



Lesson 8

Chronic Conditions

The American Legion DSO School

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Lesson 8 Learning Objectives

Recognize the requirements for receiving VA service-connected benefits for chronic conditions.

- Identify the limited number of medical conditions VA considers ***chronic***.
- List the three ways that chronic conditions can be connected to service.

What is a “Chronic Condition”?

- No formal definition.
- Instead, VA regulations lists certain conditions that are “chronic” including:
 - Diabetes
 - Hypertension
 - Arthritis
 - Multiple Sclerosis
 - Psychosis
 - Organic disease of the nervous system
- Full list at 38 C.F.R. § 3.309(a)

What is a “Chronic Condition” Cont.

- These broad categories include other commonly seen disorders.
- **Schizophrenia** is a chronic condition because it is a “psychosis.”
- **Hearing loss** and **tinnitus** are chronic conditions when they are “organic disease[s] of the nervous system.”
 - Sensorineural hearing loss **is** chronic.
 - Conductive hearing loss **is not** chronic.



Special Rules for Chronic Conditions

- Special rules apply.
- **Only** to the conditions listed in 38 C.F.R. § 3.309(a).
 - Doctor's description not controlling.
 - Rule changed in 2013.



Quiz

Click the **Quiz** button to edit this object

Veteran Julius was diagnosed with shin splints during his active duty service in the Air Force. He continues to have pain in his shins ever since then.

You look up VA's rule at 38 C.F.R. § 3.309 and do not see "shin splints" listed as a chronic disease.

Can you still argue that presumptive service connection should be granted for chronic shin splints under 38 C.F.R. § 3.303(b)?

- Yes, because he has experienced symptoms ever since service.
- No, because shin splints are not a chronic disease for VA purposes.

Answer

No.

These facts come from the case *Walker v. Shinseki*, 708 F.3d 1331 (Fed. Cir. 2013).

Mr. Walker tried to argue that he suffered from a “chronic disease.”

The Federal Circuit held that the chronic disease presumptions are available **only for the diseases listed at 38 C.F.R. § 3.309(a)**.

Mr. Walker’s condition was not listed, so he could **not** benefit from the presumptions.

Service Connection for Chronic Conditions

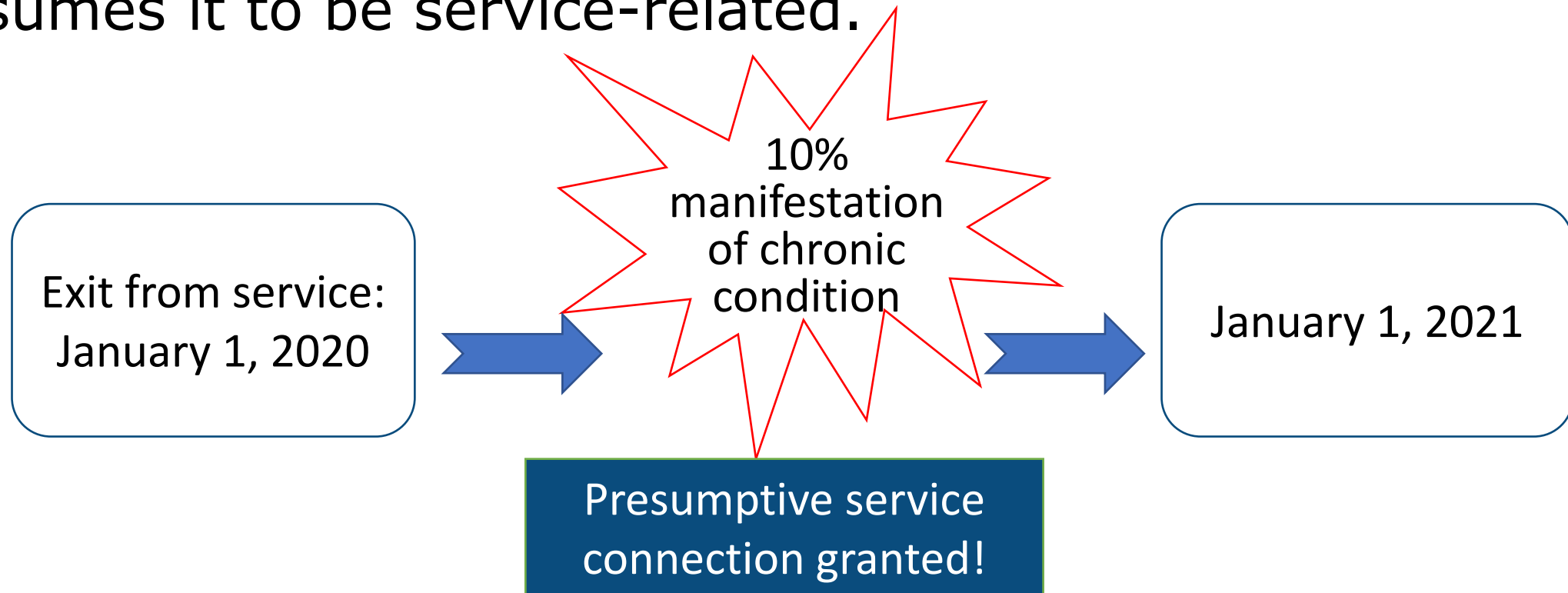
Chronic conditions can be connected to service in three ways:

1. Manifest within one year of service, or
2. Future manifestations of an in-service condition, or
3. Continuity of symptomatology.



1) Manifest w/in One Year of Service

For chronic diseases, if the condition manifests to a **degree of 10% or more** within **one year of service**, then VA presumes it to be service-related.

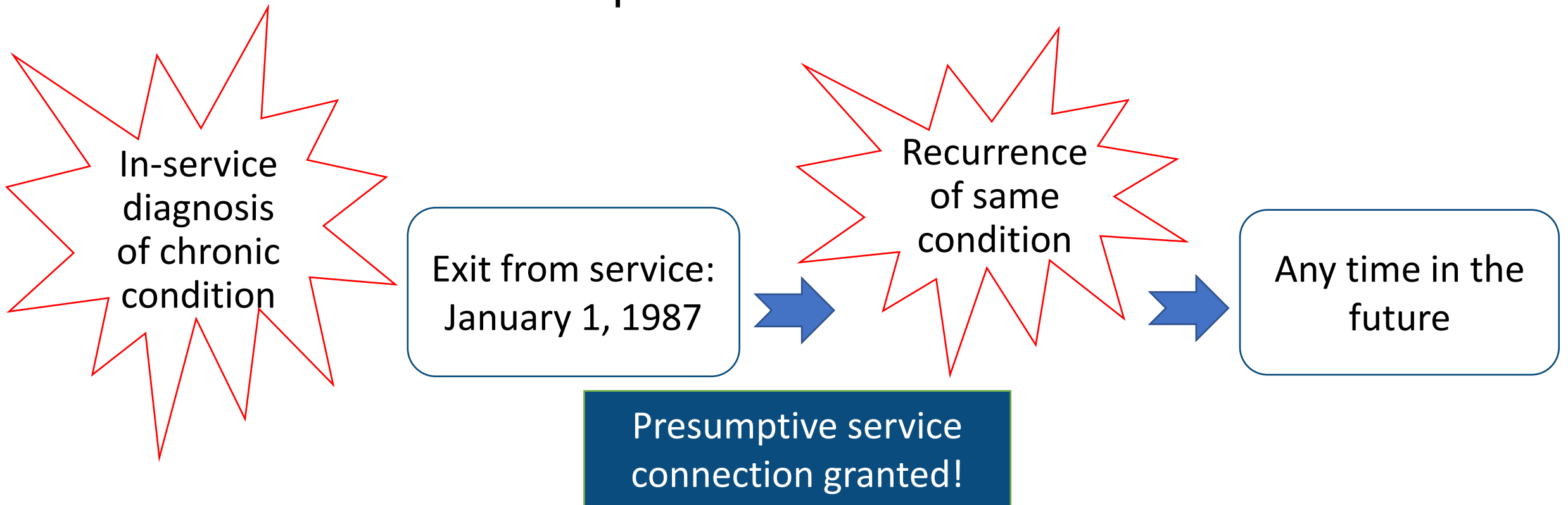


1) Manifest w/in One Year of Service

- Essentially, VA allows one extra year to develop a chronic condition to be treated the same as if it started during service.
- What matters is the **appearance of symptoms**:
 - **Not** diagnosis, medical treatment, or contemporaneous documentation.
 - This means that if the Veteran began to have symptoms of a chronic condition within one year, although not diagnosed until after one year, the condition could still be presumptively service connected.
- Note: multiple sclerosis has a special **7-year** presumptive period.

