

Gulf War Illness Claims

Nearly All Improperly Denied by VA

When John Saul's Marine air-ground task force landed in the Persian Gulf in 1991, the oil fields in Kuwait were ablaze. Heavy, dark smoke colored the sky. "It was black at midday," he told *The War Horse*. "Solid black." The fumes hung onto every breath the 24-year-old helicopter mechanic took. "You could smell it and taste it," Saul said. "There was no way to get away from it." He never really did. His symptoms began not long after he left the Marines in 1993: He developed a burning and recurring skin rash. It appeared first on his forearms. Over time, it spread to 50% of his body—his hands, arms, legs, torso, and the tops of his feet.



Marines headed to support the coalition forces participating in Operation Desert Shield board a commercial aircraft chartered by the Military Airlift Command in September 1991.

Saul, now 54, didn't know he could qualify for VA health care until 2014 when a Navy veteran urged him to do so. Besides his skin condition, he filed claims for fibromyalgia—a chronic disorder that causes pain throughout the body and that can affect sleep, mood, and memory—and irritable bowel syndrome. Veterans Affairs considers both to be [presumptive conditions](#) connected to service in the Gulf. Which means getting benefits should be easy. But VA denied all three of Saul's claimed issues, Saul said. His skin problem was eczema, VA examiners told him, and they used the wrong rules on the other claims, he said. Saul appealed. VA corrected its mistake and approved service-connection for his fibromyalgia and irritable bowel syndrome.

Then VA sent him to the [Georgia Skin and Cancer Clinic](#). After a battery of tests over several months, his skin specialist was unable to reach a diagnosis. Surely, VA would finally agree his rash was service-connected, Saul figured. Medically unexplained chronic symptoms related to certain types of ailments, including "skin problems," are presumed to be connected to service in the Gulf. But VA denied his claim again. The VA nurse practitioner who examined him said his problem was dermatitis. Two dermatologists, one from VA and the other in private practice, did not back up that diagnosis, he said.

"You exceed the requirements with overwhelming evidence by a medical doctor specialist, only to be examined by a nurse practitioner who ignores the specialist's diagnosis and gives a different

diagnosis, and then the VA uses that to deny the claim,” Saul told the authors of a report looking at VA disability claims. “It’s like they go to the lesser of the two. The evidence is there and the specialist said so, just to have a nurse practitioner in five minutes contradict months of studies, tests, and exams by a medical doctor specialist.”

His story is as familiar as it is pervasive: As generations of veterans return home from war, they find themselves in secondary battles with VA over benefits—[Vietnam veterans over Agent Orange](#), post-9/11 veterans over [pits that burned as much as 240](#) tons of trash a day in Iraq and Afghanistan, and World War II veterans who found themselves used as [guinea pigs during the atomic bomb testing](#). This time, more than 650,000 U.S. service members deployed in the war against Iraq over its invasion and annexation of Kuwait 30 years ago. The combat was brief—just 42 days—but the fallout has been unending. Nearly 44%—almost half—came home with a variety of serious medical problems, including several mysterious ailments that became collectively known as Gulf War illness, [according to a 2016 VA study](#).

The condition is “a cluster of medically unexplained chronic symptoms that can include fatigue, headaches, joint pain, indigestion, insomnia, dizziness, respiratory disorders, skin problems, and memory impairment,” according to VA. [Research shows the symptoms came after exposure](#) to a confluence of similar chemicals—acetylcholinesterase inhibitors—that include DEET used to protect against malaria-causing mosquitoes; a pesticide, permethrin, service members used in their laundry; sarin gas released when U.S. troops bombed a munitions factory at Khamisiyah; and pyridostigmine bromide, which the military used as a preventive treatment against nerve agent.



Anthony Hardie stands in front of a group of camels during Operation Desert Storm.

But the research never translated to benefits and care for Desert Storm veterans. “We were fully willing to go and recognized we might not come home,” said Anthony Hardie, an Army veteran and Bronze Star recipient who served in the Gulf War and who has experienced a variety of health problems since then. “What we didn’t understand was we might come back with injuries and would have never in a million years believed we would not be taken care of after the fact.”

