

**PL 116-23, BLUE WATER NAVY VIETNAM VETERANS ACT OF 2019:
RATING PROCESSING
JOB AID**

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REFERENCES

- PL 116-23, the Blue Water Navy Vietnam Veterans Act of 2019.
- 38 CFR § 3.307 – Presumptive Service Connection for Chronic, Tropical or Prisoner-of-War Related Disease, or Disease Associated with Exposure to Certain Herbicide Agents; Wartime and Service on or after January 1, 1947
- 38 CFR § 3.309(e) – Diseases Subject to Presumptive Service Connection
- M21-1 IV.ii.1.H – Developing Claims for Service Connection (SC) Based on Herbicide Exposure
- M21-1 IV.ii.2.C.3 – Service Connection for Disabilities Resulting From Exposure to Certain Herbicides Agents or Based on Service in the Republic of Vietnam (RVN)
- M21-1, Part III.iv.6.C - Completing the Rating Decision Narrative

EFFECTIVE DATE REFERENCES

- Public Law 112-154, Section 506
- 38 USC § 5110 – Effective Dates of Awards
- 38 CFR § 3.400 – General Effective Dates
- 38 CFR § 3.114 – Change of Law or Department of Veterans Affairs Issue
- 38 CFR § 3.1000 (c) - Entitlement under 38 U.S.C. 5121 to benefits due and unpaid upon death of a beneficiary, Claims and evidence
- 38 CFR § 3.2500(h) – Review of decisions, effective dates
- *Historical* 38 CFR 3.155 – How to file a claim.
- *Historical* 38 CFR 3.157 – Report of examination or hospitalization as claim for increase or to reopen.
- M21-1, Part III.ii.2.C – Informal Claims Received Prior to March 24, 2015, Communication of an Intent to File (ITF), and Requests for Application
- M21-1 III.iv.5.C – Effective Dates
- M21-1 III.iv.5.B – Principles of Disability Evaluation
- M21-1 III.iv.8.C – Protected Ratings

DETERMINING THE EFFECTIVE DATE: FILLABLE CHART & STEP ACTION TABLES

Identify the type of claim it is, and the corresponding regulations for effective date determination. **Please note**, these charts are only applicable if you have already determined that you are able to grant the benefit.

Then, fill in the following dates:

Identify the following	
Date of receipt of initial or prior claim	Date:
Date the condition was added to 3.309(e) (<i>date of change in law</i>)	Date:
Date of diagnosis	Date:
Was the claim associated with an ITF received on or after March 24, 2015?	Yes or No Date:
Is the claim an original FDC claim for compensation received between August 6, 2013, through August 5, 2015?	Yes or No
Date of death	Date:

The following table covers both retroactive and non-retroactive effective dates for compensation claims and accrued claims received within one year of the Veteran's death. (§3.1000(c))

Step	Action
1	Was an explicit claim for a qualifying 38 CFR 3.309(e) condition received or denied between September 25, 1985 and January 1, 2020? <ul style="list-style-type: none"> • If <i>yes</i>, go to Step 4. • If <i>no</i>, go to the next step.
2	Was the condition diagnosed prior to addition to §3.309(e)? <ul style="list-style-type: none"> • If <i>yes</i>, go to the next step. • If <i>no</i>, date of receipt of claim or date entitlement arose, whichever is later (§3.400).
3	Was the claim received within one year of addition to §3.309(e)? <ul style="list-style-type: none"> • If <i>yes</i>, date of change in law (§3.114). • If <i>no</i>, one year prior to date of receipt of claim (§3.114).
4	Was the previous claim received <i>after</i> the condition was added to §3.309(e)? <ul style="list-style-type: none"> • If <i>yes</i>, go to the next step. • If <i>no</i>, date of receipt of claim (PL 116-23).
5	Was the condition diagnosed prior to addition to §3.309(e)? <ul style="list-style-type: none"> • If <i>yes</i>, go to the next step. • If <i>no</i>, Step 7.
6	Was the claim received within one year of addition to §3.309(e)?

