LOCAL TITLE: C&P NEUROLOGY EXAM
STANDARD TITLE: C & P EXAMINATION NOTE
DATE OF NOTE: JAN 19, 2022@11:37:10 ENTRY DATE: JAN 19, 2022@11:37:10
AUTHOR: JOUBERT,JAMES I EXP COSIGNER:
URGENCY: STATUS: COMPLETED

Medical Opinion
Disability Benefits Questionnaire

Name of patient/Veteran: [redacted]

ACE and Evidence Review

Indicate method used to obtain medical information to complete this document:

[X] Review of available records (without in-person or video telehealth examination) using the Acceptable Clinical Evidence (ACE) process because the existing medical evidence provided sufficient information on which to prepare the DBQ and such an examination will likely provide no additional relevant evidence.

Evidence Review

Evidence reviewed (check all that apply):

[X] VA e-folder
[X] VA electronic health record
[X] Other, please identify other evidence reviewed.
Pertinent Record Review:
Claims folder via VBMS, CPRS, and JLV records was reviewed.

Evidence Comments:
The undersigned spent 12 hours researching the Veteran's available records and compiling this report.

MEDICAL OPINION SUMMARY

Per VA form 2507 dated 12/10/2021:
EXCERPTS:

"Branch(es) of Service:
[redacted]

DBQ Medical Opinion
The following contentions need to be examined:
encephalitis

"a. State whether the following symptoms are consistent with encephalitis

(active or as a residual of the disease):
i. Numbness of the lower lip;
ii. Headaches;
iii. Fatigue;
iv. Dyspnea;
v. Memory impairment;
vi. Sleep impairment, to include insomnia;
vii. Anxiety;
viii. Agitation;
ix. Dizziness;
x. Slurred speech.

b. For each symptom in part (a) which is found to be consistent with encephalitis, state whether such is more likely attributable to another disease or no disease.

* In addressing the above, the VA physician is encouraged to discuss the reason(s) for all conclusions reached, to include identifying any disease(s) (with citation to the evidence of record) to which each symptom not found to be consistent with encephalitis is attributable.

c. For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease, the physician must detail the frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009. N/A

* In addressing the above, the physician is encouraged to reference the former rating criteria pertinent to each of these symptoms onpages 7 - 11 of this remand.

*The physician must keep in mind that the residuals of encephalitis noted do not have to meet the criteria for any specific disability for rating purposes; rather, the symptoms will be rated independently under the appropriate rating criteria, which may have changed several times during the pendency of the appeal (from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009).

* Further, if the examiner finds that any identified neurological residual of encephalitis has waxed or waned during the period under consideration, an explanation of this finding, citing to medical evidence and/or lay statements from the Veteran, must be provided.

Please comment on the effect of the Veteran's service connected disabilities on his or her ability to function in an occupational environment and describe any identified functional limitations. Please refrain from opining on if the Veteran is unemployable or employable; instead focus and reflect on the functional impairments and how these impairments impact occupational and employment activities.

For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease, the physician must detail the frequency, severity, and duration of

such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009.

POTENTIALLY RELEVANT EVIDENCE:

Tab A: 12/08/2021. BVA Decision
Tab C: 05/21/2021. VA Form 21-4138 Statement In Support of Claim
Tab D: 05/21/2021. Medical Treatment Record - Government Facility
Tab AA: 11/25/2020. C&P Exam. DBQ MEDICAL OPINION
Tab BB: 10/30/2020. C&P Exam. DBQ Medical Opinion
Tab CC: 10/30/2020. C&P Exam DBQ NEURO Central Nervous System and Neuromuscular Diseases
Tab DD: 08/20/2020. BVA Decision
Tab EE: 09/20/2019. Correspondence
Tab FF: 09/25/2018. Medical Treatment Record-Non-Government Facility 1965 neuropsychiatric exam
Tab GG: 09/25/2018. Medical Treatment Record - Government Facility. C&P VAMC Portland records 1965
Tab II: 11/26/1965. VA Examination. 11/26/65 neuropsych exam & Gen Med and Ortho
Tab JJ: 10/25/1965. STR - Medical - Annotated. Suppurative encephalitis (pp 39)
Tab KK: 12/17/2020. Other Test Results - Veteran Provided. CDI Renton - MRI results dated 10/27/2020

For this Contention, VBMS expects a results package to at minimum include data pertaining to the following DBQ(s): DBQ Medical Opinion"
****
Pertinent Record Review:
Claims folder via VBMS, CPRS, and JLV records was reviewed.
****
12/08/2021 BVA Decision

"The matters are REMANDED for the following actions:

1. Pursuant to 38 U.S.C. § 5109 (a), the AOJ must obtain advisory medical opinions from a medical expert who specializes in Neurology. After a review of the file, the VA neurologist is requested to address the following:

a. State whether the following symptoms are consistent with encephalitis (active or as a residual of the disease):

i. Numbness of the lower lip;

ii. Headaches;

iii. Fatigue;

iv. Dyspnea;

v. Memory impairment;

vi. Sleep impairment, to include insomnia;

vii. Anxiety;

viii. Agitation;

ix. Dizziness;

x. Slurred speech.

b. For each symptom in part (a) which is found to be consistent with encephalitis, state whether such is more likely attributable to another disease or no disease.

* In addressing the above, the VA physician is encouraged to discuss the reason(s) for all conclusions reached, to include identifying any disease(s) (with citation to the evidence of record) to which each symptom not found to be consistent with encephalitis is attributable.

c. For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease, the physician must detail the frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009. But you're not permitted to discuss after 2009. Hellooooooo?

* In addressing the above, the physician is encouraged to reference the former rating criteria pertinent to each of these symptoms on pages 7 - 11 of this remand.

*The physician must keep in mind that the residuals of encephalitis noted do not have to meet the criteria for any specific disability for rating purposes; rather, the symptoms will be rated independently under the appropriate rating criteria, which may have changed several times during the pendency of the appeal (from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009).

* Further, if the examiner finds that any identified neurological residual of encephalitis has waxed or waned during the period under consideration, an explanation of this finding, citing to medical evidence and/or lay statements from the Veteran, must be provided."

****

08/31/2021 BVA Remand decision

Entitlement to an initial evaluation in excess of 10 percent for service-connected status post encephalitis from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009, is dismissed.

****

08/24/2021 State of Washington Department of Health Certificate of Death

"Date of Death: July 26, 2021"

"Cause of Death:
A: Acute on Chronic Renal Failure
Interval: One Week

B: Congestive Heart Failure
Interval: One Month
C: Acute Myocardial Infarction
Interval: One Month"

NB: The Veteran's noted causes of death are not congruent with and were not caused nor aggravated by the Veteran's service-connected encephalitis and/or residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of the medical literature.
****
07/27/2021 VA note

"Called wife and conveyed condolences. reviewed data in JLV."
Veteran developed acute renal failure after earlier having CHF due to MI.

Received one session of dialysis but tolerated poorly . was discharged home on hospice.

I completed death certificate."
****
07/24/2021 Valley Medical Center Discharge summary

"Date of Admission 7/21/2021
Date of Discharge 7/24/2021"

The Veteran's discharge diagnoses included "Acute encephalopathy" and "Cardiorenal syndrome with renal failure, stage 1-4 or unspecified chronic kidney disease, with heart failure (HCC)", "CKD (chronic kidney disease) stage 4, GFR 15-29 ml/min (HCC)", "Acute on chronic combined systolic (congestive) and diastolic (congestive) heart failure (HCC)", and "Acute respiratory failure with hypoxia (HCC)"

The Veteran's "Acute encephalopathy" in the milieu of multi-system organ failure represents a symptom of multi-system organ failure and is not congruent with, caused by, or aggravated by the Veteran's service-connected 1950 encephalopathy condition, as supported by the evidence of record and the weight of medical literature.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of the Veteran's service-connected encephalitis condition.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of the Veteran's service-connected encephalitis condition.
****
06/24/2021 VA Extended Care outpatient visit

The examiner of record examiner of record resulted that the Veteran reported shortness of breath.

The examiner of record resulted that the Veteran denied any memory problems.

The examiner of record resulted that because of shortness of breath he has sleeping difficulties.

The examiner of record resulted that the Veteran had difficulty sleeping in the milieu of PTSD.

The Veterans reported dyspnea and difficulty sleeping in the milieu of CHF represents acute and transitory symptoms of CHF and do not represent any chronic and disabling residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.

The Veteran's reported difficulty sleeping in the milieu of PTSD represents an acute and transitory symptom of CHF and does not represent any chronic and disabling residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.

****
06/22/2021 VA Telecare after hours note

The examiner of record resulted the Veteran's complaints of dyspnea in the milieu of congestive heart failure (CHF).

The Veterans reported dyspnea in the milieu of CHF represents an acute and transitory symptom of CHF and does not represent a chronic and disabling residual of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.
****
06/21/2021 VA Telecare after hours note

The examiner of record resulted the Veteran's complaints of dyspnea in the milieu of congestive heart failure (CHF).

The Veterans reported dyspnea in the milieu of CHF represents an acute and transitory symptom of CHF and does not represent a chronic and disabling residual of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.
****
06/20/2021 Valley Medical Center ER note

The examiner of record resulted an objectively normal neurological exam of the Veteran.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of the Veteran's service-connected encephalitis condition.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of the Veteran's service-connected encephalitis condition.
****
06/17/2021 non-VA/non-DOD Valley Medical Center Nephrology clinic note

The examiner of record resulted no complaints or history by the Veteran of

any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
06/12/2021 VA Telephone Contact call center note

The examiner of record resulted "Called veteran back and spoke with wife, Petra.

She states that veteran was admitted to Valley Medical Center 9 days ago for a heart attack. Will alert GeriPACT MSA to request medical records.

