

EXECUTIVE OFFICE OF THE PRESIDENT

03-Dec-1996 02:21pm

TO: Pauline M. Abernathy

FROM: Molly Brostrom
Domestic Policy Council

SUBJECT: RE: agent orange info

The disability compensation system is pretty crazy -- let me try and explain the little I know.

Basic compensation: If you have a "body change" while you are in the service (not necessarily at war), then you are entitled to disability compensation. E.g. If I get breast cancer (or flat feet -- yes, that's considered a disability) while in the military, I can receive disability compensation for that disease even if it's not caused by my service.

Presumptive eligibility: If I get breast cancer after I leave the military, I don't get compensation, unless I can prove the disability/disease was caused by service. A number of diseases have been determined to make a veteran presumptively eligible (these are all listed in U.S. Code 38 Sec. 1112) for disability compensation. E.g. If I get Hansen's disease within 3 years of separation from service, the law says that it 's considered to have been incurred in or aggravated by service.

The Agent Orange law says that a disease for which the evidence is equal to or greater than that it was caused by exposure to Agent Orange shall make a veteran presumptively eligible for compensation. I assume that the other presumpt-elig diseases had a stronger standard for making it into the presumpt-elig list.

For Persian Gulf, we supported and signed legislation that allows compensation to veterans suffering from undiagnosed illnesses. In other words, if a veteran has a chronic disability displayed in certain symptoms (not diagnosed as a disease or illness) within a certain period from service (2 years I believe) then s/he is considered presumptively eligible for disability compensation.

While it sounds very broad, I believe a significant percentage of Persian Gulf claims have been turned down by VA because the claimed condition wasn't chronic, wasn't manifest during presumptive period, was less than 10% disabling, a diagnosed condition was found...

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

CROSS REFERENCES

Amounts payable under this subchapter exempt from tax levy, see 26 USCA § 6334.

Payment of compensation at rates prescribed in this subchapter to veterans sustaining disabilities in different periods of service, see 38 USCA § 1157.

§ 1110. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

(Pub.L. 85-857, Sept. 2, 1958, 72 Stat. 1119, § 310; Pub.L. 101-508, Title VIII, § 8052(a)(2), Nov. 5, 1990, 104 Stat. 1388-351; renumbered Pub.L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1958 Act. Senate Report No. 2259 and House Report No. 1298, see 1958 U.S. Code Cong. and Adm. News, p. 4352.

1990 Act. House Report No. 101-881 and House Conference Report No. 101-964, see 1990 U.S. Code Cong. and Adm. News, p. 2017.

Amendments

1990 Amendment. Pub.L. 101-508 substituted "a result of the veteran's own

willful misconduct or abuse of alcohol or drugs" for "the result of the veteran's own willful misconduct"

Effective Dates

1990 Act. Amendment by Pub.L. 101-508 effective with respect to claims filed after Oct. 31, 1990, see section 8052(b) of Pub.L. 101-508, set out as a note under section 105 of this title.

LIBRARY REFERENCES

American Digest System

Veterans' benefits; compensation for disability, see Armed Services §104.
Veterans' benefits; rights and benefits in general, see Armed Services §101.

Encyclopedias

Veterans' benefits; disability compensation, see C.J.S. Armed Services § 255.
Veterans' benefits; general considerations, see C.J.S. Armed Services § 251.

Law Reviews

Federal Tort Claims Act—Feres Doctrine. (1985) 24 Duquesne L.Rev. 309.

WESTLAW ELECTRONIC RESEARCH

Armed services cases: 34k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

this title [now this chapter]. Tor
S., 1956, 135 Ct.Cl. 214.

putation of period of service
r Act Mar. 20, 1933, c. 3, 48 Stat.
time spent by naval enlistees at
waiting orders to report at a na-
ving station could not be used in
ing service, nor could disabilities
d during that interval be con-
as acquired in the active service.
D.V.A. 376.

Consolidation of awards

l War I service connected disabil-
l World War II service connected
ies may be consolidated and
one award. 1946, A.D.V.A. 723.

Period of war

phrase "on or after August 13,
and before July 5, 1902", used in
ion with the entitlement of those
who participated in the Philip-
insurrection, was a limitation not
on the time of actual partic-
but also upon the time of the
ice of the disease or injury pro-
the disability on account of
he pension was payable, it fol-
that if the claimant was disabled
unt of an injury or disease con-
on or after July 5, 1902, a pen-
ld not be paid at a wartime rate
standing the fact that the disease
y might have been contracted in
e enlistment during which the
actually participated in the
ne Insurrection. 1933, A.D.V.A.

Willful misconduct

at criteria concerning the use of
as a beverage and its conse-
will be continued except that
diseases and disabilities which
ondary result of the chronic use
ol as a beverage, whether out of
ion or otherwise, will not be
ed of willful misconduct origin.
D.V.A. 988.

Entitlement

s title, every veteran shall
when examined, accepted,

Ch. 11 WARTIME DISABILITY

38 § 1112

and enrolled for service, except as to defects, infirmities, or disor-
ders noted at the time of the examination, acceptance, and enroll-
ment, or where clear and unmistakable evidence demonstrates that
the injury or disease existed before acceptance and enrollment and
was not aggravated by such service.

