



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
SLEEP APNOEA
(Balance of Probabilities)
(No. 69 of 2022)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

Dated 24 June 2022

The Common Seal of the
Repatriation Medical Authority
was affixed to this instrument
at the direction of:

Professor Terence Campbell AM
Chairperson

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1 Name

This is the Statement of Principles concerning *sleep apnoea (Balance of Probabilities)* (No. 69 of 2022).

2 Commencement

This instrument commences on 25 July 2022.

3 Authority

This instrument is made under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

4 Repeal

The Statement of Principles concerning sleep apnoea No. 42 of 2013 (Federal Register of Legislation No. F2013L01133) made under subsection 196B(3) of the VEA is repealed.

5 Application

This instrument applies to a claim to which section 120B of the VEA or section 339 of the *Military Rehabilitation and Compensation Act 2004* applies.

6 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

7 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about sleep apnoea and death from sleep apnoea.

Meaning of sleep apnoea

- (2) For the purposes of this Statement of Principles, sleep apnoea:
- (a) means chronic sleep-related disordered breathing characterised by periods of cessation or reduction in airflow in the upper airway, leading to arousals from sleep and disrupted sleep architecture, which has been diagnosed by a specialist physician; and
 - (b) includes:
 - (i) central sleep apnoea;
 - (ii) mixed sleep apnoea; and
 - (iii) obstructive sleep apnoea.

Note 1: Clinical consequences of sleep apnoea include excessive daytime sleepiness, impaired memory, difficulty concentrating, morning headache, pulmonary hypertension, right heart failure and respiratory failure.

Note 2: *central sleep apnoea*, *obstructive sleep apnoea* and *upper airway* are defined in the Schedule 1 - Dictionary.

- (3) While sleep apnoea attracts ICD-10-AM code G47.30, G47.31, G47.32, G47.33 or G47.39, in applying this Statement of Principles the meaning of sleep apnoea is that given in subsection (2).
- (4) For subsection (3), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification* (ICD-10-AM), Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

Death from sleep apnoea

- (5) For the purposes of this Statement of Principles, sleep apnoea, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's sleep apnoea.

Note: *terminal event* is defined in the Schedule 1 - Dictionary.

8 Basis for determining the factors

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that sleep apnoea and death from sleep apnoea can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: *MRCA*, *relevant service* and *VEA* are defined in the Schedule 1 - Dictionary.

9 Factors that must exist

At least one of the following factors must exist before it can be said that, on the balance of probabilities, sleep apnoea or death from sleep apnoea is connected with the circumstances of a person's relevant service:

- (1) having heart failure at the time of the clinical onset of sleep apnoea;
- (2) having a central nervous system lesion or disorder from the specified list of central nervous system lesions or disorders at the time of the clinical onset of sleep apnoea;

Note: *specified list of central nervous system lesions or disorders* is defined in the Schedule 1 - Dictionary.

- (3) having autonomic neuropathy at the time of the clinical onset of sleep apnoea;

Note: *autonomic neuropathy* is defined in the Schedule 1 - Dictionary.

- (4) having chronic renal failure at the time of the clinical onset of sleep apnoea;

Note: *chronic renal failure* is defined in the Schedule 1 - Dictionary.

- (5) having a neuromuscular disease affecting the diaphragm, other respiratory muscles or upper airway muscles at the time of the clinical onset of sleep apnoea;

Note 1: Examples of a neuromuscular disease affecting the diaphragm, other respiratory muscles or upper airway muscles include myasthenia gravis, postpolio syndrome and motor neurone disease.

Note 2: *upper airway* is defined in the Schedule 1 - Dictionary.

- (6) having acromegaly at the time of the clinical onset of sleep apnoea;

Note: *acromegaly* is defined in the Schedule 1 - Dictionary.

- (7) for obstructive sleep apnoea only:

- (a) having hypothyroidism, including Hashimoto thyroiditis that has resulted in hypothyroidism, at the time of the clinical onset of obstructive sleep apnoea;

- (b) having chronic obstruction or chronic narrowing of the upper airway at the time of the clinical onset of obstructive sleep apnoea;

Note: *upper airway* is defined in the Schedule 1 - Dictionary.

- (c) being obese at the time of the clinical onset of obstructive sleep apnoea; or

Note: *being obese* is defined in the Schedule 1 - Dictionary.

- (d) Being in a supine position when sleeping for at least the 6 months before the clinical onset of obstructive sleep apnoea;

Note: *obstructive sleep apnoea* is defined in the Schedule 1 - Dictionary.

- (8) for central sleep apnoea only, taking a long-acting opioid at an average daily morphine equivalent dose of at least 120 milligrams for at least the 2 months before the clinical onset of central sleep apnoea;

Note: *central sleep apnoea* and *long-acting opioid* are defined in the Schedule 1 - Dictionary.

- (9) having heart failure at the time of the clinical worsening of sleep apnoea;

- (10) having a central nervous system lesion or disorder from the specified list of central nervous system lesions or disorders at the time of the clinical worsening of sleep apnoea;

Note: *specified list of central nervous system lesions or disorders* is defined in the Schedule 1 - Dictionary.

