



December 15, 2017

DALE A FLETCHER  
1895 W CRENSHAW ST  
KUNA ID 83634

## We made a decision on your VA benefits.

Dear Mr. Fletcher,

This letter will guide you through the information you should know and steps you may take now that VA has made a decision about your benefits.

### Your benefit information:

- Basic eligibility to Dependents' Educational Assistance is established from November 27, 2017.
- Service connection for right wrist (dominant) scapholunate ligament derangement (claimed as right wrist condition) is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for erectile dysfunction is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for adjustment disorder with mixed anxiety and depressed mood (claimed as anxiety disorder, depression, memory loss, grinding of teeth 2ndary to anxiety, and sleep disturbance) is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for left (non-dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis; acromioclavicular separation (claimed as broken clavicle condition) is granted with an evaluation of 20 percent effective November 27, 2017.
- Service connection for tinnitus (claimed as ringing in ears) is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for allergic rhinitis is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for right (dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis (claimed as right shoulder condition) is granted with an evaluation of 20 percent effective November 27, 2017.
- Service connection for thoracic and lumbar spine spondylosis; degenerative arthritis of the lumbar/thoracic spine; ligamentum

### We have included with this letter:

1. Explanation of Payment
2. Additional Benefits
3. Where to Send Written Correspondence
4. VA Form 4107
5. VA Form 21-0958
6. Rating Decision

### Contact information:

Web: [www.vets.gov](http://www.vets.gov)  
Phone: 1-800-827-1000  
TDD: 711  
To send questions online: visit  
<https://iris.va.gov>

### Social Media:

Twitter: @VAVetBenefits  
Facebook: [www.facebook.com/VeteransBenefits](http://www.facebook.com/VeteransBenefits)

### How to obtain representation:

We have no record of you appointing an accredited representative. Accredited representatives are trained to help you understand and apply for VA benefits. For more information about how an accredited representative can help you, please visit:  
<https://www.vets.gov/disability-benefits/apply-for-benefits/help/>

If you or someone you know is in crisis, call the Veterans Crisis Line at 1-800-273-8255 and press 1.

flavum (claimed as lumbar spine degenerative disc disease status post fusion condition) is granted with an evaluation of 20 percent effective November 27, 2017.

- Service connection for migraines is denied.
- Service connection for right arm (dominant) middle radicular group radiculopathy (claimed as right arm nerve condition) is granted with an evaluation of 20 percent effective November 27, 2017.
- Service connection for acute self-limiting sinusitis (claimed as residuals of nose injury sinus issues) is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for left (non-dominant) clavicle or scapula, impairment of (also claimed as broken clavicle condition) is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for right sciatic nerve (claimed as right side sciatic) is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for degenerative arthritis of the cervical spine; degenerative disc disease (claimed as neck condition) is granted with an evaluation of 20 percent effective November 27, 2017.
- Service connection for hypertension is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for surgical scars, cervical spine and lumbar segment is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for left hallux valgus; left foot degenerative arthritis (claimed as left foot bunion condition) is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for fatigue is denied.
- Service connection for laceration scar(s) (claimed as scar on face from nose injury) is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for right patellofemoral pain syndrome (claimed as right knee condition) is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for obstructive sleep apnea is granted with an evaluation of 50 percent effective November 27, 2017.
- Service connection for gastroesophageal reflux disease is granted with an evaluation of 10 percent effective November 27, 2017.
- Service connection for right foot hammer toe(s) third and fourth toes is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for right hallux valgus is granted with an evaluation of 0 percent effective November 27, 2017.
- Service connection for left patellofemoral pain syndrome is granted with an evaluation of 10 percent effective November 27, 2017.

Your combined rating evaluation is 100%.

## How VA Combines Percentages

If you have more than one condition, VA will combine percentages to determine your overall disability rating. The percentages assigned for each of your conditions may not always add up to your combined rating evaluation. The following website has additional information about how VA combines percentages: <http://www.benefits.va.gov/compensation/rates-index.asp#howcalc>.

See **Rating Decision** to find out why we made this decision.

We granted your claim for additional dependency benefits because the following dependent(s) meet the criteria for establishing a relationship and you have at least a 30% disability compensation evaluation:

Type of Dependent	Name	Effective Date
Child	Kaiden J Fletcher	Nov 27, 2017
Child	Damon C Fletcher	Nov 27, 2017
Child	Camden Reign Fletcher	Nov 27, 2017
Spouse	Jessica Irene Fletcher	Nov 27, 2017

We will remove your dependent Kaiden J Fletcher effective August 18, 2025 because:

- Kaiden Fletcher is over the age of 18 and not attending school.

We will remove your dependent Camden REIGN Fletcher effective October 21, 2028 because:

- Camden Fletcher is over the age of 18 and not attending school.

We will remove your dependent Damon C Fletcher effective February 19, 2032 because:

- Damon Fletcher is over the age of 18 and not attending school.

Your monthly entitlement amount is shown below:

Total VA Benefit	Amount Withheld	Amount Paid	Payment Start Date	Reason
\$3,425.86	\$1,234.00	\$2,191.86	Dec 1, 2017	Original Award
\$3,425.86	\$0.00	\$3,425.86	Jan 1, 2018	Retired Pay Adjustment
\$3,343.48	\$0.00	\$3,343.48	Aug 18, 2025	Minor Child Adjustment
\$3,261.10	\$0.00	\$3,261.10	Oct 21, 2028	Minor Child Adjustment
\$3,139.67	\$0.00	\$3,139.67	Feb 19, 2032	Minor Child Adjustment

We are currently paying you as a Veteran with 4 dependents. *Let us know right away if there is any change in the status of your dependents.*

You should receive your first payment within 7-10 days of this notice.

See **Explanation of Payment** for more details about your payment.

Your payment will be directed to the financial institution and account number that you specified. To confirm when your payment was deposited, please contact your financial institution.

If this account is no longer open,

*please notify us immediately.*

## Evidence Considered

In making our decision, in addition to the evidence listed in the Rating Decision, we considered the following evidence:

- VA Examination-Dental Examination-Medical Opinion dated April 21, 2017
- Notice to Claimants of Information and Evidence Necessary to Substantiate a Claim for VA Disability, dated March 16, 2017
- DD 214 Certificate of Release or Discharge from Active Duty for Period(s) of Service from June 25, 1998 through March 24, 2003 and April 28, 2009 through November 26, 2017
- Medical Evaluation Board Narrative Summary, dated April 24, 2017
- VA Form 21-0819 (VA/DOD Joint Disability Evaluation Board Claim), received March 16, 2017
- VA Examination-Dental Examination dated April 21, 2017
- VA Examination-General Medical Examination dated April 11, 2017
- Medical Evaluation Board Proceedings, dated April 28, 2017
- Memorandum for PEB-MEB Appeal dated May 11, 2017 and April 25, 2017
- Physical Disability Evaluation System Commander's Performance and Functional Statement, dated, March 6, 2017
- IDES Proposed Rating Decision-Department of Veterans Affairs-Veterans Benefits Administration-Regional Office dated June 29, 2017
- Service Treatment Records, from January 23, 1998 through April 24, 2017
- Memorandum for Director of Clinical Services (DCO) Evans ACH Fort Carson, CO-Medical Evaluation Board (MEB) Rebuttal dated May 9, 2017
- VA Form 21-526b (Veteran's Supplemental Claim for Compensation), received April 5, 2017
- DA Form 199 Informal Physical Evaluation Board (PEB) Proceedings date PEB convened August 3, 2017
- VA Examination-Psychiatric Examination dated March 29, 2017
- VA Form 21-4138 (Statement in Support of Claim), received March 16, 2017
- VA Examination-Audio Examination dated April 10, 2017
- VA Form 21-526EZ (Application for Disability Compensation and Related Compensation Benefits), received March 16, 2017 and September 19, 2017

- VA Form 21-686c, Declaration of Status of Dependents, received March 16, 2017
- Adoption decree for Kaiden J. Fletcher, received March 16, 2017

**Please Take Action: Accept, Appeal, and/or Ask for Help about Other Choices**

**If you disagree with our decision:**

This decision notice explains why we made this decision about your benefits. If you disagree with the decision and would like to appeal it, you must complete and return a *Notice of Disagreement*, VA Form 21-0958, by December 15, 2018, one year from the date of this notice.