	<ul style="list-style-type: none"> • If <i>yes</i>, date of change in law (§3.114). • If <i>no</i>, one year prior to date of receipt of claim (§3.114).
7	<p>Was the claim an original FDC received between August 6, 2013, through August 5, 2015?</p> <ul style="list-style-type: none"> • If <i>yes</i>, one year prior to receipt of ITF/FDC (or date entitlement arose) (PL 112-154, Section 506). • If <i>no</i>, – date of receipt of claim (PL 116-23).

Note: Do not forget to consider informal claims received prior to March 24, 2015 and Intent to Files received on or after that date. Historical §3.155 and §3.157 must be considered and applied as appropriate. This table does not account for claims received within one year of discharge, nor does it address DIC claims.

The following table covers DIC claims.

Step	Action
1	<p>Was an explicit claim for DIC based on death due to a qualifying 38 CFR 3.309(e) condition received or denied between September 25, 1985 and January 1, 2020?</p> <ul style="list-style-type: none"> • If <i>yes</i>, go to step 4. • If <i>no</i>, go to the next step.
2	<p>Did the Veteran die from a condition associated with herbicide exposure prior to the condition's addition to §3.309(e)?</p> <ul style="list-style-type: none"> • If <i>yes</i>, go to the next step. • If <i>no</i>, date of receipt of claim or the first of the month of death if the claim is received within one year of the Veteran's death (§3.400(c)(2)).
3	<p>Was the claim received within one year of the condition's addition to §3.309(e)?</p> <ul style="list-style-type: none"> • If <i>yes</i>, date of change in law (§3.114). • If <i>no</i>, one year prior to date of receipt of claim (§3.114).
4	<p>Did the Veteran die from a condition associated with herbicide exposure prior to the condition's addition to §3.309(e)?</p> <ul style="list-style-type: none"> • If <i>yes</i>, go to the next step. • If <i>no</i>, date of receipt of the previous claim (PL 116-23) or the first of the month of death if the previous claim was received within one year of the Veteran's death (§3.400(c)(2)).
5	<p>Was the previous claim received prior to the condition's addition to §3.309(e)?</p> <ul style="list-style-type: none"> • If <i>yes</i>, date of receipt of the previous claim (PL 116-23) or the first of the month of death if the previous claim was received within one year of the Veteran's death (§3.400(c)(2)). • If <i>no</i>, go to the next step.
6	<p>Was the previous claim received within one year of the date the disability that caused death was added to §3.309(e)?</p> <ul style="list-style-type: none"> • If <i>yes</i>, date of change in law (§3.114). • If <i>no</i>, one year prior to date of receipt of claim (§3.114).

Reminder: The effective date can never be earlier than the first day of the month of death.

Note: Do not forget to consider informal claims received prior to March 24, 2015 and Intent to Files received on or after that date. Historical §3.155 and §3.157 must be considered and applied as appropriate.

DIC EFFECTIVE DATE TABLES

DIC based on prostate cancer: added to 3.09(e) November 7, 1996

Date of death: January 12, 1990

Date of receipt of prior claim:	Resulting effective date:	Reason	Rationale
November 5, 1990	January 1, 1990	1 st day of the month of Veteran's death	The DIC claim was received within one year of the date of death.
November 5, 1991	November 5, 1991	Date of receipt of prior claim	The DIC claim was received over a year after the date of death, but before 3.309(e).
November 5, 1997	November 7, 1996	Date of change in law	The DIC claim was received over a year after the date of death, but within a year of the addition of the condition to 3.309(e). Since the Veteran died before the addition of the condition to 3.309(e), 38 CFR 3.114 applies.
November 5, 2007	November 5, 2006	1 year prior to date of receipt of prior claim	The DIC claim was received over a year after the date of death and over a year after the addition of the condition to 3.309(e). Since the Veteran died before the addition of the condition to 3.309(e), 38 CFR 3.114 applies.

