

CARPENTER, CHARTERED
1525 S. W. Topeka Blvd.
P.O. Box 2099
Topeka, KS 66601-2099
(785) 357-5251

**IN THE UNITED STATES COURT OF
APPEALS FOR VETERANS CLAIMS**

Willis Breland,
Appellant,

v.

Vet.App. No. 18-5980

Robert L. Wilkie,
Secretary for Veterans Affairs,
Appellee.

SOLZE NOTICE

In accordance with this Court's rule in *Solze v. Shinseki*, 26 Vet. App. 299, 301 (2013), the undersigned counsel files this Notice to inform the Court that there have been two rating decisions following decision of the Board of Veterans Appeals dated June 27, 2018 which is the subject matter of this appeal. The Secretary on August 17, 2018 provided notice to Mr. Breland of a rating decision dated August 13, 2018 which is attached hereto as **Exhibit A** consisting of 14 pages which was obtained remotely from VBMS from Mr. Breland's electronic claims file and is incorporated by reference as though fully set out herein. The Secretary in his brief in footnote 3, represented to this Court that "the RO has implemented the Board's grant of compensation for the residuals of SCC." Sec.Brf., p. 10. The Secretary further represented to this Court that:

On August 13, 2018, the RO assigned the following ratings: (1) 60% from May 15, 2017, for diffuse interstitial fibrosis; (2) 10% from August 5, 2016, for cervical strain; and (3) noncompensable ratings for hypothyroidism and dysphagia. Therefore, for the period that Appellant's SCC was assigned noncompensable ratings, he was also assigned a combined disability rating of 40% from August 2007 to September 2008, and from September 2008. And based on the residuals of SCC, Appellant's combined disability rating increased to 80% from May 15, 2017, and 100% from September 13, 2017, to the present. He is also in receipt of special monthly compensation effective September 13, 2017.

Sec.Brf., p. 11. This Court's attention is directed to page 1 of Exhibit A which the first page of that exhibit which states only:

- Service connection for residuals of shingles (herpes zoster) is granted with an evaluation of 0 percent effective May 15, 2017.
- Service connection for corneal scar, right eye is granted with an evaluation of 0 percent effective May 15, 2017.

Exhibit A, p. 1. This Court's attention is further directed to page 8 of Exhibit A which the first page of VA's August 13, 2018 rating decision which states:

You filed a new claim for benefits that was received on May 15, 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 corneal scar, right eye is granted with an evaluation of 0 percent effective May 15, 2017.

2. Service connection for residuals of shingles (herpes zoster) is granted with an evaluation of 0 percent effective May 15, 2017.

Exhibit A, p. 8. This rating decision has not, as represented by the Secretary in his brief, “implemented the Board’s grant of compensation for the residuals of SCC.” Sec.Brif., p. 10. However, this Court’s attention is directed to Exhibit A pages 11 and 12 (pages 1 and 2 of what is referred to as the “rating decision code sheet”). This document provides a list of all of Mr. Breland’s service connected disabilities and the ratings assigned those disabilities and their effective dates. This document does reflect that the Secretary considered Mr. Breland to be service connected residuals of squamous cell carcinoma of the tongue as indicated by the Secretary in his footnote but not as a result of VA’s August 13, 2018 rating decision. *See* November 17, 2018 Rating Decision. RBA 371-379.

The Secretary on March 31, 2020 provided notice to Mr. Breland of a rating decision dated March 9, 2020 which is attached hereto as Exhibit B consisting of 20 pages which was obtained remotely from VBMS from Mr. Breland’s electronic claims file and is incorporated by reference as though fully set out herein. This Court’s attention is directed to page 1 of Exhibit B which the first page of that exhibit which states only:

- A 60 percent evaluation has been assigned for diffuse interstitial fibrosis (claimed as lung scarring) from August 1, 2007.

- Evaluation of post traumatic stress disorder (PTSD), which is currently 30 percent disabling, is increased to 50 percent effective December 26, 2006.

Exhibit B, p. 1. This Court's attention is further directed to page 13 of Exhibit B which the first page of VA's March 9, 2020 rating decision which states:

The Board of Veterans Appeals remanded the case to our office on June 27, 2018. Based on a review of the evidence listed below, we have made the following decisions on your claim.

DECISION

1. A 60 percent evaluation has been assigned for diffuse interstitial fibrosis (claimed as lung scarring) from August 1, 2007.
2. Evaluation of post traumatic stress disorder (PTSD), which is currently 30 percent disabling, is increased to 50 percent effective December 26, 2006.

Exhibit B, p. 13.

Finally, this Court's attention is directed to the Board of Veterans Appeals dated June 27, 2018, RBA 3-16, which is the subject matter of this appeal which made the following conclusions of law:

1. The criteria for a compensable initial rating from August 1, 2007 to January 16, 2008 and from September 1, 2008 for SCC of the tongue have not been met. 38 U.S.C. §§ 1155, 5107; 38 C.F.R. §§ 3.102, 3.321, 4.1 – 4.7, 4.114, Diagnostic Code 7343.
2. An earlier effective date of August 1, 2007 is

warranted for service-connection of diffuse interstitial fibrosis. 38 U.S.C. §§ 5101, 5110; 38 C.F.R. §§ 3.102, 3.156, 3.400.

3. An earlier effective date of August 1, 2007 is warranted for service-connection of cervical strain. 38 U.S.C. §§ 5101, 5110; 38 C.F.R. §§ 3.102, 3.156, 3.400.
4. An earlier effective date of August 1, 2007 is warranted for service-connection of dysphagia. 38 U.S.C. §§ 5101, 5110; 38 C.F.R. §§ 3.102, 3.156, 3.400.
5. An earlier effective date of August 1, 2007 is warranted for service-connection of hypothyroidism. 38 U.S.C. §§ 5101, 5110; 38 C.F.R. §§ 3.102, 3.156, 3.400.

RBA 5-6.

In *Solze* this Court made clear that “[i]n all cases before this Court, the parties are under a duty to notify the Court of developments that could . . . affect its decision.” *Solze*, 26 Vet. App. at 301. Mr. Breland believes that these new proceedings before the Secretary clarify that **only** one of the four effective dates for the ratings assigned his residuals have in fact been implemented by the Secretary and that the lack of implementation does affect the decision in this matter. Further, to fulfill counsel’s candor before the Court and in light of this Court’s rule in *Solze* Mr. Breland’s counsel concluded that he was obligated to inform the Court of this information.

