

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12457-N	RSPA-00-7371	Arch Chemicals, Inc., Norwalk, CN.	49 CFR 172.101(i)(3) Col. 8C.	To authorize the transportation in commerce of dry calcium hypochlorite mixture, Division 5.1, in DOT specification flexible intermediate bulk containers. (mode 1)
12460-N	RSPA-00-7355	M&M Service Company, Carinville, IL.	49 CFR 173.315(k)	To authorize the interstate transportation in commerce of a non-DOT specification tank built to MC 330 or MC 331 specifications for use in transporting propane, Division 2.1. (mode 1)

[FR Doc. 00-12872 Filed 5-23-00; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Notice of Meeting

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice of meeting.

SUMMARY: The Advisory Committee to the National Center for State and Local Law Enforcement Training at the Federal Law Enforcement Training Center will meet on June 7, 2000. The agenda for this meeting includes remarks by the Committee Co-Chairs, Karen Wehner, Deputy Assistant Secretary (LE), Department of the Treasury, and Mary Lou Leary, Acting Assistant Attorney General, Office of Justice Programs, Department of Justice; progress reports on initiatives and training programs; and presentations on collaborative programs presented by the National Center.

ADDRESSES: James J. Rowley Training Center, 9200 Powder Mill Road, Laurel, Maryland.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State and Local Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524, 912-267-2322.

Dated: May 17, 2000.

Hobart M. Henson,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 00-12886 Filed 5-22-00; 8:45 am]

BILLING CODE 4810-32-P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such

opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

New Precedent Opinions

VAOPGCPREC 01-2000

Question Presented

a. Is the last sentence of 38 CFR 3.272(h) consistent with 38 U.S.C. 1503(a)(3) in providing that expenses of a veteran's last illness paid by a surviving spouse subsequent to the veteran's death, but prior to the date of entitlement to improved death pension, may not be excluded from countable income for the purpose of determining death pension entitlement?

b. If so: (1) What is the basis for the differing treatment accorded by section 3.272(h) to expenses paid prior to the date of death and those paid after the date of death but before the date of entitlement; and, (2) does Congress' intent in enacting Pub. L. No. 98-369 to limit retroactive payments of pension in the case of claimants who file claims more than 45 days after the date of a veteran's death provide an adequate basis for prohibiting consideration of expenses in determining prospective entitlement for the period following the date of claim?

Held

a. The last sentence of 38 CFR 3.272(h) is inconsistent with 38 U.S.C. 1503(a)(3) in providing that expenses of a veteran's last illness paid by the veteran's surviving spouse subsequent to the veteran's death, but prior to the date of the surviving spouse's entitlement to death pension, may not be deducted from countable income for the purpose of determining entitlement to improved death pension. VA may not rely upon the last sentence of 38 CFR 3.272(h) as a basis for denying a death pension claim or reducing the amount of benefits payable.

b. (1) There is no basis for the differing treatment currently accorded under 38 CFR 3.272(h) for expenses of a veteran's last illness paid prior to the

date of a veteran's death and those paid after the date of death but before the date of a surviving spouse's entitlement to death pension.

(2) Congress' intent in enacting Pub. L. No. 98-369 to limit retroactive payments of pension in the case of claimants who file claims more than 45 days after the date of a veteran's death does not provide an adequate basis for prohibiting consideration of expenses of a veteran's last illness in determining prospective entitlement for the period following the date of a claim for improved death pension.

Effective date: March 28, 2000.

VAOPGCPREC 02-2000

Question Presented

May the Department of Veterans Affairs (VA) through rulemaking authorize special monthly compensation under 38 U.S.C. § 1114(k) (k-rate SMC) for a service-connected mastectomy?

Held

Section 1114(k) of title 38, United States Code, authorizes a special rate of compensation for the disabilities specified in that provision. Neither section 1114(k) nor VA's general rulemaking authority, 38 U.S.C. § 501(a), delegates to VA authority to recognize by rulemaking additional injuries or conditions not specified in section 1114(k) for which the special rate of compensation will be paid. By authorizing that rate of compensation for "anatomical loss or loss of use of one or more creative organs," Congress intended to compensate for loss of a procreative, or reproductive, organ, which does not include the breast. Therefore, VA may not by rulemaking authorize special monthly compensation under section 1114(k) for a service-connected mastectomy.

