



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
MORBID OBESITY
(Balance of Probabilities)
(No. 44 of 2022)

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

Dated 29 April 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 *morbid obesity (Balance of Probabilities)* (No. 44 of 2022).

2 Commencement

This instrument commences on 30 May 2022.

3 Authority

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

4 Repeal

The Statement of Principles concerning morbid obesity No. 6 of 2014 (Federal Register of Legislation No. F2014L00022) made under subsections 196B(3) and (8) of the VEA is repealed.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 morbid obesity and death from morbid obesity.

Meaning of morbid obesity

- (2) For the purposes of this Statement of Principles, morbid obesity means an excessive accumulation of fat in the body resulting in:

- (a) a Body Mass Index (BMI) of at least 40; or
- (b) in those aged 18 years or younger, a BMI of at least 120 percent of the 97th percentile in the 2007 *World Health Organisation Body Mass Index Charts, for Age and Gender*.

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

Death from morbid obesity

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

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 morbid obesity and death from morbid obesity 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, morbid obesity or death from morbid obesity is connected with the circumstances of a person's relevant service:

- (1) having a caloric intake that is excessive for energy needs for at least the 5 years before the clinical onset of morbid obesity;
- (2) taking a drug from the specified list of drugs for at least the 6 months before the clinical onset of morbid obesity;

Note: *specified list of drugs* is defined in the Schedule 1 - Dictionary.

- (3) taking an antipsychotic drug, excluding aripiprazole and ziprasidone, for at least the 3 months before the clinical onset of morbid obesity;
- (4) taking at least 5 milligrams of prednisone per day, or equivalent glucocorticoid therapy, for at least the 3 months before the clinical onset of morbid obesity;

Note: *equivalent glucocorticoid therapy* is defined in the Schedule 1 - Dictionary.

- (5) having binge eating disorder or night eating syndrome for at least the 1 year before the clinical onset of morbid obesity;

Note: *binge eating disorder* and *night eating syndrome* are defined in the Schedule 1 - Dictionary.

- (6) having a clinically significant disorder of mental health as specified for at least the 3 years before the clinical onset of morbid obesity;

Note: *clinically significant disorder of mental health as specified* is defined in the Schedule 1 - Dictionary.

- (7) having Cushing syndrome for at least the 3 months before the clinical onset of morbid obesity;

- (8) having hypothyroidism, including Hashimoto thyroiditis that has resulted in hypothyroidism, for at least the 3 months before the clinical onset of morbid obesity;
- (9) having a hypothalamic disorder causing excessive eating for at least the 3 months before the clinical onset of morbid obesity;
Note: *hypothalamic disorder* is defined in the Schedule 1 - Dictionary.
- (10) inability to sleep for an average of more than 5 hours per night for at least the 5 years before the clinical onset of morbid obesity;
- (11) undertaking night shift work on at least 500 occasions within a continuous period of at least the 5 years before the clinical onset of morbid obesity;
Note: *night shift work* is defined in the Schedule 1 - Dictionary.
- (12) in a person with a prior history of a regular smoking habit as specified, permanently ceasing to smoke within the 2 years before the clinical onset of morbid obesity;
Note: *regular smoking habit as specified* is defined in the Schedule 1 - Dictionary.
- (13) experiencing severe childhood abuse before the clinical onset of morbid obesity;
Note: *severe childhood abuse* is defined in the Schedule 1 - Dictionary.
- (14) having a caloric intake that is excessive for energy needs for at least the 5 years before the clinical worsening of morbid obesity;
- (15) taking a drug from the specified list of drugs for at least the 6 months before the clinical worsening of morbid obesity;
Note: *specified list of drugs* is defined in the Schedule 1 - Dictionary.
- (16) taking an antipsychotic drug, excluding aripiprazole and ziprasidone, for at least the 3 months before the clinical worsening of morbid obesity;
- (17) taking at least 5 milligrams of prednisone per day, or equivalent glucocorticoid therapy, for at least the 3 months before the clinical worsening of morbid obesity;
Note: *equivalent glucocorticoid therapy* is defined in the Schedule 1 - Dictionary.
- (18) having binge eating disorder or night eating syndrome for at least the 1 year before the clinical worsening of morbid obesity;
Note: *binge eating disorder* and *night eating syndrome* are defined in the Schedule 1 - Dictionary.
- (19) having a clinically significant disorder of mental health as specified for at least the 3 years before the clinical worsening of morbid obesity;
Note: *clinically significant disorder of mental health as specified* is defined in the Schedule 1 – Dictionary.

- (20) having Cushing syndrome for at least the 3 months before the clinical worsening of morbid obesity;
- (21) having hypothyroidism, including Hashimoto thyroiditis that has resulted in hypothyroidism, for at least the 3 months before the clinical worsening of morbid obesity;
- (22) having a hypothalamic disorder causing excessive eating for at least the 3 months before the clinical worsening of morbid obesity;
Note: *hypothalamic disorder* is defined in the Schedule 1 - Dictionary.
- (23) inability to sleep for an average of more than 5 hours per night for at least the 5 years before the clinical worsening of morbid obesity;
- (24) undertaking night shift work on at least 500 occasions within a continuous period of at least the 5 years before the clinical worsening of morbid obesity;
Note: *night shift work* is defined in the Schedule 1 - Dictionary.
- (25) in a person with a prior history of a regular smoking habit as specified, permanently ceasing to smoke within the 2 years before the clinical worsening of morbid obesity;
Note: *regular smoking habit as specified* is defined in the Schedule 1 - Dictionary.
- (26) inability to obtain appropriate clinical management for morbid obesity.

