Making Sense of the Inscrutable:
ACDUTRA/INACDUTRA, National Guard and Reserve Service

Case Development

DEFINITIONS

• Veteran – a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. See 38 U.S.C.A. § 101(2); 38 C.F.R. § 3.1(d).

• Active Duty – full-time duty in the Armed Forces, other than active duty for training, or service as a cadet or midshipman at a Military Academy. This includes authorized travel to or from such duty or service. See 38 U.S.C.A. § 101(21); 38 C.F.R. § 3.6(b).

• Active Duty for Training (ACDUTRA) – full-time duty performed by Reserves for training purposes. Specific rules for National Guard are noted below. This includes authorized travel to or from such duty. The term does not include duty performed as a temporary member of the Coast Guard Reserve. See 38 U.S.C.A. § 101(22); 38 C.F.R. § 3.6(c).

• Inactive Duty for Training (INACDUTRA) – duty (other than full-time duty) prescribed for Reserves. Specific rules for National Guard are noted below. This term does not include work or study performed in connection with correspondence courses, attendance at an educational institution in an inactive status, or duty performed as a temporary member of the Coast Guard Reserve. See 38 U.S.C.A. § 101(23); 38 C.F.R. § 3.6(d).

• Active Military, Naval, or Air Service – active duty; any period of ACDUTRA during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in the line of duty; any period of INACDUTRA in which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty or from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training. See 38 U.S.C.A. § 101(24); 38 C.F.R. § 3.6(a).

To be awarded benefits for reserve service, a service member must die or become disabled as a result of an injury during INACDUTRA or an injury or disease during ACDUTRA.
**SERVICE COMPONENTS**

- **Regular Forces**
  Comprised of: Army, Air Force, Navy, Marine Corps, Coast Guard. Service is “active duty” as defined at 38 U.S.C.A. § 101(21); 38 C.F.R. § 3.6(b).

- **Reserve Forces**
  Comprised of: Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard of the United States, and Air National Guard of the United States. Unless specifically involving a period of “active duty” as noted on a DD 214, service in these components is generally “ACDUTRA” or “INACDUTRA.” See 38 U.S.C.A. § 101(27); 38 C.F.R. § 3.1(b).

- **National Guard**
  Comprised of: Army National Guard and Air National Guard. These are State Forces which can come under Federal control. Unless specifically involving a period of “active duty” as noted on a DD 214, service in these components is generally “ACDUTRA” or “INACDUTRA.”

- **Individual Ready Reserve (IRR)**
  Comprised of: former active duty or reserve military personnel. An individual assigned to the IRR receives no pay and is not obligated to drill, conduct annual training, or participate in any military activities (except for periodic Muster activities) until activated by Presidential Reserve Callup Authority. As such, IRR is not recognized as a period of service for which any claimant can obtain benefits (unless activated, where IRR becomes active duty service).

To have basic eligibility for veterans benefits based on a period of duty as a member of a state Army National Guard, a National Guardsman must have been ordered into Federal service by the President of the United States, see 10 U.S.C.A. § 12401, or must have performed “full-time duty” under the provisions of 32 U.S.C.A. §§ [315], 502, 503, 504, or 505. See 38 U.S.C.A. §§ 101(21), (22)(C); see also 32 U.S.C.A. §§ [315] (providing for detailing of regular members of the U.S. Army and Air Force to duty with the Army or Air National Guard of each State); 502(a)(2) (stating that "each company, battery, squadron, and detachment of the National Guard ... shall ... participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year"); 503 (providing for participation in field exercises); 504 (dealing with National Guard Schools and small arms competitions); 505 (dealing with U.S. Army and Air Force schools and field exercises).

RECORD MIGRATION

- **General**: The VA Records Management Center (RMC) does not accept or store service treatment records (STRs) belonging to individuals with no active duty service.

- **Army** M21-1MR, III.iii.2.B.13.
  - After separation, STRs are sent to the RMC with a copy of the DD 214 if a claim has not been filed, this includes STRs for service members with reserve obligation.
  - STRs belonging to a member of the National Guard or Reserves who has never been on active duty are never sent to the RMC.

  The Army began scanning Enlisted Official Military Personnel Files (OMPFs) in an optical imaging format in the Permanent Electronic Records Management System (PERMS) at the Enlisted Records and Evaluation Center (BREC) at Fort Benjamin Harrison on July 2, 2002. VA Regional Offices (ROs) have access to these records through the PIES/DPRIS interface.

