



DISABLED AMERICAN VETERANS

807 MAINE AVENUE, S.W. ★ WASHINGTON, D.C. 20024-2410 ★ (202) 554-3501 ★ FAX (202) 554-3581

Service Bulletin

October 2010

DEPARTMENT OF VETERANS AFFAIRS (VA)

<http://www.va.gov>

VA Expands Agent Orange Presumptive Disabilities

<http://www.vba.va.gov/bln/21/AO/claimherbicide.htm>

Veterans exposed to herbicides while serving in Vietnam and other areas will have an easier path to access VA health care and qualify for disability compensation under a final regulation published by VA on August 31, 2010 in the *Federal Register*. The new rule expands the list of health problems VA will presume to be related to Agent Orange and other herbicide exposures by adding two new conditions and expanding one existing category of conditions.

VA is adding Parkinson's disease and ischemic heart disease and expanding chronic lymphocytic leukemia to include all chronic B cell leukemias, such as hairy cell leukemia. Veterans who served in Vietnam during the war and who have a "presumed" illness don't have to prove an association between their medical problems and their military service. This "presumption" simplifies and speeds up the application process and ensure that Veterans receive the benefits they are entitled to.

Veterans who served in Vietnam anytime during the period beginning January 9, 1962, and ending on May 7, 1975, are presumed to have been exposed to herbicides. More than 150,000 Veterans are expected to submit Agent Orange claims in the next 12 to 18 months, many of whom are potentially eligible for retroactive disability payments based on past claims. Additionally, VA will review approximately 90,000 previously denied claims by Vietnam veterans for service connection for these conditions.

Individuals can go to the website listed above to get an understanding of how to file a claim for presumptive conditions related to herbicide exposure, as well as what evidence is needed by VA to make a decision about disability compensation or survivors benefits. Additional information about Agent Orange and VA's services for veterans exposed to the chemical is available at www.publichealth.va.gov/exposures/agentorange.

VA Reaches Out to Homeowners Affected by Gulf Oil Crisis

<http://www.homeloans.va.gov>

Veterans in the Gulf States impacted by the recent oil spill may qualify for delayed mortgage payments if their mortgages are already guaranteed by the VA. Several mortgage companies have already announced plans to waive late payment charges and suspend negative reporting to credit bureaus on affected borrowers. VA is asking all mortgage companies to follow this example.

VA has information on its website that provides basic guidance for veterans affected by a major disaster. Veterans in need of mortgage counseling may also contact their nearest VA regional loan center at 1-877-827-3702 for help and information, regardless of whether or not they have a VA home loan.

VA Publishes Final Regulation on “Presumptive Illnesses” for Gulf War and Iraq, Afghanistan Veterans

<http://www1.va.gov/opa/pressrel/pressrelease.cfm?id=1974>

VA has published a final regulation in the *Federal Register* that makes it easier for veterans to obtain VA health care and disability compensation for certain diseases associated with service in Southwest Asia (including Iraq) or Afghanistan. The final regulation establishes new presumptions of service connection for nine specific infectious diseases associated with military service in Southwest Asia beginning on or after the start of the first Gulf War on Aug. 2, 1990, through the conflict in Iraq and on or after Sept. 19, 2001, in Afghanistan.

The final regulation reflects a determination of a positive association between service in Southwest Asia or Afghanistan and nine diseases and includes information about the long-term health effects potentially associated with these diseases: Brucellosis, *Campylobacter jejuni*, *Coxiella Burnetii* (Q fever), Malaria, *Mycobacterium tuberculosis*, Nontyphoid *Salmonella*, *Shigella*, Visceral leishmaniasis and West Nile virus.

With the final rule, a veteran will only have to show service in Southwest Asia or Afghanistan and that he or she had one of the nine diseases within a certain time after service and has a current disability as a result of that disease, subject to certain time limits for seven of the diseases. Most of these diseases would be diagnosed within one year of return from service, through some conditions may manifest at a later time. For non-presumptive conditions, a veteran is required to provide medical evidence to establish an actual connection between military service in Southwest Asia or Afghanistan and a specific disease.

The decision to add these presumptive diseases was made after reviewing the 2006 report of the National Academy of Sciences Institute of Medicine (NASIOM), titled, “Gulf War and Health Volume 5: Infectious Diseases.” The 2006 report differed from the four prior reports by looking at the long-term health effects of certain diseases determined to be

pertinent to Gulf War veterans. VA decided to include Afghanistan veterans in these presumptions because NAS found that the nine diseases are also prevalent in that country.

For information about health problems associated with military service in Southwest Asia and Afghanistan, go to www.publichealth.va.gov/exposures/gulfwar/.

VA Launches Veterans Relationship Management (VRM)

www.ebenefits.va.gov

VA has launched a multi-year initiative called Veterans Relationship Management designed to improve veterans' access to health care and benefits information. By the end of 2010, VRM will deliver improved telephone services to enable veterans to reach a call center agent faster. Recording and review of calls will ensure the quality of services provided to veterans. To help guarantee success, VRM enhancements will be rolled out in six-month increments.

