



**NVLSP**  
NATIONAL VETERANS LEGAL SERVICES PROGRAM

# **Self-Help Guide: How to Obtain VA Disability Benefits for a Burn Pit-Related Medical Condition Under the PACT Act When VA Previously Denied You Service Connection for the Same Condition**

**Updated: October 2023**

## **Disclaimer**

*This self-help guide provides general information only. It does not constitute legal advice. It also cannot substitute for advice from a VA-accredited representative or attorney who knows the particulars of your case. Use the information in this guide at your own risk. We have made every effort to provide reliable, up-to-date information, but we do not guarantee its accuracy. The information in this guide is current as of October 2023.*

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*Please do not appoint NVLSP to represent you before the VA without our express consent.*

## Who is this guide for?

Before August 10, 2022, thousands of veterans were denied service-connected disability benefits by the Department of Veterans Affairs (VA) for a medical condition resulting from exposure to burn pits and other toxins during military service. This self-help guide is written for those veterans previously denied service connection who have now become entitled to VA disability benefits because of a new law - the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics (PACT) Act. The Honoring Our PACT Act took effect on August 10, 2022 and requires the VA to presume that 24 different medical conditions – including many cancers – are related to exposure to burn pits and other toxins.

These 24 medical conditions are listed on page 3 of this guide. **If you suffer from one of these medical conditions and have a qualifying period of service, and VA previously denied you disability benefits for this same medical condition before August 10, 2022 (the date the PACT Act went into effect), this guide describes the steps you can take to obtain VA disability benefits now that your condition is presumptively service connected.**

We hope this self-help guide will be helpful as you make your way through the VA claims process. We strongly encourage you to contact another Veterans Service Organization (VSO) if you need help with the stages of the process described below. We also encourage you to visit <https://www.va.gov/resources/the-pact-act-and-your-va-benefits/> for more information about how the PACT Act may impact your eligibility for disability benefits.

This guide **does not discuss** how you can obtain VA disability benefits if the VA previously denied you service connection for a medical condition that is **not listed** on page 3 of this guide. If you are one of these veterans, NVLSP may be able to represent you on a disability claim based on that medical condition, at no cost to you. Furthermore, if you were denied for one of the conditions listed on page 3 **on or after August 10, 2022**, despite having a diagnosis for that condition and a qualifying period of service, NVLSP may be able to represent you on this claim as well. Please visit <https://www.nvlsp.org/what-we-do/burn-pits-claims-assistance-program/> for more information about NVLSP's Burn Pits Claims Assistance Program, and how to apply for NVLSP representation.

## How do I prove I have a burn-pit related condition?

When you apply for VA disability benefits, you have to show that your disability is “service connected.” That usually means you have to show the disability likely resulted from, or was aggravated by something that occurred during your active duty service. If you can't show this, the VA will usually deny your claim.

Fortunately, for some medical conditions, proving service connection is easy, because the condition qualifies for what is known as **presumptive service connection**. That means that, under the law, VA must presume your medical condition is related to your service if (1) you are **diagnosed** with one of the presumptive conditions and (2) you have a **qualifying period of service**.

## What are the presumptive conditions?

On August 10, 2022, the Honoring our PACT Act became law. The law made 24 medical conditions **presumptively service connected** for veterans with a qualifying period of service. Those conditions are as follows:

- Asthma (if diagnosed after service)
- Chronic bronchiolitis or obliterative bronchiolitis
- Chronic bronchitis
- Chronic rhinitis
- Chronic sinusitis
- COPD
- Emphysema
- Granulomatous disease
- Interstitial lung disease
- Pleuritis
- Pulmonary fibrosis
- Sarcoidosis
- Brain cancer
- Gastrointestinal cancer
- Glioblastoma
- Head cancer
- Kidney cancer
- Lymphoma cancer
- Melanoma
- Neck cancer
- Pancreatic cancer
- Reproductive cancer
- Respiratory cancer

President Biden and the VA have announced that all of these conditions qualify for presumptive service connection as of August 10, 2022, the date the PACT Act was signed into law.