The enclosed VA Form 4107 explains your right to appeal our decision.

You can visit <https://www.vets.gov/disability-benefits/claims-appeal/> to learn more about how the appeals process works.

**If you agree with our decision:**

There is no need to do anything other than ensure that if your banking and contact information changes, that you promptly notify us so there is no disruption to your benefit.

Thank you for your service,

**Regional Office Director**



## Explanation of Payment

### We Have Withheld Benefits

You are not allowed to receive full military retired pay and full VA compensation at the same time. The following will provide an explanation of how this works:

- If your VA compensation is less than your retired pay, you will receive compensation payments. The service department will pay you the difference between your compensation and your retired pay.
- If your VA compensation is greater than your retired pay, we will pay you compensation, and you will not receive retired pay.

For now, we must withhold part of your compensation until January 1, 2018. We must do this to prevent a double payment. By working together with the service department, we will make sure you get your full combined payment.

*Important information: VA compensation isn't taxable. Please contact the Internal Revenue Service for tax information.*

### Concurrent Receipt of VA Compensation and Military Retired Pay

You may be eligible for full or partial concurrent receipt of VA compensation and military retired pay under the Combat-Related Special Compensation (CRSC) and/or Concurrent Retired and Disability Pay (CRDP) programs. Your retired pay center (RPC) has been notified of this award of VA compensation. If your RPC determines the withholdings from your VA compensation should be retroactively adjusted due to CRSC/CRDP eligibility; VA will be notified and will adjust your VA compensation accordingly.

More information on CRSC and CRDP can be found at the following web site:  
<http://www.dfas.mil/dfas/retiredmilitary/disability/payment.html>, or by calling your RPC as shown below:

- Defense Finance and Accounting Service (DFAS): 1-800-321-1080
- United States Coast Guard: 1-800-772-8724
- Public Health Service: 1-800-638-8744

Your monthly entitlement amount includes payment for the following dependent(s):

Payment Start Date	Award Dependent(s)
Dec 1, 2017	Kaiden, Damon, Camden, Jessica

Payment Start Date	Award Dependent(s)
Jan 1, 2018	Kaiden, Damon, Camden, Jessica
Aug 18, 2025	Damon, Camden, Jessica
Oct 21, 2028	Damon, Jessica
Feb 19, 2032	Jessica

Let us know right away if there is any change in the status of your dependent(s).

### **Please Take Action: What Things Affect Your Right to Payment?**

Please notify VA **immediately** if there is a change in any condition affecting your right to continued payments. If you don't notify us of these changes immediately, you may have to return any overpayments. Those changes include:

<b>Evidence received shows a change is warranted.</b>
<b>Military Pay or Worker's Compensation:</b> Your payments may be affected by the following, which you must bring to our attention: <ul style="list-style-type: none"><li>• Reentrance into active military or naval service.</li><li>• Receipt of armed forces service retirement pay, unless your retirement pay has already been reduced because of award of disability compensation.</li><li>• Receipt of benefits from the Office of Federal Employees Compensation.</li><li>• Receipt of active duty or drill pay as a reservist or member of the National Guard.</li></ul>
<b>Dependents:</b> If you have a disability rating of 30 percent or more, you must advise VA of any change with your spouse or children.
<b>Hospitalization:</b> If your award includes Aid and Attendance benefits, we may reduce this additional allowance if you are admitted to a hospital, nursing home, or domiciliary care at VA expense.
<b>Incarceration:</b> Benefits will be reduced if you are incarcerated in a federal, state, or local penal institution for more than 60 days for conviction of a felony.
<b>Lack of Cooperation:</b> We may stop monthly payments if you: <ul style="list-style-type: none"><li>• fail to submit evidence we requested,</li><li>• fail to attend a VA examination when requested, or</li><li>• Submit false or fraudulent evidence to VA, or cause false or fraudulent evidence to be submitted to VA.</li></ul>
<b>Fraud/Lying to Government:</b> The law provides severe penalties, which include fines, imprisonment, or both, for the fraudulent acceptance of any payment to which you are not entitled. We may verify information you submit through computer-matching programs with

**Evidence received shows a change is warranted.**

other agencies.

## **Additional Benefits**

### **Education, Training, and Student Loans:**

- Education loans: For more information, please call 1-888-GIBILL-1 (1-888-442-4551) or visit [www.vets.gov/education](http://www.vets.gov/education).
- Veterans with student loans: For more information, please call 1-888-303-7818 or visit [www.disabilitydischarge.com/](http://www.disabilitydischarge.com/).
- Job training and employment: For more information, please call 1-800-827-1000 or visit [www.vba.va.gov/bln/vre/](http://www.vba.va.gov/bln/vre/).

### **Medical Care and Treatment:**

- Mental Health Counseling: For more information, please visit [www.myhealth.va.gov/mhv-portal-web/](http://www.myhealth.va.gov/mhv-portal-web/).
- Blind Rehabilitation: For more information, please visit [www.va.gov/blindrehab/](http://www.va.gov/blindrehab/).
- Change in compensation benefits: For more information, please call 1-877-222-VETS or visit [www.va.gov/healtheligibility](http://www.va.gov/healtheligibility).
- Clothing allowance: For more information, please call 1-800-827-1000 or visit [www.vets.gov/disability-benefits/conditions/special-claims/clothing/](http://www.vets.gov/disability-benefits/conditions/special-claims/clothing/).
- VA medical care: Present a copy of this notification letter to the Patient Registration/Eligibility Section at your nearest VA Medical Center [www.vets.gov/facility-locator](http://www.vets.gov/facility-locator).
- Dental benefits: For more information, please contact your nearest VA Medical Center or outpatient clinic [www.vets.gov/facility-locator](http://www.vets.gov/facility-locator).
- Spouse or child health care: For more information, please call 1-800-733-8387 or visit [www.va.gov/purchasedcare/programs/dependents/champva](http://www.va.gov/purchasedcare/programs/dependents/champva).

### **Home Adaptations, Automobile Benefits, and Life Insurance:**

- Loans: For more information, please visit [www.benefits.va.gov/homeloans/](http://www.benefits.va.gov/homeloans/).
- Home upgrade due to disability: For more information, please visit

[www.benefits.va.gov/homeloans/adaptedhousing.asp](http://www.benefits.va.gov/homeloans/adaptedhousing.asp).

- Car upgrade due to disability: For more information, please call 1-800-827-1000 or visit [www.vets.gov/disability-benefits/conditions/special-claims/automobile/](http://www.vets.gov/disability-benefits/conditions/special-claims/automobile/).
- Government life insurance premiums: For more information, please call 1-800-669-8477 or visit [www.benefits.va.gov/insurance](http://www.benefits.va.gov/insurance).

### **Armed Forces Commissary and Exchange:**

- Armed Forces Commissary and Exchange: For more information, please visit [www.ebenefits.va.gov](http://www.ebenefits.va.gov) to locate your Regional Benefit Office, please visit [www.vets.gov/facility-locator/](http://www.vets.gov/facility-locator/).

### **Payment for Travel:**

- Payment for Travel: You may be eligible for reimbursement for beneficial travel mileage for previous VA medical appointments because of your newly granted service-connected conditions. You must make a request for such reimbursement **within 30 days of this letter** by contacting the Enrollment office at your Medical Center and providing a copy of this letter.

