



DEPARTMENT OF VETERANS AFFAIRS
Regional Office

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LONNIE KILPATRICK

VA File Number



Represented By:
DISABLED AMERICAN VETERANS
Rating Decision
04/17/2018

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Navy from January 5, 1971, to December 16, 1974. You filed a new claim for benefits that was received on March 5, 2018. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Service connection for status post heart transplant, residual of ischemic cardiomyopathy and myocardial infarction (also claimed as ischemic heart disease) associated with herbicide exposure is granted with a 100 percent evaluation effective August 31, 2010.
2. Entitlement to special monthly compensation based on aid and attendance/housebound is denied.
3. The previous denial of service connection for residuals of kidney cancer (claimed as cancer) is confirmed and continued.

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4. The previous denial of service connection for skin condition (claimed as rashes) is confirmed and continued.

EVIDENCE

- Service treatment records and personnel file for the period January 1971 to December 1974
- Private medical records, Tampa General Hospital, December 4, 2009 to February 26, 2013
- Treatment records, Bay Pines VA Medical Center, dated March 30, 2009 to April 7, 2018
- Treatment records, Tampa VA Medical Center, dated August 25, 1999 to February 9, 2018
- Statement from Florida Cancer Specialists, dated March 26, 2018
- Rating decision dated June 27, 2011 and April 6, 2018
- Additional service records verifying Agent Orange exposure while you served in Guam, received from the Department of the Navy, NHHC on April 16, 2018

REASONS FOR DECISION

1. Service connection for status post heart transplant, residual of ischemic cardiomyopathy and myocardial infarction (also claimed as ischemic heart disease) associated with herbicide exposure.

Service connection may be granted for specific diseases or conditions which are presumed to have been caused by exposure to Agent Orange. Although not shown in service, service connection for status post heart transplant, residual of ischemic cardiomyopathy and myocardial infarction (also claimed as ischemic heart disease) has been granted on the basis of presumption due to Agent Orange exposure.

You originally filed for service connection for heart disease on January 8, 2010. You were denied service connection on June 27, 2011 as there was no evidence of Agent Orange exposure. You were again denied by rating on April 7, 2018. Since this decision, we have received additional service records confirming you were exposed to Agent Orange while you served in Guam.

Private treatment records from Tampa General Hospital were reviewed and showed treatment for myocardial infarction, ischemic cardiomyopathy, and cardiac transplant. You underwent a cardiac transplant on 01/15/2010. Cardiac catheterization of February 26, 2013 revealed normal coronary arteries, normal left ventricular function, and normal right heart pressures. Ejection fraction was 60 percent.

Treatment records from Bay Pines VA Medical Center were reviewed. Record dated October 29, 2009 shows cardiac catheterization revealed coronary artery disease and a stent was placed. Record dated November 24, 2009 shows a history of severe coronary artery disease, congestive heart failure, ejection fraction of 20 percent, and status post AICD implant. Record dated April 6, 2011, showed that you were being seen for management of congestive heart failure and were still in stage of heart failure and were to continue current medication. Cardiology consult of August

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28, 2013 shows that you get tired a lot. You get tired with any exertion and it has been like this since your transplant.

An evaluation of 100 percent is assigned from August 31, 2010.

We have assigned a 100 percent evaluation for your heart disease (previously addressed as heart transplant, residual of ischemic cardiomyopathy and ischemic heart disease) based on:

- Cardiac transplantation

This is the highest schedular evaluation allowed under the law for this condition. A total evaluation is continued for an indefinite period following hospital admission. Thereafter, you will be rated on cardiovascular residuals according to symptomatology on a VA examination. Therefore, an at once VA examination will be ordered to determine your current level of disability.

The effective date is August 31, 2010, the date the condition was added as an Agent Orange presumptive, as you filed your claim prior to this change and we have received additional service department records.

2. Entitlement to special monthly compensation based on aid and attendance/housebound.

Entitlement to an additional payment of compensation is established when service-connected impairment imposes a special level of disability. Entitlement to special monthly compensation is not warranted in this case because the criteria regarding aid and attendance/housebound have not been met. {38 CFR 3.350}

Aid and attendance is payable for being so helpless (due to service connected disabilities) as to be permanently bedridden or in need of regular aid and attendance. Aid and attendance is defined as: inability to dress or undress, or to keep ordinarily clean and presentable; frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid; inability to feed oneself through loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or physical or mental incapacity which requires care or assistance on a regular basis to protect the claimant from hazards or dangers incident to the daily environment. "Bedridden" means that condition which actually requires that the claimant remain in bed. Voluntarily taking to bed or the fact that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescence or cure will not suffice. It is only necessary that the evidence shows that the claimant is so helpless as to need regular aid and attendance, not that there be a constant need. Determinations as to the need for regular aid and attendance will not be based solely upon an opinion that their condition is such as would require them to be in bed. They must be based on the actual requirement of personal assistance from others.

