DEPARTMENT OF VETERANS AFFAIRS
Department of Veterans Affairs
Veterans Benefits Administration

[redacted]

VA File Number
[redacted]

Represented By:
DISABLED AMERICAN VETERANS
Rating Decision
06/29/2023

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era, Peacetime and Vietnam Era. You served in the Air Force from August 14, 1969 to August 31, 1999. We received your supplemental claim on April 14, 2023. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

Entitlement to an earlier effective date for degenerative arthritis of the cervical spine(claimed as neck stiffness) is denied.

EVIDENCE

- VA Letter Concerning Your Claim, conducted March 23, 2023
- VA Form 21-526 EZ: Application for Disability Compensation and Related Compensation Benefits, received November 13, 2022
- VA Form 20-0995, Decision Review Request - Supplemental Claims, received April 14, 2023

- VAMC (Veterans Affairs Medical Center) treatment records, Hampton, for the period April 11, 2011 to March 16, 2023
- VAMC (Veterans Affairs Medical Center) treatment records, Detroit, October 28, 1999
- VAMC (Veterans Affairs Medical Center) treatment records, Washington, for the period May 19, 2005 to February 28, 2007
- Rating Decision, conducted March 22, 2023
- Service Treatment Records, received October 1, 2014, for the period August 14, 1969 to August 31, 1999
- DD Form 214, Certificate of Release or Discharge from Active Duty, received October 1, 2014, for the period August 14, 1969 to August 31, 1999
- Disability Benefit Questionnaire, Neck (Cervical Spine) Conditions, received December 1, 2022, conducted November 28, 2022
- Disability Benefit Questionnaire, Medical Opinion, received December 1, 2022, conducted November 28, 2022

REASONS FOR DECISION

Whether the effective date assigned for degenerative arthritis of the cervical spine(claimed as neck stiffness) was a clear and unmistakable error.

Generally, the effective date of an evaluation and award of pension, compensation or dependency and indemnity compensation based on an original claim, a claim reopened after final disallowance, or a claim for increase will be the date of receipt of the claim or the date entitlement arose, whichever is the later (specified under 38 C.F.R.§§ 3.400, 3.155, and 3.114).

Entitlement to an earlier effective date for the evaluation assigned for degenerative arthritis of the cervical spine(claimed as neck stiffness) has been denied. Based on a longitudinal review of your VA claims file, the assigned effective date of November 12, 2022, was the date VA received your intent to file (ITF) a claim for compensation. When a claim for service connection is received more than one year after discharge from active duty, the effective date is the date VA receives the intent to file when a prescribed form is received within a year of the ITF. (38 CFR 3.155, 38 CFR 3.400).

An earlier effective is not warranted because a review of your serviced treatment records indicates that you were seen on May 22, 1970, with complaints of a painful neck, cervical x-rays performed that day was normal. You were seen again on May 27, 1970, again with complaints of a painful neck. You were not seen again until June 12, 1996, at which time you had complaints of a stiff neck for one week. There was a cervical spine e-ray performed on October 28, 1999, that revealed cervical spondylosis with possible muscle spasm. On June 3, 2001, you were seen in the emergency room for neck pain and muscle spasms and again in a follow up visit for that episode of pain on June 18, 2001. In 2004 a cervical MRI revealed degenerative disc disease. On August 18, 2006, you were seen with complaints of left sided neck pain for a day. You were then diagnosed with cervicalgia. You were seen again on April 4, 2012, after a fall. A cervical CT scan was performed to rule out a fracture. The cervical CT revealed multilevel degenerative changes of the cervical spine. On March 20, 2015, a medical physicians note mentioned neck pain since 2003. On Jan 30, 2017, you were seen for physical therapy of your neck. Most

recently you were seen by your doctor at the VAMC on January 26, 2023, with complaints of ongoing neck pain. MRI of the cervical spine performed on February 22, 2023, reveals degenerative changes with stenosis. Although the record does not show consistent treatment of the cervical spine while on active duty you have had persistent neck pain and treatment since discharge. Your diagnoses of degenerative arthritis, degenerative disc disease and spinal stenosis are consistent with age related wear and tear, but it is noted that the findings of spondylosis or degenerative changes were present on the October 28, 1999, cervical spine x-ray performed three months following discharge. Therefore, it is at least as likely as not that the degenerative arthritis (current diagnosis) incurred in military service but was not a result of the cervical strain. The degenerative disc disease and spinal stenosis were less as likely as not caused by the cervical strain during service

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.