

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
09/19/2002	09/18/2004	Army	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1		None

JURISDICTION: Supplemental Claim Received 05/31/2022

ASSOCIATED CLAIM(s): 040; Supplemental Claim Rating; 05/31/2022

SUBJECT TO COMPENSATION (1.SC)

9411 POST-TRAUMATIC STRESS DISORDER WITH ALCOHOL USE DISORDER [PTSD
- Combat/Fear - Easing Standard]
Service Connected, Gulf War, Incurred
Static Disability
50% from 06/30/2021, Change Under 38 CFR 3.105(a)(error)

5237 LUMBOSACRAL STRAIN
Service Connected, Gulf War, Incurred
Static Disability
20% from 06/30/2021
Original Date of Denial: 05/23/2022

6260 TINNITUS
Service Connected, Gulf War, Incurred
Static Disability
10% from 06/14/2021

5215 RIGHT WRIST STRAIN (MAJOR)
Service Connected, Gulf War, Incurred
Static Disability
10% from 06/30/2021 -Intent To File
Original Date of Denial: 05/23/2021

5215 LEFT WRIST STRAIN (MINOR)



Service Connected, Gulf War, Incurred
Static Disability
10% from 06/30/2021 -Intent To File
Original Date of Denial: 05/23/2022

8516 CUBITAL TUNNEL SYNDROME, LEFT UPPER (MINOR) ASSOCIATED WITH
NECK CONDITION
Service Connected, Gulf War, Incurred
Static Disability
10% from 06/30/2021 -Intent To File

8516 CUBITAL TUNNEL SYNDROME, RIGHT UPPER (MAJOR) ASSOCIATED WITH
NECK CONDITION
Service Connected, Gulf War, Incurred
Static Disability
10% from 06/30/2021
Original Date of Denial: 05/23/2022

COMBINED EVALUATION FOR COMPENSATION :

10% from 06/14/2021
80% from 06/30/2021 (Bilateral factor of 3.4 Percent for diagnostic codes 8516, 5215, 5215, 8516)

NOT SERVICE CONNECTED/NOT SUBJECT TO COMPENSATION (8.NSCGulf War)

5213 RIGHT ELBOW CONDITION
Not Service Connected, Gulf War, No Diagnosis

, Confirmed and Continued Decision
Original Date of Denial: 05/23/2022

5213 LEFT ELBOW CONDITION
Not Service Connected, Gulf War, No Diagnosis

, Confirmed and Continued Decision
Original Date of Denial: 05/23/2022

5237 NECK CONDITION ASSOCIATED WITH LUMBOSACRAL STRAIN
Not Service Connected, Gulf War, Not Secondary

, Confirmed and Continued Decision
Original Date of Denial: 05/23/2022

6100 BILATERAL HEARING LOSS



Not Service Connected, Gulf War, Hearing Normal for VA Purposes

Original Date of Denial: 07/02/2021

8865-6511 SINUSITIS [Environmental Hazard in Gulf War/Undiagnosed Illness]
Not Service Connected, Gulf War, No Diagnosis

Original Date of Denial: 05/23/2022

8865-6522 RHINITIS [Environmental Hazard in Gulf War/Undiagnosed Illness]
Not Service Connected, Gulf War, No Diagnosis

Original Date of Denial: 05/23/2022

8873-7319 IBS [Environmental Hazard in Gulf War/Undiagnosed Illness]
Not Service Connected, Gulf War, No Diagnosis

Original Date of Denial: 05/23/2022

8881-8100 TENSION HEADACHES [Environmental Hazard in Gulf War/Undiagnosed Illness]
Not Service Connected, Gulf War, Not Incurred/Caused by Service
Static Disability

Original Date of Denial: 05/23/2022

DEFERRED ISSUES - VETERAN

8599-8520 RIGHT LEG RADICULOPATHY
Deferred, Gulf War
Static Disability

Original Date of Denial: 05/23/2022

8599-8520 LEFT LEG RADICULOPATHY
Deferred, Gulf War
Static Disability

Original Date of Denial: 05/23/2022



eSign: certified by ADJAVERN, RVSR





**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

**Represented By:
ANDREW J MCKEOWN
Rating Decision
01/27/2023**

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era. You served in the Army from September 19, 2002 to September 18, 2004. We received your supplemental claim on May 31, 2022. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

1. Service connection for lumbosacral strain (low back condition) is granted with an evaluation of 20 percent effective June 30, 2021.
2. Service connection for cubital tunnel syndrome, left upper ((minor) claimed as left arm radiculopathy) is granted with an evaluation of 10 percent effective June 30, 2021.
3. Service connection for cubital tunnel syndrome, right upper (major) is granted with an evaluation of 10 percent effective June 30, 2021.
4. Service connection for left wrist strain (minor) is granted with an evaluation of 10 percent



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effective June 30, 2021.