  - If no reserve obligation: OMPF is electronically transferred to the Army Human Resources Command (HRC) in St. Louis for archiving.
  - If reserve obligation and assigned to a Reserve or National Guard component: OMPF is transferred to that component for maintenance and safekeeping.
  - If reserve obligation but does not join a specific Reserve component: OMPF transferred to the HRC.

  STRs and service personnel records (SPRs) were sent to the Naval Reserve Personnel Center (NRPC) until completion of any service obligation; after discharge (end of service obligation including reserve time), records were sent to National Personnel Record Center (NPRC). *do not confuse NRPC and NPRC.*

  - If the service member is discharged or retired and does not have a reserve obligation, has a reserve obligation but is not in an active reserve unit, or is on the Temporary Disabled Retired List, STRs are sent to RMC.
  - If a claim is filed prior to discharge, the STRs are sent to the RO or the Benefits Delivery at Discharge (BDD) site.
  - If the service member is assigned to an active reserve unit: the reserve unit maintains the STRs and paper copies of the SPRs, and certain SPRs (enlistment records, DD 214) are scanned and stored electronically on EMPRS (see below).
  - STRs belonging to a member of the National Guard or Reserves who has never been on active duty are never sent to the RMC.
  - Line of duty determinations are at the Office of the Judge Advocate General (date of determination December 31, 1995 or earlier) or the office of the commanding officer.
over the location/facility where the incident occurred (date of determination January 1, 1996 or after).

- SPRs are sent to the NRPC where they are held until completion of service obligation and then sent to NRPC after discharge, at least until January 1, 1997 (see below).

On or after January 1, 1996, SPRs are stored electronically as image files in the Navy’s Electronic Military Personnel Records System (EMPRS). These are available through the PIES/DPRIS interface.

  - If no reserve obligation: STRs and SPRs sent to Air Force Military Personnel Center, Randal Air Force Base, Texas, for 3 to 6 months and then sent to NPRC.
  - If reserve obligation: STRs and SPRs sent to Reserve unit (if assigned) or Air Reserve Personnel Center.

- Air Force (on or after May 1, 1994) M21-1MR, III.iii.2.B.15.a.
  - If no reserve obligation: SPRs sent to Air Force Personnel Center and STRs sent to RMC.
  - If reserve obligation M21-1MR, III.iii.2.B.15.b. and c.
    - If Inactive Ready Reservist or Active Reservist not assigned to a unit, STRs and SPRs are sent to the Air Reserve Personnel Center.
    - If Active Reserve or Air National Guard unit, STRs and SPRs are maintained by the unit.

- Air National Guard M21-1MR, III.iii.2.B.15.d.
  When a veteran leaves the Air National Guard, records are sent to the state headquarters, the Office of the Adjutant General.

- Air Force Reserves Retirement M21-1MR, III.iii.2.B.15.e.
  STRs are sent to RMC.

On or after October 1, 2004, SPRs are stored in the Automated Records Management System (ARMS) and are available electronically through the PIES/DPRIS interface. STRs are still sent to the RMC.

  Active duty STRs and SPRs were sent to USMC Headquarters in Quantico, VA, which were then sent to NPRC one year after retirement or end of military obligation.
• Marine Corps (on or after May 1, 1994) *M21-1MR, III.iii.2.B.16.b.*
  o If no reserve obligation: STRs are sent to RMC and SPRs handled as above (until January 1, 1998, see below).
  o If reserve obligation and assigned to unit: the unit to which the Veteran is assigned maintains custody of all STRs.
  o If reserve obligation but inactive or not assigned to a unit: Active duty STRs are sent to RMC.

  On or after January 1, 1998, SPRs are scanned and stored electronically in the Optical Digital Imaging-Records Management System (ODI-RMS). These are available through the PIES/DPRIS interface. STRs are still sent to RMC.

• Marine Corps (after reserve obligation expires). *M21-1MR, III.iii.2.B.16.b.*
  STRs are forwarded to the RMC.

• Coast Guard (retire or discharge with no further obligation) *M21-1MR, III.iii.2.B.17.a.*
  o Prior to December 14, 2004, records sent to Coast Guard Personnel Command, which forwarded STRs to RMC and SPRs to NPRC. If discharge prior to May 1, 1998, STRs were sent to NPRC.
  o On or after December 14, 2004, separating unit sends STRs to RMC.

