DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON DC 20420
December 19, 2017

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

RE: OSC File No. DI-16-3153

Dear M[redacted]

I am responding to the former Special Counsel's April 7, 2017, referral letter to the Department of Veterans Affairs (VA) regarding allegations made by a whistleblower at the, Phoenix VA Health Care System, Phoenix, Arizona, that employees at VA's Veterans Benefits Administration (VBA), Washington, DC, engaged in conduct that may constitute a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; and a substantial and specific danger to public health. The Secretary has delegated to me the authority to sign the enclosed report and take any actions deemed necessary as referenced in 5 United States Code § 1213(d)(5).

The Under Secretary for Health directed the Deputy Under Secretary for Health for Operations and Management to assemble and lead a VA team to conduct an investigation. The report substantiates the following: 1) that there is no clinical quality measurement for, or evaluation of, contractor exams; 2) that the former Disability Evaluation Management (DEM) contract examiners and the current Medical Disability Examination (MDE) contract examiners are not reviewing medical records, as required for the exams; and 3) that the former DEM contract examiners diagnosed conditions without supporting evidence. VA makes five recommendations to VBA and six recommendations to the VHA Office of Disability and Medical Assessment.

The report does not substantiate the following: 1) that the quality of disability evaluations conducted by contractors pursuant to DEM contracts is consistently substandard; 2) that due to a lack of record review, duplicate diagnostic testing is being completed by MDE contract examiners; 3) that contractors are not properly trained or qualified to conduct C&P exams; 4) that MDE contract examiners are not receiving the same training as VHA C&P examiners; or 5) that the quality of disability evaluations conducted by contractors pursuant to DEM contracts has caused medical harm or failure to treat.

Thank you for the opportunity to respond.

Sincerely,

Vivieca Wright Simpson
Chief of Staff

Enclosure

DEPARTMENT OF VETERANS AFFAIRS
Washington, DC

Report to the
Office of Special Counsel
OSC File Number DI-16-3153

[redacted]

Department of Veterans Affairs (VA)
Veterans Benefits Administration (VBA)
Washington, D.C.

Report Date: December 6, 2017

TRIM 2017-D-2660

Executive Summary

The Under Secretary for Health (USH) directed that the Deputy Under Secretary for Health for Operations and Management (DUSHOM) assemble and lead a Department of Veterans Affairs (VA) team to investigate allegations lodged with the Office of Special Counsel (OSC) by [redacted] (the whistleblower), a physician at the Phoenix VA Health Care System's (hereafter, the Medical Center) Compensation and Pension (C&P) Department who consented to the release of her name. The whistleblower alleged that VA's Veterans Benefits Administration (VBA) does not properly oversee C&P exams performed by contractors, adversely affecting disability determinations and compensation. The VA team conducted a site visit to the Medical Center June 19–22, 2017. To ensure the privacy of Medical Center employees, the team conducted intervie[redacted] Regional Office (RO), located in close proximity to the Medical Center.

Specific Allegations of the Whistleblower

Allegation 1:
The quality of disability evaluations conducted by contractors pursuant to Disability Evaluation Management (DEM) contracts is consistently substandard, and

a. *There is no clinical quality measurement for, or evaluation of, contractor exams.*
b. *Contractor examiners are not reviewing medical records as required for the exams.*
c. *Due to a lack of record review, duplicate diagnostic testing is being completed by contractor examiners.*
d. *Contractor examiners are diagnosing conditions without supporting evidence.*
e. *The quality of disability evaluations conducted by contractors pursuant to Disability Evaluation Management (DEM) contracts has caused medical harm or failure to treat.*

Allegation 2:
Contractor examiners are not properly trained or qualified to conduct C&P exams, and

a. *Contractor examiners are not receiving the same training as Veterans Health Administration (VHA) C&P examiners.*

We **substantiated allegations** when the facts and findings supported that the alleged events or actions took place and **did not substantiate allegations** when the facts and findings showed the allegations were unfounded. We were **not able to substantiate allegations** when the available evidence was insufficient to support conclusions with reasonable certainty about whether the alleged event or action took place.

After careful review of findings, we make the following conclusions and recommendations:

Conclusions for Allegation 1

- We **did not substantiate** that the quality of disability evaluations conducted by contractors pursuant to DEM contracts is consistently substandard. There was no evidence to support that the ratability quality of DEM and MDE contractor exams is substandard.

- We did find that VBA, VHA Disability and Medical Assessment (DMA) quality review staff, and their contractors are using differing scoring tools/assessments and criteria to assess ratability of disability exams. This leads to a lack of uniformity in the assessment of the ratability of exams. Ratability quality should be assessed using the [redacted]y all users.

Recommendation to VBA

1. Because ratability is a VBA determination, we recommend VBA provide a list of ratability criteria that will be used by all users to ensure uniformity in ratability quality assessment of all disability exams. VBA should provide the criteria to DMA quality review staff and its own MDE contractors for incorporation of this list of criteria into their ongoing ratability quality review processes.

Conclusions for Allegation 1a

- We **substantiated** that there is no clinical quality measurement for, or evaluation of, contractor exams. VBA and DMA quality review staff and MDE contractors have no method to assess or measure clinical quality. Without a standardized set of criteria to determine clinical quality and accuracy in an exam, VA cannot ensure the data submitted in an exam is clinically appropriate or accurate for rating purposes.

Recommendations to DMA

1. Because the DMA program office provides oversight to all VHA C&P clinics, we recommend that DMA create a list of clinical quality/accuracy criteria for ongoing assessment of the clinical quality of C&P exams for all users, to ensure uniformity in clinical quality assessment of all disability exams. This list of criteria will be used by VHA C&P clinics and VBA MDE contractors for ongoing clinical quality assessment of C&P Exams. The criteria should assess the clinical accuracy of the exam compared to diagnostic studies, diagnoses already of record, progress notes, and physical examinations in the C-file and medical records.

2. Ensure examiners, with experience and expertise in C&P, participate with DMA in the development of the C&P clinical quality criteria.

3. DMA will make the C&P Clinical Quality Criteria available to VBA for incorporation into the VBA contract vendors quality review process.

Recommendation to VBA

2. We recommend VBA incorporate the DMA C&P clinical quality criteria into the VBA MDE contracts' quality review process, to address and resolve clinical quality issues that can potentially affect ratability.

Conclusions for Allegation 1b

- We **substantiated** that the former DEM contract examiners and the current MDE contract examiners are not reviewing medical records as required for the exams. Contractor examiners are not reviewing or only partially reviewing Veteran records for [redacted]ck of complete record review led to erroneous information being recorded in some contract examination reports. Records are pre-screened by non-clinical administrative staff who determine what they consider relevant and, therefore, to be provided to the examiner. The C&P examiner is best suited to determine which information is relevant for a particular exam.

Recommendation to VBA

3. We recommend that VBA ensure that all C&P examiners (VHA C&P clinicians and MDE contract examiners) review C-file evidence, covering the period from the last rating to the current exam, for "Increase," "Review," and "Routine Future" examinations.

4. We recommend VBA require that MDE non-clinical staff download the entire electronic folder for MDE contract examiners. The examiners should then determine what relevant evidence is to be reviewed, based on the C&P exam request.

Conclusions for Allegation 1c

- We **did not substantiate** that due to a lack of record review, duplicate diagnostic testing is being completed by MDE contract examiners. While a lack of record review could lead to duplicate tests being completed, we did not find objective evidence of this duplication of diagnostics in the exams supplied by the whistleblower or interviewees.

Conclusions for Allegation 1d

- We **substantiated** that the former DEM contract examiners diagnosed conditions without supporting evidence (the whistleblower did not provide examples of MDE contract exams). We observed several instances where contractor examiners provided diagnosis or diagnostic test results in the exams based purely on the Veteran's self-reports, without making reference to available medical records, even when the records were available. We determined that this has also been seen in exams conducted by VHA and community clinicians.

Recommendation to DMA

4. We recommend DMA supplement/update existing training to include dedicated topics regarding the need for C&P examiners to substantiate diagnoses, findings, and conclusions in C&P exams.

5. We recommend DMA make available to VBA, the supplemental/updated training regarding the need for C&P examiners to substantiate diagnoses, findings, and conclusions in C&P exams.

Recommendation to VBA

5. We [redacted]BA work with MDE contractors to incorporate into the contractor training plans, the updated supplemental training DMA will provide, regarding the need for C&P examiners to substantiate diagnoses, findings, and conclusions in C&P exams.

Conclusions for Allegation 1e

- We **did not substantiate** that the quality of disability evaluations conducted by contractors pursuant to DEM contracts has caused medical harm or failure to treat. For the three cases identified by the whistleblower, we concluded that there was no medical evidence to substantiate that any medical harm or failure to treat was apparent from the medical issues identified in the contract examiners' reports.

Conclusions for Allegation 2

- We **did not substantiate** that contractors are not properly trained or qualified to conduct C&P exams. While the training and credentialing requirements of C&P contract examiners are not always equal to that of VHA C&P examiners, we found no evidence to support that contract examiners are not properly trained or qualified to conduct C&P exams.

- We did determine that contract examiners are not registered in the DMA registry database, as noted in the DMA Registration and Certification Handbook. DMA does not have jurisdiction over VBA contract vendors, and therefore, the DMA registration handbook is outdated.

- We determined that attending an American Psychological Association (APA) approved internship is not a requirement for a psychologist in any of the MDE contracts; however, it is a requirement for psychologists employed by VHA. We did not find evidence to support that completion of an APA-approved internship impacts completed C&P exams.

Recommendations to DMA

6. We recommend DMA update the DMA Registration and Certification Handbook to clarify that the handbook does not apply to VBA MDE contract examiners.

Conclusions for Allegation 2a

- We **did not substantiate** that MDE contract examiners are not receiving the same training as VHA C&P examiners. We determined that contract examiners are completing the same DMA C&P training courses as those of VHA C&P examiners.

Summ[redacted]

We developed this report in consultation with VA, VBA, and VHA offices to address OSC's concerns that VA, VBA, and VHA may have violated law, rule, or regulation; engaged in gross mismanagement; and abuse of authority; or created a substantial and specific danger to public health and safety. In particular, the Office of General Counsel has provided a legal review, and the Office of Accountability and Whistleblower Protection has reviewed the report to determine whether it makes findings against senior leaders requiring OAWP action, and the National Center for Ethics in Health Care has provided a health care ethics review. We found that the improper manner in which the former DEM's contract examiners reviewed Veterans' records was a violation of VBA's M21-1 adjudication procedures. While this may have affected some Veterans' benefits, it did not create a substantial and specific danger to public health and safety.

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Introduction

The Under Secretary for Health (USH) directed that the Deputy Under Secretary for Health for Operations and Management (DUSHOM) assemble and lead a Department of Veterans Affairs (VA) team to investigate allegations lodged with the Office of Special Counsel (OSC) by Dr. Reem M. Haddad (the whistleblower), a physician at the Phoenix VA Health Care System's (hereafter, the Medical Center) Compensation and Pension (C&P) Department, who consented to the release of her name. The whistleblower alleged that VA's Veterans Benefits Administration (VBA) does not properly oversee C&P exams performed by contractors, adversely affecting disability determinations and compensation. The VA team conducted a site visit to the Medical Center June 19–22, 2017. [redacted] privacy of Medical Center employees, the team conducted interviews at VBA's Regional Office (RO), located in close proximity to the Medical Center.

II. Facility Profile

Part of Veterans Integrated Service Network (VISN) 22, the Medical Center is a complexity level 1b, tertiary care hospital, providing a full range of primary, secondary, and tertiary health care services to Veterans at its main facility and seven community based outpatient clinics (CBOC). It is authorized to operate 166 hospital beds, (72 Internal Medicine, 26 Surgery, 20 Intensive Care Unit, and 48 Psychiatry), along with 24 residential rehabilitation treatment program beds and 104 Long-Term Care beds.[1] An average of 1,374 Veterans requested disability exams monthly during fiscal year (FY) 2016.[2] While VHA facilities conduct these examinations, benefits and services for disabilities (C&P, education, loan guaranty, and insurance) are provided by VBA through its 56 ROs. The Phoenix RO also administers Vocational Rehabilitation and Employment, a National Call Center, outreach services for the homeless, elderly, minority, and women Veterans, and public affairs in Arizona, California, Nevada, and New Mexico.[3]

III. Specific Allegations of the Whistleblower

Allegation 1: The quality of disability evaluations conducted by contractors pursuant to Disability Evaluation Management (DEM) contracts is consistently substandard.

a. *There is no clinical quality measurement for, or evaluation of, contractor exams.*
b. *Contractor examiners are not reviewing medical records as required for the exams.*
c. *Due to a lack of record review, duplicate diagnostic testing is being completed by contractor examiners.*
d. *Contractor examiners are diagnosing conditions without supporting evidence.*

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[1] Phoenix VA Health Care System Trip Pack – April 2017.
[2] VHA Support Service Center (VSSC) - C&P Daily Workload Report, (5V22) (644) Phoenix, AZ HCS, Date Range: 10/01/2015–09/30/2016, https://securereports2.vssc.med.va.gov.
[3] Phoenix Regional Benefits Office Trip Pack – Fiscal Year 2016, September 2016.

e. *The quality of disability evaluations conducted by contractors pursuant to DEM contracts has caused medical harm or failure to treat.*

Allegation 2: Contractor examiners are not properly trained or qualified to conduct C&P exams.

a. *Contractor examiners are not receiving the same training as VHA C&P examiners.*

IV. Conduct of Investigation

The VA team conducting the investigation included:

- [redacted] Deputy Chief Logistics Officer, VHA
- [redacted] C&P Medical Director, Portland VA Medical Center (VAMC), Portland, OR
- [redacted] Chief of C&P, McClellan Outpatient Clinic, Sacramento, CA
- [redacted] C&P Medical Director, Jamaica Plain VAMC, Boston, MA
- [redacted] C&P Lead, Durham VAMC, Durham, NC
- [redacted] Supervisory Contracting Officer (CO), VA Acquisition Service
- [redacted] VISN 6 C&P/ Integrated Disability Evaluation System (IDES) Administrative Director, VHA
- [redacted] Clinical Program Manager, Office of the Medical Inspector, VHA
- [redacted] Medical Officer, VBA Compensation Service
- [redacted] Assistant Director for Quality Assurance (QA), VBA Compensation Service
- [redacted] Office of Mental Health (MH) and Suicide Prevention, VHA
- [redacted] Director, MH C&P, VHA.

We reviewed relevant policies, procedures, professional standards, reports, memoranda, and other documents listed in Attachment A and held entrance and exit briefings with Medical Center and RO leadership. We initially interviewed the whistleblower by phone on June 8, 2017; and in person on June 20. During the site visit(s), we provided the following interviewees with a Notice of Witness Obligations and Protections and a Designation of Union Representative (if requested).[4]

RO:

- [redacted] Assistant Director
- [redacted], Veterans Service Center Manager
- [redacted] Supervisor Veteran Service Representative (VSR)
- [redacted] Supervisor VSR
- [redacted] Outreach Specialist, VBA

[4] VA Handbook 0700, Administrative Investigations, Chapter 5, Section B, 5-1(1) Witness Obligations and Protections.

- [redacted] Rating VSR

Medical Center:

- [redacted] Medical Center Director (MCD)
- [redacted], Deputy MCD
- [redacted] Associate Director (AD)
- [redacted] AD for Patient Care Services
- [redacted] Chief of Staff (CoS)
- [redacted] Associate CoS
- [redacted] Chief of Research
- [redacted] Associate CoS, Primary Care
- [redacted] Psychologist, C&P Examiner
- [redacted] Chief, Audiology and Speech Pathology (A&SP)
- [redacted] Psychologist, C&P Examiner
- [redacted] Physician Assistant (PA), C&P
- [redacted] PA, C&P
- [redacted], PA, C&P
- [redacted] C&P Manager
- [redacted] Supervisor C&P
- [redacted] Medical Support Assistant (MSA), C&P
- [redacted] MSA, C&P
- [redacted] Chief, Health Information Management
- [redacted], Supervisory Health System Specialist, Medical Staff Office
- [redacted] Patient Advocate Supervisor
- [redacted] Risk Manager, Quality, Safety and Improvement (QSI)
- [redacted] Chief of QSI

We interviewed the following July 31–August 4, 2017, in Washington DC:

Office of Disability and Medical Assessment (DMA):

- [redacted], Chief Officer
- [redacted] Program Management Officer (PMO) Analytics and Field Support
- [redacted] Program Analyst
- [redacted], Program Specialist
- [redacted] Program Specialist, Clinical Reviewer
- [redacted], M.D., Medical Officer
- [redacted], Quality Management Reviewer
- [redacted] Supervisor, Health Care Education Officer, Bay Pines VA Health Care System; former Acquisitions Manager, DMA

VBA:

- [redacted] Chief, Mandatory Contract Exam Operations (MCEO), Compensation Services (CS)

- [redacted], Chief, Contracts, Mandatory Contract Exam Acquisition Support Staff (CMCEASS), CS
- [redacted], Assistant Director, Mandatory Contract Examination Staff (ADMCES), CS

VHA:
- [redacted] Psychologist, Lexington VAMC, Lexington, Kentucky
- [redacted] Psychologist, Louisville VAMC, Louisville, Kentucky
- [redacted] the Medical Center
- [redacted] the Medical Center
- [redacted] the Medical Center

Contractors from QTC Medical Services, Inc. (QTC):
- [redacted] Medical Director
- [redacted] Program Manager
- [redacted] QA Director
- [redacted], Subcontracting Plan Manager
- [redacted] Training Director

On August 9, 2017, we interviewed Thomas J. Murphy, Acting Under Secretary for Benefits (AUSB), by phone.

