



THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

DEC 08 2008

The Honorable Kirsten E. Gillibrand
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Gillibrand:

I am responding to the inquiry you submitted to the Secretary regarding your concerns about the adjudication of claims for service-connected disability compensation for non-Hodgkin's lymphoma from Vietnam veterans. To help ensure there are no undue delays in processing such claims, the Compensation and Pension Service released the following policy statement to all Department of Veterans Affairs (VA) regional offices in September 2008:

VA regulations at 38 CFR § 3.313 specify that service in Vietnam, including the offshore waters of Vietnam, during the Vietnam Era, together with the development of non-Hodgkin's lymphoma manifested subsequent to such service, is sufficient to establish service connection for that disease. This regulation does not require herbicide exposure as the basis for a presumptive grant of service connection, as is the case with the presumptive diseases listed at 38 CFR § 3.309(e). A veteran's service in Vietnam, including service in the offshore waters of Vietnam, is the sole basis for presumptive service connection when non-Hodgkin's lymphoma is diagnosed following service.

In the pending court case of *Haas v. Nicholson*, which concerns the definition of service in Vietnam and presumptive herbicide exposure, a stay was granted which placed a hold on adjudication of all claims based on herbicide exposure where the veteran did not serve on the ground in Vietnam or on its inland waterways. The majority of claims affected by this stay are from veterans who served in the offshore waters of Vietnam. These veterans are often referred to as "blue water" Navy veterans.

VA regional offices must be aware that any claim for service connection of non-Hodgkin's lymphoma from a veteran who served in the offshore waters of Vietnam is not to be placed under the *Haas* stay. These claims fall under 38 CFR § 3.313, not § 3.309, and the veteran is not required to provide evidence of herbicide exposure. These claims must be adjudicated as soon as possible when they are received.

I hope this information is helpful to you.

Sincerely yours,

P.W. Dunne