



**DEPARTMENT OF VETERANS AFFAIRS  
Chicago Regional Office  
2122 W. Taylor Street  
Chicago, Illinois 60612**

[REDACTED]  
**VA File Number**  
[REDACTED]

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

**Rating Decision  
March 21, 2007**

**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. This rating decision supplements the rating decision dated November 24, 2006, regarding your claim for increase received November 3, 2005. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

PLEASE NOTE that your appeal for the evaluation of your back currently at 40 percent (with an earlier effective date of service connection) remains pending and, therefore, will not be addressed in this rating decision.

**DECISION**

1. Service connection for peptic ulcer disease with pyloric stenosis (to include constipation) is granted effective September 28, 1998.

STAMPED DATED FOR:  
MARCH 22, 2007  
(2 pages) page 2 of 3

- 2 . Service connection for urinary incontinence is granted with an evaluation of 10 percent effective December 6, 1999. An evaluation of 20 percent is assigned from January 29, 2007.
- 3 . Service connection for rectal incontinence is granted with an evaluation of 10 percent effective October 11, 2000.
- 4 . Service connection for anemia (occult blood loss) is denied.
- 5 . Service connection for diabetes is denied.
- 6 . Entitlement to individual unemployability is granted effective September 28, 1998.
- 7 . Basic eligibility to Dependents' Educational Assistance is established from September 28, 1998.
- 8 . Entitlement to special monthly compensation based on aid and attendance is denied.
- 9 . Entitlement to special monthly compensation based on housebound is denied.

#### EVIDENCE

- Evidence in the prior claim file including, but not limited to, the rating decision dated November 24, 2006, with evidence listed thereon & notification letter dated November 29, 2006
- Congressional letter Lane Evans dated September 20, 2006, with attachments & VA response letter dated November 30, 2006
- Congressional letter Barack Obama dated October 5, 2006, with attachments & VA response letter dated November 30, 2006
- Veteran's Statement in Support of Claim dated October 20, 2006, received October 31, 2006
- Packet from POA received December 18, 2006, including: VA Form 21-0517-1; VA Form 21-8416; & Veteran's Statement in Support of Claim dated December 9, 2006 with attachments
- Social Security inquiry in SHARE
- VA's duty-to-assist letter to the veteran dated January 12, 2007
- Congressional letter Richard J. Durbin dated December 12, 2006, with packet of information including, but not limited to, veteran's typed letter dated December 8, 2006, with attachments & Veteran's handwritten Statement in Support of Claim dated December 9, 2006
- Examination at the VA Medical Center Iowa City dated January 29, 2007

- Veteran's Statement in Support of Claim dated February 27, 2007, with attachments: February 22, 2007, Independent Medical Evaluation from Dr. Craig Bash, MD; veteran's typed letter dated 2/27/07; VDVA Form 10 (Medical Statement for Consideration of Aid & Attendance) completed by Dr. John Lanaghan; & VCAA Notice Response dated 2/27/07
- Veteran's Statement in Support of Claim March 14, 2007, with his attached typed letter dated March 11, 2007
- Veteran's Statement in Support of Claim dated March 15, 2007, with attached typed letter dated March 15, 2007, signed by veteran and wife

### **REASONS FOR DECISION**

#### **1. Service connection for peptic ulcer disease with pyloric stenosis (to include constipation).**

Service connection for peptic ulcer disease with pyloric stenosis (to include constipation) has been established as related to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.

An evaluation of 40 percent is assigned based on the VA exam of January 29, 2007, which indicated gastric and duodenal ulcers with pyloric obstruction/stenosis requiring multiple balloon dilations (20 times since 1996) with the last one on May 12, 2006. There is weekly severe periumbilical pain (colicky, crampy, sharp) lasting for minutes. Symptoms that indicate that you need pyloric dilatation are abdominal colic, nausea, and sometimes vomiting. You have weight loss (45% compared to baseline). You are 64 inches tall and weigh 90 pounds.

The VA exam of January 29, 2007, also indicated constipation treated with medication and fiber supplements.

An evaluation of 40 percent is granted if the record shows impaired health manifested by anemia and weight loss, or recurrent incapacitating episodes averaging 10 days or more at least four or more times a year.

A higher evaluation of 60 percent is not warranted unless the record shows pain only partially relieved by standard therapy, periodic vomiting, recurrent hematemesis or melena, and manifestations of anemia with weight loss productive of impaired health.

The effective date is September 28, 1998, the date of the private medical report first documenting peptic ulcer disease leading to pyloric stenosis.

#### **2. Service connection for urinary incontinence.**

Service connection for urinary incontinence has been established as related to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.

An evaluation of 10 percent is assigned from December 6, 1999, the date of the VA exam during which you reported partial loss of bladder control.

