(VSR VIP Pre-D) Southwest Asia Development

Trainee Handout

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**OBJECTIVES**

* Explain the background of Southwest Asia service
* Describe methods to verify service in Southwest Asia
* Recognize undiagnosed conditions or symptoms associated with Southwest Asia service
* Identify Medically Unexplained Chronic Multi-Symptom Illness (MUCMI)

Identify infectious diseases and qualification requirements for Veterans with Afghanistan service

* Demonstrate development procedures for Southwest Asia claims

**REFERENCES**

* [38 CFR 3.303 Principals related to service connection](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [38 CFR 3.317, Compensation for certain disabilities occurring in Persian Gulf Veterans](https://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58)
* [M21-1, Part IV, Subpart ii.1.E, Developing Claims Based on Service in Southwest Asia Under 38 CFR 3.317](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014938%2FM21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317%3FfromQuery%3DSouthwest%20Asia)
* [M21-1, Part IV, Subpart ii, 2. D, Service Connection (SC) for Qualifying Disabilities Associated with Service in Southwest Asia](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014557%2FM21-1-Part-IV-Subpart-ii-Chapter-2-Section-D-Service-Connection-SC-for-Qualifying-Disabilities-Associated-with-Service-in-Southwest-Asia%3FfromQuery%3DSouthwest%20Asia)

**Topic 1: Regulations and Background**

**Laws Pertaining to Gulf War/Southwest Asia Service**

|  |  |
| --- | --- |
| **Provisions of the Persian Gulf War Veterans’ Benefits Act of 1994**  | On November 2, 1994, Congress enacted the “*Persian Gulf War Veterans’ Benefits Act*,” Title I of the “*Veterans’ Benefits Improvements Act of 1994*,” [*Public Law (PL) 103-446*](http://www.gpo.gov/fdsys/pkg/STATUTE-108/pdf/STATUTE-108-Pg4645.pdf). The PL added a new section 38 U.S.C 1117. Authorized the Department of Veterans Affairs (VA) to compensate any Gulf War (GW) Veteran suffering from a chronic disability resulting from an undiagnosed illness or combination of undiagnosed illnesses which manifested either * during active duty in the Southwest Asia Theater of Operations during the GW, or
* to a degree of 10 percent or more within a presumptive period following service in the Southwest Asia Theater of Operations during the GW.
 |
| **Provisions of the Persian Gulf War Veterans’ Act of 1998**  | The “Persian Gulf War Veterans’ Act of 1998” [PL 105-277](http://www.gpo.gov/fdsys/pkg/PLAW-105publ277/pdf/PLAW-105publ277.pdf) authorized the VA to compensate GW Veterans for diagnosed or undiagnosed disabilities that are determined by VA regulation to warrant a presumption of service connection (SC) based on a positive association with exposure to one of the following as a result of GW service* a toxic agent
* an environmental or wartime hazard, or
* a preventive medication or vaccine.
 |
| **Provisions of the Veterans Education and Benefits Expansion Act of 2001** | The “Veterans Education and Benefits Expansion Act of 2001,” [PL 107-103](http://www.gpo.gov/fdsys/pkg/PLAW-107publ103/pdf/PLAW-107publ103.pdf) expanded the definition of “qualifying chronic disability” to include, effective March 1, 2002, not only a disability resulting from an undiagnosed illness but also* a medically unexplained chronic multi-symptom illness (MUCMI) that is defined by a cluster of signs and symptoms, and
* any diagnosed illness that is determined by VA regulation to warrant presumption of SC.

