THE MILITARY ORDER OF
THE PURPLE HEART
MARCH 2010 TRAINING

MONDAY
MARCH 22, 2010
# MOPH 2010 ANNUAL TRAINING
## ORLANDO, FL.

**MONDAY, March 22**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>08:30 AM—09:20 AM</td>
<td>Nehmer Case and Effective Dates of Agent Orange (AO) Claims.</td>
</tr>
<tr>
<td>09:30 AM—10:20 AM</td>
<td>New Additions to AO Presumptive Conditions</td>
</tr>
<tr>
<td>10:30 AM—11:20 AM</td>
<td>Coronary Artery Disease – Relationship to AO – Evaluation – Secondary Conditions (depression, SMC-K, etc)</td>
</tr>
<tr>
<td>11:30 AM—12:20 PM</td>
<td>CAD – Continued</td>
</tr>
<tr>
<td>12:20 PM</td>
<td>Lunch</td>
</tr>
<tr>
<td>07:30 PM</td>
<td>NVLSP Seminar – Roundtable discussion</td>
</tr>
</tbody>
</table>

**TUESDAY, March 23**

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>08:30 AM—09:20 AM</td>
<td>Special Monthly Compensation</td>
</tr>
<tr>
<td>09:30 AM—10:20 AM</td>
<td>New PTSD Regulations - Mental Health Evaluations</td>
</tr>
<tr>
<td>10:30 AM—11:20 AM</td>
<td>Mental Health evaluations – Continued</td>
</tr>
<tr>
<td>11:30 AM—12:20 PM</td>
<td>Recent Definitive Court Decisions</td>
</tr>
<tr>
<td>12:20 PM</td>
<td>Lunch</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

**Monday**

<table>
<thead>
<tr>
<th>TOPIC</th>
<th>PAGE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agent Orange Update and Nehmer</td>
<td>4</td>
</tr>
<tr>
<td>Issues Related to Ischemic Heart Disease</td>
<td>31</td>
</tr>
</tbody>
</table>
AGENT ORANGE UPDATE AND NEHMER
AGENT ORANGE UPDATE AND NEHMER

I. Background – Requirements for Compensation Based on Agent Orange Exposure (38 U.S.C. § 1116(a), 38 C.F.R. §§ 3.307(a), 3.309(e))

A. Veterans qualify for presumptive service connection of certain diseases related to Agent Orange exposure if they meet two or three requirements:

1. The veteran served in Vietnam during the Vietnam era (or can otherwise prove exposure to Agent Orange);

2. The veteran has a disease (or its residuals) that the VA recognizes is linked to Agent Orange, and it is at least 10% disabling;

3. Some non-cancer diseases must appear within a certain time after the veteran left Vietnam or was exposed to Agent Orange.

B. Vietnam Service (38 C.F.R. § 3.307(a)(6)(iii))

1. VA will presume that a veteran was exposed to Agent Orange if he or she had active military, naval or air service in the Republic of Vietnam at some point between January 9, 1962 and May 7, 1975. This includes:

   a. Service offshore and in other locations if it involved duty or visitation to the country. In other words, the veteran set foot on the landmass of the Republic of Vietnam, even momentarily.

   b. Service on the inland waterways of Vietnam (Brown Water Vietnam Service), including service on the following ships:
i. All vessels with the designation LST [Landing Ship, Tank]

ii. All vessels with the designation LCVP [Landing Craft, Vehicle, Personnel]

iii. All vessels with the designation PCF [Patrol Craft, Fast] (Swift Boats)

iv. All vessels with the designation PBR [Patrol Boat, River] (Also called River Patrol Boats as part of the Mobile Riverine Forces)

v. The VA is gathering information on specific “Blue Water” ships that also conducted operations on the inland waterways of Vietnam. It has identified several specific ships with such service. See Compensation and Pension Service Bulletin, January 2010.

c. Service on a ship tied to a pier in Vietnam
d. Service on a ship present in Da Nang Harbor (Note: the VA had been inconsistent in finding that this entitles veterans to the presumption of Agent Orange exposure. There is no binding authority supporting this. However, the BVA has concluded in some individual cases that such service triggers the presumption of Agent Orange exposure.)
2. The VA will NOT presume that a veteran was exposed to Agent Orange based on the following types of service:
   a. Flying over Vietnam without landing (high altitude flights).
   b. Service in the waters offshore Vietnam (Blue Water Vietnam Service).

