

## Refugees in Danger of Losing Disability Benefits

### *Foreign refugees without U.S. citizenship at risk.*

October 1<sup>st</sup> may be the end of Social Security disability (SSD) benefits for foreign refugees. This deadline comes from a long line of legislation dating back to 1996 in which a **federal law requires all foreign refugees who receive SSD benefits to obtain citizenship within 7 years of benefit approval.**

In 2003, the first wave of refugees faced the notice that their benefits would cease as a result of non-compliance with the citizenship requirement. The original law—passed in 1996—required disabled refugees to become U.S. citizens within 5 years of receiving federal disability benefits. The timeline was later extended to 7 years because the naturalization process was taking 1 to 2 years.

Congress approved a 2-year reprieve of the citizenship requirement in 2008 after urging from then-President George W. Bush. **This reprieve allowed refugees to keep their benefits for the time being, but that time ends this October for thousands of foreigners who have yet to become naturalized.**

Estimates report as many as 37,000 elderly or disabled refugees across the nation could lose their SSD benefits. Miami, Florida is set to be one of the hardest hit areas because of its 4000 disabled Cuban refugees receiving SSD benefits.



### **Citizenship Challenges**

Many foreign refugees have begun receiving letters from the Social Security Administration informing them that their benefits are in jeopardy. The letter comes as a shock to many who claim they were never made aware of the citizenship requirement.

Others have cited that naturalization process is complicated and lengthy with little assistance from the government. Some refugees still believe that they cannot become a citizen without speaking English. The expense of the filing fee for citizenship is also a concern for many refugees who are already on a limited income.

New applicants who are refugees seeking SSD benefits are also held responsible for obtaining citizenship within the 7-year timeframe.

### **A Social Security Disability Attorney Can Help**

When your SSD benefits are at risk, you have the right to seek assistance from an experienced Social Security disability attorney. Upon reviewing your case, your disability attorney can fully explain your rights and legal options.

At LaVan & Neidenberg, our Social Security disability attorneys have helped thousands of clients file and appeal their disability claims so they can get the medical and financial help they deserve.

To learn more about the Social Security disability claims process and your options, [request a free copy of our eBook, \*Disability Benefits: Secrets Social Security Won't Tell You\*](#). [Contact our office for a free consultation on your case today – 888-234-5758](#)

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## Agent Orange Act Under Scrutiny

### *VA officials questioning presumptive connections.*

On September 23<sup>rd</sup>, 2010 the Senate Committee on Veterans Affairs conducted a hearing regarding the August 2010 updates to the Agent Orange Act. **The August revision added B-cell leukemias, Parkinson's disease, and ischemic heart disease to the list of conditions associated with exposure to Agent Orange.**

### **Secretary Eric K. Shinseki's Opposition**

At the September hearing, the first speaker to voice his concerns with the addition of the 3 new conditions was Secretary of Veterans Affairs, Eric K. Shinseki. While he was not in opposition to the Agent Orange Act as a whole, he spoke against the process of creating service connections to diseases based on presumptive evidence.

His main concern was with ischemic heart disease, which he mentioned can be caused by many other factors aside from herbicide exposure. Among those factors were age, smoking, cholesterol, BMI, and diabetes. In Shinseki's opinion, the "positive association" standard in this case is not selective enough to rule out causation factors aside from Agent Orange exposure.

**Shinseki's overall concern is that the "positive association" standard does not take into consideration other factors which may cause the condition being associated with Agent Orange.** The medical findings for Agent Orange exposure look first for exposure, then conditions, and complete the association without taking time to evaluate any other risk factors which may also have caused the condition.

### **Results of New Conditions to the Agent Orange Act**

The updates to the Agent Orange Act came after the verdict of the Nehmer class-action lawsuit. This case held that **the VA must pay retroactive benefits to those who are found to be affected by the newly covered conditions.** Some of these benefit claims go as far back as 1985 and can result in thousands of dollars in back pay.

The decision of the Nehmer case, coupled with the added conditions covered by the Agent Orange Act, allows the retroactive payment requirement to apply to any future presumptions established before the 2015 "sunset date" for the Agent Orange Act.

Shinseki's statements concluded that he does not oppose the presumption system but would rather see it better supported by scientifically proven data. He stated that he will continue to review the recently proposed Gulf War Veterans' health concerns regarding 9 infectious diseases.

## DISABILITY SERVICE NEWS

Promising news for both veterans' and Social Security disability claimants this month:

### **BENEFIT EXTENSION FOR NATL. GUARD**

A new bill initiated by U.S. Congressman Steve Buyer is before Congress to support benefit extension to members of the National Guard who served in the Qarmat Ali region of Iraq during Operation Iraqi Freedom.

H.R. 6127 seeks to extend the enrollment period for Qarmat Ali veterans for 5 years beyond the date of notification. Passing of the bill would allow for immediate access to medical services at VA medical facilities for all of their health care needs.

