Presumptive Periods for Chronic Diseases and You

Did you know that a service connection for chronic diseases can be granted via legal presumption, even if you weren't diagnosed in service, or you lack the medical records from service?

It's pretty common knowledge that if you file a claim for a particular condition, you have to show that that condition manifested itself during service or had its onset during service. For example, "I have a bum knee because I fell off of a 5-ton and landed on a rock. Here's my service medical records proving it and an x-ray from this year showing degenerative joint disease," or "I didn't have Diabetes Mellitus when I enlisted, but I was diagnosed while in service." This is called a ***Direct Service Connection*** which is the most common way. A Veteran Service Officer at the VAC can explore other alternatives if necessary.

But what do you do if you leave the service, get your DD214 and, 5 months later, you get diagnosed with a disease or condition that you didn't have while in service? You don't have a diagnosis from service. You don't have medical records from service. All you have is this disease that was diagnosed ***after*** service.

This is where two federal regulations become important - 38 C.F.R. 3.303(b)--Principles Relating to Service Connection from the **Code of Federal Regulations** and 38 U.S.C.S 1112(a)--Presumptions Relating to Certain Diseases and Disabilities from the **U.S. Code**. Here's the main takeaway from both of these:

"a chronic disease becoming manifest to a degree of 10% or more within one year from the date of separation...shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service."

In other words, if a chronic disease manifests itself very close to the time that you separated from active duty service (usually within 12 months), it's pretty likely that you actually had that disease/condition in service but you never got it documented or diagnosed. For example, if you left active duty in January of 2015 and then in June of 2015 (the same year), you get diagnosed with Diabetes Mellitus, it's very likely that you had the disease while in service.

If you can show that you developed a chronic disease (listed below) within the presumptive period and you can show a current disability from the disease, then it can be defined as service-connected even if there's no medical link. This makes it considerably easier to file claims for those diseases. Click **Chronic Diseases** to find the full list of qualifying diseases, but a few notable ones are:

> Arthritis
> Hypertension
> Carpal tunnel syndrome
> Organic diseases of the nervous system
> Calculi of the kidney, bladder, or gallbladder
> Primary anemia
> Diabetes mellitus
> Tinnitus
> Peptic ulcers (gastric or duodenal).

Well, that's all well and good, but what if I have one of these conditions/diseases but didn't actually get diagnosed until years after discharge? More good news! The disease doesn't have to be actually diagnosed within the presumptive period as long as you can show that ***symptoms of the disease*** manifested themselves with the presumptive period, as long as the diagnosis follows later.

This route is a little more difficult, in that you'll need to do more legwork for a successful claim, but it's still a viable option. In these situations, where you have a current disability but it wasn't diagnosed in service or within the presumptive period, you'll need to consider doing some of the following actions:

- Get to a doctor and get a current diagnosis.

- Write a statement describing the symptoms that you had during the presumptive period.
- Ask for lay (buddy) statements from friends and family describing symptoms that they observed during the presumptive period.
- Get your doctor to write you a nexus letter that states "it is more likely than not" that your current condition is linked to the symptoms that manifested during the presumptive period.
- If the condition doesn’t qualify for at least a 10% rating the claim will be denied.

This information can help to build a successful claim. Service medical records are very important, but lacking records doesn’t completely bar you from filing a successful claim.