Date of death: January 12, 1997

Date of receipt of prior claim:	Resulting effective date:	Reason	Rationale
November 5, 1997	January 1, 1997	1 st day of the month of Veteran's death	The DIC claim was received within one year of the date of death.
November 5, 1998	November 5, 1998	Date of receipt of prior claim	The DIC claim was received over a year after the date of death . and the Veteran died after the addition of the condition to 3.309(e) so 38

			CFR 3.114 does not apply.
November 5, 2007	November 5, 2007	Date of receipt of prior claim	The DIC claim was received over a year after the date of death and the Veteran died after the addition of the condition to 3.309(e) so 38 CFR 3.114 does not apply.
November 5, 2017	November 5, 2017	Date of receipt of prior claim	The DIC claim was received over a year after the date of death and the Veteran died after the addition of the condition to 3.309(e) so 38 CFR 3.114 does not apply.

DIC based on ischemic heart disease: added to 3.09(e) August 31, 2010

Date of death: January 12, 1990

Date of receipt of prior claim:	Resulting effective date:	Reason	Rationale
November 5, 1990	January 1, 1990	1 st day of the month of Veteran's death	The DIC claim was received within one year of the date of death.
November 5, 1991	November 5, 1991	Date of receipt of prior claim	The DIC claim was received over a year after the date of death, but before 3.309(e).
November 5, 2010	August 31, 2010	Date of change in law	The DIC claim was received over a year after the date of death, but within a year of the addition of the condition to 3.309(e). Since the Veteran died before the addition of the condition to 3.309(e), 38 CFR 3.114 applies.
November 5, 2017	November 5, 2016	1 year prior to date of receipt of prior claim	The DIC claim was received over a year after the date of death and over a year after the addition of the condition to 3.309(e). Since the Veteran died before the addition of the condition to 3.309(e), 38 CFR 3.114 applies.

Date of death: October 28, 2011

Date of receipt of prior claim:	Resulting effective date:	Reason	Rationale
November 5, 2011	October 1, 2011	1 st day of the month of Veteran's death	The DIC claim was received within one year of the date of death.
November 5, 2012	November 5, 2012	Date of receipt of prior claim	The DIC claim was received over a year after the date of death, but before 3.309(e).
November 5, 2017	November 5, 2017	Date of receipt of prior claim	The DIC claim was received over a year after the date of death and the Veteran died after the addition of the condition to 3.309(e) so 38 CFR 3.114 does not apply.
January 5, 2020	January 5, 2020	Date of receipt of prior claim	The DIC claim was received over a year after the date of death and the Veteran died after the addition of the condition to 3.309(e) so 38 CFR 3.114 does not apply.

SCENARIOS

Scenario 1) Veteran's claim was stayed

A Veteran submitted a new VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of prostate cancer on April 15, 2019. With the claim, he submitted medical records verifying he was diagnosed on March 8, 2019 and underwent a prostatectomy later that month. Military records show service in the Navy during the Vietnam era, but did not show duty or visitation on land in the RVN or on inland waterways, so the claim was placed under the stay. Once the stay was lifted, the claim was referred for specialized processing. The subsequent evidence-based determination found the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for prostate cancer and other within scope issues, such as special monthly compensation (SMC k), effective April 15, 2019, date of receipt of claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400)

Rationale: The Veteran filed a new claim for service connection on April 15, 2019. Evidence verifies he has a qualifying disability and service under the law. Since his claim was filed between September 25, 1985, and January 1, 2020, and his service qualifies under the new law, he qualifies for the retroactive effective date based on date of claim.

Scenario 2) Veteran's new claim was received on or after January 1, 2020

A Veteran submitted a new VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of Parkinson's disease on February 15, 2020. With the claim, he submitted medical records verifying he was diagnosed on December 15, 2019. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for Parkinson's disease effective February 15, 2020, date of receipt of claim. (38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400)

Rationale: The Veteran filed a new claim for service connection on February 15, 2020 and did not have a previous claim for this condition filed between September 25, 1985, and January 1, 2020, therefore he did not qualify for a retroactive effective date under PL 116-23. The provisions of PL 116-23 are not liberalizing since this portion of the law serves only to clarify the interpretation of the statutory phrase "served in the Republic of Vietnam" previously found at 38 U.S.C. § 1116(a)(1).

