

The Veterans Monthly



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NEW PRESUMPTIVES ISSUED

FINAL REGULATIONS WILL AFFECT IRAQ AND AFGHANISTAN VETERANS

Secretary Shinseki recently announced the publication of a final regulation that will make it easier for Iraq and Afghanistan Veterans to obtain VA health care and disability compensation for certain diseases. This final regulation creates new presumptions of service connection for nine diseases associated with military service in the Middle East starting around the beginning of the Gulf War in August of 1990 through the present conflicts in Iraq and Afghanistan.

“This is part of historic changes in how VA considers Gulf War Veterans’ illnesses,” said Secretary Shinseki. “By setting up scientifically based presumptions of service connection, we give these deserving Veterans a simple way to obtain the medical and compensation benefits they earned.”

This outcome stems from a positive connection between service in the Middle East and nine specific diseases. The reports behind this final regulation include information about the long-term health effects that may be associated with the

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Bergmann & Moore, LLC provides premium legal services to Veterans and their dependents. While consultations and other services are offered free of charge, fees are charged for representation before VA on the condition that the case is won. Managed by former VA attorneys, Bergmann & Moore, LLC is composed of seasoned attorneys and support staff who are experts at obtaining benefits for their clients. The firm encourages Veterans and their dependents to make full use of the free services available to them through their local Veterans Service Officer and/or Veterans Service Organizations.

following diseases: West Nile virus, Brucellosis, Campylobacter jejuni, Malaria, Mycobacterium tuberculosis, Shigella, Nontyphoid Salmonella, Visceral leishmaniasis and Coxiella Burnetii (Q fever).

As a result of this final rule, Veterans will only be required to demonstrate service in the Middle East, prove that they developed one of the nine diseases within a specific time following their discharge, and that they are currently disabled as a result of that disease. Most of these diseases would likely have been diagnosed within the first year following discharge, although it is possible that some conditions may have developed at a later date.

For those conditions that are not presumptive, Veterans are required to provide medical evidence that establishes a connection between their service and a specific disease. The decision to add these nine presumptives was made following a review of the National Academy of Sciences Institute of Medicine's 2006 report entitled, "Gulf War and Health Volume 5: Infectious Diseases."

The 2006 report differed from the four previous reports in that it considered the long-term health effects of certain diseases determined to be connected to service in the Middle East. Secretary Shinseki decided to include Veterans from the war in Afghanistan in these presumptions because the National Academy of Science (NAS) determined that the nine diseases are common in that country. The Secretary is required by the 1998 Persian Gulf War Veterans Act to review NAS reports that consider possible associations between exposure to toxic agents by Veterans who served in the Persian Gulf War and illnesses.

Although the decision to include the nine new presumptives does predate VA's Gulf War Veterans' Illnesses Task Force (GWVI-TF), the most important function of the GWVI-TF is to ensure that Veterans' confidence in VA health care, benefits, and services is strong. The GWVI-TF started during the fall of 2009 and is not a fixed, one-time initiative. It will continue to build upon its work by issuing annual reports each August. The group focuses on ensuring cutting edge research into treatments, addressing Gulf War Veterans' health issues, improving access to benefits, and making sure that the concerns of Veterans will continue to play a role in the shaping of policy.

The GWVI-TF Report can be read at <http://va.gov/Final20GWVI-TFReport.pdf>. ■

Society of the Cincinnati

America's Oldest Veterans Organization

The Society of the Cincinnati was founded in 1783 by Continental officers following the conclusion of the Revolutionary War. It was created for the purpose of ensuring that Veterans received their pensions and other promised benefits from Congress.

The Society took its name from the Roman hero Cincinnatus, the citizen-soldier who was twice called to lead the Roman Republic in war and, after each each victory, declined offers of power and position so that he may return to his home and plough. George Washington, known as the "Cincinnatus of the West," was elected the Society's first president general, a position he held until his death in December of 1799. Now in its third century, the Society is a nonprofit educational organization devoted to the principles and ideals of its founders.

To learn more, visit www.societyofthecincinnati.org



Medical Minute

HODGKIN'S DISEASE AND AGENT ORANGE

One of the two most common cancers affecting the lymphatic system, Hodgkin's disease is a type of lymphoma that originates from white blood cells called lymphocytes. Hodgkin's disease spreads from one lymph node group to another and is typically treated with chemotherapy or radiation therapy. VA recognizes that the development of both NHL and Hodgkin's disease is associated with in-service exposure to certain herbicides, such as Agent Orange. Veterans who have Hodgkin's disease and who were exposed to herbicides during their military service may be eligible for health care and disability compensation benefits. In addition, qualified dependents of Veterans who were exposed to herbicides during their service and died as a result of Hodgkin's disease may be entitled to benefits. ■



The National Native American Veterans Association (NNAVA) was founded in Oklahoma by Choctaw Veteran Tom Berry in 2004. Mr. Berry founded the NNAVA because he was disheartened by the lack of information and assistance catering to the unique needs of Native American Veterans. Membership has continued to grow since the Articles of Incorporation were approved in late 2004. The NNAVA now has members in over 20 States, representing more than 15 Federally recognized Tribes or Nations.