## What is a qualifying period of service?

You have a qualifying period of service if you served on active duty service in:

- Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, Somalia, the United Arab Emirates, the neutral zone between Iraq and Saudi Arabia, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea, or the Red Sea, on or after August 2, 1990; *or*
- Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen, or Uzbekistan on or after September 11, 2001.

It is important to understand that to be entitled to service connection, it does not matter how long after discharge from a qualifying period of service that the presumptive condition first manifest itself.

## How can I obtain VA disability compensation for one of the 24 medical conditions covered by the PACT Act?

*In addition to the tips below, we **strongly encourage** you to read the instructions VA includes with its claim forms.*

The advice given in the remainder of this guide applies to veterans (1) whose claim for service connection was **denied before August 10, 2022**; (2) who did not appeal within one year of the date of denial; (3) whose medical condition(s) that was the subject of the denial is one of the 24 medical

conditions that is now presumptively service connected; and (4) who has one of the qualifying periods of service listed on page 3 of this guide. For you to obtain service connection for this medical condition, you need to submit a **supplemental claim** for benefits.

### **Step 1 (optional): File an Intent to File a Claim**

Before you submit a detailed claim for disability compensation, you can let VA know you plan to file, using a simple **intent to file a claim** form. There are four ways to file your intent to file a claim:

- **Electronically** – Through VA.gov
- **By mail** – Mail a [VA Form 21-0966](#) (Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC) to VA at:  
Department of Veterans Affairs  
Claims Intake Center  
PO Box 4444  
Janesville, WI 53547-4444  
If you mail your form, we recommend using certified mail so you know the VA has received it.
- **In Person** – Bring the VA Form 21-0966 to your local Regional Office. You can find the address of your local regional office at: <https://www.va.gov/find-locations/?facilityType=benefits>
- **By Phone** – Call the VA at 1-800-827-1000. Tell them you intend to file a claim for compensation.

You do not have to submit an intent to file a claim. However, filing one can give you more time to prepare your formal claim and, at the same time, maximize the amount of money you receive. If you file your formal claim application within **one year** of the date the VA receives your intent to file, the VA will use the date it received the intent to file as the effective date if the VA ultimately grants your claim. This means that, if VA grants your claim for benefits, it will back date that grant and pay benefits all the way back to the date it received your intent to file, rather than the date it received your formal claim. This may result in you receiving significantly more in back benefits than you would have otherwise received.

Submitting an intent to file takes only a few minutes, **so it's a good option if you need some time to gather the evidence you need for your claim**. Keep in mind that VA calculates your effective date based on when it *receives* your intent to file, not when you send it.

### **Step 2: File a Supplemental Claim**

When you are ready to file your claim for benefits, you will need to submit it using an official VA form. The official VA form for supplemental claims is the [VA Form 20-0995](#).

You can file your supplemental claim in one of two ways:

- **Electronically** – Through VA.gov

- **By Mail** – Mail your form, along with any evidence you have to support it, to:  
Department of Veterans Affairs  
Claims Intake Center  
PO Box 4444  
Janesville, WI 53547-4444

*Having trouble finding the right form? The VA posts its forms at <https://www.va.gov/find-forms/>*

Once you file a supplemental claim, the VA will reach out to you to ask if you want to send any more evidence. If you do not respond to them within 30 days, they can start to decide your claim. So, **it's important to send them any evidence they ask for as quickly as possible.**

If you have a diagnosis for a presumptive condition and a qualifying period of service, the VA should grant you service connection, and it will usually pay you benefits retroactive to the date it received your intent to file, or your supplemental claim if you did not file an intent to file. Please note that, if you qualify for a PACT Act presumption, but the VA nonetheless denied your previous claim on or after August 10, 2022 (the date the PACT Act presumptions took effect), VA may have made a mistake in denying your previous claim. In that case, NVLSP's Burn Pits Claims Assistance Program may be able to help. Please visit <https://www.nvlsp.org/what-we-do/burn-pits-claims-assistance-program/> for more information and how to fill out an application for free assistance.

