

Minutes for QUEST Forum

Date: 1 March 2006
Time: 9:00 am
Venue: Level 4, Conference Room
DVA Qld
Bank of Qld Building, 259 Queen Street

Chair: David Mackrell

In attendance: David Mackrell (Deputy Commissioner)
Margaret Jenyns (Assistant Director Compensation)
Craig Gould (Manager Veterans Compensation)
Glenda Mann (Manager MCRS)
Wayne Lynch (Manager (MRCS)
Glenys Jones (Manager Deseal Reseal)
Lyn Daffurn (Director Offsetting)
John Sherrell (Manager Reviews)

Paul Murdoch (Repatriation Medical Authority)

Bob Loftus (Veterans' Review Board)

Gordon Blake (Aust Vets and Defence Service Council)
Brett Bullions (VVA)
Kevin Casey (RDFWA)
Norm Clark (Legacy)
Noel Huish (TIP convenor)
Kathleen Henry (Deseal Reseal Support Group)
Brent Ledez (RAAF Assoc.)
Noel Payne (ASAC)
Viv Quinn (RSL)
Dennis Roles (Everymans')
John Thorp (Naval Association)
Ray Townsend (Veterans' Affairs Committee and RSL)
Malcolm Wheat (VVF)

Karyn Woodford (Minute taker)

Apologies: Alison Stanley (National Manager Military Compensation)
John Smith (VVA)
Paul MacPhee (VSASA)

Meeting opened at 9:07 am by David Mackrell. David welcomed everyone to the second QUEST forum.

David gave apologies from Alison Stanley who is in Adelaide today. David gave a brief outline of Alison's role as the National Manager for Military Compensation - based in Queensland.

Previous Minutes

There was a discussion of last meeting's minutes and how they were disseminated via email. Some people did not receive the email and it was suggested that a test email be sent to ensure that everyone is on the list correctly. Margaret Jenyns asked that when the minutes of this meeting go out it will assist if people could reply to advise that they have received them. This will enable any follow up of those who don't receive them.

Discussion of the membership list and it was noted that Noel Huish's name had been inadvertently omitted. This has been corrected.

Update of Service Delivery Review:

David Mackrell advised that this first half of 2006 will be very big for DVA as there are significant changes happening to the structure. As the number of World War II veterans decrease, the amount of work has also decreased so it has been an opportunity to think about how we are doing our work. We need to ensure that we efficiently handle matters on behalf of the veteran community, even as the amount of work decreases.

He stressed that we are looking at significantly changing how we do our work, not the work we do or the levels of service to the veteran community. He explained that one of the most significant changes will be moving work from state to state. DVA is changing from a state model to a national model to enable us to manage work better. He again stressed that a clear directive from the Secretary stated this is to be done with no adverse effect on the veteran community. The process is well advanced now and they are presently working out where parts of the organisation belong in this new structure. So far the process has gone very smoothly, so smoothly that they are looking at bringing the implementation forward and staggering the changes amongst different sections. He suggested that Corporate Support changes may happen as soon as the end of this month, while Compensation (and other service delivery areas) may change around the middle of May. He advised that these are rough working dates at the moment.

A general discussion followed concerning how these changes will affect claims and service to veterans. Discussion included:

Other changes

Viv Quinn asked what other organisational changes are happening (in addition to Alison Stanley taking over her role). Margaret Jenyns advised that for processing staff, the new arrangements will not be very different – it is more the management reporting processes. For example, claims assessors will still report to Craig Gould, however Craig will now report to a national compensation director, rather than a state-based manager. Margaret provided further information about how the compensation area will function. She advised that she will be looking after Military Compensation nationally, with state managers reporting to her. Craig discussed the proposed structure further, commenting that this new structure will bring uniformity to some of the processes, which will be advantageous to the veteran community. John Sherrell advised that his reporting line will also change and he will now report to Kevin Herman in Victoria. There will be no change to what his staff do, but he will reporting to Kevin on what is happening in Qld.

Organisational Chart & advice to ESOs

Viv Quinn enquired whether an organisational chart will be produced to help understand the structure. David Mackrell advised that each section has produced its own organisational chart, and these will be arranged into one overall chart. This chart however isn't ready to be released yet as it is in draft format at present. Viv explained the reason for his question is that one of the

difficulties in the RSL is that they are getting lots of questions from the sub-branches and other ESOs about how the structure will affect them, and that having an organisational chart would help.