On August 21, 2017, we interviewed VBA Program Analysis & Contracts Staff:
- [redacted] CO's Representative (COR)/Management Analyst
- [redacted] Chief, Budget and Contracting in Compensation Service (B&CCC)

V. Background

C&P Examinations

A C&P examination is a disability evaluation, an assessment of the medical evidence that involves conducting an examination, providing an opinion, or both. For purposes of this document, the term "exam" will be used to describe a physical or mental examination, evaluation, or opinion, unless otherwise specified. The role of the examiner is to provide consistent, high-quality disability examinations to ensure that Veterans and Service Members are evaluated fairly for their claims for benefits. The exam provides specific clinical information to VA claims adjudicators who are not clinicians; it is not used for the purposes of medical treatment. The Disability Benefit Questionnaire (DBQ) is the document protocol used to structure consistently the medical information obtained during the exam.

For C&P purposes, a medical opinion is a conclusion based on current medical literature and supported by evidence in the claims file (C file); it is a thoughtful judgment by a qualified practitioner that responds directly to the questions asked in the

examination request in the language specified therein. The rationale provides medical case-specific information, cites the reasons for the opinion, and demonstrates the way in which the opinion was formulated.

Evidence to be reviewed includes information from the Veteran's C file, which may contain private medical records and lay statements from the claimant and others relevant to medical issues, service treatment records (STR), the VA medical record, and any information the Veteran provides during the disability exam process. When necessary, the examiner may conduct research through medical literature to clarify issues and confirm data. The completed exam report is forwarded to VBA to review as part of the evidence of record to adjudicate a claim. After adjudication, VBA notifies the claimant of the decision. If dissatisfied with the decision, the claimant may file an appeal.[5]

Disability Examination Contracts

The VA has had contracts for disability examinations in place for many years. Anticipating a high demand for C&P examinations in 2011, the VA awarded DEM contracts to private organizations. Under the direction of the DMA, VHA C&P Clinics administered the contracts from October 2011 to September 30, 2016; thereafter, the VBA took over their management. The whistleblower alleged substandard quality of exams conducted by Veterans Evaluation Services (VES), QTC Medical Services, Inc. (QTC), and Logistics Health Incorporated (LHI).[6] For all of the DEM contracts, the initial period of performance was from October 1, 2011, through September 30, 2015, but the end date was extended twice, first to July 12, 2016, and then to January 11, 2017.

The VA expanded this service model in September 2016, with an award of 12 Medical Disability Examinations (MDE) contracts totaling $6.8 billion to five contractors, including LHI, VES, and QTC serving the Phoenix area.[7] MDE contractors supplement VA staff for C&P exams for geographic barriers and when demand exceeds VHA capacity and available medical staff during surges, staff shortages, and unanticipated backlogs.

Quality

The MDE determines the claimant's current medical diagnoses and the extent of functional impairment arising from military service. It thus provides information critical to VBA adjudicators in the assessment of whether a current medical condition is connected to service and, if connected, the percentage of disability impairment. This percentage defines the dollar amount awarded to the Veteran. Because of its critical role as a medical-legal document, the examination report must be of high quality, providing essential medical and legally-required information to support each diagnosed

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[5] C&P Disability Examinations Procedure Guide, http://vaww.demo.va.gov/files/DMACPDisabilityExaminationsProcedureGuide9-30-15.pdf.
[6] VES, contract VA-791-P-0108; QTC, contract VA-791-P-0146; LHI, contract VA-791-P-0107.
[7] News Release, *VA Awards $6.8 Billion for Medical Disability Examinations*, VA Office of Public Affairs Media Relations, Washington DC, September 19, 2016.

disability: it is not enough to simply state a diagnosis. Its findings must be sufficiently detailed for Rating Veteran Service Representatives (RVSR) and Decision Review Officers (DRO) to arrive at determinations that will withstand the scrutiny of appellate review.

VBA's requirement and standard for quality of C&P examinations is based on its usability for rating purposes and in conjunction with VA Schedule for Rating Disabilities (VASRD). Usability for rating purposes M21-1, Part III, Subpart iv, Chapter 3, Section D - Examination Reports is based on "completed" examinations with questions fully addressed and answered on the C&P examination worksheets (DBQs).[8] Although it is necessary to have accurate clinical, diagnostic and therapeutic decisions, for VBA purposes, quality is defined as a fully completed DBQ for C&P examination that is forensic in nature. Additionally, the purpose of a forensic C&P exam is to provide very specific information to ensure a proper evaluation of the claimed disability rather than to provide diagnosis for the purpose of medical treatment.

DMA Quality

The DMA measured exam quality from a ratability standpoint, using *FY16 Audit Review Criteria* and *DMA Fact Sheet 16-002* and their previous versions during their management of DEM contracts. They reviewed the quality of exams and exam requests under the criteria of the Quality Audit Tool (QAT), developed with input from VBA and VHA. The QAT allows for a substantive evaluation of any disability examination and any type of DBQ against 17 criteria, 8 VBA-oriented addressing examination requests and 9 VHA-oriented addressing exam reports. The VHA portion imposes a minimum goal of 90 percent of the criteria being met, based on both historical and lowest acceptable levels of performance.[9] DMA Regional Quality Management Specialists conduct focused reviews on a computer-selected stratified random sample of disability evaluation reports using the QAT, and report these quality scores at the National, VISN, and facility levels monthly.[10] They require each VAMC using the DEM contract to perform 100 percent clinical quality review of exams prior to their release.

Contract Exam Quality

The Performance Work Statements (PWS) for the DEM and MDE contracts require contractors to ensure that the quality of the examinations are consistent with the terms and conditions of their respective contracts; they must correct inadequate reports and have QA Plans. The Government conducts reviews to ensure the quality of contractor performance as needed. The Examination Quality Requirement of the DEM contract includes: 1a) Examination Report Completeness and Reliability: Not greater than 3 percent of examinations deemed insufficient due to examiner's action or lack of action;

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[8] M21-1, Part III, Subpart iv, Chapter 3, Section D - Examination Reports.
[9] Fact Sheet DMA-16-002, *VHA Disability Examination Quality Ratability Review*, Office of Disability and Medical Assessment (DMA), May 27, 2016, http://vaww.demo.va.gov/files/FactSheets/2016/DMApercent20Factpercent20Sheetpercent2016-002.pdf.
[10] VSSC, (https://vssc.med.va.gov/).

1b) 100 percent of the examinations performed by the contractor shall be reviewed by VA staff for sufficiency; all insufficient examinations shall be returned to the contractor for rectification; 2) Applicable Diagnostic Testing: The contractor shall ensure that diagnostic test/procedures ordered are consistent with Attachments 5 and 6 when evidence of diagnosis is not present in the Veteran's or Service Member's medical record; 3) Communication of Test Results: The contractor shall communicate all test results with the Veteran or Service Member; and 4) VA Review of contractor Records: The VA will randomly select and review Veteran or Service Member clinical records documented by the contractor. These reviews will assess appropriateness of diagnostic testing, confirm communication with Veterans/Service Members, and review the pertinent claim or clinical information.

Under the MDE Discretionary contract, the contractor's examination quality is required to be no less than 92 percent sufficient, which VA's Central Office (VACO) CS staff will measure quarterly through sampling. Per the DEM contract, quality is determined by completed examinations with all questions completely addressed and answered from the C&P examination worksheets, with proper worksheets utilized; proper tests, procedures, laboratory work, and x-rays utilized; and correct billing codes and Contract Line Item Numbers (CLIN) for examinations, tests, procedures, laboratory work, and X-rays utilized. Additionally, all examination reports must satisfy the examiner credential and signature requirements.[11] For performance matrix measures of MDE Discretionary and Bridge Contracts, see Attachment B.

VHA Quality

Individual VAMCs have developed processes to evaluate performance of individual VHA C&P examiners and the quality of their reports. Facility-specific *Ongoing Professional Practice* Evaluations (OPPE) and *Focused Professional Practice* Evaluations (FPPE) contain practice competency elements and some of the criteria established by the DMA to ensure alignment and to enforce continuous compliance with VBA documentation, ratability requirements. FPPE and OPPE are used by the Medical Staff for evaluation of its own performance for internal VHA processes and are not publicly reported. Both serve as reference tools during the process of renewing privileges.[12]

Training and Qualifications

VHA Directive 1603 requires that all clinicians performing C&P or IDES disability evaluations complete a series of mandatory training modules, courses, and post-tests to become certified by DMA before they are qualified.[13] This training is critical to ensure

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[11] DEM Contract - section B, part 6 - *Examination Requirements* and part 7 - *Examination Quality Requirements*; MDE Contract- section B, Performance Work Statement, Part 10 - *Examination Requirements* and 10.17 - *Examination Quality*.

[12] VHA Handbook 1100.19, *Credentialing and Privileging*, October 15, 2012.

[13] VHA Directive 1603, *Certification of Clinicians Performing VA Disability Examinations*, April 22, 2013. AUTHORITY: 38 United States Code (U.S.C.) 7301(b); and *Training and Certification of Clinicians Performing VA*

that clinicians conducting these exams understand 1) that disability exam reports have legal ramifications, and 2) what VBA needs to know to make a valid determination on disability benefit claims. In addition, the Government Accountability Office (GAO) standard GAO-14-704G states, "competence is the qualification to carry out assigned responsibilities and requires relevant knowledge, skills, and abilities, which are gained largely from professional experience, training, and certifications."[14]

For the credentialing process at the facility level, VHA C&P examiners must have a background education covering the clinical areas related to the individual clinician's specific function. All C&P examiners must be fully capable of: 1) demonstrating knowledge of the general medical care expected of any clinician with M.D., DO, NP, PA, Psych. D., Ph.D., Audiology, and Optometry academic background, and 2) applying analytical skills expected of any clinician working in the disability field, including case history analysis, assessing impairment and severity of limitations for determination of disability, outweighing medical evidence in determining the role of each factor in the impairment, determining causation, incorporating available scientific evidence on the decision-making process, rendering advisory or expert medical-legal opinions, and producing legal documents for nonclinical staff such as raters, lawyers, and judges to understand. In addition, special professional qualifications are required for C&P examiners performing mental health (MH) and traumatic brain injury (TBI) examinations.[15,16]

DMA Training

DMA is responsible for the development, evolution, management, and implementation of the ongoing clinician certification program. This includes: 1) working collaboratively with the Employee Education System (EES) to produce the certification training modules and documenting and tracking clinicians who successfully complete them, 2) coordinating the certification process and providing a list of certified clinicians to the appropriate field facility, and 3) monitoring field facilities for compliance with this process. All C&P-specific mandatory training is provided to the field by the DMA via its secure website to register certification of successful completion of training, and verifying and tracking the certification status of clinicians conducting disability examinations.[17] Locally, training is internally tracked and certified by facility C&P Leadership and/or VISN designated official(s), per C&P policy. Local C&P directors may also review the certification of examiners nationally in the DMA database.

Disability Examination Contractor Training

Disability Examinations, November 15, 2016. AUTHORITY: 38 U.S.C. 5301A, 7301(b); 38 CFR 3.159, 3.326, November 15, 2016.

[14] GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sep. 10, 2014), principle 4.02.

[15] DMA Fact Sheet DMA-14-004, TBI Disability Examination Providers, May 8, 2014.

[16] VHA Directive 012-021, *Qualifications for Examiners Performing Compensation and Pension (C&P) Mental Disorder Examinations*, August 27, 2012. www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2780.

[17] http://vaww.demo.va.gov/certificationregistration.asp.

Contracted C&P examiners are required to receive the same training as VHA examiners, and contractors are responsible for ensuring that all staff have successfully completed this training.[18] The PWS for the DEM and MDE are similar, requiring contractors to provide training to their staff and sub-contractors, to submit a training plan, to maintain training records, and to identify a training director. VA requires contractors to ensure and maintain documentation of its C&P examiners' licensing/credentialing review on file and available to VA for review upon request. Contractors are required to provide monthly status reports on examiners to verify current valid licensure and to send a report to the VA Office of Acquisition, Logistics and Construction (OALC), certifying completion of this review and noting any discrepancies and resolutions. Finally, VA will have access as needed to this information.[19]

VI. Findings, Conclusions, and Recommendations

Allegation 1: ***The quality of disability evaluations conducted by contractors pursuant to Disability Evaluation Management (DEM) contracts is consistently substandard.***

a. *There is no clinical quality measurement for, or evaluation of, contractor exams.*
b. *Contractor examiners are not reviewing medical records as required for the exams.*
c. *Due to a lack of record review, duplicate diagnostic testing is being completed by contractor examiners.*
d. *Contractor examiners are diagnosing conditions without supporting evidence.*
e. *The quality of disability evaluations conducted by contractors pursuant to Disability Evaluation Management (DEM) contracts has caused medical harm or failure to treat.*

Findings

The whistleblower reiterated these allegations and expanded upon them, alleging that contractors may have evaluated patients without reviewing medical records, and, in some cases, missing serious previously undiagnosed medical conditions requiring treatment. She detailed an exam where the significant Metabolic Equivalent (MET) limitation was not supported by medical evidence and was contradicted by the results of cardiac testing. She attributed these errors to a variety of factors, but mainly that contracted clinicians frequently do not conduct complete record reviews.[20] She was also concerned that diagnostic studies might be duplicated because of this lack of record review. She further stated that these issues became significantly worse after VBA took over the management of the exams in 2016, indicating that the VA has

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[18] QTC and VES contracts, Deliverable 2, Training Plan; DMA mandatory training courses; DEM contract - section B, part 3 - Deliverables, Task 1&2 and 11 - *Training, Certification, Credentialing and Privileging*; MDE contract - section B, part 8.2, task 2; MDE contract- section B Performance Work Statement section 14, *Training.*

[19] DEM contract- section B part 11, *Training, Certification, Credentialing and Privileging* and part 14, *Licensing and Accreditation;* MDE contract- section B Performance Work Statement part 10.12, *Examiner Credentials and Signature* and part 15, contractor Personnel section 15.3, *License/Credential Documentation.*

[20] OSC File No. DI-16-3153.pdf.

established no medical or clinical quality measures to evaluate C&P exams, and while there is a process in place to appeal exam determinations, initial exam errors coupled with a lengthy appeal process, create significant delays for Veterans to receive appropriate benefit payments. Her experience with DEM contracts began in 2013, when the Medical Center started using the contractor; her concerns were shared by other VA C&P examiners. She expressed these concerns to DMA and raised them as quality issues during the 2016 C&P Conference held in Norman, Oklahoma. The Chief, A&SP, of the Medical Center, the Psychologist of Lexington VAMC, and the DMA Medical Officer, confirmed or presented case-specific examples of a lack of C-file review in cases that included a medical opinion.

The whistleblower reported that from 2013 to 2016, while the Medical Center was managing the contract, the quality review of contract exams was performed by C&P nonclinical MSAs prior to the C&P exam reports being released to VBA. This was corroborated by other witnesses, including the C&P Clinic MSA Supervisor, who pointed out that using nonclinical staff to review C&P reports was not in compliance with the DMA mandate on VA Medical Center Quality Review of contractor reports. The whistleblower stated that on numerous instances she had attempted to solicit qualified nursing staff to do quality reviews, but had not succeeded due to facility internal issues.

