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

# **Table of Contents**

Introduction to Gulf War Presumptives and Specific Environmental Hazards	2
Горіс 1: Claims for Undiagnosed Illness and/or MUCMIs	4
Горіс 3: Generating Your Rating Decision	7
Горіс 3: Claims Based on Exposure to Specific Gulf War Environmental Hazards	13
Горіс 4: Generating Your Rating Decision	13
Practical Exercise	15

# 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:

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

#### This is **NOT** an inclusive list.

#### MUCMI:

- o chronic fatigue syndrome
- o fibromyalgia
- o 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 <u>unless</u> 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> <li>an undiagnosed illness, or</li> <li>a diagnosable but medically unexplained chronic multi- symptom illness of unknown etiology</li> </ul>	award SC under 38 CFR 3.317 if the Veteran is otherwise eligible.  **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.
<ul> <li>a diagnosable chronic multi- symptom illness with a partially explained etiology, such as diabetes or multiple sclerosis, or</li> <li>a disease with a clear and specific etiology</li> </ul>	<ul> <li>cannot be awarded under 38 CFR 3.317, and</li> <li>may be awarded only if the medical evidence is sufficient to establish SC on a direct or other basis.</li> </ul>
<ul> <li>a disability with a clear or specific etiology, and</li> </ul>	award SC under <u>38 CFR 3.303</u> if the Veteran is otherwise eligible.
<ul> <li>provides a medical opinion with rationale that the disability is related to documented in-service injury/events, symptoms, or other specific environmental hazards exposure</li> </ul>	Reference: For more information on deciding claims based on other specific environmental hazards, see M21-1, Part IV, Subpart ii, 2.C.5.

# 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 <u>M21-1 IV.ii.2.D</u>.

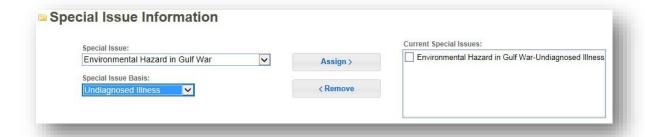
**TOPIC 2: GENERATING YOUR RATING DECISION** 

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

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

If the condition is	And the analogous	Then the first DC is
analogous to	code begins with	
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	62	8862
organs		
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	77	8877
system		
Skin	78	8878
endocrine system	79	8879
central nervous system	80	8880
miscellaneous	81	8881
neurological		
cranial nerve paralysis	82	8882
cranial nerve neuritis	83	8883
cranial nerve neuralgia	84	8884
peripheral nerve	85	8885
paralysis		
peripheral nerve	86	8886
neuritis		
peripheral nerve	87	8887
neuralgia	00	0000
Epilepsies	89	8889
psychotic disorders	92	8892
organic mental	93	8893
Psychoneurotic	94	8894
psychophysiologic	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> <li>gastrointestinal signs or</li> </ul>	• 8873-7305, (ulcer)
symptoms, or	• 8873-7346 (hernia hiatal),
• an FGID	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	8893-9300, (organic mental
symptoms	disorder).
signs or symptoms involving the	• 8865-65, (respiratory
respiratory system (upper or	system)
lower)	• 8866-66, (respiratory
	system), or
	• 8868-68, (respiratory
	system).
signs or symptoms involving the	8878-7806, (eczema).
skin	
sleep disturbances	8894-9400, (generalized anxiety).



# **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

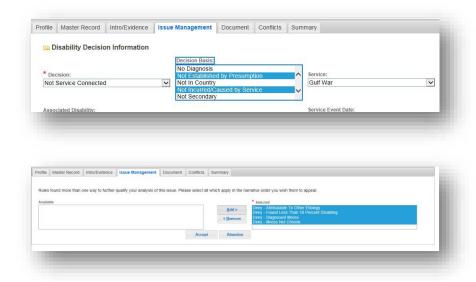
8863-6354	CHRONIC FATIGUE SYNDROME [Environmental Hazard in Gulf War/Other
	Unidentified]
	Service Connected, Gulf War, Incurred
	Static Disability
	40% from 11/30/2016

#### 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.



*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.

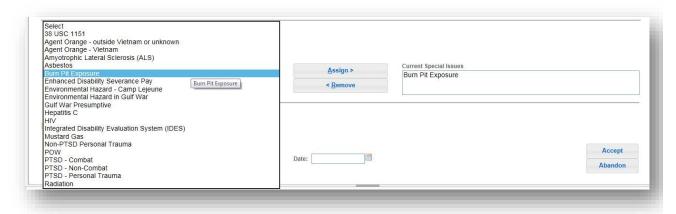
#### **TOPIC 4: GENERATING YOUR RATING DECISION**

#### **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*



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\_\_\_\_\_\_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 of 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?