

Diseases Subject to Presumptive & Secondary Conditions



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Presumptive Service Connection

38 CFR § 3.307 - Presumptive service connection for chronic, tropical, or prisoner-of-war related disease, disease associated with exposure to certain herbicide agents, or disease associated with exposure to contaminants in the water supply at Camp Lejeune; wartime and service on or after January 1, 1947.

Chronic Diseases (38 CFR 3.309(a))

Service connection may be granted for the following chronic diseases after completion of 90 days of active wartime duty or service after December 31, 1946, **if manifest to a compensable degree within one year** following release from active duty.

Chronic Diseases (38 CFR 3.309(a))

- ▶ Anemia, primary Myelitis
- ▶ Arteriosclerosis Myocarditis
- ▶ Arthritis Nephritis
- ▶ Atrophy, progressive, muscular Organic diseases of the nervous system brain hemorrhage
- ▶ Brain thrombosis Osteitis deformans (Paget's disease)

Chronic Diseases (38 CFR 3.309(a))

- ▶ Bronchiectasis Osteomalacia
- ▶ Calculi of the kidney, bladder or gall bladder
Palsy, bulbar
- ▶ Cardiovascular-renal disease (1) Paralysis
agitans
- ▶ Cirrhosis of the liver Psychoses
- ▶ Coccidioidomycosis Purpura idiopathic,
hemorrhagic

Chronic Diseases (38 CFR 3.309(a))

- ▶ Diabetes Melitus Raynaud's disease
- ▶ Encephalitis lethargica residuals Sarcoidosis
- ▶ Endocarditis (2) Scleroderma
- ▶ Endocrinopathies Sclerosis, amyotrophic lateral
- ▶ Epilepsies Sclerosis multiple

Chronic Diseases (38 CFR 3.309(a))

- ▶ Hansen's Disease Stringomyelia
- ▶ Hodgkin's disease Thrombongitis obliterans (Buerger's Disease)
- ▶ Leukemia Tuberculosis, active
- ▶ Lupus erythematosus, systemic Tumors (3)
- ▶ Myasthenia gravis Ulcers, peptic (gastric or duodenal) (4)

Tropical Diseases (38 CFR 3.309(b))

Service connection may be granted for the tropical diseases, if **manifested to a compensable degree within one year** following release from active duty.

Tropical Diseases (38 CFR 3.309(b))

- ▶ Amebiases Malaria
- ▶ Blackwater fever Onchocerciasis
- ▶ Cholera Oroya fever
- ▶ Dracontiasis Pinta

Tropical Diseases (38 CFR 3.309(b))

- ▶ Dysentery Plague
- ▶ Filariasis Yaws
- ▶ Leishmaniasis, including Kala-azar Yellow fever
- ▶ Loiasis

Diseases Specific for Former Prisoners of War (38 CFR, 3.309(c))

If a veteran is a former prisoner of war, the following diseases shall be service connected if manifest to a degree of disability of 10 percent or more at any time after discharge.

Diseases Specific for Former Prisoners of War (38 CFR, 3.309(c))

- ▶ Psychosis
- ▶ Any of the anxiety states
- ▶ Dysthymic disorder (or depressive neurosis)
- ▶ Organic residuals of frostbite, if it is determined that the veteran was interned in climatic conditions consistent with the occurrence of frostbite
- ▶ Post-traumatic osteoarthritis

Diseases Specific for Former Prisoners of War (38 CFR, 3.309(c))

- ▶ Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure, arrhythmia)
- ▶ Stroke and its complications.

Diseases Specific for Former Prisoners of War (38 CFR, 3.309(c))

If the veteran is a former prisoner of war and was interned or detained for not less than 30 days, the following diseases shall be service connected if manifest to a degree of 10 percent or more at any time after discharge.

Diseases Specific for Former Prisoners of War (38 CFR, 3.309(c))

- ▶ Osteoporosis (on or after October 10, 2008, if the POW has PTSD)
- ▶ Neuro-Psychiatric, including psychosis, dysthymic disorder (Depressive Neurosis), any of the Anxiety States (e.g., PTSD)
- ▶ Cold Injury
- ▶ Traumatic Arthritis
- ▶ Stroke
- ▶ Heart Disease

Diseases Specific for Former Prisoners of War (38 CFR, 3.309(c))

- ▶ Osteoporosis (on or after September 28, 2009)
- ▶ Nutritional deficiencies, including avitaminosis, beriberi, malnutrition, and pellagra
- ▶ Helminthiasis
- ▶ Peripheral Neuropathy
- ▶ Digestive disorders, including peptic ulcer disease, chronic dysentery, irritable bowel syndrome, and cirrhosis of the liver

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

For purposes of this section the term *radiation-exposed veteran* means either a veteran who, while serving on active duty, or an individual who while a member of a reserve component of the Armed Forces during a period of active duty for training or inactive duty training, participated in a radiation-risk activity.

