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On appeal from the
Department of Veterans Affairs Regional Office in Columbia, South Carolina

THE ISSUES

1. Entitlement to a rating in excess of 30 percent for posttraumatic stress disorder (PTSD) prior to May 26, 2015 and in excess of 70 percent thereafter.
2. Entitlement to a total disability rating due to individual unemployability (TDIU).

REPRESENTATION

Veteran represented by: Chuck Pardue, Attorney

WITNESS AT HEARING ON APPEAL

Veteran

ATTORNEY FOR THE BOARD

J. Acosta, Associate Counsel

INTRODUCTION

The Veteran served on active duty in the United States Army from July 1970 to February 1972.

This matter comes before the Board of Veterans' Appeals (Board) on appeal of a May 2011 rating decision of the Columbia, South Carolina Regional Office (RO) of the Department of Veterans Affairs (VA).

The Board notes that a hearing was conducted on the Veteran's claim on December 8, 2016. The transcript of this hearing does not appear in the claims file. However, given the total grant of the benefits sought, this omission does not warrant further development.

FINDINGS OF FACT

1. The Veteran's PTSD symptoms result in total occupational and social impairment throughout the pendency of the appeal.
2. The Veteran's only service-connected disability is PTSD.

CONCLUSIONS OF LAW

1. The criteria for a 100 percent rating for PTSD for the entirety of the appeal period have been met. 38 U.S.C.A. §§ 1155, 5103, 5103A, 5107 (West 2014); 38 C.F.R. §§ 3.159, 4.1-4.14, 4.125, 4.130, Diagnostic Code (DC) 9411 (2016).

2. The claim of entitlement to TDIU is moot. 38 U.S.C.A. §§ 7104, 7105 (West 2014); 38 C.F.R. § 20.101 (2016).

REASONS AND BASES FOR FINDINGS AND CONCLUSIONS

Duties to Notify and Assist

Since the Board is granting the Veteran's appeal for a 100 percent schedular rating for PTSD for the entirety of the appeal period and the claim for TDIU is moot there is no need to discuss whether the Veteran has received sufficient notice or assistance with regard to these claims, given that any error would be harmless.

Increased Rating for PTSD - Law

Disability evaluations are determined by evaluating the extent to which a veteran's service-connected disability adversely affects his or her ability to function under the ordinary conditions of daily life, including employment, by comparing his or her symptomatology with the criteria set forth in the Schedule for Rating Disabilities. The percentage ratings represent as far as can practicably be determined the average impairment in earning capacity resulting from such diseases and injuries and the residual conditions in civilian occupations. Generally, the degrees of disability specified by the schedule are considered adequate to compensate for considerable loss of working time from exacerbation or illness proportionate to the severity of the several grades of disability. See 38 U.S.C.A. § 1155 (West 2014); 38 C.F.R. § 4.1 (2016). Separate diagnostic codes identify the various disabilities and the criteria for specific ratings. If two disability evaluations are potentially applicable, the higher evaluation will be assigned to the disability picture that more nearly approximates the criteria required for that rating. Otherwise, the lower rating will be assigned. See 38 C.F.R. § 4.7 (2016). Any reasonable doubt regarding the degree of disability will be resolved in favor of the veteran. See 38 C.F.R. § 4.3 (2016).

The Veteran's entire history is reviewed when making a disability determination. See 38 C.F.R. § 4.1 (2016). Where the Veteran timely appeals the rating initially assigned for the service-connected disability within one year of the notice of the establishment of service connection for it, VA must consider whether the Veteran is entitled to "staged" ratings to compensate his for times since filing his claim when his disability may have been more severe than at other times during the course of his appeal. See *Hart v. Mansfield*, 21 Vet. App. 505 (2008).

Within the Diagnostic and Statistical Manual of Mental Disorders 4th edition (DSM-IV), Global Assessment of Functioning (GAF) scores are a scale reflecting the "psychological, social, and occupational functioning on a hypothetical continuum of mental health-illness." See *Carpenter v. Brown*, 8 Vet. App. 240, 242 (1995); see also *Richard v. Brown*, 9 Vet. App. 266, 267 (1996). A GAF score is, of course, just one part of the medical evidence to be considered and is not dispositive. The same is true of any physician's statement as to the severity of a disability. It remains the Board's responsibility to evaluate the probative value of any doctor's opinion in light of all the evidence of record.

A GAF of 41 to 50 is defined as serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifter) or any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job). A GAF score of 51 to 60 is defined as moderate symptoms (e.g., flat affect and circumstantial speech, occasional panic attacks) or moderate difficulty in social, occupational, or school functioning (e.g., few friends, conflicts with peers or co-workers). Scores ranging between 61 and 70 reflect some mild symptoms (e.g., depressed mood and mild insomnia) or some difficulty in social, occupational, or school functioning (e.g., occasional truancy, or theft within the household), but generally functioning pretty well, and has some meaningful interpersonal relationships. See Diagnostic and Statistical Manual of Mental Disorders (4th ed.1994).

A GAF of 31 to 40 is defined as some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) OR major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed man avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school).