Lyn Daffurn updated the forum on a recent meeting she attended where a draft structure for the 4 strands of compensation was produced. She advised that this structure is in the discussion phase. She also advised that they have developed a change management and communication plan that includes details of how they will be communicating with ESOs about the changes to the department.

Viv expressed concern about the lack of information that has been passed on to ESOs so far, and Margaret Jenyns advised that this forum is one of the ways that DVA will be disseminating information. David Mackrell confirmed his earlier statement that the Secretary has made a commitment that none of these changes will affect the veteran community and that it should be “business as usual” as far as the veterans are aware.

Change in information required for claims?

Dennis Roles commented that over the last 12 months he has noticed that there is a perception amongst ESOs that the information to be provided for claims under the VEA has changed. More specifically, the requirements for a VEA claim now seem to be more aligned with what is required for an MCRS claim, that is, that more and more information and proof. Margaret Jenyns advised that in its review, the Commission noted that delegates should be working harder on the quality of their decisions and this has resulted in additional information being required in some circumstances.

Craig Gould suggested that the new Proof of Identity (POI) rules could be a significant reason for this requirement for more information. David Mackrell advised that Claims Assessors are often required to request more information at the start of the claim and examine it more thoroughly, however, once this information is provided the claim can be processed more quickly. David continued that the VEA and MCRS are not being pushed together – they are different legislations with different requirements. So the requirement for more information isn’t about getting the VEA closer to MCRS, but more a factor of making sure that we have what we need at the earliest possible time.

Noel Payne said (in support of Dennis) that in recent times the system of ‘more diligence’ does seem tougher on the veterans, and the benevolence that is supposed to exist in the VEA seems to be lost, or lessened in recent times. David Mackrell advised that there had been a pendulum swing in the other direction and that in time it will balance. He opined that we are now doing what we probably should have been doing all along. The legislation is still beneficial, but that assessors need to be able to fully justify decisions whether they are for or against the claimant. Noel said that whilst he understands this point, the view from the veteran community is that a condition that a veteran may have had accepted a few years ago might not get accepted now. He is concerned about how it appears that every time there is a personnel change there seems to be a change in procedures, and the lessening of the benevolence is reducing our image in the veteran community.

Gordon Blake wondered how the number of appeals has changed in the last 18 months since these more stringent requirements have been put in place. Margaret Jenyns advised that there seems to be fewer appeals, but this could also be due to the decrease in claim numbers at the primary level and Bob Loftus agreed. However they both felt that there were fewer appeals now.

Noel Huish advised that whilst he understands the departmental view on this, he has to agree with Noel Payne that the level of benevolence has decreased.

Margaret Jenyns gave some background to the Commission review – many young service personnel were returning from Timor and ending up on Special Rate (SR). The Commission decided to look into why so many young service personnel were receiving SR, and in doing so, reached the conclusion that the legislation was not being applied as correctly as it should. Noel Payne agreed that the legislation needs to be applied properly, but he advised that it isn't just AGR, it is all claims. He is concerned at the number of Application for Increases that result in a reduction of pension. Margaret advised that the Commission review looked at all types of claims and made similar findings – that is that the legislation needed to be applied more stringently. She also advised that as far as she was aware, reductions did not happen in Queensland without prior notice of it happening. The veteran is advised of the potential outcome and is given the opportunity to withdraw the claim.

As an example of the more thorough investigation required, Lyn Daffurn discussed the Department's guidelines on lifestyle ratings. When a self-assessment is more than one rating outside the "shaded" area, the guidelines describe the additional information that is required to accept this higher lifestyle rating. Noel Huish advised that GARP says that the veteran will always get the higher shaded side, but they will get a higher rate if they can provide substantiating information, which is what the guidelines are asking for.

It was suggested that the reason that the VRB numbers might appear to have not gone up is that cases are going on for longer now. Margaret Jenyns advised that she has recently been advised that cases usually take no more than 6 weeks once the Certificate of Readiness (COR) has been returned. Bob Loftus said that he will confirm this. Norm Clarke and Noel Payne advised that it is now quite a swift process, 4-6 weeks from submitting the COR. Gordon Blake and John Thorp agreed.

TIP and BEST

Lyn Daffurn addressed the forum on the current situation with TIP and BEST within the restructure. She advised that there are a few areas that haven't been placed within the new structure yet, and that TIP is one of these. There is a meeting on 7 March where TIP's place in the new structure will be discussed further. She also advised that BEST may be separated from TIP and that it may be in the Operations Support area of the Service Delivery Division.

