RATING GLOSSARY TEXT ADDENDUM

Please use this as the start of your own PMC DIC glossary text resource for adding custom glossary text, custom evidence, and common code sheet notations when processing PMC DIC Rating Decisions.

(CONVERT FROM PDF TO WORD FOR EASE OF USE)

Custom Evidence:

- Capri Enterprise Search for VAMC treatment records, this search was negative for any records one year prior to the Veteran's death to present ***dated***
- Electronic Intent to File Claim ***received***
- Disability Benefits Questionnaire (DBQ) VA Medical Opinion ***dated***
- Military Records confirming Guam service during the Vietnam Era and exposure to herbicides ***received***
- Military Records confirming Republic of Vietnam service and exposure to herbicides ***received***
- Military Records confirming Thailand service during the Vietnam Era and exposure to herbicides ***received***
- Personnel information exchange system (PIES) request for STR ***requested***
- VA Form 21P-530EZ, Application for Burial Benefits ***received***
- Private medical opinion from ***received***
- VA development letter ***dated***
- VA Memo 38 CFR USC §1119 confirming toxic exposure in Southwest Asia ***dated***
- VA Memo confirming Republic of Vietnam nautical service and exposure to herbicides ***dated***
- VA Memo confirming Guam service during the Vietnam Era and exposure to herbicides ***dated***
- VA Memo confirming Republic of Vietnam service and exposure to herbicides ***dated***
- VA Memo confirming Thailand service during the Vietnam Era and exposure to herbicides ***dated***
- VA Memo negative for Republic of Vietnam service and Agent Orange exposure ***dated***
- VA Memo negative for Toxic Exposure Risk Activity (TERA) ***dated***
- VA Memo positive for Toxic Exposure Risk Activity (TERA) ***dated***
- Personnel information exchange system (PIES) request for service treatment records (STR) ***received***
- Personnel information exchange system (PIES) final response indicating Veteran's STR's were fire-related and thus unavailable ***received***
- Personnel information exchange system (PIES) final response indicating Veteran's records were unavailable ***received***

Service Treatment Records:

The Veteran's service treatment records are silent for any findings, complaints, or treatment of the condition(s) shown as causing or contributing to death.

The evidence does not show an event, disease, or injury in service. The Veteran's service treatment records do not contain complaints, treatment, or diagnosis for this condition.

Service Treatment Records Fire:

The Veteran's service treatment records (STR) are unavailable for review. On September 18, 2021, VA requested service treatment records from all potential sources. The National Personnel Records Center (NPRC) reported that the records may have been destroyed in a fire at the Records Center in 1973 in their response back to our request on March 22, 2022.

The VA notified you service treatment records were fire-related in our VA development letter dated March 23, 2022. We asked you to send in a completed NA Form 13055 in detail to attempt to obtain any records. As the date of this rating, we have not received this form. If these records are located at a later date, we will reconsider this decision.

The only record(s) the VA was able to obtain was the Veteran's Report of Medical Examination at separation from service which was negative for evidence of the causes of death.

We received this form back from you on December 14, 2022, however our letter dated December 28, 2022, explained that the information provided was still insufficient to obtain these records.

Service Treatment Records General Unavailable:

The Veteran's service treatment records are unavailable for review. On March 9, 2022, VA requested service treatment records from all potential sources. The National Personnel Records Center (NPRC) reported that the records were unavailable on March 12, 2022.

The VA notified you service treatment records were unavailable in our VA development letter dated March 23, 2022. We asked you to send in a completed NA Form 13055 in detail to attempt to obtain any records. As the date of this rating, we have not received this form. If these records are located at a later date, we will reconsider this decision.

Line of Duty:

On January 7, 2022, VA requested a Line of Duty determination for a Motor Vehicle Accident in the month of June 1984 from all potential sources. The National Personnel Records Center (NPRC) reported that any records were unavailable on March 29, 2022. Our letter dated December 10, 2021, informed the Veteran to send in Line of Duty records that he had in his possession. As the date of this rating, we have not received a response to this letter. If any of Line of Duty records are located at a later date, we will reconsider this decision.

General Presumptive under 3.309(a):

There is no evidence that the condition(s) causing or contributing to death manifested to a compensable degree within one year from the date of military discharge for consideration under 38 CFR 3.309 (a).