• Coast Guard with IRR obligation *M21-1MR, III.iii.2.B.17.b.*
  STRs and SPRs maintained by Coast Guard Personnel Command, Reserve Personnel Management Branch, until the veteran either resumes drilling or the reserve obligation ends.

• Coast Guard Veteran in an Active Reserve Unit *M21-1MR, III.iii.2.B.17.c.*
  STRs and SPRs maintained by the unit or a maintenance logistic center or integrated support command. Records requests to units will be forwarded by the unit if records at one of the later facilities.

• Coast Guard after expiration of obligation or retirement from Reserves *M21-1MR, III.iii.2.B.17.d.*
  STRs and SPRs sent to Coast Guard Personnel Command and then STRs are sent to RMC and SPRs are sent to NPRC. Refer to the *M21-1MR* for retired reservists under the age of 60.

Addresses of the State Adjutant Generals are located at *M21-1MR, III.iii.2.K.79.a.*
**Decision Writing**

**“VETERAN” STATUS**

- Generally, in order to qualify for VA benefits, a claimant must be a veteran. *See Dingess v. Nicholson*, 19 Vet. App. 473, 484 (2006) (status as a “veteran” is one of the five elements of a claim for service-connection benefits). One of the benefits administered by VA that is reserved specifically for veterans is disability compensation. Accordingly, in order to establish entitlement to disability compensation benefits, a claimant must first establish “veteran” status.
  
  - How to establish “veteran status”:
    - Serve on active duty;
    - Serve on a period of ACDUTRA and incur or aggravate an injury or disease during that period of ACDUTRA; or
    - Serve on a period of INACDUTRA and incur or aggravate an injury during that period of INACDUTRA.

  
  - In other words, service on active duty alone is sufficient to meet the statutory definition of veteran, however, service on ACDUTRA (or INACDUTRA), without more, will not suffice to give one “veteran” status. *Donnellan v. Shinseki*, 24 Vet. App. 167, 172 (2010).

- No presumptions attach (including soundness, aggravation, or presumptive diseases under service connection) unless “veteran” status is attained (although, as noted below, some presumptions will not apply to periods of ACDUTRA and INACDUTRA). If the claimant did not serve for any period of time on active duty, he or she must establish service connection for a disability on a direct basis first in order to achieve “veteran” status and be entitled to compensation. *Paulson v. Brown*, 7 Vet. App. 466, 470 (1995).

  
  - “Aggravated” under 38 U.S.C.A. § 101(24) has the same meaning as “aggravated” under 38 U.S.C.A. § 1153 – “a preexisting injury or disease will be considered to have been aggravated by active . . . service, where there is an increase in disability during such service, unless there is specific finding that the increase is due to the natural progress of the disease.”
  
  - Thus, proving aggravation must include both elements: 1) there was an increase in disability as to a preexisting injury or disease, and 2) such an increase was beyond the natural progress of that injury or disease.
  
  - Although an ACDUTRA claimant does not need to show that his ACDUTRA training proximately caused the worsening of his preexisting disability, the definition of aggravation in 1153 and incorporated by 101(24) does require that an ACDUTRA claimant establish that there is a causal relationship between the worsening of the claimant’s preexisting condition and his ACDUTRA.
This causal relationship is shown when the claimant establishes that the preexisting condition worsened beyond the natural progress of that condition during service.

As such, “aggravated in the line of duty” as used in 38 U.S.C.A. § 101(24)(B) means that in order for a claimant to establish his status as a “veteran” under 38 U.S.C.A. § 101(24)(B), he must demonstrate that he experienced a permanent increase in disability beyond the natural progress of that disease or injury during the period of ACDUTRA.

The claimant has the burden to establish both elements set forth above (that the preexisting disability worsened in service and that such worsening was beyond the natural progression of the disease). There is no shifting burden as there is when the presumptions of soundness and aggravation apply.

The standard of proof remains the “benefit of the doubt” standard.

ESTABLISHING SERVICE CONNECTION

• Generally, for disability resulting from personal injury suffered or disease contracted in the line of duty, or for aggravation of a preexisting injury suffered or disease contracted in the line of duty, in the active military, naval, or air service, compensation will be paid to any veteran discharged or released under conditions other than dishonorable from the period of service in which such injury or disease was incurred, or preexisting injury or disease was aggravated. 38 U.S.C.A. §§ 1110, 1131.

