

Gulf War Illness

ND CVSO Fall Training Conference

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VA



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of Veterans Affairs

Objectives

- Demonstrate a comprehensive understanding of claims for disabilities resulting from exposure to specific environmental hazards in the Gulf War and disabilities based on the provisions of 38 CFR 3.317, to include:
 - undiagnosed illness, and
 - medically unexplained chronic multi-symptom illness (MUCMI)
- Identify evidence requirements and elements of a successful claim.

References

- 38 CFR 3.317, Compensation for certain disabilities occurring in Persian Gulf veterans
- M21-1, Part IV, Subpart ii.1.E, Developing Claims Based on Service in Southwest Asia
- M21-1, Part IV, Subpart ii.2.D, Service Connection (SC) for Qualifying Disabilities Associated with Service in Southwest Asia
- M21-1, Part IV, Subpart ii.1.I .6, Developing Claims Based on Exposure to Environmental Hazards
- M21-1, Part IV, Subpart ii.2.C.5, SC for Disabilities Resulting From Exposure to Other Specific Environmental Hazards

Definitions

- Presumptive SC for undiagnosed illness and MUCMIs under §3.317

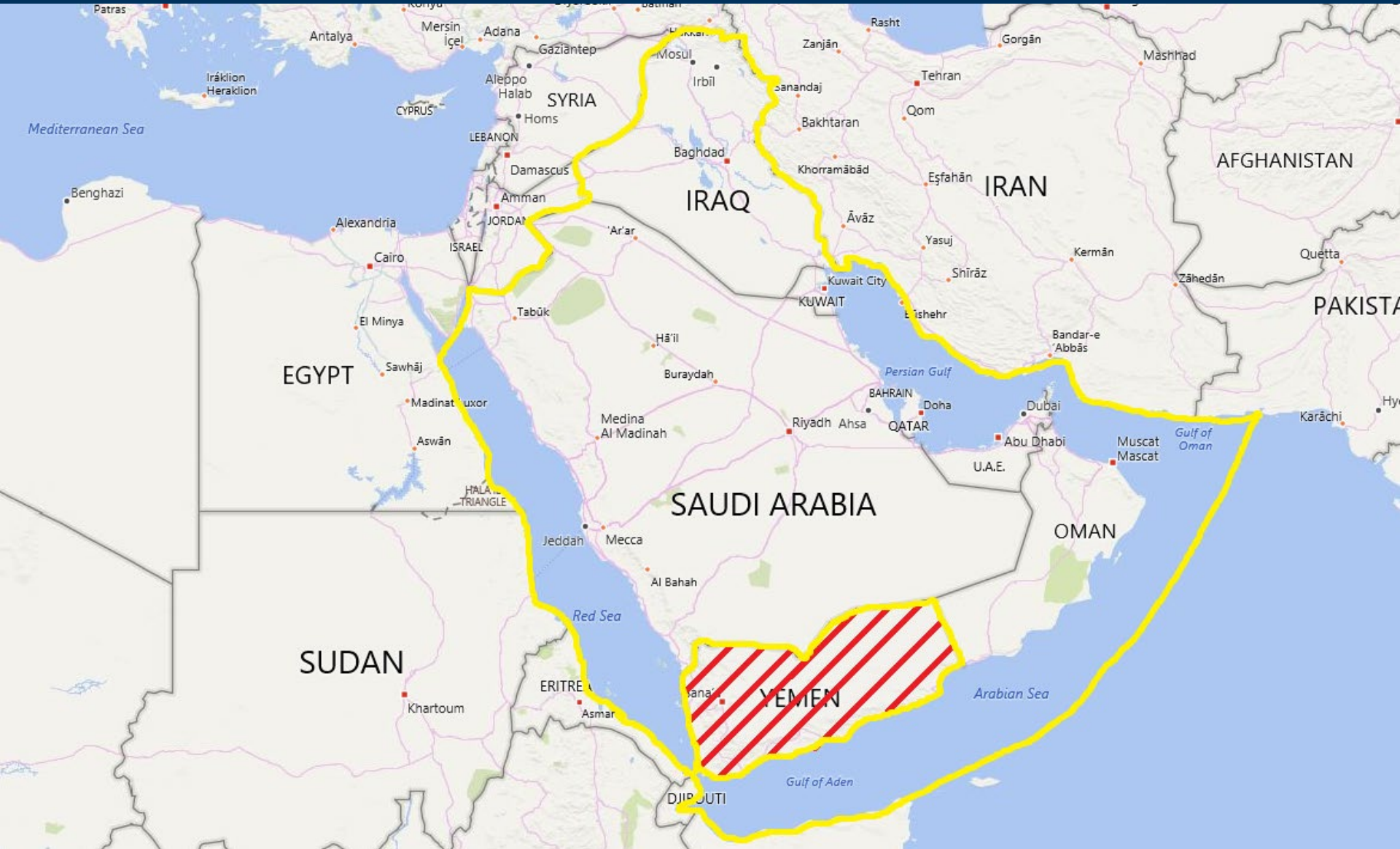
versus

- Disabilities resulting from exposure to specific environmental hazards

§3.317 Presumptive

- Compensation is awarded for Gulf War (GW) Veterans suffering from a chronic disability resulting from an undiagnosed illness and/or MUCMI which manifested either
 - during active duty in the Southwest Asia theater of operations during the GW, or
 - to a degree of 10 percent or more within a presumptive period following service in the Southwest Asia theater of operations during the GW.

