(VSR VIP Pre-D)

Initial Claims – “Non-Original”

Trainee Handout

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Objectives

Upon completion of this lesson, you will be able to:

* Explain the anatomy of a Rating Decision to determine the type of a current claim
* Describe the development actions involved for “non-original” initial new claims
* Recognize development needed for initial claims for increase
* Identify development necessary for initial claims for secondary service connection (SC)

References

* [38 U.S.C. 5103](https://www.law.cornell.edu/uscode/text/38/5103), Notice to claimants of required information and evidence
* [38 CFR 3.1(p)](https://www.ecfr.gov/cgi-bin/text-idx?SID=8275d47362f689f42f799f04eb8ede12&mc=true&node=se38.1.3_11&rgn=div8), Definitions, Claim
* [38 CFR 3.151(a)](https://www.ecfr.gov/cgi-bin/text-idx?SID=8275d47362f689f42f799f04eb8ede12&mc=true&node=se38.1.3_1151&rgn=div8), Claims for disability benefits, General
* [38 CFR 3.159](https://www.ecfr.gov/cgi-bin/text-idx?SID=8275d47362f689f42f799f04eb8ede12&mc=true&node=se38.1.3_1159&rgn=div8), Department of Veterans Affairs assistance in developing claims
* [38 CFR 3.309](https://www.ecfr.gov/cgi-bin/text-idx?SID=98e761d20ef6b7350a7ebc117917035d&mc=true&node=se38.1.3_1309&rgn=div8), Disease subject to presumptive service connection
* [38 CFR 3.310(a)](https://www.ecfr.gov/cgi-bin/text-idx?SID=8275d47362f689f42f799f04eb8ede12&mc=true&node=se38.1.3_1310&rgn=div8), Disabilities that are proximately due to, or aggravated by, service-connected disease or injury, General
* [M21-1, Part I, Chapter 1](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/topic/554400000003063/Chapter-1-Duty-to-Assist), Duty to Assist
* [M21-1, Part I, 1.B.1](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014065/M21-1-Part-I-Chapter-1-Section-B-Duty-to-Notify-Under-38-USC-5102-and-5103#1a), Notification Requirements for Complete Claims
* [M21-1, Part I, 1.C.3](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014066/M21-1-Part-I-Chapter-1-Section-C-Requesting-Records#3), Assisting with Medical Opinion or Examination Requests
* [M21-1, Part III, Subpart ii, 2.B](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014119/M21-1-Part-III-Subpart-ii-Chapter-2-Section-B-Claims-for-Disability-Compensation-and-or-Pension-and-Claims-for-Survivors-Benefits%20-%201#1b), Claims for Disability Compensation and/or Pension, and Claims for Survivors Benefits
* [M21-1, Part III, Subpart ii, 2.E](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014121/M21-1-Part-III-Subpart-ii-Chapter-2-Section-E-Claims-for-Increase%20-%203), Claims for Increase
* [M21-1, Part III, Subpart iii, 1.C.2.g](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014156/M21-1-Part-III-Subpart-iii-Chapter-1-Section-C-Requesting-Evidence-From-Federal-Record-Custodians#2g), Conducting an Enterprise Search in CAPRI
* [M21-1, Part III, Subpart iii, 1.F](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000071983/M21-1-Part-III-Subpart-iii-Chapter-1-Section-F-Record-Maintenance-During-the-Development-Process%20-%202), Record Maintenance During the Development Process
* [M21-1, Part III, Subpart iv, 3.A](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015809/M21-1-Part-III-Subpart-iv-Chapter-3-Section-A-Examination-Requests-Overview), Examination Requests Overview
* [M21-1, Part III, Subpart iv, 6](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/topic/554400000003098/Chapter-06-The-Rating-Decision), The Rating Decision
* [M21-1, Part IV, Subpart ii, 2. B.5](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014553/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-B-Determining-Service-Connection-SC#5), Determining Secondary Service Connection, Including by Aggravation
* [C&P Exam Request Routing Assistant (ERRA)](http://vbacoweb03.dva.va.gov/bl/21/ERRA/default.asp?ZIP=) (or find via the Compensation Service Intranet Home Page/ Miscellaneous section (right side of screen)/Rating Job Aids/ERRA (in the bookshelf at the top))

Introduction

In this lesson, we will cover the anatomy of a rating decision, for you to be able to identify which type of claim was received. Rating decisions will be discussed in greater detail in Topic 1: Anatomy of a Rating Decision.

