



**DEPARTMENT OF VETERANS AFFAIRS**  
**Department of Veterans Affairs**  
**Regional Office**

**VA File Number**

**Represented By:**  
**CHUCK R PARDUE**  
**Rating Decision**  
**01/29/2018**

**INTRODUCTION**

The records reflect that you are a veteran of the Vietnam Era. You served in the Army from August 5, 1969, to August 4, 1971. You filed a new claim for benefits that was received on December 8, 2017. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

1. Evaluation of post traumatic stress disorder, which is currently 30 percent disabling, is increased to 70 percent effective December 8, 2017.
2. Service connection for tinnitus is granted with an evaluation of 10 percent effective December 8, 2017.
3. Service connection for obstructive sleep apnea is granted with an evaluation of 50 percent effective December 8, 2017.
4. Service connection for degenerative disc disease, low back is granted with an evaluation of 40

percent effective December 8, 2017.

5. Service connection for radiculopathy, left lower extremity (sciatic) (claimed as left leg restless leg syndrome) is granted with an evaluation of 20 percent effective December 8, 2017.

6. Service connection for radiculopathy, right lower extremity (sciatic) (claimed as right leg restless leg syndrome) is granted with an evaluation of 20 percent effective December 8, 2017.

7. Service connection for erectile dysfunction is granted with an evaluation of 0 percent effective December 8, 2017.

8. Service connection for hypertension is granted with an evaluation of 0 percent effective December 8, 2017.

9. Entitlement to special monthly compensation based on loss of use of creative organ is granted from December 8, 2017.

10. Basic eligibility to Dependents' Educational Assistance is established from December 8, 2017.

11. Evaluation of bilateral hearing loss (previously rated as hearing loss high frequency, left ear) (also claimed as right hearing loss), which is currently 0 percent disabling, is continued.

12. The claim for an increased evaluation for residuals, multiple fragment wounds of right knee is deferred.

13. The claim for an increased evaluation for residuals, multiple fragment wounds, abdomen wall with laparotomy is deferred.

14. The claim for an increased evaluation for residuals, multiple fragment wounds, left knee, with retained foreign body is deferred.

15. The claim for an increased evaluation for ulnar nerve injury to right arm secondary to fragment wound is deferred.

16. The claim for an increased evaluation for residual scar from laparotomy of abdomen due to fragment wound is deferred.

17. The claim for an increased evaluation for residuals of multiple fragment wound, left thigh is deferred.

18. The claim for an increased evaluation for residuals, scars, multiple fragment wound of right knee is deferred.

### EVIDENCE

- Service Treatment Records received March 19, 2015, for the period August 1969 to August 1971
- DD Form 214, Certificate of Release or Discharge received March 19, 2015, for the period August 1969 to August 1971
- Military personnel records received March 19, 2015, for the period August 1969 to August 1971
- VA Form 21-4142 Authorization and Consent to Release Information to Department of Veteran's Affairs, Frederick Merrill, DO (Family Medicine) & University HCS, received December 8, 2017
- Disability Benefit Questionnaire, Private Physician, dated December 8, 2017
- Medical Opinions from Dr. Thomas Seiter, December 8, 2017
- Private Treatment Records from Caitlin Buhrmeister, Readjustment Counselor dated December 8, 2017, for the period October 10, 2017 to November 29, 2017
- Section (§) 5103 Notice Response, received December 8, 2017
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, permanent and total disability rating for PTSD, sleep apnea, shrapnel wounds, knees, ulnar nerve, back, radiculopathy,, December 8, 2017
- Letter to University Health Care System, December 13, 2017
- VA letter concerning your claim, dated December 11, 2017
- Private Treatment Records, Dr. Frederick Merrill (Family Medicine), dated December 13, 2017
- VA letter, dated December 13, 2017
- VA Form 21-0820 Report of General Information, University HCS unable to provide treatment records due to dates of treatment listed on the request not matching the dates of treatment in the system, dated December 20, 2017
- VA letter, dated December 27, 2017
- Disability Benefit Questionnaire, Augusta VA Medical Center, dated January 3, 2018 and January 6, 2018

### REASONS FOR DECISION

#### 1. Evaluation of post traumatic stress disorder currently evaluated as 30 percent disabling.

The evaluation of post traumatic stress disorder is increased to 70 percent disabling effective December 8, 2017.

The effective date of this grant is December 8, 2017. Entitlement to an increased evaluation has been established from the date the claim was received. When an increased evaluation is granted based on VA medical evidence showing an increase in disability after the date the claim was received, the effective date of the increase is the date the claim was received.

