



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
DIAPHRAGMATIC HERNIA
(Reasonable Hypothesis)
(No. 99 of 2022)

The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

Dated 21 October 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 *diaphragmatic hernia (Reasonable Hypothesis)* (No. 99 of 2022).

2 Commencement

This instrument commences on 21 November 2022.

3 Authority

This instrument is made under subsection 196B(2) of the *Veterans' Entitlements Act 1986*.

4 Application

This instrument applies to a claim to which section 120A of the VEA or section 338 of the *Military Rehabilitation and Compensation Act 2004* applies.

5 Definitions

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

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

- (1) This Statement of Principles is about diaphragmatic hernia and death from diaphragmatic hernia.

Meaning of diaphragmatic hernia

- (2) For the purposes of this Statement of Principles, diaphragmatic hernia:
- (a) means an acquired protrusion of intra-abdominal tissue through the diaphragm into the thoracic cavity; and
 - (b) excludes:
 - (i) congenital diaphragmatic hernia;
 - (ii) eventration of the diaphragm; and
 - (iii) hiatus hernia.

Death from diaphragmatic hernia

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

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

7 Basis for determining the factors

The Repatriation Medical Authority is of the view that there is sound medical-scientific evidence that indicates that diaphragmatic hernia and death from diaphragmatic hernia can be related to relevant service rendered by veterans, members of Peacekeeping Forces, 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.

8 Factors that must exist

At least one of the following factors must as a minimum exist before it can be said that a reasonable hypothesis has been raised connecting diaphragmatic hernia or death from diaphragmatic hernia with the circumstances of a person's relevant service:

- (1) having a surgical procedure that involves the affected region of the diaphragm, excluding the oesophageal hiatus, within the 10 years before the clinical onset of diaphragmatic hernia;

Note: Examples of surgical procedures that can involve the affected region of the diaphragm include liver resection, debulking surgery in ovarian cancer, nephrectomy, biopsy of a lesion on the diaphragmatic peritoneum and coronary artery bypass grafting.

- (2) having acute trauma to the affected region of the diaphragm before the clinical onset of diaphragmatic hernia;

Note: Examples of acute trauma include falling from a height, motor vehicle accidents and gunshot or stab wounds.

- (3) having acute elevation of pressure within the abdominal cavity due to any one of the following:

- (a) Heimlich manoeuvre;
- (b) significant coughing;
- (c) significant physical effort; or
- (d) underwater diving with compressed air;

within the 7 days before the clinical onset of diaphragmatic hernia;

- (4) having endometriosis involving the affected region of the diaphragm before the clinical onset of diaphragmatic hernia;

- (5) having a surgical procedure that involves the affected region of the diaphragm, excluding the oesophageal hiatus, within the 10 years before the clinical worsening of diaphragmatic hernia;

Note: Examples of surgical procedures that can involve the affected region of the diaphragm include liver resection, debulking surgery in ovarian cancer, nephrectomy, biopsy of a lesion on the diaphragmatic peritoneum and coronary artery bypass grafting.

- (6) having acute trauma to the affected region of the diaphragm before the clinical worsening of diaphragmatic hernia;

Note: Examples of acute trauma include falling from a height, motor vehicle accidents and gunshot or stab wounds.

- (7) having acute elevation of pressure within the abdominal cavity due to any one of the following:
 - (a) Heimlich manoeuvre;
 - (b) significant coughing;
 - (c) significant physical effort; or
 - (d) underwater diving with compressed air;

within the 7 days before the clinical worsening of diaphragmatic hernia;

- (8) having endometriosis involving the affected region of the diaphragm before the clinical worsening of diaphragmatic hernia;
- (9) being obese for at least the 2 years before the clinical worsening of diaphragmatic hernia;

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

- (10) being pregnant within the 6 weeks before the clinical worsening of diaphragmatic hernia;
- (11) inability to obtain appropriate clinical management for diaphragmatic hernia.

9 Relationship to service

- (1) The existence in a person of any factor referred to in section 8, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 8(5) to (11) apply only to material contribution to, or aggravation of, diaphragmatic hernia where the person's diaphragmatic hernia was suffered or contracted before or during (but did not arise out of) the person's relevant service.

10 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 8 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(2) 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 5

1 Definitions

In this instrument:

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.

diaphragmatic hernia—see subsection 6(2).

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

relevant service means:

- (a) operational service under the VEA;
- (b) peacekeeping service under the VEA;
- (c) hazardous service under the VEA;
- (d) British nuclear test defence service under the VEA;
- (e) warlike service under the MRCA; or
- (f) non-warlike service under the MRCA.

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

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*.