### **State Benefits:**

- State Benefits: For more information, please visit [www.va.gov/statedva.htm](http://www.va.gov/statedva.htm).

### **Social Security Administration (SSA) Benefits:**

- Social Security Administration (SSA) Benefits: For more information about Social Security benefits, please call SSA at 1-800-772-1213 (Hearing Impaired TTY line 1-800-325-0778) or visit [www.ssa.gov](http://www.ssa.gov).

## Where to Send Your Written Correspondence

In order to properly determine where to send your written correspondence, please first identify your benefit type (Compensation, Veterans Pension, or Survivor Benefits); then, locate the corresponding address based on your location of residence.

For correspondence relating to all **Compensation** claims:

<b>Location of Residence</b>	<b>Address</b>
<b>All United States and Foreign Locations</b>	Department Of Veterans Affairs Evidence Intake Center <b>P.O. Box 4444</b> Janesville, WI, 53547-4444
*Note: For foreign Veterans Pension and Survivor Benefits please refer to the below addresses.	Or fax your information to: Toll Free: 844-531-7818 Local: 248-524-4260

For correspondence relating to all **Veterans Pension and Survivor Benefit** claims:

<b>Location of Residence</b>	<b>Address</b>		
Alabama	Kentucky	Missouri	Department Of Veterans Affairs Claims Intake Center
Arkansas	Louisiana	Ohio	Attention: Milwaukee Pension Center
Illinois	Michigan	Tennessee	<b>P.O. Box 5192</b>
Indiana	Mississippi	Wisconsin	Janesville, WI 53547-5192 Or fax your information to: Toll Free: (844) 655-1604
Alaska	Montana	Texas	Department Of Veterans Affairs
Arizona	Nebraska	Utah	Claims Intake Center
California	Nevada	Washington	Attention: St. Paul Pension Center
Colorado	New Mexico	Wyoming	<b>P.O. Box 5365</b>
Hawaii	North Dakota	Mexico	Janesville, WI 53547-5365
Idaho	Oklahoma	Central America	Or fax your information to: Toll Free: (844) 655-1604
Iowa	Oregon	South America	
Kansas	South Dakota	Caribbean	
Minnesota			
Connecticut	New Hampshire	South Carolina	Department Of Veterans Affairs
Delaware	New Jersey	Vermont	Claims Intake Center
Florida	New York	Virginia	Attention: Philadelphia Pension Center
Georgia	North Carolina	West Virginia	<b>P.O. Box 5206</b>
Maine	Pennsylvania	District of Columbia	Janesville, WI 53547-5206
Maryland	Rhode Island	Puerto Rico	Or fax your information to: Toll Free: (844) 655-1604
Massachusetts		Canada	
Countries outside of North, Central or South America			





After careful and compassionate consideration, a decision has been reached on your claim. If we were not able to grant some or all of the VA benefits you asked for, this form will explain what you can do if you disagree with our decision. If you do not agree with our decision, you may:

- Start an appeal by submitting a Notice of Disagreement.
- Give us evidence we do not already have that may lead us to change our decision.

This form will tell you how to appeal and how to send us more evidence. You can do either one or both of these things.

## HOW CAN I APPEAL THE DECISION?

**How do I start my appeal?** To begin your appeal, you **must** submit VA Form 21-0958, "Notice of Disagreement," if that form was provided to you in connection with our decision. If we denied more than one claim for a benefit (for example, if you claimed compensation for three disabilities and we denied two of them), please tell us in Part IV of VA Form 21-0958 each of the claims you are appealing. A filed VA Form 21-0958 is considered your Notice of Disagreement. If you did not receive VA Form 21-0958 in connection with our decision, then write us a letter telling us you disagree with our decision or enter your disagreement on VA Form 21-0958 in questions 11 or 12A. If you did not receive VA Form 21-0958 in connection with our decision, then either your statement or VA Form 21-0958 is considered your Notice of Disagreement. **Send your Notice of Disagreement to the address included on our decision notice letter.**

**How long do I have to start my appeal?** **You have one year to start an appeal of our decision.** Your Notice of Disagreement must be postmarked (or received by us) within one year from the date of **our** letter denying you the benefit. In most cases, you cannot appeal a decision after this one-year period has ended.

**What happens if I do not start my appeal on time?** If you do not start your appeal on time, our decision will become final. Once our decision is final, you cannot get the VA benefit we denied unless you either:

- Show that we were clearly wrong to deny the benefit **or**
- Send us new evidence that relates to the reason we denied your claim.

**What happens after VA receives my Notice of Disagreement?** We will either grant your claim or send you a Statement of the Case. A Statement of the Case describes the facts, laws, regulations, and reasons that we used to make our decision. We will also send you a VA Form 9, "Appeal to Board of Veterans' Appeals," with the Statement of the Case. If you want to continue your appeal to the Board of Veterans' Appeals (Board) after receiving a Statement of the Case, you must complete and return the VA Form 9 within one year from the date of our letter denying you the benefit **or** within 60 days from the date that we mailed the Statement of the Case to you, **whichever is later**. If you decide to complete an appeal by filing a VA Form 9, you have the option to request a Board hearing. Hearings often increase wait time for a Board decision. It is not necessary for you to have a hearing for the Board to decide your appeal. It is your choice.

## Where can I find out more about the VA appeals process?

- You can find a "plain language" pamphlet called "How Do I Appeal," on the Internet at: [http://www.bva.va.gov/How\\_Do\\_I\\_Appeal.asp](http://www.bva.va.gov/How_Do_I_Appeal.asp).
- You can find the formal rules for the VA appeals process in title 38, Code of Federal Regulations, Part 20. You can find the complete Code of Federal Regulations on the Internet at: <http://www.ecfr.gov>. A printed copy of the Code of Federal Regulations may be available at your local law library.

## YOUR RIGHT TO REPRESENTATION

**Can I get someone to help me with my appeal?** Yes. You can have a Veterans Service Organization representative, an attorney-at-law, or an "agent" help you with your appeal. You are not required to have someone represent you. It is your choice.

- Representatives who work for accredited Veterans Service Organizations know how to prepare and present claims and will represent you. You can find a listing of these organizations on the Internet at: <http://www.va.gov/vso>.

- A private attorney or an "agent" can also represent you. VA only recognizes attorneys who are licensed to practice in the United States or in one of its territories or possessions. Your local bar association may be able to refer you to an attorney with experience in veterans' law. An agent is a person who is not a lawyer, but who VA recognizes as being knowledgeable about veterans' law. Contact us if you would like to know if there is a VA accredited agent in your area.

**Do I have to pay someone to help me with my appeal?** It depends on who helps you. The following explains the differences.

- Veterans Service Organizations will represent you for free.
- Attorneys or agents can charge you for helping you under some circumstances. Paying their fees for helping you with your appeal is your responsibility. If you do hire an attorney or agent to represent you, a copy of any fee agreement must be sent to VA. The fee agreement must clearly specify if VA is to pay the attorney or agent directly out of past-due benefits. *See* 38 C.F.R. § 14.636(g)(2). If the fee agreement provides for the direct payment of fees out of past-due benefits, a copy of the direct-pay fee agreement must be filed with us at the address included on our decision notice letter within 30 days of its execution. A copy of any fee agreement that is not a direct-pay fee agreement must be filed with the Office of the General Counsel within 30 days of its execution by mailing the copy to the following address: Office of the General Counsel (022D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. *See* 38 C.F.R. § 14.636(g)(3).

## GIVING VA ADDITIONAL EVIDENCE

You can send us more evidence to support a claim whether or not you choose to appeal.

