



September 2022

# VA DISABILITY

## Clearer Claims Processing Guidance Needed for Selected Agent Orange Conditions

# GAO Highlights

Highlights of [GAO-22-105191](#), a report to congressional committees

## Why GAO Did This Study

VA paid an estimated \$28 billion in disability compensation to more than 1.4 million Vietnam War era veterans in fiscal year 2020. Some may have conditions associated with exposure to Agent Orange.

The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 includes a provision for GAO to report on VA's efforts to provide benefits to Vietnam veterans for certain conditions associated with Agent Orange exposure. This report examines (1) what is known about how many Vietnam veterans have been granted disability benefits for early-onset peripheral neuropathy, chloracne, and porphyria cutanea tarda; (2) to what extent claims processors follow VA procedures in evaluating claims; and (3) the estimated cost of removing the 1-year manifestation requirement.

GAO reviewed relevant federal laws and regulations, VA guidance, and available VA data on claim decisions for these conditions from fiscal years 2003 through 2021. Similar to prior estimates, GAO used these and other data to estimate the 10-year cost of removing the 1-year requirement. GAO also reviewed a non-generalizable sample of 50 claim decisions from fiscal years 2014 through 2021 and interviewed 11 claims processors from three of 14 offices that process Agent Orange claims.

## What GAO Recommends

GAO is making one recommendation to VA to clarify its guidance on how to evaluate claims for the three selected conditions. VA agreed with GAO's recommendation.

View [GAO-22-105191](#). For more information, contact Elizabeth H. Curda at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov).

September 2022

## VA DISABILITY

### Clearer Claims Processing Guidance Needed for Selected Agent Orange Conditions

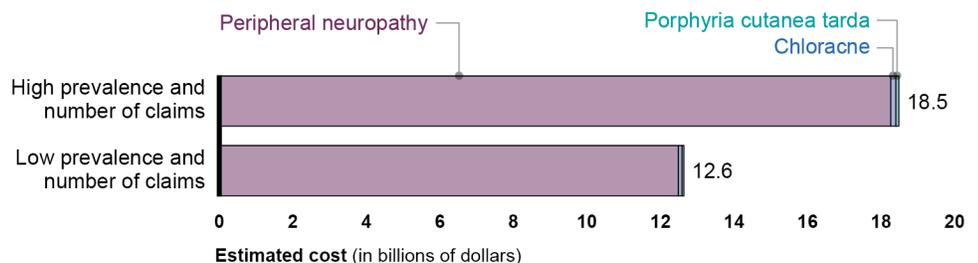
## What GAO Found

About 8 percent of Vietnam veterans who received disability compensation claim decisions for three conditions associated with exposure to herbicides were granted benefits by the Department of Veterans Affairs (VA), according to GAO's analysis of VA data from fiscal years 2003 through 2021. During this period, GAO estimates that VA granted benefits to about 11,000 out of 130,000 Vietnam veterans for the three conditions. These conditions are: early-onset peripheral neuropathy (nerve damage), chloracne, and porphyria cutanea tarda (skin blisters). These conditions are unique in that they must have manifested within 1 year of service in Vietnam for VA to presume a connection between the condition and exposure to herbicides used in the Vietnam War, such as Agent Orange.

GAO's interviews with claims processors suggest that they evaluate claims for these conditions inconsistently based on inaccurate interpretations of VA's claims processing procedures. Specifically, during interviews at three selected offices that process Agent Orange claims, GAO heard inaccurate statements about (1) when the 1-year manifestation period requirement applies and (2) what types of evidence can be used to address this requirement or to support requesting a medical opinion that could be used to support veterans' claims. VA's guidance does not clearly address these issues. Without clear guidance, claims processors may incorrectly apply the 1-year manifestation period requirement when veterans have evidence suggesting a direct connection to service and, in turn, could inappropriately deny benefits to some Vietnam veterans.

GAO estimates that removing the 1-year manifestation period requirement for the three conditions could cost VA between \$16.7 billion and \$25.8 billion over 10 years. This estimate includes disability payments of \$12.6 billion to \$18.5 billion for about 130,000 to 217,000 veterans with these conditions, though primarily for peripheral neuropathy (see figure). It also includes increases in VA health care and administrative costs.

**Estimated 10-Year Cost of Disability Payments from Removing 1-Year Requirement for Three Selected Conditions, with High and Low Assumptions for Disease Prevalence and Number of Claims**



Source: GAO analysis of Department of Veterans Affairs data on disability compensation claims decisions, mortality rates, and prevalence rates; and academic literature. | [GAO-22-105191](#)

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**Abbreviations**

PCT	porphyria cutanea tarda
VA	Department of Veterans Affairs
VBA	Veterans Benefits Administration
VHA	Veterans Health Administration

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September 1, 2022

The Honorable Jon Tester  
Chairman  
The Honorable Jerry Moran  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate

The Honorable Mark Takano  
Chairman  
The Honorable Mike Bost  
Ranking Member  
Committee on Veterans' Affairs  
House of Representatives

The Department of Veterans Affairs (VA) paid an estimated \$28 billion in disability compensation to more than 1.4 million Vietnam War era veterans in fiscal year 2020.<sup>1</sup> This includes veterans diagnosed with medical conditions associated with exposure to herbicides used in Vietnam, including Agent Orange.<sup>2</sup> VA presumes that some conditions—including early-onset peripheral neuropathy, chloracne, and porphyria cutanea tarda (PCT)—were caused by Agent Orange exposure in certain locations.<sup>3</sup> Some presumptions are for injuries or illnesses that occurred during or any time after service for veterans who served in specific

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<sup>1</sup>Veterans Benefits Administration, *Annual Benefits Report Fiscal Year 2020* (Washington, D.C.: June 2021).

<sup>2</sup>In this report, we refer generally to herbicides as “Agent Orange” because it was the most common herbicide agent used in Vietnam. However, there were a range of tactical herbicides used in Vietnam that are known as “rainbow herbicides” and included Orange, Purple, Pink, Green, Blue, and White.

<sup>3</sup>According to VA officials, claims for these three conditions make up a small portion of Agent Orange-related claims. VA presumes that numerous conditions were caused by Agent Orange. For the complete list, see <https://www.publichealth.va.gov/exposures/agentorange/conditions/>.

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locations.<sup>4</sup> However, for Vietnam veterans applying for disability benefits for these three Agent Orange-related conditions, veterans' conditions must have manifested within 1 year of exposure to Agent Orange (i.e., within 1 year of service in Vietnam) to receive benefits on a presumptive basis, according to federal law and regulations.<sup>5</sup>

The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 includes a provision for GAO to report on VA's efforts to provide benefits to Vietnam veterans with peripheral neuropathy, chloracne, and PCT.<sup>6</sup> This report examines (1) what is known about how many Vietnam veterans have been granted or denied disability compensation benefits for early-onset peripheral neuropathy, chloracne, and PCT; (2) to what extent claims processors follow VA procedures in evaluating whether to grant Vietnam veterans' claims for these conditions; and (3) the estimated cost to VA of eliminating the 1-year manifestation period requirement for these conditions.

To calculate the number of Vietnam veterans who have been granted or denied disability compensation benefits, we interviewed Veterans Benefits Administration (VBA) officials on the types of data they collected and how we could best identify decisions for the conditions. We analyzed individual VA claim decisions data from fiscal years 2003 through 2021—

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<sup>4</sup>VA generally presumes that veterans who served in or off the coast of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, were exposed to Agent Orange. See 38 U.S.C. §§ 1116(f) and 1116A(b). VA also recognizes other locations such as Thailand and the Korean demilitarized zone as areas of Agent Orange exposure. On August 10, 2022, the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 was enacted. Provisions of this law change which veterans may be eligible for disability benefits on a presumptive basis based on exposure to Agent Orange, among other changes. See Pub. L. No. 117-168, § 403, 136 Stat. 1759, 1780-81. Our report does not account for changes made by this law because we completed our analyses and evaluations before the law was enacted.

<sup>5</sup>For the 1-year manifestation period requirement, see 38 U.S.C. § 1116(a)(2)(C) and (E) and 38 C.F.R. § 3.307(a)(6)(ii). In addition, VA presumes that Vietnam veterans' last date of exposure to Agent Orange was their last date of service in Vietnam.

<sup>6</sup>Pub. L. No. 116-315, § 2011, 134 Stat. 4932, 4979-80 (2021). In this report, we refer to "early-onset peripheral neuropathy" when discussing how VA currently evaluates presumptive claims for this condition. In contrast, we use "peripheral neuropathy" when discussing the potential removal of the 1-year manifestation period requirement because both early-onset and delayed-onset peripheral neuropathy would be evaluated as presumptive if this requirement were removed.

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the only timeframes in which complete data were available.<sup>7</sup> Using VA diagnostic codes for each of the three conditions, we identified granted and denied decisions for each condition. As needed, we conducted additional analyses, such as a customized search of the text that claims processors entered when recording their decisions, to determine whether the decisions were within our scope. Because veterans can file multiple claims for multiple conditions, we further analyzed the data to identify the unique number of veterans who had a claim decision and calculated the approval and denial rates for the veteran population. We determined that these data were sufficiently reliable for our purposes of reporting on approval and denial rates for veterans who had their claim reviewed for the selected conditions during the time period. We note limitations to our analysis in the report. See appendix I for additional information on our analysis and data reliability assessment.

To assess to what extent claims processors follow VA procedures in evaluating whether to grant Vietnam veterans' claims for early-onset peripheral neuropathy, chloracne, and PCT, we compared claims processors' statements in selected claim decisions and interviews to relevant sections of VA's manual on claims processing procedures (M21-1 Adjudication Procedures Manual).<sup>8</sup> In particular, we reviewed a non-generalizable, random sample of 50 veterans' claim files from fiscal years 2014 through 2021, including 25 decisions to grant benefits and 25 decisions to deny benefits to Vietnam veterans for early-onset peripheral neuropathy, chloracne, or PCT. We selected from among claim decisions starting in fiscal year 2014 because VA changed its criteria for evaluating presumptive claims for peripheral neuropathy in September 2013. In two of the 50 decisions in our sample, veterans were evaluated for diabetic neuropathy rather than early-onset peripheral neuropathy. As part of our file review, we identified what evidence, if any, veterans provided to show that their conditions manifested within 1 year of service in Vietnam and how claims processors addressed that evidence in their explanations of claim decisions. We also submitted questions to VA to verify that we accurately interpreted information from the files for key cases that we discuss in this report.

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<sup>7</sup>Our analysis included all veterans who, during active military, naval, or air service, served in or off the coast of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and were exposed to an "herbicide agent" as defined in 38 U.S.C. § 1116(a)(3).

<sup>8</sup>We also reviewed relevant federal laws and regulations.

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To obtain information on how VBA claims processors interpret the agency's guidance related to the 1-year manifestation period requirement, we interviewed 11 Rating Veterans Service Representatives—claims processors responsible for evaluating the evidence and deciding (i.e., rating) the claim—from three of the 14 regional offices that decide disability claims for Agent Orange conditions. We selected offices with larger numbers of claims processors to help ensure that some would have experience rating claims for the three selected conditions and then selected claims processors with at least 4 years of experience rating claims.<sup>9</sup> To confirm our understanding of VA's claims processing procedures, we submitted questions to and interviewed VBA officials regarding the guidance in VA's M21-1 manual and information we collected during our review. To obtain information on any challenges Vietnam veterans may experience in supporting claims for early-onset peripheral neuropathy, chloracne, or PCT, we interviewed representatives from servicemember and veterans service organizations.<sup>10</sup> To determine whether there is any scientific evidence to support that peripheral neuropathy, chloracne, or PCT could manifest later than 1 year after exposure to Agent Orange, we reviewed available scientific literature regarding the manifestation of these conditions. For more information on our claims file review, assessment of VA's guidance, and review of scientific literature, see appendix I.

To estimate the cost to VA of eliminating the 1-year manifestation period requirement, we reviewed documentation from VA and the Congressional Budget Office to better understand their methodologies for estimating the cost of new presumptions. To refine our estimate, we interviewed VA officials about appropriate assumptions for the three conditions, available data to inform our analysis, and any limitations. To quantify the population of veterans who may be newly eligible for benefits, we used the VA claim denials from the data we analyzed to identify the number of veterans who had been denied benefits for the three conditions in the past.<sup>11</sup> We supplemented these data with additional information from VA and

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<sup>9</sup>At each office, VBA provided the names of two claims processors who volunteered to participate in the interview, and we randomly selected two more claims processors to participate. However, at one office, one of the four claims processors who we expected to participate was not present on the day of our interview.

<sup>10</sup>We interviewed representatives from Vietnam Veterans of America, Disabled American Veterans, and the Military Officers Association of America.

<sup>11</sup>We did not make determinations about benefits eligibility for any specific veterans.

