DEPARTMENT OF VETERANS AFFAIRS
Atlanta Regional Office
P. O. Box 100021
Decatur, GA 30031-7021

[redacted]

VA File Number
[redacted]

Rating Decision
May 12, 2010

INTRODUCTION

The records reflect that you are a veteran of the Peacetime and Gulf War Era. You served in the Army from July 12, 1988 to August 31, 2008. You filed an original disability claim that was received on August 19, 2009. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

NOTE: Memorandum, Formal Finding on the Unavailability of Service Treatment Records dated March 31, 2010, shows that your original service treatment records for the period July 12, 1988 through August 31, 2008 are unavailable for review. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

DECISION

1 . Service connection for back injury is denied.

2 . Service connection for hearing loss is denied.

3 . Service connection for traumatic brain injury (TBI) is denied.

4 . Service connection for heat injury is denied.

5 . Service connection for stomach/intestinal problems is denied.

6 . Service connection for lesions on the face is denied.

EVIDENCE

- Veteran's Claims Assistance Act (VCAA) letter dated August 31, 2009
- Notice of No Show from QTC Medical Services for VA examination dated September 30, 2009 and October 2, 2009
- Memorandum of Formal Finding of Unavailability of Service Treatment Records dated March 31, 2010
- Letter to veteran dated March 3, 2010
- Response from Records Management Center dated September 2, 2009
- Copies of Service Treatment Records submitted by the Veteran
- Record from Chestatee Regional Hospital Emergency Department dated April 8, 2008

REASONS FOR DECISION

1. Service connection for back injury.

Your original service treatment records were not available for review. We received the incomplete copies of your service treatment records that you submitted. Our letters dated August 31, 2009 and March 3, 2010 requested that you submit copies of any service treatment records in your possession to our office. On September 2, 2009, we received a response from Records Management Center (RMC) stating that they had conducted a special search but no records were found. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. The Memorandum of Formal Finding on the Unavailability of Service Treatment Records was completed on March 31, 2010. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

Copies of the service treatment records that you submitted dated October 16, 1998 show complaints of low back pain due to impact while participating in basketball. Examination showed no tenderness to palpation. Range of motion was good. There was evidence of tight hamstrings. Straight leg raising test was negative. Assessment was muscular lateral ride lumbar pain. Records from Chestatee Regional Hospital Emergency Department

dated April 5, 2008 show an assessment of acute lumbosacral strain; muscle spasm. Records dated April 11, 2005 show that you developed low back pain while doing yard work. Examination did show mild tenderness in the low lumbar area; muscle spasms and pain in lumbosacral area. Sensory and motor exam were normal. An assessment of lumbago was noted.

You failed to report for a VA examination scheduled on September 30, 2009. Evidence expected from this examination, which might have been material to the outcome of this claim, could not be considered. No response was received in regards to the failure to report including any evidence demonstrating good cause. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

A disability which began in service or was caused by some event in service must be considered "chronic" before service connection can be granted. Although there is a record of treatment in service for back injury, no permanent residual or chronic disability subject to service connection is shown by the service medical records or demonstrated by evidence following service. Therefore, service connection for back injury is denied.

2. Service connection for hearing loss.

Your original service treatment records were not available for review. We received the incomplete copies of your service treatment records that you submitted. Our letters dated August 31, 2009 and March 3, 2010 requested that you submit copies of any service treatment records in your possession to our office. On September 2, 2009, we received a response from Records Management Center (RMC) stating that they had conducted a special search but no records were found. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. The Memorandum of Formal Finding on the Unavailability of Service Treatment Records was completed on March 31, 2010. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

Copies of the service treatment records that you submitted dated January 12, 1990 show complaints of intermittent hearing loss in the right ear x 5 days. Records note that you stated that you had pain while flying . You stated that you have pain and feel a popping noise in the right ear. Assessment was otitis media.

You failed to report for a VA examination scheduled on September 30, 2009. Evidence expected from this examination, which might have been material to the outcome of this claim, could not be considered. No response was received in regards to the failure to report including any evidence demonstrating good cause. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

Service connection for hearing loss is denied since this condition neither occurred in nor was caused by service.

3. Service connection for traumatic brain injury (TBI).

Your original service treatment records were not available for review. We received the incomplete copies of your service treatment records. Our letters dated August 31, 2009 and March 3, 2010 requested that you submit copies of any service treatment records in your possession to our office. On September 2, 2009, we received a response from Records Management Center (RMC) stating that they had conducted a special search but no records were found. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. The Memorandum of Formal Finding on the Unavailability of Service Treatment Records was completed on March 31, 2010. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

Copies of your service treatment records that you submitted dated February 1, 1989 show complaints of frontal headaches due to impact with the ground. on PLF. You stated that you did recall actually landing with the parachute. Examination revealed cranial nerves II-XII were intact. Motor and sensory functions were intact. Strength was 5/5. Romberg test was negative. You were able to do finger to nose, heel to shin, tandem gait without difficulty. Assessment was mild concussion. Records dated August 20, 1991 show that you fell 10 feet down in a ditch and hit your head. There was no loss of consciousness or diplopia. You complained of pain and dizziness.