 Reference:  For more information on MUCMIs, see [M21-1, Part IV, Subpart ii, 2.D.1.i](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#1i) |

**History of Gulf War/Southwest Asia Service**

 VA statutes and regulations provide for service connecting certain chronic disability patterns based on exposure to environmental hazards experienced during military service in Southwest Asia

* Smoke and particles from oil well fires
* Exposure to pesticides and insecticides
* Exposure to indigenous infectious disease
* Exposure to solvent and fuel fumes
* Ingestion of pyridostigmine bromide tables (nerve gas antidote)
* The combined effective of multiple vaccines administered upon deployment
* Inhalation of ultra fine-grain sand particles
* Smoke and particles from military installation “burn pit” fires that incinerated a wide range of toxic waste materials

Gulf War and Southwest Asia claims do not cover *specific Gulf War environmental hazards such as burn pits, particulate matter, sulfur fire, or Chromium VI. For more information on those topics, see the training titled “*Claims Based on Exposure to Environmental Hazards in Iraq, Afghanistan, and Djibouti,*”* *Or other (non-GW) environmental hazards, such as Camp Lejeune and Atsugi.)*

**Southwest Asia Theatre of Operations and Afghanistan**

For VA benefit purposes, Gulf War service is active military duty in any of the following areas in the **Southwest Asia Theater of military Operations** at any time August 2, 1990 to present. This includes Veterans who served in Operation Iraqi Freedom (2003-2010) and Operation New Dawn (2010-2011).



* Iraq
* Kuwait
* Saudi Arabia
* The neutral zone between Iraq and Saudi Arabia
* Bahrain
* Qatar
* United Arab Emirates (U.A.E.)
* Oman
* Gulf of Aden
* Gulf of Oman
* Persian Gulf, Arabian Sea, and Red Sea
* The airspace above these locations

 **Qualifying Afghanistan Service**

Afghanistan service is **NOT** service in the SWA theater of operations. Qualifying Afghanistan service is a period of active military, naval, or air service on or after September 19, 2001, in Afghanistan.

**Southwest Asia Qualifying Disabilities**

* **Undiagnosed Illnesses-**A type of chronic qualifying disability where qualifying signs and/or symptoms cannot be attributed to any known clinical diagnosis by history, physical examination and laboratory tests
* **Medically Unexplained Chronic Multi-**Symptom Illness-(MUCMI)
* Chronic Fatigue Syndrome
* Fibromyalgia
* Functional Gastrointestinal Disorder (FGID) to include symptoms of dyspepsia, vomiting, constipation, bloating, abdominal pain syndrome and dysphagia.

**Undiagnosed Illness Signs and Symptoms**

There are 13 categories of signs and symptoms that may be manifestations of an undiagnosed illness that cannot be attributed to clinical diagnosis.

* + fatigue
	+ skin signs and symptoms
	+ headaches `
	+ muscle pain
	+ joint pain
	+ neurological signs or symptoms
	+ neuropsychological signs or symptoms
	+ respiratory signs and symptoms (upper and lower)
	+ sleep disturbances
	+ gastrointestinal signs or symptoms
	+ cardiovascular signs and symptoms
	+ abnormal weight loss
	+ menstrual disorders

**Note:** The list of categories is not exclusive; signs or symptoms not represented by one of the listed categories may also qualify for consideration under [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0ce8e46464a943446b3eabce7d0edb&node=se38.1.3_1317&rgn=div8).

A disability that is affirmatively shown to have resulted from a cause other than Southwest Asia service may not be compensated.  See [38 CFR 3.317(a)(7)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0ce8e46464a943446b3eabce7d0edb&node=se38.1.3_1317&rgn=div8).

**Example**:  Sleep apnea cannot be presumptively service-connected (SC) under the provisions of [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0ce8e46464a943446b3eabce7d0edb&node=se38.1.3_1317&rgn=div8) since it is a diagnosable condition.  If claimed, sleep apnea must be considered on a non-presumptive SC basis.

**Medically Unexplained Chronic Multi-Symptom Illness (MUCMI)**

MUCMI is a type of chronic qualifying disability in which there is a diagnosed illness.

*A* ***medically unexplained chronic multi-symptom illness*** (MUCMI) is a type of chronic qualifying disability in which there is a *diagnosed* illness that has

* *either* an inconclusive etiology *or* an inconclusive pathophysiology
* overlapping symptoms and signs, and
* features such as
	+ fatigue and pain
	+ disability out of proportion to physical findings, and
	+ inconsistent demonstration of laboratory abnormalities.

