



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

September 2, 2010

Director (00/21)
All VA Regional Offices

In Reply Refer To: 211B
Fast Letter 10-35

SUBJECT: Modifying the Development Process in Claims for Hearing Loss and/or Tinnitus

Purpose

This letter introduces the Duty MOS Noise Exposure Listing, a rating job aid for determinations regarding service connection of hearing loss and/or tinnitus. The Duty MOS Noise Exposure Listing is a compilation of Department of Defense-verified lists of military occupational specialties (MOSs) and the corresponding probability of hazardous noise exposure. Use of a single listing of duty position and probability of exposure to hazardous noise will help to standardize processing of these claims.

Background

Each branch of the Armed Services has reviewed and endorsed lists of military occupational specialties and the corresponding probability of hazardous noise exposure related to an individual's occupational specialty. The Duty MOS Noise Exposure Listing is available at <http://vbaw.vba.va.gov/bl/21/rating/docs/dutymosnoise.xls>.

Direct service connection may not be granted without medical evidence of a current disability; medical or, in certain circumstances, lay evidence of in-service incurrence or aggravation of a disease or injury; and medical evidence of a nexus between the claimed in-service disease or injury and the present disease or injury. See *Caluza v. Brown*, 7 Vet. App. 498, 506 (1995) aff'd, 78 F.3d 604 (Fed. Cir. 1996).

A Veteran is competent to report symptoms of hearing loss and/or tinnitus as a disability because symptoms of hearing loss and tinnitus are capable of lay observation. See *Charles v. Principi*, 16 Vet. App. 370 (2002); *Espiritu v. Derwinski*, 2 Vet. App. 492 (1992). Consequently, a Veteran's testimony regarding hearing loss and/or tinnitus is sufficient to serve as evidence that the disability(ies) currently exists.

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Instructions

Effective immediately, when a claim for hearing loss and/or tinnitus is received, the decision maker must review the claim for:

- Sufficient evidence of a current disability (including lay evidence); and
- Evidence of hearing loss and/or tinnitus in service; or records documenting an event, injury, disease, or symptoms of a disease potentially related to an audiological disability.

If there is no documented evidence of an in-service illness, injury, or event with which the claimed conditions could be associated, the Duty MOS Noise Exposure Listing will be considered. Based on the Veteran's records, each duty MOS, Air Force Specialty Code, rating, or duty assignment documented will be reviewed for a determination as to the probability of exposure to hazardous noise on the Duty MOS Noise Exposure Listing. If the duty position is shown to have a "**Highly Probable**" or "**Moderate**" probability of exposure to hazardous noise, exposure to such noise will be conceded for purposes of establishing the in-service event.

In such cases, where there is sufficient evidence of a current disability and the in-service exposure to hazardous noise is conceded based on the Duty MOS Noise Exposure Listing, we would be obligated to request a VA examination and opinion to determine if there is a medical nexus. The level of probability of exposure conceded, such as "Highly Probable" or "Moderate," should be included in the information provided to the examiner in the body of the examination request.

Additionally, in other cases where an examination and opinion request are otherwise warranted, the probable level of exposure to hazardous noise associated with the Veteran's documented duty position will be provided in the examination request remarks.

Finally, the Duty MOS Noise Exposure Listing is not an exclusive means of establishing a Veteran's in-service noise exposure. Claims for service connection of hearing loss must be evaluated in light of all evidence of record in each case, including treatment records and examination results.

Questions

Questions should be e-mailed to VAVBAWAS/CO/21Q&A.

/S/

Thomas J. Murphy
Director
Compensation and Pension Service