A [2017 GAO report](#) found that VA had denied more than 80% of Gulf War illness claims. Denial rates were three times higher than for all other medical issues related to the war, and the claims process took longer. And more recent research from veterans service organizations shows the problem hasn’t improved: Two veterans’ advocacy groups, Veterans for Common Sense and

Vietnam Veterans of America, analyzed VA's claim decisions between 2002 and the first quarter of 2018 and found that VA [rejected 90% of undiagnosed disability claims](#) from Gulf War veterans, denying them Congress-approved eligibility for free VA medical care. "The claims process for Gulf War illness veterans remains so badly broken that nearly all veterans who apply are improperly denied," Hardie said.

VA spokesman Randal Noller told The War Horse the agency "remains fully committed and attentive to the concerns of our Gulf War veterans and the issues many have raised. Since 1991, veterans have dealt with promises, attempts from Congress to fix the problem, and case backlogs in the hundreds of thousands as post-9/11 veterans returned to a benefits system ill-prepared for the influx. As the years go on, they worry that they, like the Vietnam and World War II vets before them, will die before they gain access to the benefits they were promised. Many of them can't work or enjoy life because Gulf War illness leaches them of energy or causes them to feel intense pain—a byproduct of brain inflammation, research has shown. As many as [250,000 people have symptoms](#) of Gulf War illness.. The department is working diligently to gather more information to address these concerns."

But after [more than two decades of the agency stiff-arming claims](#) from Gulf War veterans for a variety of illnesses connected to their service, veterans advocates are cautiously optimistic that a new administration might finally be more attentive to their concerns. Congress appears to be newly engaged in the issue. And even comedian Jon Stewart has signed on to fight for veterans dealing with "toxic injuries"—a term originally coined by the researchers searching for answers for Desert Storm veterans.

Both President Joe Biden and First Lady Jill Biden, who became an ardent ally of military families when her husband served as vice president, have established strong emotional links to the plight of veterans. The president's late son, Beau, a major in the Delaware Army National Guard who served in Iraq and who was expected to follow in his father's political footsteps, died from brain cancer in 2015 at age 46. During Biden's presidential campaign, he said Beau's death could be connected to his exposure during the war to [toxic burn pits](#). The open-air pits were adjacent to military bases and became large receptacles for military trash. Doused with jet fuel and set ablaze, they gave off powerful toxic fumes that contained known carcinogens. As many as [3.5 million service members](#) may have been exposed, according to the Defense Department.

Biden has also pushed to spend billions on long-festering needs, like upgrading the nation's crumbling infrastructure, giving advocates hope that he'll take on VA, as well. "The Biden administration has been working to solve other issues long overdue for solutions, which inspires hope that at long last, Gulf War veterans might finally also see these serious issues fixed," Hardie said. Congress has also focused new attention on the issue. Several bills have been introduced that would make it easier for veterans to qualify for health benefits because of their exposure. While they are focused on problems related to the post-9/11 wars, advocates for Gulf War veterans hope the attention will aid their cause as well.



President George H.W. Bush meets with troops in Saudi Arabia on Thanksgiving during the Gulf War, Nov. 22, 1990.

The Covenant Act—[Conceding Our Veterans' Exposure Now and Necessitating Training](#)—seeks to address that void. Introduced by [Rep. Elaine Luria](#), a Democrat from Virginia and Navy veteran, the legislation would acknowledge exposure to toxic substances by veterans who served in various overseas locales and require compensation and pension exams by VA. Luria's bill would grant presumption to 15 disabilities related to military service, including asthma and several types of cancer. "It's heartbreaking to hear the stories of veterans who have been denied these benefits because the VA let bureaucracy get in the way of delivering care," Luria said by email. "[A]s a veteran myself I understand the hardship many face when dealing with the VA."