- (11) having autonomic neuropathy at the time of the clinical worsening of sleep apnoea;

Note: *autonomic neuropathy* is defined in the Schedule 1 - Dictionary.

- (12) having chronic renal failure at the time of the clinical worsening of sleep apnoea;

Note: *chronic renal failure* is defined in the Schedule 1 - Dictionary.

- (13) having a neuromuscular disease affecting the diaphragm, other respiratory muscles or upper airway muscles at the time of the clinical worsening of sleep apnoea;

Note 1: Examples of a neuromuscular disease affecting the diaphragm, other respiratory muscles or upper airway muscles include myasthenia gravis, postpolio syndrome and motor neurone disease.

Note 2: *upper airway* is defined in the Schedule 1 - Dictionary.

- (14) having acromegaly at the time of the clinical worsening of sleep apnoea;

Note: *acromegaly* is defined in the Schedule 1 - Dictionary.

- (15) consuming an average of at least 30 grams of alcohol per day for at least the 6 months before the clinical worsening of sleep apnoea;

Note: Alcohol consumption is calculated utilising the Australian Standard of 10 grams of alcohol per standard alcoholic drink.

- (16) for obstructive sleep apnoea only:

- (a) having hypothyroidism, including Hashimoto thyroiditis that has resulted in hypothyroidism, at the time of the clinical worsening of obstructive sleep apnoea;

- (b) having chronic obstruction or chronic narrowing of the upper airway at the time of the clinical worsening of obstructive sleep apnoea;

Note: *upper airway* is defined in the Schedule 1 - Dictionary.

- (c) being obese at the time of the clinical worsening of obstructive sleep apnoea; or

Note: *being obese* is defined in the Schedule 1 - Dictionary.

- (d) Being in a supine position when sleeping for at least the 6 months before the clinical worsening of obstructive sleep apnoea;

Note: *obstructive sleep apnoea* is defined in the Schedule 1 - Dictionary.

- (17) for central sleep apnoea only, taking a long-acting opioid at an average daily morphine equivalent dose of at least 120 milligrams for at least the 2 months before the clinical worsening of central sleep apnoea;

Note: *central sleep apnoea* and *long-acting opioid* are defined in the Schedule 1 - Dictionary.

- (18) inability to obtain appropriate clinical management for sleep apnoea.

10 Relationship to service

- (1) The existence in a person of any factor referred to in section 9, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 9(9) to 9(18) apply only to material contribution to, or aggravation of, sleep apnoea where the person's sleep apnoea was suffered or contracted before or during (but did not arise out of) the person's relevant service.

11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

- (1) if a factor referred to in section 9 applies in relation to a person; and
- (2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(3) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

Schedule 1 - Dictionary

Note: See Section 6

1 Definitions

In this instrument:

acromegaly means a chronic disease of adults resulting from excess production of growth hormone after closure of the epiphyses.

autonomic neuropathy means any neuropathy of the autonomic nervous system, potentially affecting various parts of the body, including the respiratory system.

Note: Autonomic neuropathy can be a complication of many diseases, including diabetes mellitus, chronic alcohol use disorder, autoimmune diseases, spinal cord injury and neurodegenerative diseases.

being obese means having a Body Mass Index (BMI) of 30 or greater.

Note: **BMI** is also defined in the Schedule 1 - Dictionary.

BMI means W/H^2 where:

- (a) W is the person's weight in kilograms; and
- (b) H is the person's height in metres.

central sleep apnoea means a type of sleep apnoea characterised on sleep study by repetitive cessation or decrease of both airflow and respiratory effort during sleep.

chronic renal failure means:

- (a) having a glomerular filtration rate of less than 15 mL/min/1.73 m² for a period of at least 3 months; or
- (b) a need for renal replacement therapy (dialysis or transplantation) for treatment of complications of decreased glomerular filtration rate which would otherwise increase the risk of morbidity and mortality; or
- (c) undergoing chronic dialysis.

long-acting opioid means an opioid drug with a duration of action of at least 3 hours, and used to treat chronic pain or narcotic addiction.

MRCA means the *Military Rehabilitation and Compensation Act 2004*.

obstructive sleep apnoea means a type of sleep apnoea characterised on sleep study by repetitive cessation or decrease of airflow during sleep, despite respiratory effort.

Note: Obstructive sleep apnoea includes upper airway resistance syndrome, which involves prolonged, partial obstruction of the upper airway during sleep.

relevant service means:

- (a) eligible war service (other than operational service) under the VEA;
- (b) defence service (other than hazardous service and British nuclear test defence service) under the VEA; or
- (c) peacetime service under the MRCA.

Note: *MRCA* and *VEA* are also defined in the Schedule 1 - Dictionary.

sleep apnoea—see subsection 7(2).

specified list of central nervous system lesions or disorders means:

- (a) moderate to severe traumatic brain injury;
- (b) spinal cord injury; or
- (c) tumour or lesion of the cervical spine.

terminal event means the proximate or ultimate cause of death and includes the following:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

upper airway means the nasal cavity, nasopharynx, oropharynx, hypopharynx or larynx.

VEA means the *Veterans' Entitlements Act 1986*.