



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

**VA File Number**

**Represented By:  
CHUCK R PARDUE  
Rating Decision  
05/01/2018**

**INTRODUCTION**

The records reflect that you are a veteran of the Gulf War Era. You served in the Army from May 22, 1991, to June 7, 1999 and the Navy from April 17, 2010, to September 30, 2010. You filed a new claim for benefits that was received on March 22, 2018. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

1. Evaluation of right upper extremity radiculopathy (median nerve), which is currently 20 percent disabling, is increased to 50 percent effective March 22, 2018.
2. Evaluation of left upper extremity radiculopathy (median nerve), which is currently 20 percent disabling, is increased to 40 percent effective March 22, 2018.
3. Evaluation of left hip strain with limitation of flexion (claimed with bursitis), which is currently 0 percent disabling, is increased to 30 percent effective March 22, 2018.
4. Evaluation of right hip bursitis with limitation of flexion, which is currently 0 percent

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disabling, is increased to 30 percent effective March 22, 2018.

5. Evaluation of left knee chondromalacia patella with painful flexion (now claimed with severe strain), which is currently 10 percent disabling, is increased to 20 percent effective March 22, 2018.

6. Evaluation of right knee chondromalacia patella with painful flexion (now claimed with severe strain), which is currently 10 percent disabling, is increased to 20 percent effective March 22, 2018.

7. Evaluation of left hip strain with limitation of rotation (claimed with bursitis), which is currently 0 percent disabling, is increased to 20 percent effective March 22, 2018.

8. Evaluation of right hip bursitis with limitation of rotation, which is currently 0 percent disabling, is increased to 20 percent effective March 22, 2018.

9. Service connection for left knee instability (severe) is granted with an evaluation of 30 percent effective March 22, 2018.

10. Service connection for right knee instability (severe) is granted with an evaluation of 30 percent effective March 22, 2018.

11. Basic eligibility to Dependents' Educational Assistance is established from March 22, 2018.

12. Evaluation of bladder infection recurrent (claimed with frequent urination and cystitis), which is currently 40 percent disabling, is continued.

13. Evaluation of cervical spine degenerative disc disease, spondylolisthesis, and strain (now claimed with pain and DJD, previously rated as cervical spine strain), which is currently 20 percent disabling, is continued.

14. Evaluation of allergic rhinitis, which is currently 10 percent disabling, is continued.

15. Evaluation of left hip strain with limitation of extension (claimed with bursitis), which is currently 10 percent disabling, is continued.

16. Evaluation of right hip bursitis with limitation of extension (claimed with strain), which is currently 10 percent disabling, is continued.

#### **EVIDENCE**

- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, March 22, 2018 (New Claim for permanent and total disability due to bilateral hip

REPLACEMENT  
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conditions, bilateral knee conditions, allergic rhinitis, neck with bilateral radiculopathy, and bladder infection recurrent) (Claim of Increase in left upper radiculopathy, right knee chondromalacia patella with painful flexion - now claimed with severe strain, right upper extremity radiculopathy, left hip strain with limitation of rotation - claimed as bursitis, left knee chondromalacia patella with painful flexion - now claimed with severe strain, right hip bursitis with limitation of rotation, right hip bursitis with limitation of flexion, left hip strain with limitation of flexion - claimed with bursitis) (Secondary Disability; right knee instability secondary to right knee; left knee instability secondary to left knee)

