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Unequal Burdens: Administrative and Evidentiary Barriers to VA Disability Compensation for Reserve Component Veterans

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Abstract

Reserve component members of the United States military, including the National Guard and Reserves, face significantly lower approval rates for disability compensation claims from the U.S. Department of Veterans Affairs (VA) compared to their active-duty counterparts. A recent report by the U.S. Government Accountability Office (GAO-24-105400) documents systemic disparities in claim outcomes, evidentiary hurdles, and documentation failures, which may compromise statutory entitlements under Title 38. This article reviews the GAO's findings, evaluates their legal and procedural implications, and lists

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recommended reforms to remedy longstanding inequities in veterans' benefits adjudication for Reserve and National Guard service members.

I. Introduction

The promise of disability compensation from the Department of Veterans Affairs (VA) is rooted in a statutory commitment to care for all service members whose injuries or illnesses are linked to their military service. Yet, as military structures have evolved, the mechanisms for determining eligibility and distributing benefits have not kept pace. In particular, members of the reserve components experience marked disparities in accessing VA disability compensation.

In its October 2023 report, *VA Disability Benefits: Actions Needed to Address Challenges Reserve Component Members Face Accessing Compensation* (GAO-24-105400),[3] the U.S. Government Accountability Office revealed that VA denied or failed to approve initial disability compensation claims from reserve component members at substantially higher rates than from active-duty veterans between 2012 and 2021. This article reviews those findings, situates them within the legal framework of Title 38 of the U.S. Code, and explores their implications for claims adjudication, administrative law, and veterans' equity.

II. Background: Legal and Administrative Framework

Under Title 38 of the U.S. Code, eligibility for disability compensation requires that a claimant (1) be a "veteran" as defined by 38 U.S.C. § 101(2), (2) have incurred a disability during "active military, naval, air, or space service" as defined in § 101(24), and (3) demonstrate a nexus between that disability and their service. For reserve component

[3] U.S. Gov't Accountability Off., GAO-24-105400, *VA Disability Benefits: Actions Needed to Address Challenges Reserve Component Members Face Accessing Compensation* 8 (2023), https://www.gao.gov/products/gao-24-105400.

members, “active service” includes periods of federal duty such as annual training or mobilization under Title 10 or certain Title 32 orders but does not typically include monthly drill periods unless the injury occurred and was documented during that time.[4]

Because reservists do not serve full time, their access to military medical infrastructure, continuity of care, and formal service records is often fragmented. These structural limitations have implications for claim adjudication, particularly where evidence of in-service occurrence or aggravation is scant or delayed.

III. The GAO’s Empirical Findings

The GAO’s quantitative analysis compared approval rates for initial VA disability compensation claims submitted between 2012 and 2021 by two distinct populations:

- **Active component veterans**, including anyone who served in a full-time active-duty role at any point; and
- **Reserve-only veterans**, who served exclusively in the National Guard or Reserves.

Of over 2 million claims analyzed, the VA approved significantly fewer from reserve-only veterans. “Specifically, from 2012 through 2021, VA approved 66 percent of claims from members who served only in a reserve component, compared to 82 percent of claims from members who served in an active component at some point—a difference of 16 percentage points.”[5]

[4] 38 U.S.C. § 101(24); see also *Donnellan v. Shinseki*, 24 Vet. App. 167, 172 (2010) (holding that inactive duty training qualifies as "active service" only under specific circumstances such as injury during the period).
[5] GAO-24-105400, *supra* note 1, at 10-11.

This disparity persisted to varying degrees across service branches, ranks, and demographic factors.

Notably, the gap was most pronounced among:

- **Black or African American veterans**, who experienced a 25-point differential in approval rates between active and reserve components;
- **Female reservists**, whose claims were approved at a rate up to 21 points lower than female active-duty counterparts; and
- **Younger claimants**, with the largest disparities observed among those aged 20–29 at the time of filing.[6]

While approval rates improved incrementally for all groups over the study period, the relative disparity between reserve and active-duty veterans remained remarkably stable.