Noel Huish asked if TIP and BEST will remain under the same "hat" as that is the way he'd like to see it go. Margaret Jenyns advised that BEST will most likely be managed nationally and separately to TIP.

John Thorp asked, given the changes that are happening, whether down the track it will be a situation where all compensation is done in one state, and each state will be responsible for a function. David Mackrell advised that down the track that may be the case. In 5-10 years there will be insufficient work in some areas to justify that work being done in all states. It may not be a case of one state doing all of a particular function, but functions may be shared amongst a few states. He confirmed that it won't happen yet, but the new structure will assist in this eventuality. David advised that nationally primary claims dropped 20% last year, and that is a significant drop. This new structure will cope with this kind of drop continuing.

Lyn Daffurn advised that the 3 largest states produced 80% of the workload, and the other 3 produced 20%. David Mackrell advised that this may lead to changes with where the work is done.

The Future of Quest in the New Structure

Margaret Jenyns advised that she definitely sees a place for a forum such as Quest in the new structure as it provides feedback from ESOs on how things are being done. She said it might be in a slightly different format, however, given that the new structure has National Directors of each area, rather than a State Manager who could report at such a forum. This obviously causes issues as one national director is responsible for 6 state areas.

Outstanding Items from the Last Meeting

Stats on second opinion protocol

Craig Gould advised that since the last meeting there have been 2 second opinion cases. He gave an example of the types of cases where second opinion protocols may be appropriate: a psychiatrist who has written two reports, one for DVA, one for another agency, and both reports have completely different diagnoses. In this situation, the doctor was asked to clarify the diagnosis. He refused, and therefore a second opinion was sought.

Craig handed out statistics for other compensation issues, such as a 3 year comparison of acceptance rates of the top 15 claimed conditions (Queensland acceptance rate vs. national acceptance rate), and a summary of acceptance rates of the top 10 claimed psychiatric conditions. Craig also discussed times taken to process and advised that it is difficult to give an exact figure at present, as the deseal reseal cases are included in the statistics and the time taken to process has therefore 'blown out' considerably.

Psychiatric reporting protocols for MCRA

Margaret advised that at the last meeting the question was raised as to whether the second opinion protocols apply for MCRA – and the answer is “yes” they do.

Distribution of information to TIP

Noel Huish advised that the issue is now resolved, with Margaret promptly making information accessible. This is then placed on to the RSL website and he thanked the RSL for their assistance in this matter.

Special Rate/Temporary Special Rate ability to work information

There was a question at the last meeting concerning how people doing voluntary work will be treated under the VEA MCRA etc. The question was whether there will be one uniform document which explains the policy on how these people are treated under VEA, MCRS and MRCA. Margaret and Craig advised that the answer is no – there will not be one uniform policy document produced. Carolyn Spiers had advised that the Commission believes that existing policy documents explain the situation sufficiently Noel Huish expressed that this is a big problem with SRCA (MCRS), but not so much with VEA and MRCA. He advised that they are going to lose a lot of their volunteers if they fear they will lose their benefits.

MCRS letters to ESOs

An issue concerning letters to representatives from last meeting was discussed. The issue is that at times representatives are not getting copies of letters concerning their clients' cases. Glenda Mann advised that she has alerted staff to the policy of copying letters to ESOs, and asked whether anyone was still having the problem.

Noel advised of a situation where sometimes he receives letters written to the veteran "care of" him and sometimes he receives a copy of a letter that was sent to the veteran. It was advised that the situation is occurring because when the applicant has legal representation, all correspondence goes to the legal representative, whereas when there is non-legal representation, all correspondence should go to the applicant with a copy to the representative. This has caused some mix-ups, however staff will be reminded of the requirements.

Transport on Darling Downs

A question was raised at the last meeting about transport on the Darling Downs. Margaret Jenyns advised that she wasn't able to answer the question – the person who had asked the question wasn't present at this meeting and the issues were unclear. Viv Quinn advised that the situation is to do with some veterans in rural areas being sent for treatment in nearby cities and the transport home isn't being arranged correctly. He advised two specific instances where this has happened. Margaret advised that she will check with Health and discuss this issue at the next meeting.

How effective was the distribution of information from the previous quest meeting

Margaret Jenyns advised that she now has a distribution list and that the minutes should be easily disseminated this time.

VEA/MRCA and SRCA/MRCA dual eligibility issues that are arising

Wayne Lynch addressed the forum about this issue. He advised that policies have been released concerning the VEA and MRCA overlaps. He specifically cited C27/2005 "Action of VEA Claims and AFIs" and Policy Instruction 5 dated 8/12/05. Margaret Jenyns advised that C27/2005 is being rewritten at the moment and that the clarification should be out soon. She also commented that with Policy Instruction 5 there is a certain amount of grey area and that they are working through it at present.

