



the **EAGLE**



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The Voice of Indiana's Veterans' Service Officers

October 1, 2000

New VA Form 21-22 Excludes County Veterans' Service Officers

In a move some feel was done intentionally, the VA's newest form for appointing representation at the VA excludes county VSOs from receiving information about the status of claims.

The new VA Form 21-22, Appointment of Veterans Service Organization as Claimant's Representative, dated January 2000, no longer includes a block allowing information to be sent to the Veterans' Service Office.

On the old form, the veteran could check a block which gave authorization for the accredited representative named in block 3 of the form "to disclose information necessary in the development of my claim to the local organization named" in block 12, which is where we typed the name and address of our local county office.

CVSOs Excluded from Claims Process?

Some VSOs feel this is just part of a growing attempt by VA to totally exclude county VSOs from the claims process.

Time after time we sit at conferences at which we are told by the VA Regional Office about how important we are and how much they appreciate what we do for veterans. But when we call for information on a veteran we are constantly questioned about why we need this information. We are constantly, except by a select few telephone counselors, treated rudely, our questions answered brusquely and generally made to feel like this information is none of our business.

Some of us wonder, due to the way some counselors cut us off so quickly, if VA telephone counselors are paid according to the number of telephone calls they take. It sometimes seems they can't

get rid of us fast enough. My Huntington office follows up on the status of claims on a periodic basis. Getting claims status information from some of the counselors is like pulling teeth - you've got to yank it out of them. It's as though it's costing the counselor money right out of their pocket for every piece of information they release.

Even with the old VA Form 21-22, it didn't seem to matter to the Regional Office that the veteran had authorized disclosure to our office of "information necessary in the development of my claim".

Do CVSOs Even Exist?

Some of us believe that, regardless of what the VA Regional Office says, officially they feel we do not even exist. Officially to them we are not even part of the claims process and have no business in their business.

They want to deal exclusively with the veteran; the veteran who is confused with their telephone answering system, who is confused about VA rules and regulations, who is so confused by VA forms when they're sent to him or her, they neglect to respond by the required time limitations, causing their time to run out to appeal, causing them to lose the money they would have been awarded retroactively from the date of their claim.

The VA wants to deal with the veteran, the veteran who does not track the status of legislation and therefore doesn't know about a new benefit or a change in benefits. Changes in VA benefits are not published in local newspapers by VA. If they are reported at all it is by the *Army/Navy/Air Force/Marine Times*, it is reported by *The Stars and Stripes*, it is reported in the magazines published by

veterans organizations. Did the VA fail to notice that most veterans are not members of veterans' organizations or that most veterans do not subscribe to military-type publications. We think not.

Changes in veterans' benefits is never the subject of the NBC Nightly News or of ABC or CBS or any other television or radio broadcast. Why is that? Most of the veterans who walk into my office asking about the Cold War Certificate or about enrollment in the VA Healthcare System are there because they heard about it from a veteran friend or from a newspaper article submitted by a county Veterans' Service Officer, not because they heard about it on television or radio. Why does VA not advertise benefits on TV or radio? We think it's because too many veterans would then be filing claims or requesting healthcare.

We think VA does *not* want every veteran to know what benefits he or she has earned. That's why they don't release information to the "civilian" media.

The best example I can give of this comes right from Joe Kernan, the Lieutenant Governor of Indiana. Joe, a disabled veteran, tells about how he had no idea he was eligible for disability compensation until he was told to apply by the IDVA director. Did he learn of his eligibility from the VA? No. Did he learn of it from television or radio? No. Did he learn of it from reading a local newspaper? No.

He learned it by talking to the director of the Indiana Dept. of Veterans Affairs, *not* the U.S. Dept. of Veterans Affairs (VA). The CVSOs work under the direction of the IDVA.