C. Exposure to Agent Orange Outside of Vietnam

1. Veterans who did not serve in Vietnam are entitled to presumptive service connection for diseases on the VA’s list of Agent Orange-related disabilities if they can prove exposure to Agent Orange.
   a. VA will presume Agent Orange exposure for veteran’s who served along the Korean Demilitarized Zone between April 1968 and July 1969.
   b. If a veteran served along the fenced perimeters of airbases throughout Thailand during the Vietnam War, VA’s C&P Service will review the claim to determine the likelihood of exposure based on the facts of individual cases and DoD documents. See Compensation and Pension Service Bulletin, August 2009.
   c. In other places the DoD has admitted to spraying, testing, or storing Agent Orange, the veteran must prove actual exposure.
2. According to the May 2009 VA Compensation and Pension Service Bulletin, no DoD or other evidence supports claims based on:
   a. Loading Agent Orange on ships for delivery to Vietnam.
   b. Serving on a ship that transported, stored, used or tested Agent Orange.
   c. Working on shipboard aircraft or equipment that was used in Vietnam.

D. Diseases Associated with Exposure to Agent Orange (38 C.F.R. 3.307(a)(6)(ii))

1. Medical evidence must show that the veteran has a disease the VA recognizes is linked to Agent Orange (38 C.F.R. §§ 3.309(e), 3.814).
   b. Other diseases: Type 2 diabetes (diabetes mellitus), peripheral neuropathy, chloracne, porphyria cutanea tarda, and AL Amyloidosis.
   c. Diseases in children of veterans: Certain birth defects (children of female veterans) and spinal bifida.
2. The VA recently announced that three diseases / types of diseases would be added to its list of diseases associated with Agent Orange exposure: ischemic heart disease (including coronary artery disease), Parkinson’s disease, and B cell leukemias (such as hairy cell leukemia).

3. The disease must be 10% disabling for the veteran to receive compensation.

4. Secondary cancers – VA will grant service connection for cancers not associated with Agent Orange if they were caused by a cancer associated with Agent Orange. In other words, if the Agent Orange-related cancer metastasizes. 38 C.F.R. § 3.310. However, VA will NOT grant service connection if the cancer was caused by another cancer not associated with Agent Orange.

E. Time limits (38 C.F.R. § 3.307(a)(6)(ii))

1. VA will only presume service connection for some of the non-cancer diseases if they first appeared within a certain time after the veteran left Vietnam.
   a. Chloracne and porphyria cutanea tarda: 1 year
   b. Peripheral neuropathy: Appearance within months and cure within 2 years after the symptoms first appear
c. Children with spinal bifida and birth defects must have been conceived after the veteran first set foot in Vietnam.

2. The disease must be at least 10% disabling within that period. Additionally, medical evidence must show when the symptoms first appeared and the level of disability.

3. Until 2002, VA did not presume service connection for cancer of the lung, larynx, bronchus or trachea unless they appeared and were at least 10% disabling within 30 years after the veteran left Vietnam. Veterans denied compensation because of this time limit should re-apply for benefits. The effective date will not be retroactive to the date of the original claim.

F. Special Rules for Non-Hodgkin’s Lymphoma (NHL) – In addition to the above rule, under which VA presumes service connection based on Agent Orange Exposure, another regulation (38 C.F.R. § 3.313) allows VA to presume service connection for NHL (or its residuals) based merely on service in Vietnam. Veterans qualify for the presumption if they served in Vietnamese coastal waters, even if they did not set foot in the country.
II. Compensation for Conditions Caused by Diseases Related to Agent Orange

A. A condition or injury caused by a disease linked to a veteran’s Agent Orange exposure may be service connected under the theory of secondary service connection. Advocates should review all of a veteran’s conditions to determine if any could have been caused by a disease already linked to his or her exposure to Agent Orange. Advocates should be particularly aware that Type II diabetes often causes other medical problems, including arteriosclerosis, cataracts, eye problems, kidney diseases, nerve damage, blood sugar conditions, heart and circulation problems, skin conditions, and depression.