ALS Presumptive:

Service connection for the cause of death may be granted for specific diseases or conditions which are presumed to have been caused by service if manifested to a compensable degree following military discharge. Except as provided in 38 CFR 3.318(b), the development of amyotrophic lateral sclerosis manifested at any time after discharge or release from active military, naval, or air service is sufficient to establish service connection for that disease. Although not shown in service, service connection for the cause of death amyotrophic lateral sclerosis (ALS) has been granted as the cause of death on the basis of presumption. (38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.318)

Agent Orange General Paragraph:

Under the provisions of 38 USC 1116, VA has determined that presumption of service connection based on certain locations associated with herbicide exposure during military service is not warranted for any conditions other than those for which VA has found a positive association between the condition and such exposure. VA has determined that a positive association exists between exposure to herbicides and the subsequent development of the following conditions: AL amyloidosis; chloracne or other acneform disease consistent with chloracne; bladder cancer; type 2 diabetes (also known as type II diabetes mellitus or adult-onset diabetes); Hodgkin's disease; hypertension; hypothyroidism; ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable, and Prinzmetal's angina); all chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia); monoclonal gammopathy of undetermined significance; multiple myeloma; non-Hodgkin's lymphoma; Parkinson's disease; parkinsonism; early-onset peripheral neuropathy; porphyria cutanea tarda (PCT); prostate cancer; respiratory cancers (cancer of the lung, bronchus, larynx, or trachea); and soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma). PCT, chloracne, and early-onset peripheral neuropathy are required to become manifest to a compensable degree within one year from last exposure. (38 USC 1116, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.312)

Agent Orange Not Associated:

VA cannot establish presumptive service connection for the cause of death on the basis of herbicide exposure for a cancer listed under 38 U.S.C. 1116 when medical evidence factually shows that the cancer developed as the result of metastasis of a cancer located at a primary site that is not recognized by the VA as associated with herbicide exposure. Per the death certificate received esophageal cancer is the primary site of cancer and not an Agent Orange herbicide presumptive condition that then metastasized in the lung. Our letter dated December 23, 2022, asked you to submit scientific or medical evidence showing that the cause of death is medically associated with Agent Orange herbicide dioxin exposure. If a doctor has expressed an opinion regarding the relationship of the cause of death and such exposure, send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion.

Korea DMZ Agent Orange

Exposure to herbicides is also conceded if the Veteran served in one of the specific units that served in areas along the demilitarized zone (DMZ) in Korea where herbicides were used between September 1, 1967, and August 31, 1971. These units include certain battalions of the Combat Brigade of the 2nd Infantry Division and the 3rd Brigade of the 7th Infantry Division. It also includes the 4th Squadron of the 7th Calvary Counter Agent Company of the Division Reaction Force, the 2nd Military Police Company of the 2nd Infantry Division, the 13th Engineer Combat Battalion, the United Nations Command Security Battalion-Joint Security Area and the crew of the USS Pueblo. Under Public Law 116-23, the period of service for a Veteran described in this paragraph is a Veteran who, during

active military, naval, or air service, served in or near the Korean DMZ during the period beginning on September 1, 1967, and ending on August 31, 1971.

Agent Orange Basis of Service Paragraphs

A Veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, to May 7, 1975, shall be presumed to have been exposed to herbicide agents, unless there is affirmative evidence to establish that the Veteran was not exposed to any such agent during that service.

A Veteran who, during active military, naval, or air service, served in Thailand at any United States or Royal Thai base during the period beginning on January 9, 1962, to June 30, 1976, shall be presumed to have been exposed to herbicide agents, unless there is affirmative evidence to establish that the Veteran was not exposed to any such agent during that service.

A Veteran who, during active military, naval, or air service, served in Guam or American Samoa or in the territorial waters off of Guam or American Samoa from the period beginning on January 9, 1962, to July 31, 1980, shall be presumed to have been exposed to herbicide agents, unless there is affirmative evidence to establish that the Veteran was not exposed to any such agent during that service.

VA has confirmed that the Veteran has the requisite qualifying service.

VA has confirmed that the Veteran was exposed to herbicides based on nautical service in the offshore eligible waters as defined in the Blue Water Navy Vietnam Veterans Act of 2019, Public Law 116-23.

Though not shown in service, nor diagnosed and manifested to a compensable degree within one year of discharge, service connection for the cause of the Veteran's death is granted because the Veteran’s listed cause of death is among the disabilities that are presumed to be a result of Agent Orange exposure.

A review of the Veteran's records was conducted, and the evidence of record does not show the Veteran had duty or visitation in the Republic of Vietnam, or on its inland waterways, or nautical service in the offshore eligible waters as defined in 38 CFR 3.307.