***Note***:  A multi-symptom illness is *not* an MUCMI if *both* the etiology and the pathology of the illness are partly understood.

MUCMIs include but are not limited to

* chronic fatigue syndrome
* fibromyalgia, or

functional gastrointestinal disorders (FGIDs), excluding structural gastrointestinal diseases.

These specifically identified MUCMIs are presumptive, but that does not mean that ones that are not cited here could not also be service connected.

**Functional Gastrointestinal Disorders**

***Functional gastrointestinal disorders*** (FGIDs) are a group of diagnosed conditions that are a type of MUCMI.  They are characterized by chronic or recurrent symptoms that are-then these two as bullets. unexplained by any structural, endoscopic, laboratory, or other objective signs of injury or disease, and may be related to any part of the gastrointestinal tract.

FGID diagnoses include but are not limited to

* irritable bowel syndrome, and
* functional
	+ dyspepsia
	+ vomiting
	+ constipation
	+ bloating
	+ abdominal pain syndrome
	+ dysphagia

This will be the doctor’s determination. Not the VSR or RVSR.

Diagnosis of a FGID under generally accepted medical principles normally requires

* symptom onset at least six months prior to diagnosis, and
* the presence of symptoms sufficient to diagnose the specific disorder at least three months prior to diagnosis.

Characteristics of FGID: Characteristic FGID symptoms include:

* abdominal pain
* substernal burning or pain
* nausea
* vomiting
* altered bowel habits (including diarrhea, constipation),
* indigestion
* bloating
* postprandial fullness, and

painful or difficult swallowing.

**Infectious Disease List Under 38 CFR 3.317(c)**

Effective September 29, 2010, presumptive SC is established under [38 CFR 3.317(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0ce8e46464a943446b3eabce7d0edb&node=se38.1.3_1317&rgn=div8) for the infectious diseases listed in the table below if:

* the Veteran served on active duty
	+ in the Southwest Asia Theater of Operations during the GW, as defined in
		- [38 CFR 3.317(e)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0ce8e46464a943446b3eabce7d0edb&node=se38.1.3_1317&rgn=div8), and
		- [M21-1, Part IV, Subpart ii, 2.D.1.f](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014557/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-D-Service-Connection-SC-for-Qualifying-Disabilities-Associated-with-Service-in-Southwest-Asia#1f), or
	+ in Afghanistan on or after September 19, 2001, and

the disease becomes manifest to a compensable degree within the time limit specified in the table.

|  |  |
| --- | --- |
| **Infectious Disease** | **Time Limit for Manifestation** |
| Bruscellosis | One Year |
| Campylobacter Jejuni | One Year |
| Coxiella burnetii (Q fever) | One Year |
| Malaria | One Year or at a time when standard accepted treatises indicate that the incubation period began during qualifying period of service |
| Mycobacterium tuberculosis | No Limit |
| Nontyphoid Salmonella | One Year |
| Shigella | One Year |
| Visceral leishmaniasis | No Time Limit |
| West Nile Virus | One Year |

**Infectious Diseases as listed in 38 CFR 3.317 (c)** and time limit for manifestation

**Note**:  The one year time period specified in the table above means within one year from the date of separation from a qualifying period of service as specified in [38 CFR 3.317 (c)(3)(ii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9f0ce8e46464a943446b3eabce7d0edb&node=se38.1.3_1317&rgn=div8)

**Topic 2: Developing Southwest Asia Claims with No Medical Condition Identified**

The claim is not considered substantially complete if veteran alleges exposure to environmental hazards but does not claim service connection for a specific disability. If there is no contention identified follow appropriate procedures.

* Attempt to contact Veteran by telephone
* If unable to reach Veteran, see M21-1 I.1.B.1.g. ***Notification Requirements for an Incomplete Application,* for detailed instructions**

There is no requirement for a specialized Section 5103 notice.

