DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

[redacted]

VA File Number
[redacted]

Rating Decision
01/22/2020

INTRODUCTION

The records reflect that you are a veteran of the Gulf War Era. You served in the Army from February 5, 2009 to June 17, 2011. Since our last review of your claim, we received additional evidence on November 1, 2019. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

Also, a special review of your file was mandated on October 16, 2019. Based on the review and the evidence listed below, we have made the following decision(s).

DECISION

1. Service connection for adjustment disorder with anxiety and depression, insomnia disorder chronic pain is granted with an evaluation of 70 percent effective November 1, 2019.

2. The previous denial of service connection for cervical spine condition is confirmed and continued.

3. The previous denial of service connection for thoracic/lumbar spine condition is confirmed and continued.

3. Service connection for thoracic/lumbar spine condition.

A claimant may file a supplemental claim by submitting or identifying new and relevant evidence. New evidence is evidence not previously part of the actual record before agency adjudicators. Relevant evidence means evidence that tends to prove or disprove a matter at issue in a claim. (38 CFR 3.2501) In support of your claim, new and relevant evidence has been received and your claim is now reconsidered.

Service connection may be granted for any disease or injury that is considered to have resulted in a period of war or service. To establish direct service connection for a claimed disorder, objective evidence must show a diagnosis of a current disability that is related to a disease or injury incurred in or aggravated during "active " service; or that manifested itself to a compensable degree within one year from the date of discharge (specified under 38 C.F.R. §3.303).

Service connection for thoracic/lumbar spine condition is denied since this condition neither occurred in nor was caused by service. (38 CFR 3.303, 38 CFR 3.304) 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. We did not find a link between your medical condition and military service. 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)

We received your medical evidence which discusses the symptoms of your medical condition. The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

Upon review of your file the examiner noted that your service treatment records did not include any visits for back pain while in service. The first note from the Phoenix VA from May 26, 2016 also does not mention any back pain. You submitted several buddy notes including one from [redacted], indicating the incident in 2010 in which a hatch struck him on the top of his head, knocking him unconscious. In the history, it notes that he was told several years ago that because he has been limping on his left knee he would have back problems and now it is catching up to him. Given that there are no visits for back pain during your time spent in the military combined with the 2013 note indicating no complaints of back pain, the examiner opines that it is less likely as not that the Veteran's back pain is secondary to his 2010 episode or secondary to his time spent in the military.

Therefore, previous denial of service connection for thoracic/lumbar spine condition is confirmed and continued. (38 CFR 4.71a)

Favorable Finding:

You do have a diagnosis of multilevel degenerative disc disease of the thoracic and lower lumbar

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spine as evidenced by your most recent exam dated December 10, 2019.

You do have a diagnosis of stable remote appearing mild compression deformities of the T11 and T12 vertebral bodies and a mild S-shaped scoliosis of the thoracolumbar spine as evidenced by your most recent exam dated December 10, 2019..

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.

evidence. New evidence is evidence not previously part of the actual record before agency adjudicators. Relevant evidence means evidence that tends to prove or disprove a matter at issue in a claim. (38 CFR 3.2501) In support of your claim, new and relevant evidence has been received and your claim is now reconsidered.

Service connection may be granted for any disease or injury that is considered to have resulted in a period of war or service. To establish direct service connection for a claimed disorder, objective evidence must show a diagnosis of a current disability that is related to a disease or injury incurred in or aggravated during "active " service; or that manifested itself to a compensable degree within one year from the date of discharge (specified under 38 C.F.R. §3.303).

Service connection for cervical spine condition is denied since this condition neither occurred in nor was caused by service. (38 CFR 3.303, 38 CFR 3.304) 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. We did not find a link between your medical condition and military service.

We received your medical evidence which discusses the symptoms of your medical condition. The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

The examiner noted that you did complain of pain radiating to your biceps and triceps bilaterally. You stated that it was a dull pain which is constant as well as a sharp pain which is intermittent, both rated as moderate to severe in terms of severity. Involvement would be the mid cervical group. Severity rating mild. Based on your MRI this is less likely as not secondary to radiculopathy as the neuroforamina are noted to be unremarkable. The examiner opined, based on review of your VBMS file which indicated no notes of visits for neck pain other than a primary care progress note from October 23, 2013 from your first visit to the VA. The first note from the Phoenix VA from May 26, 2016 also does not mention any neck pain. You submitted several buddy notes including one from Cody Bull, indicating the incident in 2010 in which a hatch struck him on the top of his head, knocking him unconscious. That note states that he did not seek medical treatment as he only complained of a little neck pain and headache at the time. There is also a note from his wife indicating his chronic neck and back pain and a note from his father indicating chronic neck and back pain. On the MRI history, it notes neck pain for 5 years. No specific injury. Given the absence of complaints of neck pain in the records combined with the notes from 2013 and 2016 which do not mention neck pain as well as the history for the neck pain on the cervical spine MRI, I would state it is less likely as not that the Veteran's current neck pain is secondary to the incident from 2010 or his time spent in the military.

Therefore, the previous denial of service connection for cervical spine condition is confirmed and continued. (38 CFR 4.71a)

Favorable Finding:

Multiple lay statements were submitted on October 16, 2019 as evidence supporting your claim.