



**Australian Government**  
**Repatriation Medical Authority**

**Statement of Principles**  
**concerning**  
**HERPES SIMPLEX**  
**(Balance of Probabilities)**  
**(No. 40 of 2018)**

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

Dated 27 April 2018

The Common Seal of the  
Repatriation Medical Authority  
was affixed to this instrument  
at the direction of:

A handwritten signature in black ink, appearing to read 'Nicholas Saunders'.

Professor Nicholas Saunders AO  
Chairperson

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## **1 Name**

This is the Statement of Principles concerning *herpes simplex (Balance of Probabilities)* (No. 40 of 2018).

## **2 Commencement**

This instrument commences on 28 May 2018.

## **3 Authority**

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

## **4 Revocation**

The Statement of Principles concerning herpes simplex No. 4 of 2010 made under subsection 196B(3) of the VEA is revoked.

## **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 herpes simplex and death from herpes simplex.

### *Meaning of herpes simplex*

- (2) For the purposes of this Statement of Principles, herpes simplex means a clinical illness caused by herpes simplex virus type 1 (HSV-1) or herpes simplex virus type 2 (HSV-2). Lesions arising at an anatomical location where they have not previously occurred may be regarded as a new infection.

Note 1: This infection is a lifelong, persistent infection of the peripheral nervous system ganglia. It is characterised by intermittent episodes of localised vesicular lesions on the skin or mucous membranes, but can also involve the central nervous system or other organs.

Note 2: HSV-1 typically causes orofacial lesions and HSV-2 typically causes genital lesions, but either subtype may infect the oral mucosa or the genital tract and either may occur at other sites.

Note 3: HSV complications include corneal scarring or significant skin scarring, eczema herpeticum, HSV dissemination or visceral involvement.

Note 4: *eczema herpeticum* is defined in the Schedule 1 - Dictionary.

- (3) While herpes simplex attracts ICD-10-AM code B00 or A60, in applying this Statement of Principles the meaning of herpes simplex is that given in subsection (2).
- (4) For subsection (3), 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 herpes simplex*

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

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

- (1) being exposed to HSV-1 or HSV-2 within the 30 days before the clinical onset of herpes simplex;

Note: *being exposed to HSV-1 or HSV-2* is defined in the Schedule 1 - Dictionary.

- (2) having a severe thermal burn within the 30 days before the clinical onset of herpes simplex;

Note: *severe thermal burn* is defined in the Schedule 1 - Dictionary.

- (3) having a thermal or chemical burn within the seven days before the clinical onset of herpes simplex at or close to the site of the burn;

Note: *close to the site* is defined in the Schedule 1 - Dictionary.

- (4) being in an immunocompromised state as specified at the time of the clinical onset of herpes simplex;

Note: *immunocompromised state as specified* is defined in the Schedule 1 - Dictionary.

- (5) having surgery to nerve root ganglia within the 30 days before the clinical onset of herpes simplex, where the cutaneous distribution of herpes simplex corresponds with the nerve roots which were manipulated during surgery;
- (6) being exposed to sunlight or ultraviolet light at a level sufficient to induce at least mild erythema, within the seven days before the clinical onset of herpes simplex;
- (7) being at least 20 weeks pregnant at the time of the clinical onset of herpes simplex;
- (8) for acute herpes simplex encephalitis or acute herpes simplex retinal necrosis only, having surgery to the brain within the 30 days before the clinical onset of herpes simplex;
- (9) for orofacial herpes simplex only:
  - (a) having surgery to the face within the 30 days before the clinical onset of herpes simplex;
  - (b) having an upper respiratory tract infection within the seven days before the clinical onset of herpes simplex; or
  - (c) having a fever of at least 39 degrees Celsius in the 72 hours before the clinical onset of herpes simplex;

Note: *surgery to the face* is defined in the Schedule 1 - Dictionary.

- (10) for herpes simplex of the cornea (herpes simplex keratitis) only:
  - (a) having cataract surgery within the six weeks before the clinical onset of herpes simplex;
  - (b) having a corneal transplant, where the donor cornea is infected with HSV-1 or HSV-2, within the 30 days before the clinical onset of herpes simplex; or
  - (c) wearing contact lenses in the 24 hours before the clinical onset of herpes simplex;

- (11) for eczema herpeticum only:

Note: *eczema herpeticum* is defined in the Schedule 1 - Dictionary.

- (a) having atopic dermatitis before the clinical onset of herpes simplex; or
- (b) having a psoriatic lesion close to the site of the HSV-1 or HSV-2 infection, at the time of the clinical onset of herpes simplex;

Note: *close to the site* is defined in the Schedule 1 - Dictionary.

- (12) for herpes simplex of the lip only:

- (a) having chapped lips in the 48 hours before the clinical onset of herpes simplex; or

- (b) playing a woodwind or brass musical instrument in the 48 hours before the clinical onset of herpes simplex;

Note: *chapped lips* is defined in the Schedule 1 - Dictionary.

- (13) having a severe thermal burn within the 30 days before the clinical worsening of herpes simplex;

Note: *severe thermal burn* is defined in the Schedule 1 - Dictionary.

