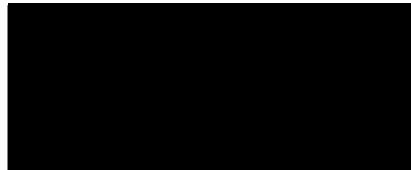




**DEPARTMENT OF VETERANS AFFAIRS
REGIONAL OFFICE**



**Represented By:
GORDON A GRAHAM
Rating Decision
09/29/2020**

INTRODUCTION

The records reflect that you are a Veteran of the Peacetime and Vietnam Era. You served in the Navy from January 7, 1959 to July 16, 1962 and from April 11, 1974 to October 21, 1977. You filed a new claim for benefits that was received on March 16, 2020. Based on a review of the evidence listed below, we have made the following decisions on your claim.

DECISION

1. Service connection for ischemic heart disease status post myocardial infarction and coronary artery bypass graft associated with herbicide exposure is granted with a 10 percent evaluation effective September 17, 2002. An evaluation of 60 percent is assigned from April 22, 2003. An evaluation of 30 percent is assigned from March 20, 2006. An evaluation of 100 percent is assigned from June 27, 2019.
2. Service connection for diabetes mellitus type II with left lower extremity peripheral vascular disease associated with herbicide exposure is granted with a 20 percent evaluation effective September 17, 2002.



3. Service connection for left lower extremity peripheral neuropathy is granted with an evaluation of 10 percent effective September 17, 2002. A noncompensable evaluation is assigned from April 8, 2003.
4. Service connection for right lower extremity peripheral neuropathy is granted with an evaluation of 10 percent effective September 17, 2002. A noncompensable evaluation is assigned from April 8, 2003.
5. Service connection for chest scar status post coronary artery bypass graft is granted with an evaluation of 0 percent effective September 17, 2002.
6. Basic eligibility to Dependents' Educational Assistance is established from June 27, 2019.
7. Service connection for myelodysplastic syndrome is denied.
8. Entitlement to Individual Unemployability is moot.

EVIDENCE

- Available service treatment records for the periods from January 6, 1959 to July 17, 1962, and from November 1, 1962 to October 21, 1977
- Available service personnel records for the period from January 6, 1959 to July 17, 1962, and from November 1, 1962 to October 21, 1977
- Treatment records from the Puget Sound VA Health Care System from November 2002 to June 2019
- VA Form 21-526 received September 17, 2002
- VA medical examination dated December 3, 2002
- Prior VA rating decision dated February 20, 2003
- VA Notification Letter dated February 25, 2003
- VA Form 21-526EZ received March 16, 2020
- Private treatment records from Harrison Health Partners from June 2013, received March 16, 2020
- Correspondence from ASKNOD, Inc, received March 16, 2020
- VA claim acknowledgement Letter dated March 17, 2020
- VA Form 21-526EZ received April 14, 2020
- Private treatment records from Franciscan System Services from July 2019 to January 2020, received April 14, 2020
- VA claim acknowledgement Letter dated April 17, 2020
- VA IU development letter dated April 17, 2020 with attached VA Form 21-8940 and VA Form 21-4192
- Available treatment records from the Puget Sound VA Health Care System received April 21, 2020
- VA development letter dated May 1, 2020 regarding a previously denied claim for diabetes mellitus type II
- VA herbicide exposure development letter dated May 1, 2020 for claims for chronic anemia



- and myelodysplastic syndrome
- VA Form 20-0995 with a claim for diabetes mellitus type II, received May 5, 2020
- VA development letter dated May 20, 2020 regarding previously claims for chronic anemia and CAD
- VA Form 20-0995 with a claim for coronary artery disease received May 20, 2020
- VA letter to Bremerton Naval Hospital dated May 20, 2020
- VA herbicide exposure development letter dated May 20, 2020 for a claim for myelodysplastic syndrome
- Medical records from Bremerton Naval Hospital from January 2005 to November 2016, received June 2, 2020
- VA letter to Bremerton Naval Hospital dated June 3, 2020
- Correspondence from Bremerton Naval Hospital received June 23, 2020
- VA letter to Bremerton Naval Hospital dated June 24, 2020
- VA Form 27-0820 dated August 12, 2020 regarding availability of requested records
- Federal treatment records from Bremerton Naval Hospital, received August 31, 2020 and September 1, 2020
- VA Form 27-0820 dated September 2, 2020
- VA Herbicide Exposure Verification Memorandum dated September 28, 2020
- VA Form 27-0820 dated September 28, 2020
- Review of claims file

REASONS FOR DECISION

1. Service connection for ischemic heart disease status post myocardial infarction and coronary artery bypass graft associated with herbicide exposure.

