

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VIETNAM VETERANS OF AMERICA et al.,

No.: CV 09-0037-CW

Plaintiffs,

**DECLARATION OF
MATTHEW J. SCHOFIELD,**

v.

CENTRAL INTELLIGENCE AGENCY, et
al.,

Defendants

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I am the Program Manager, Medical Care Injunction for Participants of Chemical or Biological Substance Testing Programs, Army Public Health Center (APHC), U.S. Army Medical Command (MEDCOM), and the MEDCOM Field Operating Agency with responsibility for supporting the U. S. Army in relation to this litigation. I am familiar with this litigation based upon information received from my staff and legal advisors within MEDCOM.
2. In accordance with the Medical Care Injunction, the Army has implemented the procedures described herein to ensure compliance with the Court’s directives.
3. On December 28, 2017, the Army established two Benefits Application Panels (BAP) – one to review chemical exposure cases and one to review biological exposure cases. The BAP is composed of chemical or biological physician research scientists and physicians with expertise in environmental/occupational medicine and family medicine. Each panel member contributes essential knowledge and technical expertise to the BAP deliberations. A MEDCOM attorney also attends BAP proceedings to provide advice

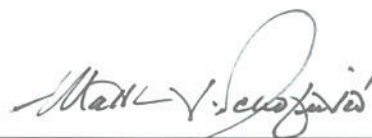
1 on potential legal issues raised by applications. A BAP was convened each month
2 beginning in February 2018. As of June 13, 2018, the Chemical BAP convened on
3 February 12, 2018, March 12, 2018, April 9, 2018, May 4, 2018 and June 11, 2018 to
4 review applications. The Biological BAP met once on April 24, 2018.

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- 6 4. Applicants are notified of the BAP's recommendation for approval or disapproval by
7 letter and a Nurse Case Manager (NCM) makes a follow-up telephone call. The
8 MEDCOM Office of the Staff Judge Advocate (OSJA) notifies plaintiff's attorney of
9 BAP recommendations to disapprove applications for testing-related medical care.
- 10 5. As of June 13, 2018, the Army has received 105 applications. The BAP has reviewed
11 62 applications, out of which 59 were recommended for approval for medical care for
12 some or all of the conditions listed on their application and three were not
13 recommended for medical care. Twenty-three of the 59 applications recommended for
14 approval for medical care claimed one or more conditions which were not
15 recommended for approval for medical care. After review by the BAP, an applicant is
16 notified of the BAP recommendation to approve or deny the application for medical
17 care. On June 8, 2018, MEDCOM OSJA notified Plaintiffs' counsel of the denials of
18 medical care to date.
- 19 6. As of July 2, 2018, the remaining applications are either in progress and pending BAP
20 review (20 applications), or the applications were incomplete (12 applications), or
21 closed due to veteran declining further participation or death of the applicant (11
22 applications).
- 23 7. When the BAP recommends approval of an application, the class member is contacted
24 and notified of the condition(s) for which medical care has been recommended. The
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1 NCM coordinates the care at the nearest DoD military treatment facility (MTF) capable
2 of treating the qualifying condition, taking into consideration the applicant's preference.
3 Once the appropriate MTF is identified, the NCM works with the SECDES PM for
4 obtaining SECDES approval for the class member and ensures the class member has the
5 documentation necessary to access approved care at the MTF.
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- 7 8. As of July 2, 2018, of the 59 applications recommended for approval by the BAP, six
8 have received SECDES approval, and 30 applicants have declined medical care at an
9 MTF as they are satisfied with their current providers. The remaining 23 applications
10 are being processed based on whether a class member has a preference for a specific
11 treatment location. If the nearest MTF is more than fifty (50) miles from the
12 applicant's home, or if the treatment is not available at an MTF, the Army will assist the
13 applicant in requesting health care from the Department of Veterans Affairs (VA). If
14 the necessary treatment is also not available at a VA facility, the Army will facilitate the
15 identification of an appropriate service provider and any available payment-assistance
16 programs. As of July 2, 2018, the Army has not received any requests for such
17 assistance.
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21 I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true
22 and correct. Executed on July 3, 2018.
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25 MATTHEW J. SCHOFIELD, PHD
26 COLONEL, U.S. ARMY
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