Respectfully submitted,

/s/ Kenneth M. Carpenter

Kenneth M. Carpenter

Counsel for Appellant

Willis Breland

Electronically filed on April 28, 2020

EXHIBIT A

RECEIVED

AUG 24 2018

POSTED
Initials *al*



5-24-18
INTER CHARTERED



August 17, 2018
WILLIS BRELAND
2317 S DOG RIVER DR
MOBILE AL 36605

We made a decision on your VA benefits.

Dear Mr. Breland,

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:

- Service connection for residuals of shingles (herpes zoster) is granted with an evaluation of 0 percent effective May 15, 2017.
- Service connection for corneal scar, right eye is granted with an evaluation of 0 percent effective May 15, 2017.

Your combined rating evaluation is:

| Combined Rating Evaluation | Effective Date |
|----------------------------|----------------|
| 100% | Dec 26, 2006 |
| 40% | Aug 1, 2007 |
| 100% | Jan 16, 2008 |
| 40% | Sep 1, 2008 |
| 40% | Aug 5, 2016 |
| 80% | May 15, 2017 |
| 100% | Sep 13, 2017 |

We have included with this letter:

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

Contact information:

Web: www.vets.gov
Phone: 1-800-827-1000
TDD: 711
To send questions online: visit <https://iris.custhelp.com/>

Social Media:

Twitter: @VAVetBenefits
Facebook: www.facebook.com/VeteransBenefits

Your representative:

You appointed KENNETH M. CARPENTER as your accredited representative. They have also received a copy of this letter.

They can help you with any questions you have about your claim.

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

SCANNED

By: _____ Date: _____
File Name: *RD F-13-18*

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rating evaluation. The following website has additional information about how VA combines percentages: <http://www.benefits.va.gov/compensation/rates-index.asp#howcalc>.

Your monthly entitlement amount is shown below:

| Monthly Entitlement Amount | Payment Start Date | Reason |
|----------------------------|--------------------|---|
| \$2,610.00 | Jan 1, 2007 | Original Award |
| \$556.00 | Aug 1, 2007 | Compensation Rating Adjustment |
| \$568.00 | Dec 1, 2007 | Cost of Living Adjustment |
| \$2,669.00 | Feb 1, 2008 | Compensation Rating Adjustment |
| \$568.00 | Sep 1, 2008 | Compensation Rating Adjustment |
| \$601.00 | Dec 1, 2008 | Cost of Living Adjustment |
| \$622.00 | Dec 1, 2011 | Cost of Living Adjustment |
| \$631.00 | Dec 1, 2012 | Cost of Living Adjustment |
| \$641.28 | Dec 1, 2013 | Cost of Living Adjustment |
| \$640.54 | Jan 1, 2014 | Cost of Living Adjustment |
| \$651.36 | Dec 1, 2014 | Cost of Living Adjustment |
| \$654.12 | Dec 1, 2016 | Cost of Living Adjustment |
| \$1,686.13 | Jun 1, 2017 | Compensation Rating Adjustment |
| \$3,425.99 | Oct 1, 2017 | Compensation Rating Adjustment, Special Monthly Compensation Adjustment |
| \$3,494.51 | Dec 1, 2017 | Cost of Living Adjustment |

We are currently paying you as a Veteran with one dependent. *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.

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If this account is no longer open,

please notify us immediately.

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 August 17, 2019, one year from the date of this notice.

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

Your accredited representative can help you decide your next step.

Your appointed accredited representative, KENNETH M. CARPENTER, can help you with any questions you have about your claim.

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

cc: KENNETH M. CARPENTER
Kenneth M Carpenter
1525 S.W Topeka Boulevard
Topeka KS 66612

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Explanation of Payment

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

| Payment Start Date | Award Dependent(s) |
|--------------------|--------------------|
| Jan 1, 2007 | RUTH |
| Aug 1, 2007 | RUTH |
| Dec 1, 2007 | RUTH |
| Feb 1, 2008 | RUTH |
| Sep 1, 2008 | RUTH |
| Dec 1, 2008 | RUTH |
| Dec 1, 2011 | RUTH |
| Dec 1, 2012 | RUTH |
| Dec 1, 2013 | RUTH |
| Jan 1, 2014 | RUTH |
| Dec 1, 2014 | RUTH |
| Dec 1, 2016 | RUTH |
| Jun 1, 2017 | RUTH |
| Oct 1, 2017 | RUTH |
| Dec 1, 2017 | RUTH |

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

Your combined evaluation is 30 percent or more disabling; therefore, you may be eligible for additional benefits based on dependency. We may be able to pay you retroactive benefits for your dependents if you submit your dependency claim within a year from the date of this letter. If you wish to notify us of your dependents, please do so through eBenefits, an electronic resource in a self-service environment. Use of these resources often helps us serve you faster! Just visit www.eBenefits.va.gov to enroll and submit your dependency information.

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

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any overpayments. Those changes include:

| Evidence received shows a change is warranted. |
|--|
| <p>Military Pay or Worker's Compensation: Your payments may be affected by the following, which you must bring to our attention:</p> <ul style="list-style-type: none"> ● Reentrance into active military or naval service. ● Receipt of armed forces service retirement pay, unless your retirement pay has already been reduced because of award of disability compensation. ● Receipt of benefits from the Office of Federal Employees Compensation. ● Receipt of active duty or drill pay as a reservist or member of the National Guard. |
| <p>Dependents: If you have a disability rating of 30 percent or more, you must advise VA of any change with your spouse or children.</p> |
| <p>Hospitalization: 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.</p> |
| <p>Incarceration: 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.</p> |
| <p>Lack of Cooperation: We may stop monthly payments if you:</p> <ul style="list-style-type: none"> ● fail to submit evidence we requested, ● fail to attend a VA examination when requested, or ● Submit false or fraudulent evidence to VA, or cause false or fraudulent evidence to be submitted to VA. |
| <p>Fraud/Lying to Government: 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 other agencies.</p> |

Additional Benefits

| |
|---|
| <p>Education, Training, and Student Loans:</p> <ul style="list-style-type: none"> ● <u>Education loans:</u> For more information, please call 1-888-GIBILL-1 (1-888-442-4551) or visit www.vets.gov/education. ● <u>Veterans with student loans:</u> For more information, please call 1-888-303-7818 or visit www.disabilitydischarge.com/. |
| <p>Medical Care and Treatment:</p> |

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- **Mental Health Counseling:** For more information, please visit www.myhealth.va.gov/mhv-portal-web/.
- **Blind Rehabilitation:** For more information, please visit www.va.gov/blindrehab/.
- **Change in compensation benefits:** For more information, please call 1-877-222-VETS or visit 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/.
- **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/.
- **Dental benefits:** For more information, please contact your nearest VA Medical Center or outpatient clinic www.vets.gov/facility-locator/.