Craig Gould also brought the issue of reserve service up, reminding the forum that even though a member may have left the services, he or she may have reserve service that could result in the need for MRCA investigation. Margaret commented that this was an important TIP issue too, and that representatives should make a note on the claim form if the member has been discharged from full time service, however they have reserve service. Noel Huish discussed the issues this has caused TIP.

Glenda Mann then discussed SRCA/MRCA overlap. She advised that they didn't get their policy for 18 months which has been an issue and has caused a backlog of cases. She gave some examples of cases that are currently in investigation and how they are proceeding with them. They have taken two delegates 'offline' and given them approx 200 cases that need to be looked at to determine which way they should be investigated. In each of these cases they need to consider whether any service after 1/7/2004 has contributed to any worsening of conditions.

She advised that they have constructed a list of questions to ask applicants to help them make this determination and she handed out a copy of the questions. She advised that the client is phoned and asked the questions and then a copy of their response is sent out for them to review.

Malcolm Wheat asked whether the ESO is advised of the phone questioning taking place. Margaret Jenyns advised that a copy of the letter should go to the ESO, however Malcolm expressed a concern that the ESO should be advised before the questions are asked of the client to assist them in the preparation of the answers. Margaret commented that the client is the only one that can provide the answers, and Malcolm agreed with that, however his concern is that taking answers over the phone could cause problems down the track, or could cause confusion. For example the applicant could be unwell when the call is made and not remember the answers they gave, or could misunderstand the oral question and give an inaccurate answer. Another issue is that they may also not be able to answer questions immediately on the phone. Margaret advised that sending out the answers to the phone conversation gives them an opportunity to amend the answers.

David Mackrell advised that this is really only an issue with the backlog of cases and sending the information out to the ESO before phoning the applicant will cause further delays on these cases.

Glenda Mann advised that what they are looking for with these questions is to determine what service docs and evidence might exist relating to the condition
Kathleen Henry queried whether we would have their service docs anyway (and staff could just peruse them). Glenda advised that we do not automatically have updated docs.

Viv Quinn questioned David Mackrell on his earlier comment about delays and said that sending out a copy of the responses to the ESO as well wouldn't delay things. David agreed that it wouldn't, but sending out the information first would.

Gordon Blake suggested that sending out the blank questionnaire to the applicant and their representative would take no longer for them to complete than the "phone answers" questionnaire. Gordon expressed concern about a situation where something the veteran says on the phone is eventually used against him in his claim and it is refused. Noel Payne added to this concern by asking what our position would be if the applicant provided more information on the written form to clarify a point, but this information seemed to conflict with the original phone answer, and whether this could go against the application.

Noel also queried how the initial phone call expedited anything, when the paper form still needed to be completed. Margaret Jenyns explained that it enables them to proceed quickly with claims that obviously need to be determined under MCRA (eg to determine if there is an incident that aggravates an existing injury, and this incident happens post 1/7/2004).

There was then a general discussion suggesting that it would be better to send an urgent letter to the applicant and representative with the blank form for them to complete, and that this shouldn't take any longer.

Malcolm Wheat expressed concern that just because there are a few hundred cases that need urgent attention it doesn't mean they should get inferior service. He was also concerned that a veteran might not know the difference between worsening and aggravation. Glenda Mann advised that that was the reason for the call – to explain those issues when asking the question.

Malcolm asked her to confirm that any information collected over the phone won't be used down the track to decide the claim. Glenda advised that it would be used to determine where the claim would be decided, but Malcolm suggested that we couldn't guarantee it wouldn't be used against the veteran.

Wayne Lynch advised that the majority of the backlog aren't represented, so sending information to the representative in advance wouldn't have a significant impact.

Kathleen Henry suggested that a list of cases be sent to each relevant representative so that they could talk to the veteran and complete the form. David Mackrell agreed that this was a good idea, however the problem is that the small number of cases where the applicant is represented are most likely represented by different people.

There was general agreement that when the applicant is represented the letter should go out and no phone call should be made. Malcolm asked it to be confirmed that for any applicants that aren't represented that it is recommended on the form that they consult an ESO to help them complete the form. It was confirmed that the claim forms do contain a statement recommending ESO assistance.

Compensation Offsetting

Lyn Daffurn addressed the forum on the issue of compensation offsetting.