Stewart, who spearheaded a campaign to pressure Congress to compensate 9/11 first responders who had diseases similar to veterans exposed to the burn pits in Iraq and Afghanistan, [has worked to push similar legislation for veterans](#). Stewart channeled the cynicism common among Gulf War veterans who are frustrated and angry over the government's years of neglect when he [told CBS News recently](#): "Congress is a wonderful place to wave a flag. Well, you can't just say we support the troops and then abandon them when the troops need support."

Angela Menard's symptoms began immediately after she took the first pyridostigmine bromide tablet—or "anti-nerve agent pill." As the years went on, the Army medic with the 2nd Armored Division had stomach issues, muscle twitches, and "pretty unbearable" muscle and joint pain. A red, fluid-filled rash comes and goes. Last year, she was diagnosed with fibromyalgia and awarded benefits, she said. Before that, she didn't know what fibromyalgia was. And until recently, she had no idea "Gulf War illness" was a thing or that she was eligible for benefits, she told *The War Horse*. The stomach issues were "kind of embarrassing," and in the Army, she did a lot of physical things—she "rolled her ankle" while putting up camouflage, hurt her shoulder and back, and destroyed her knees on road marches.



Angela Menard poses with a team of medics (right) as they prepare to return home after Operation Desert Storm.

Angela Menard served as a medic with the 2nd Armored Division during Operation Desert Storm. Photo courtesy of Angela Menard. “It’s hard work, you know, but then it doesn’t go away,” she said. “And then you’re 25, and then you’re 30. ... And then it’s just normal for you.” It didn’t occur to her, she said, that everybody didn’t have the same muscle and joint aches she had. “I didn’t want to be ‘disabled,’” she said. “And that’s still hard. So it wasn’t until I started working with vets, and then it was like a tidal wave.” After deciding she wanted to fulfill a dream, Menard attended law school when she was in her 40s. While there, she began working at a veteran advocacy law clinic, ultimately working on federal court cases for veteran benefits, she said. “The veterans had been denied benefits for so many years that they were deserving of, and the system is complicated and broken,” she said.

But that’s also when she realized she was not alone, she said. Three decades after the war, many veterans still do not know they are eligible for benefits, that treatments are available, that there’s a registry available for Gulf War illness—or even that Gulf War illness exists. It is part of VA’s charge to make sure veterans know about Gulf War illness and that they may be eligible for benefits.

“To hear veterans who are saying that is really shocking,” said Kimberly Sullivan, a research associate professor at the Boston University School of Public Health Department of Environmental Health. “There should be very clear information there.” Sullivan has researched Gulf War illness since the 1990s and is the former associate scientific director for the congressionally directed Research Advisory Committee on Gulf War Veterans’ Illnesses. Peter Rumm, director of pre-9/11-era environmental health services at VA’s [Post-Deployment Health Services](#), told The War Horse that as more veterans use VA telehealth because of the pandemic, VA has used it [to get out the word to veterans](#) about the [Airborne Hazards and Open Burn Pit registry](#), as well as the free [Gulf War Health Registry Exam](#). About 300 clinicians who specialize in environmental health have received training within the last couple of months, he said.

Congress has tried to help with the benefits issue. In 1994, lawmakers [passed legislation to allow VA](#) to pay benefits to Gulf War veterans for service-related disabilities caused by undiagnosed illnesses, such as fatigue, muscle and joint pain, headaches, menstrual disorders, skin conditions, respiratory disorders, and neurological and psychological disorders. This was in

addition to chronic fatigue syndrome, fibromyalgia, and functional gastrointestinal disorders, such as irritable bowel syndrome.