- VA Form 21-0960N-4, Sinusitis/Rhinitis and Other Conditions of the Nose, Throat, Larynx and Pharynx Disability Benefits Questionnaire was received on March 22, 2018
- VA Form 21-0960M-8, Hip and Thigh Conditions Disability Benefits Questionnaire was received on March 22, 2018
- VA Form 21-0960J-4, Urinary Tract (Including Bladder and Urethra) Conditions (Excluding Male Reproductive System) Disability Benefits Questionnaire was received on March 22, 2018
- VA Form 21-0960M-13, Neck (Cervical Spine) Conditions Disability Benefits Questionnaire was received on March 22, 2018
- VA Form 21-0960M-9, Knee and Lower Leg Conditions Disability Benefits Questionnaire was received on March 22, 2018
- VA Form 21-0960C-10, Peripheral Nerves Conditions (Not Including Diabetic Sensory-Motor Peripheral Neuropathy) Disability Benefits Questionnaire was received on March 22, 2018
- Section (§) 5103 Notice Response, received March 22, 2018
- Medical Statement received from Dr. Thomas J. Seiter on March 22, 2018 (6 pages)
- Notification Letter mailed to you on March 23, 2018
- Treatment Reports, from Columbia VAMC, from January 8, 2010 through March 14, 2018
- VA Form 27-0820, Report of General Information, regarding records at Columbia VAMC from the period of January 1, 2010-January 6, 2010 do not exist
- VA Form 21-4142 Authorization and Consent to Release Information to Department of Veteran's Affairs, received March 30, 2018
- VA Form 21-22a, Appointment of Individual as Claimant's Representative, received March 30, 2018
- VA Examination conducted on April 11, 2018 by QTC Medical Services, Inc.

### REASONS FOR DECISION

#### 1. Evaluation of right upper extremity radiculopathy (median nerve) currently evaluated as 20 percent disabling.

The evaluation of right upper extremity radiculopathy (median nerve) is increased to 50 percent disabling effective March 22, 2018.

We have assigned a 50 percent evaluation for your right upper extremity radiculopathy based on:

- Severe incomplete paralysis of the major extremity

A higher evaluation of 70 percent is not warranted for paralysis of the median nerve unless the evidence shows nerve damage is complete.

**2. Evaluation of left upper extremity radiculopathy (median nerve) currently evaluated as 20 percent disabling.**

The evaluation of left upper extremity radiculopathy (median nerve) is increased to 40 percent disabling effective March 22, 2018.

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

- Severe incomplete paralysis of the minor extremity

A higher evaluation of 60 percent is not warranted for paralysis of the median nerve unless the evidence shows nerve damage is complete.

**3. Evaluation of left hip strain with limitation of flexion (claimed with bursitis). currently evaluated as 0 percent disabling.**

The evaluation of left hip strain with limitation of flexion (claimed with bursitis). is increased to 30 percent disabling effective March 22, 2018.

We have assigned a 30 percent evaluation for your left hip strain with limitation of flexion (claimed with bursitis). based on:

- Flexion of the thigh limited to 11-20 degrees

Additional symptom(s) include:

- Flexion of the thigh limited to 21-30 degrees
- Painful Abduction
- Painful Adduction
- Painful Extension
- Painful External Rotation
- Painful Flexion
- Painful Internal Rotation

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 40 percent is not warranted for limitation of flexion of the thigh unless the evidence shows:

- Flexion of the thigh limited to 10 degrees or less.

**4. Evaluation of right hip bursitis with limitation of flexion currently evaluated as 0 percent disabling.**

The evaluation of right hip bursitis with limitation of flexion is increased to 30 percent disabling effective March 22, 2018.

We have assigned a 30 percent evaluation for your right hip bursitis with limitation of flexion based on:

- Flexion of the thigh limited to 11-20 degrees

Additional symptom(s) include:

- Flexion of the thigh limited to 21-30 degrees
- Painful Abduction
- Painful Adduction
- Painful Extension
- Painful External Rotation
- Painful Flexion
- Painful Internal Rotation

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 40 percent is not warranted for limitation of flexion of the thigh unless the evidence shows:

- Flexion of the thigh limited to 10 degrees or less.

**5. Evaluation of left knee chondromalacia patella with painful flexion (now claimed with severe strain) currently evaluated as 10 percent disabling.**

The evaluation of left knee chondromalacia patella with painful flexion (now claimed with severe strain) is increased to 20 percent disabling effective March 22, 2018.

We have assigned a 20 percent evaluation for your left knee chondromalacia patella with painful flexion (now claimed with severe strain) based on:

- Limitation of flexion of 16 to 30 degrees

Additional symptom(s) include:

- Painful motion of the knee

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 are not warranted. Although there was additional loss of range of motion with repetitive movements, these changes did not rise to the next higher level of disability.