***NOTE: Please direct all new evidence to the address included on our decision notice letter. You should not send evidence directly to the Board at this time. You should only send evidence to the Board if you decide to complete an appeal and, then, you should only send evidence to the Board after you receive written notice from the Board that they received your appeal.***

If you have more evidence to support a claim, it is in your best interest to give us that evidence as soon as you can. We will consider your evidence and let you know whether it changes our decision. Please keep in mind that we can only consider new evidence that: (1) we have not already seen and (2) relates to your claim. You may give us this evidence either in writing or at a personal hearing with your local VA office.

***In writing.*** To support your claim, you may send documents and written statements to us at the address included on our decision notice letter. Tell us in a letter how these documents and statements should change our earlier decision.

***At a personal hearing.*** You may request a hearing with an employee at your local VA office at any time, whether or not you choose to appeal. We do not require you to have a local hearing. It is your choice. At this hearing, you may speak, bring witnesses to speak on your behalf, and hand us written evidence. If you want a local hearing, send us a letter asking for a local hearing. Use the address included on our decision notice letter. We will then:

- Arrange a time and place for the hearing
- Provide a room for the hearing
- Assign someone to hear your evidence
- Make a written record of the hearing

## WHAT HAPPENS AFTER I GIVE VA EVIDENCE?

We will review any new evidence, including the record of the local hearing, if you choose to have one, together with the evidence we already have. We will then decide if we can grant your claim. If we cannot grant your claim and you complete an appeal, we will send the new evidence and the record of any local hearing to the Board.



# Department of Veterans Affairs

## INFORMATION AND INSTRUCTIONS FOR COMPLETING NOTICE OF DISAGREEMENT (NOD)

**IMPORTANT:** Please read the information below carefully to help you complete this form quickly and accurately. Some parts of the form also contain notes or specific instructions for completing that part.

The use of this form is **mandatory** to initiate an appeal from the decision on disability compensation claims you received. This form has several key components, which, when filled out completely and accurately, will decrease the amount of time it takes to process your NOD.

### FREQUENTLY ASKED QUESTIONS

#### How do I use this standard Notice of Disagreement (NOD) form?

You **must** use this form if you wish to indicate that you disagree with a decision you received regarding your claim for disability compensation. Examples of these decisions may include entitlement to service connection, percentage of evaluation assigned, and effective date among other things. This form is the only way that you can initiate an appeal from a decision on your claim for disability compensation.

#### Should I fill out this form?

You **must** fill out this form if you disagree with a decision issued by the VA regional office (RO) about your disability compensation claim. This includes an initial decision, a decision for an increased rating, or any other decision with which you disagree. Only those issues that you list on this NOD will be considered on appeal. For those issues you do not list on this NOD, you will still have one year from the date of the decision notification letter to file an appeal for those issues.

#### Where can I get help?

You can ask the Department of Veterans Affairs (VA) to help you fill out the form by contacting us at 1-800-827-1000. Before you contact us, please make sure you gather the necessary information and materials, and complete as much of the form as you can.

You can also contact your representative, if applicable, for assistance with completing this form. If you do not already have a representative, you can find a list of approved Veterans Service Organizations at [www.va.gov/vso](http://www.va.gov/vso). You can be represented by a Veterans Service Organization representative, an attorney-at-law, or "agent". Contact your local RO for assistance with appointing a representative or visit [www.ebenefits.va.gov](http://www.ebenefits.va.gov).

#### What should I do when I have finished my NOD?

You should provide your signature in Item 13A and the date signed in Item 13B. Be sure to sign every form you fill out before you send it to us. If you don't sign the form, VA will return it for you to sign, and it will take longer to process.

Attach any materials that support and explain your NOD.

Mail your NOD to the address included on the VA decision notice letter or take your NOD to your local RO.

#### Do I need to keep a copy of this NOD form?

It is important that you keep a copy of all completed forms and materials you give to VA.

#### What constitutes a complete NOD form?

Generally, VA will consider your NOD "complete" if the following information is provided on the form:

#### **(1) Part I - Information to identify the claimant such as name, Social Security Number, or VA claim number.**

Please note that it would assist VA if you provide all the personal information in Part I. However, if you provide certain information specific to the claimant such as the claimant's last name and Social Security Number or VA file number, VA will be able to identify the claimant in our system and would not necessarily consider this NOD incomplete if other information in Part I, such as the claimant's address and telephone number, is excluded.

#### **(2) Part IV - Information to identify the specific nature of the disagreement.**

Please list the issues or conditions for which you seek appellate review in Item 11 of Part IV. At a minimum, please indicate the specific issue of disagreement in Item 11A such as "right knee disability" or "Post Traumatic Stress Disorder (PTSD)" and indicate the area of disagreement in Item 11B by checking the appropriate box. If you disagree with an evaluation of a disability, you may tell us what percentage evaluation you seek in Item 11C; however, you are not required to indicate the percentage of evaluation sought in Item 11C in order to complete this form.

#### **(3) Part V - Claimant's signature.**

Please be sure to sign the NOD, certifying that the statements on the form are true and correct to the best of the claimant's knowledge and belief.

**IMPORTANT:** If you do not provide the above information on this NOD, VA will consider your form incomplete and will request clarification from you. You must respond to this request for clarification either **60** days from the date of VA's request for clarification or **one year** from the date of mailing of the notice of decision of the RO, whichever is later. If you do not provide VA with a completed form within that time frame, the decision will become final, and you will have to file a new claim.

## **SPECIFIC INSTRUCTIONS FOR THE NOD**

### **Part I - Personal Information**

Please provide all personal contact information.

### **Part II - Telephone Contact**

#### **Why is VA asking to contact me by telephone?**

The purpose of the optional telephone contact is to help process your NOD faster by requesting clarification of any ambiguous information on the form. If you indicate you wish to be contacted by telephone, VA may make up to two attempts to call you at the telephone number provided during the time slot you select. It is important to make sure you select a time period you will be available to speak with a RO representative by telephone.

### **Part III - Election of Decision Review Officer (DRO) Review or Traditional Appellate Review**

#### **How does the DRO Review Process work?**

A DRO is a senior technical expert who did not participate in the decision being reviewed who is responsible for holding post-decisional hearings, if requested, and processing appeals. The DRO will conduct a new and complete review of your claim, without deference to the original decision. The DRO will determine if there is additional evidence necessary to resolve the appeal, may ask you to participate in an informal conference, and/or may pursue additional evidence. The DRO may issue a new decision that changes the original decision by the RO.

#### **How does the Traditional Appellate Review Process work?**

A VA staff member will examine your file and any new evidence that you submit with or after your NOD. The reviewer may change the original decision based on new evidence or upon a finding of clear and unmistakable error in that decision.

#### **How do I complete this section?**

If you wish to elect the DRO Review Process, please check the "Decision Review Officer (DRO) Review Process" box in Item 9. If you wish to continue in the Traditional Appellate Review Process, please check the "Traditional Appellate Review Process" box in Item 9. Please note that failure to complete this section will not render the form incomplete.

### **Part IV - Specific Issues of Disagreement**

#### **What date do I enter in the Notification/Decision Letter Date?**

You should enter the date stamped on the notification or decision letter you received that you disagree with in Item 10. Please do not enter today's date in this field. If you need help identifying the date of the notification or decision you disagree with, contact us at 1-800-827-1000.

#### **How do I complete this section?**

The purpose of this section is for you to individually identify each area of disagreement that you have with the VA decision notification letter. Please list **only** the issues or disabilities with which you disagree. Only those issues that you list on this NOD will be considered on appeal. For those issues you do not list on this NOD, you will still have **one** year from the date of the decision notification letter to file an appeal for those issues.

In the Specific Issue of Disagreement column in Item 11A, please individually identify in separate boxes each of the issues with which you disagree. For example, "left knee condition," "hearing loss," etc.