We will also cover different types of initial claims other than original claims, and claim-specific actions/development needed.

As of February 19, 2019, with the implementation of the Appeals Modernization Act (AMA), there are now two types of compensation claims; initial and supplemental.

Per 38 CFR 3.1(p)(1), an initial claim is any complete claim, other than a supplemental claim, for a benefit on a form prescribed by the Secretary. The first initial claim for one or more benefits received by VA is further defined as an original claim. For the purposes of this lesson, we will be referring to claims received after the original claim (“non-original”). Initial claims include:

* A new claim requesting service connection for a disability or grant of a new benefit, and
* A claim for increase in a disability evaluation rating or rate of a benefit paid based on a change or worsening in condition or circumstance since the last decision issued by VA for the benefit.

Per 38 CFR 3.1(p)(2), a supplemental claim is any complete claim for a VA benefit on an application for prescribed by the Secretary where an initial or supplemental claim for the same or similar benefit on the same or similar basis was previously decided. Formerly, these claims were known as reopen, reconsideration, and appeals. *\*Supplemental claims will be discussed in the Supplemental claims lesson.*

Claims for *secondary service connection* can be initial or supplemental claims, depending on the circumstances of the claim. Examples:

* Initial – Veteran claims a right knee condition (not previously decided), due to an SC left knee condition
* Supplemental – Veteran was previously denied direct SC for a right knee condition and is now claiming the right knee due to an SC back condition

A Veteran may submit a claim involving different claim types. In this case, multiple development actions will be needed on the same claim.

In addition to the claim-type-specific development discussed within this lesson, it is the responsibility of the VSR to complete all development relevant to claim for service connected compensation. This could include, but is not limited to, the following:

* Update of all relevant VA systems
* Verify service
* Request all applicable Federal records including service treatment records (STRs) personnel records, CAPRI (VA Medical Center records), etc.
  + CAPRI records (VA Medical Center (VAMC) records):
    - Identified by the Veteran and/or
    - Found by completing a CAPRI enterprise search when the Veteran does not identify treatment at a specific VA facility, IAW *M21-1, Part III, Subpart iii, 1.C.2.b & g*
* Ensure Section 5103 Notice has been provided and timelines followed
* Complete any applicable special issue development
* Request any identified private medical records (PMRs), or ensure they were requested through the PMR Retrieval Program
* Notify the Veteran of Fully Developed Claim (FDC) exclusion, if applicable
* Review and tab service treatment records for any claimed conditions (not needed for claims for increase since they are already SC)
* Order any necessary VA examinations (VAEs) and/or medical opinions. An exam and/or medical opinion is ***not*** warranted until ***all three*** elements are met.
  1. Current diagnosed disability or persistent/recurring symptoms
  2. The evidence of
     + - An event, injury, or disease in service, or
       - A disease or symptoms of a presumptive condition (38 CFR 3.309), manifesting during an applicable presumptive period, and
  3. An indication of association between the two previous elements

***Note:*** Many of the actions above will be discussed in separate lessons.

*Reminder:*All claims received on or after March 24, 2015, must be on a prescribed form listed in *M21-1, Part III, Subpart ii, 2.B.1.b*. Most claims received on an EZ form satisfy Section 5103 Notice requirements. For any claim *not* received on an EZ form, Section 5103 Notice may be required to satisfy the requirements of *38 CFR 3.159*.

Topic 1: Anatomy of a Rating Decision

It is important to understand the anatomy of a rating decision. It is especially important when reviewing a claim in the development stage, to determine if the claim was previously decided.

The rating decision is made up of two sections, the narrative and codesheet.

***The Narrative*** (Refer to *Attachment A: Narrative Example*)

The narrative section contains an Introduction, Decision, Evidence, Reasons for Decision, and References. This section is sent to the claimant as part of the decision notice.