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

LORAN Radiation

U.S. Coast Guard (USCG) Veterans who worked at LORAN (Long Range Navigation) stations **from 1942 to 2010** may have been exposed to X-ray radiation from high voltage vacuum tubes.

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

- ▶ Bronchiolo-alveolar carcinoma
- ▶ Cancer of the bile ducts
- ▶ Cancer of the bone
- ▶ Cancer of the brain
- ▶ Cancer of the breast

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

- ▶ Cancer of the colon
- ▶ Cancer of the esophagus
- ▶ Cancer of the pancreas
- ▶ Cancer of the gall bladder
- ▶ Cancer of the lung

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

- ▶ Cancer of the ovary
- ▶ Cancer of the pharynx
- ▶ Cancer of the salivary gland
- ▶ Cancer of the small intestine
- ▶ Cancer of the stomach

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

- ▶ Cancer of the thyroid
- ▶ Cancer of the urinary tract
- ▶ Lymphomas (except Hodgkin's disease)
- ▶ Multiple myeloma

Diseases Specific to Radiation-Exposed Veteran (38 CFR 3.309(d))

- ▶ Primary liver cancer (except if cirrhosis or hepatitis B is indicated)
- ▶ For the purposes of this section, the term *urinary tract* means the kidneys, renal pelvis, ureters, urinary bladder, and urethra.

Exposure to Agent Orange

Between January 9, 1962, and May 7, 1975, you must have served for any length of time in at least one of these locations:

- ▶ In the Republic of Vietnam, **or**
- ▶ Aboard a U.S. military vessel that operated in the inland waterways of Vietnam, **or**

Exposure to Agent Orange

Between January 9, 1962, and May 7, 1975, you must have served for any length of time in at least one of these locations:

- ▶ On a vessel operating not more than 12 nautical miles seaward from the demarcation line of the waters of Vietnam and Cambodia, **or**
- ▶ On regular perimeter duty on the fenced-in perimeters of a U.S. Army installation in Thailand or a Royal Thai Air Force base. These bases include U-Tapao, Ubon, Nakhon Phanom, Udorn, Takhli, Korat, or Don Muang.

Exposure to Agent Orange

Or at least one of these must be true.

- ▶ Served in or near the Korean DMZ for any length of time between September 1, 1967, and August 31, 1971, **or**
- ▶ Served on active duty in a regular Air Force unit location where a C-123 aircraft with traces of Agent Orange was assigned, and had repeated contact with this aircraft due to your flight, ground, or medical duties, **or**

Exposure to Agent Orange

Or at least one of these must be true.

- ▶ Were involved in transporting, testing, storing, or other uses of Agent Orange during your military service, **or**
- ▶ Were assigned as a Reservist to certain flight, ground, or medical crew duties at one of these locations.

Exposure to Agent Orange

Eligible Reserve locations, time periods, and units include:

- ▶ **Lockbourne/Rickenbacker Air Force Base** in Ohio, 1969 to 1986 (906th and 907th Tactical Air Groups or 355th and 356th Tactical Airlift Squadrons)
- ▶ **Westover Air Force Base** in Massachusetts, 1972 to 1982 (731st Tactical Air Squadron and 74th Aeromedical Evacuation Squadron, or 901st Organizational Maintenance Squadron)
- ▶ **Pittsburgh International Airport** in Pennsylvania, 1972 to 1982 (758th Airlift Squadron)

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Veterans exposed to Agent Orange, or other herbicide agents, may be service connected for any of the following diseases/disabilities:

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Cancers caused by Agent Orange Exposure

- ▶ Bladder cancer: A type of cancer that affects the bladder where urine is stored before it leaves the body.
- ▶ Chronic B-cell leukemia: A type of cancer that affects white blood cells.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Cancers caused by Agent Orange Exposure

- ▶ Hodgkin's disease: A type of malignant lymphoma (cancer) that causes the lymph nodes, liver, and spleen to grow progressively larger.
- ▶ Multiple myeloma: A type of cancer that affects the plasma cells.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Cancers caused by Agent Orange Exposure

- ▶ Non-Hodgkin's lymphoma: A group of cancers that affect the lymph glands and other lymphatic tissue.
- ▶ Prostate cancer: Cancer of the prostate and one of the most common cancers among men.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Cancers caused by Agent Orange Exposure

- ▶ Respiratory cancers (including lung cancer): Cancers of the organs involved in breathing.
- ▶ Some soft tissue sarcomas: A group of different types of cancers in body tissues such as muscle, fat, blood and lymph vessels, and connective tissues.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Other Illnesses caused by Agent Orange Exposure

