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**DEPARTMENT OF VETERANS AFFAIRS
Manchester VA Regional Office
275 Chestnut Street
Manchester, NH 03103**

PAUL A. BAILEY

**VA File Number
~~22-811548~~**

**Represented By:
NEW HAMPSHIRE STATE VETERANS COUNCIL**

**Rating Decision
July 31, 2013**

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era, Peacetime and Gulf War Era. You served in the Army from June 14, 1963 to June 13, 1966 and the Air Force from December 6, 1990 to July 15, 1991 and from October 15, 2005 to May 3, 2006. We received a Notice of Disagreement from you on April 3, 2013 about one or more of our earlier decisions. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

NOTE #1: This rating decision represents a total grant of benefits sought on appeal for the issue of entitlement to service connection for prostate cancer and secondary disabilities. As such, this issue is considered resolved in full.

NOTE #2: Based on the recent telephone conversation the Decision Review Officer noted the potential entitlement to additional monetary compensation based on the need of Aid and Attendance (A&A). The regulation for A&A determination is very specific and states that service-connected disability or disabilities must be the primary reason for the requirement for aid of another person or which cause you to be housebound. If you would like to apply for this benefit, please submit a VA Form 21-2680, "Exam. for Housebound Status or Permanent Need for Regular Aid and Attend." and supporting medical evidence.

DECISION

1. Service connection for prostate cancer with erectile dysfunction associated with herbicide exposure is granted with a 100 percent evaluation effective April 29, 2011.
2. Service connection for Metastatic cancer of the pelvis and ribs is granted with an evaluation of 100 percent effective April 29, 2011.
3. Entitlement to special monthly compensation based on Housebound criteria being met is granted from April 29, 2011.
4. Basic eligibility to Dependents' Educational Assistance is established from April 29, 2011.
5. Entitlement to special monthly compensation based on loss of use of creative organ is granted from April 29, 2011.

EVIDENCE

- VA Form 21-526: initial claim for prostate CA and bilateral hearing loss and tinnitus., received on May 31, 2011
- Assignment orders (5) pages, received on May 31, 2011
- A 32 page GSA contract; denial which explains aircraft use and exposure why aircraft can't be sold., received on May 31, 2011
- Statement from Paul Bailey, received on May 31, 2011
- Flight record as of 03-31-1976., received on May 31, 2011
- Buddy statement from Wesley Carter (2) pages, received on May 31, 2011
- Veteran's statement, received on May 31, 2011
- Buddy statement from squadron commander, received on May 31, 2011
- Received 21-4138 Buddy statement, received on June 22, 2011
- Dept. of the Air Force memorandum, testing for Dioxin from aircraft at Wright Patterson AFB, received on May 31, 2011
- Received VA Form 21-4138, received on June 09, 2011
- Received VA Form 21-4138, received on June 22, 2011
- 21-4138, Med Evidence in support of S/C claim (AO Exposure), received on August 18, 2011
- Letter from Dr. Joe Goepner., received on March 28, 2012
- Letter from Jeanne Stellman PHD, received on March 28, 2012
- VA examination Hearing loss & tinnitus, dated July 18, 2011
- Letter from Jeanne Stellman to include letter to General Hickey received January 9, 2013
- Veterans Claims Assistance Act (VCAA) Letter, dated June 20, 2011

