



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

DEC 04 2007

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:** That VA reinforce its instructions to all its VA Regional Offices (VAROs) to promptly route radiation claims to its Jackson VARO.

**Response:** All VA Regional Offices have been advised that radiation claims have been centralized at the Jackson Regional Office. As claims are processed at regional offices, and identified as involving radiation, they are forwarded to Jackson. The regional offices will be reminded during the next nationwide Veterans Service Center Manager telephone conference call to insure radiation claims are expeditiously transferred.

**Recommendation 2:** At previous VBDR meetings we recommended (and continue to recommend) that:

a. For non-radiogenic cases, VA should consider developing alternatives to current methodologies including possible legislative relief and/or modification of regulation. Also, VA should clarify its handling of non-radiogenic cases; in particular, whether or under which circumstances those cases should be routed to Jackson.

**Response:** At this time VA has no plans to seek legislative relief or modification of the instructions contained in 38 CFR § 3.311. Instructions contained in § 3.311(b)(4) addressing claims for non-radiogenic diseases resulted from decisions of the United States Court of Appeals for Veterans Claims. Instructions have been provided to the VAROs detailing the actions that are required to support these non-radiogenic claims prior to referral to Jackson. The VAROs will be reminded during the next nationwide Veterans Service Center Manager telephone conference call of the procedures for handling non-radiogenic claims.

b. VA should provide the Board with a timetable and status for the development of a quality assurance plan and program (standard operating procedure) for the centralized

processing of atomic veteran claims which covers claims identification through adjudication, including metrics, in the radiation exposure claims adjudication process.

**Response:** VA is conducting a focused one-time review of radiation claims based on a representative sample of the radiation-related claims completed by the Jackson Regional Office since October 16, 2006. Depending on the results of that review, we will determine whether there is a need for any ongoing analysis of the quality of the decisions on these claims. During the last year, the radiation cases worked by the Jackson Regional Office have been included in the random sample selected for national quality review. Jackson's STAR sample size for the past fiscal year was 117 cases. Six of these cases (19.5%) were radiation claims. Regional office claims processing accuracy is measured and compared based solely on benefit entitlement processing accuracy. An error identified as a benefit entitlement issue would be a basis for future revision based on clear and unmistakable error, or would result in a remand by the Board of Veterans' Appeals if not corrected during the appeal process. For the most current evaluation period (8/1/06 - 7/31/07), benefit entitlement accuracy for the Jackson Regional Office is consistent with the national average of 89%.

c. VA should break out the presumptive and non-presumptive radiation claims information with an indication of whether they had been granted or not. This information will be useful to DTRA and to VBDR in planning the level of detail, resources, and time needed for completing radiation dose assessments in future cases and to expedite dose reconstruction and claims processing.

**Response:** Claims for presumptive disabilities will, in most cases, be granted if participation in a radiation risk activity is confirmed by DTRA. The Veterans Health Administration (VHA), through Dr. Neil Otchin, provides the VBDR information concerning grants or denials of non-presumptive disabilities on an ongoing basis.

d. VA should provide VBDR with data on the time required to adjudicate claims after receiving doses and other information/data from DTRA.

**Response:** The current average days to complete a radiation case, from receipt of the radiation dose from DTRA to finalizing the award action, is 25.8 days.

e. VA should communicate to veterans that atomic veterans are no longer held to any security/classification directives they may have received when they left the service concerning their service as atomic veterans.

**Response:** VBA has taken action to provide information for inclusion in development letters sent to claimants seeking benefits from VA for disabilities they believe resulted from participation in atmospheric nuclear tests. This information advises that the Secretary of Defense has released them from security obligations that applied to the location of their command involved in the nuclear test, dates of service, duties performed, and related information necessary to support their claim. VAROs will be reminded during the next nationwide Veterans Service Center Manager telephone conference call

to ensure veterans are advised that they are permitted to provide VA with information about their activities at these tests for use in developing their claims.

**Recommendation 3:** That VA ensure that the Jackson VARO has adequate resources and technology to promptly expedite radiation claims and adjudications.

**Response:** VA allocates resources for processing claims based on an assessment of the national workload and staffing levels necessary at each regional office. Jackson currently has sufficient development personnel and rating specialists available to handle radiation claims. The regional office currently has 111 radiation claims of all types that are ready to rate, with three dedicated Rating Veterans Service Representatives available to handle these cases.

**Recommendation 4:** That VA consider distributing the Ionizing Radiation Review (IRR) Newsletter to all veterans in the Ionizing Radiation Registry.

**Response:** VA supports this request and will implement this procedure with the next edition of the IRR Newsletter.

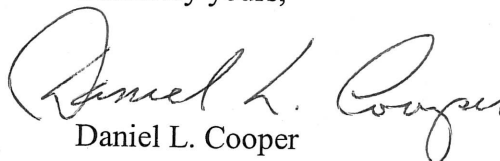
**Recommendation 5:** That VA consider publishing the IRR newsletter twice a year, timed to serve as notification of the upcoming VBDR meetings and as a vehicle to describe the previous meeting.

**Response:** VA will entertain this request with consideration given to budgetary issues and the availability of sufficient material to support two editions of the IRR Newsletter a year.

**Recommendation 6:** That VA and DTRA formalize an advisory role for VBDR in the development of any communications efforts regarding atomic veterans. To begin that role, we recommend that a meeting be held with VBDR and appropriate representatives of outreach and public affairs from both DTRA and VA this fall. We recommend that, prior to the meeting, those representatives inventory all communications regarding atomic veterans. These include brochures, booklets, etc., outreach efforts to potential program eligibles, and other external and internal communications as each agency thinks might also potentially benefit from risk communication input from VBDR.

**Response:** The Board previously provided VA with examples of materials that might be used in communicating with veterans and their survivors. At present, one of VA's communications experts is conferring with the Board's Communications Subcommittee to assess how this material may best be used.

Sincerely yours,

  
Daniel L. Cooper