That's why we need to be in the VA claims process. *We* are the real link between the veteran and the VA, *not* the National Service Officers in Indianapolis, although they do great work. Most claims wouldn't even be filed if it weren't for the work of the CVSO. Ed.



Letters to the Editor

Dear Eagle,

I wholeheartedly agree with your ideas for a new format or agenda for our annual Spring Training Conference. Those "sales pitches" we sit through during the Tuesday classes are boring and a waste of time. Even though your suggested revision of the Tuesday agenda is designated for new CVSOs, I, for one, would want to attend. In short, count me in for a revamp.

Henry County VSO

Dear Eagle,

I agree with you on what the annual training should consist of. I would, however, like to be briefed on the benefits of National Guard and Reserves who have had no active duty for things other than National Guard training.

Newton County VSO

Dear Eagle,

I would definitely be interested in both the "Basic/Refresher" classes and of course the "Advanced" classes.

Kosciusko County VSO

Dear Eagle,

I, too, believe that these sessions could be condensed into the time frame you suggested in your article. We have to listen to the same things over and over the first day and into the second. You definitely have my vote for shortening these sessions.

CVSO, Pulaski County

Dear Eagle (telephone call)

I agree with your suggestions for the classes, but we in the southern counties send most of our people to the Louisville VAMC. I'd like to hear from them about changes and new programs, too.

Posey County VSO

Note 1: I'd like to see IDVA block out 30 or 45 minutes on Wednesday just before lunch for the VAMCs to brief us on changes or new programs. But since each of us don't need to hear from all three VAMCs, allocate a separate room for each VAMC representative and give us the choice of which one we want to go listen to. We agree there's no point in the southern counties having to sit through the Northern Indiana Healthcare and the Indianapolis lectures, and most of the northern counties don't care to hear much about the Indianapolis VAMC. If we do this right before noon we won't have to come back until after lunch. *Ed.*

Note 2: I received no negative feedback concerning my suggested revisions of the conference agenda. *Ed.*

Note 3: The above letters are excerpts. *Ed.*



I agree with the article about the new VA Form 21-22 from the editor. It makes you wonder what's going on within the Department of Veterans Affairs. I have contacted all the Service Organizations at VARO and one's recommendation was to continue using the old VA Form 21-22. If you order forms from VARO they'll send you the old ones. Another recommendation was to do a VA Form 21-4138 and have the veteran sign a statement that he authorizes the County Veterans Service Officer to receive information pertaining to the claimant. Tom Applegate, who completes his forms electronically using computer software from Adobe Acrobat, has that statement pre-printed right on the new 21-22 in block 14.

I have been in contact with the president of the National Association of County Veterans Service Officer's. They are aware of the changes. The president of that organization has scheduled a conference call with his officers and they are going to contact the Secretary of the Department of Veterans Affairs, Herschel Gober, and under-secretary John Thompson.

While we are discussing the VA Form 21-22. On the back of the form is a list of the states which maintain veterans service agencies which are recognized to present claims. There are only FIVE states that are not recognized to do so. Indiana is one of them. It makes a person wonder why Jon and Jim are called Service Officers?

Hope to see everyone in Lafayette on October 12th. I know a number of us are out and about in our vehicles around our counties. Be careful. My family just lost a good friend who looked down and crossed the center line and hit a van head-on. Killed instantly. We lost one service officer a few years ago while he was driving.

Thank you for all of your hard work and assistance to our veterans.

God Bless,

Gary M. Whitehead



INVSOA and NACVSO Join Forces

The Indiana Veterans' Service Officers' Association is now a member of the National Association of County Veterans Service Officers.

Effectively immediately, individual county Veterans' Service Officers may join NACVSO at the discounted rate of \$25.00 per year (see application - Indiana is a "Member State"). To apply, copy the form below, complete it and send it to the address indicated..

Members of NACVSO receive a bi-monthly newsletter and are eligible to attend the NACVSO annual conference. (Note: the cost of the conference is not necessarily paid by the CVSO's county. The county commissioners will make the determination of whether or not they'll pay. Don't automatically assume they will.)

