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# Presumptive Service Connection in VBA

Presented to  
Veterans Disability Benefits Commission

July 22, 2005

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Chief, Policy Staff

Compensation & Pension Service

## Advantages of Presumptions

- Simplify adjudications – Eliminate need to gather evidence and decide complex issues
- Fill evidentiary gaps – Infeasible or burdensome to obtain direct evidence on an issue
- Promote accurate and consistent decisions
- No burden of proof – service incurrence or aggravation

## Chronic Diseases – 38 CFR 3.309(a)

- Anemia, primary
- Arteriosclerosis
- Arthritis
- Atrophy, progressive muscular
- Brain hemorrhage
- Brain thrombosis
- Bronchiectasis
- Calculi of the kidney, bladder, or gallbladder
- Cardiovascular-renal disease, including hypertension
- Cirrhosis of the liver
- Coccidioidomycosis
- Encephalitis lethargica residuals
- Endocarditis
- Endocrinopathies
- Epilepsies
- Hansen's disease
- Hodgkin's disease
- Leukemia
- Lupus erythematosus, systemic
- Myasthenia gravis
- Myelitis
- Myocarditis
- Nephritis
- Other organic diseases of the nervous system
- Osteitis deformans (Paget's disease)
- Osteomalacia
- Palsy, bulbar
- Paralysis agitans
- Psychoses
- Purpura idiopathic, hemorrhagic
- Raynaud's disease
- Sarcoidosis
- Scleroderma
- Sclerosis, amyotrophic lateral
- Sclerosis, multiple
- Syringomyelia
- Thromboangiitis obliterans (Buerger's disease)
- Tuberculosis, active
- Tumors, malignant, or of the brain or spinal cord or peripheral nerves
- Ulcers, peptic

## Tropical Diseases – 38 CFR 3.309(b)

- Amebiasis
- Blackwater fever
- Cholera
- Dracontiasis
- Dysentery
- Filariasis
- Leishmaniasis, including kala-azar
- Loiasis
- Malaria
- Ochocerciasis
- Oroya fever
- Pinta
- Plague
- Schistosmiasis
- Yaws
- Yellow fever
- Resultant disorders or diseases originating because of therapy administered in connection with such diseases or as a preventative thereof

## Diseases Specific to Former Prisoners of War – 38 CFR 3.309(c)

If the former POW was detained for 30 or more days, the following diseases shall be service connected:

- Avitaminosis
- Beriberi (including beriberi heart disease)
- Chronic dysentery
- Helminthiasis
- Malnutrition (including optic atrophy associated with malnutrition)
- Pellagra
- Any other nutritional deficiency
- Irritable bowel syndrome
- Peptic ulcer disease
- Peripheral neuropathy except where directly related to infectious causes
- Cirrhosis of the liver

The following diseases shall be service connected, regardless of the time the former POW was detained:

- Psychosis
- Any of the anxiety states
- Dysthymic disorder (or depressive neurosis)
- Organic residuals of frostbite, if it is determined that the veteran was interned in climatic conditions consistent with the occurrence of frostbite
- Post-traumatic osteoarthritis
- Stroke and its complications
- Atherosclerotic heart disease or hypertensive vascular disease

# Presumption of Service Connection for Former POWs with Cirrhosis of the Liver

## Impact Estimate

- Administrative costs: \$45,820 in 2001 and \$624,106 through 2006
- FTE: No additional FTE would be needed
- No significant increase in claims

## Department of Veterans Affairs

# Diseases Specific to Radiation-Exposed Veterans – 38 CFR 3.309(d)

- Leukemia (other than chronic lymphocytic leukemia)
- Thyroid cancer
- Breast cancer
- Pharynx cancer
- Esophageal cancer
- Stomach cancer
- Cancer of the small intestine
- Pancreatic cancer
- Multiple myeloma
- Lymphomas (except Hodgkin's disease)
- Cancer of the bile ducts
- Cancer of the gall bladder
- Primary liver cancer (except cirrhosis or hepatitis B is indicated)
- Cancer of the salivary gland
- Cancer of the urinary tract
- Bronchiolo-alveolar carcinoma
- Bone cancer
- Brain cancer
- Colon cancer
- Lung cancer
- Ovarian cancer



# Radiation

## Impact Estimate

Bone, Brain, Colon, Lung, and Ovarian Cancers

- Administrative costs: \$33,934,297 over ten years
- Benefit costs: \$768,601,698 over ten years
- New awards: 13,692 in the first year, and 62,683 disability claims and 32,650 DIC claims over the next five years

## Department of Veterans Affairs

# Diseases Associated with Exposure to Certain Herbicides – 38 CFR 3.309(e)

- Chloracne or other acneform disease consistent with chloracne
- Type 2 diabetes
- Hodgkin's disease
- Chronic lymphocytic leukemia
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Acute and subacute peripheral neuropathy
- Porphyria cutanea tarda
- Prostate cancer
- Respiratory cancers (lung, bronchus, larynx, or trachea)
- Soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma)

