

DEPARTMENT OF VETERANS AFFAIRS

Veterans Benefits Administration

Washington, D.C. 20420

April 7, 2008

Director (00/21)

All VA Regional Offices and Centers

Fast Letter 08-08

SUBJECT: Additional Guidance on Post Traumatic Stress Disorder (PTSD)

This letter provides guidance on:

- Development for in-service mental health treatment records
- In-service initial diagnosis of PTSD
- Rating mental disorders that led to release from service
- Corroboration of in-service stressors based on combat
- Corroboration of in-service stressors not based on combat
- Stressor development follow-up
- Formal finding of insufficient stressor information
- Revised initial PTSD VA examination worksheet
- PTSD and individual unemployability (IU)

Development for In-Service Mental Health Treatment Records

The Department of Defense does not maintain in-service mental health treatment records with traditional service treatment records (STRs). The military or civilian treating facility maintains those mental health records. The records are typically destroyed after five years from the end of the year in which the case is closed (see M21-1MR, III.iii.2.A.1.a).

Unlike clinical records from military hospitals, civilian facility records cannot be ordered from the National Personnel Records Center (NPRC) through the Personnel Information Exchange System (PIES).

If a review of the claims folder indicates that the veteran underwent in-service mental health treatment at a civilian mental health facility, request the veteran complete a VA Form 21-4142, *Authorization and Consent to Release Information*. Upon receipt of a completed VA Form 21-4142, develop for those records. Cease development if a response indicates that the records have been destroyed. If a response is received indicating that the records were transferred to another location, develop for these records from the location identified. Continue development until receiving the records or a negative response. If the records are not available, prepare a formal finding of record unavailability (see M21-1MR, III.iii.2.I.59)

In-Service Initial Diagnosis of PTSD

Military and civilian health care providers have a heightened awareness of the symptoms of PTSD and responsiveness to service personnel participating in the Global War on Terror (GWOT). As a result, health professionals are diagnosing and treating PTSD with greater frequency. The initial diagnosis of PTSD generally occurs after service, in which case service connection for this disability is considered under the provision of 38 CFR 3.304(f). This provision requires “credible supporting evidence that the claimed in-service stressor occurred.” Nevertheless, 38 CFR 3.303(a) contains provisions for establishing service connection for a disability or disease incurred in service. This incurrence “may be accomplished by affirmatively showing inception or aggravation during service.” Therefore, when there is a prima facie diagnosis of PTSD by a mental health professional in service, verification of the stressor, whether in-service or pre-service, is not required. (See Fast Letter 99-85, *Service Connection for Post Traumatic Stress Disorder (PTSD) Diagnosed In-Service*, August 26, 1999, for a discussion of pre-service stressors.) With an in-service initial diagnosis of PTSD, accept any reasonable in-service stressor as long as it appears consistent with the circumstances of that veteran’s particular service. If the VA examination and other evidence of record supports the decision, grant service connection on a direct basis in accordance with 38 CFR 3.303(a).

Rating Mental Disorders That Led to Release From Service

Regional office decision makers must pay special attention to 38 CFR 4.129, *Mental Disorders Due to Traumatic Stress*, because of the exposure of many service persons to highly stressful events, particularly while serving in Iraq and Afghanistan. 38 CFR 4.129 states that an immediate evaluation of not less than 50 percent shall be assigned to a veteran who, because of a highly stressful event in service, develops a mental disorder that results in release from service.

Generally, these veterans have been determined as unfit for duty based on their mental disorder by the Medical Evaluation Board/Physical Evaluation Board (MEB/PEB) process. In addition, 38 CFR 4.129 states that VA will schedule a medical examination within six months of discharge to determine if a change in this evaluation is warranted.

Maintain the initial evaluation until evidence from the examination provides the basis for reconsideration. If evidence from the medical examination warrants an increased evaluation, the effective date will be the date of the examination that supports the increase. An earlier effective date may be established based on additional evidence that factually ascertains an increase in disability, per 38 CFR 3.400(o)(2). If a reduction in evaluation is warranted based on the results of a medical examination, follow the due process procedures outlined in 38 CFR 3.105(e). However, a reduction in evaluation may be given without due process provided the veteran's overall or combined evaluation is not changed (see *Stelzel v. Mansfield*, November 15, 2007).

Corroboration of In-Service Stressors Based on Combat

Once a veteran has identified a combat stressor in claims for PTSD diagnosed after separation from military service, it is the responsibility of the decision maker to determine whether the veteran participated in combat or if there is sufficient credible supporting evidence to establish that the stressor occurred. In the absence of one of the decorations identified in M21-1MR, III.iv.4.H.29.c, the decision maker can still determine that the veteran participated in combat if the evidence supports that determination (see VAOPGCPREC 12-99). If it is determined that the veteran was engaged in combat, the veteran's testimony is usually sufficient to establish that the in-service stressor occurred (see 38 U.S.C. 1154(b) and 38 CFR 3.304(f)(1)). Corroboration of the claimed stressor is not necessary when credible supporting evidence shows combat participation and the stressor is based on combat.

