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any of the indicated conditions is sufficient to establish service connection for that condition:

(1) Full-body exposure to nitrogen or sulfur mustard during active military service together with the subsequent development of chronic conjunctivitis, keratitis, corneal opacities, scar formation, or the following cancers: Nasopharyngeal; laryngeal; lung (except mesothelioma); or squamous cell carcinoma of the skin.

(2) Full-body exposure to nitrogen or sulfur mustard or Lewisite during active military service together with the subsequent development of a chronic form of laryngitis, bronchitis, emphysema, asthma or chronic obstructive pulmonary disease.

(3) Full-body exposure to nitrogen mustard during active military service together with the subsequent development of acute nonlymphocytic leukemia.

(b) Service connection will not be established under this section if the claimed condition is due to the veteran's own willful misconduct (See §3.301(c)) or there is affirmative evidence that establishes a nonservice-related supervening condition or event as the cause of the claimed condition (See §3.303).

[59 FR 42499, Aug. 18, 1994]

§3.317 Compensation for certain disabilities occurring in Persian Gulf veterans.

(a) *Compensation for disability due to undiagnosed illness and medically unexplained chronic multisymptom illnesses.* (1) Except as provided in paragraph (a)(7) of this section, VA will pay compensation in accordance with chapter 11 of title 38, United States Code, to a Persian Gulf veteran who exhibits objective indications of a qualifying chronic disability, provided that such disability:

(i) Became manifest either during active military, naval, or air service in the Southwest Asia theater of operations, or to a degree of 10 percent or more not later than December 31, 2016; and

(ii) By history, physical examination, and laboratory tests cannot be attributed to any known clinical diagnosis.

(2)(i) For purposes of this section, a *qualifying chronic disability* means a chronic disability resulting from any of the following (or any combination of the following):

(A) An undiagnosed illness;

(B) A medically unexplained chronic multisymptom illness that is defined by a cluster of signs or symptoms, such as:

(*1*) Chronic fatigue syndrome;

(*2*) Fibromyalgia;

(*3*) Functional gastrointestinal disorders (excluding structural gastrointestinal diseases).

NOTE TO PARAGRAPH (A)(2)(I)(B)(*3*): Functional gastrointestinal disorders are a group of conditions characterized by chronic or recurrent symptoms that are unexplained by any structural, endoscopic, laboratory, or other objective signs of injury or disease and may be related to any part of the gastrointestinal tract. Specific functional gastrointestinal disorders include, but are not limited to, irritable bowel syndrome, functional dyspepsia, functional vomiting, functional constipation, functional bloating, functional abdominal pain syndrome, and functional dysphagia. These disorders are commonly characterized by symptoms including abdominal pain, substernal burning or pain, nausea, vomiting, altered bowel habits (including diarrhea, constipation), indigestion, bloating, postprandial fullness, and painful or difficult swallowing. Diagnosis of specific functional gastrointestinal disorders is made in accordance with established medical principles, which generally require symptom onset at least 6 months prior to diagnosis and the presence of symptoms sufficient to diagnose the specific disorder at least 3 months prior to diagnosis.

(ii) For purposes of this section, the term *medically unexplained chronic multisymptom illness* means a diagnosed illness without conclusive pathophysiology or etiology, that is characterized by overlapping symptoms and signs and has features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities. Chronic multisymptom illnesses of partially understood etiology and pathophysiology, such as diabetes and multiple sclerosis, will not be considered medically unexplained.

(3) For purposes of this section, ''objective indications of chronic disability'' include both ''signs,'' in the medical sense of objective evidence perceptible to an examining physician,

and other, non-medical indicators that are capable of independent verification.

(4) For purposes of this section, disabilities that have existed for 6 months or more and disabilities that exhibit intermittent episodes of improvement and worsening over a 6-month period will be considered chronic. The 6-month period of chronicity will be measured from the earliest date on which the pertinent evidence establishes that the signs or symptoms of the disability first became manifest.

(5) A qualifying chronic disability referred to in this section shall be rated using evaluation criteria from part 4 of this chapter for a disease or injury in which the functions affected, anatomical localization, or symptomatology are similar.

(6) A qualifying chronic disability referred to in this section shall be considered service connected for purposes of all laws of the United States.

