





**National Gulf War Resource Center, Inc.**

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# DISCLAIMER

- This presentation is to educate you about the PACT Act
- Every claim is different and is based on your records
- Use this information with a VA accredited representative
- I am not here as a representative of other VSO's such as the VFW, DAV or the VVA and they were not involved in this event or making of these slides.



# Presumptive Illness

- **Is set by laws or regulation to the veteran time and place of service**
- **Does not need to have symptoms in the STR**
- **Does not need a nexus to the service**
- **Does not have to prove the exposure**



# Presumptive Illness

**This presentation provides an overview of PACT Act as to:**

- **Changes to 38 U.S. Code § §1117/1118**
- **The new 38 U.S. Code § 1119 and § 1120**

**We will address:**

- **How to file / reopen your claim**
- **Why file before August 9, 2023**
- **Secondary disabilities**



- Presumptive for Exposure to Certain Herbicide (Agent Orange)
- High blood pressure (also called hypertension)
- Monoclonal gammopathy of undetermined significance (MGUS)
- NOT for areas of Gulf War Veterans or OIF,OEF, GWOT



# PACT Act - Gulf War and Post 9-11 Veterans

- Signed into Law on August 10, 2022
- Allows for some denied claims to be reopened
- Claims filed on or before August 9, 2023 can have the effective date of August 10, 2022
- Claims filed on or after August 10, 2023 have the effective date as when it was filed



# Gulf War Presumption

## 38 U.S. Code § 1117

The Pact Act amended 38 U.S. Code § 1117  
Compensation for disabilities occurring in Persian Gulf  
War veterans

- **It changed the** “manifest during active service in the Southwest Asia theater of operations during the Persian Gulf War to a degree of 10 percent or more not later than ----”
- **To** “manifest to any degree at any time.”
- **This means your illness can be at the zero percent level (given a diagnosis) and you will be granted service connection.**





# Gulf War Presumption

## 38 U.S. Code § 1117

- Example #1: If you served in the Southwest Asia theater of operation in 1990, was diagnosed with IBS in 2014 and you filed your claim. The claim was denied on the grounds it was not 10% disabling.
- You can now file a supplemental claim based on the August 10, 2022 38 U.S. Code § 1117 stating that it can be 0% disabling and that it is worse.
- Remember your 21-4138 and supporting documents.



# Gulf War Presumption

## 38 U.S. Code § 1117

**The Pact Act added for more areas of operation** for undiagnosed and medically unexplained chronic multisymptom.

- Now those who served on active duty in the Armed Forces in Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan, during the Persian Gulf War can claim the presumptions.
- It still covers all veterans of the Southwest Asia theater of operations.
- The Southwest Asia theater of operations refers to 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, and the airspace above these locations.



# Gulf War Presumption

## 38 U.S. Code § 1117

- **Example #2:** You served in Turkey during the Persian Gulf War and filed for Fibromyalgia and IBS
- The VA denied the claim based on the fact these two issues are not a presumptive to your place of service.
- The VA conceded your symptoms are severe and did start ten years after your last date on active duty.
- You now file a supplemental claim based on the changes in 38 U.S. Code § 1117 that added your place of serve as one to be granted presumptive for the illnesses.



# PACT Act - Gulf War and Post 9-11 Veterans

- Added: 38 U.S.C §1119. Presumptions of toxic exposure
  - Covers the areas where your are presumed exposed
- Added: 38 USC 1120: Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins
  - Lists the presumptive illnesses to toxic exposure
- The VA has not changed the 38 CFR's (regulation) yet
- The regulation cannot take away from the U.S. Code



# Gulf War and Post 9-11 Toxic Exposure

## 38 U.S. Code § 1120

- Over 10 Non-cancerous Respiratory Disorders
- Many Rated Under the Same Diagnostic Code
- Avoidance of Pyramiding



# Gulf War and Post 9-11 Toxic Exposure New Non-cancerous Presumptive Condition

- Asthma
- Chronic bronchitis & Constrictive bronchiolitis
- Chronic obstructive pulmonary disease (COPD)
- Chronic sinusitis and Chronic rhinitis (do not need both)
- Emphysema
- Interstitial lung disease (ILD)
- Pleuritis
- Pulmonary fibrosis
- Sarcoidosis (affects the lungs and lymph nodes, eyes, skin, heart and nervous system)
- Granulomatous disease (Blood disorder)



