

ACTIVE DUTY			
EOD	RAD	BRANCH	CHARACTER OF DISCHARGE
11/26/1990	03/25/1995	Marine Corps	Honorable

LEGACY CODES			
ADD'L SVC CODE	COMBAT CODE	SPECIAL PROV CDE	FUTURE EXAM DATE
	1		At Once

JURISDICTION: New Claim Received 11/29/2022

ASSOCIATED CLAIM(s): 020; New/Increase; 11/29/2022

SUBJECT TO COMPENSATION (1.SC)

5024-5260 PATELLOFEMORAL PAIN SYNDROME WITH TENDINOPATHY AND OSGOOD SLATTER'S SYNDROME, RIGHT KNEE
Service Connected, Gulf War, Incurred
Static Disability
10% from 06/30/2022 -Intent To File

5024-5260 PATELLOFEMORAL PAIN SYNDROME WITH TENDINOPATHY AND OSGOOD SLATTER'S SYNDROME, LEFT KNEE ASSOCIATED WITH PATELLOFEMORAL PAIN SYNDROME WITH TENDINOPATHY AND OSGOOD SLATTER'S SYNDROME, RIGHT KNEE
Service Connected, Gulf War, Secondary
Static Disability
10% from 06/30/2022 -Intent To File

6260 TINNITUS
Service Connected, Gulf War, Incurred
Static Disability
10% from 06/30/2022 -Intent To File

6513 SINUSITIS [Environmental Hazard in Gulf War/Other Unidentified]
Service Connected, Gulf War, Presumptive
At Once Examination
0% from 08/10/2022, Deferred Evaluation



COMBINED EVALUATION FOR COMPENSATION :

30% from 06/30/2022 (Bilateral factor of 1.9 Percent for diagnostic codes 5260, 5260)

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

6100 HEARING LOSS
Not Service Connected, Gulf War, Hearing Normal for VA Purposes

Original Date of Denial: 07/20/2022

DEFERRED ISSUES - VETERAN

7319 IRRITABLE BOWEL SYNDROME
Deferred
Static Disability

9434 DEPRESSION
Deferred
Static Disability

Deferred Evaluation - sinusitis

eSign: certified by VSCDTOLL, RVSR





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

**Represented By:
ANDREW J MCKEOWN
Rating Decision
01/12/2023**

INTRODUCTION

The records reflect that you are a Veteran of the Gulf War Era. You served in the Marine Corps from November 26, 1990 to March 25, 1995. You filed a new claim for benefits that was received on November 29, 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 patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, right knee is granted with an evaluation of 10 percent effective June 30, 2022.
2. Service connection for patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, left knee is granted with an evaluation of 10 percent effective June 30, 2022.
3. Service connection for tinnitus is granted with an evaluation of 10 percent effective June 30, 2022.
4. Service connection for sinusitis is granted with an evaluation of 0 percent effective August 10,



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2022. A higher evaluation is deferred for a VA exam.

5. A decision on entitlement to compensation for depression is deferred.

6. A decision on entitlement to compensation for irritable bowel syndrome is deferred.

EVIDENCE

- VA 21-526EZ, Fully Developed Claim Compensation, received on November 29, 2022
- Statements from McKeown Law, received November 29, 2022
- VAMC Dallas treatment records, received December 1, 2022, July 18, 2022
- VA exam request, conducted December 1, 2022
- Hearing Loss and Tinnitus (Audio) Disability Benefits Questionnaire, conducted by Veteran's Evaluation Services (VES), conducted January 4, 2023
- Knee and Lower Leg Conditions Disability Benefits Questionnaire, conducted by Veteran's Evaluation Services (VES), conducted December 15, 2022 with Medical Opinion
- Automated Review Summary Document, received January 6, 2023
- Service treatment records and personnel records, for the period November 26, 1990 to March 25, 1995
- DD Form 214, Certificate of Release or Discharge from Active Duty, service in Oman, for the period November 26, 1990 to March 25, 1995
- VA letter, confirming receipt of your intent to file a claim, received June 30, 2022

REASONS FOR DECISION

1. Service connection for patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, right knee.

Service connection for patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, right knee 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, 2022. 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)

An evaluation of 10 percent is assigned from June 30, 2022.