The bill is still in its early stages of legislative review. It was introduced at the 111<sup>th</sup> Congress 2d session on September 15, 2010 and referred to the Committee on Veterans' Affairs for consideration.

### **FDA APPROVES NEW MS TREATMENT**

Patients diagnosed with Multiple Sclerosis (MS) will soon have a new option for treatment. The new medication known as Gilenya (also known as Fingolimod) was developed by Swiss drug maker Novartis and is found to slow the progression of the disease and decrease frequency of relapses.

Gilenya is an injected treatment administered on a regular basis. Patients who suffered from MS-related relapses such as loss of balance, muscle spasms, and other movement problems found a decrease in severity or even complete absence of symptoms with regular doses. One patient, Seth Morgan, was free of relapses since he started on Gilenya in 2008.

The new treatment does come with some side-effects such as pain and burning near the injection site, and the risk of macular edema in the eyes. The major concern was a potentially dangerous drop in pulse rate after first administration of the drug. Therefore, the FDA requires Gilenya labeling to recommend patient observation for the first 6 hours after the first dose is administered.

As the Agent Orange exposure-related conditions continue to be debated, **you may find difficulty in appealing for your Veterans' disability benefits.** An experienced Veterans' disability attorney from the Law Offices of LaVan & Neidenberg can advocate for you to receive the disability rating and compensation you deserve.

To schedule a no cost evaluation of your claim, [contact us today](http://www.lavanandneidenberg.com) – 1-888-234-5758.

## CALENDAR OF EVENTS

October marks the first full month of fall with harvest festivals, changing colors, and Halloween!

### **COLUMBUS DAY – MONDAY, OCTOBER 11, 2010**

A legal U.S. holiday, Columbus Day is observed on the second Monday in October as the celebration of Christopher Columbus's arrival in the Americas. It became a federal holiday in 1934 and on this day many banks, school districts, and most government agencies are closed in observation.

The State of Hawaii does not observe Columbus Day and most offices are open. Nevada also does not observe it as a legal holiday, but it is a day of observance. Many other cities have chosen to celebrate the day under different titles and expanded observances.

### **HALLOWEEN – SUNDAY, OCTOBER 31, 2010**

Originating from a Celtic holiday, Halloween is a modernly secular holiday involving costumed parties, trick-or-treating, and local festivals.

The original concept of Halloween is most often traced back to the Celtic festival of Samhain, which celebrated the end of summer and start of the fall harvest season. Celebrations involved the wearing of costumes and masks to disguise yourself from the harmful spirits that were allowed to pass to our world during the change of seasons.

Modern day celebrations involve community celebrations mostly aimed toward children and families with costume contests, pumpkin carving, and passing out candy. On Halloween night many neighborhood streets are crowded with costumed children going door-to-door seeking candy.

### **SIGN OUR PETITION FOR FREE MEDICAL RECORDS!**

LaVan & Neidenberg is sponsoring a petition to change medical records fees in the State of Florida. Currently, patients are required to pay up to \$1 per page to obtain a copy of their own medical records. The Firm's legislative initiative proposes to **make medical records FREE for all individuals applying for disability benefits.**

Please join us in our fight and [sign our petition](#) today! Thank you for your support!

## New Guidelines Proposed for HIV

### *Institute of Medicine suggests new qualifications*

The topic of qualifying for Social Security disability benefits due to HIV/AIDS-related conditions has been a long standing battle that has again been brought up for review by the Institute of Medicine.

### **Proposed Changes to Benefit Eligibility**

The Institute of Medicine is suggesting the following conditions to be recognized as eligible for SSD benefits:

- **A CDD4 (white blood cell) count at or below 50 cells per microliter of blood.**
- **Presence of a fatal or disabling HIV-associated condition such as dementia or AIDS-related cancer.**
- **An HIV-associated condition already covered by SSD benefits such as heart disease or hepatitis.**
- **An HIV-associated condition such as wasting syndrome that would significantly disable a person.**

The major change to the SSD benefit regulations in regards to applicants with HIV/AIDS-related claims is that the claimants would qualify for disability for 3 years and would have to re-apply following that period. This would only affect new applicants and not current SSD benefit recipients.

### **Current Disability Requirements for HIV/AIDS**

The current regulations regarding HIV/AIDS disability benefits require a claimant to have a CD4 count of 200 and certain HIV-associated conditions to qualify. However, **a CD4 count of 200 or below does not automatically qualify you for disability benefits.** Furthermore, many applicants have found difficulty in proving related conditions to support their claims.

Before you start an application or appeal a denial for Social Security disability benefits, it would be in your best interest to seek assistance from an experienced Social Security disability attorney. Your disability attorney will ensure that your rights are protected throughout the disability claims process and advocate for you to receive the benefits you deserve.

At the Law Offices of LaVan and Neidenburg we help disabled individuals obtain the Social Security disability benefits they are entitled to. To learn more, request a copy of our [free disability claim guide](#).

Or, [contact us today](#) to have a Social Security disability attorney review your claim – 1-888-234-5758.