Wife states that veteran is extremely anxious since he's home. She states he was given Hydroxyzine while inpatient but that didn't help at all. Wife states that provider then prescribed Lorazepam, 0.5mg. She states that veteran isn't napping during the day and is up all night, unable to sleep d/t anxiety. She is wondering when all of this anxiety will go away. Wife is requesting something to help veteran sleep, something for anxiety, and guaifenesin cough medicine in liquid form.

Asked if veteran can come to Seattle VA for f2f appointment with PCP and wife states he's still too weak and she would prefer a tele appointment to discuss these issues and getting something prescribed for his anxiety."

The Veteran's reported anxiety in the milieu of recent hospitalization for a heart attack is not congruent with chronic and disabling residuals of encephalitis, as supported by the evidence of record and the weight of the medical literature.
****
06/08/2021 non-VA/non-DOD Valley Medical Center Cardiology clinic note

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
05/30/2021 non-VA/non-DOD Valley Medical Center Home Health Admission note

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
05/21/2021 Veteran's Statement in Support of Claim

The undersigned reviewed in its entirety the Veteran's 02/11/2021 Statement in Support of Claim received by VBMS 05/21/2021

headaches
numb lip
sense of smell
dizzy spells
difficulty concentrating

The Veteran's reported symptoms of residuals of his service-connected encephalitis are not supported by the evidence of record or the weight of the medical literature; see the undersigned's neurological medical opinion with rationale below for further discussion.

The Veteran reported that his symptoms "waxed and waned but never resolved" is not congruent with the natural healing process from encephalitis as supported by the weight of the medical literature; see the undersigned's neurological medical opinion with rationale below for further discussion.
****
05/21/2021 VBMS Medical Treatment Record - Non-Government Facility

The undersigned reviewed in its entirety the 05/21/2021 VBMS Medical Treatment Record - Non-Government Facility file that consisted of the 04/27/2021 Veteran-submitted Neurology medical opinion for encephalitis signed by Debra Pollock, MD.

VBA may find it curious that the Veteran's listed address in CPRS is 712 BREMERTON PL NE, RENTON, WA 98059-4763 while Dr. Pollocks address is listed as Danbury, CT. It is unclear to the undersigned as to the relationship between the Veteran and Dr. Pollock but it does not appear to be that of a physician-patient relationship. VBA may wish to take this into consideration when adjudicating this claim.

Dr. Pollocks rendered medical opinion is not supported by the evidence of record or the weight of the medical literature.

NB: A Veteran-submitted non-VA/non-DOD neurologic opinion in support of the Veteran's claim does not constitute a medical treatment record.
****
05/07/2021 non-VA/non-DOD Renton Landing Urgent care clinic note

The Veteran denied loss of taste / smell.

The Veteran denied headache.

The examiner of record resulted an objectively normal neurological clinical exam of the Veteran.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
04/29/2021 non-VA/non-DOD Renton Landing Urgent care clinic note

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
02/09/2021 VBA Rating Decision Narrative

"Entitlement to an earlier effective date for the evaluation of status post encephalitis is denied.

An evaluation of 100 percent is assigned from September 30, 2009 is confirmed and continued."
****
01/14/2021 VA Extended Care telephone contact note

The examiner of record resulted that the Veteran denied any memory difficulties.
****
01/04/2021 QTC C&P Medical Opinion for Encephalitis DBQ report

The 01/04/2021 QTC C&P neurologist of record resulted:
"I HAVE REVIEWED THE CONFLICTING MEDICAL EVIDENCE AND AM PROVIDING THE FOLLOWING OPINION: Having read the electronic medical records and reviewed the prior neurologist's opinions, with attention to the 1/18/10 exam.

There is no evidence that the claimant had active encephalitis in 2010 or any residual of encephalitis on the 1/18/10 exam.

Lower lip numbness is highly unlikely to be due to his 1951 encephalitis.

There is no evidence the claimant experienced residuals from his remote encephalitis in 1951 during the periods from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009.

I concur in entirely with the opinions rendered by the prior examining neurologist."

The undersigned, a board-certified neurologist, concurs with the 01/04/2021 QTC C&P Medical Opinion for Encephalitis DBQ report neurologist of record's rendered medical opinion(s).
****
12/17/2020. Other Test Results - Veteran Provided. CDI Renton - MRI results dated 10/27/2020
****
11/19/2020 VA C&P Neurology Medical Opinion for Encephalitis DBQ report

The undersigned, a board-certified neurologist, completed the 11/19/2020 VA C&P Neurology Medical Opinion for Encephalitis DBQ report; See CPRS/VBMS for complete report.

The undersigned, a board-certified neurologist, resulted the opinions:

"Per VA form 2507 dated 11/09/2020:
"DBQ NEURO Peripheral nerves:
MEDICAL OPINION REQUEST
TYPE OF MEDICAL OPINION REQUESTED: Direct service connection
OPINION: Direct service connection
Does the Veteran have a diagnosis of (a) Entitlement to an initial evaluation in excess of 10 percent for service-connected status post encephalitis from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009, is remanded. that is at least as likely as not (50 percent or greater probability) incurred in or caused by (the) n/a during service?"

NEUROLOGICAL OPINION AND RATIONALE:

It is less likely as not that the Veteran had any residuals due to "service-connected status post encephalitis from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009".

It is unclear to the undersigned, a board-certified neurologist, as to how to otherwise answer the above noted medical opinion requested in VA form 2507 dated 11/09/2020. The undersigned therefore also resulted the following the medical opinions:

It is less likely as not that the Veteran has any residuals as a result of his in-service encephalitis condition.

It is at least as likely as not that the Veteran' encephalitis condition is resolved as a result of his in-service treatment in April and May 1951; see pertinent record review above and discussion below.
****
10/28/2020 QTC C&P CNS DBQ Exam report

The responses resulted appear to not reflect symptoms of encephalitis but rather appear to reflect sub/obj symptoms related to other conditions particularly in setting of remark provided which document that the Veteran has been symptom free since 1951 other that the occ ha that may/may not be related.

The remarks rendered by the examiner of record do not reflect the responses selected and do not appear to reflect residuals of encephalitis.
****
10/27/2020 non-VA/non-DOD CDI Diagnostic Imaging MRI Brain report

The 10/27/2020 non-VA/non-DOD CDI Diagnostic Imaging MRI Brain report resulted findings of chronic small vessel disease and generalized cerebral atrophy, findings which are not congruent with residuals of encephalitis but rather congruent with age related changes in the milieu of hypertension as supported by the evidence of record and the weight of the medical literature.

The MRI brain also reported finding suspicious for a right middle cerebral artery aneurysm, which is not congruent with residuals of encephalitis, as supported by the evidence of record and the weight of the medical literature.
****

09/30/2020 VA Extended Care telephone contact note

The examiner of record resulted that the Veteran denied any memory difficulties.
****
08/20/2020 VBA Remand Decision

"The matters are REMANDED for the following actions:

1. The AOJ must request that the Veteran be scheduled for an appropriate VA examination, preferably with a neurologist, to determine the nature and residuals of the Veteran's service-connected encephalitis from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009. After a review of the complete record, to include this remand and the rating criteria provided by 38 C.F.R. § 4.124a, the examiner is requested to address the following:

a. Has the Veteran's service-connected encephalitis been active and manifested by febrile disease at any time from November 16, 1953, to January 14, 1955, and/or from March 17, 1956, to September 29, 2009?

* For any response to part (a), the examiner must outline the date(s) of any such period(s) answered in the affirmative and provide an explanation of how any determination (negative or affirmative) was reached, to include citation to medical evidence within the file and the Veteran's lay statements.

b. For any period(s) where the response to (a) is negative, the examiner is requested to identify all of the residuals of service-connected encephalitis that the Veteran experienced from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009.

* In addressing the above, the examiner is on notice that the Veteran has already reported experiencing numbness in his lower lip, headaches, fatigue, dyspnea, memory impairment, sleep impairment, anxiety, agitation, dizziness, and slurred speech, since 1953, and 38 C.F.R. § 4.124a provides that "[T]he presence of residuals not capable of objective verification, i.e., headaches, dizziness, fatigability, must be approached on the basis of the diagnosis recorded; subjective residuals will be accepted when consistent with the disease and not more likely attributable to other disease or no disease.

c. For each wholly subjective residual of encephalitis that the Veteran reports experiencing from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009, the examiner is requested to comment as to whether each is:

i. Consistent with the disease;
ii. Not more likely attributable to other disease or no disease.

d. The examiner is requested to fully describe the frequency and severity of each neurological residual of encephalitis identified in parts (b) and (c), to include the functional impairment and impact on the Veteran's employability stemming from such, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009.

* In addressing the above, the examiner must keep in mind that the residuals of encephalitis noted do not have to meet the criteria for any specific disability for rating purposes; rather, the symptoms will be rated independently under the appropriate rating criteria, which may have changed several times during the pendency of the appeal (from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009). Further, if the examiner finds that any identified neurological residual of encephalitis has waxed or waned during the period under consideration, an explanation of this finding, citing to medical evidence and/or lay statements from the Veteran, must be provided.

* As many parts of VA's rating schedule have changed several times during the extended appeal period under consideration, the examiner is encouraged to request that the AOJ provide all iterations of pertinent rating criteria for each identified neurological residual identified from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009, to ensure that the symptoms are described in a way that will allow for rating such.
****
08/18/2020 Valley Medical Center Podiatry Clinic note

The examiner of record resulted a normal neurological clinical exam of the Veteran's bilateral lower extremities.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
08/11/2020 Valley Medical Center Podiatry Clinic note

The examiner of record resulted a normal neurological clinical exam of the Veteran's bilateral lower extremities.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
07/31/2020 non-VA/non-DOD Renton Landing Urgent care clinic note

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
07/27/2020 VA Geriatrics Consult report

The examiner of record resulted that the Veteran denied memory difficulties.

