

Veterans Benefits Administration



Veterans' Advisory Board On Dose

Reconstruction's Recommendations And VA Responses

Thomas J. Pamperin

**April 2-3 2008
San Diego, California**

Recommendation 1



- The VA provide the outcome of claims to the Nuclear Test Personnel Review (NTPR)



VA Response to Recommendation 1

- **Accepted with Limitation**
- The Veterans Health Administration's Office of Public Health and Environmental Hazards has provided NTPR with summaries of medical opinions.
- These summaries list the outcomes for all medical opinions prepared by the Environmental Hazards Staff addressing the issue of causation for individual disabilities.



Recommendation 2

- Provide VBDR with data on the current population of atomic veterans who have made non-presumptive claims after an RDA is supplied.



VA Response to Recommendation 2

- **Accepted**
- VA provided the Board with summaries listing the outcomes for all medical opinions prepared by the Environmental Hazards Staff addressing the issue of causation for individual disabilities
- VA also provided VBDR with information regarding aggregated claim activity for all identifiable veterans in the DTRA Database



Recommendation 3

- DTRA and VA should agree on a process through which a decision would be made on whether a case requires a dose reconstruction and report back to the Board on the process for non-radiogenic medical conditions

VA Response to Recommendation 3



- Accepted but unable to implement
- VA sought a legal opinion from the Office of General Counsel concerning VA's obligation to seek radiation doses from DTRA for claims involving non-radiogenic disabilities.
- The opinion of General Counsel is that VA is legally required to submit all claims – even those that current suggests are “non-radiogenic” – for a dose estimate.



Recommendation 4

- Consolidate all Radiation Claim Processing



VA Response to Recommendation 4

- **Accepted**
- All radiation claims consolidated to the Jackson, Mississippi Regional office

Recommendation 5



- VA provide VBDR with a status report of performance with respect to STAR metrics and cycle time for atomic veterans claims.



VA Response To Recommendation 5

- **Accepted**

- The FY 2007 reviews comprised two claims from Jackson RO and six from other regional offices
- Report on STAR findings provided at the April 2008 San Diego Meeting
- In FY 2006, the VA STAR staff found errors in seven of the forty-one radiation claims reviewed for quality
- In FY 2007 (October 2006 to May 2007), eight claims have been reviewed with no errors found



Recommendation 6

- VA reinforce its instructions to all its VA Regional Offices (VARO) to promptly route radiation claims to its Jackson Regional Office.



VA Response to Recommendation 6

- **Accepted**
- All VAROs have been advised that radiation claims have been centralized at the Jackson RO.
- As claims are processed at VAROs, and identified as involving radiation, they are forwarded to Jackson.
- The VAROs were reminded during nationwide Veterans Service Center Manager telephone conference call to insure radiation claims are expeditiously transferred to the Jackson RO.



Recommendation 6A

- The VBDR continue to recommend that:
 - For non-radiogenic claims, 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 claims; in particular, whether or under which circumstances those claims should be routed to Jackson.



VA Response to Recommendation 6A

- **Not Accepted**
 - VA has no plans to seek legislative relief or modification of the instructions contained in 38 CFR § 3.311.
 - Instructions and reminders have been provided to the ROs detailing the procedures for the handling of non-radiogenic claims and actions required to support the claims prior to referral to Jackson.



Recommendation 6B

- VA should provide VBDR with a timetable and status for the development of a quality assurance plan and program (standard operating procedures) for the centralized processing of atomic veterans claims which covers claims identification through adjudication, including metrics, in the radiation exposure claims adjudication process.



VA Response to Recommendation 6B

- **Accepted**
 - VA conducted a focused one-time review of radiation claims based on a representative sample of the radiation-related claims completed by the Jackson RO since October 26, 2006.



Recommendation 6C

- VA should break out the presumptive and non-presumptive radiation claims information with an indication of whether they had been granted or not.



VA Response to Recommendation 6C

- **Accepted**
 - Claims for presumptive disabilities will, in virtually all cases, be granted if participations in a radiation risk activity is confirmed by DTRA. Only if there is clear evidence of of an intercurrent cause will the *possibility* of denial exist.
 - 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.



Recommendation 6D

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



VA Response to Recommendation 6D

- **Accepted**
 - The current average days to complete a radiation claim, from receipt of the radiation dose from DTRA to finalizing the award action, is 25.8 days.



Recommendation 6E

- 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.



VA Response to Recommendation 6E

- **Accepted**
 - 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.

Recommendation 7



- VA should ensure that the Jackson VARO has adequate resources and technology to promptly expedite radiation claims and adjudications.

VA Response to Recommendation 7



- **Accepted**

- The Jackson Regional Office has been provided with 41 additional staff that are currently on-board. Authorization for an additional 49 staff has been given and Jackson is in the process of hiring.
- Jackson currently has sufficient development personnel and rating specialist available to handle radiation claims.



Recommendation 8

- VA consider distributing the Ionizing Radiation Review (IRR) Newsletter to all veterans in the Ionizing Radiation Registry.



VA Response to Recommendation 8

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



Recommendation 9

- 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.

VA Response to Recommendation 9



- **Accepted**
- VA will consider 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 10

- VA and DTRA formalize an advisory role for VBDR in the development of any communications efforts regarding atomic veterans.
- We recommend that a meeting be held with VBDR and appropriate representatives of outreach and public affairs from both DTRA and VA this fall



Recommendation 10

- We recommend that, prior to the meeting, those representatives inventory all communications regarding atomic veterans.



VA Response to Recommendation 10

- **Accepted**
 - The VBDR previously provided VA with examples of materials that might be used in communicating with veterans and their survivors.
 - One of VA's communications experts is conferring with VBDR's Communications Subcommittee to assess how this material may best be used.
 - VA has accepted the flyer developed by the Board for inclusion with development letters to veterans claiming any radiation risk activity related claim.
 - Meetings have been held with VA's public affairs staff



Summary

- ✓ Total Recommendations – 15
- ✓ Accepted w/o Limitation – 12
- ✓ Accepted with Limitation – 2
- ✓ Not Accepted - 1

Dr. Otchin's Retirement and Replacement



- Dr. Neal Otchin, VA Office of Public Health and Environmental Hazards (OPHEH) retired on February 2, 2008.
- Steve Sloane, Deputy Director, Environmental Agents Service, Veterans Health Administration is taking over as much as possible. Contact number is 202-461-7225.



Current Issues In VA

- Dole/Shalala and other potential benefit changes
- Joint DoD/VA Disability Evaluation System Pilot
- Attorney Representation
- Current Conflict and Claims Activity
- Staffing



San Diego Meeting

Questions?