

## **LAW REVIEW 25041**

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### **VA Benefits for Medication Side Effects**

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#### **11.0—Veterans' claims.**

##### **Introduction**

Veterans receiving disability compensation for service-connected conditions often face an additional challenge: managing the side effects of medications prescribed to treat those conditions. What many veterans and their advocates may not realize is that these medication-induced complications can themselves qualify for VA disability benefits through legal doctrines such as secondary service connection. This article examines the legal framework, evidentiary requirements, and strategic considerations for successfully claiming VA benefits when medications prescribed for service-connected conditions cause additional disabilities.

The issue has grown increasingly relevant as medical treatments have become more complex and powerful medications carry

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significant side effect profiles. A recent *Wall Street Journal* article, “Combat Cocktail: How America Overmedicates Veterans,”<sup>3</sup> described how VA has routinely prescribed multiple powerful medications concurrently to treat post-traumatic stress disorder (PTSD), a practice known as polypharmacy. This practice has affected hundreds of thousands of veterans. Critics argue that this approach—sometimes dubbed the “combat cocktail”—can tranquilize veterans to the point of emotional numbness and cause side effects ranging from weight gain to suicidal thoughts.

Obviously, there are some broader issues here, like how and why VA landed on the polypharmacy approach. But for this article, we wanted to focus on the VA disability compensation aspects. Veterans suffering from side effects of prescribed drugs do have options for compensation. From antipsychotics that cause metabolic disorders to pain medications that lead to gastrointestinal complications, veterans often find themselves trading one health problem for another. Understanding how to navigate the VA claims process for these secondary conditions is essential for ensuring veterans receive full compensation for all service-related disabilities.

### **Legal Foundation: Secondary Service Connection**

The concept of secondary service connection is codified in 38 C.F.R. § 3.310(a), which provides that disability resulting from a service-connected disease or injury shall be service connected. This regulation establishes that VA must compensate not only the primary service-connected condition but also any disabilities that are proximately caused by that condition or its treatment. The key legal requirement is establishing a causal relationship between the primary service-connected disability and the secondary condition.

When medications are involved, the analysis becomes more nuanced. The veteran must demonstrate that the medication was prescribed specifically to treat a service-connected condition, that

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<sup>3</sup> Shalini Ramachandran & Betsy McKay, “Combat Cocktail: How America Overmedicates Veterans,” *Wall St. J.* (Aug. 2, 2025).

the side effect actually occurred as a result of taking the medication, and that there is a medical nexus connecting the two. The Federal Circuit has consistently held that the standard for establishing secondary service connection is not speculative but requires competent medical evidence showing that the secondary condition is at least as likely as not related to the primary service-connected disability or its treatment.

### **Side Bar: Aggravation**

In addition to direct causation, VA recognizes aggravation of a non-service-connected condition by a service-connected disability as a valid basis for compensation. This principle originates from *Allen v. Brown*, 7 Vet. App. 439 (1995), in which the Court held that veterans are entitled to compensation for “any additional impairment of earning capacity” resulting from the aggravation of a non-service-connected condition by a service-connected one. The current version of 38 C.F.R. § 3.310(b) codifies that holding.

In the context of medication side effects, *Allen* aggravation applies when a service-connected condition—or the medication prescribed to treat it—worsens a preexisting, non-service-connected disability. For example, if corticosteroid therapy prescribed for a service-connected inflammatory disorder exacerbates a veteran’s preexisting diabetes or hypertension, the increase in severity attributable to the medication may be compensable. Establishing aggravation requires medical evidence identifying a baseline level of severity prior to the aggravation and quantifying the degree of worsening due to the service-connected treatment.

### **Understanding Proximate Cause in the VA Context**

The proximate cause standard in VA disability law differs from traditional tort law. VA must apply a liberal interpretation favoring the claimant, as mandated by 38 U.S.C. § 5107(b). This means that if the evidence is in relative equipoise, the benefit of the doubt goes to the veteran. For medication side effects, this principle is particularly

important because establishing causation often involves complex medical relationships where multiple factors may contribute to a condition.