There is no evidence in the Veteran’s record to substantiate service in the Republic of Vietnam or exposure to Agent Orange herbicides in any location. Therefore, presumptive consideration cannot be given with regards to Agent Orange exposure as such exposure is not conceded

Gulf War Presumptive Paragraphs

VA has determined that presumption of service connection is warranted for asthma, chronic bronchitis, chronic obstructive pulmonary disease, constrictive bronchiolitis or obliterative bronchiolitis, emphysema, granulomatous disease, interstitial lung disease, pleuritis, pulmonary fibrosis, sarcoidosis, chronic sinusitis, chronic rhinitis, glioblastoma, head cancer of any type, neck cancer of any type, respiratory cancer of any type, gastrointestinal cancer of any type, reproductive cancer of any type, lymphoma cancer of any type, lymphomatic cancer of any type, kidney cancer, brain cancer, melanoma, or pancreatic cancer for Veterans who served in or in the airspace above one or more of the following: on, or after August 2, 1990 in the Southwest Asia theater of operations (Iraq, Kuwait, Saudi Arabia, the neutral zone between Iraq and Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea, the Red Sea) or Somalia, or on, or after September 11, 2001 in Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen, or Uzbekistan. A positive association exists if

these conditions manifest to any degree at any time from date of separation from military service that includes a qualifying period of service. (38 USC 1119, 38 USC 1120, 38 CFR 3.312, 38 CFR 3.320)

VA has confirmed that the Veteran has the requisite qualifying service.

Service connection for the cause of the Veteran's death is granted because the Veteran's listed cause of death is among the disabilities that are presumed to be a result of this service.

There is no evidence in the Veteran's record to substantiate service in Southwest Asia theater or any other location listed above under the PACT Act provisions. Therefore, presumptive consideration cannot be given as such exposure is not conceded.

Vital Organ

Service-connected diseases or injuries involving active processes affecting vital organs should receive careful consideration as a contributory cause of death, the primary cause being unrelated, from the viewpoint of whether there were resulting debilitating effects and general impairment of health to an extent that would render the person materially less capable of resisting the effects of other disease or injury primarily causing death. Where the service-connected condition affects vital organs as distinguished from muscular or skeletal functions and is evaluated as 100 percent disabling, debilitation may be assumed.

Medical Opinion

Based on the evidence, VA requested a medical opinion on August 9, 2023. Our VA medical examiner opined it is at least as likely as not (50 percent or greater probability) that the Veteran's service contributed substantially or materially to the Veteran's cause(s) of death.

Under the provisions of 38 USC 1168, VA has determined that service connection based on toxic exposure associated with military service is warranted when VA has found a positive association between the condition and such exposure. There is evidence in the Veteran's record to substantiate a Toxic Exposure Risk Activity (TERA). Based on the evidence, VA requested a medical opinion. Our VA medical examiner opined it is at least as likely as not (50 percent or greater probability) that the Veteran's cause(s) of death was incurred or caused by his military toxic exposure during service.

Under the provisions of 38 USC 1168, VA has determined that service connection based on toxic exposure associated with military service is warranted when VA has found a positive association between the condition and such exposure. There is evidence in the Veteran's record to substantiate a Toxic Exposure Risk Activity (TERA). Based on the evidence, VA requested a medical opinion. Our VA medical examiner opined that it is less likely than not (less than 50 percent probability) that the Veteran's cause(s) of death were incurred or caused by his military toxic exposure during service.

VAMC Records

The VA obtained and reviewed the VAMC treatment records as outlined above in the "Evidence" section. However, the VAMC treatment records do not show that the Veteran's death was due to military service.

The VA obtained and reviewed the VAMC treatment records as outlined above in the "Evidence" section. These records show the treatment and diagnosis for multiple medical conditions, including the causes of the Veteran's death. However, the VAMC treatment records do not show that the Veteran's death was due to military service.

Our electronic search for VAMC treatment records was negative for any records one year prior to the Veteran's death to present.

Our electronic search for VAMC treatment records was negative for any records.

Your application for benefits identified VA medical center records from {} through {} were pertinent to your claim. Records which immediately preceded death were retrieved and reviewed and did not show any relation between the causes of death and military service. It was determined inherently incredible that records further back which preceded death by over {} years would be of any merit in sustaining this claim, therefore they were not retrieved.