We have granted service connection for ischemic heart disease status post myocardial infarction and coronary artery bypass graft (PL 116-23, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400)

By way of history, you were previously denied service connection for ischemic heart disease on a VA rating decision dated February 20, 2003, as there was no evidence of herbicide exposure. Since that time additional legislation has been passed allowing VA to concede herbicide exposure to Veterans with qualifying nautical service during the Vietnam Era. Your service personnel records verify you served aboard the USS Preston, which was shown to have operated in the inland waterways and eligible offshore waters of the Republic of Vietnam when you were aboard. Based on this evidence, exposure to herbicides has now been conceded.

The law states that if progressive stages are shown by a disability when an evaluation is being considered retroactively, the Board should assign the disability evaluation in stages effective the date that the change in evaluation is supported by the evidence of record. This means that a higher evaluation cannot be assigned before it is supported by the evidence of record.

We have assigned a 10 percent evaluation for ischemic heart disease status post myocardial infarction and coronary artery bypass graft from September 17, 2002, the date your original claim for heart disease was received. This is based on the results of your VA medical



examination dated December 3, 2002.

We have assigned a 10 percent disability evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Continuous medication is required
- Workload of greater than seven METs but not greater than ten METs that results in dyspnea, fatigue, angina, dizziness, or syncope

A higher evaluation of 30 percent is not warranted for arteriosclerotic heart disease unless the evidence shows:

- Evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray; or,
- Workload of greater than five METs but not greater than seven METs results in dyspnea, fatigue, angina, dizziness, or syncope. (38 CFR 4.100, 38 CFR 4.104)

One MET (metabolic equivalent) is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. (38 CFR 4.104)

A 60 percent disability evaluation from is assigned from April 22, 2003, the date of an echocardiogram that showed a left ventricular ejection fraction limited to 40 percent. (38 CFR 3.400(o), 38 CFR 3.157 (historical))

We have assigned a 60 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Left ventricular dysfunction with an ejection fraction of 30 to 50 percent

Additional symptom(s) include:

- Continuous medication is required
- Workload of greater than seven METs but not greater than ten METs results in dyspnea, fatigue, angina, dizziness, or syncope

A higher evaluation of 100 percent is not warranted for arteriosclerotic heart disease unless the evidence shows:

- Chronic congestive heart failure; or,
- Left ventricular dysfunction with an ejection fraction of less than 30 percent; or,
- Workload of three METs or less results in dyspnea, fatigue, angina, dizziness, or syncope. (38 CFR 4.100, 38 CFR 4.104)

One MET (metabolic equivalent) is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. (38 CFR 4.104)

A 30 percent disability evaluation from is assigned from March 20, 2006, the date that cardiac testing showed a normal left ventricular ejection fraction with evidence of cardiac dilatation. (38 CFR 3.400(o), 38 CFR 3.157 (historical))



We have assigned a 30 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Evidence of cardiac dilatation on echocardiogram

Additional symptom(s) include:

- Continuous medication is required
- Left ventricular dysfunction with an ejection fraction of more than 50 percent
- Workload of greater than seven METs but not greater than ten METs results in dyspnea, fatigue, angina, dizziness, or syncope

A higher evaluation of 60 percent is not warranted for arteriosclerotic heart disease unless the evidence shows:

- Left ventricular dysfunction with an ejection fraction of 30 to 50 percent; or,
- More than one episode of acute congestive heart failure in the past year; or,
- Workload of greater than three METs but not greater than five METs results in dyspnea, fatigue, angina, dizziness, or syncope. (38 CFR 4.100, 38 CFR 4.104)

One MET (metabolic equivalent) is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. (38 CFR 4.104)

A 100 percent disability evaluation from is assigned from June 27, 2019, the date that medical evidence shows you suffered a myocardial infarction with chronic congestive heart failure and a left ventricular ejection fraction of less than 20 percent thereafter. (38 CFR 3.400(o), 38 CFR 3.157 (historical))

We have assigned a 100 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Chronic congestive heart failure
- Left ventricular dysfunction with an ejection fraction of less than 30 percent

This is the highest schedular evaluation allowed under the law for arteriosclerotic heart disease. (38 CFR 4.100, 38 CFR 4.104)

2. Service connection for diabetes mellitus type II with left lower extremity peripheral vascular disease associated with herbicide exposure.