**Introduction**

The introduction is an overview of the Veteran’s service including the service era, branch and period of service, type of claim filed, and the date the claim was received.

**Decision**

Listed in this sub-section is the decision made on each claimed or inferred issue. If there is more than one decision, the decisions will be listed by numbers that correspond to the numbered issues under the Reasons for Decision sub-section.

**Evidence**

Under the evidence sub-section, the rater must list all evidence that was considered in arriving at the decision.

**Reasons for Decision**

The purpose of the Reasons for Decision is to explain why and how VA decided a claim (e.g. grant, deny, increase, etc.). It should concisely cite and evaluate all relevant facts, laws, and regulations considered in making the decision, as well as any findings made by the adjudicator that are favorable to the claimant under *38 CFR 3.104(c),* effective February 19, 2019(known as favorable findings).

***Important:*** Within the Reasons for Decision, the Rating Veteran Service Representative (RVSR) must explain the effective date of grant if it is anything *other than* the date of claim or the day after discharge from service.

**References**

The References section consists of the following language, which is the same on all ratings. See Appendix A: Narrative Sample, for the language.

***The Codesheet*** (Refer to *Attachment B: Codesheet Example*.)

The Codesheet section contains the System-Generated Data Table, Jurisdiction and Associated Claim, Coded Conclusion, and Signatures. This section is intended for internal processing and does not get sent to the claimant.

**Data Table**

Information included on the data table reflects periods of service, branch of service, and character of discharge.

**Jurisdiction and Associated Claim**

This sub-section explains why the case is before the rating activity, refers to the claim at issue, and cites the pertinent jurisdictional date. The claim end product, claim label, and the date of claim are also shown here.

**Coded Conclusion**

The Coded Conclusion contains a summary of information on the status of benefits, and all decided issues. Subsequent ratings automatically bring forward the coding for all disabilities previously rated whenever coding directly affecting compensation or pension entitlement is added or changed; however, you must still review the Codesheet to ensure that no prior issues or evaluations were erroneously removed.

The coded conclusion contains a list of all disabilities ever decided (including diagnostic codes):

* *Subject to Compensation (1.SC)* – Must include the basis for decision: incurred, aggravated, presumptive, secondary, *38 CFR 3.386* (paired extremity), or aggravated NSC.
* *Combined Evaluation for Compensation* – Should include the current and historical combined evaluations and the corresponding effective date(s).
* *Miscellaneous Codes* – If applicable, they will show combined degree(s), effective date(s), bilateral factor and all other coded entitlements indicated in *M21-1 (Archive), Part I, Appendix A*.
* *Special Monthly Compensation*– Special Monthly Compensation (SMC) is paid in addition to the basic or scheduler rate of compensation. Entitlement to SMC will be clearly identified on the rating decision narrative and the code sheet. Refer to *M21-1 (Archive), Part I, Appendix A*, (go to Section V, Special Monthly Compensation, for a listing of the individual codes; from there, click on the Section V link, Special Monthly Compensation Paragraphs, for a listing of the individual SMC paragraphs).
* *Not Service Connected/Not Subject to Compensation (NSC)* – Must include the basis for decision: not incurred/caused by service, constitutional/developmental abnormality, willful misconduct, injury, or not in line of duty. Should also include Original Date of Denial.
* *Pension Ratings (NSC)* – All claimed and noted disabilities should be coded and show the evaluation of each disability as appropriate.
* *Ancillary Decisions* – These are additional benefits that Veterans may qualify for, based on their service connected compensation. Ancillary decisions include, but are not limited to, Dependents’ Educational Assistance, Special Housing Adaptation/Special Home Adaptation grant, Automobile Allowance, etc.
* *Deferred Issues* – When an RVSR is unable to decide a claim, the RVSR will defer a decision until additional evidence is obtained or a necessary exam has been completed. If the RVSR can grant at least one contention claimed by the Veteran, the RVSR can generate a partial rating. If at least one contention cannot be granted, then the RVSR will defer decisions on all contentions.

**Special Notation Box (if applicable)**

The special notation box can be used by the RVSR to communicate an explanation to a reviewer or specific instructions to the VSR to be carried out during development. An example would be a solicitation for a claim, possibly individual unemployability (IU).

