



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-03869

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

The deceased member's medical condition of abdominal aortic aneurysm associated with hypertension be assessed as combat-related in order to qualify for compensation under the Combat-Related Special Compensation (CRSC) Act.

APPLICANT'S CONTENTIONS

The deceased member only received 40 percent of his combat pay. The deceased member's bank statement, dated 1 May 17, shows his combat pay as \$1,960.00; however, the bank statement dated 30 Jun 17 reduced his combat pay to \$589.12 until his death on 8 Dec 18. The deceased member's CRSC benefits were reduced when his disability rating for his prostate cancer was reduced to 40 percent by the Department of Veterans Affairs (DVA); however, the deceased member was granted another 100 percent disability rating for his abdominal aortic aneurysm associated with hypertension on 20 May 16. Therefore, his payments should not have been reduced. On 12 Aug 16, she was given power of attorney to assist her father due to his limited mental capacity. She sent a fax copy of this document to the Defense Finance and Accounting Services (DFAS) and the CRSC office asking for all correspondences to be sent to her. She submitted a claim for CRSC on her father's behalf for abdominal aortic aneurysm associated with hypertension when the DVA granted him a 100 percent disability rating; however, a correspondence was sent to her father for signature instead of her.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The deceased member is a retired Air Force master sergeant (E-7).

Dated 14 Apr 76, Special Order **Work-Product** indicates the deceased member was relieved from active duty and retired, effective 1 Nov 76.

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Controlled by: SAE/MRB
CUI Categories: **Work-Product**
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

On 31 Oct 76, DD Form 214, *Report of Separation from Active Duty*, reflects the deceased member was honorably discharged in the grade of master sergeant (E-7) after serving 21 years, 3 months, and 20 days of active duty. He was discharged with a type of separation of "Retirement."

Dated 15 Mar 13, a letter provided by the applicant indicates because of the DVA rating for the deceased member's malignant growth genitourinary (prostate cancer) at 100 percent, he was granted CRSC for this condition at 100 percent, effective 1 Nov 12. His other conditions of hypertension and disfigurement of hand, neck, or face (scars, lower lip and right eye skin cancer) were not approved for CRSC. His prostate cancer was considered a presumptive condition of Agent Orange exposure; however, his other conditions were not.

Dated 10 Feb 17, a letter provided by the applicant indicates the DVA granted the deceased member a disability rating of 100 percent for his abdominal aortic aneurysm associated with hypertension, effective 20 May 16 and reduced the deceased member's rating for his prostate cancer to 40 percent, effective 1 May 17.

Dated 5 Jul 23, a letter from DFAS to the applicant indicates no additional funds were due to the deceased member's estate.

For more information, see the excerpt of the applicant's record at Exhibit B, DFAS letter at Exhibit C and the advisory at Exhibit D.

APPLICABLE AUTHORITY/GUIDANCE

In accordance with 10 U.S.C. Section 1413a and DoD Financial Management Regulation, Vol 7B, Chapter 6, the fact that a member incurred the disability during a period of war; while serving in an area of armed conflict; and/or while participating in combat operations is not sufficient by itself to support a combat-related determination. When making combat-related determinations, with regard to Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War, the board looks for definite, documented, causal relationship between the armed conflict and the resulting disability. The DVA awards service-connected disabilities based on their standards. They resolve doubt in the interest of the veteran and grant service connection for injuries or diseases incurred while in service. While service connection for disabilities is required for initial eligibility for CRSC consideration, the CRSC program is designed to provide compensation for combat-related injuries and its standards are much more rigorous when determining if claimed disabilities qualify as combat-related. There needs to be evidence that confirms both the injuries and how they occurred (combat-related event) to confirm the disabilities were a direct result of Armed Conflict, Hazardous Service, Simulation of War or an Instrument of War.

AIR FORCE EVALUATION

AFPC/DPFDC recommends denying the application finding no evidence of an error or injustice. Although the CRSC office was unable to render an official decision on the deceased member's claim because he is deceased, due to the unique circumstances of this case, a CRSC board was directed to review the unsigned application and all the supporting documentation to determine if

the application would have met the criteria for approval (had it been a complete package when originally received in 2017). Upon review, the board determined the evidence submitted does not meet CRSC approval criteria as it does not show corroborating evidence that proves a definite relationship between a combat-related event and the deceased member's resulting disability (abdominal aortic aneurysm), nor is this condition specifically granted by the DVA as a presumptive to Agent Orange exposure (herbicides).

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 13 May 24 for comment (Exhibit E), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFDC and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the deceased member was granted a disability rating of 100 percent for his abdominal aortic aneurysm associated with hypertension; however, not all medical conditions to which the DVA grants compensation due to service connection are approved for CRSC. While service connection for disabilities is required for initial eligibility for CRSC consideration, the CRSC program is designed to provide compensation for combat-related injuries and its standards are much more rigorous when determining if claimed disabilities qualify as combat-related. There needs to be evidence which confirms both the injuries and how they occurred (combat-related event) to confirm the disabilities were a direct result of armed conflict, hazardous service, simulation of war or an instrumentality of war. Furthermore, the deceased member's condition of prostate cancer is a presumptive condition of Agent Orange exposure which allowed him to receive CRSC for this condition. When the DVA reduced his disability rating from 100 percent to 40 percent for this condition, it changed his CRSC payment. His condition of abdominal aortic aneurysm associated with hypertension is not considered a presumptive condition of Agent Orange exposure nor did the Board find evidence to indicate this disability was a direct result of armed conflict; while engaged in hazardous service; under conditions simulating war; or was caused by an instrumentality of war. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-03869 in Executive Session on 16 Oct 24:

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Panel Chair
Panel Member
Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 18 Oct 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Letter to Applicant, DFAS, dated 5 Jul 23.
- Exhibit D: Advisory Opinion, AFPC/DFDC, dated 7 May 24.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 13 May 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

11/7/2024

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Board Operations Manager, AFBCMR
Signed by: USAF