In the "Area of Disagreement" column, Item 11B, please check the area with which you disagree. For example, if you disagree with the effective date that VA assigned for a particular benefit, check the "Effective Date of Award" option. If VA granted a benefit, but you disagree with the evaluation that we assigned, check the "Evaluation of Disability" option. If you were claiming service connection for an injury or disability that you believe to be the result of your military service, and VA denied that claim, please check the "Service Connection" option. If you are disagreeing with our decision for reasons other than listed in the "Area of Disagreement" column, please check "Other" and specify your reason.

If you disagree with a disability evaluation that we have assigned and believe that the evidence justifies a specific evaluation, please list the percentage that you believe the evidence to warrant in the "Percentage of Evaluation Sought If Known" column, Item 11C, within Part IV of the form. To assist, please refer to our decision notification letter where we indicate what the evidence must show for the evaluation we assigned as well as the next higher evaluation. Please note that this information is not required and that, even if you limit your appeal by indicating a specific percentage evaluation sought in Item 11C, evaluation levels above the percentage evaluation sought will be considered in cases where the evidence supports a higher evaluation.

There is extra space provided for you in Item 12A, to explain why you feel VA incorrectly decided your claim, and to list any disagreements not covered by the form. Please utilize this space to briefly and clearly explain why you disagree with our decision.

### **Part V - Certification and Signature**

Sign and date the NOD, certifying that the statements on the form are true to the best of your knowledge and belief.

**Privacy Act Notice:** VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58/VA21/22/28, Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

**Respondent Burden:** We need this information to determine entitlement to benefits (38 U.S.C. 501). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 30 minutes to review the instructions, find the information, and complete the form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at [www.reginfo.gov/public/do/PRA>Main](http://www.reginfo.gov/public/do/PRA>Main). If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.



## Department of Veterans Affairs

## NOTICE OF DISAGREEMENT

A CLAIMANT OR HIS OR HER DULY APPOINTED REPRESENTATIVE MAY FILE NOTICE EXPRESSING THEIR DISSATISFACTION OR DISAGREEMENT WITH AN ADJUDICATIVE DETERMINATION BY THE VA REGIONAL OFFICE. A DESIRE TO CONTEST THE RESULT WILL CONSTITUTE A NOTICE OF DISAGREEMENT (NOD). WHILE SPECIAL WORDING IS NOT REQUIRED, THE NOD MUST BE IN TERMS WHICH CAN BE REASONABLY CONSTRUED AS DISAGREEMENT WITH THAT DETERMINATION AND A DESIRE FOR APPELLATE REVIEW. (AUTHORITY: 38 U.S.C. 7105)

TO FILE A VALID NOD, THERE IS A TIME LIMIT OF **ONE** YEAR FROM THE DATE VA MAILED THE NOTIFICATION OF THE DECISION TO THE CLAIMANT. FOR CONTESTED CLAIMS INCLUDING CLAIMS OF APPORTIONMENT, THIS TIME LIMIT IS **60** DAYS FROM THE DATE VA MAILED THE NOTIFICATION OF THE DECISION TO THE CLAIMANT.

(DO NOT WRITE IN THIS SPACE)  
(VA DATE STAMP)

**NOTE:** You can *either* complete the form online or by hand. Please print information using blue or black ink, neatly, and legibly to help process the form.

### PART I - PERSONAL INFORMATION

1. VETERAN'S NAME (*First, middle initial, last*)

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

2. VETERAN'S SOCIAL SECURITY NUMBER

<input type="text"/> - <input type="text"/> - <input type="text"/>	3. VA FILE NUMBER C/CSS - <input type="text"/>
--	---

### CLAIMANT'S PERSONAL INFORMATION

4. CLAIMANT'S NAME (*First, middle initial, last*)

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

5. CURRENT MAILING ADDRESS (*Number and street or rural route, P.O. Box, City, State, ZIP Code and Country*)

No. & Street

Apt./Unit Number  City

State/Province  Country  ZIP Code/Postal Code  -

6. PREFERRED TELEPHONE NUMBER (*Include Area Code*)

-  -

7. PREFERRED E-MAIL ADDRESS

### PART II - TELEPHONE CONTACT

8. WOULD YOU LIKE TO RECEIVE A TELEPHONE CALL OR E-MAIL FROM A REPRESENTATIVE AT YOUR LOCAL REGIONAL OFFICE REGARDING YOUR NOD?

YES     NO

*(If you answered "Yes," VA will make up to two attempts to call you between 8:00 a.m. and 4:30 p.m. local time at the telephone number and time period you select below. Please select up to two time periods you are available to receive a phone call.)*

8:00 a.m. - 10:00 a.m.     10:00 a.m. - 12:30 p.m.     12:30 p.m. - 2:00 p.m.     2:00 p.m. - 4:30 p.m.

Phone number I can be reached at the above checked time: \_\_\_\_\_

### PART III - APPEAL PROCESS ELECTION

9. SELECT ONE OF THE APPEALS PROCESSING METHODS BELOW (See *Specific Instructions, Page 2, Part III* for additional information)

- Decision Review Officer (DRO) Review Process  
 Traditional Appellate Review Process

**PART IV - SPECIFIC ISSUES OF DISAGREEMENT**10. NOTIFICATION/DECISION LETTER DATE  
[REDACTED]

11. PLEASE LIST EACH SPECIFIC ISSUE OF DISAGREEMENT AND NOTE THE AREA OF DISAGREEMENT. IF YOU DISAGREE ON THE EVALUATION OF A DISABILITY, SPECIFY PERCENTAGE EVALUATION SOUGHT, IF KNOWN. PLEASE LIST ONLY ONE DISABILITY IN EACH BOX. YOU MAY ATTACH ADDITIONAL SHEETS IF NECESSARY.

A. Specific Issue of Disagreement	B. Area of Disagreement	C. Percentage (%) Evaluation Sought (If known)
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) <hr/>	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) <hr/>	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) <hr/>	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) <hr/>	
	<input type="checkbox"/> Service Connection <input type="checkbox"/> Effective Date of Award <input type="checkbox"/> Evaluation of Disability <input type="checkbox"/> Other (Please specify below) <hr/>	

12A. IN THE SPACE BELOW, OR ON A SEPARATE PAGE, PLEASE EXPLAIN WHY YOU FEEL WE INCORRECTLY DECIDED YOUR CLAIM, AND LIST ANY DISAGREEMENT(S) NOT COVERED ABOVE:

12B. DID YOU ATTACH ADDITIONAL PAGES TO THIS NOD?

 YES    NO   (If so, how many?)
**PART V - CERTIFICATION AND SIGNATURE**

I CERTIFY THAT THE STATEMENTS ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

13A. SIGNATURE

13B. DATE SIGNED

PENALTY: THE LAW PROVIDES SEVERE PENALTIES WHICH INCLUDE A FINE, IMPRISONMENT, OR BOTH, FOR THE WILLFUL SUBMISSION OF ANY STATEMENT OR EVIDENCE OF A MATERIAL FACT, KNOWING IT TO BE FALSE.



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

**DALE FLETCHER**

**VA File Number  
540 98 0772**

**Rating Decision  
12/08/2017**

**INTRODUCTION**

The records reflect that you are a veteran of the Gulf War Era. You served in the Army from June 25, 1998, to March 24, 2003 and from April 28, 2009, to November 26, 2017. You filed an original disability claim that was received on November 27, 2017. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

1. Service connection for obstructive sleep apnea is granted with an evaluation of 50 percent effective November 27, 2017.
2. Service connection for right (dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis (claimed as right shoulder condition) is granted with an evaluation of 20 percent effective November 27, 2017.
3. Service connection for left (non-dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis; acromioclavicular separation (claimed as broken clavicle condition) is granted with an evaluation of 20 percent effective November 27, 2017.
4. Service connection for thoracic and lumbar spine spondylosis; degenerative arthritis of the lumbar/thoracic spine; ligamentum flavum (claimed as lumbar spine degenerative disc disease

status post fusion condition) is granted with an evaluation of 20 percent effective November 27, 2017.

