



**From:** [REDACTED]  
**Sent:** Wednesday, June 20, 2012 5:33 PM  
**To:** Flohr, Brad, VBAVACO  
**Cc:** [REDACTED]  
**Subject:** RE: Camp Lejeune case review  
**Attachments:** Camp Lejeune Claims Processing Issues.doc

Brad,  
Attached is a write-up of some issues related to the CL case review for consideration.

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**From:** Flohr, Brad, VBAVACO  
**Sent:** Tuesday, June 19, 2012 2:23 PM  
[REDACTED]  
**Subject:** RE: Camp Lejeune case review

[REDACTED]

We are scheduled to brief the SECVA and DEPSEC on Thursday afternoon at 3:00. Lois would like for you to join us.

Brad

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**From:** [REDACTED], VBAVACO  
**Sent:** Monday, June 18, 2012 11:31 AM  
**To:** [REDACTED], VBAVACO  
**Cc:** Flohr, Brad, VBAVACO; [REDACTED]  
**Subject:** Camp Lejeune case review

[REDACTED]

We were asked to review cases related to Camp Lejeune (CL) by Senator Burr's office. Some of the issues for Burr involve inconsistency and presumptives. Dr. Cassano is leading this review and we are working with several medical doctors from VHA. Her plan has been to create a spreadsheet of the cases that identifies: (1) claim number, (2) claimed disabilities related to CL, (3) denied or granted, (4) whether a nexus to CL [versus incurred in service or secondary grants], (5) rational for decision by VHA examiner, (6) literature cited by examiner, (7) exposure duration considered by examiner, (8) additional comments. Her main issue is the performance of the VHA examiners and whether they had a sufficient, well stated rational for associating the claimed disability to CL. We Compensation Service folks are reviewing all claim files and filling in the spread sheet if the RO denied the claim. If a claim was granted, we give it to a VHA doctor to assess the C&P medical exam. They fill in the spread sheet, with comments on exam adequacy, for grants. Additionally, if a denial falls into a category of potential grants (the NRC list of 14 diseases, other cancers, or diseases identified by ATSDR, etc.) (she made up a list for us), then we give it to one of the VHA doctors to review the exam's rational. If the rational is poor, or unexplained, it is highlighted for a future consideration. I do not know if there will be any changed decisions; I think that is undecided as of now.

In general, the denials look appropriate. Most claims are unrelated to the diseases associated with the CL water chemicals. There was no exam ordered on some of these, which may be an issue. As I expected, the quality of the exam rationals varies widely. But, that is an issue for Dr. Cassano and VHA. They are planning to organize a group of VHA "experts" for future case reviews. For VBA, it looks like most rating decisions are based on the C&P exam, so VBA's part of the process seems OK. This looks like a joint VBA-VHA resolution. I do not see any conflict or disagreement here. The real issue down the road will be avoiding the creation of presumptives when certain diseases are most often associated with the water chemicals. But, the counter to this is that exposure time and location varies with different claims. It remains to be seen whether Senator Burr will be satisfied.



## Camp Lejeune Claims Processing Issues

### **Exposure issue**

The Camp Lejeune Training Letter emphasizes that an assessment of the claimant's contaminated water exposure should be conducted as part of evaluation process for service connection. Since the presence or concentration of the identified chemicals at any given location within the Camp Lejeune water system during the contamination period is unknown (and probably unknowable, despite ATSDR's claims for its water flow modeling studies), the only objective evidence for exposure will come from the Veteran's military personnel records showing length of period of service at Camp Lejeune. On the other hand, the training letter states that we will assume that any Veteran who served at Camp Lejeune during the period of contamination was "potentially" exposed to the identified chemicals for purposes of ordering an exam. Based on the case review, it appears that the idea of this potential exposure has superseded the idea of actual exposure for service connection purposes.

During our review of cases at the Louisville RO, only a small percentage of exam reports and rating decisions addressed the length of service at Camp Lejeune as a component of the medical nexus or service connection determination. Exam requests did not contain specific information on service periods and medical examiners did not comment on them. The few that I saw were based on the medical examiner asking the Veteran about service at Camp Lejeune and the response being placed in the exam report. There did not appear to be objective verification of the length of service. This may become an issue with the creation of the new "expert" medical panel of VHA examiners who will make future decisions on these claims. If duration of exposure is not a significant element of the medical nexus determination, then only the Veteran's health history records, and the scientific literature's association of the claimed disease to the identified chemicals, will be considered. This could easily lead to "de facto presumptives" for certain diseases like renal cancer due to benzene exposure based solely on any service at Camp Lejeune.

