



**DEPARTMENT OF VETERANS AFFAIRS
Chicago Regional Office
2122 W Taylor Street
Chicago IL 60612**

[REDACTED]

VA File Number

[REDACTED]

**Represented by:
PARALYZED VETERANS OF AMERICA, INC.**

**Decision Review Officer Decision
January 7, 2008**

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era and Peacetime. You served in the Army from April 10, 1975 to July 20, 1976. We received a Notice of Disagreement from you on April 18, 2007 about one or more of our earlier decisions. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

- 1 . Service connection for peripheral neuropathy, left lower extremity is granted with an evaluation of 20 percent effective November 3, 2005. An evaluation of 40 percent is assigned from January 29, 2007.
- 2 . Service connection for peripheral neuropathy, right lower extremity is granted with an evaluation of 20 percent effective November 3, 2005. An evaluation of 40 percent is assigned from January 29, 2007.

3 . Service connection for erectile dysfunction is granted with an evaluation of 0 percent effective January 29, 2007.

4 . Evaluation of urinary incontinence, which is currently 10 percent disabling, is increased to 10 percent effective December 6, 1999. An evaluation of 20 percent is assigned from January 29, 2007. An evaluation of 40 percent is assigned from December 28, 2007.

5 . Evaluation of rectal incontinence, which is currently 10 percent disabling, is continued.

6 . Entitlement to special monthly compensation based on aid and attendance criteria being met is granted from January 29, 2007.

EVIDENCE

Medical report from Dr. Bash dated May 4, 2007

VA exam reports from the Iowa City Medical Center dated January 29, 2007 and April 14, 2007

Evidence incorporated in the May 17, 2007 supplemental statement of the case

VA exam report from Dr. Depinto dated 12-28-07

REASONS FOR DECISION

1. Service connection for peripheral neuropathy, left lower extremity as secondary to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.

Service connection for peripheral neuropathy, left lower extremity has been established as related to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis. Medical records from near the time of your implied claim for peripheral neuropathy associated with your spinal fusion and arachnoiditis show that you had shooting pains from your back into your lower extremities which limited your walking on any continuous basis to about a half block. Reports from Dr. Bash have linked the neurological symptoms in your legs to your spine and arachnoiditis conditions.

It was determined in your January, 2007 VA exam that you did not have diabetes and therefore, the neuropathy could not have been due to that. That exam found that you were only able to walk short distances, such as from the couch to the bedroom independently. At that time, your patellar and achilles deep tendon reflexes were absent on both sides. You were said to have peripheral sneuropathy in a stocking distribution. Strength in the

lower extremities was somewhat diminished. Your vibratory sense in the lower extremities was felt to be normal. The report from Dr. Depinto indicated that you had significant sensory loss and loss of strength in both feet. He said your gait was unstable and that you were only able to walk 20 to 20 feet in your home or stand on your own for only a few minutes.

The clinical picture presented here most closely corresponds with a 20% evaluation from 11-3-05 based on these findings and symptoms. An evaluation of 20 percent is assigned from November 3, 2005. An evaluation of 20 percent is assigned for incomplete paralysis below the knee which is moderate. A higher evaluation of 40 percent is not warranted unless there is evidence of incomplete paralysis below the knee which is moderately severe.

An evaluation of 40 percent is assigned from January 29, 2007. An evaluation of 40 percent is assigned for incomplete paralysis below the knee which is moderately severe. A higher evaluation of 60 percent is not warranted unless there is evidence of incomplete paralysis below the knee which is severe with marked muscular atrophy. The effective date of the 20 percent evaluation corresponds with the date your implied claim for this condition was received in the regional office. The effective date of the 40 percent evaluation corresponds with the date that objective data reflected a significant increase in the severity of the condition. The fact that you are able to walk a short distance and stand independently signals that you currently do not meet the current criteria for loss of use of the feet. The criteria states that your ability to ambulate would be no better if the feet were amputated and replaced with a prosthetic device.

2. Service connection for peripheral neuropathy, right lower extremity as secondary to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.

Service connection for peripheral neuropathy, right lower extremity has been established as related to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis. Medical records from near the time of your implied claim for peripheral neuropathy associated with your spinal fusion and arachnoiditis show that you had shooting pains from your back into your lower extremities which limited your walking on any continuous basis to about a half block. Reports from Dr. Bash have linked the neurological symptoms in your legs to your spine and arachnoiditis conditions.