- VA Form 21-4138, Statement in Support of Claim, buddy statement from Major Clancey, dated June 1, 2011
- Private Treatment Records, Littleton Hospital, dated June 22, 2011
- Statement from Doctor Nisbet received June 28, 2011
- Buddy statement from Lt Colonel Harris dated June 6, 2011
- Your written statement, received June 28, 2011
- A 6 page memorandum from 645/SGB Medical Group dated 19 December 94
- Memorandum and talking paper from AMAR/CD dated October 31, 1996
- Memorandum from AFIOH/RSRE dated July 31, 2003
- Excerpts from US General Services Administration received June 28, 2011
- Letter from Oregon Health and Science University dated May 25, 2011
- Private Treatment Records, Northeastern Vermont regional Hospital, from February 23, 2011 through May 8, 2011
- Private Treatment Records, Fletcher Allen, from February 11, 2011 through March 9, 2011
- VCAA Notice Response, received August 18, 2011
- VA Form 21-4138, Statement in Support of Claim, received August 18, 2011
- Memorandum from Doctor Young dated February 24, 2009
- A 5 page E-mail from Wes Carter dated July 1, 2011
- Private Treatment Records, Dartmouth-Hitchcock Health System, from March 22, 2011 through September 9, 2011
- Private Treatment Records, Doctor Marshall, dated July 20, 2011
- Service Treatment Records, United States Army, from June 14, 1963 through April 12, 1966
- 304 page support documents compiled by Wes Carter
- Service Treatment Records, United States Air Force, from February 20, 1975 through May 31, 2006
- Public health page from Department of Veterans affairs received January 25, 2013
- Comments to the Institute of Medicine received January 25, 2013
- VA Form 21-4138, Statement in Support of Claim, received January 25, 2013
- VA Examination, dated January 28, 2013
- Letter to Brigadier General Hickey dated November 29, 2012
- DD Form 214, Certificate of Release or Discharge from Active Duty, United States Air Force, from October 15, 2005 through May 3, 2006
- DD Form 214, Certificate of Release or Discharge from Active Duty, United States Air Force, from December 6, 1990 through July 15, 1991
- DD Form 214, Certificate of Release or Discharge from Active Duty, United States Army, from June 14, 1963 through June 13, 1966
- Memorandum of Record for exposure to herbicides, dated February 22, 2013
- Private treatment records, letter from Doctor Schell at Dartmouth Hitchcock Medical Center, dated February 8, 2013
- Rating Decision, and all evidence contained therein, dated February 28, 2013

- Award notification letter, dated March 7, 2013
- VA Form 21-4138, "Statement in Support of Claim" with your notice of disagreement (NOD), dated April 3, 2013
- Appeal election letter, dated April 3, 2013
- Medical statement signed by Dr. Christopher J. Portier, Director, National Center for Environmental Health, dated March 6, 2013
- VA Form 21-4138, "Statement in Support of Claim", dated June 5, 2013
- Service Personnel Records, dated April 26, 2013

REASONS FOR DECISION

1. Service connection for prostate cancer with erectile dysfunction associated with herbicide exposure.

The record has been reviewed and considered.

We received your informal claim for benefits on April 29, 2011. You formalized your claim by submitting substantially complete VA Form 526, "Application for compensation" in May 2011.

Your service treatment records (STRs) are silent for treatment or diagnosis of prostate cancer during active military service.

In a statement dated May 2011, you reported being recently diagnosed with prostate cancer. You associate the disability to prolonged exposure to toxins (Agent Orange) while training and flying C-123K aircraft that had previously been station in the Republic of Vietnam. It is your contention that the aircraft had been used to transport and spray herbicides.

We received and consider multiple statements and a research study from competent and reliable sources. You also submitted copies of your personnel file showing hundreds of flight hours onboard C-123K (Tail # 362).

It is the defined and consistently applied policy of the Department of Veterans Affairs to administer the law under a broad interpretation, consistent, however, with the facts shown in every case. When after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding the degree of disability such doubt will be resolved in favor of the claimant. {38 C.F.R. 4.3}

After reviewing and weighting the evidence of record, the Decision Review Officer (DRO) has determined that the preponderance of the evidence suggests that you were exposed to herbicide onboard U.S. Air Force C-123K aircrafts. Reasonable doubt in regards to the exposure to certain

PAUL A. BAILEY

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herbicide, to include Agent Orange, as the result of occupational hazards onboard C-123K aircrafts is resolved in your favor.

