

## VA Process Overly Burdensome - House Subcommittee Reviews Combat PTSD

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Washington, DC - The House Veterans' Affairs Disability Assistance and Memorial Affairs Subcommittee, led by Chairman John Hall (D-NY), conducted a hearing to examine the issues surrounding how the Department of Veterans Affairs (VA) applies the provision "engaged in combat with the enemy" when veterans suffer from post-traumatic stress disorder (PTSD) as a result of military service.

The hearing focused on the difficulties veterans encounter when asked to prove stressors to support their claims. The Subcommittee examined how combat is defined and PTSD evaluated by the Veterans Benefits Administration (VBA) versus the Department of Defense.

"The nature of wartime service has changed as many can agree," said Chairman Hall. "Warfare encompasses acts of terrorism, insurgency, and guerilla tactics. No place is safe and the enemy may not be readily identifiable. What does it mean to have been engaged in combat with the enemy to a sufficient enough degree to prove a stressor that in turn warrants service connection for PTSD by the VA? I believe we need to re-open this dialogue."

Ian De Planque, Assistant Director of Rehabilitation at The American Legion, explained that it can be very difficult for a veteran to prove that a medical condition is service-connected, as required by Title 38, Section 1154 (b), United States Code. A veteran must show three distinct things: that the event happened during military service, medical evidence of the disability, and also medical evidence of a relationship between the current medical condition and the in-service precipitating injury, disease or event. "Unfortunately for many veterans, the most difficult burden is establishing themselves as a combat veteran in order to benefit from the advantages by statute."

De Planque continued: "Due to the fluidity of the modern battlefield and the nature of the enemy's tactics, there is no defined front line or rear (safe) area. It is simply a reality of today's warfare that service members in traditional non-combat occupations and support roles are subjected to enemy attacks such as mortar fire, sniper fire, and improvised explosive devices (IED) just as their counterparts in combat arms-related occupational fields. Unfortunately, such incidents are rarely documented making it extremely difficult, if not impossible in some instances, for many veterans to verify in order to prove that they "engaged in combat with the enemy," to the satisfaction of VA, to trigger the combat presumptions of Section 1154(b)."

Veteran Carolyn Schapper, a representative from Iraq and Afghanistan Veterans of America, explained how women veterans have a greater burden of proof when it comes to establishing combat-related PTSD. "The traditional understanding of female servicemembers' military duties has been the biggest hurdle to getting them adequate compensation for their injury," said Schapper. "The nature of PTSD and other psychological injuries makes it difficult to identify the exact stressor, and therefore, disability may be determined based on the claims processor's perception of exposure to combat. While a service-connection for PTSD would seem obvious for a male infantryman, it could easily come under more scrutiny for a female intelligence soldier despite how much actual contact either of us had with enemy forces."

Officials from the VA discussed the PTSD claims process and the challenges met by VA through the years as PTSD claims and warfare tactics have evolved. Bradley Mayes, Director of Compensation and Pension Service at VBA testified, "The number of veterans receiving service-connected compensation for PTSD from VA has grown dramatically. From fiscal year 1999 through fiscal year 2008, the number increased from 120,000 to 345,520. We all share the goals of preventing this disability, minimizing its impact on our veterans, and providing those who suffer from it with just compensation for their service to our country. Consequently, VA has expanded its efforts to assist veterans with the claims process and keep pace with the increased number of claims."

Deputy Chief Consultant Antonette Zeiss from the Office of Patient Care Services at the Veterans Health Administration reported that VA treated 442,862 unique veterans for PTSD in VA medical centers, clinics, inpatient settings, and residential rehabilitation programs.

Chairman Hall concluded the hearing and said, "The original intent of Congress was to extend full cooperation to our war-time wounded veterans. Over time, VA regulations and procedures, coupled with narrowing court decisions, have resulted in a more restrictive process for our veterans trying to prove an injury incurred in combat. The reality is that

VA relies on a 1941 statute to determine benefits for our war-time veterans. It is time to clarify the meaning of "combat with the enemy"; to better reflect a more modern era for purposes of establishing service-connected disabilities.

"There has got to be a better way for VA to assist veterans suffering from PTSD," said Bob Filner, Chairman of the House Committee on Veterans' Affairs. "We know the costs in lost lives, health impacts, and decreased employment productivity when the fallout from combat issues is not addressed. We need to address the needs of our returning veterans and understand that PTSD is a consequence of war - and the true cost of war includes the cost of the warrior."