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National Veterans Affairs and Rehabilitation Commission

1608 K Street, N.W. • Washington, D.C. 20006

K. Robert Lewis, Chairman - Connecticut

Barry A. Searle, Director - Pennsylvania

18-09

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Proposed PTSD Regulation

On August 24, 2009, the Department of Veterans Affairs (VA) published a proposed regulation in the Federal Register with the goal of making it easier for a veteran to claim post traumatic stress disorder by reducing the evidence needed to support the claim if the stressor claimed by the veteran is related to fear of hostile military or terrorist activity.


Specifically, VA is proposing to amend 38 Code of Federal Regulations (CFR), Section 3.304(f) by redesignating current paragraphs (3) and (4) as paragraphs (4) and (5) and adding a new paragraph (3) stating that if a stressor claimed by a veteran is related to the veteran's fear of hostile military or terrorist activity and a VA psychiatrist or psychologist, or a psychiatrist or psychologist with whom VA has contracted, confirms the claimed stressor is adequate to support a diagnosis of PTSD and that the veteran's symptoms are related to the claimed stressor, in the absence of clear and convincing evidence to the contrary, and provided the claimed stressor is consistent with the places, types, and circumstances of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

According to the proposed regulation, VA has chosen to limit the confirmation of a claimed stressor to an examination by a VA psychiatrist or psychologist, or a psychiatrist or psychologist with whom VA has contracted, in order to ensure standardization and consistency of mental health evaluations and reporting of these evaluations, which will be based upon uniform VA examination protocols.

This proposed amendment takes into consideration current scientific research studies relating PTSD to exposure to hostile military and terrorist actions. It is intended to acknowledge the inherently stressful nature of the places, types, and circumstances of service in which fear of hostile military or terrorist activities is ongoing. With this amendment, the evidentiary burden of establishing an in-service stressor would be reduced in such cases. Additionally, this amendment

is intended to facilitate the timely processing of PTSD claims by simplifying the development and research procedures that apply to these claims.

Written comments must be received by VA on or before October 23, 2009. VA will publish a final regulation once all written comments have been reviewed.



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