**Signature**

Rating decisions must contain the decision maker’s digital signature on the bottom of the last page of the codesheet.

A rating decision **signature** is defined as:

* An electronic signature certification statement as shown in *M21-1, Part III, Subpart iv, 6.D.7.b*
* The user’s Local Area Network identification (LAN ID)

The signature of the decision maker(s) certifies that the claims folder was reviewed and all phases of the claims process leading to the decision were correctly handled.

Topic 2: “Non-Original” Initial New Claims

**“Non-Original” Initial New Claims**

A “non-original” initial new claim is an initial claim received after resolution of the original claim, for a new condition(s).

**Development for Claims Received Within One Year After Discharge**

Upon receipt of a “non-original” initial new claim within one-year of a Veteran’s release from active duty, complete the following actions in addition to any other necessary development:

* Request a VAE to evaluate the claimed condition or conditions

**Development for Claims Received More than One Year After Discharge**

Upon receipt of a “non-original” initial new claim more than one-year from discharge from active duty, complete the following actions in addition to any other necessary development:

* Review of STRs and all evidence of record to determine if they are sufficient to request a VAE and/or opinion (three elements to warrant an exam are present, see page 5), then
* Request if warranted

Topic 3: Initial Claims for Increase

**Initial Claims for Increase – General**

If you have determined that the Veteran is already service-connected for the disability which he or she is currently claiming, then you have determined that the current claim is an initial claim for increase.

Claims for increase in *compensation* may include, but are not limited to, claims for:

* Increased disability evaluation
* Entitlement to special monthly compensation (SMC)
* Increased rate of benefits due to the addition of a dependent

**Examinations in Claims for Increase**

Most claims for increase, will require a VAE according to the location populated in the Compensation and Pension (C&P) Exam Request Routing Assistant (ERRA) (see exceptions below).

Unless otherwise stated in the manual, complete any necessary development and order exams simultaneously. See *M21-1, Part I, 1.C.3.k, Timing of the Duty to Obtain an Examination or Opinion*, for some common exceptions.

There is no prescribed standard for evidence that must be present prior to requesting an examination in a typical claim for increase.  If a claim for increase is received, regardless of whether a statement of worsening is received or whether an examination for the claimed condition was completed within the last year, request an examination for the claimed condition ***except*** in the following circumstances. Do not routinely request an examination:

* In claims for dependency
* When a Disability Benefits Questioner (DBQ), completed by a private or VA physician, was submitted
* When a surgical report was submitted or identified by the Veteran – This may be considered in connection with a possible claim for increase to a temporary 100% evaluation under *38 CFR 4.29 and 4.30*, or due to joint replacement
* For active cancer
* For disabilities currently evaluated at the schedular maximum evaluation, unless medical or other evidence demonstrates symptoms that render the schedular criteria insufficient to evaluate the disability
* For issues under legacy appeal – these claims will be addressed through the legacy appeals process and should be *removed from the current claim*

A decision to *not* order an examination must be supported with adequate reasons and bases. These should be provided via VBMS Core notes. When in doubt about whether an examination is warranted for a claim for increase, ask an RVSR.

**Increase – Claim Received *without* Medical Evidence**

If a claim for increase is received without medical evidence or the medical evidence of record is too old (per RVSR) or otherwise insufficient to determine the current level of the disability, then a VAE is to be scheduled at the facility determined by ERRA. Ensure you complete any other necessary development actions, if applicable.

**Increase – Claim Received *with* Medical Evidence**

If the claim is received with medical evidence such as private medical reports or a DBQ completed by a private or VA physician, and no other development actions are needed, refer to the rating activity.

The rating activity will either decide the claim or, instruct a VSR to request a VAE, if the submitted DBQ was insufficient to rate the claim.

If other development *is* required, that will need to be completed prior to sending to the rating activity.

