



bulletin

National Veterans Affairs and Rehabilitation Commission

1608 K Street, N.W. • Washington, D.C. 20006

K. Robert Lewis, Chairman - Connecticut

Barry A. Searle, Director - Pennsylvania

22-09

September 11, 2009

Federal Circuit Court Invalidates Department of Veterans Affairs Extraordinary Awards Procedures

On August 27, 2007, the Department of Veterans Affairs (VA) issued VA Fast Letter (FL) 07-19 (subsequently superseded by FL 08-24, dated August 14, 2008) mandating that all regional office decisions awarding a lump sum payment of \$250,000 or more, or having a retroactive date of eight years or more, be submitted to the Compensation and Pension Service (C&P) director for review prior to the decision being finalized. On September 10, 2009, the United States Court of Appeals for the Federal Circuit, in *Military Order of the Purple Heart of the USA and National Veterans Legal Services Program v. Secretary of Veterans Affairs*, No. 2008-7076, Fed. Cir., Sept. 10, 2009, determined that C&P's extraordinary review procedure set forth in the aforementioned fast letters does not comport with the governing regulations and was not implemented in compliance with the requirements of the Administrative Procedure Act. Accordingly, the court ruled that the procedure is invalid and set it aside.

VA has the option of requesting reconsideration by the full court and/or appealing to the Supreme Court. American Legion service officers who know of any cases adversely impacted by C&P's extraordinary awards review program should contact Ian de Planque, Asst. Director for Claims Service, VA&R, at ideplanque@legion.org or (202) 263-5762. Any questions or concerns should also be directed to Mr. de Planque.

BARRY A. SEARLE, Director
National Veterans Affairs and
Rehabilitation Commission