DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

[redacted]

VA File Number
[redacted]

Represented By:
VETERANS OF FOREIGN WARS OF THE US
Rating Decision
07/17/2019

INTRODUCTION

The records reflect that you are a veteran of the Gulf War Era and Peacetime. You served in the Army from July 16, 1986 to January 7, 1992. You filed a claim for increased evaluation that was received on January 28, 2019. Based on a review of the evidence listed below, we have made the following decisions on your claim.

DECISION

1. Evaluation of post-traumatic stress disorder with major depressive disorder (previously rated as depression) (claimed as PTSD, lifestyle impact claim, personal trauma, major depression, sexual harassment, and sleep disturbance), which is currently 50 percent disabling, is increased to 70 percent effective October 2, 2018.

2. Service connection for female sexual arousal disorder (FSAD) is denied.

3. Service connection for sleep apnea is denied.

4. The previous denial of service connection for hemorrhoids is confirmed and continued.

5. A decision on entitlement to compensation for gastroesophageal reflux disease (GERD) is deferred.

6. A decision on entitlement to compensation for high blood pressure is deferred.

7. A decision on entitlement to compensation for irritable bowel syndrome (IBS) is deferred.

8. A decision on entitlement to compensation for migraines/headaches is deferred.

EVIDENCE

- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, received on January 28, 2019
- Atlanta VA Medical Center/Austell VA CBOC outpatient treatment reports from September 7, 2009, to the present (records from January 1, 2009 to September 6, 2009, are determined not to exist. You registered at the Atlanta VA Medical Center for treatment on September 7, 2009)
- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received on October 2, 2018
- Letter to Veteran dated October 2, 2018
- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received on January 20, 2019
- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received on April 23, 2019
- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received on April 24, 2019
- Statements and service treatment records submitted by Veteran and received on January 28, 2019
- VA Form 21-0781a, Statement In Support Of Claim For Service Connection For Post-Traumatic Stress Disorder (PTSD) Secondary To Personal Trauma, received on January 28, 2019
- PTSD DBQ submitted by veteran and received on January 28, 2019
- Letter to Veteran dated January 29, 2019
- Lifestyle Impact Statement dated January 24, 2019, and received on January 28, 2019
- Buddy statements from [redacted] received on January 28, 2019
- Statement and Newspaper articles submitted by Veteran and received on February 5, 2019
- Section (§) 5103 Notice Response, received on February 8, 2019
- VA Form 21-0820 Report of General Information dated February 26, 2019
- Statement from Veteran received on March 2, 2019
- VA Form 21-0781a, Statement In Support Of Claim For Service Connection For Post-Traumatic Stress Disorder (PTSD) Secondary To Personal Trauma, received on March 2, 2019
- Statement from Veteran received on March 2, 2019

- VA Form 21-0820 Report of General Information dated April 2, 2019
- MST Outreach Coordinator Checklist
- Letter to Veteran dated April 12, 2019
- Letter to Veteran dated April 23, 2019
- Statement from Dr. John Ellis dated April 15, 2019, and received on April 23, 2019
- VA Form 21-4142 Authorization and Consent to Release Information to Department of Veteran's Affairs, Austell VA CBOC, Atlanta VA Medical Center, received on April 23, 2019
- Updated buddy statements received on April 23, 2019
- VA Form 21-4138, Statement in Support of Claim, received on April 23, 2019
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, received on April 24, 2019
- VA Contract examination dated April 22, 2019
- VA Contract examination dated June 17, 2019
- Letter to Veteran dated June 28, 2019
- VA Contract examination clarification dated July 2, 2019
- VA Contract examination dated July 15, 2019
- DD Form 214, Certificate of Release or Discharge from Active Duty, for your period of active duty military service from July 16, 1986, to January 7, 1992, received on December 10, 2014
- Service treatment records for your period of active duty military service from July 16, 1986, to January 7, 1992, received on December 10, 2014, March 1, 2019, February 27, 2019
- Service Personnel Records for your period of active duty military service from July 16, 1986, to January 7, 1992, received on December 10, 2014, March 1, 2019
- Rating Decision dated December 20, 2011
- Rating Decision dated September 14, 2001
- Rating Decision dated May 19, 2000

REASONS FOR DECISION

1. Evaluation of post-traumatic stress disorder with major depressive disorder (previously rated as depression) (claimed as PTSD, lifestyle impact claim, personal trauma, major depression, sexual harassment, and sleep disturbance) currently evaluated as 50 percent disabling.

