



VETERANS CLAIMS EDUCATION · FREE GUIDE

Not on the List? **Direct Claim Kit**

When your condition isn't presumptive · Check every list · Direct, secondary, aggravation and dose review · The 3 things you need · A strong medical opinion · The PACT Act exam · Examples · 6 printable worksheets

Before you start: we are a free education resource. We are not VA, a VSO, an attorney or an accredited claims agent, and we don't assist with or file claims. Only VA decides. Examples are made up to show how the rules work. Describe your own experience truthfully; false statements to VA can have serious consequences.

The key idea: **not presumptive doesn't mean not service-connected**

A presumptive list is a shortcut. Without one, you prove the link yourself, usually with a medical opinion. VA must still consider a direct claim, and when the evidence is about equal, VA must decide in your favor. There's no deadline to file.

WHAT'S INSIDE

1. Check every list first
2. Your paths
3. The 3 things you need
4. A strong medical opinion
5. The PACT Act exam
6. Your own evidence and research
7. Examples
8. If VA says no, and your checklist

Worksheets: 1 Every-list check · 2 My condition and path · 3 Evidence tracker · 4 My statement · 5 Doctor's opinion request · 6 PACT Act exam request · Also inside: Official sources

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Check every **list first**

- ☐ Chronic diseases within 1 year of discharge (arthritis, hypertension, diabetes, hearing loss, kidney stones, ulcers and more)
- ☐ Agent Orange, burn pits, Gulf War illness (unexplained symptoms count), radiation, Camp Lejeune, former POWs, tropical diseases, mustard gas
- ☐ “Any type” cancer categories on the burn pit list

Use Worksheet 1. Full lists: veteransclaimsedu.com/presumptive-conditions

2 · YOUR PATHS

Path	When it fits	Rule
Direct	Something in service caused it: injury, illness, event or exposure	§ 3.303
Secondary	A service-connected condition, or its treatment, caused or worsened it	§ 3.310
Aggravation	You had it before service and service made it permanently worse	§ 3.306
Dose review	A radiation-related disease not on the presumptive list	§ 3.311

Use more than one path. Claim direct and secondary at the same time; if one fails, the other may still work.

EXAMPLE

Same exposure, different conditions

Two Vietnam veterans served on the same base. One has prostate cancer (presumptive); the other has kidney cancer (not on the Agent Orange list).

The second files directly with an oncologist's opinion. Both can win (Combee v. Brown, 1994).

Official sources: [38 CFR § 3.303](#) · Combee v. Brown, 34 F.3d 1039 (Fed. Cir. 1994)

3 · THE 3 THINGS YOU NEED

1. Diagnosis

From any provider. Pain that limits function can count.

2. In-service event or exposure

Records, deployment or ship records, sick call, statements.

3. A link

Medical evidence it's “at least as likely as not” (50%+) connected.

4 · A STRONG MEDICAL OPINION

Strong

Reviewed your records · names the diagnosis and the event or exposure · uses “at least as likely as not” · explains why · cites research · addresses other causes · for toxic exposures, considers all exposures together

Weak

“Possibly” or “could be” · a conclusion with no reasons · doesn't mention your history · ignores other causes

Sample opinion: “I reviewed the veteran's deployment records showing 12 months at Balad, Iraq, near the burn pit, and his medical records since 2010. It is at least as likely as not that his [condition] is related to his burn pit and

airborne hazard exposure, because [reasoning and research]. I considered his history of [other factor] and find it does not outweigh his service exposure, because [reason].”

You don't have to pay for an opinion. Ask your own doctor first (Worksheet 5). Your doctor can also use VA's public DBQs.

Official sources: [VA: Public DBQs](#) · [38 CFR § 3.159](#) · *Nieves-Rodriguez v. Peake*, 22 Vet. App. 295 (2008)

5 · THE PACT ACT EXAM

If you had a toxic exposure risk activity and claim a condition that isn't presumptive, VA must give an exam and opinion when your evidence shows the condition and the exposure but doesn't yet prove the link, unless it finds no sign of an association. The opinion must consider your total exposure across all deployments and the combined effect of your exposures. Use Worksheet 6 to ask for it.

Not a toxic exposure? VA must also give an exam in many claims with a current condition, an in-service event and an indication they may be linked.