• Service connection for injury or disease incurred or aggravated during a period of ACDUTRA is warranted. 38 U.S.C.A. § 101(24)(B); 38 C.F.R. § 3.6(a).

• Service connection for only injury incurred or aggravated during a period of INACDUTRA is warranted (injuries include acute myocardial infarction, cardiac arrest, or cerebrovascular accident). 38 U.S.C.A. § 101(24)(C); 38 C.F.R. § 3.6(a).

Injury vs. disease

• An “injury” includes acute myocardial infarction, cardiac arrest, and cerebrovascular accident.

• 38 C.F.R. § 3.6(a) – Active military, naval, and air service includes active duty, any period of ACDUTRA during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of INACDUTRA which the individual concerned was disabled or died from an injury incurred or aggravated in line or duty or from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident which occurred during such training.

• 38 C.F.R. § 3.6(e) – Adjudication of Compensation and Pension for travel to and from periods of ACDUTRA and INACDUTRA

  ▪ (1) Who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and
  ▪ (2) Who is disabled or dies from an injury or covered disease incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training shall be deemed to have been on active duty for training or inactive duty training, as the case may be. VA will determine whether such individual was so authorized or required to perform such duty,
and whether the individual was disabled or died from an injury or covered disease so incurred. In making such determinations, there shall be taken into consideration the hour on which the individual began to proceed or return; the hour on which the individual was scheduled to arrive for, or on which the individual ceased to perform, such duty; the method of travel performed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this paragraph, the burden of proof shall be on the claimant.

- (3) For purposes of this section, the term covered disease means any of the following: (i) an acute myocardial infarction, (ii) a cardiac arrest, and (iii) a cerebrovascular accident.

**ESTABLISHING SERVICE CONNECTION THROUGH PRESUMPTIONS**

- **Presumption of Soundness**
  - *Every veteran* shall be taken to have been in sound condition when examined, accepted and enrolled for service, except as to defects, infirmities, or disorders noted at the time of examination, acceptance, and enrollment, or where clear and unmistakable (obvious or manifest) evidence demonstrates that the injury or disease (1) existed before acceptance and enrollment **AND** (2) was **NOT** aggravated by such service. 38 U.S.C.A. § 1111; 38 C.F.R. § 3.304.
    - Only conditions as are recorded in examination reports are to be considered as noted. 38 C.F.R. § 3.304(b).
      - When no preexisting condition is noted upon entry into service, the veteran is presumed to have been sound upon entry;
      - Burden shifts to government to rebut the presumption of soundness by clear and unmistakable evidence that the veteran’s disability was BOTH:
        - Preexisting AND
        - **NOT** aggravated by service.
      - The government may show a lack of aggravation by establishing that there was no increase in disability during service or that any increase in disability was due to the natural progress of the preexisting condition. 38 U.S.C.A. § 1153.
      - If the burden is met, then the veteran is **NOT** entitled to benefits.
      - If the government fails to rebut the presumption of soundness, the veteran is presumed sound at entry into service.
  - The presumption of soundness applies to all who served on active duty for their period of service on **active duty**.
    - For veterans who have achieved “veteran” status through a prior period of service and claim a disability incurred only during a later period of
ACDUTRA, the presumption of soundness applies ONLY when the veteran has been “examined, accepted, and enrolled for service” and where that examination revealed no “defects, infirmities, or disorders.” *Smith v. Shinseki*, 24 Vet. App. 40, 45–46 (2010).

- Thus a claimant who has “veteran” status through a prior period of active duty and wishes to apply for a disability that was incurred during a period of ACDUTRA must have had an examination prior to entering the period of ACDUTRA during which the injury or disease occurred for the presumption of soundness to apply.
- The examination must reveal no preexisting disabilities.

  - Although not specifically addressed in *Smith*, for veterans who have achieved “veteran” status through a prior period of service and claim a disability incurred only during a later period of INACDUTRA, the presumption of soundness presumably applies in the same situation.
    - Note, however, that examinations are usually not given prior to periods of INACDUTRA.
    - Thus, the presumption of soundness will most likely not apply.

**Why does the presumption of soundness apply to a claimant who has “veteran” status through a prior period of active duty for a current period of ACDUTRA?**

*38 U.S.C.A. § 1111* states “every veteran.”