Southwest Asia Theater of Operations (38 CFR 3.317)



§3.317 Presumptive

- Undiagnosed Illness
 - joint pain, muscle pain, neurological signs or symptoms, headache, neuropsychological signs or symptoms, gastrointestinal signs or symptoms, sleep disturbances, respiratory signs and symptoms, cardiovascular signs or symptoms, skin signs and symptoms, abnormal weight loss, fatigue, and menstrual disorders.

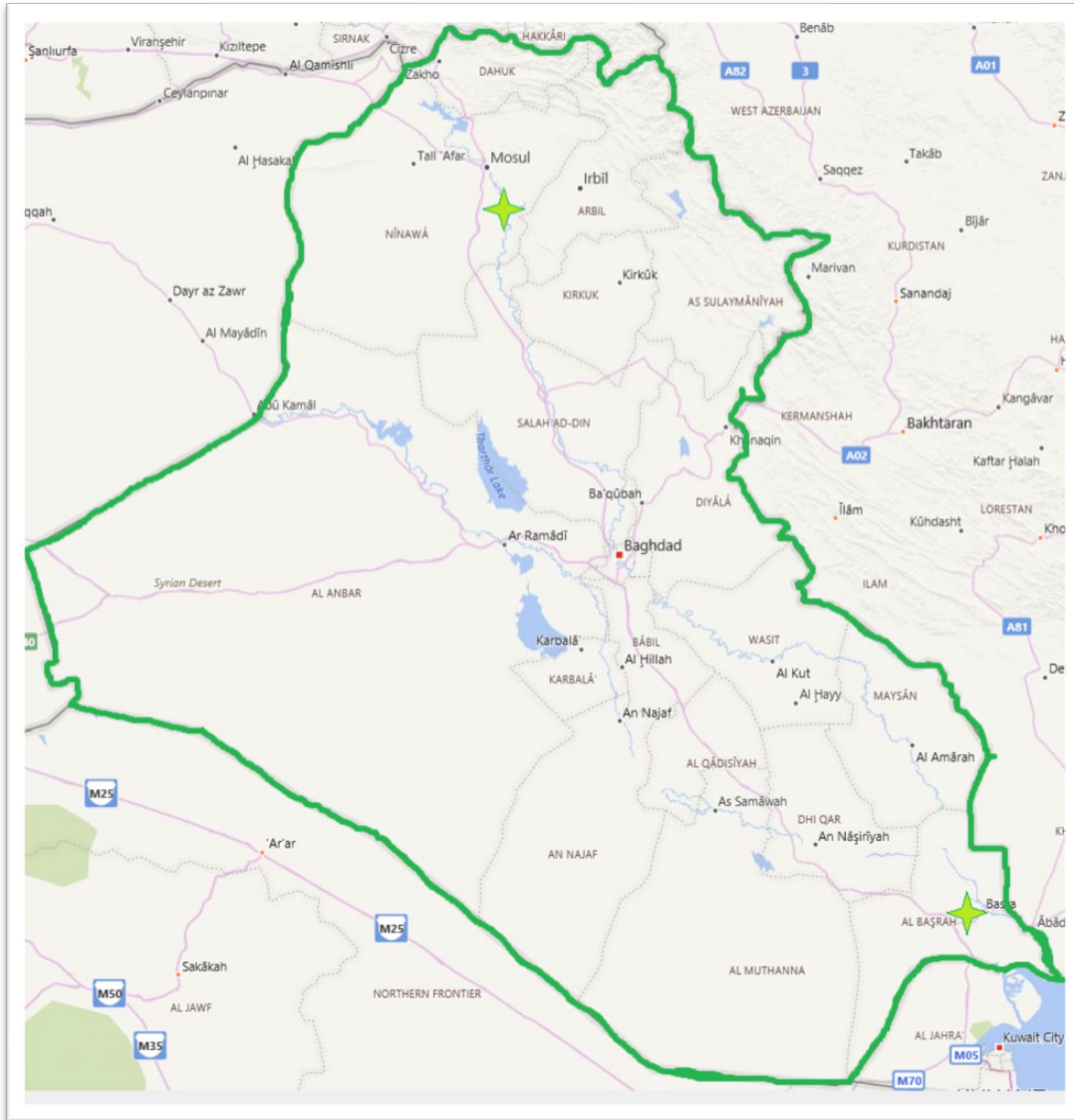
§3.317 Presumptive

- A Medically Unexplained Chronic Multi-Symptom Illness (MUCMI) that is defined by a cluster of signs and symptoms,
 - chronic fatigue syndrome
 - fibromyalgia, or
 - **functional** gastrointestinal disorders (FGIDs), excluding structural gastrointestinal diseases.