Members are also eligible to receive training which will grant them

accreditation as a representative of NACVSO, although it is not mandatory to do so.

The September-October 2000 Issue of the NACVSO News is available to those who would like it. Contact Tom Applegate at (219) 358-4863. Following is an excerpt from the President's Column written by the NACVSO President, Tom Martin, from Peoria County, IL.

"The Cincinnati Conference, as it will forever be known, was a perfect example of a coming-together of like-minded people, united in a single purpose, that of perpetuating a continuous flow of information, training and excellence in advocacy. We accomplished just that. Many words have been written extolling the accomplishments of the conference, the excellence of the training and instructors, and the absolutely superb

job done by the Ohio Association.

"In Cincinnati, Mr. David Aldstadt of the Ohio Governor's Office, committed to us that he would help to initiate an effort to establish a "national standard for training" of County Veterans Service Officers. To that end, he has asked Mr. Stoney Wages, Director of the Kansas DVA, and current President of the National Association of State Veterans Affairs Directors, and myself, to open a dialogue on the subject. By the time this issue goes to print, we will have had some preliminary discussions. I personally feel that a national standard for County Veterans Service Officers' training is long overdue. The end result can only be an even better representation of veterans."

By joining the NACVSO the INVSOA has taken a giant step in the veterans' advocacy direction. We hope for a long relationship.

.....

National Association of County Veterans Service Officers Membership Application and Renewal

Please provide your address information EXACTLY as it must appear on your incoming mail.

Name: _____

Office Name: _____ Position: _____

Address: _____

City: _____ County: _____ State: _____ Zip Code: _____ + _____

Work Phone: _____ Fax: _____ E-Mail: _____

Please Indicate Appropriate Category: New Member: _____ Renewal: _____

Member State: Non Member State: Send to:

____ Active - \$25.00 ____ Active - \$40.00

____ Associate - \$30.00 ____ Associate - \$45.00

NACVSO
c/o Ron Melendez, Treasurer
Orange County Veterans Services
1300 South Grand Ave., Building B
Santa Ana, CA 92705

Congress kills most improvements in survivors benefits

By Rick Maze
Army Times Staff Writer

Senate plans for major improvements in military survivors benefits died during negotiations with the House of Representatives, according to congressional sources.

The only provision included in the 2001 Defense Authorization bill is a modest change applying to reservists.

Dead, sources said, are three Senate-approved proposals to significantly change the military's Survivor Benefit Plan.

One would have reduced the drop in annuities that occurs when a surviving spouse reaches age 62 and begins receiving Social Security payments. A second would have eliminated the reduction in benefits for survivors who also qualify for dependency and indemnity compensation from the Department of Veterans Affairs because of the service connected death of their military sponsor. A third would have expanded SBP to cover all active duty deaths, not just those of retirement-eligible service members as allowed by current law.

Congressional sources involved in writing the compromise version of the defense bill said the Senate proposals, all opposed by the Pentagon, never had a chance of passage because of cost concerns. Defense officials estimated that eliminating the reduction in benefits for surviving spouses age 62 and older could cost the government \$70 million to \$95 million a year - money that is not now available. Fully paying both military and survivors benefits, rather than offsetting the payments, could cost up to \$420 million a year, defense officials said.

The one change that will be in the final defense bill, sources said, is aimed at reserve members who have completed enough years of service to be eligible to

retire but who are not receiving retired pay because they have not yet reached age 60. These so-called "gray area" retirees automatically will be covered by survivors benefits. If they die before reaching age 60, their surviving spouse will receive benefits.

Reservists can decline the coverage, if they choose, but this would require getting written consent from their spouses.

The provision would close a loophole in current law. Today, reservists can put off a decision about enrolling in the survivors benefits program until they start getting retired pay. But if they die before reaching age 60, their surviving spouse gets nothing.