- ▶ AL amyloidosis: A rare illness that happens when an abnormal protein (called amyloid) enters the body's tissues or organs.
- ▶ Chloracne (or other types of acneiform disease like it): A skin condition that happens soon after exposure to chemicals. It looks like common forms of acne often seen in teenagers.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Other Illnesses caused by Agent Orange Exposure

- Diabetes mellitus type 2: An illness that happens when the body can't respond to the hormone insulin the way it should. This leads to high blood sugar levels.
- Hypothyroidism: A condition that causes the thyroid gland to not produce enough of certain important hormones.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Other Illnesses caused by Agent Orange Exposure

- ▶ Ischemic heart disease: A type of heart disease that happens when the heart doesn't get enough blood.
- ▶ Parkinsonism: Any condition that causes a combination of abnormal movements.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Other Illnesses caused by Agent Orange Exposure

- ▶ Parkinson's disease: A progressive disorder of the nervous system that affects muscle movement—and often worsens over time.
- ▶ Peripheral neuropathy, early onset: An illness of the nervous system that causes numbness, tingling, and motor (or muscle) weakness.

Diseases Associated with Exposure to Agent Orange (38CFR 3.309(e))

Other Illnesses caused by Agent Orange Exposure

Porphyria cutanea tarda: A rare illness that can make the liver stop working the way it should.

New Conditions Associated to Agent Orange

The new conditions are:

- ▶ Bladder Cancer
- ▶ Hypothyroidism
- ▶ Parkinsonism or Parkinson's like symptoms

Blue Water Navy Vietnam Veterans Act of 2019 and Agent Orange Exposure

The Blue Water Navy (BWN) Vietnam Veterans Act of 2019 extended the presumption of herbicide exposure, such as Agent Orange, to Veterans who served in the offshore waters of the Republic of Vietnam between Jan. 9, 1962, and May 7, 1975.

Camp Lejeune Water Contamination Health Issues

Veterans eligible for disability benefits from VA

Both of these must be true. Veteran:

- ▶ Served at Camp Lejeune or MCAS New River for at least 30 cumulative days from August 1953 through December 1987, **and**
- ▶ Didn't receive a dishonorable discharge when you separated from the military.

Camp Lejeune Water Contamination Health Issues

Veteran must have a diagnosis of one or more of these presumptive conditions:

- ▶ Adult leukemia
- ▶ Aplastic anemia and other myelodysplastic syndromes
- ▶ Bladder cancer
- ▶ Kidney cancer
- ▶ Liver cancer
- ▶ Multiple myeloma
- ▶ Non-Hodgkin's lymphoma
- ▶ Parkinson's disease

Camp Lejeune Water Contamination Health Issues

Camp Lejeune Family Member Program

The Camp Lejeune Family Member Program (CLFMP) is for family members of Veterans that lived or served at U.S. Marine Corps Base Camp Lejeune, North Carolina, between August 1, 1953, and December 31, 1987, and were potentially exposed to drinking water contaminated with industrial solvents, benzene, and other chemicals.

Camp Lejeune Water Contamination Health Issues

Qualifying Medical Conditions Identified in Public Law 112-154:

Bladder cancer

Esophageal cancer

Hepatic steatosis

Leukemia

Breast cancer

Female infertility

Kidney cancer

Lung cancer

Camp Lejeune Water Contamination Health Issues

Qualifying Medical Conditions Identified in Public Law 112-154:

Miscarriage

Myelodysplastic syndromes

Non-Hodgkin's lymphoma

Scleroderma

Multiple myeloma

Neurobehavioral effects

Renal toxicity

Gulf War Veterans

Medically Unexplained Illnesses

A prominent condition affecting Gulf War Veterans is a cluster of medically unexplained chronic symptoms that can include fatigue, headaches, joint pain, indigestion, insomnia, dizziness, respiratory disorders, and memory problems.

Gulf War Veterans

Military service connection

Gulf War Veterans who meet the criteria do not need to prove a connection between their military service and illnesses in order to receive VA disability compensation.

Gulf War Veterans

Military service connection

These "presumptive" illnesses must have appeared during active duty in the Southwest Asia theater of military operations or by December 31, 2021 and be at least 10 percent disabling. These illnesses include:

Gulf War Veterans

Presumptive Illnesses:

Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS), a condition of long-term and severe fatigue that is not relieved by rest and is not directly caused by other conditions.

Gulf War Veterans

Presumptive Illnesses:

Fibromyalgia, a condition characterized by widespread muscle pain.