# Increase in Diabetes claims

The presumption for Diabetes Mellitus was created in FY 2001

## Claims filed by body system

PERCENTAGE CHANGE FROM FY 2000 — FY 2004	
BODY SYSTEM	CHANGE
Musculoskeletal System	47%
Impairment of Auditory Acuity	168%
Skin	22%
Neurological Conditions	118%
Cardiovascular System	94%
Endocrine System	955%
Mental Disorders	42%
Respiratory System	33%
Digestive System	14%
Genitourinary System	98%
Eye	57%
Infectious Diseases, Immune Disorders, and Nutritional Deficiencies	19%
Gynecological Conditions	-7%
Hemic and Lymphatic Systems	78%
Dental and Oral Conditions	6%

## Increase in Diabetes claims

Diabetes is the largest Endocrine System disability

Body System and Disability	Total Number	Body System Total (%)
<b>Endocrine System</b>		
Diabetes Mellitus	191,649	88.3%
Hypothyroidism	12,510	5.8%
Hyperthyroidism	4,947	2.3%

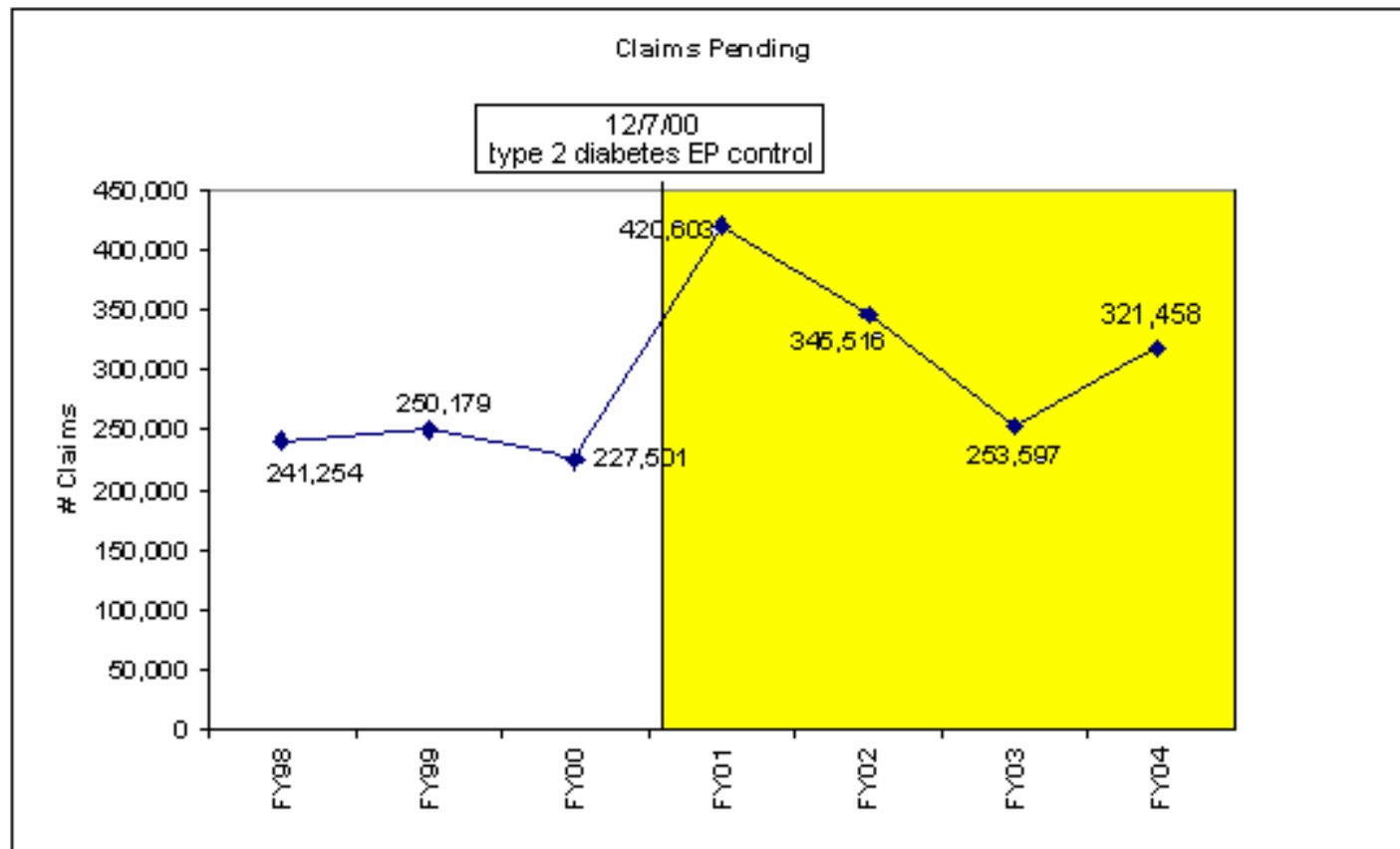
Diabetes Mellitus in FY 04