Scenario 3) Veteran's new claim was received on or after January 1, 2020 with an ITF

A Veteran submitted VA Form 21-0966, Intent to File a Claim for Compensation and/or Pension, or Survivor Pension and/or DIC, for compensation on June 8, 2019. A new VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of B-cell leukemia was received on April 20, 2020. With the claim, he submitted medical records verifying he was diagnosed on November 21, 2018. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for B cell leukemia effective June 8, 2019, date of receipt of intent to file (ITF) since the VA Form 21-526EZ was received within a year. (38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400, 38 CFR 3.155)

Rationale: The Veteran filed a new claim for service connection on April 20, 2020 and did not have a previous claim for this condition filed between September 25, 1985, and January 1, 2020, therefore he did not qualify for a retroactive effective date under PL 116-23. The provisions of PL 116-23 are not liberalizing since this portion of the law serves only to clarify the interpretation of the statutory phrase “served in the Republic of Vietnam” previously found at 38 U.S.C. § 1116(a)(1). The Veteran did have an active ITF and the 526EZ was received within a year of the ITF, therefore the effective date is the date of receipt of the ITF.

Scenario 4) Veteran’s supplemental claim was stayed

A Veteran submitted a VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of type 2 diabetes mellitus on May 9, 2012. With the claim, he submitted medical records verifying he was diagnosed in 2012. Military records showed service in the Navy during the Vietnam era, but did not show qualifying service in the RVN or inland waterways, so the claim was denied. On June 20, 2019, the Veteran submitted a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, for diabetes mellitus. The claim was initially stayed and later referred for specialized processing. The subsequent evidence-based determination found the Veteran’s ship served in the eligible offshore waters.

Result: Award service connection for type 2 diabetes mellitus effective May 9, 2012, date of the previously denied claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400)

Rationale: The Veteran filed an explicit claim for service connection on May 9, 2012. Evidence verifies he has a qualifying disability and service under the law. Since his previously denied claim was filed between September 25, 1985, and January 1, 2020, and his service qualifies under the new law, he qualifies for the retroactive effective date based on the filing date of the previously denied claim.

Scenario 5) Veteran’s supplemental claim was received on or after January 1, 2020

A Veteran submitted an original VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of ischemic heart disease on July 12, 2011. With the claim, he submitted medical records verifying he was diagnosed in June 2011. Military records showed service in the Navy during the Vietnam era, but did not show qualifying service in the RVN or inland waterways, so the claim was denied. The Veteran filed a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, on February 15, 2020. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran’s ship served in the eligible offshore waters.

Result: Award service connection for ischemic heart disease effective July 12, 2011, date of the previously denied claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400)

Rationale: Evidence verifies the Veteran has a qualifying disability and service under the law. Since his previously denied claim was filed between September 25, 1985, and January 1, 2020, and his service qualifies under the new law, he qualifies for the retroactive effective date based on the filing date of the previously denied claim.

Scenario 6) Veteran's supplemental claim was received on or after January 1, 2020, 3.114 applies based on the addition of IHD to 3.309(e)

A Veteran submitted a new VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of ischemic heart disease on July 12, 2011. With the claim, he submitted medical records verifying he was diagnosed in January 2009. Military records showed service in the Navy during the Vietnam era, but did not show qualifying service in the RVN or inland waterways, so the claim was denied. The Veteran filed a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, on February 15, 2020. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for ischemic heart disease effective August 31, 2010, date of change in law. (PL 116-23, 3838 U.S.C. § 1116A, CFR 3.307, 38 CFR 3.309, 38 CFR 3.400, 38 CFR 3.114)

Rationale: The Veteran filed a claim for service connection on July 12, 2011, within one year of the addition of ischemic heart disease to 3.309(e). Evidence verifies he had ischemic heart disease prior to the change in law. Since his service qualifies under the new law, he qualifies for the retroactive effective date based on liberalizing legislation.