# Gulf War and Post 9-11 Toxic Exposure

## New Non-cancerous Presumptive Condition

- Chronic sinusitis and Chronic rhinitis
- VA tends to under-rate
- Rating code has two side, side “A” or side “B”
- 30% rating for sinus is “A” has incapacitating episodes
- OR side “B” more than six non-incapacitating episodes per year of sinusitis characterized by headaches, pain, and purulent (pus) discharge or crusting
- You can also have a 30% rating if you have nasal polyps



# Gulf War and Post 9-11 Toxic Exposure New Cancerous Presumptive Condition

- Brain cancer (any type)- Glioblastoma (brain and spine)
- Head cancer of any type
- Neck cancer of any type
- Lymphoma of any type (cancer that begins in cells of the lymph system)
- Melanoma (Shin Cancer)
- Gastrointestinal cancer of any type
- Kidney cancer
- Pancreatic cancer
- Reproductive cancer of any type
- Respiratory cancer of any type (tracheal, lung, bronchial)





# Gulf War and Post 9-11 Toxic Exposure New Cancerous Presumptive Condition

- Most listed cancers are an “umbrella” term
  - Some gastrointestinal cancers are as follows:
    - Esophageal, Gastric (stomach), Colorectal, Pancreatic and liver
  - Some Head and Neck Cancers:
    - sinuses, nasal cavity, oral cavity, lips, tongue, salivary glands, larynx, and pharynx



# PACT Act - Gulf War and Post 9-11 Veterans

- Previously denied claim
  - Reopen using the VA Form 20-0995, Decision Review Request: Supplemental Claim
  - Only download the form from VA.GOV
- Use VA Form 21-4138, Statement in Support of Claim, to inform the VBA you are filing as per the PACT Act, when you were diagnosed and how it is effecting your daily life.



# PACT Act - Gulf War and Post 9-11 Veterans

- Veterans who have not previously filed a claim and are diagnosed with one of the presumptive conditions should submit a new claim on VA Form 21-526EZ
- Get with a **VA-accredited** service officer ASAP!!!
- List any and all secondary issues too.



# VA Dependency and Indemnity Compensation (VA DIC)

- Spouse of a veteran who died from a presumptive illness needs to file a new DIC claim
- Work with your VSO or get a new one to help you.
- Do not pay anyone for doing this for you or helping you. The DAV, VFW do these all the time for free.



# What is a Secondary Disability

- Caused by your service-connected disability
  - and treatment for the rated disabilities
- Or has Aggravated a condition, illness, or injury
- You will need:
  - Clear diagnosis
  - Well written nexus
  - Supporting large scale Research



# Examples of Secondary Disability

- Prostate Cancer
  - ED, urinary incontinence, diarrhea, or bowel urgency/incontinence
- Functional gastrointestinal disorders (FGID) like IBS
  - Bowel incontinence, anxiety/depression
- COPD:
  - Hypertension, heart failure, GERD, etc.



# Secondary Disability

- Filed on a VA form 21-526EZ
- Must have the diagnosis in your records
- Non-Government records must be sent in
  - VA Form 21-4142/4142a
  - Let your doctor know about it
- Must have a nexus letter with a good rationale
  - focus on the facts, based on a review of your entire VA file and medical records, doctor's field of practice
- Supporting medical papers and research



# What is Not a Presumptive for Gulf War and Post 9-11 Veterans

- Gastroesophageal reflux disease (GERD)
- Sleep Apnea
- Hypertension (after one year)
- Heart Disease (after one year)
- Migraines (after one year)





# Please File

**If you are not sure about filing a claim, file the claim**

**Work with a well trained VA-accredited claims Agent or Service Officer (VSO)**

**These links will help you  
(DAV Link to their NSO)**

**[www.benefitsquestions.org](http://www.benefitsquestions.org)**

**Veterans of Foreign Wars**

**[www.VFW.org](http://www.VFW.org)**



# Thank you the many VSO's

- **Having a membership in many different veteran service organizations or VSO's helps in the work to get new benefits for you and to keep the benefits we do have.**
- **The VSO's are working to add more benefits for us and the servicemembers now in harms way.**
- **Just being a member of all of the VSO's helps those of us working to improve your benefits.**

# QUESTIONS

