From:
To:
Date:

- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, received January 13, 2020
- Notification Letter - Compensation, dated January 14, 2020
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, received January 24, 2020
- Private treatment records, [redacted], Hoover, AL, received January 24, 2020
- Chronic Fatigue Syndrome Disability Benefits Questionnaire, Bethanie Spangenberg, MS, PA-C, Private Provider, Waverly, OH, completed January 31, 2020, received February 8, 2020
- VA Form 21-526EZ Application for Disability Compensation and Related Compensation Benefits, received March 4, 2020
- Fibromyalgia Disability Benefits Questionnaire, Bethanie Spangenberg, MS, PA-C, Private Provider, Waverly, OH, completed February 28, 2020, received February 28, 2020
- Foot Conditions, Including Flatfoot (Pes Planus) Disability Benefits Questionnaire, Bethanie Spangenberg, MS, PA-C, Private Provider, Waverly, OH, completed February 28, 2020, received February 28, 2020
- VA treatment records, VAMC Birmingham, May 8, 2019 - March 19, 2020
- QTC Medical Services Fibromyalgia Disability Benefits Questionnaire and Medical Opinion for VA contract examination conducted on, April 7, 2020
- QTC Medical Services Chronic Fatigue Syndrome (CFS) Disability Benefits Questionnaire and Medical Opinion for VA contract examination conducted on, April 7, 2020
- QTC Medical Services Gulf War General Medical Disability Benefits Questionnaire and Medical Opinion for VA contract examination conducted on, April 7, 2020

REASONS FOR DECISION

1. Service connection for chronic fatigue syndrome.

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 chronic fatigue syndrome is denied because the medical evidence of record fails to show that this disability has been clinically diagnosed. (38 CFR 3.303)

The probative value of the VA examiner and VAMC medical records is more persuasive and is assigned greater weight than the private disability benefits questionnaire from Bethanie Spangenberg, M.S., PA-C of Waverly, Ohio and private treatment records from [redacted] of Hoover, Alabama.

The rating board notes the Veteran currently lives in Alabama and the private disability benefits questionnaire was completed by Bethanie Spangenberg, M.S., P.A. in Ohio. The private disability benefits questionnaire does not contain a statement regarding an in-person examination. A telehealth or telemental health examination report is only acceptable and actionable for rating purposes when prepared by a VHA or VBA-contracted examiner. Decision makers must not accept in lieu of VA examination any DBQ that has been prepared by a non-VA provider, and completed by means of telephone or videoconference examination.

Although the private disability benefits questionnaire dated January 31, 2020 from Bethanie Spangenberg, M.S., P.A. of Ohio indicates the Veteran has a diagnosis of chronic fatigue syndrome and private treatment records from [redacted] indicate a diagnosis of chronic fatigue, the VA contract examiner conducted an in-person exam and notes no diagnosis and the VAMC records show no diagnosis. The probative value of the medical doctor is more persuasive and is assigned greater weight than the private disability benefits questionnaire dated January 31, 2020.

The VA contract examiner notes There is no establishment in the claims file upon record review of a chronic fatigue syndrome condition and therefore the onset, course and symptoms are not applicable. A diagnosis is not rendered as the work-up mentioned by [redacted] has not been completed as of the 11/22/2019 note. In addition, the diagnostic criteria established for VA purposes is not met and therefore no diagnosis is rendered and can be supported with evidence. The VA contract examiner noted on the medical opinion for Fibromyalgia that The diagnosis rendered on a DBQ is by an employed provider of the Veteran (Physician Assistant Spangenberg with Valor4 Vet) and not a known provider to the Veteran and is established on subjective symptoms and reports of a private doctor's diagnosis of the fibromyalgia condition (whose evidence is not available to review). The private doctor mentioned in this completed DBQ was stated as Nurse Practitioner [redacted] who, with record review is noted to be a VA examiner and not the Veteran's PCP.

