



## **BOARD OF VETERANS' APPEALS**

FOR THE SECRETARY OF VETERANS AFFAIRS

IN THE APPEAL OF

Represented by

Gordon A. Graham, Agent

SS 5 [REDACTED]

Docket No. 18-47 570

**Advanced on the Docket**

DATE: August 28, 2019

### **ORDER**

Service connection for hepatitis C is granted, subject to the laws and regulations governing the award of monetary benefits.

### **FINDING OF FACT**

The Veteran's hepatitis C is causally related to his active service.

### **CONCLUSION OF LAW**

The criteria for service connection for hepatitis C have been met. 38 U.S.C. §§ 1110, 5107; 38 C.F.R. §§ 3.102, 3.303.

### **REASONS AND BASES FOR FINDING AND CONCLUSION**

The Veteran served on active duty from November 1967 to November 1970. He testified at a March 2019 Board hearing before the undersigned Veterans Law Judge.

The Veteran asserts that his hepatitis C is the result of immunizations from jet injectors and dental work received during active service.

Service connection may be granted for disability resulting from disease or injury incurred in or aggravated by active service. 38 U.S.C. §§ 1110, 5107; 38 C.F.R. § 3.303. The three-element test for service connection requires evidence of: (1) a current disability; (2) in-service incurrence or aggravation of a disease or injury; and (3) a causal relationship between the current disability and the in-service disease or injury. *Shedden v. Principi*, 381 F.3d 1163, 1166 -67 (Fed. Cir. 2004).

The Board notes that some portion of the Veteran's service treatment records are unavailable, and the Veteran is the best source of information related to his active service. In a June 2017 statement to VA the Veteran reported that he experienced several factors for Hepatitis C exposure, including vaccines with an air inoculation device, close [hair]cuts on the back of his neck with the same razor used on other recruits, and dental procedures without the use of gloves that included exposure to blood. Further, during his Board hearing, the Veteran testified that he was not exposed to blood as a civilian, explaining that his intranasal drug use was an isolated incident and that he did not recall occupational exposures.

The record contains two private nexus opinions, which support the Veteran's assertions. Dr. Cecil opined that the Veteran's Hepatitis C was the result of risk factors the Veteran experienced during active service, specifically air gun vaccinations and shared razors. Dr. Cecil indicated that the Veteran's nasal cocaine use in the 1980s was less likely the origin of the Veteran's Hepatitis C because of the advance stage of the disease. Dr. Cecil also identified a 1990 study that noted that the possibility that jet injectors can become contaminated with Hepatitis and become vehicles for transmission.

Dr. Rivero opined that the Veteran's hepatitis C was the result of risk factors the Veteran experienced during active service, specifically air gun vaccinations and dental work. Dr. Rivero noted that the Veteran did not experience any of the common risk factors associated with the transmission of hepatitis C. Dr. Rivero noted that the Veteran received immunizations with jet injectors during his active service. He indicated that jet injectors are known to be used on multiple individuals, resulting in the contamination of the injectors with blood and the transmission of blood borne pathogens. Additionally, Dr. Rivero noted that the Veteran's in-service dental work would not have included isolation techniques to

prevent the transmission of blood borne pathogens because it was not the standard of care at that time. Dr. Rivero addressed the Veteran's intranasal cocaine use and discounted it as a risk factor as there are no clinical studies documenting transmission of hepatitis C through nasal secretions. Dr. Rivero also cited medical literature indicating that jet injectors and unsanitary dental techniques can transmit hepatitis C. Dr. Rivero concluded that the Veteran's hepatitis C was more likely contacted during active service either due to immunizations received from the jet injectors or from dental care received without isolation precautions.

Taken together, the private physicians' opinions establish a link between the Veteran's hepatitis C and his military service. The opinions are considered probative and afforded great weight. The opinions are grounded in the Veteran's medical history, lay assertions, relevant medical literature and risk factors, and the physicians' medical knowledge. Further, the opinions provide explanations that contain clear conclusions and supporting data. *Nieves-Rodriguez v. Peake*, 22 Vet. App. 295, 304 (2008).

The Board notes that the record includes a VA medical evidence indicating that the Veteran's hepatitis C is unrelated to his military service. However, the opinion does not address the Veteran's assertions of exposure due to vaccinations, razor use, and dental procedures. Consequently, the Board give more probative weight to the private medical opinions. Accordingly, service connection for hepatitis C is granted.



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MATTHEW W. BLACKWELDER  
Veterans Law Judge  
Board of Veterans' Appeals

Attorney for the Board

R. I. Sims, Associate Counsel