We found that the majority of VHA and VBA staff interviewed do not perceive any major differences between the overall quality of VHA and contractor exams. Medical Center AD had heard about C&P service contracting out, but not about issues with the quality of exams. While the Chief, A&SP, reported that such issues as: 1) missing information, 2) conflicting medical opinions; and, 3) no documentation of a review of STRs are seen in contractor exams, they are also seen in exams conducted by VHA or community clinicians. She noted that clinical results in contractor C&P exam reports are sometimes inconsistent with what is observed when the patient visits the Medical Center, but that this and previously-mentioned issues have not affected patient care because her Service decided a long time ago to scrutinize all exams, regardless of their origin.

When the C&P Manager arrived at the Medical Center in April 2016, he spent no time reviewing the DEM contract process because the contract was ending. He had not observed any great difference between contractor and VHA exams returned by VBA for quality concerns. VSR staff members have not noticed a difference between contractor and VHA exams regarding ratability, and feel that most contractor exams are sufficient for rating purposes, though the VHA examiners do seem to have a better idea of what VBA needs to rate the claims. The number of cases referred back by VBA for correction is approximately the same for both types. Clinicians at the RO see good and bad exams from both sides. The manager of the service center reported that the adjudication staff has received no specific concerns about C&P contractors or VHA exam quality; he would rate the general quality of exams for both as "adequate".

During our Washington, DC, site visit, we interviewed VHA, VBA, and DMA executive leadership, managers, and employees involved in the C&P process, discussing C&P program policies, regulations, procedures, directives, and initiatives. We also

interviewed QTC contractor staff. DMAs Medical Officer stated, "the big difference between what you see in a vendor exam and what you see in a VHA-conducted C&P exam comes down to Veteran's records review." He mentioned that the Veterans Benefits Management System (VBMS) frequently does not contain all the records. Examiners need to go through Joint Legacy Viewer (JLV), VBMS, and other sources of medical information, including the Computerized Patient Record System (CPRS), and there is nothing in the works for the contractor examiners to access those. He added: "So, again, I think it really boils down to not a quality of the individual, but VBA not providing the contractor with records."

A Medical Center physician stated that their C&P clinic was aware of problems with contractor exams before 2013, but that [redacted] became more aware of them after starting to work as the VHA clinical liaison at the RO in 2013 and discussing some of them with the whistleblower. In addition to lack of record reviews, other issues were misdiagnosing or no justification of level of severity, and no proper link established between a condition and military service. [redacted] had no direct contact with contractors, administrative or clinical staff, or QA to discuss these issues. Nor was [redacted] aware of any person within the Medical Center having contact with the contractors for quality issues, stating, "...my role in this has been limited to the evidence that you have from me which is the particular examples that I cited and described in my letter to [the then], VA Secretary (SecVA) . . . and allowing some of that material to be sent to [the AUSB] . . . and then there was a letter describing qualifications for a contractor." [redacted] August 30, 2016, email to the SecVA contended, "Although there are always of course occasional contractor reports of good quality, it is something unusual and not ordinarily expected. This is also evident to us as regular VA examiners. On evaluating claimant Veterans and reviewing the C file, encountering prior contractor exams can present problems, such as having to work around past errors or misinterpretations. Most of the problems seem to arise from a deficiency in general medical knowledge. Diagnoses may be made without supporting evidence. Evidence from the records may be misinterpreted. There are often diagnoses such as radiculopathies with no diagnosis made of a condition capable of causing radiculopathy, for example. There are also frequent conflicts within a DBQ. Even when a DBQ may be technically correct, there may be a DBQ with just checkmarks and no narrative related to that problem, such that the effect on the Veteran's life and activities is not conveyed. I do need to add that there obviously sometimes good contractor exams, with some minor fault; I speak of the majority that I have seen."[21]

A Medical Center C&P Examiner, who also worked for contractor QTC in 2013, stated that the quality of both VHA and contractors' exams "was very good." [redacted] reported that as a contractor examiner [redacted] did not have direct access to VBMS. Copies of STRs and most recent medical records, including past and present history, labs, X-rays, were provided to [redacted] ahead of time, usually the day before the appointment. [redacted] was able to request additional documentation, if [redacted] deemed it necessary, as long as the request was made before the release of the report.

[21] Email to SecVA, August 30, 2016.

We received emails from the Chief, MCEO-CS of August 8, 2017, from the ADMCES-CS of January 19 and 24, and February 3, 2017, and from a Medical Center RN, of January 19 and 24, 2017, demonstrating that the RN sent a complaint and some concerns about the contract exam process to the VBA on January 19, 2017.[22,23,24] VBA emailed [redacted] the same day requesting a meeting to discuss the concerns in more detail, and followed up with another email on January 24. The RN agreed to a meeting on January 25 by teleconference with the Chief, MCEO-CS, the Chief, CMCEASS, and Contract Exam Acquisition Support Staff. VBA followed up with the contractor and the Veterans identified. The contractor's February responses were rolled up and identified in VBA's internal memorandum of March 9, 2017. However, we found that resolution of the complaint and corrective action had not been communicated to Medical Center C&P leadership.[25]

Both the COR/Management Analyst and the Chief, B&CCC, at VBA VACO told us that they were only familiar with the MDE Discretionary Contract to VES covering 12 ROs, including Phoenix. Although the MDE contract was in effect, the COR was not aware of its having been used since December 2016; this is consistent with information kept by the OALC Chief. [redacted] was, however, aware of the MDE contract surveys and indicated that [redacted] receives their results on an ongoing basis, reviews them, and addresses any concerns with the contractor directly. [redacted] observed that most of the examinees' complaints were not about the quality of the exam, and that at no time had the survey results required [redacted] to intervene or issue corrective action. The Chief, B&CCC, also reviews the MDE contract surveys on a quarterly basis in a report submitted to [redacted] by the COR. [redacted] is not aware of any instances of quality-related issues: [redacted] office would have notified VHA of any identified negative survey results. [redacted] is not aware of any Standard Operating Procedures (SOP), directives, policies, specific training requirements (other than the contract requirements), that VBA has in place and/or any additional DMA training requirements regarding C&P exams.

We requested data related to any quality review performed on contractors' exam reports from October 1, 2011, to January 31, 2017, from VHA, VBA, DMA, and QTC, and found that numerous tools or scoring sheets are being used in a variety of ways to measure ratability of C&P exams. DMA uses the QAT or Audit Review Criteria (ARC).[26] VBA uses two different tools; the VBA National Quality Review Staff uses the *Statistical Technical Accuracy Review (STAR) Quality* guidelines while VBA Mandatory Contract Examination Staff uses the *VA DBQ Audit Criteria*. Contractors use different quality measurement instruments, including tools provided by VA or created internally, using VA quality review criteria as a guide.[27] For example, QTC uses a version of the

[22] Email dated August 8, 2017 to include MCEPO mailbox spreadsheet from May 2016 to December 2016.
[23] Emails to the VA team, 01/19/2017, 01/24/2017, and 02/03/2017.
[24] Emails to the VA team, 01/19/2017 and 01/24/2017.
[25] Email to the VA team, 08/23/2017, "Request for Additional Information Phoenix Complaints," Reply, 03/09/2017.
[26] Attachment E - *FY16 Audit Review Criteria* – VHA-Oriented
[27] "STAR Quality" review site for VBA. Examination & Medical Opinion Requests.

(Attachment I), also known as *Contract Exam Audit Criteria* or *VA DBQ Audit Criteria.*[28] QTC internal documents include the *Provider Audit spreadsheet* (QTC).xls.[29]

The evidence provided by DMA showed a ratability aggregate score of 95 percent or greater for 3,216 randomly selected contractor exams reviewed from FY 2013 to FY 2016. Average Ratability Aggregate Score for 28,370 randomly selected VHA exams reviewed by DMA for the same period was 95 percent or greater as well.[30]
Every year since the base year of the DEM contract, DMA requested that VHA facilities use a voluntary survey to evaluate DEM contractor performance. The survey asked 15 questions, 5 on timeliness, 3 on quality, and 7 on performance. Each question sought a rating of exceptional, highly acceptable, acceptable, marginal, unacceptable or neutral, weighed on a 0–5 scale of neutral = 0 and exceptional = 5. As the survey was voluntary, the number of respondents varied yearly, and the resulting data were limited to participating VHA facilities. DMA used these data for its annual Contractor Performance Assessment Reporting System evaluations.[31] Based on the survey information, the responding VHA facilities reported an *'acceptable'* level of overall performance by contractors, both before and after the announcement of the awarding of the National MDE Contract in March 2016.[32] The facilities reported an '*acceptable*' level of quality of C&P exam reports for all contractors except one.[33] These reports show that contractors complied with the VBA ratability requirements, the quality criteria established by DMA and the DEM contract, and that contractor exams were equivalent to VHA exams.

DMA has monitored the DEM contract performance and quality on an ongoing basis and found discrepancies during its evaluation of contractor's quality and/or timeliness performance on September 30, 2013, and September 30, 2014, for QTC, and on March 12, April 3 and 21, 2013, and on June 30, 2015, for VES. DMA CORs notified the VA CO when there were concerns. OALC used different methods to communicate those concerns to contractors, and required them to respond and address these discrepancies to ensure performance and quality improvement.

DMA emailed DEM contractors regarding "quality assurance." For example, in one of April 24, 2015, *"DEM: Quality Assurance for Mental/PTSD DBQs (bcc DEM contractors),"* DEM contract staff identified several common issues: 1) relevant medical evidence in the C file and CAPRI not being cited, although the examiner indicated that the C file had been reviewed; 2) overreliance on subjective medical history as related by the Veteran without citation to relevant medical evidence in the C file; 3) erroneous references to *Diagnostic and Statistical Manual of Mental Disorders–Edition IV* (DSM-IV) and the *Global Assessment of Functioning* when not specifically requested in the

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[28] Attachment I
[29] Attachment K
[30] From *Annual DEM and VISN Scores Interview.xlsx* provided by DMA; (Attachment B);.
[31] Performance ratings reported by DALC (Denver Acquisition & Logistics Center). OVERALL RESULTS – *VHA provided DEM CONTRACTOR RESULTS.xlsx, CandP clinic_OY 1.xlsx, DEM contractor CP Clinic Feedback_OY 2.xlsx, CP Clinic Feedback_OY 3.xlsx, CP Clinic Feedback_OY 4.xlsx.*
[32] Attachment D.
[33] Attachment E.

2507 task order; and 4) errors/insufficiencies in exam reports that should have been identified by the contractor's internal QA staff and corrected before being released to VHA. The email explained that some MH exam reports overemphasize the Veteran's subjective history with scant or no reference to relevant medical records to support diagnostic conclusions. DMA reiterated the need for examiners to use the available comments and remarks sections in the DBQ to clearly identify relevant evidence reviewed and describe how it supports findings/conclusions recorded in the examination report. Taking these steps to review evidence *and* document it in the report will positively impact the quality of the completed MH/PTSD examination report. Another email of November 4, 2015, to QTC, "*DEM - QTC - Quality Control Action Plan,*" noted a recent upswing in reports from the VHA facilities indicating that contractor examiners had very clearly not read the record nor reviewed any files.[34] The email pointed out clear discrepancies, missed points, and outright contradictions to prior reports and information contained within the records. These often resulted in clarification requests. This email requested an action plan that included details of the contractor's processes to ensure that all its examiners were reviewing the records appropriately.

QTC responded on November 13, 2015, outlining its four-part quality process: 1) operational processes; 2) QA team composition and QA specialists' training; 3) technology use and overview of the processes that allow examiners to review Veterans' records in a timely and effective manner, including electronic medical records (EMR); and 4) clinical examiners' training and management. QTC affirmed that they were transitioning to VBMS as the primary source of obtaining records, including EMRs, reviewed by its examiners. At that time, QTC was using a remote client access technology for Veterans' records in order to avoid the physical transmission of records to the examiner's site.

The MDE contract PWS states that VA will provide the Contractor with claims folders when required for an examination. "The contractor shall provide physician(s) with a copy of the Veteran's medical records, if applicable or required by VA, prior to the examination in a secure, electronic manner. If applicable, the contractor shall scan the entire contents of the claims file to be transmitted to the physician(s) electronically."[35] The MDE Bridge contract provides a list of 28 documents that "do not need to be downloaded from a Veteran's VBMS record."[36]

We ascertained that, while QTC administrative staff did indeed have access to VBMS, QTC examiners did not. We concluded that these examiners are not reviewing Veteran records in their entirety for examination purposes. Records are prescreened by nonclinical administrative staff who determine what they consider relevant and, therefore, to be provided to the examiner.

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[34] Email from DMA to the VA team 08/10/2017.
[35] MDE contract VA119A-16-D-0039, section 9.12.
[36] MDE Bridge contract, VA119A-17-D-0009, PWS, Page 43.

There is a discrepancy in the contract about when record access and review is provided and required. As noted above, the MDE Bridge contract PWS specifies that not all of the documents in the Veteran's VBMS record must be downloaded. In contrast, section G. 18, Routine Medical Opinions, of the contract reads, "evidence required to be reviewed includes, but is not limited to, the DD214/separation documents; all STRs, outpatient and inpatient treatment records, and overall, the full claims folder or C-file. The size and volume of the claims folder is unique to each Veteran's claims history within the VBA. Some records may be only a few pages, while others may include multiple pages. There are no 'partial claim folders.' Either the complete record will be made available in VBMS/VVA or a complete record will be shipped to the Contractor."[37,38] This statement also appears in the MDE contract.[39] If records are prescreened for relevance by someone other than the C&P Examiner, or not downloaded in their entirety, there is a potential for evidence to be overlooked because it was not accessible at the time of the exam. Additionally, not making all records available to the examiner may be inconsistent with certain VBA and Appeals Management/Board of Veterans Appeals remand examination requests that specifically require the examiner to review the entire C-file.

The VBA M21-1 *Adjudication Procedures Manual* specifies which examinations require C-file review by the examiner (Attachment H). The MDE contracts, including the Bridge, state that unless otherwise specified in the examination worksheets, any tests conducted within a 12-month period prior to the current examination shall be considered recent and sufficient. If recent test results are documented in the record and available to the examining physician for review, those tests need not be repeated unless specifically requested by the RO or there is indication of recent changes in the condition examined.[40,41] Failure to provide all available information to C&P examiners during exams can result in varying diagnoses discrepancies in the exam findings compared to the treatment records, and/or duplication of diagnostic studies. These discrepancies can delay claims adjudication due to the need for clarification.

A third email dated January 12, 2016, "*DEM K: Provider Citation to Pertinent Clinical Evidence in DBQ" (bcc DEM contractors),* details that DMA performed a random review of DEM contractor DBQs where examiners indicated that review of the C file was performed, but the DBQ disclosed scant or no reference to clinical evidence of such a review. Instead, the examiner relied on history as related by the Veteran with no comment as to whether the clinical record was consistent with the Veteran's reported history. This email included reminders that merely repeating the Veteran's version of his history provides an incomplete record that may lead to the DBQ being returned as insufficient/inadequate, and that "when records have been reviewed, the examiner should cite to pertinent medical evidence of record (positive and/or negative findings) related to the claimed condition…When the claim is for an increased disability

[37] VVA = Virtual VA. Virtual VA is a tool to assist with processing claims. It is used as an electronic storage for applications and evidence coming into the Department of Veterans Affairs.
[38] MDE Bridge Contract, PWS, Section G, 18.
[39] MDE Contract VA119A-16-D-0039, section 10.19.
[40] MDE Bridge contract, VA119A-17-D-0009, PWS, G 2 and G 3, Page 46 – 47.
[41] MDE Contract VA119A-16-D-0039, PWS, Section 10.4.

evaluation, any and all medical treatment for the claimed condition documented in the claims file since the last C&P examination and rating decision is relevant and probative to the Veteran's claim that the condition has worsened since the last assigned disability rating. Failure to review and annotate pertinent medical evidence of record in a DBQ may result in VBA returning a C&P examination report as inadequate/insufficient."

We reviewed several other corrective action exchanges between the VA Contracting Officer (CO) and QTC, and found evidence that the VA CO requested corrective actions on an ongoing basis during the execution of the DEM contract.[42] However, we also found that DMA, VHA, VBA, and contractors lack tools or methods to assess and measure the clinical quality/accuracy of exam reports. The AUSB, the Chief, the Medical Officer, the PMOANFS of DMA, and the QTC QA Director all indicated that C&P exams are viewed specifically for ratability of the report. The Chief, DMA, affirmed that review of the clinical accuracy of clinicians within VHA is conducted at the local level, and that the DMA is not a clinical office assessing peer review and whether or not a diagnosis is correct or whether somebody is practicing soundly. Rather, that office is looking at the rating criteria or the information on the DBQs. "We're looking at it from a quality standpoint. Did they provide the information that VBA requested? There are two different ways of reviewing quality. DMA does the DBQ qualities. The local facility is responsible for all OPPEs."

