



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

[REDACTED]

VA File Number

[REDACTED]

**Represented By:
GORDON A GRAHAM
Rating Decision
03/29/2023**

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. Service connection for bilateral loss of use of the lower extremities, to include diabetic peripheral neuropathy and balance impairment, associated with parkinson's disease is granted with an evaluation of 100 percent effective September 18, 2020.
2. Service connection for loss of use of upper extremities is granted with an evaluation of 100 percent effective September 18, 2020.

[REDACTED]

3. Entitlement to special monthly compensation based on loss of use of both feet and both hand is granted from September 18, 2020.
4. Entitlement to specially adapted housing is established.
5. Entitlement to an allowance for an automobile or other conveyance and adaptive equipment is established.

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 [REDACTED] 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 [REDACTED] 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 [REDACTED] MD, Lakewood, WA, received October 22, 2021.
- VA contract examination, Parkinson's Disease DBQ dated September 22, 2021, completed by [REDACTED] NP, Tacoma, WA.
- QTC Addendum dated August 20, 2021, completed by [REDACTED] MD, Tacoma, WA.
- VA contract examination, Diabetic Sensory Motor Peripheral Neuropathy DBQ dated August 16, 2021, completed by [REDACTED] MD, Tacoma, WA.
- VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance, VA contract exam completed by [REDACTED] 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, [REDACTED], received July 28, 2021
- Private treatment records from Pacific Northwest Neurology [REDACTED] MD, dated March 17, 2021; [REDACTED] 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
- 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
- 6/4/21 Washington Orthotics and Prosthetics
- PN exam dated 8/18/21
- 9/30/21 Parkinson's DBQ
- 5/19/22 PN exam
- 11/1/22 Parkinson's DBQ
- 11/15/22 MO addendum
- 2/14/23 PN exam

REASONS FOR DECISION

1. Service connection for bilateral loss of use of the lower extremities, to include diabetic peripheral neuropathy and balance impairment, associated with parkinson's disease

Service connection for bilateral loss of use of the lower extremities, to include diabetic peripheral neuropathy and balance impairment, associated with parkinson's disease has been established as related to the service-connected disability of Parkinson's disease w/ balance impairment. (38 CFR 3.303, 38 CFR 3.310)

During the Higher-Level Review of your claim, we identified a duty to assist error in the prior decision. We requested for medical exam in support of your claim. Upon review of all of the evidence of records, we have determined that your bilateral lower extremities warrant a 100 percent evaluation. Therefore, these conditions are increased to 100 percent disabling.

We have granted loss of use of the lower extremities effective September 18, 2020, the date we received your Intent to File which was perfected by your July 25, 2021 claim for increase for Parkinson's, to include a claim for loss of use of the upper and lower extremities, aid and attendance and SMC at the O and R1 rate (38 CFR 3.400, 3.155). Review of the evidence of record shows that you complained of balance difficulties, tripping and difficulty walking at your December 8, 2020 VAMC Puget Sound neurology appointment. You were prescribed bilateral AFOs for foot drop on June 4, 2021. Your spouse states in a July 22, 2021 statement that you are unable to stand to cook because you are too weak and uncoordinated and that you are always tripping. She further states that you need a walking stick because your toes drag and your balance is poor. Similar findings were noted at your August 17, 2021 aid and attendance exam. At your August 16, 2021 peripheral neuropathy exam it was noted that you had absent ankle reflexes, absent ankle/lower leg/foot/toe monofilament testing results and were unable to stand more than 5 minutes. Foot drop was also noted at your September 30, 2021 Parkinson's exam. At your December 21, 2021 VAMC Puget Sound neurology appointment your UPDRS score, i.e. a test that quantifies motor and cognitive impairment from Parkinson's Disease, for toe tapping and foot stomping were 3, which is indicative of severe impairment. These findings were

repeated in the October 6, 2022 and November 15, 2022 Parkinson's exam and medical opinion addendum with the VA examiner confirming loss of use of the upper and lower extremities. Resolving any doubt in your favor we have therefore granted loss of use of the lower extremities effective September 18, 2020 as the totality of the evidence shows you have loss of use of your lower extremities from this date (38 CFR 3.102; 4.7).

We are now evaluating the balance impairment with your lower extremity LOU due to avoidance of pyramiding but that this does not change your overall benefit amount in any way, shape or form.

An evaluation of 100 percent is assigned from September 18, 2020, the date we received your intent to file for a claim and your claim has been continuously prosecuted since that date. (38 CFR 3.155, 38 CFR 3.400, 38 CFR 3.2500)

We have assigned a 100 percent evaluation for your loss of use of both feet (previously diabetic peripheral radiculopathy of the bilateral lower extremities) based on:

- Loss of use of both feet

This is the highest schedular evaluation allowed under the law for loss of use of both feet. (38 CFR 4.63, 38 CFR 4.71a)

2. Service connection for loss of use of upper extremities as secondary to the service-connected disability of Parkinson's disease w/ balance impairment.

