



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office

Represented By:
ANDREW J MCKEOWN
Rating Decision
05/25/2022

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era. You served in the Army from May 31, 2016 to March 20, 2020.

DECISION

1. Evaluation of left hip trochanteric pain syndrome and femoral acetabular impingement syndrome (flexion), which is currently 40 percent disabling, is decreased to 10 percent effective March 21, 2020.
2. Basic eligibility for Dependents' Educational Assistance is discontinued effective June 30, 2021.

EVIDENCE

- Certificate of Release or Discharge From Active Duty (e.g. DD 214, NOAA 56-16, PHS 1867), received on February 04, 2022



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1. Evaluation of left hip trochanteric pain syndrome and femoral acetabular impingement syndrome (flexion) currently evaluated as 40 percent disabling.

A clear and unmistakable error (CUE) is an error that is undebatable, so that reasonable minds could not differ. A determination of CUE must be based on the record and the law that existed at the time of the prior decision. Such error must have been prejudicial to the claimant. Once a determination is made that there was a CUE in a prior decision that would change the outcome of that decision, that decision must be corrected as if the former error had not been made. (38 CFR 3.105)

Evaluation of left hip trochanteric pain syndrome and femoral acetabular impingement syndrome (flexion), which is currently 40 percent disabling, is decreased to 10 percent effective March 21, 2020, the correct date that notes you warranted a 10 percent evaluation based on your intent to file received within a year of discharge. (38 CFR 3.105, 38 CFR 3.501, 38 CFR 3.103, 38 CFR 3.400, 38 CFR 3.114)

In our rating decision dated October 29, 2021 we proposed to reduce your left hip trochanteric pain syndrome and femoral acetabular impingement syndrome (flexion) to 10 percent based on a clear and unmistakable error (CUE) from the August 31, 2021 rating decision in which we over-evaluated your left hip issue. We notified you of the proposal of this decision on November 5, 2021.

Subsequently we received your request for a hearing on November 5, 2021 and it was held virtually at the Lincoln Regional Office on April 25, 2022. At your hearing, you indicated you had no further medical records to submit but requested an examination. We requested an examination for your left hip condition. We received notification from the contract examination vendor that you were not available to schedule your examination. An examination was scheduled but was later canceled by you and rescheduled. It was then noted that you were unavailable to attend the re-scheduled exam. Evidence expected from this examination that might have been material to the outcome of this claim could not be considered. When a claimant does not report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. (38 CFR 3.655)

We have received no medical evidence showing that your left hip trochanteric pain syndrome and femoral acetabular impingement syndrome warrants a higher evaluation.

We have assigned a 10 percent evaluation for your left hip trochanteric pain syndrome and femoral acetabular impingement syndrome based on:

- Limitation of adduction of the thigh, cannot cross legs

Additional symptom(s) include:

- Limitation of abduction of the thigh, motion possible beyond 10 degrees
- Limitation of internal rotation of the thigh
- Limitation of rotation of the thigh, can toe-out more than 15 degrees on the affected leg
- Painful Abduction
- Painful External Rotation



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.