Billie Holmes Recuperating

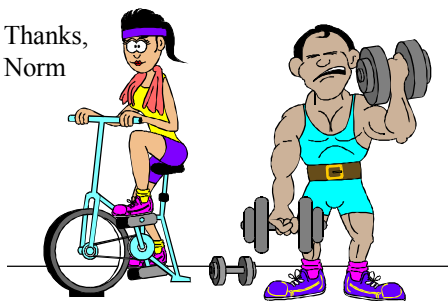
Norm Sullivan reports the following:

Just got back from the VA hospital and I talked with Billie Holmes....boy he looked good. He had been in a nursing home for re-hab, therapy after being hospitalized in critical care for about 1 week. (just about didn't make it).

His address is 1223 Willowsprings Blvd, Brownsburg, IN 46112.

If you could put this in the next *EAGLE* as a lot of us like Billie and they could send him a note of encouragement.

Thanks,
Norm



IDVA Fall Conference

The fall conference will be conducted at the Indiana Veterans Home in West Lafayette, Indiana on Thursday, October 12, 2000 from 9:30a.m. to 2:30p.m. Site of the conference will be in MacArthur Hall. The Indiana Veterans Home is located at 3851 N. River Road.

At some point during the day, maybe before sign-in, we will be taking pictures

of each CVSO for use on the INVSOA website. This is *strictly voluntary*. CVSOs who do not wish to have their picture on the website will not be required to do so.

New County Burial Form

The new county Burial Form approved on the last day of the conference this past July has been sent to and approved by the State Board of Accounts.

At this printing the form had been sent to the state office which formats the information into an acceptable form and is about to be printed, according to IDVA State Service Officer, Jim Kiser.

Perhaps by the time of the fall conference the form will be published and in our hands.

Long-Term Care Enacted

September 19, President Clinton signed the Long-Term Care Security Act (H.R. 4040) into law (P.L. 106-265), authorizing government group long-term care (LTC) coverage for active and retired service members and federal civilians, plus their family members and survivors.

TROA President Lt Gen Mike Nelson, USAF (Ret) was one of three LTC advocates the White House invited to speak at the signing. "This is a great practical benefit for the military and federal civilian communities," he said, "but it's also important symbolically -- making it clear that people in uniform are part of the federal employee family."

Because the government will be negotiating for a large, relatively healthy beneficiary pool, experts expect premiums will be 15-20% lower than most commercial plans. But it likely will be October 2002 before beneficiaries can sign up to start their coverage, because of long lead times needed to solicit bids from insurance companies, finalize contracts, print publicity materials, etc.

TROA legislative update for Friday, September 22, 2000

AMVETS Magazine and VIS Put Out Bad Information

The most recent issue of the AMVETS Magazine and the latest update to "What Every Veteran Should Know" published by the Veterans Information Service (VIS) both contained bad information about obtaining a copy of your DD Form 214.

Both sources gave telephone numbers for each branch of the armed forces to call to get a quick copy of the DD Form 214.

We called those numbers and found that they did not respond favorably to the request. The numbers were the same ones given to us about four/five years ago to be used to follow-up a request originally submitted on a Standard Form (SF) 180. That never panned out, either. When we recently called these numbers one of the women who answered wanted to know which veterans' organization was putting out the information. She wanted to contact their national headquarters and ask them to print a retraction.

If you have a copy of either of the sources referenced above, please inform your veterans that the telephone numbers are not good for that purpose.

Training Notes When Does the Claim Die?

Letter from Berta M Simmons to Stars and Stripes, dated Sep. 25 - Oct. 8, 2000

As a prior VA claimant (I am the widow of a totally disabled Vietnam combat veteran), I have learned a lot about the claims process. I also have taken courses with the National Veterans Legal Services Program. Many widows maintain their deceased husbands' subscriptions to

"S & S." I did - because your newspaper is always informative to parents of service personnel, as well as to veterans and their families. Here's a hint for your readers.