**Increase – Claim Received with *Indication* of Medical Evidence**

If a claim for increased evaluation is received with:

* An indication of private treatment records without a signed medical release, such as VA Forms 21-4142 *Authorization to Disclose Information to the Department of Veterans Affairs (VA)*, and 21-4142a, *General Release for Medical Provider Information to the Department of Veterans Affairs (VA)*, then:
  + Send the Veteran VA Forms 21-4142 and 21-4142a
* Signed medical release forms, then:
  + Either undergo development for the private treatment records or review that development was complete through the PMR Retrieval Program
    - Add tracked item if not already added
  + Notify the Veteran of the development
    - If PMR, they will notify the Veteran

\* Follow the proper procedures and timelines for developing for both federal and non-federal evidence. Once those procedures and timelines have been completed, and/or evidence has been received, including VAE results, forward the claim to the rating activity for a decision.

Topic 4: Initial Claims for Secondary Service Connection

If the Veteran is already service connected for a disability and now the Veteran is claiming new conditions (not previously decided) based on the service-connected disability, then you have determined that the current claim is an initial claim for secondary SC.

Per *38 CFR 3.310(a)* and *38 CFR 3.310(b)*, service connection may be awarded for:

* Disabilities that are proximately due to, or the result of, an SC condition
* The increase in severity of a non-service connected (NSC) disability that is attributable to aggravation by an SC disability, and not to the natural progression of the NSC disability

Service connection on a secondary basis requires a showing of causation.  A showing of causation requires that the secondary disability be shown to be proximately due to, or the result of, an SC condition. To establish causation, the primary disability need not be SC, or even diagnosed, at the time the secondary condition is incurred.

**Developing Claims Based on Secondary Service Connection**

When reviewing these types of claims, focus should be on:

* Pertinent background information (i.e. service connected disabilities)
* Veteran’s contentions (what is being caused by the service connected condition)
* Evidence showing a current disability or symptom(s) of the claimed secondary disability
* Evidence showing a possible indication of association between the claimed disability and the service connection condition

If a claim for secondary service connection is received, then develop the claim by following all necessary development guidelines pertaining to the claimed condition. This includes, but is not limited to:

* Review of STRs and all evidence of record to determine if they are sufficient to request a VAE and/or opinion
* Request if warranted

**Examinations and Medical Opinions for Secondary SC**

Medical expertise, such as an exam with medical opinion, is ultimately required to establish entitlement to SC on a secondary basis. The threshold for ordering an examination is low; however, the three elements (see Pg. 5) required for exams/medical opinions must still be met. See *M21-1, Part I, 1.C.3.g*, when reviewing for an examination in relation to a claim for secondary SC.

\*This lesson is not meant to examine medical opinions. For more information, you may see *M21-1, Part III, Subpart iv, 3.A.7, Medical Opinions*. There is also a separate lesson on requesting medical opinions that provides more detailed information.

Practical Exercise

Directions: Answer the following questions.

1. True or false? When a claim for increased evaluation is received, regardless of the amount of time since the last examination for that condition, VA will order an exam (when no exceptions exist).
2. A \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is an initial claim received after resolution of the original claim, for a new condition(s).
3. What are the two sections that make up a rating decision?
4. When a claim for a “non-original” initial new condition is received more than one year from discharge, review of STRs and all evidence of record is needed to determine if a \_\_\_\_\_\_\_\_\_\_\_\_\_\_ is warranted?
5. A claim for increase may include, but is not limited to what?
6. Scenario: Veteran files a claim for lumbar degenerative joint disease (DJD) and hearing loss. The following exists in the eFolder:
   * Veteran-provided PMRs with radiology reports that:
     + Have a diagnosis of lumbar DJD
     + Show the Veteran has received continuous treatment since discharge from service, three years ago
     + Prior rating decisions which granted hearing loss and denied SC for right shoulder strain STRs showing the Veteran had 3 events of lumbar strains during parachute jumps while on active duty, including:
       - The exit exam revealing the Veteran has lumbar DJD
   1. Which contention is the “non-original” initial new claim and what type of initial claim is the other contention?
   2. What development actions are needed for the “non-original” initial new claim claimed condition?
7. Which section and sub-section of the rating decision discusses why and how a claim was decided?
8. If it is determined that the Veteran is already SC for a disability and is now claiming a new condition (not previously decided) based on the already SC disability, which type of claim is it?
9. Which section of the Codesheet contains a summary of information on the status of all benefits, and all decided issues?
10. Scenario: A Veteran claims his service-connected lumbar degenerative disc disease (DDD) has caused DJD of his right hip due to walking with an altered gait and placing more pressure on his right hip due to an adjusted sitting posture. DJD of the right hip has never been decided.
    1. What type of claim is this?
    2. What should the VSR focus on when reviewing this claim?