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academic literature on prevalence rates for the three conditions to estimate the number of veterans who may have these conditions but are not included in VA's data.<sup>12</sup>

Because some newly eligible veterans may not apply for benefits, we made additional assumptions about the share of these newly eligible veterans who would apply for and receive benefits if the 1-year manifestation period requirement were removed. We used our analysis of VA claim decisions data to identify the observable proportions of disability ratings for granted claims and the combined scores for veterans who, although denied claims for one of the three conditions, may have been granted disability for other conditions. Using VA disability payment tables, in combination with information on disability ratings for individual conditions and combined scores, we calculated the changes in disability compensation payments over 10 years for the estimated population of veterans. In addition, we used VA data to estimate added health care and administrative costs. See appendix II for further information on our analysis.

We conducted this performance audit from April 2021 to September 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### National Academy of Sciences' Reviews of Veterans and Agent Orange Exposure

The Agent Orange Act of 1991 identified certain medical conditions as warranting a presumption of service connection for Vietnam veterans.<sup>13</sup> As a result, VA processes claims submitted by eligible veterans for these conditions on a presumptive basis, that is, without requiring veterans to prove that their condition was caused by military service. The act also includes provisions for the National Academy of Sciences to study

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<sup>12</sup>Caitlin W. Hicks et al., "Peripheral Neuropathy and All-Cause and Cardiovascular Mortality in U.S. Adults: A Prospective Cohort Study," *Annals of Internal Medicine*, vol. 174, no. 2 (2021): 167-175. See also Dan Ziegler et al., "Prevalence of Polyneuropathy in Pre-Diabetes and Diabetes Is Associated with Abdominal Obesity and Macroangiopathy," *Diabetes Care*, vol. 31, no. 3 (2008): 464-469.

<sup>13</sup>Pub. L. No. 102-4, § 2(a)(1), 105 Stat. 11, 11-13.

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whether additional conditions are associated with herbicide exposure. Subsequently, the National Academy of Sciences produced a series of 12 reports on veterans and Agent Orange from 1994 to 2018. These reports assessed available evidence on various medical conditions and potential associations with Agent Orange exposure.<sup>14</sup> The academy concluded that there is at least “limited or suggestive evidence” of an association between Agent Orange and early-onset peripheral neuropathy, chloracne, and PCT.<sup>15</sup> The National Academy of Sciences states that symptoms of peripheral neuropathy, chloracne, or PCT, caused by exposure to Agent Orange, generally appear quickly (e.g., within weeks of exposure). We did not identify other scientific literature to suggest that these conditions could develop years after exposure to Agent Orange.<sup>16</sup>

In addition, the act also establishes a presumption of service connection for conditions for which VA has determined, as prescribed in regulations, that a positive association exists between exposure to an herbicide agent and the occurrence of a condition. VA will grant benefits on a presumptive basis provided that certain other requirements are met.<sup>17</sup> VA implemented its initial presumptions for early-onset peripheral neuropathy, chloracne, and PCT between 1985 and 1996, in part, based on the National Academy of Sciences’ conclusions.<sup>18</sup>

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<sup>14</sup>For example, see National Academies of Sciences, Engineering, and Medicine, *Veterans and Agent Orange: Update 11* (Washington, D.C.: The National Academies Press, 2018).

<sup>15</sup>Of the three conditions, chloracne is most strongly associated with Agent Orange, according to the National Academy of Sciences’ reports. The academy classified chloracne as having “sufficient” evidence of association.

<sup>16</sup>However, as we have previously reported, it is often difficult to establish causation between an exposure and an adverse medical condition, in part, due to limited data on exposures that occurred years ago. See GAO, *Defense Infrastructure: DOD Can Improve Its Response to Environmental Exposures on Military Installations*, [GAO-12-412](#) (Washington, D.C.: May 1, 2012).

<sup>17</sup>For example, to receive VA disability benefits, the character of veterans’ discharge or service must not have been under “dishonorable” conditions.

<sup>18</sup>VA had scientific evidence of an association between chloracne and Agent Orange exposure before the National Academy of Sciences issued its first report. As such, VA added chloracne to its list of presumptions in 1985. PCT and acute and subacute peripheral neuropathy (later modified to include early-onset in 2013) were added in 1994 and 1996, respectively. See Congressional Research Service, *Veterans Exposed to Agent Orange: Legislative History, Litigation, and Current Issues*, R43790 (Washington, D.C.: Nov. 18, 2014).

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## Symptoms and Causes of Peripheral Neuropathy, Chloracne, and PCT

Possible symptoms and causes of the selected Agent Orange conditions are described below:

- **Peripheral neuropathy** is a result of damage to the nerves located outside of the brain and spinal cord (peripheral nerves). It often causes weakness, numbness, and pain, usually in the hands and feet. Peripheral neuropathy can also affect other areas of the body and functions such as digestion, urination, and circulation. Diabetes is one of the most common causes of peripheral neuropathy. Traumatic injuries, infections, vitamin deficiencies, inherited causes, health behaviors such as an excessive consumption of alcohol, and exposure to toxins can also cause or increase the risk of peripheral neuropathy. Symptoms of peripheral neuropathy may improve over time, particularly if the underlying cause is treatable.<sup>19</sup>
- **Chloracne** is a rare skin eruption of blackheads, cysts, and nodules caused by exposure to certain toxic chemicals.<sup>20</sup> Mild forms of chloracne may resemble common acne. The condition fades slowly after exposure. Mild cases may disappear altogether, but more severe cases may persist for years after exposure.
- **PCT** is a rare disorder characterized by thinning and blistering of the skin in sun-exposed areas. Affected skin is fragile and may peel or blister after minor trauma. Liver damage may also occur. PCT is caused by deficient levels of a certain enzyme in the body. Possible risk factors include genetics, alcohol consumption, infections such as hepatitis C or HIV, drugs such as estrogen, smoking, and certain chemical exposures. Medical treatment can achieve complete remission of the condition, but relapse is possible.<sup>21</sup>

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<sup>19</sup>Mayo Clinic, "Peripheral Neuropathy," accessed June 22, 2022, <https://www.mayoclinic.org/diseases-conditions/peripheral-neuropathy/symptoms-causes/syc-20352061>.

<sup>20</sup>Specifically, chloracne is caused by exposure to certain hydrocarbons called chloracnegens. Dioxin, a toxic by-product of Agent Orange manufacturing, is the most potent chloracnegen. See Qiang Ju, Christos C Zouboulis, and Longqing Xia, "Environmental pollution and acne: Chloracne," *Dermato Endocrinology*, vol. 1, no. 3 (2009): 125–128.

<sup>21</sup>National Organization for Rare Disorders, "Porphyria Cutanea Tarda," accessed June 22, 2022, <https://rarediseases.org/rare-diseases/porphyria-cutanea-tarda/>.

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## VA Disability Compensation Benefit Claims Process

VA's process for deciding veterans' eligibility for disability compensation begins when a veteran submits a claim to VA. The claim is reviewed at one of VBA's 56 regional offices where staff members assist the veteran by gathering any additional evidence, such as military service and medical records, needed to evaluate the claim. Based on this evidence, and the results of any necessary medical examinations, VBA decides whether the veteran has a disability that was caused or aggravated by military service and, if so, how much compensation the veteran is entitled to receive. If VBA determines that the veteran has a service-connected disability, VBA assigns a disability rating of 0 to 100 percent in increments of 10 percentage points depending on the severity of the disability.<sup>22</sup> This rating percentage determines the monthly payment amount the veteran will receive.

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## Processes for Evaluating Whether Medical Conditions Are Connected to Military Service

VA evaluates Vietnam veterans' claims for early-onset peripheral neuropathy, chloracne, or PCT using two primary sets of eligibility criteria: (1) presumptive service connection and (2) direct service connection.

**Presumptive service connection and 1-year manifestation period requirement.** According to VA officials, if veterans have relevant evidence that their peripheral neuropathy, chloracne, or PCT began within 1 year of completing their service in Vietnam, claims processors should presume that the veteran's condition was caused by exposure to Agent Orange and grant appropriate benefits, if all other eligibility requirements are met.<sup>23</sup>

Regarding peripheral neuropathy, VA classifies early-onset peripheral neuropathy as developing within 1 year of exposure based on scientific evidence that suggests that peripheral neuropathy would develop in less than a year after exposure to Agent Orange.<sup>24</sup> VA refers to peripheral neuropathy developing later than a year after exposure to toxins as

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<sup>22</sup>A disability rating of 0 percent means that VA recognizes the veteran's disability as connected to military service, but the condition is not severe enough to meet VA's requirements for a compensable evaluation.

<sup>23</sup>In this report, we use the term "claims processors" to refer to Rating Veterans Service Representatives who rate claims at VBA regional offices.

<sup>24</sup>Previously, VA required that peripheral neuropathy appear "within weeks or months" after exposure and resolve within 2 years to be eligible for presumptive service connection. VA referred to this condition as "acute and subacute" peripheral neuropathy. In September 2013, VA removed this requirement and allowed for the condition to last indefinitely. VA refers to this condition as "early-onset" peripheral neuropathy.

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delayed-onset peripheral neuropathy. Delayed-onset peripheral neuropathy is not eligible for presumptive service connection.

**Direct service connection.** If veterans cannot show that their peripheral neuropathy, chloracne, or PCT manifested within 1 year of service, they must provide evidence supporting a connection between their condition and military service before VA can grant benefits. For example, if a VA disability medical examiner were to provide a positive medical opinion stating that it is “at least as likely as not” that the veteran’s condition is due to exposure to Agent Orange, a claims processor could use that opinion to help support a case for direct service connection.<sup>25</sup>

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## VA Appeals Process

Veterans dissatisfied with VBA’s initial claim decision can generally request a review of their decision within 1 year from the date of VBA’s notification letter to the veteran. Veterans have multiple options for having their decision reviewed, including requesting another review by VBA or appealing their decision to VA’s Board of Veterans’ Appeals.

The Board reports to the Office of the Secretary of Veterans Affairs, and is independent of VBA. The Board’s members, also known as Veterans Law Judges, decide appeals and are supported by attorneys and administrative staff. When the appeal is presented to the Board, a Veterans Law Judge or panel of Veterans Law Judges reviews the evidence and either (1) grants the claimed benefit, (2) denies the benefit, or (3) returns the claim to VBA for additional work on one or more issues pertinent to the claim and a new decision. If the veteran is unsatisfied with the Board’s final decision, the veteran can continue an appeal beyond VA to federal court.

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## How Disability Compensation Ratings May Inform Other VA Benefit Needs

In addition to disability compensation, veterans may receive other benefits through VA, such as health care through the Veterans Health Administration (VHA). Enrolled veterans may receive a range of services from VHA, including traditional hospital services such as surgery, critical care, and mental health care as well as other services such as home

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<sup>25</sup>A positive medical opinion is a medical assessment that supports a connection between a veteran’s condition and their military service. According to VA officials, a positive medical opinion would not automatically result in a decision to grant benefits. VA officials also said medical examiners must adequately explain and support their opinions before claims processors can use those opinions to support a decision to grant benefits. Additionally, they said claims processors must consider medical opinions within the context of all evidence in veterans’ records.

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health and elder care. In addition, VHA benefits include medical equipment, prosthetics, and prescriptions.

Veterans' disability ratings, or lack thereof, inform VHA on veterans' possible health care needs.<sup>26</sup> When veterans enroll in VA health care, they are assigned an enrollment priority group based on their disability rating and military service, among other factors, that helps VA identify who may need more health care. According to VA officials, historical utilization shows that veterans in higher enrollment priority groups are more reliant on VHA for health care. VHA may assign a veteran to the highest priority group if that individual has a disability rating of 50 percent or more. Conversely, VHA may assign a veteran without a disability rating or with a disability rating of 0 percent to a lower priority group. An increase in disability rating may prompt a shift to a higher priority group.

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## Available Data Suggest VA Decided Claims for About 130,000 Vietnam Veterans and Granted Benefits to Less than 12 Percent for Each Condition Since 2003

VA decided claims for about 130,000 Vietnam veterans for early-onset peripheral neuropathy, chloracne, and PCT from fiscal years 2003 through 2021, based on our analysis of available VA data.<sup>27</sup> The vast majority of these decisions—for nearly 115,000 unique veterans—were

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<sup>26</sup>Veterans' disability ratings can also affect veterans' benefits such as life insurance and home loans offered through VA.

<sup>27</sup>Vietnam veterans who may have filed claims for each condition closer to completing their service in Vietnam could not be included in our analysis because VA does not have complete data on the number of decisions regarding veterans' claims for the three conditions prior to 2003, according to VA officials. In addition, VA does not have administrative data to specifically identify early-onset peripheral neuropathy or PCT claim decisions because VA uses diagnostic codes for each that also include other conditions. Consequently, the claim decisions we identified using a text search, among other steps, may overestimate or underestimate the total number of veterans who received claim decisions for these two conditions. For more information on our analysis, see appendix I.