It was determined in your January, 2007 VA exam that you did not have diabetes and therefore, the neuropathy could not have been due to that. That exam found that you were only able to walk short distances, such as from the couch to the bedroom independently. At that time, your patellar and achilles deep tendon reflexes were absent on both sides. You were said to have peripheral neuropathy in a stocking distribution. Strength in the lower extremities was somewhat diminished. Your vibratory sense in the lower

extremities was felt to be normal. The report from Dr. Depinto indicated that you had significant sensory loss and loss of strength in both feet. He said your gait was unstable and that you were only able to walk 20 to 20 feet in your home or stand on your own for only a few minutes.

The clinical picture presented here most closely corresponds with a 20% evaluation from 11-3-05 based on these findings and symptoms. An evaluation of 20 percent is assigned from November 3, 2005. An evaluation of 20 percent is assigned for incomplete paralysis below the knee which is moderate. A higher evaluation of 40 percent is not warranted unless there is evidence of incomplete paralysis below the knee which is moderately severe.

An evaluation of 40 percent is assigned from January 29, 2007. An evaluation of 40 percent is assigned for incomplete paralysis below the knee which is moderately severe. A higher evaluation of 60 percent is not warranted unless there is evidence of incomplete paralysis below the knee which is severe with marked muscular atrophy. The effective date of the 20 percent evaluation corresponds with the date your implied claim for this condition was received in the regional office. The effective date of the 40 percent evaluation corresponds with the date that objective data reflected a significant increase in the severity of the condition. The fact that you are able to walk a short distance and stand independently signals that you currently do not meet the current criteria for loss of use of the feet. The criteria states that your ability to ambulate would be no better if the feet were amputated and replaced with a prosthetic device.

3. Service connection for erectile dysfunction as secondary to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.

Service connection for erectile dysfunction has been established as related to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis. Your January, 2007 VA exam reflects that you have erectile dysfunction secondary to the neurological problems which have already been associated with your spinal surgeries. There's no medical evidence of any penile deformity. The clinical picture presented here most closely corresponds with a 0% evaluation based on these findings and symptoms. A noncompensable evaluation is assigned whenever evidence fails to show penile deformity together with loss of erectile power which would warrant 20 percent. The effective date corresponds with the date the condition and its etiology was first documented in VA records.

4. Evaluation of urinary incontinence currently evaluated as 10 percent disabling.

Your January, 2007 exam described bladder dysfunction generally in the form of incontinence. You were said not to be using absorbent materials at that time. The recent VA exam conducted by Dr. Depinto indicated that you continued to have problems with

urgency and dysuria. You said that you were then using absorbent pads at a rate of approximately two per day.

The clinical picture presented here most closely corresponds with a 40% evaluation based on incontinence symptoms. An evaluation of 40 percent is granted for the required wearing of absorbent materials which must be changed two to four times per day. A 40 percent evaluation is also assigned whenever there is a daytime voiding interval of less than one hour, or awakening to void five or more times per night. A higher evaluation of 60 percent is not warranted unless evidence demonstrates use of an appliance or the wearing of absorbent materials which must be changed more than four times per day. There was no mention of the nature and extent of this at the time. The effective date of the increase corresponds with the date of Dr. Depinto's report.

5. Evaluation of rectal incontinence currently evaluated as 10 percent disabling.

The evaluation of rectal incontinence is continued as 10 percent disabling. Your January, 2007 VA exam cited bowel incontinence which was characterized as slight and intermittent. The exam from Dr. Depinto indicated that that part of your symptomatology was basically unchanged. Although you were by then using pads, this was characterized as being due mainly to the urinary incontinence. The clinical picture presented here continues to most closely corresponds with a 10% evaluation based on these findings and symptoms. An evaluation of 10 percent is assigned for constantly slight or occasionally moderate leakage. A higher evaluation of 30 percent is not warranted unless occasional involuntary bowel movements necessitate wearing of a pad.

6. Entitlement to special monthly compensation based on aid and attendance.

Entitlement to special monthly compensation is warranted in this case because criteria regarding aid and attendance have been met. The January 29, 2007 VA exam report indicated that you were in need of the aid and attendance of another person due to your severe spine condition and other conditions such as your peripheral neuropathy which stem from the spine condition. You were said to need assistance with bathing, dressing and grooming, even though you were characterized as being able to walk for short distances independently. The effective date for this condition represents the date of the VA exam which established a higher evaluation for peripheral neuropathy of your lower extremities. This is because the aid and attendance grant cannot be considered unless your service connected condition combine to a 100 percent rating. The increase for peripheral neuropathy, as evidenced by your increasing difficulty with ambulation, caused you to reach the 100% threshold.

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 web site, www.va.gov.