- Presumption of Aggravation
  - A preexisting injury or disease will be considered to have been aggravated by *active military, naval, or air service*, where there is an increase in disability during such service, unless there is a specific finding that the increase in disability is due to the natural progress of the disease. *38 U.S.C.A. § 1153; 38 C.F.R. § 3.306(a).*
  - The presumption of aggravation applies to all who served on *active duty* for their period of service on active duty.
  - Where a claim is based on a period of ACDUTRA, the presumption of aggravation is not applicable, if the claimant has achieved "veteran" status during a prior period of service. *Smith v. Shinseki*, 24 Vet. App. 40, 48 (2010).
    - In a claim based on a period of *active duty*, the veteran must initially establish only that a preexisting condition worsened during the period of active duty, and at that point, the veteran has the benefit of the presumption of aggravation.
    - With respect to a claim for aggravation of a preexisting condition during ACDUTRA, however, because the “active military, naval, or air service” that,
under 38 U.S.C.A. § 1153, is a prerequisite for benefits based on a theory of aggravation requires the aggravation to occur “in [the] line of duty” (38 U.S.C.A. § 101(24)(B)), the application of 38 U.S.C.A. § 101(24)(B) requires direct evidence both that a worsening of the condition occurred during the period of ACDUTRA and that the worsening was caused by the period of ACDUTRA.

- As BOTH elements are required under the definition of “in [the] line of duty,” just establishing that the condition worsened during service is not enough; thus, the presumption of aggravation does not apply where a claim is based on a period of ACDUTRA.

  - Where a claim is based on a period of INACDUTRA, the presumption of aggravation is not applicable, even if the claimant has achieved “veteran” status during a prior period of service for the same reasons listed above. Smith v. Shinseki, 24 Vet. App. 40, 48 n.7 (2010).

**WHY does the presumption of aggravation NOT apply to a claimant who has “veteran” status through a prior period of active duty for a current period of ACDUTRA?**

38 U.S.C.A. § 1153 specifically uses the term **active military, naval, or air service** (defined under 38 U.S.C.A. § 101(24)).

38 U.S.C.A. § 101(24) requires that the individual concerned was disabled or died from a disease or injury incurred or aggravated in the line of duty during ACDUTRA; or from an injury during INACDUTRA.

Aggravation requires that the claimant prove BOTH ELEMENTS. The presumption of aggravation removes one element that is specifically required under § 101(24).

- Presumption of Service Connection
  - Various diseases are subject to presumptive service connection and are listed under 38 C.F.R. § 3.309 and will be service connected although not otherwise established as incurred if manifested to a compensable degree within the applicable time periods under 38 C.F.R. § 3.307.
  - Any veteran who served in the **active military, naval, or air service** after December 31, 1946, is entitled to presumption service connection for a chronic disease becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service. 38 U.S.C.A. § 1137; 38 C.F.R. § 3.309(a).
  - The presumption of service connection applies to anyone who served on **active duty** for 90 days of active, continuous service. 38 C.F.R. § 3.307(a)(1); Biggins v. Derwinski, 1 Vet. App. 474, 478 (1991).
A claimant whose claim is based on a period of **ACDUTRA** can **never** be entitled to the presumption of service connection. *Smith v. Shinseki*, 24 Vet. App. 40, 47 (2010).

- By definition, the presumption of service connection applies where there is **no evidence** that a condition began in or was aggravated during the relevant period of service.
- By contrast, for a claimant whose claim is based on a period of ACDUTRA to establish entitlement to benefits, there must be **some evidence** that his condition was incurred or aggravated during the relevant period of service.

A claimant whose claim is based on a period of **INACDUTRA** can never be entitled to the presumption of service connection for the same reasons listed above. *Smith v. Shinseki*, 24 Vet. App. 40, 47 n.4 (2010).

**WHY does the presumption of service connection (for chronic diseases) NOT apply to a claimant who has “veteran” status through a prior period of active duty for a current period of ACDUTRA?**

38 U.S.C.A. § 1137 specifically uses the term **active military, naval, or air service** (defined under 38 U.S.C.A. § 101(24)).

38 U.S.C.A. § 101(24) **requires** that the individual concerned was disabled or died from a disease or injury incurred or aggravated in the line of duty **during** ACDUTRA; or from an injury **during** INACDUTRA.

The presumption of service connection only applies where there is no evidence that the disease occurred during service.