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for early-onset peripheral neuropathy.<sup>28</sup> VA also decided claims for about 16,000 veterans for chloracne and 1,800 veterans for PCT.<sup>29</sup>

Of those Vietnam veterans who received claim decisions for early-onset peripheral neuropathy, chloracne, and PCT, the average percentage who were granted disability benefits for these conditions ranged from about 6 percent to 11 percent over the study period.<sup>30</sup> Specifically, across fiscal years 2003 through 2021, the percentage of approved veterans was 8.2 percent for early-onset peripheral neuropathy, 6.2 percent for chloracne, and 11.2 percent for PCT. In numbers of veterans, VA granted benefits to about 9,000 veterans for early-onset peripheral neuropathy, 1,000 veterans for chloracne, and 200 veterans for PCT.<sup>31</sup> To see how the percentage of veterans granted benefits varied by year, see figure 1 below.

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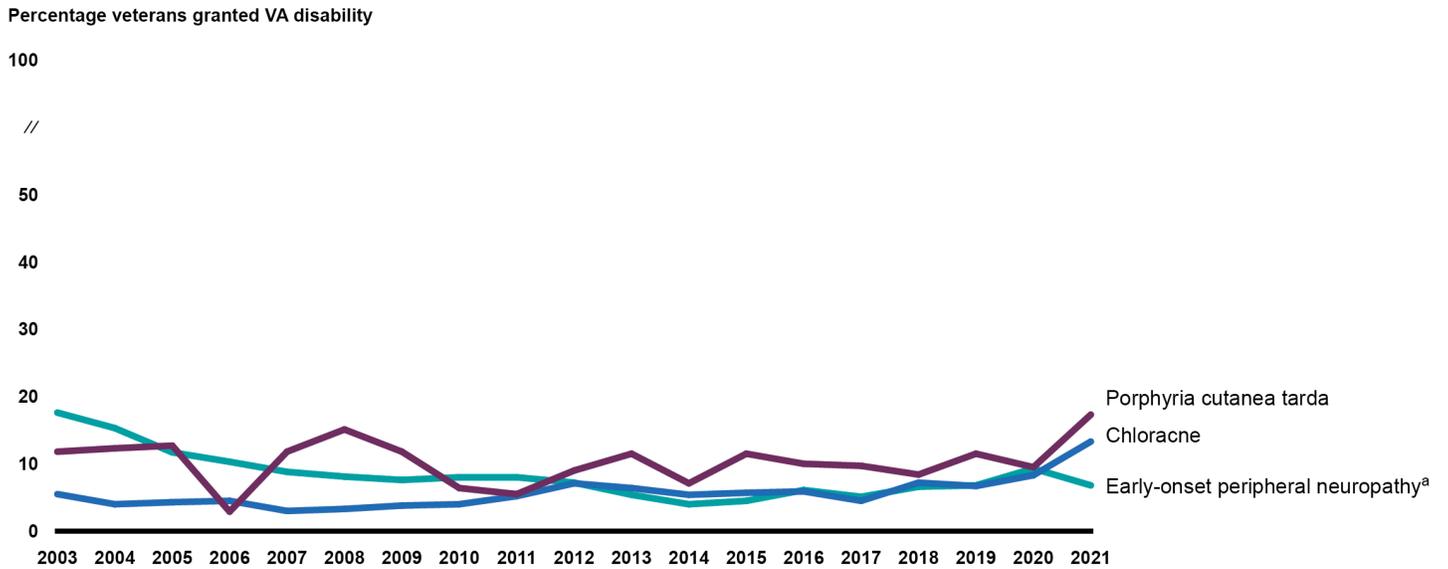
<sup>28</sup>Because veterans can file multiple claims for multiple conditions, we analyzed the data to identify the unique number of veterans who had a claim decision and calculated the approval and denial rates for the veteran population. See appendix I for further information.

<sup>29</sup>In some cases, VA's claim decisions data included more than one decision for a given veteran. For example, some veterans applied for benefits for more than one of the three conditions. Thus, the subtotals for each condition do not sum to equal the total number of veterans receiving a decision for any of the three conditions.

<sup>30</sup>To calculate the percentage of Vietnam veterans granted benefits for each condition, we divided the number of Vietnam veterans who were granted benefits for the condition by the total number of Vietnam veterans for whom VA made a claim decision for the condition.

<sup>31</sup>We rounded these numbers to the nearest thousand veterans, except for PCT, which we rounded to the nearest hundred veterans. In total, VA granted benefits to about 11,000 of 130,000 Vietnam veterans (8 percent) for the three selected conditions.

**Figure 1: Percentage of Vietnam Veterans Granted Disability Benefits for Early-Onset Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda, Fiscal Years 2003-2021**



Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claims decisions. | GAO-22-105191

Note: To calculate the percentage of Vietnam veterans granted benefits for each condition, we divided the number of Vietnam veterans who were granted benefits for the condition by the total number of Vietnam veterans for whom VA made a claim decision for the condition. Veterans may have applied and been denied disability more than once over the specified time period and that may have contributed to the approval rate some years.

<sup>a</sup>Prior to September 2013, VA required that peripheral neuropathy appear “within weeks or months” after exposure and resolve within 2 years to be eligible for presumptive service connection. VA referred to this condition as “acute and subacute” peripheral neuropathy. In September 2013, VA removed this requirement and allowed for the condition to last indefinitely. VA refers to this condition as “early-onset” peripheral neuropathy.

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## Lack of Clear Guidance Contributes to Inaccurate Statements about Claims Processing Procedures for the Selected Conditions

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### Inaccurate Statements at Selected Offices Regarding When 1-Year Manifestation Period Requirement Applies

We identified inaccurate statements in our interviews with claims processors from three selected VBA regional offices regarding when the 1-year manifestation period requirement applies. Statements from claims processors we interviewed indicated that they incorrectly apply the 1-year manifestation period requirement to claims for the selected conditions even when evaluating direct service connection. In particular, claims processors we interviewed at two of three selected VBA regional offices stated that they cannot grant Vietnam veterans' claims for early-onset peripheral neuropathy, chloracne, or PCT unless they have medical documentation of the condition from during military service or within 1 year of exposure to Agent Orange (i.e., within 1 year of service in Vietnam). For example, they said that they could not use a positive VA medical opinion linking the veteran's condition to Agent Orange to support a decision to grant benefits if they did not also have medical documentation of the condition within 1 year of exposure. However, according to VA's claims processing procedures, citing a positive medical opinion is one way claims processors can support a decision for direct service connection regardless of when the condition was diagnosed or when symptoms first occurred.<sup>32</sup>

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<sup>32</sup>According to VA's claim processing procedures, claims processors may establish direct service connection when the evidence or a medical opinion shows a connection between a current disability and an injury, disease, or event in service. When the evidence shows isolated instances of symptoms that do not demonstrate continuity of symptoms since service, an examination with medical opinion may provide the required connection. See VA M21-1 Adjudication Procedures Manual, section V.ii.2.A.1.e, [https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/custom/er/locale/en-US/portal/55440000001018/content/554400000180481/M21-1,-Part-V,-Subpart-ii,-Chapter-2,-Section-A---Direct-Service-Connection-\(SC\)-and-Service-Incurrence-of-an-Injury](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/custom/er/locale/en-US/portal/55440000001018/content/554400000180481/M21-1,-Part-V,-Subpart-ii,-Chapter-2,-Section-A---Direct-Service-Connection-(SC)-and-Service-Incurrence-of-an-Injury).

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We also observed four examples in our review of 50 randomly selected claim decisions in which VBA denied benefits after VA medical examiners had provided positive medical opinions stating that the veterans' conditions were "at least as likely as not" caused by their exposure to Agent Orange.<sup>33</sup> These examples do not mean that VBA made incorrect decisions in denying benefits. However, if claims processors focus on the 1-year manifestation period requirement, without addressing other evidence such as positive medical opinions, it may raise questions as to whether they understand that they can potentially support a rationale for direct service connection even if veterans do not have documentation of the condition from during or within 1 year of service in Vietnam. The four examples we observed of selected claim decisions in which VBA denied benefits after examiners provided positive medical opinions are summarized below:

- In one case, a VA disability medical examiner had provided a positive medical opinion stating that "it was at least as likely as not" that the veteran's chloracne was incurred or caused by an in-service injury, event, or illness. The VBA claims processor denied the claim by stating that the veteran did not have evidence of the condition from within 1 year of exposure, and the claims processor did not address why the positive medical opinion was not sufficient evidence to support a connection to service.
- In three cases, although VBA had denied benefits initially, VA's Board of Veterans' Appeals overturned those decisions, in part, based on positive medical opinions that were available when VBA denied benefits. In two of these cases, the VBA claims processors did not address the positive medical opinions in their explanations for denying benefits. In the other case, the claims processor mentioned the positive medical opinion but did not explain why it was not sufficient evidence to grant benefits. Additionally, in one of these three cases, the Board Veterans Law Judge wrote that VBA's decision was "clearly and unmistakably erroneous" and that the VBA claims processor misunderstood a provision of federal regulations related to evaluating service connection when veterans have an initial diagnosis following service.<sup>34</sup>

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<sup>33</sup>We did not assess whether VA made the correct decision to grant or deny benefits. Our review focused on what evidence veterans provided to support their claims and how VA addressed that evidence.

<sup>34</sup>See 38 C.F.R. § 3.303(d).

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We asked VBA to review these claims to determine whether claims processors could have cited these positive medical opinions to support decisions to grant benefits earlier. After reviewing these four cases, VBA officials stated that VA medical examiners had not adequately explained or supported their medical opinions and, thus, claims processors could not rely on them to grant benefits. However, VA's claims processing procedures state that claims processors should discuss medical opinions that need clarification with the medical examiners or return them for clarification.<sup>35</sup> We did not identify evidence that the claims processors took either of these steps before denying the claims in these four cases.<sup>36</sup>

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### Inaccurate Statements at Selected Offices Regarding the Use of Lay Evidence

We also observed inaccurate statements in our interviews with claims processors regarding the use of lay evidence (e.g., personal statements from veterans and family members) for addressing the 1-year manifestation period requirement and for requesting a medical opinion.<sup>37</sup> However, lay evidence, along with recent medical assessments, may be the primary forms of evidence available in Vietnam veterans' claims for early-onset peripheral neuropathy, chloracne, and PCT. Given that the Vietnam War ended almost 50 years ago, most veterans are not likely to have documentation showing that their condition manifested within 1 year of exposure, according to our interviews with servicemember and veterans service organizations. Representatives from all three organizations we interviewed stated that during the years following their Vietnam service, many veterans did not seek medical treatment because their symptoms were mild at first or they did not realize they had a serious condition that would not resolve on its own. In fact, documentation in three files we reviewed showed that the veterans stated that they did not

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<sup>35</sup>See VA M21-1 Adjudication Procedures Manual, section IV.i.3.C.1.c, [https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/custom er/locale/en-US/portal/55440000001018/content/554400000180517/M21-1-Part-IV-Subp art-i-Chapter-3-Section-C-Insufficient-Examinations](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/custom er/locale/en-US/portal/55440000001018/content/554400000180517/M21-1-Part-IV-Subp art-i-Chapter-3-Section-C-Insufficient-Examinations).

<sup>36</sup>VBA officials reviewed these four cases and confirmed that the claims processors did not take either of the noted steps.

<sup>37</sup>Lay evidence means that the evidence does not require that the proponent have specialized education, training, or experience. See VA M21-1 Adjudication Procedures Manual, Section V.ii.1.A.2.c, [https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/custom er/locale/en-US/portal/55440000001018/content/554400000014383/M21-1-Part-V-Subp ar-t-ii-Chapter-1-Section-A-Principles-of-Reviewing-and-Weighing-Evidence](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/custom er/locale/en-US/portal/55440000001018/content/554400000014383/M21-1-Part-V-Subp ar-t-ii-Chapter-1-Section-A-Principles-of-Reviewing-and-Weighing-Evidence).

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seek treatment for their condition because they did not think they had a serious condition or had other more serious health issues at the time.

**Addressing 1-year manifestation period requirement.** Claims processors in the selected offices made inaccurate statements about whether they could use lay evidence to address the 1-year manifestation period requirement. Specifically, claims processors we interviewed from two of three selected VBA regional offices said they could not use personal statements from veterans about when they first noticed symptoms to address the 1-year manifestation period requirement even if a veteran has a current diagnosis for the condition.<sup>38</sup> They said the only form of acceptable evidence to address the 1-year manifestation period requirement would be medical documentation from during military service or within 1 year of exposure to Agent Orange, such as notes about symptoms recorded by medical professionals at that time.

