

**GULF WAR PRESUMPTIVES AND
SPECIFIC ENVIRONMENTAL HAZARDS
(RVSR Challenge)
TRAINEE HANDOUT**

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INTRODUCTION TO GULF WAR PRESUMPTIVES AND SPECIFIC ENVIRONMENTAL HAZARDS

References *Slide 3*

- [38 CFR 3.317, Compensation for certain disabilities occurring in Persian Gulf Veterans](#)
- [M21-1 Part IV, Subpart ii.1.E., Developing Claims Based on Service in Southwest Asia Under 38 CFR 3.317](#)
- [M21-1 Part IV, Subpart ii.2.D., Service connection \(SC\) for Qualifying Disabilities Associated with Service in Southwest Asia](#)
- [M21-1 Part IV, Subpart ii.1.I.5., Developing Claims Based on Exposure to Other Specific Environmental Hazards](#)
- [M21-1 Part IV, Subpart ii.2.C.5., SC for Disabilities Resulting From Exposure to Other Specific Environmental Hazards](#)
- [VBMS Rating User Guide](#)

~~M21-1 IV.ii.2.D.1.f.~~ *Slide 5*

The Southwest Asia theater of operations includes the following locations and the airspace above them

- ✓ Iraq
- ✓ Kuwait
- ✓ Saudi Arabia
- ✓ the neutral zone between Iraq and Saudi Arabia
- ✓ United Arab Emirates
- ✓ Bahrain
- ✓ Qatar
- ✓ Oman
- ✓ the Gulf of Aden
- ✓ the Gulf of Oman
- ✓ the Persian Gulf
- ✓ the Arabian Sea
- ✓ the Red Sea

This is an **inclusive** list of the areas that the Veteran must have served in to qualify for service connection for Undiagnosed Illness and MUCMIs.

The presumptive period for manifestation of qualifying chronic disability under 38 CFR 3.317 begins on the date following last performance of active military, naval, or air service in the Southwest Asia theater of operations during the GW, and extends **through December 31, 2021**.

38 CFR 3.317 Presumptive Slide 6

Signs or symptoms that may be manifestations of an undiagnosed illness:

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

This is NOT an inclusive list.

MUCMI:

- chronic fatigue syndrome
- fibromyalgia
- functional gastrointestinal disorders (FGIDs), excluding structural gastrointestinal diseases

If the Veteran has qualifying service and claimed anything that could be considered under undiagnosed illness, a GW general medical examination or VA examination for the appropriate body system with GW opinion, should be ordered **regardless** of if the Veteran specifically identified the claim to be due to GW service.

Undiagnosed illness is where qualifying signs and/or symptoms cannot be attributed to any known clinical diagnosis by history, physical examination and laboratory tests.

Note: The existence of a clinical diagnosis with specific etiology, which may weigh against §3.317 entitlement, does not preclude the ordering of a Gulf War examination unless all symptoms claimed by the Veteran are *clearly attributable* to the diagnosis, such as a condition like sleep apnea that is definitely diagnosed via sleep study.

Disabilities Resulting from Exposure to Specific Environmental Hazards Slide 7

Compensation for Veterans suffering from a chronic disability resulting from exposure to specific environmental hazards at military installations in Iraq, Afghanistan, and elsewhere that could present health risks.

These hazards include

- 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

Long Term Effects Slide 8

Environmental Hazard	Potential Health Effects
Burn Pits	respiratory system, skin, eyes, liver, kidneys, central nervous system, cardiovascular system, reproductive system, peripheral nervous system, and GI tract.
Particulate Matter	respiratory (lungs) and cardiopulmonary (heart)
Sulfur Fire	constrictive bronchiolitis (Evidenced by unexplained shortness of breath on exertion, but may have normal chest X-rays and inconclusive findings on pulmonary function testing. Due to some similarities, symptoms of constrictive bronchiolitis may be attributed to asthma or chronic obstructive pulmonary disease (COPD), which is why the examiner is informed (via Fact Sheet) and encouraged to consider requesting tests for bronchiolitis.)
Chromium VI	Irritation of eyes, nose, sinuses, lungs, skin, or throat. Abnormal pulmonary function, kidney, or liver tests.

