



Australian Government
Repatriation Medical Authority

Statement of Principles
concerning
MERKEL CELL CARCINOMA
(Balance of Probabilities)
(No. 81 of 2024)

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

Dated 18 October 2024.

Professor Terence Campbell AM
Chairperson
by and on behalf of
The Repatriation Medical Authority

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1 Name

This is the Statement of Principles concerning *Merkel cell carcinoma (Balance of Probabilities)* (No. 81 of 2024).

2 Commencement

This instrument commences on 19 November 2024.

3 Authority

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

4 Repeal

The Statement of Principles concerning non-melanotic malignant neoplasm of the skin (Balance of Probabilities) (No. 8 of 2016) (Federal Register of Legislation No. F2016L00241) made under subsection 196B(3) and (8) of the VEA is repealed.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 Merkel cell carcinoma and death from Merkel cell carcinoma.

*Meaning of **Merkel cell carcinoma***

- (2) For the purposes of this Statement of Principles, Merkel cell carcinoma means a primary cutaneous neuroendocrine carcinoma;
- (3) While Merkel cell carcinoma attracts ICD-10-AM codes: C00.0, C00.1, C00.2, C00.6, C00.8, C00.9, C44, C51.0, C51.1, C51.2, C51.8, C51.9, C60.0, C60.1, C60.2, C60.8, C60.9, C63.2, D04, D07.1, D07.4, in applying this Statement of Principles the meaning of Merkel cell carcinoma 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 Merkel cell carcinoma

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

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 Merkel cell carcinoma and death from Merkel cell carcinoma 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, Merkel cell carcinoma or death from Merkel cell carcinoma is connected with the circumstances of a person's relevant service:

- (1) having sunlight exposure to unprotected skin for a cumulative period of at least 4,500 latitude equivalent hours before clinical onset;

Note: *latitude equivalent hours* and *unprotected skin* are defined in the Schedule 1-Dictionary.

- (2) being infected with Merkel cell polyomavirus before clinical onset;
- (3) being infected with human immunodeficiency virus before clinical onset;
- (4) undergoing solid organ (excluding corneal transplant) or bone marrow transplantation at least 10 years before clinical onset;
- (5) having non-Hodgkin lymphoma before clinical onset;
- (6) having mature B-cell lymphoid leukaemia and small lymphocytic lymphoma before clinical onset;

Note: Mature B-cell lymphoid leukaemia and small lymphocytic lymphoma is also known as chronic lymphocytic leukaemia/small cell lymphoma.

- (7) inability to obtain appropriate clinical management for Merkel cell carcinoma before clinical worsening.

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 factor set out in subsection 9(7) applies only to material contribution to, or aggravation of, Merkel cell carcinoma where the person's Merkel cell carcinoma 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:

latitude equivalent hours means hours of exposure multiplied by the appropriate latitude weighting factor as follows:

- (a) for tropical latitudes (23.5° South to 23.5° North) multiply by 1.0;
- (b) for subtropical latitudes (23.6° - 35°) multiply by 0.75;
- (c) for warm temperate latitudes (35.1° - 45°) multiply by 0.5;
- (d) for cool temperate latitudes (45.1° - 65°) multiply by 0.25.

Note: sunlight exposure is calculated as the sum of sunlight exposure in each separate latitude, accounting for the different sunlight intensity in each latitude (weighting factor).

Sum of sunlight exposure = (hours spent in tropical latitude x tropical latitude weighting factor) + (hours spent in subtropical latitude x subtropical latitude weighting factor) + (hours spent in warm temperate latitude x warm temperate latitude weighting factor) + (hours spent in cool temperate latitude x cool temperate latitude weighting factor).

Merkel cell carcinoma—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.

unprotected skin means skin that is directly exposed to the sun and is not protected by sunscreen, clothing or other physical barrier.

VEA means the *Veterans' Entitlements Act 1986*.