

STATEMENT OF  
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BEFORE THE

SUBCOMMITTEES ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS  
AND OVERSIGHT & INVESTIGATIONS  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

**“Twenty Five Years After the Persian Gulf War: An Assessment of VA’s Disability  
Claim Process with Respect to Gulf War Illness”**

WASHINGTON, D.C.

March 15, 2016

Chairmen Coffman and Abraham, Ranking Members Kuster and Titus and members of the Subcommittees, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on VA’s disability claims process with respect to Gulf War Illness.

Today’s hearing is extraordinarily timely, as this year our nation recognizes the 25<sup>th</sup> anniversary of the Persian Gulf War. While symbolic recognition is important, the VFW strongly believes that the most meaningful way to honor the service of Persian Gulf veterans is to ensure that they have access to the benefits they need and deserve. All too often, however, this does not happen. This is largely due to the fact that the signature condition associated with the Persian Gulf War, commonly known as Gulf War Illness, presents itself in a way that is not conducive to the traditional VA disability claims process. Consequently, our VFW service officers and appeals staff report that VA denies disability compensation claims for conditions associated with Gulf War service at a consistently higher rate than other types of claims.

Part of the challenge is that Gulf War Illness is an inherently difficult condition to diagnose and treat. This is because it presents itself as a host of possible symptoms common to many veterans that served in the Persian Gulf region, rather than a single condition that is clearly identifiable and unmistakable. What is certain is that more than 200,000 Persian Gulf War veterans suffer from symptoms that cannot be explained by medical or psychiatric diagnoses, such as chronic widespread pain, cognitive difficulties, unexplained fatigue, and gastrointestinal problems, to name a few. Since these conditions also exist in the general public, Persian Gulf veterans often have a difficult time proving the nexus between their conditions and their service necessary for VA to establish service connection.

Instead of Gulf War Illness, VA uses the term “medically unexplained chronic multisymptom illness” (MUCMI) to describe those symptoms. Although MUCMI is considered a presumptive condition for Persian Gulf veterans, there are certain factors that prevent many veterans from receiving favorable decisions when claiming that condition. MUCMI claims prove to be problematic for a number of reasons. When claiming MUCMI, the veteran lists the symptoms he or she is experiencing. These symptoms are often seemingly unrelated to one another, affecting multiple different body systems. As a result, VA assigns separate disability benefits questionnaires (DBQ) for each symptom, and separate exams are scheduled. The current Gulf War DBQ asks the physician whether there is a condition of each body system present, and then asks them to complete the relevant DBQs. Only after that are MUCMI questions asked.

We find that this practice of assigning separate DBQs for each symptom being claimed in connection with MUCMI has the effect of promoting diagnoses, even when those diagnoses are minimally supported. Once a symptom receives a diagnosis, it is no longer considered connected with MUCMI, which requires that the illness be undiagnosed. Since MUCMI is ruled out for that condition, the veteran no longer has the opportunity to be granted on a presumptive basis. Often lacking any evidence of the condition in the service treatment record, a nexus cannot be established, and the claim is denied.

VFW staff at the Board of Veterans Appeals notes that remands become numerous in these cases, and veterans often receive several different diagnoses for the same symptoms from different doctors. They believe that this is due to the minimal support for those diagnoses in the first place. It is apparent to them that VA seems to go to great lengths to find diagnoses for each symptom, simply so MUCMI can be ruled out.

The practice of parsing out symptoms has the additional effect of preventing a holistic evaluation for MUCMI. When the claim is for an undiagnosed illness, the physician should be asked more questions about the cluster of symptoms, which could be one illness leading to symptoms in multiple body systems, rather than separate conditions related to each symptom. Only if there are confirmed diagnoses should separate DBQs be completed. To improve the current system, the Gulf War DBQ should be analyzed by a team of physicians including those from War Related Illness and Injury Study Center. Additionally, VA should grant veterans reasonable doubt when deciding whether or not a veteran’s symptoms should be considered MUCMI.

Another common problem anecdotally reported by VFW service officers is inconsistency in the way Gulf War claims are decided from one Regional Office to the next. To correct this, we suggest that VA should be required to provide current statistics on how many veterans are service connected for undiagnosed illnesses, and for Gulf War Presumptive Conditions, broken down by Regional Office of adjudication to analyze consistency. There are specific diagnostic codes used for these, so the numbers should be easy to obtain. Statistics should be compared to other toxic exposures claims that are decided at a centralized location versus those that are decentralized. A good example would be Agent Orange claims (decentralized) and Agent Orange C-123 claims (centralized). Future decisions about distributing work in the National Work Queue could be informed by this analysis.

VFW service officers report that there are two types of Gulf War claims that are consistently granted at a normal rate. The first are claims for presumptive conditions other than MUCMI. These include certain infectious diseases and amyotrophic lateral sclerosis (ALS). Since these conditions are relatively easy to identify, veterans with those diagnoses need only prove that they served in the Persian Gulf theater in order to receive favorable ratings. Unlike with MUCMI, a clear diagnosis of a known condition benefits their claims.

The second category that is regularly granted is benefits delivery at discharge (BDD) claims. Since BDD examinations are conducted prior to separation, any diagnoses are necessarily linked to service and service connection may be granted on a direct basis. Because of this, however, conditions that are presumptively related to Persian Gulf service are not indicated by VA as being presumptive. VFW BDD service officers report that VA decisions sometimes say that the condition is not presumptive, simply because the veteran did not have a Gulf War Registry exam.

While direct service connection often produces more favorable results, the VFW believes that these claims should be tracked as being associated with service in Southwest Asia, to form a more comprehensive database of which medical conditions are related to deployments to those locations. In addition, separating service members should be offered Gulf War Registry exams, if they have deployed to Southwest Asia at any point in their careers. These could be provided at DOD facilities as part of the separation physical. Once the fully integrated health record is implemented, VA would easily be able to see which conditions should be considered presumptive for tracking purposes.

More troublingly, VFW service officers report that, on at least two occasions, veterans were contacted by VA staff encouraging them to drop their BDD claims for MUCMI. It was explained that those exams could not be completed by QTC contract physicians, and it would take longer to process their claims. Instead, they were advised to refile these claims after separation so that a VA physician could perform the exam, and they would receive the same effective date, so long as they did so within the first year of separation from service. While the VFW cannot speculate on why BDD contract examiners are forbidden from conducting MUCMI exams, we believe that asking the veteran to refile separately is not only overly burdensome, but also undermines the entire purpose of the BDD system. For this reason, we believe that the Gulf War DBQ and proper training on how to complete those exams should be provided to all examiners VA utilizes, including contract physicians and those located abroad.

Finally, we note that VA recently updated the M21-1 adjudication procedures manual section on Gulf War Illness. With that in mind, we ask that Congress exercise oversight to ensure VA continuously provides proper training on Gulf War Illness to all those involved in adjudicating these claims.

Mr. Chairman, this concludes my testimony and I will be happy to answer any questions you or the Committee members may have.

**Information Required by Rule XI2(g)(4) of the House of Representatives**

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2016, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.