David Young, 56, was a combat engineer during the Gulf War. It was his second deployment, having served with the 82nd Airborne in Grenada in 1982. Young was stationed less than 10 miles downwind of [Khamisiyah](#), a large Iraqi munitions depot that U.S. troops blew up, unaware that it was also a stockpile for several nerve agents. The blast created a vast plume in the sky that extended for miles and may have exposed more than 100,000 troops. After returning home, Young's health began to fail, he told *The War Horse*. By 2012, his fatigue had become so debilitating that he was forced to quit his job and seek disability benefits from VA. He walked into the Atlanta VA hospital in 2014 with every expectation that his disability claim for chronic fatigue syndrome would be a snap, he said. Congress had made sure—or so lawmakers thought—that Gulf War veterans suffering a variety of illnesses because of their deployments would receive automatic VA benefits and treatment.

The benefits laws, based on widespread toxic exposures and illnesses among Gulf War veterans, were intended to take the burden of proof off the former service members to make it easier for them to quickly receive care and compensation. Yet Young said he was denied, despite a diagnosis by the physician who had been treating him for more than a decade. The physician has had to fill out a Disability Benefits Questionnaire, known as a DBQ, three times to establish Young's diagnosis, Young said. For more than six years, Young has struggled with the VA's byzantine system. His claim has been denied and he has appealed multiple times. In 2019, a VA examiner told him he had been diagnosed with Lyme disease and that was the cause of his fatigue, Young said. Young appealed, and last year, VA conceded he had never been so diagnosed, but still denied him service connection for his chronic fatigue syndrome.

He sought help from his member of Congress to obtain a copy of the 2019 VA examiner's report, which stated that Young's personal physician said that his symptoms were indications of chronic fatigue syndrome, according to documents from VA. Still, the examiner said she was unable to state with certainty that Young has a diagnosis of chronic fatigue syndrome, Young said. He sees a doctor at the veterans' hospital in Charleston, South Carolina, every three months. It's a nine-hour drive up and back. His claim is still on appeal. "It is crazy," he told *The War Horse*.

In 1996, the Government Accounting Office, since renamed the Government Accountability Office, found that VA had [denied nearly 95% of the more than 4,000 Gulf War claims](#) it had processed. In [1998](#) and again in [2001](#), Congress strengthened the law in the hope that more Gulf War veterans would become eligible for free medical care. In 2017, the GAO revisited the issue again. "Astronomical" is how [Ronald Brown](#) described the denial rate. He's a Gulf War veteran and consultant with the Vietnam Veterans of America, one of the authors of the analysis that found VA [rejected 90% of undiagnosed disability claims](#) from Gulf War veterans. [Veterans for Common Sense](#) was the other.

VA spokesman Noller said in an email that the department did a national review of all rated Gulf War claims in fiscal year 2020 to highlight common errors in claims processing and develop

ways to improve it. It also formed a Gulf War working group to review the process. The Veterans Benefits Administration's Compensation Service Quality Assurance staff reviewed claims from 2015 to 2016, "but did not identify any notable accuracy issues," he said. "Those denial rates and other serious problems related to 'Gulf War illness' claims were publicly exposed thereafter by a 2017 GAO investigative report and related [Congressional hearing](#), long after VA's 'quality assurance' measures had allowed VA's entrenched bureaucrats to reassure themselves and VA leaders that everything was fine, when it wasn't," Hardie said, "and still isn't."

The claims analysis Hardie's organization did with Vietnam Veterans of America last year found [several reasons for the VA's denials](#). Among them: poor training of VA medical examiners and claim processors. Too often examiners overlooked or ignored medical diagnoses performed by private medical specialists, according to the analysis. VA examiners also improperly denied claims because they excluded certain countries in the region where Gulf War veterans were deployed. And they wrongly denied claims from veterans deployed to the Southwest Asia theater after 1991, even though [Congress broadly defined the Gulf War as continuing to the present](#).

Kerry Baker, an attorney and former Marine whose Tennessee law firm aids veterans, said VA needs much better training and accountability. While the agency has promised numerous times to raise the standards, "they still keep getting worse." Baker, who previously worked for the Veterans Benefits Administration, said of VA's claims examiners: "What little training they currently receive is too high a level and full of inaccuracies. And the inaccuracies are typically based on knowledge gaps in the folks creating and presenting the training material, which leads to the next problem of the same lack of education in VA adjudicators."