Home Adaptations, Automobile Benefits, and Life Insurance:

- **Loans:** For more information, please visit www.benefits.va.gov/homeloans/.
- **Government life insurance premiums:** For more information, please call 1-800-669-8477 or visit www.benefits.va.gov/insurance.

Armed Forces Commissary and Exchange:

- **Armed Forces Commissary and Exchange:** For more information, please visit www.cbenefits.va.gov to locate your Regional Benefit Office, please visit 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.

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

WILLIS BRELAND

**VA File Number
417 60 5462**

**Represented By:
KENNETH M. CARPENTER
Rating Decision
08/13/2018**

INTRODUCTION

The records reflect that you are a Veteran of the Vietnam Era. You served in the Army from November 15, 1965, to November 14, 1968. You filed a new claim for benefits that was received on May 15, 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 corneal scar, right eye is granted with an evaluation of 0 percent effective May 15, 2017.
2. Service connection for residuals of shingles (herpes zoster) is granted with an evaluation of 0 percent effective May 15, 2017.

EVIDENCE

- Rating Decision, dated February 26, 2018

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WILLIS BRELAND
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- VA Form 21-526b Veteran's Supplemental Claim for Compensation, received May 15, 2017
- Section (§) 5103 Notice, dated May 18, 2017
- VA Form 21-526b Veteran's Supplemental Claim for Compensation, received September 13, 2017
- Disability Benefit Questionnaire (DBQ), skin diseases, received February 7, 2018
- Service Personnel Records, US Army, from November 15, 1965 through November 14, 1968
- Service Treatment Records, for the period, from November 15, 1965 through November 14, 1968, received April 5, 1985

REASONS FOR DECISION

1. Service connection for corneal scar, right eye as secondary to the service-connected disability of residuals of shingles (herpes zoster).

Service connection for corneal scar, right eye has been established as related to the service-connected disability of residuals of shingles (herpes zoster).

The effective date of this grant is May 15, 2017. Service connection is granted from the date VA received your claim. When secondary service connection is established, the effective date is the date of claim or the date entitlement arose, whichever is later.

We have assigned a noncompensable evaluation for your scarred cornea due to shingles (herpes zoster) based on:

- Visual impairment as described below

Your eyes show normal visual acuity bilaterally.

Your eyes show normal visual fields bilaterally.

A noncompensable evaluation is warranted under the General Rating Formula for Diseases of the Eye based on:

- No incapacitating episodes noted

Higher evaluations are based on more severe levels of visual impairment.

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.

2. Service connection for residuals of shingles (herpes zoster) as secondary to the service-connected disability of squamous cell carcinoma of the tongue.

Service connection for residuals of shingles (herpes zoster) has been established as related to the service-connected disability of squamous cell carcinoma of the tongue.

WILLIS BRELAND
417 60 5462
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The effective date of this grant is May 15, 2017. Service connection is granted from the date VA received your claim. When secondary service connection is established, the effective date is the date of claim or the date entitlement arose, whichever is later.

We have assigned a noncompensable evaluation for your residuals of shingles (herpes zoster) based on:

- A diagnosed disability with no compensable symptoms

A higher evaluation of 10 percent is not warranted for dermatitis or eczema unless the evidence shows:

- At least 5 percent, but less than 20 percent, of the entire body affected; or,
- At least 5 percent, but less than 20 percent, of the exposed areas of the body affected; or,
- Intermittent systemic therapy such as corticosteroids or other immunosuppressive drugs required for a total duration of less than six weeks during the past 12-month period.

Higher evaluations may also be warranted based on:

- disfigurement of the head, face, or neck
- scars considered disabling due to limitation of function of the affected part; or,
- painful or unstable scar(s)

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.

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|-----------------------------------|--|-----------------------------------|--------------------------------|---------|
| Rating Decision | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 1 of 4 08/13/2018 | |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER | COPY TO |

| ACTIVE DUTY | | | |
|-------------|------------|--------|------------------------|
| EOD | RAD | BRANCH | CHARACTER OF DISCHARGE |
| 11/15/1965 | 11/14/1968 | Army | Honorable |

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

JURISDICTION: New Claim Received 05/15/2017

ASSOCIATED CLAIM(s): 020; New; 05/15/2017

SUBJECT TO COMPENSATION (1.SC)

7005 CORONARY ARTERY DISEASE
Service Connected, Vietnam Era, Presumptive
Static Disability
100% from 09/13/2017

6830 DIFFUSE INTERSTITIAL FIBROSIS (CLAIMED AS LUNG SCARRING)
ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
60% from 05/15/2017

9411 PTSD [PTSD - Combat/Combat Medal]
Service Connected, Vietnam Era, Incurred
Static Disability
30% from 12/26/2006

6260 TINNITUS, BILATERAL
Service Connected, Vietnam Era, Incurred
Static Disability
10% from 12/26/2006

5299-5237 CERVICAL STRAIN (CLAIMED AS STIFFNESS AND CRAMPING IN NECK)
ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
10% from 08/05/2016

7805 SCAR, RESIDUALS FLESH WOUND RIGHT KNEE
Service Connected, Vietnam Era, Incurred



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|-----------------------------------|--|-----------------------------------|--------------------------------|---------|
| Rating Decision | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 2 of 4 08/13/2018 | |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER | COPY TO |

Static Disability
0% from 07/08/2005

6100 HEARING LOSS BILATERAL
Service Connected, Vietnam Era, Incurred
0% from 12/26/2006

7343 SQUAMOUS CELL CARCINOMA OF THE TONGUE [Agent Orange/Other/Unknown-
Agent Orange]
Service Connected, Vietnam Era, Incurred
Static Disability
100% from 12/26/2006
0% from 08/01/2007
100% from 01/16/2008
0% from 09/01/2008
Original Date of Denial: 12/18/2007

7903 HYPOTHYROIDISM (CLAIMED AS DAMAGE TO THYROID GLAND)
ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 08/05/2016

8209 DYSPHAGIA (ALSO CLAIMED AS DIFFICULT SWALLOWING AND LACK OF
SALIVA) ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE
TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 08/05/2016

6099-6066 CORNEAL SCAR, RIGHT EYE ASSOCIATED WITH RESIDUALS OF SHINGLES
(HERPES ZOSTER)
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 05/15/2017