She provided the members of the forum with handouts of her slides and additional information and these are attached to these minutes for reference.

In addition to those handouts are the following points:

Compensation offsetting legislation is self-executing – there is no decision to be made, it happens automatically. There is no decision to apply or not apply the legislation, and there is no appeal right (except under the AD(JR) Act 1977 and she described a precedent).

Lyn provided a clarification of how DP reduction cannot go below 0 – not only does this mean that a pension cannot go below 0%, it also cover the following example – A veteran has a number of accepted conditions and is receiving 90% DP. 30% of that is due to their lumbar spondylosis. If they receive other compensation for that lumbar spondylosis then the maximum their pension can be reduced by is that 30%. This means that it can't be reduced beyond the portion that is paid in respect of the condition in question.

She also discussed the situation where a condition is called different names by the two bodies granting compensation, and a clarification needs to be made whether it is the same incapacity being compensated or a different one. She advised that this can happen with psychiatric diagnoses and that where appropriate; apportionment may need to be made.

Lyn advised that in these situations we would have to examine the material that the other decision was based on, look at our own evidence and get a medical opinion.

Re S25

Gordon Blake queried whether the new provisions were retrospective and she advised that they aren't. It only applies to claims lodged after 1/7/2004 where earnings related pension or allowance is granted. Viv expressed concern about the fact that S25a can be retrospective. Lyn advised that she will provide further information on this directly to Viv.

Deseal Reseal

Glenys Jones updated the forum on the progress of deseal reseal cases. She advised that of the more than 1000 claims lodged for Tier (ex-gratia) payments, about half have been determined.

Glenys also advised that she is aware of concerns of veterans that they can't get through on the phone in relation to Tier payments. She said that this is due to the area receiving a very large number of calls per day, and that each call took some time, meaning that when other veterans were trying to call, the lines were often tied up with other calls. Also some clients have been calling very frequently (every other day) and this is further tying up phone lines.

There are approximately 2000 conditions to be determined under SRCA and about the same under VEA. However as there has been no change to the VEA it is likely that the conditions that are waiting under the VEA will be rejected.

Some of the Deseal Reseal cases are now over 4 years old, and the team is trying to determine them in age order (unless there are exceptional circumstances). Glenys also advised that the number of appeals to the VRB has been very low.

She was able to update the forum on acceptance statistics, namely that of the claims accepted there have been 464 that were tier 1, 20 that were tier 2, and 22 tier 3. No statistics are available for rejected cases as a decision has been made that no more rejection letters will be sent out until more investigation is done. This is especially relevant to those veterans who had missing or incomplete documentation of them being in tanks.

Malcolm Wheat asked whether those people who had already received rejections would have that rejection withdrawn so they could also receive the benefit of this further investigation. Glenys advised that those who have already had their cases rejected are being asked to submit further information at this stage. Malcolm felt that this was grossly unfair as if these claims were being determined now, they would not be rejected, but held back for further investigation. However as these claims have been decided, the veterans must now have a "rejected" against them. Malcolm pursued his request to have the rejection withdrawn but Glenys said that there would be nothing to achieve by a withdrawal of the rejection. If additional evidence is submitted it will be considered.

Ray Townsend expressed some serious concerns about the 3 tiers, specifically with how they were determined and the fact that inaccurate records can lead to unfair situations with many ex-service people. He gave examples of people he served with who had been sent to work in Deseal Reseal but either some or all of the days they spent in Deseal Reseal were not recorded on their service records. Many of these people should be in a different tier, but their inaccurate records prevent this. There was a general discussion about the decisions in relation to Tier payments.

Kathleen Henry discussed the unfairness of the inability to appeal the decision. She said that they had been advised of a right of appeal to the Commonwealth Ombudsman, but that the Ombudsman had written to them saying they have no jurisdiction. Glenys Jones advised that she had recent discussions with the Ombudsman and he had advised her that he had several cases he was looking at. She said she would clarify the position of the Ombudsman.

Margaret Jenyns was able to clarify, advising that the Ombudsman cannot intervene like the AAT, but can merely comment on the appropriateness of the investigation - either finding that it was appropriate, or referring it back to the Department for further investigation. It may be the case that the letters where the Ombudsman said there was no jurisdiction were cases where the decision was that the investigation was appropriate, and the Ombudsman was simply advising that there is no jurisdiction to change the decision.

