

intermittent periods of improvement and worsening over a 6-month period as chronic.

VA agrees that including this concept in the rule will promote clarity and ensure that the criteria for chronicity are consistently applied. Therefore, we have revised § 3.317(a) as the commenter suggested.

Another commenter recommended that the rule specify the point from which VA would measure chronicity, i.e., forward from the date symptoms were first reported or backward from date of claim.

The 6-month period of chronicity will be measured from the earliest date the symptoms of the disability became manifest, whether as reported and documented during the course of a medical examination or as established by other, non-medical evidence. In order to ensure proper understanding, we have revised § 3.317(a) to clarify this issue.

Another commenter objected to defining a chronic disease as one which has existed for at least 6 months and suggested that chronicity be determined on the basis of clinical and laboratory findings and application of the criteria for a showing of chronic diseases in 38 CFR 3.303(b).

VA does not agree. The criteria of § 3.303(b) require a combination of manifestations sufficient to identify the disease entity and sufficient observation to establish chronicity at the time. So long as we are dealing with a known disease whose clinical course is familiar, those criteria are appropriate. In our judgment, however, they are not appropriate for dealing with an undiagnosed illness, which cannot be associated with a known disease process and the clinical course of which cannot be predicted. In these cases, it is essential to establish an objective indicator of chronicity to ensure that the same standard will be applied in every case. Therefore, we have adopted 6 months, a period commonly accepted within the medical community for that purpose, as the standard for determining chronicity.

One commenter recommended that the regulation include a statement that objective indications of disability mean both "signs" in the medical sense and non-medical indicators capable of independent verification, as VA stated in the preamble to the proposed rule.

We agree with the commenter's recommendation and have amended § 3.317(a) accordingly.

Another commenter suggested that the regulation explicitly state how many "signs or symptoms" of undiagnosed illness must be present for a veteran to

be eligible for compensation under § 3.317. The commenter stated that it appears that VA would accept even a single symptom as sufficient to qualify.

The commenter is correct in assuming that a single symptom or sign may be sufficient to establish entitlement under § 3.317, provided it is determined to be the result of an undiagnosed illness. This was intended by our proposed § 3.317(a)(1): "\* \* \* objective indications of chronic disability \* \* \* manifested by *one or more* signs and symptoms \* \* \*" (emphasis added). However, as further clarification, we have amended the words "signs and symptoms" to read "signs or symptoms."

The proposed regulation, as required by the statute, contained a list of 13 categories of signs and symptoms which might be manifestations of undiagnosed illnesses. One commenter said that it was not clear why VA considered some of the 13 signs and symptoms listed at § 3.317(b) undiagnosable. As an example, the commenter referred to fatigue lasting longer than 6 months as having a known diagnosis, already recognized by VA, of chronic fatigue syndrome (CFS).

The signs and symptoms listed at § 3.317(b) represent possible manifestations of undiagnosed illnesses. However, the commenter's implication that a medically verifiable sign of an illness constitutes a diagnosis of a specific disease is not correct. A "disease" is manifested by a characteristic set of symptoms and signs (*Dorland's Illustrated Medical Dictionary*, 27th ed.). A single sign or symptom may be among the characteristic signs and symptoms of more than one disease, depending on any other signs and symptoms with which it appears. Many Persian Gulf veterans, however, have come forward with signs and symptoms which are not characteristic of any known disease.

The commenter's assertion that fatigue lasting longer than 6 months by itself equates to CFS is also incorrect. VA has adopted criteria for CFS similar to those contained in guidelines published by the U.S. Department of Health and Human Services (HHS), which require a combination of several major and minor criteria to establish a diagnosis of CFS (see the **Federal Register** of November 29, 1994, 59 FR 60901). The major criteria include fatigue so severe as to reduce daily activities below 50 percent of the usual, pre-illness level for at least 6 months. Fatigue of a lesser severity, which does not last for 6 months, or which is not accompanied by the major or minor criteria recognized by VA, would not

support a diagnosis of CFS. If that fatigue does not fall among the characteristic signs and symptoms of another disease, it certainly might indicate the presence of an undiagnosed illness.

This same commenter stated that VA has a working definition of "Persian Gulf Syndrome" that lists many of the 13 signs and symptoms listed at § 3.317(b) and wondered why this "syndrome" is not cited in that paragraph.

"Persian Gulf Syndrome" is not a disease entity currently recognized by VA or commonly accepted within the medical community. VA has, in fact, been unable to establish a single "working definition," and any working definition, by its very nature, would not find a firm basis in the current scientific and medical evidence and, in our judgment, should not be used to establish entitlement under the provisions of this rule. The purpose of this rule making is not to define by regulation what the medical community has yet to identify or define, but rather to establish criteria for paying compensation to Persian Gulf veterans suffering from chronic disabilities resulting from undiagnosed illnesses.

One commenter recommended that § 3.317(b) specify that other signs and symptoms might qualify as possible manifestations of undiagnosed illness.

The list at § 3.317(b) is simply a guideline presenting the symptoms and signs which have been encountered in over 17,000 completed and analyzed examinations of participants in VA's Persian Gulf Health Registry. The categories are broad and encompass a wide range of conditions and complaints. Section 3.317(b) itself clearly indicates that this list is not exclusive, and we do not believe that revising the language would make the point any clearer.

Another commenter stated that many Persian Gulf veterans also complained of hair loss and memory loss and requested that VA clarify whether these conditions are encompassed by the 13 listed categories.

Hair loss is included within the category "signs and symptoms involving skin" (§ 3.317(b)(2)), and memory loss is included within the category "neuropsychological signs or symptoms" (§ 3.317(b)(7)). This is consistent with current VA rating procedures, and we see no need to make the list more specific, since any attempts to expand the list and make it exclusive might inadvertently omit conditions that could be manifestations of undiagnosed illnesses.