The examiner of record resulted that the Veteran denied lightheadedness/dizziness.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
07/22/2020 non-VA/non-DOD Renton Landing Urgent care clinic note

The Veteran denied headache.

The examiner of record resulted an objectively normal clinical cranial nerve exam of the Veteran.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
03/17/2020 BVA Hearing Transcript

The undersigned reviewed in its entirety the 03/17/2020 BVA Hearing Transcript.

The Veteran's subjectively reported complaints are non-specific symptoms that are not supported by objective evidence of record, furthermore per VA Neurology, the Veteran's headaches were resulted to be due to a pinched nerve in his neck which is not a residual of encephalitis, as supported by the evidence of record and weight of medical literature; see pertinent record review above.
****
11/21/2019 Veteran's Statement in Support of Claim

The undersigned reviewed in its entirety the 11/21/2019 Veteran's Statement in Support of Claim in which the Veteran reported that he had residuals of encephalitis dating back to 1953 and that the condition was actually active.

The Veteran's report is not substantiated by objective evidence of record or the weight of the medical literature.

The weight of the medical literature supports that encephalitis is an acute condition that resolves and that any residuals are present at the onset and then improve over time; An individual who has had encephalitis does not have residuals resolve and then reappear later in life.

The available evidence of record supports that the Veteran recovered rapidly and completely from his acute encephalitis condition without residuals; see the 1965 C&P report below.

****
09/20/2019 VBMS Correspondence file

The undersigned reviewed in its entirety the 09/20/2019 VBMS Correspondence file which consisted of the Veteran's statement in support of claim.

The Veteran's claimed residuals of his service-connected encephalopathy are not supported by the evidence of record or the weight of the medical literature; see the undersigned's neurological medical opinion with rationale below for further discussion.
****
12/04/2018 VBA Rating Decision Narrative

"Entitlement to an earlier effective date for the 100 percent evaluation of status post encephalitis is denied"

"The Board of Veterans Appeals (BVA) decision dated July 21, 2016 determined that the effective date for service connection for encephalitis as November 16, 1953. The rating decision dated July 30, 2016 implemented the BVA decision and established service connection for encephalitis at 10 percent from November 16, 1953. In order to evaluate encephalitis at 100 percent from November 16, 1953, there must be medical evidence showing that the condition was active febrile disease. No evidence has been presented which shows that you were suffering from febrile disease from November 16, 1953. No new and relevant evidence has been received since the July 30, 2016 rating decision. As no error is found in the prior decision, entitlement to an earlier effective date for the 100 percent evaluation assigned for status post encephalitis is denied."
****
12/04/2018 VBA Rating Decision Code Sheet

"SUBJECT TO COMPENSATION (1.SC)
8000 STATUS POST ENCEPHALITIS
Service Connected, Korean Conflict, Incurred
Static Disability
10% from 11/16/1953 to 01/14/1955 (Active Duty - Discontinue)
10% from 03/17/1956
100% from 09/30/2009"
****
08/27/2018 VA Primary Care progress note

The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
11/12/2017 Valley Medical Center ER note

The Veteran denied headache

The examiner of record resulted an objectively normal cranial nerve exam of the Veteran and an objectively normal neurological exam of the Veteran.

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
04/17/2017 VA Primary Care Progress note

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
04/10/2017 VA ER note

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****
01/03/2017 VA Primary care clinic note

The Veteran denied dizziness or dyspnea

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****

07/30/2016 VBA Rating Decision Narrative

"An evaluation of 10 percent is restored from March 17, 1956.

An evaluation of 100 percent is assigned from September 30, 2009"
****
06/24/2015 VA Primary Care Progress note

The Veteran denied shortness o breath (i.e., dyspnea).

The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.
****

08/06/2014 VBA Rating Decision Narrative

"An evaluation of 100 percent was assigned based on your active encephalitis. An evaluation of 100% is assigned during active disease."

****

07/14/2014 VA PUG Neurology attending note

ATTENDING NOTE: 80 YO M with primarily left sided aching daily HA since a 1951 bout of encephalitis. Some associated sonophobia, blurred vision OS, tearing OS. No photophobia, visual scintillations, nausea or vomiting. Some paresthesias left upper lip with headache. Exam is remarkable only for diffuse skull base tenderness, reproduction of headache with neck extension and left occipital nerve palpation, and global limitation of neck ROM consistent with degenerative disease. Fundi are benign and despite ongoing HA no ptosis, anisocoria or conjunctival injection are present. Plan is for a trial of daily Naproxen times one month, then consider occipital nerve block with lidocaine and steroid"

****

07/14/2014 VA PUG Neurology consult report

The neurologist of record resulted that the Veteran had normal speech on exam

The neurologist of record resulted an objectively normal neurological examination of the Veteran's cranial nerves and resulted that palpating/tapping the Veteran's left occipital nerve reproduced pain in the Veteran's left temple (NB: The occipital nerve is not a cranial nerve but rather is a nerve outside of the central nervous system).

The neurologist of record resulted the diagnosis of "chronic, daily left sided headaches" that are provoked with neck movement and resulted that the Veteran likely has "chronic inflammation or entrapment of the left greater occipital nerve causing headache" (i.e., "occipital neuralgia", a condition wherein the occipital nerve in the back of the neck is irritated by musculoskeletal structures of the cervical spine and which is not caused by, secondary to, or aggravated by the Veteran's service-connected encephalitis condition, as supported by the evidence of record and weight of medical literature).

****

05/15/2014 VA Radiology CT Head report

"There is mild periventricular white matter hypoattenuation, likely related to chronic microvascular ischemic changes. No other abnormal focal high or low-density lesions."

The 05/15/2014 VA Radiology CT Head reported "mild global cerebral volume loss" is congruent with natural aging process in the milieu of chronic microvascular disease and is not congruent with residuals of the Veteran's service-connected encephalitis condition, as supported by the evidence of record and the weight of the medical literature.

****

04/23/2014 VA Primary Care progress note

The examiner of record resulted the Veteran's history of service-connected

encephalitis.

The resulted that the Veteran reported one month h/o of frontal headache.

The examiner of record resulted that the Veteran denied facial weakness, arm/leg weakness and arm/leg numbness.

The examiner of record rendered the diagnosis of "new atypical frontal headache" and resulted "? sinusitis subacute, will set up CT head and sinuses. Mild orthostasis symptoms at least intermittently --> decrease the hctz/lisinopirl to ONE tab/day and reasses symptoms."

The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.
****
11/14/2013 VA Primary Care progress note

The Veteran was seen for annual exam and reported intermittent neck pain/headaches.

The examiner of record rendered the diagnosis of neck and shoulder DJD.

The examiner of record rendered no diagnoses of any chronic and disabling headache conditions.

The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.
****
04/17/2013 BVA Hearing Transcript

The undersigned reviewed in its entirety the 04/17/2013 BVA Hearing Transcript.

The Veteran resulted no complaints of symptoms that are congruent with residuals of encephalopathy.
****
10/24/2012 VA Primary Care progress note

The Veteran denied numbness or weakness.

The Veteran denied depression or anxiety.

The examiner of record resulted the Veteran's history of service-connected encephalitis.

The examiner of record resulted an objectively normal neurological clinical exam of the Veteran.

The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.
****

09/06/2011 VA Primary Care progress note

The examiner of record resulted the Veteran's subjective report that "left lip numb x 30 yrs + Had encephaitis when he was in the Korea war and subsequent providers checked him for CVA and felt it was a residual form the encephalitis, as he has a little unequl smile a well".

The examiner of record resulted that the Veteran denied fatigue, anxiety and/or depression.

However, the examiner of record resulted no objective clinical exam findings congruent with residuals of the Veteran's service-connected encephalitis.

the examiner of record rendered no diagnoses congruent with residuals of the Veteran's service-connected encephalitis.
****

08/11/2011 Veteran's Statement in Support of Claim

The undersigned reviewed in its entirety the 08/11/2011 Veteran's Statement in Support of Claim in which he resulted that he was diagnosed with encephalitis in 1956 and that it was his belief that he be entitled to benefits back to that date. No other pertinent subjective history was resulted.
****

06/03/2011 VBA Rating Decision Narrative

"Evaluation of status post encephalitis, which is currently 0 percent disabling, is increased to 100 percent effective September 30, 2009."

An evaluation of 100 percent is assigned based on your active encephalitis. An evaluation of 100 percent is assigned during active disease. An evaluation of 100 percent is the maximum evaluation permitted in the Schedule for Rating Disabilities for Encephalitis, epidemic, chronic."
****

08/11/2010 VA Primary Care progress note

The examiner of record resulted that the Veteran was service-connected for encephalitis at 0%.

The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.
****

05/17/2010 VA Psychiatry note

The psychiatrist of record resulted the Veteran's report of sleep

difficulties in the milieu of his wife's increasing substance use.

The examiner of record rendered the diagnosis of PTSD.

The Veteran's reported sleep difficulties in the milieu of PTSD and the reported substance use by his wife are not congruent with chronic and disabling residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of the medical literature.
****
01/18/2010 QTC C&P Encephalitis Exam report

The undersigned reviewed in its entirety the 01/18/2010 C&P DBQ Encephalitis Exam report.

The 01/18/2010 QTC C&P Encephalitis Exam report is a PEDIATRICIAN and thus is not a physician with general medicine training (let alone specialty medicine training) in the diagnoses and treatment of conditions of ADULT patients. VBA may wish to take this into consideration when adjudicating this claim.

The PEDIATRICIAN of record resulted "For the VA established diagnosis of STATUS POST ENCEPHALITIS, there is no change in the diagnosis. At this time the claimant's condition is active. The subjective factors are: he has a history of encephalitis. The objective factors are: there is an abnormal cranial nerve exam. There are findings of smell/taste problems and a specialist examination is required to evaluate this claimant because there is the absence of smell on the right and significant absence of smell on the left."