Disabilities Resulting from Exposure to Specific Environmental Hazards

- Compensation is awarded for Veterans suffering from a chronic disability resulting from exposure to specific environmental hazards at military installations in Iraq, Afghanistan, and elsewhere that could present health risks.
- These hazards include
 - large burn pits throughout Iraq, Afghanistan, and Djibouti on the Horn of Africa
 - particulate matter in Iraq, Afghanistan, and Djibouti on the Horn of Africa
 - a large sulfur fire at Mishraq State Sulphur Mine near Mosul, Iraq
 - hexavalent chromium exposure at the Qarmat Ali Water Treatment Plant at Basrah, Iraq

Environmental Hazards (Iraq, Afghanistan, Djibouti)



Long Term Effects of Exposure

Environmental Hazard	Potential Health Effects
Burn Pits	Respiratory system, skin, eyes, liver, kidneys, central nervous system, cardiovascular system, reproductive system, peripheral nervous system, and GI tract.
Particulate Matter	Respiratory (lungs) and cardiopulmonary (heart)
Sulfur Fire	Constrictive bronchiolitis (evidenced by unexplained shortness of breath on exertion, but may have normal chest X-rays and inconclusive findings on pulmonary function testing. Due to some similarities, symptoms of constrictive bronchiolitis may be attributed to asthma or chronic obstructive pulmonary disease (COPD), which is why the examiner is informed (via Fact Sheet) and encouraged to consider requesting tests for bronchiolitis.)
Chromium VI	Irritation of eyes, nose, sinuses, lungs, skin, or throat. Abnormal pulmonary function, kidney, or liver tests.

Claims For Undiagnosed Illness and/or MUCMIs



Considerations for a Chronic Qualifying Disability

- The following information is required to determine whether SC for a chronic qualifying disability is in order:
 - when the disability arose
 - whether the disability was severe enough to warrant the award of a compensable evaluation at any time during the presumptive period, unless manifested while in the Southwest Asia theater, and
 - whether the disability chronically persisted for at least six months.

Veteran's Lay Statements

- When considering disabilities under the provisions of 38 CFR 3.317, a Veteran's lay statement describing his or her own symptoms of a qualifying disability takes on a greater importance than when considering other claims under direct SC principles.
- Lay evidence describing symptoms unsupported by clinical findings is sufficient to establish SC under 38 CFR 3.317 as long as there is ***medical evidence showing that "no medical diagnosis" is present.***

Diagnosed/Undiagnosed?

- The examiner must characterize the symptoms as an “undiagnosed illness.”
- Physicians are expected to provide a diagnosis **where possible**.
- The physician will determine whether findings may be attributed to a known clinical diagnosis **in each particular case**.
- The simple fact that one opinion assigns a clinical diagnosis while another does not is **NOT** a sufficient basis to determine that 38 CFR 3.317 does not apply.


Lay Evidence

- Lay evidence is ***VERY IMPORTANT***.
- Lay evidence may be sufficient to establish service connection if symptomatology is capable of lay observation.
- For example:
 - » fatigue
 - » joint pain


Additional Evidence

- Other potential evidence for consideration:
 - Employment records showing increased absenteeism;
 - Medical treatment for symptoms without diagnosis;
 - Relevant observations of appearance, physical abilities or mental/emotional state.


Medical Examination Findings

- If the examiner determines the Veteran's disability pattern to be...
 1. An undiagnosed illness; *or*
 2. A diagnosable but medically unexplained chronic multi-symptom illness of unknown etiology
- Then... 
 - A **GRANT** for service connection under 38 CFR 3.317 (if otherwise eligible) is warranted

Medical Examination Findings

- If the evidence shows a diagnosis of chronic fatigue syndrome, fibromyalgia, or a functional gastrointestinal disorder
- Then... 
 - A **GRANT** for service connection under 38 CFR 3.317(if otherwise eligible) is warranted

Medical Examination Findings

- If the examiner determines the Veteran's disability pattern to be...
 1. A diagnosable chronic multi-symptom illness of partially understood etiology; *or*
 2. A disease with a clear and specific etiology
- Then... 
 - **We are unable to Grant** service connection on a presumptive basis under 38 CFR 3.317

Questions?