A GAF of 21 to 30 is defined as behavior that is considerably influenced by delusions or hallucinations or serious impairment in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation)
OR inability to function in almost all areas (e.g., stays in bed all day; no job, home, or friends)

When evaluating a mental disorder, the Board shall consider the frequency, severity, and duration of psychiatric symptoms, the length of remissions, and the veteran's capacity for adjustment during periods of remission. 38 C.F.R. § 4.126(a). The rating agency shall assign an evaluation based on all the evidence of record that bears on occupational and social impairment rather than solely on the examiner's assessment of the level of disability at the moment of the examination. *Id.* The extent of social impairment is to be considered, but neither the Board nor the RO shall assign an evaluation solely on the basis of social impairment. 38 C.F.R. § 4.126(b).

The Board has reviewed all of the evidence in the Veteran's claims file, with an emphasis on the evidence relevant to this appeal. Although the Board has an obligation to provide reasons and bases supporting its decision, there is no need to discuss, in detail, every piece of evidence of record. *Gonzales v. West*, 218 F.3d 1378, 1380-81 (Fed. Cir. 2000) (holding that VA must review the entire record, but does not have to discuss each piece of evidence). Hence, the Board will summarize the relevant evidence where appropriate and the Board's analysis below will focus specifically on what the evidence shows, or fails to show, as to the claims decided herein.

Merits

The Veteran contends that he is entitled to a higher disability rating for his PTSD. Upon review of the claims file, the evidence supports a 100 percent rating for the entirety of the appeal period.

A 100 percent evaluation requires the Veteran's PTSD to cause total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; danger of hurting self or others; intermittent inability to perform activities of living (including maintenance of minimal hygiene); disorientation to time or place; or, memory loss for names of close relatives, occupation, or own name. See 38 C.F.R. § 4.130 (2016), Diagnostic Code 9411.

In reviewing the Veteran's VA treatment record, the Board finds that the Veteran's GAF scores were consistently between the ranges from 30 to 40 for the period from November 2011 to October 2013. One particular September 2011 VA treatment record included a notation that the Veteran arrived at his appointment wearing a chicken bone necklace and a teddy bear in his pocket. The Board empathizes that a GAF score of 30 includes an inability to function in almost areas and a GAF score of 40 denotes some impairment of reality with an inability to work. See *Vazquez-Claudio v. Shinseki*, 2012-7114 (Fed. Cir. Apr. 8, 2013), (entitlement to a particular disability rating requires sufficient symptoms of the kind listed for that rating, or others of similar severity, frequency, or duration, that cause the level of occupational and social impairment associated with that rating.)

Continuing in this vein, VA treatment records from September to November 2014 include numerous references to the Veteran's homelessness prior to admittance to an inpatient treatment program to help with his mental illness, to include PTSD. Particular examples include a July and August 2015 VA treatment notes wherein a clinician wrote that the Veteran had poor hygiene and disheveled appearance appearing in the same clothes as he was wearing for each outpatient therapy. While the above are just individual instances of the severity of the Veteran's PTSD, taken as a whole the evidence demonstrates the contemplated symptoms associated with a 100 percent rating. The Veteran has consistently had impairments in reality and frequent inpatient and outpatient care for his psychiatric symptoms. He has demonstrated an inability to maintain basic hygiene, inappropriate behavior (e.g. chicken bone necklace with teddy bear in his pocket), homelessness and separate clinicians have recorded consistent GAF scores which indicate that he has impairment in reality. While GAF scores were only recorded in the beginning portion of the Veteran's appeal period, the Board notes that the later clinician's observation of a lack of hygiene and homelessness from the time since the GAF scores discontinued still merit the 100 percent rating. The Board notes that most recently the Veteran was admitted to a medical facility with psychotic symptomatology in September of 2016. See *Savage v. Gober*, 10 Vet. App. 488, 496 (1997) (symptoms, not treatment, are the essence of any evidence of continuity of symptomatology).

Based on the foregoing evidence, the Board finds that the Veteran's overall disability picture equates to total occupational and social impairment, he has demonstrated poor hygiene, impulse control problems, being a danger to others, paranoia equating to hallucinations and delusions, and memory and concentration issues. In sum, the evidence demarcated above supports an award of a 100 percent disability rating for PTSD for entirety of the appeal period.

TDIU-Moot

The Veteran filed for TDIU on November 9, 2015, no prior formal or informal claim appears to be of record. The Veteran's only service-connected disability is PTSD, and, in this decision, he has been awarded a 100 percent

schedular rating for his PTSD from January 1, 2011, the entirety of the appeal period. The United States Court of Appeals for Veterans Claims (Court) has recognized that a 100 percent rating under the Schedule for Rating Disabilities means that a Veteran is totally disabled. *Holland v. Brown*, 6 Vet. App. 443, 446 (1994), citing *Swan v. Derwinski*, 1 Vet. App. 20, 22 (1990). Thus, if VA has found a veteran to be totally disabled as a result of a particular service-connected disability or combination of disabilities pursuant to the rating schedule, there is no need, and no authority, to otherwise rate that veteran totally disabled on any other basis. See *Herlehy v. Principi*, 15 Vet. App. 33, 35 (2001) (finding a request for TDIU moot where 100 percent scheduler rating was awarded for the same period). Thus, the Veteran's claim for a TDIU is moot as he has been awarded a 100 percent rating for the entirety of the period where TDIU was under appeal.

ORDER

Entitlement to an initial PTSD disability rating of 100 percent for the entirety of the appeal is granted, subject to the statutes and regulations governing the payment of monetary benefits.

The claim of entitlement to TDIU is dismissed

GAYLE E. STROMMEN
Veterans Law Judge, Board of Veterans' Appeals

Department of Veterans Affairs