



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

██████████ d ██████████

**VA File Number**

██████████ ██████████ ██████████

**Represented By:  
GORDON A GRAHAM  
Decision Review Officer Decision  
08/23/2019**

**INTRODUCTION**

The records reflect that you are a veteran of the Vietnam Era. You served in the Army from March 18, 1968 to December 20, 1971. We received a Notice of Disagreement from you on December 7, 2017 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. Evaluation of posttraumatic stress disorder (PTSD), which is currently 50 percent disabling, is increased to 70 percent effective March 3, 2017.
2. Evaluation of coronary artery disease, which is currently 30 percent disabling, is increased to 60 percent effective April 6, 2017.
3. Entitlement to individual unemployability is granted effective March 3, 2017.
4. Basic eligibility to Dependents' Educational Assistance is established from March 3, 2017.



### EVIDENCE

- Claim on VA 21-526EZ received March 3, 2017.
- VA letter dated March 21, 2017 providing Section 5103 Notice.
- VA contract examinations dated March 29, 2017, April 3, 2017 and April 6, 2017.
- Rating decision dated May 9, 2017; notified by VA letter dated May 15, 2017, which requested that you complete VA Form 21-8940, Veteran's Application for Increased Compensation Based on Unemployability, if you are unable to secure and follow a substantially gainful occupation because of your service-connected disabilities.
- Rating decision dated June 21, 2017; notified by VA letter dated June 26, 2017.
- Notice of Disagreement on VA Form 21-0958 received December 7, 2017 with election for the Decision Review Officer Review Process; employment information on VA Form 21-4192 for [REDACTED] (self-employed), letter from Dr. [REDACTED] dated December 4, 2017, and treatment records from Dr. [REDACTED] dated August 3, 2017.
- Treatment records from the Puget-Sound VA Health Care System dated January 9, 2009 to April 12, 2019.
- Phone conversation with Gordon A. Graham regarding the status of your appeal on August 23, 2019, documented on VA Form 27-0820.
- De Novo Review of claims file.

### REASONS FOR DECISION

#### 1. Evaluation of posttraumatic stress disorder (PTSD) currently evaluated as 50 percent disabling.

Rating decision dated May 9, 2017 increased the evaluation of posttraumatic stress disorder (PTSD) to 50 percent disabling. You were notified of that decision by VA letter dated May 15, 2017. A Notice of Disagreement appealing the evaluation of disability and electing the Decision Review Officer Process was received December 7, 2017. The evaluation sought is 70 percent.

Diagnosis on VA contract examination dated April 3, 2017 was PTSD. Symptoms include depressed mood; anxiety; suspiciousness; chronic sleep impairment; disturbances of motivation and mood; difficulty in establishing and maintaining effective work and social relationships; and, difficulty in adapting to stressful circumstances, including work or a work like setting. Examiner reported that you are not currently receiving any treatment for your mental health symptoms and that you stated that you will not take any medication. You'd participated in group therapy but do not see how it would change anything. Examiner reported that you are not currently working and were forced into retirement as a trucker because of your health and diminished concentration. Examiner concluded the following best summarized your level of occupational and social impairment: Occupational and social impairment with reduced reliability and productivity.

Upon De Novo Review of the evidence, the evaluation of PTSD is increased to 70 percent disabling effective March 3, 2017, which is the date of receipt of your claim. It is the earliest date allowable by law. This date can be used as you have continuously prosecuted your claim and appeal since that date. (38 CFR 4.1, 38 CFR 3.400)

We have assigned a 70 percent evaluation for your PTSD based on:

- Difficulty in adapting to stressful circumstances
- Difficulty in adapting to work
- Suspiciousness
- Depressed mood
- Disturbances of motivation and mood
- Difficulty in adapting to a worklike setting
- Anxiety
- Difficulty in establishing and maintaining effective work and social relationships
- Chronic sleep impairment
- Occupational and social impairment with reduced reliability and productivity

The overall evidentiary record shows that the severity of your disability most closely approximates the criteria for a 70 percent disability evaluation. (38 CFR 4.7, 38 CFR 4.126)

A higher evaluation of 100 percent is not warranted for PTSD unless the evidence shows total occupational and social impairment, due to such symptoms as:

- gross impairment in thought processes or communication
- persistent delusions or hallucinations
- grossly inappropriate behavior
- persistent danger of hurting self or others
- intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene)
- disorientation to time or place
- memory loss for names of close relatives, own occupation, or own name. (38 CFR 4.125, 38 CFR 4.126, 38 CFR 4.130)

The decision on this issue is considered a total grant of the benefit sought on appeal as an evaluation of 70 percent has been assigned. As such, your pending appeal for PTSD is now resolved.