A 10 percent evaluation is assigned based on your report on VA exam of March 2, 2004, of nocturia occurring twice a night.

An evaluation of 20 percent is assigned effective January 29, 2007, based on the VA exam of January 29, 2007, which indicated urinary incontinence requiring the wearing of absorbent material that must be changed less than two times per day.

Daytime frequency was every three hours.

Nighttime voiding was two times per night.

An evaluation of 20 percent is assigned whenever there is a requirement for the wearing of absorbent materials which must be changed less than two times per day. An evaluation of 20 percent is also assigned whenever there is a daytime voiding interval between one and two hours, or awakening to void three to four times per night.

A higher evaluation of 30 percent is not warranted unless evidence demonstrates urinary retention requiring intermittent or continuous catheterization.

An evaluation of 40 percent is not warranted unless the evidence shows required wearing of absorbent materials which must be changed two to four times per day, or whenever there is a daytime voiding interval of less than one hour, or awakening to void five or more times per night.

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

Service connection for rectal incontinence has been established as related to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.

An evaluation of 10 percent is assigned from October 11, 2000, because you first reported partial loss of bowel (i.e., rectal) control on VA exam of October 11, 2000.

The 10 percent evaluation is confirmed & continued based on the VA exam of January 29, 2007, which indicated bowel incontinence described as slight and intermittent treated with a bowel program.

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.

**4. Service connection for anemia (occult blood loss) as secondary to the service-connected disability of chronic low back pain with degenerative disc disease and a history of arachnoiditis.**

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 anemia (occult blood loss) is related to the service-connected condition of chronic low back pain with degenerative disc disease and a history of arachnoiditis, nor is there any evidence of this disability during military service.

We are unable to grant service connection for anemia because there is no evidence of a current disability of anemia. The VA examiner on January 29, 2007, indicated the following:

"Hines VA in Chicago documents a 2-unit blood transfusion for anemia in January 2000. The Iowa City VA has a listing of hemoglobins since February 20, 1995. The hemoglobins since May 24, 2002, have not been consistent with anemia except for a hemoglobin of 12 on August 2, 2005. The VA examiner rendered the following unfavorable opinion:

"The veteran has not required a blood transfusion since January 2000. It is likely that the blood transfusion needed for anemia was due to blood loss from peptic and duodenal ulcers. Since August 8, 2006, there has not been documented anemia except on one occasion when the hemoglobin was 12 on August 2, 2005. The veteran's hemoglobin at the time of his visit for this examination (1/29/07) was 12.8. This would not be considered anemia."

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

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 diabetes is related to the service-connected condition of chronic low back pain with

degenerative disc disease and a history of arachnoiditis, nor is there any evidence of this disability during military service.

We are unable to grant service connection for diabetes because there is no evidence of a current disability of diabetes.

In the VA exam of January 29, 2007, the VA examiner indicated the following:

"The veteran is not on a diabetic diet or taking any medicine for diabetes. He had one blood sugar on September 26, 2000, that was in diabetic range. He has not had blood sugars on record since that time that were 110 or greater. I do not think that the veteran is diabetic, and if he were, I am not sure that the cause would be related to degenerative disc disease."

#### **6. Entitlement to individual unemployability.**

Entitlement to individual unemployability is granted because the evidence indicates that you are unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities, specifically, your lumbar disc disorder with secondary peptic ulcer disease with pyloric stenosis, as well as urinary & rectal incontinence.

You have not worked since your second back surgery in February 1995 at which time you were a journeyman welder.

Statement from Craig N. Bash, Neuro-Radiology, dated October 6, 2005, indicates the following:

"Finally, he has been unemployed since 1995 due to his spine and upper GI problems. His spine problems cause constant pain and he is therefore unable to do labor-intensive work, life, walk or stand/sit for extended periods of time. He should be assigned a medical diagnostic code for his inability to work secondary to his service-related spine problems and secondarily-induced GI problems."

The effective date is September 28, 1998, the date you first met schedular requirements for Individual Unemployability, that is, one disability rated at least 60%---or two or more disabilities with a combined evaluation of at least 70% with one disability at 40%.

The 40 percent for your back effective from July 24, 1995, as well as the 40 percent for secondary peptic ulcer disease with pyloric stenosis effective from September 28, 1998, combine to 60% and are considered "one disability at 60%" based on common etiology. According, you met schedular requirements for Individual Unemployability as of September 28, 1998, given this "one disability at 60%" principle.