Attachment A: Narrative Example



**DEPARTMENT OF VETERANS AFFAIRS**

**[VETERAN’S NAME]**

**VA File Number:**

**XXX-XX-XXX**

**Rating Decision**

**MM/DD/YYYY**

**INTRODUCTION**

The records reflect that you are a Veteran of the Gulf War Era. You served in the Army from February 9, 1996 to February 8, 2002. You filed a new claim on October 8, 2018. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

1. Service connection for AIDS is granted with an evaluation of 100 percent effective October 8, 2018.
2. Service connection for arthritis of the cervical spine is granted with an evaluation of 20 percent effective October 8, 2018.
3. Entitlement to special monthly compensation based on housebound criteria being met is granted from October 8, 2018.
4. Basic eligibility to Dependents' Educational Assistance is established from October 8, 2018.
5. Service connection for left shoulder condition is denied.

**EVIDENCE**

1. Service treatment records received March 30, 2002, for the period February 9, 1996 to February 8, 2002
2. VA Form 21-4138, Statement in Support of Claim, received October 8, 2018
3. VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received October 8, 2018
4. Treatment records, Denver VAMC, dated June 6, 2002 to March 2, 2019
5. VA examination conducted at Denver VAMC on December 3, 2018

**REASONS FOR DECISION**

**1. Service connection for AIDS.**

Service connection for AIDS has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304) The effective date of this grant is October 8, 2018. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim. (38 CFR 3.400)

Service treatment records show you received an accidental needle stick in March 1999 while performing your duties as a combat medic.

VA examination shows you have AIDS with refractory constitutional symptoms and recurrent opportunistic manifestations. The examiner provided the opinion that your HIV infection was at least as likely as not acquired during your military service as a combat medic.

We have assigned a 100 percent evaluation for your HIV-related illness based on:

• AIDS with recurrent opportunistic infections

• HIV-related illness with debility and progressive weight loss, without remission, or few or brief remissions

• Secondary diseases afflicting multiple body systems

Additional symptom(s) include:

• Diarrhea (substantially greater than intermittent)

• Refractory constitutional symptoms

• Hairy Cell Leukoplakia

• Oral Candidiasis

• T4 cell count less than 200

• Employment limitations

• Evidence of depression

• On approved medication(s)

This is the highest scheduler evaluation allowed under the law for HIV-related illness.

**2. Service connection for arthritis of the cervical spine.**

Service connection for arthritis of the cervical spine has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

The effective date of this grant is October 8, 2018. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim. (38 CFR 3.400)

An evaluation of 20 percent is assigned from October 8, 2018.

We have assigned a 20 percent evaluation for your arthritis of the cervical spine based on:  
• Forward flexion of the cervical spine greater than 15 degrees but not greater than 30 degrees

Additional symptom(s) include:  
• X-ray evidence of traumatic arthritis  
• Combined range of motion of the cervical spine greater than 170 degrees but not greater than 335 degrees  
• 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 are not warranted.

This is the highest schedular evaluation allowed under the law for traumatic arthritis.

Additionally, a higher evaluation of 30 percent is not warranted for cervical strain unless the evidence shows:  
• Favorable ankylosis of the entire cervical spine; or,  
• Forward flexion of the cervical spine 15 degrees or less. (38 CFR 4.71a)

**3. Entitlement to special monthly compensation based on housebound criteria.**

Criteria regarding housebound are met on account of AIDS rated 100 percent and additional service-connected disability of myocardial infarction independently ratable at 60 percent from April 8, 2013. (38 CFR 3.351(d)).