James Cates is the NNAVA National Chairperson.

Q. How did you come to lead the NNAVA?

A. I assumed the position of National Chairman of the National Native American Veterans Association in mid-2006, due to the failing health of our then Chairman and founder Mr. Tom Berry due to Cancer. He is an inspiration to us all for having the drive and courage amidst his failing health to get this organization organized and off the ground. It has been a challenge for me being in the driver's seat of such an important organization. But it is an extreme honor for me as well that out of all members, I was asked to step up and assume control of this endeavor by my fellow Veterans.

Q. What would you like readers to know about the NNAVA?

A. We are an organization that is spread from coast to coast, border to border, and beyond. While we are organized towards the Native American Indian, we pledge to help any Veteran,

regardless of heritage. We are an all-volunteer force that performs Veterans advocacy, veterans benefits counselling, and community outreach. True to our heritage, we are here for the people, and put others before ourselves.

Q. Who are your members?

A. We have male and female representatives from all branches of the military service. Our numbers are relatively small, and spread across a variety of states and foreign countries. We have Veterans from WWII, Korea, Vietnam, the Cold War, Desert Storm, and the current conflicts. Recruitment is slow, due to low funding and the fact we are an all-volunteer force.

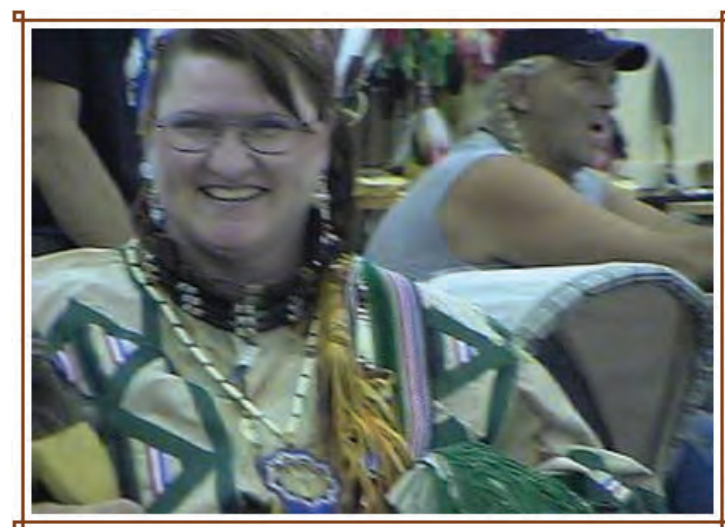
Q. How does the NNAVA help its members?

A. We perform advocacy for Veterans that need a voice on their side. Fighting prejudice inside today's modern military to the cultural needs of Veterans in VA Hospitals. We provide speakers upon request to anyone who requests them, from the military, the military academies, schools, etc.

Q. What does the future of the NNAVA look like?

A. While our numbers are relatively small, we are big in spirit. We reorganize as necessary to fit our ever-changing needs. We are currently evolving from a 501(c)19 Veterans Service Organization towards a 501(c)3 - Not For Profit. This is so that we can allow a wider membership, build membership, and provide more education to those who are in need. The current trend seems to be that Native American Veterans tend to not be as aware of the benefits that they are entitled to. ■

To learn more, visit www.nnava.org/



NNAVA Charter Member, Stephanie McCalister

VA PLANS TO REVIEW CLAIMS WHERE AGENT ORANGE BENEFITS WERE DENIED

Prompted by oversight requests from Senate Veterans' Affairs Committee Chairman Daniel K. Akaka (D-Hawaii), VA has agreed to reconsider the cases of approximately 17,000 "Brown Water" and other Vietnam Era Agent Orange disability claimants. VA had previously denied these claims without ascertaining whether or not the Veterans served in Vietnam's rivers (aka "Brown Water") or otherwise served in areas where they might have come into contact with Agent Orange and/or other herbicides.