Surviving spouses, inquiring of the status of any claims pending with VA regional offices after the death of their veteran spouse, are often told by VA claims representatives that the claim "died with the veteran."

These claims usually involve the living veteran's attempt to gain service-connection of a disability or to have a prior disability rating raised to a higher percentage due to change in the degree of disability, with the resulting higher VA compensation benefit.

The veteran's death does, in fact abruptly stop the claims process. The surviving spouse, however, has a distinct right to file a "new" claim with VA for any accrued benefits that could result from a new VA award that establishes service-connection posthumously or from a VA increase in the prior rating of a service-connected disability. The spouse should open this claim within one year after the death of her spouse. Any federal division of veterans affairs service officer will offer excellent representation, at no cost, for widows or widowers of deceased VA claimants.

On your behalf, they will file VA Form 21-534, which generates not only a VA decision on accrued benefits but also on eligibility of the spouse for potential VA death pension (based on income) and also DIC (Dependency and Indemnity Compensation), a monthly benefit awarded to eligible spouses and children if the veteran's death is service-connected.

The service officer will also suggest the widow apply for "month of death benefit" if the veteran had been in receipt of monthly VA compensation. Since the claim becomes a "new" claim, the VA will consider any new evidence that supports service-connection or a higher rating in service-connection prior to the veteran's death.

Because widows' VA claims take time, as most veterans claims do, it is imperative to file the claim as soon as possible after the veteran's death. A favorable award of accrued benefits can be substantial - up to two years of what the VA would have paid the service-connected veteran prior to death.

Widows have the right to appeal VA

decisions just as veterans do, with the representation of their service officer. Although a widow can file a claim at any time, if DIC is awarded the VA will only pay benefits retroactive to the first day of the first month after the claim was filed unless the widow has filed within a year after the veteran's death, in which case a successful DIC award pays retroactive to the month after the veteran's death.

All veterans, as well as their surviving spouses, can preserve the earliest possible date for retroactive benefits that a successful VA claim would generate by filing potential VA claims as soon as possible.

Former POWs May Rate Purple Heart



Former American prisoners of war from any era may be eligible for the Purple Heart medal, due to a three-step sequence of events outlined by Defense sources.

First, President John F. Kennedy's Executive Order 11-1016 on April 25, 1962, authorized award of the medal without a formal declaration of war.

Second, an Army policy of Sept. 27, 1962, allowed Purple Heart awards to U.S. POWs who might be wounded or injured by their captors.

Third, a section of the 1996 National Defense Authorization Act made these actions retroactive.

Assistants at the Military Order of the Purple Heart headquarters in Springfield, Va., were quoted as saying that veterans applying for the medal should use Standard Form 180, "Request Pertaining to Military Records." Supporting documentation may include copies of repatriation medical exams, or a witness statement from a cellmate, for example.

Enhanced Retiree Dental Plan On Its Way

Sacramento, Calif. - The TRICARE Management Activity (TMA) and the selected contractor for its retiree dental program, Delta Dental Plan of California, announced today the roll out of an enhanced dental program for Uniformed Services retirees and their family members beginning October 1.

The TRICARE Retiree Dental Program (TRDP) is already the nation's largest voluntary retiree dental program, with about 525,000 enrollees. TMA and Delta officials aim to increase enrollment significantly through an expansion of coverage that is designed to appeal to an estimated 4.2 million eligible retirees and family members. Enrollment for the enhanced program begins Sept. 1 for coverage that becomes effective on October 1.

"The program remains voluntary with no government subsidy, so consideration for developing a comprehensive benefits package that is affordable and viable were paramount in the design," said Navy Captain Lawrence McKinley, TMA's Senior Consultant for Dentistry.

