



## CONCLUSIONS OF LAW

1. The veteran is presumed to have been exposed to an herbicide agent during his service in Vietnam. 38 C.F.R. § 3.307(a)(6)(iii) (2005).
2. The veteran's diabetes mellitus is presumed to have developed as a result of herbicide exposure during service. 38 U.S.C.A. § 1116 (West 2002); 38 C.F.R. §§ 3.307, 3.309(e) (2005).

## REASONS AND BASES FOR FINDINGS AND CONCLUSIONS

### Duties to Notify and Assist

The Veterans Claims Assistance Act of 2000 (VCAA), Pub. L. No. 106-475, 114 Stat. 2096 (Nov. 9, 2000) (codified at 38 U.S.C.A. § 5100 et seq. (West 2002)), expanded VA's duty to notify claimants regarding the development of evidence relevant to their claims, and enhanced VA's duty to assist claimants in developing evidence pertinent to their claims. Regulations implementing the VCAA were published at 38 C.F.R. §§ 3.102, 3.156(a), 3.159, and 3.326(a) (2005).

The Board has made a favorable decision in this appeal. Therefore, the Board need not provide further notification or assistance to the veteran. The Board also does not need to discuss further VA's compliance with the laws and regulations involving notification and the development of evidence.

### Service Connection for Diabetes Mellitus

The veteran is seeking service connection for diabetes mellitus incurred as a result of exposure to Agent Orange during service. Service connection may be established for a disability resulting from disease or injury incurred in or aggravated by service. 38 U.S.C.A. §§ 1110, 1131 (West 2002); 38 C.F.R. § 3.303 (2005). Under certain circumstances, service connection for specific diseases may be presumed if a veteran was exposed during service to certain herbicides, including Agent Orange. 38 U.S.C.A. § 1116; 38 C.F.R. §§ 3.307, 3.309(e).

If a veteran was exposed to Agent Orange or another herbicide agent, service connection for certain conditions listed under 38 C.F.R. § 3.309(e), including type II diabetes mellitus, will be presumed if the condition becomes manifest to a degree of 10 percent disabling or more at any time after service. 38 C.F.R. §§ 3.307(a)(6), 3.309(e).

A veteran who served on active duty in the Republic of

Vietnam during the period from January 9, 1962 to May 7, 1975, shall be presumed to have been exposed during such service to an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during service. 38 C.F.R. § 3.307(a)(6)(iii).

The veteran has been diagnosed as having type II diabetes mellitus. On a 1996 medical form, a private physician certified that the veteran's insulin dependent diabetes had commenced in 1972. Private medical records dated in 1996 through 2001 show ongoing treatment for insulin dependent diabetes. In an October 2005 hearing before the undersigned Veterans Law Judge, the veteran reported that he had been diagnosed with diabetes in the 1970s.

The veteran has reported that his active service in the United States Navy from 1961 to 1969 included service in Vietnam. His service records reflect that he had duties as an armament or ordnance mechanic, and that he was awarded the Vietnam Service Medal with three Bronze Stars. In his October 2005 hearing, the veteran stated that he was in Vietnam at Cam Ranh Bay for periods of varying length, in 1966 and in 1969. He stated that with his unit he flew from the Philippines to Vietnam in single day combat missions, and that they sometimes landed to unload people and supplies. He stated that they sometimes stayed overnight at Cam Ranh Bay, and that they stayed for over a week in 1966, and later for a period of approximately six months. In 2003, the veteran submitted statements from four veterans who reported that they had served with the veteran in Vietnam at Cam Ranh Bay, including a six month period in 1969. Based on the assembled evidence, the Board is satisfied that the veteran had active duty in Vietnam in 1966 and 1969. In accordance with 38 C.F.R. § 3.307(a)(6)(iii), the Board presumes that the veteran was exposed to an herbicide agent during that service.

In November 2005, the veteran's private physician, Nolan M. Lassiter, M.D., wrote that he had been treating the veteran since 1998 for insulin dependent diabetes mellitus. Dr. Lassiter indicated that the veteran did not have a family history of diabetes, and that the veteran's diabetes might be related to his exposure to Agent Orange at Cam Ranh Bay in 1966 and 1969.

The veteran is presumed to have been exposed to an herbicide agent such as Agent Orange during his service. He developed diabetes mellitus after service. He is therefore entitled to a presumption that his diabetes was incurred as a result of herbicide exposure during service. The Board grants service connection for his diabetes.

#### ORDER

Entitlement to service connection for diabetes mellitus is

granted.

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WARREN W. RICE, JR.  
Veterans Law Judge, Board of Veterans' Appeals

Department of Veterans Affairs