***Important***: When an incomplete application is received refer to M21-1, I.1.B.1.g for procedure.

***Note***:  If a Veteran alleges joint and/or muscle pain without specifying which joint(s)/muscle(s) is affected

* Make an attempt to contact the Veteran by telephone to specify the joint(s) and/or area(s) affected and **even if telephone contact is unsuccessful, proceed with all necessary claim development procedures, i**ncluding requesting an examination, if needed to decide the claim.

For any new claim for SC for a qualifying disability under 38 CFR 3.317 resulting from service in Southwest Asia, additional development to the Veteran is not required as the evidentiary requirements are covered under the Disability Service Connection evidence table of the VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits.

**Eligibility to Qualify for Southwest Asia**

A Veteran who served on active military, naval, or air service in the Southwest Asia Theater of Operations during the GW period.

The GW period extends from August 2, 1990, through a December 31, 2021. However, the date may be extended to a future date yet to be determined by law or Presidential proclamation.

* Veterans who served Afghanistan on or after September 19, 2001 also qualify as Southwest Asia Veterans for the purposes of claims involving infectious diseases.

The only Veterans who are eligible for consideration of service connection for undiagnosed illness, MUCMIs, and infectious diseases are those who have qualifying service. First step when you receive one of these claims is to develop for verification of qualifying service as outlined previously.

**Verifying Southwest Asia and Afghanistan Service**

A qualifying Veteran, under 38 CFR 3.317, is a Veteran who served on active military, naval, or air service in the Southwest Asia Theater of operations during the Gulf War period. The Gulf War/Southwest Asia period, according to 38 U.S.C. 101 (33) extends from August 2, 1990, through a date yet to be determined by law or Presidential proclamation.

DD-214, Certificate of Release or Discharge from Active Duty, verification of Southwest Asia service

* + Service in Southwest Asia with exact dates listed
	+ Iraq Campaign Medal
	+ Kuwait Liberation Medal
	+ Afghanistan Campaign Medal (Infectious Diseases Only)

DD-214, Certificate of Release or Discharge from Active Duty, service in Southwest Asia potentially verified

* + Southwest Asia Service Medal
	+ Global War on Terrorism Expeditionary Medal
	+ Inherent Resolve Campaign Medal

DD-214, Certificate of Release or Discharge from Active Duty, SWA service not verified

* + Global War on Terrorism Medal

Service records

* + all STRs
	+ all personnel records (PIES or DPRIS)

VA/DoD Identity Repository (VADIR): considered electronic DD-214 Certificate of Release or Discharge from Active Duty.  Go to Military History tab, look at Deployment Period and Special Pay Periods, look at Location.  This provides details of dates and locations during deployments.

**Note:** Afghanistan service, once verified by DD Form 214 Certificate of Release or Discharge from Active Duty, or personnel records will only be considered for infectious diseases as identified under 38 CFR 3.317(c).

**Exception:** If Southwest Asia Service Medal was awarded solely for service in Israel, Egypt, Turkey, Syria or Jordan to include airspace from January 17, 1991 through November 30, 1995 it does not qualify as Southwest Asia service.

**Afghanistan Service for Infectious Diseases**

Service in Afghanistan, once it has been verified by DD Form 214 Certificate of Release or Discharge from Active Duty or personnel records, will only be conditions for infectious disease as identified under 38 CFR 3.317(c)

**Development for Southwest Asia Claims**

For any new claim for SC for a qualifying disability under [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=f229d024585f9c6198819439ad4a0419&ty=HTML&h=L&r=SECTION&n=se38.1.3_1317) resulting from service in Southwest Asia, additional development to the Veteran is not required as the evidence requirements are covered under the *Disability Service Connection* evidence table of the [*VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits*](http://www.vba.va.gov/pubs/forms/VBA-21-526EZ-ARE.pdf).