## **2. Evaluation of coronary artery disease currently evaluated as 30 percent disabling.**

Rating decision dated May 9, 2017 decreased the evaluation of coronary artery disease from 60 percent to 30 percent disabling effective April 6, 2017. You were notified of that decision by VA letter dated May 15, 2017. A Notice of Disagreement appealing the evaluation of disability and electing the Decision Review Officer Process was received December 7, 2017. The evaluation sought is 60 percent.

Diagnosis on VA contract examination dated April 6, 2017 was coronary artery disease. Treatment is with continuous medication. Interview-based METS test was workload of greater than 5 METs but not greater than 7 METs. Echocardiogram revealed left ventricular ejection fraction (LVEF) of 50-55 percent. Examiner estimated the METs level solely due your cardiac condition is 7 METs and that it best reflects your current cardiac functional status.

Additional medical evidence pertaining to your condition was received with your Notice of



Disagreement. In a letter dated December 4, 2017, Dr. [REDACTED], your primary care physician, reported that you recently had a stress test achieving 7 METS (not more) and had to stop due to angina. He reports that on a nuclear scan you had a LVEF of 49 percent and left ventricular hypertrophy with left ventricular diastolic dysfunction (chronic diastolic heart failure). Treatment records from Dr. [REDACTED] dated August 3, 2017 contained the referenced exercise stress test showing 7 METs.

Treatment records from the Puget-Sound VA Health Care System dated March 15, 2019 show follow-up for coronary artery disease. Treatment is with continuous medication. They report a prior LVEF of 50 percent, but do not contain any current testing.

Upon De Novo Review of the evidence, the evaluation of coronary artery disease is increased to 60 percent disabling effective April 6, 2017, which is the date the evaluation was previously decreased. It is the earliest date allowable by law. This date can be used as you have continuously prosecuted your claim and appeal since that date. (38 CFR 4.1, 38 CFR 3.400)

We have assigned a 60 percent evaluation for your coronary artery disease based on:

- Left ventricular dysfunction with an ejection fraction of 30 to 50 percent

Additional symptom(s) include:

- Continuous medication is required
- Workload of greater than five METs but not greater than seven METs results in dyspnea, fatigue, angina, dizziness, or syncope

A higher evaluation of 100 percent is not warranted for arteriosclerotic heart disease unless the evidence shows:

- Chronic congestive heart failure; or,
- Left ventricular dysfunction with an ejection fraction of less than 30 percent; or,
- Workload of three METs or less results in dyspnea, fatigue, angina, dizziness, or syncope. (38 CFR 4.100, 38 CFR 4.104)

One MET (metabolic equivalent) is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. (38 CFR 4.104)

The decision on this issue is considered a total grant of the benefit sought on appeal as an evaluation of 60 percent has been assigned. As such, your pending appeal for coronary artery disease is now resolved.

### **3. Entitlement to individual unemployability.**

As there was an indication that you may be too seriously disabled to work because of service-connected disabilities, the issue of whether or not you are entitled to Individual Unemployability was deferred by rating decision dated May 9, 2017 for the following: VA Form 21-8940, Veteran's Application for Increased Compensation Based on Unemployability. On May 15, 2017 we wrote and asked you to send us the completed form. Rating decision dated June 21, 2017



denied entitlement to individual unemployability because a completed VA Form 21-8940 was not received. You were notified of that decision by VA letter dated June 26, 2017. A Notice of Disagreement appealing the decision and electing the Decision Review Officer Process was received December 7, 2017.