However, VA's claims processing procedures state that veterans' statements, if they cover in sufficient detail a condition that is within the veterans' ability to describe, such as their own symptoms, may constitute evidence and that veterans are often the most qualified source to describe the circumstances of the disabling effects of the disease or injury.<sup>39</sup> Accordingly, claims processors from one office stated that veterans' statements should be weighed as part of the evidence but noted that these statements may not be enough to support a decision to grant benefits without other evidence, such as a positive medical opinion.

We also observed three cases in our review of 50 randomly selected claim decisions in which the Board overturned prior VBA decisions involving lay evidence. In these cases, the veterans had provided detailed statements—that were also available to VBA—asserting that their symptoms began during or within 1 year of service in Vietnam. In two of these decisions, the Board Veterans Law Judges referred to these statements in their decisions. For example, one Veterans Law Judge wrote that VA had not provided an adequate medical opinion for the claim because the examiner did not consider the veteran's statements about

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<sup>38</sup>One claims processor from one of these offices said they were not sure whether lay evidence could be used to address the 1-year manifestation period requirement.

<sup>39</sup>See VA M21-1 Adjudication Procedures Manual, section V.ii.1.B.2.c, [https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000014389/M21-1-Part-V-Subpart-ii-Chapter-1-Section-B-Reviewing-Testimony-and-Lay-Evidence](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000014389/M21-1-Part-V-Subpart-ii-Chapter-1-Section-B-Reviewing-Testimony-and-Lay-Evidence).

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“numbness and tingling” experienced during service. The judge also wrote that the examiner improperly relied on a lack of mention of the condition in the veteran’s service treatment records without adequate consideration of other evidence.<sup>40</sup>

**Requesting a medical opinion.** VBA claims processors we interviewed also provided inaccurate statements about whether they could use lay evidence to request a medical opinion. In particular, claims processors from one office stated that they could not use lay evidence to support requesting a medical opinion to evaluate veterans’ assertions about when their symptoms began. They stated that they could receive a quality review error for unnecessarily requesting a medical opinion if they did not have medical documentation of the condition within 1 year of exposure.<sup>41</sup> However, according to VA’s claims processing procedures, lay evidence can be used as part of the rationale for requesting a medical opinion. Claims processors from the other two offices said they could use lay evidence as part of the rationale for requesting a medical opinion.

A lack of clear guidance likely contributed to the inaccurate and inconsistent statements about VA’s procedures for processing Vietnam veterans’ claims for early-onset peripheral neuropathy, chloracne, and PCT. More specifically, though the section on rating Agent Orange claims within VA’s M21-1 Adjudication Procedures Manual states that veterans’ conditions must have manifested within 1 year of service in Vietnam to grant benefits for these conditions on a presumptive basis, it does not state what types of evidence can be used to address this requirement.<sup>42</sup>

We were able to determine what types of evidence, such as lay evidence, claims processors could potentially cite to address the 1-year

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<sup>40</sup>In our review of the claim decisions, we were not able to determine how the VBA claims processors evaluated the veterans’ personal statements. After reviewing these three cases, VBA officials stated that they did not determine these personal statements to be credible evidence of manifestation within 1 year of service when compared to the entirety of the veterans’ records.

<sup>41</sup>As part of VA’s quality assurance program, quality review specialists at each VBA regional office review samples of each VBA claims processor’s workload to assess individual performance, perform error trend analyses, and identify areas for training and mentoring.

<sup>42</sup>See VA M21-1 Adjudication Procedures Manual, section VIII.i.1.B.1.f., [https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/custom-er/locale/en-US/portal/55440000001018/content/554400000177423/M21-1-Part-VIII-Sub-part-i-Chapter-1-Section-B-Ratings-for-Disabilities-Associated-with-Herbicide-Exposure-or-Service-in-the-Republic-of-Vietnam-RVN](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/custom-er/locale/en-US/portal/55440000001018/content/554400000177423/M21-1-Part-VIII-Sub-part-i-Chapter-1-Section-B-Ratings-for-Disabilities-Associated-with-Herbicide-Exposure-or-Service-in-the-Republic-of-Vietnam-RVN).

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manifestation period requirement based on multiple interviews with VBA officials and by submitting questions to VBA about information contained in other sections of the manual. We also reviewed the relevant federal law and regulations describing this requirement. However, as VBA officials noted, claims for the three selected conditions make up a small subset of Agent Orange claims. Thus, it could be challenging for individual claims processors who may rarely see claims for these conditions—and may rely on the M21-1 manual as their primary source of information—to understand that they may potentially cite lay evidence to address the 1-year manifestation period requirement.

Similarly, although other sections of the manual include guidance on how to evaluate claims for direct service connection, claims processors at two of three selected offices did not understand that they may still follow this guidance if veterans do not have medical documentation of early-onset peripheral neuropathy, chloracne, or PCT from during or within 1 year of service in Vietnam. One reason for this misunderstanding may be that the manual does not explain that an adequate positive medical opinion may be used to support a rationale for service connection for these conditions. Additionally, the manual does not explain to what extent claims processors can rely on lay evidence to support requesting a VA medical opinion for these conditions.<sup>43</sup> Further, the manual lacks definitions of key terms in sections discussing the 1-year manifestation period or cross references that would lead a claims processor to the related information, which may make it difficult for claims processors to make connections between the information explained in different sections.

VA officials acknowledged that claims processors may not frequently see claims for the three selected conditions and that the statements we described from our interviews with claims processors from selected offices suggest that some do not fully understand the guidance. Given the uniqueness of the 1-year manifestation period requirement for these

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<sup>43</sup>The guidance on requesting medical opinions lists lay evidence as evidence that could be used to support requesting a medical opinion but does not explain whether that same evidence can also be used to establish that a presumptive condition occurred during the applicable presumptive period, such as the 1-year manifestation period for early-onset peripheral neuropathy, chloracne, and PCT. See VA M21-1 Adjudication Procedures Manual, section IV.i.1.A.1.b.,

[https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va\\_ssnew/help/custom/er/locale/en-US/portal/55440000001018/content/55440000180494/M21-1-Part-IV-Subpart-i-Chapter-1-Section-A-Duty-to-Assist-With-Providing-a-Medical-Examination-or-Opinion](https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/custom/er/locale/en-US/portal/55440000001018/content/55440000180494/M21-1-Part-IV-Subpart-i-Chapter-1-Section-A-Duty-to-Assist-With-Providing-a-Medical-Examination-or-Opinion).

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conditions, having cross references or locating the information in one place in the manual could make it clearer for those who process claims for these conditions. Federal internal control standards state that management should implement control activities through policies, and should internally communicate the necessary quality information to achieve the entity's objectives.<sup>44</sup> This includes communicating information to enable personnel to perform key roles in addressing risks and supporting the agency's internal control system. Without clearer guidance related to the 1-year manifestation period requirement, claims processors may incorrectly apply the 1-year manifestation period requirement in their decisions. In turn, VA could inappropriately deny disability benefits to some Vietnam veterans and spend time and resources processing additional appeals.

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## Eliminating the 1-Year Rule for Selected Agent Orange Conditions Could Cost VA Up to an Estimated \$26 Billion Over 10 Years

Eliminating the 1-year manifestation period requirement for peripheral neuropathy, chloracne, and PCT could cost an estimated \$16.7 billion to \$25.8 billion over 10 years. The change could lead to more veterans applying for and receiving new disability benefits, receiving increases to existing disability benefits, or receiving retroactive payments.<sup>45</sup> As a result, VA would pay more in disability benefits, health care benefits linked to disability benefits, and administrative costs related to processing new disability claims and increased access to health care.

According to our estimates, removing the 1-year manifestation period requirement for peripheral neuropathy, chloracne, and PCT could allow about 130,000 to 217,000 Vietnam veterans to receive disability benefits for the three conditions in the first year after the rule change.<sup>46</sup> Our estimates of veterans ranged from about 123,000 to 206,000 for peripheral neuropathy, 6,400 to 9,300 for chloracne, and 600 to 1,300 for PCT. Both estimates include veterans we identified as part of our analysis

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<sup>44</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014), principles 12 and 14.

<sup>45</sup>This estimated range is subject to a number of factors about which we made informed assumptions and describe below. For information on the potential cost beyond 10 years, see appendix II.

<sup>46</sup>The estimates include veterans with disability ratings for other conditions—leading to an increase in disability benefits with approvals for these conditions—and veterans with no prior ratings who would newly receive benefits. The veterans we identified through our analysis of VA claim decisions data from 2003 through 2021 included both veterans with ratings for other conditions at the time their claims were denied and those with no prior ratings.

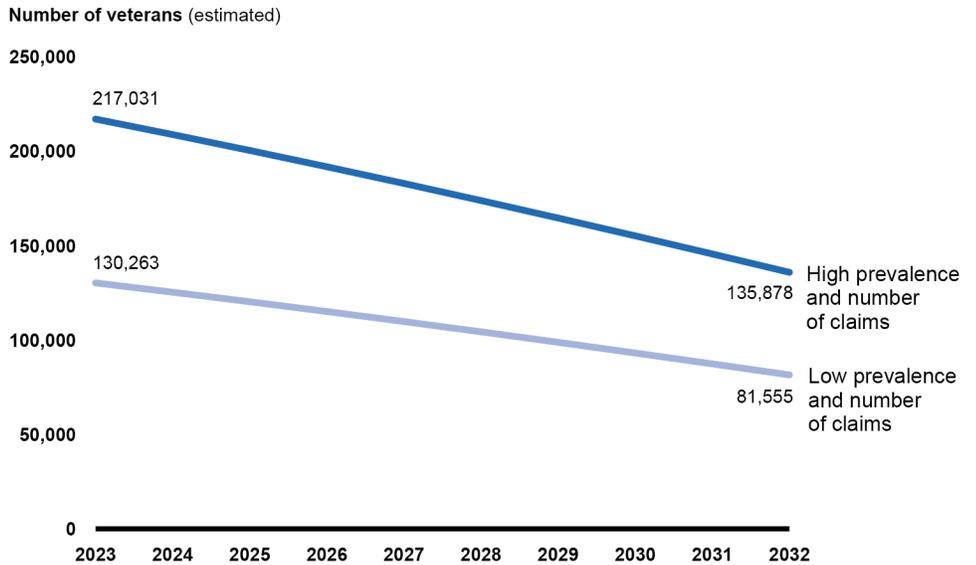
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of VA claim decisions data from 2003 through 2021 who were previously denied benefits for one of the selected Agent Orange conditions. To estimate the number of veterans who could newly apply for benefits and were not represented in the VA data, we produced high and low estimates by varying our assumptions about two factors: (1) the rate at which each of the three conditions could be prevalent among the veteran population and (2) the rate at which veterans with the conditions may apply for and receive the benefit with the rule change.<sup>47</sup> As shown in figure 2 below, in both of our estimates, the number of Vietnam veterans receiving disability benefits for these conditions decreases over time based on expected rates of mortality among the population.

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<sup>47</sup>We assumed that 100 percent of veterans we identified in the VA data would apply for benefits after the rule change. For the high estimates, we assumed the highest prevalence rates for each of the selected conditions (i.e., the percent of the veteran population that likely has one of the selected conditions) based on VA data and academic literature. These rates were 11.6 percent for peripheral neuropathy, 0.25 percent for chloracne, and 0.06 percent for PCT. We also assumed that 100 percent of veterans with VA disability ratings for another condition would apply for benefits and that 75 percent of veterans without prior disability ratings would apply for benefits. For the low estimates, we assumed a prevalence rate of 7.4 percent for peripheral neuropathy, 0.06 percent for chloracne, and 0.02 percent for PCT. We also assumed that 80 percent of veterans with VA disability ratings for another condition would apply and 50 percent of veterans without prior ratings would apply. We did not make determinations about benefits eligibility for any specific veterans. For more information on these estimates, see appendix II.

