

§ 1167.¹ Outreach pursuant to changes in presumptions of service connection

(a) **IN GENERAL.**—Whenever a law, including through a regulation or Federal court decision or settlement, establishes or modifies a presumption of service connection, the Secretary shall—

(1) identify all claims for compensation under this chapter that—

(A) were submitted to the Secretary;

(B) were evaluated and denied by the Secretary before the date on which such provision of law went into effect; and

(C) might have been evaluated differently had the establishment or modification been applicable to the claim; and

(2) pursuant to subsection (b), conduct outreach to the claimants.

(b) **OUTREACH.**—(1) The Secretary shall conduct outreach to inform claimants identified under subsection (a) that they may submit a supplemental claim in light of the establishment or modification of a presumption of service connection described in subsection (a).

(2) Outreach under paragraph (1) shall include the following:

(A) The Secretary shall publish on the internet website of the Department a notice that such veterans may elect to file a supplemental claim.

(B) The Secretary shall notify, in writing or by electronic means, veterans service organizations of the ability of such veterans to file a supplemental claim.

(C) The Secretary shall contact each claimant identified under subsection (a) in the same manner that the Department last provided notice of a decision.

(Added Pub. L. 117–168, title II, §203(a), Aug. 10, 2022, 136 Stat. 1775.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117–168, title II, §203(b), Aug. 10, 2022, 136 Stat. 1776, provided that: “Section 1167 of title 38, United States Code, as added by subsection (a), shall apply with respect to presumptions of service connection established or modified on or after the date of the enactment of this Act [Aug. 10, 2022], including pursuant to amendments made by this Act [see Short Title of 2022 Amendment note set out under section 101 of this title].”

RULE OF CONSTRUCTION

Pub. L. 117–168, title II, §203(c), Aug. 10, 2022, 136 Stat. 1776, provided that: “Nothing in this section [enacting this section and provisions set out as a note above] shall be construed as—

“(1) modifying the obligations of the Department of Veterans Affairs under Federal court decisions or settlements in effect as of the date of the enactment of this Act [Aug. 10, 2022]; or

“(2) requiring a retroactively applied effective date of a supplemental claim earlier than the date a presumption of service connection is established or modified.”

¹ Another section 1167 is set out after section 1168.

§ 1168. Medical nexus examinations for toxic exposure risk activities

(a) **MEDICAL EXAMINATIONS AND MEDICAL OPINIONS.**—(1) Except as provided in subsection (b), if a veteran submits to the Secretary a claim for compensation for a service-connected disability under section 1110 of this title with evidence of a disability and evidence of participation in a toxic exposure risk activity during active military, naval, air, or space service, and such evidence is not sufficient to establish a service connection for the disability, the Secretary shall—

(A) provide the veteran with a medical examination under section 5103A(d) of this title; and

(B) obtain a medical opinion (to be requested by the Secretary in connection with the medical examination under subparagraph (A)) as to whether it is at least as likely as not that there is a nexus between the disability and the toxic exposure risk activity.

(2) When providing the Secretary with a medical opinion under paragraph (1)(B) for a veteran, the health care provider shall consider—

(A) the total potential exposure through all applicable military deployments of the veteran; and

(B) the synergistic, combined effect of all toxic exposure risk activities of the veteran.

(3) The requirement under paragraph (2)(B) shall not be construed as requiring a health care provider to consider the synergistic, combined effect of each of the substances, chemicals, and airborne hazards identified in the list under section 1119(b)(2) of this title.

(b) **EXCEPTION.**—Subsection (a) shall not apply if the Secretary determines there is no indication of an association between the disability claimed by the veteran and the toxic exposure risk activity for which the veteran submitted evidence.

(c) **TOXIC EXPOSURE RISK ACTIVITY DEFINED.**—In this section, the term “toxic exposure risk activity” has the meaning given that term in section 1710(e)(4) of this title.

(Added Pub. L. 117–168, title III, §303, Aug. 10, 2022, 136 Stat. 1779.)

§ 1167.¹ Mental health consultations

(a) **IN GENERAL.**—Not later than 30 days after the date on which a veteran submits to the Secretary a claim for compensation under this chapter for a service-connected disability relating to a mental health diagnosis, the Secretary shall offer the veteran a mental health consultation to assess the mental health needs of, and care options for, the veteran.

(b) **AVAILABILITY.**—The Secretary shall—

(1) offer a veteran a consultation under subsection (a) without regard to any previous denial or approval of a claim of that veteran for a service-connected disability relating to a mental health diagnosis; and

(2) ensure that a veteran offered a mental health consultation under subsection (a) may elect to receive such consultation during the one-year period beginning on the date on

¹ Another section 1167 is set out preceding section 1168.