(Pub.L. 85-857, Sept. 2, 1958, 72 Stat. 1119, § 311; renumbered and
amended Pub.L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports	Amendments
1958 Act. Senate Report No. 2259 and House Report No. 1298, see 1958 U.S. Code Cong. and Adm. News, p. 4352.	1991 Amendment. Pub.L. 102-83, § 5(c)(1), substituted "1110" for "310".

CROSS REFERENCES

Applicability of this section to veterans with active service after December 31,
1946 for purposes of peacetime disability or death compensation, see 38
USCA § 1137.

LIBRARY REFERENCES

American Digest System

Veterans' benefits; compensation for disability, see Armed Services ¶104.
Veterans' benefits; rights and benefits in general, see Armed Services ¶101.

Encyclopedias

Veterans' benefits; administration and payment of benefits; conclusiveness of
decisions; judicial review, actions, see C.J.S. Armed Services § 264.
Veterans' benefits; disability compensation, see C.J.S. Armed Services § 255.
Veterans' benefits; general considerations, see C.J.S. Armed Services § 251.

WESTLAW ELECTRONIC RESEARCH

Armed services cases: 34k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Examination requirement 1

1. Examination requirement

The claim of a member of the Philip-
pine Army who was ordered into the
service of the armed forces of the United
States under the military order of the

President of the United States of July 26,
1941, may not be given the benefit of a
presumption of sound condition, unless
it is of record that he was medically
examined at the time of entry into the
armed forces of the United States. 1947,
A.D.V.A. 746.

§ 1112. Presumptions relating to certain diseases and disabili- ties

(a) For the purposes of section 1110 of this title, and subject to
the provisions of section 1113 of this title, in the case of any veteran
who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10
percent or more within one year from the date of separation
from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases; or as a preventative thereof, becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 percent degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

(b) For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

- (1) avitaminosis,
- (2) beriberi (including beriberi heart disease),
- (3) chronic dysentery,
- (4) helminthiasis,
- (5) malnutrition (including optic atrophy associated with malnutrition),
- (6) pellagra,
- (7) any other nutritional deficiency,
- (8) psychosis,
- (9) any of the anxiety states,
- (10) dysthymic disorder (or depressive neurosis),
- (11) organic residuals of frostbite, if the Secretary determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite,
- (12) post-traumatic osteoarthritis,
- (13) peripheral neuropathy except where directly related to infectious causes,
- (14) irritable bowel syndrome, or
- (15) peptic ulcer disease,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

(c)(1) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during active military, naval; or air service, notwithstanding that there is no record of evidence of such disease during a period of such service.

(2) The diseases referred to in paragraph (1) of this subsection are the following:

- (A) Leukemia (other than chronic lymphocytic leukemia).
- (B) Cancer of the thyroid.
- (C) Cancer of the breast.
- (D) Cancer of the pharynx.
- (E) Cancer of the esophagus.
- (F) Cancer of the stomach.
- (G) Cancer of the small intestine.
- (H) Cancer of the pancreas.
- (I) Multiple myeloma.
- (J) Lymphomas (except Hodgkin's disease).
- (K) Cancer of the bile ducts.
- (L) Cancer of the gall bladder.
- (M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity.

(4) For the purposes of this subsection:

(A) The term "radiation-exposed veteran" means (i) a veteran who, while serving on active duty, participated in a radiation-risk activity, or (ii) an individual who, while a member of a reserve component of the Armed Forces, participated in a radiation-risk activity during a period of active duty for training or inactive duty training.

(B) The term "radiation-risk activity" means any of the following:

(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Secretary) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.

(Pub.L. 85-857, Sept. 2, 1958, 72 Stat. 1120, § 312; Pub.L. 86-187, Aug. 25, 1959, 73 Stat. 418; Pub.L. 86-188, Aug. 25, 1959, 73 Stat. 418; Pub.L. 87-645, § 3, Sept. 7, 1962, 76 Stat. 442; Pub.L. 91-376, § 3(a), (b), Aug. 12, 1970, 84 Stat. 788, 789; Pub.L. 97-37, § 4(a), Aug. 14, 1981, 95 Stat. 936; Pub.L. 98-223, Title I, §§ 101(c), 111, Mar. 2, 1984, 98 Stat. 38, 40; Pub.L. 99-576, Title I, § 108(a), Oct. 28, 1986, 100 Stat. 3252; Pub.L. 100-321, § 2(a), May 20, 1988, 102 Stat. 485; Pub.L. 100-322, Title III, § 312, May 20, 1988, 102 Stat. 534; renumbered and amended Pub.L. 102-83, §§ 4(b)(1), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404, 406; Pub.L. 102-86, Title I, §§ 104(a), 105, Aug. 14, 1991, 105 Stat. 415.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1958 Act. Senate Report No. 2259 and House Report No. 1298, see 1958 U.S. Code Cong. and Adm. News, p. 4352.

1959 Acts. Senate Report No. 660, see 1959 U.S. Code Cong. and Adm. News, p. 2159.

Senate Report No. 661, see 1959 U.S. Code Cong. and Adm. News, p. 2160.