A higher evaluation of 30 percent is not warranted for limitation of flexion of the knee unless the evidence shows:

- Limitation of flexion of 15 degrees or less.

**6. Evaluation of right knee chondromalacia patella with painful flexion (now claimed with severe strain) currently evaluated as 10 percent disabling.**

The evaluation of right knee chondromalacia patella with painful flexion (now claimed with severe strain) is increased to 20 percent disabling effective March 22, 2018.

We have assigned a 20 percent evaluation for your right knee chondromalacia patella with painful flexion (now claimed with severe strain) based on:

- Limitation of flexion of 16 to 30 degrees

Additional symptom(s) include:

- Painful motion of the knee

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 are not warranted. Although there was additional loss of range of motion with repetitive movements, these changes did not rise to the next higher level of disability.

A higher evaluation of 30 percent is not warranted for limitation of flexion of the knee unless the evidence shows:

- Limitation of flexion of 15 degrees or less.

**7. Evaluation of left hip strain with limitation of rotation (claimed with bursitis). currently evaluated as 0 percent disabling.**

The evaluation of left hip strain with limitation of rotation (claimed with bursitis). is increased to 20 percent disabling effective March 22, 2018.

We have assigned a 20 percent evaluation for your left hip strain with limitation of flexion (claimed with bursitis). based on:

- Limitation of abduction of the thigh, motion lost beyond 10 degrees

Additional symptom(s) include:

- Limitation of adduction of the thigh, can cross legs
- Limitation of internal rotation of the thigh
- Limitation of rotation of the thigh, cannot toe-out more than 15 degrees on the affected leg
- Painful Abduction
- Painful Adduction
- Painful Extension
- Painful External Rotation
- Painful Flexion
- Painful Internal Rotation

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 are not warranted. Although there was additional loss of range of motion with repetitive movements, these changes did not rise to the next higher level of disability.

This is the highest schedular evaluation allowed under the law for impairment of the thigh.

**8. Evaluation of right hip bursitis with limitation of rotation currently evaluated as 0 percent disabling.**

The evaluation of right hip bursitis with limitation of rotation is increased to 20 percent disabling effective March 22, 2018.

We have assigned a 20 percent evaluation for your right hip bursitis with limitation of flexion based on:

- Limitation of abduction of the thigh, motion lost beyond 10 degrees

Additional symptom(s) include:

- Limitation of adduction of the thigh, can cross legs
- Limitation of internal rotation of the thigh
- Limitation of rotation of the thigh, cannot toe-out more than 15 degrees on the affected leg
- Painful Abduction
- Painful Adduction
- Painful Extension
- Painful External Rotation
- Painful Flexion
- Painful Internal Rotation

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 are not warranted. Although there was additional loss of range of motion with repetitive movements, these changes did not rise to the next higher level of disability.

This is the highest schedular evaluation allowed under the law for impairment of the thigh.

**9. Service connection for left knee instability (severe).**

Service connection for left knee instability (severe) has been established as directly related to military service.

An evaluation of 30 percent is assigned from March 22, 2018.

We have assigned a 30 percent evaluation for your left knee chondromalacia patella with painful

flexion (now claimed with severe strain) based on:

- Severe instability

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 are not warranted. Although there was additional loss of range of motion with repetitive movements, these changes did not rise to the next higher level of disability.

This is the highest schedular evaluation allowed under the law for impairment of the knee.

#### **10. Service connection for right knee instability (severe).**

Service connection for right knee instability (severe) has been established as directly related to military service.

An evaluation of 30 percent is assigned from March 22, 2018.

We have assigned a 30 percent evaluation for your right knee chondromalacia patella with painful flexion (now claimed with severe strain) based on:

- Severe instability

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 are not warranted. Although there was additional loss of range of motion with repetitive movements, these changes did not rise to the next higher level of disability.

This is the highest schedular evaluation allowed under the law for impairment of the knee.

