



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

[REDACTED]

VA File Number
[REDACTED]

**Represented By:
GORDON A GRAHAM
Rating Decision
08/11/2026**

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era. You served in the Navy from October 24, 2012 to October 24, 2023. The Board of Veterans Appeals made their decision on your appeal on August 3, 2026. We have implemented their decision based on the evidence listed below.

DECISION

1. Entitlement to special monthly compensation (SMC) based on aid and attendance for residuals of traumatic brain injury (TBI) criteria being met is granted from March 17, 2024.
2. Entitlement to an earlier effective date for the grant of eligibility for Dependents' Educational Assistance under 38 USC Chapter 35 is granted, with a new effective date of January 18, 2024.

EVIDENCE

- DD Form 214, Certificate of Release or Discharge from Active Duty, received October 13,



- 2023, for the period October 24, 2012 to October 24, 2023
- VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received November 8, 2022
- VA contract examination, VES, received December 9, 2022 and December 10, 2022, conducted December 2, 2022
- VA contract examination, VES, received December 9, 2022 and December 10, 2022, conducted December 3, 2022
- Initial Evaluation of Residuals of Traumatic Brain Injury (I-TBI) Disability Benefit Questionnaire, Lyndon Bart Chumbley, received May 5, 2023, conducted March 16, 2023
- Proposed Rating Decision, June 5, 2023
- Proposed Rating Decision, June 28, 2023
- Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received August 3, 2023
- VA Form 20-0996, Decision Review Request - Higher Level Review, received August 24, 2023
- Rating Decision, dated November 11, 2023
- Notification Letter, dated November 21, 2023
- VA Form 20-0995, Decision Review Request - Supplemental Claims, received January 18, 2024
- VA Form 21-8940, Veteran's Application For Increased Compensation Based On Unemployability, received January 18, 2024
- VA contract examination, VES, received March 18, 2024, conducted March 17, 2024
- Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received May 29, 2024
- VA contract examination, VES, received June 6, 2024, conducted March 17, 2024
- Rating Decision, dated June 10, 2024
- Notification Letter, dated June 11, 2024
- VA contract examination, VES, received June 19, 2024, conducted June 11, 2024
- Rating Decision, dated July 1, 2024
- Notification Letter, dated July 2, 2024
- VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received August 30, 2024
- VA contract examination, VES, received November 23, 2024, conducted November 21, 2024
- VA contract examination, VES, received February 14, 2025, conducted February 13, 2025
- Rating Decision, dated February 20, 2025
- Notification Letter, dated February 25, 2025
- VA Form 20-0996, Decision Review Request - Higher Level Review, received February 26, 2025
- HLR Informal Conference Worksheet, dated May 30, 2025
- Rating Decision, dated June 2, 2025
- Notification Letter, dated June 6, 2025
- VA Form 10182, Decision Review Request - Board Appeal (Notice of Disagreement), received July 2, 2025 and July 16, 2025
- Appellate Brief, received July 2, 2025 and July 16, 2025
- Board of Veterans' Appeals Decision, dated August 3, 2026

REASONS FOR DECISION

1. Entitlement to special monthly compensation (SMC) based on aid and attendance for residuals of traumatic brain injury (TBI).

Entitlement to special monthly compensation is warranted in this case because criteria regarding aid and attendance for residuals of traumatic brain injury (TBI) have been met. (38 CFR 3.350)

You are entitled to additional aid and attendance allowance under 38 U.S.C. 1114, subsection (t) and 38 CFR 3.350(j), subject to the provisions of 38 CFR 3.352 (b)(2) and 38 CFR 3.552(b)(2), on account of need for regular aid and attendance due to residuals of traumatic brain injury, certified need for hospitalization, nursing home care, or other residential institutional care in the absence of regular aid and attendance, and, in addition, ineligibility for a higher level of aid and attendance under 38 U.S.C. 1114, subsection (r)(2), from March 17, 2024.

Entitlement to special monthly compensation (SMC) based on aid and attendance for residuals of traumatic brain injury (TBI) is established from March 17, 2024. The Board of Veterans' Appeals assigned this effective date for the benefit. This is the "first date in time where the evidence of record shows that [you] met the criteria for aid and attendance, because this was the first point in time the evidence showed that [your] wife was regularly assisting [you] with activities of daily living (ADLs)."

