

Hundreds of veterans blocked from appeals process and denied benefits because of arbitrary deadline

Washington DC – This week, the House of Representatives passed Congressman John Adler's legislation to fix a broken appeals process that is leaving hundreds of veterans without the benefits they deserve. [News reports in April](#) describe how more than two hundred veterans were being denied the chance to appeal for their benefits after missing a rigid and arbitrary deadline with the United States Court of Appeals for Veterans Claims (known as the Veterans Court). Adler's bill would ensure that veterans receive fair treatment when circumstances beyond their control render them unable to meet the Veterans Court's deadline.

"The VA claims process is failing our veterans," said Congressman Adler. "I find it outrageous that the brave men and women who never hesitated to serve our country are cast aside over an arbitrary deadline. Our veterans deserve better, and I will work to ensure they receive the benefits they earned defending our freedom."

The Fair Access to Veterans Benefits Act (H.R. 5064) would require the U.S. Court of Appeals for Veterans' Claims (Veterans Court) to hear appeals by veterans of administrative decisions denying them benefits when circumstances beyond their control – often the very service-related disabilities that entitle them to benefits – render them unable to meet the deadline for filing an appeal.

A recent decision by the U.S. Court of Appeals for the Federal Circuit, in *Henderson v. Shinseki*, ruled against allowing a veteran to pursue his appeal because he missed a deadline. David Henderson, the plaintiff, suffered from paranoid schizophrenia as result of his active-duty service in the Korean War. The government denied his benefits claim in 2004 and dismissed his appeal because he missed a filing deadline – by just 15 days. Mr. Henderson asked the Veterans Court to excuse his late filing because it was caused by his service-related disability, a claim his psychiatrist supported under oath. The Veterans Court refused to do so, and a divided Federal Circuit affirmed its decision.

The legislation introduced by Rep. Adler would require the Veterans Court to excuse late filings if the veteran demonstrates "good cause" so that meritorious benefits claims aren't denied their day in court. Additionally, the Fair Access to Veterans Benefits Act requires the Veterans Court to reinstate untimely appeals already dismissed as a result of that court's failure to toll the filing period for good cause.

In April, Congressman Adler, the only NJ member of the House Veterans Affairs (VA) Committee, [sent a letter to House VA Chairman Bob Filner](#) demanding an investigatory hearing into the U.S. Department of Veterans Affairs' Claim Processing system.

The Congressman's bill was included as part of Veterans Benefits and Economic Welfare Improvement Act (Sec. 4 of HR 6132) that was passed by the House by voice vote. A similar bill, sponsored by Senator Arlen Specter, now awaits passage by the Senate. It received a hearing before the Senate Veterans' Affairs Committee in May.