

Mr. Al Lynch, Chief Service Representative, Vietnam Veterans of America, Chicago

TESTIMONY BEFORE THE SENATE COMMITTEE ON VETERANS AFFAIRS  
PRESENTED

BY

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AND

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Introduction

I am Allen J. Lynch, Chief, Service Representative for the Vietnam Veterans of America Illinois State Council I am also the Chief, Veteran Rights Bureau, Office of Illinois Attorney General, Lisa Madigan. I have been working in the area of veteran affairs since 1970 when I started with the VA as a Veterans Benefits Counselor. I left that position in 1979 to become the Chief, Ambulatory Care at the North Chicago VA Medical Center. In 1980 I became the Executive Director of the Vietnam Veterans Leadership Program. Then in 1985 I became the Chief of the Veteran Rights Bureau under then Attorney General Neil Hartigan I have been the Chief of Veteran Rights bureau since that time.

In 1991 I attended the VVA Service Representative School in Washington D.C. and became a VVA Service Representative a few years latter I became the Chief, Service Representative for the VVA Illinois State Council. I also assist veterans with appeals as a part of my position within the Attorney General's office I am allowed to do this because claims before the VA are not adversarial. Since becoming a VVA Service Representative I have handled numerous of claims before the VA and the Board of Veteran Appeals. Most of the claims I assist with are already in the appeal process.

Over the last several months the Chicago VA Regional Office has come under fire for its ranking last in the amount paid out to illinois veterans in the form of compensation benefits. According to the recently released IG report this ranking is no longer the case and in fact the Chicago office has moved from 44thin 1999 to 23Tdin2004. This is substantial move in ranking and one in which the Regional Office should be proud of achieving. The Regional Office has also moved up in the accuracy of the claims it processes again a great achievement and one that the staff of the Regional Office should be proud of achieving. It is therefore a disservice to those who have worked so hard to achieve these goals to be lumped in with those few still within the Chicago Office who work at a substandard level.

Make no mistake there are still problems that need to be addressed within the Chicago VA Regional Office. As a Veterans Service Representative for VVA and in my position with the Illinois Attorney General's Office I am well aware of the faCtthat there are still those Rating Specialists with in the Regional Office who consistently persist in disobeying the law and its intent as written by you in the Congress and further codified by the VA in the Code of Federal Regulations. The best indication of how the VA is to govern its laws and regulations is found at

38 CFR Sec. 3.102 Reasonable doubt which states in pertinent part.

It is the defined and consistently applied policy of the Department of Veterans Affairs to administer the law under a broad interpretation, consistent, however, with the facts shown in every case. When, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin, the degree of disability, or any other point, such doubt will be resolved in favor of the claimant. (Emphasis added)

Yet there are still a few Rating Specialists who take it upon themselves to disavow the law as you wrote it and as the VA codified it in the CFR and who choose instead to apply the law under their own narrow set of criteria that flies in the face of your and the VA intent.

It is true that most of the employees of the Chicago Regional office are capable, competent and work hard to administer the intent of the law as codified in both the 38 U.S.C. and the 38 C.F.R. However, that does not diminish the negative effect of those few Rating Specialists who do not obey the intent of the law. The impact of just one substandard Rating Specialist can impact thousands of veterans over the course of his/her employment with the VA. If he/she spends twenty-five years in the VA system rating claims and only rates one thousand claims a year over twenty-five years he/she would affect twenty-five thousand cases. If the Regional Office has three such raters seventy-five thousand cases would be rated. These are under estimates and do not reflect actual case work but are given as an example of the effect of those few who choose not to obey the law as you wrote it.

#### Problem Definition

One may think that the Director of the Regional Office is at fault for all the problems that have found their way into the press recently. But upon review of the facts as given in the VA's IG report the Regional Office started to turn the corner in improving its processing of claims under Director Olsen. In point of fact problems within this Regional Office go back well over 20 years and several directors and several administrations both Republican and Democrat.