Scenario 7) Veteran's supplemental claim was received on or after January 1, 2020, 3.114 applies based on the addition of prostate cancer to 3.309(e)

A Veteran submitted a VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, for service connection of prostate cancer on October 1, 2013. With the claim, he submitted medical records verifying he was diagnosed in 1995. Military records showed service in the Navy during the Vietnam era, but did not show qualifying service in the RVN or inland waterways, so the claim was denied. The Veteran filed a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, on January 21, 2020. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for prostate cancer effective October 1, 2012, one year prior to date of receipt of claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400, 38 CFR 3.114)

Rationale: The Veteran filed a claim for service connection on October 1, 2013, over one year after the addition of prostate cancer to 3.309(e). Evidence verifies he had a qualifying disability prior to the change in law. Since his service qualifies under the new law, he qualifies for the retroactive effective date based on liberalizing legislation.

Scenario 8) Veteran's supplemental claim was received on or after January 1, 2020, historical 3.155 applies

A Veteran submitted an original VA Form 21- 526, Application for Disability Compensation and Related Compensation Benefits, for service connection of back pain on June 9, 2011. Service connection was granted based on a current diagnosis and positive medical opinion relating it to an in-service back injury shown in the STRs. On March 17, 2013 the Veteran submitted a hand-written letter describing his recent heart attack with medical records verifying he suffered a myocardial infarction the month before. Military records showed service in the Navy during the Vietnam era, but did not show qualifying service in the RVN or inland waterways, so the claim was denied. The Veteran filed a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, on January 8, 2020. The regional office is unable to verify duty or

visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for myocardial infarction effective March 17, 2013, date of receipt of informal claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, Historical 38 CFR 3.155, 38 CFR 3.400)

Rationale: Prior to March 24, 2015 there was no standard form for submission of an informal claim. Evidence verifies the Veteran has a qualifying disability and service under the law. Since his previously denied claim was filed between September 25, 1985, and January 1, 2020, and his service qualifies under the new law, he qualifies for the retroactive effective date based on the filing date of the previously denied claim.

Scenario 9) Veteran's supplemental claim was received on or after January 1, 2020, Public Law (PL) 112-154, Section 506

A Veteran submitted an original claim for compensation on VA Form VA Form 21-526EZ, Fully Developed Claim, for service connection of lung cancer on August 19, 2014. With the claim, he submitted medical records verifying he was diagnosed in 2012. Military records showed service in the Navy during the Vietnam era, but did not show qualifying service in the RVN or inland waterways, so the claim was denied. The Veteran filed a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, on January 21, 2020. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for lung cancer effective August 19, 2013, one year prior to date of receipt of claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400, PL 112-154, Section 506)

Rationale: The Veteran filed an original FDC compensation claim received between August 6, 2013, through August 5, 2015, therefore Public Law (PL) 112-154, Section 506, applies and a retroactive effective date of one year prior to receipt of claim is warranted. Evidence verifies the Veteran has a qualifying disability and service under the law. Since his previously denied claim was filed between September 25, 1985, and January 1, 2020, and his service qualifies under the new law, he qualifies for the retroactive effective date based on the filing date of the previously denied claim.