* Ensure the Gulf War Presumptive (for presumptive conditions) is added to the contention in VBMS and the GW Undiagnosed Illness is a Corp Flash is a Corporate Flash that must be added using SHARE.

When an examination is needed for a claim under the provisions of 38 CFR 3.317, request

a Gulf War General Medical Examination (Including Burn Pits) Disability Benefits Questionnaire (DBQ), **and**

* any required specialist DBQs as defined in M21-1, Part III, Subpart iv, 3.A.1.h.
* Schedule Gulf War general medical examination if necessary IAW 38 CFR3.159 (c)(4) and 38 CFR 3.317.
* Insert Gulf War Notice to Examiner verbiage as directed by M21-1 IV.ii.1.E.c. (The verbiage is automatically inserted the Exam Request Builder (ERB) as long as Gulf War box checked).
* Enter appropriate *Exam Review* note in VBMS

***Note:*** Veteran does not have to claim the condition is related to Southwest Asia service if Southwest Asia service can be verified during review of record and the Veteran is claiming a condition of symptom identified by 38 CFR 3.317.

**When to Request a Gulf War General Medical Exam**

Request a Gulf War general medical examination when the threshold for an examination is met as provided in [M21-1, Part IV, Subpart ii, 1.E.2.a](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#2a).  When an examination is needed for a claim under the provisions of [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=0995d33f9047781b71559a1428fccffd&mc=true&node=se38.1.3_1317&rgn=div8), request a Gulf War General Medical Examination (Including Burn Pits) Disability Benefits Questionnaire (DBQ) any required specialist DBQs as defined in [M21-1, Part III, Subpart iv, 3.A.1.h](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015809/M21-1%2C-Part-III%2C-Subpart-iv%2C-Chapter-3%2C-Section-A---Examination-Requests-Overview). request a

* Gulf War general medical examination if the qualified Veteran provides competent lay or medical evidence of signs or symptoms due to an undiagnosed illness or MUCMI as identified by 38 CFR 3.317, prior to December 31, 2021.
* Veteran does not have to identify that the claimed condition is specifically related to Gulf War.
* Threshold for scheduling an examination is extremely low.

**Exception:** Do not request a Gulf War general medical examination if one has been completed in response to a pending claim or a decision that has not yet become final per 38 CFR 3.160(d). In these cases, only order the specialty DBQ specific to the claimed condition.

**Required Language for Gulf War General Medical Exam**

Regional Offices (ROs) must ensure that all examiners in Southwest Asia claims have access to the proper terminology and opinion language specific to these types of claims.  Consequently, ROs must follow the guidance in the table below to ensure examination requests for Southwest Asia claims contain the appropriate language for all examiner(s).

| **requesting a ...** | **Then in the examination request, include the ...** |
| --- | --- |
| Gulf War general medical examination only | Notice to Examiners in Southwest Asia Claims from [M21-1, Part IV, Subpart ii, 1.E.2.m](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#2m). |
| * Gulf War general medical examination, and
* specialist examination(s)

**Reference**:  For more information on specialist examinations, see [M21-1, Part III, Subpart iv, 3.A.1.h](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000015809/M21-1%2C-Part-III%2C-Subpart-iv%2C-Chapter-3%2C-Section-A---Examination-Requests-Overview). | * Notice to Examiners in Southwest Asia Claims from [M21-1, Part IV, Subpart ii, 1.E.2.m](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#2m), and
* definition language from [M21-1, Part IV, Subpart ii, 1.E.2.n](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#2n).
 |
| specialty DBQ only **Reference**:  For more information on specialty examinations, see [M21-1, Part III, Subpart iv, 3.A.1.g](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000015809/M21-1%2C-Part-III%2C-Subpart-iv%2C-Chapter-3%2C-Section-A---Examination-Requests-Overview). | * Notice to Examiners in Southwest Asia Claims from [M21-1, Part IV, Subpart ii, 1.E.2.m](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#2m), and
* definition language from [M21-1, Part IV, Subpart ii, 1.E.2.n](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#2n).
 |

Note: Required Language for Gulf War general medical exam can be placed automatically into the exam through Exam Request Builder.

