Taken From
VBA's
Adjudication Procedure Manual
Section on Hepatitis

M21-1, Part III, Subpart iv, 4.I.2

Updated January 11, 2017

2. Hepatitis and Other Liver Disabilities

Introduction This topic contains information about hepatitis, including

- categories of hepatitis recognized for rating purposes
- diagnostic testing required for hepatitis diagnosis
- interpreting lab reports for hepatitis B (HBV)
- interpreting lab reports for hepatitis C (HCV) after 1992
- risk factors for HBV and HCV
- development for hepatitis risk factors
- considering drug abuse in hepatitis claims
- evaluating claims for increase for SC hepatitis awarded due to drug abuse
- considering in-service hepatitis findings
- requesting exams and/or opinions for HBV or HCV
- reviewing hepatitis exams and opinions for sufficiency
- assigning a 0-percent evaluation for HCV
- other causes of liver damage, and
- fatty liver.

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III.iv.4.I.2.a. Categories of Hepatitis Recognized for Rating Purposes There are three categories of hepatitis recognized for rating purposes. The table below describes each type of hepatitis and explains the transmission and prognosis for each.

Type of Hepatitis	Transmission	Prognosis
hepatitis A Virus (HAV), previously called infectious hepatitis	fecal-oral route	acute—seldom severe and does not leave residuals ***Note***: In order to award SC, there must be evidence of chronic residuals related to the hepatitis A infection.
hepatitis B Virus (HBV), previously called serum hepatitis	• blood products • sexual contact	• acute in 90-95 percent of cases, but acute disease can be severe and result in death • chronic in 5-10 percent of cases • Cirrhosis and liver cancer may develop. • A vaccine to prevent HBV infection is available.
hepatitis C (HCV), previously called non-A non-B hepatitis	infected blood	• clinically asymptomatic acute disease • Chronic disease develops in 80 percent of cases following acute phase. • Diagnosis is generally made incidentally many years later.

Note: Infectious hepatitis is common throughout the world and was especially prevalent during World War II (WWII) following administration of the yellow fever vaccine in 1942 and in the Mediterranean Theater.

Reference: For more information on risk factors for HBV and HCV, see M21-1, Part III, Subpart iv, 4.I.2.e.

III.iv.4.I.2.b. Diagnostic Testing Required for Hepatitis Diagnosis

SC for hepatitis requires blood serology testing to establish a diagnosis and identify the type of hepatitis present. Liver function tests (LFTs) are necessary to assess the severity of the disease.

Notes:

- The rating decision should always specify the type of hepatitis for which SC is awarded.
- *Serological tests* determine the presence of antigens and antibodies to the specific virus. The presence of antibodies to the specific virus indicates the infection is present.

The table below describes types of serological testing required to confirm a diagnosis for each type of hepatitis.

Type of Hepatitis	Serology or Other Testing Required	Additional Notes
HAV	anti-HAV (antibodies to hepatitis A virus)	• Anti-HAV are present in the blood one month after the acute illness and persist for life. • Serological blood testing showing the presence of anti-HAV indicates a past acute infection.

HBV	• anti-HBsAg (hepatitis B surface antigen) is present during the acute phase. • HBsAg that persists more than three to six months indicates probable chronic disease or carrier status. • A positive Australian antigen test is sufficient to confirm hepatitis B.	HBV has two antigens, a surface antigen and a core antigen • HBsAg, and • HBcAg (hepatitis B core antigen). Consequently, two types of antibodies appear in the blood • anti-HBs (antibodies to the surface antigen), and • anti-HBc (antibodies to the core antigen).

HCV	• EIA (enzyme immunoassay) or ELISA (enzyme linked immunosorbent assay, also called Western blot) is the first test. • If EIA or ELISA is positive, RIBA (recombinant immunoblot assay) is needed to confirm the diagnosis of chronic HCV. • In lieu of EIA/ELISA followed by RIBA, a positive test for HCV RNA (hepatitis C viral ribonucleic acid) is sufficient by itself to confirm a diagnosis of HCV. • HCV RNA results can be – qualitative (positive or negative), or – quantitative (number of copies per milliliter (ml)).	The presence of anti-HCV (including EIA or ELISA) is ***not*** sufficient for a diagnosis of chronic HCV because it can be present in other diseases.

Note: Liver biopsy, ultrasound, and computed tomography (CT) scan tests can detect damage to the liver but will not identify the type of infection.

III.iv.4.I.2.c. Interpreting Lab Reports for HBV

The table below provides an example of a laboratory interpretation of serology test results for HBV.