The Board of Veterans' Appeals (the Board) decision of August 3, 2026 determined that entitlement to special monthly compensation (SMC) based on aid and attendance for residuals of traumatic brain injury (TBI) effective March 17, 2024 is granted. Please refer to Board's decision for more information as to the reasons and bases for this decision. (38 CFR 3.340, 38 CFR 3.341, 38 CFR 3.350, 38 CFR 4.15)

The Board found that for "the entire period on appeal, the competent and credible evidence of record is at least evenly balanced to suggest that [you] at least as likely as not requires regular aid and attendance for residuals of a TBI, and that [you] would require hospitalization, nursing home care, or other residential institutional care in the absence of same."

Please note that this rating was based on a sympathetic review of your records with any negative inferences taken from the absence of supporting evidence found to be in relative equipoise to positive evidence and with all reasonable doubt resolved in the favor of the Veteran. (38 CFR 3.102, 38 CFR 4.3, 38 CFR 4.6)

Laws and Regulations applicable to this issue:

38 CFR § 3.1 Definitions.

38 CFR § 3.102 Reasonable doubt.

38 CFR § 3.155 How to file a claim.

38 CFR § 3.159 Department of Veterans Affairs assistance in developing claims.

38 CFR § 3.326 Examinations.

38 CFR § 3.340 Total and permanent total ratings and unemployability.
38 CFR § 3.341 Total disability ratings for compensation purposes.
38 CFR § 3.350 Special monthly compensation ratings.
38 CFR § 3.400 General.
38 CFR § 3.401 Veterans.
38 CFR § 3.2500 Review of decisions.
38 CFR § 3.2501 Supplemental claims.
38 CFR § 3.2502 Return by higher-level adjudicator or remand by the Board of Veterans' Appeals.
38 CFR § 3.2601 Higher-level review.
38 CFR § 4.1 Essentials of evaluative rating.
38 CFR § 4.2 Interpretation of examination reports.
38 CFR § 4.3 Resolution of reasonable doubt.
38 CFR § 4.6 Evaluation of evidence.
38 CFR § 4.10 Functional impairment.
38 CFR § 4.15 Total disability ratings.
38 U.S. Code §1114 Rates of wartime disability compensation
38 U.S. Code §1155 - Authority for schedule for rating disabilities
38 U.S. Code §5101 - Claims and forms
38 U.S. Code §5103 - Notice to claimants of required information and evidence
38 U.S. Code §5103A - Duty to assist claimants
38 U.S. Code §5107 - Claimant responsibility; benefit of the doubt
38 U.S. Code §5121 - Payment of certain accrued benefits upon death of a beneficiary

2. Entitlement to an earlier effective date for the grant of eligibility to Dependents' Educational Assistance under 38 USC Chapter 35.

Entitlement to an earlier effective date for the grant of eligibility to Dependents' Educational Assistance under 38 USC Chapter 35 is granted because you now meet the criteria for entitlement to this benefit from an earlier date. (38 CFR 3.400)

Evidence we have used to grant permanent and total disability status: The grants of increased evaluations for bilateral flat foot (pes planus) with plantar fasciitis, migraines, lumbosacral strain, and cervical strain resulted in your overall combined evaluation increasing to 100 percent from an earlier date. There is no evidence showing any service-connected disability affecting your combined evaluation of 100 percent is likely to improve in the future. As a result, we can consider entitlement to this benefit and grant accordingly.

You did not specifically claim entitlement to an earlier effective date for the grant of eligibility to Dependents' Educational Assistance under 38 USC Chapter 35, but we inferred it on your behalf based on the evidence of record. (38 CFR 3.151)

Entitlement to Dependents' Educational Assistance is effective from January 18, 2024, which is the earlier date you met the criteria for this benefit. Your overall combined disability evaluation is 100 percent effective this date. (38 CFR 3.400, 38 CFR 3.2500)

Laws and Regulations applicable to this issue:

38 CFR §3.1 Definitions.
38 CFR §3.151 Claims for disability benefits.
38 CFR §3.155 How to file a claim.
38 CFR §3.159 Department of Veterans Affairs assistance in developing claims.
38 CFR §3.400 Effective Dates - General.
38 CFR §3.807 Dependents' educational assistance; certification.
38 CFR §3.2500 Review of decisions.
38 CFR §3.2501 Supplemental claims.
38 CFR §3.2502 Return by higher-level adjudicator or remand by the Board of Veterans' Appeals.
38 CFR §3.2601 Higher-level review.
38 CFR §21.3020 - Educational assistance.
38 CFR §21.3021 Definitions.
38 CFR §21.3023 - Nonduplication; pension, compensation, and dependency and indemnity compensation.
38 USC Chapter 35 Survivors' and Dependents' Educational Assistance

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.