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February 28, 2005

## *Plan Backfires- VBA Fast Letter Boost Claims*

### **BUSH ADMINISTRATION FIGHTS AGAINST SERVICE CONNECTED DISABILITY FOR VETS WITH HEPATITIS C**

Top Guns with the Department of Veterans Affairs (VA) are going on the offensive to prevent veterans from getting service connected disability for HEPATITIS C transmitted by airgun shots before, during, and after the Vietnam War.

Three decades after the end of the war, hundreds of thousands of brave men and women who served their country are dying, and the Bush Administration is fighting their attempts to get pensions and adequate VA medical treatment. An estimated 95% of all claims are denied, despite reliable scientific evidence.

In April 2002, a delegation of members representing the HEPATITIS C Movement for Awareness (HMA) and HCVets.com, a HEPATITIS C military claims support organization for families, went to Washington DC on a mission to educate representative concerning HEPATITIS C related issues.

The delegation had appointments with Congressional and Veterans Affairs representatives. One of these meetings was with Lawrence Deyton MSPH, MD Chief Consultant, Public Health Strategic Health Care Group, for the VA.. Members met specifically with Dr. Deyton to expressed concern regarding transmission methods for the HEPATITIS C virus listed by the VA, and the need to reform qualifications for testing Veterans. Those attending the VA will not get tested because they did not use drugs or become an alcoholic, risk factors used to qualify patients for testing. Members requested Dr. Deyton include reused needles, vials, syringes and airguns in this determination to test Veterans.

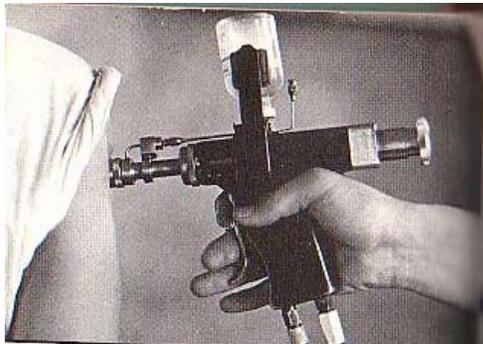
Dr. Deyton acknowledged these risks, stating "his hands were tied". He stated, "Anyone receiving airgun injections, should get tested for HEPATITIS C." Deyton did not just say "Veterans", says Ed Wendt, Vietnam era Veteran, transplant survivor and HMA's Government Relations Director. Quoting members who attended the meeting, Deyton implied "everyone" receiving shots administered by the now defunct style airguns, should be tested.

HMA published Dr. Deyton's quote in an upcoming newsletter which resulted in a Veteran service connected for HEPATITIS C at the regional VA level. The decision was based on that quote, plus other evidence submitted that demonstrated the products used to sanitize & disinfect medical and dental equipment, did not kill the HEPATITIS C virus.

In order to counteract the decision and avoid accountability for the 2 plus million service related infections, the National VA office, in charge of the regional office that approved the claim, issued a "Fast Track" letter, a sort of report, to all

regional offices, calling Dr. Deyton's quote, a misquote. But, Wendt, says, "we did not misquote Dr. Deyton as the allegations suggest in the VA Fast letter." "Members were very clear on what they heard." Further quotes were made by Dr. Deyton to the Kansas City Star's investigative report Mike McGraw. Dr. Deyton is quoted as saying, "it's possible the devices could transmit HEPATITIS C." Deyton continues, "I am sure that, with the right degree of misuse, the devices could become contaminated."

In the Fast Track letter, Carolyn F. Hunt, Acting Director, for Compensation and Pension Service states: ".needles (and other objects that puncture the skin) are contaminated with HCV infected blood and are then used by others, HCV can be transmitted. HCV can potentially be transmitted with reuse of needles for tattoos, body piercing, and acupuncture.", ".....infections may have come from blood-contaminated cuts or wounds, contaminated medical equipment or multi-dose vials of medications."



