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DEPARTMENT OF VETERANS AFFAIRS
Newark Regional Office
20 Washington Place
Newark, New Jersey 07102

WALTER A. KAELI

VA File Number

Represented by:
VETERANS OF FOREIGN WARS OF THE US

Decision Review Officer Decision
June 3, 2009

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Navy from February 16, 1971 to December 9, 1972. We received a Notice of Disagreement from you on November 10, 2008 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.

DECISION

Service connection for diabetes mellitus type 2 associated with herbicide exposure is granted with a 20 percent evaluation effective May 9, 2008.

EVIDENCE

- Service treatment records from February 24, 1970 through November 27, 1972
- Statement in Support of Claim (VA Form 21-4138), and attachments, received May 9, 2008

- Veteran's Claims Assistance Act (VCAA) letter, sent to you on May 22, 2008, requesting information in support of your claim
- Progress notes, VA Medical Center Lyons, from March 6, 2008 through May 6, 2008
- Statement in Support of Claim (VA Form 21-4138), and attachments, received June 9, 2008
- VA examinations, VA Medical Center East Orange, dated June 9, 2008 and June 19, 2008
- Laboratory reports from the office of Joseph Casella, D.O., received July 29, 2008
- Copy of Dow Chemical Investor Risk Report - April 2004
- Copy of Committee on Government Operations hearing before the House of Representatives, dated November 5, 1987
- Copy of GAO Draft Report, dated February 28, 2002, "Environmental Contamination: Process for Dealing With Formerly Used Defense Sites in Guam Needs Strengthening"
- Copy of GAO Report, April 2002, Environmental Cleanup: Better Communication Needed for Dealing With Formerly Used Defense Sites in Guam
- Copy of GAO Draft Report, dated May 26, 1988, "Toxic Substances: PCB Spill at the Guam Naval Power Generating Plant"
- Copy of GAO Report, September 1988, Toxic Substances: PCB Spill at the Guam Naval Power Generating Plant"
- Copy of GAO Report, April 1987, Hazardous Waste: DOD Installations in Guam Having Difficulty Complying with Regulations
- Lay statements in support of claim, received November 10, 2008
- Prescription blank, Joseph J. Casella, D.O., dated April 15, 2009
- Copy of a Board of Veteran's Appeals (BVA) decision of a different veteran, dated October 13, 2005
- Copy of Office of the Under Secretary of Defense letter, dated September 23, 2003
- Service personnel records from February 16, 1971 through December 9, 1972

REASONS FOR DECISION

Service connection for diabetes mellitus type 2 associated with herbicide exposure.

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 diabetes mellitus type 2 has been granted on the basis of presumption.

The evidence submitted, and obtained, in support of your claim is convincing the you were exposed to Agent Orange during your service onboard USS Hundley (AS-31) at Guam in the Marshall Islands in 1971 and 1972. Evidence shows diagnosis of the claimed condition, being treated with medication.

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An evaluation of 20 percent is assigned from May 9, 2008, date of receipt of claim. An evaluation of 20 percent is assigned if there is a requirement for insulin and restricted diet, or oral hypoglycemic agent and restricted diet. A higher evaluation of 40 percent is not warranted unless insulin, restricted diet, and regulation of activities are required. The higher 40 percent evaluation is not assignable, because there is no evidence that your diabetes requires regulation of activities to keep your blood sugar on an even keel.

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.