



MVC

DEPARTMENT OF VETERANS AFFAIRS

**Muskogee Regional Office
125 South Main Street
Muskogee, OK.
74401-7025**

ARLA W. HARRELL

**VA File Number
15 454 527**

**Represented by:
MISSOURI VETERANS COMMISSION**

**Rating Decision
August 8, 2011**

INTRODUCTION

The records reflect that you are a veteran of the World War II and Peacetime Eras. You served in the United States Army from June 20, 1945, to September 15, 1948. We received a request to reopen a previous claim on March 9, 2011. We grant service connection for a disease or disability which began in military service or was caused by some event or experience in service. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. The claim for service connection for pulmonary emphysema, now claimed as chronic lung disease (MG) (claimed as lung damage and ulceration of the lungs) to include as a result of mustard gas exposure remains denied because the evidence submitted is not new and material.



DEPARTMENT OF VETERANS AFFAIRS

VA Regional Office
125 South Main Street
Muskogee OK 74401

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RECEIVED

AUG 16 2011

AUG 10 2011

ARLA W. HARRELL
27234 STATE HIGHWAY BB
BEVIER MO 63532

MO. VETERANS COMM.
In Reply Refer To: 351/21
C 15 454 527
HARRELL, Arla W

Dear Mr. Harrell:

We made a decision on your claim for service connected compensation received on March 9, 2011.

This letter tells you what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

What We Decided

You were previously denied service-connection for the following condition(s) and were notified of the decision on date shown below:

Medical Description	Date of Previous Denial Notification
pulmonary emphysema, now claimed as chronic lung disease (MG) (claimed as lung damage and ulceration of the lungs)	December 21, 1992, and October 3, 1995
Actinic keratosis and skin lesions, now claimed as skin condition of the arms (MG) (claimed as skin cancer due to Mustard Gas exposure)	December 21, 1992, and October 3, 1995



2. The claim for service connection for actinic keratosis and skin lesions, now claimed as skin condition of the arms (MG) (claimed as skin cancer due to Mustard Gas exposure) remains denied because the evidence submitted is not new and material.

EVIDENCE

- Private treatment reports from the Boone Hospital Center dated February 21, 2011.
- Negative response from the Central Office Mustard Gas Database received May 18, 2011.
- Private treatment reports from Dr. Sanjeev Ravipudi, M.D., dated February 15, 2011.
- Private treatment reports from Dr. Lloyd J. Cleaver, D.O., for the period January 28, 2009, to May 25, 2011.
- Outpatient treatment reports from the Kansas City VA Medical Center and Kirksville VA Outpatient Clinic for the period May 2, 2007, to May 18, 2011.
- Final verification from Department of Defense Mustard Gas Database received June 30, 2011.
- Outpatient treatment reports from the Washington VA Medical Center for the period September 8, 2010, to June 1, 2011.

REASONS FOR DECISION

1. Service connection for pulmonary emphysema, now claimed as chronic lung disease (MG) (claimed as lung damage and ulceration of the lungs) to include as a result of mustard gas exposure.

In our rating decision dated December 14, 1992, and notification letter dated December 21, 1992, we denied your claim for service connection for pulmonary emphysema, now claimed as chronic lung disease and previously claimed as lung damage and ulceration of the lungs as due to mustard gas exposure because there is no evidence of treatment for or a diagnosis of a respiratory or lung condition during your military service. There is also no evidence that you were exposed to mustard gas during your active duty service. In order to reopen a claim, new and material evidence must be presented. New and material evidence means evidence not previously submitted to agency decisionmakers which bears directly and substantially upon the specific matter under consideration, which is neither cumulative nor redundant, and which by itself or in connection with evidence previously assembled is so significant that it must be considered in order to fairly decide the merits of the claim. The evidence received of treatment reports from the Washington VA Medical Center, Kansas City VA Medical Center and Kirksville VA Outpatient Clinic, Dr. Lloyd Cleaver and Dr. Sanjeev Ravipudi, does show a current diagnosed respiratory condition with emphysema, but does not constitute as new and material evidence because although new, it does not show that the current lung condition occurred in service or is related to your active duty service. Therefore, our previous denial remains unchanged.

We have denied your claim for service connection for pulmonary emphysema with chronic lung disease as due to Mustard Gas exposure because there is no evidence that you were exposed to mustard gas during your active duty service. A response from VA Central Office received May 18, 2011, states that there is no available evidence that you were exposed to mustard gas during your active duty service. A final verification from Department of Defense Mustard Gas Database received June 30, 2011, shows no verifiable evidence of exposure to mustard gas during your active duty service.

For Mustard Gas: Full-body exposure to nitrogen or sulfur mustard during active military service together with the subsequent development of the following conditions is sufficient to establish service connection for that condition: chronic conjunctivitis, keratitis, corneal opacities, scar formation, or the following cancers: nasopharyngeal; laryngeal; lung (except mesothelioma); or squamous cell carcinoma of the skin. Full body exposure to nitrogen or sulfur mustard or Lewisite during active military service together with the subsequent development of the following conditions is also sufficient to establish service connection for that condition: chronic form of laryngitis, bronchitis, emphysema, asthma, or chronic obstructive pulmonary disease. In addition, full body exposure to nitrogen mustard during military service together with the subsequent development of acute nonlymphocytic leukemia is sufficient to establish service connection for that condition. Entitlement to service connection based on exposure to mustard gas is not established because the evidence does not show full body exposure to mustard gas during active military service. There is no basis in the available evidence of record to establish service connection for pulmonary emphysema with chronic lung disease (MG). This condition did not happen in military service, nor was it aggravated or caused by service.

2. Service connection for actinic keratosis and skin lesions, now claimed as skin condition of the arms (MG) (claimed as skin cancer due to Mustard Gas exposure).

In our rating decision dated October 2, 1995, and notification letter dated October 3, 1995, we denied your claim for service connection for actinic keratosis and skin lesions, now claimed as skin condition of the arms as related to mustard gas exposure, and previously claimed as skin cancer as due to mustard gas exposure because there is no evidence of treatment for or a diagnosis of a skin condition during your military service. There is also no evidence that you were exposed to mustard gas during your active duty service. In order to reopen a claim, new and material evidence must be presented. New and material evidence means evidence not previously submitted to agency decisionmakers which bears directly and substantially upon the specific matter under consideration, which is neither cumulative nor redundant, and which by itself or in connection with evidence previously assembled is so significant that it must be considered in order to fairly decide the merits of the claim. The evidence received of treatment reports from the Washington VA Medical Center, Kansas City VA Medical Center and Kirksville VA Outpatient Clinic, reports from Dr. Lloyd Cleaver and