The enhanced program includes all the basic benefits offered under the current basic retiree program launched two years ago, plus coverage for cast crowns, onlays, bridges, partials/dentures, orthodontics and dental accidents, along with several additional diagnostic and preventive services.

Beginning September 1, eligible retirees and their family members can find answers to their questions about the enhanced program as well as enroll online, 24 hours a day, using Delta's dedicated TRDP web site at www.ddpdelta.org. In addition, Delta will be mailing an upgrade package to all current enrollees. Those interested in upgrading from the basic program can also visit the TRDP web site for detailed information. To upgrade or enroll in the new enhanced program by phone, the toll free number is 1-888-838-8737.

"Current TRDP enrollees will receive detailed packets by mail during the month of

September inviting them to upgrade to the more comprehensive enhanced program through return mail or by phone," said Lowell Daun, DDS, Delta's senior vice president in charge of the company's Sacramento-based Federal Services division. "The upgrade packet provides as an incentive, reduced waiting periods for some categories of services if currently enrolled retirees upgrade during September or October."

Veterans News & Information Service, Friday, Sep. 1, 2000

Will Short - Not Afraid to Get His Hands Dirty



By Tom Applegate

Don't be fooled by his title, "Superintendent", Will Short is one of us.

It was still raining that afternoon of September 11th when I pulled on the grounds of the Indiana Veterans Memorial Cemetery. If I had thought I'd find Will dry in his office I'd have been wrong. I found him out in the maintenance shed with his men. He walked through the mud to me so I wouldn't have to get muddy myself.

After I introduced myself he showed me around the grounds and explained the future plans. The picture above shows most of the burials which have taken place since the cemetery opened. Will indicated that the interest in the cemetery wasn't just from local veterans. They have received requests from all over Indiana, including northern Indiana

The grassy knoll behind the trees in the picture above will be the site for the permanent buildings which will be erected at a later date. Will posed in front of his temporary office (inset) while explaining that his two office assistants and he worked in one end of the trailer while the

maintenance crew was based in the other end.

Will posed for a similar picture for the October 1999 edition of *The IDVA Update*. In that picture he was wearing a tie. I tend to think he hasn't worn a tie since then. He impressed me as a man who isn't afraid to get his hands dirty. He told me about the difficulty they've had with the extremely wet weather they'd been having in southern Indiana and how glad they'd be when they didn't have to fight their way through the mud, and I didn't get the impression he was using the word "we" facetiously. I think he was right out there in the mud with his people.

Will grew up in Indiana, graduated in 1976 from Jennings County High School and spent over 21 years in the Navy, achieving the rank of Master Chief Machinist Mate, before resettling in Indiana.

From what I saw on my short visit to the Indiana Veterans Memorial Cemetery in Madison, Indiana while on vacation, IDVA couldn't have picked a better man to be the first superintendent. The cemetery is in good hands.

Can County VSO's be Accredited or Not?

There are two contradictory sources to check to determine if Indiana County Veterans' Service Officers can hold power of attorney for veterans' claims.

The first is Indiana Administrative Code 915 IAC 1-1-4 which says, "No power of attorney shall run to any District, County or City Service Officer or the Director, Assistants or any other employee of the Department of Veterans' Affairs, or the Veterans' Affairs Commission for the prosecution of any claim for benefits before the Veterans' Administration."

The second is found in the set of Indiana Laws given to us at the July Conference. Page 2-16, paragraph 10-5-1-9, which pertains to the Director of IDVA, reads, "The director of veterans' affairs may act as an agent of any veteran under any power of attorney authorizing the director to act on behalf of the veteran in obtaining any benefit or advantage provided by the laws of Indiana." This section was amended by Public Law 3-1989, SEC. 88.

Reading further, section 10-5-1-11 which applies to the county and city service officers and assistants, reads, "If the remuneration and expenses of a county or city service officer are paid from the funds of the county or city employing the service officer, the service officer shall; (1) *have the same qualifications and be subject to the same rules* as other employees of the department of veterans' affairs; and (2) serve under the supervision of the director of veterans' affairs.