**Required Definitions for Gulf War General Medical Exam**

* Definitions must be added for Gulf War general medical examinations that require a Specialist Examination or a Specialty DBQ.

Note: Definitions must be manually placed into the exam request. Definition language can be located at M21-1 IV.ii.1.E.2.n.

* **Impact of a Confirmed Diagnosis When Deciding to Request a Gulf War**

**General Medical Exam**

The Veteran has often sought treatment for a claimed chronic condition, sign or symptoms. It many cases it is likely that the medical provider has provided a diagnosis for the symptoms. It is important to understand that a diagnosis for a condition does not rule out the need for an examination.

* The existence of a clinical diagnosis, other than an MUCMI, with specific etiology, which may weigh against [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=0995d33f9047781b71559a1428fccffd&mc=true&node=se38.1.3_1317&rgn=div8) entitlement, does not preclude the ordering of an examination ***unless*** all symptoms claimed by the Veteran are clearly attributable to the diagnosis
* If there is a question as to whether the claimed signs and symptoms are attributable to an established clinical diagnosis, and if the criteria specified in M21-1, Part IV, Subpart ii, 1.E.2.a have been met, an examination is necessary.
* In such cases when an examination is warranted, the examiner’s workup must include an assessment of whether signs and symptoms represent a disease with a clear and specific etiology or whether they fall into a different disability pattern

**Note:** Examination should be referred to rating activity for clarification.

**When Not to Request a Gulf War General Medical Exam**

* Do not request a Gulf War general medical examination if one has recently been completed in response to a pending claim or if a decision has not become final. In a case where an exam has recently been completed for a pending or claim not finalized, schedule the specific DBQ for the contention being claimed.

|  |  |
| --- | --- |
|  | **Facts**:  A Veteran has qualifying service in the Southwest Asia theater of operations as defined in [38 CFR 3.317(e)(2)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=5a1991dcf0fbbbeb73d1a8cbdf5f4d5b&ty=HTML&h=L&r=SECTION&n=se38.1.3_1317).  The claims folder contains a competent medical assessment of CFS.  The evidence shows that this developed to a compensable degree after service but before December 31, 2021.  The evidence of record contains enough information to assign an evaluation for CFS.**Result**:  Do not request an examination.  The claim is substantiated under [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=0995d33f9047781b71559a1428fccffd&mc=true&node=se38.1.3_1317&rgn=div8).  The evidence shows a claimant with service qualifying for consideration of [38 CFR 3.317](http://www.ecfr.gov/cgi-bin/text-idx?SID=0995d33f9047781b71559a1428fccffd&mc=true&node=se38.1.3_1317&rgn=div8) has a MUCMI listed in the regulation that developed in the period specified in the regulation.  The evidence is sufficient to award SC and assign an evaluation. |

* There is a current diagnosis of a MUCMI **however, an exam might still be needed. (M21-1.IV.ii.1.E.2.h.)**
* Claim is established on a direct basis.

Competent medical diagnosis of multiple sclerosis (MS).

Skin, neurological, or fatigue with competent medical diagnosis of diabetes and evidence attributing symptoms to diabetes.

Single joint illness and evidence shows trauma to joint and known clinical diagnosis as trauma.

***Note:*** Examination should be referred to an RVSR for clarification. For additional information refer to M21-1, IV.ii.1.E.2.