Senator Akaka was quoted as saying that he commends VA for "responding to data showing that many Navy vessels thought to have stayed at sea actually traveled into the inland waters of Vietnam. As a result, veterans who served on these vessels are eligible for the same benefits as Vietnam veterans who served on land. I urge veterans and advocates to visit the Senate Veterans' Affairs Committee website to determine if evidence of ships in inland waters or service on the perimeter of Air Force bases in Thailand entitles them or someone they know to health care and benefits."

The Senator was successful in getting VA to reconsider cases filed by Veterans who might have been exposed to Agent Orange and other herbicides. The discovery Akaka made was that many of these Veterans actually served in the so-called "Brown Water" waterways of Vietnam and should be presumed to be service-connected in the same way as those Veterans who had served elsewhere inside the country. Those Veterans and their survivors suffering from certain diseases presumed to have been caused by Agent Orange exposure may qualify for monetary benefits and health care from VA.

As of now, certain Veterans who were previously designated "Blue Water" will have their claims looked over for evidence of "Brown Water" service. VA will also look for indicators of service in other locations where they acknowledge that Agent Orange was sprayed, such as certain areas in Southeast Asia outside of Vietnam. The website for the Senate Veterans' Affairs Committee provides a list of the ships that VA acknowledges as having traveled in inland waters.



SENATE EDUCATION COMMITTEE CONCERNED ABOUT FOR-PROFIT COLLEGES

According to VA, since the introduction of the post-9/11 GI Bill on August 1, 2009, primarily online, for-profit colleges have received around 618 million of the nearly two billion dollars spent on tuition and fees. With a vast number of Veterans returning home from the Iraq and Afghanistan wars, the for-profit educational industry is very likely to grow.

While some Veterans claim that online colleges provide an educational opportunity that fits into their busy schedules, the growing number of Veterans at these institutions is attracting the attention of the Senate education committee. An undercover government probe released this last August found recruiters from education companies encouraged applicants to lie in order to make themselves eligible for federal student aid. According to Senator Tom Harkin, the Iowa Democrat who is chairman of the Senate Health, Education, Labor and Pensions Committee, some for-profit colleges may not deserve military-education funds.

Half of the top ten colleges with the highest percentage of students financed by the GI bill during April of 2010 were for-profit institutions, including Kaplan University and the University of Phoenix. This has lawmakers worried. According to John Schupp, national director of the nonprofit group Supportive Education for the Returning Veteran, enrolling in online colleges raises the risk of poor societal reintegration and increases the likelihood of dropping out. "They don't transition sitting next to a computer in their room," Schupp said. ■

VETERANS' COURT TREATMENT PROGRAMS

NEW PROGRAMS LOOK TO PROVIDE ALTERNATIVE TO INCARCERATION

You are probably familiar with the U.S. Court of Appeals for Veterans Claims (CAVC) which hears appeals of unfavorable decisions of the Board of Veterans' Appeals (BVA). The cases before both the BVA and CAVC concern Veterans and their dependents' entitlement to benefits, such as disability compensation, educational assistance, and the reimbursement of certain medical expenses incurred outside of the VA medical care system.

Unfortunately, there are many stories of Veterans and active duty service members involved with a different type of court system – the criminal justice system. All too often news reports contain accounts of those who have recently returned from combat, struggled to readjust to civilian life, and found themselves charged with crimes such as drug possession, theft, domestic violence, and assault. In fact, it is estimated that approximately 10 percent of the prison population are Veterans and that at least 20 percent of the service members returning from Iraq and Afghanistan have or are expected to develop mental health problems as a result of their service. Often times we learn that these Veterans have undiagnosed and untreated mental health issues and have turned to drugs and alcohol to help ease their symptoms and forget the horrors they witnessed while in the service. A study by the RAND Corporation showed that only about half of the Iraq and Afghanistan Veterans with PTSD or depression have sought help, and of those who did, only half received adequate care.

“This isn't special treatment. This is a continuation of treatment of a wound.”

- The Honorable Seamus McCaffrey

The first Veterans Treatment Court began in Buffalo, New York, in January 2008, and since then dozens have popped up across the nation. In an effort to encourage even more Veterans' court programs, the first ever training program was held earlier this month in Buffalo. In addition to this, Senators John Kerry (D-MA) and Lisa Murkowski (R-AK) introduced

the Services, Education, and Rehabilitation for Veterans (SERV) Act in July 2008 to federally support treatment courts modeled after the Buffalo program.

Currently, exactly what each program entails and who is eligible does vary by jurisdiction. But the goal of these programs is clear – to provide Veterans with the treatment and guidance they need to become successful members of society and to catch them before they are completely lost in a downward spiral of crime, drugs, and homelessness. Typically, the Veteran is assigned to a peer mentor, must complete any mental health and/or substantive abuse treatment deemed appropriate, and must appear before the presiding judge to provide a progress report. Treatment is usually provided for by the VA. Many programs also offer housing, educational, and job placement assistance.