You underwent a radical retropubic prostatectomy and bilateral pelvic lymph node dissection in March 2011. There is evidence of radiation therapy from May 2011 to July 2011. It appears that the malignancy went into partial remission, but returned soon after July 2011.

The Regional Office's DRO contacted you in July 2013. A VA Form 21-0820, "report of general contact" is associated with the claims file. You continue chemotherapy for reoccurrence of prostate cancer and metastasis of the cancer to all ribs.

Service connection may be granted for specific diseases or conditions which are presumed to have been caused by service if manifested to a compensable degree following military discharge. Although not shown in service, service connection for prostate cancer has been granted on the basis of presumption.

An evaluation of 100 percent is assigned from April 29, 2011, which is the date you submitted your informal claim for benefits.

An evaluation of 100 percent is assigned during active malignancy or antineoplastic therapy.

Please note that when evaluation malignancies of the genitourinary system, the rating scheduled instruct us to consider a temporary 100 percent evaluation for a period of 6 months following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. The DRO has considered this guidance and has determined that your disability has persisted since the initial diagnosis despite multiple treatments. For evaluation purposes this disability is consider static and with little or no likelihood of improvement. No routine future examinations will be schedule for this disability. {38 C.F.R. 3.327(b)(2)(i) and (iii)}

2. Service connection for Metastatic cancer of the pelvis and ribs as secondary to the service-connected disability of prostate cancer.

Service connection for metastatic cancer of the pelvis and ribs has been established as related to the service-connected disability of prostate cancer.

An evaluation of 100 percent is assigned from April 29, 2011.

An evaluation of 100 percent is assigned during active malignancy or antineoplastic therapy.

Please note that when evaluation malignancies of the bones, the rating scheduled instruct us to consider a temporary 100 percent evaluation for a period of 1 year following the cessation of surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. The DRO has considered this guidance and has determined that your disability has persisted since the initial diagnosis despite multiple treatments. For evaluation purposes this disability is consider static and with little or no likelihood of improvement. No routine future examinations will be schedule for this disability. {38 C.F.R. 3.327(b)(2)(i) and (iii)}

3. Entitlement to special monthly compensation based on Housebound.

Special monthly compensation is payable to a veteran by reason of disabilities that result in loss or loss of use of extremities, severe loss of visual or auditory acuity, the need for aid and attendance or being housebound, and combinations of these disabilities.

Entitlement to special monthly compensation is warranted in this case because criteria regarding Housebound have been met effective April 29, 2011, which is the date we received your informal claim for benefits.

4. 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 effective April 29, 2011, which is the date of claim. The ancillary benefit is warranted as the evidence shows the veteran currently has a total service-connected disability, permanent in nature.

5. Entitlement to special monthly compensation based on loss of use of creative organ.

Entitlement to special monthly compensation is warranted in this case because criteria regarding loss of use of creative organ were met from April 29, 2011, which is the date we received your informal claim for benefits.

PAUL A. BAILEY

~~02-2010348~~

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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 web site, www.va.gov.



DEPARTMENT OF VETERANS AFFAIRS
 Regional Office
 Norris Cotton Federal Building
 275 Chestnut Street
 Manchester NH 03101

AUG 2 2013

In Reply Refer To: 373/21/tac

~~22801348~~

BAILEY, Paul ~~A~~

PAUL A BAILEY
~~ROSS~~
 WOODSVILLE, NH 03785

Dear Mr. Bailey:

We made a decision on your appeal for service connected compensation received on April 3, 2013.

This letter tells you about your entitlement amount and payment start date and what we decided. It includes a copy of our rating decision that gives the evidence used and reasons for our decision. We have also included information about additional benefits, what to do if you disagree with our decision, and who to contact if you have questions or need assistance.