Courts have established that the proximate cause requirement is satisfied when the secondary disability is shown to be produced by, or the result of, a service-connected disability. The medication prescribed for the primary condition serves as the mechanism of injury, but the underlying service-connected condition remains the proximate cause. This distinction is critical for framing legal arguments and developing evidence.

### **Common Medication-Related Secondary Conditions**

Certain categories of medications commonly prescribed for service-connected conditions carry well-documented side effect profiles that can support secondary service connection claims. Antipsychotic medications prescribed for service-connected mental health conditions frequently cause metabolic syndrome, diabetes, and weight gain. These side effects are so well-established that medical literature extensively documents the causal relationship, making them strong candidates for secondary service connection.

Opioid pain medications prescribed for service-connected musculoskeletal conditions can lead to gastrointestinal complications, including chronic constipation, gastroesophageal reflux disease, and gastroparesis. Corticosteroids used to treat various inflammatory conditions may cause osteoporosis, hypertension, diabetes, and cataracts. Immunosuppressive medications can lead to increased susceptibility to infections and certain cancers. Each of these medication-induced conditions has been successfully claimed as secondary to service-connected disabilities.

### **Evidentiary Requirements**

Building a successful claim for medication-related secondary service connection requires careful documentation and strategic evidence

development. The foundation of any claim is the veteran's VA medical records showing that the medication was prescribed specifically for a service-connected condition. These records must clearly document the diagnosis, the treatment rationale, and the prescription history. Gaps in this documentation can undermine even the strongest claims.

The second critical component is medical evidence establishing that the secondary condition is a known side effect of the prescribed medication and that the veteran actually developed this condition while taking the medication. This typically requires a medical opinion from a qualified physician who can review the veteran's complete medical history and provide a nexus opinion. The opinion must address alternative causes and explain why the medication is at least as likely as not the cause of the secondary condition.

Temporal proximity is important but not dispositive. While it strengthens a claim if the secondary condition manifested shortly after beginning the medication, some side effects develop gradually over years of use. In such cases, the medical opinion becomes even more critical in establishing the causal relationship. The opinion should reference medical literature supporting the connection between the specific medication and the claimed side effect.

### **The Role of Medical Literature**

Published medical literature plays a crucial role in supporting medication side effect claims. Package inserts and FDA warning labels provide authoritative evidence of recognized adverse effects. Peer-reviewed studies demonstrating increased risk of specific conditions associated with medication use can bolster claims, particularly when they show statistically significant correlations. Veterans and their representatives should compile relevant literature and ensure examining physicians consider this evidence when formulating their opinions.

## **The Claims Process**

Filing a claim for secondary service connection follows the standard VA claims process but requires strategic framing. The claim should explicitly state that the condition is secondary to a service-connected disability and identify both the primary service-connected condition and the medication that caused the secondary condition. This clarity helps ensure the Regional Office properly develops the claim and orders appropriate examinations.

VA has a duty to assist in developing claims, which includes ordering compensation and pension examinations when necessary. However, representatives should not rely solely on VA examiners to establish favorable nexus opinions. VA examiners may not have specialized knowledge about specific medication side effects or may fail to adequately review the veteran's complete medication history. Submitting a private medical opinion with the initial claim can significantly improve the chances of success at the Regional Office level.

When VA orders a compensation and pension examination, veterans should provide the examiner with a complete medication history, including dosages and duration of use. They should also bring copies of relevant medical literature documenting the side effect they claim. Being prepared with this information can help ensure the examination is thorough and considers all relevant factors.

## **Common Challenges and Strategic Responses**

One frequent challenge in medication side effect claims is VA's assertion that alternative causes exist for the secondary condition. For example, if a veteran claims diabetes secondary to antipsychotic medications, VA may point to other risk factors such as family history, diet, or obesity. The response to this challenge requires a nuanced medical opinion that acknowledges these factors but explains why the medication is nevertheless at least as likely as not a contributing cause.