III. Veterans With Diseases Not Recognized as Being Related to Agent Orange

A. Veterans will have a difficult time proving that a disease was caused by Agent Orange if it is not on the list of diseases presumptively linked to the herbicide. VA may grant the claim if the veteran has: 1) A current medical diagnosis of the disease, and 2) A medical expert’s opinion that it is at least as likely as not the disease was caused by exposure to Agent Orange. A persuasive opinion would likely need to include analysis of relevant studies, the interval of time between Agent Orange exposure and the onset of the
disease, and the veteran’s other risk factors for developing the condition. VA may also grant the claim based on disability compensation rules unrelated to Agent Orange.

B. The Institute of Medicine of the National Academies (“IOM”) is trying to determine if other diseases can be linked to Agent Orange exposure. The IOM issues an update / report every two years. VA determines which diseases to add to its list of diseases associated with Agent Orange exposure based on the IOM’s reports. Veterans diagnosed with a disease that might be linked to Agent Orange in the future should file a claim with VA now. If the disease is later linked to Agent Orange, the veteran may qualify for retroactive benefits based on the original application, even if it is initially denied. The special effective date rules for such claims will be discussed in the following section.

IV. Special Effective Date Rules for Agent Orange Claims

A. Relevant History

1. Congress enacted the Veterans’ Dioxin and Radiation Exposure Compensation Standards Act in 1984. In response, the VA issued a regulation, 38 C.F.R. § 3.311a(d), effective September 25, 1985, which provided for presumptive service connection for Vietnam veterans who contracted chloracne (a skin condition). The regulation maintained that
there was no medical evidence of a “cause and effect” relationship between dioxin (the toxic chemical in Agent Orange) exposure and any disease other than chloracne.

2. In 1987, Vietnam veterans and their survivors filed a class action lawsuit against the VA called *Nehmer v. U.S. Veterans Administration*. The lawsuit challenged 38 C.F.R. § 3.311a(d) (1986) because the rigid standard used in determining whether diseases were related to Agent Orange exposure violated the 1984 Act.

3. The Court found that the restrictive standard applied by the VA violated the 1984 Act. The Court then invalidated 38 C.F.R. § 3.311a(d) (1986) and voided decisions made under the regulation. This decision, *Nehmer v. U.S. Veterans Administration*, 712 F. Supp. 1404 (N.D. Cal. 1989) (*Nehmer I*), left VA with no choice but to recognize that several diseases were related to Agent Orange exposure and to provide service connection for those veterans who served in Vietnam during the Vietnam conflict and who suffer from one of those diseases.

4. Shortly after this Court decision, Congress enacted the Agent Orange Act of 1991. Under the 1991 Act, service connection was to be afforded presumptively to Vietnam veterans with diseases specified in the Act and with diseases subsequently linked to Agent Orange
Exposure in Vietnam. Congress directed the VA to use the recommendations of the National Academy of Sciences (NAS), which was charged with analyzing the relationship between Agent Orange exposure and diseases, in order to define an ever-growing presumptive list.

5. Soon after the Agent Orange Act of 1991 was passed, the parties to the Nehmer suit agreed to settle and both parties signed a Final Stipulation and Order. The Final Stipulation and Order mandated three significant things.

a. First, if VA issued new regulations providing presumptive service connection for diseases in addition to chloracne, VA must readjudicate previously denied claims related to those diseases if the denial was voided by Nehmer I.

b. Second, the effective date for readjudicated claims would be the date of claim of the voided decision.

c. Third, for awards based on Agent Orange exposure filed after May 3, 1989, the effective date for such awards would be the date the claim was filed or the date death or disability occurred, whichever was later.
6. NVLSP, on behalf of the members of the class, filed a motion with the District Court in 1998 challenging VA’s refusal to abide by the terms of readjudication set forth in the Final Stipulation and Order. In particular, NVLSP complained that VA was refusing to readjudicate claims unless 1) the denied claim specifically alleged that Agent Orange or herbicides contributed to death or disability, or 2) that 38 C.F.R. § 3.311a had been cited by the agency as the basis for denial.