Official sources: [38 U.S.C. § 1168](#) · [38 CFR § 3.159\(c\)\(4\)](#) · *McLendon v. Nicholson*, 20 Vet. App. 79 (2006)

6 · YOUR OWN EVIDENCE AND RESEARCH

- ☐ Your statement (Worksheet 4) on VA Form 21-4138
- ☐ Buddy and family statements on VA Form 21-10210
- ☐ A symptom log and records from the time: letters, photos, early civilian doctor visits
- ☐ Research: National Academies reports, VA exposure pages, peer-reviewed studies, and similar Board decisions as guides

Need help writing it? Use our free Statement Writer at veteransclaimsedu.com/statement-writer to draft your statement or a buddy statement, then copy it onto the VA form.

Official sources: [VA Form 21-4138](#) · [VA Form 21-10210](#) · [National Academies](#) · [VA: Military exposures](#) · *Jandreau v. Nicholson*, 492 F.3d 1372 (Fed. Cir. 2007)

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Real-life examples

AGENT ORANGE

Kidney cancer

Tom served in Vietnam in 1969 and has kidney cancer, not on the Agent Orange list.

He files directly with his oncologist's opinion and research.

BURN PITS

A lung condition not listed

Kim deployed to Kuwait and Iraq and has a lung condition not on the PACT list.

She lists every deployment and asks for the § 1168 exam.

NOISE

Hearing loss years later

Mike's hearing loss was diagnosed 10 years after he left the flight line.

Past the 1-year window, he files directly with his job history and an audiologist's opinion.

INJURY

Arthritis from an old injury

Dana hurt her knee on a ruck march; arthritis showed up 8 years later.

She files directly with the sick-call note, a buddy statement and an orthopedist's opinion.

SECONDARY

Caused by medication

Leo's years of anti-inflammatories for his service-connected back led to kidney disease.

He files it as secondary, with his doctor's opinion.

MENTAL HEALTH

Depression from chronic pain

Rosa has service-connected migraines and now depression.

She files depression as secondary, with a mental health provider's opinion.

8 · IF VA SAYS NO, AND YOUR CHECKLIST

VA says

You can respond

"Not a presumptive condition."

Ask VA to consider direct service connection; send a medical opinion.

"No medical opinion links it."

Get one and file a Supplemental Claim ([VA Form 20-0995](#)).

"The VA examiner said less likely than not."

Check the reasons and whether all exposures and your statements were considered; ask for a Higher-Level Review or send a stronger opinion.

"No exam was needed."

For toxic exposures, point to 38 U.S.C. § 1168.

Official sources: [38 CFR § 3.102](#) · [§ 3.2500](#) · [§ 3.114](#)

- ☐ Checked every list (Worksheet 1)
- ☐ Picked my paths (Worksheet 2)
- ☐ Diagnosis, in-service proof and statements (Worksheets 3–4)
- ☐ Medical opinion with reasons (Worksheet 5)
- ☐ Toxic exposure? Asked for the § 1168 exam (Worksheet 6)
- ☐ Filed an Intent to File and VA Form 21-526EZ
- ☐ If added to a list later, filed a Supplemental Claim

Every-list check

Tick each list you checked and whether your condition and service fit.

List	Checked?	Does my condition fit?	Does my service fit?
Chronic diseases within 1 year			
Agent Orange			
Burn pits and airborne hazards (PACT Act)			
Gulf War illness (incl. unexplained symptoms)			
Radiation			
Camp Lejeune			
Former POW			
Tropical diseases			
Mustard gas or Lewisite			



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My condition and path

One row per condition.

Condition	Diagnosed (when, by whom)	Path(s)	In-service event, exposure, or linked condition	Opinion?
Kidney disease	2023, Dr. Lee	Secondary	NSAIDs for SC back	Requested



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[illegible]

My statement

Copy onto VA Form 21-4138, or type it with our free Statement Writer at veteransclaimsedu.com/statement-writer.

I, _____, served in the _____ from _____ to _____.

During service, _____

My symptoms began _____ and have continued: _____

I was diagnosed with _____ in _____ by _____.

It affects my daily life and work by _____

I request service connection on a direct basis and, in the alternative, as secondary to _____.

I certify that these statements are true and correct to the best of my knowledge.

Signature _____ Date _____



Doctor's opinion request

Give this, Worksheet 2 and your records to your doctor.

I'm filing a VA claim for [condition]. It isn't on a VA presumptive list, so VA needs a medical opinion on whether it is "at least as likely as not" (50% or more) caused or worsened by [event, exposure or service-connected condition].

Would you consider an opinion that:

- ☐ Notes you reviewed my service and medical history
- ☐ States my diagnosis and the in-service event or exposure
- ☐ Gives your opinion in "at least as likely as not" terms
- ☐ Explains your reasons, citing research if helpful
- ☐ For secondary: addresses both "caused by" and "made worse by"
- ☐ Addresses other possible causes

Notes from my appointment:



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PACT Act exam request

Copy onto VA Form 21-4138 if your claim involves a toxic exposure.