There is no specific list of conditions that can/are considered to be due to exposure to these specific environmental hazards. Treat these claims like any other claim for service connection, with your event in service being the exposure. You will need an exam and medical opinion if

- there is competent lay or medical evidence of a current diagnosed disability or persistent or recurrent symptoms of disability
- the evidence establishes that the Veteran served in a qualifying location, *and*
- the evidence indicates that the claimed disability or symptoms may be associated with the established event, injury, or disease in service (This element is VERY relaxed. If the Veteran is claiming it due to exposure, more often than not you will need the medical opinion.

Ensure that all pertinent Fact Sheets were uploaded into VBMS for the examiner's review prior to examination.

TOPIC 1: CLAIMS FOR UNDIAGNOSED ILLNESS AND/OR MUCMIS

Diagnosed/Undiagnosed? Slide 12

The examiner must characterize the symptoms as an "undiagnosed illness."

Physicians are expected to provide a diagnosis *where possible*.

The physician will determine whether findings may be attributed to a known clinical diagnosis *in each particular case*.

The simple fact that one opinion assigns a clinical diagnosis while another does not is **NOT** a sufficient basis to determine that 38 CFR 3.317 does not apply.

[GW General medical DBQ](#)

Weighing the Evidence *Slide 13*

If the examiner determined the Veteran's disability pattern to be ...	Then ...
<ul style="list-style-type: none"> • an undiagnosed illness, or • a diagnosable but medically unexplained chronic multi-symptom illness of unknown etiology 	<p>award SC under 38 CFR 3.317 if the Veteran is otherwise eligible.</p> <p>Reference: For more information on awarding SC for qualifying disabilities under 38 CFR 3.317, see M21-1, Part IV, Subpart ii, 2.D.4.</p>
<ul style="list-style-type: none"> • a diagnosable chronic multi-symptom illness with a partially explained etiology, such as diabetes or multiple sclerosis, or • a disease with a clear and specific etiology 	<p>SC</p> <ul style="list-style-type: none"> • cannot be awarded under 38 CFR 3.317, and • may be awarded only if the medical evidence is sufficient to establish SC on a direct or other basis.
<ul style="list-style-type: none"> • a disability with a clear or specific etiology, and • provides a medical opinion with rationale that the disability is related to documented in-service injury/events, symptoms, or other specific environmental hazards exposure 	<p>award SC under 38 CFR 3.303 if the Veteran is otherwise eligible.</p> <p>Reference: For more information on deciding claims based on other specific environmental hazards, see M21-1, Part IV, Subpart ii, 2.C.5.</p>

[M21-1 IV.ii.2.D.2.h.](#)

Medical Examination Findings *Slide 14*

- If the examiner determines the Veteran's disability pattern to be...
 1. An undiagnosed illness; *or*
 2. A diagnosable but medically unexplained chronic multi-symptom illness of unknown etiology
- Then....
 - **GRANT** service connection under 38 CFR 3.317 (if otherwise eligible)

Important: this assumes qualifying service exists and that the condition(s) are/have manifested to a compensable degree and persisted at least 6 months.

Medical Examination Findings Slide 15

- If the evidence shows a diagnosis of chronic fatigue syndrome, fibromyalgia, or a functional gastrointestinal disorder
- Then....
 - **GRANT** service connection under 38 CFR 3.317 (if otherwise eligible)

Important: this assumes qualifying service exists and that the condition(s) are/have manifested to a compensable degree and persisted at least 6 months.

Medical Examination Findings Slide 16

- If the examiner determines the Veteran’s disability pattern to be...
 1. A diagnosable chronic multi-symptom illness of partially understood etiology; *or*
 2. A disease with a clear and specific etiology
- Then...
 - We are **UNABLE** to grant service connection on a presumptive basis under 38 CFR 3.317
 - Include the language provided in M21-1 IV.ii.2.D.

