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On appeal from the  
Department of Veterans Affairs Regional Office in Detroit, Michigan

THE ISSUES

1. Entitlement to service connection for diabetes mellitus due to exposure to herbicides.
2. Entitlement to service connection for peripheral neuropathy of the right upper extremity due to exposure to herbicides.
3. Entitlement to service connection for peripheral neuropathy of the left upper extremity due to exposure to herbicides.
4. Entitlement to service connection for peripheral neuropathy of the right lower extremity due to exposure to herbicides.
5. Entitlement to service connection for peripheral neuropathy of the left lower extremity due to exposure to herbicides.
6. Entitlement to service connection for heart disease due to exposure to herbicides.

REPRESENTATION

Appellant represented by:            Vietnam Veterans of America

WITNESS AT HEARING ON APPEAL

Veteran

ATTORNEY FOR THE BOARD

J. W. Loeb, Counsel

INTRODUCTION

The Veteran served on active duty from November 1963 to September 1967. The evidence on file shows that the Veteran's active duty included service in Thailand and Guam. This matter comes before the Board of Veterans' Appeals (Board) on appeal from a January 2009 rating decision of the Department of Veterans Affairs (VA) Regional Office (RO) in Detroit, Michigan.

The Veteran testified at a videoconference hearing with the undersigned in June 2015, and a transcript of the hearing is of record.

The appeal is REMANDED to the Agency of Original Jurisdiction (AOJ). VA will notify the Veteran if further action is required.

REMAND

The Veteran contends that the disabilities at issue are the result of exposure to herbicides and other toxins while in service in Thailand and Guam. He has contended that he was an aircraft mechanic on the flight line at Anderson Air Force Base in Guam in 1965, which was near where Agent Orange was stored, and that Agent Orange was sprayed around the perimeter of the base on a regular basis.

An effort was made to determine whether the Veteran was exposed to herbicides as alleged in accordance with the procedures set forth in VA's Adjudication Procedure Manual, the "M21-1 MR," which directs VA to verify potential Agent Orange exposure with the Department of Defense (DOD), via the VA Compensation Service. According to a January 2010 response from the United States Army and Joint Services Records Research Center (JSRRC), available historical data does not document the spraying, testing, storage, or usage of tactical herbicides, such as Agent Orange, in Guam during 1965.

According to records from DoD, while there may have been some small scale use of commercial herbicides for brush and weed clearing in Guam, records of such activity were not kept by DoD and DoD would have no way to know the chemical content of any such non-tactical herbicide use. In this regard, the Board takes notice of an article entitled "Public Health Assessment Andersen Air Force Base Yigo, Guam", published by the Department of Health and Human Services Agency for Toxic Substances & Disease Registry (ATSDR), which shows that dioxins have been detected in soil at the Anderson Air Force Base in Guam. See [http://www.atsdr.cdc.gov/HAC/PHA/anderson/and\\_p4.html](http://www.atsdr.cdc.gov/HAC/PHA/anderson/and_p4.html).

A review of the Public Health Assessment report indicates that on-site investigations conducted in 1993, 1999, and 2000 released that decades of military practices had potentially affected soil at many areas of Anderson Air Force Base. During the decades of military use, chemicals were used and stored in various locations on the base and spilled during routine aircraft, vehicle, and ground maintenance operations. Wastes from military and housing operations were buried in two landfills at the south end of the North Field runways from 1946 to the late 1970s. Soil and groundwater beneath these landfills, and in dozens of other areas on base, may have been contaminated over the years by routine waste disposal, military operations, and occasional fuel spills. See <http://www.atsdr.cdc.gov/HAC/pha/pha.asp?docid=1383&pg=1#backa>.

Thus, while there is no affirmative evidence that the Veteran was in fact exposed to Agent Orange in service, the evidence does reflect possible exposure to contaminated soil and ground water. Accordingly, these matters are remanded to obtain a medical opinion regarding the likelihood that any claimed disability resulted from this possible contamination.

