

# United States Senate

WASHINGTON, DC 20510-2309

March 8, 2011

Michael Walcoff  
Acting Undersecretary for Benefits  
Veterans Benefits Administration  
810 Vermont Ave., NW  
Washington D.C. 20420

The Honorable Clifford L. Stanley, PhD  
Undersecretary of Defense for Personnel  
and Readiness  
4000 Defense Pentagon  
Washington, D.C. 20301-4000

Dear Undersecretaries Walcoff and Stanley:

I am writing on behalf of my constituent Connie K. Kalk, who brought to my office's attention a challenge related to VA's recent decision – highly laudable in its own right – to make several diseases presumptively service-connected to exposure to Agent Orange. I want to work with your departments to ensure that this problem is resolved as quickly as possible for the deserving widows of veterans who died from exposure to Agent Orange.

Mrs. Kalk's husband, Allen Kalk, passed away on February 8, 2010. His cause of death was listed as coronary artery disease. Mr. Kalk served in Vietnam, and did not submit a claim to the Department of Veterans Affairs (VA) during his lifetime. His wife submitted his claim after learning that VA had made Ischemic Heart Disease related to Agent Orange exposure presumptively service-connected. Mrs. Kalk received a rating decision from the VA awarding Mr. Kalk a service connection for the cause of death. Mrs. Kalk is now considered a surviving spouse, and is eligible for certain benefits from VA and potentially from the Department of Defense.

However, as you are aware, when such an award is given posthumously, no disability percentage is annotated. Because of this, Mrs. Kalk has experienced difficulties in ensuring she receives all the benefits for which she is eligible.

More specifically, my office was contacted because Mrs. Kalk is having trouble getting issued military identification cards (IDs) for herself and her family from the local National Guard Armory. The IDs specifically give them access to the Post Exchange (PX), Morale, Welfare and Recreation (MWR) facilities, and the commissary facility. I understand the Kalk family must be enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) managed by the Department of the Army before IDs can be issued. The DEERS Service Project Office told my office that "unless the VA documents state the service member was determined 100% disability either while living or at the time of death then we cannot approve this request."

It is my understanding that the surviving spouse will be awarded a service-connected death for the deceased veteran without a disability percentage assigned unless the deceased veteran had previously filed a claim. Without a disability percentage assigned, it cannot be determined whether or not the surviving spouse is eligible for military ID cards. I'm confident that Mrs. Kalk is not the only surviving spouse of a veteran who died from one of the new

presumptives to encounter this and similar problems. As things stand now, it's almost certain that deserving widows of Vietnam veterans will be denied benefits to which they are rightly entitled.

Unless VA and the Department of Defense (DOD) are constrained from doing so, it appears there are at least two potential remedies that should be considered. First, VA could award a disability percentage to the deceased veteran along with the award for a service-connected death. A veteran's death may be deemed service-connected even if he or she had not been rated 100% disabled. There are veterans who passed away from a condition that had been service-connected for 10%, for instance. VA, after careful review of the medical records of Mr. Kalk and others, could make that determination. Second, VA and DOD could mutually decide that any veteran who had not previously submitted a claim and was posthumously awarded a service-connected death for one of the new presumptives would be eligible for military identification cards. I respectfully request that you respond to these suggestions or make alternative suggestions for remedying this unfortunate situation.

Thank you for your prompt attention to this matter. I look forward to working with you to ensure that the widows of veterans who themselves were unable to receive benefits for now-recognized service-connected diseases get all the benefits they deserve. Should you have any questions, please contact Jeff Lomonaco on my staff at (202) 224-1043 or [jeff\\_lomonaco@franken.senate.gov](mailto:jeff_lomonaco@franken.senate.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Al Franken", with a long horizontal flourish extending to the right.

Al Franken  
United States Senator