Housebound benefits are payable when the claimant is substantially confined, due to service connected disability(ies), to their dwelling and the immediate premises or, if institutionalized, to the ward or clinical areas, and it is reasonably certain that this is permanent. Housebound

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benefits are also payable for a single service connected disability rated as totally disabling with additional service connected disability(ies) independently ratable at 60 percent, separate and distinct from the totally disabling service connected disability.

Although the evidence received with your initial claim on January 8, 2010 showed that you were hospitalized for your heart and subsequent heart transplant and required assistance with feeding, bathing, and attending to the wants of nature, the subsequent records from March 2010 until August 2010 when service connection was granted, no longer show that you needed assistance with your activities of daily living. Therefore, entitlement to special monthly compensation regarding aid and attendance/housebound is denied.

3. Service connection for residuals of kidney cancer (claimed as cancer).

The claim for service connection for residuals of kidney cancer (claimed as cancer) is considered reopened. However, the evidence continues to show this condition was not incurred in or aggravated by military service.

Under the authority granted by the Agent Orange Act of 1991, VA has determined that presumption of service connection based on exposure to herbicides used in Vietnam is not warranted for any conditions other than those for which VA has found a positive association between the condition and such exposure. VA has determined that a positive association exists between exposure to herbicides and the subsequent development of the following conditions: AL amyloidosis; chloracne or other acneform disease consistent with chloracne; type 2 diabetes (also known as type II diabetes mellitus or adult-onset diabetes); Hodgkin's disease; ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction, atherosclerotic cardiovascular disease including coronary artery disease, including coronary spasm, and coronary bypass surgery, and stable, unstable and Prinzmetal's angina); all chronic B-cell leukemias (including but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia); multiple myeloma; non-Hodgkin's lymphoma; Parkinson's disease; early-onset peripheral neuropathy; porphyria cutanea tarda (PCT); prostate cancer; respiratory cancers (cancer of the lung, bronchus, larynx, or trachea); and soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma). PCT, chloracne, and early-onset peripheral neuropathy are required to become manifest to a compensable degree within one year from last exposure.

You were denied service connection on April 6, 2018 as there was no evidence of exposure to Agent Orange and this is not a presumptive disability related to Agent Orange exposure.

Since that decision we have received additional service records showing that you were exposed to Agent Orange while serving in Guam.

Although we have now verified Agent Orange exposure, the evidence continues to fail to show that your condition is an Agent Orange presumptive. The evidence also fails to show that your kidney cancer is related to your Agent Orange exposure, is related to service, or diagnosed within one year of discharge.

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Therefore, service connection for residuals of kidney cancer (claimed as cancer) remains denied.

4. Service connection for skin condition (claimed as rashes).

The claim for service connection for skin condition (claimed as rashes) is considered reopened. However, the evidence continues to show this condition was not incurred in or aggravated by military service.

Under the authority granted by the Agent Orange Act of 1991, VA has determined that presumption of service connection based on exposure to herbicides used in Vietnam is not warranted for any conditions other than those for which VA has found a positive association between the condition and such exposure. VA has determined that a positive association exists between exposure to herbicides and the subsequent development of the following conditions: AL amyloidosis; chloracne or other acneform disease consistent with chloracne; type 2 diabetes (also known as type II diabetes mellitus or adult-onset diabetes); Hodgkin's disease; ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction, atherosclerotic cardiovascular disease including coronary artery disease, including coronary spasm, and coronary bypass surgery, and stable, unstable and Prinzmetal's angina); all chronic B-cell leukemias (including but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia); multiple myeloma; non-Hodgkin's lymphoma; Parkinson's disease; early-onset peripheral neuropathy; porphyria cutanea tarda (PCT); prostate cancer; respiratory cancers (cancer of the lung, bronchus, larynx, or trachea); and soft-tissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma). PCT, chloracne, and early-onset peripheral neuropathy are required to become manifest to a compensable degree within one year from last exposure.

You were denied service connection on April 6, 2018 as there was no evidence of exposure to Agent Orange and this is not a presumptive disability related to Agent Orange exposure.

Since that decision we have received additional service records showing that you were exposed to Agent Orange while serving in Guam.

Although we now have verified of Agent Orange exposure, the evidence continues to fail to show that you have a skin condition that is considered an Agent Orange presumptive. The evidence also fails to show that your skin condition is related to your Agent Orange exposure or is related to service or that a current diagnosis exists.

Therefore, service connection for skin condition (claimed as rashes) remains denied.

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

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benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, www.va.gov.