



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

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

**Represented By:  
GORDON A GRAHAM  
Rating Decision  
03/06/2023**

**INTRODUCTION**

The records reflect that you are a Veteran of the Peacetime and Vietnam Era. You served in the Navy from November 29, 1972 to September 26, 1974 and the Army from September 20, 1976 to February 28, 1980 and from February 29, 1980 to March 31, 1987. A special review of your file was mandated on June 9, 2022. We received your request for higher-level review (HLR) on May 4, 2022. During the processing of your HLR, the reviewer identified that additional development was required to fully and fairly decide your claim. Therefore, your claim was moved to the supplemental claim lane on June 9, 2022. This additional development has now been completed. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.


**DECISION**

1. Evaluation of Parkinson's disease w/ balance impairment, which is currently 30 percent disabling, is continued.
  2. Evaluation of left upper extremity tremors with peripheral neuropathy, which is currently 20 percent disabling, is continued.
- [REDACTED]

3. Evaluation of diabetic peripheral neuropathy, sciatic nerve, left lower extremity, which is currently 20 percent disabling, is continued.

4. Entitlement to special monthly compensation based on loss of use, special monthly compensation (SMC O); and special monthly compensation (SMC R) are not shown.

#### EVIDENCE

- HLR Informal Conference Worksheet, conducted June 6, 2022
  - VA Form 20-0996, Decision Review Request - Higher Level Review, received May 4, 2022
  - Rating decision dated April 25, 2022, with notification letter dated April 27, 2022.
  - Statement for Agent, Gordon A Graham received January 6, 2022, regarding sufficiency of exam completed by James I Joubert, Puget Sound dated November 8, 2021.
  - VA treatment records from Puget Sound VA Medical Center dated June 2019 to December 21, 2021.
  - VA contract examination, Mental Disorders DBQ dated November 26, 2021, completed by Debra A Brownlee, PhD, Tacoma, WA.
  - VA examination, Parkinson's Disease DBQ dated November 8, 2021, completed at Puget Sound VA Medical Center.
  - VA examination, Diabetic Sensory-Motor Peripheral Neuropathy DBQ dated November 8, 2021, at Puget Sound VA Medical Center.
  - Private Parkinson's Disease DBQ dated September 30, 2021, completed by J G Zoltani, MD, Lakewood, WA, received October 22, 2021.
  - VA contract examination, Parkinson's Disease DBQ dated September 22, 2021, completed by Bruce Burton, NP, Tacoma, WA.
  - QTC Addendum dated August 20, 2021, completed by Jiang Shan MD, Tacoma, WA.
  - VA contract examination, Diabetic Sensory Motor Peripheral Neuropathy DBQ dated August 16, 2021, completed by Jiang Shan MD, Tacoma, WA.
  - VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance, VA contract exam completed by Jiang Shan MD, Tacoma WA, dated August 16, 2021
  - VA treatment records from Atlanta VA Medical Center dated May 2015 to June 25, 2020.
  - VA Form 21-4138, Statement in Support of Claim, statement from spouse, Xue L. Vanness, received July 28, 2021
  - Private treatment records from Pacific Northwest Neurology, J Greg Zoltani, MD, dated March 17, 2021, Richard Swedarsky, DO, Washington Orthotics & Prosthetics dated June 4, 2021; received July 28, 2021.
  - Statement from attorney, Gordon A Graham, VA Form 20-0995 Extra Pages dated July 25, 2021.
  - VA Form 21-4138, Statement in Support of Claim, received July 25, 2021
  - VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received July 25, 2021
  - VA treatment records from Atlanta VA Medical Center dated July 27, 2015, to August 2, 2019.
  - VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received September 18, 2020
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- Rating decision, dated June 7, 2022
- Rating decision, dated September 21, 2022
- LHI exam with opinion, received October 6, 2022
- LHI addendum, received November 15, 2022
- LHI medical opinions, received January 30, 2023

### REASONS FOR DECISION

#### **1. Evaluation of Parkinson's disease w/ balance impairment currently evaluated as 30 percent disabling.**

The evaluation of Parkinson's disease w/ balance impairment is continued as 30 percent disabling.