Medical opinions need not rule out all alternative causes to satisfy the standard of proof. The law requires only that the medication be at least as likely as not a substantial factor in causing the condition. This distinction is critical when developing evidence and arguing cases. A well-crafted medical opinion will address alternative causes but explain the specific ways in which the medication contributed to the condition's development or worsening.

Another common obstacle is inadequate development by Regional Offices. Claims may be denied based on insufficient evidence without VA fulfilling its duty to assist in obtaining necessary evidence. When this occurs, representatives should file an appeal immediately and argue that the Regional Office failed to adequately develop the claim. This may result in a remand for additional development rather than requiring the veteran to start the process anew.

## **The Appeals Process**

Under the Appeals Modernization Act, veterans have three options when appealing a denial: requesting higher-level review, filing a supplemental claim with new and relevant evidence, or appealing directly to the Board of Veterans' Appeals. For medication side effect claims, the supplemental claim lane often provides the best opportunity for success because it allows submission of additional medical evidence and opinions to address deficiencies in the initial claim.

If a case proceeds to the Board, the veteran should consider requesting a hearing where they can testify about their medication use, side effects experienced, and impact on daily functioning. Lay testimony regarding observable symptoms can be valuable, particularly when it corroborates medical evidence. The Board must consider all favorable evidence and apply the benefit of the doubt when evidence is in equipoise.

## **Recent Developments and Case Law**

Recent Board decisions have increasingly recognized medication side effects as compensable secondary conditions, particularly for metabolic disorders caused by antipsychotic medications and gastrointestinal conditions caused by pain medications. The Board has emphasized that veterans should not be penalized for following prescribed treatment regimens, and that side effects from VA-prescribed medications fall squarely within the secondary service connection framework.

The Court of Appeals for Veterans Claims has reinforced the principle that when evidence is in approximate balance, VA must grant service connection. In cases involving medication side effects where medical opinions conflict, the Board must explain why it finds one opinion more persuasive than another. Inadequate explanations provide grounds for appeal, and representatives should carefully scrutinize Board decisions for deficient reasoning.

## **Practical Guidance for Veterans and Advocates**

Veterans experiencing medication side effects should document symptoms as they occur and report them promptly to treating physicians. This contemporaneous documentation creates a strong evidentiary record. They should also maintain records of all medications prescribed for service-connected conditions, including dates, dosages, and any changes to prescriptions. This information becomes invaluable when filing claims years later.

For advocates and attorneys, the key to success lies in thorough evidence development before filing claims. Obtain complete VA medical records and review them carefully to identify all medications prescribed for service-connected conditions. Research the side effect profiles of these medications and identify which conditions the veteran has developed. Secure a detailed medical opinion that specifically addresses the causal relationship and considers alternative causes.



When working with medical experts, provide them with comprehensive information including medication history, relevant medical literature, and specific questions to address. The opinion should explain the mechanism by which the medication caused the secondary condition, reference supporting medical literature, and explicitly state that the condition is at least as likely as not caused by the medication. Vague or equivocal opinions are insufficient.

## **Conclusion**

Secondary service connection for medication side effects represents an important but underutilized avenue for securing full VA disability compensation. While these claims present unique evidentiary challenges, they are grounded in well-established legal principles and supported by extensive medical literature documenting medication adverse effects. Success requires careful documentation, strategic evidence development, and persistence through the claims and appeals process.

Veterans who develop disabilities as a result of medications prescribed for service-connected conditions should not bear the additional burden of uncompensated suffering. The secondary service connection doctrine recognizes that treating service-connected conditions sometimes causes additional harm, and VA must compensate veterans for all disabilities proximately caused by their military service or its treatment. By understanding the legal framework, gathering appropriate evidence, and presenting compelling arguments, advocates can help veterans obtain the benefits they have earned and deserve.

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