

Veterans Corner
December 2009
By: Robert G. Mitchell

VA Extends “Agent Orange” Benefits to more veterans

Relying on a independent study by the Institute of Medicine (IOM), Secretary of Veterans Affairs Eric K Shinseki decided to establish a service-connection for Vietnam Veterans with three specific illnesses based on the latest evidence of an association with the herbicides referred to as Agent Orange.

The illnesses affected by the recent decision are B cell Leukemia, such as hairy cell leukemia; Parkinson’s disease and ischemic heart disease.

Used in Vietnam to defoliate trees and remove concealment for the enemy, Agent Orange left a legacy of suffering and disability that continues to the present. Between January 1965 and April 1970, an estimated 2.6 million military personnel who served in Vietnam were potentially exposed to sprayed Agent Orange.

In practical terms, Veterans who served in Vietnam during the war and who have a “presumed” illness don’t have to prove an association between their illnesses and their military service. This “presumption” simplifies and speeds up the application process for benefits.

The secretary’s decision brings to 15 the number of presumed illnesses recognized by the Department of Veterans Affairs (VA).

Other illnesses previously recognized under VA’s “presumption” rule as being caused by exposure to herbicides during the Vietnam War are:

- Acute and Subacute Transient Peripheral Neuropathy
- Chloracne
- Chronic Lymphocytic Leukemia
- Diabetes Mellitus (type 2)
- Hodgkin’s Disease
- Multiple Myeloma
- Non-Hodgkin’s Lymphoma
- Porphyria Cutanea Tarda
- Prostate Cancer
- Respiratory Cancers, and
- Soft Tissue Sarcoma (other than Osteosarcoma, Chondrosarcoma, Kaposi’s Sarcoma or Mesothelioma)

To file an Agent Orange claim contact the Saratoga County Veterans Agency at 884-4115.

Widows Win SBP Lawsuit

The Defense Department has announced that it will not appeal the August 2009 ruling of the U.S. Court of Appeals in the case of three widows who sued the government to keep both their VA survivor benefits and their military survivor benefit plan annuities. At issue is a 2004 law that restored DIC payments to veterans surviving spouses who remarry after their 57th birthday. Before the law change, survivors lost DIC upon remarriage at any age.

In July 2007, three widows filed a lawsuit claiming that the unique wording of the 2004 law entitled widows who remarry after age 57 to receive both survivor benefit plan (SBP) annuities from DOD and VA Dependency and Indemnity Compensation (DIC), without any offset between the two.

Defense Department lawyers argued that was a flawed interpretation, arguing that the 2004 law's language barring offset for any other "Veterans benefit" didn't apply to SBP, because SBP is a DOD benefit, not a VA benefit. After the U.S. Court of Federal Claims ruled in favor of the widows, the government filed an appeal.

But the U.S. Court of Appeals issued a strong rejection of the government's appeal, and the Pentagon's decision not to appeal the case to the U.S. Supreme Court ends the discussion.

The Defense Department has issued guidance to the serviced and Defense Finance and Accounting Service to identify all SBP annuitants who are eligible for DIC and who remarried after their 57th birthday. Qualifying survivors will be eligible to receive both payments in full, retroactive to January 1, 2004 or the date of their remarriage, whichever is later.

Payments will be reduced by the amount of any previous SBP premium refund and by the amount of any Special Survivor Indemnity Allowance payments the survivor may have received.

No COLA, but some may see \$250

The Bureau of Labor Statics recently released the September inflation figures and confirmed what retirees already knew – there won't be any Social Security, retired pay, VA disability pay, or SBP COLA for 2010.

Because inflation for the full fiscal year actually declined by 2.1% that means we'll start 2.1% in the hole in counting down the COLA for the January 2011 COLA too.

On the brighter side, President Obama has called for legislation to renew for 2010 the \$250 economic stimulus payment that Social Security annuitants and VA disability compensation recipients received earlier this year.

White House officials said the \$250 payment should not be viewed as a “substitute COLA”. They pointed out that several other provisions of the 2009 stimulus package covered to years, and that it was appropriate to renew this provision for another year, recognizing that many seniors and disabled people were still struggling with the effects of large retirement savings losses.

Officials said it would take three or four months to issue the \$250 checks once Congress clears and the president signs the legislation. Assuming Congress acts before the end of the year, eligibles could see the \$250 checks in April or May.

They stressed that the eligibility would be for one \$250 payment. People who are eligible for both Social Security and VA disability compensation would receive a separate \$250 check from each of those agencies, but won't get to keep the full \$500. They'd have to pay back the extra \$250 when they file their tax return the following spring just as people who received both payments in 2009 will have to pay back \$250 when they file their 2009 tax return.