We have granted service connection for diabetes mellitus type II with left lower extremity peripheral vascular disease. (PL 116-23, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400, 38 CFR 3.2500)

By way of history, you were previously denied service connection for diabetes mellitus type II on a VA rating decision dated February 20, 2003, as there was no evidence of herbicide exposure. Since that time additional legislation has been passed allowing VA to concede herbicide exposure to Veterans with qualifying nautical service during the Vietnam Era. Your service personnel records verify you served aboard the USS Preston, which was shown to have



operated in the inland waterways and eligible offshore waters of the Republic of Vietnam when you were aboard. Based on this evidence, exposure to herbicides has now been conceded.

We have assigned a 20 percent evaluation from September 17, 2002, the date your original claim for diabetes mellitus type II was received. This is based on the results of your VA medical examination dated December 3, 2002, which showed you were on continuous medication and followed a restricted diet to treat your symptoms.

We have assigned a 20 percent evaluation for your Diabetes Mellitus Type II with left lower extremity peripheral vascular disease based on:

- Requirement for oral hypoglycemic agent
- Restricted diet required

A higher evaluation of 40 percent is not warranted unless there is Diabetes requiring insulin, restricted diet, and regulation of activities.

The following conditions would be rated as noncompensable if rated by themselves:

- Peripheral vascular disease

A non-compensable disability is considered part of the diabetic process and does not warrant a separate evaluation. Therefore, this issue will be included as part of your diabetic process. If your condition becomes worse in the future, a separate evaluation will be considered.

A separate 20 percent evaluation for peripheral vascular disease is not warranted unless there is claudication on walking more than 100 yards, and; diminished peripheral pulses or ankle/brachial index of 0.9 or less. (38 CFR 4.119)

For VA purposes, "regulation of activities" means physician-directed restrictions on strenuous physical activities in an effort to control diabetic complications or prevent injury. It specifically excludes supervised and professionally directed exercise, which, along with a restricted diet, is intended to improve the health of the diabetic patient.

3. Service connection for left lower extremity peripheral neuropathy as secondary to the service-connected disability of diabetes mellitus type II.

We have granted service connection for left lower extremity peripheral neuropathy secondary to diabetes mellitus type II. (PL 116-23, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.310, 38 CFR 3.400)

We have assigned a 10 percent evaluation from September 17, 2002, the date your original claim for diabetes mellitus type II was received. This is based on the results of your VA medical examination dated December 3, 2002, which showed you complained of decreased sensation in your left lower extremity and the examiner diagnosed left lower extremity neuropathy. (38 CFR 3.400, 38 CFR 3.2500, PL-116-23)



We have assigned a 10 percent evaluation for your left lower extremity peripheral neuropathy based on:

- Mild incomplete paralysis (38 CFR 4.124a)

A higher evaluation of 20 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is moderate. (38 CFR 4.120, 38 CFR 4.124a)

We have assigned a 0 percent evaluation from April 8, 2003, the date that private treatment records note a diagnosis of diabetes mellitus type II with no evidence of diabetic complications.

We have assigned a noncompensable evaluation for your left lower extremity peripheral neuropathy based on:

- Asymptomatic incomplete paralysis (38 CFR 4.124a)

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 of 10 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is mild. (38 CFR 4.120, 38 CFR 4.124a)

4. Service connection for right lower extremity peripheral neuropathy as secondary to the service-connected disability of diabetes mellitus type II.

We have granted service connection for right lower extremity peripheral neuropathy secondary to diabetes mellitus type II. (PL 116-23, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.310, 38 CFR 3.400)

We have assigned a 10 percent evaluation from September 17, 2002, the date your original claim for diabetes mellitus type II was received. This is based on the results of your VA medical examination dated December 3, 2002, which showed you complained of decreased sensation in your right lower extremity and the examiner diagnosed right lower extremity neuropathy. (38 CFR 3.400, 38 CFR 3.2500, PL-116-23)

We have assigned a 10 percent evaluation for your right lower extremity peripheral neuropathy based on:

- Mild incomplete paralysis (38 CFR 4.124a)

A higher evaluation of 20 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is moderate. (38 CFR 4.120, 38 CFR 4.124a)

We have assigned a 0 percent evaluation from April 8, 2003, the date that private treatment records note a diagnosis of diabetes mellitus type II with no evidence of diabetic complications.



