



THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

OCT 5 2006

James A. Zimble, M.D., VADM (Retired)
Chairman, Veterans' Advisory Board
on Dose Reconstruction
7910 Woodmont Avenue, Suite 400
Bethesda, MD 20814-3095

Dear Admiral Zimble:

Thank you for the recommendations of the Veterans' Advisory Board on Dose Reconstruction (VBDR). I am responding to each recommendation directed to the Department of Veterans Affairs (VA).

Recommendation 1: VBDR recommended that VA provide adjudicated case outcomes to the Nuclear Test Personnel Review (NTPR).

We agree. We will work with the Defense Threat Reduction Agency (DTRA) to provide them with aggregate reports based on the dose estimates they have provided.

Recommendation 2: VBDR recommended that VA grant presumptive service connection for basal cell skin cancers and melanomas under 38 CFR 3.309(d).

We disagree. The National Academies, Health Risks from Exposure to Low Levels of Ionizing Radiation BEIR VII Phase 2 (Washington, DC: The National Academies Press, 2006), at page 10 provided the following assessment:

The Committee further judges it is unlikely that a threshold exists for the induction of cancers but notes that the occurrence of radiation-induced cancers at low doses will be small. (Public Summary, Conclusion at 10)

This recommendation has implications beyond veterans involved in atmospheric nuclear weapons tests and the occupation of Hiroshima and Nagasaki. For example, it could impact claims filed under the Radiation Exposure Compensation Act or claims filed by civilian Department of Energy workers. While we recognize that in most cases the benefit paid would be relatively small, the creation of a presumption is not warranted when the vast majority of claimants, based on reconstructed dose estimates, are not found to warrant service connection. We believe such an expansion of the presumptive list to include skin cancers would make it difficult to limit subsequent additions to the list when the probability of causation for these diseases was minimal. VBA would support an expedited dose estimate by DTRA that assigns worst-case upper bounds for service members involved in the same radiation-risk activity.

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Recommendation 3: VBDR recommended that the processing of radiation claims be centralized.

We agree. This recommendation is currently being implemented at the Jackson Regional Office.

Recommendation 4: VBDR recommended that VA automatically place all veterans with validated radiation exposure into the Ionizing Radiation Registry (IRR).

We agree. VA will move forward to create an automated list of all individuals eligible for inclusion on the IRR.

Recommendation 5: VBDR recommended that VA award service connection retroactively to the date of the initial claim for all current and future radiation risk activity conditions that were added to the presumptive list under § 3.309(d) and previously required a RDA under § 3.311.

We disagree. The Board's statement in bullet one is in error. The situation cited by the Board only applies to presumptions associated with herbicide use in Vietnam.

When VA regulations are revised to reflect entitlement for a new presumption, veterans have one year following the revision to submit a claim for that benefit. If a claim is submitted within one year of the revision, benefits may be effective the date of the revised regulation. Claims for benefits received more than one year after the revision will be effective the date they are received, or one year prior to receipt of the claim if the veteran qualified for the presumption on the date the presumption was created.

Recommendation 6: VBDR recommended that VA improve interaction and communications with Atomic Veterans. The Board recommended more effective communication on radiation in general and the significance of radiation doses in relation to diseases. The Board provided models to illustrate its recommendations.

We agree. VA is committed to more effective communication with all VA claimants.

We believe the brochure is useful and can increase the understanding and expectations of veteran-applicants. We are working to implement the brochure as an enclosure in all initial development of dose reconstruction cases.

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The Board also provided examples of letters to be used during the claims process for veterans claiming benefits based on radiation exposure. The letters will be reviewed to determine if they can be incorporated into our communications.

VA appreciates the work of the Board in developing the brochure and the letters.

Thank you for VBDR's efforts to improve VA's compensation program for Atomic Veterans.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Daniel L. Cooper". The signature is written in a cursive style with a large, prominent initial "D".

Daniel L. Cooper