



BOARD OF VETERANS' APPEALS

FOR THE SECRETARY OF VETERANS AFFAIRS

IN THE APPEAL OF



C XX XXX 593

Docket No. 220901-273305

DATE: June 6, 2025

ORDER

Entitlement to special monthly compensation based on a need for aid and attendance is granted.

FINDING OF FACT

Due to his service-connected disabilities, the Veteran requires the aid and assistance of another person.

CONCLUSION OF LAW

The criteria for special monthly compensation based on a need for aid and attendance have been met. 38 U.S.C. §§ 1114(l), 5107; 38 C.F.R. §§ 3.350, 3.352.

REASONS AND BASES FOR FINDING AND CONCLUSION

The Veteran served on active duty from January 1979 to January 1983, and from July 1988 to June 1989.

This case comes to the Board of Veterans' Appeals (Board) from a July 2022 rating decision of the Department of Veterans Affairs (VA) Regional Office, which is the

Agency of Original Jurisdiction (AOJ). The Veteran requested Higher-Level Review in July 2022, and a Higher-Level Review decision was issued in August 2022.

In the September 2022 VA Form 10182, Decision Review Request: Board Appeal (Notice of Disagreement), the Veteran elected the Evidence Submission docket.

Therefore, the Board may only consider the evidence of record at the time of the July 2022 AOJ decision on appeal, as well as any evidence submitted by the Veteran or his representative with, or within 90 days from receipt of, the VA Form 10182. 38 C.F.R. § 20.303. If evidence was submitted either (1) during the period after the AOJ issued the decision on appeal and prior to the date the Board received the VA Form 10182, or (2) more than 90 days following the date the Board received the VA Form 10182, the Board did not consider it in its decision. 38 C.F.R. §§ 20.300, 20.303, 20.801.

If the Veteran would like VA to consider any evidence that was submitted that the Board could not consider, the Veteran may file a Supplemental Claim (VA Form 20-0995) and submit or identify this evidence. 38 C.F.R. § 3.2501. If the evidence is new and relevant, VA will issue another decision on the claim, considering the new evidence in addition to the evidence previously considered. *Id.* Specific instructions for filing a Supplemental Claim are included with this decision.

In March 2025, the Veteran requested that his appeal be advanced on the docket. Because of the severity of the Veteran's disabilities and the acute need for aid and attendance now, the Board accepts that other sufficient cause has been shown, and the motion to advance on the docket is granted. 38 U.S.C. § 7107(a)(3), (b)(3)(C).

Aid and Attendance

The Veteran has requested entitlement to special monthly compensation based on a need for aid and attendance or due to being housebound. In December 2021, the Veteran submitted a request for increased ratings and including information indicating that he required the aid and attendance of another person.

In September 2022, his wife submitted a statement describing how he had difficulty transferring from the bed to his wheelchair and from the wheelchair to the toilet. She wrote that he also has difficulty coordinating the use of his upper extremities. She helped him with getting out of bed, dressing, bathing, preparing meals, and eating.

Special monthly compensation is payable when a veteran is permanently bedridden or so helpless as to be in need of the regular aid and attendance of another person. 38 U.S.C. § 1114(l); 38 C.F.R. § 3.350(b).

A veteran shall be considered to be in need of regular aid and attendance if he is blind or nearly blind, is a patient in a nursing home because of mental or physical incapacity; or establishes a factual need for aid and attendance under the criteria set forth in 38 C.F.R. § 3.352. Determinations as to the need for aid and attendance are based on the actual requirements of personal assistance from others. In determining the need for regular aid and attendance, consideration will be given to the inability of the veteran to dress or undress himself, or to keep himself clean; frequent need of adjustment of any prosthetic which by reason of the disability cannot be done without aid; inability of the veteran to feed himself; inability to attend to the wants of nature; or incapacity, physical or mental, which requires care or assistance on a regular basis to protect himself from the hazards or dangers of his daily environment. 38 C.F.R. § 3.352; *see also Turco v. Brown*, 9 Vet. App. 222 (1996).

The Veteran is service-connected for left upper extremity posttraumatic peripheral neuropathy (80 percent), right lower extremity loss of use (60 percent), right shoulder osteoarthritis (30 percent), left shoulder posttraumatic subluxation (20 percent), right knee internal derangement (10 percent), right ankle posttraumatic subluxation (10 percent), low back pain (10 percent), and right knee osteoarthritis (10 percent). He has been awarded a total disability evaluation based on individual unemployability from December 11, 2006, and a 100 percent schedular rating from January 7, 2019.

After reviewing the evidence of record, the Board finds that there is adequate, probative medical evidence which demonstrates that the Veteran's service-connected disabilities have greatly impacted his ability to care for himself and

caused him to require the aid and attendance of another person for the entire period on appeal.

The Veteran submitted a March 2022 Examination for Housebound Status or Permanent Need for Regular Aid and Attendance from a private physician. She wrote that the Veteran had loss of use of his left lower extremity and was continually bound to a wheelchair. His spouse prepared all meals, and he needed her to cut up his food and serve it to him. He also needed her to help him with showering and shaving.

At a June 2022 VA examination, the examiner found that the Veteran was restricted to his home or immediate vicinity. He was unable to move his left arm, and he moved with difficulty. He needed help feeding himself, dressing and undressing, bathing, grooming, and going to the bathroom.

The Board finds that throughout the entire appeal period, the Veteran had severe impairment from his service-connected physical disabilities, including difficulty with ambulation and transferring to and from his wheelchair, and difficulty using his arms. This has caused him to require assistance from his wife in all tasks, including bathing, dressing, and feeding himself. The private examination report and VA examination are consistent with the other evidence of record, which also shows that the Veteran has very severe impairment from these disabilities. A February 2016 private evaluation submitted by the Veteran found that he had severe impairment in his right shoulder and arm that would effectively cause loss of use of that arm. At a November 2021 VA examination of the hand and arm, he was found to have total paralysis in the left hand such that he would be equally well served by amputation and prosthesis. To have such severe impairment in both arms would certainly cause the Veteran to need assistance with activities of daily living.

The Board finds that the weight of the evidence weighs in favor of the Veteran's claim, and the criteria for special monthly compensation based on the need for aid and attendance have been met. The Veteran's service-connected physical disabilities cause him to require assistance with bathing, dressing, transferring in and out of his wheelchair, cooking, and feeding himself. The evidence indicates that his wife is required to assist him and to protect him from the hazards or

dangers of his daily environment on a regular basis. He therefore is in need of aid and attendance from another person due to his service-connected disabilities, and the claim for special monthly compensation based on a need for aid and attendance pursuant to 38 C.F.R. § 3.352(a) is granted.

As this represents a complete grant of the benefit sought on appeal, no discussion of special monthly compensation based on being housebound (which is a lesser benefit) is necessary.



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Veterans Law Judge
Board of Veterans' Appeals

Attorney for the Board

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The Board's decision in this case is binding only with respect to the instant matter decided. This decision is not precedential and does not establish VA policies or interpretations of general applicability. 38 C.F.R. § 20.1303.