



**DEPARTMENT OF VETERANS AFFAIRS
Decision Review Operations Center
St. Petersburg Regional Office**

[REDACTED]

VA File Number

[REDACTED]

**Represented By:
GORDON A GRAHAM
Rating Decision
12/18/2023**

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era. You served in the Marine Corps from May 31, 2007 to January 30, 2012. You selected to have your claim reviewed under the higher-level review lane option on January 9, 2023. However, during the higher-level review a development error was discovered in our prior decision and your claim was assigned to the supplemental review lane on March 31, 2023 for additional development. Based on the review and the evidence listed below, we have made the following decision.

DECISION

Entitlement to special monthly compensation based on aid and attendance criteria being met is granted from May 3, 2022.

EVIDENCE

- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received May 3, 2022
- VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid



- and Attendance, received May 16, 2022
- VA Form 21-526 EZ, Application for Disability Compensation and Related Compensation Benefits, received May 16, 2022
- VA Form 21-4138, Statement in Support of Claim, received May 16, 2022
- DD Form 214, Certificate of Release or Discharge from Active Duty, received May 16, 2022, for the period May 31, 2007 to January 30, 2012
- Martinsburg VAMC (Veterans Affairs Medical Center) treatment records, for the period March 2, 2012 to August 25, 2015
- Richmond VAMC (Veterans Affairs Medical Center) treatment records, for the period March 16, 2015 to June 9, 2021
- Las Vegas VAMC (Veterans Affairs Medical Center) treatment records, for the period February 4, 2019 to December 12, 2023
- Rating Decision, dated August 29, 2022 with associated Notification Letter, dated August 30, 2022
- VA Form 20-0996, Decision Review Request - Higher Level Review, received January 9, 2023
- VA Form 27-0820, Report of General Information, received March 29, 2023
- Higher-Level Review Informal Conference, Decision Review Officer (DRO), conducted March 30, 2023
- VA Form 20-0999, Higher-Level Review Return, dated March 31, 2023
- Rating Decision, dated March 31, 2023 with associated Notification Letter, dated April 3, 2023
- VA Letter Concerning Your Claim, dated May 17, 2023
- VA contract examinations and medical opinions, Loyal Source Government Services (LSGS), conducted June 8, 2023 and August 23, 2023

REASONS FOR DECISION

Entitlement to special monthly compensation based on aid and attendance.

The issue was returned for correction of a duty to assist error in the prior decision. Additional development (medical clarification) was determined to be needed by the Decision Review Officer. All necessary development has been completed and we are now addressing this issue. (38 CFR 3.159, 38 CFR 3.2601, 38 CFR 3.2502)

As a result, your claim was assigned to the supplemental review for additional development; this development is considered new and relevant evidence. 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)

In order to support a claim for increased benefits based on the need for aid and attendance, the evidence must show that, due to your service- connected disability or disabilities.

You require the aid of another person in order to perform personal functions required in everyday living, such as bathing, feeding, dressing yourself, attending to the wants of nature,

adjusting prosthetic devices, or protecting yourself from the hazards of your daily environment (38 CFR 3.352(a)); or you are bedridden, in that your disability or disabilities requires that you remain in bed apart from any prescribed course of convalescence or treatment. (38 CFR 3.350, 38 CFR 3.352)

Entitlement to special monthly compensation is warranted in this case because criteria regarding aid and attendance have been met. (38 CFR 3.350)

Entitled to special monthly compensation on account of being so helpless as to be in need of regular aid and attendance from May 3, 2022. [38 USC 1114(1), 38 CFR 3.350(b)]

We have granted special monthly compensation for aid and attendance because on June 8, 2023, the examiner indicated that you are unable to manage your medications on your own and your spouse assist you with medication administration, bed bath, once a week shower chair, transfer to toilet and assistance with wiping. (38 CFR 3.159, 38 CFR 4.1, 38 CFR 4.2, 38 CFR 4.6)

This entitlement is established from May 3, 2022, the date we received your intent to file (ITF) followed by a complete claim within one year, which has been continuously pursued. (38 CFR 3.155, 38 CFR 3.400, 38 CFR 3.2500)

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.