I believe one of the major causes of the problems in processing claims at this office started several years ago when the Chicago office suffered a drastic reduction in force. As a result of this reduction in force those who were tasked with doing the ancillary work of claims processing i.e. inputting awards, developmental letters and other such tasks were reduced in number. Under this reduction in force skilled adjudicators and rating specialists were allowed to retire without being replaced. This created an increased burden on an already overburdened system. Recently, I was informed that the reason the Chicago office is consistently understaffed is because of a sixteen percent cost of living pay differential given in Chicago and other large cities. It seems, as I have been told, that it is just cheaper for the VA to broker but cases to other Regional Offices than to fully staff cities like Chicago. This "going on the cheap" by this and other administrations has directly affected the ability of the Chicago office to properly develop and adjudicate claims.

This reduction in force should in no way, however take away the affect of the negative attitude of those few rating specialists who persist in taking an arbitrary and capricious view of veteran's claims. Those of us who serve as veteran's advocates know and can name those rating specialists who consistently either "low ball" ratings or deny claims because of their own narrow view of the law and regulation. It is very disturbing that the Regional Office has persistently allowed these few Rating Specialists to continue in their positions even promoting some into positions of greater responsibility.

The effects of those Rating Specialists who persist in their negative and substandard work greatly affect those whose cases they rate. We must never forget that these cases are after all real veterans who are coming to the VA because they believe they are suffering disabilities that occurred while they were in the military. I believe it is important to relate the effects of poor rating decisions upon those veterans affected. When a veteran's claim is denied inappropriately it directly affects his/her ability to live. One veteran in particular had to wait almost four years to finally win an appeal for one hundred percent. During that time he lived in a terrible neighborhood. There were gunshots almost every night and he had to sneak down ally ways to go to a local twenty four store to get food. His PTSD would not allow him to go out during the day so he hid in his basement apartment and would shop for food a two or three o'clock in the morning. Upon getting his one hundred percent he was able to move into a better neighborhood and though his PTSD persisted his quality of life improved.

There are many other such stories where the VA has caused veterans undue hardship because of these few substandard Rating Specialists. One man had his fingers crushed in an accident while in the military. Year after year he complained to the VA about his fingers only to have them completely disregard medical evidence that supported his claim. He even sent them colored pictures of his gnarled fingers all to no avail. Most recently he filed a claim for a reevaluation and a clear and unmistakable error. Only to have his claim again rated by one of the few substandard Rating Specialists who simply "top page" adjudicate and again denied the claim. We now have to go back into the appeal process and spend anywhere from one to three years in the appeal process on a claim that should have been awarded twenty years ago.

#### Recommendation

Rating Specialists must be held individually accountable for inaccurate decisions. A simple system of reviewing for accuracy of the original decision cases that are either remanded or overturned by the Board of Veteran Appeals would be one way to accomplish this review. As much as it is inappropriate to deny veterans compensation and pension benefits because of personal biases it would be just as inappropriate to award veterans who do not qualify for disability. Clearly there must be some system put in place in which both awards and denials are reviewed by an independent third party.

There must also be put in place a system where by the rankings of the various VA Regional Offices are monitored. Those who have consistently low per capita awards should be reviewed for the appropriateness of their decisions. Conversely those with consistently high per capita awards should also be reviewed for the appropriateness to those decisions.

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There also need to be put in place a system that establishes continuity for awards/denials. Where decisions in a court are based upon precedent, decisions within the VA many times are not based upon anything except the individual Rating Specialist's interpretation of law and regulation this is especially true in rating disabilities where judgment is needed.

Finally the VA Regional Offices in major metropolitan areas need to be fully staffed.

The VA's attempt to short change those veterans in states with major metropolitan areas by under staffing those Regional Offices is a travesty and must be changed. Only when Regional Offices are properly staffed will we see an increase in productivity and effectiveness.

#### Closing

The Chicago Regional Office has come a long way in correcting how it rates claims. I strongly suggest however that it continues to weed out those substandard employees who persist in disobeying VA law and regulation. I further call upon the Congress to force the VA to

properly staff the Chicago Regional Office and for that matter all Regional Offices that are in major metropolitan areas. Veterans in these states should not be short changed because of a cost of living differential. Finally, I commend the Chicago Regional Office for all the positive steps taken to improve its productivity and encourage it to continue to improve its service to veterans.

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