From the case review, it appeared that there was no established procedure for assessing or recording the length of service at Camp Lejeune as a determinant or "proxy" for exposure. It is not likely that the new medical expert panel members will be familiar enough with a claims file to find this information on their own, if it was obtained. Therefore, it may be advisable to require the VSRs to review the Veteran's personnel records and specifically state, in the exam request and/or elsewhere, when and for how long the Veteran actually served at Camp Lejeune. These personnel records can easily be obtained from NPRC or RMC through a PIES or DPRIS request at the same time as medical STRs are requested. The examiner can then use this information as a component of the medical nexus assessment for a more complete determination. The exposure information can be recorded in the exam report to help justify the nexus determination, whether positive or negative. This supports the case-by-case review procedure versus the idea of inferring de facto presumptives based solely on service at Camp Lejeune.



### **VHA examiner's rationale issue**

A major concern for Dr. Cassano was the VHA examiner's stated rationale in the medical exam opinion for finding (or not finding) an at-least-as-likely-as-not association between a claimed disease and service at Camp Lejeune. In particular, she was looking for a thorough citation to scientific literature and studies to justify the opinion. Needless to say, the opinion rationales varied widely from none to lengthy specific literature or study citations. One problem in her view was a general reference to the Camp Lejeune Training Letter or to the NAS's National Research Council's list of 14 associated diseases, which is contained in the training letter. In many cases, diseases on the list were determined to have the medical nexus and those not on the list did not have the nexus, without further elaboration in the rationale. It appears that she thinks a more elaborate justification for the medical nexus will satisfy Senator Burr's concerns.

There appears to be some incongruity in this approach, although it is more of a VHA than VBA issue. On the one hand, she wants complete citations to scientific literature and does not think a reference to the training letter and its contents provides that. But, on the other hand, the training letter does already contain a relatively complete summary of the diseases scientifically associated with the identified chemicals. Additionally, it contains Internet websites for three major scientific organizations (American Chemical Society, EPA, and ATSDR), which specify all relevant information and studies done on diseases associated with the identified chemicals at Camp Lejeune. Therefore, a citation to the training letter implies a review of the relatively complete scientific information contained in the training letter. It is not clear what additional or more complete scientific literature is available to use when VHA examiners state their opinion rationales. She made some reference to developing a new list of citations to be used by the expert examiners. It appears that the main concern is that something more elaborate and more "scientific appearing" should be written in the rationales for Senator Burr.

### **Presumptive confusion issue**

In a small number of reviewed cases, there was a statement in the rating narrative indicating that a claimed disease was or was not on the "presumptive" disease list of 14 (NRC's list cited in training letter) and that service connection was granted or denied based on this. Even though the training letter and the RO training at Louisville has emphasized that there are no presumptives, these statements are still made. Some of the presumptive language mimicked Agent Orange related presumptive language and so may have been boilerplate AO text transferred into the Camp Lejeune narrative. However, this may be problematic if the media obtains a rating with presumptive language in it and announces that VA has created Camp Lejeune presumptives. This should be address with additional training and emphasis.

### **Requesting exams issue**

Based on the review, there were a number of cased where service connection was denied without scheduling an exam. Generally, these were appropriate because the claims were for apparently unrelated musculoskeletal conditions, headaches, skin conditions, PTSD,



etc. However, some were for claims such as neurobehavioral conditions (on NRC's list of 14) and cancers not on the list, which Dr. Cassano thought deserved an exam. In other cases, exams were scheduled where the claimed disabilities appeared unrelated to the identified water chemicals and the examiners responded with short and minimal "no association" rationales. In such cases, the exam may have been unnecessary. Therefore, to promote consistency on the issue of when to schedule an exam, it may be advisable to create a list of commonly claimed conditions where no exam is necessary and a list, in addition to NRC's list of 14, where an exam is needed. This could be coordinated with VHA or Dr. Cassano and the list provided to the Louisville VSRs. If doubt arose over any unlisted claimed condition, the VSR could go ahead and schedule the exam.