1962 Act. Senate Report No. 1806, see 1962 U.S. Code Cong. and Adm. News, p. 2365.

1970 Act. House Report No. 91-1166; see 1970 U.S. Code Cong. and Adm. News, p. 3723.

1981 Act. House Report No. 97-28, see 1981 U.S. Code Cong. and Adm. News, p. 1410.

1984 Act. Senate Report No. 98-249, see 1984 U.S. Code Cong. and Adm. News, p. 58.

1986 Act. Senate Report No. 99-444 and Explanatory Statement, see 1986 U.S. Code Cong. and Adm. News, p. 5468.

1988 Acts. House Report No. 100-235 and Statement by President, see 1988 U.S. Code Cong. and Adm. News, p. 412.

House Report No. 100-191 and House Conference Report No. 100-578, see 1988 U.S. Code Cong. and Adm. News, p. 432.

Amendments

1991 Amendments. Subsec. (a). Pub.L. 102-83, § 5(c)(1), substituted "1110" for "310" and "1113" for "313".

Subsec. (b). Pub.L. 102-83, § 5(c)(1), substituted "1110" for "310" and "1113" for "313" in provision preceding par. (1).

Pub.L. 102-83, § 4(b)(1), substituted "Secretary" for "Administrator" in par. (11).

Subsec. (c)(1). Pub.L. 102-86, § 105(1)(A), substituted "during active military, naval, or air service" for "during the veteran's service on active duty".

Pub.L. 102-86, § 105(1)(B), substituted "during a period" for "during the period".

Pub.L. 102-83, § 5(c)(1), substituted "1110" for "310" and "1113" for "313".

Subsec. (c)(3). Pub.L. 102-86, § 104(a), struck out, except that such period shall be the 30-year period beginning on that date in the case of leukemia

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(other than chronic lymphocytic leukemia) following "activity".

Subsec. (c)(4)(A). Pub.L. 102-86, § 105(2)(A), inserted "(i)" following "means".

Pub.L. 102-86, § 105(2)(B), added, or (ii) an individual who, while a member of a reserve component of the Armed Forces, participated in a radiation-risk activity during a period of active duty for training or inactive duty training preceding "radiation-risk activity".

Subsec. (c)(4)(B)(iii). Pub.L. 102-83, § 4(b)(1), substituted "Secretary" for "Administrator".

1988 Amendments. Subsec. (b)(13) to (15). Pub.L. 100-322 added pars. (13) to (15).

Subsec. (c). Pub.L. 100-321 added subsec. (c).

1986 Amendment. Subsec. (b)(11), (12). Pub.L. 99-576 added pars. (11) and (12).

1984 Amendment. Subsec. (a). Pub.L. 98-223, § 101(c), substituted "percent" for "per centum" in pars. (1) to (5).

Subsec. (b). Pub.L. 98-223, § 111, added par. (10).

Pub.L. 98-223, § 101(c), substituted "percent" for "per centum" in provision following par. (10).

1981 Amendment. Subsec. (b). Pub.L. 97-37, § 4(a)(1), (2), redesignated former subsec. (c) as (b) and, as so redesignated, generally revised structure and nomenclature so as to, among the revisions, include anxiety states as a listed disease, and exclude the enumerated armed conflicts and resulting treatment incurred. Former subsec. (b), relating to treatment as a prisoner of war as deemed in violation of the Geneva Conventions of 1929 and 1949, was struck out.

Subsec. (c). Pub.L. 97-37, § 4(a)(2), redesignated subsec. (c) as (b).

1970 Amendment. Pub.L. 91-376 inserted reference to disabilities in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

1962 Amendment. Pub.L. 87-645 substituted "seven years" for "three years" in par. (4).

1959 Amendments. Pub.L. 86-188 inserted par. (5).

Pub.L. 86-187 substituted "three years" for "two years" in par. (4).

Effective Dates

1991 Act. Section 104(b) of Pub.L. 102-86 provided that: "No benefit may be paid by reason of the amendment made by subsection (a) [amending subsec. (c)(3) of this title] for any period before the date of the enactment of this Act [Aug. 14, 1991]."

1988 Act. Section 2(b) of Pub.L. 100-321, as amended Pub.L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Subsection (c) of section 1112 of title 38, United States Code [subsec. (c) of this section], as added by subsection (a), shall take effect on May 1, 1988."

1986 Act. Section 108(b) of Pub.L. 99-576 provided that: "The amendments made by subsection (a) [amending subsec. (b) of this section] shall take effect as of October 1, 1986."

1984 Act. Amendment by section 101(c) of Pub.L. 98-223 effective Apr. 1, 1984, see section 107 of Pub.L. 98-223, set out as a note under section 1114 of this title.

Section 114 of Pub.L. 98-223 provided that: "The amendments made by this part [Part B, §§ 111 to 114, of Title I of Pub.L. 98-223, amending this section and sections 1114 and 3011 of this title] shall take effect as of October 1, 1983."