You failed to report for a VA examination scheduled on September 30, 2009 and October 2, 2009. Evidence expected from this examination, which might have been material to the outcome of this claim, could not be considered. No response was received in regards to the failure to report including any evidence demonstrating good cause. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination

was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

A disability which began in service or was caused by some event in service must be considered "chronic" before service connection can be granted. Although there is a record of treatment in service for head injury, no permanent residual or chronic disability subject to service connection is shown by the service medical records or demonstrated by evidence following service. Therefore, service connection for traumatic brain injury (TBI) is denied.

4. Service connection for heat injury.

Your original service treatment records were not available for review. We received the incomplete copies of your service treatment records that you submitted. Our letters dated August 31, 2009 and March 3, 2010 requested that you submit copies of any service treatment records in your possession to our office. On September 2, 2009, we received a response from Records Management Center (RMC) stating that they had conducted a special search but no records were found. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. The Memorandum of Formal Finding on the Unavailability of Service Treatment Records was completed on March 31, 2010. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

Copies of the service treatment records show that you were admitted to the hospital on May 19, 1995 for heat injury which occurred during your unit's 5 mile run. There was loss of consciousness. You were admitted to the hospital for aggressive hydration, cardiac monitoring and close observation. You did well without any problems and were discharged on May 20, 1995 in good condition. Follow-up appointment dated May 22, 1995 note an assessment of heat injury. You were given a 7 day profile, light duty (indoors), no exposure to heat/temperature greater than 80 degrees and no field duty. Records dated June 26, 2002 show that you were unconscious/not responsive to verbalization. You loss consciousness during a unit run. Records note positive history of heat stroke. Assessment was heat exhaustion.

You failed to report for a VA examination scheduled on September 30, 2009. Evidence expected from this examination, which might have been material to the outcome of this claim, could not be considered. No response was received in regards to the failure to report including any evidence demonstrating good cause. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the

claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

A disability which began in service or was caused by some event in service must be considered "chronic" before service connection can be granted. Although there is a record of treatment in service for heat injury, no permanent residual or chronic disability subject to service connection is shown by the service medical records or demonstrated by evidence following service. Therefore, service connection for heat injury is denied.

5. Service connection for stomach/intestinal problems.

Your original service treatment records were not available for review. We received the incomplete copies of your service treatment records. Our letters dated August 31, 2009 and March 3, 2010 requested that you submit copies of any service treatment records in your possession to our office. On September 2, 2009, we received a response from Records Management Center (RMC) stating that they had conducted a special search but no records were found. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. The Memorandum of Formal Finding on the Unavailability of Service Treatment Records was completed on March 31, 2010. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

Copies of the service treatment records that you submitted dated August 29, 1989 show complaints of onset of stomach cramps and diarrhea. . Records dated March 7, 1999 show complaints of bloating, loss of appetite, gas, gastrointestinal discomfort, tiredness and headaches. Assessment was that you were suffering from a flu bug that was going around. Records note that you suffered similar symptoms in Bosnia. Records dated October 19, 2006 note complaints of abdominal pain that radiates to the chest. You stated that the condition is aggravated by eating and relieved by taking Tums/Rolaids. Examination revealed soft non-distended abdomen. There was mid epigastric tenderness to palpation. There was no guarding or rebound, no mass or polyps. Assessment was abdominal pain; gastritis; reflux esophagitis.

You failed to report for a VA examination scheduled on September 30, 2009. Evidence expected from this examination, which might have been material to the outcome of this claim, could not be considered. No response was received in regards to the failure to report including any evidence demonstrating good cause. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was

scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

A disability which began in service or was caused by some event in service must be considered "chronic" before service connection can be granted. Although there is a record of treatment in service for stomach/intestinal problems, no permanent residual or chronic disability subject to service connection is shown by the service medical records or demonstrated by evidence following service. Therefore, service connection for stomach/intestinal problems is denied.

6. Service connection for lesions on the face.

Your original service treatment records were not available for review. We received the incomplete copies of your service treatment records that you submitted. Our letters dated August 31, 2009 and March 3, 2010 requested that you submit copies of any service treatment records in your possession to our office. On September 2, 2009, we received a response from Records Management Center (RMC) stating that they had conducted a special search but no records were found. All efforts to obtain the needed military information have been exhausted and further attempts to locate these records are futile. The Memorandum of Formal Finding on the Unavailability of Service Treatment Records was completed on March 31, 2010. If these records are located at a later date, this decision will be reconsidered. If a favorable decision can be made, that decision will be effective as of the date we received the original claim.

Copies of the service treatment records that you submitted dated January 11, 1996 note a growth on your right cheek. Records dated February 19, 1997 show wart on your right cheek since 1996. Assessment was verucca vulgaris which was irritated secondary to shaving. You were told to use Podophyllum and return in 1 week for a follow-up appointment.. Records dated March 3, 1997 note that your verruca vulgaris on the face had improved. The lesion was getting smaller. You were to continue treatment of Podophyllum and return in 1 week.

You failed to report for a VA examination scheduled on September 30, 2009. Evidence expected from this examination, which might have been material to the outcome of this claim, could not be considered. No response was received in regards to the failure to report including any evidence demonstrating good cause. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service.

A disability which began in service or was caused by some event in service must be considered "chronic" before service connection can be granted. Although there is a record of treatment in service for lesions on the face, no permanent residual or chronic disability subject to service connection is shown by the service medical records or demonstrated by evidence following service. Therefore, service connection for lesions on the face is 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 benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our web site, www.va.gov.