The second reference seems to be saying that the director and the county service officers can hold power of attorney to act in behalf of county veterans.

However, it is necessary here to clarify that very few, if any, of us want to have power of attorney to represent veterans. Few of us have the time to go to Indianapolis to appear at appeals hearings and fewer of us have the necessary qualifications to do so. All most of us want is the authorization to access the VA's

Benefits Delivery Network (BDN) to ascertain the current status of a veteran's claim.

In any case, it is never the individual county service officer (or any other individual service officer for that matter) who has the power of attorney. It is the *organization* which has accredited the officer which has the power of attorney. John Hickey and Paul Curtice and Joe Carroll do not have the power of attorney of the veteran - The American Legion, the VFW and the DAV has the power of attorney.

In that event, *a county service officer who was accredited by any of those organizations, or by NACVSO for that matter, would not be in violation of either of the two laws* quoted above, because the service officer would not hold the power of attorney, the organization would.

The old argument that the county commissioners would never stand for the service officers being accredited because they'd be afraid they'd be sued doesn't hold water. The individual service officer and the county could not be sued. The organization which accredited the service officer is the only one who could be sued.

The newly appointed director of the Indianapolis VA Regional Office (VARO) has expressed on several occasions a willingness to allow county service officer accreditation.

We think it's time the matter was looked at fairly. The truth is, without the assistance of the county service officers, most veterans would never be able to file a claim. It's time county service officers were able to have full disclosure concerning what is in the veteran's claims files.

VARO Establishes 6-Month Presumptive Period for Service Connection

George "Bo" Jarboe, Allen County VSO, tells about his recent dealings with the Indianapolis VA Regional Office, specifically, Bob Linden's office.

Bo sent in a claim recently for a

veteran who had been retired from the military after 30 years. The claim was received by VA 6 months and 13 days after his discharge. The veteran received a letter from VA indicating that, because he had been discharged longer than six months ago, he would be required to submit medical evidence of any existing conditions he wished to link to his time in the service.

Jarboe, who like the rest of us, was operating under the impression that service connected conditions were presumed and substantiated by the medical documentation from the discharge physical examination up to one year after discharge, began asking questions, including talking to Bob Linden personally. Mr. Linden confirmed that the Indianapolis VARO was using six months as the cut-off. Claims received after six months from the discharge date must provide a medical nexus.

It turns out the Indianapolis VA Regional Office arbitrarily decided that the cut-off date would be six months after discharge although most other states contacted are allowing one year.

We've been told many times how much on the side of the veteran our Indianapolis VA Regional Office is. If it is true that the separate VARO's could decide for themselves whether to honor discharge physicals for six months or for a year, why would this VARO, which says they care so much about the veteran, decide only to allow six months? The one year criteria applies to almost every other VA-related matter. It is the time limit for most presumptive diseases, it is the time period for retroactive benefits after discharge from service, it's also the time limit for appeals. Why six months on this issue?

It's a question all of us should be asking the VARO every chance we get. We should also bring it up at the next conference.



Panel Would Add Four Cancers to VA Compensation for Atomic Veterans

By Emily Kelley
Stars and Stripes Law & Politics Editor

Legislation which would add lung cancer, tumors of the brain and central nervous system, colon cancer and ovarian cancer to the list of presumptively service-connected diseases for which atomic veterans may receive VA compensation was approved by the Senate Veterans Affairs Committee July 27.

S.1515, the Radiation Exposure Compensation Act Amendments of 2000, would expand a 1990 law to include compensation for additional cancer and other diseases linked to radiation exposure. The law also would add open-pit uranium miners and workers - some 9,600 additional civilians - who transported or milled uranium to the list of those eligible for compensation.

The passage of that law - which includes the same radiogenic conditions Sen. Paul Wellstone has been trying to add to the presumptive list for veterans - left Wellstone and others baffled as to why civilians received more support than veterans.