## **Do I need to submit additional evidence with my supplemental claim?**

Part III of the required form -- VA Form 20-0995 – says that to complete your application, you must submit or tell the VA about new and relevant evidence in support of your supplemental claim. But in your type of case, the PACT Act serves as your new and relevant evidence. This means that you are free to submit additional evidence with your supplemental claim, but you are not required to do so. To make sure the VA follows the law, we suggest that you:

- write in Box 13B of your supplemental claim form the date of the VA decision that last denied your disability claim for one of the medical conditions listed on page 3 of this guide; and
- write in Box 13A, the following: Under the PACT Act, I deserve presumptive service connection for the following conditions: [list each medical condition you suffer from that appears on page 3 of this guide].

In some cases, veterans may want or need to submit more evidence with their supplemental claims. For example, the VA will not grant your supplemental claim if your VA claims file does not contain sufficient medical evidence that you suffer from the medical condition for which you are seeking benefits. In many cases, when the VA previously denied service connection, it already had a medical diagnosis showing that the veteran suffered from the medical condition in question. But in your case, if the VA does not yet have any medical records showing you've been diagnosed with your claimed condition, you may want to obtain and submit this diagnosis with your claim. While not required, you can do this by going to a private, non-VA doctor and asking the doctor to fill out a Disability Benefits Questionnaire (DBQ) for you. These "DBQs" contain questions about the symptoms and history of your condition, which will help the VA decide whether to grant you service connection and, if they do, what

disability rating percentage to give you. You can find a list of DBQs here:

[https://www.benefits.va.gov/compensation/dbq\\_publicdbqs.asp](https://www.benefits.va.gov/compensation/dbq_publicdbqs.asp).

Instead of getting medical records yourself, you can also tell VA to try to get them for you. To do that for non-federal medical records, complete and submit a [VA Form 21-4142](#) and a [VA Form 21-4142a](#) with your claim. The VA will inform you if it isn't able to obtain these records, usually by sending you a letter in the mail. For federal medical records, like records from the VA, simply list the name and location of the place where you received treatment in Box 15 of your supplemental claim form.

Finally, the VA may ask you to report to a VA medical exam if it thinks you need one for VA to decide your claim (for example, if you do not yet have a diagnosis for the claimed condition on file). This is part of the VA's **duty to assist** with your claim, which requires VA to help you gather the evidence needed to prove your claim. It is important you show up for exams the VA schedules for you. If you don't, your claim will be decided based on the evidence the VA already has.

## **How can I check the status of my claim at the VA?**

You can check the status of your claim in a couple of ways. The easiest way is by using the online portal at VA.gov (<https://www.va.gov/claim-or-appeal-status/>). You can also call the VA directly at 1-800-827-1000, or email them through the Ask VA portal at <https://ask.va.gov/>. We do *not* recommend writing a letter to the VA to ask about the status of your claim, as the VA tends not to answer them.

## **About the National Veterans Legal Services Program (NVLSP)**

The National Veterans Legal Services Program (NVLSP) is an independent, nonprofit veterans service organization that has served active duty military personnel and veterans since 1981. NVLSP strives to ensure that our nation honors its commitment to its 22 million veterans and active duty personnel by ensuring they have the benefits they have earned through their service to our country. NVLSP has represented veterans in lawsuits that compelled enforcement of the law where the VA or other military services denied benefits to veterans in violation of the law. NVLSP's success in these lawsuits has resulted in more than \$5.4 billion dollars being awarded in disability, death and medical benefits to hundreds of thousands of veterans and their survivors. NVLSP offers training for attorneys and other advocates; connects veterans and active duty personnel with pro bono legal help when seeking disability benefits; publishes the nation's definitive guide on veteran benefits; and represents and litigates for veterans and their families before the VA, military discharge review agencies and federal courts. For more information go to [www.nvlsp.org](http://www.nvlsp.org).