7. In response, the District Court in February 1999 clarified its decision in *Nehmer I*. The Court rejected the agency’s readjudication practices, explaining that *Nehmer I* had, in fact, intended to void all decisions that involved a disease that is later service connected based on a revised Agent Orange regulation, regardless of whether or not the veteran specifically alleged that Agent Orange or herbicides caused the disease. *Nehmer*, 32 F. Supp. 2d 1175, 1183 (N.D. Cal. 1999) (*Nehmer II*). The U.S. Court of Appeals for the Ninth Circuit affirmed this decision.

8. In December 2001, Congress enacted the Veterans Education and Benefits Expansion Act. That law extended until the year 2015 the expiration date for the period in which VA may issue regulations providing presumptive service connection for diseases suffered by veterans exposed to Agent Orange.
9. The special effective date rules stemming from the *Nehmer* litigation were codified in 2003 at 38 C.F.R. § 3.816.

10. On October 16, 2003, after receiving a report from the NAS, the VA published a regulation adding Chronic Lymphocytic Leukemia ("CLL") to the list of presumptive diseases. VA determined that the appropriate effective date to be assigned to the relevant claims for service connection for CLL was October 16, 2003 – the date of the regulation adding CLL to the list of presumptive diseases.

11. NVLSP, on behalf of the plaintiff Vietnam veterans and their survivors, filed in 2004 a Motion for an Order to Show Cause why VA should not be held in contempt of the 1991 Final Stipulation and Order. The Motion was based on the VA’s refusal to pay retroactive benefits for those otherwise eligible veterans with a disease added to the list after the original end date of the Agent Orange Act of 1991 Act (September 30, 2002), but before the expiration date of the extension of the Agent Orange Act (September 30, 2015).

12. The District Court ruled in favor of the Vietnam veteran class members, holding that the terms of the Final Stipulation and Order continue in effect until the expiration of the Act – beyond the original end date of the Agent Orange Act of 1991. As such, the VA could not refuse to pay
retroactive benefits on CLL claims if the veteran or survivor was otherwise eligible under the favorable *Nehmer* effective date rules. The Court noted that the Final Stipulation and Order mandated retroactive payment for all diseases that may be service-connected “in the future.”

The U.S. Court of Appeals for the Ninth Circuit affirmed this decision.

B. **Overview of the *Nehmer* Special Effective Date Rules** – The following special effective date rules apply to claims by eligible Vietnam veterans (those who served in Vietnam at any time between January 9, 1962, and May 7, 1975) that involve a disease on the list of Agent Orange presumptive conditions, or that will be added in the future, including ischemic heart disease, Parkinson’s disease, and B cell leukemias.

1. **Claimants whose disability or DIC claims, even if filed before September 25, 1985, were finally denied on or after September 25, 1985, have the benefit of the following special effective date rules.**

   a. The effective date for veteran’s disability compensation claims will generally be the date the VA received the claim that was later denied.

      i. The claim that was denied must have included a request for disability compensation for a disease now on the presumptive list as related to Agent Orange or, if not expressly cited by the
veteran in his or her claim, a rating decision denying disability compensation must have discussed or referenced one of the diseases subsequently afforded presumptive service connection as related to Agent Orange.

ii. If the evidence fails to show that the veteran’s disease was 10% disabling on the date of claim, the effective date will be the date upon which the evidence establishes disability at a degree of 10% disabling or more.

iii. If the VA received a disability claim that was later denied within one year of discharge, then the effective date will be the day following the date of discharge, not the date of claim.

b. The effective date for DIC benefits will be the date that VA received the claim that led to the denial or, if the DIC or death pension claim was filed within one year of the veteran’s death, the first day of the month of the veteran’s death.