Test	Results	Interpretation
Example 1		
HBsAg	negative	susceptible to infection
anti-HBc	negative	susceptible to infection (no hepatitis B)
anti-HBs	negative	no history of hepatitis B
Example 2		
HBsAg	negative	immune
anti-HBc	negative or positive	immune
anti-HBs	positive	
Example 3		
HBsAg	positive	acute infection
anti-HBc	positive	
Immunoglobulin M (IgM) anti-HBc	positive	acute infection
anti-HBs	negative	
Example 4		
HBsAg	positive	chronic infection
anti-HBc	positive	
IgM anti-HBc	negative	chronic infection
anti-HBs	negative	

III.iv.4.I.2.d. Interpreting Lab Reports for HCV After 1992

The table below provides an example of a laboratory interpretation of serology testing for HCV for testing performed after 1992.

Tests	Results	Interpretation
anti-HCV	positive (probable chronic hepatitis)	need to verify diagnosis
EIA	positive	supplemental test required
RIBA	positive	diagnostic
HCVRNA	follow-up of chronic hepatitis C	not needed for rating

III.iv.4.I.2.e. Risk Factors for HBV and HCV

Risk factors for the development of HBV and HCV are similar. The table below describes the medically recognized risk factors for HBV and HCV infection, provides transmission information concerning those risk factors, and includes tips for confirming the risk factors.

Note: Resolve reasonable doubt under 38 CFR 3.102 in favor of the Veteran when the evidence favoring risk factor(s) in service is equal to the evidence favoring risk factor(s) before or after service.

Risk Factor	Transmission Information	Rating Tips
• transfusion of blood or blood product – before 1992 for HCV, or – before 1975 for HBV • organ transplant before 1992, or • hemodialysis	• Blood donor screening for HCV was not available until 1989 when HCV was identified. • In 1992, more effective screening of blood became possible for HCV.	• If blood transfusion is a claimed risk factor, obtain the relevant hospital records from service, if possible. • Look for evidence of blood transfusions in surgical reports, especially the – anesthesia sheet – surgical record – operative clinical records, or – post-operative clinical notes.

• tattoos • body piercing, and • acupuncture with non-sterile needles	transmitted through the use of unsterilized equipment	Review for indications of tattoos or piercings on induction and separation exams to help determine whether tattooing or piercing took place in service.
intravenous drug use	transmitted through the use of shared instruments	Records of drug treatment may reflect the type of drug abuse.
high-risk sexual activity	Transmission risk is relatively low but increases with multiple sexual partners.	Periodic health assessments or records of treatment for sexually transmitted diseases may document a history of high-risk sexual activity or multiple sexual partners.
intranasal cocaine use	transmitted through the use of shared instruments	Records of drug treatment may reflect the type of drug abuse.
accidental exposure to blood by percutaneous exposure or on mucous membranes	common for the following • health care workers • combat medics, and • corpsmen	Consider service department or other records reflecting occupational history.
sharing of • toothbrushes, or • shaving razors	transmitted through direct percutaneous exposure to blood	This type of in-service exposure will not generally be documented in service records. Consider buddy statements in the context of the entire evidence picture pertaining to risk factors.

immunization with a jet air gun injector	• *one* documented case of HBV transmission • Despite the lack of any scientific evidence to document transmission of HCV with air gun injectors, it is biologically possible.	A medical report linking hepatitis to air gun injectors must include a full discussion of all potential modes of transmission and a rationale as to why the examiner believes the air gun injector was the source for the hepatitis infection.

III.iv.4.I.2.f. Development for Hepatitis Risk Factors

As *Department of Veterans Affairs (VA) Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits*, does not inform the claimant to submit evidence of hepatitis risk factors, development for risk factors is required in every hepatitis claim, even when hepatitis is diagnosed in service. Development is necessary to determine if pre- and post-service risk factors are present as well as to ensure that the risk factor is not substance abuse either before or during service.

Regardless of what claim form the Veteran submits, development for risk factors is required if the complete risk factor history has not already been provided. If risk factor history is not of record, use the table below to develop to the Veteran.

If the Veteran is claiming ...	**Then generate a risk factors development letter in ...**
hepatitis C	the Veterans Benefits Management System (VBMS).
• hepatitis A or B, or • a non-specific form of hepatitis	• Modern Award Processing-Development (MAP-D), and • alter the letter to specify the type of hepatitis claimed by the Veteran (A, B, or none).

References: For more information on

- SC for hepatitis associated with drug use, see M21-1, Part III, Subpart iv, 4.I.2.g, and
- examinations and medical opinions in hepatitis claims, see M21-1, Part III, Subpart iv, 4.I.2.j.

III.iv.4.I.2.g. Considering Drug Abuse in Hepatitis Claims

If one of the risk factors for hepatitis is intravenous or intramuscular drug use, or intranasal cocaine use, do ***not*** automatically assume the substance abuse is the cause of hepatitis and deny the claim on that basis.