5. Service connection for degenerative arthritis of the cervical spine; degenerative disc disease (claimed as neck condition) is granted with an evaluation of 20 percent effective November 27, 2017.

6. Service connection for right arm (dominant) middle radicular group radiculopathy (claimed as right arm nerve condition) is granted with an evaluation of 20 percent effective November 27, 2017.

7. Service connection for left (non-dominant) clavicle or scapula, impairment of (also claimed as broken clavicle condition) is granted with an evaluation of 10 percent effective November 27, 2017.

8. Service connection for right wrist (dominant) scapholunate ligament derangement (claimed as right wrist condition) is granted with an evaluation of 10 percent effective November 27, 2017.

9. Service connection for right patellofemoral pain syndrome (claimed as right knee condition) is granted with an evaluation of 10 percent effective November 27, 2017.

10. Service connection for left patellofemoral pain syndrome is granted with an evaluation of 10 percent effective November 27, 2017.

11. Service connection for tinnitus (claimed as ringing in ears) is granted with an evaluation of 10 percent effective November 27, 2017.

12. Service connection for gastroesophageal reflux disease is granted with an evaluation of 10 percent effective November 27, 2017.

13. Service connection for right sciatic nerve (claimed as right side sciatic) is granted with an evaluation of 10 percent effective November 27, 2017.

14. Service connection for adjustment disorder with mixed anxiety and depressed mood (claimed as anxiety disorder, depression, memory loss, grinding of teeth 2ndary to anxiety, and sleep disturbance) is granted with an evaluation of 10 percent effective November 27, 2017.

15. Service connection for left hallux valgus; left foot degenerative arthritis (claimed as left foot bunion condition) is granted with an evaluation of 0 percent effective November 27, 2017.

16. Service connection for right hallux valgus is granted with an evaluation of 0 percent effective November 27, 2017.

17. Service connection for right foot hammer toe(s) third and fourth toes is granted with an

evaluation of 0 percent effective November 27, 2017.

18. Service connection for acute self-limiting sinusitis (claimed as residuals of nose injury sinus issues) is granted with an evaluation of 0 percent effective November 27, 2017.

19. Service connection for allergic rhinitis is granted with an evaluation of 0 percent effective November 27, 2017.

20. Service connection for hypertension is granted with an evaluation of 0 percent effective November 27, 2017.

21. Service connection for erectile dysfunction is granted with an evaluation of 0 percent effective November 27, 2017.

22. Service connection for laceration scar(s) (claimed as scar on face from nose injury) is granted with an evaluation of 0 percent effective November 27, 2017.

23. Service connection for surgical scars, cervical spine and lumbar segment is granted with an evaluation of 0 percent effective November 27, 2017.

24. Basic eligibility to Dependents' Educational Assistance is established from November 27, 2017.

25. Service connection for fatigue is denied.

26. Service connection for migraines is denied.

### **EVIDENCE**

- VA Form 21-0819 (VA/DOD Joint Disability Evaluation Board Claim), received March 16, 2017
- VA Form 21-4138 (Statement in Support of Claim), received March 16, 2017
- VA Form 21-526EZ (Application for Disability Compensation and Related Compensation Benefits), received March 16, 2017 and September 19, 2017
- VA Form 21-526b (Veteran's Supplemental Claim for Compensation), received April 5, 2017
- Notice to Claimants of Information and Evidence Necessary to Substantiate a Claim for VA Disability, dated March 16, 2017
- Medical Evaluation Board Proceedings, dated April 28, 2017
- Medical Evaluation Board Narrative Summary, dated April 24, 2017
- Physical Disability Evaluation System Commander's Performance and Functional Statement, dated, March 6, 2017
- Memorandum for Director of Clinical Services (DCO) Evans ACH Fort Carson, CO-Medical Evaluation Board (MEB) Rebuttal dated May 9, 2017
- Memorandum for PEB-MEB Appeal dated May 11, 2017 and April 25, 2017

- VA Examination-Psychiatric Examination dated March 29, 2017
- VA Examination-Audio Examination dated April 10, 2017
- VA Examination-General Medical Examination dated April 11, 2017
- VA Examination-Dental Examination dated April 21, 2017
- VA Examination-Dental Examination-Medical Opinion dated April 21, 2017
- Service Treatment Records, from January 23, 1998 through April 24, 2017
- IDES Proposed Rating Decision-Department of Veterans Affairs-Veterans Benefits Administration-Regional Office dated June 29, 2017
- DA Form 199 Informal Physical Evaluation Board (PEB) Proceedings date PEB convened August 3, 2017
- DD 214 Certificate of Release or Discharge from Active Duty for Period(s) of Service from June 25, 1998 through March 24, 2003 and April 28, 2009 through November 26, 2017

### **REASONS FOR DECISION**

#### **1. Service connection for obstructive sleep apnea.**

Service connection for obstructive sleep apnea has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 50 percent is assigned from November 27, 2017.

We have assigned a 50 percent evaluation for your obstructive sleep apnea based on:

- Requires use of breathing assistance device such as continuous airway pressure (CPAP) machine

A higher evaluation of 100 percent is not warranted for sleep apnea syndromes unless the evidence shows:

- Carbon dioxide retention; or,
- Chronic respiratory failure; or,
- Cor pulmonale; or,
- Tracheostomy required.

#### **2. Service connection for right (dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis (claimed as right shoulder condition).**

Service connection for right (dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis (claimed as right shoulder condition) has been established as directly related to military service.

DALE FLETCHER  
540 98 0772  
5 of 20

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 20 percent is assigned from November 27, 2017.

We have assigned a 20 percent evaluation for your right (dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis (claimed as right shoulder condition) based on:

- Limited motion of the arm at shoulder level
- Painful motion of the shoulder. (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 arm at the shoulder, the minimum compensable evaluation of 20 percent is assigned)

Additional symptom(s) include:

- X-ray evidence of degenerative arthritis

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.

A higher evaluation of 30 percent is not warranted for limitation of motion of the arm unless the evidence shows:

- Limited motion of the arm midway between the side and shoulder level.

**3. Service connection for left (non-dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis; acromioclavicular separation (claimed as broken clavicle condition).**

Service connection for left (non-dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis; acromioclavicular separation (claimed as broken clavicle condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 20 percent is assigned from November 27, 2017.

We have assigned a 20 percent evaluation for your left (non-dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis; acromioclavicular separation (claimed as broken clavicle condition) based on:

- Limited motion of the arm midway at shoulder level

- Painful motion of the shoulder. (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 arm at the shoulder, the minimum compensable evaluation of 20 percent is assigned)

Additional symptom(s) include:

- X-ray evidence of degenerative arthritis
- X-ray evidence of degenerative arthritis along with any limitation of motion of the joint

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 degenerative arthritis.

Additionally, a higher evaluation of 30 percent is not warranted for limitation of motion of the arm unless the evidence shows:

- Limited motion of the arm to 25 degrees from the side.

**4. Service connection for thoracic and lumbar spine spondylosis; degenerative arthritis of the lumbar/thoracic spine; ligamentum flavum (claimed as lumbar spine degenerative disc disease status post fusion condition).**

Service connection for thoracic and lumbar spine spondylosis; degenerative arthritis of the lumbar/thoracic spine; ligamentum flavum (claimed as lumbar spine degenerative disc disease status post fusion condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 20 percent is assigned from November 27, 2017.

