

# The Adjudicative Process in Radiation Risk Activity Claims

Veterans Board on Radiation and  
Dose Reconstruction

June Meeting

Austin, Texas

# Governing Regulations

- 38 CFR § 3.309
- 38 CFR § 3.311

# Claim Receipt

- Claim Received
- Determine exposure and condition
  - 3.309,
  - 3.311, or
  - occupational
- Veterans Claims Assistance Act Notice

# 38 CFR §3.309 Claims

- Determine participation
- Schedule examination
- Evaluate condition

STANDARD ADJUDICATIVE PROCESS

# 38 CFR §3.311 Claims

- Determine Participation
- Develop participation information
- Contact Compensation & Pension Service
- Refer claim to Defense Threat Reduction Agency
- Refer claim to Veteran's Health Administration for medical opinion
- Rate and notify

# 38 CFR §3.311 Claims (cont)

Some presumptive conditions must also be developed under the reconstructed dose methodology

# Processing Expectation Dose Estimate Claims

The best current estimate for newly received radiation risk activity claims requiring a reconstructed dose estimate in which the veteran claims a condition other than prostate cancer is two years

# Occupational Exposure

- Develop for film badge information
- Schedule examination
- Request a dose estimate from appropriate service
- Refer to VHA for medical opinion
- Determine service connection
- Notify veteran



# Status Update Re-adjudication

- 2003 - VA initiated a review of all identifiable previously denied claims previously submitted by veterans for radiation risk activity disabilities. NRC projected in its report that it anticipated possibly 50 additional veterans to be given service connection
- 1,251 claims were resubmitted to DTRA
- May 1, 2006 – 256 cases decided
  - 136 veterans granted service connection
    - 124 grants under 38 CFR §3.309
    - 12 grants under 38 CFR §3.311
  - 120 claims denied

# Status Update Re-adjudication

- All 38 CFR §3.311 grants have been for skin cancer
- 995 re-adjudications remain to be decided
- Based on current trends the NRC estimate of 50 new grants of service connection appears likely to be met
- Currently over 1,400 claims are with DTRA for dose estimates

# Comparison of DTRA Referrals to Veterans on the Rolls

- 11,843 records from DTRA compared to VA payment records
- 4,651 living veterans were identified (39.2%)
- 2,085 living veterans in receipt of compensation (44.8%)
- 1,677 surviving spouses are in receipt of Dependency and Indemnity Compensation (DIC) of the 6,550 veterans who were deceased (25.7%)
- Unable to directly link compensation to exposure

# Comparison of DTRA Referrals to Veterans on the Rolls

- 828 atomic veterans are service connected for non-prostate cancers (17% of living veterans and 39.7 % of veterans in receipt of compensation)
- Atomic veterans receive compensation at a significantly higher rate than the veteran population generally even if the affect of radiation presumptions is factored out.
- Herbicide presumptions for Vietnam veterans may partially explain the benefit experience

# Skin Cancer

- Skin cancer makes up, with prostate cancer the vast majority of requests for dose reconstructions
- The VBDR has requested a cost estimate for making skin cancer presumptive. The estimate is currently being reviewed within the Department.

# Outreach

An article is being prepared for the next radiation news letter

# Questions

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