Kathleen expressed some further concerns on the determination process of Deseal Reseal cases, particularly how much hinges on them getting a tier rating and that it seems as if that tier rating is their only lifeline. Margaret explained that there are some claims that have been accepted based on medical evidence of the link, but for those where the medical evidence wasn't available some have subsequently been accepted because the MRCC has approved the use of powers contained in subsection 7(2) of the SRCA for a group of diseases which have been identified as showing a higher incidence amongst the deseal reseal group. Three specific groups (tiers) of employees have been identified as having had an increased exposure risk due to the specific nature of the duties they undertook and all participants covered in these groups will have the provisions of ss7(2) applied to any claims they make for the identified diseases. The determination as to which tier a claimant fits into is used to ascertain if ss7(2) should apply to that claimant. Kathleen expressed concerns that the dates were incorrect and musterings left out and because compensation was dependent upon the ex-gratia recognition then the ex-gratia decision has to be correct.

There was further discussion about concern with tier ratings and Ray Townsend stated it is the RSL's stance that the three tiers be removed and the \$40,000.00 paid across the board, and Margaret undertook to pass these concerns on to Canberra.

REPATRIATION MEDICAL AUTHORITY

Paul Murdoch advised that there two RMA meetings have been held since the last QUEST meeting. There have been 30 new SOPs determined, and Paul detailed these, including those that come into effect in the next week. Paul also announced those conditions for which the RMA has notified investigations.

He invited forum members to visit the RMA website, where they can subscribe to get email advice of new SOPs, new investigations or any other new information added to the website. The website address is www.rma.gov.au

Paul also advised that new SOPs are now required to be registered with the Federal Register of Legislative Instruments, and that their website has all of the new SOPs together with their explanatory statements. This information is available at www.frli.gov.au

He updated that the forum on the current status of the proposed legislative amendment that will allow the RMA to, where it deems it appropriate, to restrict a review of a SOP to a single factor contained in the SOP. The main reason for the delay in the passage of the amendment is the low priority accorded to the proposal, despite support for the proposition from Ministers, RMA, DVA and ESOs. However he was optimistic that the amendment will be drafted and considered by Parliament this year, as the Repatriation Commission and new Minister had again expressed their support last week and advised of means to ensure a speedier passage. This will enable the RMA to make changes to SOPs in a shorter time-frame, where new medical evidence supports such a change. He cited the example of ischaemic heart disease and COX-2 inhibitors.

MCRS Initial Liability Claims

Glenda Mann advised that new claims received in Brisbane after 27/2/06 will now be decided in Melbourne. This is a temporary arrangement. The acknowledgement and registering will occur in Melbourne also so the client will be advised from the start who their case officer will be.

TOWNSVILLE PI

Glenda also advised that because of decline in workload in Townsville (with their MRCA claims coming here) they will soon be determining their own Permanent Impairment claims.

MRCA processing and stats

Wayne Lynch passed out some statistics on cases to the end of January. He advised that the acceptance rate is 89%. Processing of cases has been restructured due to a backlog to ensure they are processed as efficiently as possible.

He advised that proof of identity (POI) is still an issue in some MRCA cases, particularly with new clients wanting their defence cards to be counted as part of their POI. Our current position is that we align ourselves with other Government agencies and accept the same forms of ID that they do. This unfortunately doesn't include defence cards. Wayne explained that the clients this is a particular issue for are those who are living on base and therefore don't have utility bills etc.

Wayne also updated members on the current state of "Sea King" claims. He advised that some payments haven't been made yet as the conditions haven't stabilised. David Mackrell commented that this has caused a lot of bad press for the Department, although we have received support from many ESOs.

Reduction In Special Rate Pensions

This issue was raised by John Thorpe. He told of a case he has become aware of where a veteran on 100% was seeking SR. This veteran had PTSD as an accepted disability, however when he was sent for an assessment, the doctor he saw opined that the veteran didn't have PTSD, and his pension was subsequently reduced to 30%.

Margaret Jenyns and David Mackrell both advised that we couldn't comment on specific cases, but Margaret wondered whether this was a Queensland case. There was agreement about the difficulties in discussing a specific case, however there was general agreement that this is not a situation that should occur. Margaret advised that it is expected that the claimant would be given the right to comment before any reduction took place. However, if it was a case where fraud was strongly suspected it may be treated differently.

S31 Review Process

Following a recent workshop in Melbourne, John Sherrell advised that they will be reviewing the way section 31s are conducted. He reported that they will rely on the ex-service community to provide further information – when a review is requested, the case should "be made" with further evidence provided. He advised that the internal review area will not undertake any investigations of their own, they will only be triggered by a request for a review. He indicated that they relied on the applicant to make their own case and would only investigate if they thought that any additional evidence appeared inconsistent. He confirmed that this will eventually be a national approach (NSW and Victoria already adopt this approach).