**4. Eligibility to Dependents' Educational Assistance under 38 U.S.C. Chapter 35.**

Basic eligibility to Dependents' Education Assistance is granted from October 8, 2018, the date the evidence shows that you have a total service-connected disability, permanent in nature. (38 CFR 3.807)

**5. Service connection for left shoulder condition.**

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service. Service connection for left shoulder condition is denied because the medical evidence of record fails to show that this disability has been clinically diagnosed. (38 CFR 3.303)

While your service treatment records reflect complaints, treatment, or a diagnosis similar to that claimed, the medical evidence supports the conclusion that a persistent disability was not present in service. (38 CFR 3.303) We have been informed that you have missed the VA examination scheduled in support of your claim. There is no information presently indicating good cause for absence on the scheduled appointment date. As a result, medical evidence that could have been used to support your claim was not available to us. (38 CFR 3.655) Please notify us when you are ready to report for an examination, or you may submit a disability benefits questionnaire (DBQ) which must be completed and signed by a health care provider.

Favorable Findings identified in this decision:

The evidence shows that a qualifying event, injury, or disease had its onset during your service.

Your service treatment records show that you injured your left shoulder in June 1998.

**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 web site, [www.va.gov](http://www.va.gov).

Attachment B: Codesheet Example

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Rating Decision** | ***Department of Veterans Affairs***  ***VA Regional Office*** | | | Page 1 of 2  MM/DD/YYYY |
| NAME OF VETERAN  [Veteran’s Name] | VA FILE NUMBER  XXX-XX-XXXX | SOCIAL SECURITY NO.  XXX-XX-XXXX | POA | COPY TO |

| **ACTIVE DUTY** | | | |
| --- | --- | --- | --- |
| **EOD** | **RAD** | **BRANCH** | **CHARACTER OF DISCHARGE** |
| 02/09/1996 | 02/08/2002 | Army | Honorable |

| **LEGACY CODES** | | | |
| --- | --- | --- | --- |
| **ADD’L SVC**  **CODE** | **COMBAT**  **CODE** | **SPECIAL PROV CDE** | **FUTURE EXAM**  **DATE** |
|  | 1 |  | None |

**JURISDICTION:** NewClaim Received; 10/08/2018

**ASSOCIATED CLAIM(s):** 020; New Claim; 10/08/2018

**SUBJECT TO COMPENSATION (1.SC)**

6351 AIDS

Service Connected, Gulf War Era, Incurred  
Static Disability

100% from 10/08/2018

7006 MYOCARDIAL INFARCTION

Service Connected, Gulf War Era, Presumptive  
Static Disability

100% from 03/09/2002

60% from 07/01/2002

5002-5242 ARTHRITIS, CERVICAL SPINE

Service Connected, Gulf War Era, Incurred

Static Disability

20% from 10/08/18

5010 DEGENERATIVE CHANGES, RIGHT KNEE

Service Connected, Gulf War Era, Incurred  
Static Disability

10% from 02/09/2002

***COMBINED EVALUATION FOR COMPENSATION:***

10% from 02/09/2002

100% from 03/09/2002

60% from 07/01/2002

100% from 10/08/2018

***SPECIAL MONTHLY COMPENSATION:***

S-1 Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (s) and 38 CFR 3.350(i) on account of AIDS rated 100 percent and additional service-connected disability (ies) of myocardial infarction, independently ratable at 60 percent or more from 10/08/2018.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **EFFECTIVE DATE** | **BASIC** | **HOSPITAL** | **LOSS OF USE** | **ANAT. LOSS** | **OTHER LOSS** |
| 10/08/2018 | 48 | 48 | 00 | 00 | 0 |

**NOT SERVICE CONNECTED/NOT SUBJECT TO COMPENSATION (8.NSC Gulf War)**

5299-5260 LEFT KNEE CONDITION

Not Service Connected, No Diagnosis

5201 LEFT SHOULDER CONDITION

Not Service Connected, No Diagnosis

**ANCILLARY DECISIONS**

Basic eligibility to 38 USC Ch. 35 from 10/08/2018

NOTE TO VSR: Please solicit a claim for service-connection for bilateral hearing loss

and tinnitus.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[I certify that I have reviewed and electronically signed this decision, RVSR e-signature]