7806 RESIDUALS OF SHINGLES (HERPES ZOSTER) ASSOCIATED WITH SQUAMOUS
CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 05/15/2017

COMBINED EVALUATION FOR COMPENSATION :

0% from 07/08/2005
100% from 12/26/2006
40% from 08/01/2007
100% from 01/16/2008
40% from 09/01/2008

| | | | | |
|-----------------------------------|--|-----------------------------------|--------------------------------|---------|
| Rating Decision | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 3 of 4 08/13/2018 | |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | PCN KENNETH M. CARPENTER | COPY TO |

80% from 05/15/2017
100% from 09/13/2017

SPECIAL MONTHLY COMPENSATION :

S-1 Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (s) and 38 CFR 3.350(i) on account of coronary artery disease rated 100 percent and additional service-connected disability of diffuse interstitial fibrosis (claimed as lung scarring), independently ratable at 60 percent or more from 09/13/2017.

| EFFECTIVE DATE | BASIC | HOSPITAL | LOSS OF USE | ANAT. LOSS | OTHER LOSS |
|----------------|-------|----------|-------------|------------|------------|
| 09/13/2017 | 48 | 48 | 00 | 00 | 0 |

NOT SERVICE CONNECTED/NOT SUBJECT TO COMPENSATION (8.NSCVietnam Era)

- 6513 SINUSITIS
Not Service Connected, Not Incurred/Caused by Service
Original Date of Denial: 12/18/2007
- 6847 SLEEP APNEA
Not Service Connected, Not Incurred/Caused by Service
Original Date of Denial: 12/18/2007
- 7899-7806 CHRONIC SKIN DISEASE
Not Service Connected, Not Incurred/Caused by Service
Original Date of Denial: 12/18/2007
- 8099-8008 CAROTID ARTERY STENOSIS
Not Service Connected, No Diagnosis
Original Date of Denial: 11/17/2017

ANCILLARY DECISIONS

Basic Eligibility under 38 USC Ch 35 from 09/13/2017

DENTAL DECISIONS

No record of dental trauma. (FOR DENTAL TREATMENT PURPOSES).

No record of a pathological condition. (FOR DENTAL TREATMENT PURPOSES).

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|-----------------------------------|--|-----------------------------------|--------------------------------|---------|
| Rating Decision | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 4 of 4 08/13/2018 | |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER | COPY TO |

eSign: certified by VSCTCONN350, RVS



EXHIBIT B

POSTED

Initials WJ Date 4-12-20

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APR - 6 2020



CARPENTER CHARTERED

March 31, 2020
 WILLIS E BRELAND
 2317 S DOG RIVER DR
 MOBILE AL 36605-2610

The Board of Veterans' Appeals remanded your appeal on June 27, 2018. We made a decision on your entitlement to VA benefits.

Dear Willis Breland:

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:

- A 60 percent evaluation has been assigned for diffuse interstitial fibrosis (claimed as lung scarring) from August 1, 2007.
- Evaluation of post traumatic stress disorder (PTSD), which is currently 30 percent disabling, is increased to 50 percent effective December 26, 2006.

Your combined rating evaluation is:

| Combined Rating Evaluation | Effective Date |
|----------------------------|----------------|
| 0% | Jul 8, 2005 |
| 100% | Dec 26, 2006 |
| 80% | Aug 1, 2007 |
| 100% | Jan 16, 2008 |
| 80% | Sep 1, 2008 |
| 80% | Aug 5, 2016 |
| 80% | May 15, 2017 |
| 100% | Sep 13, 2017 |

We have included with this letter:

1. Explanation of Payment
2. Additional Benefits
3. Where to Send Written Correspondence
4. VA Form 20-0998
5. Rating Decision

Contact information:

Web: www.vets.gov
 Phone: 1-800-827-1000
 TDD: 711
 To send questions online: visit <https://iris.custhelp.com/>

Social Media:

Twitter: @VAVetBenefits
 Facebook: www.facebook.com/VeteransBenefits

Your representative:

You appointed KENNETH M. CARPENTER as your accredited representative. They have also received a copy of this letter.

They can help you with any questions you have about your claim.

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

Scanned

By: _____ Date: _____
 File Name: 2020-3-31 AMH Notice
 Assigned To: W/2020-3-9



File Number: 417605462
BRELAND, WILLIS E

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>.

Your monthly entitlement amount is shown below:

| Monthly Entitlement Amount | Payment Start Date | Reason |
|----------------------------|--------------------|---|
| \$984.00 | Aug 1, 2007 | Compensation Rating Adjustment |
| \$1,430.00 | Sep 1, 2007 | Compensation Rating Adjustment |
| \$1,462.00 | Dec 1, 2007 | Cost of Living Adjustment |
| \$2,669.00 | Feb 1, 2008 | Compensation Rating Adjustment |
| \$1,462.00 | Sep 1, 2008 | Compensation Rating Adjustment |
| \$1,547.00 | Dec 1, 2008 | Cost of Living Adjustment |
| \$1,602.00 | Dec 1, 2011 | Cost of Living Adjustment |
| \$1,628.00 | Dec 1, 2012 | Cost of Living Adjustment |
| \$1,653.04 | Dec 1, 2013 | Cost of Living Adjustment |
| \$1,652.55 | Jan 1, 2014 | Cost of Living Adjustment |
| \$1,680.48 | Dec 1, 2014 | Cost of Living Adjustment |
| \$1,686.13 | Dec 1, 2016 | Cost of Living Adjustment |
| \$3,425.99 | Oct 1, 2017 | Compensation Rating Adjustment, Special Monthly Compensation Adjustment |
| \$3,494.51 | Dec 1, 2017 | Cost of Living Adjustment |
| \$3,592.35 | Dec 1, 2018 | Cost of Living Adjustment |
| \$3,649.83 | Dec 1, 2019 | Cost of Living Adjustment |

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

If payments are due, you should receive your first payment, if not already in receipt of payments,



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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.

What You Should Do If You Disagree With Our Decision

If you do not agree with our decision, you have one year from the date of this letter to select a review option in order to protect your initial filing date for effective date purposes. You must file your request on the required application form for the review option desired. The table below represents the review options and their respective required application form.

| Review Option | Required Application Form |
|--|--|
| Supplemental Claim | VA Form 20-0995, <i>Decision Review Request: Supplemental Claim</i> |
| Higher-Level Review | VA Form 20-0996, <i>Decision Review Request: Higher-Level Review</i> |
| Appeal to the Board of Veterans' Appeals | VA Form 10182, <i>Decision Review Request: Board Appeal (Notice of Disagreement)</i> |

Please note: You **may not** request a higher-level review of a higher-level review decision issued by VA.

