



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



VA File Number



**Represented By:
GORDON A GRAHAM
Rating Decision
02/01/2023**

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era, Peacetime and Vietnam Era. You served in the Army from May 25, 1972 to January 28, 1979 and the Air National Guard from December 20, 1990 to July 1, 1991 and from October 15, 2000 to March 3, 2001. We received your request for a Higher Level Review on November 14, 2022. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. A duty to assist error has been identified during the higher-level review for hepatitis C with residuals to include advanced liver disease/F4 fibrosis.
2. A duty to assist error has been identified during the higher-level review for cirrhosis.
3. A duty to assist error has been identified during the higher-level review for diabetes mellitus type II.
4. A duty to assist error has been identified during the higher-level review for gall bladder



removal.

EVIDENCE

- HLR - Informal Conference, received on February 01, 2023
- VA Form 20-0996 Request for Higher-Level Review, received on November 14, 2022
- Available service treatment records, service personnel records, and DD-214s for all periods of active duty service, for the Army from May 25, 1972 to January 28, 1979 and for the Air Force from December 20, 1990 to July 1, 1991 and from October 15, 2000 to March 3, 2001
- Rating Decision, dated June 1, 2022
- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received February 14, 2022
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, received August 12, 2022
- VA Form 20-0995, Decision Review Request - Supplemental Claims, received August 12, 2022
- Private Treatment Records from, Olathe Medical Center, received August 12, 2022
- Hepatitis, Cirrhosis, and Other Liver Conditions Disability Benefit Questionnaire, QTC Medical Services, dated September 1, 2022
- Gallbladder and Pancreas Conditions Disability Benefit Questionnaire, QTC Medical Services, dated September 1, 2022
- Diabetes Mellitus Disability Benefit Questionnaire, QTC Medical Services, received September 1, 2022
- Medical Opinion Disability Benefit Questionnaires, QTC Medical Services, September 1, 2022
- Kansas City VAMC (Veterans Affairs Medical Center) treatment records, for the period June 24, 1988 to November 8, 2022

REASONS FOR DECISION

1. Higher Level Review for hepatitis C with residuals to include advanced liver disease/F4 fibrosis.

The issue of hepatitis C with residuals to include advanced liver disease/F4 fibrosis was returned for correction of a duty to assist error in the prior decision. We failed to get an examination(s) and/or medical opinion(s). We will develop for VA compensation examination.

We have assigned a noncompensable evaluation for your hepatitis C with residuals to include advanced liver disease/F4 fibrosis based on:

- A diagnosed disability with no compensable symptoms (38 CFR 4.31)

A higher evaluation of 10 percent is not warranted for hepatitis C unless the evidence shows:

- Intermittent fatigue, malaise, and anorexia or incapacitating episodes (with symptoms such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain) having a

total duration of at least one week, but less than two weeks, during the past 12-month period. (38 CFR 4.114)

A noncompensable evaluation is assigned unless there is some disabling interference with digestion. (38 CFR 4.114)

2. Higher Level Review for cirrhosis.

The issue of cirrhosis was returned for correction of a duty to assist error in the prior decision. We failed to get an examination(s) and/or medical opinion(s). We will develop for VA compensation examination.

Favorable Findings identified in this decision:

The claimed primary disability is service-connected. You are service connected for hepatitis C with residuals to include advanced liver disease/F4 fibrosis.

3. Higher Level Review for diabetes mellitus type II.

The issue of diabetes mellitus type II was returned for correction of a duty to assist error in the prior decision. We failed to get other records. We will develop for consideration under the PACT Act.

Favorable Findings identified in this decision:

The claimed primary disability is service-connected. You are service connected for hepatitis C with residuals to include advanced liver disease/F4 fibrosis.

You have been diagnosed with a disability. VA examination dated September 1, 2022, diagnosed diabetes mellitus type II.

4. Higher Level Review for gall bladder removal.

The issue of gall bladder removal was returned for correction of a duty to assist error in the prior decision. We failed to get other records. We will develop for consideration under the PACT Act.

Favorable Findings identified in this decision:

The claimed primary disability is service-connected. You are service connected for hepatitis C with residuals to include advanced liver disease/F4 fibrosis.

You have been diagnosed with a disability. VA examination dated September 1, 2022, diagnosed cholecystectomy (gallbladder removal).

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.