TOPIC 2: GENERATING YOUR RATING DECISION

Determining the Diagnostic Code(s) and Evaluation(s) Slide 18

Code	Description	Example
First DC	A 4-digit code created with the 88 modifier as the first two digits. The second two digits are assigned according to the relevant body system.	8863, for diseases analogous to systemic diseases
Second DC	Use the DC that most closely fits the evaluating criteria.	6354, for systemic disease

If the condition is analogous to ...	And the analogous code begins with ...	Then the first DC is ...
musculoskeletal diseases	50	8850
Amputations	51	8851
joints, skull, and ribs	52	8852
muscle injuries	53	8853
diseases of the eye	60	8860
hearing loss	61	8861
ear and other sense organs	62	8862
systemic diseases	63	8863
nose and throat	65	8865
trachea and bronchi	66	8866
Tuberculosis	67	8867
lungs and pleura	68	8868
heart diseases	70	8870
arteries and veins	71	8871
upper digestive system	72	8872
lower digestive system	73	8873
genitourinary system	75	8875
gynecological system	76	8876
hemic and lymphatic system	77	8877
Skin	78	8878
endocrine system	79	8879
central nervous system	80	8880
miscellaneous neurological	81	8881
cranial nerve paralysis	82	8882
cranial nerve neuritis	83	8883
cranial nerve neuralgia	84	8884
peripheral nerve paralysis	85	8885
peripheral nerve neuritis	86	8886
peripheral nerve neuralgia	87	8887
Epilepsies	89	8889
psychotic disorders	92	8892
organic mental	93	8893
Psychoneurotic	94	8894
psychophysilogic	95	8895
dental and oral	99	8899

If the symptom or MUCMI is ...	Then the hyphenated DC is ...
abnormal weight loss	8873-7328, (resection of intestine).
cardiovascular signs or symptoms	8870-7013, (tachycardia).
cardiovascular signs or symptoms	8870-7005, (arteriosclerotic heart disease (ASHD)).
chronic fatigue syndrome	8863-6354.
Fatigue	8863-6354, (chronic fatigue syndrome).
Fatigue	8877-7700, (anemia).
Fibromyalgia	8850-5025.
<ul style="list-style-type: none"> • gastrointestinal signs or symptoms, or • an FGID 	<ul style="list-style-type: none"> • 8873-7305, (ulcer) • 8873-7346 (hernia hiatal), or • 8873-7319, (irritable bowel syndrome).
Headache	8881-8100, (migraine headaches).
joint pain	8850-5002, (rheumatoid arthritis).
menstrual disorders	8876-7622, (uterus displacement).
muscle pain	8850-5021, (myositis).
neurologic signs or symptoms	8885-85_, (peripheral neuropathy).
neuropsychological signs or symptoms	8893-9300, (organic mental disorder).
signs or symptoms involving the respiratory system (upper or lower)	<ul style="list-style-type: none"> • 8865-65 , (respiratory system) • 8866-66 , (respiratory system), or • 8868-68 , (respiratory system).
signs or symptoms involving the skin	8878-7806, (eczema).
sleep disturbances	8894-9400, (generalized anxiety).

Special Issue Information

Special Issue:

Special Issue Basis:

Current Special Issues:
 Environmental Hazard in Gulf War-Undiagnosed Illness

Special Issue Information Slide 20

Select the most appropriate Environmental Hazard in Gulf War special issue based on the facts of your case.