An important component of VRM is the Internet site "ebenefits.va.gov". VA collaborated with the Department of Defense to provide a single sign-on capability for both service members and veterans. Single sign-on will quickly establish an individual's identity and allow that person to complete transactions without having to re-enter information. Self-service access through the Internet site is already available in some benefit areas, including military personnel records, VA home loan eligibility certificates, and status information on compensation and pension claims.

Department of Defense (DoD)

Deadline for Retroactive Stop Loss Special Pay Extended

<http://www.defense.gov/stoploss>

The deadline for eligible service members, veterans and their beneficiaries to apply for Retroactive Stop Loss Special Pay (RSLSP) has been extended to Dec. 3, 2010, allowing personnel more time to apply for the benefits they've earned.

RSLSP was established to compensate military members whose service was involuntarily extended under Stop Loss between Sept. 11, 2001, and Sept. 30, 2009. Eligible members or their beneficiaries are required to submit a claim to their respective military service in order to receive the benefit of \$500 for each full or partial month served in a Stop Loss status. The original deadline for claims was Oct. 21, 2010.

When RSLSP began on Oct. 21, 2009, the services estimated 145,000 service members, veterans and beneficiaries were eligible. Because the majority of those eligible had separated from the military, the services have engaged in outreach efforts throughout the year. Efforts including direct mail, engaging military and veteran service organizations,

social networks and media outlets, will continue throughout the period of eligibility. To apply, or for more information on RSLSP, including submission requirements, visit <http://www.defense.gov/stoploss>.

Families of Wounded Warriors Eligible for Mortgage Forbearance

<http://www.knowyouroptions.com/Military>

Families experiencing financial hardship after the injury or death of a service member can seek a delay in mortgage payments under a program announced by DoD and mortgage lender Fannie Mae. Eligible homeowners may obtain forbearance for up to six months on their mortgage. If a homeowner's mortgage lender agrees, the forbearance reduces or suspends payments, and suspends any adverse reporting to credit bureaus.

Forbearance is an agreement to temporarily suspend or reduce monthly mortgage payments for a specific period of time. A hotline has been set up for additional guidance about this option and other mortgage assistance programs—877-MIL-4566. Homeowners should contact their lender to determine whether they are eligible for the forbearance.

U.S. Court of Appeals for Veterans Claims (CAVC)

<http://www.vetapp.gov/>

Breedlove v. Shinseki, 24 Vet.App. 7 (2010)

The veteran appealed a decision of the Board of Veterans' Appeals, but died before the briefing began and his spouse filed a motion for substitution. The Court held that the statute authorizing the filing of a request for substitution of a claimant seeking a VA benefit while the appeal is pending refers to an appeal which is pending at the VA only, and does not apply to appeals before the Court. However, in light of the enactment of the statute permitting substitution during the administrative stage of a claim, the Court will henceforth consider substitution, if requested, in all cases pending before it regardless of the stage of briefing at the time of the veteran's death. 38 U.S.C.A. § 5121A.

Smith v. Shinseki, 24 Vet.App. 40 (2010)

The veteran appealed a decision of the Board of Veterans' Appeals which denied entitlement to VA benefits for a disability resulting from disease incurred or aggravated while performing active duty for training with the Army National Guard. The Court held the presumption of aggravation is not applicable to a disability compensation claim which is based on a period of active duty for training; in such a case direct evidence is required both that a worsening of the condition occurred during the period of active duty for training and that a worsening was caused by the period of active duty for training. 38 U.S.C.A. §§ 101(24)(B), 1153.

Hornick v. Shinseki, 24 Vet.App. 50 (2010)

The Board of Veterans' Appeals (Board) determined it was proper for a VA Regional Office to sever the veteran's award of VA compensation under 38 U.S.C.A. § 1151. The veteran sought reversal, arguing the award was protected under 38 U.S.C.A. § 1159 because it had been in force for more than ten years. The Court held that the statute precluding severance of service connection which has been in effect for ten years or more except on a showing that the original grant was based on fraud applies to awards of compensation under the statute providing for compensation to a veteran for an injury, or an aggravation of an injury caused by VA examination, hospitalization, or medical treatment. 38 U.S.C.A. §§ 1151, 1159.

In November 1996 the VA General Counsel issued a precedent opinion deciding that the protection of service connection provided by § 1159 did not apply to disabilities compensated under § 1151. VAOGCPREC 13-96. Although the Board of Veterans' Appeals is bound by the precedent opinions issued by the VA General Counsel, the Court is not. The Court rejected opinion 13-96 and reversed the Board's decision.

A handwritten signature in black ink that reads "Garry J. Augustine". The signature is written in a cursive style with a horizontal line underneath the name.

GARRY J. AUGUSTINE
National Service Director