Specialty Issues

Trainee Handout

**Table of Contents**

[Objectives 2](#_Toc495478391)

[References 2](#_Toc495478392)

[Topic 1: Identifying Special Issues 3](#_Toc495478393)

[Topic 2: Special Issues Requiring Centralized Processing 5](#_Toc495478394)

[Topic 3: Special Issues Requiring Additional Development 7](#_Toc495478395)

[Practical Exercise 11](#_Toc495478397)

Objectives

* Identify special issues
* Identify special issues which require centralized processing
* Identify and determine when there are special issues which require further development

References

All M21-1and CFR references are found in the [Live Manual Website](https://vaww.compensation.pension.km.va.gov/).

* 38 CFR 3.303 (d) Principles relating to service connection
* 38 CFR 3.159 Department of Veterans Affairs assistance in developing claims
* 38 CFR 3.317 Compensation for certain disabilities occurring in Persian Gulf veterans
* M21-1 III.iv.5.7.a When Development to Obtain Additional Evidence May Be Needed
* M21-1 III.iv.6.B.5.a Other Issues to Consider When Evaluating Evidence
* M21-1 III.iv.2.A.2 Considering VA’s Duty to Notify and Assist
* M21-1 IV.ii.1.B Claims for Service Connection for Radiogenic Diseases
* M21-1 IV.ii.1.C Claims for Service Connection for Disabilities Resulting from Ionizing Radiation Exposure
* M21-1 IV.ii.1.D Claims for Service Connection for PTSD
* M21-1 IV.ii.1.E Claims based on service in Southwest Asia
* M21-1 IV.ii.1.F Developing Claims for Service Connection for Disabilities Resulting From Exposure to Mustard Gas or Lewsite
* M21-1, Part IV, Subpart ii, Chapter 1, Section H - Developing Claims for Service Connection (SC) Based on Herbicide Exposure
* M21-1 IV.ii.1.G Claims Based on Former Prisoner of War Status
* M21-1 IV.ii.1.I Developing Claims for Service Connection Based on Other Types of Exposure Types.
* M21-MR III.iv.3.A Examination Requests
* M21-MR I.1.C.3. Assisting With Medical Opinion or Examination Requests
* M21-1 III.iv.3.A.2.c Index of DBQ/Exams by Disability Tool
* M21-1 III.ii.1.D Claims That Require Priority Processing
* M21-4 Appendix C of Claim Attributes Section II Corporate Flashes
* M21-1 III.i.3.B.3.d FDCs and Special Issue Development
* M21-1 III.iv.4.I.2.f Development for Hepatitis Risk Factors
* M21-1 III.iv.4.I.2.e Risk Factors for HBV and HCV

Topic 1: Identifying Special Issues

**Introduction** The purpose of this lesson is to help trainees identify special issues and to determine when special handling and development is needed.

The reason VA identifies certain claims as “special issues” is because these claims are a) hard to adjudicate, b) involve great personal hardship on our Veterans, or c) require special handling to ensure proper and timely adjudication of the claim. Some examples are:

* Homeless, financial Hardship, terminally ill
* Agent Orange
* Radiation
* Asbestos
* PTSD
* Gulf War
* Pre separation (BDD, Quick Start)
* Seriously Injured
* Former Prisoner of War
* Hepatitis C

Special Issue Claims need to be easily identified to assure they are adjudicated properly.

**Expeditious Processing**

**Homelessness**

When homelessness is suspected there are places to search to determine if a veteran is homeless:

* Look in BIRLS under Corporate Flashes
* Look at the closest VAMC and determine if the Veteran has contacted the Domiciliary
* Each Regional Office has a Homeless Coordinator to determine if the veteran is homeless

While there are no special development procedures, there are actions to take to ensure every step of the development process is expedited to help the veteran receives a timely adjudication of his/her claim.

**Terminal Illness**

Steps that need to be taken to ensure a veteran is identified as terminally ill so other developers will process the claim in an expedited process are:

* Review the evidence to include VAMC treatment reports to dicern if an illness shown or claimed is likely to be terminal. (Example; Cancer, renal failure, etc.)
* If the determination is made to prioritize the case, append the contention with a terminally ill special issue flash and change the claim priority to high.

**Financial Hardship**

Financial Hardship is an issue identified by the veteran. The veteran must provide evidence such as:

* An eviction notice or statement of foreclosure
* Past due utility bills
* Collection notices

If it is determined a Financial Hardship exists, add a Corporate Flash to the record to ensure priority processing to expedite the decision of the claim.

. **Former Prisoner of War**

Cases are often identified before ever reaching development. POW claims can be identified based on looking in BIRLS to see if a Corporate Flash exists. All Regional Offices have a POW Coordinator to ensure these claims are expedited.

Topic 2: Special Issues Requiring Centralized Processing

**Introduction:** The purpose of this lesson is for trainees to identify special issues requiring centralized processing.

**Centralized Processing**

**RADIATION**

In October 2006 VA centralized the processing of all claims based on exposure to radiation to the Jackson Regional Office.