The AUSB agreed, "We are looking at two different sides of the same coin here." Clinicians look at weight, blood pressure, pupil dilations, etc., while "I want to know the range of motion on your knee, and I want to know the stability, and then stop talking. That's what I need to make a rating decision and nothing else." Physicians want to treat; while "[I need] a *forensic* examination of the impact on ability of a Veteran to do something physically or mentally." When a DBQ has a block checked that says, 'the numbers for whatever measure are X,' the VBA takes the physician's word for it: "your opinion as a doctor with your signature on the bottom says, 'I measured it, and it's X. That's a very different twist on how VHA looks at things from how we need to make rating decisions. In the contract, we are paying these folks to give me medical evidence to make rating decisions."

The DMA Medical Officer confirmed that clinical quality/accuracy evaluation has not been performed on the VHA or on the contractors' side, because the two administrations look for two different things, and there is a discrepancy in languages that each uses. "The [VBA is] using terminology from 1940s, as we're using contemporary diagnostic information. And so the quality in terms of ratability is going to be one thing. Quality in terms of clinical quality [is another]. . . I don't think we've ever looked at clinical quality on the VHA side in an objective fashion. On the contractors' side, I don't think they really look at clinical quality either because their main concern is ratability."

The DMA PMO, Analytics and Field Support, told us that an *ad hoc* analysis related to medical quality of reports had been attempted in 2010, and DMA developed a "Clinical

[42] MDE Contract VA791-P-0146, Response to Request for Corrective Action, Dated September 30, 2013.

Review Program Proposal: Improving Quality by Clinical Review," that specified a review of the disability examination reports by certified disability examination clinicians. The program was ready to go in 2013, but was never launched, and the staff involved are no longer working for the VA.[43] The DMA Medical Officer recollected that the logistics of the required protected peer review process imposed difficulties to the plan."[44]

The 2014 draft directive *VHA Disability Examination Report Audit for Quality Management of Disability Examinations for the Disability Examination Program*, from DMA mandates a random quality review auditing process performed by clinical peers of the content of the examination report for completeness, clinical pertinence, accuracy, and quality "in relation to VBA's examination request and the Veterans claimed conditions and/or relevant diagnose(s), and adherence to the VA's claim adjudication documentation requirements within the examination report. Disability examinations and medical opinions that are provided by VHA contract providers are subject to the quality review processes determined by their specific contract provisions."[45] This draft has not been finalized and published.

The VBA maintains a corporate mailbox for concerns about examinations under the MDE contract, including those related to quality, and maintains a spreadsheet of these concerns by 1) date, 2) complainer, 3) issue, 4) region, and 5) dated final outcome.[46] From May to December 2016, 1,362 issues, from incomplete DBQs to wrong exams ordered and/or documents not uploaded appropriately, were received. Two hundred ninety-two were concerns with business applications, 170 were on policy and procedure, 882 were about contractor issues, but only 18 were on quality. On them, under the VBA quality standards, we found no evidence to suggest that contract exams were more or less sufficient than VHA exams.

QTC has an internal quality audit goal of 97 percent, but is contractually required to have only 92 percent. VACO staff conducted a quality review quarterly in 2010 of QTC performance, finding an *unsatisfactory* rate of 89 percent or less; *expected standard of performance* rate of 92 percent; and *exceptional* rate of 95 percent or more. QTC provided the five quality measures used by their compliance team, as well as their approach to noncompliant employees, and a copy of the *VA DBQ Audit Criteria* used by the Mandatory Contract Exam staff with a summary spreadsheet of examiner issues titled *Escalated Provider Issues.*[47,48,49] This spreadsheet indicates type of examiner, issue description, dates of counseling, action, and results.[50] One physician on the QTC quality review team completes regular quality reviews and provides guidance from an administrative or rating perspective, and adds clinical insights. The Director added that [redacted] also assists in helping QTC train [redacted] QA staff: [redacted] has also had VBA experience

[43] Email to the VA team, 09/21/2017.
[44] Email to the VA team, 09/28/2017.
[45] Email to the VA team, 09/22/2017.
[46] VAVBAWAS/CO/Contract Examination Inquiries (ContractExam.VBAVACO@va.gov).
[47] Provider Audit spreadsheet (QTC).xls.
[48] *POL-CORP- Escalation of Provider Non-Compliance to Quality Assurance Standards*
[49] Escalated Provider Issues.xlsx.
[50] Provider Audit spreadsheet (QTC).xls.

at the regional office level as well, so [redacted] understands both the rating and the clinical perspective."

The whistleblower alleged clinical quality issues on 23 General Medical (Gen Med) reports by three contractors (2 by LHI, 9 by VES, and 12 by QTC) from September 2013 through January 2017. Four DMA-registered and certified Gen Med C&P Examiners (three Physicians and on PA-Certified) of our team reviewed them, using seven criteria: 1) review of VBMS, if required; 2) medical history provided; 3) clear Individual Unemployability (IU) statements provided, if requested; 4) diagnosis supported by medical evidence, and not solely historical, when applicable; 5) opinion/rationale is supported by STRs and/or medical/scientific evidence/studies; 6) functional limitations/restrictions (ex. Correia) supported by medical evidence; and 7) demonstrated sound clinical judgement/decision making within the examination (the entire review is summarized in Attachment G). The whistleblower did not provide examples of MDE contract exams.

To determine whether any of the criteria had been met, we reviewed each exam in its entirety, its VBA exam request, the VHA treatment records, and pertinent records in VBMS (including previous ratings, previous pertinent C&P exams, private treatment records, etc.). We also evaluated the exam content for internal inconsistencies, discrepancies, or contradictions, as well as for completeness and medical accuracy. Each criterion was evaluated on the following scale: 1 = highly satisfactory, 0.5 = satisfactory, 0 = unsatisfactory, or NA = not applicable. Reviewer scores were then averaged for each criterion to determine the overall clinical quality/accuracy rating. In order to consider that the information in the exam met the criteria, the minimum average score was required to be no less than 0.5.

All reviewed exams met the minimal acceptable score for five of the criteria. For Criterion #1, all reviewers' scores were 0.38: 16 of them required C-file review, but the review was made in only 6. For Criterion #5, the aggregate score was 0.22; three exam requests explicitly required a medical opinion, and the reviewers unanimously agreed that the examiner's opinion/rationale was not supported by the STR and/or medical/scientific evidence/studies. As our reviewers did not reach consensus for the rest of these exams on whether the DBQ prompted a medical opinion, no conclusion may be drawn from their different scores.

VBA's procedure manual, M21-1 III.iv.3.A.8.b., requires that the examiner must review the Veteran's claim folder in certain situations, including when the examiner is providing a medical opinion.[51] DMA's *C&P Disability Examinations Procedure Guide* provides guidance to examiners regarding medical opinions and supporting rationales. The guide indicates that medical opinions are conclusions supported by evidence, based on current medical literature and on examination and evidence in the C file. When DMA created the ARC tool for assessing C&P exam ratability quality, they incorporated both the VBA M21-1 Adjudication Procedures manual and the DMA *C&P Disability*

[51] M21-1, Part III, Subpart iv, Chapter 3, Section A - Examination Requests Overview.

Examinations Procedure Guide requirements, which specify record reviews for medical opinions. We found evidence that contractors did not indicate records were reviewed and the lack of complete record review led to erroneous information being recorded in some of the contract examination reports. In one of the cases, the error was so significant that VBA is now proposing severing benefits for the currently service-connected (SC) condition (Attachment G, Exam #5). Such lack of clinical quality/accuracy of examination report can potentially impact both the Veterans and the VA financially, and can also lead to Veterans' lack of confidence and trust in the VA.

These reviews contained many instances of clinicians indicating diagnosis or diagnostic test results based purely on the Veteran's self-reports, without making reference to available medical records. Although outside the scope of this review, clinician reviewers, VHA and VBA witnesses noted that the same type of errors are made by VHA clinicians. We did not compare Gen Med examinations completed by VHA C&P clinicians in this review.

Additionally, we reviewed 65 MH contractor medical examination reports submitted for quality ratability/sufficiency review as well as clinical quality/accuracy determination purposes by VAMC Psychologists Hyberger of Lexington and Marsano of Louisville. [redacted] told us that the Lexington VAMC has utilized both internal VHA and contract examiners for MH examinations, and the DEM contract was first utilized in 2014/2015, for approximately 9 months for 146 MH examinations.[52] [redacted] was concerned about 47 of them (40 percent) as being of poor quality.[53] Of these, 25 were completed by QTC, 17 by VES and 5 by LHI. We found that 16 examinations did not have valid DSM-5 diagnoses (then applicable for C&P exams), 5 incorrectly used "Remission" Specifiers, and 2 did not utilize valid DSM diagnoses at all. Nine of the cases were found to have inconsistencies requiring clarification, and 13 were found to have inconsistencies that required clarification or would have been declared unratable by VBA. In an email to DMA of May 14, 2015, [redacted] expressed concerns with the following issues related to QTC examinations: 1) the records were not clearly reviewed, 2) the purpose of a review examination was not understood, 3) the DBQ was not filled out entirely or correctly, 4) the examination did not provide a requested medical opinion, and 5) the examiner did not include occupational information pertinent to assess the disability.[54]

We observed that 19 of the 25 QTC examinations were completed by three examiners. Specifically, 13 examinations had inconsistencies that requiring clarification: 7 did not provide a requested medical opinion; 2 diagnosed an SC Veteran with an additional MH diagnosis without addressing whether this was a new, or a progression of a previous diagnosis, and 4 had other inconsistencies rendering them unratable.

[redacted] was not specific on issues found in VES reports, stating that since [redacted] had worked with them to improve the quality of their examinations; the majority of VES reports have met

[52] Email to the VA team, 08/08/2017.
[53] Emails to the VA team, 07/31/2017, 08/09/2017, 08/14/2017, 08/22/2017 and 08/23/2017.
[54] Email to the VA team, 08/08/2017.

VA quality standards.[55] [redacted] indicated that LHI had used the wrong DBQ form, and that [redacted] had reported this to DMA, that indicated that they would work with LHI to correct this.[56] We reviewed the LHI reports and found them to be of poor quality: they supported neither a new diagnosis of a personality disorder nor one of a substance use disorder, despite much documentation in the examination supporting such diagnoses.[57]

While the clinical quality/accuracy of some of the contractor examinations provided by this practitioner was sub-par, no conclusion can be drawn regarding the quality of contractor examinations in general. Forty-seven contractor exams of questionable quality were reviewed by the VA team psychologists who found that 26 of the total 146 cases were of poor quality (18 percent). [redacted] also expressed concerns about examinations found to be adequate, that examiners endorsed certain psychiatric symptoms (i.e., either to favor or to disregard specific qualifiers). This valid concern does not reflect on the contractors' documentation of the examinations, but rather is an artefact of the-existing VA Rating Schedule criteria not reflecting current clinical concepts of thresholds regarding frequency, intensity, and timeliness of psychiatric symptoms. Indeed, [redacted] noted that "...thresholds are missing in the existing VA Rating Schedule criteria for mental disorders."

[redacted] told us that the Louisville VAMC does not utilize contractors for mental health examinations, thus [redacted] exposure to contracted examinations is based on reading examinations when [redacted] reviews increase examinations with a previous C&P evaluation by a contractor. [redacted] provided us with 18 examinations that [redacted] determined were of poor quality. Of these, four were completed by another VHA facility and thus are excluded, and one was out of the date range. These examinations took place from October 2011, through November 4, 2016.[58] Of the 13 contractor examinations, 4 were by QTC, 3 by VES, and 2 by LHI. A contractor was not identified for four exams. In our review, we found that two out of four DBQs completed by QTC were of poor quality; the other two were adequate, but agreed with [redacted] assessment that additional information would have been beneficial to support statements made by the examiner in the assessment. One poor exam involved a TBI completed by a psychologist, a practitioner not certified by DMA to make the TBI diagnosis or to complete the TBI DBQ. The other entailed a cognitive disorder diagnosed with no objective testing regarding diagnostic pathway.

We found that all three of the VES DBQs were adequate for clinical quality/accuracy purposes, but agreed with Dr. Marsano's assessment that additional information would have been beneficial to support statements made by the examiner in the assessment. This did not affect ratability. We found that both DBQs completed by LHI were not of adequate clinical quality/accuracy. One was a medical opinion that did not have a substantiated rationale and the other was completed on an outdated DBQ that utilized DSM-IV after VA had made mandatory the use of DSM-5.

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[55] Emails to the VA team, 07/31/2017 and 08/14/2017.
[56] Emails to the VA team, 07/31/2017, 08/03/2017 and 08/09/2017.
[57] Email to the VA team, 08/22/2017.
[58] Emails to the VA team, 08/07/2017 and 08/22/2017.

Of the four exams with no contractor identified, one did not provide sufficient documentation to assess clinical quality/accuracy, but three were of adequate clinical quality/accuracy. However, we agree with [redacted] assessment that additional information would have been beneficial to support statements made by the examiner in the assessment. [redacted] did communicate her concerns about the quality of contractor examinations via email to the Medical Director of VBA Contract Examinations, who responded, "the MH DBQs for C&P clinics are different (more complex, questions added to facilitate the process and get more info) than the ones used by contractors" and "there are different contract terms."[59] [redacted] emailed the former SecVA, the former USH, the former Principal Deputy Under Secretary for Health, and the Assistant Deputy USH for Clinical Operations and Management (10NC), on August 11, 2016, stating: "The majority of the contracted exams that I have encountered are cursory reports that contain the following problems: minimal historical information on the patient, which is an important aspect of a psychological evaluation; no or minimal information on the severity and frequency of endorsed symptoms; they fail to document the contribution of substance use and other factors that may explain the claimant's symptom presentation; they present as facts information that is at variance with the medical records; they lack any documentation of psychological testing."[60] While the clinical quality/accuracy of some of the contract examinations [redacted] provided was sub-par, no conclusion can be drawn regarding the quality of contract examinations in general, as there were only 13 contracted cases of questionable quality provided over 6 years, and three examinations of questionable quality also provided were completed by VHA examiners.[61] [redacted] also expressed concerns with the quality of both internal VHA and contracted examinations.

To address the whistleblower's concerns about issues with medical accuracy of contractor reports, potentially affecting medical outcomes or causing medical harm in three cases, [redacted] of our team reviewed those three cases submitted by the whistleblower:

Case #1: the whistleblower contends that medical harm may have been caused by the contracted VES examiner diagnosis of back pain to an in-service event or exposure. Review of medical records shows that the Veteran has been followed for back issues, has had appropriate diagnostic testing and has been referred to appropriate medical specialists to address orthopedic issues and pain management. There is no medical evidence of record to substantiate this claim.

Case #2: the whistleblower contends that medical harm may have been caused by the contracted exam for C&P for the Veteran for ischemic heart disease. Review of the medical records by four VHA clinicians support the contention that the C&P report was of substandard quality and that a misdiagnosis of valvular heart disease and cardiomegaly was made by the contractor. However, review of the medical records for the Veteran provided no evidence of treatment or changes in medication to the

[59] Email to the VA team, 07/17/2015.
[60] Email to the VA team, 08/07/2017.
[61] Email to the VA team, 08/07/2017.

Veteran's regimen based on this misdiagnosis by the contracted examiner. The Veteran was appropriately treated and evaluated for his actual diagnosis of ischemic heart disease and is followed for his medical condition on a regular basis. There is no medical evidence of record to substantiate that any medical harm or failure to treat exists due to the medical issues identified in contracted examiner's report.

Case #3: the whistleblower contends that medical harm may have been caused by the contracted exam for C&P for back pain and Intervertebral Disc Syndrome (IVDS). Review of the contracted exam report reveals that the examiner attributed the Veteran's back pain to IVDS despite the fact that an MRI of record showed no evidence of disc disease. Review of the MRI in question shows equivocal results for spine disease. The Veteran's medical record reflects ongoing issues with spine disease that has been appropriately followed and treated and referrals to specialists in orthopedic and pain issues made. There is no medical evidence of record to substantiate that any medical harm or failure to treat exists for this contention.

Conclusions for Allegation 1

- We **did not substantiate** that the ratability quality of disability evaluations conducted by contractors pursuant to DEM is consistently substandard. There was no evidence to support that the ratability quality of DEM and MDE contractor exams is substandard.

- We did find that VBA, VHA, and DMA quality review staff, and their contractors are using differing scoring tools/assessments and criteria to assess ratability of disability exams. This leads to a lack of uniformity in the assessment of the ratability of exams. Ratability quality should be assessed using the same criteria by all users.