# Presumption of Service Connection for Type 2 Diabetes

## Impact Estimates

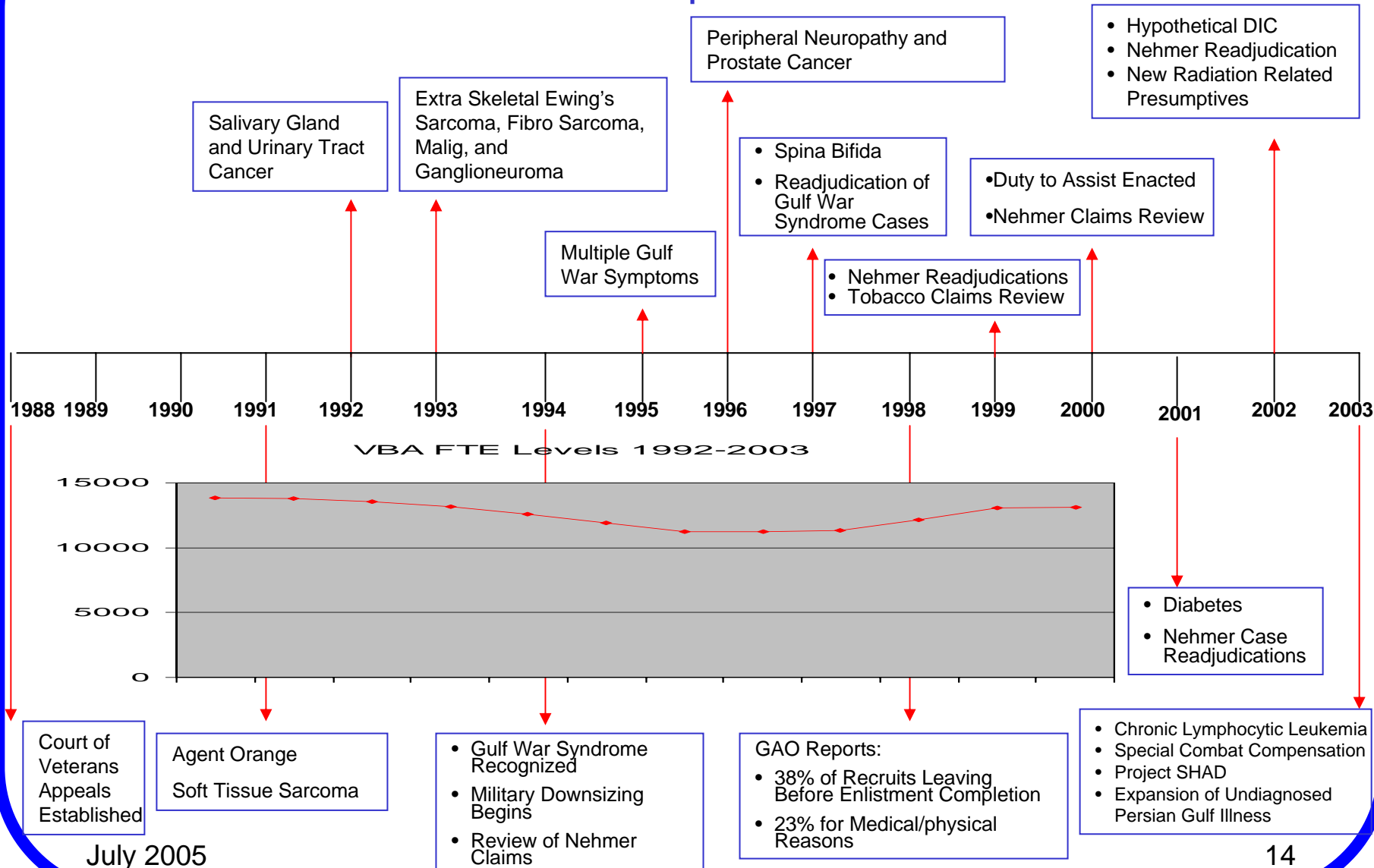
- Administrative costs: \$6.4 million in 2001 and \$62 million through 2005
- FTE: 128 (2001), 378 (2002), 311 (2003), 185 (2004), and 123 (2005)
- Benefit costs: \$66.4 million during 2001 and \$3.3 billion through 2005
- New awards: 20,399 in the first year and 179,000 over the next five years
- Estimates did not include retroactive payments

## Presumption of Service Connection for Type 2 Diabetes



# Department of Veterans Affairs

## External Influences on VBA Compensation Workload 1988 - 2003



July 2005

Compensation & Pension Service

## Gulf War Illnesses

- 1995 – Presumptions for undiagnosed Gulf War illnesses
- 2001 – No impact associated with extending the manifestation period to December 31, 2006



## **Impact of New Presumptions on VBA's Field Offices**

**When a new presumption is created, VBA may:**

- Provide rating training
- Conduct outreach initiatives
- Re-adjudicate claims