**Figure 2: Estimated Number of Veterans Who Could Receive Disability Benefits for Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda If 1-Year Requirement Were Removed, with High and Low Assumptions for Disease Prevalence and Number of Claims, Fiscal Years 2023-2032**



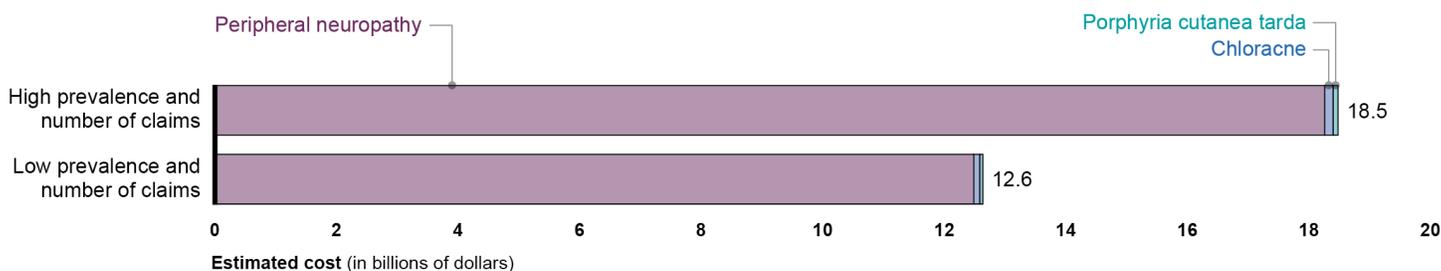
Source: GAO analysis of Department of Veterans Affairs data on disability compensation claims decisions, mortality rates, prevalence rates, and academic literature. | GAO-22-105191

Note: Both estimates include veterans we identified through our analysis of Department of Veterans Affairs (VA) claim decisions data from 2003 through 2021 and who were previously denied benefits for one of the selected Agent Orange conditions. We assumed that 100 percent of these veterans would reapply. For the high estimate, we assumed the highest prevalence rates for each of the selected conditions (i.e., the percent of the veteran population that likely has one of the selected conditions) based on VA data and academic literature. These rates were 11.6 percent for peripheral neuropathy, 0.25 percent for chloracne, and 0.06 percent for porphyria cutanea tarda (PCT). We also assumed that 100 percent of veterans with VA disability benefits for another condition would apply for benefits and that 75 percent of veterans without prior disability ratings would apply for benefits. For the low estimates, we assumed a prevalence rate of 7.4 percent for peripheral neuropathy, 0.06 percent for chloracne, and 0.02 percent for PCT. We also assumed that 80 percent of veterans with VA disability benefits for another condition would apply and 50 percent of veterans without prior ratings would apply. We did not make determinations about benefits eligibility for any specific veterans.

Using the estimated numbers of veterans who could be affected if the 1-year manifestation period requirement were removed, we estimated that the cost of disability compensation benefits to VA could be \$12.6 billion to \$18.5 billion over 10 years (see fig. 3). These estimates include increased disability compensation benefits of \$12.5 billion to \$18.3 billion for peripheral neuropathy—the largest share of the total cost. Chloracne and PCT comprised a much smaller portion of the cost at \$99 million to \$139 million and \$55 million to \$82 million, respectively. As with our estimates of the number of veterans, our cost estimates illustrate the potential

effects from different assumptions about prevalence rates and the rates at which veterans apply for the benefit in response to the change.

**Figure 3: Estimated 10-Year Cost of Disability Compensation Payments If 1-Year Requirement Were Removed for Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda, with High and Low Assumptions for Disease Prevalence and Number of Claims**



Source: GAO analysis of Department of Veterans Affairs data on disability compensation claims decisions, mortality rates, and prevalence rates; and academic literature. | GAO-22-105191

Note: Both estimates include veterans we identified through our analysis of Department of Veterans Affairs (VA) claim decisions data from 2003 through 2021 and who were previously denied benefits for one of the selected Agent Orange conditions. We assumed that 100 percent of these veterans would reapply for the condition in which they were previously denied. For the high estimate, we assumed the highest prevalence rates for each of the selected conditions (i.e., the percent of the veteran population that likely has one of the selected conditions) based on VA data and academic literature. These rates were 11.6 percent for peripheral neuropathy, 0.25 percent for chloracne, and 0.06 percent for porphyria cutanea tarda (PCT). We also assumed that 100 percent of veterans with VA disability benefits for another condition would apply for benefits and that 75 percent of veterans without prior disability ratings would apply for benefits. For the low estimate, we assumed a prevalence rate of 7.4 percent for peripheral neuropathy, 0.06 percent for chloracne, and 0.02 percent for PCT. We also assumed that 80 percent of veterans with VA disability benefits for another condition would apply and 50 percent of veterans without prior ratings would apply. We assumed a 3 percent inflation rate for both estimates. We did not make determinations about benefits eligibility for any specific veterans.

Our estimates show decreasing payments each year as the number of veterans receiving benefits decreases. For example, our estimates show total payments of up to \$1.6 billion for peripheral neuropathy in year 1. However, that total decreases to \$1.3 billion by year 10 (see table 1). In addition to future payments for these conditions, we assumed some veterans would receive retroactive disability compensation payments.<sup>48</sup>

<sup>48</sup>Under a consent decree entered into as a result of litigation (referred to as “Nehmer” after the lead plaintiff), veterans receive retroactive payments when VA establishes a presumption of service connection for certain conditions that VA had previously denied a disability claim for. According to VA’s Office of General Counsel, *Nehmer* might not apply to veterans affected by the removal of the 1-year manifestation period requirement, but VA could consider readjudicating *Nehmer* class members previously denied claims absent congressional actions.

According to our estimates, these retroactive payments totaled \$3.6 billion for peripheral neuropathy and \$26 million for PCT.<sup>49</sup>

**Table 1: Estimated Cost to VA Each Year from Removing 1-Year Requirement for Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda**

Dollars in millions

Total increase in disability compensation payments	Retroactive payments <sup>a</sup>	Year 1	Year 5	Year 10
Payments to veterans with peripheral neuropathy	\$3,584	\$961-1,584	\$911-1,503	\$785-1,294
Payments to veterans with chloracne	N/A <sup>b</sup>	\$11-15	\$10-14	\$9-12
Payments to veterans with porphyria cutanea tarda	\$26	\$3-6	\$3-6	\$3-5

Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claim decisions, VA data on mortality rates, VA data on prevalence rates, and academic literature. | GAO-22-105191

Note: All estimated payments have been rounded to the nearest million dollars.

<sup>a</sup>Under a consent decree entered into as a result of litigation (referred to as “Nehmer” after the lead plaintiff), veterans receive retroactive payments when VA establishes a presumption of service connection for certain conditions that VA had previously denied a disability claim for. According to VA’s Office of General Counsel, Nehmer might not apply to veterans affected by the removal of the 1-year manifestation period requirement, but VA could consider readjudicating Nehmer class members previously denied claims absent congressional actions. We assumed all the veterans we identified in our analysis of VA claim decisions data from 2003 through 2021 who were denied claims for peripheral neuropathy and porphyria cutanea tarda would be eligible for these Nehmer retroactive payments. We assumed no other veterans would receive these payments, including any who may have applied prior to 2003 and did not reapply during the years covered by VA’s claim decisions data.

<sup>b</sup>Chloracne is not eligible for Nehmer payments. 38 C.F.R. § 3.816(b)(2).

In addition to disability benefits, we estimated that removing the 1-year manifestation period requirement would cost VA \$4.0 billion to \$7.1 billion in increased health care costs over 10 years. We estimated that about 75,000 to 129,000 already-enrolled veterans would be expected to rely more on VA health care as they move into higher VA priority groups and about 7,000 to 16,000 veterans might newly enroll in health care

<sup>49</sup>Chloracne is not eligible for these retroactive payments. 38 C.F.R. § 3.816(b)(2).

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benefits.<sup>50</sup> To develop the health care cost estimate, we analyzed VA data on veteran enrollment, group eligibility, VA health care usage, and average cost by enrollment priority group. For more information on the health care estimate, see appendix II.

We also estimated increases of \$148 million to \$221 million for administrative costs as VA would be expected to receive more disability claims for the conditions if the 1-year manifestation period requirement were removed. Our estimate of administrative costs includes adding about 1,300 to 1,900 VA staff needed to process those claims to avoid impacting VA's ability to process its existing claims workload.<sup>51</sup>

Our estimate did not include costs of other VA programs that might be affected by more veterans receiving disability benefits, such as VA life insurance and home loans, because we would not expect the potential increase in costs for these programs to be large. According to VA officials, such programs are largely self-sustaining because of revenue they generate. Additionally, we concluded that most Vietnam veterans would be unlikely to participate in these programs in large numbers based on their age.

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## Conclusions

From fiscal years 2003 through 2021, VA denied the vast majority of claims for the three conditions—early-onset peripheral neuropathy, chloracne, and PCT—that have a 1-year manifestation period requirement for presumptive service connection. Claims processors we interviewed in three selected offices did not consistently understand what types of evidence could be used to show that veterans' conditions manifested within 1 year of service in Vietnam or to otherwise support a connection between veterans' conditions and their exposure to Agent Orange. The unique nature—having a 1-year manifestation

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<sup>50</sup>When veterans enroll in VA health care, they are assigned an enrollment priority group based on their disability rating and military service, among other factors, that helps VA identify who may need more health care, according to VA officials. Accordingly, our estimate assumed that, as already-enrolled veterans received increased disability ratings, they would also seek and receive increased health care from VA. Based on health care cost models provided by VA, we assumed that veterans with a disability rating of 70 percent or more would already be receiving the maximum estimated amount of health care services as part of the population already enrolled in the highest priority group. We estimated any change in their disability rating would not result in increased health care costs. We did not determine health care benefits eligibility for any specific veterans. For more information on our health care cost estimate, see appendix II.

<sup>51</sup>Our estimate did not include the changes to other general operating expenses such as rent and utilities. The administrative costs for increased health care usage were included as part of the VA data on average health care costs by enrollment priority level.

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requirement—of these claims combined with the infrequency of them can make them challenging to process, especially without clear guidance. By further clarifying the guidance such as by defining key terms, including examples of acceptable lay evidence, and cross referencing information in the manual, VA could help ensure claims processors follow consistent processes. Without clearer guidance, VA runs the risk of evaluating claims using different standards and inappropriately denying benefits to some Vietnam veterans.

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## Recommendation for Executive Action

We are making the following recommendation to VA:

The Under Secretary for Benefits should clarify the guidance in its claims processing manual to make clear that claims processors can potentially support a rationale for service connection—or request a medical opinion—for early-onset peripheral neuropathy, chloracne, or PCT without medical documentation of the condition from during or within 1 year of service in Vietnam. For example, in sections of the manual that discuss the 1-year manifestation period requirement, VA could define key terms, add examples of acceptable lay evidence, and include cross references to other sections of the manual to help claims processors better understand the guidance. (Recommendation 1)

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## Agency Comments

We provided a draft of this report to the Department of Veterans Affairs for review and comment. In its comments, reproduced in appendix III, VA agreed with our recommendation. VA stated that it would evaluate the current guidance in its claims processing manual and determine how best to clarify the 1-year manifestation period requirement for the three conditions. VA also provided technical comments, which we incorporated as appropriate.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Veterans Affairs, and other interested parties. In addition, the report is also available at no charge on the GAO website at <https://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Elizabeth H. Curda". The signature is written in a cursive style with a small "H" above the "A" in "Curda".

Elizabeth H. Curda  
Director, Education, Workforce, and Income Security

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# Appendix I: Additional Information on Selected Methodologies

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## Analysis of Department of Veterans Affairs Claim Decisions Data

To determine what is known about how many Vietnam veterans have been granted or denied disability compensation benefits for early-onset peripheral neuropathy, chloracne, and porphyria cutanea tarda (PCT), we analyzed Department of Veterans Affairs (VA) data on all disability compensation claim decisions for Vietnam veterans from fiscal years 2003 through 2021. We chose these dates because VA has complete claim decisions data starting in fiscal year 2003. Specifically, our analysis included veterans who, during active military, naval, or air service, served in or off the coast of the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and were exposed to an “herbicide agent” as defined in 38 U.S.C. § 1116(a)(3).<sup>1</sup>

VA’s data include all claim decisions issued by the Veterans Benefits Administration (VBA), including claims granted by VA’s Board of Veterans’ Appeals and then implemented by VBA.<sup>2</sup> VBA’s Office of Performance Analysis and Integrity identified these Vietnam veterans and provided decision-level data for each of the three conditions using data from its Corporate Database and the Beneficiary Identification Records Locator Subsystem to identify veterans with service any time during those dates.<sup>3</sup> VBA identified those veterans with Vietnam service using a mix of indicators such as data from the VA/Department of Defense Identity Repository, among others.<sup>4</sup> The data VA provided included the following, which we used for our analysis:

- the VA Schedule for Rating Disabilities diagnostic code used to identify the condition,

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<sup>1</sup>In this report, we refer generally to herbicides as “Agent Orange” because it was the most common herbicide agent used in Vietnam. However, there were a range of tactical herbicides used in Vietnam that are known as “rainbow herbicides” and included Orange, Purple, Pink, Green, Blue, and White.

<sup>2</sup>The data do not include denials issued by the Board of Veterans’ Appeals because, in those cases, VBA’s initial decision to deny benefits remained and there was no new decision for VBA to implement. This did not affect our analysis because we calculated the percentage of veterans who were approved benefits rather than the percentage of decisions that were approved.