Vaccinations were routinely given with multi-dose vials and reused needles. Injection give by the airguns included HEPATITIS B vaccine; responsible for the outbreak of AIDS in New York City, in which an astounding 64% of the men who got the vaccine developed AIDS and other blood-borne viruses. Access is not available for testing stored patients blood samples for HEPATITIS C infection rate

The U.S. Department of Justice is keeping this information "classified" and "unavailable" for public research and investigation..

Ms. Hunt also states, "Blood-contaminated cuts or wounds can spread HEPATITIS C". This statement speaks volumes, says Harry Hooks, Vietnam combat Veteran and manager of HCVets.com. "Airplane and auto mechanics, or others at risk for cuts, that shared rags to wipe the wound, could be at risk. HEPATITIS C lives for weeks after the blood has dried. It can be reconstituted and transmit to others."

In the letter, Ms. Hunt continues to say "It is essential that the report upon which the determination of service connection is made includes a full discussion of all modes of transmission, and a rationale as to why the examiner believes the airgun was the source of the veteran's HEPATITIS C."

But Hooks says, "Veteran's submitted convincing scientific studies, military reports and physicians letters in support with their claims, showing the only risk for their HEPATITIS C infection was the service." Evidence submitted, such as the "Vaccines in the Military:" A Department of Defense-Wide Review of Vaccine Policy and practice; an Infectious Diseases Control Subcommittee of the Armed forces Epidemiological Board review presented in August 1999. Page 61 discusses the Paris Island Air Force inspection in which inspectors indirectly observing high volume recruit immunization using jet injectors. It was

noted "[jet injector nozzles were frequently contaminated with blood](#), yet, sterilization practices were frequently inadequate or not followed." The complete report can be [viewed here](#)

Military Veterans also submitted government testimony in support of their claims. Such as the statement by Robert Harrington, owner of the company PED-O-JET, maker of the military airguns used on the troops. During a meeting with the FDA, VA and others, he states "if the gun was not wiped off, it could contaminated [31 out of 100 patients](#)." Despite their efforts, the claims are still denied.

"All people that served in the military know the airguns were not wiped off for military application", says Hooks.

"The VA would prefer if veterans evidence was not included", Hooks continues, "according to correspondence with a Pittsburgh VA, the VA has a staff of medical personnel to review information and provide judgment based on their training and research. The problem is, say's Hooks, "to the best of my knowledge, no one's training these adjustors about HEPATITIS C transmission. I think the denial rate for VA claims proves that."

"One thing is very clear", says Tricia Lupole, National Director for HMA, "the VA lacks rationale. The VA denied service connection to one Veteran shot in the chest in Vietnam in 1968 and was transfused. He died from HCV liver cancer in 2003. Another patient was hospitalized with HEPATITIS during military service and the VA claims his HEPATITIS C is not service connected. Yet another, denied because he fell within the group that, according to the VA, has "no clue" how the virus was transmitted; virtually ignoring every statement Ms. Hunt made.

A claim recently denied, would not acknowledge the fact the Veteran found a buddy stationed with him during most of his service. The buddy also has the same strain of HEPATITIS C. The virus has many different types of strains, called genotypes. There are 6 different genotypes and over 50 subtypes within those strains. The state and federal court system use a test to determine "same source" infection when exposure to the virus occurs though hospital neglect, meaning that science can tell if people were infected by the same source. But, the VA will not run this test or accept any evidence to support it. We're not going to let the VA get away with this."

Lupole says, "Despite the attempts to portray HCVets.com an unreliable source, the letter works to the Veterans advantage because it acknowledges possible ways for transmitting the virus previously denied by the VA claims adjusters. Claims that are pending or previously denied, should consider this as critical evidence to include.