The PEDIATRICIAN of record's resulted findings of "active" encephalitis is not supported by the weight of the medical literature. The weight of the medical literature supports that neurological residuals of encephalitis are static meaning that after an individual recovers from encephalitis (brain inflammation), any neurological residuals are apparent at that time and recover over time or remain static. Furthermore, were an individuals encephalitis condition to be "active", that individual would be gravely ill and require emergent inpatient care, as supported by the evidence of record and the weight of the medical literatue. In other words, it is less likely as not that the Veteran's service-connected encephalitis conditon was "active" at the time of the QTC PEDIATICIAN'S 01/18/2010 QTC C&P Encephalitis DBQ examinaiton of the Veteran.

The available evidence of record supports that the Veteran recovered rapidly and completely from his acute encephalitis condition without residuals; See the 1965 C&P report below.

Furthermore, the PEDIATRICIAN'S 01/18/2010 QTC C&P Encephalitis Exam is NOT congruent with the 07/30/2008 QTC C&P Encephalitis Exam report, wherein the Family Medicine physician examiner (a physician with training in the diagnosis and treatment of ADULT patients) resulted an objectively normal neurological examination of the Veteran to include an objectively NORMAL cranial nerve exam of the Veteran and resulted that the Veteran had NORMAL sense of taste and smell; see pertinent record review below.
****
01/13/2010 VA Psychiatry care note

The psychiatrist of record resulted the Veteran's complaint of fatigue in the milieu of PTSD.

The Veteran's fatigue in the milieu of PTSD represents symptom of PTSD and does not represent a chronic and disabling residual of encephalitis, as supported by the evidence of record and the weight of medical literature.
****
07/06/2009 VA Audiology Hearing Aid Note

The audiologist of record resulted that the Veteran had normal speech.
****
01/21/2009 VA Psychiatry Care note

Initial medical evaluation for PTSD

The examiner of record resulted the Veteran's reports of sleep difficulties.

The examiner of record resulted that the Veteran did not have agitation on psychiatric clinical exam.

The Veteran's reported poor sleep represents a symptom of PTSD and does not represent a chronic and disabling residual of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.
****
11/26/2008 VA Mental Health Initial Outpatient Assessment

The examiner of record resulted that the Veteran reported poor sleep and nightmares in the milieu of PTSD.

The examiner of record resulted that the Veteran had normal speech (i.e., he did not have slurred speech).

The Veteran's reported poor sleep represents a symptom of PTSD and does not represent a chronic and disabling residual of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.
****

10/27/2008 VA Primary Care Initial Visit note

The examiner of record resulted the Veteran was service-connected for encephalitis at 0%.

The examiner of record resulted the Veteran's complaints of headache and dizziness intermittently in the milieu of hypertension "not at target".

The Veteran's reported headache and dizziness intermittently in the milieu of hypertension "not at target" represents symptoms of hypertension and do not represent any chronic and disabling residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature.

The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy.

The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.
****
07/30/2008 QTC C&P Encephalitis Exam report

The undersigned reviewed in its entirety the 07/30/2008 C&P DBQ Encephalitis Exam report

The examiner of record resulted an objectively normal neurological examination of the Veteran and resulted "For the VA established diagnosis of ENCEPHALITIS, the diagnosis is changed to s/p encephalitis".

The examiner of record resulted that there were no residuals associated with the Veteran's service-connected encephalitis condition.

The undersigned, a board-certified neurologist, concurs with the 07/30/2008 C&P DBQ Encephalitis Exam report physician examiner's rendered diagnosis of "s/p encephalitis" and that there were no residuals associated with the Veteran's service-connected encephalitis condition.
****
11/26/1965 VA C&P Neuropsychiatric Exam report

The 11/26/1965 VA C&P neuropsychiatrist (a physician who is both a neurologist and a psychiatrist) of record resulted "History is to the effect that in April of 1951 he was hospitalized because of pneumonitis and later this was complicated by encephalitis, and so far as can be determined he recovered from this condition and was returned to active duty.", "Diagnosis at that time was encephalitis diffuse suppurative secondary to right lower lobe pneumonia."

The 11/26/1965 VA C&P neuropsychiatrist of record resulted that the "Veteran has no particular neuropsychiatric complaints at the present time other than an occasional headache".

The 11/26/1965 VA C&P neuropsychiatrist of record resulted "NEUROLOGIAL EXAMINATION: Is entirely negative at this time."

The 11/26/1965 VA C&P neuropsychiatrist of record resulted an objectively normal psychiatric evaluation of the Veteran.

The 11/26/1965 VA C&P neuropsychiatrist of record rendered the diagnosis of "No neuropsychiatric disability evidenced at this time."

NB: The term "neuropsychiatric" used by the 11/26/1965 VA C&P neuropsychiatrist of record means "neurological and psychiatric"; it is combining both the neurological and psychiatric aspects of the brain into one word. So in other words, the 11/26/1965 VA C&P neuropsychiatrist of record rendered no diagnoses of any neurological or psychiatric disabilities/conditions as that time.

NB: The 11/26/1965 VA C&P neurologist of record's resulted statement that the

"Veteran has no particular neuropsychiatric complaints at the present time other than an occasional headache" does not mean that the reported headaches are residuals of encephalitis. It only means that the Veteran complained of occasional headaches. The weight of the medical literature supports that headaches are extremely common in the adult population, with an estimated 50% of the population reporting having a headache at any given moment. The evidence of record supports that the Veteran never complained of, sought medical attention for, or was clinically diagnosed with any chronic and disabling headache conditions while in-service despite ready and available access to military medical care. Therefore, any headache conditions to include the Veteran's currently claimed "headaches" condition began post-service. Thus, the Veteran's currently claimed "headaches" condition represents a separate and distinct headache condition that was not caused by, secondary to, or aggravated by any in-service exposures or claimed/service-connected conditions (to include the Veteran's claimed "headaches" as residual of his service connected encephalitis), as supported by the evidence of record, the weight of medical literature, and the undersigned's specialty training as a board-certified neurologist, a medical expert in the diagnosis and treatment of headache conditions.
****
11/25/1965 VA Report of Medical Examination for Disability Evaluation

The examiner of record resulted the diagnosis of History of encephalitis, secondary to right lower lobe pneumonia, 1951, recovered" and resulted no residuals of encephalitis.
****
RAD: 03/16/1956
****
03/12/1956 Separation Report of Medical Examination

The 03/12/1956 Separation Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran and rendered no diagnosis of any conditions to include any residuals of encephalitis.
****
1956 Outpatient Medical Record report

The 1956 Outpatient Medical Record report resulted that the Veteran was seen for treated for various conditions.
The 1956 Outpatient Medical Record report resulted no condtions congruent with residuals of encephalitis:
02/13/1956 The Veteran was evaluated for "several areas of callouses" on his foot.
02/03/1956 "Raw spot rt. small toe"
01/23/1956, 01/24/1956, 01/31/1956 "Callouses on bottom of feet"
01/21/1956 "Callouses, post operative. Hammer toe."
****
02/21/1956 Mental Hygiene Consultation report

The examiner of record resulted that there was no evidence of psychosis or neurosis and that there was no diagnosis of any psychiatric disease.

The examiner of record resulted findings that there was no disqualifying mental or physical defects sufficient to warrant discharge.
****

11/15/1955 Orthopedics consultation report

The Veteran was seen and treated post operation of an orthopedic foot condition, hammer toes.
****
10/17/1955 Orthopedic consultation report

The Veteran was seen and treated post operation of an orthopedic foot condition, hammer toes.
****
09/22/1955 DOD clinical record sheet

The Veteran was diagnosed with right foot/toes orthopedic conditions and resulted that the Veteran had surgery on 08/11/1955.
****
08/18/1955 DOD progress note

The Veteran was evaluated/treated for right foot/toes orthopedic conditions.
****
08/11/1955 DOD progress note

The Veteran was evaluated/treated for right foot/toes orthopedic conditions.
****
08/11/1955 DOD Orthopedic operation report

The Veteran underwent surgery for right foot/toes orthopedic conditions.
****
08/10/1955 DOD Preoperative Review and Examination

The examiner of record resulted "Jap B encephalitis 1951 no known residuals". in "Central Nervous System".
****
07/15/1955 Form 8-27 Field Medical Card (FMC)

The Veteran was seen for a facial laceration.
****
06/03/1955 DOD Orthopedic consultation note

The Veteran was seen for an unrelated orthopedic foot condition.
****
06/03/1955 Form 8-27 Field Medical Card (FMC)

The Veteran was seen for an unrelated orthopedic foot condition on 06/03/1955 and referred to orthopedics.
****
EOD: 01/14/1955
****
01/13/1955 Enlistment Report of Medical Examination

The 01/13/1955 Enlistment Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran and rendered no diagnosis of any conditions to include any residuals of encephalitis.
****
RAD: 09/24/1953

****
09/22/1953 Separation Report of Medical Examination

The 09/22/1953 Separation Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran (to include a normal "Neurologic" evaluation) and rendered no diagnosis of any conditions to include and encephalopathy conditions or residuals of encephalopathy.

The examiner of record resulted his physical profile PUHLES scores as all "1"s, i.e. all normal and therefore not resulting and limiting conditions congruent with residuals of encephalitis.
****
05/23/1953 Clinical Record Cover Sheet

The examiner of record rendered the diagnosis of left peritonsillar abscess that drained spontaneously. The Veteran was discharged to full duty
****
05/22/1953 DOD progress note

The Veteran was released to duty effective 05/23/1953.
****
05/20/1953 DOD ENT consult report

The ENT of record resulted that the Veteran's peritonsillar swelling was resolved and that the Veteran was greatly improved.
****
05/19/1953 DOD Clinical record

The examiner of record resulted that the Veteran had acute tonsillitis with peritonsillar abscess that was draining.

