

Congress of the United States
Washington, DC 20510

May 13, 2010

The Honorable John McHugh
Secretary of the Army
U.S. Department of Defense
101 Army Pentagon
Washington, DC 20301-0101

Dear Secretary McHugh:

We are writing about the unacceptable way soldiers of the Oregon National Guard's 41st IBCT are being processed through the Joint Medical Battalion (JMB) at Joint Base Lewis-McChord (JBLM) and ask for your immediate attention.

Members of our staff recently met with members of the 41st IBCT who are at JBLM. Based on that meeting, we believe there is evidence that some staff at JBLM are systematically treating members of the Oregon National Guard as second-class soldiers and we are asking for the U.S. Army's full cooperation in ensuring that those National Guard soldiers who served honorably and willingly receive all the medical, pay and other benefits, they are entitled to under Title 10.

We know from our conversations with leadership of the Oregon National Guard that the Oregon Guard has enjoyed an excellent relationship with the leadership at JBLM. It is highly likely that the problems being experienced by the Oregon National Guard soldiers may have been caused by a few bad actors who either don't understand the important role the Guard plays in today's military or they don't care. Either way, this matter requires thorough investigation.

What we have learned is that Oregon soldiers who returned from a successful mission in Iraq on April 10, 2010, and are currently on active duty status, are not receiving the medical treatment they deserve and to which they are entitled. In addition, we believe that soldiers from the 41st IBCT were released from active duty (REFRAD) inappropriately from the JMB and we are concerned about how those decisions by staff at JBLM will affect the soldiers in the short term and the long term as they return to civilian life.

Based on what we have heard and on the documentation we are collecting, we ask that you order a review of all the decisions made regarding the 185 members of the 41st Brigade who returned from Iraq last month with conditions that required medical care. Some of those soldiers are still at JBLM. Others have been sent home. This review should be conducted as soon as possible, preferably within the next two weeks.

In addition, we ask that you have an Army representative brief us on the situation, and what measures the Army is taking to correct any injustices that have occurred to soldiers of the 41st IBCT.

Specifically, our concerns about the treatment of Oregon National Guard troops include complaints that:

- The Soldier Readiness Center (SRC) is overturning medical decisions by doctors in an effort to “clear out” members of the Oregon National Guard to “make room” for the 2nd Infantry Division. In effect, the decision about whether or not to move a National Guard soldier into the Warrior Transition Unit or to REFRAD a National Guard soldier is being administratively driven and not medically driven.
- Oregon National Guard soldiers are told that they should go to their local VAMC or use their 180 days of TRICARE to be treated. We believe this is not in the best interest of the soldier and is not how the system is designed to work. Under Title 10, soldiers are entitled to stay on active duty and receive a paycheck while their medical issues are being addressed. By pushing these soldiers back home without treating their medical issues, they may never receive the care necessary to properly heal, may not be able to obtain the medical treatment they require in a timely manner thus making it worse and delay their return to civilian life.
- Staff at the SRC is telling Oregon National Guard soldiers to “suck it up” and leave.
- Oregon National Guard soldiers are receiving improper advice about what their employer is required to accommodate. Specifically, soldiers are being told that if they REFRAD and return to work, their employer is required to make an accommodation for them related to their injury and time off needed for medical appointments and surgeries. This may be true for some soldiers, but advising soldiers in such a general manner is a disservice and dishonest in representing it as true for all cases.
- Requests for a second opinion by a medical doctor are being denied, even though they are allowed under Title 10.
- Chronic care patients are being sent home automatically if they cannot be treated in 90 days.
- Oregon National Guard soldiers admitted to the Warrior Transition Unit from this deployment are being automatically investigated for “fraud” if they had been previously assigned to the Warrior Transition Unit. This policy is not true for members of the active component.
- Oregon National Guard soldiers are not only being encouraged to REFRAD, they are being told they must REFRAD, regardless of medical recommendation.
- Oregon National Guard soldiers who ask questions are being threatened with disciplinary action, up to and including an Article 15.

- Oregon National Guard soldiers who refuse to sign their DD-214 are having it signed for them marked “service member not available for signature,” even if the soldier is present.

You, more than anyone, are aware of how much the American military has come to rely on the citizen soldiers of the National Guard. As a result, you are also aware that the Guard has stood shoulder to shoulder with members of the regular Army. Whatever biases or prejudices that exist should not be tolerated. We believe that addressing what is occurring at JBLM and those who are responsible for it head on will represent a giant step toward treating all members of the American military, whether Guard or regular Army, with the respect they have earned.

We thank you in advance for your attention.

Sincerely,



Ron Wyden
U.S. Senator



Kurt Schrader
Member of Congress