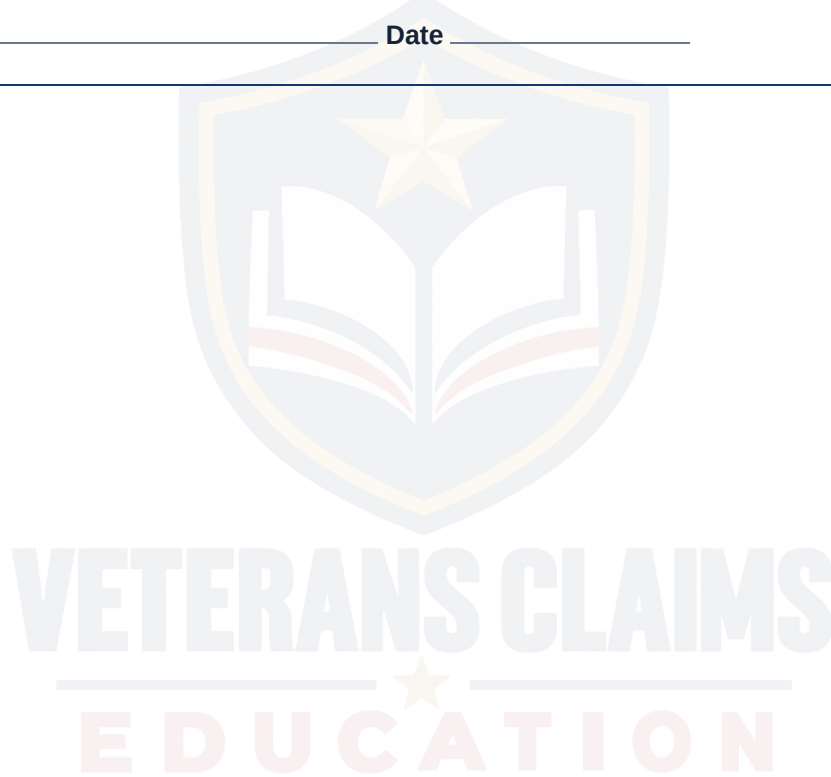
I had toxic exposure risk activities during service, including

_____ (places
and dates).

I have _____, diagnosed _____.

I request a medical examination and opinion under 38 U.S.C. § 1168 that considers my total exposure across
all my deployments and the combined effect of these exposures on my condition.

Signature _____ Date _____



Official sources

- Laws: [38 U.S.C. § 1110](#) · [§ 1168](#) · [§ 5103A](#) · [§ 5107](#)
- Regulations: [38 CFR § 3.102](#) · [§ 3.114](#) · [§ 3.159](#) · [§ 3.303](#) · [§ 3.306](#) · [§ 3.310](#) · [§ 3.311](#) · [§ 3.2500](#)
- VA and research: [VA: Public DBQs](#) · [VA: Military exposures](#) · [National Academies: Veterans reports](#) · [VA: PACT Act](#)
- Forms: [VA Form 21-0966](#) · [VA Form 21-526EZ](#) · [VA Form 21-4138](#) · [VA Form 21-10210](#) · [VA Form 20-0995](#)
- Court cases: [Combee v. Brown, 34 F.3d 1039 \(Fed. Cir. 1994\)](#) · [McLendon v. Nicholson, 20 Vet. App. 79 \(2006\)](#) · [Jandreau v. Nicholson, 492 F.3d 1372 \(Fed. Cir. 2007\)](#) · [Nieves-Rodriguez v. Peake, 22 Vet. App. 295 \(2008\)](#)
- Free tools and guides: [Statement Writer](#) · [Not on the Presumptive List?](#) · [Presumptive Conditions](#) · [Connecting Your Condition](#)

Stressed or struggling? You don't have to wait for a crisis. Dial 988, then press 1 · Text 838255 · Free, confidential, 24/7.

Disclaimer: This guide provides general educational information about direct service connection for conditions not on a presumptive list. It is not legal or medical advice, does not guarantee any outcome, and is not affiliated with or endorsed by the U.S. Department of Veterans Affairs. Veterans Claims Education is a free education resource; we don't assist with, prepare or file claims and never charge fees. Free help is available from accredited VSOs. Forms and presumptive lists change; check VA.gov and our website for the current versions. Examples are made up to show how the rules work. VA decides each claim on its evidence. AI-assisted. © Veterans Claims Education. All rights reserved.