1981 Act. Section 4(b) of Pub.L. 97-37 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1981."

1962 Act. Section 4 of Pub.L. 87-645 provided that: "This Act [amending this section and sections 1114 and 5503 of this title, and enacting provisions set out as a note under section 1114 of this title] shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act [Sept. 7, 1962], but no payments shall be made by reason of this Act for any period before such effective date. The increased rate of compensation payable to any veteran entitled thereto on such first day shall be further increased, for such month only, in an amount equal to three times the monthly increase provided for such veteran by the amendments made by this Act."

CROSS REFERENCES

Applicability of this section to veterans with active service after December 31, 1946 for purposes of peacetime disability or death compensation, see 38 USCA § 1137.

LIBRARY REFERENCES

Administrative Law

Service connection, see 38 C.F.R. § 3.303 et seq.

American Digest System

Veterans' benefits; compensation for disability, see Armed Services § 104.

Veterans' benefits; rights and benefits in general, see Armed Services § 101.

Encyclopedias

Veterans' benefits; administration and payment of benefits; conclusiveness of decisions; judicial review, actions, see C.J.S. Armed Services § 264.

Veterans' benefits; disability compensation, see C.J.S. Armed Services § 255.

Veterans' benefits; general considerations, see C.J.S. Armed Services § 251.

Law Reviews

Defending an indifferent Constitution: The plight of soldiers used as guinea pigs. Note, 31 Ariz.L.Rev. 633 (1989).

Federal Tort Claims Act—Feres Doctrine. (1985) 24 Duquesne L.Rev. 309.

WESTLAW ELECTRONIC RESEARCH

Armed services cases: 34k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Length of service requirement. 1
Time of manifestation of disease. 2

1. Length of service requirement

A veteran in service on Apr. 6, 1917, who was discharged therefrom without serving 90 days during World War I could be given the benefit of the provisions of the applicable regulation if he had 90 days continuous service. 1934, A.D.V.A. 247.

2. Time of manifestation of disease

In order to be entitled to benefits, it must be shown that a chronic disease

became manifest to a degree of 10 percent or more within one year from the date of discharge from the enlistment entered into prior to Nov. 11, 1918, this is to say, within one year from the date of discharge under General Orders 55, G.H.Q.1919; a discharge pursuant to General Orders 55 definitely terminated the enlistment entered into prior to Nov. 11, 1918; and the immediate reenlistment must be considered as a new and separate peacetime service. 1934, A.D. V.A. 236.

§ 1113. Presumptions rebuttable

(a) Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases within the purview of section 1112 or 1116 of this title, has been suffered between the date of separation from service and the onset of any such diseases, or the disability is due to the veteran's own willful misconduct, service-connection pursuant to section 1112 or 1116 of this title will not be in order.

(b) Nothing in section 1112 or 1116 of this title or subsection (a) of this section shall be construed to prevent the granting of service-

connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

(Pub.L. 85-857, Sept. 2, 1958, 72 Stat. 1120, § 313; Pub.L. 102-4, § 2(b), Feb. 6, 1991, 105 Stat. 13; renumbered and amended Pub.L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1958 Act. Senate Report No. 2259 and House Report No. 1298, see 1958 U.S. Code Cong. and Adm. News, p. 4352.

1991 Act. Statement by President, see 1991 U.S. Code Cong. and Adm. News, p. 11.

Amendments

1991 Amendments. Subsecs. (a), (b): Pub.L. 102-83, § 5(c)(1), substituted "1112" for "312" and "1116" for "316" wherever appearing.

Pub.L. 102-4 inserted "or 316" after "section 312" wherever appearing.

CROSS REFERENCES

Applicability of this section to veterans with active service after December 31, 1946 for purposes of peacetime disability or death compensation, see 38 USCA § 337.

LIBRARY REFERENCES

American Digest System

Veterans' benefits; compensation for disability, see Armed Services § 104.

Veterans' benefits; rights and benefits in general, see Armed Services § 101.

Encyclopedias

Veterans' benefits; administration and payment of benefits; conclusiveness of decisions; judicial review, actions, see C.J.S. Armed Services § 264.

Veterans' benefits; disability compensation, see C.J.S. Armed Services § 255.

Veterans' benefits; general considerations, see C.J.S. Armed Services § 251.

WESTLAW ELECTRONIC RESEARCH

Armed services cases: 34k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 1114. Rates of wartime disability compensation

For the purposes of section 1110 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be \$80;

(b) if and while the disability is rated 20 percent the monthly compensation shall be \$151;

(c) if and while the disability is rated 30 percent the monthly compensation shall be \$231;

(d) if and while the disability is rated 40 percent the monthly compensation shall be \$330;

(e) if and while the disability is rated 50 percent the monthly compensation shall be \$470;

Encyclopedias

Veterans' benefits; compensation for dependents and survivors, see C.J.S. Armed Services § 254.
 Veterans' benefits; disability compensation, see C.J.S. Armed Services § 255.
 Veterans' benefits; general considerations, see C.J.S. Armed Services § 251.
 Veterans' benefits; payment of benefits, see C.J.S. Armed Services § 265.

Law Reviews

Making intramilitary tort law more civil: A proposed reform of the Feres Doctrine. David Schwartz, 95 Yale L.J. 992 (1986).
 Rewriting the fiscal constitution: The case of Gramm-Rudman-Hollings. Kate Stith, 76 Cal.L.Rev. 593 (1988).
 Why Congress should not legislatively repeal the Feres Doctrine—a struggle in equity. 18 Texas Tech L.Rev. 819 (1987).