Follow the steps in the table below when considering a claim for SC for hepatitis in which injection drug or intranasal cocaine use is a confirmed in-service risk factor.

<table>
<tr><th>Step</th><th colspan="2">Action</th></tr>
<tr><td>1</td><td colspan="2">Review for all risk factors of hepatitis in addition to the drug use.</td></tr>
<tr><td>2</td><td colspan="2">If injection drug or intranasal cocaine use is the only confirmed in-service risk factor present, then deny SC. If other in-service risk factors are found in addition to injection drug or intranasal cocaine use, go to Step 3.</td></tr>
<tr><td>3</td><td colspan="2">Request a medical opinion to determine which confirmed in-service risk factor is at least as likely as not the cause of the hepatitis infection.</td></tr>
<tr><td rowspan="3">4</td><td colspan="2">Use the table below to determine how to proceed with the medical opinion.</td></tr>
<tr><td>If the medical opinion …</td><td>Then …</td></tr>
<tr><td>states that drug use is the cause of the hepatitis infection</td><td>deny the claim for SC for hepatitis.</td></tr>
</table>

	gives greater or equal weight to another confirmed in-service risk factor	• resolve reasonable doubt in the Veteran's favor, and • award SC.
	is unable to state which risk factor is more likely than not to be the cause of the hepatitis	• weigh all evidence, and • apply the reasonable doubt doctrine if the evidence is found to be in equipoise. ***Reference***: For more information on examiner statements that an opinion would be speculative, see M21-1, Part III, Subpart iv, 3.D.2.p.

Reference: For more information on considering claims for SC based on drug use, see
- 38 CFR 3.301(c)(3), and
- M21-1, Part IV, Subpart ii, 2.K.3.

III.iv.4.I.2.h. Evaluating Claims for Increase for SC Hepatitis Awarded Due to Drug Abuse

Follow the steps in the table below to determine the appropriate actions to take in a claim for increase when SC was previously awarded but the only apparent risk factor in service was drug abuse.

Step	Action
1	Was SC for hepatitis due to drug abuse awarded by rating decision on or before October 31, 1990? • If *yes*, then continue the finding of SC for hepatitis as the award of SC was proper based on regulations and procedures at that time. Go to Step 5. • If *no*, then go to Step 2.

2	Does the evidence clearly show that the hepatitis is due to in-service drug abuse? • If *yes*, go to Step 4. • If *no*, go to Step 3.
3	If SC was awarded but there is no evidence clearly linking the hepatitis to drug abuse or if there were multiple risk factors in service, one of which was drug abuse, and no prior opinion was obtained, request a medical opinion to determine whether the hepatitis is due to the drug abuse. If the resulting opinion • clearly links hepatitis to drug abuse, go to Step 4. • cannot resolve whether hepatitis is due to drug abuse or another in-service risk factor, or the hepatitis is attributed to another non-drug abuse in-service risk factor, then – resolve reasonable doubt in favor of the Veteran and continue the finding of SC, and – award an increased evaluation for hepatitis if the medical evidence otherwise shows the increase is warranted.
4	If the evidence clearly shows that the hepatitis is due to in-service drug abuse and SC was awarded by rating decision after October 31, 1990, determine whether the award of SC is protected per 38 CFR 3.957. • If SC is protected, go to Step 5. • If SC is not protected, then propose to sever SC per 38 CFR 3.105(a).
5	If SC was properly established for hepatitis due to drug abuse by rating decision on or before October 31, 1990, and/or if the award of SC for hepatitis is protected, do not award an increased evaluation for hepatitis due to drug abuse.

Notes:

- The Omnibus Reconciliation Act of 1990 (*Public Law 101-508 Section 8052*) prohibited the grant of SC for disability or death resulting from alcohol or drug abuse for claims filed after October 31, 1990.
- VAOPGCPREC 2-98 found that an increased evaluation may not be awarded when SC was previously properly established as due to drug abuse by rating decision on or before October 31, 1990.

III.iv.4.I.2.i. Considering In-Service Hepatitis Findings

When a Veteran submits a claim for SC of hepatitis, assess the lay evidence, service treatment records (STRs), and current medical records to ascertain whether a current disability, an in-service event or injury, and an indication of an association are present as required in 38 CFR 3.159(c)(4) prior to requesting examination and/or medical opinion.

Use the table below to determine the proper rating action for in-service findings related to hepatitis.