The Veteran was admitted inpatient for treatment with oral antibiotics.
****
03/04/1953 Review of Profile memo

The examiner of record resulted that the Veteran was being returned to duty s/p hospitalization for his "condition" and that no revision of his physical profile was not required.
****
03/04/1953 DOD Progress note

The Veteran reported feeling well and had a normal physical exam.
****
03/03/1953 DOD Progress note

The Veteran had signs of tonsillitis and pharyngitis.
****
03/02/1953 DOD Progress note

The Veteran had signs of tonsillitis and pharyngitis.
****
02/27/1953 Clinical Record Cover Sheet

The Veteran was diagnosed with acute tonsillitis.

****
02/24/1953 DOD progress note

The Veteran was sick for 3 days with sore throat, fever and malaise and his tonsils showed signs of infection.
****
09/24/1952 Form 8-27 Field Medical Card (FMC)

The Veteran was seen for throat infection and treated with oral penicillin.
****
08/02/1951 Form 8-27 Field Medical Card (FMC)

The Veteran was diagnosed with acute bilateral tonsillitis on 07/29/1951 and returned to duty on 08/02/1951.
****
07/29/1951 Form 8-27 Field Medical Card (FMC)

The Veteran was diagnosed with acute tonsillitis and treated with oral penicillin and saline gargle.
****
07/14/1951 Form 8-27 Field Medical Card (FMC)

This record resulted that the Veteran was seen on 06/13/1951 in follow up status post encephalitis and that the Veteran would be seen again in follow up on 07/09/1951. The Veteran was seen again on 07/09/1951 with instructions to follow up with "Col. Beurhig" the following morning.
****
06/19/1951 Form 8-27 Field Medical Card (FMC)

The Veteran was seen and treated for acute gonorrhea.
****
06/11/1951 WD MD Form 55A

The examiner of record resulted that the Veteran was diagnosed with encephalitis and that he was cured.
****
06/08/1951 Physical Condition memo

The examiner of record resulted that the Veteran was convalescent from a diffuse suppurative encephalitis and that this was temporary and that the Veteran was to be reevaluated for his physical capacity on 07/09/1951.
****
06/07/1951 Inpatient Final Summary

The examiner of record resulted that by 18 May, the Veteran was "completely asymptomatic and able to participate in all ward activities. His laboratory work was all within normal limits. Chest and skull X-rays were negative."

"Repeat EKG's in the convalescent stage showed the reversal to normal of the EKG."

"Four EEG's were done. The first tracings showed a diffuse encephalopathy with frequent random spike discharges.

Subsequent recordings showed marked clearing of encephalopathy and seizure discharges."

The examiner of record resulted diagnosis of "Encephalitis, diffuse, suppurative, secondary to right lower lobe pneumonia. Cured"

The examiner of record resulted the recommendation that the Veteran be on light duty for one month and then return for recheck to the 361st Station Hospital Outpatient Clinic.
****
06/01/1951 DOD EEG report

The EEG was resulted as abnormal though showing marked improvement as compared to the markedly improved 05/12/1951 EEG study.
****
05/22/1951 Inpatient progress note

The examiner of record resulted that the Veteran was asymptomatic.
****
05/22/1951 Inpatient progress note

The examiner of record resulted that the Veteran's neurological examination was normal.
****
05/18/1951 Inpatient progress note

The examiner of record resulted that the Veteran was asymptomatic.
****
05/12/1951 DOD EEG report

The EEG was reported as abnormal although markedly improved compared to the improving 5/4/1951 EEG results.
****
05/12/1951 Inpatient progress note

The examiner of record resulted that the Veteran was playing baseball that day.
****
05/08/1951 Removal From Seriously Ill List report

The document resulted the Veteran was removed from the "Seriously Ill List" 05/08/1951.
****
05/08/1951 Inpatient progress note

The examiner of record resulted that the Veteran continued with remarkable improvement and that he was able to walk unassisted for a few steps and that his mild paralysis of gaze was improving and that had equal and good strength bilaterally.
****
05/08/1951 Inpatient progress note

The examiner of record resulted that the Veteran was markedly improved.
****

05/04/1951 DOD EEG report

The EEG was reported as abnormal congruent with resolving encephalopathy.
****
05/03/1951 DOD Neurology consult report

The neurologist of record resulted that the Veteran was markedly improved as compared to his "practically comatose" state on 05/01. The neurologist of record resulted that the Veteran's catheter had been removed and that he was successful in controlling his urine. The neurologist of record concurred with diagnosis of "Acute suppurative encephalitis secondary to pneumonia.
****
05/03/1951 Inpatient progress note

The examiner of record resulted that the Veteran appeared much better and was improving.
****
05/02/1951 Inpatient progress note

The examiner of record resulted that the Veteran was improving and was much more alert
****
05/01/1951 DOD inpatient progress note

The examiner of record resulted that the Veteran appeared "a little better" and that with antiseizure medication seizures were improved.
****
04/30/1951 DOD EEG report

The EEG was reported as abnormal congruent with encephalopathy plus a seizure focus.
****
04/30/1951 DOD inpatient progress note

The examiner of record resulted that the Veteran demonstrated slight improvement
****
04/29/1951 DOD inpatient progress note

The examiner of record resulted that the Veteran appeared more alert.
****
04/28/1951 Report of Seriously Ill Patient report

The document resulted the Veteran was diagnosed with "Encephalitis (infection of the brain)".
****
04/28/1951 DOD inpatient admission note

The examiner of record resulted the impression/diagnosis of diffuse suppurative encephalitis secondary to pneumonia.
****
04/28/1951 DOD EEG report

The EEG was reported as abnormal congruent with encephalopathy.

****
04/27/1951 361st Station Hospital Japan treatment record

"Encephalitis, diffuse, suppurative, secondary to right lower lobe pneumonia."

The author of record resulted that the Veteran had IV Penicillin therapy form 04/27/1951 through 05/31/1951.
****
04/26/1951 4th Field Hospital treatment record

The record resulted that the examiner of record was concerned that the Veteran had a possible brain abscess, and the Veteran was evacuated to Japan.
****
04/26/1951 Form 8-27 Field Medical Card (FMC)

The examiner of record resulted that the Veteran was admitted to the 2nd MASH from the 8076 MASH for medical observation of a fever of unknown origin (FUO).
****
04/14/1951 Form 8-26

The examiner of record resulted that the Veteran was diagnosed with an FUO with a temperature of 102 and that the Veteran was treated with antibiotics and oral fluid hydration.
****
EOD: 09/01/1950
****
Per VA form 2507 dated 12/10/2021 and per VBA Remand Decision dated 12/08/2021:
a. State whether the following symptoms are consistent with encephalitis (active or as a residual of the disease):
i. Numbness of the lower lip;
ii. Headaches;
iii. Fatigue;
iv. Dyspnea;
v. Memory impairment;
vi. Sleep impairment, to include insomnia;
vii. Anxiety;
viii. Agitation;
ix. Dizziness;
x. Slurred speech.

b. For each symptom in part (a) which is found to be consistent with encephalitis, state whether such is more likely attributable to another disease or no disease.

* In addressing the above, the VA physician is encouraged to discuss the reason(s) for all conclusions reached, to include identifying any disease(s) (with citation to the evidence of record) to which each symptom not found to be consistent with encephalitis is attributable.

c. For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no

disease, the physician must detail the frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009.

* In addressing the above, the physician is encouraged to reference the former rating criteria pertinent to each of these symptoms onpages 7 - 11 of this remand.

*The physician must keep in mind that the residuals of encephalitis noted do not have to meet the criteria for any specific disability for rating purposes; rather, the symptoms will be rated independently under the appropriate rating criteria, which may have changed several times during the pendency of the appeal (from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009).

* Further, if the examiner finds that any identified neurological residual of encephalitis has waxed or waned during the period under consideration, an explanation of this finding, citing to medical evidence and/or lay statements from the Veteran, must be provided."

Per VA form 2507 dated 12/10/2021:
"Please comment on the effect of the Veteran's service connected disabilities on his or her ability to function in an occupational environment and describe any identified functional limitations. Please refrain from opining on if the Veteran is unemployable or employable; instead focus and reflect on the functional impairments and how these impairments impact occupational and employment activities.

For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease, the physician must detail the frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009."

NEUROLOGICAL MEDICAL OPINION AND RATIONALE:

Per VA form 2507 dated 12/10/2021 and per VBA Remand Decision dated 12/08/2021:
"a. State whether the following symptoms are consistent with encephalitis (active or as a residual of the disease):
i. Numbness of the lower lip;
ii. Headaches;
iii. Fatigue;
iv. Dyspnea;
v. Memory impairment;
vi. Sleep impairment, to include insomnia;
vii. Anxiety;
viii. Agitation;
ix. Dizziness;
x. Slurred speech."

The undersigned's neurological medical opinions to parts (a.i.) to (a.x.):

i. It is LESS likely as not that the Veteran's claimed symptom of "numbness of the lower lip" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

ii. It is LESS likely as not that the Veteran's claimed symptom of "Headaches" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

iii. It is LESS likely as not that the Veteran's claimed symptom of "Fatigue" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

iv. It is LESS likely as not that the Veteran's claimed symptom of "Dyspnea" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

v. It is LESS likely as not that the Veteran's claimed symptom of "Memory impairment" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

vi. It is LESS likely as not that the Veteran's claimed symptom of "Sleep impairment, to include insomnia" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

vii. It is LESS likely as not that the Veteran's claimed symptom of "Anxiety" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

viii. It is LESS likely as not that the Veteran's claimed symptom of "Agitation" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

ix. It is LESS likely as not that the Veteran's claimed symptom of "Dizziness" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

x. It is LESS likely as not that the Veteran's claimed symptom of "Slurred speech" is consistent with the Veteran's "encephalitis (active or as a residual of the disease)".

