DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office
-
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[redacted]

VA File Number
[redacted]

Represented By:
MILITARY ORDER OF THE PURPLE HEART
Rating Decision
04/20/2020

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Marine Corps from December 28, 1967 to October 30, 1970. We received a request to review a previously denied claim on April 10, 2020. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

The claim for service connection for sleep apnea remains denied because the evidence submitted is not new and relevant.

EVIDENCE

- Review of claim file
- VA Contract QTC Medical Opinions completed by Dr. Harriett Steinert dated June 27, 2019 and April 18, 2019
- Private Medical Opinion completed by [redacted], MPAS, PA-C dated April 7, 2020
- Private Medical Opinion completed by [redacted] MHS, PA-C dated April 5, 2019

- The previously denied issue of sleep apnea on rating decisions dated August 16, 2019 and July 3, 2019
- VA form 20-0995, Supplemental Claim Application received April 10, 2020
- VA form 21-4138 Statement in Support of Claim received April 10, 2020
- Letter from [redacted] received April 10, 2020
- Letter from [redacted] received April 10, 2020
- Court documents submitted by you in support of your claim, received April 10, 2020
- Baltimore VAMC sleep study dated November 15, 2018 that diagnosed obstructive sleep apnea
- Service treatment records received on January 15, 2013 for the period of service December 28, 1967 to October 30, 1970
- DD form 214 Certificate of Release or Discharge From Active Duty received on October 15, 1979
- Electronic Review of Baltimore VA Medical Center Treatment Records on April 20, 2020 for period of March 12, 2019 to April 16, 2020 and Martinsburgh VAMC for period of August 1, 2018 to December 5, 5, 2018
- VA form 21-22 Appointment of Veterans Service Organization Claimant Representative received on November 19, 2012

REASONS FOR DECISION

Service connection for sleep apnea.

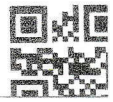
A claimant may file a supplemental claim by submitting or identifying new and relevant evidence.

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) The evidence from [redacted] MPAS, PA-C submitted in connection with the current claim does not constitute relevant evidence because it does not prove or disprove a matter at issue within your claim. The evidence from VA Court of Appeals submitted in connection with the current claim does not constitute new and relevant evidence because it was previously submitted and considered in the rating decision of August 16, 2019 and July 3, 2019 .

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

Favorable Findings identified in this decision:

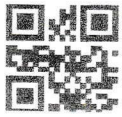
VA has received sufficient evidence of a current diagnosis of sleep apnea, shown at your VA exam, dated April 18, 2019, and your VA treatment records, dated November 15, 2018 (sleep study).



The claimed primary disability posttraumatic stress disorder is service-connected.

Please note that the medical opinion/s submitted in support of your claim was considered, however more weight was given the to VA contract QTC medical opinions completed by Dr. Steinert dated June 30, 2019 and April 20, 2019.

The medical opinions you submitted in support of your claim were conducted by physician assistants that do not practice in the state that you reside , they were not completed on the correct VA form and medical conditions secondary to mental condition, must be done in person. The Medical opinion dated April 5, 2019 completed by [redacted] MHS, PA-C practices in Colorado. The Medical opinion dated April 7, 2020 completed by [redacted], MPAS PA-C practices in Texas. The VA Contract QTC Medical opinions dated June 30, 2019 and April 20, 2019 were completed on the correct VA form, by Harriett R. Steinhert, MD of general medicine practices in Virginia, which is the state of your residence according to VA records and is documented on your supplemental claim received April 10, 2020. Also, more weight was given to Dr. Steinert medical opinion's because of her medical credentials as a medical doctor.

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.