



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

VA File Number

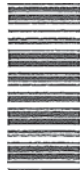
**Represented By:
CHUCK R PARDUE
Rating Decision
03/15/2018**

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 residuals, multiple fragment wounds, abdomen wall with laparotomy (also claimed as shrapnel wounds), which is currently 10 percent disabling, is increased to 50 percent effective December 8, 2017.
2. Evaluation of painful scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residuals, scars, SFW of right knee, laparotomy of abdomen and residuals, multiple fragment wound, left thigh, knees and right arm), which is currently 0 percent disabling, is increased to 30 percent effective December 8, 2017.
3. Evaluation of ulnar nerve injury to right arm secondary to fragment wound (claimed as



shrapnel wounds, ulnar nerve), which is currently 10 percent disabling, is increased to 30 percent effective December 8, 2017.

4. Evaluation of residuals of multiple fragment wound, left thigh (previously evaluated under diagnostic code 8529) (claimed as shrapnel wounds), which is currently 0 percent disabling, is increased to 10 percent effective December 8, 2017.

5. Evaluation of radiculopathy, left lower extremity (sciatic) (claimed as left leg restless leg syndrome) with multiple fragment wounds, left knee with retained foreign body (previously evaluated under diagnostic code 8513), which is currently 20 percent disabling, is continued.

6. Evaluation of radiculopathy, right lower extremity (sciatic) (claimed as right leg restless leg syndrome) with residuals, multiple fragment wounds, right knee (previously evaluated under diagnostic code 8512), which is currently 20 percent disabling, is continued.

7. Evaluation of scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residual scar from laparotomy of abdomen due to fragment wound and residual fragment wounds, left knee, right knee and left thigh), which is currently 0 percent disabling, is continued.

EVIDENCE

- Rating Decision, dated January 29, 2018
- Service Treatment Records, from August 1, 1969 through August 31, 1971, received March 19, 2015
- DD Form 214, Certificate of Release or Discharge from Active Duty, from August 5, 1969 through August 4, 1971, received March 19, 2015
- Service Personnel Records, from August 1, 1969 through August 31, 1971, received March 19, 2015
- VA Form 21-4142 Authorization and Consent to Release Information to Department of Veteran's Affairs, Frederick Merrill, DO and University HCS, received December 8, 2017
- Disability Benefit Questionnaire, Private Physician, dated December 8, 2017
- Medical Opinions, Thomas Seiter, M.D., December 8, 2017
- Private Treatment Records, Caitlin Buhrmeister, Readjustment Counselor, from October 10, 2017 through November 29, 2017, received December 8, 2017
- Veterans Claims Assistance Act (VCAA) Letter, dated December 8, 2017
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, December 8, 2017
- Letter, University Health Care System, December 13, 2017
- VA letter concerning your claim, dated December 11, 2017
- Treatment Reports, Dr. Frederick Merrill, December 13, 2017
- VA letter concerning your claim, dated December 13, 2017
- VA Form 21-0820 Report of General Information, University HCS, dated December 20, 2017 - Indicating they are unable to provide treatment records due to dates of treatment listed on the request not matching the dates of treatment in the system.

145743-004-03310194 00002655 10000000

- VA letter concerning your claim, dated December 27, 2017
- Disability Benefit Questionnaire, Augusta VA Medical Center, dated January 3, 2018 and January 6, 2018
- VA letter concerning your claim, dated February 1, 2018
- VA Examination, VA Medical Center, Augusta, dated February 26, 2018
- No pertinent VA Healthcare records from the VAMC available, dated March 15, 2018 - No treatment records found other than VA examinations

REASONS FOR DECISION

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

The evaluation of residuals, multiple fragment wounds, abdomen wall with laparotomy is increased to 50 percent disabling effective December 8, 2017, which is the date of receipt of your claim.

We have assigned a 50 percent evaluation for your residual scar from laparotomy of abdomen due to fragment wound based on:

- A muscle group XIX injury evaluated as severe which affects support and compression of abdominal wall and lower thorax; flexion and lateral motions of spine; and synergists in strong downward movements of arm

History and complaint:

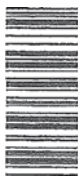
- Lowered threshold of fatigue after average use, affecting the particular functions controlled by the injured muscles

Objective findings:

- Linear entrance and (if present) exit scars, indicating short track of missile through muscle tissue
- Metallic fragments retained in muscle tissue
- Muscles swell and harden abnormally in contraction
- Ragged, depressed and adherent scars indicating wide damage to muscle groups in missile track
- Small entrance and (if present) exit scars, indicating short track of missile through muscle tissue

A muscle injury is considered severe when one of the following is found:

- Type of injury consists of a through and through or deep penetrating wound due to high-velocity missile, or large or multiple low velocity missiles, or with shattering bone fracture or open comminuted fracture with extensive debridement, prolonged infection, or sloughing of soft parts, intermuscular binding and scarring
- Service department record or other evidence shows hospitalization for a prolonged period for treatment of wound. Record of consistent complaint of cardinal signs and symptoms of muscle disability (loss of power, weakness, lowered threshold of fatigue, fatigue-pain, impairment of



coordination and uncertainty of movement), worse than those shown for moderately severe muscle injuries, and, if present, evidence of inability to keep up with work requirements.

