



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

VA File Number

**Represented By:
CHUCK R PARDUE
Rating Decision
02/28/2018**

INTRODUCTION

The records reflect that you are a veteran of the Peacetime. You served in the Air Force from March 12, 1980, to March 11, 1984. You filed a claim for increased evaluation that was received on December 6, 2017. Based on a review of the evidence listed below, we have made the following decisions on your claim.

Note: The issues of depression, left shoulder, right shoulder and right knee are currently on appeal and will not be address in this rating decision. You have claimed entitlement to temporary total disability due to anal cancer. This rating decision has assigned a 100 percent evaluation for this condition, therefore, entitlement to temporary total disability under 38 CFR 4.30 is moot and is not addressed.

DECISION

1. Service connection for anal condyloma warts, status post removal is granted with an evaluation of 0 percent effective December 12, 2017.
2. Service connection for anal squamous cell carcinoma is granted with an evaluation of 100

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percent effective December 12, 2017.

3. Service connection for impairment of sphincter control (claimed as rectal leakage) is granted with an evaluation of 60 percent effective December 12, 2017.
4. Service connection for anal scar, residual of surgery (unstable and/or painful) is granted with an evaluation of 10 percent effective December 12, 2017.
5. Service connection for anal scar, residual of surgery is granted with an evaluation of 0 percent effective December 12, 2017.
6. Entitlement to individual unemployability is denied.
7. A decision on entitlement to compensation for AIDS is deferred.
8. A decision on entitlement to compensation for left foot HIV-associated neuropathy is deferred.
9. A decision on entitlement to compensation for right foot HIV-associated neuropathy is deferred.
10. A decision on entitlement to compensation for sinusitis is deferred.
11. The claim for an increased evaluation for left knee chondromalacia patella is deferred.

EVIDENCE

- Service Treatment Records and Personnel Records, from March 12, 1980 through March 11, 1984
- Rating Decision, dated March 12, 1996
- Rating Decision, dated April 2, 2012
- Statement from Thomas J. Seiter, Jr., M.D., dated December 6, 2017 and December 12, 2017, received December 6, 2017 and December 12, 2017
- Disability Benefit Questionnaire (knees), dated December 6, 2017, received December 6, 2017
- VA Form 21-8940, Veteran's Application For Increased Compensation Based On Unemployability, received December 12, 2017
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, December 6, 2017
- VA Form 21-4192, Request For Employment Information in Connection With Claim For Disability Benefits, received December 12, 2017 and December 21, 2017
- Disability Benefit Questionnaire (peripheral nerves), dated December 12, 2017, received December 12, 2017
- Disability Benefit Questionnaire (scars), dated December 12, 2017, received December 12, 2017

- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, December 12, 2017
- Disability Benefit Questionnaire (rectum and anus conditions), dated December 12, 2017, received December 12, 2017
- Disability Benefit Questionnaire (sinusitis), dated December 12, 2017, received December 12, 2017
- Disability Benefit Questionnaire (HIV), dated December 12, 2017, received December 12, 2017
- VA Examination-Augusta, dated February 27, 2018
- Private treatment records from Georgia Cancer Center from September 12, 2017 to October 27, 2017, received October 27, 2017 (Non-VA CAPRI)

REASONS FOR DECISION

1. Service connection for anal condyloma warts, status post removal.

You contend that you suffer from anal condyloma warts, status post removal due to military service. We will establish service connection for a chronic disabling condition, which is shown in service, and when continued treatment is shown since service or a medical opinion relates the current condition to service or another service connected condition. Service connection may also be granted for pre-existing conditions which are aggravated beyond natural progression by service and certain presumptive conditions, which manifest to a compensable degree within 12 months of discharge from active duty.

A review of your service treatment records shows a diagnosis of anal condyloma warts. You attended your VAMC examination on February 27, 2018. The examiner confirmed your diagnosis and removal in March 2017 and linked your current condition to that which occurred during active military service. Based on the evidence, service connection for anal condyloma warts, status post removal is granted with an evaluation of 0 percent effective December 12, 2017, the date we received your claim.