The enclosed VA Form 20-0998, *Your Rights To Seek Further Review Of Our Decision*, explains your options in greater detail and provides instructions on how to request further review. You may download a copy of any of the required application forms noted above by visiting www.va.gov/vaforms/ or you may contact us by telephone at 1-800-827-1000 and we will mail you any form you need.

You can visit www.va.gov/decision-reviews to learn more about how the disagreement process works.

If you would like to obtain or access evidence used in making this decision, please contact us by



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telephone, email, or letter as noted below letting us know what you would like to obtain. Some evidence may be obtained online by visiting www.va.gov.

Thank you for your service,

Regional Office Director

cc: KENNETH M. CARPENTER
Kenneth M Carpenter
1525 S.W Topeka Boulevard
Topeka KS 66612



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Explanation of Payment

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

| Payment Start Date | Award Dependent(s) |
|--------------------|--------------------|
| Aug 1, 2007 | RUTH |
| Sep 1, 2007 | RUTH |
| Dec 1, 2007 | RUTH |
| Feb 1, 2008 | RUTH |
| Sep 1, 2008 | RUTH |
| Dec 1, 2008 | RUTH |
| Dec 1, 2011 | RUTH |
| Dec 1, 2012 | RUTH |
| Dec 1, 2013 | RUTH |
| Jan 1, 2014 | RUTH |
| Dec 1, 2014 | RUTH |
| Dec 1, 2016 | RUTH |
| Oct 1, 2017 | RUTH |
| Dec 1, 2017 | RUTH |
| Dec 1, 2018 | RUTH |
| Dec 1, 2019 | RUTH |

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

Your combined evaluation is 30 percent or more disabling; therefore, you may be eligible for additional benefits based on dependency. We may be able to pay you retroactive benefits for your dependents if you submit your dependency claim within a year from the date of this letter. If you wish to notify us of your dependents, please do so through eBenefits, an electronic resource in a self-service environment. Use of these resources often helps us serve you faster! Just visit www.eBenefits.va.gov to enroll and submit your dependency information. If you would prefer to submit your request to add your dependents to your award in paper, please complete, sign, and return VA Form 21-686c, *Application Request to Add and/or Remove Dependents*. You can locate the appropriate form(s), please the visit the following website: www.va.gov/vaforms.



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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:

| Evidence received shows a change is warranted. |
|--|
| <p>Military Pay or Worker's Compensation: Your payments may be affected by the following, which you must bring to our attention:</p> <ul style="list-style-type: none"> • Reentrance into active military or naval service. • Receipt of armed forces service retirement pay, unless your retirement pay has already been reduced because of award of disability compensation. • Receipt of benefits from the Office of Federal Employees Compensation. • Receipt of active duty or drill pay as a reservist or member of the National Guard. |
| <p>Dependents: If you have a disability rating of 30 percent or more, you must advise VA of any change with your spouse or children.</p> |
| <p>Hospitalization: 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.</p> |
| <p>Incarceration: 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.</p> |
| <p>Lack of Cooperation: We may stop monthly payments if you:</p> <ul style="list-style-type: none"> • fail to submit evidence we requested, • fail to attend a VA examination when requested, or • Submit false or fraudulent evidence to VA, or cause false or fraudulent evidence to be submitted to VA. |
| <p>Fraud/Lying to Government: 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 other agencies.</p> |

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.
- Veterans with student loans: For more information, please call 1-888-303-7818 or visit www.disabilitydischarge.com/.



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- **Job training and employment:** For more information, please call 1-800-827-1000 or visit www.vba.va.gov/bln/vrc/.

Medical Care and Treatment:

- **Mental Health Counseling:** For more information, please visit www.myhealth.va.gov/mhv-portal-web/.
- **Blind Rehabilitation:** For more information, please visit www.va.gov/blindrhab/.
- **Change in Compensation Benefits:** For more information, please call 1-877-222-VETS or visit 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/.
- **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/.
- **Dental Benefits:** For more information, please contact your nearest VA Medical Center or outpatient clinic www.vets.gov/facility-locator/.

Home Adaptations/Loans, Automobile Benefits, and Life Insurance:

- **Loans:** For more information, please visit www.benefits.va.gov/homeloans/.
- **Funding Fee Refund:** If you paid a funding fee at the closing of a VA guaranteed home loan and your VA compensation award provides an effective rating date that was prior to your loan closing date, then you may be eligible for a funding fee refund. Please contact either your current mortgage servicer or a VA Regional Loan Center at (877) 827-3702 to begin the refund process.

Armed Forces Commissary and Exchange:

- **Armed Forces Commissary and Exchange:** For more information, please visit www.cbenefits.va.gov to locate your Regional Benefit Office, please visit 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.



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State Benefits:

- State Benefits: For more information, please visit www.va.gov/statedva.htm.



Where to Send Your Written Correspondence

The time it takes your response to reach VA affects how long it takes us to process your claim. We recommend responding electronically whenever possible. Only claimants or representatives can upload responses electronically currently. If you are not a claimant or representative, we recommend faxing so VA can receive your responses without wasting the time and money required to mail your documents.

The **fastest** way to respond to VA is to upload your response electronically through VA.gov.

Visit <https://www.va.gov> and under **Disability** click "Upload evidence to support your claim"

VA.gov provides one easy location to upload correspondence as well as learn about filing claims, check claim status, find out how much money you have left to pay for school or training, or refill prescriptions and communicate with your health care team among many items.