Gulf War Veterans

Presumptive Illnesses:

Functional gastrointestinal disorders, a group of conditions marked by chronic or recurrent symptoms related to any part of the gastrointestinal tract. Functional condition refers to an abnormal function of an organ, without a structural alteration in the tissues.

Gulf War Veterans

Presumptive Illnesses:

Undiagnosed illnesses with symptoms that may include but are not limited to: abnormal weight loss, fatigue, cardiovascular disease, muscle and joint pain, headache, menstrual disorders, neurological and psychological problems, skin conditions, respiratory disorders, and sleep disturbances.

Gulf War Veterans Particulate Matter Exposures

VA's review supports initiation of rulemaking to address the role that particulate matter pollution plays in generating chronic respiratory conditions.

Gulf War Veterans Particulate Matter Exposures

These may include asthma, rhinitis and sinusitis for Veterans who served in the Southwest Asia theater of operations during the Persian Gulf War and/or after September 19, 2001, or in Afghanistan and Uzbekistan during the Persian Gulf War.

Secondary Service Connected, Including by Aggravation

§ 3.310 Disabilities that are proximately due to, or aggravated by, service-connected disease or injury.

Secondary Service Connected, Including by Aggravation

What is Secondary Service Connection for VA Disability Compensation?

Often a service-connected condition will result in a disability or disease that was not incurred in service but because the service-connected condition caused it, VA will also pay a benefit. This is called secondary service connection.

Secondary Service Connected, Including by Aggravation

Rules Pertaining to Secondary Disability

Currently there are two categories of claims that can be granted secondary service connection under Title 38 CFR 3.310.

Secondary Service Connected, Including by Aggravation

The first category includes claims for which there is an existing service-connected disability, and a subsequent disability or disabilities is found to be proximately due (caused by) the service-connected disability.

Secondary Service Connected, Including by Aggravation

The second category of secondary disability is granted in accordance with a 1995 court decision (*Alan v Brown* 7vet. app. 439). This ruling forces VA to grant service connection under 38 CFR 3.310 in claims where there is an increase in the severity of a non-service-connected disability that is found to be due to aggravation by a service-connected disability.

Secondary Service Connected, Including by Aggravation

The baseline of the non-service-connected disability which was aggravated by a service-connected disability must be established by medical evidence created before the onset of aggravation.

Secondary Service Connected, Including by Aggravation

Or if this is not possible, the earliest medical evidence that can be created between the onset of aggravation and receipt of medical evidence establishing the current level of severity of the non-service-connected disability.

Secondary Service Connected, Including by Aggravation

Once the rating authority has this information, a medical examination will be requested directing an opinion by the examiner to establish whether the examiner feels that the severity of the non-service-connected disability is proximately due to the service-connected disability.

Secondary Service Connected, Including by Aggravation

The examiner's report must separately address all of the following medical issues in order to be considered adequate for rating a claim for secondary service connection based on aggravation:

Secondary Service Connected, Including by Aggravation

- ▶ The current level of severity of the non-service-connected disease or injury
- ▶ An opinion as to whether a service-connected disability proximately caused the non-service-connected disability to increase in severity, and
- ▶ The medical considerations supporting this opinion.

Secondary Service Connected, Including by Aggravation

If enough evidence is produced to show that there is a reasonable assumption or inference that the non-service-connected secondary disability is due to the service-connected disability, then a strong opinion letter from a physician might sway VA to make a favorable decision.

Secondary Service Connected, Including by Aggravation

Establishing Secondary Disability with an Initial Claim

Secondary disability can be awarded for a claimant who has never made application and thus never received award for direct service connection.

Secondary Service Connected, Including by Aggravation

The service-connected disability that has led to that non-service-connected secondary disability or that has aggravated an existing non-service-connected disability does not have to be awarded first.

Secondary Service Connected, Including by Aggravation

Or, a rating for service connection has been issued at 0%, but the service-connected condition has resulted in a secondary disability that can be rated. A rating for service connection can be based on secondary disability as long as it is caused by a service-connected disability.

Secondary Service Connected, Including by Aggravation

Most Common Claims for Secondary Disability

Here are the 10 most common types of claims for secondary disability in order of importance.

Secondary Service Connected, Including by Aggravation

1. Sciatic Nerve Damage
2. Erectile Dysfunction
3. Median Nerve Damage (paralysis)
4. External Popliteal Nerve Damage
5. Arteriosclerotic Heart Disease

Secondary Service Connected, Including by Aggravation

6. Arterial Sclerosis Obliterans
7. Hypertensive Vascular Disease
8. Renal Involvement in Systemic Diseases
9. Sciatic Nerve (Neuritis)
10. Degenerative Arthritis of the Spine

The End

Questions?