A noncompensable evaluation is assigned unless there is: disfigurement; limitation of motion or function due to scarring; pain on examination of scars; frequent loss of covering of skin over scars; or dermatitis or eczema affecting at least 5 percent of exposed areas or requiring systemic therapy.

2. Service connection for anal squamous cell carcinoma as secondary to the service-connected disability of anal condyloma warts, status post removal.

You contend that you suffer from anal squamous cell carcinoma as secondary to the service-connected disability of anal condyloma warts, status post removal. We will establish service connection for a chronic disabling condition, which is shown in service, and when continued treatment is shown since service or a medical opinion relates the current condition to service or another service connected condition. Service connection may also be granted for pre-existing conditions which are aggravated beyond natural progression by service and certain presumptive

conditions, which manifest to a compensable degree within 12 months of discharge from active duty.

The evidence shows a diagnosis of anal squamous cell carcinoma as early as March 2017. You underwent surgical intervention and radiation treatment from September 27, 2017 to October 27, 2017. You attended your VAMC examination on February 27, 2018. The examiner confirmed this diagnosis and stated your condition is at least likely as not secondary to your service connected anal condyloma warts, status post removal. Based on the evidence, service connection for anal squamous cell carcinoma as secondary to the service-connected disability of anal condyloma warts, status post removal is granted with an evaluation of 100 percent effective December 12, 2017, the date we received your claim.

We have assigned a 100 percent evaluation for your anal squamous cell carcinoma based on:

- Undergoing surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure

Following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure, the rating of 100 percent shall continue with a mandatory VA examination at the expiration of six months. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of 38 CFR §3.105(e). If there has been no local recurrence or metastasis, you will be rated on residuals such as voiding dysfunction or renal dysfunction, whichever is predominant.

This is the highest schedular evaluation allowed under the law for malignant neoplasms of digestive system.

3. Service connection for impairment of sphincter control (claimed as rectal leakage) as secondary to the service-connected disability of anal squamous cell carcinoma.

You contend that you suffer from impairment of sphincter control (claimed as rectal leakage) as secondary to the service-connected disability of anal squamous cell carcinoma. We will establish service connection for a chronic disabling condition, which is shown in service, and when continued treatment is shown since service or a medical opinion relates the current condition to service or another service connected condition. Service connection may also be granted for pre-existing conditions which are aggravated beyond natural progression by service and certain presumptive conditions, which manifest to a compensable degree within 12 months of discharge from active duty.

You have provided disability benefits questionnaire dated December 12, 2017. The evidence shows impairment of sphincter control as secondary to the service-connected disability of anal squamous cell carcinoma. Based on the evidence, service connection for impairment of sphincter control (claimed as rectal leakage) is granted with an evaluation of 60 percent effective December 12, 2017, the date we received your claim.

We have assigned a 60 percent evaluation for your impairment of sphincter control (claimed as rectal leakage) based on:

- Extensive leakage
- Fairly frequent involuntary bowel movements

Additional symptom(s) include:

- Wearing of pad

A higher evaluation of 100 percent is not warranted for impairment of sphincter control unless the evidence shows complete loss of sphincter control.

Since there is a likelihood of improvement, the assigned evaluation is not considered permanent and is subject to a future review examination.

4. Service connection for anal scar, residual of surgery (unstable and/or painful) as secondary to the service-connected disability of anal squamous cell carcinoma.

You contend that you suffer from anal scar, residual of surgery (unstable and/or painful) as secondary to the service-connected disability of anal squamous cell carcinoma. We will establish service connection for a chronic disabling condition, which is shown in service, and when continued treatment is shown since service or a medical opinion relates the current condition to service or another service connected condition. Service connection may also be granted for pre-existing conditions which are aggravated beyond natural progression by service and certain presumptive conditions, which manifest to a compensable degree within 12 months of discharge from active duty.

You attended your VAMC examination on February 27, 2018. The examiner noted painful anal scar, residual of surgery as secondary to the service-connected disability of anal squamous cell carcinoma. Based on the evidence, service connection for painful anal scar, residual of surgery is granted with an evaluation of 10 percent effective December 12, 2017, the date we received your claim.