During the Higher-Level Review of your claim, we identified a duty to assist error in the prior decision. We requested for medical exam to determine the severity of your claimed condition. Upon review of all of the evidence of records, your claimed condition is confirmed and continued as 30 percent disabling.

We have assigned a 30 percent evaluation for your parkinson's disease with bradykinesia, tremors, muscle rigidity, and stiffness of the right upper extremity based on:

- Dizziness and occasional staggering

This is the highest schedular evaluation allowed under the law for peripheral vestibular disorder. (38 CFR 4.87)

#### **2. Evaluation of left upper extremity tremors with peripheral neuropathy currently evaluated as 20 percent disabling.**

The evaluation of left upper extremity tremors with peripheral neuropathy is continued as 20 percent disabling.

During the Higher-Level Review of your claim, we identified a duty to assist error in the prior decision. We requested for medical opinion to determine if you have left upper extremity that is related to your service connected parkinson's disease. The examiner indicated that the symptoms of your upper extremity and your parkinson's disease are likely comorbidities and share symptoms related to your service connected diabetes. And since you are already service connected for left upper extremity as a result of your service connected diabetes, separation evaluation is not warranted. Therefore, the evaluation of your left upper extremity tremors is confirmed and continued as 20 percent disabling.

We have assigned a 20 percent evaluation for your left upper extremity impairment based on:

- Moderate incomplete paralysis of the minor extremity (38 CFR 4.124a)

A higher evaluation of 40 percent is not warranted for paralysis of the radial nerve unless the evidence shows nerve damage is severe. (38 CFR 4.120, 38 CFR 4.124a)

**3. Evaluation of diabetic peripheral neuropathy, sciatic nerve, left lower extremity currently evaluated as 20 percent disabling.**

The evaluation of diabetic peripheral neuropathy, sciatic nerve, left lower extremity is continued as 20 percent disabling.

During the Higher-Level Review of your claim, we identified a duty to assist error in the prior decision. We requested for medical opinion to determine if you have left lower extremity that is related to your service connected parkinson's disease. The examiner indicated that the symptoms of your left lower extremity and your parkinson's disease are likely comorbidities and share symptoms related to your service connected diabetes. And since you are already service connected for left lower extremity as a result of your service connected diabetes, separation evaluation is not warranted. Therefore, the evaluation of your left lower extremity is confirmed and continued as 20 percent disabling.

We have assigned a 20 percent evaluation for your diabetic peripheral neuropathy, sciatic nerve, left lower extremity based on:

- Moderate incomplete paralysis (38 CFR 4.124a)

A higher evaluation of 40 percent is not warranted for paralysis of the sciatic nerve unless the evidence shows nerve damage is moderately severe. (38 CFR 4.120, 38 CFR 4.124a)

**4. Entitlement to special monthly compensation based on loss of use, special monthly compensation (SMC O); and special monthly compensation (SMC R)**

Entitlement to special monthly compensation based on anatomical loss or loss of use; special monthly compensation (SMC O); special monthly compensation (SMC R). is denied.

Entitlement to an additional payment of compensation is established when service-connected impairment imposes a special level of disability.

Special monthly compensation under 38 USC 1114(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, complete organic aphonia with constant inability to communicate by speech or, in the case of a female Veteran, the anatomical loss of 25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or following receipt of radiation treatment of breast tissue. (38 CFR 3.350)

This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed the monthly rate set forth in 38 U.S.C. 1114(l) when authorized in conjunction

with any of the provisions of 38 U.S.C. 1114 (a) through (j) or (s). When there is entitlement under 38 U.S.C. 1114 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates, provided the total does not exceed the monthly rate set forth in 38 U.S.C. 1114(o). The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38

Special monthly compensation under 38 USC 1114(R1) is not warranted. Aid and attendance under special monthly compensation (SMC) R1 or R2 is based on factual need. The record does not support service connection for higher level of care or meet the criteria under 38 CFR 3.352.

Favorable Findings identified in this decision:

You require aid and attendance. You are entitled to special monthly compensation based on aid and attendance criteria being met effective September 18, 2020.

**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).

