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TITLE 38 - VETERANS' BENEFITS

PART II - GENERAL BENEFITS

CHAPTER 11 - COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

SUBCHAPTER II - WARTIME DISABILITY COMPENSATION

-HEAD-

Sec. 1112. Presumptions relating to certain **diseases** and
disabilities

-STATUTE-

(a) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, in the case of any veteran who served for ninety days or more during a period of war -

(1) a **chronic disease** becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service;

(2) a tropical **disease**, and the resultant disorders or **disease** originating because of therapy, administered in connection with such **diseases**, or as a preventative thereof, becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous **disease** developing a 10 percent degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 percent degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's **disease** developing a 10 percent degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such **disease** during the period of service.

(b) For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the **disease** of -

- (1) avitaminosis,
- (2) beriberi (including beriberi heart **disease**),
- (3) **chronic** dysentery,
- (4) helminthiasis,
- (5) malnutrition (including optic atrophy associated with malnutrition),
- (6) pellagra,
- (7) any other nutritional deficiency,
- (8) psychosis,
- (9) any of the anxiety states,
- (10) dysthymic disorder (or depressive neurosis),
- (11) organic residuals of frostbite, if the Secretary determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite,
- (12) post-traumatic osteoarthritis,
- (13) peripheral neuropathy except where directly related to

infectious causes,

(14) irritable bowel syndrome, or

(15) peptic ulcer **disease**,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such **disease** during the period of service.

(c) (1) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, a **disease** specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran shall be considered to have been incurred in or aggravated during active military, naval, or air service, notwithstanding that there is no record of evidence of such **disease** during a period of such service.

(2) The **diseases** referred to in paragraph (1) of this subsection are the following:

- (A) Leukemia (other than **chronic** lymphocytic leukemia).
- (B) Cancer of the thyroid.
- (C) Cancer of the breast.
- (D) Cancer of the pharynx.
- (E) Cancer of the esophagus.
- (F) Cancer of the stomach.
- (G) Cancer of the small intestine.
- (H) Cancer of the pancreas.
- (I) Multiple myeloma.
- (J) Lymphomas (except Hodgkin's **disease**).
- (K) Cancer of the bile ducts.
- (L) Cancer of the gall bladder.
- (M) Primary liver cancer (except if cirrhosis or hepatitis B is

indicated).

(N) Cancer of the salivary gland.

(O) Cancer of the urinary tract.

(P) Bronchiolo-alveolar carcinoma.

(3) For the purposes of this subsection:

(A) The term "'radiation-exposed veteran'" means (i) a veteran who, while serving on active duty, participated in a radiation-risk activity, or (ii) an individual who, while a member of a reserve component of the Armed Forces, participated in a radiation-risk activity during a period of active duty for training or inactive duty training.

(B) The term "'radiation-risk activity'" means any of the following:

(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device (without regard to whether the nation conducting the test was the United States or another nation).

(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Secretary) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.

-SOURCE-

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1120, Sec. 312; Pub. L. 86-187, Aug. 25, 1959, 73 Stat. 418; Pub. L. 86-188, Aug. 25, 1959, 73 Stat. 418; Pub. L. 87-645, Sec. 3, Sept. 7, 1962, 76 Stat. 442;

Pub. L. 91-376, Sec. 3(a), (b), Aug. 12, 1970, 84 Stat. 788, 789;
Pub. L. 97-37, Sec. 4(a), Aug. 14, 1981, 95 Stat. 936; Pub. L.
98-223, title I, Sec. 101(c), 111, Mar. 2, 1984, 98 Stat. 38, 40;
Pub. L. 99-576, title I, Sec. 108(a), Oct. 28, 1986, 100 Stat.
3252; Pub. L. 100-321, Sec. 2(a), May 20, 1988, 102 Stat. 485; Pub.
L. 100-322, title III, Sec. 312, May 20, 1988, 102 Stat. 534;
renumbered Sec. 1112 and amended Pub. L. 102-83, Sec. 4(b) (1),
(2) (E), 5(a), (c) (1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L.
102-86, title I, Sec. 104(a), 105, Aug. 14, 1991, 105 Stat. 415;
Pub. L. 102-578, Sec. 2(a), Oct. 30, 1992, 106 Stat. 4774; Pub. L.
103-446, title V, Sec. 501(a), Nov. 2, 1994, 108 Stat. 4663; Pub.
L. 106-117, title V, Sec. 503, Nov. 30, 1999, 113 Stat. 1575.)

-MISC1-

AMENDMENTS

1999 - Subsec. (c) (2) (P). Pub. L. 106-117 added subpar. (P).

1994 - Subsec. (c) (3) (B) (i). Pub. L. 103-446 inserted before
period at end ''(without regard to whether the nation conducting
the test was the United States or another nation)''.

1992 - Subsec. (c) (1). Pub. L. 102-578, Sec. 2(a) (1), struck out
''to a degree of 10 percent or more within the presumption period
(as specified in paragraph (3) of this subsection)'' after
''radiation-exposed veteran''.