The evaluation of post-traumatic stress disorder with major depressive disorder (previously rated as depression) (claimed as PTSD, lifestyle impact claim, personal trauma, major depression, sexual harassment, and sleep disturbance) is increased to 70 percent disabling effective October 2, 2018. (38 CFR 4.1, 38 CFR 3.400)

You were previously evaluated for the mental heath condition of depression. However, you have stated that you believe your mental health condition is post-traumatic stress disorder, which you state is due to military sexual trauma. Although a military sexual trauma event is not expressly verified, VA was able to use several cited "markers" or behavior changes, consistent with the circumstances of your claimed military sexual trauma event to request an opinion from a mental health professional as to whether your current mental health diagnosis is actually post-traumatic

stress disorder due to military sexual trauma. After examination and review of the evidence, the examiner stated that your mental health diagnosis is post-traumatic stress disorder with major depressive disorder, which is related to military sexual trauma, which has been conceded based on markers to include depression, pregnancy tests, and HIV testing during active duty service, as well as buddy statements from individuals, such as your sister, who knew you both before and after the cited event and noticed behavior changes after the claimed incident. Your diagnosis of post-traumatic stress disorder with major depressive disorder is considered related to your active duty military service.

We have assigned a 70 percent evaluation for your depression based on:
• Forgetting names
• Suspiciousness
• Disturbances of motivation and mood
• Forgetting recent events
• Panic attacks more than once a week
• Obsessional rituals which interfere with routine activities
• Difficulty in adapting to stressful circumstances
• Difficulty in adapting to work
• Inability to establish and maintain effective relationships
• Flattened affect
• Difficulty in adapting to a worklike setting
• Difficulty in establishing and maintaining effective work and social relationships
• Forgetting directions

The overall evidentiary record shows that the severity of your disability most closely approximates the criteria for a 70 percent disability evaluation. (38 CFR 4.7, 38 CFR 4.126)

A higher evaluation of 100 percent is not warranted for posttraumatic stress disorder unless the evidence shows total occupational and social impairment, due to such symptoms as:
• gross impairment in thought processes or communication
• persistent delusions or hallucinations
• grossly inappropriate behavior
• persistent danger of hurting self or others
• intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene)
• disorientation to time or place
• memory loss for names of close relatives, own occupation, or own name. (38 CFR 4.130; 38 C.F.R. 4.126)

The effective date, October 2, 2018, is the date we received your Intent to File. You formalized your claim for this condition within one year from the date of its receipt (38 C.F.R. §3.155; 3.400).

2. Service connection for female sexual arousal disorder (FSAD) as secondary to the service-connected disability of post-traumatic stress disorder with major depressive disorder (previously rated as depression).

Service connection may be granted for a disease or injury which resulted from a service-connected disability or was aggravated thereby. The evidence does not show that female sexual arousal disorder (FSAD) is related to the service-connected condition of post-traumatic stress disorder with major depressive disorder (previously rated as depression), nor is there any evidence of this disability during military service. (38 CFR 3.303, 38 CFR 3.306, 38 CFR 3.310)

The evidence does not show an event, disease or injury in service. (38 CFR 3.303, 38 CFR 3.304)

Your service treatment records do not contain complaints, treatment, or diagnosis for this condition.

The evidence does not show a current diagnosed disability.

The evidence does not show that your condition resulted from, or was aggravated by, a service-connected disability. (38 CFR 3.303, 38 CFR 3.304)

We did not find a link between your medical condition and military service.

The VA medical opinion found no link between your diagnosed medical condition and military service.

The VA medical opinion found no persistent disability.

While you submitted positive medical evidence to support your claim, we found other medical evidence more persuasive because it is better supported in its rationale and conclusions. (38 CFR 4.6)

Although, some evidence supports your claim, we found other medical evidence more persuasive because it is supported by an accurate account of the medical history and/or it is the most detailed and reliable depiction of your medical condition. (38 CFR 4.6)

Favorable Findings identified in this decision:

Some evidence supports a nexus between this condition and your service-connected disability. Statement from Dr. Ellis dated April 15, 2019, states that you have FSAD due to your mental health condition.

The primary disability is service-connected. You are service-connected for post-traumatic stress disorder with major depressive disorder.

You have symptoms consistent with the claimed condition. Statement from Dr. Ellis dated April 15, 2019, shows that you have complained of female sexual arousal disorder.