We have assigned a 20 percent evaluation for your thoracic and lumbar spine spondylosis; degenerative arthritis of the lumbar/thoracic spine; ligamentum flavum (claimed as lumbar spine degenerative disc disease status post fusion condition) based on:

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

Additional symptom(s) include:

- X-ray evidence of degenerative arthritis
- With no incapacitating episodes during the past 12 months
- Combined range of motion of the thoracolumbar spine greater than 120 degrees but not greater than 235 degrees

- Guarding not resulting in abnormal gait or abnormal spinal contour
- 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 applied under 38 CFR §4.59.

A higher evaluation of 40 percent is not warranted for lumbosacral strain unless the evidence shows:

- Favorable ankylosis of the entire thoracolumbar spine; or,
- Forward flexion of the thoracolumbar spine 30 degrees or less.

Additionally, a higher evaluation of 40 percent is not warranted for lumbosacral strain unless the evidence shows:

- Intervertebral disc syndrome (IVDS) with incapacitating episodes having a total duration of at least four weeks but less than six weeks during the past 12 months.

**5. Service connection for degenerative arthritis of the cervical spine; degenerative disc disease (claimed as neck condition).**

Service connection for degenerative arthritis of the cervical spine; degenerative disc disease (claimed as neck condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 20 percent is assigned from November 27, 2017.

We have assigned a 20 percent evaluation for your degenerative arthritis of the cervical spine; degenerative disc disease (claimed as neck condition) based on:

- Forward flexion of the cervical spine greater than 15 degrees but not greater than 30 degrees

Additional symptom(s) include:

- Combined range of motion of the cervical spine greater than 170 degrees but not greater than 335 degrees
- Guarding not resulting in abnormal gait or abnormal spinal contour
- 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 are not warranted.

A higher evaluation of 30 percent is not warranted for cervical strain unless the evidence shows:

- Favorable ankylosis of the entire cervical spine; or,
- Forward flexion of the cervical spine 15 degrees or less.

**6. Service connection for right arm (dominant) middle radicular group radiculopathy (claimed as right arm nerve condition).**

Service connection for right arm (dominant) middle radicular group radiculopathy (claimed as right arm nerve condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 20 percent is assigned from November 27, 2017.

We have assigned a 20 percent evaluation for your right arm (dominant) middle radicular group radiculopathy (claimed as right arm nerve condition) based on:

- Mild incomplete paralysis of the major extremity

A higher evaluation of 40 percent is not warranted for paralysis of the middle radicular nerve group unless the evidence shows nerve damage is moderate.

**7. Service connection for left (non-dominant) clavicle or scapula, impairment of (also claimed as broken clavicle condition).**

Service connection for left (non-dominant) clavicle or scapula, impairment of (also claimed as broken clavicle condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your left (non-dominant) shoulder impingement syndrome; acromioclavicular osteoarthritis; acromioclavicular separation (claimed as broken clavicle condition) based on:

- Malunion of the clavicle or scapula

A higher evaluation of 20 percent is not warranted for degenerative arthritis unless the evidence shows:

- X-ray evidence of involvement of two or more major joints or two or more minor joint groups,

with occasional incapacitating exacerbations.

Additionally, a higher evaluation of 20 percent is not warranted for impairment of the clavicle or scapula unless the evidence shows:

- Dislocation of the clavicle or scapula; or,
- Nonunion of the clavicle or scapula with loose movement.

**8. Service connection for right wrist (dominant) scapholunate ligament derangement (claimed as right wrist condition).**

Service connection for right wrist (dominant) scapholunate ligament derangement (claimed as right wrist condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your right wrist (dominant) scapholunate ligament derangement (claimed as right wrist condition) 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.)

Additional symptom(s) include:

- Dorsiflexion limited to 15° or beyond

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.

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.

**9. Service connection for right patellofemoral pain syndrome (claimed as right knee condition).**

Service connection for right patellofemoral pain syndrome (claimed as right knee condition) has

DALE FLETCHER  
540 98 0772  
10 of 20

been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your right patellofemoral pain syndrome (claimed as right knee condition) 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 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.

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.

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.

A higher evaluation may be warranted if:

- Flexion is limited to 45 degrees or less; AND,
- Extension is limited to 10 degrees or more.

## **10. Service connection for left patellofemoral pain syndrome.**

Service connection for left patellofemoral pain syndrome has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your left patellofemoral pain syndrome 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 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.

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.

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.

A higher evaluation may be warranted if:

- Flexion is limited to 45 degrees or less; AND,
- Extension is limited to 10 degrees or more.

## **11. Service connection for tinnitus (claimed as ringing in ears).**

Service connection for tinnitus (claimed as ringing in ears) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your tinnitus (claimed as ringing in ears) 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.

## **12. Service connection for gastroesophageal reflux disease.**

Service connection for gastroesophageal reflux disease has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your gastroesophageal reflux disease based on:

- Pyrosis (Heartburn and/or Reflux)
- Regurgitation

A higher evaluation of 30 percent is not warranted for hiatal hernia unless the evidence shows persistently recurrent epigastric distress with dysphagia, pyrosis, and regurgitation, accompanied by substernal or arm or shoulder pain, productive of considerable impairment of health.

This disability is not specifically listed in the rating schedule; therefore, it is rated analogous to a disability in which not only the functions affected, but anatomical localization and symptoms, are closely related.

### **13. Service connection for right sciatic nerve (claimed as right side sciatic).**

Service connection for right sciatic nerve (claimed as right side sciatic) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your right sciatic nerve (claimed as right side sciatic) based on:

- Mild incomplete paralysis

A higher evaluation of 20 percent is not warranted for neuritis of the sciatic nerve unless the evidence shows nerve damage is moderate.

### **14. Service connection for adjustment disorder with mixed anxiety and depressed mood (claimed as anxiety disorder, depression, memory loss, grinding of teeth 2ndary to anxiety, and sleep disturbance).**

Service connection for adjustment disorder with mixed anxiety and depressed mood (claimed as anxiety disorder, depression, memory loss, grinding of teeth 2ndary to anxiety, and sleep disturbance) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

An evaluation of 10 percent is assigned from November 27, 2017.

We have assigned a 10 percent evaluation for your adjustment disorder with mixed anxiety and depressed mood (claimed as anxiety disorder, depression, memory loss, grinding of teeth 2ndary to anxiety, and sleep disturbance) based on:

- Occupational and social impairment due to mild or transient symptoms which decrease work efficiency and ability to perform occupational tasks only during periods of significant stress
- Depressed mood
- Anxiety
- Bruxism
- Chronic sleep impairment

The overall evidentiary record shows that the severity of your disability most closely approximates the criteria for a 10 percent disability evaluation.

A higher evaluation of 30 percent is not warranted for chronic adjustment disorder unless the evidence shows occupational and social impairment with occasional decrease in work efficiency and intermittent periods of inability to perform occupational tasks (although generally functioning satisfactorily, with routine behavior, self-care, and conversation normal), due to such symptoms as:

- depressed mood
- anxiety
- suspiciousness
- panic attacks (weekly or less often)
- chronic sleep impairment
- mild memory loss (such as forgetting names, directions, recent events).

**15. Service connection for left hallux valgus; left foot degenerative arthritis (claimed as left foot bunion condition).**

DALE FLETCHER  
540 98 0772  
14 of 20

Service connection for left hallux valgus; left foot degenerative arthritis (claimed as left foot bunion condition) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your left hallux valgus; left foot degenerative arthritis (claimed as left foot bunion condition) based on:

- A diagnosed disability with no compensable symptoms

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 10 percent is not warranted for unilateral hallux valgus unless the evidence shows:

- Postoperative residuals with resection of metatarsal head; or,
- Severe symptoms, if equivalent to amputation of great toe.