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More information on service related transmission methods for the HEPATITIS C virus can be found at <http://hcvets.com>



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, D.C. 20420**

June 29, 2004

Director (00/21)  
All VA Regional Offices

In Reply Refer To: 211  
Fast Letter 04-13

**SUBJ: Relationship Between Immunization with Jet Injectors and HEPATITIS C Infection as it Relates to Service Connection**

**BACKGROUND:** In August 2003, one regional office issued a rating decision granting service connection for HEPATITIS C virus (HCV) infection as the result of immunization with a "jet air gun." A misleading statement, incorrectly ascribed to Lawrence Deyton MSPH, MD Chief Consultant, Public Health Strategic Health Care Group, US Department of Veterans Affairs, Washington, †DC is posted on the Internet (<http://www.hcvets.com/>). On this site, the following is incorrectly ascribed to Dr. Deyton: "Anyone who had inoculations with the jet injector were [sic] at risk of having HEPATITIS C and should be tested."

**KEY POINTS:**

- HCV is spread primarily by contact with blood and blood products. The highest prevalence of HCV infection is among those with repeated, direct percutaneous (through the skin) exposures to blood (e.g., injection drug users, recipients of blood transfusions before screening of the blood supply began in 1992, and people with hemophilia who were treated with clotting factor concentrates before 1987).
- Since the 1990's, injection drug use has been the principal mode of transmission of HCV. Because of screening procedures, HCV is now only rarely transmitted by blood product transfusion or organ transplant. Clotting factor concentrates are processed in such a way that the virus is inactivated; these viral inactivation procedures have virtually eliminated clotting factor concentrates as a source for HCV.
- Population studies suggest HCV can be sexually transmitted. However, the chance for sexual transmission of HEPATITIS C is well below comparable rates for HIV/AIDS or HEPATITIS B infection. Researchers studied five groups of

Director (00/21)  
All VA Regional Offices

monogamous couples, in which only one was infected with HCV. Less than five percent of the uninfected partners became infected with HCV during the time periods studied.

- Occupational exposure to HCV may occur in the health care setting through accidental needle sticks. A veteran may have been exposed to HCV during the course of his or her duties as a military corpsman, a medical worker, or as a consequence of being a combat veteran.
- When **needles (and other objects that puncture the skin) are contaminated with HCV infected blood and are then used by others, HCV can be transmitted. HCV can potentially be transmitted with reuse of needles for tattoos, body piercing, and acupuncture.**
- The HEPATITIS B virus is heartier and more readily transmitted than HEPATITIS C. While there is at least one case report of HEPATITIS B being transmitted by an airgun injection, thus far, there have been no case reports of HCV being transmitted by an airgun transmission.
- The source of infection is unknown in about 10 percent of acute HCV cases and in 30 percent of chronic HCV cases. **These infections may have come from blood-contaminated cuts or wounds, contaminated medical equipment or multi-dose vials of medications.**

CONCLUSION:

The large majority of HCV infections can be accounted for by known modes of transmission, primarily transfusion of blood products before 1992, and injection drug use. Despite the lack of any scientific evidence to document transmission of HCV with airgun injectors, it is biologically plausible. **It is essential that the report upon which the determination of service connection is made includes a full discussion of all modes of transmission, and a rationale as to why the examiner believes the airgun was the source of the veteran's HEPATITIS C.**

/s/

Carolyn F. Hunt  
Acting Director  
Compensation and Pension

Service

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VA claim approved for service connected for HEPATITIS C based solely on the  
airguns.

**DEPARTMENT OF VETERANS AFFAIRS CLEVELAND REGIONAL OFFICE**

Tiger Team Remand Unit P.O. Box 998020 Cleveland, Ohio 44199-8020

Rating Decision August 5, 2003

**INTRODUCTION**

The records reflect that the veteran served during the Vietnam Era in the Army from August 25, 1967 to April 17, 1971. The Board of Veterans Appeals remanded the case on December 27,2001; and based upon a review of the evidence listed below, the following decision(s) were made in the claim. .

**DECISION**

Service-connection for HEPATITIS C is granted with an evaluation of 10 percent effective April 17,2000. .