Scenario 10) Veteran's supplemental claim was received on or after January 1, 2020, change in rating schedule applies

The Veteran was previously denied service connection for coronary artery disease based on a claim received on July 8, 1995. The medical evidence shows history of coronary occlusion with repeated anginal attacks documented 1993 to present. The ejection fractions noted include 65% in 1994, 65% in 1997, 60% in 2001, 55% in 2010, stress testing in 2000 and 2010 shows METS of 8, and there is medically prescribed Aspirin. The Veteran suffered a myocardial infarction on January 23, 2016. Follow up cardiology reports show ejection fraction of 55%, METS of 6, and evidence of hypertrophy. The Veteran filed a supplemental claim on VA Form 20-0995, Decision Review Request: Supplemental Claim, on January 18, 2020. The regional office is unable to verify duty or visitation on the ground in Vietnam or a qualifying bay or harbor, so the claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award service connection for coronary artery disease effective July 8, 1995, date of receipt of previously denied claim. (PL 116-23, 38 U.S.C. § 1116A, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400) The evaluation should be staged with a 60% evaluation effective July 8, 1995, 100% effective January 23, 2016, and then 60% effective May 1, 2016.

Rationale: The 60% is from the rating criteria in effect on July 8, 1995, based on coronary occlusion with repeated anginal attacks. Under the rating criteria in effect from January 13, 1998 the METS, ejection fraction, and hypertrophy would not warrant a 60%. However, the evaluation cannot be reduced solely because of a change to the rating schedule. Additionally, the 60% evaluation is further protected since the evaluation was in effect for over 20 years. M21-1 III.iv.8.C

Scenario 11) Surviving spouse's initial claim for DIC was stayed

The Veteran never filed a claim for any 3.309(e) related conditions. The Veteran died on November 9, 2012. Parkinson's disease is listed as a contributory cause of death.

The surviving spouse filed a claim for DIC on July 14, 2019. Military records show service in the Navy during the Vietnam era, but did not show duty or visitation on land in the RVN or on inland waterways, so the claim was placed under the stay. Once the stay was lifted, the claim was referred for specialized processing. The subsequent evidence-based determination found the Veteran's ship served in the eligible offshore waters.

Result: Award DIC effective July 14, 2019, under 38 U.S.C. § 1310.

Rationale: The surviving spouse filed an initial claim for DIC on July 14, 2019. Evidence verifies that the Veteran died from a qualifying condition under the law. Since the Veteran's service qualifies under the new law and there was no previously denied qualifying claim filed between September 25, 1985, and January 1, 2020, the effective date is governed by 38 CFR 3.400(c)(2). The claim for DIC was not filed within one year of the date of the Veteran's death, benefits are granted from the date of claim. Since the provisions of PL 116-23 defining herbicide exposure based on service in the eligible offshore waters are not liberalizing 38 CFR 3.114 is not applicable.

Scenario 12) Surviving spouse's initial claim for DIC was received on or after January 1, 2020