Per VA form 2507 dated 12/10/2021 and per VBA Remand Decision dated 12/08/2021:
"b. For each symptom in part (a) which is found to be consistent with encephalitis, state whether such is more likely attributable to another disease or no disease.
* In addressing the above, the VA physician is encouraged to discuss the reason(s) for all conclusions reached, to include identifying any disease(s) (with citation to the evidence of record) to which each symptom not found to be consistent with encephalitis is attributable."

The undersigned's neurological medical opinions to part (b):

As the undersigned, a board-certified neurologist, found no symptoms in part (a) to be consistent with encephalitis, there is no clinical indication to

render a response to part (b) and VBA should not deem this report insufficient for this reason.

The Veteran's claimed symptom of "numbness of the lower lip" is at least as likely as not due to a condition of the third branch of the trigeminal nerve at some point outside of the skull and within the lower jaw, as supported by the evidence of record, the weight of the medical literature, and the undersigned's expertise, as a board-certified neurologist, concerning human neuroanatomy. Were the trigeminal nerve to be affected within the brainstem, the Veteran's symptoms would at least as likely as not entail the entire side of his face, as supported by the evidence of record and the weight of the medical literature.

The Veteran's claimed symptom of "headaches" is at least as likely as not due to the Veteran's non-service-connected condition of "occipital neuralgia"; see the 07/14/2014 VA PUG Neurology consult report in the pertinent record review above.

The Veteran's claimed symptoms of "fatigue", "memory impairment", "anxiety", "Agitation", and "sleep impairment to include insomnia" are at least as likely as not due to the Veteran's service-connected PTSD condition; see multiple VA psychiatry notes in pertinent record review above.

Furthermore, the Veteran's claimed symptom of "memory impairment" may also be explained by the 10/27/2020 MRI Brain study that resulted findings of chronic microscopic vessel disease and atrophy of the brain, findings both congruent with vascular dementia, as supported by the evidence of record and the weight of the medical literature. Vascular dementia is not caused by remote encephalitis or residuals of encephalitis, as supported by the evidence of record and the weight of the medical literature.

Additionally, the Veteran's claimed symptom of "fatigue" may be caused by the Veteran's non-service-connected chronic congestive heart failure condition and non-service-connected chronic renal failure condition as supported by the evidence of record and the weight of the medical literature. Chronic congestive heart failure and chronic renal failure are not caused by remote encephalitis or residuals of encephalitis, as supported by the evidence of record and the weight of the medical literature.

The Veteran's claimed symptoms of "Dyspnea", "Dizziness", and "Slurred speech" are at least as likely as not due to the Veteran's non-service-connected conditions of heart failure and hypertension, as supported by the evidence of record and the weight of the medical literature; see pertinent record review above.

Per VA form 2507 dated 12/10/2021 and per VBA Remand Decision dated 12/08/2021:
"c. For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease, the physician must detail the frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009.
* In addressing the above, the physician is encouraged to reference the

former rating criteria pertinent to each of these symptoms onpages 7 - 11 of this remand.
*The physician must keep in mind that the residuals of encephalitis noted do not have to meet the criteria for any specific disability for rating purposes; rather, the symptoms will be rated independently under the appropriate rating criteria, which may have changed several times during the pendency of the appeal (from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009).
* Further, if the examiner finds that any identified neurological residual of encephalitis has waxed or waned during the period under consideration, an explanation of this finding, citing to medical evidence and/or lay statements from the Veteran, must be provided."

The undersigned's neurological medical opinions to part (c):
As the undersigned, a board-certified neurologist, found no symptoms in part (a) "determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease", there is no clinical indication to render a response to part (c) and VBA should not deem this report insufficient for this reason.

Per VA form 2507 dated 12/10/2021:
"Please comment on the effect of the Veteran's service connected disabilities on his or her ability to function in an occupational environment and describe any identified functional limitations. Please refrain from opining on if the Veteran is unemployable or employable; instead focus and reflect on the functional impairments and how these impairments impact occupational and employment activities."

The undersigned's response:
The evidence of record and weight of the medical literature support that, prior to the Veteran's death on 07/26/2021, there was no current objective functional impairment due to the Veteran's service-connected encephalitis and/or claimed residuals of the Veteran's service-connected encephalitis that impacted physical and sedentary employment for the Veteran.

Per VA form 2507 dated 12/10/2021:
"For each symptom which is determined to be consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease, the physician must detail the frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009."

The undersigned's response:
As the undersigned, a board-certified neurologist, determined that no claimed symptoms in part (a) were "consistent with a diagnosis of encephalitis and not more likely attributable to another disease or no disease", there are no "frequency, severity, and duration of such, to include the functional impairment and impact on the Veteran's employability, from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009" for the undersigned to "detail". The evidence of record and weight of the medical literature support that there was no objective functional impairment due to the service-connected encephalitis from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009 that impacted physical

and sedentary employment for the Veteran.

RATIONALE:

The decision to grant VA C&P disability service-connection for any claimed condition is a LEGAL decision and NOT a MEDICAL decision and that decision must be made by the appropriate VBA staff, not by a VHA C&P clinical examiner. The undersigned's board-certified neurology expertise, the weight of the medical literature, and the evidence of record support that the Veteran's service-connected encephalitis is resolved without residuals and the Veteran's claim for any residuals of his service-connected encephalitis condition is without merit. The Veteran's service-connected encephalitis fully resolved without residuals shortly after the infection was cured with inpatient antibiotic therapy in 1951. The Veteran then went on to complete his tour of duty. A year after he was released from active-duty service, he re-enlisted for a second tour of duty.

In the undersigned's 11/19/2020 VA C&P Neurology Medical Opinion for encephalitis report, the undersigned rendered the medical opinions:
"It is less likely as not that the Veteran had any residuals due to "service-connected status post encephalitis from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009"."
"It is less likely as not that the Veteran has any residuals as a result of his in-service encephalitis condition."
"It is at least as likely as not that the Veteran' encephalitis condition is resolved as a result of his in-service treatment in April and May 1951."

The undersigned's expert neurological medical opinions rendered in 11/2020 and again now in this 01/19/2022 C&P report STAND.

The undersigned reviewed and took into consideration the Veteran's lay testimony regarding his claimed residuals of encephalitis which is not congruent with the evidence of record and the weight of the medical literature; see further discussion below regarding the natural course of recovery from encephalitis. Although this combat Veteran and his lay supporter have reported their experiences and the undersigned believes those experiences occurred, the Veteran and his lay supporter are not qualified to make a medical diagnosis as the result of those experiences. The diagnoses of residuals of encephalitis are MEDICAL diagnoses.

Even if the Veteran's surviving spouse reports the Veteran's subjective symptoms experienced while he was alive during an in-person C&P exam and/or telephone evaluation for C&P purposes, the Veteran's surviving spouse's subjective statements would not be congruent with the evidence of record.

The Veteran's service-connected encephalitis fully resolved without residuals shortly after the infection was cured with inpatient antibiotic therapy in 1951. The Veteran went on to complete his tour of duty then a year later re-enlisted for a second tour of duty.

The Veteran had encephalitis in 1951, during his first period of active duty service. The evidence of record supports that the Veteran was hospitalized at that time for antibiotic therapy and recovered from the encephalitis within

several weeks and was reported to be "cured". The Veteran had no subsequent complaints of or objective clinical diagnoses of any symptoms that are congruent with residuals of encephalitis; see pertinent record review above.

The 09/22/1953 Separation Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran (to include a normal "Neurologic" evaluation) and rendered no diagnosis of any conditions to include any encephalopathy conditions or residuals of encephalopathy, and the examiner of record resulted his physical profile PUHLES scores as all "1"s, i.e. all normal; see pertinent record review above.

The Veteran completed his initial enlistment in 1953 and then successfully reenlisted into active-duty service in 1955. The evidence of record and the weight of the medical literature support that the Veteran had no chronic and disabling conditions, to include any residuals of encephalitis, subsequent to his recovery from encephalitis in 1951. (and as discussed below, military entrance and exit exams are silent for the Veteran having any chronic and disabling conditions to include and chronic and disabling conditions congruent with residual of encephalitis; see pertinent record review above and further discussion below).

The Veteran successfully reenlisted in 1955 and was found to have no chronic and disabling conditions to include and chronic and disabling conditions congruent with residual of encephalitis on entrance examination. The 01/13/1955 Enlistment Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran and rendered no diagnosis of any conditions to include any conditions congruent with residuals of encephalitis; see pertinent record review above.

During the Veteran's second period of active-duty service, the Veteran had no subsequent complaints of or objective clinical diagnoses of any symptoms or conditions congruent with residuals of encephalitis; see pertinent record review above.

The 03/12/1956 Separation Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran and rendered no diagnosis of any conditions to include any conditions congruent with residuals of encephalitis; see pertinent record review above.

The evidence of record supports that while the Veteran was diagnosed with encephalitis in April 1951 for which he received inpatient antibiotic treatment, he was released from the hospital and returned to active-duty service and successfully finished his enlistment on 09/24/1953. The Veteran then re-entered active-duty service on 01/14/1955 and was discharged on 03/16/1956.

The Veteran's encephalitis condition resolved without residuals as supported by the evidence of record and weight of medical literature. As discussed in the pertinent record review above, encephalitis, or brain inflammation, is an acute condition that resolves with antibiotic therapy. Any residuals are apparent at that time immediately following recovery from the initial brain infection, and usually resolve completely over days to weeks. If in the event there are permanent residuals, they are again apparent at the time of acute infection or immediately upon recovery and remain persistent over time; they

do not resolve and then reappear years to decades later or "wax and wane" over time. The post-service 1965 C&P neuropsychiatric examination resulted that the Veteran had completely recovered from encephalitis with no residuals; see pertinent record review above and below.