WESTLAW ELECTRONIC RESEARCH

Armed services cases: 34k[add key number].
 See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

Additional disability from private treatment 3
Aid and attendance 2
Loss of use 1
Specific disability ratings 4
Weight and conclusiveness of administrative determinations 5

1. Loss of use

The functional loss of use of lower extremities resulting from service-connected conversion hysteria and not accompanied by secondary anatomical changes nevertheless constitutes "loss of use" for the purpose of entitlement to special monthly compensation under this section. 1974, A.D.V.A. 994.

2. Aid and attendance

As to a veteran who came within the phrase "or is so helpless as to be in need of regular aid and attendance" and was being maintained by the government in an institution and was thus furnished with those benefits in kind, his pension should be reduced to the rate provided for total disability while so maintained subject to any other limitations. 1933, A.D.V.A. 201.

3. Additional disability from private treatment

Special compensation allowance may be awarded for additional disability resulting from treatment, by a private physician in a private hospital, of an injury subsequently held to be service-connected, provided the additional disability sustained by the claimant was not the

result of improper treatment in a manner contrary to the accepted rules of the medical profession followed in such cases at the time said additional disability was sustained. 1949, A.D.V.A. 822.

4. Specific disability ratings

Where a Navy enlisted man was placed on the temporary disability retired list by reason of schizophrenic reaction, paranoid type, and where, after release from the hospital he was only able to function in a protected environment, working at a routine job without possibility of advancement in his field of electronics despite his above-average intelligence, and where his social adjustment was poor and he was incapable of maintaining a healthy relationship with family, wife, or friends, denial of disability retirement with the minimum disability rating of 30 percent was arbitrary and capricious. Davis v. U.S., 1967, 181 Ct.Cl. 1095.

Provision of the Administration [now Department] schedule for rating disabilities calling for ratings in the range of from 10 percent to 100 percent based on the extent of involvement, assuming minimum 10 percent for each major joint or group of minor joints presenting X-ray confirmation of the disease, etc., applies to degenerative arthritis dealt with in the earlier portion of such provision otherwise degenerative arthritis could never be rated at more than 20 percent disabling regardless of its severity. Andrews v. U.S., 1963, 163 Ct.Cl. 126.

5. Weight and conclusiveness of administrative determinations

In a suit by a former military person to recover disability retired pay, an Administration [now Department] determination that the person was 50 percent disabled at the time of his release from active duty and that his disability, service-incurred in an earlier tour of duty, was aggravated in his last tour of duty, is entitled to weight in Court of Claims review of the man's claim of entitlement to disability retirement with pay. Dayley v. U.S., 1967, 180 Ct.Cl. 1136.

While not binding on the Court of Claims, the Administration [now Department] determinations of the degree of a

plaintiff's disability may well be persuasive. Cooper v. U.S., 1967, 178 Ct.Cl. 277.

The Administration's [now Department] determinations of the degree of disability in a particular case may not be conclusive upon the Court of Claims in a suit for disability retired pay by a former officer released from service without disability retirement with pay, but such determinations made in the application of the schedule which the Administration formulated and under which it operates may well be persuasive of its proper construction in the event it is at all ambiguous. Robinson v. U.S., 1963, 163 Ct.Cl. 235.

§ 1115. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 1114 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, \$96;

(B) has a spouse and one or more children, \$163 plus \$50 for each child in excess of one;

(C) has no spouse but one or more children, \$67 plus \$50 for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, \$77 for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be \$178 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be \$149 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

tional compensation to any veteran during any period he is in receipt of an increased rate of subsistence allowance or education and training allowance on account of a dependent or dependents, and redesignated former subsec. (a) as the entire section.

1960 Amendment. Subsec. (a). Pub.L. 86-499 authorized payment of \$12 for each living child in excess of three.

Effective Dates

1991 Act. Amendment by Pub.L. 102-3 effective Jan. 1, 1991, see section 7 of Pub.L. 102-3, set out as a note under section 1114 of this title.

1989 Act. Amendment by section 102 of Pub.L. 101-237 effective Dec. 1, 1989, see section 106 of Pub.L. 101-237, set out as a note under section 1114 of this title.

1988 Act. Amendment by Pub.L. 100-687 effective Dec. 1, 1988, see section 1106 of Pub.L. 100-687 set out as a note under section 1114 of this title.

1987 Act. Amendment by Pub.L. 100-227 effective Dec. 1, 1987, see section 107 of Pub.L. 100-227, set out as a note under section 1114 of this title.

1986 Acts. Amendment by Pub.L. 99-576 effective Dec. 1, 1986, except that such amendment not to take effect unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub.L. 99-576, set out as a note under section 1114 of this title.

Amendment by Pub.L. 99-238 effective Dec. 1, 1985, see section 107 of Pub.L. 99-238, set out as a note under section 1114 of this title.

1984 Acts. Amendment by Pub.L. 98-543 effective Dec. 1, 1984, see section 107 of Pub.L. 98-543, set out as a note under section 1114 of this title.