#### **7. Eligibility to Dependents' Educational Assistance under 38 U.S.C. chapter 35.**

Eligibility to Dependents' Educational Assistance is derived from a veteran who was discharged under other than dishonorable conditions; and, has a permanent and total service-connected disability; or a permanent and total disability was in existence at the time of death; or the veteran died as a result of a service-connected disability. Also, eligibility exists for a serviceperson who died in service. Finally, eligibility can be derived from a service member who, as a member of the armed forces on active duty, has been listed for more than 90 days as: missing in action; captured in line of duty by a hostile force; or forcibly detained or interned in line of duty by a foreign government or power.

Basic eligibility to Dependents' Education Assistance is granted as the evidence shows that you currently have a total service-connected disability, permanent in nature, via Individual Unemployability.

The effective date is September 28, 1998, the date you met schedular requirements for Individual Unemployability.

**8. Entitlement to special monthly compensation based on aid and attendance.**

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 aid and attendance have not been met. {38 CFR 3.350}

This benefit is payable for being so helpless (due to service connected disabilities) as to be permanently bedridden or in need of regular aid and attendance. The following will be considered in determining the need for regular aid and attendance: inability to dress or undress, or to keep ordinarily clean and presentable; frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid (this will not include the adjustment of appliances which normal persons would be unable to adjust without aid, such as supports, belts, lacing at the back, etc.); inability to feed oneself through loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or physical or mental incapacity which requires care or assistance on a regular basis to protect the claimant from hazards or dangers incident to the daily environment. Bedridden will be a proper basis for the determination. "Bedridden" means that condition which, through its essential character, actually requires that the claimant remain in bed. The fact that a claimant has voluntarily taken to bed or that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescence or cure will not suffice. It is not required that all of the disabling conditions be found to exist before a favorable rating may be made. The particular personal functions which the claimant is unable to perform should be considered in connection with their condition as a whole. It is only necessary that the evidence shows that the claimant is so helpless as to need regular aid and

attendance, not that there be a constant need. Determinations as to the need for regular aid and attendance will not be based solely upon an opinion that their condition is such as would require them to be in bed. They must be based on the actual requirement of personal assistance from others.

We are unable to grant service connection for Aid & Attendance because the evidence does not establish that you are in need of same.

VA Aid & Attendance exam dated January 29, 2007, reported that you are able to walk inside your own home unaided and stated that there is normal function in both upper and both lower extremities. The exam noted loss of sensation in the lower extremities in a stocking distribution and indicated that limited mobility and inability to sense temperature pose a danger for you in your own residence. However, the loss of temperature sensation in the lower legs and feet does not affect lower extremity motor function or upper extremity sensation and motor function, and there is no evidence that you are unable to get outside your residence on your own. Further, VA Medical Center Iowa City outpatient treatment report dated August 8, 2006, noted that you are not a fall risk. Also, while the Aid & Attendance exam report stated that you are unable to dress and groom yourself, the extent of actual assistance needed for these tasks is unclear because upper and lower extremity function was noted as normal on the exam.

The report by Dr. Lanaghan regarding your need for Aid & Attendance states that you are able to walk unaided but are limited to 1/2 block due to pain. Dr. Lanaghan's report states that you are able to feed yourself and go to the bathroom by yourself; also, that you are not confined to bed and are able to sit up on your own. The report states that you need assistance with bathing, but this is limited to foot care and monitoring water temperature with no indication of inability to get in or out of the bath or shower. Dr. Lanaghan's report states that you do not need nursing home care.

The level of assistance indicated by the VA Aid & Attendance exam and Dr. Lanaghan's report does not rise to the level of aid and attendance.

#### **9. Entitlement to special monthly compensation based on housebound.**

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 housebound have not been met. {38 CFR 3.350}

Special monthly compensation under 38 U.S.C. 1114(s)---Housebound in fact---is payable for being permanently housebound by reason of service-connected disability or disabilities. This requirement is met when the veteran is substantially confined as a direct result of service-connected disabilities to his or her dwelling and the immediate premises or, if institutionalized, to the ward or clinical areas, and it is reasonably certain that the

disability or disabilities and resultant confinement will continue throughout his or her lifetime.

You are not confined to bed, and there is no evidence that you are unable to get outside your residence on your own.

Special monthly compensation under 38 U.S.C. 1114(s)---Statutory Housebound---is also payable for a single service-connected disability rated as totally disabling (100%), with additional service-connected disability or disabilities independently ratable at 60 percent, separate and distinct from the totally disabling service-connected disability and involving different anatomical segments or bodily systems.

There is no indication that you are substantially confined to your dwelling and immediate premises due to disability, nor do you have one service-connected disability evaluated as 100 percent disabling and additional service-connected disabilities that are independently evaluated as 60 percent disabling.

Your disabilities are as follows: Lumbar back condition at 40%; PUD with pyloric stenosis at 40%; urinary incontinence at 20%; & rectal incontinence at 10% with a grant of Individual Unemployability.

**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](http://www.va.gov).