- Objective findings show ragged, depressed and adherent scars indicating wide damage to muscle groups in missile track. Palpation shows loss of deep fascia or muscle substance, or soft flabby muscles in wound area. Muscles swell and harden abnormally in contraction. Tests of strength, endurance, or coordinated movements compared with the corresponding muscles of the uninjured side indicate severe impairment of function. If present, the following are also signs of severe muscle disability

- X-ray evidence of minute multiple scattered foreign bodies indicating intermuscular trauma and explosive effect of the missile.
- Adhesion of scar to one of the long bones, scapula, pelvic bones, sacrum or vertebrae, with epithelial sealing over the bone rather than true skin covering in an area where bone is normally protected by muscle.
- Diminished muscle excitability to pulsed electrical current in electrodiagnostic tests.
- Visible or measurable atrophy.
- Adaptive contraction of an opposing group of muscles.
- Atrophy of muscle groups not in the track of the missile, particularly of the trapezius and serratus in wounds of the shoulder girdle.
- Induration or atrophy of an entire muscle following simple piercing by a projectile.

This is the highest schedular evaluation allowed under the law for injury to flexion and lateral motion of the spine.

2. Evaluation of painful scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residuals, scars, SFW of right knee, laparotomy of abdomen and residuals, multiple fragment wound, left thigh, knees and right arm) currently evaluated as 0 percent disabling.

The evaluation of painful scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residuals, scars, SFW of right knee, laparotomy of abdomen and residuals, multiple fragment wound, left thigh, knees and right arm) is increased to 30 percent disabling effective December 8, 2017.

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 30 percent evaluation for your residuals, scars, multiple fragment wound of right knee based on:

- Five or more painful scars

A higher evaluation of 40 percent is not warranted for scar(s) that are unstable or painful unless the evidence shows five or more painful or unstable scars, with at least one scar being both painful and unstable.

3. Evaluation of ulnar nerve injury to right arm secondary to fragment wound currently

8.950 de: 145743-C14-010313194 1000003 06/01/2017 14:00:00

evaluated as 10 percent disabling.

The evaluation of ulnar nerve injury to right arm secondary to fragment wound is increased to 30 percent disabling effective December 8, 2017, which is the date of receipt of your claim.

We have assigned a 30 percent evaluation for your ulnar nerve injury to right arm secondary to fragment wound based on:

- Moderate incomplete paralysis of the major extremity

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

4. Evaluation of residuals of multiple fragment wound, left thigh (previously evaluated under diagnostic code 8529) currently evaluated as 0 percent disabling.

The evaluation of residuals of multiple fragment wound, left thigh (previously evaluated under diagnostic code 8529) is increased to 10 percent disabling effective December 8, 2017, which is the date of receipt of your claim.

We have assigned a 10 percent evaluation for your residuals of multiple fragment wound, left thigh based on:

- A muscle group XVI injury evaluated as moderate which affects flexion of hip

History and complaint:

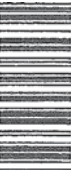
- Lowered threshold of fatigue after average use, affecting the particular functions controlled by the injured muscles
- Service department record or other evidence of in-service treatment for the wound

Objective findings:

- Small entrance and (if present) exit scars, indicating short track of missile through muscle tissue

A muscle injury is considered moderate when one of the following is found:

- Type of injury consists of a through and through or deep penetrating wound of short track from a single bullet, small shell or shrapnel fragment, without explosive effect of high velocity missile, residuals of debridement, or prolonged infection.
- Service department record or other evidence of in-service treatment for the wound. Record of consistent complaint of one or more of the cardinal signs and symptoms of muscle disability (loss of power, weakness, lowered threshold of fatigue, fatigue-pain, impairment of coordination and uncertainty of movement), particularly lowered threshold of fatigue after average use, affecting the particular functions controlled by the injured muscles.
- Objective findings show entrance and (if present) exit scars, small or linear, indicating short track of missile through muscle tissue. Some loss of deep fascia or muscle substance or impairment of muscle tonus and loss of power or lowered threshold of fatigue when compared to the sound side.



A higher evaluation of 30 percent is not warranted for injury affecting hip flexion unless the evidence shows the functional loss is rated as moderately severe.

5. Evaluation of radiculopathy, left lower extremity (sciatic) (claimed as left leg restless leg syndrome) with multiple fragment wounds, left knee with retained foreign body (previously evaluated under diagnostic code 8513) currently evaluated as 20 percent disabling.

The evaluation of radiculopathy, left lower extremity (sciatic) (claimed as left leg restless leg syndrome) with multiple fragment wounds, left knee with retained foreign body (previously evaluated under diagnostic code 8513) is continued as 20 percent disabling.