Recommendation to VBA

1. Because ratability is a VBA determination, we recommend VBA provide a list of ratability criteria that will be used by all users to ensure uniformity in ratability quality assessment of all disability exams. VBA should provide the criteria to DMA quality review staff and its own MDE contractors for incorporation of this list of criteria into their ongoing ratability quality review processes.

Conclusions for Allegation 1a

- We **substantiated** that there is no clinical quality measurement for, or evaluation of, contractor exams. VBA and DMA quality review staff and MDE contractors have no method to assess or measure clinical quality. Without a standardized set of criteria to determine clinical quality and accuracy in an exam, VA cannot ensure the data submitted in an exam is clinically appropriate or accurate for rating purposes.

Recommendations to DMA

1. Because the DMA program office provides oversight to all VHA C&P clinics, we recommend that DMA create a list of clinical quality/accuracy criteria for ongoing assessment of the clinical quality of C&P exams for all users, to ensure uniformity in clinical quality assessment of all disability exams. This list of criteria will be used by VHA C&P clinics and VBA MDE contractors for ongoing clinical quality assessment of C&P Exams. The criteria should assess the clinical accuracy of the exam compared to diagnostic studies, diagnoses already of record, progress notes, and physical examinations in the C-file and medical records.

2. Ensure examiners, with experience and expertise in C&P, participate with DMA in the development of the C&P clinical quality criteria.

3. DMA will make the C&P Clinical Quality Criteria available to VBA for incorporation into the VBA contract vendors quality review process.

Recommendation to VBA

2. We recommend VBA incorporate the DMA C&P clinical quality criteria into the VBA MDE contracts' quality review process, to address and resolve clinical quality issues that can potentially affect ratability.

Conclusions for Allegation 1b

- We **substantiated** that the former DEM contract examiners and the current MDE contract examiners are not reviewing medical records as required for the exams. Contractor examiners are not reviewing or only partially reviewing Veteran records for exams. The lack of complete record review led to erroneous information being recorded in some contract examination reports. Records are pre-screened by non-clinical administrative staff who determine what they consider relevant and, therefore, to be provided to the examiner. The C&P examiner is best suited to determine which information is relevant for a particular exam.

Recommendation to VBA

3. We recommend that VBA ensure that all C&P examiners (VHA C&P clinicians and MDE contract examiners) review C-file evidence, covering the period from the last rating to the current exam, for "Increase," "Review," and "Routine Future" examinations.

4. We recommend VBA require that MDE non-clinical staff download the entire electronic folder for MDE contract examiners. The examiners should then determine what relevant evidence is to be reviewed, based on the C&P exam request.

Conclusions for Allegation 1c

- We **did not substantiate** that due to a lack of record review, duplicate diagnostic testing is being completed by MDE contract examiners. While a lack of record review could lead to duplicate tests being completed, we did not find objective evidence of this duplication of diagnostics in the exams supplied by the whistleblower or interviewees.

Conclusions for Allegation 1d

- We **substantiated** that the former DEM contract examiners diagnosed conditions without supporting evidence (the whistleblower did not provide examples of MDE contract exams). We observed several instances where contractor examiners provided diagnosis or diagnostic test results in the exams based purely on the Veteran's self-reports, without making reference to available medical records, even when the records were available. We determined that this has also been seen in exams conducted by VHA and community clinicians.

Recommendation to DMA

4. We recommend DMA supplement/update existing training to include dedicated topics regarding the need for C&P examiners to substantiate diagnoses, findings, and conclusions in C&P exams.

5. We recommend DMA make available to VBA, the supplemental/updated training regarding the need for C&P examiners to substantiate diagnoses, findings, and conclusions in C&P exams.

Recommendation to VBA

5. We recommend VBA work with MDE contractors to incorporate into the contractor training plans, the updated supplemental training DMA will provide, regarding the need for C&P examiners to substantiate diagnoses, findings, and conclusions in C&P exams.

Conclusions for Allegation 1e

- We **did not substantiate** that the quality of disability evaluations conducted by contractors pursuant to DEM contracts has caused medical harm or failure to treat. For the three cases identified by the whistleblower, we concluded that there was no medical evidence to substantiate that any medical harm or failure to treat was apparent from the medical issues identified in the contract examiners' reports.

Allegation 2: *Contractors are not properly trained or qualified to conduct C&P exams.*

a. Contractor examiners are not receiving the same training as VHA C&P examiners.

Findings

The whistleblower told us that contract examiners, in many cases, lacked appropriate training and credentialing, and that outside contractors are held to significantly lower standards than VA clinicians. The latter undergo an extended training process where they complete training modules, shadow experienced VA C&P clinicians, and are subject to ongoing monitoring and evaluation. She provided a VES solicitation for contract examiners stating that clinicians need only take a one-time orientation and a "brief" online VA certification module.[62] She further explained that the original DEM contracts did not require contract MH clinicians to complete APA-credentialed internships, an industry standard intended to establish high levels of examiner skill and efficacy, one that is required for VHA psychologists performing C&P exams.

Pertinent VHA and VBA leadership, managers, and employees at the RO were interviewed, and we requested information about communications between witnesses and/or the whistleblower and their leadership, as well as with VA agencies that could show evidence of issues relayed and follow-up actions taken. At VACO, we interviewed VHA, VBA, and DMA leadership, managers, and employees involved in the C&P process, discussing policies, regulations, procedures, directives, and initiatives. We also interviewed OTC contractor staff. Other contractors invited to participate declined or were not included due to the small number of cases they had processed.

DMA's Medical Officer told us that, in comparison with VHA examiners' training, contractors' training is far from complete. Having worked in both roles, he affirmed that his contractor training was slight, though he recognizes that contractor training programs have changed since then, and that currently contractors complete the same courses as are required for VHA examiners who are given more responsibility when the trainer feels they have a good understanding of the process and exam nuances. Contractor examiners do not receive this additional follow up and are considered experts and let free from the point they complete the TMS courses. This was corroborated by the Medical Center's C&P Examiner, who also worked for QTC in 2013.

QTC's Medical Director stated that his firm provides DMA-approved training to examiners as now required under the contract, including mandatory courses, hand-outs, DVDs, instructions on how to complete the DBQs, and VA terminology. He added that QTC trains new examiners and monitors performance in an internal QA program that includes a probationary period of up to 60 days with daily review and quality feedback. During this period, 10–15 simple cases are assigned, and the new examiner can ask questions and interact frequently with supporting staff. Examiner liaisons provide IT support and follow up on the examiner's progression. After the probationary period, the QA department assesses whether the examiner can be released to complete the DBQs on his/her own. The firm's Training Director said that if there are issues with any examiner's reports or performance, QTC provides more training and monitors its results in the quality of reports. Any issues identified and resulting actions taken are documented and tracked in a form created internally by QTC. If the work is not satisfactory and no improvement observed, the examiner's contract is terminated.

[62] WB supplied document, PSYCH PRELIM.pdf.

All C&P-specific mandatory training is provided to the field by DMA that has established a secure website to register examiners' certification of successful completion of TMS training, and to verify and track the certification status of clinicians conducting disability examinations.[63] Contractor examiners are not registered on this website, but still need to comply with certification requirements. According to the website, the Web-Based Training (WBT) courses are designed to reflect current practice standards and the required outcomes for ratable C&P disability exams.[64] The DMA courses are all available on TMS.[65] DMA has a separate Blackboard site for contract examiners; it is currently being replaced by VHA TRAIN.[66,67] DEM contracts incorporate all DMA-approved mandatory training courses required at the time the contracts are awarded. Courses subsequently added during the contracts include: *DMA Medical Opinions, DMA Aggravation Opinions,* and *DMA Military Sexual Trauma (MST)*, and the *Disability Examination Process.*

A May 6, 2015, email, supplied by DMA's Program Analyst (former DEM COR at DMA), indicated that the training courses, *DMA Medical Opinions* and *DMA Aggravation Opinions*, were announced to the DEM contractors with training to be completed no later than March 31, 2016.[68] They were required to update their Training Plans (see PWS S. 3. Deliverables, Task Two, Deliverable Two) to include these new modules and take the necessary action to have their active examiners complete this training, and to have their DEM contractor Project/Program Managers certify via email when all active examiners had completed it. An email of January 5, 2015, mandated that *DMA Military Sexual Trauma (MST) Examination* (also known as *Military Sexual Trauma (MST)* and *Disability Examination Process*) was to be completed no later than April 30, 2015.[69] QTC, LHI, and VES have included and maintained these new modules in their training plans.[70,71,72] DEM contractor examiners were held to the same training and certification standards and requirements as VHA clinicians.

During the course of our investigation, we found that the MDE contracts did not list the following courses as mandatory [(1) Military Sexual Trauma (MST) Examination (also known as Military Sexual Trauma (MST) and the Disability Examination Process), (2) DMA Medical Opinions, (3) DMA Aggravation and (4) DMA Gulf War General Medical Examination], even though DMA requires them for the Certification of ~~VHA~~ all C&P examiners. A December 15, 2017, email supplied by Contract Specialist at OALC indicated that MDE Contracts were updated effective on the period of performance

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63 http://vaww.demo.va.gov/certificationregistration.asp.
64 http://vaww.demo.va.gov/dmatraining.asp.
65 https://www.tms.va.gov/learning/user/login.jsp.
66 http://vaees.blackboard.com.
67 http://www.TRAIN.org.
68 Email to VA team dated 05/06/2015, "DEM: New DMA Med & Agg Opinion Mandatory C&P Trng Online at VA "Blackboard"_S: 3-31-2016 (bcc DEM contractors)" sent to the VA team on 08/16/2017.
69 Email dated 01/05/2015, titled: "Mandatory MST Training Course for Contract C&P Clinicians - S: 4-30-2015 (bcc DEM contractors)" 08/16/2017.
70 VA, DBA MDE under P.L. 104-275, Contract #: VA119A-16-D-0028 for District 1 – North Atlantic QTC Medical Services, Inc. Deliverable 2 – Training Plan, V. 1, April 4, 2016.
71 VA DEM, Contract #: VA-791-P-0107 for LHI, May 15, 2015.
72 VA, DBA MDE Contract #: VA119A-15-R-0150, Veterans Evaluation Services (VES), Inc. Training Plan, V. 1.0 draft 1, March 24, 2016.

December 13, 2017 to include these courses in the contract.[73] This was confirmed by the Director of Compensation Service, VBAVACO.[74]

Contractors have received clear guidance on policies, protocols, forms, etc. to comply with training and qualification requirements agreed upon under the DEM contract (or Bridge & Discretionary Contracts from October 1, 2013 to January 12, 2017). We requested QTC evidence of compliance with training and licensure qualifications for six randomly selected examiners. Of the six, one examiner was not in compliance with all mandatory training required by DMA and is no longer conducting exams for QTC.[75]

QTC submitted documents, including a spreadsheet of examiner issues "*Escalated Provider Issues,*" used to document and track incidents in which poor examiner performance was escalated to QTC Senior Leaders.[76] The document shows that from 2013 to June 2017, 73 examiners' contracts were terminated. Ninety percent of the issues were due to examiners letting their licenses expire, as they were retiring or changing professions, or to a change in the requirements on the contract that barred the examiner being used by the contractor. The remainder involved some type of potential adverse action by a medical board that was flagged in their monitoring of the examiner's licensure.

DMA monitors DEM contract performance and quality on an ongoing basis. The VA team found that a discrepancy was identified by DMA during its evaluation of contractor's performance on September 30, 2013, and 2014 for QTC, and on March 12, April 3, and April 21, 2013, and June 30, 2015, for VES. DMA CORs notified the VA's CO when there were concerns. The CO used different methods to communicate those concerns to contractors, and required them to respond and address these discrepancies to ensure performance and quality improvement.

In a March 11, 2013, email to DEM contractors: "*DEM Vendors: Psychologist Licensing/ Accreditation (PWS S. 14(c))",* from the Denver Acquisition & Logistics Center (DLAC) CO warned contractors: ". . . all DEM vendors [must] be circumspect when adhering to the DEM contract PWS S. 14(c) regarding licensing and accreditation of mental health examiners, especially psychologists. DMA is aware that several States' individual licensing requirements for psychologists do not meet the terms of the DEM contract, excerpted below, which require a psychologist [to] have a doctoral degree in psychology, i.e., PhD or PsyD, from a graduate program in psychology accredited by the APA." In some States a psychologist can be licensed if he/she obtained a doctoral degree in Educational Counseling, for example, which does not meet the terms of the DEM contract. Section 13(a) of the DEM PWS stipulates: "The Contractor shall maintain documentation of all Contractor (including subcontractor) personnel with regards to licensing/training/accreditation/credentialing and privileging required by this Contract on file and available for VA review upon request by the CO."

[73] Email to VA team dated 12/15/2017, "RE: MDE Contract Training Requirements".
[74] Email to VA team dated 12/16/2017, "VBA clarifications and additional information".
[75] Email to VA team on 08/24/2017.
[76] Escalated Provider Issues.xlxs.

Actions required from the contractor by the CO at that time included: 1) to conduct an internal review/audit of the licensing and credentialing of their contractor/ subcontractor psychologists that perform mental examinations under the DEM contract; 2) to alert DMA of action taken to remove the examiner from performing future DEM C&P mental examinations, if any psychologist under contract performing examinations does not meet the DEM contract licensing and accreditation standards; and 3) to also notify DMA if contractor internal review/audit reveals no issue with psychologist licensing and accreditation.[77]

QTC emailed VA September 30, 2013, about an issue with an individual psychologist examiner who was not properly credentialed. OTC identified the situation, discussed it with the Medical Director of the impacted VAMC, and brought it to the attention of the CO's Technical Representative (COTR) on September 13. QTC notification reads as follows: "During an internal quality review in accordance with our Quality Assurance Plan, QTC detected a single mental health examiner (psychologist) who was inadvertently identified as approved to work on the VHA DEM contract and subsequently performed examinations. In accordance with Section 8.3 Paragraph S.14(c) a psychologist must have a doctoral degree in psychology, i.e. PhD or PsyD, from a graduate program in psychology accredited by the American Psychological Association (APA). This individual examiner does not meet the APA accreditation requirement." Subsequently, a request for corrective action was required by the VA. QTC responded in a letter dated October 4, 2013, which outlined the situation and the corrective action and provided the requested information on the impacted cases. It also identified additional findings from QTC analysis and the associated corrective action plan.[78]

We received evidence of several other corrective action requests sent by the CO to QTC and the corresponding responses. This correspondence provides evidence that both the contractor and the CO took corrective actions on an ongoing basis during the execution of DEM contract. We found that psychologist examiners performing C&P exams under the DEM contract have not been held to the same qualification standards as VHA C&P psychologist examiners. VA Handbook 5005 requires VHA C&P psychologists to: 1) Have a doctoral degree in psychology from a graduate program in psychology accredited by the APA, AND 2) Have successfully completed a professional psychology internship training program accredited by APA.[79] Under the DEM Contract, psychologists were not required to complete APA-accredited internships. Completing an APA-accredited internship is an industry standard intended to establish high levels of clinician skill and efficacy; it is required for VHA psychologists performing C&P exams.

We learned that the MDE Discretionary Contract, MDE Bridge Contracts and MDE Contracts still only require that all MH examinations be performed by a psychiatrist or by a licensed psychologist with a doctoral degree in psychology, i.e., PhD or PsyD, from a graduate program in psychology accredited by the APA. Attending the APA-approved

[77] Email attachments sent to VA on 08/10/2017.
[78] Email attachments sent to VA on 08/10/2017.
[79] VA Handbook 5005, Part II, Appendix G18. *Psychologist Qualification Standard GS-180.*

internship is not a requirement in any of the MDE Contracts. Therefore, the qualifications of a psychologist for the MDE contracts are less rigorous than those for a psychologist to be hired by VHA.