i. Survivors of Vietnam veterans who died of a disease on the presumptive list, and were denied DIC or received any decision on a claim for death pension (denial or grant) on or after September 25, 1985, enjoy the benefit of the special effective date rules.
c. If a Vietnam veteran claimant or survivor claimant dies after the publication date of the VA regulation adding the subject disease to the presumptive list, but before receiving retroactive benefits required by the special effective date rules described above, unpaid retroactive benefits are to be paid to the claimant’s survivors or estate in the following order:

i. Surviving spouse

ii. Surviving children

iii. Surviving parents

iv. Estate of the Claimant

d. Example 1: A Vietnam veteran dies of lung cancer on April 1, 1982. The veteran’s widow files a claim for DIC on June 6, 1983. The widow’s claim is denied by the RO in 1984. The widow files a timely appeal to the BVA. The BVA denies the widow’s claim in October 1985. The widow files a second DIC claim in 1994, which the VA grants in 1995. The correct effective date for the award of DIC is June 6, 1983.

The veteran files a second disability claim for Hodgkin’s disease in 1994, which the VA grants. The correct effective date for the award of disability compensation is January 1, 1986.

2. **Claimants whose disability or DIC claims were received before the amendment to VA regulations adding the subject disease to the presumptive list, but were ultimately granted, have the benefit of the following special effective date rules.**

   a. The effective date for a Vietnam veteran will be the day after discharge, if VA received the disability claim within one year of discharge.

   b. The effective date for a Vietnam veteran will be the date VA received the claim, if VA received the disability claim later than one year from the date of discharge.

   c. The effective date for a DIC claim will be the first day of the month the veteran died, if VA received the DIC claim within one year of the veteran’s death.

   d. The effective date for a DIC claim will be the date VA received the DIC claim, if VA received the DIC claim more than one year from the veteran’s death.
e. If a claimant described above dies after the publication date of the regulation adding the subject disease to the presumptive list, unpaid retroactive benefits may be made to the claimant’s surviving family members or estate, in the order listed in the previous section.

f. Example 1: A Vietnam veteran dies of lung cancer on March 12, 1993. The veteran’s widow files a claim for DIC on June 6, 1993. The widow’s claim is denied by the RO in 1994. The widow files a timely appeal to the BVA. The VA added lung cancer to its Agent Orange presumptive list on June 9, 1994. The BVA grants the widow’s claim in October 1995. The correct effective date for the widow’s DIC claim is March 1, 1993. Although the date of claim is June 6, 1993, this was within one year of the veteran’s death.

g. Example 2: A Vietnam veteran is diagnosed with cancer of the larynx that is disabling to a degree of 10% or more. The veteran files a disability claim for his cancer of the larynx on December 1, 1993. The VA added larynx cancer to its Agent Orange presumptive list on June 9, 1994. The claim is granted by the RO in October 1994. The correct effective date for the veteran’s claim is December 1, 1993.
3. Claimants whose initial disability or DIC claims were **received after** the amendment to VA regulations adding the subject disease to the presumptive list have the benefit of the following special effective date rules.

   a. If a claim was received by VA after the publication date of the amendment adding the subject disease to the presumptive list, and the evidence establishes the presence of the disability (or death) on the effective date of the regulation adding the subject disease, the effective date is **the later of**:

      i. the effective date of the amendment of the regulation adding the subject disease to the presumptive list; **or**

      ii. one year before the date of the filing of the claim that resulted in a grant of benefits.

   b. Example 1: A Vietnam veteran dies of lung cancer on May 1, 1993. The veteran’s widow files for DIC for the first time on January 1, 1995. The widow’s claim is granted by the RO in October 1995. The correct effective date for the widow’s DIC claim is June 9, 1994 (the effective date of the regulation adding lung cancer).

   c. Example 2: A Vietnam veteran dies of lung cancer on May 1, 1993. The veteran’s widow files for DIC for the first time on August 1,
1996. The widow’s claim is granted by the RO in October 1996. The correct effective date for the widow’s DIC claim is August 1, 1995.

d. Example 3: A Vietnam veteran was diagnosed with CLL on January 1, 2003. The VA published final regulations adding CLL to the list of Agent Orange-related diseases on October 16, 2003. The veteran filed a disability claim for his CLL on December 1, 2003. The claim was granted by the RO in 2004. The correct effective date for service connection is October 16, 2003.