Former VA Secretary David Shulkin told The War Horse the process that veterans go through to receive care and benefits is 'backwards.' "Rather than forcing veterans to fight to prove their case and have to wait and wait until absolutely the most comprehensive data is available to show there is an association (to their military service)," he said, "if somebody served their country, they should get our support." Shulkin, a physician, has had his own issues: He was fired by President Trump in 2018 over a [travel scandal](#), and [VA's inspector general](#) criticized his department's failure to address poor conditions at its flagship hospital in Washington. But veterans' advocates met with Shulkin in 2017, and he agreed to set up a task force that would include them to resolve the perpetual claim denials. He was fired before it could get underway.

The advocates have been unable to get VA officials to pick up the phone ever since. "The VA has not been responsive," said Brown, the Vietnam Veterans of America consultant. "I don't really know the reasons why. I just think they really don't care that much." That assumption comes from experience: From [excessive wait times](#) for treatment to [billion-dollar cost overruns](#) at a new hospital, VA has had a spate of scandals and controversies in recent years. The last VA secretary, Robert Wilkie, [left under a cloud](#) at the end of the Trump administration. The department's inspector general found him to be part of a campaign to attack the credibility of a female Navy veteran who had filed a sexual assault complaint.

The claims backlog has been overwhelming and led to a [nationwide scandal in 2014](#). Lengthy waiting times at the Phoenix VA hospital revealed a broken appointments system driven by greed; VA officials received pay bonuses for reporting short wait times, which they falsified to federal regulators. As of March, VA still had a compensation and pension case backlog, in part because of the pandemic, of around 350,000 cases, [according to Federal News Network](#). Still, VA's new secretary, [Denis McDonough](#), intends to meet with veterans' advocacy and service organizations over the coming weeks to have "detailed discussions on a host of issues, including the topic of Gulf War veterans' claims," Noller, the VA spokesman, said. "The department is working diligently to gather more information to address these concerns."

Shulkin isn't the only one who believes there should be an easier path for veterans. "Our veterans have been fighting for benefits since day one, and 80% of claims are still denied at the VA even with all that we know now and all the research that we've done," Gulf War illness researcher Sullivan said. "So I would say right off the bat that veterans who have documented health effects from these types of deployments should get automatic service connection."

Benefits lawyer Menard said she thinks some things are getting better. VA [recently revamped its appeals process](#)—and while some advocates say the jury's still out on whether it's a better process for everybody, Menard is hopeful that things will move more quickly. VA's new goal is to make a decision on an initial claim within 120 days, she said. But things are still rough for veterans in the old system, or the "legacy" system. "They still have a huge backlog of people that are still stuck in the legacy appeal process that aren't getting worked out because [VA] had to split their staff," she said. "There's a certain number of people who work on [the new system] claims, and a certain number of people at the VA that work on legacy claims." The amount of time people have spent fighting for their benefits is "ridiculous," she said. Yet she's hopeful. "I think the system is going to get better and is getting better," she said.

Five years ago, a janitor slammed a door where Laquina Thomas worked and she immediately dropped to the floor, searching for her nonexistent M16. Co-workers kept calling her name. But it took Thomas 20 seconds to snap out of a flashback that catapulted her back in time three decades to when she was with an [Army logistics unit](#) during the Gulf War, she told The War Horse. "I was 18 when I joined the military. I was in perfect shape," said Thomas, who served in the Southwest Asia theater for 11 months. "I joined because I wanted to serve our country." Since then, Thomas said she has struggled with [post-traumatic stress](#) and [fibromyalgia](#).

For Thomas, a financial analyst with the Gwinnett County (Georgia) Board of Commissioners, that moment led to a six-year struggle with VA to finally recognize her claims of health problems due to her service. At long last, she received medical and disability benefits. "It wasn't easy," said Thomas, now 49. "It should not take a soldier that long to get the proper care and the deserving compensation."

[Source: The War Horse | David Goldstein | May 20, 2021 ++]