Private Medical Records

The VA obtained and reviewed private treatment records as outlined above in the "Evidence" section. However, these records do not show that the Veteran's death was due to military service.

The VA obtained and reviewed private treatment records as outlined above in the "Evidence" section. These records show the treatment and diagnosis for multiple medical conditions, including the causes of the Veteran's death. However, these private treatment records do not show that the Veteran's death was due to military service.

Private medical records requested from [name of provider], but not received.

You submitted a VA authorization Form 21-4142a so that the VA could attempt to obtain the Veteran's private medical records on your behalf, however this form did not identify any providers.

On your application for benefits you listed treatment records from [name of provider], efforts to obtain these records were unsuccessful. Our letter to you dated September 9, 2022, informed you that VA was unable to obtain these records.

Development Response Paragraphs

EZ CLAIM NO DEV

Your application was submitted as a fully developed claim; therefore, no development actions have been initiated. All decisions made were based solely on the evidence which was held in federal possession and which you submitted with your claim. No medical evidence was provided from the date of the Veteran's death to the date of this rating to substantiate your claim by showing the Veteran's service conditions caused, contributed to or hastened the Veteran's death and/or medical evidence showing a reasonable probability that the condition which contributed to the Veteran's death was caused by injury or disease that began during active-duty service.

CLAIM WITH DEV LETTER WITH NO RESPONSE

In our letter(s) to you listed in the "Evidence" section, VA requested that you submit any medical evidence showing that the Veteran's service-connected conditions or service caused or contributed to death, and/or medical evidence showing a reasonable probability that the condition(s) which contributed to the Veteran's death was caused by injury or disease that began during active-duty service to substantiate your claim for benefits.

CLAIM WITH DEV AND PHONE RESPONSE REQUESTING MORE TIME

In our letter(s) to you listed in the "Evidence" section, VA requested that you submit any medical evidence showing that the Veteran's service-connected conditions caused or contributed to death, and/or medical evidence showing a reasonable probability that the condition(s) which contributed to the Veteran's death was caused by injury or disease that began during active-duty service. You responded to this letter with phone contact on April 12, 2022, requesting more time to provide evidence to substantiate your claim for death benefits. As the date of this rating, you have not responded to this letter with any evidence indicating that the Veteran's service-connected conditions, caused, contributed to or hastened the Veteran's death.

CLAIM WITH DEV AND 5103 DECIDE CLAIM

In our letter(s) to you listed in the "Evidence" section, VA requested that you submit any medical evidence showing that the Veteran's service-connected conditions caused or contributed to death, and/or medical evidence showing a reasonable probability that the condition(s) which contributed to the Veteran's death was caused by injury or disease that began during active-duty service. We received your 38 USC 5103 Notice Response on January 19, 2022, stating you had provided all evidence to support your claim and requesting that the VA make the decision based on the evidence of record. As the date of this rating, you have not responded to this letter with any evidence indicating that the Veteran's service-connected conditions, caused, contributed to or hastened the Veteran's death.

1151 CLAIM DEV SENT NO RESPONSE

In our letter(s) to you listed in the "Evidence" section requested that you submit evidence showing that the Veteran's death was caused by negligent VA hospital or medical care. In the letter we asked you to provide the specific VA hospital where the incident occurred, date range of the incident, the circumstances surrounding the incident and the reasons you feel the Veteran's death was due to negligence. VA requires this information to forward for a Medical Opinion to establish a service-connected death under 38 USC 1151, as of this date we have not received the evidence we requested.

TERA

On August 10, 2022, the President signed Public (PL) 117-168, Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022, or the Honoring our PACT Act of 2022 establishing substantial legislative changes for the Department of Veterans Affairs (VA). The multifaceted law expanded presumptive locations and conditions associated with recognized toxic exposures with examination requirements when a toxic exposure risk activity has been identified during the Veteran's military service. (38 U.S.C. 1710(e)(4))

There is no evidence in the Veteran's record to substantiate a Toxic Exposure Risk Activity (TERA). Due to the provisions of the PACT ACT, VA conducted a review of the Veteran's records, fact and circumstances of service and the causes of death to determine a nexus that would warrant a medical opinion, however based on our review TERA exposure is not conceded. (USC 1168)

We considered whether your condition resulted from a toxic exposure risk activity (TERA) in service. (38 U.S.C. 1710(e)(4)) The evidence of record shows participation in a TERA.