During our interview with OALC staff on August 21, 2017, the current MDE Discretionary COR, VBAVACO, provided us with a list of the active contractor examiners. [redacted] stated that [redacted] periodically performs spot checks for registrations, certifications, and training, and usually picks 10 examiner names and has the contractor verify the credentials of each. [redacted] has never had an issue with registrations and certifications. [redacted] reported being unaware of any VBA Policy, Directive, Handbook or SOP regarding C&P exams. [redacted] also was not familiar with any DMA SOPs or DMA training, though [redacted] did recall efforts to incorporate TBI training into the contract.[80] The VA team learned from VBA's CMCEASS, CS[81] that they are receiving contractors' required up-to-date status reports on a monthly basis. These reports include a list of all contractor examiners with a statement verifying that their individual licenses and/or credentials have not been revoked and that no disciplinary proceedings involving professional conduct are pending.[82]

A GAO report addressing Training and Qualifications of C&P examiners, GAO-17-511 Report, *GULF WAR ILLNESS: Improvements Needed for VA to Better Understand, Process, and Communicate Decisions on Claims,* addresses the importance of appropriate training of C&P examiners on complex subjects such as the Gulf War Syndrome.[83] As part of their scope, they reviewed a non-generalizable sample of 44 claim files completed in fiscal year 2015 from four ROs they visited. They found inconsistencies in the Gulf War exams related to medical documentation about this condition, and different views from medical examiners on approaches for assessing for Gulf War Syndrome. VHA medical examiners interviewed expressed confusion about how to conduct and report on the Gulf War general medical exam and expressed facing challenges responding to the VBA's guidance that accompanies the Gulf War general medical exam request. This review found that there was a course on Gulf War Illness exams available to them, but it was not mandatory, and that, according to a VHA official, as of February 2017, VHA's training data showed that only about 10 percent of its medical examiners had completed this course, yet this course covers topics some medical examiners said were challenging. The report concludes that by not requiring training on Gulf War Illness for its examiners, VA runs the risk of inconsistently and inaccurately making benefit decisions. Recommendations included making Gulf War training mandatory for all VHA C&P examiners. The DMA Gulf War General Medical Examination course has recently been designated a mandatory training course for all VHA C&P disability examiners, and has been required by DMA and the SecVA to be completed no later than October 1, 2017.

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[80] VA team interview notes from 08/21/2017.
[81] Email correspondence sent to the VA team on 09/20/2017.
[82] MDE Contract VA119A-16-D-0039, Page 9 - 10.
[83] GAO-17-511 - *GULF WAR ILLNESS: Improvements Needed for VA to Better Understand, Process, and Communicate Decisions on Claims* - http://www.gao.gov/assets/690/685562.pdf.

The findings of this GAO regarding contractor examiners not having the same requirement for mandatory training was consistent with ours, until December 15, 2017 when updated evidence was provided to VA team. The mandatory training was notified to the DEM contractors on January and May of 2015, and QTC, LHI and VES did include and have maintained them in their training plans. VA team learned that MDE contracts were formally updated following the July 14, 2017 notification to the MDE contractor of the course to be included in the contract as mandatory.[84]

Conclusions for Allegation 2

- We **did not substantiate** that contractors are not properly trained or qualified to conduct C&P exams. While the training and qualification requirements of C&P contract examiners are not always equal to that of VHA C&P examiners, we found no evidence to support that contract examiners are not properly trained or qualified to conduct C&P exams.

- We did determine that contract examiners are not registered in the DMA registry database, as noted in the DMA Registration and Certification Handbook. DMA does not have jurisdiction over VBA contract vendors, and therefore the DMA registration handbook is outdated

- We determined that attending an American Psychological Association (APA) approved internship is not a requirement for a psychologist in any of the MDE contracts, however it is a requirement for psychologists employed by VHA. We did not find evidence to support that completion of an APA-approved internship impacts completed C&P exams

Recommendations to DMA

6. We recommend DMA update the DMA Registration and Certification Handbook to clarify that the handbook does not apply to VBA MDE contract examiners

Conclusions for Allegation 2a

- We **did not substantiate** that MDE contract examiners are not receiving the same training as VHA C&P examiners. We determined that contract examiners are completing the same DMA C&P training courses as those of VHA C&P examiners.

VIII. Summary Statement

We developed this report in consultation with VA, VBA, and VHA offices to address OSC's concerns that VA, VBA, and VHA may have violated law, rule, or regulation; engaged in gross mismanagement; and abuse of authority; or created a substantial and specific danger to public health and safety. In particular, the Office of General Counsel has provided a legal review, and the Office of Accountability and Whistleblower

[84] Email to VA team dated 12/16/2017, "VBA clarifications and additional information".

Protection has reviewed the report to determine whether it makes findings against senior leaders requiring OAWP action, and the National Center for Ethics in Health Care has provided a health care ethics review. We found that the improper manner in which the former DEM's contract examiners reviewed Veterans' records was a violation of VBA's M21-1 adjudication procedures. While this may have affected some Veterans' benefits, it did not create a substantial and specific danger to public health and safety.

Attachment A

- Email 05/06/2015, "DEM: New DMA Med & Agg Opinion Mandatory C&P Trng Online at VA "Blackboard"_S: 3-31-2016 (bcc DEM contractors)."
- Email 01/05/2015, *"Mandatory MST Training Course for Contract C&P Clinicians - S: 4-30-2015 (bcc DEM contractors)."*
- VA, VBA MDE Contract # VA119A-16-D-0028 for District 1 – North Atlantic QTC Deliverable 2 – Training Plan, Version 1, April 4, 2016.
- VA, VBA MDE Contract # VA119A-15-R-0150, VES, Training Plan, Version 1.0 draft 1, March 24, 2016.
- DMA email to C&P field 07/13/2017.
- VA Handbook 5005, Part II, Appendix G18. Psychologist Qualification Standard GS-180.
- VHA DEM Contracts: Veterans Evaluation Services (VES), contract number VA-791-P-0108; QTC Medical Services, Inc. (QTC) contract number VA-791-P-0146; and Logistics Health Incorporated (LHI), contract number VA-791-P-0107.
- DMA Registration and Certification Handbook, https://rcdb.dma.hec.med.va.gov/Home.aspx .
- DMA Spreadsheet, *Copy of Training Log 2012 (4).xls,* showing evidence of completion of training for Phoenix C&P Director in 2011.
- PowerPoint training for the VAMCs, *DEM Contract VAMC Training.* http://vaww.demo.va.gov/files/DEMContract-5-17-13.pptm, Slides 33 - 37.
- Policy Memorandum Health Administration Service (HAS). HAS 136-02..
- Phoenix Medical Center C&P Service Organizational Chart - 0413orgchart.pdf.
- VHA Handbook 1100.19.
- https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201610&RIN=2900-AP27.
- M21-1 Adjudication Procedures Manual https://www.benefits.va.gov/warms/m21_1.asp.
- C&P Disability Examinations Procedure Guide, http://vaww.demo.va.gov/files/DMACPDisabilityExaminationsProcedureGuide9-30-15.pdf.
- OSC File No. DI-16-3153.pdf.
- Exam #5, Page 31 of this report. PPI not included.
- Phoenix VA Health Care System Trip Pack – April 2017.
- VSSC - C&P Daily Workload Report, (5V22) (644) Phoenix, AZ HCS, Date Range: 10/01/2015–09/30/2016, https://securereports2.vssc.med.va.gov.
- Phoenix RO Trip Pack – FY 2016, September 2016.
- VA Handbook 0700, Administrative Investigations, Chapter 5, Section B, 5-1(1) Witness Obligations and Protections.
- News Release, *VA Awards $6.8 Billion for Medical Disability Examinations,* US Department of Veterans Affairs, Office of Public Affairs Media Relations Washington DC, September 19, 2016.
- Fact Sheet DMA-16-002, VHA Disability Examination Quality Ratability Review,

May 27, 2016.
http://vaww.demo.va.gov/files/FactSheets/2016/DMApercent20Factpercent20Sheetpercent2016-002.pdf .

- VSSC https://vssc.med.va.gov/.
- VHA Directive 1603, Certification of Clinicians Performing VA Disability Examinations, April 22, 2013. AUTHORITY: 38 United States Code (U.S.C.) 7301(b); and Training and Certification of Clinicians Performing VA Disability Examinations, November 15, 2016. AUTHORITY: 38 U.S.C. 5301A, 7301(b); 38 CFR 3.159, 3.326, November 15, 2016.
- GAO, Standards for Internal Control in the Federal Government, GAO-14-704G September 10, 2014, principle 4.02.
- VHA Directive 2012-021, *Qualifications for Examiners Performing Compensation and Pension (C&P) Mental Disorder Examinations*, August 27, 2012. www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2780
- DMA Fact Sheet DMA-14-004, TBI Disability Examination Providers, May 8, 2014.
- http://vaww.demo.va.gov/certificationregistration.asp .
- QTC/VES, Deliverable 2, Training Plan; DMA mandatory training courses; DEM contract - section B, part 3 - Deliverables, Task 1&2 and 11 - *Training, Certification, Credentialing and Privileging*;
- Email to SecVA August 30, 2016.
- Email 08/08/2017 to include MCEPO mailbox spreadsheet from May 2016 to December 2016.
- Numerous emails sent to the VA team by witnesses
- Email: "Request for Additional Information_Phoenix Complains Response_March 09, 2017".
- "STAR Quality" review site for VBA. Examination & Medical Opinion Requests.
- From *Annual DEM and VISN Scores Interview.xlsx* provided by DMA.
- Performance ratings reported by DALC: OVERALL RESULTS – *VHA provided DEM CONTRACTOR RESULTS.xlsx, CandP clinic_OY 1.xlsx, DEM contractor CP Clinic Feedback_OY 2.xlsx, CP Clinic Feedback_OY 3.xlsx, CP Clinic Feedback_OY 4.xlsx.*
- MDE Contract VA119A-16-D-0039
- MDE Bridge contract, VA119A-17-D-0009
- VVA is a tool to assist with processing claims. It is used as an electronic storage for applications and evidence coming to VA.
- VAVBAWAS/CO/Contract Examination Inquiries (ContractExam.VBAVACO@va.gov).
- Provider Audit spreadsheet (QTC).xls.
- Escalated Provider Issues.xlsx.
- VBA Notification Letter (VA 20 8993, VA 21 0290, PCGL) sent to the Veteran 08/22/2017; VBMS - PPI not included.
- Contract Number VA791-P-0146, Disability Examination Management, Response to Request for Corrective Action, Dated September 30, 2013.
- VAOIG Reports reviewed:

- VAOIG-05-00765-137, Review of State Variances in VA Disability Compensation Payments – https://www.va.gov/oig/52/reports/2005/VAOIG-05-00765-137.pdf.
- VAOIG-11-00510-167, *Systemic Issues Reported During Inspections at VA Regional Offices* – https://www.va.gov/oig/52/reports/2011/VAOIG-11-00510-167.pdf.
- VAOIG-09-02135-107, Department of Veterans Affairs: Audit of VA's Efforts To Provide Timely Compensation and Pension Medical Examinations –https://www.va.gov/oig/52/reports/2010/VAOIG-09-02135-107.pdf.
- VAOIG-13-03699-209, Review of VBA's Special Initiative To Process Rating Claims Pending Over 2 Years— https://www.va.gov/oig/pubs/VAOIG-13-03699-209.pdf.
- VAOIG-15-01381-437, Veterans Benefits Administration Inspection of VA Regional Office Phoenix, Arizona- https://www.va.gov/oig/pubs/VAOIG-15-01381-437.pdf.
- VAOIG-14-02384-45, Veterans Benefits Administration Follow-Up Audit of Internal Controls Over Disability Benefits Questionnaires- https://www.va.gov/oig/pubs/VAOIG-14-02384-45.pdf.
- VAOIG-16-04762-232, Veterans Benefits Administration Follow-Up Audit of Internal Controls Over Disability Benefits Questionnaires- https://www.va.gov/oig/pubs/VAOIG-14-02384-45.pdf.
- VAOIG-16-04762-232, Veterans Benefits Administration Inspection of the VA Regional Office Boise, Idaho- https://www.va.gov/oig/pubs/VAOIG-16-04762-232.pdf.
- VARO 17-00515 (draft version), Veterans Benefits Administration Inspection of VA Regional Office Phoenix, Arizona

- SRA International submission to Congress as required in Section 504 of Public Law 104-275, "Evaluation of Contract Examination Pilot Test" Page 61.
- GAO-14-731T - *VA Disability Claims Processing: Preliminary Observations on Accuracy Rates and Quality Assurance Activities* http://www.gao.gov/products/GAO-14-731T.
- http://docs.house.gov/meetings/VR/VR09/20170725/106322/HHRG-115-VR09-Wstate-AvilaG-20170725.pdf.
- "*Blue Ribbon Panel on claims Processing, Proposal to Improve Disability Claims Processing in the Veterans Benefits Administration*" Nov. 1993. http://www.Veteranslawlibrary.com/files/Commission_Reports/Blue_Ribbon_Panel_On_Claims_Processing_Nov1993.pdf.
- WB supplied document, PSYCH PRELIM.pdf.
- http://vaww.demo.va.gov/dmatraining.asp.
- https://www.tms.va.gov/learning/user/login.jsp.
- http://vaees.blackboard.com.
- http://www.TRAIN.org.
- MDE Contract VA119A-16-D-0039, Page 9 - 10.

- GAO-17-511 - *GULF WAR ILLNESS: Improvements Needed for VA to Better Understand, Process, and Communicate Decisions on Claims* - http://www.gao.gov/assets/690/685562.pdf.
- Email from DMA to the VHA C&P field, 07/13/2017.
- Phone-based interview June 8, 2017.
- Witness interview transcripts: VHA; VBA; DMA; QTC.
- https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201610&RIN =2900-AP27.
- Email to VA team dated 12/15/2017, "RE: MDE Contract Training Requirements".
- Email to VA team dated 12/16/2017, "VBA clarifications and additional information".

Attachment B

Performance Matrix Measures for the MDE Discretionary Contract

Areas	Unsatisfactory Performance Standard	Expected Standard of Performance	Exceptional Performance Standard
Timeliness Based on average number of days from request to return of completed exam measured by VERIS; Quarterly	More than 20 calendar days	20 calendar days	Less than 20 calendar days
Quality Review Based on percentage of adequate and sufficient exams in the sample conducted by VACO Compensation Service staff; Quarterly	Less than 92 percent	92 percent	Greater than 92 percent
CUSTOMER SATISFACTION SURVEY Based on Veteran responses to question: "Overall satisfaction of experience" to include the "Very Satisfied" or "Somewhat Satisfied; Quarterly	89 percent or less	92 percent	95 percent or greater

Performance Matrix Measures for the MDE and MDE Bridge Contracts

Areas	Unsatisfactory Performance Standard	Expected Standard of Performance	Exceptional Performance Standard
Timeliness: The Government will measure the number of days from (1) the date the examination request is submitted to the contractor by CAATS, to (2) the date the examination report is successfully transmitted to CAATS by the contractor.	Greater than 20 calendar days for DBQ/C&P Examinations, other than for Incarcerated Veterans	20 calendar days for DBQ/C&P Examinations, other than for Incarcerated Veterans	Less than 20 calendar days for DBQ/C&P Examinations, other than for Incarcerated Veterans
Quality Review: The Government will measure the quality by reviewing a statistically valid sample at the 95 percent confidence level with a 5 percent margin of error.	90 percent or less	92 percent	94 percent or greater

Attachment C

Annual DEM Contract vs VHA (VISNs) Ratability Review Aggregate Scores (FY13 - FY16)

(From data provided by the DMA – *Annual DEM and VISN Scores Interview.xlsx*)

	#Exams Reviewed	Ratability Review Aggregate Score
FY13		
Contract	706	95%
VHA	8,258	95%
FY14		
Contract	1,063	96%
VHA	11,101	97%
FY15		
Contract	438	98%
VHA	4,759	97%
FY16		
Contract	1,009	98%
VHA	4,252	97%

Annual DEM Contract Ratability Review Aggregate Scores (FY13 - FY16)

(From data provided by the DMA - *Annual DEM and VISN Scores Interview.xlsx)*

FY13			
VISN	Element	#Exams Reviewed	Score
Contract	Contract Ratability Review Aggregate Score	706	95%
Contract	Does the report address the exam/DBQ worksheet criteria for the condition(s) at issue?		92%
Contract	Does the examiner reconcile/explain any internal discrepancies, inconsistencies or contradictions?		95%
Contract	Does the report provide a precise diagnosis (or explain why a precise diagnosis was not provided) for each condition at issue? Note: A precise diagnosis is one that identifies the disease process for the noted signs and symptoms.		100%
Contract	If there is a change in the diagnosis of a SC condition, did the examiner provide an explanation or rationale for the change? NOTE: This refers to a change from the prior exam and rating decision.		100%
Contract	If a medical opinion was requested, was the claim file reviewed?		93%
Contract	If a medical opinion was requested, was the requested medical opinion provided?		92%
Contract	If a medical opinion is requested was a rationale provided for the requested medical opinion?		89%
Contract	Was every opinion provided specifically requested?		100%