#### **11. 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 you currently have a total service-connected disability, permanent in nature.



**12. Evaluation of bladder infection recurrent (claimed with frequent urination and cystitis) currently evaluated as 40 percent disabling.**

The evaluation of bladder infection recurrent (claimed with frequent urination and cystitis) is continued as 40 percent disabling.

We have assigned a 40 percent evaluation for your bladder infection recurrent (claimed with frequent urination and cystitis) based on:

- Awakening to void five or more times per night
- Daytime voiding interval less than one hour
- Requiring the wearing of absorbent materials which must be changed two to four times per day

This is the highest schedular evaluation allowed under the law for chronic cystitis.

Additionally, a higher evaluation of 60 percent is not warranted for chronic cystitis unless the evidence shows:

- Voiding dysfunction symptoms including:
  - The use of an appliance is required; or,
  - The wearing of absorbent materials which must be changed more than four times per day is required.

**13. Evaluation of cervical spine degenerative disc disease, spondylolisthesis, and strain (now claimed with pain and DJD, previously rated as cervical spine strain) currently evaluated as 20 percent disabling.**

The evaluation of cervical spine degenerative disc disease, spondylolisthesis, and strain (now claimed with pain and DJD, previously rated as cervical spine strain) is continued as 20 percent disabling.

We have assigned a 20 percent evaluation for your cervical spine degenerative disc disease, spondylolisthesis, and strain (now claimed with pain and DJD, previously rated as cervical spine strain) based on:

- Combined range of motion of the cervical spine not greater than 170 degrees
- Forward flexion of the cervical spine greater than 15 degrees but not greater than 30 degrees
- Guarding severe enough to result in an abnormal gait or abnormal spinal contour such as scoliosis, reversed lordosis, or abnormal kyphosis
- Muscle spasm severe enough to result in an abnormal gait or abnormal spinal contour such as scoliosis, reversed lordosis, or abnormal kyphosis

Additional symptom(s) include:

- Localized tenderness not resulting in abnormal gait or abnormal spinal contour
- Painful motion upon examination

A higher evaluation of 30 percent is not warranted for degenerative arthritis of the spine unless the evidence shows:

- Favorable ankylosis of the entire cervical spine; or,
- Forward flexion of the cervical spine 15 degrees or less.

**14. Evaluation of allergic rhinitis currently evaluated as 10 percent disabling.**

The evaluation of allergic rhinitis is continued as 10 percent disabling.

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

- Rhinitis without polyps, but with greater than 50 percent obstruction of both nasal passages

A higher evaluation of 30 percent is not warranted for allergic rhinitis unless the evidence shows:

- Rhinitis with polyps.

**15. Evaluation of left hip strain with limitation of extension (claimed with bursitis) currently evaluated as 10 percent disabling.**

The evaluation of left hip strain with limitation of extension (claimed with bursitis) is continued as 10 percent disabling.

We have assigned a 10 percent evaluation for your left hip strain with limitation of flexion (claimed with bursitis). based on:

- Extension of the thigh limited to 5 degrees

Additional symptom(s) include:

- Painful Abduction
- Painful Adduction
- Painful Extension
- Painful External Rotation
- Painful Flexion
- Painful Internal Rotation
- Painful motion of the hip

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 are not warranted.

This is the highest schedular evaluation allowed under the law for limitation of extension of the thigh.

**16. Evaluation of right hip bursitis with limitation of extension (claimed with strain) currently evaluated as 10 percent disabling.**

The evaluation of right hip bursitis with limitation of extension (claimed with strain) is continued

as 10 percent disabling.

We have assigned a 10 percent evaluation for your right hip bursitis with limitation of flexion based on:

- Extension of the thigh limited to 5 degrees

Additional symptom(s) include:

- Painful Abduction
- Painful Adduction
- Painful Extension
- Painful External Rotation
- Painful Flexion
- Painful Internal Rotation
- Painful motion of the hip

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 are not warranted.

This is the highest schedular evaluation allowed under the law for limitation of extension of the thigh.

**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).