

Yu, Cathy [REDACTED]

From: Sixeas, Joe [REDACTED]
Sent: Wednesday, April 13, 2016 2:58 PM
To: Yu, Cathy [REDACTED]
Cc: OCLA Benefits Team
Subject: O: js8100: js8073 Responses to RM McCaskill ltr dtd Feb 4 2016

Good afternoon Cathy,

Please find below responses to the questions received subsequent to the meeting.

Thanks

1. If a veteran had full-body exposure as well as one of the presumptive ailments, and he can prove that he was at one of the sites where the VA acknowledges full-body exposure experiments took place, then he can get the service connection for benefits.

Response: VA does not grant benefits based on whether a veteran was at a mustard gas site. If the Veteran has provided medical evidence of a diagnosis of a presumptive disability, and DoD provides confirmation of full-body exposure, then service connection would be granted presumptively.

2. If a veteran claims that he had full-body exposure and also has one of the presumptive ailments, but did not serve at one of these VA sites, then the veteran is not eligible for benefits.

Response: Incorrect. Regardless of the location, if the Veteran has provided medical evidence of a diagnosis of a presumptive disability, and DoD provides confirmation of full-body exposure, then service connection would be granted presumptively.

3. If a veteran had anything less than full-body exposure, then he would have to go through the regular benefits process of showing that whatever ailment he may have is definitively connected to his exposure while in service.

Response: Correct. If DoD does not provide confirmation of full-body exposure for a Veteran (allowing for presumptive service connection), then direct service connection would be the most likely method of service connection. Direct service connection requires evidence of an event or injury in service, a current diagnosis of a medical condition, and medical nexus between the event/injury in service and the current diagnosis.

4. If a veteran comes to the VA for benefits and is not listed in the DoD database of people who were exposed to mustard gas, then the VA would forward his supporting documents to the DoD for DoD to decide if the documents prove the necessary aspects of his service. If the DoD does not find the documents to prove that he received full-body exposure while in service, then the VA would not award benefits to the veteran.

Response: If DoD does not provide confirmation of full-body exposure for a Veteran (allowing for presumptive service connection), then VA would review other methods of service connection to attempt to grant the benefit. If the evidence of record did not allow for these methods of service connection, VA would not grant the benefit sought.

5. If in the above scenario, DoD does find the documents credible, then the VA would award benefits to the veteran if he can also show one of the presumptive ailments. In such an instance, the veteran would also be added to DoD's database by DoD.

Response: If DoD provides confirmation of evidence of full-body exposure and there is medical evidence of a presumptive disability, then service connection would be established. DoD would make any appropriate updates to their database.

6. What would happen in the above scenario if DoD does find the documents credible, but the veteran did not serve at one of VA's recognized sites where full-body exposure occurred? Would the VA add the new site to its list? Or would the VA deny the claim on that basis even though DoD finds that the documents show full-body exposure while in service?

Response: If DoD provides confirmation of evidence of full-body exposure and there is medical evidence of a presumptive disability, then service connection would be established regardless of the location. VA does not actively maintain a list of sites (the list we provided was a historical record that's not actually relevant to our decision to grant or deny benefits), so VA would not add any site to that list.

7. If in the above scenario in #4, DoD finds the documents to be inconclusive, the VA would then have discretion (as long as the veteran could show a presumptive ailment) to award benefits or not.

Response: VA always has discretion to award benefits where evidence is inconclusive.

8. In the above scenario in #7, where DoD finds the documents to be inconclusive, if the VA decides to use its discretion to award benefits, would the VA then go back to DoD and request that the veteran be added to the DoD database now that the VA is awarding benefits for full-body exposure?

Response: No, VA's determination that benefits are warranted does not mean that a Veteran actually had full body exposure. VA would not ask DoD to add a name to the database just because we awarded benefits.

9. If a potential mustard gas testing site that is not already on the list of testing sites is brought to the VA's attention, the VA refers the site to DoD for verification. Please provide a list of testing sites that the VA has referred to DoD for verification.

Response: VA refers claims, not sites, to DoD for verification of in-service exposure.

10. At the meeting last Friday, the VA did not know if its list of sites where full-body exposure occurred differs from DoD's list where full-body exposure occurred.

Response: VA does not actively maintain a list of sites. The list we provided was a historical record. As previously mentioned, the location of sites is not relevant to our decision to grant or deny benefits.

11. Please verify that the list attached here of VA known testing sites is accurate.

Response: VA cannot verify the accuracy of any list of known testing sites, as we are not the original source for any testing records. We can only work with information provided us by DoD and others who may have primary evidence. We recommend that you ask DoD to provide a current list of known testing locations.

12. At the meeting last Friday, the VA did not know why Rollins Edwards is receiving VA benefits for full-body exposure but did not appear in DoD's database (until he was added at the Aging Committee's request).

Response: VA reviewed readily-available records. VA granted service connection for Mr. Edwards' skin condition based on evidence submitted by him during the course of his claim and appeal. As noted in the response to question 7, VA always has discretion to award benefits where evidence is inconclusive. DoD informed VA last year that they are now adding a record of all of their responses, whether positive or negative, to their database.

13. The VA is looking into how it can utilize the NPR reporter's list of exposed servicemen to better serve veterans who may have been exposed to mustard gas. The VA does not have a timeline for when it may finish this review.

Response: VA is working diligently to craft a plan to notify Veterans who may be eligible for benefits based on mustard gas. VA anticipates that the outreach will be conducted in the next few weeks.