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LET'S TALK NATIONAL GUARD CLAIMS

DEFINITIONS

United States Code (USC)

- Title 10 =
 - *Federal Active Duty*
- Title 32 =
 - *Active Duty for Training*
 - *Inactive Duty for Training or*
 - *Initial Active Duty for Training*

ACTIVE SERVICE

III.i.1.A.1.b.

Definition: Active Service

Active service includes

- active duty
- any period of active duty for training (ADT) during which a person is disabled or dies from a disease or injury incurred or aggravated in the line of duty, or
- any period of inactive duty for training (IADT) during which a person is disabled or dies from an injury incurred or aggravated in the line of duty or from any of the following conditions that occurred during training:
 - acute myocardial infarction
 - cardiac arrest, or
 - a cerebrovascular accident.

Notes:

- According to [VAOPGCPREC 8-2001](#), sexual assault constitutes an injury for the purposes of this block.
- Time spent proceeding directly to and from ADT and IADT must be considered as part of the ADT or IADT, as specified in [38 CFR 3.6\(e\)](#).

Reference: For more information on the regulatory and statutory definitions of active duty, ADT, IADT, and active service, see

- [38 CFR 3.6](#)
- [38 U.S.C. 101\(21\) through \(24\)](#), and
- [38 U.S.C. 106\(d\)](#).

NG --ACTIVE GUARD RESERVE

**III.i.1.A.4.c.
Full-time
National
Guard Service
Under 32 U.S.C.**

Since 1964, there has been authority, under [32 U.S.C. 502\(f\)](#), to assign to full-time operational duty National Guard members who provide full-time support to the Guard components, even though they are not activated. **Full-time National Guard service is considered ADT** under [38 U.S.C. 101\(22\)\(C\)](#) if performed under [32 U.S.C. 316](#), or [32 U.S.C. 502, 503, 504, or 505](#). This is true regardless of whether the member is

- performing operational duty, including
 - AGR, and
 - ADS, or
- undergoing training.

National Guard service does *not* meet the definition of *active military, naval, air, or space service* under [38 U.S.C. 101\(22\)](#) unless the member or former member is disabled or dies due to injury or disease incurred or aggravated during service and, therefore, subject to an exception outlined in [38 U.S.C. 101\(24\)](#) or [38 U.S.C. 106\(b\)\(3\)](#).

Notes:

- For purposes of handling termination and reinstatement of benefits due to a return to service that is non-training related, treat AGR and ADS service as active service and follow the provisions of [M21-1, Part X, Subpart v, 2.B](#). VA benefits are adjusted following the provisions of [M21-1, Part VI, Subpart ii, 3](#) for periods determined to be training related.
- When adjusting benefits involving AGR or ADS service **and** drill pay within the same fiscal year, follow the provisions of [M21-1, Part VI, Subpart ii, 3.A.4](#).

VERIFICATION OF FULL TIME SERVICE

III.i.1.A.4.e.

Verification of

Full-time

National Guard

Service

When a National Guard member completes a period of active service under [10 U.S.C.](#) or a period of AGR service or other full-time service under [32 U.S.C.](#), a *DD Form 214* will be issued. The type of National Guard service should be identified on the *DD Form 214*. If the information is not indicated on the *DD Form 214*, develop with the appropriate component listed in [M21-1, Part III, Subpart ii, 2.H.](#)

Note: If the *DD Form 214*, or the response to development with the service department, indicates that service was under both [10 U.S.C.](#) and [32 U.S.C.](#), consider the service to be under [10 U.S.C.](#)

WHY IS THIS AN ISSUE
YOU ASK?

PRE-DISCHARGE CLAIMS PROCESSING

X.i.6.A.1.b. Who May File a Pre-Discharge Claim Any service member on active duty may file a pre-discharge claim. This includes

- reservists serving on active duty in an Active Guard Reserve (AGR) role under [10 U.S.C.](#)
- full-time National Guard members serving in an AGR role under [32 U.S.C.](#), and
- service members undergoing medical evaluation board or physical evaluation board proceedings who are not currently enrolled in the IDES program.

- Recently, there has been a LOT of claims submitted by full-time National Guard members
- These claims have been submitted under the Pre-Discharge Programs, specifically *BDD*
- Title 32 claimants are not subject to the same development processes, decisions on service connection claims and effective dates that Title 10 pre-discharge Veterans are.

BDD?

Appendix 1: Call Notes from the September 2024 BDD/IDES Conference Call

Question: I'm seeing more National Guard and Reserve BDD claims coming in for those who are not Active Guard Reserve? Has there been some sort of push from VSOs to do that or has something changed to warrant additional accessibility to the BDD program for Guard and Reserve personnel? Should we treat these as normal claims?

Answer: If the claimant is on active duty but does not meet the BDD requirements, that claim is BDD-excluded. If the claimant is not on active duty, that claim is a normal post-discharge Veteran claim.

NEW LOCATION ADDED
FOR PACT ACT

KARSHI-KHANABAD (K2) BASE IN UZBEKISTAN AFTER 09/11/2001

- Karshi-Khanabad Air Base, also known as K2 or Camp Stronghold Freedom, was a Soviet era air base used by U.S. Army, Air Force, and Marine forces from October 2001 to November 2005 to support missions into Afghanistan. The base was one square mile in southeastern Uzbekistan, near the border of Tajikistan, shown in Figure 1. K2 is currently home to the 60th Separate Mixed Aviation Brigade of the Uzbek Air Force.
- On August 9, 2024, the Department of Veterans Affairs announced several steps to expand access to benefits for K2 Veterans, which includes pre-decisional reviews of new K2 claims to ensure all relevant information (including exposures) is considered and all benefits to which the Veteran is entitled are granted.