**EVIDENCE**

. VA Fonn 21-526, Application for Compensation and/or Pension received April 12, 2002'

Service Medical Records from the National Personnel Records Center  
Outpatient treatment reports from the VA Medical Center, Buffalo for the  
period of August 1999 through October 2000  
Medical Records from 1996 through 1999 DD Form 214 ,  
Article submitted entitled "Risk Factors for HEPATITIS C Virus Infection  
in United States Blood Donors",  
Statement received from the Veteran on January 29,2001 Board of  
Veterans Appeals' Order dated December 27,2001  
VA Form 4138, Statement in Support of a Claim received January 8,  
2002 with attachment .  
Medical Records .from for' the period of May 30, 1995 through March 22,  
2000  
Response from the National Personnel Records Center (NPRC) dated  
August 2, 2002 .  
VA Examination dated June 5, 2003 and Hospital for the period of '

.....REASONS FOR DECISION

Service-connection for HEPATITIS C.

Service-connection for HEPATITIS C has been established as directly related to military service. -This decision is based upon the VA examiner's opinion dated June 5,2003 coupled with the supporting evidence of articles relative to jet inoculations submitted by', the veteran. ,Specifically, the V A examiner provided a causal relationship finding that the veteran's HEPATITIS C currently diagnosed was incurred in service as a result of the jet inoculations given therein. Moreover, the examiner relied upon these articles which note that due to cross-contamination, anyone who had inoculations with Jet injectors were at risk for having HEPATITIS C and should be tested.'" Further, the veteran denied having incurred any of the known risk factors subsequent to service, such as N drug use; blood transfusions; tattoos; surgeries, or needle sticks. Accordingly, service-connection is granted as a result of the evidence of record. 'An evaluation of 10 percent is assigned from April 17, 2000. This date is being used, because it is the date of the veteran's original claim for service-connection that was subsequently denied, and timely appealed to the Board of Veterans' Appeals. .

An evaluation of 10 percent is assigned for chronic liver disease without cirrhosis; but with intermittent fatigue, malaise, and anorexia, or; incapacitating episodes (with . symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a total duration of at least one week, but less than two weeks, during the past 12-monthperiod.

In this case, the most recent VA opinion of June 2003 was merely a review of records contained in the claims file, and thus, no objective or subjective evidence was obtained that could be used for evaluation purposes. However, the medical records o coupled with the outpatient treatment records from the V A Medical Center, Buffalo do provide such evidence. Specifically, these records demonstrate that prior to inception of the claim, the veteran was placed on Interferon, but due to complications of the medication, it was .ceased. . Subsequently, between 1998 and 1999, he remained asymptomatic for the disease. However, right around inception of this claim in 2000; the. notes indicate that the veteran's viral load started to rise. Subsequently, he was placed on Infergen, 15 mg three times per week. A note of September 2000, indicates that, at that time, the veteran complained of incurring flu-like symptoms for a day after the shot is given. Also, between March 2000 and September 2000, he had lost 20 pounds of weight due to these problems. Accordingly, based upon these complaints, an evaluation of 10 percent is assigned. .

A higher evaluation of 20 percent is not warranted at this time, because there has been no evidence submitted demonstrating that the veteran suffers from chronic liver disease without cirrhosis, but with daily fatigue malaise and anorexia (without weight loss C?r . hepatomegaly), requiring dietary restriction or continuous medication, or; incapacitating episodes (with symptoms such as fatigue; malaise, nausea, vomiting, anorexia, art a1gia, and right upper quadrant pain) having a total duration of at least two weeks, but less than four weeks, during the past 12-month period.

#### REFERENCES: .

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and . regulations, please consult your local library, or visit us at our web site, [www.va.gov](http://www.va.gov).

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## Non-Drug Related Transmission of HEPATITIS C Virus 2003-2005

[Click Here](#)

*Jet injector nozzles were frequently contaminated with blood* [click here](#) [Vaccines in the Military](#)

Department of Defense-  
Wide review of Vaccine Policies and Procedures

Read excerpt- Page 61 in particular says, "Of note is that the **AFEB made a site visit to the MTF at Parris Island** and directly observed high volume recruit immunization using jet injectors. It was **noted that jet injector nozzles were frequently contaminated with blood**, yet sterilization practices were frequently inadequate or not followed." View complete report at <http://www.ha.osd.mil/afeb/reports/vaccines.pdf>