Veterans Affairs Canada | Anciens Combattants Canada

Hazardous Material and Radiation Exposure

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Purpose

The purpose of this policy is to provide guidance for the adjudication of disability benefit applications related to hazardous physical, chemical, and biological material and radiation exposure.

This policy should be read in conjunction with the policy entitled Assessing and Categorizing Health-Related Expert Opinion(s) and Scientific Evidence.

Policy

Definitions

1. For the purposes of this policy, the following terms are defined as:
    a. **Exposure**: Contact with a hazard.
    b. **Extent (of exposure)**: Quantity and length of time of exposure to the hazard.
    c. **Hazard**: A factor to which a person is exposed that may adversely affect health; including but not limited to radiation and physical, chemical, and biological materials.
    d. **Latency**: The period of delay between exposure to a hazard and development of a health condition.
    e. **Mode (of exposure)**: How the individual was exposed to the hazard. This includes but is not limited to direct contact, inhalation, and/or ingestion.
    f. **Reasonable evidence**: With respect to disability benefit application submissions with claimed hazardous exposure includes, but is not limited to, health-related expert opinion(s) and scientific evidence, as well as service records and/or witness statements regarding the claimed exposure. This evidence must be reliable, credible and relevant.

Guiding Principles

2. The merits of each claim need to be considered on a case-by-case basis. The decision maker is to consider the evidence and arguments brought forward for each case, and make a ruling on that individual case.

3. In making a decision about whether a claimant was exposed to a hazard in a manner sufficient to have caused the health condition, consider evidence for causality between the hazard and the health condition, the mode and extent of exposure, and the latency.
4. Neither an individual's mere presence in proximity to a hazard, nor service or occupation in the vicinity of a hazard, constitutes exposure.
5. The decision-maker can seek opinions from experts about whether and to what degree health-related expert opinion and scientific evidence supports an association between the hazard and the health condition, and whether the association can be considered a causal relationship. The role of the expert is to assist the decision-maker to interpret the facts of the case. The decision-maker will assess the expert's opinion along with all the evidence and merits of the case and apply it to an entitlement decision.
6. When dealing with expert opinion about a body of health-related expert opinion and scientific evidence, the decision-maker must be careful to ensure that they exercise their decision-making discretion. The expert can offer an opinion about causality and the degree of certainty about a causality conclusion, but the expert does not make the entitlement decision; that responsibility lies with the decision-maker.
7. After considering and weighing all the reasonable evidence available, determine whether the evidence is sufficient to establish that a service-related exposure caused the claimed condition.
    a. Favourable:
        i. More probable than not that causality exists - Evidence supports causality with a degree of certainty of more probable than not, or greater.
        ii. At least as likely as not that causality exists - On balance, evidence is equally for and against causality and it cannot be determined which is stronger. If the evidence indicates that a service-related exposure was as likely as not the cause of the condition, then any reasonable doubt may be resolved in favour of the applicant and entitlement awarded.
    b. Unfavourable:
        i. Insufficient to form an opinion about causality - Evidence is not sufficient to conclude that causality exists without speculating. In this case, benefit of doubt cannot be extended to assume that exposure caused the claimed health condition in the absence of reasonable evidence.
        ii. More probable than not that causality does not exist - Evidence supports the lack of causality with a degree of certainty of more probable than not or greater.
8. There are a number of factors that can contribute to the development of a claimed condition. Causes of the condition including exposure to hazardous material and radiation may be encountered before, during and after service, therefore some or all of the claimed condition may be due to service factors, to causes unrelated to service, or to a combination of factors. These factors need to be considered when making a determination as to whether partial entitlement should be considered.

References

Pension Act, subsection 5(3), 21(1), 21(2), and 21(3)

Veterans Well-being Act, sections 43, 45

Veterans Well-being Regulations , section 50(g)

Assessing and Categorizing Health-Related Expert Opinion(s) and Scientific Evidence

Benefit of Doubt

Disability Benefits in Respect of Peacetime Military Service – The Compensation Principle

Disability Benefits in Respect of Wartime and Special Duty Service - The Insurance Principle

Disability Resulting From a Non Service-Related Injury or Disease