For a claim to be identified as a Radiation claim the following criteria must be met prior to sending to the Jackson RO:

* The veteran must have identified one of the radiogenic diseases listed in 38 CFR 3.309(d)(2), 38 CFR 3.311(b)(2), or submitted a verified medical opinion showing that an unlisted condition is a radiogenic disease.

Veterans statement that the condition is the result of participation in a radiation risk activity; participation in atmospheric nuclear weapons testing; being part of the post-war occupation of Hiroshima or Nagasaki from September 1945 until July 1, 1946; or, internment as a POW in Japan.

If it is determined the conditions have not been met to transfer the claim because the veteran did not claim a specific disability, the VSR will notify the veteran that exposure in and of itself is not a disability. Standard 5103 notice is still required under the guidelines of direct service connection.

**Camp Lejeune**

Veterans who served at U.S. Marine Corps Base Camp Lejeune, North Carolina, between August 1953 and December 1987 were potentially exposed to contaminants present in the base’s water supply. The VA’s policy is to presume any veteran who served there during that time was potentially exposed.

SC for any disease alleged to have been caused by contaminated water at Camp Lejeune requires evidence of

* a current disease
* service at Camp Lejeune during the period of contamination, and
* a medical nexus between the two, justified with a rational scientific explanation.

Camp Lejeune claims are primarily completed at the Louisville Regional Office; however other RO’s are authorized to process these claims in special circumstances to include:

* Pittsburgh Regional Office processes these claims for Veterans residing in foreign countries
* Salt Lake City, Winston Salem, and disability rating activity sites process original pre-discharge claims

The following criteria must be identified prior to transfer of a file:

* Proof of service at Camp Lejeune during the specified time frame
* A specific disability must be claimed
* Special issue flash indicator in contentions must be shown

**Mustard Gas**

Claims for Mustard Gas on or after January 19, 2005 are centrally processed at the Muskogee Regional Office. All Mustard Gas claims are controlled with a standard EP and EP 688.

Veterans who are eligible for benefits based on exposure to Mustard Gas include:

* exposed during field or chamber testing
* exposed under battlefield conditions in World War I
* present at the German air raid on the harbor of Bari, Italy, in World War II
* engaged in the manufacturing, handling, or destruction of vesicant agents during military service, or
* some Operation Iraqi Freedom service members who demolished or handled explosive ordinance

Before the file can be transferred to the Muskogee Regional Office the following is needed:

* Special issue flash in contentions screen
* A Specific disability needs to be claimed. If no disability is claimed, the veteran needs notified that exposure in and of itself is not a disability and ask the veteran to identify the disability that resulted from the exposure.
* Post-war occupation of Hiroshima or Nagasaki from September 1945 until July 1, 1946, or a POW internment in Japan.

If it is determined the conditions have not been met to transfer the claim because the veteran did not

claim a specific disability, the VSR will notify the veteran that exposure in and of itself is not a

disability. Standard 5103 notice is still required under the guidelines of direct service connection.

Topic 3: Special Issues Requiring Additional Development

**Introduction:** The purpose of this lesson is for trainees to determine what development is needed when a special issue is identified.

The issues we will discuss in this lesson require additional development actions when a claim is received. These issues also have specialty paragraphs that may need to be associated with the claim along with a special flash indicator in contentions. The more frequently seen special issues include asbestos, exposure to environmental hazards in Gulf War, and Agent Orange. In all cases remember to:

* Develop for STRs and any VA and/or private medical records that are noted by the claimant.
* Verify dates of military service and obtain military personnel records as per normal procedures.

**Asbestos**

Many people with an asbestos-related disease develop the disease anywhere from 10 to 45 years after first exposure to asbestos.

Actions to take when a claim for asbestos exposure is received:

* Update special issue flash in contentions

Determine if a specific disability was claimed, such as respiratory condition. If the Veteran did not specify a condition claimed due to asbestos exposure, develop for the specific disability since exposure in and of itself is not a disability.

* Is DD 214 available providing the Veteran’s Military Occupational Specialty? If so see M21-1 IV.ii.1.I.3.c and determine the probability of exposure. If the veteran has minimal exposure, order the entire personnel file prior to scheduling any exams to determine if the veteran did other jobs. While the MOS is considered, also review other evidence available such as the personnel file and STRS for evidence of exposure. If the MOS shows probable or highly probable exposure request examination and order personnel file.

If the evidence of record is not sufficient to concede exposure to asbestos or diagnosis of a disease related to asbestos exposure, request further information from the Veteran.

* ASB- Tell us where, when , and how exposed
* ASB- Medical evidence of disease (biopsy) needed

**Gulf War Environmental Hazards**

The Department of Defense (DOD) identified a number of environmental hazards at military installations in Iraq, Afghanistan, and elsewhere that could present health risks. These hazards include but are not limited to:

* large burn pits throughout Iraq, Afghanistan, and Djibouti on the Horn of Africa
* particulate matter in Iraq, Afghanistan, and Djibouti on the Horn of Africa
* a large sulfur fire at Mishraq State Sulphur Mine near Mosul, Iraq
* hexavalent chromium exposure at the Qarmat Ali Water Treatment Plant at Basrah, Iraq

The Veteran’s lay statement of exposure to an environmental hazard or statements provided by others can be used to verify exposure to the claimed environmental hazard if the statements provided by the Veteran and/or others are consistent with the facts, places, and circumstances of the Veteran’s service.