With your Notice of Disagreement, you submitted VA Form 21-8940 on which you reported that your service-connected disabilities of PTSD, coronary artery disease, and tinnitus prevent you from securing or following any substantially gainful occupation. You report that you last worked for ██████████ Trucking LLC during freight hauling on January 1, 2014. Also received, was employment information from Stocklin Freight Trucking regarding that employment. It was reported that you last worked on June 2, 2015 and that concessions could be made as you were self-employed. You were reported to no longer be working because of Washington State's refusal to renew your Commercial Driver's License due to your coronary artery disease, and stroke or heart attacks risk.

On VA contract examination for tinnitus dated March 9, 2017, the examiner reported that this condition impacts ordinary conditions of life, including ability to work as you can't sleep throughout the night without the radio on.

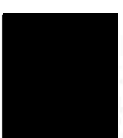
On VA contract examination for PTSD dated April 3, 2017, the examiner reported that you are not currently working and were forced into retirement as a trucker because of your health and diminished concentration.

On VA contract examination for coronary artery disease dated April 6, 2017, the examiner reported that this condition affects your ability to work as you still get heavy chest pain with heavy work.

In a letter dated December 4, 2017, Dr. ██████████ ██████████ discussed your coronary artery disease. He reports that you have intermittent angina and without your current medications your symptoms would be life threatening. He reports that because of your age and inability to obtain a commercial driver's license that you are effectively disabled.

Upon De Novo Review of the evidence, entitlement to individual unemployability is granted because you are unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities to include PTSD and coronary artery disease. The effective date of this grant is March 3, 2017, which is the date of receipt of your claim for increase of the service-connected disabilities that make you unemployable. You did not file a claim for unemployability within one year of the date you last worked; therefore, March 3, 2017 is the earliest date allowable by law. This date can be used as you have continuously prosecuted your claim and appeal since that date. (38 CFR 4.16, 38 CFR 3.400)

The decision on this issue is considered a total grant of the benefit sought on appeal as entitlement to individual unemployability has been granted. As such, your pending appeal for individual unemployability is now resolved.



**4. 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. (38 USC Ch. 35, 38 CFR 3.807)

We have granted basic eligibility to Dependents' Educational Assistance as the evidence shows you currently have a total service-connected disability, permanent in nature. The effective date of this grant is March 3, 2017, which is the date you were assigned a permanent and total evaluation due to 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 website, [www.va.gov](http://www.va.gov).

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|---|--|--|------------------------------------|---------------------------|--|
| <b>Decision Review<br/>Officer Decision</b> |  | <i>Department of Veterans Affairs<br/>Veterans Benefits Administration</i> |                                    | Page 1 of 3<br>08/23/2019 |  |
| NAME OF VETERAN<br>[REDACTED]               |  | VA FILE NUMBER<br>[REDACTED]   | SOCIAL SECURITY NR<br>[REDACTED] 4 | POA<br>GORDON A GRAHAM    |  |
| COPY TO                                     |  |  |                                    |                           |  |

| ACTIVE DUTY  |            |            |                        |
|--------------|------------|------------|------------------------|
| EOD          | RAD        | BRANCH     | CHARACTER OF DISCHARGE |
| [REDACTED] 8 | [REDACTED] | [REDACTED] | [REDACTED]             |

| LEGACY CODES   |             |                  |                  |
|----------------|-------------|------------------|------------------|
| ADD'L SVC CODE | COMBAT CODE | SPECIAL PROV CDE | FUTURE EXAM DATE |
|                | I           |                  | None             |

**JURISDICTION:** Notice of Disagreement Received 12/07/2017

**ASSOCIATED CLAIM(s):** 170; DRO Notice of Disagreement; 12/07/2017

**SUBJECT TO COMPENSATION (L.SC)**

- 9411 POSTTRAUMATIC STRESS DISORDER (PTSD) [PTSD - Combat/Fear - Easing Standard]  
Service Connected, Vietnam Era, Incurred  
Static Disability  
30% from 07/06/2001  
70% from 03/03/2017
- 7005 CORONARY ARTERY DISEASE [Agent Orange - Vietnam/Ischemic Heart Disease]  
Service Connected, Vietnam Era, Presumptive  
Static Disability  
60% from 07/31/2012
- 6260 TINNITUS  
Service Connected, Vietnam Era, Incurred  
Static Disability  
10% from 03/03/2017

**COMBINED EVALUATION FOR COMPENSATION :**

- 30% from 07/06/2001
- 70% from 07/31/2012
- 90% from 03/03/2017