Some believe – even if the goal is an admirable one – that Veterans should not be treated any differently than non-Veteran accused criminals. Supporters, such as Pennsylvania Supreme Court Justice Seamus McCaffrey, counter that, “This isn't special treatment. This is a continuation of treatment of a wound.” Others add that such Veterans' courts are just a small part of the large debt owed to Veterans for their service and sacrifice. Additionally, the Veterans' court programs typically include a probation that is significantly more rigorous than that of the regular criminal justice system, generally including more frequent meetings with probation officers as well as continued employment or enrollment in school.

It also appears that the programs are more cost-effective than incarceration. Initially, the Veterans' courts often operate with no budget or are supported solely from grants, mainly getting their support from volunteers who are usually Veterans themselves. Also, early results suggest incredibly low recidivism rates – even lower than the successful rates of the therapeutic mental health and drug courts upon which the Veterans' program is modeled. The Buffalo program – after more than 2 years in operation – has a recidivism rate of zero, and 90 percent of participants have successfully graduated. To the individuals who have successfully completed a Veterans' court treatment program – with new-found confidence brought about through employment, stable housing, access to treatment, and support of mentors – it is indeed priceless. ■

For more information, please visit:
www.veteranslawlibrary.com/archive.html

CAMP LEJEUNE CONTAMINATION WATER MODELING

ATSDR PANEL CONSIDERS PROGRESS REPORTS AND NEW DEVELOPMENTS

During a recent Agency for Toxic Substances Disease Registry (ATSDR) community assistance panel held in Atlanta, Georgia, Veterans associated with Camp Lejeune were able to meet with agency and VA employees to discuss new developments on the ongoing contamination issue. At this panel, ATSDR representatives presented timelines and discussed progress reports on the multiple studies and surveys that were commissioned by Congress and funded by the Navy earlier this year.

ATSDR representative Morris Maslia said that they have nearly finished all data extraction for a water modeling study - including water level, well construction, and water quality source documents - and are currently in the process of bringing the data together into electronic databases. Following this, ATSDR will begin developing models, working with subject matter experts to simulate and calibrate these models, and extracting model results for epidemiological analysis.

According to Veterans Benefits Administration Compensation and Pension Service department representative Brad Flohr, only about 20 Lejeune water claims have been granted for ailments so far, including non-Hodgkin's lymphoma, renal cancer, and multiple myeloma, among others. Lejeune Veterans may yet get a presumption if this direction comes to be supported by scientific evidence. An EPA risk assessment of the chemical TCE may provide the needed evidence and is expected to be released by early 2011.

Flohr goes on to say that his department is "working at developing what we call a claim label in our decision-making systems." This claim label would tag each Lejeune claim in the VA system electronically, so that claims are processed in a more efficient manner. To prepare VA staff for these changes, Flohr said that a letter explaining the facts of the Lejeune water contamination situation has been widely distributed throughout the department.



ATSDR representatives also considered the progress made on the health surveys and morbidity study that are part of the agency's five-study package. As of September, the mortality study is on schedule, with a contract already having been awarded. In addition, contractors have plans to gain access to the National Death Index in order to gain insight into the causes of death of former Camp Lejeune residents. However, the index did not record this type of information before 1979. So information before this date will have to be taken from individual death certificates. Marines stationed at Lejeune between 1975 and 1987 will be emphasized, with special attention being paid to those records with more complete medical histories.

The more than 160,000 people who have registered on the Camp Lejeune water registry since 2007 will soon receive a letter reminding them to complete the health surveys using an included electronic PIN so that they can securely fill it out online. The goal, according to representatives, was to send out the surveys by December, therefore allowing around eight months for data collection before releasing the health survey results by early 2013. ■

For more information, please visit:
www.atsdr.cdc.gov/sites/lejeune/background.html



Veteran Events Calendar

HERE IS A LIST OF SOME EXCITING
EVENTS HAPPENING NATIONWIDE
THROUGHOUT NOVEMBER

Veterans Day Charity Open Water Swim

New York Aquarium
Surf Avenue & West 8th Street - Brooklyn, NY 11224
Telephone: (718) 938-4988
November 6th, 2010
www.cibbows.org/races/2010/2010VDreg.pdf

VVC Annual Fundraising Event

Radisson Hotel Sacramento
500 Leisure Lane - Sacramento, CA 95815
Telephone: (916) 393-1690
November 11th, 2010
www.vboc-ca.org/