<sup>3</sup>The Corporate Database is VA’s central repository for all veteran demographic, military service, benefit determination, and payment data. The Beneficiary Identification Records Locator Subsystem is used and administered by VBA to track eligibility status and related information for VA benefits such as disability and health care.

<sup>4</sup>The VA/Department of Defense Identity Repository database is an electronic repository of military personnel’s military history, payroll information and their dependents’ data provided to VA by the Department of Defense to assist with providing a consolidated view of eligibility and benefits from across VA and the Department of Defense.

- the decision to grant or deny benefits,
- the basis for the decision,
- any text that claims processors entered as part of the explanation for their decisions and the veteran's medical diagnosis,
- the disability percentage rating for granted claims,
- the combined disability rating showing veterans' total disability rating at the time of the decision, and
- a unique non-personally identifiable number created by VBA and assigned to each veteran.

The data provided by VA included limitations that had implications for our analysis.

- First, VA does not have complete data on the number of decisions regarding veterans' claims for the three conditions prior to 2003. As a result, Vietnam veterans who filed claims for each condition closer to completing their service in Vietnam or when these conditions were originally added to the presumptions list are likely not included in our analysis unless they reapplied closer to 2003 and received a decision during 2003 or later.
- Second, the sources VBA used to determine whether veterans served in Vietnam may not capture all Vietnam veterans who had a claim decision. For example, service data were not entered into VBA systems until the late 1970s and may be incomplete or contain inaccuracies since they were manually entered, according to VBA officials. However, VBA officials noted that they have used this methodology to identify Vietnam veterans exposed to Agent Orange for prior data requests and stated that the variable they use to identify these veterans is reasonably reliable. Thus, these were the most comprehensive data available for our purposes.

While there are limitations to the data, we determined that these data were sufficiently reliable for our purpose of calculating estimates of approval and denial rates for veterans who had their claims reviewed for the selected conditions during the time period. We assessed the reliability of the data we received from VA by conducting electronic testing for missing data and errors, and by interviewing VA officials about the data and their limitations. We did not identify any obvious errors in the data after completing this process and our results were in line with VA officials' expectations that most claims would be denied given that veterans would

need to show that their condition manifested within 1 year of service in Vietnam for VA to presume a connection to herbicide exposure.

To identify claim decisions for each of the three selected conditions, we performed a number of steps, including analyzing the diagnostic codes for the three conditions and conducting a search of the text entered by claims processors.<sup>5</sup> The diagnostic code used to identify chloracne only included that condition; as such, we are able to report on all chloracne claim decisions. PCT and early-onset peripheral neuropathy conditions are captured by diagnostic codes that can include other conditions. For example, PCT is captured in the code for bullous conditions, which includes other skin conditions. As such, we took steps to help ensure that we only captured relevant claim decisions.

We identified claims to include and exclude primarily using a text search. Specifically, we searched the text entered by claims processors for the diagnosis of the condition under review and the reason for the decision. We used search terms such as “peripheral” and “porphyria,” as well as search terms suggested by VA, to identify the claim decisions specifically related to the selected conditions. We also took steps to remove decisions that were not relevant. For example, we sought to screen out any decisions for peripheral neuropathy that resulted from diabetes or Parkinson’s disease, which would place those claim decisions outside the scope of our report given that the 1-year manifestation period requirement for presumptive service connection would not necessarily apply to those claims. We also removed a number of claim decisions that were classified as secondary to other conditions (that were not specified in the data). According to VBA officials, these “secondary” decisions likely pertained to diabetic neuropathy or other conditions and would not be considered early-onset peripheral neuropathy.

We used the resulting dataset to identify the number of veterans granted or denied benefits for the three selected conditions by performing two analyses. First, we identified the number of veterans granted or denied for each condition each year. To do so, we identified the veterans using the

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<sup>5</sup>We likely did not capture all decisions for the conditions within the scope of our report and also likely included others that were outside our scope. For example, a text search could miss relevant claim decisions in which the names of conditions were misspelled, and these decisions would be excluded from our analysis. Conversely, the text search may have captured decisions in which peripheral neuropathy was secondary to another condition and these decisions would have been included in our report.

non-personally identifiable numbers assigned by VBA that were unique to each veteran. We identified whether the veteran appeared with a decision to grant or deny benefits each year. Second, we calculated the total number of veterans who were granted or denied for each condition from fiscal years 2003 through 2021, as well as the total number of veterans granted or denied across all three conditions.<sup>6</sup>

To identify the total number of veterans granted or denied from fiscal years 2003 through 2021, we identified the veterans by their non-personally identifiable number and counted them by the last chronological decision to grant or deny the benefit for each condition to ensure they were only counted once. Finally, to calculate the total number of veterans who received a decision for any of the three conditions, we dropped any instance where the veteran appeared more than once. Consequently, the number of overall veterans will not equal the number of veterans granted or denied for each condition since there may be some overlap of veterans who were granted or denied for more than one of the three conditions.

We calculated the percentage of veterans who were granted benefits for each of the three conditions using the numbers of granted and denied veterans we identified in VA's claim decisions data. Specifically, we divided the number of Vietnam veterans who were granted benefits for the condition by the total number of Vietnam veterans for whom VA made a claim decision for the condition.

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## Claims File Review

We reviewed a non-generalizable, random sample of 50 claim decisions to identify examples of (1) evidence veterans provided to show that their conditions manifested within 1 year of exposure to Agent Orange, (2) other evidence veterans provided to support a connection with their military service, and (3) how VBA claims processors and Board of Veterans' Appeals Veterans Law Judges addressed this evidence. Using the same VA data that we analyzed to calculate approval and denial rates for the three conditions, we randomly selected 25 decisions to grant benefits and 25 decisions to deny benefits from fiscal years 2014 through

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<sup>6</sup>In some cases, VA's claim decisions data included more than one decision for a given veteran. For example, some veterans applied for benefits for more than one of the three conditions. Thus, the sum of the subtotals for each condition does not equal the total number of veterans receiving a decision for any of the three conditions.

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2021.<sup>7</sup> We selected from among decisions starting in 2014 because VA revised its criteria for evaluating presumptive service connection for peripheral neuropathy in September 2013.

VA then provided for our review the entire electronic claim file (via secure transfer) for each veteran whose claim decision we selected. To conduct our review, two GAO analysts independently reviewed each veteran's claim file and completed the same data collection instrument. Our data collection instrument included a set of questions focused primarily on information included in VA's rating decision form, the veteran's application for disability compensation benefits, and any VA disability medical examinations or medical opinions performed for the selected conditions. Each analyst also performed keyword searches of the entire claim file, based on the names of the selected conditions, to identify any other potentially relevant information. After completing the initial reviews, each pair of GAO analysts coordinated to reconcile any differing views regarding their responses to each question in the data collection instrument and made revisions to their responses, as necessary. We also submitted questions to VA to verify that we accurately interpreted information from the files for key cases that we discuss in this report.

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## Assessment of VA's Claims Processing Guidance

We assessed relevant sections of VA's M21-1 Adjudication Procedures Manual that include guidance on rating claims for presumptive conditions with a 1-year manifestation period requirement against federal standards for internal control.<sup>8</sup> Specifically, the control activities component of internal control—actions management establishes through policies and procedures to achieve objectives and respond to risks—was significant to our objective. Additionally, the information and communication component—communication and use of quality information among management and personnel to support the internal control system—was significant. We assessed whether VA's guidance might allow for

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<sup>7</sup>Given that the vast majority of claim decisions were for early-onset peripheral neuropathy, we selected 15 decisions to grant and 15 decisions to deny benefits for early-onset peripheral neuropathy, five decisions to grant and five decisions to deny for chloracne, and five decisions to grant and five decisions to deny for PCT. Though we sought to screen out claim decisions for diabetic neuropathy as part of our text search, it turned out that two of the claim decisions in our sample were for evaluations of diabetic neuropathy rather than early-onset peripheral neuropathy. Thus, the total number of decisions we reviewed for the three selected conditions was 48. However, these two cases were not part of any results or conclusions we discussed in our report.

<sup>8</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014), principles 12 and 14.

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inconsistent interpretations of what is acceptable evidence of manifestation within 1 year of exposure to Agent Orange and whether the guidance was clear regarding when it is necessary for veterans to provide such evidence.

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Review of Scientific Literature on the Manifestation Period for the Selected Conditions

To understand the scientific evidence related to the manifestation period for peripheral neuropathy, chloracne, or PCT following exposure to Agent Orange, we reviewed the National Academy of Sciences' reports on veterans and Agent Orange and interviewed a senior program officer with the academy.<sup>9</sup> To determine whether there is any scientific evidence to support that peripheral neuropathy, chloracne, or PCT could manifest later than 1 year after exposure to Agent Orange, we conducted a search of scientific literature published within the past 10 years that discussed the manifestation of any of the three selected conditions following exposure to dioxin, a toxic by-product of Agent Orange manufacturing. We also reviewed relevant studies cited in the National Academy of Sciences' reports.

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Interviews with VA Officials and Literature Review Used to Inform our Cost Estimate

To develop a general framework for producing a cost estimate of eliminating the 1-year manifestation period requirement for peripheral neuropathy, chloracne, and PCT, we reviewed documentation from VA and the Congressional Budget Office on their methodologies for estimating the cost of when new presumptions have been proposed in the past.<sup>10</sup> To better understand the methodologies, we interviewed VA officials about the assumptions they made in producing their estimates, available data to inform our analysis, and any limitations of the data. For example, officials discussed how they used available data from past VA claim decisions to develop part of their estimates and then estimated the number of veterans who were not present in the data by using other

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<sup>9</sup>The National Academy of Sciences produced a series of 12 reports on *Veterans and Agent Orange* from 1994 to 2018 to assess available evidence on various medical conditions and potential associations with Agent Orange exposure. For example, see National Academies of Sciences, Engineering, and Medicine, *Veterans and Agent Orange: Update 11* (Washington, D.C.: The National Academies Press, 2018).

<sup>10</sup>Department of Veterans Affairs, Veterans Benefits Administration, *Presumptive Service Connection for Respiratory Conditions Due to Exposure to Particulate Matter*, RIN 2900-AR25(IFR) (Washington, D.C.: Aug. 5, 2021); Department of Veterans Affairs, *Diseases Associated With Exposure to Certain Herbicide Agents (Hairy Cell Leukemia and Other Chronic B Cell Leukemias, Parkinson's Disease and Ischemic Heart Disease)*, 38 CFR Part 3 RIN 2900-AN54 (Washington, D.C.: Mar. 25, 2010); Congressional Budget Office, *H.R. 299, Blue Water Navy Vietnam Veterans Act of 2019* (Washington, D.C.: May 13, 2019).

sources such as general veteran population estimates and academic literature.

To estimate the number of veterans who were not present in the data, we conducted a literature search to obtain information on the prevalence of the three selected conditions among veterans and the general population. We searched a number of databases for peer-reviewed articles, government reports, and conference papers, among other sources, related to prevalence for each of the three conditions. We reviewed the articles identified in the search results to identify those with findings that were within the scope of our report. We summarized the findings of the relevant articles in a standardized data collection instrument. These instruments and the accompanying articles were reviewed by a methodologist to identify those that could provide prevalence rates relevant to the general veteran population for the three selected conditions. Consequently, we identified two articles that provided high and low estimates of the prevalence of early-onset peripheral neuropathy.<sup>11</sup> We relied on data provided by the Veterans Health Administration (VHA) for estimates of the prevalence of chloracne and PCT.<sup>12</sup>

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<sup>11</sup>Caitlin W. Hicks et al., "Peripheral Neuropathy and All-Cause and Cardiovascular Mortality in U.S. Adults: A Prospective Cohort Study," *Annals of Internal Medicine*, vol. 174, no. 2 (2021): 167-175. See also Dan Ziegler et al., "Prevalence of Polyneuropathy in Pre-Diabetes and Diabetes Is Associated with Abdominal Obesity and Macroangiopathy," *Diabetes Care*, vol. 31, no. 3 (2008): 464-469.

<sup>12</sup>Our literature search also identified articles on prevalence rates for chloracne and PCT. However, these articles examined prevalence among the general population and not Vietnam veterans exposed to Agent Orange. Alternatively, we used prevalence rates for chloracne and PCT that VHA produced using data on the number of Vietnam veterans who had consultations for the conditions at VHA facilities from calendar years 2000 through 2019. VHA officials stated that these data would not necessarily capture every patient who had chloracne or PCT, but would capture any veterans who were seen multiple times for the condition and for whom the condition was not ruled out as a potential diagnosis. We determined that these data were sufficiently reliable for our purpose of developing a range of possible prevalence rates to incorporate into our cost estimate. We also discussed with VHA officials whether they could provide prevalence rates for peripheral neuropathy. However, they stated that many veterans have peripheral neuropathy that is clearly caused by other conditions such as diabetes and that they could not likely identify which instances of peripheral neuropathy were secondary to other conditions. Thus, we determined that the general population prevalence rates for peripheral neuropathy that we identified in our literature search would be the most appropriate option.