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(14) to 9(26) apply only to material contribution to, or aggravation of, morbid obesity where the person's morbid obesity 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:

binge eating disorder means a disorder of mental health meeting the following diagnostic criteria (derived from DSM-5-TR):

- A. Recurrent episodes of binge eating. An episode of binge eating is characterised by both of the following:
 - 1. Eating, in a discrete period of time (for example, within any two-hour period), an amount of food that is definitely larger than what most people would eat in a similar period of time under similar circumstances; and
 - 2. A sense of lack of control over eating during the episode (for example, a feeling that one cannot stop eating or control what or how much one is eating).
- B. The binge-eating episodes are associated with three (or more) of the following:
 - 1. Eating much more rapidly than normal;
 - 2. Eating until feeling uncomfortably full;
 - 3. Eating large amounts of food when not feeling physically hungry;
 - 4. Eating alone because of feeling embarrassed by how much one is eating; or
 - 5. Feeling disgusted with oneself, depressed, or very guilty afterward.
- C. Marked distress regarding binge eating is present.
- D. The binge eating occurs, on average, at least once a week for three months.
- E. The binge eating is not associated with the recurrent use of inappropriate compensatory behaviour as in bulimia nervosa and does not occur exclusively during the course of bulimia nervosa or anorexia nervosa.

Note: ***DSM-5-TR*** 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.

clinically significant disorder of mental health as specified means one of the following conditions, which is of sufficient severity to warrant ongoing management:

- (a) anxiety disorder;
- (b) bipolar disorder;
- (c) depressive disorder;
- (d) panic disorder;
- (e) personality disorder;
- (f) posttraumatic stress disorder;
- (g) schizophrenia;
- (h) social phobia; or
- (i) specific phobia.

Note 1: Management of the condition may involve regular visits (for example, at least monthly) to a psychiatrist, counsellor or general practitioner.

Note 2: To warrant ongoing management does not require that any actual management was received or given for the condition.

DSM-5-TR means the *American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision*. Washington, DC, American Psychiatric Association, 2022..

equivalent glucocorticoid therapy means a glucocorticoid in the following table, at the doses specified in the table, or a therapeutically equivalent dose of another glucocorticoid:

Glucocorticoid	Minimum average rate (milligrams/day)
betamethasone	0.8
cortisone	25
dexamethasone	0.8
hydrocortisone	20
methylprednisolone	4
prednisolone	5
triamcinolone	4

hypothalamic disorder means a disease or injury that causes structural damage to the hypothalamus.

Note: Examples of conditions that can cause structural damage to the hypothalamus include:

- (i) central nervous system infections;
- (ii) granulomatous infections;
- (iii) raised intracranial pressure;
- (iv) surgery involving the posterior fossa;
- (v) therapeutic radiation;
- (vi) trauma; and
- (vii) tumours.

morbid obesity—see subsection 7(2).

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

night eating syndrome means a disorder of mental health meeting the following diagnostic criteria (derived from DSM-5-TR):

- (a) recurrent episodes of night eating, as manifested by eating after awakening from sleep or by excessive food consumption after the evening meal. There is awareness and recall of the eating.
- (b) the night eating is not better explained by external influences such as changes in the individual's sleep-wake cycle or by local social norms.

- (c) the night eating causes significant distress and/or impairment in functioning.
- (d) the disordered pattern of eating is not better explained by binge-eating disorder or another mental disorder, including substance use, and is not attributable to another medical disorder or to an effect of medication.

Note: *DSM-5-TR* is also defined in the Schedule 1 - Dictionary.

night shift work means working for at least 3 hours between 12 AM and 5 AM.

one pack-year means the amount of tobacco consumed in smoking 20 cigarettes per day for a period of 1 year, or an equivalent amount of tobacco products.

Note 1: An equivalent amount of tobacco products is 7,300 grams of smoking tobacco by weight, either in cigarettes, pipe tobacco or cigars, or a combination of same. For pipe tobacco, cigars or combinations of multiple tobacco types, 1 gram of tobacco is considered to be equal to one cigarette.

Note 2: Pack-years are calculated by dividing the number of cigarettes smoked per day by 20 and multiplying this number by the number of years the person has smoked. For example, smoking 10 cigarettes per day for 10 years is equal to 5 pack-years, and smoking 40 cigarettes per day for 10 years is equal to 20 pack-years.

regular smoking habit as specified means having smoked at least 5 pack-years of tobacco products, within a continuous 5 year period.

Note: *one pack-year* is also defined in the Schedule 1 – Dictionary.

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.

severe childhood abuse means:

- (a) serious physical, emotional, psychological or sexual harm whilst a child aged under 16 years; or
- (b) neglect involving a serious failure to provide the necessities for health, physical and emotional development, or wellbeing whilst a child aged under 16 years;

where such serious harm or neglect has been perpetrated by a parent, a care provider, an adult who works with or around that child, or any other adult in contact with that child.

specified list of drugs means:

- (a) carbamazepine;
- (b) gabapentin;
- (c) insulin;
- (d) lithium;
- (e) maprotiline;
- (f) mirtazapine;
- (g) paroxetine;
- (h) phenelzine;

- (i) pizotifen;
- (j) pregabalin;
- (k) propranolol;
- (l) sulfonylureas;
- (m) thiazolidinediones;
- (n) tricyclic antidepressants including amitriptyline, clomipramine, doxepin, imipramine and nortriptyline; or
- (o) valproic acid.

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.

VEA means the *Veterans' Entitlements Act 1986*.