Despite the Senate's approval, the legislation was consistently stricken from VA appropriations bills in conference committee, where differences in House and Senate legislation are hashed out.

An anonymous source said one man - House Veterans Affairs Committee Chairman Bob Stump, R-Ariz. - is responsible for the removal of the legislation. "It's passed by overwhelming margins in the Senate," the source said. "Then it goes to conference and chairman Stump repeatedly takes the resolution or amendment out."

Stump has been able to do so without stepping on any politically powerful toes, according to the source, because the Clinton administration and former VA Secretary Togo D. West Jr. did not actively support the legislation.

Veterans who participated in

atmospheric nuclear tests were not told by the Defense Department or the former Atomic Energy Commission of the hazards they faced, and later were denied access to their own medical records on the grounds of national security, according to Wellstone.

A major stumbling block for veterans trying to prove service-connection is a lack of documentation of their radiation exposure. Those who were marched to ground zero immediately after an atomic blast received little or no protection from plutonium and other radioactive contaminants and little medical monitoring or follow-up, Wellstone says.

He says there is some evidence that the federal government wanted to avoid having to pay compensation to veterans for disabilities caused by radiation exposure during nuclear tests, and made some effort to fend off veterans' claims.

Editor's Note: Does any of this surprise veteran's advocates? The U.S. Government, and the Veterans Administration in particular has always thrown roadblocks and obstacles into the path of veterans seeking VA benefits. Other examples are Agent Orange and the Gulf War syndrome.

Veterans Affairs "Bonus-Driven" Mentality Must End

By David Eberhart
Stars and Stripes Veterans Affairs
Editor

Phil Cushman of *Veterans Due Process*:

"Two attorneys that worked for the Board of Veterans Appeals drew prison time for separately committing fraud in 1994 and 1995. They destroyed records that were sent to them for review, rejecting the veterans' cases on the grounds that the records were missing. The attorneys said on the record that they believed the quick denials would make them appear more productive and eligible for "bigger bonuses."

"The Senior Executive Service Act, which appears as Title 5 U.S. Code, Section 3131, provides for substantial cash awards (\$30,000 per year, more or less) to federal managers (to include VA managers) who demonstrate to the government that they are 'responsive to the policies and goals of the Nation.'

"The lure of cash bonuses tied directly to the twin 'goals' of production and cost-efficiency can be tragic for America's injured defenders. Yet the VA system has enjoyed insulation from meaningful outside scrutiny into its system ever since Congress enacted the 1933 'Economy Act', which effectively closed America's U.S. district courts to veterans. These same veterans had already been denied the freedom to spend their dollars to hire attorneys to protect their legal rights concerning VA claims.

"While some would argue that it would be difficult to guess the true extent to which the bonus-driven VA has resulted in contempt for the law, there are powerful indicators. Not the least of these are the repeated declarations by Chief Judge Nebeker of the Court of Appeals for Veterans Claims. Nebeker knows from experience that the VA holds itself to be above the law. No one at the VA wants the goose that is laying the golden eggs to be examined too closely.

"Lord Acton adequately described this bonus and VA-above-the-law reality in his maxim, 'All power tends to corrupt, and absolute power corrupts absolutely.'

The VA slipped its constitutional chains during 1933, and has never been harnessed to the law since. America's injured war defenders, who defend the rule of law with their lives, blood and limb, should not themselves be denied fundamental due process. Article 3 [U.S. Consitution] U.S. district courts must finally subject the VA to real and meaningful judicial review.

"These courts, so empowered, could utilize their fine and imprisonment powers to force the VA to obey the law, placing it above the bonus-driven mentality of today. In the age of primary focus on personal financial prosperity in which we live, the law simply cannot compete."

The first article on this page was excerpted from The Stars and Stripes, August 28 - September 10, 2000. The second article is the entire article.