#### **16. Service connection for right hallux valgus.**

Service connection for right hallux valgus has been established as directly related to military service.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your right hallux valgus based on:

- A diagnosed disability with no compensable symptoms

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 10 percent is not warranted for unilateral hallux valgus unless the evidence shows:

- Postoperative residuals with resection of metatarsal head; or,
- Severe symptoms, if equivalent to amputation of great toe.

#### **17. Service connection for right foot hammer toe(s) third and fourth toes.**

DALE FLETCHER  
540 98 0772  
15 of 20

Service connection for right foot hammer toe(s) third and fourth toes has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your right foot hammer toe(s) third and fourth toes based on:

- Single toes

A higher evaluation of 10 percent is not warranted for hammer toe unless the evidence shows all toes, unilateral without claw foot.

**18. Service connection for acute self-limiting sinusitis (claimed as residuals of nose injury sinus issues).**

Service connection for acute self-limiting sinusitis (claimed as residuals of nose injury sinus issues) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your acute self-limiting sinusitis (claimed as residuals of nose injury sinus issues) based on:

- A diagnosed disability with no compensable symptoms

A higher evaluation of 10 percent is not warranted for maxillary sinusitis 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..

**19. Service connection for allergic rhinitis.**

Service connection for allergic rhinitis has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your allergic rhinitis based on:

- A diagnosed disability with no compensable symptoms

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 10 percent is not warranted for allergic rhinitis unless the evidence shows:

- Rhinitis without polyps, but with greater than 50 percent obstruction of the nasal passages on both sides; or complete obstruction of the nasal passages on one side.

## **20. Service connection for hypertension.**

Service connection for hypertension has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your hypertension based on:

- A diagnosed disability with no compensable symptoms

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 10 percent is not warranted for hypertensive vascular disease unless the evidence shows:

- A history of diastolic pressure predominantly 100 or more and there is a requirement for continuous medication for control; or,
- Diastolic pressure predominantly 100 or more; or,
- Systolic pressure predominantly 160 or more.

**21. Service connection for erectile dysfunction.**

Service connection for erectile dysfunction has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

We have assigned a noncompensable evaluation for your erectile dysfunction based on:

- Erectile dysfunction

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

A higher evaluation of 20 percent is not warranted for penile deformity with loss of erectile power unless the evidence shows:

- Deformity with loss of erectile power.

This disability is not specifically listed in the rating schedule; therefore, it is rated analogous to a disability in which not only the functions affected, but anatomical localization and symptoms, are closely related.

We have considered possible entitlement to special monthly compensation for loss or loss of use of a creative organ. This benefit is payable when it is no longer possible to procreate naturally, such as when medication is needed. Since your problem is only occasional and medication is not needed, entitlement is not established.

**22. Service connection for laceration scar(s) (claimed as scar on face from nose injury).**

Service connection for laceration scar(s) (claimed as scar on face from nose injury) has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

#1: A scar, located on your head, face, or neck, measures 1.0 cm in length, 0.1 cm in width (0.02 in<sup>2</sup> (0.1 cm<sup>2</sup>) overall). The scar is neither hyperpigmented nor hypopigmented. The evidence shows the scar is smooth on palpation. The scar is not painful. The scar is stable. The scar's underlying soft tissue is intact. The scar's skin is soft and flexible. The texture of the scar is normal. The scar is not adherent to underlying tissue.

#2: A scar, located on your head, face, or neck, measures 1.0 cm in length, 0.1 cm in width (0.02 in<sup>2</sup> (0.1 cm<sup>2</sup>) overall). The scar is neither hyperpigmented nor hypopigmented. The evidence shows the scar is smooth on palpation. The scar is not painful. The scar is stable. The scar's underlying soft tissue is intact. The scar's skin is soft and flexible. The texture of the scar is normal. The scar is not adherent to underlying tissue.

We have assigned a noncompensable evaluation for your laceration scar based on:

- Zero characteristics of disfigurement

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

An additional, separate compensable evaluation under Diagnostic Code 7804 is not warranted unless there is at least one scar that is painful or unstable.

A higher evaluation of 10 percent is not warranted for scar(s) of the head, face, or neck unless the evidence shows one characteristic of disfigurement.

Higher evaluations may also be warranted based on loss of auricle and/or anatomical loss of one or both eyes.

The eight characteristics of disfigurement, for purposes of evaluation under 38 CFR §4.118 are: scar 5 or more inches (13 or more cm) in length; scar at least one-quarter inch (0.6 cm) wide at widest part; surface contour of scar elevated or depressed on palpation; scar adherent to underlying tissue; skin hypo- or hyper-pigmented in an area exceeding six square inches (39 cm<sup>2</sup>) skin texture abnormal irregular, atrophic, shiny, scaly, etc.) in an area exceeding six square inches (39 cm<sup>2</sup>) underlying soft tissue missing in an area exceeding six square inches (39 cm<sup>2</sup>) and, skin indurated and inflexible in an area exceeding six square inches (39 cm<sup>2</sup>). The characteristic(s) of disfigurement may be caused by one scar or by multiple scars; the characteristic(s) required to assign a particular evaluation need not be caused by a single scar in order to assign that evaluation. A characteristic of disfigurement, even if present in more than one scar, is only counted once for evaluation purposes.

### **23. Service connection for surgical scars, cervical spine and lumbar segment.**

Service connection for surgical scars, cervical spine and lumbar segment has been established as directly related to military service.

The effective date of this grant is November 27, 2017. Service connection has been established from the day after your discharge from active duty. When a claim of service connection is received within one year of discharge from active duty, the effective date is the day after discharge.

A noncompensable evaluation is assigned from November 27, 2017.

#3: A surgical scar, located on your posterior trunk, measures 0.1 in<sup>2</sup> (0.7 cm<sup>2</sup>)superficial and linear. The scar is neither painful nor unstable.

#4: A surgical scar, located on your posterior trunk, measures 0.1 in<sup>2</sup> (0.6 cm<sup>2</sup>)superficial and linear. The scar is neither painful nor unstable.

We have assigned a noncompensable evaluation for your laceration scar based on:

- One or more linear scars

Note: In every instance where the schedule does not provide a zero percent evaluation for a diagnostic code, a zero percent evaluation shall be assigned when the requirements for a compensable evaluation are not met. {38 CFR §4.31}

An additional, separate compensable evaluation under Diagnostic Code 7804 is not warranted unless there is at least one scar that is painful or unstable.

A higher evaluation is not warranted unless scars are considered disabling because of limitation of function of the affected part.

#### **24. Eligibility to Dependents' Educational Assistance under 38 U.S.C. Chapter 35.**

Eligibility to Dependents' Educational Assistance is derived from a veteran who was discharged under other than dishonorable conditions; and, has a permanent and total service-connected disability; or a permanent and total disability was in existence at the time of death; or the veteran died as a result of a service-connected disability. Also, eligibility exists for a serviceperson who died in service. Finally, eligibility can be derived from a service member who, as a member of the armed forces on active duty, has been listed for more than 90 days as: missing in action; captured in line of duty by a hostile force; or forcibly detained or interned in line of duty by a foreign government or power.

Basic eligibility to Dependents' Education Assistance is granted as the evidence shows the veteran currently has a total service-connected disability, permanent in nature.

#### **25. Service connection for fatigue.**

Service connection may be granted for a disability which began in military service or was caused

by some event or experience in service. Service connection for fatigue is denied because the medical evidence of record fails to show that this disability has been clinically diagnosed.

**26. Service connection for migraines.**

Service connection may be granted for a disability which began in military service or was caused by some event or experience in service. Service connection for migraines is denied because the medical evidence of record fails to show that this disability has been clinically diagnosed.

**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](http://www.va.gov).