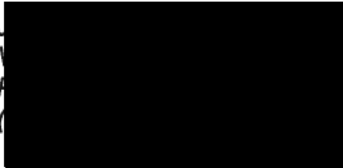


**From:** [REDACTED]  
**Sent:** Wednesday, November 14, 2012 4:20 PM  
**To:** Koopmeiners, Michael  
**Cc:** [REDACTED]; Flohr, Brad, VBAVACO; [REDACTED]; [REDACTED] Cross, Gerald M. (SES EQV); [REDACTED]  
**Subject:** Implementation of interim 2-stage medical exams for CLCW claims not held at Louisville RO

Dr. Koopmeiners,

As you know, the interim 2-stage SME medical exam processing for CLCW claims held at the Louisville RO has begun. However, there is a concern for those CLCW claims held by other ROs. These include RO sites developing BDD, Quick Start, and foreign claims. VBA wants these claims to also participate in the interim 2-stage exam process. You currently have a method for channeling the Louisville claims to your SMEs. How can we channel CLCW claims held by other ROs to your SMEs?

One possibility is that we could notify the other ROs that they should select a special employee to contact you when an exam is needed and then you would tell them the name of the SME and where to send the paper claims file or the electronic record. Please advise whether this or some other method is appropriate. We will then provide them with a fast letter or other means for implementing your plan. We anticipate that the "virtual medical center", when up and running, will simplify matters and terminate our interim plan. Do you have an idea when the virtual medical center will be ready?



Flohr, Brad, VAVACO



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**From:** [REDACTED]  
**Sent:** Wednesday, April 17, 2013 9:52 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED] Flohr, Brad (SES EQV), VBAVACO  
**Subject:** RE: Camp Lejeune Cases

Brad knows and will assist, but this is a VHA problem.

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**Sent:** Wednesday, April 17, 2013 9:45 AM

**Subject:** Re: Camp Lejeune Cases

Does Brad Flohr know? He is our POC for this process and should be able to straighten out

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**Sent:** Wednesday, April 17, 2013 08:47 AM

**Subject:** FW: Camp Lejeune Cases

FYI.

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**Sent:** Wednesday, April 17, 2013 7:49 AM

**To:** VAVBANAS/SAREA

[REDACTED] Flohr, Brad (SES EQV),

[REDACTED] Koopmeiners, Michael; [REDACTED]

**Subject:** Camp Lejeune Cases

**Importance:** High

SAREA,

On April 12, 2013, I submitted the attached e-mail which included a White Paper regarding a problem that has developed in the DMA process for obtaining medical opinions for CLCW claimants. The process was developed by VHA/DMA, with full cooperation from VBA, to resolve inconsistencies among examiners by providing a trained staff of SME physicians who are assigned cases by the DMA in VACO. The VBA Chief of Staff, Deputy Under Secretary for Field Operations, and Compensation Service was involved in establishing this procedure. It was my understanding that the DMA had authority and oversight of the CLCW SME process.

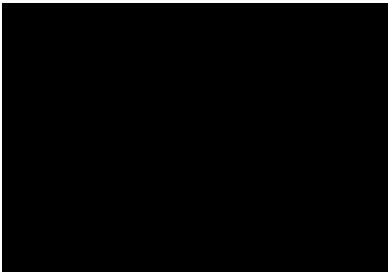
Apparently, VAMCs are now reassigning these SMEs to other duties and allowing their assigned CLCW cases to languish. The DMA does not appear to be timely reassigning the claims or advising VAMCs that they do not have the option to remove physicians from their CLCW SME duties. I also

understand that I am not seeing the entire picture and that the DMA may be in the process of resolving these issues.

I received the below e-mail from [REDACTED] regarding the reassignment of CLCW cases from the SME at the Las Vegas VAMC. It appears that they are concerned because the ages of the cases are adding to their timeliness and have requested to 'return' them to Louisville.

Please communicate with VACO and obtain a resolution to this issue. Since the DMA assigned the cases, and we shipped them to the assigned SME, the DMA has the responsibility to resolve this issue, not the Louisville RO.

Please advise as soon as possible.



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[REDACTED]  
**Sent:** Tuesday, April 16, 2013 04:57 PM  
[REDACTED]  
**Subject:** FW: Camp Lejeune Cases

[REDACTED]

Please see the below email concerning Camp Lejeune Cases. It appears VAMC Las Vegas would like to return them to you so that they can be sent to the appropriate RO. This is strange since they get exams done for us in less than 25 days. Who should he contact about returning these cases?

Thanks

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[REDACTED]  
**Sent:** Tuesday, April 16, 2013 12:47 PM  
[REDACTED]  
**Subject:** RE: Camp Lejeune Cases

12 Cases.

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