e. Example 4: A Vietnam veteran was diagnosed with CLL on January 1, 2003. The VA published final regulations adding CLL to the list of Agent Orange-related diseases on October 16, 2003. The veteran filed a disability claim for his CLL on December 1, 2005. The claim is granted by the RO in 2006. The correct effective date for service connection is December 1, 2004.

f. Example 5: A Vietnam veteran was diagnosed with CLL on January 1, 2004. The veteran filed a disability claim for his CLL on September 1, 2004. The claim is granted by the RO in 2005. The correct effective date for service connection is September 1, 2004, because the veteran was not diagnosed with CLL on or before the
date of the final regulation adding CLL to the list of Agent Orange-related diseases.

V. Diseases Recently Linked to Herbicide Exposure

A. On July 24, 2009, the Institute of Medicine of the National Academies (“IOM”) released Veterans and Agent Orange: Update 2008. The IOM found suggestive but limited evidence that exposure to Agent Orange and other herbicides used during the Vietnam War is associated with an increased chance of developing ischemic heart disease and Parkinson's disease for Vietnam veterans. The IOM affirmed that hairy cell leukemia and other B cell leukemias are in the same category as chronic lymphocytic leukemia and lymphomas, which had previously been linked to Agent Orange exposure.

B. On October 13, 2009, the Secretary of Veterans Affairs announced his decision to add the following conditions to the list of diseases presumptively linked to Agent Orange exposure:

1. Ischemic heart disease;
2. Parkinson’s disease; and
3. B cell leukemias, such as hairy cell leukemia.

C. Although the VA made this announcement, it has not yet issued proposed, much less final, regulations implementing the decision to add these
conditions to its list of Agent Orange-related diseases. The VA is required to issue final regulations implementing presumptive service connection for these diseases within 210 days of receiving a report from the IOM. 38 U.S.C. § 1116(c)(1); Liesegang v. Secretary of Veterans Affairs, 312 F.3d 1368, 1378 (Fed. Cir. 2002). Therefore, the VA was required to issue final regulations by February 19, 2010.

D. On November 19, 2009, VA issued a Fast Letter on the procedures for handling disability claims based on herbicide exposure for hairy cell and other B-cell leukemias, Parkinson’s disease, and ischemic heart disease.

1. Until VA issues final regulations adding the diseases to the presumptive list, Regional Offices must hold (stay) such claims and refrain from issuing rating decisions.

2. VA will first consider the claim on a direct service connection basis. If it can be granted on a direct basis, the claim will not be stayed and a rating decision will be released without delay.

3. The VA will send the veteran or survivor a notification letter explaining that the claim will be stayed, but begin development for service treatment records, service personnel records, or private medical records that may be necessary to establish the claim as ready-to-rate. VA will
not request medical examinations unless Agent Orange exposure has been verified.

4. When final regulations are issued, the VA will produce a rating decision and notification letter.

E. Veterans or survivors should not delay in filing claims related to the diseases recently linked to Agent Orange exposure.

1. If the claimant has not previously filed a claim for service-connected disability or death benefits related to one of the diseases, he or she should do so immediately. Even though the claim will most likely be put on hold, the claimant will preserve the earliest possible effective date for benefits. The VA must ultimately assign the date the VA receives the claim as the effective date for benefits pursuant to *Nehmer*.

2. If the claimant previously filed a claim for service-connected disability or death benefits related to one of the disease, he or she should immediately file another claim for service-connected disability compensation (or DIC) for the disease. This will help protect the claimant from the possibility that the VA will interpret the previous claim as a pension claim instead of a compensation claim, or as being for a disease other than one of the three new diseases. The claimant should state that he or she previously filed a compensation or DIC claim.
related to the disability, and request an effective date based on the original claim. Pursuant to *Nehmer*, the VA must assign as the effective date for benefits the date of the first claim, as long as it was pending on or filed after September 25, 1985.