- (14) having a thermal or chemical burn within the seven days before the clinical worsening of herpes simplex at or close to the site of the burn;

Note: *close to the site* is defined in the Schedule 1 - Dictionary.

- (15) being in an immunocompromised state as specified at the time of the clinical worsening of herpes simplex;

Note: *immunocompromised state as specified* is defined in the Schedule 1 - Dictionary.

- (16) having surgery to nerve root ganglia within the 30 days before the clinical worsening of herpes simplex, where the cutaneous distribution of herpes simplex corresponds with the nerve roots which were manipulated during surgery;

- (17) being exposed to sunlight or ultraviolet light at a level sufficient to induce at least mild erythema, within the seven days before the clinical worsening of herpes simplex;

- (18) being at least 20 weeks pregnant at the time of the clinical worsening of herpes simplex;

- (19) for acute herpes simplex encephalitis or acute herpes simplex retinal necrosis only, having surgery to the brain within the 30 days before the clinical worsening of herpes simplex;

- (20) for orofacial herpes simplex only:

- (a) having surgery to the face within the 30 days before the clinical worsening of herpes simplex;
- (b) having an upper respiratory tract infection within the seven days before the clinical worsening of herpes simplex; or
- (c) having a fever of at least 39 degrees Celsius in the 72 hours before the clinical worsening of herpes simplex;

Note: *surgery to the face* is defined in the Schedule 1 - Dictionary.

- (21) for herpes simplex of the cornea (herpes simplex keratitis) only:

- (a) having cataract surgery within the six weeks before the clinical worsening of herpes simplex; or
- (b) wearing contact lenses in the 24 hours before the clinical worsening of herpes simplex;

(22) for eczema herpeticum only:

Note: *eczema herpeticum* is defined in the Schedule 1 - Dictionary.

- (a) having atopic dermatitis before the clinical worsening of herpes simplex; or
- (b) having a psoriatic lesion close to the site of the HSV-1 or HSV-2 infection, at the time of the clinical worsening of herpes simplex;

Note: *close to the site* is defined in the Schedule 1 - Dictionary.

(23) for herpes simplex of the lip only:

- (a) having chapped lips in the 48 hours before the clinical worsening of herpes simplex; or
- (b) playing a woodwind or brass musical instrument in the 48 hours before the clinical worsening of herpes simplex;

Note: *chapped lips* is defined in the Schedule 1 - Dictionary.

(24) inability to obtain appropriate clinical management for herpes simplex.

## **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(13) to 9(24) apply only to material contribution to, or aggravation of, herpes simplex where the person's herpes simplex 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 exposed to HSV-1 or HSV-2*** means:

- (a) having direct exposure to saliva or respiratory droplets infected with HSV-1 or HSV-2; or
- (b) having percutaneous exposure to vesicular fluid infected with HSV-1 or HSV-2; or
- (c) having sexual contact with a person infected with HSV-1 or HSV-2; or
- (d) having skin contact with a person infected with HSV-1 or HSV-2.

***chapped lips*** means excessive dryness of the vermillion border of the lips manifested by scaling, cracking and erythema.

***chronic renal failure*** means:

- (a) having a glomerular filtration rate of less than 15 mL/min/1.73 m<sup>2</sup> for a period of at least three months; or
- (b) a need for renal replacement therapy (dialysis or transplantation) for treatment of complications of decreased glomerular filtration rate which would otherwise increase the risk of morbidity and mortality; or
- (c) undergoing chronic dialysis.

***close to the site*** means at or within one centimetre.

***eczema herpeticum*** means a clinical illness characterised by a dissemination of HSV infection across the skin, normally superimposed on a pre-existing, inactive or active skin disorder.

***herpes simplex***—see subsection 7(2).

***immunocompromised state as specified*** means a condition of substantially lowered immune function, such as would occur in the following conditions or circumstances:

- (a) being infected with human immunodeficiency virus;
- (b) being treated with an immunosuppressive drug;
- (c) having a haematological or solid organ malignancy;
- (d) having asplenia or a splenectomy;
- (e) having chronic renal failure;
- (f) having severe malnutrition;
- (g) having a cardiopulmonary bypass procedure; or
- (h) undergoing solid organ, stem cell or bone marrow transplantation.

Note: ***chronic renal failure*** and ***immunosuppressive drug*** are also defined in the Schedule 1- Dictionary.



***immunosuppressive drug*** means a drug or an agent which results in substantial suppression of immune responses.

Note: Examples of an immunosuppressive drug include corticosteroids other than inhaled or topical corticosteroids, drugs used to prevent transplant rejection, tumour necrosis factor- $\alpha$  inhibitors and chemotherapeutic agents used for the treatment of cancer.

***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.

***severe thermal burn*** means a burn injury caused by the application of heat to body tissue, including inhalational burn, which is of sufficient severity to warrant hospital admission as an inpatient.

***surgery to the face*** means surgery involving the face or the skin of the face, including chemical peels, dermabrasion and laser resurfacing.

***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*.