While the Veteran was admitted for treatment for encephalitis, the 05/12/1951 Inpatient examiner of record resulted that the Veteran was playing baseball that day.

The 06/07/1951 Inpatient Final Summary examiner of record resulted that by 18 May, the Veteran was "completely asymptomatic and able to participate in all ward activities. His laboratory work was all within normal limits. Chest and skull X-rays were negative.", "Repeat EKG's in the convalescent stage showed the reversal to normal of the EKG.", "Four EEG's were done. The first tracings showed a diffuse encephalopathy with frequent random spike discharges. Subsequent recordings showed marked clearing of encephalopathy and seizure discharges". The 06/07/1951 Inpatient Final Summary resulted the recommendation that the Veteran be on light duty for one month and then return for recheck to the 361st Station Hospital Outpatient Clinic. The 06/07/1951 Inpatient Final Summary rendered the diagnosis of "Encephalitis, diffuse, suppurative, secondary to right lower lobe pneumonia. Cured".

The 06/11/1951 WD MD Form 55A examiner of record resulted that the Veteran was diagnosed with encephalitis and that the Veteran was cured.

The 09/22/1953 Separation Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran (to include a normal "Neurologic" evaluation) and rendered no diagnosis of any conditions to include any encephalopathy conditions or residuals of encephalopathy. The examiner of record resulted his physical profile PUHLES scores as all "1"s, i.e. all normal and therefore not resulting and limiting conditions congruent with residuals of encephalitis.

The 01/13/1955 Enlistment Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran and rendered no diagnosis of any conditions to include any conditions congruent with residuals of encephalitis.

The 1956 Outpatient Medical Record report resulted that the Veteran was seen and treated for various conditions. The 1956 Outpatient Medical Record report resulted no conditions congruent with residuals of encephalitis:
02/13/1956 The Veteran was evaluated for "several areas of callouses" on his foot.
02/03/1956 "Raw spot rt. small toe"
01/23/1956, 01/24/1956, 01/31/1956 "Callouses on bottom of feet"
01/21/1956 "Callouses, post operative. Hammer toe."

The 03/12/1956 Separation Report of Medical Exam examiner of record resulted an objectively normal clinical evaluation of the Veteran and rendered no diagnosis of any conditions to include any residuals of encephalitis.

The 11/25/1965 VA Report of Medical Examination for Disability Evaluation examiner of record rendered the diagnosis of "History of encephalitis, secondary to right lower lobe pneumonia, 1951, recovered" and resulted no

diangoses congruent with residuals of encephalitis.

The 11/26/1965 VA C&P neuropsychiatrist (a physician who is both a neurologist and a psychiatrist) of record resulted that the Veteran's "History is to the effect that in April of 1951 he was hospitalized because of pneumonitis and later this was complicated by encephalitis, and so far as can be determined he recovered from this condition and was returned to active duty. Diagnosis at that time was encephalitis diffuse suppurative secondary to right lower lobe pneumonia."

The 11/26/1965 VA C&P neuropsychiatrist of record resulted that the "Veteran has no particular neuropsychiatric complaints at the present time other than an occasional headache".

The 11/26/1965 VA C&P neuropsychiatrist of record resulted that the Veteran's "NEUROLOGIAL EXAMINATION: Is entirely negative at this time." In other words, the 11/26/1965 VA C&P neuropsychiatrist of record resulted an objectively normal clinical neurological examination of the Veteran.

The 11/26/1965 VA C&P neuropsychiatrist of record of record resulted an objectively normal clinical psychiatric evaluation of the Veteran.

The 11/26/1965 VA C&P neurologist of record rendered the diagnosis of "No neuropsychiatric disability evidenced at this time".

NB: The term "neuropsychiatric" used by the 11/26/1965 VA C&P neuropsychiatrist of record means "neurological and psychiatric"; it is combining both the neurological and psychiatric aspects of the brain into one word. So in other words, the 11/26/1965 VA C&P neuropsychiatrist of record rendered no diagnoses of any neurological or psychiatric disabilities/conditions at that time.

NB: The 11/26/1965 VA C&P neurologist of record's resulted statement that the "Veteran has no particular neuropsychiatric complaints at the present time other than an occasional headache" does not mean that the reported headaches are residuals of encephalitis. It only means that the Veteran complained of occasional headaches. The weight of the medical literature supports that headaches are extremely common in the adult population, with an estimated 50% of the population reporting having a headache at any given moment. The evidence of record supports that the Veteran never complained of, sought medical attention for, or was clinically diagnosed with any chronic and disabling headache conditions while in-service despite ready and available access to military medical care. Therefore, any headache conditions to include the Veteran's currently claimed "headaches" condition began post-service. Thus, the Veteran's currently claimed "headaches" condition represents a separate and distinct headache condition that was not caused by, secondary to, or aggravated by any in-service exposures or claimed/service-connected conditions (to include the Veteran's claimed "headaches" as residual of his service connected encephalitis), as supported by the evidence of record, the weight of medical literature, and the undersigned's specialty training as a board-certified neurologist, a medical expert in the diagnosis and treatment of headache conditions.

The undersigned reviewed in its entirety the 07/30/2008 C&P DBQ Encephalitis

Exam report. The physician examiner of record resulted an objectively normal neurological examination of the Veteran to include an objectively NORMAL cranial nerve exam of the Veteran and resulted that the Veteran had NORMAL sense of taste and smell. The physician examiner of record resulted "For the VA established diagnosis of ENCEPHALITIS, the diagnosis is changed to s/p encephalitis". The examiner of record resulted that there were no residuals associated with the Veteran's service-connected encephalitis condition. The undersigned, a board-certified neurologist, concurs with the 07/30/2008 C&P DBQ Encephalitis examiner of record's rendered diagnosis of "s/p encephalitis" and that there were no residuals associated with the Veteran's service-connected encephalitis.

The 10/27/2008 VA Primary Care Initial Visit examiner of record resulted the Veteran was service-connected for encephalitis at 0%. The examiner of record resulted the Veteran's complaints of headache and dizziness intermittently in the milieu of hypertension "not at target". The Veteran's reported headache and dizziness intermittently in the milieu of hypertension "not at target" represents symptoms of hypertension do not represent any chronic and disabling residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of medical literature. The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy. The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.

The 01/13/2010 VA psychiatrist of record resulted the Veteran's complaint of fatigue in the milieu of PTSD. The Veteran's fatigue in the milieu of PTSD represents symptom of PTSD and does not represent a chronic and disabling residual of encephalitis, as supported by the evidence of record and the weight of medical literature.

The 01/18/2010 QTC C&P Encephalitis Exam report examiner is a PEDIATRICIAN, a physician with training in the diagnosis and treatment of CHILDREN. A pediatrician is not a physician with general medicine training (let alone specialty medicine training) in the diagnoses and treatment of conditions of ADULT patients. VBA may wish to take this into consideration when adjudicating this claim. The PEDIATRICIAN of record resulted "For the VA established diagnosis of STATUS POST ENCEPHALITIS, there is no change in the diagnosis. At this time the claimant's condition is active. The subjective factors are: he has a history of encephalitis. The objective factors are: there is an abnormal cranial nerve exam. There are findings of smell/taste problems and a specialist examination is required to evaluate this claimant because there is the absence of smell on the right and significant absence of smell on the left." The PEDIATRICIAN of record's resulted findings of "active" encephalitis is not supported by the weight of the medical literature. The weight of the medical literature supports that neurological residuals of encephalitis are static meaning that after an individual recovers from encephalitis (brain inflammation), any neurological residuals are apparent at that time and recover over time or remain static. The available evidence of record supports that the Veteran recovered rapidly and completely from his acute encephalitis condition without residuals; See the 1965 C&P report above. Furthermore, if the Veteran's encephalitis was "active", that would mean that he would have an active brain infection and require emergent in-patient admission to a hospital for immediate treatment

with antibiotic/anti-viral therapy, as supported by the evidence of record and the weight of the medical literature. In other words, it is less likely as not that the Veteran's service-connected encephalitis conditon was "active" at the time of the QTC PEDIATICIAN'S 01/18/2010 QTC C&P Encephalitis DBQ examinaiton of the Veteran. Furthermore, the PEDIATRICIAN'S 01/18/2010 QTC C&P Encephalitis Exam is NOT congruent with the 07/30/2008 QTC C&P Encephalitis Exam report, wherein the Family Medicine physician examiner (a physician with training in the diagnosis and treatment of ADULT patients) resulted an objectively normal neurological examination of the Veteran to include an objectively NORMAL cranial nerve exam of the Veteran and resulted that the Veteran had NORMAL sense of taste and smell. The QTC PEDIATICIAN'S 01/18/2010 C&P DBQ Encephalitis Exam report is thus fatally flawed and should not be used for VA C&P disability rating purposes; VBA may wish to take this into consideration when adjudicating this claim.

The 10/24/2012 VA Primary Care examiner of record resulted that the Veteran denied numbness or weakness and denied depression or anxiety. The examiner of record resulted the Veteran's history of service-connected encephalitis. The examiner of record resulted an objectively normal neurological clinical exam of the Veteran. The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy. The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.

The undersigned reviewed in its entirety the 04/17/2013 BVA Hearing Transcript. The Veteran resulted no complaints of symptoms that are congruent with residuals of encephalopathy.

The 04/23/2014 VA Primary Care examiner of record resulted the Veteran's history of service-connected encephalitis. The resulted that the Veteran reported one month h/o of frontal headache. The examiner of record resulted that the Veteran denied facial weakness, arm/leg weakness and arm/leg numbness. The examiner of record rendered the diagnosis of "new atypical frontal headache" and resulted "? sinusitis subacute, will set up CT head and sinuses. Mild orthostasis symptoms at least intermittently --> decrease the hctz/lisinopirl to ONE tab/day and reasses symptoms." The examiner of record resulted no complaints by the Veteran of any chronic and disabling conditions congruent with residuals of encephalopathy. The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalopathy.