Amendment by Pub.L. 98-223 effective Apr. 1, 1984, see section 107 of Pub.L. 98-223, set out as a note under section 1114 of this title.

1982 Acts. Amendments by section 102 of Pub.L. 97-306 effective Oct. 1, 1982, see section 108 of Pub.L. 97-306 set out as a note under section 1114 of this title.

Amendment by section 404(b) of Pub.L. 97-253 effective Oct. 1, 1982, see section 404(c) of Pub.L. 97-253, set out as a note under section 1114 of this title.

1981 Act. Amendment by Pub.L. 97-66 effective Oct. 1, 1981, see section 701(a) of Pub.L. 97-66, set out as a note under section 1114 of this title.

1980 Act. Amendment by Pub.L. 96-385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub.L. 96-385, set out as a note under section 1114 of this title.

1979 Act. Amendment by Pub.L. 96-128 effective Oct. 1, 1979, see section 601(a)(1) of Pub.L. 96-128, set out as a note under section 1114 of this title.

1978 Act. Amendment by Pub.L. 95-479 effective Oct. 1, 1978, see section 401(a) of Pub.L. 95-479, set out as a note under section 1114 of this title.

1977 Act. Amendment by Pub.L. 95-117 effective Oct. 1, 1977, see section 501 of Pub.L. 95-117, set out as a note under section 1114 of this title.

1976 Act. Amendment by Pub.L. 94-433 effective Oct. 1, 1976, see section 406 of Pub.L. 94-433, set out as a note under section 1101 of this title.

1975 Act. Amendment by Pub.L. 94-71 effective Aug. 1, 1975, see section 301 of Pub.L. 94-71 set out as a note under section 1114 of this title.

1974 Act. Amendment by Pub.L. 93-295 effective May 1, 1974, see section 401 of Pub.L. 93-295, set out as a note under section 1114 of this title.

1972 Act. Amendment by Pub.L. 92-328 effective the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub.L. 92-328, set out as a note under section 1114 of this title.

1970 Act. Amendment by Pub.L. 91-376 effective July 1, 1970, see section 9 of Pub.L. 91-376, set out as a note under section 1114 of this title.

1965 Acts. Amendment by Pub.L. 89-311 effective the first day of the second calendar month following Oct. 31, 1965, see section 9 of Pub.L. 89-311, set out as a note under section 1114 of this title.

Section 2 of Pub.L. 89-137 provided that: "The foregoing provisions of this

Act [amending this section and former section 1504 of this title] shall become effective on the first day of the second calendar month which begins following the date of enactment of this Act [Aug. 26, 1965]."

1960 Act. Section 2 of Pub.L. 86-499 provided that: "The amendments made by this Act [to subsec. (a)(1)(D), (G)] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [June 8, 1960]."

Repeals

Section 405(c) of Pub.L. 97-253, set out in the credit, was repealed by Pub.L. 97-306, § 107. See note under section 314 of this title.

CROSS REFERENCES

Additional monthly compensation as provided in this section for peacetime disability dependents, see 38 USCA § 1135.

LIBRARY REFERENCES

American Digest System

Veterans' benefits; compensation for disability, see Armed Services §104.
Veterans' benefits; rights and benefits in general, see Armed Services §101.

Encyclopedias

Veterans' benefits; compensation for dependents and survivors, see C.J.S. Armed Services § 254.
Veterans' benefits; disability compensation, see C.J.S. Armed Services § 255.
Veterans' benefits; general considerations, see C.J.S. Armed Services § 251.

WESTLAW ELECTRONIC RESEARCH

Armed services cases: 34k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents

(a)(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title

(A) a disease specified in paragraph (2) of this subsection becoming manifest as specified in that paragraph in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era; and

(B) each additional disease (if any) that (1) the Secretary determines in regulations prescribed under this section warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent, and

(2) becomes manifest within the period (if any) prescribed in such regulations in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era and while so serving was exposed to that herbicide agent.

shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) The diseases referred to in paragraph (1)(A) of this subsection are the following:

(A) Non-Hodgkin's lymphoma becoming manifest to a degree of disability of 10 percent or more.

(B) Each soft-tissue sarcoma becoming manifest to a degree of disability of 10 percent or more other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma.

(C) Chloracne or another acneform disease consistent with chloracne becoming manifest to a degree of disability of 10 percent or more within one year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(3) For the purposes of this subsection, a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era and has a disease referred to in paragraph (1)(B) of this subsection shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during that service.

(4) For purposes of this section, the term "herbicide agent" means a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era.

(b)(1) Whenever the Secretary determines, on the basis of sound medical and scientific evidence, that a positive association exists between (A) the exposure of humans to an herbicide agent, and (B) the occurrence of a disease in humans, the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for that disease for the purposes of this section.

(2) In making determinations for the purpose of this subsection, the Secretary shall take into account (A) reports received by the Secretary from the National Academy of Sciences under section 3

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of the Agent Orange Act of 1991, and (B) all other sound medical and scientific information and analyses available to the Secretary. In evaluating any study for the purpose of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

(3) An association between the occurrence of a disease in humans and exposure to an herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

(c)(1)(A) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, the Secretary shall determine whether a presumption of service connection is warranted for each disease covered by the report. If the Secretary determines that such a presumption is warranted, the Secretary, not later than 60 days after making the determination, shall issue proposed regulations setting forth the Secretary's determination.