We have assigned a noncompensable evaluation for your right lower extremity peripheral neuropathy based on:

- Asymptomatic incomplete paralysis (38 CFR 4.124a)

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 of 10 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is mild. (38 CFR 4.120, 38 CFR 4.124a)

5. Service connection for chest scar status post coronary artery bypass graft.

We have granted service connection for a chest scar status post coronary artery bypass graft (38 CFR 3.310). Your treatment records confirm you underwent a coronary artery bypass graft in 1987 and a VA examination dated December 3, 2002 confirmed evidence of a well healed sternotomy scar. (38 CFR 3.400, 38 CFR 3.2500, PL-116-23)

We have assigned a 0 percent evaluation for your chest scar status post coronary artery bypass graft based on:

- Anterior trunk: area or areas less than 144 square inches (929 sq. cm.) (Not associated with underlying soft tissue damage)

Additional symptom(s) include:

- Scar 1 Location: Anterior trunk
- Scar 1 type: scar

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}

Your first scar/area has a length of 1 cm and a width of 1 cm for a total area of 1 sq. cm.

An additional, separate compensable evaluation under Diagnostic Code 7804 is not warranted unless there is at least one scar that is painful or unstable. (38 CFR 4.118)

A higher evaluation of 10 percent is not warranted for burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are not associated with underlying soft tissue damage (anterior trunk) unless the evidence shows:

- Area or areas of 144 square inches (929 sq. cm.) or greater. (38 CFR 4.118)

Additionally, a higher evaluation of 10 percent is not warranted for burn scar(s) or scar(s) due to other causes, not of the head, face, or neck that are associated with underlying soft tissue damage (entire body) unless the evidence shows:

- Area or areas of at least 6 square inches (39 sq. cm.) but less than 12 square inches (77 sq. cm.).



(38 CFR 4.118)

Additionally, a higher evaluation of 10 percent is not warranted for burn scar(s) or scar(s) due to other causes, not of the head, face, or neck, that are not associated with underlying soft tissue damage (entire body) unless the evidence shows:

- Area or areas of 144 square inches (929 sq. cm.) or greater. (38 CFR 4.118)

6. 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 service person 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. (38 USC Ch. 35, 38 CFR 3.807)

Basic eligibility to Dependents' Education Assistance is granted as the evidence shows you currently have a total service-connected disability, permanent in nature. (38 USC Chapter 35, 38 CFR 3.807). We have assigned an effective date of June 27, 2019, the date on which you were granted entitlement to a total disability evaluation with no follow up exams deemed necessary. (38 CFR 3.400, 38 CFR 3.2500, PL-116-23)

7. Service connection for myelodysplastic syndrome.

We have denied service connection for myelodysplastic syndrome since there is no evidence that this condition was either incurred in or caused by service. (38 CFR 3.303, 38 CFR 3.304) Service connection is also denied on a presumptive basis. (38 CFR 3.303, 38 CFR 3.307, 38 CFR 3.309) Your service treatment records do not show any complaints, treatment, or diagnosis of myelodysplastic syndrome during military service. Treatment records from the Puget Sound VA Health Care System also fail to show a diagnosis of myelodysplastic syndrome manifested to a compensable degree within one year following your discharge from active duty service.

As of the date of this rating decision we have received private treatment records showing a current diagnosis of myelodysplastic syndrome, but the records do not draw a causal link between a current diagnosis of myelodysplastic syndrome and military service, nor do the records show a diagnosis of a presumptive form of a blood disorder manifested to a compensable degree within one year following your discharge from active duty service.

Service connection for myelodysplastic syndrome is therefore not in order because the objective evidence of record does not show a permanent residual or chronic disability subject to service connection shown by the service medical records or demonstrated by evidence following service. The law states that service connection may be granted for certain blood disorders if the condition becomes manifested to a compensable degree within one year following your discharge from



active duty. As such, service connection is also denied on a presumptive basis, as there is no evidence of a clinical diagnosis of a presumptive form of a blood disorder manifested to a compensable degree within one year following your separation from active duty service.

Favorable Findings identified in this decision:

Private treatment records show a current diagnosis of myelodysplastic syndrome.

8. Entitlement to Individual Unemployability.

Entitlement to individual unemployability is moot because your service-connected disabilities are evaluated as 100 percent disabling and no potential entitlement to an earlier effective date for a total disability evaluation based on a grant of individual unemployability is warranted by the evidence of record. (38 CFR 4.16, 38 CFR 4.18)

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.