If you need to fax or mail your correspondence, identify the benefit type; then, use the corresponding fax number or mailing address below:

Faxing:

| | |
|---|---|
| <u>Compensation Claims</u> Toll Free: 1-844-531-7818 | <u>Pension & Survivors Benefit Claims</u> Toll Free: 1-844-655-1604 |
| <u>Board of Veterans' Appeals</u> Toll Free: 1-844-678-8979 | <u>Fiduciary</u> Toll Free: 1-888-581-6826 |

Mailing Addresses:

| | |
|--|---|
| <u>Compensation Claims</u> Department of Veterans Affairs Compensation Intake Center P.O. Box 4444 Janesville, WI 53547-4444 | <u>Pension & Survivors Benefit Claims</u> Department of Veterans Affairs Pension Intake Center P.O. Box 5365 Janesville, WI 53547-5365 |
| <u>Board of Veterans' Appeals</u> Department of Veterans Affairs Board of Veterans' Appeals P.O. Box 27063 Washington, DC 20038 | <u>Fiduciary</u> Department of Veterans Affairs Fiduciary Intake Center P.O. Box 5211 Janesville, WI 53547-5211 |

These addresses serve **all United States and foreign locations.**



You can also send a text message to 838255 to receive confidential support 24 hours a day, 7 days a week, 365 days a year. For more information, visit www.veteranscrisisline.net



YOUR RIGHTS TO SEEK FURTHER REVIEW OF OUR DECISION

After careful and compassionate consideration of the matter(s) before VA, we have reached a decision. This document outlines your rights to seek further review of our decision on any issue with which you are dissatisfied or disagree. This document does not apply to decisions issued by the Board of Veterans' Appeals (Board), which have a separate rights notice. For **most VA benefits**, you must elect one of the review options discussed below within **one year** of the date on your decision notice letter to preserve your right to receive the maximum possible benefit. **Consult your decision notice letter for specific filing time limits.** If you are a party to a **contested claim**, you must file an appeal to the Board within **60 days** of the date on your decision notice letter in order to seek review. All parties to a contested claim will have received notice of the decision. See the section below regarding filing an appeal to the Board. You may select different review options for each issue decided by VA. The options are as follows:

| Review Options | VA Benefit Claim | Parties to a Contested Claim | Insurance Claim | Fiduciary Decision |
|-------------------------------|------------------|------------------------------|-----------------|--------------------|
| Supplemental Claim | | Not Available | | Not Available |
| Higher-Level Review | | Not Available | | |
| Appeal to the Board | | | | |
| U.S. District Court Complaint | Not Available | Not Available | | Not Available |

VA benefits include Compensation, Pension/Survivors Benefits, Education, Loan Guaranty, Vocational Rehabilitation & Employment, Veterans Health Administration, or National Cemetery Administration.

You **MAY NOT** concurrently file for review of any single issue using more than one option at a time. The following is an overview of each option to help you select the most appropriate course of action. You can also find detailed information on all of the available review options and apply at www.vets.gov.

Descriptions of Review Options

| Supplemental Claim | Higher-Level Review | Appeal to the Board | U. S. District Court |
|--|---|--|---|
| <p>Use this option when you have additional evidence that is NEW AND RELEVANT to support granting the benefit(s) sought or you can identify existing relevant records that you would like VA to obtain. (NEW evidence means information not previously submitted to VA, and RELEVANT evidence means information that tends to prove or disprove a matter at issue.)</p> <p>VA will assist you in gathering new and relevant evidence to support a Supplemental Claim.</p> | <p>Use this option when you have NO additional evidence to submit, or that you would like VA to obtain, in support of a previously decided issue.</p> <p>You <i>may not</i> request a Higher-Level Review of a Higher-Level Review decision or a Board decision.</p> <p>The designated reviewer will conduct a brand new review of the issue(s) based on the evidence that was before VA at the time of the prior decision(s). An informal conference is available to you and/or your representative, if you choose to exercise this option. The purpose of this telephonic contact is to point out specific errors in the case. VA will not consider any new evidence.</p> | <p>Use this option to appeal to the Board for consideration by a Veterans Law Judge. You may appeal to the Board from a Supplemental Claim decision or a Higher-Level Review decision.</p> <p>When appealing to the Board, you may request a hearing with a Veterans Law Judge and/or the opportunity to submit additional evidence. You may also choose for the Board to review your claim without any additional evidence or a hearing, which may result in a faster decision. By selecting one of these options, the Board will place your appeal onto a list for consideration in the order it was received.</p> <p>The Board does not have a duty to assist you in obtaining additional evidence, but may review whether VA properly fulfilled its duty to assist you in the original claim process and may remand your claim on that basis.</p> | <p>(INSURANCE CLAIMS ONLY)</p> <p>You may challenge VA's decision on your insurance application or claim by filing a complaint with a United States district court in the jurisdiction in which you reside within six years from when the right of action first accrues.</p> <p>To find a district court, use the map at: www.uscourts.gov/court_locator.aspx</p> |

How do I request review by VA of my decision?

To select a review option, you must submit the appropriate form to the appropriate office for review.

For a **Supplemental Claim**, consult your decision notice letter for the required forms and ways to submit the request.

For a **Higher-Level Review**, complete **VA Form 20-0996, Decision Review Request: Higher-Level Review** (available at www.va.gov/vaforms/), and consult your decision notice letter for the required ways to submit the request.

To **Appeal to the Board**, complete **VA Form 10182 - Decision Review Request: Board Appeal (Notice of Disagreement)** (available at www.va.gov/vaforms/), and send the form to:

Board of Veterans' Appeals
P.O. Box 27063
Washington, DC 20038
Fax: 844-678-8979

Can someone help me with my request for review?

Yes, VA recognizes and accredits attorneys, claims agents, and Veterans Service Organizations (VSOs) representatives to assist VA claimants with their benefits claims. VSOs and their representatives are not permitted to charge fees or accept gifts for their services. Only VA-accredited attorneys and claims agents may charge you fees for assisting in a claim for VA benefits, and only after VA has issued an initial decision on the claim and the attorney or claims agent has complied with the power-of-attorney and the fee agreement requirements. For more information on the types of representatives available, see www.va.gov/ogc/accreditation.asp.

If you have not already selected a representative, or if you want to change your representative, a searchable database of VA-recognized VSOs and VA-accredited attorneys, claims agents, and VSO representatives is available at www.va.gov/ogc/apps/accreditation/index.asp. Contact your local VA office for assistance with appointing a representative or visit www.ebenefits.va.gov.

What happens if I do not submit my request for review on time?

If you do not request a review option within the required time limit, you may only seek review through the following options:

- File a request for revision of the decision based on a clear and unmistakable error in the decision;
- File a Supplemental Claim along with new and relevant evidence to support your issue(s). Where a Supplemental Claim is filed after the time limit to seek review of a decision, the effective date for any resulting award of benefits generally will be tied to the date that VA receives the Supplemental Claim.

For more information on all the available review options visit: www.va.gov, or www.vets.gov or contact us at 1-800-827-1000.

NOTE: This form supersedes VA Forms 4107, 4107C, 4107VHA, 4107VRE, 4107INS for VA decisions after the publication in the Federal Register of the applicability date on which the *Veterans Appeals Improvement and Modernization Act of 2017* goes into effect.