(B) If the Secretary determines that a presumption of service connection is not warranted, the Secretary, not later than 60 days after making the determination, shall publish in the Federal Register a notice of that determination. The notice shall include an explanation of the scientific basis for that determination. If the disease already is included in regulations providing for a presumption of service connection, the Secretary, not later than 60 days after publication of the notice of a determination that the presumption is not warranted, shall issue proposed regulations removing the presumption for the disease.

(2) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

(d) Whenever a disease is removed from regulations prescribed under this section—

(1) a veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) before the effective date of the removal shall continue to be entitled to receive compensation on that basis; and

(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall

continue to be entitled to receive dependency and indemnity compensation on such basis.

(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences transmits to the Secretary the first report under section 3 of the Agent Orange Act of 1991.

(Added Pub.L. 102-4, § 2(a)(1); Feb. 6, 1991, 105 Stat. 11, § 316, renumbered and amended Pub.L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1991 Act. Statement by President, see 1991 U.S. Code Cong. and Adm. News, p. 11.

References in Text

Section 3 of the Agent Orange Act of 1991, referred to in subssecs. (b)(2), (c)(1)(A), and (e), is section 3 of Pub.L. 102-4, Feb. 6, 1991, 105 Stat. 13, which is set out as a note under section 1154 of this title.

Amendments

1991 Amendment. Subsec. (a)(1). Pub.L. 102-83, § 5(c)(1), substituted "1110" for "310" and "1113" for "313".

Agreement With National Academy of Science for Review and Evaluation Regarding Associations Between Diseases and Exposure to Dioxin and Other Chemical Compounds in Herbicides Used in Vietnam

Section 3 of Pub.L. 102-4, as amended Pub.L. 102-86, Title V, § 503(a), (b)(1), Aug. 14, 1991, 105 Stat. 424, 425, provided that:

"(a) **Purpose.**—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise which is not part of the Federal Government, to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides.

"(b) **Agreement.**—The Secretary shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the services covered by this section. The Secretary shall seek to enter into such agreement not later than two months after the date of the enactment of the Veterans' Benefits

Programs Improvement Act of 1991 [Aug. —, 1991].

"(c) **Review of scientific evidence.**—Under an agreement between the Secretary and the National Academy of Sciences under this section, the Academy shall review and summarize the scientific evidence, and assess the strength thereof, concerning the association between exposure to an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era and each disease suspected to be associated with such exposure.

"(d) **Scientific determinations concerning diseases.**—(1) For each disease reviewed, the Academy shall determine (to the extent that available scientific data permit meaningful determinations)—

"(A) whether a statistical association with herbicide exposure exists, taking into account the strength of the scientific evidence and the appropriateness of the statistical and epidemiological methods used to detect the association;

"(B) the increased risk of the disease among those exposed to herbicides during service in the Republic of Vietnam during the Vietnam era; and

"(C) whether there exists a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the disease.

"(2) The Academy shall include in its reports under subsection (g) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

"(e) **Recommendations for additional scientific studies.**—The Academy shall make any recommendations it has for additional scientific studies to resolve ar-

eas of continuing scientific uncertainty relating to herbicide exposure. In making recommendations for further study, the Academy shall consider the scientific information that is currently available, the value and relevance of the information that could result from additional studies, and the cost and feasibility of carrying out such additional studies.

"(f) **Subsequent reviews.**—An agreement under subsection (b) shall require the National Academy of Sciences—

"(1) to conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) that became available since the last review of such evidence under this section; and

"(2) to make its determinations and estimates on the basis of the results of such review and all other reviews conducted for the purposes of this section.

"(g) **Reports.**—(1) The agreement between the Secretary and the National Academy of Sciences shall require the Academy to transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives periodic written reports regarding the Academy's activities under the agreement. Such reports shall be submitted at least once every two years (as measured from the date of the first report).

"(2) The first report under this subsection shall be transmitted not later than the end of the 18-month period beginning on the date of the enactment of this Act [Feb. 6, 1991]. That report shall include (A) the determinations and discussion referred to in subsection (d), (B) any recommendations of the Academy under subsection (e), and (C) the recommendation of the Academy as to whether the provisions of each of sections 6 through 9 [sections 6 through 9 of Pub.L. 102-4, set out as notes under this section] should be implemented by the Secretary. In making its recommendation with respect to each such section, the Academy shall consider the scientific information that is currently available, the value and relevance of the information that could result from implementing that section, and the cost and feasibility of implementing that section. If the Academy recommends that the provisions of section 6 [section 6 of Pub.L. 102-4, set out as a note under this section] should be implemented, the Academy shall also

recommend the means by which clinical data referred to in that section could be maintained in the most scientifically useful way.

"(h) **Limitation on authority.**—The authority to enter into agreements under this section shall be effective for a fiscal year to the extent that appropriations are available.

"(i) **Sunset.**—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences transmits to the Secretary the first report under subsection (g).