Subsec. (c) (2) (N), (O). Pub. L. 102-578, Sec. 2(a) (2), added
subpars. (N) and (O).

Subsec. (c) (3), (4). Pub. L. 102-578, Sec. 2(a) (3), (4),
redesignated par. (4) as (3) and struck out former par. (3) which
read as follows: ''The presumption period for purposes of paragraph
(1) of this subsection is the 40-year period beginning on the last
date on which the veteran participated in a radiation-risk
activity.''

1991 - Pub. L. 102-83, Sec. 5(a), renumbered section 312 of this title as this section.

Subsec. (a). Pub. L. 102-83, Sec. 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313'' in introductory provisions.

Subsec. (b). Pub. L. 102-83, Sec. 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313'' in introductory provisions.

Subsec. (b)(11). Pub. L. 102-83, Sec. 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c)(1). Pub. L. 102-86, Sec. 105(1), amended subsec. (c)(1) of this section as in effect before the redesignations made by Pub. L. 102-83, Sec. 5, by substituting ''during active military, naval, or air service'' for ''during the veteran's service on active duty'' and ''during a period'' for ''during the period''.

Pub. L. 102-83, Sec. 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313''.

Subsec. (c)(3). Pub. L. 102-86, Sec. 104(a), amended subsec. (c)(3) of this section as in effect before the redesignations made by Pub. L. 102-83, Sec. 5, by striking out before period at end '', except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than **chronic** lymphocytic leukemia)''.

Subsec. (c)(4)(A). Pub. L. 102-86, Sec. 105(2), amended subsec. (c)(4)(A) of this section as in effect before the redesignations made by Pub. L. 102-83, Sec. 5, by inserting ''(i)'' after ''means'' and adding cl. (ii).

Subsec. (c)(4)(B)(iii). Pub. L. 102-83, Sec. 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988 - Subsec. (b)(13) to (15). Pub. L. 100-322 added pars. (13) to (15).

Subsec. (c). Pub. L. 100-321 added subsec. (c).

1986 - Subsec. (b) (11), (12). Pub. L. 99-576 added pars. (11) and (12).

1984 - Subsec. (a) (1) to (5). Pub. L. 98-223, Sec. 101(c), substituted "'percent'" for "'per centum'".

Subsec. (b). Pub. L. 98-223, Sec. 111, added par. (10).

Pub. L. 98-223, Sec. 101(c), substituted "'percent'" for "'per centum'" in provision following par. (10).

1981 - Subsecs. (b), (c). Pub. L. 97-37, Sec. 4(a) (1), (2), redesignated subsec. (c) as (b) and generally revised structure so as to include anxiety states as a listed **disease**, and exclude the enumerated armed conflicts and resulting treatment incurred. Former subsec. (b), relating to treatment as a prisoner of war as deemed in violation of the Geneva Conventions of 1929 and 1949, was struck out.

1970 - Pub. L. 91-376 inserted reference to disabilities in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

1962 - Pub. L. 87-645 substituted "'seven years'" for "'three years'" in par. (4).

1959 - Pub. L. 86-188 inserted par. (5).

Pub. L. 86-187 substituted "'three years'" for "'two years'" in par. (4).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2(b) of Pub. L. 102-578 provided that: "'The amendments made by subsection (a) (amending this section) shall take effect on October 1, 1992.'"

EFFECTIVE DATE OF 1991 AMENDMENT

Section 104(b) of Pub. L. 102-86 provided that: "'No benefit may be paid by reason of the amendment made by subsection (a) (amending

this section) for any period before the date of the enactment of this Act (Aug. 14, 1991).''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2(b) of Pub. L. 100-321 provided that: ''Subsection (c) of section 312 (now 1112) of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 108(b) of Pub. L. 99-576 provided that: ''The amendments made by subsection (a) (amending this section) shall take effect as of October 1, 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 101(c) of Pub. L. 98-223 effective Apr. 1, 1984, see section 107 of Pub. L. 98-223, set out as a note under section 1114 of this title.

Section 114 of Pub. L. 98-223 provided that: ''The amendments made by this part (part B (Sec. 111-114) of title I of Pub. L. 98-223, amending this section and sections 314 and 3011 (now 1114 and 5111) of this title) shall take effect as of October 1, 1983.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 4(b) of Pub. L. 97-37 provided that: ''The amendments made by subsection (a) (amending this section) shall take effect on October 1, 1981.''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4 of Pub. L. 87-645 provided that: ''This Act (amending this section and sections 314 and 3203 (now 1114 and 5503) of this title and enacting provisions set out as a note under section 1114 of this title) shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act (Sept. 7, 1962) but no payments shall be made by reason of this Act for any period before such effective date. The increased rate of

compensation payable to any veteran entitled thereto on such first day shall be further increased, for such month only, in an amount equal to three times the monthly increase provided for such veteran by the amendments made by this Act.''

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103, 1113, 1137, 1710 of this title; title 42 section 7385j.



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