Your Award Amount and Payment Start Date

Your monthly entitlement amount is shown below:

Monthly Entitlement Amount	Payment Start Date	Reason For Change
\$ 2,280.00	May 1, 2011	Original Award Spouse Added to Award
3,280.00	Dec 1, 2011	Cost of Living Adjustment
2,280.00	Dec 1, 2012	Cost of Living Adjustment

We are paying you as a veteran with one dependent. Your payment includes an additional amount for your spouse (Nancy). *Let us know right away if there is any change in your marital status (for example, death, divorce, annulment).*

You Can Expect Payment

Your payment begins the first day of the month following your effective date. You will receive a payment covering the initial amount due under this award, minus any withholdings.



~~022-800-773~~
Bailey, Paul ~~Adrian~~

Thereafter, payment will be made at the beginning of each month for the prior month. For example, benefits due for May are paid on or about June 1.

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

*If this account is no longer open,
please notify us immediately.*

What We Decided

We determined that the following conditions were related to your military service, so service connection has been granted:

Medical Description	Percent (%) Assigned	Effective Date
Metastatic cancer of the pelvis and ribs associated with prostate cancer with erectile dysfunction	100%	Apr 29, 2011
Prostate cancer with erectile dysfunction	100%	Apr 29, 2011

We assigned a permanent 100% disability evaluation for your service connected disabilities effective April 29, 2011. No examination will be scheduled in the future for your permanent and total disabilities.

We granted entitlement to special monthly compensation effective April 29, 2011 because you are housebound and for the loss of use of a creative organ.

Your overall or combined rating is 100% effective Apr 29, 2011. We do not add the individual percentages of each condition to determine your combined rating. We use a combined rating table that considers the effect from the most serious to the least serious conditions.

Basic eligibility to Dependents' Educational Assistance is established from Apr 29, 2011. This ancillary benefit is warranted as the evidence shows that you currently have a total service-connected disability, permanent in nature.

~~BAILEY, PAUL~~
Bailey, Paul ~~Atkinson~~

This decision also represents a total grant of benefits sought on appeal for the entitlement of service connection for prostate cancer and secondary disabilities. As such, this issue is resolved in full.

We have enclosed a copy of your Rating Decision for your review. It provides a detailed explanation of our decision, the evidence considered, and the reasons for our decision. Your Rating Decision and this letter constitute our decision based on your claim received on April 3, 2013. It represents all claims we understood to be specifically made, implied, or inferred in that claim.

If you would like to apply for the additional benefit of Aid and Attendance, please submit a VA Form 21-2680 which we have enclosed for your convenience.

We enclosed a VA Form 21-8760, "Additional Information for Veterans with Service-Connected Permanent and Total Disability," which explains certain factors concerning your benefits.

We enclosed a VA Form 21-8764, "Disability Compensation Award Attachment-Important Information," which explains certain factors concerning your benefits.

Are You Entitled to Additional Benefits?

The Department of Education provides a program for Veterans to discharge their student loans. To be eligible, the Veteran must have a service-connected disability that is 100% disabling, or be totally disabled based on an Individual Unemployability determination. For more information concerning this benefit, please contact the U.S. Department of Education, Disability Discharge Loan Servicing Center P.O. Box 5200 Greenville, TX 75403-5200 or toll free at 1-800-433-7327. Visit their website at <http://ifap.ed.gov/disabilitydischarge/va.html>.

You may be eligible for government life insurance if you

- were released from active duty after April 25, 1951,
- are in good health (except for any service connected conditions), and
- apply within two years of this notification of your disability rating.

If you are totally disabled, you may be eligible to have your government life insurance premiums waived. The Insurance is called Service-Disabled Veterans Insurance (S-DVI), and you should receive a package within two weeks. This package will contain information about the insurance and an application. If you do not receive an S-DVI package, please contact the Insurance Center to request additional information. Call the Insurance toll free number, 1-800-669-8477, or visit the Insurance web site, <http://www.insurance.va.gov>, for further information about Service-Disabled Veterans Insurance.