The law allows additional compensation based on scars, which are painful or unstable even if compensable based on other factors. An unstable scar is one where, for any reason, there is frequent loss of covering of skin over the scar.

We have assigned a 10 percent evaluation for your anal scar, residual of surgery based on:

- One painful scar

A higher evaluation of 20 percent is not warranted for scar(s) that are unstable or painful unless the evidence shows three or four painful or unstable scars; or one or two painful or unstable scars with at least one scar being both painful and unstable.

5. Service connection for anal scar, residual of surgery as secondary to the service-connected disability of anal squamous cell carcinoma.

You contend that you suffer from anal scar, residual of surgery as secondary to the service-

connected disability of anal squamous cell carcinoma. We will establish service connection for a chronic disabling condition, which is shown in service, and when continued treatment is shown since service or a medical opinion relates the current condition to service or another service connected condition. Service connection may also be granted for pre-existing conditions which are aggravated beyond natural progression by service and certain presumptive conditions, which manifest to a compensable degree within 12 months of discharge from active duty.

You attended your VAMC examination on February 27, 2018. The examiner noted anal scar, residual of surgery as secondary to the service-connected disability of anal squamous cell carcinoma. Based on the evidence, service connection for anal scar, residual of surgery is granted with an evaluation of 0 percent effective December 12, 2017, the date we received your claim.

#1: A surgical scar, located on your posterior trunk, measures 0.2 in² (1.0 cm²) superficial and nonlinear. The scar is painful, but not unstable.

We have assigned a noncompensable evaluation for your anal scar, residual of surgery based on:

- Superficial and nonlinear scar or scars not of the head, face or neck in an area or areas less than 144 in² (929 cm²)

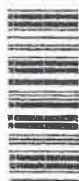
Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 10 percent is not warranted for burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are superficial and nonlinear unless the evidence shows superficial and nonlinear scar or scars not of the head, face, or neck in an area or areas of 144 in² (929 cm²) or greater .

6. Entitlement to individual unemployability.

You contend you are unable to secure and maintain gainful employment due to service connected disabilities. Specifically noted are the conditions of anal scar secondary to anal cancer and rectal leakage secondary to anal cancer.

Total disability ratings for compensation may be assigned, where the schedular rating is less than total, when the disabled person is, in the judgment of the rating agency, unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities: Provided, That, if there is only one such disability, this disability shall be ratable at 60 percent or more, and that, if there are two or more disabilities, there shall be at least one disability ratable at 40 percent or more, and sufficient additional disability to bring the combined rating to 70 percent or more. For the above purpose of one 60 percent disability, or one 40 percent disability in combination, the following will be considered as one disability: (1) Disabilities of one or both upper extremities, or of one or both lower extremities, including the bilateral factor, if applicable, (2) Disabilities resulting from common etiology or a single accident, (3) Disabilities affecting a single body system, e.g. orthopedic, digestive, respiratory, cardiovascular-renal,



neuropsychiatric, (4) Multiple injuries incurred in action, or (5) Multiple disabilities incurred as a prisoner of war.

Effective December 12, 2017 you have been assigned an evaluation of 100 percent. Therefore, the issue of entitlement to individual unemployability is moot. Prior to December 12, 2017 your overall combined evaluation was 10 percent, therefore, the schedular requirement for entitlement to individual was not met.

Entitlement to individual unemployability is denied as the evidence fails to show you are unemployable due to service connected disabilities. (38 CFR 4.16)

7. Compensation for AIDS.

The issue of compensation for AIDS is deferred for the following information: Examination and Opinion.

8. Compensation for left foot HIV-associated neuropathy.

The issue of compensation for left foot HIV-associated neuropathy is deferred for the following information: Examination and Opinion.

9. Compensation for right foot HIV-associated neuropathy.

The issue of compensation for right foot HIV-associated neuropathy is deferred for the following information: Examination and Opinion.

10. Compensation for sinusitis.

The issue of compensation for sinusitis is deferred for the following information: Examination and Opinion.

11. Evaluation of left knee chondromalacia patella currently evaluated as 10 percent disabling.

The evaluation for left knee chondromalacia patella is deferred for the following: 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