TIP

Noel Huish discussed the new program that is now up and working well. He advised that there will now be a change to the way they teach applications for review, following on from the advice of John Sherrell on the way section 31s will now be conducted. Originally TIP courses had taught that the best form to submit was the dual form (section 31/135). However as this form contains both requests a section 31 review is being triggered, with the majority resulting in a non-intervention letter that the veteran doesn't really understand. To avoid confusion for the veterans, they will now teach that the best way to appeal a decision is to appeal directly to the VRB, which protects the veteran's accrued rights. If there is new evidence to be considered in the case this can be included with the appeal.

Following this process the section 31 team can then do a scan of the file and intervene if necessary; however a formal section 31 review will not be automatically triggered. This removes the need for the veterans to get a non-intervention letter that may upset or concern them.

Noel's second report to the forum concerns the use of computers and electronic documents. He advised that these days most representatives use computers and that they will now be encouraging all of their representatives to move to electronic copies of materials. To encourage this, the only paper copies they will produce are for materials that aren't available on the latest "CLIK" disc.

Lastly Noel moved on to discuss section 180A. This is the legislation that allows the Commission to decide that a class of veterans is entitled to a pension when the RMA has decided not to do a SOP or not to amend a SOP. This legislation will become a teaching point as section 180A determinations are still applicable even though SOPs may have since been issued.

GENERAL DISCUSSION

John Thorpe asked whether the Department still asks for medical documents when someone lodges a claim. Craig Gould advised that we do.

Viv Quinn asked about turn around time for primary claims, specifically whether we are on track with our goals. Craig advised that we probably aren't quite on track, but that it is impossible to give accurate figures as the Deseal Reseal cases are included in our stats. As some of these cases are over a thousand days old, this significantly affects the time taken to process (TTTP) statistics. Craig advised that since the senior delegates started, the TTTP has gone up and that the national average is around 90 days.

Viv also asked Craig if he has answered Gary Conquest's letter and Craig advised that he hasn't yet.

Concerning the backlog of MCRS cases, Viv queried whether we are trying to progress the backlog of cases. Glenda Mann advised that as per her previous comments, new cases are going to other states and that this will allow Queensland to concentrate on their backlog.

Viv made the forum aware of a situation where a veteran sent in further information to a delegate after they had made their determination. The delegate initiated this as a section 31 review. The veteran unfortunately didn't advise his representative that he had done this. Viv questioned whether it is appropriate for a delegate to do this. Craig Gould advised that a number of s31s happen as a result of the veteran writing in after the decision. Viv's concern was that if the representative doesn't know about the section 31 review then the veteran might miss out on appeal rights.

Noel asked whether the issue was, for example, if the s31 review took 4 months, then once the decision is made the 3 month appeal period had expired. John Sherrell wondered whether the issue was whether it is appropriate for the Department to initiate their own section 31 reviews, however he advised that this is in the legislation.

The issue was clarified as the first (ie the appeal period expiring while the section 31 was underway) and this was discussed.

Viv also had a concern with claims where a re-diagnosis is made. For example if the veteran lodges a claim for lumbar spondylosis and the condition is diagnosed as both lumbar spondylosis and crush fracture, does the delegate follow the Deledio principles looking for a hypothesis for that condition. Margaret Jenyns advised that there isn't a formalised process for this at the moment. This will be discussed and reported on next meeting.

Another concern was raised, relating to the question of duty of care. Specifically Viv enquired about the situation where we send a veteran to a specialist, and the specialist (in addition to reporting on the condition) recommends a course of treatment. He queried whether we have a duty of care to let the LMO know about this recommendation. Margaret Jenyns advised that usually the specialist will advise the LMO themselves by sending advice to them.

Kathleen Henry asked a question concerning TIP. She undertook training recently and noticed that the courses are really aimed towards VEA claims. She is wondering whether MRCA legislation will be included. Noel Huish advised that the overlap between these legislations is discussed, but at the moment as the majority of claims are still VEA/MCRS so the training will stay focused on that. However he acknowledged that in the future more MRCA claims will be lodged and that their training will adapt to reflect this.

DATE FOR NEXT MEETING

The next QUEST forum will be held on 7 June 2006 .

