



Vietnam Veterans of America

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A Not-For-Profit Veterans Service Organization Chartered by the United States Congress

October 17, 2019

The Honorable Robert Wilkie
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Secretary Wilkie,

On behalf of Vietnam Veterans of America and Veterans for Common Sense, we request to meet with you regarding Gulf War-related disability compensation claims. Generally, a veteran needs to be service-connected by VBA to receive VA medical care from VHA. We would appreciate the opportunity to collaborate with you and VA to attempt to finally resolve these serious – and seemingly intractable – systemic problems affecting thousands of ill and suffering Gulf War veterans.

Among these concerns are still-unaddressed issues raised in a July 2017 Government Accountability Office report (GAO-17-692T, *Gulf War Illness: Additional Actions Needed to Improve VA's Claims Process*) and two House Veterans' Affairs subcommittee hearings in March 2016 (*Twenty-Five Years After the Persian Gulf War: An Assessment of VA's Disability Claims Process with Respect to Gulf War Illness*) and July 2017 (*Examining VA's Processing of Gulf War Illness Claims*). Several attachments will help provide history and context.

To that end, we met with your predecessor, then-Secretary David Shulkin, M.D. not long after the July 2017 GAO report and hearing noted above. In our very positive and productive November 2017 meeting, he agreed to implement our request for VA to create an *ad hoc* working group of key external stakeholders and key Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) personnel to develop solutions to these heretofore intractable issues – including the “undiagnosed illness” (UDX) issues identified in the aforementioned forums. Unfortunately, moving forward ceased following his departure, and health issues among some of us hampered our further advocacy efforts. We are hopeful that you will be willing to meet with us now to revive this critically important collaborative effort for the betterment of our Gulf War veterans.

History

VA reports and independent research studies consistently confirm that between one-fourth and one-third of the 697,000 U.S. service members who served in the 1991 Gulf War continue to suffer from Gulf War Illness.

Given the growing prevalence of medically unexplained health problems among veterans of the 1991 Gulf War, Congress passed legislation in 1994, enacted as Public Law 103-446 that directed VA to add undiagnosed illness as a presumptive condition for Gulf War veterans. Further legislation enacted in

1998 and 2001 sought to overcome VA's high denial rates that continued to be identified by Gulf War veteran advocates and veterans service organizations (VSO's).

Despite these and other legislative advancements, VA regulatory changes, VA FAST letters, and other remedies sought by Gulf War veterans' advocates and implemented by VA, and Gulf War claims continue to be denied at staggering rates: 78 percent for chronic multisymptom illness claims (MUCMI or CMI) and over 92 percent for undiagnosed illness (UDX) claims. As shown in the July 2017 hearing noted above, and despite all the best intentions at the time of its legislative creation and successive efforts to improve upon it, "undiagnosed illness" has proven itself to be fatally flawed.

Additionally, despite nearly two decades' worth of a growing series of reports and recommendations by the National Academy of Sciences, Medicine, and Engineering (NASEM) – and VHA recognition of unusually high prevalence of certain conditions among Gulf War veterans (e.g., sleep apnea, brain cancer, and multiple other conditions), VA has determined almost no conditions as presumptive for the purposes of VA SCD claims for Gulf War veterans.

The Way Forward

Over two years have now passed since the 2017 GAO report and hearing but there has been no significant improvement. VA examiners are still providing unnecessary medical opinions concerning service connection (nexus) and many adjudicators fail to recognize the error, resulting in the claims are inadvertently denied. We have identified a number of concerning patterns of denial not unlike the underlying patterns underlying VA's former wait-times crisis. Other VBA decision letters still do not clearly communicate key information as to why the claim was denied. "Undiagnosed Illness" remains without a successful fix. Meanwhile, these high claims denial rates impact countless Gulf War veterans.

During our prior meeting we noted and suggested the following:

- 1) The adjudication of Gulf War **UDX** claims remains irreparably broken, with a perpetual greater ~92% denial rate. (UDX: symptoms-based undiagnosed illness under 38 CFR 3.317)
- 2) Gulf War **CMI** claims denials continue at an extremely high (~80%) denial rate. (CMI: chronic multi-symptom illnesses such as fibromyalgia, chronic fatigue syndrome/myalgic encephalitis, functional gastrointestinal disorders including irritable bowel syndrome, also under 38 CFR 3.317).
- 3) Next steps: Regarding our proposal for a VA-led *ad hoc* taskforce of external and VA-internal stakeholders to review and develop solutions for UDX and CMI claims denial issues:
 - We anticipate that such a review of CMI denials would result in VA efforts to improve and strengthen mandatory training.
 - We anticipate that such a review of UDX claims would result in a consensus recommendation (and ideally some kind of task force report or document) with the framework for a long-sought remedy (probably legislative). We suggested that such a remedy for UDX could be modeled after the current TBI claims schema with a symptom-based "buckets" point system for scoring sets of symptoms based on severity. As with TBI, avoidance of pyramiding would be a technical key aspect of the discussion.
- 4) Gulf War presumptives are inexplicably lacking despite internal VA evidence and various research findings suggesting certain conditions occur at higher rates among Gulf War veteran cohorts

(prevalence and/or incidence). Those conditions include but are not limited to brain cancers, sleep apnea, GERD, sarcoidosis, aplastic anemia, endocrine cancers, etc.

- Some of this data draws on research, like brain cancers.
- Some of it draws on VA data, like sleep apnea from VHA user data, and rare diagnoses like the latter three listed above.

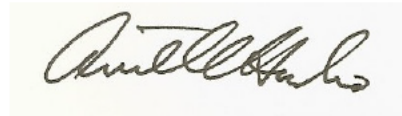
We thank you for your consideration of this request to meet to collaboratively and through your leadership develop a way forward. We remain confident that working together, these issues can be resolved.

The points of contact for this letter are: Rick Weidman, Executive Director for Policy and Government Relations, and Ronald Brown, Toxic Wounds Consultant, Vietnam Veterans of America, at [REDACTED] [REDACTED] [\[REDACTED\]@vva.org](mailto:[REDACTED]@vva.org), [REDACTED] [\[REDACTED\]@vva.org](mailto:[REDACTED]@vva.org)), and Anthony Hardie, National Chair and Director, Veterans for Common Sense, [REDACTED] [REDACTED] [\[REDACTED\]@veteransforcommonsense.org](mailto:[REDACTED]@veteransforcommonsense.org)).

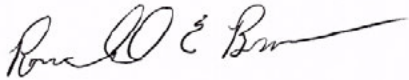
Sincerely,



Rick Weidman
Executive Director for Policy and Government Affairs,
Vietnam Veterans of America



Anthony Hardie
National Chair and Director,
Veterans for Common Sense



Ronald Brown
Toxic Wounds Consultant,
Vietnam Veterans of America

Attachments:

- Submission for the Record, March 15, 2016
- GAO report, July 13, 2017
- Testimony, July 13, 2017
- Meeting materials, November 13, 2017
- Testimony, September 25, 2019

Cc: Sen. Johnny Isakson, Chair, Senate Veterans' Affairs Committee
Sen. Jon Tester, Ranking Minority Member, Senate Veterans' Affairs Committee
Rep. Mark Takano, Chair, House Veterans' Affairs Committee
Rep. Phil Roe, M.D., Ranking Minority Member, House Veterans' Affairs Committee