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**Appendix I: Additional Information on Selected Methodologies**

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For details on the analysis we conducted to estimate the 10-year cost to VA of removing the 1-year manifestation period requirement for peripheral neuropathy, chloracne, and PCT, see appendix II.

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# Appendix II: Cost Estimate Methodology

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## Overview

The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 includes a provision for GAO to estimate the cost to the Department of Veterans Affairs (VA) of removing the 1-year manifestation period requirement for certain conditions associated with exposure to herbicides.<sup>1</sup>

In general, we estimated the increase in disability compensation payments as veterans apply for and receive the benefit if the 1-year manifestation period requirement were removed for peripheral neuropathy, chloracne, and porphyria cutanea tarda (PCT). We also estimated the cost of health care benefits linked to disability benefits and the administrative cost of processing new disability claims for these conditions.

We used VA data and estimates on disability claim decisions and health care costs, among others. We interviewed VA officials about the methodologies used to estimate the costs to VA from prior changes to presumptive disability conditions and available data and its limitations. We also discussed with VA officials the assumptions and methodology we developed based on our initial meetings and review of prior cost estimates developed by VA and the Congressional Budget Office.<sup>2</sup>

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## Disability Compensation Benefit Costs

To estimate the number of veterans who could apply for and receive disability compensation benefits if the 1-year manifestation period requirement were removed, we established three groups of veterans and assumed all these veterans would be granted disability benefits for these conditions if they applied.<sup>3</sup> For one group, which we describe as the previously denied group, we used VA data on disability claim decisions

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<sup>1</sup>Pub. L. No. 116-315, § 2011(b)(3), 134 Stat. 4932, 4979-80 (2021).

<sup>2</sup>Department of Veterans Affairs, Veterans Benefits Administration, *Presumptive Service Connection for Respiratory Conditions Due to Exposure to Particulate Matter*, RIN 2900-AR25(IFR) (Washington, D.C.: Aug. 5, 2021); Department of Veterans Affairs, *Diseases Associated With Exposure to Certain Herbicide Agents (Hairy Cell Leukemia and Other Chronic B Cell Leukemias, Parkinson's Disease and Ischemic Heart Disease)*, 38 CFR Part 3 RIN 2900-AN54 (Washington, D.C.: Mar. 25, 2010); Congressional Budget Office, *H.R. 299, Blue Water Navy Vietnam Veterans Act of 2019* (Washington, D.C.: May 13, 2019).

<sup>3</sup>We made this assumption in line with similar assumptions VA used in prior estimates, according to VA officials. Further, when counting the number of veterans with denied claims for these conditions, we excluded veterans who were listed as having "No Diagnosis" for the selected condition under the disability basis code in VA's claim decisions data.

(described in app. I) for Vietnam veterans to identify those with denied claims for one of the three conditions. For the other two groups, we started with an estimate of the total number of living Vietnam veterans who served in or off the coast of the Republic of Vietnam, provided to us by VA. We allocated these veterans into the “other rating” groups—those veterans we estimated as having a disability rating from other conditions at the time they would submit an application—and “no rating” groups—those without a rating—using the estimate of all Vietnam veterans that had a disability rating. These latter two groups are similar in that we use prevalence rates for each condition we identified using Veterans Health Administration (VHA) data and academic literature as an important factor in estimating the number of veterans who would have one of the three conditions and be granted disability benefits for their condition.<sup>4</sup> These two groups differ from one another in that we assume that a higher proportion of those in the “other rating” group will apply for benefits for each condition.

We also used the VA claim decisions data to form the basis for our estimates of the number of veterans who might also be eligible for retroactive payments.<sup>5</sup> We estimated the magnitude of any retroactive payments only for veterans in the previously denied group and assumed no other veterans would receive these payments. In the base case, the prevalence rates are 11.6 percent for peripheral neuropathy, 0.06 percent for PCT, and 0.25 percent for chloracne, and the rates at which veterans would apply for benefits (i.e., the take-up rate) are 100 percent for the previously denied group, 80 percent for the other ratings group, and 50

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<sup>4</sup>The prevalence rates we used to develop our estimates differ between the three conditions. Specifically, we used a prevalence rate for peripheral neuropathy of 7.4 percent and 11.6 percent using rates we identified in the academic literature. Based on VHA data on the number of Vietnam veterans with consultations for the conditions at VHA facilities from calendar years 2000 through 2019, we used prevalence rates of 0.06 percent and 0.25 percent for chloracne and 0.02 percent and 0.06 percent for PCT. See Caitlin W. Hicks et al., “Peripheral Neuropathy and All-Cause and Cardiovascular Mortality in U.S. Adults: A Prospective Cohort Study,” *Annals of Internal Medicine*, vol. 174, no. 2 (2021): 167-175. See also Dan Ziegler et al., “Prevalence of Polyneuropathy in Pre-Diabetes and Diabetes Is Associated with Abdominal Obesity and Macroangiopathy,” *Diabetes Care*, vol. 31, no. 3 (2008): 464-469.

<sup>5</sup>Under a consent decree entered into as a result of litigation (referred to as “Nehmer” after the lead plaintiff), veterans receive retroactive payments when VA establishes a presumption of service connection for certain conditions that VA had previously denied a disability claim for. According to VA’s Office of General Counsel, *Nehmer* might not apply to veterans affected by the removal of the 1-year manifestation period requirement, but VA could consider readjudicating *Nehmer* class members previously denied claims absent congressional actions.

percent for the no-ratings group.<sup>6</sup> In the low prevalence and take-up rates case, we reduced the prevalence rates to 7.4 percent for peripheral neuropathy, 0.02 percent for PCT, and 0.06 percent for chloracne, while keeping the take-up rates the same as in the base case. In the high prevalence and take-up rate case, we applied the prevalence rates we used in the base case, but raised the take-up rates to 100 percent for the other ratings group and 75 percent for the no-ratings group. The numbers of veterans estimated to be in each group are presented in table 2 below.<sup>7</sup> We did not make determinations about benefits eligibility for any specific veterans. Regarding any other VA disability benefits eligibility requirements not discussed in this appendix, we assumed that all veterans included in our analysis would meet those requirements.<sup>8</sup>

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<sup>6</sup>The “base” case was a set of assumptions—using one prevalence rate for each of the three conditions and one rate at which each group of veterans would apply for benefits (i.e., the take-up rate)—from which we began to build our estimate. We then adjusted our assumptions to examine the effect that prevalence rates and take-up rates had on the estimated population of veterans. These specific adjustments served to illustrate the sensitivity of our estimate to changes in these rates.

<sup>7</sup>To ensure the previously denied veterans were not counted twice under the prevalence rate estimates, we subtracted from the other ratings group those veterans who had either been previously denied or granted a disability rating.

<sup>8</sup>For example, to receive VA disability benefits and services, the character of veterans’ discharge or service must not have been under “dishonorable” conditions.

**Table 2: Estimated Number of Vietnam Veterans with Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda, by Case Assumptions Used**

Case assumptions	Condition	Veterans previously denied for the selected conditions	Other veterans with existing disability ratings	Other veterans without existing disability ratings
<b>Base</b>	Peripheral neuropathy	47,064	78,981	40,461
	Chloracne	5,721	1,792	872
	Porphyria cutanea tarda	426	433	209
<b>Low prevalence and take-up rates</b>	Peripheral neuropathy	47,064	50,384	25,811
	Chloracne	5,721	433	209
	Porphyria cutanea tarda	426	144	70
<b>High prevalence and take-up rates</b>	Peripheral neuropathy	47,064	98,726	60,691
	Chloracne	5,721	2240	1,308
	Porphyria cutanea tarda	426	541	314

Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claim decisions, VA data on prevalence rates, and academic literature. | GAO-22-105191

Note: The “base” case was a set of assumptions—using the prevalence rate for each of the three conditions and the rates at which veterans would apply for benefits (i.e., the take-up rate)—from which we began to build our estimate. We then adjusted our assumptions to examine the effect that the prevalence rate and the take-up rate had on the estimated population of veterans. In the base case, the prevalence rates were 11.6 percent for peripheral neuropathy, 0.06 percent for porphyria cutanea tarda (PCT), and 0.25 percent for chloracne. The take-up rates were 100 percent for the previously denied group, 80 percent for the other ratings group, and 50 percent for the no-ratings group. In the low prevalence and take-up rates case, we reduced the prevalence rates to 7.4 percent for peripheral neuropathy, 0.02 percent for PCT, and 0.06 percent for chloracne, while keeping the take-up rates the same as in the base case. In the high prevalence and take-up rate case, we applied the prevalence rates we used in the base case, but raised the take-up rates to 100 percent for the other ratings group and 75 percent for the no-ratings group.

To estimate the population of Vietnam veterans in future years, we aged the veteran populations shown in table 2 using population projections for Vietnam veterans provided by VA. Specifically, we retrieved the year-to-year survivor rates in the population projection to age our population until 2048, the last year of VA’s 2018 population projection.

To estimate changes to disability compensation payments, we used the VA disability compensation payment schedules to calculate the change in (annual) payments that would result from combinations of initial combined disability ratings and new combined ratings from new disability approvals for each of the three conditions. For instance, if a veteran had an initial combined rating of 30 percent, and received a new disability rating sufficient to raise their combined rating to 40 percent, we assumed that veteran would receive an annual increase in disability compensation

payments calculated as the difference between the payments at 40 percent disability and 30 percent disability.<sup>9</sup>

The average increase in disability compensation payments will depend on the initial distribution of veterans' combined ratings and the final distribution of veterans' combined ratings after approval for each of the three conditions. The shift from initial combined ratings to final combined ratings will depend on the distribution of disability ratings for each of the three conditions. In general, conditions that are more disabling are granted larger disability ratings, and result in larger disability compensation payments, than conditions that are typically less disabling. To gather information on the combined ratings of Vietnam veterans, we used information in the VA claim decisions data to generate a distribution of combined ratings of veterans at the time of their most recent denial for each of the three conditions. To gather information on the distribution of disability ratings for each of the three conditions, we used VA claim decisions data on Vietnam veterans granted disability benefits for each of the three conditions.<sup>10</sup> The shares of observed grants with given condition ratings are shown in table 3.

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<sup>9</sup>Given the number of complex factors in our estimate, we assumed all veterans received disability compensation payments at the rates for single veterans without a spouse or dependents for simplicity of analysis. Using the 2022 schedule, the annual difference in compensation payment for this example would be about \$2,471 for a veteran without a spouse or dependents. For more information on VA's disability compensation payment rates, see <https://www.va.gov/disability/compensation-rates/veteran-rates/>.

<sup>10</sup>Peripheral neuropathy can afflict extremities, and veterans may apply for disability for multiple extremities, such as for both feet, both hands, or for all four extremities. If granted benefits, the disability ratings for each extremity would result in a combined rating. To ensure we were not understating typical granted disability ratings, we aggregated the estimated disability ratings for veterans who were granted multiple claim decisions for peripheral neuropathy on the same day.

**Table 3: Estimated Share of Granted Disability Ratings for Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda**

Disability rating	Share of granted disability ratings		
	Peripheral neuropathy	Chloracne	Porphyria cutanea tarda
0	0.056	0.574	0.476
10	0.292	0.299	0.284
20	0.308	0.011	0.010
30	0.049	0.115	0.101
40	0.135	0.000	0.000
50	0.020	0.001	0.000
60	0.047	0.000	0.130
70	0.015	0.000	0.000
80	0.029	0.000	0.000
90	0.012	0.000	0.000
100	0.035	0.000	0.000

Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claim decisions, VA data on prevalence rates, and academic literature. | GAO-22-105191

Using this information, we calculated a weighted average disability compensation payment increase for a set of veterans, given the observed distributions of combined ratings for the veteran populations and disability ratings for each condition. Veterans who we estimated to have lower initial combined ratings and that were approved for conditions at any given disability rating would receive smaller payment increases than veterans with higher initial combined ratings. For example, a veteran starting at a 10 percent combined rating that received a new disability rating that would increase the combined rating to 30 percent would receive an increase in annual compensation of around \$3,777. In contrast, a veteran starting at a 30 percent combined rating that received a new disability rating that would increase the combined rating to 50 percent would receive an increase in annual compensation of around \$5,893. New disability ratings that would increase the combined rating to 100 percent result in a large increase in compensation payments. For instance, a disability rating that would change the combined rating from 90 percent to 100 percent would increase compensation payments by around \$16,002. However, we assumed that veterans who were already rated at 100 percent disability would not see a change in their disability compensation payment.