- Environmental Hazard in Gulf War- Diagnosed-Biological
- Environmental Hazard in Gulf War- Diagnosed-Environmental
- Environmental Hazard in Gulf War- Other Unidentified
- Environmental Hazard in Gulf War- Undiagnosed Illness

Sample Codesheet Slide 20

8878-7806 UNDIAGNOSED ILLNESS CHARACTERIZED BY SKIN RASH
 [Environmental Hazard in Gulf War/Undiagnosed Illness]
 Service Connected, Gulf War, Presumptive
 Static Disability
 30% from 11/30/2016

8863-6354 CHRONIC FATIGUE SYNDROME [Environmental Hazard in Gulf War/Other
 Unidentified]
 Service Connected, Gulf War, Incurred
 Static Disability
 40% from 11/30/2016

Rating Decision Requirements Slides 21 and 22

1. Service connection is established for [disability] as due to an undiagnosed illness which began in the Southwest Asia theater of operations during the Gulf War period. (38 CFR 3.317)
2. Service connection may be presumed for disabilities resulting from undiagnosed illnesses or diagnosed illnesses which arose to a compensable degree after service in the Southwest Asia theater of operations during the Gulf War period. Service connection for [disability] has been awarded on the basis of this presumption. (38 CFR 3.317)
3. Since the disability at issue does not have its own evaluation criteria assigned in VA regulations, a closely related disease or injury was used for this purpose. (38 CFR 4.20)

VBMS-R Inputs Slide 23

Always include every basis for which service connection was considered.

Profile Master Record Intro/Evidence **Issue Management** Document Conflicts Summary

Disability Decision Information

* Decision: Not Service Connected

Decision Basis: No Diagnosis, Not Established by Presumption, Not In Country, Not Incurred/Caused by Service, Not Secondary

Service: Gulf War

Associated Disability: Service Event Date:

Profile Master Record Intro/Evidence **Issue Management** Document Conflicts Summary

Rules found more than one way to further qualify your analysis of this issue. Please select all which apply in the narrative order you wish them to appear.

Available: Add > Remove <

* Selected: Deny - Attributable To Other Etiology, Deny - Failed Less Than 50 Percent Disability, Deny - Diagnosed Illness, Deny - Illness Not Chronic

Accept Abandon

Important: Always select ALL that apply.

TOPIC 3: CLAIMS BASED ON EXPOSURE TO SPECIFIC GULF WAR ENVIRONMENTAL HAZARDS

Considering Lay Statements *Slide 26*

- 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.

Example: A Veteran's lay statement of burn pit exposure, together with evidence verifying that the Veteran served in Iraq, Afghanistan, or Djibouti, generally will be sufficient to establish the occurrence of such exposure.

Making a Decision *Slide 27*

If the evidence supports that

- the Veteran was exposed to specific Gulf War Environmental Hazards, **and**
- has a diagnosis of a disability, **and**
- The VA examiner provided a positive medical opinion with appropriate rationale, based on review of the claims folder and provided FACT sheet
- Then...**GRANT** service connection!

The diagnostic code and evaluation will be determined based on what condition the Veteran has that the doctor has related to his/her exposure to a specific environmental hazard.

TOPIC 4: GENERATING YOUR RATING DECISION

Determining the Diagnostic Code(s) and Evaluation(s) *Slide 29*

- Granting SC for conditions due to exposure to specific Gulf War environmental hazards are coded and evaluated just like other incurred conditions.
- If you are granting SC and there is a diagnosed condition, use the coinciding diagnostic code.
- If the diagnosed condition does not have its own diagnostic code, utilize an appropriate analogous code (6699-6604).

Note: The use of the 88 DC is not appropriate for these conditions since they are not based on 38 CFR 3.317.

Special Issue Information Slide 30

<p>Select</p> <p>38 USC 1151</p> <p>Agent Orange - outside Vietnam or unknown</p> <p>Agent Orange - Vietnam</p> <p>Amyotrophic Lateral Sclerosis (ALS)</p> <p>Asbestos</p> <p>Burn Pit Exposure</p> <p>Enhanced Disability Severance Pay</p> <p>Environmental Hazard - Camp Lejeune</p> <p>Environmental Hazard in Gulf War</p> <p>Gulf War Presumptive</p> <p>Hepatitis C</p> <p>HIV</p> <p>Integrated Disability Evaluation System (IDES)</p> <p>Mustard Gas</p> <p>Non-PTSD Personal Trauma</p> <p>POW</p> <p>PTSD - Combat</p> <p>PTSD - Non-Combat</p> <p>PTSD - Personal Trauma</p> <p>Radiation</p>	<p><input type="button" value="Burn Pit Exposure"/></p>
<p><input type="button" value="Assign >"/></p> <p><input type="button" value="< Remove"/></p>	<p>Current Special Issues</p> <p>Burn Pit Exposure</p>
<p>Date: <input type="text"/></p>	<p><input type="button" value="Accept"/></p> <p><input type="button" value="Abandon"/></p>