FY14			
VISN	Element	#Exams Reviewed	Score
Contract	Contract Ratability Review Aggregate Score	1063	96%
Contract	If this is a Separation Health Assessment (SHA), did the examiner use the SHA General Medical DBQ?		100%
Contract	Does the report address the exam/DBQ worksheet criteria for the condition(s) at issue?		93%
Contract	Does the examiner reconcile/explain any internal discrepancies, inconsistencies or contradictions?		93%
Contract	Does the report provide a precise diagnosis (or explain why a precise diagnosis was not provided) for each condition at issue? Note: A precise diagnosis is one that identifies the disease process for the noted signs and symptoms.		99%
Contract	If there is a change in the diagnosis of a SC condition, did the examiner provide an explanation or rationale for the change? NOTE: This refers to a change from the prior exam and rating decision.		90%
Contract	If a medical opinion was requested, was the claim file reviewed?		98%
Contract	If a medical opinion was requested, was the requested medical opinion provided?		93%
Contract	If a medical opinion is requested was a rationale provided for the requested medical opinion?		92%
Contract	Was every opinion provided specifically requested?		100%

FY15			
VISN	Element	#Exams Reviewed	Score
Contract	Contract Ratability Review Aggregate Score	438	98%
Contract	Is the examiner currently registered and certified to perform this type of examination?		100%
Contract	If this is a Musculoskeletal examination, did the examiner provide the Mitchell criteria?		100%
Contract	Does the report address the exam/DBQ worksheet criteria for the condition(s) at issue?		96%
Contract	Does the examiner reconcile/explain any internal discrepancies, inconsistencies or contradictions?		98%
Contract	Does the report provide a precise diagnosis (or explain why a precise diagnosis was not provided) for each condition at issue? [Note: A precise diagnosis is one that identifies the disease process for the noted signs and symptoms.]		99%
Contract	If there is a change in the diagnosis of a service connected condition, did the examiner provide an explanation or rationale for the change? [Note: This refers to a change from the prior exam and rating decision.]		95%
Contract	If a medical opinion was requested, did the examiner indicate that the claim file, VBMS, and/or Virtual VA were reviewed in conjunction with any other records?		99%
Contract	If a medical opinion was requested, was the requested medical opinion provided?		97%
Contract	If a medical opinion was requested, was a rationale provided for the requested medical opinion?		96%

FY16			
VISN	Element	#Exams Reviewed	Score
Contract	Contract Ratability Review Aggregate Score	1009	98%
Contract	Is the examiner currently registered and certified to perform this type of examination?		100%
Contract	Does the report address the exam/DBQ worksheet criteria for the condition(s) at issue?		98%
Contract	Does the examiner reconcile/explain any internal discrepancies, inconsistencies or contradictions?		94%
Contract	Does the report provide a precise diagnosis (or explain why a precise diagnosis was not provided) for each condition at issue? [Note: A precise diagnosis is one that identifies the disease process for the noted signs and symptoms.]		99%
Contract	If there is a change in the diagnosis of a service connected condition, did the examiner provide an explanation or rationale for the change? [Note: This refers to a change from the prior exam and rating decision.]		98%
Contract	If the examiner documented the presence of a noted or suspicious condition requiring immediate medical care or further evaluation, was there documentation that the Veteran/Service Member was notified?		79%
Contract	If a medical opinion was requested, did the examiner indicate that the claim file, VBMS, and/or Virtual VA were reviewed in conjunction with any other records?		99%
Contract	If a medical opinion was requested, was the requested medical opinion provided		99%
Contract	If a medical opinion was requested, was a rationale provided for the requested medical opinion?		98%

Attachment D

OVERALL PERFORMANCE CONTRACTOR COMPLETED C&P EXAMINATION REPORTS - *(Supplied by DMA)*

Option Year	# of participating VHA facilities	CHS	LHI	MLSA	QTC	VES
# 1 (2012-2013)	26	Acceptable	Highly Acceptable	Exceptional	Acceptable	Acceptable
# 2 (2013-2014)	4	Acceptable	No data provided	No data provided	No data provided	No data provided
# 3 (2014-2015)	25	No data provided	Acceptable	Highly Acceptable	Acceptable	Acceptable
# 4 (2015-2016)	27	No data provided	Acceptable	Acceptable	Acceptable	Highly Acceptable

Attachment E

Summary of QUALITY OF THE CONTRACTOR COMPLETED C&P EXAMINATION REPORTS - *(Supplied by DMA)*

Option Year	# of participating VHA facilities	CHS	LHI	MLSA	QTC	VES	Average YEARLY score for quality of the reports
# 1 (2012-2013)	26	Acceptable	Highly Acceptable	Exceptional	Highly Acceptable	Acceptable	Highly Acceptable
# 2 (2013-2014)	4	Marginal	No data provided	No data provided	No data provided	No data provided	Marginal
# 3 (2014-2015)	25	No data provided	Acceptable	Acceptable	Marginal	Acceptable	Acceptable
# 4 (2015-2016)	27	No data provided	Acceptable	Acceptable	Acceptable	Acceptable	Acceptable

Attachment F

FY16 Audit Review Criteria – VHA-Oriented *[Table Supplied by DMA]* October 1, 2015

Key Elements for Reports		Reference
9. Is the examiner currently registered and certified to perform this type of examination?		VHA Directive 1603
10. Does the report address the exam/DBQ worksheet criteria for the condition(s) at issue?		M21-1 MR, Part III. iv.3.D.18.f and VHA Directive 1046
11. Does the examiner reconcile/explain any internal discrepancies, inconsistencies or contradictions?		M21-1 MR, Part III. iv.3.D.18.j
12. Does the report provide a precise diagnosis (or explain why a precise diagnosis was not provided) for each condition at issue?		M21-1 MR, Part III. iv.3.D.18.f,i,j C&P Disability Examination Procedure Guide C&P Clinician's Guide Chapter 1, Paragraph 12 and 13
13. If there is a change in the diagnosis of a service connected condition, did the examiner provide an explanation or rationale for the change?		38 CFR 4.13 M21-1 MR, Part III. iv.3.D.18. f,h,j
14. If the examiner documented the presence of a noted or suspicious condition requiring immediate medical care or further evaluation, was there documentation that the Veteran/Service Member was notified?		C&P Disability Examination Procedure Guide VHA Directive 2013-002, Documentation of Medical Evidence for Disability Evaluation Purposes
15. If a medical opinion was requested, did the examiner indicate that the claim file, VBMS, and/or Virtual VA were reviewed in conjunction with any other records?		M21-1 MR, Part III. iv.3.D.18.f C&P Disability Examination Procedure Guide C&P Clinician's Guide Chapter 1.10 #2 and #6 VHA Handbook 1605.1 Paragraph 34.f
16. If a medical opinion was requested, was the requested medical opinion provided?		M21-1 MR, Part III. iv.3.D.18.f C&P Disability Examination Procedure Guide C&P Clinician's Guide Chapter 1.10 #2 and #6 VHA Handbook 1605.1 Paragraph 34.f
17. If a medical opinion was requested, was a rationale provided for the requested medical opinion?		M21-1 MR, Part III. iv.3.D.18.f C&P Disability Examination Procedure Guide C&P Clinician's Guide Chapter 1.10 #2 and #6 VHA Handbook 1605.1 Paragraph 34.f

Attachment G

VA Clinical quality/accuracy Review of 23 Gen Med Contractor Exams
(Exams were submitted by WB)

Total of 23 vendor completed medical exams (provided by witnesses) were reviewed for Medical/Clinical Quality by 4 General Medical C&P Examiners	If the exam request explicitly requires VBMS record/C-file review for the General Medical Exam, AND/OR If a Medical opinion was provided by or requested from the examiner, is there evidence that the record was reviewed?	Pertinent medical history provided for NEW claims; OR, If RFE or increase exam, interval history provided?	Are clear Individual Unemployability (IU) statements provided, if requested? *(the statements should also be supported by the exam/evidence)*	Is the Diagnosis supported by medical evidence, and not solely historical, when applicable? *(does the diagnosis match the clinical findings provided/medical evidence available)*	If a medical opinion is provided, is the opinion/rationale supported by STR and/or medical scientific evidence/studies?	Are all functional limitations/ restrictions (ex. Correia) supported by medical evidence?	Did the examiner demonstrate sound clinical judgement/ decision making within the examination? *If not, please comment in the column to the right.*
Avg score per column for Reviewer #1	0.38	0.37	0.30	0.24	0.20	0.41	0.71
Avg score per column for Reviewer #2	0.38	0.48	1.0	0.33	0.11	0.70	0.26
Avg score per column for Reviewer #3	0.38	0.39	1.0	0.52	0.12	0.41	0.24
Avg score per column for Reviewer #4	0.38	0.87	0.63	0.74	0.44	0.89	0.63
	0.38	**0.53**	**0.73**	**0.46**	**0.22**	**0.61**	**0.46**

The WB/joiners provided a total of 23 vendor completed medical examinations they identified as having clinical quality issues. The exams were reviewed for Medical/Clinical Quality by 4 General Medical C&P Examiners; Each case was reviewed independently, by 3 Physicians and 1 Certified Physician Assistant. The reviews were based on seven criteria; the average score per criterion, of the 23 exams, is noted above; Each criteria was evaluated as: NA = not applicable, 1 = highly satisfactory, 0.5 = satisfactory, 0 = unsatisfactory; Exams reviewed were completed over a period of time from September 6, 2013 to January 27, 2017. There were three vendors identified in the case reviews (LHI = 2 exams; VES - 9 exams; QTC = 12 exams).

Scoring Criteria used:

Unsatisfactory = (1) VBMS was not reviewed or there is no documentation showing that records were reviewed or exam content show evidence that records were not reviewed. (2) Medical history information is absent or incorrect. (3) IU statement not provided, if requested. (4) Diagnosis is not matching clinical findings or supported by medical evidence. (5) Medical Opinion is not matching clinical findings or supported by medical evidence. (6) Functional limitations are not matching clinical findings or supported by medical evidence. (7) exam shows inadequate data collection, and/or inappropriate interpretation of the data leading to a diagnosis not based on common acceptable medical knowledge.

Satisfactory = (1) There is no middle ground when considering VBMS review. You are either required to review it or not required to review it. (2) Medical history information is

provided, but is incomplete, or not substantiated by the records. (3) IU statement is provided but is vague and non-specific. (4) Diagnosis is partially supported by clinical findings and medical evidence. (5) Medical Opinion is partially matching clinical findings or partially supported by medical evidence. (6) Functional limitations are partially matching clinical findings or partially supported by medical evidence. (7) diagnosis is based on common acceptable medical knowledge but exam shows incomplete data collection, and/or partial interpretation of the data.

Highly satisfactory = (1) VBMS was reviewed or there is documentation showing that records were reviewed or exam content show evidence that records were reviewed. (2) Medical history information provided is complete and substantiated in the records. (3) IU statement provided, if requested. (4) Diagnosis is matching clinical findings or is supported by medical evidence. (5) Medical Opinion is matching clinical findings or supported by medical evidence. (6) Functional limitations are matching clinical findings or supported by medical evidence. (7) exam shows adequate data collection, with appropriate interpretation of the data leading to a diagnosis based on common acceptable medical knowledge.

Exam #1: The examiner's rationale for a favorable medical opinion states, "C-file does confirm diagnosis of Back strain in 1970, and Veteran suffered injuries in a motor vehicle accident (MVA) at the time. His current Back degenerative arthritis and chronic strain are at least as likely as not the progression of the original condition from 1970." STR review indicates that the Veteran's active duty dates were from October 20, 1971 to July 20, 1973. The STRs also did not support evidence of a back injury at the time of the MVA. The regional office requested clarification of this opinion, to now include an aggravation opinion. The Veteran was granted service connection, after the clarification was provided.

Exam #2: The examination request asked for a secondary opinion, as to whether the Veteran's erectile dysfunction was due to medication prescribed for the Veteran's service connected PTSD condition. The examiner provided a favorable opinion, simply stating "secondary to sertraline use." There was no mention of the fact that the medical records supported that the condition predated the use of the sertraline, nor did the examiner document consideration of the Veteran's comorbid condition of hypertension or the medications taken for the hypertension as possible causes for the erectile dysfunction. The regional office requested clarification of this opinion. The Veteran was denied secondary service connection for the erectile dysfunction, following receipt of the clarification.

Exam #3: The examination request indicates that the claims file is being provided for review by the examiner. A C-file review is not required for an increase exam for service connected diabetes. However, the examiner provided opinions in the diabetes examination that various conditions were a result of the service connected diabetes. The medical opinions are inherent in the Diabetes DBQ, and therefore support the need

for C-file review [per M21-1 III.iv.3.A.8.a.[85] and per M21-1 III.iv.3.A.8.b.[86] (Attachment G)]. Within the Diabetes exam, the examiner opined that the Veteran has a heart condition which is permanently aggravated by the diabetes condition, and completed a Heart DBQ. On the Heart DBQ, the examiner diagnosed the Veteran with ischemic heart disease (IHD). The history provided by the examiner does not support the diagnosis of IHD. The C-file-based evidence also does not support a diagnosis of IHD in this Veteran, before or at the time of this examination. In fact, the Veteran had previously been denied service connection for IHD, due to the absence of such diagnosis. Records/VBMS review statement is absent in both DBQs. Medical history and some statements in the report suggest that records were reviewed, but these statements, as well as IHD Diagnosis, opinion and rationale provided are inconsistent with information found in the records. Clarification of the IHD condition was requested.

An additional concerning finding in this exam review was the conflicting clinical examination findings documented in reference to the diabetic peripheral neuropathy. In the diabetes DBQ, the examiner reported "Motor and sensory examination is within normal limits to include: gait, balance, cranial and peripheral nerves." However, in the diabetic peripheral neuropathy DBQ the examiner stated that the Veteran had abnormal vibratory and cold sensation testing, as well as abnormal deep tendon reflexes.

Exam #4: The examination was for leukemia, diabetes, diabetic peripheral neuropathy and the examiner added an Artery & Vein DBQ for what the physician diagnosed as peripheral vascular disease (PVD), and indicated that the condition was permanently aggravated by the service connected diabetes condition. The addition of the medical opinion warranted a C-file review. No supporting rationale was provided for the medical opinion provided. The examiner provided history related to peripheral neuropathy in the Artery/Vein DBQ, and did not support the diagnosis of PVD with exam findings or medical record evidence. The arterial brachial index testing results, done to assess the presence of PVD, did not support the diagnosis of PVD. These inconsistencies prompted a clarification related to the artery/vein examination. The examiner also provided conflicting responses to the peripheral nerve examinations, which prompted a clarification to the examiner.

Exam #5: The examination request specifically required VBMS review. The examiner indicated the records were not reviewed. The exam request was for a Heart DBQ due to a claim of heart disease. The diagnosis provided by the examiner, on the Heart DBQ, was "atherosclerotic cardiovascular disease." However, in the body of the report the examiner indicated that the Veteran specifically has "carotid artery disease, due to agent orange exposure." The medical history provided in the Heart DBQ is not pertinent to a cardiac condition, but to a cerebrovascular condition. Diagnostic studies performed or documented (Echocardiogram, Carotid sonogram, EKG) did not support atherosclerotic cardiovascular disease or IHD. The VBMS records did not support the diagnosis of atherosclerotic cardiovascular disease. The examination was uploaded to VBMS on February 10, 2016. The Veteran was granted service connection on February

[85] Per M21-1 III.iv.3.A.8.a - *Importance of Claims Folder Review view,* M21-1, Part III, Subpart iv, 3.A.8.a.
[86] Per M21-1 III.iv.3.A.8.b - *Examinations Requiring Claims Folder Review,* M21-1, Part III, Subpart iv, 3.A.8.b.

13, 2016, effective April 10, 2014, for "atherosclerotic cardiovascular disease, associated with herbicide exposure."

In November 2016, the Veteran filed claims for an increase in compensation based on Unemployability. An exam request was submitted to Phoenix Medical Center on January 17, 2017, for both the service connected atherosclerotic cardiovascular disease and Parkinson's disease and Unemployability. On January 26, 2017, a Cardiologist completed the Heart DBQ for the service connected atherosclerotic cardiovascular disease and it was clarified that the Veteran did not have atherosclerotic cardiovascular disease or an IHD associated with herbicide exposure. Since that time, VBA notified the Veteran that it is proposing the service connection for atherosclerotic cardiovascular disease be severed, due to a clear and unmistakable error.[87] This notification was sent to the Veteran on August 22, 2017. Final decision on severing service connection is pending at the time of this summary.

[87] Notification Letter (e.g. VA 20 8993, VA 21 0290, PCGL) sent to the Veteran on 08/22/2017 by VBA, VBMS - Protected Patient Information (PPI) not included.