We have assigned a 20 percent evaluation for your radiculopathy, left lower extremity with residuals, multiple fragment wounds, left knee with retained foreign body 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.

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.

Please note: We have combined your radiculopathy and muscle injury of the left knee as provisions of 38 CFR 4.55 preclude separate evaluations for nerve and muscle injuries of the same body part. Only a single evaluation can be assigned under 5312 and 8520. We have assigned the evaluation under your radiculopathy as it is more advantageous. We have discontinued your evaluation of residuals, multiple fragment wounds of the left knee effective the date of this evaluation, December 8, 2017. We have made this determination without further notice, as it will not affect your combined total evaluation.

6. Evaluation of radiculopathy, right lower extremity (sciatic) (claimed as right leg restless leg syndrome) with residuals, multiple fragment wounds, right knee (previously evaluated under diagnostic code 8512) currently evaluated as 20 percent disabling.

The evaluation of radiculopathy, right lower extremity (sciatic) (claimed as right leg restless leg syndrome) with residuals, multiple fragment wounds, right knee (previously evaluated under diagnostic code 8512) is continued as 20 percent disabling.

We have assigned a 20 percent evaluation for your radiculopathy, right lower extremity with residuals, multiple fragment wounds, right knee 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.

3.560 oz. 145743-03-01010194 0100003 0001259 1=000001

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.

Please note: We have combined your radiculopathy and muscle injury of the right knee as provisions of 38 CFR 4.55 preclude separate evaluations for nerve and muscle injuries of the same body part. Only a single evaluation can be assigned under 5312 and 8520. We have assigned the evaluation under your radiculopathy as it is more advantageous. We have discontinued your evaluation of residuals, multiple fragment wounds of the right knee effective the date of this evaluation, December 8, 2017. We have made this determination without further notice, as it will not affect your combined total evaluation.

7. Evaluation of scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residual scar from laparotomy of abdomen due to fragment wound and residual fragment wounds, left knee, right knee and left thigh) currently evaluated as 0 percent disabling.

The evaluation of scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residual scar from laparotomy of abdomen due to fragment wound and residual fragment wounds, left knee, right knee and left thigh) is continued as 0 percent disabling.

#1: A scar, located on your right upper extremity, measures 0.8 in² (5.0 cm²) superficial and linear. The scar is neither painful nor unstable.

#2: A scar, located on your right upper extremity, measures 0.1 in² (0.8 cm²) superficial and linear. The scar is neither painful nor unstable.

#3: A scar, located on your right lower extremity, measures 0.2 in² (1.5 cm²) superficial and linear. The scar is neither painful nor unstable.

#4: A scar, located on your right lower extremity, measures 0.4 in² (2.5 cm²) superficial and linear. The scar is neither painful nor unstable.

#5: A scar, located on your right lower extremity, measures 0.0 in² (0.3 cm²) superficial and linear. The scar is neither painful nor unstable.

#6: A scar, located on your right lower extremity, measures 0.0 in² (0.3 cm²) superficial and linear. The scar is painful, but not unstable.

#7: A scar, located on your right lower extremity, measures 0.0 in² (0.3 cm²) superficial and linear. The scar is neither painful nor unstable.

#8: A scar, located on your right lower extremity, measures 0.3 in² (2.0 cm²) superficial and linear. The scar is neither painful nor unstable.



#9: A scar, located on your left lower extremity, measures 0.8 in² (5.0 cm²) superficial and linear. The scar is neither painful nor unstable.

#10: A scar, located on your left lower extremity, measures 1.9 in² (12.0 cm²) superficial and linear. The scar is neither painful nor unstable.

#11: A scar, located on your left lower extremity, measures 2.3 in² (15.0 cm²) superficial and linear. The scar is neither painful nor unstable.

#12: A scar, located on your left lower extremity, measures 1.9 in² (12.0 cm²) superficial and linear. The scar is neither painful nor unstable.

#13: A scar, located on your left lower extremity, measures 0.6 in² (4.0 cm²) superficial and linear. The scar is neither painful nor unstable.

#14: A scar, located on your left lower extremity, measures 0.5 in² (3.5 cm²) superficial and linear. The scar is neither painful nor unstable.

#15: A scar, located on your anterior trunk, measures 7.1 in² (46.0 cm²) superficial and linear. The scar is neither painful nor unstable.

We have assigned a noncompensable evaluation for your residual scar from scars, right upper, right lower, left lower extremity and anterior trunk, status-post SFWs (previously rated as residual scar from laparotomy of abdomen due to fragment wound and residual fragment wounds, left knee, right knee and left thigh) based on:

- One or more linear scars

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 is not warranted unless scars are considered disabling because of limitation of function of the affected part.

Please note: We have added additional scars to this evaluation based on your recent VA examination which shows scars due to shell fragment wounds as indicated.

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

8.950 OF 146743-C-04-03510194 0000003 01.00271 1=003000