly or primarily in VA regulations. That is inaccurate, as the VA regulations largely implement statutory requirement in 38 U.S.C. § 5110(a) and (b). We recommend the following language:

“Three regulations implement the statutory structure for the assignment of effective dates...”

Page 4, third full paragraph, second and third sentences

“For veterans who have Gulf War–related illnesses, these locations include Afghanistan, Egypt, Israel, Jordan, Syria, and Turkey. For veterans who were exposed to fine particulate matter, these locations include Egypt, Lebanon, Yemen, Somalia, and Jordan.”

It appears that the third sentence (regarding “particulate matter”) is intended to refer to the presumptions under 38 U.S.C. § 1120 as established by section 406 of the PACT Act. However, § 1120 concerns a broader range of exposures and a different range of countries than stated in the draft report. The countries are listed in 38 U.S.C. § 1119(c)(1) as incorporated by § 1120(c). We recommend the following language to more accurately describe the presumptions and covered locations:

“For purposes of the presumption of service connection for undiagnosed illness and medically unexplained chronic multi-symptom illness (often referred to as Gulf War Illness), these locations include the Southwest Asia theater of operations (as defined in 38 C.F.R. § 3.317(e)(2)), Afghanistan, Egypt, Israel, Jordan, Syria, and Turkey. For purposes of presumptions of service connection based on exposure to burn pits and other toxins, these locations include the Southwest Asia theater of operations, Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Somalia, Syria, Yemen, and Uzbekistan.”

Page 4, fourth full paragraph, second sentence

“These include any service at a US or Royal Thai base or in American Samoa, Guam, Laos, or certain places in Cambodia.”

The phrase "any service" is inaccurate because the presumption applies only to service within specified dates. We recommend the following language:

"These include service within specified dates at any US or Royal Thai base... "

Page 11, first full paragraph, last sentence

"Initially, 38 C.F.R. § 3.320 provided presumptive service connection for eligible veterans diagnosed with asthma, rhinitis, and sinusitis. The regulation was then amended to add rare cancers associated with fine particulate matter. The PACT Act subsequently expanded the presumption of exposure from only fine particulate matter to substances, chemicals, and airborne hazards and it also added service locations and presumptive conditions for Gulf War veterans."

It is inaccurate to say that the PACT Act "expanded" or otherwise revised VA regulations. Rather, the PACT Act independently established presumptions that are broader in scope than what was previously in VA's regulation. We recommend the following language for the last sentence:

"The PACT Act established presumptions of exposure to a broader range of hazards (burn pits and other substances, chemicals, and airborne hazards) at a broader range of locations and also established presumptions for a broad range of diseases associated with such exposures."

The following comments are submitted in response to the recommendation in the OIG draft report:

Recommendation 1: Create a job aid for claims processors on how to determine the correct effective date for PACT Act–related claims.

VBA Response: Concur. VBA will create a job aid for claims processors on how to determine the correct effective dates for PACT Act–related claims.

Target Completion Date: July 31, 2025

Recommendation 2: Remove the outdated effective date builder from the Veterans Benefits Administration's internal job aids page.

VBA Response: Concur. VBA will update the effective date builder on VBA's internal job aids page to reflect as historical. VBA will notify claims processors the historical effective date builder should not be used for decision making processes.

Target Completion Date: March 31, 2025

Recommendation 3: Continue updating the Veterans Benefits Management System-Rating system's effective date builder to add functionality that applies liberalizing laws on claims when the Veterans Benefits Administration receives an intent to file.

VBA Response: Concur. VBA will update the Veterans Benefits Management System -Rating (VBMS-R) system's effective date builder to add functionality that applies liberalizing laws on claims when VBA receives an intent to file.

Target Completion Date: May 31, 2025

Recommendation 4: Update the Veterans Benefits Management System-Rating solution system's effective date builder to add functionality that applies liberalizing laws on claims when a veteran's service connection is based on a toxic exposure risk activity.

VBA Response: Concur. VBA will update the VBMS-R's effective date builder to add functionality that applies liberalizing laws on claims when a Veteran's service connection is based on a toxic exposure risk activity.

Target Completion Date: May 31, 2025

Recommendation 5: Evaluate PACT Act refresher training by monitoring the results to assess the effectiveness of the training.

VBA Response: Concur. VBA commits to establishing a plan to conduct evaluation for FY 2025 PACT Act refresher training that will monitor the results to assess the effectiveness of the training. The plan will describe the methodology to complete the levels of evaluation and how feedback from findings will be provided to training staffs.

Target Completion Date: March 31, 2025

Recommendation 6: Correct all processing errors on cases identified by the review team and report the results to the Office of Inspector General.

VBA Response: Concur. VBA received the 24 claims and began the review for correction in December 2024. We estimate completion of the review, correction, and certification of the claims by April 30, 2025.

Target Completion Date: April 30, 2025

<p><i>For accessibility, the original format of this appendix has been modified to comply with Section 508 of the Rehabilitation Act of 1973, as amended.</i></p>

OIG Contact and Staff Acknowledgments

Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
----------------	---

Review Team	Lisa Van Haeren, Director Brandon Barnes Raymond Byrnes Casey Crump Kyle Flannery
--------------------	---

Other Contributors	Kendal Ferguson Allison Tarmann Khaliah McLaurin
---------------------------	--

Report Distribution

VA Distribution

Office of the Secretary
Veterans Benefits Administration
Veterans Health Administration
National Cemetery Administration
Assistant Secretaries
Office of General Counsel
Office of Acquisition, Logistics, and Construction
Board of Veterans' Appeals

Non-VA Distribution

House Committee on Veterans' Affairs
House Appropriations Subcommittee on Military Construction, Veterans Affairs, and
Related Agencies
House Committee on Oversight and Government Reform
Senate Committee on Veterans' Affairs
Senate Appropriations Subcommittee on Military Construction, Veterans Affairs,
and Related Agencies
Senate Committee on Homeland Security and Governmental Affairs
National Veterans Service Organizations
Government Accountability Office
Office of Management and Budget

OIG reports are available at www.vaoig.gov.