If STRs show...	**Then ...**
diagnosis of non-specific hepatitis and SC is claimed many years later	request an exam with serology testing and LFTs (if not already of record) and opinion to determine if a relationship exists between the episode of hepatitis in service and the current type of hepatitis unless there is sufficient evidence of a clearly-established diagnosis and continuous symptoms present to satisfy the nexus standard under 38 CFR 3.303(a).

laboratory findings confirming HAV or HBV	do not automatically SC HCV since each type of hepatitis can be acquired at different times and through different means. ***Notes***: • SC for HAV is not warranted as HAV is an acute condition. • Consider SC for HBV if a chronic disability is present and linked to the in-service finding and/or risk factors. • Consider SC for HCV if a medical opinion links the condition to the confirmed in-service findings and/or risk factors.
a diagnosis of non-A, non-B hepatitis (old name for hepatitis C) and the current medical evidence confirms a diagnosis of HCV	SC is likely warranted. • If medical evidence establishes the presence of continuous symptoms since service, then award SC. • If evidence of continuous symptoms since service is not present, request a nexus opinion.
non-specific hepatitis and current evidence shows HCV **or** chronic HBV only	HCV or chronic HBV *may* warrant SC based on reasonable doubt. Request a medical opinion and any necessary diagnostic testing to confirm the diagnosis. ***Reference***: For more information on diagnostic testing required for hepatitis, see M21-1, Part III, Subpart iv, 4.I.2.b.
non-specific hepatitis and current evidence shows HCV **or** chronic HBV as well as a history of HAV	a medical opinion is necessary to determine whether the current disability is a result of the non-specific hepatitis diagnosed in service.

III.iv.4.I.2.j. Requesting Exams and/or Opinions for HBV or HCV

Follow the steps in the table below when requesting an examination and/or opinion for HCV or chronic HBV.

Step	Action
1	Identify and request the examiner review of all relevant evidence in the claims folder.
2	List any risk factors identified by the Veteran.
3	Identify all risk factors confirmed by the evidence in the claims folder, whether claimed by the Veteran or not. ***Important***: In addition to in-service risk factors, ensure that all documented pre- and post-service risk factors are noted in the exam request.
4	Request *VA Form 21-0960G-5, Hepatitis, Cirrhosis And Other Liver Conditions Disability Benefits Questionnaire* (DBQ), which will include diagnostic testing as well as LFTs and a detailed description of clinical findings and reported symptoms.
5	Request a medical opinion about the relationship between the current HBV or HCV infection and confirmed or supported risk factor(s).
6	Notify the examiner that a positive nexus opinion, if warranted, should take only confirmed risk factors as shown by the objective evidence of record into consideration.

References: For more information on

- confirming risk factors, see M21-1, Part III, Subpart iv, 4.I.2.e, and
- evaluating evidence, see M21-1, Part III, Subpart iv, 5.

III.iv.4.I.2.k. Reviewing Hepatitis Exams and Opinions for Sufficiency

Review the examination or opinion to ensure sufficiency and return insufficient examinations when warranted. Common reasons for insufficient examinations are

- lack of proper confirmatory testing to support the diagnosis
- failure to include complete clinical findings and symptoms in the report
- failure to address all known risk factors in the opinion
- opinions linking HCV or chronic HBV to a risk factor that is not confirmed in the evidence of record, and
- opinions improperly linking HCV or chronic HBV to a risk factor that is not medically recognized as a source of infection.

III.iv.4.I.2.l. Assigning a 0-Percent Evaluation for HCV

A 0-percent evaluation should only be assigned for HCV when the condition is asymptomatic and the infection has healed.

Use the table below to determine when it is appropriate to assign a 0-percent evaluation for HCV.

If medical evidence shows...	**Then a 0-percent disability evaluation is ...**
even mild symptoms related to HCV infection	not appropriate because the Veteran is symptomatic.
there is evidence of liver damage on liver function tests, liver biopsy, or other testing	not appropriate because this means the infection is not *healed*.
HCV has responded to therapy to the extent that RNA test results are negative and the Veteran is now asymptomatic with no evidence of liver damage	appropriate. However, HCV remains dormant in the system and may flare up again later.

Reference: For additional information on evaluation of HCV, see 38 CFR 4.114, DC 7354.

III.iv.4.I. 2.m. Other Causes of Liver Damage

The table below describes recognized causes of liver damage and provides examples of each cause.

Cause of Liver Damage	Example
Infection	Virus
Systemic diseases	Lupus
Drugs	• Isoniazid • Acetaminophen • Phenytoin
Toxic substances	Alcohol

III.iv.4.I. 2.n. Fatty Liver

Fatty liver, also called hepatic steatosis, is not a disability for which SC can be granted. By itself it is simply considered an abnormal laboratory finding.

Reference: For more information on abnormal laboratory findings discovered in STRs without a claim, see M21-1, Part IV, Subpart ii, 2.A.1.dC.
