

symptoms that competent medical evidence demonstrates are experienced by an individual affected and directly related to COVID-19.

(e) **MEDICAL EXAMINATIONS AND OPINIONS.**—If there is a question of whether the symptoms experienced by an individual described in paragraph (1) of subsection (a) during a manifestation period described in paragraph (2) of such subsection are attributable to COVID-19 resulting from infection with SARS-CoV-2 during the qualifying period of duty, in determining whether a medical examination or medical opinion is necessary to make a decision on the claim within the meaning of section 5103A(d) of this title, a qualifying period of duty described in subsection (b) of this section shall be treated as if it were active military, naval, or air service for purposes of section 5103A(d)(2)(B) of this title.

(Added Pub. L. 116-315, title IV, § 4101(a), Jan. 5, 2021, 134 Stat. 5006.)

Editorial Notes

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (b)(1)(A), (2)(A), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The date of the enactment of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, referred to in subsec. (b)(1)(B), (2)(B), is the date of enactment of Pub. L. 116-315, which was approved Jan. 5, 2021.

CODIFICATION

Another section 1164 was renumbered section 1166 of this title.

Statutory Notes and Related Subsidiaries

MEDICAL OPINIONS FOR CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES WHO DIE OF COVID-19

Pub. L. 117-328, div. U, title II, §202(a), (b), Dec. 29, 2022, 136 Stat. 5447, provided that:

“(a) **IN GENERAL.**—The Secretary of Veterans Affairs shall secure a medical opinion to determine if a service-connected disability was the principal or contributory cause of death before notifying the survivor of the final decision in any case in which all of the following factors are met:

“(1) A claim for compensation is filed under chapter 13 of title 38, United States Code, with respect to a veteran with one or more service-connected disabilities who dies.

“(2) The death certificate for the veteran identifies Coronavirus Disease 2019 (COVID-19) as the principal or contributory cause of death.

“(3) The death certificate does not clearly identify any of the service-connected disabilities of the veteran as the principal or contributory cause of death.

“(4) A service-connected disability of the veteran includes a condition more likely to cause severe illness from COVID-19 as determined by the Centers for Disease Control and Prevention.

“(5) The claimant is not entitled to benefits under section 1318 of such title.

“(6) The evidence to support the claim does not result in a preliminary finding in favor of the claimant.

“(b) **OUTREACH.**—The Secretary shall provide information to veterans, dependents, and veterans service organizations about applying to dependency and indemnity compensation when a veteran dies from COVID-19. The Secretary shall provide such information through

the website of the Department of Veterans Affairs and via other outreach mechanisms.”

§ 1165. Choice of sex of medical examiner for certain disabilities

(a) **IN GENERAL.**—The Secretary shall ensure that a veteran who requires a medical examination from a covered medical provider in support of a claim for compensation under this chapter for a mental or physical health condition that resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment may designate the sex of the medical provider who provides such medical examination.

(b) **COVERED MEDICAL PROVIDERS.**—For purposes of this section, a covered medical provider is any medical provider who is employed by the Department or is under any contract with the Department to provide a medical examination or a medical opinion when such an examination or opinion is necessary to make a decision on a claim.

(c) **NOTICE.**—Before providing any medical examination for a veteran in support for a claim described in subsection (a), the Secretary shall notify the veteran of the veteran's rights under subsection (a).

(Added Pub. L. 116-315, title V, §5502(a), Jan. 5, 2021, 134 Stat. 5050.)

§ 1166. Claims involving military sexual trauma

(a) **PROCESSING.**—(1) The Secretary shall establish specialized teams to process claims for compensation for a covered mental health condition based on military sexual trauma experienced by a veteran during active military, naval, air, or space service.

(2) A peer support specialist of the Department—

(A) shall not be responsible for providing any assistance to a veteran regarding a claim described in paragraph (1), other than counseling services, guidance, and support, pursuant to duties determined by the Under Secretary for Health; and

(B) shall not participate in the adjudication of such a claim.

(b) **REFERRALS TO MST COORDINATORS.**—The Secretary shall include, in forms for claims described in subsection (a), an option for a veteran to elect to be referred to a military sexual trauma coordinator of the Veterans Health Administration at the facility of the Department nearest to the residence of such veteran.

(c) **TRAINING.**—(1) The Secretary shall ensure that members of teams established under subsection (a) are trained to identify markers indicating military sexual trauma.

(2) The Secretary shall ensure that peer support specialists of the Department receive annual training on how to provide peer support regarding military sexual trauma.

(3) The Secretary shall provide annual training, regarding the processing of claims described in subsection (a), to the following individuals:

(A) Military sexual trauma coordinators of the Veterans Health Administration.

(B) Peer support specialists of the Department.