



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

**VA File Number**

**Represented By:**  
**CHUCK R PARDUE**  
**Rating Decision**  
**03/02/2018**

**INTRODUCTION**

The records reflect that you are a veteran of the Vietnam Era. You served in the Air Force from February 1, 1965, to March 7, 1969. You filed a new claim for benefits that was received on January 19, 2018. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

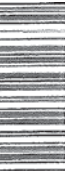
**DECISION**

1. Evaluation of bilateral pes planus, which is currently 0 percent disabling, is increased to 50 percent effective January 19, 2018.
2. Evaluation of lumbar intervertebral disc syndrome with degenerative arthritis, lumbosacral strain and degenerative disc disease (previously rated as lumbosacral strain with degenerative disc disease), which is currently 10 percent disabling, is increased to 40 percent effective January 19, 2018.
3. Evaluation of radiculopathy, left lower extremity (previously rated as DC 8520), which is currently 10 percent disabling, is increased to 40 percent effective January 19, 2018.

4. Evaluation of radiculopathy, right lower extremity (previously rated as DC 8520), which is currently 10 percent disabling, is increased to 40 percent effective January 19, 2018.
5. Basic eligibility to Dependents' Educational Assistance is established from January 19, 2018.
6. Evaluation of tinnitus, which is currently 10 percent disabling, is continued.
7. A decision on entitlement to compensation for chronic sinusitis is deferred.
8. A decision on entitlement to compensation for left arm median radiculopathy secondary to neck (secondary to: neck condition secondary to lower back condition) is deferred.
9. A decision on entitlement to compensation for left hip secondary to pes planus is deferred.
10. A decision on entitlement to compensation for left shoulder condition is deferred.
11. A decision on entitlement to compensation for migraine headaches secondary to TBI (secondary to: traumatic brain injury) is deferred.
12. A decision on entitlement to compensation for neck condition secondary to lower back condition is deferred.
13. A decision on entitlement to compensation for right arm median radiculopathy secondary to neck (secondary to: neck condition secondary to lower back condition) is deferred.
14. A decision on entitlement to compensation for right hip injury to include arthritis (also claimed as right groin pain) is deferred.
15. A decision on entitlement to compensation for traumatic brain injury is deferred.

#### EVIDENCE

- Private treatment records from Champion Orthopedics received January 16, 2018 for the treatment period from June 6, 2017 to July 18, 2017
- Private treatment records from Center for Primary Care-Crossroads received January 16, 2018 for treatment May 18, 2017
- VA Form 21-526EZ Veteran's Fully Developed Claim, received January 19, 2018
- VA Form 21-4138, Statement in Support of Claim, received January 19, 2018
- Photocopy of service treatment record received January 19, 2018
- Section 5103 Notice Response, Received January 19, 2018
- Private treatment statement from Dr. Seiter received January 19, 2018
- VA Form 21-0960C-10 Peripheral Nerves Conditions Disability Benefits Questionnaire received January 19, 2018



- VA Form 21-0960C-8 Headaches Disability Benefits Questionnaire received January 19, 2018
- VA Form 21-0960M-12 Shoulder and Arm Conditions Disability Benefits Questionnaire received January 19, 2018
- VA Form 21-0960M-6 Foot Conditions including Flatfoot Disability Benefits Questionnaire received January 19, 2018
- VA Form 21-0960M-14 Back Conditions Disability Benefits Questionnaire received January 19, 2018
- VA Form 21-0960M-8 Hip and Thigh Conditions Disability Benefits Questionnaire received January 19, 2018
- VA Form 21-0960N-4 Sinusitis/Rhinitis and Other Conditions of the Nose, Throat, Larynx and Pharynx Disability Benefits Questionnaire received January 19, 2018
- VA Form 21-0960M-13 Neck (Cervical Spine) Disability Benefits Questionnaire received January 19, 2018
- VA letter to the Veteran dated January 23, 2018
- Service treatment records received January 14, 2016 for the period of service from February 1965 to March 1969
- VA Form 21-0820 Report of General Information, dated March 2, 2018
- We have been unable to obtain records from VA Augusta for the period from January 1, 2016 to September 7, 2016. We have determined that these records do not exist. We will now make a decision based on the evidence of record.
- VA Augusta treatment records for the period from September 8, 2016 to February 28, 2018

### REASONS FOR DECISION

#### **1. Evaluation of bilateral pes planus currently evaluated as 0 percent disabling.**

The evaluation of bilateral pes planus is increased to 50 percent disabling effective January 19, 2018. . The date we received your claim and date of the disability benefits questionnaire showing an increase in the severity for this condition.

We have assigned a 50 percent evaluation for your bilateral pes planus based on:

- Extreme tenderness of plantar surfaces of the feet
- Marked Pronation
- Symptoms NOT improved by orthopedic shoe or appliance

Additional symptom(s) include:

- Characteristic callosities
- Indication of swelling on use
- Objective evidence of marked deformity (pronation, abduction, etc.)
- Pain on manipulation of the feet
- Pain on manipulation of the feet, accentuated
- Pain on use of the feet
- Pain on use of the feet, accentuated
- Weight-bearing line over or medial to great toe

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This is the highest schedular evaluation allowed under the law for acquired flat foot.