POTENTIAL EXPOSURES

Potential Exposures	Current Status
<ul style="list-style-type: none">• Jet fuel• Volatile organic compounds• Particulate matter and dust• Depleted uranium• Asbestos• Lead-based paint• Lead in water samples	VA currently recognizes presumptions related to Burn Pits and Other Toxins (BPOTs) under 38 U.S.C. § 1119 for those deployed to K-2. If an individual served at K-2, has a recognized presumptive condition, and meets other basic eligibility requirements, they may be eligible for presumptions related to BPOT exposure.

CURRENT GUIDANCE

- VBMS corporate flash (Toxic Exposure – Uzbekistan Deployed Veteran)
- ALL Rating Decisions for Veteran's with the corporate flash require second signature by RQRS---
regardless of type of claim
- Once RQRS has completed second signature, additional documentation is required in quality system

Because all these K2 cases have the corporate flash on them, they are **monitored** by the Office of Field Operations (OFO).

§1117 Qualifying Deployment Information:

DoD deployment records show that the Veteran named above served in:

Afghanistan from August 2, 2003, through February 16, 2004

Afghanistan from July 6, 2004, through August 5, 2004

Iraq from May 19, 2008, through June 19, 2008

Kuwait from June 20, 2008, through June 20, 2008

Iraq from November 6, 2008, through November 18, 2008

Kuwait from June 20, 2009, through June 20, 2009

Iraq from June 21, 2009, through July 10, 2009

Kuwait from October 17, 2009, through October 17, 2009

Kuwait from January 16, 2012, through January 16, 2012

- PLEASE CONTINUE TO NEXT PAGE -

§1117 Qualifying Deployment Information (continued):

DoD military pay records show that the Veteran received fire pay, imminent danger pay, and/or or hazardous duty pay for service in:

Kuwait from July 2002 through June 2003

Kuwait from April 2003 through August 2003

Afghanistan from September 2003 through March 2004

Kuwait from November 2008 through October 2009

Kuwait from August 2010 through August 2010

Kuwait from October 2010 through October 2010

Kuwait from December 2011 through July 2012

Kuwait from February 2012 through July 2012

DoD medals and awards records show that the Veteran was awarded the following decoration(s):

The Afghanistan Campaign Medal on May 25, 2009

The Iraq Campaign Medal on May 25, 2009

▼ Veteran Flashes

Flash: Persian Gulf Veteran - Sec. 1117

Flash: TBI Equitable Relief Review

Flash: Toxic Exposure - Sec. 1119
Covered Veteran

Flash: Toxic Exposure - Uzbekistan
Deployed Veteran

Flash: VBMS

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MORE PACT ACT ☺

NEW PRESUMPTIVES

Effective January 2, 2025, **AS21** Interim Final Rule (IFR) establishes presumptive service connection for

1. urinary bladder cancer, including over-lapping sites of the bladder, and
2. cancer of the ureter, ureteric orifice, and urachus due to exposure to fine particulate matter.

The new presumptions apply to covered Veterans who served on active military, naval, air, or space service in the following locations:

1) in the Southwest Asia theater of operations or Somalia during the Persian Gulf War **on or after August 2, 1990**; and

2) in Afghanistan, Syria, Djibouti, Uzbekistan, Egypt, Jordan, Lebanon, and Yemen during the Gulf War **on or after September 11, 2001**.

CURRENT GUIDANCE

- If the claim **cannot be granted** under an existing authority, process any additional contention(s) or issues unrelated to urinary bladder cancer, including over-lapping sites of the bladder, cancer of the ureter, ureteric orifice, and urachus, and then continue the end product.
- **Do not defer the entire claim and do not enter a deferral into VBMS for the unactionable AS21 contention(s).**
- Apply **VACO Special Issue 5** to the AS21 contention(s)

MORE NEW PRESUMPTIVES

Effective January 10, 2025, **AS27** Interim Final Rule (IFR) establishes presumptive service connection for:

1. acute leukemias,
2. chronic leukemias,
3. multiple myelomas, including monoclonal gammopathy of undetermined significance (MGUS),
4. myelodysplastic syndromes (MDS), and
5. myelofibrosis due to exposure to fine particulate matter.

The new presumptions apply to covered Veterans who served on active military, naval, air, or space service in the following locations:

1) in the Southwest Asia theater of operations or Somalia (which includes 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) during the Persian Gulf War **on or after August 2, 1990**; and

2) in Afghanistan, Syria, Djibouti, Uzbekistan, Egypt, Jordan, Lebanon, Yemen, and the airspace above these locations during the Gulf War **on or after September 11, 2001**.

CURRENT GUIDANCE

- If the claim **cannot be granted** under an existing authority, process any additional contention(s) or issues unrelated to acute leukemias, chronic leukemias, multiple myelomas, including monoclonal gammopathy of undetermined significance (MGUS), myelodysplastic syndromes (MDS), and myelofibrosis, and then continue the end product.
- **Do not defer the entire claim and do not enter a deferral into VBMS for the unactionable AS27 contention(s).**
- Apply *VACO Special Issue 9* to the AS27 contention(s)

UPCOMING RATING SCHEDULE CHANGES

COMING SUMMER 2025

- Mental disorders Rating Schedule
- Respiratory Rating Schedule
- Audio Rating Schedule