



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
HIATUS HERNIA
(Balance of Probabilities)
(No. 61 of 2022)

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

Dated 24 June 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 *hiatus hernia (Balance of Probabilities)* (No. 61 2022).

2 Commencement

This instrument commences on 25 July 2022.

3 Authority

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

4 Repeal

The Statement of Principles concerning hiatus hernia No. 69 of 2014 (Federal Register of Legislation No. F2014L00925) made under subsection 196B(3) of the VEA is repealed.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 hiatus hernia and death from hiatus hernia.

*Meaning of **hiatus hernia***

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

- (ii) eventration of the diaphragm; and
- (iii) physiological herniation during swallowing.

Note 1: Hiatus hernia is also known as hiatal hernia, and can be classified as type I, II, III or IV.

Note 2: Most patients are asymptomatic. The clinical features of hiatus hernia can include heartburn, regurgitation, chest pain, postprandial fullness, nausea and retching.

Death from hiatus hernia

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

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 hiatus hernia and death from hiatus hernia 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, hiatus hernia or death from hiatus hernia is connected with the circumstances of a person's relevant service:

- (1) having a surgical procedure that involves the region of the oesophageal hiatus or affects the structures supporting the oesophageal hiatus, within the 2 years before the clinical onset of hiatus hernia;

Note: Examples of surgical procedures that can involve the region of the oesophageal hiatus or affect the structures supporting the oesophageal hiatus include bariatric surgery, coronary artery bypass grafting, gastrectomy, oesophagectomy and pulmonary lobe resection.

- (2) having a blunt or penetrating injury, excluding a surgical procedure, to the region of the oesophageal hiatus, within the 2 years before the clinical onset of hiatus hernia;

- (3) being obese for at least the 2 years before the clinical onset of hiatus hernia;

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

- (4) being pregnant at the time of the clinical onset of hiatus hernia;

- (5) having a surgical procedure that involves the region of the oesophageal hiatus or affects the structures supporting the oesophageal hiatus, within the 2 years before the clinical worsening of hiatus hernia;

Note: Examples of surgical procedures that can involve the region of the oesophageal hiatus or affect the structures supporting the oesophageal hiatus include bariatric surgery, coronary artery bypass grafting, gastrectomy, oesophagectomy and pulmonary lobe resection.

- (6) having a blunt or penetrating injury, excluding a surgical procedure, to the region of the oesophageal hiatus, within the 2 years before the clinical worsening of hiatus hernia;
- (7) being obese for at least the 2 years before the clinical worsening of hiatus hernia;

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

- (8) being pregnant at the time of the clinical worsening of hiatus hernia;
- (9) inability to obtain appropriate clinical management for hiatus hernia.

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(5) to 9(9) apply only to material contribution to, or aggravation of, hiatus hernia where the person's hiatus hernia 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:

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.

hiatus hernia—see subsection 7(2).

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

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.

VEA means the *Veterans' Entitlements Act 1986*.