Effective date: April 3, 2000.

VAOPGCPREC 03-2000

Question Presented

a. When the Department of Veterans Affairs (VA) issues an amendment to a provision of its rating schedule while a claim for an increased rating is pending, what is the proper analysis for

determining whether, and to what extent, the pending claim is governed by the prior rating-schedule provision or the revised rating-schedule provision?

VAOPGCPREC 04-2000

Question Presented

A. Do provisions of paragraph 7.21 in Veterans Benefits Administration (VBA) Adjudication Procedure Manual M21-1 (Manual M21-1), part VI, pertaining to claims involving asbestos-related diseases constitute regulations which are binding on the Department of Veterans Affairs (VA)?

B. Is medical-nexus evidence required to establish a well-grounded claim for service connection for an asbestos-related disease referenced in paragraph 7.21 of VBA Manual M21-1, Part VI, and allegedly due to in-service asbestos exposure?

Held

A.(1) Paragraph 7.21a., b., c., and d.(3) of Veterans Benefits Administration Adjudication Procedure Manual M21-1, Part VI, and the fourth and fifth sentences of paragraph 7.21d.(1) of that manual are not substantive in nature. However, relevant factors discussed in paragraphs 7.21a., b., and c. must be considered and addressed by the Board in assessing the evidence regarding an asbestos-related claim in order to fulfill the Board's obligation under 38 U.S.C. § 7104(d)(1) to provide an adequate statement of the reasons and bases for a decision.

(2) The first three sentences of paragraph 7.21d. (1) of Veterans Benefits Administration Adjudication Procedure Manual M21-1, Part VI, establish a procedure which, in light of current case law, adjudicators are required to follow in claims involving asbestos-related diseases. However, to the extent that paragraph 7.21d.(1) of that manual establishes claim-development procedures, those procedures are only applicable in the case of a well-grounded claim.

(3) Paragraph 7.21d.(2) of Veterans Benefits Administration Adjudication Procedure Manual M21-1, Part VI, should be regarded as substantive. However, that paragraph should not be treated as binding to the extent it may

adversely affect a claimant by requiring that a particular asbestos-related disease be rated by analogy to a specified condition, where a rating more favorable to the claimant would be obtained by reference to current rating criteria for the particular disease in VA's rating schedule. Similarly, where the current rating schedule contains no criteria specific to the asbestos-related disease, paragraph 7.21d(2) should not be treated as binding to the extent it would adversely affect a claimant by requiring that the asbestos-related disease be rated by analogy to a particular condition, where a rating more favorable to the claimant would be obtained by rating by analogy to another disease pursuant to 38 CFR 4.20.

B. Medical-nexus evidence is required to establish a well-grounded claim for service connection for an asbestos-related disease referenced in paragraph 7.21 of Veterans Benefits Administration Adjudication Procedure Manual M21-1, Part VI, and allegedly due to in-service asbestos exposure.

Effective date: April 13, 2000.

Withdrawn Precedent Opinion

VAOPGCPREC 13-94

“* * * G.C. Prec. 13-94 [VAOPGCPREC 13-94] held the following:

Service connection may not be established for a disability incurred following the date on which a veteran was discharged from active military duty, although the discharge was subsequently voided and full active-duty credit granted by a Board for Correction of Military Records to a date after the date on which injury occurred, because the veteran was not engaged in active service at that time.”

VAOPGCPREC 13-94 was overruled by *Spencer v. West*, 2000 WL 266117 (Vet. App., March 13, 2000). Accordingly, VAOPGCPREC 13-94 is hereby withdrawn.

Effective Date: March 13, 2000.

By direction of the Secretary.

Leigh A. Bradley,

General Counsel.

[FR Doc. 00-12867 5-22-00; 8:45 am]

BILLING CODE 8320-01-M