**2. Evaluation of lumbar intervertebral disc syndrome with degenerative arthritis, lumbosacral strain and degenerative disc disease (previously rated as lumbosacral strain with degenerative disc disease) currently evaluated as 10 percent disabling.**

The evaluation of lumbar intervertebral disc syndrome with degenerative arthritis, lumbosacral strain and degenerative disc disease (previously rated as lumbosacral strain with degenerative disc disease) is increased to 40 percent disabling effective January 19, 2018. The date we received your claim and date of the disability benefits questionnaire showing an increase in the severity for this condition.

We have assigned a 40 percent evaluation for your lumbar intervertebral disc syndrome with degenerative arthritis, lumbosacral strain and degenerative disc disease (previously rated as lumbosacral strain with degenerative disc disease) based on:

- Forward flexion of the thoracolumbar spine 30 degrees or less

Additional symptom(s) include:

- Combined range of motion of the thoracolumbar spine not greater than 120 degrees
- Guarding severe enough to result in an abnormal gait or abnormal spinal contour such as scoliosis, reversed lordosis, or abnormal kyphosis
- Localized tenderness not resulting in abnormal gait or abnormal spinal contour
- Muscle spasm severe enough to result in an abnormal gait or abnormal spinal contour such as scoliosis, reversed lordosis, or abnormal kyphosis
- 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 applied under 38 CFR §4.59.

A higher evaluation of 50 percent is not warranted for intervertebral disc syndrome (ivds) unless the evidence shows:

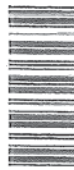
- Unfavorable ankylosis of the entire thoracolumbar spine.

Additionally, a higher evaluation of 60 percent is not warranted for intervertebral disc syndrome (ivds) unless the evidence shows:

- Intervertebral disc syndrome (IVDS) with incapacitating episodes having a total duration of at least six weeks during the past 12 months.

**3. Evaluation of radiculopathy, left lower extremity (previously rated as DC 8520) currently evaluated as 10 percent disabling.**

The evaluation of radiculopathy, left lower extremity (previously rated as DC 8520) is increased to 40 percent disabling effective January 19, 2018. The date we received your claim and date of the disability benefits questionnaire showing an increase in the severity for this condition.



We have assigned a 40 percent evaluation for your radiculopathy, left lower extremity based on:

- Moderately severe incomplete paralysis

A higher evaluation of 60 percent is not warranted for neuritis of the sciatic nerve unless the evidence shows nerve damage is severe with marked muscular atrophy.

**4. Evaluation of radiculopathy, right lower extremity (previously rated as DC 8520) currently evaluated as 10 percent disabling.**

The evaluation of radiculopathy, right lower extremity (previously rated as DC 8520) is increased to 40 percent disabling effective January 19, 2018. The date we received your claim and date of the disability benefits questionnaire showing an increase in the severity for this condition.

We have assigned a 40 percent evaluation for your radiculopathy, right lower extremity based on:

- Moderately severe incomplete paralysis

A higher evaluation of 60 percent is not warranted for neuritis of the sciatic nerve unless the evidence shows nerve damage is severe with marked muscular atrophy.

**5. 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.

We reviewed your claim for permanent and total disability rating for sinusitis, lower back, arm and leg radiculopathies, tinnitus, left shoulder, TBI, bilateral hips, migraines, neck, and pes planus.

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

This entitlement is effective January 19, 2018, as the evidence shows the veteran currently has a total service-connected disability, permanent in nature.

**6. Evaluation of tinnitus currently evaluated as 10 percent disabling (raised within the scope of your claim for permanent and total disability rating).**

The evaluation of tinnitus is continued as 10 percent disabling.

We reviewed the evidence received and determined your service-connected condition(s) hasn't/haven't increased in severity sufficiently to warrant a higher evaluation.

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.

#### **7. Compensation for chronic sinusitis.**

The issue of compensation for chronic sinusitis is deferred for the following information: further development.

#### **8. Compensation for left arm median radiculopathy secondary to neck (secondary to: neck condition secondary to lower back condition).**

The issue of compensation for left arm median radiculopathy secondary to neck (secondary to: neck condition secondary to lower back condition) is deferred for the following information: further development.

#### **9. Compensation for left hip secondary to pes planus.**

The issue of compensation for left hip secondary to pes planus is deferred for the following information: further development.

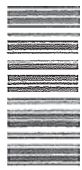
#### **10. Compensation for left shoulder condition.**

The issue of compensation for left shoulder condition is deferred for the following information: further development.

#### **11. Compensation for migraine headaches secondary to TBI (secondary to: traumatic brain injury).**

The issue of compensation for migraine headaches secondary to TBI (secondary to: traumatic brain injury) is deferred for the following information: further development.

#### **12. Compensation for neck condition secondary to lower back condition.**



The issue of compensation for neck condition secondary to lower back condition is deferred for the following information: further development.

**13. Compensation for right arm median radiculopathy secondary to neck (secondary to: neck condition secondary to lower back condition).**

The issue of compensation for right arm median radiculopathy secondary to neck (secondary to: neck condition secondary to lower back condition) is deferred for the following information: further development.

**14. Compensation for right hip injury to include arthritis (also claimed as right groin pain).**

The issue of compensation for right hip injury to include arthritis (also claimed as right groin pain) is deferred for the following information: further development.

**15. Compensation for traumatic brain injury.**

The issue of compensation for traumatic brain injury is deferred for the following information: further development.

**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).

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