(7) Compensation shall not be paid under this section for a chronic disability:

(i) If there is affirmative evidence that the disability was not incurred during active military, naval, or air service in the Southwest Asia theater of operations; or

(ii) If there is affirmative evidence that the disability was caused by a supervening condition or event that occurred between the veteran's most recent departure from active duty in the Southwest Asia theater of operations and the onset of the disability; or

(iii) If there is affirmative evidence that the disability is the result of the veteran's own willful misconduct or the abuse of alcohol or drugs.

(b) *Signs or symptoms of undiagnosed illness and medically unexplained chronic multisymptom illnesses.* For the purposes of paragraph (a)(1) of this section, signs or symptoms which may be manifestations of undiagnosed illness or medically unexplained chronic multisymptom illness include, but are not limited to:

(1) Fatigue.

(2) Signs or symptoms involving skin.

(3) Headache.

(4) Muscle pain.

(5) Joint pain.

(6) Neurological signs or symptoms.

(7) Neuropsychological signs or symptoms.

(8) Signs or symptoms involving the respiratory system (upper or lower).

(9) Sleep disturbances.

(10) Gastrointestinal signs or symptoms.

(11) Cardiovascular signs or symptoms.

(12) Abnormal weight loss.

(13) Menstrual disorders.

(c) *Presumptive service connection for infectious diseases.* (1) Except as provided in paragraph (c)(4) of this section, a disease listed in paragraph (c)(2) of this section will be service connected if it becomes manifest in a veteran with a qualifying period of service, provided the provisions of paragraph (c)(3) of this section are also satisfied.

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

(i) Brucellosis.

(ii) Campylobacter jejuni.

(iii) Coxiella burnetii (Q fever).

(iv) Malaria.

(v) Mycobacterium tuberculosis.

(vi) Nontyphoid Salmonella.

(vii) Shigella.

(viii) Visceral leishmaniasis.

(ix) West Nile virus.

(3) The diseases listed in paragraph (c)(2) of this section will be considered to have been incurred in or aggravated by service under the circumstances outlined in paragraphs (c)(3)(i) and (ii) of this section even though there is no evidence of such disease during the period of service.

(i) With three exceptions, the disease must have become manifest to a degree of 10 percent or more within 1 year from the date of separation from a qualifying period of service as specified in paragraph (c)(3)(ii) of this section. Malaria must have become manifest to a degree of 10 percent or more within 1 year from the date of separation from a qualifying period of service or at a time when standard or accepted treatises indicate that the incubation period commenced during a qualifying period of service. There is no time limit for visceral leishmaniasis or tuberculosis to have become manifest to a degree of 10 percent or more.

(ii) For purposes of this paragraph (c), the term *qualifying period of service* means a period of service meeting the requirements of paragraph (e) of this section or a period of active military, naval, or air service on or after September 19, 2001, in Afghanistan.

(4) A disease listed in paragraph (c)(2) of this section shall not be presumed service connected:

(i) If there is affirmative evidence that the disease was not incurred during a qualifying period of service; or

(ii) If there is affirmative evidence that the disease was caused by a supervening condition or event that occurred between the veteran's most recent departure from a qualifying period of service and the onset of the disease; or

(iii) If there is affirmative evidence that the disease is the result of the veteran's own willful misconduct or the abuse of alcohol or drugs.

(d) *Long-term health effects potentially associated with infectious diseases.* (1) A report of the Institute of Medicine of the National Academy of Sciences has identified the following long-term health effects that potentially are associated with the infectious diseases listed in paragraph (c)(2) of this section. These health effects and diseases are listed alphabetically and are not categorized by the level of association stated in the National Academy of Sciences report (*see* Table to § 3.317). If a veteran who has or had an infectious disease identified in column A also has a condition identified in column B as potentially related to that infectious disease, VA must determine, based on the evidence in each case, whether the column B condition was caused by the infectious disease for purposes of paying disability compensation. This does not preclude a finding that other manifestations of disability or secondary conditions were caused by an infectious disease.

(2) If a veteran presumed service connected for one of the diseases listed in paragraph (c)(2) of this section is diagnosed with one of the diseases listed in column ''B'' in the table within the time period specified for the disease in the same table, if a time period is specified or, otherwise, at any time, VA will request a medical opinion as to whether it is at least as likely as not that the condition was caused by the veteran having had the associated disease in column ''A'' in that same table.