**Special Considerations for Brain Cancer**

Although there is no presumption of SC for brain cancer due to service in Southwest Asia, claims processors must develop these claims in accordance with the provisions of direct SC under [38 CFR 3.303](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3a6b7d05614e6872b0e1a93f477ec726&mc=true&r=SECTION&n=se38.1.3_1303) and the procedures contained in this topic.

| **Step** | **Action** |
| --- | --- |
| 1 | Is there evidence in the military medical and personnel records to verify service in the Southwest Asia theater of operations during Gulf War I (spanning January 17, 1991, through April 11, 1991)?* If yes, proceed to next step.
* If no, send the claim for a decision.
 |
| 2 | Is there credible medical evidence showing a diagnosis of brain cancer?* If yes, proceed to the next step.
* If no, send the claim for a decision.
 |
| 3 | If evidence is not otherwise sufficient to decide the claim, request a medical or examination for brain cancer and any claimed residuals in accordance with the guidance in [M21-1, Part IV, Subpart ii, 1.E.3.c](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#3c) and [d](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000014938/M21-1-Part-IV-Subpart-ii-Chapter-1-Section-E-Developing-Claims-Based-on-Service-in-Southwest-Asia-Under-38-CFR-3317#3d). |

***Important***:

* If the Veteran is terminal, follow special handling procedures noted in [M21-1, Part III, Subpart ii, 1.D](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000020037/M21-1, Part III, Subpart ii, Chapter 1, Section D - Claims That Require Priority Processing).
* Although there is no presumption of SC for brain cancer due to service in Southwest Asia, claims processors must develop these claims in accordance with the provisions of direct SC under 38 CFR 3.303 and the procedures contained in this topic.

**Practical Exercise**

Please read the following scenarios and answer the questions that follow:

Veteran submits VA Form 21-526EZ for shortness of breath. He provides a statement that these symptoms began when he was in Kuwait and continue today. The Veteran’s service treatment records show no treatment for respiratory symptom or illness. The Veteran has honorable service and his DD Form 214, indicates that he has a Kuwaiti Liberation Medal.

1. Would you request a Gulf War general medical examination?
2. What is your reasoning for providing or not providing the examination?
3. What is the manual reference that provides the foundation for your decision?

Veteran submits a VA Form 21-526EZ on which he claims that he has shortness of breath, recurring pain due to a broken right leg, muscle and joint pains, cognitive issues and Irritable Bowel Syndrome. The Veteran has provided a DBQ with a diagnosis for Irritable Bowel Syndrome. A review of the Veteran’s service treatment records do indicate a broken leg, but do not list any other symptoms that the Veteran is claiming. The Veteran’s DD Form 214 indicates that he was in service from May 22, 1990 to December 3, 2011. The Veteran has the Afghanistan Campaign Medal.

1. What examinations would you request?

A Veteran Submits a VA Form 21-4138, Statement in Support of Claim, indicating he is unemployable due to Gulf War illness. The Veteran’s DD Form 214 indicates Southwest Asia Service Medal and his personnel records indicate that he served in Turkey.

1. What examinations would you request?

Veteran submits a VA Form 21-526EZ on which he claims that he has Irritable Bowel Syndrome and hearing loss. The Veteran has provided a Disability Benefits Questionnaire (DBQ) with a diagnosis for Irritable Bowel Syndrome and a statement that he suffered acoustic trauma while on deployment. The Veteran’s DD Form 214 indicates that he was in service from May 22, 1990 to December 3, 2011 and has an Army Infantry MOS. The Veteran has the Southwest Asia Campaign Medal and his personnel records show he served in Turkey.

1. Is this Veteran qualified as a Gulf War/Southwest Asia Veteran?
2. What examination, if any, would you grant the Veteran if he is qualified?

What is your reason for requesting or not requesting an exam?

Veteran submits a VA Form 21-526EZ, dated March 21, 2016, on which she claims that she has fibromyalgia. The Veteran provides a DBQ showing that she has the diagnosis of fibromyalgia and it has manifested itself to a compensable degree. The Veteran’s DD Form 214 indicates that she was in service from May 22, 1990 to December 3, 2011. The Veteran has the Kuwaiti Liberation Medal.

1. Does this Veteran qualify as having Southwest Asia service?
2. What is your next action after determining whether or not the Veteran is qualified as having Southwest Asia service?
3. Why have you taken the action you have taken with the claim and what is the manual reference you used to justify your action?