IV. Structural and Procedural Barriers to Reserve Claims

The GAO attributes these discrepancies in large part to systemic issues that impede reserve component veterans from fully substantiating their claims. These include:

A. Lack of Immediate Documentation

VA claims processors require proof that the claimed disability was incurred or aggravated during qualifying service. Unlike active-duty personnel, reservists may not have immediate access to military medical facilities or chains of command when injuries occur, particularly during drill weekends. The GAO found that most reservists were unaware of the importance of documenting injuries contemporaneously, and little uniform DOD or VA guidance existed to instruct them on doing so.

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[6] Id. at 16–17.

B. Incomplete or Inaccessible Service Records

VA adjudicators rely heavily on service records to verify periods of duty and determine eligibility. Yet, standard DOD forms such as the DD-214 do not consistently reflect annual training or drill periods for reservists. A new form (DD-214-1) has been designed to capture these data, but implementation across the military services has at times been erratic and lacking in project planning rigor.

C. Absence of Line of Duty (LOD) Determinations

An LOD determination formally confirms that a medical condition was incurred during service. The GAO found that such determinations are difficult for reservists to obtain retroactively, and often not pursued at all. VA may attempt to conduct its own LOD investigation in such cases, but such efforts are inherently constrained by limited information and record availability.

V. Data Integrity and Access Issues

The GAO also flagged critical limitations in the reliability and transparency of the VA/DOD Identity Repository (VADIR), the shared dataset used to evaluate service histories. The GAO found that analysts conducting the specific VA study were not informed of known reliability issues in VADIR data prior to 1985, particularly with regard to wartime service periods. This lack of disclosure violates basic principles of federal data stewardship and undermines external researchers' and agencies' ability to conduct reliable policy analysis or address systemic inequities.

VI. Legal and Policy Implications

These findings implicate more than just bureaucratic inefficiencies; they raise legal concerns about due process, equal protection, and the faithful execution of veterans' entitlement statutes.

A. Equal Access to Statutory Benefits

Disparate outcomes in VA claim approvals may constitute de facto discrimination if not adequately justified. While reservists' service conditions differ from those of active-duty personnel, the statutory definition of "veteran" does not distinguish between classes of eligible service members beyond the active service requirement. To the extent the administrative process fails to treat like cases alike, it invites both legal challenge and policy reform.

B. Administrative Due Process

The denial of benefits based on unavailable or obscured evidence—particularly when that unavailability stems from the government's own recordkeeping failures—raises due process concerns. Courts have recognized the duty of the VA to assist claimants in gathering evidence.[7] When institutional deficiencies frustrate this duty, the legitimacy of the adjudication system is undermined.

VII. Recommendations for Reform

The GAO made 14 recommendations to VA and DOD. The most salient of these, from a legal reform standpoint, include:

1. **Mandating Proactive Education**: DOD and VA should issue mandatory briefings and written guidance for reserve component members on documenting injuries and the disability claims process.
2. **Formalizing Duty Records**: Implementation of DD-214-1 should be standardized across branches with clear oversight and performance benchmarks.

[7] 38 U.S.C. § 5103A; see also *Moore v. Nicholson*, 21 Vet. App. 211, 216–17 (2007) (holding that VA's failure to obtain military records violated its duty to assist).

3. **Improving Data Transparency**: The VA should maintain and distribute a fact sheet or metadata index disclosing the known limitations of VADIR and related datasets to avoid misinterpretation by internal and external stakeholders.
4. **Expanding LOD Availability**: DOD should revisit its policies regarding which conditions qualify for LOD determinations and streamline the process for reservists to obtain them.[8]

These measures align with principles of administrative law, including transparency, consistency, and the duty to mitigate foreseeable procedural inequities.

VIII. Conclusion

The United States' increasing reliance on its Reserve and National Guard forces demands a parallel commitment to ensuring equitable treatment in post-service benefits adjudication. GAO Report GAO-24-105400 offers a well-documented indictment of systemic administrative barriers that disproportionately harm reservists. Implementing its recommendations will not only improve fairness in individual cases but strengthen the credibility and integrity of the veterans' benefits system as a whole.

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[8] 38 U.S.C. § 101(2), (24).

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