"(j) **Alternative contract scientific organization.**—If the Secretary is unable within the time period prescribed in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for the purposes of this section with another appropriate scientific organization that is not part of the Government and operates as a not-for-profit entity and that has expertise and objectivity comparable to that of the National Academy of Sciences. If the Secretary enters into such an agreement with another organization, then any reference in this section and in section 316 of title 38, United States Code (as added by section 2) [section 316 of this title], to the National Academy of Sciences shall be treated as a reference to the other organization."

"(k) **Liability insurance.**—(1) The Secretary may provide liability insurance for the National Academy of Sciences or any other contract scientific organization to cover any claim for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission of any person referred to in paragraph (2) in carrying out any of the following responsibilities of the Academy or such other organization, as the case may be, under an agreement entered into with the Secretary pursuant to this section:

"(A) The review, summarization, and assessment of scientific evidence referred to in subsection (c).

"(B) The making of any determination, on the basis of such review and assessment, regarding the matters set out in clauses (A) through (C) of sub-

not later than 24 months after the date of approval of the protocol (1) and annually thereafter shall submit to the appropriate Congress a report

the results obtained, and the report, under the authority of subsection (a);

ve actions or recommendations, and any additional information considered by the Administrator

ys after the date on which the report is published in the public review and any action that the Administrator takes with respect to the report

d in such report;

"(B) the comments and recommendations received on that report; and
"(C) any other available pertinent information.

Each such description shall include a justification or rationale for the planned or proposed action.

"(g) Definitions.— For the purposes of this section:

"(1) The term 'gender-specific health effects' includes—

"(A) effects on female reproductive capacity and reproductive organs;

"(B) effects on reproductive outcomes;

"(C) effects on female-specific organs and tissues; and

"(D) other effects unique to the physiology of females.

"(2) The term 'Vietnam era' has the meaning given such term in section 101(29) of title 38, United States Code [section 101(2) of this title]."

NOTES OF DECISIONS

3. Cancer—Generally

Fact that number of scientific studies showing positive association between herbicide exposure and three cancers at issue was greater than number showing no association or negative association did not require Secretary of Veterans Affairs (VA) to treat that evidence as credible evidence of association for purposes warranting establishment of presumption of service connection for those cancers and herbicide exposure in Vietnam. *LeFevre v. Secretary, Dept. of Veterans Affairs*, C.A.Fed.1995, 66 F.3d 1191, rehearing denied.

4. — Nasal

Secretary of Veterans Affairs (VA) reasonably concluded that scientific evidence did not warrant establishment of presumption of service connection for nasal/nasopharyngeal cancer and herbicide exposure in Vietnam under Agent Orange Act; allegedly erroneous statement describing underlying scientific studies did not attach any significance between samples supposedly shared by different studies. Secretary instead focused on inconclusive nature of studies discussed, and Secretary's alleged erroneous failure to discuss subset of study showing positive association between chlorophenol exposure and nasal cancer was not shown to be relevant factor that Secretary should have deemed to be credible evidence of relationship between herbicide exposure and nasal cancer. *LeFevre v. Secretary, Dept. of Veterans Affairs*, C.A.Fed.1995, 66 F.3d 1191, rehearing denied.

5. — Prostate

Refusal by Secretary of Veterans Affairs (VA) to establish a presumption of service connection for prostate cancer under the Agent Orange Act accurately analyzed and summarized findings of National Academy of Sciences regarding association of herbicide exposure and prostate cancer and was reasonable in light of that analysis; although Secretary admittedly erred in citing

three identified studies as supporting statement that there was no association between prostate cancer and herbicide exposure, those studies actually showed a positive but not statistically significant association, while other studies showed no association. *LeFevre v. Secretary, Dept. of Veterans Affairs*, C.A.Fed.1995, 66 F.3d 1191, rehearing denied.

6. Standard of review

On review of determination by Secretary of the Department of Veterans Affairs (VA) as to whether there was a service connection between

particular diseases and herbicide exposure in Vietnam, considering unusual statutory scheme under Agent Orange Act, under which nongovernmental, independent scientific entity was given the function of reviewing and evaluating the scientific evidence, and making recommendation to Secretary, an extremely strong showing of error was required for reversal of determination as to whether particular disease should be given presumption of service connection. *LeFevre v. Secretary, Dept. of Veterans Affairs*, C.A.Fed. 1995, 66 F.3d 1191, rehearing denied.

§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).

(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

(c)(1) The Secretary shall prescribe regulations to carry out this section.

(2) Those regulations shall include the following:

(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

(B) A description of the illnesses for which compensation under this section may be paid.

(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

(d) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

(e) For purposes of this section, the term "Persian Gulf veteran" means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(Added Pub.L. 103-446, Title I, § 106(a)(1), Nov. 2, 1994, 108 Stat. 4650.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1994 Acts. Related House Report No. 103-669, see 1994 U.S. Code Cong. and Adm. News, p. 3681.

Authorization for Epidemiological Studies

Section 110 of Pub.L. 103-446 provided that:

"(a) Study of health consequences of Persian Gulf Service.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585) [set out in a note under section 527 of this title] a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends

the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

"(b) Oversight.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

"(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to