6600-6602

CHRONIC BRONCHIOLITIS [Burn Pit Exposure]
Service Connected, Gulf War, Incurred
Static Disability
10% from 11/30/2016

PRACTICAL EXERCISE

38 CFR 3.317 review:

Fill in the blank. Assume the Veteran has qualifying service in theater of SWA.

1. Service connection is warranted based on 38 CFR 3.317 if an eligible Veteran can demonstrate signs or symptoms of a qualifying chronic disability manifesting to a degree of at least _____ percent for a period of at least _____ months.
2. True or False? If examiner determines the Veteran's disability is an undiagnosed illness, there is no requirement for a medical nexus between the Veteran's identified symptoms and active service.
3. Lay evidence describing symptoms unsupported by clinical findings _____ (may/may not) be sufficient in many cases to grant service connection if there is no diagnosed disability.
4. True or False? If a Veteran has been diagnosed with chronic fatigue syndrome, fibromyalgia, or a functional gastrointestinal disorder, there is a requirement for a medical nexus.

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

5. Veteran submits VA Form 21-526EZ for nausea, vomiting, and diarrhea. He provides a statement that these symptoms have persisted over the last year, since his return from his tour in Iraq. (Service in Iraq is shown on his DD214.) Gulf War General Medical DBQ concludes that there is no clinical diagnosis or known cause of these symptoms. The Veteran suffers from recurrent pyrosis, dysphagia, vomiting, and ongoing mild diarrhea.
 - Would you Grant or Deny?
 - What is the reason for your decision?
 - What is the appropriate diagnostic code?

Specific Environmental Hazards review:

Please answer the following questions.

6. True or False? When granting SC based on specific environmental hazards (i.e. burn pits or particulate matter, etc.) you must select the Gulf War Environmental Hazards special issue in VBMS-R.
7. True or False? When granting SC based on specific environmental hazards (i.e. burn pits or particulate matter, etc.) you must properly identify and track these disabilities by use of a diagnostic code series beginning with 88. (e.g. 8863-6354)
8. True or False? The Veteran must only have verified service in the theater of Southwest Asia in order to be considered for SC based on specific environmental hazards (i.e. burn pits or particulate matter, etc.).

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

9. Veteran submits VA Form 21-526EZ for shortness of breath. He provides a statement that these symptoms began when he was in Djibouti. (Service in Djibouti is shown on his DD214.) VA Respiratory Conditions DBQ provides a diagnosis of asthma (treatment with an inhaler) and a medical opinion relating this condition to the Veteran's exposure to particulate matter and burn pits. A rationale is provided citing review of the provided fact sheets and the known long term health effects such exposure can cause on the respiratory system.
 - a. Would you Grant or Deny?
 - b. What is the reason for your decision?
 - c. What is the appropriate diagnostic code?

10. Veteran submits VA Form 21-526EZ for tingling in his hands and feet. He provides a statement that these symptoms began when he was in Afghanistan. (Service in Afghanistan is shown on his DD214 in 2012.) Peripheral Nerves Conditions DBQ provides a finding of mild neuritis in both hands (lower radicular group) and feet (posterior tibial nerve) and a medical opinion relating this condition to the Veteran's exposure to burn pits. A rationale is provided citing review of the provided fact sheets and the known long term health effects such exposure can cause on the peripheral nervous system.
 - a. Would you Grant or Deny?
 - b. What is the reason for your decision?
 - c. What are the appropriate diagnostic codes?