Accordingly, the case is REMANDED for the following actions:

1. The AMC/RO should arrange for the Veteran's claims folder and electronic records to be reviewed by a VA clinician with the appropriate expertise to provide an opinion as to the likely etiology of the Veteran's diabetes mellitus, peripheral neuropathy of the upper and lower extremities, and heart disease.

The clinician should be asked to review the record, to include evidence of possible exposure to environmental contaminants in Guam and Thailand, as well as the Veteran's lay statements regarding his exposure to toxins in service.

The clinician should provide an opinion as to whether it is as likely as not (50 percent probability or greater) that the Veteran's diabetes mellitus, peripheral neuropathy of the upper and lower extremities, and/or heart disease is related to the Veteran's period of military service, to include any exposure to environmental toxins and/or non-tactical herbicides used for brush and weed clearing.

If the clinician's opinion is negative, the clinician must discuss why evidence of the Veteran's possible exposure to contaminated soil and ground water in Guam does not support his claim. The clinician should also set forth an etiology for the Veteran's diabetes mellitus, peripheral neuropathy of the upper and lower extremities, and heart disease, to the extent that it is possible to do so.

If the clinician determines that that any claimed disability (diabetes mellitus, peripheral neuropathy of the upper and lower extremities, and/or heart disease) is attributable to service, the clinician should also opine as to whether it is at least as likely as not that any other claimed disability was either caused or have made chronically worse by the disability determined to be related to service.

A reasoned explanation for all opinions is required that considers such things as whether the etiology of any claimed disability is something other than the Veteran's possible exposure to environmental toxins and includes reference to supporting lay or medical evidence contained in the claims folder, or to known medical principles relied upon in forming any opinion.

If the clinician determines that he/she cannot provide any requested opinion without resorting to speculation, the clinician should explain the inability to do so, identifying precisely what facts could not be determined. In particular, he/she should comment on whether an opinion could not be rendered because the limits of medical knowledge have been exhausted regarding the etiology of any diagnosed disorder or whether additional testing or information could be obtained that would lead to a conclusive opinion. See *Jones v. Shinseki*, 23 Vet. App. 382, 389 (2010). (If the clinician indicates that examination of the Veteran is necessary, the AMC/RO should schedule the Veteran for a VA examination so that definitive opinions can be obtained.)

If the clinician determines that an examination of the Veteran is necessary to provide a reliable opinion, such examination should be scheduled and the Veteran informed as to the consequences for failure to report for a VA examination without good cause in accordance with 38 C.F.R. § 3.158, 3.655 (2014). However, the Veteran should not be required to report for another examination as a matter of course, if it is not found to be necessary. The record, including a copy of this remand, must be made available to the reviewer/examiner in conjunction with the evaluation.

2. The AMC/RO should review the opinion report to ensure that it complies with the terms of this remand and the questions presented in the requests. The AMC/RO should ensure that the clinician has provided a detailed rationale for all opinions. The AMC/RO is reminded that if the clinician merely states that it is his/her opinion that a condition was not caused by service, to include the Veteran's possible exposure to environmental toxins, that opinion is not an adequate unless supported by an explanation based on the record and pertinent medical principles.

3. After undertaking any other development deemed appropriate, the AMC/RO should re-adjudicate the issues remaining on appeal. If any benefit sought on appeal is not granted, the Veteran and his representative should be furnished with a supplemental statement of the case (SSOC) and afforded an opportunity to respond before the record is returned to the Board for further review.

The Veteran has the right to submit additional evidence and argument on the matters the Board has remanded. *Kutscherousky v. West*, 12 Vet. App. 369 (1999). This claim must be afforded expeditious treatment. The law requires that all claims that are remanded by the Board or by the United States Court of Appeals for Veterans Claims for additional development or other appropriate action must be handled in an expeditious manner. See 38 U.S.C.A. §§ 5109B, 7112 (West 2014).

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L. M. BARNARD  
Acting Veterans Law Judge, Board of Veterans' Appeals

Under 38 U.S.C.A. § 7252 (West 2014), only a decision of the Board is appealable to the United States Court of Appeals for Veterans Claims. This remand is in the nature of a preliminary order and does not constitute a decision of the Board on the merits of your appeal. 38 C.F.R. § 20.1100(b) (2014).