5. Service connection for right wrist strain (major) is granted with an evaluation of 10 percent effective June 30, 2021.
6. The previous denial of service connection for left elbow condition is confirmed and continued.
7. The previous denial of service connection for right elbow condition is confirmed and continued.
8. The previous denial of service connection for neck condition as secondary to lumbosacral strain is confirmed and continued.
9. A decision on entitlement to compensation for left leg radiculopathy is deferred.
10. A decision on entitlement to compensation for right leg radiculopathy is deferred.

EVIDENCE

- Service Treatment Records and Service Personnel Records to include DD Form 214, Certificate of Release or Discharge from Active Duty, for the period September 19, 2002 to September 18, 2004
- VA Form 21-0966, Intent To File A Claim For Compensation and/or Pension, or Survivors Pension and/or DIC, received June 30, 2021
- VA Form 21-526 EZ: Application for Disability Compensation and Compensation Related Benefits, received February 2, 2022
- VA Form 21-4138, Statement in Support of Claim, received February 2, 2022
- Your Attorney's Statement, received February 2, 2022
- Rating Decision, dated May 23, 2022 with notification dated May 24, 2022
- VA Form 20-0995, Decision Review Request - Supplemental Claims, received May 31, 2022
- VA Form 21-4138, Statement in Support of Claim, received May 31, 2022
- Your Attorney's Statement, received May 31, 2022
- VA contract examinations, VES, Grand Rapids, MI, conducted October 19, 2022
- Memorandum Toxic Exposure – Sec. 1119 Covered Veteran, dated December 3, 2022

REASONS FOR DECISION

1. Service connection for lumbosacral strain.

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

The effective date of this grant is June 30, 2021. Service connection has been established from



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the day VA received your intent to file (ITF) a claim for compensation. When a claim of 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)

A claimant may continuously pursue a claim by timely and properly filing a supplemental claim. "Timely" means the supplemental claim is submitted within one year of the VA decision. "Properly" means VA form 20-0995, Decision Review Request: Supplemental Claim, is completed and submitted along with new and relevant evidence. (38 CFR 3.2500, 38 CFR 3.2501)

If the claim is continuously pursued and benefits are granted, the effective date will be the date of receipt of the initial claim or the date entitlement arose, whichever is later. (except as otherwise provided by other regulations including 38 CFR 3.400)

An evaluation of 20 percent is assigned from June 30, 2021.

We have assigned a 20 percent evaluation for your lumbosacral strain based on:

- Forward flexion of the thoracolumbar spine greater than 30 degrees but not greater than 60 degrees

Additional symptom(s) include:

- Combined range of motion of the thoracolumbar spine greater than 120 degrees but not greater than 235 degrees
- Painful motion

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 are not warranted.

A higher evaluation of 40 percent is not warranted for diseases and injuries of the thoracolumbar spine unless the evidence shows:

- Favorable ankylosis of the entire thoracolumbar spine; or,
- Forward flexion of the thoracolumbar spine 30 degrees or less. (38 CFR 4.71a)

2. Service connection for cubital tunnel syndrome, left upper (minor).

Service connection for cubital tunnel syndrome, left upper (minor) has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

The effective date of this grant is June 30, 2021. Service connection has been established from the day VA received your intent to file (ITF) a claim for compensation. When a claim of 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)



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A claimant may continuously pursue a claim by timely and properly filing a supplemental claim. "Timely" means the supplemental claim is submitted within one year of the VA decision. "Properly" means VA form 20-0995, Decision Review Request: Supplemental Claim, is completed and submitted along with new and relevant evidence. (38 CFR 3.2500, 38 CFR 3.2501)

If the claim is not continuously pursued and benefits are granted, the effective date will be the date entitlement arose, but will not be earlier than the date of receipt of the supplemental claim currently under review. (except as otherwise provided by other regulations including 38 CFR 3.400)

An evaluation of 10 percent is assigned from June 30, 2021.