Service connection may be granted for a disease or injury which resulted from a service-connected disability or was aggravated thereby. The evidence does not show that female sexual arousal disorder (FSAD) is related to the service-connected condition of post-traumatic stress disorder with major depressive disorder (previously rated as depression), nor is there any evidence of this disability during military service. (38 CFR 3.303, 38 CFR 3.306, 38 CFR 3.310)

Favorable Findings identified in this decision:

Some evidence supports a nexus between this condition and your service-connected disability. Statement from Dr. Ellis dated April 15, 2019, states that you have FSAD due to your mental health condition.

The primary disability is service-connected. You are service-connected for post-traumatic stress disorder with major depressive disorder.

You have symptoms consistent with the claimed condition. Statement from Dr. Ellis dated April 15, 2019, shows that you have complained of female sexual arousal disorder.

However, this condition has not been objectively diagnosed.

3. Service connection for sleep apnea as secondary to the service-connected disability of post-traumatic stress disorder with major depressive disorder (MST) (previously rated as depression).

Service connection may be granted for a disease or injury which resulted from a service-connected disability or was aggravated thereby. The evidence does not show that sleep apnea is related to the service-connected condition of post-traumatic stress disorder with major depressive disorder (previously rated as depression), nor is there any evidence of this disability during military service. (38 CFR 3.303, 38 CFR 3.306, 38 CFR 3.310)

The evidence does not show an event, disease or injury in service. (38 CFR 3.303, 38 CFR 3.304)

Your service treatment records do not contain complaints, treatment, or diagnosis for this condition.

The VA medical opinion found no link between your diagnosed medical condition and military service.

We received your medical evidence which discusses the symptoms of your medical condition.

We acknowledge receipt of your private medical opinion intending to link your current disability to a disease, event, or injury from your military service. We acknowledge receipt of your private medical opinion intending to link your current disability to a disease, event, or injury from your

military service.

The medical opinion we received from the VA Medical Center was more persuasive than your private physician's opinion because it was based on a thorough review of your relevant military and /or personal history and contained a more convincing rationale. (38 CFR 4.6)

The evidence does not show that your condition resulted from, or was aggravated by, a service-connected disability. (38 CFR 3.303, 38 CFR 3.304)

Favorable Findings identified in this decision:

You have a currently diagnosed medical condition. Atlanta VA Medical Center sleep study dated March 4, 2019, shows a diagnosis of obstructive sleep apnea based on sleep study.

You have submitted medical evidence indicating a nexus between sleep apnea and your active duty military service. Statement from Dr. Ellis dated April 15, 2019, states that obstructive sleep apnea is due to your active duty service.

However, this opinion is contrary to the objective evidence of record, which does not show symptoms consistent with sleep apnea during your active duty military service.

You are service-connected for the primary medical condition. You are service-connected for post-traumatic stress disorder with major depressive disorder (MST) (previously rated as depression).

4. Service connection for hemorrhoids.

The claim for service connection for hemorrhoids is considered reopened. (38 CFR 3.156) However, the evidence continues to show this condition was not incurred in or aggravated by military service. (38 CFR 3.303, 38 CFR 3.304, 38 CFR 3.306)

The evidence does not show an event, disease or injury in service. (38 CFR 3.303, 38 CFR 3.304)

Your service treatment records do not contain complaints, treatment, or diagnosis for this condition.

The evidence does not show that your disease developed to a compensable degree within the specified time period after release from service to qualify for the presumption of service connection. (38 CFR 3.307, 38 CFR 3.309)

Favorable Findings identified in this decision:

You have a currently diagnosed medical condition. Atlanta VA Medical Center outpatient

treatment report dated April 29, 2019, shows complaint of hemorrhoid.

You have submitted a medical opinion showing a nexus between your claimed condition and your active duty military service. Medical Opinion dated April 15, 2019, from Dr. Ellis, states that hemorrhoids are due to childbirth during your active duty military service.

This medical opinion, however, is not supported by the evidence of record. Although childbirth is shown during your active duty military service, there is no evidence of hemorrhoids at that time. It is additionally noted that you were released from active duty military service in 1992, and rating decision dated September 14, 2001, shows hemorrhoid complaints in December 1998.

5. Compensation for gastroesophageal reflux disease (GERD).

The issue of compensation for gastroesophageal reflux disease (GERD) is deferred for the following information: VA examination

6. Compensation for high blood pressure.

The issue of compensation for high blood pressure is deferred for the following information: VA examination

7. Compensation for irritable bowel syndrome (IBS).

The issue of compensation for irritable bowel syndrome (IBS) is deferred for the following information: VA examination

8. Compensation for migraines/headaches.

The issue of compensation for migraines/headaches is deferred for the following information: VA examination

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.