MEM5535

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

May 19, 2008

The Honorable Daniel K. Akaka
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is in response to your recent letter concerning the evaluation of claims involving audiological disabilities by the Department of Veterans Affairs (VA).

The Schedule for Rating Disabilities (38 C.F.R. Part 4) already allows VA to rate service-connected unilateral hearing loss. Based on the results of audiometric testing, a veteran may receive a maximum compensable evaluation of 10 percent for significant unilateral hearing loss, even if there is no discernible level of hearing impairment in the nonservice-connected ear. VA agrees that severe to profound hearing loss in one ear can significantly affect localization and communication in noisy situations, even with good hearing in the better ear. Whenever a veteran believes that the rating schedule does not adequately describe the disability, the veteran may file for an extra-schedular award. Veterans Benefits Administration (VBA) recently changed the hearing loss exam worksheet to describe the effects of hearing loss on occupational functioning and daily activities. This change will assist in determining whether or not referral for extra-schedular consideration under 38 CFR §3.321 is warranted. VBA can grant extra-schedular evaluation in cases where application of the regular schedular standards is impractical, such as for veterans with an exceptional or unusual disability that markedly interferes with employment.

In August 2004, VA amended 38 C.F.R. § 3.383 to implement the changes made to 38 U.S.C. § 1160(a) (3) by the enactment of the Veterans Benefits Act on December 6, 2002. The revision of section 1160(a) (3) allows VA to rate any hearing loss in a nonservice-connected ear as if service-connected if the veteran is entitled to compensation for hearing loss in the service-connected ear. The statute previously required total deafness in the nonservice-connected ear before it could be rated. The amendment of 38 C.F.R. § 3.383 was retroactive to December 6, 2002. No change to the rating schedule was required to implement this legislation.

In 2006, Veterans Health Administration (VHA) made several recommendations in response to the 2006 Institute of Medicine (IOM) report, *Noise and Military Service: Implications for Hearing Loss and Tinnitus.* VA revised its audiometric examination worksheets. Pure tone audiometry by

air conduction is routinely measured at frequency levels from 250 to 8000 Hertz (Hz) within VA, therefore, no change in VA testing protocols is necessary to evaluate notch patterns characteristic of noise exposure.

In response to IOM recommendations, VA examined the feasibility of revising the rating schedule to recognize hearing loss at 6000 Hz, and its characteristic notch as an indicator of noise-induced hearing loss resulting from military service. A proposed rating schedule change was developed that awards service connection at the 0 percent rate for hearing loss signified by a notch at or above 4000 Hz. Because this is a proposed rule that must go through notice and comment with subsequent publishing of a final rule, VA expects the rating schedule change to become effective by the end of calendar year 2009.

With regard to research, VA supports a broad sensory loss portfolio, including projects examining noise-induced hearing loss and tinnitus. VA scientists have developed a model of tinnitus clinical management that is designed for efficient implementation in audiology clinics. VHA will release a handbook by end of calendar year 2008 that describes a comprehensive Tinnitus Management Program (TMP), and includes interdisciplinary evaluation and treatment of tinnitus that is customized to the unique needs of the veteran.

VA, in collaboration with the Department of Defense (DoD), is conducting a study to determine which auditory processing disorders are more often associated with exposure to high-explosive blasts. In addition, VA is developing new methods for early detection of noise-induced hearing loss to avoid permanent damage. Both of these 3-year studies have just received funding from VA's Office of Research and Development. Trends in data are anticipated to be available in 2 years, with full results at the 3-year mark.

VA continues to strongly emphasize research on noise-induced hearing loss, tinnitus, and related topics, and projects in these areas are given high priority status. VA will fund additional research projects that undergo peer review and are found to be scientifically meritorious and highly relevant to the veteran population.

Thank you for your concern for our Nation's veterans.

Sincerely yours,

James B. Peake, M.D.