We have considered but denied service connection for chronic fatigue syndrome. We will establish service connection for chronic fatigue syndrome when a diagnosis is made in service, or within one year of discharge (to a 10 percent level). Although the current private treatment records show evidence of complaints for pain and a interim diagnosis of chronic fatigue syndrome, the VA examiner and VAMC records do not indicate a formal diagnosis of chronic fatigue syndrome, since the service treatment records do not show any complaints of, treatment for, or diagnosis of chronic fatigue syndrome in service, you denied any chronic fatigue syndrome on your separation examination, and there is no evidence of a diagnosis within one year of discharge, we cannot establish service connection for chronic fatigue syndrome. (38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.317)

Favorable Findings identified in this decision:

Evidence shows that you performed service in Iraqi Freedom campaign at Manas, Kyrgyzstan from July 1, 2008 to March 23, 2009.

The claimed disability is a chronic disease which may be presumptively linked to your military service.

Laws and Regulations applicable to this issue:

38 CFR §3.307 Presumptive service connection for chronic, tropical, or prisoner-of-war related disease, disease associated with exposure to certain herbicide agents, or disease associated with exposure to contaminants in the water supply at Camp Lejeune; wartime and service on or after January 1, 1947.

38 CFR §3.303 Principles relating to service connection.
38 CFR §3.317 Compensation for certain disabilities occurring in Persian Gulf Veterans.
38 CFR §3.309 Disease subject to presumptive service connection.

2. Service connection for fibromyalgia.

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 fibromyalgia is denied because the medical evidence of record fails to show that this disability has been clinically diagnosed. (38 CFR 3.303)

The probative value of the VA examiner and VAMC medical records is more persuasive and is assigned greater weight than the private treatment records from [redacted] of Hoover, Alabama.

Although the private treatment records dated from March 7, 2019 to November 4, 2019 Hoover Medicine, Inc. show a positive diagnosis for Fibromyalgia, the VA contract examiner conducted an in-person exam and notes no diagnosis and the VAMC records show no diagnosis. The probative value of the VA contract medical doctor and VAMC medical providers is more persuasive and is assigned greater weight than the private treatment records.

The VA contract examiner notes there is NO current, chronic, established diagnosis of fibromyalgia established in the service treament records or C-file. The private doctor mentioned in this completed DBQ was stated as Nurse Practitioner [redacted] who, with record review is noted to be a VA examiner and not the Veteran's PCP. There is a criteria that must be met for the diagnosis of fibromyalgia to be met and there is an absence of an evaluation in the claims file of this criteria which includes: "Pain and symptoms over the past week, based on the total of number of painful areas out of 19 parts of the body plus level of severity of these symptoms: Fatigue, Waking unrefreshed, Cognitive (memory or thought) problems. Plus number of other general physical symptoms. Symptoms lasting at least three months at a similar level. No other health problem that would explain the pain and other symptoms." Therefore, the claimed condition of fibromyalgia is not established and therefore is NOT related to the service in SW Asia /burn pit exposure during service as a current and chronic condition is not able to be verified.

We have considered but denied service connection for fibromyalgia. We will establish service connection for fibromyalgia when a diagnosis is made in service, or within one year of discharge (to a 10 percent level). Although the current private treatment records show evidence of complaints for pain and a interim diagnosis of fibromyalgia, the VA examiner and VAMC records do not indicate a diagnosis of fibromyalgia, since the service treatment records do not show any complaints of, treatment for, or diagnosis of fibromyalgia in service, you denied any fibromyalgia on your separation examination, and there is no evidence of a diagnosis within one year of discharge, we cannot establish service connection for fibromyalgia. (38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.317)

Favorable Findings identified in this decision:

Evidence shows that you performed service in Iraqi Freedom campaign at Manas, Kyrgyzstan from July 1, 2008 to March 23, 2009.

The claimed disability is a chronic disease which may be presumptively linked to your military service.

Laws and Regulations applicable to this issue:

38 CFR §3.309 Disease subject to presumptive service connection.
38 CFR §3.307 Presumptive service connection for chronic, tropical, or prisoner-of-war related disease, disease associated with exposure to certain herbicide agents, or disease associated with exposure to contaminants in the water supply at Camp Lejeune; wartime and service on or after January 1, 1947.
38 CFR §3.317 Compensation for certain disabilities occurring in Persian Gulf Veterans.
38 CFR §3.303 Principles relating to service connection.

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.