
Main Points of Supplemental Claim to Rating Decision: 11/21/2018

1. The DECISION section rated the wrong service connection method when it rated for service connection claimed in the original claim dated July 19, 2016 (which was already decided on November, 29 2016) instead of secondary service connection claimed in the Corrected Supplemental Claim for Back (Thoracolumbar Spine) Conditions DBQ dated October 18, 2017.

38 CFR § 3.303 - 3.344

2. The EVIDENCE section failed to list the Corrected Supplemental claim for Back (Thoracolumbar Spine) Conditions DBQ dated October 18, 2017 which even though the rater listed the IMO from this DBQ in his Rating Decision.

38 CFR § 4.6 - Evaluation of evidence

3. The Laws and regulations applicable section listed the wrong 38 CFR reference, since this was a secondary service connection claim, 38 CFR § 3.310 not 38 CFR § 3.303 should have been listed.

38 CFR § 3.303 - 3.344

4. VA examiner's medical opinion is of questionable probative value because she rated the wrong disability, rated based on the wrong gait (rated on the post L3-S1 fusion surgery instead of the pre-operation surgery), her opinion regarding the abnormal gait was speculative with no supporting documentation, and her medical clinical specialty is Pediatric Emergency Medicine.

38 C.F.R. § 3.159(a) (1) Competent medical evidence

5. VA Rater manipulated the VA examiners medical opinion by making two changes (1) from rating "claimed bilateral lower extremity sciatica" to "claimed condition" so that it would apply to his "degenerative disc disease, lumbar spine (claimed as back)" and (2) from "is less likely than not (less than 50 percent probability) proximately due to or the result of the veteran's left ankle osteoarthritis." to "is less likely that not (less than 50 percent probability due to or the result of your service connected condition".

6. VA Rater manipulated the IMO by changing "more likely than not 50% secondary connected " from the IMO to "more likely than not less secondary connected" in Favorable Findings of the Rating Decision.

7. VA Rater ruled against the veteran based on the flawed VA examiner's medical opinion being "more objectively based" but since the VA examiners medical opinion is of questionable probative value because she rated the wrong disability, rated based on the wrong gait (rated on the post L3-S1 fusion surgery instead of the pre-operation surgery), her opinion regarding the abnormal gait was speculative with no supporting documentation, and she her medical clinical specialty is Pediatric Emergency Medicine, there is an approximate balance of positive and negative evidence and pursuant to 38 C.F.R. § 3.102, any reasonable doubt must be resolved in favor of the claimant.

IAW 38 CFR § 4.3 - Resolution of reasonable doubt

8. Favorable Findings warrants veteran's entitlement to secondary service connection for back and bilateral sciatica since it said that "Private examination for Dr. REDACTED (Board-certified Anesthesiology and Pain Management) opined that chronic L5-S1 disc degeneration & bilaterla lower extremity sciatica are more likely than not less secondary connected (due to abnormal gait caused by service connected left ankle disability)"

38 CFR § 3.104 - Binding nature of decisions

9. The Favorable Findings note Veteran's history of Lumbar Degenerative Disc Disease, Degenerative Joint Disease, and stenosis, neuropathy/radiculopathy".

38 CFR § 3.104 - Binding nature of decisions