We have assigned a 70 percent evaluation for your post traumatic stress disorder based on:

- Forgetting names

- Suspiciousness
- Depressed mood
- Suicidal ideation
- Mild memory loss
- Forgetting recent events
- Chronic sleep impairment
- Panic attacks more than once a week
- Difficulty in adapting to stressful circumstances
- Difficulty in adapting to work
- Inability to establish and maintain effective relationships
- Flattened affect
- Difficulty in adapting to a worklike setting
- Anxiety
- Difficulty in establishing and maintaining effective work and social relationships
- Occupational and social impairment with reduced reliability and productivity
- Forgetting directions

The overall evidentiary record shows that the severity of your disability most closely approximates the criteria for a 70 percent disability evaluation.

A higher evaluation of 100 percent is not warranted for posttraumatic stress disorder unless the evidence shows total occupational and social impairment, due to such symptoms as:

- gross impairment in thought processes or communication
- persistent delusions or hallucinations
- grossly inappropriate behavior
- persistent danger of hurting self or others
- intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene)
- disorientation to time or place
- memory loss for names of close relatives, own occupation, or own name.

## **2. Service connection for tinnitus.**

Service connection for tinnitus has been established as directly related to military service.

The effective date of this grant is December 8, 2017. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim.

An evaluation of 10 percent is assigned from December 8, 2017.

We have assigned a 10 percent evaluation for your tinnitus based on:

- Recurrent tinnitus

A single evaluation for recurrent tinnitus is assigned whether the sound is perceived in one ear,

both ears, or in the head.

This is the highest schedular evaluation allowed under the law for tinnitus.

**3. Service connection for obstructive sleep apnea as secondary to the service-connected disability of post traumatic stress disorder.**

Service connection for obstructive sleep apnea has been established as related to the service-connected disability of post traumatic stress disorder.

An evaluation of 50 percent is assigned from December 8, 2017.

We have assigned a 50 percent evaluation for your sleep apnea based on:

- Requires use of breathing assistance device such as continuous airway pressure (CPAP) machine

Additional symptom(s) include:

- Persistent day-time hypersomnolence

A higher evaluation of 100 percent is not warranted for sleep apnea syndromes unless the evidence shows:

- Carbon dioxide retention; or,
- Chronic respiratory failure; or,
- Cor pulmonale; or,
- Tracheostomy required.

**4. Service connection for degenerative disc disease, low back as secondary to the service-connected disability of residuals, multiple fragment wounds of right knee.**

Service connection for degenerative disc disease, low back has been established as related to the service-connected disability of residuals, multiple fragment wounds of right knee.

The effective date of this grant is December 8, 2017. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim.

An evaluation of 40 percent is assigned from December 8, 2017.

We have assigned a 40 percent evaluation for your degenerative disc disease, low back based on:

- Forward flexion of the thoracolumbar spine 30 degrees or less

Additional symptom(s) include:

- X-ray evidence of degenerative arthritis

- Combined range of motion of the thoracolumbar spine not greater than 120 degrees
- Forward flexion of the thoracolumbar spine greater than 60 degrees but not greater than 85 degrees
- Painful motion upon examination

The provisions of 38 CFR §4.40 and §4.45 concerning functional loss due to pain, fatigue, weakness, or lack of endurance, incoordination, and flare-ups, as cited in DeLuca v. Brown and Mitchell v. Shinseki, have been considered and were applied based on additional joint limitation.

A higher evaluation of 50 percent is not warranted for lumbosacral strain unless the evidence shows:

- Unfavorable ankylosis of the entire thoracolumbar spine.

**5. Service connection for radiculopathy, left lower extremity (sciatic) (claimed as left leg restless leg syndrome) as secondary to the service-connected disability of degenerative disc disease, low back.**

Service connection for radiculopathy, left lower extremity (sciatic) (claimed as left leg restless leg syndrome) has been established as related to the service-connected disability of degenerative disc disease, low back.

An evaluation of 20 percent is assigned from December 8, 2017, the date your claim was received.

We have assigned a 20 percent evaluation for your left leg restless leg syndrome secondary to PTSD - code 8620, left leg sciatic radiculopathy secondary to back based on:

- Moderate incomplete paralysis

A higher evaluation of 40 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is moderately severe.

**6. Service connection for radiculopathy, right lower extremity (sciatic) (claimed as right leg restless leg syndrome) as secondary to the service-connected disability of degenerative disc disease, low back.**

Service connection for radiculopathy, right lower extremity (sciatic) (claimed as right leg restless leg syndrome) has been established as related to the service-connected disability of degenerative disc disease, low back.

An evaluation of 20 percent is assigned from December 8, 2017, the date your claim was received.

We have assigned a 20 percent evaluation for your right leg restless leg syndrome secondary to PTSD - code 8620, right leg sciatic radiculopathy secondary to back based on:

- Moderate incomplete paralysis

A higher evaluation of 40 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is moderately severe.

