

VA looks to tighten sleep apnea rating schedule

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The Department of Veterans Affairs is studying changes to disability ratings for obstructive sleep apnea, particularly the 50-percent rating being awarded when VA physicians prescribe use of a CPAP, or continuous positive airway pressure machine, for sleep-deprived veterans.

“That’s definitely going to be the one they look at,” said Jonathan Hughes, a policy consultant for VA’s compensation service. “Because essentially there’s no functional impairment related to that” 50-percent rating for obstructive sleep apnea under the Veterans Affairs Schedule for Rating Disabilities (VASRD).

The good news for more than 114,000 veterans already drawing compensation for sleep apnea is their ratings would not be reduced with broad change to the rating schedule, Hughes explained. Current law prohibits that. Indeed, claimants still awaiting favorable decisions might not be impacted either because VASRD changes don’t happen quickly.

The only date Hughes could quote with certainty is that an ongoing effort to modernize the entire VASRD is to be completed by January 2016.

When interviewed Tuesday at VA headquarters in Washington D.C., Hughes had just delivered a briefing on sleep apnea at a public hearing of VA Advisory Committee on Disability Compensation. The panel, established in 2010, counsels the VA secretary on maintaining or readjusting the VASRD.

This day members wanted to know about sleep apnea including how the condition is rated in its various forms, how service-connection is established for a disorder largely associated with obesity, and what factors are behind the recent explosion of claims, as reported here in late May.

Mike Webster, a family law attorney in Florida, complained to the House Veterans Affairs Committee of widespread abuse of VA claims for sleep apnea. Since then,

Webster has heard from staff on the veterans affairs oversight subcommittee that a “team” is looking into his allegations.

“Sleep apnea definitely has become more of an issue over the past several years,” Hughes said as he began his briefing. He gave some of the same data on sleep apnea cases published here, including that VA had rated 983 veterans for sleep apnea in 2001 and almost 25,000 last year. He added that 13 percent of roughly 427,000 veterans who served after 9/11, and draw VA disability compensation today, have service-connected sleep apnea.

“Thirteen percent? That’s staggering,” said committee member Dr. Michael Simberkoff, chief of staff of the VA New York Harbor Health System and a professor at New York University School of Medicine.

The advisory committee chairman, retired Army Lt. Gen. James Terry Scott, also chaired the 2007 Veterans’ Disability Benefits Commission. Scott asked colleagues to back his recommendation that VA Secretary Eric Shinseki commission the Institute of Medicine, part of the National Academies of Science, to conduct a study of sleep apnea in the veteran population.

“Short of a scientific study by a well-recognized and competent authority, I think we’re still working with rumor and innuendo,” Scott said after the briefing, which he said was “extremely informative and...put to rest a lot of different theories and conventional wisdoms.”

One issue addressed was conventional wisdom by some sleep disorder experts that sleep apnea is related to post-traumatic stress disorder.

“We haven’t seen any medical correlation between sleep apnea and PTSD,” Hughes said. Still the most common path to a sleep apnea rating “is people who are overweight...getting diagnosed” as they separate or retire.

“Why would they have sleep apnea during service,” asked the committee’s Deneise Turner-Lott, an administrative judge with the Mississippi Workers’ Compensation Commission. “I mean they are not overweight.”

Weight remains the most common cause of sleep apnea, Hughes said, even when diagnosed in service.

Another committee member asked Hughes to explain the link between sleep apnea and military service.

“I don’t think there is any medical link to service,” he said. “There is not something we can point to in service that actually causes sleep apnea.”

Hughes speculated that the rise in claims is related to heightened awareness of the condition among service members and veterans.

Committee member Mark W. Smith wanted to know why VA grants 50 percent disability compensation to vets who need a CPAP for a good night’s sleep. Hughes explained that the rating was set years ago based on studies that estimated “average impairment in earnings loss.”

Simberkoff noted that need for a CPAP means “continuous use of an external agent to maintain their health.”

But Smith followed up by comparing a CPAP to eyeglasses.

“If I don’t use my glasses, my earnings are going to be a hell of a lot less because I’m blind,” he said. “Once I put them on, no problem.” If CPAP “pretty much cures the problem, why would you give a service rating for it?”

Indeed, until VA and the Department of Defense integrated disability evaluation systems for members being medically retired, 99 percent of service members diagnosed with sleep apnea only got a zero percent rating from their branch of service, Hughes said.

But armed with an in-service diagnosis, separated members with sleep apnea can file claims with VA, and 88 percent are rated 50 percent disabled. That a rating level is assured once a CPAP is prescribed to keep the air passage clear during sleep, preventing interruptions in breathing or apneas, which lead to daytime drowsiness and cognitive impairment.

Hughes said a CPAP is not effective for treating persons with the less common “central” sleep apnea, which usually is caused by cardiac failure or neurologic disease and treated with drugs.

Hughes indicated VA benefit and health experts already were at work on reforming VASRD for respiratory illnesses including sleep apnea.

Hughes later said the jump to 50 percent when a CPAP is prescribed has no tie to functional impairment, and therefore “if anything is revised it would be that one. I don’t know if the other [percentages] will stay the same...but that’s the significant part of the inquiry, the 50 percent.”