Actions to take when a claim for exposure to environmental hazards in Gulf War is received:

* Update special issue flash in contentions
* If the Veteran claims exposure to environmental hazards during service, but does not claim SC for a specific disability, the claim is not substantially complete. Inform the Veteran that he/she must at least identify a symptom or cluster of symptoms, because exposure, in and of itself, is not a disability
* If the Veteran claims a disability and states in general due to environmental hazards, ask the claimant to provide at least some general information about the exposure event

When it is determined a VA examination is needed for a claim based on exposure to environmental hazards, add the following to the request:

* Advise the examiner of the nature of the claimed environmental hazard and the location and timeframe of exposure.
* Remember that more than one environmental hazard may apply when Veterans are alleging exposure to a specific event. Therefore, each *Fact Sheet* related to service in Iraq as provided in Exhibits 1 through 4 ([M21-1, Part IV, Subpart ii, 1.I.9](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#9), [10](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#10), [11](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#11), and [12](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#12)) should be provided to the VA examiner.
* Veteran served in Iraq and could have been exposed to burn pit emissions and the same high levels of particulate matter (PM) as others in the Southwest Asia theater of operations.
* Ask the examiner to provide an opinion, and rationale for the opinion, as to the likelihood that the Veteran’s claimed disability is related to the hazardous environmental exposure.

Specialty Paragraphs for Gulf War veterans include:

* GW- earliest manifestations/evidence of illness
* GW-Evidence of SWA service needed
* GW- tell us specific disability
* GW- registry exam

**AGENT ORANGE**

A veteran is presumed to have been exposed to herbicides if, during the time frame of 1962 to 1975 the Veterans records show service in inland waterways, offshore waters to include anchoring and docking if the duties involved visitation to Vietnam; the Korean DMZ between April 1, 1968 and August 31, 1971; Royal Thai Air Force Bases in Thailand and the duties would have put the claimant on the perimeter of the base.

Actions to take when a claim is based on exposure to Agent Orange:

* Update special issue flash in contentions
* Review the evidence for proof of RVN or other exposure sites
* Review 38 CFR 3.309(e) to determine if a presumptive condition has been claimed.

Additional development may be needed in the following scenarios:

* If Agent Orange exposure is not shown
* If disability under 38 CFR 3.309(e) has been claimed but no proof of treatment.
* If no disability is claimed.
* If a veteran claims a disability not recognized under 38 CFR 3.309(e).

Specialty paragraphs for Agent Orange include but are not limited to:

* AO-Exposure General Notice
* AO-Tell Us specific disability from herbicides
* AO- medical evidence of disability from herbicides

**HEPATITIS**

Hepatitis is a [liver disease](https://en.wikipedia.org/wiki/Liver_disease) defined by [inflammation](https://en.wikipedia.org/wiki/Inflammation) of the [liver](https://en.wikipedia.org/wiki/Liver) and characterized by the presence of [inflammatory](https://en.wikipedia.org/wiki/Inflammation) [cells](https://en.wikipedia.org/wiki/Cell_(biology)) in the [tissue](https://en.wikipedia.org/wiki/Tissue_(biology)) of the organ

Risk Factors of Hepatitis include but are not limited to:

* Blood transfusions
* Organ transplants prior to 1992
* Tattoos
* Body piercing
* Acupuncture with non-sterile needles
* Drug use
* High-risk sexual activity
* Accidental exposure to blood by percutaneous exposure or on mucous membranes
* Sharing toothbrushes and razors
* Immunization with a jet air gun injector

|  |  |
| --- | --- |
|  | Actions to take when a claim for Hepatitis is received:   * Update Flash if veteran is claiming Hepatitis C * Develop for the risk factors   VA Form 21-526ez does not inform the claimant to submit evidence of hepatitis risk factors, development for risk factors is required in every hepatitis claim, even when hepatitis is diagnosed in service.  Development is necessary to determine if pre- and post-service risk factors are present as well as to ensure that the risk factor is not substance abuse either before or during service.  Regardless of what claim form the Veteran submits, development for risk factors is required if the complete risk factor history has not already been provided |

* When developing for risk factors, include the What the Evidence Must Show for Hepatitis as this is not included on the VA Form 21-526ez

***Important***: Do not send the development letter if the evidence of record provides the information the letter solicits, or if the evidence of record is otherwise sufficient to decide the claim.  
  
***Example***:  A Veteran claiming hepatitis C submits medical records that address risk factors for the disease.  Do not send a letter soliciting hepatitis C risk factors as this information is addressed by the evidence of record.

Practical Exercise

1. What is the first action to take on any special issue claim received?

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1. Name three types of claims that require expedited processing

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1. Name three issues that require centralized processing and the respective locations for processing:

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1. Which special issue can be considered based on MOS?

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1. What two actions must be completed in the development process for all claims?

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1. Where can information be found on risk factors of Hepatitis?

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