DEPARTMENT OF VETERANS AFFAIRS
LOUISVILLE REGIONAL OFFICE
545 South Third Street
Louisville, KY
40202-1838

[redacted]

VA File Number
[redacted]

Rating Decision
May 22, 2001

INTRODUCTION

[redacted] is a Peacetime and Gulf War-era veteran. She served in the Army from September 12, 1984 to August 24, 1996 and from August 25, 1996 to May 19, 1999. [redacted] She filed an original disability claim on May 20, 1999, for service-connection of her status-post, arthritic cervical spine with diskectomy, C5-C6, and status-post right hip donor site. The injury to her cervical spine occurred December 1, 1992, and is therefore within the period of service for which she may receive service-compensation if a compensable disability is found.

On November 9, 2000, The Veterans Claims Assistance Act of 2000 (VCAA) was signed into law. This law establishes new duties for the Department of Veterans Affairs (VA) when a claimant files an application for disability benefits. The VCAA requires the VA to explain what information or evidence is needed to grant the benefit sought. The law states that the VA must make reasonable efforts to help get evidence necessary to support the claim. The VA will try to help get such things as medical records, employment records, or records from other Federal agencies.

1 . Service connection for Status-post Diskectomy and Anterior fusion, Cervical Spine, at C5-C6 with arthritis is granted with an evaluation of 20 percent effective May 20, 1999.

2 . Service connection for Scar, Status-post Right Hip donor site is granted with an evaluation of 0 percent effective May 20, 1999.

ray impressions in conjunction with this exam stated that there was evidence of anterior fusion of C5 and C6 vertebral bodies, mild to moderate degenerative changes involving the C4-5 and C6-7 levels and joint space narrowing.

ANALYSIS:

Service connection for Status-post Diskectomy and Anterior fusion, Cervical Spine, at C5-C6 with arthritis has been established as directly related to military service.

An evaluation of 20 percent is assigned under diagnostic code 5293 from May 20, 1999, the date the claim was received.

An evaluation of 20 percent is granted for recurring attacks of moderate intervertebral disc syndrome. A higher evaluation of 30 percent is not warranted unless there is severe limitation of motion of the cervical spine, or moderate limitation of motion with demonstrable deformity of a vertebral body from fracture and a higher evaluation of 40 percent is not warranted unless the record shows severe intervertebral disc syndrome with only intermittent relief from recurring attacks.

The evidence does not show an exceptional or unusual disability picture with such related factors as marked interference with employment or frequent periods of hospitalization as to render impractical the application of the regular rating schedular standards and submission to VA Central Office for extraschedular consideration.

We have considered whether an increased evaluation could be assigned on the basis of functional loss due to pain, along with limitation of motion; however, the evidence does not demonstrate additional range of motion loss due to pain on use which would support an increased rating.

The evidence clearly establishes that the veteran's cervical spine disabilities are directly related to her active military service. The administrative decision regarding the other-than-honorable discharge also establishes that this disability occurred during a period of service that is honorable for VA purposes. The VA exam shows decreased range of motion, the x-rays show mild to moderate degenerative changes of the areas of the cervical spine that were fused, and the veteran has ongoing tingling and burning of her hands and arms along with occasional pain; therefore a 20 percent evaluation is warranted for this disability at this time.