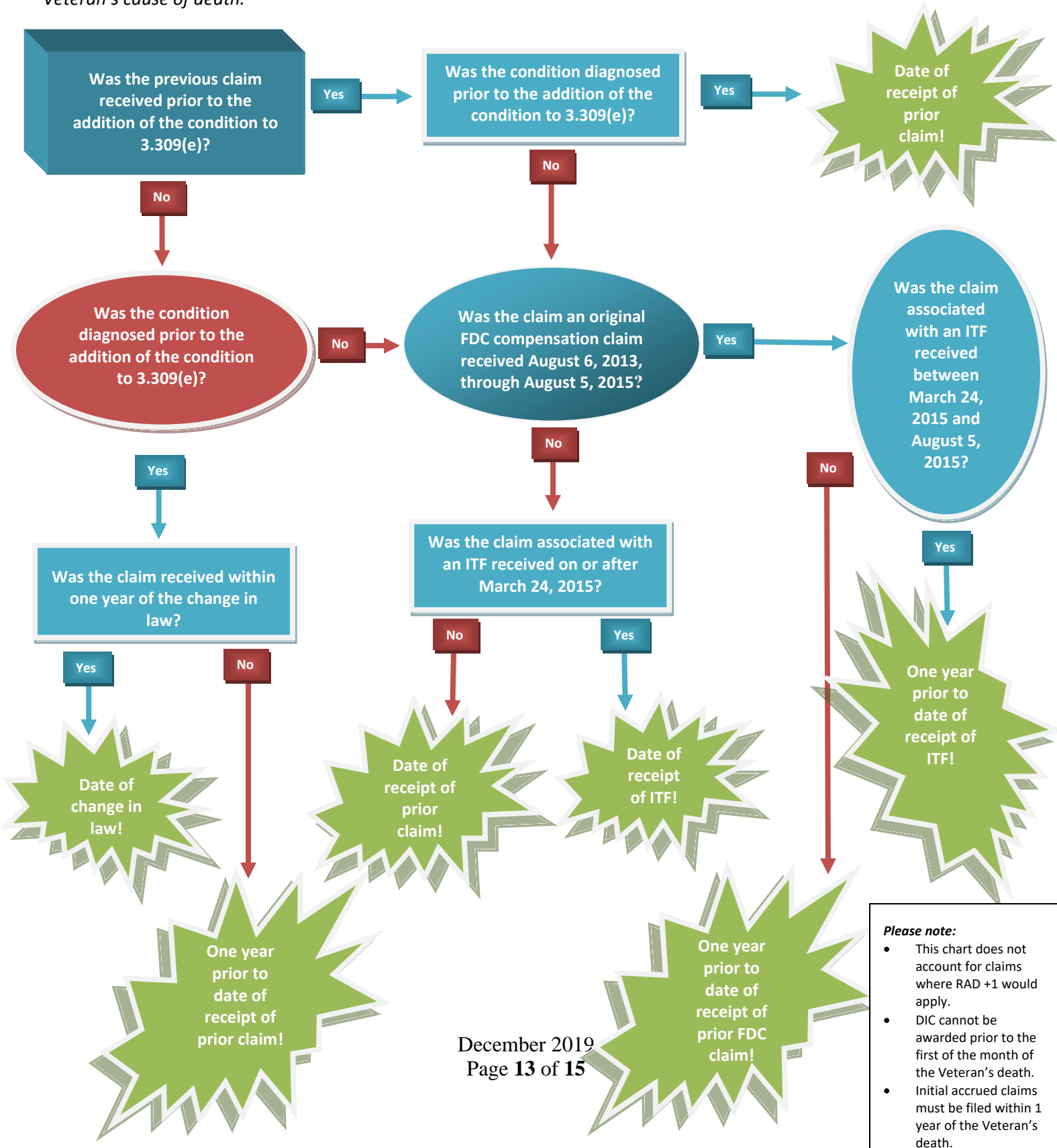
The Veteran never filed a claim for any 3.309(e) related conditions. The Veteran died on February 9, 2020. Parkinson's disease is listed as a contributory cause of death. The surviving spouse files an initial claim for DIC on February 23, 2020. The claim is referred for specialized processing. The subsequent evidence-based determination finds the Veteran's ship served in the eligible offshore waters.

Result: Award DIC effective February 1, 2020, under 38 U.S.C. § 1310.

Rationale: The surviving spouse filed an initial claim for DIC on February 23, 2020. Evidence verifies that the Veteran died from a qualifying condition under the law. Since the Veteran's service qualifies under the new law and there was no previously denied qualifying claim filed between September 25, 1985, and January 1, 2020, the effective date is governed by 38 CFR 3.400(c)(2). The initial claim for DIC was filed within one year of the date of the Veteran's death, therefore benefits are granted from the first of the month of the Veteran's death. (CFR 3.400(c)(2))

DETERMINING RETROACTIVE EFFECTIVE DATES FLOW CHART

This handout assumes that herbicide exposure and medical diagnosis have been established and the benefit is being granted. **This chart is only intended for when a claim was received between September 25, 1985 and January 1, 2020 and the condition being granted was diagnosed prior to the date of claim.** Follow the **blue** arrows for **yes** answers, and the **red** for **no**. For DIC claims, the condition referenced below is the herbicide related condition that is related to the Veteran's cause of death.