We have assigned a 10 percent evaluation for your cubital tunnel syndrome, left upper (minor) based on:

- Mild incomplete paralysis of the minor extremity (38 CFR 4.124a)

A higher evaluation of 20 percent is not warranted for paralysis of the ulnar nerve unless the evidence shows nerve damage is moderate. (38 CFR 4.120, 38 CFR 4.124a)

3. Service connection for cubital tunnel syndrome, right upper (major).

Service connection for cubital tunnel syndrome, right upper (major) has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

The effective date of this grant is June 30, 2021. Service connection has been established from the day VA received your intent to file (ITF) a claim for compensation. When a claim of 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)

A claimant may continuously pursue a claim by timely and properly filing a supplemental claim. "Timely" means the supplemental claim is submitted within one year of the VA decision. "Properly" means VA form 20-0995, Decision Review Request: Supplemental Claim, is completed and submitted along with new and relevant evidence. (38 CFR 3.2500, 38 CFR 3.2501)

If the claim is continuously pursued and benefits are granted, the effective date will be the date of receipt of the initial claim or the date entitlement arose, whichever is later. (except as otherwise provided by other regulations including 38 CFR 3.400)

An evaluation of 10 percent is assigned from June 30, 2021.

We have assigned a 10 percent evaluation for your cubital tunnel syndrome, right upper (major) based on:



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- Mild incomplete paralysis of the major extremity (38 CFR 4.124a)

A higher evaluation of 30 percent is not warranted for paralysis of the ulnar nerve unless the evidence shows nerve damage is moderate. (38 CFR 4.120, 38 CFR 4.124a)

4. Service connection for left wrist strain (minor).

Service connection for left wrist strain (minor) has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

The effective date of this grant is June 30, 2021. Service connection has been established from the day VA received your intent to file (ITF) a claim for compensation. When a claim of 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)

A claimant may continuously pursue a claim by timely and properly filing a supplemental claim. "Timely" means the supplemental claim is submitted within one year of the VA decision. "Properly" means VA form 20-0995, Decision Review Request: Supplemental Claim, is completed and submitted along with new and relevant evidence. (38 CFR 3.2500, 38 CFR 3.2501)

If the claim is continuously pursued and benefits are granted, the effective date will be the date of receipt of the initial claim or the date entitlement arose, whichever is later. (except as otherwise provided by other regulations including 38 CFR 3.400)

An evaluation of 10 percent is assigned from June 30, 2021.

We have assigned a 10 percent evaluation for your left wrist strain based on:

- Painful motion of the wrist (38 CFR §4.59 allows consideration of functional loss due to painful motion to be rated to at least the minimum compensable rating for a particular joint. Since you demonstrate painful motion of the wrist, the minimum compensable evaluation of 10 percent is assigned.)

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 applied under 38 CFR §4.59.

This is the highest schedular evaluation allowed under the law for limited motion of the wrist. (38 CFR 4.69, 38 CFR 4.71a)

Additionally, a higher evaluation of 20 percent is not warranted for ankylosis of the wrist unless the evidence shows:

- Favorable ankylosis in 20 degrees to 30 degrees of dorsiflexion. (38 CFR 4.69, 38 CFR 4.71a)



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5. Service connection for right wrist strain (major).

Service connection for right wrist strain (major) has been established as directly related to military service. (38 CFR 3.303, 38 CFR 3.304)

The effective date of this grant is June 30, 2021. Service connection has been established from the day VA received your intent to file (ITF) a claim for compensation. When a claim of 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)

A claimant may continuously pursue a claim by timely and properly filing a supplemental claim. "Timely" means the supplemental claim is submitted within one year of the VA decision. "Properly" means VA form 20-0995, Decision Review Request: Supplemental Claim, is completed and submitted along with new and relevant evidence. (38 CFR 3.2500, 38 CFR 3.2501)

If the claim is continuously pursued and benefits are granted, the effective date will be the date of receipt of the initial claim or the date entitlement arose, whichever is later. (except as otherwise provided by other regulations including 38 CFR 3.400)

An evaluation of 10 percent is assigned from June 30, 2021.

We have assigned a 10 percent evaluation for your right wrist strain (major) based on:

- Painful motion of the wrist (38 CFR §4.59 allows consideration of functional loss due to painful motion to be rated to at least the minimum compensable rating for a particular joint. Since you demonstrate painful motion of the wrist, the minimum compensable evaluation of 10 percent is assigned.)

