



**DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Regional Office**

[REDACTED]

**VA File Number**

[REDACTED]

**Represented By:  
GORDON A GRAHAM  
Rating Decision  
08/29/2022**

**INTRODUCTION**

The records reflect that [REDACTED] was a Veteran of the Peacetime and Vietnam Era. The Veteran served in the Navy from January 7, 1959 to July 16, 1962 and from October 10, 1962 to October 21, 1977. We received your supplemental claim on August 15, 2022. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

1. The previous denial of special monthly compensation based on loss of use is confirmed and continued.
2. The previous denial of entitlement to an earlier effective date for the grant of eligibility for Dependents' Educational Assistance under 38 USC chapter 35 is confirmed and continued
3. Entitlement to an earlier effective date of April 22, 2003 for service connection for ischemic heart disease status post myocardial infarction and coronary artery bypass graft is denied.



### EVIDENCE

- VA Form 20-0995, Decision Review Request: Supplemental Claim, received August 15, 2022.
- Review of Prior Rating Decisions, dated February 19, 2021; March 03, 2021; October 04, 2021; June 30, 2022.
- Review of Prior Board of Appeals Ratings Decision, dated May 05, 2021.
- Federal Treatment Records dated April 2003 to November 2016 (received September 1, 2020).
- Private Treatment Records, Franciscan System Services dated December 2014 to January 2020.
- Private Treatment Records, Harrison Health Partners dated June 2013.
- Private Treatment Records, [REDACTED] M.D, Westsound Internal Medicine PLLC, dated November 2015 to May 2018.
- Letter dated February 2, 2021 from [REDACTED] MD (Harrison Health Care Providers) with attached treatment records.
- Private Treatment records, Dr. [REDACTED], Independent Medical Opinion, received August 15, 2022, dated August 09, 2022.

### REASONS FOR DECISION

#### 1. Entitlement to special monthly compensation based on loss of use.

A claimant may file a supplemental claim by submitting or identifying new and relevant evidence. (38 CFR 3.2501)

New evidence is evidence not previously part of the actual record before agency adjudicators. Relevant evidence means evidence that tends to prove or disprove a matter at issue in a claim. (38 CFR 3.2501)

The evidence from Dr. [REDACTED], M.D. submitted in connection with the current claim does not constitute relevant evidence because it does not prove or disprove a matter at issue within the supplemental claim.

In our previous rating decision dated June 30, 2022, the Veteran was denied entitlement to special monthly compensation based on loss of use for the following reasoning:

Entitlement to an additional payment of compensation is established when service-connected impairment imposes a special level of disability. Entitlement to special monthly compensation is not warranted in this case because the criteria regarding loss of use have not been met. (38 CFR 3.350) For accrued purposes only.

Service connection may be granted for a disease or injury which resulted from a service-connected disability or was aggravated thereby. The evidence does not show that your claimed disability is related to a service-connected disability, nor is there any evidence that your claimed

disability was incurred during military service. (38 CFR 3.303, 38 CFR 3.306, 38 CFR 3.310)

Pursuant to the Remand of the Board of Veterans' Appeals (BVA) dated May 1, 2021 a VA examination was conducted on July 27, 2021 by VA contractor QTC and Medical Opinion was issued on that date.

This Rating Decision implements the Remand of the Board. Please refer to the Board's decision for more details on the Board's reasons and bases for remanding this issue.

The VA examination, shows the Veteran gave a history of erectile dysfunction which started in 2010. He was not taking medication for this condition. The examiner opined this condition was less likely than not secondary to the Veteran's service connected diabetes. (38 CFR 4.6)

The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

Special monthly compensation under 38 USC 1114(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, complete organic aphonia with constant inability to communicate by speech or, in the case of a female Veteran, the anatomical loss of 25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or following receipt of radiation treatment of breast tissue. (38 CFR 3.2501)

The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

Favorable Findings identified in this decision:

The claimed primary disability is service-connected. Service connection is established for diabetes mellitus type II.

The Veteran was diagnosed with a disability. The VA examination, dated July 27, 2021 diagnosed erectile dysfunction.

**2. Entitlement to an earlier effective date for the grant of eligibility to Dependents' Educational Assistance under 38 U.S.C. chapter 35.**

A claimant may file a supplemental claim by submitting or identifying new and relevant evidence. (38 CFR 3.2501)

New evidence is evidence not previously part of the actual record before agency adjudicators. Relevant evidence means evidence that tends to prove or disprove a matter at issue in a claim. (38 CFR 3.2501)



The evidence from Dr. [REDACTED] M.D. submitted in connection with the current claim does not constitute relevant evidence because it does not prove or disprove a matter at issue within the supplemental claim.

