

United States Senate

WASHINGTON, DC 20510-2309

March 8, 2011

The Honorable Eric K. Shinseki
Secretary
United States Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20510

Dear Secretary Shinseki:

I am writing regarding the claims processing system the Department of Veterans Affairs (VA) has established for the new presumptive conditions for Agent Orange – Parkinson’s disease, ischemic heart disease, and B-cell (or hairy-cell) leukemia. My office has worked with several Minnesota veterans who have encountered difficulties with the system, and I believe we have identified systematic problems VA should be aware of and should take steps to address.

In Fall 2009, you decided that there is a positive association between exposure to certain herbicides (commonly referred to as Agent Orange) and the subsequent development of those conditions, effectively making them presumptively service-connected. VA issued the final rule for this decision on August 31, 2010. This was a laudable and courageous action on your part, and I’m hopeful that VA will address the problems my constituents have encountered in the implementation of this decision.

First, there is considerable confusion about who is eligible to use the “Fast Track” claims processing system that VA has established for veterans with the new Agent Orange presumptives. Many of my constituents who understandably assume they can use the Fast Track process in fact cannot. My understanding is that only veterans with the newly established presumptive conditions who have *not* previously submitted claims for those conditions to VA, and who are not also submitting claims for other conditions, can use the Fast Track system. Those stipulations significantly narrow the scope of the Fast Track initiative, but that is not at all clear from the VA website. VA employees helping veterans through the process seem to suffer from confusion on this issue as well. At a minimum, VA needs to do a better job of communicating with our veterans, in person and through the website, about who is eligible for the Fast Track process.

As I understand it, VA is fast-tracking the claims of veterans who have never filed claims related to their now-presumptive conditions, while it is using several centers around the country to process the cases of veterans with the presumptives who *have* previously filed claims and who, under the 1985 *Nehmer* decision, may therefore be eligible for retroactive benefits. A number of my constituents in the latter category have had their case files sent to one such center in Phoenix, Arizona to be processed. (A related confusion is that some constituents believe their cases were sent to a “Fast Track” center there.)

This brings me to the final, and in some way most serious, problem that some of my constituents have encountered. The veterans who had previously filed claims and who now must have their cases reviewed at the Phoenix center have been faced with seemingly endless delay and impenetrable bureaucracy. My office, numerous Veterans Service Organizations, and even nearby VA regional offices have found it nearly impossible to review these files once they have been sent out of state. My office has contacted the Phoenix VA office regarding individual cases and was sent a standard form letter stating the claim was in process and the veteran would be notified when it is completed. My constituents need a more detailed response. Above all, these highly deserving veterans who have been waiting so long for compensation should have their cases expedited, not delayed without any prospect of resolution.

I respectfully request that your Department take steps to expedite the processing of claims concerning these presumptives for *all* veterans, and clarify on the VA website and to your own employees who is eligible for the Fast Track process. I also request that you explain to me what steps you will be taking to accomplish these important changes. The many veterans in Minnesota and around the country who have pursued, for decades, service connection for these conditions incurred during military service deserve nothing less.

Thank you for your prompt attention to this matter. Should you have any questions, please contact Jeff Lomonaco on my staff at (202) 224-1043 or jeff_lomonaco@franken.senate.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Franken". The signature is fluid and cursive, with a long horizontal stroke at the end.

Al Franken
United States Senator