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 applied under 38 CFR §4.59.

This is the highest schedular evaluation allowed under the law for limited motion of the wrist. (38 CFR 4.69, 38 CFR 4.71a)

Additionally, a higher evaluation of 30 percent is not warranted for ankylosis of the wrist unless the evidence shows:

- Favorable ankylosis in 20 degrees to 30 degrees of dorsiflexion. (38 CFR 4.69, 38 CFR 4.71a)

6. Service connection for left elbow condition.

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



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in a claim. (38 CFR 3.2501) In support of your claim, new and relevant evidence has been received and your claim is now reconsidered.

While your service treatment records reflect complaints, treatment, or a diagnosis similar to that claimed, the medical evidence supports the conclusion that a persistent disability was not present in service. (38 CFR 3.303, 38 CFR 3.304) We did not find a link between your claimed medical condition and military service. (38 CFR 3.303) The evidence does not show a current diagnosed disability. (38 CFR 3.159, 38 CFR 3.303)

You submitted a lay statement to support your claim. A credible lay statement may establish what was seen, heard, and directly experienced. The lay evidence was found not to be competent and sufficient in this case to establish a link or nexus between your medical condition and military service or to establish that such a link has been found by a medical professional. (38 CFR 3.159, 38 CFR 4.6)

The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

Favorable Findings identified in this decision:

Service Treatment Records for period of service from September 19, 2002 to September 19, 2004 notes complaints of pain in all joints. The evidence shows that a qualifying event, injury, or disease had its onset during your service.

7. Service connection for right elbow condition.

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) In support of your claim, new and relevant evidence has been received and your claim is now reconsidered.

While your service treatment records reflect complaints, treatment, or a diagnosis similar to that claimed, the medical evidence supports the conclusion that a persistent disability was not present in service. (38 CFR 3.303, 38 CFR 3.304) We did not find a link between your claimed medical condition and military service. (38 CFR 3.303) The evidence does not show a current diagnosed disability. (38 CFR 3.159, 38 CFR 3.303)

You submitted a lay statement to support your claim. A credible lay statement may establish what was seen, heard, and directly experienced. The lay evidence was found not to be competent and sufficient in this case to establish a link or nexus between your medical condition and military service or to establish that such a link has been found by a medical professional. (38 CFR 3.159, 38 CFR 4.6)

The evidence does not support a change in our prior decision. Therefore, we are confirming the



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previous denial of this claim.

Favorable Findings identified in this decision:

Service Treatment Records for period of service from September 19, 2002 to September 19, 2004 notes complaints of pain in all joints. The evidence shows that a qualifying event, injury, or disease had its onset during your service.

8. Service connection for neck condition as secondary to the service-connected disability of lumbosacral strain.

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) In support of your claim, new and relevant evidence has been received and your claim is now reconsidered.

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

The VA medical opinion found no link between your diagnosed medical condition and your service-connected lumbosacral strain. Rationale: The Veteran's claimed neck condition is LESS LIKELY THAN NOT proximately due to or the result of his claimed lower back condition. There is no evidence of a significantly antalgic gait in the available medical records. The Veteran's neck and lower back conditions are likely independent conditions that developed separately.

You submitted a lay statement to support your claim. A credible lay statement may establish what was seen, heard, and directly experienced. The lay evidence was found not to be competent and sufficient in this case to establish a link or nexus between your medical condition and military service or to establish that such a link has been found by a medical professional. (38 CFR 3.159, 38 CFR 4.6)

The evidence does not support a change in our prior decision. Therefore, we are confirming the previous denial of this claim.

Favorable Findings identified in this decision:

You have sufficient service to meet the minimum requirements for presumptive service connection. Your active duty service from September 19, 2002 to September 18, 2004 meets these requirements.

You are service-connected for lumbosacral strain. The claimed primary disability is service-



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connected.

VA contract examination dated October 19, 2022 notes a diagnosis of cervical strain. You have been diagnosed with a disability.

9. Compensation for left leg radiculopathy.

The issue of compensation for left leg radiculopathy is deferred for the following information: further development.

10. Compensation for right leg radiculopathy.

The issue of compensation for right leg radiculopathy is deferred for the following information: further development.

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.