**7. Service connection for erectile dysfunction as secondary to the service-connected disability of post traumatic stress disorder.**

Service connection for erectile dysfunction has been established as related to the service-connected disability of post traumatic stress disorder.

A noncompensable evaluation is assigned from December 8, 2017, the date your claim was received.

We have assigned a noncompensable evaluation for your erectile dysfunction based on:

- Loss of erectile power

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 20 percent is not warranted for penile deformity with loss of erectile power unless the evidence shows:

- Deformity with loss of erectile power.

This disability is not specifically listed in the rating schedule; therefore, it is rated analogous to a disability in which not only the functions affected, but anatomical localization and symptoms, are closely related.

**8. Service connection for hypertension as secondary to the service-connected disability of post traumatic stress disorder.**

Service connection for hypertension has been established as related to the service-connected disability of post traumatic stress disorder.

A noncompensable evaluation is assigned from December 8, 2017, the date your claim was received.

We have assigned a noncompensable evaluation for your hypertension based on:

- A diagnosed disability with no compensable symptoms

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 10 percent is not warranted for hypertensive vascular disease unless the



evidence shows:

- A history of diastolic pressure predominantly 100 or more and there is a requirement for continuous medication for control; or,
- Diastolic pressure predominantly 100 or more; or,
- Systolic pressure predominantly 160 or more.

**9. Entitlement to special monthly compensation based on loss of use.**

Entitlement to special monthly compensation is warranted in this case because criteria regarding loss of use of creative organ were met from December 8, 2017. The effective date is December 8, 2017, the date your claim was received.

**10. Eligibility to Dependents' Educational Assistance under 38 U.S.C. Chapter 35.**

Eligibility to Dependents' Educational Assistance is derived from a veteran who was discharged under other than dishonorable conditions; and, has a permanent and total service-connected disability; or a permanent and total disability was in existence at the time of death; or the veteran died as a result of a service-connected disability. Also, eligibility exists for a serviceperson who died in service. Finally, eligibility can be derived from a service member who, as a member of the armed forces on active duty, has been listed for more than 90 days as: missing in action; captured in line of duty by a hostile force; or forcibly detained or interned in line of duty by a foreign government or power.

Basic eligibility to Dependents' Education Assistance is granted as the evidence shows the veteran currently has a total service-connected disability, permanent in nature.

The effective date is December 8, 2017, the date your claim was received.

**11. Evaluation of bilateral hearing loss (previously rated as hearing loss high frequency, left ear) (also claimed as right hearing loss) currently evaluated as 0 percent disabling.**

The evaluation of bilateral hearing loss is continued as 0 percent disabling.

Your private physician provided a positive medical opinion linking your right ear hearing loss to military noise exposure. Your right ear hearing loss was combined with your service connected left ear hearing loss.

An evaluation of 0 percent is assigned because your right ear has a speech discrimination of 88 with an average decibel loss of 49 and your left ear has a speech discrimination of 80 with an average decibel loss of 51. The evaluation for hearing loss is based on objective testing. Higher evaluations are assigned for more severe hearing impairment.

**12. Evaluation of residuals, multiple fragment wounds of right knee currently evaluated as 10 percent disabling.**



The evaluation for residuals, multiple fragment wounds of right knee is deferred for the following: pending examination

**13. Evaluation of residuals, multiple fragment wounds, abdomen wall with laparotomy currently evaluated as 10 percent disabling.**

The evaluation for residuals, multiple fragment wounds, abdomen wall with laparotomy is deferred for the following: pending examination.

**14. Evaluation of residuals, multiple fragment wounds, left knee, with retained foreign body currently evaluated as 10 percent disabling.**

The evaluation for residuals, multiple fragment wounds, left knee, with retained foreign body is deferred for the following: pending examination.

**15. Evaluation of ulnar nerve injury to right arm secondary to fragment wound currently evaluated as 10 percent disabling.**

The evaluation for ulnar nerve injury to right arm secondary to fragment wound is deferred for the following: pending examination.

**16. Evaluation of residual scar from laparotomy of abdomen due to fragment wound currently evaluated as 0 percent disabling.**

The evaluation for residual scar from laparotomy of abdomen due to fragment wound is deferred for the following: pending examination.

**17. Evaluation of residuals of multiple fragment wound, left thigh currently evaluated as 0 percent disabling.**

The evaluation for residuals of multiple fragment wound, left thigh is deferred for the following: pending examination.

**18. Evaluation of residuals, scars, multiple fragment wound of right knee currently evaluated as 0 percent disabling.**

The evaluation for residuals, scars, multiple fragment wound of right knee is deferred for the following: pending examination.

**REFERENCES:**

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the

regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, [www.va.gov](http://www.va.gov).