We have assigned a 10 percent evaluation for your patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, right knee based on:

- Painful motion of the knee (38 CFR §4.59 allows consideration of functional loss due to painful



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motion to be rated to at least the minimum compensable rating for a particular joint. Since you demonstrate painful motion of the knee, the minimum compensable evaluation of 10 percent is assigned)

Additional symptom(s) include:

- Objective evidence of tenosynovitis, tendinitis, tendinosis or tendinopathy

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 tenosynovitis, tendinitis, tendinosis or tendinopathy. (38 CFR 4.71a)

Additionally, a higher evaluation of 20 percent is not warranted for limitation of flexion of the knee unless the evidence shows:

- Limitation of flexion of 16 to 30 degrees. (38 CFR 4.71a)

Additionally, a higher evaluation of 20 percent is not warranted for limitation of extension of the knee unless the evidence shows:

- Limitation of extension of 15 to 19 degrees. (38 CFR 4.71a)

2. Service connection for patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, left knee as secondary to the service-connected disability of patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, right knee.

Service connection for patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, left knee has been established as related to the service-connected disability of patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, right knee. (38 CFR 3.303, 38 CFR 3.310)

The effective date of this grant is June 30, 2022. 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)

An evaluation of 10 percent is assigned from June 30, 2022.

We have assigned a 10 percent evaluation for your patellofemoral pain syndrome with tendinopathy and Osgood Slatter's syndrome, left knee based on:

- Painful motion of the knee (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 knee, the minimum compensable evaluation of 10 percent is



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assigned)

Additional symptom(s) include:

- Objective evidence of tenosynovitis, tendinitis, tendinosis or tendinopathy

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 tenosynovitis, tendinitis, tendinosis or tendinopathy. (38 CFR 4.71a)

Additionally, a higher evaluation of 20 percent is not warranted for limitation of flexion of the knee unless the evidence shows:

- Limitation of flexion of 16 to 30 degrees. (38 CFR 4.71a)

Additionally, a higher evaluation of 20 percent is not warranted for limitation of extension of the knee unless the evidence shows:

- Limitation of extension of 15 to 19 degrees. (38 CFR 4.71a)

3. Service connection for tinnitus.

Service connection for tinnitus 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, 2022. 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)

An evaluation of 10 percent is assigned from June 30, 2022.

We have assigned a 10 percent evaluation for your tinnitus based on:

- Recurrent tinnitus

A single evaluation for recurrent tinnitus is assigned whether the sound is perceived in one ear, both ears, or in the head.

This is the highest schedular evaluation allowed under the law for tinnitus. (38 CFR 4.87)

4. Service connection for sinusitis.

Service connection may be granted for specific diseases or conditions which are presumed to



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have been caused by service if manifested to a compensable degree following military discharge. Although not shown in service, service connection for sinusitis has been granted on the basis of presumption. (38USC 1116, 38 CFR 3.303, 38 CFR 3.307, 38 CFR 3.309)

Evaluation for hypertension is deferred for an examination and possible higher evaluation.

Service connection is granted for hypertension based upon passage of the Pact Act. ((PL) 117-168, 38 USC 1116)

The effective date of this grant is August 10, 2022. Service connection has been established from the date of the law change allowing VA to grant this claim. When a claim of service connection is received within one year after a change in law, and all the requirements were met for a grant on the date of the change in law, the effective date is the date of the change in law. (38 CFR 3.114)

A noncompensable evaluation is assigned from August 10, 2022.

We have assigned a 0 percent evaluation for your sinusitis based on:

- A diagnosed disability with no compensable symptoms

A higher evaluation of 10 percent is not warranted for sinusitis, maxillary, chronic unless the evidence shows:

- One or two incapacitating episodes per year of sinusitis requiring prolonged (lasting four to six weeks) antibiotic treatment; or,
- Three to six non-incapacitating episodes per year of sinusitis characterized by headaches, pain, and purulent discharge or crusting. (38 CFR 4.97)

5. Compensation for depression.

The issue of compensation for depression is deferred for the following information: VA exam and medical opinion

6. Compensation for irritable bowel syndrome.

The issue of compensation for irritable bowel syndrome is deferred for the following information: VA exam

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



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your local library, or visit us at our website, www.va.gov.

