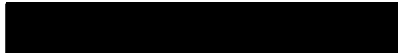




**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**



VA File Number
27 [REDACTED]

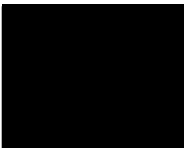
Represented By:
GORDON A GRAHAM
Rating Decision
10/29/2021

INTRODUCTION

The records reflect that you are a Veteran of the Vietnam Era. You served in the Army from June 3, 1970 to December 6, 1971. The Board of Veterans Appeals remanded the case to our office on April 14, 2021. Based on a review of the evidence listed below, we have made the following decision on your claim.

DECISION

1. Service connection for bilateral retinal detachment is granted with an evaluation of 90 percent effective October 1, 2018.
2. Entitlement to special monthly compensation based on loss of use of on eye is granted from October 1, 2018.
3. Entitlement to an allowance for an automobile or other conveyance and adaptive equipment is established.



EVIDENCE

- DD 214, Certificate of Release or Discharge from Active Duty, for the period of June 3, 1970 to December 6, 1971, received December 22, 2014
- Service treatment records for the period of November 19, 1969 (entrance exam) to December 6, 1971 (separation exam); received December 22, 2014
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, received October 1, 2018
- Private Treatment Records, [REDACTED] Eye Consultants, multiple entries, received October 4, 2018
- Rating Decision, received October 29, 2018
- VA Form 0958 Notice of Disagreement, received November 27, 2018
- Medical Treatment Record - Non-Government Facility, [REDACTED] MD, received November 29, 2018
- VA Examination (Eye, Medical Opinion), QTC, BVA found inadequate, conducted September 17, 2019 received September 25, 2019
- VA Examination (Medical Opinion Addendum, Diagnostic), QTC, conducted and received February 13, 2020
- Statement of the Case, received March 3, 2020
- VA Form 10182 Notice of Disagreement, received March 11, 2020
- BVA Decision, received April 14, 2021
- VA 27-0820 Report of General Information, Veteran served on active duty, released to inactive guard, received April 22, 2021
- VA Examination (Medical Opinion, Eye, Diagnostic), conducted September 1, 2021, received October 27, 2021

REASONS FOR DECISION

1. Service connection for bilateral retinal detachment as secondary to the service-connected disability of malaria.

Service connection for bilateral retinal detachment has been established as related to the service-connected disability of malaria. (38 CFR 3.303, 38 CFR 3.310)

The Board of Veterans Appeals (BVA) decision dated April 14, 2021 remanded the appeal for entitlement to eye condition, including as secondary to service-connected disabilities. BVA, returned your claim for examination and medical opinion. The examination and medical opinion was conducted on August 28, 2020.

The Examiner offered the opinion that the claimed condition is at least as likely as not (50 percent or greater probability) proximately due to or the result of the Veteran's service connected Malaria condition.

The Examiner also prepared the rationale that "Total retinal detachment - right eye: There are many factors that contribute to pathogenesis of retinal detachment. The veteran

had two established risk factors of high myopia and history of malarial disease prior to his first retinal detachment in the right eye. The literature cited by Dr. Sugumaran establishes the likelihood of pre-existing retinal pathology from the veteran's malarial disease and the mechanism by which it may contribute to retinal detachment after many years without symptoms. Retinal detachment, left eye and Chorioretinal scars after surgery for detachment, left eye: As with the right eye, the veteran's history of malarial infection is at least as likely as not to be a proximate cause of this detachment.

The effective date of the grant is October 1, 2018. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim and you have continuously prosecuted your claim.(38 CFR 3.155, 38 CFR 3.400, 38 CFR 3.2500)

An evaluation of 90 percent is assigned from October 1, 2018.

We have assigned a 90 percent evaluation for your bilateral eye condition (currently claimed as retinal injury) based on:

- Visual impairment as described below

Additional symptom(s) include:

- Incapacitating episodes described below

Your visual acuity warrants 70 percent evaluation based on:

Your left eye shows corrected near vision of 20/100 (20/100). Your left eye corrected far vision was shown as 20/200 (20/200).

You have light perception only in your right eye. For rating purposes, this is considered as 5/200 based on zero degrees of remaining visual fields. (38 CFR 4.79)

Your visual fields warrant 50 percent evaluation based on:

The left eye shows an average contraction to 39.375 degrees. This is based on the following examination findings: A normal field of vision temporally is 85 degrees. The examination shows 45 degrees. Normal vision down temporally is 85. Your field is 45 in the left eye. The normal field of vision down is 65. 40 degrees is shown. Down nasally, 50 is normal. You show 40. Normal vision nasally is 60. Examination findings show 35. Up nasally, 55 is considered normal. 35 is demonstrated. The normal field of vision up is 45 degrees. 35 is shown. The final field of vision considered for the left eye is up temporally. 55 is normal with 40 shown on examination. The total remaining visual field for the left eye is 315. When this number is divided by the eight directions, rounded up, the average contraction is obtained. The left eye can be rated on its concentric contraction or based on an equivalent visual acuity of 20/70. (38 CFR 4.77)

Unilateral concentric contraction of the left eye visual field with remaining field of 31 to 45 degrees warrants 10 percent evaluation, and is included in your overall visual fields evaluation.