In our previous rating decision dated June 30, 2022, The Veteran was denied an earlier effective date for the grant of eligibility to Dependents' Educational Assistance under 38 U.S.C. chapter 35 for the following reasoning:

Entitlement to an earlier effective date for the grant of eligibility to Dependents' Educational Assistance under 38 U.S.C. chapter 35 is denied because eligibility did not exist prior to June 27, 2019. (38 CFR 3.400) For accrued purposes only.

The Veteran was first granted a total disability on June 27, 2019, eligibility was not established prior to this date.

The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

**3. Entitlement to an earlier effective date of April 22, 2003 for service connection of ischemic heart disease status post myocardial infarction and coronary artery bypass graft.**

A claimant may file a supplemental claim by submitting or identifying new and relevant evidence. (38 CFR 3.2501)

New evidence is evidence not previously part of the actual record before agency adjudicators. Relevant evidence means evidence that tends to prove or disprove a matter at issue in a claim. (38 CFR 3.2501)

The evidence from Dr. [REDACTED] M.D. submitted in connection with the current claim does not constitute relevant evidence because it does not prove or disprove a matter at issue within the supplemental claim.

On the Veteran's VA Form 20-0995, Decision Review Request: Supplemental Claim, received August 15, 2022, you claimed entitlement to an earlier effective date of April 22, 2003 for entitlement to TDIU under 38 CFR 4.16 based on SC IHD (DC 7005) and entitlement to a 60 percent rating DC 7005 from April 22, 2003 under authority of 38 CFR 3.1 (p) and 38 CFR 3.344 (a); however, the medical evidence of record does not support an earlier effective date for either case described.

In our previous rating decision dated March 03, 2021, the Veteran was granted entitlement to an earlier effective date for increased evaluation for ischemic heart disease status post myocardial infarction and coronary artery bypass graft is shown due to a clear and unmistakable error. The 60 percent evaluation is assigned from December 3, 2014. The 100 percent evaluation is assigned from December 30, 2015. The 60 percent evaluation is assigned from November 29, 2018. The 100 percent evaluation is continued from June 27, 2019. for the following reasoning:

[REDACTED]



Clear and unmistakable errors are errors that are undebatable, so that it can be said that reasonable minds could only conclude that the previous decision was fatally flawed at the time it was made. A determination that there was clear and unmistakable error must be based on the record and the law that existed at the time of the prior decision. Once a determination is made that there was a clear and unmistakable error in a prior decision that would change the outcome, then that decision must be revised to conform to what the decision should have been. (38 CFR 3.105)

Entitlement to an earlier effective date for increased evaluation for ischemic heart disease status post myocardial infarction and coronary artery bypass graft is shown due to a clear and unmistakable error. Rating dated January 6, 2021 denied entitlement to an earlier effective date for a 100 percent evaluation in error when the medical evidence received allowed for a higher evaluation. You were previously granted service connection on a presumptive basis based on legislation allowing VA to concede herbicide exposure to Veterans with qualifying nautical service during the Vietnam Era in a rating decision dated September 29, 2020. (PL 116-23, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400) At the time of this rating the Veteran was evaluated on the available medical evidence. With the Veteran's supplemental decision received December 30, 2020 you submitted additional medical evidence that allowed for higher evaluations. the Veteran submitted additional medical evidence January 4, 2021, February 11, 2021, and February 16, 2021 that further supported higher evaluations beginning December 3, 2014.

The 60 percent evaluation is assigned from December 3, 2014, based on a treatment record showing left ventricular ejection fraction limited to 35-40 percent. (38 CFR 3.400, 38 CFR)

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

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

Additional symptom(s) include:

- Continuous medication is required

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

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

The 100 percent evaluation is assigned from December 30, 2015, based on a treatment record showing left ventricular ejection fraction limited to 20-25 percent. (38 CFR 3.400, 38 CFR 3.157)

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

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

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

The 60 percent evaluation is assigned from November 29, 2018, based on a treatment record showing left ventricular ejection fraction limited to 35-40 percent. (38 CFR 3.400, 38 CFR 3.157)

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

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

Additional symptom(s) include:

- Continuous medication is required

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

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

The 100 percent evaluation is continued from June 27, 2019, based on a treatment record showing left ventricular ejection fraction limited to 20 percent. (38 CFR 3.400, 38 CFR 3.157)

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

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

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

Entitlement to an earlier effective date of for service connection for ischemic heart disease status post myocardial infarction and coronary artery bypass graft has been denied. (38 CFR 3.400)

#### **REFERENCES:**

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all Veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, [www.va.gov](http://www.va.gov).