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

WILLIS BRELAND

**VA File Number
417 60 5462**

**Represented By:
KENNETH M. CARPENTER
Rating Decision
03/09/2020**

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Army from November 15, 1965 to November 14, 1968. The Board of Veterans Appeals remanded the case to our office on June 27, 2018. Based on a review of the evidence listed below, we have made the following decisions on your claim.

DECISION

1. A 60 percent evaluation has been assigned for diffuse interstitial fibrosis (claimed as lung scarring) from August 1, 2007.
2. Evaluation of post traumatic stress disorder (PTSD), which is currently 30 percent disabling, is increased to 50 percent effective December 26, 2006.

EVIDENCE

- Treatment reports VA Medical Center Biloxi, MS from September 2019 to December 2019,



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- received on March 9, 2020 (Legacy)
- VA Review Post Traumatic Stress Disorder (PTSD) examination conducted on September 11, 2019
- Treatment reports VA Medical Center Mobile , AL from November 2007 to July 2019, received on August 1, 2019
- Treatment reports VA Medical Center Biloxi, MS from April 2018 to November 2018, received on May 10, 2019
- Treatment reports VA Medical Center Pensacola, FL from December 2007, received on September 23, 2017
- Treatment reports VA Medical Center Biloxi, MS from December 2007 and February 2016, received on May 22, 2017
- Private treatment records including Pulmonary Associates, Coastal Therapeutics, INC, Infirmary Imaging and Infirmary Therapy Services. from January 2013 to June 2019, received on August 7, 2019
- Private treatment reports from the office of Dr. J. B. Webster from September 2016 to July 31, 2018, received on August 5, 2019
- Rating decision dated February 15, 2018
- Rating decision dated December 3, 2014
- Statement of the Case dated August 19, 2010
- VA Form 21-4138, Statement In Support of Claim, received on December 16, 2008
- VA Form 21-4138, Statement In Support of Claim, received on December 26, 2006

REASONS FOR DECISION

1. Entitlement to an earlier effective date for the evaluation assigned to the service connected diffuse interstitial fibrosis (claimed as lung scarring).

Entitlement to an earlier effective date for the evaluation assigned for diffuse interstitial fibrosis (claimed as lung scarring) has been granted. (38 CFR 3.400)

Board of Veterans' Appeals decision of June 27, 2018 granted entitlement to an effective dated of August 1, 2007 for the award of service connection for diffuse interstitial fibrosis. You and your representative have been sent a copy of the decision which outlines all the evidence of record and the reasons and bases supporting the findings and conclusions. This rating puts the Board of Veterans' Appeals decision into effect. Entitlement to an effective date of August 1, 2007 for the award of service connected for diffuse interstitial fibrosis is granted effective August 1, 2007, the date of cessation of the 100 percent rating for squamous cell carcinoma of the tongue.(38 CFR 3.400)

An evaluation of 60 percent is assigned from August 01, 2007, the date of cessation of the 100 percent rating for squamous cell carcinoma of the tongue.(38 CFR 3.400).

We have assigned a 60 percent evaluation for your diffuse interstitial fibrosis (claimed as lung scarring) based on:

- Forced Vital Capacity (FVC) of 50 to 64 percent of predicted value (59%)



WILLIS BRELAND
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When there is a disparity between the results of different Pulmonary Function Tests (PFTs), so that the level of evaluation would differ depending on which test result is used, the test result that the examiner states most accurately reflects the level of disability shall be used. In your case, the examiner has indicated that your FVC most accurately reflects your level of disability. (38 CFR 4.97, 38 CFR, 38 CFR 4.1, 38 CFR 3.102)

A higher evaluation of 100 percent is not warranted for radiation-induced pneumonia unless the evidence shows:

- Cor pulmonale; or,
- Diffusion Capacity of the Lung for Carbon Monoxide by the Single Breath Method (DLCO (SB)) less than 40-percent predicted; or,
- Forced Vital Capacity (FVC) less than 50-percent predicted; or,
- Maximum exercise capacity less than 15 ml/kg/min oxygen consumption with cardiorespiratory limitation; or,
- Outpatient oxygen therapy required; or,
- Pulmonary hypertension.

2. Evaluation of post traumatic stress disorder (PTSD) currently evaluated as 30 percent disabling.

The evaluation of post traumatic stress disorder (PTSD) is increased to 50 percent disabling effective December 26, 2006, the date your claim was received. (38 CFR 4.1, 38 CFR 3.400)

The United States Court of Appeals for Veterans Claims and the Board of Veterans' Appeals (BVA) directed that you be afforded a new VA examination based upon the age of the prior examination and "evidence suggestive of worsening PTSD symptomatology, as well as possible inadequacy of the November 2014 VA examination."

The results of your examination demonstrated the criteria for a 50 percent.

The evaluation of post traumatic stress disorder (PTSD) is increased to 50 percent disabling effective December 26, 2006, the date your claim for increase was received (38 CFR 4.1, 38 CFR 3.400)

We have assigned a 50 percent evaluation for your PTSD based on:

- Difficulty in adapting to stressful circumstances
- Difficulty in adapting to work
- Suspiciousness
- Depressed mood
- Impairment of short- and long-term memory
- Disturbances of motivation and mood
- Flattened affect
- Difficulty in adapting to a worklike setting
- Mild memory loss
- Anxiety
- Difficulty in establishing and maintaining effective work and social relationships



WILLIS BRELAND
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- Occupational and social impairment with reduced reliability and productivity

The overall evidentiary record shows that the severity of your disability most closely approximates the criteria for a 50 percent disability evaluation. (38 CFR 4.7, 38 CFR 4.126, 38 CFR 3.102)

A higher evaluation of 70 percent is not warranted for posttraumatic stress disorder unless the evidence shows occupational and social impairment, with deficiencies in most areas, such as work, school, family relations, judgment, thinking, or mood, due to such symptoms as:

- suicidal ideation
- obsessional rituals which interfere with routine activities
- speech intermittently illogical, obscure, or irrelevant
- near-continuous panic or depression affecting the ability to function independently, appropriately and effectively
- impaired impulse control (such as unprovoked irritability with periods of violence)
- spatial disorientation
- neglect of personal appearance and hygiene
- difficulty in adapting to stressful circumstances (including work or a worklike setting)
- inability to establish and maintain effective relationships. (38 CFR 4.125, 38 CFR 4.126, 38 CFR 4.130)

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.



| | | | | |
|-----------------------------------|-------------------------------|--|-----------------------------|---------------------------|
| Rating Decision | | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 1 of 4 03/09/2020 |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER | |
| COPY TO | | | | |

| ACTIVE DUTY | | | |
|-------------|------------|--------|------------------------|
| EOD | RAD | BRANCH | CHARACTER OF DISCHARGE |
| 11/15/1965 | 11/14/1968 | Army | Honorable |

