

APPENDIX T

FEBRUARY 18, 1998

PREHEARING QUESTIONS FROM THE U.S. SENATE COMMITTEE ON
VETERANS' AFFAIRS TO HON. TOGO D. WEST, JR., AND THE
RESPONSES:

SUPPLEMENTAL RESPONSE TO QUESTION NUMBER 47

**SUPPLEMENTAL RESPONSE TO QUESTION 47,
PREHEARING QUESTIONS TO ACTING SECRETARY WEST**

47. The Board of Veterans' Appeals remands approximately 50% of appeals generally, and VA recently reported a 74% remand rate with respect to Gulf War claims appeals.
- A. How will you address this remand problem? What will you do?
- B. Does this high remand rate indicate to you a poor quality of decision making in VA regional offices?

Remarks by the Board of Veterans' Appeals:

The validation of BVA data associated with Gulf War veterans claims is to be addressed as part of a Department-wide initiative being coordinated by the Assistant Secretary for Policy and Planning. Since that aspect of the initiative has not yet been completed discrepancies or inconsistencies in the identification of Gulf War veterans between BVA and VBA may exist. However, the most recent data available indicate that (1) the Board's disposition of Gulf War claims in general is consistent with the overall distribution of appeals, and (2) the Board's remand rate for undiagnosed illness claims is higher than the overall distribution of appeals.

"Gulf War claims appeals" consist of appeals by veterans who served in the Gulf War theater of operations (or their survivors). During calendar year 1997, the Board decided 753 such appeals.

A "subset" of those appeals are appeals which claim disability as a result of "undiagnosed illness," as that term is used in 38 C.F.R. § 3.317. During calendar year 1997, the Board decided 97 such appeals.

This table compares the distribution of Gulf War theater claims, undiagnosed illness claims, and all claims:

	Allowed		Remanded		Denied		Other		Total
	No.	%	No.	%	No.	%	No.	%	
Gulf War Theater	170	22.5%	349	46.2%	216	28.6%	18	2.4%	753
Undiagnosed illness	20	20.6%	59	60.8%	18	18.6%	0	0.0%	97
All Claims	7226	16.7%	19595	45.2%	15872	36.6%	657	1.5%	43350

In September 1997, the Board reported a 74% remand rate for undiagnosed illness claims. Because the Board did not at that time have a formal tracking mechanism in place, the data supporting the 74% figure was obtained through a one-time research project. That research project was accomplished through computer-based searches of the archived text files of all BVA decisions issued between January 1, 1995 and June 30, 1997 for any reference to 38 C.F.R. § 3.317. The figures above are based on results from the tracking system, and are more accurate.

There are two factors which may affect the remand rate for undiagnosed illness claims: First, the small number of such claims (0.2% of all Board decisions) may make the result less accurate as a predictor of future results. Second, because of the time lag between the regional office and Board decision, anecdotal evidence suggests that the many of these cases had to be remanded because the regional office had not yet had an opportunity to review the claim under 38 C.F.R. § 3.317.

February 18, 1998