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Presumptive Disability for TCE Veterans

VA policy puts the burden of proof on veterans to provide extensive supporting documentation for disability compensation claims for TCE exposure, even when veterans have been stationed at contaminated military sites and the illness is linked to TCE exposure.

Government reports show that many military bases have elevated levels of Trichloroethylene (TCE)—a toxic chemical linked to cancer and other serious illnesses.

A 2003 Air Force Pentagon report estimated that there were 1,400 TCE-contaminated military sites. Former Marine Corps Air Station El Toro is one of those bases.



At MCAS El Toro, EPA estimated that the source area of the TCE plume spreading into Orange County had an estimated 8,000 pounds of TCE in the soil and groundwater. No question that Marines working in this area were at risk of exposure to TCE.

A major problem for sick veterans who were stationed at El Toro and other military bases with TCE contamination is the VA requirement to obtain proof that their disability was due to military service.

The VA denies disability claims of veterans without substantial supporting documentation, including an opinion from a medical doctor that the illness was

“at least as likely as not” due to exposure to TCE in the military.

For many veterans this is a “catch twenty-two situation.” The military base they were stationed at has high levels of TCE. Their illness is one that can be caused by exposure to TCE. They can’t work because of their disability. The VA requires “proof” that their disability including a medical opinion that the illness was linked to military service.

The veteran now out of work because of the disability must obtain substantial supporting documentation linking the disability to military service (the VA calls this a “nexus” statement). If you bet the veteran does not have the money to pay for the VA’s proof requirements, the odds are in your favor.

A call to a California medical doctor and toxicologist who specializes in this area showed that a one page opinion letter would cost about \$3,000, assuming only a quick review of the medical documentation. The opinion letter came without any guarantees.

There’s a better way for veterans who are seriously ill from TCE exposure. VA disability claims for veterans who have diseases linked with TCE exposure can be resolved by given them "presumptive disability" entitlement.

The VA’s Presumptive Disability entitlement eliminates the need for an expensive medical nexus statement. How does "presumptive entitlement" work? If one of the medical conditions linked to TCE exposure is diagnosed in a veteran and the veteran served in a location contaminated with TCE, the VA presumes that the circumstances of his/her service caused the condition, and disability compensation could be awarded.

The VA has four groups of veterans under the Presumptive Disability category. These include former POWs, Vietnam veterans (exposed to Agent Orange); atomic veterans (exposed to ionizing radiation); and Gulf War veterans.

There’s medical support of the health affects of TCE exposure (including the EPA and the National Academy of Sciences). TCE was a widely used chemical by the military for decades, many bases have documented TCE contamination, and many veterans were exposed to this carcinogen and suffer the effects of

exposure.

In 2001, EPA reported TCE exposure associated with neurotoxicity, immunotoxicity, developmental toxicity, liver toxicity, kidney toxicity, endocrine effects, and several forms of cancer.

Without presumptive disability entitlement, a disabled cancer veteran who was exposed to TCE in the military at one of the 1,400 contaminated military sites needs to pay for a medical doctor's review and opinion linking the cancer to military service, obtain copies of all medical records, file a disability claim, wait months if not years for a decision, and be prepared to appeal a denial. Assuming the veteran lives that long, the cost can easily run into thousands of dollars. HMOs do not pay for VA nexus statements.

Veterans, who are sick with cancer, can't work, and many with limited assets do not have the means to pay for highly skilled medical professionals. Failing to provide the nexus statement from an expert will cause the disability claim to be denied. Sadly, that happens more often than not. There's a better way to repay those who served our country.

I have no idea of total cost to the government for including TCE exposed veterans under the presumptive disability category. As a stage 2/3 bladder cancer survivor and El Toro Marine veteran, I have some idea of the cost to a veteran of not doing this. I have medical coverage so all of my operations and chemotherapy were paid for. Others are not so fortunate. I also have the means and the skills to find an expert medical practitioner who can write a nexus medical opinion to support a VA disability compensation claim. Others are not so fortunate. I have the funds to pay several hundred dollars per month for prescription drugs. Others are not so fortunate. I could go on and on but you get the idea.

It's not feasible to wave a magic wand to remove all of the TCE contaminants from military installations or to cure the health affects of exposure to military personnel and in many cases their dependents. Since we can't make a miracle happen, why not at least compensate those affected by exposure by including them in the VA's Presumptive Entitlement Disability category?

The VA is not going to wake-up tomorrow morning and realize the necessity of approving Presumptive Disability for TCE exposure. Congressional support is needed to make this change.

For example, at Camp Lejeune thousands of veterans were exposed to TCE contaminated water for decades. Only two veterans filed successful VA disability compensation cases and those were approved after appeals.

Why not take a few minutes to email your representative to ask that TCE exposed veterans be included under the VA's Presumptive Disability category? See <http://www.visi.com/juan/congress/>.