**SUMMARY:**

If the claimant achieves “veteran” status through a prior period of active duty service and claims a disability incurring from injury or disease on ACDUTRA (or injury on INACDUTRA), the only presumption that can apply is the presumption of soundness.

There MUST be an entrance examination prior to the period of ACDUTRA or INACDUTRA that the veteran claims the disease or injury occurred. If not, the presumption of soundness does NOT attach. If the claimant has not achieved “veteran” status, then the presumption of soundness does not attach, no matter if an examination occurred prior to the period of ACDUTRA or INACDUTRA.

The Court has not yet answered the following question:
If a claimant establishes veteran’s status for a period of ACDUTRA (or INACDUTRA) and applies for a different disability during that **same period** of ACDUTRA (or INACDUTRA), does the presumption of service connection and/or the presumption of aggravation apply to that claim?
REOPENING CLAIMS

- This includes claims that originally were disallowed because the claimant’s “veteran” status was not established. *Id.* at 1326.
- The duty to assist under 38 C.F.R. § 3.159 applies, except for the duty to get an examination. Relevant records should be obtained.
Hypotheticals


2. During the same period of ACDUTRA Pvt. Malone is first diagnosed with diabetes mellitus, can he establish service connection for this disability?

3. If Pvt. Malone was on a weekend drill (INACDUTRA) when he is first diagnosed with diabetes mellitus, can he establish service connection for that disability?


5. Service connection is awarded for the ankle disability described above. Two weeks after the period of ACDUTRA, Pvt. Malone is diagnosed with myocarditis (a chronic disease under section 3.309(a)), is this disability presumed to have been incurred during the period of ACDUTRA?

6. A previous hip disability is noted at the time Pvt. Malone starts his period of ACDUTRA. He later files a claim for aggravation of that disability including a treatment record from a medic who indicates an increase in the hip disability during the period of ACDUTRA. Does VA have the burden to show that the increase in disability was due to the natural progress of the disease?

7. During a weekend drill (INACDUTRA) Pvt. Malone has a cerebrovascular accident while cleaning some equipment. Can Pvt. Malone establish service connection for the cerebrovascular accident?

Consider if Pvt. Malone served on active duty in the Army prior to his reserve service.

8. Does the presumption of soundness apply to Pvt. Malone’s period of ACDUTRA? Why?
Hypotheticals and Answers


   *Probably, service connection can be awarded for injury incurred during ACDUTRA.*

2. During the same period of ACDUTRA Pvt. Malone is first diagnosed with diabetes mellitus, can he establish service connection for this disability?  
   *Possibly, service connection can be awarded for a disease incurred during ACDUTRA.*

3. If Pvt. Malone was on a weekend drill (INACDUTRA) when he is first diagnosed with diabetes mellitus, can he establish service connection for that disability?  
   *No, service connection cannot be awarded for a disease that occurred during INACDUTRA.*

   *No. The presumption of soundness only applies to a claimant who has “veteran” status.*

5. Service connection is awarded for the ankle disability described above. Two weeks after the period of ACDUTRA, Pvt. Malone is diagnosed with myocarditis (a chronic disease under section 3.309(a)), is this disability presumed to have been incurred during the period of ACDUTRA?  
   *The Court has not specifically addressed whether the presumption of service connection for a chronic disability could apply during a period of ACDUTRA if service connection has been awarded for another disability during that period of ACDUTRA.*

6. A previous hip disability is noted at the time Pvt. Malone starts his period of ACDUTRA. He later files a claim for aggravation of that disability including a treatment record from a medic who indicates an increase in the hip disability during the period of ACDUTRA. Does VA have the burden to show that the increase in disability was due to the natural progress of the disease?  
   *No. The Veteran must show that the worsening occurred during and was caused by the period of ACDUTRA as the presumption of aggravation is not applicable where a claim is based on a period of ACDUTRA.*

7. During a weekend drill (INACDUTRA) Pvt. Malone has a cerebrovascular accident while cleaning some equipment. Can Pvt. Malone establish service connection for the cerebrovascular accident?  
   *Probably. Acute myocardial infarction, cardiac arrest, and cerebrovascular accident are considered injuries.*
Consider if Pvt. Malone served on active duty in the Army prior to his reserve service.

8. Does the presumption of soundness apply to Pvt. Malone’s period of ACDUTRA? Why? *If Pvt. Malone had an entrance examination the presumption of soundness could attach as he is a “veteran” for VA purposes.*