Please note:

- This chart does not account for claims where RAD +1 would apply.
- DIC cannot be awarded prior to the first of the month of the Veteran's death.
- Initial accrued claims must be filed within 1 year of the Veteran's death.

DATE DISABILITIES BECAME SUBJECT TO PRESUMPTIVE SC UNDER 38 CFR 3.309(E)

Disability	Effective date
<ul style="list-style-type: none"> • Chloracne or other acne-form disease consistent with chloracne, and • soft-tissue sarcoma, <i>other than</i> <ul style="list-style-type: none"> ○ osteosarcoma ○ chondrosarcoma ○ Kaposi's sarcoma, or ○ mesothelioma 	February 6, 1991
Non-Hodgkin's lymphoma (NHL)	February 6, 1991
<ul style="list-style-type: none"> • Porphyria cutanea tarda (PCT), and • Hodgkin's disease 	February 3, 1994
<ul style="list-style-type: none"> • Respiratory cancers of the <ul style="list-style-type: none"> ○ lung ○ bronchus ○ larynx, or ○ trachea, and • multiple myeloma 	June 9, 1994
<ul style="list-style-type: none"> • Prostate cancer, and • acute and subacute peripheral neuropathy (PN) 	November 7, 1996
Type 2 diabetes mellitus (DM)	May 8, 2001
chronic lymphocytic leukemia (CLL)	October 16, 2003
Amyloid light-chain (AL) amyloidosis	May 7, 2009
<ul style="list-style-type: none"> • Ischemic heart disease (IHD) • chronic B-cell leukemia, and • Parkinson's disease 	August 31, 2010
Early-onset PN	September 6, 2013

DATE OF CHANGE TO REGULATIONS

Body System	Regulations	Effective date
Genitourinary	4.115, 4.115a, 4.115b	February 17, 1994
Dental and Oral	4.149, 4.150	February 17, 1994
Genitourinary	4.115b	September 8, 1994
Infectious Diseases	4.88a, 4.88b	November 29, 1994
Hemic and Lymphatic	4.117	October 23, 1995
Gynecological and Breast	4.116, 4.116a	May 22, 1995
Endocrine	4.119	June 6, 1996
Infectious Diseases	4.88, 4.88b	August 30, 1996
Respiratory	4.96, 4.97	October 7, 1996

Mental Disorders	4.13, 4.16, 4.125-4.132	November 7, 1996
Muscle Injuries	4.47-4.56, 4.69, 4.72, 4.73	July 3, 1997
Cardiovascular	4.100-4.102, 4.104	January 12, 1998
Cold Injury Residuals	4.104	August 13, 1998
Ear and Other Sense Organs	4.85, 4.86, 4.86a, 4.87, 4.87a, 4.87b	June 10, 1999
Fibromyalgia	4.71a	May 7, 1996
Liver Disabilities	4.112, 4.114	July 2, 2001
Gynecological and Breast	4.116	March 18, 2002
Ankylosis of the Digits	4.71a	August 26, 2002
Skin	4.118	August 30, 2002
Intervertebral Disc Syndrome	4.71a	September 23, 2002
Tinnitus	4.87	June 13, 2003
Spine	4.71a	September 26, 2003
Respiratory	4.96	October 6, 2006
Cardiovascular	4.100, 4.104	October 6, 2006
Scars	4.118	October 23, 2008
TBI	4.124a	October 23, 2008
Eye	4.75, 4.76, 4.76a, 4.77, 4.78, 4.79, 4.80, 4.83, 4.83a, 4.84, 4.84a	December 10, 2008
ALS	4.124a	January 19, 2012
AL Amyloidosis	4.117	March 9, 2012
Dental and Oral	4.150	September 10, 2017
Endocrine	4.119	December 10, 2017
TBI (added secondary conditions)	3.310(d)	January 16, 2014
Eye	4.79	May 13, 2018
Skin	4.118	August 13, 2018
Hemic and lymphatic systems	4.117	December 9, 2018
Infectious diseases, immune disorders, and nutritional deficiencies	4.88b	August 11, 2019