Attachment H

Veterans Benefits Administration (VBA) M21-1 Adjudication Procedures Manual Section III.iv.3.A.8.a & b

III.iv.3.A.8.a. Importance of Claims Folder Review

Folder review helps VA ensure that the examiner is given the fullest evidentiary picture possible. The claims folder often contains a history of treatment of the disability at issue. In order to provide an adequate basis for the findings and conclusions of an examination, the examiner needs access to that history.

References: For more information on

- sending the claims folder in connection with a VA examination or opinion, see VAOPGCPREC 20-1995
- examinations requiring claims folder review, see M21-1, Part III, Subpart iv, 3.A.8.b, and
- requesting examiner review of the claims folder, see M21-1, Part III, Subpart iv, 3.A.8.c

III.iv.3.A.8.b. Examinations Requiring Claims Folder Review

The examiner must review the claims folder for the following DBQs or claim types:

- SC under 38 CFR 3.317
- cold injury residuals
- FPOW Protocol
- Gulf War General Medical
- medical opinions, including etiology opinions in hearing loss and tinnitus claims
- mental health exams
- traumatic brain injury
- BVA remands
- 1151 Claims
- ACE
- environmental hazards in Iraq, Afghanistan, and other military installations, and
- IDES claims.

Note: For pension claims, sending the claims folder for review is not required. However, medical records received with the claim relevant to the issue of whether the claimant is currently permanently and totally disabled due to non-service-connected causes must be uploaded into the eFolder.

References: For more information on

- requesting medical opinions, see M21-1, Part III, Subpart iv, 3.A.7
- handling examinations in claims for SC for PTSD, see M21-1, Part III, Subpart iv, 4.H.5
- requesting examinations in claims for SC under 38 CFR 3.317, see M21-1, Part IV, Subpart ii, 1.E.2
- ordering initial FPOW protocol examinations, see M21-1, Part III, Subpart iv, 3.A.4.c, and
- examinations based on ACE, see M21-1, Part III, Subpart iv, 3.A.4, and
- maintenance of eFolders, see M21-1, Part III, Subpart ii, 4.G.2.

Attachment I

Mandatory Contract Examination Quality (MCEQ) DBQ Audit Criteria – QTC Adapted Version

Mandatory Contract Exam Quality – DBQ Audit Criteria

	Contract Exam Audit Criteria
1	Was the correct DBQ worksheet(s) completed for the condition(s) at issue? ◯ Yes ◯ No
2	If required, does the report indicate a c-file (e-file) review was completed? *Note: If c-file review not required, mark n/a.* ◯ Yes ◯ No ◯ N/A
3	DBQ-Specific Does the DBQ report provide all required medical history for the condition(s) at issue? ◯ Yes ◯ No
4	DBQ-Specific Does the DBQ report provide and sufficiently address clinical exam findings for the condition(s) at issue? ◯ Yes ◯ No
5	DBQ-Specific Were the results of all required lab/diagnostic tests included in the report and the significance explained, or does the report indicate the tests are not medically indicated and why? *Note: If no testing required or requested, mark n/a.* ◯ Yes ◯ No ◯ N/A
6	Does the DBQ report describe the impact of the condition(s) on the Veteran's functional status/ability to work? *Note: If there is no diagnosed condition due to normal exam findings, mark n/a.* ◯ Yes ◯ No ◯ N/A

Mandatory Contract Exam Quality – DBQ Audit Criteria

	Contract Exam Audit Criteria
7	For each condition at issue, was a definitive diagnosis provided? If not, was a sufficient explanation provided? ◯ Yes ◯ No ◯ N/A
8	Excluding the diagnosis (es), were inconsistencies, contradictions and discrepancies resolved? *Note: If none existed, mark n/a.* ◯ Yes ◯ No ◯ N/A
9	Excluding medical opinions, were all issues requested by the regional office in the remarks section of the exam request sufficiently addressed? *Note: If none requested, mark n/a.* ◯ Yes ◯ No ◯ N/A
10	If requested, were all required elements of the medical opinion provided? *Note: If none requested, mark n/a.* ◯ Yes ◯ No ◯ N/A
11	Does the report include the examiner's specialty and credentials? If so, do the credentials satisfy the authentication requirements? ◯ Yes ◯ No
12	If applicable, does the DBQ report meet exam-specific contractual requirements? *Note: If no exam-specific contractual requirements, mark n/a.* ◯ Yes ◯ No ◯ N/A **This question is for informational purposes and will not be included in the quality score calculation.**

Definitions

Sufficient: Enough to meet the needs of a situation or a proposed end. Citation [Def. 1]. In *Merriam Webster Online*, Retrieved June 29, 2016, http://www.merriam-webster.com/dictionary/sufficient

Insufficient Report: Any missing required information on the report makes the examination insufficient for rating purposes. M21-1 III.iv.3.D.3.a.

Attachment J

Mandatory Contract Examination Quality (MCEQ) DBQ Audit Criteria Interpretative Guidance

MCEQ DBQ Audit Criteria

Contract Exam Quality Audit Criteria		References	Interpretive Guidance
1	Was the correct DBQ worksheet(s) completed for the condition(s) at issue? ◯ Yes ◯ No	MDE contract item 10.1, 12.0; M21-1 III.iv.3.D.2.l	This quality element analyzes whether the examiner completed the correct DBQ worksheet for the condition(s) at issue. This element also applies to any additional worksheets the examiner is instructed to complete based on the guidance provided in the principal DBQ/worksheet. It is also important to note that this element analyzes whether there were additional worksheets completed by the examiner that were unwarranted. Note: If the regional office submits a request for an incorrect DBQ, deselect the exam from quality review and route the information using established notification procedures. If the contractor/examiner selects and completes an incorrect DBQ, this element and all quality elements remain applicable.
2	If required, does the report indicate a c-file (e-file) review was completed? *Note: If c-file review not required, mark n/a.* ◯ Yes ◯ No ◯ N/A	M21-1 III.iv. 3.A.15.a.; M21-1 III.iv.3.A.15.b.; M21-1 III.iv.3.D.3.a.	This quality element analyzes whether the report indicates a c-file (e-file) review was completed if a c-file (e-file) review was required by the DBQ or requested by the regional office. Additionally, M21-1 III.iv.3.A.15.b. indicates the examiner must review the claims folder for the following DBQs or claim types: • SC under 38 CFR 3.317 • Cold injury residuals • FPOW Protocol • Gulf War General Medical • Medical opinions, including etiology opinions in hearing loss and tinnitus claims • Mental health exams • Traumatic brain injury

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	Contract Exam Quality Audit Criteria	References	Interpretive Guidance
			• BVA remands • 1151 Claims • ACE • Environmental hazards in Iraq, Afghanistan, and other military installations, and • IDES claims
3	DBQ-Specific Does the DBQ report provide all required medical history for the condition(s) at issue? ◯ Yes ◯ No	MDE contract item 10.2, 10.5, 10.7, 10.8; M21-1 III.iv.3.D.3.a; M21-1 III.iv.3.D.2.l	This quality element analyzes whether the exam report answers each applicable DBQ medical history question completely, correctly, and clearly, and follows all applicable DBQ instructions.
4	DBQ Specific Does the DBQ report provide and sufficiently address clinical exam findings for the condition(s) at issue? ◯ Yes ◯ No	M21-1 III.iv.3.D.2.l; M21-1 III.iv.3.D.3.a; M21-1 III.iv.3.D.3.c	This quality element analyzes whether the report addresses all disabilities for which the DBQ was requested, and if the report sufficiently describes objective exam findings required by the DBQ. Conclusions and findings should be expressed in unambiguous and unequivocal terms.

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Contract Exam Quality Audit Criteria		References	Interpretive Guidance
5	DBQ-Specific Were the results of all required lab/diagnostic tests included in the report and the significance explained, or does the report indicate the tests are not medically indicated and why? *Note: If no testing required or requested, mark n/a.* ◯ Yes ◯ No ◯ N/A	MDE contract item 10.3, 10.4, 10.5; M21-1 III.iv.3.D.2.l. M21-1 III.iv.3.D.3.a.	This quality element analyzes whether the results of any required lab/diagnostic tests were included in the report if required by the DBQ or requested by the regional office. In addition, the element assesses whether the examiner clearly conveyed the meaning (i.e., significance) of the results. Waiver requirements are contractual (MDE contract item 10.3). M21-1 III.iv.3.D.2.l.: If disease or condition-specific lab/diagnostic tests are required by the DBQ, the results should be included or referenced in the report. Note: MDE 10.4 states, "Any tests conducted within a twelve-month period prior to the current examination shall be considered recent and sufficient unless otherwise specified in the examination worksheets. If recent test results are documented in the record and available to the examining physician for review, those tests need not be repeated unless specifically requested by the VARO, or there is indication of recent changes in the condition examined."
6	Does the DBQ report describe the impact of the condition(s) on the Veteran's functional status/ability to work? *Note: If there is no diagnosed condition due to normal exam findings, mark n/a.* ◯ Yes ◯ No ◯ N/A	See MDE contract item 10.5; 38 CFR 4.10; 38 CFR 4.1	This quality element analyzes whether the report clearly conveys the extent to which the condition impacts the Veteran's functionality. If no condition is found on examination, this element can be scored N/A. As it relates to functional impairment, 38 CFR 4.10 indicates the medical examiner has "responsibility of furnishing, in addition to the etiological, anatomical, pathological, laboratory and prognostic data required for ordinary medical classification, full description of the effects of disability upon the person's ordinary activity." In addition, 38 CFR 4.1 states in order to apply the rating schedule,

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Contract Exam Quality Audit Criteria		References	Interpretive Guidance
			"accurate and fully descriptive medical examinations are required, with emphasis upon the limitation of activity imposed by the disabling condition." For mental disorders (excluding eating disorders) the disability rating formula (38 CFR 4.130) primarily considers the degree of occupational and social impairment. Consequently, for this quality element, the examiner's description of occupational/social impairment will be the primary measure of whether this quality element is met.
7	For each condition at issue, was a definitive diagnosis provided? If not, was a sufficient explanation provided? ◯ Yes ◯ No ◯ N/A	MDE contract item 10.5; 38 CFR 4.13; M21-1 III.iv.3.D.2.n. M21-1 III.iv.3.D.2.l. M21-1 III.iv.3. D.3.c.	This quality element analyzes whether a definitive diagnosis was provided for each condition at issue, and if a definitive diagnosis could not be provided, whether an appropriate justification was provided. A definitive diagnosis is one that is fully developed, clearly established, and encompasses the disease process for the noted signs and symptoms. As indicated in M21-1 III.iv.3.D.2.n, "The following are not sufficient for rating purposes: • non-committal diagnoses, such as • rule-out, or • differential, and • assigning symptoms as a diagnosis, such as • pain, tenderness, or weakness. " If there are no findings on examination, a diagnosis of disability should not be rendered by the examiner (M21-1 III.iv.3.D.2.n). Other issues which may render a diagnosis non-definitive include factors listed in M21-1 III.iv.3. D.3.c. : -The same disability is diagnosed differently by

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Contract Exam Quality Audit Criteria		References	Interpretive Guidance
			different examiners. - Conclusions or findings have been expressed in ambiguous or equivocal terms. -An examination report shows a change in the diagnosis or etiology for a disability previously recognized as SC.
8	Excluding the diagnosis (es), were inconsistencies, contradictions and discrepancies resolved? *Note: If none existed, mark n/a.* ◯ Yes ◯ No ◯ N/A	MDE contract item 10.5, 10.13; M21-1 III.iv.3.D.3.e.; M21-1 III.iv.3. D.2.l.	This quality element analyzes whether there are inconsistencies, contradictions, or discrepancies in the report. Such findings may render a report insufficient for rating purposes. M21-1 III.iv.3.D.2.l., indicates exam reports "must have definite and unambiguous description of the disability for each complaint or claimed condition."
9	Excluding medical opinions, were all issues requested by the regional office in the remarks section of the exam request sufficiently addressed? *Note: If none requested, mark n/a.* ◯ Yes ◯ No ◯ N/A	MDE contract item 10.5; M21-1 III.iv.3.D.3.a.; 38 CFR 4.2	This quality element analyzes whether all issues requested by the regional office were addressed. For example, does the report address all questions and claimed issues in the request remarks as warranted? This quality element does not encompass the medical opinion; medical opinions are addressed under a separate quality element.
10	If requested, were all required elements of the medical opinion provided? *Note: If none requested, mark n/a.* ◯ Yes ◯ No ◯ N/A	MDE contract item 14.1.c. M21-1. III.iv.3.D.2.r; M21-1 III.iv.3.D.3.a; M21-1 III.iv.5.1.j.	This quality element analyzes the medical opinion, including, but not limited to three primary factors: 1) If the requested medical opinion was provided; 2) If the appropriate legal standard of proof language was utilized; and 3) If the appropriate rationale was provided. Medical opinions must be provided if requested for exam sufficiency. In addition, medical opinions must meet the standard of proof as described in M21-1 III.iv.5.1.j. Examples of proper phrases

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Contract Exam Quality Audit Criteria	References	Interpretive Guidance
		that would meet the standard of proof include: • Is caused by or a result of is at least as likely as not (50/50 probability) caused by or a result of • Is less likely as not (less than 50/50 probability) caused by or a result of • Is not caused by or a result of, or • I cannot resolve this issue without resort to mere speculation • Improper may words include: Maybe, could be, Might be, Contributed to. M21-1. III.iv.3.D.2.r. states, "Per Jones v. Shinseki 23 VetApp. 382 (2010), VA may only accept a medical examiner's conclusion that an opinion would be speculative if: 1) the examiner has explained the basis for such an opinion, identifying what facts cannot be determined or 2) the basis for the opinion is otherwise apparent in VA's review of the evidence ." M21-1. III.iv.3.D.2.r. also states, "If an examiner's conclusion is not adequately justified, the report may be insufficient for rating purposes." "If the examiner specifically states that a medical opinion cannot be provided unless specific evidence is made available, VA's duty to assist requires that VA determine whether that evidence may be reasonably obtained. If so, VA is to make efforts to obtain it and then seek additional medical opinion which considers the relevant information."

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Contract Exam Quality Audit Criteria		References	Interpretive Guidance
11	Does the report include the examiner's specialty and credentials? If so, do the credentials satisfy the authentication requirements? ◯ Yes ◯ No	MDE contract items 9.5, 10.12 M21-1 III.iv.3.D.2 a-.b; M21-1. III.iv.3.D.2.f-l; M21-1 III.iv.3.D.2.b	This quality element analyzes whether the examiner's license is active in the State in which the exam was conducted. This element also analyzes whether the examiner's credentials meet the required qualifications to authenticate the report. In addition, this element assesses whether the examiner's credentials and specialty are included in the report. Contractual and M21-1 III.iv.3.D.2.a-b, f-l.
12	If applicable, does the DBQ report meet exam-specific contractual requirements? *Note: If no exam-specific contractual requirements, mark n/a.* ◯ Yes ◯ No ◯ N/A	MDE Contract 10.15, 10.18. 10.20q; 10.3	Contractual This element analyzes whether exam-specific contractual requirements are met. This element is not included in the calculation of contractor quality. The data collected under this element will used to monitor and facilitate contract compliance.

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Attachment K

Provider Audit Spreadsheet (QTC)

SPECIAL QUALITY AUDIT FOR PROVIDER:

Date audit completed

Claimant name:	Veteran #1	Veteran #2	Veteran #3	Veteran #4	Veteran #5	Veteran #6	Veteran #7	Veteran #8	Veteran #9	Veteran #10	Overall Average
QUADIS #:											
PDCK'd By:											
PDCK Date											
Claimed Condition(s)											
MR Provided?											
Addendum Requested											
Provider Release Date											
Report Adequate?											
Diagnosis: (Was dx definitive and objectively supported, rational provided for change in est. dx, etc.)	0	0	0	0	0	0	0	0	0	0	0.0
Diagnostics: (Was the correct diag ordered/ performed, was it correctly interpreted and correlated to dx?)	0	0	0	0	0	0	0	0	0	0	0.0
Exam: (Consistent, Clear and Concise?, MVS, ROM, 1016, SHA, Triggered DBQs added, etc.)	0	0	0	0	0	0	0	0	0	0	0.0
Medical Record Review (Was it performed, validated against PE and Hx?, consistent with Dx?)	0	0	0	0	0	0	0	0	0	0	0.0
Independent Medical Opinion: (Did provider cite records, provide rationale based on record review and sound clinical judgment)	0	0	0	0	0	0	0	0	0	0	0.0
Please provide description for anything less then 3.0											
Average		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Error Trend/VA Quality Question											
Comments											

4-Exceeds requirements; 3- meets requirements; 2- Inconsistently meets requirements (Minor issues which need action); 1- Does not meet requirements (Major issues which need action/escalation)

N/A -not applicable