38 USC 1318 SCENARIOS

38 USC 1318 Yes or No practice exercise. Please decide whether a grant of benefits under 38 USC 1318 is warranted.

1. Veteran died February 27, 2023, death certificate list primary cause of death as acute hypoxic respiratory failure and Covid, there are no contributory causes of death listed on death certificate. The last Rating Decision prior to death details the following information:

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
02/16/2010	03/27/2013	Army	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	2		None

SUBJECT TO COMPENSATION (1.SC)

8045	TRAUMATIC BRAIN INJURY (TBI) Service Connected, Gulf War, Incurred-COMBAT Static Disability 70% from 11/07/2013
9411	POSTTRAUMATIC STRESS DISORDER (PTSD) [PTSD - Combat/Combat Medal] [Disability Evaluation System (DES)/PEB Referred] [Enhanced Disability Severance Pay] Service Connected, Gulf War, Incurred-COMBAT Static Disability 50% from 03/28/2013 70% from 11/07/2013
6847	SLEEP APNEA (CLAIMED AS INSOMNIA) [Disability Evaluation System (DES)/DES Claimed] Service Connected, Gulf War, Incurred Static Disability 50% from 03/28/2013
8100	MIGRAINE HEADACHE [Enhanced Disability Severance Pay] [Disability Evaluation System (DES)/PEB Referred] Service Connected, Gulf War, Incurred-COMBAT Static Disability 30% from 03/28/2013 50% from 11/07/2013

COMBINED EVALUATION FOR COMPENSATION :

100% from 03/28/2013 (Bilateral factor of 7.5 Percent for diagnostic codes 5019, 5201, 8516, 8516, 5260, 5260)

Is 38 USC 1318 warranted, Yes or No?

ANSWER: Yes. Though on the surface the Veteran is not eligible for 1318 under the 10 year rule. they are about 1 month short, we must look into all facets of 1318 entitlement. They have entitlement to 1318 under the 5 year total evaluation following release from active-duty rule.

2. Veteran died March 27, 2023, death certificate list primary cause of death as self-inflicted gunshot wound, there are no contributory causes of death listed on death certificate. The last Rating Decision prior to death details the following information:

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
06/19/1959	06/20/1963	Navy	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1		None

JURISDICTION: EP 020, New Claim Received 12/01/2007

SUBJECT TO COMPENSATION (1.SC)

9204 SCHIZOPHRENIA, UNDIFFERENTIATED TYPE
Service Connected, Peacetime, Service Connected, Static Disability
100% from 12/01/2007

COMBINED EVALUATION FOR COMPENSATION:

100% from 12/01/2007

NOT SERVICE CONNECTED/NOT SUBJECT TO COMPENSATION (8.NSCPeacetime)

7806 ECZEMA
Not Service Connected, Peacetime, Not Service Connected

eSign: certified by ADJJDOE, RVSR

Is 38 USC 1318 warranted, Yes or No?

ANSWER: Yes. The Veteran had a total evaluation of over 10 years to have claimants qualify for 38 USC 1318 DIC.

3. Veteran died July 27, 2023, death certificate list primary cause of death as cardiopulmonary failure, there are no contributory causes of death listed on death certificate. The last Rating Decision prior to death details the following information:

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
01/02/1980	01/02/1984	Army	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1		None

JURISDICTION: EP 020 Original Claim 07/27/2020

SUBJECT TO COMPENSATION (1.SC)

9411 PTSD
Service Connected, Peacetime
100% from 01/15/2010
70% from 07/27/2020

COMBINED EVALUATION FOR COMPENSATION:

100% from 01/15/2010
70% from 07/27/2020
Individual Unemployability Granted from July 27, 2020

eSign: certified by ADJJDOE, RVSR

Is 38 USC 1318 warranted, Yes or No?

ANSWER: Yes. The Veteran had a total evaluation of over 10 years to have claimants qualify for 38 USC 1318 DIC. Don't be confused with the combined 100% dropping to 70% on July 27, 2020. The Veteran had a continuous total evaluation starting January 15, 2010. The term total evaluation encompasses both a 100% and a grant of IU.

4. Veteran died June 21, 2024, death certificate list primary cause of death as bacterial pneumonia, there are no contributory causes of death listed on death certificate. The Veteran only has no presumptive locations noted and the TERA Memo is negative. The last Rating Decision prior to death details the following information:

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
07/31/2000	07/31/2020	Air Force	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1		None

JURISDICTION: EP 110 Original Claim 10/27/2020

SUBJECT TO COMPENSATION (1.SC)

9400 Generalized Anxiety Disorder
Service Connected, Gulf War Era
100% from 08/01/2020

COMBINED EVALUATION FOR COMPENSATION:

100% from 08/01/2020

eSign: certified by ADJJDOE, RVSR

Is 38 USC 1318 warranted, Yes or No?

ANSWER: No. The Veteran had a total evaluation, but it was short of 10 years. The Veteran also had a total evaluation following separation from service, however this was short of 5 years.