Service connection for loss of use of upper extremities has been established as related to the service-connected disability of Parkinson's disease w/ balance impairment. (38 CFR 3.303, 38 CFR 3.310)

We have granted loss of use of the upper extremities effective September 18, 2020, the date we received your Intent to File which was perfected by your July 25, 2021 claim for increase for Parkinson's, to include a claim for loss of use of the upper and lower extremities, aid and attendance and SMC at the O and R1 rate (38 CFR 3.400, 3.155). Review of the evidence of record shows that your UPDRS score, i.e. a test that quantifies motor and cognitive impairment from Parkinson's Disease, at your December 8, 2020 VAMC Puget Sound neurology appointment was 2 for the fingertips, 2 for finger open and close, and 3 and 2 respectively for pronation and supination of the arms. These scores are indicative of moderate to severe impairment of hand and arm motions due to tremors, muscle rigidity, and other motor dysfunction typical of Parkinson's Disease. Of note however this visit was virtual due to the Covid-19 pandemic and therefore is not considered to fully represent the severity of your upper extremity impairment at that time (38 CFR 4.6). Your UPDRS scores show progression of hand and finger impairment at your March 16, 2021 VAMC Puget Sound neurology appointment, with UPDRS scores of 2 and 3 for finger open/close and 3 bilaterally for pronation and supination. This appointment was also virtual. At your March 17, 2021 private neurology appointment cogwheel rigidity was noted in your bilateral wrists. Your spouse reports in a July 22, 2021 statement that you are unable to get dressed or undressed due to inability to perform fine motor skills, to include inability to use buttons or zippers because your hands and fingers do

not work properly. She states that you are completely unable to manipulate small items with your fingers. Similar findings were noted at your August 17, 2021 aid and attendance exam. At your December 21, 2021 VAMC Puget Sound neurology appointment your UPDRS scores for your bilateral upper extremities were 3 for hand opening and closing and pronation, which is indicative of severe impairment of fine motor movements in your hands. By your January 25, 2022 VAMC neurology appointment your UPDRS score for bilateral finger tapping was also 3. By your March 22, 2022 VAMC neurology appointment your UPDRS finger tapping score was 4 bilaterally, which is indicative of the most severe impairment possible. These findings were repeated in the October 6, 2022 and November 15, 2022 Parkinson's exam and medical opinion addendum with the VA examiner confirming loss of use of the upper and lower extremities. Resolving any doubt in your favor we have therefore granted loss of use of the upper extremities effective September 18, 2020 as the evidence shows you have loss of use of your upper extremities from this date (38 CFR 3.102; 4.6; 4.7).

An evaluation of 100 percent is assigned from September 18, 2020, the date we received your intent to file for a claim and your claim has been continuously prosecuted since that date. (38 CFR 3.155, 38 CFR 3.400, 38 CFR 3.2500)

An evaluation of 100 percent is assigned for loss of use of both hands. (38 CFR 4.71a)

We have assigned a 100 percent evaluation for your loss of use of both hands (previously diabetic peripheral radiculopathy of the bilateral upper extremities) based on:

- Loss of use of both hands

This is the highest schedular evaluation allowed under the law for loss of use of both hands. (38 CFR 4.63, 38 CFR 4.71a)

3. 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 both feet and both hand were met from September 18, 2020. (38 CFR 3.350, 38 CFR 3.400, 38 CFR 3.401)

Entitled to additional aid and attendance allowance under 38 U.S.C. 1114, subsection (r)(1) and 38 CFR 3.350(h) subject to the provisions of 38 CFR 3.552(b)(2) on account of entitlement at a rate intermediate between subsections (n) and (o) plus the rate authorized under subsection (k) and being in need of regular aid and attendance from 09/18/2020, the date you met the criteria for this benefit. (38 CFR 3.155, 38 CFR 3.400, 38 CFR 3.2500)

4. Entitlement to specially adapted housing.

A certificate of eligibility for assistance in acquiring specially adapted housing under 38 U.S.C. 2101(a) may be extended when the veteran is permanently disabled as the result of the loss or loss of use of one lower extremity together with the loss of use of one upper extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces,

crutches, canes, or a wheelchair. (38 CFR 3.809)

Entitlement to special housing assistance is established based on this level of impairment which is caused by the service-connected condition of loss of use of both upper and lower extremities. (38 CFR 3.809)

5. 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 loss or permanent loss of use of one or both feet which is the result of injury or disease incurred or aggravated during active military service. Entitlement to automobile and adaptive equipment is established based on this level of impairment. (38 CFR 3.808)

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.