2) Future Manifestation of In-Service Condition

If the condition is diagnosed in service, then **any** future manifestation is presumed to be service-related.

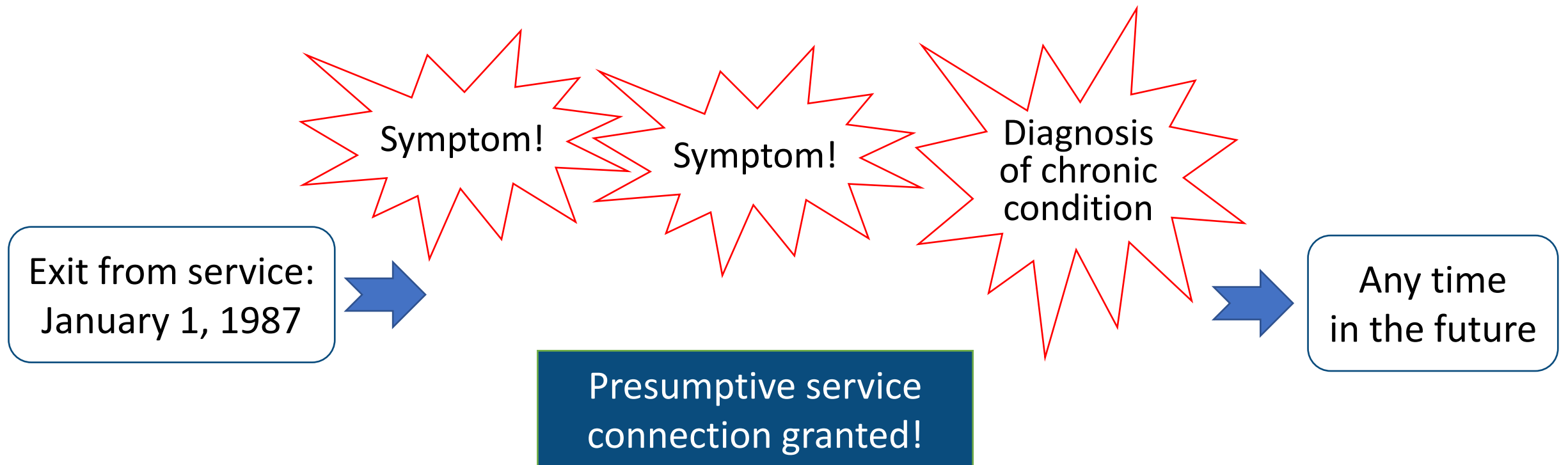


2) Future Manifestation of In-Service Condition

- Common in mental health claims if the Veteran had a diagnosis of psychosis in service.
- Schizophrenia has a downward roller coaster symptom profile.
 - Veterans may have their first psychotic break during service.
 - They may be fine for years until their deterioration begins to accelerate and receive a diagnosis.

3) Continuity of Symptomatology

If the Veteran has had continuous symptoms of the chronic condition since service, then the condition is presumed to be service-related.



3) Continuity of Symptomatology



- This approach is particularly useful for arthritis and hearing loss.
- The Veteran often experiences symptoms of these conditions long before they become severe enough to seek treatment.

Non-Chronic Conditions

- Information about **when** a condition first manifested and **how long** the symptoms have persisted can be relevant and persuasive evidence for **any** claim, even non-chronic conditions.
- Example, evidence that the Veteran experienced symptoms of the claimed disorder ever since service is still good evidence of a nexus to service, even if the condition does not qualify for presumptive service connection as a chronic condition.

- This presentation is complete.
- A PDF version of these slides will be provided to you at the conclusion of the course for future reference.