



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
CERVICAL INTERVERTEBRAL DISC
PROLAPSE
(Balance of Probabilities)
(No. 67 of 2023)

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

Dated 23 June 2023.

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 *cervical intervertebral disc prolapse (Balance of Probabilities)* (No. 67 of 2023).

2 Commencement

This instrument commences on 25 July 2023.

3 Authority

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

4 Repeal

The Statement of Principles concerning intervertebral disc prolapse (Balance of Probabilities) (No. 44 of 2016) (Federal Register of Legislation No. F2016L00564) made under subsections 196B(3) and (8) of the VEA is repealed.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 cervical intervertebral disc prolapse and death from cervical intervertebral disc prolapse.

Meaning of cervical intervertebral disc prolapse

- (2) This Statement of Principles applies to cervical intervertebral disc prolapse that has been diagnosed on the basis of:
 - (a) clinical manifestations of local pain and stiffness, or symptoms and signs of cervical spinal cord compression or cervical nerve root compression; and
 - (b) imaging evidence of cervical intervertebral disc prolapse, including protrusion, herniation, extrusion or rupture of the nucleus pulposus or annulus fibrosis of a cervical intervertebral disc into the vertebral canal of the cervical spine.

Note: *imaging evidence of cervical intervertebral disc prolapse* is defined in the Schedule 1 - Dictionary. It will usually be the case that the date of the imaging evidence of cervical intervertebral disc prolapse is after the date of clinical onset.

- (3) For the purposes of this Statement of Principles "**cervical intervertebral disc prolapse**" means protrusion, herniation, extrusion or rupture of the nucleus pulposus or annulus fibrosis of an intervertebral disc into the vertebral canal of the cervical spine, causing symptoms or signs, including intervertebral disc prolapses at the cervicothoracic junction.
- (4) The definition of cervical intervertebral disc prolapse given at subsection (3) excludes bulging of the intervertebral disc and Schmorl's nodes.
- (5) Whilst cervical intervertebral disc prolapse attracts ICD-10-AM codes M51.0, M51.1 or M51.2 In this Statement of Principles, the definition of "**cervical intervertebral disc prolapse**" is that given at subsection (3).
- (6) For subsection (5), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10-AM)*, Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

Death from cervical intervertebral disc prolapse

- (7) For the purposes of this Statement of Principles, cervical intervertebral disc prolapse, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's cervical intervertebral disc prolapse.

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 cervical intervertebral disc prolapse and death from cervical intervertebral disc prolapse 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, cervical intervertebral disc prolapse or death from cervical intervertebral disc prolapse is connected with the circumstances of a person's relevant service:

- (1) having trauma to the affected intervertebral disc within the 24 hours before the clinical onset of cervical intervertebral disc prolapse;

Note: *trauma to the affected intervertebral disc* is defined in the Schedule 1 - Dictionary.

- (2) having a penetrating injury to the affected intervertebral disc or adjacent vertebral body, within the 24 hours before the clinical onset of cervical intervertebral disc prolapse;

Note: *penetrating injury to the affected intervertebral disc or adjacent vertebral body* is defined in the Schedule 1 - Dictionary.

- (3) flying in high performance aircraft for a cumulative total of at least 1,000 hours within any 10 year period before the clinical onset of cervical intervertebral disc prolapse, and where the clinical onset of cervical intervertebral disc prolapse occurred within the 25 years following that period;

Note: *high performance aircraft* is defined in the Schedule 1 – Dictionary.

- (4) flying in a helicopter as operational aircrew, for a cumulative total of at least 5,000 hours within the 10 years before the clinical onset of cervical intervertebral disc prolapse;

- (5) having smoked tobacco products in an amount of at least 10 pack-years before the clinical onset of cervical intervertebral disc prolapse, and if smoking has ceased before the clinical onset of cervical intervertebral disc prolapse, then that onset occurred within 5 years of cessation;

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

- (6) having bacterial infection of the affected disc at the time of the clinical onset of cervical intervertebral disc prolapse;

- (7) having trauma to the affected intervertebral disc within the 24 hours before the clinical worsening of cervical intervertebral disc prolapse;

Note: *trauma to the affected intervertebral disc* is defined in the Schedule 1 - Dictionary.

- (8) having a penetrating injury to the affected intervertebral disc or adjacent vertebral body, within the 24 hours before the clinical worsening of cervical intervertebral disc prolapse;

Note: *penetrating injury to the affected intervertebral disc or adjacent vertebral body* is defined in the Schedule 1 - Dictionary.

- (9) flying in high performance aircraft for a cumulative total of at least 1,000 hours within any 10 year period before the clinical worsening of cervical intervertebral disc prolapse, and where the clinical worsening of cervical intervertebral disc prolapse occurred within the 25 years following that period;

Note: *high performance aircraft* is defined in the Schedule 1 – Dictionary.

- (10) flying in a helicopter as operational aircrew, for a cumulative total of at least 5,000 hours within the 10 years before the clinical worsening of cervical intervertebral disc prolapse;

- (11) having smoked tobacco products in an amount of at least 10 pack-years before the clinical worsening of cervical intervertebral disc prolapse,

and if smoking has ceased before the clinical worsening of cervical intervertebral disc prolapse, then that worsening occurred within 5 years of cessation;

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

- (12) having bacterial infection of the affected disc at the time of the clinical worsening of cervical intervertebral disc prolapse;
- (13) inability to obtain appropriate clinical management for cervical intervertebral disc prolapse before the clinical worsening of cervical intervertebral disc prolapse.

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(7) to 9(13) apply only to material contribution to, or aggravation of, cervical intervertebral disc prolapse where the person's cervical intervertebral disc prolapse 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:

cervical intervertebral disc prolapse—see subsection 7(2).

clinical onset means the point backwards in time from the first date of imaging confirming cervical intervertebral disc prolapse, to the date at which the symptoms of cervical intervertebral disc prolapse were persistently present, as assessed by a registered medical practitioner

high performance aircraft means an aircraft capable of routinely producing an acceleration of at least 4g (4 x 9.8 m/s²).

imaging evidence of cervical intervertebral disc prolapse means an image of the interior of a body obtained by medical techniques, including X-ray radiography or magnetic resonance imaging, showing cervical intervertebral disc prolapse, that is usually obtained at a date after the date of clinical onset of the disease.

Note: ***clinical onset*** is defined in the Schedule 1 – Dictionary.

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

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.

penetrating injury to the affected intervertebral disc or adjacent vertebral body means piercing of the affected intervertebral disc or adjacent vertebral body by an object such as a bullet, shell fragment, knife or needle.

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.

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.

trauma to the affected intervertebral disc means a discrete event involving the application of significant physical force to the affected intervertebral disc, that causes:

- (a) the development of symptoms and signs of pain and tenderness, and either altered mobility or range of movement of the cervical spine. In the case of sustained unconsciousness or the masking of pain by analgesic medication, these symptoms and signs must appear on return to consciousness or the withdrawal of the analgesic medication; and
- (b) the persistence of these symptoms and signs for a period of at least 7 days following their onset, save for where medical intervention for the trauma to the affected intervertebral disc has occurred and that medical intervention involves one of the following:
 - (i) immobilisation of the cervical spine by splinting or similar external agent;
 - (ii) injection of a corticosteroid or local anaesthetic into the cervical spine; or
 - (iii) surgery to the cervical spine.

VEA means the *Veterans' Entitlements Act 1986*.