3. As counsel for the plaintiff class of claimants in the *Nehmer* lawsuit, NVLSP wants to ensure that the VA properly adjudicates their claims, by assigning the proper effective date and awarding retroactive benefits as appropriate. Therefore, NVLSP requests that veterans who file (or filed) such claims prior to the date of the VA’s final regulations contact us with the following information, which can be sent to agentorange@nvlsp.org:

a. Claimant’s full name  
b. Claimant’s current address  
c. Claimant’s current phone number  
d. If the claimant is a surviving family member, the full name of the deceased veteran  
e. The VA claims file number  
f. The approximate year in which the veteran or claimant first filed a disability or DIC claim for ischemic heart disease, Parkinson’s disease, or a B cell leukemia
g. Which of the three diseases was the subject of the claim.

F. What is ischemic heart disease (“IHD”)?

1. IHD is a broad term that encompasses many heart conditions. It is the foremost cause of death among people in industrialized countries. Because it is so widespread, there will likely be tens of thousands of Agent Orange-related claims associated with IHD. Although VA regulations may ultimately specify which conditions are considered to be encompassed by the term “ischemic heart disease,” it is important to understand this condition for the time being.

2. Medical literature provides the following clues:

   a. Ischemia refers generally to a failure of the cardiovascular system to deliver adequate oxygenated blood to body tissue. “Myocardial ischemia” or “cardiac ischemia” is ischemia of the heart muscle, or a failure to deliver an adequate supply of blood or oxygen to the heart. Ischemic heart disease is the health condition characterized by the existence of myocardial or cardiac ischemia.

   b. Coronary Artery Disease (“CAD”), also known as coronary heart disease, is a specific term related to atherosclerosis, which is the thickening and hardening of the walls of arteries near the heart or
the clogging of such arteries. CAD restricts blood flow in and around the heart, so it is a form of IHD.

c. Although CAD is the most common type of IHD, the term IHD encompasses more conditions than CAD. For example, artery spasms restrict the delivery of blood to the heart, so they are considered a form of IHD, but not CAD.

3. The VA Clinician’s Guide provides the following information:
   “ischemic heart disease may be either absolute (e.g., coronary artery disease) or relative (e.g., cardiomyopathy with a greatly enlarged heart).” VA Clinician’s Guide, 7.5.

4. The Social Security Administration’s Definition of IHD
   a. The Social Security Administration (SSA) identifies IHD as the result of one or more coronary arteries being narrowed or obstructed or, in rare situations, constricted due to vasospasm, interfering with the normal flow of blood to the heart muscle (ischemia). It appears that IHD includes CAD by any cause, including atherosclerosis, coronary spasm, coronary artery embolism, dissection, aneurysm, and vaculitis. The regulations note that IHD symptoms are often caused by CAD, but that IHD may also result from noncoronary
artery impairment, such as aortic stenosis, hypertrophic cardiomyopathy, pulmonary hypertension, or anemia.

b. SSA regulations also address symptoms of IHD, which include: angina pectoris (chest pain), atypical angina (symptoms like bloating, gas, and abdominal distress), variant angina (chest pain periodically throughout the day, and during periods of rest instead of exertion), and silent ischemia (coronary arteries are blocked or constricted but no symptoms have become manifest).

5. If a veteran has any type of heart condition, and you are unsure if the condition can be considered IHD, file the claim with the VA to be safe.
ISSUES RELATED TO ISCHEMIC HEART DISEASE
Issues Related to Ischemic Heart Disease

• What is Coronary Heart Disease (CHD) and What is Ischemic Heart Disease (IHD)

• What exactly is CHD?

• Must look at the anatomy first.

• The heart is a size of a fist. It weighs about a pound; it pumps 2500-5000 quarts of blood through 75,000 miles of vasculature. There are 4 main arteries. The right artery, the left main coronary artery, the posterior descending, and the left anterior descending, and this is where the problem occurs.

• CHD is the build up of plaque.

• Plaque is mix of several things -- muscle cells, cholesterol crystals, and a lot different things that get laid down within the muscle of the vessel and overtime it develops and builds.