Corroboration of In-Service Stressors Not Based on Combat

When combat participation cannot be confirmed, or when the claimed stressor is not related to combat, request credible supporting evidence. The claimed stressors may not be limited to one episode. A group of experiences may also affect an individual and lead to the development of PTSD (see M21-1MR, III.iv.4.H.32.a). It is important to remember that the sufficiency of the stressor(s) to cause PTSD is a medical and not a rating determination (see *Cohen v. Brown* 94-661).

For veterans discharged within the last five years, develop for the unit history from the veteran's former unit when we have received an adequate response to the PTSD development questionnaire (*VA Form 21-0781, Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder*) and there is insufficient credible supporting evidence to concede that the claimed stressor(s) occurred. If necessary, contact the veteran for the unit's address.

If the veteran was discharged more than five years ago and a complete unit of assignment during the stressful event is available, corroborate the stressor using the C&P Service Intranet Stressor Verification site, official military websites, or other government websites. After exhausting all other resources, send a request to the Joint Services Records Research Center (JSRRC). Until we update Modern Awards Processing-Development (MAP-D), please use the enclosed suggested text to solicit information from the veteran's unit. You may use the third party letter in MAP-D titled "Request report of accident investigation" in the interim, and paste the attached language to the body of the letter in order to establish a tracked item.

Stressor Development Follow-Up

In the absence of individual decorations indicating personal participation in combat, the veteran must provide sufficient information about the stressful event to research it. Currently, if the veteran fails to respond to the request within 60 days, VA must send a second development letter requesting the information, allowing an additional 30 days for a response (see M21-1MR, IV.ii.1.D.15.n). However, we have determined that the 30-day follow-up request to the veteran is not necessary if the veteran completely fails to respond to the initial request. A follow-up request must be made if the veteran responds but the response lacks sufficient information to conduct a meaningful search. The manual will be updated to reflect this change. Those stations still contacting the veteran and allowing an additional 10 days to respond to our request for stressor information (as outlined in the former M21-1, Part III, 5.14(c)(5)) may also cease this practice.

Formal Finding of Insufficient Stressor Information

If the veteran fails to respond to any initial or follow-up request for stressor information or submits information that is still insufficient, refer the case to the JSRRC Coordinator. The JSRRC Coordinator will make a formal finding regarding the lack of sufficient information in the claims folder to document the

occurrence of, and the veteran's involvement in, the stressful event(s). The JSRRC Coordinator must review the claims folder to confirm the veteran was properly notified of the information required to document the stressor(s), and that all relevant evidence, to include service records, have been considered in an attempt to confirm the occurrence of the stressful event(s) (see M21-1MR, Part IV, ii.1.D.16.a). The formal finding should be on a separate page, filed in the claims folder, and include all the requirements listed in M21-1MR, Part IV, ii.1.D.16.b.

Revised Initial PTSD VA Examination Worksheet

The revised Initial PTSD Examination worksheet does not require the examiner to describe specific details of the stressor for VA to confirm that it occurred. However, the examiner must still opine whether the current symptoms are linked to the identified stressor or stressors (see FL 07-08, *Revised Initial Post Traumatic Stress Disorder and Review Post Traumatic Stress Disorder Disability Examination Worksheets*, dated March 29, 2007). Confirmation of the stressor must be completed prior to the examination request, except for PTSD claims based on personal trauma or in-service diagnosis. The verified stressor must be stated in the *Remarks* section of the examination worksheet. If the veteran has not identified a specific stressor in his or her claim, but combat participation is conceded because of the receipt of one or more decorations listed in M21-1MR, Part III, iv.4.H.29.c, include a statement in the *Remarks* section of the examination worksheet indicating that the veteran has verified combat action.

PTSD and Individual Unemployability (IU)

The information contained in this Fast Letter rescinds Training Letter (TL) 01-01, *10 Important rating points about PTSD*, dated January 8, 2001. A 100-percent schedular evaluation must be fully supported by current evidence showing the veteran has total occupational and social impairment solely due to the service-connected PTSD. If the veteran does not meet this criterion, but claims to be unable to work due to the effects of service-connected PTSD, assign the appropriate schedular evaluation for PTSD and consider possible entitlement to IU.

Questions

Questions about this letter should be e-mailed to VAVBAWAS/CO/212A.

Bradley G. Mayes,
Director
Compensation and Pension Service

Enclosure: Interim Development Text for Requesting Unit History Records

Interim Development Text for Requesting Unit History Records

Dear Sir/Madam:

This is a request for research of records in your possession with the purpose of verifying a stressful event claimed by a veteran who previously served in your unit. This veteran is seeking benefits from the Department of Veterans Affairs (VA), and we need your assistance to support his/her claim.

The Veteran's name and information pertaining to the claimed stressful event(s) is shown below:

Name of Claimant:

Social Security Number:

Claimed Stressor(s):

Approximate date and location where the event took place:

Unit of assignment at the time the stressful event occurred:

Please provide any information (e.g.; photocopies of pages from relevant unit histories, documents showing veteran's location at the time an incident occurred, etc.) that pertains to the claimed stressor(s). We would appreciate a response within 60 days. If no information is found, please provide a negative response.

This letter is being sent in duplicate so that you may retain a copy. Attach one copy of our letter to your reply so we may associate it with the proper claim. Please return your information to the address shown at the top of this letter. A self-addressed envelope is enclosed for your convenience.

Note: We can't pay any fees for this information.