(38 CFR 4.79)

A noncompensable evaluation is warranted under the General Rating Formula for Diseases of the Eye based on:

- No incapacitating episodes noted

When both decreased visual acuity and visual field defect are present in one or both eyes and are service connected, the visual acuity and visual field defect (expressed as a level of visual acuity), are separately evaluated and combined under the provisions of 38 CFR §4.25 {38 CFR §4.77(c)}. Your visual acuity warrants 70 percent evaluation. Your visual field defect warrants 50 percent evaluation. These evaluations combine under 38 CFR §4.25 for 90 percent evaluation.

Higher evaluations are based on more severe levels of visual impairment. (38 CFR 4.75, 38 CFR 4.76, 38 CFR 4.79)

Laws and Regulations applicable to this issue:

38 CFR §3.1 Definitions.

38 CFR §4.79 Schedule of ratings-eye. (6008)

38 CFR §4.79 Schedule of ratings-eye. (6064)

38 CFR §3.103 Procedural due process and appellate rights.

38 C.F.R. §3.303 Principles relating to service connection.

38 CFR §3.304 Direct service connection; wartime and peacetime.

38 C.F.R. §3.159 Department of Veterans Affairs assistance in developing claims.

38 CFR §3.326 Examinations.

38 C.F.R. §3.310 Disabilities that are proximately due to, or aggravated by, service-connected disease or injury.

38 CFR 3.2400 Applicability of Modernized Review System.

38 C.F.R. §3.2500 Review of decisions.

38 C.F.R. §3.2502 Return by higher-level adjudicator or remand by the Board of Veterans'

Appeals

38 C.F.R. §3.2601 Higher-level review

38 C.F.R. 3.2600 Review of Benefit Claims Decision

38 USC 1155 Authority for schedule for rating disabilities.

38 C.F.R. §4.25 Combined ratings table.

2. Entitlement to special monthly compensation based on loss of use.

Entitlement to special monthly compensation is warranted in this case because criteria regarding loss of use of one eye having only light perception were met from October 1, 2018. (38 CFR 3.350, 38 CFR 3.400, 38 CFR 3.401)

Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (k) and 38 CFR 3.350(a) on account of loss of use of one eye having only light perception from 10/01/2018.

The effective date of the grant is 10/01/2018. Service connection has been established from the day VA received your claim. When a claim of service connection is received more than one year after discharge from active duty, the effective date is the date VA received the claim and you have continuously prosecuted your claim.(38 CFR 3.155, 38 CFR 3.400, 38 CFR 3.2500)

Laws and Regulations applicable to this issue:

38 CFR §4.1 Essentials of evaluative rating.
38 CFR §3.350 Special monthly compensation ratings.
38 CFR §4.76 Visual acuity.
38 CFR §3.103 Procedural due process and appellate rights.
38 C.F.R. §3.303 Principles relating to service connection.
38 CFR §3.304 Direct service connection; wartime and peacetime.
38 C.F.R. §3.159 Department of Veterans Affairs assistance in developing claims.
38 CFR §3.326 Examinations.
38 CFR 3.2400 Applicability of Modernized Review System.
38 C.F.R. §3.2500 Review of decisions.
38 C.F.R. §3.2502 Return by higher-level adjudicator or remand by the Board of Veterans' Appeals
38 C.F.R. §3.2601 Higher-level review
38 C.F.R. 3.2600 Review of Benefit Claims Decision
38 USC 1155 Authority for schedule for rating disabilities.
38 C.F.R. §4.25 Combined ratings table.

3. Entitlement to automobile or other conveyance and adaptive equipment or for adaptive equipment only.

A certificate of eligibility for financial assistance in the purchase of one automobile or other conveyance and of basic entitlement to necessary adaptive equipment will be made when the veteran is entitled to compensation under chapter 11 of title 38, United States Code and has permanent impairment of vision of both eyes with central visual acuity of 20/200 or less in the better eye with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye. Entitlement to automobile and adaptive equipment is established based on this level of impairment. (38 CFR 3.808).

Laws and Regulations applicable to this issue:

38 CFR §3.1 Definitions.
38 CFR §3.103 Procedural due process and appellate rights.
38 C.F.R. §3.303 Principles relating to service connection.
38 CFR §3.304 Direct service connection; wartime and peacetime.
38 C.F.R. §3.159 Department of Veterans Affairs assistance in developing claims.
38 CFR §3.326 Examinations.
38 CFR 3.2400 Applicability of Modernized Review System.



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38 C.F.R. §3.2500 Review of decisions.
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38 USC 1155 Authority for schedule for rating disabilities.
38 C.F.R. §4.25 Combined ratings table.

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.