There is evidence in the Veteran's record to substantiate a Toxic Exposure Risk Activity (TERA) due to the PACT ACT law. VA conducted a review of the Veteran's records and toxic exposure due to service is conceded, however the cause of death as listed on the death certificate is not listed amongst the allowed presumptive conditions. A medical opinion based on toxic exposure risk activity (TERA) was not requested because the evidence does not show the cause of death, is associated with toxic exposure, there is no indication of association between these causes of death and participation in a TERA. There is also no medical or scientific evidence in the Veteran's record of an association between the cause(s) of death and in-service TERA. We may consider that the Veteran's cause of

death is associated with service if you send us scientific or medical evidence showing that the cause of death is medically associated due to service. If a doctor has expressed an opinion regarding the relationship of the cause of death and service, send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion. (38 U.S.C. 1168)

There is evidence in the Veteran's record to substantiate a Toxic Exposure Risk Activity (TERA) due to the PACT ACT law. VA conducted a review of the Veteran's records and toxic exposure due to service is conceded, however the cause of death as listed on the death certificate is not listed amongst the allowed presumptive conditions. We may consider that the Veteran's cause of death is associated with service if you send us scientific or medical evidence showing that the cause of death is medically associated due to service. If a doctor has expressed an opinion regarding the relationship of the cause of death and service, send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion. (38 U.S.C 1168)

medically associated due to service. If a doctor has expressed an opinion regarding the relationship of the cause of death and service, send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion. (38 U.S.C. 1168)

There is evidence in the Veteran's record to substantiate a Toxic Exposure Risk Activity (TERA) due to the PACT ACT law. VA conducted a review of the Veteran's records and toxic exposure due to service is conceded, however the cause of death as listed on the death certificate is not listed amongst the allowed presumptive conditions. We may consider that the Veteran's cause of death is associated with service if you send us scientific or medical evidence showing that the cause of death is medically associated due to service. If a doctor has expressed an opinion regarding the relationship of the cause of death and service, send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion. (38 U.S.C 1168)

General Rating Narrative Paragraphs

We received your statement that the Veteran's cause of death was due to military service. The Veteran was not service connected for any mental health disorder. Service connection for post-traumatic stress disorder (PTSD) or any mental health disorder requires medical evidence establishing a clear diagnosis of the condition, an in-service stressor, credible supporting evidence that the claimed in-service stressor occurred, and a link, established by medical evidence, between current symptomology and the claimed in-service stressor.

We received Board of Veterans Appeals (BVA) decisions you submitted, however BVA decisions from other Veterans are case specific to those Veterans and are not binding on the VA for other decisions or Veterans for similar issues. BVA decisions do not establish precedent to change existing regulations.

We may consider that the Veteran's cause of death is associated with the Veteran's service or service-connected condition(s) if you send us scientific or medical evidence showing that the cause of death is medically associated due to service or the service-connected condition(s). If a doctor has expressed an opinion regarding the relationship of the cause of death and service/service-connected condition(s), send us that opinion, the reasons and bases for that opinion, and the clinical treatment records. In addition, the doctor should provide literature that supports the opinion. Literature may consist of scientific or medical journal articles, etc., that support the doctor's opinion.

As of the date of this rating, we have not received any medical evidence indicating that the cause(s) of death were incurred in-service or caused by injury or disease that began during his period of active-duty service.

There is no evidence that the Veteran's active-duty service caused, aggravated, or hastened the death of the Veteran.

There is no evidence that the above service-connected conditions and/or the Veteran's active-duty service caused, aggravated, or hastened the death of the Veteran.

Miscellaneous Rating Notations

Please CEST EP 165 and release the substitute claimant letter. Please notify the surviving spouse that a claim for accrued benefits is pending a decision by the Regional Office. M21-1 XI.ii.3.E.17.a and b.

Please CEST EP 165 and release the substitute appellant recognition letter. Please notify the surviving spouse that a claim for accrued benefits is pending the Veteran's appeal is with the Board of Veterans Appeals. M21-1 XI.ii.3.E.17.a and b.

If the PMC can grant SC for the cause of death without making a decision on the Veteran's claim for SC at the time of death, then the accrued claim or request for substitution is not intertwined. The accrued claim or request for substitution should be worked by the VSC of jurisdiction. XI.ii.3.E.17.a.

Entitlement to accrued benefits has also been considered. Accrued benefits are payable when VA owes compensation to a Veteran at the time of death. Since the Veteran did not have a pending claim at the time of death, there is no basis for any accrued benefits.