OUTSTANDING ISSUES FOR NEXT MEETING

- Transport on darling downs – Margaret Jenyns to check with health about this issue.
- Deseal reseal issues – concerns to be relayed to Canberra.
- Report back to re the organisational chart request.
- Report back on process for the Deledio issue raised by Viv Quinn (where a re-diagnosis is made etc)

CONCLUSION

David Mackrell closed the meeting at 1:04 pm.

Primary SoP Disability Determinations

2003					2004					2005				
Accept	Accept rate	NIF	Reject	Total	Accept	Accept rate	NIF	Reject	Total	Accept	Accept rate	NIF	Reject	Total
37799	66%	271	19278	57348	31526	66%	171	16190	47887	26337	65%	110	13819	40266

Primary Non-SoP Disability Determinations

Accept	Accept rate excl NIFs & incl NIFs	NIF	Reject	TOTAL	Accept	Accept rate excl NIFs & incl NIFs	NIF	Reject	TOTAL	Accept	Accept rate excl NIFs & incl NIFs	NIF	Reject	TOTAL			
1326	36%	17%	4040	2333	7699	1096	34%	16%	3704	2170	6970	1003	34%	17%	2965	1941	5909

Primary SoP & Non-SoP Death Determinations

Accept	Accept Rate	Reject	Total	Accept	Accept rate	Reject	Total	Accept	Accept rate	Reject	Total
3282	60%	2161	5443	3145	60%	2104	5249	2545	60%	1700	4245

**VEA determinations
Psychiatric Disability Conditions**

Psychiatric Disability Condition	2003					2004					2005				
	Accept	Accept rate	NIF	Reject	Total	Accept	Accept rate	NIF	Reject	Total	Accept	Accept rate	NIF	Reject	Total
1. post traumatic stress disorder	1629	80%	15	381	2025	1212	82%	6	254	1472	994	79%	9	254	1257
2. alcohol dependence or alcohol abuse	748	60%	22	487	1257	588	58%	8	410	1006	448	54%	4	372	824
3. depressive disorders	379	49%	4	389	772	349	50%	2	350	701	339	52%	4	309	652
4. anxiety disorder	322	46%	15	367	704	253	46%	8	291	552	174	38%	5	275	454
5. adjustment disorder	67	38%	0	111	178	60	39%	0	92	152	48	35%	0	91	139
6. panic disorder	17	40%	0	25	42	8	20%	0	33	41	13	29%	0	32	45
7. personality disorder	1	4%	0	26	27	1	4%	0	27	28	0	0%	0	22	22
8. drug dependence or drug abuse	12	48%	1	12	25	12	50%	0	12	24	5	24%	0	16	21
9. bipolar disorder	1	5%	1	20	22	0	0%	0	17	17	2	10%	0	18	20
10. schizophrenia	2	22%	0	7	9	0	0%	0	11	11	0	0%	0	8	8
TOTALS	3178	63%	58	1825	5061	2483	62%	24	1497	4004	2023	59%	22	1397	3442

**VEA determinations:
Psychiatric Disability Conditions 2003-2005**

	Condition	Queensland Accept Rate			National Accept Rate		
		2003	2004	2005	2003	2004	2005
1.	Sensori-Neural Hearing Loss	98%	97%	98%	98%	98%	98%
2.	Osteoarthritis	57%	68%	72%	49%	56%	63%
3.	Tinnitus	88%	89%	93%	96%	96%	95%
4.	Lumbar Spondylosis	69%	81%	85%	60%	72%	79%
5.	Solar keratosis	81%	79%	80%	86%	81%	82%
6.	Non melanotic MN of skin	84%	77%	80%	87%	83%	83%
7.	Ischaemic heart disease	67%	71%	74%	65%	69%	67%
8.	Acquired cataract	91%	92%	91%	94%	93%	90%
9.	PTSD	74%	79%	77%	80%	82%	79%
10.	Chronic bronchitis and emphysema	84%	83%	86%	84%	81%	82%
11.	Hypertension	21%	23%	23%	20%	29%	26%
12.	Alcohol dependence or alcohol abuse	58%	61%	54%	60%	58%	54%
13.	Gastro-oesophageal reflux disease	68%	54%	57%	64%	56%	52%
14.	Cerebrovascular accident	60%	61%	69%	65%	62%	58%
15.	Depressive disorder	44%	47%	46%	49%	50%	52%

discussion on the treatment of this reject group of desealers and this is not reflected. eg I made a strong comment regarding the need for all claimants to be treated equally and called for a letter to be sent to those rejected withdrawing the decision and for the claims to be treated a new claims.