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

JURISDICTION: BVA Remand Dated 06/27/2018

ASSOCIATED CLAIM(s): 070; Remand (070); 06/27/2018

SUBJECT TO COMPENSATION (1.SC)

7005 CORONARY ARTERY DISEASE
Service Connected, Vietnam Era, Presumptive
Static Disability
100% from 09/13/2017

6830 DIFFUSE INTERSTITIAL FIBROSIS (CLAIMED AS LUNG SCARRING)
ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
60% from 08/01/2007

9411 POST TRAUMATIC STRESS DISORDER (PTSD) [PTSD - Combat/Combat Medal]
Service Connected, Vietnam Era, Incurred
Static Disability
50% from 12/26/2006

6260 TINNITUS, BILATERAL
Service Connected, Vietnam Era, Incurred
Static Disability
10% from 12/26/2006

5299-5237 CERVICAL STRAIN (CLAIMED AS STIFFNESS AND CRAMPING IN NECK)
ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary



| | | | | |
|-----------------------------------|-------------------------------|--|-----------------------------|---------------------------|
| Rating Decision | | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 2 of 4 03/09/2020 |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER | |
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Static Disability
10% from 08/05/2016

7805 SCAR, RESIDUALS FLESH WOUND RIGHT KNEE
Service Connected, Vietnam Era, Incurred
Static Disability
0% from 07/08/2005

6100 HEARING LOSS BILATERAL
Service Connected, Vietnam Era, Incurred

0% from 12/26/2006

7343 SQUAMOUS CELL CARCINOMA OF THE TONGUE [Agent Orange/Other/Unknown-
Agent Orange]
Service Connected, Vietnam Era, Incurred
Static Disability
100% from 12/26/2006
0% from 08/01/2007
100% from 01/16/2008
0% from 09/01/2008
Original Date of Denial: 12/18/2007

7903 HYPOTHYROIDISM (CLAIMED AS DAMAGE TO THYROID GLAND)
ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 08/05/2016

8209 DYSPHAGIA (ALSO CLAIMED AS DIFFICULT SWALLOWING AND LACK OF
SALIVA) ASSOCIATED WITH SQUAMOUS CELL CARCINOMA OF THE
TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 08/05/2016

6099-6066 CORNEAL SCAR, RIGHT EYE ASSOCIATED WITH RESIDUALS OF SHINGLES
(HERPES ZOSTER)
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 05/15/2017

7806 RESIDUALS OF SHINGLES (HERPES ZOSTER) ASSOCIATED WITH SQUAMOUS
CELL CARCINOMA OF THE TONGUE
Service Connected, Vietnam Era, Secondary
Static Disability
0% from 05/15/2017



| | | | |
|-----------------------------------|--|-----------------------------------|-----------------------------|
| Rating Decision | <i>Department of Veterans Affairs</i> <i>Veterans Benefits Administration</i> | | Page 3 of 4 03/09/2020 |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER |
| | | | COPY TO |

COMBINED EVALUATION FOR COMPENSATION :

0% from 07/08/2005
100% from 12/26/2006
80% from 08/01/2007
100% from 01/16/2008
80% from 09/01/2008
100% from 09/13/2017

SPECIAL MONTHLY COMPENSATION :

S-1 Entitled to special monthly compensation under 38 U.S.C. 1114, subsection (s) and 38 CFR 3.350(i) on account of coronary artery disease rated 100 percent and additional service-connected disability of diffuse interstitial fibrosis (claimed as lung scarring), independently ratable at 60 percent or more from 09/13/2017.

| EFFECTIVE DATE | BASIC | HOSPITAL | LOSS OF USE | ANAT. LOSS | OTHER LOSS |
|----------------|-------|----------|-------------|------------|------------|
| 09/13/2017 | 48 | 48 | 00 | 00 | 0 |

NOT SERVICE CONNECTED/NOT SUBJECT TO COMPENSATION (8.NSCPeacetime)

6513 SINUSITIS
Not Service Connected, Peacetime, Not Incurred/Caused by Service

Original Date of Denial: 12/18/2007

6847 SLEEP APNEA
Not Service Connected, Peacetime, Not Incurred/Caused by Service

Original Date of Denial: 12/18/2007

7899-7806 CHRONIC SKIN DISEASE
Not Service Connected, Peacetime, Not Incurred/Caused by Service

Original Date of Denial: 12/18/2007

8099-8008 CAROTID ARTERY STENOSIS



| | | | | |
|-----------------------------------|-------------------------------|--|-----------------------------|---------------------------|
| Rating Decision | | <i>Department of Veterans Affairs Veterans Benefits Administration</i> | | Page 4 of 4 03/09/2020 |
| NAME OF VETERAN WILLIS BRELAND | VA FILE NUMBER 417 60 5462 | SOCIAL SECURITY NR 417-60-5462 | POA KENNETH M. CARPENTER | |
| COPY TO | | | | |

Not Service Connected, Peacetime, No Diagnosis

Original Date of Denial: 11/17/2017

Individual Unemployability Denied

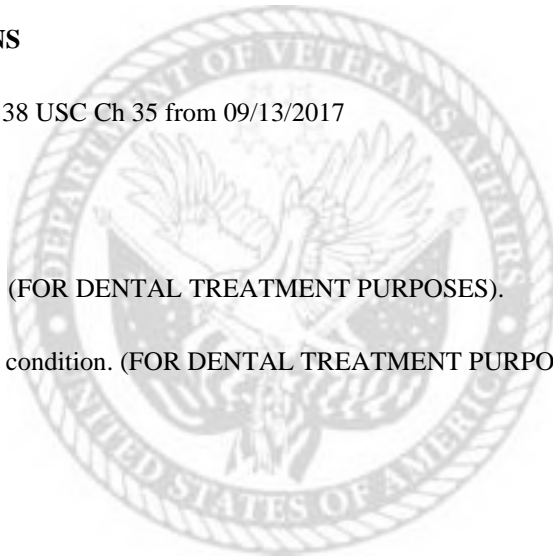
ANCILLARY DECISIONS

Basic Eligibility under 38 USC Ch 35 from 09/13/2017

DENTAL DECISIONS

No record of dental trauma. (FOR DENTAL TREATMENT PURPOSES).

No record of a pathological condition. (FOR DENTAL TREATMENT PURPOSES).



eSign: certified by ADJKWILL316, RVSR