Arlington National Cemetery Veterans Day Wreath-Laying Ceremony

Arlington National Cemetery
State Hwy 110 & Memorial Dr. - Arlington, VA 22201
Telephone: (703) 607-8000
November 11th, 2010
www.arlingtoncemetery.mil

6th Annual Veterans Day Motorcycle Run

Hosted by American Legion Post 250
10950 Dauphin Island Parkway - Mobile, AL 36601
Telephone: (251) 599-1739
November 14th, 2010
www.motorcyclemonster.com/events.html



CLAIMS PROCESS advice

VA CLAIMS PROCESS 101

The system for getting a disability compensation claim processed by the VA is a time consuming and frequently frustrating endeavor. However, understanding the specifics of this process, and knowing the deadlines you must meet in order to appeal your claim, can help avoid unnecessary and stressful confusion.

If your claim is denied, it is important that you file a notice of disagreement (NOD) within one year following the date of the regional office's (RO) decision. The NOD must be submitted in writing and can either be filed using VA Form 21-4138 or by simply sending the RO a letter explaining why you do not agree with their decision. Make sure that your NOD is as clear as possible by writing "NOTICE OF DISAGREEMENT" at the top of the page. Identify the decision by the date that it was made, make copies, and always send by certified mail.

VA will respond by sending you a statement of the case (SOC). The SOC explains the reason for the denial of benefits and should also inform you of the pertinent or controlling statutes and/or regulations that were used to support the decision to deny your benefits. The SOC will tell you that in order to perfect an appeal of a denial of benefits, you must execute and submit a substantive appeal within 60 days following the date that VA mailed the SOC, which usually involves a VA Form 9. The VA Form 9 will be included with the SOC in the mailing you get from the RO.

Since the VA Form 9 is so important to your appeal, take care to clearly state the benefit you are seeking and why you believe VA erred in their decision to deny your claim. Be sure to also identify any part of the SOC that you feel is inaccurate. If you happen to submit new evidence with your VA Form 9, the regional office will send you a supplementary statement of the case (SSOC). The SSOC must be disagreed with in writing within 60 days of when the SSOC was mailed. Once this has been done, the next stop is the Board of Veterans' Appeals.

For additional information, please visit www.vetlawyers.com

VSO SPOTLIGHT

**JIM CARRA, VETERANS SERVICE
OFFICER FOR MONROE COUNTY, NEW YORK**



Named for President James Monroe, Monroe County is the product of an 1821 portioning of both Genesee and Ontario Counties. Today, Monroe County hosts Rochester, the third largest city in New York, and is made up of 19 towns and 10 villages. It has a total population of around 750,000 residents and a land area of more than 663 square miles. The county is well-known for its hospitality and scenic beauty.

Website: www.monroecounty.gov/vet-index.php

State Website: www.veterans.ny.gov/

Know a VSO who should be honored? Email us at drohde@vetlawyers.com and we'll feature them in a future issue.



Q: How many Veterans do you serve in Monroe County?

A: Approximately 50,000.

Q: How long have you been a VSO, Mr. Carra?

A: My career began on April 9th, 1975 in Ontario County as a VSO. In 1983 I was appointed Director and in 1993 was recruited by Monroe County to be the Director of its Veterans Service Agency.

Q: What is your favorite part of the job?

A: My favorite part of my job is being able to interact with some real heroes, those men and women who served our nation in times of war and peace. And in assisting them in receiving that which they have earned.

Q: What is your biggest challenge in assisting Veterans with their claims?

A: The patience to wait for the time it takes to receive a decision in a case is my biggest challenge. Which I guess translates to the awful long time the VA takes in processing claims. It is my impatience at times with the VA system that is the challenge for me to reign in so it does not fuel the natural impatience of claimants.

Q: What started you down the path to becoming a VSO?

A: My desire to help people that began when I was very young led me to my career as a VSO. As I look back over my life this desire I believe was a calling of sorts. Thoughts of becoming a doctor or a lawyer just did not come to be for me for various reasons. However, I truly believe I have been doing what I was called to do for these past 31 years or so. It all started with a burning desire and answering an add in the local newspaper.

Q: What was your most memorable case and what were the circumstances?

A: All of the cases that I have handled are memorable because each one is a hero to me. That makes them memorable. No one any less than another.

Q: What advice would you give to Veterans just beginning the claims process?

A: The best advice that I can give is the advice that I was given when I began my career as a VSO. That is don't think you know everything, be humble enough to admit when you don't know and even when you make a mistake, and give each and every claim your best. ■



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