TABLE TO § 3.317—LONG-TERM HEALTH EFFECTS POTENTIALLY ASSOCIATED WITH INFECTIOUS DISEASES

A	B
	Disease
Brucellosis	• Arthritis. • Cardiovascular, nervous, and respiratory system infections. • Chronic meningitis and meningoencephalitis. • Deafness. • Demyelinating meningovascular syndromes. • Episcleritis. • Fatigue, inattention, amnesia, and depression. • Guillain-Barré syndrome. • Hepatic abnormalities, including granulomatous hepatitis. • Multifocal choroiditis. • Myelitis-radiculoneuritis. • Nummular keratitis. • Papilledema. • Optic neuritis. • Orchioepididymitis and infections of the genitourinary system. • Sensorineural hearing loss. • Spondylitis. • Uveitis.
Campylobacter jejuni	• Guillain-Barré syndrome *if manifest within 2 months of the infection.* • Reactive Arthritis *if manifest within 3 months of the infection.* • Uveitis *if manifest within 1 month of the infection.*
Coxiella burnetii (Q fever)	• Chronic hepatitis. • Endocarditis. • Osteomyelitis. • Post-Q-fever chronic fatigue syndrome. • Vascular infection.
Malaria	• Demyelinating polyneuropathy. • Guillain-Barré syndrome.

TABLE TO § 3.317—LONG-TERM HEALTH EFFECTS POTENTIALLY ASSOCIATED WITH INFECTIOUS DISEASES—Continued

A	B
	Disease
	• Hematologic manifestations (particularly anemia after falciparum malaria and splenic rupture after vivax malaria). • Immune-complex glomerulonephritis. • Neurologic disease, neuropsychiatric disease, or both. • Ophthalmologic manifestations, particularly retinal hemorrhage and scarring. • *Plasmodium falciparum.* • *Plasmodium malariae.* • *Plasmodium ovale.* • *Plasmodium vivax.* • Renal disease, especially nephrotic syndrome.
Mycobacterium tuberculosis	• Active tuberculosis. • Long-term adverse health outcomes due to irreversible tissue damage from severe forms of pulmonary and extrapulmonary tuberculosis and active tuberculosis.
Nontyphoid Salmonella	• Reactive Arthritis *if manifest within 3 months of the infection.*
Shigella	• Hemolytic-uremic syndrome *if manifest within 1 month of the infection.* • Reactive Arthritis *if manifest within 3 months of the infection.*
Visceral leishmaniasis	• Delayed presentation of the acute clinical syndrome. • Post-kala-azar dermal leishmaniasis *if manifest within 2 years of the infection.* • Reactivation of visceral leishmaniasis in the context of future immunosuppression.
West Nile virus	• Variable physical, functional, or cognitive disability.

(e) *Service.* For purposes of this section:

(1) The term *Persian Gulf veteran* means a veteran who served on active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War.

(2) 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.

(Authority: 38 U.S.C. 1117, 1118)

[75 FR 59970, Sept. 29, 2010, as amended at 75 FR 61356, Oct. 5, 2010; 75 FR 61997, Oct. 7, 2010; 76 FR 41698, July 15, 2011; 76 FR 81836, Dec. 29, 2011]

§ 3.318 Presumptive service connection for amyotrophic lateral sclerosis.

(a) Except as provided in paragraph (b) of this section, 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.

(b) Service connection will not be established under this section:

(1) If there is affirmative evidence that amyotrophic lateral sclerosis was not incurred during or aggravated by active military, naval, or air service;

(2) If there is affirmative evidence that amyotrophic lateral sclerosis is due to the veteran's own willful misconduct; or

(3) If the veteran did not have active, continuous service of 90 days or more.

(Authority: 38 U.S.C. 501(a)(1))

[73 FR 54693, Sept. 23, 2008]

§§ 3.319–3.320 [Reserved]

CROSS REFERENCES:[1]

Permanent and total disability ratings for pension purposes. See § 3.342. Special monthly dependency and indemnity compensation, death compensation and pension ratings. See § 3.351. Determination of permanent need for regular aid and attendance and ''permanently bedridden.'' See § 3.352. Conditions which determine permanent incapacity for self-support. See § 3.356.

§ 3.321 General rating considerations.

(a) *Use of rating schedule.* The 1945 Schedule for Rating Disabilities will be used for evaluating the degree of disabilities in claims for disability compensation, disability and death pension, and in eligibility determinations. The provisions contained in the rating schedule will represent as far as can practicably be determined, the average

[1] 39 FR 5315, Feb. 12, 1974.