DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

VA File Number

Represented By:
AMERICAN LEGION
Rating Decision
08/08/2019

INTRODUCTION

The records reflect that you are a veteran of the Gulf War Era. You served in the Army from January 26, 2010 to October 21, 2013. We received a request to reopen a previous claim on May 16, 2019. Based on a review of the evidence listed below, we have made the following decision on your claim.

DECISION

1. Service connection for cervical strain with disc degeneration is granted with an evaluation of 30 percent effective May 16, 2019.

2. Service connection for radiculopathy, right upper extremity is granted with an evaluation of 20 percent effective May 16, 2019.

EVIDENCE

- Service treatment records from January 2010 to October 2013, received September 4, 2013

with additional information received December 6, 2013
- VA Form 20-0995, Decision Review Request: Supplemental Claim, received May 16, 2019
- VA examination, North Chicago VAMC, July 23, 2019
- VAMC (Veterans Affairs Medical Center) treatment records, North Chicago, from May 1, 2018 through July 29, 2019

REASONS FOR DECISION

1. Service connection for cervical strain with disc degeneration.

Service connection for this condition was previously denied. The claim has been reconsidered because new and relevant information has been received.

Service connection for cervical strain with disc degeneration has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

An evaluation of 30 percent is assigned from May 16, 2019, the date your claim was received. (38 CFR 3.400)

We have assigned a 30 percent evaluation for your cervical condition based on:
• Forward flexion of the cervical spine 15 degrees or less

Additional symptom(s) include:
• Combined range of motion of the cervical spine not greater than 170 degrees
• Forward flexion of the cervical spine greater than 15 degrees but not greater than 30 degrees
• Painful motion upon examination

The provisions of 38 CFR §4.40 and §4.45 concerning functional loss due to pain, fatigue, weakness, or lack of endurance, incoordination, and flare-ups, as cited in DeLuca v. Brown and Mitchell v. Shinseki, have been considered and were applied based on additional joint limitation.

A higher evaluation of 40 percent is not warranted for cervical strain unless the evidence shows:
• Unfavorable ankylosis of the entire cervical spine. (38 CFR 4.71a)

2. Service connection for radiculopathy, right upper extremity as secondary to the service-connected disability of cervical strain with disc degeneration.

Service connection for radiculopathy, right upper extremity has been established as related to the service-connected disability of cervical strain with disc degeneration. (38 CFR 3.310)

An evaluation of 20 percent is assigned from May 16, 2019, the date your claim was received. (38 CFR 3.400)

We have assigned a 20 percent evaluation for your radiculopathy, right upper extremity based

on:
• Mild incomplete paralysis of the major extremity (38 CFR 4.124a)

A higher evaluation of 40 percent is not warranted for paralysis of the lower radicular nerve group unless the evidence shows nerve damage is moderate. (38 CFR 4.124a)

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.