



National Veterans Affairs and Rehabilitation Commission

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K. Robert Lewis, Chairman - Connecticut

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08-09

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VA Published Final Rule on PTSD Change


Background

On March 31, 2009, the Department of Veterans Affairs (VA) published a final rule amending 38 CFR § 3.304(f) to relax the requirement for establishing the in-service occurrence of stressor events for service-members diagnosed with Post Traumatic Stress Disorder (PTSD) while still in service. Previously, even service-members diagnosed with the disorder while on active duty service were required to provide evidence corroborating the occurrence of a claimed stressor event.

The revised rule relaxed that requirement in the following circumstances. For service-members diagnosed with PTSD while still in-service, provided that the claimed stressor is related to the veteran's service, and provided that the claimed stressor is consistent with the circumstances, conditions and hardships of the veteran's service; the veteran's lay testimony alone may establish the occurrence of the claimed stressor event.

An interim final rule was published on October 29, 2008. A 30-day comment period was provided, culminating on November 28, 2008. At the conclusion of the period, the VA affirmed the amendments in the interim final rule to be the final rule. Furthermore, without any changes made to an interim final rule already in effect, VA concluded under 5 USC § 553 that good cause was shown to dispense with a delayed effective date based on the conclusion that such procedure would be impractical, unnecessary, and contrary to the public interest.

Service Officers of The American Legion should ensure that the provisions and circumstances established by this rule change are properly adhered to, and that the veterans they are providing service to are properly benefiting from this rule change wherever applicable.



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