The 05/15/2014 VA Radiology CT Head reported "mild global cerebral volume loss" is congruent with natural aging process in the milieu of chronic microvascular disease and is not congruent with residuals of the Veteran's service-connected encephalitis condition, as supported by the evidence of record and the weight of the medical literature.

The 07/14/2014 VA PUG Neurologist of record resulted an objectively normal neurological examination aside from left occipital nerve pain provoked by head movement and palpation by the neurologist. The neurologist of record resulted the diagnosis of "chronic, daily left sided headaches" that are provoked with neck movement and resulted that the Veteran likely has "chronic inflammation or entrapment of the left greater occipital nerve causing headache" (i.e., "occipital neuralgia", a condition wherein the occipital

nerve in the back of the neck is irritated by musculoskeletal structures of the cervical spine causing headaches and which is not caused by, secondary to, or aggravated by the Veteran's service-connected encephalitis condition, as supported by the evidence of record and weight of medical literature). The weight of the medical literature does not support that encephalitis causes residuals of occipital neuralgia. This is because occipital neuralgia is caused by irritation of the occipital nerve by the musculoskeletal tissues of the cervical spine and not by any conditions that affect the brain. Thus, the diagnosed left occipital neuralgia, causing headaches, does not represent a residual of encephalitis, as supported by the evidence of record and the weight of the medical literature.

The undersigned reviewed in its entirety the 11/21/2019 Veteran's Statement in Support of Claim in which the Veteran reported that he had residuals of encephalitis dating back to 1953 and that the condition was actually active. The Veteran's report is not substantiated by objective evidence of record or the weight of the medical literature. The weight of the medical literature supports that encephalitis is an acute condition that resolves and that any residuals are present at the onset and then improve over time; An individual who has had encephalitis does not have residuals resolve and then reappear later in life or "wax and wane". The available evidence of record supports that the Veteran recovered rapidly and completely from his acute encephalitis condition without residuals; see pertinent record review above.

The undersigned reviewed in its entirety the 03/17/2020 BVA Hearing Transcript. The Veteran's subjectively reported complaints are non-specific symptoms that are not supported by objective evidence of record, furthermore per VA Neurology, the Veteran's headaches were resulted to be due to a pinched nerve in his neck which is not a residual of encephalitis, as supported by the evidence of record and weight of medical literature; see pertinent record review above.

The 07/22/2020 non-VA/non-DOD Renton Landing Urgent care examiner of record resulted that the Veteran denied headache and resulted an objectively normal clinical cranial nerve exam of the Veteran. The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis. The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.

The 07/27/2020 VA Geriatrics examiner of record resulted that the Veteran denied memory difficulties. The examiner of record resulted that the Veteran denied lightheadedness/dizziness. The examiner of record resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of encephalitis. The examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of encephalitis.

The 10/27/2020 non-VA/non-DOD CDI Diagnostic Imaging MRI Brain report resulted findings of chronic small vessel disease and generalized cerebral atrophy, findings which are not congruent with residuals of encephalitis but rather congruent with age related changes in the milieu of hypertension as supported by the evidence of record and the weight of the medical literature. The MRI brain also reported finding suspicious for a right middle cerebral

artery aneurysm, which is not congruent with residuals of encephalitis, as supported by the evidence of record and the weight of the medical literature.

The 01/04/2021 QTC C&P Medical Opinion for Encephalitis DBQ neurologist of record resulted "I HAVE REVIEWED THE CONFLICTING MEDICAL EVIDENCE AND AM PROVIDING THE FOLLOWING OPINION: Having read the electronic medical records and reviewed the prior neurologist's opinions, with attention to the 1/18/10 exam. There is no evidence that the claimant had active encephalitis in 2010 or any residual of encephalitis on the 1/18/10 exam. Lower lip numbness is highly unlikely to be due to his 1951 encephalitis. There is no evidence the claimant experienced residuals from his remote encephalitis in 1951 during the periods from November 16, 1953, to January 14, 1955, and from March 17, 1956, to September 29, 2009. I concur in entirely with the opinions rendered by the prior examining neurologist." The undersigned, a board-certified neurologist, concurs with the 01/04/2021 QTC C&P Medical Opinion for Encephalitis DBQ report neurologist of record's rendered medical opinion(s).

The undersigned reviewed in its entirety the 05/21/2021 VBMS Medical Treatment Record - Non-Government Facility file that consisted of the 04/27/2021 Veteran-submitted Neurology medical opinion for encephalitis signed by Debra Pollock, MD. Dr. Pollocks rendered medical opinion is not supported by the evidence of record or the weight of the medical literature. VBA may find it curious that the Veteran's listed address in CPRS is 712 BREMERTON PL NE, RENTON, WA 98059-4763 while Dr. Pollocks address is listed as Danbury, CT. It is unclear to the undersigned as to the relationship between the Veteran and Dr. Pollock, but it does not appear to be that of a physician-patient relationship. VBA may wish to take this into consideration when adjudicating this claim. NB: A Veteran-submitted non-VA/non-DOD neurologic opinion in support of the Veteran's claim does not constitute a medical treatment record.

In the Veteran's 05/21/2021 Statement in Support of Claim, the Veteran claimed symptoms of headaches, numb lip, sense of smell, dizzy spells, and difficulty concentrating were due to this service-connected encephalitis condition. The Veteran's reported symptoms of residuals of his service-connected encephalitis are not supported by the evidence of record or the weight of the medical literature. The Veteran reported that his symptoms "waxed and waned but never resolved" is not congruent with the natural healing process from encephalitis as supported by the weight of the medical literature.

The 07/24/2021 Valley Medical Center Discharge summary examiner of record resulted ""Date of Admission 7/21/2021 Date of Discharge 7/24/2021", and rendered the discharge diagnoses to include "Acute encephalopathy" and "Cardiorenal syndrome with renal failure, stage 1-4 or unspecified chronic kidney disease, with heart failure (HCC)", "CKD (chronic kidney disease) stage 4, GFR 15-29 ml/min (HCC)", "Acute on chronic combined systolic (congestive) and diastolic (congestive) heart failure (HCC)", and "Acute respiratory failure with hypoxia (HCC)". The Veteran's "Acute encephalopathy" in the milieu of multi-system organ failure represents a symptom of multi-system organ failure and is not congruent with, caused by, or aggravated by the Veteran's service-connected 1950 encephalopathy condition, as supported by the evidence of record and the weight of medical literature. The 07/24/2021 Valley Medical Center Discharge summary examiner of record

resulted no complaints or history by the Veteran of any chronic and disabling conditions congruent with residuals of the Veteran's service-connected encephalitis condition. The 07/24/2021 Valley Medical Center Discharge summary examiner of record rendered no diagnoses of any chronic and disabling conditions congruent with residuals of the Veteran's service-connected encephalitis condition.

The 08/24/2021 State of Washington Department of Health Certificate of Death resulted the Veteran's "Date of Death: July 26, 2021" and "Cause of Death: A: Acute on Chronic Renal Failure Interval: One Week B: Congestive Heart Failure Interval: One Month C: Acute Myocardial Infarction Interval: One Month". NB: The Veteran's noted causes of death are not congruent with and were not caused nor aggravated by the Veteran's service-connected encephalitis and/or residuals of the Veteran's service-connected encephalitis, as supported by the evidence of record and the weight of the medical literature.

The undersigned, a board-certified neurologist, concurs with the 01/04/2021 QTC C&P Medical Opinion for Encephalitis DBQ neurologist of record's rendered medical opinion(s).

VBA now has neurological medical opinions rendered by two VA C&P neurologists; The undersigned's neurological medical opinions rendered in the 11/19/2020 and 01/19/2022 VA C&P Neurology Medical Opinion for Encephalitis DBQ reports, as well as the neurological medical opinion(s) rendered by the QTC C&P neurologist of record in the 01/04/2021 QTC C&P Medical Opinion for Encephalitis DBQ report.

In addition, the 07/30/2008 QTC C&P DBQ report physician examiner of record re-diagnosed as the Veteran's service-connected "encephalitis" to "s/p encephalitis" and resulted no residuals of the Veteran's service-connected encephalitis condition. The undersigned, a board-certified neurologist, concurs with the 07/30/2008 C&P DBQ Encephalitis physician examiner of record's rendered diagnosis of "s/p encephalitis" and that there were no residuals associated with the Veteran's service-connected encephalitis.

VBA now has three separate objective VA C&P physician examiners (two of whom are neurologists, experts in the diagnoses and treatment of encephalitis conditions) confirming that the Veteran had no residuals of the Veteran's service-connected encephalitis of 1951. VBA needs to weigh the evidence, noting that the Veteran-submitted 04/2021 document is not congruent with the VA C&P physician reports noted above.

For C&P purposes there is no clinical indication for further evaluation.

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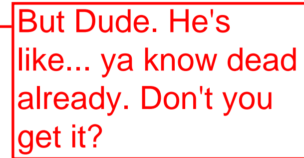
As VBMS was not available and down for maintenance the exam due date was extended to 01/19/2022, per e-mail from Director C&P VA Puget Sound on 01/18/22.

This report was generated based on review of available records (without in-person or video telehealth examination) using the Acceptable Clinical Evidence (ACE) process because the existing medical evidence provided sufficient information on which to prepare the DBQ and an in-person

examination will likely provide no additional relevant clinical evidence.

The undersigned finds the evidence of record sufficient to complete this worksheet and does not deem in-person evaluation indicated.



/es/ James I Joubert, M.D.
C&P Neurologist
Signed: 01/19/2022 11:37