• Generally plaque builds up between the lining and the muscle. If the plaque becomes significant it closes the pathways where blood flows.

• Blood flow is essential to heart function.

• If the blood flow, which carries oxygen is compromised then oxygen delivery is decreased, and --- with that comes ISCHEMIA.

• The difference between CHD and IHD is that:

• CHD is the blockage in the blood vessel, AND
• IHD results because of inadequate blood flow to muscles through the coronary arteries.

• Sometimes – IHD can be caused by: aortic stenosis, aortic regurgitation, pulmonary hypertension, or enlargement of the ventricular wall.

• What are the risk factors?

• The more common risk factors:
  
  o diabetes,
  
  o smoking,
  
  o hypertension,
  
  o cholesterol,
  
  o family history,
  
  o obesity,
  
  o lack of exercise, and
  
  o age.

• Doctors have trouble distinguishing as to which risk factor contributed more to the CAD/IHD.

• Complications.

• The first is angina - pain one experiences when the heart muscle blockage is at a critical point.

• You can have CHD and not have any ischemic heart disease.
o CHD is just the blockage. But if that blockage gets to a critical point (50-70%), then the decrease in blood flow can cause decreased oxygen delivery to the heart muscle and result in chest pain.

• Other CHD complications - congestive heart failure

THINGS TO CONSIDER

1. Secondary mental disorders (depression – anxiety)

2. Impotence

3. Loss of Use of Legs
EVALUATION CAD

1. The cardiovascular system consists of the heart and blood vessels. The system is responsible for getting oxygenated blood to every cell in the body and for returning the oxygen-depleted blood to the heart.

2. There are many different types of cardiovascular conditions. The rating schedule covers the evaluations that should be assigned for cardiovascular diseases under DC 7000 7123.

3. The rating schedule provides several ways for rating the degree of disability of cardiovascular conditions.

4. The first method for the evaluation under the diagnostic code involves evidence that a veteran has experienced congestive heart failure.
   a. The evaluation assigned under this method varies depending upon the frequency with which the veteran experiences episodes of congestive heart failure (the more frequent the episodes, the higher the assigned evaluation).

5. The second alternative method of evaluating heart disease is through the use of metabolic equivalents (METS).
   a. The principle behind the VA using METS to assess heart disease is that the capacity of muscles to exercise depends on the ability of the cardiovascular system to deliver oxygen to the muscle.
   b. Therefore, measuring the exercise capacity can also measure how well the cardiovascular system performs. If the heart cannot deliver enough oxygen to allow various activities without symptoms developing, it is not functioning normally.
   c. A treadmill exercise test is a common way used to test to measure METs. The evaluation under this method depends upon whether certain symptomatology (dyspnea, fatigue, angina, dizziness, or syncope) develops at different METs workload levels. The lower the MET workload levels that produces these symptoms, the higher the disability evaluation.

6. The third method of evaluating heart disease is left ventricular dysfunction, as measured by the left ventricular ejection fraction, which represents the force with which a ventricle ejects blood from the heart with each beat of the heart.
   a. Normal ejection fraction is 55 to 65 percent. The lower the number, the harder the heart has to work to supply the body with sufficient oxygen.
   b. Left ventricular ejection fraction is measured through the use of radionuclide ventriculography (multigated acquisition scan (MUGA)).
7. *It is not necessary that the examination provided to the veteran use all three methods. Ordinarily, the VA can rate a veteran on only one of the three methods listed above.*
Coronary Artery Disease (CAD)

- CAD is the most common type of heart disease.
- The coronary arteries can be affected by arteriosclerosis in several ways:
  - (1) become progressively hardened and narrowed;
  - (2) become completely blocked; or
  - (3) the wall becomes stretched, and an aneurism develops.
- Documentation of CAD can be done by an electrocardiogram (EGC also abbreviated EKG), treadmill exercise testing, or cardiac catherization and angiography.
- CAD is rated under one of several codes, depending on:
  - whether a myocardial infarction has occurred or not, and
  - whether surgery, such as a bypass procedure, has been performed.
  - In some cases, a complication, such as an arrhythmia, may be the primary disability that requires rating.