We calculated weighted average payment increases for each condition separately because the distribution of disability ratings differed. For instance, as shown in table 3 above, almost 60 percent of all granted disability ratings for chloracne and almost 50 percent of all ratings for PCT were a 0 percent disability rating, while only about 6 percent of peripheral neuropathy ratings were at this level. For the no-rating veterans group, the initial combined rating is zero, by definition, so the change in disability compensation payment is the same as VA’s payment amount for the veteran’s new condition rating. As shown in table 4 below, we applied the weighted average payments to the estimated number of Vietnam veterans in each group.

**Table 4: Weighted Average Disability Compensation Payment Increases in the First Year, by Condition and Estimated Vietnam Veterans Group**

Numbers in dollars

Condition	Weighted average payment to “Previously Denied” and “Other Rating” Vietnam veterans	Weighted average payment to “No Rating” Vietnam veterans
Peripheral neuropathy	8,099	6,642
Chloracne	1,705	1,110
Porphyria cutanea tarda	5,009	3,932

Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claim decisions, VA data on prevalence rates, and academic literature. | GAO-22-105191

Note: We assumed the estimated “Previously Denied” and “Other Rating” groups of Vietnam veterans—whom we identified in our analysis of VA claim decisions data and review of other data on the estimated number of veterans in the general population, respectively—may have had a prior disability rating from other conditions at the time they would submit an application. The weighted averages are based on estimated increases in disability compensation payments to veterans who may already be receiving payments. We assumed the “No Rating” groups did not have a prior disability rating and the weighted average is based on these new payments.

In line with prior government estimates of the cost of changes to presumptions,<sup>11</sup> we estimated the cost to VA over 10 years of removing the 1-year manifestation period requirement. To estimate annual disability compensation payments over 10 years, we inflated the first year dollar amounts by 3 percent annually. This approximates the rate at which payments have increased over the last few years. To calculate a total dollar amount for each year in the future, we multiplied the average payment increase by the number of veterans projected to be living in

<sup>11</sup>For example, see Congressional Budget Office, *H.R. 299, Blue Water Navy Vietnam Veterans Act of 2019* (Washington, D.C.: May 13, 2019).

each year. Aggregating across the three conditions, we produced the table below.

**Table 5: Estimated Disability Compensation Payments to Vietnam Veterans If the 1-Year Manifestation Period Requirement Were Removed for Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda**

	Base assumptions	Low prevalence and take-up rates	High prevalence and take-up rates
First year (millions of dollars)	1,309	975	1,605
10 years (billions of dollars) <sup>a</sup>	12.1	9.0	14.9
Net present value <sup>b</sup> (billions of dollars)	15.6	11.6	19.1

Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claim decisions, VA data on prevalence rates, and academic literature. | GAO-22-105191

Note: The “base” case was a set of assumptions—using the prevalence rate for each of the three conditions and the rates at which veterans would apply for benefits (i.e., the take-up rate)—from which we began to build our estimate. We then adjusted our assumptions to examine the effect the prevalence rate and the take-up rate had on the estimated population of veterans. In the base case, the prevalence rates were 11.6 percent for peripheral neuropathy, 0.06 percent for porphyria cutanea tarda (PCT), and 0.25 percent for chloracne. The take-up rates were 100 percent for the previously denied group, 80 percent for the other ratings group, and 50 percent for the no-ratings group. In the low prevalence and take-up rates case, we reduced the prevalence rates to 7.4 percent for peripheral neuropathy, 0.02 percent for PCT, and 0.06 percent for chloracne, while keeping the take-up rates the same as in the base case. In the high prevalence and take-up rates case, we applied the prevalence rates we used in the base case, but raised the take-up rates to 100 percent for the other ratings group and 75 percent for the no-ratings group. To estimate annual disability compensation payments over 10 years, we assumed an annual inflation rate of 3 percent, which is consistent with the inflation rates in recent years.

<sup>a</sup>These 10-year estimates do not include potential retroactive payments under Nehmer, a consent decree entered into as a result of litigation.

<sup>b</sup>To account for the time value of money, we calculated the net present value of the estimated stream of increased disability compensation payments until 2048, based on available VA veteran population projections, using a discount rate of 3.5 percent.

**Health Care Benefit Costs**

Veterans affected by the removal of the manifestation period requirement may already be enrolled in VA health care and may increase their reliance on those services, or they may newly enroll. VA provided us with information on the average costs of providing health care by the age range of veterans and by enrollment priority group—the veterans’

disability rating can determine enrollment in that group.<sup>12</sup> A change in the veterans' disability ratings can prompt a shift from a lower to higher priority group. According to VA officials, historical utilization shows that veterans in higher enrollment priority groups are more reliant on VHA for health care. Consequently, the average costs for veterans' health care increase as the veterans shift from lower to higher priority groups.

Relying on the distributions of combined ratings and condition ratings we developed to calculate the change in disability compensation payments, we assigned Vietnam veterans to priority groups before and after the addition of new condition ratings for one of the three conditions.<sup>13</sup> We estimated that some veterans would stay in the same priority group and others would move to a higher priority group. In addition, we estimated that some veterans who were part of the no existing rating group were not enrolled in VA health care, based on enrollment data provided by VHA, and assumed these veterans would newly enroll after applying for and receiving disability benefits for one of the three conditions.

For the veterans already enrolled in VA health care that we projected to move from one priority group to another, VA suggested that the best way to quantify the health care cost impact of these changes is to consider them in terms of increased reliance on VA health care. Using reliance rates provided by VA along with the relationships between average health care costs and reliance rates, we calculated the average health care cost impact for each transition between pairs of priority groups. We assumed no health care cost increase for veterans who were estimated to stay in the same priority group.<sup>14</sup> We estimated health care cost impacts for each of the three case scenarios used to estimate the changes in disability compensation costs. The average health care impacts were similar but not identical across the three scenarios. We estimated the average cost

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<sup>12</sup>When veterans enroll in VA health care, they are assigned an enrollment priority group based on their disability rating and military service, among other factors, that helps VA identify who may need more health care. VHA may assign a veteran to the highest priority group if that individual has a disability rating of 50 percent or more. Conversely, VHA may assign a veteran without a disability rating or with a disability rating of 0 percent to a lower priority group. An increase in disability rating may prompt a shift to a higher priority group. Though all Vietnam veterans may qualify for a certain priority group, we did not have data on the number of Vietnam veterans already enrolled in VA health care. Instead, we used data on the number of veterans aged 65-84 as a proxy for the Vietnam veteran population to produce our estimates.

<sup>13</sup>We did not determine health care benefits eligibility for any specific veterans.

<sup>14</sup>In our base case scenario, slightly more than one-third of veterans did not change priority groups.

increase to be \$3,108 in the base case, \$3,028 in the low prevalence and take-up rates case, and \$3,235 in the high prevalence and take-up rates case. We also assumed that the cost of newly enrolled veterans would be equal to the average costs of health care provided by VA with no additional adjustment. We assumed that these dollar values would increase by about 5 percent annually based on VA projections on health care costs in future years. The scenarios differ in the number of affected veterans. The estimated total health care cost increases are presented in table 6.

**Table 6: Estimated Increase in VA Health Care Costs for Vietnam Veterans If the 1-Year Manifestation Period Requirement Were Removed for Peripheral Neuropathy, Chloracne, and Porphyria Cutanea Tarda**

	Base assumptions	Low prevalence and take-up rates	High prevalence and take-up rates
First year (millions of dollars)	547	394	702
10 years (billions of dollars)	5.6	4.0	7.1
Net present value <sup>a</sup> (billions of dollars)	7.8	5.6	10.0

Source: GAO analysis of Department of Veterans Affairs (VA) data on disability compensation claim decisions, VA data on prevalence rates, VA health care cost data, and academic literature. | GAO-22-105191

Note: The “base” case was a set of assumptions—using the prevalence rate for each of the three conditions and the rates at which veterans would apply for benefits (i.e., the take-up rate)—from which we began to build our estimate. We then adjusted our assumptions to examine the effect the prevalence rate and the take-up rate had on the estimated population of veterans. In the base case, the prevalence rates were 11.6 percent for peripheral neuropathy, 0.06 percent for porphyria cutanea tarda (PCT), and 0.25 percent for chloracne. The take-up rates were 100 percent for the previously denied group, 80 percent for the other ratings group, and 50 percent for the no-ratings group. In the low prevalence and take-up rates case, we reduced the prevalence rates to 7.4 percent for peripheral neuropathy, 0.02 percent for PCT, and 0.06 percent for chloracne, while keeping the take-up rates the same as in the base case. In the high prevalence and take-up rates case, we applied the prevalence rates we used in the base case, but raised the take-up rates to 100 percent for the other ratings group and 75 percent for the no-ratings group. To estimate annual disability compensation payments over 10 years, we inflated the first year dollar amounts by 5 percent annually based on VA projections on health care costs in future years.

<sup>a</sup>To account for the time value of money, we calculated the net present value of the estimated stream of increased health care spending until 2048, based on available VA veteran population projections, using a discount rate of 3.5 percent.

## Administrative Costs

To estimate the administrative cost of processing new claims and enrolling veterans who may apply for and receive benefits following the removal of the 1-year manifestation period requirement, we analyzed tables provided by VA that projected the number of hours needed to process disability claims, which included data on processing new claims and claims in which the veterans had previously applied for disability. We multiplied those hours by the number of veterans we estimated would

apply for benefits, as well as ratios for other positions related to processing claims, and calculated the number of full-time equivalent positions needed to process those claims to theoretically avoid impacting VA's ability to process its existing claims workload. We multiplied the number of these full-time equivalents by the average cost per full-time equivalent we calculated using the President's 2023 budget submission.<sup>15</sup> Our estimate did not include the changes to other general operating expenses such as rent and utilities. The administrative costs for increased health care usage were included as part of the VA data on average health care costs by enrollment priority level.

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<sup>15</sup>Department of Veterans Affairs, *Fiscal Year 2023 Budget Submission: Burial and Benefits Programs and Departmental Administration*, volume 3 of 4 (Washington D.C: Mar. 2022).

# Appendix III: Comments from the Department of Veterans Affairs



DEPARTMENT OF VETERANS AFFAIRS  
WASHINGTON

August 11, 2022

Ms. Elizabeth H. Curda  
Director  
Education, Workforce and Income Security  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Ms. Curda:

The Department of Veterans Affairs (VA) has reviewed the Government Accountability Office (GAO) draft report: ***VA Disability: Clearer Claims Processing Guidance Needed for Selected Agent Orange Conditions*** (GAO-22-105191).

VA concurs with GAO's draft report recommendation and the enclosure contains a technical comment and the actions VA will take to address the recommendation. VA appreciates the opportunity to comment on your draft report.

Sincerely,

A handwritten signature in black ink, appearing to read "Tanya Bradsher".

Tanya Bradsher  
Chief of Staff

Enclosure

Enclosure

Department of Veterans Affairs (VA) Comments to the  
Government Accountability Office (GAO) Draft Report  
***VA DISABILITY: Clearer Claims Processing Guidance Needed for  
Selected Agent Orange Conditions***  
(GAO-22-105191)

**Recommendation 1:** The Under Secretary for Benefits should clarify the guidance in its claims processing manual to make clear that claims processors can potentially support a rationale for service connection—or request a medical opinion—for early onset peripheral neuropathy, chloracne, or PCT without medical documentation of the condition from during or within 1 year of service in Vietnam. For example, in sections of the manual that discuss the 1-year manifestation period requirement, VA could define key terms, add examples of acceptable lay evidence, and include cross references to other sections of the manual to help claims processors better understand the guidance.

**VA Response:** Concur. While the guidance on processing claims under presumptive service connection provisions includes relevant details about considering lay evidence regarding manifestation of a claimed disability during the presumptive period (see M21-1, Part IV, Subpart i, 1.B.1.f, "*Presumptive SC Claims*"), this guidance is not referenced within the provisions governing herbicide-related claims procedures (see M21-1, Part VIII, Subpart i.1.A., "*Developing Claims for Service Connection (SC) Based on Herbicide Exposure*"). The Veterans Benefits Administration will evaluate the current content in the claims processing manual and determine how best to add clarity for the 1-year manifestation period for these herbicide-related disabilities.

Target Completion Date: November 1, 2022

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Elizabeth H. Curda, (202) 512-7215 or [curdae@gao.gov](mailto:curdae@gao.gov)

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## Staff Acknowledgments

In addition to the contact name above, the following staff members made key contributions to this report: Nyree Ryder Tee (Assistant Director), Justin Gordinas (Analyst in Charge), Stephen Brown, and David Reed. Also contributing to this report were James Bennett, Caitlin Dardenne, Benjamin DeYoung, Alex Galuten, Jocelyn Kuo, Monica Savoy, Joy Solmonson, Almeta Spencer, Rebecca Kuhlmann Taylor, and Patrick Walsh.

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